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FISCAL IMPACT REPORT

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| SPONSOR <u>Cates/Little/Chavez, E/Thomson</u> | LAST UPDATED <u>2/27/2025</u> |
| | ORIGINAL DATE <u>1/28/2025</u> |
| SHORT TITLE <u>Universal Adult Changing Stations</u> | BILL NUMBER <u>House Bill 40/aHCEDC</u> |
| | ANALYST <u>Ortega</u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|-----------------|------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------|
| Facility Costs | No fiscal impact | \$1,980.7 to \$7,788.6 | \$1,980.7 to \$7,788.6 | \$3,961.4 to \$15,577.1 | Nonrecurring | General Fund |
| Operating Costs | No fiscal impact | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | Recurring | General Fund |
| Total | No fiscal impact | \$2,184.7 to \$9,503.3 | \$2,184.7 to \$9,503.3 | \$4,369.4 to \$19,006.6 | | General Fund |

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

Sources of Information

LFC Files

Agency Analysis Received From

Cultural Affairs Department (DCA)
Energy Minerals and Natural Resources Department (EMNRD)
General Services Department (GSD)
Health Care Authority (HCA)
New Mexico State Fair
Tourism Department (NMTD)
Regulation and Licensing Department (RLD)

Agency Analysis was Solicited but Not Received From

Higher Education Department (HED)
State Racing Commission (SRC)

SUMMARY

Synopsis of HCEDC Amendment to House Bill 40

The House Commerce and Economic Development Committee (HCEDC) amendment to House Bill 40 (HB40) adds language that expands the definition of a "covered facility" to include a group of interconnected public buildings or commercial places of public amusement located on a single premises. The amendment states that eligibility is determined using visitor data that is tracked by the Tourism Department (NMTD). It also adds rest areas to the list of public buildings required to comply with the bill. Furthermore, the amendment specifies the mandate applies only to facilities with a family or gender-neutral bathroom. Finally, it creates an exemption for historic properties, stating that a facility will not be required to install a universal adult changing

station if doing so would threaten or destroy the historic significance of the property.

Synopsis of Original Bill

House Bill 40 mandates the installation of universal adult changing stations in facilities that receive state funding. Covered facilities are defined in the bill as public buildings or commercial places of public amusement that house entities or programs that receive state funding for operating costs and receive at least 2,500 visitors per year, as measured by the Tourism Department. Covered facilities undergoing renovations costing more than \$50 thousand must include at least one universal adult changing station. Newly constructed facilities receiving state funding must also include at least one universal adult changing station. By July 1, 2032, all covered facilities must install and maintain at least one universal adult changing station.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

HB40 does not include an appropriation for its implementation but will have a fiscal impact on facilities under the management of the Cultural Affairs Department (DCA), Energy, Minerals and Natural Resources Department (EMNRD), New Mexico State Fair, and some higher education and public school buildings. Additionally, the Regulation and Licensing Department (RLD) anticipates minimal costs associated with updating building codes and training staff to ensure compliance with the bill's requirements. The impact to the Tourism Department's (NMTD) operating budget is indeterminate but minimal because this analysis assumes the HCEDC amendment to HB40 implies that NMTD is responsible for providing visitor data that is already tracked by the department to determine which buildings are subject to the law.

The total cost of implementing HB40 as amended by HCEDC was estimated by calculating the maximum potential cost per restroom, estimating the number of covered facilities, and dividing the total potential cost evenly over the implementation timeline. The total number of covered facilities with a family or gender-neutral bathroom is indeterminate at this time, however this analysis assumes the amendment to limit the mandate to these restrooms likely aims to reduce the overall number required to comply with the provisions in the bill. Restroom additions and renovating existing buildings, including single-occupancy restrooms and adjustable adult changing tables, can cost up to \$235 thousand per unit, according to the EMNRD. The cost includes the purchase and installation of the tables as well as expansion of existing restrooms, many of which are not currently large enough to meet HB40's requirements, according to the agency. The \$235 thousand per unit was assumed to be the cost of compliance for all restrooms included in this fiscal analysis, but renovations to existing restrooms that are already an appropriate size for adult changing stations could cost less. Additions for the purpose of compliance may also cost less, at least at some sites.

Definition of covered facilities in HB40 as amended is assumed to include at least 15 restrooms at DCA museums and historic sites, between 34 and 87 restrooms at state parks, and up to 10 restrooms at the New Mexico State Fair grounds. Additional restrooms may require modification at higher education, public school, and possibly state office buildings. The high end of this analysis assumes one restroom modification is required per higher education institution, special school, and public-school districts. The analysis assumes there are no modifications at state office buildings. The total statewide cost could range between \$13.9 million and \$54.5 million over the seven-year compliance period.

DCA oversees 15 museums and historic sites that could meet the definition outlined in the bill. When asked, the department stated it oversees 240 plus buildings with over 100 on the federal historic registry. According to DCA, costs per table range from \$2,000 to \$10 thousand, excluding additional expenses for structural and electrical upgrades, and the fiscal impact of constructing restrooms is expected to be significant but remains uncertain. However, HB40 as amended exempts facilities with historic significance from the bill's requirements if the installation of an adult changing station, along with any related renovations or additions, would threaten or compromise their historic integrity.

EMNRD reports that there are 87 public buildings at 34 of their 35 state parks that meet the bill's definition, but none of these facilities currently have sanitary spaces large enough to accommodate universal adult changing stations. Compliance with the bill would require constructing additions to each of the 87 public buildings in state parks, with an estimated cost of \$20.5 million, according to EMNRD. Additionally, the number of covered facilities that are managed by EMNRD and meet the bill's definition could increase because the HCEDC amendment to HB40 adds "rest areas" to the definition of public buildings, which are required to comply with the bill.

NMTD notes its existing data may not be sufficient in determining whether individual buildings meet the threshold of 2,500 visitors per year. According to NMTD, the department only tracks visitor data at a statewide level, relying on modeled estimates from various sources, such as travel surveys, hotel performance data, and air passenger reports. NMTD states it defines a visitor as someone traveling beyond a 50-mile radius of their home and does not track visitation at specific locations. As a result, enforcement of HB40 at the county, municipal, or facility level may be difficult using NMTD's current methodology.

The New Mexico State Fair oversees 191 structures dating back to the 1930s. According to the agency, adjustable adult changing tables may cost between \$3,000 and \$10 thousand per unit, not including installation costs. For the New Mexico State Fair, compliance with the bill may require constructing or renovating at least 10 restrooms, which may be less under the amended HB40, which adds a group of interconnected buildings or commercial places of public amusement that are located on a single premises.

RLD anticipates that implementing HB40 will require the Construction Industries Division to update building codes to accommodate universal adult changing stations. This will involve training plan-review staff on reviewing plans for these specialized restrooms and ensuring inspectors are prepared to assess compliance. However, RLD expects the costs associated with adopting new rules and conducting training to be minimal.

The fiscal impacts to state agencies would likely result in increased capital outlay requests.

SIGNIFICANT ISSUES

The definition of "public building"—a building owned by the state that is open to the public—as it appears in the bill may or may not include most state office buildings. Other language in the bill's definitions make it unclear if the intent is to limit covered public facilities to those "of public amusement."

DCA notes restrooms in historic public buildings are retrofitted to meet federal standards under the Americans with Disabilities Act (ADA); however, installing universal adult changing stations in single-occupancy restrooms would require significant renovations. Many historic locations face constraints, including archaeological site protections and land ownership issues, which limit the feasibility of such construction. However, HB40 as amended adds an exemption for historic properties, stating that covered facilities will not be required to install universal adult changing stations if doing so would threaten or destroy the historic significance of a property.

Additionally, the department states there is a potential discrepancy in the bill regarding eligibility criteria. Section A. (1) defines eligibility based on maximum occupancy, requiring a capacity of “two thousand five hundred or more people,” while Section A. (2.b) defines eligibility based on annual visitor numbers, stating that a facility must “receive at least two thousand five hundred visitors per year” as measured by the Tourism Department.

EMNRD notes HB40 as amended does not define “renovation,” which creates ambiguity regarding the requirement that any covered facility undergoing a renovation costing more than \$50 thousand after July 1, 2025, must install a universal adult changing station. The department highlights that this threshold could be triggered by routine maintenance projects, unintentionally expanding the project scope and cost. As a result, necessary maintenance may be deferred to avoid additional compliance costs, potentially leading to long-term facility deterioration, according to the department.

EMNRD also notes the bill does not specify a minimum square footage for restrooms required to install universal adult changing stations. According to EMNRD, during committee discussions, expert testimony suggested a family or gender-neutral restroom should be at least 85 square feet to accommodate an adult changing table. However, many covered facilities in state parks also include showers, and EMNRD’s architects estimate that a restroom with a shower would need at least 150 square feet to fit the required equipment. Additionally, EMNRD states the bill does not account for existing restroom layouts or other fixtures that may obstruct the installation of an adult changing table, potentially complicating compliance efforts.

NMTD notes that it lacks the necessary data analysis tools, staffing, and budget to provide precise visitor data at a county, municipal, or individual establishment level. According to the department, maintaining reliable data for enforcement of the HCEDC amendment to HB40 would be challenging, as visitation to covered facilities fluctuates and can be difficult to predict. For example, smaller facilities may experience annual visitor counts that vary above or below the 2,500-visitor threshold, requiring continuous tracking and communication between NMTD and covered facilities to ensure accuracy.

The New Mexico State Fair notes existing bathrooms lack the structural and spatial capacity to accommodate adjustable adult changing tables and believes compliance will require constructing new stand-alone restrooms and modifying existing buildings at multiple locations. However, the HCEDC amendment to HB40 that adds a group of interconnected buildings or commercial places of public amusement that are located on a single premises will likely decrease the number of universal adult changing stations and modifications to existing buildings at the New Mexico State Fair.

RLD notes that HB40 does not include a dedicated funding mechanism to cover the costs of installing adult changing stations in affected public buildings. While most covered facilities will

have seven years to plan and budget for compliance, buildings undergoing substantial renovations costing \$50 thousand or more, as well as newly constructed facilities, must install at least one adult changing station starting July 1, 2025. This requirement may necessitate adjustments to project budgets and building plans to accommodate the new mandate, according to the department.

Installing adult changing stations in public buildings would make New Mexico’s public spaces more inclusive and accessible to all residents and visitors. Adult-sized changing tables, also used by older children, allow individuals to take care of their toileting needs with the help of a caregiver, while supporting their size and weight. Advocates contend, “Without them, individuals may end up being changed on restroom floors or in the back of vehicles.”¹

ADMINISTRATIVE IMPLICATIONS

As noted by the DCA, “Per Section A. (2.b), the bill requires visitation to be measured by the Tourism Department.”

As noted by the NMTD, “Administratively, tracking and reporting for this process would be burdensome for NMTD and would require new administrative measures to be implemented.”

As noted by the New Mexico State Fair, “This project, because of its size and scope, would have significant performance challenges in terms of funding and timing.”

ALTERNATIVES

The New Mexico State Fair suggested the following alternative:

Use of portable adult changing tables would benefit our facility as we have 191 different structures used for different types of shows which are often not used at the same time. A portable changing table, portables could be moved from one venue to another when they are in use for a particular show.

Alternatively, the responsible authority could grant an exemption from changing station requirements in cases where the installation would not be feasible, or the installation would result in a failure to comply with ADA standards for access for people with disabilities.

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¹ <https://pmc.ncbi.nlm.nih.gov/articles/PMC10309150/#r9>