

## LEGISLATIVE BILL 224

Approved by the Governor May 26, 1983

Introduced by Schmit, 23; Vickers, 38

AN ACT to amend sections 57-701, 57-702, 57-704, 57-707, 57-709, 57-710, and 57-903, Reissue Revised Statutes of Nebraska, 1943, and section 57-919, Revised Statutes Supplement, 1982, relating to oil and gas; to redefine terms; to change provisions relating to payment of the severance tax; to provide for interest for delinquent payments; to change provisions relating to the conservation charge on oil and natural gas; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 57-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-701. As used in sections 57-701 to ~~57-745~~ 57-714, unless the context otherwise requires:

(1) Oil shall mean any petroleum product or other oil taken from the earth;

(2) Severed shall mean the taking from the land by any means whatsoever of the natural resources enumerated in sections 57-701 to ~~57-745~~ 57-714; and

(3) Person shall mean any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, or any person acting under a declaration of trust or as an operator under a lease agreement or unitization agreement.

Sec. 2. That section 57-702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-702. Commencing on January 1, 1956, and for each subsequent year, taxes are hereby levied on oil and natural gas severed from the soil of this state, except such oil or gas as is used only in severing operations or for repressuring or recycling purposes. Such taxes shall (1) be paid by the person engaged in the severing of such oil or natural gas, except that if the oil or natural gas is sold in the state, the first

purchaser shall pay the tax, (2) become due and payable monthly, as provided by sections 57-701 to 57-745 57-714, and (3) operate as a first lien on all such resources, which lien shall follow the resources into the hands of third persons, whether in good or bad faith or whether the same are found in a manufactured or unmanufactured state.

Sec. 3. That section 57-704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-704. All taxes levied, as provided by sections 57-701 to 57-745 57-714, shall be due and payable in monthly installments on or before the last day of the month next succeeding the month in which the resources were severed. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports shall be considered filed on time if mailed in an envelope properly addressed to the Tax Commissioner and postmarked before midnight of the final filing date. Provided, that for good cause the Tax Commissioner may grant a taxpayer reasonable extensions of time for filing, but not to exceed ten days in the aggregate for any one return. The person engaged in the severing required to make payments pursuant to section 57-702 shall, on or before the last day of the month next succeeding the month in which they the resources were so severed, shall make out and file with the Tax Commissioner a report or return for the preceding month in such form as may be prescribed by the Tax Commissioner showing: The business conducted by the person engaged in the severing during the preceding month; the kind and gross quantity and value of the resources so severed; the name of the owner or owners of the resources at the time of the severance; the portion owned by each; the location of the place or places where the same were severed; and such other information as the Tax Commissioner may require.

Sec. 4. That section 57-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-707. Except as otherwise provided in sections 57-701 to 57-745 57-714, the reports required under the provisions of sections 57-701 to 57-745 57-714 shall be made and the taxes paid, by the person engaged in the severing, whether or not he is the owner of the land required to make payments pursuant to section 57-702.

Sec. 5. That section 57-709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-709. The Tax Commissioner may bring an action against any person engaged in the severing of the

oil or natural gas, or when such resources are sold in the state, against the first purchaser of the oil or natural gas, for the collection of taxes which are due and delinquent under the provisions of sections 57-701 to 57-745 57-714.

Sec. 6. That section 57-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-710. The tax, provided by the provisions of sections 57-701 to 57-745 57-714, shall become delinquent after the last day of each month, as provided in section 57-704, and in any such tax not paid within the time specified shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of delinquency until paid, and such tax together with the interest shall be a lien upon the oil or gas against which the tax and interest is levied and assessed. The addition to the amount of the delinquent taxes there shall be paid and the Tax Commissioner shall charge and collect a penalty for the such delinquency in the amount of one per cent of the delinquent taxes for each month, or part thereof, that the delinquency has continued but in no event shall the penalty be more than twenty-five per cent of the delinquent taxes. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest.

Sec. 7. That section 57-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-903. As used in sections 57-901 to 57-921, unless the context otherwise requires:

(1) (a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale; (b) waste, as applied to gas shall include: (i) the The escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas from wells producing oil or both oil and gas; and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably



produced with oil if it is not economically feasible for the producer to save or use such gas; and (c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool;

(2) Commission shall mean the Nebraska Oil and Gas Conservation Commission;

(3) Person shall mean and include any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and include any department, agency, or instrumentality of the state or of any governmental subdivision thereof;

(4) Oil shall mean and include crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(5) Gas shall mean and include all natural gas and all other fluid hydrocarbons not hereinabove defined as oil;

(6) Pool shall mean an underground reservoir containing a common accumulation of oil or gas or both; each zone of the structure which is completely separated from any other zone in the same structure is a pool, as that term is used in sections 57-901 to 57-921;

(7) Field shall mean the general area underlaid by one or more pools;

(8) Owner shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he or she produces therefrom either for himself or herself or for himself or herself and others;

(9) ~~Producers~~ Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease, or a unit of producing leases in which other persons own interests, with respect to such a well or wells;

(10) Correlative rights shall mean the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his or her just and equitable share of the oil or gas, or both, in the pool; and

(11) The word and shall include the word or, and the word or shall include the word and.

Sec. 8. That section 57-919, Revised Statutes Supplement, 1982, be amended to read as

follows:

57-919. (1) All money collected by the Tax Commissioner or the commission or as civil penalties under the provisions of sections 57-901 to 57-921 shall be remitted to the State Treasurer for deposit in a special fund to be known as the Oil and Gas Conservation Fund. Expenses incident to the administration of sections 57-901 to 57-921 shall be paid out of the Oil and Gas Conservation Fund. Any money in the Oil and Gas Conservation Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

(2) There is hereby levied and assessed on the value at the well of all oil and gas produced, saved, and sold or transported from the premises in Nebraska where produced a charge not to exceed four mills on the dollar. The commission shall by order fix the amount of such charge in the first instance and may, from time to time, reduce or increase the amount thereof 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 Tax Commissioner to make collection of such assessments. 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 to the producer for such charge in proportion to their ownership at the time of production. The producer shall, on or before the last day of the month next succeeding the month in which the charge was assessed, file a report or return in such form as prescribed by the commission and Tax Commissioner together with all charges due; PROVIDED, that in the event of a sale of oil or gas within this state the first purchaser shall file this report or return together with any charges then due. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day shall be the final filing date. Such reports or returns shall be considered filed on time if postmarked before midnight of the final filing date. Provided, that for good cause reasonable extensions of time for filing may be granted, but not to exceed ten days in the aggregate for any one return. Any such charge not paid within the time herein specified shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, 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. The Tax Commissioner shall charge and collect a penalty for the

delinquency in the amount of one per cent of the charge for each month or part of the month that the charge has remained delinquent but in no event shall the penalty be more than twenty-five per cent of the charge. The Tax Commissioner may waive all or part of the penalty provided in this section but shall not waive the interest. The person remitting the charge as provided in this section is hereby authorized, 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 the proportionate amount of such charge before making payment to such persons. This subsection shall apply to all lands in the State of Nebraska, anything in section 57-920 to the contrary notwithstanding; PROVIDED, that there shall be exempted from the charge hereinabove levied and assessed the following: (a) The interest of the United States of America and the interest of the State of Nebraska 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 in the proceeds thereof, produced from land subject to the supervision of the United States; and (c) oil and gas used in producing operations or for repressuring or recycling purposes. All money so collected shall be remitted to the State Treasurer for credit to the Oil and Gas Conservation Fund and shall be used exclusively to pay the costs and expenses incurred in connection with the administration and enforcement of the provisions of sections 57-901 to 57-921.

Sec. 9. That original sections 57-701, 57-702, 57-704, 57-707, 57-709, 57-710, and 57-903, Reissue Revised Statutes of Nebraska, 1943, and section 57-919, Revised Statutes Supplement, 1982, are repealed.