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FISCAL IMPACT REPORT

SPONSOR Munoz
ORIGINAL DATE 2/1/22
LAST UPDATED 2/11/22
HB

SHORT TITLE Economic Diversification & Climate Resilience Fund
SB 155

ANALYST Torres/Faubion

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**		
	$397,950.0	$470,000.0	Recurring	New Economic Diversification and Climate Resilience Fund
	($397,950.0)	($470,000.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB2. Conflicts with SB122.

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

This bill creates the economic diversification and climate resilience fund using 50 percent of the oil and gas production tax revenue that would otherwise flow to the general fund. These taxes include the oil and gas emergency school tax and the oil and gas conservation tax. There is also a proposed $125 million appropriation for the fund in the proposed HB2.

The new fund would be a non-reverting fund in the state treasury, subject to appropriation by the Legislature, for the purposes of economic diversification and development of key industries within the state, workforce training and development, infrastructure improvements to attract business development, and projects to support conservation and restoration of public lands, forests, watersheds, parks, and trails.

The bill requires any agency that receives an appropriation from the new fund to provide a report on the impact of the appropriation upon request by the Legislative Finance Committee.

There is no effective date on the creation of the fund, therefore it is assumed the fund would be created 90 days after the end of the session. The proposed distributions to the fund would be effective July 1, 2022.

FISCAL IMPLICATIONS

Creation of the fund in section 1 is an essential companion to the general appropriations act with $125 million of transfers to and appropriations from the fund are included in HB 2.

Section 2 relates to the earmarking of oil and gas production taxes. There are currently two oil and gas production taxes that flow to the general fund – the oil and gas emergency school tax and the oil and gas conservation tax. This bill would send 50 percent of those revenues, after the transfer to the early childhood trust fund, to the newly created economic diversification and climate resilience fund. The December 2021 consensus revenue estimate projects general fund revenues from these two sources will total $796 million in FY23 and grow each year thereafter. Distributing 50 percent of these revenues would send $398 million to the economic diversification and climate resilience fund in the first year, and over $470 million each year thereafter. The other 50 percent would remain in the general fund. The transfers would be in addition to the estimated $448.3 million being transferred to the early childhood in FY23. Total transfers from these revenues out of the general fund would equal $846.3 million, or 68 percent, of total revenues from the oil and gas emergency school tax and the oil and gas conservation tax.

The earmarking of $398 million in FY23 and $470 million in FY24 is a recurring expense to the general fund. Establishing an earmark reduces the ability of future Legislatures to comprehensively appropriate funds and set spending priorities. The size of the distributions could impair the Legislature's ability to address constitutional responsibilities including education needs and the rising costs of providing healthcare through programs like Medicaid. Neither programs are allowable uses of the fund. Assuming a $400 million tax package and total spending levels in the general appropriation act as planned for in the LFC, HAFC, and SFC budget frameworks, there is insufficient revenue to implement the earmarking in SB155 for FY23. "New Money" would be reduced by $470 million for FY24.

SIGNIFICANT ISSUES

Reducing General Fund Reliance on Oil and Gas Revenues. The mining and oil and gas extraction industry made up about 14 percent of New Mexico's real gross state product in 2020; however, 30 percent general fund revenues were dependent on the oil and gas industry in FY20. This indicates state budgets have an outsized dependence on oil- and gas- related revenue relative to the size of the industry in the state's economy.

With soaring production of oil and natural gas in the state since 2017, oil and gas production tax revenues have grown substantially, with estimated production tax collections for FY22 more than double collections in FY18. The Legislature has taken steps to reduce the volatility of oil and gas revenues to the general fund by distributing the excess of the five-year average of the oil and gas emergency school tax – the largest production tax that flows into the general fund – and federal royalty payments to either the tax stabilization reserve or the early childhood trust fund. Increasing diversions of oil and gas revenues may cut into revenues that may be recurring in the short- to medium-term. Removing general fund revenue that is recurring may be prohibitive to accomplishing the Legislature's goals, such as meeting requirements under the Martinez-Yazzie lawsuit.

However, as production continues to rise, general fund revenues from oil and gas production continues to increase as the five-year averages grow each year. As these revenues grow, the general fund dependence on oil and gas also grows. While the distributions of the excess above the five-year average helps reduce general fund dependence on oil- and gas-related revenues, it is still expected to be over 30 percent in FY23.

Unlike the other distributions of excess oil and gas, school tax and federal royalty payments, which flow into restricted-use, interest-earning accounts, this bill's distributions would send oil and gas production tax revenues to a fund that would be subject to appropriation by the Legislature.

This bill would further reduce general fund reliance on oil and gas revenues by removing half of oil and gas production taxes from the general fund, reducing general fund dependence on oil and gas by 5 percentage points in FY23, based on analysis of the August 2021 consensus revenue estimate.

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