

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 379

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-330, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE LEVY AND IMPOSITION OF A TAX ON ALL OIL AND GAS PRODUCED, SAVED AND SOLD OR TRANSPORTED FROM PREMISES IN IDAHO, TO PROVIDE FOR THE AMOUNT OF TAX TO BE LEVIED AND IMPOSED, TO CLARIFY THAT CERTAIN ACTIVITY DOES NOT CONSTITUTE TRANSPORTATION FROM THE PREMISES PRIOR TO SALE, TO PROVIDE THAT THE TAX IS IN ADDITION TO ALL OTHER TAXES, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL ENFORCE COLLECTION OF THE TAX AND MAKE CERTAIN RULES, TO REVISE PROVISIONS RELATING TO THE LIABILITY FOR SUCH TAX AND THE PAYMENT OF SUCH TAX, TO REVISE PROVISIONS RELATING TO SPECIFIED EXEMPTIONS FROM THE TAX, TO PROVIDE THAT SPECIFIED PROVISIONS OF THE IDAHO INCOME TAX ACT SHALL APPLY AND BE AVAILABLE TO THE STATE TAX COMMISSION FOR ENFORCEMENT, ASSESSMENT AND COLLECTION OF SUCH TAXES AND TO PROVIDE THAT THE PROVISIONS SHALL BE CONSIDERED A PART OF SPECIFIED LAW, TO PROVIDE THAT CERTAIN LIENS AND PROCEEDINGS SHALL BE CONSIDERED OIL AND GAS LIENS AND PROCEEDINGS, TO PROVIDE THAT THE STATE TAX COMMISSION MAY BE MADE A PARTY DEFENDANT IN CERTAIN ACTIONS, TO PROVIDE THAT THE STATE OF IDAHO SHALL BE RESPONSIBLE FOR CERTAIN FINAL JUDGMENTS AGAINST THE STATE TAX COMMISSION AND TO PROVIDE FOR PAYMENT OUT OF THE STATE REFUND ACCOUNT, TO PROVIDE FOR DISTRIBUTION OF MONEYS COLLECTED, TO PROVIDE FOR THE EXPENDITURE AND TRANSFER OF SPECIFIED AMOUNTS, TO PROVIDE FOR THE AUDIT AND PAYMENT OF BILLS FOR SALARIES AND EXPENSES AND TO MAKE A TECHNICAL CORRECTION; REPEALING SECTION 47-331, IDAHO CODE, RELATING TO ADDITIONAL TAX ON OIL AND GAS PRODUCED; REPEALING SECTION 47-332, IDAHO CODE, RELATING TO THE DISTRIBUTION OF REVENUES; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-330, Idaho Code, be, and the same is hereby amended to read as follows:

47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the purposes of paying the expenses of administration of this act and for the privilege of extracting oil and gas in this state, there is hereby established ~~a special fund to be known as the "Oil and Gas Conservation Fund", and there is hereby~~ levied and imposed on all oil and gas produced, saved and sold or transported from the premises in Idaho where produced a tax ~~not to exceed five (5) mills per barrel of oil or per 50,000 cubic feet of gas. The commission shall by order fix the amount of such charge in the first instance and shall thereafter at its first meeting after the commencement of its fiscal year, determine such charge for the ensuing year as in its judgment the expenses chargeable against the oil and gas conservation fund may require; provided that the amounts fixed by the commission shall not exceed the limit hereinabove prescribed. It shall be the duty of the commission to enforce~~

collection of such assessments and to make such rules and regulations as may be necessary to enforce such charges of two and one-half percent (2.5%) of the market value of the oil or gas produced at the site of production. If the oil and gas is transported from the premises prior to sale, then the tax will be determined based on the published Henry Hub spot price for gas or WTI Cushing spot price for crude oil at the close of business the day the oil or gas leaves the premises. Transportation from the premises prior to the sale does not include movement of oil or gas from the wellhead to another site in Idaho by the same person for dehydration or other processing required for sale. This tax is in addition to all other taxes provided by law. It shall be the duty of the state tax commission to enforce collection of this tax and to make such rules as may be necessary, pursuant to the provisions of chapter 52, title 67, Idaho Code. All money so collected shall be remitted to the state treasurer for deposit in the oil and gas conservation fund, which fund is hereby created in the office of the state treasurer of the state of Idaho, and is hereby appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this act. The commission shall audit all bills for salaries and expenses incurred in the enforcement of this act that may be payable from the oil and gas conservation fund which shall be audited, allowed and paid as to the claims against the state.

(2) The persons owning an interest (working interest, royalty interest, payments out of production, or any other interest), in the oil and gas, or in the proceeds thereof, ~~subject to the charge hereinabove provided for,~~ shall be liable for such charge tax in proportion to their ownership at the time of production. The charge tax so assessed and fixed shall be payable quarterly, and the sum so due shall be remitted to the state tax commission, on or before the ~~twenty-fifth~~ twentieth (25<sup>th</sup>) of the next month following the preceding quarter in which the charge tax accrued, by the producer on behalf of himself and all other interested persons; ~~provided, however, in the event of a sale of oil or gas within this state said charge may be payable by the purchaser thereof. Any such charge not paid within the time herein specified shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid, and such charge, together with the interest, shall be a lien upon the oil or gas against which the same is levied and assessed, or, if the same is not available for a lien, upon any oil or gas owned or held by the persons responsible for paying said charge. The person remitting the charge tax, as herein provided, is hereby empowered and required to deduct from any amounts due the persons owning an interest in the oil and gas, or in the proceeds thereof, at the time of production a proportionate amount of such charge tax before making payment to such persons.~~

(3) The tax imposed by ~~t~~this section shall apply to all lands in the state of Idaho, anything in this act to the contrary notwithstanding; ~~provided, however, there shall be exempted from the charge tax hereinabove levied and assessed the following, to-wit to wit:~~

(a) The interest of the United States of America and the interest of the state of Idaho and the political subdivisions thereof in any oil or gas or in the proceeds thereof.

(b) The interest of any Indian or Indian tribe in any oil or gas or the proceeds thereof, produced from lands subject to the supervision of the United States.

(c) Oil and gas used in producing operations or for repressuring or re-cycling purposes.

(4) To the extent that such sections are not in conflict with the provisions of this act, the deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A, 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection pursuant to this act, be described as an oil and gas tax lien or proceeding.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment or any other amount erroneously or illegally collected shall be paid or satisfied out of the state refund account created by section 63-3067, Idaho Code.

(5) All moneys collected under this chapter shall be distributed by the state tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) For the balance of the proceeds, forty percent (40%) shall be distributed by the end of the month following each quarterly due date by the state tax commission into any oil and gas revenue share account as follows:

(i) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the current expense fund of the county from which the oil or gas was produced;

(ii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the cities within the county from which the oil or gas was produced. Such funds shall be distributed to each city based upon the proportion that the city's population bears to the total population of all of the cities within the county;

(iii) Twenty-eight percent (28%) is hereby appropriated and shall be paid to the public school income fund; and

(iv) Sixteen percent (16%) shall be transferred to the local economic development account that is hereby created in the agency as-set fund to provide assistance in those counties experiencing a severe economic hardship due to the cutback or closure of business and industry associated with oil or gas production.

(c) The remainder of the moneys deposited into the oil and gas conservation fund, sixty percent (60%) of the proceeds after refunds, may be expended pursuant to legislative appropriation and shall be used for defraying the expenses of the oil and gas conservation commission in carrying out the provisions of this act. At the beginning of each

1       fiscal year, those moneys in the oil and gas conservation fund, after  
2       applicable refunds and distribution as noted in paragraphs (a) and (b)  
3       of this subsection, that exceed two hundred percent (200%) of the cur-  
4       rent year's appropriations for the oil and gas conservation commission  
5       shall be transferred to the general fund. The oil and gas conservation  
6       commission shall audit all bills for salaries and expenses incurred in  
7       the enforcement of this act that may be payable from the oil and gas con-  
8       servaion fund which shall be audited, allowed and paid as to the claims  
9       against the state.

10       SECTION 2. That Section [47-331](#), Idaho Code, be, and the same is hereby  
11       repealed.

12       SECTION 3. That Section [47-332](#), Idaho Code, be, and the same is hereby  
13       repealed.

14       SECTION 4. An emergency existing therefor, which emergency is hereby  
15       declared to exist, this act shall be in full force and effect on and after  
16       April 1, 2012.