

The First Session of the 110th Congress commenced January 4, 2007, with regular business concluding December 19, 2007. Extensive information on federal legislation is available at the Library of Congress website: thomas.loc.gov.

I. HIGHLIGHTS 2007

1. The Supreme Court Upholds PBA Ban

On April 18, 2007, in a landmark 5-4 ruling, the U.S. Supreme Court held that the federal Partial-Birth Abortion Ban Act of 2003 was constitutional. *Gonzales v. Carhart* (No. 05-380) together with *Gonzales v. Planned Parenthood* (No. 05-1382), cases on appeal from the U.S. Court of Appeals for the Eighth and Ninth Circuits, respectively.

Cardinal Justin Rigali, Chairman of the USCCB's Committee for Pro-Life Activities, welcomed the decision, observing, "This is the first time in 34 years that the Court has upheld a ban of any type of abortion." The Cardinal expressed the hope that "today's decision marks the beginning of a new dialogue on abortion."

Efforts to pass the PBA ban began in the 1990's. NCHLA sponsored two major postcard campaigns urging passage of a PBA ban at the federal level.

2. Fundamental Breakthrough in Stem Cell Research

On November 20, 2007, it was announced that two major scientific studies were being published in *Science* and *Cell* that demonstrate how to generate induced pluripotent stem cells (iPS cells) without human cloning or destroying human embryos. Scientists in Wisconsin and Japan have produced iPS cells by direct reprogramming of adult cells. The iPS cells have the properties of human embryonic stem cells.

Maureen Condic, Ph.D., and Markus Grompe, M.D., analyze this scientific breakthrough in a paper posted on the Do No Harm web site. See: www.stemcellresearch.org/statement/pptalkingpointswb.pdf.

Cardinal Justin Rigali, Chairman of the Bishops' Committee for Pro-Life Activities, stated that these studies "offer new hope for advancing stem cell research and therapies while fully respecting the dignity of human life."

Some scientific observers have stated that this development could mark the beginning of the end for "therapeutic cloning" and for the use of spare frozen IVF embryos as a source of pluripotent embryonic stem cells. The new method of reprogramming adult cells is more promising than methods that require the destruction of young human embryos.

3. President Veto Pledge

On May 3, 2007, President Bush sent letters to Senate Majority Leader Harry Reid (D-NV) and to Speaker of the House Nancy Pelosi (D-CA), in which he stated, "I will veto any legislation that weakens current Federal policies and laws on abortion, or that encourages the destruction of human life at any stage." Earlier in 2007, 35 Members of the Senate and 155 Members of the House had sent letters to President Bush, urging him to state in public his intentions to veto legislation that would weaken existing pro-life policies.

The President's veto pledge proved effective. No efforts were made to repeal or modify the Hyde Amendment (abortion funding restriction), the Hyde/Weldon Conscience Protection Amendment, or the Dickey/Wicker Amendment protecting human embryos from harmful research. The veto pledge was directly responsible for language challenging the President's Mexico City Policy being withdrawn from the end-of-year Consolidated Appropriations Act (H.R. 2764) and for Senate sponsors earlier withdrawing language that would overturn the President's policy limiting funding for embryonic stem cell research.

4. Stem Cell Research

Destructive Embryonic Stem Cell Research: In 2007, both House and Senate again passed the Stem Cell Research Enhancement Act (S. 5), a bill that would overturn the President's policy limiting funding for embryonic stem cell research. On June 20, 2007, President Bush, as he had pledged, vetoed this measure. S. 5 was returned to the Senate. The 2007 session ended without a veto override vote being scheduled.

Ethically Responsible Stem Cell Research: At the time of the June 20, 2007 veto, the President issued an Executive Order directing the appropriate agencies of the federal government to promote research on pluripotent stem cells derived by ethically responsible means. The importance of this presidential order was only confirmed by the November breakthrough studies in which adult cells were reprogrammed to assume the properties of embryonic stem cells.

Cord Blood Funding: Reps. Chris Smith (R-NJ) and Artur Davis (D-AL) attempted to secure full funding for the cord blood program. The omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), signed into law December 26, 2007 (P.L. 110-161), appropriated \$9 million for "the National Cord Blood Inventory pursuant to the Stem Cell Therapeutic and Research Act of 2005." While this amount is below the \$15 million authorized for Fiscal Year 2008, it is higher than the \$4 million first proposed in the House version of the Fiscal Year 2008 Labor/Health and Human Services Appropriations Bill (H.R. 3043).

5. Human Cloning

On June 6, 2007, the U.S. House of Representatives, 204-yes, 213-no, soundly defeated the so-called Human Cloning Prohibition Act (H.R. 2560). The tally fell 74 votes short of the two-thirds required by the Suspension of the Rules procedure under which this measure was brought to the floor. In fact, the bill placed no limits on human cloning. "Researchers are absolutely free, are given the green light, to clone human life to their heart's content, so long as they kill and

destroy the cloned human embryo at some point, perhaps weeks, after its creation,” declared Rep. Chris Smith (R-NJ) during the debate.

6. Foreign Aid Issues

Mexico City Policy: First announced by the Reagan Administration at a population conference in Mexico City in 1984, the Mexico City Policy (MCP) provides that no U.S. population assistance funds can be given to a foreign nongovernmental organization unless it certifies that it will not perform or promote abortion as a method of family planning.

On June 21, 2007, during consideration of the Fiscal Year 2008 State Department/Foreign Operations Appropriations Bill (H.R. 2764), the House approved an amendment by Rep. Nita Lowey (D-NY) that negated the application of the MCP in specific circumstances. Nongovernmental organizations that perform or promotes abortion as a method of family planning could not be denied funding for providing donated contraceptives in developing countries.

On September 6, 2007, the Senate approved an amendment by Sen. Barbara Boxer (D-CA) that would prohibit the application of the MCP funding eligibility requirements, overturning the MCP completely.

The President threatened to veto any bill that contained either the Lowey or Boxer language.

H.R. 2764 became the omnibus vehicle for passage of eleven of the fiscal year 2008 appropriations bills. It was retitled the Consolidated Appropriations Act, 2008. Because of President Bush’s veto pledge, Democratic leaders pulled any language that would negate the Mexico City Policy. H.R. 2764 was cleared for the White House on December 19, 2007 and signed into law on December 26, 2007 (P.L. 110-161). The Administration’s Mexico City Policy remained intact.

Kemp-Kasten Amendment: The Kemp-Kasten Amendment denies funding to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization. At issue is the support the United Nations Population Fund (UNFPA) gives to China’s coercive population control program. On September 6, 2007, during consideration of the Fiscal Year 2008 State Department/Foreign Operations Appropriations Bill (H.R. 2764), the Senate approved, 48-yes, 45-no, an amendment by Sen. Sam Brownback (R-KS) that rejected adverse committee language and upheld the traditional language of the Kemp-Kasten Amendment. Earlier, in the same bill, the House had approved the traditional language, but with a proviso. In the Consolidated Appropriations Act, 2008, signed into law December 26, 2007 (P.L. 110-161), the traditional Kemp-Kasten Amendment remained intact, but with a proviso from the House language added: “Provided further, That any determination made under the previous proviso must be made no later than six months after the date of enactment of this Act, and must be accompanied by a comprehensive analysis as well as the complete evidence and criteria utilized to make the determination.”

7. SCHIP

The State Children's Health Insurance Program (SCHIP) provides health insurance for low-income children. Since 2002, regulations have defined the coverage to include children from conception to birth, allowing states to provide prenatal care and other health services to the child and the child's pregnant mother. The authorization for SCHIP was set to expire September 30, 2007. Throughout the reauthorization process, efforts were made to codify and strengthen the unborn child rule in law. The reauthorization was ensnared in political debate and stalled; the unborn child rule remained in place but was not codified. In the final days of the 2007 session, a bill, S. 2499, was introduced that extended funding for SCHIP to March 1, 2009, with amounts sufficient to cover current enrollment levels. This measure was passed and sent to the President, who signed it into law on December 29, 2007.

8. Military Abortion Policy

The Fiscal Year 2008 Defense Authorization Bill (H.R. 1585) was reported out of committee in the House with all existing pro-life policies intact. However, for floor debate the Rules Committee approved consideration of an amendment by Rep. Michael Michaud (D-ME) *requiring* that "emergency contraception" – the morning-after pill – be made available at all military health care treatment facilities. However, just before debate was to begin, Rep. Michaud withdrew his amendment.

9. Genetic Information Nondiscrimination Act

The Genetic Information Nondiscrimination Act (GINA) (S. 358, H.R. 493) was designed to prevent employers and health insurance companies from discriminating against individuals and their families based on the results of genetic tests. In a February 12, 2007 letter, Cardinal Justin Rigali, Chairman of the Bishops' Committee for Pro-Life Activities, drew attention to an "apparently unintentional loophole," raising concerns about discrimination against families "based on the preimplantation or prenatal genetic testing of their child, or genetic testing performed on an adoptive child before an adoption is completed."

During floor debate on H.R. 493, Rep. Bart Stupak (D-MI) also referred to these concerns and noted that Members had worked together to make needed corrections in the bill. On April 25, 2007, the House approved H.R. 493, 420-yes. At year's end, the measure was pending on the Senate calendar.

10. Pregnant Women Support Act

On July 26, 2007, Rep. Lincoln Davis (D-TN) introduced the Pregnant Women Support Act (H.R. 3192). On December 4, 2007, Sen. Robert Casey, Jr. (D-PA) introduced a similar measure in the Senate (S. 2407). In pursuing their goal, these bills do not endorse abortion or promote contraception as a panacea. Deirdre McQuade, of the USCCB's Secretariat for Pro-Life Activities, expressed thanks to Rep. Davis and Sen. Casey for their "courageous leadership," stating "we wholeheartedly support this constructive bill and urge the House and Senate to pass it for women, their families, and the common good."

II. REVIEW OF LEGISLATION

In contrast to the introductory Highlights, the Review of Legislation section contains more detailed information on legislative action, including reports on executive actions and court developments that have important implications for legislative policies. Bills are divided into two general kinds: appropriations and authorization. Please note that some issues relate to both kinds of bills.

Authorization bills provide the fundamental authority – the policies and procedures – by which various government agencies and programs operate. The authorization can be for an indefinite period, or for one or several years. Some authorization bills set a ceiling on the amount of money that can be spent, while others are open-ended.

However, authorization bills do not provide the money. That is the function of the annual appropriations bills, currently 12 in number. Within annual budget targets, these bills “appropriate” the actual amount of money to be spent on various authorized agencies and programs each fiscal year (October 1 to September 30). This amount may well be below the authorized ceiling. Congress also passes short-term and supplemental appropriations bills. Sometimes Congress appropriates funds for programs or agencies whose authorization has lapsed. And sometimes Congress attaches policy riders to the appropriations bills. A number of policies prohibiting government funding of abortion exist as riders or amendments that must be enacted into law each year as part of an appropriations bill.

Typically, appropriations bills are first passed by the House and then the Senate. Each bill is developed in its own subcommittee.

A. Appropriations Bills

At the start of the Fiscal Year 2008 on October 1, 2007, none of the 12 must-pass annual appropriations bills had yet been signed into law. Congress passed four stopgap Continuing Resolutions that kept the government running through the end of 2007.

In November, the Fiscal Year 2008 Defense Appropriations Bill (H.R. 3222) was signed into law. The Fiscal Year 2008 State Department/Foreign Operations Appropriations Bill (H.R. 2764) became the omnibus vehicle for the eleven remaining appropriations bills. It was retitled the Consolidated Appropriations Act, 2008. On December 19, 2007, the measure was cleared for the President, and on December 26, 2007 was signed into law (P.L. 110-161).

1. Fiscal Year 2008 Labor/HHS Appropriations Bill

House: On July 19, 2007, the House passed the Fiscal Year 2008 Labor/Health and Human Services/Education Appropriations Bill (H.R. 3043). The bill retains the Hyde Amendment (abortion funding restrictions), the Hyde/Weldon Conscience Protection Amendment (Sections 507 and 508), and the Dickey/Wicker Amendment protecting human embryos from harmful research (Section 509).

During floor debate on H.R. 3043, Rep. Mike Pence (R-IN) offered an amendment that would deny all Title X family planning funds to Planned Parenthood. Rep. Pence called his amendment a “domestic Mexico City Policy.” The funding for Title X family planning programs would not be reduced but funding would be denied to “the largest abortion provider in America.” (*CR* H8154-7, 7/19/2007). The Pence Amendment was rejected, 189-yes, 231-no, 16-not voting (Roll Call 684).

Senate: As reported from committee, the Senate’s Fiscal Year 2008 Labor/HHS/Education Appropriations Bill (S. 1710) also retains the Hyde Amendment and the Hyde/Weldon Conscience Protection Amendment, but overturned the President’s ESC research funding policy. For floor consideration, the Senate brought up the House-passed H.R. 3043. On October 17, 2007, Sen. Tom Harkin (D-IA) offered a substitute bill (Amendment No. 3325) from which the ESCR language was dropped. Sen. Harkin referred to a veto threat that the President had made earlier in the day.

See more detail elsewhere in this report on the stem cell research issue and the cord blood program funding.

Veto: With pro-life policies intact, H.R. 3043 was sent to the President, who, for reasons not related to pro-life, vetoed the bill on November 13, 2007, the House failing to override on November 16, 2007.

Law: The Fiscal Year 2008 Labor/Health and Human Services Appropriations Bill was included in the end-of-year omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), signed into law December 26, 2007 (P.L. 110-161).

2. Stem Cell Research

Background: A stem cell is a basic body cell that can reproduce itself and has the ability to differentiate itself into one or more specialized cell types. Stem cells are commonly divided into embryonic and adult (postnatal sources). Derivation of embryonic stem cells (ESCs) from the early embryo necessarily results in the death of the embryo, and thus is morally unacceptable. The derivation of adult stem cells lacks this moral problem. In general, stem cells show promise in treating diseases by assisting in the regeneration of damaged tissue. The pluripotent ESCs have proven very difficult to use and have produced no therapeutic benefits in humans. Adult stem cells are much more manageable and to date have produced therapeutic benefits in treating humans for more than 70 different diseases.

By directive of President Bush, only ESCs existing as of August 9, 2001 are eligible for federally funded research. Advocates of destructive ECS research seek to overturn this policy.

On November 20, 2007, two studies were released that indicated ordinary skin cells can be de-programmed to establish stem cell lines for use in research and therapy, bypassing the need to clone and/or destroy human embryos as a source of stem cells for these purposes. For more information on this scientific breakthrough as well as on other legislative actions, see “Stem Cell Research” under Authorization Bills.

Also see: www.stemcellresearch.org and www.usccb.org/prolife/issues/bioethic/stemcell/index.shtml.

Senate: Facing the prospect that Congress cannot override a presidential veto of the Stem Cell Research Enhancement Act (S. 5), advocates of destructive ESC research turned to the “must pass” annual appropriations bills. The Fiscal Year 2008 Labor/Health and Human Services Appropriations Bill become a potential vehicle for attempting to overturn the President’s policy.

Committee: On June 21, 2007, the Senate Appropriations Committee approved its Fiscal Year 2008 Labor/Health and Human Services/Education Appropriations Bill (S. 1710). In Sec. 520 the bill overturns the President’s ESC research funding policy. Federal funding can be used for research on ESCs derived prior to June 15, 2007 (not August 9, 2001). The guidelines implementing the President’s August 9, 2001 announcement are superceded by the provisions of Sec. 520, which include three “Ethical Requirements” taken directly from H.R. 3/S. 5: the ESCs must be derived from excess IVF embryos; the embryos would never be implanted and otherwise would be discarded; those donating the embryos provide written informed consent. News stories identify Sens. Tom Harkin (D-IA) and Arlen Specter (R-PA) as sponsors of this proposal in full committee. Sen. Harkin is Chairman and Sen. Specter Ranking Member of the Senate Appropriations Labor/HHS/Education Subcommittee.

Floor: For floor consideration, the Senate brought up the House-passed version of the Fiscal Year 2008 Labor/Health and Human Services/Education Appropriations Bill, H.R. 3043. On October 17, 2007, Sen. Tom Harkin (D-IA) offered a substitute bill (Amendment No. 3325) from which the ESCR language was dropped. Sen. Harkin referred to a veto threat that the President had made earlier in the day.

Law: The Fiscal Year 2008 Labor/Health and Human Services Appropriations Bill was included in the omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), cleared for the White House on December 19, 2007 and signed into law December 26, 2007 (P.L. 110-161). The President’s embryonic stem cell research policy remained intact.

3. Cord Blood Program

Background: Two years ago, the President signed the Stem Cell Research and Therapeutic Act into law (Public Law 109-129), a measure authorizing programs to promote the use of cord blood stem cells and bone marrow in research and treatment.

House: As reported from the House Appropriations Committee, the Fiscal Year 2008 Labor/Health and Human Services/Education Appropriations Bill (H.R. 3043) appropriated \$4 million for the Cord Blood Program. On July 17, 2007, the House accepted by voice vote an amendment offered by Reps. Chris Smith (R-NJ) and Artur Davis (D-AL) to increase funding for the Cord Blood Program to the \$15 million authorized level. Without the added funding, “the current grant recipients will have to dramatically scale back in their cord blood banking initiatives just as they’re ramping up,” Rep. Smith noted in the floor debate (*CR H7949*, 7/17/2007).

Senate: As reported from Committee to the floor, the Senate's version of H.R. 3043 allocates \$12 million for the Cord Blood Program.

Conference: In conference committee, the Senate amount of \$12 million was accepted. Both chambers approved the conference report.

Veto: On November 13, 2007, the President vetoed H.R. 3043, for reasons not related to pro-life. On November 16, 2007, the House failed to override.

Law: The Fiscal Year 2008 Labor/Health and Human Services Appropriations Bill was included in the omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), cleared for the White House on December 19, 2007 and signed into law December 26, 2007 (P.L. 110-161). The amount appropriated in this measure was \$9 million. "Provided further, That of the funds available under this heading, \$9,000,000 shall be provided for the National Cord Blood Inventory pursuant to the Stem Cell Therapeutic and Research Act of 2005."

4. Kemp-Kasten Amendment

Background: From the mid-1980's to the present, the annual appropriations bills for foreign affairs have contained language called the Kemp-Kasten Amendment, a provision that denies funding "to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization." At issue was the support the United Nations Population Fund (UNFPA) gave to China's coercive population control program. Presidents Reagan, G. H. W. Bush, and G. W. Bush have determined that the UNFPA was involved with the China program and denied funding. President Clinton interpreted the law to mean "direct" support or participation and resumed the funding, even though the law applies to all support or participation without resort to a distinction between "direct" and "indirect." For the legislative history of this amendment, see: nchla.org/datasource/idocuments/KempK8503.pdf. Also see NCHLA's Fact Sheet on the UNFPA at: nchla.org/factdisplay.asp?ID=21.

House: The State Department/Foreign Operations Appropriations Bill is the legislative vehicle to which the Kemp-Kasten Amendment is attached each year.

Committee: As reported on June 12, 2007 from the House Appropriations Committee, the Fiscal Year 2008 State Department/Foreign Operations Appropriations Bill (H.R. 2764) retained the traditional language of the Kemp-Kasten Amendment, but added a proviso that the President must provide "a comprehensive analysis as well as the complete evidence and criteria utilized to make the determination." In their Committee Report (110-197), the Committee made clear that they do not believe that "any provisions included in this bill justify withholding this [UNFPA] funding" (p. 137).

Floor: On June 22, 2007, the House passed H.R. 2764, 241-yes, 178-no, 13-not voting (Roll Call 542).

Senate: H.R. 2764 was sent to the Senate, where it was referred to the Appropriations Committee.

Committee: On June 28, 2007, the Senate Appropriations Committee reported H.R. 2764. The bill contained a rewrite of the Kemp-Kasten Amendment. The phrases “as determined by the President of the United States” and “or participates in the management of a program of” were dropped, and the important modifier “directly” was added before the verb “supports.” Thus, according to the committee re-write, funding is denied “to any organization or program which directly supports coercive abortion or involuntary sterilization.” At a minimum, the Kemp-Kasten Amendment was dramatically narrowed and would be very difficult to enforce. The message is sent that support for China’s coercive population control program is acceptable behavior. The UNFPA would again receive financial support from the United States.

Floor: During consideration of H.R. 2764, the Senate agreed to vote on three amendments, two by Sen. Sam Brownback (R-KS), one upholding the Kemp-Kasten Amendment and the other supporting the Mexico City Policy, and one by Sen. Barbara Boxer (D-CA) to overturn the MCP. Each of the three amendments would be voted on in turn; no second degree amendments would be allowed.

Sen. Brownback’s Amendment No. 2707 would strike from the bill the adverse Senate committee language and, with minor edits, insert in its place the basic language of the Kemp-Kasten Amendment: “Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President, supports, or participates in the management of, a program of coercive abortion or involuntary sterilization.” *On September 6, 2007, the Senate approved the Brownback Amendment, 48-yes, 45-no, 7-not voting (Roll Call 318).*

On September 6, 2007, Cardinal Justin Rigali, Chairman of the Bishops’ Committee for Pro-Life Activities, had sent a letter to the U.S. Senate urging support for efforts to remove the adverse Kemp-Kasten Amendment language from the bill. “Apparently, under the new language, an organization like the U.N. Population Fund (UNFPA) may support and help manage the brutally coercive ‘one child per family’ program in China and receive U.S. funds, as long as UNFPA officials are not themselves imposing the punitive fines for a second child or driving the bulldozers that level the homes of non-compliant families.” Programs of coerced abortion were condemned as crimes against humanity at the Nuremberg trials and condemned as crimes against women at the U.N. Conference for Women in 2000. “Congress has not the slightest justification for now allowing its grantees to aid and abet such atrocities, on the pretext that they will not ‘directly’ perform the crimes they facilitate.” See: www.usccb.org/prolife/issues/abortion/foreignops2008.pdf.

Conference: H.R. 2764 has passed both House and Senate; differences between the two bills needed to be resolved in a conference committee. On September 6, the Senate appointed its conferees; the House never did so.

Law: H.R. 2764 became the vehicle for passage of eleven of the fiscal year 2008 appropriations bills. Retitled the Consolidated Appropriations Act, 2008, the measure was cleared for the White

House on December 19, 2007. The Kemp-Kasten Amendment remained intact, with a proviso from the House language added: “Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That any determination made under the previous proviso must be made no later than six months after the date of enactment of this Act, and must be accompanied by a comprehensive analysis as well as the complete evidence and criteria utilized to make the determination.”

5. The Mexico City Policy

Background: First announced by the Reagan Administration at a population conference in Mexico City in 1984, the Mexico City Policy (MCP) provides that no U.S. population assistance funds can be given to a foreign nongovernmental organization unless it certifies that it will not perform or promote abortion as a method of family planning. The policy was overturned by President Clinton on January 22, 1993 and restored by President Bush on January 22, 2001. Abortion advocates in Congress have been seeking ways to negate President Bush’s reinstatement of the policy.

In the October 13, 2007 issue of *The Lancet*, researchers from the Guttmacher Institute and the World Health Organization published a study calling for the global legalization and promotion of abortion (“Induced Abortion: Estimated Rates and Trends Worldwide”). In the same issue, an editorial said that the Mexico City Policy only made the worldwide abortion situation worse (“Eliminating Unsafe Abortion Worldwide”). In a response criticizing the study, USCCB spokesperson Deirdre McQuade noted that, according to the study itself, “total worldwide abortions substantially *decreased* from 1995 (when the [Mexico City] policy was not in effect) to 2003 (after it was reinstated).” For Ms. McQuade’s full remarks, see: www.usccb.org/comm/archives/2007/07-159.shtml.

For more background information, see “Mexico City Policy” in Authorization Bills below. For NCHLA’s “Mexico City Policy” Fact Sheet, see: nchla.org/factdisplay.asp?ID=38. Also, the Bishops’ Secretariat for Pro-Life Activities 10/07 Fact Sheet, “The Mexico City Policy (MCP): False Criticisms and the Facts,” can be found at: nchla.org/datasource/idocuments/10MCP.FS.USCCB26.07.pdf.

House: The Fiscal Year 2008 State Department/Foreign Operations Appropriations Bill (H.R. 2764) became the vehicle to attempt to negate the MCP.

Committee: On June 5, 2007, the State and Foreign Operations Appropriations Subcommittee, chaired by Rep. Nita Lowey (D-NY), approved H.R. 2764. Contrary to early reports, the Lowey bill contained language in section 622 that would negate the MCP in specific circumstances. The Lowey bill designated \$441 million for international family planning and stipulated that federal funding for contraceptives in foreign countries shall not be denied “to any nongovernmental organization solely on the basis of the policy contained in the President’s March 28, 2001, Memorandum” to the Administrator of the U.S. Agency for International

Development (USAID). (The President had restored the MCP on January 22, 2001, then implemented his policy decision through this March 28 memorandum.) According to the Lowey bill, nongovernmental organizations that perform or promote abortion as a method of family planning could not be denied funding to provide contraceptives in developing countries.

On June 12, 2007, the full Appropriations Committee marked up the Fiscal Year 2008 State/Foreign Operations Appropriations Bill; the language negating the MCP was not changed.

Floor: On June 21, 2007, the U.S. House of Representatives voted to negate the MCP, approving an amendment by Rep. Lowey and rejecting another by Reps. Chris Smith (R-NJ) and Bart Stupak (D-MI).

The day before the floor debate, Rep. Lowey announced that she would offer an amendment to modify the wording in Section 622. The text of the amendment was not made available until the day of the debate. Its purpose remained the negation of the MCP applied to specific circumstances. Nongovernmental organizations that perform or promotes abortion as a method of family planning could not be denied funding for providing donated contraceptives in developing countries.

On June 21, 2007, during floor debate on H.R. 2764, the House approved the Lowey Amendment, 223-yes, 201-no, 14-not voting (Roll Call 533).

The Smith/Stupak Amendment would have upheld the MCP by striking the pertinent language in Section 622, as modified by the Lowey Amendment. *On June 21, 2007, the House rejected the Smith/Stupak Amendment, 205-yes, 218-no, 14-not voting (Roll Call 534).*

Two days before these votes, a Statement of Administration Policy reaffirmed the President's intent to uphold current policies and laws on abortion. "Consistent with the President's letter of May 3, 2007, if the President were presented a bill, such as H.R. 2764, that weakens current Federal policies and laws on abortion, he would veto the bill."

Cardinal Justin Rigali, Chairman of the Bishops' Committee for Pro-Life Activities, had sent a letter to House Members, urging support of the Smith/Stupak Amendment. The Cardinal highlighted the origins and purpose of the MCP and, responding to those opposing the MCP and claiming to want to reduce abortion, made four observations: first, abortion does not plan a family but kills a member of the family; second, studies show that promoting contraceptives does not necessarily reduce abortions; third, when made available alongside preventive methods, abortion replaces prevention; and fourth, it is contrary to logic and common sense to say that abortions can be reduced by supporting groups dedicated to promoting abortion. For full text of the letter, see: nchla.org/docdisplay.asp?ID=164.

Responding to the House votes, Deirdre A. McQuade, Director of Planning and Information for the Bishops' Secretariat for Pro-Life Activities, affirmed that "Exporting abortion overseas will not lower abortion rates, is resented by developing countries, and is not supported by the American people." She expressed gratitude to President Bush for his pledge to exercise his veto power to uphold the MCP.

An analysis of the vote on the Smith/Stupak Amendment reveals that by-and-large pro-life advocates in the House stood firm in their support of the MCP and were not swayed or confused by Rep. Lowey's maneuvers.

In another matter of concern in H.R. 2764, Rep. Joseph Pitts (R-PA) offered an amendment to strike from H.R. 2764 language that would eliminate current policy whereby in the President's Emergency Plan for AIDS Relief (PEPFAR) one-third of HIV and AIDS prevention funds are allocated to abstinence-before-marriage programs. Bishop Thomas Wenski, Chairman of the Bishops' Committee on International Policy, and Ken Hackett, President of Catholic Relief Services, had sent a letter to the House urging retention of the current policy. See: nchla.org/docdisplay.asp?ID=164. Unfortunately, the House rejected the Pitts Amendment, 200-yes, 226-no, 12-not voting (Roll Call 532). For how Members voted, see: clerk.house.gov/evs/2007/roll532.xml.

Senate: During consideration of H.R. 2764, the Senate agreed to vote on three amendments, two by Sen. Sam Brownback (R-KS), one upholding the Kemp-Kasten Amendment and the other supporting the Mexico City Policy (to strike the House-passed Lowey Amendment), and one by Sen. Barbara Boxer (D-CA) to prohibit the application of the MCP funding eligibility requirements, overturning the MCP completely. Each of the three amendments would be voted on in turn; no second degree amendments would be allowed.

On September 6, 2007, the Senate voted 53-yes, 41-no, 6-not voting (Roll Call 319) to approve the Boxer Amendment (Amendment No. 2719). In 2003 and 2005, the Senate had previously approved the language of this amendment by similar margins. The Boxer Amendment is part of a campaign by abortion advocates to overturn the MCP after it was reinstated by President George W. Bush in 2001.

After approving the Boxer Amendment, the Senate voted 40-yes, 54-no, 6-not voting (Roll Call 320) to reject an amendment by Sen. Brownback (Amendment No. 2708) to strike from the bill House-passed language that negated the MCP.

Note: Originally, Sen. Robert Casey, Jr. (D-PA) had voted for the Brownback Amendment. However, a few days later, the Senator stated that his "yes" vote on the Brownback Amendment was a mistake and received approval by the Senate to change his vote to "no" (*Congressional Record*, 9/10/07, S11289). The vote numbers above reflect this change.

In a September 6 statement on H.R. 2764, the White House reiterated the President's intent to veto. "Consistent with the President's letter of May 3, 2007, if the President were presented a bill such as H.R. 2764 that weakens current Federal policies and laws on abortion, he would veto the bill" (underline in original).

On September 6, 2007, Cardinal Justin Rigali, Chairman of the Bishops' Committee on Pro-Life Activities, sent a letter to the U.S. Senate urging support for the Kemp-Kasten Amendment and the Mexico City Policy. See: www.usccb.org/prolife/issues/abortion/foreignops2008.pdf.

Conference: In the normal course of events, H.R. 2764 would now go to a House-Senate conference committee to resolve differences in the House and Senate versions of the bill. On September 6, 2007, the Senate appointed its conferees; the House never did so.

House Hearing: On October 31, 2007, the House Foreign Affairs Committee held a hearing on the Mexico City Policy (“The Mexico City Policy/Global Gag Rule: Its Impact on Family Planning and Reproductive Health”). Intended as a forum for the pro-abortion advocates to promote their position, it turned into an occasion for pro-life to press its case. Many pro-life Members on the Committee attended the full hearing and were well prepared to challenge the witnesses. An ad urging “Support the Mexico City Policy” was placed in Washington, DC publications at the time of hearing. See: nchla.org/datasource/iddocuments/10MCP.ad.USCCB.07.pdf.

Law: H.R. 2764 became the vehicle for passage of eleven of the fiscal year 2008 appropriations bills. Retitled the Consolidated Appropriations Act, 2008, the measure was cleared for the White House on December 19, 2007 and signed into law December 26, 2007 (P.L. 110-161). Because of President Bush’s pledge to veto any bill that contained language overturning pro-life policies, Democratic leaders pulled from the omnibus bill any of the House or Senate language that would negate the Mexico City Policy. The Administration’s Mexico City Policy remained intact.

B. Authorizations Bills

Issues considered below include:

1. CCPA/CIANA
2. “Emergency Contraception” Hospital Mandates
3. Genetic Information Nondiscrimination Act
4. Human Cloning Ban
5. Informed Choice Act
6. Mexico City Policy
7. Military Abortion Policy
8. Parental Notification
9. Partial Birth Abortion Ban Act
10. Patients First Act
11. Pregnant Women Support Act
12. Presidential Vetoes
13. Prevention First Act
14. Reducing the Need for Abortion and Supporting Parents Act
15. Right to Life Act
16. RU-486 Suspension and Review Act: Holly’s Law
17. Sanctity of Human Life Act
18. SCHIP
19. Stem Cell Research
20. Unborn Child Pain Awareness Act

1. CCPA/CIANA

Background: The Child Custody Protection Act (CCPA) would make it a federal crime to transport a minor girl across state lines to obtain an abortion with the intent of circumventing the parental involvement law of the girl's home state. The Child Interstate Abortion Notification Act (CIANA) includes the provisions of the CCPA but also specifies that an abortion provider in a state without a parental involvement law must provide 24 hour notice to a parent or legal guardian before performing an abortion on a minor girl who is a resident of a different state.

In 1998, 1999, and 2002, the House passed CCPA but the measure was stalled in the Senate. In 2004, hearings were held in both chambers.

In 2005, the House passed the newly-introduced CIANA. In 2006, the Senate passed CCPA for the first time. However, Senate Democratic leadership blocked the measure from going to conference with the House-passed CIANA. The House then repassed CIANA, but a filibuster prevented further Senate action on this bill. The 109th Congress ended without passage of either CIANA or CCPA.

As passed by the House in 2006, the notification requirements in the new section of CIANA did not apply if, in the "reasonable medical judgment" of the physician, delay occasioned by notification "would cause a substantial and irreversible impairment of a major bodily function of the minor arising from continued pregnancy, not including psychological or emotional conditions," though in this case, within 24 hours a parent must be notified in writing that the abortion was performed and why. Earlier versions of the bill did not contain this physical health exception but were limited to an exception for the life of the mother.

Also see the "Parental Notification" section of this Legislative Report.

House: On February 15, 2007, Rep. Ileana Ros-Lehtinen (R-FL) reintroduced CIANA (H.R. 1063). The bill had 128 cosponsors and was referred to two subcommittees of the House Judiciary Committee: Subcommittee on Crime, Terrorism, and Homeland Security and Subcommittee on the Constitution, Civil Rights, and Civil Liberties. No further action was taken.

H.R. 1063 dropped the exception for physical health. The measure retained amendments added to the CCPA by the Senate in 2006: a parent who commits incest with the minor may not bring a civil action under the bill; and a person who commits incest with a minor and transports the minor across a state line to obtain an abortion shall be fined or imprisoned.

Committee: On February 7, 2007, during markup of a measure penalizing the transportation of animals across state lines for the purpose of fighting, Reps. James Sensenbrenner (R-WI) and Steve King (R-IA) offered CIANA as an amendment. Rep. Sensenbrenner was quoted as saying: "I recognize we are meeting here today to consider a bill to protect chickens But isn't protecting our nation's young women . . . equally, if not more important, than our dinner entree?" *CQToday* (2/8/07), p. 10. Rep. Robert Scott (D-VA) made a point of order that the amendment was not germane. Chairman John Conyers (D-MI) sustained

the point of order. Rep. Sensenbrenner appealed the ruling. Rep. Anthony Weiner (D-NY) moved to table the appeal. Voting along party lines, the Committee voted 18-yes, 14-no to table.

2. “Emergency Contraception” Hospital Mandates

Background: A measure called the Compassionate Assistance for Rape Emergencies Act would have required hospitals to provide “emergency contraceptives” (morning-after pills) to victims of rape. Similar legislation was introduced in the 107th, 108th, and 109th Congresses.

The basic contents of this measure were incorporated into a larger composite bill called the Prevention First Act. See discussion of the Prevention First Act elsewhere in this report.

House: On January 12, 2007, Rep. Steven Rothman (D-NJ) introduced the Compassionate Assistance for Rape Emergencies Act (H.R. 464). The measure had 100 cosponsors and was referred to two committees: Energy and Commerce, the Subcommittee on Health; and Ways and Means, the Subcommittee on Health. No further action was taken.

H.R. 464 provides that federal funds may not be made available to a hospital unless (1) the hospital promptly gives sexual assault victims written and oral information about emergency contraception, including information that “emergency contraception does not cause an abortion,” (2) the hospital promptly offers emergency contraception and promptly provides it on the victim’s request, (3) the information is provided in language that is easily understood, and (4) these services are not denied because of inability to pay. “Sexual assault” means coitus in which the woman does not consent or *lacks the legal capacity to consent*, that is, includes all cases of consensual teen sex or statutory rape. “Emergency contraception” is defined as a drug, drug regimen, or device approved by the Food and Drug Administration “to prevent pregnancy” and is used postcoitally.

The measure acknowledges that emergency contraception can act by preventing implantation (“prevent pregnancy”) but falsely states that such an action is not abortifacient (“does not cause an abortion”).

3. Genetic Information Nondiscrimination Act

Background: First introduced in the mid 90’s, this measure is designed to prevent employers and health insurance companies from discriminating against individuals and their families based on the results of genetic tests. The measure passed the Senate in 2005.

In a February 12, 2007 letter to the House Committee on Education and Labor, Cardinal Justin Rigali, Chairman of the Bishops’ Committee for Pro-Life Activities, drew attention to an “apparently unintentional loophole.” As introduced, the bill seems not to address discrimination against families “based on the preimplantation or prenatal genetic testing of their child, or genetic testing performed on an adoptive child before an adoption is completed.” The Cardinal recommended that the definition of “family member” be clarified “to include cases where a birth or adoption are intended but have not yet occurred.”

The Cardinal urged that the resolution of this practical problem not become “a victim of the politics of abortion,” noting that groups supporting “abortion rights,” such as the ACLU, have cited discrimination based on prenatal testing to illustrate the need for this legislation. The Cardinal also observed that in 2005, when this legislation passed the Senate, sponsors disclaimed any intention of excluding these situations. The understanding also was expressed that the intent would be clarified later, but this did not happen because the House did not act on the bill. *Congressional Record* (February 16, 2005), S1480. For the full text of the Cardinal’s letter, see: www.usccb.org/comm/archives/2007/07-032.shtml.

To correct the problem in the bill, it was proposed that the definition of “family member” be amended so that the dependent child be described as follows: “a dependent child of the individual, including a child who is born to or placed for adoption with, or to be born to or to be placed for adoption with, the individual;” [new text underlined]. The definition of “family member” occurred four places in the bill.

Senate: On January 22, 2007, Sen. Olympia Snowe (R-ME) introduced the Genetic Information Nondiscrimination Act (S. 358). The measure had 36 cosponsors and was referred to the Committee on Health, Education, Labor, and Pensions.

Committee: On January 31, 2007, the Committee on Health, Education, Labor, and Pensions reported out a substitute version of S. 358; the definition of “family member” was not amended to include the child to be born or to be placed for adoption.

Floor: On March 29, 2007, S. 358 was placed on the Senate calendar. No further action was taken.

House: On January 16, 2007, Rep. Louise Slaughter (D-NY) introduced the Genetic Information Nondiscrimination Act (H.R. 493). The measure has 224 cosponsors and was referred to three committees: Education and Labor; Energy and Commerce, the Subcommittee on Health; and Ways and Means, the Subcommittee on Health.

Committee: On February 14, 2007, the Committee on Education and Labor marked up its sections of the bill and reported the bill in amended form. Rep. Tim Walberg (R-MI) offered an amendment to amend the definition of “family member” to include the child to be born or to be placed for adoption. That amendment was rejected, 20 -yes, 27-no. Two Democrats voted “yes,” Reps. Dale Kildee (D-MI) and Jason Altmire (D-PA); two Republicans voted “no,” Reps. Michael Castle (R-DE) and Judy Biggert (R-IL); two Republicans were absent, Reps. Bob Inglis (R-SC) and Todd Platts (R-PA). All other Members voted along party lines, the Democrats “no,” the Republicans “yes.”

Aware that an amendment would be offered to expand the definition of “family member,” Committee Chairman George Miller (D-CA) in the version of the bill that he presented to the Committee included a new section on “Genetic Information of a Fetus.”

All three committees continued to work on the language in the bill.

Floor: As reported to the floor, the bill contained the following language: “Any reference in this part to genetic information concerning an individual or family member of an individual shall — (1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and (2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.” H.R. 493 was considered on the House floor under Suspension of the Rules (no amendments, two-thirds vote for passage). On April 25, 2007, measure passed 420-yes, 3-no (Roll Call 261).

In floor debate, Rep. Bart Stupak (D-MI) pointed out the concerns about genetic discrimination from testing embryos and fetuses and about genetic discrimination against children in the process of adoption. He stated: “Together with Chairman Dingell, Ms. DeGette and Mr. Smith, we were able to close this loophole. . . . I am proud to have worked with so many Members to correct the concerns I had on this bill.” *Congressional Record* (4/25/07), H4099.

Senate: On April 30, 2007, H.R. 493 was read the second time and placed on the Senate calendar under General Orders. The Senate bill, S. 358, had already been placed on the Senate calendar. At year’s end, it was reported that Sen. Tom Coburn (R-OK) had placed a “hold” on the Genetic Information Nondiscrimination Act, blocking further Senate action. “One-Man Gridlock: Meet Tom Coburn, Senate’s ‘Dr. No’,” *Wall Street Journal*, 12/21/07, A1.

4. Human Cloning Ban

Background: Cloning is a way of producing a genetic twin of an organism without sexual reproduction. The nuclear material from a cell of an organism's body is introduced into a female reproductive cell (an oocyte) whose nuclear material has been removed or inactivated. When stimulated, the development of a new embryo begins. The cloning techniques used to create human embryos for experimentation and destruction could also be used to create human embryos for transfer to the womb and subsequent live birth. In either case, cloning is wrong and should be banned. In 2001 and again in 2003, the U.S. House of Representatives passed the Human Cloning Prohibition Act, a genuine ban on human cloning. The Senate did not act. In addition to bills banning human cloning, opposition bills allowing the creation of human clones for purposes of research and destruction also have been introduced.

A May 19-23, 2006 International Communications Research poll showed overwhelming opposition to human cloning, whether to provide children for infertile couples (83% against) or to produce embryos that would be destroyed in medical research (81% against). See: www.usccb.org/comm/archives/2006/06-109.shtml.

Today the debate on human cloning is linked to the question of deriving embryonic stem cells from cloned embryos. For additional discussion, see section on “Stem Cell Research.”

In a November 17, 2007 story, “Dolly creator Prof Ian Wilmut shuns cloning,” the London *Telegraph* reported that Prof. Ian Wilmut, the scientist who cloned Dolly the Sheep (born in 1996), announced that he was abandoning his efforts to clone a human embryo and that in the future he would pursue the more promising method of reprogramming adult cells. The story

indicated that Wilmut announcement “could mark the beginning of the end for therapeutic cloning.” Noting that in theory the reprogrammed cells could be converted into any of the 200 other type in the body, the story quoted Prof. Wilmut as saying it was “extremely exciting and astonishing.” For more information on this scientific breakthrough, see “Stem Cell Research” under Authorization Bills.

House Floor: In a Dear Colleague letter circulated June 5, 2007, Reps. Diana DeGette (D-CO) and Chris Murphy (D-CT) announced that on June 6, the U.S. House of Representatives would consider a human cloning bill that they had just introduced, the Human Cloning Prohibition Act of 2007 (H.R. 2560). The measure employed legal semantics. Even though called the Human Cloning Prohibition Act, the bill placed no limits on human cloning. What the bill prohibited was the implantation of a human clone into a woman’s uterus or its functional equivalent. “Researchers are absolutely free, are given the green light, to clone human life to their heart’s content, so long as they kill and destroy the cloned human embryo at some point, perhaps weeks, after its creation,” declared Rep. Chris Smith (R-NJ) during the debate. Rep. Dave Weldon (R-FL) asked, “Are we really trying to say to the American people we want to make the human embryo the lab rat of the 21st century?” See, *Congressional Record*, 6/6/07, H6039, 6040.

Just prior to the House vote, Cardinal Justin Rigali, Chairman of the Bishops’ Committee for Pro-Life Activities, sent a letter to the House, urging Members to vote against H.R. 2560. The DeGette bill was promoted as a ban on human cloning but it was just the opposite. The bill “allows unlimited cloning of human embryos for research – and then makes it a crime to transfer the embryo to a womb to allow the new human being to survive.” The bill prohibited the act of becoming pregnant, “a kind of law chiefly seen until now in the People’s Republic of China, where women can be punished for carrying an unauthorized child.” For full text of the Cardinal’s letter, see: www.usccb.org/prolife/issues/bioethic/stemcell/s5hr2560letter.pdf.

On June 6, 2007, the U.S. House of Representatives soundly defeated H.R. 2560, 204-yes, 213-no, 15-not voting (Roll Call 439). The measure was presented to the House under Suspension of the Rules, according to which no amendments are allowed, debate is limited to 20 minutes on either side, and a two-thirds vote is required for passage. H.R. 2560 fell 74 votes short of the two-thirds mark, failing to receive even a majority.

On June 5, 2007, Rep. Weldon, along with Rep. Bart Stupak (D-MI) and 49 other cosponsors had reintroduced the Human Cloning Prohibition Act of 2007 (H.R. 2564). In 2001 and again in 2003, the House by large margins passed the Weldon/Stupak ban and handily rejected substitute false bans similar to the one offered by Reps. DeGette and Murphy.

Helpful Websites:

Resources on cloning from U.S. Conference of Catholic Bishops: www.usccb.org/prolife/issues/bioethic/index.shtml.

Alternatives to stem cell research that destroys human embryos: www.stemcellresearch.org.

Background from Americans to Ban Cloning: www.cloninginformation.org.

5. Informed Choice Act

Background: The Informed Choice Act promoted the use of ultrasound equipment in the care of pregnant women. The Secretary of Health and Human Services would be authorized to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment that is to be used to provide free examinations to pregnant women needing such services. The measure specified eligibility requirements and limitations on grant amounts. The woman was to be shown the visual image of the fetus and to be given a description of the characteristics of the fetus, the approximate age of the embryo or fetus, and information on abortion and alternatives to abortion. This measure was introduced in the House and Senate in 2002, 2003, and 2005. Demonstration of a high-level definition ultrasound of the unborn child can be located at: www.gehealthcare.com/usen/ultrasound/4d/virtual_4d_mini.html.

House: On January 4, 2007, Rep. Cliff Stearns (R-FL) introduced the Informed Choice Act (H.R. 223). The bill had 13 cosponsors and was referred to the Committee on Energy and Commerce, the Subcommittee on Health. No further action was taken.

Five million dollars was authorized for Fiscal Year 2008 and such sums as necessary for Fiscal Years 2009 through 2010. On introduction of this measure, Rep. Stearns noted that ultrasound allows doctors to treat their pregnant patients better and that the Informed Choices Act will give many underprivileged pregnant women access to ultrasound “to safeguard their health and prenatal well-being.” *Congressional Record* (January 5, 2007), E22-23.

6. Mexico City Policy

Background: The Mexico City Policy (MCP) provides that no U.S. population assistance funds can be given to a nongovernmental organization unless it certifies that it will not perform or actively promote abortion as a method of family planning. The MCP is so named because it was first announced by the Reagan Administration at a population conference in Mexico City in 1984. The policy was in effect until overturned by President Clinton on January 22, 1993.

On January 22, 2001, President Bush issued an executive memorandum directing the Administrator for the U.S. Agency for International Development (USAID) to reinstate the MCP in full. On August 29, 2003, the president extended the MCP to cover population funds not only at USAID but in all programs under the U.S. State Department.

Abortion advocates in Congress have been seeking ways to negate President Bush’s reinstatement of the MCP. In 2003 and 2005, the Senate approved amendments sponsored by Sen. Barbara Boxer (D-CA) that would prohibit the application of the MCP funding eligibility requirements, overriding the MCP. The Boxer Amendment did not become law.

For more information on legislative action related to the MCP, see in this report the “Mexico City Policy” section under Appropriations Bills.

House: On May 17, 2007, Rep. Russ Carnahan (D-MO) introduced the Ensuring Access to Contraceptives Act (H.R. 2367). The measure had 22 cosponsors and was referred to the Committee on Foreign Affairs. No further action was taken.

This measure would overturn the MCP. Nongovernmental organizations receiving U.S. funds for family planning in foreign countries could use their own funds in the same way that foreign governments who receive U.S. funds for family planning can use their own funds. With respect to U.S. foreign aid funding for family planning programs, private nongovernmental organizations would be put on same footing as foreign governments. Also, in addition to all other authorizations for international family planning programs, the bill authorizes \$150 million for Fiscal Year 2008 and the same amount for Fiscal Year 2009. These monies would be called the “Reproductive Health Supplies Fund.”

In 2006, the same measure (H.R. 4736) was introduced in the House. No further action was taken.

7. Military Abortion Policy

Background: Current law governing abortion in the military has two restrictions: one on the use of funds, the other on the use of facilities (10 USC 1093). Funds may not be used to pay for abortions, except to save the life of the mother. Facilities may not be used to perform abortions, except to save the life of the mother and in cases of rape or incest. The prohibition on the use of facilities became part of the U.S. Code in 1996. From 1996 to 2006, attempts have been made every year in the House to repeal this law. All these attempts have failed.

House: On March 20, 2007, Rep. Ike Skelton (D-MO) introduced the Fiscal Year 2008 Defense Authorization Bill (H.R. 1585). Rep. Skelton is Chairman of the Committee on Armed Services.

Committee: On May 11, 2007, H.R. 1585 was reported out of the committee; all pro-life policies were intact.

However, on May 15, 2007, the House Rules Committee approved the rule (H.Res. 403) to govern floor debate on H.R. 1585. Fifty amendments were approved for consideration, including Amendment No. 43 sponsored by Rep. Michael Michaud (D-ME) *requiring* that “emergency contraception” – the morning-after pill – be made available at all military health care treatment facilities.

The morning-after-pill can act as an abortifacient. For background information, see: www.usccb.org/prolife/issues/contraception/morningafterpill.shtml.

The Michaud Amendment provided that “Emergency contraception shall be included in the basic core formulary of the uniform formulary,” defining “emergency contraception” as “a drug, drug regimen, or device that is – (i) approved by the Food and Drug Administration to prevent pregnancy; and (ii) used postcoitally.” The Basic Core Formulary consists of those drugs that all military health care facilities are required to provide. Currently, military pharmacies may choose to stock the morning-after-pill and about 50% do. However, the Michaud Amendment

would *mandate* its availability. The amendment contained no conscience protection for military medical personnel and no requirement for parental notification.

Reps. Tim Ryan (D-OH), Jane Harman (D-CA), Christopher Shays (R-CT), Susan Davis (D-CA) and Loretta Sanchez (D-CA) were co-sponsors of the Michaud Amendment.

Efforts in the Rules Committee to amend the Michaud Amendment were not successful. By the vote 4-yes, 9-no, the Rules Committee refused to make two amendments in order: an amendment by Reps. Todd Akins (R-MO) and Phil Gingrey (R-GA) to offer a second-degree amendment to the Michaud Amendment regarding unemancipated minors and an amendment by Rep. Pete Sessions (R-TX) to allow amendments to the Michaud Amendment on the House floor.

Floor: On May 16, 2007, the House began consideration of H.R. 1585. It was anticipated that the House would debate the Michaud Amendment on May 16 and vote on the amendment on May 17. However, before the debate began, Rep. Michaud withdrew his amendment.

On May 17, 2007, the House approved H.R. 1585; the Michaud Amendment was not part of the bill.

On May 16, 2007, prior to floor consideration of H.R. 1585, the White House issued a Statement of Policy on H.R. 1585, in which the Administration expressed its disappointment that “the Rules Committee did not accept an amendment for consideration that would have provided appropriate conscience protection to medical personnel affected by changes in the DOD formulary.”

On May 16, 2007, Archbishop Edwin O’Brien, head of the Archdiocese for the Military Services, USA, sent a letter to House Members urging opposition to the Michaud Amendment. Military health care personnel “should not be compelled” to administer drugs that “may have the effect of interfering with the implantation of an already conceived human embryo.” The Archbishop stated, “Military hospitals have an outstanding record of saving life, even in the most challenging times and conditions. Their commitment extends to the smallest of human beings. Please allow them to continue abiding by these values.” For full text of the letter, see: nchla.org/docdisplay.asp?ID=161.

At year’s end, the military abortion policy was unchanged.

8. Parental Notification

Background: Parental consent and parental notice laws are an important part of state laws regulating the practice of abortion. In his study, “Analyzing the Effect of State Legislation on the Incidence of Abortion Among Minors,” *A Report of the Heritage Center for Data Analysis* (February 5, 2007), Michael J. New, Ph.D. notes that between 1985 and 1999 the overall abortion rate dropped 29%, while the minor abortion rate fell almost 50%. The abortion rate measures the number of abortions performed on every cohort of 1,000 women either of childbearing age (overall abortion rate) or between the ages of 13 and 17 (minor abortion rate).

New focused on why the especially dramatic decrease in teenage abortion rate occurred. Analyzing for various possible causes, New concludes that pro-life legislation had a significant role. He singles out parental involvement laws and medicaid abortion funding restrictions. “Regression results from this analysis suggest that parental involvement laws and public funding restrictions are effective in reducing the incidence of abortion among minors. Specifically, the passage of a parental involvement law correlates with a 16 percent decline in the minor abortion rate, and the passage of Medicaid funding restrictions correlates with a 23 percent decline in the minor abortion rate.” New lists 34 states that had parental involvement laws at some time between 1981 and 2000. The New paper is available online at: www.heritage.org/Research/Family/cda07-01.cfm.

In 2003 and in 2005 the Parental Notification and Intervention Act was introduced in the House. Also see the “CCPA/CIANA” section elsewhere in this Legislative Report.

House: On March 1, 2007, Rep. Marilyn Musgrave (R-CO) introduced the Parental Notification and Intervention Act of 2007 (H.R. 1295). The bill had 24 cosponsors and was referred to the Committee on the Judiciary. No further action was taken.

The bill would have made it unlawful to perform an abortion on an unemancipated minor under 18, to permit the facilities of an entity to perform an abortion on such minor, or to assist in the performance of an abortion on such minor, unless: there was clear and convincing evidence of physical abuse by the parent; there was written notification to the parents that an abortion had been requested; there was a 96-hour waiting period after the notice had been received by the parents; and there was compliance with provisions allowing any parent to seek a court injunction against the abortion. Exceptions were made for cases where a grave physical disorder or disease would cause the death of the unemancipated minor. Parental notice required the use of certified mail which was personally delivered to any parent. The term “parent” included a legal guardian.

9. Partial Birth Abortion Ban

On April 18, 2007, the U.S. Supreme Court ruled 5-4 that the federal Partial-Birth Abortion Ban Act of 2003 was constitutional. *Gonzales v. Carhart* (No. 05-380), together with *Gonzales v. Planned Parenthood* (No. 05-1382), cases on appeal from the U.S. Court of Appeals for the Eighth and Ninth Circuits, respectively. Justice Kennedy delivered the opinion of the Court, in which Chief Justice Roberts, and Justices Scalia and Alito joined. Justice Thomas filed a concurring opinion, in which Justice Scalia joined. Justice Ginsburg filed a dissenting opinion, in which Justices Stevens, Souter, and Breyer joined.

Cardinal Justin Rigali, Chairman of the USCCB’s Committee for Pro-Life Activities, welcomed the decision, observing, “This is the first time in 34 years that the Court has upheld a ban of any type of abortion.” The Cardinal stated:

The Court’s decision does not affect the legal status of the great majority of abortions, and does not reverse past decisions claiming to find a right to abortion in the Constitution. However, it provides reasons for renewed hope and renewed effort on the part of pro-life Americans. The Court is taking a clearer and more unobstructed look at

the tragic reality of abortion, and speaking about that reality more candidly, than it has in many years.

The Cardinal concluded his remarks with the hope that “today’s decision marks the beginning of a new dialogue on abortion.” For the Cardinal’s full remarks, see: www.usccb.org/comm/archives/2007/07-068.shtml.

In an April 20 *Life Issues Forum* column, “A Court that has Begun to See,” Richard Doerflinger, Deputy Director of the Bishops' Secretariat for Pro-Life Activities, stated that “this Court has begun to take off the blinders and see abortion, recognizing its harm to children, women, the medical profession, and all of society.” He concluded, “Advocates for the sanctity of human life should take encouragement from this clearer vision.” For Mr. Doerflinger's full remarks see: www.usccb.org/prolife/publicat/lifeissues/042007.shtml.

President Bush had signed the Partial-Birth Abortion Ban Act of 2003 into law on November 5, 2003 (Public Law 108-105). Congress first considered a partial-birth abortion ban proposal in 1995, a bill being approved by the 104th and 105th Congresses, and each time being vetoed by President Clinton. Efforts to override the vetoes were successful in the House but not in the Senate. Congress was in the process of passing the ban a third time when, on June 28, 2000, the U.S. Supreme Court in a 5-4 opinion declared the Nebraska partial-birth abortion ban law unconstitutional (*Stenberg v. Carhart*, No. 99-830). In light of the *Stenberg* ruling, Congress revised the federal Partial-Birth Abortion Ban Act. A rewritten bill was introduced in 2002 and it was the 2003 version of this bill that President Bush signed into law and that the U.S. Supreme Court declared to be constitutional.

The Court argued that the judgments of the Eighth and Ninth Circuit Court of Appeals declaring the federal ban unconstitutional ran contrary to a central holding in the Court’s *Planned Parenthood v. Casey* (1992) opinion (a ruling on a Pennsylvania abortion statute), namely, “that the government has a legitimate and substantial interest in preserving and promoting fetal life.” The primary question before the Court in the current cases was whether the federal ban “furthers the legitimate interest of the Government in protecting the life of the fetus that may become a child.” In concert with *Casey*, the Court held that regulations may not place a substantial obstacle to a woman seeking an abortion before viability, but regulations through which the State expressed respect for the life of the unborn from inception of the pregnancy were permitted. In the present case, the Court applied the standards of *Casey* to the federal law. Summarizing its holdings, the Court argued that the federal partial-birth abortion ban “is not void for vagueness, does not impose an undue burden from any overbreadth, and is not invalid on its face.”

The Court conceded that the federal ban would be unconstitutional if it subjected women to significant health risks. (The ban allowed an exception for the life, but not health, of the mother.) The Court, however, saw a measure of uncertainty in the evidence presented, reviewing testimony not only in the Eighth and Ninth Circuit cases but also in a Second Circuit case. In this circumstance of uncertainty, the Act survived the facial challenge, because legislatures have “wide discretion to pass legislation in areas where there is medical and scientific uncertainty.” The Court rejected the argument that medical opinion must be unanimous:

A zero tolerance policy would strike down legitimate abortion regulations, like the present one, if some part of the medical community were disinclined to follow the proscription. This is too exacting a standard to impose on the legislative power. . . . Considerations of marginal safety, including the balance of risks, are within the legislative competence when the regulation is rational and in pursuit of legitimate ends. . . . [I]f some procedures have different risks than others, it does not follow that the State is altogether barred from imposing reasonable regulations.

The Court then argued that the various facial attacks on the Act should not have been entertained in the first place. Exceptions should be considered in as-applied challenges where medical risk can be better quantified and balanced. With respect to the ban, the Court would consider “a proper as-applied challenge in a discrete case.”

In a short concurring opinion, Justice Thomas stated that he joined the Court’s opinion because it accurately applied current jurisprudence, including *Casey*. “I write separately to reiterate my view that the Court’s abortion jurisprudence, including *Casey* and *Roe v. Wade*, 410 U.S. 113 (1973), has no basis in the Constitution.” He also noted that whether the Act constituted a permissible exercise of the Commerce Clause was not before the Court.

In her dissent, Justice Ginsburg in one place called the Court’s decision “alarming,” and in another “irrational.” She saw the Partial-Birth Abortion Ban Act, and the Court’s defense of it, as nothing other than “an effort to chip away” at the abortion right established by the Court.

The text of the opinion can be found at: supremecourtus.gov/opinions/06pdf/05-380.pdf.

Life Insight (March-April 2007) contained excellent commentaries on the decision. See: www.usccb.org/prolife/publicat/lifeinsight/LifeInsight042507.pdf.

Also see, Hadley Arkes, “Good May Yet Come,” *National Review Online* (4/24/07), at: article.nationalreview.com/?q=YjI2OTFINTQ4OGIxMTM0ZmNINTVhNjZjN2VIMzZIYT
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In the wake of the decision, a new version of the Freedom of Choice Act (FOCA) was introduced in the Senate by Sen. Barbara Boxer (D-CA) (S. 1173) and in the House by Rep. Jerrold Nadler (D-NY) (H.R. 1964). These bills were more radical than *Roe v. Wade*. For example, they would repeal all limitation on government funding of abortion, including the Hyde Amendment. No further action was taken on these bills.

10. Patients First Act

Background: The purpose of the Patients First Act is to “(1) intensify research that may result in improved understanding of or treatments for diseases and other adverse health conditions; (2) promote research and human clinical trials using stem cells that are ethically obtained and show evidence of providing clinical benefit for human patients; and (3) promote the derivation of pluripotent stem cell lines without the creation of human embryos for research purposes and without the destruction or discarding of, or risk of injury to, a human embryo.” The bill also

directed a study of structural changes to the C.W. Bill Young Cell Transplantation Program that would help expand access to “new and future stem cell therapeutic products” for inclusion in the distribution of bone marrow and cord blood stem cells.

House: On June 21, 2007, Rep. Randy Forbes (R-VA) introduced the Patients First Act (H.R. 2807). The measure had 24 cosponsors and was referred to the Subcommittee on Health of the Committee on Energy and Commerce. No further action was taken.

11. Pregnant Women Support Act

Background: Contrary to the Prevention First Act and the Reducing the Need for Abortion and Supporting Parents Act, the Pregnant Women Support Act does not promote contraception as a panacea and does not include abortion. The measure was first introduced in 2006. In its introductory “Findings,” the bill is described as an initiative “to gather more complete information about abortion, to reduce the abortion rate by helping women carry their pregnancies to term and bear healthy children, and by affirming the right of women to be fully informed about their other options when they seek an abortion” and “to support women facing unplanned pregnancies, new parents and their children by providing comprehensive measures for health care needs, supportive services and helpful prenatal information and postnatal services.” The bill has 13 titles. Title I: Collecting and Reporting Abortion Surveillance Data. Title II: Disclosure of Information on Abortion. Title III: Medicaid and SCHIP Coverage of Pregnant Women and Unborn Children. Title IV: Health Insurance Coverage for Pregnant Women and Newborns. Title V: Increasing Women’s Knowledge about Their Pregnancy. Title VI: Services Regarding Positive Test Diagnosis of Down Syndrome or Other Prenatally Diagnosed Conditions. Title VII: Improving Services for Pregnant Women Who are Victims of Domestic Violence, Dating Violence, and Stalking. Title VIII: Public Awareness Campaign. Title IX: Support for Pregnant and Parenting Students. Title X: Support for Pregnant and Parenting Teens. Title XI: Federally-Funded Homes for Pregnant and Parenting Women; Adoption Counseling; Parenting Skills. Title XII: Expansion of Adoption Credit and Adoption Assistance Programs. Title XIII: Providing Support to New Parents.

House: On July 26, 2007, Rep. Lincoln Davis (D-TN) introduced the Pregnant Women Support Act (H.R. 3192). The bill had 36 cosponsors and was referred to four committees: Energy and Commerce, Subcommittee on Health; Ways and Means; Education and Labor, Subcommittee on Healthy Families and Communities; Agriculture.

Senate: On December 4, 2007, Sen. Robert Casey, Jr. (D-PA) introduced a similar measure in the Senate (S. 2407). That bill was referred to Committee on Finance.

Deirdre McQuade, of the USCCB’s Secretariat for Pro-Life Activities, expressed thanks to Rep. Davis and Sen. Casey for their “courageous leadership,” stating “we wholeheartedly support this constructive bill and urge the House and Senate to pass it for women, their families, and the common good.” For full comments, see: www.usccb.org/comm/archives/2007/07-206.shtml.

12. Presidential Veto Pledge

On May 3, 2007, President Bush sent letters to Senate Majority Leader Harry Reid (D-NV) and to Speaker of the House Nancy Pelosi (D-CA), in which he stated, “I will veto any legislation that weakens current Federal policies and laws on abortion, or that encourages the destruction of human life at any stage.” The President made explicit reference to prohibitions on funding abortion; no taxpayer support for organizations that perform or promote abortion; protection of human embryos; conscience protection; no taxpayer dollars in coercive or involuntary family planning programs. “I urge that these and other existing, important protections be respected and continued.”

For the full text of the President’s letter, see: nchla.org/datasource/idocuments/WHLetteronPro-LifeRiders.pdf. The main body of the letter to Majority Leader Harry Reid was identical to that sent to House Speaker Nancy Pelosi.

Earlier in 2007, 35 Members of the Senate and 155 Members of the House had sent letters to President Bush, urging him to state in public his intentions to veto legislation that would weaken existing pro-life policies.

For the text of the Senate letter and list of signatories, see: nchla.org/datasource/idocuments/Sensignatories.pdf.

For the text of the House letter and list of signatories, see: nchla.org/datasource/idocuments/155signatories.pdf.

Cardinal Justin Rigali, Chairman of the Bishops’ Committee for Pro-Life Activities, applauded President Bush for his letter “pledging to veto any bill that weakens or rescinds current laws and policies protecting innocent human life.” The Cardinal also expressed “welcome” for the letters from the Senators and Representatives “promising to uphold such vetoes.” The Cardinal stated, “These pledges help ensure that through the rest of this Administration and this Congress, Americans need not fear that the federal government will pursue new ways to force them to be involved in government-funded abortions, coercive population control programs abroad, or the destruction of embryonic human beings.” For full text of the Cardinal’s comments, see: www.usccb.org/comm/archives/2007/07-080.shtml.

13. Prevention First Act

Background: The Prevention First Act was a composite bill with eight parts, all of which in their short titles were referred to as Acts. The intent of the bill expressed in its official title was “To expand access to preventive health care services that help reduce unintended pregnancy, reduce abortions, and improve access to women’s health care.” In a lengthy introductory statement of findings, the bill set forth a variety of claims about the benefits of increased access to contraception. Contraception was understood to include methods that can act as abortifacients. At no place in the bill was provision made for any conscientious objection. The bill’s eight titles were as follows. Title I: Title X of Public Health Service Act (Family Planning Services). For Fiscal Year 2008, \$700,000,000 is authorized for family planning services. [The funding level

for Fiscal Year 2007 is \$283,000,000.] Title II: Equity in Prescription Insurance and Contraceptive Coverage. This title would coerce insurance plans to cover “emergency contraception” and outpatient contraceptive services. Title III: Emergency Contraception Education and Information. This title would authorize the federal government to promote “emergency contraception” education to the general public and to health care providers; an inaccurate reference was made to “implantation of an *egg* in a uterus” (emphasis added). Title IV: Compassionate Assistance for Rape Emergencies. [See “Emergency Contraception’ Hospital Mandates” elsewhere in this Legislative Report]. The title would coerce hospitals to provide “emergency contraception” services in cases of sexual assault, which included all cases of consensual teen sex or statutory rape. An inaccurate reference was again made to “implantation of an *egg* in a uterus” (emphasis added). Also, hospitals were required to tell the woman that “emergency contraception does not cause an abortion.” Title V: At-Risk Communities Teen Pregnancy Prevention Act. The federal government would award grants to establish or expand teenage pregnancy prevention programs; abstinence-only education programs would be excluded. The federal government also would make grants for research on the prevention of teen pregnancy. Title VI: Accuracy of Contraceptive Information. In federally funded programs, information on the use of contraceptives must be medically accurate. Title VII: Unintended Pregnancy Reduction Act. This title made changes in Medicaid law regarding the coverage of family planning services and supplies. Title VIII: Responsible Education About Life Act. States could receive from the federal government grants to conduct programs of family life education (sex education) for teenagers and provision was made for the evaluation of these programs. These programs must not “teach or promote religion” and must include information about all contraceptives. The Prevention First Act was first introduced in 2006.

For a trenchant commentary on the Prevention First bill, see Susan E. Wills, “‘Prevention First’: Dumb Plan or Dumbest Plan?” *Life Issues Forum* (May 5, 2006) at: www.usccb.org/prolife/publicat/lifeissues/050406.shtml.

Senate: On January 4, 2007, Senate Majority Leader Harry Reid (D-NV) introduced the Prevention First Act (S. 21). The measure had 33 cosponsors and was referred to the Committee on Health, Education, Labor, and Pensions. No further action was taken.

House: On February 5, 2007, Rep. Louise Slaughter (D-NY) introduced the Prevention First Act (H.R. 819). H.R. 819 was identical to S. 21. The bill had 160 cosponsors and was referred to three different House committees: Energy and Commerce, Subcommittee on Health; Education and Labor, Subcommittee on Health, Employment, Labor, and Pensions; and Ways and Means, Subcommittee on Health. No further action was taken.

14. Reducing the Need for Abortion and Supporting Parents Act

Background: This measure was first introduced in 2006. In the opening statement of findings, the bill was described as a comprehensive initiative to reduce the abortion rate, to prevent unintended pregnancies in the first place, and to support pregnant women, new parents, and their children through various programs of education, care, and service. Contraception was an integral part of the bill. The bill had 18 titles. Title I: Education Programs for Preventing Teen Pregnancies. Title II: Reauthorization of Certain After-School Programs. Title III: Teen

Pregnancy Prevention Incentive Grants. Title IV: Demonstration Grants to Encourage Creative Approaches to Teen Pregnancy Prevention. Title V: National Campaign to Enlist Parents in Preventing Teen Pregnancy. Title VI: Clarification of Continued Medicaid Coverage of Family Planning Services. Title VIII: Disclosure of Information for Abortion Services. Title IX: Medicaid and SCHIP Coverage of Pregnant Women. Title X: Title X of Public Health Service Act (family planning services). This title authorized \$700,000,000 for family planning services for Fiscal Year 2008. [The funding level for Fiscal Year 2007 was \$283,000,000.] Title XI: Pregnancy as Preexisting Condition. Title XII: Increasing Women's Knowledge about their Pregnancy. This title would authorize federal government grants for ultrasound equipment; it also promoted support services for women who have received a diagnosis for Down syndrome, or other prenatally diagnosed conditions. Title XIII: Preventing Domestic Violence and Sexual Assault. Title XIV: Support for Pregnant and Parenting Students. Title XV: Federally-Funded Homes for Pregnant and Parenting Women. Title XVI: Expansion of Adoption Credit and Adoption Assistance Programs. Title XVII: Providing Support to New Parents. Title XVIII: Collecting and Reporting Abortion Surveillance Data.

For comments on this measure, see, "How NOT to Reduce Abortions and Support Parents," *Life Insight* (October-November, 2006; Vol. 17, No. 4) at: www.usccb.org/prolife/publicat/lifeinsight/liarchive.shtml.

House: On February 15, 2007, Rep. Tim Ryan (D-OH) introduced the Reducing the Need for Abortion and Supporting Parents Act (H.R. 1074). The bill had 34 cosponsors and was referred to three committees: Energy and Commerce, Subcommittee on Health; Education and Labor, Subcommittee on Healthy Families and Communities; and Ways and Means. No further action was taken.

15. Right to Life Act

Background: The Right to Life Act, commonly called a Human Life Bill, represents one approach to address the tragedy the U.S. Supreme Court set in motion when in 1973 it created a constitutional right to abortion. The House had scheduled a hearing on this measure in late 2006, but the 109th Congress adjourned before the hearing was held. For related information on Human Life Amendments, their history, texts, and votes, see: nchla.org/issues.asp?ID=46.

House: On January 22, 2007, Rep. Duncan Hunter (R-CA) introduced the Right to Life Act (H.R. 618). The measure had 97 cosponsors and was referred to the Judiciary Committee, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties. No further action was taken.

According to the official title, the bill's purpose was "To implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person."

In its main section, the bill read as follows: "To implement equal protection for the right to life of each born and preborn human person, and pursuant to the duty and authority of the Congress, including Congress' power under article I, section 8, to make necessary and proper laws, and Congress' power under section 5 of the 14th article of amendment to the Constitution of the

United States, the Congress hereby declares that the right to life guaranteed by the Constitution is vested in each human being.” The terms “human person” and “human being” were defined as follows: “The terms ‘human person’ and ‘human being’ include each and every member of the species homo sapiens at all stages of life, including, but not limited to, the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.”

In his introductory remarks, Rep. Hunter noted that in its 1973 *Roe v. Wade* decision, the U.S. Supreme Court refused to determine when human life begins but also conceded, “If this suggestion of personhood is established, the appellant’s case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the [Fourteenth] Amendment.” Rep. Hunter stated that the Right to Life Act does what the Court refused to do and what Congress has the authority to do. The Act “recognizes the personhood of the unborn” for the purpose of enforcing four provisions of the U.S. Constitution: “(1) Sec. 1 of the Fourteenth Amendment prohibiting States from depriving any person of life; (2) Sec. 5 of the Fourteenth Amendment providing Congress the power to enforce, by appropriate legislation, the provision of this amendment; (3) the due process clause of the Fifth Amendment, which concurrently prohibits the Federal Government from depriving any person of life, and (4) Article 1, Section 8, giving Congress the power to make laws necessary and proper to enforce all powers in the Constitution.” By prohibiting any State or Federal law that denies the personhood of the unborn, the Right to Life Act “effectively” would overturn *Roe v. Wade*.

16. RU-486 Suspension and Review Act: Holly’s Law

Introduction: On September 28, 2000, the Federal Food and Drug Administration (FDA) approved the use of mifepristone (brand names Mifeprex and Early Option, commonly called RU-486) for the termination of early pregnancies (49 days or less, counting from beginning of last menstrual period). According to the FDA’s approved regimen, the woman takes three 200 mg pills by mouth, followed two days later by two 200 mg pills of misoprostol (brand name Cytotec). After 14 days the woman returns for a follow-up visit to determine if the pregnancy has been terminated.

RU-486 is an artificial steroid that blocks progesterone, a hormone needed to continue a pregnancy. Taken alone, RU-486 causes a complete abortion only about 60% of the time. Misoprostol is a prostaglandin that causes uterine contractions and thereby increases the effectiveness of RU-486.

In its approval of RU-486, the FDA employed a special process normally reserved for the expedited approval of life-saving drugs for such diseases as AIDS or cancer. Also, the manufacturer of misoprostol rejects the use of the drug to induce abortion. Misoprostol is an anti-ulcer drug.

The RU-486 Suspension and Review Act called for the suspension of the FDA approval of RU-486 and a review of the process by which the approval was made.

This measure was also known as Holly's Law in memory of Holly Patterson, an 18-year-old California woman who died after taking RU-486 at a Planned Parenthood clinic. The Alameda County Coroner's report indicated that Patterson's death was due to septic shock following an incomplete RU-486 chemically induced abortion. Monty and Helen Patterson, Holly's parents, in an open letter, urged passage of the bill. See: www.lifesite.net/ldn/2003/nov/031106a.html. To date, 10 known deaths have resulted from taking RU-486. More than 950 adverse event cases have been associated with the drug's use. In "Stop the bloodshed and pass Holly's law," *Washington Times* (Feb. 5, 2006), Susan E. Wills reported that FDA adverse event reports "chronicle fatalities, near-fatalities, hospitalizations of up to a week, heart attacks, ruptured ectopic pregnancies, failed and incomplete abortions, serious-to-lethal infections, women who lost consciousness at home and required sutures to close head wounds, and hemorrhaging so extreme some women required replacement of half to all their blood volume." Ms. Wills also cited a *New England Journal of Medicine* study that calculates the risk of death from infection following RU-486 abortions as ten times the mortality rate from all causes in surgical abortions in early pregnancy. See: www.washingtontimes.com/commentary/20060204-103041-7209r.htm.

For more information on the abortion drug RU-486, see: www.usccb.org/prolife/issues/ru486/index.shtml. Also see: www.ru486facts.org.

House: On January 4, 2007, Rep. Roscoe Bartlett (R-MD) introduced the RU-486 Suspension and Review Act of 2007 (H.R. 63). The bill had 46 cosponsors and was referred to the Energy and Commerce Committee, Subcommittee on Health. No further action was taken.

H.R. 63 began with a statement of Findings: "The Congress finds that the use of the drug mifepristone (marketed as Mifeprex, and commonly known as RU-486) in conjunction with the off-label use of misoprostol to chemically induce abortion has caused a significant number of deaths, near deaths, and adverse reactions." Fourteen days after enactment of the bill, the FDA's approval of RU-486 will be withdrawn and the drug misoprostol "shall be considered misbranded" if the drug is labeled, by itself or in conjunction with another drug, for use in medical termination of a pregnancy. The Comptroller General of the United States shall review the process by which the FDA approved RU-486 and determine whether the process was in accord with section 505 of the Federal Food, Drug, and Cosmetic Act. This review shall be completed within 180 days and a report submitted to Congress and the Secretary of HHS. If the report determines that the approval process was in accord with section 505, then the Secretary of HHS shall publish this result in the *Federal Register*. Thirty days after publication, the suspension of RU-486 will no longer have effect.

17. Sanctity of Human Life Act

Background: In the manner of a Human Life Bill, the Sanctity of Human Life Act has as its official title, "To provide that human life shall be deemed to begin with fertilization." The bill has two sections, a Declaration (Sec. 2) and Definitions (Sec. 3). In the exercise of its powers under the U. S. Constitution, including Art. 1, Sec. 8 and Art. 14, Sec. 5, Congress declares that "(A) the right to life guaranteed by the Constitution is vested in each human being, and is the paramount and most fundamental right of a person; and (B) the life of each human being begins

with fertilization, cloning, or its functional equivalent, irrespective of sex, health, function or disability, defect, stage of biological development, or condition of dependency, at which time every human being shall have all the legal and constitutional attributes and privileges of personhood,” and Congress affirms that “the Congress, each State, the District of Columbia, and all United States territories have the authority to protect the lives of all human beings residing in its respective jurisdictions” (Sec. 2). The bills defined the terms Fertilization, Cloning, and Human, Human Being (Sec. 3).

House: On November 13, 2007, Rep. Paul Broun (R-GA) introduced the Sanctity of Human Life Act (H.R. 4157). The measure had 48 cosponsors and was referred to the House Judiciary Committee. No further action was taken.

18. SCHIP

Background: The State Children’s Health Insurance Program (SCHIP) provides health insurance for low-income children. Since 2002, federal regulations have defined the coverage to include children from conception to birth, allowing states to provide prenatal care and other health services to the child and the child’s pregnant mother. See: *Federal Register*, Vol. 67, No. 191 (Oct. 2, 2002) at: frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-24856-filed.pdf. Twelve states have elected this coverage option, with two others announcing their intention to do so. The authorization for SCHIP was set to expire September 30, 2007.

House: The Children’s Health and Medicare Protection Act (CHAMP) (H.R. 3162) included the SCHIP reauthorization. In contrast to the 2002 regulations, H.R. 3162 shifted the focus of coverage from the child to the pregnant woman (Section 133). This option made the woman eligible for all publicly funded services, potentially including state-funded elective abortions in 14 states. The 2002 regulations covered the immigrant pregnant woman with positive care; she is included in coverage for the child, who is not an illegal immigrant. Under the “pregnant woman” option codified in H.R. 3162, it would be illegal to cover either the undocumented immigrant woman or her child.

Committee: In the Energy and Commerce Committee, Rep. Joseph Pitts (R-PA) was prepared to offer an amendment to codify and strengthen the 2002 regulations in H.R. 3162, but markup was suspended.

Floor: The bill came to the floor under a closed rule and on August 1, 2007 passed without consideration of the Pitts Amendment.

Senate Floor: The Senate’s bill, the Children’s Health Insurance Program Reauthorization (S. 1893), was brought to the Senate floor as a substitute text for H.R. 976, the House-passed Small Business Tax Relief Act. The Senate bill provided coverage under the “pregnant woman” option. It also allowed continuation of coverage under the “unborn child” 2002 regulations but with the unsettling qualification that no congressional intent was to be inferred “regarding the legality or illegality” of that rule, leaving the regulations vulnerable to elimination by a President or Health and Human Services Secretary. To protect the unborn child rule, Sen.

Wayne Allard (R-CO) offered an amendment to codify and strengthen the regulations in law (SA 2535). *On August 2, 2007, the Allard Amendment narrowly failed to be approved, 49-yes, 50-no, 1-not voting (Roll Call 302).* Later in the day the Senate passed H.R. 976. In an August 2 letter supporting reauthorization of SCHIP, Nancy Wisdo, Associate General Secretary of the USCCB, had urged passage of the Allard Amendment.

On September 25, 2007, the House took up the Senate-passed H.R. 976, and, with its own amendments, again passed H.R. 976. With respect to the “unborn child” rule, the bill reflects the provisions of the Senate bill. On September 27, the Senate agreed to the House’s version of H.R. 976.

Veto: On October 3, 2007, the President vetoed H.R. 976. On October 18, 2007, the House failed to override the veto.

A second bill, H.R. 3963, passed the House on October 25, 2007 and the Senate on November 1, 2007 with the same unacceptable language on the unborn child rule. The President has said he also will veto this bill.

If the unborn child option were eliminated, the only way states could provide prenatal care is by defining the pregnant woman as the patient in need of “child health assistance.” Many children born as U.S. citizens would not receive needed prenatal care because of their mother’s immigration status. Also, the 14 states now forced by court orders to fund abortion on demand in their Medicaid program could be required to provide the same abortions to pregnant women under SCHIP, a tragedy in a program dedicated to the lives and health of children.

A final SCHIP reauthorization should codify the unborn child rule, so states are secure in being able to choose life-affirming health services for needy children and their mothers without involvement in abortion. In an October 29, 2007 letter supporting reauthorization of SCHIP, Bishop Nicholas DiMarzio, Chairman of the USCCB’s Domestic Policy Committee, urged the codification of the unborn child rule. See: nchla.org/datasource/idocuments/10SenSCHIPLetwsign29.07.pdf (Fact Sheet attached).

At first, H.R. 3963 was held with the hope of producing a more acceptable bill. However, on November 30, 2007, H.R. 3963 was sent to the President, who vetoed the measure on December 12, 2007.

In the final days of the session, a new bill, S. 2499, was introduced, passed, and sent to the President. S. 2499 extends funding for SCHIP to March 1, 2009, with funding set to cover only current enrollment levels. The unborn child rule remained in effect as a regulation but was not part of the SCHIP extension.

19. Stem Cell Research

A stem cell is a basic body cell that can reproduce itself and has the ability to differentiate itself into one or more specialized cell types. Sources for stem cells include early embryos (5-7 days postconception), fetal tissues, umbilical cord blood, placental tissues, amniotic fluid, and most or

all body tissues. Stem cells are commonly divided into embryonic and adult (postnatal sources). Derivation of embryonic stem cells (ESCs) from the early embryo necessarily results in the death of the embryo, and thus is morally unacceptable. The derivation of adult stem cells lacks this moral problem. In general, stem cells show promise in treating diseases by assisting in the regeneration of damaged tissue. The pluripotent ESCs are able to form most or all tissues of the adult body; they have proven very difficult to use and have produced no therapeutic benefits in humans. Adult stem cells are much more manageable and to date have produced therapeutic benefits in treating humans for at least 72 different diseases. The ability of adult stems to form other tissues of the body is only beginning to be understood. See: www.stemcellresearch.org. Also see: www.usccb.org/prolife/issues/bioethic/stemcell/index.shtml.

In the January 12, 2007 *Life Issues Forum* column, “Fact vs. Politics on Stem Cells,” Richard Doerflinger recounted the recent groundbreaking discovery that stem cells found in amniotic fluid “grow rapidly and easily, and apparently produce a wide variety of cell types for research and future therapies, without forming the tumors that have plagued many animal trials using embryonic stem cells.” See: www.usccb.org/prolife/publicat/lifeissues/011207.shtml. This breakthrough was reported in the January 7, 2007 issue of *Nature Biotechnology*. See: www.nature.com/nbt/journal/v25/n1/abs/nbt1274.html.

By directive of President Bush only ESCs existing as of August 9, 2001 are eligible for federally funded research. Opponents of this policy have sought to relax the guidelines by expanding funding to include stem cells derived from human embryos after that date.

The 109th Congress passed the Stem Cell Research Enhancement Act (H.R. 810), which would overturn the President’s policy and would allow federal funding for research on ESCs derived from human embryos donated from in vitro fertilization clinics. President Bush vetoed H.R. 810. The House failed to override, falling 51 votes short of the required two-thirds.

In November, 2007, two major scientific studies were published in *Science* and *Cell* that show how to generate induced pluripotent stem cells (iPS cells) without human cloning or destroying human embryos. Scientists in Wisconsin and Japan have produced iPS cells by direct reprogramming of adult cells. The iPS cells have the properties of human embryonic stem cells.

Maureen Condic, Ph.D., and Markus Grompe, M.D., analyze this scientific breakthrough in a paper posted on the Do No Harm web site. See: www.stemcellresearch.org/statement/pptalkingpointswb.pdf

Cardinal Justin Rigali, Chairman of the Bishops’ Committee for Pro-Life Activities, stated that these studies “offer new hope for advancing stem cell research and therapies while fully respecting the dignity of human life.” The Cardinal observed:

Thus the goal sought for years through failed attempts at human cloning – the production of ‘pluripotent’ stem cells that are an exact genetic match to a patient – has been brought within reach by an ethical procedure. This technology avoids the many ethical landmines associated with embryonic stem cell research: it does not clone or destroy human embryos, does not harm or exploit women for their eggs, and does not

blur the line between human beings and other species through desperate efforts to make human embryos using animal eggs.

The Cardinal expressed gratitude to scientists “who took up the challenge of finding morally acceptable ways to pursue stem cell research” and to government leaders “who have encouraged and funded such avenues.” Medical progress and respect for human life “are not in conflict” and “can and should support and enrich one another for the good of all.” For the Cardinal’s full statement, see: nchla.org/datasource/idocuments/112007USCCB.pdf.

In a November 17, 2007 story, “Dolly creator Prof Ian Wilmut shuns cloning,” the London *Telegraph* reported that Prof. Ian Wilmut, the scientist who cloned Dolly the Sheep (born in 1996), announced, in reaction to the new studies, that he was abandoning his efforts to clone a human embryo and that in the future he would pursue the more promising method of reprogramming adult cells. The story indicated that the Wilmut announcement “could mark the beginning of the end for therapeutic cloning.” Noting that in theory the reprogrammed cells could be converted into any of the 200 other type in the body, the story quoted Prof. Wilmut as saying it was “extremely exciting and astonishing.”

House: On January 5, 2007, Rep. Diana DeGette (D-CO) introduced the Stem Cell Research Enhancement Act (H.R. 3). The measure had 217 cosponsors and was referred to the Committee on Energy and Commerce. H.R. 3 was identical to the measure vetoed in 2006.

Floor: On January 11, 2007, the U.S. House of Representatives debated the Stem Cell Research Enhancement Act (H.R. 3).

Pursuant to the rule, Rep. Michael Burgess (R-TX) made a motion to recommit the bill to committee with instructions to add a section to prohibit funding any entity that performs “any research utilizing all or part of human embryonic cells from any cloned human.” *The House rejected the motion 189-yes, 238-no, 8-not voting (Roll Call 19).*

The House then voted to pass H.R. 3, 253-yes, 174-no, 8-not voting (Roll Call 20). The vote on passage fell way short of the two-thirds needed to override a veto.

As hoped, 12 of the new Republican and four of the new Democratic Members voted against H.R. 3. There were 167 returning Members who voted to uphold the President’s veto in 2006. Of these, all but three voted against H.R. 3: Reps. C. W. Bill Young (R-FL), Dale Kildee (D-MI), and Tim Holden (D-PA). However, Rep. Young voted for passage of last year’s bill too. Six of the eight non-voting Members voted in 2006 to uphold the President’s veto.

In response to the House vote approving H.R. 3, Richard Doerflinger, Deputy Director of the Secretariat for Pro-Life Activities, stated, “Today the House voted to force all taxpayers to fund stem cell research requiring the destruction of human embryos. As in the past, President Bush has pledged to veto this misguided and unethical legislation, and there are not enough votes to override that veto.” For the full statement, see: www.usccb.org/comm/archives/2007/07-012.shtml.

Prior to the vote, Cardinal Justin Rigali, Chairman of the Bishops' Committee for Pro-Life Activities, sent a letter to Congress, urging Members to reject H.R. 3. "The federal government has never taken the crass utilitarian approach of forcing taxpayers to support the direct killing of innocent human life, at any stage of development, in the name of 'progress.'" The Cardinal also urged opposition to H.R. 3 "for the sake of genuine progress for suffering patients, who deserve better solutions than this most speculative and most divisive type of stem cell research." For the Cardinal's complete letter, see: www.usccb.org/comm/archives/2007/07-010.shtml.

The President has stated he would veto H.R. 3. See January 11, 2007 Statement of Administration Policy: "If H.R. 3 were presented to the President, he would veto the bill" (emphasis in original). On January 9, 2007, the White House Domestic Policy Council issued a 67-page report, "Advancing Stem Cell Science Without Destroying Human Life." See: www.whitehouse.gov/stemcell.

H.R. 3 was sent to the U.S. Senate and immediately placed on the legislative calendar.

Senate: On January 4, 2007, Sen. Harry Reid (D-NV) introduced the Stem Cell Research Enhancement Act (S. 5). The measure had 41 cosponsors and was placed directly on the Senate calendar. As introduced, S. 5 was identical to H.R. 3.

The backers of H.R. 3/S. 5 were aware that overriding the President's threatened veto would be very difficult. Sen. Tom Harkin (D-IA) has stated that if their ESC bill was again vetoed and the veto sustained, then "we will look for every way possible to attach it to some must-do legislation this year." "Democrats Devise Legislative Strategy for Stem Cell Research Measure," *CQToday* (1/22/07).

On March 27, 2007, Sen. Tom Harkin introduced S. 997, a bill identical to S. 5. The measure had six cosponsors and on March 28, 2007 was read the second time and placed on the Senate calendar. No further action was taken.

Floor: On March 29, 2007, the Senate approved a unanimous consent agreement for proceeding with up to 20 hours of debate on April 10, 2007 on two bills, S. 5 and S. 30. No amendments would be in order. When debate is completed, the Senate would first vote on S. 5, then on S. 30. Each bill would require 60 votes for passage.

Added to S. 5 would be a section on "Alternative Human Pluripotent Stem Cell Research" identical to a bill approved by the Senate unanimously in 2006. The addition of this new section did nothing to change S. 5's objectionable provisions on ESCR.

The second bill, S. 30, was sponsored by Sens. Norm Coleman (R-MN) and Johnny Isakson (R-GA), with five other cosponsors, and was titled Hope Offered through Principled and Ethical Stem Cell Research Act or HOPE Act. This measure promoted human pluripotent stem cell research without creating or harming human embryos. It also authorized a study on the best way to advance an amniotic and placental stem cell bank program.

On April 11, 2007, the U.S. Senate approved S. 5, 63-yes, 34-no, 3-not voting (Roll Call 127). After the vote, President Bush reaffirmed his pledge to veto the measure. "This bill crosses a moral line that I and many others find troubling. If it advances all the way through Congress to my desk, I will veto it." See: www.whitehouse.gov/news/releases/2007/04/print/20070411-8.html.

The three Senators who were absent would support S. 5. Sen. Landrieu (D-LA) missed the vote because of travel but stated afterwards for the record that if present she would have voted "yes." Taking into consideration how the absent Senators would have voted, proponents would fall one vote short on a veto override attempt. They would have 66 votes but would need 67 (two-thirds of those present and voting).

All 32 Senators who voted to oppose this legislation in 2006 voted to oppose S. 5. In addition, two new Senators – Bob Casey, Jr. (D-PA) Bob Corker (R-TN) – also voted against S. 5.

Sen. Tom Harkin (D-IA), a primary promoter of S. 5, said they would continue to press to acquire the one extra vote they need for a Senate veto override.

Richard Doerflinger, Deputy Director of the Bishops' Secretariat for Pro-Life Activities, lamented Senate passage of S. 5, noting that through this measure "millions of taxpayers would be forced to promote attacks on innocent human life in the name of scientific progress." However, because of the President's promised veto and the prospect that the veto will be upheld, Mr. Doerflinger expressed the expectation "this terrible burden will not be placed on the American people now." For Mr. Doerflinger's full comments, see: www.usccb.org/comm/archives/2007/07-060.shtml.

The Senate also passed the HOPE Act (S. 30), 70-yes, 28-no, 2-not voting (Roll Call 128).

House Consideration of S. 5: Any bill sent to the President must be approved by both chambers in the same form.

On June 7, 2007, the House took up the Senate-passed Stem Cell Research Enhancement Act, S. 5, and, as expected, passed the measure, 247-yes, 176-no, 10-not voting (Roll Call 443).

No amendments were allowed. Rep. Phil Gingrey (R-GA) offered the motion to recommit to committee with instruction to support research on alternative pluripotent stem cell research. With numbers similar to final passage, the motion to recommit failed, 180-yes, 242-no, 10-not voting (Roll Call 442).

The vote on final passage was comparable to the vote in January when the House passed its own version of this bill (H.R. 3). Then the vote was 253-yes, 174-no, 8-not voting (Roll Call 20). From then to the current vote, no Members switched from opposition to support or from support to opposition. The small changes in numbers resulted either from deceased Members – two – or from Members moving from voting (as expected) to not voting or from not voting to voting (as

expected). Thus, there was no slippage in support for the pro-life position. The prospects for upholding a presidential veto remained solid.

Veto: On June 20, 2007, President Bush, as he had pledged, vetoed the Stem Cell Research Enhancement Act, S. 5. “S. 5, like the bill I vetoed last year, would overturn today’s carefully balanced policy on stem cell research. Compelling American taxpayers to support the deliberate destruction of human embryos would be a grave mistake. I will not allow our Nation to cross this moral line. For that reason, I must veto this bill.” See: www.whitehouse.gov/news/releases/2007/06/20070620-5.html.

At the same time, the President issued an Executive Order directing the appropriate agencies of the federal government to promote research on pluripotent stem cells derived by ethically responsible means. See: www.whitehouse.gov/news/releases/2007/06/20070620-6.html. For President Bush’s remarks on the occasion of the veto and issuing of the Executive Order, see: www.whitehouse.gov/news/releases/2007/06/20070620-8.html

S. 5 was returned to the Senate. A veto override vote was never scheduled. The vote was expected to be close. If successful, the measure would be forwarded to the House.

20. Unborn Child Pain Awareness Act

Background: In April 15, 2004, testimony at a partial-birth abortion trial in California, Dr. Sunny Anand, Director of the Pain Neurobiology Laboratory at Arkansas Children’s Hospital Research Institute, stated, “The human fetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and the pain perceived by the fetus is possibly more intense than that perceived by term newborns or older children.” For Dr. Anand’s full testimony, see “Day 10” testimony at: www.usccb.org/prolife/issues/pba/pbaban.shtml. In response to this testimony, the Unborn Child Pain Awareness Act was introduced in Congress in 2004.

In the case of an abortion 20 weeks or more after fertilization, the woman shall be advised that the unborn child can experience pain and the woman will be given the opportunity to choose having pain-killing drugs administered to the child before the abortion is performed.

Senate: On January 22, 2007, Sen. Sam Brownback (R-KS) introduced the Unborn Child Pain Awareness Act of 2007 (S. 356). The measure had 28 cosponsors, and was referred to the Committee on Health, Education, Labor, and Pensions. No further action was taken.

The bill’s official title read: “To ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child.” The Act defined “pain-capable unborn child” as “an unborn child who has reached a probable stage of development of 20 weeks after fertilization” and stated that this definition should not be construed as a finding of Congress that the unborn child does not experience pain prior to 20 weeks.

An abortion provider, in or affecting interstate commerce, who performs an abortion on a pain-capable unborn child, must comply with informed consent requirements. The abortion provider or his or her agent shall provide the pregnant woman with an oral statement in which she is

informed that the unborn child experiences pain, that she has the option of having anesthesia or other pain-reducing drugs administered to the unborn child, that, if she so chooses, provision can be made for the anesthesia or other pain-reducing drugs to be administered. The abortion provider shall provide the pregnant woman with the Unborn Child Pain Awareness Brochure and the Unborn Child Pain Awareness Decision Form and shall obtain the woman's signature on this form. The Brochure and the Decision Form shall be developed by the Department of Health and Human Services (DHHS). The Act provided an exception to the informed consent requirements for medical emergencies. The term "medical emergency" was defined as "a condition which, in the reasonable medical judgment of the abortion provider, so complicates the medical condition of the pregnant woman that a delay in commencing an abortion procedure would impose a serious risk of causing grave and irreversible physical health damage entailing substantial impairment of a major bodily function." The term "reasonable medical judgment" was defined as "a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved." When a medical emergency is determined to exist, the abortion provider "shall certify the specific medical conditions that constitute the emergency." The abortion provider who fails to comply with the provisions of the Act shall be subject to civil penalties in Federal court. Various state authorities will be notified of any legal action at least 30 calendar days before the action is initiated by the federal government. A pregnant woman upon whom an abortion has been performed in violation of the Act, or the parent or legal guardian of an unemancipated minor, may commence a civil action for actual and punitive damages. States are required to promulgate regulations and procedures for the revocation or suspension of medical licenses for violations of this Act.

In his introductory remarks, Sen. Brownback described this legislation as an informed consent bill. "No abortion procedure would be prohibited by the Unborn Child Pain Awareness Act. This is strictly an informed consent bill." The Senator noted that according to a 2004 Wirthlin Worldwide poll, 75 percent of respondents favored laws requiring women 20 weeks or more along in their pregnancies be given information about fetal pain before an abortion. For Sen. Brownback's full floor statement, see *Congressional Record* (January 22, 2007), S842-3 at: thomas.loc.gov/r110/r110.html.