The Good, the Bad, & the Ugly

Hon. Lee Terry

July 9th, 2010

Famous Quotes

- "And so, my fellow Americans, ask not what your country can do for you; ask what you can do for your country."

  - John F. Kennedy, Inaugural Address, January 20th, 1961

- "But we have to pass the bill so that you can find out what is in it, away from the fog of controversy."

  - Nancy Pelosi, remarks at 2010 Legislative Conference for the National Association of Counties, March 9th, 2010

The Good

- $250 rebate for seniors in donut hole
- Extending parent's insurance coverage to dependents up to the age of 26.
  - Formally takes effect September 23rd, 2010.
  - Blue Cross/Blue Shield is already implementing this in NE.
- No pre-existing condition restriction for adults starting in 2014.
  - No pre-existing condition for children begins Sept. 23
  - HHS has issued an interim final rule
  - "Preexisting conditions cannot be used to deny someone health insurance. People will get health insurance, but the question is whether their health insurance will pay for these services." --Chairman Henry Waxman

    Energy & Commerce Committee Mark-up on HR. 847
    May 25, 2010
- High Risk Pools
- Small Business Tax Credit (Begins 2010)
- Individual Credits for Exchange (Begins in 2014)

High Risk Pools

- As of July 1st, states should have temporary high risk pools in place to provide coverage for individuals with pre-existing conditions who have been without insurance for the last 6 months.
- The Pre-Existing Condition Insurance Plan in Nebraska will cover primary and specialty care, as well as prescription drugs.
  - Premium rates will go into effect on July 15th
  - The federal government estimates that a 50 year old Nebraskan will face monthly premiums between $468 and $571.
- High Risk Pools will operate until January 1, 2014.
- The health care law allocated $5 billion for high risk pools. CBO estimates an additional $5-$10 billion will be needed to cover the eligible population.

Small Business Tax Credit

- Between 2010 and 2013, small employers qualifying for full credit will receive a tax credit for 35% of their contribution to an employee’s health insurance.
  - For example, if a qualified employer pays for 55% of premiums, they will receive a credit for 19% of the total premium (35% of the 55% they cover).

- Beginning in 2014, for-profit employers may qualify for a maximum credit of 50% for employer’s contributions.
  - This credit is only available to an employer for two consecutive tax years.
  - Total of 6 years eligibility (4 years: 2010-2013) and (2 years: 2014+)

Small Business Tax Credit

- To receive the full tax credit, small employers must employ 10 or fewer full time employees and the employer’s average taxable wages must be $25, 000 or less.
- Employers must contribute at least 50% towards their employee’s health insurance premium cost.
- General tax credit which is non-refundable.
- The tax credit is reduced for employers with 10 to 25 full time employees who receive an average income between $25, 000 to $50, 000 and completely phased out for companies with more than 25 full time employees.

Navigating the Small Business Tax Credit

START: Do you (employer) offer health insurance to your employees?

If, "Yes," you might be eligible for the tax credit

If, "No": STOP, you are ineligible for tax credit

SECOND QUESTION: How many full-time equivalent employees (FTE) do you have?

DETOUR: CALCULATION

Formula: FTE = $(E_1 \times H_1) + (E_2 \times H_2) + (E_N \times H_N)$ / 2080 (rounded down to the nearest whole number)

Calculate the total full-time equivalent employees (FTE) by:

1. Calculating the number of employees **(E)** (excluding owners, partners, family members, and seasonal workers employed 120 days or less)
2. Calculating the total number of hours **(H)** worked for EACH employee (including paid vacation days, holidays, sick leave, disability leave, layoff, jury duty, military duty or leave of absence (capped at no more than 160 hours for an employee for a single continuous period)).
3. Multiplying the number hours worked for each employee and take the sum of this calculation for all employees and dividing it by 2,080 hours to arrive at the total FTE.

If FTE is fewer than 25 you might be eligible for the tax credit

If your FTE is 25 or more: STOP, you are ineligible for tax credit

Employer can get back on the road to the credit by FIRING EMPLOYEES

THIRD QUESTION: What is the average annual wage (AAW) across all your employees?

DETOUR: CALCULATION

Formula: AAW = $(E_1 \times W_1) + (E_2 \times W_2) + (E_N \times W_N)$ / FTE

(rounded down to the nearest $1,000)

Calculate the total wages paid to his/her employees by:

1. Taking the number of employees calculated in question 2
2. Taking the number of hours each employee worked as calculated in question 2
3. Determining the wage **(W)** that was paid for EACH employee for each of the hours worked
4. Multiplying the wage for each employee and taking the sum of this calculation for all employees and dividing it by the number of FTE (see question 2) to arrive at AAW.

If AAW is less than $50,000 you might be eligible for the tax credit

If your AAW is $50,000 or higher: STOP, you are ineligible for the tax credit

Employer can get back on the road to the credit by CUTTING EMPLOYEE WAGES

FOURTH QUESTION: Do you pay at least 50% of your employees' premiums (including health, vision, dental, long-term care, nursing home care, home health care community-based care)?

DETOUR: CALCULATION

Formula: PP = <u>(Employer's Share of Premium)</u> / (Total Premium)

Calculate the percentage of premiums paid (PP) by:

1. Collecting premium information on ALL health-related insurance policies for which you are seeking a credit. This amount represents total dollars spent by employer's on health insurance premiums **(ESP).**
2. Determining the percentage of the premium paid for your employees enrolled in self-only and family coverage.

<u>NOTE:</u> ESP is capped at 50% of the state's average small group premium. Some employers may reduce health benefits so their premiums don't exceed the average.

If your PP is at least 50%, you might be eligible for the tax credit

If your PP is less than 50%: STOP, you are ineligible for the tax credit

Employer can get back on the road to the credit by CUTTING WAGES or BENEFITS to spend more for insurance

FIFTH QUESTION: You've finally navigated through the winding road, what size tax credit do you qualify for?

DETOUR: CALCULATION

If you have 10 or fewer FTE and $25,000 or less in AAW, you receive the maximum credit (MC) amount.

Taxable small business: MC = ESP x 35%

Tax-exempt small employer: MC = ESP x 25%

DETOUR: CALCULATION

If you have more than 10 FTE and $25,000 or less in AAW, you receive a partial credit (PC1).

PC1 = MC – [MC((FTE – 10) / 15)]

DETOUR: CALCULATION

If you have 10 or fewer FTE and more than $25,000 in AAW, you receive a partial credit (PC2).

PC2 = MC – [MC((AAW-25,000)/$25,000)]

DETOUR: CALCULATION

If you have more than 10 FTE and more than $25,000 in AAW, you receive a partial credit (PC3).

PC3 = MC – [MC((FTE – 10)/15)] + [MC((AAW-$25,000)/$25,000)]

Committee on Ways & Means, Republicans
Ranking Member Dave Camp
May 20, 2010

Individual Credit for Exchange

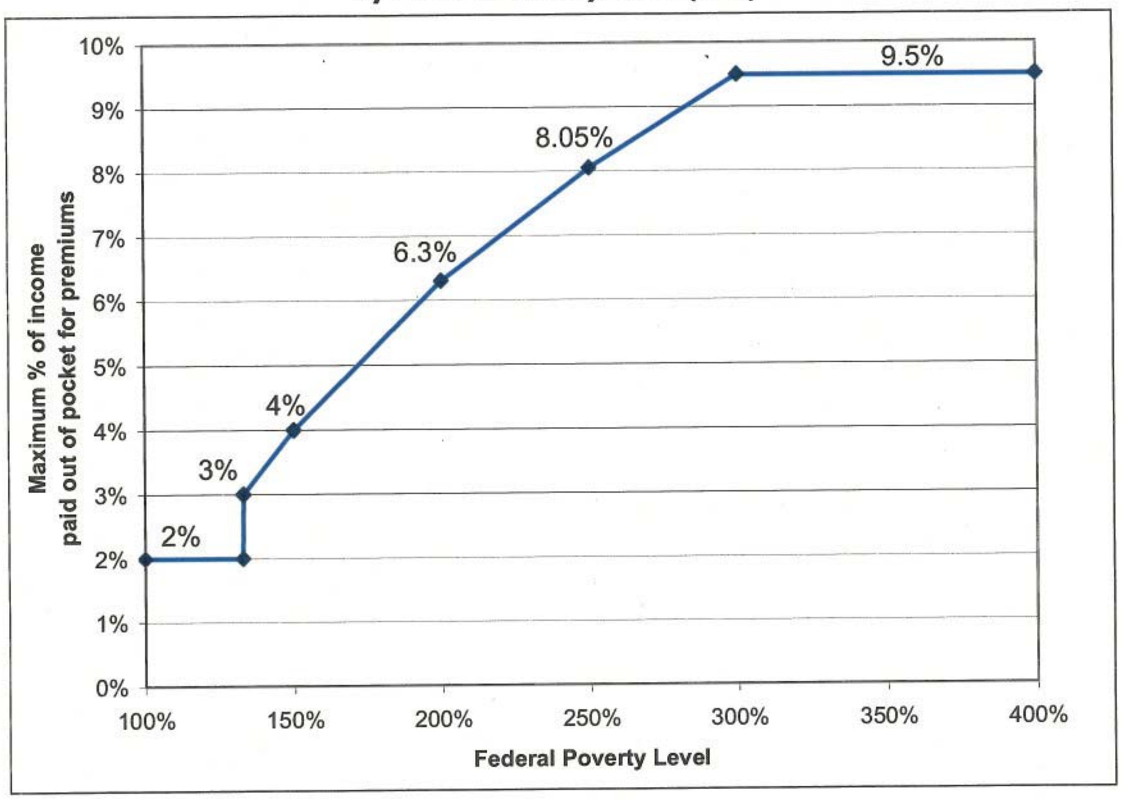
- By January 1, 2014 every state will have established an “American Health Benefits Exchange” to facilitate the purchase of health insurance.
- Beginning in 2014, premium assistance credits will be available to those between 133% and 400% of FPL who purchase the minimum, silver plan.
  - 150% of FPL ($16,245)
  - 400% of FPL ($43,320)

Individual Credit for Exchange

- Credit: Advanceable, refundable federal tax credit calculated through individual tax return.
- 19 million estimated to receive premium credits.
- Cannot be eligible for Medicare, Medicaid, CHIP, coverage related to military service, employer-sponsored plan or a grandfathered plan.
  - *An individual whose employer provides coverage may still qualify for a credit if the insurance provided is not 'affordable.'

Individual Credit for Exchange

Figure 2. Maximum Out-of-Pocket Premiums for Eligible Individuals, by Federal Poverty Level (FPL)



Source: CRS analysis.

Note: Starting in 2014, under PPACA, citizens and qualifying legal residents at or below 133% FPL will be eligible for Medicaid rather than premium credits.

As mentioned above, the premium credit amount would be based on the second-lowest-cost silver plan available to the individual in an exchange.[18] Individuals who enrolled in more expensive

The Bad

- Strict guidelines for ‘grandfathered’ plans
- Restrictions on HSAs
  - Limited to $2,500 per year
  - May only purchase items with a prescription.
  - May be deemed an ‘unqualified’ plan in 2014

Can you keep what you've got?

- A "grandfathered" health plan is one that was purchased before March 23, 2010.
- HHS, Treasury and Labor have issued an interim final rule on group health plans.
- A plan will not be deemed "grandfathered" if changes are made to:
  - Benefits to diagnose or treat a particular condition.
  - Decrease an employer's contribution by more than 5%.
  - Co-insurance
  - The fixed-amount or percentage cost-sharing requirements.
    - Co-payments
    - Deductibles
    - Out-of-pocket limit
    - *The interim final rule allows for increases attributed strictly to medical inflation.

Grandfathered Plans

- The Administration estimates that 51 % of all employees, including 66 % of workers in small businesses, would find themselves in violation of the rules, and have to obtain new coverage, by 2013.

Exception

– New rules <u>would</u> allow collectively bargained plans to switch carriers without violating the new guidelines.

The Ugly

- Employer Mandate
- $569 Billion in New Taxes
- Medicare Cuts
- Limited High Risk Pool Funding
- 16,000 new IRS employees
- Bloated Deficit

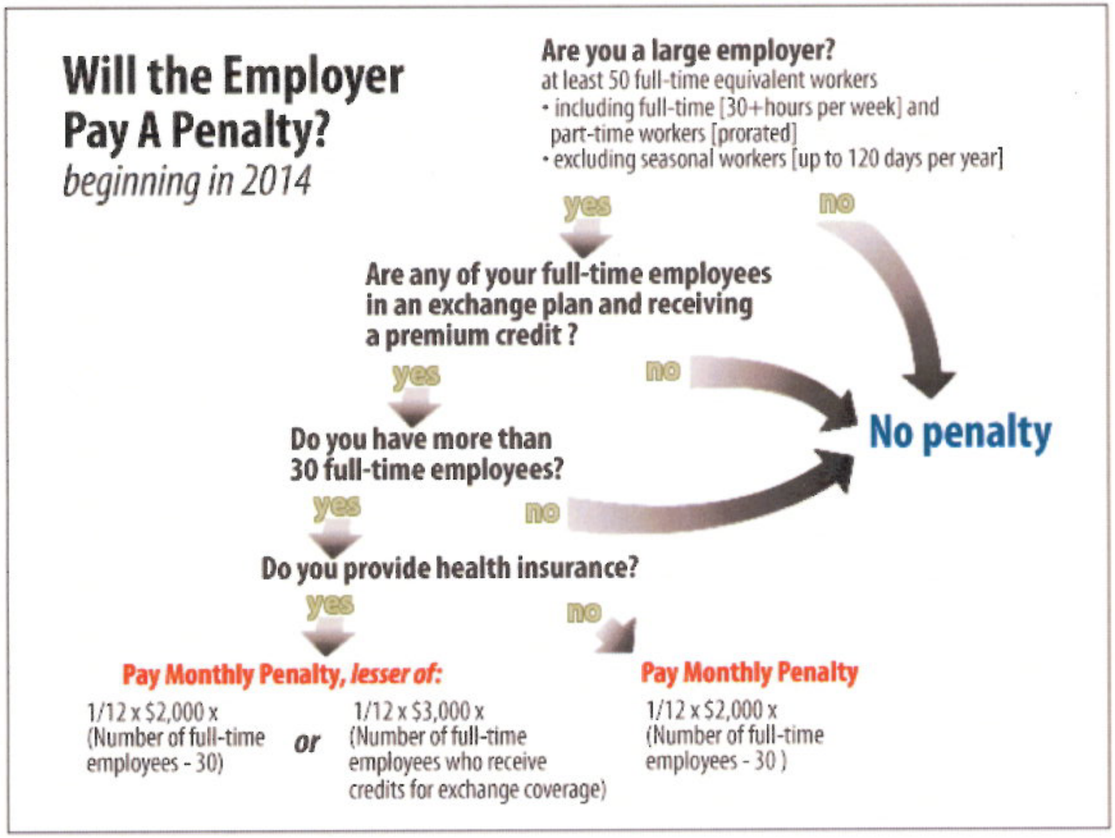
Employer Mandate

- Beginning in 2014, a business who employs at least <u>50 ‘full-time equivalent</u>’ employees will be required by law to provide ‘adequate’ health coverage to their full-time workers.
- Full-time Equivalent Calculation:
  - A full-time employee--one who works 30 or more hours per week.
  - The hours a part-time employee works is calculated by dividing their monthly hours by 120.
    - Ex. 35 full-time employees (30 hours) + 20 part-time employees who work 96 hours/month.
      - [20 employees x 96 hours]/ 120 =1920/120 = 16
      - 35 +16 = 51 (large employer → penalty for not providing coverage to 35 full time employees.)

Employer Mandate Penalties

- Large employers with 50 or more ‘full-time equivalent’ employees will be required to provide ‘adequate’ health insurance in 2014 and may be hit with penalties if they fail to provide adequate coverage or if their employee receive credit from the exchange.

Figure 1. Determining if an Employer Will Pay a Penalty



Source: CRS analysis of P.L. 111-148 and P.L. 111-152.

‘Adequate’ Health Care Plan

– Definition of ‘adequate’ health care plan:
  - <u>Affordable:</u> Employee’s contribution to lowest-premium plan is no more than 9.5% of household income.
  - Plan must cover at least 60% of covered health expenses.
  - Additional details forthcoming from HHS
  - Will HSAs be deemed ‘adequate’?

Penalties

- Employer <u>Does Not</u> Offer Coverage:
  - No full-time employee receives credit for exchange coverage → No penalty.
  - 1 or more full-time employees receive credits for exchange coverage → number of full-time employees minus 30 multiplied by $2000.
- Employer Offers Coverage:
  - No full-time employee receives credit for exchange coverage → No penalty.
  - 1 or more full-time employee receives credit for exchange coverage.
    - Lesser of:
      - Number of full-time employees minus 30, multiplied by $2000.
      - Number of full-time employees who receive credits for exchange coverage, multiplied by $3000.

Employer Cost-Benefit Analysis

- AT&T, Verizon, John Deere & Caterpillar prepared internal documents analyzing the cost of continuing coverage vs. paying a penalty.
- Calculations by one business revealed that they spent $2.4 billion a year on employee coverage. If they dropped coverage, penalties would only amount to $600 million.

$569 Billion in New Taxes

- New Taxes for individuals earning $200k and couples earning $250k.
  - 3.8% excise tax on investment income
  - 0.9% Medicare tax on wages
- 2.3% excise tax on medical devices
- 10% tax on indoor UV tanning services
- 40% excise tax on certain high-cost health plans.

COMMITTEE ON
WAYS & MEANS REPUBLICANS
RANKING MEMBER, DAVE CAMP

GROSS TAX INCREASES IN DEMOCRAT HEALTH BILLS

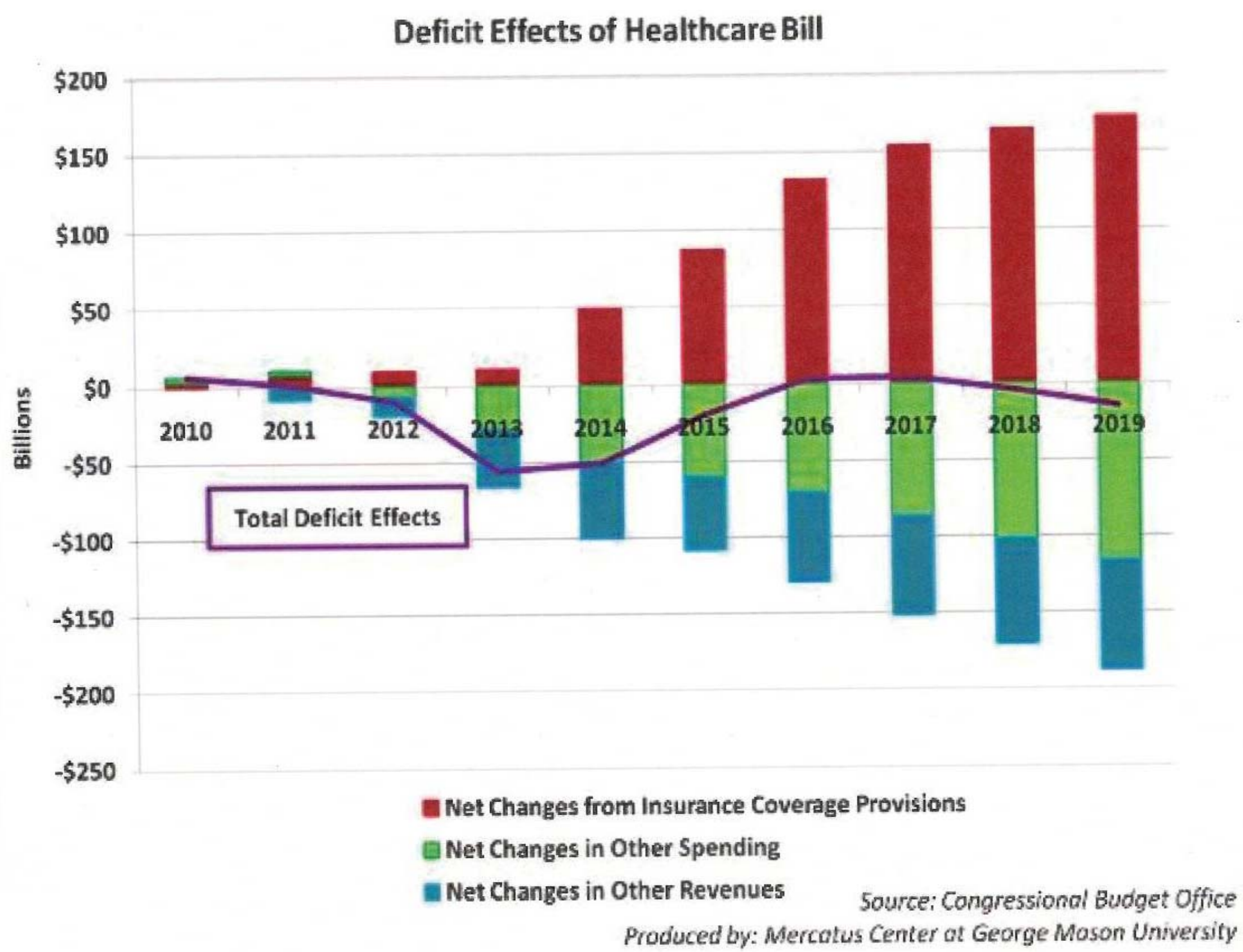
Below is a comparison of the gross tax increases (over the period 2010-2019) contained in the Senate-passed health bill (H.R. 3590), the Senate bill combined with the proposed reconciliation bill (H.R. 4872), and the reconciliation bill alone (assuming prior enactment of the Senate bill). Items marked with an asterisk (*) indicate a violation of President Obama's pledge to avoid tax increases on Americans earning less that $200,000 for singles and $250,000 for couples.

PROVISION	SENATE BILL ALONE	SENATE BILL PLUS RECONCILIATION BILL	RECONCILIATION BILL ALONE (IMPLIED)
"Cadillac tax" on high-cost plans *	148.9	32.0	-116.9
Medicare (HI) tax on wages and self-employment income	86.8	210.2	123.4
Annual tax on health insurance providers *	59.6	60.1	0.5
Employer mandate tax *	27.0	52.0	25.0
Annual tax on drug manufacturers / importers *	22.2	27.0	4.8
Annual tax on medical device manufacturers / importers *	19.2	20.0	0.8
Information reporting on payments to corporations	17.1	17.1	0.0
Raise 7.5% AGI floor on medical expense deduction to 10% *	15.2	15.2	0.0
Individual mandate tax *	15.0	17.0	2.0
Limit FSAs in cafeteria plans *	14.0	13.0	-1.0
Eliminate deduction for expenses allocable to Medicare Part D subsidy	5.4	4.5	-0.9
Restrict HSAs, HRAs, and FSAs *	5.0	5.0	0.0
Impose tax on tanning services *	2.7	2.7	0.0
Impose fee on insured and self-insured health plans; patient-centered outcomes research trust fund *	2.6	2.6	0.0
Increase penalty for nonqualified HSA distributions *	1.3	1.4	0.1
Limit deduction for remuneration to officers, employees, directors, and service providers of certain health insurance providers	0.6	0.6	0.0
Modify section 833 treatment of certain health organizations	0.4	0.4	0.0
Other revenue effects	77.3	60.3	-17.0
Employer W-2 reporting of value of health benefits	Negligible	Negligible	Negligible
Additional requirements for section 501(c)(3) hospitals	Negligible	Negligible	Negligible
Deny eligibility of "black liquor" for cellulosic biofuel producer credit	N/A	23.6	23.6
Codify economic substance doctrine	N/A	4.5	4.5
TOTAL GROSS TAX INCREASE	**520.3**	**569.2**	**48.9**

*Dollar amounts in $ billions. All estimates provided by JCT and CBO; calculations by Ways and Means and Senate Finance Republican Staff. * = violation of President Obama's tax pledge.*
March 18, 2010 – 9:30 p.m.

Cuts to Medicare

- Hospitals $112.9 billion
- Home Health $39.7 billion
- Part B (DME, Labs, Ambulance) $22.3 billion
- Skilled Nursing Facilities $14.6 billion
- Hospice $6.8 billion


Deficit Effects of Healthcare Bill
$200
$150
$100
$50
$0
-$50
-$100
-$150
-$200
-$250
Billions
2010
2011
2012
2013
2014
2015
2016
2017
2018
2019
Total Deficit Effects
Net Changes from Insurance Coverage Provisions
Net Changes in Other Spending
Net Changes in Other Revenues
Source: Congressional Budget Office
Produced by: Mercatus Center at George Mason University