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## FISCAL IMPACT REPORT

**SPONSOR**     Dow/Thomson/                      **ORIGINAL DATE**    2/7/19  
                    Roybal Caballero                      **LAST UPDATED**    \_\_\_\_\_     **HB**    349

**SHORT TITLE**    Birthing Workforce Retention Fund Awards                      **SB**    \_\_\_\_\_

**ANALYST**    Chilton

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	See Fiscal Implications					

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Medical Board (MB)

### SUMMARY

#### Synopsis of Bill

House Bill 349 would add licensed midwives to the list of those eligible for malpractice premium assistance through the Birthing Workforce Retention Fund. Currently, certified nurse-midwives and physicians (family practitioners and obstetricians), in that order, are offered awards of assistance; this bill would place certified lay midwives in position behind them in order of preference for a grant of \$5,000 to \$10,000 to help with the high cost of medical malpractice for those specialties. The award would be payable to whomever paid the malpractice insurance premiums, whether that be the practitioner her/himself or her/his employer. The award is based on the proportion of patients in the awardee's practice who are either insured by Medicaid or are medically indigent. And the awardee's intent to continue obstetrics practice in New Mexico.

The remainder of Section 41-5-26.1 NMSA 1978 of the Medical Malpractice Act would remain unchanged.

### FISCAL IMPLICATIONS

No appropriation is made in the bill. The fund is made up of appropriations, gifts, grants and donations, and disbursements are limited to the amount available. The addition of certified lay midwives would not change the inputs into the fund and the costs of administration of the fund

are unlikely to change on account of this bill.

**SIGNIFICANT ISSUES**

According to capson.com, the average annual medical malpractice cost in New Mexico is \$7,573. However this figure is not helpful in estimating the annual malpractice insurance premiums for an obstetrician, a certified nurse-midwife, or a lay midwife. According to Levine (in Contemporary Ob-Gyn, <https://www.contemporaryobgyn.net/health-law-policy/best-and-worst-states-obgyn-practice-professional-liability-perspective>), “Ob/gyns are sued more frequently and pay more for less professional liability coverage than physicians in virtually all other medical specialties except neurosurgery. “Malpractice climate and premiums” were the sixth most important factor in deciding where to practice for physicians surveyed by Medscape in 2013. But ob/gyns likely ranked professional liability concerns much higher on their list because ob/gyns pay more for less coverage, because they are sued more frequently, and because the specialty is fraught with stories alleging tremendous payouts from lawsuits.”

According to a 2013 article in online Live Science (<https://www.livescience.com/37824-obgyn-shortage-looming.html>),”doctors who perform childbirth duties are becoming increasingly scarce. Data from the American College of Obstetricians and Gynecologists (ACOG) projects a shortfall of between 9,000 and 14,000 obstetrician-gynecologists (ob-gyns) in the next 20 years, and an ACOG survey found that 1 in 7 ob-gyns has stopped delivering babies. More than 20 states are now in "Red Alert" crisis mode — meaning the number of ob-gyns isn't sufficient to meet patients' needs.

“Two compelling reasons exist for the shortage. The first, historically unchanged, is that as obstetricians age, their practice tends to age with them and a constant call schedule is hard to sustain for a small number of pregnant patients. The second cause is that the additional cost of malpractice insurance may not be sustainable for an obstetrician who is not performing a large number of deliveries.” The same is likely to be the case with certified nurse-midwives and lay midwives.

In January 2019, the balance in the Birthing Workforce Retention Fund was approximately \$75,000. According to DOH, applications and awards for the current and just completed years are as follows:

Year	Applicants	Awarded	Total
2018	9	6	\$55,000
2019	8	8	\$57,032

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