FISCAL IMPACT REPORT

ORIGINAL DATE	02/27/17	
SPONSOR Tallman	**LAST UPDATED**	**HB**
SHORT TITLE Post Oil and Gas Industry Info on Website		**SM** 88
		ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	40.0	40.0	40.0	120.0	Recurring	General Fund
Total	900.4	0	0	900.4	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION
LFC Files

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

SUMMARY

Synopsis of Bill

Senate Memorial 75 asks the Oil and Conservation Division (Division) of the Energy, Minerals and Natural Resources Department (EMNRD) to post on its website in an easily accessible format specifically identified oil and gas-related information from 2008 through 2016 by November 1 2017. The memorial also asks EMNRD to present recommendations on what could help it address public concern about the impact of drilling on ground water to the governor and appropriate legislative interim committee by that same date.

FISCAL IMPLICATIONS

EMNRD will have to contract with data quality assurance company to ensure the information it is required to post is complete and accurate. Based on the amount of data, it will take approximately one year to review the accuracy and completeness of the data at cost of $381.9 thousand. The department would then have to create queries and reports to post historical and future violation data on its website at a cost of $50.5 thousand. Its internal computer staff would

have to program and create links to the oil and gas reclamation fund activity and financial statements to make them available on its website at a cost of $8 thousand. Finally, EMNRD would have to review thousands of boxes of historical data to categorize spills at a cost of approximately $500 thousand. Continuing to make accurate and complete oil and gas data called for in the memorial available will cost the department about $40 thousand each year.

SIGNIFICANT ISSUES

EMNRD points out that SM88 requests the Division to post "the number of stripper, active, temporary and inactive oil and gas wells by county." The Division generally considers a "stripper" well one that produces less than 10 bbls per day. The Oil and Gas Act, or its regulations, have no legal definition of a "stripper well".

The Division is unclear of the requirement to post violations of the Oil and Gas Act presented as a general categorization of the violations and "an indication of those that threaten or contaminate ground water." Specifically, the Division is unclear if SM88 created two categories of violations—threatens or contaminates—or if the categorization is one—threatens and contaminates. If SM88 creates the former, the Division is unclear as to the definition of "threatens". Further, the Division has not historically maintained or categorized information in such a manner, and, therefore, complying with this historic data collection and posting requirement would require the Division to reevaluate every historical spill release, which the Division does not have the personnel or funds to accomplish by November 2017.

SM88 requests the Division to post the number of violations and the amount of fines collected under the Oil and Gas Act. Until 2012, the Division collected fines. In 2009, the New Mexico Supreme Court issued a decision stating the Division and the Oil Conservation Commission did not have the authority under the Oil and Gas Act to assess fines. Accordingly, both the Commission and Division ceased assessing fines. Any fines collected are done through the Attorney General's Office, and, ultimately, if a matter goes to a court proceeding, the Attorney General may be the best entity to have any information regarding fines collected. The only time the Division would have information regarding fines collected would be if an EMNRD attorney collected a fine through a special commission through the Attorney General's Office.

Further, SM88 requests "a list of the oil and gas facilities fined for having committed a violation…." The Division does not fine "facilities." A "facility" is expressly defined in 19.15.2 NMAC as "a structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock or activity of any kind, whether stationary or mobile"; the meaning, therefore, as used in SM88 is confusing to the Division.

Moreover, SM88 requests "the volumes of natural gas leaked, vented and flared per well" and the mineral ownership of the operator. The reporting of such information on a per well basis is inconsistent with the current reporting requirements for operators and would require an overhaul of how operators report data to the Division. Presently, operators report venting and flaring on a per lease basis, rather than a per well basis. In addition, the vented and flared data was not separated prior to 2016, so the Division would not be able to comply with this requirement. Further, the Division does not maintain "mineral ownership".

ADMINISTRATIVE IMPLICATIONS

The requirements of the memorial will require additional staff or redirecting existing staff, including inspectors away from current responsibilities.

OTHER SIGNIFICANT ISSUES

Link to data and statistics maintained by EMNRD,
http://www.emnrd.state.nm.us/OCD/statistics.html

ALTERNATIVES

EMNRD suggests using terms defined in the Oil and Gas Act and its rules to maintain consistency and avoid vagueness. Also remove requirements inconsistent with its rules or legal rulings.

ABS/jle