

LFC Requester:

Davidson

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date** February 14, 2025**Check all that apply:****Bill Number:** HB35CSOriginal ☐ Correction ☒Amendment ☐ Substitute ☒**Sponsor:** HENRC**Agency Name  
and Code  
Number:**New Mexico Environmental  
Department 667**Short Title:** CHILDREN'S HEALTH  
PROTECTION ZONES**Person Writing** Tom Kricka, esq. (OGC)**Phone:** (505) 531- **Email:** tom.kricka@env.nm.g**SECTION II: FISCAL IMPACT****ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		\$140.0	\$140.0	\$420.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE****BILL SUMMARY**

**Synopsis:** House Bill 35 (HB35) amends the Oil and Gas Act to define “children’s health protection zones” as areas within one mile of schools and prohibits the Oil Conservation Division (OCD) from approving permits for drilling within those zones after August 1, 2025. For existing wells, HB 35 requires operators to create a protection zone inventory and map, requires operators to develop and implement a leak response and detection plan and alarm response protocol, requires water quality sampling and testing, and suspends operations in children’s health protection zones that are in violation of the air quality control act.

**FISCAL IMPLICATIONS**

The Department of Environment (NMED) would create one new position at an estimated cost of \$140,000 annually to provide technical assistance and monitor the ground and surface water quality data reported under this bill. The NMED would require additional funding to create, fill, and sustain the additional FTE. Without additional funding, the Department would not have available staff and resources to implement this bill without taking resources from other areas of key duties.

Additionally, the NMED would need funding for additional staff to implement the following duties: reviewing, approving and posting on the department's website initial and updated leak detection and response plans from oil and gas operators located in a children's health protection zone; holding a public technical workshop once every two years on best practices for the development, review and update of leak detection and response plans; receiving annual reports from operators located in a children's health protection zone; presenting annually to a legislative interim committee on the reports received; and enforcing the suspension of operation provisions for oil and gas operators located in a children's health protection zone that have not implemented a leak detection or response plan or are in violation of the Air Quality Control Act or a city or county ordinance adopted pursuant to that act.

## **SIGNIFICANT ISSUES**

Amendments are substantial and necessary to clarify provisions and fill gaps in current language. Along with the Oil Conservation Division (OCD), the NMED should receive water quality testing reports. The OCD should be required to consult the NMED to confirm water quality testing parameters (i.e., "water contaminants identified as a toxic pollutant by the Water Quality Control Commission..."). Also, operators should be required to upload any water quality data to a publicly available database, like [EPA's Water Quality Exchange \(WQX\)](#) database. WQX is used by over 900 federal, state and tribal agencies, universities, watershed organizations and other groups.

**Explicit inclusion of the NMED in water test reporting is critical.**

## **PERFORMANCE IMPLICATIONS**

Some of the additional duties may be absorbed by current staff and resources, but funding for additional staff and resources will be required to meet all of the obligations. It is critical that the NMED is involved in the water quality testing provisions and reporting of this bill to meet its duties to protect human health and the environment. The NMED may need to institute new systems and processes to implement the water quality provisions. There will need to be new pages added to the NMED's website for leak detection and response plans. The NMED will need to develop new processes to review leak detection and response plans and annual reports. The enforcement of the cessation of operations provisions may require the NMED to seek temporary or permanent injunctions against oil and gas operators.

## **ADMINISTRATIVE IMPLICATIONS**

NMED would require further staffing to manage new regulatory responsibilities, including: (1) Reviewing, approving, and publishing leak detection and response plans from oil and gas operators in children's health protection zones, (2) Conducting a biennial public technical workshop on best practices related to leak detection and response, (3) Receiving, reviewing, and managing annual reports from operators in these zones, (4) Providing annual presentations to a legislative interim committee regarding the reports received, (5) Enforcing operational suspensions for non-compliant oil and gas operators.

The new requirements would impose a significant administrative workload on NMED, necessitating additional personnel for compliance monitoring, public engagement, reporting, and enforcement. Without designated funding, these responsibilities could strain existing resources, potentially affecting the department's ability to fulfill other regulatory duties.

NMED would need to establish and maintain a transparent reporting and enforcement framework, ensuring compliance with the Air Quality Control Act and relevant local ordinances. The department would also be responsible for ongoing stakeholder engagement, including public workshops and legislative reporting.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None identified.

## **TECHNICAL ISSUES**

None identified.

## **OTHER SUBSTANTIVE ISSUES**

None identified.

## **ALTERNATIVES**

None identified.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Oil and gas operators will not be required to create a protection zone inventory and map, to develop and implement a leak response and detection plan and alarm response protocol, to perform water quality sampling and testing, or suspend operations in children's health protection zones.

## **AMENDMENTS**

Section 8(B)(4), page 22, line 21, after the period, insert the following:

"The division shall coordinate with the department of environment to confirm the water quality testing parameters."

Section 8(C), pages 22 and 23, amend to:

"C. Within one hundred twenty days of the completion of drilling in a children's health protection zone, the operator shall provide to the division, the department of environment, the property owner and the tenant the results of any baseline and follow-up water quality testing."

Section 8(D), page 23, amend to:

"D. Water quality data collected pursuant to this section shall be submitted to the division and the department of environment in electronic format and uploaded to a publicly available water quality database maintained by the United States environmental protection agency, or, if that website is no longer operational, a publicly available water quality database that uses standardized data formats and schema, within one hundred twenty days after drilling is complete."

Delete Subsection 8(G), page 23, lines 14-21:

~~"G. An operator is not required to sample or test water pursuant to this section if a state agency~~

~~or the United States environmental protection agency has determined that the water within five thousand two hundred eighty feet of the property line of an operator's wellhead or production facility is not an underground source of drinking water, as defined in the federal Safe Drinking Water Act, and the water does not have a beneficial use."~~

Section 8 requires operators to sample and test water wells and surface water. It is unclear how the exclusion in Subsection G can be met or if this subsection is referring to sampling and testing of water wells or surface waters or both. A water well should be safe for drinking and domestic use. HB35 does not define beneficial use. Beneficial uses are typically related to water rights not water quality. Water quality standards for surface waters consist of designated uses, criteria to protect those uses, and an antidegradation policy. All surface waters of the state, including intermittent and ephemeral waters, are assigned designated uses in New Mexico's water quality standards. Subsection 8(G) is unnecessary for groundwater purposes since the proposed exclusions will have prevented their existence.