2013 SENATE JUDICIARY

SCR 4009

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SCR 4009
1/29/2013
Job #17893

☐ Conference Committee

Committee Clerk Signature	

Minutes: *Attached testimony*

Relating to the inalienable right to life of every human being at every stage of development

Senator David Hogue - Chairman

Senator Sitte - Introduces the bill - See written testimony (1)

Gualberto Garcia Jones - Attorney for Personhood - See written testimony (2)

Anna Higgins - Director of the Center for Human Dignity, Family Research Council - See written testimony (3)

Tim Lindgren - Director of the ND Life League - In support of this amendment and says it is extremely important we pass so the Supreme Court knows we're ready for the change.

Andrea Toman - In support of this bill

Opposition

Karla Rose Hanson - See written testimony (4)

Siri Fiebiger - M.D. from Fargo, ND - See written testimony (5)
She takes questions from the Senators

Janelle Moos - Director of Domestic Violence - See written testimony (6)

Alexis Grabinger - See written testimony (7)

Not testifying testimony - (8)

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SCR4009
2/5/2013
Job #18244

☐ Conference Committee

Committee Clerk Signature	

Minutes:

Committee work

Committee decides to wait for Senator Berry before proceeding

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SCR4009
2/5/2013
Job #18330

☐ Conference Committee

Committee Clerk Signature

Minutes:

Vote

Senator David Hogue - Chairman

Committee work
Senator Sitte moves the amendment (13.3060.02001) and explains the amendment.
Senator Armstrong seconded

Vote
4 yes, 3 no
Motion passes

Senator Armstrong moves his amendment replacing primary with general
Senator Berry seconded

Vote
4 yes, 3 no
Motion passes

Senator Sitte moves a do pass as amended
Senator Berry seconded

Discussion
Senator Grabinger says he has a problem with the language with the bill. He does not think this is a place where we should be involved. Senator Nelson said she thinks this piece of legislation will cost one to four million dollars to defend and wonders if this is pertinent use of tax payer money. She agrees with Senator Grabinger's problem with the language of the bill. Senator Lyson says he will also vote no because the resolution is completely out of line. Senator Sitte quotes the State constitution. She believes this issue has the right to be put on a ballot. Senator Lyson states that bills and resolutions like this split our state and legislature completely in half and should never even be brought to the floor.

Vote
4 yes, 3 no
Motion passes
Senator Sitte will carry

13.3060.02002
Title.03000

Adopted by the Judiciary Committee

February 5, 2013

2-5-13

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4009

Page 1, line 6, replace "defended" with "protected"

Page 1, line 10, replace "primary" with "general"

Page 1, line 16, replace "defended" with "protected"

Renumber accordingly

Date: 2-5-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4009

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.3060.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☑ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S Sitte Seconded By S Armstrong

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson		X			
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 4 No 3

Absent

Floor Assignment pass

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

Date: 4/5/13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4009

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number S Armstrong

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S Armstrong Seconded By S Berry

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte		X	Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 4 No 3

Absent pass

Floor Assignment

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

Date: 2/5/13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4009

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By S. Sitte Seconded By S. Berry

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson		X
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson		X			
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 4 No 3

Absent

Floor Assignment S Sitte

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

REPORT OF STANDING COMMITTEE

SCR 4009: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SCR 4009 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "defended" with "protected"

Page 1, line 10, replace "primary" with "general"

Page 1, line 16, replace "defended" with "protected"

Renumber accordingly

2013 HOUSE HUMAN SERVICES

SCR 4009

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SCR 4009
March 13, 2013
19884

☐ Conference Committee

Kristi Hetzler

Explanation or reason for introduction of bill/resolution:

A bill relating to the inalienable right to life of every human being at every stage of development.

Minutes: *Testimony 1,2,3,4,5,6,7,8,9,10*

Chairman Weisz: Opened the hearing on SCR 4009

Sen. Margaret Sitte: From District 35 in Bismarck introduced and supported the bill. (See Testimony #1) 6:30

Rep. Mooney: In your opinion what will the impact of end of life decisions that are being made everyday?

Sen. Sitte: This bill should be known as the human life amendment, it has been kicked around congress since the 1970's. We all know that there is a point where the body will eventually shut down.

Rep. Mooney: Does the end of life paper work even stand for anything then, shouldn't we have the right to make those decisions?

Sen. Sitte: As long as we don't have assisted suicide on the books I don't see how it has any impact of all.

Rep. Mooney: I just believe this will have legal implications.

Sen. Sitte: Right now we are looking at the broad protection of the inalienable right to life.

Rep. Mooney: Are we also going to support all the services that are needed?

Sen. Sitte: We have many programs in place right now from education to health and many more to assist children in ND.

Rep. Fehr: When is the start point, in a petri dish or when?

Sen. Sitte: From the moment of the conception DNA is put together.

Rep. Fehr: 14:10 If every fertilized egg is now a human being defined in our constitution? How will that change and effect things?

Sen. Sitte: When you have a broad statement of purpose we are only saying that we believe as a state that every human life at any stage of development must be recognized and protected.

Rep. Oversen: If an individual has a living will saying they do not want any unnatural forms of resuscitation to keep them living, wouldn't we be infringing upon that decision?

Sen. Sitte: That might come about later, but it does not change that right now.

Rep. Oversen: If we are saying that the state protects life at all stages, constitutionally is then the state responsibility to step in.

Sen. Sitte: We are pretty much doing that now; I don't see the impact you are seeing.

Rep. Oversen: Does this also preclude sexual orientation and are we protecting all members of that class?

Sen. Sitte: I'm not carving out any special protection for any one group of people.

Rep. Oversen: This would diminish the human rights act of ND because we wouldn't need that anymore constitutionally?

Sen. Sitte: I don't read that into this bill, this will provide a broad framework.

Chairman Weisz: 20:05 Did you have a discussion with the Senate on how this might affect criminal, legal contracts? Did you discuss the ramifications?

Sen. Sitte: No, not anything like that.

Gualberto Garcia Jones: 22:00 Testified in support of the bill. (See Testimony #2)

Rep. Fehr: 31:08 The term in the amendment "right to life", will that be intentional taking of life?

Jones: I think the right to life is violated by the intentional taking of life, the right to life is not violated by difficult situations such as the twin to twin transfusion. Those decisions where a doctor has to make a decision to preserve life is not attacking the intentional right to life or a preborn child or the mother. 33:15

Rep. Mooney: You gave us your interpretation that there is an assumption there will be no legal consequences. An example is if I had cancer and I refused treatment but my husband disagrees and insists on getting me treatment. All kinds of those situations will be coming forward.

Jones: I disagree, In the case of end of life, protecting the right to life simply means that you can't violate that right.

Rep. Mooney: We already see cases in court such as parents that choose not to have their children get treatments, those parents are being brought to court, wouldn't we be opening that door.

Jones: I don't think so, if it is a child they may not be able to make that decision for themselves.

Rep. Mooney: That is only an interpretation.

Rep. Damschen: I'd like to hear your response to Rep Mooney's comment.

Jones: I think the law is clear with end of life issues. It cuts the line at euthanasia and this is talking about the right to life issues.

Rep. Damschen: Are you saying there is a difference between sustaining life artificially and taking life?

Jones: There is a very developed president to deal with those cases that would not be affected by this amendment.

Rep. Damschen: That is established in law?

Jones: It is.

Rep. Oversen: 38:20 The definition of life here is from Harvard Medical School in 1823, is there an agreed upon, irrefutable definition of life from the scientific community?

Jones: There is if you take it from the political realm that abortion has dragged it into.

Rep. Oversen: You said no religious sentiment would support the idea that life begins at birth?

Jones: I don't know every religion that exists so I guess I would have to narrow that statement. 40:33

Rep. Kiefert: This bills intention is to stand up for life that does not have the ability to do for themselves, correct?

Jones: I think it touches on decision making and the unborn has no voice.

Christopher Dobson: 41:50 Executive Director of ND Catholic Conference testified in support of the bill. (See Testimony #3)

Tom Frier: 445:44 With the ND Family Alliance testified in support of the bill. (Testimony #4)

Daniel Becker: 52:40 The objective of the Right to Life is personhood. Something happened 7 weeks ago and was predicted 30 years ago. What is the preborn human. There are 7 states with amendments before them right now. The broadness. (Handed out a publication. See Handout #5.) Germany in 1940 started exterminating life they felt was not worth living. They felt that some were takers and not givers to the country so they exterminated them. 1:06

Rep. Oversen: Has Georgia attempted pass a personhood bill?

Becker: It has filed a personhood bill because we need a 66% of majority; we do not yet have that.

Anna Higgins: Testified in support of the bill. (See Testimony #6)

Mr. Shuh: 1:11:30 Testified in support of the bill. 1:19

OPPOSITION

Dr. Kristen Cain: Testified in opposition. (See Testimony #7) 1:26:15 (Dr. Cain handed out testimony for Courtney Schaff. See Testimony #8.)

Rep. Kiefert: inaudible?

Cain: I am against personhood.

Rep. Kiefert: ?

Cain: I am against giving legal rights to people that yet have not been born.

Rep. Kiefert: Does that go against your code of ethics?

Cain: No. The Hippocratic Oath states will not do no harm.

Rep. Kiefert: You are saying you are alright with taking life then?

Cain: No, I am not saying that, I am talking about the problem of giving the personhood status to a fertilized egg. I am also talking about end of life.

Rep. Kiefert: So you don't think an embryo is a life?

Cain: I don't think an embryo is a person.

Rep. Damschen: I think we established the end of life isn't the issue. How do we get around the establishment of when life begins?

Cain: The law of the land is that until 24 weeks into life, where the fetus can survive outside the mother's body, the mother is the only one to be considered in this case.

Rep. Damschen: Is that a moral decision, that determination or is it legal? Based on science we have been told that life begins at conception. What do we base our decision on?

Cain: Our definition of conception is when the embryo is implanted in the uterus not when the egg is fertilized so already there is a discrepancy in the definition of conception. 1:33:37 Cain submits into testimony that is from a young lady with cancer. She froze embryos before she began her cancer treatment. With SB 4009, if she were to die and her treatment was not a success she would have frozen embryos, what would become of them. They would have to be disposed of, well how things are now she could decide what happens to embryos, she could decide make them the property of her husband. These embryos cannot be adopted out because of her cancer. This bill would interfere with medical staff to assist a patient in this type of situation. 1:35:45

Chairman Weisz closed the hearing.

HANDED IN TESTIMONY IN SUPPORT

Maria Wanchic: (See Testimony #9)

HANDED IN TESTIMONY IN OPPOSITION

Janelle Moos: (Testimony #10)

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SCR 4009
March 18, 2013
Job #20090

☐ Conference Committee

Committee Clerk Signature	Vicky Crabtree

Explanation or reason for introduction of bill/resolution:

A bill relating to the inalienable right to life of every human being at every stage of development.

Minutes:

Chairman Weisz: Let's take up SCR 4009.

Rep. Porter: I move a Do Pass.

Rep. Looysen: Second.

Rep. Mooney: My concerns are the overall implications. It defines not only when life begins, but when life ends. Bills and litigation will come as a consequence to either of them.

Rep. Oversen: Why isn't there a fiscal note on this?

Chairman Weisz: Because it is a constitutional measure we are not necessarily passing this. It will be up to the people. The associated costs would be based on the measure. Based on the law we pass, there may be a fiscal note on the measure.

ROLL CALL VOTE: 9 y 4 n 0 absent

MOTION CARRIED

Bill Carrier: Rep. Looysen

Date: 3-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4009

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Porter Seconded By Rep. Looysen

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY		✓
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA		✓
REP. ANDERSON		✓	REP. OVERSEN		✓
REP. DAMSCHEN	✓				✓
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 9 No 4

Absent

Floor Assignment Rep. Looysen

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

REPORT OF STANDING COMMITTEE

SCR 4009, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4009 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SCR 4009

4009 (1)

Testimony on SCR 4009

January 29, 2013

Mr. Chairman and members of the committee, I am Senator Margaret Sitte from District 35 in Bismarck.

SCR 4009 creates a new section in Article I of the North Dakota Constitution. The wording is simple: **The inalienable right to life of every human being at any stage of development must be recognized and defended.**

The words of the Declaration of Independence remind us that our Creator, God, not the government, has endowed every human being with some inalienable rights, rights that go above and beyond the powers of government. We have these rights to life, liberty, pursuit of happiness, property, family, children and more because God, who made us, wrote these rights on every human heart.

The right to life is not diminished by age or gender or abnormality, nor is it threatened by weakness, or illness or incapacity. Government has no right to abridge the inalienable right to life. In fact, when we look at history, we can understand much about the culture of a people by how they treated the weakest in their midst.

Throughout the history of this country, we have had many instances of denying inalienable rights to categories of people. At our founding, black people were counted as only three-fifths of a person. After the Civil War, American Indians were not considered persons under the law. It wasn't until the beginning of the last century that women were finally considered persons and were able to vote and hold office.

Forty years ago this month, the Supreme Court ruled that the unborn weren't persons. Justice Harry Blackmun wrote in the Roe v Wade decision, "If the suggestion of Personhood [of the unborn] is established, the case, of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment." The portion of the 14th Amendment he was referring to is called the Equal Protection Clause, which was passed in 1868 to guarantee rights to black people. It says in part, "nor shall any

State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

SCR 4009 is important to protect not only the unborn but people in every condition of life. When the headlines in last Sunday's paper proclaimed that smokers and the obese may not be able to receive health care coverage under the new health care plan, we once again see special categories being set in place for discrimination. When people talk about the costs of health care for the elderly or for Alzheimer's patients, we see the need to protect human beings at any stage of development.

It isn't enough to say we recognize the right to life of every human being at any stage of development. We must also defend that life from whomever or whatever is threatening it.

This amendment is intended to present a direct challenge to Roe v Wade. When speaking of individuals, the 14th Amendment uses the word "person," but the North Dakota State Constitution uses the word "human being," so the amendment follows the state's wording, "human being." By passage of this amendment, the people of North Dakota are asking government to recognize what science has already defined. In 1973, perhaps the members of the Supreme Court didn't know when life began, Now, irrefutable proof from DNA has shown scientists that each human being's unique characteristics are determined at the moment of conception.

The Supreme Court has ruled that states may find more expansive rights to protect their citizens than those outlined in the U.S. Constitution and Bill of Rights. This amendment provides for a more expansive right to the people in this state, saying that in North Dakota the right to life is upheld for all persons. When this Human Life Amendment goes to a vote of the people and passes, it will proclaim to other states and to the world that in North Dakota the people have decided the inalienable right to life of every human being at any stage of development must be recognized and defended.

I urge your favorable consideration of SCR 4009.

Testimony for SCR 4009
"The inalienable right to life of every human being at any stage of development must be recognized and defended."

Personhood Amendment Testimony of Gualberto Garcia Jones, J.D.

The Personhood Amendment is the most fundamental expression of the pro-life movement's guiding principle that all human life is sacred.

As we all know, in 1973, Justice Harry Blackmun single handedly - and in contradiction to all the medical and legal precedent – concluded that no preborn human being could be considered a "person" with the right to life because we simply could not define when life begins.

Of course, Harry Blackmun way lying, physicians had long ago determined that life began at conception. Take this discussion of whether life exists before quickening from a textbook used at the Harvard Medical School in 1823:
"The foetus prior to the time of quickening must be either dead or living. Now, that it is not the former is most evident from neither putrefaction nor decomposition taking place, which would be the inevitable consequences of an extinction of the vital principle … Foetuses do actually die in the uterus before quickening, and then all the signs of death are present. The embryo, therefore, before that crisis, must be in a state different from that of death, and this can be no other than life." Elements of Medical Jurisprudence.

Harry Blackmun was not just lying about the medical precedent for life beginning at conception, but also about the artificial separation of a human being from a legal person with rights.

The Supreme Court Justice known for laying the foundation for American constitutional law, John Marshall, wrote in an 1818 that "the words 'any person or persons' are broad enough to comprehend every human being."

Not only did Roe v. Wade dehumanize an entire class of human beings, it was also an unabashed exercise of judicial activism, which stripped the states of the power to regulate themselves in order to protect the health, safety, and morals of their people.

The Personhood Amendment is the fulfillment of the state's duty to guarantee the equal protection of the laws to every human being. As John Bingham, the drafter of the 14th amendment to the US Constitution argued during the ratification process: "a State has not the right to deny equal protection to ***any human being*** under the Constitution of this country in the rights of life, liberty, and property."

Justice Antonin Scalia has stated, unequivocally, that "the Constitution contains no right to an abortion" and Chief Justice Rehnquist has stated that, "when it becomes clear that a prior constitutional interpretation is unsound, we are obliged to reexamine the question."

Dear pro-life senators, why are we waiting to challenge Roe v. Wade? Every day is another 3,500 lives lost. This may be an uphill legal battle, but fighting the fight is more than half our goal. With your courage and leadership, the people will rise, and the culture will begin to change.

Passing the Personhood Amendment will fundamentally challenges the flawed decision of Roe v. Wade by:

1. Recognizing the pre-born child as a legal person and a human being with the inalienable right to life,
2. Asserting the right of the state to use its police powers in matters that affect the protection of the health, safety, and morals of its people,
3. And most importantly by providing a basic principle with which to guarantee the equal protection of its laws.

As the world moves further into the 21st century, emerging technologies are stretching the boundaries of medical ethics.

Defining the right to life to extend to all human beings is imperative as we attempt to prevent the abuse of defenseless human beings for the sake of "scientific advancement." Abortion, euthanasia, cloning, human experimentation, organ harvesting, eugenics, the creation of human and animal hybrids; all of these require a strong definition of the human being which puts a premium on our unique intrinsic value and inalienable right to life.

Unintended Consequences:

The abortion industry will try to create end of the world scenarios to dissuade pro-life legislators from supporting a personhood amendment.

They will say that women will be prosecuted for miscarriages: There is not a single instance in 200 years of pro-life laws throughout American history of such a case.

They will say that a personhood amendment will prohibit life saving medical care: In Ireland, where a similar amendment is in force today, women enjoy the lowest maternal mortality rates in the entire world.

They will say that a personhood amendment will outlaw In Vitro Fertilization: Countries like Germany, who have suffered the ravages of the eugenic abuses of science, allow IVF while simultaneously protecting the embryo.

They will say that a personhood amendment will outlaw abortion even in cases of rape or incest: North Dakota law forbids the death penalty for rapists, why should it impose the death penalty upon the innocent child?

In fact, the abortion industry stands to lose a multi billion-dollar industry if the humanity of the preborn child is recognized and defended.

A personhood amendment is the embodiment of the sanctity of life. It has been the goal of the pro-life movement since day one, and it is the best hope for a future, which respects the dignity of all human beings without subjecting any one person, or any class of persons to any other.

With the personhood Amendment you have the awesome opportunity to leave a mark on the history of this great state and this nation. I pray that you seize the opportunity and blaze the way for a revival of a culture of life.

Sixty-Third Legislative Assembly of North Dakota
Senate Judiciary Committee
Testimony of Anna Higgins, J.D.
Director of the Center for Human Dignity, Family Research Council
January 29, 2013

Mr. Chairman and honorable members of the committee, thank you for giving me the opportunity to testify before you today about the critical human rights issue of abortion.

My name is Anna Higgins. I am the Director of the Center for Human Dignity at the Family Research Council, a Christian public policy organization that since 1983 has promoted and defended human life, religious liberty and family values in the United States. We represent more than 1.5 million people from Evangelical, Catholic, and other Christian denominations around the country. I speak today as a representative of Americans who oppose the destruction of human life in the womb. Fundamentally, we believe that life begins at conception and that this life is worthy of respect and equality under the law. We also believe that abortion is incredibly harmful to women, physically and psychologically.

The purpose of this testimony is not to take a political position, rather it is meant to highlight the humanity of the unborn and the detrimental effects of abortion. This testimony will highlight four important points:

1) The humanity of the unborn,
2) fetal development,
3) fetal pain capability, and
4) health concerns facing women who have abortions.

Humanity of the Unborn:

The denial of basic human rights of the unborn has become an indefensible position. It is undisputable that an unborn child is a unique person from conception to birth. It is a foundational principle of western thought that life is a fundamental right given to all men by their Creator. It was this principle that guided our founding fathers to declare in our country's first foundational document, that all men are created equal and endowed by their Creator with unalienable rights, among which, predominant is the right to life. Liberty and the pursuit of happiness are of no consequence unless a person is first afforded the most fundamental of all rights, life. As Thomas Jefferson noted, "The God that gave us life, gave us liberty at the same time."[1]

Previous to *Roe v. Wade*, the most egregious violation of civil rights handed down by the Supreme Court was *Dred Scott v. Sanford* in which the Court determined that a slave was not a

[1] Thomas Jefferson, *A Summary View of the Rights of British America*, 1774: 135.

person but rather property. This decision was rectified by the 14th amendment which guaranteed due process to all persons. The 14th amendment is violated by the act of abortion.

Abortion denies a unique human being the right to due process and equal protection under the law. Either an unborn child is a person or he is property. If he is a person, as has been determined conclusively by scientific evidence, it is incumbent upon the government, which is instituted to secure our inalienable rights, to protect every person's fundamental right to life in all circumstances.

Protecting all human life from the moment of conception until natural death is not and should not be limited to the narrow practice of abortion. Equality under the law demands that every human being is protected under laws meant for such protective purposes. If the unborn child is truly a unique human being, which we now know to be medically accurate, then protection should be afforded the unborn, regardless of viability, in areas such as homicide statutes, wrongful death, and chemical endangerment of a child. In Alabama, for example, the Alabama Declaration of Rights, the state constitutional provision that establishes inalienable rights for all persons (Ala. Const. 1901, § 1), mirroring the language of the U.S. Declaration of Independence, was cited as a reason to support the applicability of the homicide statute as well as the wrongful death statute to the unborn regardless of viability. The Alabama Supreme Court noted that those words, "affirm that each person has a God-given right to life." (Hamilton v. Scott, October term, 2011-2012, footnote 3, p14).

As Abraham Lincoln said in reflection upon the Declaration of Independence, "nothing stamped with the divine image and likeness was sent into the world to be trodden on and degraded…".[2] All persons are so stamped from the moment conception.

Whereas after birth, a person is protected from discrimination based on gender, race, and disability, legal abortion and the denial of basic protections to human beings at very early stages of development asks us to discriminate against a person based on his age and development. This position is incompatible with a Constitution and a society that places such high value on the rights of an individual. It is particularly troubling to deny these rights to those persons who do not have a way to speak for themselves but rather rely on those in power for protection.

As President Obama recently reminded us, "This is our first task, caring for our children. It's our first job. If we don't get that right, we don't get anything right. That's how, as a society, we will be judged." Knowing what we now know about the development of the unborn and dangers of abortion, are we honestly prepared to say that legal abortion the denial of the right to life for the unborn is an acceptable price to pay for our liberty?

[2] Abraham Lincoln, Lewistown, IL, Aug 17, 1858, Speech during Senate contest with Stephen Douglas.

Fetal Development:

When a human sperm penetrates the human egg, a zygote is formed. A zygote is the first cell formed at conception and has "a genetic composition that is absolutely unique to itself, different from any other human that has ever existed, including that of its mother (thus disproving he claim that what is involved in abortion is merely 'a woman and her body'."[3] The DNA present at this point contains the entire design of the person and guides development of physical characteristics and personality.[4]

If the zygote were not a human being, but a mere collection of human cells, it would exhibit cellular life but it would not exhibit the "coordinated interactions directed toward a higher level of organization."[5]

In fact, the zygote, upon formation, "acts immediately and decisively to initiate a program of development that will, if uninterrupted by accident, disease, or external intervention, proceed seamlessly through formation of the definitive body, birth, childhood, adolescence, maturity, and aging, ending with death. This coordinated behavior is the very hallmark of an organism."[6] The actual pregnancy begins at fertilization, not implantation as noted in the majority of medical dictionaries.[7]

About six days after fertilization, the embryo is implanted into the uterus and at about 22 days, blood is circulating and heartbeat can be detected on ultrasound. At six weeks after conception, a baby has electrical brain activity and eyes, eyelids, nose, mouth, and tongue are formed and at six to seven weeks electrical brain activity can be detected. By eight weeks, the baby, now called a fetus, has all the organs found in any newborn infant. By ten weeks the child can grasp, stretch and kick.[8]

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[3] Keith Moore and T.V.N Persaud, The Developing Human: Clinically Oriented Embryology, 6th ed (Philadelphia: W.B. Saunders Co., 1998): 77, 350.
[4] Ibid.
[5] Cathy Cleaver Ruse, Esq. and Rob Schwarzwalder, The Best Pro-Life Arguments for Secular Audiences, Family Research Council (2011) http://www.frc.org/brochure/the-best-pro-life-arguments-for-secular-audiences : 4.
[6] Maureen L. Condic, "When Does Human Life Begin? A Scientific Perspective," The Westchester Institute for Ethics and the Human Person, *Westchester Institute White Paper Series* 1, no. 1 (October 2008): 7.
[7] See Christopher M. Gacek, "Conceiving 'Pregnancy': U.S. Medical Dictionaries and Their Definitions of 'Conception' and 'Pregnancy'," Insight, Family Research Council (April 2009) accessed February 26, 2013, http://downloads.frc.org/EF/EF09D12.pdf.
[8] Cathy Cleaver Ruse, Esq. and Rob Schwarzwalder, *The Best Pro-Life Arguments for Secular Audiences*, Family Research Council http://www.frc.org/brochure/the-best-pro-life-arguments-for-secular-audiences: 7-8, and Ashley Morrow Fragoso, *Fetal Pain, Can Unborn Children Feel Pain in the Womb?* Family Research Council (2010) http://downloads.frc.org/EF/EF10H06.pdf : 1-3.

Fetal Pain:

The introduction of various forms of Unborn Fetal Pain Bills on both federal and state levels demonstrates the fact that the issue of fetal pain has become a major concern. Just as modern science has given us a glimpse into the womb; it has also revealed the fact that an unborn child can feel pain. The most common forms of abortion are now thought to cause excruciating pain for the unborn child and this pain can be felt as early as thirteen and a half weeks, although the consensus is that the unborn child can feel pain at least by 20 weeks.

Pain is "a perceptive response to potential or actual tissue damage.[9] Dr. Kanwaljeet S. Anand of the University of Arkansas for Medical Sciences and the Pain Neurobiology Laboratory at Arkansas Children's Hospital Research Institute, testified that children of 20 weeks gestation (or even earlier) possess the ability to feel pain "and the pain perceived by a fetus is possibly more intense than that perceived by term newborns or older children."[10]

Between seven and twelve weeks gestation the unborn child becomes sensitive to stimulation.[11] The thalamus and cortex have begun to develop, but nerve pathways have not yet connected the cortex with the lower part of the brain.[12] The brain stem is active at this point in development. At the beginning of the second trimester sensory receptors cover the body of the baby and the hippocampus becomes functional.[13] At this point, babies respond to invasive procedures. "At 23 weeks, the nerves transport pain signals to the cortex are connected to the rest of the brain, and signals received through the thalamus can be processed in the cortex, allowing for a form of conscious perception…"[14]

In the article, "Fetal Pain and Abortion: The Medical Evidence," Vincent J. Collins, M.D., Steven R. Zielinski, M.D., and Thomas J. Marzen, Esq. note, "The medical evidence plainly points to the existence of pain sensation in the human fetus, at least from the onset of the second trimester of pregnancy, and perhaps during the last weeks the first trimester. It indicates that at least three methods of abortion cause fetal pain."[15]

"Induced abortion will cause pain to a fetus with a functioning nervous system if the method-used stimulates the pain receptors, excites the neural pathways, and the impulse reaches the thalamus. Dilatation and evacuation (D&E), abortion, abortion by saline amnio-infusion, and prostaglandin abortions are capable of stimulating pain receptors and exciting neural pathways.

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[9] Ashley Morrow Fragoso, Ibid.
[10] Ibid at 4.
[11] Ashley Morrow Fragoso, *Fetal Pain, Can Unborn Children Feel Pain in the Womb?* Family Research Council (2010) http://downloads.frc.org/EF/EF10H06.pdf : 6.
[12] Ibid.
[13] Ibid at 6-7.
[14] Ibid at 7.
[15] Vincent J. Collins, M.D., Steven R. Zielinski, M.D., Thomas J. Marzen, Esq., "Fetal Pain and Abortion: The Medical Evidence," AMERICANS UNITED FOR LIFE, Legal Defense Fund Law and Medicine Series: 12)

These methods of abortion are employed during times in gestation when the fetus can sense pain. It must be concluded, therefore, that they cause pain to the fetus."[16]

"We cannot measure the sum agony of these human beings. We can only know that it was real, hope that it was mercifully brief, and grieve because the ideology that so arrogantly asserts abortion as a "right" has subverted simple human compassion to such a degree that these young human beings continue to die with less concern for their pain that expressed for experimental rats."[17]

There have been about 55 million legal abortions performed in the U.S. since 1973, many on pain-capable children. It is unimaginable that we would dismiss the possibility that these unborn children feel pain during abortion.

Additionally, approximately 92% of abortions are done for purely elective reasons – on healthy women and healthy children. Only 4% are performed for reasons of physical health of the mother and 3% for the health of the baby. About 0.5% of abortions are performed for reasons of rape or incest, another 0.5% in order to hide a pregnancy, and 1% due to pressure from family members.[18]

Women's Health:

The myth that abortion is good for women has slowly been exposed and dispelled by personal experience and medical science. Negative effects of abortion on women range from physical complications like infection, perforations and hemorrhage to serious psychological harm, such as depression, anxiety and even suicide.

Physical Complications: Surgical abortion is a serious medical procedure and its complications should not be diminished.

The most recent CDC Abortion Sureveillance, United States, 2009, reported that there have been 403 deaths resulting from legal abortions since 1972.[19] This number is undoubtedly a low estimate due to the fact that several states, including California, do not report abortion statistics to the CDC.

Premature birthrates following abortions range from 36% increase to as much as 60% increase in cases where women have more than one abortion.[20] Other international studies show pervious

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[16] Ibid at 10.
[17] Ibid at 12.
[18] Lawrence B. Finer, "Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives, Perspectives on Sexual Health 37, no. 5 (2005): 113-14.
[19] Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, November 23, 2012, Surveillance Summaries, Vol. 61, No. 8, Table 25.
[20] Dr. Byron Calhoun, "Induced abortion linked to Preterm Delivery, "Dec 10 ObGyn News p. 10.

abortions greatly increase the risk of premature birth.[21] By 2008, at least 59 studies have demonstrated a statistically significant increase in premature birth or low birth weight risk in women with prior induced abortions.[22]

Placenta Previa is one condition that has been found to be a significant risk factor for women who have had abortions.

"Placenta Previa is a condition is which the placenta has implanted abnormally low in the uterine cavity. In "partial placenta previa," a segment of the placenta partially covers the opening to the cervical canal. In "complete placenta previa,"the placenta completely covers the opening to the cervical canal. Placenta previa can be potentially catastrophic to both mother and baby, as it carries the risk of unpredictable, sudden, severe hemorrhage, necessitating emergency C Section as life saving treatment. Very often this emergency occurs at a premature gestational age, increasing the risk for the baby's favorable outcome. It can be appreciated that placenta previa is no small issue, whether for the patient, for her baby, or for her attending doctor. And it is increased significantly in pregnancies that follow an induced abortion."[23]

"Thorp (OB GYN Survey, Vol 58, No. 1, 2002) analyzed 3 studies, and found in women who had a previous induced abortion a 30% increase in placenta previa rates compared to women with no abortion history. Thorp also noted a meta-analysis by Anath et. al., which found a 70% increase in placenta previa rates in women with a previous abortion compared to women with no abortion history."[24]

Other complications include damage to the reproductive system including perforations, future infertility, later ectopic pregnancies or miscarriages, incomplete abortion/retained tissue.[25]

Late term abortions are especially dangerous to women. A "'Late-term abortion' is an inexact medical term that has been used in reference to induced abortions in the 3rd trimester of pregnancy (28-39 weeks) and sometimes to 2nd trimester abortions (13-27 weeks)."[26]

"According to Gaufberg, Professor of Medicine at Harvard University, post-abortion physical complications at various gestational points are primarily the result of incomplete evacuation of the uterus, uterine atony, infection, and instrumental injury. Specific complications of abortions include the following: (1) complications of anesthesia, (2) postabortion triad (pain, bleeding, low-grade fever), (3) hematometra, (4) retained products of conception, (5) uterine perforation,

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[21] nrlc.org; *See also* Caroline Moreau, et al, "Previous induced abortions and the risk of very preterm delivery: results of the EPIPAGE study," British Journal of Obstetrics and Gynecology, Vol. 112 (April 2005): 430-437.
[22] American Association of Pro-Life Obstetricians and Gynecologists, (http://www.aaplog.org/complications-of-induced-abortion/induced-abortion-and-pre-term-birth/general-comments-on-the-increased-risk/
[23] American Association of Pro-Life Obstetricians and Gynecologists, http://www.aaplog.org/complications-of-induced-abortion/induced-abortion-and-placenta-previa/induced-abortion-and-subsequent-placenta-previa/
[24] Ibid.
[25] nrlc.org.
[26] wecareexperts.org, "Late-term Abortion: Antecedent Conditions and Consequences to Women's Health," http://www.wecareexperts.org/sites/default/files/articles/Late-term%20abortion%20health%20consequences.pdf : 1.

(6) bowel and bladder injury, (7) failed abortion, (8) septic abortion, (9) cervical shock, (10) cervical laceration, and (11) disseminated intravascular coagulation (DIC). At 12-13 weeks, the complication rate is 3-6%, and by well into the second trimester, the complication rate increases to 50%, and possibly higher according to Gaufberg.[27]

Medical abortion can be even more dangerous than surgical abortion, often due to the fact that women are not necessarily under the care of a doctor when the abortion is performed. Complications from medical abortions range from undiagnosed ectopic pregnancy to significant blood loss and infection, often as a result of incomplete abortion.[28]

In his comprehensive analysis of RU-486, Chris Gacek notes, "Medical abortions fail frequently, and they often produce serious hemorrhage and infection. For example, according to the April 2011 RU-486 Adverse Events Summary there were reports to FDA that 339 American women had blood loss significant enough to require transfusions. There were 256 reported cases of infection reported in the United States. Approximately 15-20 known deaths have been associated with the regimen worldwide, but this number is almost certainly quite low since our data does not include countries like China and India where the regimen's use is heavy."[29]

Psychological Complications: At the time abortion was legalized not much was known about the psychological scars and risk of mental illness that affect women who have had abortion. Now, 40 years later, we know from the testimony of women themselves and from scientific and medical research that abortion does in fact carry significant psychological risk factors. Approximately 40% of women in the U.S. have had an abortion, which underscores the fact that the issue of mental health and psychological care for post-abortive women is an overwhelming issue that touches many lives and must be addressed with the serious consideration it deserves.[30]

Previous abortions put a woman at an increased risk for a variety of mental health problems such as panic attacks, panic disorder, agoraphobia, PTSD, bipolar disorder, major depression with and without hierarchy, and substance abuse disorders.[31]

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[27] Ibid at 2, also noting, "The U.S. mortality rates per 100,000 abortions as reported by Gaufberg are 14.0 for 16-20 weeks and 18.0 for after 21 weeks. Even more dramatic results for second and third trimester abortions were reported by Bartlett et al. using national U.S. data spanning the years from 1988 and 1997. Specifically, per 100,000 abortions, the relative risk of abortion-related mortality was 14.7 at 13–15 weeks of gestation, 29.5 at 16-20 weeks, and 76.6 at or after 21 weeks. Causes of death during the 2nd trimester as reported by Bartlett included hemorrhage, infection, embolism, anesthesia complications, and cardiac and cerebrovascular events."

[28] *See* Chris Gacek, RU-486 (Mifepristone) Side-Effects 2000-2012, Family Research Council, May 2012 Issue Analysis.

[29] Ibid at 15.

[30] http://www.thedailybeast.com/newsweek/blogs/the-human-condition/2010/03/04/about-40-percent-of-american-women-have-had-abortions-the-math-behind-the-stat.html, *See also*, Martha Shuping, M.D. and Christopher Gacek, J.D., Ph.D., Post Abortion Suffering, A Psychiatrist Looks at the Effects of Abortion, Family Research Council (2010) http://downloads.frc.org/EF/EF10B09.pdf.

[31] Coleman, P.K., Coyle, C.T., Shuping, M., & Rue, V. (2009), *Induced Abortion and Anxiety, Mood, and Substance Abuse Disorders: Isolating the Effects of Abortion in the National Comorbidity Survey*, Journal of Psychiatric Research, 43, 770–776.

Dr. Priscilla Coleman, author of one of the most comprehensive studies of the mental health risks after abortion notes that,

> Overall, women with an abortion history experience an 81% increased risk for mental health problems. The results showed that the level of increased risk associated with abortion varies from 34% to 230% depending on the nature of the outcome. Separate effects were calculated based on the type of mental health outcome with the results revealing the following: the increased risk for anxiety disorders was 34%; for depression it was 37%; for alcohol use/abuse it was 110%, for marijuana use/abuse it was 220%, and for suicide behaviors it was 155%. When compared to unintended pregnancy delivered women had a 55% increased risk of experiencing any mental health problem. Finally, nearly 10% of the incidence of all mental health problems was shown to be directly attributable to abortion.[32]

Suicidal behaviors and actions are also an increased risk for women who have had abortions. Suicidal thoughts and behavior are very serious issues and can have devastating impacts on entire families.[33]

A few years ago, one young woman, Stacy Zaille, comitted suicide after an abortion. Her family has since created a foundation "to facilitate the post-abortion well-being and happiness of women."[34]

Stacy's parents have posted the following on the foundation website: "At age 20 our beautiful daughter, for reasons known only to her, underwent an abortion. She never revealed her situation or her solution to her family. Shortly after the abortion she asked for psychiatric help, she ended therapy after only 3 months. Not long after her 21st birthday, she took her own life. She is missed by all who knew and loved her. We are convinced that if Stacy had been better informed about what she might expect following the abortion (physically and/or emotionally) and if she had been able to share her grief in a safe, supportive environment, she would be with us today."[35]

This is not an isolated incident. For more stories from real women who have experienced pain associated with abortion, visit http://www.abortionchangesyou.com/explore?exploreArtFilter=all and Operation Outcry, http://www.operationoutcry.com/?Page=personal, an organization that "seeks to end the pain of abortion in America and around the world by mobilizing women and men hurt by abortion who share their true stories of the devastating effects of abortion."

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[32] Coleman, P.K. (Sept. 2011) "Abortion and Mental Health: A Quantitative Synthesis and Analysis of Research Published from 1995-2009, British Journal of Psychiatry."

[33] *See Induced Abortion and Maternal Suicide, THE AMERICAN ASSOCIATION OF PROLIFE OBSTETRICIANS AND GYNECOLOGISTS ABORTION AND SUICIDE SUICIDE ATTEMPTS ASSOCIATED WITH INDUCED ABORTION*, References: Garfinkle, B., et. al., "Stress, Depression, and Suicide: A study of Adolescents in Minnesota" (Minneapolis: Univ Minnesota Extension Service, 1986): http://www.aaplog.org/complications-of-induced-abortion/induced-abortion-and-maternal-mortality/induced-abortion-and-maternal-suicide/.

[34] http://www.stacyzallie.org/.

[35] Ibid.

Many women face devastating guilt, regret, stress and depression following an abortion. As a former crisis pregnancy counselor who has met with hundreds of women in crisis pregnancies, I can testify first hand that abortion is not the "cure" for an unwanted pregnancy; rather it is an additional trauma that a women must carry with her for the remainder of her life. This problem must be mitigated.

The 8th Circuit recently acknowledged the devastating impact that abortion has on women in Planned Parenthood v. Rounds, July 24, 2012 which involved a dispute over a South Dakota statute that required disclosure to patients seeking abortion of an increased risk of suicide.[36] The 8th Circuit court upheld the statute, noting,

> Based on the record, the studies submitted by the State are sufficiently reliable to support the truth of the proposition that the relative risk of suicide and suicide ideation is higher for women who abort their pregnancies compared to women who give birth or have not become pregnant. It also is worth noting that Planned Parenthood does not challenge the disclosure that "[d]epression and related psychological distress" is a "known medical risk[] of the [abortion] procedure." S.D.C.L. § 34-23A-10.1(1)(e)(i); *see also Gonzales v. Carhart*, 550 U.S. 124, 159 (2007) (noting that "[s]evere depression and loss of esteem can follow" an abortion). As a matter of common sense, the onset of depression and psychological distress also would increase one's risk of suicide and suicide ideation. *See, e.g.*, Ottar Bjerkeset et al., *Gender Differences in the Association of Mixed Anxiety and Depression with Suicide*, 192 Brit. J. Psychiatry 474, 474 (2008) ("Depression is thought to be the most important antecedent of suicide . . ..."). Thus, there appears to be little dispute about the truthfulness of the required disclosure."[37]

Conclusion:

A decision by a Court cannot confer moral legitimacy on any choice. In the case of the abortion, time, science, and personal testimony have revealed devastating consequences on both the unborn child, who loses his life, and the woman who faces possible physical complications and severe psychological issues. All of these problems can be completely mitigated by recognizing the right to life of the unborn and outlawing abortion as an option except in medical emergencies where it is required to save the life of the mother. Additionally, the humanity of the unborn child as evidenced by medical science demands a response that upholds the protection for all life, born and pre-born, under the law.

Any law that denies the humanity of the unborn violates the very foundational ideals upon which this country was formed. Life is not a right that is given by man, thus, neither can it be taken away by man. As long as we protect the act of abortion under the law, we teach the citizens of our country and the world that only certain persons are worthy of being a part of society. It is imperative that we end this arbitrary discrimination against unborn children.

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[36] http://www.ca8.uscourts.gov/opndir/12/07/093231P.pdf.
[37] Ibid at 14.

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Testimony to the Senate Judiciary Committee
from Karla Rose Hanson of Fargo, N.D.
1/29/2013

SCR 4009, SB 2302 and SB 2303

Mr. Chairman and members of the Senate Judiciary Committee, thank you for the opportunity to speak to you. My name is Karla Rose Hanson and I live in Fargo.

I am testifying in opposition to any legislation that defines a person as a human at any or every stage of development, including Senate Concurrent Resolution 4009, Senate Bill 2302 and Senate Bill 2303. Such "personhood" laws have a narrow intent – to ban all abortion – but a very broad, very negative impact.

While we all may not agree on abortion, we **should** uphold the right to privacy in health care. Lawmakers should not interfere in the private relationship between a patient and her health care provider. Laws that directly or indirectly dictate or limit how my doctor interacts with me puts my health at risk and infringes on my right for privacy in health care.

A personhood law will affect treatment for infertility, life-threatening ectopic pregnancies and incomplete miscarriages. It will impact access to birth control, which reduces unintended pregnancies and abortions and treats many medical conditions. Besides these and other health care options that a personhood law will impact, I also worry that this law will create an environment of confusion and fear for medical professionals, causing them to avoid particular procedures and medications out of worry that an overzealous, misinformed person will sue them – limiting reproductive health care even further.

Personally, I used in vitro fertilization three times, I required the use of birth control products in order to conceive, and I had two incomplete miscarriages which could have caused serious health complications. Because of these experiences, I strongly believe that all of today's reproductive health care options should continue to be available to North Dakota's citizens. Health care decisions should be between a patient and her health care provider – without oversight by the legislature. Deciding if, when and how many children to have is a human right.

A personhood law also would have a negative impact beyond health care. It would infringe on our religious freedom. Not every religion believes life begins at conception, so this law would impose one religious view on all citizens. A personhood law also prompts questions about how the legal definition of a person affects other laws – will embryos be counted in a census? can they inherit property? – resulting in review of all laws that will be costly to this state.

Because of these broad and negative impacts, no other state has passed the concept of personhood into law. Even Mississippi rejected a personhood amendment at the ballot with a margin of 58% against it.

Finally, this committee should consider the constitutionality of a personhood law. In April 2012, the Oklahoma Supreme Court ruled that a proposed personhood amendment was unconstitutional

under the federal Constitution. In October 2012 the U.S. Supreme Court declined to hear an appeal of that case, upholding the lower court's decision that personhood was unconstitutional. If North Dakota becomes the first state in the country to pass personhood into law, it will likely result in litigation. This will possibly cost the state millions to defend the law, potentially all the way up to the Supreme Court level, like the Oklahoma case. I do not want to waste taxpayer dollars to defend an extreme law that has already been found unconstitutional; I would rather those dollars go to other priorities in our state like education, infrastructure and health care.

In conclusion, please leave the private and personal decisions about reproductive health care to patients and their health care providers and recommend "do not pass" on SCR 4009, SB 2302 and SB 2303. Thank you.

Respectfully submitted,

Karla Rose Hanson
Fargo, ND

Testimony to the Senate Judiciary Committee
From Siri Fiebiger, M.D. from Fargo, N.D.
1/29/2013

I've been practicing obstetrics and gynecology since 1986, initially in Washington DC as a resident at Georgetown University, and in Fargo since 1990. I also have a Master's degree in Public Health from Johns Hopkins School of Public Health. I'm testifying in opposition to SCR 4009, SB 2302, and SB 2303 and its narrow intent to limit abortion.

I've been listening to women's stories for over 20 years. I've learned that the women of ND like elsewhere make choices based on relationship and commitment to relationship, and their own needs are very rarely any part of the equation. What I've observed (and experienced) is that every woman knows at a visceral if not articulated level that pregnancy is a relationship balanced between life and death from the moment of conception. One of every two fertilized eggs results in miscarriage when one includes chemical pregnancies. Death (maternal, fetal or neonatal) is more often a reality in the developing world but 8 of 100,000 pregnant women die in the US, and it certainly occurs here in ND, and in my experience.

Women make the excruciating decision to terminate pregnancy only when they can't figure out how to meet the needs of that child, given their current limited resources of emotional, financial and physical support. 60-70% of women who get an abortion already have one or more children. No one 'forces' a woman to get an abortion, except by making clear their lack of support for the pregnancy and the child –whether it's the woman's partner or her parents, or her boss. It's truly an internal capitulation that she can't fulfill her maternal obligation given her current real constraints.

If you share my world vision where abortion would only be necessary to save the life of the mother, then you would focus your legislative efforts on empowering women: by paying them equal if not ideally a living wage, by availing them of healthcare for themselves and their children, and by providing quality childcare. In today's world, my patients can't afford to marry their partners because they would lose their healthcare benefits for themselves and their children, and that's immoral (I believe healthcare is a human right, not the privilege our current system purports).

The narrow intent of SCR 4009 to prevent elective abortion will first of all fail, as the pre Roe v. Wade history has demonstrated. There will be a return of the garage based abortion mills like those in West Fargo, described by my father, a chaplain for LSS in the 60s, who helped women get emergency healthcare for the ensuing complications.

It will denigrate and invade the doctor-patient relationship – which is not infrequently the only one where women experience open respect for their needs.
It will mean removing the most reliable forms of emergency contraception and reversible birth control (IUDs, and oral contraceptives) – interventions also used for treatment of endometriosis and menorrhagia. Limiting access to contraception will mean a further increase in unintended

pregnancies, and an increase in abortions. Today the unintended pregnancy rate in the US is 40% - the highest in the developed world. The unintended pregnancy rate is also 5 times higher in poor women. Despite our low unemployment rate here, we have the highest number of jobs per capita in the country - many of them women with more than one part time job with no healthcare benefits. Even when a woman is insured in ND, contraception has not been covered until recently, and even now, still requires out of pocket costs, up to $100 a month.

It will also mean precluding surgery or chemotherapy to treat abnormal pregnancies: miscarriages or ectopics. Abnormal pregnancies can progress far enough to have a fetal pole with cardiac activity. Miscarriages can be, and ectopics are life threatening or fatal if not treated in a timely fashion. Women already are grieving the loss of this child, and to have to face a legal battle to save her own life is immoral.

When a life threatening complication occurs during pregnancy, whether fetal or maternal, it should be managed by the physician according to the patient's needs and/or values, without politicians or theologians. Extreme preterm rupture of membranes is a common event, with an unsalvageable pregnancy and frequently life threatening consequences. Continuing the pregnancy of a fetus with lethal anomalies has serious emotional and not infrequently financial consequences for already grieving parents. The most common cause of maternal death in ND outside trauma is peripartum depression resulting in suicide.

You have heard testimony from infertility specialists regarding the radical impact on the efficacy and risks of IVF.

Perhaps legislation the likes of SCR 2009, SB 2302, and SB 2303 is necessary to clarify for men the relationship that women have always understood. However, it serves to further subjugate her and cripple her commitment to existing relationships. Women deserve respect and acknowledgment of their commitment to their roles and relationships; they do not need laws to help them define life and death– especially their own.
I would appreciate an opportunity to discuss this further. Passage of these bills in any form may mean that many women's healthcare providers would leave the state and its women, including myself.

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Testimony on SCR 4009
Senate Judiciary Committee
January 29, 2013

Chair Hogue and Members of the Committee:

My name is Janelle Moos. I am speaking this morning on behalf of CAWS North Dakota in opposition to SCR 4009.

Our Coalition is a membership based organization that consists of 21 local domestic violence and rape crisis centers located throughout the state that provide services to domestic violence, sexual assault, and stalking victims in all 53 counties and the reservations in North Dakota. Last year alone, these centers provided services to nearly 900 victims of sexual assault.

Although our Coalition does not have a policy position on abortion, we are united in our concern for victims of sexual assault and incest. SCR 4009, from our perspective, would ban all abortion, even for rape and incest victims. We aren't here today to debate the issue of abortion itself; so we will limit our testimony to the specific exclusion of these exemptions for rape and incest survivors in HCR 4009.

According to the National Victim Center and National Crime Victims Research and Treatment Center's study entitled Rape in America: A Report to the Nation (1992) "pregnancy from rape occurs with "significant frequency". Of the estimated 12% of adult women in the United States that have experienced at least one rape in their lifetime, 4.7% of these rapes resulted in pregnancy. Another study estimated that 25,000 pregnancies following the rape of adult women occur annually (Stewart & Trussell 2000). It's difficult to determine with certainty the outcome of the approximate 25,000 rape-related pregnancies that occur in the US, but one

study indicated that 26% of women pregnant through rape underwent abortions. Of the 73% of women who carried their pregnancies to term, 36% placed their infants up for adoption and 64% raised their children they conceived through rape (Reardon et al 2000).

I am not here today to tell you that all survivors should or even want to have abortions; but they should have a choice. We believe that since we cannot fully understand the path that brought them to us we cannot make that very difficult decision for them. This is about allowing a person who has had all decision making powers taken away from them as a result of the assault to make a very important and personal decision about their health, their family, and their future. This bill all but eliminates that option.

I urge a DO NOT PASS on HCR 4009.

Thank You.

Mr. Chairmen and committee members, my name is Alexis Grabinger. I'm a senior at Jamestown High School. I also happen to be the first gestational carrier baby born in North Dakota. I am here today to oppose this concurrent resolution 4009, which states the inalienable right to life of every human being at any stage of development must be recognized and defended. I also want to oppose Senate bills 2302 and 2303, which I will be hearing later for similar reasons.

I have learned about this procedure through many resources, including my parents. Seventeen years ago, my mom and dad made a decision that affected their lives, my aunt and uncles lives, and my life. When the process started my mom had to take two shots everyday for two months to increase her hormones so her eggs could be harvested. Through this the doctors were able to get eight viable embryos. The doctors came and told my parents that they had to make a decision on how many embryos to implant at this point, and how many to save for future procedures in case the first couple embryos weren't successful. My parents with the consultation of the doctors chose to implant two. After the embryos were implanted the doctor said it was going to take 2-3 weeks, before any results would show, because the pregnancy tests would show negative until that point. At this point they kept the other embryos frozen until after I was born. The place that was storing the frozen embryos was closing and my parents had to make a decision as to whether they should keep these embryos at a frozen state with a significant amount of cost or allow them to be terminated and not be used in the future. My parents decided that it was unrealistic to continue to pay for them or let somebody else have them. To suggest that within this resolution that these embryos are actually human beings at this stage would make it an act of abortion to terminate them.

I strongly believe my parents and the doctors are not abortionists, but rather miracle workers who brought life when there was none. If these laws are passed, the future of any more miracles like my situation would not happen in North Dakota. This would cause heart-ache for many couples. So, here I stand today and I ask you for a do not pass on resolution 4009, Senate Bill 2302, and 2303.

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TEMPLE BETH EL

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January 28, 2013

Dear Senate Judiciary Committee Members,

Thank you for this opportunity to allow Temple Beth El congregation to weigh in on the legislation regarding reproductive rights and a woman's ability to obtain a safe and legal abortion in the state of North Dakota. If you are not familiar with our congregation, we are a Reform Jewish synagogue serving Fargo and surrounding communities. We feel strongly that the legislation being considered here would damage the health and safety of the women and families of North Dakota and would significantly strip away the rights of members of the Jewish community to practice our faith and make health decisions consistent with our religious texts and precepts.

The issue of abortion has been debated and discussed for centuries amongst rabbis and Jewish scholars. Halacha (Jewish law) states that a baby becomes a full-fledged human being when the head emerges from the womb, or, in the case of a "feet first" birth, when most of the fetal body is outside the body. Orthodox, Conservative, and Reform Jewish traditions have all found abortion to be the moral choice under certain circumstances. Although Judaism views an unborn fetus as precious and to be protected, our faith teaches us that the life and well-being of the mother is paramount, placing a higher value on existing life than on potential life. Women are commanded to care for their own health and well-being above all else. Therefore, there are several instances when Judaism not only condones abortions, but they are mandated.

Mishnah Ohaloth 7:6, for example, forbids a woman from sacrificing her own life for that of the fetus, and if her life is threatened, the text permits her no other option but abortion. In addition, if the mental health, sanity, or self-esteem of the woman (e.g., in the case of rape or incest) is at risk due to the pregnancy itself, the *Mishnah* permits the woman to terminate the pregnancy. It is due to the fundamental Jewish belief in the sanctity of life that abortion is viewed as both a moral and correct decision under some circumstances.

The legislation being considered here today places at risk the rights of Jewish citizens of North Dakota from drawing on their own faith and religious teachings when making what can only be a terribly difficult and heart-wrenching decision – indeed during a time when many women and their families may be in greatest need to call on their rabbis and faith for moral guidance. We ask that you reject the bills considered here today and to trust the women of North Dakota to make healthy reproductive choices consistent with their faith and relationship with G-d.

Respectfully submitted,

Temple Beth El Board of Directors

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Mr. Chairman, Members of the Committee, thank you for the opportunity to address you this morning. My name is ShaunAnne Tangney, and I am from Minot. This is the third time in as many legislative sessions that I have addressed legislative committees regarding specious personhood legislation such as the one before us today. Once again, I find the proposed legislation so fraught with logical, scientific, and legal error that I am compelled to testify against it.

The reference throughout the bill to a fetus as a "child," an "unborn child," or a "preborn child" requires disambiguation. First, this kind of "personhood argument" is a reinterpretation of United States law and history by people with extreme religious views. Any careful and rigorous and honest study leads to the conclusion that America was founded as a free country, not a theocracy, and there can be no imposition of religious beliefs in the United States. Second, such "personhood" arguments commit the fallacy of equivocation in that they attempt to equate the biological concept of "human being" or "human life" with the political concept of "person." Persons have rights, rights being the principles that identify our proper freedom of action—which is another way of saying that rights are ascribed to persons who exist in a society (a hermit living alone in a cave all his or her life would have no need for rights). Rights cannot be applied to an embryo, zygote, or fetus because none of those live in a society. Each of those are dependent upon a living woman, and cannot exist separate from her. An embryo, zygote, or fetus may be seen as a potential person, but to ascribe rights to a potential person is a profound error, and commits the fallacy of the continuum. The fact that a zygote may develop into a born infant does not prove the zygote to be the same thing as a born infant—any more than an acorn is an oak tree or a caterpillar is a butterfly. As philosopher Leonard Peikoff observes, to treat a zygote as a potential adult human is the same thing as treating an adult human as a potential corpse. In sum, the "personhood" debate and language is fraught with logical, historical, and political errors, and should be avoided by legislators.

The bill is also problematic as it does not reflect actual human gestational biology correctly. It tries to inflame the sentiment by implying that any movement or physical development on the part of the fetus "makes it human." In the embryonic stage, the zygote is invisible to the naked eye, has no human organs, and no human form, no capacity for emotion or awareness; indeed, a human zygote at this stage looks very similar to those of many other species. At the fetal stage of development, while the heart, hands, feet, brain, and other organs are present from week six, they are only at the beginning of development and exhibit only minimal and largely uncontrolled or unconscious movements. Any breathing-like movement of the lungs in the fetus is not breathing per se, but rather mere stimulation of lung development. It is also important to note that the circulatory system of a fetus works differently from that of born humans because the lungs are not in use. Finally, it is worth noting here that a fetus is not capable of feeling pain until the third trimester.

Quite frankly, this bill is stupefying in its ignorance of basic human biology. Every time a man ejaculates—for the purposes of conception or otherwise—some 300,000,000 sperm are released—and yet men are never challenged for the destruction of those 300,000,000 so-called "preborn children." Indeed, when sperm and egg do meet and attach in the human body, forming a zygote, the human body works diligently to kill or destroy the rest of the ejaculated sperm so as not to endanger the development of the zygote. Similarly, 50% of all zygotes fail to implant in the uterus and die, and yet we would never consider holding every pregnant woman liable for murder even though we know her body willingly and knowingly destroyed millions of so-called "preborn children." My point is this: the language of the "preborn child" creates a very slippery slope, and is in fact disingenuous.

The language regarding a "human-hybrid animal" also seems ignorant of basic biology. Science is clear on the fact that a human sperm cannot penetrate the egg of any other animal, and that a human egg cannot be penetrated by the sperm of any other animal. Sperm and egg of all species have a kind of "lock and key" protection system, only allowing for fertilization by a member of the same species, thus ensuring the survival of that species as distinct and separate. And while there has been some media hype about the creation of "chimera"—a creature that is part human and part animal—a bill that is clearly an anti-abortion bill is no place to address that hype. The use of nonhuman animals to produce human organs, cells, or blood, is certainly one of great ethical concern, and it deserves an ethical debate, not a flat-out veto. Finally, the definition in the bill of pluripotent cells is also problematic. Pluripotent cells—or stem cells—can never develop into a fetal or adult organism because they lack the potential to contribute to embryonic tissue such as the placenta. The bill tries to include stem cells as so-called "preborn children," but this is not scientifically correct.

While this bill has carefully crafted language regarding the prohibition or restriction of many different kinds of medical research or procedures that might injure or destroy a zygote or fetus, it would create unstable ground for patients and physicians alike. As I have testified before, between 2000 and 2009 I underwent ten surgeries. Several of these required X-rays, MRIs, CT scans, and HIDA scans. Before each procedure, I was asked whether or not I was pregnant because those kinds of tests can harm a fetus. I always answered "no," because as far as I knew, I was not pregnant—but as we all know, a woman can be quite far along in a pregnancy and not know that she is pregnant. Were this bill to be passed into law, both women and doctors could be held liable for such an error. Furthermore, women might cease to seek out critical healthcare for fear of prosecution, and doctors might cease to offer or prescribe such critical healthcare for a similar fear of prosecution.

The bill also includes carefully crafted language regarding contraception in its none-too-thinly-veiled attack on birth control. Even though overwhelmingly safe and effective, drugs as the birth control pill, the "morning after pill," and such devices as the IUD, which, although designed to prevent fertilization, can sometimes prevent

the implementation of a fetus. However, birth control and abortion are two vastly different things and should not be confused. Indeed, while the population is evenly split on abortion (in 2010, 46% identified as "pro-life;" 45% identified as "pro-choice"), 99% of all women who have ever had intercourse have used some form of contraception, and 82% have used the oral contraceptive pill, clearly indicating that the majority of the population is in favor of birth control. The North Dakota state legislature is not in place to ratify or make legal the extremist concerns of a fringe group, but to represent the majority of the population. Enacting a bill into law that so clearly goes against the beliefs and practices of the majority of the population is wrongheaded and anti-democratic.

Finally, this bill lays the groundwork to ban abortion without exception, even in cases of rape, incest, or danger to the woman, and yet it does so in a sneaky, abstruse, and callous manner that I find unbefitting of the North Dakota state legislature. It threatens the physical and mental health of women on so many levels that it can only be described as draconian. For all of the reasons outlined above, I urge you in the strongest possible way to recommend a DO NOT PASS on SB2302. It represents fringe values, it exhibits an ignorance of human biology, and promotes poorly and ignorantly conceived law. It is a bad bill and should not become North Dakota State Law.

Thank you for your time and attention to this matter.
Respectfully,
ShaunAnne Tangney
Minot, North Dakota

13.3060.02001
Title.

Prepared by the Legislative Council staff for
Senator Sitte
February 1, 2013

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4009

Page 1, line 6, replace "defended" with "protected"

Page 1, line 16, replace "defended" with "protected"

Renumber accordingly

Armstrong (2)
AMENDMENT

Sixty-third
Legislative Assembly
of North Dakota

February 5, 2013

Amendment No:
Title No:

PROPOSED AMENDMENT TO SENATE RESOLUTION NO. 4009

Page 1, line 10, replace "primary" with "general"

Additional testimony e-mailed in

NDLA, S JUD - Davis, Diane

From: -Info-Legislative Council <lcouncil@nd.gov> on behalf of Legislative Council <lcouncil@nd.gov>
Sent: Tuesday, February 05, 2013 9:31 AM
To: NDLA, S JUD - Davis, Diane
Subject: SB2302, 2303, 2305

Submitted on February 4, 2013 - 4:07pm
Submitted by anonymous user: [165.234.159.251]
Submitted values are:

Name: Shelby Terstriep
E-mail Address:
Phone Number: 701-234-6161
Comments:
Dear Senator:

It is with great fear that I write this letter to you opposing the measures outlined in SCR4009, SB2302, SB2303, and SB2305. There are several implications that would negatively affect patients diagnosed with cancer. I am a specialist in cancer treatment and care for many young adults with cancer. I specialize in "survivorship care" which is care of cancer patients after therapy. I focus on the late effects of treatment and how to manage them to improve cancer survivor's quality of life. Unfortunately infertility is a complication of some cancer treatment. With modern advances in fertility preservation the dream of a family can be a reality for these patients that go on to lead healthy normal lives after cancer.

This bill would ban the freezing of all embryos, which is how female patients are able to preserve their own eggs for future children after chemotherapy has damaged their ovaries. It also bans donor sperm and donor eggs which, for many cancer patients, are needed if they can't preserve their own fertility.

It also bans the treatment of pregnant patients with chemotherapy because of the possible damage that it may have on an unborn fetus, despite the fact that the cancer would limit the mother's life. I don't understand how this could be considered "pro-life" when both the mother and therefore the unborn fetus would lose their lives. I have been involved in the care of these mothers on several occasions and I do not take lightly the risk but have seen these women become long-term cancer survivors with healthy children.

It is hard enough for these patients to hear the devastating diagnosis of cancer; it is even worse when their ability to have a family is taken away. I also do not believe it is for the government to withhold life-saving medical treatment including chemotherapy to pregnant patients. I sincerely hope you will oppose this bill.

Respectfully,

Shelby Terstriep, MD
Medical Oncologist

#1

Testimony on SCR 4009, House Human Services

March 13, 2013

Mr. Chairman and members of the committee, I am Senator Margaret Sitte from District 35 in Bismarck.

SCR 4009 creates a new section in Article I of the North Dakota Constitution. The wording is simple: **The inalienable right to life of every human being at any stage of development must be recognized and protected.**

The words of the Declaration of Independence remind us that our Creator, God, not the government, has endowed every human being with some inalienable rights, rights that go above and beyond the powers of government. We have these rights to life, liberty, pursuit of happiness, property, family, children and more because God, who made us, wrote these rights on every human heart.

The right to life is not diminished by age or gender or abnormality, nor is it threatened by weakness, or illness or incapacity. Government has no right to abridge the inalienable right to life. In fact, when we look at history, we can understand much about the culture of a people by how they treated the weakest in their midst.

Throughout the history of this country, we have had many instances of denying inalienable rights to categories of people. At our founding, black people were counted as only three-fifths of a person. After the Civil War, American Indians were not considered persons under the law. It wasn't until the beginning of the last century that women were finally considered persons and were able to vote and hold office.

Forty years ago the Supreme Court ruled that the unborn weren't persons. Justice Harry Blackmun wrote in the *Roe v Wade* decision, "**If the suggestion of Personhood [of the unborn] is established, the case, of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment.**"

The portion of the 14th Amendment he was referring to is called the Equal Protection Clause, which was passed in 1868 to guarantee rights to black people. It says in part, "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

By passage of this amendment, the people of North Dakota are asking government to recognize what science has already defined: an unborn human being is a person. In 1973, perhaps the members of the Supreme Court didn't know when life began. Now, irrefutable proof from DNA has shown scientists that each human being's unique characteristics are determined at the moment of conception.

SCR 4009 is important legislation to protect not only the unborn but people in every condition and age of life. When the headlines in a January newspaper proclaimed that smokers and the obese may not be able to receive health care coverage under the Affordable Care Act, we once again see special categories being set in place for discrimination. When people talk about the costs of health care for the elderly or for Alzheimer's patients, we see the need to protect human beings at any stage of development.

Article I, Section 2 of the North Dakota Constitution begins, "**All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people**..." It isn't enough to say we recognize the right to life of every human being at any stage of development. We must also protect that life from whomever or whatever is threatening it.

This amendment is intended to present a direct challenge to *Roe v Wade*. When speaking of individuals, the 14th Amendment uses the word "person," but the North Dakota State Constitution uses the word "human being," so the amendment follows the state's wording, "human being."

Whether or not the court accepts this amendment as a challenge to *Roe*, it still serves another important purpose. The Supreme Court has ruled that states may find more expansive rights to protect their citizens than those outlined in the U.S. Constitution and Bill of Rights. This amendment provides for a more expansive right to the people in this state, saying that in North Dakota the right to life is upheld for all human beings.

When this Human Life Amendment goes to a vote of the people and passes, it will proclaim to other states and to the world that in North Dakota the people have decided, "The inalienable right to life of every human being at any stage of development must be recognized and protected."

I urge your favorable consideration of SCR 4009.

#1 p3

The Court Decides: 1857 and 1973

1857—Slavery

Dred Scott Decision (7–2)

Slaves are not legal persons.
Slaves are property of their owners.
Owners can buy, sell, or kill slaves.
Slavery is legal.

1973—Abortion

Roe v. Wade Decision (7–2)

The unborn are not legal persons.
The unborn are property of their mothers.
Mothers can keep or kill unborn children.
Abortion is legal.

#2

SCR 4009

"The inalienable right to life of every human being at any stage of development must be recognized and defended."

Human Life Amendment Testimony of Gualberto Garcia Jones, J.D.

The Human Life Amendment is the most fundamental expression of the pro-life movement's guiding principle that all human life is sacred. If you are pro-life it is probably because you believe life begins at conception, and that is simply what this amendment states.

As we all know, in 1973, Justice Harry Blackmun single handedly - and in contradiction to all the medical and legal precedent – concluded that no unborn human being could be considered a "person" with the right to life because we simply could not define when life begins.

Of course, we all know Harry Blackmun way lying, physicians had long ago determined that life begins at conception. Take this discussion of whether life exists before quickening from a textbook used at the Harvard Medical School in 1823:
"The foetus prior to the time of quickening must be either dead or living. Now, that it is not the former is most evident from neither putrefaction nor decomposition taking place, which would be the inevitable consequences of an extinction of the vital principle … Foetuses do actually die in the uterus before quickening, and then all the signs of death are present. The embryo, therefore, before that crisis, must be in a state different from that of death, and this can be no other than life." Elements of Medical Jurisprudence.

#3 po

Harry Blackmun was not just lying about the medical precedent for life beginning at conception, but also about the artificial separation of a human being from a legal person with rights. Not only did Roe v. Wade dehumanize an entire class of human beings, it was also an unabashed exercise of judicial activism, which stripped the states of the power to regulate themselves in order to protect the health, safety, and morals of their people.

An interesting development taking place currently North Dakota, is one that involves the case surrounding a regulation of chemical abortions that you passed in 2011. Abortion advocates are suing the state of North Dakota in order to assert that there is a state right to abortion in the North Dakota constitution. If this sounds far fetched, consider the fact that Alaska, Arizona, California, Connecticut, Florida, Illinois, Indiana, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, Oregon, Tennessee, Vermont, West Virginia have had courts that have created a state right to abortion which is broader even than that in Roe v. Wade. If the North Dakota Supreme Court decides that abortion is a state constitutional right, then nothing except a Human Life Amendment will be able to trump that. Pro-lifers might as well close shop. If you pass the Human Life Amendment, you could preempt this judicial activism and the state court would have no option but to respect life.

The Human Life Amendment is the fulfillment of the state's duty to guarantee the equal protection of the laws to every human being.

In Pruneyard, a Supreme Court case decided in 1980, the court stated that it is proper for "the State to exercise its police power or its sovereign right to adopt in its own Constitution individual

#2
pg 3

liberties more expansive than those conferred by the Federal Constitution." Pruneyard Shopping Center v. Robins (1980).

As the world moves further into the 21st century, emerging technologies are stretching the boundaries of medical ethics.

Defining the right to life to extend to all human beings is imperative as we attempt to prevent the abuse of defenseless human beings for the sake of "scientific advancement." Abortion, euthanasia, cloning, human experimentation, organ harvesting, eugenics, the creation of human and animal hybrids; all of these require a strong definition of the human being which puts a premium on our unique intrinsic value and inalienable right to life.

The abortion industry will try to create end of the world scenarios to dissuade pro-life legislators from supporting a Human Life Amendment.

They will say that women will be prosecuted for miscarriages: There is not a single instance in 200 years of pro-life laws throughout American history of such a case.

They will say that a Human Life Amendment will prohibit life saving medical care: In Ireland and Chile, where similar amendments are in force today, women enjoy some of the lowest maternal mortality rates in the entire world, certainly lower than in the United States.

They will say that recognizing that life begins at conception will outlaw fertility treatments life In Vitro Fertilization. Yet, states like Louisiana and countries like Germany, allow In Vitro Fertilization while simultaneously protecting the embryo.

They will say that a Human Life Amendment will outlaw abortion even in cases of rape or incest: North Dakota law forbids the death penalty for rapists, why should it impose the death penalty upon the innocent child?

The fact of the matter is that the abortion industry stands to lose a multi billion-dollar industry if the humanity of the preborn child is recognized and defended, and the In Vitro Fertilization industry wants to remain totally unregulated to do what they please with human beings at the embryonic stage.

A Human Life Amendment is the embodiment of the sanctity of life. It has been the goal of the pro-life movement since day one, and it is the best hope for a future, which respects the dignity of all human beings without subjecting any one person, or any class of persons to any other.

Supreme Court Justice Antonin Scalia has stated, unequivocally, that "the Constitution contains no right to an abortion" and Chief Justice Rehnquist has stated that, "when it becomes clear that a prior constitutional interpretation is unsound, we are obliged to reexamine the question."

With the Human Life Amendment, you have the opportunity to reexamine the question and state in no uncertain terms that you believe that life begins at conception.

#3

Representing the Diocese of Fargo and the Diocese of Bismarck

Christopher T. Dodson
Executive Director and
General Counsel

To: House Human Services Committee
From: Christopher T. Dodson, Executive Director
Subject: HCR 4009 - Constitutional Right to Life
Date: March 13, 2013

The North Dakota Catholic Conference supports HCR 4009 because it gives the people of North Dakota the opportunity to decide whether the state should recognize a legal right to life for all North Dakotans.

A state constitutional amendment respecting the right to life is not unconstitutional. The U.S. Supreme Court has said that states may enact their own laws and constitutional provisions to protect human life, including unborn human life. Nor is a state constitutional amendment respecting the right to life made moot by the U.S. Supreme Court's decision on abortion. It can guide the interpretation of existing and future state laws by all branches of state government. From time to time legal questions arise regarding unborn children - and even the right to abortion - that are not made dispositive by the abortion decisions of the U.S. Supreme Court. The resolution of those questions rightly belongs to the states, but sometimes the state's courts and executive offices can be left without constitutional guidance. HCR 4009 would provide that guidance.[1]

Opponents of any recognition of the unborn child have conjured up all kinds of claims about HCR 4009, including that it would ban abortion, in vitro fertilization, and contraception. HCR 4009 does not ban anything. It would take an act of the legislature to do that and even then the act could not contravene the directives of the U.S. Supreme Court.

Let's affirm in our state constitution that which this Legislative Assembly and the people of North Dakota consistently affirmed with its laws - that every human being has a right to life that should be respected and protected to the greatest extent possible. We urge a **Do Pass** recommendation on HCR 4009.

[1] Legislation passed last session is currently tied up in court because the abortion clinic in Fargo is claiming that the North Dakota Constitution grants a "right to abortion" that is greater in scope than the right found in the U.S. Constitution.

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North Dakota Family Alliance Action

A Trusted Voice Impacting Our Legacy

Tom D. Freier, EXECUTIVE DIRECTOR

#4

House Human Services Committee
SCR 4009
March 13, 2013

Mr. Chairman and members of the House Human Services Committee, I am Tom Freier with the North Dakota Family Alliance here to offer testimony in favor of SCR 4009.

The text of the measure quite simply seeks to recognize life at its beginning and to defend that life at every stage.

The people of North Dakota understand what is in debate.

They can answer a very simple question by completing a sentence with an honest response.

"It is OK to have an abortion when_____"

"It is OK to terminate the life of a whole, separate, unique, living human being when_____"

"It is OK to kill a baby in the womb when _____"

The people of North Dakota understand what is in debate and are capable of responding to the question, posed in SCR 4009—Should the *inalienable right to life of every human being at any stage of development be recognized and protected.?*

NDFA supports ending all abortion.

Mr. Chairman and members of the House Human Services Committee, NDFA supports SCR 4009 and asks for a Do Pass.

Dedicated To Strengthening Families

3220 18th Street S • Fargo, ND 58104 • Phone: 701-364-0676
www.ndfa.org • admin@ndfa.org

#5

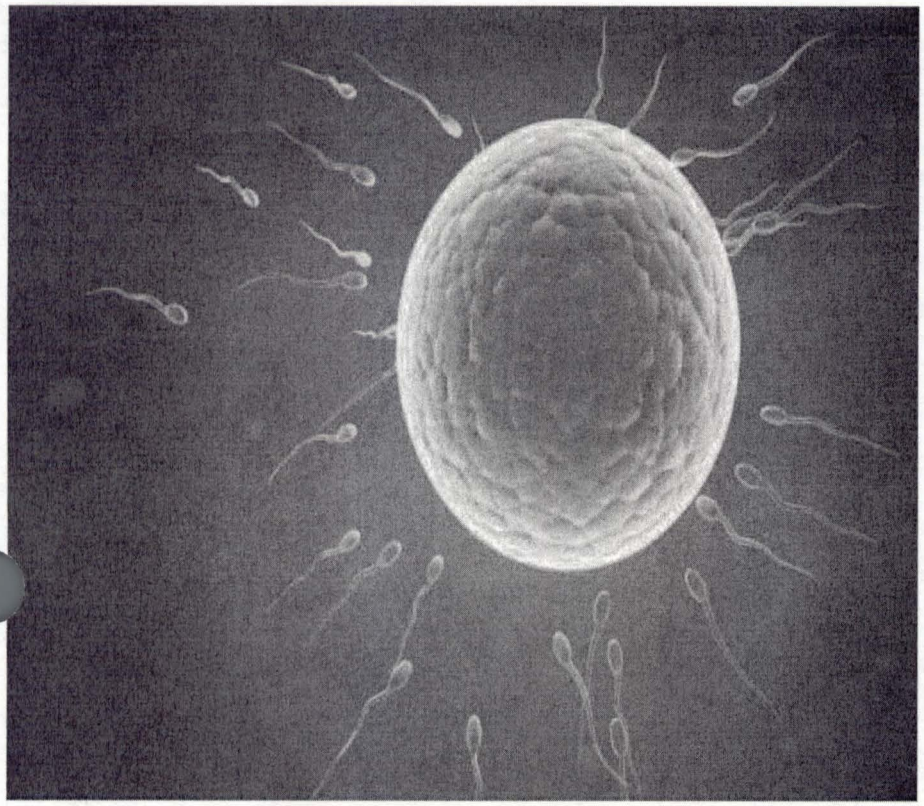
salon.com http://www.salon.com/2013/01/23/so_what_if_abortion_ends_life/

WEDNESDAY, JAN 23, 2013 3:43 PM UTC

So what if abortion ends life?

I believe that life starts at conception. And it's never stopped me from being pro-choice *

BY MARY ELIZABETH WILLIAMS



(Credit: frentusha via iStock)

Of all the diabolically clever moves the anti-choice lobby has ever pulled, surely one of the greatest has been its consistent co-opting of the word "life." Life! Who wants to argue with that? Who wants be on the side of ... not-life? That's why the language of those who support abortion has for so long been carefully couched in other terms. While opponents of abortion eagerly describe themselves as "pro-life," the rest of us have had to scramble around with not nearly as big-ticket words like "choice" and "reproductive freedom." The "life" conversation is often too thorny to even broach. Yet I know that throughout my own pregnancies, I never wavered for a moment in the belief that I was carrying a human life inside of me. I believe that's what a fetus is: a human life. And that doesn't make me one iota less solidly pro-choice.

As Roe v. Wade enters its fifth decade, we find ourselves at one of the most schizo moments in our national relationship with reproductive choice. In the past year we've endured the highest number of abortion restrictions ever. Yet support for abortion rights is at an all-time high, with seven in 10 Americans in favor of letting Roe v. Wade stand, allowing for reproductive choice in all or "most" cases. That's a stunning 10 percent increase from just a decade ago. And in the midst of this unique moment, Planned Parenthood has taken the bold step of reframing the vernacular – moving away from the easy and easily divisive words "life" and "choice." Instead, as a new promotional film acknowledges, "It's not a black and white issue."

It's a move whose time is long overdue. It's important, because when we don't look at the complexities of reproduction, we give far too much semantic power to those who'd try to control it. And we play into the sneaky, dirty tricks of the anti-choice lobby when we on the pro-choice side squirm so uncomfortably at the ways in which they've repeatedly appropriated the concept of "life."

*

Here's the complicated reality in which we live: All life is not equal. That's a difficult thing for liberals like me to talk about, lest we wind up looking like death-panel-loving, kill-your-grandma-and-your-precious-baby storm troopers. Yet a fetus can be a human life without having the same rights as the woman in whose body it resides. She's the boss. Her life

and what is right for her circumstances and her health should automatically trump the rights of the non-autonomous entity inside of her. Always.

When we on the pro-choice side get cagey around the life question, it makes us illogically contradictory. I have friends who have referred to their abortions in terms of "scraping out a bunch of cells" and then a few years later were exultant over the pregnancies that they unhesitatingly described in terms of "the baby" and "this kid." I know women who have been relieved at their abortions and grieved over their miscarriages. Why can't we agree that how they felt about their pregnancies was vastly different, but that it's pretty silly to pretend that what was growing inside of them wasn't the same? Fetuses aren't selective like that. They don't qualify as human life only if they're intended to be born.

When we try to act like a pregnancy doesn't involve human life, we wind up drawing stupid semantic lines in the sand: first trimester abortion vs. second trimester vs. late term, dancing around the issue trying to decide if there's a single magic moment when a fetus becomes a person. Are you human only when you're born? Only when you're viable outside of the womb? Are you less of a human life when you look like a tadpole than when you can suck on your thumb?

We're so intimidated by the wingnuts, we get spooked out of having these conversations. We let the archconservatives browbeat us with the concept of "life," using their scare tactics on women and pushing for indefensible violations like forced ultrasounds. Why? Because when they wave the not-even-accurate notion that "abortion stops a beating heart" they think they're going to trick us into some damning admission. They believe that if we call a fetus a life they can go down the road of making abortion murder. And I think that's what concerns the hell out of those of us who support unrestricted reproductive freedom.

But we make choices about life all the time in our country. We make them about men and women in other nations. We make them about prisoners in our penal system. We make them about patients with terminal illnesses and accident victims. We still have passionate debates about the justifications of our actions as a society, but we don't have to do it while being bullied around by the vague idea that if you say we're talking about human life, then the jig is up, rights-wise.

It seems absurd to suggest that the only thing that makes us fully human is the short ride out of some lady's vagina. That distinction may apply neatly legally, but philosophically, surely we can do better. Instead, we let right-wingers perpetuate the sentimental fiction that no one with a heart — and certainly no one who's experienced the wondrous miracle of family life — can possibly resist tiny fingers and tiny toes growing inside a woman's body. We give a platform to the notion that, as Christina Locke opined in a recent New York Times Op-Ed, "motherhood had slyly changed us. We went from basking in the rights that feminism had afforded us to silently pledging never to exercise them. Nice mommies don't talk about abortion."

Don't they? The majority of women who have abortions – and one in three American women will – are already mothers. And I can say anecdotally that I'm a mom who loved the lives she incubated from the moment she peed on those sticks, and is also now well over 40 and in an experimental drug trial. If by some random fluke I learned today I was pregnant, you bet your ass I'd have an abortion. I'd have the World's Greatest Abortion.

My belief that life begins at conception is mine to cling to. And if you believe that it begins at birth, or somewhere around the second trimester, or when the kid finally goes to college, that's a conversation we can have, one that I hope would be respectful and empathetic and fearless. We can't have it if those of us who believe that human life exists in utero are afraid we're somehow going to flub it for the cause. In an Op-Ed on "Why I'm Pro-Choice" in the Michigan Daily this week, Emma Maniere stated, quite perfectly, that "Some argue that abortion takes lives, but I know that abortion saves lives, too." She understands that it saves lives not just in the most medically literal way, but in the roads that women who have choice then get to go down, in the possibilities for them and for their families. And I would put the life of a mother over the life of a fetus every single time — even if I still need to acknowledge my conviction that the fetus is indeed a life. A life worth sacrificing. *

#6

Sixty-Third Legislative Assembly of North Dakota
Senate Concurrent Resolution 4009
Testimony of Anna Higgins, J.D.
Director of the Center for Human Dignity, Family Research Council
March 13, 2013

Mr. Chairman and honorable members of the committee, thank you for giving me the opportunity to testify before you today. My name is Anna Higgins. I am the Director of the Center for Human Dignity at the Family Research Council, a Christian public policy organization that since 1983 has promoted and defended human life, religious liberty and family values in the United States. We represent more than 1.5 million people from Evangelical, Catholic, and other Christian denominations around the country. I speak today as a representative of Americans who oppose the destruction of human life in the womb. Fundamentally, we believe that life begins at conception and that this life is worthy of respect and equality under the law. We also believe that abortion is incredibly harmful to women, physically and psychologically.

Humanity of the Unborn:

The denial of basic human rights of the unborn has become an indefensible position. It is indisputable that an unborn child is a unique person from conception to birth. It is a foundational principle of western thought that life is a fundamental right given to all men by their Creator. It was this principle that guided our founding fathers to declare in our country's first foundational document, that all men are created equal and endowed by their Creator with unalienable rights, among which, predominant is the right to life. Liberty and the pursuit of happiness are of no consequence unless a person is first afforded the most fundamental of all rights, life. As Thomas Jefferson noted, "The God that gave us life, gave us liberty at the same time."[1]

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1 Thomas Jefferson, *A Summary View of the Rights of British America*, 1774: 135.

#6 p2

Previous to *Roe v. Wade*, the most egregious violation of civil rights handed down by the Supreme Court was *Dred Scott v. Sanford* in which the Court determined that a slave was not a person but rather property. This decision was rectified by the 14th amendment which guaranteed due process to all persons. The 14th amendment is violated by the act of abortion.

Abortion denies a unique human being the right to due process and equal protection under the law. Either an unborn child is a person or he is property. If he is a person, as has been determined conclusively by scientific evidence, it is incumbent upon the government, which is instituted to secure our inalienable rights, to protect every person's fundamental right to life in all circumstances.

Protecting all human life from the moment of conception until natural death is not and should not be limited to the narrow practice of abortion. Equality under the law demands that every human being is protected under laws meant for such protective purposes. If the unborn child is truly a unique human being, which we now know to be medically accurate, then protection should be afforded the unborn, regardless of viability, in areas such as homicide statutes, wrongful death, and chemical endangerment of a child. In Alabama, for example, the Alabama Declaration of Rights, the state constitutional provision that establishes inalienable rights for all persons (Ala. Const. 1901, § 1), mirroring the language of the U.S. Declaration of Independence, was cited as a reason to support the applicability of the homicide statute as well as the wrongful death statute to the unborn regardless of viability. The Alabama Supreme Court noted that those words, "affirm that each person has a God-given right to life." (Hamilton v. Scott, October term, 2011-2012, footnote 3, p14).

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As Abraham Lincoln said in reflection upon the Declaration of Independence, "nothing stamped with the divine image and likeness was sent into the world to be trodden on and degraded…".[2] All persons are so stamped from the moment conception.

Whereas after birth, a person is protected from discrimination based on gender, race, and disability, legal abortion and the denial of basic protections to human beings at very early stages of development asks us to discriminate against a person based on his age and development. This position is incompatible with a Constitution and a society that places such high value on the rights of an individual. It is particularly troubling to deny these rights to those persons who do not have a way to speak for themselves but rather rely on those in power for protection.

As President Obama recently reminded us, "This is our first task, caring for our children. It's our first job. If we don't get that right, we don't get anything right. That's how, as a society, we will be judged." Knowing what we now know about the development of the unborn and dangers of abortion, are we honestly prepared to say that legal abortion the denial of the right to life for the unborn is an acceptable price to pay for our liberty?

Importance of S.C.R. 4009:

The importance of this resolution is first of all that it recognizes the fact that two persons are implicated in the every abortion- the mother and the child. These two lives are distinct, separate and both worthy of full protection of the law.

Secondly, this resolution recognizes the importance of allowing the citizens of North Dakota to express their will to recognize the unborn child as a person before their will can be preempted by

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2 Abraham Lincoln, Lewistown, IL, Aug 17, 1858, Speech during Senate contest with Stephen Douglas.

#6 p4

the State Supreme Court. This amendment can prevent judges from legislating from the bench and creating a state constitutional right to abortion that could exceed the perimeters set by Roe and Casey. This judicial tactic has been seen used in states like FL making it almost impossible to pass commonsense regulations on abortion- even regulations that mirror those upheld by the Supreme Court in Casey and subsequent abortion decisions. Amending the state constitution is the only way to control State Courts from preempting the will of the people to regulate abortion.

Fetal Development:

When a human sperm penetrates the human egg, a zygote is formed. A zygote is the first cell formed at conception and has "a genetic composition that is absolutely unique to itself, different from any other human that has ever existed, including that of its mother (thus disproving he claim that what is involved in abortion is merely 'a woman and her body'."[3] The DNA present at this point contains the entire design of the person and guides development of physical characteristics and personality.[4] If the zygote were not a human being, but a mere collection of human cells, it would exhibit cellular life but it would not exhibit the "coordinated interactions directed toward a higher level of organization."[5]

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3 Keith Moore and T.V.N Persaud, The Developing Human: Clinically Oriented Embryology, 6th ed (Philadelphia: W.B. Saunders Co., 1998): 77, 350.

4 Ibid.

5 Cathy Cleaver Ruse, Esq. and Rob Schwarzwalder, The Best Pro-Life Arguments for Secular Audiences, Family Research Council (2011) http://www.frc.org/brochure/the-best-pro-life-arguments-for-secular-audiences : 4.

#6 p5

About six days after fertilization, the embryo is implanted into the uterus and at about 22 days, blood is circulating and heartbeat can be detected on ultrasound. At six weeks after conception, a baby has electrical brain activity and eyes, eyelids, nose, mouth, and tongue are formed and at six to seven weeks electrical brain activity can be detected. By eight weeks, the baby, now called a fetus, has all the organs found in any newborn infant. By ten weeks the child can grasp, stretch and kick.[6] These biological facts highlight the inherent uniqueness and humanity of the unborn from the moment of conception.

Conclusion:

A decision by a Court cannot confer moral legitimacy on any choice. Medical science shows that a unique human being is present from the moment of conception. This biological truth e demands a response that upholds the protection for all life, born and pre-born, under the law. An amendment presented to the people of North Dakota would allow the will of the people to be established before a state court is able to preempt the democratic process by legislating from the bench. Any law that denies the humanity of the unborn violates the very foundational ideals upon which this country was formed. Life is not a right that is given by man, thus, neither can it be taken away by man. As long as we do not protect persons at all stages of development under the law, we teach the citizens of our country and the world that only certain persons are worthy of being a part of society. It is imperative that we end this arbitrary discrimination against unborn children.

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6 Cathy Cleaver Ruse, Esq. and Rob Schwarzwalder, *The Best Pro-Life Arguments for Secular Audiences*, Family Research Council http://www.frc.org/brochure/the-best-pro-life-arguments-for-secular-audiences: 7-8, and Ashley Morrow Fragoso, *Fetal Pain, Can Unborn Children Feel Pain in the Womb?* Family Research Council (2010) http://downloads.frc.org/EF/EF10H06.pdf : 1-3.

#7

Testimony for ND Legislature House of Representatives

Health and Human Services Committee

March 13, 2013

I am Dr. Kristen Cain, and I am a reproductive endocrinologist practicing in Fargo. I am writing to urge you to oppose SCR 4009. For the record, I also oppose SB2303, and SB2305. But I will confine my remarks today to SCR 4009, although many of these points also hold for my opposition of the other two bills.

I graduated from Jamestown College in Jamestown, ND with a BA in chemistry, biology, and math and then attended Johns Hopkins School of Medicine. I did an internship in internal Medicine at the University of Virginia and returned to Hopkins for my residency in Obstetrics and Gynecology. I then did a fellowship in Reproductive Endocrinology and Infertility at UCLA. Following my training, I served as an Assistant Professor at SUNY Stony Brook and Winthrop University Hospital for 16 years while running the largest and most successful IVF practice on Long Island, NY. I have over 20 years of experience and expertise in infertility, third party reproduction, embryology, women's health, contraception, and ectopic pregnancy. I am currently working in Fargo where I have happily returned to my family and my roots.

In particular, SCR4009 provides for the recognition and status of personhood for all human life at any stage of development. This would codify into law a status that does not currently exist. It is a narrow interpretation of life based on the religious beliefs of a few and is not backed by science, law or other religions. Codifying a religious belief about the beginning of life is akin to a Jehovah's Witness attempting to make blood transfusions illegal for all North Dakotans because it is their belief that those who accept a blood transfusion cannot be saved. Clearly, most of us who do not share this belief would be appalled at a small group making such an important medical decision for us. How are reproductive decisions any different?

Not only that, but fully half of every woman's life is spent in the time between ovulation and knowing for certain whether or not she is pregnant. Are we willing to hold all women hostage and prevent their physicians from providing care for half of women's lives because we cannot be certain that they are not pregnant?

SCR 4009 raises many legal contradictions. By defining life as beginning with fertilization, any loss of life including loss of an embryo in culture could be construed as manslaughter and tried as such. It ignores the science that shows that 9 out of 10 fertilized eggs do not ever become a baby. Are we supposed to investigate each normal menstrual cycle in a sexually active woman as a possible death? By defining life in this way, it puts the life of the embryo on equal or greater footing than the mother during her pregnancy. This reduces all reproductive age women to nothing but baby carriers, without any rights to common standard of care medical treatments including anything that could possibly interfere with implantation such as over the counter cold medications, pain relievers, birth control pills, cancer chemotherapy and even some fertility medications. It interferes with the ability of physicians to

#7 p2

prescribe appropriate treatment to all women in the second half of their menstrual cycle because of the possibility of pregnancy.

By defining human life at every stage of development, and by protecting life at every stage, this also causes problems with medical decision making at the end of life. End of life is not defined here, and this could interfere with the ability of transplant surgeons to harvest organs from brain-dead patients on life support. It could prevent families of brain-dead or terminal patients from stopping ventilation or other extreme measures in hopeless cases, increasing the cost burden to the families and the state, and increasing the emotional distress to the families and the patients.

Interfering with medical decision making at this level will prohibit North Dakota from attracting the skilled doctors it needs to care for its growing population. Doctors find criminalization of medicine and litigation risks to be profoundly unattractive. It will also make North Dakota far less attractive to young professional women. We need dentists and lawyers, accountants and teachers, nurses, small business owners and child care providers. But who will want to work here, if she can't get routine medical care because the law says that she is not as important as any embryo she might be hosting?

I'd like to close by sharing 2 stories about my father with you. My father was the dean and choir director of Jamestown College for many years. In 1981 he had a liver transplant from a 19 year old boy who was killed in an accident. The donor was brain dead but there was no trauma to his internal organs. Donating his organs gave his family the ability to create some sense from a senseless tragedy. Receiving his liver gave our family 30 more years with my dad. During that time he saw us graduate, get married and give him grandchildren. He taught hundreds more students and influenced many who went on to become doctors, priests, and even a college president in the state: kids who never thought they could do these things until they met my father. An organ transplant like this would not be possible with personhood legislation.

The second story is about his death. In 2011 he was entering renal failure. My sisters and I had all offered to donate a kidney to him but at this point his condition was so frail that he was unlikely to survive the surgery. Finally, the balancing act between his anti-rejection meds, his kidney meds, and his pneumonia meds could no longer be sustained. He was admitted to Sanford's excellent palliative care unit, where only comfort measures were applied. He died a week later, at peace and without suffering. His entire family was around him, even his dog. He wasn't alone for a single minute during that time. This would not have been possible with a personhood measure in place. He would have been forced to accept futile and painful intensive care he no longer wanted or needed.

Personhood would interfere with medical decision making at both the beginning and the end of life. Personhood discriminates against women in particular. Personhood interferes with religious freedom by imposing a religious view of the beginning of life on those who don't agree. Personhood limits the care that women of reproductive age can receive for any medical problems, not just abortions. Personhood turns back the clock on medical advances like genetic therapy, in vitro fertilization, organ transplantation, and hospice care.

I urge you to vote NO against SCR 4009.

#8

Senate Bill 4009

Testimony, Courtney Schaff

Thank you Mr. Chairman and members of the committee:

My name is Courtney Schaff, from District 21 in Fargo. I am a senior at North Dakota State University and I will graduate with a degree in Women and Gender Studies. My testimony today is not based on concrete statistics or a professional position, but as a citizen who was born, raised, and educated in North Dakota. I vote, pay taxes, and volunteer in my Fargo community and am committed to the betterment and growth of our state. I am asking you, as my elected law makers, to respect, trust, and defend the federal right of a woman to choose for herself and her family, when she is best able to provide the optimal emotional, physical and financial support for her children. I ask the committee for a DO NOT PASS on Senate Bill 4009.

#9

3/13/2013

Maria Wanchic District 35

319 East Capitol Ave

Bismarck ND 58501

255-3161 or 390-2377

mwanchic@hotmail.com

Testimony in favor of SB2303, 2305, 2368, 4009

Mr. Chairman and honorable members of the committee:

My name is Maria Wanchic and I've lived here in the Bismarck/Mandan area my whole life. I am honored to be here today testifying in support of Senate Bill 2303, 2305, 2368 and 4009. My testimony will last about 10 minutes.

I'd like to play a few short audio clips from the Roe vs Wade oral arguments. It's not my intention to construe the words of anyone in these clips but only to call attention to the number of times the question of the unborn as persons comes up. (you can listen to the entire audio clip at www.oyez.org)

(audio clip, tracks 1-7) [4]

Throughout the one hour of Roe vs. Wade oral arguments the question of personhood for the unborn is discussed over and over again. As Justice Potter Stewart says answering that question is "critical to this case". However, after the much anticipated ruling it was revealed that the Supreme Court would be silent on this critical question. In the final analysis, the Supreme Court contradicted itself, flipped a coin on the question of life and chose to make freedom of choice the law of the land completely wiping off the board decades of various state anti-abortion laws. [11]

Justices White and Rehnquist could not find a constitutional basis to allow for abortion on demand. Justice White wrote in his dissenting opinion:

> *"I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions and announces a new constitutional right for pregnant women and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes."* [5]

In the Supreme Court's view state laws against abortion infringed upon the 14th amendment right to personal liberty. The court had twisted the concept of personal liberty to mean private choices. But private choices are limited when they adversely affect other people or even the individual person. This would be the case with abortion because it's a decision to end the life of another person. States restrict personal liberty all the time in the cases of suicide, drug use, smoking, underage drinking, seat belts, and speed limits. Personal liberty is trumped by the protection of human life. **(see note A)**

Later on in his career, Justice White made repeated attempts to overrule Roe vs Wade. In describing the right to abortion on demand he wrote,

> *"In so denominating that liberty, the Court engages not in constitutional interpretation, but in the unrestrained imposition of its own extraconstitutional value preferences."* [6]

#9 pa

In other words, the Supreme Court fashioned this new so called right based on a the whim of the age and personal preference, not on the constitution or even on any prior court cases. [7]

The Ninth Amendment

Another argument for abortion on demand used the 9th amendment by stating that abortion was an unenumerated right (or a right not specifically spelled out in the constitution) retained by the American people. Under the meaning of the ninth amendment the state laws had already set the precedence that abortion was NOT a right retained by the American people. When the civil war ended in 1865, 26 out of 36 states had already banned abortion. [8] By the year 1900 every state had anti-abortion laws in place. [9] The people had spoken. The 1973 ruling nullified the strict anti-abortion laws of 20 states who defended the unborn for over a century. [10]

During the mid 1800's as medical research discovered that life begins at conception rather than at quickening (which is when the mother first feels the fetus move), it became a firm resolution in the minds of medical professionals that unborn life must be preserved and defended. [11] The American Medical Association in a declaratory statement presented to Congress in 1857 used strong language against the increasing practice of abortion on demand. I quote:

> *"...this body, representing, as it does, the physicians of the land, publicly express its abhorrence of the unnatural and now rapidly increasing crime of abortion; that it avow its true nature, as no simple offence against public morality and decency, no mere misdemeanor..."* [12]

The Declaration of Independence

The Declaration of Independence, the foundation of the constitution, asserts that we are created equal, not born equal and nothing has to be done or accomplished to attain the right to life. Simply to be in existence is enough. **By condoning abortion on demand, the Supreme Court condoned the civil right (or privileged right guaranteed by a government) to take a human right (or God-given right bestowed by the Creator) away from those who can not speak for themselves. The right to be born is a human right.**

The 14th Amendment

The 14th amendment elaborates on the declaration's basis of human rights for persons. Mrs. Weddington, the attorney who argued the case against Texas in Roe vs. Wade admitted that if a fetus was a person with constitutional rights then she would have a very difficult case. She reasoned that fetus' have no protection under the 14th amendment because they are not yet born as citizens of the United States.

This reasoning assumes that because a person does not become a citizen until after birth that they have no rights guaranteed by the Constitution. However the framers of our constitution used both the words, citizen and person in the 14th amendment to describe who's life specifically is protected . You do not need to be a citizen to have your right to life protected. **(see note B)** Legal and even illegal immigrants to the US still have the same basic protection under the constitution. [13] If you are a person (born or unborn) and if you are within the borders of the US then your right to life specifically is protected by the 14th amendment.

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An Appeal to Objective, (Self-evident) Truths

Over the last 20 years I have become grateful to those individuals who were pro-choice who were calm and respectful enough to have good dialogues. And what I've learned from those conversations is this: although there are many out there who believe abortion to be a right, when it comes down to it, the vast majority believe abortion to be a necessary wrong-doing or a necessary evil. I have heard over and over again a laundry list of social issues that make abortion on demand necessary in their eyes.

But this is my point: death should never ever be the answer to any social problem. Abortion on demand is not the way to deal with with unwanted human beings. When a society sees death as a solution to any issue then that society has lost it's wisdom and when a society raises death on a pedestal as a constitutional right, under the guise of personal liberty, indeed it has lost it's hope and when a people are pitted against their own future generation they are truly under some form of slavery.

George Washington said, liberty has an ordering to it. [14] We see this in the Declaration of Independence and the Constitution. Life is the first right mentioned, followed by liberty. Mr. Chairman, Committee Members, and fellow citizens, true freedom, true liberty, begins inside the heart of a person who chooses responsible citizenship which keeps the common good in mind and does not raise individual free will up as the highest moral good. Many in our current culture think free will is equal to freedom. Free will is only a tool that can be used for good and evil. A very very powerful tool that carries with it an awesome responsibility to act in truth and self-sacrifice. I think most North Dakota's understand this concept.

Through these pro-life bills we have a momentous opportunity to raise the dignity of the unborn to persons in North Dakota. We can become the first state in the nation to reclaim our true pro-life heritage. Although these bills are big step forward to ending abortion we also need to (both publicly and privately) always encourage an environment that supports family, community and personal responsibility.

Lastly I'd like to make an appeal to the same God that our founders constantly referred to. John Adams said,

"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."

The right to life is a human right which surpasses all jurisdictions and national boundaries. It is given by God himself. It is our very soul, bequeathed by the Creator, that raises the dignity of life to that of God himself. It is this sacred gift which warrants the right to live and experience life on earth. It is a God-given right for each and every human being to be born into this world and to live out their own unique story within it.

I ask you once again to vote a DO PASS on these historic bills. Thank you for your time and attention.

Notes

A. In the case of assisted suicide personal liberty has been given a higher status then protecting life. Only three states allow assisted suicide: Washington, Oregon, Montana. I also believe this to be unconstitutional.

B. The rights protected by the constitution of foreign nationals have been abused in my opinion since the attacks of 9/11. In the pre-9/11 days immigrants were given much more freedom then they do now.

References

[1] http://www.onelook.com/ "person"

#9 p4

[2] http://www.onelook.com/ "human being"

[3] http://www.princeton.edu/~prolife/articles/embryoquotes2.html

[4] http://www.oyez.org/cases/1970-1979/1971/1971_70_18#reargument

Track 1:
Justice Byron R. White: Well, what if-- would you lose your case if the fetus was a person?

Track 2:
Ms Weddington: If the state could show that the fetus was a person under the Fourteenth Amendment or under some other amendment or part of the constitution, then you would have the situation of trying-- you would have a state compelling interest which, in some instances, can outweigh a fundamental right.

Track 3:
Justice Harry A. Blackmun: Well, do I get from this then that your case depends primarily on the proposition that the fetus has no constitutional rights?

Track 4:
Justice Potter Stewart: ... if you're correct in your basic submission that an unborn fetus is a person, then abortion law such as that which New York has is grossly unconstitutional, isn't it?

Mr. Flowers: That's right.

Yes, sir.

Justice Potter Stewart: Allowing the killing of people.

Mr. Flowers: Yes, sir.

Justice Potter Stewart: Of persons.

Track 5:
Justice Potter Stewart: Well, if it were established that an unborn fetus is a person within the protection of the Fourteenth Amendment, you would have almost an impossible case here, would you not?

Ms Weddington: I would have a very difficult case. [Laughter]

Justice Potter Stewart: You certainly would because you'd have the same kind of thing you'd have to say that this would be the equivalent to after the child was born.

Ms Weddington: That's right.

Justice Potter Stewart: If the mother thought that it bothered her health having the child around, she could have it killed.

Isn't that correct?

Ms Weddington: That's correct.

Track 6:
Justice Potter Stewart: How should we-- how should that question be decided?

Is it a legal question, a constitutional question, a medical question, a philosophical question, a religious question, what is it?

Track 7:
Justice Potter Stewart: And the basic constitutional question initially is whether or not an unborn fetus is a person, isn't it?

Mr. Flowers: Yes, and entirely to the constitutional perspective.

Justice Potter Stewart: It's critical to this case, is it not?

Mr. Flowers: Yes, sir, it is...

[5] Wikipedia "Roe v. Wade", http://en.wikipedia.org/wiki/Roe_vs._Wade

[6] http://www.endroe.org/dissentswhite.aspx

And again, the fact that many men and women of good will and high commitment to constitutional government place themselves on both sides of the abortion controversy strengthens my own conviction that the values animating the Constitution do not compel recognition of the abortion liberty as fundamental. In so denominating that liberty, the Court engages not in constitutional interpretation, but in the unrestrained imposition of its own extraconstitutional value preferences.

[7] http://scholar.google.com/scholar_case?case=7628572659420117309&hl=en&as_sdt=2&as_vis=1&oi=scholarr

[8] https://bearspace.baylor.edu/Francis_Beckwith/www/Sites/RoeLiberty.pdf (pg. 52)

[9] http://en.wikipedia.org/wiki/Abortion_in_the_United_States

[10] http://supreme.justia.com/cases/federal/us/410/113/case.html (see footnote 3/2)

[10] http://supreme.justia.com/cases/federal/us/410/113/case.html (see footnote 3/2)

[11,12] www.ama-assn.org, click on About AMA, click on Our History, click on AMA Digital Collection, The Transactions of the American Medical Association , Author: American Medical Association, Publication Date: 1859, Page 76

[13] http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1302&context=facpub

For more than a century, the Court has recognized that the Equal Protec-tion Clause is "universal in [its] application, to all persons within the territorial jurisdiction, without regard to differences of ... nationality." The Court has repeatedly stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."

[14] http://www.acton.org/pub/religion-liberty/volume-8-number-5/renewing-our-experiment-ordered-liberty

The Founding Fathers, he noted, "asserted their claim to freedom and independence on the basis of certain 'self-evident' truths about the human person: truths which could be discerned in human nature, built into it by 'nature's God.' Thus, they meant to bring into being, not just an independent territory but a great experiment in what George Washington called 'ordered liberty': an experiment in which men and women would enjoy equality of rights and opportunities in the pursuit of happiness and in service to the common good."

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Handed in

#10

Testimony on SCR 4009
House Human Services
March 13, 2013

Chair Weisz and Members of the Committee:

My name is Janelle Moos. I am speaking this morning on behalf of CAWS North Dakota in opposition to SCR 4009.

Our Coalition is a membership based organization that consists of 21 local domestic violence and rape crisis centers located throughout the state that provide services to domestic violence, sexual assault, and stalking victims in all 53 counties and the reservations in North Dakota. Last year alone, these centers provided services to nearly 900 victims of sexual assault.

Although our Coalition does not have a policy position on abortion, we are united in our concern for victims of sexual assault and incest. SCR 4009, from our perspective, would ban all abortion, even for rape and incest victims. We aren't here today to debate the issue of abortion itself; so we will limit our testimony to the specific exclusion of these exemptions for rape and incest survivors in HCR 4009.

According to the National Victim Center and National Crime Victims Research and Treatment Center's study entitled Rape in America: A Report to the Nation (1992) "pregnancy from rape occurs with "significant frequency". Of the estimated 12% of adult women in the United States that have experienced at least one rape in their lifetime, 4.7% of these rapes resulted in pregnancy. Another study estimated that 25,000 pregnancies following the rape of adult women occur annually (Stewart & Trussell 2000). It's difficult to determine with certainty the outcome of the approximate 25,000 rape-related pregnancies that occur in the US, but one

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study indicated that 26% of women pregnant through rape underwent abortions. Of the 73% of women who carried their pregnancies to term, 36% placed their infants up for adoption and 64% raised their children they conceived through rape (Reardon et al 2000).

I am not here today to tell you that all survivors should or even want to have abortions; but they should have a choice. We believe that since we cannot fully understand the path that brought them to us we cannot make that very difficult decision for them. This is about allowing a person who has had all decision making powers taken away from them as a result of the assault to make a very important and personal decision about their health, their family, and their future. This bill all but eliminates that option.

I urge a DO NOT PASS on HCR 4009.

Thank You.