Colorado Legislative Council Staff

Initiative # 97

FISCAL IMPACT STATEMENT

Date: August 20, 2018 **Fiscal Analyst:** Josh Abram (303-866-3561)

BALLOT TITLE: SETBACK REQUIREMENT FOR OIL AND GAS DEVELOPMENT

Fiscal Impact Summary	FY 2020-21	FY 2021-22
State Revenue	Reduction	
State Expenditures	Reduction	

Summary of Measure

If approved by voters, Initiative 97 requires that new oil and natural gas development not on federal land be located at least 2,500 feet from an occupied structure or vulnerable area. A state or local government may require a setback greater than 2,500 feet. If two or more local governments with overlapping jurisdictions establish different setback requirements, the larger setback is applied.

Oil and gas development is defined as the exploration for, and the drilling, production, and processing of gas and liquid hydrocarbons. This includes gas flowlines, and the treatment of waste associated with oil and gas development. Renewed production of an oil or gas well that had previously been plugged or abandoned is considered new development.

Occupied structures means any building that requires a certificate of occupancy or is intended for human occupancy, including homes, hospitals, and schools. Vulnerable areas include playgrounds, permanent sports fields, amphitheaters, public parks, public open space, public and community drinking water sources, irrigation canals, reservoirs, lakes, rivers, perennial or intermittent streams, and creeks. The state or a local government may designate additional vulnerable areas, which must then be considered for any setback site calculation.

Background

Setback requirements for oil and natural gas facilities. The required distance from an oil and natural gas facility and a home or other structure is commonly known as a setback requirement. Current state regulations, approved in 2013, prohibit oil and natural gas wells and production facilities from being located closer than:

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

Currently, the 500-foot setback prohibits oil and gas development on about 18 acres surrounding a given point, and the 1,000-foot setback prohibits development on about 72 acres. This measure increases the setback to a minimum of 2,500 feet, or about 450 surrounding acres.

State and local revenue from oil and natural gas. Companies that extract mineral resources, including oil and natural gas, coal, and metallic minerals, pay severance taxes to the state. Oil and natural gas producers also pay income taxes, sales taxes, use taxes, and local property taxes.

State Revenue

The measure is expected to decrease state revenue in the future from severance taxes, royalty payments from development on state land, and lease revenue from development on non-federal land. Because the measure does not impact existing development, no immediate impact on state revenue is anticipated; however, because the measure reduces the surface land available for the development of new oil and gas production, future state revenue from these sources will be reduced. The measure may also reduce future income, sales, and use taxes to the state to the degree that oil and natural gas production is decreased.

The setback requirement is applicable to oil and natural gas production on state and private land, and does not affect current wells or new production on federal land. The impact on production will vary regionally depending on the share of overall land privately held, population density, and proximity to vulnerable areas. Since the economic conditions and geographic limitations affecting oil and natural gas production are uncertain, the specific reductions in state revenue cannot be estimated.

State Expenditures

Severance tax revenue received by the state funds both general operating expenses of and specific programs in the Department of Natural Resources, including water supply project grants, low-income energy assistance, control of invasive species, and a variety of other programs. Any decrease in severance taxes will reduce the amount of funds available for these uses.

Local Government Impact

The measure will reduce property tax collections at the local level. For FY 2016-17, $496.7 million was collected locally from property taxes from oil and gas development, representing 82.5 percent of all tax revenue. In heavily populated counties and counties with geographically vulnerable areas, the measure is anticipated to reduce the surface land available for future oil and gas exploration and development, therefore reducing property taxes collected for the local governments in those areas. The measure is also expected to decrease the amount of severance tax revenue that state government collects and shares with local governments most directly impacted by oil and natural gas development. The measure's impact on local revenue and expenditures will depend on the overall impact on state severance tax revenue and the assessed value of oil and natural gas development in each taxing jurisdiction as a result of future prohibitions on new development. As such, the change in local revenue and expenditures cannot be estimated.

Effective Date

The measure takes effect upon official declaration of the governor and applies to oil and gas development permitted on or after that date.

State and Local Government Contacts

Counties	Municipalities
Natural Resources	Public Health and Environment