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FISCAL IMPACT REPORT

SPONSOR <u>House Judiciary Committee</u>	LAST UPDATED <u>3/13/2025</u>	ORIGINAL DATE <u>2/6/2025</u>
		<u>CS/CS/CS/House</u>
SHORT TITLE <u>Per- & Poly-Fluoroalkyl Protection Act</u>	BILL NUMBER <u>Bill 212/HENRCS/HJCS/HJCS</u>	
	ANALYST <u>Davidson</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMED	No fiscal impact	\$1,800.0	\$1,800.0	\$3,600.0	Recurring	General Fund
NMAG	No fiscal impact	\$387.4 to \$516.5	\$387.4 to \$516.5	\$774.8 to \$1,032.9	Recurring	General Fund
Total		\$2,187.4 to \$2,316.5	\$2,187.4 to \$2,316.5	\$3987.4 to \$4,632.9	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 222

Sources of Information

LFC Files

Agency Analysis Received From
New Mexico Environment Department (NMED)
Department of Health (DOH)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of HJC Substitute for the HJC Substitute for the HENRC Substitute for House Bill 212

The second House Judiciary Committee (HJC) Substitute for the House Energy, Environment and Natural Resources Committee Substitute for House Bill 212 (HB212) proposes to create the Per- and Poly-Fluoroalkyl Substances Protection Act, which defines which consumer or nonconsumer goods (such as certain types of firefighting foam) containing PFAS will be removed or phased out from sale, outlines clear exceptions to the act (such as products or substances within the current federal framework for acceptable PFAS or are that fall within federal exceptions or products classified as unavoidable use by other states), provides a timeline for which goods will be removed when, prohibits the state from procuring consumer products with intentionally added PFAS starting January 2027, prohibits manufacturers from selling products with intentionally added PFAS deemed harmful by state and federal law starting in January 2028, and adds penalties related for noncompliance which will be deposited in the recycling and illegal dumping fund.

HB212 also provides a private right of action, enabling individuals the ability to sue to enforce implementation of the act.

The HJC substitute further outlines exemptions to the PFAS ban, while refining the actions the Environmental Improvement Board (EIB) can take in promulgating rules toward the banning of intentionally added PFAS and products containing PFAS.

The bill also outlines that manufacturers that undertake to sell products with PFAS do not have to disclose any information defined as a trade secret. The bill also places a \$15 thousand a day cap on the civil penalties manufacturers can accrue when not in accordance with the new act.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Analysis from the New Mexico Environment Department (NMED) notes implementation of HB212 could require NMED to add 10 personnel and a total of \$1.8 million in recurring funding. The analysis notes the state has approximately 1,100 public drinking water systems serving 94 percent of the state's residents, and additional personnel would be needed to implement contamination prevention measures.

Analysis from the New Mexico Attorney General (NMAG) notes HB212 would increase the authority and duties of the agency, though due to the unique and new nature of the new authority and duties, the agency did not provide an estimated fiscal impact. NMAG analysis further notes the bill does not specify which agency will receive the civil penalties collected from enforcement actions. The bill does, however, note the penalties will be deposited in the "recycling and illegal dumping fund."

Due to the NMAG not providing an estimate, but stating the bill has the potential of creating an indeterminate amount of additional work for the agency, LFC estimates implementation of HB212 could require NMAG to need three to four additional personnel, priced at the average of the agency's salary.

According to [analysis](#) done by the Minnesota Pollution Control Agency (MPCA), removal of PFAS from the Minnesota's water systems were estimated to cost up to \$28 billion. MPCA estimated wastewater systems potentially having to spend up to \$18 million per pound to remove and destroy PFAS. The effort to remove and destroy PFAs extends beyond the state level, with the U.S. Department of Defense dedicating \$160 million to PFAs destruction and the previous federal administration outlining \$5 billion in the Bipartisan Infrastructure Law to address PFAS contamination across the country.

SIGNIFICANT ISSUES

PFAS is a broad definition for a group of manufactured chemicals that have commonly been used by an array of industries since roughly the 1940s. Different types of PFAS are used in different products for different reasons, such as some fire retardant using certain types of PFAS.

Due to their broad use, which includes plating of electronics and stain- and water-repellant food packaging, PFAS has been found in drinking water, wild animals, and humans.

Analysis from the Department of Health (DOH) notes the levels of PFAS in humans, animals, or an area, varies on proximity to concentrated sources over time. One example is Holloman Lake near Holloman Air Force Base in southeast New Mexico. NMED and DOH have both issued [health advisories](#) to hunters or to “anyone who consumed or captured wildlife from Holloman Lake between 2010 and 2024,” due to the record-setting levels of PFAS concentrations found in the animals, lake, and wildlife. Samples from wildlife in the area found PFAS levels up to 120,000 nanograms, [the highest ever level](#) of recorded PFAs in a wild animal. The same can be said for samples taken from salt cedar in the area, where up to 30,000 nanograms were found, which would make it the highest ever recorded PFAS level in a plant.¹

One of the chief creators of the products associated with intentional PFAs is 3M, which was founded and operates in Minnesota. 3M was subject to a recent lawsuit which saw the company pay a total of \$14 billion in settlements to multiple states due to the contamination of the state with PFAs from 3M’s products.² 3M settled with Minnesota for \$850 million, and New Mexico is currently in litigation against 3M for its contamination of the state’s natural resources and the possible jeopardizing of the state’s public health.

There is currently no consensus on a safe level of PFAS. According to analysis from DOH, PFAS exposure in humans has been linked to various health issues. While research continues to find how varying levels of exposure and their link to certain health effects, there is consensus regarding high levels of PFAS in humans leads to [health issues](#) such as:

- Reproductive effects such as decreased fertility or increased high blood pressure in pregnant women;
- Developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes;
- Increased risk of some cancers, including prostate, kidney, and testicular cancers;
- Reduced ability of the body’s immune system to fight infections, including reduced vaccine response;
- Interference with the body’s natural hormones • Increased cholesterol levels and/or risk of obesity.

Analysis from DOH notes research is ongoing regarding PFAS and its effects, with it difficult to single out which specific variant of PFAS is linked to specific health issues. With so many variables related to how people are exposed to PFAS, how long, and from what specific place or object, research continues on which specific variant of PFAS is related or responsible for the health issues linked to PFAS. According to research done by the National Institute for Environmental Health Sciences and the National Library of Medicine, 97 percent of people in the United States have PFAS in their blood.

Other states have adopted PFAS-related measures, restricting use of PFAS in consumer projects. Maine became the first to ban the sale of products containing intentionally added PFAs, with

¹ https://www.env.nm.gov/wp-content/uploads/sites/10/2023/09/Phase_2_Report_Holloman_Site_PFAS_Investigation_6-30-2023.pdf

² <https://3msettlement.state.mn.us/>

carve outs for “unavoidable ones,” with the ban going into effect in 2030.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB212 relates to House Bill 222, which would ban the use of PFAS-containing fluids in oil production fracking.

OTHER SUBSTANTIVE ISSUES

Currently, efforts to understand to what extent New Mexico is contaminated by PFAS are led by NMED, with the agency providing free PFAS blood testing for residents of Curry County. While the bill does not call for a PFAS report, it could aid in understanding to what extent the cleanup of PFAS will need to be. The bill also does not direct the state’s health agencies to provide or look for ways to address PFAS-related health issues or to track health issues related to PFAs. Both pieces of information could aid in the state’s efforts to combat PFAs.

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