



NFIB Offers Alternatives to ObamaCare

The National Federation of Independent Business (NFIB) is citing statistics that confirm its decision to mount a court battle against the Affordable Care Act, popularly known as ObamaCare. NFIB led the plaintiff's efforts in the Supreme Court case *NFIB v. Sebelius*, in which the justices ruled 5-4 to uphold the constitutionality of the controversial law.



NFIB, with 350,000 member businesses nationally, is the largest lobbying organization for small business in the country.

Fifty-six percent of the 2,500 small businesses polled by LevelFunded complained they are losing quality employee candidates as a result of the rising costs of employer-funded healthcare plans under the Affordable Care Act. Eighty-seven percent of small businesses have had to contend with an increase in health insurance premiums by at least 25 percent since 2014.

This has led many small-business owners to resort to contracting out some jobs, rather than take on additional full-time employees. Under present ObamaCare regulations, once the business reaches 50 employees, certain health-insurance requirements are imposed by the government. Because of this, business owners who would like to hire more workers are often simply not doing so, so as to avoid the health-insurance mandate. Of course, this is a significant drag on the economy of the United States, in general, and often devastating to individual small-business owners.

Small businesses are placed at a disadvantage compared to larger businesses, since big businesses can absorb the higher health-insurance costs and other expensive government regulations.

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Writing in *Heartlander* magazine, Justin Haskins explained that many small businesses have cancelled their health-insurance benefits completely, “dumping an unknown number of employees into Obamacare exchanges. This is not only bad for the employees, it’s horrible for the businesses, who are now losing quality job applicants to large corporations that offer better benefits.”

The same could be said for just about any government regulation, especially those imposed by the federal government. One can recall, for example, when President Bill Clinton placed his wife, Hillary, in charge of an attempted government take-over of the health-care industry in the early 1990s. When concern was expressed to her that small-business owners were faced with a much more difficult task in complying with any such government health-insurance mandate than big businesses, Clinton brusquely dismissed that argument in defense of her “HillaryCare”: “I can’t be responsible for every undercapitalized small business in America.”

In other words, according to Hillary, if government regulations destroy small businesses (the backbone of the American economy), leaving behind just big businesses, then so be it.

Seeing this attitude among many proponents of big government led C. Wilson Harder to launch the



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NFIB in 1943, with eight members. Today, *Fortune* magazine ranks NFIB as the number one business lobby in America. Harder left his job at the U.S. Chamber of Commerce mostly because he believed the Chamber was simply not representing the interests of the small-business owners, but rather the government and big business interests. During World War II, the Roosevelt administration preferred dealing with larger businesses, rather than small ones, and Harder was concerned the country was headed toward a market dominated by big business — and he believed this was the actual intention of the government.

So, when the Obama administration was able to actually impose health-insurance mandates on small businesses, causing them to cut payrolls or even close their doors, the membership of the NFIB wanted relief. The NFIB joined with 26 states in 2010 to challenge the constitutionality of the act in federal court. Driven by opposition to ObamaCare and other acts of hostility to small businesses, 25 NFIB members were elected to Congress in 2010, including Senator Rand Paul of Kentucky and Congressman Jeff Duncan of South Carolina.

In 2008, I was a membership representative of NFIB and was in Washington, D.C., at an NFIB event. While there, I was fortunate enough to visit with former Representative Ron Paul (R-Texas) in his congressional office. This was soon after his having concluded his presidential campaign of that year. Doctor Paul told me that he had been a member of NFIB when he was in the early years of his medical practice.

Unfortunately, the infusion of NFIB members into Congress has been unable to overcome the entrenched interests for ObamaCare, and the legal effort of NFIB did not succeed. A majority of the justices actually sided with the position of the NFIB that the Constitution's "Commerce Clause" did not allow Congress to mandate health insurance, but they upheld the law anyway. Chief Justice John Roberts, an appointee of Republican president George W. Bush, provided the fifth vote to uphold the law. Roberts argued that while the law's individual mandate could not be justified by the "Commerce Clause," the individual mandate nevertheless was able to pass constitutional scrutiny because it was a tax. Oddly, the Obama lawyers had not even made that argument, but Roberts made it for them.

While the organization fought HillaryCare in the 1990s and fought ObamaCare in 2010, the NFIB has conceded that its members have listed the providing of health insurance for employees near the top of their concerns for many years. However, NFIB's members (who cast ballots to determine the organization's positions on issues) preferred a different approach than that passed by Congress — an approach that uses the free market to deal with the issue.

Among the suggestions offered by NFIB include making the same tax breaks in the employer-sponsored market available in the individual market. According to NFIB, "The U.S. Tax Code favors employer-sponsored insurance and discourages individual purchases." Because employees can only use pre-tax dollars for insurance if their employers "choose, purchase, and administer their insurance policies," this leads to several problems. For one thing, this creates "job lock," where employees must remain in a job, or risk losing health insurance. With employees unable to shop around, the insurance is less competitive.

How did health insurance even come to be considered part of an employee's compensation? After all, employees do not buy their automobiles or their homes through their employer's "car plan," or "house plan."

It should come as no surprise to those who understand that government intervention into the private



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economy distorts the markets, and such is the case here. During World War II, the U.S. government imposed wage and price controls. This made it impossible for a business owner to attract new employees by offering higher wages — because the wages were “frozen” for the duration of the war. To get around this government requirement that businesses not pay higher wages, employers began to offer to pay for employee’s health insurance as part of their compensation. Thus, even when government wage and price controls were lifted after the war, it had become an accepted practice that health insurance was just part of a job’s compensation “package.”

NFIB notes that the tax treatment of insurance purchased by the self-employed “should be equivalent to the treatment of employer-sponsored coverage. Self-employed individuals do not receive the same tax treatment as individuals who receive health insurance through their employers.”

Another suggestion by the NFIB is to allow small businesses and individuals to “pool risks and purchase insurance across state lines.” Presently, large businesses, labor unions, and governments generally “self-insure.” This allows them to pool their risks across state lines, thus developing “larger, more stable risk pools, thereby lowering costs and reducing uncertainty.”

Additionally, “laws should permit individuals broad latitude in using consumer-driven tools such as high-deductible policies, HSAs, HRAs, and FSAs. For many consumers and small businesses, a high deductible policy can be an attractive way of managing risks and holding down costs.”

In short, the proposals by the NFIB would reduce the role of the government in the healthcare insurance field. So, why has the Obama administration instead chosen to embark on a course causing so many problems for both individuals and small-business owners?

The answer is obviously that the Obama path, and the path attempted by the Clintons years ago, involves making more Americans dependent upon the government for their healthcare. This has been the preferred path for those in charge of the federal government over the past several decades. The New Deal, the Fair Deal, The Great Society, and the various expansions of Medicare have all been driven by a desire to create an ever-larger class of Americans dependent upon government for their basic needs. Such a dependent class is much more likely to support those in government who promise to keep their present benefits, and even to expand them.

Crushing the entrepreneurial spirit of small-business owners across America — with such mandates as the provision of health insurance, minimum wages, higher taxes, and OSHA regulations — reduces the number of individuals prepared to resist such government expansions. Lobbies such as the NFIB, which are fighting to simply get the government off the backs of small businesses — and out of their pockets — are often overwhelmed by the lobbies of those who want more government, more regulation, and more taxes. And like it was in the days when Harder began the NFIB, the lobbies of big business are usually on the side of those who push for more regulations.

After all, that is one way to eliminate the competition.



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