LFC Requester:	Helen Gaussoin

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original ___ **Amendment** ___
Correction ___ **Substitute** x

Date 2/1/2024
Bill No: SB 249/cs (SCONC)

Sponsor: Senators Greg Nibert, Joseph Cervantes, George K. Munoz, and Steven McCutcheon II

Agency Name and Code Number: EMNRD - 521

Short Title: Oil & Gas Fund Accounting

Person Writing Analysis: Dylan Fuge, Deputy Secretary

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	**FY25**		
0	0	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	**FY25**	**FY26**		
0	33,000.0	33,000.0	Recurring	Reclamation, General

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	Recurring	General & Reclamation

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A
Duplicates/Relates to Appropriation in the General Appropriation Act – N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The Senate Conservation Committee Substitute for Senate Bill 249 (SB 249/cs) proposes to modify the funding, distribution, and accounting of the Oil and Gas Reclamation Fund.

Section 1 of SB 249 proposes to amend the Tax Administration Act to modify distributions to the Oil and Gas Reclamation Fund from the Oil and Gas Conservation Tax, 7-30-4 NMSA 1978. Currently, distributions to the Reclamation Fund are made at rates dependent upon the effective tax rate for the production period as established in the Oil and Gas Conservation Tax Act, creating a tiered distribution structure which hinges upon the price of oil per barrel in the previous quarter. SB 249 replaces the tiered distribution structure, and instead requires a flat monthly distribution of $5 million monthly to the reclamation fund. While the distribution to the reclamation fund is modified to a flat monthly distribution, the tax rates of the underlying Oil and Gas Conservation Tax remain in effect.

SB 249/cs makes no changes to Section 1.

Section 2 of SB 249 had proposed to amend the Oil and Gas Act, 70-2-37 NMSA 1978, to require that the Oil and Gas Reclamation Fund separately account for deposited money from federal sources, and placed requirements on the expenditure of such funds.

SB 249/cs drops all the proposed language surrounding federal funds which had been in Section 2, as those funds have never been deposited in the reclamation fund. It also removes any discussion regarding prioritization of this use of those funds. In its place, SB 249/cs adds a new subsection to 70-2-37 which provides that any unexpended or unencumbered balance of money greater than $80 million shall revert to the general fund.

SB 249 does not contain an appropriation to implement the bill, nor does SB 249 address 70-2-38 NMSA 1978, which also addresses reclamation fund expenditures.

FISCAL IMPLICATIONS

SB 249/cs more than doubles the typical monthly distribution to the Oil and Gas Reclamation Fund, regardless of market conditions or the effective tax rate at the time. This increase in distribution may require a reduction in other distributions made from the Oil and Gas Conservation

Tax; however, those distributions are not to EMNRD programs and therefore are beyond the scope of the analysis here. This additional funding will be helpful to EMNRD's Oil Conservation Division (OCD).

The changes made in SB 249/cs address the concerns highlighted by EMNRD in its FIR on SB 249 as introduced, as it no longer causes the entirety of the fund to revert at the end of each fiscal year. By retaining a robust minimum balance, the provisions in SB 249/cs provide the longer-term budget certainty necessary for the OCD to make commitments to perform more complex and multi-year remediation projects. The changes also enable OCD to not have to make rapid changes to its plugging program, and instead can gradually begin scaling it up. OCD is therefore supportive of the provisions of SB 249/cs as part of an overall effort to reform the availability of sufficient resources to adequately address orphaned wells in the oil and gas industry. The reforms to the Reclamation Fund in SB 249/cs, when paired with adequate financial assurance from operators (the subject of other bills, like HB 133), will help OCD be successful in addressing its statutory responsibility to deal with end-of-life issues associated with oil and gas facilities that operators have abandoned and left to the taxpayers of New Mexico to clean up.

SIGNIFICANT ISSUES

SB 249, as introduced, had several significant operational issues as outlined in EMNRD's prior FIR. Those issues are not restated here as they have been addressed by SB 249/cs.

PERFORMANCE IMPLICATIONS
See other sections.

ADMINISTRATIVE IMPLICATIONS
See other sections.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
N/A

TECHNICAL ISSUES
See other sections.

OTHER SUBSTANTIVE ISSUES
See other sections.

ALTERNATIVES
N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
If SB 249/cs is not enacted, current severance tax structure under the Oil and Gas Conservation Tax Act and distributions to the Oil and Gas Reclamation Fund under the Tax Administration Act will remain in effect. Nonfederal monies including donations and forfeited financial assurance will continue to be held in the general fund if the division is unable to fully expend the reclamation fund by the end of each fiscal year.

AMENDMENTS
None.