S T A T E O F N E W Y O R K

4525

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting human reproductive cloning, facilitating stem cell research, and protecting human subjects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new article 24-A-1 to read as follows:

ARTICLE 24-A-1

REPRODUCTIVE CLONING PROHIBITION AND STEM CELL RESEARCH PROTECTION

S 2450. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE REPRODUCTIVE CLONING PROHIBITION AND STEM CELL RESEARCH PROTECTION ACT".

S 2451. DEFINITIONS. 1. "STEM CELL" MEANS AN UNDIFFERENTIATED CELL THAT HAS THE ABILITY TO DIVIDE FOR INDEFINITE PERIODS IN CULTURE AND IN CERTAIN PHYSIOLOGIC OR EXPERIMENTAL CONDITIONS CAN GIVE RISE TO SPECIALIZED DIFFERENTIATED CELLS.

2. "STEM CELL RESEARCH" MEANS RESEARCH THAT UTILIZES EMBRYONIC STEM CELLS OR ADULT STEM CELLS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD10101-01-9

3. "HUMAN EMBRYONIC STEM CELL" MEANS A PRIMITIVE (UNDIFFERENTIATED) CELL FROM THE EMBRYO WHICH HAS THE POTENTIAL TO BECOME A WIDE VARIETY OF SPECIALIZED CELL TYPES.

4. "HUMAN PLURIPOTENT STEM CELL" MEANS THE MOST PRIMITIVE, UNDEVELOPED, UNDIFFERENTIATED STEM CELLS.

5. "HUMAN PRIMORDIAL GERM CELLS" MEAN PLURIPOTENT CELLS THAT DEVELOP INTO OOCYTE AND SPERM CELLS.

6. "HUMAN ADULT STEM CELL" MEANS AN UNDIFFERENTIATED CELL FOUND IN A DIFFERENTIATED TISSUE THAT CAN RENEW ITSELF AND (WITH CERTAIN LIMITATIONS) DIFFERENTIATE TO YIELD SPECIALIZED CELL TYPES OF THE TISSUE FROM WHICH IT ORIGINATED.

7. "STEM CELL LINE" MEANS A GROUP OF CELLS DERIVED FROM THE SAME INITIAL STEM CELL.

8. "SOMATIC CELL NUCLEAR TRANSPLANTATION" MEANS TRANSFERRING THE NUCLEUS OF A SOMATIC CELL OF AN EXISTING OR PREVIOUSLY EXISTING BEING, EMBRYO, OR FETUS INTO AN OOCYTE FROM WHICH THE NUCLEUS HAS BEEN REMOVED.

9. "OOCYTE" MEANS A FEMALE GERM CELL, THE EGG.

10. "VALUABLE CONSIDERATION" MEANS ANYTHING OF VALUE, INCLUDING BUT NOT LIMITED TO, MONEY OFFERED AS AN INDUCEMENT.

11. "THERAPEUTIC TREATMENT" MEANS PREVENTATIVE, CURATIVE, OR PALLIATIVE CARE OF AN INDIVIDUAL FOR DISEASE, DISABILITY, OR GENETIC DISORDER.

12. "HUMAN REPRODUCTIVE CLONING" MEANS THE PRACTICE OF CREATING OR ATTEMPTING TO CREATE A HUMAN BEING BY TRANSFERRING THE NUCLEUS FROM A HUMAN CELL FROM WHATEVER SOURCE INTO A HUMAN OR NONHUMAN EGG CELL FROM WHICH THE NUCLEUS HAS BEEN REMOVED FOR THE PURPOSE OF CREATING A NEW HUMAN BEING, OR TO IMPLANT THE RESULTING PRODUCT TO INITIATE A PREGNANCY WHICH COULD RESULT IN THE BIRTH OF A HUMAN BEING.

13. "BLASTOCYST" MEANS A THREE TO FIVE DAY OLD EMBRYO CONSISTING OF APPROXIMATELY THIRTY CELLS. THIS INNER MASS OF UNDIFFERENTIATED CELLS GIVES RISE TO HUNDREDS OF HIGHLY SPECIALIZED CELLS NEEDED TO MAKE AN ADULT ORGANISM.

14. "EMBRYONIC STEM CELL LINE" MEANS A GROUP OF CELLS DERIVED FROM AN EMBRYO THAT HAVE BEEN CULTURED UNDER IN VITRO CONDITIONS THAT ALLOW FOR PROLIFERATION WITHOUT DIFFERENTIATION FOR MONTHS TO YEARS.

15. "INSTITUTIONAL REVIEW BOARD" MEANS THE GROUP OR COMMITTEE THAT IS GIVEN THE RESPONSIBILITY BY AN INSTITUTION TO REVIEW THAT INSTITUTION'S RESEARCH PROJECTS INVOLVING HUMAN SUBJECTS. THE PRIMARY PURPOSE OF THE IRB REVIEW IS TO ASSURE THE PROTECTION OF THE SAFETY, RIGHTS, AND WELFARE OF THE HUMAN SUBJECTS.

S 2452. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DECLARES ALL OF THE FOLLOWING:

1. AN ESTIMATED ONE HUNDRED TWENTY-EIGHT MILLION AMERICANS SUFFER FROM THE CRIPPLING ECONOMIC, PHYSICAL AND PSYCHOLOGICAL BURDEN OF CHRONIC, DEGENERATIVE, AND ACUTE DISEASES, INCLUDING DIABETES, PARKINSON'S DISEASE, CANCER, AND ALZHEIMER'S DISEASE.

2. THE COSTS OF TREATMENT AND LOST PRODUCTIVITY OF CHRONIC, DEGENERATIVE, AND ACUTE DISEASES IN THE UNITED STATES CONSTITUTE HUNDREDS OF BILLIONS OF DOLLARS EVERY YEAR. ESTIMATES OF THE ECONOMIC COSTS OF THESE DISEASES DO NOT ACCOUNT FOR THE EXTREME HUMAN LOSS AND SUFFERING ASSOCIATED WITH THESE CONDITIONS.

3. STEM CELL RESEARCH, INCLUDING BOTH ADULT AND EMBRYONIC RESEARCH, OFFERS IMMENSE PROMISE FOR DEVELOPING NEW MEDICAL THERAPIES FOR THESE DEBILITATING DISEASES AND A CRITICAL MEANS TO EXPLORE FUNDAMENTAL QUESTIONS OF BIOLOGY. STEM CELL RESEARCH COULD LEAD TO UNPRECEDENTED TREATMENTS AND POTENTIAL CURES FOR DIABETES, ALZHEIMER'S DISEASE, CANCER, AND OTHER DISEASES. NEW YORK SUPPORTS STEM CELL RESEARCH AS AN AVENUE FOR

THE DEVELOPMENT OF AFFORDABLE AND ACCESSIBLE TREATMENTS FOR THESE VARIED PUBLIC HEALTH THREATS.

4. NEW YORK HAS HISTORICALLY BEEN A HAVEN FOR OPEN SCIENTIFIC INQUIRY AND TECHNOLOGICAL INNOVATION, AND THIS ENVIRONMENT, COUPLED WITH THE COMMITMENT OF PUBLIC AND PRIVATE RESOURCES, HAS MADE NEW YORK THE PREEMINENT WORLD LEADER IN BIOMEDICINE AND BIOTECHNOLOGY. NEW YORK WILL TAKE A LEADERSHIP ROLE IN SUPPORTING STEM CELL RESEARCH, BOTH FOR THE CURES THAT ARE PROMISED AND FOR THE ADVANCEMENTS THAT WILL RESULT FROM DEVELOPING THIS PLATFORM TECHNOLOGY.

5. THE BIOMEDICAL INDUSTRY IS A POTENTIALLY SIGNIFICANT COMPONENT OF NEW YORK STATE'S ECONOMY. NEW YORK'S BIOMEDICAL INDUSTRY IS A CRITICAL COMPONENT OF THE STATE'S ECONOMY WHICH PROVIDES SUBSTANTIAL EMPLOYMENT, PAYS SUBSTANTIAL WAGES AND SALARIES, INVESTS BILLIONS OF DOLLARS IN RESEARCH, REPORTS BILLIONS OF DOLLARS IN WORLDWIDE REVENUE, AND WILL BE CONSIDERABLY ENHANCED BY NEW YORK STATE'S SUPPORT OF STEM CELL RESEARCH.

6. STEM CELL RESEARCH, INCLUDING THE USE OF EMBRYONIC STEM CELLS FOR MEDICAL RESEARCH, RAISES SIGNIFICANT ETHICAL AND POLICY CONCERNS AND, ALTHOUGH NOT UNIQUE, THE ETHICAL AND POLICY CONCERNS ASSOCIATED WITH STEM CELL RESEARCH MUST BE CAREFULLY CONSIDERED.

7. PUBLIC POLICY ON STEM CELL RESEARCH SHALL BALANCE ETHICAL, SOCIETAL AND MEDICAL CONSIDERATIONS. THE POLICY SHALL BE BASED ON AN UNDERSTANDING OF THE SCIENCE ASSOCIATED WITH STEM CELL RESEARCH AND GROUNDED ON A THOROUGH CONSIDERATION OF THE ETHICAL CONCERNS REGARDING THIS RESEARCH. PUBLIC POLICY ON STEM CELL RESEARCH SHALL BE CAREFULLY CRAFTED TO ENSURE THAT RESEARCHERS HAVE THE TOOLS NECESSARY TO FULFILL THE PROMISE OF STEM CELL RESEARCH.

8. NEW YORK STATE SHALL REGULATE THIS IMPORTANT EMERGING TECHNOLOGY IN ORDER TO PROTECT SOCIETY FROM KNOWN RISKS. HUMAN REPRODUCTIVE CLONING POSES RISKS THAT FAR OUTWEIGH ITS BENEFITS.

9. NEW YORK STATE NEEDS TO DEVELOP A MECHANISM TO TRANSFER UNUSED GENETIC MATERIAL TO RESEARCH INSTITUTIONS. DONORS MUST BE WELL INFORMED OF THEIR CHOICES PRIOR TO MAKING DECISIONS FOR THE DISPOSITION OF THEIR GENETIC MATERIAL. POTENTIAL DONORS OF GENETIC MATERIAL FOR STEM CELL RESEARCH WILL BE THOROUGHLY PROTECTED BY A RIGOROUS, COMPREHENSIVE INFORMED CONSENT PROCEDURE.

S 2453. STATE POLICY. THE POLICY OF THE STATE OF NEW YORK IS AS FOLLOWS:

1. THAT RESEARCH INVOLVING THE DERIVATION AND USE OF HUMAN EMBRYONIC STEM CELLS, HUMAN PRIMORDIAL GERM CELLS, AND HUMAN ADULT STEM CELLS, INCLUDING SOMATIC CELL NUCLEAR TRANSPLANTATION, SHALL BE PERMITTED AND THAT FULL CONSIDERATION OF THE ETHICAL, SOCIETAL AND MEDICAL IMPLICATIONS OF THIS RESEARCH BE GIVEN.

2. THAT RESEARCH INVOLVING THE DERIVATION AND USE OF HUMAN EMBRYONIC STEM CELLS, HUMAN PRIMORDIAL GERM CELLS, AND HUMAN ADULT STEM CELLS, INCLUDING SOMATIC CELL NUCLEAR TRANSPLANTATION, SHALL BE REVIEWED BY AN INSTITUTIONAL REVIEW BOARD COMPLIANT WITH ALL STATE AND FEDERAL REGULATIONS.

3. THAT HUMAN EMBRYOS USED FOR STEM CELL RESEARCH SHALL BE PERMITTED TO DEVELOP FOR A MAXIMUM OF FOURTEEN DAYS.

S 2454. FERTILITY AND EMBRYO INFORMATION. 1. A PHYSICIAN, SURGEON, OR OTHER HEALTH CARE PROVIDER DELIVERING FERTILITY TREATMENT SHALL PROVIDE HIS OR HER PATIENT WITH TIMELY, RELEVANT, AND APPROPRIATE INFORMATION TO ALLOW THE INDIVIDUAL TO MAKE AN INFORMED AND VOLUNTARY CHOICE REGARDING THE DISPOSITION OF ANY HUMAN EMBRYOS REMAINING FOLLOWING THE FERTILITY TREATMENT.

2. THE FAILURE BY A PHYSICIAN, SURGEON OR OTHER HEALTH CARE PROVIDER TO PROVIDE SUCH INFORMATION TO PATIENTS, WHO ARE CONTRIBUTING GENETIC MATERIAL TO THE CREATION OF THE EMBRYO CONSTITUTES UNPROFESSIONAL CONDUCT, AND SUCH FAILURE SHALL BE PUNISHABLE BY A CIVIL FINE OF FIFTY THOUSAND DOLLARS FOR AN OFFENDER'S FIRST VIOLATION OF THIS SECTION; A CIVIL FINE OF ONE HUNDRED THOUSAND DOLLARS FOR AN OFFENDER'S SECOND VIOLATION OF THIS SECTION; AND A CIVIL FINE OF TWO HUNDRED FIFTY THOUSAND DOLLARS AND REVOCATION OF SUCH OFFENDER'S PROFESSIONAL LICENSE PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW FOR AN OFFENDER'S THIRD OR SUBSEQUENT VIOLATION OF THIS SECTION.

3. ANY INDIVIDUAL TO WHOM INFORMATION IS PROVIDED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE PRESENTED WITH THE OPTION OF STORING ANY UNUSED EMBRYOS, DONATING THEM TO ANOTHER INDIVIDUAL, DISCARDING THE EMBRYOS, OR DONATING THE REMAINING EMBRYOS FOR RESEARCH. WHEN PROVIDING FERTILITY TREATMENT, A PHYSICIAN AND SURGEON OR OTHER HEALTH CARE PROVIDER SHALL PROVIDE A FORM TO THE INDIVIDUALS DONATING GENETIC MATERIAL FOR USE IN FERTILITY TREATMENT THAT SETS FORTH ADVANCED WRITTEN DIRECTIVES REGARDING THE DISPOSITION OF SPERM, OOCYTES (EGGS), AND EMBRYOS. SUCH FORM SHALL INDICATE THE TIME LIMIT ON STORAGE OF THE EMBRYOS AT THE CLINIC OR STORAGE FACILITY AND SHALL PROVIDE, AT A MINIMUM, THE FOLLOWING CHOICES FOR DISPOSITION OF THE EMBRYOS BASED ON THE FOLLOWING CIRCUMSTANCES:

(A) IN THE EVENT THAT ALL OF THE EMBRYOS CREATED FOR FERTILITY TREATMENTS ARE NOT USED FOR SUCH PURPOSE, THE REMAINING EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) DONATION FOR RESEARCH PURPOSES.

(II) THAWED WITH NO FURTHER ACTION TAKEN.

(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(IV) OTHER DISPOSITION THAT IS CLEARLY STATED.

(B) IN THE EVENT OF THE DEATH OF EITHER OF THE PARTNERS, THE EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) MADE AVAILABLE TO THE LIVING PARTNER.

(II) DONATION FOR RESEARCH PURPOSES.

(III) THAWED WITH NO FURTHER ACTION TAKEN.

(IV) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(V) OTHER DISPOSITION WHICH IS CLEARLY STATED.

(C) IN THE EVENT OF THE DEATH OF BOTH PARTNERS OR THE DEATH OF AN INDIVIDUAL WITHOUT A PARTNER, THE EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) DONATION FOR RESEARCH PURPOSES.

(II) THAWED WITH NO FURTHER ACTION TAKEN.

(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(IV) OTHER DISPOSITION WHICH IS CLEARLY STATED.

(D) IN THE EVENT OF LEGAL SEPARATION OR DIVORCE OF THE PARTNERS, THE EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) MADE AVAILABLE TO THE PRIOR NAMED PARTNER.

(II) DIVIDED EQUALLY BETWEEN THE PARTNERS.

(III) DONATION FOR RESEARCH PURPOSES.

(IV) THAWED WITH NO FURTHER ACTION TAKEN.

(V) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(VI) OTHER DISPOSITION WHICH IS CLEARLY STATED.

(E) IN THE EVENT OF THE PARTNERS' OR THE INDIVIDUAL'S DECISION TO ABANDON THE EMBRYOS BY REQUEST OR A FAILURE TO PAY STORAGE FEES, THE EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) DONATION FOR RESEARCH PURPOSES.

(II) THAWED WITH NO FURTHER ACTION TAKEN.

(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
(IV) OTHER DISPOSITION WHICH IS CLEARLY STATED.
4. ANY WOMAN TO WHOM INFORMATION IS PROVIDED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE PRESENTED WITH THE OPTION OF STORING ANY UNUSED OOCYTES, DONATING SUCH OOCYTES TO ANOTHER INDIVIDUAL, DISCARDING THE OOCYTES, OR DONATING THE REMAINING OOCYTES FOR RESEARCH. (A) A FORM PROVIDING ADVANCED WRITTEN DIRECTIVES ON THE DISPOSITION OF ANY OOCYTES HARVESTED FOR FERTILITY TREATMENT SHALL BE SIGNED BY SUCH WOMAN PRIOR TO INITIATION OF TREATMENT.
(B) SUCH FORM SHALL INDICATE THE TIME LIMIT ON STORAGE OF THE OOCYTES AT THE CLINIC OR STORAGE FACILITY AND SHALL PROVIDE, AT A MINIMUM, THE FOLLOWING CHOICE FOR DISPOSITION OF THE OOCYTES:
IN THE EVENT THAT ALL OF THE OOCYTES HARVESTED FOR FERTILITY TREATMENTS ARE NOT USED FOR THAT PURPOSE, THE REMAINING OOCYTES SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:
(I) DONATION FOR RESEARCH PURPOSES.
(II) THAWED WITH NO FURTHER ACTION TAKEN.
(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
(IV) OTHER DISPOSITION THAT IS CLEARLY STATED.
S 2455. INFORMED CONSENT. 1. A PHYSICIAN AND SURGEON OR OTHER HEALTH CARE PROVIDER DELIVERING FERTILITY TREATMENT SHALL OBTAIN WRITTEN CONSENT FROM ANY INDIVIDUAL WHO ELECTS TO DONATE EMBRYOS OR OOCYTES REMAINING AFTER FERTILITY TREATMENTS FOR RESEARCH. FOR ANY INDIVIDUAL CONSIDERING DONATING THE EMBRYOS FOR RESEARCH, TO OBTAIN INFORMED CONSENT, THE HEALTH CARE PROVIDER SHALL CONVEY ALL OF THE FOLLOWING TO THE INDIVIDUAL:
(A) A STATEMENT THAT THE EARLY HUMAN EMBRYOS WILL BE USED TO DERIVE HUMAN PLURIPOTENT STEM CELLS FOR RESEARCH AND THAT THE CELLS MAY BE USED, AT SOME FUTURE TIME, FOR HUMAN TRANSPLANTATION RESEARCH.
(B) A STATEMENT THAT ALL NON-GENETIC IDENTIFIERS ASSOCIATED WITH THE EMBRYOS WILL BE REMOVED PRIOR TO THE DERIVATION OF HUMAN PLURIPOTENT STEM CELLS.
(C) A STATEMENT THAT OOCYTES AND GENETIC MATERIAL FROM EARLY HUMAN EMBRYOS MAY BE USED FOR SOMATIC CELL NUCLEAR TRANSPLANTATION RESEARCH.
(D) A STATEMENT THAT OOCYTES MAY BE COMBINED WITH SPERM TO CREATE EMBRYOS FOR USE IN STEM CELL RESEARCH.
(E) A STATEMENT THAT DONORS WILL NOT RECEIVE ANY INFORMATION ABOUT SUBSEQUENT TESTING ON THE EMBRYO OR OOCYTES OR THE DERIVED HUMAN PLURIPOTENT CELLS.
(F) A STATEMENT THAT DERIVED CELLS OR CELL LINES, WITH ALL NON-GENETIC IDENTIFIERS REMOVED, MAY BE KEPT FOR MANY YEARS.
(G) DISCLOSURE OF THE POSSIBILITY THAT THE DONATED MATERIAL MAY HAVE COMMERCIAL POTENTIAL, AND A STATEMENT THAT THE DONOR WILL NOT RECEIVE FINANCIAL OR ANY OTHER BENEFITS FROM ANY FUTURE COMMERCIAL DEVELOPMENT.
(H) A STATEMENT THAT THE HUMAN PLURIPOTENT STEM CELL RESEARCH IS NOT INTENDED TO PROVIDE DIRECT MEDICAL BENEFIT TO THE DONOR.
(I) A STATEMENT THAT EARLY HUMAN EMBRYOS OR OOCYTES DONATED WILL NOT BE TRANSFERRED TO A WOMAN'S UTERUS, WILL NOT SURVIVE THE HUMAN PLURIPOTENT STEM CELL DERIVATION PROCESS, AND WILL BE HANDLED RESPECTFULLY, AS IS APPROPRIATE FOR ALL HUMAN TISSUE USED IN RESEARCH.
(J) A STATEMENT THAT EMBRYONIC STEM CELL LINES DEVELOPED FROM DONATED MATERIAL WILL NOT BE PATENTED.
2. EMBRYOS OR OOCYTES DONATED FOR RESEARCH PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE CAN BE USED FOR THE PURPOSES ENUMERATED IN ANY PRIOR CONSENTS. SUCH PREVIOUSLY SIGNED CONSENTS SHALL REMAIN IN FORCE WITH RESPECT TO RESEARCH CONDUCTED ON SUCH EMBRYOS OR OOCYTES COVERED IN SUCH

PRIOR CONSENTS. ALL EMBRYOS AND OOCYTES DONATED AFTER THE EFFECTIVE DATE OF THIS ARTICLE SHALL BE DONATED IN ACCORDANCE WITH THE INFORMED CONSENT PROCESS DESCRIBED IN THIS SECTION.

S 2456. PROHIBITION. 1. A PERSON MAY NOT KNOWINGLY, FOR VALUABLE CONSIDERATION, PURCHASE OR SELL EMBRYONIC OR CADAVERIC FETAL TISSUE FOR RESEARCH PURPOSES.

2. FOR THE PURPOSES OF THIS SECTION, "VALUABLE CONSIDERATION" DOES NOT INCLUDE REASONABLE PAYMENT FOR THE REMOVAL, PROCESSING, DISPOSAL, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPLANTATION, OR IMPLANTATION OF EMBRYONIC OR CADAVERIC FETAL TISSUE OR GENETIC MATERIAL DERIVED FROM EMBRYONIC OR CADAVERIC FETAL TISSUE.

3. EMBRYONIC OR CADAVERIC FETAL TISSUE MAY BE DONATED FOR RESEARCH PURPOSES PURSUANT TO THIS CHAPTER.

4. PATENTS FOR EMBRYOS OR EMBRYO STEM CELL LINES SHALL BE PROHIBITED FROM BEING APPROVED. MONETARY GAIN FROM THE INITIAL DONATION OR CREATION OF THE STEM CELL LINE IS PROHIBITED. THERAPEUTIC TREATMENTS RESULTING FROM STEM CELL RESEARCH ARE PERMITTED TO BE PATENTED.

5. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS D FELONY.

S 2457. COMMISSION ON CLONING AND THERAPEUTIC RESEARCH. 1. THERE IS HEREBY CREATED IN THE DEPARTMENT, THE COMMISSION ON CLONING AND THERAPEUTIC RESEARCH, WHICH SHALL CONSIST OF THE FOLLOWING TWELVE MEMBERS:

(A) SIX MEMBERS APPOINTED BY THE GOVERNOR;

(B) TWO MEMBERS APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(C) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

(D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

(E) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY.

2. OF THE MEMBERS APPOINTED TO SUCH COMMISSION,

(A) TWO MEMBERS SHALL BE PHYSICIANS LICENSED TO PRACTICE PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW;

(B) ONE MEMBER SHALL BE A HEALTH CARE PROVIDER LICENSED TO PRACTICE PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW, OTHER THAN A PHYSICIAN;

(C) ONE MEMBER SHALL BE A WOMEN'S HEALTH ADVOCATE;

(D) ONE MEMBER SHALL BE A CURRENT OR FORMER PATIENT INVOLVED IN FERTILITY TREATMENTS;

(E) TWO MEMBERS SHALL BE CURRENT PATIENTS UNDER CARE FOR TWO DIFFERENT DISEASES, DISORDERS OR DISABILITIES FOR WHICH STEM CELL RESEARCH HOLDS PROMISE FOR TREATMENT OR CURE;

(F) ONE MEMBER SHALL BE A SCIENTIST INVOLVED IN ADULT STEM CELL RESEARCH;

(G) ONE MEMBER SHALL BE A PUBLIC HEALTH ATTORNEY OR ADVOCATE;

(H) TWO MEMBERS SHALL BE SCIENTISTS INVOLVED IN THERAPEUTIC CLONING RESEARCH; AND

(I) ONE MEMBER SHALL BE A MEDICAL ETHICIST. THE MEDICAL ETHICIST SHOULD MEET ONE OF THE FOLLOWING CRITERIA: A MINIMUM OF FIVE YEARS SERVICE ON AN ETHICS BOARD AT A HOSPITAL OR ACADEMIC MEDICAL INSTITUTION; ONE YEAR MINIMUM EMPLOYMENT AS A BIO-ETHICIST; CONTRIBUTED THREE OR MORE ARTICLES TO PEER REVIEWED PUBLICATIONS; AN UNDERGRADUATE DEGREE IN MEDICAL ETHICS AND TWO YEARS EXPERIENCE ON AN ETHICS BOARD; OR A GRADUATE DEGREE IN MEDICAL ETHICS.

3. THE COMMISSION SHALL BE APPOINTED TO REFLECT THE COMPOSITION OF THE STATE WITH RESPECT TO ITS GENDER AND MINORITY POPULATIONS.

4. OF THE MEMBERS INITIALLY APPOINTED BY THE GOVERNOR, EACH MEMBER SHALL BE APPOINTED TO SERVE A TWO YEAR TERM. OF THE MEMBERS INITIALLY APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, EACH MEMBER SHALL BE APPOINTED TO SERVE A THREE YEAR TERM.

OF THE MEMBERS INITIALLY APPOINTED BY THE MINORITY LEADERS OF THE SENATE AND ASSEMBLY, EACH MEMBER SHALL SERVE A FOUR YEAR TERM. AFTER SUCH INITIAL APPOINTMENTS, THE TERM FOR MEMBERS OF SUCH COMMISSION SHALL BE FOUR YEARS; PROVIDED, HOWEVER, THAT THE TWO MEMBERS REPRESENTING PATIENTS FROM THE DISEASE, DISORDER OR DISABILITY COMMUNITY, AS PROVIDED IN PARAGRAPH (E) OF SUBDIVISION TWO OF THIS SECTION, SHALL BE APPOINTED TO SERVE A TWO YEAR TERM. ANY MEMBER APPOINTED TO SUCH COMMISSION MAY BE REAPPOINTED FOR ADDITIONAL TERMS.

5. ANY MEMBER CHOSEN TO FILL A VACANCY CREATED OTHERWISE THAN BY EXPIRATION OF TERM SHALL BE APPOINTED BY THE ORIGINAL APPOINTING AUTHORITY FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE IS TO SUCCEED. ANY SUCH VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

6. THE COMMISSION SHALL MEET AT LEAST FOUR TIMES EACH YEAR AND MAY ESTABLISH ITS OWN RULES AND PROCEDURES CONCERNING THE CONDUCT OF ITS MEETINGS AND OTHER AFFAIRS NOT INCONSISTENT WITH LAW. MEMBERS SHALL SERVE WITHOUT SALARY BUT SHALL BE ENTITLED TO REIMBURSEMENT OF THEIR ORDINARY AND NECESSARY TRAVEL EXPENSES.

7. NO MEMBER OF SUCH COMMISSION SHALL BE DISQUALIFIED FROM HOLDING ANY PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT, BY REASON OF HIS OR HER APPOINTMENT UNDER THIS SECTION, AND MEMBERS OF SUCH COMMISSION SHALL NOT BE REQUIRED TO TAKE AND FILE OATHS OF OFFICE BEFORE SERVING ON SUCH COMMISSION. MEMBERS OF SUCH COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR FUNCTIONS UNDER THIS SECTION.

8. THE COMMISSION MAY EMPLOY AND AT ITS PLEASURE REMOVE SUCH PERSONNEL AS IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE BY APPROPRIATION. SUCH COMMISSION MAY MEET AND HOLD PUBLIC AND/OR PRIVATE HEARINGS WITHIN THE STATE.

9. FOR THE ACCOMPLISHMENT OF ITS PURPOSES, THE COMMISSION SHALL BE AUTHORIZED AND EMPOWERED TO UNDERTAKE ANY STUDIES, INQUIRIES, SURVEYS OR ANALYSES IT MAY DEEM RELEVANT THROUGH ITS OWN PERSONNEL OR IN COOPERATION WITH OR BY AGREEMENT WITH ANY OTHER PUBLIC OR PRIVATE AGENCY.

10. SUCH COMMISSION SHALL:

(A) KEEP UP-TO-DATE ON SCIENTIFIC TECHNOLOGICAL ADVANCES, AND SOCIETAL AND ETHICAL ISSUES WHICH WILL IMPACT THE DIRECTION OF STEM CELL RESEARCH.

(B) FORMULATE PRIORITIES TO MAXIMIZE THE IMPACT OF STEM CELL RESEARCH IN NEW YORK STATE BASED UPON THE GOALS OF SCIENTIFIC ADVANCEMENT, THERAPEUTIC PROMISE, AND LOCAL ECONOMIC DEVELOPMENT.

(C) MAKE RECOMMENDATIONS TO THE LEGISLATURE REGARDING CHANGES TO THIS ARTICLE AND OTHER STATE LAWS NECESSARY TO PROMOTE SCIENTIFIC INQUIRY AND PROTECT HUMAN SUBJECTS WHO DONATE GENETIC MATERIAL OR WHO PARTICIPATE IN THERAPEUTIC TRIALS.

(D) CONSULT WITH THE DEPARTMENT REGARDING REGULATION AND OVERSIGHT OF FERTILITY CLINICS AND RESEARCHERS.

(E) EXPLORE THE NECESSITY FOR CREATING A SYSTEM, INCLUDING THE DEVELOPMENT OF AN EMBRYONIC REGISTRY, TO FURTHER FACILITATE THE PROCESS OF TRANSFERRING DONATED MATERIALS.

(F) WRITE GUIDELINES FOR THE ESTABLISHMENT OF A REGISTRY OF CLONED EMBRYOS TO BE OVERSEEN BY THE DEPARTMENT, THE PURPOSE OF WHICH IS TO STRICTLY GOVERN THE USE OF CLONING TECHNOLOGY AND LIMIT IT TO THERAPEUTIC RATHER THAN REPRODUCTIVE GOALS.

(G) INVESTIGATE EMERGING ISSUES RELATED TO DONATED GENETIC MATERIAL AND STEM CELL RESEARCH, INCLUDING, BUT NOT LIMITED TO: THE RANGE OF

GENETIC DIVERSITY AVAILABLE THROUGH FERTILITY CLINICS AND THE NEED FOR ADDITIONAL DONORS, AND THE ACCESS TO CLINICAL TRIALS AND DEVELOPING TREATMENTS FOR MINORITY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

(H) WORK WITH THE DEPARTMENT TO DEVELOP INFORMED CONSENT PROCEDURES AND REGULATIONS FOR THE DONATION OF GENETIC MATERIAL OUTSIDE THE CONTEXT OF FERTILITY CLINICS SHOULD THE NEED FOR ADDITIONAL DONATED MATERIAL ARISE.

11. SUCH COMMISSION SHALL MAKE A PUBLIC REPORT ANNUALLY TO THE GOVERNOR, THE SENATE AND THE ASSEMBLY OF ITS FINDINGS, CONCLUSIONS, PROPOSALS AND RECOMMENDATIONS AS PROVIDED IN SUBDIVISION TEN OF THIS SECTION, NOT LATER THAN DECEMBER FIRST OF EACH YEAR, ON ITS FINDINGS, CONCLUSIONS, PROPOSALS AND RECOMMENDATIONS AND SHALL SUBMIT WITH ITS REPORTS SUCH LEGISLATIVE PROPOSALS AS IT DEEMS NECESSARY TO IMPLEMENT ITS PROPOSALS AND RECOMMENDATIONS.

12. ALL STATE AGENCIES ARE HEREBY AUTHORIZED AND DIRECTED TO PROVIDE ASSISTANCE AND AVAILABLE RESOURCES, AS REQUESTED BY SUCH COMMISSION, IN ORDER TO EFFECTUATE THE PURPOSES OF THIS SECTION.

S 2458. HUMAN REPRODUCTIVE CLONING PROHIBITED. 1. FOR THE PURPOSES OF THIS SECTION, "HUMAN REPRODUCTIVE CLONING" MEANS THE PRACTICE OF CREATING OR ATTEMPTING TO CREATE A HUMAN BEING BY TRANSFERRING THE NUCLEUS FROM A HUMAN CELL FROM WHATEVER SOURCE INTO A HUMAN OR NONHUMAN EGG CELL FROM WHICH THE NUCLEUS HAS BEEN REMOVED FOR THE PURPOSE OF CREATING A NEW HUMAN BEING, OR TO IMPLANT THE RESULTING PRODUCT TO INITIATE A PREGNANCY WHICH COULD RESULT IN THE BIRTH OF A HUMAN BEING.

2. NO PERSON SHALL KNOWINGLY ENGAGE OR ASSIST, DIRECTLY OR INDIRECTLY, IN HUMAN REPRODUCTIVE CLONING.

3. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS B FELONY AND SHALL BE SUBJECT TO A FINE OF UP TO TWO HUNDRED FIFTY THOUSAND DOLLARS.

S 2459. STATE FUNDING. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, MONIES APPROPRIATED FOR THE PURPOSE OF THERAPEUTIC RESEARCH MAY BE USED FOR STEM CELL, EMBRYONIC, AND FETAL TISSUE RESEARCH.

S 2460. SEPARABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW, THE JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART OF THIS ARTICLE DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the commissioner of health is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.