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# Patient-Centered Amendments To H.R. 3200 Offered By RSC Members



The Republican Study Committee is known as a fountain of robust, forward-thinking ideas and bold action. Despite being shut out from crafting bipartisan health care reform, RSC Members are acting on their pledge to craft positive legislation and have introduced dozens of health care amendments to H.R. 3200 (the Democrats’ government-takeover-of-healthcare bill). This document summarizes each of those amendments. A total of 57 RSC-Member amendments were rejected by Democrats in the following committees.

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*This document is for informational purposes only and may not be exhaustive.  
The RSC does not necessarily endorse every amendment listed here.*

## **Amendments to H.R. 3200 Offered in the Committee on Ways and Means**

### **Preserve Private-Sector Health Care (Ryan, R-WI)**

**Summary:** This amendment would remove the government-run insurance option from H.R. 3200. The bill creates a new government-run health insurance plan option that can be obtained only in the new national health insurance exchange. There are myriad requirements for the government plan that are designed to give it an advantage over private insurance plans. For example, it will provide a relatively rich package of benefits, and use Medicare payment rates, which traditionally underpay health care providers for the true cost of their services. In doing so, it will undercut private plans, causing more people to select the lower cost government plan. Ultimately, tens of millions of enrollees will permit the government insurance plan to dominate the market for health insurance.

**Action:** The amendment was rejected by a vote of 25/15. A total of 25 Democrats voted no.

### **Ensure CER Is Not Used to Make Coverage Determinations on Basis of Cost (Herger, R-CA)**

**Summary:** This amendment would prohibit the use of Comparative Effectiveness Research (CER) to make coverage determinations on the basis of cost. H.R. 3200 creates a government center for CER to gauge the effectiveness of medical treatments, a commission of federal bureaucrats to set priorities, and a trust fund in the U.S. Treasury to support the program. Although it appears that the Center cannot use its research to mandate treatment options, there is no similar prohibition on whether other federal agencies and others, including group health plans, could use the research to make coverage and reimbursement decisions. The United Kingdom's government-run health care system uses CER to make coverage determinations based on cost, and has denied coverage of life saving cancer treatments on that basis. The initial discussion draft of the bill introduced in June stated: "In developing such recommendations, the [Health Benefits Advisory] Committee shall take into account innovation in health care and ensure that essential benefits coverage does not lead to rationing of health care." The new bill says: "In developing such recommendations, the Committee shall take into account innovation in health care and consider how such standards could reduce health disparities." Democrats actually removed what little language they had protecting Americans from the rationing of care.

**Action:** The amendment was rejected by a vote of 26/15. A total of 26 Democrat voted no.

### **Guarantee Wait Times Are Not Lengthened (Brady, R-TX)**

**Summary:** This amendment would repeal the government-run insurance option if the wait times for patients under the government plan exceeded the wait times for patients under private insurance plans. One of the many concerns with a public option is that the wait times for important medical procedures would be longer than the waits under private insurance because of government rationing of health care. In other countries, such as Canada, that have implemented that have implemented welfare-style healthcare systems, long waiting lists for life-saving care have become an insidious problem.

**Action:** The amendment was rejected by a vote of 26/15. A total of 26 Democrats voted no.

### **Shield Employers from Higher Labor Costs (Johnson, R-TX)**

**Summary:** This amendment would remove the entire employer mandate from the bill. The employer mandate imposes an 8 percent payroll tax on businesses that do not offer health insurance to their employees. This tax would also hit employers that do not meet the 72.5 percent contribution floor for individual coverage and 65 percent floor for family coverage or those who do not offer “qualified” group plans with federally-defined acceptable benefits (after the 5 year grace period). The so-called “pay or play” mandate will simply impose new labor costs which is nothing more than a tax on jobs that disproportionately impacts labor-intensive businesses and low-wage workers.

**Action:** The amendment was rejected by a vote of 25/15. A total of 25 Democrats voted no.

### **Provide Incentives for Enacting Tort Reform (Linder, R-GA)**

**Summary:** This amendment would prohibit the Exchange from operating in States that do not provide for reasonable medical liability regulations. Many physicians are forced to provide unnecessary and duplicative tests to protect themselves from overzealous trial lawyers, resulting in fees of billions of dollars and wasted resources every year.

**Action:** The amendment was rejected by a vote of 26/15. A total of 26 Democrats voted no.

### **Exclude Abortion Coverage (Johnson, R-TX)**

**Summary:** This amendment would prohibit the defined minimum benefit in the Exchange from including abortions. Although H.R. 3200 provides no explicit authorization for funding for abortions, it gives the Secretary of HHS and an unelected federal health board unprecedented authority to mandate which benefits private health plans in the exchange, and the government health plan, are required to cover. Unless abortion is specifically excluded from these benefits, if history is any guide, it will likely be mandated.

**Action:** The amendment was rejected by a vote of 23/18. A total of 23 Democrats voted no.

### **Suspend New Taxes Unless Medicare Fraud Is Below 1% (Camp, R-MI)**

**Summary:** This amendment would suspend new taxes unless Medicare fraud is below 1%. Current estimates place Medicare fraud in the billions of dollars.

**Action:** The amendment was rejected by a vote of 25/15. A total of 25 Democrats voted no.

### **Support Employers in Times of High Unemployment (Herger, R-CA)**

**Summary:** This amendment would suspend the employer mandate for every year that the national unemployment rate is at or above 10%. The bill imposes an 8 percent wage tax, or a 72.5 percent contribution floor for individual coverage and 65 percent floor for family coverage on employers who do not offer “qualified” group plans with federally-defined acceptable benefits (after the 5 year grace period). This amendment alleviates the economic difficulties employers may face, by providing an exemption from the so-called “pay or play” mandate in times of economic hardship.

**Action:** The amendment was rejected by voice vote.

### **Aid Doctors in Rural Areas (Herger, R-CA)**

**Summary:** This amendment would add a loan forgiveness program for primary care providers in rural areas and demonstrate Republican support for physicians by backing a correction to the Sustainable Growth Rate formula currently used to pay doctors. Under current law, the SGR will result in a 20% cut in Medicare payments to physicians in 2010 and additional cuts in future years. The amendment would provide up to \$100,000 in loan repayment for physicians who have practiced at least three years in an underserved area, and agree to practice for at least another four years in an underserved community. By supporting doctors, the amendment will help to ensure that access to health care coverage is available for all Americans.

**Action:** The amendment was rejected by a vote of 22/18. A total of 22 Democrats voted no.

### **Prevent Fraud in Exchange and Medicare Part D Subsidies (Johnson, R-TX)**

**Summary:** This amendment would require the Commissioner to verify the eligibility of applicants for the affordability subsidies (provided to those under 400% of the poverty level in order to buy insurance in the Exchange) through the Income and Eligibility Verification System (IEVS) and the Systematic Alien Verification for Entitlements (SAVE) Program. Under the Democrat bill the so-called “Health Choices Commissioner” would establish a process to determine eligibility for the expensive affordability credits (\$88,000 for a family of four), leaving the door open for this unelected bureaucrat to allow individuals to self-verify that they are eligible for the credits. The amendment would also strike the Democrats’ proposal to repeal a law that fights fraud by requiring applicants for Medicare Part D low-income subsidies to continue to provide proof that they are eligible for the subsidy. Instead, the Democrats would allow the Part D subsidies to be claimed by anyone who asserts they are eligible to receive the subsidy without providing any proof except in “extraordinary situations.” The Democrats suggest that the Social Security Administrator could request detailed information from the Treasury to verify an applicant’s eligibility for the Part D subsidy only after the subsidy has already been awarded to the applicant. Tracking down ineligible applicants after the fact is not an effective way to prevent misuse of taxpayer dollars and combat fraud.

**Action:** The amendment was rejected by a voice vote.

### **Strike Non-Health Tax Offsets (Brady, R-TX)**

**Summary:** This amendment would strike the non-health-related revenue offsets (or tax increases) contained in subtitle D, including the surtax, the delay of the implementation of the worldwide interest allocation rules, the limitation on treaty benefits for certain deductible payments, the codification of economic substance doctrine, and the penalties for underpayments.

**Action:** The amendment was rejected by a vote of 26/15. A total of 26 Democrats voted no.

### **Ensure Cancer Survivor Rates Do Not Become Worse Under Government Plan (Brady, R-TX)**

**Summary:** This amendment would repeal the government-run insurance plan if cancer survivor rates under the government plan were worse than the survival rates found under private plans.

**Action:** The amendment was rejected by a vote of 25/15. A total of 25 Democrats voted no.

### **Read Bill Before Voting (Brady, R-TX)**

**Summary:** This amendment expresses the sense of Congress that Members should read H.R. 3200 before voting on it.

**Action:** The amendment was rejected by a voice vote.

### **Restore Medicare Trigger (Ryan, R-WI)**

**Summary:** This amendment would restore the Medicare trigger and require a CBO/GAO report on the 75 year estimate of the bill. The Medicare Modernization Act of 2003 mandated that if more than 45% of expenditures were projected to come from general revenues (as opposed to dedicated revenues, such as payroll taxes and beneficiary premiums) within a seven-year period, the trustees would issue a warning. Two consecutive years of this warning would require the President to offer reform legislation and Congress to give that legislation expedited consideration. The warning has been issued for the last four consecutive years (three of which should have required legislation), but the Democratic Congress has passed rules suspending their responsibility to take action. Now, under H.R. 3200, the trigger will be eliminated completely.

**Action:** The amendment was rejected by a vote of 26/14. A total of 26 Democrats voted no.

### **Create Tax Threshold to Help Small Businesses (Ryan, R-WI)**

**Summary:** This amendment would make the 8% payroll tax found under the employer “pay or play” mandate not apply to those with incomes under \$200,000 / \$250,000. It would also make the 2.5% tax used to enforce the individual mandate not apply to individuals with incomes under \$200,000 / \$250,000. The amendment would thus alleviate some of the financial pressures that H.R. 3200 places on small businesses and families.

**Action:** The amendment was rejected by a vote of 26/15. A total of 26 Democrats voted no.

### **Allow HSAs to Meet Minimum Benefit Requirements (Cantor, R-VA)**

**Summary:** This amendment would specify that Health Savings Accounts (HSAs) tied to high deductible health plans are deemed to meet the minimum benefit level requirements and strike changes to the definition of allowable medical expenses for HSAs and Flexible Spending Accounts (FSAs).

**Action:** The amendment was rejected by a vote of 25/16. A total of 25 Democrats voted no.

### **Prohibit Funding for Abortion Coverage (Cantor, R-VA)**

**Summary:** This amendment would prohibit public funding under the bill from being used to pay for abortion or for any plan that covers abortion. H.R. 3200 allows for plans that would require the government and private insurance companies to subsidize abortions. Presently, all government-subsidized health care plans (SCHIP, DOD, Medicaid, etc.) prohibit abortion coverage.

**Action:** The amendment was rejected by a vote of 22/19. A total of 22 Democrats voted no.

### **Remove Home Visitation Program (Linder, R-GA)**

**Summary:** This amendment would strike the new child welfare entitlement program funding home visitation of first time mothers. Under H.R. 3200 the federal government would spend billions of dollars setting up home visitation programs via grants to the states where social workers would visit private homes and instruct parents on how to raise their children.

**Action:** The amendment was rejected by a voice vote.

### **Exempt Employers for Rejection of Coverage (Davis, R-KY)**

**Summary:** This amendment would exempt employers who have offered qualifying health care coverage but had it rejected by an employee (for any reason) from the 8% payroll tax. Un-amended, H.R. 3200 requires employers to pay this tax even if they have offered coverage and had their employees decide to find health insurance elsewhere. For example, if an employee making \$60,000 per year declined the coverage offered by his/her employer and enrolled in coverage through the Exchange, the employee would be forced to pay a \$4,800 tax on that employee (on top of the costs of offering health coverage to the rest of the employees). There may be some good reasons an employee would choose not to enroll in their employer-sponsored insurance. For example, a trusted doctor may not be in network in the plan offered by their employer. Employers cannot control whether or not employees accept offered coverage.

**Action:** The amendment was rejected by a vote of 24/17. A total of 24 Democrats voted no.

### **Ensure Government Plan Provides Adequate Reimbursement (Roskam, R-IL)**

**Summary:** This amendment would prohibit the Secretary from basing payments for the government-run health plan on Medicare rates and require that the government option pays an average of what private market plans pay. H.R. 3200 contains a mechanism to enforce its dominant pricing scheme and control costs by preventing health care providers who furnish items or services to an individual enrolled in the government plan from imposing charges for those items or services that exceed the charges permitted under the government-run plan. Health care providers would in effect be forced to accept payments set at Medicare rates, which are well below actual costs. This would likely result in a deterioration of health care quality. Also, it will undercut private plans, causing more people to select the lower cost government plan. Eventually, tens of millions of enrollees will permit the government insurance plan to dominate the market for health insurance.

**Action:** The amendment was rejected by a vote of 21/19. A total of 21 Democrats voted no.

### **Enhance Medicare Anti-fraud Programs (Roskam, R-IL)**

**Summary:** This amendment would mitigate Medicare fraud by establishing a real-time point of sale fraud check for Medicare providers. Currently, the Medicare program pursues fraud after claims have been paid out, a pay-and-chase system of fighting fraud. The amendment would systemically reform the way CMS and HHS pursue fraudulent Medicare activity by funding the creation of a data mining system to detect fraud at the point of sale as opposed to after the fraudulent activity has already occurred.

**Action:** The amendment was rejected by a voice vote.

# **Amendments to H.R. 3200 Offered in the Committee on Education and Labor**

## **Strike Division A of the Bill (Kline, R-MN)**

**Summary:** This amendment strikes every portion of Division A under the jurisdiction of the House Committee on Education and Labor and thus removes the government insurance plan, the employer mandate, the insurance exchange, and the new federal bureaucracy. Specifically, the amendment eliminates Titles I and II of Division A, and sections 311, 312, 313, 314, 321, and 324.

**Action:** This amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

## **Guarantee Free Market Competition (Thompson, R-PA)**

**Summary:** This amendment would strike the provision creating a new national Health Insurance Exchange. Under H.R. 3200 the sale and purchase of insurance coverage will be concentrated in one location, run exclusively by the federal government. The Exchange would be controlled by the new federal “Health Choices Administration” and a new Commissioner who would enforce the standards applicable to insurance plans within the Exchange, distribute taxpayer-funded subsidies to purchase insurance, and sanction plans that do not comply with federal rules. By design, the Exchange is anti-competitive. The government is responsible for creating the rules of the Exchange, sells a product within it, and acts as a referee. The Exchange is simply the mechanism by which the federal government will consolidate control over the health care system in this country. It will be the only place an individual can purchase the government-run plan which will pay providers based on Medicare rates that are historically less than the cost of providing medical services. The resulting lower premiums will attract business and strangle the private market, effectively eliminating competition over time.

**Action:** The amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

### **Protect Private Health Insurance (Roe, R-TN)**

**Summary:** This amendment removes the whole government-run option from the bill (striking subtitle B of title II of division A). H.R. 3200 creates a new government-run health insurance plan option that can be obtained only in the new national health insurance exchange. There are myriad requirements for the government plan that are designed to give it an advantage over private insurance plans. For example, it will provide a relatively rich package of benefits, and use Medicare payment rates, which traditionally underpay health care providers for the true cost of their services. In doing so, it will undercut private plans, causing more people to select the lower cost government plan. Ultimately, tens of millions of enrollees will permit the government insurance plan to dominate the market for health insurance.

**Action:** The amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

### **Protect Employers from Increasing Costs (Guthrie, R-KY)**

**Summary:** This amendment strikes the entire employer mandate portion of H.R. 3200 (sections 311, 312, 313, 314, 321, and 324). The bill imposes an 8 percent wage tax, or a 72.5 percent contribution floor for individual coverage and 65 percent floor for family coverage on employers who do not offer “qualified” group plans with federally-defined acceptable benefits (after the 5 year grace period). The so-called “pay or play” mandate will simply impose new labor costs which is nothing more than a tax on jobs that disproportionately impacts labor-intensive businesses and low-wage workers. Increasing the input costs for businesses increases the likelihood that they will have to lay off workers or reduce the number of new jobs they can create.

**Action:** The amendment was rejected by a vote of 28/19. A total of 28 Democrats voted no.

### **Grandfather Existing Plans (Price, R-GA; Biggert, R-IL)**

**Summary:** This amendment would ensure that the coverage provided by ERISA group health plans, now and into the future, would be considered qualified health benefit plans under the terms of the Act. Under the bill, group health plans, including those established by employers for their workers, must provide federally-defined acceptable benefits in order to be considered a “qualified health benefit plan.” While some may argue the bill provides for a “grace period” for employer-sponsored coverage, the bill specifically states that at a certain date in the future, employers will have to meet the federally-defined benefit standards or pay new taxes. Clearly, this will result in many employers dropping coverage, making the promises to Americans that they can keep their coverage wholly illusory. Simply put, this amendment will ensure Americans with employer coverage can keep the coverage they like.

**Action:** The amendment was rejected by a vote of 29/18. A total of 29 Democrats voted no.

### **Allow Card Check “Keep What You Have” Referenda (Kline, R-MN)**

**Summary:** This amendment allows employers to annually hold an employee referendum on whether or not their health care coverage should be subject to the new mandates of H.R. 3200. If a majority of employees sign cards stating that they do not want their existing employer-provided coverage to fall under the mandates of H.R. 3200, the employer shall not be subject to the health coverage participation requirements of the bill for the calendar year.

**Action:** This amendment was rejected by a vote of 28/18. A total of 28 Democrats voted no.

### **Protect Employers During Periods of Economic Hardship (Hoekstra, R-MI)**

**Summary:** The amendment requires that if the national unemployment rate equals or exceeds 8% in two consecutive months, the proposal’s “pay or play” mandate will be suspended for two years. It attempts to recognize the difficult challenges that employers and their workers are currently facing or may face in the future by providing an economic “safety valve.”

**Action:** The amendment was rejected by voice vote.

### **Ensure Deficit Neutrality (McClintock, R-CA)**

**Summary:** The amendment simply helps reaffirm the President's commitment to fiscal responsibility by providing that Division A will be temporarily suspended if it is determined that the requirements imposed under the Division have contributed to the federal deficit, or are projected to do so in the coming 10 years. Upon passage of the bill, if deficit neutrality was unable to be shown by the Office of Management and Budget, the mandates of titles I and II as well as sections 311, 312, 313, 314, 321, and 324 would not take effect. The deficit neutrality of the legislation would continue to be reviewed at the end of each fiscal year, and if neutrality could not be demonstrated, the provisions of the legislation would be suspended for two fiscal years. President Obama and Congressional Democrats have repeatedly said their health care proposal will be deficit neutral, and they have suggested a small number of so-called "pay fors," including new taxes and other alleged cost-savings as the means of paying that bill. It remains to be seen, however, if these measures will actually offset the enormous price tag of H.R. 3200. This amendment would merely ensure that the promise of deficit neutrality is actually realized.

**Action:** The amendment was rejected by a vote of 28/19. A total of 28 Democrats voted no.

### **Preserve ERISA Remedies for ERISA Plans (Kline, R-MN)**

**Summary:** This amendment ensures that ERISA group-health plans remain subject only to the remedy provisions contained in ERISA by preventing the bill from limiting the extent to which ERISA supersedes State law in connection with group health plans and maintaining ERISA preemption of State law remedies.

**Action:** The amendment was rejected by a vote of 28/19. A total of 28 Democrats voted no.

### **Allow State Opt-Out Waiver (Price, R-GA)**

**Summary:** This amendment allows any State to request from the Secretary, and the Secretary must grant except under extraordinary circumstances, a waiver of the application of Division A under H.R. 3200 with respect to any State health plan enacted into law by the legislature of that State. The amendment would allow states to be exempted from Division A, which creates a new government-run plan, establishes a highly regulated exchange, a powerful new government bureaucracy to control insurance marketplace, and implements new mandates and taxes on individuals and employers. States will be best equipped to assess the impact of a national health care plan on their residents, the capacity of their local infrastructure, and the changing market conditions. The amendment protects states' rights and gives them the power and flexibility to build upon their current system or implement innovative reforms that fit the unique needs of each state.

**Action:** The amendment was rejected by a vote of 28/19. A total of 28 Democrats voted no.

### **Prohibit Mandated Coverage of Abortion Services (Souder, R-IN)**

**Summary:** This amendment ensures that employer-sponsored group health plans shall NOT be required to provide coverage for services relating to abortion as part of the federally-determined "essential benefits package." H.R. 3200 forces employers to offer "acceptable" insurance coverage with benefit standards dictated by the Secretary of the Health and Human Services or pay a tax of eight percent of wages to finance their employees' insurance. Nothing in the un-amended bill prohibits the Secretary from mandating coverage for abortion and abortion related services. To avoid employers being required to offer coverage for abortion services, it is necessary to explicitly exclude these services.

**Action:** This amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

### **Prohibit Funds Spent for Abortion (Souder, R-IN)**

**Summary:** This amendment ensures that no federal funds authorized under H.R. 3200 (in titles I, II, or III) shall be used to provide coverage for services relating to abortion (with exception for the life of the mother, rape, or incest). This amendment guarantees that the federal subsidies distributed by the new “Health Choices Administration” will not be used to pay for abortion or to cover the costs of any health plan that includes coverage for abortion. History has shown that if abortion is not specifically excluded from federal health programs, it will be presumed to be mandated under the broadest terms. To avoid federal dollars being used to pay for abortion services, it is necessary to explicitly exclude these services by way of the Souder Amendment.

**Action:** The amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

### **Allow Association Health Plans (McKeon, R-CA)**

**Summary:** This amendment authorizes the creation of Association Health Plans (AHPs) to provide increased access to health insurance, particularly for workers in small businesses. Estimates indicate 60 percent or more of the working uninsured work for or depend on small employers who lack the ability to provide health benefits for their workers. Small Business Health Plans (or AHPs) would increase small businesses’ bargaining power with health care providers, give them freedom from costly state-mandated benefit packages, and lower their health care costs by as much as 30 percent – benefits that large corporations and unions already enjoy because of their larger economies of scale. By giving small businesses the opportunity to pool their resources and increase their bargaining power, SBHPs will help employers reduce their health insurance costs. Most importantly, SBHPs will expand access to quality health care for the people for whom it is currently out of reach: uninsured working families. Small Business Health Plans have engendered past bipartisan support—in the 109<sup>th</sup> Congress, 36 House Democrats voted to authorize these plans.

**Action:** This amendment was rejected by a vote 27/21. A total of 27 Democrats voted no.

### **Allow Defined Contribution (Price, R-GA)**

**Summary:** This amendment clarifies that group health plans are permitted to establish “defined contribution” accounts that would enable employers to contribute to a worker’s account, and permit that worker to purchase insurance coverage that works best for them and their families. The amendment would also allow individuals picking plans in the individual market to be shielded from “pre-existing condition” exclusions in accordance with Health Insurance Portability and Accountability Act (HIPAA) credible coverage requirements. An individual would be able to purchase any plan as long as it constitutes medical care, as defined in ERISA (means amounts paid for--the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body) and is not one of the excepted benefits (ex: vision only plans). This amendment provides more choice and flexibility for both employers and employees, allowing portability and reducing “job-lock”. When people have the power to think about their health needs and make their own decisions, insurance companies will have to compete for their business and be responsive to the individual.

**Action:** The amendment was rejected by a vote of 29/19. A total of 29 Democrats voted no.

### **Allow Balanced Billing (Price, R-GA)**

**Summary:** The amendment would eliminate the “tiered” payment structure for “preferred” and “non-preferred” physicians who participate in the government health insurance option. The bill contains a mechanism to enforce its dominant pricing scheme and control costs by preventing health care providers who furnish items or services to an individual enrolled in the government plan from imposing charges for those items or services that exceed the charges permitted under the government-run plan. Health care providers would in effect be forced to accept payments mandated by the federal government, which have already been proven to be well below actual costs. Ultimately, this would likely result in a deterioration of health care quality. Preliminary analysis by the Congressional Budget Office appears to suggest that the government plan's premiums will be 10 percent lower than other plans within the national exchange and command 1/3 of the people obtaining subsidized coverage (a total of 9-10 million will elect the public plan). The government plan is simply designed to underpay health care providers and undercut the rates charged by private insurance plans, in order to destroy the private insurance market and leave America with, in effect, a single-payer health care system.

**Action:** The amendment was rejected by a vote 29/19. A total of 29 Democrats voted no.

### **Exempt Indian Tribes (McMorris Rodgers, R-WA)**

**Summary:** This amendment would exclude Indian tribes from the employer “pay or play” mandate because they are considered to be sovereign entities and implement their own healthcare system.

**Action:** The amendment was rejected by voice vote.

### **Protect TRICARE from “Pay or Play” Mandate (Wilson, R-SC)**

**Summary:** This amendment would exempt TRICARE, the military’s civilian-based health care program, from application of the bill’s “pay or play” mandate and other benefit mandates placed on employers in H.R. 3200. TRICARE is the health care program serving active duty service members, National Guard and Reserve members, retirees, their families, survivors and certain former spouses worldwide. As written, the bill’s broad definition of “employment-based health plan” appears to include TRICARE. As such, the Department of Defense would be subject to all of the bill’s mandates on employers in provision of health care to military personnel and their families.

**Action:** The amendment was adopted by voice vote.

### **Exempt Small Businesses (Hunter, R-CA)**

**Summary:** This amendment allows businesses to apply to the Department of Labor for an exemption from the “pay or play” employer mandate, provided the employer can certify that compliance would result in job losses that negatively impact that company or the community it serves. The National Federation of Independent Businesses estimates that as many as 1.6 million jobs—more than 1 million of them among small businesses—would be lost as a result of H.R. 3200. Some small businesses might instead choose to reduce wages, limit inventory or, even worse, close their doors altogether. This amendment recognizes the difficult challenges that employers are currently facing, or may face in the future, and provides a reasonable opportunity to apply for a temporary exemption.

**Action:** The amendment was adopted by voice vote.

### **Protect the Private Right of Contract (Price, R-GA)**

**Summary:** The amendment protects patients' ability to get the care they want from the doctors they choose. Currently, H.R. 3200 does not explicitly guarantee and preserve the private right to contract for medical services. In some countries with government-run health systems, questions have been raised as to whether private individuals could privately contract and pay for medical services that are covered under the government system. This amendment would clarify that nothing in the Act would prohibit any participant or beneficiary in a group health plan from entering into any contract or arrangement for health care services with any health care provider.

**Action:** The amendment was adopted by voice vote.

### **Enroll Members of Congress in Government Plan (Wilson, R-SC)**

**Summary:** This amendment expresses the Sense of the House of Representatives that Members who vote in favor of the establishment of a public health insurance plan option run by the federal government (as well as senior officials in the Obama Administration) should forego their right to participate in the Federal Employees Health Benefit Program (FEHBP) and agree to enroll under the public option. The amendment is based on a basic principle – if it is good enough for the American people, it is good enough for Congress and the Administration supporting it.

**Action:** The amendment was adopted by voice vote.

## **Amendments to H.R. 3200 Offered in the Committee on Energy and Commerce**

### **Provide Insurance Alternatives for Low-Income Americans (Barton, R-TX; Deal, R-GA)**

**Summary:** This amendment would provide low-income Americans with alternatives to subpar welfare health programs, such as Medicaid or SCHIP, by allowing these individuals to use their share of Medicaid or SCHIP funds to purchase high quality private insurance. Empowering these Americans with the freedom to choose the health plan most appropriate for themselves and their families will save on extraneous costs and provide Americans with access to higher quality care.

**Action:** The amendment was rejected by a vote of 33/21. A total of 33 Democrats voted no.

### **Require Citizenship Demonstration for Medicaid Enrollees (Deal, R-GA)**

**Summary:** This amendment would require that the millions of new people who will be “automatically enrolled” in Medicaid under this legislation demonstrate that they are American citizens or qualified legal residents of the United States. Current estimates indicate that there are 11.1 million illegal aliens residing in the United States. The amendment would guarantee that limited state and federal Medicaid resources are focused on American citizens and qualified, legal immigrants to this country by ensuring that the citizenship and identity verification requirements that exist in current law are applied to all applicants for taxpayer funded Medicaid benefits.

**Action:** This amendment was rejected by a vote of 29/28. A total of 29 Democrats voted no.

### **Protect Emergency Room Doctors from Potential Liabilities (Deal, R-GA)**

**Summary:** This amendment would allow doctors in emergency rooms to focus on medical emergencies by providing liability protection for diverting non-emergency care. Under this amendment, emergency room doctors would be shielded from liability lawsuits if they refer non-emergency patients, such as those with a common cold or an earache, to more appropriate settings for treatment and primary care.

**Action:** The amendment was rejected by a vote of 35/23. A total of 34 Democrats voted no.

### **Prohibit Abortion Mandates (Pitts, R-PA; Stupak, D-MI, Blunt, R-MO)**

**Summary:** This bi-partisan amendment would prohibit the federal government from mandating that any health insurance plan provide coverage for abortion (except in cases involving a danger to the mother's life, rape, or incest).

**Action:** This amendment initially passed by a vote of 31/27, but Chairman Waxman, D-CA., later called for a revote on the Pitts Amendment, and it was rejected by a vote of 30/29. A total of 30 Democrats voted no.

### **Create High-Risk Pools (Barton, R-TX)**

**Summary:** This amendment would provide health coverage to the millions of Americans who are “uninsurable” because of pre-existing conditions, by requiring states to have high-risk pools. This would allow these individuals to mitigate their collective risk and increase their purchasing power, thus making private insurance affordable. Additionally, these groups would be eligible for support from federal funds. This amendment would address the problem directly instead of as a footnote in broad, sweeping health reforms. This amendment would bring healthcare to the uninsurable without simultaneously downgrading the healthcare of everyone else. Mr. Barton’s amendment would cost approximately \$2 billion a year compared to roughly \$100 billion a year for the Democratic plan.

**Action:** This amendment was rejected by a vote of 35/22. A total of 35 Democrats voted no.

### **Ensure Treatment is Not Limited by the Center for Quality Improvement (Gingrey, R-GA)**

**Summary:** This amendment would prevent government bureaucrats at the new Center for Quality Improvement from dictating to physicians what treatments they can or cannot offer. In the legislation, the Center is tasked with determining what treatments and procedures are most cost effective. This manner of government sponsored research, in conjunction with the new Federal crowd-out health plan would represent the first step towards implementing a policy of bureaucrat health care rationing. This amendment will prevent this from happening, ensuring that this new agency cannot take the next step and put a Federal bureaucrat between the American people and their doctors.

**Action:** This amendment was rejected by a vote of 33/24. A total of 33 Democrats voted no.

### **Protect States Whose Health Plans Do Not Meet the Essential Benefits Mandate (Deal, R-GA)**

**Summary:** This amendment would prohibit the federal government from taxing or withholding benefits from states whose health plans do not comply with the new arbitrary essential benefits mandates that the HHS Secretary is authorized to make under this legislation. These could include mandated coverage of abortion or Botox injections, and if states do not comply they would face an 8% tax on their employee payroll or drastic cuts in federal grants. States are already struggling to balance their budgets. New federal taxes on State governments or restrictions on critical grants could mean the breaking point for stretched-thin state budgets.

**Action:** This amendment was rejected by a vote of 35/20. A total of 35 Democrats voted no.

### **Ensure Americans Can Keep Existing Coverage (Stearns, R-FL)**

**Summary:** This amendment would change the section of the bill entitled “Protecting the Choice to keep Current Coverage” to include appropriate language in keeping with this section’s title. Currently, this section contains language forcing all employer health plans to comply with new mandates from the Secretary of HHS within five years of the bill's enactment, thus essentially preventing Americans from keeping their current plans. This amendment would replace these provisions with the statement “Nothing in this Act shall be construed to prevent or limit individuals from keeping their current health coverage.” This language far more closely represents the section title’s intent as well as President Obama’s promise to the American people.

**Action:** This amendment was rejected by a vote of 32/26. A total of 32 Democrats voted no.

### **Create Inflation-Adjusted Medicare Payment Index (Burgess, R-TX)**

**Summary:** This amendment would fix the problem with the Medicare physician payment scheme. Due to changes put in place by the Democrats last year, physicians now face a 21% cut in their Medicare reimbursements in 2010. The current flawed payment system would be replaced with an inflation-adjusted payment index that reimburses physicians for the cost of care. This fix would prevent seniors from losing their doctors simply because their doctors cannot make ends meet under the Medicare’s new under-payment scheme.

**Action:** This amendment was rejected by a vote of 32/20. A total of 32 Democrats voted no.

### **Ensure Right to Private Coverage by Removing Public Option (Burgess, R-TX)**

**Summary:** This amendment would remove the public plan from the new Democrat health reform proposal, preventing it from crowding out private health insurance programs. The current government health plan is granted numerous insurmountable advantages over private insurers. These include nearly unlimited access to tax-payer funds, exemptions from state and local taxes, the ability to undercut healthcare providers (passing costs on to private insurers), exemptions from financial stability requirements, and protections from trial lawyers. The advantages afforded to the government plan will inevitably drive private insurers out of the market, trapping Americans in a centralized, bureaucratic, government healthcare system subject to longer wait times, care-rationing, and regressive price controls.

**Action:** The amendment was rejected by a vote of 35/24. A total of 35 Democrats voted no.

### **Disable Tax Increase Trigger (Barton, R-TX)**

**Summary:** This amendment would prevent a trigger in the legislation from doubling the bill's new tax "surcharge" in 2012. Currently, the House legislation requires the Office of Management and Budget (OMB) to conduct a study in 2012 to determine whether or not division B of the legislation will bring \$700 million in savings. If it does not, Americans making under \$1 million would be hit with a tax hike as high as 5.4% to pay for the Democrat healthcare plan. As said by House Democrats: "many successful small businesses—the very kind of business that should lead in creating jobs and help us emerge from this recession—will be taxed at over 50 percent." This surtax "will discourage entrepreneurial activity and job growth." Mr. Barton's amendment would alter the trigger to prevent this occurrence.

**Action:** The amendment was rejected by a vote of 33/25. A total of 33 Democrats voted no.

### **Reduce Defensive Medicine Costs (Burgess, R-TX)**

**Summary:** This amendment would institute common-sense liability protections to reduce the costs of “defensive medicine” to the Medicare and Medicaid programs. Defensive medicine is the term used to describe unnecessary tests and procedures which are conducted to prevent lawsuits. Currently, these extraneous procedures are estimated to cost roughly \$70 billion a year. Furthermore, studies also show that the system fails injured patients with claims taking on average of five years to resolve and roughly 60 cents out of every dollar spent in the malpractice system going to lawyers or administrative costs. Modeled after reforms in Texas, which have reduced liability waste every year since 2003, this amendment would place a maximum \$750,000 cap on punitive damages, allow for periodic payments of damages, require expert physician witnesses to be practicing doctors, and afford special protections to volunteering good Samaritans. Reforming the flawed liability system will lower costs to Medicare and Medicaid programs by reducing the prevalence of defensive medicine and frivolous lawsuits and help increase the number of Medicare and Medicaid providers by curtailing one of the key barriers to entry in the industry.

**Action:** The amendment was rejected by a vote of 32/23. A total of 32 Democrats voted no.

### **Require Government-Run Plan to Negotiate Payment Rates (Shadegg, R-AZ)**

**Summary:** This amendment would require the new government plan to negotiate payment rates with health care providers. Currently, the government plan intends to link its payment rates to those of other government health programs which under-reimburse for services. Requiring the government plan to provide adequate reimbursement (by negotiating rates like private insurance companies) will ensure that Americans receive timely access to health care. It will also guarantee that those with private insurance do not see an increase in their premiums as a result of government underpayment.

**Action:** The amendment was rejected by a vote of 29/29. A total of 29 Democrats voted no.

### **Prevent Federal Funding of Abortions (Stupak, D-MI; Pitts, R-PA)**

**Summary:** This bi-partisan amendment would prevent the Democrat health reform bill from allowing federal dollars to subsidize abortions or plans that include abortion (except in cases involving a danger to the mother’s life, rape, or incest).

**Action:** The amendment was rejected by a vote of 31/27. A total of 30 Democrats voted no.

**Allow Americans to Have Access to the Same Coverage Under FEHB  
(Gingrey, R-GA; Terry, R-NE; Blunt, R-MO)**

**Summary:** This amendment would allow all Americans access to the exact same coverage plan as the Federal Health Benefits (FEHB) Plan. The FEHB plan offers premium coverage to Members of Congress, allowing them to choose from a multitude of private insurance providers. Passage of this amendment would meet President Obama’s “guarantee that every uninsured American could get the same kind of health care that Members of Congress give themselves” as opposed to forcing all Americans into the substandard, bureaucrat-run healthcare system that will result from this bill.

**Action:** The amendment was rejected by a vote of 31/28. A total of 31 Democrats voted no.

**Provide Government Transparency on Price and Quality Information for  
Healthcare (Barton, R-TX; Stupak, D-MI)**

**Summary:** This amendment would create an office within the Health and Human Services Department to work with public and private entities to collect, analyze, and publicly disclose price and risk-adjusted quality information for healthcare services. This added transparency would not only bring to light a greater understanding of the problems in the healthcare system, but also empower Americans with the informed choices they need to bring greater competition to the marketplace. In turn, this competition will bring lower prices, greater efficiency, and higher quality.

**Action:** This amendment was rejected by a show of hands, 28/18.

**Ensure Breast Cancer Survival Rates Do Not Become Lower (Shadegg, R-AZ)**

**Summary:** This amendment would require the GAO to regularly gather data on the 5 year survival rates for breast cancer patients. If it is determined that after the implementation of the government plan, survival rates have decreased, the government plan would be discontinued, to restore the higher of survival rate. Currently, the 5 year survival rate for breast cancer patients in America is over 90%, more than 12 points higher than the rate in England, which has a centralized, government-run healthcare system. American survival rates for breast cancer rank among the highest in the world; this amendment would help ensure they stay that way.

**Action:** This amendment was rejected by a vote of 36/22. A total of 36 Democrats voted no.

### **Allow Americans to Keep HSAs and HDHPs (Gingrey, R-GA; Rogers, R-MI)**

**Summary:** This amendment would help ensure that Americans retain the freedom to choose Health Savings Accounts (HSAs), Federal Savings Accounts, and High-Deductible Health Plans (HDHPs) as options for healthcare coverage. Currently more than 8 million Americans are enrolled in a HSA or HDHP; that is more than those enrolled in SCHIP and comparable to the number enrolled in the Federal Health Benefits Plan. This amendment helps fulfill President Obama's promise that all Americans can keep their health insurance if they like it by preventing the new Health Choices Commissioner from ruling these plans 'unqualified' and requiring the Commissioner to make such plans available in the new Health Insurance Exchange.

**Action:** This amendment was rejected by a vote of 33/26. A total of 33 Democrats voted no.

### **Use Medicare Savings to Fund H.R. 3200 (Gingrey, R-GA)**

**Summary:** This amendment would ensure that any savings obtained in the Medicare program from the provisions of this act be put back into the program to help secure its fiscal solvency. Currently, the Democrat Health Plan cuts \$500 billion from Medicare with \$156.3 billion being cut from reimbursement funds for Medicare Advantage. This will result in losses of coverage and availability for critical health services for senior citizens. This amendment would provide that such cuts are at least used to pay down the \$37.8 trillion in unfunded Medicare obligations, so that Medicare can continue to function in the future.

**Action:** This amendment was rejected by a vote of 35/23. A total of 35 Democrats voted no.

### **Allow Balanced Billing in the Public Plan (Burgess, R-TX; Deal, R-GA)**

**Summary:** In order to ensure that Americans choosing the government plan will be able to see physicians, this amendment would allow doctors, within reason, to bill their patients for the difference between what the service actually costs to provide and what the government pays for it.

**Action:** The amendment was rejected by a vote of 31/21. A total of 31 Democrats voted no.

### **Prohibit Government-Run Plan from Receiving a “Bailout” (Stearns, R-FL)**

**Summary:** This amendment would prohibit the Government plan from receiving a “bailout” from taxpayer funds. The anticipation of unlimited access to taxpayer funds is a recipe for irresponsible management and financial disaster. This is evident from the reckless decisions of federally backed companies such as Fannie Mae and Freddie Mac during the mortgage crisis. This amendment will help protect the American taxpayer, government, and economy, from exposure to the dangerous new financial risks associated with this new government program; a socialization of risk should not be part of the public plan. Without access to a bailout, the Government plan would have to hold enough capital to backup its financial requirements as all responsible private insurance companies do. This would eliminate one of the many statutory advantages afforded to the Government plan that allows it to crowd private insurers out of the market.

**Action:** This amendment was agreed to by voice vote.

### **Create Regulatory Framework for the Manufacture of Follow-On Biologics (Barton, R-TX; Eshoo, D-CA; Inslee, D-WA)**

**Summary:** This amendment would create a pathway for non-pioneer drug companies to manufacture “follow-on” biologics. Follow-on biologics are conceptually similar to generics in the prescription drug world, however, because of the complexities of the proteins involved in biologic drugs, the follow-on drug (or biosimilars) cannot be exact replicas, even though they achieves the same results. Currently these drugs are regulated in the same manner as regular prescription drugs, which does not reflect their unique nature. This amendment would create a regulatory frame work that would streamline the follow-on approval process and provide adequate protections for biologic drug innovators, allowing them to recoup their investments from the extremely expensive biologic drug development process.

**Action:** This amendment was agreed to by a vote of 47/11.

### **Ensure Care is Not Rationed by the Center for Quality Improvement (Gingrey, R-GA)**

**Summary:** This amendment would prevent the new “Center for Quality Improvement” created under this bill from developing methodologies for rationing care. Through this legislation, the Center would be charged with developing "new best practices" procedures for doctors to follow when administering care. This could place bureaucrats, not doctors and scientists, at the forefront of decision-making process for what care Americans can receive. England, which has centralized healthcare, has a similar agency called the National Institute for Health Clinical Excellence (NICE) that has been used to limit access to breast cancer drugs for terminally ill women and restrict access to lifesaving procedures like dialysis. This amendment would ensure that America does not take such a callous and calculating approach to its healthcare.

**Action:** This amendment was agreed to by voice vote.

### **Prohibit the CCER from Limiting Treatment (Gingrey, R-GA)**

**Summary:** This amendment would prevent government bureaucrats at the new Center for Comparative Effectiveness Research (CCER) from dictating to physicians what treatments they can or cannot offer. In the legislation, the CCER is tasked with gauging what treatments and procedures are most cost effective. This manner of government sponsored research, in conjunction with the new Federal crowd-out health plan would represent the first step towards implementing a policy of bureaucrat health care rationing. This amendment will prevent this from happening, by ensuring that this new agency cannot take the next dangerous step and put a Federal bureaucrat between the American people and their doctors. It would guarantee that doctors are still given the freedom to recommend the best medical treatment for their patients regardless of what procedures the CCER determines are most cost effective.

**Action:** This amendment was agreed to by voice vote.

### **Eliminate Duplicative Programs (Sullivan, R-OK)**

**Summary:** This would require the HHS Secretary to conduct a study on new and old government programs affected by this legislation to identify and ultimately eliminate inefficiency and duplication. As a common sense, good government amendment, it is aimed at stopping wasteful and inefficient government spending in our health care programs. The new Democrat healthcare proposal creates an alarming number of massive new federal spending programs, many of which are charged with responsibilities already assigned to pre-existing programs. This amendment does not eliminate services, but ensures that services offered under the new system are administered in a more efficient manner. By working to eliminate duplicative, wasteful, fraudulent and abusive programs, this amendment will lower administrative costs and help streamline the greatly expanded government healthcare system.

**Action:** This amendment was agreed to by a vote of 29/27.

### **Allow Individuals on Medicaid with High Drug Costs to Hold Employment (Burgess, R-TX)**

**Summary:** This amendment would authorize States to create an option under Medicaid to allow individuals already on Medicaid that have annual prescription drug costs of over \$200,000 to hold employment and be productive members of society.

**Action:** The amendment (offered en bloc with several other amendments during markup) was agreed to by voice vote.

### **Ensure that Qualified Plans Will Have Review and Appeals Processes (Burgess, R-TX)**

**Summary:** This amendment would ensure that all qualified health plans (including the public plan) under the bill will have a reasonable and accessible utilization review and appeals process so that insurance companies (or the public plan) are not allowed to deny needed care and step in-between a patient and their doctor.

**Action:** The amendment (offered en bloc with several other amendments during markup) was agreed to by voice vote.

### **Prohibit Religious Discrimination for Spiritual Care (Shimkus, R-IL)**

**Summary:** This amendment would ensure that there is no religious discrimination for patients seeking spiritual care under plans in the new Health Insurance Exchange. It only requires that, if a patient is entitled to medical care under a minimal qualifying plan, as determined by the Secretary, the patient cannot be denied care solely on the basis of its religious or spiritual content. The definition of spiritual care is limited to what is recognized by the IRS as a deductible medical expense.

**Action:** This amendment was agreed to by voice vote.

### **Require Cost Sharing and Pricing Transparency (Barton, R-TX; Burgess, R-TX; Green, D-TX)**

**Summary:** The amendment would bring a greater level of transparency to the healthcare market. This would be accomplished on two fronts, first by requiring all qualified health plans as determined by the new Health Choices Commissioner to disclose their cost sharing provisions for coverage (including deductibles, copayments, and coinsurance levels) to both individuals and care providers. Additionally, this amendment would require hospitals to disclose prices for the most common inpatient and outpatient hospital procedures. These prices would then be made available on the internet, empowering Americans with the informed choices they need to bring greater competition to the marketplace. In turn, this competition will bring lower prices, greater efficiency, and higher quality.

**Action:** The amendment was agreed to by a vote of 51 to 0.

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