

Does the American Rescue Plan Act (ARPA) really include funding for abortion?

This document consists a blog post that summarizes the issue and a detailed supporting analysis.

Please post your comments on our [blog](#) or email them to KenDarga@MichDemsForLife.org

Blog Post

Does the ARPA stimulus package really fund abortions?

There are plenty of valid criticisms that can be made about Democratic politicians who support abortion, but it is counter-productive (to say the least) when pro-life organizations make false or exaggerated claims about them. MDFL is willing to call out both our fellow Democrats and our pro-life allies when we believe they are in error.

A good case in point is the claim by many pro-life organizations that the recent stimulus package (the American Rescue Plan Act, or ‘ARPA’) will result in federal funding of abortions because it did not incorporate the Hyde Amendment. (Just do an Internet search for ‘abortion covid relief Hyde’ and you will find that claim being made by many major pro-life organizations.) The problem with the claim is that, as far as I have been able to determine, it is totally misleading.

The failure to include the Hyde Amendment in this particular bill was a major political mistake as far as appealing to the pro-life half of the U.S. population is concerned, but it will not increase the number of abortions or result in federal funds paying for abortions. The number of additional abortions resulting from the lack of Hyde language in ARPA appears to be zero.

Of the articles on the subject that I have read, the most detailed is from the Family Research Council, entitled [American Rescue Plan Act Spends Over \\$450 Billion that Can Fund Abortions](#). The most obvious shortcoming of that article is the misleading exaggeration in the title: \$450 billion is more than one thousand times greater than the total annual cost of all the abortions performed in the United States. (Not just 1000 *percent* greater, but 1000 *times* greater.) Such a title is good for generating alarm, outrage, and misunderstanding but those are not the right objectives for pro-life organizations to pursue.

The greatest strength of the article is that, rather than just making broad claims that are too vague to refute, it actually lists eighteen spending items that are alleged to involve funding for abortions. Some of those items reflect misunderstanding of the legislation and others reflect misunderstanding of the Hyde Amendment. After looking into all eighteen spending items, it looks to me like the actual number of abortions funded by ARPA is zero. (I am sending my analysis out for review before I post it. After I confirm or correct my conclusions, I will post a link to it in a future blog post and a future issue of our newsletter.) **[UPDATE: That analysis has been confirmed and it appears below beginning on page 3.]**

Why does it matter when pro-life organizations publish false claims about Democrats and the legislation that they pass? After all, pro-choice Democrats really are pro-choice, and most of them are likely to oppose adding the Hyde Amendment to legislation where it can actually make a difference, such as bills to fund programs like Medicaid that pay for medical services.

There are several reasons why pro-life organizations should avoid such false claims:

- Truth matters.
- These false or exaggerated claims provoke unnecessary divisiveness and erroneous demonization of the Biden administration. Those are understandable objectives for the Republican Party, but they are not appropriate objectives for the pro-life movement.
- False or exaggerated claims reduce the credibility of the pro-life movement among the people that it needs to win over.
- False claims divert attention from the actual strengths and weaknesses of the legislation in question.
- It is counter-productive to make politicians pay for things they have not actually done. Once pro-life organizations convince their followers that Democrats have *already* funded abortions, pro-choice politicians have nothing more to lose by actually doing it. There is not much incentive for politicians to do what the pro-life movement wants if they think that the pro-life press will attack them with misleading half-truths regardless of what they do.

Failure to clarify that ARPA is not paying for abortions was a political blunder rather than an assault on the unborn. Democratic policymakers could have saved themselves from a lot of bad press by adding a simple sentence to clarify what was already true: ‘This legislation does not include funding for abortions and it shall not be interpreted as providing funding for abortions.’

Watch for a future posting with a detailed explanation of why the eighteen items in question do not actually involve funding for abortions. **[UPDATE: That analysis appears below beginning on page 3.]**

Supporting Analysis

This analysis is structured around an [article by the Family Research Council](#). The full text of that article appears below in brown.

My comments appear in black. Your comments are welcome either on [our blog](#) or via email to KenDarga@MichDemsForLife.org

American Rescue Plan Act Spends Over \$450 Billion that Can Fund Abortions

by Connor Semelsberger, MPP
March 10, 2021

COMMENT regarding the title: \$450B is a very misleading figure, especially considering that it is about 1000 times greater than the total annual cost of all abortions performed in the U.S. The U.S. had [862,300 abortions in 2017](#) with an [average cost of roughly \\$500 apiece](#), for a total of about \$430M. The title is effective for generating alarm, outrage, and misunderstanding but I do not think those are appropriate objectives for the pro-life movement. As explained below, the number of additional abortions resulting from the lack of the Hyde Amendment in ARPA is actually zero, so a better title would be “American Rescue Plan Act Spends \$0 on Abortions.”

While the American Rescue Plan Act includes funding for testing, vaccines, and other health care equipment as well as economic relief for families like stimulus checks and an expansion of the Child Tax Credit, it comes at the expense of the lives of the unborn. The American Rescue Plan Act lacks key abortion funding restrictions on over \$459 billion, breaking decades of congressional precedent on restricting federal funding for abortion.

COMMENT: Actually, the precedent from the 1970’s until 2010 was for the Hyde Amendment to be included only in appropriation bills for Medicaid and other programs involving payment for patient care. It is clear from the [text of the Hyde Amendment](#) that it is not necessary or applicable with respect to spending that does not involve patient care. After 2010, however, the Hyde Amendment was also included in other appropriation bills. Understandably, pro-life lawmakers and organizations welcome that opportunity to express disapproval of abortion while pro-choice lawmakers and organizations resist it, even though the effect is solely rhetorical. A reasonable compromise might be to include a factual statement in legislation that does not involve patient care, such as: “This legislation does not include funding for abortions and it shall not be interpreted as providing funding for abortions.”

1. Funds that Can Directly Pay for Abortions (Up To \$386.7 Billion):

- **\$350 billion** in funding for state and local governments with little to no guardrails against funding abortions. The funding formula is tilted towards blue states like California and New York who are more likely to abuse this money to fund abortions directly and bail out Planned Parenthood the abortion industry.

To assess this claim, it is necessary to look at the four allowable uses of ‘state and local fiscal recovery funds’ in [Section 9901 of ARPA](#) itself:

(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality

COMMENT: Although this can include aid to virtually any organization, including entities that provide abortions, it would be aid to ‘respond to the COVID-19 emergency and address its economic effects’ rather than reimbursement of abortions. Thus, it would not have been prevented by the Hyde Amendment. It would potentially aid abortion only in the same incidental sense that helping religious schools respond to COVID aids the advancement of religion.

CONCLUSION: Misunderstanding of what the Hyde Amendment would have accomplished.

(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the State, territory, or Tribal government that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work

COMMENT: Units of government are given broad flexibility in determining what work is essential, so it is possible for workers at health clinics—including ones that perform abortions—to receive premium pay from ARPA funds. However, since this would not be reimbursement for abortions. it would not have been prevented by the Hyde amendment.

CONCLUSION: Misunderstanding of what the Hyde Amendment would have accomplished

(C) for the provision of government services to the extent of the reduction in revenue of such State, territory, or Tribal government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the State, territory, or Tribal government prior to the emergency

COMMENT: Someone unfamiliar with state budgets might interpret this provision as a blank check, and they might envision this money being used for Medicaid abortions in

the 17 states that have decided (or have been required by state courts) to pay for them with their own funds. (The remaining states do not pay for Medicaid abortions, and federal funds are not used for Medicaid abortions because of the Hyde Amendment.) However, the Medicaid program is actually outside the scope of this provision, since it is an ‘entitlement program’ and not a ‘government service.’ Because Medicaid is an entitlement program, it would not even be valid to argue that bailing out other portions of state budgets will free up funds to be spent on abortions. The number of abortions that the 17 states pay for (or gallbladder surgeries or other medical procedures) is determined by the number submitted for payment by medical providers, and not by the amount of funds available. Revenue shortfalls would not even lead these states to stop funding abortions, since the unfortunate fact is that [it is much more expensive to pay for prenatal care, maternity care, and health care after birth than to abort children before they are born.](#)

It should also be noted that, like any other federal program, Medicaid is governed by formal regulations that reflect the provisions of relevant authorization and appropriation acts. Those regulations ensure that the Medicaid program will remain subject to the Hyde Amendment regardless of whether that amendment is reiterated in legislation that provides supplemental Medicaid funds.

CONCLUSION: Misunderstanding of ARPA provisions and the legislative process

(D) to make necessary investments in water, sewer, or broadband infrastructure.

COMMENT: Unrelated to abortion.

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- **\$8.5 billion** for the Provider Relief Fund, which could be used to directly finance abortions as well as to bail out abortion businesses like Planned Parenthood

COMMENT: It is helpful to understand what the [Provider Relief Fund](#) is. According to the Department of Health and Human Services, “Qualified providers of health care, services, and support may receive Provider Relief Fund payments for healthcare-related expenses or lost revenue due to COVID-19. Separately, the COVID-19 Uninsured Program reimburses providers for testing and treating uninsured individuals with COVID-19.” Thus, any provider (including providers who do abortions), can apply for a government handout to replace lost revenue or cover the cost of qualifying expenses due to COVID. Leaving aside the question of whether such handouts to replace lost revenue are a good idea, they would not have been affected by the Hyde Amendment because they clearly do not entail reimbursement for performing abortions. If anything, they would compensate abortionists for not doing as many abortions as usual. (And revenue loss by abortion providers is probably a rare occurrence during the pandemic. The abortion industry seems to have prospered in 2020, since there was a sharp decline in births despite an expectation that births would increase because couples were spending more time together at home.) If assistance to religious organizations in the paycheck protection program or ARPA is a matter of non-discrimination rather than government subsidy of religion, then

supplementing the incomes of abortionists for performing fewer abortions should not be considered 'directly paying for abortion.'

CONCLUSION: Misunderstanding of what the Hyde Amendment would have accomplished

- **\$7.66 billion** for public health workers

COMMENT: [Section 2501 of ARPA](#) specifies that these funds are to be used for "Costs, including wages and benefits, related to the recruiting, hiring, and training of individuals to serve as case investigators, contact tracers, social support specialists, community health workers, public health nurses, disease intervention specialists, epidemiologists, program managers, laboratory personnel, informaticians, communication and policy experts, and any other positions as may be required to prevent, prepare for, and respond to COVID-19; and . . . Personal protective equipment, data management and other technology, or other necessary supplies." This does not involve direct or indirect subsidy of abortion.

CONCLUSION: Misunderstanding of ARPA provisions

- **\$7.6 billion** for community health centers

COMMENT: 'Community Health Center' is a technical legislatively-defined term, rather than a general term that can apply to any facility that provides health services in communities. Based on their governing law, [CHC's are not permitted to provide abortions](#).

CONCLUSION: Misunderstanding of ARPA provisions

- **\$800 million** for National Health Service Corps

COMMENT: The [National Health Service Corps](#) 'builds healthy communities by awarding scholarships and loan repayment to students and qualified health care professionals dedicated to working in areas across the country that have limited access to health care.' It does not finance patient care services. This spending does not involve direct or indirect funding of abortions.

CONCLUSION: Misunderstanding of ARPA provisions

- **\$750 million** for global health activities under the Center for Disease Control

COMMENT: [Section 2403 of ARPA](#) specifies that these funds are to be used for "efforts related to global health security, global disease detection and response, global health protection, global immunization, and global coordination on public health."

CONCLUSION: Misunderstanding of ARPA provisions

- **\$500 million** for rural health clinics

COMMENT: The seven allowable uses of these fund specified by [section 1001\(b\) of ARPA](#) are all related to the COVID epidemic, and none involve provision of patient care. Thus, although some of the funds may be received by rural health clinics that also do abortions, that would not have been prevented by the Hyde Amendment.

CONCLUSION: Misunderstanding of what the Hyde Amendment would have accomplished

- **\$330 million** for Teaching Health Centers that operate Graduate Medical Education

COMMENT: [Section 2604 of ARPA](#) specifies that these funds are to be used under section 340H of the Public Health Service Act ([42 USC 256h](#)) and teaching health center development grants authorized under section 749A of the Public Health Service Act. The Public Health Service Act does not finance patient care, so it does not include (and does not need) the Hyde Amendment. The Hyde Amendment would not affect these payments to medical education programs even if an education program took place in a hospital that provided abortions.

CONCLUSION: Misunderstanding of what the Hyde Amendment would have accomplished

- **\$200 million** for medical reserve corps

COMMENT: [Section 2502 of ARPA](#) specifies that these funds are to be used under Section 2813 of the Public Health Service Act ([42 U.S.C. 300hh-15](#)), which establishes a volunteer corps of health professionals to respond to public health emergencies and disasters. It does not involve direct or indirect payments for abortion.

CONCLUSION: Misunderstanding of ARPA provisions

- **\$200 million** for the nurse corps

COMMENT: [Section 2603 of ARPA](#) specifies that these funds are to be used for carrying out section 846 of the Public Health Service Act ([42 USC 297n](#)), which provides for nursing scholarships and student loan forgiveness. This does not involve direct or indirect payment for abortions.

CONCLUSION: Misunderstanding of ARPA provisions

- **\$200 million** for programs related to sexual assault and domestic violence

COMMENT: [Section 2204c2 of ARPA](#) specifies that these funds are to be used to assist rape crisis centers in transitioning to virtual services and meeting the emergency needs of survivors through the Family Violence Prevention and Services Program. The [Family Violence Prevention and Services Act](#) does not finance patient care so it does not include (and does not need) the Hyde Amendment.

CONCLUSION: False assumptions about ARPA provisions and misunderstanding of what the Hyde Amendment would have accomplished

- Amounts of **\$10 billion** for COVID medical supplies that remain after September 2022 are allowed to be spent on other public health-related activities which can include abortion.

COMMENT: It is actually not true that the funds could be spent for abortions. [Section 3101 of ARPA](#) states: ‘After September 30, 2022, amounts appropriated in subsection (a) may be used for any activity authorized by paragraph (1), or any other activity necessary to meet critical public health needs of the United States, with respect to any pathogen that the President has determined has the potential for creating a public health emergency.’ Paragraph 1 lists ‘the purchase, production (including the construction, repair, and retrofitting of government-owned or private facilities as necessary), or distribution of medical supplies and equipment (including durable medical equipment) related to combating the COVID-19 pandemic.’ That does not involve funding abortions, and such uses of funds would not be prevented by the Hyde amendment even if they involved entities that provide abortions.

CONCLUSION: False assumptions about ARPA provisions

2. Funds that Can Subsidize Abortion (\$704 Million) and Abortion Lobbying (\$10 Billion) Overseas:

- \$10 billion in foreign assistance funds not subject to the Siljander Amendment, allowing these funds to be used for international abortion lobbying.
 - Of these funds, **\$500 million** in humanitarian response activities for migrants and refugees by the United Nations also lack Helms Amendment protections to prevent the UN from using these funds to pay for abortions.

COMMENT: [Section 10004 of ARPA](#) specifies that these funds are to be used “to prevent, prepare for, and respond to coronavirus” under the Migration and Refugee Assistance Act. This is not funding for abortion, and the [Migration and Refugee Assistance Act](#) does not include or address abortion or other reproductive services.

CONCLUSION: Misunderstanding of ARPA provisions

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- Of these funds, **\$204 million** for State Department Activities also lack Helms Amendment protections, allowing these funds to be used for abortions abroad.

COMMENT: [Section 10001 of ARPA](#) specifies that the \$204M for the Department of State is to be spent “for necessary expenses of the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, to prevent, prepare for, and respond to coronavirus domestically or internationally, which shall include maintaining Department of State operations.” This is not funding for abortions.

CONCLUSION: Misunderstanding of ARPA provisions

- Of these funds **\$8.7 billion** can be spent on contraception and sterilization procedures overseas and are likely to go to the major abortion business like International Planned Parenthood and MSI Reproductive Choices that provide these services.

COMMENT: The remainder of the \$10B in foreign assistance funds are covered by [sections 10002, 10003, and 10005 of ARPA](#), which specify that they are to be spent under the Foreign Assistance Act. That Act includes the Helms Amendment to prevent funds from being used to pay for abortions.

How can critics demonize this spending if they know that it cannot include abortion? One way is to select some things that are not mentioned in ARPA and not prohibited in the Foreign Assistance Act, such as contraception and sterilization, and then give the false impression that those things are what this spending is about. Ironically, even if ARPA did include massive amounts of funding for contraception and sterilization, that would not have been prevented by the Hyde Amendment or any of the other pro-life amendments yet developed.

A more honest approach would have been to note that the Helms Amendment prevents these funds from being used for abortions and to list the purposes for which they are actually designated:

- “to prevent, prepare for, and respond to coronavirus domestically or internationally”
- “a contribution to a multilateral vaccine development partnership to support epidemic preparedness”
- “to support programs for the prevention, treatment, and control of HIV/AIDS . . . including to mitigate the impact on such programs from coronavirus and support recovery from the impacts of the coronavirus
- “a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria”
- “support for international disaster relief, rehabilitation, and reconstruction, for health activities, and to meet emergency food security needs”
- “to prevent, prepare for, and respond to coronavirus, which shall include activities to address economic and stabilization requirements resulting from such virus”

- Slightly less than six percent of the \$10B is to be spent on “support for the priorities and objectives of the [United Nations Global Humanitarian Response Plan COVID-19](#).” That 80-page UN document focuses primarily on prevention and treatment of COVID, nutrition, sanitation, and economic impacts of the pandemic. Its references to the adverse impact of COVID on reproductive health primarily involve obstetric and neonatal care, but there is also one reference to family planning as a component of reproductive health and one reference to the ‘Minimal Initial Service Package for sexual and reproductive health,’ which also includes family planning. It is worth reiterating that, because the activities covered by this provision of ARPA take place under the Foreign Assistance Act, they cannot include abortion services. Thus, any spending on family planning that may take place under this provision would not have been affected by the Hyde Amendment.

CONCLUSION: Distortion of ARPA provisions and misunderstanding of what the Hyde Amendment would have accomplished

3. Major Subsidies for Health Plans that Cover Abortion (\$81.7 Billion):

- For 2021 and 2022, vastly expands Obamacare’s premium tax credits and cost sharing reduction payments, which subsidizes plans that cover abortion. The Joint Committee on Taxation (JCT) estimates these subsidies to cost **\$45.624 billion**.
 - Those under 150% of federal poverty level (FPL) would receive a 100% taxpayer subsidy to enroll in silver plans.
 - Those unemployed of any income level (for 2021) would receive a 100% taxpayer subsidy to enroll in a silver plan, and enhanced cost-sharing reduction payments.
 - Those between 150% and 400% FPL would receive a much more generous subsidy than current law.
 - Middle class taxpayers above 400% FPL, ineligible under current law, would become newly eligible for a significant subsidy so that the benchmark silver premium doesn’t exceed 8.5% of household income.

COMMENT: The claim that Obamacare ‘subsidizes plans that cover abortions’ is an example of how a statement can be very misleading even if it is technically true. It is true that 24 states allow plans that cover abortion to be sold on their insurance exchanges, and it is also true that people who purchase plans on the exchanges are eligible for subsidies. *However, the abortion component of those plans is not subsidized. It is paid for entirely by the policyholder. Making the subsidies more generous does not change the fact that federal funds do not cover any abortion component of the coverage that the policyholder selects.*

Pro-life opponents of Obamacare tend to overlook [the provisions and regulations that prevent Obamacare funds from paying for abortions](#):

- There is a requirement to ensure that policies without coverage for elective abortions are available in every state. (A few states have failed to implement that

policy, but that is a failure of state implementation and federal enforcement rather than a fault of the law and its associated regulations.)

- Insurance companies that cover elective abortion must finance that coverage through a payment from the policyholder that is segregated from any other premium amounts and not eligible for federal subsidy.
- The charge for the abortion coverage must cover the actuarial cost of abortion services, excluding any allowance for savings from not delivering the babies that are aborted. (If such an allowance were permitted, the actuarial cost of abortion coverage would actually be negative.)
- Moreover, the charge for the abortion coverage must be at least \$1 per month, which is [generally about twice the amount that is actually paid for abortions](#). Thus, most people who purchase abortion coverage are subsidizing their insurance companies or subsidizing non-abortion services rather than the other way around.

One of the greatest shortcomings of pro-life politics is that the effort to prevent coverage of abortions for low-income people is not matched by an effort to end abortion coverage for the rest of the population, which everyone pays for as part of the cost of things they buy. [Most employer-financed insurance policies cover elective abortions](#). That reflects the fact that [aborting babies is cheaper for insurance companies than delivering them](#). The pro-life case against abortion coverage applies to the entire health insurance system, but [most states do much less to restrict abortion coverage in the rest of the private insurance market than they do for Obamacare](#):

- Although 26 states prohibited coverage of elective abortion through Obamacare as of 2018, only 1 state (Utah) prohibited such coverage in other private insurance policies.
- Ten of those states that banned abortion coverage for Obamacare (including Michigan) allowed abortion riders for the rest of the private insurance market.
- The private insurance market in the remaining 40 states and the District of Columbia lacked any of the safeguards provided under Obamacare. Those states did not even require separate riders for abortion coverage.
- Abortion coverage is not restricted at all in the self-insured health plans favored by most large employers

Thus, the fact that Obamacare is associated with abortion coverage at all is a feature of private health insurance rather than a feature of Obamacare itself. The most pertinent thing for the pro-life movement to say about abortion coverage under Obamacare is that it is much more restricted than abortion coverage in the rest of the private insurance market.

CONCLUSION: Distortion and misunderstanding of Obamacare

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- For six months, subsidizes 100% of the cost of COBRA continuation coverage. This subsidy covers the cost of health care premiums for the newly unemployed to remain on their employer sponsored health plans, which includes many plans that cover abortion. JCT estimates these subsidies to cost **\$35.095 billion**.

COMMENT: As explained above, it is true that most private insurance covers elective abortions, since aborting babies is much cheaper for insurance companies than delivering them. After accounting for the savings from not delivering as many babies, the actuarial cost of a policy that excluded abortion would actually be higher than the actuarial cost of an otherwise identical policy that covered abortion. (Ending insurance coverage of abortion is a matter of not encouraging or promoting abortion; it is not a matter of saving money.) Moreover, it is important to recognize that anyone who has lost their health insurance has a strong financial incentive to choose an abortion that costs a few hundred dollars over a delivery that costs several thousand dollars. Continuing health insurance for unemployed people reduces that incentive, so it can be expected to reduce the number of abortions regardless of whether abortion is a covered service. The bottom line is that, even though this provision of ARPA enables unemployed people to keep the same abortion-friendly private insurance that they had before losing their jobs, the actuarial cost of that abortion coverage is a negative dollar amount and the number of abortions is likely to be lower than if ARPA did not enable them to keep their health coverage.

CONCLUSION: Misunderstanding of the economics of health insurance and abortion

4. Bailout for Abortion Businesses (\$50 Million)

- \$50 million for the Title X family planning program – The Biden administration will likely direct these funds to Planned Parenthood and other abortion businesses that withdrew from Title X over pro-life changes that were made by the Trump administration. Longstanding requirements on political lobbying, encouraging parental involvement, and reporting sexual abuse are *not* included.

COMMENT: While some of the funds may go to organizations that provide elective abortions, the funds are actually restricted to other forms of family planning. [Section 2605 of ARPA](#) stipulates that these funds are to be used ‘for necessary expenses for making grants and contracts under [section 1001 of the Public Health Service Act](#)’ which lists a broad range of acceptable services and then states “The broad range of services does not include abortion as a method of family planning.”

Moreover, the restrictions and requirements regarding abortion, lobbying, parental involvement, and reporting of sexual abuse have been incorporated into the [regulations that have been promulgated for Title X programs](#), so they do not need to be reiterated in ARPA.

CONCLUSION: Misunderstanding of ARPA and of the legislative process.

OVERALL CONCLUSION: ARPA does not fund abortions, and any COVID relief or other non-abortion funding provided through ARPA to entities that perform abortions would not have been prevented by the Hyde Amendment.