THE HEALTH CARE LAW: IMPLEMENTATION AND SMALL BUSINESSES

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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HOUSE COMMITTEE ON SMALL BUSINESS

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THE HEALTH CARE LAW: IMPLEMENTATION AND SMALL BUSINESSES

WEDNESDAY, APRIL 17, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 1:00 p.m., in Room 2360, Rayburn House Office Building. Hon. Sam Graves [chairman of the Committee] presiding.

Present: Representatives Graves, Chabot, King, Luetkemeyer, Mulvaney, Tipton, Herrera Beutler, Huelskamp, Schweikert, Collins, Rice, Velázquez, Schrader, Clarke, Hahn, Payne, Barber, McLane Kuster, and Murphy.

Chairman GRAVES. I would like to call the hearing to order. And I want to thank all of our witnesses for being here today. I look forward to your testimony.

Today we are going to examine the implementation of one of the most far-reaching laws in our nation's history—the Health Care Reform Law—and its consequences for small businesses. It was signed into law on March 23, 2010, just over three years ago, so this is a good time to assess how small businesses are faring and how the law is being implemented.

According to a February 2013 Newtek Business Services poll, 65 percent of small business owners do not have a strategy to manage their health care costs over the next 12 months. Most small businesses are not even aware of the yet of the thousands of pages of mandates, requirements, and taxes in the new health care law or they are uncertain just how to comply. Some provisions are already in effect, including a new tax on the sale of medical devices, a new Medicare payroll tax for higher earners, and new net investment income tax for higher earners, new limits on tax-favored health spending accounts, and medical loss ratio provisions. Next year, the employer mandate, the individual mandate, the requirement that employers' plans cover a wide range of essential health benefits and the tax on health insurance, all become effective.

In a recent U.S. Chamber of Commerce survey, 86 percent of small businesses said regulations and taxes negatively affect their ability to operate. Seventy-five percent expect the health care law will increase their costs, and 71 percent believe the law will make it harder to hire employees. Just 5 percent expect that their health care coverage will become more affordable. Small companies, already hurting, are struggling to find ways to absorb additional costs. Beginning in 2014, the employer mandate will require employers with the equivalent of 50 full-time workers to offer affordable health insurance to employees who work more than 30 hours per week, or pay a penalty. This one change is already causing small business owners to consider shifting workers to part-time status, reducing the workforce to just simply not hiring.

In a comment letter I sent to the Treasury Department on its employer mandate proposed rule, I suggested minimizing the law's impact on small employers—for example, not deeming just 30 hours per week a full-time work week. Small businesses are concerned, and for very good reason. All employers, even small businesses with fewer than 50 workers not subject to the employer mandate will be affected by various reporting, notification and record-keeping requirements.

In a January 2013 analysis by Dr. Douglas Holtz-Eakin, who is one of our witnesses today, found that the law will dramatically increase the cost premiums for small employers, and the temporary small business health care tax credits help very few. A Government Accountability Office report that I requested found that despite estimates that 1.4 to 4 million small firms will be eligible in 2010, only 170,000 have claimed even a partial credit. These are the same small businesses that we are counting on to grow, invest, and create new jobs. And the laws, provisions, and regulations are still coming.

Today we will hear from small business owners and others about the effects of the health care law's implementation. I look forward to your testimony. And I yield to Ranking Member Velázquez for her opening remarks.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman. And thank you for calling this hearing. I want to take this opportunity to thank all the witnesses for being here with us today.

Three years ago the president signed into law the Affordable Care Act. Landmark legislation aimed at improving the system that has been broken for too long. For consumers, low income workers, and families with children suffering from a preexisting condition, the health insurance system offered a raw deal for many decades now. Small businesses and entrepreneurs were among those left out in the cold by a structure that put insurance company profits ahead of health care consumers' needs. In that, small firms have seen their premiums escalate by 113 percent over the course of the last decade. For many of the smallest enterprises, those with 50 employees or less, providing quality health care to their staff was simply not an affordable option.

Last year, the Supreme Court upheld the Affordable Care Act, finding its provisions constitutional. Regardless of where each of us stood when Congress considered and passed the bill, that debate is now over. Indeed, rolling back or defunding the measure would be of enormous harm to our nation's entrepreneurs. The challenge before this Committee is ensuring reform is implemented in a way that allows small businesses to benefit while minimizing disruption for smaller companies.

Make no mistake, there are significant benefits for entrepreneurs in the ACA. Forty billion dollars in tax credits are being made available for small businesses that supply insurance coverage to their employees. The smallest companies, those with fewer than 10 employees, gained the most from these credits. As rates have risen, the small employers have encountered the most difficulty offering coverage.

Over just a nine year period, their coverage levels declined by more than 10 percent, providing the need for a targeted credit. While these tax credits offer great promise, challenges remain in ensuring eligible businesses take full advantage of the program. With only 335,000 small firms applying for this assistance, it is clear that more must be done to make small companies aware of how to apply and take advantage of this provision.

I look forward to hearing from our witnesses today what can be done at the IRS and throughout the government to maximize small firms' use of the tax credit. Small businesses are also beginning to reap the benefits from the law's more general provisions that protect consumers from unfair insurance industry practices. As purchasers of coverage, small companies are negatively impacted when one of their employees encounters a rare or debilitating illness. For these firms, the caps on lifetime limits and elimination of pre-existing conditions are helping to create a fairer health insurance marketplace. They prevent insurance companies from drastically raising rates when one of the small firms' employees grows gravely ill.

In addition to preventing insurance companies from abusing their small business customers, the law offers a more consumer friendly marketplace for small companies wishing to offer coverage. By January of next year, there will be health insurance exchanges within every state providing a competitive marketplace for small firms to shop for affordable coverage that meets their needs. For too long, affordable quality insurance was only available to those who worked for large employers, such as major corporations or the state and federal governments. With full implementation of the Affordable Care Act, we can enable small firms to offer compatible coverage, making them more competitive and allowing them to attract employees who might otherwise flock only to major companies.

When any major law of this complexity is implemented, there will be an adjustment period. It is my hope we can ensure implementation goes as smoothly as possible for small firms, both by shaping how regulations are crafted and where necessary making minor statutory changes.

With that, Mr. Chairman, I thank you and I yield back.

Chairman GRAVES. Thank you very much.

Now we will go to our witnesses. We have got votes that will probably happen sometime between 1:25 and 1:40, in there, so we will probably get through all of your statements. And then we will probably get started on questions and then come back to finish questions. Unfortunately, they scheduled votes right in the middle of the hearing. But with that, each of you have five minutes.

Our first witness is going to be Douglas Holtz-Eakin, Ph.D. Dr. Holtz-Eakin is president of the American Action Forum. He served as commissioner of the congressionally chartered Financial Crisis Inquiry Commission from 2009 to 2011 and director of the Congressional Budget Office from 2003 to 2005. Welcome, and we appreciate you coming in today.

STATEMENTS OF DOUGLAS HOLTZ-EAKIN, PH.D, PRESIDENT, AMERICAN ACTION FORUM; WILLIAM J. GOULDIN, JR., PRESIDENT, STRANGE'S FLORISTS, GREENHOUSES AND GARDEN CENTERS; LOUISA MCQUEENEY, GENERAL MANAGER, CFO, PALM BEACH GROVES; KEVIN TINDALL, OWNER, TINDALL & RANSON PLUMBING AND HEATING

STATEMENT OF DOUGLAS HOLTZ-EAKIN

Mr. HOLTZ-EAKIN. Chairman Graves, Ranking Member Velázquez, and members of the Committee, thank you for the privilege of being here today. I have submitted a written statement for the record. Let me just talk about a couple of things in the opening remarks.

The Affordable Care Act is many things. It is health policy. It is budget policy. But it is certainly also dramatic economic policy, and from that perspective I think it has significant flaws. It is a very costly regulatory initiative whose uncertainty has not yet fully been resolved. It contains numerous taxes and fees of a magnitude of nearly a trillion dollars over the next 10 years that are hard to describe as pro-growth. And it imposes burdens on employers, raising insurance costs at the very time when they have a mandate to provide insurance to employees. These are significant economic policy headwinds and they have a particular implication for small businesses. And I want to talk a little bit about each of those.

At the American Action Forum, we spend a lot of time trying to track the costs of regulatory initiatives in this area and elsewhere, and the ACA is very costly. It has about $24 billion in reported regulatory compliance costs. These are estimates that come from the administration itself. Eighty million hours of paperwork time spent complying with those regulations. To give you some perspective, that is 40,000 full-time employees filling out paperwork for a year nonstop. And there are also in a table in the written testimony, 11 regulations that have significant economic impact on a substantial number of small entities which is simply a term of art for noticeable and significant burdens on small business. And so this is, in fact, an initiative that has $2 billion in costs on small businesses, has another 11 million hours that are particularly focused on paperwork for small businesses, and we are not yet done. I think as everyone on the Committee knows, the exchanges are not yet fully implemented and there are open questions about whether we will meet the October 1st deadline and other aspects of the bill remain far from finished, and the ultimate regulatory burden will not be seen. But we are already seeing some of the impacts on the small business community, and I remain concerned about whether overall this does pass the typical benefit-cost test.

If you look at the taxes and the fees in the growth, as I said, there are a trillion dollars in new taxes here, including the mandate on those employers or the tax on those employers who do not provide insurance, the so-called mandate. Two thousand dollars is a significant impact. The provision of that insurance itself is an impediment to small business hiring. We are going to see business after business shift as the chair mentioned to part-time as opposed to full-time employment. They are going to have to devote resources to insurance costs instead of hiring new people, and it is a particular burden on minimum wage workers, where there is very little flexibility in terms of the pay package so that you could provide less in cash wages and more in terms of health insurance. And so I am particularly worried about the impact at the bottom of the economic ladder, the first step in upward mobility, and the small business role in that.

We have seen other taxes that got mentioned that are particularly onerous on small business. The medical device tax is a 2.3 percent tax on sales that is utterly divorced from the economic health of any entity, and the research shows will have a disproportionate impact on small businesses. It is not surprising in a country that leads the world in medical science that many of those devices are, in fact, the creations of small businesses and startups. And even prior to making a single dime they are going to have a tax burden as they try to develop their products. And finally, the new net investment income tax, which is going to show up on many small businesses' individual income tax returns, is simply a third tax system above and beyond the income tax and the alternative minimum tax. It is incredibly complex, and it is going to be quite onerous for our entrepreneurs and small businesses to comply with.

The last thing I will mention is the cost of insurance itself. There are lots of reasons to believe the essential benefits package, the requirement to cover people with pre-existing conditions, the limited age-rating bands that are in the law, that one would expect the insurance premiums of younger and healthier workers to go up, particularly in small businesses. The survey work that the chairman mentioned that we did was to simply ask how big could that be? And for small businesses with healthy workforces, these are double digit, sometimes triple digit increases. We saw increases over 150 percent as a result of the impacts of the law itself. These are a substantial burden, an implicit tax on growth, at a time when we need businesses, small businesses especially, to restore their traditional role of creating jobs and speeding the pace of economic recovery.

So I thank you for the chance to be here today, and I look forward to the chance to answer your questions.

Chairman GRAVES. Thank you very much.

Our next witness is William J. Gouldin, Jr., who is president of Strange's Florists, Greenhouses and Garden Centers in Richmond, Virginia. Strange's is a family-run business that began in 1935 and has four generations of experience. Mr. Gouldin has been president since 1971. He is testifying on behalf of the National Federation of Independent Business. Welcome to the Committee.

STATEMENT OF WILLIAM J. GOULDIN

Mr. GOULDIN. Thank you, sir. Chairman Graves, Ranking Member Velázquez, members of the Small Business Committee, thank you for inviting me today.

I am Bill Gouldin, president of Strange's Florists, Greenhouses and Garden Centers in Richmond, Virginia. I work with my two brothers, my wife, my son, and my daughter, along with 120 to 150 employees. We have a blend of full-time, part-time, and seasonal employees, along with contractor hours at the major holidays. We have four retail flower shops, a wholesale greenhouse range, and two retail garden centers.

Due to the holiday season and the nature of our business, virtually all of our employees are hourly employees. We have been paying 100 percent of the health care premium for all of our full-time employees all of my career, and we also provide a 401(k) plan for our employees. I thought providing health care benefits was important because I felt our employees needed it and we could provide it for less than it cost them, but in recent years I have come to realize that all third-party pay systems are having difficulties and that usually the beneficiaries have little knowledge of the costs and some just do not care; and then I have very little control over those costs.

When the health care debate was raging, I realized there was plenty of rhetoric, both pro and con, but there was very limited detail. So when people ask me about what happened in the financial crisis, my comment has always been it was lack of due diligence and integrity on all of our parts that the financial system got in such trouble. And I think the same is true of the health care industry and the Patient Protection and Affordable Care Act.

That caused me to take the time to begin scanning the House and Senate bills as they were progressing, and I printed every page that I could find that referenced the employer and the employee and quickly realized that there were parts that were very vague and confusing, many parts that were not workable, and some that were very dangerous to employees and their employers. I realized that this law would be the most disruptive instrument to the American workplace in my lifetime, and no one seemed to know or care right in the middle of the worst recession/depression since the Great Depression.

The IRS has the undesirable task of weeding through the details of implementation and is making some progress but has a long way to go. Their most complete list just came out December of 2012. It was late in the game but it was a big help for some of the questions I had. One of the most dangerous parts of the law is the statutory definition of full-time employment at 30 hours per week, or as interpreted at 130 hours per month. The IRS cannot correct that definition. Congress will have to amend the law. The use of 30 hours to define full-time employment is the lowest in the world, far below the common practice of 37.5 to 40 hours per week that is common practice for both public and private employers in this country. This is already causing rescheduling of employees where employers have read the law.

Every employer will be forced to define part-time employment as something below 30 hours a week. Most will use between 20 and 27.5 hours per week. There millions of people who currently work between 30 and 36 hours per week because that suits their lifestyle and their income needs. These people will be required to lose hours of work and income. Some employers are paying "time and a half" to avoid hiring additional employees. The new full-time employee definition will cause a hole in employment between 27.5 and 37.5 hours per week and possibly wider.

In 2009, I began developing the table that I gave you all a copy of, and I have been tracking the Kaiser Family Foundation average national premiums. And I made modest adjustments of 5 percent inflation for 2013 and 2014. The tables show the marginal cost of offering health insurance at $119.05 an hour for an employee allowed to work 30 hours per week where the employer pays 100 percent of the premium, which is in their case, or a premium of $95 an hour if the employer pays 80 percent of the premium. These staggering marginal costs are evidence of the problematic employment wedge that has been created. The 9.5 percent affordability test will only aggravate the problem and drive wage rates at the rate of health care inflation.

My concern is that no one seems to care about the millions of employees that will lose their job in whole or in part because of this 30-hour rule. Most employers have no pricing power to pass these increased costs on to their consumers so they have no options but to reduce hours or personnel. If a business tries to absorb these costs and goes out of business, everybody loses their jobs.

The employer confusion caused by this law is already causing higher unemployment and I believe that real unemployment, which is the U–6 table, will rise as employers try to adapt to this law.

Amend the definition of full-time employee to read 37.5 hours per week and begin to improve the U–6 unemployment today instead of watching it rise above 14.5 percent. This will increase employment better than any scheme that I have heard and not cost the government a dime. Our every effort should be to move people from unemployment to working taxpayers.

We need a paradigm change to genuine respect for those private businesses that create jobs in this country and for those who go to work every day. The most patriotic thing any of us can do is to create a job or go get a job.

Thank you very much. I look forward to your questions.

Ms. VELÁZQUEZ. Mr. Chairman, it is my pleasure to introduce to the Committee Ms. Louisa McQueeney. Ms. McQueeney is the chief financial officer of Palm Beach Groves, an orange shipping business located in Lantana, Florida. The company has been family owned since 1946 and has a handful of employees. Ms. McQueeney has been with the business for over a decade. She is testifying today on behalf of the Main Street Alliance, a national network of state-based small business coalitions. Welcome.

STATEMENT OF LOUISA MCQUEENEY

Ms. MCQUEENEY. Chairman Graves, Ranking Member Velázquez, and members of the Committee, thank you for the invitation to testify on how the Affordable Care Act is impacting small businesses.

My name is Louisa McQueeney, and I am the general manager and CFO of Palm Beach Groves, a small business in Lantana, Florida. We ship gift citrus across the United States and Canada. Last year we employed six year-round employees and three seasonal workers.

Part of my job as CFO is managing health care benefits. I have grown quite accustomed to yearly double-digit rate increases from 12 percent to as high as 32 percent.

For almost a decade, our staff has not seen any raises, because the raise would go to yet another increase in health insurance premiums.

Then, the first components of the Affordable Care Act, or "Obamacare" were implemented.

In November of 2011, our insurance agent called with our renewal. Instead of the nightmare news I have come to expect, I found out that our premiums would increase by a grand total of 0.2 percent. Zero point two. Flat.

I was floored. This flat renewal came with exactly the same plan—no dumbing down the coverage, no increase in our deductibles, everything remained the same.

Then, at tax time, we applied for the small business health care tax credit, which cut our total health care costs by about 10 percent—$7,400—for 2011.

Last summer, we also received a $1,582 rebate check in the mail from our insurance company. Our health insurer had not met the "80/20" rule which requires them to spend at least 80 percent of premiums on medical care. So, they were forced to pay us back the difference. I was so excited I really thought about framing the check.

My family was also personally benefitting with a free annual well-visit, and we were also able to keep our daughter on our health insurance until age 26. Between the stable rate, the tax credit, and the rebate check, last year our health care costs went down 12 percent, the first time ever, thanks to the Affordable Care Act.

Since the law will not be fully implemented until 2014, we still face challenges. All of our employees are in their 50s and 60s. Last year we had four major health care events in our very small group. One of our long-time employees died after battling lung cancer. The spouse of another was diagnosed with a serious heart condition. Thank God he was covered under our insurance, because it literally did save his life.

Under Florida law, health insurers are allowed to impose additional rate hikes to small businesses based on the health status and claims experience of the group. When you only have a few employees to begin with, just one battle with cancer can dramatically affect your rates. Add a heart condition diagnosis and a generally aging workforce, and we found ourselves facing another double-digit rate hike at our latest renewal.

Starting next year, the Affordable Care Act prohibits insurers from hitting small businesses with these rate hikes based on health status or claims experience. Gone will be the days when, if one of your employees gets cancer, your rates will skyrocket. Frankly, it cannot come soon enough.

I am pleased that Governor Scott has joined with other republican governors in dropping the opposition to the law and wants to accept the Medicaid expansion, which will help many Floridians. However, this issue is still being hotly debated in our state legislature. I hope they do the right thing.

We need to move forward with health insurance exchanges where small businesses can compare costs and coverage. Too many small business owners still do not know that they could benefit from the health care tax credit, a dollar-for-dollar reduction in your tax bill. I found out about the credit through a small business IRS mailing, but many business organizations, like the U.S. Chamber of Commerce, opposed the law for ideological reasons. I feel they have been remiss in educating their members about how they might benefit and lower their health care costs.

Before I finish, I want to say something briefly about employer responsibility. In our system, health care insurance is generally provided by the employer. We feel it our duty to provide health coverage to our employees who are like family to us. How can you look an employee in the eye while they battle cancer and say "We are going to drop your coverage" when you know it will financially devastate their family?

As a business doing the right thing in offering health coverage, it is a problem for us when businesses much larger than ours do not offer health insurance and force us to subsidize their costs. The shifting of uncompensated health care costs represent a hidden tax in our premiums that cost our business hundreds of dollars per employee per year How is that fair?

In conclusion, the Affordable Care Act is bringing affordable good quality health coverage within reach for many small businesses. We are already seeing the benefits and have even more to look forward to with the establishment of the state health insurance exchanges, the prohibition on rating due to health status, and other provisions that are still on their way. We need to keep building on the foundation of the Affordable Care Act, not tear it down. Small businesses across the country cannot afford to go back to the broken, free market health care system we faced before reform.

I thank you very much.

Chairman GRAVES. Thank you, Ms. McQueeney.

Our final witness is Kevin Tindall, who is the owner of Tindall and Ranson Plumbing and Heating in Princeton, New Jersey. Mr. Tindall received the International Association of Plumbing and Mechanical Officials Green Contractor of the Year Award. He is testifying on behalf of the Plumbing-Heating-Cooling Contractors—National Association. Welcome to the Committee.

STATEMENT OF KEVIN TINDALL

Mr. TINDALL. Thank you, Chairman Graves, and members of the Committee.

As the owner of a small business and on behalf of the Plumbing-Heating-Cooling Contractors National Association, I would like to thank you for the opportunity to appear before the Committee to discuss health care reform. I applaud the efforts to hold this hearing on one of the most important issues facing the citizens of our nation.

Tindall and Ranson provides plumbing, heating, and cooling services. My wife, Kathy, and I established the company 20 years ago. We now have 20 full-time employees. I am proud to say that we provide quality health care insurance to all those working at Tindall and Ranson.

For the purposes of my appearance, I would like to ask that you look at me as a small business job creator. I further ask that you receive my testimony as someone who has worked to help create, build, and improve the quality of life for those living in my community, as well as providing quality careers for those who work for my company, my partners.

I am not an expert in health care reform. I am, however, a person who must live with business decisions and policies that Congress establishes which either increases or inhibits my ability to create jobs. For that I am an expert. I have yet to understand how as a nation we continue to state that we need to create more jobs, yet challenge, threaten, or even ignore the very mechanisms for job creation.

I would like to touch on a very few small business dynamics that relate to health care reform.

Small business health care credits. When Congress passed the health care reform package, I heard and read much about tax incentives for small business. I received material with the intent of calculating any benefits of the reform in terms of tax credits. I am proud to say that I do not qualify. The average salary for those who work for my company exceeds the $50,000 threshold, thereby disqualifying me. Tax credits as an incentive are meaningless unless you happen to fall within a very limited universe as defined by the reform.

Rising insurance premiums. One of the issues during the health care reform debate was rising insurance premiums and the need to be brought under control. I could not agree more. But that is the difference between policy and the real world. For my company, insurance renewal costs for 2011 experienced an increase of 9.7 percent, followed by an increase of 9.3 percent in 2012. Because I always view those who work for my company as partners and because I will always provide my partners and their families with quality health care insurance, this increase simply means the cost of doing business has increased. Eliminating health care insurance or perhaps turning to a lower quality health care insurance to save money is not an option. The continued rise in cost of providing health care insurance absolutely stifles my ability to create, provide, and sustain jobs.

Educational materials. As an officer of the Plumbing-Heating-Cooling Contractors National Association, I have access to health care reform information webinars, materials, and analysis, and I take advantage of all those tools. I raise this point for two reasons.

1. With my years as a member of the association and my position as an officer with the association, combined with the efforts and time to understand the complexities of the reform, I still have questions and concerns.

2. I raise the question—what about other small businesses across the country who do not belong to an association—state or national? We assume these small businesses know about reform and understand its timetables, but I would submit they may not have the resources, time, ability, or know-how to reach out and find out more.

I very much agree that one of the nation's top priorities should be job creation, but job creation is not a concept. It begins in communities like mine and with people like me.

In closing, Mr. Chairman, I would like to thank you and the members of the Committee again for this opportunity. I would be happy to answer any questions that you may have either now or in the future. Thank you.

Chairman GRAVES. Thank you, Mr. Tindall. I appreciate it.

And we are going to turn to Mr. Collins.

Mr. COLLINS. I would like to thank the panel very much. I have a question really for you, Mr. Tindall. But first of all, Dr. Holtz-Eakin, you have confirmed a lot of the things I have heard as well.

Last week I was the breakfast speaker at the Job Creators Alliance Leadership Summit down in Florida, and I heard time and again the very issues that you were raising. So thank you for your comments.

And Mr. Gouldin, I am a fellow member of the NFIB, a great organization.

And I would like to also congratulate Ms. McQueeney and Mr. Tindall on being job creators, entrepreneurs in what we know is a tough economic climate. And more so even in understanding the fact that you provide your employees health care because that is not true of all small businesses.

So Mr. Tindall, my concern is jobs. And there is a saying that I have in the business world, "You grow or you die as a small businessman." You have to focus on growth. But then again, you have got expenses. So I guess my question to you, and also if you could relate what you are hearing from other folks in the plumbing, heating, and air conditioning business, as your expenses are going up and you are faced with this mandate, my view is you either have to raise prices, but that could cost your company market share because others may not be doing it, or you are going to have to cut expenses. I do not see an alternative. And if that is advertising or other things to get more business, all I am seeing is a wet blanket on job creation. And I would like to ask you to speak to your company, but also what you are hearing from other fellow members of your association.

Mr. TINDALL. Absolutely. Their primary concern is obviously there are—some of my competition does not provide health care to their employees, and this law did not really do anything to help that. The other thing is we are not being able to predict the cost going forward. You know, the implementation of the law was supposed to create a cost controlling mechanism and as a company I have not seen that yet. Quite the contrary. I mean, the renewals are talking about up to a 50 percent increase on renewals, which is going to create very much the issues that you are talking about. It is unaffordable. We will have to look at other options but, you know, we still do not consider elimination of health care an option. So it is of great concern. And I guess the biggest problem I have is that it is unpredictable.

Mr. COLLINS. Quickly, Dr. Holtz-Eakin, you mentioned the medical device tax. I would like to point out, and you certainly know this, but it is 2.3 percent of revenue. Not 2.3 percent of profit. So if you are a small business and it is 2.3 percent of revenue and you are just barely breaking even, I can do the math but I would like you to share what you think might be happening in those companies subject to that if, in fact, they do not make 2.3 percent of revenue even to their bottom-line.

Mr. HOLTZ-EAKIN. We actually have a research paper on this which I would be happy to provide to you but the situation is exactly as you characterize it. You have a lot of these companies who have very small profit margins, under 2.3 percent. The 2.3 percent chews up all the profit margin. They are typically start-up innovator device companies who need to plow that money back into the firm in order to get scales sufficient to market more effectively. They do not have the opportunity to do that. Often, they cannot hire in times they need to. And the anecdotal evidence that I have heard already is about several of these firms simply giving up and leaving the industry.

Mr. COLLINS. To follow up on that, I assume you could support easily a cap to say if the medical device tax at 2.3 percent of revenue but cannot exceed something like 10 percent of profits, which would answer the question of some company where they do not even make 2.3 percent, certainly modifications like that which bring the tax burden into alignment with the underlying economics of these enterprises is the right thing to do. If you put aside the large debate over the designability of the law, there is a lot of bad tax policy in the Affordable Care Act. If you just look at it as tax policy—the device tax, the investment tax, the health insurance fee premium tax—are all designed in ways that have very perverse economic incentives and need to be fixed.

Mr. COLLINS. Thank you very much, Mr. Chairman. I yield back.

Ms. VELÁZQUEZ. Mr. Chairman, in light of the fact that there is going to be a vote, I will defer to my colleagues on the democratic side.

Chairman GRAVES. Thank you.

Ms. VELÁZQUEZ. I will be coming back. I will ask my questions later.

Chairman GRAVES. Mr. Schrader.

Mr. SCHRADER. Thank you, Mr. Chair.

Mr. Eakin, a lot of work—excuse me—on this issue. Did you take into account the number of small business jobs that will be created as a result of the consulting industries that are developing, doctors' offices, nurse practitioners being hired to fulfill the need of implementing the health care bill?

Mr. HOLTZ-EAKIN. We have not done a precise employment estimate.

Mr. SCHRADER. Okay. So that has not been done. Did you take into account the benefits that will occur in lowering costs based on the event of health that was testified by Ms. McQueeney, the fact that we have lifestyle adjusted premiums that will obviously drive down costs? Was that part of your analysis?

Mr. HOLTZ-EAKIN. There is no evidence that——

Mr. SCHRADER. But you cited anecdotal evidence just a moment ago that the premiums are going to be going up maybe 50 percent and stuff.

Mr. HOLTZ-EAKIN. That is actually a survey.

Mr. SCHRADER. If I may reclaim my time.

My point is that while your study is prophesying doom and gloom, the premiums on my small business, my little vendor world, were going up double digits prior to any discussion about health care reform. Every single business man/woman I knew in my great state of Oregon was clamoring for health care reform. The real world is the health care bill has not even taken effect yet. And that is what the 9 percents that Mr. Tindall has talked about that are

9 to 10 percents that are gouging him. The higher double-digit increases we have seen.

Now, the one point I think the panel has made very well, and I truly appreciate it, is the uncertainty. You do not know what is going to happen next. Is it going to get worse? Is it going to get better? Did I buy a pig in a poke with this whole ACA thing? That is legitimate, and unfortunately, it is going to be uncertain for a little while. Panels like this can help inform us. I do agree with frankly the discussion on the temporary workers. Our definition there probably needs some tweaking. I think that is a really good, solid point and hopefully we will bring that back.

The medical device issue though, I mean, I disagree again respectfully, Mr. Holtz-Eakin, that all these new taxes are horrific and going to stifle jobs in the industry. What was taken into account during the ACA discussion by the insurance companies, the medical device manufacturers and everyone else that was going to see a score of new lives, have access to their products, have access to insurance that do not have access now, they are actually going to drive the cost down over the long term. They are actually going to be able to sell their devices where they could not sell very many of them before.

So I think it is very important that we understand that during the ACA, I did not hear a whole lot of discussion about this. After the ACA, sure. No one wants to pay any more taxes than they have to. I get that. But the real world is I think there is a tendency to overstate things.

And the last comment I guess I would make that I think is extremely important is that we have already seen economists around the world, maybe you are one of the few that does not agree, but I just came from a presentation by Doug Elmendorf a few moments ago. There seems to be a growing consensus among economists that the moderation in health care costs—not just Medicare, not just Medicare—but in private health care costs, it is not just because the recession is preventing people from getting health care. That is part of it. I get that. But it is because of the rethinking that the medical community is thinking about how they deliver health care. Bundled health care payments, more coordinated care. I mean, over the long haul I think we will have huge benefits in driving costs down.

And I am old enough to remember back when we looked at different types of health care premiums 15, 20 years ago, and my state, we were trying to do this managed care thing and jeez, what is that going to do? It drove costs down dramatically, despite the initial fears that it was going to be the worst thing since, you know, the invasion of France by the Germans for goodness sake. So there has been some tremendous changes that I think we want to figure out what the real score is going to be before we all say it is horrible. Productively from the panel is there some key tweaks we have to do? Get rid of the uncertainty as soon as possible.

Last, last comment is, you know, a question, I guess. How many businesses, small businesses have less than 50 employees? Doctor, do you know the answer to that one? I do but I am just asking.

Mr. HOLTZ-EAKIN. The number of small businesses?

Mr. SCHRADER. Less than 50 employees.

Mr. HOLTZ-EAKIN. I do not know the precise number.

Mr. SCHRADER. Yeah, it is 97 percent.

So the bottom-line is most businesses, most real small businesses, are not going to be affected by this. They are totally unaffected. They do not have to pay health insurance. Do not pay a bloody penalty. Do not have to do anything except go to work every bloody day. And their employees go to work.

So let us put this in perspective. I do agree—I am trying to be collegial here—that those businesses between 50 and 200 employees—this is a tough deal. We have got to figure out how to make this work for you all. Business as usual will not do it. And it is a sad comment I think that health insurance premiums—I provide health care to my employees. My maximum deductible says health care costs went up. Got up to 200 to 500. Now 2,000 is not uncommon. That is just a comment on the current system; let us make it better.

And I yield back. Thank you.

Chairman GRAVES. Mr. Mulvaney.

Mr. MULVANEY. Thank you, Mr. Chairman.

Ms. McQueeney, I am a little confused because what I am hearing is that your costs went up only very slightly because of the Affordable Care Act, and Mr. Tindall's went up a lot because the Affordable Care Act has not yet been implemented. So I am a little confused on that. But I want to talk more about your business.

I was listening to your story about your business and was wondering, your health insurance premiums should have gone up considerably; right? I mean, you have had people with substantial claims. You have had some people with some health issues. Your health insurance premium should have gone up; right?

Ms. MCQUEENEY. I have been at Palm Beach Grove since 2000, since the year 2000. And the premiums of health care have gone up every single year, arbitrarily, whether we had a health experience or not.

Mr. MULVANEY. But last year——

Ms. MCQUEENEY. Last year it went up, and I understood that one because we had four horrendous cases. That I can understand. But the previous 11 years I really could not understand.

Mr. MULVANEY. You had four horrendous cases and your premium only went up 0.2 percent?

Ms. MCQUEENEY. No, no, no. That was the year 2010–2011. Last year, 2012. So the premiums for 2013 went up again.

Mr. MULVANEY. And I guess there is my point. You are employing—you said all your employees were in their 50s and their 60s.

Ms. MCQUEENEY. Yes. The ones that are on the plan; correct.

Mr. MULVANEY. Health care costs are not going down. Health care costs continue to go up. They go up faster than the rate of inflation.

I would suggest to you, Ma'am, that the reason that you experienced this particular benefit is because you were hiring people or you have people who are 50 and 60 years old. And it is folks like my business where we hire young people, folk 18, 20, 22—I ran a restaurant—who are paying for your low rates.

Ms. MCQUEENEY. Would you like me to lay them off?

Mr. MULVANEY. Ma'am, I will tell you that someone has to pay for it. Someone has to pay for it. It is not free.

Ms. MCQUEENEY. I understand.

Mr. MULVANEY. You are getting it for free, and you are getting it on the backs of people who are 18, 20, and 24 years old. If you are a young person in this country, it used to be that the insurance companies could charge you a much lower rate than they could to older people. It was, I think, age banding or something like that.

Ms. MCQUEENEY. Would you prefer——

Mr. MULVANEY. The Affordable Care Act, Ma'am, I would be happy to ask you a question in a few minutes. The Affordable Care Act prevents us from doing that. The Affordable Care Act is now forcing insurance companies to raise premiums on young, healthy people because they are no longer able to offer them lower rates.

So I suggest to you that while it is great for your company, it has worked out wonderfully for you, someone is paying for that. And that someone happens to be folks who are probably under the age of 30 and who are healthy.

Mr. Holtz-Eakin, you mentioned before about the medical device tax. If my margin in my business is 2.3 percent or I am paying a 2.3 percent sales tax on my revenues, what percentage income tax is that?

Mr. HOLTZ-EAKIN. It is nearly an infinite income tax. It is a zero base.

Mr. MULVANEY. Exactly. If you are not making more than 2.3 percent gross margins, this is at least 100 percent income tax on your business. That is what this act stands for. If you voted for this act, you voted for a 100 percent increase on some businesses. One hundred percent tax income or income tax on some businesses. That is what I cannot get through a lot of my small businesses' heads when they come in and say, "Oh, this has worked out for me." There are other folks for whom it did not work out for. There is nothing free in this business. Someone is paying for your low premiums, Ms. McQueeney, and my guess is it is several of the other people here at this podium.

Ms. MCQUEENEY. Can I answer you, please?

Mr. MULVANEY. I did not ask you a question.

Ms. MCQUEENEY. Oh, I am so sorry. But I would just, respectfully, I would like to say to you I pay $1,200 a month with a $5,000 deductible. I am not taking anything for free from anyone. We have people that pay $1,800 a month.

Mr. MULVANEY. Do you know how much the coverage costs? How much the actual health care that your employees receive cost? Do you know what you got in exchange for that premium?

Ms. MCQUEENEY. Can I ask you another question?

Mr. MULVANEY. I am asking you a question. Do you know——

Ms. MCQUEENEY. Last year we got an enormous amount of money in health care for that. Absolutely.

Mr. MULVANEY. How much?

Ms. MCQUEENEY. How much they actually were billed for or how much the insurance company actually paid?

Mr. MULVANEY. How much did it actually cost?

Ms. MCQUEENEY. Which number would you like?

Mr. MULVANEY. Tell me how much it actually cost.

Ms. MCQUEENEY. No, which number would you like? I can give you two numbers.

Mr. MULVANEY. If I ask you the question how much did it cost——

Ms. MCQUEENEY. First of all, I do not have the records to my employees. That is private information.

Mr. MULVANEY. You do not know the answer, do you?

Ms. MCQUEENEY. I do know the answer.

Mr. MULVANEY. None of us know the answer. None of us know what health care costs in this country. You can go to the doctor today and ask them—I do because I have a high deductible program. What does it cost? Ma'am, please.

Ms. MCQUEENEY. What would you like me to do? Lay people off?

Mr. MULVANEY. Please. I do not want you to lay any people off. I want you to understand——

Ms. MCQUEENEY. What would you like me to do then?

Mr. MULVANEY.—the fact that someone is paying for that and it is young people in this country.

Ms. MCQUEENEY. I cannot access your health care. I have no choice.

Mr. MULVANEY. I have the same—I have the same health care as every other federal worker.

Ms. MCQUEENEY. But I do not have that choice.

Mr. MULVANEY. I have a high deductible program. I go to my doctor's office with a sick child and I say, "How much does this visit cost?" Do you know what they tell me? They do not know. We do not know what health care costs. You are complaining about a premium that you say costs $1,200 a month. That is only an unreasonable number depending on what you are getting in exchange for that $1,200 worth of premium. If you are getting a million dollars worth of actual benefit for $1,200, that is not a bad deal. And I would suggest to you that we have broken down into a discussion about health insurance, not the cost of health care. We are sitting here discussing today what our premiums are, what happened to our premiums, what we have to pay to our employees, and the difficulty is that we are not talking about the cost of health care; we are talking about the cost of health insurance. And unless you know what health care costs, you have no basis for saying that your health insurance is expensive, cheap, a great deal, or a lousy deal.

I ask you one last question, Ms. McQueeney, which is you mentioned your daughter—oh, I am sorry. The clock was not turned on so I lost track. I am sorry. I apologize. I yield back the balance of my time.

Chairman GRAVES. Ms. Hahn.

Ms. HAHN. Thank you.

I am one of those that obviously does believe that the Affordable Care Act is going to make for a healthier nation, a healthier business climate. And I do know that there is a lot of misfortune of misinformation out there, a lot of outright lies and deception that are being propagated in terms of the Affordable Care Act.

I actually just held a workshop in my district with Natalie Orta of the Small Business Administration and David Chase of the

Small Business Majority. And I had about 25–30 small businesses that actually for the first time heard the actual facts about what the Affordable Care Act would mean to those small businesses. And the first fact that bowled everybody over is what Dr. Schrader talked about, which is 97 percent of the businesses will be exempt from this because they have less than 50 employees.

But one of the things—by the end of the workshop everyone was feeling a lot better about the benefits of the Affordable Care Act. Many of them had also received the rebates from the insurance company because they were not spending 80 percent of the premiums on health care and only 20 percent on administration. So that is already a huge benefit to people who are paying into the system.

You know, I was going to ask Ms. McQueeney, you know, clearly you felt it was important to offer your employees health insurance even before the implementation of the Affordable Care Act. Could you expand on that a little bit, particularly because some of your competitors were not providing health insurance. You were spending a little bit more money on that. Could you share with us why you felt that was an important thing to do and how did that ultimately benefit your business?

Ms. MCQUEENEY. Well, the family that owns Palm Beach Groves, they have always provided health care. And again, I have to stress that this is how you get health care in this country is through employment overall. And it used to be not a problem as big as it is now. It is a huge problem, and every year you have to make the choice can we continue on with this? Like Mr. Tindall says, or do we need to cut the health care—do we need to cut their insurance? It is not an easy decision to make but we do not have any control over—I agree with him, we have no control over any of the costs. I have no leverage with the insurance company. I cannot go there and say, no, I want a better plan. There is just nothing out there for us. So what am I supposed to do? That is my question. I would like to have people answer me. What would you like me to do? Not insure? Get on the rolls of the uninsured? I do not want to do that.

Ms. HAHN. Well, that is what I was hoping you would elaborate on a little bit. What are the benefits for you?

Ms. MCQUEENEY. The benefits are people are secure in their jobs, they are great staffed, they know the company. I do not want to lose them over this. They are like family to us. Am I going to devastate people financially because they get sick to no fault of their own? It is just the system is broken and we are trying to find help here.

Ms. HAHN. Well, the system was broken and I think that is why this Congress passed the Affordable Care Act to fix what was a very broken system.

Ms. MCQUEENEY. But I do agree it is not addressing the cost. It is not addressing the cost enough. And we have no control over the cost whatsoever. I can go to a doctor's office, and I have asked how much is a particular procedure. And you get no answer. None.

Ms. HAHN. Right. And that is the real problem, is the real true cost of health care.

Ms. MCQUEENEY. If I have a heart attack I cannot say how much will this cost to fix my heart because at that moment I might not be capable to make that decision.

Ms. HAHN. Right. Well, again, I would urge my colleagues to hold similar workshops with the Small Business Administration, with those who are actually very knowledgeable in what the Affordable Care Act does and walk people through—small businesses out there are fearful. They are uncertain. And again, there are a lot of lies out there that just are not telling the truth about what this law will actually—how it will actually benefit people in this country.

Thank you.

Chairman GRAVES. Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Just so conceptually there is an understanding, my friend, Mr. Mulvaney, was basically just trying to describe transfer costs. Basically, we have decided to transfer costs to young taxpayers or just young people in their health care costs to subsidize folks on the other end of the age curve. So it is very simple. Once again, I think the technical health care term is young people get screwed once again.

Doctor, can you actually—a couple mechanical questions. I repeatedly hear stories of businesses that are basically now trying to manage their employee counts to stay under 50, to stay under their number of hours. What do you see happening out there? And some of the blogosphere discussions on small business sites now talking about how they are even trading employees, even though they are separate organizations to keep them all under there, are we about to see a transition in the small business economy to gain the new health care law?

Mr. HOLTZ-EAKIN. Well, certainly, the incentives in the law are what they are and they have been a concern. Exempting everyone under 50 employees means that you penalize people for taking on the 50th employee. And the incentive effects of that are one of the things we are going to try to see how they play out, especially in the part-time fund that we discussed before. It was a concern with the small business tax credit which penalized paying people more, taking on workers, how it was anti-growth and which the administration in its budget actually proposed trying to reform for a year, try to take some of those features out. But that cost $10 billion every 10 years and shows you the problem, the tension in the law on that front.

So what will ultimately happen? We do not know. It is something I have been concerned about and we are watching carefully. I do know that with subsidies as generous as the ones that we see in the exchanges and the negative incentives to take people on as employees and offer them insurance, there is the real potential for clever gaming of the system to leave people in the exchanges. And that has been a concern from day one.

Mr. SCHWEIKERT. Mr. Gouldin.

Mr. SCHRADER. A point of order, Mr. Chair.

Chairman GRAVES. Yes.

Mr. SCHRADER. Just real quick. People cannot drop their business coverage and move to the exchanges. They do not get any subsidies. If your employer offers you a legitimate health care plan that meets the test, you cannot drop and go into the exchanges.

Mr. HOLTZ-EAKIN. That is true.

Mr. SCHWEIKERT. Hold on. My time.

Mr. Chairman, I was happy to yield but I do hope the left side will also extend the same courtesies when we have a point of order. All right?

Ms. VELÁZQUEZ. Excuse me, but the previous member——

Mr. SCHWEIKERT. Madam Ranking Member, I did not yield. Okay? I was just making a simple, simple point so we can have the dialogue.

Mr. Gouldin, back to my point and my time, if we are—basically now have designed our economy through this health care law saying you do not want to go over 50 employees——

Mr. GOULDIN. Exactly.

Mr. SCHWEIKERT. You do not—we have just created a whole series of incentives to not grow. What have you done to—mechanically, your business, you are up against 50 employees. What would you do? What do you do now?

Mr. GOULDIN. Well, in our case, we are above that line so I do not have to think about that anymore. We are going to have to pay the premiums, but you know, I think most of the analysis that I have seen thus far has been talking about the escape penalty. And I watched the escape penalty as it was being written. It started at $400 and I tried to tell everybody that was just a sucker's pitch. And it went to 750. Then it went to 1,000, and it went to 2,000. And anyone in this room or anybody in this country that thinks it is going to stay at 2,000 is insane. It is going to go through the roof—2,500, 3,000, 4,000, 5,000. It was designed to be the least expensive thing for an employer to do. And lay loose.

Mr. SCHWEIKERT. Is it Mr. Tindall?

Mr. TINDALL. Yes.

Mr. SCHWEIKERT. Okay. You were sharing with the Committee that you have a small problem in the fact that you pay your employees on average over 50,000 a year; correct?

Mr. TINDALL. Yes.

Mr. SCHWEIKERT. I will ask you to turn on your mic.

Mr. TINDALL. I did. I am sorry.

Mr. SCHWEIKERT. I am sorry. Sometimes these things you have to lean into.

So now we have created an environment where if you were actually rebuilding your compensation packages from a business modeling standpoint you would do everything you could not to break that 50,000, whether you had to find some way to gain it in other mechanics, you need to stay under that $50,000 average to get some of the benefits that are built into this law. Am I understanding your position?

Mr. TINDALL. I would have created it with a philosophy that there were a number of employees that would do that just because of the cost savings.

Mr. SCHWEIKERT. So once again we look at this new health care law and we are doing everything in our power to transfer costs to young people, to keep businesses from growing, and to suppress salaries.

Mr. Chairman, with that I yield back.

Chairman GRAVES. With that we have got one vote, so we will adjourn and come back. Mr. Murphy will be up or whoever next. Whoever is next in line.

It should not take us very long. Long enough for us to walk over and walk back. I apologize for the inconvenience to all of you. Nydia and I do not get to set the schedule, unfortunately.

[Recess.]

Mr. HANNA. Thank you, Mr. Chairman.

Ms. VELÁZQUEZ. Go ahead. I am not ready.

Chairman GRAVES. Okay. We will go with Mr. Hanna.

Mr. HANNA. Thank you.

It is pretty clear to everybody there is a lot of hyperbole and myths and disinformation associated with that and I would hope that we do not need a health care provider in this room today the way things go sometimes. This is one subject that gets very heated.

The Federal Reserve though recently, Mr. Holtz-Eakin, in their own Beige book, our Federal Reserve, which examines economic conditions across the country called and cited the health care bill as a reason for employers having layoffs and holding back hiring. Your January 13th analysis of major insurers, particularly that across all markets the law will dramatically increase the cost of insurance for small employers, precisely that group most likely and to be affected by this mandate, I would like you to speak to that if you could, sir.

Mr. HOLTZ-EAKIN. Well, thank you. There are lots of reasons to suspect that the provisions in the law would raise insurance premiums, and whether it is the underlying benefit package or the inability to charge young relatively less compared to older individuals, the coverage of preexisting conditions, all of that has been debated for a long time. So I thought what we ought to do is simply take very specific insurance policies in very specific places, whether they were Albany, New York or any other particular city that we might want to look at, and then ask insurers what would the different provisions in the law do to the cost of a premium for this particular policy? And we sent that to the insurers. They sent back their answers to my lawyer.

Mr. HANNA. So this is as empirical as you could get it?

Mr. HOLTZ-EAKIN. We should go to the people who do this and find out what the numbers are. And they are as I reported in my written testimony, and we have a larger paper on it, quite striking in many cases. Triple digits.

Mr. HANNA. Could you elaborate on that? I mean, I happy to give you the balance of my time to talk about all of that.

Mr. HOLTZ-EAKIN. We tried to do this as impartially as we could by picking very specific policies. We were not going to let insurers pick the policy that went up the most or anything like that. We asked a very particular question. I do not know which insurers answered. I do not know what individual insurer responses were. They sent their survey responses to my lawyer, who signed a confidentiality agreement. He added up the averages and brought them to me.

Mr. HANNA. The broad conclusion was?

Mr. HOLTZ-EAKIN. And the broad conclusion is for small employers, especially those with younger, healthier workforces, you are going to see what I think of as sticker shock in health insurance premiums come 2014.

Mr. HANNA. Generally, what would you say about the incentive structures that are built within the employer mandate and the employee mandate, if you will?

Mr. HOLTZ-EAKIN. This raises the cost of employment. I mean, there is no question about that. For those who are already offering insurance, we made the benefits more rich and we see the premium shock for those who are not. It is a more costly thing to get into. For minimum wage workers, you cannot lower their wages to cover the additional insurance cost. So this is a negative impact for employment. It is not offset in any serious way by other provisions of the law. And the one thing we do know is that there is a very rich set of benefits sitting out in the subsidized exchanges, and the concern for a long time has been employers would get out of the business of offering employer-sponsored insurance and they would end up on the government and the taxpayers' fist.

So those are the incentives. If you do not hire——

Mr. HANNA. So extrapolate from that. If I were to say to you then this system is either implicitly or explicitly designed to move towards a single-payer option, what would you say to that?

Mr. HOLTZ-EAKIN. I would say you cannot rule that out. Given the structure of what is going on, employers are not going to hire.

Mr. HANNA. Without underlying cost savings——

Mr. HOLTZ-EAKIN. If we are going to recognize they will not cover whole families in many cases. They will offer affordable insurance to employee but not family coverage. We are going to have other issues.

Mr. HANNA. So if we do not change the fundamental delivery system of health care, whatever that means, ultimately this is only going to cost more.

Mr. HOLTZ-EAKIN. Yes. The things I just covered were all insurance rate effects. Remember, insurance just covers the nation's health care bill. It shifts it around from one person to another. Our problem is the bill is too big for the quality of care we get. That is the core issue that remains to be solved.

Mr. HANNA. Do you have a few ideas on that? I have a minute and a half here.

Mr. HOLTZ-EAKIN. I have a day and a half's worth of ideas on that but, I mean, I think the number one thing that a Congress could be would be to do Medicare reform. Medicare pays a lot of America's bills. It drives practice patterns. And at the moment it is dominated by care that is uncoordinated, fee for service, and in many ways drives bad practice patterns in the United States.

Mr. HANNA. How big a factor in all of that would you say—I mean, we have talked about the fact that nobody in this room, certainly I do not, know what my health care costs. That is a big deal.

Mr. HOLTZ-EAKIN. Big problem.

Mr. HANNA. We are not informed purchasers of health care, which is 18 percent of our economy. For many of us it is the biggest thing we purchase on a regular basis. How big a problem is that?

Mr. HOLTZ-EAKIN. That is a very big problem, both in the lack of transparency in some cases, which should be fixed, and also the lack of incentive to care what it costs. Third-party payer does that.

Mr. HANNA. Sure. So the people can basically get sick and hope that the government can handle it, take care of it?

Mr. HOLTZ-EAKIN. The trouble is——

Mr. HANNA. Not that anything wants to get fixed.

Mr. HOLTZ-EAKIN.—balance sheet recently, that guaranty is far from perfect.

Mr. HANNA. Thank you. I yield back the balance of my time.

Chairman GRAVES. Ranking Member Velázquez.

Ms. VELÁZQUEZ. Yes, thank you, Mr. Chairman.

I would just like to hear your comments. ACA, Affordable Care Act, is the law of the land. It is happening. It will happen. It will be fully implemented. We understand from anecdotal experience shared with us that some businesses are facing premiums going up. It looks like some insurance companies some might say are rushing to increase the cost of premiums in light of the fact that there is going to be full implementation of the Affordable Care Act. Is it not true that once most of the important provisions of the Affordable Care Act are implemented, one event that will bring transparency, increasing the pool of people that will be insured, that that by itself provides for more competition and will draw costs down?

Mr. HOLTZ-EAKIN. I do not think so. I think if you put aside the health insurance aspects, which are a big part of the bill, as I said before, the core issue is how much the United States spends on health care and the purpose of insurance is to simply shift that cost from one person to another so they stay within their financial means. I do not think there was anyone who in the aftermath of the signing of the Affordable Care Act felt it bent the cost curve. The Congressional Budget Office did not say that.

Ms. VELÁZQUEZ. Okay, if I ask you what is the one area you recommend changes be made in order to make it better? It is going to happen. You can come here and talk about your studies and reports and everything, but it is going to happen. So we need to move forward.

I would like to ask Ms. McQueeney, in your dealing with, you know, the IRS, you learn from the IRS about the tax credits. You took advantage of it. You got rebates back. What are you doing with that money? Are you reinvesting that in your business?

Ms. MCQUEENEY. Absolutely.

Ms. VELÁZQUEZ. What has been your experience with the IRS in helping you navigate the system?

Ms. MCQUEENEY. Well, I am on a small business IRS e-mail list, so if there is anything that affects our business then I get informed that way. I downloaded the form. It takes about an hour to do. And submitted it to the accountant and he submitted it and we got the tax credit.

Ms. VELÁZQUEZ. For the small businesses that are here, the IRS released the proposed regulation just a few months ago. A hearing will be held next week regarding feedback they receive. So I would like to know if any of you or your respective trade associations provided any comments to express your concerns about these guidelines. Have you done that?

Mr. TINDALL. I was not aware of the Committee hearing going on, and as far as I am aware of, our association has not provided any testimony or any comment.

Ms. VELÁZQUEZ. They have or have not?

Mr. TINDALL. Have not. Have not.

Ms. VELÁZQUEZ. Okay. So then if you have not done that or your association, and this is the process where public comment is allowed, how do you think that the concerns that you have could in any way be raised so that they consider those and come out with a final rule?

Mr. TINDALL. I agree with you that we should be involved in it but the problem is, again our primary responsibility is to run our businesses and create jobs. And we, unfortunately, do not have the time to focus on everything that is going on down here.

Ms. VELÁZQUEZ. But the associations, your members, they are supposed to do that.

Mr. TINDALL. Absolutely. Absolutely. But not every plumbing and heating contractor across the country belongs to an association. So, and I believe a large number of them do not by a lot. And so for those people to be involved in the process, they do not even know the process exists.

Ms. VELÁZQUEZ. If it is a trade association, believe me, they do. They do.

Yes, Mr. Gouldin.

Mr. GOULDIN. I personally have written to the IRS with my comments throughout the entire process, plus this is what the American Florists and the National Federal of Independent Business have also.

Ms. VELÁZQUEZ. Okay.

Mr. GOULDIN. Right now the biggest concern to my business is that we are waiting for the IRS to rule on what is going to be the definition of seasonal worker. Right now nobody seems to know what that is going to be. That is a big issue.

Ms. VELÁZQUEZ. Okay.

Ms. McQueeney, 90 percent of small businesses have 20 employees or less, which means that they are now subject to the insurance mandate in the Affordable Care Act. However, these businesses are eligible to receive tax credits, which you benefitted from. And so given this reality, do you believe that the concerns regarding the impact on small businesses are a little bit overblown?

Ms. MCQUEENEY. I can only speak for our business.

Ms. VELÁZQUEZ. Sure.

Ms. MCQUEENEY. In our case it helped us with our 2011 year. You know rates went up in 2013 or just last time period because of what we experienced last year. But definitely, that was the first time ever in all my years of Palm Beach Groves that the cost ever went down.

Ms. VELÁZQUEZ. Okay.

Ms. MCQUEENEY. It has been consistently going up.

Ms. VELÁZQUEZ. Yes, Mr. Gouldin. I know that you have, what, over 150?

Mr. GOULDIN. We range between 120 and 150. And your question was whether or not we have seen health——

Ms. VELÁZQUEZ. Well, when people are making statements about the mandate, it just—it makes it sound like it is going to impact most small businesses when, in fact, 90 percent of all small businesses have 20 employees or less.

Mr. GOULDIN. Well, it has direct and indirect impact. But you are right in that the law requires participation once you hit 50 employees. But I think that all businesses, regardless of size, see the paperwork and requirements of reporting as a major expense. In our case, in our small company of 150 people, we will probably have to hire an additional person full-time just to track our compliance of our staff to their scheduling. It is a very complicated law.

And so its biggest expense to small businesses, even the ones below 50, is the state of confusion that it has caused, and that is the state of confusion caused by the complexity of the law.

Ms. VELÁZQUEZ. Complexity and maybe misinformation. So we have to do a better job as government and elected officials to provide the information and do workshops and bring government officials from HHS, IRS. I have done that in my district and believe me, those who were confused are not that confused anymore and are taking advantage of the tax credits provided by the law for those type of businesses.

Many uninsured, Mr. Gouldin, many uninsured consumers are forced to set-aside money in low interest accounts to make sure that they have enough to cover unexpected medical costs. You mentioned how important it is to maximize employment and economic growth. Would you agree that the security provided by health insurance can free up that savings for more purchases of consumer goods? In fact, when we hear about surveys among small businesses, the number one issue that comes up is the lack of consumer spending.

Mr. GOULDIN. I think that the number one problem we have right now as a result of the financial collapse and the restructuring is the lack of employment. And I am amazed by all the things that I read all over the place about the stock market's return and everything else's return, but employment is still terrible. And everybody, all the greatest economists seem to be so befuddled. Why is no one hiring? So my question is, well, I do not know. What has changed during the process? And my answer to that is that, one, the Affordable Care Act got passed and a lot of businesses are confused and frustrated and see additional costs coming their way that they are trying to figure out what are they going to be. And we did raise minimum wage 41 percent, the last year being 2009, right in the middle of the recession. There is talk about raising it again.

Ms. VELÁZQUEZ. Okay.

Mr. GOULDIN. So that would slow employment. And without an increase in employment, you cannot get the economy back on its feet.

Ms. VELÁZQUEZ. It is just that we love to comment on surveys conducted about small businesses and what they feel are the most important obstacles hindering economic growth or expansion in their businesses, and they mention the lack of consumers coming through their doors, regulation, and health care number three, four. So that is why I was making reference to it.

Ms. McQueeney, more young adults are moving back home after college, exactly for some of the reasons that Mr. Gouldin made reference to. It is very difficult to find employment. And now we know that under the ACA, children can stay on their parents' health insurance until they turn 26, ensuring that they have health coverage. Are your employees finding this new benefit to be helpful for their families?

Ms. MCQUEENEY. Yes. All of us, again, are in our 50s and 60s, and all of us have children that age. They are all on our health plan.

Ms. VELÁZQUEZ. Thank you.

Chairman GRAVES. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. Thank you, panel, for being here.

You know, last month I spoke to a Pizza Hut franchise owner in my district. Nancy stated that the federal health care law has caused a variety of issues for restaurants and employees, and one of the biggest hindrances is a change that now classifies full-time work as averaging only 30 hours per week. And she stated that because of this change alone she will not be hiring any more full-time employees and eventually will have to be able to reduce some of their formerly part-time employees to those hours. She described in detail a conversation she had with one of her employees who was literally in tears about the prospect of having those hours cut.

Some of you may well remember with me a time in this country when we fought to have a 40-hour work week. Now we have got people that are trying to fight to get a 40-hour work week. And because of the Affordable Care Act we are continuing to see I think something that was well noted. Businesses that are afraid to hire. We do not know what the costs are going to be and the impacts economically across the board, I believe we truly have yet to fully measure.

You know, Mr. Gouldin and Mr. Holtz-Eakin, maybe you would answer for me the question when we are talking about regulatory compliance. We have had numerous amounts of testimony in this committee. Right now we are spending $1,750,000,000 in regulatory compliance. Small businesses are paying better than $10,000 per year per employee just to be able to comply with the federal government. And you note now an additional $30 billion burden is being put on the back of small businesses in this country. Is this going to discourage hiring?

Mr. GOULDIN. I think without a doubt. As I said before, we need a paradigm change in this country. Most of us have lived in the belief of America the way it was post-World War II up until 1970, which was there would be plenty of employers to hire plenty of employees. Those days are gone. We are in a competitive world and we have to meet with competition. So whenever you increase the cost of anything beyond what the market will bear, you create problems. I think that from my experience of being in business 40 years, and I look at all the great successful businesses. The big publicly ones, they are all in the business of labor elimination. I am in the labor business. Our business hires people. We are a labor-intensive craft industry, but all the efforts that most big businesses that make a lot of money make it on is—think of Amazon. It is all labor elimination. So I think we just keep leering on costs of employment and thinking there will not be any impact. I am telling you the impact is massive unemployment.

Mr. TIPTON. You know, I would like you both to maybe just give a quick comment, if you would. This just came out on the Hill this afternoon. Senator Max Bacchus, a democrat out of Montana, Senate Finance Chairman commenting to Secretary Sebelius. He said Wednesday he fears a train wreck as the Obama administration implements its signature health care law. "I see a huge train wreck coming down," Bacchus told Health and Human Services Secretary Sebelius at a Wednesday hearing. "You and I have discussed many times and I do not see any results yet."

Is the confusion—is the cost one of the biggest obstacles where government is not becoming a stepping stone to be able to create success in this country but a stumbling block for American prosperity and job creation?

Mr. HOLTZ-EAKIN. Congressman, as I said in my opening remarks and my statement, the cost is real. I mean, these are self-reported costs from the agencies, HHS in particular reported to the administration. This law has 11—it is in my written testimony—11 particular regulations which HHS has identified as having a significant economic impact on small entities. That is a very unusual number. This just does not happen very often. So I think the scale of the costs are real. You cannot ignore that.

The second thing is the uncertainty is enormous about what will and will not get done. I think Senator Bacchus's comments reflect the uncertainty about whether the exchanges will be up and running on time. We have already seen the administration put off the so-called shop provisions which were supposed to provide options for small businesses. Just what will be there of the law is an open question.

Mr. TIPTON. It truly is. And one thing I thought we ought to be very clear on. You know, we talk about tax credits. It is something that the president is now calling loopholes. He is trying to be able to create more of them. Someone will pay for those loopholes that the president is now creating. And my biggest concern as a small businessman is there is a quantitative difference between everybody in the country having health insurance versus quality health care. I can tell you this as a matter of fact. We are on the cusp of a rising health care crisis in rural America simply because of the Affordable Care Act. We are seeing doctors drop out of the system. We are not going to be able to see that delivery. We can have all of the insurance in the world, but if there are not doctors there to be able to accept it we are going to be hurting health care in America.

Mr. Chairman, I yield back. Thank you.

Chairman GRAVES. Ms. Clarke.

Ms. CLARKE. Thank you very much, Mr. Chairman. And I thank the ranking member, Ms. Velázquez. I thank our panelists this afternoon for your testimony here today.

As a member of one of the committees of jurisdiction in the 111th Congress, the former Education and Labor Committee, I am proud of the work that Congress was able to do in providing the American people with quality health care regardless of preexisting conditions.

As with any new law, there is bound to be confusion, as well as apprehension as it is implemented, and I look forward to working with my colleagues and the small business community at large in ensuring that our small businesses and entrepreneurs are educated on all of the provisions and ensuring that it causes as little disruption as possible.

Having said that, my first question is to you, Mr. Gouldin. Unlike larger businesses, most small firms do not have a legal department to assist with tax compliance. How much time and money have you dedicated to navigating the tax credit and employer payment regulations?

Mr. GOULDIN. Navigating the tax credit?

Ms. CLARKE. Mm-hmm. And employer payment regulations.

Mr. GOULDIN. We do not have any idea how many hours we have spent. We have a HR department which consists of my wife and my daughter and I am the president. The three of us have spent I do not know how many man-hours trying to understand this law. My wife is at a seminar today trying to figure out what in the world the law means.

Ms. CLARKE. So as you get more familiar with the new tax rules, do you expect the calculations and decisions will get easier with time? And if so, why? And if not, why not?

Mr. GOULDIN. Do I think the decisions will get easier with time? I have no way of knowing. Right now there are still too many issues.

Ms. CLARKE. Well, I mean, you have had an opportunity along with your family to begin this process, so you have somewhat of a sense of what it takes. And I am wondering whether you think you will be more familiar and whether that as you become more familiar it becomes easier for you to be able to navigate.

Mr. GOULDIN. It will get easier if it gets clarified. That is the biggest issue is there have been so many questions. There are many departments in the government today that have differing opinions on the law from one branch to the other. So what would be very helpful——

Ms. CLARKE. You are thinking clarification——

Mr. GOULDIN. I think that if there was——

Ms. CLARKE.—would be one of the major pieces to assist?

Mr. GOULDIN. It would be very helpful if there was a definitive organization in the federal government that spoke for the entire federal government instead of having five or six different interpretations by the SBA versus another department. There is no place to go to for the employer to get detailed information about interpretation of the law. They have to go to associations to get that. If you want to go to the federal government and get a marketing position on it, that is fine. But we need detailed employment information. Hopefully, it will get easier.

Ms. CLARKE. Very well, Mr. Gouldin. I appreciate that.

Ms. McQueeney, the state exchanges have the potential to bring small employers together to offer coverage while also keeping prices affordable. Do you think this will allow small firms to compete on a level playing field with their larger counterparts when attracting the most talented workers?

Ms. MCQUEENEY. I do not know yet. The state of Florida is probably not going to implement a state exchange and we still do not know what is going on there. So I really cannot give you a clear answer on that.

Ms. CLARKE. And have you seen any benefit to the law?

Ms. MCQUEENEY. Well, the benefits to our small company have been there. Yeah. We got the tax credit and we got the refund check from the insurance company. I think one of the more important parts of the law is the medical loss ratio and I think that is the one part that actually keeps costs under control because they have to spend that much money on medical care, and if they do not they have to rebate it. So to me that is probably the most important part of the law.

Ms. CLARKE. Very well.

Mr. Chairman, I yield back the balance of my time.

Chairman GRAVES. Mr. Huelskamp. Do you want to go?

Mr. Rice.

Mr. RICE. Thank you, Mr. Chairman.

Small business people here, thank you very much for being here, and you, too, Mr. Holtz-Eakin. You know, I do not think we have ever formally met but I have heard you a couple of times and I have quoted you dozens of times, and I appreciate very much you being here as well. Thank you to you small business people for taking time to come and educate us about the particular problems and circumstances you face.

I have been a tax lawyer and CPA for 25 years. I have carried health insurance for all of my employees. When you have got to buy health insurance you choose the kinds of coverage you want.

I am curious, do you all carry maternity coverage for your employees? All of you?

Mr. GOULDIN. Yes.

Ms. MCQUEENEY. Yes.

Mr. TINDALL. Yes.

Mr. RICE. Do you all carry mental health coverage?

Mr. GOULDIN. Yes.

Ms. MCQUEENEY. Yes.

Mr. TINDALL. Yes.

Mr. RICE. And substance abuse?

[No audible response.]

Mr. RICE. And oral care? And dental care?

Mr. GOULDIN. No.

Ms. MCQUEENEY. No.

Mr. TINDALL. Yes.

Mr. RICE. Under this law there are things that they define as essential health benefits, and by law, if you—you know, you do not have to provide insurance if you are under 50 employees, but if you do, they have to meet these criteria, these essential health benefits criteria. So where I chose as an employer and with my employees what kind of coverages we were going to buy, guess what? You do not have those choices anymore. The federal government is now going to choose that for you. They are going to dictate the kind of coverages that you have to buy. And those coverages, do you think they are free? They cost money. And you are going to pay for them. And not only are you going to pay for yours, but those other people that need to be subsidized, you are going to pay for theirs, too. Thus, all these taxes and such.

Mr. Holtz-Eakin, the effect of these taxes, the effect of this massive regulation, the effect of all this uncertainty, it is obvious but what is the effect on the employment status in the United States?

Mr. HOLTZ-EAKIN. This is a negative. I do not think there is any way around that. Whatever your other objectives might be, if you set out to enhance job creation and growth in the United States you would not pass a bill with a trillion dollars of taxes, a large entitlement program, and this amount of regulation. That is not a good strategy.

Mr. RICE. My opinion is we are the greatest nation on earth and we have been in a long dip, but if we could ever get our tax policy, if we could get past this health care debate, if we could take the blinders off, get rid of the uncertainty, and put into effect a competitive tax rate, get these regulations off our business, I think we are ready to gallop. But this is just one more example of government inserting itself into business, trying to make decisions for business "one size fits all," and hamstringing our businesses and making us less competitive. It is one more reasons why we see millions of American jobs hemorrhage overseas very year. And until we stop this it will continue.

Thank you very much.

Chairman GRAVES. Mr. Payne.

Mr. PAYNE. Thank you, Mr. Chairman, to the Ranking Member, the Committee. Thank you for all your testimony. I apologize for my tardiness in getting here today. It has been one of those days where I just had a bad start and have not been able to catch up.

Most of your testimonies mentioned a need for the increased educational materials and outreach regarding health care laws, the law. And you know, thank you for mentioning that, in addition to encouraging HHS to provide increased awareness about the changes due to the Affordable Care Act. I will be hosting meetings in my district for constituents and will be sure to include small businesses in those discussions.

And I have a question for the panelists. You know, due to the nature of the costs associated with small health plans, small businesses have long been vulnerable to steep premium hikes. In fact, health care premiums increased roughly 129 percent since 2000, forcing many small businesses to drop health coverage prior to the enactment of the Affordable Care Act. And in her testimony, Ms. McQueeney mentioned annual double-digit rate increases for her company's plan prior to the enactment of the Affordable Care Act. Can the rest of you discuss the rate increases you have experienced prior to this law as well?

Mr. GOULDIN. I looked it up before coming here and I think I put it in my testimony that I looked back to income statements back to 1968. We were providing health care back then to all of our staff and we only had three or four employees. And it was 0.44 of sales, and last year it was almost 2 percent of sales. So that is quite a bit higher. Five times higher as a percentage of sales. And of course, sales have been rising over the years.

Mr. TINDALL. We have experienced the same thing. I mean, the health care costs have gone up in the 20 years I have been in business. Almost every year, I cannot remember a year that it did not go up, most years by double-digits. So it has been on the increase. But we still have not seen any benefit yet from the health care reform. Our premiums have not been noticeably different on the increase and the projected increase for next year, you know, could be significantly greater than what the past increases have been. So I do not know whether that is an evolution of the insurance companies trying to get ahead of the curve or what, but again, as the testimony was that small businesses do not have much leverage with insurance companies. They give you a premium and you pay it or you move on. And there is no leverage. So it has been a problem.

Mr. PAYNE. You know, and I think that that is one of the major issues that will be faced as what insurance companies are doing now to bump their rates up in preparing for in the Affordable Care Act how they will be controlled. So it is a false increase in premiums to get it, as you said, get ahead of the curve because they know at some point with the Affordable Care Act that they will not have the opportunity to do so in the future.

And you know, last year the leadership blocked the funding for implementation of the Affordable Care Act which obviously impacts the success of the law and influenced the concerns that individuals such as Mr. Bacchus might have had. So I just wanted to put that on the record. And I yield back.

Chairman GRAVES. Mr. Huelskamp.

Mr. HUELSKAMP. . Thank you, Mr. Chairman. I appreciate the testimony from the three small business owners. I had a number of questions. Just trying to follow up and take in a few of the comments which I will say are in many cases quite different from what I hear from my constituents in terms of it is very hard to find any support in the small business community or even in the medical field, providers. I come from a rural area, just like my colleague, Mr. Tipton from Colorado, and I have some real concerns about what occurs there.

I want to follow up first with Ms. McQueeney about—I did not understand—I was not clear what your annual premiums were. Was that your total for businesses? Can you restate again what those were for your business?

Ms. MCQUEENEY. Our premiums are tiered, so we are—I pay different for young men, say from 20 to 25, versus a young woman from 20 to 25. We are tiered by gender. We are tiered by age. So every premium is different.

Currently, I can give you an example of a 55-year-old who has her family on there. It is $1,868 a month with a $5,000 deductible. In my case, my daughter found health care on her own. For me and my husband it is $1,242, plus a $5,000 deductible. So it is different for each and every employee, depending on what their circumstances, their age, and their sex is.

Mr. HUELSKAMP. I appreciate the clarification. I heard the $1,200 a month earlier and did not know who that applied to.

Ms. MCQUEENEY. That applied to myself, yeah.

Mr. HUELSKAMP. And how many employees are covered under your plan?

Ms. MCQUEENEY. Currently, there are three employees covered. The fourth one passed away last year.

Mr. HUELSKAMP. Three employees including yourself?

Ms. MCQUEENEY. Including myself.

Mr. HUELSKAMP. So there are just two employees that we are talking about here?

Ms. MCQUEENEY. Well, I am an employee of the company.

Mr. HUELSKAMP. Okay.

Ms. MCQUEENEY. Right. So there are three of us and then we cover our families.

Mr. HUELSKAMP. And the part-time workers that you employ, do you provide coverage.

Ms. MCQUEENEY. The seasonal, no.

Mr. HUELSKAMP. Where do they get their health care or health insurance coverage, do you know?

Ms. MCQUEENEY. I have one who is Medicare age, so she is on Medicare. And the other ones we do not provide health care for.

Mr. HUELSKAMP. Do you know if they have——

Ms. MCQUEENEY. And they have no health care.

Mr. HUELSKAMP. They have none and you do not provide that for them. Okay. Well, I appreciate the clarification.

Comment and perhaps question for the doctor here. But if you look at the actual cost and the actual impact from the Congressional Budget Office, they are expecting it is going to cost $1.88 trillion, double what was guestimated just a couple years ago. They also guestimate that 7 million employees will lose employer-sponsored health care. And in so doing that it also robs $700 billion out of Medicare to pay for this. And at the end of the day, Doctor, how much does this add to the deficit under the CBO score, do you know, Doctor?

Mr. HOLTZ-EAKIN. If you take the CBO score at face value, this is about $100 billion addition to the deficit over 10 years. And there have been—I will just say there has been a lot of question about whether that is a sensible projection from the beginning but that is their current estimates.

Mr. HUELSKAMP. So how can folks claim this is going to reduce health care costs if it is increasing spending, increasing taxes, and increasing the deficit?

Mr. HOLTZ-EAKIN. CBO, when it put out in particular its long-term budget which reflects the cost of these big health programs in the federal budget, they made it very clear that they did not change their long-term projections or the rise in health care costs after the law was passed. And so they saw no real change in that part of the equation.

Mr. HUELSKAMP. I appreciate it.

One last thing, and if there are some comments from the business owners I would appreciate that. I was just at a business by the name of Hercules, they decided that there are certain mandates from Kathleen Sebelius and this administration that morally they refuse to cover. But according to the law they are mandated to cover that. They won their lawsuit. I wonder if there is any response from the three business owners or there are things morally you might be opposed to that folks covering their health care plans or are you comfortable with any mandate that comes out of Kathleen Sebelius's office?

Mr. GOULDIN. Sir, I do not have any complaints thus far but to give a blanket comfortableness, I do not think that is possible.

Mr. HUELSKAMP. Do you cover every option that your insurance company says they will cover?

Mr. GOULDIN. We have pretty broad coverage. The only thing we do not cover—we provide dental but we have the employees do that through payroll deduction. I do not pay for that because when I investigated most dental coverage, the premiums per annum were greater than the care given so I felt that was a pretty bad bargain.

Mr. HUELSKAMP. Ms. McQueeney.

Ms. MCQUEENEY. The same here. Yes. With pretty broad coverage and we do not supply dental or vision.

Mr. HUELSKAMP. Do you pay for abortion and contraceptions or contraceptives as mandated?

Ms. MCQUEENEY. Contraceptives are part of our——

Mr. HUELSKAMP. Abortions, do you pay for those under your company's plan?

Ms. MCQUEENEY. We are in our 50s and 60s.

Mr. HUELSKAMP. Not all your employees.

Ms. MCQUEENEY. There are not a lot of abortions I think going on at the moment.

Mr. HUELSKAMP. That was not the question, ma'am. The question is does your coverage supply that. I thought you had some younger folks.

Ms. VELÁZQUEZ. Will the gentleman yield?

Mr. HUELSKAMP. Absolutely. I am out of time. If the ma'am would answer the question, I would appreciate that.

Ms. VELÁZQUEZ. I just wanted to know if——

Mr. HUELSKAMP. I have not yielded, ma'am.

Does your coverage provide for abortion coverage?

Ms. MCQUEENEY. I would think so.

Mr. HUELSKAMP. And the gentleman on the end?

Mr. TINDALL. I am sure it does but, again, we as small business people do not have control over what the packages are. We are very limited to what we can buy on the open market, and especially in my state of New Jersey, I am very sure that it is included.

Mr. HUELSKAMP. I would welcome you to come to Kansas. We have had a lady for eight years as insurance commissioner that ultimately destroyed our insurance market and we lost a lot of coverage.

I yield

Mr. COLLINS. The gentleman's time has expired.

Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

I know one of the comments that was made here a couple times has been uncertainty. In the small business world it is hard to plan if you have no idea what the future holds to be able to make the kind of investments and sort of proper plans for your business to grow and be successful.

My understanding is that there is probably about 700 rules to be yet promulgated, Mr. Holtz-Eakin. Is that pretty close? I mean, I am sure you probably know more than—that is about half of them, a ballpark figure; okay? So that would be certainly another reason for the uncertainty among a lot of folks.

Also, a while ago I know there was a comment made with regards to 97 percent of the small businesses being under 50. Let us take that number and break that down. Let us say for instance that the average small business is 10 employees and you have 1,000—I mean, 970 employees that would be covered. Yeah, 97 businesses times 10 is 970 people you are talking about. If the other 3 percent, which is 50 to 500 would be an average of 300, you are looking at 900 people being covered. So you are in the ballpark of 50 percent but let us just say if we are talking and being conservative, let us say only 40 percent of the employees are impacted. We are talking about people now. We are not talking about companies or insurance. We are talking about real people whose lives are being affected by what is going on with this health care bill.

I had a gentleman in my office yesterday who has a Taco Bell franchise. He is not going to allow people to have overtime. He is going to put them underneath the 30-some hours that it takes. And they are either going to have to do one of two things. Either learn to live on less or get a second job. This bill will have a tremendous impact on people's lives. Not just their health care but on their lives as well and that is the point I want to make.

I know that in your testimony, Mr. Holtz-Eakin, you talked about young people getting out of the market and having an impact on the health insurance as well. I know that we have in our package here, a February 17th article of the New York Times with regards to a lot of small businesses going to be self-insuring. That would certainly impact, I think, the pool of how this all works. Have you, Mr. Gouldin, Ms. McQueeney, and Mr. Tindall, have you thought about self-insuring at all, looked into it at all? Is this something that you may have to consider down the road as an option?

Mr. GOULDIN. I have not looked at self-insurance. I cannot imagine a small business even conceiving of really having self-insurance of health care because of the cost of health care. One employee's major incident would wipe you out. So what we have looked at and I have always thought might be more efficient than what we have been doing, I have been paying 100 percent of the premium for our employees. I now realize that is probably not very smart. I have been part of the problem. But what we would like to learn more about is health savings accounts and how deductible insurance, I do think it is very important that as many humans in this country get involved in the decision-making on health care is the only way you are going to get the cost down.

Mr. LUETKEMEYER. If I am not mistaken, I think health savings accounts went by the wayside with this bill.

Ms. McQueeney.

Ms. MCQUEENEY. Actually, we do have a health savings account. I have a $5,000 deductible before health insurance pays anything.

Mr. LUETKEMEYER. My question though is have you considered self-insurance?

Ms. MCQUEENEY. I would definitely not consider that.

Mr. LUETKEMEYER. Okay. Mr. Tindall.

Mr. TINDALL. No. The liability that you would incur or the potential liability would put you out of business.

Mr. LUETKEMEYER. Okay. Mr. Holtz-Eakin, can you kind of put a face on this and whether this is a good deal, bad deal? What size business you thought it would be something that would be impactful on or where everybody else should go with this? I am sure you have probably got some ideas.

Mr. HOLTZ-EAKIN. One of the concerns I had when the bill first passed—I will have to go back and review and see if the rule-making changed—you could actually opt to self-insure when things are going well and then giving guaranteed issue, a firm could then jump into another product if they got someone in their firm who got sick. So what you would end up with is self-insured low cost people with very high cost small firms in the exchanges. Those dynamics remain to be played out.

Mr. LUETKEMEYER. My time is about up and I just want to make one more point here.

You know, I saw in some of the testimony here that—I think it was Mr. Holtz-Eakin—the cost benefit analysis of the paperwork here is a 3 to 1 negative, which is kind of not surprising I guess because it is a government program. But it was interesting. I had a gentleman in my office yesterday, as I was saying, and with all the paperwork, the fire marshal came in and cited him for all the paper in his office. So just another problem to deal with.

Thank you, Mr. Chairman. I yield back.

Mr. COLLINS. Ranking Member Velázquez, do you have any questions?

Ms. VELÁZQUEZ. No, I do not.

Mr. COLLINS. Okay. Thank you.

I do have one for Dr. Holtz-Eakin. The $100 billion health insurance tax, which is going to be imposed on all health insurance companies, I know my own concern is there may be companies with less than 50 employees that do provide health insurance. Common sense would say those costs are going to be passed on. Do you have a comment on how the health insurance tax, that $100 billion, might impact any and all health insurance policies?

Mr. HOLTZ-EAKIN. I expected that tax to be fully passed forward into the premiums that people pay for their health insurance. No question about it.

Mr. COLLINS. That would be mine as well.

I want to thank Mr. Tindall, Ms. McQueeney, Mr. Gouldin, and Dr. Holtz-Eakin for your time today. Your testimony was very valuable. We will continue to monitor the implementation of the health care law and its impact on small business. We will be sending a letter to the Ways and Means Committee, Chairman Camp, and Ranking Member Levin to share the testimony today that we received, and I do ask unanimous consent that members have five legislative days to submit statements and supporting materials for the record.

Without objection, so ordered.

I ask unanimous consent that the following material be inserted into the record. A May 2012 Government Accountability Office Report titled "Small Employer Health Care Tax Credit Factors Contributing to Low Use and Complexity," the U.S. Chamber of Commerce Fourth Quarter 2012 Small Business Outlook Survey showing 86 percent of small businesses believe that regulations and taxes will impact their ability to operate with healthcare regulations causing the most concern, and a February 7, 2013 New York Daily News article titled “Small business owners have no strategy for coping with rising health care costs.”

Without objection, so ordered.

The hearing is now adjourned.

[Whereupon, at 3:09 p.m., the Committee was adjourned.]

APPENDIX

ACA, Regulation, and America's Small Businesses

U.S. House of Representatives
Committee on Small Business

Douglas Holtz-Eakin, President*
American Action Forum

April 17, 2013

*The views expressed here are my own and not those of the American Action Forum. I thank, without implication, Sam Batkins, Sarah Hale, and Cameron Smith for their assistance.

Chairman Graves, Ranking Member Velázquez, members of the Committee, thank you for the opportunity to testify today regarding the Patient Protection and Affordable Care Act (ACA)'s impact on small businesses. The American Action Forum keeps a close eye on the impacts of the law's implementation, and carefully tracks the regulatory burden of federal rules and administrative actions. I'm pleased to share some of those details with the Committee.

The review provides four main lessons regarding the Affordable Care Act and the growth of small businesses:

- It imposes numerous costly regulatory burdens,
- It creates further regulatory uncertainty at a time when we need small business entrepreneurs to hire,
- The law's taxes and fees create disincentives for small businesses to expand, and
- It raises the cost of providing insurance for employees while concurrently penalizing firms that fail to do so.

Let me discuss each in turn.

The Regulatory Burden of the ACA

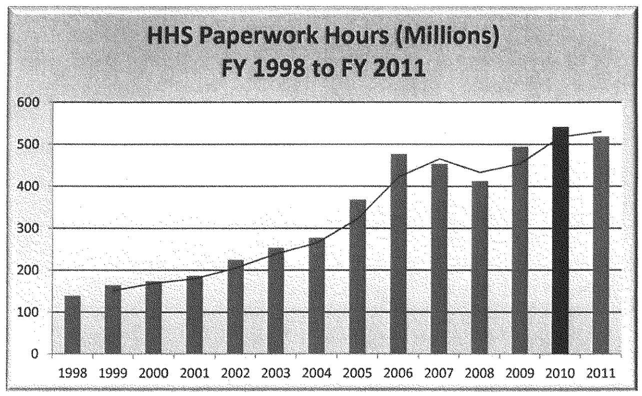
The ACA's regulatory burden already exceeds $30 billion on private, state, and local entities. With more than 80 million paperwork burden hours, the law's implementation also imposes heavy burdens for small businesses and rural hospitals, two aspects that even the Administration's own regulations concede.

When the Congressional Budget Office (CBO) reviewed ACA under the Unfunded Mandates Reform Act (UMRA), it acknowledged the law "would greatly exceed" statutory cost thresholds ($70 million for local governments and $141 for the private sector) "in each of the first five years that the mandates would be in effect." After approximately three years of implementation, ACA's regulatory burdens have greatly exceeded UMRA's thresholds.

According to AAF's database of all federal regulations, ACA has imposed $24 billion in costs on private entities, $9.8 billion in burdens on state and local governments, and more than 80 million paperwork burden hours. These regulatory costs will place tremendous pressure on doctors, hospitals, health issuers, and small businesses.

For example, ACA's 80 million hours of paperwork is the equivalent of 39,822 employees working an entire year filling out the law's new paperwork (assuming a 2,000-hour work year). We can conceptualize paperwork burdens by examining gross domestic product per hour worked. According to the Bureau of Labor Statistics, that figure was $61.59 in 2011. Thus, ACA's red tape alone costs the U.S. approximately $4.9 billion annually, a figure that will grow as the pace of implementation quickens this year.

White House estimates confirm that HHS's paperwork burden has increased. In FY 2008, HHS imposed 412.8 million hours of red tape; in FY 2011, that figure stood at 518.8 million, a jump of 106 million hours, or 25 percent in just three years. ACA is the direct cause of many of these new requirements. The figure below details HHS's rising regulatory burden, with the pronounced jump in 2010.



Finally, AAF did not end its analysis with the law's costs alone. We also searched the relevant Regulatory Impact Analyses (RIA's) to determine aggregate benefits. Sadly, costs outweigh benefits by a factor of at least 3 to one - $33.8 billion in costs to $9 billion in quantified benefits. ACA not only fails the regulatory cost-benefit test, but the budgetary and policy tests as well.

Regulations with "a significant economic impact on a substantial number of small entities." Under the Regulatory Flexibility Act (RFA) and its subsequent amendments, all federal agencies must consider the impact of their proposal on small entities, seek appropriate input, and develop regulatory alternatives for small businesses. Agencies have the flexibility to ignore the RFA, mostly because the key term is undefined, so acknowledging that a regulation imposes a "significant economic impact on a substantial number of small entities" is rare.

Below are the eleven regulations that HHS estimated would place significant burdens on small businesses. Combined, rural hospitals and doctors would incur more than $1.9 billion in burdens and 11.3 million paperwork hours.

ACA Rules Burdening Small Businesses According to HHS

Regulation	**Cost**	**Paperwork Burden**
Proposed Menu Labeling	$757.1 Million	622,000 Hours
Final Shared Savings Program	$451 Million	N/A
Proposed Vending Machine Labeling	$423.1 Million	842,000 Hours
Final Physician Fee Schedule	$172.9 Million	365,197 Hours
Proposed Covered Outpatient Drugs	$81.4 Million	391,212 Hours
Final Billing for Skilled Nursing Facilities	$29.93 Million	913,884 Hours
Final Payment Policies	$11.58 Million	196,509 Hours
Final Patient Notification Requirements	$2.55 Million	138,032 Hours
Final Outpatient Prospective Payment	N/A	1,010,876 Hours
Final Inpatient Prospective Payment	N/A	6,838,293 Hours
Final Hospital Payment System	N/A	N/A[1]
Aggregate Small Business Impact: $1.9 Billion and 11.3 Million Hours		

These regulations are only part of the law's overall burden. Several of the administration's regulatory analyses admit they will adversely affect small rural hospitals. One proposal covering Skilled Nursing Facilities [SNF] stated, "We anticipate that the impact on small rural hospitals would be similar to the impact on SNF providers overall. Therefore, the Secretary has determined that this final rule may have a significant impact on the operations of a substantial number of small rural hospitals."

Although $1.9 billion in costs, and adverse impacts on doctors and rural hospitals might appear significant, the actual burden is much higher. Many of the administration's formal regulatory publications never capture the macroeconomic impact. The impact on small businesses is likely much greater than $1.9 billion.

Increased Regulatory Uncertainty

Since 1996, after the latest round of amendment to the Regulatory Flexibility Act, the White House has published two "Unified Agendas" of federal regulations every year. Last year, however, the administration decided simply not to publish a spring agenda, leaving industries across the U.S. guessing about long-term regulatory actions. The lone agenda was not published until shortly before Christmas.

This policy toward the Unified Agenda was unprecedented, and did little to foster transparency in an administration that touts its openness. In addition to delays in the Unified Agenda, the administration has also imposed several self-inflicted delays that only add to this uncertainty. In an AAF study last year, we found HHS missed nearly half of its self-imposed deadlines for proposed and final ACA rules.

This tardiness has reached into approving state exchanges as well, which are supposed to be open for enrollment to individuals and small businesses in October 2013. The timeline for certifying state exchanges under the law has been modified frequently during the past years; few think the administration will be ready with functioning exchanges by the ACA deadlines.

Two recent polls do suggest that businesses and consumers are concerned about this uncertainty. The latest, from Gallup, found that 56 percent of small-business owners worry about "new government regulations." The survey of 601 participants concluded, "[T]hat so many owners say worries about such things as potential healthcare costs and potential new government regulations are holding back hiring is troublesome for the job market outlook."

This evidence echoes an earlier poll from Gallup on regulations. In a September 2012 poll of 1,017 adults, 47 percent said there was "too much" regulation, as opposed to 26 percent who stated there was "too little" regulation. Gallup notes this data is hardly an aberration. "In fact, over the 15 times since 1993 that Gallup has asked this question, never have more than a third of Americans said there is too little regulation of business and industry."

Regulatory uncertainty does not have to be the norm. It gives markets and states the expectation that the law will move forward based on partisan motives, as opposed to good public policy. The least the administration could do is ensure transparency and issue timely regulations with the legally prescribed cost-benefit analysis.

Unfortunately, in a difficult economy, and an otherwise uncertain spending and regulatory environment, ACA leaves small employers with a large paperwork burden, higher costs, and an even greater degree of uncertainty. Those in health-related fields are more directly impacted than others, but many firms now have at least eleven more regulatory reasons not to expand. Although the law

[1] According to the rule, "These requirements are exempt from the PRA [Paperwork Reduction Act] in accordance with the provisions of the Affordable Care Act." *75 Red. Reg.* 72238.

may have been well intentioned, its implementation negatively affects the small businesses and start-ups that might otherwise be hiring new employees and creating wealth.

Taxes and Fees Hamper Small Businesses

Beyond the regulatory impact, the law contains new fees and taxes that negatively affect small businesses and their employees.

Businesses with fifty or more employees are subject to a $2,000 per employee (in excess of 30 full-time employees (FTEs)) penalty if they do not provide coverage. This penalty includes businesses that have less than 50 full-time employees, if they have a significant number of part-time employees. For example, a company with 33 full-time employees and 30 part-time employees is considered an employer of 50 full time employees, given that 30 part-time employees amount to the equivalent of 17 full-time employees. Notably, a business does not avoid the penalty if they opt to cover employees with plans deemed inferior to those offered in exchanges. Therefore, regulations dictate that small employers who offer plans that are "unaffordable" or inadequate are subject to the full penalty.

In its most recent Budget and Economic Outlook, the Congressional Budget Office estimated that the government would collect $13 billion more than previously estimated from this penalty. This projected increase indicates that a substantial number of Americans will lose whatever employer sponsored coverage that they have now.

The 2.3 percent excise tax on medical devices will tilt the playing field against smaller companies who are less able than larger companies to absorb lost revenue because of higher fixed costs and smaller cash reserves. Since about 90 percent of medical device companies in the U.S. are small to medium-sized firms, the tax will lower employment and raise prices in one of the few manufacturing industries where the U.S. remains dominant. Beyond concerns about the business impact, it is simply an ill-conceived tax policy. Removing $20 billion from this industry merely undercuts employment and increases cost throughout the healthcare sector.

New legislative and regulatory requirements may lead to further decline in the number of practicing independent doctors. Physicians who own their own practices or are members of small groups are already feeling pressure to consolidate or become employees of larger hospitals and healthcare systems. Doctors in private practice have declined from 59 percent of all physicians in 2000 to 39 percent in 2012. Legislative and regulatory changes, including Medicare payment reductions, Accountable Care Organization incentives, and a host of health IT, quality, and reporting requirements mean that it is easier to be part of a large system than a solo practitioner. Although consolidation may have benefits and drawbacks in some areas, it has a decidedly negative impact on physicians who run small businesses or do not have the opportunity to consolidate themselves.

The administration often points to the way in which ACA helps small businesses afford health insurance for their employees. To address the existing difficulty, small businesses that provide coverage can qualify for a healthcare tax credit. Unfortunately, due to its structure, very few companies actually qualify for the credit, and the Government Accountability Office has stated that the complicated application process and numerous exceptions meant that fewer have claimed the credit than expected.

In 2011, 170,300 claimed some amount of the credit, even though anywhere from 1.4 to 4 million businesses were eligible. Those eligible for the full credit must have fewer than 10 FTEs, and an average wage of $25,000 or less. The expected cost of this credit for 2010 was $2 billion, and it amounted to a mere one-quarter of this projection. ACA exceeds expected cost projections in terms of expanded bureaucracy and public entitlement programs, but comes in dramatically under budget on a tax credit that might have assisted small businesses trying to provide affordable coverage.

Given the additional burdens facing small businesses when they cross the threshold from 49 to 50 employees, ACA's new regulations actually encourage small businesses to pay small. Uncertainty about the law's impact on future insurance premium costs, payroll, prices, and profit margins can only continue to adversely affect the ability of a typical small business to grow.

Health and Insurance Costs Continue to Rise

There are legitimate policy debates over the implementation of ACA and its role in health care costs. However, there is no dispute that its regulations will increase premiums. For example, the final ACA rule on "Preexisting Condition Exclusions" noted that if HHS failed to grant a waiver, "[T]he restricted annual limit provisions of these interim final regulations would result in a significant decrease in access to benefits or a significant premium increase."

Likewise, the proposed "Notice of Benefit and Payment Parameters for 2014," which is currently in final form at the White House, acknowledged it too could lead to premium price hikes. "There are administrative costs to States to set up and administer these programs. For issuers not receiving payments, any contribution is an additional cost, which an issuer could pass on to beneficiaries through premium increases." Critics of the law warned this could happen during passage, it has come to pass, and new research is putting a price tag on these increases.

In a paper released last month, I examined possible health care premium spikes in 2014. We surveyed large health insurers that cover a majority of patients in the U.S. The survey areas included Atlanta, GA, Austin, TX, Chicago, IL, Phoenix, AZ, and Milwaukee, WI. The results are sobering: young and healthier individuals, including small employers, can expect a 169 percent premium increase, averaged across the five cities. Consumers in Milwaukee could experience the greatest sticker shock, with a 190 percent increase in 2014.

These younger, healthier individuals are likely to subsidize the cost of insurance for older patients, but not by nearly enough to avoid an overall increase. Older and less healthy individuals could enjoy a 22 percent premium decrease. It is no surprise that ACA will have an enormous impact on the structure and pricing of insurance. However, a 169 percent premium increase begs the attention of policymakers to address the structural flaws in the legislation.

Thank you for the chance to appear. I look forward to answering your questions.

TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

NFIB
The Voice of Small Business.

Testimony of

Mr. William J. Gouldin

before the

Small Business Committee

on the subject of

The Health Care Law: Implementation and Small Businesses

on the date of

April 17, 2013

Chairman Graves, Ranking Member Velázquez, and members of the Small Business Committee, thank you for inviting me to testify on how new federal definitions in the healthcare law will impact the marginal costs of small businesses and the livelihood of their employees.

I am Bill Gouldin and I have been the President of Strange's Florists, Greenhouses, and Garden Centers since 1978. I came to the business in 1971 and going to college and serving in the U.S. Army. My father owned the business and managed it on a part-time basis because he worked as a full-time railroad engineer. Two of my brothers joined me in the business after graduating from high school and college. My wife works for the business as our Human Resources Manager. My son joined the business as Treasurer after graduating from college and serving in the U.S. Army. My daughter joined the business as Assistant Manager of Human Resources after graduating from college.

We currently have four retail florists, a wholesale greenhouse range, and two retail garden centers in the Richmond, Virginia metropolitan area. Due to the highly seasonal nature of our business, virtually all of our employees are paid by the hour. Our staff size ranges from a low of approximately 120 employees to a high of over 150 employees depending on the season. We have a blend of full-time, part-time and seasonal personnel that is constantly changing. In addition to our employees, we pay a large number of contract drivers to assist our delivery staff around the holidays.

We provide health insurance for our full-time employees who work over 37.5 hours per week. We have been paying 100% of the health insurance premium of all of our full-time employees that desire it my entire career. My father stated the policy of paying for health benefits before me. In 1983, we started our 401(k) plan for all full-time employees as a tool to help our employees to save for their retirement and learn about return on investments. In the early years, I felt providing health insurance was the proper thing to do because our employees should have coverage and we could provide it for less than it would cost them individually. As I studied the results over the years, I realized that all third party payment systems are inherently inefficient because the beneficiary has little knowledge, or concern in some cases, for the total costs; and providers have very few tools to control costs.

Before Passage - Employer Confusion

By necessity, not by choice, I have become well-aware with our business' rising cost of providing health insurance. Our premium costs have risen from .44% of sales in 1968 to nearly 2% of sales in 2012 and will continue to increase. Of course, the constant rise in health insurance costs is regressively suppressing wages.

When the healthcare debate was raging I realized there was plenty of rhetoric by proponents selling all of the benefits and opponents displaying all of the negatives, but no one seemed to have any detailed information. Simple mathematics seemed to be lost in the debate. I asked questions of all of our professional organizations in which we have memberships, my Congressman, and Senator, but could not get all of my questions answered. When people ask me what caused the financial crisis, my answer is the lack of due diligence and integrity by all of us. The same is true of our healthcare system and the Patient Protection and Affordable Care Act.

That caused me to take the time to begin scanning the House and Senate bills as they were progressing. I looked for the words employee and employer. I printed every page I could find that referenced the employer and employee and quickly realized there were parts that were very vague and confusing, many parts that were not workable, and some that were very dangerous to employees and their employers. I realized that this law would be the most disruptive instrument to the American workplace in my lifetime and no one seemed to know, or care, right in the middle of the worst recession/depression since the Great Depression.

After Passage - Disruptive and Problematic Definitions

The IRS has the undesirable task of weeding through the details of implementation and is making some progress but they have a long way to go. Their most complete list of interpretations and opinions was released on December 28, 2012. That was very late in the game but helped answer some of my outstanding questions. Unfortunately, some provisions were designed in a way that cannot be fixed by regulations. For example, a new federal employment definition that must interact with an affordability test will harm employees by reducing hours and wages. One of the most dangerous parts in the law is the statutory definition of full-time employment as 30 hours per week, or 130 hours per month. The IRS cannot correct that definition. Congress will have to amend the law. The use of 30 hours to define full-time employment is the lowest in the world and far below the common practice of 37.5 to 40 hours used by most public and private employers. This is already causing rescheduling of employees where public and private employers have read the law. The federal government has never attempted to define full-time employment until now.

If the 30 hour definition is not amended several consequences will occur. Every employer will be forced to define part-time employment as something below 30 hours per week and most will use between 20 and 27.5 hours per week. There are millions of people who currently work between 30 and 36 hours per week because that works for their lifestyle and income needs. Many are students trying to pay for their education or the second wage earner in the household. These people will be required to lose needed hours of work and income. Millions will be forced to work two part-time jobs. The fixed cost of health insurance premiums is already so high that many employers will pay the penalty of "time and a half" because it is less than the marginal cost of health insurance per hour for an additional employee. Using the 30 hour definition begins to override the "time and a half" penalty. The new full-time employee definition will cause a hole in employment between 27.5 and 37.5 hours per week and very few people will be allowed to work between those hours.

In 2009, I created the attached tables to show the hourly costs of health insurance based on the Kaiser Family Foundation Survey.

I used their average national premiums from 2009 and have updated the table annually to 2012. I have projected premium modest increases of only 5% per annum for 2013 and 2014. The tables show the marginal cost of offering health insurance at $119.05 per hour for an employee allowed to work 30 hours per week when the employer pays 100% of the premium or $95.24 if the employer pays 80% of the premium. These staggering marginal costs are evidence of the problematic employment wedge that has been created. This is a very regressive law. The cost of health insurance is of less concern as you move up the income scale and is why so many highly paid people have overlooked this problem. The 9.5% affordability test will only aggravate the problem, and drive wage rates at healthcare inflation rates (as shown on the right side of the tables).

My concern is that no one seems to care about the millions of employees that will lose their job in whole or in part because of this provision. Most employers have no pricing power to pass these increased costs on to the consumers so they have no options but to reduce hours or personnel. If a business tries to absorb these costs and goes out of business, everybody loses their jobs.

Now is the Time for a Simple Fix

The employer confusion caused by this law is already causing higher unemployment and I believe that real unemployment (U–6 table) will rise if a change is not made. I have tried to be aware of the language in the law, but very few businesses have any idea of what is in this law. But they are beginning to find out.

Amend the definition of full-time employee to read 37.5 hours per week and begin to improve the U–6 unemployment table today instead of watching it rise above 14.5%. This will increase employment better than any scheme that I have heard and cost the government a dime. Our every effort should to move people from unemployment (expense column) to working taxpayers (revenue column).

We all know that tax rates have been raised and some deductions will probably be changed. Many spending programs have been overpromised and must be cut or altered. The least painful way out of this mess is economic growth and maximum employment. We need a paradigm change to genuine respect for those private businesses that create jobs in this country and for those who go to work every day. It is very important to enhance, and not prevent, the opportunity of young people to work part-time to gain the experience of working. This basic training may lead to a full-time job upon finishing high school or college. Most businesses have entry level training in-house and some have tuition assistance for full-time employees who want more formal training or college. There are many benefits to working beyond wages and health insurance. The middle class flourished in the period between 1945 and 1970 and has been struggling since. The belief that there will always be an endless supply of businesses that want to hire Americans should have ended then because the rest of the world had recovered from WWII and became stronger competitors. Every law, and tax, needs to be reviewed to see if it will enhance private sector job creation or thwart it. The most patriotic thing any of us can do today is create a job or go get a job. Our Generals are smart enough to understand that the greatest risk to our country's safety is a weakened private sector that cannot keep pace with our growing government.

Thank you for your time. I look forward to answering any questions.

Hourly cost of the "Patient Protection and Affordable Care Act"

If employer Pays 100% of Premium	hrs/yr	2009	2010	2011	2012	2013	2014
Employee only Premium (5% rise)		4,824.00	5,049.00	5,429.00	5,615.00	5,895.75	6,190.54
Kaiser Family Foundation Survey		Actual				Projected	
40 Hour Definition(average all hours)	2080	2.32	2.43	2.61	2.70	2.83	2.98
30 Hour Definition(average all hours)	1560	3.09	3.24	3.48	3.60	3.78	3.97
Marginal cost per hour for 30th hour	52	92.77	97.10	104.40	107.98	113.38	119.05
Marginal cost per hour for 31st hour	104	46.38	48.55	52.20	53.99	56.69	59.52
Marginal cost per hour for 32nd hour	156	30.92	32.37	34.80	35.99	37.79	39.68
Marginal cost per hour for 33rd hour	208	23.19	24.27	26.10	27.00	28.34	29.76
Marginal cost per hour for 34th hour	260	18.55	19.42	20.88	21.60	22.68	23.81
Marginal cost per hour for 35th hour	312	15.46	16.18	17.40	18.00	18.90	19.84
Marginal cost per hour for 36th hour	364	13.25	13.87	14.91	15.43	16.20	17.01
Marginal cost per hour for 37th hour	416	11.60	12.14	13.05	13.50	14.17	14.88
Marginal cost per hour for 38th hour	468	10.31	10.79	11.60	12.00	12.60	13.23
Marginal cost per hour for 39th hour	520	9.28	9.71	10.44	10.80	11.34	11.90
Marginal cost per hour for 40th hour	572	8.43	8.83	9.49	9.82	10.31	10.82
Family Premium with 5% rise		13,375.00	13,770.00	15,073.00	15,745.00	16,532.25	17,358.86
Kaiser Family Foundation Survey		Actual				Projected	
40 Hour Definition(average all hours)	2080	6.43	6.62	7.25	7.57	7.95	8.35
30 Hour Definition(average all hours)	1560	8.57	8.83	9.66	10.09	10.60	11.13
Marginal cost per hour for 30th hour	52	257.21	264.81	289.87	302.79	317.93	333.82
Marginal cost per hour for 31st hour	104	128.61	132.40	144.93	151.39	158.96	166.91
Marginal cost per hour for 32nd hour	156	85.74	88.27	96.62	100.93	105.98	111.27
Marginal cost per hour for 33rd hour	208	64.30	66.20	72.47	75.70	79.48	83.46
Marginal cost per hour for 34th hour	260	51.44	52.96	57.97	60.56	63.59	66.76
Marginal cost per hour for 35th hour	312	42.87	44.13	48.31	50.46	52.99	55.64
Marginal cost per hour for 36th hour	364	36.74	37.83	41.41	43.26	45.42	47.69
Marginal cost per hour for 37th hour	416	32.15	33.10	36.23	37.85	39.74	41.73
Marginal cost per hour for 38th hour	468	28.58	29.42	32.21	33.64	35.33	37.09
Marginal cost per hour for 39th hour	520	25.72	26.48	28.99	30.28	31.79	33.38
Marginal cost per hour for 40th hour	572	23.38	24.07	26.35	27.53	28.90	30.35

If Employer pays 80% of Premium	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		3,859.20	4,039.20	4,343.20	4,492.00	4,716.60	4,952.43
40 Hour Definition(average all hours)	2080	1.86	1.94	2.09	2.16	2.27	2.38
30 Hour Definition(average all hours)	1560	2.47	2.59	2.78	2.88	3.02	3.17
Marginal cost per hour for 30th hour	52	**74.22**	**77.68**	**83.52**	**86.38**	**90.70**	**95.24**
Marginal cost per hour for 31st hour	104	37.11	38.84	41.76	43.19	45.35	47.62
Marginal cost per hour for 32nd hour	156	24.74	25.89	27.84	28.79	30.23	31.75
Marginal cost per hour for 33rd hour	208	18.55	19.42	20.88	21.60	22.68	23.81
Marginal cost per hour for 34th hour	260	14.84	15.54	16.70	17.28	18.14	19.05
Marginal cost per hour for 35th hour	312	12.37	12.95	13.92	14.40	15.12	15.87
Marginal cost per hour for 36th hour	364	10.60	11.10	11.93	12.34	12.96	13.61
Marginal cost per hour for 37th hour	416	9.28	9.71	10.44	10.80	11.34	11.90
Marginal cost per hour for 38th hour	468	8.25	8.63	9.28	9.60	10.08	10.58
Marginal cost per hour for 39th hour	520	7.42	7.77	8.35	8.64	9.07	9.52
Marginal cost per hour for 40th hour	572	6.75	7.06	7.59	7.85	8.25	8.66
Family Premium		10,700.00	11,016.00	12,058.40	12,596.00	13,225.80	13,887.09
40 Hour Definition(average all hours)	2080	5.14	5.30	5.80	6.06	6.36	6.68
30 Hour Definition(average all hours)	1560	6.86	7.06	7.73	8.07	8.48	8.90
Marginal cost per hour for 30th hour	52	**205.77**	**211.85**	**231.89**	**242.23**	**254.34**	**267.06**
Marginal cost per hour for 31st hour	104	102.88	105.92	115.95	121.12	127.17	133.53
Marginal cost per hour for 32nd hour	156	68.59	70.62	77.30	80.74	84.78	89.02
Marginal cost per hour for 33rd hour	208	51.44	52.96	57.97	60.56	63.59	66.76
Marginal cost per hour for 34th hour	260	41.15	42.37	46.38	48.45	50.87	53.41
Marginal cost per hour for 35th hour	312	34.29	35.31	38.65	40.37	42.39	44.51
Marginal cost per hour for 36th hour	364	29.40	30.26	33.13	34.60	36.33	38.15
Marginal cost per hour for 37th hour	416	25.72	26.48	28.99	30.28	31.79	33.38
Marginal cost per hour for 38th hour	468	22.86	23.54	25.77	26.91	28.26	29.67
Marginal cost per hour for 39th hour	520	20.58	21.18	23.19	24.22	25.43	26.71
Marginal cost per hour for 40th hour	572	18.71	19.26	21.08	22.02	23.12	24.28

If Employee pays 20%	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		964.80	1,009.80	1,085.80	1,123.00	1,179.15	1,238.11
Minimum Annual Income		10,155.79	10,629.47	11,429.47	11,821.05	12,412.11	13,032.71
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	6.51	6.81	7.33	7.58	7.96	8.35
31 hours per week	1,612	6.30	6.59	7.09	7.33	7.70	8.08
32 hours per week	1,664	6.10	6.39	6.87	7.10	7.46	7.83
33 hours per week	1,716	5.92	6.19	6.66	6.89	7.23	7.59
34 hours per week	1,768	5.74	6.01	6.46	6.69	7.02	7.37
35 hours per week	1,820	5.58	5.84	6.28	6.50	6.82	7.16
36 hours per week	1,872	5.43	5.68	6.11	6.31	6.63	6.96
37 hours per week	1,924	5.28	5.52	5.94	6.14	6.45	6.77
38 hours per week	1,976	5.14	5.38	5.78	5.98	6.28	6.60
39 hours per week	2,028	5.01	5.24	5.64	5.83	6.12	6.43
40 hours per week	2,080	4.88	5.11	5.49	5.68	5.97	6.27
Family Premium		2,675.00	2,754.00	3,014.60	3,149.00	3,306.45	3,471.77
Minimum Annual Income		28,157.89	28,989.47	31,732.63	33,147.37	34,804.74	36,544.97
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	18.05	18.58	20.34	21.25	22.31	23.43
31 hours per week	1,612	17.47	17.98	19.69	20.56	21.59	22.67
32 hours per week	1,664	16.92	17.42	19.07	19.92	20.92	21.96
33 hours per week	1,716	16.41	16.89	18.49	19.32	20.28	21.30
34 hours per week	1,768	15.93	16.40	17.95	18.75	19.69	20.67
35 hours per week	1,820	15.47	15.93	17.44	18.21	19.12	20.08
36 hours per week	1,872	15.04	15.49	16.95	17.71	18.59	19.52
37 hours per week	1,924	14.64	15.07	16.49	17.23	18.09	18.99
38 hours per week	1,976	14.25	14.67	16.06	16.77	17.61	18.49
39 hours per week	2,028	13.88	14.29	15.65	16.34	17.16	18.02
40 hours per week	2,080	13.54	13.94	15.26	15.94	16.73	17.57

If employer Pays 70% Of Premium	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		3,376.80	3,534.30	3,800.30	3,930.50	4,127.03	4,333.38
40 Hour Definition(average all hours)	2080	1.62	1.70	1.83	1.89	1.98	2.08
30 Hour Definition(average all hours)	1560	2.16	2.27	2.44	2.52	2.65	2.78
Marginal cost per hour for 30th hour	52	64.94	67.97	73.08	75.59	79.37	83.33
Marginal cost per hour for 31st hour	104	32.47	33.98	36.54	37.79	39.68	41.67
Marginal cost per hour for 32nd hour	156	21.65	22.66	24.36	25.20	26.46	27.78
Marginal cost per hour for 33rd hour	208	16.23	16.99	18.27	18.90	19.84	20.83
Marginal cost per hour for 34th hour	260	12.99	13.59	14.62	15.12	15.87	16.67
Marginal cost per hour for 35th hour	312	10.82	11.33	12.18	12.60	13.23	13.89
Marginal cost per hour for 36th hour	364	9.28	9.71	10.44	10.80	11.34	11.90
Marginal cost per hour for 37th hour	416	8.12	8.50	9.14	9.45	9.92	10.42
Marginal cost per hour for 38th hour	468	7.22	7.55	8.12	8.40	8.82	9.26
Marginal cost per hour for 39th hour	520	6.49	6.80	7.31	7.56	7.94	8.33
Marginal cost per hour for 40th hour	572	5.90	6.18	6.64	6.87	7.22	7.58
Family Premium		9,362.50	9,639.00	10,551.10	11,021.50	11,572.58	12,151.20
40 Hour Definition(average all hours)	2080	4.50	4.63	5.07	5.30	5.56	5.84
30 Hour Definition(average all hours)	1560	6.00	6.18	6.76	7.07	7.42	7.79
Marginal cost per hour for 30th hour	52	180.05	185.37	202.91	211.95	222.55	233.68
Marginal cost per hour for 31st hour	104	90.02	92.68	101.45	105.98	111.27	116.84
Marginal cost per hour for 32nd hour	156	60.02	61.79	67.64	70.65	74.18	77.89
Marginal cost per hour for 33rd hour	208	45.01	46.34	50.73	52.99	55.64	58.42
Marginal cost per hour for 34th hour	260	36.01	37.07	40.58	42.39	44.51	46.74
Marginal cost per hour for 35th hour	312	30.01	30.89	33.82	35.33	37.09	38.95
Marginal cost per hour for 36th hour	364	25.72	26.48	28.99	30.28	31.79	33.38
Marginal cost per hour for 37th hour	416	22.51	23.17	25.36	26.49	27.82	29.21
Marginal cost per hour for 38th hour	468	20.01	20.60	22.55	23.55	24.73	25.96
Marginal cost per hour for 39th hour	520	18.00	18.54	20.29	21.20	22.25	23.37
Marginal cost per hour for 40th hour	572	16.37	16.85	18.45	19.27	20.23	21.24

If employee pays 30%	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		1,447.20	1,514.70	1,628.70	1,684.50	1,768.73	1,857.16
Minimum Annual Income		15,233.68	15,944.21	17,144.21	17,731.58	18,618.16	19,549.07
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	9.77	10.22	10.99	11.37	11.93	12.53
31 hours per week	1,612	9.45	9.89	10.64	11.00	11.55	12.13
32 hours per week	1,664	9.15	9.58	10.30	10.66	11.19	11.75
33 hours per week	1,716	8.88	9.29	9.99	10.33	10.85	11.39
34 hours per week	1,768	8.62	9.02	9.70	10.03	10.53	11.06
35 hours per week	1,820	8.37	8.76	9.42	9.74	10.23	10.74
36 hours per week	1,872	8.14	8.52	9.16	9.47	9.95	10.44
37 hours per week	1,924	7.92	8.29	8.91	9.22	9.68	10.16
38 hours per week	1,976	7.71	8.07	8.68	8.97	9.42	9.89
39 hours per week	2,028	7.51	7.86	8.45	8.74	9.18	9.64
40 hours per week	2,080	7.32	7.67	8.24	8.52	8.95	9.40
Family Premium		4,012.50	4,131.00	4,521.90	4,723.50	4,959.68	5,207.66
Minimum Annual Income		42,236.84	43,484.21	47,598.95	49,721.05	52,207.11	54,817.46
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	27.07	27.87	30.51	31.87	33.47	35.14
31 hours per week	1,612	26.20	26.98	29.53	30.84	32.39	34.01
32 hours per week	1,664	25.38	26.13	28.61	29.88	31.37	32.94
33 hours per week	1,716	24.61	25.34	27.74	28.97	30.42	31.94
34 hours per week	1,768	23.89	24.60	26.92	28.12	29.53	31.01
35 hours per week	1,820	23.21	23.89	26.15	27.32	28.69	30.12
36 hours per week	1,872	22.56	23.23	25.43	26.56	27.89	29.28
37 hours per week	1,924	21.95	22.60	24.74	25.84	27.13	28.49
38 hours per week	1,976	21.37	22.01	24.09	25.16	26.42	27.74
39 hours per week	2,028	20.83	21.44	23.47	24.52	25.74	27.03
40 hours per week	2,080	20.31	20.91	22.88	23.90	25.10	26.35

If employer pays 60% Of Premium	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		2,894.40	3,029.40	3,257.40	3,369.00	3,537.45	3,714.32
40 Hour Definition(average all hours)	2080	1.39	1.46	1.57	1.62	1.70	1.79
30 Hour Definition(average all hours)	1560	1.86	1.94	2.09	2.16	2.27	2.38
Marginal cost per hour for 30th hour	52	55.66	58.26	62.64	64.79	68.03	71.43
Marginal cost per hour for 31st hour	104	27.83	29.13	31.32	32.39	34.01	35.71
Marginal cost per hour for 32nd hour	156	18.55	19.42	20.88	21.60	22.68	23.81
Marginal cost per hour for 33rd hour	208	13.92	14.56	15.66	16.20	17.01	17.86
Marginal cost per hour for 34th hour	260	11.13	11.65	12.53	12.96	13.61	14.29
Marginal cost per hour for 35th hour	312	9.28	9.71	10.44	10.80	11.34	11.90
Marginal cost per hour for 36th hour	364	7.95	8.32	8.95	9.26	9.72	10.20
Marginal cost per hour for 37th hour	416	6.96	7.28	7.83	8.10	8.50	8.93
Marginal cost per hour for 38th hour	468	6.18	6.47	6.96	7.20	7.56	7.94
Marginal cost per hour for 39th hour	520	5.57	5.83	6.26	6.48	6.80	7.14
Marginal cost per hour for 40th hour	572	5.06	5.30	5.69	5.89	6.18	6.49
Family Premium		8,025.00	8,262.00	9,043.80	9,447.00	9,919.35	10,415.32
40 Hour Definition(average all hours)	2080	3.86	3.97	4.35	4.54	4.77	5.01
30 Hour Definition(average all hours)	1560	5.14	5.30	5.80	6.06	6.36	6.68
Marginal cost per hour for 30th hour	52	154.33	158.88	173.92	181.67	190.76	200.29
Marginal cost per hour for 31st hour	104	77.16	79.44	86.96	90.84	95.38	100.15
Marginal cost per hour for 32nd hour	156	51.44	52.96	57.97	60.56	63.59	66.76
Marginal cost per hour for 33rd hour	208	38.58	39.72	43.48	45.42	47.69	50.07
Marginal cost per hour for 34th hour	260	30.87	31.78	34.78	36.33	38.15	40.06
Marginal cost per hour for 35th hour	312	25.72	26.48	28.99	30.28	31.79	33.38
Marginal cost per hour for 36th hour	364	22.05	22.70	24.85	25.95	27.25	28.61
Marginal cost per hour for 37th hour	416	19.29	19.86	21.74	22.71	23.84	25.04
Marginal cost per hour for 38th hour	468	17.15	17.65	19.32	20.19	21.20	22.25
Marginal cost per hour for 39th hour	520	15.43	15.89	17.39	18.17	19.08	20.03
Marginal cost per hour for 40th hour	572	14.03	14.44	15.81	16.52	17.34	18.21

If employee pays 40%	hrs/yr	2009	2010	2011	2012	2013	2014
Employee Only Premium		1,929.60	2,019.60	2,171.60	2,246.00	2,358.30	2,476.22
Minimum Annual Income		20,311.58	21,258.95	22,858.95	23,642.11	24,824.21	26,065.42
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	9.77	10.22	10.99	11.37	11.93	16.71
31 hours per week	1,612	9.45	9.89	10.64	11.00	11.55	16.17
32 hours per week	1,664	9.15	9.58	10.30	10.66	11.19	15.66
33 hours per week	1,716	8.88	9.29	9.99	10.33	10.85	15.19
34 hours per week	1,768	8.62	9.02	9.70	10.03	10.53	14.74
35 hours per week	1,820	8.37	8.76	9.42	9.74	10.23	14.32
36 hours per week	1,872	8.14	8.52	9.16	9.47	9.95	13.92
37 hours per week	1,924	7.92	8.29	8.91	9.22	9.68	13.55
38 hours per week	1,976	7.71	8.07	8.68	8.97	9.42	13.19
39 hours per week	2,028	7.51	7.86	8.45	8.74	9.18	12.85
40 hours per week	2,080	7.32	7.67	8.24	8.52	8.95	12.53
Family Premium		5,350.00	5,508.00	6,029.20	6,298.00	6,612.90	6,943.55
Minimum Annual Income		56,315.79	57,978.95	63,465.26	66,294.74	69,609.47	73,089.95
Applying 9.5% Rule							
		Minimum Hourly Pay Rate					
30 hours per week	1,560	27.07	27.87	30.51	31.87	33.47	46.85
31 hours per week	1,612	26.20	26.98	29.53	30.84	32.39	45.34
32 hours per week	1,664	25.38	26.13	28.61	29.88	31.37	43.92
33 hours per week	1,716	24.61	25.34	27.74	28.97	30.42	42.59
34 hours per week	1,768	23.89	24.60	26.92	28.12	29.53	41.34
35 hours per week	1,820	23.21	23.89	26.15	27.32	28.69	40.16
36 hours per week	1,872	22.56	23.23	25.43	26.56	27.89	39.04
37 hours per week	1,924	21.95	22.60	24.74	25.84	27.13	37.99
38 hours per week	1,976	21.37	22.01	24.09	25.16	26.42	36.99
39 hours per week	2,028	20.83	21.44	23.47	24.52	25.74	36.04
40 hours per week	2,080	20.31	20.91	22.88	23.90	24.10	35.14

U.S. House of Representatives

Committee on Small Business

Hearing: “The Health Care Law: Implementation and Small Businesses”

Testimony of Louisa McQueeney

General Manager/CFO, Palm Beach Groves

Lantana, FL

April 17, 2013

Chairman Graves, Ranking Member Velázquez, and members of the committee,

Thank you for the invitation to testify before your committee on the topic of how the implementation of the Affordable Care Act is impacting small businesses. I appreciate the opportunity to share my experiences on these issues from the perspective of a small business.

My name is Louisa McQueeney. I am the General Manager and CFO of Palm Beach Groves, a small business in Lantana, Florida that ships citrus gift baskets across the United States and Canada. Last year we employed 6 year round employees and 3 seasonal workers.

I've worked at Palm Beach Groves for the last 13 years. Part of my job as CFO is managing health care benefits. Over the last decade, I have grown quite accustomed to yearly double digit rate increases—12 percent, 22 percent, one year even as high as 32 percent. Renewal season has always been a nerve-wracking time, as the decision to continue providing health coverage—and how much of the cost to shift onto employees—has gotten harder each year.

Each year, I shop around to different insurance companies, but none can quote better rates. In fact, they can actually charge an additional 15% if they find one pre-existing condition from any person covered on the plan. All of us have pre-existing conditions.

For almost a decade, our staff hasn't seen any raises, because the raise would go to yet another increase in health insurance premiums.

How early provisions of the Affordable Care Act are helping small businesses

Then, the first components of the Affordable Care Act, or "Obamacare" were implemented.

In November of 2011, our insurance agent called with our renewal. Instead of the nightmare news I'd come to expect, I found out our premiums for the next year would increase by a grand total of 0.2 percent. Zero point two. Flat.

I was floored. This flan renewal came with exactly the same plan—no dumbing down the coverage, no increase in our deductibles, everything was the same.

Then, at tax time, we applied for the small business health care tax credit. That credit cut our total health care costs by about 10 percent—$7,400—for 2011. We will receive this tax credit again for 2012.

Last summer, we also received a $1,582 rebate check in the mail from our insurance company. Our health insurer had not met the "80/20" rule which requires insurers to spend at least 80 percent of premiums on medical care. So, they were forced to pay us back the difference.

This had never happened before. I was so excited, I thought about framing the check.

During this time, my family was also personally benefiting from the ability to keep our adult daughter on our health insurance plan until age 26, and I also benefited from free preventive care with an annual well-visit.

Counting it all up—the stable rate, the tax credit, the rebate check—last year our business saw our health insurance costs cut about 12 percent, with better coverage and greater peace of mind, thanks to the Affordable Care Act.

Continuing challenges for small businesses

Since the law will not be fully implemented until 2014, we still face challenges. All of our employees are in their 50s and 60s. We're not spring chickens and we've got more than a few pre-existing conditions among us.

Last year, we had four major health care events in our very small group. One of our long time employees died after battling lung cancer. The spouse of another was diagnosed with a serious heart condition. Thank God he was covered under our insurance, because it literally saved his life. He was given a wearable defibrillator sudden cardiac arrest protection device, which he would not have been able to afford had he not been covered. The device actually shocked his heart numerous times keeping him alive until the ambulance arrived. He ended up with a defibrillator/pacemaker implant at a billed cost of over $172,000. Who can afford any of this?

Under Florida law, health insurers are allowed to impose additional rate-hikes to small businesses based on the health status and claims experience of the group. When you only have a few employees to begin with, just one battle with cancer can dramatically affect your rates. Add a heart condition diagnosis, a spouse with Alzheimer's, and a generally aging workforce, and we found ourselves facing another double-digit rate-hike at our latest renewal.

That's why I'm looking forward to the health care law being fully implemented. Starting next year, the Affordable Care act prohibits insurers from hitting small businesses with an extra rate-hike based on the health status or claims experience of their small group. Premiums will be allowed reasonable variation for age and smoking status, but gone will be the day when, if one of your employees gets cancer, you can count on your rates skyrocketing when you need health care the most. Gone will be the days when you can be discriminated against based on gender. Frankly, it can't come soon enough.

I am pleased that Governor Rick Scott has joined with other Republican Governors in dropping fervent opposition to the law, and taking the practical approach of supporting expanding Medicaid for more Floridians. Nevertheless, this issue is still being hotly debated in our state legislature. I hope they do the right thing, because accepting the Medicaid expansion would help take some pressure off our hospitals and reduce the cost-shifting of uncompensated care costs onto private payers, including businesses like ours. We also need to move forward with implementing health insurance exchanges where small businesses can compare coverage options apples-to-apples and get the best deal at the best price.

Too many small business owners still don't know that they could benefit from the health care tax credit, a dollar for dollar reduction in your tax bill. According to the GAO, between 1.4 and 4 million small businesses qualified for the tax credit and only about 170,000 took advantage of it. I found out about the credit through a small business IRS mailing. But many business organizations, like the US Chamber of Commerce, opposed the law for ideological reasons. I feel they have been remiss in educating their members about how they might benefit and lower their health care costs.

Maybe it's true that too few small businesses qualify for the tax credit. So, one opportunity to move forward that I would encourage you to support is expanding eligibility for the credit. While some elected officials are using the news of lower than expected utilization as an excuse to criticize the credit and the Affordable Care Act as a whole, that's not helpful to small businesses. If you want to help us, it would make more sense to ask the question, "What can we do to make this credit work for more of our small businesses?"

Currently the credit is limited to businesses with fewer than 25 FTEs and average wages under $50,000. Why not expand the FTE requirement to 50, 75, or even 100 employees, and increase the salary cap? You have an opportunity to help so many more small businesses throughout the country with the small business health care tax credit. I hope you will take it.

I want to say something briefly about employer responsibility. We've always considered it our responsibility to provide health coverage to our employees. If we don't provide it, where are they supposed to get it... and who will pay the bill? At a small business, our employees are like family. How could I look one of my employees in the eye while they battle cancer and say, "We're going to drop your coverage" when I know it will financially devastate their family?

In the last year, I've read a lot in the news about some companies that are larger than ours taking extraordinary steps to avoid their responsibility under the law.

The employer responsibility provision of the Affordable Care Act is often presented as a problem for small businesses. I believe the opposite is true. As a business who is doing the right thing and offering health coverage to our workers, the real problem for us is that when other businesses who are much larger than us don't offer health care, we're forced to subsidize their health care costs. The shifting of uncompensated health care costs to businesses that pay for health insurance represents a "hidden tax" in our premiums that costs our small business hundreds of dollars per employee per year. How is that fair?

Opponents of the health care law argue that the employer responsibility requirement will hurt job creation. I disagree. More than 9 out of 10 businesses with 50 or more employees already offer health coverage.[1] Think about it this way: for every business around the 50 FTE threshold that doesn't already offer coverage, there are many more that do. Right now, the barrier to job creation for the businesses that do offer health care—like mine—is the fact that we're paying more to subsidize the ones that don't. The only way to fix this is through a system of shared responsibility where all businesses above the threshold pitch in and nobody takes a free ride at the expense of the rest of us.

Alternatives: Will they work?

Opponents of the law say they want to replace it with something else. But there are no real alternatives being offered.

"Let health insurance companies sell across state lines." Sounds nice in theory, but will my cheap South Dakota health insurance pay the more expensive care in South Florida? Who will regulate that? To date I have heard no real answers to these questions. We need the protection of law to ensure that insurance is worth more than the paper it's written on. Besides, our neighbors in Georgia tried this. Not a single out-of-state insurance company tried to enter the market there, so it does not seem like a feasible alternative.[2]

Or "Health Savings Accounts" which are supposed to make us "better," "more informed," and "more responsible" consumers of healthcare. Try calling a doctor's office and ask for the price of a biopsy, or a fix for a broken leg or by-pass surgery. The first answer you get is "I don't know" and if you persist you get "depends on your insurance," but you will not get a price. Good luck with that one.

We have experience with HSAs.

A few years ago, our company was forced into a high deductible HSA plan by our insurer. This meant paying the first $5,000 of healthcare costs out-of-pocket and then paying a high monthly premium on top of that before the health insurance company paid a dime.

That's not a solution. It feels a lot like paying to be uninsured, and it's just more of the same old squeeze.

Conclusion

The Affordable Care Act is working for our business and is taking important steps forward to address the barriers to lower health care costs and bring affordable, good quality health coverage within reach for many small businesses. Businesses like ours are already seeing the benefits as early provisions of the law take effect. We have even more to look forward to with the establishment of the state health insurance exchanges, the prohibition on rating due to health status, and other provisions that are still on their way.

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[1] Agency for Healthcare Research and Quality, Center for Financing, Access and Cost Trends, 2010 Medical Expenditure Panel Survey—Insurance Component; Table I.A.2(2010) Percent of private-sector establishments that offer health insurance by firm size and selected characteristics: United States, 2010, http://meps.ahrq.gov/mepsweb/data__stats/summ__tables/insr/national/series__1/2010/tia2.htm

[2] No out-of-state insurers offer plans in Georgia," *Atlanta Journal-Constitution,* April 30, 2012, http://www.ajc.com/news/no-out-of-state-1428329.html

We need to keep building on the foundation of the Affordable Care Act, not tear it down. Small businesses across the country can't afford to go back to the broken health care marketplace we faced before reform. We need to keep moving forward.

By taking full advantage of the opportunities created by the Affordable Care Act, we can break down the barriers to lower health care costs and finally level the playing field for small businesses. Then small businesses like ours will be able to focus our full attention on building our businesses, creating jobs, and strengthening our local economies. Thank you.

Plumbing-Heating-Cooling Contractors–National Association

Pride In Our Past–Faith In Our Future

TESTIMONY OF

KEVIN TINDALL, OWNER

TINDALL & RANSON PLUMBING AND HEATING

PRINCETON, NEW JERSEY

ON BEHALF OF THE

PLUMBING-HEATING-COOLING CONTRACTORS—
NATIONAL ASSOCIATION

BEFORE THE UNITED STATES HOUSE OF
REPRESENTATIVES

COMMITTEE ON SMALL BUSINESS

"Health Care Law Implementation"

April 17, 2013

180 S. Washington St., P.O. Box 6808, Falls Church, VA 22046-1148, 703/237-8100, Fax: 703/237-7442
URL: http://www.phccweb.org • E-mail: naphcc@naphcc.org

Chairman Graves and members of the committee, my name is Kevin Tindall. My wife and I own Tindall and Ranson Plumbing and Heating located in Princeton, New Jersey. I also serve as an officer and member of the Board of Directors of the Plumbing-Heating-Cooling Contractors—National Association located in Falls Church, Virginia. As the owner of a small business and on behalf of the leadership and members of the Plumbing-Heating-Cooling Contractors—National Association, thank you for the opportunity to appear before the Committee to discuss health care reform. I realize the statutory title of the act is known as "The Patient Protection and Affordable Care Act" however, in the small business world, we merely refer to it as health care reform. I am also aware of the many challenging issues you face as national leaders, and I applaud your efforts today to hold this hearing on one of the most important issues facing the citizens of our nation.

Tindall & Ranson provides plumbing, heating, and cooling services. We were established 20 years ago with only two stockholders and four employees. We now have 20 full-time employees ranging from highly qualified technicians to administrative and management professionals. I am proud to say that we also provide quality health care insurance to all of those working at Tindall and Ranson. We measure success by providing quality service to our clients and quality careers for our employees so that they can provide for their families. We don't measure success by evaluating our profit margin.

For the purposes of my appearance here today, I would like to ask that you not look at me as the owner of a plumbing and heating company. I would ask that you instead look at me as a small business job creator—not unlike millions of other small business job creators. As such, I would further ask that you receive my testimony as someone who has worked to help create, build and improve the quality of life for those living in my community as well as providing the foundation of a quality career for those who work in my company—my partners.

I am not an expert in health care or health care reform. I am however, the person who must live with the very business decisions and policies Congress establishes which in many cases, either increases or inhibits my ability to create jobs. For that, I am an expert. I have yet to understand how we as a nation can continue to state that we need to create more jobs, yet challenge, threaten, or even ignore the very mechanisms for job creation.

I would like to touch on a few very important small business dynamics that are the result of what we are experiencing in the small business world as they relate to health care. I would also like to briefly discuss what we see as the future. I want to again emphasize that my views are that of someone who is responsible for 20 individuals and their families.

- **Tax Credits for Small Business**

  When Congress debated, considered, then passed the health care reform package, I heard and read much about tax credit incentives for small business. On the surface, this was a positive. Something that the business community viewed as a way to partner with the reform. I have spent countless hours viewing health care reform webinars, reviewing materials and speaking with other small business owners with the intent of calculating any benefits of the reform in terms of tax credits. I am often asked why I don't take advantage of the small business tax credit incentives. I am proud to say that I don't qualify—the average salary for those who work at my company exceeds the $50,000 threshold, thereby disqualifying me. Tax credits as an incentive are meaningless unless you happen to fall within a very limited universe as defined by the reform. This is also the reason why many small businesses have not taken advantage of the credits—they can't.

- **Rising Insurance Premium Costs**

One of the most talked about issues I heard during the health care reform debate was that rising insurance premiums need to be brought under control. I couldn't agree more. But in my experience, that's the difference between policy and the real world. For my company, the insurance renewal cost for 2011 experienced an increase of 9.7%, followed by an increase of 9.3% for 2012. Let me repeat, an increase of 9.7% in 2011 and an increase of 9.3% in 2012! I would challenge anyone who has experienced a 9.3% to 9.7% increase in anything in their professional or personal life who can simply absorb the excess cost and not have to take action. Because I will always view those who work at my company as partners, and because I will always provide my partners and their families with quality health care insurance, this increase simply means that the cost of doing business has increased. Eliminating health care insurance or perhaps turning to lower quality health care insurance in order to save money, is not an option. The continued rise in the cost of providing health care insurance absolutely stifles my ability to create, provide and sustain jobs. Again Mr. Chairman and members of the Committee, I have yet to understand how we as a nation can continue to state that we need to create more jobs, yet challenge, threaten, or even ignore the very mechanisms for job creation.

- **Educational Materials**

As I mentioned, I serve as an officer of the Plumbing-Heating-Cooling Contractors—National Association. I have access to health care reform information webinars, materials, and analysis, and I take advantage of all of these tools. I raise this point for two reasons.

1. With my years as a member of the association and in my position as an officer with the association, combined with my efforts and time to understand the complexities of the reform, I still have many questions and concerns.
2. I raise the question—what about the other small businesses across the country who don't belong to an association—state or national. We assume these small businesses know about the reform and understand its timetable. But I would submit, they may not have the resources, time, ability, or know-how to reach out to find out more.

As I watch and listen to the news each evening, I often hear the term “job creation.” I very much agree that one of the nation’s top priorities should be creation. But job creation is not a concept, it begins in communities like mine and with people like me.

In closing, Mr. Chairman, I want to thank you and the members of the Committee for this opportunity. The Plumbing-Heating-Cooling Contractors—National Association appreciates the thoughtful approach of this Committee and looks forward to working with you. I am more than happy to answer any questions or provide any information today or in the future you or the committee may request.

Associated Builders and Contractors, Inc.

March 6, 2013

The Honorable Sam Graves
Chairman
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

The Honorable Nydia M. Velázquez
Ranking Member
House Committee on Small Business
B-343C Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves and Ranking Member Velázquez:

On behalf of Associated Builders and Contractors (ABC), a national association of 72 chapters representing 22,000 merit shop construction and construction-related firms, I am writing in regard to today's full committee hearing on the "Health Care Law: Implementation and Small Businesses."

Providing quality health care benefits is a top priority for ABC and its member companies. Throughout the health care reform debate, ABC advocated for policies that reduce the cost of health care for employers and their employees. ABC called on Congress to advance common-sense proposals that would address the skyrocketing costs of health insurance, especially for employer-sponsored plans and the rapidly rising number of uninsured Americans. ABC believes true reform should provide greater choice and affordability and allow private insurers to compete for business.

Unfortunately, the Patient Protection and Affordable Care Act (PPACA) fails to lower costs and imposes new taxes, as well as costly and burdensome federal government mandates on businesses. Beginning in 2014, PPACA mandates that employers with 50 or more full-time equivalent employees offer a certain level of coverage or be subject to taxes. The increased costs related to this onerous mandate are of significant concern to ABC members.

By forcing employers to offer government-prescribed health insurance, ABC members will no longer have the choice or flexibility to structure health care coverage options that meet the needs of their fluctuating workforce. The resulting increased costs will jeopardize the ability of ABC member companies to maintain affordable coverage options for their employees and force some to drop coverage all together. Funds that employers could use to hire and retain workers or expand their businesses will instead go toward paying the burdensome employer mandate tax.

ABC also is concerned about the regulations implementing the employer mandate, which are complex, confusing and unclear. They create an environment of uncertainty in our industry that makes it difficult for firms to adequately plan for the future—ultimately stifling job creation.

ABC supports the American Job Protection Act (H.R. 903), introduced by Rep. Charles Boustany, which would repeal the employer mandate provision in PPACA and protect existing jobs, remove some of the uncertainty facing employers and help America's job creators get back to work.

We appreciate your attention to this important matter and look forward to working with you to pass the American Job Protection Act.

Sincerely,

K Swearingen

Kristen Swearingen
Sr. Director, Legislative Affairs

United States Government Accountability Office

GAO

Report to Congressional Requestors

May 2012

DRAFT

SMALL EMPLOYER HEALTH TAX CREDIT

Factors Contributing to Low Use and Complexity

GAO
Accountability * Integrity * Reliability

GAO-12-549

May 2012

SMALL EMPLOYER HEALTH TAX CREDIT

Factors Contributing to Low Use and Complexity

GAO
Accountability * Integrity * Reliability

Highlights

Highlights of GAO-12-549, a report to congressional requesters

Why GAO Did This Study

Many small employers do not offer health insurance. The Small Employer Health Insurance Tax Credit was established to help eligible small employers—businesses or tax exempt entities—pay health insurance premiums for employees. The base of the credit is premiums paid or the average premium for an employer's state if premiums paid were higher. In 2010, for small businesses, the credit was 35 percent of the base unless the business had more than 10 full time equivalent employees or paid average wages over $25,000.

GAO was asked to (1) describe the extent the credit is claimed and any factors that limit claims, including how they can be addressed; (2) assess how fully the IRS is ensuring the credit is correctly claimed; and (3) describe what data are needed to evaluate the credit.

GAO compared IRS data on credit claims with estimates of eligible employers; interviewed various credit stakeholders and IRS officials as well as academicians on evaluation; compared IRS credit compliance documents with the rules and practices used for prior tax provisions; and reviewed literature and data.

What GAO Recommends

GAO recommends that IRS (1) improve instructions to examiners working on cases on the credit, and (2) analyze results from examinations of credit claimants and use those results to identify and address any errors through alternative approaches.

View GAO-12-549. For more information, contact James R. White at (202) 512-9110 or whitej@gao.gov.

What GAO Found

Fewer small employers claimed the tax credit in tax year 2010 than were estimated to be eligible. While 170,337 small employers claimed it, estimates of the eligible small employer pool by government agencies and small business advocacy groups ranged from 1.4 million to 4 million. The cost of credits claimed was $488 million. Most claims were limited to partial rather than full percentage credits (35 percent for small businesses) because of the average wage or full-time equivalent (FTE) requirements. As shown in the figure, 25,050 employers claimed the full credit percentage. In addition, 30 percent of claims had the base

Number of Small Employers Claiming the Full and Partial Credit Percentages, by FTE and Wage Requirements for the Credit, Tax Year 2010

Employer Average Annual Wages	Employer FTEs: 10 or fewer	Employer FTEs: More than 10
Over $25,000	Partial Credit Percentage 118,545	Partial Credit Percentage 21,558
$25,000 or less	Full Credit Percentage 25,050	Partial Credit Percentage 5,184

Source: GAO analysis of IRS data on Form 8941.
Note: This table is out of the 170, 337 small employer claims.

premium limited by the state premium average. One factor limiting the credit's use is that most small employers, 83 percent by one estimate, do not offer health insurance. According to employer representatives, tax preparers and insurance brokers that GAO met with, the credit was not large enough to incentivize employers to begin offering insurance. Complex rules on FTEs and average wages also limited eligibility. In addition, the groups GAO met with said the length of time needed to calculate the credit deterred claims. Options to address these factors, such as expanded eligibility requirements, have tradeoffs, including less precise targeting of employers and higher costs.

The Internal Revenue Service (IRS) incorporated practices proven effective for prior tax provisions into its compliance approach for the credit. However, the instructions provided to its examiners (1) do not address the credit's rules on employers with a non-U.S. address, and (2) have less detail for reviewing the eligibility of tax exempt entities' health insurance plans compared to those for reviewing small business plans. These omissions may cause examiners to overlook or inconsistently treat possible noncompliance. Further, IRS does not systematically analyze examination results to understand the types of errors and whether examinations are the best way to correct each type. As a result, IRS is less able to ensure that resources target errors with the credit, rather than compliant claimants.

Currently available data on health insurance that could be used to evaluate the effects of the credit does not match the credit's eligibility rules, such as information to convert data on number of employees to FTEs. Additional data that would need to be collected depends on the questions policymakers would want answered and the costs of collecting such data.

The Honorable Olympia J. Snowe

Ranking Member

Committee on Small Business and Entrepreneurship

United States Senate

The Honorable Sam Graves

Chairman

Committee on Small Business

United States House of Representatives

Many small employers do not offer health insurance to their employees. This is particularly true for small employers paying low-wages. According to data from the Medical Expenditure Panel Survey (MEPS)[1], 16.6 percent of employers with 10 or fewer employees who earn low-wages (half of their employees earn less than $11.50 per hour) offered health insurance to their employees in 2010, while 90 percent of employers with 100 to 999 employees who earn low wages did.

To provide an incentive for small employers to provide health insurance, and to make insurance more affordable, Congress included the Small Employer Health Insurance Tax Credit (referred to in this report as *the credit)* in the Patient Protection and Affordable Care Act (PPACA), enacted in March 2010 and gave the Internal Revenue Service (IRS) a role in managing the tax credit.[2] The credit is available for tax years beginning after December 31, 2009 to certain employers with low wage employees—

[11]The Medical Expenditure Panel Survey (MEPS) is a set of large-scale surveys. MEPS is administered by the Agency for Healthcare Research and Quality in the Department of Health and Human Services (HHS). The 2010 Insurance Component survey had a response rate of about 83 percent for private establishments, and 38,409 respondents, who include for profit, and nonprofit employers; government units are excluded from our statistics.

[2] Pub. L. No. 111-148, § 1421, 124 Stat. 119 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat.1029 (Mar. 30, 2010) (codified at 26 U.S.C. § 45R).

small business and tax exempt entities—who pay at least half of their employee's health insurance premiums. The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) jointly estimated that the credit would cost $2 billion in fiscal year 2010, and $40 billion from fiscal years 2010 to 2019.[3]

You asked us to review the implementation of the credit. Specifically, we examined:

- to what extent the credit is being claimed; what factors, if any, limit employer claims, and how these factors can be addressed;
- how fully IRS is ensuring that the credit is correctly claimed by eligible employers; and
- what data are needed to evaluate the effects of the credit.

To describe the extent to which the credit is being claimed, we reviewed IRS data on the claims for tax year 2010. To identify any factors limiting credit claims, we interviewed IRS officials as well as groups representing employers, tax preparers, and insurance brokers, and worked with them to assemble discussion groups on the credit. To assess how these factors could be addressed, we analyzed our interview results as well as relevant documents. Where possible, we identified IRS or MEPS data related to the factors limiting claims. To assess how IRS is ensuring that the tax credit is correctly claimed by eligible employers we reviewed its compliance plans for the credit and compared them to practices used successfully for prior tax provisions[4] and IRS strategic objectives. We interviewed IRS officials on their compliance efforts and results. To assess what data would be needed to evaluate the credit, we conducted a literature review and interviewed interest groups and subject matter specialists from government, academia, and think tanks. We found the data we used to be sufficiently reliable for the purposes of our report.

[3]Congressional Budget Office, letter to Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives, (Washington, D.C.: March 18, 2010).

[4]For example, see GAO, *Tax Refunds: Enhanced Prerefund Compliance Checks Could Yield Significant Benefits, GAO-11-691T,* (Washington, D.C.: May 25, 2011).

We conducted this performance audit from July 2011 through May 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. (See appendix I for our scope and methodology.)

Background

Small Employer Health Insurance Market

Small, low wage employers do not commonly offer health insurance, compared with large low wage employers, as shown in figure 1.

Figure 1: Percent of Low wage Employers that Offer Health Insurance, 2000 through 2010, by Employer Size

Source: MEPS 2000 to 2010 data.

Source: MEPS 2000 to 2010 data

Note: Figure includes for-profit and nonprofit entities, but not government entities. A low-wage employer is defined as having more than half of the employees earn a low wage ($11.50 per hour, which is an annual salary of, at most, about $23,920).

A combination of factors explains why small, low wage employers tend not to offer health insurance.[5]

- For very low wage workers, such as minimum wage workers[6], health insurance may drive up total compensation.
- While employees pay both income and payroll tax on wages, employees do not have to pay income or payroll taxes on premiums paid by their employer for health insurance. For low-wage employees, the income tax exclusion is worth less relative to cash wages than for higher income employees because low wage employees may be in a lower income tax bracket.[7]
- Insurers of small employers face higher per-employee fixed costs for billing and marketing[8] and are less able to pool risk[9] across large numbers of employees. As a result, plans offered to small employers are likely to have higher premiums or have less coverage and higher out-of-pocket costs than plans offered to large employers. [10]

<u>IRS Implementation and Requirements for Calculating and Claiming the Credit</u>

[5]For additional description of some of these issues, see GAO, *Private Health Insurance: Small Employers Continue to Face Challenges in Providing Coverage*, GAO-02-8, (Washington D.C.: Oct. 31, 2001).

[6] In general, the federal minimum wage is $7.25 per hour. Many states also have minimum wage laws that vary from state to state.

[7]See Quantria Strategies /Small Business Administration, *Health Insurance in the Small Business Market: Availability, Coverage, and the Effect of Tax Incentives*, (Cheverly, M.D..: Sept. 2011).

[8]CBO estimated that for firms with 25 or fewer employees, 26 percent of premiums go toward insurers' administration costs, compared with 7 percent for firms with at least 1,000 employees; see CBO, *Key Issues in Analyzing Major Health Insurance Proposals* (Washington D.C.: Dec. 2008).

[9]Risk pooling spreads risk across a group; a larger pool stabilizes the average insurance costs. Smaller risk pools raise costs because insurers run the risk of insuring those with relatively high health care needs. As a result, insurers generally add a premium surcharge to better ensure that they can cover unexpectedly large health care costs.

[10]The average deductible per employee enrolled in a single (employee only) health insurance plan was $1,447 for 2010 for employers with less than 50 employees; for employers with 50 or more employees, it was $917 for 2010, according to MEPS. A deductible is the amount of expenses that must be paid out of pocket before an insurer will pay any expenses.

IRS's Small Business and Self-Employed (SB/SE) and Tax Exempt and Government Entities (TEGE) divisions are primarily responsible for implementing the credit. IRS works with the Department of Health and Human Services (HHS) and the Small Business Administration (SBA) on implementation tasks, such as outreach and communication.

To be eligible, employers must:

- Be a small business[11] or tax exempt employer[12] located in or, have trade or business income in, and pay premiums for employee health insurance coverage issued in the United States.
- Employ fewer than 25 full-time-equivalent (FTE[13]) employees in the tax year (excluding certain employees, such as business owners and their family members.)[14]
- Pay average annual wages of less than $50,000 per FTE in the tax year. [15]
- Offer health insurance and pay at least 50 percent of the health insurance premium under a "qualifying arrangement." This means that the employer uniformly pays at least 50 percent of the cost of premiums for enrolled

[11]For purposes of this credit, a business includes those who are corporations in a controlled group of corporations, or members of an affiliated service group, as well as partnerships, sole proprietorships, cooperatives and trusts. A sole proprietor is an individual who owns an unincorporated business, but may employ others.

[12] The credit is available to tax exempt employers described in Internal Revenue Code 26 U.S.C. § 501(c) and exempt from tax under 26 U.S.C. § 501 (a).

[13] To calculate FTEs, the total hours of service must be determined for all individuals considered employees. There are a number of methods that can be used to determine the hours worked, but the hours are limited to 2,080 per employee. The total hours of service is divided by 2,080 to arrive at the FTE number.

[14]Other exclusions are seasonal employees, unless they work for the employer on more than 120 days in the tax year, and ministers who are deemed to be self-employed. Leased employees are included in FTE calculations.

[15] Wages for the employees included in the FTE calculations are included in average wage calculations except for minister's wages which are not subject to Social Security or Medicare tax.

employees, although IRS did develop relaxed criteria for meeting this requirement for tax year 2010.[16]

The President's fiscal year 2013 budget request contains a proposal for expanding the credit's eligibility criteria to include employers with 50 or fewer FTEs, and removing the uniform contribution requirement.

Limits on the Credit Amount

The amount of the credit that employers can claim depends on several factors. Through 2013, small businesses can receive up to 35 percent and tax exempt entities can receive up to 25 percent of their payments for employee health insurance premiums; these portions rise to 50 percent and 35 percent, respectively, starting in 2014. Employers can receive the *full credit percentage* if they have 10 or fewer FTEs and pay an average of $25,000 or less in annual wages; employers with 11 to 25 FTEs and average wages exceeding $25,000 up to $50,000 are eligible for a *partial credit* that "phases" out to zero percent of premium payments as the FTE and wage amounts rise. Figure 2 shows the phase out of the credit for small businesses; the phase out for tax exempt entities follows a similar pattern, up to 25 percent of health insurance premiums.

Figure 2: Phase out of the Credit for Small Businesses as a Percentage of Employer Contributions to Premiums, for 2010 to 2013

[16] IRS offered a transition rule on the "qualifying arrangement" criteria for tax year 2010 and for satisfying the uniformity requirement. IRS Notice 2010-44.

	Average wage					
Firm size	**Up to $25,000**	**$30,000**	**$35,000**	**$40,000**	**$45,000**	**$50,000**
Up to 10	35%	28%	21%	14%	7%	0%
11	33%	26%	19%	12%	5%	0%
12	30%	23%	16%	9%	2%	0%
13	28%	21%	14%	7%	0%	0%
14	26%	19%	12%	5%	0%	0%
15	23%	16%	9%	2%	0%	0%
16	21%	14%	7%	0%	0%	0%
17	19%	12%	5%	0%	0%	0%
18	16%	9%	2%	0%	0%	0%
19	14%	7%	0%	0%	0%	0%
20	12%	5%	0%	0%	0%	0%
21	9%	2%	0%	0%	0%	0%
22	7%	0%	0%	0%	0%	0%
23	5%	0%	0%	0%	0%	0%
24	2%	0%	0%	0%	0%	0%
25	0%	0%	0%	0%	0%	0%

Source: Congressional Research Service.

Source: Congressional Research Service, *Summary of the Small Business Health Insurance Tax Credit Under PPACA (P.L. 111-148)*, (Washington, D.C.: April 5, 2010).

Table note: While the first row says "up to 10 FTEs" 10 is included in the first row. While the first column says up to $25,000, $25,000 is included in the first column.

Further, the amount of the credit is limited if the premiums paid by an employer are more than the average premiums determined by HHS for the small group market in the state in which the employer offers insurance. The credit percentage is multiplied by the allowable premium to calculate the dollar amount of credit claimed. For example, in Alabama, the state average premium is $4,441 for a single employee. If an employer claiming the credit in Alabama paid $5,000 for a single employee's health premium, the credit would be calculated using the state average premium of $4,441 rather than the actual premium paid. Appendix II shows the average premiums by state.

The proposal in the President's Budget suggests beginning the phase-out at 21 FTEs, rather than 11, as well as providing for a more gradual combined phase-out for the credit percentages and removing the state market limits.

Process for Claiming the Credit

Employers are to calculate the credit amount on IRS Form 8941, "Credit for Small Employer Health Insurance Premiums." Small businesses are to claim the credit as part of the general business tax credit (on Form 3800), and use it to offset actual tax liability. If they do not have a federal tax liability, they cannot receive the credit as a refund but may carry the credit forward or back to offset tax liabilities for other years.[17] Credit amounts claimed by partnerships and S-corporations are to be passed through to their partners and shareholders, respectively[18] who may claim their portion of the credit on their individual income tax return.[19] Tax exempt entities are to claim the credit on Form 990-T, "Exempt Organization Business Income Tax Return," and receive the credit as a refund even though the employer has no taxable income.

Employers who claim the credit can also deduct health insurance expenses on their income tax return but must subtract the amount of the credit from the deduction. Employers can claim the credit for up to six years– the initial four years from 2010 through 2013 and any two consecutive years after 2013 if they buy insurance through the Small Business Health Option Programs, part of insurance exchanges to be established under PPACA.[20]

Fewer Small Employers Claimed the Credit than Were Thought to be Eligible Due to Factors Such As Credit Size and Complexity

Actual Credit Claims were Much Lower than Initial Rough Eligibility Estimates

[17] The unused credit for small businesses may be carried back 1 year or forward up to 20 years. Credits cannot be carried back to a year prior to the effective date of the credit; any unused credit amounts for 2010 can only be carried forward. See IRS Notice 2010-44.

[18] Owners of S-corporations are referred to as shareholders. S-corporations are corporations that "pass through" gains and losses to shareholders' individual tax returns without generally paying taxes at the entity level. Similarly, partners receive pass through income and losses from a partnership.

[19] For partners and shareholders, the credit is to be entered on the Schedule K-1 to be filed with an income tax return.

[20] PPACA requires the establishment of exchanges in each state by January 1, 2014, which are to help eligible individuals and small employers compare and select insurance coverage amongst participating health plans. See Pub. L. No. 111-148, § 1311(b), 124 Stat. 173 (Mar. 23, 2010).

Fewer small employers claimed the credit for tax year 2010 than were thought to be eligible based on rough estimates of eligible employers made by government agencies and small business advocacy groups. IRS data, adjusted for double counting, show 170,337 small employers made claims for the credit in 2010[21]. (See appendix III for adjustments to avoid double counting of the claims filed with IRS.) The average credit amount claimed was $2,865. Limited information is available on the distribution of claim amounts for business entities because IRS focuses its data collection on the taxpayers filing credit claims, who may be partners or shareholders claiming their portion of the business entity's credit. Appendix III provides additional detail.

Estimates made by government agencies and small business advocacy groups of employers eligible for the credit range from around 1.4 million to 4 million. However, data limitations mean that these estimates are necessarily rough. Based on our review of available data sources on the three basic eligibility rules for the credit -- involving wages, FTEs, and health insurance—it is not possible to combine data from various sources to closely match these rules. Though statistical modeling corrects for imperfect data to match these rules, models are not precise. (See appendix VI for details). While acknowledging the data limitations, several entities produced estimates of the number of employers potentially eligible for the credit. The Council of Economic Advisors estimated 4 million and the SBA estimated 2.6 million.[22] Other groups making estimates included small business advocacy groups such as the Small Business Majority (SBM) and the National Federation of Independent Businesses (NFIB). Their estimates were 4 million and 1.4 million, respectively.

[21] The number of eligible employees working for employers who claimed the credit was 1,672,397.

[22] The Council of Economic Advisors is an agency within the Executive Office of the President, charged with offering objective advice on the formulation of domestic and international economic policy, and SBA is a government agency that offers a variety of programs and support services to help small businesses.

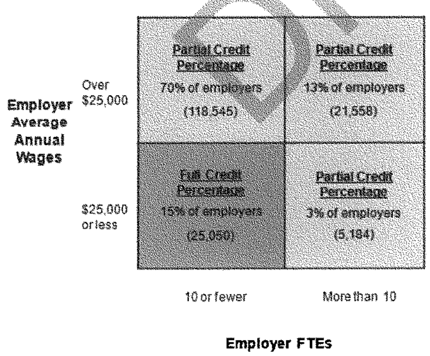
A similar pattern is seen if the dollar value of credits actually claimed is compared to initial estimates. The dollar value of claims made in 2010 was $488 million compared to initial cost estimates of $2 billion for 2010 (a CBO and JCT joint estimate).[23]

Most Small Employer Claims Were Reduced Due to the Phase Out Rules and Some Were Reduced by the State Average Premiums

> **Credit Phase Out:**
> (In reference to the phase out:) "People get excited that they're eligible and then they do the calculations and it's like the bottom just falls out of it and it's not really there. It's almost like a wish that they might get it and then they do the calculations and it's not worth it for them." –Health insurance discussion group participant

Most of the claims were for less than the full credit percentage. Of the 170,337 small employers making claims for tax year 2010, 145,287—85 percent—could not use the full credit percentage. Usually employers could not meet the average wage requirement to claim the full percentage as 70 percent did not qualify based on wages but did meet the FTE requirement. (See figure 3).[24]

Figure 3: Percent and Number of Small Employers Claiming the Full and Partial Credit Percentage, by FTE and Wage Requirements for the Credit, Tax Year 2010



[23] CBO and JCT recently reduced their original estimates of the future costs of the credit to a cost of $1 billion in 2012 and a cost of $21 billion from 2012 to 2021. These estimates were previously $5 billion in 2012 and $41 billion from 2012 to 2021.

[24] See appendix IV for a graph of claimants with fewer than 10 FTEs and the amount of full credits.

Source: GAO analysis of IRS data on Form 8941.

Note: This table is out of the 170, 337 small employer claims. Percents don't add up due to rounding.

State average premiums also reduced some credit amounts by reducing the amount of the premium base against which the credit percentage is applied. This premium base may be reduced when it exceeds the state average premiums for small group plans[25] as determined by HHS. If so, small employers are to use the state average amount, which in essence caps the premium amount used to calculate their credit. According to IRS data, this cap reduced the credit for around 30 percent of employer claims. For example, a nonprofit representative told us her credit dropped from $7,900 to $3,080 because of the state cap in her state. (See appendix II for small group average premiums in all states.)

State Averages as Caps on the Credit:

"I don't know where that number (the state average) comes from but that's supposed to be the average cost, and that seems pretty low, which is reducing that tax credit amount they would qualify for." –Health insurance discussion group participant

Most Small Employers Could Not Meet the Health Insurance Requirement for the Credit and the Credit Was Not Seen As an Incentive to Start Offering Insurance

As already discussed, small employers do not commonly offer health insurance. MEPS estimates that 83 percent of employers who may otherwise be eligible for the full credit[26] did not offer health insurance in 2010 and that 67 percent of employers who could be eligible for the partial credit[27] did not offer insurance. Our discussion groups and other interviewees confirmed this, with comments and examples of small, low-wage employers not offering health insurance to employees.

[25] A small group plan is a health coverage plan sponsored by small employers for the employees.

[26] This MEPS statistic is based on employers–both profit and non -profit-- with under 10 employees that pay annual wages of $24,000 or less to over half of their employees.

[27] This MEPS statistic is based on employers –both profit and non -profit-- with 10 to 25 employees that pay wages of $24,000 or less to over half of their employees. Because the employers eligible for the partial credit can pay up to $50,000 in wages, this is a less precise estimate than using MEPS to estimate insurance offerings for the full credit.

Small, Low-wage Employers Not Commonly Offering Health Insurance: "Very few people are going to pay 50 or 100 percent of the health insurance for someone making $25,000 or less. We just don't have that many clients who even start to qualify." --Tax preparer discussion group participant

Furthermore, the small employers do not likely view the credit as a big enough incentive to begin offering health insurance and make a credit claim, according to our discussion group participants and other interviewees. While these small employers could be eligible for the credit if they began to offer health insurance, small business group representatives and discussion group participants told us that the credit may not offset costs enough to justify a new outlay for health insurance premiums. Related to this concern, the credit being available for six years overall and just two consecutive years after 2014 further detracts from any potential incentive to small employers to start offering health insurance in order to claim the credit.

Group Complexity Deterred Small Employer Claims, According to Discussion Groups

Complexity of the Credit: "Any credit that needs a form that takes 25 lines and 7 work sheets to build to those 25 lines is too complicated." –Tax preparer discussion group participant

Most discussion group participants and groups we interviewed found the tax credit to be complicated, deterring small employers from claiming it. The complexity arises from the various eligibility requirements, the various data that must be recorded and collected, the number of calculations to be done, and number of forms or worksheets to be completed.

A major complaint we heard centered on gathering information for and calculating FTEs and the health insurance premiums associated with those FTEs. Eligible employers reportedly did not have the wages and number of hours worked for each employee readily available to calculate FTEs. Nor did they have the required health insurance information for each employee readily available. Exclusions from the definition of "employee" and other rules make the calculations complex. For example, seasonal employees are excluded from FTE counts but insurance premiums paid on their behalf count toward the employer's credit. Incorporating the phase out also complicates the credit calculation.

Gathering Information for the Credit Calculation: (Small business owners) "Are trying to run their businesses and operate and make a profit, and when you tell them they need to take 2, 3, 4 hours to gather this information, they just shake their head and say, 'no, I'm not going to do it'." –Tax preparer discussion group participant

In our discussion groups with tax preparers, we heard that small business owners generally do not want to spend the time or money to gather the necessary information to calculate the credit, given that the credit will likely be insubstantial. Tax preparers told us that they spent a considerable amount of time calculating the credit. Some said it took them 4 to 5 hours; others said it took them around 8 hours, and a few said it took even longer.[28] We did hear from a few participants—a small business owner and nonprofit representatives—that they did not find the credit overly burdensome.

Tax preparers we interviewed said that IRS did the best it could with the Form 8941 given the credit's complexity. IRS officials said they did not receive criticism about Form 8941 itself but did hear that the instructions and its seven worksheets were too long and cumbersome for some claimants and tax preparers. On its Web site, IRS tried to reduce the burden on taxpayers by offering "3 Simple Steps" as a screening tool to help taxpayers determine whether they might be eligible for the credit. However, to calculate the actual dollars that can be claimed, these three steps become 15 calculations based on 7 worksheets, some of which request multiple columns of information. Figure 4 aligns IRS's "3 Simple Steps," with the seven worksheets in the instructions for Form 8941, and the lines on Form 8941. (See appendix V for full text for this figure.)

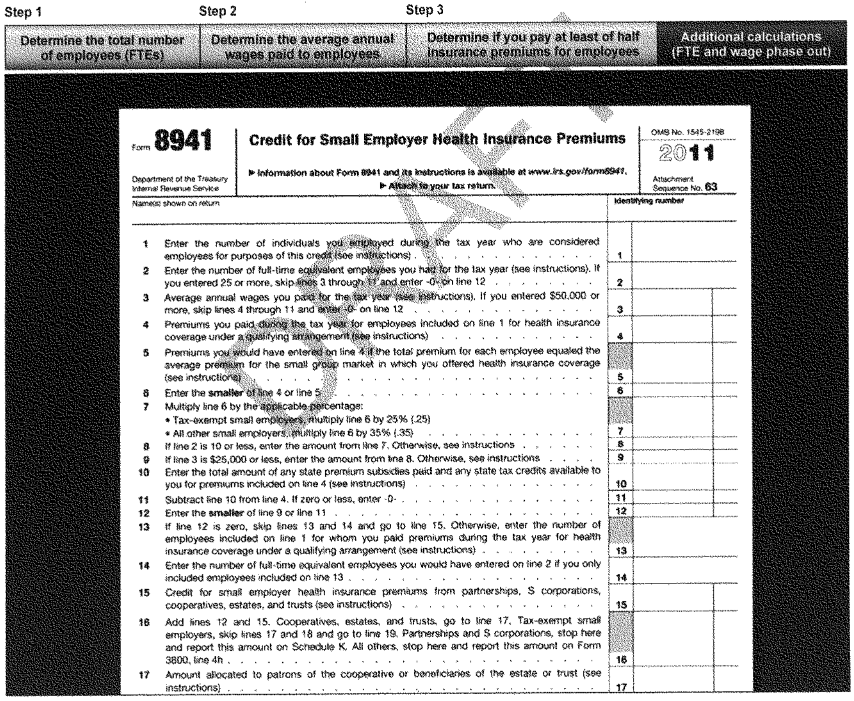
Figure 4: Worksheets Needed to Calculate Various Lines for Claiming the Credit on Form 8941, in Order to Claim the Credit

[28]The National Society of Accountants conducted a survey in 2008 that estimated the hourly tax preparer fee to be $122 an hour. Many tax preparers told us they reduced their fees or did not charge for the credit because they recognized they were going over a learning curve when calculating the credit.

Interactive graphic **Figure 6: Form 8941 and Credit Calculations on Worksheets Related to IRS's Three Simple Steps for Determining Potential Eligibility**

Directions:

Rollover the buttons below to reveal the worksheets necessary to calculate credit totals needed for lines on IRS Form 8941.



Form **8941** Department of the Treasury Internal Revenue Service

Credit for Small Employer Health Insurance Premiums

▶ Information about Form 8941 and its instructions is available at www.irs.gov/form8941.
▶ Attach to your tax return.

OMB No. 1545-2198 **2011** Attachment Sequence No. 63

Name(s) shown on return | Identifying number

1	Enter the number of individuals you employed during the tax year who are considered employees for purposes of this credit (see instructions)	1	
2	Enter the number of full-time equivalent employees you had for the tax year (see instructions). If you entered 25 or more, skip lines 3 through 11 and enter -0- on line 12	2	
3	Average annual wages you paid for the tax year (see instructions). If you entered $50,000 or more, skip lines 4 through 11 and enter -0- on line 12	3	
4	Premiums you paid during the tax year for employees included on line 1 for health insurance coverage under a qualifying arrangement (see instructions)	4	
5	Premiums you would have entered on line 4 if the total premium for each employee equaled the average premium for the small group market in which you offered health insurance coverage (see instructions)	5	
6	Enter the **smaller** of line 4 or line 5	6	
7	Multiply line 6 by the applicable percentage: • Tax-exempt small employers, multiply line 6 by 25% (.25) • All other small employers, multiply line 6 by 35% (.35)	7	
8	If line 2 is 10 or less, enter the amount from line 7. Otherwise, see instructions	8	
9	If line 3 is $25,000 or less, enter the amount from line 8. Otherwise, see instructions	9	
10	Enter the total amount of any state premium subsidies paid and any state tax credits available to you for premiums included on line 4 (see instructions)	10	
11	Subtract line 10 from line 4. If zero or less, enter -0-	11	
12	Enter the **smaller** of line 9 or line 11	12	
13	If line 12 is zero, skip lines 13 and 14 and go to line 15. Otherwise, enter the number of employees included on line 1 for whom you paid premiums during the tax year for health insurance coverage under a qualifying arrangement (see instructions)	13	
14	Enter the number of full-time equivalent employees you would have entered on line 2 if you only included employees included on line 13	14	
15	Credit for small employer health insurance premiums from partnerships, S corporations, cooperatives, estates, and trusts (see instructions)	15	
16	Add lines 12 and 15. Cooperatives, estates, and trusts, go to line 17. Tax-exempt small employers, skip lines 17 and 18 and go to line 19. Partnerships and S corporations, stop here and report this amount on Schedule K. All others, stop here and report this amount on Form 3800, line 4h	16	
17	Amount allocated to patrons of the cooperative or beneficiaries of the estate or trust (see instructions)	17	

Source. GAO analysis.

Print instructions | To print text version of this graphic, go to appendix X

Note: the full text for these worksheets is provided in appendix V.

Given the effort involved to make a claim and the uncertainty about the credit amounts, several discussion group participants and employer groups said it would be helpful for employers to be able to quickly estimate their eligibility for the credit and the amount they might receive; this would help them to decide whether the credit would be worth the effort, although this would not reduce the complication of filing out Form 8941 because, to fill out the form, documentation would still be needed. IRS's Taxpayer Advocate Service[29] is developing a calculator for IRS's Web site to quickly estimate an employer's eligibility but this will still require gathering information such as wages, FTEs, and insurance plans.

The Extent to Which Lack of Awareness is a Barrier to More Claims is Unknown Although IRS Did Significant Outreach

Many small businesses reported being unaware of the credit. The National Federation of Independent Businesses and Kaiser both estimated that approximately 50 percent of small businesses were aware of the credit, as of May 2011, or more than one year after Congress authorized this credit.[30]

The extent to which being unaware prevented eligible employers from claiming the credit for tax year 2010 is not known. Some discussion group participants raised concerns about unawareness but they also cited other factors limiting credit claims for tax year 2010. If 50 percent of small businesses knew about the credit, then the 170,037 claims is a relatively small proportion of those who were knowledgeable. This indicates that other factors to credit claims existed. Further, it is hard to interpret the

[29] The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers who are experiencing economic harm; taxpayers who are seeking help in resolving problems with the IRS; and those who believe an IRS system or procedure is not working as it should.

[30] NFIB conducted this survey in April and May 2011 of 750 small employers of firms with 50 or fewer people. The Kaiser Family Foundation conducted its survey from January through May 2011 of 3,184 public and private firms with 3 or more employees and its questions about the credit were directed to employers with 50 or fewer employees.

impact of awareness on claims because these surveys included an unknown number of small business employers that would not be eligible for the credit regardless of their awareness. For those employers that were unaware, the surveys did not account for their accountants or tax preparers who may have known about the credit but did not tell their clients about it because they did not believe their clients would qualify or because the credit amount would be very small. In addition, the surveys did not cover tax exempt entities.

To raise awareness of the credit, IRS did significant outreach. IRS developed a communication and outreach plan, written materials on the credit, videos, and a Web site. IRS officials also reached out to interest groups about the credit and developed a list of target audiences and presentation topics. IRS officials began speaking at events in April 2010 to discuss the credit and attended over 1,500 in-person or Web-based events from April 2010 to February 2012. Discussion of the credit at the events varied from being a portion of a presentation covering many topics to some events that focused on the credit with a dedicated discussion period.

IRS does not know whether its outreach efforts actually increased awareness of the credit or were otherwise cost-effective. It would be challenging to estimate the impacts of IRS's outreach efforts on awareness with a rigorous methodology; however, based on ongoing feedback they had received from interest groups, IRS officials told us they believe their efforts have been worthwhile. IRS used some feedback from focus groups of tax preparers and from other sources[31] to revise its outreach efforts. For example, IRS modified its outreach from initially focusing on tax preparers and small employers to including insurance brokers in 2012.

Addressing Factors and Expanding Credit Use May Require Substantive Design Changes

[31] Each focus group in 2011 consisted of 12 tax preparers. IRS issued a report on the focus groups on October 14, 2011.

Given that most claims are for partial credit percentages plus what we heard about the size of the credit and what is known about awareness,[32] it may not be possible to significantly expand credit use without changing the eligibility rules. As discussed above, few small businesses are eligible for the credit because most do not offer health insurance. Most claims were for partial credits and many people we talked to view the credit amount as too small and temporary to justify providing health insurance when none is provided now. The credit could be redesigned to change the incentives for using it but that would increase its cost. Options include:

- Increasing the amount of the full credit, the partial credit, or both;
- Increasing the amount of the credit for some by eliminating state premium averages;
- Expanding eligibility requirements by increasing the number of FTEs and wage limit allowable for employers to claim the partial credit, the full credit, or both. This expansion would not, however, likely affect the smallest employers who do not offer health insurance.
- Simplifying the calculation of the credit by:
  - Using the number of employees and wage information already reported on the employer's tax return. This could reduce the amount of data gathering as well as credit calculations because eligibility would be based on the number of employees and not FTEs. Trade-offs would be less precision in targeting the full and partial credit amount to specific small employer subgroups.[33]
  - Offering a flat credit amount per FTE (or number of employees) rather than a percentage, which again would reduce the precision in targeting the credit.

The data limitations that made it difficult to estimate the number of businesses eligible for the current credit also make it difficult to estimate the impact of any design changes.

[32] Given the lack of knowledge previously discussed on awareness, it is not clear that increasing outreach would increase credit usage.
[33] Using the number of employees instead of FTEs would require an increase in the number of eligible employees in order to reach the same population of small employers. For example, two part-time employees working 20 hours per week count as one FTE but as two employees, making the employer appear larger than if FTEs were counted.

IRS is Implementing Several Practices from Prior Compliance Efforts, but Additional Steps Could be Taken

IRS Incorporated Practices from Prior Credits In Its Compliance Efforts

IRS's compliance efforts for the credit incorporate practices that have been shown effective in helping to ensure compliance with other tax provisions, or are consistent with IRS strategic objectives. Some of those practices were used for the Telephone Excise Tax Refund (TETR),[34] and Consolidated Omnibus Budget Reconciliation Act (COBRA) subsidies for health insurance for the unemployed, according to IRS officials.[35] Specifically, IRS is:

- Using computerized filters to review credit claims on Forms 8941 for certain errors or potential problems, which may trigger an examination of the claim.
- Transcribing more lines of data from Form 8941 into IRS computer systems which should make the filters more effective. Although transcribing more lines increases processing and data storage costs, IRS plans to transcribe more lines for tax years 2011 and 2012 claims to ensure better verification of eligibility.
- Freezing refunds of tax exempt entities whose returns have been selected for examination, which avoids the costs of trying to recover funds.[36]
- Considering the documentation burden on claimants. IRS did not require claimants to submit documentation on health insurance premiums with their Form 8941 because, according to IRS officials, they will review examination results to determine if requiring more documentation would improve its compliance checks.
- Modifying filters, as needed, in response to observed trends. For example, the filter that checks an exempt organization's tax exempt status was tripped by about a

[34] We found that that IRS's compliance plans for the TETR were consistent with good management practices in previous reports, see GAO, *Tax Administration: Telephone Excise Tax Refund Requests Are Fewer Than Projected and Have Had Minimal Impact on IRS Services*, GAO-07-695 (Washington D.C., April 11, 2007).

[35] We tested IRS's internal controls for the COBRA unemployment subsidies in the Recovery Act and found that IRS was able to identify all 5 fictitious companies used to fraudulently apply for the subsidies. See *GAO Proactive Testing of ARRA Tax Credits for COBRA Premium Payments*, GAO-10-804R (Washington D.C.,: June 14, 2010).

[36] See GAO, *Tax Gap: Complexity and Taxpayer Compliance*, GAO-11-747T (Washington D.C.,: June 28, 2011).

quarter of claimant organizations. IRS officials said some eligible tax exempt entities, such as churches, are not required to file for tax exempt status, and thus tripped the filter.[37] To address this, IRS modified the filter to more clearly identify qualifying tax exempt organizations.

- Completing a risk assessment on compliance issues related to the credit. The assessment identified risks involving refunds for tax exempt entities, difficulties verifying employment tax return information for certain employers, and not using existing Math Error Authority (MEA).
- Considering the costs and benefits of MEA for the credit.[38] IRS officials identified three filters whose type of errors could be addressed with MEA. They noted that less than 1 percent of Forms 8941 tripped one or more of those filters,[39] which IRS officials said do not justify the costs to develop procedures to use MEA, if it were granted.[40]

Filters Check Many Eligibility Requirements, but are Limited by Available Data

IRS developed 21 filters for Form 8941, some of which apply differently to SB/SE and TEGE taxpayers. The filters cover many of the eligibility requirements for the credit. Errors on about 3.5 percent (11,763) Forms 8941 for tax year 2010 tripped one or more filters; almost half of those forms were from tax exempt entities. According to IRS officials, the filter failure rate is consistent with other recent tax credits.

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[37]Instead, churches that meet requirements for 26 U.S.C. § 501(c)(3) are automatically considered tax exempt.

[38]The Internal Revenue Code provides IRS with MEA to assess additional tax or otherwise correct tax return errors in limited circumstances when an adjustment is the result of mathematical or clerical errors on the return. In these cases, IRS can avoid costly audits and IRS is not required to provide taxpayers a right to appeal MEA assessments, although they may file a claim to ask IRS to reduce the assessment if they believe IRS erred. See 26 U.S.C. § 6213(b). Over the years, the Congress has granted MEA for specific purposes and those purposes are listed in section 6213(g)(2).

[39]These three IRS filters are to check whether credit claims exceed allowable percentages, whether credit amounts exceed a certain threshold, or whether certain other forms are filed.

[40]We previously recommended that Congress should consider broadening IRS's ability to use MEA, with appropriate safeguards against misuse, GAO, *Recovery Act: IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed,* GAO-10-349 (Washington D.C.,: Feb. 10, 2010).

The filters do not cover all of the credit's requirements for several data-related reasons.[41] In one case, data are not included on Form 8941 (e.g. information on employees included in wage and FTE counts); in other cases, the data are not transcribed (e.g. line 16 on the credit amount claimed for S-corporations and partnerships). For other requirements, IRS officials stated that reasonable filters cannot easily be developed. For example, IRS has not developed a filter to identify claimants with non-U.S. addresses because of difficulties in matching addresses, according to IRS officials.

Some Form 8941 filters also face limitations mainly due to problems with data or IRS's systems.

- Filters are mutually exclusive. For example, a filter checks that the employer does not claim more than the maximum percentage of insurance premiums allowed but does not automatically simultaneously ensure that employers meet the criteria for claiming the full credit; thus some erroneous claims for the full credit may not be caught by this filter. However, according to IRS officials, IRS has other ways to identify whether a form failed more than one filter, which IRS considers when identifying returns for potential examination .
- Some filters may mistakenly target eligible claimants because the filters rely on general thresholds in Form 8941 data or, in some cases, other IRS data. For example, a filter checks if employers reported more than 25 employees on their employment tax return. However, such employers may be eligible claimants because those 25 or more employees could equal less than 25 FTEs.

Data on Forms W-2 (employees' annual Wage and Tax Statement) could provide additional data for filters once the provision in PPACA is implemented that requires employers to report the cost—including both employer and employee contributions—

[41]We do not describe the filters and the eligibility requirements not being covered in detail due to concerns about revealing IRS's compliance approach and criteria.

of certain types of health insurance provided to an employee.[42] IRS officials said the data has limited use because, among other things, it would not provide details for determining whether an employer met the credit's requirements for health insurance; therefore, they will not pursue using the data at this time. Nevertheless, the data could be used in a filter to identify claimants who reported no health insurance contributions on Form W-2, and therefore may not be offering health insurance. In the absence of other documentation or third-party reporting on health insurance, using Form W-2 data in a filter could be a cost-effective rough indicator of whether a claimant is paying employee health insurance premiums, without increasing taxpayer burden. However, IRS provided transition relief to employers who file fewer than 250 Forms W-2 per year, and issued guidance that stated these employers will not be required to report the data until further guidance is issued. As a result, it is unlikely that the data could be useful before 2014, the year when the credit will only be available to employers for any two consecutive years.

Examination Instructions Cover Most Eligibility Requirements, but Gaps Exist

After the filters are run, SB/SE and TEGE create lists of claims to consider for further examination. SB/SE examination cases are selected based on which filters were tripped, and additional criteria, such as the taxpayer's region, to ensure a diverse set of cases, according to an SB/SE official.[43] Examiners in SB/SE and TEGE are to follow a set of instructions when doing examinations.

SB/SE's examination instructions address all of the credit's requirements for small businesses except for whether claimants with non-U.S. addresses have a business or trade interest located in the United States and pay premiums for coverage issued in and regulated by one of the states or the District of Columbia. IRS officials told us that

[42] See 26 U.S.C. § 6051(a)(14),which generally requires employers to report the aggregate cost of employer-sponsored coverage they provide for the employee on Form W-2.

[43]TEGE established two mandatory filters—one on terminated tax exempt status and one on potential terrorist ties—that if failed, automatically trigger an exam; only 16 forms tripped these two filters.

challenges with businesses with non-U.S. addresses exists for other tax credits and therefore they have no instructions for examiners to address it during an examination on the credit. However, SB/SE's examination instructions address another general business tax issue relevant to the credit— whether claimants who carry back the credit to offset tax liabilities in previous years did so properly. Without a prompt in examination instructions, IRS examiners may overlook claimants who do not comply with the address requirements.

Instructions for TEGE examiners cover most of the credit's requirements but, for some requirements, not in the same level of detail as SB/SE's instructions. Like SB/SE, TEGE examination instructions do not address how to review claimants with a non-U.S. address.[44] TEGE's instructions provide steps on how to determine if an employer's insurance premiums paid met "qualifying arrangement" criteria, but they provide less detail than SB/SE instructions. For example, SB/SE guidance instructs examiners to review health insurance policies and invoices to confirm premium payments, and to review Forms W-2 as a check whether the employer offers coverage that is not eligible for the credit.[45] TEGE instructions do not suggest these steps, and also do not provide a prompt for examiners to ensure that insurance premiums paid on behalf of seasonal employees are included in calculations. According to IRS officials, the TEGE examiners are trained specifically for doing examinations on the credit, and therefore need less guidance than SB/SE examiners, who work on multiple issues simulatanously. However, TEGE examination instructions contain detailed guidance for these trained examiners on other credit requirements. Without detailed guidance for TEGE examiners that instructs them on how to examine health insurance documents, examiners may not consistently identify noncompliance, which could lead to erroneous credit refunds. This could particularly be the case to the extent that examining health

[44]For tax exempt entities with a non-U.S. address, issues of having a trade or business in the U.S. are not relevant, but they must pay health insurance premiums for an employee's coverage issued in and regulated in one of the states or the District of Columbia.

[45]Form W-2 has boxes to indicate whether an employer contributed to a health savings account,, which do not count as health insurance premium payments.

insurance documents to check eligibility for this new credit has not been typical work for these examiners.

Examinations Underway, but IRS Lacks a Plan for Efficiently Analyzing Results on Credit Compliance

For tax year 2010, SB/SE plans to conduct over 1,500 examinations related to the credit, and TEGE anticipates about 1,000 examinations. An SB/SE official said the number of examinations is expected to provide initial compliance information and allow IRS to establish a compliance presence without committing too many resources initially. TEGE selected their number of examinations based on resource decisions, before tax year 2010 claims began, and did not adjust once actual claim numbers were known. As a result, the percentage of claims being examined is high, according to TEGE officials. Table 2 summarizes the status of IRS's examinations on the credit.

Table 1: Examination Actions for Form 8941 as of February 2012, for Tax Year 2010

Number of:	SB/SE[a]	TEGE	Total
Examinations initiated	500	570	1,070
Additional examinations anticipated	1,000	430	1,430
Closed examinations	119	88	207
Closed examinations resulting in a change to the credit amount	46	22	68

Source: SB/SE and TEGE officials.

[a]For examinations, SB/SE does not distinguish between examinations on business or individual claimants.

IRS's database on examination results tracks the aggregate dollar amount of tax changes as a result of the examination but does not contain the reason a change is made. Consequently, IRS is not able to isolate and analyze examination results related to the credit versus other tax issues. This is particularly a problem for SB/SE examinations, which may cover issues other than the credit.[46] Instead, as initial examinations have closed, IRS officials said management has spoken with examiners about findings related to the credit. This has been possible because of the relatively low initial volume of cases, but this approach may not be feasible as results accumulate.

[46] TEGE examinations will only cover the credit, according to IRS officials.

Therefore, it is not clear how IRS can efficiently analyze results to decide whether changes are necessary in how it examines the credit or how it educates small employers about how to comply with the credit's rules, and/or whether it committed too many or too few resources to examinations of the credit.

Furthermore, IRS does not have criteria for deciding whether the resources spent on examinations of the credit are appropriate, given the amount of errors found. IRS officials said that for future years they plan to select the number of credit examinations based on past results, identified compliance risks, and available resources. However, without criteria to assess the results in concert with these risks and resources, IRS is less able to ensure that examination resources target errors with the credit, rather than examining compliant claimants.

For example, early examination results (as of February 2012) show that 67 percent of the examinations completed were closed without changing the credit amount. Examinations without a change still burden taxpayers and use IRS resources. We recognize that few examinations have been completed and the "no change" percentage could change. However, IRS has no criteria on what constitutes a "high" no-change rate, which could be one indicator to help decide how many examination resources to apply to the credit. IRS officials said they do not plan to use data from examinations of other tax provisions to benchmark measures—such as the no-change rate or length of time an examination is open—because results would not be comparable.

A summary of examination results specific to the credit could also inform decisions about using additional compliance tools such as soft notices.[47] In the past, IRS has

[47] A "soft notice" is a letter generated to taxpayers that IRS has identified possible errors on their form. The goal is to increase accurate reporting compliance at minimal costs by educating taxpayers for future compliance without doing an examination and minimizing the taxpayer's need to respond to the notice.

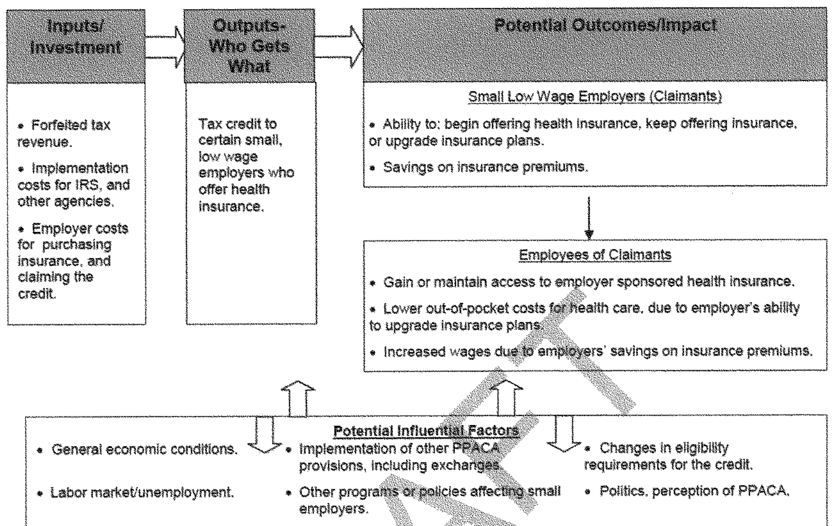
used soft notices to correct errors and collect funds without initiating an examination.[48] IRS officials said they have not ruled out using soft notices, but examination results would need to identify an issue that would justify their use. According to a senior IRS official who is implementing the credit, soft notices are not effective for all taxpayers or situations. He said they would consider using soft notices if they found a series of returns with mistakes from the same tax preparer or promoter of tax schemes. Furthermore, soft notices may necessitate follow-up, which would negate some of the advantages of the notices. If IRS analysis were able to show that examinations were not a cost effective way to pursue certain errors made in claiming a credit, a soft notice may offer another approach to improve compliance at lower costs to IRS and less burden on claimants.

Data to Evaluate Many Questions About the Effects of the Credit are Not Available

There are a variety of research questions that could be of interest to policymakers about the effects of the credit that cannot be evaluated with data currently available. Figure 5 shows how the credit may influence employer behavior and, ultimately, employees .

[48] For examples, see GAO, *Advance Earned Income Tax Credit: Low Use and Small Dollars Paid Impede IRS's Efforts to Reduce High Noncompliance*, GAO-07-1110 (Washington D.C.: Aug. 10, 2007)and GAO, *Tax Gap: IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements,* GAO-09-238 (Washington D.C.,: Jan. 28, 2009).

Figure 5: Model of Potential Outcomes, and Influential Factors for the Small Employer Health Insurance Tax Credit



Source: Basic model structure is based on GAO and University of Wisconsin Extension Program Development and Evaluation, as shown in GAO-12-208G. Content and relationships among variables are based on GAO analysis of interviews with subject matter specialists, and literature review.

To answer research questions about the credits potential outcomes shown in figure 5 the following are examples of data that might be needed:

- number of small, low wage employers offering health insurance, before and after the credit was available,
- number of employees at small, low wage employers, who have or could obtain health insurance through their employers; and
- annual health insurance premium costs for small, low wage employers before and after the credit.

None of these data are readily available or free of limitations, which complicates an evaluation. For example, the available data on employer sponsored health insurance does not align with the credit's eligibility criteria, according to our interviews with subject matter specialists and our review of the data (see appendix VI for a summary of the data sources). Nor could we identify a data source that tracks when, or why, employers begin offering insurance. As a result of the limitations with all three types of data, it would be difficult to precisely measure changes in health insurance availability, offering, and costs due to the credit, without collecting additional data. Isolating influential factors, such as those shown in figure 5 that may contribute to the effect of the credit would also be a challenge in an evaluation.[49]

To minimize taxpayer burden, IRS officials said they will not collect data on credit claimants, outside of Form 8941. IRS's position on data collection for all provisions of the tax code is that it only collects data it needs to ensure compliance with the tax laws.[50]

Collecting additional data needed for policy evaluation would have costs, and the magnitude of those costs would depend on the type and amount of data needed, which depends on the research questions being asked. An additional consideration in thinking about the benefits and costs of additional data collection for policy evaluation purposes is the time limits on claiming the credit. The current version of the credit runs through 2014.[51] Policymakers' conclusions about the questions to be answered by any evaluations of the credit's effects would determine the type of data that would need to be collected.

Conclusions

[49] An evaluator could use statistical modeling to help control for the influence of multiple external factors. For details on other methods for identifying causation, including experiments and quasi-experiments, using control groups, see GAO, *Designing Evaluations: 2012 Revision*, GAO-12-208G (Washington, D.C.,: Jan. 2012). These designs are not feasible for the credit because it was implemented simultaneously across the country.

[50] See GAO-05-690.

[51] Starting in 2014, eligible small employers can claim the credit for any two consecutive years.

The Small Employer Health Tax Credit was intended to offer an incentive to small, low wage employers to start providing or continue to provide health insurance. However, utilization of the credit has been lower than expected, with the available evidence suggesting that the design of the credit is a large part of the reason why. While the credit could be redesigned, such changes come with tradeoffs. Changing the credit to expand eligibility or make it more generous would increase the revenue loss to the federal government.

In administering the credit to ensure compliance, IRS employed a number of steps that have proven to be effective for other tax provisions. Nevertheless, we identified several opportunities for IRS to either improve compliance or perhaps reduce the resources it is devoting to ensuring compliance. Without additional guidance for examiners on employers with non-U.S. addresses, there is a risk of improper credit claims being allowed. Without more systematic attention to early examination results, IRS could lock itself into devoting more scarce enforcement resources than needed to examinations.

Recommendations for Executive Action

To help ensure thoroughness and consistency of examinations on the credit, we recommend that the Commissioner of Internal Revenue take the following actions:

1. Revise the SB/SE and TEGE examination instructions to include instructions for examiners on how to confirm eligibility for the credit for small employers with a non-U.S. address.
2. Revise the TEGE examination guidance to include more detailed instructions for examiners on how to confirm that claimants properly calculated eligible health insurance premiums paid, for purposes of the credit. The SB/SE examination instructions could serve as a model.

To help ensure that IRS uses its examination resources efficiently, we recommend that the Commissioner of Internal Revenue take the following actions:

3. Document and analyze the results of examinations involving the credit to identify how much of those results are related to the credit versus other tax issues being examined, what errors are being made in claiming the credit, and when the examinations of the credit are worth the resource investment.
4. Related to the above analysis of examination results on the credit, identify the types of errors with the credit that could be addressed with alternative approaches, such as soft notices.

Agency Comments and Our Evaluation TBD

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Chairmen and Ranking Members of other Senate and House committees and subcommittees that have appropriation, authorization, and oversight responsibilities for IRS. We will also send copies to the Commissioner of Internal Revenue, the Secretary of the Treasury, the Chairman of the IRS Oversight Board, and the Director of the Office of Management and Budget. The report also will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions or wish to discuss the material in this report further, please contact me at (202) 512-9110 or at whitej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

James R. White

Director, Tax Issues

Strategic Issues

Appendix I: Scope and Methodology

To assess the extent to which the credit is being claimed, we obtained and analyzed Internal Revenue Service (IRS) data on the claims on Form 8941 for tax year 2010. We assessed the reliability of the Form 8941 data by examining the programming code, the input file, record layout, annotated Form 8941, and data dictionary used to generate the data we requested. We also spoke with IRS officials about their process for inputting tax form data. We determined that the data was sufficiently reliable for our purposes. We identified estimates of employers potentially eligible to claim the credit by reviewing reports and Web sites of government agencies, think tanks, and interest groups. When possible, we interviewed the government agencies and business groups who developed estimates. To identify any factors limiting credit claims, we interviewed groups representing employers, tax preparers and insurance brokers and to assess how these factors could be addressed, we analyzed our interview results as well as relevant documents. Specifically, we spoke with the National Federation of Independent Businesses, the National Council of Nonprofits, the Small Business Majority, the U.S. Chamber of Commerce, the American Institute of Certified Public Accountants, America's Health Insurance Plans, the National Society of Accountants, the National Association of Enrolled Agents, and the National Association of Health Underwriters. We worked with some of these groups to assemble discussion groups with tax preparers, health insurance brokers, and employers to discuss potential factors reducing usage and ways to address the factors. Discussion groups were, for the most part, held over the phone. We also spoke with insurance and tax preparation companies, specifically, BlueCross Blue Shield of Kansas City, Independent Health Group of New York, H&R Block's Tax Institute, and Jackson Hewitt. We content analyzed interviews and discussion group comments with qualitative analysis software. To provide additional support for discussion group and interview findings, where possible, we identified data from IRS, the 2010 Medical Expenditure Panel Survey, or the 2011 Kaiser Family Foundation Health Benefits Survey. At IRS, we interviewed officials from the Small Business/ Self Employed (SB/SE) division, including the Communications and Liaison Office; the Tax Exempt and Government Entities (TEGE) division; the Research and Analysis for Tax Administration division, and the Taxpayer Advocacy Service.

To assess how fully IRS is ensuring that the tax credit is correctly claimed by eligible employers, we reviewed IRS's compliance plans, filters and instructions for IRS staff conducting examinations, and compared these documents with compliance practices used for prior tax provisions. We also highlighted any gaps between filters and examination instructions and the credit's eligibility rules. We reviewed the filter results for tax year 2010 claims, and interviewed SB/SE and TEGE officials about compliance efforts.

To assess what would be needed to evaluate the effects of credit, we conducted a literature review and interviewed the foregoing groups and subject matter specialists from government, academia, and think tanks. We selected the specialists based on our literature review and spoke with individuals at the University of Massachusetts, Massachusetts Institute of Technology, the Commonwealth Fund, the Urban Institute, the Kaiser Family Foundation, the American Enterprise Institute, the Employee Benefit Research Institute, the RAND Corporation, the Small Business Administration Office of Advocacy, and the Office of Tax Policy at the Department of Treasury. We reviewed available data in commonly cited large scale government surveys, and identified how the questions and variables match to the eligibility criteria for the credit.

We conducted this performance audit from July 2011 through May 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We found the data we used to be sufficiently reliable for the purposes of our report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: State Average Premiums for Small Group Markets for 2010 and 2011

For tax years 2010 through 2013, the Small Employer Tax Credit is based on a percentage of the lesser of: 1) the premiums paid by the eligible small employer for employees during the taxable year, and 2) the amount of premiums the employer would have paid if each employee were enrolled in a plan with a premium equal to the average premium for the small group market in the state (or in an area in the state) in which the employer is offering health insurance. The Secretary of Health and Human Services determines whether separate average premiums will apply for areas within a state and also determines the average premium for a state or sub-state area. Table 2 shows the average premiums for the small group market in each state for tax years 2010 and 2011.

Table 2: State Average Premiums for Small Group Markets for 2010 and 2011, in dollars

	2010		2011	
	Employee-only (single plan)	Family plan	Employee-only (single plan)	Family plan
Alabama	4,441	11,275	4,778	12,084
Alaska	6,204	13,723	6,729	14,701
Arkansas	4,329	9,677	4,378	9,849
Arizona	4,495	10,239	4,614	11,063
California	4,628	10,957	4,790	11,493
Colorado	4,972	11,437	5,007	12,258
Connecticut	5,419	13,484	5,640	14,096
Delaware	5,602	12,513	5,902	13,411
District of Columbia	5,355	12,823	5,721	14,024
Florida	5,161	12,453	5,218	12,550
Georgia	4,612	10,598	5,085	11,440
Hawaii	4,228	10,508	4,622	11,529
Idaho	4,215	9,365	4,379	10,066
Illinois	5,198	12,309	5,565	13,176
Indiana	4,775	11,222	5,262	12,097
Iowa	4,652	10,503	4,694	11,051
Kansas	4,603	11,462	4,693	11,909
Kentucky	4,287	10,434	4,456	10,560
Louisiana	4,829	11,074	5,143	11,911
Maine	5,215	11,887	5,261	12,255
Massachusetts	5,700	14,138	5,900	15,262
Maryland	4,837	11,939	5,073	12,530
Michigan	5,098	12,364	5,195	12,539
Minnesota	4,704	11,938	5,048	12,790
Mississippi	4,533	10,501	4,787	10,860

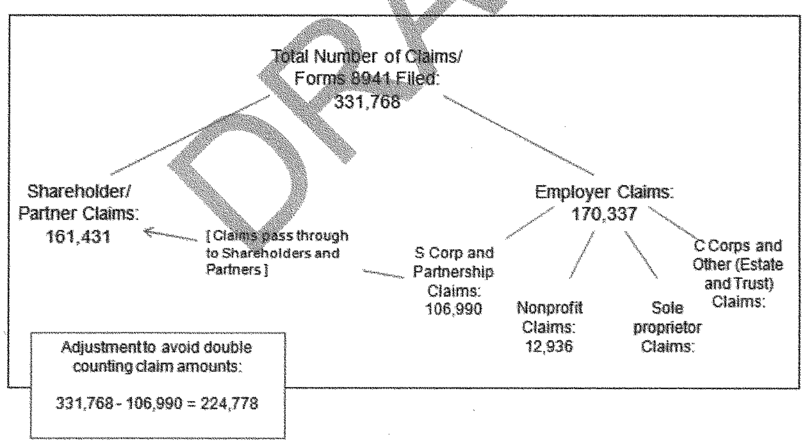
Missouri	4,663	10,681	4,843	11,379
Montana	4,772	10,212	4,923	10,789
Nebraska	4,715	11,169	5,130	12,057
Nevada	4,553	10,297	4,781	10,836
New Hampshire	5,519	13,624	5,858	14,523
New Jersey	5,607	13,521	5,868	14,093
New Mexico	4,754	11,404	5,146	12,328
New York	5,442	12,867	5,589	13,631
North Carolina	4,920	11,583	5,136	11,949
North Dakota	4,469	10,506	4,545	11,328
Ohio	4,667	11,293	4,706	11,627
Oklahoma	4,838	11,002	4,922	11,200
Oregon	4,681	10,890	4,881	11,536
Pennsylvania	5,039	12,471	5,186	12,671
Rhode Island	5,887	13,786	5,956	14,553
South Carolina	4,899	11,780	5,036	11,780
South Dakota	4,497	11,483	4,733	11,589
Tennessee	4,611	10,369	4,744	11,035
Texas	5,140	11,972	5,172	12,432
Utah	4,238	10,935	4,532	11,346
Vermont	5,244	11,748	5,426	12,505
Virginia	4,890	11,338	5,060	12,213
Washington	4,543	10,725	4,776	11,151
West Virginia	4,986	11,611	5,356	12,724
Wisconsin	5,222	12,819	5,284	13,911
Wyoming	5,266	12,163	5,430	12,867

Source: Calculations done by the Department of Health and Human Services, as they appear in IRS Revenue Ruling 2010-13, and 2011 Instructions for Form 8941.

Appendix III: Double Counting in IRS Data on Total Claims for Tax Year 2010

IRS data for tax year 2010 show 331,768 total claims filed. This total must be adjusted to avoid double counting due to 106,900 S corporation and partnership claims that were passed through to 161,431 respective shareholders and partners who then reported their portion of the claim amounts on their individual income tax returns. Excluding the 161,431 shareholder and partner claims filed leaves only the 170,337 small employer claims filed. To avoid double counting the credit amounts that were claimed by the S corporations and partnerships as well as their respective shareholders and partners, we excluded the 106,900 S corporation and partnership claims to arrive at 224,778 credit amounts claimed; however a distribution of these claim amounts would not provide a useful summary of the credit size because it would include both individuals and entities. (See Figure 6.)

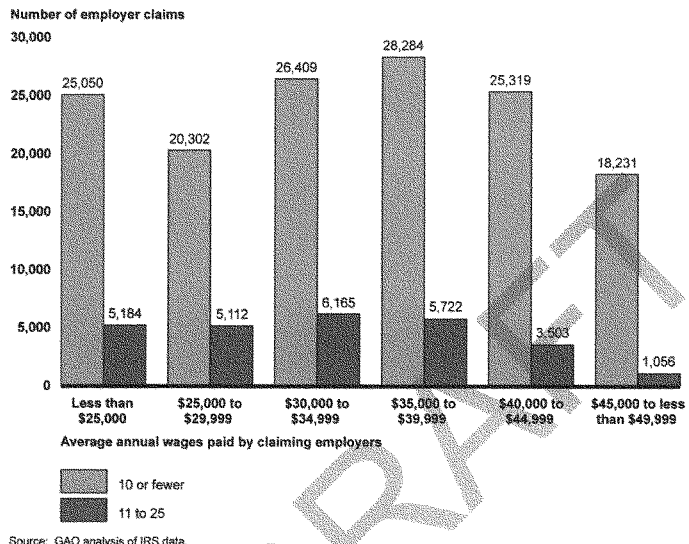
Figure 6: Number of Credit Claims by Taxpayer Type, Tax Year 2010



Source: GAO Analysis of IRS Data

Appendix IV: Credit Claims by Employer Size and Wages Paid, Tax Year 2010

Figure 7: Total Small Employer Claims of the Credit by Number of FTEs and Amount of Average Wages Paid, Tax Year 2010



Source: IRS data on Form 8941.

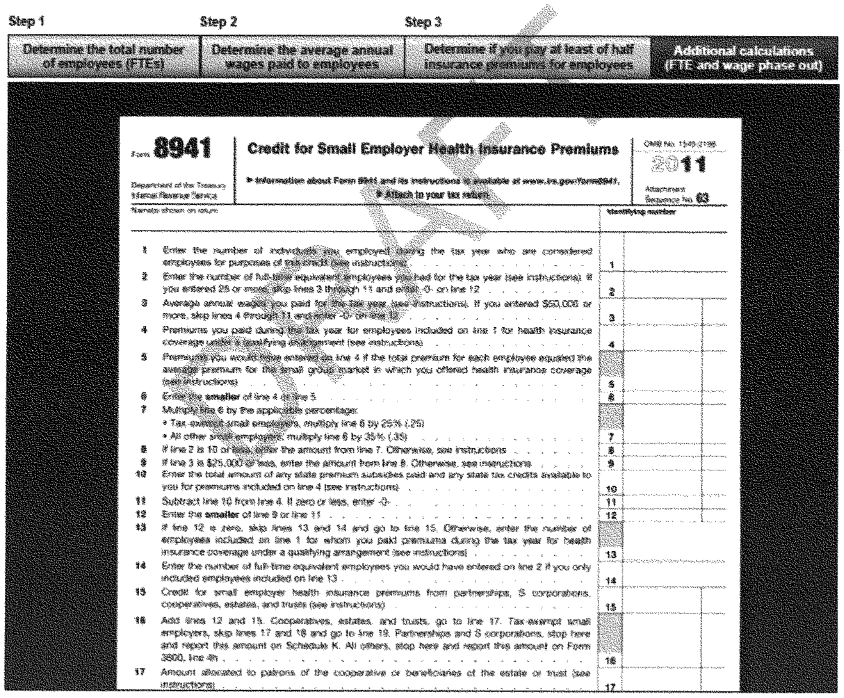
Appendix V: IRS's "3 Simple Steps" to Determine Potential Eligibility for the Credit, Compared with Actual Worksheets for Claiming the Credit

This appendix contains the text of the worksheets for Form 8941, shown in figure 4.

Interactive graphic **Figure 6: Form 8941 and Credit Calculations on Worksheets Related to IRS's Three Simple Steps for Determining Potential Eligibility**

Directions:

Rollover the buttons below to reveal the worksheets necessary to calculate credit totals needed for lines on IRS Form 8941.



Source: GAO analysis.

Worksheet 1. Information Needed To Complete Line 1 and Worksheets 2 and 3

If you need more rows, use a separate sheet and include the additional amounts in the totals below.

(a) Individuals Considered Employees	(b) Employee Hours of Service	(c) Employee Wages Paid
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		
Totals:		

Worksheet 2. Full-Time Equivalent Employees (FTEs)

1. Enter the total employee hours of service from Worksheet 1, column (b) . . . . 1. __________
2. Hours of service per FTE 2. 2,080
3. **Full-time equivalent employees.** Divide line 1 by line 2. If the result is not a whole number (0, 1, 2, etc.), generally round the result down to the next lowest whole number. However, if the result is less than one, enter 1. Report this amount on Form 8941, line 2 . . . . 3. __________

Worksheet 3. Average Annual Wages

1. Enter the total employee wages paid from Worksheet 1, column (c) . . . . 1. __________
2. Enter FTEs from Worksheet 2, line 3 . . . 2. __________
3. **Average annual wages.** Divide line 1 by line 2. If the result is not a multiple of $1,000 ($1,000, $2,000, $3,000, etc.), round the result down to the next lowest multiple of $1,000. Report this amount on Form 8941, line 3 . . . . 3. __________

Worksheets:

Worksheet 4. Information Needed To Complete Lines 4 and 5 and Worksheet 7

If you need more rows, use a separate sheet and include the additional amounts in the totals below.

(a) Enrolled Individuals Considered Employees	(b) Employer Premiums Paid	(c) Employer State Average Premiums	(d) Enrolled Employee Hours of Service
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			
Totals:			

Worksheet 5. FTE Limitation

1. Enter the amount from Form 8941, line 7 . . 1. ______
2. Enter the amount from Form 8941, line 2 . . . . 2. ______
3. Subtract 10 from line 2 . . . . . . 3. ______
4. Divide line 3 by 15. Enter the result as a decimal (rounded to at least 3 places) . . . . 4. ______
5. Multiply line 1 by line 4 . . . . 5. ______
6. Subtract line 5 from line 1. Report this amount on Form 8941, line 8 . . . . 6. ______

Worksheet 6. Average Annual Wage Limitation

1. Enter the amount from Form 8941, line 8 . . . 1. ______
2. Enter the amount from Form 8941, line 7 . . . . 2. ______
3. Enter the amount from Form 8941, line 3 . . . . 3. ______
4. Subtract $25,000 from line 3 . . . . 4. ______
5. Divide line 4 by $25,000. Enter the result as a decimal (rounded to at least 3 places) . . . . 5. ______
6. Multiply line 2 by line 5 . . . . 6. ______
7. Subtract line 6 from line 1. Report this amount on Form 8941, line 9 . . . . 7. ______

Worksheet 7. FTEs Enrolled in Coverage

1. Enter the total enrolled employee hours of service from Worksheet 4, column (d) . . 1. ______
2. Hours of service per FTE 2. 2,080
3. Divide line 1 by line 2. If the result is not a whole number (0, 1, 2, etc.), generally round the result down to the next lowest whole number. However, if the result is less than one, enter 1. Report this amount on Form 8941, line 14 . . . . 3. ______

Appendix VI: Publically Available Data on Small Employer Health Insurance

Through our literature review and interviews, we identified several commonly cited non-IRS data sources on employer health insurance. Each source has different variables related to the key eligibility requirements for the Small Employer Tax Credit. Table 3 summarizes each source, its basic methodology, and whether its data matches with these requirements for the credit..

Table 3: Publically Available Data on Small Employer Health Insurance

	Employer Health Benefits Survey	Medical Expenditure Panel Survey, (Insurance Component)	National Compensation Survey, Employee Benefits Survey
Sources and methodology			
Organizations responsible for the survey	Kaiser Family Foundation and Health Research and Educational Trust	Department of Health and Human Services, Agency for Healthcare Research and Quality.	Bureau of Labor Statistics
Frequency, and contact method.	Annual, conducted by phone.	Annual, generally conducted by phone or mail.	Annual, conducted by personal visits, mail, telephone, and email..
Unit of analysis, sample size and source.	Employers. 2,088 from Dun and Bradstreet and the Census of Governments.	Employers.[a] 38,409 from Census Bureau's Business Register.	Employers.[c] 17,585 from state unemployment insurance reports.
Response rate and most recent data, as of May 2012.	47 percent in 2011.	83 percent for private establishments in 2010.	56 percent for businesses in 2011
Key Eligibility Requirements for the Credit, and Whether the Source Contains Data			
Employer is a for profit or non-profit entity.	Yes.	Yes.	No. Includes businesses and governments.
Offer health insurance and pay at least 50 percent of premiums.	Yes	Yes.	Data not publically available
Employer has fewer than 25 FTEs.	No. Number of employees.	No. Number of employees.	No. Number of employees, from 1-50.
Average annual wages are less than $50,000 per FTE.	No. Percentage of full time employees who make $23,000 or less per year.	No. Percentage of employees who earned wages in one of three categories.[b]	Wages categorical

Source: GAO analysis of data sources.

[a]The Medical Expenditure Panel Survey- Insurance Component sample is drawn at the establishment level; an establishment is a particular workplace or location.

[b]The annual wage categories are about: (1) $23,920 or less, (2)$23,920 to $54,080; and (3) $54,080 or more.

[c]The National Compensation Survey sample is drawn at the establishment level; an establishment is a single economic unit that engages in one, or primarily one, type of economic activity, it is usually a single physical location.

harris INTERACTIVE

United States Chamber of Commerce
Q4 Small Business Outlook Survey
January 11, 2013
Survey Dates: December 17, 2012 – January 2, 2013

Methodology

The Q4 U.S. Chamber of Commerce Small Business Outlook Study was conducted online between December 17, 2012 and January 2, 2013 by Harris Interactive among 1,482 Small Business Executives (defined as executive level position in a company with fewer than 500 employees and annual revenue less than $25 M).

- N=658 U.S. Chamber of Commerce Members
- N=824 Non-U.S. Chamber of Commerce Members, weighted to be representative of the small business population

Sampling error: +/- 2.5 percentage points. This report contains data from the Q4 survey and references data collected in the Q2, Q3, and Q4 2011 and Q1, Q2, Q3 2012 U.S. Chamber of Commerce Small Business Outlook Survey.

Key Findings

Small Business Climate Remains Bleak

- Eight-out-of-ten small businesses (82%) continue to think the U.S. economy is on the wrong track.
- More than half, 54%, expect the small business climate to worsen in the next two years.
- 88% of small businesses are looking for more certainty, opposed to more assistance from Washington.

Regulatory Uncertainty Impacts Hiring

- 86% of small businesses believe that regulations, rules, and taxes will negatively impact their ability to operate. Health care regulations cause the most concern followed by labor rules and environmental laws.

- 75% of small businesses expect that the Affordable Care Act will increase costs for their businesses; 5% expect the law to make health care coverage more affordable; and 71% think that implementation of the health care law will make it harder to hire more employees.

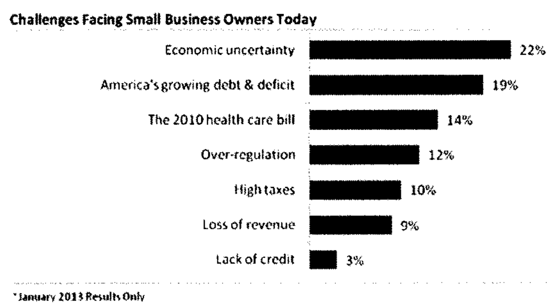
Small Businesses Look for Solutions to Fiscal Challenges

- 88% of all small businesses support addressing entitlement spending to resolve America's growing financial challenges and escalating debt.
- 62% see the current debt and deficit as a threat to the success of their businesses.
- 92% of small businesses feel that a comprehensive approach to energy exploration and increased revenue from production are important to addressing our country's fiscal challenges.

Economic Uncertainty Continues to Impact Small Businesses; Local Economic Outlook is Improving

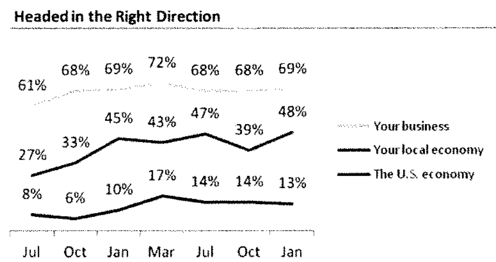
Small business owners continue to cite economic uncertainty as their top challenge (22%).

While two-thirds (69%) of small business owners feel that their businesses are headed in the right direction, the vast majority (82%) of small business owners feel that the U.S. economy is headed on the wrong track.



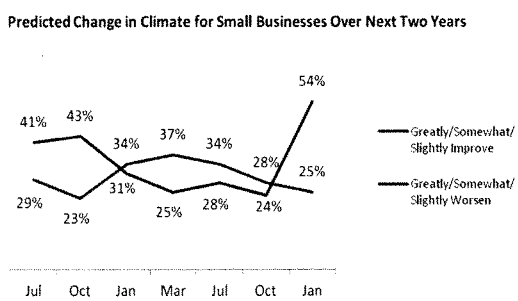
Optimism about the local economy has rebounded this quarter with a significant gain in small business' sentiment that their local economy is headed in the right direction (up 39% to 48%). However, the future of America's economy remains unclear, with 41% indicating that they are unsure of whether America's best days are ahead or behind of us. This sentiment is similar when looking at their own businesses — 28% say best days are behind, 30% say best days are ahead, and 42% are unsure.

Small Business Climate Has Worsened



66% of executives believe that the climate for small businesses has worsened over the past two years. Optimism that conditions will improve over the next two years remains low and the prediction that things will get worse has almost doubled to 54%, up from 24% who felt similarly in October.

When asked what small businesses and others across America need most right now, small business owners cited more certainty from Washington (88%), opposed to more assistance.



Solutions to Stimulate Economy

82% of small business owners said that Congressional compromise on issues that impact the economy is important now that the elections are over.

Entitlement reform is fully supported by the small business community, with 88% of small business owners indicating support for entitlement reform as part of Congress and the Administration's deal to resolve America's growing financial challenges and escalating debt.

Small businesses see domestic energy exploration and production as a solution to fiscal issues and job creation. The overwhelming majority (92%) say that a more comprehensive approach to energy exploration is important to the U.S. economy and addressing our country's fiscal challenges.

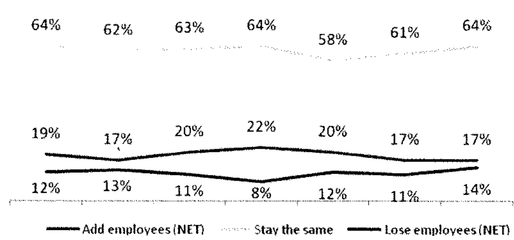
63% of small businesses view the U.S. deficit and debt as a threat to the success of their business and higher energy prices are seen by almost three-quarters (74%) as posing an immediate threat to their businesses.

The recent health care law is also seen as an impediment—three-quarters of small businesses cite the new health care law as making health coverage more expensive for their small businesses (75%).

Hiring Continues To Be Most Impacted By Current Economy

Compared to one year ago, only 16% of small business owners said that they have added more employees. More than half (53%) of all small businesses have not hired in the past year, and 64% plan to keep the same number of employees in 2013. This trend is expected to continue into the next year, with only 17% indicating that they plan to add employees over the next year.

Likely to Add /Lose Employees Over the Next Year



Economic uncertainty is cited as the greatest obstacle to hiring more employees over the next two years (46%). When asked in their own words how recent economic events have impacted their hiring plans, small business owners reported downsizing (18%), having to change their hiring strategies (34%), decreased revenue and profit (25%), and increased taxes (10%).

Additionally, 71% of small business owners agree that the recent health care law makes it harder for their businesses to hire more people.

Small business owners have no strategy for coping with rising healthcare costs: report

Obamacare kicks in a year from now, but small businesses aren't ready

BY PHYLLIS FURMAN / NEW YORK DAILY NEWS

THURSDAY, FEBRUARY 7, 2013, 11:06 AM

No matter how you slice it, higher healthcare costs are on the way for small business owners.

But for now, many simply don't want to deal with it.

A surprising 65% of small business owners polled by Newtek Business Services said they have not come up with a strategy to manage their healthcare costs over the next 12 months.

Of the rest, 13% plan to rebid their policy, 8% plan to reduce benefits to employees and 14% plan to ask employees to pay a greater share.

Small business owners are sitting on the fence even though they are about to face major changes in just one year, when Obamacare kicks in.

The Affordable Care Act requires businesses with more than 50 workers to provide health insurance to employees. Insurance companies are already hiking premiums in anticipation of higher costs.

Newtek president Barry Sloane said he was "was really surprised," that business owners have yet to lay out a course of action.

"We thought with a year to go, businesses would have started to plan," Sloane told the Daily News. "We would have expected them to say they plan to manage these costs by reducing benefits for employees, or by requiring employees to pay a bigger share.

Newtek recently ran a national ad campaign presenting itself as an advisor who can help small business who have questions about rising healthcare costs.

One reason small business are holding off: uncertainty over how Obamacare will play out.

But not taking action to cope with rising healthcare costs, could have serious impact for small business owners.

"Obamacare is among the top three concerns for small business owners," Sloane said. "Business owners are worried that this could put them out of business."

Read more: http://www.nydailynews.com/new-york/small-business-owners-strategy-coping-rising-healthcare-costs-report-article-1.1257787#ixzz2OkkqJNcu