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The Pitts Proposal to Block Mandatory Funding in the Affordable Care Act

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Under the Affordable Care Act, Americans have more freedom and control over their health care choices. Already, millions of Americans across the country are experiencing the law's new consumer protections and benefits.

Opponents of the Affordable Care Act have tried unsuccessfully to date to repeal the law and defund it. Now, the Energy and Commerce Committee is considering a new approach to undermining the law: eliminating the mandatory funding provided to the Department of Health and Human Services to implement key parts of the law. Specifically, a new proposal by Subcommittee Chairman Joe Pitts would:

- **Take away funding to establish exchanges and modernize eligibility systems.** The law provides funding for states to conduct planning activities needed to develop a health insurance exchange, as well as funding through 2015 to establish the exchange. Blocking funding would prevent new exchanges from being established and the premium tax credit from being implemented, thereby preventing thousands of small businesses and 24 million Americans from accessing this new coverage.
- **Halt new prevention activities.** The Affordable Care Act creates a new Prevention and Public Health Fund to assist state and community efforts to prevent illness and promote health, so that all Americans can lead longer, more productive lives. The fund will help prevent disease, detect it early, and manage conditions before they become severe. By concentrating on the causes of chronic disease, the law helps move the nation from a focus on sickness and disease to one based on wellness and prevention. Taking away this critical new investment in prevention will be harmful to the health of Americans now and in the future.
- **Worsen the health care workforce shortage.** New investments in the law, along with those in the Recovery Act, provide an important platform for expanding the primary care workforce and creating more opportunities to prepare physicians to practice primary care in community-based settings, while ensuring primary care services are available to our nation's most underserved communities. Without this funding, we will no longer be on the path to train 16,000 primary care providers. Blocking funding would allow our workforce shortage to continue to grow, especially in communities that are already severely underserved.
- **Eliminate new investments in school-based health centers.** School-based health centers not only enable children with acute or chronic illnesses to attend school, but also improve the overall health and wellness of all children through health screenings, health promotion, and disease prevention activities. Taking away the funding for up to 400 school-based health centers that could benefit from this provision will weaken a vital piece of the children's health safety net that helps improve access to care for children and maximizes their potential to learn.
- **Eliminate new funding for personal responsibility education.** The law awards Personal Responsibility Education grants to states for programs to educate adolescents on both abstinence and contraception for prevention of teenage pregnancy and sexually transmitted infections, including HIV/AIDS.

The principal argument against these essential health care funds is that they are “mandatory appropriations,” which Republican members have described as an unprecedented approach to legislating and a “gangster government.”¹

In fact, in this regard, the Affordable Care Act was little different from other laws passed by Congress in recent years. It included a mix of discretionary program authorizations and mandatory spending.² That mandatory spending was well-documented at the time of passage and included in each CBO score of the legislation from the summer of 2009 through passage in March, 2010.

Two laws considered by the Energy and Commerce Committee when it was last under the control of Republicans in the 108th and 109th Congresses illustrate how Republicans used mandatory appropriations. These laws are the Medicare Prescription Drug Improvement and Modernization Act (P.L. No. 108-173) and the Deficit Reduction Act (P.L. No. 109-171). They contained billions of dollars of mandatory appropriations funding a wide array of government activities. Current Republican Members of the Energy and Commerce Committee voted for both bills unanimously, including 18 Republicans who were Members in 2006 and 17 who were Members in 2003.

The Medicare Prescription Drug Improvement and Modernization Act (P.L. No. 108-173) included specific mandatory appropriations, including an unlimited mandatory appropriation for a drug assistance program. Moreover, the new benefit added over \$400 billion to the deficit. Mandatory appropriations in that legislation included:

- \$410 billion in funding for prescription drug benefits under Medicare Part D (title I)
- An unlimited appropriation to fund the transitional drug assistance program (section 101)
- \$125 million to fund coordination with state pharmaceutical assistance programs (section 101)
- \$1.5 billion to fund start-up administrative costs for implementation (section 1015)
- \$200 million to fund a health care infrastructure improvement program (section 1016)
- \$100 million to fund a chronic care improvement program in Medicare (section 721).
- \$1 billion to fund federal reimbursement of emergency health services furnished to undocumented individuals (section 1011)
- \$25 million for a pilot program for background checks on workers at nursing homes (Section 307)

The Deficit Reduction Act (DRA; P.L. No. 109-171) also included a significant amount of mandatory appropriations both inside and outside of the jurisdiction of the Committee.

Mandatory appropriations within the Committee’s jurisdiction included:

- \$2 billion for Medicaid assistance for states affected by Hurricane Katrina (section 6201)
- \$1.8 billion to fund the Money Follows the Person rebalancing demonstration program (section 6071)
- \$1 billion for the Low-Income Home Energy Assistance program (section 9001)
- \$730 million over the first 10 years, and \$75 million each year thereafter, to fund the Medicaid Integrity Program (section 6034)

¹ “Bachman Stands by Gangster Government,” Roll Call (Mar. 6, 2011) (online at <http://www.rollcall.com/news/-203887-1.html>).

² Mandatory spending (also called direct spending) encompasses all spending not passed in the annual appropriations bills.

- \$283 million to close state shortfalls in the CHIP program (section 6101)
- \$218 million to fund demonstration projects regarding home and community-based alternatives to psychiatric residential treatment facilities for children (section 6063)
- \$60 million to fund implementation of the Act (section 6203)

Programs outside the jurisdiction of the Committee also received significant mandatory appropriations in the bill, including:

- \$750 million to fund grants for healthy marriage promotion and responsible fatherhood (section 7103)
- \$4.53 billion to fund academic competitiveness grants (section 8003)
- \$100 million to improve the collaboration between state courts and children's welfare agencies (section 7401).

Other mandatory appropriations enacted by Republicans when they last controlled the House include funding for "abstinence-only" education in Pub. L. No. 109-432, that was subsequently extended by Pub. L. No. 110-48 and Pub. L. No. 110-275.