The Top 10 Reasons "America's Affordable Health Choices Act of 2009" is the Wrong Approach for Small Business

1. An Employer Mandate

The bill includes an employer mandate that will require employers to offer healthcare to **full-time and part-time employees**. Research shows an employer mandate could cost 1.6 million jobs with more than 1 million of those jobs lost in the small business sector. The approach fails to increase affordability and, instead, devastates the economy – with the greatest impact being levied on the low-income community who will pay through depressed wages and lost jobs.

2. Payroll Tax Penalty

Payroll taxes are an especially onerous tax, because they tax labor rather than profits. No matter how profitable or unprofitable a business might be, they are forced to pay this tax. The legislation requires that all employers with a payroll of $250,000 or more pay a payroll tax of up to 8 percent if they do not provide "qualified" health insurance to their employees. The taxes punish wage and job growth since the tax rate increases as payroll increases. If an employer chooses to add a worker or increase wages, the rate of tax on that employer may continue to go up. Even the smallest wage increases could trigger an additional tax, since the wage rates at which the tax is applied are not subject to inflation. Simply put, this is a tax on job growth.

3. Pay-or-Play, Pay-and-Pay and Offer-and-Pay

The legislation establishes a confusing multi-part test that **hits employers who do and do not offer health insurance**.

A non-offering employer will pay the payroll tax of either 2, 4, 6 or 8 percent.

Offering Employers must:

A. Offer "qualified" individual and family coverage
B. Make premium contribution requirements of at least
   a. 72.5% for individuals and
   b. 65% for family plans
C. Offer a "qualified" plan as defined by a government-appointed board

- ❖ If the employer offers, but the employee declines and obtains coverage in the exchange, then the employer must pay the payroll tax penalty of up to 8 percent.
- ❖ If an employer offers coverage other than the "qualified" plan, they can be assessed a penalty of up $100 per day/per employee.

Consequences: *In addition to the financial penalties, new taxes and onerous government involvement in the healthcare of you and your employees, these approaches lead to potentially higher costs and many small business employees not being able to keep the plan they have today.*

4. A Mandated Minimum Plan with a Big Price Tag

Today, among firms of 1 to 199 workers, 86 percent who offer coverage offer only one plan. This leaves their employees with two options: take it or leave it. Small employers and their employees want the ability to choose from a variety of affordable plans. However, H.R. 3200 gives a political board the power to define "coverage" and will determine whether an employer plan is "acceptable." The bill does nothing to insure that the new plans will be less costly than what small employers are paying today and even requires small employers to cover certain services that they are exempt from under current federal law.

5. An Exchange that Limits Access to All Small Businesses

Small employers have long sought a simpler and more efficient way to shop for insurance. Although NFIB believes that an exchange approach can provide a streamlined and simplified way to gain access to affordable coverage, H.R. 3200 fails to provide guaranteed access to the exchange for employers with 21 or more employees. Providing increased access and more choices for some, but not all small business is not reform that small business can support.

6. An All Powerful Insurance Czar

The "Health Choices Commissioner" will have unbridled authority to institute rules and regulations that greatly affect small employers, including the ability to define who is and is not a full-time and part-time employee. Thresholds set forth by an unelected commissioner would be subject to continual changes, leaving small business owners in constant fear of ever-changing compliance requirements.

7. The Government-Run Public Option

As advocates for competition and choice, NFIB is deeply concerned that a "public option" would further compromise the viability of private insurance and would restrict choice to a single plan: the government-run plan. Instead, a reformed, private insurance marketplace can provide businesses and employees with more affordable coverage and a sustainable choice of plans.

8. The Surtax: A Tax on Job Creation

The surtax imposes an additional tax on some businesses reducing after tax profits at a time when small businesses are struggling to find capital. Because 75 percent of small businesses are structured as pass through entities, they pay their business taxes at the individual level. More than one-third of small businesses employing 20 to 250 employees would face the tax. The businesses most likely to face this tax employ 33.5 million American workers – more than one-quarter of the American workforce.

9. Jeopardizes Options That Small Employers Have Today

As written, the legislation appears to limit the use of Health Savings Accounts (HSA) – jeopardizing a health insurance option that small business owners have and use today. In addition to the bill limiting the sale of individual plans in the future – a key component of an HSA, a Congressional Committee adopted an amendment prohibiting individuals from using HSA funds to purchase over-the-counter health products. This further limits the utility of this health insurance option, making it harder for people to "keep what they have."

10. An Employer Tax Credit with Limited Value

While some small businesses can be helped by tax credits, the structure of the credit is critical to its successes. Small businesses (with 25 or fewer employees) would be eligible for a subsidy of up to 50% of the cost of health insurance for employees. Businesses that have an average annual salary per worker of $20,000 or less get the full subsidy, with the credit phasing out at $40,000. U.S. census data from 2007, notes that the average wage of full-time employees at businesses with fewer than 10 employees is over $30,000, meaning that in many cases the value of the credit is already cut in half. This could also mean that a small business owner must make trade-offs when compensating workers. Increasing wages would have to be measured against the amount of the lost credit, which could lead to workers – especially lower-wage workers – seeing stagnant wages for a longer period of time.