SENATE BILL 295-FN-A

AN ACT relative to the research and development tax credit against the business profits tax and relative to the women's right to know act regarding abortion information.


COMMITTEE: Ways and Means

AMENDED ANALYSIS

The bill:

I. Repeals the prospective repeal of the research and development tax credit.

II. Establishes the women's right to know act.

Explanation: Matter added to current law appears in bold italics. Matter removed from current law appears in brackets and struckthrough. Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to the research and development tax credit against the business profits
tax and relative to the women's right to know act regarding abortion information.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Prospective Repeal of Research and Development Tax Credit Repealed. 2007, 271:6, relative
to the repeal of the research and development tax credit authorized by RSA 77-A:5, XIII, RSA 77-
E:3-b, and RSA 162-P:1, is repealed.

2 New Chapter; Women's Right to Know Act. Amend RSA by inserting after chapter 132-A the
following new chapter:

CHAPTER 132-B

WOMEN'S RIGHT TO KNOW ACT

132-B:1 Title. This act shall be known as the “Women's Right to Know Act.”

132-B:2 Definitions. In this chapter:

I. “Abortion” means the act of using or prescribing any instrument, medicine, drug, or any
other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy
of a woman with knowledge that the termination by those means will with reasonable likelihood
cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with
the intent to:

(a) Save the life or preserve the health of an unborn child;

(b) Remove a dead unborn child caused by spontaneous abortion; or

(c) Remove an ectopic pregnancy.

II. “Facility” or “medical facility” means any public or private hospital, clinic, center, medical
school, medical training institution, health care facility, physician's office, infirmary, dispensary,
ambulatory surgical treatment center, or other institution or location wherein medical care is
provided to any person.

III. “Gestational age” means the time that has elapsed since the first day of the woman’s last
menstrual period.

IV. “Hospital” means a facility licensed under RSA 151.

V. “Medical emergency” means that condition which, on the basis of the physician's good
faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate
the immediate termination of her pregnancy to avert her death or for which a delay will create
serious risk of substantial and irreversible impairment of a major bodily function.

VI. “Physician” means any person licensed under RSA 329. The term includes medical
doctors and doctors of osteopathy.

VII. “Pregnant” or “pregnancy” means that female reproductive condition of having an
unborn child in the woman’s uterus.

VIII. “Qualified person” means an agent of the physician who is a psychologist, licensed
social worker, licensed professional counselor, registered nurse, or physician.

IX. “Unborn child” means the offspring of human beings from conception until birth.

132-B:3 Informed Consent Requirement. No abortion shall be performed or induced without the
voluntary and informed consent of the woman upon whom the abortion is to be performed or
induced. Except in the case of a medical emergency, consent to an abortion is voluntary and
informed if and only if:

I. At least 24 hours before the abortion, the physician who is to perform the abortion or the
referring physician has informed the woman, orally and in person, of the following:

(a) The name of the physician who will perform the abortion;

(b) Medically-accurate information that a reasonable patient would consider material to
the decision of whether or not to undergo the abortion, including (1) a description of the proposed
abortion method; (2) the immediate and long-term medical risks associated with the proposed
abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine
perforation, danger to subsequent pregnancies; and (3) alternatives to the abortion;

(c) The probable gestational age of the unborn child at the time the abortion is to be
performed;

(d) The medical risks associated with carrying her child to term; and

(e) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely
consequences of refusing such therapy, and the cost of the therapy.

II. At least 24 hours before the abortion, the physician who is to perform the abortion, the
referring physician, or a qualified person has informed the woman, orally and in person, that she is
free to withhold or withdraw her consent to the abortion at any time without affecting her right to
future care or treatment and without the loss of any state or federally-funded benefits to which she
might otherwise be entitled.

III. In the event of a medical emergency requiring an immediate termination of pregnancy,
the physician who performed the abortion shall clearly certify in writing the nature of the medical
emergency and the circumstances which necessitated the waiving of the informed consent
requirements of this chapter. This certification shall be signed by the physician who performed the
emergency abortion, and shall be permanently filed in both the records of the physician performing
the abortion and the records of the facility where the abortion takes place.

IV. A physician shall not require or obtain payment for a service provided in relation to
abortion to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the 24-hour reflection period required in this section.

132-B:4 Medical Emergencies. When a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting the physician’s judgment that an immediate abortion is necessary to avert her death or that a 24-hour delay will cause substantial and irreversible impairment of a major bodily function.

132-B:5 Civil Penalties.

I. In addition to any and all remedies available under the common or statutory law of this state, failure to comply with the requirements of this chapter shall:

(a) Provide a basis for a civil malpractice action for actual and punitive damages.

(b) Provide a basis for a professional disciplinary action under RSA 329.

II. No civil liability may be assessed against the female upon whom the abortion is performed.

III. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

IV. If judgment is rendered in favor of the plaintiff, the court shall also render judgment for a reasonable attorney’s fee in favor of the plaintiff against the defendant.

V. If judgment is rendered in favor of the defendant and the court finds that the plaintiff’s suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney’s fees in favor of the defendant against the plaintiff.

132-B:6 Construction. Nothing in this chapter shall be construed as creating or recognizing a right to abortion. It is not the intention of this law to make lawful an abortion that is currently unlawful.

132-B:7 Right of Intervention. The general court, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this chapter in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this chapter is challenged.

132-B:8 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2013.

II. The remainder of this act shall take effect upon its passage.
AN ACT relative to the research and development tax credit against the business profits tax and relative to the women’s right to know act regarding abortion information.

FISCAL IMPACT:
The Department of Revenue Administration states this bill will decrease state revenue by $2,000,000 in FY 2014 and each year thereafter. This bill will have no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:
The Department of Revenue Administration states the Research and Development (R&D) Tax Credit was established in 2007 and is prospectively set to be repealed on July 1, 2013 (FY 2014). The bill proposes to repeal the prospective repeal, and change the maximum aggregate amount of credit awarded each fiscal year from $1,000,000 to $2,000,000 beginning in FY 2014. Based upon R&D Tax Credit issuance data from 2007 through 2011, the maximum amount of $1,000,000 was awarded each year, and the Department assumes the maximum amount of $2,000,000 as proposed in this bill would likely be awarded each year. As such, the Department estimates state revenue would decrease by $2,000,000 in FY 2014 and each year thereafter.