

The First Session of the 107<sup>th</sup> Congress adjourned December 20, 2001. Congress passed its eighth Continuing Resolution (H.J. Res. 79) keeping the government fully funded on a temporary basis until January 10, 2002, by which time all thirteen must-pass annual appropriations bills will be signed into law.

Bills can be carried over into the Second Session. 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 internet at **thomas.loc.gov**.

## **SUMMARY OF LEGISLATION**

### **AUTHORIZATION BILLS**

**Born-Alive Infants Protection Act**--This measure was reintroduced in Congress (S. 1050, H.R. 2175) and was successfully attached to the Senate-passed Patients' Bill of Rights (S. 1052) and to the House-passed Bipartisan Patient Protection Act (H.R. 2563). These health care reform bills await action in conference committee. H.R. 2175 also is pending on the House calendar.

**Child Custody Protection Act**--The measure was reintroduced in the House (H.R. 476). Hearings were held September 6. Markup is pending in the full House Judiciary Committee.

**Human Cloning Ban**--The House passed the Human Cloning Prohibition Act (H.R. 2505). That bill has been placed on the Senate's legislative calendar. The Senate companion bill is S. 790. An opposition bill, S. 1758, also has been introduced. The Senate has agreed to debate and vote on human cloning and embryonic stem cell research in February or March 2002.

**Mandated Contraceptive/Abortifacient Coverage**--The Senate held a hearing on a bill (S. 104) that would require contraceptive/abortifacient coverage in group health plans under federal law. This measure contains no conscience protection for individuals or institutions. The bill is still pending in committee.

**Mexico City Policy**--On January 22, 2001, President Bush reinstated the Mexico City Policy in full. Pro-abortion advocates have gone to court challenging the president's action. Attempts to overturn the policy through authorizing legislation or through appropriations were not successful, though the authorizing legislation, the Global Democracy Promotion Act (H.R. 755, S. 367), is pending in committee in the House and has been placed on the Senate's legislative calendar.

**"Morning-After Pill" in Schools**--The Schoolchildren's Health Protection Amendment prohibited the use of federal funds to distribute or prescribe postcoital emergency contraception in schools. Attempts to attach it to legislation were not successful. In the House Rep. Melissa Hart (R-PA) was promised she could offer the amendment as a freestanding bill at a later date.

**Stem Cell Research Involving the Destruction of Human Embryos**--On August 9, President Bush announced that federal funds may be used for research involving existing stem cell lines derived from embryos destroyed before August 9. The Dickey Amendment prohibiting harmful research on human embryos was retained in appropriations law. The Senate has an agreement to

debate embryonic stem cell research and human cloning during February or March 2002.

**Unborn Victims of Violence Act**--The Unborn Victims of Violence Act (H.R. 503) passed the House and has been placed on the Senate's legislative calendar. The Senate companion bill (S. 480) is pending in Judiciary Committee.

**Use of Military Health Facilities to Perform Abortions**--Efforts to overturn existing law banning the use of military health facilities to perform abortions were unsuccessful.

## **APPROPRIATIONS BILLS**

In cases where policies in appropriations bills were also considered in authorizing legislation, the summary is included above.

**D.C. Abortion Funding: District of Columbia Appropriations**--The ban on using all D.C. funds for abortions was again included in appropriations law.

**FEHB Programs: Treasury/Postal Appropriations**--Current law banning abortion coverage in Federal Employees Health (FEHB) plans and mandating coverage for contraceptives/abortifacients remained unchanged in appropriations law.

**Post-Abortion Syndrome: Labor/HHS Appropriations**--Congress expressed its sense that the National Institutes of Health should expand and intensify its research and related activities on post-abortion depression and psychosis.

**Prison Abortions: Commerce/Justice/State Appropriations**--Current law prohibiting paying for prison abortions was retained in appropriations law.

**UNFPA: Foreign Operations Appropriations**--The Kemp-Kasten Amendment was retained in law. According to this provision, the president, after review, can determine that the United Nations Population Fund (UNFPA) is not eligible for U.S. funding as long as it supports China's coercive population control program. In the FY 2002 Foreign Operations Appropriations Bill, the UNFPA can receive as much as \$34 million, an increase by \$9 million above the FY 2001 amount.

## **EXECUTIVE POLICIES**

**Assisted Suicide**--On November 6, 2001, U.S. Attorney General John Ashcroft issued a memorandum in which he determined that assisting suicide is not a "legitimate medical purpose" for prescribing, dispensing, or administering federally controlled substances. This memorandum overturns the June 5, 1998 opinion of then-Attorney General Janet Reno that exempted from federal regulation Oregon or any other state with a physician-assisted suicide law.

**RU-486**--The Bush Administration has determined that the Hyde Amendment restrictions apply to funding RU-486 in the Medicaid program. HHS Secretary Tommy Thompson has weakened his stand on reviewing the medical safety of the drug. He now says that a review would be undertaken only if there is evidence showing that the drug is unsafe.

## **A. AUTHORIZATION BILLS**

### **1. BORN-ALIVE INFANTS PROTECTION ACT**

**BACKGROUND:** First introduced in 2000 (passed by the House but not taken up by the Senate), this measure defines 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.” This legislation ensures that all infants who are born alive are treated as persons for purposes of federal law.

**HOUSE:** On June 14, 2001, Rep. Steve Chabot (R-OH) introduced the Born-Alive Infants Protection Act of 2001 (H.R. 2175). The bill has 105 cosponsors and was referred to the Judiciary Subcommittee on the Constitution. On July 12, a subcommittee hearing was held. Immediately the bill was marked up and approved. On July 24, the bill was marked up in full committee and approved, 25-yes, 2-no. On August 2, the bill was reported from committee (H. Rept. 107-186) and placed on the House calendar. The text of H.R. 2175 also was added to the Bipartisan Patient Protection Act (H.R. 2563) and was part of that bill as it passed the House on August 2. On September 6, H.R. 2563 was read the second time and placed on the Senate calendar.

**SENATE:** On June 14, 2001, Sen. Rick Santorum (R-PA) also introduced the Born-Alive Infants Protection Act (S. 1050) into the Senate. This measure had six cosponsors and was referred to the Judiciary Committee. The Senate bill was attached as Senate Amendment 814 to the Patients’ Bill of Rights (S. 1052). *On June 29, Senate Amendment 814 was approved, 98-yes, 0-no (Roll Call 208).* Thereafter S. 1052 was approved.

**CONFERENCE COMMITTEE:** H.R. 2563 and S. 1052 await action in conference committee.

**STATUS:** The Born-Alive Infants Protection Act is a part of the health care reform bills (H.R. 2563 and S. 1052) that passed the House and Senate and await action in conference committee. H.R. 2175 has been placed on the House calendar.

### **2. CHILD CUSTODY PROTECTION ACT**

**BACKGROUND:** This legislation 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. The prohibition does not apply when the abortion is necessary to save the minor’s life. In the 105<sup>th</sup> and 106<sup>th</sup> Congresses this legislation passed the House but was stalled in the Senate.

**HOUSE:** On February 6, 2001, Rep. Ileana Ros-Lehtinen (R-FL) reintroduced the Child Custody Protection Act (H.R. 476). The bill has 91 cosponsors. The measure was referred to the Judiciary Subcommittee on the Constitution. On September 6, 2001, subcommittee hearings were held, chaired by Rep. Steve Chabot (R-OH). Markup of H.R. 476 is pending in the full Judiciary Committee.

STATUS: H.R. 476 carries over into the 2002 session.

### **3. COERCIVE POPULATION CONTROL IN CHINA**

On October 17, the House International Relations Committee chaired by Rep. Henry Hyde (R-IL) held a hearing titled “Coercive Population Control in China: New Evidence of Forced Abortion and Forced Sterilization.” Evidence was presented documenting the continued involvement of the United Nations Population Fund (UNFPA) in China’s coercive program. Despite these findings, the FY 2002 funding for the UNFPA was increased. See discussion of this issue below under UNFPA: Foreign Operation Appropriations.

### **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 a human body is introduced into a female reproductive cell (an oocyte) whose nuclear material has been removed or inactivated to make a new human embryo.

Trials in animal cloning indicate that 95% to 99% of the embryos will die. Those that survive may have devastating health problems. Almost all scientists and ethicists agree that at this time attempts at human cloning with the intention of bringing to live birth (what some call “reproductive” cloning) would be unethical. Other scientists want to create clones solely for research—and then kill them (so-called “therapeutic” cloning—but certainly *not* therapeutic for the embryos).

Allowing the creation of cloned embryos and then requiring that they be killed would define a class of human beings that it is a crime *not* to destroy. In a June 2001 poll, 86% of Americans opposed “therapeutic” cloning. Human cloning is dehumanizing and immoral. Human clones would be brought into the world in a way that fails to respect their inherent human dignity.

Following news of the successful cloning of “Dolly” the sheep in 1997 (which took 277 attempts to produce the one live sheep), President Clinton issued a limited executive order banning the use of federal funds for human cloning for the purpose of creating a child. This ban, however, allowed for creating human clones without the intent of implantation and had no effect on private research. In the same year, Congress amended its existing ban on funding harmful embryo research (the Dickey Amendment) to cover embryo research involving cloning.

President Bush supports a ban on human cloning. At a March 28, 2001 press briefing White House press secretary Ari Fleischer reiterated the president’s position, explaining that the president will work with Congress to make it unlawful to clone a human being in the United States. A number of states have enacted bans on human cloning.

For more information, see the web page for the USCCB’s Secretariat for Pro-Life Activities at: [www.usccb.org/prolife/issues/bioethic](http://www.usccb.org/prolife/issues/bioethic). Also see the web page maintained by Americans to Ban Cloning: [www.cloninginformation.org](http://www.cloninginformation.org).

HOUSE: On April 26, 2001, Reps. Dave Weldon (R-FL) and Bart Stupak (D-MI) introduced the Human Cloning Prohibition Act of 2001 (H.R. 1644). This measure had 128 cosponsors. It was

referred to the Judiciary Subcommittee on Crime and to the Energy and Commerce Subcommittee on Health. On July 16, 2001, Reps. Weldon and Stupak reintroduced their bill in a slightly revised form as H.R. 2505. That bill was referred to the Judiciary Subcommittee on crime. H.R. 2505 provides that it shall be unlawful for any person or entity to perform or attempt to perform human cloning, to participate in an attempt to perform human cloning, or to ship or receive an embryo produced by human cloning or any product derived from such embryo. It shall also be unlawful knowingly to import an embryo produced by human cloning or any product derived from such embryo. Like its predecessor H.R. 1644, H.R. 2505 truly bans human cloning, not just ban the live birth of cloned children.

On June 14, 2001, Rep. James Greenwood (R-PA) introduced a bill called the Cloning Prohibition Act of 2001 (H.R. 2172). The measure had nine cosponsors and was referred to the Energy and Commerce Subcommittee on Health. H.R. 2172, however, is not a true ban on human cloning. The bill allows human cloning as long as those generating the new life do not intend “to initiate a pregnancy” (and thereby allow the child to come to live birth). It also is unlawful to transport a human clone knowing that the clone is intended to initiate a pregnancy. The bill requires those who engage in human cloning must register with the Secretary of HHS. Whatever restrictions are placed on human cloning expire after 10 years. The bill also preempts any state laws prohibiting human cloning passed after H.R. 2172 is enacted. The bill directs the Secretary of HHS to request NIH to conduct a study on the status of research on human stem cells. On July 24, Rep. Greenwood reintroduced his bill in a revised form as H.R. 2608.

Hearings: On March 28, 2001, the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee, under the direction of chair Rep. James Greenwood (R-PA), held hearings on human cloning. Witnesses in favor included a team of scientists poised to begin attempts to clone a human being and a religious sect known as the Raelian movement. Witnesses in opposition to “reproductive” cloning included a number of scientists, ethicists and biotechnology companies, who cited the high number of fetal abnormalities in clones and the threat to their mothers’ lives.

On June 19, 2001, the House Judiciary Subcommittee on Crime, chaired by Rep. Lamar Smith (R-TX), held a hearing on H.R. 1644 and H.R. 2172. On June 20, 2001, the Health Subcommittee of the Energy and Commerce Committee, chaired by Rep. Michael Bilirakis (R-FL), also held a hearing on the two bills. At this hearing, Claude Allen, Deputy Secretary of HHS, stated that Secretary Thompson and President Bush “oppose any and all attempts to clone a human being.” Several witnesses noted that once “therapeutic” cloning is allowed (clones created for the sake of experimentation and then destroyed), there is no effective way to stop reproductive cloning (bringing a clone to live birth). Leon Kass argued that the Greenwood bill (H.R. 2172) “does not *explicitly* ban reproductive cloning *at all*” and suggested that the title of the bill should more aptly read the “Human Embryo Cloning Registration and Industry Protection Act of 2001.” Some who supported a woman’s right to choose were concerned that “reproductive choice” is being taken to include the right to genetically improve the next generation through such procedures as cloning. Richard Doerflinger argued that cloning is not wrong because cloned human beings would lack human dignity; rather, “it is wrong because they *have* human dignity, and are being brought into the world in a way that fails to respect that dignity.” He also disputed the coherence of the term “therapeutic cloning.” “Experiments performed on one subject solely for possible benefits to others are never called ‘therapeutic research’ in any other context. . . .”

Markup: On July 19, the Judiciary Crime Subcommittee held a markup of H.R. 2505. A substitute amendment by Rep. Adam Schiff (D-CA) to allow “therapeutic” cloning was rejected by voice vote. H.R. 2505 was approved by voice vote. On July 24, H.R. 2505 was marked up in the full House Judiciary Committee and approved, 18-yes, 11-no.

Floor: On July 31, H.R. 2505 was debated on the House floor. The debate began with consideration of the rule. *The rule passed, 239-yes, 188-no, 7-not voting (Roll Call 300).* The House by voice vote approved an amendment offered by Rep. Robert Scott (D-VA) requesting a GAO study on human cloning to be submitted to Congress within four years. *The Greenwood substitute amendment (House Amendment 285, similar to H.R. 2608) that permitted “therapeutic” cloning was rejected, 178-yes, 249-no, 7-not voting (Roll Call 302).* *A motion by Rep. Zoe Lofgren (D-CA) to recommit H.R. 2505 to committee with instructions (similar in intent to the Greenwood substitute) was rejected, 175-yes, 251-no, 8-not voting (Roll Call 303).* *The House then approved H.R. 2505, 265-yes, 162-no, 7-not voting (Roll Call 304).*

H.R. 2505 was then sent to the Senate, where on August 3, it was read the second time and placed on the legislative calendar.

SENATE: On April 26, 2001, Sen. Sam Brownback (R-KS), along with Sens. Kit Bond (R-MO) and Robert Smith (R-NH), also introduced the Human Cloning Prohibition Act of 2001 (S. 790) (companion bill to H.R. 2505). The bill has 13 cosponsors. It has been referred to the Judiciary Committee. On December 3, 2001, Sen. Dianne Feinstein (D-CA) introduced S. 1758, a defective measure that would allow the creation of human clones for deadly experimentation. This bill has 7 cosponsors. It also has been referred to the Judiciary Committee.

Hearings: On May 2, 2001, the Science, Technology and Space Subcommittee of the Senate Commerce Committee under Chairman Sam Brownback held a hearing on cloning issues.

Floor: Sen. Sam Brownback announced his intention to offer four amendments related to human cloning to the FY 2002 Labor/HHS Appropriations Bill. One of these amendments would have been the House-passed Human Cloning Prohibition Act (SA 2022). Other amendments included: a prohibition on creation of human embryos for research purposes (SA 2023), a prohibition on mixing human and animal gametes (SA 2043), and a prohibition on germline gene modification (SA 2057). At one point in the course of negotiations, he proposed a single amendment, which provided a one year moratorium on all the human cloning activities with which he was concerned. However, in the final agreement announced in a colloquy on the Senate floor on November 1, Sen. Brownback withdrew his amendment and the Senate agreed to drop its embryonic stem cell research language in the FY 2002 Labor/HHS Appropriations Bill (see discussion of this matter below). Senate leaders assured both Sen. Brownback and Sen. Specter that there would be a full debate on stem cell research and on human cloning in February or March 2002. Sen. Brownback expressed his sense of urgency on the matter. Scientists are now trying to clone human beings. Sen. Specter supports embryonic stem cell research and does not want the practice banned or restricted by law. Next year each of the Senators would have a fair opportunity to offer his legislative proposals for up or down votes. Between now and then, the Senate would hold hearings on these matters.

Richard Doerflinger’s May 2 Senate testimony on behalf of the USCCB is available at:

[www.usccb.org/prolife/issues/bioethic/clonetest5201.htm](http://www.usccb.org/prolife/issues/bioethic/clonetest5201.htm).

EXECUTIVE: Since 1998, the FDA has asserted its authority over human cloning on the grounds that a “somatic cell clone” is a biological product intended to treat a condition such as infertility and on the grounds that human clones are drugs (defined as “articles (other than food) intended to affect the structure or any function of the body”). The FDA concern would extend to questions of safety and efficacy. On March 23, 2001, the FDA sent letters to the Raelian sect and to a scientist who had expressed the intention of cloning a human being, advising them that human cloning is subject to FDA regulation and enforcement. Some are considering legal challenges to the FDA or to any Congressional ban on the grounds that reproduction is a fundamental constitutional right and that scientists have a constitutional right to pursue their intellectual interests.

STATUS: The House passed the Human Cloning Prohibition Act (H.R. 2505). That bill is now pending before the Senate. The Senate companion bill is S. 790. An opposition bill, S. 1758, has also been introduced. A debate and vote on this issue is scheduled for February or March 2002.

## **5. MANDATED CONTRACEPTIVE/ABORTIFACIENT COVERAGE**

On January 22, 2001, Sen. Olympia Snowe (R-ME) introduced the Equity in Prescription Insurance and Contraceptive Coverage Act (S. 104). The measure has 42 cosponsors and was referred to the Committee on Health, Education, Labor, and Pensions. This measure would require group insurance plans under federal law to provide coverage for prescription contraceptive drugs or devices approved by the FDA; this requirement includes drugs and devices that are abortifacient. The bill provides no conscience protection either for individuals or institutions. On September 10, 2001, the Health, Education, Labor and Pensions Committee chaired by Sen. Edward Kennedy (D-MA) held a hearing on S. 104.

STATUS: S. 104 is still pending in committee.

## **6. MEXICO CITY POLICY: FOREIGN RELATIONS AUTHORIZATION AND OTHER MEASURES**

The Mexico City Policy was also being brought up during consideration of the FY 2002 Foreign Operations Appropriations Bill.

BACKGROUND: This policy provides that no U.S. population assistance funds can be given to a foreign private, nongovernmental, or multilateral organization unless it certifies that (1) it will not perform abortions (except to save the mother’s life or in cases of rape or incest), and that (2) it will not violate other countries’ abortion laws, or 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 January 22, 1993. After several years of contested efforts, a modified Mexico City Policy was restored in 1999. The policy applied to the \$385 million appropriated for population control programs in Fiscal Year 2000, with the proviso that the president could waive the policy’s application to \$15 million of the total but, if he did so, \$12.5 million of the \$385 million would be transferred to the Child Survival and Disease Program Fund. However, for Fiscal Year 2001, the modified Mexico City Policy was not continued in law. Funding for international population control programs increased to

\$425 million, but the funds could not be spent until February 15, 2001, after the next president was sworn into office.

Additional information on the Mexico City Policy can be found at the following web sites:

The April 18, 2001, USCCB policy letter sent by Gail Quinn to Congress at:  
**[www.usccb.org/prolife/issues/abortion/mexcit418.htm](http://www.usccb.org/prolife/issues/abortion/mexcit418.htm)**.

Two recent columns by Susan Wills in the USCCB's Secretariat for Pro-Life Activities' *Life Issues Forum* at: **[www.usccb.org/prolife/publicat/lifeissues/02022001.htm](http://www.usccb.org/prolife/publicat/lifeissues/02022001.htm)** and **[www.usccb.org/prolife/publicat/lifeissues/02162001.htm](http://www.usccb.org/prolife/publicat/lifeissues/02162001.htm)**.

NCHLA's "Mexico City Policy" Fact Sheet is available by clicking the "Related Information" button.

**EXECUTIVE MEMORANDUM:** 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 Mexico City Policy in full. Subsequently, USAID issued its rule on February 15. However, this February 15 rule was subject to the Congressional Review Act (CRA), a 1996 law that allows Congress to vote to block executive rules within 60 days of their enactment. On March 20, Sen. Barbara Boxer (D-CA), along with six cosponsors, introduced S.J. Res. 9, a Congressional resolution that would disapprove the USAID Mexico City Policy rule issued on February 15. To overcome a challenge to the rule, President Bush issued an executive memorandum on March 28 that included the content of the USAID rule. The CRA does not make provision for Congress to challenge presidential executive memoranda.

**COURT ACTION:** On June 6, 2001, the Center for Reproductive Law and Policy filed a suit in federal district court challenging the constitutionality of President Bush's executive memorandum restoring the Mexico City Policy. In earlier cases, the constitutionality of the Mexico City Policy was upheld, first by the U.S. Court of Appeals for the District of Columbia (1989) and then by the U.S. Court of Appeals for the Second Circuit in New York (1990).

**HOUSE:** Pro-abortion advocates in Congress are challenging the reinstatement of the Mexico City Policy. On February 27, 2001, Rep. Nita Lowey (D-NY) introduced the Global Democracy Promotion Act (H.R. 755). This measure was referred to the Committee on International Relations and has 129 cosponsors. The purpose of this act is to remove Mexico City Policy funding restrictions from foreign nongovernmental organizations and thereby undercut President Bush's reinstatement of the Mexico City Policy.

**Committee:** On May 2, 2001, during markup by the House International Relations Committee of the Foreign Relations Authorization Act, Fiscal Years 2002 and 2003 (H.R. 1646), Rep. Barbara Lee (D-CA) offered the Global Democracy Promotion Act in the form of an amendment (Sections 131-33). The Committee approved the Lee amendment, 26-yes, 22-no. All Democrats voted for the amendment and all Republicans opposed the amendment, except for Reps. Jim Leach (R-IA), Benjamin Gilman (R-NY), and Amory Houghton (R-NY), who voted in favor, and Rep. John McHugh (R-NY), who was absent.

On May 8, the White House released a statement saying that the president was prepared to veto H.R. 1646: “If the bill were presented to the president in its current form [as reported from Committee with the Lee Amendment], he would veto it principally because it overturns the Administration’s family planning policy (commonly known as the “Mexico City” policy) and would allow taxpayer funds to go to international organizations which perform abortions and engage in abortion advocacy.”

Floor Action: On May 9, the House began consideration of H.R. 1646. Reps. Henry Hyde (R-IL), James Barcia (D-MI), Chris Smith (R-NJ), and James Oberstar (D-MN) offered a motion to strike the Lee amendment language from the bill. *On May 16, the House voted in favor of the motion to strike, 218-yes, 210-no, 4-not voting (Roll Call 115).* Later in the day the House passed H.R. 1646.

SENATE: On February 15, 2001, Sen. Barbara Boxer (D-CA) introduced the Global Democracy Promotion Act in the Senate (S. 367). This measure has 31 cosponsors.

On July 19, the Senate Foreign Relations Committee, with Senator Barbara Boxer (D-CA) as the acting Chair, held a hearing on the Mexico City Policy and during an August 1 mark up session the committee approved S. 367, 12-yes, 7-no. On August 1, S. 367 was placed on the Senate’s legislative calendar.

STATUS: Attempts to reverse the Mexico City Policy through authorizing legislation were not successful. A measure called the Global Democracy Promotion Act (H.R. 755, S. 367) would overturn the Mexico City Policy. The House bill is pending in committee and the Senate bill has been placed on the Senate legislative calendar. The Foreign Relations Authorization Act (H.R. 1646) passed the House and is pending in the Senate Committee on Foreign Relations. Also see FY 2002 Foreign Operations Appropriations Bill.

## **7. “MORNING-AFTER-PILL” IN SCHOOLS: SCHOOLCHILDREN’S HEALTH PROTECTION ACT**

BACKGROUND: There is no federal statute prohibiting the distribution of the “morning-after-pill” in schools. In addition, courts have determined that state parental consent statutes do not apply to the distribution of contraceptives in federal programs. According to one report, at least 180 schools distribute the “morning-after-pill” to students. One of the principal effects of the “morning-after-pill” is to abort a newly conceived human life by preventing implantation in the womb. These pills are also called emergency contraceptive pills (ECPs) because they are taken after intercourse. The regimen approved by the FDA for ECPs identifies six brands of ordinary birth control pills containing estrogen and progestin and requires that a high dose be taken within 72 hours of “unprotected intercourse,” followed by a second high dose 12 hours later. Preven, marketed by Gynetics and approved by the FDA in September 1998, is a kit containing the pills plus a pregnancy test to rule out existing pregnancy from earlier intercourse. In 2000, both the House and Senate approved an amendment prohibiting the use of federal funds to distribute or prescribe postcoital emergency contraception in any elementary or secondary school, but the amendment was dropped on conference committee at the insistence of the Clinton Administration.

SENATE: On May 9, 2001, Sen. Jesse Helms (R-NC) introduced the Schoolchildren’s Health

Protection Amendment (Senate Amendment 573) to the Better Education for Students and Teachers Act (S. 1). This amendment prohibits the use of federal funds to distribute or prescribe postcoital emergency contraception in any elementary or secondary school to an unemancipated minor without written parental consent. The Senate approved a similar amendment in 2000 but it did not become law. On June 7, Sen. Sam Brownback (R-KS) was added as a cosponsor to SA 573. However, SA 573 was never brought up for consideration. On June 14, the Senate passed H.R. 1 with the content of S. 1 as a substitute amendment.

HOUSE: On May 23, 2001, the House version of the education bill, the No Child Left Behind Act (H.R. 1), was approved, but without the wording of the Helms Amendment being included or added. It had been the intention of Rep. Melissa Hart (R-PA) to offer a House version of the Helms Amendment but she was asked by House leadership not to do so on this bill, with the promise that she could offer the amendment to the FY 2002 Labor/HHS Appropriations Bill later in the year. However, when that measure was being prepared for floor consideration in October, forces opposed to the Hart Amendment threatened to defeat the rule. Rep. Hart withdrew her amendment, with the promise from leadership that she could offer the amendment as freestanding measure at a later date.

STATUS: The Schoolchildren's Health Protection Amendment did not become law. The House leadership has promised to allow the amendment to be offered as a freestanding bill at a later date.

## **8. STEM CELL RESEARCH INVOLVING THE DESTRUCTION OF HUMAN EMBRYOS**

Also see discussion under Appropriations Bills.

BACKGROUND: Research on human stem cells came to the fore in the 1990s. A stem cell is a cell that contains the ability to reproduce the various kinds of body cells. A distinction is made between embryonic and adult stem cells. Embryonic stem cells are those derived from the inner cell mass of the human blastocyst four or five days after conception and are believed to have the ability to develop into any kind of body cell. They are designated pluripotent. The act of deriving these cells results in the death of the embryo. Adult stem cells are normally committed to producing a certain kind of body cell in the developed human organism but studies also show that these cells retain the ability at times to become other kinds of body cells. Medical science is exploring ways that human stem cells could be used to repair damaged body cells and heal diseases. Adult stem cells are already being used as therapies and present no inherent moral problems. Research on embryonic stem cells is still speculative in nature and presents serious moral objections.

Since 1996, Congress has included a provision in the Labor/Health and Human Services Appropriations Bill to prohibit federal funding of research "in which a human embryo or embryos are destroyed" (Dickey Amendment). In a January 1999 memo, the General Counsel for the Department of Health and Human Services claimed that this law does not apply to research using stem cells derived from early human embryos: If private funds are used to harvest the stem cells from early embryos (an action that necessarily kills the embryos), then federal funds can be used for research on the stem cells themselves. This legal opinion distorts the plain meaning and intent of the law. On December 1, 1999, relying on this opinion, the National Institutes of Health (NIH) issued draft guidelines for funding research "Involving Human Pluripotent Stem Cells." Despite thousands of letters of protest, NIH subsequently published the final guidelines (*Federal Register*, Vol. 65, No.

166, 8/25/2000, 51976-81, available in plain text format at:

**[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)**.

Federal support for research that involves destroying human embryos goes against the plain meaning of the Dickey Amendment. It also is immoral and unnecessary. The use of adult stem cells represents an alternative that is both ethical and already producing health benefits for patients. Breaking medical advances in this area are announced almost daily. For medical information on this matter, see the web site maintained by Do No Harm: The Coalition of Americans for Research Ethics: **[www.stemcellresearch.org](http://www.stemcellresearch.org)**.

A June 2001 public opinion poll conducted by International Communications Research showed that Americans oppose federal funding of stem cell research that requires destroying human embryos, by a factor of almost three to one (70% to 24%). For additional background information on this poll and other matters related to this issue, see: **[www.usccb.org/prolife/issues/bioethic](http://www.usccb.org/prolife/issues/bioethic)**. The Secretariat for Pro-Life Activities of the United States Catholic Conference of Bishops (USCCB) also has prepared a series of short fact sheets called "Stem Cell Reality Check." These fact sheets dispel myths about stem cell research. They are available by clicking the "Related Information" button.

**COURT ACTION:** On March 8, 2001, a coalition of pro-life groups filed suit in the U.S. District Court for the District of Columbia seeking to declare NIH's guidelines "unlawful" and to stop NIH from "applying the guidelines or otherwise funding research involving human embryonic stem cells." On May 4, 2001, U.S. District Court Judge Royce C. Lamberth issued an order staying NIH action on funding harmful human embryo research until HHS completes a review of NIH's guidelines. This case is still pending.

**EXECUTIVE:** President Bush did not revoke the Clinton Administration guidelines but spent several months conducting a study on the issue. On August 9, 2001, President Bush announced his administration's support for federal funding of research using stem cell lines already in existence, but prohibiting the use of stem cell lines developed after the August 9 date. The approved stem cell lines were derived from embryos destroyed in privately funded research. Bishop Joseph A. Fiorenza, president of the U.S. Conference of Catholic Bishops, issued a statement saying the president's action is morally unacceptable. "The federal government, for the first time in history, will support research that relies on the destruction of some defenseless human beings for possible benefit to others." The full text of Bishop Fiorenza's statement is available by clicking the "Related Information" button. Advocates of embryonic stem cell research are already saying that the approved stem cell lines are inadequate in quantity and quality and are arguing that the president's position does not go far enough. On November 7, 2001, NIH posted a stem cell registry web site: **[escr.nih.gov](http://escr.nih.gov)**.

**SENATE:** On April 5, 2001, Sen. Arlen Specter (R-PA) introduced the Stem Cell Research Act of 2001 (S. 723). The measure has 18 cosponsors and has been referred to the Committee on Health, Education, Labor and Pensions. The bill authorizes the federal government to support research on stem cells derived from human embryos, even though the derivation of the cells results in the death of the embryos. On June 11, Sen. Sam Brownback (R-KS) introduced Senate Amendments 795 and 796 as amendments to S. 723; they would prohibit the creation of human-animal hybrids and would prohibit the exportation of human embryos. On July 12, Sen. Brownback introduced an additional 49 amendments (Senate Amendments 924 to 973) and July 25, two more amendments (Senate

Amendments 1155 and 1156).

Hearings: Following President Bush's August 9 announcement, hearings critical of the president's policy were held on September 5, in the Senate Health, Education, Labor and Pensions committee, chaired by Sen. Edward Kennedy (D-MA).

Floor: On November 1, in a colloquy on the Senate floor, Sen. Arlen Specter and Sen. Sam Brownback announced an agreement with Senate leadership to debate and vote on embryonic stem cell research and on human cloning in the February-March 2002 time frame. Between now and then, the Senate would hold additional hearings related to these topics.

HOUSE: On June 5, 2001, Rep. Jim McDermott (R-WA) introduced the Stem Cell Research Act of 2001 (H.R. 2059). The measure has 29 cosponsors and was referred to the Energy and Commerce Subcommittee on Health. The companion bill to S. 723, H.R. 2059 also authorizes the federal government to support research on stem cells derived from human embryos, even though the derivation of the cells results in the death of the embryos.

On June 7, 2001, Rep. Chris Smith (R-NJ) introduced the Responsible Stem Cell Research Act of 2001 (H.R. 2096). The measure has 68 cosponsors. It was referred to the Energy and Commerce Subcommittee on Health. The bill establishes a National Stem Cell Donor Bank through which human stem cells derived in ethical ways (from human placentas, umbilical cord blood, organs or tissues of a living or deceased human being who has been born, or organs or tissues of unborn human offspring who died of natural causes) can be made available for research and for therapeutic purposes. H.R. 2096 authorizes \$30 million for FY 2002 and such sums as may be necessary for FYS 2003 through 2006.

Hearings: On July 17, 2001, the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources chaired by Rep. Mark Souder (R-IN) held a hearing on embryonic stem cell research. Witnesses included representatives of the Snowflakes Embryo Adoption Program.

STATUS: No authorizing legislation related to stem cell research and harmful research on human embryos was enacted into law. Bills are carried over into the 2002 session. It is anticipated that the Senate will debate and vote on this matter in the February-March 2002 time frame.

## **9. UNBORN VICTIMS OF VIOLENCE ACT**

BACKGROUND: This legislation provides that an individual who injures or kills an unborn child during the commission of certain federal crimes—68 are referenced in the bill—will be guilty of a separate offense. This bill does not apply to abortion conduct, to medical treatment, or to any woman's action affecting her unborn child. 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." Pro-abortion advocates object to any reference to the unborn child as a separate existing being. However, in 1989 the U.S. Supreme Court upheld a Missouri law providing that the "life of each human being begins at conception" and "unborn children have protectable interests in life, health, and wellbeing." In testimony before Congress Notre Dame Law Professor Gerard Bradley noted: "Congress is as free as the state of Missouri to conclude and enforce outside the parameters of Roe its view that life

begins at conception.” Twenty-four states already have laws that recognize unborn children as crime victims. These laws have withstood challenges in the courts. In the 106<sup>th</sup> Congress this legislation passed the House but did not go beyond the hearings stage in the Senate.

HOUSE: On February 7, 2001, Rep. Lindsey Graham (R-SC) reintroduced the Unborn Victims of Violence Act (H.R. 503). The bill was referred to the Armed Services Military Personnel Subcommittee and to the Judiciary Subcommittee on the Constitution. The measure had 101 cosponsors.

Committee: On March 15, 2001, the Judiciary Subcommittee on the Constitution held hearings. On March 21, the subcommittee by voice vote favorably reported the bill without amendment. On March 28, the full committee also favorably approved the bill (15 yes, 9 no). The committee defeated (13 yes, 20 no) a substitute amendment offered by Rep. Zoe Lofgren (D-CA) that would eliminate explicit reference to the unborn child and redefine the offense as harm to the pregnant woman.

Floor: *On April 26, 2001, during floor consideration of H.R. 503, the full House rejected the Lofgren substitute amendment, 196-yes, 229-no, 7-not voting (Roll Call 88). The House then passed H.R. 503, 252-yes, 172-no, 1-present, 7-not voting (Roll Call 89).*

SENATE: On March 7, 2001, Sen. Mike DeWine (R-OH) reintroduced the Senate version of the Unborn Victims of Violence Act (S. 480). This bill has 13 cosponsors. It was referred to the Judiciary Committee. On June 8, the House-passed bill, H.R. 503, was read the second time and placed on the Senate’s legislative calendar.

STATUS: The Unborn Victims of Violence Act passed the House and that bill (H.R. 503) has been placed on the Senate’s legislative calendar. The Senate companion bill (S. 480) is pending in Judiciary Committee.

## **10. USE OF MILITARY FACILITIES TO PERFORM ABORTIONS: 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 August 1, 2001, during markup of the Defense Authorization Act for FY 2002 (H.R. 2586), the Armed Services Committee rejected, 23-yes, 35-no, an amendment by Rep. Loretta Sanchez (D-CA) that would allow military health facilities to be used to perform abortion-on-demand. During floor debate on H.R. 2586, Rep. Sanchez offered a similar amendment limiting the restriction in current law only to those military health facilities located in the United States. *On September 25, 2001, the House rejected the Sanchez Amendment, 199-yes, 217-no, 15-not voting (Roll Call 357).*

STATUS: Efforts to overturn existing law banning the use of military health facilities to perform abortions were unsuccessful.

## **B. APPROPRIATIONS BILLS**

### **1. D.C. ABORTION FUNDING: DISTRICT OF COLUMBIA APPROPRIATIONS**

BACKGROUND: The U.S. Constitution gives Congress the responsibility of appropriating all funds—both federal and local—for the District of Columbia. Current law prohibits the use of any appropriated funds to pay for abortion, except to save the mother’s life and in cases of rape or incest.

HOUSE: As reported on September 6 by the District of Columbia Appropriations Subcommittee, the FY 2002 District of Columbia Appropriations Bill (H.R. 2944) contained current law restricting the use of both federal and local funds to pay for abortions. This provision was also included in the bill as reported from full committee on September 20. During floor consideration of H.R. 2944 on September 25, Del. Eleanor Holmes Norton (D-DC) offered an amendment to strike several sections from the bill, including the prohibition on the use of federal and local funds to pay for abortions. However, she subsequently withdrew the amendment. H.R. 2944 passed with the abortion funding prohibition intact.

SENATE: On November 7, the Senate passed the FY 2002 D.C. Appropriations Bill (H.R. 2944) with the current ban on abortion funding intact.

STATUS: The ban on using all D.C. funds for abortion was included in the FY 2002 District of Columbia Appropriations Bill signed into law on December 21, 2001 (PL 107-96).

### **2. FEDERAL EMPLOYEE HEALTH BENEFITS (FEHB): TREASURY/POSTAL APPROPRIATIONS**

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 2002 Treasury/Postal Appropriations Bill (H.R. 2590) as proposed by Chairman Ernest Istook (R-OK) in the Appropriations Subcommittee on Treasury/Postal Service and General Government contained current law prohibiting the use of federal funds to pay for abortions in FEHB plans, but it did not contain the mandate for contraceptive/abortifacient coverage. On July 17, 2001, in full committee markup, Rep. Nita Lowey (D-NY) offered an amendment to mandate contraceptive/abortifacient coverage. The committee supported this amendment 40-yes, 21-no. Also, Rep. Rosa DeLauro (D-CT) offered an amendment to strike the prohibition on the use federal funds to pay for FEHB plan abortions. The committee rejected this amendment 26-yes, 33-no. On July 25, H.R. 2590 passed the House with no further amendments.

SENATE: The Senate version of the FY 2002 Treasury/Postal Appropriations Bill (S. 1398) was reported from committee on July 26 with a provision mandating contraceptive/abortifacient coverage in FEHB plans, but without the prohibition on paying for abortions in the plans. Sen. Mike DeWine (R-OH) said that on the Senate floor he intended to offer an amendment that would prohibit the plans from covering abortion. Efforts to restore the ban on abortion coverage were set

aside as the Senate on September 19, with little debate, passed the FY 2002 Treasury/Postal Appropriations Bill (the text of the Senate bill was inserted into H.R. 2590) by voice vote.

CONFERENCE COMMITTEE: On October 11, the White House stated that the president would veto the Treasury/Postal Appropriations Bill if the House language banning payment for abortions in FEHB plans was not retained. In the conference report filed by House and Senate conferees, the House language was included. The House approved the conference report on October 31, the Senate on November 1.

STATUS: With current law unchanged, on November 12, 2001, the president signed the FY 2002 Treasury/Postal Appropriations Bill into law (Public Law 107-67).

### **3. MEXICO CITY POLICY: FOREIGN OPERATIONS APPROPRIATIONS**

BACKGROUND: See remarks above under Authorization Bills.

HOUSE: On June 27, 2001, during markup by the House Foreign Operations Appropriations Subcommittee of the FY 2002 Foreign Operations Appropriations Bill (H.R. 2506), Rep. Nita Lowey (D-NY) offered an amendment to negate the Mexico City Policy. The Lowey Amendment was defeated by voice vote. The Lowey Amendment was not offered during full committee markup on July 10 and was not offered on the House floor. As approved by the House, H.R. 2506 appropriates \$425 million for international family planning programs.

SENATE: On July 26, 2001, the Senate Appropriations Committee reported the FY 2002 Foreign Operations Appropriations Bill (H.R. 2506) with language overturning the Mexico City Policy. Funding for international family planning was increased over the House figures by \$25 million and set at \$450 million. On October 24, the Senate approved H.R. 2506.

CONFERENCE COMMITTEE: On October 3, the White House issued a statement saying that the president would veto H.R. 2506 if the language overturning the Mexico City Policy was part of the final bill. The Senate conferees dropped the Senate language overturning the Mexico City Policy. Funding for international family planning programs was set at \$446.5 million, a \$21.5 million increase over FY 2001.

STATUS: Efforts to overturn the Mexico City Policy through the FY 2002 Foreign Operations Appropriations Bill were not successful, but the funding for international family planning programs was set at \$446.5 million, a \$21.5 million increase over FY 2001. The Tiahrt Amendment ensuring that the family planning funds be used only in programs certified to be voluntary was first placed in law in FY 1999 and was again included for FY 2002.

### **4. POST-ABORTION SYNDROME: LABOR/HHS APPROPRIATIONS**

During consideration of the FY 2002 Labor/HHS Appropriations Bill (H.R. 3061), the Senate on November 1 approved by unanimous consent an amendment sponsored by Sen. Robert Smith (R-NH) (SA 2085) expressing the sense of the Senate that the National Institutes of Health should expand and intensify its research and related activities on post-abortion depression and psychosis. On August 2, 2001, Rep. Joseph Pitts (R-PA), along with 17 cosponsors, introduced a related measure, the Post-Abortion Depression Research and Care Act (H.R. 2805) that would authorize

\$300,000 for each of the fiscal years 2002 through 2006 for NIH to carry out its research and program responsibilities defined in the act.

## **5. PRISON ABORTIONS: COMMERCE/JUSTICE/STATE APPROPRIATIONS**

BACKGROUND: Current law prohibits paying for prison abortions, except to save the mother's life or in cases of rape. It also prohibits requiring any prison employee to perform or facilitate performing any abortion.

HOUSE: During floor consideration of the FY 2002 Commerce/Justice/State Appropriations Bill (H.R. 2500), Rep. Diana DeGette (D-CO) offered an amendment to strike the prohibition on paying for prison abortions. *On July 17, the House rejected the DeGette Amendment, 169-yes, 253-no, 11-not voting (Roll Call 235).*

SENATE: On September 13, the Senate passed its version of the FY 2002 Commerce/Justice/State Appropriations Bill (H.R. 2500). The prohibition on paying for prison abortions had been dropped from the bill.

CONFERENCE COMMITTEE: The conference report includes current law related to prison abortions. The House adopted the report on November 14, the Senate on November 15.

STATUS: Current law prohibiting paying for prison abortions was retained in the FY 2002 Commerce/Justice/State Appropriations Bill signed into law on November 28, 2001 (PL 107-77).

## **6. STEM CELL RESEARCH INVOLVING THE DESTRUCTION OF HUMAN EMBRYOS: LABOR/HHS APPROPRIATIONS**

For more action on the same topic, see discussion with full background under Authorization Bills.

SENATE: Since 1996, Congress has included a provision in the Labor/Health and Human Services Appropriations Bill to prohibit federal funding of research "in which a human embryo or embryos are destroyed" (Dickey Amendment).

Hearings: On July 18 and again on August 1, hearings on stem cell research were held in the Appropriations Subcommittee on Labor, Health, and Human Services and Education chaired by Sen. Tom Harkin (D-IA). On October 31, this same committee held another day of hearings. Sen. Arlen Specter (R-PA) assumed the chair. He asked the witnesses for evidence for two propositions: that the amount of embryonic stem cell lines offered by the president in his August 9<sup>th</sup> decision is insufficient and that therapeutic cloning should not be made illegal.

Committee Action: As reported from the Appropriations Committee, the FY 2002 Labor/HHS Appropriations Bill included the Dickey Amendment but there was added a provision extending to the president discretionary power to fund destructive embryonic stem cell research. The president had authorized the funding of research only on embryonic stem cell lines established by August 9. On October 30, the White House issued a statement saying that the president would veto the bill if the special Senate language on embryonic stem cell research remained in the bill.

Floor: On November 1, during consideration of the FY 2002 Labor/HHS Appropriations Bill

(H.R. 3061), Sen. Arlen Specter (R-PA) and Sen. Sam Brownback (R-KS) in a colloquy on the Senate floor announced an agreement in which Sen. Brownback withdrew proposed amendments to ban human cloning and Sen. Specter agreed to the withdrawal of support in conference committee for the Senate's embryonic stem cell research language. Both Senators were assured by Senate leadership that in February or March 2002 the issues of human cloning and embryonic stem cell research would be debated fairly on the Senate floor. Between now and then the Senate would hold hearings on these topics.

HOUSE: On October 3, during markup of the FY 2002 Labor/HHS Appropriations Bill (H.R. 3061), the House Appropriations Subcommittee on Labor, Health and Human Services and Education preserved the Dickey Amendment that prohibits federal funding of research in which human embryos are destroyed but in the report accompanying the bill the committee stated that the president's decision to fund research on stem cell lines derived from human embryos before August 9 does not conflict with the Dickey Amendment. The committee report is not part of the bill and does not codify the president's decision. On October 11, H.R. 3061 passed the House with the Dickey Amendment attached.

STATUS: The Dickey Amendment prohibiting harmful research on human embryos was retained in the FY 2002 Labor/HHS Appropriations Bill. The Senate will debate the issue of embryonic stem cell research in February or March 2002.

## **7. UNFPA: FOREIGN OPERATIONS APPROPRIATIONS**

BACKGROUND: 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. Efforts to block the flow of U.S. tax dollars to the UNFPA were successful only for Fiscal Year 1999. For Fiscal Year 2001, "not more than" \$25 million was appropriated for the UNFPA.

As anticipated for Fiscal Year 2002, abortion advocates are seeking not only to retain U.S. funding for the UNFPA but to increase it. Current law governing foreign assistance still provides that no U.S. funds "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" (Public Law 106-429). Based on its original sponsors, this language is also known as the Kemp-Kasten Amendment. In its *Human Rights Report 2000* (released February 26, 2001), the U.S. State Department again concluded that in China "violence against women (including coercive family planning practices—which sometimes include forced abortion and forced sterilization)" continues to be a problem today. As was the case from 1986 to 1992, the president, after review, can determine that UNFPA is not eligible for U.S. funding as long as it supports China's coercive program. However, in his Budget for FY 2002, President Bush included \$25 million for funding the UNFPA; he also included the Kemp-Kasten Amendment. The Kemp-Kasten Amendment is also contained in the Foreign Relations Authorization Act for FY 2002 (H.R. 1646), Sec. 107(f).

For more information, see NCHLA's UNFPA Fact Sheet by clicking the "Related Information" button.

HOUSE: On July 24, 2001, the House approved the FY 2002 Foreign Operations Appropriations Bill (H.R. 2506). The measure appropriated \$25 million for the UNFPA, with the proviso that the amount of money the UNFPA spends in China be deducted from the U.S. contribution.

SENATE: On July 26, 2001, the Senate Appropriations Committee reported H.R. 2506. Funding for the UNFPA was increased from the House's \$25 million to \$39 million; the House proviso deducting monies spent in China was dropped. On October 24, the Senate approved H.R. 2506.

CONFERENCE COMMITTEE: Conferees agreed that the president can spend no more than \$34 million in FY 2002 for the UNFPA. The president has the discretion to spend less than this amount. The conference committee eliminated the House provision that the amount of money the UNFPA spends in China be deducted from the U.S. contribution. The Kemp-Kasten Amendment was included in both House and Senate bills.

STATUS: For FY 2002, the UNFPA can receive no more than \$34 million, \$9 million above the FY 2001 amount. The Kemp-Kasten Amendment was retained in law.

## **C. EXECUTIVE POLICIES**

### **1. ASSISTED SUICIDE**

On November 6, U.S. Attorney General John Ashcroft issued a memorandum in which he determined that assisting suicide is not a "legitimate medical purpose" for prescribing, dispensing, or administering federally controlled substances. This applies to any state, including Oregon, which has had a physician-assisted suicide law in effect since 1997. This memorandum overturns the June 5, 1998 opinion issued by then-Attorney General Janet Reno. This memorandum is available by clicking the "Related Information" button.

For a statement by Bishop Joseph Fiorenza, President of the United States Conference of Catholic Bishops, hailing the Ashcroft decision, click on the "Related Information" button.

In 1999 and again in 2000, the U.S. House of Representatives passed the Pain Relief Promotion Act (H.R. 2260, H.R. 5544). This measure was blocked in the Senate by Sen. Ron Wyden (D) of Oregon. More information on this measure can be found in NCHLA's Legislative Report: 2000 and in a report from the Secretariat for Pro-Life Activities. Both are available by clicking the "Related Information" button.

On November 7, the state of Oregon filed a lawsuit challenging the authority of U.S. Attorney General Ashcroft to issue his memorandum and also filed a motion to temporarily prevent the federal government from implementing the order. A restraining order was issued. On November 20, U.S. federal judge Robert E. Jones extended the restraining order for at least four more months.

### **2. RU-486**

BACKGROUND: On September 28, 2000, the Food and Drug Administration (FDA) approved a

regimen for using the drug RU-486, also called mifepristone, to cause abortions within 49 days or less since the beginning of the last menstrual period. Mifepristone may be used in combination with the prostaglandin misoprostol. The woman first takes 600 milligrams of mifepristone by mouth. Two days later she takes 400 micrograms of misoprostol. RU-486 disrupts the uterine lining and causes the unborn child's expulsion from the mother's uterus. Using RU-486 typically involves three visits to a physician's office or clinic. The drug company Searle, which manufactures misoprostol under the brand name Cytotec, has consistently opposed the use of Cytotec for labor induction and abortion; yet the FDA approved its use with RU-486 without the company's consent. Danco Laboratories in New York are distributing mifepristone in the U.S.

Despite the Bush administration's stated opposition to RU-486, the FDA is able to remove a drug from the market only if it is found to be unsafe or ineffective. At one point Health and Human Services Secretary Tommy Thompson said his agency – which oversees the FDA – would review RU-486's safety but he later stated that no review would be undertaken unless there is evidence showing that RU-486 is unsafe.

EXECUTIVE LETTER: On March 30, 2001, the Bush administration sent a letter to state Medicaid directors notifying them that the same restrictions on government subsidies of abortion for low-income women found in the Hyde Amendment will apply to the RU-486 drug combination. The government may pay for RU-486 abortions only in cases of rape, incest, or when the woman's life is in danger as certified by a physician. These restrictions do not supercede existing state laws such as parental notification or informed consent, and they do not prevent a state from spending its own public funds for RU-486 in broader circumstances.