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FISCAL IMPACT REPORT

SPONSOR <u>McQueen</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/26/2025</u>
SHORT TITLE <u>Costs of Plugging & Abandonment of Wells</u>	BILL
	NUMBER <u>House Bill 481</u>
	<u>Davidson/Dodson/</u>
	ANALYST <u>Joyce</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Remediation Costs		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Nonrecurring	Oil and Gas Reclamation Fund

Parentheses () indicate revenue decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 403

Sources of Information

LFC Files

Agency Analysis Received From
 Energy, Minerals and Natural Resources Department (EMNRD)

Agency Analysis was Solicited but Not Received From
 New Mexico Attorney General (NMAG)

Agency Declined to Respond
 New Mexico Environment Department (NMED)

SUMMARY

Synopsis of House Bill 481

House Bill 481 (HB481) amends sections of the Oil and Gas Act, adding language requiring past and present operators, owners, and/or lessees of oil and gas exploration facilities to reimburse the Oil and Gas Conservation Division (OCD) for costs incurred by the state associated with plugging, deconstructing, and remediation of abandoned and/or orphan wells, flow lines and other environmental contamination related to oil and gas exploration, development, and production.

The bill specifies that affected entities can come to agreement among themselves about which entity is responsible for payment but reserves the right for the state to seek reimbursement from any party.

The effective date of this bill is July 1st, 2025.

FISCAL IMPLICATIONS

When an operator does not plug a well in accordance with administrative rules, OCD has the authority to plug the well itself. OCD currently deploys a mixture of state and federal funding for the plugging and remediation of those ‘abandoned’ wells. State funding comes primarily from the oil and gas reclamation fund, which receives distributions from the oil and gas conservation tax. If House Bill 481 is implemented, OCD would be able to directly recover cleanup costs from operators and those with an interest in the well or facility, possibly reducing the need for the use of the reclamation fund.

Prior to drilling, operators in the state must put up financial assurance to guarantee the eventual plugging of the well, often called an ‘oil bond’. The bond level is set depending on the number of permitted wells:

- Active well “single”: \$25,000 plus \$2 per foot of the projected depth of a proposed well
- Active well “blanket” (Note: NMSA 70-2-14 set “blanket bond” limit at 250k):
 - \$50,000 for one to 10 wells;
 - \$75,000 for 11 to 50 wells;
 - \$125,000 for 51 to 100 wells; and
 - \$250,000 for more than 100 wells.

It is unclear as the bill is written whether the recovered costs include forfeited bonds.

OCD costs for plugging in FY24 averaged \$163 thousand per well, but plugging costs can vary widely based on well depth, age, type, and contractor availability. Environmental remediation for spills and cleanup of infrastructure associated with wells (tank batteries, gathering lines etcetera) can cost considerably more than plugging. Due to these factors, LFC estimates the potential costs to the operators to reimburse the state for remediation and plugging costs could range between \$30 thousand to potentially millions, depending on the scale of remediation needed.

Analysis from the Energy, Minerals and Natural Resources Department (EMNRD) notes the bill has the potential to establish a more “efficient pathway for OCD to seek indemnification” i.e. compensation for harm to the state. EMNRD analysis notes passage of the bill also has the potential to mitigate civil litigation OCD is involved in, which could increase the amount of funding the division uses to plug wells.

SIGNIFICANT ISSUES

Current Operations. In FY24, OCD contracted entities to plug 105 abandoned or orphaned wells. OCD estimates there are over 2,000 abandoned or orphaned wells in the state, with this total depending on how abandoned is defined. OCD currently has the ability within statute to sue an operator for reimbursement for costs related to plugging, remediation, and deconstruction. However, litigation can be lengthy and expensive, and many operators that abandon their wells are financially insolvent, leaving decisions about allocation of their assets up to bankruptcy courts.¹ House Bill 481 enables OCD to require operators with “prior interest” to reimburse the division for remediation and plugging operations, which would expand liability for cleanup to everyone who profited from the well or facility.

¹ <https://www.koat.com/article/dry-wells-new-mexico-cost-millions/46290123>

Statute. Current statute provides OCD with the authority to require oil and gas operators to plug dry or abandoned wells, and the authority to expend monies from the reclamation fund to plug dry or abandoned wells (Section 70-2-12 NMSA 1978). Abandoned well is not defined in statute. In administrative rule, OCD requires oil and gas operators to plug wells that have been continuously inactive for more than a year or subsequent to a determination that the well is no longer useable for beneficial purposes, although there are a number of exceptions to those rules. The purpose of plugging is to protect both surface and subsurface resources, including groundwater.

Legal Context. A recent agreement between the state and Ridgeway Arizona (an active oil and gas company) resulted in OCD taking responsibility for plugging 299 of the company's inactive wells, with the company reimbursing the state at least \$30 thousand a month as long as it remains in business. OCD spent roughly \$1.3 million in FY24 plugging six wells belonging to Ridgeway, for an average cost of \$210 thousand. The settlement has the potential to set a precedent whereby an operators that claims it cannot plug its abandoned wells is able to shift responsibility to the state. House Bill 481 would instead shift the responsibility to those with a prior financial interest in the well.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 481 relates to House Bill 403. House Bill 403 increases the distribution to the oil and gas reclamation fund from the oil and gas conservation tax from 19.7 percent to 100 percent over a three-year phase-in, significantly expanding the funds available to OCD for remediation and plugging operations. If both bills are passed, the extra funds created from HB403 could be duplicative due to HB481 making operators responsible for reimbursing cleanup costs, not the state.

POSSIBLE QUESTIONS

The bill does not provide a clear mechanism for collection of the reimbursement or specify if the reimbursement is deposited into the oil and gas remediation fund. Further, the bill does not specify clear guidelines for OCD to determine proportional responsibility of current and prior operators.

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