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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/06

SPONSOR Picraux LAST UPDATED \_\_\_\_\_ HB 493

SHORT TITLE Childbirth Health Care Problem Alternatives SB \_\_\_\_\_

ANALYST Lewis

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$80.0	Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SJM 23 (Study Malpractice Insurance Crisis Solutions).  
 Relates to HM7 (Support Medical Malpractice Reform)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Health Policy Commission (HPC)  
 Department of Health (DOH)  
 Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

House Bill 493 appropriates \$80,000 from the general fund to the New Mexico Health Policy Commission for fiscal years 2007 and 2008 to fund a study to examine alternatives for resolving problems related to:

- reducing the injuries suffered in the course of childbirth;
- compensation for those injured in the course of childbirth; and
- the cost and availability of malpractice insurance for childbirth health care professionals and institutions.

### FISCAL IMPLICATIONS

The appropriation of \$80,000 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## SIGNIFICANT ISSUES

The Health Policy Commission (HPC) notes that the commission has also been named in SJM 23 to appoint a task force to continue to address the malpractice insurance crisis. In the HPC's 2005 Senate Memorial 7 report, options were identified that addressed the malpractice crisis, including adding all practitioners and providers to the Medical Malpractice Act, creating a joint underwriting association, allowing practitioners and providers to purchase insurance through the risk management division of the general services department, creating additional patient compensation funds and self-insuring. The task force identified several promising approaches to address these problems and decided that additional information and data were needed.

The HPC adds that:

- complications during childbirth can affect both mother and baby, sometimes causing injury or death;
- adequate nutrition and access to quality medical care are the most important factors affecting childbirth mortality; and
- other factors that contribute to a high risk birth include prematurity, high blood pressure, diabetes and previous cesarean section.

HPC notes that childbirth injuries in which medical malpractice may be a factor include;

- bruising caused by the use of forceps or vacuum extraction;
- fracture of the collarbone;
- severe swelling of the soft tissue of a baby's scalp that develops as the baby travels through the birth canal, which may be caused by vacuum extraction; and
- cerebral palsy, which is often the result of a doctor's failure to diagnose fetal distress.

The HPC notes that during the mid-1980s, many of Virginia's obstetricians were poised to leave that state because of the cost of insurance. Virginia developed a program that compensates on a no fault basis children who are neurologically impaired as a result of birth injury. The compensation covers medical and economic costs. Florida has developed a similar program.

Since malpractice insurance is not available for home births, the vast majority of licensed midwives have no malpractice coverage. The 2005 SM7 task force heard testimony that licensed midwives may curtail practice due to the combined effect of the unavailability or affordability of malpractice insurance coupled with the restrictions on Medicaid reimbursement.

According to the Department of Health (DOH), malpractice insurance premiums for childbirth health care professionals and institutions have increased in the last few years by as much as 30 percent per year, to the point that some professionals can no longer afford to practice. DOH notes that at least one state compensates people who might have been injured by a health care provider's malpractice or negligence through a "no fault" compensation fund.

## ADMINISTRATIVE IMPLICATIONS

The HPC notes that, as the lead agency, it will be responsible for providing staff support to facilitate meetings, follow up on task assignments, and conduct research, as well as drafting and distributing the final report.