

SB 295-FN-A – AS AMENDED BY THE HOUSE

25Apr2012... 1849h  
15May2012... 2220h  
15May2012... 2224h

2012 SESSION

12-2871  
09/10

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.

SPONSORS:        Sen. Odell, Dist 8; Sen. Bradley, Dist 3; Rep. Bettencourt, Rock 4

COMMITTEE:      Ways and Means

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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.

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Explanation:     Matter added to current law appears in **bold italics**.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twelve*

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1 1 Prospective Repeal of Research and Development Tax Credit Repealed. 2007, 271:6, relative  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3 E:3-b, and RSA 162-P:1, is repealed.

4 2 New Chapter; Women’s Right to Know Act. Amend RSA by inserting after chapter 132-A the  
5 following new chapter:

6 CHAPTER 132-B

7 WOMEN'S RIGHT TO KNOW ACT

8 132-B:1 Title. This act shall be known as the “Women’s Right to Know Act.”

9 132-B:2 Definitions. In this chapter:

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

- 15 (a) Save the life or preserve the health of an unborn child;
- 16 (b) Remove a dead unborn child caused by spontaneous abortion; or
- 17 (c) Remove an ectopic pregnancy.

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

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

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

25 V. “Medical emergency” means that condition which, on the basis of the physician’s good  
26 faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate  
27 the immediate termination of her pregnancy to avert her death or for which a delay will create

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1 serious risk of substantial and irreversible impairment of a major bodily function.

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

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

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

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

9 132-B:3 Informed Consent Requirement. No abortion shall be performed or induced without the  
10 voluntary and informed consent of the woman upon whom the abortion is to be performed or  
11 induced. Except in the case of a medical emergency, consent to an abortion is voluntary and  
12 informed if and only if:

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

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

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

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

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

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

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

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

37 IV. A physician shall not require or obtain payment for a service provided in relation to

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1 abortion to a patient who has inquired about an abortion or scheduled an abortion until the  
2 expiration of the 24-hour reflection period required in this section.

3 132-B:4 Medical Emergencies. When a medical emergency compels the performance of an  
4 abortion, the physician shall inform the woman, before the abortion if possible, of the medical  
5 indications supporting the physician's judgment that an immediate abortion is necessary to avert her  
6 death or that a 24-hour delay will cause substantial and irreversible impairment of a major bodily  
7 function.

8 132-B:5 Civil Penalties.

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

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

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

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

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

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

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

23 132-B:6 Construction. Nothing in this chapter shall be construed as creating or recognizing a  
24 right to abortion. It is not the intention of this law to make lawful an abortion that is currently  
25 unlawful.

26 132-B:7 Right of Intervention. The general court, by joint resolution, may appoint one or more  
27 of its members, who sponsored or cosponsored this chapter in his or her official capacity, to intervene  
28 as a matter of right in any case in which the constitutionality of this chapter is challenged.

29 132-B:8 Severability. If any provision of this chapter or the application thereof to any person or  
30 circumstance is held invalid, the invalidity does not affect other provisions or applications of the  
31 chapter which can be given effect without the invalid provisions or applications, and to this end the  
32 provisions of this chapter are severable.

33 3 Effective Date.

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

35 II. The remainder of this act shall take effect upon its passage.

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LBAO  
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**SB 295-FN-A - FISCAL NOTE**

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.