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March 1, 2024

The Honorable Michelle Lujan Grisham
Governor
State of New Mexico
490 Old Santa Fe Trail, Room 400
Santa Fe, New Mexico 87501

Re: Request to veto HB 252’s severance tax exemption for “stripper wells”

Dear Governor Lujan Grisham:

We respectfully urge you to veto provisions of [House Bill 252](#), passed during the 2024 regular legislative session, that provide an oil and gas severance tax exemption to “stripper well properties” for the costs of complying with the state’s 2021 methane waste rule¹ and 2022 ozone precursor rule.² This exemption, set forth in sections 16 to 22 of the bill, is an imprudent giveaway to oil and gas companies at the public’s expense.

First, HB 252’s severance tax exemption requires that the public shoulder oil and gas industry costs to comply with the state’s methane waste and ozone precursor rules. These costs should be borne by stripper well operators, not the public. Shifting compliance costs to the public sets bad tax policy precedent. According to the Fiscal Impact Report (FIR)³ from the [New Mexico Taxation and Revenue Department](#), the exemption:

¹ See 19.15.27 and -28 NMAC.

² See 20.2.50 NMAC.

³ The FIRs referred to herein are for Senate Bill 64, which originally provided for the exemption at issue and was consolidated into House Bill 252.

[W]ould set a precedent in tax policy that businesses may lower their tax liability to financially support complying with other business regulations and laws for operations. All business across all industries have business costs to meet varying laws, regulations and reporting. This would erode horizontal equity among taxpayers.

In other words, the exemption is unfair to other businesses, including other oil and gas operators, who pay their own compliance costs to operate in New Mexico. Moreover, as observed by the [Attorney General](#), “[t]he Severance Tax Act and the Incentives Act already give favorable tax treatment to production from stripper wells.”

The ozone precursor rule was promulgated to protect public health from ozone, a federally designated criteria pollutant, and both rules were promulgated in part to reduce methane, a significant contributor to climate change. Both rules require oil and gas companies to internalize the social costs of climate change and public health risks they create. It is perverse to give companies a tax break for costs incurred to protect against hazards of their own creation.

Second, HB 252’s severance tax exemption comes at the expense of the severance tax permanent fund, the state’s bonding capacity, and the Oil Conservation Division’s already limited capacity. The severance tax permanent fund is of particular concern given its intent to protect New Mexico’s finances from the inevitable decline of oil and gas revenue. The Legislative Finance Committee underscored its importance to the state’s finances, explaining in a [December 2023 report](#) that distributions from the fund “are the most stable revenue source in the general fund and are growing at the fastest rate of all major general fund revenues.” In a [February 2024 analysis](#), the Legislative Finance Committee concluded that the exemption did not conform to state tax policy principles and could cost the state \$17.2 million in revenue between fiscal years 2025 to 2028, as well as reduce bonding capacity by \$18.8 million over the same time period, increase the OCD’s annual operating costs by \$200,000, and require two new full time equivalent OCD employees. New Mexico should grow and strengthen the severance tax permanent fund, increase the state’s bonding capacity, and strengthen agency capacity—not provide a gratuitous, unfair subsidy to the operators of low-producing stripper wells that reduces the fund and creates new costs for state agencies that already struggle to implement their mandates.

Third, HB 252’s oil and gas severance tax exemption illustrates well-founded public concerns that the political deck is stacked in favor of the oil and gas industry, not the people of New Mexico. The oil and gas industry secured this severance tax exemption with virtually no outreach to the public. At the same time, industry elements obstructed sensible oil and gas reforms backed by your administration and other state officials. This included House Bill 133, which would have provided long needed if modest reforms of the antiquated 1935 Oil and Gas Act, as well as House Bill 48, which would have raised New Mexico’s outdated royalty rate for oil and gas production on state trust lands in line with our neighbors.

The fact that HB 133—which passed two House committees but never received a House floor

vote—failed is particularly salient to our request that you veto the severance tax exemption because HB 133 would have strengthened state-level financial assurance protections. Such protections would have helped shield the state from potential [huge liabilities](#) associated with the oil and gas industry’s abandonment of stripper wells, typically when operators go bankrupt. Conversely, HB 252’s severance tax exemption will, if not line-item vetoed, exacerbate the state’s financial liability for abandoned wells. As the [State Land Office warned](#), the exemption:

[W]ould incentivize producers to continue operating poorly producing stripper wells ... could result in the state/taxpayers incurring the legacy remediation and reclamation costs of the wells. Delayed closeout of low performing wells ultimately increases the likelihood the state will have to take responsibility for proper plugging of those wells that might have been plugged by the operator. Thus, the bill could result in an increased future financial liability for NMSLO and the expenditure of an undetermined amount of money for proper plugging and site remediation, which may be significantly more than any well royalty earnings.

For the foregoing reasons, we respectfully urge you to line-item veto HB 252’s oil and gas severance tax exemption. Thank you for considering our request.

Sincerely,



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