

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 2/16/19
 LAST UPDATED 3/11/19 HB _____

SHORT TITLE Limit Use of Oil & Gas Fund for Salaries SB 361

ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 333.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Responses Not Received From

Department of Finance and Administration (DFA)

State Personnel Office (SPO)

SUMMARY

Synopsis of Bill

Senate Bill 361 amends Section 70-2-37 NMSA 1978, the New Mexico Oil and Gas Act, concerning the oil and gas reclamation fund. Senate Bill 361 adds that the primary purpose of the fund “is to pay for contract services for plugging, remediation and associated restoration work.” Senate Bill 361 explicitly limits the amount of the fund that can be used to pay Oil Conservation Division (OCD) employees’ salaries “to the following percentages of the annual distribution to the [fund] in each fiscal year by the tax imposed by Section 7-30-4 NMSA 1978:”

- 1) No more than 45 percent of the fund in FY22;
- 2) No more than 35 percent of the fund in FY23;
- 3) No more than 25 percent of the fund in FY24; and
- 4) No more than 15 percent of the fund in FY25 and each fiscal year thereafter.

FISCAL IMPLICATIONS

EMNRD states there will be no immediate fiscal impact as a result of the bill but explains the agency's current budgeting process below.

Restricted use of the oil and gas reclamation fund could result in a higher demand on other funds, including the general fund, in the future.

SIGNIFICANT ISSUES

EMNRD explains:

Senate Bill 361 addresses an issue that was already addressed by the Legislature in last year's session. Prior to last year, the budget for OCD personal services did rely heavily on appropriations from the fund. In the budget for FY19, the reliance on the fund was greatly diminished and that continues in the proposed FY20 budget. In FY18, the budget provided that 68.6 percent of OCD personal services were covered by the fund; in FY19, the budget used the fund for 3 percent of OCD personal services. For FY20, the LFC budget provides for 2.7 percent of OCD personal services coming from the fund (see House Bill 333 of this session).

Senate Bill 361 requires OCD salaries for any fiscal year to be based on the annual distribution to the Fund from the tax collected under section 7-30-4 NMSA 1978. This is not practical for several reasons. First, the OCD must submit its budget request, and the Legislature must approve a budget, well before there are any distributions to the fund. The amount that is distributed from the tax varies significantly every year based on oil and gas production and price. Second, the OCD does not receive the final quarterly distribution under 7-30-4 NMSA 1978 until well after the fiscal year has ended.

Senate Bill 361 creates a conflict in the Act over the purposes of the fund. Currently, section 70-2-37 NMSA 1978 provides a broad purpose for the fund ("for use by the oil conservation division in carrying out the provisions of the Oil and Gas Act"), while section 70-2-38 NMSA 1978 provides more specific direction ("employing the necessary personnel to survey abandoned wells, well sites and associated production facilities and preparing plans for administering and performing the plugging of abandoned wells..."). Senate Bill 361 would add specific purposes to section 70-2-37 NMSA 1978 that overlap, and may conflict, with the existing specific purposes of 70-2-38 NMSA 1978.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 333.

TECHNICAL ISSUES

EMNRD explains Senate Bill 361 refers to "employee salaries" while the State budget refers to "personal services and employee benefits". "Employee salaries" is not defined and could be considered a subset of "personal services and employee benefits".

EMNRD suggests the following:

- Replace “employee salaries” with “personal services and employee benefits” throughout SB 361.
- Require the percentage of OCD employee salaries for any fiscal year be based on the prior fiscal year’s annual distribution under 7-30-4 NMSA 1978, or be based on the money available in the Fund.

TE/gb/al