LFC Requester:	

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: *2.25.25*
Bill Number: *H548-341*

Check all that apply:
Original _x Correction __
Amendment __ Substitute __

Sponsor: Rep. Small, Rep. Dixon
Short Title: OIL & GAS EQUALIZATION TAX ACT

Agency Name and Code Number: DFA-341
Person Writing Delgado L.
Phone: **Email** leonardo.delgado@dfa

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	FY28	FY29		
Privilege Tax		$395,387 to $389,179	$422,670 to $416,035	$438,828 to $431,901	$445,052 to $438,027	R	General Fund
Oil and Gas Severance Tax		($0 to $5,579)	($0 to ($5,964)	($0 to $6,192)	($0 to $6,280)	R	Severance Tax Bonding Fund

Oil and Gas Emergency School Tax		($0 to $4,474)	($0 to $3,743)	($0 to $2,778)	($0 to $1,628)	R	Early Childhood Trust Fund
Oil and Gas Emergency School Tax		($0 to $1,105)	($0 to $2,221)	($0 to $3,413)	($0 to $4,652)	R	Severance Tax Permanent Fund
Oil and Gas Conservation tax		($0 to $283)	($0 to $302)	($0 to $396)	($0 to $402)	R	General Fund
Conservation Tax		($0 to $23)	($0 to $24)	($0 to $58)	($0 to $59)	R	Reclamation Fund
State Land Office Royalty Payments		($0 to $21,216)	($0 to $22,680)	($0 to $23,547)	($0 to $23,881)	R	Land Grant Permanent Fund
Federal Land Royalty Payments		($0 to $14,147)	($0 to $15,123)	($0 to $15,701)	($0 to $15,924)	R	Early Childhood Trust Fund
GRT		($0 to $3,928)	($0 to $4,079)	($0 to $4,205)	($0 to $4,205)	R	General Fund - GRT
GRT Locals		($0 to $1,160)	($0 to $1,205)	($0 to $1,242)	($0 to $1,242)	R	Locals - GRT

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

The Oil and Gas Equalization Tax Act imposes a privilege tax levied on products severed from production units, with specific requirements for reporting and payment. This new tax is a 0.85% on the net taxable value of oil production, which currently has a tax rate of 3.15%.

Additionally, the Oil and Gas Equalization Act establishes a framework for taxing oil and gas production in New Mexico. It defines the roles of the department, interest owners, operators, and purchasers in the taxation process. Operators and purchasers are responsible for withholding tax from payments to interest owners. Advance tax payments will be based on previous averages, ensuring manageable financial planning for taxpayers. The act will officially take effect on July 1, 2025, impacting the oil and gas industry's tax obligations moving forward.

Key Highlights:

- **Section 2: Definitions**
- **Key Definitions:**
  - Department: Refers to the taxation and revenue department.
  - Production Unit: A designated unit of property for producing oil and gas.
  - Interest Owner: Individuals owning rights to the products at the time of severance.
  - Taxable Value: Average taxable value of oil produced in New Mexico for the year.
  - Tax: Refers to the oil and gas equalization tax.
  - Volume: Specifies how the quantity of products is reported.
- **Section 3: Privilege Tax Levied**
  - Tax Imposition: A privilege tax is imposed on products severed from a production unit; collected by the department.
- **Section 4-7: Tax Calculation and Payment**
  - Tax Reporting & Payment: Details on how operators report and remit taxes, including conditions under which advance payments are calculated and when they are due.
- **Section 8: Withholding Tax**
  - Tax Withholding: Operators and purchasers required to withhold tax from payments to interest owners, with procedures for reimbursement.
- **Section 9: Operator's Reporting Obligations**
  - Reporting Requirements: Outlines how and when operators must report and remit taxes.
- **Section 10: Advance Payments**
  - Prepayments: Provisions for advance tax payments based on average tax calculations from previous years.
- **Section 11: Applicability to Other Taxes**
  - Tax Administration Act Applicability: Clarifies that the Tax Administration Act governs multiple tax types, including this new act.
- **Section 12: Effective Date**
  - Implementation: The act is effective from July 1, 2025.

FISCAL IMPLICATIONS

HB 548 proposes an additional 0.85% tax on the net taxable value of oil production, which currently has a tax rate of 3.15%. This new privilege tax would increase revenue to the General Fund.

While the additional tax could potentially impact oil production, quantifying this effect is challenging. Oil production growth depends on various factors, including tax structure, supply elasticity, government policies, and regional and global market conditions.

Research on the Crude Oil Windfall Profit Tax Act of 1980 found that the tax reduced domestic oil production by 1.2% to 4.8% over its implementation period[1]. This reduction resulted from the tax's effect on the after-tax price received by producers, decreasing their incentive to produce oil. Similarly, Rao (2018) analyzed the impact of taxation on U.S. oil production, finding that increased tax rates led to measurable declines in output[2]. Specifically, his study on California data estimated the after-tax price elasticity of oil supply to be between 0.295 and 0.371, suggesting that a 1% increase in taxes (which effectively reduces the after-tax price received by producers) would lead to a decrease in oil production ranging from 0.295% to 0.371%. However, Rao (2018) also noted that oil production from hydraulic fracturing, which is more cost-effective, may be less sensitive to tax-driven changes in after-tax prices.

These findings indicate that while increased taxation on oil production can lead to a reduction in output, the effect is relatively modest due to the inelastic nature of oil supply in response to tax changes.

To estimate the potential revenue impact of HB 548, this analysis assumes a range of possible production impacts, from no effect to a production loss of 0.32%, derived from the maximum price elasticity estimate of 0.371 from Rao (2018).

Assuming New Mexico producers exhibit similar after-tax price elasticity as estimated by Rao (2018), and using New Mexico production projections from the December 2024 consensus estimate, this analysis projects that the 0.85% tax on oil production would generate the following additional revenue for the General Fund:

- Between $389.2 million and $395.4 million in FY26
- Between $416 million and $422.7 million in FY27
- Between $431.9 million and $438.8 million in FY28
- Between $438 million and $445.1 million in FY29

However, a potential production loss of 0.32% would impact various tax programs across the state, leading to revenue losses that could range from zero to varying amounts depending on the program. These estimates are detailed in the revenue table on page 1. Taking potential revenue losses into account to other programs beyond the general fund, HB 548 is projected to generate the following **net revenue range** for the state in total:

- **Between $337.3 million and $395.4 million in FY26**
- **Between $360.7 million and $422.7 million in FY27**
- **Between $374.5 million and $438.8 million in FY28**
- **Between $379.5 million and $445.1 million in FY29**

SIGNIFICANT ISSUES

HB 548's 0.85% tax on the net taxable value of oil production, which generates additional revenue for the general fund, would reintroduce a volatile revenue source—one that previous legislation, such as 2020s HB 83 and 2023s SB 26, aimed to reduce.

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[1] Lazzari, S. (2006). The Crude Oil Windfall Profit Tax of the 1980s: Implications for current energy policy. Congressional Research Service. https://liheapch.acf.hhs.gov/pubs/oilwindfall.pdf

[2] Rao, N. L. (2018). Taxes and US oil production. American Economic Journal: Economic Policy, 10(4), 268-301.

PERFORMANCE IMPLICATIONS

HB 548 creates a new tax to generate revenue for the general fund. However, a simpler approach may be to increase the Oil and Gas Emergency School Tax rate from 3.15% to 4.00%, with the additional 0.85% specifically allocated to the general fund.

ADMINISTRATIVE IMPLICATIONS

HB 548 will have administrative implications for implementation. DFA defers to TRD's FIR for further details on these implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB 548 is not enacted, the new tax rate on oil production will not be imposed, and the general fund will not receive the additional revenue. However, this also means the general fund will avoid increased revenue volatility from the reintroduction of a highly variable revenue source.

AMENDMENTS