2024 Third Extraordinary Session

HOUSE BILL NO. 25

BY REPRESENTATIVE RISER

TAX/SEVERANCE TAX: Provides relative to severance tax on oil and gas and for dedication of certain severance tax revenues (Item #9)

AN ACT

To amend and reenact R.S. 30:87(A), R.S. 39:100.116, and R.S. 47:631, 633, 633.2, 633.4(E), 645(A) and (B), and 1624(A)(1)(b), to enact R.S. 47:633.1 and 633.1.1, and to repeal R.S. 47:324 and 633.5, Part I-E of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:648.21, and R.S. 47:1624(A)(2), relative to severance tax; to provide for rates of severance tax on oil and gas; to provide for computation of severance tax amounts to be imposed on oil and gas; to provide for exemptions from severance tax; to provide for dedication of certain severance tax revenues; to provide for severance tax administration; to provide for duties of the Department of Revenue and the Department of Energy and Natural Resources with respect to severance tax; to make technical changes in laws relating to severance tax; to provide for effectiveness; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:87(A) is hereby amended and reenacted to read as follows:

§87. Oilfield site restoration fees

A. There is hereby imposed on crude petroleum produced from producing wells in this state a fee on each barrel of oil and condensate ~~payable upon the initial disposition of each barrel of oil and condensate~~. The fee is in addition to any tax imposed pursuant to Title 47 of the Louisiana Revised Statutes of 1950. The provisions of Chapters 17 and 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 shall apply to the administration, collection, and enforcement of the fee imposed in this Section, and the penalties provided by that code shall apply to any person who fails to pay or report the fee. Proceeds from the fee, including any penalties collected in connection with the fee, shall be deposited into the Oilfield Site Restoration Fund.

* * *

Section 2. R.S. 39:100.116 is hereby amended and reenacted to read as follows:

§100.116. Dedication of mineral revenues

A. All mineral revenues as defined in ~~Subsection D~~ <u>Subsection B</u> of this Section received in each fiscal year by the state as a result of the production of or exploration for minerals, hereinafter referred to as mineral revenues, shall be allocated as provided in this Section after the following allocations and deposits of mineral revenues have been made:

(1) To the Bond Security and Redemption Fund as provided by Article VII, ~~Section 9(B)~~ <u>Section 13(B)</u> of the Constitution of Louisiana.

(2) To the political subdivisions of the state as provided in Article VII, ~~Sections 4(D) and (E)~~ <u>Section 8(B) and (C)</u> of the Constitution of Louisiana <u>and R.S. 47:645</u>.

(3) To the Louisiana Wildlife and Fisheries Conservation Fund as provided by the requirements of Article VII, ~~Section 10-A~~ <u>Section 23</u> of the Constitution of Louisiana and ~~R.S. 47:324,~~ R.S. 56:799~~,~~ and 799.3.

(4) ~~To the Louisiana Wildlife and Fisheries Conservation Fund and the Oil and Gas Regulatory Dedicated Fund Account as provided in R.S. 30:136.1(D).~~

~~(5)~~ To the Rockefeller Wildlife Refuge and Game Preserve Fund as provided in R.S. 56:797.

~~(6)~~ <u>(5)</u> To the Marsh Island Operating Fund and the Russell Sage or Marsh Island Refuge Fund as provided in R.S. 56:798.

~~(7)~~ <u>(6)</u> To the MC Davis Conservation Fund as provided in R.S. 56:799.

~~(8)~~ (7) To the White Lake Property Fund as provided in R.S. 56:799.3.

~~(9) To the Louisiana Education Quality Trust Fund and Louisiana Quality Education Support Fund as provided in Article VII, Section 10.1 of the Constitution of Louisiana.~~

~~(10)~~ (8) To the Coastal Protection and Restoration Fund as provided in Article VII, ~~Section 10.2~~ Section 17 of the Constitution of Louisiana and R.S. 49:214.5.4.

~~(11) To the Mineral Revenue Audit and Settlement Fund as provided in Article VII, Section 10.5 of the Constitution of Louisiana and R.S. 39:97.~~

~~(12)~~ (9) To the Budget Stabilization Fund as provided in Article VII, ~~Section 10.3~~ Section 15 of the Constitution of Louisiana and R.S. 39:94.

~~(13) An amount equal to the state general fund deposited into the Transportation Trust Fund as provided in R.S. 48:77.~~

B. ~~After the allocations and deposits provided in Subsection A of this Section, the mineral revenues received in each year in excess of six hundred sixty million dollars and less than nine hundred fifty million dollars shall be allocated as follows:~~

~~(1) Thirty percent shall be appropriated to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana for application to the balance of the unfunded accrued liability of such systems existing as of June 30, 1988, in proportion to the balance of such unfunded accrued liability of each such system, until such unfunded accrued liability has been eliminated. Any such payments to the public retirement systems shall not be used, directly or indirectly, to fund cost-of-living increases for such systems.~~

~~(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund.~~

~~C. Mineral revenues in excess of the base which would otherwise be deposited into the Budget Stabilization Fund under R.S. 39:94(A)(2), but are~~

~~prohibited from being deposited into the fund under R.S. 39:94(C)(5), shall be distributed as follows:~~

~~(1) Thirty percent shall be appropriated to the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana for application to the balance of the unfunded accrued liability of such systems existing as of June 30, 1988, in proportion to the balance of such unfunded accrued liability of each such system, until such unfunded accrued liability has been eliminated. Any such payments to the public retirement systems shall not be used, directly or indirectly, to fund cost-of-living increases for such systems.~~

~~(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund.~~

~~D.~~ For purposes of this Section, "mineral revenues" shall include severance taxes, royalty payments, bonus payments, or rentals, with the following exceptions:

(1) Revenues designated as nonrecurring, pursuant to Article VII, ~~Section 10(B)~~ <u>Section 14(B)</u> of the Constitution of Louisiana.

(2) Revenues received by the state as a result of grants or donations when the terms or conditions thereof require otherwise.

(3) Revenues derived from any tax on the transportation of minerals.

Section 3. R.S. 47:633, 633.2, 633.4(E), 645(A), and 1624(A)(1)(b) are hereby amended and reenacted and R.S. 47:633.1 and 633.1.1 are hereby enacted to read as follows:

§633. ~~Rates of tax~~ <u>Severance tax; rates; administration</u>

<u>A.</u> The taxes on natural resources severed from the soil or water levied by R.S. 47:631 shall be predicated on the quantity or value of the products or resources severed<u>,</u> ~~and shall be~~ <u>computed in accordance with the provisions of this Section, and</u> paid at the following rates:

(1) On trees and timber, except pulpwood, two and one-quarter percent of the then-current average stumpage market value of such timber, to be determined annually in December by the Louisiana Forestry Commission, such value to be effective on the first day of January in the following year and continuing until the

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next succeeding January. The Louisiana Tax Commission may assist in determining the value. The average stumpage market value shall be applied to the weight or scale of trees and timber as determined pursuant to the provisions of R.S. 3:4641 and 4642 at the first time the trees and timber are scaled prior to undergoing the first processing after severance.

(2) On pulpwood, five percent of the then-current average stumpage market value of such pulpwood, to be determined annually in December by the Louisiana Forestry Commission, such value to be effective on the first day of January in the following year and continuing until the next succeeding January. The Louisiana Tax Commission may assist in determining the value. The average stumpage market value shall be applied to the weight or scale of pulpwood as determined pursuant to the provisions of R.S. 3:4641 and 4642 at the first time the pulpwood is scaled prior to undergoing the first processing after severance.

~~(3) The Louisiana Forestry Commission may base its determination of the market value of trees, timber, and pulpwood as provided in Paragraphs (1) and (2) of this Section with consideration of sales of timber as reported to the Department of Revenue and as published in the "Quarterly Report of Forest Products" by the Department of Agriculture and Forestry, as well as other information considered by the Louisiana Forestry Commission.~~

(3)(a) Oil sold from a well completed before July 1, 2025, shall be taxed at the rate of twelve and one-half percent of the oil value determined in accordance with Subsection B of this Section.

(b) Oil sold from a well completed on or after July 1, 2025, shall be taxed at the rate of six percent of the oil value determined in accordance with Subsection B of this Section.

(c) Any oil sold on or after July 1, 2035, shall be taxed at the rate of six percent of the oil value determined in accordance with Subsection B of this Section regardless of well completion date.

(d)(i) On oil produced on or after July 1, 2025, from a well classified by the secretary of the Department of Energy and Natural Resources as an oil well and certified by the Department of Revenue as incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month, the tax rate applicable to the oil severed from the well shall be three percent of the oil value determined in accordance with Subsection B of this Section, and the well shall be defined, for severance tax purposes, as a stripper well, provided that the well has been certified by the Department of Revenue as a stripper well on or before the twenty-fifth day of the second month following the month of production. Once a well has been certified and determined to be incapable of producing an average of more than ten barrels of oil per producing day during an entire month, that stripper well shall remain certified as a stripper well until it produces an average of more than ten barrels of oil per day during an entire calendar month.

(ii) Crude oil produced from certified stripper wells shall be exempt from severance tax in any month in which the average value of oil determined in accordance with Subsection B of this Section is less than twenty dollars per barrel.

(4) Distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas, shall be taxed in the same manner as oil at the rates set forth in Paragraph (3) of this Subsection. However, natural gasoline, casinghead gasoline, and other natural gas liquids, including but not limited to ethane, methane, butane, or propane, all of which occur naturally or which are recovered through processing gas after separation of oil, distillate, condensate, or similar natural resources, shall not be subject to the levy provided for in this Paragraph, but shall be subject to the levy provided for in Paragraph (5) of this Subsection.

(5)(a) Natural gas produced from a well completed before July 1, 2025, shall be taxed at the rate of four percent of the natural gas market value determined in accordance with Subsection B of this Section.

(b) Natural gas produced from a well completed on or after July 1, 2025, shall be taxed at the rate of four percent of the natural gas market value determined in accordance with Subsection B of this Section, provided the well is drilled and completed in at least one defined regulatory unit which was established before July 1, 2025.

(c) Natural gas produced from a well completed on or after July 1, 2025, which is not in a defined regulatory unit established before July 1, 2025, shall be taxed at the rate of six percent of the natural gas market value determined in accordance with Subsection B of this Section.

(d) Any natural gas produced on or after July 1, 2035, shall be taxed at the rate of six percent of the natural gas market value determined in accordance with Subsection B of this Section.

(e)(i) In the case of gas produced from a well designated as an oil well by the secretary of the Department of Energy and Natural Resources, which well has been certified by the secretary of the Department of Revenue to have a wellhead pressure of fifty pounds per square inch gauge or less under operating conditions, or, in the case of gas rising in a vaporous state through the annular space between the casing and tubing of the oil well and released through lines connected with the casinghead gas which has been determined by the secretary to have a casinghead pressure of fifty pounds per square inch gauge or less under operating conditions, the rate shall be:

(aa) For natural gas produced through June 30, 2035, from a well completed prior to July 1, 2025, three cents per thousand cubic feet.

(bb) For natural gas produced from a well completed on or after July 1, 2025, three percent of the natural gas market value determined in accordance with Subsection B of this Section.

(cc) For any natural gas produced on or after July 1, 2035, three percent of the natural gas market value determined in accordance with Subsection B of this Section regardless of the well completion date.

(ii) For purposes of applying any reduced rate provided for in this Subparagraph, an oil well being produced by the method commonly known as gas lift shall be presumed, in the absence of a determination to the contrary by the secretary, to have a wellhead pressure of fifty pounds per square inch or less under operating conditions. To qualify for the reduced rate, an oil well must have a casinghead pressure of fifty pounds or less per square inch for the entire taxable month.

(f)(i) In the case of gas produced from a well designated as a gas well by the secretary of the Department of Energy and Natural Resources, which well has been certified by the secretary of the Department of Revenue to be incapable of producing an average of two hundred fifty thousand cubic feet of gas per day, the tax rate applicable to the gas severed from the well shall be:

(aa) For natural gas produced through June 30, 2035, from a well completed before July 1, 2025, one and three-tenths cent per thousand cubic feet.

(bb) For natural gas produced from a well completed on or after July 1, 2025, one and one-half percent of the natural gas market value determined in accordance with Subsection B of this Section.

(cc) For all natural gas produced on or after July 1, 2035, one and one-half percent of the natural gas market value determined in accordance with Subsection B of this Section regardless of the well completion date.

(ii) To qualify for any reduced rate provided for in this Subparagraph, a gas well must be incapable of producing two hundred fifty thousand cubic feet of gas per day during the entire taxable month.

(g) The tax shall not accrue on the severance of natural gas:

(i) Which is subsequently injected into a formation in the state of Louisiana for the purpose of storing by the producer. Gas injected into a formation in the state of Louisiana for the purpose of recycling, repressuring or pressure maintenance, or for any other purpose which increases the ultimate recovery of oil or other hydrocarbons, shall be taxable at the time of initial severance, but the taxpayer injecting the gas, whether the initial severer or not, shall be allowed a credit against any tax otherwise currently due at the current tax rate for the volume of gas injected.

If gas on which an exemption or credit as provided for in this Item has been allowed is subsequently severed from the earth, the tax herein provided shall thereupon accrue unless otherwise excluded.

(ii) Originally produced outside the state of Louisiana which has been injected into the earth within the state of Louisiana for the purpose set forth in Item (i) of this Subparagraph.

(iii) When produced from oil or gas wells and vented or flared directly into the atmosphere, provided such gas is not otherwise sold.

(iv) Used for drilling fuel in the field where produced, whether used as drilling fuel by the producer of the gas, by the operator of a lease, or by another person, and gas used by the operator as described in R.S. 47:640 on leases operated by such operator for fuel in connection with the operation and development for or production of oil and gas in the field where produced. Gas used for fuel by an operator shall include gas used for heating, separating, producing, dehydrating, compressing, and pumping of oil and gas in the field where the gas is produced, provided the gas is not otherwise sold. Gas used for drilling fuel in the field where the gas is produced shall include gas used by the operator or by any other person engaged in drilling in the field where the gas is produced.

(v) Consumed in the production of natural resources in the state of Louisiana.

(vi) When produced from gas wells and vented or flared directly into the atmosphere, and is not otherwise sold.

~~(7)(a) On oil twelve and one-half percentum of its value at the time and place of severance. Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price. In the absence of an arms length transaction or a posted field price, the value shall be the severer's gross income from the property as determined by R.S. 47:158(C).~~

~~(b) On oil produced from a well classified by the commissioner of conservation as an oil well, and determined by the collector of revenue that such well is incapable of producing an average of more than twenty-five barrels of oil per producing day during the entire taxable month, and which also produces at least fifty percent salt water per day, the tax rate applicable to the oil severed from such well shall be one-half of the rate set forth in Subparagraph (a) of this Paragraph and such well shall be defined, for severance tax purposes, as an incapable well, provided that such well has been certified by the Department of Revenue as incapable of such production on or before the twenty-fifth day of the second month following the month of production. Oil severed from a multiple well lease or property is not subject to the reduced rate of tax provided for herein, unless all such wells are certified as incapable.~~

~~(c)(i)(aa) On oil produced from a well classified by the commissioner of conservation as an oil well, and certified by the Department of Revenue that such well is incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month, the tax rate applicable to the oil severed from such well shall be one-quarter of the rate set forth in Subparagraph (a) of this Paragraph and such well shall be defined, for severance tax purposes, as a stripper well, provided that such well has been certified by the Department of Revenue as a stripper well on or before the twenty-fifth day of the second month following the month of production. Once a well has been certified and determined to be incapable of producing an average of more than ten barrels of oil per producing day during an entire month, such stripper well shall remain certified as a stripper well until the well produces an average of more than ten barrels of oil per day during an entire calendar month.~~

~~(bb) Crude oil produced from certified stripper wells shall be exempt from severance tax in any month in which the average value set forth in Subparagraph (a) of this Paragraph is less than twenty dollars per barrel.~~

~~(ii)(aa) On oil produced from a well in a stripper field classified by the commissioner of conservation as a mining and horizontal drilling project which utilizes gravity drainage to a collection point in a downhole operations room, the tax rate applicable to the oil severed from such well shall be one-quarter of the rate set forth in Subparagraph (a) of this Paragraph (7); provided that such well has been classified by the commissioner as a mining and horizontal drilling project before the lower rate is claimed on a tax return.~~

~~(bb) For purposes of this Paragraph, a "stripper field" means those geological formations as designated by rules and regulations of the secretary which have been historically recognized as being "stripper fields" and as utilizing stripper wells for oil production.~~

~~(cc) The tax rate provided in Paragraph (ii)(aa) shall be applicable only to the working interest and shall only apply until the cumulative value of hydrocarbon production from the mining and horizontal drilling project is equal to two and one-third times the total private investment, invested by the working interest owners, in the project.~~

~~(dd) For the purposes of this Section "private investment" shall mean those costs associated with project design, fabrication, installation of equipment, drilling and completion cost of wells and any other costs directly associated with said project. A "working interest owner" shall mean the owner of a mineral right who is under an obligation to share in the costs of drilling and completing a mining and horizontal drilling project. A person who does not invest and take a financial or economic risk in the drilling for and actual production of oil shall not be a working interest owner under the provisions of this Section.~~

~~(iii) All severance tax shall be suspended, for a period of twenty-four months or until payout of the well cost is achieved, whichever comes first, on any horizontally drilled well, or, on any horizontally drilled recompletion well, from which production commences after July 31, 1994, and on or before June 30, 2015. Beginning July 1, 2015, and thereafter, the amount of the exemption for any well that~~

~~commences production on or after July 1, 2015, shall be the amount set forth in Subparagraph (d) of this Paragraph.~~

~~(aa) For the purposes of this Section "horizontal drilling" shall mean high angle directional drilling of bore holes with fifty to three thousand plus feet of lateral penetration through productive reservoirs and "horizontal recompletion" shall mean horizontal drilling in an existing well bore.~~

~~(bb) Payout of well cost shall be the cost of completing the well to the commencement of production as determined by the Department of Energy and Natural Resources.~~

~~(iv)(aa) Production from an oil or gas well subsequent to the well's having been inactive for two or more years or having thirty days or less of production during the past two years shall be subject to a severance tax rate equal to twenty-five percent of the rate imposed under this Paragraph or Paragraph (9) of this Section for a period of ten years if the production commences before October 1, 2028. Production from an oil or gas well subsequent to the well's having been designated as an orphan well for longer than sixty months shall be subject to a severance tax rate equal to twelve and one half percent of the rate imposed under this Paragraph or Paragraph (9) of this Section for a period of ten years if the production commences before October 1, 2028.~~

~~(bb) Production from an oil or gas well subsequent to the well's having been inactive for two or more years or having thirty days or less of production during the past two years shall be subject to a severance tax rate equal to fifty percent of the rate imposed under this Paragraph or Paragraph (9) of this Section for a period of ten years if the production commences on or after October 1, 2028. Production from an oil or gas well subsequent to the well's having been designated as an orphan well for longer than sixty months shall be subject to a severance tax rate equal to twenty-five percent of the rate imposed under this Paragraph or Paragraph (9) of this Section for a period of ten years if the production commences on or after October 1, 2028.~~

~~(cc) To qualify for a reduced inactive or orphan well severance tax rate provided for in Subitem (aa) or (bb) of this Item, the oil or gas production must be produced from the same perforated producing interval or from one hundred feet above and one hundred feet below the perforated producing interval for lease wells, and within the correlative defined interval for unitized reservoirs, that the formerly inactive or orphaned well produced from before being inactive or designated as an orphan well. The exemption shall be extended by the length of any inactivity of a well that has commenced production when such inactivity is caused by a force majeure.~~

~~(dd) To qualify for inactive or orphan well status for purposes of the special rates provided for in this Item, an application for inactive or orphan well certification shall be made to the Department of Energy and Natural Resources during the period beginning July 1, 2018, and ending June 30, 2028. Upon certification that a well is inactive or orphan, production shall be subject to the special rate as provided in this Item from the date that production begins or ninety days from the date that of the application, whichever occurs first. If, in any one fiscal year, the secretary of the Department of Revenue estimates that the severance tax paid under the provisions of this Item will be in excess of fifteen million dollars, the secretary shall notify the commissioner of conservation who shall not certify inactive or orphan well status for any other wells for the remainder of that fiscal year. Such certifications may begin again after the beginning of the next fiscal year.~~

~~(ee) If the severance tax is paid at the full rate provided by this Section before the Department of Energy and Natural Resources approves an application for inactive or orphan well status, the operator is entitled to a credit against taxes imposed by this Section in an amount equal to the tax paid. To receive a credit, the operator must apply to the secretary of the Department of Revenue for the credit not later than the first anniversary after the date that the Department of Energy and Natural Resources certifies that the well is an inactive or orphan well.~~

~~(ff) Notwithstanding any provision of law to the contrary, oil production from any orphan well as defined by R.S. 30:88.2(A) that is undergoing or has undergone well enhancements that required a Department of Energy and Natural Resources permit, including but not limited to re-entries, workovers, or plugbacks, from which production commences on or after October 1, 2021, and before June 30, 2031, shall be exempt from the severance tax. To qualify for the exemption, an application for certification shall be made to the Department of Energy and Natural Resources. Upon certification that a well qualifies for the exemption, the operator shall retain an amount equal to the severance tax otherwise due for the initial three months of the exemption. Beginning in the fourth month following certification, the operator shall report, on forms prescribed by the secretary, and remit to the Department of Revenue an amount equal to the severance tax applicable to the well pursuant to this Paragraph, which shall be credited to the associated site-specific trust account provided for in R.S. 30:88.2 and shall be subject to all due date, interest, and penalty provisions applicable to the oil severance tax.~~

~~(d) There shall be an exemption from severance tax as provided in this Subparagraph for production from any horizontally drilled well, or, on any horizontally drilled recompletion well, from which production occurs on or after July 1, 2015. The exemption shall last for a period of twenty-four months or until payout of the well cost is achieved, whichever comes first. For the purposes of this Section, "horizontal drilling" shall mean high angle directional drilling of bore holes with fifty to three thousand plus feet of lateral penetration through productive reservoirs, and "horizontal recompletion" shall mean horizontal drilling in an existing well bore. Payout of well cost shall be the cost of completing the well to the commencement of production as determined by the Department of Energy and Natural Resources.~~

~~(i) The secretary shall determine the oil price upon which the exemption for a horizontal well that produces oil shall be based on July First of each year for the ensuing twelve months based upon the average New York Mercantile Exchange Price per barrel of crude oil per month on the close of business June Thirtieth for the~~

~~prior twelve months. The amount of the exemption for a horizontal well that produces oil shall be as follows:~~

~~(aa) The exemption shall be one hundred percent if the price of oil is at or below seventy dollars per barrel.~~

~~(bb) The exemption shall be eighty percent if the price of oil is above seventy dollars and at or below eighty dollars per barrel.~~

~~(cc) The exemption shall be sixty percent if the price of oil is above eighty dollars and at or below ninety dollars per barrel.~~

~~(dd) The exemption shall be forty percent if the price of oil is above ninety dollars and at or below one hundred dollars per barrel.~~

~~(ee) The exemption shall be twenty percent if the price of oil is above one hundred dollars and at or below one hundred ten dollars per barrel.~~

~~(ff) There shall be no exemption in effect if the price of oil exceeds one hundred ten dollars per barrel.~~

~~(ii) The secretary shall determine the natural gas price upon which the exemption for a horizontal well that produces natural gas shall be based on July First of each year for the ensuing twelve months based upon the average New York Mercantile Exchange Price per million BTU per month on the close of business June Thirtieth for the prior twelve months. The amount of the exemption for a horizontal well that produces natural gas shall be as follows:~~

~~(aa) The exemption shall be one hundred percent if the price of natural gas is at or below four dollars and fifty cents per million BTU.~~

~~(bb) The exemption shall be by eighty percent if the price of natural gas is above four dollars and fifty cents per million BTU and at or below five dollars and fifty cents per million BTU.~~

~~(cc) The exemption shall be sixty percent if the price of natural gas is above five dollars and fifty cents per million BTU and at or below six dollars per million BTU.~~

~~(dd) The exemption shall be forty percent if the price of natural gas is above six dollars per million BTU and at or below six dollars and fifty cents per million BTU.~~

~~(ee) The exemption shall be twenty percent if the price of natural gas is above six dollars and fifty cents per million BTU and at or below seven dollars per million BTU.~~

~~(ff) There shall be no exemption in effect if the price of natural gas exceeds seven dollars per million BTU.~~

~~(8) On distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas, twelve and one-half percentum of gross value at the time and place of severance. For the levy of this tax, gross value shall be as defined by R.S. 47:633(7)(a). However, natural gasoline, casinghead gasoline and other natural gas liquids, including but not limited to ethane, methane, butane or propane, all of which occur naturally or which are recovered through processing gas after separation of oil, distillate, condensate, or similar natural resources shall not be subject to the levy provided for in this Paragraph, but shall be subject to the levy provided for in R.S. 47:633(9).~~

~~(9)(a)(i) Subject to adjustment as provided in Subparagraph (d) below, on natural gas and, based on equivalent gas volumes, natural gasoline, casinghead gasoline, and other natural gas liquids, including but not limited to ethane, methane, butane, or propane, ten cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of sixty degrees Fahrenheit; provided that whenever the conditions of pressure and temperature differ from the above bases, conversion of the volume from these conditions to the above bases shall be made in accordance with the Ideal Gas Laws with correction for deviation from Boyle's Law, which correction must be made unless the pressure at the point of measurement is two hundred pounds per square inch gauge, or less, all in accordance with methods and tables generally recognized by and commonly used in the natural gas industry. For all purposes of computing standard cubic feet of gas~~

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~~under this Section the barometric pressure shall be assumed to be 14.7 pounds per square inch absolute at the place of measurement.~~

~~(ii) The rate as set forth in Item (i) of this Subparagraph shall be in effect until June 30, 1992. Effective July 1, 1992 the rate shall be seven cents per thousand cubic feet, and this rate shall also be subject to the annual rate adjustment as provided in Item (d)(i) of this Paragraph.~~

~~(b) In the case of gas produced from an oil well designated as such by the office of conservation, which has been determined by the secretary to have a wellhead pressure of fifty pounds per square inch gauge or less under operating conditions, or, in the case of gas rising in a vaporous state through the annular space between the casing and tubing of such oil well and released through lines connected with the casinghead gas which has been determined by the secretary to have a casinghead pressure of fifty pounds per square inch gauge or less under operating conditions, the rate shall be three cents per thousand cubic feet. For purposes of applying this reduced rate an oil well being produced by the method commonly known as gas lift shall be presumed in the absence of a determination to the contrary by the secretary, to have a wellhead pressure of fifty pounds per square inch or less under operating conditions. To qualify for the reduced rate an oil well must have a casinghead pressure of fifty pounds or less per square inch for the entire taxable month.~~

~~(c) In the case of gas produced from a gas well designated as such by the office of conservation, which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day, the tax rate applicable to the gas severed from such well shall be one and three-tenths cents per thousand cubic feet. To qualify for the reduced rate, a gas well must be incapable of producing 250,000 cubic feet of gas per day during the entire taxable month.~~

~~(d)(i) The gas tax rate provided in Subparagraph (a) of this Paragraph shall be adjusted annually on July first for the ensuing twelve calendar months as hereinafter set forth but shall never be less than seven cents per thousand cubic feet.~~

~~On or before April 30, 1991, and annually thereafter, the secretary shall determine, using the "gas base rate adjustment" as hereinafter provided, the new gas tax rate for the twelve calendar months beginning July 1, 1991, and respectively for each twelve-month period beginning annually thereafter. The new gas tax rate shall be the rate provided in Subparagraph (a) of this Paragraph multiplied by the gas base rate adjustment. The "gas base rate adjustment" shall be determined by the secretary of the Department of Energy and Natural Resources. The "gas base rate adjustment" for the applicable twelve-month period is a fraction, the numerator of which shall be the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous twelve-month period ending on March thirty-first, and the denominator of which shall be the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the twelve-month period ending March 31, 1990 (1.7446 $/MMBTU). For the twelve-month period ending March 31, 2003, the monthly average gas prices used in making the numerator of the "gas base rate adjustment", the average gas prices for the months April, 2002 through September, 2002 shall be the monthly average spot market price of gas fuels delivered into the pipelines into Louisiana as reported in the Natural Gas Clearing House, and the average gas prices for the months October, 2002 through March, 2003 shall be the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal. The secretary of the Department of Revenue shall publish the "gas base rate adjustment" and the "gas tax rate", as determined under this Subparagraph in the official journal of the state of Louisiana by May first of each year and shall provide the "gas base rate adjustment" and the "gas tax rate" to affected producers by written notice mailed sixty days prior to the effective date thereof, but failure to make such publication or to give such notice shall not be a condition for the new gas tax rate which shall nevertheless be effective.~~

~~(ii) If publication of the NYMEX Henry Hub average monthly gas price data is discontinued, the "gas tax rate" shall remain that last established under this Subparagraph until a comparable method for determining the "gas tax rate" is adopted by the legislature.~~

~~(iii) If the base data of the NYMEX Henry Hub average monthly gas price is substantially revised, the secretary of the Department of Energy and Natural Resources shall make appropriate adjustment to ensure that the "gas base rate adjustment" is reasonably consistent with the result which would have been attained had such substantial revision not been made. If the secretary is unable to make reasonable changes sufficient to ensure a consistent result, the "gas tax rate" shall remain that last established under this Subparagraph until a comparable method for determining the "gas tax rate" is adopted by the legislature.~~

~~(iv) The provisions of this Subparagraph (d) shall affect only the determination of the rate of the tax on the severance of a quantity of natural gas. They are not intended, nor shall they be construed, to affect any other determination whatsoever including but not limited to the determination of royalty due under mineral leases.~~

~~(v) Production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than fifteen thousand feet, where production commences after July 31, 1994, shall be exempt from severance tax, from the date commercial production begins, for twenty-four months or until payout of the well cost, whichever comes first. For the purpose of this exemption, the date commercial production begins shall be the first day the well produces into the permanent production equipment and the facilities have been constructed to process and deliver natural gas, gas condensate, or oil to a sales point. The date of a drill-stem test, production test, or any other related production shall not be considered, construed, or deemed the date commercial production begins regardless of whether such activities are classified as active production by the office of conservation of the~~

~~Department of Energy and Natural Resources. The date commercial production begins may be a date subsequent to the well completion date.~~

~~(c) The tax shall not accrue on the severance of gas:~~

~~(i) Which is subsequently injected into a formation in the state of Louisiana for the purpose of storing by the producer. Gas injected into a formation in the state of Louisiana for the purpose of recycling, repressuring or pressure maintenance, or for any other purpose which increases the ultimate recovery of oil or other hydrocarbons, shall be taxable at the time of initial severance, but the taxpayer injecting such gas, whether he be the initial severer or not, shall be allowed a credit against any tax otherwise currently due at the current tax rate for the volume so injected. If gas on which an exemption or credit as provided for in this Item (i) has been allowed is subsequently severed from the earth, the tax herein provided shall thereupon accrue unless otherwise excluded.~~

~~(ii) Originally produced without the state of Louisiana which has been injected into the earth within the state of Louisiana for the purpose set forth in (i) above.~~

~~(iii) When produced from oil wells and vented or flared directly into the atmosphere, provided such gas is not otherwise sold.~~

~~(iv) Used for drilling fuel in the field where produced, whether used as drilling fuel by the producer of the gas, by the operator of a lease, or by another person, and gas used by the operator as described in R.S. 47:640 on leases operated by such operator for fuel in connection with the operation and development for or production of oil and gas in the field where produced. Gas used for fuel by an operator shall include gas used for heating, separating, producing, dehydrating, compressing, and pumping of oil and gas in the field where the gas is produced provided such gas is not otherwise sold. Gas used for drilling fuel in the field where the gas is produced shall include gas used by the operator or by any other person engaged in drilling in the field where the gas is produced.~~

~~(v) Consumed in the production of natural resources in the state of Louisiana.~~

~~(vi) When produced from gas wells and vented or flared directly into the atmosphere, provided such gas is not otherwise sold.~~

~~(vii) Used in the manufacture of carbon black. Provided that gas injected into an oil well to be used in lifting oil by the method commonly known as gas lift shall not be deemed to be produced from the gas lift well but such gas shall not be taxable unless it is subsequently used for purposes not exempt under this Section.~~

~~(10)~~ (6) On sulphur, one dollar and three cents per long ton of two thousand, two hundred forty pounds.

~~(11)~~ (7) On salt, six cents per ton of two thousand pounds.

~~(12)~~ (8) On coal, ten cents per ton of two thousand pounds.

~~(13)~~ (9) On lignite, twelve cents per ton of two thousand pounds.

~~(14)~~ (10) On ores, ten cents per ton of two thousand pounds.

~~(15)~~ (11) On marble, twenty cents per ton of two thousand pounds.

~~(16)~~ (12) On stone, three cents per ton of two thousand pounds.

~~(18)~~ (13) On sand, six cents per ton of two thousand pounds.

~~(19)~~ (14) On shells, six cents per ton of two thousand pounds.

~~(20)~~ (15) On salt content in brine extracted or produced in solution from the soil or water, when the same is used in the manufacture of other products and is not marketed as salt, one-half cent per ton of two thousand pounds.

B. The secretary of the Department of Energy and Natural Resources shall determine the values upon which the severance tax for oil, natural gas, and other hydrocarbons shall be calculated. The secretary shall determine these values and taxes shall be calculated in accordance with the following provisions:

(1) Oil shall be taxed at a percentage of its value at the time and place of severance. The value of oil shall be the gross receipts received from the first purchaser, less charges for trucking, barging, and pipeline fees. In the absence of an

arms-length transaction, the value shall be the severer's gross income from the property as determined by R.S. 47:158(C).

(2)(a) The market value of natural gas is its value at the mouth of the well from which it is produced. The value of gas at the mouth of the well shall be determined by ascertaining the producer's actual marketing costs and subtracting those costs from the producer's gross receipts from the sale of the gas.

(b)(i) For purposes of this Paragraph, marketing costs are the costs incurred by the producer to convey the gas from the mouth of the well to the market, and shall include all of the following:

(aa) Costs for compressing the gas sold.

(bb) Costs for dehydrating the gas sold.

(cc) Costs for sweetening the gas sold.

(dd) Costs for delivering the gas to the purchaser.

(ii) Marketing costs shall not include any of the following:

(aa) Costs incurred in producing the gas.

(bb) Costs incurred in normal lease separation of the oil or condensate.

(cc) Insurance premiums on the marketing facility.

(c)(i) Marketing costs shall be determined by adding all of the following:

(aa) A reasonable charge for depreciation of the marketing facility being used; or, if the facility is rented, the actual rental fee.

(bb) A return on the producer-owned investment equal to six percent per year on the average depreciable balance.

(cc) Costs of direct or allocated labor associated with the marketing facility.

(dd) Costs of materials, supplies, maintenance, repairs, and fuel associated with the marketing facility.

(ee) Ad valorem taxes paid on the marketing facility.

(ii) If the facility is used for a purpose other than marketing the gas being sold, the cost shall be allocated accordingly.

(iii) If the facility handles gas for outside parties, the average cost for handling all of the gas shall be applied against the facility owner's gas.

(d) The actual cost charged to a producer by an outside party for marketing functions may be used for tax purposes if no other benefit or value accrues to the producer.

(e) A producer receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the gross cash receipts and shall be entitled to deduct the actual marketing costs incurred.

C. For purposes of administration of severance tax on oil, natural gas, and other hydrocarbons, any well completion date shall be determined by the secretary of the Department of Energy and Natural Resources.

D. The Louisiana Forestry Commission may base its determination of the market value of trees, timber, and pulpwood as provided in Paragraphs (A)(1) and (2) of this Section with consideration of sales of timber as reported to the Department of Revenue and in the "Quarterly Report of Forest Products" published by the Department of Agriculture and Forestry, and with consideration of any other information as the commission deems appropriate.

§633.1. Inactive and orphan wells; reduced rates; exemptions

A.(1)(a) Production from an oil or gas well subsequent to the well's having been inactive for two or more years or having thirty days or less of production during the past two years shall be subject to a severance tax rate equal to twenty-five percent of the applicable rate imposed by R.S. 47:633(A)(3) or (5). The reduced rate provided for in this Subparagraph shall apply for a period of ten years if the production commences before October 1, 2028.

(b) Production from an oil or gas well subsequent to the well's having been designated as an orphan well for longer than sixty months shall be subject to a severance tax rate equal to twelve and one-half percent of the applicable rate imposed by R.S. 47:633(A)(3) or (5). The reduced rate provided for in this

Subparagraph shall apply for a period of ten years if the production commences before October 1, 2028.

(2)(a) Production from an oil or gas well subsequent to the well's having been inactive for two or more years or having thirty days or less of production during the past two years shall be subject to a severance tax rate equal to fifty percent of the applicable rate imposed by R.S. 47:633(A)(3) or (5). The reduced rate provided for in this Subparagraph shall apply for a period of ten years if the production commences on or after October 1, 2028.

(b) Production from an oil or gas well subsequent to the well's having been designated as an orphan well for longer than sixty months shall be subject to a severance tax rate equal to twenty-five percent of the applicable rate imposed by R.S. 47:633(A)(3) or (5). The reduced rate provided for in this Subparagraph shall apply for a period of ten years if the production commences on or after October 1, 2028.

(3) To qualify for a reduced inactive or orphan well severance tax rate provided for in Paragraph (1) or (2) of this Subsection, the oil or gas production must be produced from the same perforated producing interval or from one hundred feet above and one hundred feet below the perforated producing interval for lease wells, and within the correlative defined interval for unitized reservoirs, that the formerly inactive or orphaned well produced from before being inactive or designated as an orphan well. The exemption shall be extended by the length of any inactivity of a well that has commenced production when the inactivity is caused by a force majeure.

(4) To qualify for inactive or orphan well status for purposes of the special rates provided for in this Subsection, an application for inactive or orphan well certification shall be made to the Department of Energy and Natural Resources during the period beginning July 1, 2018, and ending June 30, 2028. Upon certification that a well is inactive or orphan, production shall be subject to the applicable special rate as provided in this Section from the date production begins or ninety days from the date of the application, whichever occurs first.

(5) If the severance tax is paid at the full rate provided in R.S. 47:633(A) before the Department of Energy and Natural Resources approves an application for inactive or orphan well status, the operator shall be entitled to a credit against taxes imposed by this Section in an amount equal to the tax paid. To receive a credit, the operator shall apply to the secretary of the Department of Revenue for the credit no later than the first anniversary after the date the Department of Energy and Natural Resources certifies that the well is an inactive or orphan well.

B. Notwithstanding any provision of law to the contrary, oil production from any orphan well as defined by R.S. 30:88.2(A) that is undergoing or has undergone well enhancements that required a Department of Energy and Natural Resources permit, including but not limited to re-entries, workovers, or plugbacks, from which production commences on or after October 1, 2021, and before June 30, 2031, shall be exempt from the severance tax. To qualify for the exemption, an application for certification shall be made to the Department of Energy and Natural Resources. Upon certification that a well qualifies for the exemption, the operator shall retain an amount equal to the severance tax otherwise due for the initial three months of the exemption. Beginning in the fourth month following certification, the operator shall report, on forms prescribed by the secretary, and remit to the Department of Revenue an amount equal to the severance tax applicable to the well pursuant to this Section, which shall be credited to the associated site-specific trust account provided for in R.S. 30:88.2 and shall be subject to all due date, interest, and penalty provisions applicable to the oil severance tax.

C.(1) Production from an oil well that is undergoing or has undergone well enhancements that required a Department of Energy and Natural Resources permit, including but not limited to deepening, extension, recompletion, rework, or sidetrack, shall be taxed at the rate of six percent of the oil value determined in accordance with Subsection B of this Section.

(2) For purposes of this Subsection, the terms "deepening", "extension", "recompletion", "rework", and "sidetrack" shall have the meanings ascribed to them in R.S. 30:10 unless the context indicates otherwise.

§633.1.1. Exemptions; horizontal and deep wells

A. For purposes of this Section, the following terms shall have the meanings ascribed to them in this Subsection unless the context clearly indicates otherwise:

(1) "Defined regulatory unit" shall mean a unit created by the commissioner of conservation after notice and a hearing for the production of hydrocarbons.

(2) "Horizontally drilled" shall mean high angle directional drilling of bore holes with fifty to three thousand plus feet of lateral penetration through productive reservoirs.

(3) "Horizontally drilled recompletion" shall mean horizontally drilled in an existing well bore.

(4) "Payout of well cost" shall be the cost of completing the well to the commencement of production as determined by the Department of Energy and Natural Resources.

B.(1)(a) There shall be an exemption from severance tax, as provided in this Subsection, for production from any horizontally drilled well, or any horizontally drilled recompletion well, that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date of July 1, 2025, or later and was drilled and completed in a defined regulatory unit which was established prior to July 1, 2025.

(b) Notwithstanding any provision of this Chapter to the contrary, production from a well completed on or after July 1, 2035, shall not be eligible for the exemption provided for in this Subsection.

(2) The exemption shall apply for a period of twenty-four months from the date commercial production begins or until payout of the well cost is achieved, whichever period is shorter.

(3) The amount of the exemption for a horizontal well that produces oil shall be based on the oil price determined by the secretary of the Department of Energy and Natural Resources in accordance with R.S. 47:633(B). The value of the exemption shall be determined in accordance with the following schedule:

(a) The exemption shall be one hundred percent if the price of oil is at or below seventy dollars per barrel.

(b) The exemption shall be eighty percent if the price of oil is above seventy dollars and at or below eighty dollars per barrel.

(c) The exemption shall be sixty percent if the price of oil is above eighty dollars and at or below ninety dollars per barrel.

(d) The exemption shall be forty percent if the price of oil is above ninety dollars and at or below one hundred dollars per barrel.

(e) The exemption shall be twenty percent if the price of oil is above one hundred dollars and at or below one hundred ten dollars per barrel.

(f) There shall be no exemption if the price of oil exceeds one hundred ten dollars per barrel.

(4) The amount of the exemption for a horizontal well that produces natural gas shall be based on the natural gas price determined by the secretary of the Department of Energy and Natural Resources in accordance with R.S. 47:633(B). The value of the exemption shall be determined in accordance with the following schedule:

(a) The exemption shall be one hundred percent if the price of natural gas is at or below four dollars and fifty cents per million BTU.

(b) The exemption shall be eighty percent if the price of natural gas is above four dollars and fifty cents per million BTU and at or below five dollars and fifty cents per million BTU.

(c) The exemption shall be sixty percent if the price of natural gas is above five dollars and fifty cents per million BTU and at or below six dollars per million BTU.

(d) The exemption shall be forty percent if the price of natural gas is above six dollars per million BTU and at or below six dollars and fifty cents per million BTU.

(e) The exemption shall be twenty percent if the price of natural gas is above six dollars and fifty cents per million BTU and at or below seven dollars per million BTU.

(f) There shall be no exemption if the price of natural gas exceeds seven dollars per million BTU.

C.(1)(a) There shall be an exemption from severance tax for production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than fifteen thousand feet that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit that had a qualifying deep well completed between July 1, 2010, and June 30, 2025.

(b) Notwithstanding any provision of this Chapter to the contrary, production from a well completed on or after July 1, 2035, shall not be eligible for the exemption provided for in this Subsection.

(2) The exemption shall apply for twenty-four months from the date commercial production begins, or until payout of the well cost, whichever period is shorter. For purposes of this exemption, the date commercial production begins shall be the first day the well produces into the permanent production equipment and the facilities have been constructed to process and deliver natural gas, gas condensate, or oil to a sales point. The date of a drill-stem test, production test, or any other related production shall not be considered, construed, or deemed the date commercial production begins regardless of whether such activities are classified as active production by the office of conservation of the Department of Energy and Natural Resources. The date commercial production begins may be a date subsequent to the well completion date.

D. For purposes of this Section, any well completion date shall be determined by the secretary of the Department of Energy and Natural Resources.

§633.2. Transfer of funds to royalty road or royalty fund

A. Each month, the ~~collector of revenue~~ secretary of the Department of Revenue shall transfer to the register of state lands from current severance tax collections for credit to the royalty road fund an amount equal to the increased severance tax levied on resources severed from state owned lands and mineral leases, provided, however, that the amount transferred by the ~~collector of revenue~~ secretary shall not include revenues paid to the register of state lands as a result of tax reimbursements provided by contract or otherwise, and shall not exceed an amount in excess of decreased revenues to the royalty road fund. ~~as a result of Act No. 5 of the Extra Session of 1973 and Act No. 6 of the Extra Session of 1973. After January 1, 1975, the~~ The register of state lands shall transfer such funds to the governing authority of the parish entitled thereto under Article VII, Section 4(e) of the Louisiana Constitution ~~becoming effective at midnight December 31, 1974~~.

B. The chairman of the mineral board shall certify, each month, to the ~~collector of revenue~~ secretary of the Department of Revenue the amount of net loss to the royalty road fund or to the royalty fund due to the tax increases ~~provided in Act No. 5 of the Extra Session of 1973 and Act No. 6 of the Extra Session of 1973~~ described in Subsection A of this Section.

C. Nothing ~~contained herein~~ in this Section shall be construed to affect in any way whatsoever any ~~other~~ provisions of ~~R.S. 47:633(7)~~ R.S. 47:633(4) through (8).

* * *

§633.4. Tertiary recovery incentive

* * *

E. This Section shall not apply to reservoirs on which tertiary recovery operations are being conducted prior to the effective date of this Section or to any well completed after July 1, 2025, unless the well is drilled and completed in a

<u>defined regulatory unit that had a qualifying tertiary well completed between June 30, 2010, and June 30, 2025. Notwithstanding any provisions of law to the contrary, this Section shall not apply to production from a well completed on or after July 1, 2035</u>.

* * *

§645. Disposition of collections

A. All taxes levied in this Part shall be collected monthly by the secretary and~~, except as otherwise provided herein and in R.S. 30:301 et seq. and in R.S. 49:213.7, shall be~~ paid by him into the state treasury immediately upon receipt. ~~When so paid, all of the~~ <u>All</u> severance taxes collected on natural resources~~,~~ severed from soil or water, including salt content in brine, not otherwise allocated by the Constitution of Louisiana, shall be credited to the state treasury.

* * *

§1624. Interest on refunds

A.(1)

* * *

(b) ~~Except as otherwise provided in Subparagraph (2)(a) of this Subsection, and notwithstanding~~ <u>Notwithstanding</u> any other provision of law to the contrary, beginning January 1, 2022, on all refunds or credits, the secretary shall compute and allow as part of the refund or credit interest at the rate established for tax obligations in R.S. 47:1601(A)(2) from ninety days after the later of the due date of the return, the filing date of the return or claim for refund on which the overpayment is claimed, or the date the tax was paid.

* * *

Section 4. R.S. 47:631, 633.2, and 645(A) and (B) are hereby amended and reenacted to read as follows:

§631. Imposition of tax

Taxes as authorized by Article VII, ~~Section 4~~ Section 8 of the Constitution of Louisiana are hereby levied upon all natural resources severed from the soil or water, including all forms of timber, including pulp woods, turpentine, and other forest products; minerals such as oil, gas, natural gasoline, distillate, condensate, casinghead gasoline, sulphur, salt, coal, lignite, and ores; marble, stone, sand, shells, and other natural deposits; and the salt content in brine.

* * *

§633.2. Transfer of funds to royalty road or royalty fund

A. Each month, the ~~collector of revenue~~ secretary of the Department of Revenue shall transfer to the register of state lands from current severance tax collections for credit to the royalty road fund an amount equal to the increased severance tax levied on resources severed from state owned lands and mineral leases, provided, however, that the amount transferred by the ~~collector of revenue~~ secretary shall not include revenues paid to the register of state lands as a result of tax reimbursements provided by contract or otherwise, and shall not exceed an amount in excess of decreased revenues to the royalty road fund. ~~as a result of Act No. 5 of the Extra Session of 1973 and Act No. 6 of the Extra Session of 1973. After January 1, 1975, the~~ The register of state lands shall transfer such funds to the governing authority of the parish entitled thereto under Article VII, ~~Section 4(c)~~ Section 8(C) of the Louisiana Constitution ~~becoming effective at midnight December 31, 1974~~.

B. The chairman of the mineral board shall certify, each month, to the ~~collector of revenue~~ secretary of the Department of Revenue the amount of net loss to the royalty road fund or to the royalty fund due to the tax increases ~~provided in Act No. 5 of the Extra Session of 1973 and Act No. 6 of the Extra Session of 1973~~ described in Subsection A of this Section.

C. Nothing ~~contained herein~~ in this Section shall be construed to affect in any way whatsoever any ~~other~~ provisions of R.S. 47:633(7).

* * *

§645. Disposition of collections

A. All taxes levied in this Part shall be collected monthly by the secretary and~~, except as otherwise provided herein and in R.S. 30:301 et seq. and in R.S. 49:213.7, shall be~~ paid by him into the state treasury immediately upon receipt. ~~When so paid, all of the~~ All severance taxes collected on natural resources~~,~~ severed from soil or water, including salt content in brine, not otherwise allocated by ~~the Constitution of Louisiana~~ R.S. 39:100.116, shall be credited to the state treasury.

B. One-third of the sulphur severance tax ~~but not to exceed one hundred thousand dollars~~, one-third of the lignite severance tax, one-fifth of the severance tax on all natural resources other than sulphur, lignite, or timber ~~but not to exceed five hundred thousand dollars~~, and three-fourths of the timber severance tax shall be allocated to the governing authority of the parish within which severance or production occurs ~~and shall be credited to such parish by the treasurer for allocation to the governing authority of the parish in which severance or production occurs as provided in Article VII, Section 4 of the Constitution of 1974. When these limits have been reached, there shall be no further allocation, and all additional collections for the year shall be credited in full to the state treasury except as provided in R.S. 30:88.1~~.

* * *

Section 5. R.S. 47:324 and 633.5, Part I-E of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:648.21, and R.S. 47:1624(A)(2) are hereby repealed in their entirety.

Section 6. The provisions of this Act shall apply to taxable periods beginning on or after July 1, 2025.

Section 7. This Section and Sections 2 and 4 of this Act shall take effect and become operative if and when the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 7 of this 2024 Third Extraordinary Session of the Legislature is adopted at a statewide election and becomes effective.

Section 8. This Section and Sections 1, 3, 5, and 6 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 25 Engrossed 2024 Third Extraordinary Session Riser

Abstract: Provides relative to rates, computation, and administration of severance tax on oil and gas and for dedication of certain severance tax revenues.

Present law provides for the levy of a tax, known as severance tax, on natural resources severed from the soil or water. Provides that the rate of the severance tax is predicated on the quantity or value of the products or resources severed.

Present law establishes severance tax rates on natural resources. Proposed law revises present law relative to severance tax on oil and gas. Revises both the rates of severance tax on oil and gas and the methods of calculating quantities and prices of oil and gas for purposes of computing amounts of severance taxes to be imposed on those resources.

Proposed law repeals provisions from, and adds provisions to, present law relative to severance tax as described below.

Provisions relative to oil to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on oil:

(1) Provisions stipulating that the value of oil on which severance tax liability is based shall be the higher of the following:

(a) The gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees.

(b) The posted field price.

(2) A severance tax rate of 12.5% on oil not subject to a reduced rate per present law based on its value at the time and place of severance.

(3) A severance tax rate of 6.25% on oil produced from a well that meets the following criteria:

(a) It is incapable of producing an average of more than 25 barrels of oil per producing day during the entire taxable month.

(b) It is classified in accordance with present law as an "incapable well".

(4) A severance tax rate of 3.125% on oil produced from a well that meets the following criteria:

(a) It is incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month.

(b) It classified in accordance with present law as a "stripper well".

(5) A severance tax rate of 3.125% on oil produced from a well in a stripper field classified in accordance with present law as a "mining and horizontal drilling project".

(6) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for oil production from any horizontally drilled well or horizontally drilled recompletion well from which production occurs on or after July 1, 2015. Present law provides for five different exemption amounts for oil production from horizontal wells, with the exemption level varying based on the price of oil. Exemption amounts range from a 100% exemption if the price of oil is at or below \$70 per barrel to a 20% exemption if the price of oil is above \$100 and at or below \$110 per barrel.

(7) A severance tax rate of 3.125% of value received by the first purchase on oil which is reclaimed by certain salvage crude reclamation facilities.

Provisions relative to oil to be added

Proposed law adds the following provisions relative to severance tax on oil:

(1) The value of oil on which severance tax liability is based shall be the gross receipts received from the first purchaser, less charges for trucking, barging, and pipeline fees.

(2)(a) Oil sold from a well completed before July 1, 2025, shall be taxed at the rate of 12.5% of the oil value determined in accordance with proposed law.

(b) Oil sold from a well completed on or after July 1, 2025, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

(c) Any oil sold on or after July 1, 2035, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law regardless of well completion date.

(3) A severance tax rate of 3% on oil produced from a well that meets the following criteria:

(a) It is incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month.

(b) It classified in accordance with proposed law as a "stripper well".

(4)(a) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever period is shorter, for oil production from any horizontally drilled well or horizontally drilled recompletion well, referred to hereafter as a "horizontal well", that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit that had a qualifying horizontal well completed between July 1, 2010, and June 30, 2025.

(b) Proposed law provides for the same five levels of exemption amounts for oil production from horizontal wells, varying based on the price of oil, as provided in present law (ranging from a 100% exemption if the price of oil is at or below $70 per barrel to a 20% exemption if the price of oil is above $100 and at or below $110 per barrel).

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production of oil from a horizontal well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to gas to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on gas:

(1)(a) Subject to adjustment as provided in present law, a severance tax rate of 7¢ per 1,000 cubic feet on natural gas, natural gasoline, casinghead gasoline, and other natural gas liquids including but not limited to ethane, methane, butane, and propane.

(b) The gas tax rate provided in present law shall be adjusted annually on July 1 for the ensuing 12 calendar months, but shall never be less than 7¢ per 1,000 cubic feet. The new gas tax rate shall be the 7¢ rate provided in present law multiplied by a gas base rate adjustment figure which the secretary of the Dept. of Energy and Natural Resources shall determine in accordance with a procedure provided in present law and publish in the official journal of the state by May 1 annually.

(2) A severance tax rate of 3¢ per 1,000 cubic feet on gas produced from an oil well with a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, and on gas produced from an oil well by the method commonly known as gas lift.

(3) A severance tax rate of 1.3¢ per 1,000 cubic feet on gas produced from a gas well which is incapable of producing an average of 250,000 cubic feet of gas per day during an entire taxable month.

(4) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for natural gas production from any horizontally drilled well or horizontally drilled recompletion well from which production occurs on or after July 1, 2015. Present law provides for five different exemption amounts for natural gas production from horizontal wells, with the exemption level varying based on the price of natural gas. Exemption amounts range from a 100% exemption if the price of natural gas is at or below $4.50 per million BTU to a 20% exemption if the price of natural gas is above $6.50 and at or below $7.00 per million BTU.

(5) An exemption from severance tax for severance of gas which is used in the manufacture of carbon black.

Provisions relative to gas to be added

Proposed law adds the following provisions relative to severance tax on gas:

(1) The tax rate on natural gas shall be applied to each 1,000 cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit produced.

(2)(a) Natural gas produced from a well completed before July 1, 2025, shall be taxed at the rate of 4% of the natural gas market value determined in accordance with proposed law.

(b) Natural gas produced from a well completed on or after July 1, 2025, shall be taxed at the rate of 4% of the natural gas market value determined in accordance with proposed law, provided the well is drilled and completed in at least one defined regulatory unit which was established before July 1, 2025.

(c) Natural gas produced from a well completed on or after July 1, 2025, which is not in a defined regulatory unit established before July 1, 2025, shall be taxed at the rate of 6% of the natural gas market value determined in accordance with proposed law.

(d) Any natural gas produced on or after July 1, 2035, shall be taxed at the rate of 6% of the natural gas market value determined in accordance with proposed law.

(3) In the case of gas produced from an oil well with a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, or, in the case of gas rising in a vaporous state through the annular space between the casing and tubing of the oil well and released through lines connected with the casinghead gas which has a casinghead pressure of 50 pounds per square inch gauge or less under operating conditions, the rate shall be:

(a) For natural gas produced through June 30, 2035, from a well completed prior to July 1, 2025, 3¢ per 1,000 cubic feet.

(b) For natural gas produced from a well completed on or after July 1, 2025, 3% of the natural gas price determined in accordance with proposed law.

(c) For any natural gas produced on or after July 1, 2035, 3% of the natural gas price determined in accordance with proposed law regardless of the well completion date.

(4) In the case of gas produced from a gas well which is incapable of producing an average of 250,000 cubic feet of gas per day during entire taxable month, the tax rate applicable to gas severed from the well shall be:

(a) For natural gas produced through June 30, 2035, from a well completed before July 1, 2025, 1.3¢ per 1,000 cubic feet.

(b) For natural gas produced from a well completed on or after July 1, 2025, 1.5% of the natural gas price determined in accordance with proposed law.

(c) For all natural gas produced on or after July 1, 2035, 1.5% of the natural gas price determined in accordance with proposed law regardless of the well completion date.

(5)(a) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for natural gas production from any horizontal well that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit that had a qualifying horizontal well completed between July 1, 2010, and June 30, 2025.

(b) Proposed law provides for the same five levels of exemption amounts for natural gas production from horizontal wells, varying based on the price of natural gas, as provided in present law (ranging from a 100% exemption if the price of natural gas is at or below $4.50 per million BTU to a 20% exemption if the price of natural gas is above $6.50 and at or below $7.00 per million BTU).

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production of natural gas from a horizontal well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to both oil and gas to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on oil and gas:

(1)(a) On production of oil or gas from a well classified in accordance with present law as an "inactive well", a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) On production of oil or gas from a well classified in accordance with present law as an "inactive well", a severance tax rate of 50% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(2)(a) On production of oil or gas from a well classified in accordance with present law as an "orphan well", a severance tax rate of 12.5% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) On production of oil or gas from a well classified in accordance with present law as an "orphan well", a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(3) A severance tax rate of 12.5% on distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas based on the resource's value at the time and place of severance.

(4) An exemption from severance tax for production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than 15,000 feet, where production commences after July 31, 1994. The exemption shall be effective for 24 months from the date commercial production begins or until payout of the well cost, whichever comes first.

(5) A reduction of severance tax on oil and gas, known as the "produced water injection incentive", for producers who take certain actions to increase recovery of hydrocarbons from the discharge of certain produced waters from oil and gas activities onto the ground and into surface waters in coastal wetlands.

(6) Special provisions for computation of interest on refunds of overpayments of severance tax to operators of certain horizontal or deep wells.

Provisions relative to both oil and gas to be added

Proposed law adds the following provisions relative to severance tax on oil and gas:

(1) The secretary of the Dept. of Energy and Natural Resources shall determine the prices upon which the severance tax for oil, natural gas, and other hydrocarbons shall be calculated, with such determinations made in accordance with procedures established in proposed law.

(2)(a) Production from an oil or gas well designated in accordance with proposed law as an "inactive well" shall be subject to a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) Production from an oil or gas well designated in accordance with proposed law as an "inactive well" shall be subject to a severance tax rate of 50% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(3)(a) Production from an oil or gas well designated in accordance with proposed law as an "orphan well" shall be subject to a severance tax rate of 12.5% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) Production from an oil or gas well designated in accordance with proposed law as an "orphan well" shall be subject to a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(4) Production from an oil well that is undergoing or has undergone well enhancements that required a Dept. of Energy and Natural Resources permit, including but not limited to deepening, extension, recompletion, rework, or sidetrack, all as defined in present law, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

(5)(a) A 100% exemption from severance tax for production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than 15,000 feet, referred to hereafter as a "deep well", that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit which was established prior to July 1, 2025.

(b) Proposed law provides that the severance tax exemption for production from a deep well shall apply for 24 months from the date commercial production begins, or until payout of the well cost, whichever period is shorter.

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production from a deep well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to severance tax to be retained

Proposed law retains present law requiring all of the following with respect to production from inactive wells and orphan wells:

(1) In order to qualify for inactive or orphan well status for purposes of qualifying for a reduced severance tax rate on production from that well, an application for inactive or orphan well certification shall be made to the Dept. of Energy and Natural Resources during the period beginning July 1, 2018, and ending June 30, 2028.

(2) If, in any one fiscal year, the secretary of the Dept. of Revenue estimates that the severance tax paid on production from inactive wells and orphan wells will be in excess of $15,000,000, the secretary shall notify the commissioner of conservation of the Dept. of Energy and Natural Resources, who shall not certify inactive or orphan well status for any other wells for the remainder of that fiscal year.

(3) If the severance tax is paid at the full rate before the Dept. of Energy and Natural Resources approves an application for inactive or orphan well status, the operator is entitled to a credit against taxes imposed in an amount equal to the tax paid.

Proposed law retains present law providing an exemption from severance tax for oil production commencing on or after Oct. 1, 2021, and before June 30, 2031, from any orphan well that is undergoing or has undergone well enhancements that required a permit from the Dept. of Energy and Natural Resources.

Proposed law retains present law providing that there shall be no severance tax exemption for oil or gas produced from horizontally drilled wells or horizontally drilled recompletion wells if the price of oil exceeds $110 per barrel or if the price of natural gas exceeds $7.00 per million BTU.

Proposed law retains present law providing an exemption from severance tax for severance of gas which meets any of the following criteria:

(1) It is subsequently injected into a formation in this state for the purpose of storing by the producer.

(2) It is originally produced without the state of La. and has been injected into the earth within this state.

(3) It is produced from oil or gas wells and vented or flared directly into the atmosphere, provided such gas is not otherwise sold.

(4) It is used for drilling fuel in the field where produced or is used by a lease operator on the lease for fuel in connection with the operation and development for, or production of, oil and gas in the field where produced.

(5) It is consumed in the production of natural resources in this state.

Dedication of severance tax revenues

Proposed law repeals present law requiring that certain amounts of severance tax revenue on oil and gas, referred to hereafter as "mineral revenues", be dedicated to the following special funds:

(1) La. Wildlife and Fisheries Conservation Fund and the Oil and Gas Regulatory Dedicated Fund Account. (R.S. 30:136.1(D))

(2) La. Education Quality Trust Fund. (Const. Art. VII, §10.1)

(3) La. Quality Education Support Fund. (Const. Art. VII, §10.1)

(4) Mineral Revenue Audit and Settlement Fund. (Const. Art. VII, §10.5 and R.S. 39:97)

(5) Transportation Trust Fund. (R.S. 48:77)

Proposed law repeals present law providing that after other required allocations and deposits of mineral revenues, such revenues received each year in excess of $660 million and under $950 million shall be allocated as follows:

(1) 30% shall be appropriated to the La. State Employees' Retirement System and the Teachers' Retirement System of La. for application to the balance of the unfunded accrued liability of those systems for pension benefit payments until such liability has been eliminated.

(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund. (Const. Art. VII, §§10.15 and 10.16)

Proposed law repeals present law requiring that mineral revenues in excess of the base which would otherwise be deposited into the Budget Stabilization Fund under certain provisions of present law (R.S. 39:94(A)(2)), but are prohibited from being deposited into the fund under other provisions of present law (R.S. 39:94(C)(5)), shall be distributed as follows:

(1) 30% shall be appropriated to the La. State Employees' Retirement System and the Teachers' Retirement System of La. for application to the balance of the unfunded accrued liability of those systems for pension benefit payments until such liability has been eliminated.

(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund. (Const. Art. VII, §§10.15 and 10.16)

Present law requires that one-third of the amount of sulphur severance tax, but not to exceed $100,000, be allocated to the governing authority of the parish within which the severance or production occurs. Proposed law repeals the $100,000 limit, thereby requiring that the full one-third of the sulphur severance tax amount be allocated to the governing authority of the parish in which the severance or production occurs.

Present law requires that one-fifth of the amount of severance tax on oil, gas, and all other natural resources except sulphur or timber, but not to exceed $500,000, be allocated to the governing authority of the parish within which the severance or production occurs. Proposed law repeals the $500,000 limit, thereby requiring that the full one-fifth of the severance tax amount on oil, gas, and all other natural resources except sulphur or timber be allocated to the governing authority of the parish in which the severance or production occurs.

Proposed law requires that one-third of the lignite severance tax be allocated to the governing authority of the parish within which the severance or production occurs.

Applicability; effectiveness

Proposed law applies to taxable periods beginning on or after July 1, 2025.

Proposed law providing for dedication of severance tax revenues becomes effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 7 of this 2024 3rd Ex. Sess. is adopted at a statewide election and becomes effective.

All other provisions of proposed law become effective July 1, 2025.

(Amends R.S. 30:87(A), R.S. 39:100.116, and R.S. 47:631, 633, 633.2, 633.4(E), 645(A) and (B), and 1624(A)(1)(b); Adds R.S. 47:633.1 and 633.1.1; Repeals R.S. 47:324, 633.5, 648.21, and 1624(A)(2))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete proposed law providing that the computation of severance tax on oil shall be based on the oil price. Provide instead that the computation of severance tax on oil shall be based on the oil value.

2. Provide that the value of oil shall be the gross receipts received from the first purchaser, less charges for trucking, barging, and pipeline fees; and that in the absence of an arms-length transaction, the value shall be the severer's gross income from the property determined by present law.

3. Exempt from severance tax crude oil produced from certified stripper wells in any month in which the average value of oil determined in accordance with proposed law is less than $20 per barrel.

4. Delete proposed law providing that the computation of severance tax on natural gas shall be based on the natural gas price. Provide instead that the computation of severance tax on natural gas shall be based on the natural gas market value.

5. Establish the methodology by which the natural gas market value shall be determined for purposes of proposed law.

6. Delete proposed law providing that gas vented or flared directly into the atmosphere more than 90 days after a well's completion date shall be exempt from severance tax only during short-duration events such as facility upsets, venting to unload wells, workover operations, or other day-to-day operations. Otherwise, retain present law providing a severance tax exemption for gas vented or flared directly into the atmosphere.

7. Provide that production from an oil well that is undergoing or has undergone well enhancements that required a Dept. of Energy and Natural Resources permit, including but not limited to deepening, extension, recompletion, rework, or sidetrack, all as defined in present law, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

8. Provide a definition of "defined regulatory unit" for purposes of proposed law.

9. For purposes of the severance tax exemption for production from horizontal wells completed on or after July 1, 2025, provided for in present law and proposed law, remove the requirement that the well be drilled and completed in a defined regulatory unit that had a qualifying horizontal well completed between July 1, 2010, and June 30, 2025.