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FISCAL IMPACT REPORT

SPONSOR	House Transportation, Public Works and Capital Improvements Committee	LAST UPDATED	
		ORIGINAL DATE	02/27/2025
SHORT TITLE	Responsible Electric Car Battery End of Life	BILL	CS/House Bill
		NUMBER	310/HTPWCS
ANALYST			Chilton

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	\$280.0	\$240.0	\$520.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Related to House Bill 140

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)
Regulation and Licensing Department (RLD)
Public Regulation Commission (PRC)
New Mexico Environment Department (NMED)

These analyses refer to the original HB310; the agencies have been given the opportunity to comment on the substitute but have not yet been able to do so.

SUMMARY

Synopsis of HTPWC Substitute for House Bill 310

The House Transportation, Public Works and Capital Improvements Committee substitute for House Bill 310 (HB310) enacts a “Promoting Responsible End-of-Life Management of Electric Vehicle Batteries Act”, which provides methodology for efficient and environmentally sensitive means of disposing of spent batteries from electric vehicles; this represents Sections 1 to 9 of the bill. The remainder of the bill changes definitions in the Hazard Waste Act, Section 74-4 NMSA 1978 and changes the powers of the Environmental Improvement Board, Section 74-1.

Section 3 prohibits the disposal of propulsion batteries in landfills and empowers transportation and landfills to turn away loads that contain them. Any entity that disposed of a propulsion battery in a landfill or in another improper manner would be subject to penalties specified in the existing act.

Sections 4 and 5 establish responsibility for end-of-life battery care to be the battery provider unless it has been modified, in which case the modifier is responsible. In the latter case, the modifier must coordinate with a specialized battery recycler for legal disposal. These entities must report yearly to the Environment Department (NMED) on the volume of their practice and their methods and would need permits under the Hazardous Materials Act.

Section 6 requires battery providers to:

- Retrieve spent batteries from auto recyclers;
- Provide for end-of-life battery management when a battery is removed from a vehicle and returned to the provider;
- Coordinate with specialized battery recyclers if that is the only viable option for a spent battery;
- Be certain that battery health data are readily available; and
- Provide data to NMED in April of every year beginning 2027 on batteries procured and recycled.

The battery provider is no longer responsible when the battery has been modified; if the propulsion battery is no longer in New Mexico, it is not subject to this act.

Section 7 requires specialized battery recyclers to provide similar data to NMED, including recovery rates of rare metals, beginning on or before January 1, 2028. They would also need a permit pursuant to the Hazardous Materials Act.

Section 8 makes requirements of electric vehicle owners who must discard a vehicle propulsion battery, including returning it to the battery provider or selling or transferring it to another person or entity in the battery disposal hierarchy. Penalties are prescribed for those violating these provisions.

Section 9 requires NMED to:

- Notify all hierarchy members of the existence of this legislation;
- Determine how to interact with any federal requirements yet to come in this area; and
- Determine and enforce the regulations and any penalties for violation of any of these regulations by those in the battery recycling hierarchy.

Section 10 revises Section 74-4-3 NMSA 1978, the definitions section of the act. It adds to the definition of “generator” as someone who produces hazardous waste that, in the case of propulsion batteries, “generator” means the person removing the battery from a vehicle.

Section 11 revises Section 74-4-4 NMSA 1978, removing a provision excepting from Environmental Improvement Board (EIB) oversight those wastes not designated as hazardous by the federal Environmental Protection Agency.

The effective date of this bill is January 1, 2027.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 310.

NMED estimates an initial cost of \$40 thousand to propose new rules and set up regulations. NMED states that it would then require 2 FTEs to implement the rules and regulations and would then use new and existing staff resources to compile a list of entities in the battery recycling hierarchy around New Mexico. The additional staff would be needed to “review reporting provided by secondary handlers, users, battery recyclers, and battery providers. It would increase the number of facilities that can/should be inspected on a regular basis by NMED. Without additional funding, this will impact NMED’s ability to inspect other facilities in its regulatory purview.”

SIGNIFICANT ISSUES

Vehicle propulsion batteries and other lithium-containing batteries, when placed in landfills, are both dangerous (they cause fires that are difficult to control and cause considerable pollution) and wasteful of rare minerals and other components.

New Jersey is among states that have recently (January 2024) passed bills to regulate disposal and recycling of spent batteries from electric vehicles, and to prohibit their being placed in landfills.

NMED raises a number of concerns regarding this legislation:

- HB310 has significant overlap with the Hazardous Waste Act (HWA). The types of facilities that would currently meet the definition of “specialized battery recycler” are already regulated by HWB as “Universal Waste Destination Facilities”, which is a term that is defined more broadly in the HWA than in this bill. Additionally, disposal and transportation of propulsion batteries as solid waste are already prohibited under the Solid Waste Act.
- HB310 adds a new liable entity for the disposal of hazardous waste lithium-ion batteries that is not identified in the HWA for other types of hazardous wastes: the battery provider. This will add an additional type of hazardous waste handling facility to the Hazardous Waste Management Regulations (HWMR) and may shift legal liability from the generator of these types of hazardous waste to the battery provider, or seller of a product with a battery. Also, it is unclear if this bill would create a situation in which hazardous wastes would be regulated less stringently than federal regulations, which is inconsistent with pre-existing federal statutes such as the Resource Conservation and Recovery Act.
- In addition, it is unclear to NMED if this legislation creates a ‘joint, severable’ liability for both the generator of a hazardous waste battery and the battery provider.
- HB310 does not specify if the additional regulatory requirements for secondary handlers and secondary users would be subject to regulation as “universal waste destination facilities”. It is also unclear to NMED if the generator of a propulsion battery can also be considered a “secondary handler” or if activities described in the legislation would still be permitted by a generator without being considered a “Universal Waste Destination Facility”.
- HB310 will require NMED to be able to list additional types of nickel-metal hydride

batteries, and other types of batteries that fit within the definition of propulsion batteries, as hazardous waste. If passed, HB310 would require NMED to repeal the HWA's prohibition on the Environmental Improvement Board (EIB's) listing or identifying hazardous wastes that have not been listed or identified as hazardous wastes by the U.S. EPA. This situation is currently being addressed by HB140.

- Auto salvage operations are excluded from the definition of a solid waste facility under the current Solid Waste Rules and such operations are not required to apply as a solid waste facility. NMED Solid Waste Bureau does not currently have reason to have a complete list of auto recyclers in the State of New Mexico, which would be required if HB310 is passed. Creation of this list would require a change in the definition of solid waste facilities under the Solid Waste Act and require a change to the state solid waste rules to include registration of auto salvage operations. Proposed annual reporting is not relevant to the Solid Waste Bureau as propulsion batteries are outside the definition of recyclable materials under the Solid Waste Rules.
- NMED will be required to make several significant rulemakings with respect to the HWMRs and solid waste rules as a result of this legislation, which will cause a significant level of cost to the department including rulemaking preparations, hearing in front of the Environmental Improvement Board, and public comment. This legislation also removes the Household Hazardous Waste exemption for electric vehicle batteries that are returned to a battery provider. This may require a change to the HWMR to accommodate the exemption removal.
- HB310 adds significant reporting requirements and prohibitions, however, does not incorporate facility safety standards that may be expected of similar types of facilities, such as Universal Waste Destination Facilities. It may be more beneficial to the environment to broaden the types of facilities subject to the Universal Waste Destination Facility standards in 40 CFR 273, as adopted in the HWMRs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to House Bill 140, "'Hazardous Waste Constituent' Definition."

NMED comments that:

HB 310 conflicts/overlaps/partially duplicates provisions of the Hazardous Waste Act and resulting regulations. Specifically, the potential shift in liability for management from the generator of a battery to the battery provider conflicts with the structure of waste management in the HWA. NMED HWB currently regulates most types of battery recycling facilities, and especially those that would be defined as specialized battery recyclers. HB 310 also requires HB140 to be passed to list additional types of Nickel-Metal Hydride batteries, and other types of batteries that fit within the definition of propulsion batteries, as hazardous waste.

TECHNICAL ISSUES

The New Mexico Attorney General indicates concerns about the lack of an enforcement mechanism or a penalty for those who violate the provisions of the act.