

LFC Requester:

Ismael Torres

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

### SECTION I: GENERAL INFORMATION

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

**Date Prepared:** 2/21/2025

*Check all that apply:*

**Bill Number:** HB548

Original  Correction   
Amendment  Substitute

**Sponsor:** Rep. Nathan P. Small and  
Rep. Meredith A. Dixon

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Person Writing**

**Analysis:** Seth McMillan

**Short Title:** OIL & GAS

**Title:** EQUALIZATION TAX ACT

**Phone:** 505-537-7676

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### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

#### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: none

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

Synopsis: House Bill 548 (“HB548”) proposes a new tax on severance of products taken from the soil to be imposed on oil and gas producers and interest owners.

Section 1 sets forth the short title of the Act.

Section 2 is a definitions section.

Section 3 describes the tax and states upon whom it is to be imposed. The tax to be levied is 85/100ths percent of the taxable value of oil and on oil and other liquid hydrocarbons removed from natural gas at or near the wellhead. Any Indian tribe, Indian pueblo, or Indian is also liable for the tax to the extent authorized or permitted by law.

Section 4 sets forth the manner of calculating the taxable value of severed oil and gas.

Section 5 authorizes the New Mexico Taxation and Revenue Department (“TRD”) to determine the taxable value of severed oil and gas under certain circumstances.

Section 6 provides that when an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of New Mexico or any court, the increased value shall be subject to the tax and provides for a refund in the event the increase in value is disapproved by the agency or court.

Section 7 provides that the tax shall not be levied more than once on the same product and reporting of products is subject to TRD rule.

Section 8 provides withholding, remittance, and reimbursement requirements. An

Section 9 requires monthly reporting by oil and gas operators showing the total value, volume and kind of products sold in the form of a return filed with TRD.

Section 10 requires monthly reporting by oil and gas purchasers showing the total value, volume and kind of products purchased by the purchaser in the form of a return filed with TRD.

Section 11 sets forth advance tax payment requirements. Section 11 requires TRD to compute advance payment requirements including the average tax for filing periods February to January of the subsequent year prior to July 1 of each year. If in a given year, a person is not required to pay tax, that person is not required to pay the advance payment.

Section 12 amends NMSA 1978, Section 7-1-2 to add the Act to the list of those New Mexico taxes subject to administration and enforcement under the Tax Administration Act.

Section 13 provides for an effective date of July 1, 2025.

### **FISCAL IMPLICATIONS**

None.

## **SIGNIFICANT ISSUES**

None.

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

None.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

Section 2 appears to authorize TRD to designate “production units.” The Oil Conservation Division also designates production units, and should the two departments’ determinations differ, confusion could be caused for taxpaying producers and interest owners.

Section 2 sets forth an expansive definition of oil and gas “product,” but the measure of the tax set forth in Section 3 is “eighty-five hundredths percent of the taxable value of oil and on oil and other liquid hydrocarbons removed from natural gas at or near the wellhead.” “Oil” is not elsewhere defined. Many categories of “product” appear to evade taxation because the measure of the tax references “oil” rather than “product.” Also, due to typographical error, the Section 3 measure makes no sense (“of oil and on oil”).

Section 5 provides that the value of product determined by TRD “shall be commensurate with the actual price received for products of like quality, character and use that are severed *in the same field or area.*” (emphasis added). “Field” is not otherwise defined and has no common meaning in the oil and gas industry, while the geographical boundaries of “area” are not defined. Disputes may arise as a result when TRD determines the value of product under Section 5.

Section 8, subsection A states, “A operator” and should be “An operator.”

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

None.