FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Townsend/Muñoz	**ORIGINAL DATE**	2/24/2025
SHORT TITLE	Oil & Reclamation Fund Changes	**BILL NUMBER**	Senate Bill 519
		ANALYST	Davidson

APPROPRIATION*
(dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	$40,000.0	Recurring	Oil and Gas Reclamation Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Oil and Gas Conservation Tax (EMNRD)		$98,800	$106,000	$119,000	$121,000	Recurring	Oil and Gas Reclamation Fund
Oil and Gas Conservation Tax (TRD)		($98,800)	($106,000)	($119,000)	($121,000)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
EMNRD	No fiscal impact	$150.0	$150.0	$300.0	Recurring	Other state funds
TRD	$3.8	$34.5	No fiscal impact	$38.3	Nonrecurring	General Fund
Total	$3.8	$184.5	$150	$338.3	Recurring and Nonrecurring	General Fund and Other State Funds

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Duplicates House Bill 403

Sources of Information

LFC Files
Agency Analysis Received From
Energy, Minerals and Natural Resources Department (EMNRD)
Tax and Revenue Department (TRD)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 519

Senate Bill 519 increases the portion of the oil and gas conservation tax distributed to the oil and gas reclamation fund from 19.7 percent to 100 percent.

The bill also changes the uses of the reclamation fund to require—rather than merely permit—the Oil Conservation Division (OCD) to use the greater of $40 million or 5 percent of the average year-end value of the fund to fund the surveying, administration, and plugging of abandoned wells. The bill removes the provision allowing OCD to expend up to $150 thousand from the fund on energy education.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The bill adjusts the distribution of the oil and gas conservation tax revenue to the oil and gas reclamation fund. Under current law, the fund receives 10.53 percent of revenue when the average oil price in the previous quarter is below $70 per barrel and 19.7 percent when prices exceed $70 per barrel. The estimated fiscal impact reflects projected tax collections based on the December 2024 Consensus Revenue Estimating Group forecast for oil and gas conservation tax revenue. The proposed changes would redirect funds that currently contribute to the general fund toward the reclamation fund.

This bill expands an earmark to a fund that provides for continuing appropriations. The bill diverts or "earmarks" revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities; these concerns are further exacerbated by the continuing appropriations provided by the existing fund.

However, the allowable use of the balance of the fund, employing personnel for the surveying of, preparing plans for, and plugging and remediation of abandoned production sites, is capped at $40 million or 5 percent of the fund. The fund is unlikely to grow sufficiently to exceed the $40 million distribution; therefore, the department will have an additional $40 million a year for implementation from the fund.

Agency analysis from the Energy, Minerals and Natural Resources Department (EMNRD) notes the bill will increase the oil and gas conservation tax distribution to the oil and gas reclamation fund substantially. Due to the increased level of funding, EMNRD estimates it will need one additional position at $150 thousand to support the expanded Oil Conservation Division (OCD).

Analysis from TRD notes implementation of Senate Bill 519 could increase the agency's workload by a total of 210 hours between two of its divisions between FY25 and FY26. TRD estimates this increased workload could be accommodated by a $38.3 thousand nonrecurring appropriation to the agency.

SIGNIFICANT ISSUES

EMNRD expresses concern regarding the bill's language changes to the use of the oil and gas reclamation fund to survey, plug, and remediate abandoned production sites, specifically the changing of "may" to "shall." EMNRD notes this change may be interpreted to mean OCD is required to plug or remediate certain wells, an obligation that rests with the private operators. EMNRD analysis points to a recent legal case, *Armstrong Energy Corporation v St Paul Property & Casualty Insurance Company*, et. Al, D-504-CV-2021-00555, regarding this exact question, and recommends the bill be amended to maintain the current language of "may."

EMNRD analysis notes if the current statute is amended to "shall," and the bill is passed, it could create a possibility:

> To turn this [funding] increase into a net funding negative for the fund. The division utilizes the discretion that the statute gives to prioritize the plugging of those wells which represent the greatest present threats to human and environmental health and safety. The changes on lines 16-19 would open the possibility that work on these dangerous or leaking wells would take a back seat to remediate the sites of any operator that is able to secure the type of court order sought in the Armstrong case.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 519 duplicates House Bill 403.

AD/hj/hg