



REPORT

FOSSILIZED FINANCES: STATE AND FEDERAL OIL AND GAS SUBSIDIES IN THE PERMIAN BASIN



AUTHORS:

Sujatha Bergen

Susan Casey-Lefkowitz

Doug Koplow

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About Earth Track

Earth Track works with environmental groups and international agencies to identify and measure environmentally harmful subsidies to natural resource extraction, and to document their pervasive reach and enormous scale. Redirecting these hundreds of billions of dollars per year is increasingly recognized as an important lever for reducing poverty, transitioning to cleaner energy, and addressing climate change.

NRDC Chief Communications Officer: Kristin Wilson-Palmer

NRDC Managing Directors of Communications: Lisa Goffredi, Jenny Powers, Rosa Del Angel

NRDC Senior Policy Publications Editor: Leah Stecher

NRDC Director of Peer Review, Science Office: Laurie Geller

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TABLE OF CONTENTS

Introduction 4

Top-Line Findings 6

Major Public Subsidies: Examples at the State and Federal Levels 7

Cost of Select Permian Subsidies 8

Identified Federal and State Permian Subsidies 9

Recommendations.....14

INTRODUCTION

Experts agree that new fossil fuel development is incompatible with the world goal of limiting global warming to 1.5 degrees Celsius.¹ However, the United States continues to plan future fossil fuel development, most of which will occur in the Permian Basin, a shale basin 250 miles wide and 300 miles long covering much of West Texas and southeastern New Mexico.² Oil and gas production in this region is projected to almost double by 2030.³ In fact, the area is on track to account for nearly half of all U.S. crude oil production in 2023.⁴

Though the Permian has been drilled for oil and gas for more than 100 years, new technologies such as horizontal drilling and hydraulic fracturing have propelled rapid growth in extraction over the past decade.⁵ For local communities, this growth means an increase in water pollution and air pollution from rigs and gas flaring. And for the planet, more fossil fuel extraction in the Permian means an increase in climate-warming emissions from fossil fuels. In fact, a 2022 report by the Environmental Defense Fund and CarbonTracker detected dozens of methane “super emitters” in the region.⁶ These third-party assessments have found that actual emissions are much higher than those reported by industry to relevant government authorities.⁷

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Despite the need to curb growth in fossil fuel production, factors such as outdated tax giveaways and government grants to the oil and gas sector as well as low liability caps incentivize further development and extraction. So too do special regulatory exemptions for the oil and gas sector. These public subsidies (even those with a relatively small fiscal impact in a particular year) artificially distort the market and attract private investment that would otherwise flow to industries that are less of a threat to the planet and its people. These subsidies place an unfair burden on the shoulders of taxpayers already impacted by the effects of fossil fuel-charged climate change and pollution. And they direct taxpayer monies to an industry that already has sufficient capital to fund its own work, clean up its own messes, and reap substantial profits.⁸

To prevent full climate catastrophe and curb further environmental injustice, it is essential to stop the flow of public subsidies to oil and gas company operations, especially in the Permian Basin. This money should be redirected to true public priorities such as ensuring a just transition for workers in the oil and gas sector to climate-friendly industries.

This white paper offers a qualitative inventory of the federal and state subsidies that currently support Permian oil and gas, along with our top-line findings from conducting this review. The pervasiveness of these subsidies through all stages of the oil and gas supply chain—from exploration to extraction to refinement to transport to site closure—is striking and should serve as a call to federal and state policymakers to immediately end these outdated giveaways. We also catalog the many approaches by which government policies subsidize the industry, with important gaps in transparency that make assessing both the scale and the impact of those subsidies much more difficult.

METHODOLOGY

This qualitative inventory maps subsidies to oil and gas development, extraction, transport, and refining/conversion that benefit the Permian Basin. The analysis includes federal and state subsidies in Texas and New Mexico that reduce the cost of business or reduce investment risk for oil and gas companies. Identified subsidies fall into several main categories: tax expenditures, direct government spending, regulatory exemptions, and the transfer of risk from the private to the public sector.

Not every policy listed pertains exclusively to oil and gas. Some benefit extractive mineral industries more generally, though they still disadvantage non-fossil fuel energy technologies such as wind and solar and demand-side management options that reduce carbon emissions. Other policies may be applicable to multiple economic sectors, such as the Chapter 403 tax credits in Texas. Often such general policies are structured or deployed in ways that are particularly supportive of the dominant industries in a region. Where the financial scale of a program is large and fossil fuels make up a significant industry in the state, we reviewed these more general policies to assess the degree to which financial support is flowing to the fossil fuel sector.

Information on subsidies was gathered from state and federal budget and tax expenditure documents, published research, special studies, the trade press, and legislative reviews. Relevant data were not equally available for all subsidies, and we note areas where improved information would be particularly valuable.

A lack of centralized data collection led us to exclude municipal-level subsidies in this inventory unless linked to federal or state policies. (This deficiency is a critical area for further study.) Also important but not covered in this document are the significant externalized costs created by the fossil fuel industry, such as health impacts from pollution, property damage from climate disasters, and the impact to tourism, ecosystems, agriculture, and other sectors from the fossil fuel supply chain.

TOP-LINE FINDINGS

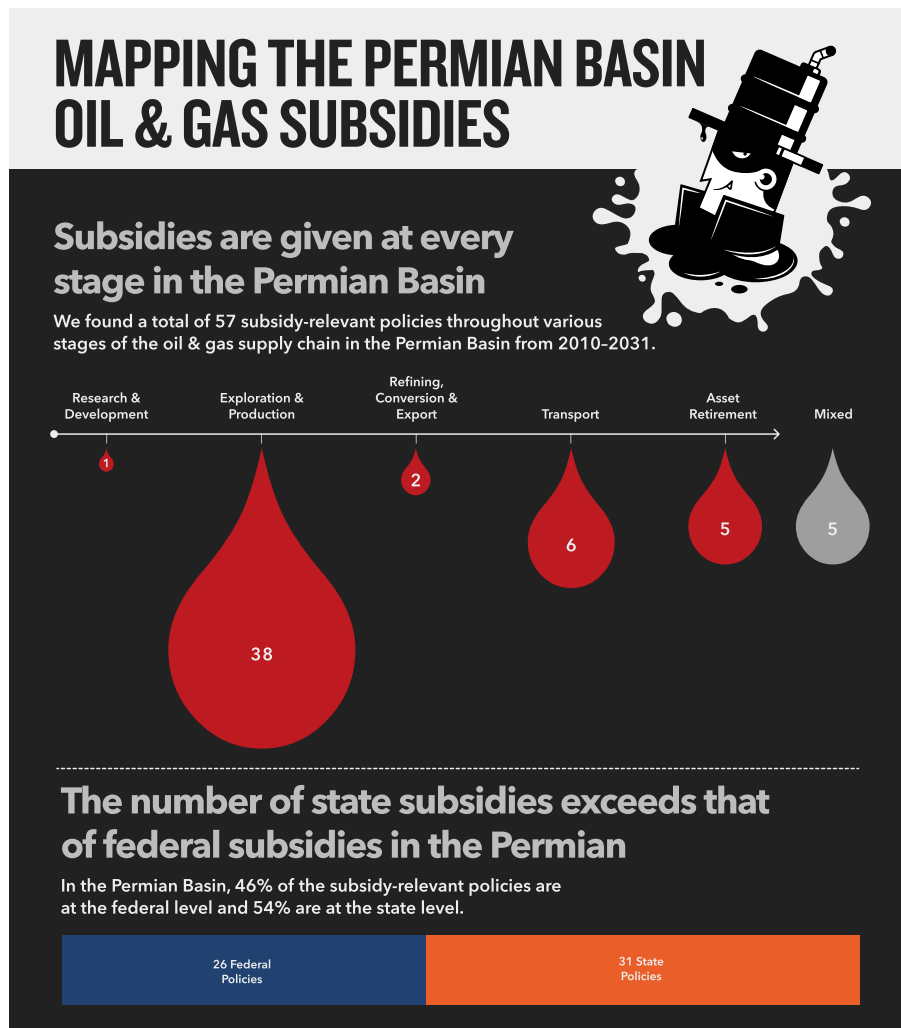
Taxpayer subsidies distort the market for oil and gas produced in the Permian. Our survey of subsidies that benefit the fossil fuel supply chain in the Permian Basin found 57 individual federal and state giveaways of public resources and special exemptions. Seen together in one list for the first time, this inventory demonstrates the extent to which taxpayers are propping up this polluting industry.

The number of state oil and gas subsidies exceeds federal subsidies. While the extent of fossil fuel subsidies at the federal level has received significant attention in the media and among policymakers, widespread and often longstanding oil and gas subsidies at the state level have received less focus. Our report shows that there is a substantial number of state subsidies, which can be very large. Both federal and state subsidies should be eliminated.

Nearly three-quarters of subsidies support exploration and production. Approximately 70 percent of the subsidies we identified support finding new wells and pumping oil and gas from them. These types of subsidies are particularly harmful to efforts to combat fossil fuel-driven climate change and local pollution, as they can lock in decades of pumping fossil fuels from the wells they help create.

Just a handful of state subsidies cost billions of dollars in Texas and hundreds of millions in New Mexico. If eliminated, the funds could be redirected to true public priorities such as establishing “just transition” programs for industry workers or supporting education, health care, and other concerns.

FIGURE I



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MAJOR PUBLIC SUBSIDIES: EXAMPLES AT THE STATE AND FEDERAL LEVELS

Below is a description of just a few of the federal and state subsidies that benefit the fossil fuel industry in the Permian Basin that our survey identified. As noted, these subsidies reach into the billions of dollars per year and divert significant resources from true public priorities.

Intangible Drilling Costs (IDCs) (Federal): Enshrined in the federal tax code for more than a century, this provision allows both independent and integrated oil and gas companies (those that cover all stages of oil exploration, production, transport, refining, and marketing) to deduct much of the cost of drilling a well in the year the cost is incurred, whereas in most other industries these costs must be deducted over the productive life of the asset. For independent oil and gas producers, all “intangible costs” can be written off immediately; for integrated producers, 70 percent of IDCs can be written off immediately, with the remainder written off over five years. Costs eligible for deductions are those with no salvage value, such as hiring labor to conduct surveys for potential drill sites and clearing the ground on which a well will be built. In the oil and gas industry, intangible costs typically make up 60 to 80 percent of the cost of drilling a well.⁹ The 2024 Budget of the U.S. Government estimated that removing this subsidy would save U.S. taxpayers \$8.5 billion between 2024 and 2033.¹⁰

Excess of Percentage over Cost Depletion (Federal): This provision allows independent oil and gas producers to reduce the taxable gross income of a well by 15 percent for a portion of their production. Unlike standard cost depletion, total deductions under percentage depletion can exceed the total investment in the property. Further, revenue losses are higher during periods of high oil and gas prices, which is also when industry profits are the highest. Created in 1926, when the uncertainty over how long a well would pump oil was much greater, this federal tax giveaway is one of the largest oil and gas subsidies in the nation. The 2024 Budget of the U.S. Government estimated that it will cost U.S. taxpayers approximately \$13.9 billion between 2024 and 2033.¹¹ Unlike most subsidies to renewable energy, this provision is a permanent part of the federal tax code, with no expiration date.

Texas High Cost Well Subsidy (Texas): The subsidy offers a reduced severance tax rate for high-cost wells for 10 years, or until the well accumulates tax savings that total 50 percent of its drilling and completion costs.¹² The Texas Railroad Commission defines high-cost natural gas as natural gas that is produced from a well deeper than 15,000 feet using certain types of production methods.¹³ There is no requirement that wells be unprofitable in order to receive this benefit. A recent report to the legislature suggests that this subsidy will cost Texas taxpayers approximately \$6.3 billion between 2023 and 2028.¹⁴

Natural Gas Transportation and Processing Deduction (New Mexico): New Mexico’s Oil and Gas Emergency School Tax was imposed in 1959 for the “privilege of engaging in the business of severing oil, natural gas or liquid hydrocarbons, and carbon dioxide from New Mexico soil.”¹⁵ The rate for natural gas is 4 percent, but to offset risks of fossil fuel exploration the state has allowed deductions to this tax for the cost of “reasonable expenses” either to process natural gas so it is ready for sale or to truck oil to the first place of market.¹⁶ In both of these cases, however, there is an incentive for producers to inflate processing and transport costs since this reduces the extraction taxes and royalties due. New Mexico allows more extensive cost deductions from the taxable base than many other oil and gas producing states.¹⁷ Between 2018 and 2022 this provision cost state taxpayers \$268 million.

Abandoned Oil and Gas Wells (Federal, Texas, and New Mexico): Many thousands of dormant or unproductive oil and gas wells dot the landscape of the Permian Basin. Without proper plugging, these wells can pollute the surrounding land, air, and water with leaked toxins, including uncontrolled methane. Despite state and federal requirements that fossil fuel companies properly shut down their wells when production is completed, many declare bankruptcy instead and shift the cost of cleanup to taxpayers. Requirements to hold bonds that would prevent such cost shifting in the event of bankruptcy are far too low at both the federal and state levels. Although Texas does not release bond coverage ratios on existing wells, surety bonds in New Mexico have a face value of less than 1 percent of estimated closure liabilities, suggesting that the public will end up footing a large portion of the cleanup bill.¹⁸ The estimated cost to plug and abandon all currently operating wells in New Mexico and Texas could reach \$110 billion.¹⁹



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COST OF SELECT PERMIAN SUBSIDIES

The full cost of subsidies that flow to the Permian are not tabulated by the federal, Texas, or New Mexico governments, making it impossible to gather comprehensive cost data. However, recently released state reports on a limited number of subsidies point to the enormous burden that oil and gas subsidies place on taxpayers.

TEXAS

A February 2023 report to the Texas Legislature found that just three of the state’s oil and gas subsidies cost taxpayers **approximately \$1.4 billion** in 2023 alone (see Table 1). To put the cost of these subsidies in perspective, that \$1.4 billion could have doubled the amount of state financial aid for higher education in 2023. Over the next five years, these subsidies will total approximately \$6.6 billion (about \$222 for every person in the state).

TABLE 1: TEXAS TAX EXPENDITURES ON SELECTED FOSSIL FUEL SUBSIDIES (FY2023–2028)²⁰

	Expenditure by Fiscal Year (in millions of dollars)						Total
	2023	2024	2025	2026	2027	2028	
Qualification of oil from new or expanded enhanced oil recovery for special tax rate	49.3	45.0	40.7	36.5	32.4	28.7	232.6
Oil and gas from wells previously inactive	6.8	4.7	3.9	3.5	3.1	2.7	6.9
Reduced tax rate for high-cost natural gas	1,370.5	982.9	974.1	1,000.9	985.5	1,008.0	6,321.9
Total	1,426.0	1,032.6	1,018.7	1,040.9	1,021	1,039.4	6,579.2

NEW MEXICO

The New Mexico Taxation and Revenue Department estimated that just three state oil and gas subsidies cost taxpayers approximately \$86 million in 2022 alone (see Table 2). In comparison, an additional \$86 million in state funding in one year would cover more than half the funding for tuition-free college through the New Mexico Opportunity Scholarship.

TABLE 2: NEW MEXICO TAX EXPENDITURES ON SELECT FOSSIL FUEL SUBSIDIES (2018–2022)²¹

	Expenditure by Year in dollars					Total
	2018	2019	2020	2021	2022	
Natural Gas Processing Deduction from Oil and Gas Emergency School Tax	12,319,000	15,044,000	21,355,000	25,799,000	38,953,000	113,470,000
Oil Transportation Deduction from Oil and Gas Emergency School Tax	875,000	1,686,000	2,108,000	2,260,000	3,288,000	10,217,000
Natural Gas Transportation Deduction from Oil and Gas Emergency School Tax	22,782,000	27,958,000	27,938,000	32,244,000	44,053,000	154,975,000
Total	35,976,000	44,688,000	51,401,000	60,303,000	86,294,000	278,662,000

IDENTIFIED FEDERAL AND STATE PERMIAN SUBSIDIES

Tables 3, 4, 5, and 6 provide our lists of identified fossil fuel subsidies that benefit the oil and gas supply chain in the Permian Basin. Subsidies include federal regulatory exemptions that reduce costs, federal tax giveaways, and subsidies at the state level in New Mexico and Texas.

TABLE 3: FEDERAL PERMIAN OIL AND GAS DEVELOPMENT REGULATORY EXEMPTION SUBSIDIES

Production Stage	Policy	Support Type	Description
Exploration and Production	Free flaring exemption	Regulatory exemption	Federal law exempts from royalty payments oil and gas used for on-site operations on federal lands or lost through flaring and venting. ²²
Exploration and Production	Clean Water Act exemptions	Regulatory exemption	Oil and gas operations are exempt from important permitting and pollution control requirements of the Clean Water Act, including the stormwater runoff permit requirement. This exemption means that sediment—dirt and organic materials created by erosion and washed off oil and gas facilities, including new well pads and accompanying roads—is exempt from the Clean Water Act. ²³
Exploration and Production	Oil and gas exemption from Comprehensive Response, Compensation and Liability Act (Superfund)	Regulatory exemption	The Superfund law allows regulators and private parties to pursue polluters to recoup cleanup funds. ²⁴ Substances that occur naturally in oil and gas are exempted from the law and associated liability.
Exploration and Production	Oil and gas exploration and production exemption from Emergency Planning and Right to Know Act	Regulatory exemption	Although associated with hundreds of chemical additives that can harm health, oil and gas exploration and production facilities do not have to report the release of certain dangerous chemicals into the environment.
Exploration and Production	Fracking exemption from Safe Drinking Water Act	Regulatory exemption	While many toxic chemicals are used during fracking, pollution produced by this technology is exempted from the Safe Drinking Water Act's pollution control measures unless diesel is used in the fracking process. ²⁵
Exploration and Production	Clean Air Act loopholes	Regulatory exemption	This seminal environmental law allows most oil and gas wells and much other fossil fuel infrastructure to avoid hazardous pollution controls. The act also entirely exempts the industry from requirements to control hydrogen sulfide, a powerful toxic chemical released from gas wells and produced during the oil refining process. ²⁶
Exploration and Production	Limited liability for oil spills ²⁷	Regulatory exemption	Federal statute limits liability for oil spill removal costs to \$726 million. ²⁸
Exploration and Production	Regulatory exemptions for solid waste disposal	Regulatory exemption	Solid wastes from oil and gas production are exempted from the Resource Conservation and Recovery Act. ²⁹
Exploration and Production	Illegal methane venting	Regulatory exemption	Illegal methane emissions on Permian production sites escape severance taxes and royalty charges. ³⁰
Exploration and Production	Exemption from fees for lost gas	Regulatory exemption	The Inflation Reduction Act instituted fees on lost methane. However, analysis by the Congressional Research Service suggests that the law exempts between 76 percent and 84 percent of emissions from any charge. ³¹
Transportation	Inadequate safety standards for rail transport of oil	Regulatory exemption	Current law includes inadequate standards to prevent spills or other accidents when transporting oil by rail. Stronger standards will phase in by 2025.

TABLE 4: ADDITIONAL FEDERAL PERMIAN OIL AND GAS DEVELOPMENT SUBSIDIES

Production Stage	Policy	Support Type	Description
Research and Development	Fossil energy and carbon management grants	Direct expenditure	Federal law mandates grants for fossil energy and carbon capture, utilization, and storage research. The Gulf region is targeted to be—by far—the largest CO ₂ injection site in the country. ³²
Exploration and Production	Below-market royalty rates	Cost of access	The royalty rate for federal onshore production was well below market, set at 12.5 percent since the 1920s. This was administratively increased for new leases to 18.75 percent in 2022 before being set at 16.66 percent for at least the next 10 years under the Inflation Reduction Act in 2022, a rate below that in place in many oil and gas producing states. ³³ Because 50 percent of New Mexico Permian production occurs on federal land, this subsidy is more significant in New Mexico than in Texas.
Exploration and Production	Expensing of intangible drilling costs	Tax expenditure	Federal law allows the immediate deduction of most costs associated with developing an oil or gas well. In contrast, other industries require costs to bring an investment into production to be capitalized and amortized over the useful life of the investment. ³⁴
Exploration and Production	Excess of percentage over cost depletion	Tax expenditure	This provision in the federal tax code allows deductions equal to 15 percent of the gross revenue of the oil and gas extracted from a well on a portion of production. This subsidy can exceed the value of the initial investment in the well and rises with higher prices, when profits are also largest. ³⁵
Exploration and Production	Rapid amortization of geological and geophysical expenses	Tax expenditure	The federal tax code allows independent oil and gas producers to deduct geological and geophysical expenses over two years and integrated producers to do so over seven years, instead of recovering these costs over the lifetime of the well. ³⁶
Exploration and Production	Accelerated depreciation of natural gas distribution lines	Tax expenditure	U.S. law allows faster than typical depreciation for natural gas distribution lines. Depreciation is calculated over 15 years rather than their actual service life. ³⁷ This applies to some existing lines; new projects are no longer eligible.
Exploration and Production	Enhanced oil recovery credit	Tax expenditure	This provision provides a credit of 15 percent off qualified costs for enhanced oil recovery used on U.S. wells. It phases out at higher oil prices. ³⁸
Exploration and Production	Marginal well credit	Tax expenditure	This provision provides a credit for crude oil and natural gas from low-producing wells. ³⁹
Exploration and Production	Exclusion from corporate income taxes for publicly traded partnerships with certain energy-related activities	Tax expenditure	This exclusion allows publicly traded oil and gas partnerships to pass income directly to investors, paying no corporate income tax. Most other industries have long been restricted from doing so. ⁴⁰
Exploration and Production	Use of Opportunity Zone tax benefits for Permian oil and gas	Tax expenditure	These designations—some of which occur in the Permian Basin—defer capital gains taxes on certain investments in particular “disadvantaged” regions, eliminate these taxes after 10 years, and may reduce risk and increase cash flow for some Permian oil and gas companies. ⁴¹
Refining, Conversion, and Export	Subsidized credit for LNG export facilities	Credit	Under the Make More in America Initiative, the Export-Import Bank may authorize up to nearly \$190,000 in project loan and loan guarantee funding for each job-year created, up to a maximum of 80 percent of the project cost. While not focused solely on the oil and gas industries, U.S. LNG export projects, heavily linked to Permian gas, are eligible for the first time. ⁴²
Asset Retirement	Federal funding of oil and gas well plugging and abandonment	Direct expenditure	This practice uses taxpayer dollars to fund plugging of abandoned oil and gas wells that should be covered by well operators and owners, or in the case of defunct operators, via surety bonds and state orphan well funds funded by industry fees. The Bipartisan Infrastructure Law is expected to send \$344 million in funds to Texas for well closures and \$44 million to New Mexico. ⁴³
Mixed	Net operating loss carry-forwards	Tax expenditure	Oil and gas operators have been able to claim refunds on a higher tax rate than what was actually paid due to their ability to retroactively claim net operating losses (NOLs) going back up to five years. While applicable economy-wide, the oil and gas industry has been substantially more likely to use the NOL credit than other sectors and actively lobbied for this and other tax breaks. ⁴⁴ Benefits are estimated in the billions. ⁴⁵

TABLE 4: ADDITIONAL FEDERAL PERMIAN OIL AND GAS DEVELOPMENT SUBSIDIES

Production Stage	Policy	Support Type	Description
Mixed	Reduced tax rate on private equity carried interest	Tax expenditure	This provision reduces the tax rate on private equity, hedge, or venture funding structures that are often used to fund oil and gas investments. ⁴⁶ Analysis of the 10 largest U.S. private equity firms found that 80 percent of their energy investments between 2010 and 2020 went to fossil energy rather than renewables. ⁴⁷
Mixed	Last in/first out (LIFO) accounting	Tax expenditure	This method allows companies to artificially deflate their profits for tax purposes, and thus escape paying their full tax bill in a given year. While allowed in the United States, LIFO is prohibited under International Financial Reporting Standards because it can distort financial reports, including understating taxable income. The value of LIFO has surged in recent years with a combination of higher oil prices and inflation. The Tax Policy Center notes that “the petroleum industry is by far the largest beneficiary, although its share of LIFO reserves fluctuates with oil prices.” ⁴⁸

TABLE 5: NEW MEXICO PERMIAN OIL AND GAS SUBSIDIES

Production Stage	Policy	Support Type	Description
Exploration and Production	Regulatory exemptions for solid waste disposal	Regulatory exemption	Solid wastes from oil and gas production are exempted from the New Mexico Hazardous Waste Act. ⁴⁹
Exploration and Production	Natural gas exemption from oil and gas severance tax	Tax expenditure	This provision exempts gas from wells in which production is restored from severance tax for the first 10 years after production is restored. The law applies when prices are less than \$24/barrel, which has not occurred in the last six years. ⁵⁰
Exploration and Production	Oil and liquid hydrocarbon exemption from oil and gas severance tax	Tax expenditure	This loophole exempts oil from wells in which production is restored from severance tax for the first 10 years after production is restored. It applies only when prices are less than \$24/barrel, which has not occurred in the last six years. ⁵¹
Exploration and Production	Reduced oil and gas Emergency School Tax rate on natural gas from stripper wells	Tax expenditure	This provision reduces the oil and gas Emergency School Tax by half when the price of natural gas or oil is low (\$1.15–\$1.35/MCF or \$15–\$18/barrel). It has not applied in the last 10 years due to higher natural gas and oil prices.
Exploration and Production	Reduced severance tax rate for enhanced oil recovery, well workovers	Tax expenditure	This reduction applies to enhanced oil recovery projects when oil prices are less than \$28/barrel; and to well workovers when oil prices are less than \$24/barrel; or when natural gas prices are lower than \$1.15 MCF. It has not applied in the last 10 years due to higher oil and gas prices. ⁵²
Exploration and Production	Free flaring	Regulatory exemption	This exemption from royalty payments applies to oil and gas used for on-site operations on federal lands or lost through flaring and venting. ⁵³
Exploration and Production	Natural gas processing deduction from Oil and Gas Emergency School Tax	Tax expenditure	This provision allows the deduction of costs to process natural gas. ⁵⁴ Similar deductions for other oil taxes define the tax base as the sale price, whereas for this tax, the base is defined at the point of severing, so it is viewed as a tax expenditure. Incentives to inflate costs exist for both categories.
Transportation	Natural gas transportation deduction from Oil and Gas Emergency School Tax	Tax expenditure	This provision allows a deduction from the Oil and Gas Emergency School Tax for the “reasonable” expense of transporting natural gas from the production unit to the market point at which prices are determined. ⁵⁵ Similar deductions for other oil taxes define the tax base as the sale price, whereas the base for this tax is defined at the point of severing, and it is thus viewed as a tax expenditure. ⁵⁶ Incentives to inflate costs exist for both categories.
Transportation	Trucking cost deduction from Oil and Gas Emergency School Tax	Tax expenditure	This provision allows a deduction from the Oil and Gas Emergency School Tax for the “reasonable” expense of transporting any product from the production unit to the market point at which prices are determined. ⁵⁷ In practice, the law applies only to oil, since natural gas moves by pipeline.

TABLE 5: NEW MEXICO PERMIAN OIL AND GAS SUBSIDIES

Production Stage	Policy	Support Type	Description
Asset Retirement	Insufficient bonding, existing well stock	Risk transfer	This practice increases the risk that the cost of plugging abandoned oil and gas wells in the event of bankruptcy will be transferred to the public, due to inadequate third-party bonding requirements and financial weakness or bankruptcy of the owner(s). ⁵⁸
Asset Retirement	Insufficient bonding, new wells	Risk transfer	These insufficient requirements create similar risks as those for under-bonding on existing wells. However, correcting shortfalls on new wells through updated policies remains possible. ⁵⁹

TABLE 6: TEXAS PERMIAN OIL AND GAS SUBSIDIES

Production Stage	Policy	Support Type	Description
Exploration and Production	Free flaring	Regulatory exemption	Natural gas that is lawfully vented or flared is exempt from severance tax even though the resource is used up just as it would be in a sale. Baseline rules allow free flaring during the first 10 days of well production, though the period is frequently increased, extending both the resource waste and the loss of associated royalties to the resource owners. ⁶⁰
Exploration and Production	Enhanced oil recovery incentive	Tax expenditure	This provision makes oil produced from a new or expanded enhanced oil recovery project eligible for a reduced tax rate. ⁶¹
Exploration and Production	Enhanced oil recovery using anthropogenic carbon dioxide incentive	Tax expenditure	This law allows a tax rate reduction for enhanced oil recovery projects that use carbon dioxide from certain sources and sequester it in the geographic confines of the state following the oil recovery process. ⁶²
Exploration and Production	Texas High Cost Well Subsidy	Tax expenditure	This subsidy reduces severance tax for certain high-cost natural gas wells for 10 years or until tax savings reach 50 percent of the cost of drilling the well. ⁶³
Exploration and Production	Incentive to market previously flared or vented casinghead gas	Tax expenditure	This incentive exempts from severance tax gas that collects in the space between the casing and tubing of a well, where it had previously been released into the air or flared. ⁶⁴
Exploration and Production	Severance tax exemption, two-year inactive well	Tax expenditure	Texas law provides a five-year severance tax exemption for hydrocarbons produced from a well that had previously been inactive for two years. ⁶⁵
Exploration and Production	Severance tax relief for marginal gas wells	Tax expenditure	This provision offers a tax credit that ranges from 25 percent to 100 percent for marginal gas wells when natural gas prices are low. ⁶⁶
Exploration and Production	Severance tax relief for marginal oil wells	Tax expenditure	Texas law provides a tax credit that ranges from 25 percent to 100 percent for marginal oil wells when oil prices are low. It excludes wells receiving other tax incentives and any credits to casinghead gas and condensate production. ⁶⁷
Exploration and Production	Enhanced Efficiency Equipment Severance Tax Credit	Tax expenditure	This provision offers severance tax credits to marginal wells that use energy reduction equipment (10 percent reduction minimum to qualify). ⁶⁸
Exploration and Production	Limited sales and use tax exemption for hydrocarbon-related mining	Tax expenditure	This provision exempts gas and electricity used for hydrocarbon mining in Texas from state sales taxes. ⁶⁹
Exploration and Production	Funding of Texas Railroad Commission (TRRC)	Direct expenditure	A substantial portion of TRRC funding comes from taxpayers rather than through industry fees, though the commission provides regulatory oversight to the oil and gas sector. ⁷⁰
Exploration and Production	Severance tax exemption for oil and gas from reactivated orphan wells	Tax expenditure	The reduction or elimination of state severance taxes provides an economic incentive to operators to undertake activities that produce oil and gas resources that otherwise might remain unrecovered—in this case from wells that have been dormant for some time. ⁷¹

TABLE 6: TEXAS PERMIAN OIL AND GAS SUBSIDIES

Production Stage	Policy	Support Type	Description
Refining, Conversion, and Export	Texas Energy Fund	Credit	Of the \$10 billion fund providing low-interest loans to increase grid reliability in Texas, \$7.2 billion is allocated for dispatchable power generation infrastructure. While theoretically available to nuclear and coal, this is widely understood to fund new natural gas plants. ⁷² Utility-scale batteries are dispatchable, but not eligible. Nor are other strategies on the demand side or increased grid interconnects.
Transportation	Funding for county transportation infrastructure	Direct expenditure	This provision offers grants to counties to address road damage caused by increased oil and gas extraction activity. ⁷³
Transportation	Uncompensated road damage from heavy fracking trucks	Liability	This practice transfers to taxpayers the cost of repairing road damage caused by fracking trucks through inadequate user costs collected from tolls, fuel taxes, heavy truck fees, or road user maintenance agreements. ⁷⁴
Transportation	Cost of goods subtraction for certain pipeline entities	Tax expenditure	This method allows subtraction of some depreciation, operations, and maintenance costs for taxable entities that provide pipeline transportation services for others. Special deductions or exclusions can “promote certain activities or behavior” in the economy and lower a firm’s overall franchise tax bill. ⁷⁵
Asset Retirement	Oil and gas well plugging	Direct expenditure	Spending to eliminate the hazard of abandoned oil and gas wells is supported by severance tax revenues, though not at a level sufficient to clear backlogged sites. ⁷⁶
Asset Retirement	Insufficient bonding, existing well stock	Risk transfer	These insufficient requirements increase the risk that the cost of plugging abandoned oil and gas wells in the event of bankruptcy will be transferred to the public, due to inadequate third-party bonding requirements. ⁷⁷ The Texas Sunset Commission found that revenue from bonds covered just 15.9 percent of the cost to plug wells in fiscal year 2015 and recommended an increase in bonding amounts to 21.5 percent of the cleanup cost. ⁷⁸
Mixed	Chapter 312 Property Redevelopment and Tax Abatement Act	Tax expenditure	Allows counties to temporarily reduce taxable value on real property. In many cases, the real property is linked to oil and gas production or related downstream industries reliant on large-scale fossil fuel feedstocks. ⁷⁹
Mixed	Chapter 403 property tax exemption	Tax expenditure	Property tax credits aimed at job creation from new investments are awarded to upstream oil and gas investments, refineries, gas processing, liquid natural gas operations, manufacturers of extraction equipment, and chemical plants reliant on fossil fuel feedstocks. These sectors received at least half of the \$10.8 billion in such tax credits through 2022 under the predecessor tax exemption, Chapter 313, which expired in 2022. ⁸⁰ Chapter 313 allowed eligibility for renewables and battery storage; the Chapter 403 replacement does not. ⁸¹

RECOMMENDATIONS

Policymakers at the state and national levels must align public spending with our national goals to reduce greenhouse gas emissions, protect taxpayers from abuse, and end market distortions that favor fossil fuel investments. Specifically, lawmakers at the state and federal levels must end fossil fuel subsidies and ensure that the oil and gas industry is held responsible for the currently externalized costs of its products and funds a substantial portion of transitioning local economies from overreliance on fossil fuel production.

To achieve these ends, federal policymakers should:

- Greatly improve measures to track and report fossil fuel subsidies and incentives of all types.
- Eliminate tax credits, tax breaks, refunds, and other government funding and financial assistance for the fossil fuel industry and major industrial users of fossil fuels.
- Require the fossil fuel industry to pay for and mitigate currently externalized health, property destruction, and other costs through financial and regulatory mechanisms such as bonding; reductions in emissions; and specialized funds to cover air, water, and climate pollution impacts.
- Remove all loopholes for the fossil fuel industry in environmental and other public interest laws and regulations.
- Ensure stringent implementation and enforcement of environmental and public interest laws regarding fossil fuel industry activities—including petrochemical refining and especially regarding health and other impacts on low-income, often BIPOC, communities.
- Ensure that the fossil fuel industry pays the costs of fairly and equitably transitioning communities and workers to a post-fossil fuel economy.

These reforms would help to substantially reduce subsidies to oil and gas companies in the Permian. Further, because the region is so important nationally, the reforms would have the added benefit of reducing climate pollution and its local impacts throughout the country.



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In addition to federal policy reforms, Texas and New Mexico state lawmakers should take steps to eliminate state subsidies.

In Texas, state policymakers should:

- **End the high-cost natural gas tax exemption.** Texas wells that extract gas at a depth of more than 15,000 feet enjoy a tax savings for 10 years or until the well accumulates tax savings of 50 percent of the actual drilling and completion costs for the well. Amounting to approximately \$1 billion per year, this is by far the single largest oil and gas subsidy reported to the Texas Legislature in 2023 and among the larger tax breaks across all sectors.
- **Charge royalties on flared and vented gas.** Methane is a potent greenhouse gas that frequently leaks from the ground during oil extraction. Charging for these leaks will incentivize reduced waste and improved leak control.
- **Eliminate the Chapter 403 program eligibility for fossil fuels.** Chapter 403 of the Texas State Tax Code allows companies to reduce the school property taxes levied on a newly constructed property. The predecessor provision, Chapter 313, was frequently used by the fossil fuel industry, and Chapter 403 will be as well. Under current rules, eligible facilities receive the tax benefit for 10 years.
- **End the Affirmative Defense Loophole.** This loophole allows polluters to avoid pollution penalties in almost every case based on claims that the pollution releases are beyond the company's control and are promptly reported to the Texas Commission on Environmental Quality (TCEQ), the environmental agency for the state.⁸² The U.S. Environmental Protection Agency recognizes the importance of closing this loophole and has proposed doing so. Texas should drop all opposition to this move.
- **Allow broad public participation.** The TCEQ does not allow residents who live more than a mile from a proposed facility to challenge its environmental impact. This arbitrary restriction on public comment severely restricts the level of public input considered in the planning of new fossil fuel facilities.
- **Provide full transparency around fossil fuel subsidies.** Current requirements for tax expenditure reporting in Texas (Stat 403.014) require reporting on "other" taxes, which include those on oil and gas, but these apply only if the tax generates more than 5 percent of total state tax revenues from all sources. Further, unlike many states, Texas separates oil and natural gas taxes and associated tax breaks into separate sections of the code, so each fuel singly must exceed 5 percent of total tax revenues. The result is that even large tax losses can escape reporting, as has occurred in the past with the Texas high-cost gas subsidy. Despite being the single largest tax break to oil and gas in 2019 with revenue losses of \$627 million (released under our formal public records request), this subsidy was not included in the state's 2020 Tax Exemptions & Incidence report. This reporting exemption should be eliminated.
- **Strengthen enforcement of state air pollution laws.** According to a 2023 report by the Environmental Integrity Project and Environment Texas, state authorities required concrete cleanup actions in only 0.5 percent of illegal air pollution events between 2016 and 2022.⁸³ This lax enforcement allows many industrial facilities, including gas plants in the Permian, to avoid paying for strong pollution controls.

In New Mexico, state policymakers should:

- **Require producers to pay royalties on all oil and gas extracted.** Producers should have to pay for the resources they extract, whether those resources make it to market or not. This includes any resource streams vented, lost due to leaks or spills, flared, or consumed to power on-site processes to extract, process, or transport the fuel.
- **Increase royalty rates for oil and gas development on state trust lands.** Current royalty rates on this land are capped at 20 percent. Raising this cap to 25 percent would align the state's royalty rates with those in nearby Texas.
- **Increase requirements to hold sufficient bonds to clean up idled wells.** According to separate assessments done by the New Mexico State Center for Applied Research and Carbon Tracker, between \$8.1 billion and \$10.6 billion will be required to cap and clean up all the wells on state and private lands alone should all current producers go bankrupt or simply walk away.⁸⁴ To prevent and protect New Mexico taxpayers from this enormous potential burden, the state should substantially increase minimum bonding requirements. This would help ensure that cleanup costs are covered if a fossil fuel company goes bankrupt or abandons its wells. Bonding companies should also be evaluated to ensure that they are strong and able to properly cover any losses that may occur.
- **Eliminate fossil fuel subsidies currently enshrined in the New Mexico Tax Code.** Subsidies such as the natural gas and oil transportation and processing deduction funnel taxpayers' resources to fossil fuel companies, despite the significant profits already enjoyed by the industry.
- **Increase auditing and formal monitoring of fossil fuel transportation and processing deductions.** New Mexico allows more extensive cost deductions from the taxable base than many other oil and gas states. These should be eliminated or, at minimum, carefully audited and benchmarked against other states to prevent unnecessary losses in tax revenue to the state.

ENDNOTES

- 1 International Energy Agency (IEA), *Net Zero Roadmap: A Global Pathway to Keep the 1.5°C Goal in Reach: 2023 Update* (Paris: IEA, 2023), <https://www.iea.org/reports/net-zero-roadmap-a-global-pathway-to-keep-the-15-0c-goal-in-reach>.
- 2 Railroad Commission of Texas, “Permian Basin: Information and Statistics,” accessed September 25, 2023, <https://www.rrc.texas.gov/oil-and-gas/major-oil-and-gas-formations/permian-basin/>.
- 3 Kevin Crowley, David Wethe, and Mitchell Ferman, “Permian’s Slow Burn to Iran-Sized Growth Underlines OPEC’s Grip,” *BNN Bloomberg*, April 18, 2023, <https://www.bnnbloomberg.ca/permian-s-slow-burn-to-iran-sized-growth-underlines-opec-s-grip-1.1909092>.
- 4 Emily Thomas, “Rystad Energy: Permian Oil Production Growth to Outpace OPEC Heavyweight Iraq This Year,” *Oilfield Technology*, March 31, 2022, <https://www.oilfieldtechnology.com/special-reports/31052022/rystad-energy-permian-oil-production-growth-to-outpace-opec-heavyweight-iraq-this-year/#:~:text=In%202023%2C%20the%20Permian%20is,in%20the%20next%20two%20years>.
- 5 Jesse Thompson, “Looking Back: Shale Oil Boom Gave Permian Basin a Second Life,” *Southwest Economy*, First Quarter 2022, accessed September 25, 2023, <https://www.dallasfed.org/research/swe/2022/swe2201/swe2201a>.
- 6 Environmental Defense Fund, *PermianMAP Final Report: A Look Back at Key Findings and Takeaways from the Permian Methane Analysis Project* (New York: Environmental Defense Fund, 2021), <https://blogs.edf.org/energyexchange/wp-content/blogs.dir/38/files/2022/11/PermianMAPFinalReport.pdf>.
- 7 Ibid.
- 8 Martin Armstrong, “Oil and Gas Giants Post Record Q1 Profits,” *Statista*, May 5, 2023, <https://www.statista.com/chart/27887/big-oil-sees-profits-increase/#:~:text=After%20breaking%20their%20annual%20profit,the%20first%20quarter%20of%202022>.
- 9 Wood Mackenzie, “Impacts of Delaying IDC Deductibility (2014–2015),” July 2013, slide 17, <https://www.api.org/~media/Files/Policy/Taxes/13-July/API-US-IDC-Delay-Impacts-Release-7-11-13.pdf>.
- 10 Office of Management and Budget, *Budget of the U.S. Government: Fiscal Year 2024*, 161, https://www.whitehouse.gov/wp-content/uploads/2023/03/budget_fy2024.pdf.
- 11 Ibid.
- 12 Texas Comptroller of Public Accounts, “Information for Approval of Reduced Tax Rates for High Cost Gas Wells,” accessed September 25, 2023, <https://comptroller.texas.gov/taxes/natural-gas/high-cost-wells.php>.
- 13 Ibid.
- 14 Texas Comptroller of Public Accounts, *Tax Exemptions & Tax Incidence: A Report to the Governor and the 88th Legislature*, February 2023, 35–37, <https://comptroller.texas.gov/transparency/reports/tax-exemptions-and-incidence/>.
- 15 Thomas Clifford, “Overview of New Mexico Taxes on Oil and Gas Production” (presentation to the Revenue Stabilization and Tax Policy Committee, New Mexico State Legislature, July 2011), <https://www.nmlegis.gov/handouts/RSTP%20072111%20Item%200%20rstpjul21.11.oilandgas.pdf>.
- 16 Ibid.
- 17 Jeremy Weber, Yongsheng Wang, and Maxwell Chomas, “A Quantitative Description of State-Level Taxation of Oil and Gas Production in the Continental U.S.,” *Energy Policy* 96 (C, 2016): 289–301, https://econpapers.repec.org/article/eeeene/pol/v_3a96_3ay_3a2016_3ai_3ac_3ap_3a289-301.htm.
- 18 Ibid.
- 19 Data on well counts, operating status, and closure liabilities are based on compilations in the CarbonTracker Plugging Liability Estimator Tool, which can be accessed at the ARO portal, with data updated through September 2020, <https://carbontracker.org/aro-portal-state-profiles/#breakdown-of-vintage-wells>.
- 20 Texas Comptroller, *Tax Exemptions & Tax Incidence* (February 2023), 35–37.
- 21 New Mexico Taxation and Revenue Department, *2022 New Mexico Tax Expenditure Report*, New Mexico Taxation and Revenue Department, 2022, 151, <https://www.nmlegis.gov/handouts/RSTP%20121922%20Item%203%20Tax%20&%20Rev%202022%20Tax%20Expenditure%20Report.pdf>.
- 22 Garrett Golding and Kunal Patel, “Anticipated Federal Restrictions Would Slow Permian Basin Production,” Federal Reserve Bank of Dallas, March 4, 2021, <https://www.dallasfed.org/research/economics/2021/0304>.
- 23 U.S. Environmental Protection Agency (EPA), “Oil and Gas Stormwater Permitting,” August 7, 2023, <https://www.epa.gov/npdes/oil-and-gas-stormwater-permitting>.
- 24 EPA, “CERCLA Petroleum Exclusion,” May 16, 2023, <https://www.epa.gov/epcra/cercla-petroleum-exclusion>.
- 25 EPA, “Unconventional Oil and Natural Gas Development,” August 1, 2023, <https://www.epa.gov/uog>.
- 26 Renee Lewis Kosnik, “The Oil and Gas Industry’s Exclusions and Exemptions to Major Environmental Statutes,” Oil & Gas Accountability Project, Earthworks, October 2007, <http://earthworks.org/files/publications/PetroleumExemptionslc.pdf>.
- 27 U.S. Coast Guard, Rule, “Consumer Price Index Adjustments of Oil Pollution Act of 1990 Limits of Liability—Vessels, Deepwater Ports and Onshore Facilities,” *Federal Register* 87, No. 246 (December 23, 2022): 78860, <https://www.govinfo.gov/content/pkg/FR-2022-12-23/pdf/2022-27750.pdf>.
- 28 Ibid.
- 29 EPA, “Exemption of Oil and Gas Exploration and Production Wastes from Federal Hazardous Waste Regulations,” October 2002, [https://yosemite.epa.gov/oa/eab_web_docket.nsf/Attachments%20By%20ParentFilingId/945EF425FA4A9B4F85257E2800480C65/\\$FILE/28%20-%20RCRA%20E%26P%20Exemption.pdf](https://yosemite.epa.gov/oa/eab_web_docket.nsf/Attachments%20By%20ParentFilingId/945EF425FA4A9B4F85257E2800480C65/$FILE/28%20-%20RCRA%20E%26P%20Exemption.pdf).
- 30 Colin Leyden, Environmental Defense Fund, “Satellite Data Confirms Permian Gas Flaring Is Double What Companies Report,” *Energy Exchange*, January 24 2019, <https://blogs.edf.org/energyexchange/2019/01/24/satellite-data-confirms-permian-gas-flaring-is-double-what-companies-report/>.
- 31 Jonathan L. Ramseur, *Inflation Reduction Act Methane Emissions Charge*, Congressional Research Service (CRS), 2022, <https://crsreports.congress.gov/product/pdf/R/R47206/3>.
- 32 Eric Larson et al., *Net Zero America: Potential Pathways, Infrastructure, and Impacts* (Princeton, NJ: Princeton University Press, 2021), 231–35, <https://www.dropbox.com/s/ptp92f65lgds5n2/Princeton%20NZA%20FINAL%20REPORT%20%2829Oct2021%29.pdf?dl=0>.

- 33 Ploy Achakulwisut, Peter Erickson, and Doug Koplow, “Effect of Subsidies and Regulatory Exemptions on 2020–2030 Oil and Gas Production and Profits in the United States,” *Environmental Research Letters* 16, No. 084023 (July 29, 2021), <https://iopscience.iop.org/article/10.1088/1748-9326/ac0a10/pdf>; Bureau of Land Management, “Impacts of the Inflation Reduction Act of 2022 (Pub. L. No. 117-169) to the Oil and Natural Gas Leasing Program,” Instruction Memorandum, November 21, 2022, <https://www.blm.gov/policy/im-2023-008>.
- 34 Office of Tax Analysis, “Tax Expenditures,” U.S. Department of Treasury, March 6, 2023, <https://home.treasury.gov/system/files/131/Tax-Expenditures-FY2024-update.pdf>; Achakulwisut, Erickson, and Koplow, “Effect of Subsidies and Regulatory Exemptions.”
- 35 Office of Tax Analysis, “Tax Expenditures” (March 6, 2023).
- 36 *Ibid.*
- 37 Joint Committee on Taxation and Revenue, *Estimates of Federal Tax Expenditures for Fiscal Years 2022–2026*, JCX-22-22, U.S. Congress, December 22, 2022, 34, <https://www.jet.gov/publications/2022/jcx-22-22/>.
- 38 Office of Tax Analysis, “Tax Expenditures” (March 6, 2023).
- 39 *Ibid.*
- 40 *Ibid.*
- 41 Matthew Iak, “Missed Opportunity Zones: Why Investors Should Take Note,” *Oilman Magazine*, September 3, 2021, <https://oilmanmagazine.com/article/missed-opportunity-zones-why-investors-should-take-note/>.
- 42 Jamison Cocklin, “U.S. Export-Import Bank May Help More LNG Terminals Get Built,” *Natural Gas Intelligence*, April 14, 2022, <https://www.naturalgasintel.com/u-s-export-import-bank-may-help-more-lng-terminals-get-built/>.
- 43 U.S. Department of Interior, “Biden-Harris Administration Releases Final Guidance on New Orphan Well Program,” press release, April 12, 2022, <https://www.doi.gov/pressreleases/biden-harris-administration-releases-final-guidance-new-orphaned-well-program>; Texas Railroad Commission, “Federally Funded Well Plugging,” accessed September 25, 2023, <https://www.rrc.texas.gov/oil-and-gas/environmental-cleanup-programs/federally-funded-well-plugging/>; New Mexico Office of the Governor, “New Mexico to Get \$43.7 Million for Orphan Well Clean-Up,” press release, January 31, 2022, <https://www.governor.state.nm.us/2022/01/31/new-mexico-to-get-43-7-million-for-orphan-well-clean-up/>.
- 44 Lukas Ross, “Cashing In on COVID: Tax Breaks, Royalties and Stimulus Loans,” Friends of the Earth, May 2020, <https://foe.org/wp-content/uploads/2020/05/CashingInOnCOVID-4.pdf>.
- 45 Jane Gravelle, “Tax Treatment of Net Operating Losses (NOLs) in the Coronavirus Aid, Relief, and Economic Security (CARES) Act,” CRS, May 13, 2021, <https://crsreports.congress.gov/product/pdf/IN/IN11296>; Jennifer L. Bragg et al., “Senate Passes Landmark Bill with Climate, Tax, Energy and Health Care Implications,” Skadden, Arps, Slate, Meagher & Flom LLP, August 7, 2022, <https://www.skadden.com/insights/publications/2022/08/senate-passes-landmark-bill>.
- 46 Becky Sullivan, “A Tax Loophole Made Fund Managers Rich. Closing It May Help Pay for Climate Bill,” National Public Radio, August 3, 2022, <https://www.npr.org/2022/08/03/1115218183/carried-interest-close-tax-loophole>.
- 47 Alyssa Giachino and Riddhi Mehta-Neugebauer, *Private Equity Propels the Climate Crisis: The Risks of a Shadowy Industry’s Massive Exposure to Oil, Gas and Coal* (Chicago: Private Equity Stakeholder Project, 2021), https://pestakeholder.org/wp-content/uploads/2021/10/PESP_SpecialReport_ClimateCrisis_Oct2021_Final.pdf.
- 48 Thornton Matheson and Thomas Brosy, “Inflation and Oil Price Spikes Revive Case for LIFO Repeal,” *TaxVox Blog*, May 12, 2022, <https://www.taxpolicycenter.org/taxvox/inflation-and-oil-price-spikes-revive-case-lifo-repeal>.
- 49 New Mexico Statutes, Chapter 74 - Environmental Improvement Article 4 - Hazardous Wastes Section 74-4-3 - Definitions, NM Stat § 74-4-3 (2021), <https://law.justia.com/codes/new-mexico/2021/chapter-74/article-4/section-74-4-3/>.
- 50 New Mexico Taxation and Revenue Department, *2022 New Mexico Tax Expenditure Report*, 151.
- 51 *Ibid.*, 163.
- 52 *Ibid.*, 153.
- 53 Helen Gaussion and Ismael Torres, “Money Matters: Analysis by the LFC Economists—New Mexico Royalties and State Finances,” New Mexico Legislative Finance Committee, June 28, 2023, https://www.nmlegis.gov/Entity/LFC/Documents/Money_Matters/New%20Mexico%20Royalties%20and%20State%20Finances%20FINAL.pdf.
- 54 *Ibid.*, 176.
- 55 New Mexico Taxation and Revenue Department, *2022 New Mexico Tax Expenditure Report*, 229.
- 56 In both New Mexico transportation and processing subsidies listed in this chart, there is an incentive for processing and transport costs to be inflated because this reduces the extraction taxes and royalties due. Because the “sale price” is not a clear-cut value, policing how it is calculated is both important and challenging—particularly where products are transferred to related parties without arms-length market prices. New Mexico allows more extensive cost deductions from the taxable base than many other oil and gas producing states. (Weber, Wang, and Chomas, “A Quantitative Description of State-Level Taxation,” 299.) The state’s Taxation and Revenue Department monitors changes in taxes paid from prior years and researches large disparities; it does conduct a formal review of claims. (Lucinda Sydow, New Mexico Taxation and Revenue Department, emails to Doug Koplow, Earth Track, November 1 and 27, 2023.) Data reported on New Mexico’s form ACD-31114 could allow some analysis of deductions across taxpayers, although it does not differentiate transfers to affiliates from sales to third parties. Researchers at the University of Chicago analyzed the valuation challenges regarding royalties on federal oil and gas leases, noting that “firms currently enjoy tremendous flexibility in how they price oil and gas sales and take allowable cost deductions for the purpose of royalty valuation . . . All of these choices and more allow firms to select terms that are most favorable to them, at the expense of U.S. taxpayers.” While their analysis applied to royalties rather than extraction taxes, the issues are similar. And they suggested an effective solution would be to simply eliminate allowable deductions. (Thomas Covert and Ryan Kellogg, “Ensuring Americans Receive Fair Value for U.S. Oil and Gas Resources,” *U.S. Energy & Climate Roadmap: Evidence-Based Policies for Effective Action* (Chicago: Energy Policy Institute at the University of Chicago, 2021), 148–59, <https://epic.uchicago.edu/wp-content/uploads/2021/02/Ensuring-Americans-Receive-Fair-Value-for-U.S.-Oil-and-Gas-Resources.pdf>.)
- 57 New Mexico Taxation and Revenue Department, *2022 New Mexico Tax Expenditure Report*, 184.
- 58 CarbonTracker, “Asset Retirement Obligations (ARO) Portal State Profiles: Total Bond Amount, Total Liability Amount, Bonding Ratio,” accessed October 3, 2023, <https://carbontracker.org/aro-portal-state-profiles/#total-bond-amount>.

59 Ibid.

60 Nick Cunningham, “Evidence Shows Oil Industry Flaring in Texas Being Done Without Permits,” *DeSmog*, January 29, 2021, <https://www.desmog.com/2021/01/29/oil-industry-methane-flaring-texas-done-without-permits/>.

61 Texas Tax Code §202.054, Qualification of Oil from New or Expanded Enhanced Recovery Project for Special Tax Rate, <https://casetext.com/statute/texas-codes/tax-code/title-2-state-taxation/subtitle-i-severance-taxes/chapter-202-oil-production-tax/subchapter-b-tax-imposed/section-202054-qualification-of-oil-from-new-or-expanded-enhanced-recovery-project-for-special-tax->; Texas Railroad Commission, “Present Texas Severance Tax Incentives,” accessed October 6, 2023, <https://www.rrc.texas.gov/oil-and-gas/publications-and-notice/texas-severance-tax-incentives/present-texas-severance-tax-incentives/>; Texas Comptroller, *Tax Exemptions & Tax Incidence* (February 2023), 35–37.

62 Ibid.

63 Texas Tax Code §201.057, Temporary Exemption or Tax Reduction for Certain High-Cost Gas, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=201.057&date=7/18/2015>; Texas Railroad Commission, “Present Texas Severance Tax Incentives”; Texas Comptroller of Public Accounts, “Information for Approval of Reduced Tax Rates for High Cost Gas Wells.”

64 Texas Tax Code §201.058, Tax Exemptions, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=201.058&date=7/18/2015>; Texas Railroad Commission, “Present Texas Severance Tax Incentives.”

65 Texas Tax Code §202.056, Exemption for Oil and Gas from Wells Previously Inactive, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=202.056&date=7/18/2015>; Texas Railroad Commission, “Present Texas Severance Tax Incentives.”

66 Texas Tax Code §201.059, Credits for Qualifying Low-Producing Wells, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=201.059&date=7/18/2015>; Texas Railroad Commission, “Present Texas Severance Tax Incentives”; Benjamin W. Griffiths et al., “The Full Cost of Electricity: State Level Financial Support for Electricity Generation Technologies—An Analysis of Texas and California,” University of Texas at Austin Energy Institute, 2018, 47, https://energy.utexas.edu/sites/default/files/UTAustin_FCe_State-Subsidy_Paper_2018.pdf.

67 Texas Tax Code §201.059, Credits for Qualifying Low-Producing Wells; Texas Railroad Commission, “Present Texas Severance Tax Incentives”; Griffiths, “The Full Cost of Electricity,” 47.

68 Texas Tax Code §202.061, Tax Credit for Enhanced Efficiency Equipment, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=202.061&date=7/18/2015>; Texas Railroad Commission, “Present Texas Severance Tax Incentives.”

69 Texas Tax Code §151.317, Gas and Electricity, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=151.317&date=7/18/2015>; Texas Comptroller of Public Accounts, *Tax Exemptions & Tax Incidence: A Report to the Governor and the 86th Legislature*, December 2020, <https://comptroller.texas.gov/transparency/reports/tax-exemptions-and-incidence/2020/96-463.pdf>; Griffiths, “The Full Cost of Electricity,” 12.

70 Texas Legislative Budget Board, *General Appropriations Act for the 2022–23 Biennium, Eighty-seventh Texas Legislature, Regular Session, Text of Conference Committee Report on Senate Bill No. 1*, VI-48-VI-54, May 25, 2021, www.lbb.texas.gov/Documents/GAA/General_Appropriations_Act_2022_2023.pdf.

71 Texas Tax Code §202.060, Exemption for Oil and Gas from Reactivated Orphaned Wells, <https://statutes.capitol.texas.gov/StatutesByDate.aspx?code=TX&level=SE&value=202.060&date=7/18/2015>.

72 Mose Buchele, “Proposition 7 Would Provide Billions in Incentives for New Power Plants in Texas,” KUT 90.5, November 6, 2023, <https://www.kut.org/energy-environment/2023-11-06/proposition-7-would-provide-billions-in-incentives-for-new-power-plants-in-texas>; Robert Walton, “Texas Voters Approve \$10B Energy Fund, with Most Going to Build Gas-Fired Power Plants,” *Utility Dive*, November 8, 2023, <https://www.utilitydive.com/news/texas-voters-approve-energy-fund-gas-power-proposition-7/699110/>.

73 Texas Department of Transportation, “2020 County Transportation Infrastructure Fund Grant Program,” 2023, <https://www.txdot.gov/business/grants-and-funding/2020-county-transportation-infrastructure-fund-grant-program.html>.

74 Cesar Quiroga, “TAMEST Shale Task Force: Impacts to Transportation Infrastructure and Critical Needs,” presentation to TAMEST (The Academy of Medicine, Engineering and Science of Texas), Shale Task Force, October 5, 2016, <https://tamest.org/wp-content/uploads/2017/04/cesar-quiroga-presentation.pdf>; *TAMEST Task Force on Environmental and Community Impacts of Shale Development in Texas, Environmental and Community Impacts of Shale Development in Texas*, accessed August 5, 2022, <https://tamest.org/wp-content/uploads/2017/07/Final-Shale-Task-Force-Report.pdf>.

75 Texas Comptroller of Public Accounts, *Tax Exemptions & Tax Incidence*, December 2020, 18, 20, 21, 27; Texas Tax Code 171.1012 (k-2), Determination of Cost of Goods Sold, <https://statutes.capitol.texas.gov/Docs/TX/htm/TX.171.htm>.

76 Griffiths, “The Full Cost of Electricity.”

77 CarbonTracker, “Asset Retirement Obligations (ARO) Portal State Profiles.”

78 Railroad Commission of Texas, *Sunset Advisory Commission: Staff Report with Final Results, 2016–2017, 85th Legislature*, 2017, https://www.sunset.texas.gov/public/uploads/files/reports/Railroad%20Commissio%20of%20Texas%20Staff%20Report%20with%20Final%20Results_6-21-17.pdf.

79 Abatement awards are published every two years by the Texas Comptroller of Public Accounts. For recent data, see *Biennial Report on Reinvestment Zones Designated Under Tax Code*, Chapters 311 and 312, 2022, <https://comptroller.texas.gov/economy/docs/96-1726-tif-abate-2022-reg.pdf>.

80 Doug Koplow, Earth Track analysis of Chapter 313 project detail “CDR Reports” data released by the Texas Comptroller of Public Accounts under a public records request, August 5, 2022.

81 Grant Thornton, “Texas Enacts Changes To Property Tax Abatement And Enterprise Zone Incentives,” July 11, 2023, accessed December 2, 2023, <https://www.granthornton.com/insights/alerts/tax/2023/salt/p-t/tx-enacts-changes-to-property-tax-abatement-and-enterprise-zone-incentives-07-11>.

82 Naveena Sadasivam, “One Texas-Sized Loophole Is Letting Lone Star Polluters off the Hook,” *Texas Observer*, October 14, 2020, <https://www.texasobserver.org/texas-pollution-loophole/>.

83 Environmental Integrity Project, “The Polluter’s Playbook: How Loopholes and Lax Enforcement Harm Air Quality in Texas,” March 2023, <https://environmentalintegrity.org/wp-content/uploads/2023/03/TX-Polluters-Playbook-final-report-3.23.23.pdf>.

84 The Center for Applied Research, Inc., *An Analysis of the Adequacy of Financial Assurance Requirements for Oil and Gas Infrastructure Located on State Trust and Private Lands in New Mexico*, New Mexico State Land Office, April 30, 2021, <https://www.nmstatelands.org/wp-content/uploads/2021/05/NM-Assurance-Assessment-May-FINAL.pdf>.