

THE HYDE AMENDMENT AT 50

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SEPTEMBER 30, 2026



Topline

- **The Hyde Amendment has saved an estimated 2,646,474 lives**, roughly equal to the entire U.S. population at the founding in 1776.
- **Hyde has prevented an estimated \$2.1 billion in Medicaid funds from paying for abortion** since first enacted, according to our conservative estimate.
- **Congress should strengthen Hyde** by requiring federal data collection, requiring post-payment integrity reviews of Hyde compliance, and requiring taxpayer recovery for Hyde violations.

Summary

Fifty years ago, on September 30, 1976, Congress first attached a provision prohibiting the use of appropriated funds for most abortions to the bill funding the Departments of Labor and what was then called Health, Education, and Welfare. Introduced by Rep. Henry Hyde (R-IL), the so-called “Hyde Amendment” has been included in some form in the annual appropriations bills for those departments¹ ever since. Hyde has saved an estimated 2,646,474 lives and, by our calculations, stopped \$2.1 billion in taxpayer funding from going towards abortions since it was first enacted.

This report examines the history and development of the Hyde Amendment, its treatment by Congress and the courts, its impact over the past 50 years, its current limitations, and steps Congress can take to strengthen it.

Abortion in America

English common law, which the American colonists claimed as their “birthright,”² had made abortion unlawful since the beginning of the 13th century.³ In America, New York City first adopted an ordinance prohibiting midwives from performing abortions in 1716 and “[m]anuals for justices of the peace printed in the Colonies in the 18th century typically restated the common-law rules on abortion.”⁴ After Independence, states

¹ Since Congress created the Department of Education in 1979, the Hyde Amendment has been included in the appropriations for the Departments of Labor, Health and Human Services, and Education.

² *Van Ness v. Pacard*, 27 U.S. 137, 144 (1829). See also *Wheaton v. Peters*, 33 U.S. 591, 659–60 (1834).

³ See CLARKE D. FORSYTHE, ABUSE OF DISCRETION: THE INSIDE STORY OF *ROE V. WADE* 84 (2013); JOSEPH DELLAPENNA, DISPELLING THE MYTHS OF ABORTION HISTORY 313 (2006); *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 242 (2022).

⁴ *Dobbs*, 597 U.S. at 245.



began prohibiting abortion by statute in the 1820s⁵ and, by 1910, all but one state had “criminalized abortion at all stages.”⁶

The American Medical Association launched a national campaign against abortion at its 1859 convention, endorsing a report that rejected the “mistaken and exploded dogma” that the unborn child has no “independent and actual existence...as a living being.”⁷ Courts followed the physicians’ lead. In an 1887 decision, for example, the Maryland Court of Appeals rejected the idea that “the life of an infant was not supposed to begin until it stirred in the mother’s womb.”⁸

Much had changed in American society and culture by the mid-20th century. Legislation to liberalize abortion laws was introduced in 45 states,⁹ and 17 of them took some kind of legislative action. Of these, 13 states¹⁰ adopted a reform statute developed by the American Law Institute that allowed abortions in several defined circumstances and, in 1970, the other four states—New York, Hawaii, Alaska, and Washington—legalized abortion for almost any reason during early pregnancy.¹¹ By 1972, the number of abortions had increased by 200 percent in the 13 states that had modified their abortion laws and jumped more than 250 percent in the legalizing states.¹² More than half of all abortions nationwide during this period occurred in New York state alone.¹³

Despite arguing that abortion was about choice, abortion advocates sought not only to legalize abortion, but to make taxpayers pay for it. Their litigation campaign began in New York state, where both state¹⁴ and federal¹⁵ courts held that excluding elective abortions from Medicaid coverage violated either state law or the U.S. Constitution’s guarantee of equal protection of the laws.

Then, in *Roe v. Wade*,¹⁶ the Supreme Court in January 1973 held that the Fourteenth Amendment protects a “right of privacy” that, in turn, “is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy.”¹⁷ Abortion advocates quickly broadened their litigation strategy to argue that restrictions on the use of

⁵ *Id.* at 302 (Appendix).

⁶ *Id.* at 249.

⁷ Report on Criminal Abortion, 12 TRANS. AM. MED. ASS’N 75–78 (1859).

⁸ *Lamb v. State*, 10 A. 208, 208 (Md. 1887).

⁹ See Rachel Benson Gold, Lessons from Before Roe: Will Past Be Prologue? 6 GUTTMACHER POL’Y REV. 8, 9 (March 2003).

¹⁰ These were Arkansas, California, Colorado, Florida, Georgia, Kansas, Maryland, New Jersey, New Mexico, North Carolina, Oregon, South Carolina, and Virginia.

¹¹ See Boonstra et al., *supra* note 1, at 12; Harvey L. Ziff, Recent Abortion Law Reforms (Or Much Ado About Nothing), 60 J. CRIM. L. 3 (1969); KAREN J. LEWIS, MORTON ROSENBERG, ET AL., ABORTION: JUDICIAL AND LEGISLATIVE CONTROL 3 (1981); Human Life Federalism Amendment, Report of the S. Comm. on the Judiciary, 98th Cong. 5 (1983).

¹² See Gold, *supra* note 9.

¹³ Center for Disease Control, Abortion Surveillance Annual Summary 1972 (April 1, 1974), <https://stacks.cdc.gov/view/cdc/59311>.

¹⁴ See, e.g., *City of New York v. Wyman*, 321 N.Y.S.2d 695 (Sup. Ct. 1971), *aff’d*, 37 A.D.2d 700 (1971), *aff’d*, 40 N.Y.2d 537 (1972).

¹⁵ See, e.g., *Klein v. Nassau County Medical Center*, 347 F.Supp. 496 (E.D.N.Y. 1972).

¹⁶ 410 U.S. 113.

¹⁷ *Id.* at 152.



public resources for abortion also violated the right to abortion itself. By early 1976, federal courts in several states had concluded that restrictions in Medicaid or state programs were unconstitutional.¹⁸

Gallup polls during the 1970s found that a majority of Americans believed abortion should be legal “only under certain circumstances” and, even in the first trimester, defined this category of allowable circumstances narrowly.¹⁹ An even larger majority opposed forcing taxpayers to pay for abortions. It was no surprise, therefore, when efforts soon began in Congress to shield taxpayers from coerced abortion subsidies.

The Hyde Amendment in Congress

Congress looked very different during the 94th Congress (1975-76) than it does today. Democrats held large majorities in both the House (292-143) and Senate (61-39) and 18 states had one senator of each party, compared to just two states today. On June 24, 1976, Rep. Henry Hyde (R-IL) offered an amendment to H.R.14232, the Fiscal Year 1977 appropriations bill for the Departments of Labor and Health, Education, and Welfare, which stated: “None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.” The House twice voted to pass Hyde’s amendment,²⁰ with approximately 45 percent of voting Democrats and 74 percent of voting Republicans supporting it.

While the Senate initially voted 57-28 to strike the Hyde Amendment altogether, the final compromise included the following: “None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.” In the House and Senate, approximately 65 percent of voting Democrats and nearly 80 percent of voting Republicans supported the modified Hyde Amendment.²¹

Abortion advocates, however, were just getting started and forcing taxpayers to pay for abortion became an increasingly important part of their agenda. The 1977 National Women’s Conference, for example, produced a National Plan of Action that endorsed

¹⁸ See, e.g., *Doe v. Rampton*, 366 F.Supp. 189 (D. Utah 1973); *Doe v. Wolgemuth*, 376 F.Supp. 173 (W.D. Pa. 1974); *Wulff v. Singleton*, 508 F.2d 1211 (8th Cir. 1974); *Doe v. Westby*, 383 F.Supp. 1143 (D.S.D. 1974).

¹⁹ See Sarah Parshall Perry and Thomas Jipping, *Dobbs v. Jackson Women’s Health Organization: An Opportunity to Correct a Grave Error*, HERITAGE FOUND. LEGAL MEM. 293, Nov. 17, 2021, at 6-8.

²⁰ House Rule 18 authorizes the Speaker to resolve the House into the Committee of the Whole, a parliamentary status in which the entire House acts as a single committee to consider legislative measures under relaxed procedural rules. Rule 18 requires that bills, resolutions, or Senate amendments involving a tax, revenue, or appropriations be first considered in the Committee of the Whole. See Judy Schneider, *Committee of the Whole: An Introduction*, Cong. Rsrch. Serv. Report RS20147 (May 15, 2013).

²¹ President Gerald Ford vetoed this appropriations bill because “the majority in control of this Congress has ignored my reform proposals and added nearly \$4 billion in additional spending,” not because of the Hyde Amendment. His veto message said: “I agree with the restriction on the use of Federal funds for abortion. My objection to this legislation is based purely and simply on the issue of fiscal integrity.” Veto of the Appropriations Bill for the Departments of Labor and Health, Education, and Welfare, Sept. 29, 1976, <https://www.presidency.ucsb.edu/documents/veto-the-appropriations-bill-for-the-departments-labor-and-health-education-and-welfare>.



not only “reproductive freedom”²² in general, but also taxpayer funding of “all methods of family planning.”²³ President Jimmy Carter created a National Advisory Committee for Women to advise him regarding “initiatives needed to promote full equality for American women...including recommendations of the 1977 National Women’s Conference.”²⁴ At its first meeting, co-chairs Rep. Bella Abzug (D-NY) and Carmen Delgado Votaw urged the Carter Administration to completely eliminate the ban on Medicaid payments for abortion.²⁵

As a provision, often called a “rider,” limiting the use of appropriated funds rather than separate legislation, the Hyde Amendment must be included in the relevant appropriations bill each year. The House and Senate voted specifically on the Hyde Amendment language in its first several years but have not done so since 1994, when Congress last modified the Hyde language. The following table summarizes the exceptions to the Hyde Amendment’s prohibition on abortion funding at different times since it was first enacted.

The Hyde Amendment’s exceptions changed four times before settling in 1994



Exceptions to the federal funding restriction as enacted, fiscal year 1977 to present

Fiscal year	Legislative vehicle	Mother’s life in danger	Rape or incest	Severe, long-lasting physical health damage
1977	Public Law 94-439	Included	—	—
1978	Public Law 95-205	Included	Promptly reported	Included
1979	Public Law 95-480	Included	Promptly reported	Included
1980	Public Law 96-123	Included	Promptly reported	—
1981–1993	Various	Included	—	—
1994–present	Various	Included	No reporting requirement	—

Sources: Public Laws 94-439, 95-205, 95-480 and 96-123; annual appropriations acts thereafter. Definitions: the FY 1977 exception applied where “the life of the mother would be endangered if the fetus were carried to term.” The FY 1978 and FY 1979 health exception applied where pregnancy would cause “severe and long-lasting physical health damage.”

²² National Women’s Conference, National Plan of Action 25 (1977), <https://babel.hathitrust.org/cgi/pt?id=uc1.31822024249419&view=1up&seq=1>.

²³ *Id.*

²⁴ Exec. Order No. 12,050, 43 Fed. Reg. 14431 (1978).

²⁵ Press Release, National Advisory Committee for Women, President Carter Challenged on Social Priorities by National Advisory Committee for Women (Jan. 13, 1979), https://www.jimmycarterlibrary.gov/digital_library/sso/148878/103/SSO_148878_103_01.pdf.



The Hyde Amendment in the Courts

As noted above, abortion advocates launched legal challenges to restrictions on forcing taxpayers to pay for abortions even before *Roe v. Wade* and that litigation continued after the Hyde Amendment's enactment. The Supreme Court decided several cases involving these challenges, including one targeting the Hyde Amendment itself.

The Supreme Court has repeatedly held that government need not pay for abortion

Supreme Court decisions on public funding of abortion, 1977 to 1989



1977

- *Beal v. Doe* 432 U.S. 438 (1977)
Upheld Pennsylvania Medicaid rules limiting reimbursement to medically necessary abortions
- *Maher v. Roe* 432 U.S. 464 (1977)
The Equal Protection Clause does not require a state that subsidizes childbirth to pay for elective abortions
- *Poelker v. Doe* 432 U.S. 519 (1977)
The Equal Protection Clause does not require city hospitals that provide childbirth services to also perform elective abortions

1980

 - *Harris v. McRae* 448 U.S. 297 (1980)
The Hyde Amendment does not violate either the Fifth Amendment's Due Process Clause or the First Amendment's Establishment Clause; Medicaid is not required to pay for abortions covered by the Hyde Amendment
 - *Williams v. Zbaraz* 448 U.S. 358 (1980)
Medicaid does not require states to pay for abortions excluded from federal reimbursement by the Hyde Amendment

1989

 - *Webster v. Reproductive Health Services* 492 U.S. 490 (1989)
Reaffirmed *Maher*, *Poelker*, and *McRae*; the right to abortion does not require access to public resources

Sources: *Beal v. Doe*, 432 U.S. 438 (1977); *Maher v. Roe*, 432 U.S. 464 (1977); *Poelker v. Doe*, 432 U.S. 519 (1977); *Harris v. McRae*, 448 U.S. 297 (1980); *Williams v. Zbaraz*, 448 U.S. 358 (1980); *Webster v. Reproductive Health Services*, 492 U.S. 490 (1989).

The Supreme Court's consistent holding in these cases is that the Constitution prevents government from creating obstacles to the exercise of rights, but it does not require the government to remove limitations or obstacles, including financial ones, to that exercise. The Court has long followed this principle outside the abortion context as well, holding, for example, that the First Amendment protects lobbying



activities, but does not require the government to subsidize lobbying through an income tax deduction for expenses.²⁶

Perhaps more fundamentally, the Hyde Amendment protects Americans from being forced to subsidize what violates their deeply held religious and moral beliefs. This argument is sometimes phrased in terms of forcing individuals to be “complicit” in what they consider to be immoral or evil activity. The Supreme Court has held that the individual, not the courts, determines where the line of moral complicity lies; the Court’s only role, for purposes of legal challenges, is to determine whether the asserted belief is an “honest conviction.”²⁷

Some might counter, as the government tried to do in these Supreme Court cases, that the individual’s view of complicity is too remote or attenuated. Whatever the limits of the complicity argument in other contexts, the Court has repeatedly distinguished abortion from other situations for a profound reason: it involves the “purposeful termination of a potential human life.”²⁸ In fact, the Court held even in *Roe v. Wade* that abortion is “inherently different” than situations involving any other constitutional right for the same reason.²⁹

The fact that the Hyde Amendment is constitutional today, however, does not mean it will remain so. Advocates for the Equal Rights Amendment (ERA), for example, have long made clear that, if it is added to the Constitution, they intend to use it to challenge abortion funding restrictions, including the Hyde Amendment.³⁰ Feminist scholar Sabrina Miesowicz has argued that “passage of a federal Equal Rights Amendment would require a review of the Hyde Amendment and the U.S. Supreme Court cases upholding it.”³¹

This is neither a hypothetical nor an empty threat. About half the states have ERAs in their constitutions and abortion advocates say that these state ERAs are the “best”³²

²⁶ *Cammarano v. United States*, 358 U.S. 498 (1959). See also *Regan v. Taxation With Representation of Washington*, 461 U.S. 540 (1983) (upheld allowing charitable organizations to receive tax-deductible contributions as long as they do not engage in substantial lobbying, holding that “a legislature’s decision not to subsidize the exercise of a fundamental right does not infringe that right”); *Harris v. McRae*, 448 U.S. 297 (1980) (citing *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), for the same proposition); *Lyng v. International Union, UAW*, 485 U.S. 360 (1988) (the Court upheld denying food stamps to households while a member is on a labor strike. While this might make participating in an economic strike more difficult, “the strikers’ right of association does not require the Government to furnish funds to maximize the exercise of that right.”).

²⁷ *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 724–25 (2014). See also *Thomas v. Review Board*, 450 U.S. 797, 715–16 (1981); *Little Sisters of the Poor v. Pennsylvania*, 591 U.S. 657, 681 (2020) (recognizing “complicity-based objections”).

²⁸ *Harris v. McRae*, 448 U.S. 297, 325 (1980). See also *Maher v. Roe*, 432 U.S. 464, 480 (1977); *Planned Parenthood v. Casey*, 505 U.S. 833, 852 (1992) (abortion is a “unique act” that “destroys what...the law at issue in this case regards as the life of an ‘unborn human being’”); *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 257–58 (2022).

²⁹ *Roe v. Wade*, 410 U.S. 113, 159 (1973).

³⁰ See Thomas Jipping, Not Your Grandmother’s ERA: Why Current Equal Rights Amendment Strategies Will Fail, HERITAGE FOUND. L. MEM. 291 (Oct. 26, 2021), at 20–22.

³¹ Sabrina Ariel Miesowicz, ERA Is Still the Way, 3 N.Y.U. J. LAW & LIB. 124, 145 (2008). See also Sarah M. Stephens, At the End of Our Article III Rope: We Still Need the Equal Rights Amendment, 80 BROOKLYN L. REV. 397, 419–21 (2015).

³² Miesowicz, *supra* note 38, at 145.



and most “realistic guides to possible interpretations of the federal ERA.”³³ Courts in some of these states have already found that the ERA does, in fact, require taxpayer funding of abortion.³⁴ In a 2020 report, the Center for American Progress cited court decisions interpreting and applying state ERAs, concluding that the ERA “could further buttress...existing constitutional protections” for abortion rights.³⁵

The Hyde Amendment in Practice

The Hyde Amendment is often broadly described as prohibiting taxpayer funding of abortion. As described above, however, it applies only to the departments whose appropriations bills include it. It has, however, given rise to similar funding restrictions that apply to departments, agencies, or programs outside the Labor/HHS/Education context, including the examples shown below. Most of these are, like the Hyde Amendment, appropriations provisions that must be re-enacted during every fiscal year.

Some federal programs outside the Labor-HHS bill contain Hyde-style limits on abortion funding			
Federal abortion funding restrictions beyond the Hyde Amendment, by program			
Program	Legal vehicle	Mother's life in danger	Rape or incest
Department of Defense	Appropriations riders 1979–85, separate legislation since	Included	Included
Federal Employees Health Benefits Program	Appropriations riders 1983–94, 1995 to present	Included	Included
Federal Bureau of Prisons	Appropriations riders since 1987	Included	Included
Children's Health Insurance Program	Separate legislation	Included	Included
Peace Corps	Appropriations riders since 1979	Included	Included
Indian Health Service	Separate statute since 1988	Included	Included

Definitions: Exceptions are those currently in force. Department of Defense funds and facilities may not be used for abortion. The Federal Bureau of Prisons allows privately financed abortions outside a facility. The Indian Health Service statute incorporates the Hyde Amendment's language.

³³ Judith Avner, Some Observations On State Equal Rights Amendments, 3 YALE L. & POL. REV. 144,144,145 (1984).

³⁴ See, e.g., Doe v. Maher, 515 A.2d 134 (Super. Ct. 1986); New Mexico Right to Choose/NARAL v. Johnson, 975 P.2d 841 (N.M. 1998).

³⁵ Robin Bleiweis, The Equal Rights Amendment: What You Need to Know, Am. Progress, Jan. 29, 2020, <https://www.americanprogress.org/issues/women/reports/2020/01/29/479917/equal-rights-amendment-need-know/>. The ERA proposed in 1972, of course, cannot be ratified because it received insufficient ratifications by the deadline Congress had imposed. See Jipping, *supra* note 30, at 2-6; Thomas Jipping, The 1972 Equal rights Amendment Can No Longer Be Ratified – Because It No Longer Exists, HERITAGE FOUND. L. MEM. 259 (Jan. 13, 2020).



The vast majority of abortions occur not for the reasons stated in the Hyde Amendment's exceptions, but for reasons related to lifestyle choices. Studies show that, in America and around the world,³⁶ the most common of multiple reasons women cite for seeking an abortion are avoiding interference with education or career (74 percent), financial considerations (73 percent), or the desire not to be a single mother (48 percent).³⁷ Most Americans have long, and consistently, opposed abortion for such reasons. The Hyde Amendment, therefore, applies to the large majority of abortions, and to those that most taxpayers oppose, likely saving millions of lives during its first 50 years.

Lives Saved by Hyde. By restricting Medicaid and other federal funding, the Hyde Amendment reduces the number of abortions that would have occurred if such funding had been available. In an effort to quantify the number of lives saved by the Hyde Amendment, the Charlotte Lozier Institute reviewed more than 20 studies that examined the impact of Hyde restrictions on abortion and concluded that eliminating Medicaid abortion coverage reduces the abortion rate by approximately 1.52 abortions per 1,000 women of childbearing age. Applying this estimate across the United States (excluding time periods and areas in which state funds covered elective abortions), the Charlotte Lozier Institute estimates that the Hyde Amendment saved 2,646,474 lives through 2025.³⁸

That translates into the Hyde Amendment saving the lives of one out of every 72 children born in the U.S. since 1977.³⁹ Those estimated lives saved are also roughly equal to the population of the United States at its founding in 1776 and exceed the populations of 15 individual states today: New Mexico, Idaho, Nebraska, West Virginia, Hawaii, New Hampshire, Maine, Montana, Rhode Island, Delaware, South Dakota, North Dakota, Alaska, Vermont, and Wyoming.

³⁶ See, e.g., Sophia Chae et al., *Reasons Why Women Have Induced Abortions: A Synthesis of Findings From 14 Countries*, 96 *Contraception* 233,235 (2017); Akinrinola Bakole, Susheela Singh and Taylor Haas, *Reasons Why Women Have Induced Abortions: Evidence from 27 Countries*, 24 *Int'l Fam. Plan. Persp.*, 117 (1998).

³⁷ Lawrence B. Finer et al., *Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives*, 37 *Persp. Sexual Reprod. Health* 110, 113 (2005). See also M. Antonia Biggs, Heather Gould and Diana Greene Foster, *Understanding Why Women Seek Abortion in the US*, 13 *BMC Women's Health* No. 29 (2013); Luu Ireland, *Who Are the 1 in 4 American Women Who Choose Abortion?* UMass Med. News, May 30, 2019 (86 percent give reasons such as timing is wrong, do not want to be a single mother, or interference with education or career plans; 4 percent say physical health problems), <https://www.umassmed.edu/news/news-archives/2019/05/who-are-the-1-in-4-american-women-who-choose-abortion/>. These are also the most common reasons around the world.

³⁸ Michael J. New, Ph.D., "Hyde Saves Lives: Analyzing the Impact of the Hyde Amendment with 2025 Addendum," September 30, 2025, <https://lozierinstitute.org/hyde-saves-lives-analyzing-the-impact-of-the-hyde-amendment-with-2025-addendum/> (accessed September 11, 2026). This estimate does not include abortions prevented by state limits on abortions. It followed a similar analysis a decade earlier estimating that 2,131,454 lives were saved through 2015. Michael J. New, Ph.D., "Hyde @ 40: Analyzing the Impact of the Hyde Amendment," September 27, 2016, <https://www.lozierinstitute.org/HydeAt40-full> (accessed September 14, 2026).

³⁹ There were 189,848,690 births in the U.S. between 1977 and 2025. The estimated 2,646,474 lives saved between 1977 and 2025 equals 1.4 percent of all births. CDC, *Vital Statistics: Births*, https://www.cdc.gov/nchs/data_access/Vitalstatsonline.htm#Births (accessed September 14, 2026).



The Hyde Amendment has saved an estimated 2.6 million lives since 1976



Estimated lives saved by the Hyde Amendment, 1976 through 2025

2,646,474 **estimated lives saved**
by restricting Medicaid and other federal funding for abortion, 1976 through 2025

1 in 72

That's one out of every 72 children born in the United States since 1976



FOR PERSPECTIVE, 2.65 MILLION IS

More than the estimated population of the 13 colonies



2.5 million

U.S. population, 1776

Larger than the population of each of 15 states



15 states

from New Mexico to Wyoming

The result of 50 years of taxpayer protections



50 years

of the Hyde Amendment

Sources: Michael J. New, "Hyde Saves Lives: Analyzing the Impact of the Hyde Amendment with 2025 Addendum," Charlotte Lozier Institute, September 30, 2025; U.S. Census Bureau, Annual Estimates of the Resident Population (Vintage 2025), July 1, 2025; U.S. Census Bureau, "America 250," July 2026. Lives saved is a modeled estimate of abortions averted by the Hyde Amendment, 1976 through 2025, and excludes abortions prevented by state limits. AAF calculation: 1 in 72 compares lives saved with total U.S. births, 1976 to 2025. The 1776 map shades the 13 colonies at their present-day state borders.

Taxpayer Funding of Abortion Prevented by Hyde. Multiplying the Charlotte Lozier Institute's annual estimate of unborn lives saved by an estimated public cost per abortion, we estimate that Hyde has blocked \$2.1 billion (in real 2025 dollars) in taxpayer funding for abortion since 1977.⁴⁰ Without Hyde in place, an added federal funding match could push the true amount much higher.

⁴⁰ AAF Policy Department analysis based on the Charlotte Lozier Institute's annual estimate of abortions averted by the Hyde Amendment multiplied by an estimated public cost per abortion (in real 2025 dollars, CPI-U). Unit costs for FY1978, 1982, 1983, 1985, 1987, 1992, 1994, 2001, 2006, 2010, and 2015 are national totals from Guttmacher Institute surveys (public expenditures divided by funded procedures). The 2025 cost is a procedure-mix blend of KFF's median Medicaid fee-schedule rates (medication, D&C, D&E), interpolated between KFF's 2024 and 2026 reports and weighted 65%/29%/6% per Guttmacher's medication share and the CDC's surgical gestational-age split. Other years are geometrically interpolated. This benchmarks the Charlotte Lozier Institute's modeled count; it is not an audited claims total.

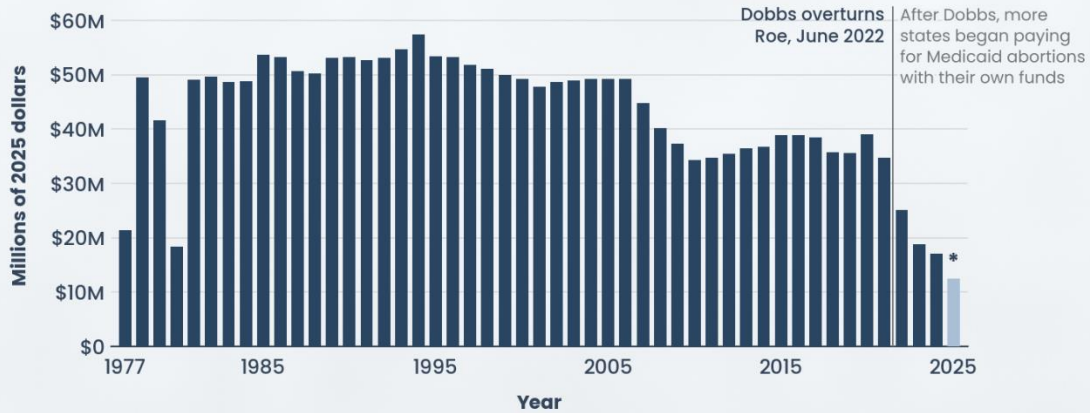


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Hyde has kept \$2.1 billion in taxpayer funds from paying for abortion since 1977



Medicaid dollars kept from funding abortion, millions of 2025 dollars, 1977 to 2025



Sources: Charlotte Lozier Institute; Guttmacher Institute; KFF. AAF calculation: CLI's estimate of abortions averted by the Hyde Amendment times an estimated public cost per abortion. *2025 is through September.

Limitations and Uncertainties Within Hyde

The Hyde Amendment prevents much federal funding from being used for abortion but does not eliminate every pathway through which taxpayers can bear abortion-related costs.

Hyde Does Not Prevent Payment for Post-Abortion Complications. The Hyde Amendment does not prevent federal funds from paying for healthcare services resulting from an abortion, such as emergency room visits after taking the abortion pill, treatments for hemorrhage or infection, or other post-abortion hospitalizations, diagnostic tests, and other medically necessary care.⁴¹

A study that examined claims data from 39,747 abortions covered by California's Medicaid program in 2011-2012 found that three percent of all abortions were followed by a visit to the emergency department and 25 percent were followed by a visit to the original abortion site.⁴² Rates of post-abortion care were highest for medication

⁴¹ A 2007 CMS OIG report states that federal funding is available for: "the costs of certain services associated with a non-Federally funded abortion, if those same services would have been rendered to a pregnant woman regardless of whether she was seeking an abortion. These services include laboratory tests such as pap smears, urinalysis, and those for pregnancy and sexually transmitted diseases, as well as charges for all services, tests, and procedures performed for complications of a non-Federally funded abortion. Additionally, FFP is available at the standard FMAP for covered medical services performed during a single hospital stay that also involved an abortion." CMS, "Review of Abortion-Related Laboratory Claims Billed As Family Planning Under The New York State Medicaid Program," Office of the Inspector General, July 2007, <https://oig.hhs.gov/oas/reports/region2/20501009.pdf> (accessed September 16, 2026).

⁴² "Distance Traveled for an Abortion and Source of Care After Abortion," September 1, 2017, <https://www.ansirh.org/research/publication/distance-traveled-abortion-and-source-care-after-abortion> (accessed September 15, 2026).



abortions (4 percent visited emergency departments and 77 percent returned to the original abortion site), and women who traveled 100 miles or more for an abortion were more than 2.3 times as likely to visit the emergency department as those who traveled fewer than 25 miles. Costs were significantly higher when women visited emergency departments (\$941 on average) than when they returned to the original abortion site (\$536).

Administrative Interpretation Can Undermine Hyde. A pro-abortion administration can take steps to expand abortion access in spite of federal law. President Joe Biden, for example, issued Executive Orders 14076 and 14079⁴³ following the Supreme Court's decision overruling *Roe v. Wade*. They directed executive branch agencies to "protect and expand access to abortion" and "advance access to reproductive healthcare services."⁴⁴

In 2022, the Biden Justice Department's Office of Legal Counsel (OLC) issued an opinion concluding that appropriated funds subject to the Hyde Amendment could still be used "to provide transportation for women seeking abortions."⁴⁵ The opinion argued that the phrase "expended for any abortion" is "limited to funds directly expended for abortion procedures" but not "indirect expenses, such as transportation intended to facilitate an abortion."⁴⁶

In 2025, the Trump Justice Department's OLC withdrew the earlier opinion, concluding that it had taken "an unduly narrow view of the text of the relevant appropriations rider" and was "inconsistent with the traditional tools of statutory interpretation employed by the Supreme Court and this Office."⁴⁷ The better interpretation of the Hyde Amendment, OLC stated, is that it "also encompass[es] other associated costs that, while not directly involved in the *performance* of the abortion, are still incurred with the 'object, aim, or purpose of' completing the procedure."⁴⁸

Federal Grants Can Flow to Organizations That Provide Abortions. While federal funding cannot pay for abortion services directly, organizations that provide abortions can receive federal grants, allegedly for other services. While organizations like Planned Parenthood affiliates can say they use federal funds only on non-abortion services, money is fungible and federal dollars spent on non-abortion services frees up other funds to use for abortions.⁴⁹

⁴³ 87 Fed. Reg. 49505 (Aug. 11, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-08-11/pdf/2022-17420.pdf>.

⁴⁴ 87 Fed. Reg. 42053 (July 8, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-07-13/pdf/2022-15138.pdf>.

⁴⁵ Office of Legal Counsel, Application of the Hyde Amendment to the Provision of Transportation for Women Seeking Abortions, 46 Op. O.L.C. __ (Sept. 27, 2022).

⁴⁶ *Id.* at 2.

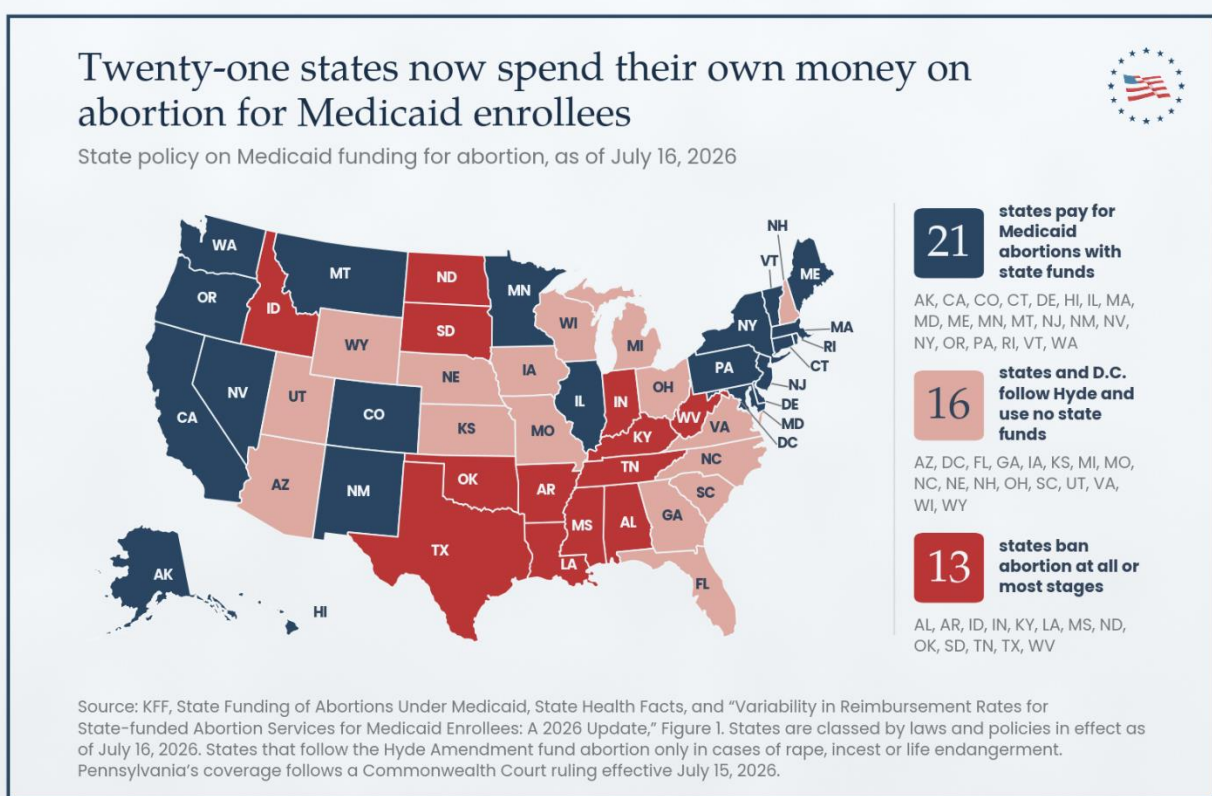
⁴⁷ Office of Legal Counsel, Reconsider the Application of the Hyde Amendment to the Provision of Transportation for Women Seeking Abortions, 49 Op. O.L.C. __ (July 11, 2025), at 1.

⁴⁸ *Id.* at 10 (emphasis in original).

⁴⁹ See Provisions of Obamacare Repeal Reconciliation Act of 2017, CRS Report R44903 (July 24, 2017).



States Can Pay for Medicaid Abortions. Currently, 21 states use state-appropriated funds to pay for Hyde-excluded abortion services for Medicaid beneficiaries.⁵⁰



Multiple studies have examined the impact of differences in Medicaid funding of abortions across states. A 1996 study in the *Journal of Health Economics* looked at abortion rates across states between 1974-1988 and estimated that eliminating public funding for abortion prevented between 19 percent and 25 percent of abortions among Medicaid-eligible women from taking place.⁵¹ A 2019 study in Louisiana found that 26 percent of Medicaid-eligible women who considered an abortion said that Medicaid not paying was a reason they decided to give birth.⁵² These studies are both consistent with a 2009 literature review by the Guttmacher Institute which found that

⁵⁰ Brittni Frederiksen, Olivia Podber, and Alina Salganicoff, "Variability in Reimbursement Rates for State-funded Abortion Services for Medicaid Enrollees: A 2026 Update," Kaiser Family Foundation, August 7, 2026, <https://www.kff.org/womens-health-policy/variability-in-reimbursement-rates-for-state-funded-abortion-services-for-medicaid-enrollees-a-2026-update/> (accessed September 15, 2026).

⁵¹ Rebecca M. Blank, Christine C. George, Rebecca A. London, "State Abortion Rates: The Impact of Policies, Providers, Politics, Demographics, and Economic Environment," 15 J. HEALTH ECON. 513 (Oct. 1996, available at: <https://www.sciencedirect.com/science/article/abs/pii/S0167629696004948> (accessed September 14, 2026).

⁵² Out of 269 Medicaid-eligible pregnant women who presented at first prenatal visits in Southern Louisiana between 2015-2017, 28 percent of them said they considered an abortion, including 7.2 percent who listed Medicaid not paying as a reason they did not have an abortion. Sarah C. M. Roberts, Nicole E. Johns, Valerie Williams, Erin Wingo, and Ushma D. Upadhyay, "Estimating the Proportion of Medicaid-Eligible Pregnant Women in Louisiana Who Do Not Get Abortions When Medicaid Does Not Cover Abortion," BMC Women's Health, June 19, 2019, <https://pmc.ncbi.nlm.nih.gov/articles/PMC6582555/> (accessed September 14, 2026).



"[a]pproximately one-fourth of women who would have Medicaid-funded abortions instead give birth when this funding is unavailable."⁵³

Most states that pay for elective Medicaid abortions do not consistently track and report state-funded abortion data. California maintains an open-access database documenting 1,224,820 abortions covered by Medi-Cal between 2014 and 2023, including 142,019 in 2023.⁵⁴ Maryland reports the number and total cost of taxpayer-funded abortions, including 12,858 abortions at a total cost of \$11.3 million in fiscal year 2025.⁵⁵

The Guttmacher Institute once estimated the number of abortions paid for with public funds, but they have not done so for a decade. According to their last reporting, "States spent \$71 million on about 157,000 abortion procedures for low-income women in FY 2015," with the federal government contributing to the cost of only 160 of those procedures.⁵⁶ Considering that California alone reported paying for 137,331 abortions in 2015, and represented about 30 percent of the total population eligible for state-funded abortions in 2015, the actual number of state-taxpayer-funded abortions is likely higher than the Guttmacher estimates. Using an illustrative extrapolation, we estimate that if all 21 states that pay for Medicaid abortions have abortion rates equal to the average of Maryland and California, then state taxpayers would have financed 353,000 abortions in 2023.⁵⁷

Medicaid Infrastructure Supports States' Abortion Funding. Administrative costs for health insurance are significant, accounting for an estimated eight percent of Medicaid costs and 12 percent of private health insurance costs.⁵⁸ By allowing states to utilize Medicaid's infrastructure—including its enrollment system, provider network, claims processor, eligibility determination, billing system, and payment system—the federal government saves states significant administrative costs they would otherwise incur if they had to administer separate insurance systems to pay for elective abortions.

⁵³ Stanley K. Henshaw, Theodore J. Joyce, Amanda Dennis, Lawrence B. Finer and Kelly Blanchard, "Restrictions on Medicaid Funding for Abortions: A Literature Review," The Guttmacher Institute, July 2009, <https://www.guttmacher.org/report/restrictions-medicaid-funding-abortion-literature-review> (accessed September 14, 2026).

⁵⁴ State of California Open Data, "Abortion-Related Services Funded by Medi-Cal, Calendar Years 2014-2023," Last Updated September 16, 2026, <https://www.lab.data.ca.gov/dataset/abortion-related-services-funded-by-medi-cal-calendar-years-2014-2023> (accessed September 16, 2026).

⁵⁵ Maryland Department of Health, "Medical Care Programs Administration," Exhibit 19, Abortion Funding Under Medicaid Fiscal 2023-2025, <https://mgaleg.maryland.gov/pubs/budgetfiscal/2027fy-budget-docs-operating-M00Q01-MDH-Medical-Care-Programs-Administration.pdf> (accessed September 16, 2026).

⁵⁶ "Public Funding for Family Planning and Abortion Services, FY 1980-2015," The Guttmacher Institute, April 2017, <https://www.guttmacher.org/report/public-funding-family-planning-abortion-services-fy-1980-2015> (accessed September 14, 2026).

⁵⁷ Author's estimates using state population data on women in childbearing years (ages 15-44), Maryland and California's implied Medicaid abortion rates of 1.04% and 1.79%, respectively. The 353,000 estimate is based on a 1.41% average of the two states' Medicaid abortion rates. Applying California's 1.79% rate alone produces an estimated 445,000 state-taxpayer-funded abortions while Maryland's 1.04% rate produced an estimate 260,000 state-taxpayer-funded abortions.

⁵⁸ CBO, "A Public Option for Health Insurance in the Nongroup Marketplaces: Key Design Considerations and Implications," April 2021, <https://www.cbo.gov/publication/57125> (accessed September 16, 2026).



In Maryland, for example, a woman who has Medicaid and receives an elective abortion uses her Medicaid insurance card, has an abortion performed by a Medicaid provider, the provider bills Maryland Medicaid's fee-for-service program, and the state uses separate funds to reimburse the provider at a rate equal to the lesser of the provider's customary charge or the maximum rates allowed under Maryland Medicaid's physician fee schedule.

This latter provision, in which a state uses Medicaid's negotiated fees as its payment for abortion procedures, can reduce not just administrative costs, but also the negotiated price of the procedure. This is because providers that want to participate in Medicaid due to its broad patient population may end up accepting significantly lower rates for certain procedures than they would otherwise charge as stand-alone services. A 2020 study found that Medicaid physician fee schedules for abortions covered only 37 percent to 41 percent of the amount charged to self-pay patients for the same procedures.⁵⁹

Lack of Transparency and Accountability Compromise Hyde Integrity

The federal government has a growing problem with waste, fraud, and abuse. While federal Medicaid spending is rapidly expanding and a growing number of states are providing abortions to Medicaid recipients, a lack of transparency and accountability raises concerns about the integrity of federal taxpayers' dollars. Specifically:

- There is no federal database that systematically measures and reports the number of federal- and state-financed Medicaid abortions, nor is there evidence that the Centers for Medicare and Medicaid Services (CMS) systematically reviews abortion-related claims nationwide to verify Hyde compliance.
- While states are required to comply with federal data requests regarding Medicaid-covered abortions, the CMS form for states to report Medicaid expenditures (CMS-64) does not collect information about abortions paid for by managed care organizations, and managed care organizations administer benefits for more than two-thirds of Medicaid recipients.
- Providers and states may incorrectly bill the federal government for abortion services that are supposed to be prohibited by Hyde. For example, an investigation by the Office of the Inspector General of CMS that examined abortion-related laboratory claims in New York between 2000 and 2003 concluded that "the State improperly received \$3,235,640 in Federal Medicaid

⁵⁹ Yves-Yvette Young, Terri-Ann Thompson, David S. Cohen, Kelly Blanchard, "Contextualizing Medicaid Reimbursement Rates for Abortion Procedures," *CONTRACEPTION*, September 2020, <https://pubmed.ncbi.nlm.nih.gov/32199789/> (September 16, 2026).



funds" as a result of wrongly classifying abortion claims as federally covered family planning services.⁶⁰

- Recent incidents of fraud and abuse in Medicaid programs along with long-standing high payment error rates reveal significant vulnerabilities in the integrity of Medicaid spending.
- Medicaid's payment error rate measurement process does not even check provider payments made by managed care organizations that administer Medicaid coverage for more than two-thirds of all beneficiaries.⁶¹

With little tracking or investigation into the financing of abortion and abortion-related services provided to Medicaid recipients, federal taxpayers cannot be assured they are not funding abortions prohibited by Hyde.

How to Strengthen Hyde

Require CMS data collection. Congress or an Administration should require CMS to make a complete national accounting of all abortions provided to Medicaid recipients, including the abortion procedure by type (Hyde-eligible or Hyde-excluded), provider, related healthcare services, reimbursement rate, amount paid by the state, amount paid by the federal government, and whether the procedure was covered under fee-for-service or a managed care organization. This should include currently unreported abortions provided through managed care organizations.

Require Post-Payment Integrity Reviews of Hyde Compliance. Congress or an Administration should require CMS to establish an automated Hyde-compliance flag within its existing payment error rate reviews, state program-integrity reviews, managed care organization audits, Medicaid claims data validation, and improper payment measurements. These audits should examine whether Medicaid abortions were properly classified as Hyde-eligible or Hyde-prohibited and whether Hyde-prohibited services are wrongly classified as federally covered procedures.

Require Taxpayer Recovery for Hyde Violations. Requiring regular data collection and payment integrity reviews will identify Hyde violations. Congress should require that all Hyde-prohibited expenses wrongfully billed to and paid by the federal government be fully repaid by the states with interest. Congress should also impose financial penalties on states—such as a reduction in Medicaid funding—if they fail to comply with Hyde reporting requirements.

⁶⁰ The study noted that 42 percent of the sampled claims were ineligible for any federal funding under Hyde and another 56 percent were ineligible for the enhanced 90 percent federal match for family planning services. CMS, "Review of Abortion-Related Laboratory Claims Billed As Family Planning Under The State New York State Medicaid Program."

⁶¹ Chris Medrano and Brian Blase, "Medicaid Waste, Fraud, and Abuse: Why CMS's Improper Payment Rate Can't Be Trusted," April 27, 2026, <https://paragoninstitute.org/medicaid/medicaid-waste-fraud-and-abuse-why-cms-improper-payment-rate-cant-be-trusted/> (accessed September 15, 2026).



Conclusion

Over its first 50 years, the Hyde Amendment has, by restricting federal funding of most abortions, saved an estimated 2,646,474 lives through 2025. It has survived repeated legal challenges, preventing more than \$2 billion of taxpayers' money from financing what violates their deeply held religious and moral beliefs. At the same time, increased state financing of abortions has reduced Hyde's impact while a lack of Medicaid transparency and accountability raises questions about the integrity of Hyde's protections. Congress and an Administration should defend Hyde's protections by strengthening transparency, accountability, and enforcement to ensure that federal funds are not used in violation of its protections.

