

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 22**  
Final Reading

Introduced by McCoy, 39; Bloomfield, 17.

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;

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

22           (d) The laws of the State of Nebraska provide that group  
23 health insurance plans or health maintenance agreements paid for with  
24 public funds shall not cover abortion unless necessary to prevent the  
25 death of the woman;

1           (e) Rust v. Sullivan, 500 U.S. 173 (1991), states that it  
2 is permissible for a state to engage in unequal subsidization of  
3 abortion and other medical services to encourage alternative activity  
4 deemed in the public interest; and

5           (f) A majority of the citizens of the State of Nebraska,  
6 like other Americans, oppose the use of public funds, both federal  
7 and state, to pay for abortions.

8           (2) Based on the findings in subsection (1) of this  
9 section, it is the purpose of the Mandate Opt-Out and Insurance  
10 Coverage Clarification Act to affirmatively opt out of allowing  
11 qualified health insurance plans that cover abortions to participate  
12 in health insurance exchanges within the State of Nebraska. Further,  
13 it is also the purpose of the act to limit the coverage of abortion  
14 in all health insurance plans, contracts, or policies delivered or  
15 issued for delivery in the State of Nebraska.

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

24           (2) No health insurance plan, contract, or policy  
25 delivered or issued for delivery in the State of Nebraska shall

1 provide coverage for an elective abortion except through an optional  
2 rider to the policy for which an additional premium is paid solely by  
3 the insured. This subsection applies to any health insurance plan,  
4 contract, or policy delivered or issued for delivery in the State of  
5 Nebraska by any health insurer, any nonprofit hospital, medical,  
6 surgical, dental, or health service corporation, any group health  
7 insurer, and any health maintenance organization subject to the laws  
8 of insurance in this state and any employer providing self-funded  
9 health insurance for his or her employees. This subsection also  
10 applies to any plan provision of hospital, medical, surgical, or  
11 funeral benefits or of coverage against accidental death or injury if  
12 such benefits or coverage are incidental to or a part of any other  
13 insurance plan delivered or issued for delivery in the State of  
14 Nebraska.

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

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

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

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

1                   Sec. 6. If any section in this act or any part of any  
2 section is declared invalid or unconstitutional, the declaration  
3 shall not affect the validity or constitutionality of the remaining  
4 portions.