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HOUSE BILL 436

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

INTRODUCED BY

Donald L. Whitaker

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; 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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1 delegated to that employee by the secretary;

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

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

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

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

13 F. "operator" means any person:

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

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

19 G. "primary recovery" means the displacement of
20 oil and of other liquid hydrocarbons removed from natural gas
21 at or near the wellhead from an oil well or pool as classified
22 by the oil conservation division of the energy, minerals and
23 natural resources department pursuant to Paragraph (11) of
24 Subsection B of Section 70-2-12 NMSA 1978 into the well bore
25 by means of the natural pressure of the oil well or pool,

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1 including but not limited to artificial lift;

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

6 I. "person" means any individual, estate, trust,
7 receiver, business trust, corporation, firm, co-partnership,
8 cooperative, joint venture, association or other group or
9 combination acting as a unit, and the plural as well as the
10 singular number;

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

16 K. "new production natural gas well" means a
17 producing crude oil or natural gas well proration unit that
18 begins its initial natural gas production on or after May 1,
19 1987 as determined by the oil conservation division of the
20 energy, minerals and natural resources department;

21 L. "qualified enhanced recovery project", prior to
22 January 1, 1994, means the use or the expanded use of carbon
23 dioxide, when approved by the oil conservation division of the
24 energy, minerals and natural resources department pursuant to
25 the Enhanced Oil Recovery Act, for the displacement of oil and

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1 of other liquid hydrocarbons removed from natural gas at or
2 near the wellhead from an oil well or pool classified by the
3 oil conservation division pursuant to Paragraph (11) of
4 Subsection B of Section 70-2-12 NMSA 1978;

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

18 N. "production restoration project" means the use
19 of any process for returning to production a natural gas or
20 oil well that had thirty days or less of production between
21 January 1, 1993 and December 31, 1994, as approved and
22 certified by the oil conservation division of the energy,
23 minerals and natural resources department pursuant to the
24 Natural Gas and Crude Oil Production Incentive Act;

25 O. "well workover project" means any procedure

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1 undertaken by the operator of a natural gas or crude oil well
2 that is intended to increase the production from the well and
3 that has been approved and certified by the oil conservation
4 division of the energy, minerals and natural resources
5 department pursuant to the Natural Gas and Crude Oil
6 Production Incentive Act; [~~and~~]

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

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

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

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

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1 ~~[P.]~~ Q. "tax" means the oil and gas severance
2 tax. "

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

5 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--
6 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
7 LIABILITY.--

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

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

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

22 (3) on oil and on other liquid hydrocarbons
23 removed from natural gas at or near the wellhead produced from
24 a qualified enhanced recovery project, one and seven-eighths
25 percent of the taxable value determined ~~[under]~~ pursuant to

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1 Section 7-29-4.1 NMSA 1978, provided that the annual average
2 price of west Texas intermediate crude oil, determined by the
3 department by averaging the posted prices in effect on the
4 last day of each month of the twelve-month period ending on
5 May 31 prior to the fiscal year in which the tax rate is to be
6 imposed, was less than twenty-eight dollars (\$28.00) per
7 barrel;

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

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

10 (6) on the natural gas from a stripper well
11 property, one and seven-eighths percent of the taxable value
12 determined pursuant to Section 7-29-4.1 NMSA 1978, provided
13 that the average annual price of west Texas intermediate crude
14 oil, determined by the department by averaging the posted
15 prices in effect on the last day of each month of the twelve-
16 month period ending on May 31 prior to the fiscal year in
17 which the tax rate is to be imposed, was equal to or less than
18 eighteen dollars (\$18.00) per barrel;

19 (7) on the natural gas from a stripper well
20 property, two and thirteen-sixteenths percent of the taxable
21 value determined pursuant to Section 7-29-4.1 NMSA 1978,
22 provided that the average annual price of west Texas
23 intermediate crude oil, determined by the department by
24 averaging the posted prices in effect on the last day of each
25 month of the twelve-month period ending on May 31 prior to the

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1 fiscal year in which the tax rate is to be imposed, was
2 greater than eighteen dollars (\$18.00) per barrel but not more
3 than twenty-four dollars (\$24.00) per barrel;

4 (8) on the oil and on other liquid
5 hydrocarbons removed from natural gas at or near the wellhead
6 from a stripper well property, one and seven-eighths percent
7 of the taxable value determined pursuant to Section 7-29-4.1
8 NMSA 1978, provided that the average annual price of west
9 Texas intermediate crude oil, determined by the department by
10 averaging the posted prices in effect on the last day of each
11 month of the twelve-month period ending on May 31 prior to the
12 fiscal year in which the tax rate is to be imposed, was equal
13 to or less than eighteen dollars (\$18.00) per barrel;

14 (9) on the oil and on other liquid
15 hydrocarbons removed from natural gas at or near the wellhead
16 from a stripper well property, two and thirteen-sixteenths
17 percent of the taxable value determined pursuant to Section
18 7-29-4.1 NMSA 1978, provided that the average annual price of
19 west Texas intermediate crude oil, determined by the
20 department by averaging the posted prices in effect on the
21 last day of each month of the twelve-month period ending on
22 May 31 prior to the fiscal year in which the tax rate is to be
23 imposed, was greater than eighteen dollars (\$18.00) per barrel
24 but not more than twenty-four dollars (\$24.00) per barrel; and

25 ~~(6)~~ (10) on carbon dioxide, three and

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1 three-fourths percent of the taxable value determined [~~under~~
2 pursuant to Section 7-29-4.1 NMSA 1978.

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

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

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

24 C. Every interest owner shall be liable for the
25 tax to the extent of his interest in such products. Any

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1 Indian tribe, Indian pueblo or Indian shall be liable for the
2 tax to the extent authorized or permitted by law.

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

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

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

9 A. "average daily production" means, for any crude
10 oil or natural gas property assigned a single production
11 number by the department, the number derived by dividing the
12 total volume of crude oil or natural gas production from the
13 property reported to the division during a calendar year by
14 the sum of the number of days each eligible well within the
15 property produced or injected during that calendar year;

16 [~~A.~~] B. "department" means the taxation and
17 revenue department;

18 [~~B.~~] C. "division" means the oil conservation
19 division of the energy, minerals and natural resources
20 department;

21 D. "eligible well" means a crude oil or natural
22 gas well that produces or an injection well that injects and
23 is integral to production for any period of time during the
24 preceding calender year;

25 [~~C.~~] E. "natural gas" means any combustible vapor

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1 composed chiefly of hydrocarbons occurring naturally;

2 ~~[D.]~~ F. "operator" means the person responsible
3 for the actual physical operation of a natural gas or oil
4 well;

5 ~~[E.]~~ G. "person" means any individual or other
6 legal entity, including any group or combination of
7 individuals or other legal entities acting as a unit;

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

14 ~~[G.]~~ I. "production restoration incentive tax
15 exemption" means the tax exemption set forth in Subsection B
16 of Section 7-29-4 NMSA 1978 for natural gas or oil produced
17 from a production restoration project;

18 ~~[H.]~~ J. "production restoration project" means the
19 use of any process for returning to production a natural gas
20 or oil well that had thirty days or less of production between
21 January 1, 1993 and December 31, 1994 as approved and
22 certified by the division;

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

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

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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 Section 7-31-4 NMSA 1978 for natural gas or oil
22 produced from a well within a stripper well property;

23 ~~[J.]~~ N. "well workover incentive tax rate" means
24 the tax rate set forth in Paragraphs (4) and (5) of Subsection
25 A of Section 7-29-4 NMSA 1978 on the natural gas or oil

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1 produced in excess of the production projection from a well
2 workover project; and

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

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

9 "7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS,
10 ~~[AND]~~ WELL WORKOVER PROJECTS AND STRIPPER WELL PROPERTY. --

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

13 (1) the operator of the well makes
14 application to the division in accordance with the provisions
15 of the Natural Gas and Crude Oil Production Incentive Act and
16 rules and regulations adopted pursuant to that act for
17 approval of a production restoration project; and

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

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

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1 rules and regulations adopted pursuant to that act for
2 approval of a well workover project;

3 (2) the division determines that the
4 procedure proposed to be undertaken by the operator of the
5 well is a procedure intended to increase the production from
6 the well, but is not routine maintenance that would be
7 performed by a prudent operator to maintain the well in
8 operation. Such procedures may include, but are not limited
9 to:

10 (a) re-entry into the well to drill
11 deeper, to sidetrack to a different location or to recomplete
12 for production;

13 (b) recompletion by reperforation of a
14 zone from which natural gas or oil has been produced or by
15 perforation of a different zone;

16 (c) repair or replacement of faulty or
17 damaged casing or related downhole equipment;

18 (d) fracturing, acidizing or installing
19 compression equipment; or

20 (e) squeezing, cementing or installing
21 equipment necessary for removal of excessive water, brine or
22 condensate from the wellbore in order to establish, continue
23 or increase production from the well; and

24 (3) the operator of the well submits to the
25 division an estimate of the productive capacity of the well

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1 based on at least twelve months of established production, and
2 the division, based on its verification of that estimate,
3 determines the future rate of production from the well prior
4 to the operator of the well performing the well workover
5 project on the well and certifies that as the production
6 projection for the project.

7 C. A natural gas or crude oil producing property
8 shall be approved by the division as a stripper well property
9 if:

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

15 (2) the division records show that the
16 property is assigned a single production unit number by the
17 department and:

18 (a) if a crude oil producing property,
19 produced an average daily production of less than ten barrels
20 of oil per eligible well per day for the preceding calendar
21 year;

22 (b) if a natural gas producing
23 property, produced an average daily production of less than
24 sixty thousand cubic feet of natural gas per eligible well per
25 day during the preceding calendar year; or

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1 project or stripper well property, as applicable.

2 C. At the time of issuing a certification of
3 approval to an operator of a natural gas or oil well for a
4 well workover project, the division shall also certify the
5 production projection for that project.

6 D. In addition to the powers enumerated in Section
7 70-2-12 NMSA 1978, the division shall adopt, promulgate and
8 enforce rules and regulations to carry out the provisions of
9 [~~Sections 1 through 5 of~~] the Natural Gas and Crude Oil
10 Production Incentive Act.

11 E. The division shall consider and approve
12 applications for approval of a production restoration project,
13 [~~or~~] well workover project or stripper well property without
14 holding hearings on the applications. If the division denies
15 approval of an application pursuant to such a process, the
16 division, upon the request of the applicant, shall set a
17 hearing of the application before an examiner appointed by the
18 division to conduct the hearing. The hearing shall be
19 conducted in accordance with the provisions of the Oil and Gas
20 Act for such hearings. "

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

23 "7-29B-5. NOTICE TO SECRETARY OF TAXATION AND
24 REVENUE. --The division shall notify immediately the secretary
25 of taxation and revenue upon:

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1 A. adoption of rules and regulations pursuant to
2 the provisions of the Natural Gas and Crude Oil Production
3 Incentive Act;

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

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

8 D. certification of the date that the division
9 certified a stripper well property. "

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

12 "7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION
13 INCENTIVE TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL
14 PROPERTY INCENTIVE TAX RATE--SECRETARY OF TAXATION AND REVENUE
15 APPROVAL--REFUND. --

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

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

23 (2) submission of the certification of
24 approval from the division and designation of the natural gas
25 or oil well as a production restoration project; and

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

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

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

15 (2) submission of the certification from the
16 division of approval and designation of the natural gas or oil
17 well as a well workover project and of the production
18 projection for the well workover project; and

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

23 C. The person responsible for paying the oil and
24 gas severance tax and the oil and gas emergency school tax on
25 natural gas and crude oil produced from a stripper well

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1 property shall qualify to receive the stripper well property
2 incentive tax rate upon:

3 (1) application to the department in the form
4 and manner prescribed by the department for approval for the
5 stripper well property incentive tax rate;

6 (2) submission of the certification of
7 approval from the division and designation of the property as
8 a stripper well property; and

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

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

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1 of the month following the date the division certifies that
2 the property is a stripper well property.

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

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

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

18 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
19 Emergency School Tax Act:

20 A. "commission", "department" or "division" means
21 the taxation and revenue department, the secretary of taxation
22 and revenue or any employee of the department exercising
23 authority lawfully delegated to that employee by the
24 secretary;

25 B. "production unit" means a unit of property

underscored material = new
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1 designated by the department from which products of common
2 ownership are severed;

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

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

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

11 F. "operator" means any person:

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

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

17 G. "purchaser" means a person who is the first
18 purchaser of a product after severance from a production unit,
19 except as otherwise provided in the Oil and Gas Emergency
20 School Tax Act;

21 H. "person" means any individual, estate, trust,
22 receiver, business trust, corporation, firm, copartnership,
23 cooperative, joint venture, association, limited liability
24 company or other group or combination acting as a unit, and
25 the plural as well as the singular number;

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

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

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

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

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

25 [~~J.~~] K. "tax" means the oil and gas emergency

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1 school tax."

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

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

7 A. There is levied and shall be collected by the
8 department a privilege tax on the business of every person
9 severing products in this state. The measure of the tax shall
10 be:

11 (1) on oil and on oil and other liquid
12 hydrocarbons removed from natural gas at or near the wellhead,
13 except as provided in Paragraphs (4) and (5) of this
14 subsection, three and fifteen one-hundredths percent of the
15 taxable value determined [under] pursuant to Section 7-31-5
16 NMSA 1978;

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

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

24 (4) on the oil and on other liquid
25 hydrocarbons removed from natural gas at or near the wellhead

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1 from a stripper well property, one and fifty-eight hundredths
2 percent of the taxable value determined pursuant to Section 7-
3 31-5 NMSA 1978, provided that the average annual price of west
4 Texas 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 equal
8 to or less than eighteen dollars (\$18.00) per barrel;

9 (5) on the oil and on other liquid
10 hydrocarbons removed from natural gas at or near the wellhead
11 from a stripper well property, two and thirty-six hundredths
12 percent of the taxable value determined pursuant to Section
13 7-31-5 NMSA 1978, provided that the average annual price of
14 west Texas intermediate crude oil, determined by the
15 department by averaging the posted prices in effect on the
16 last day of each month of the twelve-month period ending on
17 May 31 prior to the fiscal year in which the tax rate is to be
18 imposed, was greater than eighteen dollars (\$18.00) per barrel
19 but not more than twenty-four dollars (\$24.00) per barrel;

20 (6) on the natural gas removed from a
21 stripper well property, two percent of the taxable value
22 determined pursuant to Section 7-31-5 NMSA 1978, provided that
23 the average annual price of west Texas intermediate crude oil,
24 determined by the department by averaging the posted prices in
25 effect on the last day of each month of the twelve-month

underscored material = new
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1 period ending on May 31 prior to the fiscal year in which the
2 tax rate is to be imposed, was equal to or less than eighteen
3 dollars (\$18.00) per barrel; and

4 (7) on the natural gas removed from a
5 stripper well property, three percent of the taxable value
6 determined pursuant to Section 7-31-5 NMSA 1978, provided that
7 the average annual price of west Texas intermediate crude oil,
8 determined by the department by averaging the posted prices in
9 effect on the last day of each month of the twelve-month
10 period ending on May 31 prior to the fiscal year in which the
11 tax rate is to be imposed, was greater than eighteen dollars
12 (\$18.00) per barrel but not more than twenty-four dollars
13 (\$24.00) per barrel.

14 B. Every interest owner, for the purpose of
15 levying this tax, is deemed to be in the business of severing
16 products and is liable for this tax to the extent of his
17 interest in the value of [~~such~~] the products or to the extent
18 of his interest as may be measured by the value of [~~such~~] the
19 products.

20 C. Any Indian tribe, Indian pueblo or Indian is
21 liable for this tax to the extent authorized or permitted by
22 law. "

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

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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 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,

1 including but not limited to artificial lift;

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

6 I. "person" means any individual, estate, trust,
7 receiver, business trust, corporation, firm, co-partnership,
8 cooperative, joint venture, association or other group or
9 combination acting as a unit, and the plural as well as the
10 singular number;

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

16 K. "new production natural gas well" means a
17 producing crude oil or natural gas well proration unit that
18 begins its initial natural gas production on or after May 1,
19 1987 as determined by the oil conservation division of the
20 energy, minerals and natural resources department;

21 L. "qualified enhanced recovery project", prior to
22 January 1, 1994, means the use or the expanded use of carbon
23 dioxide, when approved by the oil conservation division of the
24 energy, minerals and natural resources department pursuant to
25 the Enhanced Oil Recovery Act, for the displacement of oil and

1 of other liquid hydrocarbons removed from natural gas at or
 2 near the wellhead from an oil well or pool classified by the
 3 oil conservation division pursuant to Paragraph (11) of
 4 Subsection B of Section 70-2-12 NMSA 1978;

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

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

. 129029. 2

1 0. "well workover project" means any procedure
2 undertaken by the operator of a natural gas or crude oil well
3 that is intended to increase the production from the well and
4 that has been approved and certified by the oil conservation
5 division of the energy, minerals and natural resources
6 department pursuant to the Natural Gas and Crude Oil
7 Production Incentive Act; [~~and~~]

8 P. "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 pursuant to the Natural Gas and
12 Crude Oil Production Incentive Act to have produced in the
13 preceding calendar year:

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

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

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

1 Q. "average annual taxable value" means as
2 applicable:

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

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

11 ~~[P.]~~ R. "tax" means the oil and gas severance
12 tax. "

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

15 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--
16 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
17 LIABILITY.--

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

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

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1 NMSA 1978;

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

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

18 (4) on the natural gas from a well workover
19 project that is [~~in excess of the production projection~~]
20 certified by the oil conservation division of the energy,
21 minerals and natural resources department in its approval of
22 the well workover project, [~~one and seven-eighths~~] two and
23 forty-five hundredths percent of the taxable value determined
24 [~~under~~] pursuant to Section 7-29-4.1 NMSA 1978, provided that
25 the annual average price of west Texas intermediate crude oil,

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1 determined by the department by averaging the posted prices in
 2 effect on the last day of each month of the twelve-month
 3 period ending on May 31 prior to the fiscal year in which the
 4 tax rate is to be imposed, was less than twenty-four dollars
 5 (\$24.00) per barrel;

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

21 (6) on the natural gas from a stripper well
 22 property, one and seven-eighths percent of the taxable value
 23 determined pursuant to Section 7-29-4.1 NMSA 1978, provided
 24 the average annual taxable value of natural gas was equal to
 25 or less than one dollar fifteen cents (\$1.15) per thousand

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1 cubic feet in the calendar year preceding July 1 of the fiscal
2 year in which the tax rate is to be imposed;

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

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

20 (9) on the oil and on other liquid
21 hydrocarbons removed from natural gas at or near the wellhead
22 from a stripper well property, two and thirteen-sixteenths
23 percent of the taxable value determined pursuant to Section
24 7-29-4.1 NMSA 1978, provided that the average annual taxable
25 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

1 tax exemption is to be effective, was less than twenty-four
2 dollars (\$24.00) per barrel.

3 C. Every interest owner shall be liable for the
4 tax to the extent of his interest in such products. Any
5 Indian tribe, Indian pueblo or Indian shall be liable for the
6 tax to the extent authorized or permitted by law.

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

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

11 "7-29B-2. DEFINITIONS. --As used in the Natural Gas and
12 Crude Oil Production Incentive Act:

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

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

25 [~~A.~~] C. "department" means the taxation and

1 revenue department;

2 ~~[B.]~~ D. "division" means the oil conservation
 3 division of the energy, minerals and natural resources
 4 department;

5 E. "eligible well" means a crude oil or natural
 6 gas well that produces or an injection well that injects and
 7 is integral to production for any period of time during the
 8 preceding calendar year;

9 ~~[C.]~~ F. "natural gas" means any combustible vapor
 10 composed chiefly of hydrocarbons occurring naturally;

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

14 ~~[E.]~~ H. "person" means any individual or other
 15 legal entity, including any group or combination of
 16 individuals or 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.]~~ I. "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.]~~ J. "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 in any
5 period of twenty-four consecutive months beginning on or after
6 January 1, 1993 as approved and certified by the division;

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

9 L. "stripper well property" means a crude oil or
10 natural gas producing property that is assigned a single
11 production unit number by the department and:

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

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

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

1 one barrel of oil;

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

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

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

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

19 "7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS,
20 [~~AND~~] WELL WORKOVER PROJECTS AND STRIPPER WELL PROPERTIES. --

21 A. A natural gas or oil well shall be approved by
22 the division as a production restoration 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

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1 rules [~~and regulations~~] adopted pursuant to that act for
2 approval of a production restoration project and the
3 application is made within twelve months of the completion of
4 the production restoration project; and

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

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

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

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

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

25 (b) recompletion by reperforation of a

1 zone from which natural gas or oil has been produced or by
 2 perforation of a different zone;

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

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

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

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

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1 well on which a workover was performed.

2 C. A natural gas or crude oil producing property
3 shall be approved and certified by the division as a stripper
4 well property if the division records show that the property
5 is assigned a single production unit number by the department
6 and:

7 (1) if a crude oil producing property,
8 produced an average daily production of less than ten barrels
9 of oil per eligible well per day for the preceding calendar
10 year;

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

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

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

24 "7-29B-4. APPLICATION PROCEDURES-- CERTIFICATION OF
25 APPROVAL-- RULES [~~AND REGULATIONS~~]-- ADMINISTRATION. --

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

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

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

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

24 ~~E.]~~ D. The division shall consider and approve
 25 applications for approval of a production restoration project

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

1 INCENTIVE TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL
2 PROPERTY INCENTIVE TAX RATE-- SECRETARY OF TAXATION AND REVENUE
3 APPROVAL-- REFUND. --

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

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

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

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

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

23 (1) application to the department in the form
24 and manner prescribed by the department for approval to apply
25 the well workover incentive tax rate to the natural gas or oil

1 produced [~~in excess of the production projection~~] from a well
2 workover project;

3 (2) submission of the certification from the
4 division of approval and designation of the natural gas or oil
5 well as a well workover project [~~and of the production
6 projection for the well workover project~~]; and

7 (3) any other relevant material that the
8 department considers necessary to administer the applicable
9 provisions of the Natural Gas and Crude Oil Production
10 Incentive Act.

11 C. The person responsible for paying the oil and
12 gas severance tax and the oil and gas emergency school tax on
13 natural gas and crude oil produced from a stripper well
14 property shall qualify to receive the stripper well property
15 incentive tax rate for the fiscal year following certification
16 by the division in the form and manner agreed to by the
17 division and the department designating the property as a
18 stripper well property. The division shall certify stripper
19 well properties for calendar year 1998 no later than June 30,
20 1999 and no later than June 1 of each succeeding year for the
21 preceding calendar year.

22 [~~C.~~] D. The production restoration incentive tax
23 exemption shall apply to natural gas or oil produced from a
24 production restoration project beginning the first day of the
25 month following the date the division certifies that

1 production has been restored and ending the last day of the
 2 tenth year of production following that date. The well
 3 workover incentive tax rate applies to the natural gas or oil
 4 produced [~~in excess of the production projection~~] from a well
 5 workover project beginning the first day of the month
 6 following the date the division certifies that the well
 7 workover project has been completed. The stripper well
 8 property incentive tax rates apply to the natural gas or oil
 9 produced from a stripper well property in the twelve months
 10 beginning May 1 prior to July 1 of the fiscal year to which
 11 the certification of the property as a stripper well property
 12 applies.

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

23 F. Well workover projects certified prior to July
 24 1, 1999 shall be deemed to be approved and certified in
 25 accordance with the provisions of this 1999 act and natural

1 gas or oil produced from those projects shall be eligible for
2 the well workover incentive tax rate effective beginning July
3 1, 1999.

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

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

9 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
10 Emergency School Tax Act:

11 A. "commission", "department" or "division" means
12 the taxation and revenue department, the secretary of taxation
13 and revenue or any employee of the department exercising
14 authority lawfully delegated to that employee by the
15 secretary;

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

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

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

24 E. "product" or "products" means oil, natural gas
25 or liquid hydrocarbon, individually or any combination

1 thereof, or carbon dioxide;

2 F. "operator" means any person:

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

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

8 G. "purchaser" means a person who is the first
9 purchaser of a product after severance from a production unit,
10 except as otherwise provided in the Oil and Gas Emergency
11 School Tax Act;

12 H. "person" means any individual, estate, trust,
13 receiver, business trust, corporation, firm, copartnership,
14 cooperative, joint venture, association, limited liability
15 company or other group or combination acting as a unit, and
16 the plural as well as the singular number;

17 I. "interest owner" means a person owning an
18 entire or fractional interest of whatsoever kind or nature in
19 the products at the time of severance from a production unit
20 or who has a right to a monetary payment which is determined
21 by the value of such products; [and]

22 J. "stripper well property" means a crude oil or
23 natural gas producing property that is assigned a single
24 production unit number by the department and is certified by
25 the oil conservation division of the energy, minerals and

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1 natural resources department pursuant to the Natural Gas and
2 Crude Oil Production Incentive Act to have produced in the
3 preceding calendar year:

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

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

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

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

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

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

1 ~~[J-]~~ L. "tax" means the oil and gas emergency
2 school tax. "

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

5 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
6 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
7 LIABILITY.--

8 A. There is levied and shall be collected by the
9 department a privilege tax on the business of every person
10 severing products in this state. The measure of the tax shall
11 be:

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

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

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

25 (4) 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 fifty-eight hundredths
3 percent of the taxable value determined pursuant to Section
4 7-31-5 NMSA 1978, provided that the average annual taxable
5 value of oil was equal to or less than fifteen dollars
6 (\$15.00) per barrel in the calendar year preceding July 1 of
7 the fiscal year in which the tax rate is to be imposed;

8 (5) 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 thirty-six hundredths
11 percent of the taxable value determined pursuant to Section
12 7-31-5 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;

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

24 (7) on the natural gas removed from a
25 stripper well property, three percent of the taxable value

1
2 HTRC/HB 281 & 436

3
4 FORTY- FOURTH LEGISLATURE
5 FIRST SESSION, 1999
6

7
8
9 March 12, 1999
10

11 Mr. Speaker:
12

13 Your TAXATION AND REVENUE COMMITTEE, to whom has
14 been referred

15
16 HOUSE BILLS 281 & 436

17
18 has had it under consideration and reports same with
19 recommendation that they DO NOT PASS, but that

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

22
23 DO PASS, and thence referred to the APPROPRIATIONS AND
24 FINANCE COMMITTEE.
25

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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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FORTY-FOURTH LEGISLATURE
HTRC/HB 281 & 436 FIRST SESSION, 1999

1 HTRC/HB 281 & 436

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

5

6

7

March 15, 1999

8

9

Mr. President:

10

Your WAYS & MEANS COMMITTEE, to whom has been referred

11

12

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

13

14

15

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

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Respectfully submitted,

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Carlos R. Cisneros, Chairman

24

25

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HTRC/HB 281 & 436

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3

Adopted _____ Not

4

Adopted _____

5

(Chief Clerk)

(Chief Clerk)

6

7

8

Date _____

9

10

11

The roll call vote was 8 For 0 Against

12

Yes: 8

13

No: 0

14

Excused: Carraro

15

Absent: None

16

17

H0281WM1

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underscored material = new
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