



KEY VOTE ALERT

November 5, 2009

Dear Representative:

On behalf of the **National Federation of Independent Business (NFIB)**, the nation's leading small business advocacy group, I am writing in opposition to the Affordable Health Care for America Act (H.R. 3962). The Affordable Health Care for America Act does not reflect the access or affordability needs of NFIB's small businesses, and **a vote against H.R. 3962 will be considered an NFIB Key Vote for the 111th Congress.**

NFIB has been a constructive participant in the healthcare debate and has spent more than a decade voicing our need for reform. With healthcare costs ranking as the No. 1 issue facing small business, our employers must carefully weigh the potential benefits of reform against the new costs imposed on business owners in the legislation. NFIB members have identified specific areas in H.R. 3962 that will raise those costs:

Employer Mandate: H.R. 3962 includes an employer mandate that will require employers to pay for healthcare for **full-time and part-time employees**. An employer mandate does not address the No. 1 issue facing small businesses: unsustainable costs. This mandate affects those who do not offer coverage today as well as those who already do provide insurance, but aren't making contributions at contribution levels outlined in the bill (72.5% for individual plans and 65% for family plans). Rather than help, this will penalize employers already offering healthcare and force them to make hard choices about how to afford the new government requirements. Economic research has shown time and again that mandates such as these are a "one-two punch" where the cost is first borne by the employer, but is ultimately borne by the employee – through job loss and lower wages.

Payroll Tax Penalty: A payroll tax penalty is a tax on jobs and job creation because they tax labor. The legislation requires that all employers with a payroll of \$500,000 or more pay a payroll tax of up to 8 percent if they do not provide "qualified" health insurance to their employees. No matter how profitable or unprofitable a business might be, they are forced to pay this tax. In addition, because the exemption thresholds in H.R. 3962 are not indexed for inflation, the exemption will become a healthcare equivalent of the alternative minimum tax, hitting more and more employers until there is no one exempted at all.

Paperwork Mandate: H.R. 3962 places a new tax-compliance paperwork burden on all small businesses. The "corporate reporting" provision is an expansion on reporting requirements (for transactions of more than \$600), which increases the cost of operating a small business and diverts resources away from growing and creating jobs.

Big Benefit Package and More Mandates: Small employers need a guarantee that plans offered in an exchange will be less costly, not more expensive, than what they are paying today. Today, small businesses pay an average of 18 percent more for their healthcare, leaving them continuously searching for more affordable choices.

H.R. 3962 gives a political board the power to define “coverage” and will determine whether an employer plan is “acceptable.” However, the bill does nothing to ensure that the new plans will be less costly than what small employers are paying today. In some cases, the legislation will also require some small employers to cover benefits that are not currently mandated under federal law.

Takes Away Small Business Solutions: Small employers need more, not fewer, affordable health insurance options. However, the prohibition of HSA, FSA and MSA funds to purchase over-the-counter medications, along with the \$2,500 limit on FSA contributions, threatens to further limit the ever-shrinking options employers have to provide meaningful healthcare to their employees.

Public Option: A government-run plan cannot compete fairly with the private market, and threatens to destroy the marketplace, further limiting choices. We believe that with proper reforms the private market can be held accountable to provide greater competition and lower-cost solutions where insurers compete based on their ability to manage, rather than shed risk. Instead, the excessively prescriptive insurance reforms in H.R. 3962 will drive up costs.

Surtax: Seventy-five (75) percent of small businesses are structured as pass through entities and pay their business taxes at the individual level. More than one-third of small businesses employing 20 to 250 employees could face the tax. Finally, since the tax is not indexed for inflation, the effect of the tax will creep downward, making more and more businesses vulnerable to a tax increase.

Poorly-Structured Tax Credit: There are two reasons the credit in H.R. 3962 is of limited value. First, the availability of the credit is too short. A credit that is only available for two years means that every small business owner that claims the credit will see a large spike in their out-of-pocket costs for health care in year three. Second, the wage limits are too restrictive. Phasing the credit out based on average wages of \$20,000 or less severely reduces the amount of a tax credit available for most small businesses.

NFIB will continue to advocate for reform because, as both democratic and republican lawmakers have said, the status quo is not acceptable. Our small business owners agree, but reform must make the problem better, not worse. **Because H.R. 3962 will not lower healthcare costs and threatens our economic recovery, NFIB will consider a NO vote a vote in support of small business. This will be an NFIB KEY VOTE FOR THE 111TH CONGRESS.**

Sincerely,



Susan Eckerly
Senior Vice President
Federal Public Policy