

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3
OFFERED BY MR. SMITH OF TEXAS**

Strike all after the enacting clause and insert the following:

1 SEC. 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 arrangements included in gross income.

1 **TITLE I—PROHIBITING FEDER-**
2 **ALLY-FUNDED ABORTIONS**
3 **AND PROVIDING FOR CON-**
4 **SCIENCE PROTECTIONS**

5 **SEC. 101. PROHIBITING TAXPAYER FUNDED ABORTIONS**
6 **AND PROVIDING FOR CONSCIENCE PROTEC-**
7 **TIONS.**

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

10 **“CHAPTER 4—PROHIBITING TAXPAYER**
11 **FUNDED ABORTIONS AND PROVIDING**
12 **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.

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

14 “No funds authorized or appropriated by Federal
15 law, and none of the funds in any trust fund to which
16 funds are authorized or appropriated by Federal law, shall
17 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 **“§ 310. No government discrimination against certain**
2 **health care entities**

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

10 “(b) HEALTH CARE ENTITY DEFINED.—For pur-
11 poses of this section, the term ‘health care entity’ includes
12 an individual physician or other health care professional,
13 a hospital, a provider-sponsored organization, a health
14 maintenance organization, a health insurance plan, or any
15 other kind of health care facility, organization, or plan.

16 “(c) REMEDIES.—

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

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

24 “(B) orders preventing the disbursement of
25 all or a portion of Federal financial assistance
26 to a State or local government, or to a specific

1 offending agency or program of a State or local
2 government, until such time as the conduct pro-
3 hibited by this section has ceased.

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

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

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

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

15 “(1) to receive complaints alleging a violation of
16 this section;

17 “(2) subject to paragraph (3), to pursue the in-
18 vestigation of such complaints in coordination with
19 the Attorney General; and

20 “(3) in the case of a complaint related to a
21 Federal agency (other than with respect to the De-
22 partment of Health and Human Services) or pro-
23 gram administered through such other agency or
24 any State or local government receiving Federal fi-
25 nancial assistance through such other agency, to

1 refer the complaint to the appropriate office of such
2 other agency.”.

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

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

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

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

9 **SEC. 201. DEDUCTION FOR MEDICAL EXPENSES NOT AL-**
10 **LOWED FOR ABORTIONS.**

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

14 “(g) **AMOUNTS PAID FOR ABORTION NOT TAKEN**
15 **INTO ACCOUNT.**—

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

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

21 “(A) an abortion—

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

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

5 “(C) SEPARATE ABORTION COVERAGE OR
6 PLAN ALLOWED.—

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

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

1 the amount of any advance payment of the
2 credit under section 1412 of the Patient
3 Protection and Affordable Care Act).”.

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

7 **SEC. 203. DISALLOWANCE OF SMALL EMPLOYER HEALTH**
8 **INSURANCE EXPENSE CREDIT FOR PLAN**
9 **WHICH INCLUDES COVERAGE FOR ABOR-**
10 **TION.**

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

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

15 “(1) IN GENERAL.—Any term”, and

16 (2) by adding at the end the following new
17 paragraph:

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

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

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

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

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

22 (b) ARCHER MSAS.—Paragraph (1) of section 220(f)
23 of such Code is amended by inserting before the period
24 at the end the following: “, except that any such amount
25 used to pay for an abortion (other than any abortion or

1 treatment described in section 213(g)(2)) shall be included
2 in the gross income of such holder”.

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

9 (d) EFFECTIVE DATES.—

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

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

