

LFC Requestor: CHENIER, Eric

2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS

Section I: General

Chamber: House  
Number: 355

Category: Bill  
Type: Introduced

Date (of THIS analysis): 2/12/25

Sponsor(s): Tara Lujan and Dayan Hochman-Vigil

Short Title: Overdose Prevention Program

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
<b>Total</b>	\$	\$198,903	\$798,903	\$997,806 for first 2 years	Recurring	State general fund (SGF)
<b>Staffing</b>	\$0	\$198,903	\$198,903			
<b>Contractual</b>	\$0	\$0	\$600,000			

HB 355 would require NMDOH 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.

Social and Community Services Coordinator (pay band 70) with salary midpoint of \$71,188 plus 39% benefits x 2 positions = \$198,903.

At least one contract to operate a site at \$600,000 for 3 FTE of staffing, building costs and operating expenses, purchase or rent of a new stand-alone facility to avoid conflict with other tenants or occupants. Includes \$100,000 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.

### **Section III: Relationship to other legislation**

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

### **Section IV: Narrative**

#### **1. BILL SUMMARY**

##### a) Synopsis

House Bill 355 (HB355) would amend the Harm Reduction Act 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.

The New Mexico Department of Health (NMDOH) would promulgate rules by July 1, 2026, make an annual report, and appoint an advisory committee.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

b) Significant Issues

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% of overdose deaths occurred among New Mexicans aged 25 – 64 years, with 26% of overdose deaths occurring in the 35 – 44 years age group. Of the statewide overdose deaths in 2023, approximately 65% could be in part attributed to fentanyl use.

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

(<https://www.sciencedirect.com/science/article/abs/pii/S0376871614018754>). 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. (<https://icer.org/wp-content/uploads/2020/10/SIF-RAAG-010521.pdf>);). 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.

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

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

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

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.

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

According to a study conducted at an overdose prevention facility in Vancouver, the site has a cost benefit ratio of 5.12:1 (<https://pubmed.ncbi.nlm.nih.gov/19423324/>). 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 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. ([Drug Overdose Deaths Among Persons Aged 10–19 Years — United States, July 2019–December 2021 | MMWR](#))

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 21,000 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.

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.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes  No

This bill would likely help to reduce opiate overdoses in the communities served by new program sites and would help NMDOH increase overdose reversals reported to the Harm Reduction Section.

- Is this proposal related to the NMDOH Strategic Plan?  Yes  No

**Goal 1:** We expand equitable access to services for all New Mexicans

**Goal 2:** We ensure safety in New Mexico healthcare environments

**Goal 3:** We improve health status for all New Mexicans

**Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

### 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

HB 355 would require NMDOH 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 recruiting, training, and helping to equip 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 staff to work on rules, policies, support for the advisory group, training of partner organizations and oversight and monitoring of program operations.

### 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

HB 355 would require NMDOH 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 recruiting, training and helping to equip at least one new or existing contract partner to deliver services.

### 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

### 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

- HB 355 does not appear to include components of the State-Tribal Collaboration Act (STCA) in the bill, this includes not naming Tribal representatives to the Advisory Board.
- Additionally, Section 3 C of STCA states:
  - A state agency shall make a reasonable effort to collaborate with Indian nations, tribes or pueblos in the **development and implementation of policies, agreements and programs** of the state agency that directly affect American Indians or Alaskan Natives.
  - As NMDOH is the department identified in HB355, NMDOH would at minimum need to issue correspondence with Tribal leaders and program staff regarding the creation of the Overdose Prevention Program; recommendation is that consultation meeting(s) be held with Tribal leadership as Tribal law and order codes may need to be evaluated to be aligned with the elements contained within HB355.

### 7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

HB355 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.

## **8. DISPARITIES ISSUES**

HB355 could improve the lives of individuals who use substances, particularly individuals who have no other place to use substances such as individuals experiencing homelessness. Individuals experiencing homelessness who use substances are more likely to have negative health outcomes.

In New Mexico, rural and Indigenous communities have higher rates of opioid-related deaths and infectious disease transmission linked to drug use (New Mexico Department of Health, 2023). Limited healthcare access, coupled with geographic isolation, prevent many individuals from receiving necessary treatment and harm reduction services. HB355 seeks to bridge this gap by introducing mobile overdose prevention units and co-locating services within existing health facilities, particularly in underserved areas.

Disparities in harm reduction services in rural and Tribal communities stem from limited access to healthcare, stigma, and insufficient funding. These areas often lack access harm reduction programs. Additionally, Tribal communities face unique challenges, including historical trauma, jurisdictional complexities, and underfunding of Indigenous health programs. Expanding culturally appropriate, community-led harm reduction initiatives and increasing funding can help bridge these gaps.

## **9. HEALTH IMPACT(S)**

HB355 will impact any individual who uses substances, and primarily individuals who do not have a safe place to consume their substances. This will likely lead to reduced overdose mortality and injury associated with the consumption of substances. It will likely lead to a decrease in emergency room utilization and improve the overall health of individuals who use substances in the communities that overdose prevention facilities are established.

## **10. ALTERNATIVES**

None.

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

If HB355 is not enacted, the Harm Reduction Act will not be amended to allow for the operation of overdose prevention facilities or provide protections from liability for the individuals who operate or utilize the facilities.

**12. AMENDMENTS**

None.