

SB 106-

submitted by Sen. Lynda Moss

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SB 106

From: alexandra.corcoran@gmail.com  
Subject: **Ban on federal funding for abortion in ACA**  
Date: January 12, 2011 4:12:30 PM MST  
To: lyndamoss@imt.net  
Reply-To: alexandra.corcoran@gmail.com

Sent from my BlackBerry Smartphone provided by Alltel

From: Alexandra Corcoran <alexandra.corcoran@gmail.com>  
Date: Wed, 12 Jan 2011 16:11:22 -0700  
To: <alexandra@prochoicemontana.org>  
Subject: Ban on federal funding for abortion in ACA

Hi Senator Moss-

Here is the language in the section (1303) that bans federal funding for abortion services in the Affordable Care Act.

Please don't hesitate to let me know if there is anything else I can send to help you out on this.

Thanks,

Alex

#### SEC. 1303. SPECIAL RULES.

##### (A) SPECIAL RULES RELATING TO COVERAGE OF ABORTION SERVICES.

(1) VOLUNTARY CHOICE OF COVERAGE OF ABORTION SERVICES. (A) IN GENERAL. Notwithstanding any other provision of this title (or any amendment made by this title), and subject to subparagraphs (C) and (d) (i) nothing in this title (or any amendment made by this title), shall be construed to require a qualified health plan<sup>117</sup> to provide coverage of services described in subparagraph (b)(i) or (b)(ii) as part of its essential health benefits for any plan year; and (ii) the issuer of a qualified health plan shall determine whether or not the plan provides coverage of services described in subparagraph (b)(i) or (b)(ii) as part of such benefits for the plan year. (B) ABORTION SERVICES. (i) ABORTIONS FOR WHICH PUBLIC FUNDING IS PROHIBITED. The services described in this clause are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved. (ii) ABORTIONS FOR WHICH PUBLIC FUNDING IS ALLOWED. The services described in this clause are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted, based<sup>118</sup> on the law as in effect as of the date that is 6 months before the beginning of the plan year involved. (C) PROHIBITION ON FEDERAL FUNDS FOR ABORTION SERVICES IN COMMUNITY HEALTH INSURANCE OPTION. (i) DETERMINATION BY SEC- RETARY. The Secretary may not determine, in accordance with subparagraph (a) (ii), that the community health insurance option established under section 1323 shall provide coverage of services described in subparagraph (b)(i) as part of benefits for the plan year unless the Secretary (i) assures compliance with the requirements of paragraph (2); (ii) assures, in accordance with applicable provisions of generally accepted accounting requirements, circulars on funds management of the Office of Management and Budget, and guidance on accounting of the Government Accountability Office, that no Federal funds are used for such coverage; and<sup>119</sup> (iii) notwithstanding section 1323 (e)(1) (C) or any other provision of this title, takes all necessary steps to assure that the United States does not bear the insurance risk for a community health insurance options coverage of services described in subparagraph (b)(i). (ii) STATE REQUIREMENT. If a State requires, in addition to the essential health benefits required under section 1323(b)(3) (a), coverage of services described in subparagraph (b)(i) for enrollees of a community health insurance option offered in such State, the State shall assure that no funds flowing through or from the community health insurance option, and no other Federal funds, pay or defray the cost of providing coverage

of services described in subparagraph (b)(i). The United States shall not bear the insurance risk for a States required coverage of services described in subparagraph (b)(i). (iii) EXCEPTIONS. Nothing in this subparagraph shall apply to coverage of 120 services described in subparagraph (b)(ii) by the community health insurance option. Services described in subparagraph (b)(ii) shall be covered to the same extent as such services are covered under title XIX of the Social Security Act. (d) ASSURED AVAILABILITY OF VARIED COVERAGE THROUGH EXCHANGES. (i) IN GENERAL. The Secretary shall assure that with respect to qualified health plans offered in any Exchange established pursuant to this title (i) there is at least one such plan that provides coverage of services described in clauses (i) and (ii) of subparagraph (B); and (II) there is at least one such plan that does not provide coverage of services described in subparagraph (b)(i). (ii) SPECIAL RULES. For purposes of clause (i) (i) a plan shall be treated as described in clause (i) (ii) if the plan does not provide coverage of services<sup>121</sup> described in either subparagraph (b)(i) or (b)(ii); and (II) if a State has one Exchange covering more than 1 insurance market, the Secretary shall meet the requirements of clause (i) separately with respect to each such market.

(2) PROHIBITION ON THE USE OF FEDERAL FUNDS. (A) IN GENERAL. If a qualified health plan provides coverage of services described in paragraph (1) (B) (i) , the issuer of the plan shall not use any amount attributable to any of the following for purposes of paying for such services: (i) The credit under section 36B of the Internal Revenue Code of 1986 (and the amount

(if any) of the advance payment of the credit under section 1412 of the Patient Protection and Affordable Care Act). (ii) Any cost-sharing reduction under section 1402 of the Patient Protection and Affordable Care Act (and the amount

(if any) of the advance payment of the reduc<sup>122</sup> tion under section 1412 of the Patient Protection and Affordable Care Act). (B) SEGREGATION OF FUNDS. In the case of a plan to which subparagraph (A) applies, the issuer of the plan shall, out of amounts not described in subparagraph (A), segregate an amount equal to the actuarial amounts determined under subparagraph (C) for all enrollees from the amounts described in subparagraph (A). (C) ACTUARIAL VALUE OF OPTIONAL SERVICE COVERAGE. (i) IN GENERAL. The Secretary shall estimate the basic per enrollee, per month cost, determined on an average actuarial basis, for including coverage under a qualified health plan of the services described in paragraph (1) (B) (i) . (ii) CONSIDERATIONS. In making such estimate, the Secretary (i) may take into account the impact on overall costs of the inclusion of such coverage, but may not take into account any cost reduction estimated to result from such services, in<sup>123</sup> cluding prenatal care, delivery, or postnatal care; (ii) shall estimate such costs as if such coverage were included for the entire population covered; and (III) may not estimate such a cost at less than \$1 per enrollee, per month.

(3) PROVIDER CONSCIENCE PROTECTIONS. No individual health care provider or health care facility may be discriminated against because of a willingness or an unwillingness, if doing so is contrary to the religious or moral beliefs of the provider or facility, to provide, pay for, provide coverage of, or refer for abortions. (B) APPLICATION OF STATE AND FEDERAL LAWS REGARDING ABORTION.

(1) NO PREEMPTION OF STATE LAWS REGARDING ABORTION. Nothing in this Act shall be construed to preempt or otherwise have any effect on State laws regarding the prohibition of (or requirement of) coverage, funding, or procedural requirements on abortions, including parental notification or consent for the performance of an abortion on a minor.<sup>124</sup>

(2) NO EFFECT ON FEDERAL LAWS REGARDING ABORTION. (A) IN GENERAL. Nothing in this Act shall be construed to have any effect on Federal laws regarding (i) conscience protection; (ii) willingness or refusal to provide abortion; and (iii) discrimination on the basis of the willingness or refusal to provide, pay for, cover, or refer for abortion or to provide or participate in training to provide abortion.

(3) NO EFFECT ON FEDERAL CIVIL RIGHTS LAW. Nothing in this subsection shall alter the rights and obligations of employees and employers under title VII of the Civil Rights Act of 1964. (C) APPLICATION OF EMERGENCY SERVICES LAWS. Nothing in this Act

shall be construed to relieve any health care provider from providing emergency services as required by State or Federal law, including section 1867 of the Social Security Act (popularly known as EMTALA).