Senate Bill (H.R. 3590) before Reconciliation Bill changes

The healthcare bill passed by the Senate and House will go into effect over a number of years. In 2010, 2011, 2012, and 2013, most of the bill's provisions involve new taxes and obligations. For the most part, the healthcare system changes begin in 2014, with some aspects of implementation farther in the future. Below is a timeline of some of the major provisions of this bill.

This timeline reflects only the Senate bill signed into law on March 23, 2010. Now, the Senate is considering a Reconciliation Bill (H.R. 4872) which, if passed, will alter the details of these provisions. NFIB opposes the Reconciliation Bill because in many ways, it takes a bad bill (H.R. 3590) and makes it worse.

2010

- **Small business health tax credit:** This will do little to nothing to help small firms afford insurance. The credit is very restrictive and puts small business owners through a series of complicated tests to determine the actual amount of the credit. (1) Very few small firms will receive the full credit (only firms with 10 employees or less). For firms with 11-25 employees, the credit is reduced per employee. Firms with more than 25 employees get NO credit. (2) Only firms who pay their workers $25,000 or less are eligible for the full credit. The credit is reduced as the average wage goes up, stopping at $50,000. The credit is only available for a maximum of six years.
- **Brand-name drug tax:** Manufacturers and importers of brand-name drugs will pay a tax of $2.3 billion. This cost will be passed on to consumers.
- **Age 26:** Children may stay on their parents' policies until age 26.

2011

- **W-2 reporting:** Employers will be required to report employees' health benefits on W-2s.
- **HSA & FSA limits:** Consumers can no longer use HSAs and FSAs to purchase certain items, including most over-the-counter medication prescribed by physicians.
- **HSA penalty:** The penalty for making non-qualified purchases with an HSA increases to 20%.
- **FSA limits:** Cafeteria plan FSAs will be limited to $2,500 (inflation adjusted after 2011.)
- **Medical device tax:** Manufacturers and importers of certain medical devices will be taxed $2 billion per year (for 2011-2017) and then $3 billion per year thereafter. These costs will ultimately fall on the consumer.
- **Small business health insurance tax:** An annual fee on health insurance providers will be passed on to consumers. This tax will fall on the vast majority of plans that small businesses purchase, but not on self-insured plans (such as most big business and labor union

policies). The amounts are $2 billion for 2011, $4 billion for 2012, $7 billion for 2013, and $9 billion per year for 2014 through 2016, $10 billion thereafter, with certain exceptions.

- **Tanning salon tax:** A 10% excise tax on indoor tanning services begins.
- **Federally subsidized long-term care:** Voluntary payroll deductions begin for the CLASS long-term care program. All working adults will be automatically enrolled unless they choose to opt out. This program will almost certainly cost the federal government far more than what the payroll deductions will cover. So this entitlement is yet another unfunded liability to add to federal deficits for decades to come.

2012

- **1099 reporting:** Businesses will have to send Form 1099s for every business-to-business transaction of $600 or more – a tremendous new paperwork burden for small business.

2013

- **Cadillac tax:** The government will collect a so-called "Cadillac Tax" – a 40% excise tax on health coverage in excess of $8,500 annually for an individual or $23,000 annually per family. This tax is inadequately indexed for medical inflation, so as healthcare costs rise, more and more people will be swept into this tax each year. This is similar to the Alternative Minimum Tax – designed to hit the "rich" but reaching farther and farther into the middle class each year.
- **Fewer deductible medical expenses:** New limits are placed on the deductibility of medical expenses on individual income tax returns. This provision raises the 7.5% AGI floor on medical expenses deductions to 10%. The AGI floor for those 65 and older (and their spouses) remains at 7.5% through 2016.
- "**Medicare" payroll taxes:** The Medicare payroll tax on wages and self-employment income in excess of $200,000 ($250,000 joint) will increase to 2.35% and is not indexed to inflation. This tax marks the first time that funds designated for Medicare will be diverted elsewhere – specifically to pay for the insurance policies of people under the Medicare age. This establishes a precedent for treating the payroll tax as a revenue raiser for other purposes.

2014

- **Health insurance exchanges:** Up until 2014, the bill collects a great deal of taxes but does little to change healthcare. In 2014, that begins to change with the opening of insurance exchanges.
- **Premium credits:** The federal government begins subsidizing individuals up to 400% of the federal poverty line – around $88,000 today. These credits will subsidize individuals purchasing insurance in exchanges, but not those with traditional employer-sponsored plans.
- **Medicaid eligibility expands:** The income level for Medicaid eligibility rises, bringing tens of millions of new people into Medicaid. This Medicaid expansion will account for around half of the total increase in insurance coverage and will place considerable new financial pressure on states, with higher taxes a likely response.
- **Medicare cost-cutting:** Beginning in 2014, Medicare must begin recommending ways to cut costs in the provision of care.
- **Benefits package:** Federal government defines essential benefits package. All policies must comply.

- **Individual mandate:** Starting in 2014, all U.S. citizens and legal residents must have qualifying health coverage or pay penalties. For an individual, the penalty begins in 2014 at the greater of $95 or 0.5% of household income. In 2015, it grows to $495 or 1.0%. In 2016, it reaches $750 or 2%. (For families, the figure will be $2,250.) After 2016, the amount will rise by a cost-of-living adjustment.
- **Employer mandate:** The bill contains a complex employer mandate requiring some firms to provide insurance, pay penalties or both. The penalties are based on (1) the number of full-time employees, (2) whether or not the firm offers coverage, and (3) whether or not one or more employees qualify for government subsidies toward the purchase of health insurance. An employee qualifies for a subsidy if his or her household income is below 400% of the federal poverty line ($88,000 for an individual today). Here are some of the rules:
  - More than 50 full-time employees. Does not offer insurance. Has one or more employees receiving premium subsidies. Penalty = $750 per employee.
  - More than 50 full-time employees. Offers insurance. Has one or more employees receiving premium subsidies. Penalty = lesser of $3,000 per subsidized employee or $750 per employee.
  - More than 50 full-time employees. Offers insurance. Has no employees receiving premium subsidies. No penalty.
  - 50 or fewer full-time employees. No penalty.

  There are extra penalties for firms who have a waiting period before employees are eligible for insurance.
- **Small construction company employer mandate:** In all other industries, firms with 50 or fewer employees are exempt from the mandate. In the construction industry, the exemption only applies to firms with 5 or fewer employees. Consider a construction firm that does not provide insurance and which has seven employees and a payroll of $250,000. This firm will owe $5,250 (= 7 employees x $750). In addition, the law does not define what it means by "construction firm" and leaves that definition to regulators.