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FISCAL IMPACT REPORT

SPONSOR	House Energy, Environment and Natural Resources Committee	LAST UPDATED	2/28/2025
		ORIGINAL DATE	2/10/2025
SHORT TITLE	Fracturing Fluid Disclosure and Use	BILL	CS/House Bill
		NUMBER	222/HENRCS
		ANALYST	Davidson

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Oil and Gas Revenue	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
EMNRD	No fiscal impact	\$400.0	\$400.0	\$800.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 212

Sources of Information

LFC Files

Agency Analysis Received From

Energy, Minerals and Natural Resources Department (EMNRD)
New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From

Office of the State Engineer (OSE)

Agency Declined to Respond

Environment Department (NMED)

SUMMARY

Synopsis of HENRC Substitute for House Bill 222

The House Energy, Environment and Natural Resources Committee substitute for House Bill 222 proposes to amend sections of the Oil and Gas Act to ban the use of per- and polyfluoroalkyl substances (PFAS) and any undisclosed chemicals in downhole oil and gas operations. The bill requires operators to disclose the chemicals use in fracturing and downhole oil and gas operations.

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

FISCAL IMPLICATIONS

The Energy, Minerals and Natural Resources Department (EMNRD) notes implementation of House Bill 222 (HB222) could require increasing the agency's recurring budget by \$400 thousand. The additional funds would be used to hire two petroleum engineers and one additional attorney to fulfill the added reporting, analysis, and enforcement responsibilities in the bill.

House Bill 222 has the potential to impact oil and gas production and related state revenues. EMNRD further raises concerns about House Bill 222's blanket ban on all undisclosed chemicals in downhole operations, chemicals currently protected by the state Uniform Trade Secrets Act (UTSA) and, in some cases, chemicals the industry considers necessary for operations. The ban could both impact production and be difficult to implement:

Affected chemicals are not controlled or identified as trade secrets by oil and gas operators but by the chemical suppliers. Operators cannot control which are held confidential and may have to utilize less effective alternatives. This could result in subpar completion or treatment chemicals being used, resulting in less efficient completions and resource recovery. Prohibiting use of undisclosed chemicals or removing trade secret protections may disincentivize use of the most effective additives and create a chilling effect for development in the state.

Because no other state has instituted a blanket ban on undisclosed chemicals or PFAS, it is difficult to estimate the potential impact of House Bill 222 on the state's oil and gas industry and related state revenues.

SIGNIFICANT ISSUES

The New Mexico Attorney General (NMAG) expresses concerns relating to House Bill 222 and the state UTSA. Due to UTSA labeling component chemicals and percentage mixture of chemicals in fluids used for downhole operations as trade secrets, the public dissemination of such information has the potential to violate state law. NMAG analysis notes the provisions of House Bill 222 may not violate the state's current Inspection of Public Records Act (IPRA). Thus, the Oil Conservation Division (OCD) would be able to collect information from operators without being in violation of IPRA, though they would not be able to disseminate it to the public without possibly violating the UTSA.

NMAG notes, while House Bill 222 would require operators to disclose the chemicals used in operations beyond current regulations, current New Mexico Administrative Code regulations require operators to submit hydraulic fracturing disclosures after completing downhole operations. The disclosures also already use the National Hydraulic Fracturing Chemical Registry, which the bill also aims to implement, though these disclosures have specific carve outs to accommodate trade secrets. EMNRD echoes NMAG, noting the additional reporting requirements proposed in duplicate OCD's existing authority and common reporting done by the industry to OCD.

EMNRD expresses concern passage of House Bill 222 would have direct implications for an ongoing rule-making process before the Oil Conservation Commission (OCC) regarding the topic of chemical disclosure and trade secrets. OCC has not ruled yet and parties still not have given closing arguments; the passage of House Bill 222 would disrupt this process.

EMNRD notes Section D, which states, “A manufacturer, direct vendor or service company shall share information with the operator necessary to comply with this section at the request of the operator,” has the potential to significantly expand OCD’s authority to regulate activities related to chemical manufacturers and distributors. This expansion of authority has the potential to overlap with the authority of other agencies and would require OCD to recruit and expand its division to implement an authority beyond its current scope.

EMNRD notes House Bill 222’s impact on operators, trade secrets materials, and the use of them in operations has the potential to either simply incentivize operators to not use trade secret material in the state, which could potentially impact effective operations, or incentivize the industry to move to states that do allow for use of trade secret materials. EMNRD analysis notes either instance could impact state revenues.

Further, EMNRD notes House Bill 222’s prohibition of trade secret materials is “too broad, not connected to science-based human health or environmental concerns and negatively affects oil and gas recovery.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB222 relates to House Bill 212, which would create the Per- and Poly-Fluoroalkyl Substance Protection Act

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