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## FISCAL IMPACT REPORT

SPONSOR Lujan/Hochman-  
Vigil/Duhigg/  
Chandler/Lopez ORIGINAL DATE 1/25/22 LAST UPDATED \_\_\_\_\_ HB 52

SHORT TITLE Harm Reduction Act Amendments SB \_\_\_\_\_

ANALYST Chilton

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

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI					

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 100

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

House Bill 52 would amend Section 24 NMSA 1978, entitled “Harm Reduction,” and Section 30-31-25.1 NMSA 1978, entitled “Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions” in the following ways, updating the Harm Reduction Program to include expanded activities to control such adverse outcomes of substance abuse as overdose deaths and infection caused by non-sterile equipment.

Section of HB 52	Subsection of Section 24 NMSA 1978 Affected	Provision Affected	Effect of Amendment
1	24-2C-3	Definitions	Definition of “program” removed, definition of “participant” changed to person receiving devices, supplies or services via the harm reduction program.

2A, B and C	24-2C-4	Program Description and Advisory Committee	<p>Redefines the program as more than simply syringe and needle exchange, as having the purpose to decrease morbidity and mortality from drug use and to collect data to use in planning further harm reduction efforts.</p> <p>Qualify participants for services, giving a form of identification to each.</p> <p>Changes a member of the advisory committee from the HIV bureau to the Infectious Disease Bureau.</p> <p>Further specifies the advisory committee’s role as including monitoring the program’s activities and reporting on its impact on drug-associated morbidity and mortality.</p>
2E	24-2C-4	DOH responsibilities	DOH to make rules on supplies or devices to be provided to avoid such negative outcomes as drug overdoses and infection caused by unsterile injection equipment.
3	24-2C-5	Program activities	<p>Adds to the provision of safe injection supplies the following supplies or devices that can be provided:</p> <ol style="list-style-type: none"> <li>1) Supplies to prepare or consume drugs in a sterile manner</li> <li>2) Means of testing drugs for adulterants (e.g., fentanyl)</li> <li>3) Other supplies as needed to prevent overdose and infection</li> </ol> <p>In addition, to educate participants on prevention of adverse outcomes.</p>
4	30-31-25.1	Unlawful activities	Makes new exceptions of program supplies and devices from the general prohibitions on drug paraphernalia.
5	24-2C-2, 24-2C-6	Repeal of sections	Repeals 24-2C-2, which gives the purpose of the Harm Reduction Act, and 24-2C-6, which is a redundant version of the changes made in Section 30-31-25.1 mentioned above.

**FISCAL IMPLICATIONS**

There is no appropriation in House Bill 52. DOH does not identify a net cost to that department for implementation of SB52.

**SIGNIFICANT ISSUES**

The Centers for Disease Control and Prevention counted 70,630 substance abuse overdose deaths in the United States in 2019 (<https://www.cdc.gov/drugoverdose/deaths/index.html>). In that year in New Mexico there were 599 deaths, a rate 39.8 percent higher than the nation’s average. Since then, opiate use, often contaminated with fentanyl, and exacerbated by the dislocations of the

Covid-19 pandemic, has contributed to a further acceleration of death and disability related to substance abuse. The annual U.S. death toll from drug overdoses has exceeded 100,000 since the pandemic began.

DOH operates an Overdose Prevention Program through its Epidemiology and Response Division. In July 2021, that program published a list of factors increasing opioid overdose risk:

- Previous non-fatal overdose.
- Mixing opioids with other medications like benzodiazepines (Xanax®, Klonopin®, Valium®, etc.) or mixing opioids with alcohol and other substances.
- Opioid doses greater than 90 mg of morphine per day or 60 mg of oxycodone per day.
- Obtaining overlapping prescriptions from multiple providers and pharmacies.
- History of mental illness or history of substance use disorder.
- When opioids are discontinued and then restarted after a period of abstinence. For example, individuals who have been incarcerated or people returning home from substance abuse treatment are at especially high risk for overdose if opioids are restarted.
- Living in rural areas and having low income.

Separately, DOH adds reasoning for supporting this legislation:

Under current law, the DOH harm reduction program is narrowly focused on supplies and devices related to injection of substances intravenously, which was the most common risk for the spread of infectious diseases such as HIV and hepatitis C virus (HCV) when services were first established in 1997. In more recent years, overdose death data has revealed an influx of powerful synthetic opioids and a dramatic increase in overdose mortality. Reports from harm reduction providers across the state and nationally (<https://pubmed.ncbi.nlm.nih.gov/34482046/>) have indicated a shift away from injection to smoking or inhalation of substances, particularly with opioids. Synthetic opioids are typically 50 to 100 times more powerful than morphine and are adulterating pressed pills users believe to be pharmaceuticals, such as Oxycontin®. HB52 sets forth certain criteria for the department's consideration of necessary supplies; that supplies decrease overdose mortality, that they decrease negative health outcomes associated with injection substance use, and that they reduce the harm associated with the use of non-sterile equipment used for the consumption of controlled substances or controlled substance analogs. Allowing distribution of sterile supplies increases opportunities to engage program participants with life-saving interventions, such as overdose prevention education and the provision of naloxone, testing, treatment, healthcare services, detox, and rehabilitation. The goal of harm reduction is to keep people who use substances alive, to limit the spread of disease, and to get participants into recovery. Many New Mexicans have overcome their addictions and turned their lives around with the assistance provided by the program.

Additionally, the possession of devices used to test for potential adulterants of controlled substances or controlled substance analogs is not currently allowed by law. Changes to the Controlled Substances Act would enable a wide range of organizations to provide devices used to check for potential adulterants to those at risk of a potentially fatal overdose.

It is highly likely additional adulterants will appear in the coming years and HB52 will allow for a swift and comprehensive response. HB52 will impact several agencies in addition to DOH. It will allow for drug checking devices to be distributed by anyone, including agencies and programs involved in overdose prevention efforts including the

Human Services Department, Corrections Department, Department of Public Safety, and local jurisdictions across the state. Changes to both the Controlled Substances Act and Harm Reduction Act allowing for expanded supplies and devices have been requested by both community members and several agencies which provide direct services to people who use substances.

DPS comments that “This bill contemplates DOH providing test strips for Fentanyl. These tests are critical to preventing overdoses. The bill will allow DOH to issue the best and most up to date tests to program participants. Law enforcement will know participants can lawfully possess them based on their enrollment in the program.

“New Mexico State Police will have representation on the advisory committee that will help in developing the policy for the Harm Reduction Program. Reducing the negative health effects of drug use in our communities plays a critical role in an overall public safety strategy.”

**RELATIONSHIP**

Relates to SB100, which points out the need for harm reduction education relative to cannabis products sales and use.

LC/al