



SENATE REPUBLICAN

POLICY COMMITTEE

## Legislative Notice

No. 9

April 10, 2007

### **S. 5 and S. 30 – Legislation Related to Stem Cell Research**

Calendar No. 3

*S. 5 was placed on the Calendar via Rule 14 on January 8. S. 30 was introduced on March 29 by Senators Coleman and Isakson.*

#### **Noteworthy**

- Under a unanimous consent agreement reached on March 29, on Tuesday, April 10 at approximately 11:15 a.m. the Senate will consider en bloc two bills related to stem cell research. There will be no amendments or motions in order to either bill. There will be 20 hours of debate on the bills, equally divided (5 hours each for the Leaders or their designees, and 5 hours each for Senators Harkin and Brownback or their designees). Following the use or yielding back of time, the Senate will immediately proceed to votes on passage of the two bills, first S. 5 and then S. 30, without intervening action.
- The unanimous consent agreement also provides that any vote that does not result in 60 votes in favor of passage will be vitiated.
- S. 5 was introduced January 4, 2007 by Senator Reid. It is a modified version of H.R. 3, which passed the House January 11, 2007 by a vote of 253–174.
- The President has expressed support for S. 30, and has indicated he would veto both S. 5 and H.R. 3.

#### **Background**

Since 2001, the Bush Administration has allowed federal funding for human embryonic stem cell research for 21 lines derived before August 9 of that year. The Administration encourages pursuit of alternative methods of human stem cell research, but believes that taxpayer

dollars should not promote research that, in its view, destroys human life. Over the past six years, more than \$130 million of federal funds has been devoted to human embryonic stem cell research consistent with the President's policy. Overall, more than \$3 billion has gone to research on all forms of stem cells (embryonic, non-embryonic, and animal).

Proponents of S. 5 believe that as long as certain strict ethical guidelines are followed, federal funding for human embryonic stem cell research should be allowed on lines that may have been derived by destroying human embryos (using non-federal funds). They also back federal funding for alternatives to embryonic research.

Proponents of S. 30 hope to expand the President's policy by clarifying that certain embryonic research deemed not to harm embryos can be ethically acceptable and should be eligible for federal funding.

For more information about stem cell research, please see the Congressional Research Service (CRS) report *Stem Cell Research: Federal Research Funding and Oversight* (CRS Report RL33540, updated February 21, 2007) and *Stem Cell Research: Ethical Issues* (CRS Report RL33554, updated January 18, 2007). Also see the White House report *Advancing Stem Cell Science Without Destroying Human Life*: <http://www.whitehouse.gov/dpc/stemcell/2007/index.html>.

## **Bill Provisions**

### **S. 5**

S. 5, the Stem Cell Research Enhancement Act of 2007, is a modified version of H.R. 3. H.R. 3 passed the House in January and is identical to the 109<sup>th</sup> Congress' H.R. 810 (vetoed last year). The bill contains the language of H.R. 3 and of the 109<sup>th</sup> Congress' S. 2754. S. 2754, the Santorum-Specter "alternatives to embryonic research" bill, unanimously passed the Senate last year but never cleared the House.

The House language in S. 5 is comprised of three main provisions. The first lifts the August 9, 2001 date restriction and expands the number of embryonic stem cell lines eligible for federally-funded research. Embryonic stem cell lines would be eligible for federally-funded research regardless of the date on which they were derived.

Second, S. 5 includes the ethics requirements of H.R. 3. The provision states that human stem cell lines eligible for federally-funded research must be derived from human embryos that were created for, or in the course of, in vitro fertility treatments; that the treated individuals must no longer need the embryos and must have donated them to an in vitro clinic; that the individuals understand that the embryos will otherwise be discarded; and that the clinic obtain the individual's written informed consent without providing any incentive, financial or otherwise.

Third, S. 5 calls for the Secretary of Health and Human Services (HHS), in consultation with the Director of the National Institutes of Health (NIH), to issue final regulations

implementing the provisions of the bill within 60 days after the date of enactment. Each year after enactment, the Secretary will be required to prepare and submit to Congress a report detailing the research conducted in accordance with this bill during the previous fiscal year.

Just prior to the Easter recess, language from last year's S. 2754 was attached to S. 5. This language supports deriving new stem cell lines without "creating human embryos for research purposes or discarding, destroying, or knowingly harming a human embryo or fetus." Further, the language encourages NIH to fund such "alternative" research methods and to prioritize funding for those methods it deems most promising in the near-term.

Thus, S. 5 supports federal funding for research on both lines that are derived through human embryo destruction as well as those that are not.

### **S. 30**

S. 30, the Hope Offered Through Principled and Ethical Stem Cell Research (HOPE) Act of 2007, was introduced on March 29. The bill would limit federally-funded stem cell research not by date, but by whether it involves harming a human embryo. This policy has been carried annually since 1995 in the HHS appropriations bill. S. 30 would codify the policy, which specifically states that federally-funded research should not involve destroying or discarding embryos, or subjecting embryos to risk of injury or death greater than that allowed for research on fetuses in utero (according to the Public Service Act).

The bill states that certain broad categories of scientific methods for deriving embryonic stem cell lines could become eligible for federal funding. Among them are methods using "naturally dead" embryos and processes that create embryonic stem cells without creating or destroying an embryo itself. The bill defines "dead" as having "irreversibly lost the capacity for continued and integrated cellular division, growth, and differentiation that is characteristic of an organism even if some cells of the former organism may be alive in a disorganized state."

The legislation envisions that when some embryos naturally die, it may still be possible to derive stem cell lines from them. However, ethical review boards and NIH would have to decide whether the embryos died naturally, and not due to neglect or efforts to conduct research on them.

In addition, the HOPE Act requires the Institute of Medicine to conduct a study to recommend an optimal structure for an amniotic and placental stem cell bank program. The study would be submitted to HHS and to Congress no later than 180 days after enactment in order to begin the process of developing such a bank.

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### **Cost**

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The Congressional Budget Office (CBO) has not provided an estimate for either S. 5 or S. 30.

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## **Administration Position**

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Statements of Administration Policy (SAP) for both S. 5 and S. 30 were released April 10, 2007.

The SAP for S. 5 reads as follows:

The Administration strongly opposes Senate passage of S. 5, which would use Federal taxpayer dollars to support and encourage the destruction of human life for research. The bill would compel all American taxpayers to pay for research that relies on the intentional destruction of human embryos for the derivation of stem cells, overturning the President's policy that funds research without promoting such ongoing destruction. If S. 5 were presented to the President, he would veto the bill...

...The President believes that by enacting appropriate policy safeguards while encouraging the development of novel scientific techniques, it is possible to advance scientific and medical frontiers without violating moral principles. S. 5 fails to find that balance and is therefore deeply troubling to millions of Americans. The President urges Congress to pass an alternative bill that would advance stem cell research without encouraging destruction of human life.

The SAP for S. 30 reads as follows:

The Administration strongly supports Senate passage of S. 30, a bill to support and intensify research into techniques of deriving pluripotent stem cells without harming or destroying human embryos...

...The Administration does not believe science and ethics need be at odds. Scientists have shown they have the ingenuity and skill to pursue the potential benefits of stem cell research without endangering nascent human life in the process. By seeking intensified support for non-destructive alternatives, we believe we can advance medical research in valuable ways while respecting ethical boundaries that are vital to millions of American taxpayers.

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## **Possible Amendments**

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Pursuant to the unanimous consent agreement, no amendments will be in order to either bill.