

1 HOUSE BILL 174

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Eleanor Chavez

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10 AN ACT

11 RELATING TO TAXATION; REDUCING BY TEN PERCENT CERTAIN
12 DEDUCTIONS, CREDITS AND RATE DIFFERENTIALS OF CERTAIN OIL,
13 NATURAL GAS AND MINERAL TAXES.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 7-25-3 NMSA 1978 (being Laws 1966,
17 Chapter 48, Section 3, as amended) is amended to read:

18 "7-25-3. DEFINITIONS.--As used in the Resources Excise
19 Tax Act:

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

24 B. "natural resource" means timber and any product
25 thereof and any metalliferous or nonmetalliferous mineral

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1 product, combination or compound thereof, severed in New Mexico
2 but does not include oil, natural gas, liquid hydrocarbon
3 individually or any combination thereof, carbon dioxide, helium
4 or nonhydrocarbon gas;

5 C. "person" means any individual, estate, trust,
6 receiver, cooperative association, club, corporation, company,
7 firm, partnership, joint venture, syndicate or other entity;

8 D. "processing" means smelting, leaching, refining,
9 reducing, compounding or otherwise preparing for sale or
10 commercial use any natural resource so that its character or
11 condition is materially changed in mills or plants located in
12 New Mexico;

13 E. "processor" means any person engaging in the
14 business of processing natural resources that the person owns,
15 or any person who is the owner of natural resources and who has
16 another person perform the processing of such natural
17 resources;

18 F. "service charge" means the total amount of money
19 or the reasonable value of other consideration received for
20 severing or processing any natural resource by any person who
21 is not the owner of the natural resource. However, if the
22 money received does not represent the value of the severing or
23 processing performed, "service charge" means the reasonable
24 value of the severing or processing performed;

25 G. "severer" means any person engaging in the

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1 business of severing natural resources that the person owns, or
2 any person who is the owner of natural resources and who has
3 another person perform the severing of such natural resources;

4 H. "severing" means mining, quarrying, extracting,
5 felling or producing any natural resource in New Mexico for
6 sale, profit or commercial use; and

7 I. "taxable value" means the value after severing
8 or processing, without deduction of any kind other than
9 specified in this subsection, of any natural resource severed
10 or processed in New Mexico. It is presumed, in the absence of
11 preponderant evidence of another value, that the taxable value
12 means the total amount of money or the reasonable value of
13 other consideration received for the severed or processed
14 natural resource. However, if the amount of money received
15 does not represent the value of the severed or processed
16 natural resource or if the severed or processed natural
17 resource is not sold, the taxable value shall be the reasonable
18 value of the severed or processed natural resource. All
19 natural resources severed or processed in New Mexico shall be
20 included in determining taxable value, regardless of the place
21 of sale or the fact that delivery may be made to points outside
22 of New Mexico. If any person shall ship, transmit or transport
23 natural resources out of New Mexico without making sale of them
24 or shall ship, transmit or transport natural resources out of
25 New Mexico in an unfinished condition, the value of the natural

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1 resources in the condition in which they existed when shipped,
2 transmitted or transported out of New Mexico and before they
3 enter interstate commerce, without deduction of any kind other
4 than specified in this subsection, shall be the basis for
5 determining the taxable value. Ninety percent of amounts
6 received from selling natural resources, other than
7 metalliferous mineral ores, whether processed or unprocessed,
8 to the United States or any agency or instrumentality thereof,
9 the state of New Mexico or any political subdivision thereof,
10 or to organizations that have demonstrated to the department
11 that they have been granted exemption from the federal income
12 tax by the United States commissioner of internal revenue as
13 organizations described in Section 501(c)(3) of the United
14 States Internal Revenue Code of 1954, as amended or renumbered,
15 which employ the natural resource in the conduct of functions
16 described in Section 501(c)(3) and not in the conduct of an
17 unrelated trade or business as defined in Section 513 of the
18 United States Internal Revenue Code of 1954, as amended or
19 renumbered, may be deducted from taxable value. Ninety percent
20 of any royalty or other similar interest, whether payable in
21 cash or in kind, paid to the United States or any agency or
22 instrumentality thereof, or the state of New Mexico or any
23 political subdivision thereof, or any Indian tribe, Indian
24 pueblo or Indian that is a ward of the United States may be
25 deducted from taxable value. In computing taxable value, any

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1 owner of natural resources may deduct any service charge on
2 which the service tax imposed by Section 7-25-6 NMSA 1978 is
3 payable."

4 SECTION 2. Section 7-26-4 NMSA 1978 (being Laws 1977,
5 Chapter 102, Section 6, as amended) is amended to read:

6 "7-26-4. DETERMINATION OF TAXABLE VALUE OF NATURAL
7 RESOURCES.--

8 A. Except as otherwise provided in Subsections C,
9 E, F and G of this section, the "taxable event" is the
10 severance of a natural resource whose taxable value is
11 determined under the provisions of this section.

12 B. For all natural resources except potash or
13 potash products described under Subsection C of this section,
14 molybdenum or molybdenum products described under Subsection D
15 of this section, copper, lead or zinc described in Subsection E
16 of this section, gold described in Subsection F of this
17 section, silver described in Subsection G of this section, coal
18 and uranium, the gross value of the natural resource is the
19 sales value of the severed and saved product at the first
20 marketable point without any deductions, except that:

21 (1) for those products having a posted field
22 or market price at the point of production, the gross value is
23 its posted field or market price, except that the gross value
24 of potash is forty percent of the posted field or market price,
25 less those expenses of hoisting, crushing and loading necessary

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1 to place the severed product in marketable form and at a
2 marketable place, but the allowable deductions for hoisting,
3 loading and crushing shall not exceed fifty percent of the
4 posted field or market price; and

5 (2) for those products that must be processed
6 or beneficiated before sale, the gross value is the sales value
7 after deducting freight charges from the point of severance to
8 the point of first sale and the cost of processing or
9 beneficiation.

10 C. The gross value for each type of potash and
11 potash product requiring processing or beneficiation (other
12 than sizing), regardless of the form in which the product is
13 actually sold, shall be thirty-three and one-third percent of
14 the proceeds realized from the sale of muriate of potash and
15 sulphate of potash magnesia, as standard grades, and thirty-
16 three and one-third percent of the value of such products
17 consumed in the production of other potash products, less fifty
18 percent of such reported value as a deduction for expenses of
19 hoisting, loading, crushing, processing and beneficiation. For
20 purposes of this subsection, the taxable event occurs when
21 products are sold or consumed. Any potash or potash products,
22 the value of which is computed under this subsection, shall not
23 also have their value computed by the use of any of the
24 provisions of Subsection B of this section.

25 D. The gross value for each type of molybdenum and
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1 molybdenum product requiring processing or beneficiation,
2 regardless of the form in which the product is actually sold,
3 shall be the value of molybdenum contained in concentrates
4 shipped or sold from a mine site, but in no event a value less
5 than the value that bona fide sales which reflect current
6 market conditions would yield for the same quantity of
7 molybdenum products contained in concentrates at the mine site,
8 less fifty percent of that value as a deduction for the
9 expenses of hoisting, loading, crushing, processing and
10 beneficiation.

11 E. The gross value for copper, lead and zinc shall
12 be sixty-six and two-thirds percent of the sales value
13 established from published price data, as further described in
14 this subsection, of the quantity of copper, lead or zinc
15 recoverable from the concentrate or other product which is sold
16 or is shipped, transmitted or transported out of New Mexico
17 without sale, less fifty percent of the sales value as a
18 deduction for the expenses of hoisting, loading, crushing,
19 processing and beneficiation. For purposes of this subsection,
20 the taxable event occurs when the severer sells copper, lead or
21 zinc in New Mexico or when the severer ships, transmits or
22 transports copper, lead or zinc out of New Mexico without first
23 making sale of it. The secretary shall designate by regulation
24 which published price index shall be used to establish the
25 sales value for each resource. The sales value for each

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1 resource shall be the monthly average price published for each
2 resource for the month in which the taxable event occurs. When
3 the taxable event is sale, the recoverable quantity of copper,
4 lead or zinc shall be reported as the provisional quantity
5 determined by presale assay, and the reported quantity may be
6 adjusted in a report filed after final assay, if necessary.

7 When the taxable event is shipment, transmission or
8 transportation out of New Mexico without sale, the recoverable
9 quantity of copper, lead or zinc shall be reported as the
10 provisional quantity determined after preshipment assay.

11 Copper, lead or zinc shall not be considered saved for the
12 purposes of the Severance Tax Act unless the copper, lead or
13 zinc can economically be separated and saved from the dominant
14 resource, which is the resource subject to sale by the severer.
15 Any copper, lead or zinc the value of which is computed under
16 this subsection shall not also have its value computed by the
17 use of any of the provisions of Subsection B of this section.

18 F. The gross value for gold shall be the sales
19 value established from published price data, as further
20 described in this subsection, of the quantity of gold
21 recoverable from the concentrate or other product which is sold
22 or is shipped, transmitted or transported out of New Mexico
23 without sale, less fifty percent of the sales value as a
24 deduction for the expenses of hoisting, loading, crushing,
25 processing and beneficiation. For purposes of this subsection,

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1 the taxable event occurs when the severer sells gold in New
2 Mexico or when the severer ships, transmits or transports gold
3 out of New Mexico without first making sale of it. The
4 secretary shall designate by regulation which published price
5 index shall be used to establish the sales value for gold. The
6 sales value for gold shall be the monthly average price
7 published for gold for the month in which the taxable event
8 occurs. When the taxable event is sale, the recoverable
9 quantity of gold shall be reported as the provisional quantity
10 determined by presale assay, and the reported quantity may be
11 adjusted in a report filed after final assay, if necessary.

12 When the taxable event is shipment, transmission or
13 transportation out of New Mexico without sale, the recoverable
14 quantity of gold shall be reported as the provisional quantity
15 determined after preshipment assay. For purposes of the
16 Severance Tax Act, gold shall not be considered saved unless
17 the gold can economically be separated and saved from the
18 dominant resource, which is the resource subject to sale by the
19 severer. Any gold the value of which is computed under this
20 subsection shall not also have its value computed by the use of
21 any of the provisions of Subsection B of this section.

22 G. The gross value for silver shall be eighty
23 percent of the sales value established from published price
24 data, as further described in this subsection, of the quantity
25 of silver recoverable from the concentrate or other product

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1 which is sold or is shipped, transmitted or transported out of
2 New Mexico without sale, less fifty percent of the sales value
3 as a deduction for the expenses of hoisting, loading, crushing,
4 processing and beneficiation. For purposes of this subsection,
5 the taxable event occurs when the severer sells silver in New
6 Mexico or when the severer ships, transmits or transports
7 silver out of New Mexico without first making sale of it. The
8 secretary shall designate by regulation which published price
9 index shall be used to establish the sales value for silver.
10 The sales value for silver shall be the monthly average price
11 published for silver for the month in which the taxable event
12 occurs. When the taxable event is sale, the recoverable
13 quantity of silver shall be reported as the provisional
14 quantity determined by presale assay, and the reported quantity
15 may be adjusted in a report filed after final assay, if
16 necessary. When the taxable event is shipment, transmission or
17 transportation out of New Mexico without sale, the recoverable
18 quantity of silver shall be reported as the provisional
19 quantity determined after preshipment assay. For purposes of
20 the Severance Tax Act, silver shall not be considered saved
21 unless the silver can economically be separated and saved from
22 the dominant resource, which is the resource subject to sale by
23 the severer. Any silver the value of which is computed under
24 this subsection shall not also have its value computed by the
25 use of any of the provisions of Subsection B of this section.

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1 H. The taxable value of all severed natural
2 resources except coal and uranium is the gross value of the
3 severed resource determined under this section less ninety
4 percent of rental or royalty payments belonging to the United
5 States or the state.

6 I. The taxable value to be reported for severed and
7 saved uranium-bearing material is the sales price per pound of
8 the content of U_3O_8 contained in the severed and saved or
9 processed uranium, regardless of the form in which the product
10 is actually disposed of, reduced by fifty percent for the
11 purposes of Section 7-26-7 NMSA 1978. It is presumed, in the
12 absence of preponderant evidence of another value, that the
13 sales price means the total amount of money and the reasonable
14 value of other consideration received, or either of them, for
15 the severed and saved uranium ore or processed uranium
16 "yellowcake" concentrate without deduction of any kind.
17 However, if the severed and saved uranium ore or "yellowcake"
18 concentrate is not sold as ore or concentrate, the sales price
19 shall be the value of U_3O_8 in ore or "yellowcake" concentrate
20 represented in the final product."

21 **SECTION 3.** Section 7-29-4.1 NMSA 1978 (being Laws 1980,
22 Chapter 62, Section 6, as amended) is amended to read:

23 "7-29-4.1. TAXABLE VALUE--METHOD OF DETERMINING.--To
24 determine the taxable value of oil and of other liquid
25 hydrocarbons removed from natural gas at or near the wellhead,

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1 of carbon dioxide, of helium, of non-hydrocarbon gases, of
2 natural gas from new production natural gas wells and of
3 natural gas severed after June 30, 1990, there shall be
4 deducted from the value of products ninety percent of:

5 A. royalties paid or due the United States or the
6 state of New Mexico;

7 B. royalties paid or due any Indian tribe, Indian
8 pueblo or Indian that is a ward of the United States of
9 America; and

10 C. the reasonable expense of trucking any product
11 from the production unit to the first place of market."

12 SECTION 4. Section 7-29C-1 NMSA 1978 (being Laws 1995,
13 Chapter 171, Section 1, as amended) is amended to read:

14 "7-29C-1. INTERGOVERNMENTAL TAX CREDITS.--

15 A. Any person who is liable for the payment of the
16 oil and gas severance tax, the oil and gas conservation tax,
17 the oil and gas emergency school tax or the oil and gas ad
18 valorem production tax imposed on products severed from Indian
19 tribal land or imposed on the privilege of severing products
20 from Indian tribal land shall be entitled to a credit to be
21 computed under this section and to be deducted from the payment
22 of the indicated taxes with respect to products from qualifying
23 wells. The credit provided by this subsection may be referred
24 to as the "intergovernmental production tax credit".

25 B. Any person who is liable for the payment of the

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1 oil and gas production equipment ad valorem tax imposed on
2 equipment located on Indian tribal land shall be entitled to a
3 credit to be computed under this section and to be deducted
4 from the payment of the indicated taxes with respect to
5 equipment at qualifying wells. The credit provided by this
6 subsection may be referred to as the "intergovernmental
7 production equipment tax credit".

8 C. For the purposes of this section:

9 (1) "equipment" means wells and nonmobile
10 equipment used at a well in connection with severance,
11 treatment or storage of well products;

12 (2) "Indian tribal land" means all land that
13 on March 1, 1995 was within the exterior boundaries of an
14 Indian reservation or pueblo grant or held in trust by the
15 United States for an Indian person, nation, tribe or pueblo;

16 (3) "product" means oil, natural gas or liquid
17 hydrocarbon, individually or in combination, or carbon dioxide;
18 and

19 (4) "qualifying well" means a well on Indian
20 tribal land, the actual drilling of which commenced on or after
21 July 1, 1995.

22 D. The intergovernmental production tax credit
23 shall be determined separately for each calendar month and
24 shall be equal to seventy-five percent of the lesser of:

25 (1) the aggregate amount of severance,

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1 privilege, ad valorem or similar tax in effect on March 1, 1995
2 that is imposed by the Indian nation, tribe or pueblo upon the
3 products severed from qualifying wells or upon the privilege of
4 severing products from qualifying wells; or

5 (2) the aggregate amount of the oil and gas
6 severance tax, the oil and gas conservation tax, the oil and
7 gas emergency school tax and the oil and gas ad valorem
8 production tax imposed by this state upon the products severed
9 from qualifying wells or upon the privilege of severing
10 products from qualifying wells.

11 E. The intergovernmental production equipment tax
12 credit shall be determined annually for the equipment at
13 qualifying wells and shall be equal to [~~seventy-five~~] sixty-
14 seven and five-tenths percent of the lesser of:

15 (1) the amount of ad valorem or similar tax in
16 effect on March 1, 1995 that is imposed by the Indian nation,
17 tribe or pueblo upon the equipment for the calendar year; or

18 (2) the amount of the oil and gas production
19 equipment ad valorem tax imposed by this state upon the
20 equipment for the calendar year.

21 F. If, after March 1, 1995, an Indian nation, tribe
22 or pueblo increases any severance, privilege, ad valorem or
23 similar tax applicable to products or equipment to which the
24 tax credits provided by this section apply, the amount of the
25 intergovernmental production tax credit for any month to which

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1 the increase applies shall be reduced by the difference between
2 the aggregate amount of tax due to the Indian nation, tribe or
3 pueblo for the production month and the aggregate amount of tax
4 that would have been imposed by the terms of the tax or taxes
5 in effect on March 1, 1995, and the intergovernmental
6 production equipment tax credit shall be reduced by the
7 difference between the aggregate amount of tax due to the
8 Indian nation, tribe or pueblo for the year and the aggregate
9 amount of tax that would have been imposed for the year by the
10 terms of the tax or taxes in effect on March 1, 1995.

11 G. Notwithstanding any other provision of law to
12 the contrary, the amount of credit taken and allowed shall be
13 applied proportionately against the amount of oil and gas
14 severance tax, oil and gas conservation tax, oil and gas
15 emergency school tax, oil and gas ad valorem production tax and
16 oil and gas production equipment ad valorem tax due with
17 respect to the products, severance of products or equipment
18 taxed.

19 H. The taxation and revenue department shall
20 administer and interpret the provisions of this section in
21 accordance with the provisions of the Tax Administration Act.

22 I. The burden of showing entitlement to a credit
23 authorized by this section is on the taxpayer claiming it, and
24 ~~[he]~~ the taxpayer shall furnish to the appropriate tax
25 collecting agency, in the manner determined by the taxation and

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1 revenue department, proof of payment of any tribal tax on which
2 the credit is based."

3 SECTION 5. Section 7-30-5 NMSA 1978 (being Laws 1959,
4 Chapter 53, Section 5, as amended) is amended to read:

5 "7-30-5. TAXABLE VALUE--METHOD OF DETERMINING.--

6 A. To determine the taxable value of oil, natural
7 gas or liquid hydrocarbon, individually or any combination
8 thereof, carbon dioxide, helium or non-hydrocarbon gases, there
9 shall be deducted from the value of products ninety percent of:

10 (1) royalties paid or due the United States or
11 the state of New Mexico;

12 (2) royalties paid or due any Indian tribe,
13 Indian pueblo or Indian that is a ward of the United States;
14 and

15 (3) the reasonable expense of trucking any
16 product from the production unit to the first place of market.

17 B. The taxable value of coal shall be the taxable
18 value determined under Section 7-25-3 NMSA 1978, less royalties
19 paid or due any Indian tribe, Indian pueblo or Indian that is a
20 ward of the United States.

21 C. The taxable value of uranium shall be twenty-
22 five percent of an amount equal to the difference between:

23 (1) the taxable value determined under Section
24 7-25-3 NMSA 1978; and

25 (2) royalties paid or due any Indian tribe,

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1 Indian pueblo or Indian that is a ward of the United States.

2 D. The taxable value of geothermal energy shall be
3 the value at the point of first sale, less the cost of
4 transporting it from the point of severance to the point of the
5 first sale, less the royalties paid or due the United States or
6 the state of New Mexico or any Indian tribe, Indian pueblo or
7 Indian that is a ward of the United States."

8 SECTION 6. Section 7-31-4 NMSA 1978 (being Laws 1959,
9 Chapter 54, Section 4, as amended) is amended to read:

10 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
11 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
12 LIABILITY.--

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

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

23 (2) on carbon dioxide, helium and non-
24 hydrocarbon gases, three and fifteen hundredths percent of the
25 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

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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 pursuant to Section 7-31-5 NMSA 1978;

4 (4) 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 fifty-eight hundredths
7 percent of the taxable value determined pursuant to Section
8 7-31-5 NMSA 1978, provided that the average annual taxable
9 value of oil was equal to or less than fifteen dollars (\$15.00)
10 per barrel in the calendar year preceding July 1 of the fiscal
11 year in which the tax rate is to be imposed;

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

21 (6) on the natural gas removed from a stripper
22 well property, two percent of the taxable value determined
23 pursuant to Section 7-31-5 NMSA 1978, provided that the average
24 annual taxable value of natural gas was equal to or less than
25 one dollar fifteen cents (\$1.15) per thousand cubic feet in the

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

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

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

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

20 SECTION 7. Section 7-31-5 NMSA 1978 (being Laws 1959,
21 Chapter 54, Section 5, as amended) is amended to read:

22 "7-31-5. TAXABLE VALUE--METHOD OF DETERMINING.--To
23 determine the taxable value there shall be deducted from the
24 value of products ninety percent of:

25 A. royalties paid or due the United States or the

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1 state of New Mexico;

2 B. royalties paid or due any Indian tribe, Indian
3 pueblo or Indian that is a ward of the United States of
4 America; and

5 C. the reasonable expense of trucking any product
6 from the production unit to the first place of market."

7 SECTION 8. Section 7-32-5 NMSA 1978 (being Laws 1959,
8 Chapter 55, Section 5, as amended) is amended to read:

9 "7-32-5. ASSESSED VALUE--METHOD OF DETERMINING.--

10 A. The taxable value of products is an amount equal
11 to one hundred fifty percent of the value of products after
12 deducting ninety percent of:

13 (1) royalties paid or due the United States or
14 the state of New Mexico;

15 (2) royalties paid or due any Indian tribe,
16 Indian pueblo or Indian that is a ward of the United States;
17 and

18 (3) the reasonable expense of trucking any
19 product from the production unit to the first place of market.

20 B. The assessed value of products shall be
21 determined by applying the uniform assessment ratio to the
22 taxable value of products. The method prescribed by this
23 section shall be the exclusive method for determining the
24 assessed value of products. The tax imposed by Section
25 [~~72-22-4 NMSA 1953 of the Oil and Gas Ad Valorem Production Tax~~

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1 Act] 7-32-4 NMSA 1978, together with the tax imposed by Section
2 [~~72-24-4 NMSA 1953 of the Oil and Gas Production Equipment Ad~~
3 ~~Valorem Tax Act~~] 7-34-4 NMSA 1978, shall be the full and
4 exclusive measure of ad valorem tax liability on the interests
5 of all persons, including the operator and interest owners, in
6 the production unit. Any other ad valorem tax on the
7 production unit or on products severed therefrom is void."

8 SECTION 9. Section 7-33-4 NMSA 1978 (being Laws 1963,
9 Chapter 179, Section 4, as amended) is amended to read:

10 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
11 RATE.--

12 A. There is levied and shall be collected by the
13 department a privilege tax on processors for the privilege of
14 operating a natural gas processing plant in New Mexico. This
15 tax may be referred to as the "natural gas processors tax".

16 B. The tax shall be imposed on the amount of mmbtus
17 of natural gas delivered to the processor at the inlet of the
18 natural gas processing plant after subtracting the mmbtu
19 deductions authorized in Subsection E of this section. The tax
20 shall be imposed at the rate per mmbtu determined in Subsection
21 C or D of this section, as applicable.

22 C. The tax rate for the six-month period beginning
23 on January 1, 1999 shall be determined by multiplying the rate
24 of sixty-five hundredths of one cent (\$.0065) per mmbtu by a
25 fraction, the numerator of which is the annual average taxable

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1 value per mcf of natural gas produced in New Mexico during the
2 1997 calendar year and the denominator of which is one dollar
3 thirty-three cents (\$1.33) per mcf. The resulting tax rate
4 shall be rounded to the nearest one-hundredth of one cent per
5 mmbtu.

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

15 E. A processor may deduct from the amount of mmbtus
16 of natural gas subject to the tax ninety percent of the mmbtus
17 of natural gas that are:

18 (1) used for natural gas processing by the
19 processor;

20 (2) returned to the lease from which ~~it is~~
21 they are produced;

22 (3) legally flared by the processor; or

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

25 F. On or before June 15, 1999 and June 15 of each

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1 succeeding year, the department shall inform each processor in
2 writing of the tax rate applicable for the succeeding fiscal
3 year.

4 G. Any Indian nation, tribe or pueblo or Indian is
5 liable for the tax to the extent authorized or permitted by
6 law."

7 SECTION 10. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2012.

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