

Employer Mandate/Pay or Play

One of the AFL-CIO's top priorities for health care reform legislation is a requirement that every employer either provide comprehensive coverage or pay enough into a national fund for comprehensive coverage for their employees. We evaluate health reform proposals on several elements:

- Who has to play – how many employers are included?
- How much do they pay – what contributions are required from employees who do not provide coverage?
- How are subsidies provided?

There are three proposals currently before Congress: HR3200; Senate HELP; Senate Finance. They differ on each of these points:

	HR3200	Senate HELP	Senate Finance
Employer Mandate	Yes	Yes	No. "Free-Rider" Penalty Instead
Exemptions	Payroll <\$500,000	<25 employees	<50 employees
Pay	2-8% of payroll	\$750/year per employee	Penalty equal to the value of all worker subsidies, but capped. (See note below.)
Tax credits for small business	<25 employees <\$40,000 average wage Applies to coverage acquired thru the exchange and to employer sponsored insurance outside exchange	<50 employees <\$50,000 average wage Same as HR3200	<25 full time equivalent employees <\$40,000 average wage Applies to coverage acquired thru the exchange only

Notes and talking points:

Row 1 "Mandate"

- An Employer Mandate is more equitable than penalties for free-rider employers, the approach taken in the Senate Finance bill.

Row 2 "Exemptions"

- We want no exemptions. Our position: require all firms to participate and provide subsidies to employers for which providing health benefits would be an undue burden. If there have to be exemptions, total revenues is a better measure than payroll, and payroll is a better measure than the number of employees, and the lower the cut-off the better. Proponents of the exemption want to hide behind the all-American image of a mom and pop store with a couple of high school kids helping out after school. That's not the small business reality in 2009. Here are two examples:
 - Most construction contractors have fewer than 10 employees. A 25 person exemption would exempt most non-union contractors and codify their advantage over union firms that provide benefits.

- Boutique lobbying or law firms have only a few high paid employees. They would be exempt.
- A payroll cut off is a better definition of a small business, but \$500,000 is much too high.

Row 3 “Pay”

- 8% of payroll is reasonable. Many firms that provide coverage pay more than that.
- The Senate HELP approach – requiring an annual payment of \$750/year per each full-time (\$375 for each part-time) employee is doubly unreasonable. The payments do not have enough bite to make employers seriously think about maintaining coverage, and they do not raise very much revenue.
- The Senate Finance plan includes a “free-rider” penalty for any full-time employee who gets a subsidy to obtain insurance through the new insurance exchange. The penalty equals the value of the government subsidy for each employee who gets one. The maximum penalty for a firm is \$400 a year times the total number of the firms' employees. This penalty approach has negative implications far beyond health care.
 - It is too small to encourage any employer to provide comprehensive coverage.
 - It raises a small amount of revenue compared to the cost of subsidies for those who cannot afford health coverage.
 - It encourages discrimination in hiring, depending on the likelihood of employees qualifying for federal subsidies. Employers would be advantaged by hiring:
 - Middle-income workers over lower-wage workers, since the former are less likely to qualify for subsidies.
 - Single workers without children over parents with children.
 - Young workers, because older workers use more health services and therefore are more expensive to insure.
 - Part-time workers over full-timers because they are not covered by the free-rider provision.
 - White workers, because people of color tend to be more likely to qualify for subsidies, due to lower average economic status.
 - This approach is also complicated to administer, requiring more, and more frequent, record collection and filing. It is therefore much more expensive.
- The impact on union members and union benefit funds of specific provisions would depend significantly on how the rule-making process that follows the legislation turns out, e.g., the implementation schedule of the legislation specified in the regs.

Row 4 “Subsidies for Business through Tax Credits”

- All three bills consider both average wages and firm size.
- HR3200 includes a small business tax credit for those firms that provide health coverage for their workers, as does the Senate HELP bill. Both firms that currently don't provide benefits and those that do, like union firms, are eligible. **In the Senate Finance bill, the tax credit is only available for firms purchasing coverage through the exchange, although tax credits are available to employers that purchase insurance coverage (not self-insured funds) prior to the establishment of the exchanges in 2013. Companies that already provide coverage on their own or through a union fund are not in the exchange and therefore would not be eligible for the tax credit.** Instead of leveling the playing field, the Senate Finance bill creates a permanent union disadvantage.