

To: Editors, Reporters, and other interested persons

From: Douglas Johnson, Legislative Director, National Right to Life Committee  
(202) 626-8820, Legfederal@aol.com, www.nrlc.org

Re: Senator Tim Johnson and human cloning

Date: October 16, 2002

Senator Tim Johnson claims to support a ban on human cloning, but his claim is highly misleading. It is necessary to decode Senator Johnson's artful euphemisms and verbal evasions. When this is done, Senator Johnson's real policy position is clearly visible: Senator Johnson wishes to allow the mass cloning of human embryos, for the specific purpose of using them in experimentation that will kill them.

The cloning of human embryos for research is opposed by President Bush, Congressman Thune, 95% of the South Dakota legislature, and a substantial majority of the American people.<sup>1</sup> **Since Senator Johnson definitely supports the cloning of human embryos to be used in research, he should have the courage to state that position plainly, without hiding behind verbal smokescreens.** If Senator Johnson's position prevails in the U.S. Senate, then what President Bush called human "embryo farms" will soon open for business in the United States – and the public deserves a candid debate on that issue.

This is not a debate about "stem cell research" per se. This memo does NOT concern the question of whether human embryos, created by in vitro fertilization labs on behalf of infertile couples, should be used in medical research on stem cells or for other research purposes. In fact, there are many types of "stem cell research," including many types that involve no ethical controversies. This memo is concerned solely with *human cloning* and legislation in Congress dealing with human cloning.

## **WHY DOES ANYBODY WANT TO CLONE HUMANS?**

To clone an individual of any species, one removes the nucleus from a body cell of a living individual and places it inside of an egg cell from which the nucleus has been removed.

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<sup>1</sup>According to a national Gallup poll conducted in May, 2002, 61% oppose "cloning human embryos for use in medical research." A national poll conducted by International Communications Research in June, 2001, asked, "Should scientists be allowed to use human cloning to create a supply of human embryos to be destroyed in medical research?," to which 86% replied "no."

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This process is called “somatic cell nuclear transfer,” or SCNT. The re-nucleated egg is then “activated,” usually by an electrical shock. The resulting embryo outwardly appears as any other embryo of that species, but has virtually the same genetic makeup as that of the single parent. The first cloned mammal born alive was Dolly, a sheep, in 1996. Since then, a sharp debate has developed about whether human cloning should be permitted.

Biotechnology laboratories in the U.S. are currently attempting to use the cloning process to create human embryos for several different research purposes. Many human embryos would be grown to at least five days of age, then killed to harvest their stem cells. Other researchers wish to patent cloned human embryos who have specific genetic traits so that they can be used as “medical models” in various forms of laboratory testing, in a manner analogous to the way genetically standardized laboratory mice are now used. In addition, cloned mammals have been *grown in the womb* to various stages of development in order to harvest specific tissues or organs – a practice known as “fetus farming” – and these animal studies have been heralded as breakthroughs in “therapeutic cloning.”

### **FOR WHAT PURPOSE DOES SEN. JOHNSON FAVOR HUMAN CLONING?**

**All cloning using human genetic material creates a human embryo.** Congress must decide which of the following policies on human cloning to adopt: (1) ban the cloning of human embryos for any purpose; (2) permit cloning of human embryos for the purpose of using them in experimentation that will kill them (for example, by removing their stem cells) but prohibit implantation in a womb; or (3) permit implantation of a cloned human embryo in a human or animal womb for so-called “fetus farming” (that is, growing the cloned fetus to a certain stage of pregnancy before aborting in order to harvest specific tissues or organs), but prohibit the live birth of a cloned human embryo.<sup>2</sup>

**Senator Tim Johnson clearly *opposes* option no. 1, prohibiting all cloning of human embryos, which is the position favored by large majorities in public opinion polls, and by President Bush, Congressman Thune, and 95% of the South Dakota legislature.** Johnson favors banning “cloning for human reproductive purposes,” which is not a ban on human cloning, but a ban on allowing human clones to be born.

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<sup>2</sup>It is unclear how many weeks Senator Johnson would allow the cloned human embryos to develop. On April 12, 2002, Johnson co-sponsored a bill that would have permitted “fetus farming.” On April 29, NRLC wrote to Johnson explaining the implications of this bill and urging him to withdraw his cosponsorship. On June 10, the bill was revised to remove the language that would have allowed “fetus farming.” On July 19, Johnson withdrew his cosponsorship, so we will not pursue the “fetus farming” issue in this memo. For details, see [www.nrlc.org/Killing\\_Embryos/DorganJohnson050802.html](http://www.nrlc.org/Killing_Embryos/DorganJohnson050802.html).

A “ban” on “reproductive cloning” allows any number of human embryos to be created by cloning, but it makes it a crime to allow any such human embryo to live past a certain age. **Any bill that allows human embryos to be cloned and then prohibits their birth amounts to a federal legal requirement that every cloned human embryo must be killed. That is why pro-life forces call the approach advocated by Johnson a “clone and kill” policy.** As President Bush observed during an April 10 speech urging the Senate to pass a ban on all human cloning, “[A] law permitting research cloning, while forbidding the birth of a cloned child, would require the destruction of nascent human life.”

### **DOES CLONING REALLY CREATE A HUMAN EMBRYO?**

Over the past year there has been a concerted effort by the biotech industry and others to persuade the public that the process should not really be called cloning, and/or that it will not really create a “human embryo.” But many scientific authorities, including leading cloning researchers, as well as federal bioethics panels appointed by both President Clinton and President Bush, have stated flatly that somatic cell nuclear transfer is indeed “cloning” and will indeed produce a “human embryo.”

For example, as President Clinton's National Bioethics Advisory Commission, in its 1997 report *Cloning Human Beings*, stated: “The Commission began its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo, with the apparent potential to be implanted in utero and developed to term.”

More recently, in July of this year, the President’s Council on Bioethics, appointed by President Bush, issued its own in-depth report, *Human Cloning and Human Dignity*. The makeup of the current council is very diverse, and members separated into at least three groups when it came to making policy recommendations. But the council unanimously affirmed that the process of somatic cell nuclear transfer does indeed create a “human embryo,” and that the debate is precisely over whether to permit what the Council called “embryo cultivation.” For example, the Council wrote, “It would seem, then, that – whatever the reason for producing it – the initial product of somatic cell nuclear transfer is a living (one-celled) cloned human embryo. . . . Also, the blastocyst stage that develops from this one-celled cloned embryo will be the same being, whether it is then transferred to a woman’s uterus to begin a pregnancy or is used as a source of stem cells for research and possible therapy for others.” (see [www.bioethics.gov/cloningreport/](http://www.bioethics.gov/cloningreport/))

South Dakota law is completely consistent with these authorities. **South Dakota statute 34-14-20 explicitly defines “human embryo” as “a living organism of the species *Homo sapiens* at the earliest stages of development (including the single-celled stage) that is not located in a woman's body.”**

### **“UNFERTILIZED EGG”?**

We have attached to this memo a copy of the form letter on the human cloning issue that Senator Johnson has been sending to constituents for some time. In this letter, Johnson says that the type of cloning he supports “does not involve a fertilized egg, sperm, or a womb.” This is clearly language intended to mislead. *After all, no form of cloning involves “fertilization” by sperm, including cloning-for-birth.* There are now many cloned mammals in the world, and not a single one of them involved a “fertilized egg” or sperm. A cloned human being would be “unfertilized” as an embryo, “unfertilized” as a six-month-old fetus, “unfertilized” as a newborn, and “unfertilized” as a 50-year-old. Would that make her any less human? Of course not. She would be a human being, just as Dolly is a sheep. Thus, Senator Johnson’s reference to the “fertilized egg” and “sperm” is merely a verbal dodge.

### **PRESIDENT BUSH’S POSITION**

In his April 10 speech urging a ban on all human cloning, President Bush said, “I believe all human cloning is wrong, and both forms of cloning ought to be banned.” The President said, adding, “It would be a mistake for the United States Senate to allow any kind of human cloning to come out of that chamber.” He said that allowing cloning of human embryos for research “would contradict the most fundamental principle of medical ethics: that no human life should be exploited or extinguished for the benefit of another.” The result of such a policy would be human “embryo farms,” the President warned. (The speech is at <http://www.whitehouse.gov/news/releases/2002/04/print/20020410-4.html>)

The President’s position was reiterated in a letter from Tommy Thompson, secretary of Health and Human Services, dated May 15, 2002: “In short, the President does not believe that ‘reproductive’ and ‘research’ cloning should be treated differently, given that they both require the creation, exploitation, and destruction of human embryos. . . . I know that the President would very much like to sign a comprehensive bill that unequivocally bans all human cloning. I am equally certain, however, that the Administration could not support any measure that purported to ban ‘reproductive’ cloning while authorizing ‘research’ cloning, and I would recommend to the President that he veto such a bill.”<sup>3</sup> (For the

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<sup>3</sup>Even aside from the *ethical* objections to allowing “human embryo farms,” there are huge impracticalities in attempting to control cloned human embryos after they are created, rather than preventing their creation in the first place. What investment of federal law enforcement resources would be required to seek to prevent any of countless (potentially, millions) of cloned human embryos from being implanted in wombs and carried to birth? Some of the practical objections were presented by the U.S. Department of Justice in May 15, 2002 testimony to a U.S. House subcommittee (see [www.nrlc.org/Killing\\_Embryos/Justice\\_Dept\\_on\\_cloning.pdf](http://www.nrlc.org/Killing_Embryos/Justice_Dept_on_cloning.pdf)).

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complete letter, see [http://www.nrlc.org/Killing\\_Embryos/ThompsonoBrownback.pdf](http://www.nrlc.org/Killing_Embryos/ThompsonoBrownback.pdf).)

### CONGRESSMAN THUNE'S POSITION

On July 31, 2001, the House of Representatives passed, 265-162, a bill to ban all human cloning (the Weldon-Stupak bill, H.R. 2505). Before passing this bill, the House rejected a substitute proposal (the Greenwood-Deutsch Amendment) that would have allowed the cloning of human embryos for research but not for implantation in a womb. **Congressman Thune opposed the substitute and voted to pass the Weldon-Stupak bill.**

In the Senate, the Weldon-Stupak legislation was introduced by Senators Sam Brownback (R-Ks.) and Mary Landrieu (D-La.) as S. 1899, and eventually gathered 31 total sponsors. However, Senator Majority Leader Tom Daschle (D-SD) came out against the bill, and instead endorsed the competing clone-and-kill legislation proposed by Senators Dianne Feinstein (D-Ca.), Arlen Specter (R-Pa.), and others. (This bill, backed by the biotechnology industry lobby, has been introduced in various versions, including S. 2439.) Daschle never brought any of the legislation dealing with human cloning before the full Senate for a vote. **Because the Senate has not acted, human cloning remains legal in most states, and "human embryo farms" remain a real and imminent possibility in the United States.**

### SOUTH DAKOTA LEGISLATURE'S POSITION

The killing of human embryos in experimentation has already been made *illegal* in South Dakota. (See Title 34, Chapter 14, Sections 16 through 20) This law would apply to cloned human embryos just as much as any other human embryos.

Moreover, the South Dakota legislature has also spoken very explicitly to what it believes the *national* policy on human cloning should be, in Senate Concurrent Resolution 13, a resolution specifically directed to the United States Senate. The resolution was approved in February 2002 by votes of 32 to 1 in the state senate and 63 to 4 in the state house.

A copy of SCR 13 is attached. In brief, the resolution (1) strongly urges the U.S. Senate to pass the Brownback bill to ban ALL human cloning, and (2) explicitly rejects the position that only "reproductive cloning" should be banned. Despite the support for this resolution by 95% of the state legislators who voted, including the overwhelming majority of Democrats, Senator Johnson has taken precisely the position that this resolution condemned.