
UNITED STATES SENATE
LIBERTY
E PLURIBUS UNUM

Letter from the EB

At the outset on behalf of the Executive Board, I extend a warm welcome to all of you and congratulate you on being a part of the US Senate being simulated at GCMUN. The committee being simulated, would unlike most other simulations you must have heard of or been a part of; focus on political intellect, logical intellect, analytical application of thoughts, and strategic application of thoughts in addressing the issues at hand.

Kindly note, we are not looking for existing (impractical) solutions or statements that would be a copy-paste of what the person you are representing has already stated; instead, we seek an out-of-the-box solution from you, while knowing and understanding the impending limitations of the person you represent.

This Introductory guide would be as abstract as possible, and would just give you a basic perspective on what you can expect from the committee and areas wherein your research should be focused at this given point in time. Given, the extremely political and volatile nature of the agendas of the committee, your presence of mind and analytical aptitude is something that we at the executive board would be looking to test.

Kindly do not limit your research to the areas highlighted herein but, ensure that you logically deduce and push your research to areas associated with and in addition to the issues mentioned.

The objective of this background guide is to provide you with a 'background' of the issue at hand and therefore it might seem to some as not being comprehensive enough.

We feel that 'study guides' are detrimental to the individual growth of the delegate since they overlook a very important part of this activity, which is Research. We are sure, however, that this background guide gives you a perfect launching pad to start with your research.

This guide shall deal with a skeletal overview of the agenda. The delay is intentional as we do not want to spoon-feed you with the research.

Just to let you know, the Content provided in the BG is a compilation of various research and literary works of various authors and thinkers in blend with the intellect of the executive board. It is to be noted that the content provided below in no way reflects the personal ideologies of the executive board and has been prepared to keep in mind a neutral point of view. Wishing you all very good luck.

Avinash Tripathy - Vice President Shaarang Kshirsagar, Ahaan Modi – President Pro Tempore

Breakdown of American Political System

The foundation of the American political system lies in its Constitution, drafted in 1787 and amended over time to reflect the evolving needs of the nation. It establishes the structure of government and delineates the powers and responsibilities of each branch. The Constitution outlines the separation of powers among the executive, legislative, and judicial branches to prevent any one branch from becoming too dominant. Additionally, it includes the Bill of Rights, the first ten amendments that guarantee individual freedoms such as freedom of speech, religion, and the right to a fair trial. This document serves as the supreme law of the land, providing a framework for governance that has endured for centuries.

Led by the President, the executive branch is responsible for implementing and enforcing laws passed by Congress. The President serves as the Commander-in-Chief of the military, conducts foreign affairs, and can veto legislation passed by Congress. The executive branch also includes various federal agencies and departments, each tasked with specific areas of governance such as the Treasury Department, State Department, and Department of Defense.

Congress, as the legislative branch, is bicameral and consists of the Senate and the House of Representatives. The Senate, with two senators per state serving staggered six-year terms, provides equal representation for each state. In contrast, the House of Representatives allocates seats based on state population, with members serving two-year terms. Congress has the authority to make laws, control the federal budget, declare war, and confirm presidential appointments to key positions within the executive branch and federal judiciary.

The Supreme Court, the highest court in the United States, heads the judicial branch. Composed of nine justices appointed for life by the President and confirmed by the Senate, the Supreme Court interprets the Constitution and federal laws, resolves disputes between states, and reviews lower court decisions to ensure consistency with constitutional principles. The judicial branch plays a crucial role in safeguarding individual rights and upholding the rule of law through its decisions on legal disputes and constitutional matters.

Elections in the United States are fundamental to its democratic process, enabling citizens to choose their representatives at federal, state, and local levels of government. Presidential elections occur every four years, preceded by primary elections and party conventions where candidates are nominated by the Democratic and Republican parties. The electoral system combines direct elections with the Electoral College, where each state has a certain number of electors based on its congressional representation, determining the outcome of the presidential election. Political parties play a central role in the electoral process, advocating for policies, mobilizing voters, and shaping public discourse through campaign strategies and media outreach.

Federalism in the United States divides governmental powers between the national (federal) government and state governments, ensuring a balance of authority and autonomy. While the federal government retains powers delegated by the Constitution, such as national defense and foreign policy, states possess reserved powers not specifically granted to the federal government. This dual system of governance allows states to address local concerns and innovate policies tailored to their unique demographics and needs, promoting diversity and flexibility in governance across the nation.

The principle of checks and balances is integral to the American political system, preventing any single branch of government from gaining too much power. Each branch possesses checks over the others, ensuring accountability and maintaining a system of shared governance. For instance, the President can veto legislation passed by Congress, but Congress can override the veto with a two-thirds majority in both chambers. Similarly, the Senate confirms presidential appointments and ratifies treaties, while the Supreme Court exercises judicial review to assess the constitutionality of laws passed by Congress and actions taken by the executive branch.

The Bill of Rights comprises the first ten amendments to the Constitution, guaranteeing fundamental freedoms and rights to all individuals within the United States. These rights include freedom of speech, religion, and assembly; the right to bear arms; protection against unreasonable search and seizure; and the right to due process and a fair trial. The Bill of Rights serves as a safeguard against government overreach and ensures that individual liberties are

protected, laying the foundation for civil liberties and legal protections that underpin American democracy.

Political processes in the United States encompass a range of activities and institutions that shape governance and public policy. Lobbying and interest groups advocate for specific causes and influence policy decisions through direct engagement with elected officials and government agencies. Campaign finance laws regulate the funding of political campaigns to promote transparency and prevent undue influence from wealthy individuals or corporations. Media plays a crucial role in shaping public opinion and political discourse through news reporting, analysis, and opinion pieces that inform voters and hold elected officials accountable. Public opinion, shaped by media coverage and civic engagement, influences electoral outcomes and policy priorities, reflecting the dynamic and participatory nature of American democracy.

Introduction to US Senate

The United States Senate is one of the two chambers of the United States Congress, the legislative branch of the federal government. Established by the Constitution, the Senate plays a crucial role in the American political system by representing the interests of states and participating in the legislative process. Composed of 100 senators, each serving a six-year term, the Senate is designed to provide equal representation for each state regardless of population size, in contrast to the House of Representatives where representation is based on population. This equal representation reflects the framers' intent to balance the interests of smaller and larger states within the federal system.

Senators are elected directly by the voters of each state they represent. Originally, senators were chosen by state legislatures, but the 17th Amendment, ratified in 1913, established direct election by popular vote. Each state elects two senators, regardless of its size or population, ensuring that even the smallest states have equal representation in the Senate. Senators must be at least 30 years old, a U.S. citizen for at least nine years, and a resident of the state they represent at the time of their election.

The Senate's primary responsibilities include making and passing laws, confirming presidential appointments, including federal judges and Cabinet officials, ratifying treaties negotiated by the President, and serving as a check on the executive and judicial branches of government through oversight and confirmation processes. Unlike the House of Representatives, the Senate's smaller size and longer terms allow for a more deliberative and potentially less volatile legislative process.

The Vice President of the United States serves as the President of the Senate but can only vote in the event of a tie. In practice, the day-to-day leadership and decision-making within the Senate are overseen by the Majority Leader and the Minority Leader, who are elected by their respective party caucuses. They play pivotal roles in setting the Senate's legislative agenda, coordinating party strategy, and negotiating with counterparts in the House of Representatives and the executive branch.

Committees are integral to the Senate's function, as they specialize in specific policy areas, conduct hearings, and draft legislation. There are standing committees, such as the Judiciary Committee or the Finance Committee, which focus on ongoing policy areas. Additionally, there are special, select, and joint committees that address specific issues or oversee particular functions of government. Committee assignments allow senators to delve deeply into policy matters, oversee the implementation of laws, and provide oversight of executive branch agencies.

The legislative process in the Senate involves several stages. A bill is typically introduced by a senator, assigned to a committee for review and markup, and then debated on the Senate floor. The bill must pass by a simple majority vote (51 out of 100 senators) to proceed to the House of Representatives or to the President for signature into law. Senators may propose amendments, engage in filibusters (extended debates to delay or prevent a vote), or use cloture (a procedure to end a filibuster) to influence the legislative process.

The Senate's rules and procedures, outlined in the Standing Rules of the Senate, govern its operations. These rules include provisions for debate, voting, committee assignments, and the conduct of senators. The filibuster, a tactic that allows senators to delay or block legislation through extended debate, is a notable feature of Senate procedure. To overcome a filibuster, a cloture vote requires a three-fifths majority (60 senators) to limit debate and proceed to a vote on the bill.

Senators serve on average six-year terms, with elections staggered so that approximately one-third of the Senate is up for election every two years. This system ensures continuity in governance while allowing for periodic shifts in party control and policy priorities. The longer terms compared to those in the House of Representatives provide senators with greater stability and opportunities to develop expertise in legislative matters and build relationships across party lines.

The Senate's role in the confirmation of presidential appointments is a critical aspect of its constitutional duties. The President nominates individuals to fill key positions in the federal government, including federal judges, Cabinet members, ambassadors, and agency heads. The Senate reviews these nominations through committee hearings and votes on whether to confirm them. This process ensures that nominees meet qualifications or have the necessary experience.

Differences between the US Senate & House of Representatives

The United States Congress comprises two chambers, each with distinct characteristics and responsibilities. The House of Representatives consists of 435 members who serve terms of 2 years. Representation in the House is based on state population, with more populous states having more representatives. The presiding officer of the House is the Speaker, elected by its members. Legislation dealing with revenue must originate in the House. Debate in the House is tightly regulated, with limited speaking time.

In contrast, the Senate has 100 members, with each state electing 2 senators who serve staggered 6-year terms, ensuring approximately one-third face reelection every two years. Regardless of state size, each state has equal representation in the Senate. The Vice President serves as the President of the Senate but only votes to break ties; day-to-day operations are overseen by the President pro tempore. The Senate holds authority over treaties and presidential appointments. Debate in the Senate is generally unlimited, allowing for filibusters that require a cloture vote of 60 senators to end. Senate committees are fewer and broader in scope compared to the House, which has numerous specialized committees. Senators represent entire states, offering a broader constituency than House members, who represent smaller districts. These distinctions underscore each chamber's role and function within the legislative framework of the U.S. government.

Special Procedures under the US Senate

Advice & consent in the US Senate

"Advice and consent" are a constitutional power granted to the United States Senate under Article II, Section 2 of the U.S. Constitution. It refers to the Senate's authority to review and approve or reject certain presidential actions, specifically:

The President has the power to negotiate and sign treaties with foreign nations. However, before a treaty becomes legally binding on the United States, the Senate must give its advice and consent by a two-thirds majority vote. This requirement ensures that major international agreements have bipartisan support and reflect the will of the American people as represented by their elected senators.

The President nominates individuals to fill key positions within the federal government, such as federal judgeships, cabinet members, and ambassadors. These nominations are subject to Senate confirmation. The Senate exercises its advice and consent role by conducting hearings to vet nominees' qualifications, backgrounds, and potential conflicts of interest. If the Senate approves the nomination by a majority vote, the nominee can assume the position and carry out their duties.

Closed Session

A closed session of Congress refers to a session or meeting of either the House of Representatives or the Senate that is not open to the public or the media. These closed sessions are rare and typically held for specific sensitive matters such as national security issues, confidential hearings on classified information, or deliberations on sensitive legislative matters that require confidentiality. Closed sessions are usually convened to discuss matters that require secrecy or confidentiality due to their sensitive nature. This may include classified information related to national security, intelligence briefings, or discussions on confidential diplomatic negotiations.

When a closed session is called, members of the public and the media are excluded from the chamber.

Only members of Congress, necessary staff, and authorized individuals (such as expert witnesses or officials with security clearance) are allowed to attend. The authority to hold closed sessions is derived from the rules of procedure of each chamber of Congress. These rules outline the circumstances under which closed sessions can be convened and the procedures to be followed.

Cloture

Cloture in the United States Senate is a procedural mechanism designed to end filibusters, which are tactics used to delay or block legislative action through extended debate. When a cloture motion is filed by a senator or group of senators, it initiates a process where the Senate votes on whether to limit further debate on a specific bill, nomination, or other business. To invoke cloture, a supermajority of three-fifths of the Senate (usually 60 out of 100 senators) must vote in favor. If cloture is successful, debate is limited to an additional 30 hours, after which a final vote can be taken. Cloture is crucial for moving contentious or stalled legislation forward by curtailing extended debate and allowing the Senate to proceed to decisive votes on important matters. It serves as a balance between ensuring thorough deliberation and preventing indefinite delays in legislative proceedings. In the case of this session of the Senate, the cloture supermajority shall be 30 out of the present 50 Senators.

List of Procedures in the United States Senate

1. Executive session

An executive session refers to a closed-door meeting of the Senate that excludes the public and the media. These sessions are typically held to discuss sensitive matters such as classified information, confidential nominations, or deliberations on treaties. During an executive session, senators may receive classified briefings, conduct hearings with confidential witnesses, or debate and vote on nominations that require discretion due to their nature or potential impact on national security.

2. Morning Session

The Senate usually begins the day with ten-minute speeches by the majority and minority leaders or their designees, followed by a period called "Morning Business." During this time, senators introduce bills and resolutions, which are referred to the various committees for consideration. Members may also request permission to speak briefly on any subject that concerns them.

Following Morning Business, the Senate may consider either executive or legislative business. During an executive session, the Senate may consider any nomination or treaty that the president submits for the Senate's advice and consent. Nominations are confirmed by a simple majority, but the Constitution requires a two-thirds vote of the Senate to approve treaties. For much of the Senate's history, all executive sessions were conducted in secret, with the galleries cleared and the doors locked, enabling senators to speak freely about the character of nominees and to avoid causing any embarrassment to the nation's treaty partners. Not until 1929 were executive sessions routinely opened to the public and the press.

Legislative business consumes the largest share of the Senate's time. When committees report out legislation, the majority leader attempts to schedule it for debate in the chamber. If both parties have agreed to the bill, it may be enacted simply by "unanimous consent," with only a brief reading of its title and a request by the leadership that it be adopted without objection, generally by voice vote. If a single member objects, however, the Senate may not consider the bill at all, or may debate it at length and then take a roll call vote.

3. Filibuster

A motion for filibuster can be presented by any Senator when the dais calls for motions and requires a simple majority to pass. If passed, it grants the Senator who motioned for the filibuster a speech lasting up to 5 minutes. There are two primary purposes of a motion for a filibuster.

1. A Senator can use a filibuster to give a more detailed argument on a contentious issue. If it is used in this manner, it is expected that the speech is focused and content-heavy. If the dais determines a Senator is failing to do so, it retains the right to cut the Senator's time short.

2. The more common and recommended use of a filibuster is to stall the committee and buy your party more time to complete bills or other initiatives. The committee may decide to cut the Senator off at any point during their speech as long as half the committee has signed off, and the dais approves. This action is called a cloture and results in the speaker's time elapsing.

4. Nuclear option

In the United States Senate, the **nuclear option** is a parliamentary procedure that allows the Senate to override a standing rule by a simple majority, avoiding the two-thirds supermajority normally required to invoke cloture on a measure amending the Standing Rules. The term "Nuclear option" is an analogy to nuclear weapons being the most extreme option in warfare.

The nuclear option can be invoked by a senator raising a point of order that contravenes a standing rule. The presiding officer would then overrule the point of order based on Senate rules and precedents; this ruling would then be appealed and overturned by a simple majority vote (or a tie vote), establishing a new precedent. The nuclear option is made possible by the principle in Senate procedure that appeals from rulings of the chair on points of order relating to non-debatable questions are themselves non debatable.

The nuclear option is most often discussed in connection with the filibuster. Since cloture is a non-debatable question, an appeal in relation to cloture is decided without debate. This obviates the usual requirement for a two-thirds majority to invoke cloture on a resolution amending the Standing Rules.

5. Saxbe fix

Saxbe Fix refers to a mechanism by which the President of the U.S. appoints a current or former member of the U.S Congress to a civil office position. According to this principle a person whose elected term has not yet expired is appointed to the civil office position. The appointment of the member can be to a civil office position for which the pay and/or benefits were increased. This principle is against the Ineligibility Clause of the constitution that prevents the President from appointing any sitting member of the Congress to a job created for them. This method in fact corrects the violations of USCS Const. Art. I, § 6, Cl 2. This method is named after Senator William Saxbe, who was confirmed as Attorney General in 1973.

1. Senate hold

The Senate "hold" is an informal practice whereby Senators communicate to Senate leaders, often in the form of a letter, their policy views and scheduling preferences regarding measures and matters available for floor consideration. Unique to the upper chamber, holds can be
understood as information-sharing devices predicated on the unanimous consent nature of Senate decision making. Senators place holds to accomplish a variety of purposes—to receive notification of upcoming legislative proceedings, for instance, or to express objections to a particular proposal or executive nomination—but ultimately the decision to honor a hold request, and for how long, rests with the majority leader. Scheduling Senate business is the fundamental prerogative of the majority leader, and this responsibility is typically carried out in consultation with the minority leader. The influence that holds exert in chamber deliberations is based primarily upon the significant parliamentary prerogatives individual Senators are afforded in the rules, procedures, and precedents of the chamber. More often than not, Senate leaders honor a hold request because not doing so could trigger a range of parliamentary responses from the holding Senator(s), such as a filibuster, that could expend significant amounts of scarce floor time. As such, efforts to regulate holds are inextricably linked with the chamber's use of

unanimous consent agreements to structure the process of calling up measures and matters for floor debate and amendment

6. **Senatorial courtesy**

The custom known as “senatorial courtesy” is not a formal rule of the Senate, and is not included in the published rules of that body. The term is used to refer to a practice of long standing whereby certain nominations to federal office have been objected to by an individual senator on the ground that the person nominated is not acceptable to him. The question of whether this practice is in any sense justifiable or desirable is one which the Senate itself must decide. In this study guide, the executive board is merely calling attention to relevant authorities and precedents, without attempting to state their own personal views on the desirability of the practice or, of course, attempting to advise the Senate.

7. **Unanimous Consent**

Agreements formed with ‘Unanimous consent' are designed to suit the interest of all senate members and serve the same by expediting floor operations while protecting the rights of all Senators. Unanimous consent gains validity based on the condition that there are no objectors to the procedure, silence is interpreted as agreement to the proposal and it is cleared to be put into motion immediately. The House often uses it for more routine topics and follows a less rigorous procedure. Unanimous consent acts as a procedural saver of time allowing members more time for discussion.

FUNDAMENTAL RIGHTS AND FUNDAMENTAL FREEDOMS UNDER THE UNITED STATES CONSTITUTION & INTERNATIONAL LAW.

The United States Constitution has had multiple amendments and out of these twenty-seven amendments, ten amendments have been compiled together to form a document known as the Bill of Rights.

Referring to documentation such as the Magna Carta, the Virginia Declaration of Rights and the English Declaration of Rights, the Bill of Rights can be seen as a fundamental set of rights for American Citizens.

The Bill of Rights involves the First Ten Amendments to the United States Constitution. They are as follows:

1. The First Amendment provides that Congress makes no law respecting an establishment of religion or prohibiting its free exercise. It protects freedom of speech, the press, assembly, and the right to petition the Government for a redress of grievances.
2. The Second Amendment gives citizens the right to bear arms.
3. The Third Amendment prohibits the government from quartering troops in private homes, a major grievance during the American Revolution.
4. The Fourth Amendment protects citizens from unreasonable search and seizure. The government may not conduct any searches without a warrant, and such warrants must be issued by a judge and based on probable cause.
5. The Fifth Amendment provides that citizens not be subject to criminal prosecution and punishment without due process. Citizens may not be tried on the same set of facts twice and are protected from self-incrimination (the right to remain silent). The amendment also establishes the power of eminent domain, ensuring that private property is not seized for public use without just compensation.
6. The Sixth Amendment assures the right to a speedy trial by a jury of one's peers, to be informed of the crimes with which one is charged, and to confront the witnesses brought forward by the government. The amendment also provides the accused the right to compel testimony from witnesses, as well as the right to legal representation.

7. The Seventh Amendment provides that civil cases preserve the right to trial by jury.

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9. The Eighth Amendment prohibits excessive bail, excessive fines, and cruel and unusual punishments.

10. The Ninth Amendment states that the list of rights enumerated in the Constitution is not exhaustive, and that the people retain all rights not enumerated.

11. The Tenth Amendment assigns all powers not delegated to the United States, or prohibited to the States, to either the States or to the people.

There are Four FUNDAMENTAL FREEDOMS that all human beings are entitled to irrespective of race, creed and gender.

These four freedoms are enshrined as the following.

1. Freedom of Want
2. Freedom to Worship
3. Freedom from Fear
4. Freedom of Speech.

These four freedoms, while implicitly applicable to all individuals, were made explicit by President Franklin Roosevelt during his State of the Union Address before The United States Congress in the year 1941. In the President's Address, he referred to the values underlying democracy in the fight against National Socialism. He referred to freedom of speech and freedom of worship, already recognized in the US constitution. In the face of the terror of war, he included freedom from fear. And as a reaction to the Great Depression that had left so many destitute, he included a clear reference to freedom from want, heralding the inclusion of
economic, social and cultural rights in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

President Roosevelt's address could be seen as the spark for the drafting of the Universal Declaration of Human Rights (1948) and the International Covenant on Economic, Social and Cultural Rights (1976); which can be seen as an example of fundamental freedoms being adhered to and drafted internationally.

(Note, the UDHR is a non-enforceable document and it contains certain principles and rights

enshrined in this document that are based on other human rights standards enshrined in international documents that are legally binding such as the ICCPR and the ICESCR.)

REPRODUCTIVE RIGHTS IN THE UNITED STATES OF AMERICA.

Important Events

1. Roe v Wade

Roe v. Wade, legal case in which the U.S. Supreme Court on January 22, 1973, ruled (7–2) that unduly restrictive state regulation of abortion is unconstitutional. In a majority opinion written by Justice Harry A. Blackmun, the Court held that a set of Texas statutes criminalizing abortion in most instances violated a constitutional right to privacy, which it found to be implicit in the liberty guarantee of the due process clause of the Fourteenth Amendment ("…nor shall any state deprive any person of life, liberty, or property, without due process of law"). Roe v. Wade was overturned by the Supreme Court in 2022.

The case began in 1970 when "Jane Roe"—a fictional name used to protect the identity of the plaintiff, Norma McCorvey (1947–2017)—instituted federal action against Henry Wade, the district attorney of Dallas County, Texas, where Roe resided. The Supreme Court disagreed with Roe's assertion of an absolute right to terminate pregnancy in any way and at any time. Instead, it attempted to balance what it regarded as a "fundamental" right to privacy with the state's "compelling" interests in protecting the health of pregnant persons and the "potentiality of human life." In doing so, the Court formulated a timetable based on the notions of trimester and fetal viability (i.e., the "capability of meaningful life outside the mother's womb"). During the first trimester of pregnancy, the Court ruled, the state could not intervene in a person's decision to have an abortion under normal circumstances. During the second trimester the state could regulate abortion procedures to protect the health of pregnant persons, but it could not prohibit abortions altogether. From the end of the second trimester, which the Court identified as the

starting point of viability, the state could regulate or prohibit abortions in order to protect the pregnant person's health or to preserve fetal viability. In no case, however, could the state

criminalize abortions that were necessary to protect the life or health of the pregnant person. Repeated challenges to Roe v. Wade after 1973 narrowed the decision's scope but did not overturn it. In Planned Parenthood of Southeastern Pennsylvania v. Casey (1992), the Supreme Court established that restrictions on abortion are unconstitutional if they place an "undue

burden" on a person seeking an abortion before the fetus is viable. In Gonzales v. Carhart (2007), the Court upheld the federal Partial-Birth Abortion Ban Act (2003), which prohibited a rarely used abortion procedure known as intact dilation and evacuation. In Whole Woman's Health v.
Hellerstedt (2016), the Court invoked its decision in Casey to strike down two provisions of a Texas law requiring that abortion clinics meet the standards of ambulatory surgical centers and that doctors performing abortions have admitting privileges at a nearby hospital. Four years later, in June Medical Services L.L.C. v. Russo (2020), the Court invoked Whole Woman's Health to declare unconstitutional a Louisiana statute that was, as the majority noted, nearly identical to
Texas's admitting-privileges law.

In May 2021 the Supreme Court agreed to review in its October 2021 term a lower court's decision to strike down a Mississippi state law, adopted in 2018, that banned most abortions after the 15th week of pregnancy, well before the point of fetal viability. Although the law was plainly unconstitutional under Roe v. Wade and Planned Parenthood v. Casey, Mississippi lawmakers passed the measure in the hope that an inevitable legal challenge would eventually make its way to the Supreme Court, where a conservative majority of justices would overturn or drastically reduce the scope of those decisions. The single question that the Court agreed to consider in the case, Dobbs v. Jackson Women's Health Organization, was whether bans on all pre-viability
abortions are unconstitutional. In May 2022 an apparent draft of a majority opinion in the case, written by Justice Samuel A. Alito, Jr., was leaked to a political news publication in an extraordinary breach of the traditional secrecy in which the Court conducts its deliberations. The opinion, dated February 2022, indicated that the Court had voted to uphold the Mississippi law and to overturn both Roe v. Wade and Planned Parenthood v. Casey. As expected, both Roe and Casey were overturned (5–4) in the Court's official decision in Dobbs, issued in June 2022, in which Alito held that there is no constitutional right to abortion. Soon after the decision was handed down, several states adopted laws that drastically limited the availability of abortion.

2. The Hyde Amendment

The Hyde Amendment, named after its original congressional sponsor, Representative Henry J. Hyde, refers to annual funding restrictions that Congress has regularly included in the annual appropriations acts for the Departments of Labor, Health and Human Services, and Education, and related agencies ("L-HHS-Ed").

The most recently enacted version of the Hyde Amendment (P.L. 117-103. Div. H, §§ 506–507), applicable for fiscal year (FY) 2022, prohibits covered funds to be expended for any abortion or to provide health benefits coverage that includes abortion. This restriction, however, does not apply to abortions of pregnancies that are the result of rape or incest ("rape or incest exception"), or where a woman would be in danger of death if an abortion is not performed ("life-saving exception").

As a statutory provision included in annual appropriations acts, Congress can modify, and has modified, the Hyde Amendment's scope over the years, both as to the types of abortions and the sources of funding subject to this restriction.

Covered Abortions

All versions of the Hyde Amendment have included, at a minimum, the life-saving exception. The original FY1977 version of the Amendment (P.L. 94-439, § 209) included only the life-saving exception. The FY1979 version (P.L. 95-480, § 210) included three exceptions:

(1) the life-saving exception;

(2) a rape or incest exception, but only if the rape or incest had been reported promptly to a law enforcement agency or public health service; and

(3) an exception for instances in which severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term, as determined by two physicians.

Like the original version, between FY1981 and FY1993, the Amendment again generally included only the lifesaving exception. For FY1994, the rape or incest exception, without a reporting requirement, was reintroduced to the Amendment. The scope of abortions subject to the Amendment has generally included these two exceptions since FY1994. Covered Funds As originally enacted for FY1977, the Hyde Amendment applied only to funds appropriated in the same act where the Hyde Amendment is found, i.e., the annual L-HHS-Ed appropriations act. Beginning in FY1999, the Hyde Amendment language has also included coverage of trust funds that receive a transfer from the annual L-HHS-Ed appropriations act. Where Congress has

enacted an L-HHS-Ed appropriations act as a single division of a larger omnibus appropriations act, questions may arise regarding whether the Hyde Amendment's reference to "funds appropriated in this Act" includes funds appropriated in other divisions of the larger omnibus. Historically, such omnibus appropriations acts have included a prefatory provision specifying that "any reference to 'this Act' contained in any division of this Act shall be treated as referring only to the provisions of that division." See, e.g., P.L. 117-103, § 3. Where such language is included with a version of the Hyde Amendment in an omnibus appropriations act, it will likely constrain the application of the Hyde Amendment to funds appropriated, or transferred, in the L-HHS-Ed division of the omnibus.

Effect of the Hyde Amendment

A significant effect of the Hyde Amendment is that it restricts federally funded abortions under major federal healthcare programs, such as Medicaid, a cooperative federal-state program that provides medical benefits assistance to low-income individuals, and Medicare, which provides health coverage not only for certain elderly individuals, but also certain disabled individuals under 65. Medicaid is covered by the Hyde Amendment because it is funded through appropriations made in the annual L-HHSEd appropriations act. Medicare is covered because it is financed from various trust funds that receive transfers from the same appropriations act. The Hyde Amendment also restricts abortion funding under other health programs funded through the L-HHS-Ed appropriations act, including certain community health centers that provide primary health services in underserved areas. Because the Hyde Amendment is a limitation on particular sources of funds, it does not apply to other sources of funds that may be available to a federal program. Some states have opted to cover abortions beyond the Hyde restrictions under their Medicaid programs using exclusively state funds. Similarly, the Office of Legal Counsel in the Department of Justice has concluded that the Hyde Amendment applied to those portions of
student aid programs under Title IV of the Higher Education Act (HEA) funded through the annual L-HHS-Ed appropriations act. However, it concluded that the Amendment did not limit the use of mandatory appropriations for such programs provided in the HEA itself. 45 Op.
O.L.C.—(Jan. 16, 2021).

17 states have a policy to use their own Medicaid funds to pay for abortion beyond the Hyde Amendment requirements, and an estimated 20% of abortions are paid through Medicaid. As of

2021, 16 states use their own state funds to pay for elective abortions and similar services, exceeding federal requirements

Consequently, the cutoff of federal Medicaid funds prompted some states to provide public funding for abortion services from their own coffers. Over time the number of states doing so has gradually expanded, either through legislation or consequent to judicial rulings

Specific stipulations have been put in place by some state governments. Some of these provisions remove restrictions that have been put in place at the federal level while others are used to further extend the reach that Hyde Amendment has put into place. For example, in Iowa, in order to receive an abortion under the Medicaid program, approval must be given from the governor. In Iowa, Mississippi, and Virginia, a provision has been made for the case of fetal impairment. During the 2020 presidential campaign, Joe Biden reversed his previous support of the Hyde Amendment and pledged to work to overturn it if elected. In 2021, he introduced a 2022 budget that completely omitted the Hyde Amendment

A Labor, Health and Human Services bill unveiled in 2021 excluded the amendment.[36] However, the amendment was reinserted into the federal budget that was passed in March 2022.

206 Democrats voted for the spending bill; 15 against it as reported in Roll Call, “Democrats voted overwhelmingly for the nondefense portion of the omnibus.” House Appropriations Chair Rosa DeLauro, D-Conn. "Expressed frustration over her party's concession on Hyde [retaining it
in the final passed omnibus bill]. She said she's the ‘first appropriations chair since 1977 to remove it because I understand that this is an offensive and discriminatory policy which has shut out countless women from the reproductive health care that they deserve for more than 40 years.’”

3. Title X of the Public Health Services Act

The Title X Family Planning Program (Title X) was enacted in 1970 as Title X of the Public Health Service Act (PHS Act, codified at 42 U.S.C. §§300 to 300a-6). Title X provides grants to public and nonprofit agencies for family planning services, research, and training.

The Office of Population Affairs (OPA) within the Department of Health and Human Services (HHS) administers Title X, which is the only domestic federal program dedicated solely to family planning and related preventive health services. Most Title X regulations are at 42 C.F.R. Part 59.

Overview of Title X

What Is the Federal Funding Level?

The Consolidated Appropriations Act, 2023 (P.L. 117-328) provided $286.5 million in FY2023 discretionary funding for Title X. The program has had the same enacted annual discretionary funding level since FY2014. The American Rescue Plan Act (ARPA; P.L. 117-2, §2605) also provided Title X with $50 million in one-time mandatory funding, with funds to remain available until expended. HHS indicated it used some of the ARPA funding for FY2022 grants for the following purposes: to address the "dire need" for family planning services in certain states with "restrictive" policies on reproductive health access and in certain states that had no or limited Title X services; to improve and expand telehealth infrastructure; and to support "training and technical assistance to address the challenges that the recent Supreme Court decision [Dobbs v. Jackson Women's Health Organization] may have" on Title X services . P.L. 118-5, Fiscal Responsibility Act of 2023, Division B §2(24) rescinded unobligated balances of this ARPA funding as of the date of enactment, June 3, 2023. As of this writing, USAspending.gov showed an unobligated balance of $4 million, reflecting data through April 30, 2023.

What Clinical Services Are Provided?

Regulations require Title X projects to provide "a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including pregnancy testing and counseling, assistance to achieve pregnancy, basic infertility services, STI [sexually transmitted infection] services, preconception health services, and adolescent friendly health services)." Title X clinical guidelines are at. KFF reports that there are 4,108 Title X clinics as of 2023.

Does Title X Fund Abortions?

Since Title X's establishment in 1970, the PHS Act has prohibited using Title X funds in programs where abortion is a method of family planning. Additionally, annual appropriations laws have stated that Title X funds "shall not be expended for abortions." Program guidance requires that a grantee's Title X project activities and its non-Title X abortion activities be

"Separate and distinct"; they may share a common facility, a common waiting room, common staff, and a common records system, "so long as it is possible to distinguish between the Title X supported activities and non-Title X abortion related activities," for example, through allocating and prorating costs).

Must Title X projects provide abortion referrals upon client request?

Regulations require Title X projects to offer pregnant client's information and nondirective counseling on prenatal care and delivery; infant care, foster care, or adoption; and abortion (unless a client indicates that they do not want information or counseling about particular options). Projects are also required to provide referrals upon client request, including abortion referrals. Program guidance states that abortion referrals may include providing relevant factual information (such as the abortion provider's phone number, address, and charges), but "the project may not take further affirmative action (such as negotiating a fee reduction, making an appointment, providing transportation) to secure abortion services for the patient".

HHS has stated that "objecting individuals and grantees will not be required to counsel or refer for abortions in the Title X program in accordance with applicable federal law" (86 Fed. Reg. 56153) and that "providers may separately be covered by federal statutes protecting conscience." (42 C.F.R. 59.5, footnote 2)

What Do Clients Pay?

Persons with income at or below 100% of the federal poverty level guidelines (FPL) do not pay for care. Clients with income higher than 100% and up to 250% FPL are charged on a sliding scale based on their ability to pay. Clients with income higher than 250% FPL are charged fees designed to recover the reasonable cost of providing services. (In 2023, in the 48 contiguous

states and the District of Columbia, the poverty guideline for an individual is an annual income of $14,580; for families of two or more persons, $5,140 is added to the annual income figure for each additional person.) For unemancipated minors who request confidential services, eligibility for discounts is based on the minor's own income.

Are There Special Requirements for Services to Minors?

Annual appropriations laws have stated that Title X providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest. Title X providers must counsel minors on how to resist attempted coercion into sexual activity. The Title X statute also requires grantees, "to the extent practical," to encourage family participation. Regulations state that Title X projects may not require parental consent and may not notify a parent or guardian that a minor has requested or received Title X family planning services. On December 20, 2022, a federal district court in Texas, in a case filed by a parent who objected to these regulations on religious grounds, ruled that these regulations violated the plaintiff's constitutional right to direct the upbringing of his children and set aside these regulations. See CRS Legal Sidebar LSB10916, Title X Parental Consent for Contraceptive Services Litigation: Overview and Initial Observations (Part 1 of 2) and CRS Legal Sidebar LSB10917, Title X Parental Consent for Contraceptive Services Litigation: Overview and Initial Observations (Part 2 of 2). The government has filed an appeal; litigation is ongoing.

Who Are Title X Clients?

In 2021, Title X served 1.7 million clients. Of those clients, 85% were female, 65% had incomes at or below FPL, 83% had incomes at or below 200% FPL, and 36% were uninsured. The

Guttmacher Institute found that in 2015-2019, of clients receiving contraceptive services, 60% said their Title X clinic was their usual source of broader health care over the past year.

Legislative Mandates

What Title X Provisions Are in the Most Recent Appropriations Law? The Consolidated Appropriations Act, 2023 (P.L. 117-328) included requirements on the use of Title X funds that are similar to provisions included in previous years' appropriations laws:

- Title X funds cannot be spent on abortions.
- All pregnancy counseling must be nondirective.
- Funds cannot be spent on "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."
- Grantees must certify that they encourage family participation when minors seek services.
- Grantees must certify that they counsel minors on how to resist attempted coercion into sexual activity.

• Family planning providers are not exempt from state notification and reporting laws on child abuse, child molestation, sexual abuse, rape, or incest. These requirements are in addition to statutory mandates in Title X of the PHS Act, which, among other things, require family planning participation to be voluntary and prohibit the use of Title X funds in programs where abortion is a method of family planning.

Dobbs v. Jackson Women's Health Organization

How has the Title X program responded to the Dobbs decision?

The U.S. Supreme Court's June 2022 ruling in Dobbs v. Jackson Women's Health Organization provided states with increased discretion to restrict abortions. As mentioned, the Title X program does not fund abortions, but Title X projects are required to provide pregnant clients with nondirective counseling and referrals upon client request, including abortion referrals. In June 2022, OPA sent Title X providers Dobbs v. Jackson Women's Health Organization U.S. Supreme Court Decision: Impact on Title X Program, a guidance document on topics such as protecting

client confidentiality, providing clients with referrals to out-of-state providers, serving clients who live out-of-state, and pregnancy counseling via telehealth.

In January 2023, the Title X-funded Reproductive Health National Training Center released a Nondirective Counseling and Referral Sample Policy Template. It suggests that providers may want to include in their referral procedures a description of abortion's legal status in their state and a process for out-of-state referrals, if necessary.

In April 2023, HHS announced a forecasted funding opportunity to establish a national Title X Nondirective Options Information, Counseling, and Referrals Hotline and accompanying website for pregnant clients.

Other Family Planning Programs Do Other Federal Programs Support Family Planning?

Although Title X is the only federal domestic program primarily focused on family planning, other programs also finance family planning and contraception, among their other services.

4. Partial-Birth Abortion Ban Act

The phrase "partial-birth abortion" was first coined by Douglas Johnson of the National Right to Life Committee. The phrase has been used in numerous state and federal bills and laws, although the legal definition of the term is not always the same. The Partial-Birth Abortion Ban Act defines "partial-birth abortion" as follows:

An abortion in which the person performing the abortion, deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and performs the overt act, other than completion of delivery, that kills the partially delivered living fetus. (18 U.S. Code 1531)

In the 2000 Supreme Court case of Stenberg v. Carhart, a Nebraska law banning partial-birth abortion was ruled unconstitutional, in part because the language defining "partial-birth abortion" was deemed vague. In 2006, the Supreme Court in Gonzales v. Carhart found that the 2003 act "departs in material ways" from the Nebraska law and that it pertains only to a specific abortion procedure, intact dilation and extraction. Some commentators have noted that the Partial-Birth Abortion Ban Act's language was carefully crafted to take into account previous rulings.

Although in most cases the procedure legally defined as "partial birth abortion" would be medically defined as "intact dilation and extraction", these overlapping terms do not always coincide. For example, the IDX procedure may be used to remove a deceased fetus (e.g. due to a miscarriage or feticide) that is developed enough to require dilation of the cervix for its extraction. Removing a dead fetus does not meet the federal legal definition of "partial-birth abortion", which specifies that partial live delivery must precede "the overt act, other than completion of delivery, that kills the partially delivered living fetus".Additionally, a doctor may extract a fetus past the navel and then "disarticulate [i.e. decapitate] at the neck", which could fall within the terms of the statute even though it would not result in an intact body and therefore would not be an intact dilation and extraction.

5. Texas Heartbeat Act

The Texas Heartbeat Act, Senate Bill 8 (SB 8), is an act of the Texas Legislature that bans abortion after the detection of embryonic or fetal cardiac activity, which normally occurs after about six weeks of pregnancy. The law took effect on September 1, 2021, after the U.S. Supreme Court denied a request for emergency relief from Texas abortion providers. It was the first time a state has successfully imposed a six-week abortion ban since Roe v. Wade, and the first abortion restriction to rely solely on enforcement by private individuals through civil lawsuits, rather than having state officials enforce the law with criminal or civil penalties. The act authorizes members of the public to sue anyone who performs or facilitates an illegal abortion for a minimum of $10,000 in statutory damages per abortion, plus court costs and attorneys' fees.

The Texas Heartbeat Act has been subjected to numerous lawsuits in state and federal court, but the statute has thus far withstood each of these court challenges and remains in effect. Lawsuits challenging the constitutionality of the Act have been filed by abortion providers and advocates, as well as the United States Department of Justice, but none of these lawsuits have been able to restore access to post-heartbeat abortions in Texas. The law has been exceedingly difficult to challenge in court because of its unique enforcement mechanism, which bars state officials from enforcing the law and instead authorizes private individuals to sue anyone who performs or assists a post-heartbeat abortion. Because the law is enforced by private citizens rather than government officials, abortion providers have been unable to obtain relief that will stop private lawsuits from being initiated against them. This produced an end-run around Roe v. Wade, which had established a federal constitutional right to abortion, because the threat of private civil-enforcement lawsuits forced abortion providers to comply with SB 8 despite its incompatibility with the Supreme Court's then-existing abortion pronouncements.

Even when courts have declared SB 8 unconstitutional, abortion providers have remained in compliance with the Act because it purports to subject individuals to private civil-enforcement lawsuits if they perform or assist a post-heartbeat abortion while an injunction that blocks the law's enforcement is in effect, if that injunction is later vacated or reversed on appeal.On October 6, 2021, federal district Judge Robert L. Pitman issued a preliminary injunction that blocked the state of Texas from enforcing the law, which remained in effect until the U.S. Court of Appeals

for the Fifth Circuit issued a stay of Pitman's order two days later. Yet Pitman's order was unable to fully restore access to post-heartbeat abortions in Texas, even during the 48-hour window in which it was in effect, because abortion providers were unwilling to risk the civil liability that
would be imposed if Pitman's injunction were stayed or overturned by a higher court.The U.S Supreme Court declined to overturn the Fifth Circuit's stay of Pitman's ruling, so any post-heartbeat abortions performed in reliance on Pitman's injunction are subject to private civil-enforcement lawsuits under the terms of SB 8. This has made it difficult for abortion providers to resume services even when they obtain relief from a lower court that pronounces the statute unconstitutional, and it has further frustrated efforts to thwart the statute's enforcement in court.

The success of the Texas Heartbeat Act was a major blow to Roe v. Wade, as it provided a blueprint for states to outlaw abortion while insulating their laws from effective judicial review. This enabled the states to evade Roe v. Wade and other Supreme Court rulings that had declared abortion to be a constitutionally protected right. It also led other states to copy SB 8's enforcement mechanism and immunize their restrictive abortion laws from judicial review.
On May 25, 2022, Oklahoma Governor Kevin Stitt signed HB 4327 into law, which outlaws abortion from the moment of fertilization. Because HB 4237, like the Texas Heartbeat Act, is enforced solely through civil lawsuits brought by private citizens, abortion providers were unable to stop the law in court and ceased performing abortions in Oklahoma, even though the Supreme Court had not yet overruled Roe v. Wade when the statute took effect. Idaho has also enacted a six-week abortion ban modeled after the Texas Heartbeat Act, which prevented
abortion providers from challenging the constitutionality of the statute in federal court

The Texas Heartbeat Act is intensely controversial because it was written to frustrate judicial review and thwart the judiciary from enforcing Supreme Court precedents that declared abortion to be a constitutionally protected right. That the Act succeeded in eliminating access to pre-viability abortions in Texas while Roe v. Wade ostensibly remained the law of the land has only added to the controversy surrounding the law. Law professors that supported Roe v. Wade, such as Laurence Tribe and Michael C. Dorf has criticized the Act and its enforcement

mechanism as "cynical" and "diabolical". Opponents of abortion have praised the Act's circumvention of Roe v. Wade as "brilliant", and "genius".

6. Affordable Care Act

The “Affordable Care Act” (ACA) is the name for the comprehensive health care reform law (passed in 2010) and its amendments. The law addresses health insurance coverage, health care costs, and preventive care. The law was enacted in two parts:

The Patient Protection and Affordable Care Act was signed into law on March 23, 2010;

The ACA was amended by the Health Care and Education Reconciliation Act on March 30, 2010.

In passing the Affordable Care Act (ACA), Congress decided against guaranteeing coverage of this basic health service, and established rules unique to abortion coverage.
Under the ACA, an issuer opting to cover abortion care in marketplace plans must follow particular administrative requirements to ensure that no federal funds go toward abortion. Moreover, states retain the option to ban abortion coverage in marketplace plans outright, and half of states have already done so. Given the special treatment of abortion care under the ACA and the confusion it has created, individuals covered by or shopping for a plan should be at least able to easily discern whether and to what extent a plan covers such care.

In the ACA’s first full year of implementation, however, individuals were largely unable to obtain clear, consistent information on whether a given plan covered or excluded abortion,
according to a 2014 Guttmacher Institute analysis. Building on that analysis, Guttmacher has gathered sufficient information about 2015 marketplace plans to determine that this is an ongoing problem. Anti-abortion policymakers and advocates are exploiting this lack of publicly available information on abortion coverage to call for new legislation that purportedly advances transparency, but is actually aimed at discouraging—if not eliminating—abortion coverage altogether. For its part, the Obama administration recently acknowledged that it can do more to ensure greater transparency about abortion coverage in the marketplaces and has proposed rules to that end—rules that, once finalized, should diffuse future calls for congressional action.

Ultimately, a clear and consistent approach to providing information on abortion coverage will make it easier for plans to do so, and will help individuals to be better informed as they choose and use their health insurance.

Under the ACA, insurance plans are neither required to nor prohibited from covering abortion. Twenty-five states, however, have enacted laws prohibiting coverage of abortion on their health insurance marketplaces. In the remaining states, if a marketplace plan issuer opts to cover
abortion care beyond the narrow circumstances of rape, incest and life endangerment (i.e., the limited conditions the federal government adheres to for its own employees and others eligible for federally subsidized health care or coverage), then the ACA requires the issuer to follow special accounting mechanisms. The issuer must establish two separate accounts into which enrollees' premium payments are deposited: one from which abortion claims (beyond instances of rape, incest or life endangerment) are paid and another comprising the vast majority of enrollees' premium dollars from which all other claims are paid. This arrangement is intended to ensure that federal subsidies are segregated from the private funds used to cover abortion. Antiabortion policymakers now commonly use the deceptive term "abortion surcharge" to describe the proportion of an individual's premium payment separated for coverage of abortion.

Notably, the ACA allows, but does not require, issuers to itemize or separate on a monthly premium bill the part of the premium that goes toward abortion coverage. Plus, the law allows for enrollees to pay the full amount of their premium, including the proportion going toward abortion care, with a single payment. Although this situation raises suspicion in the minds of anti-abortion members of Congress, a U.S. Government Accountability Office (GAO) review they requested on abortion coverage under the ACA found no evidence of noncompliance with these provisions.

The ACA does state that plans covering abortion beyond cases of rape, incest or life endangerment must inform individuals of this coverage "as part of the summary of benefits and coverage explanation, at the time of enrollment." Summary of benefits and coverage (SBC) forms are standardized documents providing basic, comparable coverage and cost information that all private plans, including those offered through insurance marketplaces and by employers, must make available to consumers and enrollees under the ACA. The law requires plans to

disclose any major coverage exclusions, although nothing in the law stipulates that any specific attention be paid to abortion.

Both sides of the abortion rights divide appear to agree that the lack of easily accessible information on whether and how plans cover abortion care is a problem. In practice, however, anti-abortion policymakers clearly are pursuing a much more radical agenda under the pretense of advancing transparency.

Rep. Chris Smith (R-NJ) introduced and the U.S. House of Representatives passed the No Taxpayer Funding for Abortion and Abortion Insurance Full Disclosure Act of 2015; the bill is identical to a version the House passed in 2014, but which never became law. Despite highlighting "disclosure" as a main purpose, the bill would render transparency largely moot, as it aims to eliminate abortion from both private and public insurance coverage.

Most notably, Rep. Smith's bill would effectively force abortion coverage out of states' health insurance marketplaces by prohibiting a plan from covering abortion if even a single plan
enrollee received any federal insurance subsidies; around 85% of marketplace enrollees receive these subsidies.3 This scheme would have essentially the same impact as what was known as the "Stupak Amendment," an antiabortion proposal that Congress rejected during the original debate on health reform in 2009 and 2010. The bill would also discourage coverage in the group market by barring small employers from receiving health insurance tax credits if their plans cover abortion. And it would permanently eliminate abortion coverage for low-income women enrolled in Medicaid and others dependent on the federal government for health insurance by codifying existing limitations throughout federal law that currently must be renewed each year through the appropriations process.

Despite the private market restrictions in this bill, Rep. Smith and his allies have hedged their bet, in case any plans with abortion coverage were to remain on the marketplaces. For those plans, issuers would be required to single abortion out from other services and "prominently display" information on abortion coverage in all marketing and advertising materials for all marketplace plans, and to provide information on what these lawmakers misleadingly refer to as "abortion surcharges." These measures go beyond mere transparency and are designed to stigmatize abortion coverage.

PARTY TRENDS IN THE UNITED STATES

The Republican Party platform states that “the unborn child has a fundamental right to life which cannot be infringed,” while the Democratic equivalent supports access to “safe and legal abortion.” But support for these positions is far from universal among Americans who identify with or lean toward each party, according to a recent Pew Research Center survey.

That raises the question: Who are the Republicans who support legal abortion and the Democrats who oppose it, and how else do they differ from their fellow partisans? One major difference involves religion. Republicans who favor legal abortion are far less religious than abortion opponents in the GOP, while Democrats who say abortion should be illegal in all or most cases are much more religious than Democrats who say it should be legal.

Instead of looking at the percentage of U.S. adults who support or oppose legal abortion, this guide takes the opposite approach, examining the composition of supporters and opponents of legal abortion, including within each party. For instance, among Republicans who support legal abortion, what percentage are evangelicals, women or young people?

Among Republicans and independents who lean toward the Republican Party who say abortion should be illegal in all or most cases, a large majority (78%) identify as conservative. But that is not the case among Republicans who support legal abortion, 53% of whom describe them political ideology as moderate or liberal. Republicans who say abortion generally should be legal also are less likely to live in the South and more likely to live in the Northeast and West – parts of the country with higher levels of support for legal abortion in general.

The religious divide on abortion is strongly apparent within the GOP. Among Republicans who generally oppose legal abortion, 62% are Protestants, including around four-in-ten (39%) who are White evangelical Protestants. And about four-in-ten Republicans who generally oppose

legal abortion (39%) are highly religious, according to a scale of religious commitment based on attendance at religious services, frequency of prayer and the importance of religion in respondents’ lives. By contrast, among Republicans who say abortion should be legal in all or most cases, just 35% are Protestants and a roughly equal share are religiously unaffiliated (34%); only 6% are highly religious.

There is a similar split within the Democratic Party when it comes to abortion and political ideology. Half of Democrats and Democratic leaders who say abortion should be legal in all or most cases identify as liberal, compared with 22% among Democrats who generally oppose legal abortion.

There also are differences among Democrats by race. A majority of Democrats who favor legal abortion (56%) are White, compared with 37% among Democrats who say abortion should be
mostly or entirely illegal. About half of Democrats who say abortion should be mostly or entirely illegal are either Black (23%) or Hispanic (30%). (It is worth noting, however, that most Democrats in all racial/ethnic categories say abortion should be legal in all or most cases, including 86% of White Democrats, 75% of Black Democrats, 70% of Hispanic Democrats and 81% of Asian Democrats.)

Black and Hispanic Democrats tend to be more religious than White Democrats, and indeed, Democrats who oppose legal abortion are much more likely than those who support it to be highly religious and to identify as Christian (both Catholic and Protestant). Meanwhile, 43% of Democrats who favor legal abortion are religiously unaffiliated.

Among both Republicans and Democrats, people who support legal abortion skew somewhat younger than those who oppose it.
Overall, Democrats account for about two-thirds (68%) of U.S. adults who say abortion should be legal in all or most cases. That figure almost perfectly mirrors the Republican share of abortion opponents – 69% of those who say abortion should be illegal in all or most cases identify with or lean toward the Republican Party. At the same time, about one-in-four in each group buck this partisan pattern: 26% of those who favor legal abortion are Republicans, while 25% of abortion opponents are Democrats.

Those who say abortion should be legal in all cases, without exception, are considerably more likely to be Democrats than those who say it should be legal in most cases (81% vs. 62%). However, those who say abortion should be illegal in all cases are no more likely to
be Republicans than those who say it should be illegal in most cases (67% vs. 69%).

A slim majority (57%) of those who say abortion should always be legal are women. At the other end of the spectrum, however, 55% of adults who say abortion should be illegal in all cases, with no exceptions, also are women.

Most supporters of legal abortion – including about two-thirds of those who say abortion should always be legal, with no exceptions – are under the age of 50. By comparison, Americans who say abortion should be mostly or entirely illegal are older, with 54% ages 50 or older.

A large majority of people who say abortion should be illegal in all or most cases are Christian, including 57% who are Protestant, 23% who are Catholic and 3% who are members of the Church of Jesus Christ of Latter-day Saints, also known as Mormons. And on a scale designed to measure religious commitment based on attendance at religious services, prayer frequency and the importance of religion in one's life, the vast majority in this group have either "high" (36%) or "medium" (56%) religious commitment; just 8% are "low" on the scale. And looking only at those who say abortion should be illegal in all cases with no exceptions, a clear majority (57%) are highly religious by this measure.

Meanwhile, nearly half of Americans who say abortion should be legal in all cases (47%) are low on the religious commitment scale, while just 4% are highly religious. About half of people at this end of the spectrum (52%) are religiously unaffiliated, including 14% who identify as atheist and 12% who are agnostic. Still, nearly four-in-ten in this group identify as Christian.

Recommended Reading

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