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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/18

SPONSOR Leavell LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Oil & Gas Fund to Carlsbad Brine Well Fund SB 65

ANALYST Jorgensen

### REVENUE (dollars in thousands)

| Estimated Revenue |             |             | Recurring<br>or Nonrecurring | Fund<br>Affected                        |
|-------------------|-------------|-------------|------------------------------|---|
| FY18              | FY19        | FY20        |                              |   |
| (\$500.0)         | (\$2,000.0) | (\$2,100.0) | Recurring                    | General Fund                            |
| \$500.0           | \$2,000.0   | \$2,100.0   | Recurring                    | Carlsbad Brine Well<br>Remediation Fund |

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB126, relates to SB62, SB63, SB64, SB66.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy, Minerals and Natural Resources (EMNRD)

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 65 amends the Tax Administration Act, to provide an annual distribution from the receipts collected from the Oil and Gas Conservation Tax to the Carlsbad brine well remediation fund. The distribution is in an amount equal to 2/19 of the net receipts from the tax. The distribution would only occur when the Oil and Gas Conservation tax is 19/100 percent, which occurs when the price of west Texas intermediate (WTI) crude oil is over \$70 per barrel.

### FISCAL IMPLICATIONS

TRD stated that, based on the consensus revenue estimating group's (CREG) December, 2017 forecast for oil and gas revenues, the addition of a distribution 2/19 to the Carlsbad brine well remediation fund would reduce general fund receipts by \$500 thousand in FY18, increasing to \$2.2 million by FY22. Because there is no effective date for SB65, TRD assumed the legislation would be enacted in May 2018 and provide a partial year of revenue to the brine well fund in FY18.

## **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, COMPANIONSHIP, RELATIONSHIP**

SB 65 is related to SB 62, SB 64, SB 63, and SB 66 in that all bills provide appropriations to the Carlsbad remediation fund.

HB 123 duplicates SB 63.

## **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/sb**