INTERIM STUDY PROPOSAL 2011-003

State of Arkansas *As Engrossed: H3/14/11*

88th General Assembly

A Bill

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By: Representative T. Baker

By: Senator J. Jeffress

Filed with: Interim House Committee on Insurance and Commerce pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT RELATED TO THE DEVELOPMENT AND PRODUCTION OF CERTAIN ENERGY SOURCES; TO REPEAL CERTAIN DEFINITIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

AN ACT RELATED TO THE DEVELOPMENT AND PRODUCTION OF CERTAIN ENERGY SOURCES; TO REPEAL CERTAIN DEFINITIONS; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 26-58-101(3), concerning the definition of "conventional gas well', is amended to read as follows:

(3) "Conventional gas well" means any gas well that is not ~~classified as a high-cost gas well~~ capable of producing natural gas that is:

(A) Produced from a gas well within a shale formation, including without limitation the Fayetteville Shale, the Woodford Shale, the Moorefield Shale, and the Chattanooga Shale formations, or their stratigraphic equivalents, as described in published stratigraphic nomenclature recognized by the Arkansas Geological Survey;

(B) Produced from a gas well in which the production is from a completion that is located at a depth of more than twelve thousand

five hundred feet (12,500 ft.) below the surface of the earth, where the term "depth" means the length of the maximum continuous drilling string of drill pipe used between the drill bit face and the drilling rig's kelly bushing;

(C) Produced from a tight gas formation;

(D) Produced from geopressured brine; or

(E) Occluded natural gas produced from coal seams;

SECTION 2. Arkansas Code § 26-58-101(6) - (8), concerning definitions, are amended to read as follows:

~~(6) "High-cost gas" means natural gas that is:~~

~~(A) Produced from any gas well completed within a shale formation, including, but not limited to, the Fayetteville Shale, the Woodford Shale, the Moorefield Shale, and the Chattanooga Shale formations, or their stratigraphic equivalents, as described in published stratigraphic nomenclature recognized by the Arkansas Geological Survey;~~

~~(B) Produced from any gas well in which the production is from a completion that is located at a depth of more than twelve thousand five hundred feet (12,500 ft.) below the surface of the earth, where the term "depth" means the length of the maximum continuous drilling string of drill pipe used between the drill bit face and the drilling rig's kelly bushing;~~

~~(C) Produced from a tight gas formation;~~

~~(D) Produced from geopressured brine; or~~

~~(E) Occluded natural gas produced from coal seams;~~

~~(7) "High-cost gas well" means any gas well that is completed as a well capable of producing high-cost gas;~~

(8)(A) "Marginal gas", when used in reference to a conventional gas well, means all natural gas produced from the conventional gas well beginning on the date the conventional gas well is incapable of producing more than two hundred fifty (250) Mcf (one thousand cubic feet) per day, as determined by the Director of the Oil and Gas Commission using the current wellhead deliverability rate methodology utilized by the Oil and Gas Commission, during the calendar month for which the severance tax report is filed.

(B) ~~"Marginal gas", when used in reference to a high-cost gas well, means all natural gas produced from the high-cost gas well beginning on the date the high-cost gas well is incapable of producing more than one hundred (100) Mcf (one thousand cubic feet) per day, as determined~~

~~by the Director of the Oil and Gas Commission using the current wellhead deliverability rate methodology utilized by the Oil and Gas Commission, during the calendar month for which the severance tax report is filed.~~

~~(C)~~ “Marginal gas” includes production from all zones and multilateral branches at a single well without regard to whether the production is separately metered.

~~(D)~~(C) “Marginal gas” does not include gas produced from~~:~~

~~(i) A high-cost gas well during the thirty-six-month period provided in § 26-58-127(b)(1);~~

~~(ii) A high-cost gas well during any allowed extension provided in § 26-58-127(b)(2); or~~

~~(iii) A~~ a new discovery gas well during the twenty-four-month period provided in § 26-58-127(a);

SECTION 3. Arkansas Code § 26-58-101(14), concerning definitions, is repealed.

~~(14) “Payout” means the date the cumulative working interest revenues from a high-cost gas well equal the sum of:~~

~~(A) All drilling and completion costs incurred in connection with the high-cost gas well; and~~

~~(B) All operating costs incurred or accrued in connection with the operation of the high-cost gas well during the period of cost recovery;~~

SECTION 4. Arkansas Code § 26-58-111(5), concerning natural gases, is amended to read as follows:

(5) On natural gas, the following percent of the market value of the natural gas severed within the State of Arkansas:

(A) On new discovery gas, as defined in § 26-58-101(12), the severance tax rate shall be one and one-half percent (1.5%) for the time period provided in § 26-58-127(a);

(B) ~~On high-cost gas, as defined in § 26-58-101(6), the severance tax rate shall be one and one-half percent (1.5%) for the time periods provided in § 26-58-127(b);~~

~~(C)~~ On marginal gas, as defined in § 26-58-101(8), the severance *tax rate under § 26-58-111(5)(B) or § 26-58-111(5)(C),* ~~*or § 26-58-111(5)(D),*~~ *as applicable, shall*

~~(D)~~(C) On all natural gas that is not defined as new discovery gas~~, high-cost gas,~~ or marginal gas, the severance tax rate shall be five percent (5%);

SECTION 5. Arkansas Code §§ 26-58-127 and 26-58-128 are amended to read as follows:

26-58-127. Cost recovery periods for new discovery gas ~~and high-cost gas~~.

(a)~~(1)~~ The one-and-one-half-percent severance tax rate on new discovery gas shall apply to the first twenty-four (24) consecutive calendar months beginning on the date of first production from the new discovery gas well, regardless of whether production commenced prior to January 1, 2009; provided, however, that all production attributable to the period prior to January 1, 2009, shall be taxed at the rate in effect prior to January 1, 2009.

~~(2)~~(b) At the end of the twenty-four-month period, the severance tax rate under § 26-58-111(5)(C) or § 26-58-111(5)(D), as applicable, shall apply.

~~(b)(1) The one-and-one-half-percent severance tax rate on high-cost gas shall apply to the first thirty-six (36) consecutive calendar months beginning on the date of first production from the high-cost gas well, regardless of whether production commenced prior to January 1, 2009; provided, however, that all production attributable to the period prior to January 1, 2009, shall be taxed at the rate in effect prior to January 1, 2009.~~

~~(2) If a high-cost gas well has not achieved payout by the end of the thirty-six-month period, the one-and-one-half-percent severance tax rate shall be extended until the earlier to occur of:~~

~~(A) Payout of the high-cost gas well; or~~

~~(B) Twelve (12) months following the expiration of the original thirty-six-month period.~~

~~(3) The severance tax rate under § 26-58-111(5)(C) or § 26-58-111(5)(D), as applicable, shall apply to high-cost gas at the later of the expiration of the thirty-six-month period or any allowed extension.~~

26-58-128. Determination of new discovery gas~~, high-cost gas,~~ or marginal gas.

(a) The producer of a proposed or existing gas well may apply at any time to the Director of the Oil and Gas Commission for a determination that the well qualifies as a new discovery gas well~~, a high-cost gas well,~~ or a marginal gas well.

(b) The director may require an applicant to provide any information required to administer this section.

(c) The director shall make the determination within fifteen (15) calendar days of the application by the producer, and the producer shall attach the determination to its severance tax form next due.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that State and local roads and highways are in need of substantial expansion, maintenance and repair; that the challenge to find revenue to support a safe, efficient, reliable, and effective highway transportation system has become increasingly difficult due to substantial increases in costs for state and local roads and highway maintenance, improvement and construction; and that this act is immediately necessary because the impact on the economy and the citizens in Arkansas is becoming more significant every day. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/T. Baker

Referred by the Arkansas House of Representatives
Prepared by: MAG/VJF