

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Gallegos, DM/ Montoya, Sharer **ORIGINAL DATE** 3/3/17
LAST UPDATED _____ **HB** 464
SHORT TITLE Report on Use of Fetal Tissue **SB** _____
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|----------------|-------------|--------------------------|----------------------------------|----------------------|
| | | \$50.0-\$100.0 | | \$50.0-\$100. | Nonrecurring | General Fund |
| | | Uncertain | | Uncertain | Nonrecurring | UNM Funds |
| Total | | >\$50,000 | | >\$50,000 | Nonrecurring | Mixed |

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bills 37, 220 221, 464 and 473 and Senate Bills 183, 282, and 361

SOURCES OF INFORMATION

LFC Files

Responses Not Yet Received From

University of New Mexico Health Sciences Center (UNM HSC)
 Higher Education Department (HED)
 Office of the Attorney General (OAG)

SUMMARY

Synopsis of Bill

House Bill 464 would require University of New Mexico Health Sciences Center (UNM HSC) and the regents of the University of New Mexico to report to the Legislative Finance Committee on the use of fetal parts, the results of abortions, for medical research and transplantation. Information required would include

1. Information provided to the select investigative panel of the U.S. House of Representatives,
2. Information about relationships between UNM HSC and “other abortion providers,”
3. Information about expansion of medical and surgical abortion at UNM’s hospitals and clinics over the past fifteen years,
4. Alleged disregard of informed consent, both federal and state, by UNM HSC staff and providers of aborted fetal parts,

5. Information about allegations of violation of state and federal law, including
 - a. The exception of fetuses from induced abortion from the uniform anatomical gift act, Section 24-6B-2 NMSA 1978
 - b. The requirements for research to be done on fetuses, live-born infants, and pregnant women in Section 24-9A-5
 - c. The requirement for a woman’s informed consent for research done on her aborted infant’s tissue in 42 U.S.C. Section 289g-1(b)(1),
 - d. The prohibition on transferring human fetal tissue for financial considerations, contained in 42 U.S.C. Section 289g-2,
6. “Any other information” about UNM medical research using aborted fetal parts.

The committee would be given power to issue a subpoena to compel the UNM-HSC and the UNM board of regents to comply with these requirements if they were not forthcoming, and if the material were still lacking by December 1, 2017, the LFC would recommend a \$20,000,000 reduction in funding for research at UNM HSC or a hold on that amount until UNM HSC and the regents complied.

FISCAL IMPLICATIONS

There is no appropriation in the bill.

There is no estimate yet available as to UNM’s costs in complying with this bill’s provisions.

The Legislative Finance Committee does not have the expertise necessary to analyze the type of information required to be reported to it in House Bill 464, and would most likely have to contract with an outside agency to process the information. The cost of that contract is indeterminate at this time, but is likely to be in the range \$50,000 to \$100,000. See “alternatives” below. In addition, there is nothing in the bill on how the required information is to be used by the LSC other than reducing the budget recommendation for non-compliance.

SIGNIFICANT ISSUES

The proposed \$20 million Reduction in the budget recommendation to the research budget of UNM HSC may be viewed as unduly punitive and damaging to the health and well-being of the citizens of New Mexico.

The possibility exists that the imposition of such a penalty in a bill of this sort might be construed as “log-rolling,” the prohibition of more than one subject in a bill, which itself is prohibited under Article 4, Section 16 of the State Constitution.

RELATIONSHIP with the following bills, which also deal with abortion:

- House Bill 37, which would require abortion providers to give life-saving support and transfer to all fetuses delivered at greater than 20 weeks gestation; this bill would also appear to be responsive to the news events referred to under “Other Substantive Issues,” below.
- House Bill 220 and Senate Bill 183, duplicate bills which would add “late-term abortion” to the prohibitions in the Partial Abortion Act;
- House Bill 221, and Senate Bill 361, similar bills requiring an abortion provider to notify the parent or guardian of a minor (defined differently in the two bills) requesting an abortion,

- House Bill 473, which would decriminalize abortion
- Senate Bill 282, which would require all hospitals to provide all reproductive health measures necessary to save the life or health of a woman.

TECHNICAL ISSUES

It appears as if this would be a one-time report on past occurrences, although that is not specified in the bill.

OTHER SUBSTANTIVE ISSUES

This bill would appear to be responsive to a long-standing 2016 investigation by the (U.S.) Senate Select Investigative Panel on Infant Lives, which required information from UNM HSC about its relationships with an abortion provider in Albuquerque called Southwest Women's Options. It had been alleged that fetal tissue resulting from abortion had been obtained by UNM researchers with a payment having been made to Southwest Women's Options for that tissue. In early January 2017, certain members of the Senate Select Investigative Panel released some of their findings indicating that UNM had no protocol for what to do when an aborted fetus is "born alive," although the January 5, 2017 Albuquerque Journal reports that a UNM spokesman had testified that "UNM has no record of any induced abortions ever resulting in a live birth."

The LFC has no authority or a means of withholding an appropriation to any agency.

ALTERNATIVES

The required information could be reported to the Legislative Committee on Health and Human Services instead of to the Legislative Finance Committee.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Federal investigation of the use of human fetal tissue at UNM HSC would continue to play out as at present.

LAC/al/jle