



H.R. 372 – Competitive Health Insurance Reform Act (Gosar, R-AZ)

CONTACT: [Amanda Lincoln](#), 202-226-0678

FLOOR SCHEDULE:

Scheduled for consideration March 22, 2017 under a [closed rule](#).

TOPLINE SUMMARY:

[H.R. 372](#) would amend the McCarran-Ferguson Act of 1945 to restore the application of federal antitrust laws to the business of health insurance, in order to protect competition and consumers.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the bill would increase costs for the Federal Trade Commission (FTC) and Department of Justice (DOJ) by less than \$500,000, subject to the availability of appropriated funds. CBO further estimates that enacting the bill would have no significant net effect on premiums charged for private health or dental insurance, and thus any related effect on federal revenue would be negligible. While federal criminal collections deposited to the Crime Victims Fund could increase under H.R. 372, CBO estimates that any additional revenues and subsequent direct spending would not be significant.

Pay-as-you-go procedures apply because revenues deposited in the Crime Victims Fund are later spent without further appropriations. CBO estimates that enacting H.R. 372 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** The bill would apply federal antitrust law to health insurance and some dental insurance, which is currently regulated only at the state level. To the extent that federal antitrust law conflicts with state antitrust law, this bill would result in federal superseding the state provisions.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Under current law, some activities of health insurance companies are exempt from federal antitrust laws if those companies are engaged in the business of health insurance and regulated at the state level. This bill would amend the McCarran-Ferguson Act to restore the application of federal antitrust laws to the business of health insurance (including dental insurance), in order to protect competition and consumers.

Specifically, H.R. 372 would direct that nothing contained in the McCarran-Ferguson Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance (including dental insurance). H.R. 372 includes a provision clarifying its application only to “traditional health insurance,” and not the business of life insurance, or the business of property or casualty insurance. Certain industry activities would be exempt from being treated as collusion in violation of antitrust laws, including: collecting, compiling, and disseminating loss data; determining loss development factors; providing actuarial service if not involving restraint of trade; and, developing and distributing standard forms, so long as no requirement exists to adhere to such forms.

COMMITTEE ACTION:

This bill was introduced by Representative Gosar (R-AZ) and referred to the House Committee on Judiciary, where a mark-up was held on February 28, 2017, and the bill was favorably reported by voice vote.

Read the committee report [here](#).

ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3, United States Constitution (Commerce Clause).