

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 269

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE TAX ON OIL AND GAS; AMENDING SECTION 47-330, IDAHO CODE, TO
2 REVISE HOW THE TAX ON THE PRODUCTION OF OIL AND GAS IS ADMINISTERED AND
3 COLLECTED AND TO DEFINE "GROSS INCOME."
4

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

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

8 47-330. OIL AND GAS CONSERVATION FUND CREATED -- TAX. (1) For the pur-
9 poses of paying the expenses of administration of this act and for the priv-
10 ilege of extracting oil and gas in this state, there is hereby levied and
11 imposed on all oil and gas produced, saved and sold or transported from the
12 premises in Idaho where produced a tax of two and one-half percent (2.5%)
13 of the market value gross income received by the producer of the oil or gas
14 produced at the site of production. If the oil and gas is transported from
15 the premises prior to sale, then the tax will be determined based on the pub-
16 lished henry hub spot price for gas or wti cushing spot price for crude oil at
17 the close of business the day the oil or gas leaves the premises. Transporta-
18 tion from the premises prior to the sale does not include movement of oil or
19 gas from the wellhead to another site in Idaho by the same person for dehy-
20 dratation or other processing required for sale. "Gross income" shall mean
21 the amount realized by the producer for sale of the oil or gas, whether the
22 sale occurs at the wellhead or after transportation of the product, with-
23 out deduction for transportation, manufacturing, and processing costs borne
24 by the producer. Where the parties to the sale are related parties and the
25 sales price is lower than the price for which that oil or gas could other-
26 wise have been sold to a ready, willing, and able buyer and where the taxpayer
27 was legally able to sell the oil or gas to such a buyer, gross income shall be
28 determined by reference to comparable arms-length sales of like kind, qual-
29 ity, and quantity in the same field or area. For purposes of this subsection,
30 "related parties" shall be as defined in section 267 of the Internal Revenue
31 Code, as defined, in section 63-3004, Idaho Code. This tax is in addition to
32 all other taxes provided by law. It shall be the duty of the state tax commis-
33 sion to enforce collection of this tax and to make such rules as may be nec-
34 essary, pursuant to the provisions of chapter 52, title 67, Idaho Code. All
35 money so collected shall be remitted to the state treasurer for deposit in
36 the oil and gas conservation fund, which fund is hereby created in the office
37 of the state treasurer of the state of Idaho.

38 (2) The persons owning an interest, working interest, royalty inter-
39 est, payments out of production, or any other interest in the oil and gas, or
40 in the proceeds thereof, shall be liable for such tax in proportion to their
41 ownership at the time of production. The tax so assessed and fixed shall be
42 payable quarterly, and the sum so due shall be remitted to the state tax com-

1 mission, on or before the twentieth of the next month following the preced-
2 ing quarter in which the tax accrued, by the producer on behalf of himself and
3 all other interested persons. The person remitting the tax, as herein pro-
4 vided, is hereby empowered and required to deduct from any amounts due the
5 persons owning an interest in the oil and gas, or in the proceeds thereof, at
6 the time of production a proportionate amount of such tax before making pay-
7 ment to such persons.

8 (3) The tax imposed by this section shall apply to all lands in the state
9 of Idaho, anything in this act to the contrary notwithstanding; provided
10 however, there shall be exempted from the tax hereinabove levied and as-
11 sessed the following, to wit:

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

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

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

20 (4) To the extent that such sections are not in conflict with the pro-
21 visions of this act, the deficiency in tax and notice of deficiency as well
22 as the collection and enforcement procedures provided by the Idaho income
23 tax act, sections 63-3038, 63-3039, 63-3040, 63-3042 through 63-3065A,
24 63-3068, 63-3071 and 63-3075 through 63-3078, Idaho Code, shall apply and be
25 available to the state tax commission for enforcement of the provisions of
26 this act and the assessment and collection of any amounts due. Said sections
27 shall for this purpose be considered a part of this act and wherever liens
28 or any other proceedings are defined as income tax liens or proceedings they
29 shall, when applied in enforcement or collection pursuant to this act, be
30 described as an oil and gas tax lien or proceeding.

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

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

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

44 (b) For the balance of the proceeds, forty percent (40%) shall be dis-
45 tributed by the end of the month following each quarterly due date by the
46 state tax commission into any oil and gas revenue share account as fol-
47 lows:

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

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

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

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

13 (c) The remainder of the moneys deposited into the oil and gas conser-
14 vation fund, sixty percent (60%) of the proceeds after refunds, may
15 be expended pursuant to legislative appropriation and shall be used
16 for defraying the expenses of the oil and gas conservation commission
17 in carrying out the provisions of this act. At the beginning of each
18 fiscal year, those moneys in the oil and gas conservation fund, after
19 applicable refunds and distribution as noted in paragraphs (a) and (b)
20 of this subsection, that exceed two hundred percent (200%) of the cur-
21 rent year's appropriations for the oil and gas conservation commission
22 shall be transferred to the general fund. The oil and gas conservation
23 commission shall audit all bills for salaries and expenses incurred in
24 the enforcement of this act that may be payable from the oil and gas con-
25 servation fund that shall be audited, allowed and paid as to the claims
26 against the state.