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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 1/25/2024

SPONSOR Lord

BILL

SHORT TITLE Prenatal Substance Exposure Taskforce **NUMBER** House Memorial 3

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

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

Relates to House Bill 97 and House Bill 103

Sources of Information

LFC Files

Agency Analysis Received From
 Children, Youth and Families Department (CYFD)
 Early Childhood Education and Care Department (ECECD)

Agency Analysis was Solicited but Not Received From
 Department of Health (DOH)
 Health Care Authority (HCA)

SUMMARY

Synopsis of House Memorial 3

House Memorial 3, making note of a rising number of infants exposed to toxic substances such as fentanyl in utero and the high social and financial costs of care for infants damaged by those exposures, would ask the Department of Health to establish a taskforce to study the issue and to recommend solutions to the problem and its secondary effects.

The task force would be asked to develop a plan to prevent prenatal drug exposure, increasing services for pregnant women and also to treat and ameliorate the effects of prenatal drug exposure once an infant has been born having been exposed.

The task force's members could number at least 20, if a representative from each of the stakeholder groups and agencies with relevant and specific areas of medical, legal, and ethnic expertise, listed in the memorial were included.

The taskforce’s activities would include:

- Studying the state’s adoption of the federal Comprehensive Addiction and Recovery Act of 2016;
- Reviewing that statute’s effects on maternal care and support;
- Studying rates of prenatal drug exposure over the past 20 years;
- Reviewing preventive measures;
- Researching factors correlated with mothers using drugs during pregnancy;
- Developing recommendations for preventing, identifying and treating pregnant women with drug exposure;
- Developing recommendations for prevention, identification and treatment of neonatal abstinence syndrome (the situation when an infant is born and affected by withdrawal from maternally-transferred substances);
- Reviewing infant mortality and long-term adverse outcomes related to prenatal drug exposure, and the costs associated;
- Reviewing other states’ approaches to these problems, including those states where prenatal drug exposure constitutes evidence of child abuse;
- Explore the use of community health workers in preventing and ameliorating prenatal drug exposure;
- Studying ways to provide housing resources to affected families;
- Studying the barriers to achieving “plans of safe care;”
- Evaluating methods of improving hospital staff skill in engaging families affected by prenatal drug exposure and putting together a plan of care; and
- Studying follow-up services for infants and families where prenatal drug exposure has occurred.

There is no appropriation in House Memorial 3.

This memorial does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

There is no appropriation in House Memorial 3. Agencies contributing members to the proposed taskforce would have to provide internally for their time.

CYFD comments that it “anticipates that its involvement will require at a minimum an attorney, the protective services division’s medical director, and a program matter expert identified by the Cabinet Secretary. Fiscal implications for participation in this task force will be absorbed by existing resources.” ECECD does not indicate additional costs to that agency.

SIGNIFICANT ISSUES

According to an August 2023 report from the analysts at the Legislative Finance Committee, “Between 2011 and 2021, the rate of babies born with neonatal abstinence syndrome (NAS) more than doubled. NAS is a group of conditions caused when a baby withdraws from substances to which they were exposed in the womb. In New Mexico, the rate of babies born with NAS increased from six babies per 1,000 in 2011 births to 13 babies per 1,000 births in

2021. A total of 278 babies were born with NAS in New Mexico in 2021. Maternal substance use is also associated with high rates of post-partum mortality. A 2023 study of substance-use related maternal deaths found that among 87 pregnancy-associated deaths in New Mexico between 2015 and 2019, 49 percent were substance-use related.”

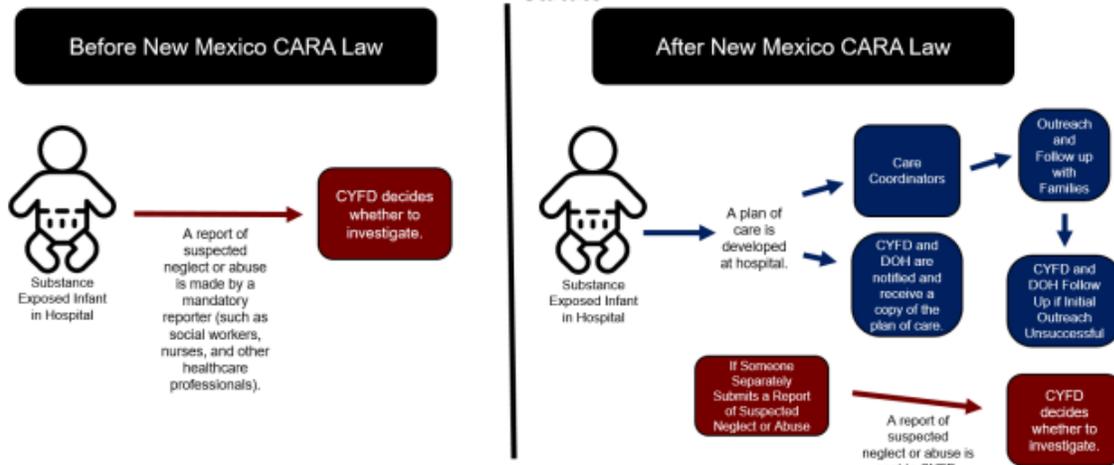
The New Mexico Poison and Drug Information Center has dealt with 22 calls since 2020 regarding fentanyl exposure in children and fetuses below 12 years of age. Nine of those exposures had to do with illicit fentanyl, 13 with prescribed fentanyl.

Opioid settlement agreements outline allowable opioid remediation fund uses, including naloxone programs, medication assisted treatment services for pregnant and postpartum women, treatment for neonatal abstinence syndrome, warm handoff programs and recovery services, treatment for incarcerated populations, and prevention programs.

In another LFC analysis of results of New Mexico adhering to CARA (*Program Evaluation: Implementation and Outcomes of the Comprehensive Addiction and Recovery Act, 2023*), a major conclusion was that “After New Mexico enacted its CARA statute, child protective removal of infants from the home due to substance abuse fell below national rates. However, the same families have not, on average, experienced changes to their safety or well-being.”

In addition, this analysis states that “The total lifetime costs for caring for children who were prenatally exposed to drugs or alcohol ranges from \$1.3 million to \$2.4 million.”

Figure 1. Change in Reporting of Suspected Abuse or Neglect Before and After New Mexico CARA Statute



Note: A report of suspected neglect or abuse to CYFD is different from CYFD receiving a notification of a plan of care. A report necessitates a CYFD family assessment and potential investigation. A notification of a plan of care does not necessitate a family assessment or potential investigation. Prior to the CARA law, CYFD reported to LFC that the birth of a newborn exposed to substances constituted substantiated child abuse or neglect.

According to a New Mexico Department of Health Epidemiology Report published March 8, 2023 and cited by ECECD, there were 87,109 infants born in New Mexico to 85,822 New Mexico resident mothers from 2016-2019. Of the infants, 34.9 percent were found to have been exposed to a psychoactive substance in utero. This percentage remained consistent in each year of the study period. Of the infants exposed in utero, 57.1 percent were found to have been exposed to drugs, 38.8 percent to alcohol, and 31.1 percent to tobacco.

And New Mexico’s statistics are not reassuring:

Table 1. Quick Facts: Statistics Regarding Substance Abuse and Child Welfare

	New Mexico	United States
Rate of Neonatal Abstinence Syndrome (per 1,000 births)	13 (2021)	6.3 (2020)
Drug Overdose Death Rates (Deaths per 100,000 population)	56 (2021)	32.4 (2021)
Alcohol Related Death Rate (Deaths per 100,000 population)	102.7 (2021)	34 (2016)
Infant Mortality (per 1,000 children)	4.8 (2021)	5.4 (2020)
Rate of Infant Maltreatment (per 1,000 infants)	30 (2021)	25.3 (2021)
Rate of Child Maltreatment (per 1,000 children)	12.6 (2021)	8.1(2021)
Repeat Maltreatment (12 month rate)	14% (2023)	N/A
Abuse or Neglect Deaths (per 100,000 children)	2.11 (2021)	2.5 (2021)

Source: LFC Files

CYFD notes duplication of efforts already underway at that agency:

While a data review of prenatal substance exposure and barriers to prenatal care could help to inform the Comprehensive Addiction and Recovery Act program and support CYFD in forecasting program needs, study of the efficacy and outcomes of the state's 2019 adoption of CARA and plan of safe care duplicates work already conducted. Other requests in this memorial, including a review of how other states are implementing CARA, are also duplicative of work already underway.

Further, the memorial goes beyond studying the prevalence, effects, and lifetime fiscal impact of prenatal substance exposure by also requesting a review of the CARA program and plans of care. As with other requests in this memorial, an evaluation component for the CARA program is being developed for implementation by CYFD’s Family Services Division and there is an evaluation component of the Family First Prevention Services Act prevention plan. These requests are, again, duplicative of work already underway.

ADMINISTRATIVE IMPLICATIONS

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CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Memorial 3 is related to House Bill 97, Prenatal Substance Exposure Taskforce, which has much the same language, but lists a different deadline for a taskforce’s work and also carries an appropriation. House Memorial 3 is also related to HB103 (crime of prenatal substance exposure).

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