

LFC Requester:	Helen Gaussoin
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: **Date** Feb, 2, 2024
Original **Amendment** **Bill No:** SM 8
Correction **Substitute**

Sponsor: Sens. Mimi Stewart and Brenda G. McKenna **Agency Name and Code** State Land Office - 539
Short Title: OIL & GAS FACILITY SETBACK STUDY **Number:** _____
Person Writing Sunalei Stewart
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
No Fiscal Impact	No Fiscal Impact	No Fiscal Impact		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 133, HB 32
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This memorial would request that the Energy, Minerals and Natural Resources Department (EMNRD):

- evaluate the risks to humans and the environment from proximity to oil and gas facilities;
- consult with relevant stakeholders on such risks and how to mitigate those risks by establishing setbacks for oil and gas facilities;
- recommend legislation to the first session of the fifty-seventh legislature to establish setbacks for oil and gas facilities.

The memorial reflects Oil and Gas Act setback requirements that were included in HB 133 as introduced, but are not included in the House Energy, Environment and Natural Resources Committee substitute.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

The New Mexico State Land Office (NMSLO) supports revising the Oil and Gas Act to establish meaningful setbacks for oil and gas operations to protect public health and the environment.

About 35% of statewide oil and gas production takes place on state land.¹ In June 2023, recognizing the serious risks that oil and gas development poses to children, Commissioner of Public Lands Stephanie Garcia Richard issued a moratorium on new oil and gas leasing on state trust lands located within one mile of a school. Including setback requirements in the Oil and Gas Act would address the issue in a more uniform and effective manner.

A large portion of State Land Office revenue comes from oil and gas leases and royalties paid as

¹https://www.nmlegis.gov/entity/lfc/Documents/Finance_Facts/finance%20facts%20oil%20and%20gas%20production.pdf

a percentage of oil and gas produced or proceeds from the sale of oil and gas under those leases. At the same time, oil and gas exploration and production on or near state trust lands, when not performed responsibly and in accordance with best practices, has the potential to contaminate state trust lands, water, and other resources, and harm individuals, wildlife, and nearby communities.

The risks oil and gas development poses to human health are significant and well-established in the scientific literature. Oil and gas operations are routinely linked to negative health impacts including asthma and other respiratory afflictions,² cardiac disease,³ cancer,⁴ and pregnancy complications.⁵

Some of these negative effects are clearly correlated with the proximity of oil and gas operations to schools and residences. Health harms affecting children are especially conspicuous. For instance, a study by the University of Pittsburgh for the Pennsylvania Department of Health found that children living within a mile of a gas well are five to seven times more likely to develop lymphoma than children living far away from a gas well; children diagnosed with four types of cancer (lymphoma, leukemia, brain tumors, and bone tumors) were four times more likely to live within a half-mile of a gas well.⁶ In addition, women living near oil and gas wells (within three miles of a large number of oil and gas wells) had an increased likelihood of premature birth, compared with women who did not live near oil and gas wells.⁷

A substantial population of New Mexico children attend school in very close proximity to oil and gas operations: according to one recent estimate from a coalition of environmental and public

² See Buonocore, Reka, Yang et al., *Air Pollution and Health Impacts of Oil & Gas Production in the United States*, ENVIRONMENTAL RESEARCH: HEALTH, 1 021006 (2023).

³See Concerned Health Professionals of New York- Physicians for Social Responsibility, *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking and Associated Oil and Gas Infrastructure* (8th ed. 2022), available at <https://psr.org/wp-content/uploads/2022/04/compendium-8.pdf>

⁴See University of Pittsburgh/Pennsylvania Department of Health, *Final Report for Pennsylvania Department of Health, Bureau of Epidemiology Hydraulic Fracturing Epidemiology Research Studies: Childhood Cancer Case-Control Study*, August 3, 2023, available at https://paenv.pitt.edu/assets/Report_Cancer_outcomes_2023_August.pdf

⁵ See Cushing, Vavra-Musser, Khang Chau et al., *Flaring from Unconventional Oil and Gas Development and Birth Outcomes in the Eagle Ford Shale in South Texas*, 128 ENVIRONMENTAL HEALTH PERSPECTIVES 7 (2020).

⁶ University of Pittsburgh/Pennsylvania Department of Health, *Final Report for Pennsylvania Department of Health, Bureau of Epidemiology Hydraulic Fracturing Epidemiology Research Studies: Childhood Cancer Case-Control Study*, August 3, 2023, available at https://paenv.pitt.edu/assets/Report_Cancer_outcomes_2023_August.pdf

⁷ Cushing, Vavra-Musser, Khang Chau et al., *Flaring from Unconventional Oil and Gas Development and Birth Outcomes in the Eagle Ford Shale in South Texas*, 128 ENVIRONMENTAL HEALTH PERSPECTIVES 7 (2020).

health advocates, faith organizations, and tribal officials, more than 34,000 schoolchildren attend schools located within one mile of oil and gas wells.⁸ The Oil and Gas Act, and New Mexico law generally, do not impose clear limitations on how closely oil and gas wells or other infrastructure can be located near schools.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HB 32 (OIL & GAS CHILDREN'S HEALTH PROTECTION ZONES) (requiring oil and gas operations within children's health protection zones, defined as areas extending one mile from the property lines of a school, to cease by 2028, with related requirements going into effect in the preceding years) and HB 133 (OIL & GAS ACT CHANGES).

TECHNICAL ISSUES

The memorial uses the phrase "oil and gas facilities," but does not define what that means.

"Oil and gas facilities" may include any number of things directly or indirectly related to production of oil and gas, including oil and gas wells, pads, frack ponds, storage tanks, gathering lines, transportation pipelines, refineries, produced water injection wells, and surface waste management facilities. Other than a provision in the Oil and Gas Act specific to the oil and gas reclamation fund [see NMSA 1978, § 70-2-38(E) (defining "associated production facilities")], the Act does not define "facilities" as it pertains to oil and gas exploration or production. In rule, however, a "facility" is defined as "a structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock or activity of any kind, whether stationary or mobile." See 19.15.2.F(1) NMAC In reference to the oil and gas reclamation fund, the definition of "associated production facilities" includes facilities used for, intended to be used for or that have been used for the production, treatment, transportation, storage or disposal of oil, gas, brine, product or waste generated during oil and gas operations or used in the production of oil and gas if that facility is, has been or would have been subject to regulation by the Oil Conservation division of the Energy, Minerals and Natural Resources Department or the Oil Conservation commission pursuant to the Oil and Gas Act or the Water Quality Act

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

⁸https://www.biologicaldiversity.org/programs/public_lands/energy/dirty_energy_development/oil_and_gas/pdfs/Letter-NM-Governor-Lujan-Grisham-Health-Buffer-Zones-080923.pdf