

DEFUNDING BIG ABORTION: BREAKTHROUGH & THE NEXT OPPORTUNITY

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Among the [big wins](#) in the [One Big Beautiful Bill](#) (OB BB) Act is a provision to block federal Medicaid funding for providers who perform abortions on demand.

Unfortunately, questionable parliamentary and legal opinions have temporarily limited Congress on the matter. Legislators have made great strides and now must continue to see this fight through to its conclusion.

A Matter of Conscience

Abortion has been perhaps the most fraught political issue of the last 50 years. While policies such as the Hyde Amendment (legislative) and Mexico City policy (administrative) can prevent federal funds from directly paying for abortions, indirect support and funding transferal have remained a challenge.

Conservatives have long sought to block large abortion providers from federal funds to avoid providing indirect support for abortion, since money is fungible.

Of note is Planned Parenthood, America's largest abortionist. While Planned Parenthood congratulated itself for 400,000 abortions in its most recent [annual report](#), the organization also received nearly \$800 million in government funding. This includes the federal Medicaid and Title X Family Planning programs.

Tens of millions of taxpayers should not be forced to backstop an institution they consider anathema. Supporters of Planned Parenthood have alternatives such as direct donations and the inclusion of abortion on some private insurance plans, but pro-life Americans have no way around paying federal taxes.

While defunding Planned Parenthood and similar organizations is clearly and directly within the purview of Congressional authority over federal spending, attempts to enact legislation to that effect repeatedly failed. That [finally changed](#) in 2025 due to the leadership of President Donald Trump, House Speaker Mike Johnson (R-LA), and other champions in the House and Senate.

One Big Beautiful Breakthrough & One Big Change

Both the [House-passed version](#) and section 71113 of the [final version](#) of the OBBB include provisions to block payments through the Medicaid program to any entity that provides abortions, with limited exceptions in cases of as rape, incest, and medical endangerment to the mother.

Though the OBBB's provision did not explicitly name Planned Parenthood, its primary effect is to push the organization, its affiliates, and similar groups out of the Medicaid system. Practically, this will force abortionists to choose between maintaining a significant funding stream and continuing to perform abortions. It also means that Americans' tax dollars are no longer funding abortions and instead preserving Medicaid for truly vulnerable Americans who utilize the program for health care services.

Of note, while the House bill would have enacted a 10-year funding prohibition, this was reduced to a single year in the Senate. The change was reportedly due to the Senate's [Byrd Rule](#), which governs provisions' eligibility for inclusion in [reconciliation](#) as a way to maintain focus on matters related to the federal budget.

Part of Byrd Rule enforcement involves legislators and staffers discussing contentious provisions with the Senate Parliamentarian, referred to as the "Byrd Bath." The Parliamentarian delivers advisory opinions on whether a given provision meets the Byrd standard or not and offers guidance on potential remedies. Senators (not the Parliamentarian) have the final say regarding the Byrd Rule, and a simple majority can choose to overrule or sustain a Byrd objection on the floor.

Most aspects of the Byrd Bath process take place behind closed doors, and there is not a public document stating Senate Parliamentarian Elizabeth MacDonough's view of the House's 10-year funding prohibition provision.

It has been widely [reported](#) that MacDonough was comfortable with the one-year funding ban contained in the enacted OBBB, which is consistent with [previous guidance](#) that "temporary" enactment of a new policy is considered more permissible under Byrd. Also, language related to abortion and Planned Parenthood has been [heavily scrutinized](#) in past Byrd analysis.

It is possible that MacDonough would have been comfortable with a longer prohibition using different legislative text, and that the Senate was not able to produce such text before the final vote on the OBBB. It is also possible that MacDonough's analysis was flawed and should be challenged in future review should it be raised as precedent.

Questionable Judgment

Another potential obstacle to the OBBB's defunding provision is a temporary restraining order issued on July 7, 2025, by Judge Indira Talwani following a lawsuit filed by Planned Parenthood, which claims that the provision is unconstitutional. Judge Talwani found the argument credible enough to demand that funds continue flowing to abortionists.

Legal experts have expressed a range of concerns with the ruling, including its [breakneck speed](#) and its [usurpation](#) of Congressional power over federal spending.

Arguments that the funding prohibition is a “bill of attainder” or a politicized “punishment” treat access to tax dollars as a constitutional right rather than a limited privilege. Planned Parenthood is not entitled to public resources, and Congress is both legally authorized and morally justified in cutting them off.

It is unclear how the lawsuit will proceed, especially given the high likelihood of sequential appeals due to the high stakes at issue.

Congress and the Trump Administration should seek victory not only to protect the conscience of pro-life Americans, but also in defense of the legislative and executive branches having the ability to set policy that is clearly within their purview.

The Fight to Defend Pro-Life Taxpayers Continues

A proper understanding of the American system of government should include limiting federal funding to activities and organizations supported by a broad consensus of elected representatives. Congress made great strides with the OBBB's prohibition against funding abortionists and should continue working in that direction.

As the next step, Congress should begin working on a fiscal year 2026 budget resolution to unlock the reconciliation process once more. Congress should use reconciliation to enact a new (and possibly longer) prohibition on funding abortionists prior to the current ban's expiration in July 2026, along with addressing other matters left unresolved by the OBBB.

This would present a tremendous opportunity for legislators to defend life, liberty, and the pursuit of happiness for both current Americans and those yet to be born.