

1 HB112  
2 134512-2  
3 By Representative Henry  
4 RFD: Health  
5 First Read: 07-FEB-12  
6 PFD: 02/02/2012

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8 SYNOPSIS: Currently, the new federal health care  
9 reform law requires individual states to operate  
10 and maintain "health insurance exchanges." Health  
11 insurance plans offering abortion coverage are  
12 allowed to participate in a state's exchange and to  
13 receive federal subsidies unless the Legislature  
14 affirmatively opts out of offering these plans.

15 This bill would specifically provide that  
16 the State of Alabama affirmatively opts out of  
17 allowing abortion coverage by exchange  
18 participating health plans.

19 This bill would prohibit health insurance  
20 coverage of elective abortions unless the insured  
21 has paid additional monies for a separate rider.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
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1           Relating to abortions; to specifically provide that  
2 the State of Alabama affirmatively opts out of allowing  
3 abortion coverage by exchange participating health plans; and  
4 to prohibit health insurance coverage of elective abortions in  
5 Alabama with exceptions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7           Section 1. (a) The Legislature of the State of  
8 Alabama finds all of the following:

9           (1) Under the Patient Protection and Affordable Care  
10 Act, P.L. 111-148, federal tax dollars, via affordability  
11 credits, subsidies provided to individuals up to 400 percent  
12 of the federal poverty level, are routed to exchange  
13 participating health insurance plans, including plans that  
14 provide coverage for abortions.

15           (2) Federal funding of insurance plans that provide  
16 abortions is an unprecedented change in federal abortion  
17 funding policy. The Hyde Amendment, as passed each year in the  
18 Labor Health and Human Services Appropriations bill, and the  
19 Federal Employee Health Benefits Program, FEHBP, prohibit  
20 federal funds from subsidizing health insurance plans that  
21 provide abortions. Under this new law, however, exchange  
22 participating health insurance plans that provide abortions  
23 can receive federal funds.

24           (3) The provision of federal funding for health  
25 insurance plans that provide abortion coverage is nothing  
26 short of taxpayer funded and government endorsed abortion.

1           (4) However, P.L. 111-148 allows a state to "opt  
2 out" of permitting health insurance plans that cover abortions  
3 to participate in the exchanges within that state and thereby  
4 prohibit taxpayer money from subsidizing plans that cover  
5 abortions within that state.

6           (5) The decision not to fund abortions places no  
7 governmental obstacle in the path of a woman who chooses to  
8 terminate her pregnancy.

9           (6) Moreover, it is permissible for a state to  
10 engage in unequal subsidization of abortions and other medical  
11 services to encourage alternative activity deemed in the  
12 public interest.

13           (7) Citizens of the State of Alabama, like other  
14 Americans, oppose the use of public funds, both federal and  
15 state, to pay for abortions. For example, a January 2010  
16 Quinnipiac poll showed that 7 in 10 Americans were opposed to  
17 provisions in federal health care reform that use federal  
18 funds to pay for abortions and abortion coverage.

19           (8) The Guttmacher Institute, which advocates for  
20 unfettered and taxpayer-funded access to abortion, confirms  
21 that, based on Medicaid studies, more women have abortions  
22 when it is covered by public programs, and 87 percent of  
23 typical employer-based insurance policies issued in 2002  
24 covered "medically necessary" or "appropriate abortions."

25           Thus, the vast majority of private health insurance  
26 plans, often unbeknownst to employers and consumers, covered  
27 elective abortions.

1           (9) Private insurance contracts, plans, and policies  
2 often offer optional abortion coverage through the purchase of  
3 a separate rider.

4           (b) Based on the findings in subsection (a), it is  
5 the purpose of this act to:

6           (1) Affirmatively opt out of allowing qualified  
7 health plans that cover abortions to participate in exchanges  
8 within the State of Alabama.

9           (2) Prohibit private health insurance contracts,  
10 plans, and policies offered in Alabama from offering abortion  
11 coverage except through the purchase, by an individual  
12 policyholder, of a separate rider and through the payment of  
13 an additional premium for such coverage.

14           Section 2. (a) No abortion coverage may be provided  
15 by a qualified health plan offered through an exchange created  
16 pursuant to P.L. 111-148 within the State of Alabama.

17           (b) This prohibition shall not apply to an abortion  
18 performed when the life of the mother is endangered by a  
19 physical disorder, physical illness, or physical injury,  
20 including a life-endangering physical condition caused by or  
21 arising from the pregnancy itself, or when the pregnancy is  
22 the result of an act of rape or incest.

23           Section 3. (a) No health insurance contract, plan,  
24 or policy delivered or issued for delivery in Alabama shall  
25 provide coverage for abortions except when the life of the  
26 mother is endangered by a physical disorder, physical illness,  
27 or physical injury, including a life-endangering physical

1 condition caused by or arising from the pregnancy itself.  
2 Insurance providers may offer abortion coverage through  
3 optional rider for which there must be paid an additional  
4 premium.

5 (b) This section shall be applicable to all  
6 contracts, plans, or policies subject to the laws of Alabama  
7 regarding all of the following:

8 (1) Health insurers.

9 (2) Nonprofit hospital, medical, surgical, dental,  
10 and health services corporations.

11 (3) Groups and blanket health insurers.

12 (4) Health maintenance organizations.

13 (5) Provisions of medical, hospital, surgical, and  
14 funeral benefits and of coverage against accidental death or  
15 injury, when such benefits or coverage are incidental to or  
16 part of other insurance.

17 (6) Employers who provide health insurance for  
18 employees on a self-insured basis.

19 Section 4. (a) Nothing in this act shall be  
20 construed as creating or recognizing a right to abortion.

21 (b) It is not the intention of this act to make  
22 lawful an abortion that is currently unlawful.

23 Section 5. The Legislature, by joint resolution, may  
24 appoint one or more of its members who sponsored or  
25 cosponsored this act in his or her official capacity to  
26 intervene as a matter of right in any case in which the

1 constitutional of this act or any portion thereof is  
2 challenged.

3 Section 6. Any provision of this act held to be  
4 invalid or unenforceable by its terms, or as applied to any  
5 person or circumstance, shall be construed so as to give it  
6 the maximum effect permitted by law, unless such holding shall  
7 be one of utter invalidity or unenforceability, in which event  
8 such provision shall be deemed severable herefrom and shall  
9 not affect the remainder hereof or the application of such  
10 provision to other persons not similarly situated or to other,  
11 dissimilar circumstances.

12 Section 7. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.