



October 19, 2021

Leader Charles Schumer
322 Hart Senate Office Building
Washington, DC 20510

Minority Leader Mitch McConnell
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Chair
Committee on Appropriations
437 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Committee on Appropriations
304 Russell Senate Office Building
Washington, DC 205

Dear Leader Schumer, Minority Leader McConnell, Chairman Leahy, and Ranking Member Shelby:

Yesterday, the Senate released the remaining appropriations bills, and Congress must either complete appropriations work or pass another continuing resolution by the end of December 3.

I write to express support for the inclusion of key pro-life riders, such as the Hyde Amendment, because of what they represent and their importance in this time of deep division in our nation. Not only do these riders save lives, many, like the Weldon Amendment, protect the consciences of millions of Americans and maintain national unity over a sensitive issue. Both the Senate and House appropriations bills strip these and other important pro-life protections, actions that are unacceptable in the minds of countless constituents who do not want a dime of their resources supporting the abortion industry in any way, shape, or form.

The Ethics and Religious Liberty Commission (ERLC) is the morals and public policy agency of the Southern Baptist Convention. The SBC is America's largest Protestant denomination of churches with over 46,000 congregations and 15.2 million Southern Baptists nationwide.

For the first time since 1976, the Hyde Amendment has not been included in the Labor-HHS appropriations bill. The Hyde Amendment prevents Medicaid from covering the cost of abortion, and protects American consciences. Just last month, at the 2021 Annual Meeting of the Southern Baptist Convention, messengers unanimously approved a resolution condemning efforts to strip Hyde from any federal appropriations bill and called upon Congress to uphold all pro-life riders.

We are all made in the image of God endowed with immeasurable worth from conception until natural death. And we strongly object to tax dollars being used for what we believe to be a great moral wrong. It is estimated that the Hyde Amendment has saved over two million lives since it was enacted.

Additionally, the appropriations bills removed the Weldon Amendment for the first time since 2005. The amendment protects the rights of conscience for healthcare professionals and institutions by preventing HHS from denying funding to recipients that refuse to provide, pay for, or refer for abortion. The budget also removes the Dornan (Hyde protections in the District of Columbia) and would also prohibit any president from reinstating the Mexico City Policy, reestablished and expanded by President Donald Trump, as the Protecting Life in Global Health Assistance policy.

It is crucial that these and all pro-life riders continue to be included in appropriations legislation during the 117th Congress.

The bills also exclude any organization, including child welfare and foster care organizations from receiving funding from the U.S. Department of Health and Human Services (HHS) that do not adhere to the ever-shifting notions of sexual orientation and gender identity ideology.

The ERLC urges Congress to defend protections against federal funds being used for abortion and to ensure that pro-life spending riders are approved in all spending legislation passed in the 117th Congress. These amendments save lives and protect American consciences. We also urge Congress to remove harmful provisions that would exclude people of faith from serving the most vulnerable. This would be an act of courageous leadership that recognizes our great experiment as a democratic republic is strongest when we respect one another in the midst of our disagreements. Such an act of across-the-aisle policymaking is desperately needed.

At the end of this letter, you'll find enclosed the ERLC's list of concerns in the appropriations bills.

I look forward to working with you on these and other important issues.

Respectfully,

Brent Leatherwood
Acting President
Southern Baptist Ethics & Religious Liberty Commission



ERLC Concerns in FY2022 Appropriations

On July 29, the U.S. House of Representatives [passed](#) a seven-bill minibus, which included Agriculture, Energy and Water Development, Financial Services and General Government, Interior, Environment, Labor, HHS, Education and Transportation, HUD. Additionally, the House passed the Legislative Branch and State, Foreign Operations bills as stand alone bills.

On October 18, the U.S. Senate released the remaining FY2022 appropriations bills. Congress must either complete appropriations work or pass another continuing resolution by the end of December 3.

Southern Baptists affirm the full dignity of every human being and that every life is worthy of protection, beginning with the unborn. We believe life begins at conception, and that abortion denies precious human lives both personhood and protection. Scripture is clear that every person is made in the image of God and his knowledge of each of us even precedes the creative act of conception (Jeremiah 1:5; Psalm 139:13). At the 2018 Annual Meeting of the Southern Baptist Convention, the Messengers passed a resolution to “reaffirm the sacredness and full dignity and worthiness of respect and Christian love for every single human being, without any reservation.”

The ERLC is committed to conscience protection policies because they uphold two of our most closely held convictions. First, we work to protect the consciences of our neighbors because we believe religious freedom is an inalienable human right, thankfully secured as the first freedom in the Bill of Rights. Second, protecting health-care workers from the coercive power of the profit-seeking, on-demand abortion industry is a pro-life responsibility.

The ERLC opposes appropriation riders that deny religious freedom and conscience protections to millions of Americans. Efforts to codify sexual orientation and gender identity as protected classes under federal law have explicitly included attempts to roll back religious freedom and conscience protections. Many of the riders discussed below do the same. As the ERLC has long maintained, a government that is able to pave over the conscience is one that has the unlimited ability to steamroll dissent on any issue.

Agriculture - No concerns

Commerce, Justice, Science (CJS)

Section 531

Section 531 prohibits the Department of Justice from preventing certain States and territories from implementing State or territory laws regarding the use of medical marijuana.

SEC. 531. None of the funds made available under this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, or with respect to the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

Department of Defense - No concerns

Energy & Water - No concerns

Financial Services and General Government

Dornan Amendment (D.C. Hyde)

The proposed 2022 budget excludes the Dornan Amendment. The Dornan Amendment prohibits federal and congressionally approved local funds from paying for elective abortions in the District of Columbia.

Smith Amendment

The proposed 2022 budget excludes the Smith Amendment which has been included in almost every budget since 1984. The amendment bans funding for elective abortions for federal employees through the Federal Employee Health Benefits (FEHB) program.

Homeland Security - No concerns

Interior and Environment - No concerns

Labor, HHS, Education

Hyde Amendment

The proposed 2022 budget excludes the Hyde Amendment. The Hyde Amendment is an annual appropriations policy introduced in 1976 that prevents Medicaid from covering the cost of abortion. This policy alleviates taxpayers from being financially responsible for something millions have found to be a grave moral wrong. Because the Hyde Amendment is attached as a “rider” to the appropriations bill, it is only applicable for the money appropriated that year. The Hyde Amendment must therefore be attached to appropriations bills each year to be effective. The Hyde Amendment saves an estimated 60,000 preborn lives each year.

Weldon Amendment

The proposed 2022 budget excludes the Weldon Amendment for the first time since 2005. The amendment protects the rights of conscience for healthcare professionals and institutions by preventing HHS from denying funding to recipients that refuse to provide, pay for, or refer for abortion.

Family Planning

New Title X guidance requires recipients of federal funding to provide abortion counseling and referral for abortion. Additionally, Title X grantees must provide the full range of contraceptives and abortifacients as an option to receive funding. The Title X Funding portion increases the funding level from \$286,479,000 to \$500 million.

For carrying out the program under title X of the PHS Act to provide for voluntary family planning projects, \$500,000,000: Provided, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That all entities funded under this heading shall provide clinical services consistent with nationally recognized clinical standards: Provided further, That projects funded under section 1001 of the PHS Act shall provide the full range of contraceptive methods approved by the Food and Drug Administration: Provided further, That all patients under title X of the PHS Act with a positive pregnancy test shall be given the opportunity to be provided information and counseling regarding (1) prenatal care and delivery; (2) infant

care, foster care, and adoption; and (3) pregnancy termination: Provided further, That if such a patient requests information specified in the preceding proviso, such patient shall be provided with neutral, factual information and nondirective counseling on each such option, including referral upon request, except with respect to any option about which the patient indicates no interest in receiving such information and counseling.

Section 238

Any organization who operate consistent with deeply held religious beliefs and receive funding from HHS—including adoption and foster care agencies—will not be eligible for funding if they do not provide services to same-sex couples. Section 238 would block HHS from pursuing further religious liberty waivers, like the Miracle Hill waiver to South Carolina. There are currently 423,997 children in the U.S. foster care system, a situation which demands a wide range of organizations serving children in need.

SEC. 238. (a) None of the funds made available by this Act may be awarded to any organization, including under the Child Welfare or Federal Foster Care programs under parts B or E of title IV of the Social Security Act, that does not comply with paragraphs (c) and (d) of section 75.300 of title 45, Code of Federal Regulations (prohibiting discrimination on the basis of age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation), as in effect on October 1, 2019.

(b) None of the funds made available by this Act may be used by the Department of Health and Human Services to grant an exception from either such paragraph for any Federal grantee.

Sexual Risk Avoidance Funding

Sexual Risk Avoidance Funding (SRAF) is a program supporting abstinence-based education in youth until they are in committed relationships. The 2022 budget excludes SRAF which was funded with \$35 million in FY2021.

Office of the Secretary General, Departmental Management

This section under “General Departmental Management” would effectively require funding for the Teen Pregnancy Prevention program to continue going to abortion-providing organizations and would increase funding from FY 21 \$101 million to FY 22 \$131 million.

For necessary expenses, not otherwise provided, for general departmental management, including hire of six passenger motor vehicles, and for carrying out titles III, XVII, XXI, and section 229 of the PHS Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, \$44,090,000, together with \$84,328,000 from the amounts available under section 241 of the PHS Act to carry out national health or human services research and evaluation activities: Provided, That of this amount, \$58,400,000 shall be for minority AIDS prevention and treatment activities: Provided further, That of the funds made available under this heading, \$130,000,000 shall be for making competitive contracts and grants to public and private entities to fund medically accurate and age appropriate programs that reduce teen pregnancy and for the Federal costs associated with administering and evaluating such contracts and grants, of which not more than 10 percent of the available funds shall be for training and technical assistance, evaluation, outreach, and additional program support activities, and of the remaining amount 75 percent shall be for replicating programs that have been proven effective through rigorous evaluation to reduce teenage pregnancy, behavioral risk factors underlying teenage pregnancy, or other associated risk factors, and 25 percent shall be available for research and demonstration grants to develop, replicate, refine, and test additional models and innovative strategies for preventing teenage pregnancy: Provided further, That of the amounts provided under this heading from amounts available under section 241 of the PHS Act, \$6,800,000 shall be available to carry out evaluations (including longitudinal evaluations) of teenage pregnancy prevention approaches: Provided further, That funds provided in this Act for embryo adoption activities may be used to provide to individuals adopting embryos, through grants and other mechanisms, medical and administrative services deemed necessary for such adoptions: Provided further, That such services shall be provided consistent with 42 CFR 59.5(a)(4): Provided further, That of the funds made available under this heading, \$5,000,000 shall be for carrying out prize competitions sponsored by the Office of the Secretary to accelerate innovation in the prevention, diagnosis, and treatment of kidney diseases (as authorized by section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719)): Provided further, That notwithstanding any other amounts appropriated under this heading to supplement funds otherwise available to the Secretary for the hire and purchase of electric vehicles and electric vehicle charging stations, and to cover other costs related to electrifying the motor vehicle fleet within HHS: Provided further, That electric chargers installed in a parking area with such funds described in the preceding proviso shall be deemed personal property under the control and custody of the Department of Health and Human Services managing such parking area: Provided further, That of the funds made available under this heading \$3,000,000 shall be for establishing a National Health Care Workforce Commission (as authorized by section 5101 of Public Law 111148).

Legislative Branch - No concerns

Military Construction, VA

Section 234

Sec. 234 would codify the annual appropriations rider permitting IVF and assisted reproductive technology (ART) coverage for veterans who are infertile due to service related injuries. IVF and ART can often result in the destruction of a large number of human embryos.

Sec. 234. (a) Notwithstanding any other provision of law, the amounts appropriated or otherwise made available to the Department of Veterans Affairs for the “Medical Services” account may be used to provide—

(1) fertility counseling and treatment using assisted reproductive technology to a covered veteran or the spouse of a covered veteran; or

(2) adoption reimbursement to a covered veteran.

(b) In this section:

(1) The term “service-connected” has the meaning given such term in section 101 of title 38, United States Code.

(2) The term “covered veteran” means a veteran, as such term is defined in section 101 of title 38, United States Code, who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment.

(3) The term “assisted reproductive technology” means benefits relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to section 1074(c)(4)(A) of title 10, United States Code, as described in the memorandum on the subject of “Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members” issued by the Assistant Secretary of Defense for Health Affairs on April 3, 2012, and the guidance issued to implement such policy, including any limitations on the amount of such benefits available to such a member except that—

(A) the time periods regarding embryo cryopreservation and storage set forth in part III(G) and in part IV(H) of such memorandum shall not apply; and

(B) such term includes embryo cryopreservation and storage without limitation on the duration of such cryopreservation and storage.

State-Foreign Operations (SFOPS)

United Nations Population Fund (UNFPA)

According to the Congressional Pro-Life Caucus, “The Kemp-Kasten amendment was adopted in 1985. The Kemp-Kasten Amendment restricts funds from organizations that the President determines support or participates in a coercive abortion program. Presidents Ronald Reagan, George H.W. Bush, George W. Bush, and Donald Trump all interpreted this provision to require the elimination of funds for UNFPA.” The 2022 budget weakens the provision authorizing the president to discontinue funding to organizations that manage coercive population control and/or abortion programs. Additionally, this appropriations bill increases funding for UNFPA from \$32.5 million to \$55 million.

SEC. 7057. (a) CONTRIBUTION.—Of the funds made available under the heading “International Organizations and Programs” in this Act for fiscal year 2022, \$55,000,000 shall be made available for the United Nations Population Fund (UNFPA).

AVAILABILITY OF FUNDS.—Funds appropriated by this Act for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to the “Global Health Programs” account and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committees on Appropriations. and Programs

Section 7058

Section 7058 funds global health programs related to prevent, detect, and respond to infectious disease outbreaks by strengthening public health capacity. However, \$650 million is set aside for family planning/reproductive health which includes abortion.

(d) FAMILY PLANNING AND REPRODUCTIVE HEALTH.—Of the funds appropriated under title III of this Act, not less than \$650,000,000 shall be made available for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species

Gender Equality

This budget includes \$200 million in funding for the “Gender Equity and Equality Action Fund.” This fund would go to support abortion as one element of “reproductive health.”

(3) GENDER EQUITY AND EQUALITY ACTION FUND.—Of the funds appropriated under title III of this Act, not less than \$200,000,000 shall be made available for the Gender Equity and Equality Action Fund.

Codify the Repeal of the Mexico City Policy

The Title III, Bilateral Economic Assistance prohibits any President from reinstating the Mexico City Policy, reestablished and expanded by President Donald Trump as the Protecting Life in Global Health Assistance policy. This provision, rescinded by President Biden, required foreign nongovernmental organizations to agree, as a condition of their receipt of US grant money, not to promote or perform abortion.

GLOBAL HEALTH PROGRAMS: For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for global health activities, in addition to funds otherwise available for such purposes, \$4,423,950,000, to remain available until September 30, 2023, and which shall be apportioned directly to the United States Agency for International Development: Provided, That this amount shall be made available for training, equipment, and technical assistance to build the capacity of public health institutions and organizations in developing countries, and for such activities as: (1) child survival and maternal health programs; (2) immunization and oral rehydration programs; (3) other health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS tuberculosis, polio, malaria, and other infectious diseases including neglected tropical diseases, and for assistance to communities severely affected by HIV/AIDS, including children infected or affected by AIDS; (6) disaster preparedness training for health crises; (7) programs to prevent, prepare for, and respond to unanticipated and emerging global health threats, including zoonotic diseases; and (8) family planning/reproductive health: Provided further, That funds appropriated under this paragraph may be made available for United States contributions to The GAVI Alliance and to a multilateral vaccine development partnership to support epidemic preparedness: Provided further, That none of the funds made available by this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the

President, directly supports or participates in the management of a program of coercive abortion or involuntary sterilization:

Transportation, Housing and Urban Development (THUD)

This section would prohibit any funds going to employee training that contains religious or quasi-religious belief systems or is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace. This could prohibit faith based grant receiving organizations from receiving funding.

SEC. 403. The expenditure of any appropriation under this Act for any consulting service through a procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 404. (a) None of the funds made available in this Act may be obligated or expended for any employee training that—(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties; (2) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation; (4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or (5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.