

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 7, 2024

Bill: SCONC Sub. for SB-249 **Sponsor:** Senators Greg Nibert, Joseph Cervantes, Geroge K. Muñoz, and Steven McCutcheon II

Short Title: Oil & Gas Fund Accounting

Description: The *Senate Conservation Committee* substitute amends Section 7-1-6.21 NMSA 1978 to change the distribution of the Oil and Gas Conservation Tax into the Oil & Gas Reclamation Fund from 2/19th of the net receipts to a set amount of \$5 million monthly (\$60 million per year). It also adds a provision in Section 70-2-37 NMSA 1978 that any unexpended or unencumbered amount greater than \$80 million left in the Oil & Gas Reclamation Fund at the end of a fiscal year shall revert to the General Fund.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Asif Rasool

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	\$34,502	\$49,162	\$49,184	\$49,033	R	Section 1 - Oil & Gas Reclamation Fund
--	(\$34,502)	(\$49,162)	(\$49,184)	(\$49,033)	R	Section 1 - General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Section 1: The distributions for Section 1 are based on the December 2023 forecast from the Consensus Revenue Estimating Group (CREG). Tax & Rev has applied a proposed amount of \$5 million per month (or \$60 million per year) to the Oil & Gas Reclamation Fund and adjusted the General Fund accordingly.

Section 2: For the fiscal impact under Section 2, Tax & Rev defers to the fiscal impact analysis of the Energy, Minerals and Natural Resources Department (EMNRD).

Policy Issues: The Oil & Gas Conservation Tax is levied on the production and extraction of oil and natural gas resources in New Mexico. The revenue generated from this tax is allocated to two funds, the General Fund and the Oil & Gas Reclamation Fund.

The Oil & Gas Reclamation Fund is established to address environmental reclamation and remediation activities related to oil and gas operations. It is designed to ensure that the costs associated with restoring and reclaiming land impacted by oil and natural gas extraction activities are covered. The fund is primarily used for activities such as well plugging, site restoration, reclamation, and remediation.

The General Fund is the primary fund of the state government in New Mexico. It serves as a repository for general tax revenues and other miscellaneous revenues collected by the state. The General Fund is used to finance various government programs and services, such as education, healthcare, public safety, and more.

several effects:

Increased Funding for Reclamation: The fixed amount of \$5 million per month would provide a steady stream of funding for reclamation and remediation activities associated with oil and gas operations. This would enhance the state's ability to address environmental impacts and restore affected land.

Environmental Impact Mitigation: By allocating a fixed amount to the Reclamation Fund, the state can more effectively address the environmental consequences of oil and gas activities. This includes the restoration of abandoned well sites, cleanup of contaminated areas, and implementation of environmental conservation measures.

Potential Budgetary Implications: The allocation of \$5 million per month to the Oil & Gas Reclamation Fund could have budgetary implications for other areas funded by the General Fund. Depending on the overall budget structure and priorities of the state, this fixed allocation may require adjustments in other areas of expenditure or revenue generation to maintain balance.

Balancing Environmental and Economic Considerations: The establishment of the Oil & Gas Reclamation Fund and the fixed allocation reflect the state's commitment to balancing environmental protection with the economic benefits derived from the oil and gas industry. It emphasizes the importance of responsible resource extraction and ensures that the industry contributes to the environmental restoration efforts.

Under 7-30-4 NMSA 1978, the Conservation Tax is levied at a different rate of either nineteen-hundredths percent (0.19%) or twenty-four hundredths percent (0.24%) dependent on the price of a barrel of oil. The distribution under 7-1-6.21 NMSA 1978 is seen as a companion to the differing tax rates. As revenue increases, the distribution to the Oil Reclamation Fund would also increase. This bill breaks that association and fixes the distribution amount. As discussed further in "Other Issues" below, the Oil and Gas Reclamation Fund may not see future long-term benefits should the price of oil increase significantly. But as discussed above, regardless of the price of oil, EMNRD will have on-going reclamation and remediation activities that will need to have steady funding.

Technical Issues: None.

Other Issues: Proposing fixed dollar amounts for monthly distributions may cause issues in the event conservation tax revenue in each month is not sufficient to cover the fixed amounts due to low tax revenue, amended returns or late filings. If that occurs, the General Fund will need to cover the difference(s) to meet the flat amounts. That would effectively cause a negative distribution to the General Fund.

The Oil and Gas Reclamation Fund will not benefit in the future from the potential growth in oil & conservation tax revenue. While a fixed distribution amount assures this fund of steady revenue for budgeting, it does not allow for any growth in revenue for future needs. And although the Oil and Gas Reclamation Fund will be assured of steady funding, all volatility related to the oil and gas conservation tax will be borne by the general fund.

Administrative & Compliance Impact: Implementing this bill will have a moderate impact on ITD, approximately 330 hours or about 2 months and \$18,315 of staff workload costs.

Tax & Rev's Administrative Services Division (ASD) anticipates this bill will take approximately 70 hours between 2 full-time equivalent (FTE) staff for testing, creating new reports and establishing new revenue distributions. This will result in \$4,300 in staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
\$18.3	--	--	\$18.3	NR	Tax & Rev – ITD – staff workload
\$4.3	--	--	\$4.3	NR	Tax & Rev – ASD – operating

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).