113TH CONGRESS
2D SESSION

S. ______

To preserve religious freedom and a woman’s access to contraception.

____________________
introduced the following bill; which was read twice
and referred to the Committee on ___________________

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A BILL

To preserve religious freedom and a woman’s access to contraception.

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 “Preserving Religious
5   Freedom and a Woman’s Access to Contraception Act”.

6   SEC. 2. FINDINGS.

7   Congress make the following findings:

8   (1) Instead of restricting Americans’ religious
9   freedoms, Congress should preserve a woman’s abil-
10  ity to make contraceptive decisions for herself.
(2) The freedom of religion is the first freedom listed in the First Amendment to the Constitution of the United States, and Congress has a strong interest in protecting the free exercise of religion for Americans of all faiths.

(3) The Religious Freedom Restoration Act of 1993 was signed by President Clinton on November 16, 1993, after passing the House of Representatives unanimously and passing the Senate with the votes of 97 Senators, including 16 currently serving Senators and the Vice President.

(4) Title VII of the Civil Rights Act of 1964 provides important protections against discrimination on the basis of race, color, religion, sex, or national origin.

(5) The Health Insurance Portability and Accountability Act and amendments made by that Act establish comprehensive protections to ensure that any medications used by or prescribed for an individual are not disclosed to an employer in its capacity as an employer.

(6) The Food and Drug Administration has found a number of contraceptives to be proven safe and effective at preventing pregnancies as well as in managing certain medical conditions.
(7) There are 5 programs, including the Medicaid program, carried out by the Department of Health and Human Services that provide access to contraception for low-income women.

(8) Federal and State government spending for contraceptive services totaled $2,370,000,000 in fiscal year 2010 and the Medicaid program financed 75 percent of government spending for family planning.

(9) More than 19,000,000 women were eligible for government-supported contraceptive services in 2010.

(10) Even before Obamacare mandated that employers fully subsidize employees’ contraception, women had wide access to Food and Drug Administration-approved contraception and such contraception was covered by insurance at over 85 percent of large businesses.

(11) Now, Obamacare’s various requirements cause an unprecedented intrusion of government mandates into Americans’ personal health care decisions, including unprecedented Federal mandates that employers become involved in those decisions, and the individual mandate, which requires individuals to purchase health insurance or pay a penalty.
(12) Obamacare has created an enormous disruption in the personal health insurance options of millions of Americans whose health insurance plans were cancelled or whose preferred doctors were not included in their new health insurance plan networks.

(13) The Congressional Budget Office estimates that Obamacare could reduce employment by the equivalent of 2,000,000 jobs over the next 10 years.

(14) One of Obamacare’s mandates places 2,600,000 Americans, nearly two-thirds of them women, at risk of having their hours and wages reduced, according to the Hoover Institution.

(15) Obamacare’s cuts to the Medicare Advantage program and other regulatory actions could reduce the average benefit for women who rely on the program by $1,538 per year, or 13 percent.

(16) Obamacare’s payroll tax increase creates an inequitable tax penalty for married working women.

(17) Obamacare places limitations on health savings accounts, flexible spending accounts, and other consumer-directed health savings vehicles, which help approximately 17,400,000 Americans to
save for their own health expenses, including contraceptives.

(18) The current Administration has granted discretionary compliance waivers from Obamacare to a variety of for-profit businesses, unions, and other organizations.

(19) To date, the Department of Health and Human Services has granted more than 1,000 individual waiver requests for employers and insurers, excusing the employers and insurers from compliance with various aspects of the law.

SEC. 3. SENSE OF THE SENATE.

It is the sense of the Senate that the Food and Drug Administration should study whether contraceptives that are available with a prescription, on the date of enactment of this Act, would be safe and effective for adults if available without a prescription.

SEC. 4. EMPLOYEE PROTECTION.

Notwithstanding any other provision of law, an employer who is engaged in interstate commerce may not prohibit an employee from purchasing, pursuant to State prescribing and dispensing laws, a drug or medical device, including a contraceptive, that is regulated by the Food and Drug Administration.
SEC. 5. EMPOWERING EMPLOYEES TO MAKE HEALTH CHOICES.

(a) No Limitations Based on Whether a Drug Is Prescribed.—Section 9003 of the Patient Protection and Affordable Care Act (Public Law 111–148), and the amendments made by such section, are repealed, and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

(b) No Limitations on Health FSAs.—Sections 9005 and 10902 of the Patient Protection and Affordable Care Act (Public Law 111–148) and section 1403 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), and the amendments made by such sections, are repealed, and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.