



Gallagher Benefit Services, Inc.

t h i n k i n g   a h e a d

# **Healthcare Reform: What Does It Mean to My Business?**

**Presenter:**

**Sally Crum Wineman, JD  
Area Counsel, Western Region  
March 23, 2010**

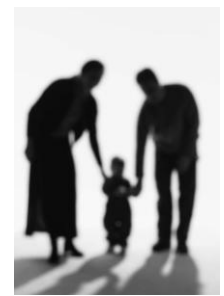
# What Got Us Here – Quiz Time!

How much more is the U.S. spending on healthcare per capita than other developed nations?



**Almost twice as much**

What percentage of nonelderly Americans is currently uninsured?



**17%**

What percentage of nonelderly Americans is covered by an employer-sponsored health plan?



**61%**

How long is Medicare predicted to be sustainable?



**Until 2017**

JOEL PETT  
LEXINGTON HERALD LEADER



CMS/CARTOONISTS INTERNATIONAL, www.cartoonists.com

HEALTH CARE RATION(ALIZ)ING

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# Where are we now?

- **Final House Bill passed on November 7, 2009**
  - Affordable Health Care for America Act (H.R. 3962)
- **Final Senate Bill passed on December 24, 2009**
  - Patient Protection and Affordable Care Act (H.R. 3590)
- **Challenges on the Road to Passage**
  - No bipartisan support and tenuous Senate Moderate Democrat support
  - Little room for significant changes to the Senate version to keep 60th vote
  - Then Republican Scott Brown won Senate seat in Mass. – 41st vote
  - Summit meeting on February 25, 2010
- **Reaching the Finish Line!**
  - House passed Senate Bill on March 21, 2010 (HR 3590)
  - House passed House Health Care & Education Affordability Reconciliation Act of 2010 (HR 4872) on March 21, 2010 as well
  - President Obama to sign HR 3590 on Tuesday, March 23, 2010
  - Senate debate on HR 4872 begins this week
  - Senate will pass or amend and send back to House

# Global View

- Individual Responsibility
- Employer Responsibility
- Small business exceptions and premium subsidies for individuals to purchase insurance for incomes up to 400% of FPL
- Insurance Exchanges – Individual and small group first
- Insurance Market Reforms
- Medicare payment and quality reforms
- Expand Medicaid to 133% FPL with 100% federal funding for 2014-2016
- Overall cost for first ten years below \$1 Trillion

# Insurance Market Reforms

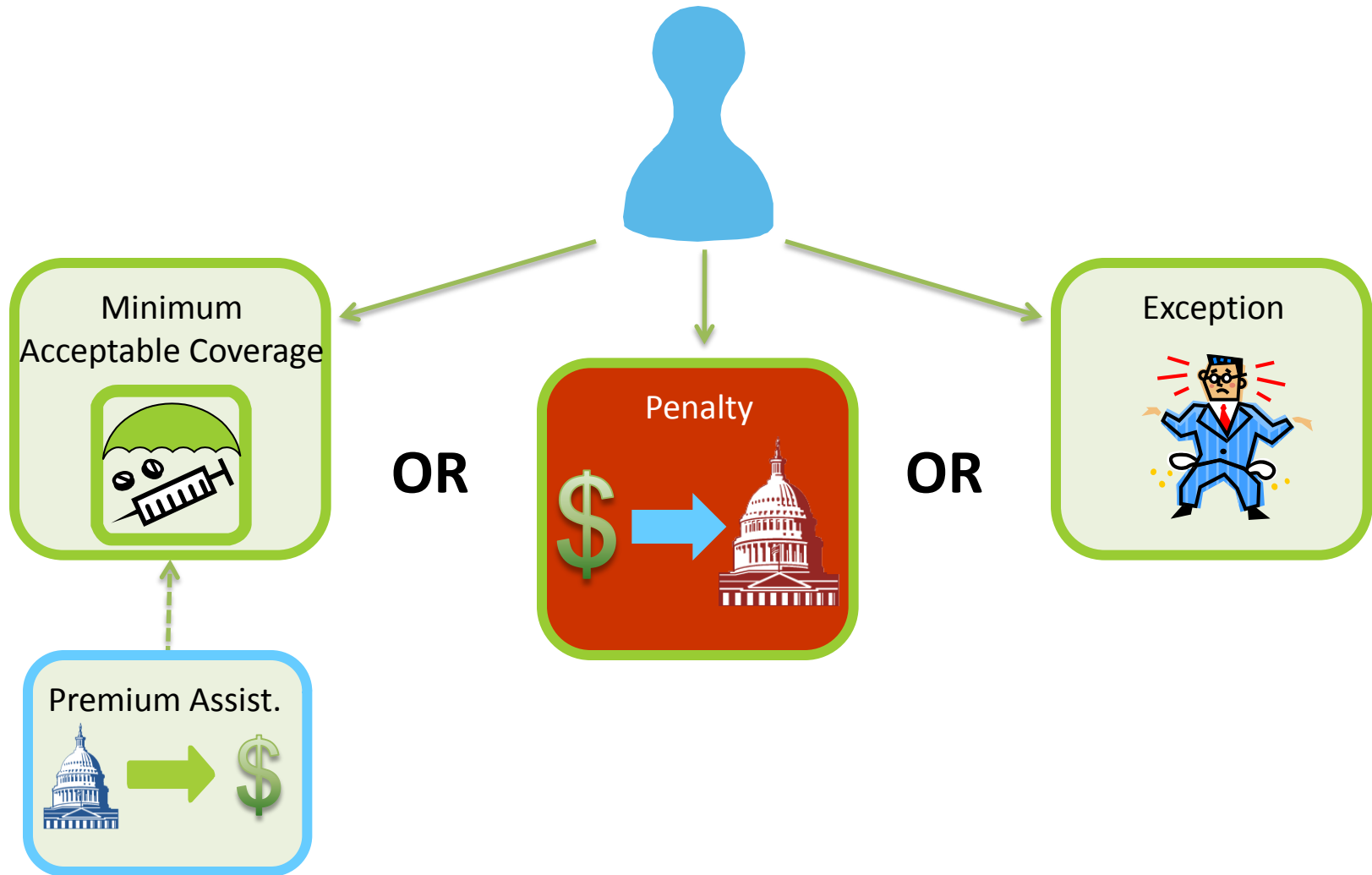
## Early Deliverables

- Unmarried dependent coverage up to age 26
- No lifetime and some annual limits on dollar value of coverage
- Temporary subsidized national high-risk pool for those with pre-ex condition
- First dollar coverage for certain types of preventive care
- Prohibition on pre-ex exclusion for children under 19
- Prohibition on rescission of coverage, except in cases of fraud.
- Nondiscrimination in favor of highly compensated employees (2011)

## 2014 Deliverables

- Penalty for waiting period greater than 60 days (limit to 90 days under HR 4872)
- Federal voluntary LTC program (CLASS Act)
- Wellness credits and increased permissible incentives
- Health status nondiscrimination
- Guaranteed issue and renewal of policies

# Individual Responsibility



# Key Features: Individual Mandate

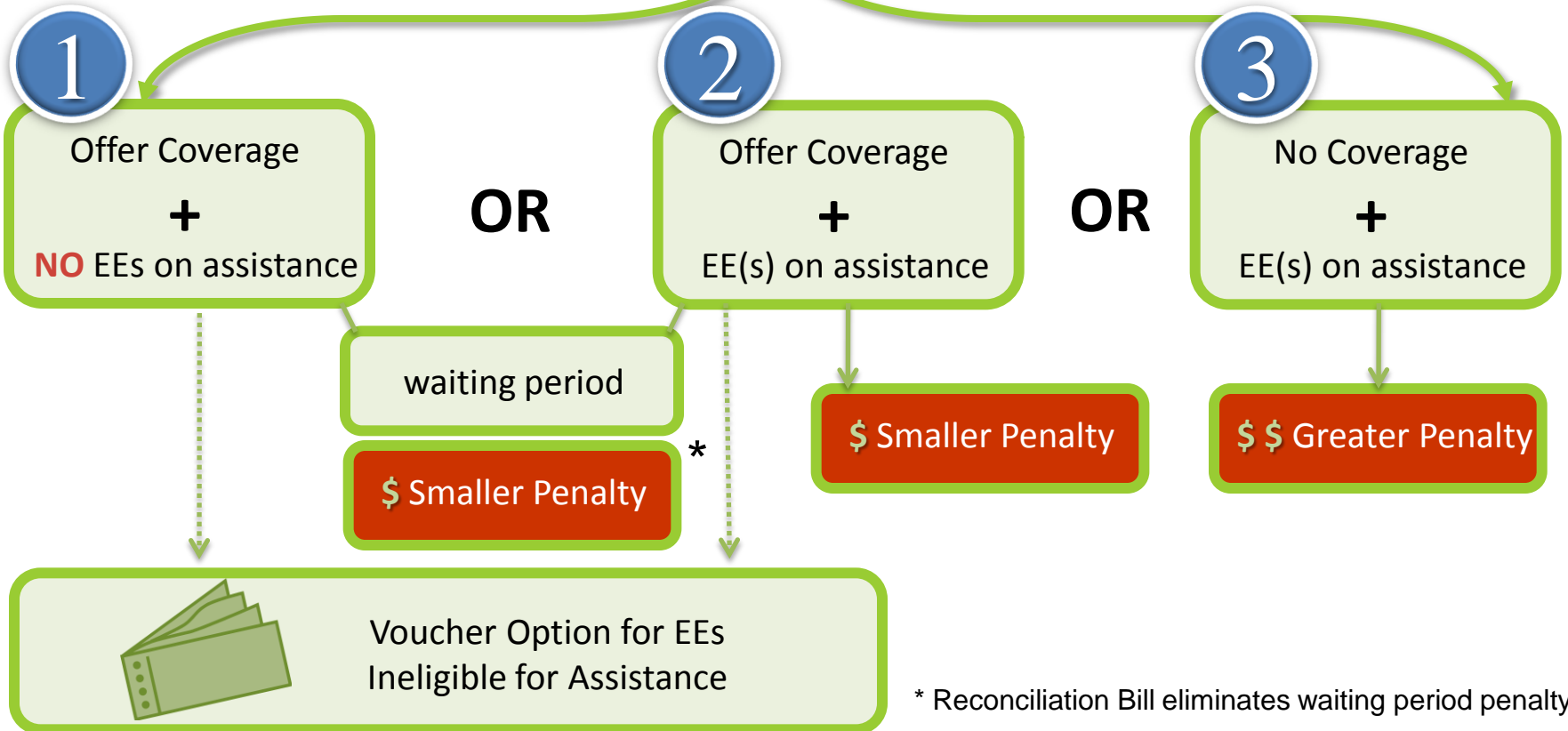


Patient Protection & Affordable Care Act (HR 3590)	Health Care & Education Reconciliation Act of 2010 (HR 4872)
Senate passed December 24, 2009; House passed March 21, 2010	House passed March 21, 2010; Senate has not yet passed
Required to obtain qualifying coverage for self & dependents or pay tax penalty starting in 2014	Same as Senate bill
<p>Exempt if:</p> <ul style="list-style-type: none"> <li>• Financial hardship</li> <li>• Religious objections</li> <li>• Non-affordable coverage (8%)</li> <li>• American Indian</li> <li>• Undocumented immigrant</li> <li>• Without coverage for less than 3 months</li> <li>• Household income less than 100% of FPL</li> </ul>	<p>Exempt if:</p> <ul style="list-style-type: none"> <li>• Low income below filing threshold (\$9,350 for single)</li> <li>• All other provisions same as Senate bill</li> </ul>
<p>Penalty: Greater of \$750 per year or 2% of household income.                      Penalty phase in: \$95 /.5% in 2014, \$495/1% in 2015, \$750/2% in 2016, indexed 2017 and thereafter.</p> <ul style="list-style-type: none"> <li>• 3x per family maximum</li> <li>• Not higher than avg premium for bronze level coverage</li> </ul>	<p>Penalty: Greater of \$695 per year or 2.5% of household income.                      Penalty phase in: \$95/1% in 2014, \$325/2% in 2015, \$695/2.5% in 2016, indexed 2017 and thereafter.</p> <ul style="list-style-type: none"> <li>• 3x per family maximum (\$2,085)</li> </ul>
<ul style="list-style-type: none"> <li>• Premium credits to individuals <i>up to</i> 400% of FPL for purchase through Exchange</li> <li>• Cost sharing subsidies for individuals <i>up to</i> 200% of FPL</li> <li>• Credits &amp; subsidies not available to illegal immigrants and those covered by employer, unless unaffordable (&gt;9.8% of income )or less than minimum benefit (actuarial value &lt;60%)</li> </ul>	<ul style="list-style-type: none"> <li>• Premium and cost sharing credits to individuals <i>up to</i> 400% of FPL for purchase through Exchange</li> <li>• Lower out-of-pocket spending limits for individuals <i>up to</i> 400% of FPL</li> <li>• Credits &amp; subsidies not available to illegal immigrants and those covered by employer, unless unaffordable (&gt;9.5% of income )or less than minimum benefit (actuarial value &lt;60%)</li> </ul>

# Employer Responsibility: Free Rider/Voucher (Senate)



Employer with more than 50 employees

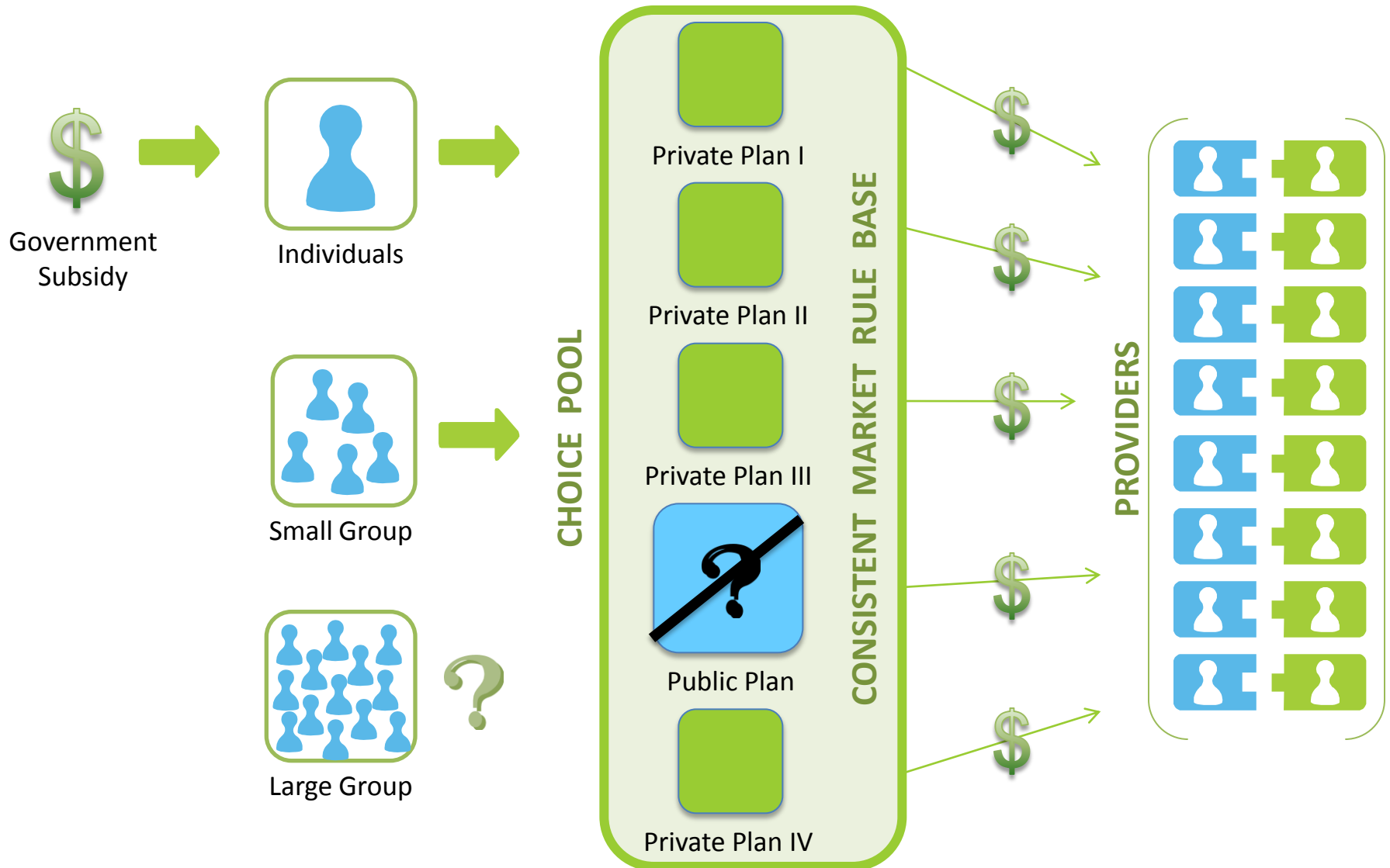


# Key Features: Employer Mandate



Patient Protection & Affordable Care Act (HR 3590)	Health Care & Education Reconciliation Act of 2010 (HR 4872)
Senate passed December 24, 2009; House passed March 21, 2010	House passed March 21, 2010; Senate has not yet passed
No mandate for coverage, but assessment on employers with more than 50 employees if do not offer coverage and have at least one FTE receiving a premium tax credit. Exempts employers with <51 employees	Same as Senate bill  Exempts employers with <51 employees; Excludes first 30 employees from penalty.
No coverage required. If don't offer coverage then pay fee for ees who receive tax credit.	Same as Senate bill
Penalty: <ul style="list-style-type: none"> <li>• If &gt;50 FTEs and don't offer coverage, then pay \$750/FTE, if any employees receives premium tax credit.</li> <li>• If &gt;50 FTEs and offer less than minimum coverage or less than 60% contribution, then pay lesser of \$3,000 for each employee receiving credit or \$750/FTE</li> <li>• If impose a waiting period, then pay \$400/FTE in 30-60 day waiting period and \$600/FTE in 60-90 day waiting period.</li> <li>• <b>Free Choice Voucher:</b> Offer a voucher in the amount of the contribution to those employees with incomes &lt;400% of FPL whose share of premiums exceeds 8%, but is &lt;9.8% of their income, if they choose to enroll in Exchange.</li> </ul>	Penalty: <ul style="list-style-type: none"> <li>• If &gt;50 FTEs and don't offer coverage, then pay \$2,000/FTE, if any employees receives premium tax credit.</li> <li>• If &gt;50 FTEs and offer less than minimum coverage or less than 60% contribution, then pay lesser of \$3,000 for each ee receiving credit or \$2,000/FTE</li> <li>• Limit waiting period to 90 days with no penalty.</li> <li>• <b>Free Choice Voucher:</b> Same as Senate bill</li> </ul>
If >200 ees, auto enrollment with opt-out	If >200 ees, auto enrollment with opt-out (same as Senate bill)
<ul style="list-style-type: none"> <li>• Sliding scale small business tax credits if 25 or fewer ees w/ avg annual wage of &lt;\$50k. Must contribute at least 50%. 2010-2013, receive <i>up to</i> 35% credit of employer contribution. Beyond 2013, receive <i>up to</i> 50% for 2 years maximum, <i>if purchase through Exchange.</i></li> </ul>	<ul style="list-style-type: none"> <li>• Sliding scale small business tax credits if 25 or fewer ees w/ avg annual wage of &lt;\$40k. Must contribute at least 50%. 2010-2013, receive <i>up to</i> 35% credit of employer contribution. Beyond 2013, receive <i>up to</i> 50% for 2 years maximum, <i>if purchase through Exchange.</i></li> </ul>

# Health Insurance Exchange



# Key Features: Health Insurance Exchange



Patient Protection & Affordable Care Act (HR 3590)	Health Care & Education Reconciliation Act of 2010 (HR 4872)
Senate passed December 24, 2009; House passed March 21, 2010	House passed March 21, 2010; Senate has not yet passed
State-based Exchanges and Small Business Health Options Program (SHOP) Exchanges. Also, states may form compacts to permit cross-state sale of health insurance. Also allow Co-ops through state exchanges.	Same as Senate bill
<p>Covered:</p> <ul style="list-style-type: none"> <li>• Individuals (Must not be eligible for employer-sponsored affordable coverage)</li> <li>• Small employer (up to 100 ees)</li> <li>• Large employers (&gt;100) in 2017</li> </ul>	<p>Covered:</p> <ul style="list-style-type: none"> <li>• Individuals (Must not be eligible for employer-sponsored affordable coverage)</li> <li>• Small employer (up to 100 ees)</li> <li>• Large employer (&gt;100) in 2017</li> </ul>
<p>Premium credits and OOP help provided on sliding scale for those w/income up to 400% of FPL</p> <ul style="list-style-type: none"> <li>• Not available to illegal immigrants</li> </ul>	<p>Premium credits &amp; OOP help provided for CHIP and for those with income up to 400% of FPL (sliding scale)</p>
<p>Four levels of benefit plans:</p> <ul style="list-style-type: none"> <li>• Bronze: minimum plan with essential health benefits, cover 60% of costs, with OOP max equal to HSA limit (\$5,950/\$11,900 for 2010)</li> <li>• Silver: covers 70% of costs with HSA OOP</li> <li>• Gold: covers 80% of costs with HSA OOP</li> <li>• Platinum: 90% of costs with HSA OOP</li> </ul> <p>Catastrophic plan: Available up to age 30 or those exempt from mandate. Only for individual market. Provide HSA level benefit with preventive prior to deductible.</p>	Same as Senate bill

# Hot Button: How Will We Pay for It?

## Raise Revenues

- Limit tax exemption on HSA, FSA, and/or OTC Rx
- Eliminate Part D subsidy deduction
- New fees on Rx & medical industry
- Increase Medicare tax for high earners
- Excise Tax on high value benefit plans (Cadillac plans)
- Raise itemized medical deduction threshold
- Tax tanning services



## Reform & Cost Containment

- Reduce Medicare/Medicaid Spending
- Agreed savings by doctors, hospitals, drug makers, and insurance companies
- Adjust consumer health and spending
- Limit special tax status for BCBS if medical loss ratio < 85%

# Key Features: Financing



Patient Protection & Affordable Care Act (HR 3590)	Health Care & Education Reconciliation Act of 2010 (HR 4872)
Senate passed December 24, 2009; House passed March 21, 2010	House passed March 21, 2010; Senate has not yet passed
<ul style="list-style-type: none"> <li>• New fees on health care industry, insurers &amp; TPAs.</li> <li>• 40% excise tax on insurance co./self-funded plans for Cadillac plans (\$8,500/\$23,000 indexed at CPI-U plus 1%) w/exceptions</li> <li>• Increase HSA penalty to 20%</li> <li>• Limit FSA to \$2,500 indexed w/COLA</li> <li>• No unprescribed OTC Rx reimbursement under HSA/FSA/HRA</li> <li>• Increase itemized medical deduction from 7.5% to 10% AGI</li> <li>• 0.9% increase on Medicare tax rate on wages over \$200k/\$250k for individuals/families</li> <li>• 10% excise tax on indoor tanning services (Eff. 1/1/10)</li> <li>• Limit deductibility of exec and employee compensation to \$500k per individual for health insurance providers (Eff. 1/1/09)</li> </ul>	<ul style="list-style-type: none"> <li>• New fees on health care industry, insurers &amp; TPAs.</li> <li>• 40% excise tax on insurance co./self-funded plans for Cadillac plans (\$10,200/\$27,500) w/exceptions</li> <li>• Increase HSA penalty to 20%</li> <li>• Limit FSA to \$2,500 indexed w/COLA</li> <li>• No unprescribed OTC Rx reimbursement under HSA/FSA/HRA</li> <li>• Increase itemized medical deduction from 7.5% to 10% AGI</li> <li>• 0.9% increase on Medicare tax rate on wages over \$200k/\$250k for individuals/families</li> <li>• 10% excise tax on indoor tanning services (Eff. 7/1/10)</li> <li>• Limit deductibility of exec and employee compensation to \$500k per individual for health insurance providers (Eff. 1/1/09)</li> </ul>
<ul style="list-style-type: none"> <li>• Reduce Medicare pmnts to providers</li> <li>• Cut subsidies to private Medicare Advantage plans</li> <li>• Link Medicare pmnts to quality of care – “value based purchasing”</li> </ul>	Same as Senate bill
<ul style="list-style-type: none"> <li>• Cost Estimated \$875 Billion over 10 years</li> <li>• Deficit reduction by \$118B over 10 years</li> </ul>	<ul style="list-style-type: none"> <li>• Cost Estimated \$938 Billion over 10 years</li> <li>• CBO budget deficit reduction of \$124B</li> </ul>

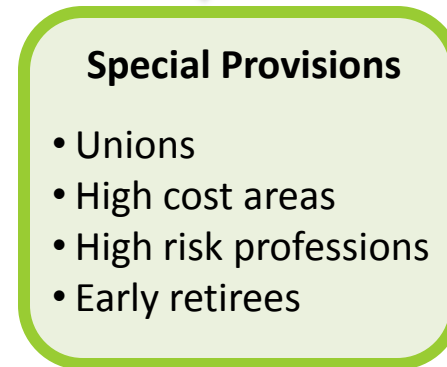
# “Cadillac” Plan Excise Tax



COBRA Rate  $\geq$  \$8,500 for individual or  
\$23,000 for family \*



= 40% of plan value that  
exceeds threshold



\* Reconciliation Bill: COBRA Rate  $\geq$  \$10,200 for individual or \$27,500 for family

# Implementation: Multi-Year Process (Senate)

2010	2011	2012	2013	2014 +
<ul style="list-style-type: none"> <li>• Healthcare industry fees (HR 4872: 2011 - 2014)</li> <li>• Some market reforms</li> <li>• Temp. high risk pools</li> <li>• Tax on tanning services</li> <li>• Limit BCBS tax status</li> </ul>	<ul style="list-style-type: none"> <li>• W-2 reporting</li> <li>• Nondiscrim testing on fully insured</li> <li>• Repeal of Part D subsidy deduction (HR 4872: 2013)</li> <li>• FSA limit (HR 4872: 2013)</li> <li>• OTC Rx limit</li> <li>• HSA – 20% ↑</li> </ul>	<ul style="list-style-type: none"> <li>• Mini-SPD disclosures</li> <li>• 60-day advance warning of changes</li> </ul>	<ul style="list-style-type: none"> <li>• Cadillac tax (HR 4872: 2018)</li> <li>• ↑ medical deduction</li> <li>• ↑ payroll tax for ≥\$200K</li> <li>• Insurance Exec compensation limits</li> </ul>	<ul style="list-style-type: none"> <li>• Exchange opens</li> <li>• Employer mandate</li> <li>• Individual mandate</li> <li>• Market reforms</li> </ul>

# Assessing the Impact (Senate)

≤ 25 Employees  
+ Avg. Annual Wage  
≤ \$40,000

26 – 50  
Employees

51 – 100  
Employees

101 – 199+  
Employees

200+  
Employees

Tax Credit  
for 2 yrs



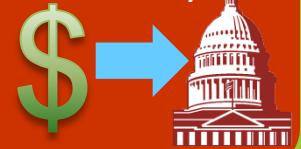
Subject to  
Penalty



Subject to  
Penalty



Subject to  
Penalty



Eligible for  
Exchange



Eligible for  
Exchange



Eligible for  
Exchange



Eligible for  
Exchange - 2017



Auto-Enroll



Excise Tax &  
Payroll Tax ↑



Excise Tax &  
Payroll Tax ↑



Excise Tax &  
Payroll Tax ↑



Excise Tax &  
Payroll Tax ↑



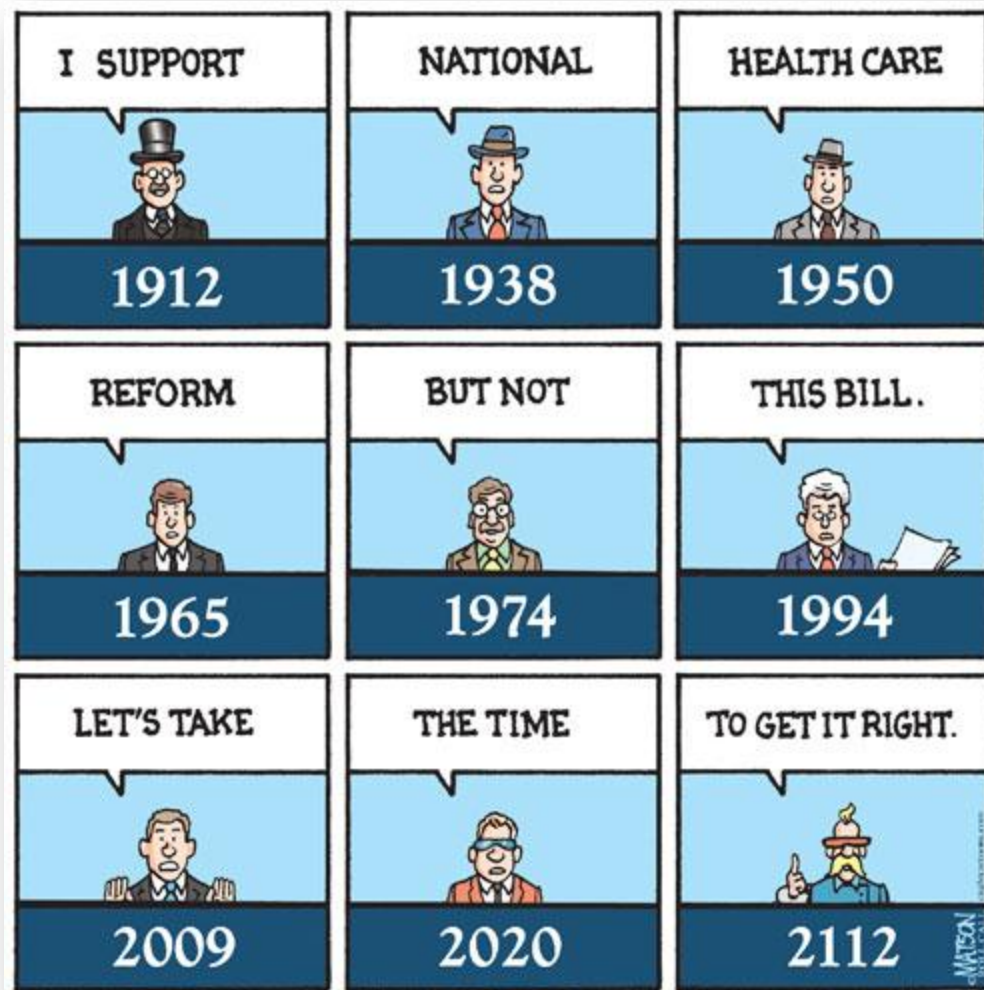
Excise Tax &  
Payroll Tax ↑



# Things for Employers to Consider

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1. To whom do you offer current coverage?
2. How much do you contribute for coverage?
3. What benefits do you provide?
4. What is the difference in your costs and benefits to what is passed?
5. Is it going to cost more or less to provide benefits vs. pay penalty?
6. What is the estimated income level of employees/families?  
Who is likely eligible for subsidy in the Exchanges?



# Questions?



Gallagher Benefit Services, Inc.

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[www.gbswa.com](http://www.gbswa.com)