AMENDMENT TO SENATE AMENDMENT TO H.R. 8404

OFFERED BY MR. ROY OF TEXAS

Page 1, strike line 4, and insert the following (and redesignate succeeding provisions accordingly):

1 TITLE I—GENERAL PROVISIONS
2 SEC. 101. FINDINGS.

Page 6, after line 10, insert the following:

3 TITLE II—RELIGIOUS BELIEFS AND MORAL CONVICTIONS
4 SEC. 201. PROTECTION OF THE FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL CONVICTIONS.
5 (a) IN GENERAL.—Notwithstanding section 7 of title 1, United States Code, section 1738C of title 28, United States Code, or any other provision of law, the Federal Government shall not take any discriminatory action against a person, wholly or partially on the basis that such person speaks, or acts, in accordance with a sincerely held religious belief, or moral conviction, that marriage is or should be recognized as a union of—
6 (1) one man and one woman; or
(2) two individuals as recognized under Federal

law.

(b) DISCRIMINATORY ACTION DEFINED.—As used in

subsection (a), a discriminatory action means any action
taken by the Federal Government to—

(1) alter in any way the Federal tax treatment

of, or cause any tax, penalty, or payment to be as-

sessed against, or deny, delay, or revoke an exemp-

tion from taxation under section 501(a) of the Inter-

nal Revenue Code of 1986 of, any person referred to

in subsection (a);

(2) disallow a deduction for Federal tax pur-

poses of any charitable contribution made to or by

such person;

(3) withhold, reduce the amount or funding for,

exclude, terminate, or otherwise make unavailable or
deny, any Federal grant, contract, subcontract, co-

operative agreement, guarantee, loan, scholarship, li-
cense, certification, accreditation, employment, or

other similar position or status from or to such per-

son;

(4) withhold, reduce, exclude, terminate, or oth-

erwise make unavailable or deny, any entitlement or

benefit under a Federal benefit program, including

admission to, equal treatment in, or eligibility for a
degree from an educational program, from or to such person; or

(5) withhold, reduce, exclude, terminate, or otherwise make unavailable or deny, access or an entitlement to Federal property, facilities, educational institutions, speech fora (including traditional, limited, and nonpublic fora), or charitable fundraising campaigns from or to such person.

(e) ACCREDITATION; LICENSURE; CERTIFICATION.—The Federal Government shall consider accredited, licensed, or certified for purposes of Federal law any person that would be accredited, licensed, or certified, respectively, for such purposes but for a determination against such person wholly or partially on the basis that the person speaks, or acts, in accordance with a sincerely held religious belief or moral conviction described in subsection (a).

SEC. 202. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert an actual or threatened violation of this title as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief against the Federal Government. Standing to assert a claim or defense under
this section shall be governed by the general rules of
standing under article III of the Constitution.

(b) ADMINISTRATIVE REMEDIES NOT REQUIRED.—
Notwithstanding any other provision of law, an action
under this section may be commenced, and relief may be
granted, in a district court of the United States without
regard to whether the person commencing the action has
sought or exhausted available administrative remedies.

(e) ATTORNEYS’ FEES.—Section 722(b) of the Re-
vised Statutes (42 U.S.C. 1988(b)) is amended by insert-
ing “title II of the Respect for Marriage Act,” after “the
Religious Land Use and Institutionalized Persons Act of
2000,”.

(d) AUTHORITY OF UNITED STATES TO ENFORCE
THIS TITLE.—The Attorney General may bring an action
for injunctive or declaratory relief against an independent
establishment described in section 104(1) of title 5, United
States Code, or an officer or employee of that independent
establishment, to enforce compliance with this title. Noth-
ing in this subsection shall be construed to deny, impair,
or otherwise affect any right or authority of the Attorney
General, the United States, or any agency, officer, or em-
ployee of the United States, acting under any law other
than this subsection, to institute or intervene in any pro-
ceeding.
SEC. 203. RULES OF CONSTRUCTION.

(a) No Preemption, Repeal, or Narrow Construction.—Nothing in this title shall be construed to preempt State law, or repeal Federal law, that is equally or more protective of free exercise of religious beliefs and moral convictions. Nothing in this title shall be construed to narrow the meaning or application of any State or Federal law protecting free exercise of religious beliefs and moral convictions.

(b) No Prevention of Providing Benefits or Services.—Nothing in this title shall be construed to prevent the Federal Government from providing, either directly or through a person not seeking protection under this title, any benefit or service authorized under Federal law.

(c) No Affirmation or Endorsement of Views.—Nothing in this title shall be construed to affirm or otherwise endorse a person’s belief, speech, or action about marriage.

(d) Severability.—If any provision of this title or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected.

SEC. 204. DEFINITIONS.

In this title:
(1) **Federal benefit program.**—The term “Federal benefit program” has the meaning given that term in section 552a of title 5, United States Code.

(2) **Federal; Federal Government.**—The terms “Federal” and “Federal Government” relate to and include—

(A) any department, commission, board, or other agency of the Federal Government;

(B) any officer, employee, or agent of the Federal Government; and

(C) the District of Columbia and all Federal territories and possessions.

(3) **Person.**—The term “person” means a person as defined in section 1 of title 1, United States Code, except that such term shall not include—

(A) publicly traded for-profit entities;

(B) Federal employees acting within the scope of their employment;

(C) Federal for-profit contractors acting within the scope of their contract; or

(D) hospitals, clinics, hospices, nursing homes, or other medical or residential custodial facilities with respect to visitation, recognition of a designated representative for health care
decisionmaking, or refusal to provide medical
treatment necessary to cure an illness or injury.