

1 SENATE BILL 894

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 John C. Ryan

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10 AN ACT

11 RELATING TO HEALTH; PERMITTING BIOMEDICAL RESEARCH ON LIMITED  
12 CATEGORIES OF HUMAN EMBRYONIC STEM CELLS; PROHIBITING HUMAN  
13 CLONING; AMENDING THE MATERNAL, FETAL AND INFANT  
14 EXPERIMENTATION ACT.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
18 through 7 of this act may be cited as the "Biomedical Research  
19 Act".

20 Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

21 A. The legislature finds that an estimated one  
22 hundred twenty-eight million Americans suffer from the  
23 crippling physical, economic and psychological burdens of  
24 chronic, degenerative and acute diseases, including Alzheimer's  
25 disease, heart disease, diabetes, Parkinson's disease, spinal

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1 cord injuries, macular degeneration, multiple sclerosis, Lou  
2 Gehrig's disease and cancer. The legislature further finds  
3 that human embryonic stem cell research and other biomedical  
4 research in the life sciences and regenerative medicine present  
5 a significant chance of yielding fundamental biological  
6 knowledge from which may emanate therapies to relieve, on a  
7 large scale, human suffering from disease and injury.

8 B. The purpose of the Biomedical Research Act is to  
9 foster research and therapies in the life sciences and  
10 regenerative medicine by permitting research and clinical  
11 applications involving the derivation and use of certain human  
12 embryonic stem cells while at the same time prohibiting human  
13 reproductive cloning.

14 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
15 Biomedical Research Act:

16 A. "asexual reproduction" means reproduction not  
17 initiated by the union of an oocyte and sperm;

18 B. "embryo" means an organism of the species Homo  
19 sapiens whether formed by fertilization, somatic cell nuclear  
20 transfer, parthenogenesis or other means;

21 C. "fertilization" means the process whereby the  
22 male and female gametes unite to form an embryo;

23 D. "gamete" means a sperm or oocyte;

24 E. "human adult stem cell" means an  
25 undifferentiated cell found in differentiated tissue that can

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1 renew itself and differentiate to yield specialized cell types;

2 F. "human reproductive cloning" means the asexual  
3 genetic replication of a human being by transferring a  
4 pre-implantation embryo that has been created by somatic cell  
5 nuclear transfer, parthenogenesis or by other asexual means  
6 into a uterus or uterine-like environment with the purpose of  
7 creating a human fetus or a human child;

8 G. "in vitro" means in an artificial environment,  
9 including a test tube or culture medium, and refers also to a  
10 process or reaction occurring in an artificial environment;

11 H. "in vitro fertilization" means an assisted  
12 reproduction technique in which fertilization is accomplished  
13 outside the human body;

14 I. "parthenogenesis" means the development of an  
15 egg without fertilization;

16 J. "parthenote" means the product of egg  
17 development without fertilization;

18 K. "placental cells" means cells obtained from the  
19 placenta;

20 L. "pre-implantation embryo" means an embryo formed  
21 and maintained outside the human body, whether by in vitro  
22 fertilization, somatic cell nuclear transfer, parthenogenesis  
23 or other asexual means, that has not experienced more than  
24 fourteen days of development; provided that such length of time  
25 does not include any interval in which the development has been

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1 suspended, such as through freezing;

2 M. "somatic cell" means a nongamete cell obtained  
3 or derived from a living or deceased human being;

4 N. "somatic cell nuclear transfer" means the  
5 technique in which the nucleus of an oocyte is replaced with  
6 the nucleus of a somatic cell; and

7 O. "umbilical cord stem cells" means cells derived  
8 from an umbilical cord.

9 Section 4. [NEW MATERIAL] BIOMEDICAL RESEARCH PERMITTED--  
10 LIMITATIONS--RESEARCH PROHIBITIONS.--

11 A. Research and clinical applications conducted in  
12 accordance with the Biomedical Research Act that involve the  
13 derivation and use of pre-implantation human embryonic stem  
14 cells, including somatic cell nuclear transfer, human adult  
15 stem cells from any source, umbilical cord stem cells,  
16 parthenotes and placental cells, shall be permitted.

17 B. Research involving the derivation of human  
18 embryonic stem cells through the use of human genetic material,  
19 including somatic cell nuclear transfer and parthenogenesis or  
20 other asexual means as permitted by Subsection A of this  
21 section, shall only be conducted in accordance with guidelines  
22 and policies promulgated by the national research council and  
23 the institute of medicine of the national academies.

24 C. Research that involves in vitro culture of an  
25 intact human embryo, regardless of derivation method, for

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1 longer than fourteen days or until formation of the primitive  
2 streak begins, whichever occurs first, may not be conducted.

3 Section 5. [NEW MATERIAL] HUMAN REPRODUCTIVE CLONING  
4 PROHIBITED.--

5 A. It is unlawful knowingly to engage or assist in  
6 human reproductive cloning or attempted human reproductive  
7 cloning of a human being.

8 B. A person shall not knowingly purchase, sell,  
9 transfer, or otherwise obtain human embryonic, gametic or  
10 cadaveric tissue for the purpose of reproductive cloning.

11 C. A person shall not knowingly create an embryo by  
12 the method of fertilization with the sole intent of donating  
13 the embryo for research. This subsection shall not prohibit  
14 the creation of a pre-implantation embryo by somatic cell  
15 nuclear transfer, parthenogenesis or other asexual means for  
16 research purposes.

17 Section 6. [NEW MATERIAL] SCIENTIFIC RESEARCH--EXEMPT  
18 EMPLOYEES.--An employee shall not be required to conduct  
19 scientific research, experimentation or study that involves the  
20 creation or use of pre-implantation embryos in relation to  
21 human embryonic stem cell research to the extent that such  
22 research conflicts with the sincerely held religious practices  
23 or beliefs of the employee.

24 Section 7. [NEW MATERIAL] PENALTIES.--Violation of the  
25 provisions of the Biomedical Research Act is a misdemeanor and

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1 shall be punishable by a fine of not more than twenty-five  
2 thousand dollars (\$25,000) or imprisonment for not more than  
3 one year or by both fine and imprisonment.

4 Section 8. Section 24-9A-1 NMSA 1978 (being Laws 1979,  
5 Chapter 132, Section 1, as amended) is amended to read:

6 "24-9A-1. DEFINITIONS.--As used in the Maternal, Fetal  
7 and Infant Experimentation Act:

8 A. "viability" means that stage of fetal  
9 development when the unborn child is potentially able to live  
10 outside the mother's womb, albeit with artificial aid;

11 B. "conception" means the fertilization of the ovum  
12 of a human female by the sperm of a human male;

13 C. "health" means physical or mental health;

14 D. "clinical research" means any biomedical or  
15 behavioral research involving human subjects, including the  
16 unborn, conducted according to a formal procedure. The term is  
17 to be construed liberally to embrace research concerning all  
18 physiological processes in ~~[man]~~ human beings and includes  
19 research involving human in vitro fertilization, but shall not  
20 include diagnostic testing, treatment, therapy or related  
21 procedures conducted by formal protocols deemed necessary for  
22 the care of the particular patient upon whom such activity is  
23 performed and shall not include human in vitro fertilization  
24 performed to treat infertility; provided that this procedure  
25 shall include provisions to ~~[insure]~~ ensure that each living

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1 fertilized ovum, zygote or embryo is implanted in a human  
2 female recipient, and no physician may stipulate that a woman  
3 must abort in the event the pregnancy should produce a deformed  
4 or handicapped child; and provided that emergency medical  
5 procedures necessary to preserve the life or health of the  
6 mother or the fetus shall not be considered to be clinical  
7 research;

8 E. "subject at risk", "subject" or "at risk" means  
9 any individual who may be exposed to the likelihood of injury,  
10 including physical or psychological injury, as a consequence of  
11 participation as a subject in:

12 (1) any research, development or related  
13 activity [~~which~~] that departs from the application of those  
14 established and accepted methods deemed necessary to meet [~~his~~]  
15 the individual's needs;

16 (2) controlled research studies necessary to  
17 establish accepted methods designed to meet [~~his~~] the  
18 individual's needs; or

19 (3) research activity [~~which~~] that poses a  
20 significant risk to the subject;

21 F. "significant risk" means any activity [~~which~~]  
22 that is likely to cause disfigurement or loss or impairment of  
23 the function of any member or organ;

24 G. "fetus" means the product of conception from the  
25 time of conception until the expulsion or extraction of the

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1 fetus or the opening of the uterine cavity, but shall not  
2 include the placenta, extraembryonic membranes, umbilical cord,  
3 extraembryonic fluids and their resident cell types, ~~and~~  
4 cultured cells or products of conception produced by in vitro  
5 fertilization technology and targeted for disposal or deemed  
6 excess tissue;

7 H. "live-born infant" means an offspring of a human  
8 being ~~which~~ that exhibits either heartbeat, spontaneous  
9 respiratory activity, spontaneous movement of voluntary muscles  
10 or pulsation of the umbilical cord if still attached to the  
11 infant ex utero; provided the Maternal, Fetal and Infant  
12 Experimentation Act does not apply to a fetus or infant absent  
13 the characteristics set forth in this subsection;

14 I. "infant" means an offspring of a human being  
15 from the time it is born until the end of its first  
16 chronological year;

17 J. "born" means the time the head or any other part  
18 of the body of the fetus emerges from the vagina or the time  
19 the uterine cavity is opened during a caesarean section or  
20 hysterotomy; and

21 K. "in vitro fertilization" means any fertilization  
22 of human ova ~~which~~ that occurs outside the body of a female,  
23 either through admixture of donor human sperm and ova or by any  
24 other means."

25 Section 9. Section 24-9A-7 NMSA 1978 (being Laws 1979,

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Chapter 132, Section 7) is amended to read:

"24-9A-7. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~ Chapter 24, Article 9A NMSA 1978 may be cited as the "Maternal, Fetal and Infant Experimentation Act"."