FISCAL IMPACT REPORT

SPONSOR: Sandel DATE TYPED: 3-2-99 HB 536

SHORT TITLE: Coal Surtax Exemption SB

ANALYST: Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY99	**FY2000**			
NA	$ (600.0)	$ (610.0)	Recurring	Severance Tax Bonding Fund
NA	$ 560.0	$ 600.0	Recurring	General Fund
NA	$ 370.0	$ 400.0	Recurring	Local Gov. Funds

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)
LFC Files

SUMMARY

Synopsis of Bill

House Bill 536 would remove the sunset provisions attached to the coal severance surtax exemption. The bill would become effective 90 days after the end of the legislative session as it states no effective date.

Significant Issues

New Mexico coal pays a severance surtax in addition to the regular severance tax. The regular severance tax rate is $0.57 per short ton (two thousand pounds) of surface coal and $0.55 per short ton of underground coal. The severance tax surtax adds $0.61 per short ton of surface coal and $0.58 per short ton of underground coal.

The coal surtax exemption can currently be applied against:

- Coal sold and delivered under contracts entered into between July 1, 1990 and June 30, 1999.
- Coal sold and delivered under contracts in effect on July 1, 1990 that is greater than the average amount delivered during the preceding three years or the highest contract minimum during any of those preceding years, whichever is higher.

- Coal delivered under renegotiated contracts after May 20, 1992 and prior to June 30, 1999 is also exempted from the surtax provided that the purchaser of the coal is required to take annual deliverers that are greater than the average amount delivered during 1987, 1988 and 1999 or the highest contract minimum during those years.

FISCAL IMPLICATIONS

The Taxation and Revenue Department reports that extending the surtax exemption will cost the severance tax bonding fund $600 thousand in FY 2000. They also estimate that it will have a positive $560 thousand impact on the state's general fund in FY 2000. The reasoning behind the estimate is based on the following assumptions:

1. 7 million tons of coal contracts will be affected in the fiscal year. 4.5 million tons of this are surtax exempt and 2.5 million is subject to the surtax.
2. The severance tax rate on coal is $.57 and the surtax rate is $.61.
3. Extending the surtax will provide a price incentive that will increase the production from coal that is currently subject to the surtax by 25 percent.
4. Ending the surtax will decrease coal production that is currently exempt from the surtax by 25 percent.

Applying these assumptions results in the following two scenarios:

The surtax continues: the 4.5 million tons that are currently exempt are still produced. Revenue is 4.5 million tons times 57 cents, which equals $2.6 million. Production of coal that is now paying full tax and will be eligible to become tax exempt and production thus increases by 25 percent from 2.5 million tons to 3.125 million tons; it now pays 57 cents of tax per ton or $1.8 million. Total tax under this scenario is $4.3 million.

The Surtax sunsets: 2.5 million tons that are currently subject to the surtax continue to be produced and pay $1.18 per ton in taxes ($.57 in severance tax plus $.61 in severance surtax). This yields $3 million. Production from coal that is currently surtax exempt decreases by 25 percent from 4.5 million tons to 3.4 million tons and pays $1.18 per ton in taxes or $4 million. Thus, total revenue in this scenario is $7 million.

The difference between the scenario where the surtax sunsets, $7 million and the scenario where it is extended, $4.3 million is $2.7 million. However, because of the way the revenue estimates were prepared, 76 percent of the impact is already accounted for in the revenue forecast.

ADMINISTRATIVE IMPLICATIONS

TRD reports that continuing the exemptions would have no administrative impact as systems and forms necessary to administer the exemptions are already in place.

OTHER SUBSTANTIVE ISSUES

If the bonding fund revenue estimate has not fully accounted for the revenue loss from extending sunset provision to sunset, and the surtax tax exemption instead sunsets, the bonding fund revenue estimate will need to be revised upward, implying additional bonding capacity.

BT/gm