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FISCAL IMPACT REPORT

BILL NUMBER: CS/House Bill 80/HENRC

SHORT TITLE: Oil and Gas Conservation Tax Act Changes

SPONSOR: HENRC

LAST UPDATE: 2/5/2026 **ORIGINAL DATE:** 1/26/2026 **ANALYST:** Faubion

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Conservation Tax	$0	$0	**($46,500.0)**	**($76,500.0)**	**($108,700.0)**	Recurring	General Fund
Conservation Tax	$0	$0	**$46,500.0**	**$76,500.0**	**$108,700.0**	Recurring	Reclamation Fund

Parentheses indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	No fiscal impact	$44.3	No fiscal impact	$44.3	Nonrecurring	General Fund
Total	No fiscal impact	$44.3	No fiscal impact	$44.3	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis
Taxation and Revenue Department (TRD)

Agency or Agencies That Were Asked for Analysis but did not Respond
Energy, Minerals, and Natural Resources Department (EMNRD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HENRC Committee Substitute of House Bill 80

The House Energy and Natural Resources Committee substitute for House Bill 80 (HB80) increases and phases in the share of the oil and gas conservation tax receipts distributed to the oil and gas reclamation fund, setting the distribution at 50 percent beginning July 1, 2027; 75

percent beginning July 1, 2028; 100 percent from July 1, 2029 through June 30, 2037; and 50 percent beginning July 1, 2037. It defines the fund as a nonreverting fund in the state treasury administered by the Energy, Minerals and Natural Resources Department. The bill removes the prior statutory authorization for energy education expenditures and replaces it with authority to support statewide education on general energy and the sources and impacts of energy-related emissions, capped at $250 thousand annually. The effective date of this bill is July 1, 2027.

FISCAL IMPLICATIONS

By increasing the percentage of oil and gas conservation tax receipts distributed to the oil and gas reclamation fund, the bill reduces the share of those tax revenues that would otherwise be distributed to the general fund under existing distribution statutes. Currently, when the price of West Texas Intermediate is less than $70 per barrel, the tax is 0.19 percent and the reclamation fund receives 10.5 percent of the tax revenue and the remainder goes to the general fund. When the price is over $70 per barrel, the tax is 0.24 percent and the reclamation fund receives 19.7 percent of the revenue. This bill removes the link between the distribution percentage and the tax rate.

LFC used the December 2025 Consensus Revenue Estimating Group (CREG) forecast for the oil and gas conservation tax revenue to estimate the general fund and reclamation fund impacts of this bill. The Taxation and Revenue Department (TRD) used a similar estimation method:

> TRD applied the proposed changes for the distribution of the conversation tax to the CREG December 2025 forecast for conservation tax. The percentage distribution to the reclamation fund will be reduced to 50 percent for FY2038 and beyond, outside the forecast period. Based on the CREG's September 2025 long-term forecast, the estimated revenue gain starting in FY2038 for the reclamation fund will be $43 million with a corresponding loss to the GF of $43 million. But this will represent a drop of approximately $71 million from FY37 when the reclamation fund would have received a 100 percent distribution under this proposal.

The bill does not include a recurring appropriation, but diverts or "earmarks" revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

The Legislature established the oil and gas reclamation fund in 1977 as a nonreverting fund "for use by the oil conservation division in carrying out the provisions of the Oil and Gas Act." Among the currently enumerated purposes of the fund is ensuring the proper plugging and reclamation of "abandoned oil and gas wells and associated facilities" (Section 70-2-38 NMSA 1978). While the statute does not define "abandoned," the fund has historically been used primarily for plugging and reclamation of wells and associated infrastructure without a locatable or financially viable operator. The fund is primarily supported by a dedicated share of oil and gas conservation tax receipts, along with smaller amounts from forfeited financial assurance and salvage recoveries, and has historically been used to finance state-contracted plugging and site cleanup when the division has legal authority to act.

The Oil Conservation Division (OCD) carries out plugging operations by contracting with private firms after obtaining authority to plug specific wells, with work typically including wellbore plugging and, where required, subsequent remediation and reclamation of well sites and associated infrastructure. Plugging and reclamation now represent a significant share of the division's workload and contractual services spending, and costs vary widely depending on well depth, type, and site conditions, as well as whether surface remediation or infrastructure cleanup is required.

OCD has accumulated a substantial balance in the reclamation fund but has not expended funds at a pace that matches current inflows, largely because plugging activity is constrained by operational capacity rather than funding availability. As of April 2025, the reclamation fund balance was $66.7 million, having grown nearly tenfold between FY19 and FY24 due to high oil and gas prices and elevated conservation tax distributions, while direct expenditures from the fund declined in recent years. During this period, OCD relied primarily on federal Infrastructure Investment and Jobs Act (IIJA) grants to finance plugging activity instead of drawing down the state fund, despite continued revenue flowing into it from the conservation tax. Since 2022 New Mexico has received $55.5 million in federal IIJA grants for orphaned well identification and plugging and is eligible for up to an additional $111.8 million through formula and performance-based grants. Even with this influx of federal funding, OCD plugged approximately 360 wells between FY19 and FY24, spending $46.4 million over that period, and increased its annual plugging rate to just over 100 wells in FY24. At that rate, LFC estimates it would take close to a decade to address only the wells for which the state currently has plugging authority, indicating that available state and federal funds exceed the division's near-term capacity to deploy them through plugging and remediation activities.

TRD notes the following policy considerations:

> This proposal significantly increases the share of conservation tax revenues dedicated to the reclamation through FY2037. The phased increase in distributions to the reclamation fund presumably reflects an intent to address future and legacy reclamation liabilities. This fund supports the cost of plugging and remediating abandoned wells, thus conserving land for future use, and this is a tax on oil and natural gas severance, which creates the need for this remediation work. While there is a relationship between the conservation tax and the proposed use of the revenue, better policy may be to allow the legislature to annually appropriate conservation tax revenue based on prioritization of all the state's needs.
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> Oil and gas revenues are highly volatile and a major contributor to the general fund; this redirection may reduce the state's fiscal flexibility during economic downturns or periods of declining production. The conservation tax though is a small proportion of revenue to the general fund. From the CREG's December 2025 forecast, the conservation tax is only 0.7 percent of recurring general fund revenue.
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> This proposal simplifies the current distribution of this tax revenue. Currently, TRD must adjust both the rate of the conservation tax if the price of oil goes above or below $70 per barrel and then adjust the distribution percentages to the reclamation fund and the general fund any time the tax rate changes. This proposal eliminates the system changes for the distribution under current statute but adds administrative burden by implementing annual distribution changes over a period of a decade.

ADMINISTRATIVE IMPLICATIONS

TRD's Administrative Services Division (ASD) will update the general ledger and revenue reporting. It is anticipated this work will take approximately 100 hours split between two FTE of a pay band eight and a pay band 10 at a cost of approximately $6,800. Collaboration and input from the Department of Finance and Administration (DFA) is required as this will decrease general fund revenue distributions. Implementing this bill will have a low impact on TRD's Information Technology Division (ITD), approximately 150 hours or 1 month for an estimated $37,500 of contractual costs.

PERFORMANCE IMPLICATIONS

This bill could increase the plugging capacity of OCD.

OTHER SUBSTANTIVE ISSUES

Conservation Tax History (7-1-6.21)

- 1959: Oil conservation tax created at a rate of 0.14% on oil and gas products severed and sold. The revenue went to the oil conservation fund, which was used by the Oil Conservation Commission (OCC) to enforce the Oil and Gas Act (as is currently the function of OCD).
- 1975: The oil conservation tax rate was increased to 0.18%.
- 1977: The Legislature amended statute so most of the conservation tax revenue still went to the conservation fund, but 0.01% was deposited in the newly created oil and gas reclamation fund specifically for the OCC to plug and remediate abandoned well sites. The laws also tied the conservation tax rate to the balance in the reclamation fund; being 0.19% when the fund balance was under $1 million, and 0.18% when the balance was over $1 million.
- 1989: The Legislature changed the allocation of the conservation tax, increasing the share directed to the reclamation fund to 5.3%, with 87.7% going to the conservation fund, and 7% to the general fund.
- 1991: The Legislature repealed the conservation fund, instead sending all conservation tax not sent to the reclamation fund to the general fund; the percent directed to the reclamation fund remained the same, at 5.3%.
- 2010 (current law): The Legislature untethered the conservation tax rate from the balance of the reclamation fund and instead tied it to the price of oil. When the price of West Texas Intermediate is less than $70 per barrel, the tax is 0.19% and the reclamation fund receives 10.5% of the tax revenue and the remainder goes to the general fund. When the price is over $70 per barrel, the tax is 0.24% and the reclamation fund receives 19.7% of the revenue.

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