FAIR
FEDERATION FOR AMERICAN IMMIGRATION REFORM
LEGISLATIVE ANALYSIS
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House Health Care Reform Bill Will Burden American Taxpayers, Waives Welfare Reform's Waiting Period for Legal Immigrants

INTRODUCTION

An earlier Legislative Analysis by FAIR studied the fiscal impact of waiving the current 5-year waiting period before legal aliens could access the "affordability credits" under America's Affordable Health Choices Act (H.R. 3200).[1] A new cost estimate issued by the Congressional Budget Office on November 6, 2009 on the latest House bill (H.R. 3962) provided revised figures concerning the availability and cost of the affordability credits. This document will update FAIR's earlier analysis, taking those revised numbers into account.

BACKGROUND

On August 22, 1996, President Clinton signed the historic welfare reform bill into law.[2] This act, known as the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, or Welfare Reform), included a number of significant reforms, including Section 403, which created a 5-year waiting period before new immigrants can access "Federal means-tested public benefits." This provision was designed to help enforce sponsorship requirements. Under federal law, before an alien may be admitted as a family-based immigrant, the person petitioning for the alien's admission must sign an affidavit of support promising financial assistance to the alien.[3] This affidavit is legally enforceable by the federal, state or local government.[4] In fact, federal law allows government agencies to require reimbursement from the sponsor if a sponsored alien received public benefits. This policy is designed to protect American taxpayers by ensuring legal immigrants do not become "public charges" by immediately accessing taxpayer-provided benefits upon their arrival in the United States.

Section 342(d) of the House bill states that: "Affordability credits under this subtitle shall not be treated, for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, to be a benefit provided under section 403 of such title."[5] Accordingly, this provision waives the current 5-year waiting period for legal immigrants, the greatest number of which are admitted as lawful permanent residents. This means that legal immigrants can, rather than waiting to apply for public benefits, begin collecting the affordability credit immediately upon their arrival in the United States. This provision will be costly to the American people and, as it relates to the affordability credit, undoes one of the major reforms contained in the Welfare Reform law.

ANALYSIS

What will the impact of this change in policy be on the federal budget? Over the last five years, the United States has admitted more than 5.5 million immigrants as lawful permanent residents (LPRs), as detailed in the chart on the following page:[6]

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[1] See FAIR's *Legislative Analysis* of H.R. 3200 (concluding illegal aliens can access coverage under the bill), here, and Center for Immigration Studies (CIS), Illegal Immigrants and HR 3200: Estimate of Potential Costs to Taxpayers, September 2009 (concluding the illegal alien coverage loophole would cost American taxpayers up to $30.5 billion annually).
[2] Public Law 104-193. Full text available here
[3] Immigration & Nationality Act (INA) §212(a)(4)(C).
[4] INA §213A(b)(1).
[5] Section 242(d) can be found on page 135 of the House bill.
[6] "”U.S. Legal Permanent Residents: 2008," Department of Homeland Security, March 2009, available here.

Year	LPRs Admitted
2008	1,107,126
2007	1,052,415
2006	1,266,129
2005	1,122,257
2004	957,883
TOTAL	**5,505,810**

Under Section 342(d) of the House bill, this population will no longer be subject to the 5-year waiting period (collectively "5-year LPRs"). Accordingly, they will be eligible for the affordability credit despite the waiting period established by the Welfare Reform law.

Many of these 5-year LPRs already have health insurance, so it is unlikely that the entire population would utilize the affordability credit. Accordingly, in order to estimate a utilization rate, we looked to the Massachusetts health program that provides a state-based credit to LPRs in much the same manner as the affordability credits under the House bill. In Massachusetts, 19.52% of 5-year LPRs utilized the state-based credit.[7] Accordingly, assuming a utilization rate similar to Massachusetts, we estimate that at least 1,074,940 of the 5-year LPRs nationwide would utilize the affordability credits each year under the House bill.[8]

The Congressional Budget Office (CBO) has scored the impact of the affordability credits under H.R. 3962. CBO estimates that the value of the credit per individual will be $5,500 beginning in 2015 and rising to $6,800 per individual by 2019.[9] The following chart details the estimated costs for the affordability credits for 5-year LPRs over the 2015–2019 budget period.

Year	Credit Amount	5-year LPRs	Annual Cost
2015	$5,500	1,074,940	$5,912,170,000
2016	$5,800	1,074,940	$6,234,652,000
2017	$6,100	1,074,940	$6,557,134,000
2018	$6,500	1,074,940	$6,987,110,000
2019	$6,800	1,074,940	$7,309,592,000
		2014–2019 COST:	**$33,000,658,000**

As the chart demonstrates, Section 342(d) of the House bill will cost the American taxpayers *at least* $33.0 billion during the 2015–2019 budget period. Accordingly, the thirty-six words of Section 342(d) will cost the American taxpayers nearly $1 billion ***per word***. While unlikely, if we assume that all 5-year LPRs were to utilize the affordability credit, the cost of Section 342(d) to the American taxpayers would rise to $169.0 billion for the 2015-2019 period.

CONCLUSION

The House health care bill contains a number of provisions that significantly impact immigration policy at a significant cost to the American people. Among these provisions is Section 342(d), which waives the 5-year waiting period before legal immigrants can access the federal benefit of the affordability credit. This section will cost the American taxpayers a total of at least $33.0 billion between 2015 and 2019, and potentially much more depending on the rate of utilization. Congress should preserve current law, designed to further an important public policy, and reinstate the 5-year waiting period with respect to the affordability credit.

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[7] In Massachusetts, 31,000 out of 158,781 eligible LPRs utilized the state health care credit for a utilization rate of 19.52%.

[8] This estimate is very conservative and could significantly underestimate the number of LPRs that would utilize the federal credit. The Massachusetts plan covers LPRs up to 300 percent of FPL, whereas the House bill covers up to 400 percent of FPL. Accordingly, the percentage of LPRs eligible for the federal credit could far exceed the percent eligible under Massachusetts state law. Note, however, that the Senate Finance Committee bill mirrors the Massachusetts program as the Senate bill also allows a tax credit for persons up to 300 percent of FPL.

[9] See http://www.cbo.gov/ftpdocs/107xx/doc10710/hr3962Dingell_mgr_amendment_update.pdf