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Series: Sununu, John, Files
Subseries: Issues Files

OA/ID Number: 29135
Folder ID Number: 29135-002

Folder Title:
Abortion/Fetal Tissue Research (1989) [2]

Stack:	Row:	Section:	Shelf:	Position:
G	15	24	6	1

THE WHITE HOUSE
WASHINGTON

September 12, 1989

Dear John,

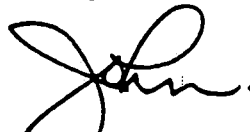
The President has asked me to reply to your and your colleagues letter regarding federal funding of medical research involving human tissue obtained through induced abortions.

I appreciate the thorough paper you have provided explaining the pro-life objections to such funding. I realize that some current directions in medical research are forcing us to consider extremely serious ethical questions, and that these questions must be addressed when setting the course of national policy. Your paper will be an important resource as together we seek the correct course of action on this very vital issue.

It is my conviction that all innocent human life, including unborn human life, deserves our respect and protection, and I believe this conviction must guide our views on questions concerning the transplantation of human organs and tissues. Furthermore, I think the federal government serves our nation best when we promote activities likely to reduce the number of human lives lost to abortion, activities such as the initiatives the President is proposing to encourage adoption. Surely we must not support activities that do the reverse.

Again, thank you for your very thoughtful paper, for your advice, and for your prayers.

Regards,



John H. Sununu
Chief of Staff

Dr. John C. Willke
President
National Right to Life Committee, Inc.
Suite 402
419 7th Street, N.W.
Washington, D.C. 20004

bcc: The Honorable Louis Sullivan w/ incomin
Roger Porter
Dan Heimbach
Shirley Green



Pete Wilson

U.S. Senator for California



PR 89:193

WILSON SPONSORS FREEDOM OF CHOICE ACT
TO PROHIBIT STATES FROM RESTRICTING REPRODUCTIVE RIGHTS

FOR IMMEDIATE RELEASE
November 16, 1989

CONTACT: Lynda Schuler
Bill Livingstone
(202) 224-3652

WASHINGTON, D.C. -- California Senator Pete Wilson announced today he will join Senator Alan Cranston (D-CA) and Senator Robert Packwood (R-OR) in sponsoring legislation to guarantee a woman's right to reproductive choice.

"Whatever one may feel about it, the decision to have an abortion is in fact -- and must be in law -- the decision of the woman," Wilson said.

"The decision to terminate a pregnancy is so intensely personal that no one but the woman can be permitted to make it," Wilson said. "Government does nothing wise or good if it enacts laws that force this decision underground and compel otherwise law-abiding citizens to resort to illegal and dangerous back alley medical treatment or self-performed abortions."

The legislation would prohibit states from restricting a woman's right to choose whether to carry a pregnancy to term before fetal viability, or, if necessary, to terminate a pregnancy to protect the life and health of the woman.

"The law ought to guarantee a woman the right to choose," Wilson said. "In California the right of reproductive choice is guaranteed by the State Constitution. It is a civil right protected constitutionally against invalidation by an act of the state legislature."

Wilson said the bill essentially makes the Supreme Court's Roe v. Wade decision federal law.

"The right of choice for every woman in every state must be protected by federal law even where there is no protection given by a state's constitution," Wilson said. "That is why Congress must enact the Freedom of Choice Act now."

For over 20 years in public office, Wilson has supported a woman's right to choose. As a member of the California State Assembly, he supported the Therapeutic Abortion Act.

- MORE -

NOV-16-89 THU 23:56

P.05

NOV 16 89 10:48AM SEN. WILSON D. C.

P02

- 2 -

Wilson said that if the U.S. Supreme Court were to abandon the precedent set by Roe v. Wade, the California State Constitution would still allow abortion in California.

Wilson said he also supports the California law that makes Medi-Cal funds available to pay for abortions for women who are poor.

"In California, where we have an explicitly-stated right to privacy in our Constitution, it is consistent to provide state tax funds for the purpose of performing abortions," Wilson said.

Wilson said it is proper for Congress to act to stop states from removing the protection provided to women under Roe v. Wade.

Wilson is also a sponsor of the Equal Rights Amendment, and a proponent of family planning programs.

221011.A66

S.L.C.

*Metzenbaum, Cranston,
Packwood, Wilson.*

101ST CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and re-
ferred to the Committee on _____

A BILL

To protect the reproductive rights of women, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assem-*
3 *bled,*

4 SECTION 1. SHORT TITLE.

5 This Act may be cited as the "Freedom of Choice Act
6 of 1989".

7 SEC. 2. RIGHT TO CHOOSE.

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), a State may not restrict the right of a woman to choose
10 to terminate a pregnancy—

11 (1) before fetal viability; or

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P-23

11-16-89 04:24 PM FROM METZENSBAUM D. C.

P04

221011.A66

2

S.L.C.

1 (2) at any time, if such termination is necessary
2 to protect the life or health of the woman.

3 (b) MEDICALLY NECESSARY REQUIREMENTS.—A State
4 may impose requirements medically necessary to protect
5 the life or health of women referred to in subsection (a).

6 SEC. 3. DEFINITION OF STATE.

7 As used in this Act, the term "State" includes the
8 District of Columbia, the Commonwealth of Puerto Rico,
9 and each other territory or possession of the United States.

To: Gov. Sununu
From: Sen. Mikulski

Yates

PREFERENTIAL MOTION OFFERED BY MR. ~~Yates~~

Mr. McHUGH moves to concur with the Senate amendment (number 17) with an amendment, as follows: at the end of the Senate amendment 17, insert:

Provided further, That any agreement entered into by the United States and the United Nations Fund for Population Activities to obligate funds earmarked under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's

Republic of China

or for any abortion related activities
in any country.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From Douglas Johnson to John Sununu Re: D.C. and Foreign Operations Appropriations Bills (3 pp.)	11/17/89	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 5/12/05

Date Closed: 12/1/2004	OA/ID Number: 29135-002
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

To: Governor John Sununu (fax 456-2397)

From: Douglas Johnson, NRLC Legislative Director
626-8820, (301) 439-9087, fax (202) 347-3668

Re: D.C. and foreign operations appropriations bills

Date: Saturday, November 17, 1989

DISTRICT OF COLUMBIA APPROPRIATIONS BILL (HR 3610)

Regarding the second D.C. appropriations bill (HR 3610), which cleared Congress on Nov. 15, I have consulted NRLC's general counsel, James Bopp; an NRLC staff attorney, Mary Spaulding; and the general counsel of the U.S. Catholic Conference, Mark Chopko; all three being among the top national experts in abortion-related litigation. I have also consulted three high-ranking Administration attorneys, all political appointees who are particularly well versed in abortion-related litigation.

I believe it is fair to say that there is unanimity among these five legal experts that any attempt to interpret the word "Federal" to apply to D.C.'s so-called "local" funds would quickly be stricken in court. "Even a judge of strongly pro-life sympathies would have no choice but to rule that inclusion of 'Federal' in this bill permits D.C. to spend its local funds for elective abortions," said one government lawyer.¹ "It doesn't even pass the basic 'straight-face test'," said Ms. Spaulding.

Thus, the practical result of the approach said to be advocated by OMB would be a resumption of government-funded abortion on demand in D.C. As Congressman AuCoin said in yesterday's Associated Press dispatch, "If he signs it, it will be a victory for us."

FOREIGN OPERATIONS APPROPRIATIONS BILL (HR 2939)

In discussing acceptable pro-life language on the "population assistance" program, the all-important distinction is between "fund-specific" language (which does little) and "eligibility-criteria" language (which can have far-reaching pro-life effects).

Prior to 1985, there were several abortion-related restrictions governing the use of U.S. "population assistance funds," such as the 1973 Helms Amendment, which prohibits funding of abortion "as a method of family planning." However, these restrictions had very limited practical effect, because they only attempt to control the direct use of the U.S. dollars themselves, and generally were narrowly construed to apply only to direct payments for abortion procedures and the like. These restrictions did not require organizations to refrain from promoting abortion with funds obtained

MEMO ON D.C. AND FOREIGN OPERATIONS APPROPRIATIONS BILLS, PAGE 2

from other sources. Thus, organizations which received large chunks (up to 90%) of their annual budgets from USAID also aggressively campaigned for the repeal of anti-abortion laws in less-developed countries, ran abortion clinics, trained abortionists, etc., without jeopardizing their U.S. subsidies. The laws only dictated how they kept their books, not how they operated in the field.

This changed with adoption of the Mexico City Policy enunciated by President Reagan, which became effective in 1985, under which private overseas organizations which "perform or actively promote abortion as a method of family planning," even with non-U.S. funds, thereby render themselves ineligible for U.S. funds. The Mexico City Policy has been tremendously effective in persuading hundreds of family-planning organizations around the world to jettison abortion from their programs, and has been responsible for "a near halt in the liberalization of abortion laws in third world countries" (New York Times, Feb. 27, 1989).

Likewise, the Kemp-Kasten Amendment has real "teeth" because it looks to an organization's overall activities, not merely its bookkeeping. The proposed Mikulski and Yates amendments to the Kemp-Kasten Amendment would represent a return to the "fund-specific" approach, which is little more than symbolic in this context. Other population-control organizations would understand that the firm anti-coercion principle enunciated in 1985 had been reduced to a hollow shell. After all, if the UNFPA-- the only organization found to be in violation of the Kemp-Kasten Amendment-- is given an earmark as a reward for its intransigent support for China's brutal program, then other population-control organizations may well conclude that Kemp-Kasten is a paper tiger and that they too may move more towards coercive measures without jeopardizing their U.S. funding.^{2,3}

¹With respect to interpretation of the word "Federal" in the D.C. bill, we are not writing on a clean slate. There is ten years of legislative and administrative history. Most recently, in the House on Nov. 16, the proponents of the language clearly stated in floor debate that the purpose of inserting the word "Federal" is to allow the D.C. government to fund abortion with locally generated revenues-- in contrast with the FY 1989 provision. The pro-life congressmen openly agreed, and offered an amendment to strike the word "Federal" so as to preserve current law. This pro-life amendment was stricken on a point of order. Moreover, the legislative history from 1979-88 is unambiguous: inclusion of the word "Federal" does not cover the "local" funds, and the D.C. government paid for abortion on demand throughout this period under such language.

²In 1985, Congress took two separate but convergent actions directed at the UNFPA. A Chris Smith amendment to the foreign aid authorization bill struck a longstanding earmark for the UNFPA (effective FY 1986). At almost the same time (Aug. 15, 1985), the Kemp-Kasten Amendment was enacted on the supplemental appropriations bill. USAID then determined that funding of the UNFPA was impermissible under Kemp-Kasten. This determination was challenged in a lawsuit filed by a UNFPA-funded lobby, The Population Institute. In defending the cutoff, AID pointed to both congressional actions-- deletion of the earmark and adoption of Kemp-Kasten-- in support of its cutoff of funds to AID. A three-judge panel ruled for AID, in an

MEMO ON D.C. AND FOREIGN OPERATIONS APPROPRIATIONS BILLS, PAGE 3

opinion written by Judge Abner Mikva [Population Institute v. McPherson, No. 85-6043, Aug. 12, 1986]. I believe that most lawyers who read Judge Mikva's opinion would conclude that the outcome could have been very different if there had been some recent expression of congressional intent that the UNFPA receive funds. Insertion of a new earmark now-- following four years of denial of funds to UNFPA because of Kemp-Kasten, and following a series of floor votes in which pro-UNFPA forces prevailed in both houses-- would provide pro-UNFPA lawyers with just such an indication to present to the courts in a new lawsuit.

³With specific reference to the proposal discussed earlier in the week, to accept the Mikulski Amendment, but without the word "notwithstanding": all of the attorneys we consulted (see above) stated that this would make it doubtful that a denial of funds to the UNFPA would be sustained in court, even if the UNFPA remains in violation of the Kemp-Kasten Amendment. All regarded the outcome as unpredictable.

The "drop 'notwithstanding'" compromise would place in law two potentially conflicting sections. In resolving such conflicts, the standard rules of statutory construction dictate that the courts give greater weight to the more specific provision over the more general, and to the most recent enactment. On both counts, the modified Mikulski Amendment would trump the general Kemp-Kasten provision.

Thus, by earmarking funds for the UNFPA, such a slightly modified Mikulski Amendment would still clearly "weaken the current Kemp-Kasten provision," a result which the President ruled out in his Oct. 6 letter to Mr. Obey.

NANCY L. JOHNSON
6TH DISTRICT, CONNECTICUT

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEES:
HEALTH
HUMAN RESOURCES

HOUSE EXPORT TASK FORCE
VICE CHAIRMAN

Congress of the United States
House of Representatives
Washington, DC 20515

October 12, 1989

WASHINGTON OFFICE
119 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
TELEPHONE: (202) 225-4478

NEW BRITAIN OFFICE
1 GAY STREET
NEW BRITAIN, CT 06053
TELEPHONE: (203) 223-8412

ENFIELD OFFICE
276 HAZARD AVENUE
ENFIELD, CT 06082
TELEPHONE: (203) 748-5722

The President
The White House
Washington, DC 20500

CONFIDENTIAL

Dear Mr. President:

We are writing to urge you not to veto the Health and Human Services appropriations legislation as approved by a majority of the Congress.

We, the undersigned Republicans, differ in our position on abortion, but we are united in the belief that poor women and girls who are victims of the brutal crimes of rape or incest ought to have access to the same health care services as non-Medicaid dependent women.

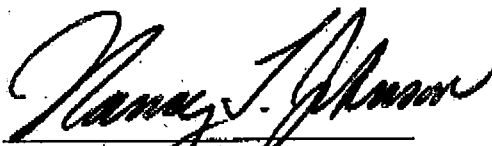
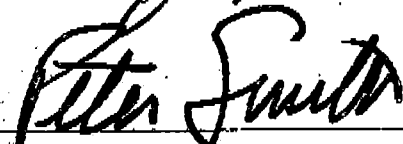
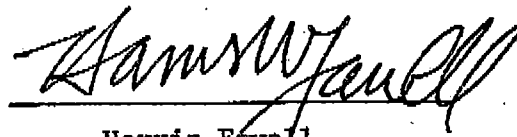
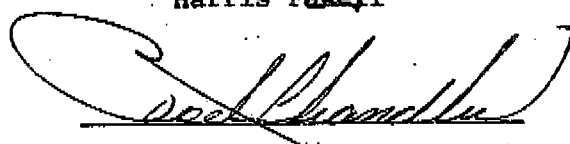
We recognize that your senior advisors have indicated that they will recommend a veto of any appropriations bill which includes funding for abortion other than to save the life of the mother. We respectfully urge your very careful consideration of that course of action. It is too important to American women, who are all vulnerable to criminal sexual assault, not to examine your deepest beliefs in regard to their rights as victims.

Through executive branch regulation, you can assure that only true victims are provided care options as intended under the specific requirement in Senate amendment #90 to the conference report that the rape or incest be "reported promptly to a law enforcement agency or public health service."

We believe it is against the best interests of our party to make this issue involving victims of criminal violence the focus of Republican opposition to abortion. A recent NBC News poll found that 80 percent of Americans support this specific exception.

We, again, strongly urge you to sign the HHS appropriations bill.

Respectfully,


Nancy Johnson
Peter Smith
Harris Fawell
Rod Chandler

The President

October 12, 1989

Patricia Saiki
Patricia Saiki

Ronald K. Machtley
Ronald K. Machtley

Jan Meyers
Jan Meyers

Dean Gallo
Dean Gallo

Jim Koble
Jim Koble

Anno Houghton
Anno Houghton

Claudine Schneider
Claudine Schneider

Bill Frenzel
Bill Frenzel

Sid Morrison
Sid Morrison

Christopher Shays
Christopher Shays

John Miller
John Miller

Marge Roukema
Marge Roukema

Tom Ridge
Tom Ridge

Sherry Boehlert
Sherry Boehlert

Jim Leach
Jim Leach

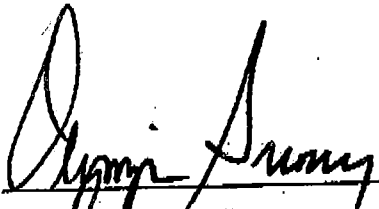
Connie Morella
Connie Morella

Bill Green
Bill Green

William Dickinson
William Dickinson

The President

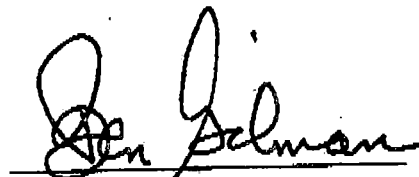
October 12, 1989

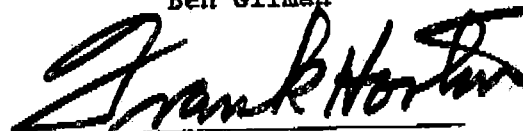

Olympia Snowe

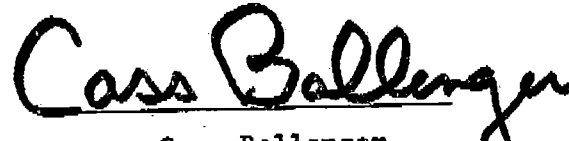

Arthur Ravenal, Jr.


Tom Campbell


Fred Upton


Ben Gilman


Frank Horton


Cass Ballenger


Larry Coughlin

THE WHITE HOUSE
WASHINGTON

November 15, 1989

TO: CHIEF OF STAFF

FROM: JAMES W. CICONI
Assistant to the President and
Deputy to the Chief of Staff

Attached is the UNFPA language adopted last night by the House as part of the Foreign Ops bill.

In short, the amendment makes the Mikulski language subject to Kemp-Kasten.

Jim

A motion by Mr. Smith, A.J. to

~~Pass~~ and concur with the Senate amendment (no. 17, Mikulski amendment)
with an amendment, as follows:

at the end of Senate amendment 17, insert:

Provided further, that notwithstanding the previous provisos, no funds under this heading shall be made available to the United Nations Population Fund unless the President of the United States certifies that the United Nations Population Fund does not provide support for, or participate in the management of, a program of coercive abortion or involuntary sterilization in the People's Republic of China.

THE WHITE HOUSE

WASHINGTON

October 6, 1989

Dear Mickey:

I have previously expressed my strong support for the Kemp-Kasten Amendment, also known as the Kemp-Inouye-Helms Amendment, which has been part of the foreign operations appropriations bill since 1985. This provision denies U.S. population assistance funds to any organization 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.

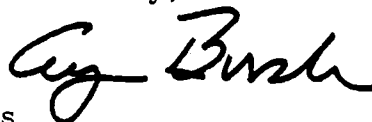
In June, the Agency for International Development, acting on my delegated authority under the Kemp-Kasten Amendment, determined that the United Nations' Fund for Population Activities' continuing support for the coercive population control program of a specified nation makes U.S. support for the UNFPA impermissible under the Kemp-Kasten Amendment.

As you know, on September 20th the Senate narrowly adopted the Mikulski Amendment to the Foreign Operations Appropriations bill for Fiscal Year 1990. The Mikulski Amendment would in effect exempt the UNFPA from the requirements of the Kemp-Kasten Amendment, and mandate a resumption of U.S. funding to the UNFPA, so long as U.S. funds are maintained in a segregated account.

I strongly support family planning programs which do not condone or encourage abortion or coercive measures. I believe that the current Kemp-Kasten law, along with the Mexico City Policy, must be maintained without dilution, in order to preserve both the pro-life and pro-human rights character of the population assistance program.

Therefore, if the FY 1990 foreign operations bill as presented to me contains the Mikulski Amendment or any other language which would weaken the current Kemp-Kasten provision, or place the UNFPA or any other organization outside the full application of Kemp-Kasten, I will veto it.

Sincerely,



The Honorable Mickey Edwards
Ranking Minority Member
Subcommittee on Foreign Operations
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

Copies to others

THE WHITE HOUSE

WASHINGTON

October 6, 1989

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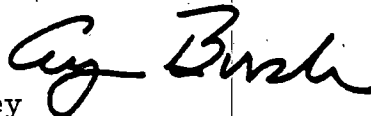
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Sincerely,



The Honorable David R. Obey
Chairman
Subcommittee on Foreign Operations
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

October 6, 1989

Dear Bob:

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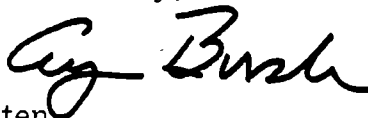
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Sincerely,



The Honorable Robert W. Kasten
Ranking Minority Member
Subcommittee on Foreign Operations
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Copy to [illegible]

THE WHITE HOUSE

WASHINGTON

October 6, 1989

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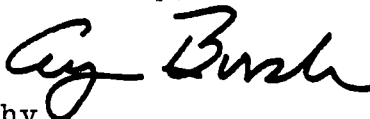
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As you know, on September 20th the Senate narrowly adopted the Mikulski Amendment to the Foreign Operations Appropriations bill for Fiscal Year 1990. The Mikulski Amendment would in effect exempt the UNFPA from the requirements of the Kemp-Kasten Amendment, and mandate a resumption of U.S. funding to the UNFPA, so long as U.S. funds are maintained in a segregated account.

I strongly support family planning programs which do not condone or encourage abortion or coercive measures. I believe that the current Kemp-Kasten law, along with the Mexico City Policy, must be maintained without dilution, in order to preserve both the pro-life and pro-human rights character of the population assistance program.

Therefore, if the FY 1990 foreign operations bill as presented to me contains the Mikulski Amendment or any other language which would weaken the current Kemp-Kasten provision, or place the UNFPA or any other organization outside the full application of Kemp-Kasten, I will veto it.

Sincerely,



The Honorable Patrick J. Leahy
Chairman
Subcommittee on Foreign Operations
Committee on Appropriations
United States Senate
Washington, D.C. 20510

From R. Porter

FYI

Appropriation Bills and Abortions Issues

There are three appropriations bills, nearing final passage in the Congress, which have objectionable abortion-related provisions:

1. D.C. Appropriations - Allows appropriated District of Columbia funds to pay for abortions other than to save mother's life. This has the effect of allowing abortion on demand supported by federal funds.
2. Foreign Operations Appropriations - Requires U.S. support for international organizations (UNFPA) that give grants to nations (such as China) which have a policy of compulsory abortions.
3. Labor-HHS-Ed Appropriations - Allows Medicaid, and other HHS funds to pay for abortions in cases of rape and incest.

The Administration has issued veto threats for each of these bills.

THE WHITE HOUSE
WASHINGTON

October 13, 1989

MORANDUM FOR GOVERNOR SUNUNU

FROM: BILL ROPER *Bill Roper*
SUBJECT: Information on Incidence of Rape and Incest

Earlier today, you asked for information on number of cases of rape and incest. The Bureau of Justice Statistics, DOJ, sent me the attached report.

The following are highlights:

- o There are no national data on the number of incest offences or convictions. However, in 1986 an estimated 2% of the state prison population -- about 9,000 persons -- were offenders convicted of rape or sexual assault who reported that their victim was a relative.
- o In 1988 92,490 cases of forcible rape were reported to police.
- o The National Crime Survey estimates that in 1988 there were 127,370 cases of rape, which includes crimes not reported to the police.

I have also included information from the Health Care Financing Administration, HHS, on Medicaid funded abortions. In FY 1988, Medicaid paid for 84 abortions nationally. This contrasts with 58,662 for the period FY 1978 - 1984, during most of which time Medicaid was allowed to pay for abortions on a wider basis than to save the life of the mother.

Please let me know if you wish further information.

cc: Roger B. Porter

The following information was compiled by the Bureau of Justice Statistics on October 13, 1989. Questions may be addressed to Joseph M. Bessette, Acting Director, BJS (724-7765).

DATA ON RAPE AND INCEST

1. Incest:

We know of no national data on the number of incest offenses or convictions. However, in 1986 an estimated 2% of the state prison population -- about 9,000 persons -- were offenders convicted of rape or sexual assault who reported that their victim was a relative (could include any family relationship).

2. Rape Offenses:

Uniform Crime Reports. (published FBI data)

	Forcible Rapes Reported to Police	Arrests		
		Forcible Rape	Other Sex Offenses	Offenses Against Families & Children
1984	84,230	36,700	97,800	44,300
1985	88,670	36,970	100,600	58,800
1986	91,460	37,140	100,600	58,400
1987	91,110	36,310	100,100	58,700
1988	92,490	38,610	106,300	69,900

National Crime Survey (estimates)*

	<u>Number of rapes*</u>	<u>Number reported to police</u> (according to victims)
1984	179,890	100,670
1985	138,490	84,440
1986	129,940	62,540
1987	148,450	77,700
1988	127,370	57,220

These are estimates based upon BJS' National Crime Survey. Because rapes are relatively rare compared to other crimes, rape estimates tend to vary considerably year-by-year. Statistical tests can be run to determine whether apparent year-to-year changes reflect real trends.

* Includes crimes not reported to the police

3. Rape Convictions:

1986 is the only year for which we have nationally representative data on felony convictions in State courts.

Rape: 19,685 convictions (estimated)

Other sex offenses (felonies): 5,800 (estimated)

In the same year in Federal courts there were 80 rape convictions and 167 convictions for other sex offenses.

TABLE 1
TOTAL NUMBER OF REPORTED MEDICAID ABORTIONS, BY STATE AND FISCAL YEAR
February 14, 1978 - September 30, 1988 1/

State	Total	FY 1978-1984 2/	FY 1985	FY 1986	FY 1987	FY 1988
Total	59,918	58,662	865	332	75	84
Alabama	587	550	10	12	7	18
Alaska	94	94	0	0	0	0
American Samoa 3	0	0	0	0	0	0
Arizona 4	0	0	0	0	0	0
Arkansas	325	316	5	3	1	0
California	0	0	0	0	0	0
Colorado	2,136	2,062	74	0	0	0
Connecticut	1,394	1,376	9	7	2	0
Delaware	328	312	6	6	2	2
District of Columbia	2,759	2,759	0	0	0	0
Florida	1,315	1,288	8	13	8	0
Georgia	856	839	0	7	6	4
Guam	5	5	0	0	0	0
Hawaii	0	0	0	0	0	0
Idaho	80	83	6	1	2	7
Illinois	3,212	3,195	8	2	2	5
Indiana	541	539	1	1	0	0
Iowa	328	300	8	6	5	9
Kansas	433	425	0	1	2	5
Kentucky	17	17	0	0	0	0
Louisiana	268	268	0	0	0	0
Maine	270	248	7	5	5	5
Maryland	4,260	4,260	0	0	0	0
Massachusetts	8,800	8,800	0	0	0	0
Michigan	0	0	0	0	0	0
Minnesota	1,589	1,570	4	3	3	9
Mississippi	13	13	0	0	0	0
Missouri	49	49	0	0	0	0
Montana	21	5	2	0	0	0
Nebraska	114	111	1	13	1	0
Nevada	122	121	1	2	0	0
New Hampshire	84	84	0	0	0	0
New Jersey	4,269	4,269	0	0	0	0
New Mexico	232	232	0	0	0	0
New York	0	0	0	0	0	0
North Carolina	1,428	1,386	11	12	5	0
North Dakota	6	6	0	0	0	4
N. Mariana Islands 5	0	0	0	0	0	0
Ohio	9,324	8,666	650	0	0	0
Oklahoma	356	356	0	0	0	0
Oregon	1,341	1,335	6	0	0	0
Pennsylvania	9,481	9,336	27	108	0	0
Puerto Rico	0	0	0	0	0	0
Rhode Island	5	5	0	0	0	0
South Carolina	502	477	4	6	8	7
South Dakota	1	1	0	0	0	0
Tennessee	386	365	0	6	10	5
Texas	72	73	0	0	0	0
Utah	260	280	0	0	0	0
Vermont	194	190	0	0	0	0
Virgin Islands	0	0	0	2	2	0
Virginia	123	102	5	6	6	4
Washington	350	350	0	0	0	0
West Virginia	3	3	0	0	0	0
Wisconsin	1,533	1,529	2	2	0	0
Wyoming	2	2	0	0	0	0

1/ Data for this report are taken from the 64.9 forms submitted by the Medicaid jurisdictions as part of their quarterly statement of expenditures. This report reflects the most current information available as of December 9, 1988. Because States submit revised abortion claim data, the data contained in this report may differ with information contained in reports previously issued.

2/ Data for FY 1978 are only for the period from February 14, 1978 through September 30, 1978.

3/ No Medicaid program in effect until FY 1982.

4/ No Medicaid program in effect until FY 1983.

5/ No Medicaid program in effect until FY 1979.

TABLE 3
TOTAL REPORTED EXPENDITURES FOR MEDICAID ABORTIONS, BY STATE AND FISCAL YEAR
February 14, 1978 - September 30, 1988 1/

State	Total	FY 1978-1984 2/	FY 1985	FY 1986	FY 1987	FY 1988
Total	\$16,458,464	\$ 14,918,661	\$1,252,482	\$ 139,066	\$ 87,020	\$ 61,235
Alabama	147,737	129,325	1,822	2,542	1,882	11,936
Alaska	36,331	36,331	0	0	0	0
American Samoa 3	0	0	0	0	0	0
Arizona 4	0	0	0	0	0	0
Arkansas	90,831	86,521	997	3,344	169	0
California	0	0	0	0	0	0
Colorado	496,239	477,238	18,901	0	0	0
Connecticut	521,720	511,341	4,875	4,916	688	0
Delaware	120,120	114,007	2,283	2,874	512	644
District of Columbia	371,040	371,040	0	0	0	0
Florida	329,746	290,245	12,268	8,515	18,718	0
Georgia	293,700	276,181	0	4,878	2,144	10,517
Guam	749	749	0	0	0	0
Hawaii	0	0	0	0	0	0
Idaho	28,965	17,633	6,693	481	502	3,654
Illinois	528,781	526,431	897	336	252	863
Indiana	132,371	131,941	150	280	0	0
Iowa	115,185	91,518	2,137	1,235	14,162	6,133
Kansas	144,771	140,823	0	912	470	2,766
Kentucky	9,425	8,425	0	0	0	0
Louisiana	48,900	48,900	0	0	0	0
Maine	107,736	90,793	9,241	2,582	2,517	2,743
Maryland	1,084,522	1,084,522	0	0	0	0
Massachusetts	1,117,351	1,117,351	0	0	0	0
Michigan	0	0	0	0	0	0
Minnesota	292,204	288,266	1,921	393	581	1,083
Mississippi	780	780	0	0	0	0
Missouri	3,217	3,217	0	0	0	0
Montana	5,713	1,290	1,587	2,838	318	0
Nebraska	27,749	27,350	154	245	0	0
Nevada	29,204	28,877	327	0	0	0
New Hampshire	12,319	12,319	0	0	0	0
New Jersey	884,071	884,071	0	0	0	0
New Mexico	43,360	43,360	0	0	0	0
New York	0	0	0	0	0	0
North Carolina	453,450	393,434	29,855	13,242	12,588	4,321
North Dakota	1,087	1,087	0	0	0	0
N. Mariana Islands 5	0	0	0	0	0	0
Ohio	5,472,189	4,325,431	1,126,046	20,712	0	0
Oklahoma	171,623	171,623	0	0	0	0
Oregon	157,373	156,528	845	0	0	0
Pennsylvania	2,371,222	2,293,836	20,410	56,976	0	0
Puerto Rico	0	0	0	0	0	0
Rhode Island	6,097	5,097	0	0	0	0
South Carolina	151,435	136,079	4,660	4,613	3,259	2,824
South Dakota	202	202	0	0	0	0
Tennessee	91,302	54,737	0	3,580	22,226	10,759
Texas	24,037	24,037	0	0	0	0
Utah	55,358	55,358	0	0	0	0
Vermont	48,104	42,732	0	2,880	2,492	0
Virgin Islands	0	0	0	0	0	0
Virginia	55,582	41,971	8,151	760	3,890	3,010
Washington	66,091	66,091	0	0	0	0
West Virginia	868	868	0	0	0	0
Wisconsin	306,769	306,127	310	332	0	0
Wyoming	1,738	1,738	0	0	0	0

1/ Data for this report are taken from the 64-9 forms submitted by the Medicaid jurisdictions as part of their quarterly statement of expenditures. This report reflects the most current information available as of December 9, 1988. Because States submit revised abortion claim data, the data contained in this report may differ with information contained in reports previously issued. The expenditures shown include both the Federal and State shares.

- 2/ Data for FY 1978 are only for the period from February 14, 1978 through September 30, 1978.
3/ No Medicaid program in effect until FY 1982.
4/ No Medicaid program in effect until FY 1983.
5/ No Medicaid program in effect until FY 1979.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	From Douglas Johnson to John Sununu Re: Fetal-Tissue Research (3 pp.)	10/5/89	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
 (Document Follows)

By gf (NLGB) on 5/12/05

Date Closed:	12/1/2004	OA/ID Number:	29135-002
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

To: Governor Sununu c/o JACKI KENNEDY (fax 456-2397)

From: Douglas Johnson, Legislative Director, NRLC
(626-8820, 439-9087)

Date: Thursday, Oct. 5, 1989

In response to your telephone request this morning to Darla St. Martin, I am faxing a copy of the briefing paper on fetal-tissue research.

I am also re-transmitting a memo which we sent you on Sept. 27, urgently requesting that Congressman David Obey be informed that his foreign operations appropriations bill will be vetoed unless the Senate-passed Mikulski Amendment is dropped in conference.

As yet, no such veto threat has been transmitted regarding the Mikulski Amendment (although the State Department has stated that provisions dealing with El Salvador and other issues would be grounds for a veto).

The conference is expected to meet during the week of October 16.

If Mr. Obey receives a veto message, we believe the probability is high that the Mikulski Amendment will be scrapped in conference. If, however, Mr. Obey believes that the President would sign the bill even though it guts the Kemp Amendment and restores funding to the UNFPA, then Mr. Obey is likely to accept the Senate language.

If the President were to sign a bill restoring funding to the UNFPA (while the UNFPA continues to participate in and applaud China's population program), it would gut a major pro-life victory of the Reagan years. A national Planned Parenthood publication this week reported that such an action would be a "major breakthrough" for them, setting the stage for a full-scale attack on the most important of all of President Reagan's pro-life executive policies-- the Mexico City Policy.

Therefore, we again request your intervention to turn back this assault by the pro-abortion lobby.

CONFIDENTIAL

To: Gov. Sununu c/o JACKI KENNEDY (fax 456-2397)

From: Darla St. Martin 626-8826
Douglas Johnson 626-8820, 439-9087

Re: United Nations Population Fund

Date: Wednesday, Sept. 27, 1989

As you know, on Sept. 20 the Senate narrowly (52-48) accepted Sen. Mikulski's amendment to mandate renewed funding of the United Nations Population Fund (UNFPA). Mikulski's effort can be blocked by transmission of a prompt veto threat to Congressman David Obey.

In a May 5 letter to Congressman Henry Hyde (since circulated nationwide), President Bush said, "I agree that there should be no funding for the UNFPA so long as it supports programs involving compulsory abortion." That is a principled, pro-life, pro-human-rights policy-- indeed, the very policy embodied in law since 1985 via the Kemp-Kasten Amendment. Based on intelligence, diplomatic, and journalistic sources, as well as the U.S. Census Bureau's China Desk, the Agency for International Development has annually formally declared that China's program is "systematically coercive" and that the UNFPA's involvement there violates the Kemp-Kasten Amendment. The most recent such determination was announced by AID on June 7, 1989.

Mikulski would gut the Kemp-Kasten provision by exempting the UNFPA from its requirements. The result would be precisely what President Bush told Mr. Hyde he opposes: the U.S. would once again be part of the UNFPA, notwithstanding the UNFPA's continuing enthusiastic support for China's population program.

There is nothing "moderate" about Mikulski's amendment. Mikulski's requirement that the UNFPA keep the U.S. funds "segregated" from China is a mere bookkeeping sham. Under Mikulski's amendment, the UNFPA would have it both ways: remaining a full partner in China's population program, while enjoying U.S. funding and tacit U.S. acquiescence in its support for China.

Congressman Obey, the chairman of the House conferees, is pro-UNFPA, but he has supported retention of the Kemp-Kasten Amendment since 1986 because he knows that the House as a whole supports that position (as was again demonstrated by adoption of the Chris Smith amendment to the foreign aid authorization bill on June 22, by a 66-vote margin), and because of President Reagan's support for Kemp-Kasten. In our view, if Mr. Obey promptly receives an unequivocal veto threat on the Mikulski language, he will probably drop it in conference (or if he does not, our chances of defeating the conference report on the House floor would be enhanced by the veto threat). However, if Obey does not receive such a credible veto threat, he will likely accept Mikulski, or some other language to achieve the same end.

(more)

In the unlikely event that both Obey and the full House disregard a veto threat, and the President actually vetoed the bill, you can be assured the veto would be sustained. In the letter sent to President Bush on June 13, 154 House members explicitly promised to sustain a veto on "barring U.S. funding of any organization, including the United Nations Population Fund, that in any way participates in or supports programs of coercive abortion." The actual number who would vote to sustain a veto on the UNFPA issue alone is surely well in excess of 154, and would include more than a few pro-abortion House members who will vote against any foreign aid bill on general principles.

Thank you for your attention to this request.

[Attachments]

THE WHITE HOUSE

WASHINGTON

May 5, 1989

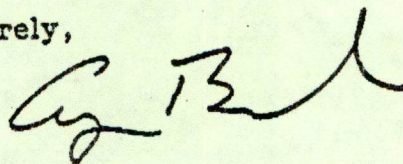
Dear Henry:

Thank you for your letter of April 18 on pro-life issues which my Administration will face in the coming months.

I do support the Mexico City Policy as it relates to abortion. As you noted, this Policy allows funds to organizations which agree to provide contraceptive services but refrain from promoting abortion. I also agree that there should be no funding for the United Nations Fund for Population Activities (UNFPA) so long as it supports programs involving compulsory abortion.

However, at the same time, let me reaffirm my strong support for family planning programs which do not condone or encourage abortion.

Sincerely,



The Honorable Henry J. Hyde
House of Representatives
Washington, D.C. 20515

Congress of the United States
House of Representatives
Washington, DC 20515

September 28, 1989

SUFFER THE LITTLE CHILDREN ...

Dear Colleague:

Recent "Dear Colleagues" have questioned whether the current absolute prohibition on funding of the United Nations Population Fund (UNFPA) is an appropriate response to that organization's involvement with China's coercive population-control program. We are all concerned with overpopulation, but please consider the following before supporting efforts to restore funding to the UNFPA.

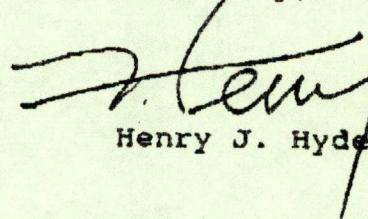
"... The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences ... The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out ... We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible ..."¹

China's Program in Tibet

"The UNFPA firmly believes, and so does the government of the Peoples Republic of China, that their program is a totally voluntary program."²

The UNFPA on China

Cordially,



Henry J. Hyde

¹ "Witness to China's Shame", Washington Post, Blake Kerr, February 26, 1989, p. C1.

² Quote from remarks by Dr. Nafis Sadik, Executive Director, UNFPA, at a Population Caucus/Population Institute/UNFPA luncheon on Capitol Hill on May 24, 1989.

CHRISTOPHER H. SMITH

4TH DISTRICT, NEW JERSEY

COMMITTEES:

FOREIGN AFFAIRS

SUBCOMMITTEES:

EUROPE AND THE MIDDLE EAST

HUMAN RIGHTS AND
INTERNATIONAL ORGANIZATIONS

VETERANS' AFFAIRS

SUBCOMMITTEES:

HEALTH AND HOSPITALS

EDUCATION, TRAINING AND
EMPLOYMENT—Vice Chairman

COMMISSIONER:

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE

SELECT COMMITTEE ON AGING



Congress of the United States

House of Representatives

Washington, DC 20515

October 2, 1989

WASHINGTON OFFICE:

2440 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

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1720 GREENWOOD AVENUE

TRENTON, NJ 08609

(609) 890-2800

427 HIGH STREET

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BURLINGTON CITY, NJ 08016

(609) 388-5534

655 PARK AVENUE, ROUTE 33

FREEDHOLD, NJ 07728

(201) 780-0707

"There should be no funding for the United Nations Fund for Population Activities (UNFPA) so long as it supports programs involving compulsory abortion."

PRESIDENT GEORGE BUSH

(Letter to Rep. Henry Hyde, May 5, 1989)

"I strongly oppose the earmark of \$15 million for the UN Population Fund (UNFPA). That organization participates in the management of a program in China that involves coercive abortion. The Administration opposes this practice, as do an overwhelming majority of the American people."

SECRETARY OF STATE JAMES BAKER

(Letter to Sen. Kasten, September 19, 1989)

Dear Colleague:

The House may soon vote on the question of reversing current law to restore U.S. funding of the United Nations Population Fund (UNFPA). That organization supports and participates in the management of China's coercive population control program. Please consider the following points in support of our current policy and oppose any effort to reverse it:

* In 1985, Congress enacted a law that prohibits funding to "any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization." This language has been renewed every year since 1986. The House-passed FY '90 Foreign Operations Appropriation bill (H.R. 2939) contains this provision.

* The Senate-passed Mikulski amendment strips this anti-coercion language out of the bill and awards \$15 million to an organization (UNFPA) that the U.S. Agency for International Development (AID) has determined "supports or participates in the management of a program of coercive abortion or involuntary sterilization."

Every year -- 1985, '86, '87, '88, and '89 -- AID has determined that UNFPA is ineligible for U.S. funding because of its support for China's coercive program. Excerpts from the AID findings follow:

1985: "Based on the evidence available...there is 'probable cause' to believe that coercion, sponsored by the Government, is prevalent in the PRC's family planning program...I further conclude that the UNFPA program cannot be disentangled from the pervasive coercion of the system and that even if it could, the shadow on the PRC program would pose difficulties. Hence, I conclude that the U.S. should take strong action to dissociate itself from the China program."
("Information Memorandum for the Administrator", March 29, 1985)

1986: "The Agency for International Development (AID) announced today that \$25 million in funding budgeted for UNFPA is fiscal year 1986 will be provided to other voluntary family planning programs worldwide...There have not been sufficient changes since last year to warrant a resumption of United States support for UNFPA."
(AID Press Release, August 28, 1986)

1987: "The Chinese program remains systematically coercive...Chinese spokesmen at recent family planning conferences have stated that births not covered by the plan must be strictly banned and prescribed penalties should be applied firmly and promptly until pregnancies outside the plan are terminated...There is no basis for changing the previous A.I.D. determination that China has a coercive program... Official statements clearly say that abortion and/or sterilization not freely chosen by couples is a publicly approved remedy for births outside the state plan." [All underscoring in the original.]
("Action Memorandum for the Administrator", August 10, 1987)

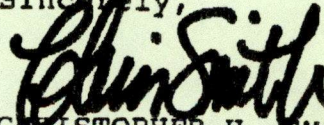
1988: "Funds budgeted for UNFPA were first shifted in 1985 after a determination that it participated in the management of a program of coercive abortion and involuntary sterilization through its assistance to the population program of the People's Republic of China...A review of the program, conducted by the Census Bureau at USAID's request, indicated that 'the significant changes that would warrant resumption of support have not occurred', said USAID Administrator Alan Woods."
(AID Press Release, May 27, 1988)

1989: "Unfortunately, no significant changes in the nature of the China population program or in UNFPA's assistance to China have occurred which would warrant resumption of U.S. support for UNFPA," said USAID Deputy Administrator Jay F. Morris.
(AID Press Release, June 7, 1989)

* The current anti-coercion law has not reduced funds for population control by one penny! Every dollar that would have gone to UNFPA has been reprogrammed to other family planning programs.

* Paper accounting tricks, like segregating U.S. funds contributed to the UNFPA to keep them out of China, are nothing more than a bookkeeping sham. This exercise is duplicitous and makes a mockery of our protests against coercion. We must insist that coercion in population control programs is absolutely unacceptable!

Sincerely,



CHRISTOPHER H. SMITH
Member of Congress



National RIGHT TO LIFE committee, inc.

Suite 402, 419 7th Street, N.W.
Washington, D.C. 20004 — (202) 626-8800

June 15, 1989

President George Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

On March 20, two pro-life leaders from the House of Representatives, Congressman Chris Smith and Congressman Vin Weber, together with NRLC Legislative Director Douglas Johnson, met with Chief of Staff John Sununu to discuss various pro-life matters. Among these was the issue of whether your Administration should approve the funding of medical research utilizing tissues "harvested" from victims of abortion, as recently recommended by a panel selected by officials of the National Institutes of Health (NIH).

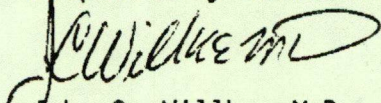
At that meeting, Governor Sununu indicated that he would welcome a paper explaining the pro-life objections to federal funding of such procedures. We have prepared such a paper, which is attached.

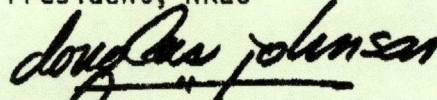
Although the paper is longer than we originally intended, we believe that you will find it worthwhile to review it carefully. The fetal-tissue issue is one of the most important pro-life matters which you will ever consider. Your decision on this issue will have major ramifications with respect to the future legal status of abortion, and the number of abortions performed.

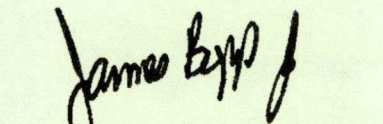
This paper barely summarizes the many reasons why we believe that Federal support for such research would greatly increase the number of unborn children whose lives would be lost to abortion. These arguments are set out in much greater detail in a dissent to the recent report of the NIH Human Fetal Tissue Transplantation Research Panel, written by panel members Prof. James T. Burtchae II of the University of Notre Dame and NRLC General Counsel James Bopp, Jr. Prof. Burtchae II also assisted in the writing of this briefing paper, although he is now traveling abroad and so was unable to review the final paper.

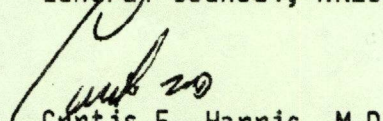
Thank you for your consideration of our views, and may God guide you as you weigh this vital issue.

Respectfully submitted,


John C. Willke, M.D.
President, NRLC


Douglas Johnson
Legislative Director, NRLC


James Bopp, Jr., J.D.
General Counsel, NRLC


Curtis E. Harris, M.D.
President
American Academy of Medical Ethics



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

September 29, 1989

THE DIRECTOR

Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

As the House and Senate prepare to confer on H.R. 2990, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, FY 1990, I am writing to express the Administration's views with respect to the House and Senate bills.

The President's senior advisors would recommend that he veto the bill if the final version contains either the Senate's unacceptable abortion language or funding to implement Title I of S. 5, which would violate all of the President's principles for child care.

The Administration finds unacceptable the Senate's attempt to expand Federal funding for abortion beyond cases where the life of the mother would be endangered if the fetus were carried to term. In a letter dated August 2, 1989, regarding the District of Columbia Appropriations Bill, the President stated that he would veto a bill with language permitting use of appropriated funds for abortions other than those where the life of the mother would be endangered if the fetus were carried to term. The conferees are urged to adopt the acceptable House language, the Hyde amendment.

The Administration also opposes the Senate's funding of \$1.2 billion to implement Title I of S. 5, the Act for Better Child Care, as passed by the Senate. The President's senior advisors have recommended that he veto the bill authorizing this grant program, because the program violates all the principles the President has said must be reflected in child care legislation. In addition, the provisions could add \$0.7 billion to the FY 1991 deficit. The \$64 billion Gramm-Rudman-Hollings (G-R-H) deficit target for FY 1991 will be even more difficult to achieve if Congress begins enacting large advance appropriations for discretionary programs.

IDENTICAL LETTERS SENT TO HONORABLE SILVIO CONTE,
HONORABLE WILLIAM H. NATCHER, HONORABLE ROBERT C. BYRD,
HONORABLE MARK O. HATFIELD, HONORABLE JAMIE L. WHITTEN,
HONORABLE TOM HARKIN, AND HONORABLE ARLEN SPECTER

The Administration is concerned about the mark for Pell Grants provided by both the House and the Senate. The mark underfunds the Pell program by \$696 million: \$331 million for the FY 1989 shortfall and \$365 million for FY 1990. Also, the House and Senate did not provide requested language allowing a portion of the FY 1990 funds to be used for the FY 1989 shortfall. If Congress does not enact the necessary language and funding for this program, the Secretary of Education will be required by law to perform two linear reductions and establish new schedules of reduced awards for academic years 1989-90 and 1990-91. Such linear reductions would eliminate awards to 290,000 needy students in academic year 1989-90 and 320,000 in academic year 1990-91, and reduce awards to another 1.1 million in each academic year.

Furthermore, OMB estimates that had the Pell Grant program not been underfunded by \$696 million, H.R. 2990, as passed by the Senate, would exceed the FY 1990 302(b) allocation by \$159 million for discretionary budget authority and \$716 million for discretionary outlays. We believe that such appropriations should be provided in a regular appropriations act, not in a supplemental act. Given that both the House and Senate Committee reports clearly contemplate a current law program without linear reductions, we have added this increase to both the House and the Senate bill totals. The conferees are urged to fund the Pell Grant program fully and to provide offsets.

The Administration is opposed to the Senate's provision that would direct the Administrator of the General Services Administration (GSA) to enter into a lease-purchase arrangement for a new Centers for Disease Control building in Morgantown, West Virginia. The reasons for our opposition are: there is no immediate long-term need for the building; and the provision is inconsistent with the recently completed OMB-GSA study on the Federal Building Fund and with our effort to work with Congress toward a compromise that would provide for least-cost financing of long-term needs.

We are concerned that both the House and Senate bills have limited the Secretary's authority to transfer AIDS funds among Public Health Service accounts. The HIV/AIDS crisis demands greater flexibility. The Secretary should have access to Health and Human Services' discretionary funds for activities to combat HIV/AIDS as needed. Therefore, we urge the conferees to adopt the HIV/AIDS flexibility language proposed in the President's FY 1990 Budget.

Furthermore, the Senate bill would require HHS to obtain approval from the Appropriations Committees before transferring AIDS funds among accounts. The advance notice and consultation that the Secretary of Health and Human Services provides to the Committees will continue, regardless of whether the Senate's

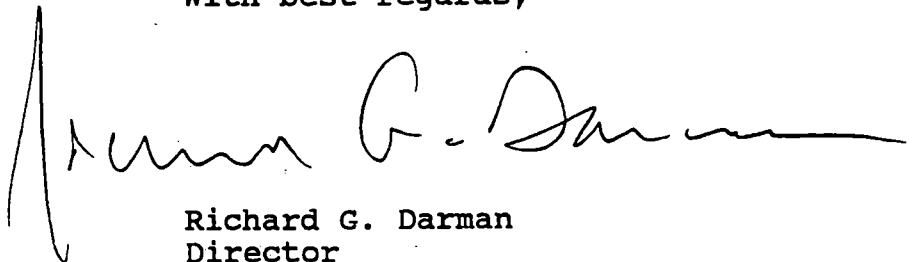
provision requires such notifications. However, we believe the Senate's requirement is not constitutional under the principles enunciated in INS v. Chadha, 462 U.S. 919 (1983). The conferees are urged to delete this language.

Although the Administration supports the reductions in this bill to Interim Assistance to States for Legalization (SLIAG) for FY 1990, the Administration opposes the Senate amendment to increase FY 1991 SLIAG funding by \$555 million. The reasons why funding for SLIAG is not required in FY 1990 also apply to funding for FY 1991. The conferees are urged not to provide this unnecessary advance appropriation.

The Initial OMB Sequester Report of August 25th made clear that we have virtually no margin for expenditures above the 302(b) allocations if we are to avoid sequester. The conferees are urged to find appropriate means to keep the final version of this bill within the 302(b) levels while providing adequate funding for America's needy students to pursue higher education.

These and other concerns are addressed more fully in the enclosure. The Administration respectfully urges the conferees to pass a bill that addresses satisfactorily the concerns of the Administration so that Presidential approval can be recommended.

With best regards,

A handwritten signature in dark ink, appearing to read "Richard G. Darman", is written over a horizontal line.

Richard G. Darman
Director

Enclosure

(Conference)

**LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS BILL, FY 1990**

**I. CONFORMANCE WITH BIPARTISAN BUDGET AGREEMENT AND 302(b)
ALLOCATIONS**

The Office of Management and Budget (OMB) estimates that H.R. 2990, as passed by the Senate, exceeds the 302(b) allocation by \$159 million for discretionary budget authority and \$716 million for discretionary outlays. The House deferred action on a number of unauthorized programs; a judgment cannot be made as to whether the bill falls within its 302(b) allocation. The conferees are urged to find appropriate means to keep the final version of the bill within the 302(b) levels while addressing the funding and language provisions about which the Administration is concerned.

**II. MAJOR ADMINISTRATION OBJECTIONS TO NON-CONFERENCEABLE
PROVISIONS**

The Administration is concerned about the mark for Pell Grants provided by both the House and the Senate. The mark underfunds the Pell program by \$696 million: \$331 million for the FY 1989 shortfall and \$365 million for FY 1990. If the Congress does not enact the necessary language and funding for this program, the Secretary of Education will be required by law to perform two linear reductions and establish new schedules for reduced awards for academic years 1989-90 and 1990-91. Such linear reductions would eliminate awards to 290,000 students in academic year 1989-90 and 320,000 in academic year 1990-91. Awards to another 1.1 million students in each academic year would be reduced. The conferees are urged to provide the necessary funding and language provisions required to fully fund Pell Grants, make allowance for this increase, and remain within the limits set by the 302(b) allocation.

III. ADMINISTRATION POSITION ON CONFERENCEABLE PROVISIONS

A. Funding Levels

Department of Labor:

Training and Employment Services:

The Administration urges the conferees to fund the Job Training and Partnership Act (JTPA) block grant at the Administration's FY 1990 request level of \$1.79 billion and restore the \$38 million reduction taken by the Senate. The Senate cut would reduce service levels by 25,000 participants in program year 1990. The Administration's proposed JTPA amendments address the Senate Appropriations Committee's concerns about the use of on-the-job training and fixed unit price contracts in the block grant program.

The Administration recommends that House and Senate conferees restrain growth in Job Corps spending by adopting the funding level of \$797 million approved by the House for program year 1990. By approving the Senate Committee's action, conferees would boost service year costs to 20 percent above the 1988 level while keeping program capacity constant. The conferees should approve the House mark for Job Corps capital costs in 1990, since the Senate's \$17 million add-on to the Administration's request includes an unnecessary \$1 million earmark to renovate facilities at the Denison, Iowa Job Corps Center and \$1 million to acquire additional property for the El Paso Job Corps center. The Administration also recommends that the conference agreement provide the \$13 million for Job Corps operations during the program year 1989 included in the Senate bill.

The Senate added \$100 million to the Administration's \$400 million request for assistance to dislocated workers in FY 1990. If conferees approve the Senate action, funding for this program would exceed the Administration request by 25 percent and would be 76 percent over the 1989 enacted level. Latest available data show that reemployment rates for dislocated workers are rising, and the outlook for FY 1990 suggests that employment rates will remain close to current, 15-year low levels. Therefore, the Administration recommends that the conferees adopt the House funding level of \$450 million for assistance to dislocated workers.

Conferees should approve the Administration's request and Senate action to fully fund at \$13 million the McKinney Act job training program for the homeless.

The Administration recommends that conferees adopt the House funding level in 1990 for JTPA programs to serve migrant and seasonal farm workers. In addition, the Administration supports the House mark for program administration, pilot and demonstration programs, research and evaluation, training and technical assistance, labor market information, the National Occupational Information Coordinating Committee, and the Samoan employment and training program. The Administration urges the conference committee to approve the Senate mark of \$3 million for the rural concentrated employment program.

Community Services for Older Americans. The Administration urges the conference committee to approve the House funding level of \$354 million for the Community Service Employment for Older Americans program, and \$12.5 million below the Senate. House action would fund this program at \$18 million above the Administration's request and \$10 million above the 1989 enacted level.

Salaries and Expenses. The Administration urges the conferees to adopt the House level for all of the Department of Labor's salaries and expenses accounts.

Employment Service - National Programs. The Administration urges the conferees to adopt the House level.

The Senate would provide an additional \$25 million to continue administration of the Targeted Jobs Tax Credit program. Since this program expires December 31, 1989, these resources are unnecessary.

The Senate would also add \$25 million for Employment Service automation. This new categorical, federally-determined program would be inconsistent with the policy established by the 1982 amendments to the Wagner Peyser Act which called for giving States maximum flexibility in choosing how to spend Employment Service resources for State program operations. Instead of continuing to allow the States such flexibility, this new program would break out separate resources to support State Employment Service operations which could be used only for automation specifically approved by the Federal government.

Department of Health and Human Services:

National Health Service Corps (NHSC). The Administration objects to both the House and Senate marks. The House split the \$8 million requested by

the Administration for the NHSC Loan Repayment Program, recommending \$4 million for NHSC scholarships and \$4 million for loan repayment. The Senate augmented the \$8 million requested by the Administration for NHSC and Loan Repayment Program, recommending \$2 million for NHSC scholarships and \$8 million for loan repayment.

Congress agreed with the Administration's recommendation in FY 1989 to cease funding the default-plagued NHSC scholarships in favor of loan repayments. The 4-7 year time delay between the award of scholarships and service in the NHSC led to many defaults due to changed goals, family circumstances and spouses' needs. The Administration believes that loan repayment is a faster and more effective way to get health professionals to serve in health manpower shortages areas. Loan repayments are directed at those providers whose training is completed or nearly completed, and may therefore help reduce the likelihood of default.

National Institutes of Health (NIH). The Senate bill would appropriate an unrequested \$18 million for extramural construction in NIH, comprised of the following: \$5 million each for the Jackson Laboratory (Bar Harbor, Maine), the Primate Research Institute (Halloman, New Mexico), and the McLaughlin Institute (Great Falls Montana); \$500,000 each for the Perinatal Research and Training Center (University of Mississippi) and the Biomedical Research Center (Medical College of Georgia); and \$2 million for the University of Colorado Cancer Center. These Congressional directives for non-peer reviewed projects restrict the ability of the Public Health Service to manage its operations and determine program priorities. The conferees are urged to delete these unnecessary and unrequested projects.

HIV Drug Treatment Grants. The Senate bill includes \$30 million in FY 1990 to continue the transitional AIDS drug treatment state grants which were repealed earlier this year. This disease-specific provision duplicates existing financing mechanisms; some private insurers cover AZT and almost all states also cover AZT purchases for low-income persons through Medicaid. This grant program could lead to sizeable financial commitments in the near future as AZT is administered earlier in the course of the disease, more drugs are approved for treating HIV infection, and more of the infected Americans are treated. The conferees are urged to delete this funding provision.

Human Development Services. The Administration strongly objects to the appropriation of \$1.2 billion to carry out Title I of S. 5, the Act for Better Child Care as passed by the Senate. Title I violates all of the principles the President has said must be reflected in child care legislation. It gives States, not parents, funding and the ultimate decision-making power on the care children will receive. It perpetuates the current discrimination against two-parent families which sacrifice income so that one parent can work at home to care for the children by requiring States to serve only those families in which both parents are employed in the labor force. It decreases the range of child care choices available to parents by requiring that care provided under grants and contracts be totally non-sectarian in nature and content and by leaving unresolved the church-state issue as it relates to certificates. Parental choice is further diminished through requirements that the States set standards which will limit the supply of providers and drive up prices. Title I also is poorly targeted and will serve only a small fraction of families in need.

Social Security Administration (SSA). The Administration objects to a provision in the Senate bill which specifies an unnecessary and arbitrary staffing floor for SSA. The bill requires that SSA employment at the end of FY 1990 be no lower than at the end of FY 1989. This staffing floor is particularly troublesome because it applies to two points in time, without regard to staffing requirements and available resources throughout the rest of the fiscal year. This could lead to inefficient, short-term staffing practices to satisfy Congressional requirements.

The Senate report indicates that the staffing floor is based on concerns regarding the quality of service provided by SSA to the public. Client satisfaction surveys by SSA, the General Accounting Office, and the Department of Health and Human Services' Inspector General indicate that the public generally rates SSA's service as "good" and "very good". The public has been satisfied with SSA's service even while the agency streamlined its operations through automation and other improvements.

The Administration is committed to accessible and responsive service to the public, and there are no plans to reduce FY 1990 staffing below that assumed in the Budget. The Administration assures the Appropriations Committees that corrective action will be taken promptly if service levels are threatened by

a shortage of resources of any kind. However, an arbitrary, end of year staffing floor will only restrict the efficient use of agency resources, which could hinder systems improvements and other efforts to provide the highest quality public service. The conferees are urged to delete the staffing floor language.

State Legalization and Impact Assistance Grants (SLIAG). The Senate's amendment increasing FY 1991 SLIAG monies by \$555 million in the FY 1990 Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill is inappropriate. The Senate reduced FY 1990 SLIAG funding by \$555 million to offset increases in several other programs in the bill, such as Low Income Home Energy Assistance grants. The conferees are reminded that if the Senate amendment increasing FY 1991 SLIAG funds is adopted, the Committees will be scored with the increase to discretionary domestic spending in FY 1991, in accordance with the Bipartisan Budget Agreement.

Furthermore, the Administration believes that the Senate language may be inconsistent with the Congressional Budget Act of 1974, as amended, and is imprudent and fiscally irresponsible. The conferees are urged to consider the full effects of the Senate amendment increasing FY 1991 SLIAG funding and delete this objectionable language.

Department of Education

President's Initiatives. The Senate has stricken language included by the House that would have provided funding, if authorized prior to March 1, 1990, for the two largest of the President's initiatives -- \$250 million for Merit Schools and \$100 million for Magnet Schools of Excellence. The educational achievement of many American school children is inadequate to their own future needs as citizens and to the needs of the economy. The President's programs represent major investments to encourage improvements in lower performing schools and to assist school systems in extending choice options to parents. Both programs would make major improvements in the quality of American education. The Administration urges the Senate to provide appropriations for these programs contingent upon authorization, as the House did.

University of Kansas. The Administration objects to the Senate language that would provide funding for the Bioscience Center at the University of Kansas. The language would provide a total of \$10.4 million for

the Center -- \$5.2 million under a new heading entitled "University of Kansas" and an additional \$5.2 million in the General Provisions contained in Title V. The conferees are urged to delete all funding for this special project.

Other Related Agencies:

Corporation for Public Broadcasting (CPB):

Programming and System Support. The Administration objects to Senate funding of \$260 million for programming and system support and concurs with the House which froze this activity at \$242 million, its FY 1991 level. This funding level is sufficient to meet CPB programming and systems needs. Although public broadcasting is an important national resource, the funding level is incompatible with the urgent need to reduce Federal spending.

Satellite Replacement. The Administration opposes funding of satellite capacity. Funding for the satellite should be withheld until completion of CPB's study of its satellite replacement needs, cost differentials between leasing and buying satellite capacity, and the availability of non-Federal sources of financing. The Administration believes that it is inappropriate to provide funds when the information currently available on this issue is often contradictory, and when neither Congress nor the Administration has had an opportunity to examine less expensive and more cost efficient ways to acquire satellite capacity nor to consider non-Federal sources of funding, including CPB, PBS, NPR and their affiliates.

ACTION. The Administration urges the conferees to finance ACTION at the Administration's request level of \$170.4 million. The House deferred action on this program as it is unauthorized. The Senate level of \$181 million is \$11 million over the Administration's proposed level.

B. Language Provisions

Department of Labor:

Occupational Safety and Health Administration (OSHA). While the appropriations language for OSHA does not include several provisos from previous years' language which the Administration opposed, it does not delete all the restrictive language the Administration believes should be excised for OSHA to operate most

efficiently. In addition, neither the House nor the Senate continues two provisions which are beneficial to small businesses and give the Secretary of Labor latitude in achieving enforcements in non-serious instances. Previous appropriations language appropriately waived assessment of civil penalties for initial non-serious violation where fewer than ten violations are found, and encouraged small businesses to seek consultative advice intended to achieve OSHA enforcement by abating workplace hazards in lieu of assessing fines.

Health and Human Services:

Centers for Disease Control. The Administration is opposed to the Senate's provision that would direct the Administrator of the General Services Administration (GSA) to enter into a lease-purchase arrangement for a new Centers for Disease Control building in Morgantown, West Virginia. The reasons for our opposition are: there is no immediate long-term need for the building and; the provision is inconsistent with the recently completed OMB-GSA study on the Federal Building Fund and with our effort to work with Congress toward a compromise that would provide for least-cost financing of long-term needs. The conferees are urged to delete this objectionable language.

General Provisions. The General Provision section of the Department of Labor appropriation includes two of the three restrictive provisions which the Administration proposed for deletion. Section 103 and 104 place unnecessary restrictions on the Secretary of Labor's ability to manage the Job Corps effectively and efficiently. These two provisions bar competitively bidding the federally operated Civilian Conservation Centers (section 103), and using Federal resources to pay legal expenses in a criminal case for a Job Corps participant under certain circumstances (section 104).

Section 204. The Senate amendment is unacceptable. The Administration urges the conferees to retain the acceptable "Hyde Amendment." If the Senate language is not deleted, the President's senior advisors will recommend he veto the bill.

Section 213. The House and Senate action to limit the Secretary's authority to transfer AIDS funds among Public Health Service accounts is insufficient. The HIV/AIDS crisis demands greater flexibility. The Secretary should have access to Health and Human Services' discretionary funds to increase activities

to combat HIV/AIDS as needed. Therefore, we urge the conferees to adopt the HIV/AIDS flexibility language proposed in the President's FY 1990 Budget.

The Senate purports to require HHS to obtain approval from the Appropriations Committees before transferring AIDS funds among accounts. The advance notice and consultation that the Secretary of Health and Human Services provides to the Committees will continue, regardless of whether the Senate Committee's provision requires such notifications. However, we believe the Senate's requirement is not constitutional under the principles enunciated in INS v Chadha, 462 U.S. 919 (1983), and urge its deletion.

CONFERENCEABLE ITEM
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES, 1990
(in millions of dollars)

03:14 PM
29-Sep-89
BPB:JTB

Major Changes	1990 Mid-Session President's Request		House Action		Senate Action 1/		Senate difference from:			
	Request						Request		House Action	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
DISCRETIONARY SPENDING:										
Department of Labor:										
Training and employment services.....	3,861	3,792	3,976	3,796	4,001	3,799	140	7	25	3
State unemployment insurance and employment services.....	22	23	22	23	22	23	0	0	0	0
Community service employment for older Americans.....	336	342	354	345	370	348	34	6	16	3
Department of Health and Human Services:										
Health resources and services 2/.....	1,295	1,332	1,554	1,492	1,820	1,653	525	321	266	161
Centers for disease control 2/.....	599	692	1,080	972	1,114	992	515	300	34	20
National Institutes of Health 2/.....	6,777	6,971	7,678	7,327	7,713	7,354	936	383	35	27
Alcohol, Drug Abuse and Mental Health Administration 2/.....	1,757	1,833	1,935	1,790	2,041	1,858	284	25	106	68
Office of the Assistant Secretary for Health (net HIV proposal) 2/.....	514	218	248	197	107	99	-407	-119	-141	-98
National HIV program 2/.....	1,543	671	0	0	0	0	-1543	-671	0	0
Low income home energy assistance program	1,100	1,124	1,400	1,397	1,279	1,287	179	163	-121	-110
Refugee and entrant assistance.....	242	287	396	257	417	401	175	114	21	144
Community services block grant.....	0	118	371	375	387	378	387	260	16	3
Interim assistance to States for legalization.....	-400	-75	0	0	-555	-139	-155	-64	-555	-139
Payments to States for AFDC work programs (Transitional WIN activities).....	92	98	31	37	20	20	-72	-78	-11	-17
Human development services.....	2,883	2,713	2,838	2,710	4,077	3,076	1,194	363	1,239	366
Supplemental security income program (administrative expenses).....	1,111	1,111	1,111	1,111	1,111	1,111	0	0	0	0
Department of Education:										
Compensatory education for the disadvantaged.....	4,980	4,342	5,580	4,414	5,081	4,354	101	12	-499	-60

CONFERENCEABLE ITEM.
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES, 1990
(in millions of dollars)

03:14 PM
29-Sep-89
BPB:JTB

Major Changes	1990 Mid-Session President's Request		House Action		Senate Action 1/		Senate difference from:			
							Request		House Action	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
DISCRETIONARY SPENDING:										
Impact aid.....	629	686	739	784	732	779	103	93	-7	-5
School improvement programs.....	1,361	1,259	1,170	1,231	1,291	1,246	-70	-13	121	15
Immigrant and refugee education.....	204	202	211	203	183	200	-21	-2	-28	-3
Education for the handicapped.....	2,014	1,940	2,064	1,946	2,084	1,948	70	8	20	2
Vocational and adult education.....	1,115	904	1,151	908	1,126	905	11	1	-25	-3
Student financial assistance.....	6,367	6,342	6,718	6,676	6,792	6,696	425	354	74	20
Higher education.....	550	553	635	543	631	560	81	7	-4	17
Related Agencies:										
United States Institute of Peace.....	7	7	7	7	8	8	1	1	1	1
Corporation for Public Broadcasting 3/.....	233	233	233	233	233	233	0	0	0	0
All other.....	3,006	10,877	3,118	10,797	3,154	10,757	148	-120	36	-40
TOTAL, DISCRETIONARY SPENDING.....	42,198	48,595	44,620	49,571	45,239	49,946	3,041	1,351	619	375

1/ Budget authority and outlays for Senate action are based on preliminary OMB calculations.

2/ The President's budget proposed to consolidate HIV funds into one account, National HIV Program. The House and Senate did not adopt this proposal.

3/ Advanced appropriation for FY '90 was provided in FY '88 appropriations.

Detail may not add to totals due to rounding.

**BRIDGE TABLE: HOUSE AND SENATE ESTIMATES TO OMB ESTIMATES
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION,
AND RELATED AGENCIES APPROPRIATIONS BILL, 1990**
(In millions of dollars)

03:12 PM
29-Sep-89
BPB:JTB

	1990 President's Request		House Action		Senate Action 1/	
	BA	OL	BA	OL	BA	OL
COMMITTEE ESTIMATE, DISCRETIONARY PROGRAMS..... (Source: Committee Print, 9/13/89)	41,740	48,451	43,057	48,850	44,472	49,475
OMB Scorekeeping Adjustments:						
Deferred Action..... The House defers action on a number of programs that are unauthorized. In order to make meaningful comparisons, OMB's estimates of likely action have been added.	---	---	821	512	---	---
Interim Assistance to States for Legalization..... The House does not consider the President's proposal to reduce the permanent appropriation for Interim Assistance to States for Legalization. The adjustment reflects the President's request.	-400	-75	---	---	---	---
Student Financial Assistance..... The House does not include amendments submitted as a result of the Mid-Session Review. The adjustment reflects the President's request.	597	345	---	---	---	---
Student Financial Assistance..... Both the House and the Senate underfund Pell grants by \$696 million, which would require a proportional reduction in awards. Given that both the House and Senate reports clearly contemplate a current law program without linear reductions, OMB assumes that sufficient funding will be provided in a supplemental bill. Such	---	---	696	404	696	404

BRIDGE TABLE: HOUSE AND SENATE ESTIMATES TO OMB ESTIMATES
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION,
AND RELATED AGENCIES APPROPRIATIONS BILL, 1990
(In millions of dollars)

03:12 PM
29-Sep-89
BPB:JTB

	1990 President's Request		House Action		Senate Action 1/	
	BA	OL	BA	OL	BA	OL
an appropriation should be provided in a regular appropriations bill.						
Budget Amendment for the Office of the Assistant Secretary for Health, HHS.....	300	80	---	---	---	---
This request would provide funds for drug abuse research and research demonstrations, drug abuse treatment improvement programs, and for grants for prevention and treatment initiatives in support of the President's National Drug Control Strategy transmitted to Congress on September 5th.						
Federal Windfall Benefits, Railroad Retirement Board (RRB).....	-83	-83	---	---	---	---
The House does not consider the President's request to finance part of the windfall benefits from rail sector contributions. The adjustment represents the President's request.						
Federal Windfall Benefits, RRB.....	---	---	30	30	30	30
The House and Senate offset part of the discretionary outlays with income taxes deposited in the windfall account that the House and Senate claim are mandatory. These income taxes are a direct result of discretionary appropriations by Congress.						
Limitation on administrative expenses for Social Security Administration.....	---	---	21	21	21	21
The House underfunds the discretionary Supplemental Security Income (SSI) budget authority needed to meet the funding level for SSI admini-						

**BRIDGE TABLE: HOUSE AND SENATE ESTIMATES TO OMB ESTIMATES
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION,
AND RELATED AGENCIES APPROPRIATIONS BILL, 1990**
(In millions of dollars)

03:12 PM
29-Sep-89
BPB:JTB

	1990 President's Request		House Action		Senate Action 1/	
	BA	OL	BA	OL	BA	OL
strative expenses. The House transfers funding to Federal Old-Age and Survivors and Disability Insurance trust funds, where the budget authority is mandatory.						
Centers for Disease Control (CDC)..... The Senate provides for a lease-purchase agreement for a new CDC building in Morgantown, West Virginia. This proposal waives the Anti-Deficiency Act and understates the impact of this bill on domestic discretionary spending. This non-add adjustment shows the full effect on domestic discretionary spending.	---	---	---	---	(50)	---
University of Kansas..... The Senate provides \$5.2 million under the heading "University of Kansas." In addition, another \$5.2 million has been provided by language included in General Provisions of Title V.	---	---	---	---	5	1
Medicare, Rural Referral Centers..... The Senate adopted language that would prohibit the Department of Health and Human Services from promulgating regulations reclassifying rural referral centers. Such a prohibition is estimated to result in a cost of \$20 million in FY 1990.	---	---	---	---	20	20
Other scorekeeping differences.....	44	-124	-5	-5	-5	-5
Outlay prior and spendout differences.....	---	---	---	-241	---	---

**BRIDGE TABLE: HOUSE AND SENATE ESTIMATES TO OMB ESTIMATES
LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION,
AND RELATED AGENCIES APPROPRIATIONS BILL, 1990**
(in millions of dollars)

03:12 PM
29-Sep-89
BPB:JTB

	1990 President's Request		House Action		Senate Action 1/	
	BA	OL	BA	OL	BA	OL
TOTAL SCOREKEEPING ADJUSTMENTS.....	458	143	1,562	721	767	471
OMB ESTIMATE, DISCRETIONARY PROGRAMS.....	42,198	48,595	44,620	49,571	45,239	49,946
302(B) Allocation.....			45,080	49,230	45,080	49,230
Difference between Bill total and 302(B) allocation.....			-460	341	159	716

Detail may not add to totals due to rounding.

1/ Budget authority and outlays for Senate action are based on preliminary OMB calculations.



STATEMENT OF ADMINISTRATION POLICY

(House Floor)
July 27, 1989

DISTRICT OF COLUMBIA APPROPRIATIONS, FY 1990

(Sponsors: Whitten (D), Mississippi; Dixon (D), California)

The Administration objects strongly to a number of provisions in the current bill. In particular, the Administration opposes the deletion of language included in the FY 1989 District of Columbia Appropriations Act that prohibits the use of Federal and local funds for abortion except where the life of the mother would be endangered if the fetus were carried to term. We urge the House to restore this language in the FY 1990 bill. The absence of this prohibition would be viewed as sufficient reason for the President's senior advisors to recommend that he veto this bill.

The Administration has two other significant concerns regarding the House-reported bill:

- The Administration objects to the Committee's addition of \$34.7 million to the President's request for a consolidated Federal payment to the District for water and sewer services supplied to Federal facilities located within the District. Federal agencies' budget requests already contain funds to pay these costs directly to the District. The Administration encourages the House to consider legislation requiring the District to bill Federal agencies directly for water and sewer services.
- The Administration also requests that legislation excluding Federal Fund payments to the District from the apportionment process, contained in section 132 of the FY 1988 District of Columbia Appropriations Act, be repealed. This exclusion is a highly objectionable erosion of Presidential authority.

The House is urged to remove the objectionable provisions noted above so that the President's senior advisors could recommend that he sign the bill.



STATEMENT OF ADMINISTRATION POLICY

July 20, 1989
(House)

H.R. 2939 - Foreign Operations, Export Financing and
Related Programs Appropriations Act, FY 1990
Whitten (D/MS); Obey (D/WI)

The Administration supports passage of H.R. 2939 in the House, without restrictive amendments.

While differing from the Administration's proposals in a number of instances, H.R. 2939 represents an effort by the subcommittee and full committee leadership to take some Administration concerns into account. For a number of programs, funds were provided at the level requested by the President. Moreover, the extent of earmarking has been reduced from last year, and developments along these lines are particularly welcome. Further, the bill is generally consistent with the Bipartisan Budget Agreement.

However, the Administration would like to note its deep reservations with regard to some funding and other provisions in the bill including funding reductions for the World Bank, other multilateral development banks, and security assistance. The Administration will work with the Senate and in conference to address these concerns.

Nevertheless, the Administration believes that the bill represents a reasonable compromise for House action. Thus, we urge that H.R. 2939 be passed by the House without amendments further limiting the President's flexibility to implement his foreign policy.

* * * * *



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 7, 1989

THE DIRECTOR

Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

As the Senate Appropriations Subcommittee on the District of Columbia prepares to mark-up the FY 1990 District of Columbia Appropriations Bill, I am writing to express the Administration's strong objection to certain provisions in the bill as passed by the House. In particular, the Administration opposes the deletion of language that was included in the FY 1989 District of Columbia Appropriations Act that prohibits the use of appropriated funds for abortion except where the life of the mother would be endangered if the fetus were carried to term. We urge the Senate to restore this language in the FY 1990 bill. In a letter dated August 2, 1989, the President indicated that the absence of this language would result in his veto of the bill.

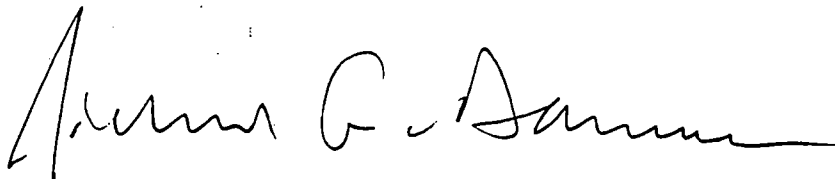
The Administration has two other significant concerns regarding the bill as passed by the House:

- The House has added to the President's request \$34.7 million for a consolidated Federal payment to the District for water and sewer services supplied to Federal facilities located within the District. Federal agencies' budget requests already contain funds to pay such costs to the District directly. The Administration urges the Senate to eliminate this lump-sum payment and approve legislation requiring the District to bill Federal agencies directly for water and sewer services.
- The House has not included repeal of section 132 of the FY 1988 District of Columbia Appropriations Act, which permanently exempted the Federal payments to the District from the apportionment process. We believe this exemption is an infringement on Presidential authority.

IDENTICAL LETTERS SENT TO HONORABLE MARK O. HATFIELD,
HONORABLE ROBERT C. BYRD, HONORABLE BROCK ADAMS,
AND HONORABLE PHIL GRAMM

We hope that the Senate will address our concerns in this matter, so that the President receives a bill he can sign.

With best regards,

A handwritten signature in dark ink, appearing to read "Richard G. Darman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard G. Darman
Director



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

(Senate Floor)
September 19, 1989

**H.R. 2939 - FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS BILL, FY 1990**

Sponsors: (Byrd (D) WV; Leahy, (D), VT)

The Administration would support passage of H.R. 2939, the Foreign Operations, Export Financing and Related Programs Appropriations Act, FY 1990, if floor action eliminates section 582 regarding leveraging of funds. This section would impose serious constraints on the President's ability to conduct foreign policy, and we believe that it would be unconstitutional. If section 582 is in a bill presented to the President, his senior advisors will recommend disapproval.

As the bill is considered on the Senate floor and in conference, the Administration will work to modify or eliminate a number of other provisions to which we have strong objections. Certain combinations of these other provisions together with objectionable provisions in the House version of the bill could also lead the President's senior advisors to recommend disapproval of the bill.

These other provisions, that would restrict significantly the ability of the President to achieve foreign policy objectives that are broadly supported in the Congress and among the American people, are:

- Section 594 and other provisions set limitations on the provision of military and economic aid to El Salvador. These sections would inhibit the President's ability to provide critically needed assistance in a timely manner and threaten a successful outcome in the government's negotiations with the Farabundo Marti Liberacion Nacional (FMLN).

- The Committee bill earmarks \$15 million for the UN Fund for Population Activity (UNFPA). That organization participates in the management of a program in China that involves coercive abortion. The Administration opposes this practice as do an overwhelming majority of the American people. Even if the U.S. contribution to the UNFPA is barred from being spent in China, the United States would still be supporting an organization whose UNFPA/China program is in opposition to U.S. values. Therefore, the Administration must strongly oppose this provision.
- The Committee bill also reverses the action of the House to reduce the earmarking of funds for specific countries and purposes. For the refugee assistance program, where the ability to respond to changing needs is vital, nearly half of the funds are earmarked. For the Foreign Military Financing Program, the combination of heavy earmarking and the necessary allocation of unearmarked funds to meet international agreements would not permit the provision of any assistance from this account for Central America and for narcotics aid to the Andean countries within the amount available.
- Section 562 reallocates Panamanian sugar quotas on a discriminatory basis. This is illegal under the terms of the General Agreement on Tariffs and Trade (GATT).
- An anticipated floor amendment expands the previous arrangements for foreign military debt restructuring in a costly and inappropriate way.

The bill, as acted on by the Subcommittee and the full Appropriations Committee, does reflect cooperation with the Administration in a number of areas. We are happy to have support for the President's initiative for the Philippines, for the Andean anti-narcotics strategy and for Eastern Europe. The bill also provides needed flexibility managing programs such as the pricing of certain military aid, the disposal of excess defense articles, and assistance to Pakistan.

The Administration's concerns about this bill are discussed in more detail in the attachment.

Attachment

(Senate Floor)
September 19, 1989

**FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS
APPROPRIATIONS BILL, FY 1990**

I. MAJOR PROVISIONS SUPPORTED BY THE ADMINISTRATION

The Senate Appropriations Committee version of the bill has a number of provisions that reflect forthcoming cooperation with the Administration to achieve important foreign policy objectives and effective programs:

- establishment of the multilateral assistance initiative for the Philippines;
- waiver of constraints on the Andean drug initiative;
- support for the private sector in Poland and Hungary;
- removal of a House provision that shifts funds from the economic support fund to development aid;
- extending the Bahrain Stinger buyback deadline;
- fair pricing for certain foreign military aid;
- modified language on the transfer of excess defense articles; and,
- flexibility in providing assistance to Pakistan.

II. MAJOR SENATE PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Language Provisions

Prohibition on Leveraging United States Assistance. Section 582 could be construed to prohibit, among other things, certain forms of consultation between the United States and other sovereign nations regarding actions such nations may wish to undertake. Any such limitation on the President's authority to discuss certain issues with foreign governments, or to recommend or concur in courses of action taken with their own resources would be unconstitutional.

Restrictions on Aid to El Salvador. Section 594 and other provisions contain a series of restrictions on aid to El Salvador that seriously constrain administration of the program. The subsection (a) requirement in section 594 to obligate foreign

military financing in three separate increments is the most troubling as this schedule does not relate to programmatic needs. These restrictions serve to undermine confidence in the Salvadoran government and threaten a successful outcome in the government's negotiations with the Farabundo Marti Liberacion Nacional(FMLN).

Population Earmark for the UN Fund for Population Activity (UNFPA). The committee bill earmarks \$15 million for the UN Fund for Population Activity (UNFPA). That organization participates in the management of a program in China that involves coercive abortion. The Administration opposes this practice as do an overwhelming majority of the American people. Even if the U.S. contribution to the UNFPA is barred from being spent in China, the United States would still be supporting an organization whose UNFPA/China program is in opposition to U.S. values. Therefore, the Administration must strongly oppose this provision.

Earmarking of Funds. For a number of years, the Executive Branch has pointed out that flexibility to allocate funds within constrained amounts for individual budget accounts is critical to conducting foreign policy. The House version of this bill takes steps, albeit limited, to diminish the practice of earmarking funds for specific recipient countries and specific purposes. The Senate Committee version reverses that welcome effort. The most serious impact of the Committee version is on the Foreign Military Financing Program. Earmarks more extensive than in last year's appropriation along with the need to provide unearmarked funds for comprehensive mutual security agreements with the Philippines and Portugal literally use up all the funds. No financing from this account would be available for Central America, for the three countries intended to benefit from the Andean drug initiative nor for any other country. While less extensive, the earmarking of nearly half of migration and refugee assistance could seriously limit the ability of that program to respond to changing humanitarian needs. Many other programs are also seriously impacted by earmarking.

Sugar Quota Reallocation. Section 562 calls for the reallocation of Panama's quota for imports of sugar into the United States primarily to Caribbean Basin countries and the Philippines. This discriminatory reallocation, rather than following a formula, is inconsistent with regulations of the General Agreement on Tariff and Trade which the United States is obliged by agreement to honor.

Foreign Military Sales Debt Restructuring. An anticipated amendment to existing law would permit borrowers under past foreign military sales credit authority to prepay without penalty loans bearing interest rates of eight percent and above. A 90 percent government guarantee would be available to support new commercial borrowing by the beneficiaries. By GAO estimate, the existing program costs the taxpayer as much as \$1.5 billion. The proposed unneeded change would increase that cost by \$.4 billion.

Restriction on Reductions in Central America Aid. A proviso in the Economic Support Fund language requires that the reduction in the total assistance going to any Central American country be no greater than the reduction for any other country in Central America. This provision prohibits the Administration from adjusting reduced assistance levels to take into account need, other resources flowing into individual countries and countries' own efforts to establish appropriate economic policies.

Ceiling on AID Reimbursement to State Department Administrative Services Abroad. The Senate Committee bill retains last year's \$15 million limitation on the amount of AID operating expenses that can be used to reimburse the State Department for Foreign Affairs Administrative Support (FAAS). Under the FAAS arrangement, the Department provides certain administrative services to foreign affairs agencies abroad in order to achieve efficiencies and economies of scale. In line with the request of a congressional committee, the budget provided for increased reimbursement by AID and other agencies to the State Department in 1990. The restriction on AID reimbursements not only frustrates management improvement but also seriously impacts State Department salaries and expenses which were reduced to account for higher payments by AID and other agencies. The Senate has made no provision for restoring funds to the State Department. Absent some change, it is unlikely the Department will be able to provide the full range of services required by AID.

Global Poverty Reduction. Section 592 would require the Administrator of AID to establish a system of quantitative and qualitative indicators of poverty reduction on a country-by-country basis. While poverty reduction and improved quality of life are the ultimate goals of most foreign assistance programs, primary attention needs to be focused on measures to increase economic freedoms and growth, for, without these, the means to accomplish sustained poverty reduction are not created.

IMET Per Capita GNP Restrictions. The bill, for the first time, excludes certain NATO and other countries from receiving International Military Education and Training (IMET) grants. It would make much more sense to hold such a drastic step in abeyance until the related GAO and Administration reports, which the Senate Appropriations Committee has just requested, are completed.

Briefing Paper On Research
Involving Human Tissue Obtained Through Abortion

June 14, 1989

Background

Human organs and tissue have an established medical use for transplantation. Blood transfusion is now a standard procedure. Skin grafts, cornea transplants and the implantation of kidneys and hearts are moving from experimental to accepted procedures.

The liveliest interest in this medical area has focused recently on the possible advantages of using fetal tissue for transplantation. For example: Scientists speculate that non-functioning pancreas cells which fail to produce insulin might be replaced by fetal tissue: a cure for diabetes. The brain component which no longer produces dopamine might be replaced similarly: a cure for Parkinson's disease. Fetal nervous tissue might possibly build by-passes around spinal cord injuries: a cure for some paraplegics.

Tissue from the unborn seems to have special advantages. It survives more hardily during storage, proliferates better in the lab, integrates better and survives longer in the host's body, adapts and develops more rapidly, and-- most importantly-- seems not yet to have acquired much of the immune rejection response that causes hostility between a host and someone else's tissue.

In some quarters, considerable optimism has surrounded this new research possibility. Before addressing the ethical problems with such research, it is important to mention that the actual results of fetal transplantation procedures performed on humans to date have not fulfilled the optimistic predictions embraced by the popular press. What little "success" has been reported has been short term, and the cause may well have been something other than the transplanted tissue.

Also, responsible scientists have warned that in the other lines of research not enough animal studies have been performed yet to justify using human subjects. There is not yet a single fetal transplantation strategy that has yet produced enduring, significant clinical results in humans.

So far, the National Institutes of Health (NIH) has directed only a small amount of its total budget to studies involving human fetal tissue (0.2% of the NIH budget in FY 1987). Most of these projects involved transplanting human fetal tissue into various animals; only one project utilized such tissue for transplantation into humans.

However, NIH is poised to support research on aborted remains on a much larger scale, if permitted to so. NIH provides about 85% of the total research dollars available for basic biomedical research, and NIH's ethical standards are adopted by many universities and other institutions even for studies which do not involve federal funding. Thus, the Federal policy on fetal-tissue research will largely determine whether such research is widely pursued in the United States.

In October 1987 NIH Director James Wyngaarden informed DHHS Assistant Secretary of Health (ASH) Robert Windom, of a proposal to transplant tissue from the brains of aborted unborn children into the brains of persons afflicted with Parkinson's disease. The ASH replied in March 1988 that no projects involving transplantation into humans of tissue obtained from abortion was to be funded until special outside committees reviewed the (1) ethical, (2) legal, and (3) scientific aspects of such sensitive research. This "moratorium" apparently covers only human-to-human transplantation, not ongoing human-to-animal studies.

In response, NIH officials appointed a 21-member "Human Fetal Tissue Transplantation Research Panel" (hereafter, "the panel"), which, after three meetings, submitted its report in December 1988. The essence of that report is expressed in its opening statement:

It is of moral relevance that human fetal tissue for research has been obtained from induced abortions. However, in light of the fact that abortion is legal and that the research in question is intended to achieve significant medical goals, the panel concludes that the use of such tissue is acceptable public policy. [emphasis added]

The panel report-- along with dissents filed by four panel members--was submitted to the standing Advisory Committee to the Director of the NIH,

which endorsed it. The Director himself then endorsed it and forwarded the entire documentation to DHHS in January 1989, requesting that the moratorium be lifted. The report is currently under review by the new Assistant Secretary for Health, James Mason, who will then recommend action to Secretary Sullivan.

We believe that it would be radically inconsistent for a pro-life Administration to give support to a proposal which depends for its very justification upon the continuation of legal abortion on demand, and which if accepted would make it very difficult to restrict abortion even if Roe v. Wade is overturned.

Therefore, we recommend that a solid pro-life policy be established by Executive Order, as quickly as possible.

The NIH Position

The NIH panel's majority recommendations, to proceed with federally funded research on aborted remains with so-called "safeguards," should be given little weight by a pro-life Administration. NIH constituted the panel and its procedures so as to obtain a pre-ordained result in the shortest possible time. Consider:

(1) THE COMPOSITION OF THE PANEL. Seven of the 21 panelists were beneficiaries of the NIH, creating an apparent conflict of interest. The appointed sub-chairman for scientific issues, Dr. Kenneth Ryan, is nationally known for his management of a facility specializing in very late (sixth-month) abortions. Another third of the panel, composed of experts in ethics or the law, were mostly already on record as being permissive towards abortion and the use of aborted fetal remains. No single panelist recruited by NIH, except those which NIH accepted upon strong urging from pro-life senators and House members, partook in dissent. In a word, the NIH hand-picked a group that was assured in advance of a 17-4 majority vote for the research it desired to fund.

(2) DUCKING THE ABORTION ISSUE. The entire controversy surrounding this research involves the origin of the tissue-- induced abortion. (There is no objection to the use of fetal tissue obtained through natural deaths, such as miscarriages.)

DHHS Assistant Secretary Windom had categorized the issues, in order of priority, as ethical, legal and scientific. But the majority simply side-stepped the primary debate over the ethics of the case. When those ethical issues were addressed by dissenting members, the majority's reply was simply to assert that if the abortion procedure and the research procedure were not linked by motivation or money there was no moral obstacle.

The panel's majority attempted to appear sensitive to anti-abortion sentiment. For example, the chairman, retired Judge Arlin Adams, publicly claimed that many panel members were opposed to abortion, but were able to "separate" their purported reservations about abortion from the question of research on aborted fetuses.

In fact, however, the panel was heavily dominated by pro-abortion persons, for whom any ethical considerations collapse in the face of scientific or social expediency. Indeed, ten of the panel members filed a concurring report which strongly suggested that they would support fetal-tissue research even if it results in a significant increase in the number of abortions, and that they would not object even to abortions done specifically for the purpose of obtaining fetal tissue. [See page 6.]

(3) THE PANEL'S PROCEDURES. The NIH's original intention to hold closed meetings was abandoned only when threatened by lawsuit. The NIH at first scheduled only one working day for the panel to deliberate and write its report. (The panel later insisted on two further meetings.) When the panel presented its report, comprising several volumes of documentation and a strong dissent which raised several closely argued ethical objections, the NIH Director's standing Advisory Committee, composed of NIH clients and pharmaceutical executives, took less than one-half hour to accept it, and one further half-hour to decide not to discuss or review any of its contents or to consider any of the objections raised in dissent. They then adjourned and went home. NIH later published a "report" by the standing Advisory Committee, but this was written by NIH staff.

The Ethical Objections to Research on Aborted Human Beings

This briefing paper argues that there are overriding ethical objections to the "harvesting" of tissue from aborted human fetuses. They are

summarized here, and set forth in far greater detail in the dissents to the NIH majority report. We ask the President to give these ethical issues the consideration they were denied at a lower level.

1. The research would create inducements for more abortions:

It is well established that women in distressed pregnancies are ambivalent about the children they are carrying. They waver painfully between their sacred trust towards the unborn and their anxiety to be free of the burden which they believe the child will bring. Duty and self-interest pull them in opposite directions. It is inevitable that for a woman-- often an immature woman-- whose conscience is her last inhibition against sacrificing a child to her own interests, the message that the abortion "might bring some benefit out of tragedy" could tip the balance from life towards death by relieving her guilt.

There is also an incentive here for the abortion providers. One of the most competitive tissue purveyors estimates that for diabetes and Parkinson's disease alone the market for fetal remains may exceed six billion dollars. Such agencies offer a significant payment for any of the organs of interest to research. This fee supposedly only covers the costs of retrieval and transport, but as in all arrangements which cover overhead costs, it will in practice amount to an augmented cash flow for the income-conscious abortion mills which now perform more than two-thirds of the abortions in America. This likelihood of greatly increasing the cash flow per abortion would inevitably stimulate the imagination of the abortion providers, and perhaps also supply an indirect subsidy to make abortions more economical.

For both ambivalent women and profit-oriented abortion providers, this new market for fetal tissue would be an incentive for increased future abortions.

The NIH panel majority recommends so-called "safeguards" which supposedly would prevent individual women from being induced to abort in order to provide tissues. For example, with respect to NIH-sponsored studies, payments to the woman would be prohibited, abortions would not be performed for the sole purpose of obtaining tissue, and the woman would not be allowed to designate fetal tissue for a given transplant recipient (for example, a family member).

Yet once the ethical obstacles to the exploitation of unborn

children are breached, it is predictable that these marginal "safeguards" will quickly fall by the wayside. It is noteworthy that Lori B. Andrews, testifying before the NIH panel for the American Bar Foundation, explicitly recommended that a woman should be able to sell the unborn child whom she has agreed to abort. Equally troubling, 10 of the NIH panel members agreed to a concurring report which stated:

If there were a substantial increase in the number of abortions, it still would not follow that fetal tissue transplant research and therapy should not occur. Given the rudimentary development of early fetuses, the potentially great benefit to recipients, and the legality of abortion, such transplants might still be ethically and legally acceptable. [...]

If the situation changes so that the supply of fetal tissue from family planning [elective] abortions proves inadequate, the ban on donor designation of recipients and aborting for transplant purposes should be re-examined...When another person's life or health depends on it, the argument in favor of abortions to obtain tissue is much stronger than has generally been thought.

2. Federal support for aborted-tissue research would make it even more difficult to restore legal protection to unborn children.

The utilization of tissue obtained through abortion would not only tip the balance towards abortion in countless individual cases, as discussed above. It could also tip the political balance on abortion-- making it even more difficult to place legal curbs on abortion on demand.

There are solid reasons to hope that the U.S. Supreme Court will reverse the Roe v. Wade decision within the next few years-- if not sooner. This will, of course, restore power to the state legislatures and to Congress to restrict or prohibit abortion. There are already many influential "opinion elites" which will oppose any legal restrictions on abortion on demand, including most major national media organs and the leadership of most major medical associations. Despite this, pro-life forces would currently succeed in enacting substantial restrictions in many states, because in most states a substantial majority of the public opposes

legal abortion except in rare "hard cases."

The situation would change drastically if fetal-tissue transplants become accepted. If fetal-tissue transplants prove efficacious, it will create a powerful incentive for our legislative bodies to do nothing to interrupt the continuing production of a large number of aborted human fetuses. Advocacy groups representing persons with various diseases will join in lobbying against legal restrictions on abortion. In many states, this could tip the balance decisively to the pro-abortion side.

As a result, literally millions of abortions would occur which would otherwise be prevented-- each destroying a unique, unrepeatable member of the human family with a God-given right to life.

The President, of course, has often stated his support for nationwide legal protection for unborn children (except in circumstances involving rape, incest, or danger of death of the mother). It would clearly be inconsistent for an Administration which wishes to prohibit most abortions, to embrace and subsidize a type of research which (1) is defended primarily on grounds that abortion on demand is currently legal; (2) will be of no value unless there is a continuing large supply of dead human fetuses; and (3) will create a societal "vested interest" in maintaining the permissive abortion laws which result in that large supply of dead fetuses.

3. Fetal-tissue research would contradict overall Federal policy, which is to discourage abortion:

The principal objections to this research are, as DHHS Assistant Secretary for Health Windom anticipated, ethical. There are also, however, legal questions which the NIH panel majority largely chose to ignore. Since "only" about nine states have legislation forbidding this use of aborted fetal remains and since some of those laws may be flawed by a linguistic technicality, the panel quickly concluded that there was no legal objection to research on aborted remains.

We believe that the panel majority failed to give adequate weight to the many aspects of Federal law which seek to discourage abortion to the maximum extent possible under Roe v. Wade-- or indeed, to the extreme fragility of Roe v. Wade itself.

Since Roe v. Wade was handed down in 1973, the Congress and successive presidents have taken many formal actions intended to prevent direct or indirect Federal support for abortion. Some restrictions on federal funding

of abortion were adopted during the Ford and Carter administrations. These pro-life "beachheads" were greatly expanded during the Reagan Administration. There is space here to give only a few examples.

For over a decade it has been the policy of the Federal Government not to pay to perform abortions (the Hyde Amendment and similar provisions). With the action of the last Congress terminating government funding of abortions in the District of Columbia, there is now no direct Federal subsidy for abortion.

Congress has enacted numerous provisions to exclude abortion services from various Federal health programs, to exclude "abortion rights" from various Federal civil rights laws, and so forth.

Moreover, President Bush has clearly stated his support for the "Mexico City Policy," adopted in 1984, which denies "population assistance" funds to organizations which campaign to legalize abortion in foreign nations. The Administration is also defending in the courts regulations intended to exclude abortion-related activities from the major domestic family-planning program, Title X of the Public Health Service Act.

We also note President Reagan's Proclamation (14 January 1988) affirming the personhood and right to life of the unborn, and similar public statements by President Bush.

Taken together, these congressional enactments and executive actions constitute an overarching Federal policy (to the extent possible under Roe v. Wade) that abortion is different from other "medical procedures," that abortion is not legitimate civil right, that the unborn child has an intrinsic right to life, that abortion is wrong and should be discouraged. Clearly, it would be a radical departure from this overall Federal anti-abortion policy to subsidize research which depends entirely upon legal abortion for its justification and "raw materials."

Of course, the NIH panel majority's judgment that there is no legal barrier to research on aborted remains will be rendered even less defensible if Roe v. Wade is overturned.

4. Some fetal-tissue research involves harvesting brain tissue from babies who are not brain dead.

In general, for transplantation purposes fetal tissue must be "harvested" quickly after an abortion, while it is still very "fresh." Obviously, this requires close collusion between the abortionist and the

transplant team. Some procedures require that the babies be expelled from the womb intact, and some require well-developed babies.

Although many find it hard to believe, some of the procedures are known to require the removal of brain tissue from fetuses who are not yet brain dead. This is acknowledged, and defended, in the technical literature written by supporters of fetal-tissue harvesting.

For example, in a landmark article published in the prestigious Hastings Center Report (Feb. 1987), bioethicist Mary B. Mahowald, co-director of the Center for Biomedical Ethics at Case Western Reserve University School of Medicine, and fetal-tissue researchers Jerry Silver and Robert Ratcheson, acknowledged that "the fetal brain may not yet be dead" when brain tissues are harvested for transplantation. Moreover, they said that it is "morally defensible" to remove tissues from "nonviable" fetuses while they are still alive, "if dead fetuses are not available or are not conducive to successful transplants." While these babies may be sensitive to pain, this concern "may be satisfactorily addressed on a practical level by using anesthesia," they wrote.

5. The Federal government, and government-funded researchers, cannot support such research without becoming moral accomplices to the abortions that supply the tissue.

When the leadership among biomedical researchers enters into collaborative agreements with the abortion industry as its supplier of preference, there must be complicity among the scientist, the doctor and the recipient all parties to the death of the unborn child.

"Abortion is a tragedy," says one transplant researcher, "but as long as it occurs, I believe it is immoral to let tissue and materials go to waste if it can cure people who are suffering and dying." "We are simply using something which is destined for the incinerator to benefit mankind," says another.

This is a clear echo of the justifications offered for experimenting on the remains of Nazi prisoners. Said one German researcher: "I accepted these brains, of course. Where they came from and how they came to me was really none of my business." A colleague agreed: "These condemned men will at least make themselves useful. Wouldn't it be ridiculous to execute them and send their bodies to the crematory oven without giving them an opportunity to contribute to the progress of the society?"

The tribunal at Nuremberg formulated the code which underlies all modern research ethics. It was meant once and for all to outlaw the exploitation of the helpless by medical researchers.

6. There is no authentic consent for use of the unborn child's tissues.

It is a canon of ethical science since Nuremberg that no human being may be used for research without his or her voluntary and knowledgeable consent. Generally, if a subject is unable to consent to research that might serve his or her own welfare, another person can give proxy consent: for example, a parent for a minor child, a guardian for a mentally handicapped person, or someone with durable power-of-attorney for a comatose patient.

However, a mother's general power to give consent on her child's behalf is grounded entirely upon her protective office and fiduciary duty. We believe that when she consigns the offspring to destruction, she forfeits all capacity to give authentic consent on her child's behalf. Bluntly, she has no more right to convey her child's remains than a husband would be to serve as executor of the estate for the wife he had killed.

President Reagan last year made this point in a letter he sent to the spokesman for a group of 800 signatories (mostly physicians) who had asked him to issue an Executive Order barring research on aborted remains. The President said:

The use of any aborted child for these purposes raises the most profound ethical issues, especially because the person who would ordinarily authorize such use-- the parent-- deliberately renounces parenthood by choosing an abortion.

Regarding Alternative Sources For Fetal Tissue

There are two alternative and ethically acceptable sources for fetal tissue: (1) the remains of children spontaneously or traumatically miscarried; and (2) cell lines cultured from such miscarried tissue.

Both sources have their problems. Many fetuses abort spontaneously because of a congenital handicap, which would compromise their tissue for medical application. Also, as discussed above, for many applications fetal

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THE "BOXER AMENDMENT"-- OPENING THE FLOODGATES?

October 13, 1989 (v:2)

This is the "Boxer" language currently incorporated in the FY 1990 DHHS/Labor appropriations bill, accepted by the House on October 11, 1989. [The current law, the Hyde Amendment, is underscored.]

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. [Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.]¹

The Boxer language is potentially a loophole which could result in Federal funding of thousands of abortions annually, particularly if some of the terms are loosely construed. Moreover, it could have the legal "side effect" of forcing states to fund abortion on demand with state funds.

In considering these problems, one cannot assume that the language will be interpreted by those disposed towards the construction most protective of fetal life. Even if the initial regulations are tightly drawn, later changes or lax enforcement could result in funding of large number of abortions.

But the greatest danger is that lawsuits brought by pro-abortion groups (in judicial districts of their choosing) will result in certain federal judges resolving any ambiguities to the detriment of unborn children. After all, the Hyde Amendment was subjected to four years of multiple legal attacks, before being upheld 5-4 by the Supreme Court in 1980. New language-- particularly vague language-- will invite new litigation, with potentially disastrous results.

Regarding the Boxer language:

1. The term "rape" is not defined. Unless the term "forcible rape" is substituted, the result would be that any Medicaid-eligible female who becomes pregnant while under the statutory age of consent would automatically qualify for a Medicaid-funded abortion. There are at least 29,000 pregnancies a year in females under age 15, and at least 383,000 a year in females age 15-17.
2. Boxer requires that claims of rape or incest be "reported promptly" to a "public health service". What is a "public health service"? An abortion clinic? The telephone counseling services operated in many major cities by

"feminist health" groups? A rape crisis center? A hospital? A pro-abortion federal judge might include all of these, and more.

3. The term "promptly reported" is not defined. Under the Carter Administration, this term was originally defined as "within 60 days." There is obviously potential here for grave abuse.

4. Twelve (12) states currently funding abortion on demand, but 30 states currently fund abortion only to save the life of the mother. Addition of any rape exception would make Federal law inconsistent with the laws of these 30 states (and perhaps some other states as well). If the courts follow the precedent of a 1980 ruling by the U.S. Court of Appeals for the Third Circuit, the result of this inconsistency would be that the laws of these states would be struck down in their entirety, thereby compelling these states to pay for ABORTION ON DEMAND with state funds.² To prevent this, in the unfortunate event that Congress enacts any language weaker than current law, it absolutely MUST include this language which was part of the law from 1979-84:

"Provided, however, that the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate."

Under this "states rights" language, the courts could not rule that Congress has required states could not be forced to fund all abortions, or any abortions, out of their own funds. States would remain free to adopt policies more restrictive or less restrictive than the Federal policy, with respect to their own funds.

PENNSYLVANIA'S EXPERIENCE WITH RAPE/INCEST EXCEPTIONS

In February, 1985, Pennsylvania won a five-year court struggle, and a law went into effect prohibited state funding of abortion except in cases of life endangerment, rape, or incest. There was no reporting requirement for the rape/incest claims. Pro-abortion spokespersons made thinly veiled public comments, noting that a mere verbal assertion of rape qualified a Medicaid-eligible woman for a state-funded abortion. By mid-1988, the state was funding an average of 36 abortions a month based on such rape claims (excluding incest).

Effective July, 1988, the Pennsylvania legislature changed the law to require that rape or incest be reported to a law-enforcement agency or, in the case of a minor victim of incest, to a child protective agency. In addition to deterring fraud, the purpose was to protect the victims from further abuse and to assist in apprehending the perpetrators of these heinous crimes. The number of rape-based abortion claims dropped more than tenfold, to an average of three (3) per month.

We fear that the "Boxer language" clause allowing reporting to "a public health service" could be abused a fashion similar to the 1985-88 Pennsylvania law.

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MINNESOTA'S EXPERIENCE WITH A NARROWLY DRAWN RAPE/EXCEPTION

The Minnesota statute funds abortions for forcible rape reported "to a valid law enforcement agency...within 48 hours after the victim becomes physically able to report," and for incest "only if the incident and relative are reported to a valid law enforcement agency for investigation prior to an abortion."

This language has been in effect for about a decade, and has resulted in very few tax-funded abortions.

¹As Secretary Louis Sullivan pointed out in his Oct. 10 letter to Congress, the second sentence [bracketed above] is superfluous, since the Hyde Amendment already permits anti-implantation drugs and devices, and already permits termination of ectopic pregnancies.

²Two 1978 Pennsylvania laws prohibited state funding of abortion, under Medicaid, except to save the life of the mother. But the Federal restriction approved by Congress for FY 1979 included exceptions for rape and incest, as well as the life-endangerment exception. The Third Circuit ruled that this inconsistency invalidated both Pennsylvania laws in total. The ruling had the effect of requiring Pennsylvania to pay for abortion on demand, even though this was obviously far removed from the intent of either Congress or the state legislature! See Roe v. Casey [623 F. 2nd 829 (1980).]

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Paper	Re: Human fetal tissue transplantation research (2 pp.)	n.d.	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
(Document Follows)

By JP (NLGB) on 5/12/05

Date Closed:	12/1/2004	OA/ID Number:	29135-002
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Human Fetal Tissue Transplantation Research

Background

1. Human fetal tissue research has been done for many years, and is now being done on a widespread basis.
2. An example is research using fetal tissue propagated in cell culture.
3. What is new is human fetal transplantation research, also referred to as therapeutic research using tissue from aborted fetuses.
4. In October 1987, the National Institutes of Health (NIH) submitted a request to the HHS Assistant Secretary for Health, in which NIH sought approval to fund the transplantation of human fetal tissue into the brain of a patient with Parkinson's disease.
5. In March 1988, HHS asked NIH to establish a special advisory panel to study the issues raised by such research.
6. In May 1988, HHS imposed a moratorium on the use of fetuses from elective abortions in federally funded research.
7. In December 1988, the NIH Advisory Panel reported, recommending that the moratorium be lifted and that a series of restrictions be imposed on such research.
8. Secretary Sullivan is studying this issue, and has not yet acted.

Options

1. Remove the moratorium on federal funding of fetal tissue transplantation research, and adopt restrictions and safeguards. (The NIH Panel's recommendation).

Restrictions would include:

- Decisions to abort must be made before the use of tissue is discussed.
- Anonymity should be maintained between donor and recipient.
- No payment or other benefits should be given to women for fetal tissue.

2. Remove the moratorium on federal funding of fetal tissue transplantation research, but only when abortion is spontaneous (or to save the life of the mother).

Such a policy raises the issue of spontaneous abortions due to fetal genetic abnormality or fetal infection.

3. Make permanent the moratorium on federal funding of fetal tissue transplantation research.

Discussion

1. Position of groups on various options
2. Sullivan/Mason discussion
3. NIH director

Do not
use word
abortion

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Memo	From Douglas Johnson to John Sununu Re: Mikulski Amendment/UNFPA (2 pp.)	10/27/89	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
 (Document Follows)
 By gp (NLGB) on 5/12/05

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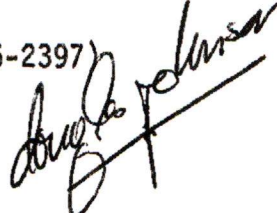
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To: Governor Sununu (c/o Jacki Kennedy, fax 456-2397)
From: Douglas Johnson (626-8820, 301-439-9087)
Date: Friday, Oct. 27, 1989, 7 a.m.



(1) This week's Congressional Quarterly reports that on Oct. 13, Congressman David Obey sent a letter to the President threatening to ignore Administration views on the foreign aid appropriations bill, because of the President's Oct. 6 letter on the Mikulski Amendment (attached). I understand that Mr. Obey later sent another letter, which in substance said, "We can't find anybody in the Administration to negotiate with regarding the Mikulski Amendment, so please designate somebody." On Wednesday, Congressman Mickey Edwards told me that he thinks that it is important for tactical reasons that the White House not ignore Mr. Obey's request to discuss the matter, even if no substantive compromise is possible. If you concur with Mr. Edwards's judgment on that point, and if you are unable to handle the matter yourself, we respectfully suggest that you discuss with Secretary Baker the possibility of delegating the matter to John Bolton, assistant secretary of state for international organizations. Mr. Bolton is well informed regarding the nature of the UNFPA's involvement in China's population control program, and he understands the intricacies of the law in this area.

Presumably the message to Mr. Obey would be, as stated in the President's letter, that any weakening of the Kemp-Kasten law would be unacceptable, and that this means that the UNFPA remains ineligible for U.S. funds so long as it supports China's population program in any manner whatever. It is our hope that, in the face of such resolve by the President, Mr. Obey will refuse to accept any offensive language in conference committee, and will take the matter back to the House in "true disagreement," at which time we think the House will affirm the Kemp-Kasten provision. At that point we believe the Senate would be likely to back off (the Mikulski Amendment passed by only two votes).

[The Senate bill would increase "population assistance" funding by \$20 million (to \$220 million). So long as Kemp-Kasten and the Mexico City Policy remain intact, we have no position on the funding level. Mr. Obey could accept the \$20 million increase, refuse to accept the Mikulski Amendment, and present that to the population-control groups (and to the House) as a reasonable compromise package.]

(more)

(2) We understand that the D.C. appropriations bill is now at the White House. When the bill is vetoed it will be a big story for the D.C.-area press, at least. In order to for appropriate spokespersons to be available for response to media inquiries, it would be helpful if we received even a few hours advance notice prior to the formal announcement of the veto.

(You may be interested in the remarks of Dwight Cropp, director of the D.C. Office of Intergovernmental Relations, who was quoted in yesterday's Washington Times as saying, "I don't think we need to worry about our bill getting vetoed." I wonder how much they pay Mr. Cropp.)

If an attempt is made to override the D.C. veto in the House (which is doubtful), we would expect the veto to be sustained by roughly the same margin as the HHS bill, maybe a little better.

(3) On Oct. 6, Dr. Willke reiterated NRLC's strong endorsement of Prof. Basile Uddo for reappointment to the Board of the Legal Services Corporation in the attached letter.

Thank you for your consideration of these requests.

SECTION NOTES

**Another Bump in the Road
For Foreign Aid Bill**

The chances for a relatively easy, if belated, resolution of House-Senate differences over the fiscal 1990 foreign aid spending bill (HR 2939) have been dimmed by President Bush's threat to veto the measure on an abortion-related issue.

Bush wrote to House-Senate conferees on Oct. 6 saying he will veto the \$14 billion-plus bill if it reaches his desk with a Senate-passed provision authorizing a \$15 million contribution to the U.N. Population Fund. The fund operates in China, where the government allegedly forces women to have abortions and undergo sterilizations. (*Weekly Report* p. 2733)

The Senate provision stood little chance of surviving a House vote. But Bush's veto threat raised the hackles of the chief House foreign aid negotiator, David R. Obey, D-Wis., chairman of the Appropriations Subcommittee on Foreign Operations.

In an Oct. 13 letter to Bush, Obey referred to the veto threat as an "ultimatum" and added: "I guess there is no longer any point in taking administration views into account on other items in conference inasmuch as regardless of their resolution you apparently intend to veto this bill. Consequently, you give me no choice but to put together a conference bill which honestly reflects congressional priorities since we gain nothing by taking your priorities or other interests into account."

Obey said later he was telling Bush that he would "put together a bill the Congress wants and not what the administration wants. Foreign aid isn't such a popular vehicle that we need to bend ourselves out of shape just because the president demands it."

Obey acknowledged that his letter was abrupt: "We got a very impolite letter from the president, and he got an impolite letter from us."

Several administration officials refused to comment on Obey's letter. But a Senate GOP source called the letter an "empty threat" and predicted that Obey eventually will consider administration views.

The House passed its version of



KEN HEINEN

Obey: one "impolite" letter for another

HR 2939 in July and the Senate followed suit on Sept. 20. Obey has been holding up conference action, saying he wanted to see whether Congress will pass a companion foreign aid authorizations bill (HR 2655). Obey also said he is awaiting final action on legislation (HR 3402) authorizing a new U.S. aid program for Poland and Hungary. (*Weekly Report* p. 2477)

**Korean President Warns Hill
Against Troop Cutback**

South Korean President Roh Tae Woo warned a joint meeting of Congress Oct. 18 that cutting the number of U.S. troops deployed in his country would increase the risk of attack by North Korea, bringing "tragic" results.

Rejecting the contention of U.S. critics that his country was taking economic advantage of its alliance with the United States, Roh insisted that South Korea was paying a fair share of the cost of mutual defense efforts and would do more as its economy grew.

The Senate in late September rejected a move to cut 3,000 people from the 43,800 U.S. military personnel currently in Korea. (*Weekly Report* p. 2575)

But the size and cost of the current U.S. deployment in Korea may come under stronger pressure next

year from the Senate Armed Services Committee, which has backed a less abrupt change in the current policy.

Roh told Congress that North Korea is committed to forcibly unifying the peninsula and has deployed much of its massive Army along the border between the two countries, which is only 26 miles north of Seoul, the South Korean capital.

"Any hint of weakening in the U.S. defense commitment or a precipitate lessening of the U.S. military presence might cause North Korea to misjudge the U.S. commitment to peace in the region," Roh said.

Roh insisted that South Korea was carrying more of the burden of its own defense than any other U.S. ally, with 5 percent of its gross national product and 30 percent of its government budget going to defense. "As our economy grows, so Korea will assume a larger role," he said.

South Korea says that it covers 43 percent of the annual cost of the U.S. deployment. But of that \$2.2 billion total, only about \$300 million consists of payments for facilities for American use and other "direct" support. The Koreans agreed in July to boost that amount.

Roh did not raise publicly another sensitive issue: which of two U.S.-built fighter planes Korea wants to be jointly produced by U.S. and Korean firms. Seoul is considering General Dynamics' F-16 and McDonnell Douglas' F/A-18, as well as European-designed jets, for the Korea Fighter Plane (KFP).

But hours after Roh's address, Sen. Alan J. Dixon, D-Ill., announced that he might try to block a KFP deal for reasons similar to those behind his unsuccessful fight this year to block a joint fighter plane deal with Japan. (*Weekly Report* p. 2411)

"I do not believe that we should endanger our own industrial base and transfer vital aerospace technology to Korea, just so they can use their military program to develop a major civilian aerospace industry," Dixon said.

Seoul plans to buy 12 fighter planes off the shelf, assemble in Korea an additional 36 copies from kits built by the original manufacturer, and then to build jointly with the original manufacturer 72 more.

THE WHITE HOUSE

WASHINGTON

October 6, 1989

Dear Mickey:

I have previously expressed my strong support for the Kemp-Kasten Amendment, also known as the Kemp-Inouye-Helms Amendment, which has been part of the foreign operations appropriations bill since 1985. This provision denies U.S. population assistance funds to any organization 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.

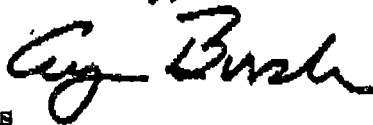
In June, the Agency for International Development, acting on my delegated authority under the Kemp-Kasten Amendment, determined that the United Nations' Fund for Population Activities' continuing support for the coercive population control program of a specified nation makes U.S. support for the UNFPA impermissible under the Kemp-Kasten Amendment.

As you know, on September 20th the Senate narrowly adopted the Mikulski Amendment to the Foreign Operations Appropriations bill for Fiscal Year 1990. The Mikulski Amendment would in effect exempt the UNFPA from the requirements of the Kemp-Kasten Amendment, and mandate a resumption of U.S. funding to the UNFPA, so long as U.S. funds are maintained in a segregated account.

I strongly support family planning programs which do not condone or encourage abortion or coercive measures. I believe that the current Kemp-Kasten law, along with the Mexico City Policy, must be maintained without dilution, in order to preserve both the pro-life and pro-human rights character of the population assistance program.

Therefore, if the FY 1990 foreign operations bill as presented to me contains the Mikulski Amendment or any other language which would weaken the current Kemp-Kasten provision, or place the UNFPA or any other organization outside the full application of Kemp-Kasten, I will veto it.

Sincerely,



The Honorable Mickey Edwards
Ranking Minority Member
Subcommittee on Foreign Operations
Committee on Appropriations
House of Representatives
Washington, D.C. 20515



Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 — (202) 626-8800

October 6, 1989

COPY

President George Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

We are writing to renew the strong recommendation of the National Right to Life Committee, initially communicated in our letter of February 28, that you reappoint Basile J. Uddo to the board of the Legal Services Corporation.

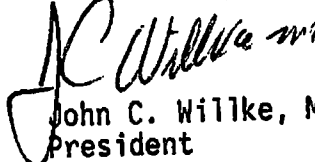
Professor Uddo was appointed to the LSC Board in 1984 by President Reagan. He has been in the forefront of efforts to curb pro-abortion legal activism by LSC grantees. He has also been an effective advocate of the exemplary work being done by the National Legal Center for the Medically Dependent and Disabled, an LSC-funded "national support center" which has been in the forefront of critical legal battles to defend the right to life of handicapped and disabled persons.

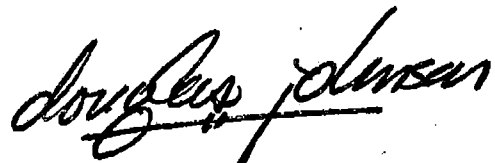
We believe that it would be a very significant setback to pro-life interests if Professor Uddo were not reappointed, because of his unique expertise in these specific facets of legal services.

We also reiterate our earlier endorsements of Indiana State Senator Edward Allan Pease, James R. Butcher of Indiana, and Darwin E. Johnson of Missouri, for the LSC Board.

Thank you for your consideration of these recommendations.

Respectfully submitted,


John C. Willke, M.D.
President


Douglas Johnson
Legislative Director

enclosure: letter of February 28, 1989

TALKING POINTS -- FETAL TISSUE TRANSPLANTATION

- o We propose to make the moratorium on human fetal tissue transplantation research from induced abortions permanent.
- o The moratorium was established in March of 1988 while an NIH advisory group examined the ethical implications of this research. While the majority of the panel found that fetal tissue transplantation from induced abortions was "acceptable" public policy provided that additional safeguards were imposed, I cannot agree.
- o My concerns are that despite the safeguards recommended by the advisory panel there are a number of reasons not to proceed with fetal tissue transplantation, as opposed to other types of fetal tissue research:
 - This type of transplantation research, and the publicity it engenders, might increase the number of abortions by providing encouragement to some women who are ambivalent about choosing abortion.
 - Were fetal tissue transplantation successful in treating conditions such as Diabetes and Parkinson's disease it could create a demand for aborted fetuses.
 - The potential demand created by Federal sponsorship of the research may further legitimize abortion as a morally acceptable option.
- o I do not expect that this decision will be supported by the biomedical community. We have received letters from many major biomedical constituency groups supporting this research. They include: the AMA, the National Medical Association, the United Parkinson Foundation, the American Diabetes Association, Inc. This decision also will not be supported by Congressmen Waxman and Weiss, and might lead to Congressional hearings.
- o Those groups that are likely to support the continuation of the moratorium include the National Right to Life Committee, the National Conference of Catholic Bishops, and Members of Congress (Senators Humphrey, Coats, DeConcini, etc.).
- o Pro-life groups may also call for an extension of the moratorium to include other, if not all, fetal tissue research that NIH now supports. However, my reasons for making the moratorium on fetal tissue transplantation research permanent do not apply to other research projects involving fetal tissue. NIH has supported fetal tissue research for many years, and there is no evidence that this research has led to an increase in the number of abortions. Such research enables vaccines to be developed and tested using fetal cell lines and other methods and provides information on how to prevent congenital abnormalities and other problems of the developing baby.
- o We have administrative discretion to continue the moratorium; however, continuing the moratorium in accordance with the rulemaking process under the Administrative Procedures Act would be better for two reasons: it would enhance our legal position if the moratorium is challenged, and it would make it more difficult to change the moratorium at a later date.

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- o Those groups that are likely to support the continuation of the moratorium include the National Right to Life Committee, the National Conference of Catholic Bishops, and Members of Congress (Senators Humphrey, Coats, DeConcini, etc.).
- o Pro-life groups may also call for an extension of the moratorium to include other, if not all, fetal tissue research that NIH now supports. However, my reasons for making the moratorium on fetal tissue transplantation research permanent do not apply to other research projects involving fetal tissue. NIH has supported fetal tissue research for many years, and there is no evidence that this research has led to an increase in the number of abortions. Such research enables vaccines to be developed and tested using fetal cell lines and other methods and provides information on how to prevent congenital abnormalities and other problems of the developing baby.
- o We have administrative discretion to continue the moratorium; however, continuing the moratorium in accordance with the rulemaking process under the Administrative Procedures Act would be better for two reasons: it would enhance our legal position if the moratorium is challenged, and it would make it more difficult to change the moratorium at a later date.

Human Fetal Tissue Transplantation Research

Background

1. Human fetal tissue research has been done for many years, and is now being done on a widespread basis.
2. An example is research using fetal tissue propagated in cell culture.
3. What is new is human fetal transplantation research, also referred to as therapeutic research using tissue from aborted fetuses.
4. In October 1987, the National Institutes of Health (NIH) submitted a request to the HHS Assistant Secretary for Health, in which NIH sought approval to fund the transplantation of human fetal tissue into the brain of a patient with Parkinson's disease.
5. In March 1988, HHS asked NIH to establish a special advisory panel to study the issues raised by such research.
6. In May 1988, HHS imposed a moratorium on the use of fetuses from elective abortions in federally funded research.
7. In December 1988, the NIH Advisory Panel reported, recommending that the moratorium be lifted and that a series of restrictions be imposed on such research.
8. Secretary Sullivan is studying this issue, and has not yet acted.



Suite 500, 419 7th Street, N.W.
Washington, D.C. 20004-2293 -- (202) 626-8800

FOR IMMEDIATE RELEASE:

Wednesday, November 1, 1989

FOR FURTHER INFORMATION:

Nancy Myers, Media Relations Director
(202) 626-8825

NATIONAL RIGHT TO LIFE STRONGLY ENDORSES REPORTED ADMINISTRATION DECISION
TO BAN FUNDING OF TRANSPLANTATION OF TISSUES FROM VICTIMS OF ABORTION

WASHINGTON-- The president of the nation's major pro-life organization today expressed strong approval of the Bush Administration's reported intention to extend a ban on federal funding of transplantation of tissues obtained from induced abortions.

"Pre-born babies are members of the human family, not organ farms," said Dr. John C. Willke, president of the National Right to Life Committee. "The government should not be cannibalizing the victims of abortion on demand."

According to press reports in The Washington Post, The New York Times, and other organs of the press, Dr. James Mason, Assistant Secretary for Health in the Department of Health and Human Services, will soon formally extend the ban on federal funding of such procedures. The prohibition was originally imposed in March, 1988, by Dr. Mason's predecessor. Subsequently, a panel selected by senior officials of the National Institutes of Health (NIH) voted 17-4 to recommend resumption of such procedures. NRLC charged that the panel was deliberately stacked with known supporters of abortion and fetal-tissue transplantation, in order to guarantee a recommendation to resume federal funding under cosmetic "safeguards."

Dr. Willke explained that his organization's primary concern is not the possible commercialization of fetal tissue, but rather, that fetal-tissue transplants would institutionalize abortion on demand by creating an insatiable demand for dead human fetuses. "The Bush Administration has wisely refused to open the door to a Brave New World in which society would require millions of dead human fetuses to provide spare parts," Dr. Willke said.

In addition, there is a great deal of evidence that many women who experience unintended pregnancies are very ambivalent as they consider

abortion. The widespread use of fetal tissue would provide a rationale that some "good" would come out of the abortion, which could tip the decision of many individual women toward abortion, Dr. Willke said.

Dr. Willke said that the issue is not one of "politics vs. science," but rather, what manner of ethical constraints will govern federally funded research. "There is already a large body of federal regulations governing research on human subjects. These regulations which were adopted in response to past abuses by researchers who made up their own ethical rules-- for example, the 40-year Tuskegee syphilis study funded by the Public Health Service. There, as here, the broader society-- through the political process-- determined that certain types of research are unethical, no matter how useful the data they produce."

The National Right to Life Committee has several spokespersons who are knowledgeable on the fetal-tissue issue. They include Dr. Willke; NRLC General Counsel James Bopp, Jr., who was a dissenting member of the NIH fetal-tissue panel and is a current member of the Congressional Biomedical Ethics Advisory Committee; and NRLC Legislative Director Douglas Johnson.

NRLC is the nation's major pro-life organization, representing some 3,000 local chapters. NRLC does not oppose research on or transplantation of organs or tissues obtained through stillbirths, miscarriages, or removal of ectopic pregnancies.

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
05. Letter	From Anthony S. Fauci to POTUS Re: Fetal tissue research at NIH (2 pp.)	11/2/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
(Document Follows)

By gp (NLGB) on 4/10/08

Date Closed:	12/1/2004	OA/ID Number:	29135-002
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
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Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
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DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
National Institute of Allergy
and Infectious Diseases
Bethesda, Maryland 20892

November 2, 1989

President George Bush
The White House
Washington, DC 20500

Dear Mr. President:

As per our telephone conversation of November 1, I am supplying the information which you requested regarding the restrictions on fetal tissue research at NIH:

o Prior to the moratorium of March, 1988 imposed by Dr. Robert Windom, then Assistant Secretary for Health, DHHS, on the use of fetal tissue obtained from induced abortions for transplantation into humans, there were no restrictions imposed on NIH investigators (government scientists) or on investigators supported by the NIH concerning fetal tissue research for transplantation into humans or for any other purposes.

o In late 1987, due to the fact that the NIH Intramural Program (the research facility in Bethesda, Maryland) was planning a series of experiments using fetal tissue for transplantation into humans in attempts to cure Parkinson's disease, and NIH-supported non-government scientists were planning similar research for insulin dependent diabetes mellitus, the Director of NIH (Dr. James B. Wyngaarden) alerted the Assistant Secretary for Health about these plans. He did this because of the political sensitivity of the abortion issue even though there were no restrictions on fetal tissue research at that time. The Assistant Secretary responded by imposing a moratorium on any proposed fetal tissue research for transplantation into humans using fetal tissue obtained by induced abortions and conducted by government scientists or scientists supported by the government. Fetal tissue obtained from spontaneous abortions (miscarriages) did not fall under this restriction. As I mentioned to you over the phone, from a practical standpoint, fetal tissue from spontaneous abortions are rarely of use for research or any other purpose since these miscarriages usually occur outside of the hospital, and by the time the tissue is collected, it is not in a condition for use in research.

Other fetal tissue research including non-transplantation studies as well as studies transplanting human fetal tissue into animals were also not restricted. In this regard, the NIH is currently funding \$8,300,000 in fetal tissue research on these unrestricted areas. Please be assured that all NIH research activities involving fetal tissue are conducted in accordance with the DHHS policy for the protection of human subjects (Code of Federal Regulations Title 45, Part 46) and applicable State or local laws regarding such research.

The Assistant Secretary then called for the NIH to convene an Advisory Committee of non-government consultants to examine the question of research on fetal tissue obtained from induced abortions and used in transplantation into

Letter to The President
November 2, 1989
Page 2

humans. The majority of the Committee composed of individuals of diverse ideologies, including those who hold deep reservations concerning abortions, recommended that this type of fetal tissue research not be restricted as long as the scientists involved in the research play no role in the decision making process of who should or should not have an abortion. In addition, they pointed out the potentially great scientific benefits of fetal tissue research for transplantation into humans. Again, other types of fetal tissue research were not restricted and so this was not an issue.

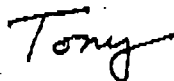
o Despite these recommendations of the Committee, the Assistant Secretary did not lift the moratorium which still holds up until the present.

o There is concern in the scientific community not only about the fact that the current moratorium has not been lifted, resulting in the suspension of initiatives in important areas of transplantation research, but also about the possibility that the moratorium might be extended to research on transplantation of human fetal tissue into animals. This latter area of research is extremely important since recent studies which utilize the transplantation of human tissue into animals have had a major positive impact on studies of diseases of the immune system such as AIDS. Also, there is a great concern that the moratorium might be extended to all forms of fetal tissue research such as the study of fetal tissues which are maintained in culture in test tubes and which are the source of a great deal of important scientific information. Virtually all scientists, regardless of their ideology, feel such a restriction would have catastrophic consequences to several areas of critically important research aimed at improving the health of the nation and the world.

I hope that this information has been helpful to you. I would be happy to discuss the scientific aspects of any of this information with you and/or any of your staff if you so wish. Please feel free to call on me at any time; it is my great pleasure to serve you.

Christine and I send our warmest regards to you and to Mrs. Bush.

Sincerely,



Anthony S. Fauci, M.D.
Director
National Institute of Allergy
and Infectious Diseases



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Memorandum

Date

NOV -2 1980

From

Assistant Secretary for Health and
Acting Surgeon General

Subject

Human Fetal Tissue Transplant Research

To

Acting Director, NIH

I have completed my review of the relevant materials relating to fetal tissue transplantation research and I have discussed the matter with Secretary Sullivan and senior officials of the Department. On the basis of my review, I have decided to continue my predecessor's moratorium on Federal funding of research in which human fetal tissue from induced abortions is transplanted into human recipients.

A number of considerations have persuaded me to continue the moratorium. First, both the Administration and the Congress have made it clear that this Department in particular should not be funding activities which encourage or promote abortion. The so-called Hyde Amendment, the recently promulgated Title X abortion regulations, and statutory prohibitions in Titles X and XX of the Public Health Service Act have left little doubt as to prevailing policy on this question. In this regard, it is significant that 18 of the 21 members of the NIH Human Fetal Tissue Transplantation Panel agreed to begin their Report with the following statement: "It is of moral relevance that human fetal tissue has been obtained from induced abortions." After carefully reviewing all of the materials, I am persuaded that one must accept the likelihood that permitting the human fetal research at issue will increase the incidence of abortion across the country. I am particularly convinced by those who point out that most women arrive at the abortion decision after much soul searching and uncertainty. Providing the additional rationalization of directly advancing the cause of human therapeutics may tilt some already vulnerable woman toward a decision to have an abortion.

The proponents of fetal tissue transplantation research acknowledge that a strict wall would have to be erected between the abortion decision and the decision to donate fetal tissue to research. While such a distinction may be easy to theorize, I doubt that such a neat separation can be accomplished. For example, because there is often a need to utilize post-mortem tissue promptly, it may be necessary to consult pregnant women before the abortion is actually performed. This will potentially influence the decisionmaking process, despite the safeguards recommended by the NIH Advisory Panels.

Page 2 - Acting Director, NIH

In addition, should the research efforts in question prove successful, a demand for aborted fetuses could be created. Pressure would then be created to produce more fetal tissue. These increased pressures might well result in more abortions.

For all of these reasons, I believe that a decision to lift the moratorium would fly in the face of the above referred to Administration and Congressional imperatives.

Moreover, while I do not condone this fetal tissue transplantation research, I note that interest exists in the private sector in continuing such research. Thus, whatever biomedical knowledge may be obtained from such research can be obtained without Federal subsidization.

Also, I am satisfied, after reviewing this matter with the Office of the General Counsel, that there is no statutory mandate requiring Departmental support of such research.

The principal legal authority for the Department's support of research involving the transplantation of human fetal tissue is section 301 of the Public Health Service (PHS) Act. As you know, that section vests broad discretionary authority in the Secretary in determining what kinds of research the Department will or will not support, and it is not unusual to make these decisions based on a mix of scientific, social, policy, and ethical reasons. For example, a number of years ago, it was decided to prohibit the funding of most prisoner research, and this was done principally because of ethical considerations.

Furthermore, the only legislation specific to this issue is found in section 498 of the PHS Act which has as its focus the prohibition of certain kinds of live fetal research. Certainly nothing in that legislation or its legislative history requires the Department to fund fetal research. Thus, I am proceeding on the assumption that I have considerable latitude in dealing with this issue.

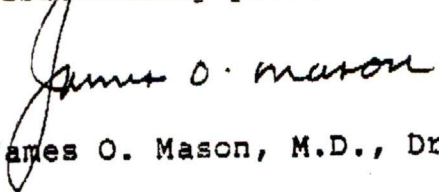
The question then becomes one of whether the decision not to fund research involving the transplantation of human fetal tissue is within the sound exercise of my discretion.

The Department has been no more successful than the Congress in developing consensus on this issue. It has been studied and restudied. Most recently we have had a "Report of the Human Fetal Tissue Transplantation Research Panel," and a "Report of

Page 3 - Acting Director, NIH

the Advisory Committee to the Director, National Institutes of Health." Despite all of this review and analysis the debate on this issue continues to be intense and often bitter. In addition, I am aware that the legal debate surrounding the recently decided Supreme Court decision of Webster v. Reproductive Health Services, has raised anew issues implicating the rights of fetuses, leaving unsettled just where the balance in this complicated mix of rights will eventually rest.

Accordingly, as an exercise of the statutory discretion vested in me, and after consideration of the above referred to Reports, the proceedings attendant to their development, and other statutory and ethical considerations, I conclude that I should continue Dr. Windom's moratorium of March 22, 1988, indefinitely. In taking this action, I am cognizant not only of the extensive review undertaken by the Panel and the Committee, but also of the extensive opportunity provided to the public to express its opinion and enter into this decisionmaking process.


James O. Mason, M.D., Dr.P.H.

To: Henry Hyde

Date: Oct. 16, 1989

Here is a very hasty "target list" on sustaining a veto of the DHHS bill, should a veto override be attempted. I will be refining this.

The June 13 letter to President Bush, urging him to veto any appropriations or authorization bill which in any way weakens any current anti-abortion policy, and pledging their votes to sustain such a veto, was signed by 153 House members. Since then, one signer (Larkin Smith) has died, but at least 4 other House members have agreed to add their names to the letter, and Rep. Clay Shaw sent the President an identical letter.

Most of these 158 Members will surely vote to sustain a veto. Others, however, will need some work, and a few are already lost to us.

The following letter signers already violated the position they took in the letter by voting for the "Boxer language" on Oct. 11:

Baker (La.)-- previously 100% pro-life

Ravenel (SC)-- previously 100%, says he has not changed his "fundamental" position

Applegate (Oh.)-- previously 100% except on ERA, says he's shifted only on rape\incest

Bilbray (Nv.)-- defected earlier on Dornan, supposed because of lack of a life-of-mother exception. Originally elected with NRLC support.

TARGETS ON VETO OVERRIDE, PAGE 2

Hubbard (Ky.)-- has told district newspaper he's decided to oppose all restrictions on Medicaid funding.

Johnson (SD)-- previously 100%

Ortiz (Tx.)-- largely pro-life record, religious man (Protestant)

Sikorski (Mn.)-- previously 100% except on ERA. Has told newspapers he finally voted his "conscience" on rape/incest. Other MN pro-lifers held fast, including usually weak Vento

Bentley (Md.)-- voted against Boxer on second roll call, says she still opposes funding in rape/incest cases, may have been confused

Goss (Fl.)-- voted against Boxer on the second vote, and subsequently said he still opposes funding of abortion in ALL cases (including life of mother)

Other signers of the June 13 letter who voted against Boxer but should not be taken for granted if Natcher leads a fight to override:

Donnelly (Mass.) Quoted in Boston Globe as favoring override

Perkins (Ky.)

Mavroules (Mass.)

Kildee (Mi.)

Traxler (Mi.)

Murphy (Pa.)

de la Garza (Tx.)

These Members indicated a willingness to sign the letter to President Bush, after it had already been sent.

Boggs (La.)

Nowak (NY)

Duncan (Tn.)

Archer (Tx.)

Shaw (Fl.) (Sent an identical letter)

These additional Members, although not signers of the veto letter, voted against Boxer and are good candidates for votes to sustain:

Bevill (Al.)

Hammerschmidt (Ark.)

Gibbons (Fl.)

T. Lewis (Fl.)

Ros-Lehtinen (Fl.) +++

Ray (Ga.) a shot

Darden (Ga.) a shot

Michel (Il.)

Myers (In.)

Whittaker (Ks.) a shot (voted against Boxer on second vote)

Byron (Md.)

Conte (Mass) ?

Neal (Mass) ?

Hertel (Mi.) good pro-life record

Bonior (Mi.) would be in tough spot-- has 100% pro-life record except ERA

Broomfield (Mi.)

Schiff (NM) pledged to support Hyde Amendment

Manton (NY) 100% prolife record

Fish (NY) good prolife record

Walsh (NY) strong prolife position

Gradison (Oh.) a shot

Kaptur (Oh.) a shot, record good in recent years

Oakar (Oh.) unlikely despite good prolife record

Robert Smith (Oregon) 100% prolife record

Kanjorski (Pa.) 100% prolife record but refused great pressure to sign
veto letter

Quillen (Tn.) good prolife record

Clement (Tn.) good prolife record

Leath (Tx.) consistent supporter of Hyde position

Sarpalius (Tx.) 100% so far

Laughlin (Tx.) 100% so far

L. Smith (Tx.) 100% prolife so far

Bateman (Va.) solid prolife record except on DC

Slaughter (Va.) 100% prolife record

Staggers (WV) very good prolife record

Rahall (WV) mixed, a long shot

Thomas (Wy.) ran as prolife but with rape exception

VOTE SWITCHERS

Following are House members who switched their votes on Medicaid funding of abortions from a life-of-the-mother position in 1988 to a rape/incest stance in 1989:

1. Glenn M. Anderson	D-Calif.
2. Doug Applegate	D-Ohio
3. Richard H. Baker	R-La.
4. Cass Ballenger	R-N.C.
5. Helen D. Bentley	R-MD
6. James Bilbray	D-NV
7. Douglas H. Bosco	D-Calif.
8. Jim Chapman	D-Texas
9. Byron L. Dorgan	D-N.D.
10. Richard J. Durbin	D-IL
11. Floyd H. Flake	D-N.Y.
12. George J. Hochbrueckner	D-N.Y.
13. Carroll Hubbard, Jr.	D-KY
14. Tim Johnson	D-S.D.
15. Gerald D. Kleczka	D-Wis.
16. Matthew G. Martinez	D-Calif.
17. Al McCandless	R-Calif.
18. Bill Nelson	D-Fla.
19. Solomon P. Ortiz	D-Texas
20. Lewis F. Payne, Jr.	D-Va.
21. Arthur Ravenel, Jr.	R-S.C.
22. Bill Richardson	D-N.M.
23. John G. Rowland	R-Conn.
24. Gerry Sikorski	D-Minn.
25. Peter J. Visclosky	D-Ind.
26. Wes Watkins	D-Okla.

THE "BOXER AMENDMENT" -- OPENING THE ABORTION FLOODGATES

October 16, 1989

This is the "Boxer" language currently incorporated in the FY 1990 DHHS/Labor appropriations bill, accepted by the House on October 11, 1989. [The current law, the Hyde Amendment, is underscored.]

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. [Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.]¹

The Boxer language is potentially a loophole which could result in Federal funding of tens of thousands of abortions annually, particularly if some of the terms are loosely construed. Moreover, it could have the legal "side effect" of forcing states to fund abortion on demand with state funds.

In considering these problems, one cannot assume that the language will be interpreted by those disposed towards the construction most protective of fetal life. The greatest danger is that lawsuits brought by pro-abortion groups (in judicial districts of their choosing) will result in certain federal judges resolving any ambiguities to the detriment of unborn children. After all, the Hyde Amendment was subjected to four years of multiple legal attacks, before being upheld 5-4 by the Supreme Court in 1980. New language -- particularly vague language -- will invite new litigation, with potentially disastrous results.

Regarding the Boxer language:

1. The term "rape" is not defined. Unless the term "forcible rape" is substituted, the result would be that any Medicaid-eligible female who becomes pregnant while under the statutory age of consent would automatically qualify for a Medicaid-funded abortion. There are at least 29,000 pregnancies a year in females under age 15, and at least 383,000 a year in females age 15-17.

2. Boxer requires that claims of rape or incest can be "reported promptly" to a "public health service." What is a "public health service"? An abortion clinic? The telephone counseling services operated in many major cities by "feminist health" groups? A rape

crisis center? A hospital? A pro-abortion federal judge might include all of these, and more.²

3. The term "promptly reported" is not defined. Under the Carter Administration, this term was originally defined as "within 60 days." There is obviously potential here for grave abuse.

4. Most importantly, 30 states currently fund abortion only to save the life of the mother. Addition of any rape exception would make Federal law inconsistent with the laws of these 30 states (and perhaps some other states as well). If the courts follow the precedent of a 1980 ruling by the U.S. Court of Appeals for the Third Circuit, the result of this inconsistency would be that the laws of these states would be struck down in their entirety, thereby compelling these states to pay for ABORTION ON DEMAND with state funds.³ To prevent this, in the unfortunate event that Congress enacts any language weaker than current law, it absolutely MUST include this language which was part of the law from 1979-84:

"Provided, however, that the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate."

Under this "states rights" language, the courts could not rule that Congress has required states to fund abortions out of their own funds. States would remain free to adopt policies more restrictive or less restrictive than the Federal policy, with respect to their own funds.

1 As Secretary Louis Sullivan pointed out in his Oct. 10 letter to Congress, the second sentence [bracketed above] is superfluous, since the Hyde Amendment already permits anti-implantation drugs and devices, and already permits termination of ectopic pregnancies.

2 In February, 1985, Pennsylvania won a five-year court struggle, and a law went into effect that prohibited state funding of abortion except in cases of life endangerment, rape, or incest. There was no reporting requirement for the rape/incest claims. Pro-abortion spokespersons made thinly veiled public comments, noting that a mere verbal assertion of rape qualified a Medicaid-eligible woman for a state-funded abortion. By mid-1988, the state was funding an average of 36 abortions a month based on such rape claims (excluding incest).

Effective July, 1988, the Pennsylvania legislature changed the law to require that rape or incest be reported to a law-enforcement agency, or, in the case of a minor victim of incest, to a child protective agency. In addition to deterring fraud, the purpose was to protect the victims from further abuse and to assist in apprehending the perpetrators of these heinous crimes. The number of rape-based

abortion claims dropped more than tenfold, to an average of three (3) per month.

We fear that the "Boxer language" clause allowing reporting to "a public health service" could be abused in a fashion similar to the 1985-88 Pennsylvania law.

3 Two 1978 Pennsylvania laws prohibited state funding of abortion, under Medicaid, except to save the life of the mother. But the Federal restriction approved by Congress for FY 1979 included exceptions for rape and incest, as well as the life-endangerment exception. The Third Circuit ruled that this inconsistency invalidated both Pennsylvania laws in total. The ruling had the effect of requiring Pennsylvania to pay for abortion on demand, even though this inconsistency invalidated both Pennsylvania laws in total. The ruling had the effect of requiring Pennsylvania to pay for abortion on demand, even though this was obviously far removed from the intent of either Congress or the state legislature! See Roe v. Casey [623 F. 2nd 829 (1980).]

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
06. Letter	From Bobbie Kilberg to John Sununu Re: Federal Funding of Abortions for Rape or Incest (2 pp.)	10/16/89	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Abortion/Fetal Tissue Research (1989) [2]

Open on Expiration of PRA
(Document Follows)

By gf (NLGB) on 5/12/05

Date Closed: 12/1/2004	OA/ID Number: 29135-002
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
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P-2/P-5 Review Case #:	Disposition Date:
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PRM. Removed as a personal record misfile.

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THE WHITE HOUSE

WASHINGTON

October 16, 1989

MEMORANDUM FOR GOVERNOR SUNUNU

FROM:

BOBBIE KILBERG

Bk

SUBJECT:

FEDERAL FUNDING OF ABORTIONS FOR RAPE OR INCEST

This memo is in response to your request for my thoughts on the issue of federal funding of abortions in cases of rape or incest. My best frame of reference is the reaction I received during my state senate race in Virginia when I opposed federal or state funding except when the life of the mother was in danger. With the exception of NARAL and the Women's Campaign Fund, I received no adverse reaction, either publicly or privately, to my position from my constituents. This was the case even though my general election opponent was in favor of funding. Both my opponent and I were pro-choice and thus the incentive to go after me may not have been great. I also realize that the climate and sense of urgency is different now due to the Webster case but I still do not believe that funding is a salient or important issue for the general electorate.

What is important is that an individual candidate or officeholder not alter his or her position in response to every political fluctuation. In the months since Webster, the most critical comments I have heard relate to the lack of principles by candidates in regard to abortion. Women, in particular, object to candidates treating abortion like a political football and making it clear in the process that they hold no real principled beliefs on the subject. Pro-choice women find this especially troublesome when it is a male politician making a decision that fundamentally affects women.

I thus would recommend to the President that he not alter his position on federal funding. There is a difference between recognizing a need or right for the legal availability of abortion in certain circumstances and supporting the financing of that need or right. There are many rights available in society that are not accompanied by funding and those rights are not made hollow by lack of governmental financial support. In fact, government cannot fund everything and it is appropriate for non-profit and community organizations to decide whether to make abortion funding for rape and incest one of their priorities. (As you know, we are not talking about large numbers).

I have a more fundamental concern about funding and that relates to the emotional intensity and moral debate surrounding abortion. I stated in my campaign that I did not think it should be the role of government to financially support a policy which generates such divisive feelings in our society and about which there is no consensus (polls notwithstanding). In the case of abortion, I believe that government should maintain a neutral role and that funding crosses the line into advocacy. One could argue against this position by noting that government funds policies and programs in other areas, including some defense programs, where consensus may be questionable and where feelings run high. My response is that there are certain functions which are essential to the country's future and security and those must be funded regardless of moral disagreements. Abortion funding does not rise to that level and it is inappropriate for government to intrude itself into that debate by funding support. This is a logical, albeit unusual, argument for a pro-choice supporter because it is consistent with keeping government out of the decision process. Adamant pro-choice movement activists do not like the argument but often get tongue-tied trying to argue against its logic and they chose to leave me alone during my campaign. More importantly, none of my constituents made this an issue in my campaign. It is also an argument that can be made with conviction and consistency by a person who is pro-life.

The President is in a position of dealing with federal funding of Medicaid abortions and not with state funding, except for the case of the District of Columbia where there is no state mechanism. Another viable approach for the President would be to maintain his opposition to federal funding while stating that he respects the rights of states to utilize state funding for rape and incest abortions if state lawmakers believe their constituents support this. This is consistent with the President's support of a constitutional amendment with exceptions for life of the mother, rape and incest. This approach does not provide an answer for the District of Columbia and there is an obvious sensitivity because of the District's minority population. However, I would recommend to the President that he maintain his position in opposition to federal funding even though D.C. does not have a state alternative.

cc Dave Demarest

TIGHTENED RAPE/INCEST EXCEPTION

(a) The pregnancy is the result of forcible rape, and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the forcible rape, in which case the report shall be made within 48 hours after the victim becomes physically able to report the forcible rape; or

(b) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion.

(c) Provided, however, that the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.