

National Committee for a Human Life Amendment

The Second Session of the 111th Congress was convened on January 5, 2010. Bills are carried over from 2009. Information related to federal legislation—text of bills, hearing testimony, committee reports, floor debates in the *Congressional Record*, roll call of floor votes, and the like—is available on the Library of Congress website: thomas.loc.gov.

I. Highlights**A. Authorizations Bills****Health Care Reform**

In 2009, both the U.S. House of Representatives and the U.S. Senate passed health care reform bills—in the House, the Affordable Health Care for America Act (H.R. 3962), and in the Senate, the Patient Protection and Affordable Care Act (H.R. 3590). The two chambers need to agree on a final bill. It is not clear how this can be achieved. Congressional leadership has temporarily delayed further action.

The House-passed bill contains the Stupak-Pitts Amendment, which enacts a permanent ban on federal funding of elective abortions or health plans that include such abortions. The Senate bill rejects this policy and allows federal funds to help subsidize and promote health plans that cover elective abortions. The House bill contains stronger language protecting the conscience rights of individual and institutional health care providers who decline involvement in abortion. Neither bill has conscience protection for health care providers, plans, or employers in contexts beyond abortion (e.g., contraception and sterilization).

For a chart comparing the treatment of life and conscience issues in the House and Senate bills, see: www.usccb.org/healthcare/Life_Issuechart.pdf. For a more extended analysis, see: www.usccb.org/healthcare/life_conscience.pdf.

The U.S. Catholic bishops continue to make the moral case that genuine health care reform must maintain the longstanding policy against federal funding of abortion, include full conscience protection and assure that health care is accessible and affordable for all. If these criteria are not met, the final bill must be opposed. See January 26, 2010 USCCB letter to Congress at: usccb.org/healthcare/HC-Letter-to-Congress-012610.pdf.

Action Resources: For an NCHLA Action Alert urging pro-life constituents to contact their Representatives and Senators, see: nchla.org/actiondisplay.asp?ID=279. E-mails can be sent through NCHLA's Grassroots Action Center.

For more detailed information on health care reform, see the Review of Legislation section of this report.

B. Executive

1. Conscience Protection Regulation: Final Rule Pending

On March 6, 2009, the Obama Administration issued a proposed rule to rescind the December 19, 2008 Bush Administration conscience protection regulation. The proposed rule on rescission was formally published in the *Federal Register* on March 10, 2009. The 30 day comment period ended April 9, 2009. A final rule has not been issued.

For more detailed information on the conscience protection regulation see the Review of Legislation section of this report.

2. ESCR: Final Guidelines

On March 9, 2009, President Obama issued an Executive Order overturning the limits President Bush had placed on government funding of destructive embryonic stem cell research (ESCR). On July 7, 2009, the National Institutes of Health published final guidelines implementing the Obama directive. Some Members of Congress announced they intended to introduce legislation that would go beyond the guidelines, but they have not yet introduced any bills for this purpose.

For more detailed information on the ESCR issue, see the Review of Legislation section of this report.

II. REVIEW OF LEGISLATION

The Review of Legislation section contains detailed information on legislative action, along with 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

On February 16, 2010, the Administration released its Fiscal Year 2011 Budget, marking the formal beginning of budget process. Congressional appropriations committees have already begun work on their respective bills. April 15 is the target date for Congress to pass its budget resolution. The House can consider appropriations bills on the floor beginning May 15, even if there is no budget resolution. The House is supposed to finish passing all its bills by June 30. Bills should then be taken up by the Senate, with all bill signed into law by September 30. Often the process is neither this orderly nor timely. In 2009, the final appropriations bill was not signed into law until December 19.

B. Authorization Bills

Issues considered below include:

1. Conscience Protection Regulations
2. Foreign Relations Authorization Act: Office for Global Women's Issues
3. Health Care Reform
4. Pregnant Women Support Act
5. Preventing Unintended Pregnancies, Reducing the Need for Abortion, and Supporting Parents Act
6. Right to Life Act and Life at Conception Act
7. Sanctity of Human Life Act
8. Stem Cell Research

1. Conscience Protection Regulations

Background: On December 18, 2008, the Department of Health and Human Services (HHS) issued a final regulation protecting conscience rights. The regulation did not expand conscience rights but faithfully implemented three existing federal conscience protection laws.

In September 2008 the USCCB Office of General Counsel had filed formal comments strongly supporting the regulation. See: www.usccb.org/ogc/pl-hhs-conscience2.pdf.

Congress: Some members of Congress announced plans to rescind the Bush Administration regulations by legislative action. On January 15, 2009, Rep. Diana DeGette (D-CO) introduced the Protecting Patients and Health Care Act (H.R. 570), a measure that declares the Bush

Administration regulations “shall have no force or effect.” H.R. 570 has 25 cosponsors and was referred the Committee on Energy and Commerce.

Judicial: On January 15, 2009, three federal law suits were filed in the District of Connecticut against the Bush Administration regulation by pro-abortion organizations and the attorneys general of six states (CT, joined by IL, CA, NJ, MA, RI, and OR), with the help of the American Civil Liberties Union. With Department of Health and Human Services action pending on rescinding the conscience regulation, the federal government filed a motion to stay all proceedings, which the court granted on April 27, 2009. That stay has not been lifted. For background on these three cases, see: www.clsnet.org/center/litigation/connecticut-v-united-states.

Obama Administration: On March 6, 2009, the Obama Administration issued a proposed rule to rescind the December 19, 2008 Bush Administration conscience protection regulation. The proposed rule on the rescission was formally published in the *Federal Register*, Vol. 74, No. 45 (March 10, 2009), 10207-11. See: www.gpo.gov/fdsys/pkg/FR-2009-03-10/pdf/E9-5067.pdf . The Obama Administration has not yet issued a final rule.

On March 23, 2009, the U.S. Conference of Catholic Bishops’ Office of General Counsel submitted well-argued, incisive comments on the rescission proposal. See: www.usccb.org/conscienceprotection/hhs_comments_conscience_09final.pdf.

For resources and background information, see: www.usccb.org/conscienceprotection.

For more detail on this issue, see the Final Legislative Report for 2009.

2. Foreign Relations Authorization Act: Office for Global Women’s Issues

On May 20, 2009, the House Foreign Affairs Committee marked up the Foreign Relations Authorization Act, Fiscal Years 2010 and 2011 (H.R. 2410). The bill contained a provision in Section 334 to establish an Office for Global Women’s Issues. Rep. Chris Smith (R-NJ) offered an amendment to this section so that the new Office would not be used to promote abortion throughout the world.

The Smith Amendment was defeated in committee. On June 9, 2009, the House Rules Committee rejected a motion to put the Smith Amendment in order during floor consideration of H.R. 2410. Among the amendments put in order was the Manager’s Amendment that would add a new generic paragraph stating that nothing in Sec. 334 “shall be construed as affecting” existing laws against abortion or laws against the use of U.S. funds to change the abortion laws of other countries. On June 10, 2009, during floor debate, the House approved the Manager’s Amendment and passed H.R. 2410.

On June 22, 2009, H.R. 2410 was referred to the Senate Committee on Foreign Relations. No further action has occurred.

For more detailed information on this matter, see the Final Legislative Report for 2009.

3. Health Care Reform

Summary: In 2009, both the U.S. House of Representatives and the U.S. Senate passed health care reform bills—in the House, the Affordable Health Care for America Act (H.R. 3962), and in the Senate, the Patient Protection and Affordable Care Act (H.R. 3590). The two chambers need to agree on a final bill. It is not clear how this can be achieved. Congressional leadership has temporarily delayed further action.

The House-passed bill contains the Stupak-Pitts Amendment, which enacts a permanent ban on federal funding of elective abortions or health plans that include such abortions. The Senate bill rejects this policy and allows federal funds to help subsidize and promote health plans that cover elective abortions. The House bill contains stronger language protecting the conscience rights of individual and institutional health care providers who decline involvement in abortion. Neither bill has conscience protection for health care providers, plans, or employers in contexts beyond abortion (e.g., contraception and sterilization).

For a chart comparing the treatment of life and conscience issues in the House and Senate bills, see: www.usccb.org/healthcare/Life_Issuechart.pdf. For a more extended analysis, see: www.usccb.org/healthcare/life_conscience.pdf.

As they have done from the beginning of the health care reform debate, the U.S. Catholic bishops continue to make the moral case that genuine health care reform must maintain the longstanding policy against federal funding of abortion, include full conscience protection and assure that health care is accessible and affordable for all. If these criteria are not met, the final bill must be opposed. See January 26, 2010 USCCB letter to Congress at: usccb.org/healthcare/HC-Letter-to-Congress-012610.pdf.

House: In 2009, three committees produced different versions of the America's Affordable Health Choices Act (H.R. 3200). On October 29, 2009, leadership introduced its bill, the Affordable Health Care for America Act (H.R. 3962). This bill retained the unacceptable features on abortion and conscience protection that were in the earlier committee bills.

On November 7, 2009, the House debated H.R. 3962. After much discussion, leadership agreed to a Rule allowing a vote on an amendment by Reps. Bart Stupak (D-MI) and Joseph Pitts (R-PA) that maintained the longstanding policy against federal funding of abortion. The Rule was approved. *After debate, the Stupak-Pitts Amendment was agreed to, 240-yes, 194-no, 1-present (Roll Call 884).* Sixty-four Democrats joined 176 Republicans in passing this amendment. Thereafter, H.R. 3962 passed by the narrow margin of 220-yes, 215-no.

Senate: In 2009, two committees produced two different bills. On November 18, 2009, Senate leadership unveiled its health care reform bill, the Patient Protection and Affordable Care Act.

Through substitution of text, this bill would assume the number of a House-passed tax bill, H.R. 3590. On November 21, 2009, the Senate voted 60-yes, 39-no, to invoke cloture on the motion to proceed.

Senators Ben Nelson (D-NE), Orrin Hatch (R-UT), and Robert Casey, Jr. (D-PA), along with seven other co-sponsors, submitted an amendment that, like the Stupak-Pitts Amendment, would prevent the legislation from mandating abortion coverage or providing federal funds for coverage of elective abortions. *On December 8, 2009, the Senate voted to table the Nelson-Hatch-Casey Amendment, 54-yes, 45-no (Roll Call 369).* In addition to Senators Nelson and Casey, five other Democrats joined in opposing the motion to table: Senators Mark Pryor (AR), Ted Kaufman (DE), Evan Bayh (IN), Kent Conrad (ND), and Byron Dorgan (ND).

Subsequently, Senate Majority Leader Harry Reid (D-NV) introduced his Manager's Amendment to H.R. 3590. The abortion and conscience provisions in this proposal were not acceptable. On December 24, 2009, after voting to shut down the process of debating and amending the bill, the Senate approved H.R. 3590, 60-yes, 39-no.

Action Resources: For an NCHLA Action Alert urging pro-life constituents to contact their Representatives and Senators, see: nchla.org/actiondisplay.asp?ID=279. E-mails can be sent through NCHLA's Grassroots Action Center.

More Information: For fact sheets helpful in critiquing the health care reform bills, see:

1. "Life and Conscience Issues in the Health Care Reform Bill: A Comparison" [Chart] at: www.usccb.org/healthcare/Life_Issuechart.pdf.
2. "Issues of Life and Conscience in Health Care Reform: A Comparison of the House and Senate Bills" [extended analysis] at: www.usccb.org/healthcare/life_conscience.pdf.
3. "What Does the Nelson/Hatch/Casey Amendment Really Do?" at: nchla.org/datasource/idocuments/NelsonDo.pdf.
4. "Abortion and Conscience Problems in the Senate Health Care Reform Bill," at: nchla.org/datasource/idocuments/12USCCB.FactSheet.HCR.4.09.pdf.
5. "What Does the Stupak Amendment Really Do?" at: nchla.org/datasource/idocuments/WhatDoesTheStupakAmendmentDov2.pdf.
6. "Myths and Facts: The Capps Amendment to H.R. 3962," at: www.usccb.org/prolife/issues/healthcare/capps_3962.pdf.
7. "Abortion and Conscience Problems in Health Care Reform Bills," at: www.usccb.org/prolife/issues/healthcare/capps_102309.pdf.
8. "Current Policy on Federal Abortion Funding," at: www.usccb.org/prolife/issues/healthcare/abortion_funding_102309.pdf.

For general information, see: www.usccb.org/healthcare. Additional documentation can found at: usccb.org/prolife/issues/healthcare/index.shtml and nchla.org/issues.asp?ID=51.

For more detailed information on 2009 legislative action, see the NCHLA Final Legislative Report for 2009.

4. Pregnant Women Support Act

Background: The Pregnant Women Support Act was first introduced in 2006. In its 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 for health care needs, supportive services and helpful prenatal information and postnatal services.” In pursuing its goals, the bill does not facilitate access to abortion or fund contraception programs.

House: On April 22, 2009, Rep. Lincoln Davis (D-TN) introduced the Pregnant Women Support Act (H.R. 2035). The bill has 43 cosponsors and was referred to four committees.

On April 24, 2009, Cardinal Justin Rigali, Chairman of the Bishops’ Committee on Pro-Life Activities, wrote to the U. S. House of Representatives, urging all Representatives to support and cosponsor H.R. 2035. The Cardinal cited two statements that most can endorse: That over a million abortions take place each year in this country is a tragedy, and steps should be taken to reduce abortions; and no woman should undergo an abortion because she feels she has no choice or because alternatives were unavailable or unknown to her. For the Cardinal’s full letter, see: www.usccb.org/prolife/issues/women/PWSAHouse09.pdf

Senate: On May 13, 2009, Sen. Robert Casey, Jr. (D-PA) introduced the identical measure in the Senate (S. 1032). The bill has one cosponsor and was referred to Committee on Health, Education, Labor, and Pensions.

On May 15, 2009, Cardinal Rigali wrote a letter to the U.S. Senate, urging all Senators to support and cosponsor S. 1032. For the Cardinal’s full letter, see: www.usccb.org/prolife/issues/women/PWSASenate09.pdf.

For more detailed information on these bills, see the NCHLA Final Legislative Report for 2009.

5. Preventing Unintended Pregnancies, Reducing the Need for Abortion, and Supporting Parents Act

This measure was first introduced in 2006. On July 23, 2009, Rep. Tim Ryan (D-OH) introduced the current version of this legislation, the Preventing Unintended Pregnancies, Reducing the Need for Abortion, and Supporting Parents Act (H.R. 3312). The bill has 44 cosponsors and was referred to five different committees.

In a June 24, 2009 *Life Issues Forum* news column, Susan Wills, Assistant Director for Education and Outreach at the Bishops' Secretariat of Pro-Life Activities, quoted Rep. Ryan saying that the bill is "about access to birth control." Ms. Wills correctly argues that contraception is already widely available in society—in 2006, public expenditures totaled \$1.85 billion. According to the Guttmacher Institute, virtually all teenagers who are sexually active and do not want to become pregnant are already using contraception. The reality is that contraceptives do not work well in real life. "Numerous studies in the United States and Europe have found that greater access to contraception fails to reduce unintended pregnancies and abortions." The real abortion-reduction bill, Ms. Wills concludes, is the Pregnant Women Support Act. See: www.usccb.org/prolife/publicat/lifeissues/072409.shtml.

For more detailed information on this bill, see the NCHLA Final Legislative Report for 2009.

6. Right to Life Act and Life at Conception Act

Background: The Right to Life Act and Life at Conception Act, commonly called Human Life Bills, represent one approach to address the tragedy the U.S. Supreme Court set in motion when in 1973 it created a constitutional right to abortion. For related information on Human Life Amendments, their history, texts, and votes, see: www.nchla.org/issues.asp?ID=46.

The measure introduced in the House is called the Right to Life Act and a similar measure introduced in the Senate is called the Life at Conception Act. According to their official titles, the Acts' purposes are "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."

House: On February 4, 2009, Rep. Duncan Hunter (R-CA) introduced the Right to Life Act (H.R. 881). The measure has 78 cosponsors and was referred to the Judiciary Committee, Subcommittee on Constitution, Civil Rights, and Civil Liberties.

Senate: On January 29, 2009, Sen. Roger Wicker (R-MS) introduced the Life at Conception Act (S. 346). The measure has 10 cosponsors and was referred to the Judiciary Committee.

For more information on these bills, see the NCHLA Final Legislative Report 2009.

7. Sanctity of Human Life Act

Background: The Sanctity of Human Life Act is a form of human life bill. It has as its official title, "To provide that human life shall be deemed to begin with fertilization." The measure has two main sections, a Declaration on the right to life under the U.S. Constitution (Sec. 2) and Definitions (Sec. 3).

House: On January 7, 2009, Rep. Paul Broun (R-GA) introduced the Sanctity of Human Life Act (H.R. 227). The measure has 59 cosponsors. The bill was referred to the Judiciary Committee.

For more detailed information on this bill, see the NCHLA Final Legislative Report for 2009.

8. 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. Derivation of embryonic stem cells (ESCs) from the early embryo necessarily results in the death of the embryo, and thus is morally prohibited. The derivation of adult stem cells, however, presents no such moral issue and these stem cells can be used for research and treatment.

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 at least 73 different diseases. See: www.stemcellresearch.org. For additional valuable resources, see: www.usccb.org/prolife/issues/bioethic/stemcell/index.shtml.

The Bush Administration issued regulations that permitted federal funding for research on ESCs existing as of August 9, 2001.

Administration: On March 9, 2009, President Barack Obama issued an Executive Order overturning the Bush Administration ESCR guidelines. On July 7, 2009, NIH published final guidelines implementing the Obama directive. See: nchla.org/datasource/documents/7NIHescGuidelns7.09.pdf. Federal taxpayer funds would now support research on human embryonic stem cells that are derived by killing human embryos acquired from fertility clinics. Parents can relinquish their embryonic children for such research when they no longer want them for reproduction.

Reps. Diana DeGette (D-CO) and Michael Castle (R-DE) announced that they intend to move forward with broader legislation to “promote all forms of ethical stem cell research,” which in their view includes cloning and the creation of embryos solely to destroy them. News reports in October, 2009 indicated that introduction of a bill was imminent, but no bill has yet been introduced.

For more detailed information on this issue, see the NCHLA Final Legislative Report for 2009.