HOUSE BILL 133

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE OIL AND GAS ACT;
ALLOWING THE OIL CONSERVATION DIVISION OF THE ENERGY, MINERALS
AND NATURAL RESOURCES DEPARTMENT TO REGULATE CERTAIN TRANSFERS
OF OIL AND GAS WELLS AND AUTHORIZE THE CONVERSION OF OIL AND
GAS WELLS FOR ENERGY STORAGE AND GEOTHERMAL DEVELOPMENT;
INCREASING THE AMOUNT OF FEES AND FINANCIAL ASSURANCE
ASSOCIATED WITH OPERATING OIL AND GAS WELLS; INCREASING CIVIL
PENALTIES; ALLOWING FEES TO BE ADJUSTED TO ACCOUNT FOR
INFLATION; REQUIRING THE CAPTURE OF NINETY-EIGHT PERCENT OF
NATURAL GAS PRODUCED BEGINNING IN 2027; PROVIDING FOR CERTAIN
SETBACKS FROM OIL AND GAS FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-2-12 NMSA 1978 (being Laws 1978,
Chapter 71, Section 1, as amended) is amended to read:

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"70-2-12. ENUMERATION OF POWERS.--

A. The [oil-conservation] division [of the energy, minerals and natural resources department] may:

(1) collect data;
(2) make investigations and inspections;
(3) examine properties, leases, papers, books and records;
(4) examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment;
(5) hold hearings;
(6) provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports;
(7) limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; and
(8) require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. The [oil-conservation] division may make rules and orders [for the purposes and with respect to the subject matter stated in this subsection]:

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(1) to require dry or abandoned wells to be plugged in a way so as to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; pursuant to Section 70-2-14 NMSA 1978, the division shall require financial assurance conditioned for the performance of the rules;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring
leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration,
drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated under the federal Safe Drinking Water Act, in a manner that protects public health, the environment and fresh water resources;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category .226979.3GLG
determinations pursuant to the provisions of the federal Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars ($25.00) per filing. Such fees shall be credited to the account of the [oil conservation] division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; [and]

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act as provided in Subsection E of Section 74-6-4 NMSA 1978;

(23) to regulate the transfer of oil and gas wells or facilities, including limitations on transfers when:

(a) the transferor, the transferee or an
entity that owns more than a twenty-five percent interest in a transferor or transferee has a significant history of noncompliance with the Oil and Gas Act or rules adopted pursuant to that act;

(b) the transferee fails to provide adequate financial assurance as required by the division;

(c) the transferee lacks sufficient financial capacity to manage liabilities associated with the oil and gas wells or facilities; or

(d) the division deems the limitations to be necessary for the purposes of mitigating risk to the state from potential inactive or abandoned oil and gas wells or facilities; and

(24) to authorize the conversion of an oil and gas well to a facility that supports energy storage or geothermal development, including establishing fees and financial assurance requirements specific to an energy storage or geothermal use."

SECTION 2. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates [any] an oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable
letter of credit, [or] a cash or surety bond or a [well-
specific] plugging insurance policy pursuant to the provisions
of this section to the [oil conservation] division [of the
energy, minerals and natural resources department] running to
the benefit of the state and conditioned that the covered well
be plugged and abandoned in [compliance with the rules of the
oil conservation] accordance with division rules. The [oil
conservation] division shall establish categories of financial
assurance by rule after notice and hearing. Such categories
shall include, at a minimum, a blanket plugging financial
assurance [which shall be set by rule] in an amount not to
exceed [two hundred fifty thousand dollars ($250,000), a
blanket plugging financial assurance for temporarily abandoned
status wells, which shall be set by rule at amounts greater
than fifty thousand dollars ($50,000)] ten million dollars
($10,000,000) [and] or a one-well plugging financial assurance
in amounts determined sufficient to reasonably pay the cost of
plugging the well or wells covered by the financial assurance.
In establishing categories of financial assurance, the [oil
conservation] division shall consider the depth of the well
involved, the length of time since the well was produced, the
cost of plugging similar wells and [such] other factors [as]
the [oil conservation] division deems relevant. The [oil
conservation] division shall require a one-well financial
assurance on any well that has been held in a temporarily
abandoned status for more than two years or, at the election of the operator, may allow an operator to increase its blanket plugging financial assurance to cover wells held in temporarily abandoned status. All financial assurance shall remain in force until released by the [oil conservation] division. The [oil conservation] division shall release financial assurance when [it] the division is satisfied that the conditions of the financial assurance have been fully performed.

B. If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the [oil conservation] division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

C. When any financial assurance is forfeited pursuant to the provisions of the Oil and Gas Act or rules promulgated pursuant to that act, the director of the [oil conservation] division shall [give notice to the attorney general, who shall] collect the forfeiture without delay.

D. All forfeitures shall be deposited in the state treasury in the oil and gas reclamation fund.

E. When the financial assurance proves insufficient to cover the cost of plugging oil and gas wells on land other than federal land and funds must be expended from the oil and gas reclamation fund.
gas reclamation fund to meet the additional expenses, the [oil conservation] division is authorized to bring suit against the operator in the district court of the county in which the well is located for indemnification for all costs incurred by the [oil conservation] division in plugging the well. All funds collected pursuant to a judgment in a suit for indemnification brought under the provisions of this section shall be deposited in the oil and gas reclamation fund.

F. An operator required to file financial assurance for a well pursuant to this section is considered to have met that requirement if the operator obtains a plugging insurance policy that includes the specific well and that:

(1) is approved by the office of superintendent of insurance;

(2) names the state of New Mexico as owner of the policy and contingent beneficiary;

(3) names a primary beneficiary who agrees to plug the specified wellbore;

(4) is fully prepaid and cannot be canceled or surrendered;

(5) provides that the policy continues in effect until the specified wellbore has been plugged;

(6) provides that benefits will be paid when, but not before, the specified wellbore has been plugged in accordance with rules of the [oil conservation] division in
effect at the time of plugging; and

(7) provides benefits that are not less than an amount equal to the one-well financial assurance required by [oil conservation] division rules.

G. If, subsequent to an operator obtaining an insurance policy as provided in this section, the one-well financial assurance requirement applicable to the operator's well is increased, either because the well is deepened or [the rules of the oil conservation] division rules are amended, the operator is considered to have met the revised requirement if:

(1) the existing policy benefit equals or exceeds the revised requirement;

(2) the operator obtains an amendment increasing the policy benefit by the amount of the increase in the applicable financial assurance requirement; or

(3) the operator obtains financial assurance equal to the amount, if any, by which the revised requirement exceeds the policy benefit."

SECTION 3. Section 70-2-31 NMSA 1978 (being Laws 1981, Chapter 362, Section 1, as amended) is amended to read:

"70-2-31. VIOLATIONS OF THE OIL AND GAS ACT--PENALTIES.--

A. Whenever the division determines that a person violated or is violating the Oil and Gas Act or any provision of any rule, order, permit or authorization issued pursuant to that act, the division may seek compliance and civil penalties.
by:

(1) issuing a notice of violation;

(2) commencing a civil action in district court for appropriate relief, including injunctive relief; or

(3) issuing a temporary cessation order if the division determines that the violation is causing or will cause an imminent danger to public health or safety or a significant imminent environmental harm. The cessation order will remain in effect until the earlier of when the violation is abated or thirty days unless a hearing is held before the division and a new order is issued.

B. A notice of violation issued pursuant to Paragraph (1) of Subsection A of this section shall:

(1) state with reasonable specificity the nature of the violation; [shall]

(2) require compliance immediately or within a specified time period; [shall]

(3) provide notice of the availability of an informal review and the date of a hearing before the division; and [shall]

(4) provide notice of potential sanctions, including assessing a penalty, suspending, canceling or terminating a permit or authorization, shutting in a well and plugging and abandonment of a well and forfeiting financial assurance pursuant to Section 70-2-14 NMSA 1978.

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C. If the notice of violation is not resolved informally within thirty days after service of the notice, the division shall hold a hearing and determine whether the violation should be upheld and whether any sanctions, including civil penalties, shall be assessed. In assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors. When a decision is rendered by the division after a hearing, any party of record adversely affected shall have the right to have the matter heard de novo before the commission pursuant to Section 70-2-13 NMSA 1978.

D. Any civil penalty assessed by a court or by the division or commission pursuant to this section may not exceed [two thousand five hundred dollars ($2,500)] ten thousand dollars ($10,000) per day of noncompliance for each violation unless the violation presents a risk either to the health or safety of the public or of causing significant environmental harm, or unless the noncompliance continues beyond a time specified in the notice of violation or order issued by the division, commission or court, whereupon the civil penalty may not exceed [ten thousand dollars ($10,000)] twenty-five thousand dollars ($25,000) per day of noncompliance for each violation. [No penalty assessed by the division or commission]
after a hearing may exceed two hundred thousand dollars
($200,000); provided that such limitation does not apply to
penalties assessed by a court.)

E. The commission shall make rules, pursuant to
Section 70-2-12.2 NMSA 1978, providing procedures for the
issuance of notices of violations, the assessment of penalties
and the conduct of informal proceedings and hearings pursuant
to this section.

F. It is unlawful, subject to a criminal penalty of a
fine of not more than five thousand dollars ($5,000) or
imprisonment for a term not exceeding three years or both such
fine and imprisonment, for any person to knowingly and
willfully:

(1) violate any provision of the Oil and Gas Act
or any rule, regulation or order of the commission or the
division issued pursuant to that act; or

(2) do any of the following for the purpose of
evading or violating the Oil and Gas Act or any rule,
regulation or order of the commission or the division issued
pursuant to that act:

(a) make any false entry or statement in a
report required by the Oil and Gas Act or by any rule,
regulation or order of the commission or division issued
pursuant to that act;

(b) make or cause to be made any false entry
in any record, account or memorandum required by the Oil and
Gas Act or by any rule, regulation or order of the commission
or division issued pursuant to that act;
(c) omit or cause to be omitted from any
such record, account or memorandum full, true and correct
entries; or
(d) remove from this state or destroy,
mutilate, alter or falsify any such record, account or
memorandum.

G. For the purposes of Subsection F of this section,
each day of violation shall constitute a separate offense.
H. Any person who knowingly and willfully procures,
counsels, aids or abets the commission of any act described in
Subsection A or F of this section shall be subject to the same
penalties as are prescribed in Subsection D or F of this
section."

SECTION 4. Section 70-2-39 NMSA 1978 (being Laws 2019,
Chapter 260, Section 1) is amended to read:
"70-2-39. FEES--[APPROPRIATION] FEE ADJUSTMENTS--OIL
CONSERVATION DIVISION SYSTEMS AND HEARINGS FUND CREATED.--
A. Beginning January 1, 2027 and on January 1 of each
successive year, the fees provided by this section may be
adjusted for inflation as provided in Subsection B of this
section. The following fees are required to be paid to the
oil conservation] division [of the energy, minerals and
natural resources department] with each application for:

(1) [with each application for] a non-federal
and non-Indian permit to drill, deepen, plug back or reenter a
well, the applicant shall submit to the division a
nonrefundable fee of [five hundred dollars ($500)] one thousand
five hundred dollars ($1,500);

(2) [with each individual application for]
administrative approval of a non-standard location, downhole
commingle, surface commingle, off-lease measurement, release
notification and corrective action, change of operator,
application for modification to surface waste management
facility, request for the creation of a new pool, proposed
alternative method permit or closure plan application or
authorization to move produced water, the applicant shall
submit to the division a nonrefundable fee of [one hundred
fifty dollars ($150)] four hundred fifty dollars ($450);

(3) [with each application for] a fluid
injection well permit, the applicant shall submit to the
division a nonrefundable fee of [five hundred dollars ($500)]
one thousand five hundred dollars ($1,500) per well;

(4) [with each application for] a permit for a
commercial surface waste management facility, landfill or
landfarm, the applicant shall submit to the division a
nonrefundable fee of ten thousand dollars ($10,000) per
facility;
(5) [with each application for] an
administrative hearing, re-hearing or de novo hearing before
the division or commission, the applicant shall submit to the
division a nonrefundable fee of [five hundred dollars ($500)]
one thousand five hundred dollars ($1,500) per application; and

(6) [with each application for] a continuance of
an administrative hearing, re-hearing or de novo hearing before
the division or commission, the applicant shall submit to the
division a nonrefundable fee of [one hundred fifty dollars
($150)] four hundred fifty dollars ($450) per application.

B. On January 1, 2027 and on January 1 of each
successive year, the division may adjust the fees provided by
Subsection A of this section by multiplying the fee as of
January 1, 2026 by a fraction, the numerator of which is the
consumer price index ending in September of the previous year
and the denominator of which is the consumer price index ending
September 2025; provided that the fees shall not be adjusted
below the minimum amounts provided in Subsection A of this
section as a result of a decrease in the consumer price index.
By November 1, 2026 and by November 1 of each successive year,
the division shall post on its website the fees in Subsection A
of this section for the next year.

[BC] C. An application for an administrative hearing,
re-hearing or de novo hearing before the oil conservation
division or commission will be considered to be materially
amended if the amendment is made for a purpose other than to correct:

(1) typographical errors; or

(2) clerical errors.

[D.] The "oil conservation division systems and hearings fund" is created in the state treasury as a nonreverting fund. All funds received by the oil conservation division from fees imposed pursuant to Subsection A of this section shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative. Money in the fund is subject to appropriation by the legislature to the division to develop and modernize the division's online application processing system, online case management system, online data reporting and visualization systems and online case file system and for other technological and equipment upgrades necessary to support the efficient and transparent implementation and enforcement of the Oil and Gas Act, including hiring necessary information technology personnel, and for hearing administration costs. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund. [Money in the fund in fiscal year 2020 may be expended by the...]

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division for the purposes of the fund.]}

E. As used in this section, "consumer price index" means the consumer price index, not seasonally adjusted, for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor for a twelve-month period ending September 30."

SECTION 5. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] NATURAL GAS CAPTURE REQUIREMENTS--RULES.--

A. Beginning January 1, 2027, an operator shall ensure that at least ninety-eight percent of the natural gas produced or gathered by the operator's facilities is captured in a calendar year; provided that natural gas released during an emergency or that is beneficially used by the operator does not count as gas released for the purpose of determining an operator's overall capture percentage.

B. The division shall adopt rules necessary to implement the provisions of this section and an application for a permit to drill shall be subject to the rules to be valid.

C. As used in this section, "operator" means a person that is duly authorized to construct, manage or operate an oil or gas well or associated facilities or a natural gas gathering system."

SECTION 6. A new section of the Oil and Gas Act is
enacted to read:

"[NEW MATERIAL] SETBACKS FROM HUMAN AND ENVIRONMENTAL RECEPTORS--RULES.--

A. Beginning July 1, 2024, a new well pad, production facility, tank battery, compressor station or gas plant shall be at least:

(1) two thousand two hundred fifty feet from a health facility, correctional facility, multifamily residential structure, community college, public, private or charter school or state educational institution;

(2) two thousand two hundred fifty feet from a detached single-family occupied residence, including a manufactured home, unless the homeowner at the time a development is proposed provides consent in a manner provided by the division, in which case the setback in this paragraph may be reduced to seven hundred fifty feet without prior approval;

(3) six hundred sixty feet from a perennial or intermittent stream, lake, pond, delineated wetland or irrigation infrastructure that is in use; and

(4) three hundred feet from a surface water of the state not listed in Paragraph (3) of this subsection, a state park, state game commission land, a designated critical habitat for a federal or state endangered animal species or other environmental resource identified by commission rule.
B. For purposes of determining whether a new well pad, production facility, tank battery, compressor station or gas plant complies with the requirements of this section, measurements shall be made from the outer edge of the human and environmental receptors listed in Subsection A of this section to the nearest operational equipment on a well pad, production facility, tank battery, compressor station or gas plant. For a building or structure, the outer edge shall be measured from the nearest portion of the building wall to the facilities covered by this section. For a water body, the outer edge shall be measured from the nearest ordinary high water mark or the transition between riparian and upland habitat to the facilities covered by this section.

C. The commission may approve deviations from the setbacks established in this section upon an application from the impacted operator demonstrating that:

(1) disallowing development within the setback is inconsistent with a directive or order from another state or federal agency;

(2) disallowing development will significantly impair correlative rights even after accounting for the division's or commission's ability to authorize variances from well spacing or other development requirements; or

(3) disallowing development will significantly contribute to underground waste.
D. An oil and gas well or associated facility for which the commission approves a deviation pursuant to this section shall be inspected at least monthly by the operator to identify any spills or releases, unless more frequent inspections are required by law.

E. An application for a deviation from the setbacks established in this section may be denied for an operator that has received a notice of violation of the Oil and Gas Act from the division within twelve months of the application or is the subject of an unresolved notice of violation of the Oil and Gas Act issued by the division.

F. The commission may adopt rules:

(1) to increase the setback distances and identify additional resources subject to the setbacks established by Paragraphs (3) and (4) of Subsection A of this section when the commission determines that the proximity of an environmental resource to a new well pad, production facility, tank battery, compressor station or gas plant may significantly impair the environmental resource and increasing the distance between the resource and the facility would address such impairment;

(2) to increase the setback distances established by Paragraphs (1) and (2) of Subsection A of this section when the commission can demonstrate that the increases would result in direct reductions to exposures for individuals.
with elevated risk of adverse health impacts as a result of exposure;

(3) to provide for administrative proceedings before the division for the processing of requests to deviate from a setback established by this section or commission rule; and

(4) necessary to implement the provisions of this section.

G. This section does not apply to a new development on an existing well pad, production facility, tank battery, compressor station or gas plant, so long as the new development at an existing facility does not result in a one-time expansion of the external boundary of the existing facility of more than fifteen percent as determined by the boundaries in existence as of May 15, 2024, with the burden being on the operator to establish the boundaries, unless the operator demonstrates to the division that the one-time expansion will consolidate development and provide a demonstrable reduction of overall impacts to human health and the environment, in which case the division may approve an expansion of up to thirty percent.

H. The setbacks provided by this section shall not apply to a new well pad, production facility, tank battery, compressor station or gas plant if an operator demonstrates that:

(1) a deviation from the setback requirements is
authorized by or necessary to effectuate the development of
facilities pursuant to an application for a permit to drill,
division order or commission order issued prior to May 15,
2024; or

(2) the facilities are located on the land or
allotted lands of a federally recognized Indian nation, tribe
or pueblo.

I. The burden to demonstrate the applicability of the
provisions of Subsection H of this section rests solely on the
operator.

J. The division shall provide an annual report by
December 1 of each year to the appropriate interim legislative
committee on any approved setback deviations, including setback
deviations made pursuant to Subsection H of this section.

K. An oil and gas well in existence on July 1, 2024
within a setback provided by this section or established by
commission rule that has been inactive for a period of greater
than twenty-four months based on records maintained by the
division shall be considered abandoned, and the division may
order the plugging of the well after thirty days' notice to the
registered operator of the well. An order issued pursuant to
this subsection may be appealed to the commission.

L. As used in this section:

(1) "correctional facility" means a jail, prison
or other detention facility that is used for the confinement of
adult or juvenile persons, whether operated by the state or a political subdivision of the state or a private contractor on behalf of the state or a political subdivision of the state;

(2) "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, crisis triage center, freestanding birth center, adult daycare facility, nursing home, intermediate care facility, assisted living facility, boarding home not under the control of an institution of higher learning, child care facility, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age, day treatment center that serves persons up to twenty-one years of age, health service organization operating as a freestanding hospice or a home health agency or facilities that, by federal regulation, are required to be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding, but does not include the offices and treatment rooms of licensed private practitioners; and

(3) "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico."