

# A 'Job-Killing' Law?

House Republicans misrepresent the facts. Experts predict the health care law will have little effect on employment.

January 7, 2011

## Summary

When it comes to truth in labeling, House Republicans are getting off to a poor start with their constantly repeated references to the new health care law as "job-killing."

We find:

- Independent, nonpartisan experts project only a "small" or "minimal" impact on jobs, even before taking likely job gains in the health care and insurance industries into account.
- The House Republican leadership, in a report issued Jan. 6, badly misrepresents what the Congressional Budget Office has said about the law. In fact, CBO is among those saying the effect "will probably be small."
- The GOP also cites a study projecting a 1.6 million job loss — but fails to mention that the study refers to a hypothetical employer mandate that is not part of the new law.
- The same study cited by the GOP also predicts an offsetting gain of 890,000 jobs in hospitals, doctors' offices and insurance companies — a factor not mentioned by the House leadership.

There's little doubt that the new law will likely lead to somewhat fewer low-wage jobs. That's mainly because of the law's requirement that, generally, firms with more than 50 workers pay a penalty if they fail to provide health coverage for their workers. One leading health care expert, John Sheils of The Lewin Group, puts the loss at between 150,000 and 300,000 jobs, at or near the minimum wage. And Sheils says that relatively small loss would be partly offset by gains in the health care industry.

## Analysis

Attaching misleading labels to legislation is a well-worn tactic in Washington. Conservatives got rid of most of the estate tax after labeling it a "death tax," as though it taxed death instead of multimillion-dollar fortunes. And liberals once won passage of an "assault weapons ban" that didn't really ban fully automatic military assault rifles, which were already illegal for civilians to own without a very-hard-to-get federal license. Now House Republicans are seeking to repeal what they call "[Obamacare: A budget-busting, job-killing health care law.](#)" That's the title of a study issued by the House Republican leadership Jan. 6.

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And the GOP is clearly pushing the "job-killer" claim. House Speaker John Boehner used the phrase "job-killing" to describe the health care law seven times on Thursday in [a press conference](#) that lasted less than 14 minutes — that's once every 2 minutes. He also used the phrases "destroy jobs" and "destroying jobs" once each when talking about the law. Perhaps not surprisingly, the Republicans named their [bill to repeal the health care law](#): "Repealing the Job-Killing Health Care Law Act."

But is the health care law really "job-killing" as claimed? We find that to be another case of exaggerated and misleading labeling.

## Job-Killing?

To support its claim, the GOP report first cites the nonpartisan Congressional Budget Office — but the report badly misrepresents what CBO actually said.

**House GOP Leadership, Jan. 6:** The health care law will cause significant job losses for the U.S. economy: the Congressional Budget Office has determined that the law will reduce the "amount of labor used in the economy by ... roughly half a percent..." an estimate that adds up to roughly 650,000 jobs lost.

In fact, CBO did not predict a 650,000 job loss. The Republican report cites [a CBO report from August](#), which actually said that the economy will use less labor primarily because many people will choose to work less, or retire early, as a result of the new law. (See Box 2.1, pages 48 and 49.) What CBO projects is mostly a reduction in the supply of labor, which is not the same as a reduction in the supply of jobs.

**CBO, August 2010:** The Congressional Budget Office (CBO) estimates that the legislation, on net, will reduce the amount of labor used in the economy by a small amount—roughly half a percent—**primarily by reducing the amount of labor that workers choose to supply.**

CBO said one reason fewer people will choose to work is that many low-income people will have more money in their pockets as a result of the law expanding Medicaid and providing federal subsidies for many who buy insurance privately. "The expansion of Medicaid and the availability of subsidies through the exchanges will effectively increase beneficiaries' financial resources," CBO said. "Those additional resources will encourage some people to work fewer hours or to withdraw from the labor market."

Another reason that people might work less is that the new law requires insurance companies to cover preexisting conditions, and also limits their ability to charge higher rates for older persons who buy policies for themselves. "As a result, some older workers will choose to retire earlier than they otherwise would," CBO said.

To be sure, some jobs will indeed be lost, CBO said. That's because the new law requires many businesses to pay a penalty if they do not provide health insurance to their workers. That "will probably cause some employers to respond by hiring fewer low-wage workers," CBO said. But it

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also said these firms may hire more part-time or seasonal workers instead. CBO did not estimate the number of jobs likely to be affected either way.

In a more extensive look at the subject, [CBO on July 14, 2009, said the effect of the employer mandate "would probably be small."](#) The GOP report did not mention that.

Finally, CBO did not attempt to estimate the number of jobs likely to be gained in the health care and insurance industries. It has projected that the law will result in 32 million Americans gaining health insurance that they would not otherwise have, enabling them to buy more services from physicians and other health care providers. More about that later.

### **Others Estimate 'Small,' 'Minimal' Impact**

As we have [reported previously](#), The Lewin Group also has estimated a small impact on jobs as a result of the health care law. Senior Vice President John Sheils said Lewin's analysis showed 150,000 to 300,000 jobs lost, all minimum wage or near minimum wage positions that would be lost permanently. That doesn't account for increases in jobs in other sectors, mainly health care, that Sheils also expects but hasn't quantified. All told, he estimates, a "small net job loss."

Lewin is a subsidiary of UnitedHealth Group but operates independently of the insurance company. The reason that some low-wage workers are expected to lose jobs, as CBO also said, is that some employers who are faced with penalties will pass along those costs to workers in the form of lower wages or reduced benefits. For low-wage workers, their wages can't be reduced below the minimum wage, so those firms would hire less, lay off workers or use more part-time employment.

Sheils notes that there will be distributional effects, as some sectors gain jobs and others lose them, but the people gaining employment aren't necessarily the same who lost jobs. He says there's "a potentially painful process here in changes in employment in some industries ... versus others." Skilled workers are likely to benefit.

When we [reported on this issue in November 2009](#), the House was debating a health care bill with tougher requirements and penalties for employers than the law now has. Even under that bill, Elizabeth McGlynn, associate director of the health unit at RAND Corp., told us the effect on jobs "is likely to be quite minimal." McGlynn said: "Most large businesses already offer health insurance. And most small businesses are excluded from the mandate. So it's relatively few firms that will be affected."

And small businesses — those with 50 or fewer employees — are likely to benefit under the law, Sheils says. "I think they actually could come out ahead," he says. "They don't face the mandate and they could get a tax credit at least for a while for their health benefit. ... It gives them an advantage in the marketplace," if they're competing against larger firms.

Besides Sheils' numbers and CBO's estimate, we haven't found other nonpartisan figures on the law's impact on jobs. When we asked Sheils if he knew of others, he said no. He added that he

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thinks that a lot of economists believe the effect is small, and that's why they're not doing an analysis.

## 1.6 million lost jobs?

The second piece of evidence offered by the GOP report is a study by the National Federation of Independent Business, projecting a 1.6 million job loss. But here the GOP misrepresents the evidence again. The NFIB did not study the new law. Its report was based on a hypothetical employer mandate that bears little resemblance to what was actually passed — and it also projects a gain of hundreds of thousands of health care and insurance industry jobs.

**House GOP Leadership, Jan. 6:** A study by the National Federation of Independent Businesses (NFIB), the nation's largest small business association, found that an employer mandate alone could lead to the elimination of 1.6 million jobs between 2009 and 2014, with 66 percent of those coming from small businesses.

That refers to [a study by the NFIB's Research Foundation](#). But that study was issued Jan. 26, 2009 — well over a year before the new law was actually enacted. NFIB has not issued any study of what actually became law, and one of this study's authors, Michael Chow, told us by e-mail that it has no present plans to do so.

The GOP report refers to the NFIB's analysis as "independent," but it's hardly a neutral source. The federation is [currently backing repeal](#) of the new law, and has historically been opposed to any requirement that businesses provide coverage for their workers. NFIB also [cosponsored with the Chamber of Commerce](#) an ad criticizing health care legislation in 2009.

More important, what the NFIB foundation studied was not what became law. It gave its estimate of the effect of a hypothetical employer mandate that would cover all businesses, and require that they pay at least half the insurance premiums for their workers.

**NFIB Research Foundation, Jan. 26, 2009:** [T]he employer mandate would cause the economy to lose over 1.6 million jobs within the first five years of program implementation. Small firms would be most adversely affected by the mandate and account for approximately 66 percent of all jobs lost.

Even if that 1.6 million figure were accurate, it wouldn't apply to the new law that was signed last March. The [new law](#) does not require all businesses to provide coverage. It exempts those with 50 or fewer workers. So the "small firms" that the NFIB study says would be "most adversely affected" by the imaginary mandate studied in 2009 will not be affected at all by the actual law. The 1.6 million figure is a gross exaggeration of the likely effect of the law, even using the NFIB's study as a guide.

We've looked closely at the study. It's not possible to say precisely how big a job loss it would have predicted had the 50-worker exemption been factored in. It predicts that the mandate would cause 467,182 jobs to be lost in firms employing 19 or fewer workers, so the 1.6 million figure is

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high by at least that much. (See Table 6, page 17.) In addition, the study estimates that 420,600 jobs would be lost in firms employing from 20 to 99 workers, so some large but unknown share of those would also have to be subtracted, possibly reducing the figure to 1 million or less.

And although neither the NFIB nor the GOP leadership report mentions it, this is a gross figure, not a net figure. It fails to account for job gains brought about by the new law, a point we've already mentioned. And buried deep in the NFIB's own report is evidence that those job gains could be substantial.

## **890,000 New Jobs?**

Here's what the NFIB report said about job gains, on page 20:

**NFIB Research Foundation, Jan. 26, 2009:** The employer mandate would boost demand for healthcare goods and services, thereby increasing employment in healthcare-related sectors. The number of ambulatory healthcare professionals (physicians, dentists, and other healthcare practitioners) needed will increase by 330,000. An additional 327,000 staff will be required to work in hospitals. Some 157,000 more nurses (net of retirements) will be needed to staff doctors' offices, outpatient clinics, and other provider locations. And payrolls at insurance companies will expand by 76,000 workers.

That comes to 890,000 new jobs.

Although the new law relies more on an individual mandate — requiring nearly everybody to obtain coverage on their own if their employers don't provide it — the resulting increase in demand for health care services, prescription drugs and other goods would be the same. To repeat, CBO estimates that the law will result in 32 million additional persons with health coverage.

The NFIB study cautioned that some of those 890,000 new jobs might not be filled right away if the increased demand outstrips the health care system's ability to meet it. But even so, it amounts to a sizeable offset to the jobs likely to be lost due to the employer mandate.

For the record, conservatives aren't the only ones misrepresenting the law's likely impact on jobs. The [White House claimed in a blog post](#) Jan. 7 that the law "could create more than 300,000 additional jobs" by "slowing the growth of health care costs." The liberal Center for American Progress said in [a January 2010 report](#) that "health care reform could increase the number of jobs in the United States by about 250,000 to 400,000 per year over the coming decade." But it remains to be seen whether the law will actually slow the growth of costs for employers and individuals, as the White House hopes it does. And, as we've pointed out, claims of large job gains have been contradicted by nonpartisan experts who estimate a small impact on the labor market.

## **Budget-Busting?**

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So what about the "budget-busting" label that House Republicans are also trying to apply?

The Congressional Budget Office officially scored the new law as self-financing, projecting that it would actually *reduce* the deficit over the first 10 years — and beyond. And so it should surprise nobody that [CBO said Jan. 6](#) that repealing the new law, as Republicans propose, would increase the deficit. CBO's latest figures project that repealing the new law will increase the deficit by a total of \$230 billion over the next 10 years (through fiscal year 2021). So keeping it in place would help the budget, not bust it.

Republicans have a point, to this extent: The CBO is forced by law to rely on assumptions that may not turn out to be true, and which Medicare officials say probably won't happen. The Medicare system's chief actuary, Richard Foster, [issued a report](#) soon after passage of the law saying much of the projected savings "may be unrealistic," and that the law could cause 15 percent of hospitals to become unprofitable unless Congress eases up. "If these reductions were to prove unworkable within the 10-year period 2010-2019 (as appears probable for significant numbers of hospitals, skilled nursing facilities, and home health agencies), then the actual Medicare savings from these provisions would be less," Foster said.

If that happens, the law could well turn out to increase the deficit rather than trim it. But that remains to be seen.

A [partisan analysis by the GOP staff of the House Budget Committee](#) claims that the law is loaded with "gimmicks and double-counting" and that the net effect will be a "fiscal train wreck" and a big increase in the deficit. We will examine those claims at a later date.

### A 'Job-Killing' Response

When we laid out some of our findings to House Majority Leader Eric Cantor's office, spokesman Brad Dayspring, told us: "This is a job-killing law, period. Anyone who argues otherwise is ignoring the construct of the health care law and the widely accepted facts."

*—by Brooks Jackson and Lori Robertson*

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