

LFC Requester:	Ismael Torres/H Gaussoin
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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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:
Original **Amendment**
Correction **Substitute**

Date 1.18.24
Bill No: HB133

Sponsor: Reps. McQueen & Ortez
Short Title Oil and Gas Act Changes

Agency Name and Code Office of Natural Resources Trustee
Number: 66800
Person Writing Maggie Hart Stebbins
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
indeterminate	indeterminate	indeterminate	Recurring	Oil Conservation Systems and Hearings Fund

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: - No

Duplicates/Relates to Appropriation in the General Appropriation Act - No

SECTION III: NARRATIVE

BILL SUMMARY: Purpose of the Act: To authorize the Oil and Conservation Division (“OCD”) of the Energy, Minerals and Natural Resources Department (“EMNRD”) to (1) regulate oil and gas well transfers, (2) regulate the conversion of oil and gas wells for energy storage and geothermal development, (3) increase OCD’s application, permitting and hearing fees, (4) increase the financial assurances associated with oil and gas well operations, (5) increase the civil penalties that OCD may impose, (6) allow fees to be annually adjusted for inflation, (7) require the capture of 98% of natural gas produced, and (8) require setbacks from oil and gas facilities.

Section 1. Amends NMSA 1978, Section 7-2-12 (Enumeration of Powers), as follows:

1. Amends NMSA 1978, Section 7-2-12 (B) (23) by granting OCD the authority to adopt rules and orders “to regulate the transfer of oil and gas wells or facilities, including” the authority to impose limitations on transfers in the event of a significant history of noncompliance, a failure to provide adequate financial assurance, a lack of financial capacity, or when OCD deems the limitations necessary to mitigate risk.
2. Amends NMSA 1978, Section 7-2-12 (B) (24) by granting OCD the authority to promulgate regulations and orders “to authorize the conversion of an oil and gas well to a facility that supports energy storage or geothermal development.”

Section 2. Amends NMSA 1978, Section 70-2-14 (Requirement for Financial Assurance), as follows:

1. Amends NMSA 1978, Section 70-2-14 (A) by increasing the maximum financial assurance that OCD can require of “[e]ach person, firm, corporation or association who operates an oil, gas or service well within the state” from \$250,000 to \$10,000,000.
2. Amends NMSA 1978, Section 70-2-14 (C) by granting the Director of OCD the authority to take action to collect “any financial assurance [that] is forfeited pursuant to the provisions of the Oil and Gas Act or any rules promulgated pursuant that act.”

Section 3. Amends NMSA 1978, Section 70-2-31 (Violations of the Oil and Gas Act – Penalties), as follows:

1. Amends NMSA 1978, Section 70-2-31(D) by (a) increasing the maximum daily civil penalty for violations of the Oil and Gas Act from \$2,500 to \$10,000, or, where 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,” from \$10,000 to \$25,000, and (b) removes the \$200,000 maximum civil penalty cap.

Section 4. Amends NMSA 1978, Section 70-2-39 (Fee Adjustments – Oil Conservations Division Systems and Hearings Fund Created), as follows:

1. Amends NMSA 1978, Section 70-2-39 (A) to give OCD the authority, beginning January 1, 2027, to annually adjust for inflation the fees OCD assesses for permits, applications and administrative hearings.
2. Amends NMSA 1978, Section 70-2-39 (A) (1) by increasing the application fee for a “permit to drill, deepen, plug back or reenter a well” from \$500 to \$1,500.
3. Amends NMSA 1978, Section 70-2-39 (A) (2) by increasing the application fee 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” from \$150 to \$450.
4. Amends NMSA 1978, Section 70-2-39 (A) (2) by increasing the application fee for “a fluid injection well permit” from \$500 to \$1,500 “per well.”
5. Amends NMSA 1978, Section 70-2-39 (A) (5) by increasing the application fee for “an administrative hearing, re-hearing or de novo hearing before the division or commission” from \$500 to \$1,500 “per application.”
6. Amends NMSA 1978, Section 70-2-39 (A) (5) by increasing the application fee for “a continuance of an administrative hearing, re-hearing or de novo hearing before the division or commission” from \$150 to \$450 “per application”.
7. Amends NMSA 1978, Section 70-2-39 (B) by granting OCD the authority, beginning January 1, 2027, to use the prior year’s consumer price index to annually adjust application, permitting and hearing fees.

Section 5. Adds a new section to the Oil and Gas Act that grants OCD the authority, beginning January 1, 2027, to require natural gas operators to annually capture “at least ninety-eight percent of the natural gas produced or gathered,” with exceptions for “natural gas released during an emergency or that is beneficially used by the operator.”

Section 6. Adds a new section of the Oil and Gas Act that grants OCD the authority, beginning July 1, 2024, to require, for health and human safety, and for the protection of the environment, minimum setback distances for any new well pad, production facility, tank battery, compressor station or gas plant. This new section contemplates a commission with the authority to approve deviations from the setback requirements, the authority to adopt rules to increase setback requirements when necessary to fulfill the purposes of the act, and the authority to adopt rules that provide for administrative proceedings before OCD for the processing of setback deviation requests.

FISCAL IMPLICATIONS

HB133 proposes to increase fees associated with oil and gas wells in New Mexico. Changes include increases in OCD's application, permitting and hearing fees; increases in financial assurance associated with operating oil and gas wells; and increases in civil penalties for violations of the Oil and Gas Act. HB133 allows for all fees in the Act to be adjusted to account for inflation. The increases in fees and penalties would result in additional revenue to the State. The changes will better protect State taxpayers from incurring costs when oil and gas well operators fail to comply with requirements to properly decommission wells and associated infrastructure and fail to remediate releases of oil and/or gas at well sites.

SIGNIFICANT ISSUES:

Relationship to ONRT: The proposed amendments to the Oil and Gas Act will reduce taxpayer costs associated with oil, gas, and service wells and infrastructure. Among those costs are the expenses incurred in remediating contamination caused by well operations and restoring well locations post-closure.

The Office of the Natural Resources Trustee (ONRT) is charged with restoring New Mexico's natural resources that have been injured by releases of oil and/or gas. However, ONRT's authority under the Federal Oil Pollution Act is limited to releases of oil and gas that reach Waters of the United States (WOTUS) so ONRT cannot pursue Natural Resource Damage (NRD) claims for releases at well sites. NRD claims require the parties responsible for pollution to pay the costs of restoration. The additional financial resources provided to the Oil Conservation Systems and Hearings Fund will allow OCD to conduct remediation and restoration activities at no cost to taxpayers.

PERFORMANCE IMPLICATIONS: The amendments proposed in HB133 better protect New Mexico taxpayers from incurring the costs associated when oil and gas well operators fail to decommission, remediate, and/or restore well sites once wells are no longer in use. Additionally, the provisions that require natural gas operators to annually capture "at least ninety-eight percent of the natural gas produced or gathered" will reduce air pollution in the state, reduce carbon emissions, and protect the health of communities located near oil and gas production wells.

ADMINISTRATIVE IMPLICATIONS: No administrative implications for ONRT

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP: No duplication

TECHNICAL ISSUES: None identified

OTHER SUBSTANTIVE ISSUES: None identified

ALTERNATIVES: None identified

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting HB133 will result in New Mexico taxpayers continuing to pay for environmental remedial and restoration activities required when oil and gas natural gas well operators fail to honor

the obligations contained in the Oil and Gas Act.

AMENDMENTS None