

**2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House
Number: 97

Category: Bill
Type: Introduced

Date (of THIS analysis): 1/17/2024

Sponsor(s): Stefani Lord and Harlan Vincent

Short Title: Prenatal Substance Exposure Task Force

Reviewing Agency: Agency 665 – Department of Health.

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25 – FY 27		
\$	\$75.0	No	General Fund

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	NA	NA

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$ 0	\$ 707,856	\$ 707,856	\$ 455,712	Recurring	General

House Bill 97 (HB 97) appropriates \$75,000 DOH (Department of Health) to carry out the work of the prenatal substance exposure task force. This funding is not sufficient for conducting a twenty-year longitudinal study.

First, 2 FTEs would be required to fulfill requirements of this bill if 2 DOH employees are assigned to the task force. If more personnel are assigned, more FTEs would be required:

Personnel Services & Employee Benefits (PS&EB)

Prenatal Substance exposure surveillance Epidemiologist (Epidemiologist Advanced) Pay Band 75 - \$35.22 x 2080 hours x 1.39	\$ 101,828
Prenatal Substance exposure Program Evaluator (Epidemiologist Advanced) Pay Band 75 - \$35.22 x 2080 x 1.39	\$ 101,828
Office Setup	
Computer setup - \$2,000 per FTE x 2	\$4,000
Phones – Cell phone \$600 per FTE x 2	\$1,200
IT Costs – Enterprise costs, help desk, email, \$2000 per FTE annually x 2	\$4,000
Office Space	
Homestead office space: 2 cubicles x \$ 475 per cubicle per month x 12	\$11,400
Homestead office security: \$300 per month x12	\$3,600
Data Abstractors	\$480,000
Total estimated costs for FY24	\$707,856

It would be recommended to have at least one DOH epidemiologist involved in the oversight of the data collection. If DOH is conducting the study, given its scope, a number of contracts for data abstractors would be required. Depending on the period assigned to complete the study, perhaps close to eight abstractors working full-time may be required. At an estimated cost of \$60,000 per contract, that would add \$480,000 to the costs.

Furthermore, interviews may also be required for some of the data required to fulfill some of the objectives of the task force. How many people would be required for that is unclear at this time, but this will also add to the costs.

Page 3 of the Bill (b), states the Taskforce should be established by August 1st 2024 and complete its work by August 1st 2026, this conflicts with page 5 Section 2 of the bill where it states ‘expenditure in fiscal years 2025 through 2027 to carry out the work of the prenatal substance exposure task force. This conflict potentially adds a further year of expenditure by DOH to the amount of an additional \$707,856, bringing the total fiscal implication to DOH of \$1,163,568.00.

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: House Memorial 3 (HM 3)

Duplicates/Relates to an Appropriation in the General Appropriation Act: No

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 97 (HB97) appropriates seventy-five thousand dollars (\$75,000) from the general fund to the Department of Health for expenditure in fiscal years 2025 through 2027 to carry out the work of the prenatal substance exposure task force. Any unexpended or unencumbered balance remaining at the end of fiscal year 2027 shall revert to the general fund.

The task force would study the independent and combined effects of prenatal substance exposure on birth outcomes for children in New Mexico and develop a data-driven implementation plan to prevent prenatal opioid exposure. For example, the task force would:

1. Study the efficacy and outcomes of the Comprehensive Addiction and Recovery Act (CARA) of 2016.
2. Review use of prenatal services by pregnant people who used drugs during pregnancy before and after implementation of CARA.
3. Study rates of substance-exposed newborns in New Mexico over the last twenty years.
4. Study and develop recommendations for the prevention, identification, and treatment of opioid use disorder in pregnant people.
5. Study ways to increase access to emergency rental assistance, housing, and financial resources for families with a substance-exposed newborn.
6. Study the lifetime fiscal impact of children born with prenatal substance exposure and neonatal abstinence syndrome; study what, if any, follow-up services are available by national best practices once a newborn who was exposed to prenatal substance abuse has been discharged from the hospital; and
7. Develop an implementation plan to prevent prenatal opioid exposure, provide treatment and increase accessibility of family-friendly services for pregnant and parenting people with substance use disorder, support continuing education for health care providers and determine optimal family and developmental support services for children with prenatal substance exposure.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Prenatal substance exposure can have significant consequences for child health and development. In 2015, the overall incidence rate of Neonatal Abstinence Syndrome (NAS) was 6.7 per 1000 in-hospital births in 2016, with an average cost per infant with NAS of \$22,552 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6990852/>). Fetal Alcohol Spectrum Disorders (FASD): Using medical and other records, CDC-Centers for Disease Control and Prevention studies have identified about 1 infant with FAS-Fetal Alcohol Syndrome (the most prevalent of the FASD) for every 1,000 live births in certain areas of the United States (MMWR Morbidity Mortality Weekly Rep. 2002;51[20]:433-5). The lifetime cost of care for one individual with FAS in 2002 was estimated to be \$2 million (<https://www.cdc.gov/ncbddd/fasd/data.html>).

Between 2008 and 2021, the rate of NAS-Neonatal Abstinence Syndrome, increased more than 300%, from 3.2 to 23.0 NAS cases per 1,000 births. Between 2016-2019, there were 87,109 infants born in NM (New Mexico) to 85,822 NM resident mothers. 34.9% of them were found to have been exposed to a psychoactive substance in utero (<https://www.nmhealth.org/data/view/report/2769/>).

The bill proposes assessing “the rates of the use of prenatal services and support by people who used substances during pregnancy before and after implementation (Laws 2019, Chapter 190)”. Service utilization prior to CARA-Comprehensive Addiction and Recovery Act, may be difficult to assess due to changes in screening and reporting prenatal substance exposure.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
 - Is this proposal related to the NMDOH Strategic Plan? Yes No

- Goal 1:** We expand equitable access to services for all New Mexicans
- Goal 2:** We ensure safety in New Mexico healthcare environments
- Goal 3:** We improve health status for all New Mexicans
- Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

Specific objectives in NMDOH FY21-23 Strategic Plan:

- o Promote effective substance use disorder treatment.
- o Decrease diseases of despair (suicide & drug and alcohol related deaths), decrease mortality rates and thereby reduce SHIP-State Health Improvement Plan, priorities by 5%.
- o Disseminate results and collaborate with stakeholders for ambulatory care sensitive conditions (ACSC).

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
 - If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

Given the scope of the work to be undertaken, that would impose a time commitment that would require other tasks assigned to the DOH personnel, associated with the task force, to be re-assigned. HB97 also assigns \$75,000 to DOH to do this work, which is not enough to cover participation in the task force and even less to conduct the work assigned to the task force.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

There is also a feasibility issue with the study requested. Data for the twenty-year study are not available. The prescription drug monitoring program (PMP) and the Hospital Inpatient Discharge Database (HIDD) have approximately 10-15 years of data, with varying degrees of usability. Further, it is unclear if medical marijuana data would be available. Given that DOH is not the data steward of all the data systems needed a multi-agency data sharing agreement would need to take place. Furthermore, some of the data required may need to be abstracted or gathered through interviews. That would require personnel assigned to such tasks, as well as standardization of questionnaires and IRB approval. Even if DOH personnel are not assigned to those tasks, it may be recommendable to have at least one DOH epidemiologist overseeing the data collection, given the nature of the data.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HM 3 - Prenatal Substance Exposure Task Force proposes to request the secretary of health to convene a task force to study the prevalence, effects and lifetime fiscal impacts of prenatal

substance exposure and adverse neonatal outcomes and report the final results of the study to the legislature.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

Page 3 of the Bill (b), States Taskforce should be established by August 1st, 2024, and complete its work by August 1st 2026, this conflicts with page 5 Section 2 of the bill where it states ‘expenditure in fiscal years 2025 through 2027 to carry out the work of the prenatal substance exposure task force. This conflict potentially adds a further year of expenditure by DOH to the amount of an additional \$707,856, bringing the total fiscal implication to DOH of \$1,163,568.00.

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
 - Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

HB97 could have a positive impact on public health through a detailed study of rates and risk factors for prenatal drug exposure with an emphasis on evidence-based recommendation for prevention, identification, and treatment of NAS (Neonatal Abstinence Syndrome) and opioid use disorder in pregnant people. Any collection of data surrounding prenatal substance exposure could have an unintended impact on families. If data is collected as evaluation and epidemiological data from families with the understanding that it is not a criminal act to use substances during pregnancy and are then prosecuted this could be a violation of informed consent.

9. HEALTH IMPACT(S)

In New Mexico, Hispanic infants accounted for 48% of NAS-Neonatal Abstinence Syndrome cases, White for 30.9%, and American Indian/Alaska Native for 5.0%. When compared over time, AIAN (American Indian Alaska Native) showed the highest percent change in the rate of NAS, 698.2% between 2008 (0.8 per 1,000 livebirths) and 2017 (6.4 per 1,000 livebirths), followed by Whites (510.1%, 2.7 versus 16.3, respectively), and Hispanics (222.4%, 4.0 versus 13.0, respectively). By region, the Southwest Region experienced the largest percent change (573.9%) between 2008 (1.6 per 1,000 livebirths) and 2017 (11.0), followed by the Northeast Region (467.4%, 5.2 and 29.5, respectively), and the Southeast Region (441.8%, 0.6 and 3.5, respectively) ([https://www.nmhealth.org/data/view/report/2194/#:~:text=In%20NM%2C%20the%20rate%20of,were%20male%20infants%20\(Table\)\)](https://www.nmhealth.org/data/view/report/2194/#:~:text=In%20NM%2C%20the%20rate%20of,were%20male%20infants%20(Table)).

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB97 is not enacted, then the task force work will not be carried out.

12. AMENDMENTS

None.