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## FISCAL IMPACT REPORT

**LAST UPDATED** 1/30/2024

**SPONSOR** Lord/Vincent/Jones **ORIGINAL DATE** 1/25/2024

**BILL**

**SHORT TITLE** Prenatal Substance Exposure Taskforce **NUMBER** House Bill 97

**ANALYST** Chilton

### APPROPRIATION\* (dollars in thousands)

FY24	FY25	Recurring or Nonrecurring	Fund Affected
	\$75.0	Nonrecurring	General Fund

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

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA costs		\$154.0	\$154.0	\$308.0	Recurring	General Fund
DOH costs		\$707.9	\$707.9	\$1,415.8	Recurring	General Fund
Other agencies	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Total</b>		At least \$861.9	At least \$861.9	At least \$1,723.8	Recurring	General Fund

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

Relates to House Memorial 3 and House Bill 105

### Sources of Information

LFC Files

Agency Analysis Received From  
 Children, Youth and Families Department (CYFD)  
 Early Childhood Education and Care Department (ECECD)  
 Health Care Authority (HCA)  
 Department of Health (DOH)

## SUMMARY

### Synopsis of House Bill 97

House Bill 97, 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, appointed by the Secretary of Health, would number at least 20, with a representative from each of the stakeholder groups and agencies with relevant and specific areas of medical, legal, and ethnic expertise, all listed in the memorial.

The taskforce's activities would include

- Studying the state's adoption of the federal Comprehensive Addiction and Recovery Act (CARA) of 2016
- Reviewing that statute's effects on maternal care and support
- Studying rates of prenatal drug exposure over the past twenty 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 and other resources to affected families
- Studying the barriers to achieving "plans of safe care."
- Studying the feasibility of statewide prenatal substance screening
- 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.

The bill would appropriate \$75 thousand to the Department of Health for this taskforce's work. The taskforce would submit its report to the interim Legislative Health and Human Services Committee by August 1, 2026.

This bill 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**

The appropriation of \$75 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the

general fund.

CYFD “anticipates that its involvement will require 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.”

DOH states it would need to hire an epidemiologist and a prenatal substance exposure program evaluator, each at a cost of \$101,828. They estimate the need for eight data abstractors at \$60 thousand each. Office space would cost \$15 thousand, including security, and office setup would total \$9,200, for a grand total of \$707,856 per year.

HCA states that its Behavioral Health Services Division would need to hire 1 FTE at a pay band 70 to represent HCA/BHSD on the task force pertaining to the delivery of behavioral healthcare services.

This person would help identify the rates of use of prenatal services and support by people who use substances during pregnancy before and after implementation as well as the provision of prevention services. HCA would also need .5 of an FTE at a payband 65 to identify any data that needs to be collected by HCA and reported in the final report. The total cost of staff time for this would be \$154 thousand including salary, fringe benefits, and operating costs.

ECECD does not foresee additional expenses that could not be covered by existing staff, including its member on the proposed taskforce.

## **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 6 babies per one thousand in 2011 births to 13 babies per one thousand 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 postpartum 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, thirteen with prescribed fentanyl.

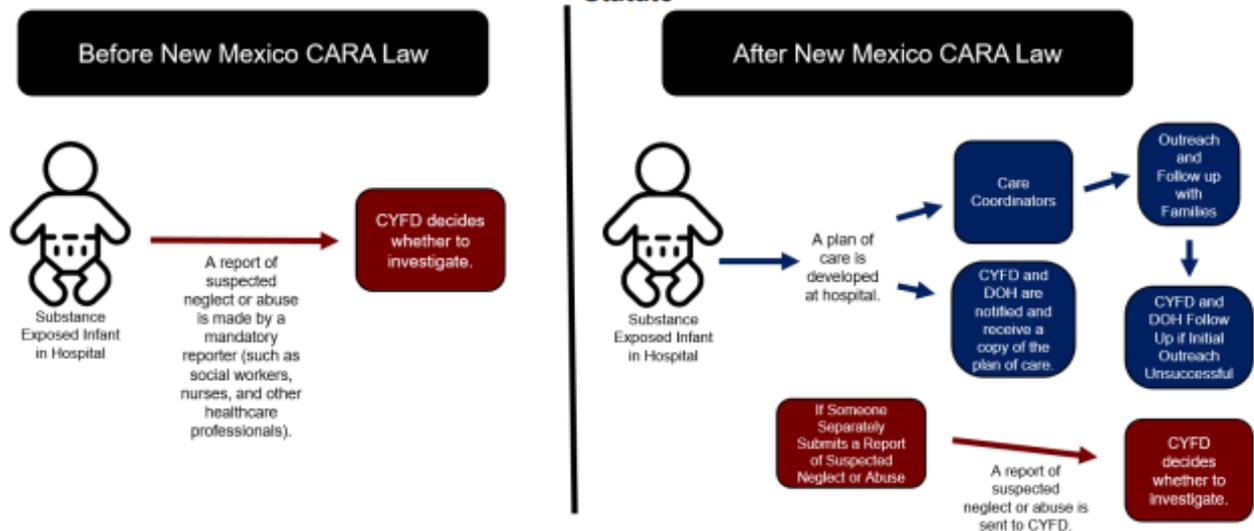
Opioid settlement agreements outline allowable opioid remediation fund uses, including naloxone programs, medication-assisted treatment services for pregnant and postpartum women, treatment for neonatal abstinence syndrome, warm handoff programs and recovery services, treatment for incarcerated populations,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

In another 2023 LFC analysis of results of New Mexico adhering to the federal Comprehensive Addiction and Recovery Act, a major conclusion was that, after New Mexico enacted its CARA-

related 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, “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**



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.

## RELATIONSHIP

Related to House Memorial 3, Prenatal Substance Exposure Taskforce, which has much the same language, but lists a different deadline for a taskforce's work and also does not carry an appropriation. Also related to HB103 (crime of prenatal substance exposure).

LC/al/rl/ne/hg/ss