LFC Requester:	Ismael Torres

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment** ______
Correction ______ **Substitute** ______

Date Prepared: 01/19/2024
Bill No: SB64

Sponsor: Sen. R. Griggs

Short Title: SEVERANCE TAX EXEMPTION FOR CERTAIN PROJECTS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill ("SB") 64 proposes several amendments and additions to Tax Code Section 7-29-4 NMSA 1978. SB 64 would establish a severance tax exemption for natural gas, oil and other liquid hydrocarbons severed from a stripper well property from a "production compliance project" during the first 10 years of production, or when the total tax would otherwise equal the cost of the project, whichever occurs first. A definition for a "production compliance project" is added to mean a procedure undertaken to keep a well producing as required by Oil Conservation Commission to reduce venting and flaring and reduce ambient ozone concentrations, as set by the Environmental Improvement Board.

SB 64 would also establish an approval process of a "production compliance project" under Section 7-29B-3 NMSA 1978, and would insert the phrase "production compliance project" into several places throughout Sections 7-29B-4, 7-29B-5, and 7-29B-6 to be consistent with the above referenced proposed changes.

SB 64 also includes a "production compliance projects" in Section 7-29B-6 NMSA 1978 as qualification for tax exemption. The exemption would benefit the person responsible for paying the oil and gas severance tax.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

Stripper wells are those wells that produce a very low amount of oil and gas. Sections 7-29-6 to 7-29-9 NMSA already provide severance tax and incentive tax rates to promote drilling from these wells. The stripper well exemption proposed in SB 64 will provide further tax relief and corresponding incentives to stripper well owners, presumably to encourage continued production from these low-producing wells that might otherwise be plugged and abandoned or shut in. When the margin between well operating costs and oil and gas prices is large, it is likely that operators will continue to operate stripper wells regardless of the exemption since the margin would be higher than the severance tax. However, when prices are low and stripper wells are operating at a loss, the benefit provided by this exemption is unlikely to be significant enough to keep stripper wells open. This could keep wells open longer and create natural gas waste that the

Oil Conservation Commission and the Environmental Improvement Board rules are trying to combat in the state with rules NMAC 19.15.27 and 19.15.28. These rules strictly outline the limitations on venting and flaring natural gas and require operators to capture as much natural gas as possible.

SB 64's establishment of "production compliance projects" is likely redundant to what is already required in NMAC 19.15.27 and 19.15.28. Under 19.15.27, well operators are already required to prevent waste from natural gas production by limiting flaring and venting at a well.

In addition, stripper wells are defined in Section 7-29B-2(L) NMSA 1978 as wells producing 10 barrels or less a day. SB 64 proposes that in order to qualify as a "production compliance project" a well must produce no more than 1000 barrels a day. This is a very large discrepancy. This could be a typographical error, but the Senate may want to ensure consistency.

SB 64's proposed language in Section 7-29B-6 adding qualification for tax exemption may conflict with the intent of the revenue process as outlined by the severance tax provision in Article VIII Section 10 of the State of New Mexico Constitution. Money in the severance tax permanent fund shall be invested as provided by law. Distributions from the fund shall be appropriated by the legislature as other general operating revenue is appropriated for the benefit of the people of the state. An exemption from paying into this fund could impact the revenue and fund outlined in Article VIII Section 10 of the State of New Mexico Constitution.

Under Article VIII Section 3 of the State of New Mexico Constitution, property determined to be exempt from taxes is determined based on its actual use not based upon whether it is built for a particular purpose. Producing wells built solely for the purpose of "production compliance projects" may be intended for that purpose but may fall short of the Constitutional requirements of use.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

Lawmakers should consider limiting the contemplated exemption to those tax years when oil and gas prices are below a certain threshold. That is when the contemplated incentives will likely influence market conduct without depriving the state of a revenue stream during eras of high oil prices.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.