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The Affordable Care Act's (ACA) Employer Shared Responsibility Determination and the Potential Employer Penalty

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Summary

The Affordable Care Act (ACA) creates shared responsibilities for both employers and individuals with regard to health insurance coverage. The ACA expands federal private health insurance market requirements and requires the creation of health insurance exchanges to provide individuals and small employers with access to insurance. This report examines the new employer responsibilities.

To ensure that employers continue to provide some degree of health coverage, the ACA includes a "shared responsibility" provision. This provision does not require that an employer offer employees health insurance; however, the ACA imposes penalties on a "large" employer if at least one of its full-time employees obtains a premium credit through the newly established exchange.

As of 2015, employers with at least 50 full-time equivalent (FTE) employees are subject to the shared responsibility provisions. However, in 2015 only, employers with between 50 and 100 FTE employees were eligible for transition relief if certain criteria were met.

The ACA sets out a multi-stage process for determining, first, which firms may be subject to the penalty (i.e., definition of *large*), and second, which workers within a firm would trigger the penalty. Complex calculations and multiple definitions of full-time work have led to confusion among policymakers and employers. This report discusses these definitions and the application to the employer penalty in greater detail.

The potential employer penalty applies to all common law employers, including government entities (such as federal, state, local, or Indian tribal government entities) and nonprofit organizations that are exempt from federal income taxes. If multiple businesses are owned by one individual or entity, employees in each of the franchises must be aggregated to determine the number of both FTEs and full-time employees.

The actual amount of the penalty varies depending on whether an employer currently offers insurance coverage and the number of full-time employees. Employers must provide both affordable and adequate health insurance coverage to avoid paying a penalty. Coverage is considered affordable if the employee's required contribution to the plan does not exceed 9.66% of the employee's household income for 2016. However, the Internal Revenue Service (IRS) allows employers to use the employee's W-2 income in lieu of household income for this calculation (because most employers do not readily have information on an employee's household income). A health plan is considered to provide adequate coverage if the plan's actuarial value (i.e., the share of the total allowed costs that the plan is expected to cover) is at least 60%.

The total penalty for any applicable large employer is based on its number of full-time employees. The ACA specified that working 30 hours or more per week is considered full-time. Employers have some flexibility to designate certain measurement or look-back periods (up to 12 months) during which they calculate whether a worker is full-time or not. Once an employee is determined to be full-time, there is an administrative period to enroll employees in a health plan, if necessary. If an employer penalty is levied under the ACA requirements, it applies only for the time period following the administrative period, which is called the stability period. An employer is not penalized if an employee enters the exchange and receives a premium credit during the measurement period.

Appendix A provides a list of employer reporting requirements. **Appendix B** includes a table of relevant legislation introduced in the 114th Congress.

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The Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) expanded insurance coverage in the United States through its "shared responsibility" provisions: Employers either provide health coverage or face potential employer tax penalties; likewise, individuals purchase health coverage or face potential individual tax penalties.[1] The ACA does not require employers to provide health coverage, but it does impose employer penalties in the form of a monthly tax on employers that do not provide adequate and affordable health coverage to certain employees. This is known as the employer "shared responsibility" provision.

Since 2015, employers with at least 50 full-time equivalent (FTE) employees are subject to the employer shared responsibility provisions under Section 4980H of the Internal Revenue Code (IRC) as amended by the ACA. However, in 2015, employers with between 50 and 100 FTE employees were eligible for transition relief if certain criteria were met. (For details, see "Implementation and Transition Relief" below.)

This report describes the potential employer penalties as well as regulations to implement the ACA employer provisions. The regulations address insurance coverage requirements, methodologies for determining whether a worker is considered full time, provisions relating to seasonal workers and corporate franchises, and other reporting requirements.

For an economic analysis of the employer penalty and policy options to modify the penalty, see CRS Report R43181, *The Affordable Care Act and Small Business: Economic Issues*, by Sean Lowry and Jane G. Gravelle.

Employer Shared Responsibility Determinations

Applies to All Employers

The ACA employer shared responsibility provisions apply to all common law employers, including government entities (such as federal, state, local, or Indian tribal government entities) and nonprofit organizations that are exempt from federal income taxes.

Potential Employer Penalty Requirements

The potential employer penalty does not explicitly require that employers offer their employees acceptable health coverage. However, it does impose penalties on certain firms with at least 50 FTE employees if one or more of their full-time employees obtains a premium tax credit through the newly established health insurance exchanges.[2] An individual may be eligible for a premium tax credit if his or her income is between certain thresholds and the individual's employer does not offer health coverage or offers insurance that is "not affordable" or does not provide "minimum value," as defined by the ACA. As shown in **Figure 1**, determining the potential exposure to the employer penalty is a multi-stage process.

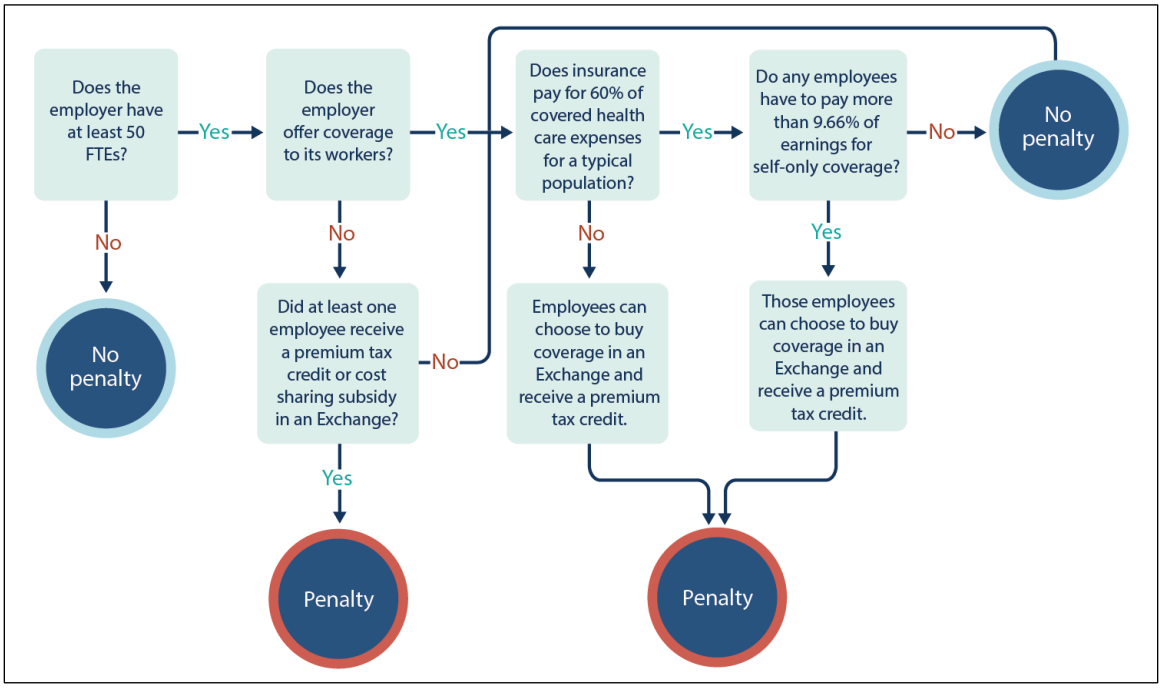
- First, the firm must be a large employer with at least 50 FTEs to be potentially subject to the penalty.

[1] For information on the individual shared responsibility provisions, see CRS Report R41331, *Individual Mandate Under the ACA*, by Annie L. Mach.

[2] For more information about exchanges under the Affordable Care Act (ACA), see CRS Report R44065, *Overview of Health Insurance Exchanges*, coordinated by Namrata K. Uberoi . For more information on premium credits in particular, CRS Report R44425, *Health Insurance Premium Tax Credits and Cost-Sharing Subsidies*, by Bernadette Fernandez.

- Second, only workers who are considered to be full-time (generally, averaging 30 hours or more per week) may trigger the penalty.
- Third, the actual calculation of the penalty will depend upon whether the employer currently provides health coverage to its full-time employees, if the coverage is considered adequate and affordable as defined by the ACA, and the number of full-time employees.

Figure 1. Determining If an Employer Is Subject to Shared Responsibility (Penalty) Provisions in 2016



Source: Congressional Research Service (CRS) analysis of P.L. 111-148 and P.L. 111-152.

Large Employers, Shared Responsibility Provisions, and Potential Penalty Determinations

Only large employers may be subject to penalties regarding employer-sponsored health insurance. The ACA defines a *large employer* as one who employed an average of at least 50 FTEs on business days during the preceding calendar year.[3]

[3] Internal Revenue Code (IRC) §4980H(c)(2), as amended by §1513 and §10106 of the ACA, and as amended and renumbered by §1003 of P.L. 111-152. The statute uses the term *full-time employee* in the definition of large employer but then expands on the definition of *large employer* to include both full- and part-time workers. For employers not in existence throughout the preceding calendar year, the determination of whether an employer is large is based on the average number of employees a firm reasonably expected to be employed on business days in the current calendar year. Any reference to an employer includes a reference to any predecessor of that employer.

Large Employer Status: Determined by Full-Time Equivalent Calculation

As depicted in **Figure 1**, to determine whether an employer is a large employer, the hours worked by both full-time and part-time employees must be calculated. *Full-time* is defined as having worked on average at least 30 hours per week.[4] Hours worked by part-time employees (i.e., those working less than 30 hours per week) are converted into FTEs and are included in the calculation. In general, hours worked by seasonal employees are also included in this calculation. Overall hours worked by part-time employees during a month are added up, and the total is divided by 120 and added to the number of full-time employees to get the number of FTE workers.[5] This calculation determines only whether an employer is considered large for purposes of potentially being subject to a penalty.[6] The actual penalty is applicable solely to health coverage status of full-time workers and is discussed in the "How to Determine an Employee's Full-Time Status" section of this report.

Example: Full-Time Equivalent Calculation

A firm has 35 full-time employees (averaging 30 or more hours per week, or 120 hours per month). In addition, the firm has 20 part-time employees who each work 24 hours per week (96 hours per month). Because of the hours worked, these part-time employees would be treated as equivalent to 16 full-time employees for the month based on the following calculation:

20 part-time employees x 96 hours = 1,920 total hours worked by part-time employees

1,920 ÷ 120 = 16 FTEs

The 16 FTEs added to the 35 full-time employees will result in the firm being considered a "large" employer based on the number of part-time hours worked:

16 FTEs + 35 full-time employees = 51 FTEs

Because 51 > 50, the employer is considered to be a large employer under the ACA employer penalty provisions.

The process to determine the underlying employer may be a complicated determination. Owners or part-owners in multiple businesses must follow Internal Revenue Service (IRS) aggregation rules. Firms that use independent contractors must follow IRS rules for determining whether the contractor is an employee. Firms that contract with a temporary staffing agency must determine which entity is the employer (i.e., the firm or the staffing agency) for ACA purposes. Finally, businesses that hire seasonal workers have special rules on how to count hours worked by seasonal employees.[7]

Employers Such as Franchise Owners or Multiple Business Owners

The ACA large-employer calculation requires that an employer of multiple entities (such as a franchise owner with several restaurants) must follow the IRS aggregation rules governing

[4] IRC §4980H(c)(4).

[5] Section 4980H(c)(2)(E) specifies that for purposes of determining full-time equivalents (FTEs), the aggregate number of hours of service of employees who are not full-time employees for the month is divided by 120 to get an FTE. However, for purposess of determining who is a full-time worker for the assessment of the actual penalty, proposed regulations released on December 28, 2012, would treat 130 hours of service in a calendar month as the monthly equivalent of 30 hours of service per week (52 x 30). Thus, a worker who worked 130 hours a month would be considered full-time for purposes of the penalty payment.

[6] For information on a potential impact of the ACA provisions on smaller (but potentially determined to be large for the purpose of the ACA) businesses, see CRS Report R43181, *The Affordable Care Act and Small Business: Economic Issues*, by Sean Lowry and Jane G. Gravelle.

[7] IRC §4980H(c)(2)(B). An employer will not be considered a large employer if its number of FTEs exceeds 50 for 120 days or less and it is solely the seasonal workers who push the employer into the large employer designation.

controlled groups.[8] Specifically, if one individual or entity owns (or has a substantial ownership interest in) several franchises, all those franchises are essentially considered one entity. In this case, for purposes of the 50-FTE rule, the employees in each of the franchises must be added together to determine the number of FTEs.

Independent Contractors

The ACA definition of an employer is based on the common law standard in which a worker is considered to be an employee if the worker is subject to the will and control of the employer not only as to what shall be done but how it shall be done. The potential employer penalty applies to all common law employers, including government entities (such as federal, state, local, or Indian tribal government entities) and nonprofit organizations that are exempt from federal income taxes.

An independent contractor is a worker who controls what will be done and how it will be done and for whom the contract dictates the desired result of the work. The IRS provides further guidance on the distinction between employees and independent contractors.[9] An independent contractor would not be considered an employee for the purposes of the employer penalty calculation.

Temporary Staffing Firm Workers

In general, the employer of a temporary agency worker is the employing agency rather than the firm that has contracted with the agency to provide workers on a temporary basis.[10]

Calculating Large Employer Status When the Firm Employs Workers Covered by TRICARE or Veterans Assistance

Hours worked by individuals receiving care under the TRICARE program, or individuals enrolled and receiving coverage through certain Department of Veterans Affairs[11] health care programs, are excluded from calculations to determine if an employer is large.[12]

Calculating Large Employer Status When the Firm Employs Seasonal Workers

When determining whether a firm meets the ACA definition of an applicable large employer, the hours worked by seasonal employees[13] may be treated differently if (1) an employer would be

[8] The controlled group rule applies under §414(b), (c), (m), or (o) of the IRC and includes employees of partnerships, proprietorships, etc., which are under common control by one owner or a group of owners.

[9] See http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-Self-Employed-or-Employee. When in doubt, a business should file an IRS form SS-8 "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding," available at http://www.irs.gov/pub/irs-pdf/fss8.pdf.

[10] For details, see the discussion of "temporary staffing firms" within the *Internal Revenue Service Bulletin* 2014-9, February 24, 2014, http://www.irs.gov/irb/2014-9_IRB/ar05.html.

[11] These are the health care programs under Chapters 17 and 18 of 38 U.S.C.

[12] Section 4007 of P.L. 114-41. For information on TRICARE, see CRS Report RL33537, *Military Medical Care: Questions and Answers*, by Don J. Jansen. For information on health coverage provided by the Department of Veterans Affairs, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*, by Sidath Viranga Panangala.

[13] An employee may be a seasonal employee if the employee is hired into a position for which the customary annual employment is six months or less and the period of employment begins each calendar year in approximately the same part of the year (e.g., summer or winter).

considered a large employer for fewer than 120 days, and (2) for those days the hours worked by seasonal employees are what push the employer's FTE calculation above 50 FTEs.

If these two conditions are met, the employer may exclude the hours worked by seasonal employees and thus would not be considered a large employer. Otherwise, all hours by all employees (including seasonal workers) are applied to determine large-employer status.

Potential Penalties on Large Employers

Regardless of whether a large employer offers coverage, it will be potentially liable for a shared responsibility tax (penalty) *only if* at least one of its full-time employees obtains coverage through an exchange and receives a premium tax credit. For purposes of determining the penalty, a full-time employee includes only those individuals working on average 30 hours or more per week. As shown in **Figure 1**, part-time workers are *not* included in the penalty calculations (even though they are included in the determination of a "large employer"). An employer will *not* pay a penalty for any part-time worker even if that part-time employee receives a premium credit. As discussed under implementation issues below, employers are not likely to pay a penalty based upon seasonal workers receiving a premium credit if they work less than 30 hours on average over a pre-specified time period (up to 12 months).

Large Employers Determined to Not Offer Health Coverage

A large employer that does not offer health coverage will be subject to the ACA employer penalty only if any of its full-time employees obtain coverage through an exchange and receive a premium tax credit.[14]

In 2016, the *monthly* penalty assessed to an employer that does not offer coverage is equal to the number of its full-time employees minus 30 multiplied by one-twelfth of $2,160 for any applicable month. That penalty is indexed by a premium adjustment percentage for each calendar year.[15]

[14] Individuals who are not offered employer-sponsored coverage and who are not eligible for Medicaid or other programs may be eligible for premium tax credits for coverage through an exchange. Eligible individuals will generally have income of at least 100% and up to 400% of the federal poverty level. For details, see CRS Report R44425, *Health Insurance Premium Tax Credits and Cost-Sharing Subsidies*, by Bernadette Fernandez.

[15] The premium adjustment percentage is the national average premium growth rate (IRC §4980H(c)(5) and ACA §1302(c)(4)). The adjustments for 2015 and 2016 were published in *Internal Revenue Service Bulletin* 2015-87, p. 20 at https://www.irs.gov/pub/irs-drop/n-15-87.pdf.

Example 1: Calculating an Employer Penalty When the Employer Does Not Offer Health Coverage in 2016

A large employer of 200 FTEs (of which 120 are full-time employees) does not offer adequate health coverage to at least 95% of its full-time employees. At least one full-time employee receives a premium subsidy.

In 2016, the monthly employer penalty would be calculated as:

1/12 x (number of full-time employees less 30) x $2,160 = monthly penalty

1/12 x (120 - 30) x $2,160 = $16,200.

Large Employers Determined to Offer Health Coverage

Large employers that offer health coverage may face a penalty if the employer's coverage fails to meet one of two criteria:

1. Affordability—The individual's required contribution toward the plan premium for self-only coverage cannot exceed 9.66% of his/her household income in 2016.
2. Adequacy—The health plan must pay for at least 60%, on average, of covered health care expenses to be considered adequate.

Employers that offer unaffordable or inadequate health insurance coverage do *not* meet the employer requirements if at least one full-time employee declines the coverage and obtains a premium credit in an exchange plan.

The penalty amounts are indexed by a premium adjustment percentage for each subsequent calendar year.[16] In 2016, the penalty payment amount is the lesser of

- the number of full-time employees *who receive a premium credit* multiplied by one-twelfth of $3,240 for any applicable month, or
- the *total* number of the firm's full-time employees minus 30, multiplied by one-twelfth of $2,160 for any applicable month.

Example 2: Calculating an Employer Penalty When the Employer Offers Health Coverage in 2016

A large employer of 200 FTEs (of which 120 are full-time employees) offers adequate (but perhaps not affordable to some employees) health coverage to at least 95% of its full-time employees. In one month, 77 of the employer's full-time employees received a subsidy.

The monthly employer penalty in 2016 would be calculated as the lesser of

1/12 x (number of full-time employees receiving subsidy) x $3,240=$20,790
or
1/12 x (number of full-time employees less 30) x $2,160= $16,200

Since $20,790 > $16,200,
the monthly employer penalty would be $16,200.

[16] Ibid.

How to Determine an Employee's Full-Time Status

As discussed above, the total ACA employer penalty is based on the number of full-time employees. The ACA specified that working 30 hours or more per week is considered full-time. However, the statute did not specify what time period (i.e., monthly or annually) employers would use to determine if a worker is full-time. The ACA directed the Department of Health and Human Services and the Department of Labor to provide regulatory guidance to employers for determining their employees' full-time status.[17]

As a result, 130 hours of service in a calendar month is treated as the monthly equivalent of at least 30 hours of service per week, and this 130 hours of service monthly equivalency applies for both the look-back measurement method and the monthly measurement method for determining full-time employee status.

Full-Time Work and Full-Time Equivalency: Federal Law, Statistics, and the ACA Definitions

In federal law, there is no universal standard for full-time work. In certain targeted situations (such as a tax credit), federal law might rely upon the employer's definition to determine full-time status, or the law may use a full-time equivalency calculation based upon a standard of 2,080 hours per year (which assumes 52 weeks per year with an average of 40 hours each week).

Some federal statistics (such as the Current Population Survey) classify individuals who work fewer than 35 hours per week to be part-time workers. In other federal statistics (such as the National Compensation Survey), full-time or part-time status is not determined by the number of hours worked but is based instead on the establishment's definition of those terms.

Some individuals have suggested that the overtime wage requirements of the Fair Labor Standards Act (FLSA) would be a good reason to define full-time employment as 40 hours per week. The FLSA does not define full-time employment; rather, it sets the conditions (which include working over 40 hours) that would require an employer to pay an employee 1.5 times the hourly wage.[18]

The ACA includes a precise measure of full-time employment in 26 U.S.C. §4980H(c)(4), in which it defines a full-time employee as an employee who averages at least 30 hours per week during a month. The FTE calculation for purposes of determining "large" employer status generally parallels this definition; work hours of all variable hour workers are summed then divided by 120 to determine a monthly FTE.[19] The Congressional Research Service searched the *Congressional Record* for any statement of intent in the ACA for defining 30 hours or more as full-time for the employer penalty calculation and did not find any direct statement explaining congressional intent.

Elsewhere within the ACA (26 U.S. Code §45R), the small employer health insurance credit uses a different calculation for full-time work. The calculation of FTEs for determining if the employer is eligible for the credit is based upon 2,080 hours per year (or approximately 40 hours per week).

IRS Notice 2014-9 describes methods that an employer may use to determine which employees are considered full-time employees for purposes of administering the ACA employer penalty provision.[20] There are three distinct periods in the determination process:

1. The *measurement* period is the number of months when an employer calculates the total number of hours worked by the employee to determine whether the employee must be considered full-time under the ACA.

[17] IRC §4980H(c)(4)(B).

[18] For more information on the Fair Labor Standards Act (FLSA), see CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, by David H. Bradley, Benjamin Collins, and Sarah A. Donovan.

[19] For information on the potential impact of changing the ACA's definition of FTE in the employer size calculation, see CRS In Focus IF10039, *Proposals to Change the ACA's Definition of "Full Time"*, by Sean Lowry and Jane G. Gravelle.

[20] See *Internal Revenue Service Bulletin* 2014-9, at http://www.irs.gov/irb/2014-9_IRB/ar05.html.

2. The *administrative* period is the amount of time an employer may take to identify and enroll full-time employees into the health care coverage.
3. The *stability* period is the amount of time an employer is required to treat all employees who were determined to be full-time during the measurement period as full-time under the ACA. An employer may be subject to an ACA penalty during this stability period if those designated as full-time employees (from the hours worked during the measurement period) qualify for a health coverage subsidy during this period (regardless of hours worked during the stability period).

The IRS notice then allows the employer to choose different methods of determining the measurement, administrative, and stability periods for three groups of workers:

- ongoing employees;
- new employees who are reasonably expected to work full-time; and
- new employees who work variable hours or seasonal jobs.

Table 1. Time Frame for Determining Full-Time Status

	Measurement Period	Administrative Period	Stability Period
Definition	Measure (on average) whether employees are full time	Identify and enroll full-time employees	Penalty may be due relative to employees found to be full time during measurement period
Ongoing employees	3 to 12 months[a]	Up to 90 days (may neither reduce nor lengthen the measurement or stability period—can overlap prior stability period)	At least 6 months but cannot be shorter in duration than measurement period
New employees hired as full-time	Not applicable	Up to 90 days to enroll	Not applicable
New variable hour and seasonal employees	3 to 12 months[b]	Up to 90 days (measurement period and administrative period cannot exceed 13 months)[c]	3 to 12 months but cannot be longer than measurement period

Source: The Congressional Research Service (CRS) interpretation of Internal Revenue Service (IRS) Notice 2014-9, at http://www.irs.gov/irb/2014-9_IRB/ar05.html.

a. For ongoing employees, this is referred to as the *standard* measurement period.

b. For new employees, this is referred to as the *initial* measurement period.

c. The initial measurement and administrative period cannot last beyond the final day of the first calendar month beginning on or after the first anniversary of the employee's hiring (approximately 13 months).

Ongoing Employees

An ongoing employee is an employee who has been employed for at least one complete standard measurement period. This is a defined period of between 3 and 12 consecutive months. (See the transition relief subsection "Measurement Period" for an alternative measurement for 2015 only.)

An employer determines each ongoing employee's status by looking back at the standard measurement period. The employer has the flexibility to determine the months when the standard measurement period starts and ends, provided that the determination is made on a uniform and consistent basis for all employees in the same category. During a measurement period, the employer determines if the employee worked on average at least 30 hours per week per month.

If the employer determines that an employee averaged at least 30 hours per week, then the employer treats the employee as a full-time employee during a subsequent stability period regardless of the number of hours the employee works during the stability period—so long as he or she remains an employee.[21] An employer can be subject to a penalty only during the stability period.[22]

Employers may create different measurement and stability periods for the following categories of ongoing employees:

- collectively bargained and non-collectively bargained employees,
- salaried and hourly employees,
- employees of different entities (i.e., controlled groups), and
- employees located in different states.

Employers may opt to use an administrative period (between the measurement and stability periods) to determine which ongoing employees are eligible for coverage and to notify and enroll employees in health care plans.[23]

New Employees Reasonably Expected to Work Full-Time

If an employee is reasonably expected at his or her start date to work full-time, an employer must either offer affordable health coverage within three calendar months of the worker's start date or face a potential shared responsibility penalty.

Full-Time Status Determination of Variable Hour Work and Seasonal Workers

Variable Hour Employees

The regulations provide that a new employee is a variable hour employee if it cannot be determined that the employee is reasonably expected to be employed on average at least 30 hours per week. In some cases, variable hour employees might not work the necessary 30 hours on average over a specified time period (up to 12 months) to be considered full-time.

A new employee who is expected to be employed initially at least 30 hours per week may be a variable hour employee as long as the period of employment at more than 30 hours per week is reasonably expected to be of limited duration.

[21] A stability period must be at least six consecutive calendar months and may not be shorter than the standard measurement period designated by the employer.

[22] This would require that the employer had at least one full-time employee who entered the exchange and received a premium tax credit and any health insurance coverage offered was not adequate or affordable.

[23] Any administrative period between the standard measurement period and stability period may neither reduce nor lengthen the measurement period or stability period. The administrative period following the standard measurement period may last up to 90 days, and it overlaps with the prior stability period to prevent any gaps in coverage.

Seasonal Workers

In general, under the ACA an employee may be a seasonal employee if the employee is hired into a position for which the customary annual employment is six months or less and the period of employment begins each calendar year in approximately the same part of the year (e.g., summer or winter). The ACA treats seasonal employees' work hours differently when determining large employer status (where all hours done by seasonal workers are included in the calculation except as described in the "Calculating Large Employer Status When the Firm Employs Seasonal Workers" section) and for calculating an employee's full-time worker status.

Determining Full-Time Worker Status for Seasonal Workers

When determining the number of full-time employees for purposes of applying the employer penalty, the final regulations allow employers to employ a look-back measurement period of up to 12 months for determining if seasonal employees are full-time employees. The ability of employers to use a 12-month measurement period for seasonal employees (who by definition work usually fewer than six months per year at the job) effectively allows most firms to exclude seasonal workers as full-time workers even if their hours were used in calculating the employer's size.

Full-Time Status Determination of Adjunct Faculty, Employees with Layover Hours or On-Call Hours, Employees with Difficult to Identify or Track Hours

The Treasury Department and the IRS continue to consider additional rules for determining hours of service for purposes of Section 4980H regarding certain categories of employees. The IRS guidance requires employers to determine full-time status for adjunct faculty, employees with layover hours (including the airline industry), and employees with on-call hours to use a "reasonable method" of crediting hours of service that is consistent with Section 4980H of the IRC.

The guidance states that it would not be reasonable for an employer to not credit an employee with an hour of service for any on-call hour if

- the employer pays the employee for that hour,
- the employee is required to remain on-call on the employer's premises, or
- the employee's activities while remaining on-call are subject to substantial restrictions that prevent the employee from using the time effectively for the employee's own purposes.

In addition, employers of other employees whose hours of service are particularly challenging to identify or track or for whom the final regulations' general rules for determining hours of service present special difficulties (e.g., commissioned sales) are also required to use a "reasonable method" of crediting hours.

Exclusions from Definition of Hour of Service: Volunteers, Student Workers in Certain Types of Employment, and Members of Religious Orders

Volunteers (Including Some Volunteer Firefighters)

The hours of service performed in certain capacities do not count as an hour of service for determining either employer size or full-time status. In particular, the hours worked by unpaid volunteers and certain nominally compensated volunteers (including some volunteer firefighters)[24] are excluded from ACA calculations.

Student Workers

The hours worked by students in positions subsidized through the federal work study program (or equivalent) are excluded from ACA calculations. However, the final regulations do not expand this exclusion into a general exception for all student employees. All hours of service for which a student employee of an educational organization (or of an outside employer) is paid or entitled to payment in a capacity other than through the federal work study program (or equivalent) are required to be counted as hours of service for Section 4980H purposes.

Religious Orders

The Treasury Department and the IRS continue to consider additional rules for determining hours of service for purposes of Section 4980H of the IRC regarding hours worked by members of religious orders. Until further guidance is issued, a religious order is permitted, for purposes of determining whether an employee is a full-time employee under Section 4980H, to not count as an hour of service any work performed by an individual who is subject to a vow of poverty as a member of that order when the work is in the performance of tasks usually required (and to the extent usually required) of an active member of the order.

Health Insurance Coverage Requirements for Employer Plans

To fulfill the shared responsibility requirements, employers must provide health insurance coverage that is both affordable and adequate to full-time employees and their dependents.

[24] The final regulations provide that hours of service do not include hours worked as a "bona fide volunteer." For this purpose, "bona fide volunteer" is generally defined in accordance with §457(e)(11)(B)(i) of the IRC, which provides special rules for length-of-service awards offered to certain volunteer firefighters and emergency medical providers under a municipal deferred compensation plan. For purposes of §4980H, however, bona fide volunteers include any volunteer who is an employee of a government entity or an organization described in §501(c) that is exempt from taxation under §501(a) whose only compensation from that entity or organization is in the form of (1) reimbursement for (or reasonable allowance for) reasonable expenses incurred in the performance of services by volunteers, or (2) reasonable benefits (including length of service awards), and nominal fees, customarily paid by similar entities in connection with the performance of services by volunteers.

Dependent Coverage: Children Under 26 but Not Spouse

For purposes of the provision, the term *dependent* means a child under 26 years old of an employee.[25] Absent knowledge to the contrary, applicable large employers may rely on an employee's representation about that employee's children and their ages. The term *dependent* does not include the spouse of an employee.

Affordable Coverage

Employer coverage is deemed affordable if the employee's portion of the self-only premium for the employer's lowest-cost health coverage plan does not exceed 9.66% of *the employee's W-2 wages*.[26]

How Could an Employee's Household Income Be Less Than Wages?

An employee's household income may be less than the employee's W-2 wages because of adjustments to gross income for items such as alimony paid or losses due to self-employment. The employer may rely on an employee's W-2 wages for analyzing the affordability of health coverage with respect to that employee. This safe harbor, however, does not affect an employee's eligibility for a premium credit, which would continue to be based on the affordability of employer-sponsored coverage relative to an employee's household income.

Affordability and Family Health Insurance Coverage: The "Family Glitch"

Affordability is determined at an individual level. The definition of affordable—for both an individual employee and a family—is based only on the cost of individual-only coverage and does not take into consideration the often significantly higher cost of a family plan.

Adequate Coverage (Minimum Value)

Under the ACA, a plan is considered to provide adequate coverage (also called minimum value) if the plan's actuarial value (i.e., share of the total allowed costs that the plan is expected to cover) is at least 60%.[27]

The actuarial value calculation for determining minimum value includes the *employer* contributions to health savings accounts and health reimbursement accounts that are part of a high deductible health plan.

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[25] For more information about dependent coverage under ACA, see out-of-print CRS Report R42069, *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA)*, available to congressional clients upon request.

[26] Although the determination of whether an employer met the safe-harbor provision would be made after the end of the calendar year, an employer could also use the safe harbor prospectively, at the beginning of the year, by structuring its plan and operations to set the employee contribution at a level so that the employee contribution for each employee would not exceed 9.66% of the employee's W-2 wages for that year. In IRS Notice 2015-87, the IRS stated its intention to amend regulations to allow safe harbors to reflect the adjustment consistent with Section 36(b)(3)(A)(ii) of the IRC.

[27] Actuarial value is a summary measure of a plan's generosity, expressed as a percentage of medical expense estimated to be paid by the issuer for a standard population and set of allowed charges. Actuarial value reflects the relative share of cost-sharing that may be imposed. On average, the higher the actuarial value of a plan, the lower the cost-sharing for the enrollee. Actuarial value does not consider the cost of premiums and the adequacy of provider networks. Plans with the same actuarial value do not necessarily include the same set of covered benefits.

Implementation and Transition Relief Through 2015

The ACA, as written, required that the employer shared responsibilities begin to be implemented in 2014. However, the IRS delayed the employer mandate implementation until 2015.[28] There were up to three forms of transition relief available for employers in 2015.[29] First, large employer status determination was allowed to have a measurement period as short as six consecutive months. Second, there was an additional year to expand the 2015 health plans to include dependent coverage. Finally, for employers with fewer than 100 FTEs, the ACA employer penalty did not apply in 2015. (For details see the following section "Employers with Fewer Than 100 FTEs.")

In addition, there were similar delays in the employer reporting requirements for 2014. Beginning in 2015, a large employer must file a return with the IRS reporting certain information about the health care coverage the employer offered to each full-time employee (or alternatively, that the employer did not offer health care coverage to that employee).[30] Additionally, large employers must furnish a similar statement to each full-time employee by January 31 of the following calendar year.[31] (See **Appendix A** for details.)

Measurement Period

In 2015, rather than being required to use the full 12 months of 2014 to measure whether an employer has 50 FTEs, an employer was allowed to measure any consecutive six-month period during 2014.

Dependent Coverage

An employer that took steps toward offering dependent health coverage in 2015 was not subject to the ACA employer penalty solely on account of a failure to offer coverage to dependents for that plan year. This transition relief applied to health plans offered by an employer if dependent coverage is not offered, is not adequate, or is offered for some but not all dependents.

Employers could qualify for the dependent coverage transition relief only for those dependents who were without an offer of coverage from the employer in both the 2013 and 2014 plan years and if the employer had taken steps in either the 2014 or 2015 plan year (or both) to extend coverage to dependents not offered coverage in 2013 or 2014.

[28] See Internal Revenue Service (IRS), Transition Relief for 2014 Under §§6055 (§6055 Information Reporting), 6056 (§6056 Information Reporting) and 4980H (Employer Shared Responsibility Provisions), Internal Revenue Bulletin: 2013-31, June 29, 2013, at http://www.irs.gov/irb/2013-31_IRB/ar08.html.

[29] See IRS, "26 CFR Parts 1, 54, and 301, Shared Responsibility for Employers," 79 *Federal Register* 8544-8601, February 12, 2014. For details on transition relief for 2014 and 2015, see IRS, "Questions and Answers on Employer Shared Responsibility Provisions Under the Affordable Care Act," http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act#Transition.

[30] Section 6056 of the IRC. See https://www.federalregister.gov/articles/2014/03/10/2014-05050/information-reporting-by-applicable-large-employers-on-health-insurance-coverage-offered-under.

[31] Section 6051(a)(14) of the IRC. See http://www.irs.gov/Affordable-Care-Act/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage.

Employers with Fewer Than 100 FTEs

For employers with fewer than 100 FTEs in 2014, the ACA employer penalty did not apply for any calendar month during the 2015 plan year, including the months during the plan year that fell in 2015. This transition relief applied only if the workforce size was fewer than 100 FTEs, the employer had not reduced its workforce size to qualify for relief, and the employer maintained health care coverage in 2015 that had been offered in 2014.

Limited Workforce Size

The employer must have employed on average at least 50 FTEs but fewer than 100 FTEs on business days during 2014 in order to qualify for transition relief. The number of full-time employees (including FTEs) was determined in accordance with the otherwise applicable rules in the final regulations for determining status as an applicable large employer.

Maintenance of Workforce and Aggregate Hours of Service

The employer could not reduce the size of its workforce or the overall hours of service of its employees in order to qualify for the transition relief. However, an employer that reduced workforce size or overall hours of service for bona fide business reasons was still eligible for the relief.

Maintenance of Previously Offered Health Coverage

The employer could not eliminate or materially reduce the health coverage, if any, it offered as of February 9, 2014, in order to qualify for transition relief. The maintenance requirement must have been met for the period beginning on February 9, 2014, and ending on December 31, 2015. (Employers with non-calendar-year plans must have met the maintenance requirement through the last day of the 2015 plan year.)

An employer was not treated as eliminating or materially reducing health coverage if any of these conditions were met:

- It continued to offer each employee who was eligible for coverage an employer contribution toward the cost of employee-only coverage that either (1) was at least 95% of the dollar amount of the contribution toward such coverage that the employer was offering on February 9, 2014, or (2) was at least the same percentage of the cost of coverage that the employer was offering to contribute toward coverage on February 9, 2014;
- In the event of a change in benefits under the employee-only coverage offered, that coverage provided minimum value after the change; and
- It did not alter the terms of its group health plans to narrow or reduce the class or classes of employees (or the employees' dependents) to whom coverage under those plans was offered on February 9, 2014.

Appendix A. Employer Reporting and Other Requirements

Under Section 6056 of the IRC, a large employer must file a return with the IRS reporting certain information about the health care coverage the employer offered to each full-time employee (or alternatively, that the employer did not offer health care coverage to that employee).[32] In addition, Section 6051(a)(14) of the IRC requires that large employers must furnish a similar statement to each full-time employee by January 31 of the following calendar year.[33]

In summary, large employers must provide the following information to their full-time employees:[34]

- the existence of an exchange, including services and contact information;
- the employee's potential eligibility for premium credits and cost-sharing subsidies if the employer plan's share of covered health care expenses is less than 60%; and
- the employee's potential loss of any employer contribution if the employee purchases a plan through an exchange.

Large employers must provide the following to the IRS:

- a return including the name, address, and employer identification number;
- a certification as to whether the employer offers its full-time employees (and dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan;
- the length of any waiting period;
- months coverage was available;
- monthly premiums for the lowest-cost option;
- the employer plan's share of covered health care expenses;
- the number of full-time employees;
- the name, address, and tax identification number of each full-time employee; and
- information about the plan for which the employer pays the largest portion of the costs (and the amount for each enrollment category).

In addition, the employer must also provide each full-time employee the following:

- a written statement showing contact information for the person required to make the above IRS return and the specific information included in the W-2 return for that individual.[35]

[32] See https://www.federalregister.gov/articles/2014/03/10/2014-05050/information-reporting-by-applicable-large-employers-on-health-insurance-coverage-offered-under.

[33] See http://www.irs.gov/Affordable-Care-Act/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage.

[34] For model coverage notices see http://www.dol.gov/ebsa/healthreform/regulations/coverageoptionsnotice.html.

[35] For a detailed example see http://www.irs.gov/Affordable-Care-Act/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage.

On November 2, 2015, P.L. 114-74, the Bipartisan Budget Act of 2015, repealed the automatic enrollment requirement in Section 18A of the Fair Labor Standards Act[36] (FLSA). This provision had been added by Section 1511 of the ACA. The automatic enrollment provision would have required an employer (covered under the FLSA) with more than 200 full-time employees to automatically enroll new full-time employees in one of the employer's health benefits plans and continue the enrollment of current employees. Additionally, employers would have had to provide adequate notice and the opportunity for employees to opt out of any automatically enrolled coverage.

[36] See CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, by David H. Bradley, Benjamin Collins, and Sarah A. Donovan.

Appendix B. Related Legislative Activity in the 114th Congress

In the 114th Congress, Section 4007 of P.L. 114-41 (the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, signed into law on July 31, 2015) created a new requirement that hours worked by individuals receiving care under the TRICARE program or individuals enrolled and receiving coverage through certain Department of Veterans Affairs' health care programs[37] are excluded from calculations to determine if an employer is large.[38]

In the 114th Congress, many bills have been introduced related to the employer mandate (including H.R. 3236, which was signed into law as P.L. 114-41, and H.R. 1314, which was signed into law as P.L. 114-74). See **Table B-1** for details.

Table B-1. Employer Mandate-Related Legislative Activity in the 114th Congress

Bill	Title	Summary[a]	Lead Sponsor
H.R. 22	Developing a Reliable and Innovative Vision for the Economy Act	This bill amends the Internal Revenue Code (IRC) to add a provision to exempt any employee with coverage under a health care program administered by the Department of Defense, including the TRICARE program, or by the Veterans Administration [sic], from classification as an eligible employee of an applicable large employer for purposes of the employer mandate under the Patient Protection and Affordable Care Act (ACA) to provide such employees with minimum essential health care coverage. (P.L. 114-41 contains similar language.)	Rep. Rodney Davis
H.R. 30	Save American Workers Act of 2015	This bill amends the IRC to change the definition of *full-time employee* for purposes of the employer mandate to provide minimum essential health care coverage under the ACA from an employee who is employed on average at least 30 hours of service a week to an employee who is employed on average at least 40 hours of service a week.	Rep. Todd Young
H.R. 210	Student Worker Exemption Act of 2015	Amends the IRC to exclude students who are employed by an institution of higher education (IHE) and carrying a full-time academic workload at the IHE from being counted as full-time employees in calculating the IHE's shared responsibility regarding health care coverage under the ACA.	Rep. Meadows
H.R. 248	American Job Protection Act	Amends the IRC to repeal provisions added by the ACA requiring certain employers who have a workforce of 50 or more full-time employees to provide health insurance coverage for their employees.	Rep. Boustany

[37] These are the health care programs under Chapters 17 or 18 of 38 U.S.C.

[38] For information on TRICARE, see, *Military Medical Care: Questions and Answers*, by Don J. Jansen. For information on health coverage provided by the Department of Veterans Affairs, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*, by Sidath Viranga Panangala.

Bill	Title	Summary[a]	Lead Sponsor
H.R. 440	Helping Individuals Regain Employment Act	Amends the IRC to exclude from the definition of "full-time employee," for purposes of the employer mandate to provide minimum essential health care coverage, any individual who is a long-term unemployed individual. Defines *long-term unemployed individual* as an individual who begins employment after enactment of this act and has been unemployed for 27 weeks or longer.	Rep. Boustany
H.R. 519	Healthcare Tax Relief and Mandate Repeal Act	"This bill amends the IRC to repeal the requirements added by the ACA that (1) individuals purchase and maintain minimum essential health care coverage, and (2) employers who have a workforce of 50 or more full-time employees provide health insurance coverage for their employees."	Rep. Turner
H.R. 543	Health Care Choice Act of 2015	"Repeals the health insurance and health coverage expansion requirements of the Patient Protection and Affordable Care Act and related requirements of the Health Care and Education Reconciliation Act of 2010 [including the employer mandate]. Restores provisions of law amended or repealed by those provisions."	Rep. Blackburn
H.R. 769	Safeguarding Classrooms Hurt by Obama Care's Obligatory Levies	Amends the IRC to exclude any elementary or secondary school, state or local educational agency, and institution of higher education from the definition of *applicable large employer* for purposes of the employer mandate to provide health care coverage for employees.	Rep. Messer
H.R. 863	Simplifying Technical Aspects Regarding Seasonality Act of 2015	Amends the IRC to exempt seasonal employees from the definition of *full-time employee* for purposes of the employer mandate to provide employees with minimum essential health care coverage. Defines *seasonal employee* as an employee who is employed in a position for which the customary annual employment is not more than six months and which requires performing labor or services that are ordinarily performed at certain seasons or periods of the year.	Rep. Renacci
H.R. 1200	American Health Security Act of 2015	"Repeals requirements of the Patient Protection and Affordable Care Act (PPACA) related to health insurance coverage, including requirements concerning state health insurance exchanges."	Rep. McDermott
H.R. 1387	Fairness for Farmers Act of 2015	Amends the IRC to exclude nonimmigrant agricultural seasonal workers from the definition of *full-time employee* for purposes of the employer mandate to provide employees with minimum essential health care coverage.	Rep. Ellmers
H.R. 1314 (P.L. 114-74)	Bipartisan Budget Act of 2015	Section 603 amends the Fair Labor Standards Act of 1938 to repeal the requirement, established under the ACA, for large employers offering health benefit plans to automatically enroll full-time employees in such a plan. A large employer is one that has more than 200 full-time employees.	Rep. Meehan

Bill	Title	Summary[a]	Lead Sponsor
H.R. 1624	Protecting Affordable Coverage for Employees Act	This bill amends the ACA and Public Health Service Act to include employers with 51 to 100 employees as large employers for purposes of health insurance markets. States have the option to treat these employers as small employers. Currently, employers with 51 to 100 employees are small employers, but before January 1, 2016, states have the option to treat them as large employers. (Under ACA, health insurance offered in the small group market must meet certain requirements that do not apply to the large group market, including the requirement to cover the essential health benefits.)	Rep. Guthrie
H.R. 2658	Protecting Volunteer Firefighters and Emergency Responders Act	This bill amends the IRC to exclude services rendered by bona-fide volunteers providing firefighting and prevention services, emergency medical services, or ambulance services to a state or local government or a tax-exempt charitable organization from the category of services usually rendered by an employee of an applicable large employer subject to the mandate to provide minimum essential health care coverage under the ACA, thus exempting such employers from ACA requirements with respect to such volunteers.	Rep. Barletta
H.R. 2881	Small Business Job Protection Act	Amends the IRC, as amended by the ACA, to redefine *applicable large employer*, for purposes of the mandate requiring employers to provide health insurance for their employees, to mean an employer with at least 100 full-time employees (currently, 50).	Rep. Messer
H.R. 3080	Tribal Employment and Jobs Protection Act	This bill amends the IRC to exclude from the definition of *applicable large employer* for purposes of the employer health care mandate under the ACA any tribal employer. Defines "tribal employer" as (1) any Indian tribal government or subdivision, (2) any tribal organization, or (3) any corporation or partnership if more than 50% of the equity interest of such an entity is owned by an Indian tribal government or tribal organization. An applicable large employer is defined by the ACA as an employer who employs 50 or more full-time employees who provide services on average at least 30 hours per week.	Rep. Noem
H.R. 3236 (P.L. 114-41)	Surface Transportation and Veterans Health Care Choice Improvement Act of 2015	Sec. 4007 amends the Internal Revenue Code to exclude individuals covered for medical care under TRICARE or the Department of Veterans Affairs from the determination of whether an employer is an applicable large employer with respect to employee enrollment in minimum essential health care coverage under an eligible employer-sponsored plan.	Rep Shuster
H.R. 3762	Restoring Americans' Healthcare Freedom Reconciliation Act of 2015	Provisions relating to the premium assistance tax credit, reduced cost-sharing, and eligibility determinations for these subsidies are repealed on December 31, 2017.	Rep. Price

Bill	Title	Summary[a]	Lead Sponsor
H.J.Res. 61	Hire More Heroes Act of 2015	This joint resolution amends the IRC to exempt any employee with coverage under a health care program administered by the Department of Defense, including the TRICARE program, or by the Veterans Administration from classification as an eligible employee of an applicable large employer for purposes of the employer mandate under the ACA to provide eligible employees with minimum essential health care coverage. (P.L. 114-41 contains similar language.)	Rep. Davis
S. 12	Hire More Heroes Act of 2015	This bill amends the IRC to add a provision to exempt any employee with coverage under a health care program administered by the Department of Defense, including the TRICARE program, or by the Department of Veterans Affairs, from classification as an eligible employee of an applicable large employer for purposes of the employer mandate under the ACA to provide such employees with minimum essential health care coverage. (P.L. 114-41 contains similar language.)	Sen. Blunt
S. 30	Forty Hours is Full Time Act of 2015	Amends the IRC, with respect to the employer mandate to provide health care coverage, to (1) modify the formula for calculating the number of full-time employees employed by an applicable large employer subject to the mandate; and (2) define a *full-time employee* as an employee who is employed on average at least 40 hours per week (currently, 30 hours).	Sen. Collins
S. 38	Helping Individuals Regain Employment Act	Amends the IRC to exclude from the definition of "full-time employee," for purposes of the employer mandate to provide minimum essential health care coverage, any individual who is a long-term unemployed individual. Defines *long-term unemployed individual* as an individual who begins employment after enactment of this act and has been unemployed for 27 weeks or longer.	Sen. Thune
S. 157	No Obamacare Mandate Act	"This bill repeals provisions of the Patient Protection and Affordable Care Act that impose: (1) an excise tax on medical devices, (2) a requirement that individuals obtain minimum essential health care coverage [i.e., individual mandate], and (3) a penalty on large employers who fail to offer health care coverage to their eligible employees."	Sen. Cassidy
S. 305	American Job Protection Act	Repeals provisions of the IRC, as added by the ACA, that (1) impose fines on large employers (employers with 50 or more full-time employees) who fail to offer their full-time employees the opportunity to enroll in minimum essential health insurance coverage, and (2) require large employers to file a report with the Department of the Treasury on health insurance coverage provided to their full-time employees. Applies the IRC as if those provisions had never been enacted.	Sen. Hatch

Bill	Title	Summary[a]	Lead Sponsor
S. 420	Protecting Volunteer Firefighters and Emergency Responders Act	This bill amends the IRC to exclude services rendered by bona-fide volunteers providing firefighting and prevention services, emergency medical services, or ambulance services to a state or local government or a tax-exempt charitable organization from the category of services usually rendered by an employee of an applicable large employer subject to the mandate to provide minimum essential health care coverage under ACA, thus exempting such employers from ACA requirements with respect to such volunteers.	Sen. Toomey
S. 432	Small Business Fairness in Health Care Act	Amends the IRC, as amended by the ACA, to (1) exempt a small business concern, as defined by the Small Business Act, from the ACA employer mandate to provide employees with minimum essential health care coverage; and (2) redefine *full-time employee*, for purposes of such mandate, as an employee who is employed on average at least 40 (currently, 30) hours a week.	Sen. Enzi
S. 470	Safeguarding Classrooms Hurt by ObamaCare's Obligatory Levies	Amends the IRC to exclude any elementary or secondary school, state or local educational agency, and institution of higher education from the definition of "applicable large employer" for purposes of the employer mandate to provide health care coverage for employees.	Sen. Thune
S. 647	Health Care Choice Act of 2015	Repeals the health insurance and health coverage expansion requirements of the ACA and related requirements of the Health Care and Education Reconciliation Act of 2010 (including the individual mandate). Restores provisions of law amended or repealed by those provisions.	Sen. Cruz
S. 1415	Small Business Stability Act	Amends the IRC to modify the definition of *applicable large employer*, for purposes of the mandate under the ACA to provide employees with minimum essential health care coverage, to mean an employer who employed an average of at least 101 (currently, 50) full-time employees during the preceding calendar year.	Sen. Heitkamp
S. 1771	Tribal Employment and Jobs Protection Act	This bill amends the IRC to exclude from the definition of *applicable large employer* for purposes of the employer health care mandate under the ACA (1) any Indian tribal government or subdivision, (2) any tribal organization, or (3) any corporation or partnership if more than 50% of the equity interest of such an entity is owned by an Indian tribal government or tribal organization. An applicable large employer is defined by the ACA as an employer who employs 50 or more full-time employees who provide services on average at least 30 hours per week.	Sen. Daines

Bill	Title	Summary[a]	Lead Sponsor
S. 1809	STARS Act	Amends the IRC to exempt seasonal employees from the definition of *full-time employee* for purposes of the employer mandate under ACA to provide employees with minimum essential health care coverage. Defines *seasonal employee* as an employee who is employed in a position for which the customary annual employment is not more than six months and which requires performing labor or services that are ordinarily performed at certain seasons or periods of the year.	Sen. Ayotte

Source: Congressional Research Service.

a. These summaries are taken from Congress.gov, and they only include information about the provisions in the bill related to the employer mandate.

Author Information

Julie M. Whittaker
Specialist in Income Security

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