



## H.R. 3762: Restoring Americans' Healthcare Freedom Reconciliation Act (Rep. Price, R-GA)

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### FLOOR SCHEDULE:

H.R. 3762 is expected to be considered on October 23, 2015, under a [closed rule](#).

The rule self-executes [an amendment](#) from Budget Committee Chairman Price that strikes the section of the reconciliation bill that repeals the Independent Payment Advisory Board (IPAB) and clarifies the provision related to the moratorium on federal funding for abortion providers.

The rule waives the requirement for a two-thirds vote for consideration of a rule on the same day it is reported by the Rules Committee and provides for suspension authority on October 22 and October 23.

### TOPLINE SUMMARY:

[H.R. 3762](#) would repeal certain provisions of Obamacare and would place a moratorium on federal Medicaid funding for Planned Parenthood.

### COST:

The [Congressional Budget Office](#) (CBO) the Joint Committee on Taxation (JCT) estimate that enacting H.R. 3762 would “decrease deficits by about \$130 billion over the 2016-2025 period. That estimate includes two components. First, excluding macroeconomic feedback effects, the legislation would reduce deficits by about \$79 billion. In addition, the macroeconomic feedback would reduce deficits by an additional \$51 billion, CBO and JCT estimate. Those effects would result from changes to both direct spending and revenues. The 2016-2025 total consists of \$77 billion in on-budget savings and \$53 billion in off-budget savings.”

This estimate does not include the effects of the amendment executed by the rule. Striking the IPAB provision would result in a higher total savings over the budget window for the bill, as amended.

### CONSERVATIVE CONCERNS:

Conservatives may be concerned this reconciliation package fails to repeal as large a portion of Obamacare as allowable under the rules governing reconciliation. Some members believe that this fails to honor the intent of the adopted Budget resolution to use reconciliation to send a full (or as full as possible) repeal of Obamacare to the President via reconciliation.

Specifically conservatives may be concerned that this reconciliation bill [only repeals 7 provisions](#) of Obamacare, leaving in place 408 sections (over 92 percent) in law. The bill leaves in place major pillars of Obamacare, such as the Medicaid expansion and the Exchange Subsidies, which are clearly eligible for repeal under the reconciliation process. These two examples are the two [costliest](#)

[provisions](#) of Obamacare and represent the largest expansions of the entitlement state in recent memory.

Conservatives may be concerned that the failure to utilize the reconciliation process to repeal Obamacare sets a poor precedent for the prospects of repealing Obamacare in 2017 in the event the country elects a Republican president but does not elect 60 Republican Senators.

Conservatives may be concerned that while the reconciliation bill blocks the majority of Planned Parenthood's federal funding, it would continue to allow the nation's largest abortion provider to receive tens of millions of dollars in Title X and other discretionary funding from the taxpayers. Further, some conservatives may be concerned that the increased appropriation for community health centers provided by the bill is twice the amount estimated savings from prohibiting Medicaid funding for Planned Parenthood.

Conservatives may be concerned that the prospects for passing a budget resolution next year could be harmed if the House fails to honor what many believe to be the intent of the FY 2016 Budget's reconciliation instructions.

- **Expand the Size and Scope of the Federal Government?** This bill would repeal onerous provisions of Obamacare as well as prohibiting taxpayer funding for Planned Parenthood, reducing the size and scope of the federal government.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

[H.R. 3762](#) would repeal certain provisions of Obamacare and would place a moratorium on federal Medicaid funding for Planned Parenthood. A more detailed description of the bill is below.

### Education and the Workforce Title:

*Repeal of Auto Enrollment Mandate:* Obamacare requires employers with more than 200 employees to automatically enroll employees in government approved health insurance plans if one is offered by the company. According to the [CBO](#), "the requirement was originally scheduled to take effect in 2014, it is not currently being enforced."

The reconciliation bill would repeal this mandate, saving \$7.9 billion over the 2016 – 2025 period.

### Energy and Commerce Title:

*Repeal of the Prevention and Public Health Fund:* Obamacare includes a slush fund that allows the Secretary of Health and Human Services to transfer funds without Congressional oversight. The fund is provided \$1 billion per year between 2016 – 2021 and \$2 billion per year in 2022 and each year thereafter. With these funds, the Obama administration has [funded wasteful projects](#) such as lobbying for a soda tax, urban gardening, and free pet spaying and neutering.

The reconciliation bill repeals the Prevention and Public Health slush fund and rescinds all unobligated balances, saving \$12.7 billion over the 2016 – 2025 period.

*Planned Parenthood Medicaid Funds and Funding for Community Health Centers:* The reconciliation bill places a one-year moratorium on federal Medicaid funding for any 501(c)(3) nonprofit organization primarily engaged in providing family planning and reproductive health services that provides abortions and that received over \$350 million in Medicaid funding in Fiscal Year 2014. According to the [CBO](#), “only Planned Parenthood Federation of America and its affiliates and clinics would be affected, although some other health care clinics may also be affected.”

The reconciliation bill provides \$235 million in mandatory funding for the Community Health Center Program in both FY 2016 and FY 2017. CBO Estimates that the Planned Parenthood moratorium provision would reduce Medicaid expenditures in FY 2016 by \$235 million, but does estimate any further reduction in expenditures in FY 2017 or beyond. Therefore, on net, the combined moratorium and community health funding provisions would increase federal health care funding by \$235 million over the ten-year window.

### **Ways and Means Title:**

*Repeal of the Individual Mandate:* Under Obamacare, most American citizens are required to obtain government approved health insurance or be subject to a penalty in the form of a tax. In tax year 2015, the penalty is the higher of 2 percent of income or \$325 per person.

The reconciliation bill repeals the individual mandate.

*Repeal of the Employer Mandate:* Under Obamacare, most employers with over 50 full time equivalent employees are required to provide government approved health insurance for their employees or be subject to a penalty in the form of a tax if their employees receive subsidies to purchase insurance in the health care exchanges.

The reconciliation bill repeals the employer mandate.

Repealing both the individual and employer mandates would reduce the deficit by \$147.1 billion over the 2016 – 2025 period, including \$109.8 billion in reduced revenues and \$256.9 billion in reductions in direct spending.

*Repeal of the Medical Device Tax:* Obamacare imposes a 2.3 percent excise tax on medical devices.

The reconciliation bill repeals the medical device tax, reducing revenues by \$23.9 billion over the 2016 – 2025 period.

*Repeal of the “Cadillac Tax”:* Beginning in 2018, Obamacare imposes an excise tax on certain high-cost, employment-based health insurance plans.

The reconciliation bill repeals the so-called Cadillac tax, increasing the deficit by \$91.1 billion over the 2016 – 2025 period, including \$109.3 billion in reduced revenues and \$18.2 billion in reduced direct spending.

*Repeal of the Independent Payment Advisory Board (IPAB):* **The [Price Amendment](#) self-executed by the [rule](#) strikes this provision from the bill that will be considered on the House floor.** Obamacare created the IPAB which I charged with developing proposals to reduce Medicare spending.

The reconciliation bill as reported by the Budget Committee would have repealed the IPAB, increasing direct spending by \$7.1 billion over the 2013 – 2025 period. However, the IPAB repeal is not a reconcilable provision based on [previous precedent](#) and [would likely be struck](#) by a Byrd Rule point of order in the Senate and could endanger the reconciliation character of the measure in the Senate.

**Overview of The Reconciliation Process:** The Budget Act of 1974 includes a special expedited procedure for consideration of certain legislation intended to reduce the budget deficit known as reconciliation. To initiate this process, a concurrent resolution on the budget may include reconciliation instructions to committees of the House and Senate to recommend changes in programs within their jurisdictions that would reduce the deficit by at least an amount specified by the budget.

The chief procedural benefits of a budget reconciliation process are that it is protected from filibuster in the Senate, limits amendments, and reduces the margin for final passage to a simple majority (51 votes). Reconciliation limits debate on a bill to 20 hours in the Senate and amendments must be germane. Beyond the procedural benefits, reconciliation also allows the Congress to highlight and consolidate major budgetary legislation into one bill.

Budget reconciliation may be used to make changes to mandatory spending programs and revenues except for changes related to Social Security. Committees can fulfill their spending reconciliation targets with a mix of policies that increase and decrease spending within their jurisdiction, but the net budgetary effect of all policies must meet or exceed the numerical instructions.

In the Senate, the Budget Act provides a procedure, known as the “[Byrd Rule](#),” to strike extraneous provisions from reconciliation bills. The definition of “extraneous” is complex. As a general matter, it applies to provisions that do not have a budgetary impact, provisions that increase the deficit and the relevant committee failed to meet its instructions, or provisions that increase the deficit in the outyears. A Senator must raise a point of order against the offending provision. If sustained, the provision violating the Byrd Rule is removed from the underlying bill. The Byrd Rule is a powerful mechanism because it takes 60 votes to waive in the Senate. The Byrd Rule does not apply in the House.

Further information on the reconciliation process by CRS can be found [here](#).

## **OUTSIDE GROUPS:**

### **Support**

- [Family Research Council](#): **Key Vote:** “FRC reserves the right to score in favor of votes for the Rule and will score in favor of votes for the bill.”
- [National Right to Life](#): **Key Vote:** “NRLC intends to include the roll call on final passage of H.R. 3762 in our scorecard of key right-to-life votes of the 114th Congress, and we reserve the right to also score the vote on the Rule as well.”
- [National Taxpayers Union](#): **Key Vote**
- [Americans for Prosperity](#)
- [Americans for Tax Reform](#)
- [Susan B. Anthony List](#)
- Other groups on a [coalition letter](#)

### **Opposition**

- [Heritage Action](#): **Key Vote:** “This bill will not restore Americans’ health care freedom because it leaves the main pillars of the law in place. GOP leaders are violating an explicit promise made in the budget and walking back on their public commitment to fully repeal Obamacare. By doing so they are undermining any serious effort to repeal the law in 2017... The bill also sets back efforts to block taxpayer funding for Planned Parenthood by only partially defunding the organization”.

## **COMMITTEE ACTION:**

The [Concurrent Resolution on the Budget for Fiscal Year 2016](#) included reconciliation instructions to the House committees on Education and the Workforce, Energy and Commerce, and Ways and Means. Each

committee was instructed to report recommended changes to programs within their respective jurisdictions that would reduce the deficit by at least \$1 billion over the budget window by July 24, 2015.

The Education and the Workforce Committee marked up and reported its reconciliation recommendations on [September 30, 2015](#), by a 22 – 15 vote.

The Energy and Commerce Committee marked up and reported its reconciliation recommendations on [September 29, 2015](#), by a 32 – 20 vote.

The Ways and Means Committee marked up and reported its reconciliation recommendations on [September 29, 2015](#), by a 23 – 14 vote.

The House Budget Committee merged the recommendations of the three committees together into H.R. 3762 without substantive revision (as required by the Budget Act) on [October 9, 2015](#), by a 21 – 11 vote. The committee also adopted a [motion to instruct](#) the Chairman of the Budget Committee that he be allowed to request the Committee on Rules report a rule that would make in order an amendment by a 21 – 13 vote. The Committee Report can be found [here](#).

### **ADMINISTRATION POSITION:**

According to the [statement of administration policy](#) “If the President were presented with H.R. 3762, he would veto the bill”.

### **CONSTITUTIONAL AUTHORITY:**

The Committee on the Budget finds the Constitutional authority for this legislation in Article I of the Constitution, Sections 5 and 8.

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