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HOUSE BILL 208

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE TAX
ADMINISTRATION ACT TO PROVIDE FOR A DISTRIBUTION FROM THE OIL
AND GAS CONSERVATION TAX TO THE OIL AND GAS RECLAMATION FUND;
PROVIDING FOR EXPANSION OF THE USE OF MONEY IN THE OIL AND GAS
RECLAMATION FUND; AMENDING SECTIONS OF THE OIL AND GAS ACT TO
REMOVE THE LIMIT ON THE AMOUNT OF MONEY IN THE OIL AND GAS
RECLAMATION FUND AND TO PROVIDE FOR DONATIONS TO BE ACCEPTED IN
THE FUND; MAKING AN APPROPRIATION.

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

Section 1. Section 7-1-6.21 NMSA 1978 (being Laws 1985,
Chapter 65, Section 7, as amended) is amended to read:

"7-1-6.21. DISTRIBUTION TO OIL AND GAS RECLAMATION
FUND.--~~[A. With respect to any period for which the rate of
the tax imposed by Section 7-30-4 NMSA 1978 is nineteen-~~
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1 ~~hundredths percent~~] A distribution pursuant to Section 7-1-6.20
2 NMSA 1978 shall be made to the oil and gas reclamation fund in
3 ~~[the]~~ an amount equal to ~~[two-nineteenths]~~ twenty-two and
4 seven-tenths percent of the net receipts attributable to the
5 tax imposed under the Oil and Gas Conservation Tax Act.

6 ~~[B. With respect to any period for which the rate~~
7 ~~of the tax imposed by Section 7-30-4 NMSA 1978 is eighteen-~~
8 ~~hundredths percent, a distribution pursuant to Section 7-1-6.20~~
9 ~~NMSA 1978 shall be made to the oil and gas reclamation fund in~~
10 ~~the amount equal to one-eighteenth of the net receipts~~
11 ~~attributable to the tax imposed under the Oil and Gas~~
12 ~~Conservation Tax Act.]"~~

13 Section 2. Section 7-30-4 NMSA 1978 (being Laws 1959,
14 Chapter 53, Section 4, as amended) is amended to read:

15 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED
16 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--
17 INDIAN LIABILITY.--~~[A.]~~ There is levied and shall be collected
18 by the department a tax on all products that are severed and
19 sold. ~~[Except as provided in Subsections B and C of this~~
20 ~~section]~~ The measure and rate of the tax shall be ~~[nineteen-~~
21 ~~hundredths]~~ twenty-two hundredths percent of the taxable value
22 of sold products. Every interest owner shall be liable for
23 this tax to the extent of the owner's interest in the value of
24 the products or to the extent of the owner's interest as may be
25 measured by the value of the products. An Indian tribe, Indian

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

3 ~~[B. In the event the unencumbered balance in the~~
4 ~~oil and gas reclamation fund equals or exceeds two million five~~
5 ~~hundred thousand dollars (\$2,500,000) for any one-month period~~
6 ~~computed after receipt of the tax for that month, the rate of~~
7 ~~the tax levied by this section shall be eighteen-hundredths~~
8 ~~percent beginning with the first day of the second month~~
9 ~~following the month in which the unencumbered balance equaled~~
10 ~~or exceeded two million five hundred thousand dollars~~
11 ~~(\$2,500,000).~~

12 ~~C. After having been reduced to eighteen-hundredths~~
13 ~~percent, the rate of the tax imposed by this section shall~~
14 ~~remain at that rate until the unencumbered balance in the oil~~
15 ~~and gas reclamation fund is less than or equal to five hundred~~
16 ~~thousand dollars (\$500,000) for any one-month period computed~~
17 ~~after receipt of the tax for that month, in which event the~~
18 ~~rate of the tax levied by this section shall be increased to~~
19 ~~nineteen-hundredths percent beginning with the first day of the~~
20 ~~second month following the month in which the unencumbered~~
21 ~~balance equaled or was less than five hundred thousand dollars~~
22 ~~(\$500,000).~~

23 ~~D. The department shall notify taxpayers of any~~
24 ~~change in the rate of tax imposed by this section.]"~~

25 Section 3. Section 70-2-37 NMSA 1978 (being Laws 1977,

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1 Chapter 237, Section 4, as amended) is amended to read:

2 "70-2-37. OIL AND GAS RECLAMATION FUND CREATED--
3 DISPOSITION OF FUND.--There is created the "oil and gas
4 reclamation fund". In addition to other sources, money in the
5 fund may consist of donations. All funds in the oil and gas
6 reclamation fund are appropriated to the energy, minerals and
7 natural resources department for use by the oil conservation
8 division in carrying out the provisions of the Oil and Gas
9 Act."

10 Section 4. Section 70-2-38 NMSA 1978 (being Laws 1977,
11 Chapter 237, Section 5, as amended) is amended to read:

12 "70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--
13 PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--
14 ANNUAL REPORT--CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

15 A. The oil and gas reclamation fund shall be
16 administered by the oil conservation division of the energy,
17 minerals and natural resources department. Expenditures from
18 the fund may be used by the director of the division for the
19 purposes of:

20 (1) employing the necessary personnel to
21 survey abandoned wells, well sites and associated production
22 facilities and preparing plans for administering and performing
23 the plugging of abandoned wells that have not been plugged or
24 that have been improperly plugged and for the restoration and
25 remediation of abandoned well sites and associated production

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1 facilities that have not been properly restored and remediated;
2 and

3 (2) supporting energy education throughout the
4 state in an amount not to exceed one hundred fifty thousand
5 dollars (\$150,000) annually.

6 B. The director of the oil conservation division of
7 the energy, minerals and natural resources department, as funds
8 become available in the oil and gas reclamation fund, shall
9 reclaim and properly plug all abandoned wells and shall restore
10 and remediate abandoned well sites and associated production
11 facilities in accordance with the provisions of the Oil and Gas
12 Act and the rules and regulations promulgated pursuant to that
13 act. The division may order wells plugged and well sites and
14 associated production facilities restored and remediated on
15 federal lands on which there are no bonds running to the
16 benefit of the state in the same manner and in accordance with
17 the same procedure as with wells drilled on state and fee land,
18 including using funds from the oil and gas reclamation fund to
19 pay the cost of plugging. When the costs of plugging a well
20 [~~drilled on federal mineral leases~~] or restoring and
21 remediating well sites and associated production facilities are
22 paid from the oil and gas reclamation fund, the division is
23 authorized to bring a suit against the operator or district
24 court of the county in which the well is located for
25 indemnification for all costs incurred by the division in

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1 plugging the well or restoring and remediating the well site
2 and associated production facilities. Any funds collected
3 pursuant to a judgment in a suit for indemnification brought
4 under the Oil and Gas Act shall be deposited in the oil and gas
5 reclamation fund.

6 C. The director of the oil conservation division of
7 the energy, minerals and natural resources department shall
8 make an annual report to the secretary of energy, minerals and
9 natural resources, the governor and the legislature on the use
10 of the oil and gas reclamation fund.

11 D. Contracts for plugging, reclamation and energy
12 education pursuant to this section shall be entered into in
13 accordance with the provisions of the Procurement Code. A
14 contractor employed by the oil conservation division of the
15 energy, minerals and natural resources department to plug a
16 well or restore or remediate a well site or associated
17 production facility is authorized to sell [~~for salvage~~] the
18 equipment and material or product that is removed from the
19 well, [~~in plugging it~~] site or facility and to deduct the
20 proceeds of the sales from the costs of plugging, restoring or
21 remediating.

22 E. As used in this section, "associated production
23 facilities" means those facilities used for, intended to be
24 used for or that have been used for the production, treatment,
25 transportation, storage or disposal of oil, gas, brine, product

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1 or waste generated during oil and gas operations or used in the
2 production of oil and gas if that facility is, has been or
3 would have been subject to regulation by the oil conservation
4 division of the energy, minerals and natural resources
5 department or the oil conservation commission pursuant to the
6 Oil and Gas Act or the Water Quality Act."

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