CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

January 7, 2015

# H.R. 30
## Save American Workers Act of 2015

*As introduced in the House of Representatives on January 6, 2015*

## SUMMARY

H.R. 30 would change how penalties are imposed under the Affordable Care Act (ACA) on employers that do not offer insurance (or offer insurance that does not meet certain criteria) and that have at least one full-time employee receiving a subsidy through a health insurance exchange.[1] The legislation would raise the threshold that defines full-time employment from 30 hours per week under current law to 40 hours per week, and it would apply that higher threshold in two ways in the calculation of penalties.

As a result, H.R. 30 would reduce the number of employers that are assessed penalties and lower the penalties assessed against some employers, which would decrease the amount of penalties collected. Because of the changes in who would pay penalties and the amounts they would pay, CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 30 would also change the sources of health insurance coverage for some people, and those changes would have further budgetary effects. Specifically, in years after 2015, CBO and JCT estimate that the legislation would:

- *Reduce* the number of people receiving employment-based coverage—by about 1 million people;

- *Increase* the number of people obtaining coverage through Medicaid, the Children's Health Insurance Program (CHIP), or health insurance exchanges—by between 500,000 and 1 million people; and

- *Increase* the number of uninsured—by less than 500,000 people.

1. The Affordable Care Act comprises the Patient Protection and Affordable Care Act (Public Law 111-148), the health care provisions of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and the effects of subsequent judicial decisions, statutory changes, and administrative actions.

As a consequence of the changes in penalties and in people's sources of insurance coverage, CBO and JCT estimate that enacting H.R. 30 would increase budget deficits by $18.1 billion over the 2015-2020 period and by $53.2 billion over the 2015-2025 period. The 2015-2025 total is the net of $66.4 billion in additional on-budget costs and $13.2 billion in off-budget savings (the latter attributable to increased revenues). Although enacting H.R. 30 would affect direct spending and revenues, the provisions of the Statutory Pay-As-You-Go Act of 2010 do not apply to the legislation because it includes a provision that would direct the Office of Management and Budget to exclude the estimated changes in direct spending and revenues from the scorecards used to enforce the pay-as-you-go rules.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 30 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

## BASIS OF ESTIMATE

### Changes in the Employer Responsibility Requirement

Under current law, certain large employers who do not offer health insurance coverage that meets the affordability and minimum-value standards defined in the ACA must pay a penalty to the federal government if they have at least one full-time employee who receives a subsidy through a health insurance exchange.[2] Employers with at least 50 full-time-equivalent employees (FTEs) are generally subject to that employer responsibility requirement. In 2015, however, employers with at least 50 but fewer than 100 FTEs are exempt from the requirement if they certify that they did not make certain reductions to health insurance coverage or to the number of FTE employees.

For the purpose of determining which employers are subject to the penalty for a given month, the number of FTEs in that month is calculated by adding the number of full-time employees (defined as those who work at least 30 hours per week) to the number of hours of service for part-time employees in that month divided by 120 (that figure represents an average of 30 hours a week for four weeks).

2. Under the ACA, coverage is considered affordable if the employee would be required to pay no more than a specified share of his or her income (9.56 percent in 2015) for self-only coverage, and a plan meets the minimum-value standard if it pays at least 60 percent of the costs of covered benefits (and satisfies other criteria).

| | By Fiscal Year, in Billions of Dollars | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2015-2020 | 2015-2025 |
| **CHANGES IN DIRECT SPENDING** | | | | | | | | | | | | | |
| Changes in Exchange Subsidies | | | | | | | | | | | | | |
| Estimated Budget Authority | 0.1 | 0.8 | 1.2 | 1.4 | 1.5 | 1.4 | 1.4 | 1.5 | 1.6 | 1.7 | 1.7 | 6.3 | 14.2 |
| Estimated Outlays | 0.1 | 0.8 | 1.2 | 1.4 | 1.5 | 1.4 | 1.4 | 1.5 | 1.6 | 1.7 | 1.7 | 6.3 | 14.2 |
| Changes in Medicaid and CHIP | | | | | | | | | | | | | |
| Estimated Budget Authority | 0.1 | 0.5 | 0.6 | 0.7 | 0.7 | 0.8 | 0.8 | 0.9 | 0.9 | 1.0 | 1.0 | 3.3 | 7.8 |
| Estimated Outlays | 0.1 | 0.5 | 0.6 | 0.7 | 0.7 | 0.8 | 0.8 | 0.9 | 0.9 | 1.0 | 1.0 | 3.3 | 7.8 |
| Other Changes | | | | | | | | | | | | | |
| Estimated Budget Authority | * | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | * | * | * | * | -0.4 | -0.6 |
| Estimated Outlays | * | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | * | * | * | * | -0.4 | -0.6 |
| Total Changes in Direct Spending | | | | | | | | | | | | | |
| Estimated Budget Authority | 0.2 | 1.2 | 1.6 | 2.0 | 2.1 | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 9.2 | 21.4 |
| Estimated Outlays | 0.2 | 1.2 | 1.6 | 2.0 | 2.1 | 2.1 | 2.2 | 2.3 | 2.5 | 2.6 | 2.7 | 9.2 | 21.4 |
| **CHANGES IN REVENUES** | | | | | | | | | | | | | |
| Changes in Revenues | 0.3 | 0.5 | -0.7 | -2.1 | -3.2 | -3.7 | -4.1 | -4.4 | -4.9 | -4.8 | -4.7 | -8.9 | -31.8 |
| On-Budget | 0.1 | -1.2 | -2.0 | -3.2 | -4.3 | -4.9 | -5.3 | -5.7 | -6.1 | -6.2 | -6.2 | -15.5 | -45.0 |
| Off-Budget[a] | 0.1 | 1.7 | 1.3 | 1.1 | 1.1 | 1.2 | 1.2 | 1.3 | 1.3 | 1.4 | 1.5 | 6.6 | 13.2 |
| **NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES** | | | | | | | | | | | | | |
| Change in the Deficit | -0.1 | 0.7 | 2.3 | 4.0 | 5.3 | 5.8 | 6.3 | 6.8 | 7.3 | 7.3 | 7.4 | 18.1 | 53.2 |
| On-Budget | * | 2.4 | 3.6 | 5.2 | 6.4 | 7.0 | 7.5 | 8.1 | 8.6 | 8.7 | 8.9 | 24.6 | 66.4 |
| Off-Budget[a] | -0.1 | -1.7 | -1.3 | -1.1 | -1.1 | -1.2 | -1.2 | -1.3 | -1.3 | -1.4 | -1.5 | -6.6 | -13.2 |

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.

Notes: CHIP = Children’s Health Insurance Program; * = savings or costs of less than $50 million.

Numbers may not sum to totals because of rounding.

a. All off-budget effects would come from changes in revenues. (The payroll taxes for Social Security are classified as “off-budget.”)

Penalties for affected employers are a set dollar amount multiplied by a certain number of their full-time employees. The penalty is calculated slightly differently depending on whether the employer does not offer health insurance at all or does not offer health insurance that meets the standards established by the ACA, as follows:

- If a large employer does not offer health insurance coverage to a specified minimum percentage of its full-time employees, and if at least one full-time employee receives a subsidy through a health insurance exchange, the penalty is based on the number of employees who work at least 30 hours per week, with some adjustments.[3]

- If a large employer offers health insurance coverage to at least the specified minimum percentage of its full-time employees but that coverage does not meet both the affordability and minimum-value standards defined in the ACA, and if at least one full-time employee receives a subsidy through a health insurance exchange, the penalty is based on the number of employees who work at least 30 hours per week who receive a subsidy through a health insurance exchange (up to a maximum).[4]

H.R. 30 would make two related changes to the calculation of FTEs for the purpose of determining which employers were subject to the employer responsibility requirement for a given month. First, the number of full-time employees would be defined as those who work at least 40 hours per week instead of those who work at least 30 hours per week. Second, that number would be added to the number of hours of service for part-time employees (defined as those working less than 40 hours per week) divided by 174 instead of by 120. (That figure of 174 is roughly equal to 40 hours per week for 52 weeks, prorated to produce a monthly average.) For many employers, those changes to the FTE calculation would reduce the number of their FTEs; as a result, fewer employers would be large enough to be subject to the employer responsibility requirement.

In addition, H.R. 30 would change the definition of full-time employees for the purpose of calculating the penalty for an employer who would pay a penalty. Under current law, full-time employees for whom those penalties could potentially be assessed are defined as those who work at least 30 hours per week. Under H.R. 30, penalties could be assessed only for those who work at least 40 hours per week.

---

3. In 2015, a large employer must offer health insurance coverage to at least 70 percent of its full-time employees. (That threshold rises to 95 percent in 2016 and later years.) In general, the first 30 full-time employees are excluded from the penalty calculation. However, in 2015, for employers with at least 100 FTEs, the first 80 full-time employees are excluded from the penalty calculation.

4. This calculation differs from that for employers who do not offer health insurance coverage by basing the penalties on the number of full-time employees *who receive a subsidy through an exchange* rather than on the *total* number of full-time employees.

### Effects on Employers' Incentive to Offer Health Insurance Coverage

The employer responsibility requirement under current law increases the cost of not offering employment-based coverage and thus increases the incentive for employers to offer such coverage. Under H.R. 30, some employers would no longer be subject to the employer responsibility requirement because of the change in the calculation of the number of FTEs at a firm. Other firms would still be subject to the employer responsibility requirement but would face lower penalty payments because fewer workers would be classified as full-time for purposes of the penalty calculation. As a result, CBO and JCT expect that more employers would choose to not offer coverage to their employees.

Nevertheless, most of the affected employers would continue to offer coverage because most employers construct compensation packages to attract the best available workers at the lowest possible cost. That is, firms attempt to offer the mix of wages and nonwage benefits that will be most attractive to their current and potential employees while having the lowest cost. Most employers would continue to offer employment-based coverage to their employees under H.R. 30 because their employees would prefer such coverage over insurance policies offered through the individual market or exchanges.[5]

Under H.R. 30, CBO and JCT expect that some employers that under current law might avoid the penalty by reducing or redistributing hours among employees so that more employees work fewer than 30 hours would no longer do so under the proposal. At the same time, the agencies expect that other employers would avoid or reduce the penalty by reducing the number of employees who work 40 or more hours per week. For example, without changing the total number of hours worked by its employees, an employer might redistribute hours worked so that there are more employees just below the 40-hour threshold than there would be under current law.

In some cases, employers might be able to redefine work hours—so that more employees would be categorized as part-time—without changing the actual number of hours worked or employees' wages. For example, an employer could discontinue counting lunch hours or breaks as work time. (The ability of employers to make such adjustments depends on labor-related state laws, as well as limitations under the Fair Labor Standards Act.) Employers might make such changes under current law, but because many more workers work 40 hours per week (or slightly more) than work 30 hours per week (or slightly more), H.R. 30 could lead employers to make changes that would affect many more workers than will be affected under current law.

5. See Congressional Budget Office, CBO and JCT's Estimates of the Effects of the Affordable Care Act on the Number of People Obtaining Employment-Based Health Insurance (March 2012), http://www.cbo.gov/publication/43082

However, CBO and JCT expect that changes in work hours will also be limited by employers' desire to attract the best workforces for their firms. Even without any statutory requirements, employers whose current workforces comprise mostly 40-hour workers have tended to offer health coverage at a greater rate than employers whose employees typically work between 30 and 35 hours per week. All told, CBO and JCT expect that a small percentage of employers would either redistribute or reduce hours of employees who work 40 hours per week or slightly more.

**Effects on Health Insurance Coverage**

Enacting H.R. 30 would reduce the number of people enrolled in employment-based coverage and thus increase the number of people who would obtain health insurance from other sources or would be uninsured, CBO and JCT estimate.

Specifically, if H.R. 30 was enacted, CBO and JCT estimate that, in years after 2015, insurance coverage would change in the following ways relative to CBO's current-law projections:

- Roughly 1 million fewer people would enroll in employment-based coverage.

- Between 500,000 and 1 million more people would obtain coverage through an exchange, Medicaid, or CHIP.

- Fewer than 500,000 additional people would be uninsured.

**Effects on Federal Revenues and Spending**

CBO and JCT estimate that H.R. 30 would result in net budgetary costs to the federal government of $53.2 billion over the 2015-2025 period. That projected increase in federal deficits over the 11-year period consists of a $31.8 billion net reduction in revenues and a $21.4 billion net increase in direct spending. Of the net revenue decrease, there would be an estimated $45.0 billion reduction in on-budget revenues, partially offset by an estimated $13.2 billion increase in off-budget (Social Security) revenues.

The reduction in revenues would result from smaller collections of penalty payments by employers. CBO and JCT estimate that those payments would be $54.7 billion lower over the next 11 years for two reasons: Fewer employers would be subject to the employer responsibility requirement and thus more employers would be exempt from paying penalties; and some employers that would still be assessed penalties under the bill would make smaller penalty payments than under current law because fewer employees would be included in the calculation for those employers' penalty assessments.

The reduction in revenues for penalty payments would be partially offset, CBO and JCT estimate, by a $24.6 billion increase in tax revenues over the 2015-2025 period because fewer people would be enrolled in employment-based coverage. That change would lead to a larger share of total compensation taking the form of taxable wages and salaries and a smaller share taking the form of non-taxable health benefits. Those two effects combine for a net revenue decrease of $30.1 billion through 2025, according to CBO's and JCT's estimates. (Other effects, including changes in the amount of exchange subsidies discussed below, would account for the remaining $1.6 billion net decrease in revenues.)

CBO and JCT estimate that, over the 2015-2025 period, outlays for exchange subsidies would be higher (by $14.2 billion) and revenues would be lower (by $2.0 billion) under H.R. 30 because more people would obtain premium and cost-sharing subsidies through insurance exchanges.[6] That change would mostly reflect a movement away from employment-based insurance.

In addition, CBO estimates that federal outlays for Medicaid and CHIP would be $7.8 billion higher over the 2015-2025 period because more people would enroll in those programs. Most of that additional enrollment would be by people who would have employment-based insurance under current law. Other, smaller effects would reduce outlays by $0.6 billion over the 11-year period.

## PREVIOUS CBO ESTIMATE

On July 17, 2014, CBO published an estimate of the budgetary effects of H.R. 2575, the Save American Workers Act of 2013, as ordered reported by the House Committee on Ways and Means on February 4, 2014. CBO and JCT's current estimate reflects a later assumed enactment of the legislation (2015 instead of 2014) and the inclusion of an additional year since cost estimates for legislation considered in calendar year 2015 will now encompass budgetary effects through 2025.

6. Subsidies for health insurance premiums are structured as refundable tax credits; the portions of such credits that exceed taxpayers' liabilities are classified as outlays, whereas the portions that reduce tax payments are reflected in the budget as reductions in revenues.

**ESTIMATE PREPARED BY:**

Sarah Masi, Alexandra Minicozzi, Kate Fritzsche, and staff of the Joint Committee on Taxation

**ESTIMATE APPROVED BY:**

Holly Harvey
Deputy Assistant Director for Budget Analysis