Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0148.01 Jason Gelender x4330 **HOUSE BILL 24-1367**

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A BILL FOR AN ACT

CONCERNING THE REPEAL OF THE SEVERANCE TAX EXEMPTION FOR OIL AND GAS WELLS THAT ARE STRIPPER WELLS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Oil produced from wells that on average produce 15 barrels per day or less of oil and gas produced from wells that on average produce 90,000 cubic feet or less per day of gas are commonly referred to as stripper wells and are currently exempt from the state severance tax.

Section 2 of the bill repeals the stripper well severance tax exemption beginning in 2025 and removes outdated language applicable

only to taxable years prior to 2000.

Sections 3 and 4 make conforming amendments.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Operators of oil wells that produce on average fifteen barrels or less of oil per day and gas wells that produce on average ninety thousand cubic feet or less of gas per day, both of which are commonly known as stripper wells, profit from the use of Colorado's valuable natural resources without paying their fair share of taxes. In 2022, operators of stripper wells extracted minerals from the state valued up to four billion two hundred million dollars without being required to pay severance taxes.

(b) There are approximately twenty-one thousand three hundred sixty-eight oil wells in Colorado that are stripper wells, and these wells amount to over fifty-seven percent of all oil wells in the state and contribute ten percent of Colorado's total oil production;

(c) There are approximately twenty-five thousand five hundred twenty-six gas wells in Colorado that are stripper wells, and these wells amount to sixty-eight percent of all gas wells in the state and contribute fourteen percent of Colorado's total gas production;

(d) The production from these stripper wells is exempt from the severance tax that all other producing wells are required to pay. Oil and gas operations extract nonrenewable resources, and one of the purposes of charging a severance tax is to recognize that oil and gas operators are permanently removing valuable state natural resources that cannot be replenished. Fifty percent of severance taxes go to local governments, both to localities where oil and gas facilities and workers are located and to localities that are socially or economically impacted by oil and gas development.

(e) Stripper wells are generally the oldest wells in the state and are not subject to all the regulatory protections and emissions reduction requirements in place for newer, higher-producing wells. Stripper wells therefore contribute more to local air and water quality contamination issues and public health impacts than newer, higher-producing wells. Stripper wells are at a greater risk than newer, higher-producing wells of passing end-of-life cleanup costs to local governments.

(f) The extraction and burning of fossil fuels, including oil and gas, is the primary cause of global climate change. Oil and gas production in Colorado causes an average of one billion three hundred sixty million dollars per year in damages to the state and the public, and contributes substantially to public health costs.

(g) Therefore, the state and local governments, along with the public, bear the impacts of oil and gas production from stripper wells while being deprived of the revenue afforded by the severance tax;

(h) Operators of all wells should pay their fair share of taxes as they profit from the use of Colorado's valuable natural resources;

(i) To remove favorable treatment for stripper wells and treat all oil and gas production the same, this act eliminates the stripper well tax exemption; and

(j) This change will result in only a de minimis revenue gain to state revenue, as this production will now qualify for the ad valorem credit that applies to nonexempt oil and gas production.

SECTION 2. In Colorado Revised Statutes, 39-29-105, **amend**

(1)(b), (2)(b)(I), (2)(b)(III), (2)(c) introductory portion, and (2)(d) introductory portion; and **repeal** (1)(a) and (2)(a) as follows:

39-29-105. Tax on severance of oil and gas. (1) (a) ~~In addition to any other tax, there shall be levied, collected, and paid for each taxable year commencing prior to January 1, 2000, a tax upon the gross income of crude oil, natural gas, carbon dioxide, and oil and gas severed from the earth in this state; except that oil produced from any wells that produce ten barrels per day or less of crude oil for the average of all producing days during the taxable year shall be exempt from the tax. Nothing in this paragraph (a) shall exempt a producer of oil and gas from submitting a production employee report as required by section 39-29-110 (1)(d)(I). The tax for crude oil, natural gas, carbon dioxide, and oil and gas shall be at the following rates of the gross income:~~

~~Under $25,000~~	~~2%~~
~~$25,000 and under $100,000~~	~~3%~~
~~$100,000 and under $300,000~~	~~4%~~
~~$300,000 and over~~	~~5%~~

(b) In addition to any other tax, there shall be levied, collected, and paid for each taxable year ~~commencing on or after January 1, 2000,~~ a tax upon the gross income attributable to the sale of oil and gas severed from the earth in this state; except that, FOR EACH TAXABLE YEAR COMMENCING PRIOR TO JANUARY 1, 2025, oil produced from any wells that produce fifteen barrels ~~per day~~ or less PER DAY of oil and gas produced from wells that produce ninety thousand cubic feet or less of gas per day for the average of all producing days for such oil or gas production during the taxable year ~~shall be~~ IS exempt from the tax. The tax for oil and gas ~~shall be~~ IS at the following rates of the gross income:

Under $25,000	2%
$25,000 and under $100,000	3%
$100,000 and under $300,000	4%
$300,000 and over	5%

(2) (a) ~~With respect to crude oil, natural gas, carbon dioxide, and oil and gas, there shall be allowed, as a credit against the tax computed in accordance with the provisions of paragraph (a) of subsection (1) of this section for each taxable year commencing prior to January 1, 2000, an amount equal to eighty-seven and one-half percent of all ad valorem taxes assessed during the taxable year in the case of accrual basis taxpayers or paid during the taxable year in the case of cash basis taxpayers upon crude oil, natural gas, carbon dioxide, and oil and gas leaseholds and leasehold interests and oil and gas royalties and royalty interests for state, county, municipal, school district, and special district purposes, except such ad valorem taxes assessed or paid for such purposes upon equipment and facilities used in the drilling for, production of, storage of, and pipeline transportation of crude oil, natural gas, and carbon dioxide. However, no credit shall be allowed for ad valorem taxes paid or assessed on oil wells that produce ten barrels per day or less of crude oil for the average of all producing days during the taxable year.~~

(b) (I) With respect to oil and gas, there is allowed, as a credit against the tax computed in accordance with the provisions of subsection (1)(b) of this section for each taxable year commencing ~~on or after January 1, 2000, but~~ prior to January 1, 2024, an amount equal to eighty-seven and one-half percent of all ad valorem taxes assessed during the taxable year in the case of accrual basis taxpayers or paid during the taxable year in the case of cash basis taxpayers upon oil and gas leaseholds and leasehold interests and oil and gas royalties and royalty interests for state, county, municipal, school district, and special district purposes, except such ad valorem taxes assessed or paid for such purposes upon equipment and facilities used in the drilling for, production of, storage of, and pipeline transportation of oil and gas.

(III) Notwithstanding subsections (2)(b)(I) and (2)(b)(II) of this section, FOR EACH TAXABLE YEAR COMMENCING PRIOR TO JANUARY 1, 2025, no credit ~~shall be~~ IS allowed for ad valorem taxes paid or assessed on oil and gas production that is exempt from the state severance tax pursuant to subsection (1) of this section.

(c) For a taxable year beginning on or after January 1, 2026, but before January 1, 2027, ~~for each well that is not exempt from the state severance tax pursuant to subsection (1)(b) of this section,~~ there is allowed a credit against the tax computed in accordance with the provisions of subsection (1)(b) of this section in an amount calculated by the formula C = 0.65625 x GI x ML, where:

(d) For a taxable year beginning on or after January 1, 2027, ~~for each well that is not exempt from the state severance tax pursuant to subsection (1)(b) of this section,~~ there is allowed a credit against the tax computed in accordance with subsection (1)(b) of this section in an amount calculated by the formula C = 0.7656 x GI x ML, where:

SECTION 3. In Colorado Revised Statutes, 39-29-111, **amend** (1)(a) as follows:

39-29-111. Withholding of income from oil and gas interest - definition. (1) (a) Every producer or purchaser who disburses funds that are owed to any person owning a working interest, a royalty interest, a production payment, or any other interest in any oil or gas produced in

Colorado shall ~~unless such production is exempt under section 39-29-105 (1) and the producer or purchaser has registered such exempt production with the department of revenue in accordance with rules promulgated by the department,~~ withhold from the amount owed to such person an amount equal to one percent of the gross income from such interest, except for income accruing to the United States or the state of Colorado or to any political subdivision of the state of Colorado. The amount withheld is based on gross income as defined in section 39-29-102 (3)(a). On the first day of each month beginning with July 1, 2007, the aggregate of all such amounts withheld during the calendar month that was three months prior thereto shall be paid to the department in the manner set forth in section 39-21-119.5 (4)(b). Nothing in this section shall be so construed as to reduce the tax imposed by this article 29.

SECTION 4. In Colorado Revised Statutes, 39-29-115, **amend** (1.5) as follows:

39-29-115. Penalties and interest. (1.5) Any person who fails to withhold income and make a payment required pursuant to section 39-29-111 shall pay a penalty of up to thirty percent of the required payment or thirty dollars, whichever is the greater amount, and the interest due under the provisions of section 39-21-110.5. Any person who withholds income pursuant to section 39-29-111 and who fails to file the annual report required by the rules promulgated by the department of revenue related to such withholding shall pay a penalty of up to fifteen percent of the amount of withholding that should have been reflected in the report or one thousand five hundred dollars, whichever is the lesser amount. ~~The penalty set forth in this subsection (1.5) for failing to withhold income and make a payment shall not apply if the income was~~

~~from a well that qualified for the exemption set forth in section 39-29-105 (1)(b) for the prior taxable year.~~

SECTION 5. Act subject to petition - effective date. Section 4 of this act takes effect January 1, 2026, and the remainder of this act takes effect January 1, 2025; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024, and, in such case, will take effect January 1, 2025, or on the date of the official declaration of the vote thereon by the governor, whichever is later; except that section 4 of this act will take effect on January 1, 2026.