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2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/14/11

A Bill

HOUSE BILL 1992

5 By: Representative T. Baker
6 By: Senator J. Jeffress
7

For An Act To Be Entitled

9 AN ACT RELATED TO THE DEVELOPMENT AND PRODUCTION OF
10 CERTAIN ENERGY SOURCES; TO REPEAL CERTAIN
11 DEFINITIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER
12 PURPOSES.
13
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Subtitle

15 AN ACT RELATED TO THE DEVELOPMENT AND
16 PRODUCTION OF CERTAIN ENERGY SOURCES; TO
17 REPEAL CERTAIN DEFINITIONS; AND TO
18 DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

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

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

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

33 *(B) Produced from a gas well in which the production is*
34 *from a completion that is located at a depth of more than twelve thousand*
35 *five hundred feet (12,500 ft.) below the surface of the earth, where the term*
36 *"depth" means the length of the maximum continuous drilling string of drill*



1 pipe used between the drill bit face and the drilling rig's kelly bushing;

2 (C) Produced from a tight gas formation;

3 (D) Produced from geopressured brine; or

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

5
6 SECTION 2. Arkansas Code § 26-58-101(6) - (8), concerning definitions,
7 are amended to read as follows:

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

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

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

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

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

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

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

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

31 (B) ~~"Marginal gas", when used in reference to a high cost~~
32 ~~gas well, means all natural gas produced from the high cost gas well~~
33 ~~beginning on the date the high cost gas well is incapable of producing more~~
34 ~~than one hundred (100) Mcf (one thousand cubic feet) per day, as determined~~
35 ~~by the Director of the Oil and Gas Commission using the current wellhead~~
36 ~~deliverability rate methodology utilized by the Oil and Gas Commission,~~

1 ~~during the calendar month for which the severance tax report is filed.~~

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

5 ~~(D)(C) "Marginal gas" does not include gas produced from:~~
 6 ~~(i) A high cost gas well during the thirty-six month~~
 7 ~~period provided in § 26-58-127(b)(1);~~

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

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

12
 13 *SECTION 3.* Arkansas Code § 26-58-101(14), concerning definitions, is
 14 repealed.

15 ~~(14) "Payout" means the date the cumulative working interest~~
 16 ~~revenues from a high cost gas well equal the sum of:~~

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

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

22
 23 *SECTION 4.* Arkansas Code § 26-58-111(5), concerning natural gases, is
 24 amended to read as follows:

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

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

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

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

36 ~~(D)(C) On all natural gas that is not defined as new discovery~~

1 gas, ~~high cost gas~~, or marginal gas, the severance tax rate shall be five
2 percent (5%);

3
4 *SECTION 5.* Arkansas Code §§ 26-58-127 and 26-58-128 are amended to
5 read as follows:

6 26-58-127. Cost recovery periods for new discovery gas ~~and high cost~~
7 ~~gas.~~

8 (a)~~(1)~~ The one-and-one-half-percent severance tax rate on new
9 discovery gas shall apply to the first twenty-four (24) consecutive calendar
10 months beginning on the date of first production from the new discovery gas
11 well, regardless of whether production commenced prior to January 1, 2009;
12 provided, however, that all production attributable to the period prior to
13 January 1, 2009, shall be taxed at the rate in effect prior to January 1,
14 2009.

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

18 ~~(b)(1)~~ ~~The one and one half percent severance tax rate on high cost~~
19 ~~gas shall apply to the first thirty six (36) consecutive calendar months~~
20 ~~beginning on the date of first production from the high cost gas well,~~
21 ~~regardless of whether production commenced prior to January 1, 2009;~~
22 ~~provided, however, that all production attributable to the period prior to~~
23 ~~January 1, 2009, shall be taxed at the rate in effect prior to January 1,~~
24 ~~2009.~~

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

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

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

31 ~~(3)~~ ~~The severance tax rate under § 26-58-111(5)(C) or § 26-58-~~
32 ~~111(5)(D), as applicable, shall apply to high cost gas at the later of the~~
33 ~~expiration of the thirty six month period or any allowed extension.~~

34
35 26-58-128. Determination of new discovery gas, ~~high cost gas~~, or
36 marginal gas.

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

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

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

10
11 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that State and local roads and
13 highways are in need of substantial expansion, maintenance and repair; that
14 the challenge to find revenue to support a safe, efficient, reliable, and
15 effective highway transportation system has become increasingly difficult due
16 to substantial increases in costs for state and local roads and highway
17 maintenance, improvement and construction; and that this act is immediately
18 necessary because the impact on the economy and the citizens in Arkansas is
19 becoming more significant every day. Therefore, an emergency is declared to
20 exist and this act being immediately necessary for the preservation of the
21 public peace, health, and safety shall become effective on:

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

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

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

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29 /s/T. Baker
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