

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: Jan 22, 2025

Check all that apply:

Bill Number: HB35

Original Correction
Amendment Substitute

Sponsor: Rep. Sariñana, Rep. Ferrary

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Children’s Health Protection Zones

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill would create “Children’s Health Protection Zones” extending 5,280 feet from the property lines of elementary, secondary, middle, and high schools, and restrict and monitor oil and gas production activities within those zones.

Section 1 amends and adds definitions to Section 70-2-33 NMSA, including adding a definition of a “children’s health protection zone”

Section 2 of the bill amends Section 70-2-12 NMSA and would require OCD to consult with the Environmental Improvement Board to adopt rules to implement and set performance standards for oil and gas operators’ emissions detection systems within these protection zones. OCD would also have the authority to adopt other “necessary” rules to carry out these provisions.

Section 3 of the bill amends Section 70-2-31 NMSA to authorize civil penalties for violations of these standards, assessed either by OCD or OCC after a hearing, or by a court.

Section 4 of the bill creates a new section of the Oil and Gas Act that would prohibit OCD from approving new oil and gas wells in these zones unless a proposed well met the standards for a variance. Variances would be granted for plugging and abandonment operations, or in instances where the Oil Conservation Commission (OCC) after a hearing determined that denial of a permit to drill in a zone would result in severe economic harm to the applicant. However, even with these standards met, OCD would be required to deny a variance if OCC determined that such variance would harm public health.

Section 5 adds a new section to the Oil and Gas Act requiring all operators applying to OCD for a permit to drill would be required to submit documentation showing nearby protection zones and production assets within and around that zone.

Section 6 of the bill creates a new section of the Oil and Gas Act providing that existing wellheads and production facilities within protection zones would be required to adhere to a new set of standards, including operational measures and produced water analysis and reporting.

Section 7 of the bill creates a new section that requires the development of a leak detection and response plan. Any well or production facility within a protection zone where a leak was

detected would be shut down until the leak was corrected and OCD approved the resumption of operations.

Section 8 of the bill creates a new section of the Oil and Gas Act that provides that an operator with facilities in a zone who failed to adopt a detection and response plan by July 1, 2026 would also be required to shut down production until such plan was created and approved by OCD. Additionally, any production facility inside a zone out of compliance with the Air Quality Control Act or local ordinance adopted pursuant to the AQCA would be required to shut down until compliance could be attained.

Section 9 of the bill creates a new section providing that an operator within a protection zone who received a permit to drill under an exception would be required to provide notice to the surrounding property owners of intent to drill, and be required to offer to sample and test water wells and surface water on those properties prior to drilling. If the operator collects a baseline sample prior to drilling, the operator shall collect another sample from the same source no later than sixty days after drilling is complete. All sample analysis would be provided to both the property owner and OCD.

Section 10 of the bill creates a new section providing that operators in protection zones would be required to report annually information concerning their leak detection systems and any water testing done. OCD would be required to report annually to the legislature based on this information.

Section 11 of the bill creates a new section in the Air Quality Control Act, providing that the operator of an oil and gas production facility must immediately suspend operations if the facility is within 5280 feet from the property line of a school and is not in compliance with the AQCA. Operations must be suspended until OCD approves resumption of operations. This section essentially parallels the proposed changes to the Oil and Gas Act within the Air Quality Control Act.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Presently the regulatory powers of the OCC and OCD under 70-2-11 NMSA are limited to preventing waste and protecting correlative rights. HB 35 would create numerous duties unrelated to waste and correlative rights. Although this bill touches on multiple areas of environmental law—drinking water, air quality—it is primarily concerned with data collection and the imposition of additional permitting restrictions.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

Under 70-2-4(C) NMSA, the Attorney General is counsel to the OCC. HB35's addition of new monitoring and permitting requirements about other areas of environmental law and agency authority could lead to additional legal analysis required by NMDOJ.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB34 is a companion to this Bill. HB34 would expand the powers of the Oil Conservation Division to include the protection of public health and the environment.

HB34 does not require HB35 to pass, but HB35 likely requires HB34 to function.

TECHNICAL ISSUES

- Recommend insertion of a serial comma on page 13, line 7, after “division” and before “or”
- Recommend insertion of a serial comma on page 19, line 15, after “odor” and before “or”

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.