

Timeline of Events

1984

As part of the 1985 NDAA, Congress codifies 10 U.S.C. § 1093, which restricts the Department of Defense (DoD) from using funds to perform abortions unless the life of the mother is endangered – by a vote of 82-6, with the support of then-Senator Joe Biden.

6/4/22

SCOTUS issues decision in *Dobbs v. Jackson Women's Health Organization* in which it correctly held that states could regulate abortion.

10/20/22

Secretary Austin issues a [memorandum](#) to senior Pentagon leadership directing them to develop policies which would allow DoD to reimburse travel expenses and provide non-chargeable, *i.e.*, additional, Paid Time Off (PTO) for elective abortion.

12/9/22

Senator Tuberville sends a [letter](#) to SECDEF informing him that if DoD implements a new policy as a result of the October memorandum, he will place a hold on all DoD civilian and general/flag officer nominees.

2/16/23

DoD releases [policy memos](#) implementing SECDEF's directive. Consequently, Senator Tuberville places a hold on all pending DoD civilian, general, and flag officer nominees.

3/16/23

The new DoD elective abortion policy announced on 2/16/23 takes effect.

3/22/23

Secretary Austin and Senator Tuberville speak by phone. Sec. Austin asks that the holds be lifted unilaterally without precondition and offers no compromise.

7/13/23 &
7/18/23

Secretary Austin and Senator Tuberville speak briefly by phone. Again Sec. Austin asks that the holds be lifted unilaterally without precondition.

7/19/23

SASC Member briefing from Administration officials who confirmed this policy could result in taxpayers funding late term abortions.

December 9, 2022

Letter to Secretary Austin

TOMMY TUBERVILLE
ALABAMA

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WASHINGTON, DC 20510-0107
(202) 224-4124

United States Senate

9 December 2022

COMMITTEES:
ARMED SERVICES
AGRICULTURE, NUTRITION,
AND FORESTRY
HEALTH, EDUCATION,
LABOR, AND PENSIONS
VETERANS' AFFAIRS

The Honorable Lloyd J. Austin III
U.S. Department of Defense
1300 Defense Pentagon
Washington D.C. 20301-1300

Secretary Austin:

Your 20 October 2022 memo directing the Department of Defense to explore increasing access to reproductive health care will have broad ramifications for the department's readiness, manpower, and budget. On Wednesday, 7 December, my staff received a brief from the (acting) Assistant Secretary of Defense for Health Affairs and learned that you plan to implement these changes by year's end. The brief also revealed estimates of how your plan will expand the number of abortions subsidized by the DoD. The estimates are as exponential as they are immoral.

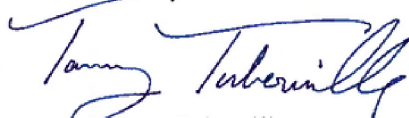
The department's authorities to provide for or fund abortions are governed by 10 U.S.C. § 1093 which limits these to cases of rape, incest, or pregnancies that threaten the life of the mother. For years, the department has averaged less than 20 abortions per year. The brief revealed the policy intentions put forth in your 20 October memo, "Ensuring Access to Reproductive Health Care," would increase DoD-subsidized abortions by as much as 4,100 per year. That estimate does not include dependents, which your policy also intends to cover, who might seek assistance in obtaining an abortion.

This vast expansion of DoD-subsidized abortions is made worse by how your plan will provide unrestricted access to abortion. As six states and the District of Columbia have no abortion restrictions, your policy would force taxpayers to finance access to abortions without protections other states have duly enacted such as waiting periods and prohibitions on late-term abortions. Like me, many Americans find such abortions morally repugnant.

When questioned on these issues, the department could not provide analysis or estimates of how this policy change will impact its budget, readiness, and manpower. It is irresponsible to push forward with such a controversial change to department policy without thorough due diligence on how this will impact the readiness of the force.

Lastly, it is my conviction that this proposed policy change is illegal, circumvents Congress, and exceeds your authority. Should you implement these proposed changes to the department's abortion policies, I will place a hold on all future DoD civilian and general/flag officer nominations.

Sincerely,



Tommy Tuberville
United States Senator

COACH TOMMY TUBERVILLE

U.S. SENATOR  FOR ALABAMA

Timeline of Live UCs

- March 8, 2023 - Michael Bennet (D-CO)
- March 23, 2023 - Michael Bennet (D-CO)
- March 29, 2023 - Jack Reed (D-RI)
- April 25, 2023 - Elizabeth Warren (D-MA)
- May 10, 2023 - Michael Bennet (D-CO)
- May 16, 2023 - Richard Blumenthal (D-CT)
- May 17, 2023 - Jacky Rosen (D-NV)
- May 31, 2023 - Elizabeth Warren (D-MA)
- June 15, 2023 - Ben Cardin (D-MD)
- June 20, 2023 - Michael Bennet (D-CO)
- July 10, 2023 - Jack Reed (D-RI)
- July 19, 2023 - Michael Bennet (D-CO)
- November 1, 2023 - Joni Ernst (R-IA), Todd Young (R-IN), Dan Sullivan (R-AK), and Lindsey Graham (R-SC)

“What I see is a military that’s exceptionally strong. It’s powerful; it’s ready. In fact, our readiness rates, the way we measure readiness, is better now than they’ve been in years,” [said](#) General Milley on Sept. 17, 2023.

Options for Resolution

1. DoD Rescinds Policy and Holds are Immediately Lifted

- According to senior DoD officials, this policy was not requested and did not increase readiness.
 - Instead, this administration used the Pentagon as a way to further its pro-abortion agenda.
 - DoD suggested that this policy would impact 4,000 service members; unofficial reports indicate approximately 12 service members have utilized this policy to date.
 - DoD has recently confirmed that “the Department does not have any data on women being deterred from joining the military for fear of being stationed at an installation or base in a state or nation that has restrictive abortion laws.”
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2. NDAA

- The House-passed NDAA includes a provision that would repeal the DoD memorandum titled “Ensuring Access to Reproductive Health Care.”
 - If this provision became law in the final version of the NDAA, the holds would be lifted.
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3. Use of Private Funds

- This proposal was recently floated on the Senate floor.
 - This would protect taxpayer funds from being used on expenses related to elective abortions.
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4. Continuation of Individual Roll Call Votes on the Nominees

- Each nominee could be confirmed in as little as two hours of floor time with a roll call vote, as has occurred six times now since September.
- The Senate has had nearly 90 recess days this year, plus weekends.
- Nominees can continue to receive floor votes while any and all of the above options are being explored.

Non-feasible Proposals

1. Narrow the Hold Without Precondition

- Civilian nominees are included in the holds.
 - Of the 366 current holds, only two are civilian nominees.
 - Another civilian nominee, Derek Chollet, Nominee for Under Secretary of Defense for Policy, is still under consideration in SASC.
 - Typically, political nominations get voted on; seemingly, this option poses no real concern to the Pentagon.
 - This option would likely leave the current illegal and immoral policy in place.
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2. Legal Actions

- It is unlikely a court would find that a Senator, a group of Senators, or other third-parties would have standing in such a challenge.
 - Further, it is not clear who would have standing for such a lawsuit.
 - The Supreme Court has rejected the idea of general taxpayer standing in lawsuits against the government.
 - This option would likely leave the current illegal and immoral policy in place.
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3. Standing Order

- On October 31, Chairman Reed introduced [S.Res.444](#) – which would allow the Senate to circumvent Coach's holds for all but the most senior nominees. This resolution would lower the threshold for cloture to a "majority of the Senators voting" and would allow the Senate to consider these nominees en bloc.
- The parliamentarian has determined this is a standing order rather than a rules change, which means it is only subject to a 60 vote threshold for cloture.
- This option would likely leave the current illegal and immoral policy in place.

Growing Support for Tuberville's Stand

"I support what he's doing. First of all, what the Defense Department is doing is outside the law. They are breaking, violating the law by funding abortion tourism with tax dollars, and so when agencies do that, the Congress has to stand up and push back against it,"

[said](#) **Presidential Candidate Ron Desantis**

"If woke stooges Biden and Austin want their Pentagon abortion-on-demand policy to continue, they need to get it codified into law. Until then, the Senate should debate each nominee on the merits and vote on them one by one. Thank you Coach Tuberville for your inspirational leadership – and doing your job,"

[said](#) **David Bossie, President of Citizens United**

"The U.S. military exists to ensure our nation's security and protect the lives of the future generations of American citizens—not end them through the barbaric and evil practice of abortion. Americans don't want their tax dollars funding abortion...It takes courage to stand up to the Washington establishment, and that's exactly what Sen. Tommy Tuberville is doing,"

[said](#) **Dr. Kevin Roberts, President of Heritage Foundation**

"As a mom of a young man who will soon be an Army second lieutenant, I am appalled that Joe Biden is disregarding the law and using money that should go for military readiness, training and weapons for our troops to satisfy his political payback to abortion radicals,"

[said](#) **Penny Nance, CEO of Concerned Women for America LAC**

"Big win for Tommy...Tommy T. is willing to take on the Radical Left Fascists and Thugs that are destroying our country,"

[said](#) **President Donald J. Trump**

"Thank God for Senator Tuberville for picking this fight over DoD using taxpayer \$\$ to pay for abortions,"

[said](#) **Russ Vought, President of Center for Renewing America**

"Mr. Tuberville should be applauded, not derided, for protecting the authority of every lawmaker, from either party, to make laws for the people they are elected to represent,"

[said](#) **Kristen Ullman, President of Eagle Forum**

"I commend Senator Tuberville... The very idea that generals at the Pentagon on some liberal Democrat agenda are using taxpayer dollars to undermine state laws for protecting unborn children is just wrong,"

[said](#) **Vice President Mike Pence**

"Thank you, Senator Tuberville, for continuing to stand strong for life and against the Department of Defense's unlawful new policy that uses taxpayer dollars to facilitate elective abortions... All Republicans should join Senator Tuberville in standing against DoD's illegal expansion of taxpayer-subsidized abortion,"

[said](#) **SBA Pro-Life America**

"Every Republican Senator needs to stand with Senator Tuberville... Tuberville's hold on 650 officers is not the problem; Austin's 4,100 abortions are the problem. If readiness was an issue, Austin would not have drummed out 8,000 troops over the COVID vaccine, nor would the military be focusing on pronoun usage and drag queens. Thank God for Senator Tuberville standing up to the Pentagon's disinformation,"

[said](#) **Tony Perkins, President of Family Research Council**

COACH TOMMY TUBERVILLE

U.S. SENATOR  FOR ALABAMA

Letter of Support from Over 5,000 Veterans

In a July letter to Senate Majority Leader Chuck Schumer and Senate Minority Leader Mitch McConnell, more than 5,000 veterans outline the need for a strong military that is focused on protecting all American lives.

Leader Schumer and Leader McConnell,


As current and former service members of the United States Military, and organizations which support and advocate for the safety and well-being of our service members, we firmly support Senator Tuberville's position of holding civilian, general, and flag officers from confirmation by unanimous consent until the DoD rescinds its recently instituted policy of subsidizing abortion.

The undersigned stand united in condemning this policy. This policy is not just illegal, it shamefully politicizes the military, circumvents the authority of Congress, and exceeds the authority of the Department of Defense.

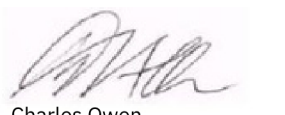
While some claim that Sen. Tuberville's position is negatively impacting military readiness, the Department of Defense has failed to present any evidence that substantiates this claim. To the contrary, it appears true that the politicized agenda of Secretary Austin and the Biden administration are significantly diminishing military readiness. The American people, including its service members, are disappointed by President Biden and Secretary Austin's recent decisions to mandate receipt of the COVID-19 vaccines, promote the radical LGBT agenda, and now subsidize abortion. Because of these policies, the military now faces an unprecedented crisis of recruitment – missing its recruitment goal for the first time ever last year. The focus of our military must be on keeping the American people safe, not advancing the left-wing social agenda.

There is no truth more profound than the fact that all human life is sacred. The mission of the United States Military is to defend and protect all American lives – not subsidize the practice of destroying innocent and vulnerable American children via abortion with taxpayer dollars. By pledging to hold these nominations to the Department of Defense until administration officials reverse course, Senator Tuberville is doing a great service for the American people – including its service members.


Sincerely,

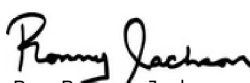

Rep. Anna Paulina Luna
Member of Congress
USAF, vet.



Rep. Andrew S. Clyde
Member of Congress
U.S. Navy, CDR (Ret.)

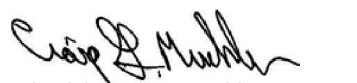

Charles Owen
State Representative, District
30 Louisiana
U.S. Air Force, Lt Col (Ret.)

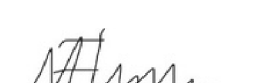

The Right Reverend Derek L.S. Jones
Executive Director
Chaplain Alliance for Religious Liberty


Rep. Elijah Crane
Member of Congress
U.S. Navy, Navy Seal (Ret.)


Rep. Ronny L. Jackson
Member of Congress
U.S. Navy, RDML (Ret.)


William G. Boykin
Executive Vice President
Family Research Council
U.S. Army, LTG (Ret.)


Chaplain Craig G. Muehler
President
Chaplain Alliance for Religious Liberty
CAPT, CHC, USN (Ret.)


Michael T. Flynn
U.S. Army, LTG (Ret.)

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