national RIGHT TO LIFE committee, inc.

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June 13, 2008

Stacy A. Bohlen
Executive Director
National Indian Health Board
926 Pennsylvania Avenue, SE
Washington, D.C. 20003

VIA FAX: 202-507-4071

Dear Ms. Bohlen:

This is in reply to your e-mail of June 11, requesting a meeting "to discuss the Indian Health Care Improvement Act reauthorization efforts on the Hill."

Meaning no disrespect, we are not sure that a meeting is necessary to air the issues at stake here. Please consider the points that I have set forth below regarding our perspective on the current legislative situation. If, after consideration of this letter, you feel that a meeting would serve a productive purpose, then we can proceed to schedule one.

The National Right to Life Committee (NRLC) believes that abortion should not be part of programs funded or administered by the federal government. This policy has long been reflected in various annual "limitation amendments" to appropriations bills (sometimes referred to informally as "riders"), the best known of which is the Hyde Amendment. But appropriations limitation amendments are a disfavored form of legislation, and NRLC has long advocated codification of these policies into regular authorization legislation. Such codification has been achieved in some instances. For example, the pro-life policies that govern the Department of Defense and the State Children's Health Insurance Program (SCHIP) were both codified during the Clinton Administration.

The current legislation with which we are concerned, H.R. 1328 / S. 1200, is a comprehensive re-write of the statutes governing all federally administered health programs for American Indians. In our view, this is clearly the appropriate vehicle for codification of a pro-life policy on abortion funding for these important federally administered health programs. To that end, NRLC and its affiliates worked for a number of months on behalf of the Vitter Amendment to S. 1200. Our initial letter to the Senate

on this matter was dated October 23, 2007. We are familar with materials issued by the National Indian Health Board in opposition to the Vitter Amendment, which were in circulation in Senate offices for more than a month before the Senate voted on the issue. We disagreed with the substance of the Board's objections, and we offered our own rebuttals. When the Senate finally voted on the Vitter Amendment, on February 26, 2008, it was after about four months of public advocacy on the part of various organizations supporting and opposing the amendment. We think it is fair to say that the arguments, including those advanced by your Board, had an adequate hearing. The Senate adopted the Vitter Amendment by a bipartisan majority of 52-42. As you know, the Senate then passed the amended bill, 83-10.

Since then, the House Democratic leadership has repeatedly postponed action on the companion bill, H.R. 1328. They have done so because of their recognition that a majority of the House Energy & Commerce Committee, and also a majority of the full House, would be likely to support the same amendment (which is sponsored in the House by Congressman Pitts). They have also refused to bring up the Senate-passed bill.

Last week, H.R. 1328 was discharged from the Energy & Commerce Committee without a markup having occurred, which is an extraordinary action on an important and complicated health-related bill. Moreover, the House Democratic leadership is considering bringing the 382-page bill to the floor under Suspension of the Rules or another procedure that would not permit consideration of amendments. If any such action is taken, NRLC (along with other pro-life groups) must urge a "no" vote. (Please see our June 4 letter to the House, attached.) Many lawmakers (including members of both parties) who are otherwise well disposed toward H.R. 1328 would not support the bill under such a procedure. The most likely result of any effort by the Democratic leadership to pass the bill under a no-amendment procedure will be the death of the legislation for the year.

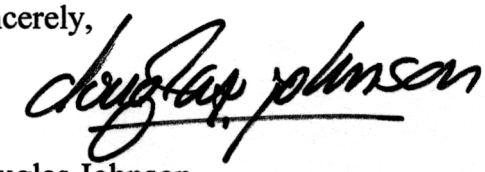
We are not surprised that the senior Democratic leadership would find a vote on the Vitter-Pitts Amendment to be an unpalatable prospect, given their habit of compliance with the dictates of the hard-core pro-abortion advocacy groups. What we find more difficult to understand is the degree to which your organization apparently has so far been acquiescent in the extraordinary measures being employed to prevent a simple vote on the amendment -- an acquiescence reflected, by our reading at least, in the language of Resolution No. 2008-001, adopted by your Board on March 8, 2008. It is one thing for your organization to oppose the substance of the Vitter-Pitts Amendment, but quite another to collaborate in the use of extraordinary procedural devices to attempt to prevent a majority from adopting that amendment, despite the high risk that such maneuvers will kill the legislation.

Perhaps an explanation is found in reports that the Democratic leadership has told groups such as yours that adoption of the Vitter-Pitts Amendment would cause large numbers of pro-abortion Democrats to oppose passage of the underlying legislation, thus dooming the bill. But we find it hard to believe that you would base your legislative strategy on such a tendentious claim, given the 83-10 margin by which the amended bill passed the Senate (note that not a single pro-abortion senator felt compelled to vote against S. 1200), and the large margins by which other bills containing "permanent Hyde amendments" have passed Congress in the past.

Therefore, we encourage your organization to join us in calling on the House Democratic leadership to bring the legislation up under an ordinary procedure that allows consideration of the Senate-passed pro-life amendment. We propose only to let the majority express itself clearly on the abortion funding issue, after which lawmakers will judge the overall legislation on its merits, just as occurred in the Senate.

Thank you for your consideration of NRLC's position on this important issue.

Sincerely,



Douglas Johnson
Legislative Director
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PS. While this letter is not concerned with rehashing the policy arguments for and against the Vitter-Pitts Amendment, allow me to say a word about Section 805 of H.R. 1328, to which the National Indian Health Board referred with apparent approval in Resolution No. 2008-001 – deeming this provision to appropriately address the abortion funding issue. While the reader of the resolution might get a different impression, Section 805 of H.R. 1328 does not, in fact, incorporate a "Hyde Amendment" policy. Indeed, Section 805 of H.R. 1328 is absolutely neutral regarding federal funding of abortion. The provision does not itself restrict such funding, and it provides no real assurance that federal funds will not be used to pay for abortion on demand in the future. In contrast, the Vitter-Pitts Amendment – which now appears as Section 805 in the Senate-passed bill – does incorporate a genuine ban on providing abortions, with three explicit exceptions.

Vitter-Pitts Amendment to S. 1200/H.R. 1328

(appears as Section 805 in the Senate-passed S. 1200)

LIMITATION RELATING TO ABORTION.

(a) DEFINITION OF HEALTH BENEFITS COVERAGE.—In this section, the term 'health benefits coverage' means a health-related service or group of services provided pursuant to a contract, compact, grant, or other agreement.

(b) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no funds or facilities of the Service may be used --

(A) to provide any abortion; or

(B) to provide, or pay any administrative cost of, any health benefits coverage that includes coverage of an abortion.

(2) EXCEPTIONS.—The limitation described in paragraph (1) shall not apply in any case in which -- (A) a pregnancy is the result of an act of rape, or an act of incest against a minor; or (B) the woman suffers from a physical disorder, physical injury, or physical illness that, as certified by a physician, would place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.