



**Legislative Bulletin.....January 7, 2011**

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**H.R. 2—Repealing the Job-Killing Health Care Law Act**

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**H.R. 2— Repealing the Job-Killing Health Care Law Act  
(Rep. Cantor, R-VA)**

**Order of Business:** H.R. 2 is scheduled to be considered by the House next week under a closed rule (H.Res. 26) that passed the House by a vote of 236 to 181. The rule waives all points of order against the legislation. The rule provides seven hours of debate divided as follows:

- 30 minutes equally divided and controlled by the Majority Leader and Minority Leader;
- 90 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce;
- 90 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce;
- 90 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means;
- 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on the Budget;
- 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Judiciary; and
- 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Small Business.

**Summary:** The legislation repeals Public Law 111-148 (the Patient Protection and Affordable Care Act), as well as the health-care related provisions in Public Law 111-152 (the Health Care and Education Reconciliation Act of 2010). The student-loan-takeover provisions of that bill would not be impacted. (H.R. 141, introduced this Congress by Representatives Steve King and Michele Bachmann, would have repealed both laws in their entirety).

In short, the bill repeals the portions of these two laws that combine to form what is commonly referred to as “Obamacare.”

See [here](#) for the RSC Legislative Bulletin on the government healthcare takeover law that H.R. 2 would repeal.

**Cost to Taxpayers:** In passing the health care takeover law, the Democrat Congress used various gimmicks to come up with the claim that the legislation reduces the deficit. Specifically, Democrats will argue that the health care takeover law reduces the deficit by \$230 billion over ten years. However, to get at the real budgetary consequences of H.R. 2, it is necessary to subtract from this figure the following budgetary gimmicks:

**\$115 billion of un-counted discretionary spending:** The legislation, according to CBO, will lead to \$115 billion of new discretionary spending. Democrats simply pretend this spending does not exist in their calculations.

**\$70 billion of borrowed premiums from the CLASS Act:** The CLASS Act portion of the legislation will cause \$70 billion of premiums to come into the federal government in the first ten years. Democrats count the premiums for this law, while ignoring the liabilities that are being racked up in the form of future spending (which falls outside of the budget window). Here is what Democrat Budget Chairman Kent Conrad said about this program: *“A Ponzi scheme [that] Bernie Madoff would have been proud of.”*

The CLASS Act will worsen the federal government’s budget outlook, which is why a majority of the President’s debt commission members recommended that the program be eliminated.

**Double-counting \$450 billion of Medicare funds:** Democrats claim that \$398 billion of Medicare cuts, and \$52 billion of payroll tax increases, are dedicated to the Medicare Trust Fund. If that is true, they cannot also claim the savings as reductions to the federal deficit. The money can only be used for one purpose or the other.

**Not counting \$208 billion of promised “doc fix” spending:** The Democrats included this in the original version of the bill, and dropped it purely in order to change the CBO score. However, their promise to provide the “doc fix” still hangs over the federal budget, and should be considered in the cost of the law.

According to the House Budget Committee, after accounting for the gimmicks described above, H.R. 2 repeals a law that would cause the deficit to increase by \$701 billion over ten years (see [this](#) chart). Also, see [this](#) analysis from the House Budget Committee. And finally, here is a good analysis by former CBO Director [Douglas Holtz-Eakin](#).

**Committee Action:** None. The merits of the legislation, which is less than two pages, have been vigorously debated for ten months.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No, the legislation substantially reduces the size of the federal government.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** H.R. 2 repeals a law that a court has ruled contains provisions that violate the U.S. Constitution. The following is the sponsor's citation of constitutional authority:

Congress has the power to enact this legislation pursuant to the following:

For over 200 years, the Congress, the Executive, and the Judiciary have acted according to the principle of coordinate branch construction based on their respective obligations to ensure that all their actions are constitutional. This is the clear meaning of the Vesting Clauses of Articles I, II, and III along with the Supremacy Clause of Article VI, as well as of the Oath of Office that each constitutional officer of the Federal government must take pursuant to Article VI. James Madison made this clear in 1834 stating, "As the Legislative, Executive, and Judicial departments of the United States are co-ordinate, and each equally bound to support the Constitution, it follows that each must in the exercise of its functions be guided by the text of the Constitution according to its own interpretation of it."

The "Repealing the Job Killing Health Care Law Act" repeals the Patient Protection and Affordable Care Act and title I and subtitle B of title II of the Health Care and Education Affordability Reconciliation Act of 2010, which included several specific provisions that extend beyond the enumerated powers granted to Congress by the Constitution, including, in particular, the Commerce, Taxing, and the Spending Clauses of Article I, Section 8, as well as the Necessary and Proper Clauses contained therein, and that otherwise improperly extend authority to Federal agencies in a manner inconsistent with the Vesting Clause of Article I, Section 1.

The general repeal of this legislation is consistent with the powers that are reserved to the States and to the people as expressed in Amendment X to the United States Constitution.

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