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## FISCAL IMPACT REPORT

SPONSOR HENRC ORIGINAL DATE 1/28/18  
 LAST UPDATED 2/9/18 HB CS/126/HENRC

SHORT TITLE Oil & Gas Fund to Carlsbad Brine Well Fund SB \_\_\_\_\_

ANALYST Jorgensen/Amacher

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
(\$500.0)	(\$2,300.0)	(\$2,300.0)	Recurring	General Fund
\$500.0	\$2,300.0	\$2,300.0	Recurring	Carlsbad Brine Well Remediation Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Substantially duplicates SB65, relates to HB121, HB123, HB124, and HB125.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources (EMNRD)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of the Bill

The House Energy, Environment and Natural Resources Committee Substitute for House Bill 126 provides for a distribution to the Carlsbad brine well remediation fund to ten and fifty-three hundredths percent of the net receipts attributable to the tax imposed under the Oil and Gas Conservation Tax Act when the statutory rate of that tax is at nineteen-hundredths percent. When the statutory tax rate is twenty-four hundredths percent; the bill amends the distribution to the oil and gas reclamation fund from an amount equal to two-nineteenths to ten and fifty-three hundredths percent.

## **FISCAL IMPLICATIONS**

TRD stated that, based on the consensus revenue estimating group's (CREG) January, 2018 forecast for oil and gas revenues, TRD modified the distributions indicated in the bill to include a new a new distribution to the Carlsbad brine well remediation fund. With the additional distribution, the annual amount transferred to the general fund would decrease by \$2.3 million in FY19 and remain at \$2.3 million through FY22. Because there is no effective date for HB126, TRD assumed the legislation would be enacted in May 2018, and provided a partial year of revenue to the brine well fund in FY18. Additionally, TRD's analysis assumed the price of WTI would stay below \$70 per barrel so that the distribution to the Carlsbad brine well remediation fund would remain at nineteen-hundredths percent. If the statutory tax rate were at twenty-four hundredths percent, the bill maintains a total distribution of nineteen and seven-tenths of the net receipts. The difference is that the distribution is to two funds, decreasing the distribution to the oil and gas reclamation fund and adding a distribution to the Carlsbad Brine Well Remediation Fund.

## **SIGNIFICANT ISSUES**

TRD states: Since the brine well problem is related to the historic activities of the oil and gas industry, the oil and gas conservation tax is an appropriate source of funding for the public responsibility for the problem. However, public funds should not be used until it is clear that private parties have made the appropriate contribution to remediating the problem.

## **ADMINISTRATIVE IMPLICATIONS**

TRD and the Department of Finance and Administration would need to modify certain IT systems to complete the distributions. Because the bill takes effect 90 days after the legislative session, TRD believes that making these IT system changes may not be feasible given the effective date of May 16<sup>th</sup> and suggests a July 1 effective date.

## **CONFLICT, DUPLICATION, RELATIONSHIP**

HB126 is related to HB121, HB123, HB124, and HB125 in that all bills provide appropriations to the Carlsbad remediation fund.

HB126 substantially duplicates SB65. However, HB123 includes language directing the entirety of the conservation tax distribution that would have otherwise gone to the oil reclamation fund to the Carlsbad brine well remediation fund in the event that the price of WTI is over \$70 per barrel.

## **OTHER SUBSTANTIVE ISSUES**

According to EMNRD:

The "Carlsbad brine well" refers to an underground cavern located in the southern portion of the City of Carlsbad that was created by the historic operation of a brine well. A "brine well" is a solution mining operation where fresh water is injected into salt formations to produce saturated brine which is extracted for use in oil and gas drilling operations. Brine wells result in underground caverns, with the stability of the caverns depending on their depth, width, and the

strength of the overlying formations. Following the collapse of two brine wells in 2008, OCD examined the causes of the collapses and identified the Carlsbad brine well as having similar features to the wells that collapsed.

Unlike the brine wells that collapsed, the Carlsbad brine well is located in a developed urban area and the nearby infrastructure and facilities that could be impacted by a collapse include a mobile home park, a place of worship, a feed store, two highways (US 285 and US 180/62), a BNSF Railway facility, and Carlsbad Irrigation District's Southern Main canal. Both highways are designated Waste Isolation Pilot Plant (WIPP) transportation routes. A collapse of the brine well will also adversely impact groundwater, surface habitat, and a vital aquifer.

The Carlsbad Brine Well Remediation Fund (Fund) was established by the Legislature in 2017. NMSA 1978, §75-11-2. The fund is administered by EMNRD and is to be used by the EMNRD Oil Conservation Division (OCD) "to remediate the Carlsbad brine well". The Legislature also established the Carlsbad Brine Well Remediation Advisory Authority (Advisory Authority) to advise the OCD on the remediation of the brine well. NMSA 1978, §75-11-1(B).

CJ/JMA/jle/al