

112TH CONGRESS  
1ST SESSION

# S. 877

To prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law.

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## IN THE SENATE OF THE UNITED STATES

MAY 4, 2011

Mr. HATCH (for himself, Mr. COBURN, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. ROBERTS, Mr. RUBIO, Mr. BLUNT, Ms. AYOTTE, Mr. WICKER, Mr. ISAKSON, Mr. VITTER, Mr. CHAMBLISS, Mr. BARRASSO, Mr. BOOZMAN, Mr. BURR, Mr. THUNE, Mr. RISCH, Mr. INHOFE, Mr. MORAN, Mr. GRASSLEY, Mr. CRAPO, Mr. JOHANNIS, Mr. HOEVEN, Mr. SHELBY, Mr. COATS, Mr. CORKER, Mr. PAUL, Mr. JOHNSON of Wisconsin, Mr. MCCAIN, Mr. LEE, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law.

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.**

4 This Act may be cited as the “Protect Life Act”.

1 **SEC. 2. MODIFYING SPECIAL RULES RELATING TO COV-**  
2 **ERAGE OF ABORTION SERVICES UNDER THE**  
3 **PATIENT PROTECTION AND AFFORDABLE**  
4 **CARE ACT TO CONFORM TO LONG-STANDING**  
5 **FEDERAL POLICY.**

6 (a) IN GENERAL.—Section 1303 of the Patient Pro-  
7 tection and Affordable Care Act (Public Law 111–148),  
8 as amended by section 10104(c) of such Act, is amend-  
9 ed—

10 (1) by redesignating subsections (c) and (d) as  
11 subsections (e) and (f), respectively;

12 (2) by redesignating paragraph (4) of sub-  
13 section (b) as subsection (d) and transferring such  
14 subsection (d) after the subsection (c) inserted by  
15 paragraph (4) of this subsection with appropriate in-  
16 dentation;

17 (3) by amending subsection (b) to read as fol-  
18 lows:

19 “(b) SPECIAL RULES RELATING TO TRAINING IN  
20 AND COVERAGE OF ABORTION SERVICES.—Nothing in  
21 this Act (or any amendment made by this Act) shall be  
22 construed to require any health plan to provide coverage  
23 of or access to abortion services or to allow the Secretary  
24 or any other Federal or non-Federal person or entity in  
25 implementing this Act (or amendment) to require coverage  
26 of, access to, or training in abortion services.”;

1           (4) by inserting after subsection (b) the fol-  
2           lowing new subsection:

3           “(c) LIMITATION ON ABORTION FUNDING.—

4           “(1) IN GENERAL.—No funds authorized or ap-  
5           propriated by this Act (or an amendment made by  
6           this Act), including credits applied toward qualified  
7           health plans under section 36B of the Internal Rev-  
8           enue Code of 1986 or cost-sharing reductions under  
9           section 1402 of this Act, may be used to pay for any  
10          abortion or to cover any part of the costs of any  
11          health plan that includes coverage of abortion, ex-  
12          cept—

13                  “(A) if the pregnancy is the result of an  
14                  act of rape or incest; or

15                  “(B) in the case where a pregnant female  
16                  suffers from a physical disorder, physical in-  
17                  jury, or physical illness that would, as certified  
18                  by a physician, place the female in danger of  
19                  death unless an abortion is performed, includ-  
20                  ing a life-endangering physical condition caused  
21                  by or arising from the pregnancy itself.

22           “(2) OPTION TO PURCHASE SEPARATE COV-  
23           ERAGE OR PLAN.—Nothing in this subsection shall  
24           be construed as prohibiting any non-Federal entity  
25           (including an individual or a State or local govern-

1       ment) from purchasing separate coverage for abor-  
2       tions for which funding is prohibited under this sub-  
3       section, or a qualified health plan that includes such  
4       abortions, so long as—

5               “(A) such coverage or plan is paid for en-  
6               tirely using only funds not authorized or appro-  
7               priated by this Act; and

8               “(B) such coverage or plan is not pur-  
9               chased using—

10               “(i) individual premium payments re-  
11               quired for a qualified health plan offered  
12               through an Exchange towards which a  
13               credit is applied under section 36B of the  
14               Internal Revenue Code of 1986; or

15               “(ii) other non-Federal funds required  
16               to receive a Federal payment, including a  
17               State’s or locality’s contribution of Med-  
18               icaid matching funds.

19               “(3) OPTION TO OFFER COVERAGE OR PLAN.—  
20       Nothing in this subsection or section  
21       1311(d)(2)(B)(i) shall restrict any non-Federal  
22       health insurance issuer offering a qualified health  
23       plan from offering separate coverage for abortions  
24       for which funding is prohibited under this sub-

1 section, or a qualified health plan that includes such  
2 abortions, so long as—

3 “(A) premiums for such separate coverage  
4 or plan are paid for entirely with funds not au-  
5 thorized or appropriated by this Act;

6 “(B) administrative costs and all services  
7 offered through such coverage or plan are paid  
8 for using only premiums collected for such cov-  
9 erage or plan; and

10 “(C) any such non-Federal health insur-  
11 ance issuer that offers a qualified health plan  
12 through an Exchange that includes coverage for  
13 abortions for which funding is prohibited under  
14 this subsection also offers a qualified health  
15 plan through the Exchange that is identical in  
16 every respect except that it does not cover abor-  
17 tions for which funding is prohibited under this  
18 subsection.”;

19 (5) in subsection (e), as redesignated by para-  
20 graph (1)—

21 (A) in the heading, strike “Regarding  
22 Abortion”;

23 (B) in the heading of each of paragraphs  
24 (1) and (2), strike each place it appears “RE-  
25 GARDING ABORTION”;

1 (C) in paragraph (1), by striking “regard-  
2 ing the prohibition of (or requirement of) cov-  
3 erage, funding, or” and inserting “protecting  
4 conscience rights, restricting or prohibiting  
5 abortion or coverage or funding of abortion, or  
6 establishing”; and

7 (D) in paragraph (2)(A), by striking  
8 “Nothing” and inserting “Subject to subsection  
9 (g), nothing”;

10 (6) in subsection (f), as redesignated by para-  
11 graph (1), by striking “Nothing” and inserting  
12 “Subject to subsection (g), nothing”; and

13 (7) by adding at the end the following new sub-  
14 section:

15 “(g) NONDISCRIMINATION ON ABORTION.—

16 “(1) NONDISCRIMINATION.—A Federal agency  
17 or program, and any State or local government that  
18 receives Federal financial assistance under this Act  
19 (or an amendment made by this Act), may not sub-  
20 ject any institutional or individual health care entity  
21 to discrimination, or require any health plan created  
22 or regulated under this Act (or an amendment made  
23 by this Act) to subject any institutional or individual  
24 health care entity to discrimination, on the basis  
25 that the health care entity refuses to—

1           “(A) undergo training in the performance  
2 of induced abortions;

3           “(B) require or provide such training;

4           “(C) perform, participate in, provide cov-  
5 erage of, or pay for induced abortions; or

6           “(D) provide referrals for such training or  
7 such abortions.

8           “(2) DEFINITION.—In this subsection, the term  
9 ‘health care entity’ includes an individual physician  
10 or other health care professional, a hospital, a pro-  
11 vider-sponsored organization, a health maintenance  
12 organization, a health insurance plan, or any other  
13 kind of health care facility, organization, or plan.

14           “(3) REMEDIES.—

15           “(A) IN GENERAL.—The courts of the  
16 United States shall have jurisdiction to prevent  
17 and redress actual or threatened violations of  
18 this section by issuing any form of legal or eq-  
19 uitable relief, including—

20           “(i) injunctions prohibiting conduct  
21 that violates this subsection; and

22           “(ii) orders preventing the disburse-  
23 ment of all or a portion of Federal finan-  
24 cial assistance to a State or local govern-  
25 ment, or to a specific offending agency or

1 program of a State or local government,  
 2 until such time as the conduct prohibited  
 3 by this subsection has ceased.

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

7 “(i) any health care entity that has  
 8 standing to complain of an actual or  
 9 threatened violation of this subsection; or

10 “(ii) the Attorney General of the  
 11 United States.

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

15 “(A) to receive complaints alleging a viola-  
 16 tion of this subsection; and

17 “(B) to pursue investigation of such com-  
 18 plaints in coordination with the Attorney Gen-  
 19 eral.”.

20 (b) CONFORMING AMENDMENT.—Section 1334(a)(6)  
 21 of such Act is amended to read as follows:

22 “(6) COVERAGE CONSISTENT WITH FEDERAL  
 23 POLICY.—In entering into contracts under this sub-  
 24 section, the Director shall ensure that no multi-State  
 25 qualified health plan offered in an Exchange pro-



1       vides coverage for abortions for which funding is  
2       prohibited under subsection 1303(c) of this Act.”.

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