AN ACT

To prohibit taxpayer funded abortions and to provide for conscience protections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “No Taxpayer Funding for Abortion Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITING FEDERALLY-FUNDED ABORTIONS AND PROVIDING FOR CONSCIENCE PROTECTIONS
Sec. 101. Prohibiting taxpayer funded abortions and providing for conscience protections.

Sec. 102. Amendment to table of chapters.

TITLE II—ELIMINATION OF CERTAIN TAX BENEFITS RELATING TO ABORTION

Sec. 201. Deduction for medical expenses not allowed for abortions.
Sec. 202. Disallowance of refundable credit for coverage under qualified health plan which provides coverage for abortion.
Sec. 203. Disallowance of small employer health insurance expense credit for plan which includes coverage for abortion.
Sec. 204. Distributions for abortion expenses from certain accounts and arrangements included in gross income.

1 TITLE I—PROHIBITING FEDERALLY-FUNDED ABORTIONS AND PROVIDING FOR CONSCIENCE PROTECTIONS

SEC. 101. PROHIBITING TAXPAYER FUNDED ABORTIONS AND PROVIDING FOR CONSCIENCE PROTECTIONS.

Title 1, United States Code is amended by adding at the end the following new chapter:

“CHAPTER 4—PROHIBITING TAXPAYER FUNDED ABORTIONS AND PROVIDING FOR CONSCIENCE PROTECTIONS

“Sec.
“301. Prohibition on funding for abortions.
“302. Prohibition on funding for health benefits plans that cover abortion.
“303. Limitation on Federal facilities and employees.
“304. Construction relating to separate coverage.
“305. Construction relating to the use of non-Federal funds for health coverage.
“308. Treatment of abortions related to rape, incest, or preserving the life of the mother.
“309. Application to District of Columbia.
“310. No government discrimination against certain health care entities.
§ 301. Prohibition on funding for abortions

“No funds authorized or appropriated by Federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by Federal law, shall be expended for any abortion.

§ 302. Prohibition on funding for health benefits plans that cover abortion

“None of the funds authorized or appropriated by Federal law, and none of the funds in any trust fund to which funds are authorized or appropriated by Federal law, shall be expended for health benefits coverage that includes coverage of abortion.

§ 303. Limitation on Federal facilities and employees

“No health care service furnished—

“(1) by or in a health care facility owned or operated by the Federal Government; or

“(2) by any physician or other individual employed by the Federal Government to provide health care services within the scope of the physician’s or individual’s employment,

may include abortion.

§ 304. Construction relating to separate coverage

“Nothing in this chapter shall be construed as prohibiting any individual, entity, or State or locality from purchasing separate abortion coverage or health benefits coverage that includes abortion so long as such coverage
is paid for entirely using only funds not authorized or appropriated by Federal law and such coverage shall not be purchased using matching funds required for a federally subsidized program, including a State’s or locality’s contribution of Medicaid matching funds.

“§ 305. Construction relating to the use of non-Federal funds for health coverage

“Nothing in this chapter shall be construed as restricting the ability of any non-Federal health benefits coverage provider from offering abortion coverage, or the ability of a State or locality to contract separately with such a provider for such coverage, so long as only funds not authorized or appropriated by Federal law are used and such coverage shall not be purchased using matching funds required for a federally subsidized program, including a State’s or locality’s contribution of Medicaid matching funds.

“§ 306. Non-preemption of other Federal laws

“Nothing in this chapter shall repeal, amend, or have any effect on any other Federal law to the extent such law imposes any limitation on the use of funds for abortion or for health benefits coverage that includes coverage of abortion, beyond the limitations set forth in this chapter.
§ 307. Construction relating to complications arising from abortion

“Nothing in this chapter shall be construed to apply to the treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion. This rule of construction shall be applicable without regard to whether the abortion was performed in accord with Federal or State law, and without regard to whether funding for the abortion is permissible under section 308.

§ 308. Treatment of abortions related to rape, incest, or preserving the life of the mother

“The limitations established in sections 301, 302, and 303 shall not apply to an abortion—

“(1) if the pregnancy is the result of an act of rape or incest; or

“(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.

§ 309. Application to District of Columbia

“In this chapter:

“(1) Any reference to funds appropriated by Federal law shall be treated as including any
amounts within the budget of the District of Columbia that have been approved by Act of Congress pursuant to section 446 of the District of Columbia Home Rule Act (or any applicable successor Federal law).

“(2) The term ‘Federal Government’ includes the government of the District of Columbia.

“§310. No government discrimination against certain health care entities

“(a) Nondiscrimination.—A Federal agency or program, and any State or local government that receives Federal financial assistance (either directly or indirectly), may not subject any individual or institutional health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

“(b) Health care entity defined.—For purposes of this section, the term ‘health care entity’ includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

“(c) Remedies.—

“(1) In general.—The courts of the United States shall have jurisdiction to prevent and redress
actual or threatened violations of this section by
issuing any form of legal or equitable relief, includ-
ing—

“(A) injunctions prohibiting conduct that
violates this section; and

“(B) orders preventing the disbursement of
all or a portion of Federal financial assistance
to a State or local government, or to a specific
offending agency or program of a State or local
government, until such time as the conduct pro-
hibited by this section has ceased.

“(2) COMMENCEMENT OF ACTION.—An action
under this subsection may be instituted by—

“(A) any health care entity that has stand-
ing to complain of an actual or threatened vio-
lation of this section; or

“(B) the Attorney General of the United
States.

“(d) ADMINISTRATION.—The Secretary of Health
and Human Services shall designate the Director of the
Office for Civil Rights of the Department of Health and
Human Services—

“(1) to receive complaints alleging a violation of
this section;
“(2) subject to paragraph (3), to pursue the investigation of such complaints in coordination with the Attorney General; and

“(3) in the case of a complaint related to a Federal agency (other than with respect to the Department of Health and Human Services) or program administered through such other agency or any State or local government receiving Federal financial assistance through such other agency, to refer the complaint to the appropriate office of such other agency.”.

SEC. 102. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 1, United States Code, is amended by adding at the end the following new item:

“4. Prohibiting taxpayer funded abortions and providing for conscience protections ........................................ 301”.

TITLE II—ELIMINATION OF CERTAIN TAX BENEFITS RELATING TO ABORTION

SEC. 201. DEDUCTION FOR MEDICAL EXPENSES NOT ALLOWED FOR ABORTIONS.

(a) In General.—Section 213 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) Amounts paid for abortion not taken into account.—
“(1) IN GENERAL.—An amount paid during the taxable year for an abortion shall not be taken into account under subsection (a).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) an abortion—

“(i) in the case of a pregnancy that is the result of an act of rape or incest, or

“(ii) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy, and

“(B) the treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of an abortion.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
SEC. 202. DISALLOWANCE OF REFUNDABLE CREDIT FOR COVERAGE UNDER QUALIFIED HEALTH PLAN WHICH PROVIDES COVERAGE FOR ABORTION.

(a) In General.—Subparagraph (A) of section 36B(c)(3) of the Internal Revenue Code of 1986 is amended by inserting before the period at the end the following:

“or any health plan that includes coverage for abortions (other than any abortion or treatment described in section 213(g)(2))”.

(b) Option to Purchase or Offer Separate Coverage or Plan.—Paragraph (3) of section 36B(c) of such Code is amended by adding at the end the following new subparagraph:

“(C) Separate abortion coverage or plan allowed.—

“(i) Option to purchase separate coverage or plan.—Nothing in subparagraph (A) shall be construed as prohibiting any individual from purchasing separate coverage for abortions described in such subparagraph, or a health plan that includes such abortions, so long as no credit is allowed under this section with respect to the premiums for such coverage or plan.
“(ii) Option to Offer Coverage or Plan.—Nothing in subparagraph (A) shall restrict any non-Federal health insurance issuer offering a health plan from offering separate coverage for abortions described in such subparagraph, or a plan that includes such abortions, so long as premiums for such separate coverage or plan are not paid for with any amount attributable to the credit allowed under this section (or the amount of any advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act).”.

(e) Effective Date.—The amendment made by this section shall apply to taxable years ending after December 31, 2013.

SEC. 203. DISALLOWANCE OF SMALL EMPLOYER HEALTH INSURANCE EXPENSE CREDIT FOR PLAN WHICH INCLUDES COVERAGE FOR ABORTION.

(a) In General.—Subsection (h) of section 45R of the Internal Revenue Code of 1986 is amended—

(1) by striking “Any term” and inserting the following:

“(1) In General.—Any term”, and
(2) by adding at the end the following new paragraph:

“(2) Exclusion of health plans including coverage for abortion.—The terms ‘qualified health plan’ and ‘health insurance coverage’ shall not include any health plan or benefit that includes coverage for abortions (other than any abortion or treatment described in section 213(g)(2)).”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 204. DISTRIBUTIONS FOR ABORTION EXPENSES FROM CERTAIN ACCOUNTS AND ARRANGEMENTS INCLUDED IN GROSS INCOME.

(a) Flexible Spending Arrangements Under Cafeteria Plans.—Section 125 of the Internal Revenue Code of 1986 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

“(k) Abortion reimbursement from flexible spending arrangement included in gross income.—Notwithstanding section 105(b), gross income shall include any reimbursement for expenses incurred for an abortion (other than any abortion or treatment described in section 213(g)(2)) from a health flexible spend-
ing arrangement provided under a cafeteria plan. Such reim-
bursement shall not fail to be a qualified benefit for pur-
poses of this section merely as a result of such inclu-
sion in gross income.”.

(b) Archer MSAs.—Paragraph (1) of section 220(f) of such Code is amended by inserting before the period at the end the following: “, except that any such amount used to pay for an abortion (other than any abortion or treatment described in section 213(g)(2)) shall be included in the gross income of such holder”.

(c) HSAs.—Paragraph (1) of section 223(f) of such Code is amended by inserting before the period at the end the following: “, except that any such amount used to pay for an abortion (other than any abortion or treatment described in section 213(g)(2)) shall be included in the gross income of such beneficiary”.

(d) Effective Dates.—

(1) FSA Reimbursements.—The amendment made by subsection (a) shall apply to expenses incurred with respect to taxable years beginning after the date of the enactment of this Act.

(2) Distributions from Savings Accounts.—The amendments made by subsection (b) and (c) shall apply to amounts paid with respect to
taxable years beginning after the date of the enactment of this Act.

Passed the House of Representatives May 4, 2011.

Attest: KAREN L. HAAS,

Clerk.
AN ACT

To prohibit taxpayer funded abortions and to pro-

provide for conscience protections, and for other

purposes.

MAY 9, 2011

Read the second time and placed on the calendar

Calendar No. 40