

# PRO-LIFE LEGISLATION IN CONGRESS 2000

National Committee for a Human Life Amendment

December 21, 2000

Bills introduced in the First Session (1999) of the 106<sup>th</sup> Congress could be carried over into the Second Session (2000). After passing 21 Continuing Resolutions at the end of the Second Session to keep the government funded on a temporary basis, Congress passed a final Consolidated Appropriations Act 2001 (H.R. 4577) and adjourned on Dec. 15. Additional information on federal legislation is available on the internet at: <http://thomas.loc.gov>.

## A. AUTHORIZATION BILLS

### 1. Partial-Birth Abortion Ban Act

Background: This legislation would ban a particularly brutal and inhumane abortion method in which the child is removed from the womb feet-first and delivered except for the head. The abortionist thrusts scissors into the base of the child's skull, inserts a catheter through the opening, and suctions out the child's brain. This procedure is never medically necessary. Many recognize partial-birth abortion for what it is: infanticide. Congress twice passed this legislation, first in the 104<sup>th</sup> and then in the 105<sup>th</sup> Congress. President Clinton vetoed each bill, the House overriding the vetoes and the Senate failing, though by increasingly narrow margins.

A third attempt to enact this measure into law was made in the 106<sup>th</sup> Congress.

Senate: On Oct. 5, 1999, Sen. Rick Santorum (R-PA) introduced this measure in the Senate (S. 1692). The bill had 43 cosponsors. *On October 21, 1999, S. 1692 was approved by the Senate, 63-yes, 34-no, 3-not voting. (Roll Call 340)* Taking account of two pro-life Senators who were absent, support was at 65, only two votes short of the two-thirds needed for a veto override. Subsequently, Sen. Paul Coverdell (R-GA), a supporter of the bill, died and was replaced by Sen. Zell Miller (D-GA).

During the course of the debate, Sen. Robert Smith (R-NH), responding to reports of gross abuses related to the transfer of body parts from abortion victims to research entities, offered an amendment to require reporting and disclosure by those who engage in this activity. *On Oct. 21, 1999, the Smith Amendment failed, 46-yes, 51-no, 3-not voting (Roll Call 338).*

Also during the course of the debate, Sen. Tom Harkin (D-IA) offered an amendment expressing the sense of Congress that *Roe v. Wade* "secures an important constitutional right" and "should not be reversed." The Harkin Amendment was attached to an amendment by Sen. Barbara Boxer (D-CA) expressing the sense of Congress that, consistent with rulings of the U.S. Supreme Court, a woman's life and health must always be protected in reproductive health legislation. *On Oct. 21, 1999, a motion to table the Harkin Amendment failed, 48-yes, 51-no, 1-not voting (Roll Call 336).* The Harkin Amendment was then approved and the underlying Boxer Amendment was agreed to by voice vote.

House: On February 15, 2000, Rep. Charles Canady (R-FL) introduced the measure in the House (H.R. 3660). The bill had 124 cosponsors. *On April 5, the House approved H.R. 3660 without amendment with a veto-proof margin, 287-yes, 141-no, 7-not voting. (Roll Call 104)*

Conference Committee: Differences between House and Senate versions needed to be resolved and the final version again approved by each chamber. The bill would then be ready again to go to the President. On May 25, 2000, the House appointed its conferees. At that time the minority party had the right to make a motion to instruct conferees. It was rumored pro-abortion advocates would put forward a motion to instruct conferees to accept the Harkin Amendment. They backed down and did not offer the motion.

Judicial: On April 25, 2000, the U.S. Supreme Court heard oral arguments on a case challenging the constitutionality of Nebraska's law banning partial-birth abortions. On June 28, 2000, the Court issued a 5-4 opinion that the Nebraska law was unconstitutional because it imposed an undue burden on a woman's right to an abortion. *Stenberg v. Carhart*, No. 99-830. Chief Justice Rehnquist, and Justices Scalia, Kennedy and Thomas dissented. Justice Kennedy: "The Court's holding stems from misunderstanding the record, misinterpretation of *Casey*, outright refusal to respect the law of a State, and statutory construction in conflict with settled rules." Justice Scalia: "Today's decision, that the Constitution of the United States prevents the prohibition of a horrible mode of abortion, will be greeted by a firestorm of criticism—as well it should be." The text of the opinions can be found on the internet at: <http://supct.law.cornell.edu/supct/html/99-830.ZS.html>. Thirty states had passed partial-birth abortion ban laws.

End-of-Year Summary: Because of the sweeping nature of the Court's ruling in *Carhart*, Congress's ability to enact meaningful legislation of this kind was undercut. No further action was taken on the bill.

## **2. Pain Relief Promotion Act**

Background: This legislation promotes the use of federally controlled drugs for pain relief without permitting their use for assisted suicide or euthanasia. In 1998, U.S. attorney general Janet Reno announced that the federal Controlled Substances Act establishes no uniform national policy against the use of federally regulated drugs for assisted suicide. As a result, these drugs may be used to assist patients' suicides in any state that, like Oregon, allows the practice under state law. For its part, the Pain Relief Promotion Act affirms the use of federally controlled drugs for legitimate pain control and reaffirms that federal law does not authorize the deliberate use of federally regulated drugs for assisted suicide or euthanasia. The act provides important new programs to promote palliative care through research, education, and training. More information on the basic issue can be obtained at the NCCB Secretariat for Pro-Life Activities' website: [www.nccbuscc.org/prolife/issues/euthanas](http://www.nccbuscc.org/prolife/issues/euthanas).

House: On June 17, 1999, Reps. Henry Hyde (R-IL) and Bart Stupak (D-MI) introduced the Pain Relief Promotion Act (H.R. 2260). The measure had 165 cosponsors. *On October 27, 1999, the U. S. House of Representatives approved H.R. 2260, 271-yes, 156-no, 7-not voting. (Roll Call 544)* When the bill became stalled in the Senate late in the 2000 session, the House introduced the then pending Senate version as H.R. 5544 and included this bill by reference in the conference report accompanying H.R. 2614, a measure encompassing small business, health, tax, and minimum wage provisions. On Oct. 26, 2000, the House approved the conference report to H.R. 2614, 237-yes, 174-no, 1-present, 21-not voting. (Roll Call 560)

Senate: On June 23, 1999, Sens. Don Nickles (R-OK) and Joseph Lieberman (D-CT) introduced the Senate companion bill (S. 1272). The measure had 42 sponsors, including five Democrats. Late in 2000, a sixth Democrat, Sen. Daniel Moynihan (D-NY), withdrew his name as a cosponsor. On April 27, 2000, the Senate Judiciary Committee favorably reported a re-drafted version of the House-passed bill, H.R. 2260. On May 23, H.R. 2260 was placed on the Senate Legislative Calendar. Despite significant bipartisan support, a determined campaign was waged to stop the bill's passage. If the bill came to the Senate floor, Sen. Ron Wyden (D-OR) was prepared to filibuster. This would have prevented a vote on passage. A cloture petition to stop a filibuster requires 60 votes. But as summer turned to fall, all efforts to bring the bill to the Senate floor for a debate and vote were unsuccessful. More than once it seemed a deal had been struck but no action materialized. On Oct. 26, 2000, the Senate voted 55-yes, 40-no, 5-not voting (Roll Call 286) to proceed to consideration of the House-passed conference report on H.R. 2614, the House-passed tax bill with H.R. 5544 (the Senate version of the PRPA) included by reference. President Clinton threatened to veto H.R. 2614 for unrelated reasons. The Senate took no further action on H.R. 2614 or H.R. 2260.

End-of-Year Summary: The Pain Relief Promotion Act passed the House in 1999 and again in 2000 as part of a larger package of bills, but each of these House-passed measures stalled in the Senate. The Pain Relief Promotion Act did not become law.

### **3. Ban on Funding Harmful Embryo Research**

Background: In 1996—and each year since—Congress has included a provision in the Labor/HHS Appropriations Bill that prohibits the use of federal funds for research in which human embryos are harmed or destroyed. See comments below on FY 2001 Labor/HHS Appropriations Bill.

Adult stem cells represent an alternative that is both ethical and very promising. Information on medical advances in this area can be found at the web site maintained by Do No Harm: The Coalition of Americans for Research Ethics: [www.stemcellresearch.org](http://www.stemcellresearch.org). For additional information on the issue of embryo research, including testimony and statements by the bishops, see the website for the Bishops' Secretariat for Pro-Life Activities: [www.nccbuscc.org/prolife/issues/bioethic](http://www.nccbuscc.org/prolife/issues/bioethic)

Regulations: In a January 1999 memo, the General Counsel for the Department of Health and Human Services claimed that the current law does not apply to research using stem cells derived from human embryos, even though harvesting these cells directly kills the embryos. This legal opinion distorts the plain meaning and intent of the law. Nevertheless, on December 1, 1999, the National Institutes of Health (NIH) used this opinion to justify issuing draft guidelines for funding research "Involving Human Pluripotent Stem Cells." The time for public comments was closed on February 22, 2000. Thousands of pro-life letters protesting the draft guidelines were sent to NIH. It was reported that the vast majority of the comments received at NIH were in opposition to the guidelines. Nevertheless, on August 25, 2000, NIH officially published its final guidelines (*Federal Register*, Vol. 65, No. 166, 8/25/2000, 51976-81), available in plain text format at: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000\\_register&docid=fr25au00-136](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000_register&docid=fr25au00-136). It is reported that the process of approving the funding of specific grants will stretch into 2001, when the next Administration will be in office.

Senate: In late 1999 and at various times in 2000, the Labor, Health, and Human Services and Education Subcommittee of the Senate Appropriations Committee, chaired by Senator Arlen

Specter (R-PA), held hearings on embryonic stem cell research. On January 31, 2000, the Senator introduced the Stem Cell Research Act (S. 2015), a measure allowing direct federal funding for the destruction of human embryos to obtain their stem cells. On September 28, 2000, Majority Leader Sen. Trent Lott (R-MS), following up on a promise made to Sen. Specter in late 1999, brought up S. 2015 for consideration on the Senate floor. However, Sen. Sam Brownback (R-KS) objected and the bill was set aside. Sen. Lott promised Sen. Specter that he would try to bring up the bill in 2001 in a timely fashion.

End-of-Year Summary: The law banning the use of federal funds for research “in which a human embryo or embryos are destroyed” was again enacted into law. See FY 2001 Labor/HHS Appropriations Bill below. However, the plain meaning of the law notwithstanding, the Administration, relying on legal fictions of its own creation, issued guidelines for funding stem cell research that involves the destruction of young human embryos. Efforts in Congress to overturn the existing funding ban and explicitly justify the guidelines were not successful. The resolution of this issue is thrown into the next Congress and Administration.

#### **4. FY 2001 Defense Authorization**

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.

House: On May 18, 2000, during consideration of the FY 2001 Defense Authorization Bill (H.R. 4205), Rep. Loretta Sanchez (D-CA) offered an amendment to repeal the restriction on the use of military facilities to perform abortions. *That amendment failed, 195-yes, 221-no, 19-not voting. (Roll Call 203)*

Senate: During consideration of the FY 2001 Defense Authorization Act (S. 2549), Sens. Patty Murray (D-WA) and Olympia Snowe (R-ME) offered an amendment striking from law the restrictions on the use of military facilities for performance of abortions. *On June 20, 2000, the Senate agreed to a motion to table the Murray/Snowe Amendment, 50-yes, 49-no, 1-not voting, thereby rejecting the amendment. (Roll Call 134)*

End-of-Year Summary: Current pro-life policy restricting the use of military facilities for abortion remains in effect.

#### **5. Born-Alive Infants Protection Act**

Background: The Born-Alive Infants Protection Act of 2000 (H.R. 4292) was introduced on April 13, 2000, by Rep. Charles Canady (R-FL). The bill had 44 cosponsors. This act defined the words “person,” “human being,” “child,” and “individual” to include “every infant member of the species homo sapiens who is born alive at any stage of development.” The term “born alive” is defined as “the complete expulsion or extraction” at any stage of development of the infant member who “breaths or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.” In his remarks on the bill, Rep. Canady said that this legislation ensures that all infants who are born alive are treated as persons for purposes of federal law. However, abortion advocates

claimed the bill is “in direct conflict with Roe,” which “clearly states that women have the right to choose” (that is, the right to choose infanticide as well as abortion) before the child is proved to be viable.

House: On July 20, 2000, the House Judiciary Subcommittee on the Constitution held a hearing on H.R. 4292. Professor Hadley Arkes, a strong supporter of this legislation, was one of the witnesses. Transcripts of testimony can be found on the internet at: [www.house.gov/judiciary/2.htm](http://www.house.gov/judiciary/2.htm). On July 26, 2000, the full Judiciary Committee approved the bill, 22-yes, 1-no. *On September 26, 2000, under suspension of the rules (a two-thirds vote required), the House passed H.R. 4292 by the overwhelming vote, 380-yes, 15-no, 3-present, 36-not voting. (Roll Call 495)* Even when voting in favor, some abortion advocates expressed aversion to the bill.

Senate: On Oct. 5, 2000, the House-passed bill was read the first time and placed on the Senate Calendar. On Oct. 13, 2000, Majority Leader Sen. Trent Lott (R-MS) asked unanimous consent that the Senate proceed to the bill and pass it. Sen. Kent Conrad (D-ND) objected, saying, “There are Members on our side who would like to offer amendments.” No further action was taken.

End-of-Year Summary: The measure passed the House but was not debated in the Senate. It did not become law.

## **6. The Innocent Child Protection Act**

Background: Introduced July 19, 2000 by Rep. Ileana Ros-Lehtinen (R-FL), the Innocent Child Protection Act (H.R. 4888) prohibits a state government from executing a woman who carries “a child in utero.” The term “child in utero” is defined as “a member of the species homo sapiens, at any stage of development, who is carried in the womb.” This prohibition accords with long-standing practice of common law and the International Covenant on Civil and Political Rights, which the U.S. joined in 1976. In 1994, Congress explicitly extended the innocent child principle to federal executions. The Innocent Child Protection Act extends the principle to state administration of the death penalty. Vice-President Al Gore implicitly repudiated the innocent child principle when he said, “The principle of a woman’s right to choose governs in that case.” (*New York Times*, July 18, 2000)

House: *On July 25, 2000, under suspension of the rules (two-thirds vote required), the House approved H.R. 4888 by the overwhelming vote, 417-yes, 0-no, 2-present, 16-not voting. (Roll Call 431)*

Senate: On July 27, 2000, the House-passed bill was read the first time, and on September 5, 2000, read the second time and placed on the Senate calendar under general orders. No further action was taken.

End-of-Year Summary: H.R. 4888 passed the House but not the Senate and did not become law.

## **7. The Child Custody Protection Act**

Background: This measure (H.R. 1218, S. 661) makes 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.

House: Introduced by Rep. Ileana Ros-Lehtinen (R-FL), H.R. 1218 had 131 cosponsors. *On June 30, 1999, during floor consideration of H.R. 1218, Rep. Sheila Jackson-Lee (D-TX) moved to recommit the bill to the Judiciary Committee with instructions to add a weakening amendment; her motion was rejected, 164-yes, 268-no, 3-not voting (Roll Call 260). Thereafter on the same day, the bill was approved, 270-yes, 159-no, 6-not voting (Roll Call 261).*

Senate: On March 18, 1999, a Senate companion bill, S. 661, was introduced by Sen. Spencer Abraham (R-MI); it had 26 cosponsors. On July 1, 1999, the House-passed bill, H.R. 1218, was received in the Senate and read the first time; on July 12, 1999, the measure was read the second time and placed on the Senate calendar under General Orders. No further action was taken.

End-of-Year Summary: Passed by the House but not the Senate, this measure did not become law.

## **8. Unborn Victims of Violence Act**

Background: This measure (H.R. 2436, S. 1673) provides that an individual who injures or kills an unborn child during the commission of certain federal crimes will be guilty of a separate offense.

House: On July 1, 1999, Rep. Lindsey Graham (R-SC) introduced H.R. 2436; the measure had 94 cosponsors. On September 30, 1999, a perfecting amendment by Rep. Charles Canady (R-FL) was approved, 269-yes, 158-no, 7-not voting (Roll Call 463). Thereafter, Rep. Zoe Lofgren (D-CA) offered substituted language that would have redefined the offense as harm to the pregnant woman; that amendment was rejected, 201-yes, 224-no, 9-not voting (Roll Call 464). *On September 30, 1999, H.R. 2436 was approved, 254-yes, 172-no, 8-not voting. (Roll Call 465)*

Senate: On Oct. 1, 1999, the House-passed bill was received in the Senate, read twice, and referred to committee. On September 30, 1999, Sen. Mike DeWine (R-OH) introduced the Senate companion bill, S. 1673; this measure had 11 cosponsors. On Feb. 23, 2000, the Judiciary Committee held hearings. No further action was taken.

End-of-Year Summary: Passed by the House but not the Senate, the measure did not become law.

## **B. APPROPRIATIONS BILLS**

### **1. FY 2001 Labor/HHS Appropriations: Ban on Funding Harmful Embryo Research**

Background: Current law prohibits the use of federal funds to create human embryos for research purposes, or to support research in which human embryos are destroyed, discarded, or knowingly subjected to undue risk. See additional comments under Authorization Bills.

House: Current law banning the use of federal funds for harmful human embryo research was included as part of the FY 2001 Labor/HHS Appropriations Bill, H.R. 4577, that passed the House on June 14, 2000.

Senate: Substituting the House-passed bill, H.R. 4577, with the text of its own bill, S. 2553, the Senate passed the FY 2001 Labor/HHS Appropriations Bill on June 30, 2000, also with the current law banning harmful human embryo research included.

End-of-Year Summary: The ban on funding harmful embryo research was part of the final FY 2001 Labor/Health and Human Services Appropriations Bill (H.R. 5656), which was included in the Consolidated Appropriations Act 2001 (H.R. 4577). The Consolidated bill passed Congress on Dec. 15, 2000, and was signed into law on Dec. 21, 2000.

## **2. FY 2001 Commerce/Justice/State Appropriations: Ban on Funding Prison Abortions**

The House version of the FY 2001 Commerce/Justice/State Appropriations Bill (H.R. 4690) contains current law that prohibits paying for prison abortions, except to save the mother's life or in cases of rape (Sec. 103). The bill also contains current law that prohibits requiring any prison employee to perform or facilitate performing any abortion (Sec. 104). During consideration of H.R. 4690, Rep. Diana DeGette (D-CO) offered an amendment to strike the prohibition on funding (Sec. 103). *On June 22, 2000, the House rejected the DeGette Amendment, 156-yes, 254-no, 25-not voting. (Roll Call 318)*

End-of-Year Summary: The Commerce/Justice/State Appropriations Bill was incorporated into H.R. 4942, which was sent to the President on Dec. 15, 2000 and signed into law on Dec. 21, 2000. The ban on funding prison abortions was part of this law.

## **3. FY 2001 Foreign Operations Appropriations: Mexico City Policy and UNFPA**

Mexico City Policy: This policy provides that U.S. funds can be given to foreign nongovernmental organizations only if they agree not to perform abortions (except to save the mother's life or in cases of rape or incest), not to violate other countries' abortion laws, and not to lobby to change those laws. The Mexico City Policy 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 Jan. 22, 1993. From then to 1999, the U.S. government provided more than \$3 billion, no strings attached, to international population control groups--among whom are the biggest abortion supporters in the world. Every U.S. tax dollar that goes to these groups frees up money to provide and promote abortion. After several years of contested efforts, the Mexico City Policy was restored in 1999 by being incorporated into the FY 2000 Foreign Operations Appropriations Bill (H.R. 3422), included by reference in the Consolidated Appropriations Bill (H.R. 3194), which was signed into law Nov. 29, 1999 (PL 106-113). A compromise was worked out in which \$385 million was provided for population control programs in FY 2000. The Mexico City Policy applied to these funds; the President could waive the policy's application to \$15 million of the \$385 million, but if he did so, \$12.5 million of the \$385 million would be transferred to the Child Survival and Disease Program Funds. On Nov. 30, 1999, the President exercised this waiver.

UNFPA: China initiated its one-child-per-couple population control program in 1979. From the beginning, the program included coercive abortion and compulsory sterilization. The United Nations Population Fund (UNFPA) has been strongly supportive of the program. Since 1985 appropriations riders have banned U.S. support for organizations determined by the President to support coercive population programs. As a result, from 1986 to 1992, U.S. funding for the UNFPA was cut off. In 1993 President Clinton refused to determine that the UNFPA was violating the law and its funding was resumed. Since then, efforts to block the flow of U.S. tax dollars to the UNFPA were successful only for FY 1999.

House: The House version of FY 2001 Foreign Operations Appropriations Bill (H.R. 4811) was reported out of full committee on June 27, 2000. The bill contained the Mexico City Policy provisions enacted into law last year: \$385 million for population control, with the prospect that the President could waive the policy's application for \$15 million of the \$385 million, but if he did so, \$12.5 million of the \$385 million would be transferred to child survival and disease programs. In full committee, Rep. John Porter (R-IL) offered an amendment that restated existing law forbidding the use of U.S. funds for abortion or for lobbying. Rep. Nita Lowey (D-NY) offered an amendment to the Porter Amendment that would negate the application of the Mexico City Policy to nongovernmental organizations. *On June 27, 2000, the Appropriations Committee rejected the Lowey Amendment, 26-yes, 34-no, 1-not voting.* The Porter Amendment passed by voice vote. Also the bill appropriates "*not more than \$25,000,000*" (emphasis added) for the UNFPA.

When H.R. 4811 reached the floor, Rep. Jim Greenwood (R-PA) offered an amendment to strike the entire Mexico City Policy from the bill (Sec. 587). *On July 13, 2000, the House rejected the Greenwood Amendment, 206-yes, 221-no, 8-not voting. (Roll Call 396)* The UNFPA funding provision remained in the bill.

Senate: As reported from committee, the Senate version of the FY 2001 Foreign Operations Appropriations Bill (S. 2522) did not contain the Mexico City Policy compromise worked out for FY 2000. Also the bill appropriates "*not less than \$25,000,000*" (emphasis added) for the UNFPA. On July 18, 2000, the Senate struck the text of the House-passed companion bill, H.R. 4811 and inserted the text of S. 2522. The Senate then passed H.R. 4811.

Conference Committee: Because of the international family planning provisions, among other things, the President's senior advisers recommended that the President veto H.R. 4811 in its current form. In conference committee the modified Mexico City Policy was stripped from the bill, and international family planning funds were increased from \$385 to \$425 million, but with the proviso that the funds not be spent until Feb. 15, 2001. Presumably the next President can decide whether the Mexico City Policy is reinstated.

End-of-Year Summary: On Nov. 6, 2000, H.R. 4811 was signed into law (Public Law 106-429). The modified Mexico City Policy did not become law, population funding increased to \$425 million, and "*not more than \$25,000,000*" was made available for the UNFPA. However, the appropriations ban on funding organizations that support coercive programs remains and the new President can determine that UNFPA is ineligible for funding.

#### **4. FY 2001 Agriculture Appropriations: RU-486 Funding Ban**

Background: In 1998 and 1999, the U.S. House of Representatives voted to approve the Coburn Amendment, forbidding the Food and Drug Administration (FDA) from using federal funds for the testing, development, or approval of any drug for chemical inducement of abortion. This ban would include the abortifacient RU-486. In both years, the amendment was dropped in conference committee and did not become law.

House: Rep. Tom Coburn (R-OK) again offered his amendment banning FDA approval of RU-486. *On July 10, 2000, during consideration of the FY 2001 Agriculture Appropriations Bill (H.R. 4461), the House in a close vote rejected the Coburn Amendment, 182-yes, 187-no, 66-not voting. (Roll Call 373)* The difference between the successful, but close, 1999 vote and this vote can be accounted for by Members who were absent.

Regulations: In late September 2000, the Food and Drug Administration approved the marketing of RU-486. On Oct. 4, 2000, Rep. Tom Coburn (R-OK) and Sen. Tim Hutchinson (R-AR) introduced bills (H.R. 5385, S. 3157) that would require the FDA to establish restrictions regarding the qualifications of physicians who prescribe RU-486. No action was taken on these measures.

End-of-Year Summary: Congressional efforts to stop the approval of RU-486 as an abortifacient were not successful. Late in the year the FDA issued its long anticipated approval of RU-486.

## **5. FY 2001 District of Columbia Appropriations: Mandated Contraceptive/Abortifacient Coverage**

Background: On July 11, 2000, the District of Columbia City Council, in a particularly vitriolic debate, approved the Health Insurance Coverage for Contraceptive Act of 2000 (D.C. Bill 13-399), a measure that mandated contraceptive/abortifacient coverage in health insurance plans but without any conscience protection.

House: Rep. Ernest Istook (R-OK), Chairman of the House D.C. Appropriations Subcommittee, called the Council debate “a forum for bashing religion, and one faith in particular.” On July 13, 2000, the subcommittee approved the FY 2001 D.C. Appropriations Bill (not yet numbered) with the provision that the proposed D.C. Council law “shall not take effect.” On July 20, 2000, during markup in the full Appropriations Committee, Rep. Istook offered expanded language: Nothing in the amendment prevents the D.C. Council from addressing the issue of contraceptive coverage but the legislation “should include a ‘conscience clause’ which provides exceptions for religious beliefs and moral convictions.” This expanded amendment was approved by voice vote. Rep. James Moran (D-VA) offered an amendment that would provide conscience protection only on religious grounds; it was defeated, 19-yes, 24-no, with Members voting along party lines.

On July 26, 2000, the House began floor debate on the FY 2001 D.C. Appropriations Bill (H.R. 4942), but did not conclude the bill before the August recess. The conscience protection matter was left unresolved. During floor debate on July 27, 2000, D.C. Delegate Eleanor Holmes Norton (D-Delegate-DC) said that she would accept the expanded language of the Istook Amendment (conscience protection on both religious and moral grounds), but not the original language stating that the D.C. Council law “shall not take effect.” During the August recess, D.C. Mayor Anthony Williams pocket vetoed the D.C. bill. Thereafter the House dropped the provision negating the Council’s bill but retained the recommendation regarding the need for full conscience protection in future legislation. On Nov. 11, 2000, the FY 2001 D.C. Appropriations Bill was reintroduced as H.R. 5633 and passed by both House and Senate. In Sec. 147 this bill states that “it is the intent of Congress that any legislation enacted on such issue [contraceptive coverage by health insurance plans] should include a ‘conscience protection’ which provides exemptions for religious beliefs and moral convictions.”

End-of-Year Summary: With language recommending full conscience protection in future D.C. City Council legislation, the FY 2001 D.C. Appropriations Bill was signed into law on Nov. 22, 2000 (Public Law 106-522).

## **6. FY 2001 Treasury/Postal Appropriations: Federal Employees Health Benefits (FEHB)**

Background: With respect to Federal Employees Health Benefits (FEHB) plans, current law (1) prohibits the use of federal funds to pay for abortions, except to save the mother's life and in cases of rape or incest, and (2) mandates coverage for contraceptives/abortifacients, but with inadequate conscience protection. With respect to plans objecting to the mandate, the law recognizes conscience protection based on religious beliefs but not moral convictions.

House: The FY 2001 Treasury/Postal Appropriations Bill (H.R. 4871) was introduced with current law (Sec. 509, funding ban; Sec. 510, exceptions to funding ban; Sec. 631, coverage mandate). Rep. Rosa DeLauro (D-CT) offered an amendment to strike Sec. 509. *On July 20, 2000, the House rejected the DeLauro Amendment, 184-yes, 230-no, 21-not voting. (Roll Call 422)* The deficient conscience protection for the mandated contraceptive/abortifacient coverage remains in the bill unchanged.

End-of-Year Summary: The FY 2001 Treasury/Postal Appropriations Bill was incorporated into the conference report on the FY 2001 Legislative Branch Appropriations Bill (H.R. 4516). This measure passed House and Senate but was vetoed by the President on Oct. 30, 2000. The Treasury/Postal Appropriations Bill was reintroduced as H.R. 5658. This measure was included in the Consolidated Appropriations Act 2001 (H.R. 4577), which was passed by Congress on Dec. 15, 2000, and signed into law on Dec. 21, 2000.

## **C. OVERSIGHT HEARING: TRAFFICKING IN BABY PARTS**

Background: Congress pursued a matter that arose during last year's Senate debate on the Partial-Birth Abortion Ban Act: abuses associated with the transfer of fetal tissue from abortion victims to entities that conduct research. On November 9, 1999, the U.S. House of Representatives adopted a resolution calling for hearings on "the trafficking in baby parts for profit."

House: On March 9, 2000, the Health and Environment Subcommittee of the House Commerce Committee held a day of hearings on whether fetal tissue is being bought and sold. The night before, ABC's *20/20* ran an expose on the issue. At the hearing, one key witness did not show and was subsequently tracked down by the FBI. Another witness reversed his testimony. The congressional investigation continues.