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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Begaye</u>	<b>ORIGINAL DATE</b>	<u>1/23/08</u>	<b>HJM</b>	<u>7/aHTRC/aSRC</u>
		<b>LAST UPDATED</b>	<u>2/12/08</u>		
<b>SHORT TITLE</b>	<u>Study Coal Surtax</u>			<b>SB</b>	<u></u>
				<b>ANALYST</b>	<u>Francis</u>

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Energy Minerals and Natural Resources (EMNRD)

### SUMMARY

#### Synopsis of SRC Amendment

The Senate Rules Committee amended House Joint Memorial 7 to remove language regarding the comparison among adjacent states and changed “a tax inequity” to “tax variances.”

#### Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amended House Joint Memorial 7 requiring that the Revenue Stabilization and Tax Policy interim committee have a “full discussion” about the coal surtax rather than the committee doing a study and having a hearing on the issue.

#### Synopsis of Original Bill

House Joint Memorial 7 request the interim Revenue Stabilization and Tax Policy Committee study the New Mexico coal surtax in the 2008 interim. The study should include an economic and marketing analysis, review of industry studies, and a review of new technologies in the coal mining industry. The study should be presented in a RSTP hearing before December 1, 2008.

### FISCAL IMPLICATIONS

There will be an operating budget impact of unknown amount to conduct the study.

### SIGNIFICANT ISSUES

EMNRD:

According to data compiled by Energy, Minerals and Natural Resources Department, coal is the most valuable mineral commodity (not including oil or gas) produced in New Mexico with over 26 million tons produced in 2006 at a value of \$718 million. Approximately 1500 people are employed in the coal industry with a payroll of \$98

million. Coal is the leader among hard mineral commodities in generating revenue for state government. A total of \$26.5 million was paid by coal producers in severance and resource taxes and state trust land payments in 2006. New Mexico was the 13th largest coal producing state in 2006; New Mexico's coal production has remained fairly static for the past dozen years.

TRD:

Pursuant to Section 7-26-6, the severance surtax rate is actually sixty cents (\$.60) for surface coal. After being indexed to the 2006 producer price index for coal, the surtax in 2007 was eighty cents (\$.80) for surface coal. The effective total tax rate on New Mexico coal of approximately thirteen percent (13%) in 2007 included the gross receipts tax, the excise tax, the conservation tax, the severance tax, and the severance surtax. Coal mined on Indian lands is eligible for the Intergovernmental Tax Credit that can be subtracted from the severance and surtax liability. The tax credit is equal to the lesser of seventy-five percent (75%) of the tax imposed by the Indian Nation or the aggregate amount of severance and surtax due to the state. Section 7-26-6 also imposed a severance surtax rate of \$.58 per ton of mined underground coal. This rate is also indexed to the producer price index for coal. In 2007, the indexed severance surtax rate was \$.77.

During the 2007 legislative session, SB220 and HB1190 proposed to eliminate the coal severance surtax. At that time, a fiscal impact report prepared by the Tax Research and Statistics Office estimated a \$6.9 million annual recurring loss of revenues.

Under present law, the severance surtax rate is "indexed," meaning that the rate is increased periodically if the average price of coal increases. This provision was adopted to insure that severance tax revenues would increase along with any significant increase in the sales value of coal. In contrast, the severance tax on coal is not indexed. It is set at a fixed rate of \$0.57 per ton for surface-mined coal and \$0.55 per ton for underground mined coal. Thus, one implication of eliminating the surtax would be that total collections of severance taxes and surtaxes would not recognize any increases in the value of coal. If the value of coal increases in the future, this will have the effect of reducing the average effective tax rate on the coal when the latter is measured as a percent of value.

Since elimination of the surtax would reduce revenue to the Severance Tax Bonding Fund, and since the State has severance tax bonds outstanding for which these revenues are pledged, the State Board of Finance should be consulted about the potential impacts of the revenue decrease on the financial status of the bonds.

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