



SUBMITTED VIA EMAIL

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Subcommittee on Select Revenue Measures
House Ways and Means Committee
1102 Longworth House Office Building
Washington D.C. 20515

Re: Hearing on the Tax-Related Provisions of H.R. 3

March 29, 2011

Dear Chairman Tiberi and Members of the Subcommittee:

Recent polls reveal that an overwhelming majority of Americans—whether pro-life or pro-abortion—oppose the use of federal tax dollars to support abortion.¹ H.R. 3, The No Taxpayer Funding of Abortion Act, ensures that Americans are not forced to support abortion and subsidize the abortion industry with their tax dollars. The bill applies the principles of longstanding federal law and policy – that taxpayer funding should not be used to promote or subsidize abortion – in a permanent government-wide prohibition.

The Hyde Amendment² has restricted abortion funding in Medicaid since 1976—three years after *Roe v. Wade*.³ A rider to the Labor Health and Human Services (LHHS) Appropriations bill, the Hyde Amendment enacts a broad prohibition on the use of federal funds appropriated through the LHHS Appropriations. The text states that “[n]one of the funds...shall be expended

¹ Quinnipiac University, “U.S. Voters Oppose Health Care Plan by Wide Margin, Quinnipiac National University Poll Finds; Voters Say 3-1, Plan Should Not Pay for Abortions,” December 22, 2009, at <http://www.quinnipiac.edu/x1295.xml?ReleaseID=1408> (last visited Mar, 27, 2011).

² The Hyde Amendment, first enacted in 1976, and as included in the Omnibus Appropriations Act, 2009, H.R. 1105, 111th Cong, 2009, signed into law Mar. 11, 2009. The Hyde Amendment, Pub. L. No. 111-8 (2009).

³ 410 U.S. 113 (1973).

for any abortion,”⁴ and that “[n]one of the funds ... shall be expended for health benefits coverage that includes coverage of abortion.”⁵ Thus, the Hyde Amendment prohibits “direct” and “indirect” funding for elective abortions.

Before the Patient Protection and Affordable Care Act passed in 2010, no government health plans covered elective abortion, including Medicaid, the Federal Employees Health Benefits Program, the State Children’s Health Insurance Program, and other programs. For example, in the Federal Employees Health Benefits (FEHB) program, the Government contributes to premiums of federal employees in order to allow them to purchase private health insurance. Since 1983, the annual Financial Services and General Government Appropriations bill that provides funding for the FEHB program has prohibited these government contributions from being used towards insurance plans that cover abortion (with the exception of the period 1993-1995).⁶

The constitutionality of these funding restrictions is clear. In 1980, the Supreme Court upheld the constitutionality of the Hyde Amendment, in the case of *Harris v. McRae*.⁷ The Court held that the funding restriction of the Hyde Amendment

places no governmental obstacle in the path of a woman who chooses to terminate her pregnancy, but rather, by means of unequal subsidization of abortion and other medical services, encourages alternative activity deemed in the public interest.⁸

Moreover, studies confirm the relationship between public funding and the incidence of abortion. The Guttmacher Institute, an organization whose mission includes working to “protect, expand and equalize access to information, services and rights that will enable women and men to...exercise the right to choose abortion,” conducted a Literature Review in 2009 that shows strong consensus that abortion rates are reduced when public funding is restricted.⁹ (The study is available at <http://www.guttmacher.org/pubs/MedicaidLitReview.pdf>) Specifically, Guttmacher reported:

The best studies are the five that used detailed data from individual states and compared the ratio of abortions to births before and after Medicaid restrictions took effect. These found that 18–37% of pregnancies that would have ended in Medicaid-funded abortions

⁴ Hyde Amendment *supra* note 2, §507(b).

⁵ *Id.* §507(c).

⁶ Pub. L. No. 111-8, §§613-614 (2009).

⁷ 448 U.S. 297 (1980).

⁸ *Id.* at 315.

⁹ Stanley K. Henshaw, Theodore J. Joyce, Amanda Dennis, Lawrence B. Finer and Kelly Blanchard, *Restrictions on Medicaid Funding for Abortions: A Literature Review*, Guttmacher Institute, June 2009, available at <http://www.guttmacher.org/pubs/MedicaidLitReview.pdf>. (last visited Mar. 21, 2011). The review cites 20 academic studies documenting this relationship and only four that found the results of public-funding inconclusive.

were instead carried to term when funding was no longer available.¹⁰

Thus, prohibiting public funding of abortion is consistent with the opinion of the majority of Americans who do not want their tax-dollars paying for elective abortions, and it helps achieve the legislative goal of reducing the incidence of abortion.

H.R. 3 eliminates the need for appropriations riders (such as the Hyde Amendment which must be renewed annually), regulations (which can be overturned by new administrations), and executive orders (which exist at the will of a president). This is important because the abortion industry has made it clear that its agenda includes targeting vulnerable annual “riders” to appropriations bills and regulations that currently prohibit federal funding of abortion. For example, the National Organization of Women (NOW) has vowed, “[T]he Board of NOW is hereby instructed to develop a long-term strategy with other allied organizations for the defeat of the Hyde Amendment and that the grassroots level of NOW be urged to take action in an aggressive campaign to repeal the Hyde Amendment...”¹¹

H.R. 3 also ensures consistency throughout federal law that no tax credits provide a financial incentive for abortion. Abortion is not health care or a public good and should never be construed as such.

Sincerely,
/s/ William L. Saunders
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Americans United for Life

¹⁰ *Id.* at 27.

¹¹ See <http://www.now.org/organization/conference/resolutions/2010.html#Hyde> (last visited Mar. 29, 2011).