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ROLL NUMBER

DESCRIPTION

2400

2007 SENATE HUMAN SERVICES

SB 2400

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-6-07

Recorder Job Number: 2916

Committee Clerk Signature Mary K Monson

Minutes:

Chairman Senator J. Lee opened the hearing on SB 2400 relating to the state policy on abortion and childbirth.

Senator Terry Wanzek (District 29) introduced SB 2400. (Attachment #1)

Senator Dever referring to the laws on the books regarding when a pregnant mother is murdered and the perpetrator is charged with two crimes, asked how they address the notion that the child is human.

Senator Wanzek replied that he had just read an article where an individual was charged with the death of an unborn child when the mother did not die as a result of the incident. He thought there were some federal efforts to address that.

Representative Ralph Metcalf (District #24) testified in support of SB 2400.

Representative Karen Karls (District #35) testified in support of SB 2400. It says that children in the womb should be given the same protection we have as citizens of this state and nation.

Tom Freier (ND Family Alliance) testified in support of SB 2400. (Attachment #2)

Senator Dever asked if he could respond to the question he had asked Sen. Wanzek earlier.

Mr. Freier distributed some background material (Attachment #3) and referred him to page 8 that said in Chapter 12 there are parts of our century code that talk about the unborn child and the protection thereof.

Senator J. Lee asked why we need this.

Mr. Freier responded that the purpose of this bill is to bring the discussion back to the very basics of what this discussion has always been about. That is, when does life begin and when should it be protected.

Senator Warner said there has been a movement on the national level to deny citizenship to children of illegal immigrants born in this county. Would this repudiate that sort of movement?

Mr. Freier said what really needs to happen is to debate the issue of when life begins and when that person is an individual and then look at those individual areas that might have an influence on that. The first thing is to determine when that life begins and when that basic right is given to that person.

(Meter 17:45) Discussion followed about citizenship, where they are born, and the need for passports.

Mr. Freier emphasized what needs to be considered is what the premise of the bill is and what they are trying to accomplish and that is to extend those rights to the unborn. Then, other questions that come up can be dealt with individually on their own merits.

Senator Pomeroy asked if this bill would outlaw the morning after pill.

Mr. Freier said that goes back, once again, to the individual questions. He doesn't think this bill has the premise to outlaw anything.

Steve Cates (meter 23:55) testified in support of SB 2400. He said that research is readily available. Any nursing textbook that you pick up is going to speak of the human life as a gapless continuum.

Current technology allows for premature children to survive after 22 weeks post creation.

Senator J. Lee asked what he saw as additional needs for the citizenship designation and protecting children born or unborn as compared to the statute we currently have.

Mr. Cates said they are not fully protected. There is a mechanism to destroy an unborn human being. They are not officially designated in the law as human beings.

Bill Schuh (meter 31:30) testified in support of SB 2400 as a private citizen. He made three points. 1. There is a real logical disconnect in how the unborn is viewed.

2. Another problem is that there are a number of statements that we don't know exactly when life begins, but as parents, we know.
3. There are new procedures that are supposedly less invasive than amniocentesis where they can identify downs syndrome earlier. He's heard estimates of as many as 85% of downs children are expected to be killed because of this.

Chris Dodson (ND Catholic Conference) (meter 35:10) said that it is an odd thing to work for the Catholic Church on this issue and he has never invoked a religious doctrine on behalf of protecting unborn lives. It's the other side that raises a matter of philosophy and religion. It is a scientific issue, a factual issue, a matter of logic, and therefore, it is a legitimate function of legislative bodies to determine when life begins. This bill establishes that in the parameters of ND law an unborn child is a human being. There is no act that it would actually prohibit. He sees it as a guide for interpretation of state law where there are questions or ambiguities with regard to what is a human being.

(Meter 37:54) He had some concerns with the bill as written. He thought the intent could be maintained with a few changes. 1. It needs to be removed from the chapter that it was put in.

2. If there are any questions regarding the language prohibiting age discrimination, it probably doesn't need to be there.
3. The questions regarding citizenship can be taken care of. Citizenship is really a function of the federal government.

Senator J. Lee asked Mr. Dodson if he would consider giving recommendations for appropriate amendments.

Mr. Dodson said he could do that.

Connie Hildebrand testified in opposition to SB 2400. (Attachment #4)

Amy Fast (ND Chapter of the National Association of Social Workers) testified in opposition to SB 2400. (Attachment #5)

Senator Dever said that part of the problem with the abortion debate in this country is that on the pro life side of things the focus is on the child. On the pro choice, it's on the woman. When you talk about self determination you're talking about the woman. What about the child?

Ms. Fast deferred to Ms. Hildebrand who replied: There is a big difference in their views on who has a choice. Their position is the woman has choices. They continue to reiterate that position.

Senator Dever asked then if their position was that the child does not have a choice.

Ms. Hildebrand said their position is that the woman has choices.

Betty Mills (League of Women Voters) testified in opposition to SB 2400. (Attachment #6)

Senator Dever was confused that the League of Women Voters, if non partisan and non political, take a position.

Ms. Mills said they do not take sides with a particular party. They do take positions on policy not issues.

Muriel Peterson (American Association of University Women) testified in opposition to SB 2400. (Attachment #7)

Renee Stromme (ND Women's Network) testified in opposition to SB 2400. (Attachment #8)

Tim Stanley (Planned Parenthood) testified in opposition to SB 2400. (Attachment #9)

Senator Dever pointed out the Mr. Stanley said in his testimony that this bill could be interpreted to grant the fetus the right to life. When is it a life?

Mr. Stanley replied that is what it appears the bill is not defining. (Meter 60:00)

Senator Dever said his son was born 9 weeks premature and asked Mr. Stanley if he was a life.

Mr. Stanley said that was not for him to judge.

Senator Warner gave an example of a pregnancy that was terminated because of a defect (Meter 60:30) and asked if this bill would prohibit that kind of action.

Mr. Stanley said that was a good question and thought it is the possible long term ramifications of this bill that could prevent that kind of termination.

Herbert Wilson testified in a neutral position on SB 2400. (Attachment #10)

Melanie Heitkamp spoke in a neutral position on her own behalf. She urged the committee to consider that there is a direct correlation to abortions and the rate of poverty.

The hearing on SB 2400 was closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-07-07

Recorder Job Number: 3020, 3069

Committee Clerk Signature Mary K Monson

Minutes:

Chairman Senator J. Lee brought the committee to order to discuss SB 2400 and the amendments by Chris Dodson.

Mr. Dodson distributed the amendments he had drawn up. (Attachment #11) He explained that it hog houses the bill and puts it in the definition section of the code. Normally, in the ND century code a definition only applies within that chapter unless it states otherwise. But there is one chapter in the code that applies to definitions throughout the code. (Meter 2:20)

It accomplishes the same purpose, that the state recognizes a human being is a born or unborn. It doesn't prohibit anything. This would be an interpretive guide.

Senator J. Lee asked if no area of current law in ND would be changed with this definition being included.

Mr. Dodson couldn't answer.

Senator J. Lee was trying to find out if, by including the definition in this section, it would restrict abortion in areas currently not restricted by state law or that it's going to change any of the criminal penalties that are currently in place that might affect this particular situation more so than others. What changes would this bring?

Mr. Dodson said his legal view is that it wouldn't change anything. (Meter 5:00)

Senator J. Lee asked about unintended consequences.

Mr. Dodson (Meter 5:58) said it does two things. 1. It recognizes the humanity of the unborn child. It provides that as a general statement rather than just about a specific act.

2. It provides a guide for interpretation that the legislature intends that an individual include unborn child as much as possible.

Senator J. Lee recognized Tim Stanley (Planned Parenthood) for comments on the amendments.

Mr. Stanley asked for time to have counsel look at the amendment to see what the unintended consequences would be.

Senator J. Lee asked for an interpretation as soon as possible.

Senator Erbele asked if the Family Alliance could comment on the amendment.

Tom Freier (Family Alliance) said they feel the intent is there.

Chairman Senator J. Lee recessed committee work.

Job #3069

Chairman Senator J. Lee brought the committee back to order for discussion on SB 2400. She reported that she sent a message to legislative council asking about the effect of amending the definition of individual. Her main concern was what other areas would be affected.

(Meter 00:55) Jennifer Clark, legislative council, responded with an e-mail. (Attachment #12)

Senator J. Lee recognized the good intentions of the amendment but still had concerns about changes in the citizenship section. She felt it was important to have more information about the change in that section.

Senator J. Lee asked what the goal of the bill is.

Senator Erbele replied that as ND we want to recognize the person of the unborn. (Meter 4:45)

Senator J. Lee asked if, by doing that, he is expecting that it will provide some rights that are not currently in law.

Senator Erbele said that according to Mr. Dodson it is an interpretive guide and as they move forward, if the question comes up, they can say this unborn child is an individual.

Senator Dever said the previous bill is an example. If a woman chooses to get care from a midwife, her choice to do that is one thing, but there needs to be concern about the outcome for the child.

Senator J. Lee asked Mr. Dodson to make a comment on the information from Jennifer Clark on how it affects other parts of the code.

Mr. Dodson said this would only be a definition guide (meter 10:00). Wherever an individual is defined specifically that section would control that definition. It's where there would be ambiguities and it would make sense is where the definition would be controlling or, at least, be guiding as how to interpret a particular statute.

Senator J. Lee asked if there is anything here that would change the circumstances if there was a change in the federal law.

Mr. Dodson answered that the only situation he could imagine is if the legislature had a prohibition on abortion in the code that used that definition, that term individual (Meter 13:00).

Senator J. Lee asked what the positive outcome would be of adopting this bill as amended.

Mr. Dodson said one positive thing is it would state that intent that has already be done on the limitations abortion chapter and the abortion control act that ND wants to recognize the unborn child to the extent possible by law. (Meter 15:00)

Senator J. Lee recognized Mr. Stanley.

(Meter 15:40) Mr. Stanley said that talking to legislative council they were able to confirm what Ms. Clark said about changing of the definition of "individual". The breath of that change would be just too incalculable at this point.

The basic argument is that the council feels the amendment does nothing to address the basic concerns of the bill.

They also believe that this would make women potentially vulnerable to prosecution for their behavior during pregnancy.

Additionally, the definitional problem is still not addressed. It just changes the problem from what is a pre born to what is unborn. There still is no definition to that. It leaves it wide open for court's interpretation.

Senator J. Lee asked if there was anyone who had something to add to the discussion.

Mr. Freier responded that their interest was: 1. Wherever that definition would fit best is what they would like to see. 2. The intent really is to designate that right to the unborn. That is what the original bill was attempting to do.

Senator J. Lee asked about the goal.

Mr. Freier said the goal is to give that status to the unborn.

Senator J. Lee adjourned the meeting.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-13-07

Recorder Job Number: 3445

Committee Clerk Signature Mary K Morson

Minutes:

Chairman Senator J. Lee opened SB 2400 for discussion and presentation of amendments.

Tom Freier addressed his amendment (Attachment #13). When they started this process there was one basic idea they wanted to bring forward. This amendment may come closer to bringing out the intent of the bill.

Senator Dever said it certainly appears to him to make it less onerous.

Senator J. Lee said her concern continues to be that, based on what the proponents of the bill have said, their intent is not to change anything in current law. This bill is going to create some confusion. Regardless of what one's position might be about the abortion law, she didn't think they should be passing bills that don't do anything. Her concern is about unintended consequences with whatever they might change in the section.

Senator Erbele, addressing Mr. Freier, said they moved this from section 1 of the definitions because they felt there was unintended consequences in there. He asked what makes this section better, what they call the abortion control act. Does it enhance anything?

Mr. Freier replied that the other definition area was the area that would mean that definition would comply to the entire century code. This chapter speaks only to abortion. Some of the

definitions in there do address how the words in that chapter are to be used because of that definition. This would be further defining and clarifying.

Senator Heckaman said she would contend that unborn is already there.

Mr. Freier said the word is used there but not necessarily defined.

Senator Erbele asked if there are any unintended consequences that could arise with it being here.

Mr. Freier didn't believe so (meter 8:50).

Senator J. Lee said there is some ambivalence possible and there will be people who say by making this change we are setting the stage to ban all abortion in ND, whether that is the intention or not. She had great reservations in her own mind about trying to do something different and creating any kind of foggy areas beyond what might already be there. She didn't see where they were doing anything really concrete, clear, and positive.

Mr. Freier said, in his mind, he believes it is a clarification as opposed to making it more vague.

Senator Dever asked if the purpose has the force of law (meter 14:00).

Senator Warner said his understanding is that the purpose sections are for clarity and when there is ambiguity in the law the courts look to the purpose section. The purpose is perfectly clear here. The ambiguity they are creating would be in the law section. He didn't think they would gain anything by amending this. He didn't think they would add anything to the clarity of the purpose, only obscure the law further.

Senator Dever said then what they are looking to do in the amendments is already defined in the purpose and it's only that the courts would lean in that direction.

Senator Warner said that would be his opinion.

Senator J. Lee asked Mr. Mullen, legislative council, if the purpose section statute has the force of law (meter 15:30).

(Meter 15:30) Mr. Mullen said the legislative council has a general policy in their legislative drafting manual urging people who draft legislation not to put a purpose into statutes. A purpose can have some affect in guiding an agency on how a law should be construed and applied. It can have some affect on courts as to how they would apply a statute.

Senator J. Lee asked the committee if they wanted to act on this amendment.

(Meter 17:20) There was discussion on who drafted the amendment, the clarity of what they are trying to do, and the ability to defend what is put into law.

Senator J. Lee said the Attorney General's office didn't see any clarity with what they were trying to do.

Senator J. Lee recessed the committee.

(Meter 21:54) Senator J. Lee brought the committee back to order.

Senator Erbele reported that he spoke to legislative council about this. They said if the committee goes ahead with this, this is definitely the place to put it because it doesn't create any unintended consequences that they could think of. Looking to the purpose it is fairly defined. (Meter 23:03) They did caution against using the word "means"

Senator J. Lee reported that she talked to the AG office and found that there is no definition for human or human being any place in any section of code. The concern there was that a word was being used in a definition which does not exist anyplace else in statute. That creates an issue.

Senator Erbele moved the amendment but change "means" to "is".

Senator Dever seconded the motion.

Senator J. Lee reminded the committee that when they look at amendments on a bill about which they have some concern they are supposed to, if an amendment is considered, make the bill better by amending it.

Senator Warner said to him this just reiterates what is already in the purpose section.

Senator J. Lee asked if he thought the amendment enhances the bill because it takes it out of the citizenship debate or not. Do they prefer the amendment or do they prefer the bill as it was originally. Which one is better in the event it passes?

Roll call vote 3-3-0. Amendment fails.

The non amended bill was in front of the committee.

Senator Pomeroy moved a Do Not Pass on SB 2400.

Senator Warner seconded the motion.

Roll call vote 4-2-0. Motion carried. Carrier is Senator J. Lee.

Date: 2-13-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2400

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken amendment

Motion Made By Sen. Erbele Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman		✓
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy		✓
Senator Dick Dever	✓		Senator John M. Warner		✓

Total (Yes) 3 No 3

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Failed

Date: 2-13-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2400

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Sen. Pomeroy Seconded By Sen. Warner

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair		✓	Senator Jim Pomeroy	✓	
Senator Dick Dever		✓	Senator John M. Warner	✓	

Total (Yes) 4 No 2

Absent 0

Floor Assignment Senator J. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2400: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2400 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2400

Attachment # 1

Madam Chairman and members of the Human Service Committee, my name is Terry Wanzek, Senator from district 29, from Jamestown. I am here today to present to you SB 2400. I agreed to present the bill on behalf of the ND Family Alliance.

As I near my fiftieth birthday, March 28th, I have become more introspective in the acknowledgment of the finality of Life. The gift of Life can be so beloved, so treasured, so dear, so cherished yet so short and so vulnerable. As I grow older I only become more reverent and more respectful for Life. I can think of nothing more precious and more valuable! I consider it the greatest gift ever given to man by his creator.

Another realization, as I age, is the tremendous good fortune that I was born in the United States of America. I believe the second greatest gift any person can receive on this earth is Freedom! Our country's constitution is one that recognizes the value and worth of each human being and defends their inalienable right to pursue life, liberty and happiness. The course of history has proven Liberty's value with the blood that has been spilled in its defense.

This is a bill meant to highlight both North Dakota's respect for life and for freedom. The bill before you establishes that all citizens regardless of their order in

the continuum of life are granted the full rights of citizenship and protection within the law.

As we head into new times, we are faced with an ever increasing advancement of new technology. This new technology has allowed modern man to sustain and nurture life where it once was thought to be impossible. Regardless of your religious or moral standing on the issue of abortion, as a result of new technology, we will be faced with tough questions about the rights of persons in the pursuit of their lives, unborn and born. The law already presents some inconsistencies. In some parts of the law we provide protections for unborn children while dismissing protection for the unborn in other areas. It seems we already have made a conscious decision as a society to protect the unborn, however only when they are wanted. To be able to address any of these issues we ultimately have to determine at what point does the spark of life enter into each human being? Some of us contend that is at conception. Just like the grain of wheat when it breaks germination, it is the beginning stage in the journey of Life.

Madame Chairman and Senators this bill is attempting to establish that all citizens have equal protection under the law regardless of their stage in life. It states that all citizens should have an inalienable right to pursue life, liberty and happiness.

Attachment #2

North Dakota
FAMILY
ALLIANCE

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

DEDICATED TO STRENGTHENING FAMILIES

Senate Human Services Committee
SB 2400
February 6, 2007

Senator Lee, and members of the Senate Human Services Committee, I am Tom Freier, and I represent the North Dakota Family Alliance. I am here in support of SB 2400.

First of all, thank you for hearing this bill dealing with this very sensitive and important issue.

Very simply, this bill would provide that the unalienable rights, that we all enjoy," of life, liberty, and the pursuit of happiness", would be available to the born and the unborn.

We believe that new human life begins at conception, and as such, deserves the same protection as you and I. This protection is due without regard for ethnicity, sex, physical health, condition of dependency, circumstances of creation, or age. Just as being an infant, adolescent, or adult should not temper our protection, the unborn deserves the same non-discriminatory rights.

During recent decades, science has given us a much clearer picture of the development of new human life. Advances in medicine have documented viability at a much earlier age, and is continuously and incrementally moving toward conception. At conception, his or her gender is determined. He or she has a heart beat at 5 weeks, brain functions at 8 weeks, and begins noticeable movement at 9 weeks. To arbitrarily set the age of viability, results in discriminatorily withholding protection based on few days or weeks of time.

A human being at an embryonic age and that human being at an adult age are naturally the same; the biological differences are due only to maturity. Medical research indicates that each human being is totally unique from the very beginning of his or her life at fertilization. The unique identity of this child has been cast, and deserves the rights of protection.

Our nation was founded both on the proposition that human life is a gift of immeasurable worth and the precept of equal rights for all human beings. The fact that the unborn child is a whole separate unique living being is not without significance as we debate this issue. Our intrinsic natural right to life is to be enjoyed by all, no matter how poor or rich, strong or weak, age of maturity, state of dependence, or whether born or unborn.

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North Dakota
FAMILY
ALLIANCE

DEDICATED TO STRENGTHENING FAMILIES

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

I believe it to be the duty of the state of North Dakota, and in the best interests of the people of North Dakota, to protect each human being, both born and unborn. Please support SB 2400 with a Do Pass.

Thank you and I will stand for questions.

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Attachment # 3

The North Dakota Human Rights Bill

SB2400

Humanity of the Unborn as Demonstrated by Science and the Ethical Questions of Ambiguous Law

Research and Testimony in Support of SB2400
The North Dakota Family Alliance
Bismarck, North Dakota
February 2007

Statement of Fact and Logic

Because humans are rational beings they possess an inherent dignity that deserves respect of each unique human creature at all times during the continuum which is the human life cycle.

An unborn human is by evidence of all current applicable science a living creature of the Homo sapiens species at all stages of the natural development continuum process. The embryonic stage, like the infant, like the child, like the adolescent, and like the adult are all natural stages of that human life cycle.

All humans regardless of life cycle chronology are distinct and singular and if left unmolested develop in a gradual, self directed process that is without gap or pause.

Due to the inherent dignity of each human, every human has the significance that equal protection from harm demands. This protection is due without regard for ethnicity, sex, physical health, physical location, familial relationship, circumstances of creation, age, or condition of dependency.

Respect for all members of the human family is the underlying foundation of the success of the most successful cultures in the history of man. Justice for each unique human being must demand the protection of law regardless of any and all circumstance, anything less is to treat that being unjustly.

Human Life is a Gapless Continuum

When is that exact moment when an unborn baby, who does apparently have a soul and humanity when born very premature at 22 weeks, become a human? When he/she has a heart beat at 5 weeks after creation? When he/she has fingers and toes and Electroencephalograms evidence the child's brain function at 8 weeks? When he/she starts moving at 9 weeks? When he/she has a brain that is creating 250,000 new neurons each minute at 10 weeks? When he/she begins to make facial expressions and react to light at 16 weeks? When he/she can hear at 18 weeks?

From: C. Ward Kischer Department of Cell Biology and Anatomy The University of Arizona College of Medicine Tucson, Arizona: "At what point would it be most appropriate to assign functional individuality? Can a case be made for functional individuality occurring when the first contractile unit in the first myoblast cell is formed. Or when the paired endocardial tubes are formed? Or when the cardiogenic cords are differentiated? Or when the first potential cardiac cell migrates to the presumptive heart area? Are these important questions? Not to the embryologist. The simple reason is that we recognize that all of development is a *continuum*, and any point in development derives its significance from the most previous point in development." ....." The scientist, in this case the human embryologist, should have no political or theological agenda. There is no dilemma such as accounting for doctrinal or moral error when defining scientific data. Yet, we recognize from time to time the importance of what we observe, not just with respect to the next scientific

question but with respect to our place in all of creation and within the order of all things in the universe."

Dr. Ola Didrik Saugstad, a world renowned neonatologist who has been the recipient of the Yippo Award, which is given to only one neonatologist in the world, once every five years. He was also selected President of the European Congress of Perinatal Medicine in 2001 and given the prestigious Versinie Apgar prize from the World Perinatal Association. He has treated babies as young as twenty-one weeks postconception and only one pound in weight. Dr. Saugstad has stated" Suggestions or implications that a woman considering an abortion should be told anything about whether or not the fetus is a human being based upon whether the child is or is not of "viable" age would be misleading. The child is a human being before viability just as well as after viability and, as I previously indicated, viability is irrelevant to that question. There is absolutely nothing that can be told to the woman that is different about a child that is a so called "post viable" age as opposed to one that is "pre viable" age with reference to the pure question of whether as a matter of biological fact, the fetus is a human being." Dr. Saugstad continued, saying "The history of newborn medicine teaches us that the prognosis of sick newborn infants and especially pre-term infants has been dramatically improved over the past century and even in recent decades. It is impossible to know the extent of future developments that might lead to a human being able to live its entire post-conception life apart from the mother."

Dr. Micheline M. Mathews-Roth, Harvard medical School, gave confirming testimony, supported by references from over 20 embryology and other medical textbooks that human life began at conception.

* "Father of Modern Genetics" Dr. Jerome Lejeune told the lawmakers: "To accept the fact that after fertilization has taken place a new human has come into being is no longer a matter of taste or opinion ... it is plain experimental evidence."

* Dr. Hymie Gordon, Chairman, Department of Genetics at the Mayo Clinic, added: "By all the criteria of modern molecular biology, life is present from the moment of conception."

* Dr. McCarthy de Mere, medical doctor and law professor, University of Tennessee, testified: "The exact moment of the beginning of personhood and of the human body is at the moment of conception."

* Dr. Alfred Bongiovanni, University of Pennsylvania School of Medicine, concluded, "I am no more prepared to say that these early stages represent an incomplete human being than I would be to say that the child prior to the dramatic effects of puberty ... is not a human being."

* Dr. Richard V. Jaynes: "To say that the beginning of human life cannot be determined scientifically is utterly ridiculous."

* Dr. Landrum Shettles, sometimes called the "Father of In Vitro Fertilization" notes, "Conception confers life and makes that life one of a kind."

Unborn Children Experience Pain

"'An unborn child at 20 weeks gestation "is fully capable of experiencing pain... Without question, [abortion] is a dreadfully painful experience for any infant subjected to such a surgical procedure." – Robert J. White, MD., Ph.D. professor of neurosurgery, Case Western Reserve University"

Testimony of the U.S. Congress, Judiciary Committee, 2005 by Dr. Jean Wright who is the Executive Director and Vice President of Operations for Children's Hospital and Women's Institute at Memorial Health University Medical Center in Savannah, Georgia. She is also Professor and Chair of Pediatrics for Mercer School of Medicine. Dr. Wright is trained in pediatrics and anesthesia, board-certified in both, and certified in the subspecialties of pediatric critical care and anesthesia critical care. Dr. Wright has been in academic medicine over 20 years, and prior to going to Savannah served at Emory University and Children's Health Care of Atlanta. Dr. Wright currently chairs the Federal Advisory Committee on Fetal Alcohol Syndrome for the CDC. She stated "You know, it then became apparent to us, no wonder many of these preterm babies when they came back to the neonatal intensive care unit looked so devastated. In fact, many of them didn't survive, which at that time sort of reinforced our presumption that they were too sick for anesthesia. But with time, with better science, we began to provide anesthesia for those preterm babies, and, in fact, we saw that their outcomes improved.... Well, with that knowledge explosion in the field of pain development in the fetus, as I mentioned, the world of anesthesia changed, and, you know, I guess I would use a phrase, the sound barrier, particularly in the area of partial-birth abortion, or the discussion around partial-birth abortion broke the sound barrier around this whole topic of fetal pain. It was in the mid-'90's when I was here and we were discussing that legislation and we began to talk about pain in the third trimester, but now we know that it is not just the third trimester, but it is as early as 20 weeks, and there is data that shows 16 weeks and even earlier, many of these infants feel pain and have negative outcomes from it"

Dr. Jean Wright further stated, "Studies at 16 weeks and beyond show hormonal responses to painful stimuli that exactly duplicate the responses that the infant and adult possess. The critical difference is that the unborn lacks the ability to modulate itself in response to this pain. Therefore, the responses of hormones to painful procedures show a 3–5 x surge in response. This ability to down-regulate the response in light of painful stimuli will not exist until the unborn child is nearly full term in its gestational age. Further studies demonstrated that the magnitude of pain response reflected the magnitude of the stimulus and blocking the pain receptors with narcotics, blocked the hormonal surge. By 19–20 weeks, EEG recordings are readily documented, and somatosensory evoked potentials (SSEP) are seen by 24 weeks. After 20 weeks of gestation, an unborn child has all the prerequisite anatomy, physiology, hormones, neurotransmitters, and electrical current to "close the loop" and create the conditions needed to perceive pain. In a fashion similar to explaining the electrical wiring to a new house, we would explain that the circuit is complete from skin to brain and back. The hormones and EEGs and ultrasounds record the pain response, and our therapies with narcotics demonstrate our ability to adequately block them. Therefore, any procedure performed on an unborn child after 20 weeks should take this into consideration."

Vivette Glover, Clinical Scientist, Department of Paediatrics, Royal Postgraduate Medical School, Institute of Obstetrics and Gynaecology, Queen Charlotte's and Chelsea Hospital, London. "Though we cannot measure pain, we can measure fetal hormonal stress responses, which occur from at least 23 weeks of gestation. As in neonates these can be used to show the degree of trauma caused by different types of intervention. If used at a stage when it is reasonable to presume that the fetus may feel pain they seem the best indices currently available. A further index of acute stress in fetuses is blood flow redistribution to the brain, as shown by Doppler studies of human fetuses from 18 weeks undergoing invasive procedures."

Dr. Paul Ranalli, a neurologist at the University of Toronto, and Advisory Board member of the deVeber Institute for Bioethics and Social Research, wrote concerning a suspect study that: "Across the nation, Neonatal Intensive Care Units (NICUs) are full of bravely struggling preemies . . . The only difference between a child in the womb at this stage, or one born and cared for in an incubator, is how they receive oxygen -- either through the umbilical cord or through the lungs. There is no difference in their nervous systems. Their article sets back humane pediatric medicine 20 years, back to a time when doctors still believed babies could not feel pain."

Another statement from Dr. Ranalli: "While the pain system is up and running by 20-24 weeks' gestation, this pain-modifying system does not begin to make its appearance until later in pregnancy, continuing to develop until full term and beyond. Thus there is a key period of mismatch, from 20 weeks onward: raw pain impulses from the body may roar through unchecked by the modifying inhibitory mechanism that helps to blunt pain in adults, leaving the unborn child at this stage vulnerable to a degree of pain that is truly unimaginable. Dr. Glover has now raised concerns that this dreadful period of potential vulnerability to pain may extend as far back as 17 weeks' gestation."

Current Technology Allows Premature Children to Survive After 22 weeks of Post Creation Age

Because human life is a seamless, uninterrupted continuum, conception is considered by medical education texts to be the beginning of human life. The "Threshold of Viability" is continuously moving in small increments closer to creation. There may be a lower limit due to lung development of the unborn but significant technological advancements are made frequently such that the true limit of the "Threshold of Viability" can not be ascertained.

There is no known, scientifically documented transition of the unborn child from non-human to human. It is certain though, that after 22 weeks of age after creation that the unborn child is certainly a human. Yet for the final 18 weeks after that threshold the unborn

child may be destroyed by termination of the life cycle continuum through artificial intervention.

British Medical Association: Abortion time limits, May 2005; "Recent guidance from the British Association of Perinatal Medicine introduces the concept of a "threshold of viability" as being the period from 22 to 26 weeks' gestation. This concept is also referred to in RCOG guidance from 2000 in which it advises that attempts should not be made to support the life of fetuses below the threshold of viability. Although the RCOG does not give its own definition of this concept, it refers to the BAPM guidance. Results from the EPICure study (outlined in more detail below) on survival rates in 1995 concur with this view. From the adjacent table of Gestation and Percent Survival: 21 weeks, 0%; 22 weeks, 1%; 23 weeks, 11%; 24 weeks, 26%; 25 weeks, 44%."

From: PEDIATRICS "The Official Journal of the American Academy of Pediatrics", Perinatal Care at the Threshold of Viability by Hugh MacDonald, MD and Committee on Fetus and Newborn: "The survival rate for infants born preterm has improved over the last 2 decades and is likely to continue to improve. An infant born at the threshold of viability presents a variety of complex medical, social, and ethical decisions. Although the incidence of such births is low, the number of extremely preterm births has increased, and the impact on the infants, their families, the health care system, and society is profound."

"The survival rate for infants born from 22 to 25 weeks of gestation increases with each additional week of gestation However, the incidence of moderate or severe neurodevelopmental disability in surviving children assessed at the age of 18 to 30 months is high (approximately 30%–50%) and does not appear to decrease over the 23- to 25-week gestation period. Many of these infants require prolonged intensive and long-term care. The commitment for all aspects of care may be extensive, multidisciplinary, lifelong, and costly. Because the families bear the emotional and financial consequences of the birth of an extremely preterm infant, it is essential to inform the prospective parents regarding the expectations for infant survival and outcome and the risks and benefits of various approaches to care."

"Gender and gestational age significantly affect the likelihood of survival for infants weighing less than 750 g. In one large cohort of infants weighing less than 1500 g at birth, a birth weight of 600 g was associated with a survival rate ranging from approximately 15% for a male of 22 weeks' gestational age to 65% for a female of 25 weeks' gestational age. Similarly, at 23 weeks' gestation, the survival rate ranged from approximately 20% for a male weighing 520 g to 60% for a female weighing 740 g."

There Exists Significant Ambiguity Related To Protection From Harm of the Unborn

The **Partial Birth Abortion** procedure consists of grabbing the legs of the unborn child, pulling those legs into the birth canal, extracting the child's entire body except for the head, piercing the child's skull at the skull's base, and using a suction catheter to collapse the child's head as the brains are removed. An alternative method is to extract the head of the

unborn, leaving the rest of the unborn body within the mother's body with only the head of the unborn external an piercing the child's skull and using a suction catheter to extract the child's formerly functioning brain. A majority of Partial Birth Abortions are done during the 20-26 week range of age after creation.

In 2003 the Partial Birth Abortion Act was enacted by the United States Congress. From the text of the Bill: "(H) Based upon Roe v. Wade, 410 U.S. 113 (1973) and Planned Parenthood v. Casey, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was recognized in Roe when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child `in a state of being born and before actual birth,' was not under attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a `person' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a `person'. Thus, the government has a heightened interest in protecting the life of the partially-born child."

This law specifies that an unborn child is emergent and is therefore enough of a person to be protected. The only criteria is the child's relative proximity to the world outside of the birth canal. All other physiological and conditional aspects of the child's life are identical weather within or without the mother's body. Since the child is entirely unchanged one second prior to exiting his/her mother's body compared to one second after a portion of his/her body has emerged is a highly ambiguous logical point with which to ascertain humanity.

North Dakota Law Almost Protects the Unborn

North Dakota law protects the unborn almost. An unborn child is worthy of full protection unless that child's humanity is revoked or denied by one specific person. The person that contributes half of the genetic essence (the father) for the creation of the child and who may be financially responsible for the child's care and wellbeing in the event of live birth, is allowed no opportunity to protect his offspring when the decision to destroy the offspring is made by the mother of the child. Oddly, the father can theoretically be charged with a class AA felony if, by striking the child's mother in such a manner as to cause the child's demise. This is logical nonsense.

From the North Dakota Century Code: CHAPTER 12.1-17.1

OFFENSES AGAINST UNBORN CHILDREN

12.1-17.1-01. Definitions. As used in this chapter:

1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.

2. "Person" does not include the pregnant woman.

3. "Unborn child" means the conceived but not yet born offspring of a human being, which, but for the action of the actor would beyond a reasonable doubt have subsequently been born alive.

12.1-17.1-02. Murder of an unborn child.

1. A person is guilty of murder of an unborn child, a class AA felony, if the person:

a. Intentionally or knowingly causes the death of an unborn child;

b. Causes the death of an unborn child under circumstances manifesting extreme indifference to the value of the life of the unborn child or the pregnant woman;

or

c. Acting either alone or with one or more other persons, commits or attempts to commit treason, robbery, burglary, kidnapping, felonious restraint, arson, gross sexual imposition, or escape and, in the course of and in furtherance of such crime or of immediate flight therefrom, the person, or another participant, if any, causes the death of an unborn child; except that in any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, It is an affirmative defense that the defendant:

(1) Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof;

(2) Was not armed with a firearm, destructive device, dangerous weapon, or other weapon that under the circumstances indicated a readiness to inflict serious bodily injury;

(3) Reasonably believed that no other participant was armed with such a weapon; and

(4) Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.

Subdivisions a and b are inapplicable in the circumstances covered by subsection 2.

2. A person is guilty of murder of an unborn child, a class A felony, if the person causes the death of an unborn child under circumstances which would be class AA murder, except that the person causes the death of the unborn child under the influence of extreme emotional disturbance for which there is reasonable excuse. The reasonableness of the excuse must be determined from the viewpoint of a person in the person's situation under the circumstances as the person believes them to be. An extreme emotional disturbance is excusable, within the meaning of this subsection only, if it is occasioned by substantial provocation or a serious event or situation for which the offender was not culpably responsible.

12.1-17.1-03. Manslaughter of an unborn child. A person is guilty of manslaughter of an unborn child, a class B felony, if the person recklessly causes the death of an unborn child.

12.1-17.1-04. Negligent homicide of an unborn child. A person is guilty of negligent homicide of an unborn child, a class C felony, if the person negligently causes the death of an unborn child.

12.1-17.1-05. Aggravated assault of an unborn child. A person is guilty of assault of an unborn child, a class C felony, if that person willfully assaults a pregnant woman and inflicts serious bodily injury on an unborn child.

12.1-17.1-06. Assault of an unborn child. A person is guilty of assault of an unborn child, a class A misdemeanor, if the person willfully assaults a pregnant woman and inflicts bodily injury on an unborn child.

12.1-17.1-07. Exception. This chapter does not apply to acts or omissions that cause the death or injury of an unborn child if those acts or omissions are committed during an abortion performed by or under the supervision of a licensed physician to which the pregnant woman has consented, nor does it apply to acts or omissions that are committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment performed by or under the supervision of a licensed physician.

12.1-17.1-08. Other convictions not prohibited. A prosecution for or conviction under this chapter is not a bar to conviction of or punishment for any other offense committed by a person as part of the same conduct.

Federal Born Alive Act - Public Law 107-207 U.S. Code Title 1, Chapter 1: Rules of Construction Section 8: "Person", "human being", "child", and "individual" as including born-alive infant

> (a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development.
>
> (b) As used in this section, the term "born alive", with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.
>
> (c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being "born alive" as defined in this section.

Advances of Medical Technology Demand Designating the Humanity of the Unborn

From the London Times August 30, 2005 -- In 2002 Hung-Ching Liu, at Cornell University, in the United States, announced that her team had successfully grown a sample of cells from the lining of a human uterus and had used tissue engineering technologies to shape them like a womb. When a fertilised human egg was introduced into the womb, it implanted into the uterus wall as it would in a natural pregnancy. The experiment was ceased at six days' gestation, because of legal limits on human embryo experimentation. Japanese scientists brought goat foetuses to full term using so-called "uterine tanks" after removing them mid-pregancy from their mother's womb. "

From Slate Magazine; July 29, 2005; The Organ Factory; by William Saletan: Dr. Helen Liu, a researcher at Cornell University's Center for Reproductive Medicine and Infertility. She has grown womb tissue in the lab, put mouse embryos on it, and watched them implant and develop. After a week, she moved some of them to the abdominal cavities of adult mice. At 17 days—four days shy of full term—she took them all out. The embryos in vitro had died, but not before developing functional hearts. The embryos in vivo, which had spent nearly half their gestation in vitro—and none of it in a womb—seemed small but otherwise normal. They looked, says Dr. Liu, like "a well-formed, healthy mouse with eyes, with legs, with a tail."

"Our legal system is completely unprepared for this. Massachusetts used to define an "unborn child" as "the individual human life in existence and developing from fertilization until birth." This year, as part of a stem-cell research bill, it changed that definition to "the individual human life in existence and developing from implantation of the embryo in the uterus until birth." New Hampshire law says, "No preembryo that has been donated for use in research shall be transferred to a uterine cavity." But what if there's no cavity? What if there's no transfer? What if the embryo never implants "in the uterus"?

"Step by step, science is erasing the moral distinctions that kept us safe and sane. Artificial wombs erase the line between in vitro embryos and implanted embryos. Whole-embryo organ culture erases the line between therapeutic and reproductive cloning. Alternative stem-cell proposals, now before the Senate, erase the line between adult and embryonic stem cells. Adult can become embryonic. Implantation can be in vitro. Reproduction, at least through the early weeks of development, can be therapeutic." http://www.slate.com/id/2123269/

Attachment # 4

SB 2400 – Opposition Testimony RE: State Policy on Abortion & Childbirth
February 6, 2007

Senator Lee and Members of the Senate Human Services Committee:

My name is Connie M. Hildebrand. I am representing three separate associations in opposition testimony today to SB 2400, which relates to North Dakota state policy on abortion and childbirth.

Our format to save time, and elicit your attention, will be as follows:

I will introduce three speakers, each from a separate association or organization.

Each speaker will provide a short, one-page testimony presenting that association's public policy position on the issue of reproductive choice.

Attachments will be provided with the testimony for your review at your convenience.

Although this piece of legislation may appear deceptively simple, we are advised that the complex legal, definitional, and fundamental organic questions which it raises are extensive, in addition to the crucial issue regarding the constitutional requirement for separation of church and state, which is also a basic tenet of all three organizations.

The point of our testimony is to make it perfectly clear that this legislation, SB 2400, from the viewpoint of our organizations, imposes upon North Dakota's **"citizen women's"** rights to exercise their reproductive health and reproductive choice options.

We ask a Do Not Pass on this piece of legislation.

THREE ASSOCIATIONS/ORGANIZATIONS

American Association of University Women	36 years	Muriel Peterson
League of Women Voters	24 years	Betty Mills
National Association of Social Workers	32 years	Amy Fast

Attachment. # 5

NASW

NATIONAL ASSOCIATION OF SOCIAL WORKERS
NORTH DAKOTA CHAPTER

February 6, 2007

Testimony on Senate Bill 2400
North Dakota Senate Human Services Committee

Senator Lee and Members of the Senate Human Services Committee:

My name is Amy Fast, Mandan resident and member of the ND Chapter of the National Association of Social Workers. We speak in opposition to SB 2400.

NASW determines its public policy positions at our triennial, national convention of delegates elected from every state in this nation. North Dakota participates in that public policy voting procedure. NASW-ND is required to abide by the decision of our delegates just as you, our legislative representatives, are bound by final decisions of this 60th Legislative Assembly.

The National Association of Social Workers Policy Position on Family Planning and Reproductive Choice, as approved by our national Assembly in 1975 and reconfirmed by the Assembly in 1990 is as follows:

The social work profession's position concerning abortion, family planning, and other reproductive health services is based on the principle of self-determination. The profession supports the fundamental right of each individual throughout the world to manage his or her fertility and to have access to a full range of safe and legal family planning services regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin or residence.

For thirty-two years NASW has supported choice in family planning and reproductive health. Our members continue to voice support for public policy based on self-determination at our triennial NASW Assembly's.

A copy of NASW's background information, issue statement, policy statement and education and research references is attached for your review.

We request a committee vote of DNP on SB 2400, and thank you for the opportunity to testify against this bill.

Family Planning and Reproductive Choice

BACKGROUND

Women and men have attempted to practice family planning since the beginning of human history. The modern history of family planning in the United States began in 1916 when Margaret Sanger, a public health nurse in New York City, opened the first birth control clinic. She and two of her associates were arrested and sent to jail for violating New York's obscenity laws by discussing contraception and distributing contraceptives. Ms. Sanger argued "that birth control had to be legalized to free women from poverty, dependence and inequality" (Planned Parenthood Federation of America, 1998b, p. 2). Many social workers have participated in the birth control movement in the United States.

Government support of family planning in the United States began in the 1960s when President Kennedy endorsed contraceptive research and the use of modern birth control methods as a way to address the world's population growth. It was under President Johnson and the War on Poverty that family planning services became more widely available. At that time, studies showed that the rate of unwanted childbearing among poor people was twice as high as it was among the more affluent population. This difference was attributed to the lack of available family planning services for poor women. By 1965, with bipartisan support, federal funds were made available to support family planning services for low-income women as a way of alleviating poverty, expanding economic independence, and decreasing dependency on welfare (Planned Parenthood Federation of America, 1998b).

Title X of the Public Health Service Act of 1970 provided the majority of public funding for family planning services until 1985. Because of political factors, such as the right wing and religious assaults on women's reproductive rights, and fiscal pressures, Congress has not formally reauthorized Title X since 1985. Appropriations have continued, but without congressional support funding has been lower (Planned Parenthood Federation of America, 1998b). Government funding has been significantly reduced for family planning services in general in the United States and internationally, resulting in a two-tiered system of reproductive health care.

A vocal and well-organized minority of the population has been able to wield undue influence in the area of reproductive choice. However, public opinion polls continue to show that a large majority of Americans support a woman's decision in seeking contraception, abortion, and other reproductive health services. The public also supports sex education and continued government funding for research and development of birth control methods (Planned Parenthood Federation of America, 1998a).

The World Health Organization (WHO) has four program goals in the area of reproductive health. WHO (1999) holds that people should exercise their fundamental "sexual and reproductive rights" in order to:

> (1) experience healthy sexual development and maturation and have the capacity for equitable and responsible relationships and sexual fulfillment

(2) achieve their desired number of children safely and healthily, when and if they decide to have them

(3) avoid illness, disease and disability related to sexuality and reproduction and receive appropriate care when needed

(4) be free from violence and other harmful practices related to sexuality and reproduction. (p. 1)

These areas of concern make clear how comprehensive services must be in order to achieve sexual and reproductive health for all.

There are numerous economic and social benefits to good public family planning policies. Public funding for family planning prevents 1.2 million pregnancies in the United States each year. Of that number, 509,000 are prevented unintended births and 516,000 are prevented abortions. Each dollar spent on prevention saves more than four dollars in other medical costs and welfare. Women who use family planning services are more likely to use prenatal services and thus have reduced infant mortality, have fewer low-birthweight babies, have reduced mortality, and have decreased health problems for themselves (Alan Guttmacher Institute, 1998a, 1998b). The infant mortality rate is two times higher for a sibling born within two years of another child, a rate that is constant throughout the world (Planned Parenthood Federation of America, 1998c).

Maternal Death

Effective family planning policies prevent maternal mortality and morbidity. Mortality declines significantly with better and safer contraceptives. For example, "maternal mortality fell by one-third in a rural area of Bangladesh following a community project that increased contraceptive use prevalence to 50 percent" (Keller, 1995, p. 4). Worldwide there are approximately 585,000 pregnancy-related deaths each year. Ninety-nine percent of these deaths have occurred in developing countries (Alan Guttmacher Institute, 1998c). According to UNICEF, "no public health problem shows greater disparity between rich and poor countries than maternal mortality" (UNICEF, 1998). Adolescents and older women are at the greatest risk of maternal death. In the United Sates between 1987 and 1990, there were 1,459 deaths that were pregnancy related, representing 9.2 deaths per 100,000 live births. The death rate for African American women was three to four times higher than for white women. The pregnancy-related death rate for women with no prenatal care was 7.7 times higher than for the group who had "adequate" prenatal care (Koonin, MacKay, Berg, Atrash, & Smith, 1998). Overall, the health and well-being of all family members improve when women are able to control the number and spacing of their children.

Abortion Rates and Unintended Pregnancies

Among the 190 million women who conceive each year in the world, there are 20 million abortions. These abortions usually occur under unsafe conditions, increasing the mortality rate and subsequent health problems (UNICEF, 1998). In 1996 there were 1.37 million abortions performed in the United States, according to the Centers for Disease Control and Prevention. This represented a decrease of 4.5 percent over the preceding year ("Morbidity and Mortality Weekly Report," as cited in American Medical Association, 1998). Women who have access to contraceptives are less likely to be faced with unwanted pregnancy and to face the decision to have an abortion or carry to term. What common sense and research show, however, is that the most effective means of reducing abortion is preventing unintended pregnancies in the first place (Alan Guttmacher Institute, 1998b). In fact, the use of contraceptives reduces the incidence of abortions by 85 percent (Alan Guttmacher Institute, 1998b). The average heterosexual woman must practice contraception for approximately 27 years of her life to protect against unwanted pregnancies (Monson, 1998). However, contraception, even under the best circumstances, cannot end the need for abortion entirely. Contraceptive methods will never be perfect, and women and men will never be perfect users of them. For example, about 1 in 10 women in the United States using contraception experiences an accidental preg-

nancy within 12 months of beginning to use a specific contraceptive method (Alan Guttmacher Institute, 1999). Thus, the use of contraception reduces but will never eliminate the need for access to emergency contraception and to abortion services. Therefore, women must have the right to decide for themselves, with the advice of qualified medical service providers, to determine whether or not to carry a pregnancy to term.

Since 1973 and the landmark *Roe v. Wade*, U.S. Supreme Court decision granting women in the United States the right to an abortion, access to safe and legal abortion services has been gradually restricted. Some of this erosion has been in the form of discontinuing government funding for abortions for poor women and of allowing states to bar use of public facilities for abortion. Some of it has taken the form of imposing restrictions and conditions on abortion services—such as requiring counseling, waiting periods, and/or notification and consent procedures, restrictions related to the circumstances of the pregnancy, or restrictions on the specific surgical or medical procedures that can be employed.

Men and Contraception

Prior to the advent of oral contraception for women, men had a greater part in taking responsibility for birth control. The primary methods of birth control at that time were abstinence, withdrawal, and condoms, methods that depended on the cooperation of men. After the pill, men have been largely left out of the area of reproductive choices (Ndong & Finger, 1998). Men are important to reproductive health because they benefit from limits in family size, are intimately involved in child rearing, are concerned with the spread of sexually transmitted diseases (STDs), and are interested in the health and welfare of their partners and children (Population Reports, 1998). The only effective way to prevent STDs is abstinence or condom use, which involves the cooperation of men.

More research on methods of birth control that involve men is being done (Ndong & Finger, 1998). Contraceptive use needs to be seen in the larger context of gender equality and the involvement of men and women in roles and responsibilities that serve both sexes, not sex at the expense of one over another. One gender should not have the ultimate responsibility for contraception, procreation, and childbearing.

Violence and Reproductive Health

The World Health Organization (1996) stated that "the most pervasive form of gender violence is violence against women by their intimate partners or ex-partners, including the physical, mental, and sexual abuse of women and sexual abuse of children and adolescents" (p. 1). In addition, violence has been associated with greater sexual risk taking among adolescents and the development of sexual problems in adulthood. Studies conducted in a range of countries suggest that from 20 percent to 50 percent of women experience being victims of physical abuse by their partners at some time in their lives and that on average from 50 percent to 60 percent of women abused by their partners are raped by them as well. The reproductive health consequences of gender-based violence include unprotected sex, STDs including acquired immune deficiency syndrome and human immunodeficiency virus, unwanted pregnancy, miscarriage, sexual dysfunction, and gynecological problems (WHO, 1998).

In the United States in recent years increasing incidents of violence, intimidation, and harassment of providers and users of legal abortion services have been curtailing the availability of abortion services (National Abortion and Reproductive Rights Action League [NARAL], 1999a). Since 1991, a number of physicians and other clinic staff have been murdered, and there have been over 200 reported acts of violence, including bombings, arsons, and assault, and 28,000 reported acts of disruption directed against abortion providers. The 1994 Freedom of Access to Clinics Entrances was passed but has not eliminated acts of violence of this kind. Unfortunately, "physicians and other clinic workers daily face the possibility of anti-choice terrorism and violence in order to provide women with essential reproductive health services" (NARAL, 1999a,

p. 4). These are health care professionals and their support staff engaged in providing legal medical services to clients who choose to receive them. This situation has contributed to the growing shortage of abortion providers in the United States; in 1999, 86 percent of counties in the United States had no abortion providers. When abortion services are safe and legal, the risk of complication and harm to women from the procedure is much lower than that of childbirth (Allan Guttmacher Institute, 1998c). The statements made by opponents of abortion that abortion leads to later problems with infertility, infant problems at birth, or breast cancer are not supported by any scientific evidence (NARAL, 1997).

ISSUE STATEMENT

The NASW Code of Ethics (NASW, 1999) states that "social workers promote clients' socially responsible self-determination" (p. 5). Self-determination means that without government interference, people can make their own decisions about sexuality and reproduction. It requires working toward safe, legal, and accessible reproductive health care services, including abortion services, for everyone.

As social workers, we believe that potential parents should be free to decide for themselves, without duress and according to their personal beliefs and convictions, whether they want to become parents, how many children they are willing and able to nurture, and the opportune time for them to have children. For the parents, unwanted children may present economic, social, physical, or emotional problems. These decisions are crucial for parents and their children, the community, the nation, and the world. These decisions cannot be made without unimpeded access to high-quality, safe, and effective health care services, including reproductive health services.

Reproductive choice speaks to the larger issue of quality of life for our clients. It "implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how to do so" (Hardee & Yount, 1998, p. 4). As social workers, we cannot address reproductive choice without addressing the larger issue of discrimination and the empowerment of women. "How, when and whether to have a child involve different issues for women than for men; yet they do so in ways that vary depending on a woman's class, age, and occupation, as well as the time and culture in which she lives. . . . Unequal access to abortion and birth control perpetuates existing systems of discrimination" (Rudy, 1996, p. 92). The lack of funding for abortion for poor women, decreased availability of family planning services, and our current system of welfare reform with financial disincentives to pregnancy and childbearing with no mention of family planning or abortion services or the responsibilities of men in contraception and child rearing clearly work to the disadvantage of women.

The United Nations' Fourth World Conference on Women adopted a platform statement in 1995 recognizing the importance of women's sexual and reproductive health (along with physical, social, and mental health) (United Nations, 1995). The International Federation of Social Workers (IFSW) has adopted a policy statement on women endorsing the platform statement and identifying women's health issues, including sexual and reproductive health, as an area of critical concern to social work (IFSW, 1999).

Population development, the environment, and social and economic stability are integrally linked. Worldwide, women who defer childbearing have the chance to further their education, develop work skills, acquire broader life experiences, have fewer children, provide better for the children they do have, and improve the well-being of their families. Unimpeded access to family planning and reproductive health services, including abortion services, is a fundamental human right that contributes to the advancement of women worldwide (United Nations Commission for Human Rights, 1979). A total approach to population policy must include not only family planning and reproductive health care services but improvement of socioeconomic conditions, including the provision of income, food, and other essential goods and services that are basic to meeting family needs. Without such planning and development, individual self-determination in reproduction and sexuality

cannot be realized and the full benefits resulting from family planning and reproductive health services cannot be achieved.

A continuing partnership between the private and the public sectors is necessary to assist families to plan for children. Adequate financing is necessary to make family planning programs and professional services available to all, regardless of the ability to pay. Government policies and medical programs, as well as medical programs under private auspices, should ensure that potential parents have full access to the technical knowledge and resources that will enable them to exercise their right of choice about whether and when to have children. As part of the professional team operating these programs, social workers, with their underlying emphasis on and particular methods for enhancing self-determination, have a special responsibility.

Social workers should take professional responsibility to assist clients in obtaining whatever help and information they need for effective family planning and for safeguarding their reproductive health. Because social workers are knowledgeable about family and community resources, they have many opportunities to help clients obtain desired services. Social workers also have a professional obligation to work on local, state, national, and international levels to establish, secure funding for, and safeguard family planning and reproductive health programs, including abortion providers, to ensure that these services remain safe, legal, and available to all who want them.

POLICY STATEMENT

The social work profession's position concerning abortion, family planning, and other reproductive health services is based on the principle of self-determination:

- Every individual (within the context of her or his value system) must be free to participate or not participate in abortion, family planning, and other reproductive health services.
- The use of all reproductive health care services, including abortion and sterilization services, must be voluntary and preserve the individual's right to privacy.
- Women of color, women in institutions, and women from other vulnerable groups should not be used in the testing and development of new reproductive techniques and technologies.
- The nature of the reproductive health care services that a client receives should be a matter of client self-determination in consultation with the qualified health care provider furnishing them.
- Current inequities in access to and funding for reproductive health services, including abortion services, must be eliminated to ensure that such self-determination is a reality for all.
- We believe that client self-determination and access to a full range of safe and legal reproductive health care services without discrimination will contribute to an enhancement of the individual and collective quality of life, strong family relationships, and population stability.

Although men also have an important stake in access to family planning and reproductive health services (Ndong & Finger, 1998; Population Reports, 1998), because women bear and nurse children their right to these services has been recognized internationally. The Convention to Eliminate All Forms of Discrimination Against Women asserts that women internationally have the right to "decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (United Nations Commission for human Rights, 1979, p. 8).

If an individual social worker chooses not to participate in the provision of abortion or other specific reproductive health services, it is his or her responsibility to provide appropriate referral services to ensure that this option is available to all clients.

Availability of and Access to Services

In addition, the profession supports:

The fundamental right of each individual throughout the world to manage his or her fertility and to have access to a full range of safe

and legal family planning services regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin, or residence

- Access to the full range of safe and legal reproductive health services for women and men including (and not limited to) contraception, fertility enhancement, treatment of sexually transmitted diseases, and emergency contraception, prenatal, birthing, postpartum, sterilization, and abortion services

- The provision of reproductive health services including abortion services that are legal, safe, and free from duress for both patients and providers

- The provision of reproductive health services, including abortion services, that are confidential, comprehensive, available at reasonable cost, and covered in public and private health insurance plans on a par with other kinds of health services (contraceptive equity)

- Improvement in access to the full range of reproductive health services, including abortion services, for groups currently underserved in the United States, including the poor and those who rely on Medicaid to pay for their health care; adolescents; sex workers; single people; lesbians; people of color and those from nondominant ethnic and cultural groups; those in rural areas; and those in the many counties and municipalities that currently do not have providers of such services as abortion (NARAL, 1999b)

- Empower women through public policies that incorporate women's rights, reproductive health, and reproductive choices; condemn all forms of discrimination; and increase the economic and social supports for women and families who choose to have children

- The provision of reproductive health services to include access, protection, and supportive services to people with special challenges and needs.

Only by eliminating barriers to services based on finances, geography, age, or other personal characteristics will self-determination for all be achieved.

Legislation

Recent years have seen many initiatives at the state and federal level to erode the privacy and reduce the freedom granted by the Supreme Court to women seeking abortion, contraceptive, and other reproductive health services. In particular, national and state legislative bodies have acted to restrict funding, even internationally, to family planning and other health care programs that include abortion among the services they offer. Therefore, NASW:

- supports a woman's right to seek and obtain a medically safe abortion under dignified circumstances

- opposes government restrictions on access to reproductive health services, including abortion services, or on financing for them in health insurance and foreign aid programs

- opposes any special conditions and requirements, such as mandatory counseling or waiting periods, attached to the receipt of any type of reproductive health care

- opposes legislative or funding restrictions on medically approved forms of birth control, including emergency contraception

- opposes limits and restrictions on adolescents' access to confidential reproductive health services, including birth control and abortion services, and the imposition of parental notification and consent procedures on them

- supports legislative measures, including buffer zone bills, to protect clients and providers seeking and delivering reproductive health services, including abortion services, from harassment and violence.

Education and Research

In order for people to exercise their right to freedom in making sexual and reproductive choices for themselves and their families and to choose their own reproductive health care services, NASW supports:

- funding for research into medically safe and effective methods of birth and fertility control for women and men that includes attention to the needs of minority women

- inclusion of content on the provision of effective, safe, and high-quality family planning and reproductive health services, including abortion services, in the training of physicians and other relevant medical professionals

- comprehensive, age-appropriate, culturally competent sex education programs that include information about sexuality and reproduction; the role of personal attitudes, beliefs, and values in individual and family decision making on these issues; how gender roles and stereotypes can harm the reproductive health of women and men; the prevention of sexually transmitted diseases; the range of reproductive health services and technologies available; and the development of skills to make healthy personal choices about sexuality, reproduction, and reproductive health care

- funding for sex education programs without restriction on the content of the information provided

- development and funding of programs to prevent the spread of sexually transmitted diseases, to prevent unwanted pregnancies, and to reduce all forms of sexual violence and coercion from which many unwanted pregnancies result

- education of social workers, in degree-granting programs and through continuing education, about human sexuality, emerging reproductive technologies, and effective practice with people making choices about their reproductive behavior and reproductive health care services.

Support, including governmental support, should be available to develop and disseminate improved methods of preventing, postponing, or promoting conception.

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Policy statement approved by the NASW Delegate Assembly, August 1999. This policy statement supersedes the policy statement on Family Planning approved by the Assembly in 1967 and reconfirmed in August 1990, and the policy statement on Abortion approved by the Assembly in 1975 and reconfirmed by the Assembly in 1990. For further information, contact the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241. Telephone: 202-408-8600; e-mail: press@naswdc.org

Attachment. #6

February 6, 2007

Senator Lee and Members of the Senate Human Services Committee:

My name is Betty Mills. I am a member of the League of Women Voters Bismarck-Mandan, North Dakota. We speak in opposition to SB 2400.

The League establishes a variety of public policy positions at our national, biennial convention of duly elected representatives from throughout the United States. North Dakota is represented in those decisive votes, and is bound by the decision of that delegate body, as you are bound by the final results of this legislative session.

The League of Women Voters Public Policy Position on Reproductive Choice, as announced by our national board in January, 1983 is as follows:

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.

A copy of the League's study, review and updates on our position is attached for your examination.

Based on our support of the LWVUS pro-choice public policy position and a twenty-four year history of re-affirmation of this policy by our members at our biennial conventions, we request a committee vote of DNP on SB 2400.

Thank you for this opportunity to testify against this bill.

PUBLIC POLICY ON REPRODUCTIVE CHOICES **

The League's History

The 1982 convention voted to develop a League position on Public Policy on Reproductive Choices through concurrence. During fall 1982, League members studied the issue and agreed to concur with a statement derived from positions reached by the New Jersey and Massachusetts LWV's. The LWVUS announced the position in January 1983.

In spring 1983, the LWVUS successfully pressed for the defeat of S.J. Res. 3, a proposed constitutional amendment that would have overturned *Roe v. Wade*, the landmark Supreme Court decision that the right of privacy includes the right of a woman, in consultation with her doctor, to decide to terminate a pregnancy. Also in 1983, the League joined as an *amicus* in two successful lawsuits to challenge proposed regulations by the federal Department of Health and Human Services (HHS). Favorable court decisions thwarted attempts by HHS to implement regulations requiring parental notification by federally funded family planning centers that provide prescription contraceptives to teenagers.

The League has joined with other pro-choice organizations in continuous opposition to restrictions on the right of privacy in reproductive choices that have appeared in Congress as legislative riders to funding measures. In 1985, the League joined as an *amicus* in a lawsuit challenging a Pennsylvania law intended to deter women from having abortions. In 1986, the Supreme Court found the law unconstitutional, upholding a woman's right to make reproductive choices.

In 1986, the League opposed congressional provisions to revoke the tax-exempt status of any organization that performs, finances or provides facilities for any abortion not necessary to save the life of a pregnant woman. In 1987, the League unsuccessfully opposed regulations governing Title X of the Public Health Service Act. The League reaffirmed that individuals have the right to make their own reproductive choices, consistent with the constitutional right of privacy, stating that the proposed rule violated this right by prohibiting counseling and referral for abortion services by clinics receiving Title X funds.

In 1988 and 1990, the League urged congressional committees to report an appropriations bill for the District of Columbia without amendments limiting abortion funding. The League also urged support of 1988 legislation that would have restored Medicaid funding for abortions in cases of rape or incest.

The League joined in an *amicus* brief to uphold a woman's right of privacy to make reproductive choices in the case of *Webster v. Reproductive Health Services*. In July 1989, a sharply divided Supreme Court issued a decision that severely eroded a woman's right of privacy to choose abortion. Although *Webster* did not deny the constitutional right to choose abortion, it effectively overruled a significant portion of the 1973 *Roe* decision. The *Webster* decision upheld a Missouri statute that prohibited the use of public facilities, employees

** *Impact on Issues*: A Guide to Public Policy Positions, 2004-06, LWVUS, Washington, DC

funds for counseling, advising or performing abortions and that required doctors to conduct viability tests on fetuses 20 weeks or older before aborting them.

The League supported the "Mobilization for Women's Lives" in fall 1989. Also in fall 1989, the League joined an *amicus* brief in *Turnock v. Ragsdale*, challenging an Illinois statute that would have effectively restricted access to abortions, including those in the first trimester, by providing strict requirements for abortion clinics. In November 1989, a settlement in the case allowed abortion clinics to be defined as "special surgical centers," and to continue to perform abortions through the 18th week of pregnancy without having to meet the rigorous equipment and construction requirements for hospitals.

In 1990 the LWVUS joined the national Pro-Choice Coalition and began work in support of the Freedom of Choice Act, designed to place into federal law the principles of *Roe v. Wade.*

In 1990-91, the League, in *New York v. Sullivan*, joined in opposition to the "gag rule" regulations of the Department of Health and Human Services that prohibit abortion information, services or referrals by family-planning programs receiving Title X public health funds. In June 1991 the Supreme Court upheld the regulations, and Leagues across the country responded in opposition. The LWVUS urged Congress to overturn the gag rule imposed by the decision.

The 1990 League convention voted to work on issues dealing with the right of privacy in reproductive choices, domestic and international family planning and reproductive health care, and initiatives to decrease teen pregnancy and infant mortality (based on the International Relations and Social Policy positions). The LWVUS quickly acted on a series of pro-choice legislative initiatives. The League supported the International Family Planning Act, which would have reversed U.S. policy denying family planning funds to foreign organizations that provide abortion services or information. The LWVUS opposed the Department of Defense Policy prohibiting military personnel from obtaining abortions at military hospitals overseas and supported the right of the District of Columbia to use its own revenues to provide Medicaid abortions for poor women.

Throughout 1991 and 1992, the League continued to fight efforts to erode the constitutional right of reproductive choice by supporting the Freedom of Choice Act and attempts to overturn the gag rule. In coalition with 178 other organizations, the League also filed an *amicus* brief in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, arguing that constitutional rights, once recognized, should not be snatched away. In June 1992, the Court decision in Casey partially upheld the Pennsylvania regulations, seriously undermining the principles of *Roe.* In response, Leagues stepped up lobbying efforts in support of the Freedom of Choice Act. The 1992 LWVUS convention voted to continue work on all domestic and international aspects of reproductive choice.

During 1993, the League continued to support legislative attempts to overturn the gag rule. Late in 1993, President Clinton signed an executive order overturning it and other restrictive anti-choice policies. The LWVUS continued to work for passage of the Freedom of Choice Act and against the Hyde Amendment. The LWVUS supported the Freedom of Access to Clinic Entrances (FACE) Act, a response to escalating violence at abortion clinics. The FACE bill passed and was signed by the President in 1993.

Throughout the health care debate of 1993-94, the League pressed for inclusion of reproductive services, including abortion, in any health care reform package. In 1995, the League joined with other organizations to oppose amendments denying Medicaid funding for abortions for victims of rape and incest.

** *Impact on Issues*: A Guide to Public Policy Positions, 2004-06, LWVUS, Washington, DC

In 1998, the LWVUS also opposed the "Child Custody Protection Act," federal legislation designed to make it illegal for an adult other than a parent to assist a minor in obtaining an out-of-state abortion. The League also worked against proposals that would ban late-term abortions as interfering with a women's right of privacy to make reproductive choices.

In spring 2000, the LWVUS joined an *amicus curiae* brief in *Stenberg v. Carhart*. The brief urged the Supreme Court to affirm a U.S. Court of Appeals ruling that a Nebraska law criminalizing commonly used abortion procedures was unconstitutional. The Court's affirmation of the ruling in June 2000 was pivotal in further defining a woman's right to reproductive freedom.

As Congress continued to threaten reproductive rights with legislative riders to appropriations bills, the League contacted congressional offices in opposition to these back door attempts to limit reproductive choice. Throughout the 107th Congress, the League signed on to group letters opposing these riders and supporting the right to reproductive choices.

In 2002, the LWVUS lobbied extensively against attempts to limit funding for family planning and, in 2003, the League lobbied the House to support funding for the United Nations Population Fund, which lost by just one vote. The League strongly opposed the passage of the so-called Partial-Birth Abortion Act in 2003, but it was passed by Congress and signed into law by President Bush.

In March 2004, the LWVUS lobbied in opposition to the Unborn Victims of Violence Act (UVVA), which conveys legal status under the Federal Criminal code to an embryo and fetus, but Congress passed the bill and the president signed it. The law was challenged and is currently in the courts.

The League was a cosponsor of the March for Women's Lives held in Washington, D.C. on April 25, 2004. The March demonstrated widespread support for the right to make reproductive choices and included many delegations of state and local Leagues.

THE LEAGUE'S POSITION

Statement of Position on Public Policy on Reproductive Choices
Announced by National Board, January 1983

The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.

** *Impact on Issues*: A Guide to Public Policy Positions, 2004-06, LWVUS, Washington, DC

Attachment #7

AMERICAN
ASSOCIATION OF
UNIVERSITY
WOMEN

NORTH DAKOTA

TESTIMONY ON SB 2400

February 06, 2007

Chairman Lee and Members of the Senate Human Services Committee:

My name is Muriel Peterson, President of the Bismarck-Mandan Branch of the American Association of University Women. I appear in opposition to SB2400.

The American Association of University Women's public policy position on Reproductive Rights, available through our Public Policy and Governmental Relations Department, and dated 12/18/06 includes the paragraph:

> *AAUW supports the right of every woman to safe, accessible, and comprehensive reproductive health care and believes that decisions concerning reproductive health are personal and should be made without governmental interference. AAUW trusts that every woman has the ability to make her own choices concerning her reproductive life within the dictates of her own moral and religious beliefs. AAUW members have made this position an action priority since 1971.*

Just a matter of weeks ago North Dakotans were testifying that the legislature should not interfere in our decision to wear a safety belt or not; it is a matter of personal choice to buckle-up (or in past sessions, wear a helmet). What a contradiction; not only do supporters of SB2400 want the government to dictate – intrude into – a woman's personal health care decisions, but now want to declare that at conception ND has another resident/citizen. How does this correlate with medical or health care terminology/status? Does this make an embryo or fetus statutorily a citizen? What are the legal ramifications of such action?

Based on AAUW's pro-choice public policy position and a thirty-six year history of re-affirmation of this policy by our members at our biennial conventions, we request a committee vote of Do Not Pass on SB 2400.

Thank you for the opportunity to provide testimony in opposition to SB2400 on behalf of North Dakota's 300 members and the 100,000 national members of the American Association of University Women.

Attachment # 8

NORTH DAKOTA WOMEN'S NETWORK

Senate Human Services Committee
SB 2400
February 6, 2007

Chairman Lee and members of the committee, my name is Renee Stromme. I am Executive Director of the North Dakota Women's Network. We are a membership organization working to improve the lives of North Dakota women. It is the position of the North Dakota Women's Network that reproductive choices for women must be ensured. Therefore, the North Dakota Women's Network is opposed to SB 2400.

In 2005, the Institute for Women's Policy Research released a report on the status of women in North Dakota – I have provided the clerk with a copy for each of you. It discusses many issues related to women. On the issue of reproductive rights, North Dakota received an F in the report because our laws do not provide the level of support which is most beneficial to respecting women's reproductive choices, including coverage for contraceptives and access to reproductive health services. North Dakota ranks 49th out of the 51 US states and Washington, DC on reproductive rights, which indicates we have some of the strictest anti-choice laws in the nation. Adding the language of this bill would propel North Dakota further down the list unnecessarily. Additionally, we question whether the added language has any practical applicability.

North Dakota has long been a state that respects choice and independence. As well, we are a state with a long history of respecting women – we were among the first to create policies allowing for property ownership by women and were one of the first states to extend the right to vote to women. We respect the right to choose a profession, choose to work outside the home, or choose to start a business. It is a North Dakota tradition. I urge you to maintain that tradition with a do-not-pass recommendation on SB 2400.

Thank you and I stand for any questions.

418 E ROSSER, SUITE 301B · BISMARCK, ND 58501 · 701-255-6240, EXTENSION 21

Statement of commitment

I support the mission of the North Dakota Women's Network and commit to the common purposes of NDWN to achieve full equality for women.

Signature: _____

Date: _____

Make checks payable to,

North Dakota Women's Network.

Memberships are requested on an annual basis.

The Women's Network understands that there is no universal agreement among women on all the concerns of the Women's Network, but we hope we can actively work together and not work against each other on issues vital to improving women's lives.

Please send membership to:

North Dakota Women's Network
418 E Rosser #301B
Bismarck, ND 58501

Phone: 701-255-6240 ext 21
Fax: 701-255-1904
E-mail: renee@ndwomen.org

North Dakota Women's Network

As leaders, the North Dakota Women's Network will serve as the catalyst for improving the lives of women through communication, legislation and increased public activism.

www.ndwomen.org

Attachment #8

The North Dakota Women's Network is a membership based organization consisting of women from all walks of life. Members will be the voice and substance of the Network. Collectively, the membership will drive the changes needed for women of North Dakota.

The Network's focus will be broad in definition.

Our Concerns,

- Political Participation
  - Only 16% of state legislators are women.
- Employment and Earnings
  - Women, depending on race, make between 60-80 cents on every dollar a white man makes.
- Social Autonomy
  - There is a low proportion of women-owned businesses in ND.
- Economic Autonomy
  - 14% of women live in poverty.
- Reproductive Rights
  - Contraceptives are not commonly covered by insurance.
- Health and Well-Being
  - Native women's health lags behind that of white women.
- Violence Against Women
  - Women continue to experience far too much interpersonal violence and live in fear of rape.
- Educational Opportunities
  - Only 22% of women have four-year degrees or higher.
- Women's Life Choices
  - Women desire unity and equality for all women.

And, Ensuring Women's Voices are Heard in Decision-Making at all Levels.

Statistics from the Status of Women in North Dakota Report, 2004, Institute of Women's Policy Research available at www.iwpr.org

North Dakota Women's Network

Membership Information

As leaders, the North Dakota Women's Network (NDWN) will serve as the catalyst for improving the lives of women through communication, legislation and increased public activism.

Name: _____

Organization (if applicable):

_____

Address: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Email: _____

Individual membership:

___$30 Individual

___ $10 Student

___ A dollar amount more fitting for you (higher or lower).

___ A financial contribution isn't possible at this time, but my time to NDWN would be even more valuable!

Nonprofit Organization membership (based on operating budget);

___ $100 for a budget under $100,000

___ $150 for a budget between $100,000 an d $500,000

___ $200 for a budget over $500,000

Your membership contribution to NDWN: $ _____

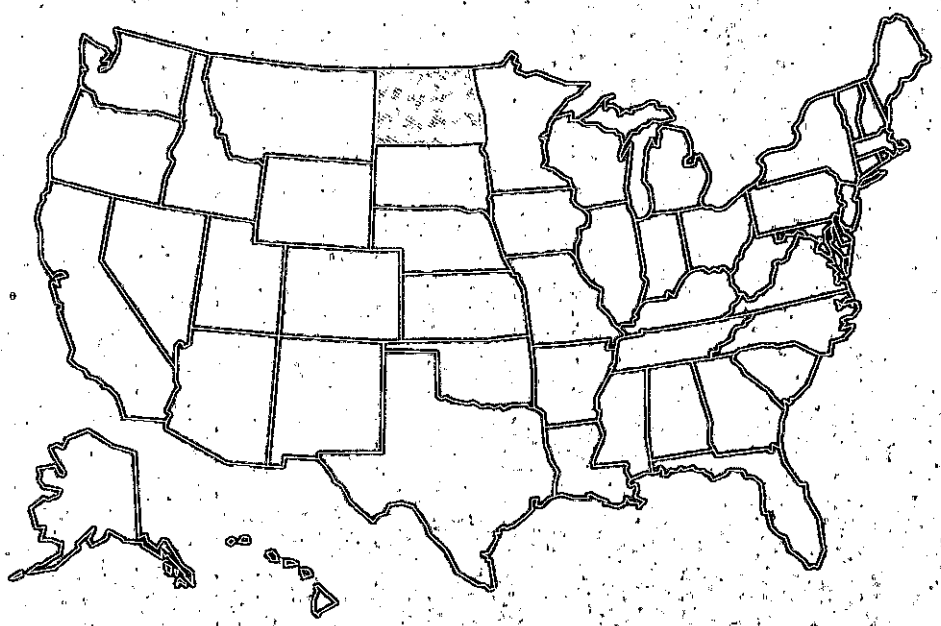
Additional donation to NDWN: $ _____

Total enclosed: $ _____

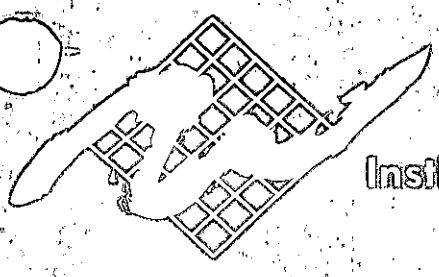
Attachment #8
SB 2400

THE STATUS OF WOMEN IN NORTH DAKOTA

POLITICS ◇ ECONOMICS ◇ HEALTH ◇ RIGHTS ◇ DEMOGRAPHICS



Contact legislative Council Library or State Library for assistance



Institute for Women's Policy Research

NORTH DAKOTA

Attachment #9

Planned Parenthood®

Serving Minnesota · North Dakota · South Dakota

Testimony to the North Dakota Senate Human Services Committee
February 6, 2007

Chairman Lee, members of the Human Services committee, thank you for the opportunity to present testimony in opposition of Senate Bill 2400.

For more than 75 years, Planned Parenthood MN, ND, SD has worked in our region to make sure all people have the information and the means to make free and responsible decisions about whether and when to have children; our mission affirms the right to access reproductive health care including birth control and safe abortion care. Senate Bill 2400 is a dangerous measure, which could put women's health at risk by establishing the legal framework necessary to make abortion illegal in North Dakota. Just last week, the North Dakota House rejected another extreme measure that would have banned abortion and I urge you to do the same.

Senate Bill 2400 proposes to amend and reenact section 14-02.3-01 of the North Dakota Century Code to state that: "The state of North Dakota recognizes the full right of citizenship and the commensurate protections of all applicable laws to all citizens, born and preborn, with no prejudice of chronology within the human lifespan continuum."

It is not clear how a grant of "full rights of citizenship and the commensurate protections of all applicable laws" would be interpreted by the North Dakota courts. However, if the "preborn" have "full rights" and "protections," a court could find that an otherwise legal abortion performed in the first trimester with the consent of the woman was nonetheless homicide.

Similarly, because a fetus or embryo is considered a "citizen," the North Dakota Constitution could be interpreted to grant the fetus the right to life. This finding could be used to ban abortion at all stages of pregnancy, regardless of viability and without exception. This would be in violation of *Roe v. Wade*, which stated that a fetus is not a person for constitutional purposes, a finding that is grounded in the constitutional right to privacy enshrined in the 14th amendment of the United State Constitution.

In essence, SB 2400 is not just a policy statement affirming the State's interest in the unborn. The reality is that it could give the North Dakota courts license to hold that because North Dakota law recognizes the fetus as a person, the fetus should be protected and abortion should be illegal.

A law similar to SB 2400 was enacted in Missouri. That law states that life begins at conception and "the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens and residents of this state, subject only to the Constitution of the United States . . . and specific provisions to the contrary in the statutes and constitution of this state." Mo. Rev. Stat. § 188.010.

SB 2400 is potentially broader than the Missouri law because it does not recognize the rights granted under the United States Constitution. Nonetheless, the Missouri statute has been used to charge a third party for murder for causing the death of a fetus, regardless of viability. And the same statute was interpreted by the Missouri Supreme Court to mean that that the legislature intended courts to interpret the word "person" within the meaning of the wrongful death statute to include the "unborn" at any stage of development. Senate Bill 2400 could be used in the same manner. For example, a wrongful death claim could be brought against a pregnant woman by her husband because she chose to go to work and put her pregnancy in jeopardy, similarly a woman could be charged with criminal murder if her actions somehow resulted in a miscarriage. These are the "hidden" realities of SB 2400.

Moreover, SB 2400 does not define "preborn" thus leaving the term wide open to interpretation by the courts. Is a zygote, a blastocyst, an embryo or cells in a Petri dish examples of a "preborn" citizen?

While to some these laws might seem abstract and removed from every day life, they can have very far-reaching effects. Given the uncertainty surrounding the possible interpretations of SB 2400, if enacted, the bill would give any doctor serious concerns about continuing to provide abortions for fear of facing prosecution under the homicide statute or through some other North Dakota law that the bill renders applicable to the fetus. This chilling effect on doctors will only be intensified by the risk of possible civil liability.

Rather than passing laws that can lead to lengthy and expensive court battles about abortion, elected officials should stop playing politics and address the issues that lead to unintended pregnancy in the first place – such as insufficient access to family planning services and the failure to provide medically accurate sexuality education. Only by focusing on preventing unintended pregnancy will the need for abortion in North Dakota be reduced.

I urge you to oppose the passage of Senate Bill 2400 and protect the health and safety of North Dakota's women.

Attachment # 10

TESTAMONY ON SB 2400, 6 II O7

Herbert J. Wilson, M.D.

Chairman J. Lee

Members of Committee:

I am Herbert J. Wilson, a semi retired general practice doctor. I worked forty-three years in the New Town-Fort Berthold area doing all kinds of family medicine .I have lived in Bismarck ll yrs.

My public stand toward bill 2400 must be stated as neutral,

I will be speaking for myself, and the consensus of most MDs

May I now reply to the *request* to give a scientific answer to:

At what time do doctors believe human life begins?

. At the outset I must say that we can not place a time on the beginnings, since all life is a continuum,-- indeed, a continuum from the very beginning of time. Both sperm and egg have human genes whose presence goes back many millennia in ancestry They live on in the life of the carrier who triggers their release .

But perhaps I am "begging the question"—avoiding the answer sought for. Will it be helpful to walk through a list of all the wonderful things that happen as an embryo becomes a fetus, and as a fetus becomes an infant, who can live on its own? - Possibly, as the development of each part in appointed order is very necessary for the whole to survive. The journey on the planate, in a certain sense begins with conception-then at 2 weeks the early cells travel down the fallopian tube and are implanted in the uterus. There forms 200 differing tissues a month or so later, Later, the nervous system and the brain develop- about the same time as the heart and the circulation, etc. The fetus may become a premature infant at 6 months or so- weighing a pound or a bit more. Each year we are improving on the care of primies so that younger and younger may survive. Some day we may have artificial uteri for placental implantation as we have artificial kidneys for dialysis. -No mother!

To sum up. Doctors can identify no precise time when the conceptus becomes an individual. All the products of conception contain the genes of humanity from ancient times.

Attachment #11

PROPOSED AMENDMENTS TO SENATE BILL NO. 2400

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 3 of section 1-01-49 of the North Dakota Century Code, relating to the definition of "individual."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 1-01-49 of the North Dakota Century Code is amended and reenacted as follows:

3. "Individual" means a human being, born or unborn."

Renumber accordingly

NDLA, S HMS

From: Lee, Judy E.
Sent: Wednesday, February 07, 2007 2:29 PM
To: NDLA, S HMS
Subject: FW: "Individual" and CHAND

Mary - Please make a copy for everyone.

From: Clark, Jennifer S.
Sent: Wednesday, February 07, 2007 2:12 PM
To: Lee, Judy E.
Subject: "Individual" and CHAND

Senator-

First - Rod St. Aubyn was just up in my office to discuss the CHAND bill, HB 1155. It appears there are a couple internal cross-reference corrections that need to be made. Likely an error on my part in drafting. I told Rod I'd give you a heads up that he will be contacting you to request LC draft some amendments.

Second - To the best of my knowledge, LC did not draft any amendments for SB 2400.

Food for thought. It is hard to imagine all of the possible unintended consequences of changing the definition of "individual" in section 1-01-49. These definitions in title 1 apply to ALL sections of the code (unless a specific definition is otherwise indicated). Imagine a state law that indicates how many individuals must be present (or a maximum of individuals who may be present) as a condition for something. Think. . . fire code . . . . . or corporations. . . . or age requirements. . . . . (can a pregnant woman be in a bar or liquor store?) . . . or closed meetings. If we changes the definition, would we be required to ask if a female is pregnant, and if so, if she is pregnant with multiples? May sound ridiculous, but think of all the different laws that use "individual."

Let me know if you'd like more-

Jenn

Jennifer Clark
Counsel
ND Legislative Council
(701) 328-2916
jclark@nd.gov

From: Lee, Judy E.
Sent: Wednesday, February 07, 2007 1:47 PM
To: Clark, Jennifer S.
Subject: FW: Consequences of amendment to SB 2400

Jennifer - I don't know if you drafted 2400, but we had a hoghouse amendment proposed late this morning that would amend the definition of "individual" in 1-01- (my memory fails) to include "born and unborn". I'm very concerned about what that would do in the broad scope of other statute. Any thoughts? If someone else drafted it, please pass this message along.

From: Timothy D. Stanley [mailto:TStanley@PPMNS.org]
Sent: Wednesday, February 07, 2007 1:44 PM
To: Lee, Judy E.
Subject: Consequences of amendment to SB 2400

Senator Lee:

Per your request, I have spoken to our legal counsel and the proposed amendment to SB 2400 does nothing to allay our original concerns about the bill. In addition, not only would the amendment add more uncertainty and vagueness to the law but it could create an even larger problem because this change in definition of "individual" would affect the entire North Dakota Century code. The breadth of the new language would take days to comprehend as the word "individual" probably appears hundreds if not thousands of times in the North Dakota Century Code. I can ask our legal dept do this research upon request.

Regardless of the implications of the new language, our original concerns still hold: **This is a dangerous proposal that could give courts the green light to ban abortion in North Dakota and make women vulnerable to criminal prosecution for behavior during their own pregnancy.** Moreover, this amendment does not solve the ambiguity surrounding "unborn" (it was "preborn" in original bill) leaving the term wide open to interpretation by the courts. Is a zygote, a blastocyst, an embryo or cells in a Petri dish examples of a "unborn" individual?

Please feel free to forward this email to the committee as you see fit.

TDS

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Tom Freier 2-13-07

Attachment #13

PROPOSED AMENDMENTS TO SENATE BILL 2400

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 14-02.1-02 of the North Dakota Century Code, relating to the definitions behind the Abortion Control Act, and to create and enact a new section to chapter 14-02.3 of the North Dakota Century Code, relating to limitations of abortion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10. "Unborn child" means a human being.

SECTION 2. A new section to chapter 14-02.3 of the North Dakota Century Code is created and enacted as follows:

State policy on the unborn. The state of North Dakota recognizes the unborn as a human being."