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HOUSE MEMORIAL 92

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Georgene Louis

A MEMORIAL

SUPPORTING LOCAL GOVERNMENTS' ABILITY TO USE THEIR POLICE POWER AND TO REGULATE LAND USE WITHIN THEIR JURISDICTIONS TO MITIGATE THE HARMFUL IMPACTS OF INAPPROPRIATE OIL AND GAS DEVELOPMENT AND PRODUCTION ON WATER AND AIR QUALITY AND OTHER ASPECTS OF THE QUALITY OF LIFE OF THEIR RESIDENTS.

WHEREAS, water is the most valuable resource in New Mexico, necessary to sustain life, enhance the environment and allow for economic development; and

WHEREAS, New Mexico enjoys excellent air quality, which, like water, is a valuable resource, necessary to a healthy quality of life for New Mexico residents and an important attribute to attracting clean industry as part of the state's economic development efforts; and

WHEREAS, an important aspect of living in New Mexico is

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1 the enjoyment of a beautiful environment, grand vistas, starry  
2 nights and places of solitude; and

3 WHEREAS, oil and gas development and production are  
4 critical to New Mexico, accounting for a significant portion of  
5 the state's finances and economic well-being; and

6 WHEREAS, if properly regulated, the potential but  
7 undisputed negative impacts associated with natural gas and oil  
8 exploration, extraction, treatment, storage and transportation,  
9 such as concentrated and extra-heavy truck traffic on local  
10 roads and highways not designed for that traffic; disturbance  
11 of land for clearing, grading, surface preparation and well  
12 pads; erosion and sediment deposition in local waterways;  
13 noise; dust; spillage of flowback water from drilling  
14 processes; construction of new compressor stations;  
15 fragmentation of agricultural lands and forests; toxic air  
16 emissions; pollution of local surface waters and aquifers; and  
17 degradation of aesthetic values, can be eliminated or  
18 minimized; and

19 WHEREAS, the technical, legal and resource conservation  
20 aspects of oil and gas development and production within the  
21 state are regulated pursuant to the Oil and Gas Act and the  
22 Surface Owners Protection Act; and

23 WHEREAS, the regulation provided in those acts does not  
24 conflict with local governments' authority to promote the  
25 health and well-being of their residents nor local governments'

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1 obligation to promote the interests of the public over private  
2 interests in accord with state-granted police powers and to  
3 regulate land use in the public interest pursuant to their  
4 zoning authority; and

5 WHEREAS, local governments, in exercising their police  
6 power and zoning authority, are able to take into consideration  
7 the specific concerns of their communities regarding traffic  
8 congestion, noise, dangers to their residents' health, safety  
9 and welfare, and threats to the cultural, historical,  
10 architectural, archaeological and ecological uniqueness of  
11 their communities when regulating the occurrence of the  
12 development and production of oil and gas within their  
13 jurisdictions that are not in the purview of state-level  
14 regulators; and

15 WHEREAS, the supreme courts of Colorado and Pennsylvania  
16 have specifically upheld the authority of local governments to  
17 use their zoning and land-use laws to regulate those aspects of  
18 oil and gas development and production that can have a  
19 deleterious effect on the public health, safety and welfare,  
20 including the right to choose the locations where oil and gas  
21 drilling is or is not appropriate; and

22 WHEREAS, Mora and Santa Fe counties in New Mexico have  
23 exercised their recognized authority to enact laws to protect  
24 their water and air quality, cultural properties and quality of  
25 life from degradation that they determined could result from

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1 oil and gas development that is not otherwise regulated to  
2 protect those values;

3 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
4 REPRESENTATIVES OF THE STATE OF NEW MEXICO that it will work to  
5 maintain the ability of local governments to exercise their  
6 police power and land-use regulatory authority to protect their  
7 water and air quality, cultural properties, quality of life and  
8 other aspects of the public health, safety and welfare from the  
9 potential negative impacts of oil and gas development and  
10 production, whether or not that exercise results in ordinances  
11 or resolutions that are more protective than general state laws  
12 and regulations that protect the public health, safety and  
13 welfare; and

14 BE IT FURTHER RESOLVED that copies of this memorial be  
15 sent to the executive director of the New Mexico municipal  
16 league, the executive director of the New Mexico association of  
17 counties, the director of the oil conservation division of the  
18 energy, minerals and natural resources department and the  
19 governor.