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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Lujan/Hochman-Vigil **ORIGINAL DATE** 2/13/2025

BILL

SHORT TITLE Overdose Prevention Program **NUMBER** House Bill 355

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH Staffing	No fiscal impact.	\$198.9	\$198.9	\$397.8	Recurring	General Fund
DOH Contractual	No fiscal impact.	No fiscal impact.	\$600.0	\$600.0	Recurring	General Fund
Total	No fiscal impact	\$198.9	\$798.9	\$997.8	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Department of Health (DOH)

SUMMARY

Synopsis of House Bill 355

House Bill 355 (HB355) would amend the Harm Reduction Act (Section 24-2C NMSA 1978) to create an overdose prevention program and promulgate rules for such a program. The program would begin no later than January 1, 2027, and would provide participants with a safe and hygienic space to administer and consume previously obtained controlled substances. Trained personnel would monitor for signs of an overdose and be able to intervene. The bill would provide liability protection for individuals operating or utilizing overdose prevention programs.

DOH would promulgate rules by July 1, 2026, make an annual report, and appoint an advisory committee.

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

DOH stated that the bill would require DOH to promulgate rules by July 1, 2026, make an annual report, and appoint an advisory committee. The bill would also require program operations to begin on January 1, 2027. This would require recruitment, training, and assisting at least one new or existing contract partner to deliver services. The development period prior to 2027 and operational phase starting 2027 would require at least two additional Harm Reduction Program staff to work on rules, policies, support for the advisory group, training of partner organizations, and oversight and monitoring of program operations.

This analysis assumes that these two new Harm Reduction Program Staff positions will be equivalent to the existing role Social and Community Services Coordinator (pay band 70) with salary midpoint of \$71,188 plus 39 percent benefits. It also assumes that DOH will require at least one operate a site, estimated at \$600 thousand for three full-time staff, building costs, and operating expenses. DOH will likely need to purchase or rent a stand-alone facility to avoid conflict with other tenants or occupants. The site-operation estimate also includes \$100 thousand to contract with or hire a clinician to provide medical oversight and standing orders related to health issues and treatment, including overdose, abscesses, and other health issues associated with substance use.

SIGNIFICANT ISSUES

DOH provided the following:

The bill will require the NMDOH Harm Reduction Section to promulgate new rules for the operation of an overdose prevention facility. There is a current conflict in federal law, 21 US Code 856, which prohibits maintaining any place where substance use occurs. Despite this, the federal government has not enforced the statute in areas where overdose prevention facilities are operated and allowed locally and/or under state law; currently this includes locations in New York City and Rhode Island. This is similar in nature to the current landscape associated with both medical and adult use cannabis.

The bill directs NMDOH to promulgate rules by July 1, 2026, make an annual report, and appoint an advisory committee. These roles would fall to the Harm Reduction Section within the Public Health Division (PHD), Center for Healthy and Safe Communities (CHSC). Operating continuously for over 25 years since 1998, the Harm Reduction Section has experience establishing new and expanded services related to reducing the negative health consequences of substance use. In 2024, the section served over 21 thousand individuals and provided overdose prevention training, naloxone, and harm reduction services. Considering the current operations, the section could bring in experts, convene the advisory group, and promulgate rules with only a modest increase in staffing of two additional positions. However, it is anticipated that there would be a significant cost to recruit and equip one or more contract partners to operate such overdose prevention program sites.

Opioid use is a primary driver of premature death in New Mexico for a variety of reasons including the pervasiveness of fentanyl, a potent synthetic opioid. In 2023, 84 percent of overdose deaths occurred among New Mexicans aged 25 – 64 years, with 26 percent of overdose deaths occurring in the 35 – 44 years age group. Of the statewide overdose

deaths in 2023, approximately 65 percent could be in part attributed to fentanyl use.¹ Overdose prevention facilities are locations where individuals can consume substances in a supervised manner to prevent overdose and other negative health consequences related to substance use, such as the transmission of bloodborne pathogens, and soft tissue injury.

Overdose prevention facilities have been in operation for many years in other countries but the first in the United States opened in 2021. A systematic literature review has shown these facilities do not increase substance use, drug dealing, or crime in surrounding areas, and have the positive outcome of promoting safer consumption practices and reducing overdose and death. Overdose prevention facilities reduce public drug use and syringe litter.² Currently sanctioned overdose prevention facilities operate in New York City; no overdose fatalities have been reported since operations began.

Research suggests significant reductions in other negative health consequences associated with injection substance use, including reduced syringe sharing, soft tissue damage, and reductions in infectious disease transmission and an increase in individuals seeking treatment for substance use.³

Overdose prevention centers have also shown a significant decrease in medical costs associated with opioid related substance use. This includes reduced emergency department utilizations and hospitalization.⁴

Worldwide there have been no fatal overdoses at an overdose prevention facility. Overdose prevention facilities are also associated with a change in behavior associated with injection, with individuals who utilize overdose prevention facilities more likely to use safer injection habits which reduce injury associated with substance use.⁵

In addition to the health benefits which appear to be associated with the use of overdose prevention facilities, there is an apparent cost savings associated with their operation. Overdose prevention facilities decrease criminal activity related to outdoor drug use. A controlled study spanning ten years found that criminal activity decreased at a statistically significant rate in areas immediately surrounding these facilities. Crime within the randomized control areas in the city remained consistent.⁶

According to a study conducted at an overdose prevention facility in Vancouver, the site has a cost benefit ratio of 5.12:1.⁷ This benefit would likely be similar in areas of New Mexico which have high rates of substance use.

Drug overdose deaths among adolescents increased substantially beginning in late 2019. Although deaths appear to have begun declining in late 2021, they are still alarmingly

¹<https://www.nmhealth.org/news/awarness/2025/1/?view=2169#:~:text=Fentanyl%20was%20involved%20in%2065,35-44%20years%20age%20group>

²<https://www.sciencedirect.com/science/article/abs/pii/S0376871614018754>).

³<https://icer.org/wp-content/uploads/2020/10/SIF-RAAG-010521.pdf>

⁴<https://link.springer.com/article/10.1007/s11606-021-07312-4>

⁵<https://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.507.1742>

⁶<https://doi.org/10.1016/j.drugalcdep.2021.108521>

⁷<https://pubmed.ncbi.nlm.nih.gov/19423324/>

higher than in 2019. Urgent efforts to prevent overdose deaths among adolescents are needed and include 1) preventing substance use initiation and promoting protective factors; 2) strengthening partnerships between public health and public safety to reduce availability of illicit drugs; 3) expanding efforts focused on resilience and connectedness of adolescents to help prevent substance misuse and related harms; 4) educating about dangers of IMFs and counterfeit pills; 5) promoting safer drug use for those who use drugs, such as not using drugs while alone and having naloxone readily available; 6) expanding naloxone access and training family and friends in overdose recognition and response; and 7) ensuring access to effective, evidence-based substance use disorder and mental health treatment. Collaboration among public health and safety agencies, physicians, mental health and substance use treatment providers, and educators to implement these efforts could save lives.⁸

In November 2021, New York City authorized the operation of two overdose prevention centers, managed by the nonprofit organization OnPoint NYC, in East Harlem and Washington Heights. Rhode Island is the only U.S. state to have legalized safe consumption sites through legislation signed into law in July 2021. Currently, Rhode Island remains the only state to have approved and established regulations for these supervised consumption sites.

EC/hj/SR

⁸ Drug Overdose Deaths Among Persons Aged 10–19 Years — United States, July 2019–December 2021 | MMWR