FISCAL IMPACT REPORT

SPONSOR Lopez **LAST UPDATED** 10/1/2025
ORIGINAL DATE 10/1/2025
SHORT TITLE Immunization Rules and Recommendations **BILL NUMBER** Senate Bill 3
ANALYST Hilla

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH	No fiscal impact	No fiscal impact	No fiscal impact		Nonrecurring	General Fund
Total	No fiscal impact	No fiscal impact	No fiscal impact		Nonrecurring	General Fund

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

Sources of Information

LFC Files
Kaiser Family Foundation
Department of Health Reports

Agency Analysis Received From
Health Care Authority (HCA)
Department of Health (DOH)
Office of Superintendent of Insurance (OSI)
New Mexico Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From
Early Childhood Education and Care Department (ECECD)
Public Education Department (PED)
Public School Insurance Authority (PSIA)
Retiree Health Care Authority (RHCA)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of Senate Bill 3

This bill amends the state's immunization regulations and the Vaccine Purchasing Act to expand the Department of Health's (DOH) decision-making authority regarding adult and childhood

immunization. The bill removes the Advisory Committee on Immunization Practices of the United States from statute, in turn allowing DOH to promulgate its own immunization regulations for childhood immunization or follow recommendations set by the American Academy of Pediatrics (AAP). The bill adds new provisions for DOH to promulgate rules regarding adult immunization, in accordance with the guidance set by the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, the American College of Physicians, or DOH itself.

The bill expands immunization requirements that now apply to children enrolled in public schools to those enrolled in childcare programs.

The bill clarifies that DOH is the entity responsible for the expansion of access to childhood immunizations, the facilitation of the acquisition by providers of vaccines for childhood immunizations and leveraging public and private funding and resources for the purchase, storage, and distribution of vaccines for childhood immunizations. DOH has more discretion over the use of the vaccine purchasing fund as DOH can promulgate its own vaccination ruling.

Section 8 through 13 provides the same language as current statute, effectively sunsetting Sections 1 through 7 on July 1, 2026, per the effective date of Sections 8 through 13. After July 1, 2026, DOH would not have the expanded authority as outlined in the first half of the bill, including the remittance of child immunizations pertaining to enrolment and attendance in a childcare program.

This bill contains an emergency clause and would become effective immediately on signature by the governor for Sections 1 through 7.

The effective date of this bill is July 1, 2026, for Section 8 through 13.

FISCAL IMPLICATIONS

This bill does not contain a fiscal impact as it does not impact state cost-sharing, maintaining the status quo of having no fiscal impact, as no additional costs would be incurred by the state. The fiscal impact could be updated following additional agency analysis.

SIGNIFICANT ISSUES

The bill removes the Advisory Committee on Immunization Practices of the United States (ACIP) from the Vaccine Purchasing Act, a federal advisory committee attached to the U.S. Center for Disease Control and Prevention (CDC) that develops recommendations on the use of vaccines in the civilian population of the United States. ACIP comprises 15 elected voting members and 30 nonvoting representatives in the health field that comment on ACIP's recommendations, which the AAP is part of. ACIP generally meets three times a year, with the last meeting occurring in September 2025. CDC sets U.S. adult and childhood immunization schedules based on recommendations from ACIP, whereas the state solely follows recommendations for childhood immunization, as outlined in the Vaccine Purchasing Act. This bill would shift the source of child vaccine recommendations, including scheduling and purchasing, to nonfederal entities: DOH or the American Academy of Pediatrics (AAP). Additionally, it would add adult immunization recommendations under DOH's purview, allowing the department to follow its own recommendations for adult immunization or with guidance from American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG) and the

American College of Physicians (ACP).

The bill may conflict with the federal Employee Retirement and Income Security Act (ERISA). ERISA contains self-funded employer health plans, in which the employer pays medical claims directly, and must comply with the federal Affordable Care Act and ACIP immunization recommendations but are not bound by state insurance mandates. This bill could not force ERISA self-funded plans to adopt DOH's recommended vaccinations that would differ from ACIP. This could lead to inequitable vaccination coverage for employees, dependent on whether their employers are self-funded or are fully insured. Should self-funded ERISA plans follow DOH's vaccination recommendations, it would absorb extra costs that are not federally mandated, but it is not required to do so, thus may not cover vaccinations recommended by DOH but otherwise are not recommended by ACIP.

In August 2025, pharmacies announced that they would not be able to administer the Covid-19 vaccine unless recommended by ACIP, which at the time had not yet convened to decide on Covid-19 vaccine recommendations. DOH issued a public health order this same month in direct response, allowing the department to work with the New Mexico Board of Pharmacy to remove potential barriers and ensure access to Covid-19 vaccines at pharmacies across the state, in line with what would be granted under this bill of acting without ACIP guidance. As of September 19, 2025, ACIP recommended that Covid-19 vaccination be determined by individual decision-making, applying to all individuals six months and older. AAP recommended in August 2025 Covid-19 vaccines for infants and children 6 through 23 months of age with no contraindications to receive the vaccine, indicating this population as high risk. Additionally, AAP recommended children and adolescents ages 2 through 18 receive a single dose if desired by parent or guardian if not classified as high risk.[1] Similarly, AAP, the American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG), and the American College of Physicians (ACP) jointly recommend Covid-19 vaccines during pregnancy.

In its analysis, DOH states:

> ACIP has yet to provide timely recommendations for all immunizations for the fall/winter respiratory infection season and has proposed adjustments to immunization schedules that conflict with guidance from established and trusted medical professional societies. DOH purchases childhood vaccines for all providers in New Mexico and in the absence of adequate guidance and recommendations, the department would be unable to procure pediatric vaccinations, as the Vaccine Purchase Act is also dependent on guidance from ACIP…This has led to an increase in health disparities, with New Mexicans who wish to be vaccinated facing barriers to access and uncertainty around whether insurance will cover their immunizations.

In its annual performance report for FY25, which compiles data from July 1, 2024, to June 30, 2025, DOH reported that the percentage of preschoolers ages 19 to 35 months as being fully immunized was 67.2 percent, a 6 percent decrease from FY24. The department states that 75 percent of the same population was reported as being fully immunized in FY24. DOH classifies being fully immunized as having the following vaccines and dosages: four doses of diphtheria, tetanus and acellular pertussis (DTaP), three doses of inactivated poliovirus, one dose of measles, mumps and rubella (MMR), three doses of Haemophilus influenzae type b (Hib), three doses of

[1] https://publications.aap.org/pediatrics/article/doi/10.1542/peds.2025-073924/203222/Recommendations-for-COVID-19-Vaccines-in-Infants

hepatitis b, and four doses of pneumococcal conjugate, all of which are aligned with ACIP, AAP, AAFP and ACOG recommendations.

ACIP and AAP recommend similar childhood vaccinations and scheduling, with the exceptions of human papillomavirus (HPV), measles, mumps and rubella (MMR), and Covid-19. AAP recommends the HPV vaccine to be administered in the age groups of 7-10 year olds with two dosages, whereas ACIP recommends HPV vaccination "can begin in this age group" but recommends starting the vaccine at 11 years old. In September 2025, ACIP recommended that children under 4 years should receive separate MMR and varicella vaccines (chickenpox) and not the combined measles, mumps, rubella, and varicella vaccine (MMRV), while AAP recommends families should have the option of the combined vaccine. The recommendations shortly followed DOH's declaration of the end of the measles outbreak in the state, with 100 confirmed cases, of which 47 cases affected persons age 17 and under. Of note, in data DOH reports to LFC staff on a quarterly basis, only MMR vaccinations are tracked and the data does not include information on chickenpox vaccinations or the combined MMRV.

For adult immunization schedule, AAFP, ACIP and ACOG recently announced they do not endorse ACIP's 2025 immunizations. Though most recommendations are the same between the entities, the biggest difference between the ACIP and the nonfederal entities is that the latter recommends Covid-19 vaccinations, differing from ACIP's recent change to consider this vaccine as voluntary.

Following a report from the Kaiser Family Foundation (KFF), a nonprofit organization specializing in health policy research, twenty-two states specifically identify nonfederal entities as sources for their vaccine recommendations, either in addition to or instead of ACIP or CDC guidance. Thirteen of these states only follow this recommendation for COVID-19 vaccines, while California, the District of Columbia, Hawaii, Illinois, Maryland, Massachusetts, Oregon, Pennsylvania and Washington follow this recommendation for all vaccines, differing from current ACIP/CDC recommendations.[2] These nine states indicate that they will follow the recommendations of independent medical associations, such as the AAP, AAFP and ACOG.[2] Though of note, this list includes states that have changed regulatory or statutory language to remove ACIP references, as well as states that may not have changed statute but announced they are using nonfederal sources for their vaccine recommendations.

PERFORMANCE IMPLICATIONS

DOH states that due to lack of ACIP approval, DOH is unable to order Covid-19 vaccines, affecting both DOH services and the department's ability for purchasing and administering immunizations. The department states the state's health would improve by following immunization schedules that are evidence-based and in alignment with professional standards.

Allowing DOH to set its own vaccine recommendations could improve responsiveness to outbreaks or new vaccines, but divergence from ACIP recommendations may complicate performance tracking and comparability to national benchmarks during the effective period of the bill.

[2] https://www.kff.org/covid-19/tracking-state-actions-on-vaccine-policy-and-access/

ADMINISTRATIVE IMPLICATIONS

DOH would likely need to promulgate new rules, develop guidance for providers and update public-facing immunization materials for children and adult recommended immunizations.

The Health Care Authority states it may need to make changes to the New Mexico Administrative Code and issue guidance to providers and managed care organizations regarding vaccine coverage. The authority states that Medicaid will continue to participate in an interagency workgroup of clinical professionals across agencies to provide clinical insight to statewide vaccine recommendations.

The Office of Superintendent of Insurance (OSI) states the effective date of the bill from Sections 8 through 13 of July 1, 2026, should be amended. OSI notes that individual and small group plans, subject to OSI's jurisdiction, generally have a January 1 effective date. OSI notes concerns that the current effect date would introduce inconsistency and unpredictability with the immunization standards used during the plan design, including rate-setting, creating operational challenges and potential compliance issues for the insurers as well as possibly disturbing coverage of immunization benefits for members with the mid-year date. OSI recommends amending the effective date for Sections 8 through 13 to be December 31, 2026.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill may conflict with federal regulations surrounding ERISA and the Affordable Care Act.

OTHER SUBSTANTIVE ISSUES

In Section 1. (B) of the bill, it is unclear if DOH must harmonize recommendations set by AAFP, ACOG, and ACP, or if DOH can selectively choose among any entity.

The New Mexico Attorney General (NMAG) notes that "child care expansions" will be terminated as of July 1, 20226, stating:

> Although it seems readily apparent why some of the proposed changes are included in the sunset provisions, it is less clear why others were included. Perhaps simply for ease, but this is an area where some technical editing could retain some of the technical changes that appear to have been intended for clarification and/or updates to align with the present day.

NMAG adds:

> Rather than incorporate a sunset provision to fully remove certain entities for a short period of time, the language could instead be further broadened to include the advisory committee, the medical professionals, and the state DOH as equal alternatives. Of course, if there is a sense that guidance from medical professionals and NM's DOH should not be treated as equal to federal guidance on an ongoing basis, then this potential alternative does not effectuate the intended long-term purpose of the legislation.

EH/hg