

## Congressional Healthcare Reform Legislation: Select Small Business Provisions

Policy	Senate-passed bill (H.R. 3590)	House-passed bill (H.R.3962)
<p><b>Health Insurance Exchange/ Marketplace</b></p>	<p>States, by July 1, 2013, would be required to establish: (1) an insurance exchange for the individual market and (2) a Small Business Health Options Program (SHOP) exchange for the small group market. The small group market includes small employers with 1-100 employees. States may allow employers with more than 100 employees into the exchange beginning in 2017.</p> <p>Beginning in 2015, the bill requires exchanges be self-sustaining. Allows them to charge assessments or user fees.</p> <p>Regional or interstate exchanges are allowed.</p> <p>States would assist small employers that opt to use the SHOP exchange as the enrollment option for their employees. Small employers offering insurance through the exchange could not self-insure.</p> <p>HHS will provide technical assistance to the exchanges.</p> <p>Provides \$30 million for State grants to establish, expand, or provide support for consumer assistance for with filing complaints and appeals, educate consumers on their rights and responsibilities, and collect, track, and quantify consumer problems and inquiries.</p>	<p>Establishes a federal “Health Choices Administration,” with a Health Choices Commissioner. As an alternative to the federal exchange, state-based health insurance exchanges can be offered by single states or groups of states.</p> <p>Eligibility for enrollment through the exchange would be phased in, starting in 2013 with individuals and employers with fewer than 25 employees. In 2014, firms with up to 50 employees can enter; in 2015, firms with up to 100 employees can enter; in 2015 and after, the Commissioner may allow larger employers.</p> <p>Once an individual or an employer is enrolled through the exchange, they remain eligible for coverage through the exchange even if circumstances change that would otherwise exclude them.</p> <p>The Commissioner is required to conduct a study regarding access to the exchange. The study’s goal is to determine if there are significant groups and types of individuals and employers who are not exchange eligible, but who would have improved benefits and affordability if made eligible. It will include recommendations for changes to the eligibility standards.</p> <p>Requires the Health Choices Commissioner, with the SBA, to implement a program to provide small businesses (defined in this section as having less than 100 employees) with consumer information, outreach, counseling, and technical assistance with respect to participating in the exchange.</p> <p>Requires the Secretary of Labor to conduct a study to examine the effect of the small business exemptions from the employer contribution and to provide recommendations annually after 2012. The study’s purpose is to examine potential detrimental effects or inequities emerging among employers, health plans and enrollees from the small business requirements. The Secretary of Labor will submit recommendations to Congress if he/she finds that changes should be made to the law. Note:</p>

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<p><b>Employer Mandate</b></p>	<p>Requires an employer with more than 50 full-time employees that <b>does not</b> offer coverage and has at least one full-time employee receiving the premium assistance tax credit to make a payment of \$750 for each full-time employee.</p> <p>An employer with more than 50 employees that <b>does</b> offer coverage but has at least one full-time employee receiving the premium assistance tax credit will pay the lesser of \$3,000 for each of those employees receiving a tax credit or \$750 for each of their full-time employees.</p> <p>Requires that employers that impose a waiting period before employees can enroll in coverage pay a fee. The payment is \$400 for any full-time employee in a 30-60 day waiting period, and \$600 for any employee in a 60-90 day waiting period. This provision is effective January 1, 2014.</p> <p>Employers with 50 or fewer employees are exempt from the penalties listed above.</p> <p>Requires that employers with more than 200 employees automatically enroll their employees into employer health insurance plans. Employees may opt out of this coverage.</p>	<p>Contains a “play or pay” requirement:</p> <p>Provides that the minimum employer contribution is 72.5% of the premium for individual coverage and 65% of the premium for family coverage. The amount will be proportional for part-time employees. Family coverage includes the employee’s spouse and qualifying children. Requires employers to provide automatic enrollment of their employees into their employment-based health plan with the lowest applicable employee premium.</p> <p>Requires an employer to contribute to the exchange in lieu of each employee who declines the employer’s coverage and instead enters the exchange via the affordability test (under which an employee must show coverage under their employer-provided plan would cost more than 12% of income). The contribution is generally 8% of the average salary for the employer. <u>Small employers with annual payrolls at or below \$500,000 are exempt from this requirement.</u> Workers in exempt firms will still be able to choose coverage through the exchange. The contribution phases up from 0 - 8% between an annual payroll of \$500,000 and \$750,000, at which point employers are subject to the full 8% contribution requirement.</p> <p>Prohibits employers from reducing retiree health benefits below what was offered to retirees at the time of their retirement unless reductions are also made to active workers’ health benefits. Effective as of date of enactment.</p> <p>Provides authority to the Health Choices Commissioner to set standards to prevent “improper steering” of high-risk individuals into the exchange.</p>
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<p><b>Tax Credits</b></p>	<p>Provides “Small Business Health Care Affordability Tax Credits.” The bill would provide a tax credit to small businesses that offer health insurance to their employees. In tax years 2010 - 2013, eligible employers can receive a small business credit for up to 35 percent of their contribution. Once the exchanges are running in 2013, qualified small employers purchasing insurance through the exchanges can receive a tax credit for two years that covers up to 50 percent of the employer’s contribution. Small businesses with 10 or fewer employees and with average taxable wages of \$25,000 per employee or less will be able to claim the full credit amount. The credit phases out for businesses with more than 10 employees and average taxable wages over \$20,000, with a complete phase out at 25 employees or average taxable wages of \$50,000 per employee.</p>	<p>Provides “Small Business Employee Health Coverage Credits” as part of the general business tax credit equal to 50% of the qualified employee health coverage expenses to the employer (small employers are defined as having 10- 25 employees for the taxable year). There are phase-outs based on average compensation of an employer’s employees and on employer size. No credit is allowed for expenses paid for employees whose total compensation during the taxable year exceeds \$80,000. There are special rules for partnerships and the self-employed. The tax credit will be available for two years.</p>
<p><b>Other Employer Requirements</b></p>	<p>Cafeteria Plan Changes - A cafeteria plan is a separate written plan under which all participants are employees, and participants are permitted to choose among at least one permitted taxable benefit (for example, current cash compensation) and at least one qualified benefit.</p> <p>The Senate bill would ease cafeteria plan participation restrictions for small businesses and include self-employed individuals as qualified employees. The proposal also exempts employers who make contributions for employees under a simple cafeteria plan from pension plan nondiscrimination requirements applicable to highly compensated and key employees.</p>	<p>Health Saving Accounts: The bill limits salary reduction contributions to health flexible spending arrangements to \$2,500 (indexed to the consumer price index). In addition, it increases the 10 percent penalty on distributions from health savings accounts that are not used to pay for health related expenditures to 20 percent.</p>
<p><b>Other Relevant Revenue Provisions</b></p>		<p>Imposes a tax of 5.4% tax that would apply to married couples with adjusted gross income of \$1,000,000 (and single tax filers earning more than \$500,000). The tax does not apply to an S Corporation. It does, however, apply to shareholder income derived from the S Corporation (provided this income is in excess of \$1.0 million).</p>
<p><b>Other Relevant Grant Programs</b></p>	<p>Establishes Health Insurance Consumer Assistance Grants. Small Business Development Centers (SBDCs) would be eligible to receive Health Insurance Consumer Assistance Grants. This program authorizes \$30 million to establish a competitive grant program to support consumer assistance organizations in each state. Organizations who receive grants would assist consumers in solving problems and navigating health insurance coverage transitions, collect data on consumer encounters, and report problems and inquiries report to HHS.</p>	