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Draft

SUBJECT:            Actions on the Anniversary of Roe v. Wade

This memorandum raises an important issue for your decision: whether the Administration should submit legislation to prohibit federal funds from being used either directly or indirectly to perform or refer for abortion.

#### Background

On January 22, the nation will mark the 14th anniversary of this Supreme Court decision granting, under specified circumstances, the right to abortion. You have taken a strong stance in prior years regarding the need to remove this interpretation of the Constitution. The issue now is whether the Administration should submit to the Congress legislation that will prohibit Federal government funds from being used to: (1) perform abortions except where the life of the mother would be endangered if the unborn baby were carried to term; (2) support through the Public Health Service's Title X family planning grant or contract any organization, (except a grant or contract directly administered by a State or local government) which provides abortion or referral for abortion, unless the life of the mother would be endangered.

In your remarks last year to the March for Life you called the right to life our most basic civil right. Now a broad range of prolife, religious, and other leaders have asked that the Administration submit to the Congress the attached legislation to implement that principle by separating the Federal government from the performance of and referral for abortion.

In the past this Administration has supported similar bills presented in Congress. This year, by submission of your own legislation, you will be taking a new step to strengthen this Administration's commitment to the Right to Life.

#### Provisions of the Proposed Legislation

The proposed legislation states that abortion takes the life of a living human being, that a right to abortion is not secured by the Constitution, and that the Supreme Court erred in Roe v. Wade in not recognizing the compelling interest of the states to protect life before birth.

The first substantive provision consists of the language of the Hyde amendment restriction on Federal government funding of abortion to only those cases where the life of the mother would be endangered. Under current circumstances the Hyde amendment must be attached each year to the annual appropriations bill for the Department of Health and Human Services. A permanent Hyde amendment has already been attached to the Department of Defense authorization act with your support. The proposed legislation would extend this approach by enacting the Hyde amendment on a permanent, government-wide basis.

The bill's second provision provides that no appropriated funds under Title X of the Public Health Services Act shall be awarded by grant or contract to any organization, (except a grant or contract directly administered by a State or local government) that provides abortion procedures or refers for abortion unless the life of the mother is endangered.

#### Discussion

The findings section of the bill does not have the force of law, but would place the Congress on record with you in calling upon the Supreme Court to reverse Roe v. Wade. The second section of the bill, by extending the Hyde amendment as a permanent, government-wide restriction, would essentially bring to an end the continuing abortion debate during each year's appropriation cycle. It does not alter your policy in regard to the use of appropriated funds.

The third provision of the bill would reform federally supported family planning programs. The rationale of this provision follows the principle of federal civil rights law that no grant or contract may be made to an organization engaged in discrimination. This proposal was endorsed by the Department of Health and Human Services in 1985, but was not voted on by the 99th Congress.

This third provision is patterned on a Kemp-Hatch amendment proposed to the FY 1986 Continuing Resolution to limit Federal family planning funds under Title X of the Public Health Service Act to organizations supporting abortion. It is consistent with your view of the right to life as the basis civil right. By providing an exception for those programs which are directly administered by State or local governments, the bill accomodates those small number of states presently under court order to provide or finance the performance of abortions. Those States which are presently the sole Title X grantee and therefore directly administer Title X funds, would not be affected by the provision. The provision is limited only to Title X funds; it would not affect federal funds made available through other programs such as Medicaid, the National Institutes of Health research grants, or health or social services block grants.

Decision

\_\_\_\_\_ Submit legislation to the Congress that would prohibit Federal government funds from being used to: (1) perform abortions except where the life of the mother would be endangered if the unborn baby were carried to term; (2) support through Title X family planning grant or contract any organization (except a grant or contract directly administered by a State or local government) which provides abortion procedures or referral for abortion, unless the life of the mother would be endangered.

\_\_\_\_\_ Do not submit legislation.

\_\_\_\_\_ Other

standing the ways in which government policies have affected, often adversely, family life in our nation. Our Administration will also submit legislation implementing the recommendations contained in the report. These will include the preparation of an Executive Order directing all Federal departments to examine the impact on families of current and new programs, legislation, and contracts; and steps to ensure that sex education financed with Federal government support or funds is value-based.

Since 1973, after a divided Supreme Court ruled in Roe v. Wade, over 20 million babies have perished in our land due to abortion. This toll continues to climb -- despite medical proof of when life begins and the growing desire for millions of young couples to adopt. <sup>to further my commitment</sup> ~~Again this year~~, I will submit legislation to protect the rights of unborn children. Our proposals would <sup>this year</sup> prohibit Federal government funds from being used to: (1) perform abortions except when the life of the mother is endangered; or <sup>if the</sup> ~~unborn baby were carried to term~~ (2) ~~support any organization through grant or contract providing abortions or referral for abortion, unless the life of the mother is endangered.~~ In addition, let us end this tragedy altogether by passing the human life amendment. <sup>(2) support through TIFLEX</sup> ~~Family Planning grant or contract any organization (either a grant or contract directly administered by a state or local government) which provides abortion procedures or referral for abortion, unless the life of the mother would be endangered.~~

Our nation's health care system is the finest in the world, yet it is also an expensive system with costs that are continuing to rise faster than the rate of inflation. Our Administration has worked since 1981 to create incentives that would keep health costs down and encourage more competition in health care delivery. In 1987, I will again ask Congress to pass legislation to restrain the rapid growth of Federal health spending by expanding the principle of a private health plan option -- paying a fixed, predetermined price for health services -- in Medicare and Medicaid. Our Administration will also propose that Medicare payments to doctors with practices in hospitals be incorporated

*ADD SECTION  
ON GOTA MESSAGE*

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\_\_\_\_\_ Do not submit legislation.

\_\_\_\_\_ Other

SEC. \_\_\_\_ Congress finds that--

(a) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(b) a right to abortion is not secured by the Constitution of the United States; and

(c) in Roe v. Wade (410 U.S. 113) and Doe v. Bolton (410 U.S. 179), the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the several states to protect the life of each person before birth.

SEC. \_\_\_\_ No funds appropriated by Congress shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. \_\_\_\_ No funds appropriated by Congress pursuant to Title X of the Public Health Services Act, shall be awarded by grant or contract to any organization (except a grant or contract directly administered by a State or political subdivision thereof) that provides abortion procedures or referral for abortion procedures, unless the life of the mother would be endangered by carrying the fetus to term.