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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 2/28/2025

**SPONSOR** Roybal Caballero

**BILL**

**SHORT TITLE** NMED Inspections Before New Permits **NUMBER** House Bill 581

**ANALYST** Davidson

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fee Revenue*		Up to \$42,600	Up to \$42,600	Up to \$42,600	Up to \$42,600	Recurring	Air Quality Permit Fund

Parentheses ( ) indicate revenue decreases.

\*Dependent on level of fees approved by Environmental Improvement Board

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>NMED</b>		\$46,200	\$46,200	\$92,400	Recurring	<b>Permitting Fees</b>

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)

New Mexico Environment Department (NMED)

Agency Analysis was Solicited but Not Received From

Department of Finance Administration (DFA)

Agency Declined to Respond

Energy, Minerals and Natural Resources Department (EMNRD)

## SUMMARY

### Synopsis of House Bill 581

House Bill 581 amends the Air Quality Control Act to require the Environmental Improvement Board (EIB) to add additional requirements to any construction and operating permits issued by the New Mexico Environment Department (NMED). The additional permit requirements require applicants to supply documentation showing all other facilities owned by the applicant are in compliance with all federal and state emission standards. If unable to provide such

documentation, the bill requires the New Mexico Environment Department (NMED) to inspect all of the applicant's facilities within six months of the submission for a permit. If NMED finds all facilities are in compliance, the evaluation of the permit may continue. If facilities are found not in compliance, NMED and AQB must deny the permit.

The bill allows for increases construction permit fees to cover the costs for expanding NMED's inspection program, leaving how much those permit fees will be increased up to EIB. The bill also requires NMED to establish a joint inspection program with the Energy, Minerals and Natural Resources Department (EMNRD), further requiring compliance inspections to occur every two years at all sources holding a construction or operating permit. These inspections will determine if permit holders are in compliance with the Air Quality Control Act, the Oil and Gas Act, and the federal Clean Air Act. The bill proposes increased permitting fees to pay for creation of the program.

The bill further requires NMED to report to the legislature in 2026 and 2027 regarding the status of the program. The report is required to include the number of sources inspected, the schedule for completion of inspections, number of sources out of compliance, and a summary of remediation plans and penalties assessed.

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 NMED notes implementation of such an expansion to its inspection authority and expectations would require significant financial and staff increases. NMED's Air Quality Bureau (AQB) currently has seven inspectors who monitor 3,800 permits, roughly 50 thousand wells (ones subject to NMED ozone precursor rule), and 3,600 Notices of Intent (an application for a permit). In addition to this, AQB receives on average 90 new construction permits a month. To address this large workload, ABQ also regularly contracts out portions of its regulation and monitoring. AQB also recently requested a fee increase, but their proposal was rejected by EIB. NMED plans to request an increase again. NMED notes the U.S. Environmental Protection Agency requires AQB to inspect certain Title V facilities (large industrial facilities which are considered major sources of air pollution) and 267 other facilities annually. House Bill 581 would expand this requirement significantly.

NMED estimates implementing the inspection program set in the bill would require a \$46.2 million increase to the agency's budget. NMED notes this estimate pertains to the 3,800 permit holders and does not include the additional inspection the bill requires for the ozone precursor wells or the pending permits. NMED notes these workload increases would instead be supplemented by fee increases for permit applications. This would require significant increases to the fees the permit holders or prospective permit holders would have to pay. House Bill 581 may increase construction and operating permit fees to a level which would deter business from the state. For instance, the state's current general construction permit issued by NMED is \$5,230, filing fees for a Notice of Intent \$500, Relocation Application fees are \$523, and Streamline Applications fees are \$5,230. Depending on how large of a pollution source an entity will be, NMED has a formula which generates the appropriate fee. House Bill 581 would dramatically increase those fees to fund the implementation of the inspection regime.

NMED's Environmental Protection division, which houses ABQ, estimates revenue (which comes predominantly from fees related to construction permits House Bill 581 is pertaining to) for FY26 to be \$23.4 million. To reach the additional \$46.2 million NMED estimates it would need for implementation, LFC estimates fees could need to triple, resulting in construction and streamline application permit fees increasing to \$15.6 thousand, Notice of Intent filing fees growing to \$1,500, and Relocation applications growing to \$1,569. LFC's estimate does not include the potential increases to the formula permit applicants have to pay based on pollution levels, though these could also increase. These price increases could prove to be cost prohibitive for businesses.

Analysis from the New Mexico Attorney General (NMAG) notes House Bill 581 has the potential to increase the legal exposure of NMED and the state. NMAG may need additional resources to prosecute or defend the changes HB581 would create.

## **SIGNIFICANT ISSUES**

House Bill 581 would significantly increase the workload of NMED. House Bill 581's directs EIB to increase fees to accommodate for implementation costs. EIB is not specifically obligated to grant these increases. If EIB does not grant the request for increased fees, or does but not at the level necessary to fund the full scale of the bill's permitting program, the requirements of HB581 would be difficult for NMED to implement. To implement the inspection requirements in the bill would require either a significant increase in NMED's workforce or a significant increase in workload for the current workforce. Since the bill does not guarantee EIB will grant the significant increases to permitting fees to cover implementation costs, this bill creates the possibility for significantly increasing inspection expectations without providing necessary funds to do so.

## **TECHNICAL ISSUES**

NMAG analysis notes the bill requires NMED to enforce the Oil and Gas act. However, the Oil and Gas Act grants its jurisdiction and authority to the Oil Conservation Division (OCD). NMAG notes the bill could lead to confusion regarding enforcement actions by both entities, as the bill appears to vest additional authority with NMED which currently resides with OCD.

NMAG notes there are confusing provisions in the bill which could be cleaned up to improve implementation:

- Section 1(B)(1): this sentence is confusing to read.
  - Suggest moving “the federal act” to before “the Oil and Gas Act.”
  - Suggest moving “through minimum mandatory documentation and procedures” closer to or after “submission of relevant information”. As written, it suggests that the Clean Air Act could be violated “through minimum mandatory documentation and procedures.”
  - Should “method” in Section 2(D)(2) be “methods”?
- Section 1(B)(1)(b): “these state and federal laws” seems vague. Suggest specifying the laws, as is done in other places in the Act.
- Section 2:
  - Suggest amending definitions section of ACQA to add a definition of “EXOatmospheric measurements” and “methaneSAT,” or perhaps be less specific

in Section 2(A)(3).

- Is it contradictory to specify that an onsite inspection uses satellite imagery? Perhaps it could be reworded to something like, “be completed onsite with use of the best available technology and combined with atmospheric data from external sources such as EXOatmospheric measurements generated by methaneSAT.”

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