North Dakota Legislative Council

Prepared for the Tax Reform and Relief Advisory Committee
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STRIPPER WELL EXEMPTION STUDY - BACKGROUND

House Bill No. 1483 (2025) (Appendix A) provides for a Legislative Management study regarding the oil extraction tax exemption for production from a stripper well property or an individual stripper well, including the number of oil wells and amount of oil production qualifying for the exemption, the estimated fiscal impact of the exemption, and alternative tax policies with input from the Tax Commissioner, the Director of the Department of Mineral Resources, and representatives from the oil and gas industry.

HISTORY OF OIL AND GAS TAXES

The schedule below summarizes the history of selected major changes to the oil and gas gross production tax under North Dakota Century Code Chapter 57-51 and the oil extraction tax under Chapter 57-51.1.

Timeline	Oil and Gas Gross Production Tax	Oil Extraction Tax
1950s	• Established a gross production tax on oil and gas of 4.25 percent of the gross value at the well in lieu of ad valorem taxes, including an exemption from ad valorem taxes for equipment used at the well site for production (1953) • Tax rate increased to 5 percent (1957)	
1960s	No major changes	
1970s	No major changes	
1980s	No major changes	• Established an oil extraction tax of 6.5 percent at the value of the well and exempted oil production from a stripper well property if the average daily oil production did not exceed 10 barrels per day in the preceding 12 months (1980 initiated measure) • "Large trigger" - Created a temporary exemption for oil production in the first 15 months of production after which a lower tax rate of 4 percent applied to production effective when the average West Texas Intermediate (WTI) price of oil between June 1 and October 31 of the prior year was less than $33 per barrel (1987) • Stripper well exemption - Changed the definition of a stripper well property based on the depth of the well to allow the exemption if average daily oil production in the preceding 12 months did not exceed 10 barrels per day for a well up to 6,000 feet deep, 15 barrels per day for a well up to 10,000 feet deep, and

Timeline	Oil and Gas Gross Production Tax	Oil Extraction Tax
		20 barrels per day for a well exceeding a depth of 10,000 feet (1987)
1990s	• Gas tax - Tax on gas changed from 5 percent to an annually adjusted rate per thousand cubic feet (MCF) of production beginning with a rate of $0.04 per MCF (1991)	• Incremental production exemption - Created a temporary exemption for incremental oil production lasting 5 years from the start of production on a qualifying secondary project or lasting 10 years from the start of production on a qualifying tertiary recovery project (1991) • "Large trigger" - Changed the timing of when the provisions became effective from specified dates to any 5 consecutive months (1991) • "Large trigger" - Changed the provisions to exempt oil production from a horizontal well for the first 24 months of production (1995) • Stripper well exemption - Changed the definition of a stripper well property to allow the exemption if average daily oil production in the preceding 12 months did not exceed 30 barrels per day for a well exceeding a depth of 10,000 feet (1995)
2000s	• Shallow gas exemption - Created a temporary exemption for shallow gas production for the first 24 months of production from a well completed or recompleted in a shallow gas zone (2003) • Well site electrical generation exemption - Created an exemption for gas production burned at the well site to power an electrical generator that consumes at least 75 percent of the gas from the well (2009)	• "Large trigger" - Changed the calculation - from a fixed price to an annually adjusted price beginning at $35 per barrel with a $2.50 discount from the WTI oil price (2001) • "Small trigger" - Provided a temporarily reduced tax rate of 2 percent on the first 75,000 barrels of oil produced limited to $4.5 million of gross value produced during the first 18 months of production from a horizontal oil well drilled in the Bakken Formation that became effective and remains in effect for horizontal wells completed in the period beginning after the monthly average WTI oil price was less than $55 per barrel and ending after the monthly average WTI oil price was more than $70 per barrel (2009)
2010s	• Flaring mitigation exemption - Created a temporary exemption for gas production for the first 2 years and 30 days of production if the gas is collected at the well site by a system that intakes at least 75 percent of the gas and natural gas liquids volume from the well for beneficial consumption as approved by the Industrial Commission (2013)	• Stripper well exemption - Changed the definition of a stripper well to apply the qualification criteria on an individual well basis and to allow the exemption if average daily oil production in the preceding 12 months did not exceed 35 barrels per day for a well exceeding a depth of 10,000 feet in the Bakken and Three Forks Formations (2013) • New well rate reduction - Provided a temporarily reduced tax rate of 2 percent for the first 75,000 barrels of oil produced during the first 18 months of production from new oil wells 10 miles outside the established oil fields for the Bakken and Three Forks Formations (2013)

Timeline	Oil and Gas Gross Production Tax	Oil Extraction Tax
		• Changed the tax rate to 5 percent and repealed the "small trigger" and "large trigger" (2015) • "New trigger" - Created a temporary tax rate increase to 6 percent if the monthly average WTI oil price exceeded an annually adjusted "trigger price" beginning at $90 per barrel with the tax rate returning to 5 percent after the monthly average WTI oil price was less than the "trigger price" for 3 consecutive months (2015) • Incremental production exemption - Clarified the temporary exemption for incremental oil production from a tertiary recovery project allowing for a 20-year exemption for production outside the Bakken and Three Forks Formations using more than 50 percent carbon dioxide derived from coal and a 10-year exemption for production within the Bakken and Three Forks Formations using more than 50 percent carbon dioxide derived from coal (2019)
2020s	• Injected gas exemption - Created an exemption for gas produced from an enhanced oil recovery project utilizing gas for the purpose of testing the feasibility of certain enhanced oil recovery operations (2025)	• Repealed the "new trigger" (2023) • Restimulation well rate reduction - Provided a temporarily reduced tax rate of 2 percent on the first 75,000 barrels of oil produced during the first 18 months of production from a certified restimulation well (2023) • New well rate reduction - Increased the oil production eligible for the temporarily reduced tax rate of 2 percent to the first 300,000 barrels of oil produced during the first 36 months of production from new wells outside the Bakken and Three Forks Formations and removed the requirement for eligible wells to be located 10 miles outside the established oil field for the Bakken and Three Forks Formations (2025) • Development incentive well exemption - Created a temporary exemption for the first 250,000 barrels of oil produced in the first 36 months for a qualifying development well, using new or innovative drilling or completion techniques, that is drilled and completed before July 1, 2028, as certified by the Industrial Commission (2025)

ALLOCATION OF OIL AND GAS TAXES

The oil and gas taxes are allocated by formula pursuant to constitutional and statutory provisions. The oil and gas gross production tax is allocated to the Three Affiliated Tribes of the Fort Berthold Reservation, political subdivisions, and state funds, including the Legacy Fund. The oil extraction tax is allocated to the Three Affiliated Tribes of the Fort Berthold Reservation and state funds, including the Legacy Fund, Common Schools Trust Fund, Foundation Aid Stabilization Fund, and Resources Trust Fund. A flowchart with more detailed information regarding the estimated allocation of oil and gas taxes for the 2025-27 biennium is attached as Appendix B.

STRIPPER WELL EXEMPTION

Tax Exemption

Pursuant to Section 57-51.1-03, oil extracted from a stripper well property or stripper well is exempt from the oil extraction tax.

Stripper Well Property and Stripper Well Definition

Section 57-51.1-01(11) defines a stripper well property, and Section 57-51.1-01(10) defines a stripper well. The qualification criteria for both stripper well property and a stripper well are based on certain production levels in the preceding 12 months at varying well depths. The stripper well property designation applies only to wells drilled and completed before July 1, 2013, and excludes a separate production threshold for oil wells in the Bakken and Three Forks Formations. A well qualifies as a stripper well if the average daily oil production in the preceding consecutive 12-month period did not exceed the following thresholds:

- 10 barrels per day for a well with a depth of 6,000 feet or less;
- 15 barrels per day for a well with a depth of more than 6,000 feet but not more than 10,000 feet;
- 30 barrels per day for a well with a depth of more than 10,000 feet outside the Bakken and Three Forks Formations; and
- 35 barrels per day for a well with a depth of more than 10,000 feet in the Bakken and Three Forks Formations.

The stripper well property and stripper well definitions were last modified in House Bill No. 1198 (2013), which ended the stripper well property designation for wells drilled and completed after June 2013 and provided a stripper well exemption for qualifying individual stripper wells.

Stripper Well Qualifying Production Thresholds - Historical Changes

1980 Initiated Measure and 1981 Legislative Session

As approved by the voters in the 1980 initiated measure, a stripper well was defined with a qualifying average daily production threshold of 10 barrels per day or less in a calendar quarter. However, House Bill No. 1651 (1981) modified the provisions approved by the voters to define a stripper well property with a qualifying average daily production threshold of 10 barrels per day or less in the preceding 12 months.

1987 Legislative Session

Senate Bill No. 2079 (1987) changed the qualification criteria to include well depth based on the following thresholds:

- 10 barrels per day for a well with a depth of 6,000 feet or less;
- 15 barrels per day for a well with a depth of more than 6,000 feet but not more than 10,000 feet; and
- 20 barrels per day for a well with a depth of more than 10,000 feet.

1995 Legislative Session

House Bill No. 1257 (1995) increased the qualifying production threshold for a well with a depth of more than 10,000 feet from 20 to 30 barrels per day.

2013 Legislative Session

House Bill No. 1198 (2013) added a qualifying production threshold of 35 barrels per day for a well with a depth of more than 10,000 feet in the Bakken and Three Forks Formations.

Possible Reasons for the Qualifying Production Thresholds

Although the basis for the qualifying production thresholds associated with the stripper well exemption is not explicitly stated in law, some possibilities based on testimony include:

- Allowing more oil production to be exempt for deeper oil wells due to an increased production cost related to pumping costs.
- Incentivizing oil production to continue for lower-producing oil wells rather than allowing an oil well to become inactive to preserve economic activity, jobs, and gross production tax revenue collection.
- Providing tax relief to the oil industry during a period of low oil prices or low development activity.
- Adjusting the tax structure to remain competitive with the tax structures in other states.
- Considering the estimated fiscal impact to the state budget based on alterative thresholds.

Certification

Sections 38-08-04(1)(d) and 57-51.1-03.1 require the Industrial Commission to certify stripper wells to the Tax Commissioner, and North Dakota Administrative Code Chapter 43-02-08 provides the procedure for oil and gas operators to apply to the Industrial Commission to receive a determination that a well qualifies as a stripper well.

STUDY PLAN

The following is a proposed study plan for the committee's consideration:

1. Receive information from the Tax Commissioner on the estimated fiscal impact of the stripper well property and stripper well exemptions, other tax exemptions available for oil wells, and alternative tax policies, including tax policies in other states.
2. Receive information from the Department of Mineral Resources regarding the current and future number of oil wells and amount of oil production qualifying for the stripper well property or stripper well exemptions and other tax exemptions.
3. Receive information from representatives of the oil and gas industry regarding the economic impact of the stripper well property and stripper well exemptions.
4. Receive comments from interested persons regarding the study of the stripper well exemption.
5. Develop recommendations and any bill drafts necessary to implement the recommendations.
6. Prepare a final report for submission to the Legislative Management.

ATTACH:2