

NRF Draft Comparison of Key Health Care Reform Concerns

Issue	House – Tri-Committee	HELP	Finance
<p>Pay-or-Play Mandate</p>	<ul style="list-style-type: none"> • Provide qualifying coverage and contribution or pay 8% of payroll penalty. Pro-rated penalty for part-time workers. • Employer must cover 72.5% of individual coverage and 65% of family coverage. • Failure to meet both coverage and contribution measures results in a fine of \$100 per employee per day. • Separate elections for full and part-time workers may be permissible. • Employer premium contribution follows employees who opt-out of employer plan after five years. • Small business carve-out to be determined. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> • Provide qualifying coverage and contribution or pay penalty per employee plus potential “free-rider” penalty. • Pro-rata share of penalty and possibly premium contributions for part-time employees. • Dependents covered until age 26. • Employers cannot define eligibility; federal length of service limitation will be set. • Small business carve-out to be set. • Or, a “Free-Rider” option. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> • Employers with more than 25 employees – offer minimum creditable coverage; contribute at least 50% of premium. No employee opt-out. Penalty of \$2,400 per employee for non-compliance. • Employers with more than 100 employees – offer HIPAA creditable coverage; contribute at least 50% of premium; no employee opt out. Penalty starts at 1% of payroll for firms with more than \$750,000 in annual payroll and scales up to a maximum of 11% for firms with \$10 million in annual payroll. • Employers with more than 200 employees – offer HIPAA creditable coverage; limited ability for employees in firms below 200 employees to opt-out if employee premium share exceeds 12.5% of base salary for single coverage. • Or, “Free-Rider” option.

Issue	House – Tri-Committee	HELP	Finance
Employer Lawsuit Liability for Adverse Plan Decisions	<ul style="list-style-type: none"> State-based lawsuits (e.g. Patients' Bill of Rights) against insurers and employers (group health plans) stemming from adverse plan decisions with potentially unlimited liability. 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None
Individual Mandate	<ul style="list-style-type: none"> Enforced through tax penalty. Must obtain acceptable coverage as of Jan. 1, 2013 to face a surtax of 2 percent of the excess of the taxpayer's AGI over the applicable threshold for the taxpayer. Tax is capped at the national average premium for self-only basic coverage through Exchange. Religious and hardship exemptions. 	<ul style="list-style-type: none"> Enforced through tax penalty. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Enforced through fine for non-compliance based on average cost of the lowest cost option. State option for auto enrollment. Mandatory auto enrollment for employers with more than 200 employees.
“Free-Rider”	<ul style="list-style-type: none"> None 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Large employers must pay percentage of Medicaid cost where employees are eligible and enrolled Non-offering employers must cover whole cost of Gateway coverage. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Employees can opt out of employer plan if their premium share exceeds 12.5% of income. If employee who opts out and is eligible for and enrolls in Medicaid, employer is responsible for 50% of the national average Medicaid cost.

Issue	House – Tri-Committee	HELP	Finance
Public Plan Option	<ul style="list-style-type: none"> Strong public plan option offered within Exchange. Medicare rates for first three years. 5% bonus for providers who participate in Medicare plus public option. 	<ul style="list-style-type: none"> Strong public plan option offered within Exchange. Medicare rates plus 10% Medicare providers must accept public option. 	<ul style="list-style-type: none"> If employee who opts out is eligible for and receives a subsidy inside the Exchange, employer is responsible for 100% of the subsidy amount.
ERISA	<ul style="list-style-type: none"> Preempts ERISA section 502 (remedies); preserves ERISA section 514 (preemption) – will lead to PBOR-style liability for insurers and group health plans. Must offer Qualified Health Benefit Plan (QHBP) with all benefit requirements and market rules or a Current Group Health Plan (CGHP) defined as a grandfathered plan. After five years, CGHP (including ERISA self-insured) must meet all QHBP requirements, including minimum benefits but not rating rules. 	<ul style="list-style-type: none"> Floor of 250 employees or more to self-fund under ERISA is apparently out, subject to full confirmation. Unclear if HELP bill will qualify self-insurance under ERISA for extent of benefit offering or employer contribution. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Range of options under consideration from strong public plan to public plan co-op.

Issue	House – Tri-Committee	HELP	Finance
Market Reform	<ul style="list-style-type: none"> For QBHP or fully insured plans, premium rates may only vary by age (2 to 1), geographic area and family structure. Pre-existing condition exclusions prohibited. Guaranteed issue and renewability of coverage. 	<ul style="list-style-type: none"> For fully insured group and individual coverage – premium rates may only vary by age (2 to 1), geographic area and family structure. Pre-existing condition exclusions prohibited. Guaranteed issue and renewability of coverage. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Applies to small group and individual market – adjusted community rating (7.5:1). No health status or preexisting condition limitations allowed. Guaranteed issue and renewability of coverage.
Exchange	<ul style="list-style-type: none"> National exchange with optional state-based exchanges. Subsidies only available through exchange. Size transition – year 1 (individuals and employers with 10 or fewer employees); year 2 add employers with 20 or fewer employees; year 3 add larger employers as allowed. Coverage levels – basic, enhanced, premium, premium-plus. Plans offering within exchange must build up from base levels of coverage in order to offer more generous packages. 	<ul style="list-style-type: none"> State-based exchange (Gateway) with federal fallback for individuals, qualified individuals and qualified employer groups. Subsidies only available through Gateway. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> State-based Exchange for individuals and small groups (SHOP Act) Subsidies available only through Exchange. Four benefit categories – matched to actuarial value to reflect plans currently available. Bronze (minimum creditable coverage) – 65%; Silver – 73%; Gold – 81%; Platinum – 90%.
Benefits	<ul style="list-style-type: none"> Essential benefits package covering broad range of medical, mental health, 	<ul style="list-style-type: none"> Essential benefits package covering broad range of medical, mental health, 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Benefits package covering broad range of medical,

Issue	House – Tri-Committee	HELP	Finance
	<p>prescription drug and rehabilitative services, among others.</p> <ul style="list-style-type: none"> • Set by Health Benefits Advisory Committee one year after enactment. • No cost-sharing for preventative services. • Annual limit on cost-sharing - \$5,000 for individual, \$10,000 for family. • Lifetime or annual limits prohibited. 	<p>prescription drug and rehabilitative services, among others.</p> <ul style="list-style-type: none"> • Set by Medicare Advisory Council – will determine benefits package, contribution and subsidy recommendations. • Lifetime or annual limits prohibited. 	<p>mental health, prescription drug and rehabilitative services, among other.</p>
Collective Bargaining Agreements		<ul style="list-style-type: none"> • Act does not apply until the later of termination of the agreement or one year. 	
Individual and Small Business Tax Credits	<ul style="list-style-type: none"> • Less complicated • Employers with 25 employees or less. • 50% tax credit for coverage costs. • Average employee compensation must be less than \$20,000. • Size-based phaseout for employers with more than 10 employees. • No credit allowed for highly compensated employees -- \$125,000 or more. 	<ul style="list-style-type: none"> • Complicated • Small businesses with 27 or fewer full time employees or self-employed individuals may be eligible for credits based on a complicated formula using a base credit amount times the number of full time eligible employees multiplied by a factor of .5 if coverage was offered under approved mechanisms the previous year or by 1.25 if the employer did not previously offer coverage. • The base credit is comprised 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> • Less complicated • Tax credits for individuals and families up to 300% of FPL. • Temporary small business tax credit for firms with fewer than 25 employees and with wages below \$40,000 until state Exchange is established

Issue	House – Tri-Committee	HELP	Finance
Regulation	<ul style="list-style-type: none"> Health Choices Administration created to coordinate national exchange and administer subsidies. 	<p>of a combination of factors, including average employer contribution in the state, the number of employees and the wage level of employees.</p> <ul style="list-style-type: none"> Medical Advisory Council created to determine benefit coverages, contribution and subsidy amounts. Findings may only be overturned by a joint resolution of Congress. 	
Other		<ul style="list-style-type: none"> Class Act – establishes voluntary program to provide individuals with functional limitations with cash assistance to allow them to maintain personal and financial independence. Five-year vesting for eligibility for benefits. Mandatory auto-enrollment through employers. Private long-term care insurance premiums allowed to be paid through Section 125 plans. 	
Current NRF Position	<ul style="list-style-type: none"> Opposed – would key vote against as written. 	<ul style="list-style-type: none"> Opposed – would key vote against as written. 	<ul style="list-style-type: none"> Concerned - awaiting further development of Committee options.