

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. 	<ul style="list-style-type: none"> • Employer must provide qualifying coverage and pay 60% of the premium cost for full and part-time employees or pay a penalty tax. • Maximum annual tax (prorated on a monthly basis) is \$750 per full-time employee and \$375 per part-time employee. • Firms with 25 or fewer employees are exempt. • Dependents covered until age 26. • Employers cannot define eligibility; federal length of service limitation will be set. 	<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.

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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"> 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.

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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"> HHS-based plan – a.k.a. Community Health Insurance Option. Strong public plan option offered within Exchange. Reimbursement capped at average local rate but could go lower. Ostensibly must play by same rules as private plans but will be backed by government for first three months of claims and receive protection against higher percentage of bad claims. 	<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 		<p>[Options under Consideration]</p> <ul style="list-style-type: none"> Range of options under public plan to public plan co-op.

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	<p>plan.</p> <ul style="list-style-type: none"> After five years, CGHP (including ERISA self-insured) must meet all QHBP requirements, including minimum benefits but not rating rules. 		
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 	<ul style="list-style-type: none"> State-based exchange (Gateway) with federal fall-back 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%.

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Benefits	<p>up from base levels of coverage in order to offer more generous packages.</p> <ul style="list-style-type: none"> • Essential benefits package covering broad range of medical, mental health, prescription drug and rehabilitative services, among others. • 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. 	<ul style="list-style-type: none"> • Essential benefits package covering broad range of medical, mental health, prescription drug and rehabilitative services, among others. • Set by Medicare Advisory Council – will determine benefits package, contribution and subsidy recommendations. • Lifetime or annual limits prohibited. 	<p>[Options under Consideration]</p> <ul style="list-style-type: none"> • Benefits package covering broad range of medical, mental health, prescription drug and rehabilitative services, among other.
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. 	<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 	<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

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	<ul style="list-style-type: none"> • Size-based phaseout for employers with more than 10 employees. • No credit allowed for highly compensated employees -- \$125,000 or more. 	<p>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.</p> <ul style="list-style-type: none"> • The base credit is comprised of a combination of factors, including average employer contribution in the state, the number of employees and the wage level of employees. 	state Exchange is established
Regulation	<ul style="list-style-type: none"> • Health Choices Administration created to coordinate national exchange and administer subsidies. 	<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. 	

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Current NRF Position	<ul style="list-style-type: none"> • Opposed – would key vote against as written. 	<ul style="list-style-type: none"> • Section 125 plans can pay for private long-term care insurance premiums. • Opposed – would key vote against as written. 	<ul style="list-style-type: none"> • Concerned - awaiting further development of Committee options.