

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HB 520

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .185112.1

**Short Title:** Equalizing Emergency School Tax

**Sponsor(s):** Representative Mimi Stewart

**Analyst:** Craig J. Johnson

**Date:** March 1, 2011

---

**Bill Summary:**

Effective July 1, 2011, HB 520 amends three sections of current law, namely the:

- *Oil and Gas Emergency School Tax Act* to:
  - increase the oil and gas emergency school tax rate on oil and other liquid hydrocarbons, and carbon dioxide, helium, and non-hydrocarbon gases to 4.0 percent from 3.15 percent; and
  - remove contingencies in current law that would allow lower tax rates when oil and gas prices fall below certain thresholds;
- *Tax Administration Act* to:
  - distribute 12.5 percent of the net receipts to the Public School Fund for revenue earned on a modified accrual basis after June 30, 2011; and
- *Public School Code* to:
  - make the Public School Fund non-reverting.

**Fiscal Impact:**

HB 520 does not contain an appropriation.

The bill analysis from the Taxation and Revenue Department (TRD) and the Legislative Finance Committee (LFC) Fiscal Impact Report (FIR) estimate similar fiscal impacts, i.e. the distribution to the Public School Fund in FY 12 and FY 13 is estimated to be larger than the amount of the revenue increase; therefore, the distribution to the General Fund will be negatively impacted.

For FY 12, these analyses indicate:

- a revenue increase of approximately \$50.1 million to the Public School Fund; and
- a revenue decrease of approximately \$9.67 million to the General Fund.

For FY 13, these analyses indicate:

- a revenue increase of approximately \$52.8 million to the Public School Fund; and
- a revenue decrease of approximately \$11.055 million to the General Fund.

The analysis from the TRD also indicates that state income tax and corporate income tax revenues could decline as the increased oil and gas school tax liabilities are deductible expenses from state income taxes.

### **Fiscal Issues:**

HB 520 increases the taxes on oil and other liquid hydrocarbons, and carbon dioxide, helium, and non-hydrocarbon gases to the same rate (4.0 percent) as taxes on natural gas.

Both LFC's FIR and TRD's analysis noted that the higher tax rate may make New Mexico production less attractive.

### **Substantive Issues:**

The LFC FIR indicates that the removal of provisions allowing a lower tax rate in instances in which the price of oil falls below \$18 per barrel or the price of natural gas falls below \$1.35 per thousand cubic feet will not likely impact revenues as those thresholds are much lower than current forecasts of oil and natural gas prices.

The bill analysis from the Public Education Department (PED) notes the following:

- The Public School Support appropriation has been reduced over the past two fiscal years. The State Equalization Guarantee (SEG) is the allocation school districts and charter schools receive through the Public School Funding Formula. SEG accounts for approximately 94 percent of the Public School Fund.
- SEG is the primary source of funding for school districts' and charter schools' operational budgets. Depending on the size of a district or charter, approximately 85 percent to 95 percent of their operational budget is comprised of salaries and benefits.
- Currently, the reductions to the SEG appropriation are being offset by the *American Recovery and Reinvestment Act of 2009* (ARRA) appropriations. PED does not anticipate ARRA appropriations will be awarded in FY 12.

### **Background:**

- The oil and gas school tax rate on oil and natural gas was increased from 2.55 percent to 3.15 percent in 1983. The tax rate on natural gas was increased to 4.0 percent in 1993.
- The Public School Fund is distributed to the following:
  - the SEG distribution;
  - supplemental distributions, including;

- ✓ out-of-state tuition;
  - ✓ emergency supplemental; and
  - ✓ program enrichment; and
- transportation distribution.

**Related Bills:**

HB 222 *Reduce Unequal Treatment of Taxes & Credits*  
SB 100 *Decrease Oil & Gas Severance Tax Rates*