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June 4, 2008

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20510

The Honorable John Boehner
House Minority Leader
United States House of Representatives
Washington, DC 20510

Dear Madam Speaker and Mr. Boehner,

As a member of the Prairie Band Potawatomi tribe, I have been active in Native American affairs for the U.S. Catholic community for many years. I write to you today not only as a Catholic bishop, but as someone of Native American descent with a strong personal interest in the issue at hand.

As the U.S. House of Representatives prepares to consider the Indian Health Care Improvement Act Amendments of 2007 (H.R. 1328), reauthorizing the Indian Health Service, I urge you not to bring the bill to the floor under a procedure that forbids amendments. In the Senate an opportunity was given for Senators to vote on an amendment offered by Sen. David Vitter (R-LA) to codify current limits on federal abortion funding in the Indian Health Service, and the legislation was overwhelmingly approved with this change. Representatives in the House should have the opportunity to vote on a similar amendment, which would be offered by Rep. Joseph Pitts (R-PA).


For three decades, Congress has worked to ensure that taxpayers are not forced to subsidize abortions with their tax dollars. The original Hyde amendment establishing this policy was a rider to the Labor/HEW appropriations bill for Fiscal Year 1977. The U.S. Supreme Court upheld the policy in 1980, stating: "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." *Harris v. McRae*, 448 U.S. 297 (1980) at 325. More recent Supreme Court decisions have spoken more accurately of government's legitimate interest in respecting "the *life* of the unborn." E.g., *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) at 877 (emphasis added). Since 1993 Congress has barred federal funding of abortion except in cases of rape, incest, or danger to the mother's life.

Similar provisions have been written into authorizing legislation for major federal health programs as they are created or reauthorized. Such a provision has been part of the State Children's Health Insurance program (SCHIP) since 1997 (42 USC par. 1397jj(a)(16)), and has never been contested. Appropriations Committee chairmen of both chambers and both parties have encouraged Congress to settle abortion funding policy issues through authorizing legislation wherever possible, rather than through the annual appropriations process.

The Indian Health Service presents a unique exception to this rule. Funding of abortion on demand in this program is not directly prevented either by a rider to the Interior appropriations bill *or* by the authorizing legislation. Rather, the authorizing legislation contains a "reference" (25 USC par. 1676) stating that any limitation on abortion funding in the Labor/HHS appropriations bill at any given time will also be deemed to apply to the Indian Health Service, although this program is not funded by the Labor/HHS bill. This unusual and awkward cross-referencing arrangement cries out for correction through a straightforward provision in the legislation -- one that will bring the program into compliance with the policy in all other federal health programs.

The Pitts Amendment will offer an opportunity to reaffirm a basic and longstanding congressional policy of not requiring U.S. taxpayers to fund elective abortions. Again, I urge you to allow this amendment to be voted on by House members. Please do not bring H.R. 1328 to the House floor under a procedure that would forbid amendments.

Sincerely,

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Most Reverend Charles J. Chaput, O.F.M. Cap.
Archbishop of Denver

cc: The Honorable Steny Hoyer, House Majority Leader
Chairman John Dingell, Energy and Commerce Committee
The Honorable Joe Barton, Ranking Member, Energy and Commerce Committee