

# Report from the Capital

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NEWSLETTER OF THE BAPTIST JOINT COMMITTEE

## House bill would allow religious discrimination

The House of Representatives has passed a bill that would allow religious organizations receiving federal dollars to discriminate in hiring.

The measure passed on a largely party-line vote, in spite of vocal opposition from congressional critics who say it would roll back important civil rights protections and violate the First Amendment's guarantee of religious freedom.

On May 8, the Republican-controlled House passed the Workforce Reinvestment and Adult Education Act (H.R. 1261) on a 220-204 vote. The bill, which would reauthorize funding for federal job-training programs, includes a provision that would repeal a civil rights protection contained in the law's earlier versions.

That provision prevented organizations receiving direct government funding for such programs from denying a job to an applicant on the basis of his or her religious beliefs. Federal civil rights laws from the 1960s prevent employers from discriminating on the basis of religion but contain special exemptions that allow churches and similar religious organizations to hire only adherents of their own faith.

However, several federal programs deny government contracts and funding to groups that practice job discrimination on any grounds, including religion.

The provision that the Workforce Reinvestment Act would remove from existing federal law has existed since 1982. Ironically, it was part of



BJC's Brent Walker (center) with U.S. Reps. Chris Van Hollen Jr. (left) and Chet Edwards at Capitol Hill press conference.

legislation sponsored by then-Sen. Dan Quayle, R-Ind., and signed into law by Republican President Ronald Reagan.

But President Bush and most congressional Republicans have charged that religious organizations should be able to compete on the same basis as secular groups in providing social services with government funds. They contend that requiring religious organizations to adopt non-discriminatory hiring practices to receive federal funds would cause them to compromise their character.

But critics of the provision said that was not acceptable with federal dollars. U.S. Reps. Chris Van Hollen Jr., D-Md., Barney Frank, D-Mass., Bobby Scott, D-Va., and Chet Edwards, D-Texas, joined J. Brent Walker, executive director of the Baptist Joint Committee, and Rabbi David Saperstein, director of the Religious Action Center of Reform Judaism, at a May 7 Capitol Hill press conference.

"The idea of citizens having to pass someone else's religious test to qualify for a federally supported job was settled by our founding fathers," said Edwards, a frequent congressional activist on religious freedom issues.

Walker said that "while allowing religious organizations to discriminate in the private sector is a welcomed accommodation of religion, to subsidize religious discrimination is arguably unconstitutional and, in any case, an unconscionable advancement of religion.

"How strange to have a program to train people for a new job, but deny others a job if they don't practice your religion," Walker added.

House leaders passed the legislation without allowing debate or an up-or-down vote on an amendment that would have stricken the offending employment discrimination language. Van Hollen and several colleagues offered the amendment. In March it was rejected, on a party-line vote, in the House committee dealing with the bill.

Van Hollen and his allies made another attempt May 7 to get the amendment included in the bill in the House Rules Committee, which determines what amendments may be considered on legislation that comes to the House floor. The committee voted, again strictly along party lines, to not allow opponents to offer an amendment striking the employment discrimination provisions.  $\Delta$

— Robert Marus  
Associated Baptist Press

## NewsMakers

◆ Interfaith Alliance president **Welton Gaddy** has written a letter to senators opposing President Bush's nomination of a man described as "anti-Islamic" to a federal position. Bush nominated Daniel Pipes to the board of directors of the U.S. Institute of Peace, a federal "think tank" devoted to promoting peaceful solutions to world problems.

◆ Washington, D.C., Mayor **Anthony Williams** has reconsidered his opposition to school vouchers, stating that he supports private school vouchers as a way to improve D.C.'s school system. "We are willing to try an experiment," Williams told *The Washington Post*. Critics of vouchers, including Del. **Eleanor Holmes Norton**, D-D.C., said the mayor's position change appeared to be a deal between Williams and the Bush administration, which has sought to turn Washington into a model for such a voucher plan.

◆ Judge **Robert B. King**, writing the opinion for a three-judge panel of the 4th U.S. Circuit Court of Appeals, said Virginia Military Institute's tradition of prayer before evening meals is unconstitutional. "Put simply, VMI's supper prayer exacts an unconstitutional toll on the consciences of religious objectors," he wrote. The decision upheld a lower court ruling, *The Associated Press* reported. △

## House rejects voucher bids; Colorado OKs measure

In the first congressional floor votes on private school voucher programs since the Supreme Court declared them legal last year, members of the House of Representatives decisively turned down two attempts at adding voucher proposals to a federal education bill. But controversy still looms around the issue, and Colorado recently became the first state since the court's ruling to enact a voucher program.

In reauthorizing the Individuals with Disabilities Education Act (IDEA), House members rejected attempts by two lawmakers to add voucher proposals to the bill April 30. Lawmakers first voted down a voucher amendment offered by Rep. Jim DeMint, R-S.C., that would have allowed parents of disabled children to receive government funding to pay for tuition at private schools, including religious schools. The amendment would have allowed such schools to discriminate on the basis of religion, gender or disability in admission of students. It failed by a vote of 240-182.

Then representatives voted down a similar amendment offered by Rep. Marilyn Musgrave, R-Colo. It would have transferred federal funds to private schools that offered learning programs for the disabled. It failed on a vote of 246-176.

"Contrary to what people claim, vouchers do not increase parents' choice," said Rep. Lynn Woolsey, D-Calif., in opposing DeMint's amendment. "Private schools can and do discriminate for a variety of reasons. They can refuse to take a student for any reason, including the student's disability. So when it comes to vouchers, it is not the parents who have the choice; it is the private school. Whatever choices a private school makes, it does not have to let parents or the public know why."

But Rep. John Boehner, R-Ohio, chairman of the House Committee on Education and the Workforce, emphasized the idea of "school choice" provided in the amendment rather than calling it a "voucher" proposal. "The amendment does not, as has been claimed by some critics, provide vouchers," Boehner said. "It simply affords states the flexibility they are seeking to provide individualized options for students with disabilities."

Rep. James Clyburn, D-S.C., said Boehner's argument was Orwellian. "Yesterday, it was 'choice.' Today, it is 'options.' Tomorrow, there is no telling what we will call it. But by whatever name

we may call it, however we may cloak it, this is about vouchers," Clyburn said.

But despite recent defeats for vouchers in legislatures and at the polls, voucher proposals are not dead. On April 16, Colorado Gov. Bill Owens signed a bill creating a program that provides \$5,000 scholarships to students in underperforming state school districts. Students may spend the vouchers on tuition at private schools, including religious ones. (ABP) △

## White House supports 'under God' in Pledge

The Bush administration has asked the Supreme Court to overturn a lower court's ruling on the Pledge of Allegiance without listening to arguments in the case.

Solicitor General Ted Olson, acting on behalf of the White House, filed a motion asking the justices to overturn a June 2002 decision by the 9th U.S. Circuit Court of Appeals, based in San Francisco.

That ruling declared the teacher-led recitation of the Pledge in public schools with the phrase "under God" included is an unconstitutional government establishment of religion. It also declared Congress' 1954 act inserting the phrase into the Pledge — which had existed since the late 1800s without it — was unconstitutional.

The ruling came in response to a suit filed by self-described atheist father Michael Newdow, who said a California school district violated his elementary school-aged daughter's rights by requiring teachers to lead the Pledge every day. Earlier Supreme Court decisions have affirmed the right of children to opt out of saying the Pledge. But Newdow said that was not enough because the endorsement of the Pledge by his daughter's taxpayer-funded teacher in her public school classroom created a coercive effect.

The San Francisco court's decision was greeted by an overwhelming public outcry in opposition. The court later declined to review the case en banc. But the judges did limit the decision's scope and delay its implementation.

Olson, in his filing for the Bush administration, said the phrase's recitation by public school teachers does not violate the Constitution.

"Whatever else the First Amendment's Establishment Clause may prohibit, this court's precedents make clear that it does not forbid the government from officially acknowledging the religious heritage, foundation and character of this nation," Olson wrote. (ABP) △

## Each generation plays a role in preserving Baptist heritage

Recently I have been thinking a lot about religious hostilities, what true freedom means and the things for which I would be willing to die. We have been freshly reminded that war creates an environment in which the best and worst of our humanity surfaces. Through the common thread of our humanity, we are connected to other times and other places when war loomed.

While researching the early history of church-state separation, I was drawn to the role of Anabaptists and to the novel *Will Campbell* constructed in their memory — *Cecelia's Sin* (1983). As Campbell

explains in his introduction, *Cecelia's Sin* was not so much a book he decided to write as a book that found him. In my reading of it, I felt much the same way.

While news reports of an impending war hummed and security rainbows flashed yellow and orange, I delved into the soul of a book set in the 16th century about a group of people hunted down like animals for their beliefs, the same beliefs that I comfortably enjoy in America. The Anabaptists saw the European governments of the Reformation period as corrupt. The root of this corruption had to do with government collaboration with the church. Even after Martin Luther and John Calvin brought about new possibilities for faith, Protestant rulers, like many of the Catholic ones before them, wanted the royal seal to be part of what gave the church legitimacy. In turn, monarchs expected, even counted on, the holy seal of the church to give them authority. The ritual that sealed the deal was infant baptism; to be baptized into the church was to simultaneously become a citizen of the state.

Anabaptists came to believe that the only true baptism was a baptism that a person chose for himself/herself. Anabaptists refused to allow their infants to be baptized. That decision made them liable for treason. Because Anabaptists saw the damage that enforced religion inflicted on them, their families, their communities of faith and humanity in general, they became staunch church-

state separationists. They understood that as long as the state could choose a favored spiritual path and make it the law of the land, individuals could never have a truly authentic relationship with God. Campbell wrenchingly reveals this history as characters Pieter, Goris and Cecelia sit around the fire, seeking to

understand their faith sparked by a friend's betrayal that will finally lead to their deaths.

Pieter names their plight in a sobering moment when he states, "As long as the two of them are one there can never be community. There will not be Church. There will only

be State."

Anabaptist convictions and courage were seminal for many groups who came after them, including Baptists. Reading their story helped me understand how my story as a Baptist is connected to a much larger story of believers. Many of my spiritual ancestors and cousins endured persecution and faced death as testimony not only to their own faith, but as a down payment on a promise that I would be free to testify to mine. I hope that I never take their sacrifice for granted, and I hope that if ever called on I would be willing to do the same.

The Baptist principle of church-state separation has its origin in our belief that each believer freely makes the choice to follow Christ. Our emphasis on believer's baptism is intimately connected to soul freedom, to church freedom and to universal religious liberty. A free soul in a free church in a free state: this is the vision that makes us who we are as Baptists. Others died for this vision so that I could live it.

It is in the memory of their countless numbers and nameless faces that the Baptist Joint Committee fights. We may no longer fear the literal strike of whips on our backs, but we do take lashes from those across the ideological spectrum to maintain the security of that vision. We must continue the struggle in this time and place amidst new conflicts, because we work not only for ourselves but also for those who follow. △



**Stephanie Wyatt**

*BJC Intern*

## Evangelicals set out stance for Muslim dialogue

While affirming their right to proselytize, leaders of the evangelical Christian community issued guidelines May 7 to foster better relations between Christians and Muslims and criticized some prominent evangelicals' negative generalizations about Islam.

The guidelines were issued at a half-day forum sponsored by the National Association of Evangelicals and the Institute on Religion and Democracy.

It is dangerous to oversimplify Islam by labeling it, said Clive Calver, president of World Relief, the humanitarian arm of the National Association of Evangelicals.

"As evangelical Christians we disagree with Islam and we are allowed to disagree, but how we disagree is important," he said. "The question is, how do you disagree without being disagreeable?"

Participants were acutely aware of the public scrutiny of evangelical groups since the Rev. Franklin Graham, head of the aid organization Samaritan's Purse and son of the Rev. Billy Graham, called Islam a "wicked" religion. Similar views have been voiced by evangelical broadcaster Pat Robertson and the Rev. Jerry Falwell, a Southern Baptist preacher.

Other leaders have criticized the negative stereotypes of Islam, including the Rev. Randy Day of the United Methodist Board of Global Ministries, who called the public rhetoric of some Christians "not helpful." (RNS) △

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### Report from the Capital

**J. Brent Walker**  
Executive Director  
**Larry Chesser**  
Editor  
**Jeff Huett**  
Associate Editor

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## Faith groups support workplace freedom bill

An unusually broad coalition of religious groups is pushing a bill that would protect religious expression in the workplace, but civil liberties groups are concerned the bill could be used to advance on-the-job proselytizing.

The Workplace Religious Freedom Act, introduced recently by Sens. Rick Santorum, R-Pa., and John Kerry, D-Mass., would force employers to "reasonably accommodate" employees who want to wear religious articles or take off time for worship services.

Current law mandates that employers allow such expression as long as it does not impose an "undue hardship" on the company. Supporters, however, say a 1977 Supreme Court ruling gutted the law and has not protected employees' rights.

"America is distinguished internationally as a land of religious freedom," Santorum said in introducing the bill. "It should be a place where people should not be forced to choose between keeping their faith and keeping their job."

The American Jewish Committee, one of the bill's primary backers, points to cases like Amric Singh Rathour, who was fired as a New York City traffic cop after refusing to shave his religiously mandated beard or remove his turban. Rathour's suit against the city, filed in March, is pending. Religious groups say religious minorities are especially vulnerable to discrimination.

"We need a stronger position so that employers are not denying what is reasonable," said Clarence Hodges, director of public affairs and religious liberty for the General Conference of Seventh-day Adventists, who take Saturday as their Sabbath.

The employer mandate was inserted into Title VII of the federal Civil Rights Act in 1972. Five years later, however, the Supreme Court ruled that even a minimal hardship on employers was not covered under the act.

The new bill would define "undue hardship" as something that imposes "significant difficulty or expense" on the employer or that would keep an employee from carrying out the "essential functions" of the job. It does not apply to businesses with fewer than 15 employees.

Courts have a mixed record on religious expression cases. In 1997, the Supreme Court overturned the 1993 Religious Freedom Restoration Act that prohibited any law that would "substantially burden" religious expression without a "compelling" reason. Meanwhile, a 2000 law that protects religious expression of prisoners and shields churches from excessive zoning laws remains intact.

Business lobbyists have stalled attempts to advance the bill for almost a decade. The American Civil Liberties Union, which has defended the rights of religious employees in so-called "appearance and scheduling" cases, said the current bill is too broad.

Christopher Anders, the ACLU's legislative counsel, said the law would sanction activities by employees not allowed under current law, such as a Catholic Chicago police officer who refused to guard an abortion clinic, or a state nurse in Connecticut who, while visiting the home of a gay AIDS patient, condemned the man's lifestyle and told him to repent.

Anders said there are no protections in the bill to prohibit an employee from forcing religious beliefs on other workers, or from allowing a worker to dictate his or her duties because of religious or moral convictions. (RNS) Δ



**BAPTIST JOINT COMMITTEE**

200 Maryland Ave. N.E.  
Washington, D.C. 20002-5797  
202-544-4226

Fax: 202-544-2094  
E-mail: [bjcpa@bjcpa.org](mailto:bjcpa@bjcpa.org)  
Website: [www.bjcpa.org](http://www.bjcpa.org)

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