GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0661		**Title:**	Revise taxation of stripper oil and gas wells
Primary Sponsor:	Kassmier, Joshua		**Status:**	As Introduced

☒Significant Local Gov Impact ☐Needs to be included in HB 2 ☒Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Revenue:				
General Fund	($1,699,759)	($1,662,314)	($1,733,429)	($1,798,153)
State Special Revenue	($184,257)	($180,198)	($187,907)	($194,923)
Net Impact-General Fund Balance:	($1,699,759)	($1,662,314)	($1,733,429)	($1,798,153)

Description of fiscal impact: HB 661 changes definitions relating to stripper oil and gas wells. It adds a stripper gas exemption tax rate trigger price and lowers overall stripper gas tax rates and stripper oil tax rates. It changes the trigger price reference for secondary recovery production from West Texas Intermediate (WTI) to the average price received by the producer. The trigger price threshold for stripper oil production is increased from $54 to $59 per barrel. Overall tax reductions (state and local) are around $3.6 million annually.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. There are currently two different classes of stripper well oil production in Montana: stripper oil production, which applies to average production between three and 15 barrels per day the prior year, and stripper well exemption production, which applies to average production of three barrels per day or less in the prior year. This second class will be referred to as super stripper wells in this analysis.
2. Stripper well oil production only receives a preferential tax rate if the average quarterly WTI price per barrel of oil is less than $30. When this occurs, the tax rate is 5.5% on the first 10 barrels produced per day while barrels 11-15 are taxed at the regular 9% rate.

3. Super stripper oil production always receives a preferential rate of at least 6%. If the average oil price received by a Montana producer is less than $54 per barrel, the tax rate is 0.5%.
4. HB 661 combines stripper oil and super stripper oil into one tax schedule with rates that vary depending on the price of oil received by the producer. If average price received per barrel is less than $59, stripper and super stripper oil production will qualify under the definition of stripper well exemption production. In this case, lower tax rates are imposed on stripper and super stripper oil production than when oil prices are equal to or greater than $59 per barrel.
5. The bill directs that stripper well exemption production (occurs when the oil price is less than $59 per barrel) is assessed a 5% tax rate, compared to the current 6% rate.
6. Super stripper exemption production is assessed a tax rate of 0.8% on all barrels, which is a 0.3% tax increase per barrel compared to current law.
7. When the oil price is at or above $59 per barrel, super stripper oil production is taxed at a 5% rate and stripper production is assessed at 8%.
8. Oil price assumptions associated with the HJ 2 oil and gas production tax revenue estimate show Montana prices below $59 for all years.
9. Current law stripper tax rate incentives took effect in the second quarter of CY 2020 when the price of WTI averaged less than $30 per barrel for the quarter. Stripper well estimates are based on data from this quarter.
10. Stripper wells accounted for 4.54% of total oil production during this quarter. This percentage is applied to HJ 2 forecasted oil production to estimate stripper oil production.
11. There are different base tax rates for pre-1999 oil wells and post-1999 oil wells, but these wells are treated the same when qualifying as stripper oil wells.
12. Pre-1999 oil wells contributed 55.47% of stripper oil production in this quarter and post-1999 wells contributed 44.53% of production.
13. Production and taxes (in millions) associated with stripper wells are detailed in the table below. Oil price projections in HJ 2 show that WTI is not expected to drop below $30 per barrel over the forecast period. Therefore, under current law there will not be any qualifying stripper oil production and associated reduced tax rates. Output from wells producing 3 – 15 barrels per day will be taxed at 9% for post-1999 wells and 12.5% for pre-1999 wells under current law. The proposed law tax rate for this same production is 5%.

Calendar Year	Stripper Barrels.	Gross Stripper Revenue	HB 661 Stripper Tax	Current Stripper Tax	Change in Tax
2021	0.717	$29.040	$1.452	$3.177	$(1.725)
2022	0.664	$31.816	$1.591	$3.481	$(1.890)
2023	0.619	$30.565	$1.528	$3.344	$(1.816)
2024	0.578	$29.173	$1.459	$3.192	$(1.733)
2025	0.540	$28.422	$1.421	$3.110	$(1.689)

14. Super stripper wells averaged 2.71% of total production over the last four complete fiscal years.
15. Super stripper wells currently pay a tax rate of 0.5% without HB 661, but will pay 0.8% with HB 661.
16. Production and taxes (in millions) associated with super stripper wells is detailed below.

Calendar Year	Super Stripper Barrels.	Gross Super Stripper Oil Revenue	HB 661 Super Stripper Tax	Current Super Stripper Tax	Change in Tax
2021	0.428	$17.337	$0.139	$0.087	$0.052
2022	0.397	$18.994	$0.152	$0.095	$0.057
2023	0.370	$18.247	$0.146	$0.091	$0.055
2024	0.345	$17.416	$0.139	$0.087	$0.052
2025	0.322	$16.968	$0.136	$0.085	$0.051

17. Natural gas stripper well status currently only applies to pre-1999 gas wells producing an average of less than 60 thousand cubic feet (MCF) per day in the prior year.
18. HB 661 extends the applicability of stripper natural gas designation to post-1999 gas wells and introduces a trigger rate if the AECO C (an Alberta price benchmark) price is less than $4.75 per MCF.
19. HB 661 creates a separate tax rate for stripper natural gas if the well produces fewer than 18 MCF per day. About a third of output from wells producing less than 60 MCF per day comes from wells producing less than 18 MCF per day. These wells qualify for this lower tax rate.
20. If the AECO C gas price is not less than $4.75 per MCF then natural gas wells producing less than 60 MCF but more than 18 MCF per day are assessed an 8% tax rate. If the AECO C price is less than $4.75 per MCF then these wells are taxed at 5%.
21. Wells producing less than 18 MCF per day are taxed at 5% if the AECO C price is above $4.75 per MCF and 0.8% if the price is below $4.75 per MCF.
22. HJ 2 contains assumptions about the relationship between Henry Hub natural gas prices and Montana natural gas prices instead of the AECO C prices. However, the historic relationship between Henry Hub natural gas prices and AECO C prices implies that the price will be below the trigger rate for all fiscal years in this analysis period.
23. The same production split between pre-1999 and post-1999 stripper oil wells will apply to pre-1999 and post-1999 stripper gas wells.
24. Stripper gas production and taxes (in millions) is detailed in the table below.

Calendar Year	Stripper MCF (60 MCF/Day > Production > 18 MCF/Day	MCF Less than 18 MCF/Day	Gross Stripper Revenue	HB 661 Tax	Current Tax	Change in Tax
2021	10.625	5.312	$32.033	$1.153	$3.238	(2.085)
2022	10.284	5.142	$29.773	$1.106	$2.760	(1.654)
2023	9.580	4.790	$28.740	$1.039	$2.876	(1.838)
2024	9.282	4.641	$28.960	$1.015	$3.125	(2.109)
2025	9.023	4.511	$28.783	$0.992	$3.229	(2.237)

25. Calendar years are converted to fiscal years by taking half the calendar year matching the fiscal year and adding half the calendar year preceding the fiscal year.
26. Fiscal year revenue changes for oil and gas are summarized below.

Fiscal Year	Oil Difference	Gas Difference	Total Revenue Difference
2022	$(1,753,345)	$(1,869,560)	$(3,622,905)
2023	$(1,797,270)	$(1,745,825)	$(3,543,095)
2024	$(1,721,113)	$(1,973,558)	$(3,694,671)
2025	$(1,659,379)	$(2,173,245)	$(3,832,624)

27. Oil and gas revenue is appropriated to counties based on the relative mill split when oil and gas moved from a property tax to a flat value tax.
28. Local governments received 48.0% of oil and gas revenues in FY 2020. This is the basis for the split used in this fiscal note.
29. Revenue changes by account type and fiscal year are listed in the table below.

Fund	2022	2023	2024	2025
Local Governments	$ (1,738,890)	$ (1,700,583)	$ (1,773,335)	$ (1,839,549)
Natural Resource Projects	$ (40,695)	$ (39,798)	$ (41,501)	$ (43,050)
Natural Resource Operations	$ (38,057)	$ (37,219)	$ (38,811)	$ (40,260)
Orphan Share Fund	$ (55,578)	$ (54,354)	$ (56,679)	$ (58,796)
University System	$ (49,926)	$ (48,827)	$ (50,915)	$ (52,817)
General Fund	$ (1,699,759)	$ (1,662,314)	$ (1,733,429)	$ (1,798,153)
Total	$ (3,622,906)	$ (3,543,095)	$ (3,694,671)	$ (3,832,624)

30. HB 661 also replaces references to WTI price trigger determinations for secondary oil production with references to average price received by the producer. There is no current or forecasted secondary oil production, so this change has no fiscal impact.
31. Costs associated with implementation are minimal and will be absorbed by the department.

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Personal Services	$0	$0	$0	$0
Operating Expenses	$0	$0	$0	$0
TOTAL Expenditures	$0	$0	$0	$0
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Funding of Exp.	$0	$0	$0	$0
Revenues:				
General Fund (01)	($1,699,759)	($1,662,314)	($1,733,429)	($1,798,153)
State Special Revenue (02)	($184,257)	($180,198)	($187,907)	($194,923)
TOTAL Revenues	($1,884,016)	($1,842,512)	($1,921,336)	($1,993,076)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($1,699,759)	($1,662,314)	($1,733,429)	($1,798,153)
State Special Revenue (02)	($184,257)	($180,198)	($187,907)	($194,923)

Effect on County or Other Local Revenues or Expenditures:

1. The department shares approximately half of oil and gas revenues with counties. The local government impact is shown in the table in the body of the fiscal note and is approximately $1.7 million less per year.

Technical Notes:

Department of Revenue

1. It is recommended to clarify that the AECO C posting price for a quarter references the average price of the quarter.

2. 15-36-303(21), MCA, as rewritten references stripper natural gas as less than 60 MCF per day in the prior year. New reference in 15-36-304(4), MCA, refers to stripper natural gas as 60 MCF **or less** per day in the prior year. These definitions need to align to avoid ambiguity on how to treat a well producing exactly 60 MCF per day. It is also recommended to clarify all the references to natural gas tax rates in 15-36-304(2), MCA, to clearly define which tax bracket a well producing exactly 18 MCF per day in the prior year belongs in. This clarification is also recommended for 15-36-304(6)(c), MCA, to show which tax bracket a well producing exactly 3 barrels per day in the prior year belongs in.

Office of Budget and Program Planning

3. Currently, per Section 9901 of the American Recovery Plan Act (ARPA) which adds New Section 602 to 42 U.S.C. 801, it is unknown if reductions to state taxes resulting in a reduction to net state tax revenue may jeopardize receipt, or require repayment, of State Recovery Funds contained in the ARPA.

JK		KA	3-29-21
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*