

112TH CONGRESS
1ST SESSION

H. R. 3

AN ACT

To prohibit taxpayer funded abortions and to provide for
conscience protections, 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,*

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

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

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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 ar-
rangements included in gross income.

6 **TITLE I—PROHIBITING FEDER-**
7 **ALLY-FUNDED ABORTIONS**
8 **AND PROVIDING FOR CON-**
9 **SCIENCE PROTECTIONS**

10 **SEC. 101. PROHIBITING TAXPAYER FUNDED ABORTIONS**
11 **AND PROVIDING FOR CONSCIENCE PROTEC-**
12 **TIONS.**

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

1 **“CHAPTER 4—PROHIBITING TAXPAYER**
2 **FUNDED ABORTIONS AND PROVIDING**
3 **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.

“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.

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

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

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

9 **“§ 302. Prohibition on funding for health benefits**
10 **plans that cover abortion**

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

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

17 “No health care service furnished—

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

1 “(2) by any physician or other individual em-
2 ployed by the Federal Government to provide health
3 care services within the scope of the physician’s or
4 individual’s employment,
5 may include abortion.

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

7 “Nothing in this chapter shall be construed as pro-
8 hibiting any individual, entity, or State or locality from
9 purchasing separate abortion coverage or health benefits
10 coverage that includes abortion so long as such coverage
11 is paid for entirely using only funds not authorized or ap-
12 propriated by Federal law and such coverage shall not be
13 purchased using matching funds required for a federally
14 subsidized program, including a State’s or locality’s con-
15 tribution of Medicaid matching funds.

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

18 “Nothing in this chapter shall be construed as re-
19 stricting the ability of any non-Federal health benefits cov-
20 erage provider from offering abortion coverage, or the abil-
21 ity of a State or locality to contract separately with such
22 a provider for such coverage, so long as only funds not
23 authorized or appropriated by Federal law are used and
24 such coverage shall not be purchased using matching
25 funds required for a federally subsidized program, includ-

1 ing a State’s or locality’s contribution of Medicaid match-
2 ing funds.

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

4 “Nothing in this chapter shall repeal, amend, or have
5 any effect on any other Federal law to the extent such
6 law imposes any limitation on the use of funds for abortion
7 or for health benefits coverage that includes coverage of
8 abortion, beyond the limitations set forth in this chapter.

9 **“§ 307. Construction relating to complications arising**
10 **from abortion**

11 “Nothing in this chapter shall be construed to apply
12 to the treatment of any infection, injury, disease, or dis-
13 order that has been caused by or exacerbated by the per-
14 formance of an abortion. This rule of construction shall
15 be applicable without regard to whether the abortion was
16 performed in accord with Federal or State law, and with-
17 out regard to whether funding for the abortion is permis-
18 sible under section 308.

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

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

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

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

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

8 “In this chapter:

9 “(1) Any reference to funds appropriated by
10 Federal law shall be treated as including any
11 amounts within the budget of the District of Colum-
12 bia that have been approved by Act of Congress pur-
13 suant to section 446 of the District of Columbia
14 Home Rule Act (or any applicable successor Federal
15 law).

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

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

20 “(a) NONDISCRIMINATION.—A Federal agency or
21 program, and any State or local government that receives
22 Federal financial assistance (either directly or indirectly),
23 may not subject any individual or institutional health care
24 entity to discrimination on the basis that the health care

1 entity does not provide, pay for, provide coverage of, or
2 refer for abortions.

3 “(b) HEALTH CARE ENTITY DEFINED.—For pur-
4 poses of this section, the term ‘health care entity’ includes
5 an individual physician or other health care professional,
6 a hospital, a provider-sponsored organization, a health
7 maintenance organization, a health insurance plan, or any
8 other kind of health care facility, organization, or plan.

9 “(c) REMEDIES.—

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

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

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

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

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

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

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

10 “(1) to receive complaints alleging a violation of
11 this section;

12 “(2) subject to paragraph (3), to pursue the in-
13 vestigation of such complaints in coordination with
14 the Attorney General; and

15 “(3) in the case of a complaint related to a
16 Federal agency (other than with respect to the De-
17 partment of Health and Human Services) or pro-
18 gram administered through such other agency or
19 any State or local government receiving Federal fi-
20 nancial assistance through such other agency, to
21 refer the complaint to the appropriate office of such
22 other agency.”.

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

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

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

1 **TITLE II—ELIMINATION OF CER-**
2 **TAIN TAX BENEFITS RELAT-**
3 **ING TO ABORTION**

4 **SEC. 201. DEDUCTION FOR MEDICAL EXPENSES NOT AL-**
5 **LOWED FOR ABORTIONS.**

6 (a) IN GENERAL.—Section 213 of the Internal Rev-
7 enue Code of 1986 is amended by adding at the end the
8 following new subsection:

9 “(g) AMOUNTS PAID FOR ABORTION NOT TAKEN
10 INTO ACCOUNT.—

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

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

16 “(A) an abortion—

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

19 “(ii) in the case where a woman suf-
20 fers from a physical disorder, physical in-
21 jury, or physical illness that would, as cer-
22 tified by a physician, place the woman in
23 danger of death unless an abortion is per-
24 formed, including a life-endangering phys-

1 ical condition caused by or arising from
2 the pregnancy, and

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

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

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

14 (a) IN GENERAL.—Subparagraph (A) of section
15 36B(c)(3) of the Internal Revenue Code of 1986 is amend-
16 ed by inserting before the period at the end the following:
17 “or any health plan that includes coverage for abortions
18 (other than any abortion or treatment described in section
19 213(g)(2))”.

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

24 “(C) SEPARATE ABORTION COVERAGE OR
25 PLAN ALLOWED.—

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

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

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

1 **SEC. 203. DISALLOWANCE OF SMALL EMPLOYER HEALTH**
2 **INSURANCE EXPENSE CREDIT FOR PLAN**
3 **WHICH INCLUDES COVERAGE FOR ABOR-**
4 **TION.**

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

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

9 “(1) IN GENERAL.—Any term”, and

10 (2) by adding at the end the following new
11 paragraph:

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

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

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

24 (a) FLEXIBLE SPENDING ARRANGEMENTS UNDER
25 CAFETERIA PLANS.—Section 125 of the Internal Revenue
26 Code of 1986 is amended by redesignating subsections (k)

1 and (l) as subsections (l) and (m), respectively, and by
2 inserting after subsection (j) the following new subsection:

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

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

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

25 (d) EFFECTIVE DATES.—

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

5 (2) DISTRIBUTIONS FROM SAVINGS AC-
6 COUNTS.—The amendments made by subsection (b)
7 and (c) shall apply to amounts paid with respect to
8 taxable years beginning after the date of the enact-
9 ment of this Act.

Passed the House of Representatives May 4, 2011.

Attest:

Clerk.

112TH CONGRESS
1ST SESSION

H. R. 3

AN ACT

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