

**LFC Requester:****RubyAnn Esquibel****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 01/23/2025*Check all that apply:***Bill Number:** HB 95Original  Correction Amendment  Substitute **Sponsor:** Representative Pamelya Herndon**Short Title:** Coverage for FertilityPreservation Services**Agency Name  
and Code**Office of Superintendent of Insurance -  
440**Number:****Person Writing** Viara Ianakieva**Phone:** 505-508-9073 **Email** viara.ianakieva@osi.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None identified.  
 Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

House Bill 95 (HB95) amends the Health Care Purchasing Act and the New Mexico Insurance Code to require insurance coverage for medical interventions related to fertility preservation services for insureds whose disease or medically necessary disease treatment may lead to infertility. HB95 amends sections of the Insurance Code regulating individual health plans, group health plans, health maintenance organization plans, and non-profit health plans, and requires a group health insurance policy, health care plan, or certificate of health insurance issued in New Mexico to provide the coverage.

### **FISCAL IMPLICATIONS**

The federal Affordable Care Act (ACA) requires all major medical health commercial insurance marketed to individuals and small groups to cover a standard group of benefits. This standard group of benefits is called a “benchmark” plan. The ACA requires states to set this benchmark plan based on popular existing health plans. The actuarial value of this benchmark plan is then used to calculate the premium tax credits consumers will receive from the federal government to help subsidize purchasing coverage through the health insurance marketplace. The federal government has an interest in ensuring that states will not continue adding benefits to their benchmark plans because this would increase the amount the federal government would have to pay to a state’s residents in advance premium tax credits.

To limit the amount the federal government would be required to pay for premium tax credits in any given state, the ACA requires states to defray the costs of any newly mandated benefits. Newly mandated benefits are any legislatively or administratively mandated benefits in excess of the benchmark and any benefits not mandated by the state prior to the passage of the ACA. See 42 U.S.C.A. § 18031 and 45 CFR §155.170 and <https://www.cms.gov/CCIIO/Resources/Files/Downloads/ehb-faq-508.pdf>. The amount the state is required to defray for the cost for any newly mandated benefits is based on the actuarial value of the new benefit.

The Office of Superintendent of Insurance’s (OSI) current benchmark plan, applicable to individual and small group plans, does not cover fertility preservation services. Therefore, if this bill is passed, the state will have to defray the full cost for the coverage of this service incurred in the individual and small group markets. This mandate will have an increased premium impact on the large group market.

The costs of oocyte cryopreservation/ovarian cryopreservation exceeds \$10,000.

OSI is unable to predict the cost of the defrayal and premium increases for this new mandate, primarily because the language is vague, and it is not clear what is covered.

### **SIGNIFICANT ISSUES**

It is unclear whether the bill considers only conditions that directly impact fertility. Limiting coverage to specific conditions or their treatment, which may lead to infertility, may offset some of the cost and the amount that will need to be defrayed by the state. Other considerations may include limiting the coverage mandate to the individual and large group markets.

### **PERFORMANCE IMPLICATIONS**

None.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

#### **TECHNICAL ISSUES**

It is unclear whether the coverage that is mandated is limited to the procurement, cryopreservation or storage of oocytes, embryos, or gonadal tissue. Clearly defining the services that are involved and should be covered will help carriers understand their coverage responsibility and better define the state's financial obligation in regard to this mandate.

#### **OTHER SUBSTANTIVE ISSUES**

None.

#### **ALTERNATIVES**

Limiting timeframe for storage of oocytes, embryos or gonadal tissue to a specific period of time and specifying the conditions that will qualify an individual for coverage under this mandate can mitigate the impact from cost of coverage. For example, some states limit coverage to iatrogenic cases or even more specifically to infertility caused by an active cancer diagnosis. Fertility preservation measures would have a positive impact on individuals undergoing therapy which may jeopardize reproductive function. For example, chemotherapy, radiation, gene therapy or other treatments related to autoimmune diseases.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo. Individuals will be responsible for paying the full out-of-pocket cost associated with preservation of fertility services.

#### **AMENDMENTS**

None.