

NFIB[®] HEALTH PLANS

presents

Healthcare, Cap & Trade and Labor:

How Issues and Legislation Really Affect Your Bottom Line

May 12, 2010

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Today's Speakers



Amanda Austin
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Director of Federal Public Policy



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***The New Healthcare Law :
The impact on small business and
what you need to know***



Amanda Austin

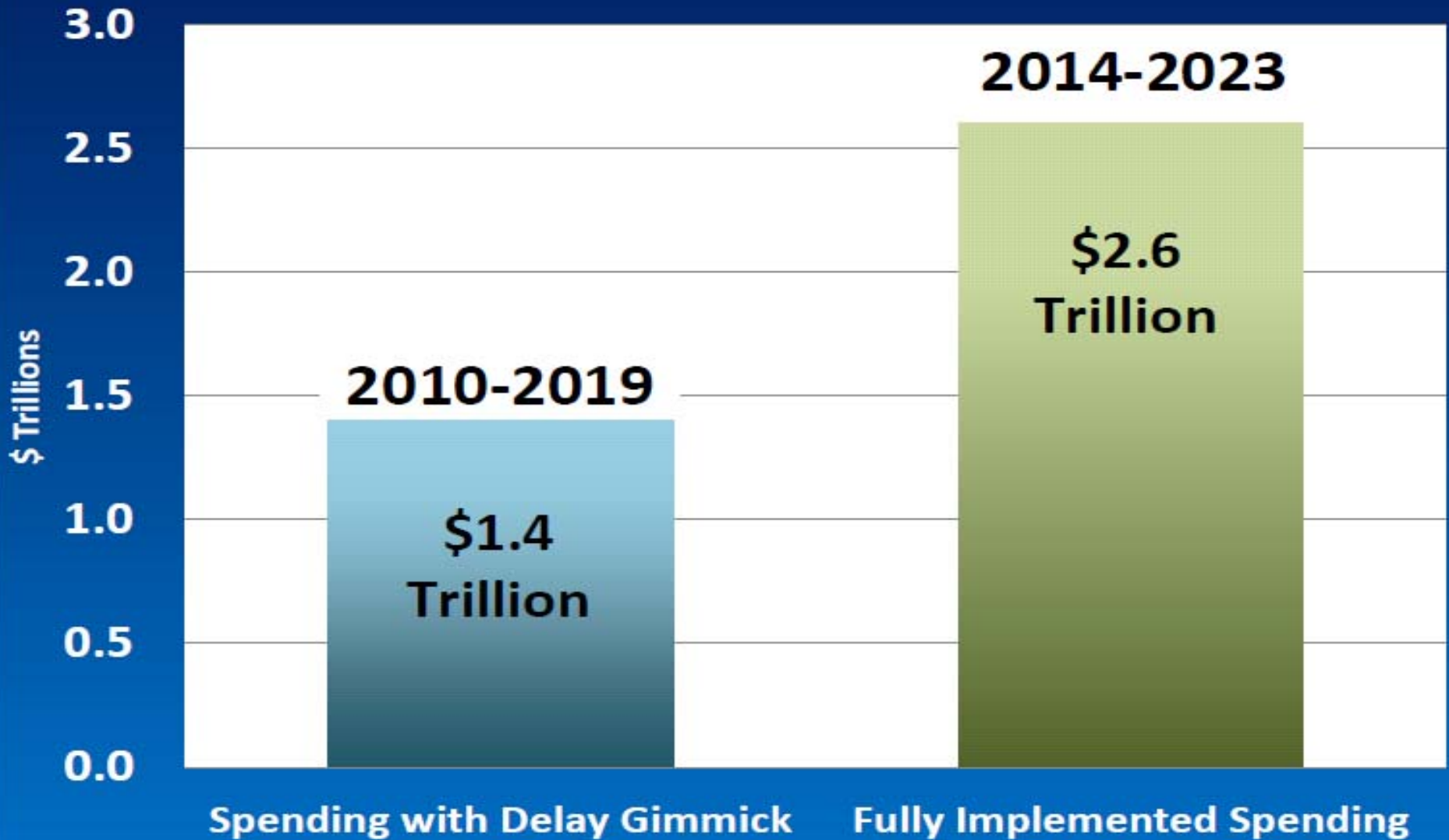
NFIB Director of Federal Public Policy



Amanda Austin is director of federal public policy for NFIB and is responsible for all issues concerning healthcare and small business. She works directly with policymakers on Capitol Hill to ensure that lawmakers are aware and responsive to the healthcare concerns facing the small business community.

Additionally, Amanda co-chairs a bipartisan small business coalition for affordable healthcare, which represents more than 150 organizations.

Total Spending in the Combined Health Bills



Source: SBC Republican Staff

March 23, 2010

Year 2010



- Grandfathered Plans
- Dependent coverage expanded
- Small business tax credit

Everyone is now Grandfathered !

Grandfathered Plan – Any group health plan or individual coverage that was in effect on March 23, 2010

Immediate Changes to Grandfathered Plans

- An individual may reenroll in a grandfathered health plan or new employees (and their families) may be added to the plan after March 23, 2010 - that does not destroy the plan's grandfathered status
- An individual who was covered by a grandfathered health plan may add his/her dependents to the plan after March 23, 2010 without revoking the plan's grandfathered status as long as the plan allowed for dependent/family coverage on March 23, 2010
- Unclear right now how much employers can vary deductibles and cost-sharing in grandfathered plans

Grandfathered Plans must comply with

- No lifetime and annual limits
- No preexisting condition exclusions
- Prohibition on rescissions
- Limitation on waiting periods (Incur penalty after 90 days)
- Coverage of adult children; however, for years before 2014, the coverage requirement applies only if the adult child is not eligible to enroll in another eligible employer plan

Small Business Tax Credit

- The credit is available beginning in 2010 until 2013 and then for two years if the business purchases insurance in the exchange
- The full amount of the credit is 35 percent of the employer's portion of healthcare costs for the years prior to entering the exchange and 50 percent if the credit is claimed for purchasing insurance from the exchange. There are three limits to getting the full amount of the credit:
 - First, the business has to pay at least 50 percent of the employee's health insurance costs.
 - Second, the credit amount is reduced based on the firm's number of employees. The full credit is only available for small businesses with 10 or fewer employees and phases out for each employee between 11 and 25 – so no small business with more than 25 employees can claim the credit.
 - Third, the credit also phases out based on the average wages paid to employees. Only businesses paying their employees \$25,000 or less can claim the full credit and the amount of the credit is reduced for every dollar between \$25,000 and \$50,000.
 - Try NFIB's online tax credit calculator: <http://nfib.com/CreditCalculator>

2011



- W-2 reporting
- HSA & FSA limits
- Federally subsidized long-term care
- Cafeteria plan safe harbor rules added
- HSA penalty

2012

Major Reporting Requirement for Business

- Requires businesses to send Form 1099s for every business-to-business transaction of \$600 or more for both property and services
- This means that a small business owner will have to file two forms – one with the vendor and one with the IRS – for almost every business-to-business transaction
- Form 1099 reporting requires the inclusion of a Taxpayer Identification Number for the vendor they do business with. Small business owners will also be forced to spend time tracking down the number for each and every vendor requiring a Form 1099

2013

- **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%
- **Increase in 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
- **New “Medicare” investment tax:** In addition to the payroll tax, there will be a 3.8% tax on investment incomes
- **FSA Limits** –Capped at \$2500

2014

Major business impacts

- Individual mandate and employer mandate
- Government defines the standard benefit package for all consumers
- New tax on private plans that small business and individuals purchase
- Creation of state exchanges
- Medicare cuts and expansion of Medicaid

Let's explore the employer mandate a bit more.....

Most importantly, business size
matters and your employees'
income matters...

Employer Mandate

The new healthcare law 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 (or part-timers counted as full-time equivalent) 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 a family of four today).

Part-time employee counting requirements

Part-time employees' hours will be converted into full-time equivalents for purposes of these calculations. For example, if 6 employees each work 5 hours per week, they will count as if the firm had one additional full-time employee (calculated monthly).

Employer Mandate Affects Non-Offering Firms

More than 50 full-time employees. Does not offer insurance. One or more employees receiving premium subsidies. Penalty = \$2,000 per full-time employee (minus the first 30 employees).

Employer A fails to offer minimum essential coverage and has 100 full-time employees, ten of whom receive a tax credit for the year for enrolling in a State exchange-offered plan. For each employee over the 30-employee threshold, the employer owes \$2,000, for a total penalty of \$140,000 (\$2,000 multiplied by 70 ((100-30))). This penalty is assessed on a monthly basis

Employer Mandate Affects Offering Firms

More than 50 full-time employees. Offers insurance that meets the standards for affordable minimum essential coverage. One or more employees receiving premium subsidies. Penalty = lesser of \$3,000 per subsidized employee or \$2,000 per full-time employee (minus the first 30 employees).

Employer A offers health coverage and has 100 full-time employees, 20 of whom receive a tax credit for the year for enrolling in a State exchange offered plan. For each employee receiving a tax credit, the employer owes \$3,000, for a total penalty of \$60,000. The maximum penalty for this employer is capped at the amount of the penalty that it would have been assessed for a failure to provide coverage, or \$140,000 (\$2,000 multiplied by 70 ((100-30))). Since the calculated penalty of \$60,000 is less than the maximum amount, Employer A pays the \$60,000 calculated penalty. This penalty is assessed on a monthly basis

Health Insurance Exchanges

- Begin in 2014
- Available for individuals, self-employed and businesses with less than 100 employees
- In 2017, states can allow businesses with more than 100 employees to purchase through exchanges
- Premium subsidies will flow through exchanges
- There will still be an inside/outside marketplace

NFIB remains committed to lowering costs for small business

- Cong. Lungren bill-repeal of the 1099 provision
- Employer free-choice vouchers
- Tax parity for self-employed and for all individuals purchasing insurance
- National benefit plans
- Purchasing insurance across state lines
- Affordable coverage options
- Simplification and transparency in the purchase of coverage

For more information

- Go to NFIB.com/healthreform
- Share your story with us by going to NFIB.com/ShareYourStory



Brad Close

Vice President, Federal Public Policy



Brad is Vice President of Federal Public Policy at NFIB, where he leads our lobbying efforts in the House of Representatives and covers labor and environmental issues.

Prior to joining NFIB in 2002, he spent 11 years in the House of Representatives working for Congressmen Henry Hyde and Tom Ewing of Illinois, and served as a subcommittee staff director on the Small Business Committee.

Cap and Trade

Cap and Trade: What the Boxer/Waxman Bill Does

- H.R. 2454, the American Clean Energy and Security Act of 2009 will increase energy costs for all consumers
- The Cap and Trade proposal has the potential to cripple economic growth from a further expansion of government involvement in the economy
- The bill sets up a program where utilities will buy “carbon credits” from the government to offset their greenhouse gas emissions

Cap and Trade: What the Boxer/Waxman Bill Does

- According to the Congressional Budget Office, the federal government will raise approximately \$846 billion in new revenue through this program – money that would otherwise be in the taxpayer's pocket
- Under the guise of this legislation, utilities and other allowance holders will increase their prices on small business and individual consumers

Extension of Unemployment Insurance

- Buried in the 1,000+ page bill is a new government benefit called “Climate Change Worker Adjustment Assistance”
- This new government program will provide up to three years of unemployment insurance to anyone who loses his or her job because of H.R. 2454
- By including unemployment insurance in this bill, its authors are acknowledging that their bill will cause massive job loss

Extension of Unemployment Insurance

- This new, government run program will provide every person that loses his/her job:
 - 3 years of unemployment pay;
 - Normally, unemployment insurance lasts for 26 weeks. This lasts 156 weeks!
 - 80 percent of health care premiums;
 - \$1,500 to look for a new job;
 - \$1,500 to relocate for a new job; and,
 - “Additional employment services” like skills assessment, job counseling, and training.
- The bill does not fund the program or include a cost estimate for the program
- The bill provides no support for those who are forced to close their small businesses

EPA Lead Rule

- New EPA lead rule that applies to virtually any industry affecting home renovation, including painters, plumbers, contractors, window and door installers, carpenters, electricians and similar specialists
- The rule requires that all contractors have EPA certification and mandates employee training at an EPA-accredited facility

The Problem With The Rule

- The penalty for non-compliance could be \$32,500 per violation per day
- The rule will cost \$800 million nationwide in the first year
- Members don't know about the rule. Although issued in April 2008, contractors are scrambling to comply. Unfortunately, the certification process can take 90 days so companies that apply now will have little chance of being certified by the compliance date. Also, there are not enough classes being offered

The Problem With The Rule (cont.)

- Certification could cost \$1,000. Certification fees begin at \$300 for anyone who does “non-painting” renovation (plumbers, electricians, carpenters, and window and door installers) and \$550 for firms performing painting activities or both painting and renovating. Extra fees for additional jurisdictions apply
- Course Instruction costs \$300-\$500 per employee, plus wages. Employees must take an eight-hour training session at an EPA-accredited facility to be certified, and must take four-hour refresher course every five years. The employer has to pay that employee for the training day

Labor

Employee Free Choice Act

- The Employee Free Choice Act is an effort by organized labor to seek union recognition outside of the long protected secret-ballot election
- Employees would be stripped of their ability to vote privately in union elections
- Union representatives would only need to coerce a majority of employees to sign authorization cards
- This “card check” petitioning would take place outside of a workplace and in front of union organizers and fellow employees who support unionization

Employee Free Choice Act

- Additionally, H.R. 800 would force an employer to recognize the first contract offered by a union
- Agreement must be reached within 120 days of card check recognition, or a government arbiter will interject
- Small-business owners would no longer set the wage and benefit terms for their workforce. Instead, a government official would come in to their place of business and set the terms for them

Card Check: NLRB/Craig Becker

- In February, the Senate denied confirmation to one of the President's nominees to the National Labor Relations Board (NLRB)
- Why? The nominee – Craig Becker – is a former AFL-CIO and SEIU counsel, and has expressed the opinion that the NLRB can implement Card Check by regulation – without the consent of Congress!
- NFIB opposed this nomination – but the President used his powers to make a recess appointment of Mr. Becker in April. He now serves on the NLRB board and will attempt to advance the labor agenda

Mandatory Paid Leave

- NFIB expects the House to try and move the Healthy Families Act (H.R. 2460) this summer
- This legislation mandates that all businesses with 15 or more employees must provide 7 days of paid sick leave each year
- Employees who work 30 hours per week or more are eligible
- Employees start accruing leave their first day of employment
- Employer is responsible for detailed record keeping for all leave instances

Restrictive Government Contracting Rules

- In April, the President made official a rule that requires that all government contracts worth over \$25 million must use union labor – Project Labor Agreements (PLAs)
- This means that winning bidders will have to go to the local union hall for their labor force on the contract
- Also, the Administration plans to release its “High Road” Contracting rules. They want to give a preference on government contracts to businesses that pay a “living wage,” providing generous healthcare, pension and leave benefits
- In short – this is just a payoff to labor unions, as unionized companies will be the only ones who qualify

Forced Unionization Issues

- NFIB is fighting against forced unionization of independent daycare workers in Michigan and other states
- In Michigan, 40,000 daycare workers recently found themselves in a union, even though the majority never voted to join one. In fact, only 6,000 of them voted to be unionized, but now everyone will be forced to pay dues and be represented by a collective bargaining unit regardless
- This all began when Michigan received federal funding through the Department of Human Services to give qualified (means-income tested) individuals assistance in applying for daycare. In order to get a piece of this money, union bosses were able to orchestrate a vote where only the majority of those voting decided the fate of every single daycare provider in the state
- The NFIB Legal Center has filed suit in Michigan to stop this, and is getting involved in any other state where labor unions are looking to expand this effort

Taxes - Estate Tax Fix

- For 2010, the Estate Tax is repealed, but it comes back with a vengeance next year – in 2011 the Estate Tax exemption will be \$1 million with a tax rate of 55%!
- NFIB is working in the Senate to get a fix bill passed. While we continue to support full repeal, that is very unlikely in today's economic and political climate
- Therefore, NFIB is supporting an effort by Sens. Kyl (AZ) and Lincoln (AR) to provide permanent estate tax relief
 - \$5 million exemption per spouse
 - 35% tax rate
 - Step up asset valuation
 - Indexed for inflation

Questions?



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Presented by:

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Thank you

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