Citizens' Council on Health Care

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Small Business Endangered
by Health Insurance Reform

An Overview of Major Tax and Regulatory Requirements that Federal Health Reform Legislation Would Impose on Small Employers

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Introduction

This policy brief summarizes some of the major requirements that health care reform legislation under consideration at the federal level will impose on smaller businesses, including the expected impact on entrepreneurship and business expansion.

Though substantially different in their contents, the House and Senate bills share a similar conceptual approach to health care. Each of them requires that all individuals purchase health insurance as defined by government or pay a significant tax. Jail time is possible, according to the IRS. Both bills require that businesses offer, or pay for, at least part of the health insurance that individuals are required to buy. Each bill also gives government the power to define what constitutes acceptable health insurance, to determine how health care businesses operate, how physicians practice medicine, and who gets what medicine.

For businesses not directly involved in health care,[2] the primary effects of the bill will be a significant new tax on small business owners and an increase in costs stemming from the requirements that businesses provide health insurance for their employees. These costs include premium payments, taxes, fees, and the costs of complying with reporting requirements. The impact will be significant. As an op-ed in the *Washington Examiner* succinctly states,

> "The Oliver Wyman study[3] found that the average small business would get hit with a 19 percent premium increase within the first five years of passage of the House plan. The data from WellPoint reveal that the major elements of the Democrats' reform packages would increase health costs for 70 percent of small businesses. Researchers broke down the effect of reform by state and city. The average small employer in New York City could expect a modest premium increase of 6 percent. But in Franklin County, Ohio, a similarly sized firm would

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[2] The effect of the legislation on businesses that are involved in health care and health insurance are, for the most part, beyond the scope of this paper.

[3] Footnote added; "Insurance Reforms Must Include a Strong Individual Mandate and Other Key Provisions to Ensure Affordability" OLIVER WYMAN, October 14, 2009

> be hit with an 86 percent increase. Small businesses in Louisville and Richmond would see premiums go up by 20 percent and 25 percent, respectively.
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> "All employers feel the pain of rising health insurance prices. But larger ones can spread out cost increases over many workers. …Small businesses…have to compensate for higher premiums by cutting down on other labor expenses. That means lower wages, fewer new hires and even layoffs."[4]

At present, proposals for health care reform are contained in two bills, H.R. 3962, the House bill, and H.R. 3590 in the Senate. The bills are different in structure and impose different requirements on business. They have also gone through a number of editions. Where this policy brief gives page and line numbers that refer to the legislation itself, they refer to the October 29 version of House bill listed on the Government Printing Office website here, and to the November 21st version of the Senate bill listed on the Citizens' Council on Health Care web site here.[5]

Minimum Contribution Requirements

Under the House bill, employers are required to make minimum contributions to employee health insurance or pay a tax. The exact size of these contributions is not known because the required "essential benefits package" of a qualified health benefits plan will be determined by the Secretary of Health and Human Services through rulemaking. [p. 123, line 11 – 25]. However, for full-time employees, the House Bill specifies that employers must pay "not less than 72.5 percent of the applicable premium of the lowest cost plan for individual coverage and no less than 65 percent of applicable premiums for family coverage." [p. 272, lines 1-11].

The House Bill also requires minimum contributions for "other than full-time" employees, which will be determined by rule. [p. 273, lines 1-11].

The Senate Bill has minimum employer contribution requirements, but these are more complex as they are based on employee eligibility for subsidies for health plans purchased through a state health insurance exchange. For example, "if the employee purchases a qualified health plan through the Exchange, the employee will lose the employer contribution (if any) to any health benefits plan offered by the employer." [p. 348, lines 7ff]

Play or Pay Tax

Both bills assume that businesses should provide health benefits. In the House Bill, businesses that elect not to provide health benefits are penalized with excise taxes. There are special rules for small business, as shown below, that are based on the size of annual payroll. [p. 313, line 16]

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[4] Sally C. Pipes [President & CEO, Pacific Research Institute] "Why Americans dislike Obama's health care reform," Washington Examiner, November 22, 2009

[5] The applicable URLs are http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3962ih.txt.pdf and http://www.cchconline.org/pdf/Reid%20bill%20-%202,074%20pg.pdf as of November 24, 2009.

Annual payroll means "with respect to any employer for any calendar year, the aggregate wages (as defined in section 3121(s)) paid by him with respect to employment during such calendar year." [p. 314, lines 1-7]

Here are the tax rates for small employers who decide not to provide acceptable health coverage:

If the annual payroll of such employer for the proceeding calendar year	The applicable percentage payroll tax is
Does not exceed $500,000	0 percent
Exceeds $500,000, but does not exceed $585,000	2 percent
Exceeds $585,000, but does not exceed $670,000	4 percent
Exceeds $670,000, but does not exceed $750,000	6 percent

Note that these payroll levels are not indexed for inflation. Therefore, as the cost of doing business inflates over the years, more and more small businesses will find themselves responsible for paying the tax at higher and higher percentage rates.

For "large" businesses, those with annual payrolls over $750,000, failure to comply with health coverage participation requirements in the House Bill will result in the imposition on every nonelecting employer an excise tax equal to 8 percent of wages.

In connection with a group health plan, the Senate Bill defines a "large employer" as "an employer who employed an average of at least 101 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year. [p. 125, line 21]

A "small employer" with respect to a group health plan is "an employer who employed an average of at least 1 but not more than 100 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year." [p. 126, line 3] States have the option to define small downwards by replacing 100 employees with 50 employees. There are also provisions for small employers that grow, allowing these businesses to still qualify as a small employer. [p.127, line 11ff]

Employers who have more than 200 full-time employees and who offers enrollment in one or more health benefits plans will be required to enroll new full-time employees in one of the plans offered and "to continue the enrollment of current employees in a health benefits plan offered through the employer." [p. 346, line 20] Employees must be notified after enrollment that they are allowed to opt out of the employer's coverage, that the employer contribution to such coverage may be tax-exempt, and that "if the employee purchases a qualified health plan through the Exchange, the employee will lose the employer contribution (if any) to any health benefits plan offered by the employer."

In general, all persons treated as a single employer under section 414 of the Internal Revenue Code are treated as a single employer in the Senate Bill. [p. 126, line 19]

The difference between large and small employers is important in the Senate bill because *small employers that are growing larger can continue to qualify as small employers* if they elect to make all full-time employees eligible for one or more qualified health benefits plans offered through the health insurance exchanges that the bill creates. [p.127, line 11ff]. This exempts them from buying or running their own health plan.

Tax Penalties and Fines

This election will also exempt them from a proposed monthly tax penalty on "applicable large employers" [p. 352, line 4]. According to the Senate bill [p. 348, line 20ff], if a large employer does not offer health insurance and "any such full-time employee" is enrolled for "any month" in a health benefits plan with "an applicable premium credit or cost-sharing reduction" that is "allowed or paid with respect to the employee" the employer must pay a non-deductible "assessment payment equal to the product of the applicable payment amount and the number of individuals employed by the employer as full-time employees during such month." [p. 349, lines 12-16.] The applicable payment amount "means, with respect to any month, 1/12 of $750." [p. 352, lines 1-3]

Paying the tax for not offering insurance is likely to be much less expensive than offering health insurance when the bill is first passed. The experience in Massachusetts suggests that the government will increase the fines considerably after the bill is passed. In the first year of Massachusetts's health insurance reform, the penalty on individuals for not purchasing health insurance by December 31, 2007 was $219. In 2009, the fine for failure to purchase health insurance is $1,068 per person.[6]

The Senate Bill also fines employers who have waiting periods before an employee is eligible for coverage. For large employers, a waiting period that "exceeds 30 days but does not exceed 60 days" the fine is $400. For waiting periods that exceed 60 days, the fine is $600. [p. 350, lines 3-10] It is illegal to have a waiting period for coverage that exceeds 90 days. [p. 97, lines 1-6]

For the purposes of the 'Shared Responsibility' section, which requires that a large employer offer health insurance, the term "applicable large employer" means, "an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year." [p. 352, lines 5-9]

A full-time employee means an employee who is "employed on average at least 30 hours per week." [p. 354, line 15-18] The definition of "hours of service" is to be made in consultation with the Secretary of Labor and will include "rules for the application" of the law to "employees who are not compensated on an hourly basis." [p. 354, lines 19-3] Employers who employ more than 50 workers for 120 days or fewer during the calendar year and employ seasonal workers are not considered "applicable large employers." [p. 352, lines 12-25] The definition of a seasonal worker is left to the Secretary of Labor. It includes retail workers "employed exclusively during holiday seasons."

[6] Vanessa Fuhrmans. September 16, 2009. "Mandated Health Insurance Squeezes Those in the Middle," *The Wall Street Journal.* http://online.wsj.com/article/SB125304790936413347.html

Subsidies and Tax Credits

Employers should note that most employees would be eligible for cost-sharing subsidies. Under the Senate Bill, those subsidies will be offered to households with incomes up to 400% of the federal poverty level. In 2009, 400% of the federal poverty level was $42,320 for a single person and $88,200 for a family of four. [p. 245, line 8-14] In 2009, more than 60 percent of households had incomes below $62,750 a year.[7]

Individuals applying for tax credits (only available through participation in an exchange) must provide comprehensive data including name, address, date of birth, social security number, income, and changes in marital status or family size. [p. 270, line 14 – p. 272, line 10]

Small employers with no more than 25 full-time employees who pay at least 50 percent of a qualified health benefits plan for their employees may be eligible for a tax credit of up to 50 percent of the amount they pay for health benefits. However, the rules are complex and serve to limit the credit to a narrow range of businesses. [pp. 307-320] Some commentators have noted that these tax credits act as "teaser rates;"[8] they have the potential to lure small employers into providing health insurance and then expiring, leaving the employer to cope with suddenly increased costs.

Higher Costs; Operations Tax

The Senate and House Bills both make health insurance considerably more expensive than it is now by expanding benefits and increasing regulatory requirements. For example, the Senate Bill requires that employers cover "oral and vision care" for children [p. 103, lines 23-24]. Health plans will also become more expensive because the Senate Bill imposes new taxes on insurers, medical device manufacturers, and pharmaceutical manufacturers.

Furthermore, the federal government will define the minimum requirements of the health plan that a business must offer. This is usually referred to as a 'qualified health benefits plan' (House) or a 'qualified health plan' (Senate).

The Senate Bill stipulates that all state health insurance exchanges must be self-sustaining as of January 1, 2015. To make this possible, it gives the exchanges the power to "charge assessments or user fees to participating health insurance issuers, or to otherwise generate funding, to support its operations." [pp. 141, line 20 – p. 142, line 3] This authority is the authority to tax. *Thus, the Senate bill gives state exchanges the power to tax without limit.* The taxes that exchanges choose to impose cannot be determined in advance.

Reporting Requirements

Under the Senate Bill, "applicable large employers" (as defined under 'Shared Responsibility' [p. 352, line 4]) must fulfill government reporting requirements by filing reports that certify:

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[7] U.S. Census Bureau. Current Population Survey, Annual Social and Economic Supplement. 2008. http://www.census.gov/hhes/www/cpstables/032009/hhinc/new05_000.htm, accessed November 12, 2009.
[8] Tom Miller. March 2, 2009. National Journal Expert Blogs. Health Care. http://healthcare.nationaljournal.com/2009/03/634-billion-for-health-care-re.php

- That they offer a qualified health benefits plan
- The months for which the coverage was available
- The monthly premium for the lowest cost option in each of the enrollment categories under each health benefits plan offered
- The name, address and Taxpayer Identification Number (TIN) of each full-time employee during the calendar year
- The months during which they, and their dependents were covered by any health benefits plans, and
- *"[S]uch other information as the Secretary may require*." [pp. 358-361*, emphasis added*]

The employer must also give each employee a written statement showing "the name and address and telephone number of the person who submitted the information to the government, and the information that was submitted on that individual." [p. 360, lines 3-9]

The House Bill requires that employers provide the newly proposed "Health Choices Commissioner," the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury, as applicable, with "such information as the Commissioner may desire" including details of its health plan, the name, address and taxpayer identification number of each full-time employee, the months during which the employee and dependents were covered. [pp. 270-271]

The Senate Bill expands reporting requirements for 1099-MISC 'Miscellaneous Income' tax forms. Formerly limited to people, they will now have to be filed for all transactions with "any corporation that is not an organization exempt from tax under section 501(a)." [p. 2000, lines 1-6]

Tax on Small Business Owners

The House Bill includes a surcharge on high-income individuals, a provision that is likely to affect small business owners, diminish entrepreneurship,[9] and discourage hiring and investment.[10] According to the Tax Foundation,

> "Roughly 25 percent of all taxpayers report small business income…when adjusted gross income (AGI) reaches $200,000 or more, 67 percent of taxpayers report small business income. Indeed, high-income taxpayers are over two and one-half times more likely to have small business income than the average taxpayer (i.e., 67 percent for those with incomes at $200,000 or over versus roughly 25 percent for all taxpayers)."

In addition,

> "Roughly one-third of business taxes are paid by owners of flow-through businesses—the sole proprietorships, partnerships, and S corporations that are

[9] Donald Bruce, "Taxes and Entrepreneurial Endurance: Evidence from the Self-Employed," National Tax Journal Vol. 55(1), March 2002.

[10] Robert Carroll. July 2009. Tax Foundation, Fiscal Fact No. 182. "The Effect of the Presidential Candidates' Tax Plans on Flow-Through Businesses" http://www.taxfoundation.org/files/ff182.pdf (see footnote 3)

> often small in size and entrepreneurial—when they file their *individual* tax returns."[11] *[emphasis added]*

The Tax Foundation estimates that about a quarter of taxpayers who derive at least 50 percent of their income from a flow-through business will be subject to higher tax rates and that 30 to 40 percent of the new revenues raised will come out of the income reported to flow-through owners**. As these business owners often finance business expansion using the income reported on their individual tax returns, the increase in taxes on high earners will act like a direct tax on business expansion**.[12]

The effects of taxation can be large. According to the Tax Foundation, small businesses create "between 60 and 80 percent of net new jobs," employ over half the labor force and generate more than one-half of the nation's gross domestic product. In 2000, Carroll et al. used data from the effects of the Tax Reform Act of 1986 to estimate that *cutting* a sole proprietor's marginal tax rate from 50 percent to 33 percent—a decrease of 27 percentage points—*increases* the size of his business by about 28 percent.[13]

The House legislation dramatically increases the tax rate. The text of the legislation is covered in Section 59C [p. 337, line 1ff]:

> "(a) General Rule--In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 5.4 percent of so much of the modified adjusted gross income of the taxpayer as exceeds $1,000,000.
>
> "(b) Taxpayers not making a joint return.—In the case of any taxpayer other than a taxpayer making a joint return under section 6013 or a surviving spouse (as defined in section 2(a)), subsection (a) shall be applied by substituting '$500,000' for '$1,000,000.'"

Note that these amounts are not indexed for inflation. Also, the term "modified adjusted gross income" includes capital gains and dividends. This means that people with these incomes would see their capital gains tax increase by 5.4 percent under the House Bill.

Additional Taxes

<u>Payroll.</u> Small business owners will also be affected by the increase in the Medicare Payroll Tax imposed in the Senate Bill. At present, the first $200,000 of payroll income for individuals, and $250,000 in income for those married, filing jointly, is subject to a 2.9 percent Hospital Insurance (Medicare) tax. Under the Senate Bill, the Medicare tax will apply to all payroll income, and the rate will be higher, 3.4 percent, on amounts over $200,000 ($250,000 if married, filing jointly). [p. 2040, line 18 – p. 2041, line 18]

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[11] Robert Carroll. July 2009. Tax Foundation, Fiscal Fact No. 182. "The Effect of the Presidential Candidates' Tax Plans on Flow-Through Businesses" http://www.taxfoundation.org/files/ff182.pdf

[12] Ibid.

[13] Matt Nesvisky. "High Income Taxes Inhibit the Growth of Small Firms," National Bureau of Economic Research Digest. http://www.nber.org/digest/apr01/w7980.html

Excess Benefit. The Senate Bill also imposes taxes on employer-sponsored health plans deemed too rich. It imposes a tax of "40% of the excess benefit" on individual policies in excess of $8,500 and family policies in excess of $23,000. [p. 1980 - 1981]. There are exceptions for high-risk professions [p. 1982, lines 1-16]. These amounts are indexed by the Consumer Price Index plus one percent. [p. 1983, line 7] Health care cost increases have been higher than the Consumer Price Index for decades. Thus, this tax is structured so that it will apply to an increasing number of Americans as health care prices increase to pay, among other things, the taxes imposed on providers by the House and Senate bills.

Medical Devices. The House Bill also levies special taxes on small and large businesses that sell medical devices [p. 339, line 14ff]. The income levels to which these taxes are applied are not indexed for inflation. The text of the legislation says:

> "(a) In General.—There is hereby imposed on the first taxable sale of any medical device a tax equal to 2.5 percent of the price for which it is sold."
>
> A Medical Device is "any device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) intended for humans. [p. 341, line 1]

Drugs and Insurance. There is also a new tax on pharmaceutical companies [Senate, p. 211] and new taxes on insurance companies. [Senate, p. 2026]

Other Provisions

Whistleblowers. The House Bill provides whistleblower protection to employees. The text of the legislation says: "No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or other privileges of employment" because the employee provided information on what the employee "reasonably believes to be a violation of any provision of this Act or any order, rule, or regulation promulgated under this Act," or the employee testifies about it. The term "employer" includes standard employers and any "agent, contractor, subcontractor, grantee, or consultant." [p. 142, line 23ff]

Flexible Spending Accounts. The Senate Bill has provisions that handicap flexible spending accounts. It limits employee contributions to flexible spending accounts to $2,500. [p. 1999, lines 9-17]

Health Savings Accounts. As regards the Health Savings Account (HSA), the Senate bill *allows but does not require* the Secretary to "issue regulations under which employer contributions to a health savings account…may be taken into account in determining the level of coverage for a plan of the employer" [p. 113, lines 17 – 23]. Thus, the Secretary may choose not to issue regulation or to include HSAs as acceptable employer coverage, threatening the future of health savings accounts.

Health Insurance Becomes "Means-Tested Tax"

A little understood effect of the House Bill is to place large additional taxes on middle and upper class families through an extensive network of health insurance requirements and subsidies that vary by income. The following tables from the Congressional Budget Office (CBO) show what single people and families will likely pay for health insurance as defined under the House Bill. In some cases, the health insurance mandated by the House Bill will consume 20 percent of family income.

For a Single Person buying the "Reference Plan" in 2016

Income as Federal Poverty Level	Premium Cap as a Share of Income[14]	Middle of income range	Premium Subsidy (share of premium	Average cost to enrollee after subsidies	Percent of Income
100-150%	1.6% - 3.2%	$14,700	96%	$600	4%
150-200%	3.2% - 5.9%	$20,600	83%	$1,500	7%
200-250%	5.9% - 8.5%	$26,500	64%	$2,800	11%
250-300%	8.5% - 10.7%	$32,400	42%	$4,400	14%
300-350%	10.7% - 11.7%	$38,300	19%	$6,100	16%
350-400%	11.7% - 12.8%	$44,200	0%	$7,300	17%
400+%	n.a.	$50,100	0%	$7,300	15%

Source: Congressional Budget Office. Letter to Representative Charles B. Rangel, November 2, 2009. http://www.cbo.gov/ftpdocs/106xx/doc10691/hr3962SubsidiesRangelLtr.pdf

For a Family of Four buying the "Reference Plan" in 2016

Income as Federal Poverty Level	Premium Cap as a Share of Income	Middle of income range	Premium Subsidy (share of premium	Average cost to enrollee after subsidies	Percent of Income
100-150%	1.6% - 3.2%	$30,000	97%	$1,100	4%
150-200%	3.2% - 5.9%	$42,000	87%	$3,100	7%
200-250%	5.9% - 8.5%	$54,000	74%	$6,200	11%
250-300%	8.5% - 10.7%	$66,000	58%	$10,000	15%
300-350%	10.7% - 11.7%	$78,000	41%	$13,800	18%
350-400%	11.7% - 12.8%	$90,100	26%	$16,600	18%
400+%	n.a.	$102,100	0%	$20,500	20%

Source: Congressional Budget Office. Letter to Representative Charles B. Rangel, November 2, 2009. http://www.cbo.gov/ftpdocs/106xx/doc10691/hr3962SubsidiesRangelLtr.pdf

These CBO tables focus on people who purchase a "reference" plan, the average of the three lowest-cost 'basic" plans defined in the House Bill. The CBO calculates in their November 2nd letter that the approximate average cost will be $5,300 for single policies and about $15,000 for family policies in 2016. This is the average that the House Bill would use to determine federal subsidies within the exchanges. As the CBO writes,

> "Under the House Bill, the maximum share of income that enrollees would have to pay for the reference plan in 2013 would range from 1.5 percent for those with income less than or equal to 133 percent of the federal poverty level (FPL) to 12 percent for those with income equal to 400 percent of the FPG. ...After 2013, those income-based caps would all be indexed so that the share of the premiums that enrollees (in each income band) paid would be maintained over time. As a result, the income-based caps would gradually become higher over time; for example, they are estimated to range from about 1.6 percent to about 12.8 percent

[14] The FPL in 2016 is projected to be about $11,800 for a single person and about $24,000 for a family of four.

> in 2016. Enrollees with income below 350 percent of the FPL would also be given cost-sharing subsidies…"[15]

In 2009, 400 percent of the federal poverty level is $88,200 for a family of four. This figure is much higher than the income of half of America's families. Median family income in 2008 inflation-adjusted dollars was $63,211.[16] *The Congressional Budget Office notes that many enrollees would likely purchase more expensive plans and that, as a result, the cost of average premiums actually purchased in the health insurance exchanges would likely be higher*.

Under the Senate bill, the Congressional Budget Office estimates the cost of individual non-group coverage in 2016 will be 10 - 13 percent *higher* than it will be in 2016 under current law. The CBO estimate for 2016 non-group coverage under the Senate bill is $5,800 for singles and $15,200 for families. This increase results from proposed changes and expected savings. However, if savings do not occur, premiums *rise 27 – 30 percent*.[17]

Current Premiums

To put these cost estimates in perspective, it is helpful to look at current premiums. America's Health Insurance Plans (AHIP) conducts annual surveys of health plans eligible for Health Savings Accounts. It estimates the average premiums for HSA plans in the individual market, the small-group employer market, and the large group employer market. The following table summarizes the AHIP findings.

Premium Comparisons
for the Best-Selling Health Savings Account/High Deductible Health Plan in Three Different Markets in 2009

	Single Person			Family		
	Premium	Deductible	Maximum Out-of-Pocket	Premium	Deductible	Maximum Out-of-pocket
Individual						
Age 20-29	$1,473	$3,005	$3,312	$3,150	$5,920	$6,485
Age 30-54	$2,528	$3,005	$3,312	$5,372	$5,920	$6,485
Age 55-64	$4,419	$3,005	$3,312	$7,604	$5,920	$6,485
Small-Group	$3,449	$2,091	$2,435	$9,036	$3,764	$4,325
Large-Group	$2,911	$2,088	$3,172	$6,901	$3,986	$5,457

Source: AHIP Center for Policy and Research. May 2009. *January 2009 Census Shows 8 Million People Covered by HSA/High-Deductible Health Plans.* http://www.ahipresearch.org/pdfs/2009hsacensus.pdf

As shown in the table above, a single person in a large employer group plan is currently paying about $2,911 for his HSA/HDHP insurance *regardless of income*. If he earns $26,500 (200-250% FPL - see table on page 9) this payment of $2,911 is slightly more than

[15] Congressional Budget Office. Letter to Representative Charles B. Rangel, November 2, 2009.

[16] American Community Survey, U.S. Census Bureau. 2006-2008 American Community Survey 3-Year Estimates—Data Profile Highlights. http://factfinder.census.gov/servlet/ACSSAFFFacts

[17] "An Analysis of Health Insurance Premiums Under the Patient Protection and Affordable Care Act" (p. 5 table and p. 6 bullet points), Congressional Budget Office, November 30, 2009.

the 11 percent cap the House bill would place on a similar single individual buying his own insurance according to the CBO's "reference plan."

As the above table also shows, a young single person *regardless of income* will pay about $1,473 for an individual HSA/HDHP plan. If he earns $26,500, this premium payment represents slightly more than 5 percent of his income. In 2016, his premium payment for the "reference plan" in the House bill is expected to be nearly *twice* as much ($2,800).

Due to the tax benefits, employer policies tend to be much more expensive than the policies employees buy for themselves. According to the Kaiser employer benefits survey, the average cost of premiums for employer-based single coverage in 2009 is $4,824 while the average employer-based family premium is $13,375.[18] While employees pay for most of their health insurance premium through forgone wages, they also pay a portion directly. The average annual cash contribution for single workers was $779; for family coverage it was $3,515.[19]

By significantly increasing the amount that individuals are required to pay for health insurance, the House Bill imposes a substantial new tax on middle and upper income people in the United States.

Lower Costs Not Likely

Cost control has been one of the main purposes of health insurance reform legislation, according to proponents.

Two recent documents from the Congressional Budget Office show that federal regulators are uncertain that the Senate bill will reduce or contain health care costs. According to the data, the Senate's 2,074-page $1.6 trillion bill,[20] which some say will increase the federal deficit by $270 billion over the next ten years,[21] will not decrease the continued rise of health insurance premiums, which are expected to rise at about double the rate of inflation:[22]

SINGLE Premiums	Type	Current Cost	Estimated Cost for 2016	Average Annual Increase
Current law	Non group	$3,800	$5,500	5.42%
Reid bill	*Non group*	*$3,800*	*$5,800*	*6.23%*
Current law	Small group	$5,400	$7,800	5.39%
Reid bill	*Small group*	*$5,400*	*$7,800*	*5.39%*
Current law	Large group	$5,100	$7,400	5.46%
Reid bill	*Large group*	*$5,100*	*$7,300*	*5.26%*

Source: Senate Republican Policy Committee [23]

[18] 2009 Kaiser/HRET Employer Health Benefits Survey. September 15, 2009.
[19] Ibid.
[20] Tony Romm, "Former CBO official: Senate healthcare bill could cost $1.6 trillion," *THE HILL'S Blog Briefing Room*, November 20, 2009 (http://thehill.com).
[21] Ibid.
[22] See InflationData.com: http://www.inflationdata.com/inflation/Inflation_Rate/CurrentInflation.asp
[23] Senate Republican Policy Committee comparison of a November 30, 2009 letter from the Congressional Budget Office and a December 5, 2009 memo from the Congressional Budget Office (RPC email, December 6, 2009)

FAMILY Premiums	Type	Current Cost	Estimated Cost for 2016	Average Annual Increase
Current law	Non group	$9,000	$13,100	5.51%
Reid bill	*Non group*	*$9,000*	*$15,200*	*7.77%*
Current law	Small group	$13,300	$19,300	5.46%
Reid bill	*Small group*	*$13,300*	*$19,200*	*5.38%*
Current law	Large group	$13,900	$20,300	5.56%
Reid bill	*Large group*	*$13,900*	*$20,010*	*5.41%*

Source: Senate Republican Policy Committee

Given that long-range cost estimates of Congressional entitlement programs have historically been much lower than the actual costs of the programs, two statements from the Congressional Budget Office letter on November 30th regarding the Senate bill's impact on premiums, costs, savings, and the budget are noteworthy:

> "These longer-term calculations assume that the provisions are enacted and remain unchanged throughout the next two decades, which is often not the case for major legislation."

> "All of those considerations serve to emphasize the considerable uncertainty that surrounds any estimate of the impact of any proposal that would make substantial changes in the health insurance or health care sectors, given the size and the complexity of those sectors. That uncertainty applies to the estimated effects of proposals on the federal budget and insurance coverage rates, as well as to their impact on premiums." *(see footnote 17)*

Conclusion

The health insurance reform bills pending in Congress will impose on small businesses costly employee coverage mandates, government reporting requirements, various new taxes, burdensome regulatory requirements, and additional fees and penalties.

Health insurance premiums are expected to rise higher than under current law due to expanded government subsidies, imposed premium caps, government tax credits, and proposed new taxes on insurers, drug manufacturers and medical device companies.

Small businesses will be hit particularly hard by increased premium rates, the tax on high-earners, and regulatory requirements, leaving them with fewer compensatory options than large employers. To protect their businesses, small employers may choose to drop employee health insurance coverage, limit expansion of their operations, reduce employee wages, hire fewer workers or announce lay-offs.

While lower income people are protected with premium caps and subsidies, the House bill does not limit what middle and upper income people would be required to pay.

In conclusion, the House bill, HR 3962, and the Senate bill, HR 3590, propose to negatively impact small employers, business expansion, employees or small employers, and the largely unprotected and unsubsidized middle and upper class of America.