H.R. 7

[Report No. 113–]

To prohibit taxpayer funded abortions.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2013

Mr. Smith of New Jersey (for himself, Mr. Lipinski, Mr. Pitts, Mr. Fleming, Mrs. Roby, Mrs. Blackburn, Mr. Jones, Mr. Buchanan, Mr. Franks of Arizona, Mr. Rogers of Alabama, Mr. Flores, Mr. Fleischmann, Mr. Boustany, Mr. Duncan of South Carolina, Mr. Fincher, Mr. Carter, Mr. Westmoreland, Mr. Garrett, Mr. Pearce, Mr. Roe of Tennessee, Mr. Neugebauer, Mr. Poe of Texas, Mr. Goodlatte, Mr. Bentivolio, Mr. Harper, Mr. Schweikert, Mr. Wilson of South Carolina, Mr. Scalise, Mr. Woodall, Mr. Stutzman, Mr. Huizenga of Michigan, Mr. Wenstrup, Mrs. Bachmann, Mr. Amash, Mr. Shimkus, Mr. LaMalfa, Mr. Walberg, Mr. Brady of Texas, Mrs. Black, Mr. Huelskamp, Mr. Cassidy, Mr. Gowdy, Mr. Meadows, Mr. Fortenberry, Mr. Wolf, Mr. Bridenstine, Mr. Salmon, Mr. King of Iowa, Mr. Gingrey of Georgia, Mr. Holding, Mrs. Ellis, Mr. Long, Mr. Sessions, Mr. Marino, Ms. Ros-Lehtinen, Mr. Conaway, Mr. Pompeo, Mr. Lamborn, Mr. Kelly of Pennsylvania, Mr. Johnson of Ohio, Mr. Jordan, Mr. Guthrie, Ms. Foxx, Mr. Hultgren, Mr. Messer, Mr. Royce, Mr. Broun of Georgia, Mr. Gibbs, Mr. Thornberry, Mr. Aderholt, Mr. Rahall, Mr. Rogers of Michigan, Mr. Mulvaney, Mrs. Hartzler, Mrs. Wagner, Mr. Alexander, Mr. Lankford, Mr. Harris, Mrs. Walorski, Mr. Olson, Mr. Rothfus, Mr. Barton, Mr. Duffy, Mr. Smith of Nebraska, Mr. Nugent, Mr. Burgess, Mr. Womack, Mr. Rodney Davis of Illinois, Mr. Bachus, Mr. Kline, Mr. Benishek, Mr. Southerland, Mr. Miller of Florida, Mr. Stewart, Mr. McKinley, and Mr. Yoder) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JANUARY --, 2014

Reported from the Committee on Judiciary
A BILL

To prohibit taxpayer funded abortions.
Be it enacted by the Senate and House of Representa-
tives 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

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 ar-
rangements included in gross income.

TITLE I—PROHIBITING FEDERALLY FUNDED ABORTIONS

SEC. 101. PROHIBITING TAXPAYER FUNDED ABORTIONS.

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

“CHAPTER 4—PROHIBITING TAXPAYER
FUNDED ABORTIONS

“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.
§ 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
among 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.”.

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 .......................... 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).”.

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

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

(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 In-
come.—Notwithstanding section 105(b), gross income
shall include any reimbursement for expenses incurred for
an abortion (other than any abortion or treatment de-
scribed in section 213(g)(2)) from a health flexible spend-
ing arrangement provided under a cafeteria plan. Such re-
imbursement shall not fail to be a qualified benefit for
purposes 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 de-
dcribed 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 in-
curred with respect to taxable years beginning after
the date of the enactment of this Act.

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