



The Legislature  
of the  
State of New Mexico

49th Legislature, 2nd Session

LAWS 2010

CHAPTER 98

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR

HOUSE BILL 208

Introduced by



# CHAPTER 98

## AN ACT

1 RELATING TO TAXATION; AMENDING A SECTION OF THE TAX  
2 ADMINISTRATION ACT TO PROVIDE FOR A DISTRIBUTION FROM THE OIL  
3 AND GAS CONSERVATION TAX TO THE OIL AND GAS RECLAMATION FUND;  
4 PROVIDING FOR EXPANSION OF THE USE OF MONEY IN THE OIL AND GAS  
5 RECLAMATION FUND; AMENDING SECTIONS OF THE OIL AND GAS ACT TO  
6 REMOVE THE LIMIT ON THE AMOUNT OF MONEY IN THE OIL AND GAS  
7 RECLAMATION FUND AND TO PROVIDE FOR DONATIONS TO BE ACCEPTED  
8 IN THE FUND; MAKING AN APPROPRIATION.  
9

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

14 "7-1-6.21. DISTRIBUTION TO OIL AND GAS RECLAMATION  
15 FUND.--

16 A. With respect to any period for which the rate  
17 of the tax imposed by Section 7-30-4 NMSA 1978 is nineteen-  
18 hundredths percent, a distribution pursuant to Section  
19 7-1-6.20 NMSA 1978 shall be made to the oil and gas  
20 reclamation fund in an amount equal to two-nineteenths of the  
21 net receipts attributable to the tax imposed under the Oil and  
22 Gas Conservation Tax Act.

23 B. With respect to any period for which the total  
24 rate of the tax imposed on oil by Section 7-30-4 NMSA 1978 is  
25 twenty-four hundredths percent, a distribution pursuant to

1 Section 7-1-6.20 NMSA 1978 shall be made to the oil and gas  
2 reclamation fund in an amount equal to nineteen and seven-  
3 tenths percent of the net receipts attributable to the tax  
4 imposed under the Oil and Gas Conservation Tax Act."

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

7 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED  
8 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--  
9 INDIAN LIABILITY.--

10 A. There is levied and shall be collected by the  
11 department a tax on all products that are severed and sold.  
12 The measure and rate of the tax shall be nineteen-hundredths  
13 percent of the taxable value of sold products. Every interest  
14 owner shall be liable for this tax to the extent of the  
15 owner's interest in the value of the products or to the extent  
16 of the owner's interest as may be measured by the value of the  
17 products. An Indian tribe, Indian pueblo or Indian shall be  
18 liable for this tax to the extent authorized or permitted by  
19 law.

20 B. When the average price of west Texas  
21 intermediate crude in the previous quarter exceeds seventy  
22 dollars (\$70.00) per barrel, an additional tax to that  
23 provided pursuant to Subsection A of this section is levied  
24 and shall be collected by the department on oil that is  
25 severed and sold in the ensuing quarter. The measure and rate

1 of the total tax on oil shall be twenty-four hundredths  
2 percent of the taxable value of the sold product. Every  
3 interest owner shall be liable for this tax to the extent of  
4 the owner's interest in the value of the products or to the  
5 extent of the owner's interest as may be measured by the value  
6 of the products. An Indian tribe, Indian pueblo or Indian  
7 shall be liable for this tax to the extent authorized or  
8 permitted by law."

9 Section 3. Section 70-2-37 NMSA 1978 (being Laws 1977,  
10 Chapter 237, Section 4, as amended) is amended to read:

11 "70-2-37. OIL AND GAS RECLAMATION FUND CREATED--  
12 DISPOSITION OF FUND.--There is created the "oil and gas  
13 reclamation fund". In addition to other sources, money in the  
14 fund may consist of donations. All funds in the oil and gas  
15 reclamation fund are appropriated to the energy, minerals and  
16 natural resources department for use by the oil conservation  
17 division in carrying out the provisions of the Oil and Gas  
18 Act."

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

21 "70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--  
22 PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--  
23 ANNUAL REPORT--CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

24 A. The oil and gas reclamation fund shall be  
25 administered by the oil conservation division of the energy,

1 minerals and natural resources department. Expenditures from  
2 the fund may be used by the director of the division for the  
3 purposes of:

4 (1) employing the necessary personnel to  
5 survey abandoned wells, well sites and associated production  
6 facilities and preparing plans for administering and  
7 performing the plugging of abandoned wells that have not been  
8 plugged or that have been improperly plugged and for the  
9 restoration and remediation of abandoned well sites and  
10 associated production facilities that have not been properly  
11 restored and remediated; and

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

15 B. The director of the oil conservation division  
16 of the energy, minerals and natural resources department, as  
17 funds become available in the oil and gas reclamation fund,  
18 shall reclaim and properly plug all abandoned wells and shall  
19 restore and remediate abandoned well sites and associated  
20 production facilities in accordance with the provisions of the  
21 Oil and Gas Act and the rules and regulations promulgated  
22 pursuant to that act. The division may order wells plugged  
23 and well sites and associated production facilities restored  
24 and remediated on federal lands on which there are no bonds  
25 running to the benefit of the state in the same manner and in

1 accordance with the same procedure as with wells drilled on  
2 state and fee land, including using funds from the oil and gas  
3 reclamation fund to pay the cost of plugging. When the costs  
4 of plugging a well or restoring and remediating well sites and  
5 associated production facilities are paid from the oil and gas  
6 reclamation fund, the division is authorized to bring a suit  
7 against the operator or district court of the county in which  
8 the well is located for indemnification for all costs incurred  
9 by the division in plugging the well or restoring and  
10 remediating the well site and associated production  
11 facilities. Any funds collected pursuant to a judgment in a  
12 suit for indemnification brought under the Oil and Gas Act  
13 shall be deposited in the oil and gas reclamation fund.

14 C. The director of the oil conservation division  
15 of the energy, minerals and natural resources department shall  
16 make an annual report to the secretary of energy, minerals and  
17 natural resources, the governor and the legislature on the use  
18 of the oil and gas reclamation fund.

19 D. Contracts for plugging, reclamation and energy  
20 education pursuant to this section shall be entered into in  
21 accordance with the provisions of the Procurement Code. A  
22 contractor employed by the oil conservation division of the  
23 energy, minerals and natural resources department to plug a  
24 well or restore or remediate a well site or associated  
25 production facility is authorized to sell the equipment and

1 material or product that is removed from the well, site or  
2 facility and to deduct the proceeds of the sales from the  
3 costs of plugging, restoring or remediating.

4 E. As used in this section, "associated production  
5 facilities" means those facilities used for, intended to be  
6 used for or that have been used for the production, treatment,  
7 transportation, storage or disposal of oil, gas, brine,  
8 product or waste generated during oil and gas operations or  
9 used in the production of oil and gas if that facility is, has  
10 been or would have been subject to regulation by the oil  
11 conservation division of the energy, minerals and natural  
12 resources department or the oil conservation commission  
13 pursuant to the Oil and Gas Act or the Water Quality Act."=====

*Ben Lujan*

BEN LUJAN, SPEAKER  
HOUSE OF REPRESENTATIVES

*Stephen R. Arias*

STEPHEN R. ARIAS, CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*Diane D. Denish*

DIANE D. DENISH, PRESIDENT  
SENATE

*Lenore M. Naranjo*

LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 9<sup>th</sup> day of March, 2010

*Bill Richardson*

BILL RICHARDSON, GOVERNOR  
STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

5010 FEB 52 PM 3:33

1500610009

SECRETARY OF STATE  
OFFICE OF

10448-2 PM 1:58

RECEIVED