F I S C A L   I M P A C T   R E P O R T

SPONSOR Stewart **ORIGINAL DATE** 02/26/11 **LAST UPDATED** **HB** 520

SHORT TITLE Equalizing Emergency School Tax **SB**

ANALYST Burrows

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	$50,150.0	$52,930.0	Recurring	Public School Fund
	($9,700.0)	($11,050.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 222

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Education Department (PED)

Responses Not Received From
Department of Taxation and Revenue (TRD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 520 proposes to increase the oil and gas school tax rate on oil and other liquid hydrocarbons, and carbon dioxide, helium and non-hydrocarbon gases from 3.15 percent to 4 percent to equalize the rate across products. The proposal would remove contingencies in current law that would allow lower tax rates when oil and gas prices fall below certain thresholds.

The bill also proposes to distribute 12.5 percent of the net receipts to the public school fund beginning with revenues accrued after June 30, 2011. Moreover, the bill would amend existing language to specify the public school fund as a non-reverting fund.

The effective date of the provisions of this bill is July 1, 2011.

FISCAL IMPLICATIONS

The fiscal impact was calculated from the December 2010 consensus revenue forecast of oil and gas prices and volumes. Because the distribution to the public school fund is larger than the amount of the revenue increase, the distribution to the general fund will be negatively affected.

The removal of provisions allowing a lower tax rate in instances in which the price of oil or gas falls below a certain threshold would not likely impact revenue. The price thresholds set by these provisions are much lower than current forecasts of oil and gas price, and prices are not likely to fall to these levels in the foreseeable future.

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

PED reports the State Equalization Guarantee (SEG) is the allocation school districts and charter schools receive through the public school funding formula. The SEG accounts for 94 percent of the public school fund, and is the primary source of funding for school districts' and charter schools' operational budgets. Recent reductions to the SEG appropriation are being offset by the American Recovery and Reinvestment Act (ARRA) appropriations, which are not anticipated to be awarded in FY12.

Increasing the oil and gas school tax puts these mineral products on an equal footing with other minerals, but the higher rate of tax may make New Mexico production less competitive with production from other states.

By identifying the public school fund as non-reverting, unspent, unencumbered funds will not be available for other state expenditures. On the other hand, House Bill 520 would guarantee a source of funding for the SEG.

RELATIONSHIP

House Bill 222 proposes the same equalization of the oil and gas school tax.

Senate Bill 100 proposes to increase the oil and gas school tax by 1 percent, and distribute the additional revenue to the public school fund.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The oil and gas school tax rates will remain as in current law. The public school fund will not receive a distribution of oil and gas school tax revenue and the fund will continue to revert to the general fund.

LKB/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc