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HOUSE BILL 31

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 200**

INTRODUCED BY

Jerry Sandel

AN ACT

RELATING TO TAXATION; EXEMPTING COAL FROM THE RESOURCES  
EXCISE TAX ACT AND THE OIL AND GAS CONSERVATION TAX ACT;  
AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

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

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

A. "department" 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. "natural resource" means timber and any product  
thereof and any metalliferous or nonmetalliferous mineral  
product, combination or compound thereof, severed in New  
Mexico but does not include oil, natural gas, liquid

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1 hydrocarbon individually or any combination thereof or coal  
2 or carbon dioxide;

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

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

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

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

24 G. "severer" means any person engaging in the  
25 business of severing natural resources that the person owns,  
or any person who is the owner of natural resources and who  
has another person perform the severing of such natural

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resources;

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

I. "taxable value" means the value after severing or processing, without deduction of any kind other than specified in this subsection, of any natural resource severed or processed in New Mexico. It is presumed, in the absence of preponderant evidence of another value, that the taxable value means the total amount of money or the reasonable value of other consideration received for the severed or processed natural resource. However, if the amount of money received does not represent the value of the severed or processed natural resource or if the severed or processed natural resource is not sold, the taxable value shall be the reasonable value of the severed or processed natural resource. All natural resources severed or processed in New Mexico shall be included in determining taxable value, regardless of the place of sale or the fact that delivery may be made to points outside of New Mexico. If any person shall ship, transmit or transport natural resources out of New Mexico without making sale of them or shall ship, transmit or transport natural resources out of New Mexico in an unfinished condition, the value of the natural resources in the condition in which they existed when shipped, transmitted or transported out of New Mexico and before they enter interstate commerce, without deduction of any kind other than

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1 specified in this subsection, shall be the basis for  
2 determining the taxable value. Amounts received from selling  
3 natural resources, other than metalliferous mineral ores,  
4 whether processed or unprocessed, to the United States or any  
5 agency or instrumentality thereof, the state of New Mexico or  
6 any political subdivision thereof, or to organizations that  
7 have demonstrated to the department that they have been  
8 granted exemption from the federal income tax by the United  
9 States commissioner of internal revenue as organizations  
10 described in Section 501 (c) (3) of the United States  
11 Internal Revenue Code of [~~1954~~] 1986, as amended or  
12 renumbered, which employ the natural resource in the conduct  
13 of functions described in Section 501 (c) (3) and not in the  
14 conduct of an unrelated trade or business as defined in  
15 Section 513 of the United States Internal Revenue Code of  
16 [~~1954~~] 1986, as amended or renumbered, may be deducted from  
17 taxable value. Any royalty or other similar interest,  
18 whether payable in cash or in kind, paid to the United States  
19 or any agency or instrumentality thereof, or the state of New  
20 Mexico or any political subdivision thereof, or any Indian  
21 tribe, Indian pueblo or Indian that is a ward of the United  
22 States may be deducted from taxable value. In computing  
23 taxable value, any owner of natural resources may deduct any  
24 service charge on which the service tax imposed by Section 7-  
25 25-6 NMSA 1978 is payable."

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

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1 "7-30-2. DEFINITIONS.--As used in the Oil and Gas  
2 Conservation Tax Act:  
3 A. "department" means the taxation and revenue  
4 department, the secretary of taxation and revenue or any  
5 employee of the department exercising authority lawfully  
6 delegated to that employee by the secretary;  
7 B. "production unit" means a unit of property  
8 designated by the department from which products of common  
9 ownership are severed;  
10 C. "severance" means the taking from the soil of  
11 any product in any manner whatsoever;  
12 D. "value" means the actual price received for  
13 products at the production unit, except as otherwise provided  
14 in the Oil and Gas Conservation Tax Act;  
15 E. "product" or "products" means oil, natural gas  
16 or liquid hydrocarbon, individually or any combination  
17 thereof, uranium, ~~coal~~ geothermal energy or carbon dioxide;  
18 F. "operator" means any person:  
19 (1) engaged in the severance of products  
20 from a production unit; or  
21 (2) owning an interest in any product at the  
22 time of severance who receives a portion or all of such  
23 product for his interest;  
24 G. "purchaser" means a person who is the first  
25 purchaser of a product after severance from a production  
unit, except as otherwise provided in the Oil and Gas  
Conservation Tax Act;

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1           H. "person" means any individual, estate, trust,  
2 receiver, business trust, corporation, firm, copartnership,  
3 cooperative, joint venture, association or other group or  
4 combination acting as a unit, and the plural as well as the  
5 singular number; ~~[and]~~

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

11           J. "tax" means the oil and gas conservation tax."

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

14           "7-30-5. TAXABLE VALUE--METHOD OF DETERMINING.--

15           A. To determine the taxable value of oil, natural  
16 gas or liquid hydrocarbon, individually or any combination  
17 thereof, or carbon dioxide, there shall be deducted from the  
18 value of products:

19                       (1) royalties paid or due the United States  
20 or the state of New Mexico;

21                       (2) royalties paid or due any Indian tribe,  
22 Indian pueblo or Indian that is a ward of the United States;  
23 and

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

~~[B. The taxable value of coal shall be the taxable~~

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1 ~~value determined under Section 7-25-3 NMSA 1978, less~~  
2 ~~royalties paid or due any Indian tribe, Indian pueblo or~~  
3 ~~Indian that is a ward of the United States.~~

4 ~~E.]~~ B. The taxable value of uranium shall be  
5 twenty-five percent of an amount equal to the difference  
6 between:

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

9 (2) royalties paid or due any Indian tribe,  
10 Indian pueblo or Indian that is a ward of the United States.

11 ~~[D.]~~ C. The taxable value of geothermal energy  
12 shall be the value at the point of first sale, less the cost  
13 of transporting it from the point of severance to the point  
14 of the first sale, less the royalties paid or due the United  
15 States or the state of New Mexico or any Indian tribe, Indian  
16 pueblo or Indian that is a ward of the United States."

17 Section 4. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2000.