

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 626

**48th Legislature, 2nd Session, 2008**

**Short Title:** Oil & Gas Emergency Tax Act Funds to Schools

**Sponsor(s):** Representative Mimi Stewart

**Analyst:** Peter van Moorsel

**Date:** February 2, 2008

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**FOR THE FUNDING FORMULA STUDY TASK FORCE**

**Bill Summary:**

HB 626 amends the *Oil and Gas Emergency School Tax Act* to equalize the tax rate on all products subject to the tax at 4.0 percent. The tax would be applied to:

- oil and other liquid hydrocarbons removed from natural gas at or near the wellhead;
- carbon dioxide, helium, and non-hydrocarbon gases; and
- natural gas.

HB 626 repeals the tax on oil and natural gas recovered from “stripper wells” – wells that are nearing the end of their productive life.

The bill creates a new section of the *Tax Administration Act* that requires that 12.5 percent of the net receipts attributable to the tax imposed pursuant to the *Oil and Gas Emergency School Tax Act* be made to the Public School Fund.

**Fiscal Impact:**

The table below shows the Department of Finance and Administration’s (DFA) estimate of the fiscal impact of HB 626. Revenues generated by the Oil and Gas Emergency School Tax are based on the value of production, and are therefore dependent on the price of natural gas and oil produced in New Mexico. The Legislative Finance Committee’s (LFC) analysis of HB 626 states that in recent years, these prices have been much higher than normal; however, tax levied on oil and natural gas production remains a volatile revenue stream, and the revenues being generated now may not stay at that level.

<b>HB 626 Fiscal Impact (dollars in thousands)</b>	<b>FY 09</b>	<b>FY 10</b>	<b>FY 11</b>	<b>FY 12</b>
Revenues (current law)	\$421.18	\$410.70	\$400.28	\$385.03
Revenues (w/enactment of HB 626)	\$454.25	\$443.18	\$432.19	\$416.36
Net Revenue Change (current law vs. HB 626)	\$33.07	\$32.48	\$31.90	\$31.33
Revenue Change (to Public School Fund)	\$56.78	\$55.40	\$54.02	\$52.04
Revenue Change (to General Fund)	(\$23.71)	(\$22.92)	(\$22.12)	(\$20.71)

**Source:** DFA

As the table shows, DFA estimates the following effects of HB 626:

- Revenues to the Public School Fund would be approximately \$56.8 million for FY 09.
- If HB 626 is enacted, the higher tax rate will result total FY 09 revenues of \$454.25 million, a \$33.07 million increase over the FY 09 revenue projection under current law (\$421.18 million).
- The distribution of 12.5 percent (\$56.8 million) of the tax revenues to the Public School Fund is greater than the \$33.07 million generated by the tax increase, and will therefore result in a \$23.71 million decrease in revenues to the General Fund for FY 09.

### **Issues:**

- The Oil and Gas Emergency School Tax is levied on the privilege of doing business as a severer of oil, natural gas, liquid hydrocarbon, carbon dioxide, helium, or non-hydrocarbon gases. The base for this tax is the “taxable value,” which is the “actual price received for products at the production unit” less federal, state, or Indian royalties and the reasonable expense of transporting the product to the first place of market.
- Currently, the tax rate varies depending on the product that is severed:
  - 3.15 percent on oil and on oil and other hydrocarbons removed from natural gas at or near the wellhead;
  - 3.15 percent on carbon dioxide, helium, and non-hydrocarbon gases;
  - 4.0 percent on natural gas;
  - 1.58 percent to 2.36 percent on oil and on other liquid hydrocarbons removed from natural gas from a stripper well, depending on the average annual taxable value, if the taxable value of oil does not rise above \$18 a barrel; and
  - 2.0 percent to 3.0 percent on natural gas removed from a stripper well, depending on the average annual taxable value, if the taxable value of natural gas does not rise above \$1.35 per thousand cubic feet.
- HB 626 is endorsed by the Funding Formula Study Task Force. The bill is one of several (see related bills) that has been introduced for the purpose of generating funds for the implementation of the new public school funding formula (see below).

### **Background:**

- After several vetoed appropriations to fund a study of the Public School Funding Formula, in 2005, the Legislative Education Study Committee (LESC) endorsed legislation that was enacted to create a Funding Formula Study Task Force.
- In 2006 the Legislature extended the term of the task force through December 2007 and appropriated dollars for an independent study of the funding formula.
- In order to carry out its charge, in August 2006, the task force selected American Institutes for Research (AIR), headquartered in Palo Alto, California, to conduct an independent study of the funding formula.
- Based on the tasks identified in the Request for Proposals (RFP) and other discussions, the contractor provided several recommendations regarding a new public school funding formula based on the concept of educational sufficiency. The formula developed by the contractor includes four measures of student need (poverty, English language learners, special education, and mobility), school size and school district size, and an Index of Staff

Qualifications that incorporates the three-tiered licensure structure for teachers. The contractor also provided the task force with the estimated cost of implementing those recommendations.

- On January 7, 2008, the task force adopted a discussion draft of a bill that incorporated the contractor's recommendations regarding the funding formula and considered a number of proposals designed to fund the costs associated with implementation.
- On January 14, 2008, the LESC endorsed the task force recommendations to implement a new public school funding formula. However, the LESC took no action on the funding proposals, which were not yet available in final form.

**Related Bills:**

HB 241a *Public School Funding Formula Changes*

HB 51 *Corporate Income Tax to Public School Fund*

HB 229 *End Yield Control on School Mill Levy*

HB 311 *Increase Gross Receipts & Send to School Fund*

HB 398 *Supplemental Public School Funding*

HJR 8 *Land Grant Fund Education Distribution, CA*

***Other***

HJR 10 *Statewide Millage Rate for School Funds, CA*