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January 16, 2019

**RE: In support of S. 109, the No
Taxpayer Funding for Abortion Act**

Dear Senator:

Majority Leader McConnell has indicated that on or about Thursday, January 17, the Senate may vote on cloture on the motion to proceed to the *No Taxpayer Funding for Abortion and Abortion Insurance Full Disclosure Act of 2019* (S. 109) sponsored by Sens. Roger Wicker, Pat Roberts, and James Lankford. **The National Right to Life Committee (NRLC), the nationwide federation of state right-to-life organizations, urges you to vote "aye" with Leader McConnell on this motion. We will include the roll call in our scorecard of key right-to-life roll calls of the 116th Congress.**

At the time Barack Obama was elected president in 2008, an array of long-established laws, including the Hyde Amendment, had created a nearly uniform policy that federal programs did not pay for abortion or subsidize health plans that included coverage of abortion, with narrow exceptions. Regrettably, provisions of the 2010 Obamacare health law ruptured that longstanding policy. Among other objectionable provisions, the Obamacare law authorized massive federal subsidies to assist many millions of Americans to purchase private health plans that will cover abortion on demand. For documentation, please see

www.nrlc.org/uploads/ahc/ProtectLifeActDouglasJohnsonTestimony.pdf, and

www.nrlc.org/uploads/DvSBA/GenericAffidavitOfDouglasJohnsonNRLC.pdf.

The Congressional Budget Office has estimated that between 2015 and 2024, \$726 billion will flow from the federal Treasury in direct subsidies for Obamacare health plans. In September, 2014, the Government Accountability Office (GAO) issued a report that confirmed that elective abortion coverage is widespread in federally subsidized plans on the Obamacare exchanges. In the 27 states (plus D.C.) that did not have laws in effect that restrict abortion coverage, over one thousand exchange plans covered abortion, the report found. (See "GAO report confirms elective abortion coverage widespread in Obamacare exchange plans," <http://www.nrlc.org/communications/releases/2014/release091614>.)

Some defenders of Obamacare in 2010 insisted that this was not really "federal funding" of abortion because a "separate payment" would be required to cover the costs of the abortion coverage. NRLC and other pro-life groups dismissed this as a mere bookkeeping gimmick that sharply departed from the principles of the Hyde Amendment. This disagreement regarding the significance or insignificance of the "separate payment" later became rather academic, when it

became evident that the Obama Administration had disregarded the language of the statute and obviated the two-payment requirement.

Under S. 109, for plan years beginning after December 31, 2019, exchange-participating health plans that cover abortion would not be eligible for the federal subsidies. Until then, the bill will revise Obamacare language to eliminate secrecy about abortion coverage, allowing consumers to be fully informed about abortion coverage and the surcharges for such coverage on plans sold on the exchanges.

S. 109 would codify the principles of the Hyde Amendment to federal health programs on a permanent, government-wide basis, including Medicaid, SCHIP, FEHB, and many others. If S. 109 becomes law, the pro-life policies that cover these programs would no longer depend on the annual renewal of limitation provisions on appropriations measures.

Among the longstanding provisions to be codified by S. 109 is the "D.C. Hyde Amendment," which is the prohibition on the use of government funds to pay for abortion in the Federal District (except to save the life of the mother, or in cases of rape or incest), which for decades (with brief interruptions) has been part of the annual appropriations bill that covers the District. Most of the objections to this policy misconstrue or misrepresent the constitutional status of the District of Columbia. Article I of the U.S. Constitution says that Congress alone exercises "exclusive legislation in all cases whatsoever" over the Federal District. "Non-federal funds" are a fiction, because under current federal law, all government funds in the Federal District are governed by the federal appropriations bills. Local officials who spend government funds without appropriation by Congress violate both the Home Rule Act and the Antideficiency Act.

Again, NRLC will include the vote on cloture on the motion to proceed to S. 109 in our scorecard of key right-to-life votes of the 116th Congress.

Over two million Americans are alive today because of the Hyde Amendment. Thank you for your consideration of NRLC's positions on these critical issues.

Respectfully,

Carol Tobias
President

David N. O'Steen, Ph.D.
Executive Director

Jennifer Popik, J.D.
Legislative Director