

LFC Requester:

Ismael Torres

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

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 **Amendment**
Correction **Substitute**

Date 2/4/2024

Bill No: SB 64

Sponsor: Senator Griggs
Short Title: Severance Tax Exemption for
Certain Projects

Agency Name and Code EMNRD-521
Number: _____
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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		150.0	150.0	300.0	Recurring	General
		15.0		15.0	Non-recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Near identical to 2023 SB 443.
Duplicates/Relates to Appropriation in the General Appropriation Act – N/A.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 64 (SB 64) amends the Oil and Gas Severance Tax Act and the Natural Gas and Crude Oil Production Incentive Act to provide exclusions from those taxes for projects to install equipment required by rules adopted by the Oil Conservation Commission (OCC) or the Environmental Improvement Board (EIB).

The Oil and Gas Severance Tax Act, § 7-29-4, is amended to exclude from taxation natural gas or oil produced from a production compliance project at a stripper well property until the earlier of either ten years after completion of the project or when the total amount of tax that would have been collected equals the cost of the project.

The Natural Gas and Crude Oil Production Incentive Act, 7-29B-2 to –6 (Incentive Act) is amended to establish a process whereby an oil and gas operator can apply to the EMNRD Oil Conservation Division (Division) for certification of a production compliance project. The certification is then provided to the Taxation and Revenue Department. The certification process requires that the application be filed within 12 months of project completion, that the project be required pursuant to OCC or EIB rules to continue production at the property, that the well be certified as a stripper well, that the operator not exceed a certain level of production, and that the project involve the installing, upgrading, or replacing of specific equipment.

FISCAL IMPLICATIONS

Given the number of stripper well properties that would be eligible for the tax credit, and the Division’s required review of projects and equipment required for the certification, the Division estimates that an additional two FTE would be necessary to support the program contemplated by SB 64, and that the bill does not include an appropriation to support these additional responsibilities.

SIGNIFICANT ISSUES

SB 64 follows upon the rules adopted by the OCC to greatly reduce the venting and flaring of natural gas in oil and gas production activities, 19.15.27, .28 NMAC, and by the EIB to reduce ambient ozone concentrations. 20.2.50 NMAC. The OCC rules prohibit the ordinary venting and flaring of natural gas and require the capture and transport or use of the gas. The rules are performance based and require operators to measure their current emissions and then reduce them over time. The OCC rules are not technology-based and therefore do not dictate the type of

equipment that an operator must install to achieve the goals. These rules apply to oil and gas production facilities (wellhead and associated facilities) and natural gas gathering systems which gather (through gathering lines) and treat the gas, and which end with a processing plant or transmission or distribution system.

The EIB rules do have specific standards for the equipment that would be installed to reduce ozone concentrations. The EIB rules also have lesser requirements for “small business facilities” which would likely apply to many, but not all the stripper well operators covered by SB 64 (20.2.50.125 NMAC). SB 64 refers to rules that were promulgated by the OCC and the EIB “on or after January 1, 2022”. While the EIB rules were promulgated in 2022, the OCC rules were promulgated in 2021 and became effective on May 25, 2021. Therefore, SB 64 as currently written would not apply to the OCC rules.

SB 64 requires the Division to review and approve the production compliance project as part of the tax credit certification process. The Division would be required to determine if a project was required not just for adherence to OCC rules, which as noted above are not covered by the bill as drafted, but also for adherence EIB rules for which the Division has no expertise. The EIB rules also contain specific standards for the equipment which the Division is also not familiar with.

SB 64 applies to “stripper well properties” which is defined in the Incentive Act as a property producing a daily average of less than ten barrels a day of oil or 60,000 cubic feet of natural gas. According to Division records, there are currently over 29,188 stripper wells in New Mexico, about half of which are held by large operators (i.e., those with more than 1 million barrels of oil equivalent production per year). SB 64 attempts to recognize that most of those wells are still held by large operators by limiting the credit to operators who produce less than 1,000 barrels of oil equivalent per day (365,000 barrels of oil equivalent per day). Assuming that this amount is an annual daily average, in 2023, about 12% of operators would not have been eligible for a potential credit. OCD data indicates that there are approximately 12,147 wells across such operators. Total production from all operators below 1,000 BOE per day in 2023 was approximately ~12 million barrels of oil equivalent.

Finally, in addition to the legal considerations above, OCD also notes that the cost of compliance projects can vary widely across operators and that OCD is not able to opine whether the 1,000 barrels of oil equivalent cutoff represents operator who cannot shoulder such costs. Additionally, OCD already sees disputes among operators about what constitutes reasonable costs for specific types of projects under its current program. By requiring OCD to certify projects, it would be forced to evaluate project costs to ensure no inappropriate costs are included or that costs are not inflated and anticipates having disputes with operators related to same. Finally, since adoption of the rules by both the OCC and EIB, OCD has not seen an increase in the rate that stripper wells are being plugged or abandoned. In fact, overall industry plugging rates in 2023 were down over prior years and the number of inactive wells has not increased dramatically even as these compliance obligations have come into effect, which suggests that these wells are bearing these increased costs.

PERFORMANCE IMPLICATIONS

See Significant Issues.

ADMINISTRATIVE IMPLICATIONS

See Significant Issues.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 64 is a near-duplicate of 2023 SB 443.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A tax credit will not be available to offset costs associated with compliance projects, which is defined as those that are required by certain rules adopted by the OCC or the EIB.

AMENDMENTS

None.