

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 22**

Introduced by McCoy, 39.

Read first time January 06, 2011

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to adopt the Mandate Opt-Out and
- 2 Insurance Coverage Clarification Act; to provide an
- 3 operative date; and to provide severability.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 4 of this act shall be known and  
2 may be cited as the Mandate Opt-Out and Insurance Coverage  
3 Clarification Act.

4           Sec. 2. (1) The Legislature finds that:

5           (a) In the federal Patient Protection and Affordable Care  
6 Act, Public Law 111-148, federal tax dollars are routed via  
7 affordability credits to qualified health insurance plans offered  
8 through a health insurance exchange created under the act, including  
9 plans that provide coverage for abortion;

10           (b) Federal funding for health insurance plans that cover  
11 abortions is prohibited by the federal statutory restriction commonly  
12 known as the Hyde Amendment and the Federal Employees Health Benefits  
13 Program established under Chapter 89 of Title 5 of the United States  
14 Code, as amended. Therefor, the federal Patient Protection and  
15 Affordable Care Act brings about an unprecedented change in federal  
16 abortion funding policy;

17           (c) The provision of federal funding for health insurance  
18 plans that cover abortions is taxpayer-funded and government-endorsed  
19 abortion;

20           (d) Section 1303 of the federal Patient Protection and  
21 Affordable Care Act explicitly permits each state to pass laws  
22 prohibiting qualified health insurance plans offered through a health  
23 insurance exchange created under the act in such state from offering  
24 abortion coverage. Such section allows a state to prohibit the use of  
25 public funds to subsidize health insurance plans that cover abortions

1 within the state;

2 (e) The laws of the State of Nebraska provide that group  
3 health insurance plans or health maintenance agreements paid for with  
4 public funds shall not cover abortion unless necessary to prevent the  
5 death of the woman;

6 (f) Rust v. Sullivan, 500 U.S. 173 (1991), states that it  
7 is permissible for a state to engage in unequal subsidization of  
8 abortion and other medical services to encourage alternative activity  
9 deemed in the public interest;

10 (g) Citizens of the State of Nebraska, like other  
11 Americans, oppose the use of public funds, both federal and state, to  
12 pay for abortions. A January 2010 Quinnipiac poll showed that seven  
13 in ten Americans were opposed to provisions in federal health care  
14 reform that use federal funds to pay for abortions and abortion  
15 coverage; and

16 (h) The Guttmacher Institute, which advocates for  
17 unfettered and taxpayer-funded access to abortion, confirms that,  
18 based on medicaid studies, more women have abortions when abortion is  
19 covered by private or public insurance programs.

20 (2) Based on the findings in subsection (1) of this  
21 section, it is the purpose of the Mandate Opt-Out and Insurance  
22 Coverage Clarification Act to affirmatively opt out of allowing  
23 qualified health insurance plans that cover abortions to participate  
24 in health insurance exchanges within the State of Nebraska. Further,  
25 it is also the purpose of the act to limit the coverage of abortion

1 in all health insurance plans, contracts, or policies delivered or  
2 issued for delivery in the State of Nebraska.

3           Sec. 3. (1) No abortion coverage shall be provided by a  
4 qualified health insurance plan offered through a health insurance  
5 exchange created pursuant to the federal Patient Protection and  
6 Affordable Care Act, Public Law 111-148, within the State of  
7 Nebraska. This subsection shall not apply to coverage for an abortion  
8 which is verified in writing by the attending physician as necessary  
9 to prevent the death of the woman or to coverage for medical  
10 complications arising from an abortion.

11           (2) No health insurance plan, contract, or policy  
12 delivered or issued for delivery in the State of Nebraska shall  
13 provide coverage for an elective abortion except through an optional  
14 rider to the policy for which an additional premium is paid solely by  
15 the insured. This subsection applies to any health insurance plan,  
16 contract, or policy delivered or issued for delivery in the State of  
17 Nebraska by any health insurer, any nonprofit hospital, medical,  
18 surgical, dental, or health service corporation, any group health  
19 insurer, and any health maintenance organization subject to the laws  
20 of insurance in this state and any employer providing self-funded  
21 health insurance for his or her employees. This subsection also  
22 applies to any plan provision of hospital, medical, surgical, or  
23 funeral benefits or of coverage against accidental death or injury if  
24 such benefits or coverage are incidental to or a part of any other  
25 insurance plan delivered or issued for delivery in the State of

1 Nebraska.

2           (3) The issuer of a health insurance plan, contract, or  
3 policy in the State of Nebraska shall not provide any incentive or  
4 discount to an insured if the insured elects abortion coverage.

5           (4) For purposes of this section, elective abortion means  
6 an abortion (a) other than a spontaneous abortion or (b) that is  
7 performed for any reason other than to prevent the death of the  
8 female upon whom the abortion is performed.

9           Sec. 4. Nothing in the Mandate Opt-Out and Insurance  
10 Coverage Clarification Act shall be construed as creating a right to  
11 an abortion.

12           Sec. 5. This act becomes operative on January 1, 2012.

13           Sec. 6. If any section in this act or any part of any  
14 section is declared invalid or unconstitutional, the declaration  
15 shall not affect the validity or constitutionality of the remaining  
16 portions.