

## Initiative #97 Increased Setback Requirement for Oil and Natural Gas Development

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2     ◆ require that new oil and natural gas development be located at least 2,500 feet  
3     from occupied structures, water sources, and other areas designated as  
4     vulnerable.

### 5 **Summary and Analysis**

6     Proposition ? requires that any new oil and natural gas development be located at  
7     least 2,500 feet from occupied structures and other areas designated as vulnerable.  
8     This type of requirement is commonly known as a setback. Entering a previously  
9     plugged or abandoned oil or natural gas well is held to this same setback requirement.  
10    The measure also allows the state or a local government to require a setback distance  
11    greater than 2,500 feet. If two or more local governments with overlapping boundaries  
12    establish different setbacks, Proposition ? requires that the greater distance be used.  
13    The measure does not apply to federal land, which includes national forests and parks  
14    and comprises about 36 percent of the land in Colorado.

15  
16    Under the measure, oil and natural gas development includes the exploration for,  
17    and the drilling, production, and processing of oil or natural gas. Oil and natural gas  
18    development also includes hydraulic fracturing, flowlines between oil and natural gas  
19    facilities, and the treatment of associated waste. Occupied structures include most  
20    buildings where people live or work. Proposition ? designates certain areas as  
21    vulnerable, including certain recreation areas and water sources, such as public and  
22    community drinking water sources, canals, reservoirs, lakes, rivers and streams  
23    (whether continuously flowing or not), and any other area designated by the state or a  
24    local government as vulnerable.

25    ***State regulation of oil and natural gas.*** The Colorado Oil and Gas Conservation  
26    Commission (COGCC) in the Colorado Department of Natural Resources establishes  
27    and enforces regulations on oil and natural gas operations in the state. The COGCC is  
28    charged with fostering the responsible development, production, and use of oil and  
29    natural gas resources in a manner that protects public health, safety, welfare, and the  
30    environment. The COGCC consults with the Colorado Department of Public Health and  
31    Environment (CDPHE) to consider the health and safety of the public when regulating oil  
32    and natural gas operations. The CDPHE regulates air pollution, the discharge of water  
33    to surface water bodies, and the disposal of hazardous waste related to industrial  
34    activities, including oil and natural gas operations.

35    ***Existing setback requirements.*** Current COGCC regulations, approved in 2013,  
36    prohibit oil and natural gas wells and production facilities from being located closer than:

- 37     • 500 feet from a home or other occupied building; and  
38     • 1,000 feet from high-occupancy buildings such as schools, health care  
39     institutions, correctional facilities, and child care centers, as well as  
40     neighborhoods with at least 22 buildings.

1 The surrounding area encompassed by the current 500-foot setback includes about  
2 18 acres, and the 1,000-foot setback area includes about 72 acres. Proposition ?  
3 increases the setback to a minimum of 2,500 feet, or about 450 surrounding acres.

4 The current setback requirement may be waived in certain instances by the COGCC  
5 and a building owner. Proposition ? does not include a similar waiver provision.

6 ***Oil and natural gas resources in Colorado.*** Geologic formations containing oil  
7 and natural gas are found in many areas of Colorado, with some formations underlying  
8 multiple local communities. Recent development of these resources has been  
9 concentrated in Weld, Garfield, La Plata, Rio Blanco, and Las Animas Counties, as well  
10 as portions of surrounding counties. Most of the state's oil production occurs in the  
11 Denver-Julesburg Basin, primarily in Weld County and other nearby counties. A  
12 COGCC map of current oil and natural gas activity can be found online at:

13 <http://XX>

14 Oil and natural gas resources are owned or leased by many different private  
15 companies, governments, financial institutions, nonprofits, and private individuals. Oil  
16 production in Colorado doubled between 2013 and 2017. Natural gas production in  
17 Colorado has been stable over the past ten years. In 2016, Colorado ranked seventh  
18 among the states in domestic oil production and fifth in natural gas production. In 2017,  
19 there were about 54,000 producing wells in Colorado, a 48 percent increase since 2007.

20 ***Oil and natural gas extraction technologies.*** Changes in industry technologies,  
21 such as hydraulic fracturing, or "fracking," and horizontal drilling, have led to substantial  
22 oil and natural gas production increases in Colorado and nationally, as well as an  
23 increase in the number of wells and related facilities. Hydraulic fracturing is used for  
24 most new wells and involves pumping a mixture of mostly water and sand, and small  
25 amounts of chemicals and other additives, into underground rock layers where oil or  
26 natural gas is located. The pressure of the water creates small fractures in the rock.  
27 The sand keeps the fractures open, allowing the oil or natural gas to escape and flow up  
28 the well. Hydraulic fracturing enables access to oil and natural gas formations that were  
29 previously inaccessible. Horizontal drilling enables oil and natural gas operators to drill  
30 multiple wells from a single location to improve their efficiency and minimize surface  
31 disturbances. With current technologies, oil and natural gas wells have the greatest  
32 production in their first year of operation and decrease in production each successive  
33 year until the wells are depleted.

34 ***State and local revenue from oil and natural gas.*** Companies that extract mineral  
35 resources, including oil and natural gas, coal, and metallic minerals, pay severance  
36 taxes to the state. Oil and natural gas tax collections fluctuate annually. From budget  
37 years 2012-13 to 2016-17, state severance tax collections from oil and natural gas  
38 producers ranged from \$4.0 million to \$264.7 million per year. Under current law,  
39 Colorado severance tax revenue is split between state programs and local governments.  
40 The state also collects some revenue from royalty and lease payments. Oil and natural  
41 gas producers also pay income taxes, sales taxes, and local property taxes. In 2017,  
42 Colorado oil and natural gas producers paid an estimated \$496.7 million in property  
43 taxes to impacted local governments, school districts, and special districts.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

## 1 Arguments For

- 2 1) Oil and natural gas operations may adversely impact public health, safety, and  
3 the environment. Some people living near these operations have reported  
4 negative health effects to the CDPHE, including irritation of the eyes, nose,  
5 throat, lungs or skin, or other symptoms such as headaches, dizziness, nausea,  
6 and vomiting. Such development may also increase noise, traffic, dust, light, and  
7 odors. Proposition ? requires that new oil and natural gas development be  
8 located farther away from homes, schools, businesses, and other occupied  
9 buildings, thereby reducing nuisance impacts and potential exposure to air  
10 pollutants. Proposition ? also establishes a required setback for water sources  
11 and recreation areas.
- 12 2) Over the past several years, Colorado's northern Front Range has seen both  
13 substantial urban development and increased oil and natural gas activity.  
14 Proposition ? provides property owners with greater certainty about the location  
15 of new oil and natural gas development in their communities. Keeping oil and  
16 natural gas development farther away from occupied structures reduces resident  
17 exposure to industrial activity and the potential hazards related to such activity. It  
18 may also improve the quality of life for nearby residents. Some people are  
19 reluctant to purchase or rent a home or visit a business or recreation area  
20 located near oil or natural gas development.

## 21 Arguments Against

- 22 1) Proposition ? eliminates new oil and natural gas activity on most non-federal land  
23 in Colorado. According to the COGCC, about 85 percent of Colorado's non-  
24 federal land would be excluded from development with the required 2,500-foot  
25 setback. Oil and natural gas development is important to Colorado's economy,  
26 generating an estimated \$10.9 billion in production value in 2017. Proposition ?  
27 will reduce the economic benefits the oil and natural gas industry provides for the  
28 state and may result in the loss of jobs, lower payments to mineral owners, and  
29 reduced tax revenue that is used for local schools and other governmental  
30 services and programs.
- 31 2) Proposition ? is unnecessary because the existing COGCC setback  
32 requirements provide a balanced approach to protecting public health, safety,  
33 and the environment. The state's existing setback requirements were developed  
34 through a collaborative rule-making process and guided by technical expertise.  
35 When adopting its setback rules, the COGCC considered the concerns of mineral  
36 owners, residents, schools, businesses, and others. Under current law, the  
37 COGCC has the authority to modify setback requirements in the future, if  
38 necessary.

## 1 **Estimate of Fiscal Impact**

2       **State government revenue and spending.** Proposition ? is expected to decrease  
3 the amount of severance tax, royalty payments, and lease revenue that state  
4 government collects in the future. Because the measure does not impact existing oil and  
5 natural gas development, no immediate impact on state revenue is anticipated; however,  
6 because the measure reduces the surface land available for the development of new oil  
7 and natural gas operations, future state revenue from these sources will be reduced.  
8 Proposition ? will also reduce future income taxes to the state to the degree that oil and  
9 natural gas production is decreased. Since the economic conditions and geographic  
10 limitations affecting oil and natural gas production are uncertain, the specific reductions  
11 in state revenue cannot be estimated.

12       **Department of Natural Resources.** Severance tax revenue received by the state  
13 funds both operating expenses of the department and specific programs, including water  
14 supply project grants, low-income energy assistance, control of invasive species, and a  
15 variety of other programs. Funding for these programs will be reduced.

16       **Local government revenue and spending.** Proposition ? is also anticipated to  
17 reduce future property tax revenue collected by local governments. Limitations on new  
18 drilling will reduce local property tax collections, since producing well sites have higher  
19 assessed value than inactive nonproducing areas. The change in local revenue and  
20 expenditures also cannot be estimated. Local governments receive a share of the  
21 state's severance taxes to offset the impacts of oil and natural gas development. This  
22 revenue will be reduced.