

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE CONCURRENT RESOLUTION NO. 3015
(Representatives Wald, Grande, Heller)
(Senators Erbele, Freborg, Wardner)

A concurrent resolution urging Congress to reject the bill known as the Freedom of Choice Act, which would invalidate virtually every abortion-related regulation enacted by the people of North Dakota through their elected officials.

WHEREAS, a bill, cited by its sponsors as the Freedom of Choice Act, now being considered by the Congress of the United States, would invalidate most North Dakota abortion-related regulations, including virtually all of the North Dakota Abortion Control Act, most of which is now recognized as constitutional and within the province of state jurisdiction in light of decisions by the United States Supreme Court; and

WHEREAS, the Freedom of Choice Act would invalidate the North Dakota informed consent law in its entirety including provisions that give a mother seeking an abortion the right to know the probable gestational age of her unborn child, the name of the physician who would perform the abortion, the particular medical risks associated with the abortion procedure to be used as well as the medical risks associated with carrying the child to term and which give her the right to obtain information about the medical benefits that may be available for her and her child before, during, and after the birth of the child, and objective, scientifically accurate medical facts about the development of the unborn child; and

WHEREAS, the Freedom of Choice Act would invalidate North Dakota's requirement that a minor seeking an abortion first obtain consent of both parents or authorization of a court before an abortion because the Freedom of Choice Act, on its face, allows a state to require only "parental involvement" such as parental notification, not consent, and would not even allow the state to require mere notification unless the state law also provides each minor the option of consulting an "other responsible adult," thereby circumventing the involvement of a minor's parents; and

WHEREAS, the Freedom of Choice Act only allows a state to protect unwilling individuals, but not hospitals, from having to participate in the performance of abortion when they are conscientiously opposed, and thus it would invalidate North Dakota Century Code Section 23-16-14, which protects the freedom of hospitals, physicians, nurses, and hospital employees to refuse to make their facilities available for the performance of abortions, or to participate in an abortion, exposing North Dakota's hospitals that refuse to perform abortions to lawsuits seeking to force them to do so against their conscience and protecting health care workers from discrimination in the work place; and

WHEREAS, North Dakota prohibits the use of tax dollars from being used to pay for abortions on demand, currently taxpayers only pay for abortions that are necessary to prevent the mother's death or where the pregnancy has resulted from rape or incest, the Freedom of Choice Act would require tax funding of abortion on demand even when used as a form of birth control; and

WHEREAS, because the Freedom of Choice Act would require a state to prove that any health regulation of abortion is "medically necessary" to protect the health of women undergoing such procedures, those provisions in North Dakota's Abortion Control Act requiring the filing of consent forms, the reporting of complications, and the maintenance of patient records would be held to a higher scrutiny in determining their validity than North Dakota record requirements for other medical procedures; and

WHEREAS, the Freedom of Choice Act would invalidate the North Dakota requirement that only licensed physicians perform abortions, the Freedom of Choice Act invites litigation to strike down a

physician requirement on the basis that it is not "medically necessary" that physicians, as opposed to other trained personnel, perform abortions; and

WHEREAS, the Freedom of Choice Act would make the brutal partial-birth abortion method legal again;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-first Legislative Assembly urges the Congress of the United States to reject the bill known as the Freedom of Choice Act, which would invalidate virtually every abortion-related regulation enacted by the people of North Dakota through their elected officials and to reject any component of the Freedom of Choice Act contained in other legislation; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State