



**Testimony for the KS Senate Public Health & Welfare Committee
RE: The Economic Impact of Implementation of the Affordable Care Act in
Kansas:**

**January 17, 2013
Topeka, Kansas**

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Dear Members of the Committee:

Thank you for the opportunity to submit written testimony regarding the Economic Impact of Implementation of the Affordable Care Act in Kansas. Following is an email I shared with my employees after the SCOTUS ruling regarding PPACA on June 28, 2012. The economics for my company is summarized on page 4. Please contact me directly with any questions or clarification.

Respectfully,
Phillip M. Hayes, SPHR

From: "Phil Hayes, SPHR" <phayes@the-arnold-group.com>
Date: July 11, 2012 7:53:47 AM CDT
To: !TheArnoldGroup <TheArnoldGroup@the-arnold-group.com>
Subject: Impact of HC Reform on The Arnold Group

TAG Team:

I know the following message is long, but it's critically important as we look to the future (individually and collectively). Please make time to read through this message in its entirety. I do apologize up front for any personal views expressed, but the message is important, even if only to engage you in the discussion, especially the section under the image below as this outlines the direct impact the healthcare reform will have on The Arnold Group (TAG).

June 28, 2012 will go down in history as the day the Supreme Court of the United States (SCOTUS) ruled that the Patient Protection and Affordable Care Act (PPACA), passed by Congress in March of 2010, is constitutional (legitimated on the basis of taxation). At this point, it doesn't matter which side you support, nor does it matter if you agree with the decision or the rationale behind it. Many parts of healthcare reform have already taken effect, and most experts agree that the core concepts of this legislation will be fully enacted, in one form or another, in 2014. This means small businesses that were hoping to not be affected by the healthcare law will now have to comply with its provisions. Small businesses will be faced with weighing the costs of more affordable health insurance for employees with tax penalties and being required to provide insurance that they previously did not. As such, The Arnold Group has begun analyzing the implications of the court's ruling and the steps we may take to prepare for the law's implementation by January 1, 2014. More on this below...

Since the SCOTUS report upheld PPACA, family, friends and colleagues have asked me, "What do you think of the ruling? How will this affect your business?" Personally, as a USAF military veteran (defender of the US Constitution) and a 14 year staffing vet, I am deeply saddened by the passage of this law. I believe it is an assault and an affront to our personal freedoms and on our industry. Like other companies in the staffing industry, The Arnold Group helps efficiently move human resources/capital between competing firms in the market place; and thereby keeping the gears in our economy lubricated like a well oiled machine. For the record, I would love for 100% of Americans to have health insurance, but this law, which I view as a misguided experiment is not the way to do it. Regardless of the Court's decision, I think PPACA is largely a bad law as it does very little (if anything) to address our nation's ridiculously high health care costs and even less to improve efficiency and quality. The heavy lifting of "bending the cost curve" was not really addressed in this law as I understand it and ultimately I feel employers and citizens alike will be unduly penalized while we learn this lesson the hard way.

Many persons, businesses and organizations support PPACA, because of the positive reforms currently in place, such as coverage of dependents to age 26, establishment of minimum standards for health insurance policies, banned annual and lifetime coverage caps, and insurance companies barred from considering pre-existing conditions or gender in coverage decisions. Further, when many persons think of employers - most people think of large fortune 500 companies. These companies have legions of people to deal with the complexity of PPACA, and much deeper pockets. However, once the employer penalties are in place for businesses and non-profit organizations who do not have the money, resources nor the latitudinal choices available to them you will see a very big push back, and very real efforts to limit hiring and engage in any tactic possible to survive. Many businesses are scraping by, and making them responsible for the cost, and management of PPACA, will have a very negative effect on the micro side of business activity across the country. Further, PPACA does not address the most pressing reasons for the increase in health care related expenditures; hospital practices and personal choice decisions of individuals. Both are given a bye under PPACA.

Unfortunately, I think the part-time hiring of employees will become the new normal. The biggest prohibitive hit against job creation is now in full motion and the consequences from PPACA will place a drag on the economy that is undeniable. The burden on small business will all but guarantee that the primary engine of employment will sputter and knock, as the federal government forces higher and higher taxes on the last semblance of free enterprise. Forget about any economic recovery on Main Street. I fear the unemployment stats will be stuck in a permanent loop, as the gross domestic product stagnates, at best. The more likelihood is that the characterized "double dip" recession will experience a full-blown depression. And the government's response will inflate prices in a feeble attempt to stave off deflation retractions.

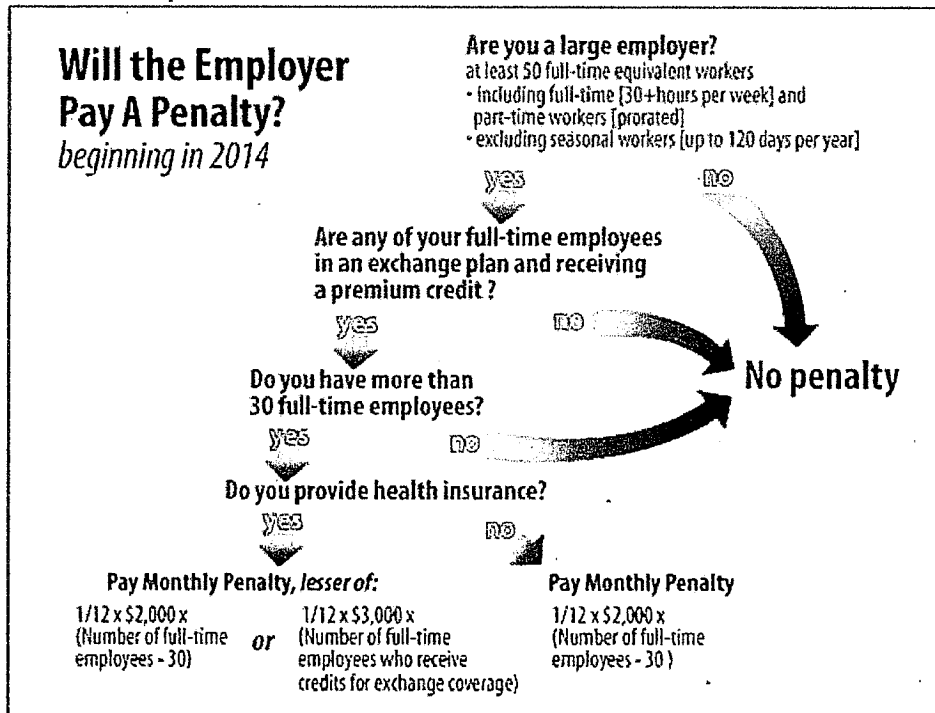
My Concerns Regarding PPACA:

1. Right now, most staffing companies offer health insurance to their own full-time employees, not temporary. In 2014, staffing companies will be required to offer minimum essential coverage to all employees, including eligible full-time temps workers. It is expected those who work 130 hours per month for three months will become eligible. However, minimum essential coverage details and eligibility requirements have yet to be finalized. Companies that do not supply a healthcare plan will be forced to pay an excise tax of approximately \$2,000/\$3,000 per employee per year. Some staffing firms are still hoping for the repeal of healthcare reform. Others think it makes sense to pay a fine instead of offering coverage. The reality is that neither the fine nor the contribution to the premium is calculated in the rates currently being charged to our clients, and the margins on existing rates will not support this increased cost. Unfortunately, someone is going to have to pay for the healthcare coverage that will be offered to temporary employees.
2. Do we really think this will be the ONLY behavior controlled through government or "tax" fiat? This is unprecedented territory – taxing a citizen for failure to purchase a product or service. Now that it's been *deemed* constitutional what makes you think the government will stop at but just one behavior to control

in the name of security, safety, or the general welfare? The bottom line is however unlikely one thinks it is, we lost a part of our freedom on June 28, 2012.

3. Most Americans have worked for private businesses or public corporations and I feel fortunate they exist to provide me with employment opportunities to pay my bills. In the America I knew, if you weren't happy with your current circumstances you took steps to improve your situation and found alternative work options that aligned with your desires. Without business owners and entrepreneurs, there are no jobs... Government does not make money of their own – they only spend money they get from those who have jobs. So we should feel sorry when some of these businesses disappear because jobs will disappear with them. Profit is not bad – if business owners don't make money, why should they take the risks involved in having and running the business?
4. Medicaid, Medicare, and Social Security are broken... Why should we think government at any level will improve our healthcare system? They keep giving everything away in the plans they currently run to the degree everyone knows these plans are not sustainable.... Lucky me and a great many of you, we are likely to pay in much if not all of our entire working life, should be entitled to those benefits, but most likely the programs will no longer exist or will be a remnant of what we started with. Yes, our current healthcare system has its share of problems, but those could be fixed without a complete overhaul on the level PPACA outlines and without giving over control of it (and more of our lives and choices) to big government.
5. The price of everything is going to go up along with inevitable tax increases to pay for the administration of it. So, whatever is saved in medical insurance payment or premium will be spent on goods, services, and taxes. It's estimated that the average hourly dollar amount for PPACA will gradually increase from \$2.03 in 2014 to \$5.89 in 2019 when PPACA is fully implemented. First, let's assume minimum wage does not increase during the implementation years, \$7.25 + \$5.89 = \$13.14 hourly becomes the new effective minimum wage. How will business pay for this? There's really only one alternative businesses will have...
6. Not only is it going to be expensive, it is going to be a logistical nightmare (tracking employee eligibility, compliance and regulatory requirements regarding a very fluid workforce).
7. PPACA may also result in unintended cost shifting between Work Comp fees/rates and healthcare rates.

PPACA's Direct Impact on TAG:



While we cannot promise that our clients will not see an increase in some form come January 1, 2014, The Arnold Group is proactively dealing with these issues now and working on solutions to minimize the impact of PPACA. We're partnering with health benefits consultants to compare the estimated cost of coverage with tax cost, taking a number of factors into consideration, including:

- Scope of benefits offered, if any
- Employer contributions, if any
- Expected employee participation rate
- Employees excluded from coverage for various reasons
- Employees receiving subsidies
- Cost of making employees whole if the company drops coverage
- Tax deductibility of premium vs. the non-deductibility of excise tax
- Competitive market position, recruitment and retention

Even as our discussions continue with these consultant's, TAG's early scenario planning suggests given the costs of health care in comparison to costs of fines/penalties/taxes it will likely be less-harmful for TAG to take the government fines. Even with providing insurance to temporary employees, due to the low-wages compared to the high-cost of coverage, many temporary employees will still qualify and receive government credits for federal or state exchange coverage which will lead to fines levied against TAG. Unfortunately, it's not realistic to think we can increase wages enough to make a difference when you consider that under PPACA people earning less than four times the poverty line (\$92,200 per year for family of four, which equates to about \$61,466 or \$29.55 hourly for an employee) will qualify for tax credits from Uncle SAM to subsidize their purchase of insurance which then puts TAG as the employer in a penalty state.

June 2012 TAG Employment Summary:

2,964	Total PR Transactions in TW (HRIS)
803	Total TAG Temporary Employees
468	PPACA FT Temporary Employees (>=30 avg. wkly hrs in past 30 days) = 58.28% of our temps
+22	TAG Staff Employees
490	Total PPACA FT Employees
-30	PPACA Carve Out
460	

June 2012 Big Picture PPACA Scenario 1:

TAG offers HC Coverage across the board to internal TAG staff **AND** temps:

- June 2012: 490 X \$357.30 (60% of US avg. monthly cost) = **\$175,077.00** (keep in mind this would be our **MONTHLY premium payment** for June alone)

June 2012 Big Picture PPACA Scenario 2:

TAG does not offer HC Coverage to internal TAG staff **OR** temps:

- June 2012: 460 X \$166.67 (monthly penalty per FT PPACA EE) = **\$76,668.20** (keep in mind this would be our **MONTHLY penalty** for June alone)

At this time our options are fairly limited, but the good news is all businesses, including staffing companies are in the same boat, which likely means all are preparing for increased costs of doing business in the US.

Following are several business strategies we can consider for 2014 and beyond:

1. Not offer HC coverage to TAG staff and temporary employees and include a HC surcharge on every temporary hour worked to account for the additional burden we will incur

2. Not offer HC coverage to TAG staff and temporary employees and increase our mark-ups across the board to account for the additional burden we will incur
3. Not offer HC coverage to TAG staff and temporary employees and maintain all temp EE's to <=28 hrs wkly to avoid the penalty
4. Partner with other local staffing companies to provide a work share arrangement with temp EE's and business customers while restricting temp EE's to <=28 hrs wkly to avoid the penalty
5. Offer HC coverage and increase our mark-ups across the board to account for the additional burden we will incur

Additionally, as a direct result of the SCOTUS ruling, we have suspended our plans regarding the Wichita office remodel project until mid-November at the earliest. We'll reevaluate after the 2012 elections and most likely make a final determination by the end of 1Q 2013.

How Obamacare Will Impact Small Businesses

Source: A. Barry (7/1/12) <http://www.helium.com/items/2343369-the-affect-of-healthcare-law-on-us-businesses>

- **Costs:** Costs of providing healthcare benefits also vary by business size. Beginning in 2014, businesses with under 50 employees do not have to provide health care insurance to employees, per The Street. However, businesses with 50-199 employees have the option to pay a fine per each employee not insured by the business; employers with over 200 employees will be federally required to provide employee health coverage. Moreover, according to the Bureau of Labor Statistics, healthcare benefit costs vary by business type with unionized labor being more expensive than service labor. *Phil comment: In researching the over 200 employee statement, there is nothing stating that employers have to offer a HC plan for employees, this statement is more for those employers with over 200 employees that do offer a plan, they will be required to auto enroll their employees in their plan.*
- **Employment:** The hiring process also stands a chance of being affected by Obamacare. Some employers will either be less willing to hire on the grounds of additional costs, or will evade the law by under-hiring employees per an employer interview with CNBC. Wages and salary raises are other ways employers will offset the costs of mandatory healthcare per National Public Radio. Furthermore, with unemployment already high, the added headwind of the Patient Protection and Affordable Healthcare Act will further strain employer hiring.
- **Taxes:** The tax code changes brought about by Obamacare will include a \$2,000 fine for businesses with between 50-199 employees that do not offer healthcare insurance to their employees per the Street. However, to help lower the expense of being required to provide healthcare insurance, businesses will also qualify for a tax credit. This healthcare tax credit will cover up to 35 percent of the premium cost of insurance per the Whitehouse. Added to the lower cost of healthcare insurance overall, small businesses will be alleviated of higher costs, but not from a new form of taxation.
- **Economy:** An indirect affect of the Patient Protection and Affordable Health Care Act is its influence on national economics. Furthermore, if the tax drag of the healthcare law proves to be too much of a burden on the economy, businesses could pay another price in the form of lower revenues and profit margins. This is because the individual mandate to carry health insurance influences consumer spending. Since consumer spending is a large factor in economic growth, a cycle of lower revenue, and unemployment is possible if the economy is unduly strained by the law.
- **Politics:** Political gridlock in Congress over healthcare law is also contributing to economic instability per U.S. News. Republican Presidential candidate Mitt Romney has vowed to repeal the Patient Protection and Affordable Healthcare Act and Speaker of the House, John Boehner has pledged to do the same per New England Cable News. Wide dissent among members of organizations such as the National Federation of Independent Businesses also serve as a bellwether of business sentiment.

The Staffing Industry is in America's Economic DNA:

Several industries (with a unique reliance on large numbers of part-time, temporary, and seasonal workers with fluctuating and unpredictable work hours, as well as unpredictable lengths of service) actually create millions of jobs each year, employ a significant workforce in the US, offer flexible working environments for employees, and are a leading contributor to the nation's economic job recovery will be greatly impacted by PPACA. Some examples include:

- The **retail** industry employs **one of every five workers** today, representing one of the largest industry sectors in the United States and a vital mainstay of our economy;
- The **restaurant** industry is the second-largest private-sector employer in the nation with about **12.8 million employees**;
- **Temporary staffing** firms provide a wide range of temporary and contract staffing services in virtually every job category and employ approximately **2.6 million temporary and contract workers every day** and almost **10 million workers annually**;
- There are more than **36,000 supermarkets** in the United States employing **3.4 million people**;
- There are nearly **825,000 franchised businesses** across 300 different business lines creating **18 million jobs**; and
- The **construction** industry's employment exceeds **5.5 million jobs**.

Additional PPACA Related Links:

- <http://healthreform.kff.org/subsidycalculator.aspx#incomeAgeTables> (personalizes PPACA per EE and impact on businesses – people earning less than four times the poverty line [\$92,200 per year for family of four] will receive tax credits to subsidize their purchase of insurance.)
- <https://www.aetna.com/health-reform-connection/questions-answers/employer-penalties.html>
- <http://www.employeebenefitscounsel.com/2010/05/26/nrf-provides-online-calculator-to-determine-employer-penalties-under-ppaca/> (select the calculator link to review contracting/expanding business scenario's)
- <http://www.verisightgroup.com/Home/Solutions/PPACASolutions.aspx>
- <http://www.dol.gov/ebsa/healthreform/> - US DOL PPACA Summary
- http://money.cnn.com/2010/06/15/news/economy/massachusetts_healthcare_reform.fortune/index.htm - 5 Painful Health-Care Lessons From Massachusetts
- <http://www.wbur.org/2012/06/11/health-care-costs-poll> - WBUR Poll: Mass. Health Costs "A Serious Problem" for Many

Voter Education Sites:

- [Project Vote Smart](#) – Committed to providing you with the most relevant, unbiased information on over 40,000 candidates and officials.
- [Smart Voter](#) – Provides nonpartisan information on elections and voting. Information is obtained by a collaboration of the nonpartisan League of Women Voters with election officials to present an accurate and complete ballot.
- [USA.gov](#) – Voting & Elections – Find assistance with registering to vote and voting.
- [EVoter](#) – Interactive Politics – the unbiased, non-partisan election information site where voters can instantly generate a personalized sample ballot, view candidate profiles, view endorsements, find polling places, request absentee ballots, and more.

The final word though might not lie with the Supreme Court, but rather with the court of public opinion, in the form of next November's elections. Oral arguments have already begun... Everyone has a vote and I'm not telling you how to vote... I'm simply asking you to educate yourself on the issues, engage in the discussion and make an informed decision at the ballot box this year. I would also encourage you to share this same message/challenge to everyone you talk to now through early November. This will be a pivotal election in our nation's history and probably the most important election in my lifetime, I plan to have my voice heard throughout the campaign season and most importantly in November – I ask you to do the same.

I welcome ANY and ALL feedback/comments.

Sincerely,
Phil

Phillip M. Hayes, SPHR | VP, HR Services and Operations

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