CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 25, 2014

H.R. 2575
Save American Workers Act of 2013

As ordered reported by the House Committee on Ways and Means on February 4, 2014

SUMMARY

H.R. 2575 would alter the calculation of the number of full-time equivalent employees for the purposes of determining which employers are subject to penalties under the Affordable Care Act (ACA) for not offering health insurance for their employees or for offering insurance that does not meet certain criteria specified in the law.[1] In addition, the legislation would change the definition of “full-time employee” used for the calculation of those penalties. Specifically, the bill would raise the threshold that defines full-time employment from 30 hours per week under current law to 40 hours per week.

Those changes to the employer responsibility requirements of the ACA would reduce the number of employers assessed penalties and lower the penalties assessed against 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. As a result, the largest budgetary effect of H.R. 2575 would be to reduce the amount of penalties collected from employers.

As a result of those changes in who would pay penalties and what amounts they would have to pay, CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 2575 would change the sources of health insurance coverage for some people. Specifically, in most years over the 2015-2024 period, CBO and JCT estimate that the legislation would:

- *Reduce* the number of people receiving employment-based coverage—by about 1 million people;
- *Increa*se 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. 2575 would increase budget deficits by $25.4 billion over the 2015-2019 period and by $73.7 billion over the 2015-2024 period. The 2015-2024 total is the net of an increase of $83.0 billion in on-budget costs and $9.3 billion in off-budget savings (the latter attributable to increased revenues). Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

JCT has determined that H.R. 2575 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2575 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By Fiscal Year, in Billions of Dollars												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014-2019	2014-2024
CHANGES IN DIRECT SPENDING													
Exchange Subsidies													
Estimated Budget Authority	0	0.1	0.8	1.4	1.7	1.7	1.9	2.2	2.3	2.3	2.3	5.8	16.8
Estimated Outlays	0	0.1	0.8	1.4	1.7	1.7	1.9	2.2	2.3	2.3	2.3	5.8	16.8
Medicaid and CHIP													
Estimated Budget Authority	0	0.2	0.4	0.7	0.5	0.5	0.6	0.6	0.6	0.7	0.7	2.4	5.5
Estimated Outlays	0	0.2	0.4	0.7	0.5	0.5	0.6	0.6	0.6	0.7	0.7	2.4	5.5
Other													
Estimated Budget Authority	0	*	-0.2	-0.2	-0.2	-0.1	-0.2	-0.2	-0.2	-0.1	-0.1	-0.8	-1.4
Estimated Outlays	0	*	-0.2	-0.2	-0.2	-0.1	-0.2	-0.2	-0.2	-0.1	-0.1	-0.8	-1.4
Total Changes in Direct Spending													
Estimated Budget Authority	0	0.3	1.1	1.8	2.1	2.1	2.3	2.7	2.8	2.9	2.9	7.4	20.9
Estimated Outlays	0	0.3	1.1	1.8	2.1	2.1	2.3	2.7	2.8	2.9	2.9	7.4	20.9
CHANGES IN REVENUES													
Estimated Revenues	0	0.2	-3.4	-4.3	-4.9	-5.7	-5.8	-6.0	-6.4	-7.9	-8.7	-18.0	-52.8
On-Budget	0	0.1	-4.2	-5.2	-5.8	-6.7	-7.1	-7.3	-7.8	-8.8	-9.3	-21.9	-62.1
Off-Budget[a]	0	0.1	0.8	1.0	0.9	1.0	1.3	1.3	1.4	0.9	0.6	3.8	9.3
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Change in the Deficit	0	*	4.5	6.1	7.0	7.8	8.1	8.6	9.2	10.8	11.6	25.4	73.7
On-Budget	0	0.1	5.3	7.1	7.9	8.8	9.3	9.9	10.6	11.7	12.2	29.3	83.0
Off-Budget[a]	0	-0.1	-0.8	-1.0	-0.9	-1.0	-1.3	-1.3	-1.4	-0.9	-0.6	-3.8	-9.3

Notes: Numbers may not sum to totals because of rounding.

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

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

BASIS OF ESTIMATE

Under current law, beginning in 2015, certain large employers who do not offer health insurance coverage that meets the affordability and minimum-value standards defined in the ACA will have to pay a penalty to the federal government if they have full-time employees who receive a subsidy through a health insurance exchange.[2] Employers with at least 50 full-time equivalent employees (FTEs) will be subject to that employer responsibility requirement. In 2015, however, those employers with at least 50 but less than 100 FTEs will be 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 under the ACA, the number of FTEs for a given 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.)

Penalties for affected employers will be a set dollar amount times a certain number of their full-time employees. The penalty will be 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 certain minimum percentage of its full-time employees, and if at least one of those full-time employees receives a subsidy through a health insurance exchange, the penalty will be 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 minimum percentage of full-time workers and one or more full-time workers receive a subsidy through a health insurance exchange, or if the coverage offered does not meet either the affordability or minimum-value standard defined in the ACA, the penalty will be based on the number of employees who work at least 30 hours per week *that receive a subsidy through a health insurance exchange* (up to a maximum).

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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 (9.5 percent in 2014) for self-only coverage. In addition, the plan offered must pay at least 60 percent of the costs of covered benefits.

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

H.R. 2575 would make two changes to the calculation of FTEs for the purpose of determining which employers are 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 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 FTEs, thereby making fewer employers large enough to be subject to the employer responsibility requirement.

In addition, H.R. 2575 would change the definition of full-time employees for purposes of calculating the employer's 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. 2575, penalties could be assessed only for those who work at least 40 hours per week.

Effects on Employers' Incentive to Offer Coverage

The employer responsibility penalty under current law increases the cost of not offering employment-based coverage and thus increases the incentive for employers to offer employment-based coverage. In contrast, under H.R. 2575, some employers would no longer be subject to the employer responsibility requirement because of the change in the calculation of the number of FTEs. 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. 2575 because their employees prefer such coverage over insurance policies offered through the individual market or exchanges.[4]

Under H.R. 2575, CBO and JCT expect that some employers would choose to reduce the number of employees who work 40 or more hours per week, in order to avoid or reduce the penalty. For example, without changing the total number of hours worked by its

4. 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

employees, an employer might reassign hours worked so that there are more employees just below the 40-hour threshold than there would otherwise be.

Also, enacting H.R. 2575 would probably provide an incentive for some employers to redefine work hours so that more employees would be categorized as part-time. Some employers might seek to avoid or lower penalty payments by reducing the number of hours counted toward the full-time threshold 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.)

Because many more workers work 40 hours per week (or slightly more) than work 30 hours per week (or slightly more), the changes made by H.R. 2575 could affect many more workers than are affected under current law. CBO and JCT expect this effect to be limited, however, by employers' incentives to attract the best workforce for their firm in making decisions about hours, wages, and benefits. Even without any statutory requirements, employers whose current workforce comprises mostly 40-hour workers tend 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 reassign or reduce hours of employees who work 40 hours per week or slightly more.

Effects on Insurance Coverage

Enacting H.R. 2575 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. 2575 was enacted, CBO and JCT estimate that in most years between 2015 and 2024, insurance coverage would change in the following ways relative to CBO's current baseline 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 one-half million additional people would be uninsured.

Effects on Federal Revenues and Spending

CBO and JCT estimate that H.R. 2575 would result in net budgetary costs to the federal government of $73.7 billion over the 2015-2024 period. (For purposes of this estimate, we assume that the bill will be enacted during 2014; we expect that there would be no effect on the budget during the remainder of fiscal year 2014 because the employer responsibility requirement will not take effect until 2015.) That projected increase in federal deficits consists of a $52.8 billion net reduction in revenues and a $20.9 billion net increase in direct spending over the 10-year period. Of the net revenue decrease, an estimated $62.1 billion would stem from a decrease in on-budget revenues, partially offset by an estimated $9.3 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 $63.4 billion lower over the next 10 years for two reasons, a reduction of more than 40 percent: Fewer employers would be subject to the employer responsibility provision and thus would be exempt from paying penalties; and some employers that would be assessed penalties under the bill would make smaller penalty payments 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 $12.4 billion increase in tax revenues over the 2015-2024 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. (Other effects, including changes in the amount of exchange subsidies discussed below, would account for the remaining $1.8 billion net decrease in revenues.)

CBO and JCT estimate that, over the 2015-2024 period, outlays would be higher (by $16.8 billion) and revenues would be lower (by $2.1 billion) under H.R. 2575 because more people would obtain premium and cost-sharing subsidies through insurance exchanges.[5] 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 $5.5 billion higher over the 2015-2024 period because more people would enroll in those programs. Most of that additional enrollment would be by people who would otherwise have employment-based insurance under current law. Other, smaller effects would reduce outlays by $1.4 billion over the 10-year period.

5. 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.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table. Only on-budget changes to outlays or revenues are subject to pay-as-you-go procedures.

CBO Estimate of Pay-As-You-Go Effects for H.R. 2575, as ordered reported by the House Committee on Ways and Means on February 4, 2014

	By Fiscal Year, in Millions of Dollars												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014-2019	2014-2024
NET INCREASE OR DECREASE (-) IN THE ON-BUDGET DEFICIT													
Statutory Pay-As-You-Go Impact	0	120	5,324	7,078	7,912	8,832	9,324	9,907	10,593	11,672	12,244	29,266	83,006
Memorandum:													
Changes in Outlays	0	260	1,135	1,842	2,084	2,090	2,273	2,655	2,770	2,881	2,926	7,412	20,917
Changes in Revenues	0	141	-4,188	-5,236	-5,828	-6,742	-7,051	-7,253	-7,822	-8,791	-9,318	-21,854	-62,088

Note: Numbers may not sum to totals because of rounding.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

JCT has determined that H.R. 2575 contains no intergovernmental or private-sector mandates as defined by UMRA.

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