

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

February 16, 2021

**DISSENTING VIEWS ON SUBTITLE E.  
BUDGET RECONCILIATION LEGISLATIVE RECOMMENDATIONS RELATING TO  
SKILLED NURSING FACILITIES IN RESPONSE TO COVID-19**

Subtitle E of Budget Reconciliation increases funding for nursing home strike teams and allocates additional funds for improving nursing home infection control. While both of these causes, and COVID-19 response as a whole, have been bipartisan efforts thus far, the majority opted to politicize these issues through a partisan process.

In the last year, Republicans and Democrats have worked together to pass five separate COVID-19 relief bills providing \$4 trillion in assistance.<sup>27</sup> Included in this aid was billions of relief money to help nursing homes. Specifically, over \$15 billion has already been distributed from the Provider Relief Fund- including \$5 billion explicitly targeted to help nursing homes improve infection control.<sup>28</sup> When asked, the Department of Health and Human Services was unable to account for how much more money, already provided by Congress for infection control and strike teams in previous COVID-19 relief packages, remained unspent.

The superfluous spending throughout this package is not without consequences. Because the majority opted for a completely partisan process and used Budget Reconciliation, they will not be able to exempt this bill from PAYGO rules. Therefore, the \$1.9 trillion of the spending in this package will trigger a corresponding increase in sequestration for the rest of the budget window. The projected sequestration will result in annual cuts from Medicare of tens of billions of dollars.<sup>29</sup> This means payment cuts for many of the same providers that have been on the front lines treating COVID-19 patients throughout the Public Health Emergency.

During the markup, Committee Republicans also raised concerns around troubling reports regarding the accuracy of nursing home data reported from New York. A January 30, 2021, report from the New York Attorney General showed that New York has been underreporting COVID-19 deaths amongst nursing home patients by up to 50 percent.<sup>30</sup> This would be particularly concerning, not only because of the death and devastation experienced by New York patients and families, but also for how this reported data impacts national public health decisions. The federal government counts on state reported data to inform public health decisions; it is vital that data is as accurate as possible.

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<sup>27</sup> <https://www.rpc.senate.gov/policy-papers/covid-19-relief-funding>

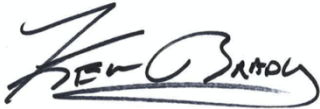
<sup>28</sup> <https://www.hhs.gov/about/news/2020/12/07/trump-administration-announces-new-half-billion-incentive-payment-distribution-to-nursing-homes.html>

<sup>29</sup> <https://thefederalist.com/2021/02/02/democrats-may-raid-medicare-to-fund-stimulus-for-the-wealthy/>

<sup>30</sup> <https://ag.ny.gov/press-release/2021/attorney-general-james-releases-report-nursing-homes-response-covid-19>

To that end, Ways and Means Republicans offered an amendment to this Subtitle that would have required Governors to sign a simple attestation certifying past and future COVID-19 nursing home data be as accurate as possible. Committee Democrats rejected this amendment on a party line vote.

Just hours after that vote, it was reported that a top aide to Governor Cuomo admitted to Democratic state legislators that the Governor rejected their legislative request for nursing home data last August because the Cuomo administration was worried the numbers were “going to be used against us.”<sup>31</sup> This stunning admission warrants future Committee action, but in the meantime, the minority hopes this new report will cause Democrats to reconsider the proposed attestation amendment.

A handwritten signature in black ink that reads "KEVIN BRADY". The signature is stylized with a large, sweeping initial "K" and "B".

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Kevin Brady  
Republican Leader  
Committee on Ways and Means

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<sup>31</sup> <https://www.nytimes.com/2021/02/12/nyregion/new-york-nursing-homes-cuomo.html>