



Legislative Bulletin.....September 25, 2002

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H. R. 4691—Abortion Non-Discrimination Act of 2002(Bilirakis)

Order of Business: The bill is scheduled to be considered on Wednesday, September 25, 2002 under a closed rule with one motion to recommit.

Summary: H.R. 4691 modifies current law (42 U.S.C. 238n) regarding abortion-related discrimination in governmental activities so that health care professionals and entities may not be subjected to discrimination by the federal government, or by any state or local government receiving federal financial assistance, because of their refusal to participate in abortions or abortion training.

According to bill sponsors, the modification is needed because congressional intent has been misinterpreted. Because some courts have misinterpreted this phrase in current law:

(c)(2)The term “health care entity” includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

as *excluding* other entities normally understood as a health care entities, such as hospitals and nurses, **H.R. 4691 modifies (shown bolded in blue) this provision to read:**

(c)(2)The term "health care entity" includes an individual physician **or other health professional**, a postgraduate physician training program, ~~and~~ a participant in a program of training in the health professions, **a hospital, a provider sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization or plan.**

The bill also modifies current law to ensure that health care entities are not forced to perform or to pay for induced abortions

(a)(1)the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform **such abortions, provide coverage of, or pay for induced abortions** or to provide referrals for such training or such abortions;

Additional Information: In April 1996, Congress passed a bill (as part of the omnibus appropriations bill (Pub. L.104-134)), and President Clinton signed it into law to protect all “health care entities” from discrimination if they chose not to perform abortions.

On the Senate floor in 1996, Senator Olympia Snowe (R-ME) stated her understanding that the law would cover institutions:

“[The amendment] does protect those institutions and those individuals who do not want to get involved in the performance or training of abortion when it is contrary to their beliefs...I do not think anyone would disagree with the fact -- and I am pro-choice on this matter, but I do not think anybody would disagree with the fact that an institution or an individual who does not want to perform an abortion should do so contrary to their beliefs”

—Congressional Record, March 19, 1996 p. S2268

Despite the historical understanding of the phrase “health care entity” and despite the bill sponsors’ and other Members’ floor statements showing clear Congressional intent to cover hospitals and other health care providers, some have not only misinterpreted congressional intent regarding who is covered , but have even misinterpreted the law to actually *require* those who receive federal monies to perform abortions.

The Alaskan Supreme Court, for example, ruled that a private Alaskan hospital is required to perform abortions, because it is a “quasi-public institution,” and is “quasi-public” in part, because it “has received construction funds, land, and operating funds from the State, local, and **federal** governments” and because it received 25% of its patient revenues from Medicare and Medicaid (Valley Hospital Ass'n. v. Mat-Su Coalition for Choice, 948 P.2d 963; <http://touchngo.com/sp/html/sp-4906.htm>).

Forty-six states have abortion conscience clauses (Alabama, Mississippi, New Hampshire and Vermont being the only states without them).See www.consciencelaws.org/Conscience-Laws/usa-conscience-laws/conscience-laws-usa-01.html#States%20and%20Territories

For additional information see:

Fact Sheet: The Need for Comprehensive Anti-Discrimination Protection for Health Care Organizations That Choose Not to Provide Abortions
<http://www.usccb.org/prolife/issues/abortion/facts2.htm>

Fact Sheet: The Need to Strengthen Federal Abortion Non-Discrimination Law
<http://www.usccb.org/prolife/issues/abortion/anda.htm>

Written Testimony on the Health Care Providers' Rights of Conscience Act

<http://www.usccb.org/prolife/issues/abortion/kansas202.htm>

Fact Sheet: ACLU's Misrepresentations about the Abortion Non-Discrimination Act
www.usccb.org/prolife/issues/abortion/aclufact.htm

Cost to Taxpayers: A CBO cost estimate is unavailable, but the bill would not seem to have a cost.

Does the Bill Create New Federal Programs or Rules?: The bill modifies existing law (42 U.S.C. 238n) regarding abortion-related discrimination in governmental activities.

Constitutional Authority: An Energy and Commerce Committee report citing constitutional authority is unavailable.

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H.R. 1646— Department of State Authorization Act Conference Report (Hyde)

Order of Business: The bill passed the House on May 16, 2001, by a vote of 352-73. To view the roll-call, please visit this website:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2001&rollnumber=121>

The bill passed the Senate with amendments on May 1, 2002, by unanimous consent. The conference report was filed on September 23, 2002, and is scheduled to be considered on the House floor on Wednesday, September 25th, subject to a closed rule.

Summary of Major Provisions in the Conference Report:

Authorizations Highlights –	<u>FY 2003</u>
Diplomatic and Consular Programs	\$4.03 billion
<i>Worldwide Security Upgrades</i>	\$564 million
<i>Recruitment of Minority Groups</i>	\$2 million
Capital Investment Fund	\$200 million
Embassy Security, Construction, and Maintenance	\$555 million
Education and Cultural Exchange Programs	\$260 million
<i>Vietnam Fulbright Exchanges</i>	\$5 million
<i>HIV/AIDS Research</i>	\$1 million
<i>Tibetan Exchanges</i>	\$500,000
<i>East Timorese Scholarships</i>	\$500,000
<i>Montenegro Parliamentary Development</i>	\$500,000
<i>South Pacific Exchanges</i>	\$750,000
<i>Israel-Arab Peace Partners Program</i>	\$750,000
<i>Sudanese Scholarships</i>	\$500,000

National Endowment for Democracy	\$42 million
Assessed Contributions to International Organizations	\$891.38 million
Contributions for International Peacekeeping	\$725.98 million
Migration and Refugee Assistance	\$820 million
<i>Refugees Resettling in Israel</i>	\$60 million
<i>Tibetan Refugees in India and Nepal</i>	\$2 million
<i>Displaced Burmese</i>	\$2 million
Int'l Broadcasting Operations	\$485.82 million
Broadcasting to Cuba	\$25.9 million

United Nations (UN) Arrears – The bill would modify the conditions in current law (the UN Reform Act of 1999) under which arrears to the UN are released. Specifically, the bill revises the statutory cap on the percentage of the UN peacekeeping budget paid by the U.S. from the target of 25% to 28.15% for 2001 assessments, 27.90% for 2002 assessments, and 27.40% for 2003 and 2004 assessments (previously the U.S. paid 32%). This provision effectively releases \$582 million in previously appropriated funds to the UN. A second provision modifies current law to release a third arrearage payment of \$244 million as UN-affiliated agencies make budget reforms rather than withholding funds until reforms are completed. The U.S. share of the UN's regular budget would be capped at 22%. The bill would express a sense of Congress that the U.S. seek a payment system whereby its assessments to international organizations can be made at the beginning of each calendar year.

UN Secret Balloting – Directs the Secretary of State to report to Congress on the desirability of secret balloting at the UN.

UNESCO – Encourages the President to report to Congress on why the U.S. is rejoining the UN Educational, Scientific, and Cultural Organization (UNESCO) and what such membership will cost.

UN Commission on Human Rights – Directs the U.S delegation to the UN to seek a seat on the UN Commission on Human Rights and on the UN International Narcotics Control Board. The U.S. should also work to prevent the membership on the Human Rights Commission of any country that consistently violates internationally recognized human rights or that has engaged in or tolerated particularly severe violations of religious freedom.

Americans at the UN – Calls on the Secretary of State to submit to Congress a plan for increasing the number of American citizens in positions of employment at the UN.

Palestinian Terrorism – Directs the President to periodically report to Congress on whether the Palestinian Authority (PA) and/or the Palestinian Liberation Organization (PLO) is in compliance with its commitments to prevent, renounce, and discipline terrorism and all other acts of violence by PLO elements and personnel. Outlines sanctions against the PLO or the PA for non-compliance.

Arms Transfers to Palestinians – Bans assistance to any entity that has knowingly transferred prohibited weapons to Palestinian entities in the West Bank or Gaza.

Security Assistance – Authorizes security assistance for Israel, Egypt, Greece, Turkey, the Baltic states, Bulgaria, the Czech Republic, Georgia, Hungary, Jordan, Malta, the Philippines, Poland, Romania, Slovakia, and Slovenia. Funding levels for these countries are at or slightly above the President’s request.

Tibet – Directs the President and the Secretary of State to encourage China to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet. Outlines efforts to support economic development in Tibet. Calls for the establishment of a U.S. branch office in Tibet. Creates in the State Department a Special Coordinator for Tibetan Issues.

East Timor – Authorizes \$25 million for the support of the development of a civil society (including the development of an independent news media) in East Timor. Authorizes \$1 million for trade and investment assistance. Authorizes security assistance.

Northern Ireland – Calls on the Irish Republican Army to continue and complete the decommissioning of all their arms and explosives.

Treaty-Based Organizations – Prohibits any U.S. payments to the UN from being used for the U.S. share of any framework treaty-based organization—including the Framework Convention on Global Climate Change, the International Seabed Authority, and the International Criminal Court.

Visa Fees – Extends the State Dept’s authority to collect and retain machine-readable visa fees through Fiscal Year 2003 (collects about \$400 million a year).

U.S. Embassy to Jerusalem – Maintains a congressional commitment to relocating the U.S. Embassy in Israel to Jerusalem and urges the President to “immediately begin” the relocation process.

Involuntary Return of Refugees – Prohibits funds from being used to effect the involuntary return of any person to a country in which he is likely to face persecution “on account of race, religion, nationality, membership in a particular group, or political opinion.”

Sudan – Requires the maintenance of the U.S. Envoy for Peace in Sudan until that conflict is settled.

Human Rights and Democracy Fund – Establishes the Human Rights and Democracy Fund to be administered within the State Department to support “defenders of human rights,” assist the victims of human rights violations, respond to human rights emergencies, promote democracy (by supporting nongovernmental organizations in foreign countries), and other such functions. Authorizes appropriations of \$21.5 million in FY2003 for the Fund. \$1 million of this amount would be authorized for the Documentation Center of Cambodia (for collecting, cataloguing, and disseminating information about the atrocities of the Khmer Rouge), and another \$500,000 of the Fund would be authorized to “advance the extraordinary work and values of Father John Kaiser” (with respect to solving ethnic conflicts and promoting state respect for human rights).

Minority-Only Recruitment and Employment – The bill includes several provisions designed to increase the number of minorities employed at the State Department, including setting aside specific funds for minority-only recruitment, the creation of a database related to efforts to recruit minorities, and production of a report on minority recruitment and promotion.

Naval Vessel Transfers – Authorizes the transfers of listed naval vessels by grant to Poland and Turkey and by sale to Mexico, Taiwan, and Turkey.

U.S. Commission on Religious Freedom – The bill extends the May 2003 sunset of the Commission to September 2011.

Russian Non-Proliferation – Authorizes the reduction in Soviet-era debt owed by the Russian Federation to the United States upon the entry into force of a Russian Federation Nonproliferation Investment Agreement (to stem the flow of the components and know-how related to the production of weapons of mass destruction and their delivery system to state sponsors of international terrorism).

Taiwan – The bill designates Taiwan as a major non-NATO ally for the purposes of transferring defense articles and requires annual consultation with Taiwan regarding potential transfer of defense articles.

Nonproliferation – The bill authorizes the training of foreign governmental and military personnel related to nonproliferation activities and requires submission of a 5-year plan on curtailing proliferation.

Munitions Licensing Process—The bill contains several provisions, including increased staffing and modernization of databases, to expedite the munitions licensing process.

Exports – The bill increases existing civil penalties and creates new criminal penalties for those who fail to submit accurate information to the Department of Commerce and mandates that all exports be filed through the automated export system.

Clean Water— Establishes the “Clean Water for the Americas Partnership,” which will promote joint efforts for clean water and energy efficiency among nonprofit, nongovernmental organizations in the U.S., Latin America, and the Caribbean. Authorizes appropriations of \$10 million a year for the next three years.

Cultural Diplomacy – Establishes an advisory committee on cultural diplomacy to advise the Secretary of State on programs and policies to advance the use of cultural diplomacy in American foreign policy.

Seismological Data – Requires the Air Force Technical Applications Center to make available to the public as soon as practically possible all raw seismological data provided to the U.S. government by any international monitoring organization.

NOTE: The conference report contains no language regarding the “Mexico City” Executive Order, which currently bars taxpayer funding for organizations that lobby to overturn or evade a foreign country’s laws restricting abortion.

Cost to Taxpayers: A CBO cost estimate for the conference report is unavailable. According to the International Relations Committee, the conference report would authorize a total of **\$13.8 billion** in fiscal year 2003.

Does the Bill Create New Federal Programs or Rules?: Yes, as detailed above.

Constitutional Authority: Committee Report 107-57 cites Article I, Section 8, Clause 18 (“necessary and proper”) as the constitutional authority for this bill.

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H.Res. 540—Expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act (Pickering)

Order of Business: The resolution is scheduled to be considered on Wednesday, September 25th, subject to a closed rule.

Summary: H.Res. 540 would express a sense of the House that “Congress should complete action in the 107th Congress on the Pension Security Act of 2002 and present such legislation to the President for his signature prior to adjournment so that needed pension protections and reforms may be delivered to the American people.”

Additional Background: On April 11, 2002, the House passed H.R. 3762 (the Pension Security Act) by a vote of 255-163. This bill would allow increased flexibility for pension plans, require greater transparency and more useful notifications to plan participants, and allow employers to provide investment advice services to their employees. To view the roll-call for this legislation, please visit this website:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=92>

To read the RSC Legislative Bulletin on H.R. 3762, please visit this website:

<http://www.house.gov/burton/RSC/Lb41102.pdf>

The Senate received the House-passed bill on April 15, 2002, and referred it to the Committee on Health, Education, Labor, and Pensions. No subsequent Senate action has occurred since then.

Administration Position: The Administration “strongly supports” H.R. 3762. For more details, please visit this website:

<http://www.whitehouse.gov/omb/legislative/sap/107-2/HR3762-h.html>

Cost to Taxpayers : The resolution itself would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.Res. 544—Expressing the sense of the House of Representatives on permanency of pension reform provisions (Sullivan)

Order of Business: The bill is scheduled to be considered on Wednesday, September 25th, subject to a closed rule.

Summary: H.Res. 544 would express a sense of the House that Congress should complete action in the 107th Congress on the Retirement Security Savings Act of 2002 (H.R. 4931) and present it to the President for his signature prior to adjournment, so that American workers can be assured that the pension reforms under current law will not be eliminated.

Additional Background: The House passed H.R. 4931 on June 21, 2002, by a vote of 308-70 to permanently extend the pension benefits provided by the Bush tax cut package of 2001. To view the House roll-call, please visit this website:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=248>

The Senate has taken no action on H.R. 4931 or its equivalent.

To read the RSC Legislative Bulletin on H.R. 4931, which shows specifically what pension provisions would expire without permanent extension, please visit this website:

<http://www.house.gov/burton/RSC/Lb62102.pdf>

Cost to Taxpayers : The resolution itself would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 2982—A bill to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad (Turner)

Order of Business: The bill was considered on Tuesday, September 24th, under a motion to suspend the rules and pass the bill. A recorded vote will be taken today.

Summary: H.R. 2982 would authorize the establishment of a memorial in Washington, DC, or its immediate surroundings, to victims who died as a result of terrorist acts against the United

States or its people, at home or abroad (except those individuals identified by the Attorney General as participating or conspiring in terrorist-related activities).

The bill would establish the Victims of Terrorism Memorial Advisory Board to raise the necessary funds to establish, design, construct, and maintain the Memorial. The 13-member Board would be appointed by the President (in consultation with the Secretary of the Interior and the Secretary of Defense). The Secretary of the Interior would be directed to detail the necessary support staff to the Board.

No specific timeline is given for the completion of the memorial.

Administration Position: During a hearing before the Subcommittee on National Parks, Recreation, and Public Lands on March 19, 2002, the National Park Service expressed several concerns about the bill. Though many of the concerns were remedied in an amendment to H.R. 2982 at the full committee level (which the RSC summary above incorporates), the National Park Service remains concerned that the location of this memorial—D.C.—has no direct connection to most terrorist attacks against the United States or to the victims of such attacks. For more details, please visit this website:

<http://resourcescommittee.house.gov/107congparks/2002mar19/smith2982.htm>

Cost to Taxpayers: Depending on the scale of the proposed project, CBO estimates design and construction costs would probably be between \$5 million and \$15 million over several years. This estimate is based on information provided by the National Park Service, private foundations, and the costs of other memorials on federal grounds. The cost of establishing the memorial could be offset by donations from private sources, but CBO asserts that there is no basis for estimating such future revenues.

Does the Bill Create New Federal Programs or Rules?: The bill would authorize the creation of a new memorial in Washington, DC, or its surroundings.

Constitutional Authority: The House Resources Committee, in House Report 107-524, cites constitutional authority in Article I, Section 8, but does not cite a specific clause.

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H.Con.Res. 297 — Recognizing the historical significance of 100 years of Korean immigration to the United States (Hoekstra)

Order of Business: The resolution was considered on Tuesday, September 24th, under a motion to suspend the rules and pass the bill. A recorded vote will be taken today.

Summary: According to the resolution, beginning in 2003, more than 100 communities throughout the U.S. will celebrate the 100th anniversary of Korean immigration, which began with the landing of 102 immigrants in Honolulu, Hawaii on January 13, 1903.

H.Con.Res. 297 resolves that Congress:

- “Recognizes the achievements and contributions of Korean-Americans to the United States over the past 100 years; and
- “Requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the anniversary with appropriate programs, ceremonies, and activities.”

The resolution also states that Korean-Americans have contributed to the United States through service in the armed forces, business ownership, development of the first beating heart operation for coronary artery disease, the development of several varieties of the nectarine, and achievements in engineering, architecture, medicine, acting, singing, sculpture, and writing.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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