

113TH CONGRESS  
1ST SESSION

# S. 946

To prohibit taxpayer funded abortions, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 14, 2013

Mr. WICKER (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. ENZI, Mrs. FISCHER, Mr. GRAHAM, Mr. GRASSLEY, Mr. JOHANNNS, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. LEE, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To prohibit taxpayer funded abortions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “No Taxpayer Funding for Abortion Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITING FEDERALLY FUNDED ABORTIONS

- Sec. 101. Prohibiting taxpayer funded abortions.
- 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 FEDER-**  
2 **ALLY FUNDED ABORTIONS**

3 **SEC. 101. PROHIBITING TAXPAYER FUNDED ABORTIONS.**

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

6 **“CHAPTER 4—PROHIBITING TAXPAYER**  
7 **FUNDED ABORTIONS**

- “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.
- “306. Non-preemption of other Federal laws.
- “307. Construction relating to complications arising from abortion.
- “308. Treatment of abortions related to rape, incest, or preserving the life of the mother.
- “309. Application to District of Columbia.

8 **“§ 301. Prohibition on funding for abortions**

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

1 **“§ 302. Prohibition on funding for health benefits**  
2 **plans that cover abortion**

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

8 **“§ 303. Limitation on Federal facilities and employees**

9 “No health care service furnished—

10 “(1) by or in a health care facility owned or op-  
11 erated by the Federal Government; or

12 “(2) by any physician or other individual em-  
13 ployed by the Federal Government to provide health  
14 care services within the scope of the physician’s or  
15 individual’s employment,

16 may include abortion.

17 **“§ 304. Construction relating to separate coverage**

18 “Nothing in this chapter shall be construed as pro-  
19 hibiting any individual, entity, or State or locality from  
20 purchasing separate abortion coverage or health benefits  
21 coverage that includes abortion so long as such coverage  
22 is paid for entirely using only funds not authorized or ap-  
23 propriated by Federal law and such coverage shall not be  
24 purchased using matching funds required for a federally  
25 subsidized program, including a State’s or locality’s con-  
26 tribution of Medicaid matching funds.

1 **“§ 305. Construction relating to the use of non-Fed-**  
2 **eral funds for health coverage**

3 “Nothing in this chapter shall be construed as re-  
4 stricting the ability of any non-Federal health benefits cov-  
5 erage provider from offering abortion coverage, or the abil-  
6 ity of a State or locality to contract separately with such  
7 a provider for such coverage, so long as only funds not  
8 authorized or appropriated by Federal law are used and  
9 such coverage shall not be purchased using matching  
10 funds required for a federally subsidized program, includ-  
11 ing a State’s or locality’s contribution of Medicaid match-  
12 ing funds.

13 **“§ 306. Non-preemption of other Federal laws**

14 “Nothing in this chapter shall repeal, amend, or have  
15 any effect on any other Federal law to the extent such  
16 law imposes any limitation on the use of funds for abortion  
17 or for health benefits coverage that includes coverage of  
18 abortion, beyond the limitations set forth in this chapter.

19 **“§ 307. Construction relating to complications arising**  
20 **from abortion**

21 “Nothing in this chapter shall be construed to apply  
22 to the treatment of any infection, injury, disease, or dis-  
23 order that has been caused by or exacerbated by the per-  
24 formance of an abortion. This rule of construction shall  
25 be applicable without regard to whether the abortion was  
26 performed in accord with Federal or State law, and with-

1 out regard to whether funding for the abortion is permis-  
2 sible under section 308.

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

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

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

9 “(2) in the case where a woman suffers from a  
10 physical disorder, physical injury, or physical illness  
11 that would, as certified by a physician, place the  
12 woman in danger of death unless an abortion is per-  
13 formed, including a life-endangering physical condi-  
14 tion caused by or arising from the pregnancy itself.

15 **“§ 309. Application to District of Columbia**

16 “In this chapter:

17 “(1) Any reference to funds appropriated by  
18 Federal law shall be treated as including any  
19 amounts within the budget of the District of Colum-  
20 bia that have been approved by Act of Congress pur-  
21 suant to section 446 of the District of Columbia  
22 Home Rule Act (or any applicable successor Federal  
23 law).

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

1 **SEC. 102. AMENDMENT TO TABLE OF CHAPTERS.**

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

“4. **Prohibiting taxpayer funded abortions** ..... 301”.

4 **TITLE II—ELIMINATION OF CER-**  
5 **TAIN TAX BENEFITS RELAT-**  
6 **ING TO ABORTION**

7 **SEC. 201. DEDUCTION FOR MEDICAL EXPENSES NOT AL-**  
8 **LOWED FOR ABORTIONS.**

9 (a) **IN GENERAL.**—Section 213 of the Internal Rev-  
10 enue Code of 1986 is amended by adding at the end the  
11 following new subsection:

12 “(g) **AMOUNTS PAID FOR ABORTION NOT TAKEN**  
13 **INTO ACCOUNT.**—

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

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

19 “(A) an abortion—

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

22 “(ii) in the case where a woman suf-  
23 fers from a physical disorder, physical in-  
24 jury, or physical illness that would, as cer-  
25 tified by a physician, place the woman in

1 danger of death unless an abortion is per-  
 2 formed, including a life-endangering phys-  
 3 ical condition caused by or arising from  
 4 the pregnancy, and

5 “(B) the treatment of any infection, injury,  
 6 disease, or disorder that has been caused by or  
 7 exacerbated by the performance of an abor-  
 8 tion.”.

9 (b) EFFECTIVE DATE.—The amendment made by  
 10 this section shall apply to taxable years beginning after  
 11 the date of the enactment of this Act.

12 **SEC. 202. DISALLOWANCE OF REFUNDABLE CREDIT FOR**  
 13 **COVERAGE UNDER QUALIFIED HEALTH PLAN**  
 14 **WHICH PROVIDES COVERAGE FOR ABOR-**  
 15 **TION.**

16 (a) IN GENERAL.—Subparagraph (A) of section  
 17 36B(c)(3) of the Internal Revenue Code of 1986 is amend-  
 18 ed by inserting before the period at the end the following:  
 19 “or any health plan that includes coverage for abortions  
 20 (other than any abortion or treatment described in section  
 21 213(g)(2))”.

22 (b) OPTION TO PURCHASE OR OFFER SEPARATE  
 23 COVERAGE OR PLAN.—Paragraph (3) of section 36B(c)  
 24 of such Code is amended by adding at the end the fol-  
 25 lowing new subparagraph:

1                   “(C) SEPARATE ABORTION COVERAGE OR  
2                   PLAN ALLOWED.—

3                   “(i) OPTION TO PURCHASE SEPARATE  
4                   COVERAGE OR PLAN.—Nothing in subpara-  
5                   graph (A) shall be construed as prohibiting  
6                   any individual from purchasing separate  
7                   coverage for abortions described in such  
8                   subparagraph, or a health plan that in-  
9                   cludes such abortions, so long as no credit  
10                  is allowed under this section with respect  
11                  to the premiums for such coverage or plan.

12                  “(ii) OPTION TO OFFER COVERAGE OR  
13                  PLAN.—Nothing in subparagraph (A) shall  
14                  restrict any non-Federal health insurance  
15                  issuer offering a health plan from offering  
16                  separate coverage for abortions described  
17                  in such subparagraph, or a plan that in-  
18                  cludes such abortions, so long as premiums  
19                  for such separate coverage or plan are not  
20                  paid for with any amount attributable to  
21                  the credit allowed under this section (or  
22                  the amount of any advance payment of the  
23                  credit under section 1412 of the Patient  
24                  Protection and Affordable Care Act).”.

1 (c) EFFECTIVE DATE.—The amendment made by  
 2 this section shall apply to taxable years ending after De-  
 3 cember 31, 2013.

4 **SEC. 203. DISALLOWANCE OF SMALL EMPLOYER HEALTH**  
 5 **INSURANCE EXPENSE CREDIT FOR PLAN**  
 6 **WHICH INCLUDES COVERAGE FOR ABOR-**  
 7 **TION.**

8 (a) IN GENERAL.—Subsection (h) of section 45R of  
 9 the Internal Revenue Code of 1986 is amended—

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

12 “(1) IN GENERAL.—Any term”, and

13 (2) by adding at the end the following new  
 14 paragraph:

15 “(2) EXCLUSION OF HEALTH PLANS INCLUDING  
 16 COVERAGE FOR ABORTION.—The terms ‘qualified  
 17 health plan’ and ‘health insurance coverage’ shall  
 18 not include any health plan or benefit that includes  
 19 coverage for abortions (other than any abortion or  
 20 treatment described in section 213(g)(2)).”.

21 (b) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply to taxable years beginning after  
 23 the date of the enactment of this Act.

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

4 (a) FLEXIBLE SPENDING ARRANGEMENTS UNDER  
5 CAFETERIA PLANS.—Section 125 of the Internal Revenue  
6 Code of 1986 is amended by redesignating subsections (k)  
7 and (l) as subsections (l) and (m), respectively, and by  
8 inserting after subsection (j) the following new subsection:

9 “(k) ABORTION REIMBURSEMENT FROM FLEXIBLE  
10 SPENDING ARRANGEMENT INCLUDED IN GROSS IN-  
11 COME.—Notwithstanding section 105(b), gross income  
12 shall include any reimbursement for expenses incurred for  
13 an abortion (other than any abortion or treatment de-  
14 scribed in section 213(g)(2)) from a health flexible spend-  
15 ing arrangement provided under a cafeteria plan. Such re-  
16 imbursement shall not fail to be a qualified benefit for  
17 purposes of this section merely as a result of such inclu-  
18 sion in gross income.”.

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

25 (c) HSAs.—Paragraph (1) of section 223(f) of such  
26 Code is amended by inserting before the period at the end

1 the following: “, except that any such amount used to pay  
2 for an abortion (other than any abortion or treatment de-  
3 scribed in section 213(g)(2)) shall be included in the gross  
4 income of such beneficiary”.

5 (d) EFFECTIVE DATES.—

6 (1) FSA REIMBURSEMENTS.—The amendment  
7 made by subsection (a) shall apply to expenses in-  
8 curred with respect to taxable years beginning after  
9 the date of the enactment of this Act.

10 (2) DISTRIBUTIONS FROM SAVINGS AC-  
11 COUNTS.—The amendments made by subsection (b)  
12 and (c) shall apply to amounts paid with respect to  
13 taxable years beginning after the date of the enact-  
14 ment of this Act.

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