

**This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.**

1 {York Stenographic Services, Inc.}

2 RPTS EDWARDS

3 HIF252.140

4 PROTECTING AFFORDABLE COVERAGE FOR EMPLOYEES

5 WEDNESDAY, SEPTEMBER 9, 2015

6 House of Representatives,

7 Subcommittee on Health

8 Committee on Energy and Commerce

9 Washington, D.C.

10       The subcommittee met, pursuant to call, at 10:17 a.m.,  
11 in Room 2322 of the Rayburn House Office Building, Hon. Joe  
12 Pitts [Chairman of the Subcommittee] presiding.

13       Members present: Representatives Pitts, Guthrie,  
14 Barton, Murphy, Burgess, Blackburn, Lance, Griffith,  
15 Bilirakis, Long, Ellmers, Bucshon, Brooks, Collins, Green,  
16 Schakowsky, Butterfield, Sarbanes, Schrader, Kennedy,  
17 Cardenas, and Pallone (ex officio).

18       Staff present: Clay Alspach, Chief Counsel, Health;

19 Noelle Clemente, Press Secretary; Andy Duberstein, Deputy  
20 Press Secretary; Graham Pittman, Legislative Clerk; Heidi  
21 Stirrup, Health Policy Coordinator; Josh Trent, Professional  
22 Staff Member, Health; Greg Watson, Staff Assistant; Christine  
23 Brennan, Democratic Press Secretary; Jeff Carroll, Democratic  
24 Staff Director; Tiffany Guarascio, Democratic Deputy Staff  
25 Director and Chief Health Advisor; Ashley Jones, Democratic  
26 Director of Communications, Member Services and Outreach;  
27 Samantha Satchell, Democratic Policy Analyst; and Arielle  
28 Woronoff, Democratic Health Counsel.

|

29           Mr. {Pitts.} Good morning, ladies and gentlemen. The  
30 subcommittee will come to order, and the chairman will  
31 recognize himself for an opening statement.

32           Today's legislative hearing will consider a bipartisan  
33 bill authored by distinguished members of this subcommittee:  
34 Vice Chairman Guthrie, and Mr. Cardenas, along with  
35 Representatives Mullin and Sinema.

36           H.R. 1624 is a bill to amend the Patient Protection and  
37 Affordable Care Act and the Public Health Service Act to  
38 revise the definition of small employer. This bill would  
39 allow the states to continue defining the small group health  
40 insurance market as employers with 1 to 50 employees.

41           Section 1304 of the Patient Protection and Affordable  
42 Care Act changed the federal definition of the small group  
43 market to include employers with 1 to 100 employees. The  
44 states, however, have been allowed to continue defining the  
45 small group market as employers with 1 to 50 employees until  
46 January 1, 2016. So, beginning on or after January 1, 2016,  
47 plans sold or renewed for employers with 51 to 100 employees  
48 will be subject to the various small group health plan  
49 regulations established by the PPACA. These more restrictive  
50 rating rules will increase health insurance premiums for  
51 these employers and reduce flexibility in benefit design.

52 The new requirements could also lead some employers with 51  
53 to 100 employees to self-insure to avoid higher premiums. If  
54 that happens, this could result in adverse selection in the  
55 small group pool and higher premiums for employers with 1 to  
56 50 employees. Unless this current law is reversed, the  
57 disruption in the marketplace will be significant. For  
58 example, it is estimated that under current law, more than 3  
59 million employees will experience a double-digit percent  
60 increase in their health care premiums. Ultimately, cost  
61 increases for small employers will change their choices  
62 regarding offering coverage, could change their business  
63 model, and will ultimately be felt by millions of workers.

64 Because the impact of current law will vary by state,  
65 defining the small group market should be left to the states,  
66 which is a policy envisioned in H.R. 1624. I am pleased to  
67 say there is considerable support for this legislation in the  
68 House and the Senate. The flexibility that would be given to  
69 states with immediate passage of H.R. 1624 would help ensure  
70 stable small group health insurance markets that reflect the  
71 unique characteristics in each of the states. If Congress  
72 passes H.R. 1624, premiums will be lower and millions of  
73 employees and employers by letting them keep the plan they  
74 have and like. And this is a commonsense policy that  
75 deserves our bipartisan support.

76 [The prepared statement of Mr. Pitts follows:]

77 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

78           Mr. {Pitts.} With that, I yield the remainder of my  
79 time to the vice chairman of the Health subcommittee to Mr.  
80 Guthrie.

81           Mr. {Guthrie.} Thank you, Mr. Chairman. I appreciate  
82 the committee holding this hearing on such an important  
83 issue.

84           On January 1, 2016, the definition of the small group  
85 market is set to change, and with that, millions of employers  
86 will see dramatic changes to their insurance coverage.  
87 Employers with 51 to 100 people will be suddenly thrust into  
88 a new insurance category with dramatically different mandates  
89 and benefit requirements. It would not be able to continue  
90 to offer the current plans. Not only would these hard-  
91 working employees no longer be able to keep their current  
92 coverage, but the new plans would be offered are likely to be  
93 significantly more expensive.

94           In response to this looming threat, Congressman  
95 Cardenas, Mullin, and Congresswoman Sinema and I joined  
96 forces to introduce the PACE Act, which would stop the  
97 expansion of the small group definition. Our bill has the  
98 support of leading business organizations which represent  
99 thousands of companies, many of which are family-owned, and  
100 millions of hard-working Americans from every congressional

101 district. Our bill will allow states to determine their own  
102 group market size, just as they do today. This is a  
103 commonsense solution to a real and serious problem. Business  
104 owners face many challenges today, and this bill provides an  
105 opportunity to eliminate one major cause of uncertainty.

106 H.R. 1624 has quickly picked up momentum. Today, we  
107 have more than 1/2 the House's cosponsors and nearly 1/3 of  
108 the Senate. Support is wide ranging and highlights that this  
109 is something we can all agree needs to be addressed. This  
110 bill is a chance to offer solution, and I look forward to  
111 discussing this important issue today.

112 I want to thank subcommittee chairman, Mr. Pitts, for  
113 bringing this important legislation before the subcommittee,  
114 and I would like to thank my coauthors for their help and to  
115 advance this crucial legislation, and believe me, they have  
116 put a lot of work into this in getting the cosponsors we  
117 have, and I appreciate it.

118 I yield back the balance of my time.

119 [The prepared statement of Mr. Guthrie follows:]

120 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
121           Mr. {Pitts.} The chair thanks the gentleman.

122           Now recognize the ranking member, Mr. Green, 5 minutes  
123 for an opening statement.

124           Mr. {Green.} Thank you, Mr. Chairman. Good morning,  
125 and thank all of you for being here today, and our witnesses  
126 particularly. I want to particularly thank a former  
127 colleague of ours, now commission, Mike Kreidler, who he and  
128 I started our service in Congress together a few years ago  
129 when we both had dark hair. But again, welcome to all our  
130 panel, and particularly to our former colleague.

131           Five years ago, Congress acted upon the principle that  
132 in America, health care is not a privilege for a few, but a  
133 right for all. Since then, the Affordable Care Act has been  
134 implemented and reforms have taken place, and there are  
135 dramatic successes and some challenges, but no doubt the law  
136 is working. It has changed and even saved American lives.  
137 It has set this country on a smarter, stronger path. Since  
138 the ACA was enacted, over 16.4 million Americans gained  
139 Affordable Healthcare Act, 129 million Americans who now  
140 have--could have been denied coverage prior to the ACA's  
141 passage now have access. The uninsured rate is at a historic  
142 low. For the first time in 50 years, rising healthcare  
143 prices have been slowed. Savings on healthcare costs of \$12



144 billion resulted from 2010 and 2013. Both of the number of  
145 hospital-acquired conditions and patient harms have notably  
146 dropped since 2010. In short, access to affordable insurance  
147 is up, the uninsured rate is down, and the quality of care  
148 continues to improve. The ACA is working.

149         In true--it is true the ACA continues to achieve  
150 positive outcomes, but it is also true there is no such thing  
151 as a perfect law. There are many opportunities for us to  
152 come together and constructively build on the ACA's  
153 successes. After more than 50 votes to repeal or weaken the  
154 law, multiple politically motivated challenges before the  
155 Supreme Court, I am pleased to be here with my colleagues  
156 working in a bipartisan basis to improve the law.

157         One opportunity for improvement is the subject of  
158 today's hearing; the small group market. For too long, the  
159 small group health insurance market has been volatile,  
160 subject to increasing financial strain. Between 2000 and  
161 2010, the percentage of small firms that provided health  
162 insurance plans to their employees dropped from 43 percent to  
163 33 percent. In response to this trend, the ACA addressed the  
164 small group insurance market to extend consumer protections  
165 to even more Americans, and to provide long-term stability in  
166 a historically broken marketplace. The ACA helped small  
167 business insurance be more affordable, and created a small

168 business health options program called SHOP Marketplaces.  
169 SHOP was designed to improve the employee choice and plan  
170 offerings and grow risk pools.

171 We have seen steady improvements in our small employer  
172 market since the enactment of the ACA, and enrollment is  
173 increasing, more firms are entering the market, and employees  
174 have new choices and consumer protections.

175 Small group health insurance markets have traditionally  
176 been defined as firms with 50 or fewer employees. Beginning  
177 next year, the definition will expand to companies with up to  
178 100 employees. However, while the small group market is  
179 shrinking, the SHOP Marketplaces remain in their infancy and  
180 are still evolving. Given their state of maturity, some  
181 states would prefer this marketplace to achieve greater  
182 stability, be more fully understood before expanding it to  
183 midsized employers. The shift in rate-setting policy adds an  
184 additional source of uncertainty with the changing definition  
185 of small employers in 2016.

186 Protecting Affordable Coverage for Employees Act,  
187 introduced by Representative Tony Cardenas and Brett Guthrie,  
188 will permanently change the definition of small group  
189 employers to those with up to 50 employees. Under this  
190 legislation, the states would be allowed to choose to expand  
191 their small group markets, but the default would be to remain

192 at 50 or fewer employees.

193 I appreciate that a great deal of uncertainty remains in  
194 the smaller group market. More time before expanding the  
195 definition is warranted so that the effect of mid-sized  
196 employers joining the small group market can be better  
197 understood. A 2-year delay would likely have allowed the  
198 SHOP Marketplaces to stabilize, and give insurance 2 years of  
199 data and experience with new premium rating rules. The  
200 legislation we are discussing today has broad partisan  
201 support.

202 I look forward to hearing from our witnesses about the  
203 legislation, and also the impact of the ACA on the smaller  
204 group market. The ACA is not an abstract law; it is a set of  
205 fair rules and tougher protections that have made health care  
206 in America more affordable and more attainable for millions  
207 of hardworking Americans. The time to move past partisanship  
208 is long overdue, and I look forward to turning the page and  
209 working together to improve the law. It is what the American  
210 people deserve. And I want to thank our chairman for this  
211 hearing today, and look forward to hearing from our  
212 witnesses.

213 And thank you, and I yield back.

214 [The prepared statement of Mr. Green follows:]

215 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

216 Mr. {Pitts.} The chair thanks the gentleman.

217 Now recognizes the vice chair of the full committee,

218 Mrs. Blackburn, 5 minutes for an opening statement.

219 Mrs. {Blackburn.} Thank you, Mr. Chairman. I want to  
220 thank you for the hearing today. And I think it is so timely  
221 because we have all been back in our districts and we have  
222 heard from so many employers and, you know, it didn't matter  
223 if they had 8 or 85 employees, or like some others, 114, 120,  
224 200; the uncertainty around health insurance and how you  
225 provide that, and what the rules are, this is something that  
226 has become such a fluid and uncertain environment that it is  
227 very difficult for employers to know that what they have is  
228 going to last. It does have an effect on small business, it  
229 is a damper on hiring and on jobs retention, and certainly on  
230 business growth. So taking an action is important for us to  
231 do. As a couple of the employers told me, they said, you  
232 know, every time we go to one of these seminars on how you  
233 provide the health insurance now and meet the mandates, we  
234 are told these are the rules for now. It is all subject to  
235 change due to the rulemaking, but you should be expecting  
236 premium increases because the worst is yet to come, and that  
237 arrives in 2016. So, Mr. Chairman, I thank you for the  
238 hearing, and Mr. Guthrie for--and the others for their work

239 on the legislation.

240 And I yield back the balance of my time.

241 [The prepared statement of Mrs. Blackburn follows:]

242 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

243           Mr. {Pitts.} All right, is anybody else seeking her  
244 yielded time? No. The chair thanks the gentlelady.

245           Now recognize the ranking member of the full committee,  
246 Mr. Pallone, 5 minutes for questions.

247           Mr. {Pallone.} Thank you, Chairman Pitts, and I welcome  
248 today's hearing on the Affordable Care Act's required  
249 expansion of the small group insurance market and H.R. 1624,  
250 which instead aims to give states the option to expand.

251           As everyone knows, I am a strong supporter of the  
252 Affordable Care Act, and for good reason. Since its passage,  
253 17 million Americans have gained health insurance coverage,  
254 and as a result, we have seen the largest reduction in the  
255 uninsured in 4 decades. The ACA has increased access and  
256 reduced financial barriers to important preventative services  
257 such as cancer screenings and well women visits by requiring  
258 their coverage with no cost sharing. The law also stopped  
259 insurers from discriminating based on pre-existing  
260 conditions, or placing annual limits on how much health care  
261 they will cover. Fewer Americans are struggling to pay their  
262 medical bills, and fewer are forgoing--are forgoing care  
263 because they can't afford it.

264           In 2015, nearly 80 percent of individuals shopping for  
265 coverage on Healthcare.gov could purchase coverage for \$100

266 or less after tax credits. With all of the ACA's reforms,  
267 from its passage to its implementation, we have heard  
268 predictions that the sky was falling, yet it has not.  
269 Premiums have stabilized and millions of Americans are no  
270 longer one accident, injury, or diagnosis away from financial  
271 ruin.

272 That said, of course, no law is perfect and there is  
273 always room for improvement. Historically, Congress has been  
274 able to pass technical fixes and improvements after major  
275 legislation. A perfect example of this is Medicare, which  
276 has continually evolved over the course of the last 50 years.  
277 Since 1965, we have expanded Medicare coverage to include  
278 mammograms and hospice care. We have learned lessons that  
279 convinced us to move away from fee-for-service to alternative  
280 payment models. The ACA will need improvements as well, and  
281 it is critical we ensure that the ACA works for everyone.

282 That is why I am glad that my Republican colleagues are  
283 ready to put politics aside and look to strengthen the law.  
284 While I commend the bill's sponsors; Representative Cardenas  
285 and Guthrie, for their leadership on this important issue, I  
286 don't necessarily agree this is the right approach. The  
287 small group health insurance market is in the midst of  
288 several reforms as a result of the ACA. The SHOP  
289 Marketplaces are still in their infancy. With these--while



290 these reforms are still underway, experts will tell us that  
291 expanding the definition of small employers now would add  
292 significant uncertainty into our small group market.  
293 However, a few year transitional delay would provide us with  
294 more appropriate research and actuarial data to make a smart  
295 decision at the appropriate time. I believe the benefits of  
296 an expanded small group market such as added consumer  
297 protections and increased stability for small employers are  
298 important and achievable goals. So I am concerned that H.R.  
299 1624 is premature. But I am also mindful of the uncertainty  
300 that comes with moving forward with the expansion. That is  
301 why I am pleased to view today as a turning point. As  
302 opposed to using the ACA as a political football to repeated  
303 futile attempts to repeal or defund the law, Republicans and  
304 Democrats have come together in a bipartisan fashion to  
305 improve and strengthen the ACA, and I am hopeful this spirit  
306 can continue.

307 I yield the remainder of my time to Mr. Cardenas.

308 [The prepared statement of Mr. Pallone follows:]

309 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

310           Mr. {Cardenas.} Thank you very much. Thank you,  
311 Chairman and ranking member, for holding today's hearing. I  
312 truly appreciate the committee's willingness to work on the  
313 bipartisan bill that would impact so many small businesses.  
314 And also I would, once again, thank subcommittee chairman,  
315 Mr. Pitts, and also subcommittee ranking member, Mr. Green.

316           H.R. 1624, the Protecting Affordable Coverage for  
317 Employees Act, introduced by my colleagues, Mr. Guthrie, Mr.  
318 Mullin, Ms. Sinema, and myself, would stop potential health  
319 insurance rate shock by allowing states to choose the size of  
320 their small group market for themselves. That would be an  
321 improvement on this legislation.

322           As a former small business owner myself, I recognize the  
323 struggle there is to live out and provide for the American  
324 dream for our employees. I know how difficult it can be when  
325 a specific sector of small business is affected by bills and  
326 laws created by local, State, and Federal governments. I am  
327 grateful for all the benefits that the Affordable Care Act  
328 has provided since its implementation began, however, no law  
329 is perfect. When it was first created, Social Security  
330 didn't cover agricultural and domestic workers. Medicaid  
331 didn't begin to cover mammograms until 1991. Even with these  
332 fundamental programs of our Nation's safety net, laws and

333 improvements and compromise was necessary to lead to more  
334 perfect protection for Americans.

335 I appreciate the committee's willingness to hold today's  
336 hearing. I look forward to advancing the PACE Act, and  
337 continuing to build the committee's record of working  
338 successfully in a bipartisan fashion.

339 I have been married for 23 years, and I am reminded  
340 every day by my wife how imperfect I am. I have been an  
341 elected official for 19 years, and I am reminded every single  
342 day by my constituents how more perfect we need to make our  
343 laws. But like my marriage, I wouldn't want to have it any  
344 other way. Our imperfect democracy is beautiful and awesome,  
345 especially when we work in a bipartisan fashion.

346 Once again, I want to thank all of my colleagues on both  
347 sides of the aisle for all of your participation. Thank you.

348 [The prepared statement of Mr. Cardenas follows:]

349 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

350           Mr. {Pitts.} The gentleman yields back. The chair  
351 thanks the gentleman.

352           That concludes the opening statement. As usual, all  
353 members' opening statements that are written will be made a  
354 part of the record, including our chairman, who is at another  
355 hearing.

356           We have one panel today. Let me introduce the panel in  
357 the order of their presentation.

358           First of all, we have Monica Lindeen, Montana  
359 Commissioner of Securities and Insurance and State Auditor,  
360 President of the National Association of Insurance  
361 Commissioners. Welcome. Then Kurt Giesa, FSA MAAA, Partner,  
362 Oliver Wyman. And Mike Kreidler, Washington State Insurance  
363 Commissioner. Your written statements will be made a part of  
364 the record, and you will be each give 5 minutes to summarize.

365           And we will, at this time, begin testimony, and I  
366 recognize Ms. Lindeen 5 minutes for her summary.

|  
367 ^STATEMENTS OF MONICA LINDEEN, MONTANA COMMISSIONER OF  
368 SECURITIES AND INSURANCE AND STATE AUDITOR, PRESIDENT,  
369 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS; KURT GIESA,  
370 FSA MAAA, PARTNER, OLIVER WYMAN; AND MIKE KREIDLER,  
371 WASHINGTON STATE INSURANCE COMMISSIONER

|  
372 ^STATEMENT OF MONICA LINDEEN

373 } Ms. {Lindeen.} Good morning, Chairman Pitts, Ranking  
374 Member Green, and distinguished members of the subcommittee.  
375 As you said, my name is Monica Lindeen. I am the elected  
376 Commissioner of Securities and Insurance for the State of  
377 Montana, and President of the National Association of  
378 Insurance Commissioners, and I want to thank you for holding  
379 this hearing on the Protecting Affordable Coverage for  
380 Employers, PACE, Act, which Vice Chair Guthrie, along with  
381 Congressman Cardenas, introduced earlier this year.

382 The NAIC represents the chief insurance regulators of  
383 the 50 states, the District of Columbia, and 5 U.S.  
384 territories, whose primary roles are protecting consumers,  
385 and promoting vibrant and competitive insurance markets. As  
386 such, I come before you this morning to urge the immediate  
387 passage of the PACE Act which, as you know, would return the

388 federal definition of small group employers to 1 to 50  
389 employers.

390         The ACA changed the federal definition of the small  
391 group market to include employers with a--1 to 100 employees,  
392 but allowed the states to continue defining the small group  
393 market as employers with 1 to 50 employees until January 1 of  
394 2016. Beginning on or after this date, plans sold or renewed  
395 for employers with 51 to 100 employees would be subject to  
396 the various small group regulations established by the ACA,  
397 such as essential health benefits, different rating pools,  
398 actuarial value requirements, different medical loss ratio  
399 requirements, adjusted community rating rules, and others.

400         The NAIC has endorsed the PACE Act because it would  
401 retain state flexibility to set the appropriate limits for  
402 the small group market, and ensure stable small group markets  
403 that reflect the unique characteristics and dynamics the play  
404 in each of the states.

405         If this legislation is not signed into law, a series of  
406 market disruptions could occur. And before I enumerate, I  
407 want to be clear that the impact will vary by state, which is  
408 why defining the small group market should be left to the  
409 states, especially since the legislation does not prevent  
410 them from changing the definition to include all 1--all  
411 employers with 1 to 100 employees as they see fit.

412           First, failure to pass the Act would subject employers  
413 with 51 to 100 employees, or midsized employers, to new  
414 rating restrictions which could result in significant premium  
415 increases for some groups. Second, employers with 51 to 100  
416 employees would face additional benefit requirements and  
417 cost-sharing restrictions, which would reduce benefit  
418 flexibility and could increase out-of-pocket spending.  
419 Midsized employers have typically had greater flexibility in  
420 rates and benefit options to choose from. Without this  
421 flexibility, midsized employers will have to seek out new  
422 plans and--that meet the essential health benefit benchmark  
423 and actuarial value requirements, which could also increase  
424 premiums. Lastly, these regulations could lead some  
425 employers with younger and/or healthier employees to self-  
426 insure as a way of avoiding higher premiums and limited  
427 coverage options, which could result in adverse selection in  
428 the small group pool. This, in turn, could increase premiums  
429 for employers with 1 to 50 employees.

430           As you know, the U.S. Department of Health and Human  
431 Services has offered a transition option, by publishing  
432 guidance that they will not enforce certain small group  
433 market regulations for existing health plans provided by  
434 employers with 51 to 100 employees if the plan is renewed on  
435 or before October 1 of 2016, effectively staving-off the new

436 regulations until October 1 of 2017.

437       The NAIC surveyed all 50 states and the District of  
438 Columbia, and most responded that they will be utilizing this  
439 transition option. Nevertheless, we believe a more  
440 comprehensive fix provided by this legislation is necessary  
441 in order to preserve coverage options for existing and new  
442 purchasers, and ensure stability for the future.

443       The NAIC encourages Congress to act quickly. Most  
444 mid-sized employers shop for coverage annually to ensure the  
445 best price for themselves and their employees, but they need  
446 final rates and product information by late September in  
447 order to make these decisions and carry on with the preparing  
448 of employee communications, open enrollment materials, and  
449 the actual conducting of open enrollment in advance of the  
450 effective date. Those employers who may be new entrants into  
451 the market in 2016 also need to know what options will be  
452 available to them, so quick action would avoid unnecessary  
453 confusion and disruption as we move into 2016.

454       For all the reasons I have articulated this morning, the  
455 NAIC strongly supports immediate passage of the Act, and  
456 thank you, and I would be happy to answer any questions.

457       [The prepared statement of Ms. Lindeen follows:]

458 \*\*\*\*\* INSERT A \*\*\*\*\*



|

459           Mr. {Pitts.} The chair thanks the gentlelady, and now  
460 recognizes Mr. Giesa 5 minutes for your summary.

|

461 ^STATEMENT OF KURT GIESA

462 } Mr. {Giesa.} Thank you, Congressman Pitts, Ranking  
463 Member Green, and distinguished members of the subcommittee  
464 for allowing me to speak with you today regarding the impact  
465 that changing the definition of small employer may have on  
466 the market for health insurance.

467 My name is Kurt Giesa. I am a fellow of the Society of  
468 Actuaries, a member of the American Academy of Actuaries, and  
469 a partner at Oliver Wyman Actuarial Consulting.

470 Starting in 2016, the Affordable Care Act expands the  
471 definition of small employer to include midsize employers.  
472 Historically, no state, nor the District of Columbia, nor the  
473 Federal Government, has adopted a definition of small  
474 employer for the purposes of health insurance, which includes  
475 employers with more than 50 employees. The ACA permitted  
476 states in 2014 and 2015 to expand the definition of small--of  
477 the small group market to include midsize employers. States  
478 considered this possibility but no state elected to do so.  
479 States have recognized that the health insurance market for  
480 midsize employers has generally functioned well, and also  
481 that expanding the definition of small group could be harmful  
482 to the market where small employers currently purchase health

483 coverage. Expanding the definition of small employer will  
484 mean that issuers will have to apply the rules and  
485 regulations that apply to small groups to midsize employers  
486 as well, including those related to benefits, actuarial  
487 value, and most importantly premiums.

488       Currently, issuers are allowed to set premiums for  
489 midsize employers based on actuarial considerations,  
490 matching premiums to expected costs. Under the ACA, health  
491 plans must use modified community rating with limited  
492 adjustments in setting premiums for small employers. These  
493 rules mean that younger, healthier midsize groups will be  
494 asked to pay more for health insurance than they had been  
495 paying, and that groups that are older and less healthier  
496 will pay less. In addition, starting with the 2016 plan  
497 year, the claims experience of small and midsize employers  
498 will be pooled in developing premiums. It is important to  
499 note that these rules only apply to fully insured plans.  
500 Self-funded employers are not subject to these requirements.  
501 I expect the number of midsize groups that self-fund will  
502 increase if the definition is expanded, which, in turn, would  
503 lead to premium increases in the expanded market.

504       To better understand this dynamic, I performed an  
505 analysis on behalf of the Blue Cross Blue Shield Association  
506 using data from health insurance issuers that I consider to

507 be representative in the way they set premiums for midsized  
508 employers. Specifically, I compared the premium rates these  
509 issuers were charging their midsized employers to the premium  
510 rates they will have to charge in 2016. I found that 64  
511 percent of midsized group members would see their premiums  
512 increase, and the average premium increase would be 18  
513 percent as a result of the ACA's rating rules. Midsized  
514 employers group with the highest increases, that is, the  
515 youngest and healthiest groups, are those most likely to exit  
516 the market, either by dropping coverage entirely or by self-  
517 funding.

518       It is not possible to predict exactly which groups are  
519 likely to leave, but one reasonable assumption is the groups  
520 facing an increase of 10 percent or more would lead the fully  
521 insured market. That would mean that about 40 percent of  
522 individuals who currently obtain their insurance through a  
523 midsized employer would no longer be part of a fully--of the  
524 fully insured group market.

525       After the healthiest midsized groups leave the market,  
526 the new combined market will be composed of the current small  
527 groups, and older, sicker midsized groups. We estimate that  
528 this could result in premium increases for small employers in  
529 the 3 to 5 percent range. In other words, rather than  
530 lowering prices by pooling small and midsized firms, this

531 expansion could increase the average cost of insurance for  
532 small firms. These estimates are first-year estimates and  
533 likely to worsen over time as costs increase, and more small  
534 and midsize firms drop coverage.

535       Affordability and stability are the central challenge in  
536 the health--central challenges in the health insurance market  
537 today. As healthcare costs continue to outpace inflation,  
538 small firms have found it more and more difficult to provide  
539 coverage. Congress could avoid adding to these costs, and  
540 could provide stability to midsize employer groups by  
541 allowing states to define what constitutes a small employer  
542 for the purpose of providing health insurance. But in order  
543 for this to be effective, this change would have to be made  
544 relatively quickly. One third of midsize groups renew their  
545 coverage January 1, and these groups are in the process of  
546 planning for 2016. They will soon have to begin selecting a  
547 funding vehicle, developing communications, setting  
548 contribution rates, and conducting open enrollments, so time  
549 is very tight.

550       Thank you, and I look forward to answering your  
551 questions.

552       [The prepared statement of Mr. Giesa follows:]

553 \*\*\*\*\* INSERT B \*\*\*\*\*

|

554           Mr. {Pitts.} The chair thanks the gentleman, and now  
555 recognizes Mr. Kreidler 5 minutes for your summary.

|

556 ^STATEMENT OF MIKE KREIDLER

557 } Mr. {Kreidler.} Good morning, Mr. Chairman and Ranking  
558 Member Green, and other members of the committee--  
559 subcommittee. Thank you for the opportunity to talk about  
560 the impact of H.R. 1624 will have on Washington State's small  
561 business health insurance market.

562 My name is Mike Kreidler. I am the elected Insurance  
563 Commissioner for the State of Washington. I am also the  
564 longest-serving insurance commissioner in the country.

565 I am here today on behalf of the people of the State of  
566 Washington. I am pleased to report that the Affordable Care  
567 Act is working in our state. Before the Affordable Care Act,  
568 we had almost 1 million people without health insurance.  
569 Today, that is down from--and now we are at 14 percent.  
570 Today, it is down to 8.5 percent; almost a 40 percent drop  
571 going back and the lowest point that we can go back and find  
572 measurements for.

573 Steady improvements are also taking place in our small  
574 employer market. Enrollment is increasing. More insurers  
575 are entering the market. Rates are going down. We had 8  
576 insurers in our small employer market in 2012. Today, we  
577 have 12; a 50 percent increase. Enrollment in our small

578 group market has grown from 108,000 people in 2013 to 125,000  
579 today. All but one health insurer that came for submission  
580 for rates for 2016 asked for decreases rather than increases.  
581 Our largest insurer, Regence Blue Shield, asked for a 13.8  
582 percent decrease for 2016. A big part of that decrease is  
583 the anticipation of the employer size expanding to 100.  
584 Insurers are counting on better risks joining the market.

585 Making a change, as 1624 proposes, so late in the game  
586 will be very disruptive to the market in the State of  
587 Washington. Insurers have already filed for 2016, so they  
588 would have to modify their plans and rates. Even though they  
589 can do it on a quarterly, it means an adjustment in midyear  
590 after they received a promise, and most likely, it would be  
591 going up.

592 Employers and their employees would lose access to the  
593 essential health benefits guaranteed under the Affordable  
594 Care Act. In other words, they get better coverage. Older  
595 employees would not be protected from rating disparities.

596 I understand that Washington State may be further along  
597 than other states in the implementation of reforms, that--and  
598 that our experience may be different than others, but I know  
599 that we all share a common goal of improving health insurance  
600 market for small business. For too long in our state, we  
601 have seen a death spiral for the small group market. Now, we



602 are seeing improvements. Increasing competition, lower  
603 rates, growing enrollment are signs of a market reforms can  
604 work.

605 Nearly 70 percent of our small businesses are in the 1  
606 to 50 employer group. They will benefit by bringing in  
607 larger employers.

608 Some of the--some states may need more time to implement  
609 these reforms, but this bill is not the solution. If it had  
610 been started a year ago, it would have been much less  
611 disruptive. If we delay, it would even be better, but  
612 certainly not this approach. It puts the burden back on the  
613 states to implement change that is already in motion, and  
614 would significantly harm the market that is just starting to  
615 improve. The Affordable Care Act is working, and we are  
616 beginning to see real improvement for small employers.  
617 Changing course now would undermine the--our progress and  
618 significantly disrupt our market.

619 Thank you, Mr. Chairman.

620 [The prepared statement of Mr. Kreidler follows:]

621 \*\*\*\*\* INSERT C \*\*\*\*\*

|  
622 Mr. {Pitts.} The chair thanks the gentleman.

623 That concludes the opening statements. We will begin  
624 questioning.

625 I will begin the questioning. Recognize myself 5  
626 minutes for that purpose.

627 Commissioner Lindeen, the bill we are discussing today,  
628 H.R. 1624, would reverse a policy in current law and allow  
629 the states to continue defining the small group health  
630 insurance market as employers with 1 to 50 employees. Would  
631 you please explain how many employers and employees across  
632 the country could face higher premium costs if this bill were  
633 not passed by Congress in the coming weeks?

634 Ms. {Lindeen.} Mr. Chairman, thank you for the  
635 question, but I would have to tell you that I do not have  
636 that answer for you today--

637 Mr. {Pitts.} All right.

638 Ms. {Lindeen.} --and, in fact, I am not even sure that  
639 I can give you an answer to that question.

640 Mr. {Pitts.} Mr. Giesa, do you have any response to  
641 that?

642 Mr. {Giesa.} I think I can help a bit. The best  
643 information we have on these questions you are asking comes  
644 from the insurance component of the MEP Survey, and MEPS

645 shows that we have about 1.8 million establishments, not  
646 firms but establishments, the difference being physical  
647 location versus legal entity, 1.8 million establishments that  
648 would be affected by this legislation, and about 12 million  
649 employees and--including dependents, you would essentially  
650 double that, so about 24 million people we would be talking  
651 about being impacted by this legislation.

652 Mr. {Pitts.} Okay, thank you.

653 Commissioner Lindeen, would you please explain the  
654 practical effect of what would happen in your State of  
655 Montana if this bill were not passed by Congress in the  
656 coming weeks? What types of cost increases would Montanans  
657 face?

658 Ms. {Lindeen.} Thank you again, Mr. Chairman.  
659 Certainly, if this bill were not--were--this piece of  
660 legislation were not passed, we are very concerned in Montana  
661 that we would see some adverse selection occur in the small  
662 group market, which would obviously then increase costs to  
663 those employers with employees between 1 and 50. Certainly,  
664 with an--with the increased regulatory burdens on those  
665 groups between 51 and 100, we really do see that there would  
666 be more of those employers in that mid-sized group who would  
667 be looking to--if--especially if they had healthier, younger  
668 employees, look for other options. And one of the options

669 that is certainly much easier to obtain these days is self-  
670 insurance, as a result of the stop loss coverage. So  
671 definitely, we would see adverse selection to the smaller  
672 group, and increased costs for those folks.

673 Mr. {Pitts.} Do you believe that if H.R. 1624 passed  
674 Congress and was signed by the President, that consumers  
675 would have fewer meaningful protections than they do today?

676 Ms. {Lindeen.} I am sorry, could you please repeat  
677 that?

678 Mr. {Pitts.} If--do you believe that if this passed  
679 Congress, was signed by the President--

680 Ms. {Lindeen.} Um-hum.

681 Mr. {Pitts.} --that consumers would have fewer  
682 meaningful protections than they do today?

683 Ms. {Lindeen.} No.

684 Mr. {Pitts.} No. Would you please explain why the  
685 National Association of Insurance Commissioners has been so  
686 supportive of this bill when you have some state insurance  
687 commissioners suggesting there is no need for the bill in  
688 their state?

689 Ms. {Lindeen.} Mr. Chairman, I certainly respect the  
690 opinions of all the commissioners in every single state, and  
691 my colleague from Washington is no exception. Just let me  
692 say that the states have all different markets, and we

693 understand that what works in Montana does not necessarily  
694 work in Washington, and vice-versa, and that is why it is  
695 really important that we have the flexibility to make those  
696 decisions at the state level.

697       Mr. {Pitts.} Okay, I think you and I thank Mr. Giesa  
698 said, under current law, the premiums for midsized employers  
699 with a younger population would go up significantly, and this  
700 troubles me since this could be viewed as a disincentive for  
701 offering coverage to younger workers. Would you care to  
702 comment on the types of premium increases younger workers  
703 could anticipate? Either, or Mr. Giesa.

704       Mr. {Giesa.} Well, based on--

705       {Voice.} Put your mike on.

706       Mr. {Giesa.} As I said, in our work we saw that 64  
707 percent of employees would be members of groups that would  
708 see an average rate increase of about 20 percent. And if you  
709 think about employees that see, essentially, 40 percent of  
710 employers--or employees would be in groups that would see  
711 increases 10 percent or more, and those would average well  
712 over 20 percent.

713       Mr. {Pitts.} Just talk briefly, I don't have any time  
714 left, why it is important for Congress to act quickly, and  
715 also why there is time left.

716       Mr. {Giesa.} Well, the important thing here is small

717 employer--or midsize employers right now are in the process  
718 of planning their 2016 benefit year. A third of the small  
719 employers renew their coverage January 1. And these  
720 employers right now are in the process of deciding on their  
721 funding vehicle, they are thinking about what kind of  
722 communication materials they will have to put together, what  
723 the contribution rates will be, and not only that, but the  
724 carriers need time to get all these types of materials in  
725 place as well.

726 Mr. {Pitts.} Thank you. My time has expired.

727 The chair recognizes the ranking member, Mr. Green, 5  
728 minutes for questions.

729 Mr. {Green.} Thank you, Mr. Chairman. And again,  
730 welcome to our panel.

731 Historically, after passing any large piece of  
732 legislation, Congress has worked together to enact technical  
733 fixes and improvements because no law is perfect. And, in  
734 fact, I often say if you want perfection, you don't come to a  
735 legislative body, simply because we do things that can boggle  
736 our mind. Although following--Congressman Cardenas is not  
737 here, but we know the only thing--perfect thing we can do is  
738 when we got married, for our wives. But--and I hope my wife  
739 is watching.

740 The Affordable Care Act has been an exception to this

741 tradition and serving as a political football for the last 5  
742 years. And we haven't done the meaningful tweaks and changes  
743 that we should do, but today, it seems like it is a starting  
744 point, and we are here to adjust one small but important  
745 aspect of the law. Clearly, the small group market is an  
746 area where Congress can do a great deal to help small  
747 businesses, employers, and employees who work for them.

748         Commissioner Kreidler, in your testimony you stated that  
749 the small group market has been in a death spiral. Can you  
750 describe the challenges small business owners have been  
751 facing in purchase--purchasing health insurance for their  
752 employees, and that larger employers do not face?

753         Mr. {Kreidler.} The big difference--thank you,  
754 Representative Green. The big difference here is that, for a  
755 small employer before the ACA, you were having adverse  
756 selection from the standpoint that they more likely were  
757 going to have sicker people inside the community-rated small  
758 group market, and as a result of that, the cost for that  
759 insurance continued to rise. Outside, and with a large  
760 employer that was self-insured, you found that they offered  
761 broader benefits. Now, that was a real disadvantage than for  
762 small business to be able to compete with larger employers  
763 because they had a richer package with the large employer  
764 than what they could afford to offer, even in comparison to

765 what that--on a per capita basis what that large employer  
766 would have. So it presented some real challenges going  
767 forward. And we are starting to see some real relief to that  
768 now by having this larger group come in, 51 to 100, you are  
769 making it a much more compatible community-rated pool that is  
770 going to be--have the wealth of experience from some larger  
771 midsized, along with the small. It is going to be good for  
772 small business.

773 Mr. {Green.} Okay. We just heard from Commissioner  
774 Lindeen talk about the impact of the law--this law--or bill  
775 in Montana. Can you talk about the impact you think it would  
776 have in Washington State?

777 Mr. {Kreidler.} Well, I certainly can. I--one aspect  
778 of it is the--are the filings that we received for 2016 all  
779 have to be compliant with the--to the 1 to 100. So we have  
780 the large group--midsized group being melded with the small  
781 group market right now. And we are seeing, out of the 12  
782 insurers in the market, all but 1 of them came and made a  
783 request--made the request, I haven't made a decision yet, but  
784 made a request to have lower rates, as much as 16 percent.  
785 So we are seeing a significant decrease in the market,  
786 largely based on these midsized employers which offer some  
787 richer--have--make it a much more stable small group market  
788 by virtue of their size, and already the insurers are



789 responding and saying we think we can offer insurance at a  
790 better price, more comprehensive coverage than what they have  
791 seen in the past.

792         Mr. {Green.} Can you describe some of the provisions of  
793 the ACA that aim to reduce the burdens on small businesses?  
794 Anything the ACA has done to help the small businesses.

795         Mr. {Kreidler.} You know, I think that the major thing  
796 here is, by having a common set of benefits, that is the  
797 essential health benefits and how they are applied, by virtue  
798 of having that in place, it has really meant that you have  
799 been successful in starting to develop a much more level  
800 playing field. And we are finding that for small employers,  
801 for the first time, now they are going to be in a position to  
802 be much more competitive with large employers, both for  
803 attracting and retaining employees, but also that the costs  
804 to them are being mitigated to the point where it is not a  
805 marked disadvantage for the small employer up against the  
806 big, self-insured employer.

807         Mr. {Green.} Okay. My last question. Given that the  
808 small group market is still evolving, some states have  
809 expressed concern that expanding to include larger employers,  
810 as the ACA requires, is premature and could create turmoil in  
811 the market. How would you respond to those concerns about  
812 the expansion?

813           Mr. {Kreidler.} Well, every state is different, and you  
814 have certainly heard that from Monica Lindeen, and I am not  
815 going to second-guess their position on that from other  
816 states. I understand it is very different. I am familiar  
817 with one state and that is my own state. In our state we are  
818 ready, and we are going to go forward and we are going to be  
819 able to make significant changes.

820           I would suggest that without hampering my ability and  
821 the State of Washington to have the--to bring in the 1 to  
822 100--the 51 to 100 being added, at least offer a delay for 2  
823 years. That would make a lot more sense, and I think there  
824 has been broad support for that, to go--to have a delay  
825 rather than eliminating that option. I think in the long  
826 run, by virtue of the 51 to 100, whether it is a couple of  
827 years out or whether it is today, it is going to have a  
828 marked improvement for small business, that it only  
829 advantages them.

830           Mr. {Green.} Thank you, Mr. Chairman.

831           Mr. {Pitts.} The chair thanks the gentleman.

832           Now recognize the vice chairman, Mrs. Blackburn, 5  
833 minutes for questions.

834           Mrs. {Blackburn.} Thank you, Mr. Chairman.

835           Mr. Kreidler, I have to tell you, if you were going with  
836 me in my district, people would not be agreeing with you.

837 They don't see this as an advantage, the see it as a burden,  
838 and more regulation and more interference, and they are just  
839 really not happy with what they are being left to deal with.

840         Mr. Giesa, I want to come to you on something.  
841 Commissioner Lindeen mentioned, when the chairman asked her  
842 what people would do if they are booted out of the  
843 marketplace, she said they will self-insure. So let's go  
844 back and let's look at some of this, because you have some  
845 proponents of the small group expansion, that market  
846 expansion, saying that is going to help to moderate the cost,  
847 and then you have the report that came from the Academy of  
848 Actuaries, I think is--yeah, that said the premiums will  
849 increase because of the less attractive risk that comes in.  
850 So I would like to get your take on that. What do you think  
851 is actually going to be what finally hits the market? What  
852 is the impact that we are going to see?

853         Mr. {Giesa.} Congresswoman, thank you for the question.  
854 And recognizing the fact that Commissioner Kreidler knows his  
855 market much better than I do, I can't speak to a given  
856 market, but what I can say is in my experience across--

857         Mrs. {Blackburn.} Yeah, I am asking for a general  
858 overview.

859         Mr. {Giesa.} Across most states is that we will see, as  
860 a result of the rate increases that these midsized--the

861 young, healthy midsize employers will see when the ACA  
862 rating rules are put in place, we will see a number of  
863 employers choose to self-fund. It is an option that self-  
864 employer--that midsize employers do have now, and it is one  
865 that they will have much more incentive to pursue when the  
866 ACA rate restrictions are put in place.

867 Mrs. {Blackburn.} And when you are looking at that  
868 midsize market, do you think that this is going to make them  
869 more or less competitive? What is going to be the end result  
870 for them?

871 Mr. {Giesa.} I don't think it will have a major impact  
872 on the--

873 Mrs. {Blackburn.} Okay.

874 Mr. {Giesa.} --competitiveness of--

875 Mrs. {Blackburn.} Okay.

876 Mr. {Giesa.} --groups.

877 Mrs. {Blackburn.} Okay. Commissioner Lindeen, you want  
878 to weigh-in on either of those questions?

879 Ms. {Lindeen.} Well, definitely I would confer--concur  
880 that those employers who do have the younger, healthier  
881 groups are going to look at the option of self-insuring. It  
882 really has become much more attractive and easier for these  
883 small--for these employers in that range to look at self-  
884 insurance because the stop loss insurers have made it easier.

885 They have lowered the--they have lowered those attachment  
886 points to a point where there is minimal risk for the  
887 employer, they don't have to have a large amount of money or  
888 cash upfront in order to self-insure, and so for that reason  
889 it is definitely something that is more attractive. If they  
890 are allowed to continue as they are, I think you will see  
891 them continue to purchase in the way that they have been  
892 because, certainly, it has been working for them. We haven't  
893 gotten a lot of Complaint.

894 Mrs. {Blackburn.} All right. Let me ask you--

895 Ms. {Lindeen.} Um-hum.

896 Mrs. {Blackburn.} --one other question before my time  
897 runs out. When you were talking to employers in your state,  
898 and they are discussing the uncertainty that is embedded, and  
899 some of the points that you made in your remarks, what is the  
900 number one thing that employers complain about when they come  
901 in? Is it cost, is it access, is it uncertainty, is--what  
902 are the variables, and what do they complain about?

903 Ms. {Lindeen.} Congresswoman, thank you for the  
904 question. I think that uncertainty is the biggest concern  
905 that most employers have. I think that once we all know what  
906 the rules are and can play by those rules, it makes it much  
907 easier to make decisions moving forward.

908 Mrs. {Blackburn.} Great, thank you.

909           Mr. {Pitts.} The gentlelady yields back. The chair  
910 recognizes the ranking member of the full committee, Mr.  
911 Pallone, 5 minutes for questions.

912           Mr. {Pallone.} Thank you, Mr. Chairman.

913           I wanted to ask my questions of Commissioner Kreidler.  
914 Good to see you again. In addition to the many reasons I  
915 mentioned in my opening statement, I support the Affordable  
916 Care Act because of its positive impact on small businesses.  
917 Before the ACA, I heard from small businesses in my district  
918 that they were on their own, they wanted to provide health  
919 insurance for their employees but it was too risky or too  
920 expensive, or too difficult to administer. Now, the SHOP  
921 Marketplaces created in the ACA would give small businesses a  
922 new tool that lets them research and compare the health  
923 insurance options in one place, and administer their  
924 employees' health care through the Web site. And the ACA  
925 gave small business owners more peace of mind because, by  
926 joining a much bigger risk pool, they would no longer be  
927 vulnerable to sharp swings in their rates based on the health  
928 of a few employees. And that is why I was concerned about  
929 the rocky start to the SHOP Marketplace, but it also why I  
930 believe we should give the small group market a chance to  
931 stabilize and then expand to groups of 100 or fewer  
932 employees.

933           So, Commissioner, is it safe to say that one of the  
934 goals of the new definition of small group insurance in the  
935 ACA was to expand consumer protections of the small group  
936 market to additional Americans?

937           Mr. {Kreidler.} Thank you, Congressman. Definitely,  
938 that is one of the goals is to expand protections, both for  
939 the employer, but also for their employees. And the  
940 Affordable Care Act, with the essential health benefits,  
941 provides that in 51 to 100 by being melded into the  
942 community-rated pool for small business of 1 to 100.

943           Mr. {Pallone.} Now, would adding more larger employers  
944 to the small group marketplace help with the sustainability  
945 of the SHOP Marketplaces?

946           Mr. {Kreidler.} From my perspective, definitely. I  
947 mean that is--we have looked at the filings that have come  
948 in, and like I say, we have had double digit rate increases  
949 from the largest insurer in that market. The--what are the  
950 reasons. We take a look at their actuarial assumptions, and  
951 their assumptions are largely hedged on the concept here that  
952 by bringing in 51 to 100 to the community-rated small group  
953 market of 1 to 50, that you improve the vitality of that  
954 overall market. So, yes, it improves the health.

955           Mr. {Pallone.} Okay. And as we know, before the ACA,  
956 insurers in the small group market were not required to offer

957 essential health benefits. Has requiring these insurers to  
958 offer essential health benefits, such as emergency room  
959 visits, prescription drug coverage, has that caused turmoil  
960 in the small group market thus far?

961       Mr. {Kreidler.} Speaking for the State of Washington,  
962 no, it has not, Congressman, presented a challenge for those  
963 small employers. In fact, we saw that the carriers had  
964 already started to move aggressively toward the merger of 51  
965 to 100 in--that size to the plans that they were offering.  
966 They were already taking on many of the aspects of what they  
967 were going to be required to have as of January 1, of 51 to  
968 100. So it was already starting to take effect so it was not  
969 that disruptive. It is relatively smooth in the State of  
970 Washington. Can't speak for other states and other markets.  
971 State of Washington, it was one where they were prepared in  
972 moving forward successfully.

973       Mr. {Pallone.} Thank you. You mentioned that most of  
974 the health insurers in Washington State's small group market  
975 have actually requested rate decreases. Can you describe  
976 Washington's experience implementing the small group  
977 insurance reform thus far?

978       Mr. {Kreidler.} So far, we work with stakeholders  
979 before we made the decision. We could have postponed this  
980 until October of '16, but working with stakeholders, we made



981 a decision not to do that. So we are looking--after working  
982 with them, I think it is one where, working with the  
983 stakeholders, we were prepared to do it, particularly the  
984 insurers. And again, we have an--12 insurers now in the  
985 State of Washington in the small group market, which is a  
986 very strong indication, a 50 percent increase with the start  
987 of the Affordable Care Act, that there is real interest in  
988 that market and there is opportunity, and that is good for  
989 small business.

990 Mr. {Pallone.} Now, you mentioned 12 insurers offering  
991 coverage, how many of them filed to increase rates?

992 Mr. {Kreidler.} One.

993 Mr. {Pallone.} Just one? And what effect do you think  
994 the expansion of the small group market will have on these  
995 rate filings?

996 Mr. {Kreidler.} I think--what most likely would happen,  
997 Congressman, is this, that if this legislation passed, these  
998 carriers would need to come back and adjust their rates, and  
999 if not their forms, which are the policy--the policy language  
1000 itself, and do so after the first quarter. We have never  
1001 allowed first quarter. We like to tell small business that  
1002 this is the price you are going to have for a full year, so  
1003 we have never done it on a quarterly basis, but this would be  
1004 the--we would be prepared to do that, but inevitably, what it

1005 would mean is a price increase for them. And I don't want to  
1006 be the one they point to and say how come you allowed this  
1007 price increase to go through, and I says, well, after  
1008 Congress passed 1624, I had no other choice but to allow you  
1009 to raise your rates because you didn't have the benefits of  
1010 51 to 100 to help hold down the rates.

1011 Mr. {Pallone.} All right, thank you so much.

1012 Mr. {Pitts.} The gentleman yields back.

1013 The chair recognizes the chair emeritus of the full  
1014 committee, Mr. Barton, 5 minutes for questions.

1015 Mr. {Barton.} Thank you. Thank you, Mr. Chairman.  
1016 Thanks for this hearing.

1017 As I understand it, if you have, under current law or  
1018 old law, 50 employees or less, you don't have all the  
1019 mandates and you basically set your insurance--health  
1020 insurance for your employees based on what you can afford and  
1021 what you think the market is, but under the redefinition, if  
1022 you define small business from 100--from 50 and go up to 100,  
1023 then there are all these mandates that kick in. Is that  
1024 correct, Ms. Lindeen? Do I understand that correctly?

1025 Ms. {Lindeen.} Congressman, I would say that if the  
1026 law--if this proposed legislation is not passed and the  
1027 existing law kicks in, you will see--or you will see  
1028 additional regulatory requests or burdens put on the small

1029 businesses.

1030           Mr. {Barton.} But I am correct in that, under the old  
1031 system, 50 employees or less, you basically--if you decided  
1032 to have a health insurance plan for your employees, it was  
1033 one that you developed in conjunction with the employees and  
1034 whatever insurance company you happened to pick.

1035           Ms. {Lindeen.} Yeah, I would say that they definitely  
1036 do work with the insurance provider to negotiate the plan and  
1037 the product. Yes.

1038           Mr. {Barton.} And under the Affordable Care Act, the  
1039 definition changes, small business to 100, but you also get a  
1040 lot of mandates that you don't currently have. Is that not  
1041 correct?

1042           Ms. {Lindeen.} Yes.

1043           Mr. {Barton.} Now, Mr.--is it Kridler or Kreidler, or--  
1044           Mr. {Kreidler.} Kreidler.

1045           Mr. {Barton.} Kreidler. I am sorry, Mr. Kreidler.

1046           Mr. {Kreidler.} Yes. Not at all.

1047           Mr. {Barton.} In Washington State, there is nothing  
1048 that would preclude a small business from trying to join a  
1049 larger group plan, is there? I mean absent the mandate, if  
1050 you felt it was in your best interest of your employees to go  
1051 into a pool with larger employers, there is nothing that  
1052 precludes that.

1053           Mr. {Kreidler.} That is true. We do see some employers  
1054 that wind up doing that, in fact, Congressman.

1055           Mr. {Barton.} Okay. So the fact that--I mean the law  
1056 has changed and the implementation date is 2016, and in your  
1057 state, it sounds like you all have done a very good job of  
1058 trying to fast forward the new law, and it appears that it is  
1059 providing some benefits because, apparently, they are getting  
1060 better rates because you are spreading the risk amongst a  
1061 larger number of workers. Is that not correct?

1062           Mr. {Kreidler.} Congressman, that is correct. It  
1063 becomes a larger pool--community-rated pool and, therefore,  
1064 you have the benefits of having more insured, and much less  
1065 subject to having price increases--

1066           Mr. {Barton.} Right.

1067           Mr. {Kreidler.} --just because some people get sick.

1068           Mr. {Barton.} So it would seem to me that if we pass  
1069 Congressman Guthrie's legislations that kept the definition  
1070 at 50, you would have the best of both worlds. You would let  
1071 employers that felt like their current plans were as much as  
1072 they could afford, they could keep it, but you would also let  
1073 employees and employers who felt like, well, we will get a  
1074 better deal if we go into these risk pools that have more  
1075 people, they could still do that, but they wouldn't have to  
1076 do it. They wouldn't have to comply with the mandates that

1077 go with moving up. So I don't know why we wouldn't pass the  
1078 bill to let the market operate and let people choose. What  
1079 is wrong with that?

1080 Mr. {Kreidler.} Congressman, I would say that 51 to  
1081 100, their--that it heightens their protections from the  
1082 standpoint of the Affordable Care Act, particularly when it  
1083 comes to age discrimination. You can have an employer with a  
1084 much younger workforce that can offer health insurance at a  
1085 much better price. If you go into a community pool, you have  
1086 that all aggregated, you help to protect the more--

1087 Mr. {Barton.} I understand that.

1088 Mr. {Kreidler.} --older workers, which is really very  
1089 much to their advantage, otherwise you have--

1090 Mr. {Barton.} There are--it is--what you say is true.  
1091 I am not arguing what you are saying is not true, but what I  
1092 say is also true. If you let the market operate, you can get  
1093 the benefits of larger pools if--but it should be done on a  
1094 case-by-case basis because in many cases, the mandates in the  
1095 Affordable Care Act do cost more money. There is no question  
1096 about that. If you go from a plan that doesn't have all the  
1097 coverage requirements to a plan that has more, it is going to  
1098 cost more and you are going to pay more. Now, there may be  
1099 anomalies and there may be cases like Washington State where  
1100 just the local situation is such that the benefits of

1101 consolidation or accumulation, or aggregation, whatever you  
1102 want to call it, overcome the increase in cost in the  
1103 mandates. But I would postulate, and in my state, like  
1104 Texas, probably it is going to cost more overall. So I  
1105 would--I am supportive of the bill, and I hope, Mr. Chairman,  
1106 that at some point in time we move the bill.

1107 And my time has expired so I yield back.

1108 Mr. {Pitts.} The chair--

1109 Mr. {Barton.} Thank you for your answers.

1110 Mr. {Pitts.} The chair thanks the gentleman.

1111 The chair recognizes the gentleman from Oregon, Dr.

1112 Schrader, 5 minutes for his questions.

1113 Mr. {Schrader.} Thank you, Mr. Chairman. I appreciate  
1114 it. And actually, I appreciate having the hearing on this  
1115 bill. A good bipartisan bill that I think there is honest  
1116 discussion about the pros and cons for the employer groups of  
1117 51 to 100, and then those groups underneath it, and how best  
1118 to hopefully drive down costs and provide better health care  
1119 for Americans, both the employers, employees, and writ large.  
1120 So it is a good hearing. I am here to learn, actually.

1121 And to that end, I guess just to get us some basic  
1122 facts, I think that one of you were talking about there is  
1123 1.8 million employers in that 51 to 100 range, I think. Is  
1124 that correct?

1125           Mr. {Giesa.} Right. There is 1.8 million employers in  
1126 that 51 to--

1127           Mr. {Schrader.} Establishments.

1128           Mr. {Giesa.} --100 range that are--right,  
1129 establishments, that are providing health insurance right  
1130 now.

1131           Mr. {Schrader.} And then so how many would--employers  
1132 would there be below that, in other words, 50--to up 50  
1133 employees, the--what is the number there? I would assume be  
1134 in the 40 million range, right, because most employers are  
1135 small employers?

1136           Mr. {Giesa.} Did you say employers--

1137           Mr. {Schrader.} Yes.

1138           Mr. {Giesa.} --you are asking for?

1139           Mr. {Schrader.} Yes.

1140           Mr. {Giesa.} Yeah, that is almost 90 percent of  
1141 employers are in that--

1142           Mr. {Schrader.} Right.

1143           Mr. {Giesa.} --1 to 50.

1144           Mr. {Schrader.} Right. So then the question for us, I  
1145 guess, a little bit would be, you know, to the point of we  
1146 expand the risk pool writ large, it would sound like those  
1147 smaller businesses might get some decrease, obviously, in  
1148 premiums, and, obviously, the guys that haven't had to play

1149 with the rate--the rating issues and some of the others would  
1150 see some slight increases. And I guess the debate for us is,  
1151 is that enough of a critical mass to reduce things  
1152 significantly for the one group to offset the slight  
1153 increases perhaps for the other group.

1154       A lot of my experience has been, like Washington, I come  
1155 from Oregon, most--certainly, the individual market, we had  
1156 all of the essential health benefits already required and,  
1157 you know, a lot of the small groups are already going that  
1158 way. And we also had most of our insurers come in asking for  
1159 rate decreases. It is controversial whether it is good to do  
1160 that right now from the standpoint of making sure the  
1161 business market is active and engaged. So there are a number  
1162 of states, I guess, for my colleagues' benefit that are, you  
1163 know, seeing some of the same things that Washington State is  
1164 seeing also.

1165       And I just want to--Mr. Kreidler, will you agree  
1166 everyone seems to be pretty on target here, that the accepted  
1167 definition of a small group market employer was under 50  
1168 employees? Would you agree with that?

1169       Mr. {Kreidler.} Correct.

1170       Mr. {Schrader.} Okay. So the ACA arbitrarily changed  
1171 that, is--make a fair statement. And I won't ask you guys  
1172 that, but--



1173           Mr. {Kreidler.} Right.

1174           Mr. {Schrader.} And I assume that the reason for that  
1175 was to make sure that there was enough critical--well, I will  
1176 make this statement and you guys react to it. A critical  
1177 mass to keep the insurance rates as reasonable as possible  
1178 for smaller-type employers, realizing there would be some  
1179 adverse selection. Mr. Kreidler first, if I could.

1180           Mr. {Kreidler.} Absolutely. That was the purpose. I  
1181 think the real question is, is the timing. Don't remove the  
1182 requirement. Maybe postpone it for a couple of years, but--  
1183 to give some states more of a time to kind of gear-up for  
1184 this, and their insurers to gear-up for that market. But  
1185 from the standpoint of some states that are prepared to do it  
1186 today, don't take that away from them, essentially throwing  
1187 us back to the legislature to try to get approval. If we  
1188 want to be successful with reforms, you need to have these  
1189 kind of changes going into effect. Some states can do it  
1190 sooner, like the State of Washington and the State of Oregon,  
1191 but other states are going to want to buy more time before  
1192 they make the jump. But the jump is a good one for  
1193 healthcare reform and for the small group market.

1194           Mr. {Schrader.} How about Mr. Giesa and Ms. Lindeen?

1195           Ms. {Lindeen.} Congressman, if I could, I mean I--  
1196 theoretically, expanding the risk pool should drive down

1197 rates--

1198 Mr. {Schrader.} Right.

1199 Ms. {Lindeen.} --but in this case, it is not

1200 necessarily--that is not necessarily true because when you

1201 take the 51 to 100 employers who have health--healthier,

1202 younger employees, and they leave that group and then instead

1203 leave older, less healthier employees, then they are going to

1204 have adverse risk, which is not going to lower rates--

1205 Mr. {Schrader.} Well, that would--

1206 Ms. {Lindeen.} --but it is actually--

1207 Mr. {Schrader.} That would be true in any size

1208 business, including--

1209 Ms. {Lindeen.} Correct.

1210 Mr. {Schrader.} --the small businesses. And as I am

1211 saying, I haven't seen that in my state, and it is not like

1212 we are seeing that in Washington either. But I can see where

1213 it would vary state-by-state.

1214 Ms. {Lindeen.} Right.

1215 Mr. {Schrader.} You know, we had--one of the big

1216 variables is the essential health benefits that our states

1217 primarily--I guess another basic question from me would be,

1218 why do you think large group employers and self-insurers were

1219 left out of the essential health benefits package? Why were

1220 they not required to have the same essential health benefits?

1221 Just your--I have my ideas, I--but you would be more informed  
1222 than I.

1223 Ms. {Lindeen.} Well, it is my--I don't believe it was  
1224 actually needed--

1225 Mr. {Schrader.} Okay.

1226 Ms. {Lindeen.} --and that is why.

1227 Mr. {Schrader.} That makes sense.

1228 Mr. {Giesa.} I would concur with that.

1229 Mr. {Schrader.} Yeah. Mr. Kreidler, same thing.

1230 Mr. {Kreidler.} I think you have to move eventually to  
1231 having them included. It is just going to be a process over  
1232 time. Part of it right now is going 51 to 100, for some  
1233 states that are ready, delay it but don't eliminate the  
1234 requirement. Give a couple more years for the markets to  
1235 mature and be able to handle the kind of change. We are  
1236 ready in the State of Washington. Oregon is in a comparable  
1237 position. Other states are ready to go right now. But I  
1238 think for the sake of the country, don't eliminate it but  
1239 postpone it so that you can still have the benefits here of  
1240 giving more people the better protections that helping to  
1241 bring down the cost, particularly in this case for small  
1242 business.

1243 Mr. {Schrader.} Thank you all.

1244 I yield back.

1245           Mr. {Pitts.}   The chair thanks the gentleman.

1246           Now recognize the vice chair of the subcommittee, Mr.  
1247 Guthrie, 5 minutes for questions.

1248           Mr. {Guthrie.}   Thank you, Mr. Chairman.   And before I  
1249 begin, I would like to ask unanimous consent to enter into  
1250 the record the following letters of support for H.R. 1624.  
1251 51 to 100 Coalition, America's Health Insurance Plans, NFIB,  
1252 National Small Business Association, National Association of  
1253 Insurance and Financial Advisors, National Association of  
1254 Professional Insurance Agents, Council for Affordable  
1255 Healthcare Coverage, Blue Cross Blue Shield Association,  
1256 Delta Dental, Kentucky Chamber of Commerce, and U.S. Chamber  
1257 of Commerce.

1258           Mr. {Pitts.}   Without objection, so ordered.

1259           [The information follows:]

1260   \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

1261           Mr. {Pitts.} Let me add to that list letters from the  
1262 American Academy of Actuaries, National Association of  
1263 Insurance Commissioners, the Center for Insurance Policy and  
1264 Research, a letter--talking points from the Council for  
1265 Affordable Health Coverage, and issue briefs from Third Way,  
1266 the American Academy of Actuaries, and the National Institute  
1267 of Healthcare Management.

1268           {Voice.} And this HHS Data.

1269           Mr. {Pitts.} And the HHS HRQ MEPS Data.

1270           {Voice.} For Washington State.

1271           Mr. {Pitts.} For Washington State.

1272           Okay, without objection, so ordered.

1273           [The information follows:]

1274           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

1275           Mr. {Guthrie.} Okay, thank you. Thank you so much, and  
1276 thank you all for being here. I am the main sponsor of the  
1277 bill, and with the bill, some of the things that--maybe some  
1278 of the criticisms of the bill I think have been addressed.  
1279 Working with my good friend, Mr. Cardenas from California,  
1280 Kyrsten Sinema, working with Markwayne Mullin, and we have  
1281 looked at that. Some states are ready. So there is a  
1282 provision in the bill for states to move forward if they so  
1283 choose to move forward. And so that seems to take care of  
1284 one of the concerns. The other one is just delay it. And I  
1285 spent--like my friend from Tennessee, I spent a lot of time  
1286 in our districts back in August meeting businesses, and every  
1287 time you go into a business it is not just insurance, it is  
1288 the way we seem to be governing here; everything is on an  
1289 extension, a delay, a waiver. I think one you suggested  
1290 there, say we are just not going to enforce the regs if you  
1291 move forward. The regs are on the books, we are just not  
1292 going to enforce them. And that is not a good way to do  
1293 business. And people plan more than year-to-year on  
1294 investment and growing their business. And so, you know,  
1295 putting this into place, I think, is critical is--to get rid  
1296 of the uncertainty. And also one of the--so, Mr.--I guess I  
1297 will ask Mr. Giesa this. So if you are a fully-ACA-compliant

1298 plan, rate restrictions, essential health benefits, community  
1299 rating, minimum actuarial values, your price is going to be  
1300 higher--it will be a high price. And so if you go before the  
1301 Insurance Commissioner and you are saying you are going to  
1302 get all these new businesses on, you probably--I mean I think  
1303 it makes sense that your rate is not going to go up or  
1304 increase, you are--because you are looking at new customers  
1305 mandated by the law. But if you are in that 51 to 100 where  
1306 we are trying to address, if you are in that and you are  
1307 offering a health benefit plan that you like, you know, the  
1308 President said if you like it you can keep it, your employees  
1309 like, it is moving forward, you are going to--it is--because  
1310 the insurance--the high rate of insurance didn't go up  
1311 doesn't mean your premium is not going to--and cost is not  
1312 just going to go up because you are having to buy up to a  
1313 higher plan, and that is what we are trying to address in  
1314 this bill. Could you comment on that? So it is not  
1315 different from what we are hearing from Washington State, I  
1316 don't think, but it still disrupts 51 to 100 employers.

1317       Mr. {Giesa.} Well, I think part of--there are a number  
1318 of employers, and this will vary by state and by employer,  
1319 but employers who will see their premiums go up for no other  
1320 reason than additional benefits. They will have to meet a  
1321 medal value that is a little bit higher than they would like,

1322 and so they will see premiums go up, or they will have to  
1323 provide benefits that they weren't providing, that they will  
1324 be required to. But I think the real dynamic, the thing that  
1325 most concerns me, is this issue of the mid-sized employers  
1326 will be given 2 options; they can either self-insure or they  
1327 can go into the fully insured small group market, and they  
1328 will choose the one that is--yields them the lowest cost.  
1329 And that dynamic will force premiums in that small group  
1330 market up as the--those--

1331       Mr. {Guthrie.} So it is counterintuitive of what you  
1332 would think because people--like at the market. And with  
1333 self-insuring, it is usually larger employees that self-  
1334 insure because of the bigger risk pool, the more--your--the  
1335 bigger--you know, if you have 100 employees, you usually have  
1336 more cash, more ability to--employees ability to do that.  
1337 And so even when you are talking about people leaving, if we  
1338 leave it 51 to 100, you are talking about probably people in  
1339 the 85, 90, close to 100 employees, not necessarily the one  
1340 with 51 employees, 52 employees, although some people that  
1341 small can self-insure. I am not going to say they can't, but  
1342 it is more difficult the smaller you are. So really not only  
1343 getting an adverse selection of younger people, you are  
1344 probably getting at the higher end of the--of 90 to 100  
1345 employees probably self-insuring. Is that a fair--



1346           Mr. {Giesa.} That is a fair statement, but I would like  
1347 to make the point that actually Commissioner Lundeen--Lindeen  
1348 had made--

1349           Mr. {Guthrie.} Um-hum.

1350           Mr. {Giesa.} --it is becoming easier and easier for  
1351 groups to self-insure, and if you go out and look, say,  
1352 Google, level funding, small employer, you will get all kinds  
1353 of hits now from benefits consultants and insurance companies  
1354 who are bringing products to market to encourage this kind of  
1355 selection that we are talking about. So it is becoming much  
1356 easier for groups to access self-insurance than it had been.  
1357 They are understanding this dynamic we are describing right  
1358 now.

1359           Mr. {Guthrie.} Well, people are saying--people who  
1360 choose to self-insure, they are saying I can have a known  
1361 cost and know what my risk is buying full insurance plans,  
1362 and based on that price, they say, or I can take risk if I  
1363 have the cash to--and--to accept that risk and not put my  
1364 business at stake. And you are right, as the price grows to  
1365 fully insure, you are willing to take more risk to self-  
1366 insure. And so your--also argument is there are other tools,  
1367 financial tools, out there even if you don't have cash in the  
1368 bank to help cover your out-of-pocket--it is essentially a  
1369 high deductible plan is what self-insurance is. So there are

1370 other opportunities to finance the high deductible than just  
1371 cash out of your business, is that what you are saying is  
1372 developing?

1373 Mr. {Giesa.} Exactly right, yes.

1374 Mr. {Guthrie.} And they are developing because they  
1375 know this market is going forward.

1376 Mr. {Giesa.} Exactly right.

1377 Mr. {Guthrie.} So I was like--even though we are  
1378 hearing success in Washington State and others, it is, you  
1379 know, the people with 51 to 100, that is who this bill  
1380 specifically designed who are being disrupted, and so I think  
1381 giving states the flexibility to stay in, given the  
1382 opportunities for people to continue to provide the health  
1383 insurance if they want to provide, I think is a good way to  
1384 go, and I am glad it has been bipartisan and very carefully  
1385 put together.

1386 Thank you. I yield back.

1387 Mr. {Pitts.} The chair thanks the gentleman.

1388 Now recognize the gentlelady from Illinois, Ms.

1389 Schakowsky, 5 minutes for questions.

1390 Ms. {Schakowsky.} Thank you. While we are on the topic  
1391 of self-insurance, we have heard a lot of concerns that  
1392 increasingly the small market definition would increase the  
1393 possibility of adverse selection, and that they--the

1394 companies would go to self-insurance, but today, only 14  
1395 percent of these midsized companies--these midsized employers  
1396 are able to self-insure, and even among firms between 100 and  
1397 999 employees, only 33 percent self-insure right now.

1398         So I wanted to ask Mr. Kreidler, can you describe the  
1399 reasons why these small firms self-insure at much lower rates  
1400 than larger companies? Actually, anyone could answer that.

1401         Mr. {Kreidler.} Thank you, Congresswoman. I look at  
1402 they are making that choice largely based on the fact that  
1403 they probably have younger, healthier employees and,  
1404 therefore, they say, you know, if I self-insure, I get a  
1405 better rate. But the reason you don't see a lot of them  
1406 jumping for it is because there are risks that are involved  
1407 in making that decision. I think it is imperative because  
1408 insurance, by its very nature, is a law of large numbers.  
1409 You want to get a large pool, a large group, and that helps  
1410 to hold down costs. It doesn't guarantee that everybody is a  
1411 winner. There are going to be some that are losers in that  
1412 proposition, but it is building that common base, but it  
1413 offers protections that going forward you can't have if you  
1414 have a fragmented market. And hopefully, that is one of  
1415 those areas with--where we spend some time taking a look at  
1416 what it does to the market as to whether that is an  
1417 appropriate step. The kind of refinements that Ranking

1418 Member Green spoke to, which is the changes that have always  
1419 followed major legislation that haven't been possible as kind  
1420 of midcourse corrections.

1421         Ms. {Schakowsky.} Yeah. Before I ask the others if you  
1422 want to comment on that, I wanted to--Ms. Lindeen, when the  
1423 chairman asked you whether or not consumers would lose any  
1424 benefits of this extension and you said, oh, no. But the  
1425 fact of the matter is, right now, under the--on the small  
1426 group, there is the essential health benefits required, you  
1427 said it is not necessary to require it for larger companies.  
1428 They--there is premium protection regardless of industry for  
1429 the small groups, regardless of coworkers' health, regardless  
1430 of personal health status. There are caps on premium  
1431 increases based on age. There is--prevents premium  
1432 discrimination based on sex. So how could you say that there  
1433 is no loss, that benefits wouldn't be increased for people  
1434 between 51 and 100?

1435         Ms. {Lindeen.} Congresswoman, thank you. Certainly, if  
1436 there was a move to the small group market from 1 to 100,  
1437 there would be additional benefit requirements placed on  
1438 those employers who are at--now currently at 51 to 100,  
1439 absolutely. What I am saying is that there hasn't really  
1440 been any real complaints and issues with that group, and so  
1441 they--there hasn't been a real need that we have been aware

1442 of for that to occur.

1443           Ms. {Schakowsky.} Among the employers, there hasn't  
1444 been?

1445           Ms. {Lindeen.} Well, I can just tell you what I know  
1446 personally, that we haven't had a lot of--had problems with  
1447 the employees complaining either. Certainly, those employers  
1448 are negotiating the best product design possible, with the  
1449 best rate design possible for their group.

1450           Ms. {Schakowsky.} I just want to say that we are  
1451 looking at this, mainly so far--

1452           Ms. {Lindeen.} Um-hum.

1453           Ms. {Schakowsky.} --as I can hear, from an employer  
1454 standpoint. The purpose of the Affordable Care Act is we  
1455 have so many individuals who are either uninsured or  
1456 underinsured, and the goal here is to have a healthier  
1457 society, and a standard that we set for all Americans. Basic  
1458 things. Lack of gender discrimination, reducing the age  
1459 discrimination that make it hard for people. So I just think  
1460 that it is important to acknowledge that, and that one of our  
1461 goals has been to make sure that the kinds of standards--I  
1462 don't have time, I would have like to have asked Mr. Kreidler  
1463 what ready means, when a state is ready, but I think we  
1464 passed the bill in 2010, and I realize that there was an  
1465 extension made, was it last year, for larger businesses. It

1466 seems time to get ready to provide quality health care for  
1467 all of our citizens.

1468 Thank you. I yield back.

1469 Mr. {Pitts.} The chair thanks the gentlelady.

1470 Now recognize the gentleman from New Jersey, Mr. Lance,  
1471 5 minutes for questions.

1472 Mr. {Lance.} Thank you, Mr. Chairman. Good morning to  
1473 the distinguished panel.

1474 To Commissioner Lindeen, I have never been in Montana.  
1475 I hope to have the opportunity to visit your beautiful state,  
1476 and I have heard many wonderful things about it.

1477 I have heard from a number of my constituents that if  
1478 current law is not changed, many employers will either choose  
1479 to self-insure rather than purchase a small group plan, or  
1480 choose to drop coverage rather than purchase coverage in the  
1481 small group market, and thus, play the employer mandate  
1482 penalty. Commissioner, can you explain in a little more  
1483 detail from your perspective, and you have a great deal of  
1484 advice, given your responsibilities statewide in Montana, the  
1485 incentives and the trade-offs that employers would face in  
1486 that case?

1487 Ms. {Lindeen.} Thank you, Congressman. Certainly, the  
1488 employers are going to have to make a decision, as I think  
1489 Mr. Giesa pointed out, in terms of looking for coverage in

1490 the expanded small group market, or looking at potentially  
1491 self-insuring. And the one thing that I think also, which we  
1492 haven't really touched on today, is in terms of potential  
1493 market disruption as even carriers leaving the small group  
1494 market. For example, we have a carrier in Montana who  
1495 withdrew from the small group market in 2013. Under law,  
1496 they cannot return for 5 years unless they get permission  
1497 from the commissioner, which certainly, we would consider.  
1498 However, some of those insurers may decide that they don't  
1499 want to do it, for a host of business reasons, and so they  
1500 may withdraw completely which means then those who they have  
1501 been covering under the 51 to 100, they would give up. And  
1502 in some cases, that could actually cause serious financial  
1503 distress to the company as well.

1504 Mr. {Lance.} I am interested, you said that there is a  
1505 provision of not re-entry for 5 years. Is that state law in  
1506 Montana, and is that true in other states as well?

1507 Ms. {Lindeen.} Yeah. It is federal, I think HIPAA.

1508 Mr. {Lance.} It is federal law.

1509 Ms. {Lindeen.} Um-hum.

1510 Mr. {Lance.} So that this would apply across the board,  
1511 but do state agencies such as yours, do you have the ability  
1512 to override that?

1513 Ms. {Lindeen.} We would have the ability to say to the

1514 company, if they wanted to continue in the small--or come  
1515 back to the small group market, to let them in. But then  
1516 certainly, they would have to refile all their forms and  
1517 rates and so forth.

1518         Mr. {Lance.} And given your expertise in Montana, do  
1519 you think other companies might choose not to continue in the  
1520 small group market?

1521         Ms. {Lindeen.} Well, certainly, every company has got  
1522 that decision to make. I mean if they see the small group  
1523 market is not being as desirable, for whatever reason, they  
1524 could make that decision.

1525         Mr. {Lance.} I would image that small group markets  
1526 might not be as profitable a line as larger. I speculate  
1527 here, but certainly, some might leave.

1528         Other distinguished members of the panel, do you have an  
1529 opinion on what I have asked? Congressman?

1530         Mr. {Kreidler.} You know, my impression is that you--  
1531 that once you are out for 5 years, you can't come back in  
1532 unless you are totally restructured coming back. So once you  
1533 are out, you are out, and that is federal law that requires  
1534 that under HIPAA. But I--my experience has been I didn't  
1535 have companies that dropped out. I had some companies that  
1536 talked about it, not in this market but the small group  
1537 market--or individual market, I should say, and we explained



1538 to them if you drop out, you are gone for 5 years, and they  
1539 said, well, maybe we can figure out a way. And every one of  
1540 them wound up finding a way to stay in the market so they  
1541 didn't face that particular penalty. But in the case of the  
1542 small group market, like I said, we have had a 50 percent  
1543 increase in the number of carriers in the small group market  
1544 since 2012.

1545 Mr. {Lance.} Thank you. Your position, sir?

1546 Mr. {Giesa.} Well, in the near term, I can see a couple  
1547 of competitive dynamics in play. One is, not all the  
1548 companies that are operating in the mid-sized group market now  
1549 will have the administrative capabilities to take on the  
1550 small group market, so when the markets are combined those  
1551 companies may withdraw. The other thing that could happen is  
1552 if we do see this sort of rate spiral happening, we could see  
1553 companies exit the market. We have seen that happen in the  
1554 past.

1555 Mr. {Lance.} Thank you very much. And I yield back 24  
1556 seconds.

1557 Mr. {Pitts.} The chair thanks the gentleman, and now  
1558 recognize the gentleman from Maryland, Mr. Sarbanes, 5  
1559 minutes for questions.

1560 Mr. {Sarbanes.} Thank you, Mr. Chairman. This is a  
1561 fascinating discussion and I am--my head is kind of exploding

1562 listening to it a little bit.

1563 I am trying to understand, Mr. Giesa, I mean you and Mr.  
1564 Kreidler are projecting fundamentally different scenarios as  
1565 to what will happen. Mr. Kreidler's prediction seems to be  
1566 based on information he already has in-hand in terms of the  
1567 insurers' reaction to what will happen in January of 2016.  
1568 Yours is a little more tenuous, I guess, but can you try to  
1569 explain why you think, even though you are projecting premium  
1570 hikes as high as 20 percent because these mid-sized employers  
1571 who have the ability to go self-insure will choose to do that  
1572 and pull themselves out of this pool, why you are projecting  
1573 20 percent increases based on that assumption, whereas  
1574 insurers have actually come in in Washington State and are  
1575 submitting requests for premium reductions in all but one  
1576 case, as I understand it, and as high of a reduction, I think  
1577 you said, as 16 percent in one instance. So maybe you all  
1578 could have a little colloquy just to try to help me  
1579 understand why there is such a disconnect there.

1580 Mr. {Giesa.} Well, I will start. And first, I am not  
1581 an expert in the Washington market, but I think there are  
1582 some uniquenesses in the Washington market about the way the  
1583 market is structured that don't apply to a majority of  
1584 states. And then I will acknowledge the fact that, you know,  
1585 the little bit of the work that I have done is kind of

1586   tenuous, but those rate increases I was illustrating, the 64  
1587   percent seeing 18 percent, that is real, that is based on  
1588   real data. I had underwriting decisions that companies made  
1589   and I said, well, those underwriting decisions will have to  
1590   change under the ACA. So that is really what is going to  
1591   happen to 64 percent of the groups in the--from these issuers  
1592   that I considered representative.

1593           Mr. {Sarbanes.} Right.

1594           Mr. {Giesa.} The other part of this calculation though  
1595   is, who withdraws and what does that have on the rest of the  
1596   market, the impact of those who remain, and that is the part  
1597   that is a little tenuous, subject to speculation, but I want  
1598   to be clear that the rate increases that I was saying would  
1599   happen in the midsized group--

1600           Mr. {Sarbanes.} Okay, that is fair.

1601           Mr. {Giesa.} --those are real.

1602           Mr. {Sarbanes.} Mr. Kreidler, do you--I mean do you  
1603   have some anxiety that, even though the insurers who  
1604   submitted rate proposals seem to be assuming that the effect  
1605   that you anticipate will actually take hold, that there could  
1606   be a number of employers in that midsized range that would  
1607   select themselves out and self-insure, and it could have the  
1608   impact that is being talked about there with, I guess, the  
1609   potential for them to come in midyear based on that activity

1610 and then reverse and seek what would then be a significant--  
1611 by comparison, significant rate increase, to try to address  
1612 that situation?

1613           Mr. {Kreidler.} Congressman, I will be honest with you,  
1614 I really don't stay awake worrying about it as a major  
1615 factor. I think that there are going to be some employers  
1616 that are midsized that are going to see rate increases.  
1617 Whether that is enough to--for them to want to take the risks  
1618 of going to the self-insured market. Most of these--all of  
1619 these businesses, for practical purposes, are not in the  
1620 business of health insurance, they are in the business of  
1621 whatever commercial activity they have. And they want to be  
1622 able to go out and buy a product that is going to be able to  
1623 provide the kind of incentives for their employees, to retain  
1624 employees, to attract employees, so that is why they offer it  
1625 and that is what really matters to them. And I think that is  
1626 going vary somewhat from state to state. In the State of  
1627 Washington, we already saw those midsized moving toward the  
1628 ACA standards even before the requirement went into effect.  
1629 So they are already stepping up to it. One protection that  
1630 it offers right now are certainly for older employees, that  
1631 they don't wind up being biased, paying multiple times what a  
1632 younger employee would have to pay. They have the 3-to-1  
1633 protection. That is good for the older employee. Not so

1634 good for maybe with a younger workforce, but you have other  
1635 protections and limitations of out-of-pocket expense that  
1636 really play to that small employer, so there are benefits  
1637 even if they wind up paying more. And again, there are  
1638 always winners and losers when you wind up pulling markets  
1639 together. You can't make everybody a winner. You wind up  
1640 doing the best you can, and you see the improvement in the  
1641 overall health in the small group market for employers. That  
1642 is the positive. You want to see that happen. In the long  
1643 run, it is one of those where there are added protections  
1644 that certainly enhance for that small employer, protections,  
1645 even if they wind up paying more initially. But we are  
1646 seeing very little of that in the State of Washington.

1647 Mr. {Sarbanes.} Thank you all for your testimony.

1648 Mr. {Pitts.} The chair thanks the gentleman, and now  
1649 recognize the gentleman from Florida, Mr. Bilirakis, 5  
1650 minutes for questions.

1651 Mr. {Bilirakis.} Thank you, Mr. Chairman. I appreciate  
1652 it very much. And thank you for your testimony.

1653 Commissioner Lindeen and Mr. Giesa, I hope I pronounced  
1654 that right, the small business health options plans, or  
1655 SHOPS, have not been a popular option for employers. They  
1656 have not offered much difference from the outside small group  
1657 market. In my district, there are only 2 companies that

1658 offer coverage in the SHOP, and you can only choose from 3  
1659 plans in silver and gold. Will the SHOP be more successful  
1660 if it allowed employers to provide a defining contribution,  
1661 and allowed employees to choose a plan metal tier and benefit  
1662 design that best fits their needs, and shouldn't there be  
1663 greater diversity of carriers and benefits designed to truly  
1664 drive competition?

1665 Mr. {Giesa.} Congressman, that is a wonderful question,  
1666 and I think it is certainly worthy of consideration, but it  
1667 is not something that, right now, I am in a position to  
1668 comment on.

1669 Mr. {Bilirakis.} Okay, can you get back to me on that?  
1670 I would appreciate that.

1671 And then, Commissioner Lindeen?

1672 Ms. {Lindeen.} Well, Congressman, I certainly  
1673 understand that the more options that we can provide the  
1674 better, but certainly, I can get back to you on a response as  
1675 well.

1676 Mr. {Bilirakis.} Please do.

1677 Ms. {Lindeen.} Thank you.

1678 Mr. {Bilirakis.} Please do. All right, second  
1679 question, Commissioner Lindeen and Mr. Giesa, according to  
1680 the CBO, ``Plans being offered through exchanges in 2014  
1681 appeared to have in general lower payment rates for

1682 providers, narrower networks of providers, and tighter  
1683 management of their subscribers use of health care than  
1684 employment-based plans do.'" Less than half of the plans  
1685 available on the Exchange have--Moffitt Cancer Center, the  
1686 only NCI-designated cancer center in Florida, within their  
1687 network, and those that do have Moffitt in-network, the  
1688 coverage may be conditional based on where you live. If we  
1689 push midsize businesses into the small business market, will  
1690 these workers have more options or fewer options for health  
1691 insurance, will the employees of midsize businesses be stuck  
1692 in narrower networks with fewer providers if the small group  
1693 market is expanded? And again, the question is for  
1694 Commissioner Lindeen and Mr. Giesa.

1695       Ms. {Lindeen.} Congressman, I really do want to  
1696 apologize, I don't have a specific answer for you.  
1697 Certainly, each one of the employers is negotiating with the  
1698 insurer for the best product possible, and I am sure that  
1699 they are looking at the networks to ensure that they are  
1700 hopefully the best network possible for their employees  
1701 because they--you know, they--insurance companies contract  
1702 locally and regionally for the providers in those networks,  
1703 and I am sure that the companies and the employees are  
1704 looking very closely at those networks.

1705       Mr. {Bilirakis.} Mr. Giesa?

1706           Mr. {Giesa.} Yes. Again, thanks for the question.

1707   That is an excellent one. And I--they will have fewer  
1708   employers if you force--if the mid-sized employer is forced  
1709   into the small group market, they will have fewer options  
1710   with respect to benefits. Right now, they can design  
1711   benefits that best fit their needs. Under--when--in the  
1712   small group market there is really just a, you know, a group  
1713   of benefits they will have to select from.

1714           And then on your question of networks, I think that is--  
1715   that does deserve consideration. The small group plans, the  
1716   networks are fixed and there is really no negotiation as far  
1717   as what benefits or what providers the employees could see.  
1718   The only way around that would be to self-fund. And so it is  
1719   conceivable that these mid-sized groups might say, you know,  
1720   to get access to the employers we want--or the providers we  
1721   want, we need to self-fund.

1722           Mr. {Bilirakis.} Thank you. Third question, again for  
1723   Commissioner Lindeen and Mr. Giesa. Again, I apologize if I  
1724   pronounce your--I mispronounce your names. There appears to  
1725   be evidence that the small group market is shrinking as small  
1726   businesses drop coverage to allow employees access to premium  
1727   subsidies. Is it better for taxpayers to have employers pay  
1728   for health insurance or for the government to pay for  
1729   subsidies?



1730           Ms. {Lindeen.}   Congressman, that is a difficult  
1731   question.   Certainly, we have in Montana seen a drop in the  
1732   small group market and folks moving to the individual  
1733   marketplace for that purpose.   But at the same time, I can  
1734   tell you that, at least in Montana, I can talk to that  
1735   experience, in Montana we had about 20 percent of our  
1736   population that was uninsured.   We have actually seen a drop  
1737   to 15 percent uninsured, and so we are seeing more and more  
1738   folks becoming insured, which I guess for societal purposes,  
1739   and then for the employer, whoever that may be, small or  
1740   large, that is a good thing, and that is a good economic  
1741   impact for the employer and Montana's economy.

1742           Mr. {Bilirakis.}   Sir?

1743           Mr. {Giesa.}   Congressman, this is another question that  
1744   I would like the opportunity to get back to you on.   I am  
1745   really not in a position to answer that definitively right  
1746   now.

1747           Mr. {Bilirakis.}   Please get back to me.   I would  
1748   appreciate that very much.

1749           I yield back, Mr. Chairman.

1750           Mr. {Pitts.}   The chair thanks the gentleman.   Now  
1751   recognize the gentlelady from North Carolina, Mrs. Ellmers, 5  
1752   minutes for questions.

1753           Mrs. {Ellmers.}   Thank you, Mr. Chairman.   And the first

1754 question I have is for Mr. Kreidler on the issue that you are  
1755 here and your concerns, I am just wondering how much you have  
1756 taken into consideration that Washington State has the  
1757 ability to opt out and continue on without being affected by  
1758 this if this bill, 1624, actually goes into effect. Are you  
1759 aware of that?

1760 Mr. {Kreidler.} Yes, I am--

1761 Mrs. {Ellmers.} Okay.

1762 Mr. {Kreidler.} --Congressman, aware of it.

1763 Mrs. {Ellmers.} So if that is your--I guess that brings  
1764 me to the next question then which is, if you are aware of  
1765 that then I don't understand why you have the issue, because  
1766 you are presenting to us that this is something that is  
1767 working very well in Washington State and that you see this  
1768 moving forward, and hope that our bill that we are discussing  
1769 today does not go into effect.

1770 Mr. {Kreidler.} There are a couple of problems that I  
1771 see right now. Number 1 is they have already submitted their  
1772 plans, their rates and their forms with me, so this is  
1773 already in progress for going from--with the 51 to 100 being  
1774 included with the--into the small--

1775 Mrs. {Ellmers.} Um-hum.

1776 Mr. {Kreidler.} --group market. That would have to be  
1777 adjusted and rolled back. Most likely, that is going to mean

1778 in the State of Washington that that is going to be a rate  
1779 increase for small employers--

1780 Mrs. {Ellmers.} Okay, stopping there though--

1781 Mr. {Kreidler.} Okay.

1782 Mrs. {Ellmers.} --Washington, again, has the ability to  
1783 not accept this bill, correct? And so, therefore, all of  
1784 those plans that you are moving forward on in Washington  
1785 would remain in place with the Affordable Care Act.

1786 Mr. {Kreidler.} In the State of Washington,  
1787 Congresswoman, I do not have that option because state law  
1788 would effectively be reverted to, with the passage of this  
1789 law, that state law says 1 to 50. Therefore, 51 to 100 is  
1790 not an option for me. The state would have that option,  
1791 but--

1792 Mrs. {Ellmers.} Right, the state would have that  
1793 option.

1794 Mr. {Kreidler.} But they would--I would still have to  
1795 go to the legislature to get their approval, and they are  
1796 well underway with already making the implementations. And I  
1797 can tell you right now, the chances of making that--having  
1798 that pass in the state legislature are probably zero to none.  
1799 So as a consequence, the benefits that would occur to the  
1800 small group--

1801 Mrs. {Ellmers.} Why--

1802 Mr. {Kreidler.} --markets--

1803 Mrs. {Ellmers.} Why would it be zero to none if--I mean  
1804 I--there again, and I don't want to--because I have some  
1805 other questions, but I don't understand. You are presenting  
1806 today that this is working in Washington, that it is moving  
1807 forward, that you feel very confidently that it is playing  
1808 out as-is, but yet you believe that the option for it passing  
1809 the legislature in Washington would be zero to none?

1810 Mr. {Kreidler.} Congresswoman, I think it is pretty  
1811 much the same dynamics that you have in Congress itself.  
1812 There are differences of opinion about the Affordable Care  
1813 Act and any modification to it.

1814 Mrs. {Ellmers.} So what you are saying is your opinion  
1815 is not necessarily that of the rest of Washington's opinion.

1816 Mr. {Kreidler.} No, I think the rest of Washington  
1817 would agree with me, but on this issue, obviously, it is  
1818 going to be very difficult to get favorable action on the  
1819 part of the legislature, certainly and do it in a timely  
1820 fashion.

1821 Mrs. {Ellmers.} Okay. Well, thank you for clarifying  
1822 that for me.

1823 I do want to ask Ms. Lindeen and Mr. Giesa. The NFIB  
1824 Research Foundation showed that 40 percent of small  
1825 businesses with fewer than 100 employees offered health

1826 insurance in 2014. So that is 40 percent, which is a 6  
1827 percent drop from 2013. According to HHS, only 32 percent of  
1828 businesses with fewer than 50 employees offered group  
1829 coverage in 2014, which is a 3 percent drop from 2013.  
1830 Showing that trend, or looking at those numbers, what is  
1831 going to--I mean, you know, what is the overall picture, and  
1832 I know we are talking in generalities and I know that is  
1833 difficult for you because you are, you know, coming from your  
1834 own position, but what is going to happen with these rates?  
1835 If we are already seeing that fewer businesses are dealing in  
1836 this way, and we have seen that over the last year or 2, how  
1837 is this going to affect these small group rates if this is  
1838 the trend moving forward?

1839 Ms. {Lindeen.} Congresswoman, if I may, that is a  
1840 really good question. I think it really could--should bring  
1841 us back to the fact that we are still in this transition  
1842 period--

1843 Mrs. {Ellmers.} Right.

1844 Ms. {Lindeen.} --with the market being--

1845 Mrs. {Ellmers.} Yeah.

1846 Ms. {Lindeen.} --influx. At the same time, I think  
1847 that the markets are beginning to adjust and make sense of  
1848 what happened--

1849 Mrs. {Ellmers.} Um-hum.

1850           Ms. {Lindeen.} --and so I think that is why it is  
1851 important for us to not make further changes if we don't have  
1852 to--

1853           Mrs. {Ellmers.} Okay.

1854           Ms. {Lindeen.} --unless it is going to be--have a  
1855 positive effect--

1856           Mrs. {Ellmers.} A positive--yeah, that--

1857           Ms. {Lindeen.} --but--

1858           Mrs. {Ellmers.} --you know that there is certainty and  
1859 that the--

1860           Ms. {Lindeen.} Correct.

1861           Mrs. {Ellmers.} --the outcome is going to be positive.

1862           Ms. {Lindeen.} Correct.

1863           Mrs. {Ellmers.} Mr. Giesa, would you like to comment on  
1864 that?

1865           Mr. {Giesa.} Yes, thanks for the question. I think,  
1866 you know, and briefly, the response to your question is if we  
1867 don't see this change made, if the--

1868           Mrs. {Ellmers.} Um-hum.

1869           Mr. {Giesa.} --midsized employers do move into the  
1870 small group market, we will see an acceleration of the  
1871 process you were describing of small groups--

1872           Mrs. {Ellmers.} Small groups basically--

1873           Mr. {Giesa.} --continuing--

1874           Mrs. {Ellmers.} --decreasing. And so--and then, there  
1875 again, I am running out of time, but if there was one thing  
1876 that you had to ask us in Congress, moving forward, looking  
1877 forward to this as this bill being a positive step forward,  
1878 what would you say it is? What would you like to leave this  
1879 committee with as far as your messaging that we need to know?

1880           Ms. {Lindeen.} You need to give the states the  
1881 flexibility so that the markets can be more certain.

1882           Mr. {Giesa.} And I would say that time is of the  
1883 essence here.

1884           Mrs. {Ellmers.} Time. Time. Thank you very much.  
1885 Thank you to all of you for being here. And thank you, Mr.  
1886 Chairman.

1887           Mr. {Pitts.} The chair thanks the gentlelady. Now  
1888 recognizes the gentleman from New York, Mr. Collins, 5  
1889 minutes for questions.

1890           Mr. {Collins.} Yeah, thank you, Mr. Chairman.

1891           In a prior life, as in about 6 months ago, I was the  
1892 subcommittee chair on Health and Technology for Small  
1893 Business. I had hearing after hearing on the Affordable Care  
1894 Act, the impact on small business, the potential impact on  
1895 small business, if you went back a couple of years ago when  
1896 some of this was just moving through, and I can just  
1897 categorically state it was all negative. Business group

1898 after business group after business group stepped forward to  
1899 say here is the devastation that is going to occur. You  
1900 know, with the redefinition--I guess I--it is maybe worth  
1901 reminding folks, back in the day before Affordable Care, the  
1902 definition of a large business was someone over 500  
1903 employees. It was pretty universally accepted. That is a  
1904 big company. HR Departments, you know, lots of folks at  
1905 management levels, 500-plus. Along comes the Affordable Care  
1906 Act and says, well, no, we are going to redefine a large  
1907 company as anyone with over 50 employees. It is like, whoa,  
1908 500 down to 50? A lot of companies with 50 to 55 employees,  
1909 they don't have an HR Department. They may or may not have a  
1910 full-time bookkeeper, let alone all the infrastructure that  
1911 went with the prior universally accepted definition of a  
1912 large company. So the reverse of that is, obviously, a small  
1913 company used to be anyone up through 499. Now it is 49,  
1914 which is--with my hearings on the Small Business Committee,  
1915 just turned everything upside down. The issues of, you know,  
1916 do I want to grow to 55 employees.

1917 So I am bringing this up only to point out there has  
1918 been a little bit of a pause for the 51 to 99. They are  
1919 subject to the Affordable Care Act, the employer mandate, but  
1920 at least during this time they could offer, you know, some  
1921 health benefits that may have been more affordable to them.



1922 Well, now, all of a sudden, it--in pops--if we don't pass  
1923 this, their costs are, by and large, going to go up. They  
1924 are going to be forced to do something and make changes they  
1925 may not want to do. And I guess I would like to point out,  
1926 when a midsized--or when a small company, 51 to 99 for sure,  
1927 has to absorb higher costs in health insurance, or anywhere  
1928 else, they are generally--they have to cut someplace else.  
1929 We are not talking about companies making a lot of money,  
1930 even paying their owners well, and I think it is just a  
1931 rhetorical comment to say if I have to increase costs here  
1932 and decrease somewhere else, my cuts may be in product  
1933 development, research, marketing, advertising, going to trade  
1934 shows, and just continuing. What does that mean? Less  
1935 growth, fewer jobs, bad for the economy, bad in every way.  
1936 So I just felt like I should at least point out the  
1937 overarching impact that I see on this is less job growth for  
1938 those companies between 51 and 99 employees, because they are  
1939 going to absorb cost increases that have to be offset. They  
1940 just can't go print money or wish upon a star that they  
1941 didn't have that.

1942       So I guess, you know, Mr. Giesa, you are the actuarial  
1943 expert, and maybe just some comments about--I mean I always  
1944 go back--there is no free lunch. If somebody, as Mr.  
1945 Kreidler says, is going to save money, someone else is going

1946 to pay for it. You know, it is--this is what happens. You  
1947 get less, I pay more. I always say it is a bad day at the  
1948 office when you run out of other people's money. But--so you  
1949 have kind of heard my, you know, comments here, what would  
1950 you say, Mr. Giesa?

1951 Mr. {Giesa.} Well, this idea of, you know, there were--  
1952 there are some real consumer protections associated with--or  
1953 that come along with being part of the small group market but  
1954 those benefits come at a cost, and we will be asking a group  
1955 of small--or midsize employers to pay that cost. And if  
1956 they choose not to do so, if they choose to sort of withdraw  
1957 from that consideration and say I am going to self-fund, we  
1958 will see costs go up for the small groups and those other  
1959 groups that remain in the market.

1960 Mr. {Collins.} And I think we have point out, it is  
1961 amazing how competition works. There are changes going on in  
1962 the self-insured market that would have been unheard of 5  
1963 years ago, but in that, small businesses can be very creative  
1964 and they have to be entrepreneurial to survive and grow.  
1965 And I tend to concur, we don't know what the answer is but we  
1966 are incentivizing, I wouldn't even call them midsize, they  
1967 are still small companies, somebody with 58, 62 employees, if  
1968 that is not a small company, and that is where I have spent  
1969 my life, I don't know what is, we don't know the outcome but

1970 it is going to incentivize that move. And when you take  
1971 those employees out of the group market, we all know the  
1972 price you pay.

1973 So with that, thank you, Mr. Chairman, I yield back.

1974 Mr. {Pitts.} The chair thanks the gentleman, and now  
1975 recognize the gentleman from Virginia, Mr. Griffith, 5  
1976 minutes for questions.

1977 Mr. {Griffith.} Thank you so much, Mr. Chairman. I do  
1978 appreciate it. Mr. Kreidler, I appreciate you being here  
1979 today. I have some questions for you.

1980 You talked about increases in the small shops in the  
1981 State of Washington--small shop insurance in the State of  
1982 Washington. In my district, and I represent 22 counties and  
1983 7 independent cities in the rural parts of Virginia, and as a  
1984 result of that, we found that many of our locations, or at  
1985 least a certain number of them, we don't have but one  
1986 provider for the small shop plans. And so it raises the  
1987 question that I would ask you, is the city of Richmond in the  
1988 Commonwealth of Virginia has lots of small shop plans, my  
1989 rural counties and some of my independent cities don't--some  
1990 of my rural counties don't, some of my independent cities  
1991 don't, is that your experience in Washington or do you have  
1992 this larger number across the State of Washington in all the  
1993 counties?

1994           Mr. {Kreidler.} We have seen an increase in all of the  
1995 counties for the small group market of the number of carriers  
1996 that offer it. Not that many in the shop through the  
1997 Exchange, but through--in the small group market, we have  
1998 certainly seen it. But rural American is tough. It is tough  
1999 in the State of Washington, and I am sure Commissioner  
2000 Lindeen has it tough in Montana. Those are--it is difficult  
2001 to get the same kind of competition in those rural counties  
2002 that you get in the more urban counties, and I understand  
2003 that.

2004           Mr. {Griffith.} Yeah. I thought it was interesting,  
2005 your testimony has been very instructive here today because I  
2006 gather that you don't like this bill, but you acknowledged in  
2007 some of the questioning that you did think that for some  
2008 states that weren't as far along as the State of Washington  
2009 was, that some type of a delay might be advisable. So you  
2010 recognize that at least for some states, moving forward right  
2011 away would be a problem and that we as Congress probably  
2012 ought to take some kind of action. Even if you don't like  
2013 this bill, you would look for us to make some action for  
2014 those states that aren't as far along as the State of  
2015 Washington. Is that correct?

2016           Mr. {Kreidler.} Congressman, that is correct.

2017           Mr. {Griffith.} Now, I am concerned, I know you come

2018 from a healthcare background, and I am sure it wasn't your  
2019 intent, but as an old country lawyer, when I see what appears  
2020 to be, I am sure it wasn't the intent, but appears to be a  
2021 little bit of a shell game, it always makes me worry. And I  
2022 noticed that you talked about one of your larger--in your  
2023 testimony you talked about one of your larger insurance  
2024 companies, and you referenced Regence, but it looks like,  
2025 from what I can determine, it was Regence Blue Cross Blue  
2026 Shield of Oregon, which only covers one of the counties that  
2027 had a decrease and about 1,500 folks involved, but that the  
2028 larger presence in the state had a modest--not a large  
2029 increase, but it had a small increase for the Regence Blue  
2030 Cross Blue Shield of Washington. And so it just makes me  
2031 curious as to--I am sure that those 1,500 people think that  
2032 it is very important, but I am just curious and it makes me  
2033 wonder about what it going on there, but I have appreciated  
2034 the rest of your testimony.

2035 In that regard, Ms. Lindeen, let me ask you. In regard  
2036 to your colleague's experience in the State of Washington, it  
2037 is my understanding that might be somewhat unique because  
2038 Washington actually had state law that enacted small employer  
2039 health insurance changes well before the federal law was  
2040 enacted, which meant that the bump that all of my people are  
2041 seeing now, the increase in the cost actually occurred before

2042 the Affordable Care Act, ObamaCare, went into effect there,  
2043 and that most states are going to see that increase coming up  
2044 now. Is that your understanding? In other words, they got  
2045 ahead of the curve so the increases are going to be less  
2046 there because--or not--or even decreases there because they  
2047 were ahead of the curve in coming up with some of the  
2048 requirements that ObamaCare requires our small groups now to  
2049 have.

2050 Ms. {Lindeen.} Congressman, I would say that it  
2051 certainly depends on the marketplace in the state. In  
2052 Montana, we have seen mixed results depending on whether it  
2053 is the mixed--or, excuse me, the individual market or the  
2054 small group market. In fact, this year we are--or this  
2055 coming year, we are going to see, unfortunately, some  
2056 substantial increases in the individual market, but in the  
2057 small group market those increases are very limited, between  
2058 3 and 7 percent on average.

2059 Mr. {Griffith.} Okay. I do appreciate that. I am  
2060 hearing from my constituents that they are very nervous about  
2061 it, and they do make decisions, as you have heard others say,  
2062 that some of those small employers are making decision, do  
2063 they hire the fifty-first employee, do they look at  
2064 expanding, do they continue to carry all of the different  
2065 products, in other words, do they lay-off one shift perhaps

2066 that is doing a product line that is not as successful as  
2067 some of the others and just focus on the high profit areas.  
2068 When they are on that bubble, these are all things that  
2069 businesses take into account.

2070 I appreciate Mr. Guthrie for bringing the bill, and  
2071 others, and do appreciate that we need to make some kind of a  
2072 resolution, even if it is not this bill, that we need to do  
2073 something.

2074 And I yield back. Thank you.

2075 Mr. {Pitts.} The chair thanks the gentleman. Now  
2076 recognize the gentleman from Missouri, Mr. Long, 5 minutes  
2077 for questions.

2078 Mr. {Long.} Thank you, Mr. Chairman.

2079 Mr. Kreidler, your testimony says the State of  
2080 Washington may be further along in implementing many of the  
2081 reforms than other states. Why have more than 2/3 of the  
2082 rest of the states opted for the transition option?

2083 Mr. {Kreidler.} I think, in no small part, if you are  
2084 talking about the federally facilitated Exchange through the  
2085 Federal Government, is that correct, Congressman? If you  
2086 are, in that situation I think politics played a lot to do  
2087 with that. We had a former insurance commissioner from the  
2088 State of Pennsylvania who headed the operation to assist  
2089 states and become--establishing their own exchanges. When it

2090 started, he was fully convinced that every state was going to  
2091 jump to create their own exchange, rather than defer to the  
2092 Federal Government, and yet, as you point out, 2/3 have opted  
2093 to do it otherwise. I think a lot of it had to do with the  
2094 politics at the time, or the size of the state. I think most  
2095 states were thinking of creating their own exchanges. In the  
2096 long run, there are pluses and minuses as to whether you went  
2097 with the federal or whether you went with state--went with  
2098 your own route with the state--as the State of Washington  
2099 did.

2100         Mr. {Long.} Well, what you are doing may work in  
2101 Washington--in the State of Washington, which Mr. Guthrie's  
2102 bill allows, so I think that you could be supported, but the  
2103 president of your national association there at the table  
2104 with you is saying that is what caused problems in other  
2105 states.

2106         Mr. {Kreidler.} Congressman, it is like the body  
2107 politics, you--just because the majority party says this is  
2108 our position, it isn't necessarily what you take as an  
2109 individual member, and I would say the same is true as being  
2110 an insurance commissioner.

2111         Mr. {Long.} Okay. Commissioner Lindeen, you are  
2112 testifying on behalf of all states, whereas it seems that  
2113 Commissioner Kreidler is only testifying on behalf of the



2114 State of Washington. Can you talk about what you are hearing  
2115 from other commissioners and consumers across the United  
2116 States?

2117 Ms. {Lindeen.} Congressman, thank you for the question.  
2118 And, certainly, I appreciate the diverse point of view that  
2119 all of the commissioners have across the country, including  
2120 my colleague from Washington, but at the same time, I believe  
2121 that the overwhelming number of commissioners across the  
2122 country do believe that--and do support this piece of  
2123 legislation because they understand that that will give them  
2124 the flexibility to do what is right for their marketplace in  
2125 their individual states because of the diversity.

2126 Mr. {Long.} Okay, thank you. And, Mr. Giesa, you and  
2127 others have warned that the current law could lead some  
2128 employers with 51 to 100 employees to self-insure to avoid  
2129 higher premiums, which could result in adverse selection in  
2130 the small group pool, and higher premiums for employers with  
2131 between 1 and 50 employees. Can you explain this adverse  
2132 selection a bit more?

2133 Mr. {Giesa.} Yes, Congressman. Thanks for the question  
2134 again. What we will see, I think, is the midsized employers  
2135 will be looking at 2 options. They will be looking at  
2136 guaranteed issue access to the small group market on a  
2137 community-rated basis, and they will be looking at self-

2138 funding. And in some states, there is actually a third  
2139 option and that is states that have adopted the transitional  
2140 policy to stay on their existing policy. So these midsized  
2141 employers will be looking at 3 different options, saying  
2142 which one is most financially advantageous for me. Those  
2143 that choose the small group market will be the oldest and the  
2144 sickest, and that will drive up premiums in that combined  
2145 small group, midsized employer market.

2146 Mr. {Long.} Okay, thank you. And thank you all for  
2147 your testimony.

2148 And with that, Mr. Chairman, I yield back.

2149 Mr. {Pitts.} The chair will recognize the gentleman,  
2150 Mr. Cardenas, 5 minutes for questions.

2151 Mr. {Cardenas.} Thank you very much. It is--I just  
2152 want to say it is wonderful to--I have been here 2-1/2 years  
2153 and this is probably the most bipartisan moment I have been  
2154 working with my colleague, Republican Guthrie, on, and  
2155 Sinema, and a few others. I just want to say I appreciate  
2156 all the efforts of the--and the sincere efforts that  
2157 everybody has put into this bill so far.

2158 And with that, I have a question for--a couple of  
2159 questions, one of them for Commissioner Lindeen. Thank you  
2160 so much for testifying today. My question is, given that  
2161 this legislation would allow states to determine the size of

2162 their small group market for themselves, do you anticipate  
2163 any states that would make the move to include companies with  
2164 51 to 100 employees, given the new realities of the ACA?

2165 Ms. {Lindeen.} Congressman, I am sure that there will  
2166 be states who will--who would make that decision and feel  
2167 that is the best for their marketplace, while others would  
2168 not.

2169 Mr. {Cardenas.} Um-hum, but to have that option, and  
2170 the hopes and expectation that each state will evaluate it  
2171 based on the needs and their understanding of their  
2172 constituencies and their businesses, or what have you, do you  
2173 see that it could possibly provide--should this come--law go  
2174 into effect, it would provide that kind of result that we  
2175 would hope for?

2176 Ms. {Lindeen.} Absolutely.

2177 Mr. {Cardenas.} Okay. Also, Mr. Kreidler, do you  
2178 oppose a--different states from determining what works best  
2179 for their small group markets?

2180 Mr. {Kreidler.} Congressman, I would have to say, you  
2181 know, there are places where choice is certainly something  
2182 that is preferred. There are other places where it is not.  
2183 Before healthcare reform, the states had a great deal of  
2184 latitude to do healthcare reform and yet we saw a growing  
2185 problem of the number of uninsured in this country continuing

2186 to rise, and we saw the amount of spending in the healthcare  
2187 system that was not collected, it was shifted to other  
2188 payers. The--it is one of those things where we are clearly  
2189 seeing we needed to have improvement, we needed to do it on a  
2190 national basis, and having a national standard is something  
2191 that really works well. And that is why I would be the first  
2192 to admit that offering to some states the opportunity for a  
2193 couple of year delay before this went into effect, but don't  
2194 hamper a state like mine that is ready to step up and make  
2195 the changes right now. But to essentially suspend this  
2196 activity and defer it back to the state is a move against  
2197 healthcare reform in the sense of helping to create the kind  
2198 of large markets, large groups of self--or the community-  
2199 rated pool that you have with the small group market that  
2200 advantages small business. I don't want to deny small  
2201 business those advantages.

2202 Mr. {Cardenas.} Okay. Commissioner Lindeen, having  
2203 heard that, do you have any comments?

2204 Ms. {Lindeen.} Congressman, I think that it is  
2205 important not to deny the small businesses that are currently  
2206 utilizing a product that works for them--

2207 Mr. {Cardenas.} Um-hum.

2208 Ms. {Lindeen.} --to be able to continue to do that.

2209 Mr. {Cardenas.} Um-hum.

2210           Ms. {Lindeen.} And so I think that this piece of  
2211 legislation which you are coauthoring is a good thing for  
2212 those small businesses and for their employees, and so I  
2213 would encourage passage.

2214           Mr. {Cardenas.} Okay. The reason why I ask is because,  
2215 to me, what this legislation would do, which affects an  
2216 incredibly larger piece of legislation, would allow an  
2217 opportunity where, hopefully, very responsible legislators,  
2218 governors, etcetera, will actually responsibly evaluate this  
2219 additional tool and then use it responsibly. And I feel if  
2220 they do so, then what would happen is, overall, we will get  
2221 the benefit of those states that perhaps choose that they are  
2222 not going to go to the 100 model and--because of what is best  
2223 for their constituency, and those that choose to go to the  
2224 100 model, they will do so because they are--they have the  
2225 best interest of their businesses and their constituents, the  
2226 workers and their families in mind. So, to me, this is a  
2227 bill that actually enhances the opportunity for responsible  
2228 individuals to go ahead and say this is better--this is going  
2229 to be a better environment, and as a result, hopefully, we  
2230 will have better results.

2231           Thank you very much, and I yield back my time.

2232           Mr. {Guthrie.} [Presiding] I thank my friend for  
2233 yielding back.

2234           And seeing no further questions, I appreciate the  
2235 comments, and it has truly been a bipartisan effort and  
2236 carefully crafted bill.

2237           And I want to remind the members they have 10 business  
2238 days to submit questions for the record, and ask the  
2239 witnesses to respond to these questions promptly. Members  
2240 should submit their questions by the close of business  
2241 Wednesday, September 23.

2242           Without objection, the subcommittee is adjourned.

2243           [Whereupon, at 12:15 p.m., the Subcommittee was  
2244 adjourned.]