



## EXECUTIVE SUMMARY

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No matter the approach taken by the new administration and Congress regarding health benefits reform, a field-level means of providing for small business aggregation will be crucial to effecting and maximizing enrollment and participation.

One proposal to achieve this goal—originated by House Education and Labor Health, Employment, Labor, and Pensions Subcommittee Chairman Robert Andrews (D-NJ)—provides for the creation of “Employee Benefit Cooperatives” (EBCs), which are private, cooperatively run “connectors” of aggregated small businesses (who share similar lines of business).

EBCs can expand the impact of reform by driving and directing participation in the new health reform model, and by lowering enrollment and ongoing administrative costs. This can be accomplished through specialization, and through delivering better overall value by integrating other collateral benefits with the health benefits core, and by simultaneously fostering the expansion of its social policy twin: retirement planning. However, this cannot come to fruition without providing a mechanism for small employers to deliver these vital employee benefits.

There is insufficient expertise among small businesses about how to access any of the other federally sanctioned, employer-based benefit programs that can supplement reform efforts. These programs are commonly deployed by larger companies but largely out of reach for small businesses. With federal legislative authority to function as a single employer through amendments to the Employee Retirement Income Security Act (ERISA), these cooperatives will be able to increase small business access to such programs. These include, but are not limited to retirement plans, pretax premium conversion facilities, medical flexible spending, dependent care and 105(h) reimbursement accounts, and any other programs being considered but not yet enacted (such as Automatic-401(k)s).

Because of their defining structural characteristics, the statutory vehicle of choice for these proposed EBCs are IRC Code § 1381 Subchapter T cooperatives. They are owner/operated to the exclusion of outside investors. As “pass through” entities, a direct correlation exists between a cooperative’s economic operations and a stockholder’s welfare, with excess revenue required by law to be allocated to the stockholder’s interest. Their enlightened economic self interest is supported by the democratic principles of cooperative operation requiring the subordination of capital to the voting rights of shareholders: one stockholder, one vote. *In short, they are ideal for the intended purpose of watching after the health and welfare interests of an employer and its employees.*

Unlike other models involving small business aggregation, the EBC initiative does not depend on the privilege of self-insurance as its starting point. It believes that an insured system may be better suited to its needs. Of course, this raises the matter of state health insurance mandates, which is a subject that can only be addressed in the larger scope of overall health reform policy.

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Wilson H. Beebe Jr., Chairman  
wbeebe@thanexus.coop  
(C) 908.415.0745  
(T) 732.974.9444

Rosemary Mahoney, Director  
rmahoney@coopmetrics.coop  
(C) 434.962.0897  
(T) 434.263.5492

John O’Neill, Legislative Counsel  
jjoneill@venable.com  
(C) 202.367.6156  
(T) 202.344.4548

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