

# Political, Legislative and Regulatory Update

**“Politics and COVID-19”**



by  
Janet Trautwein  
NAHU CEO



## Biden Becomes the Presumptive Nominee



*Sanders may be gone, but his policies will not be forgotten.*

## ➤ 2020 Look Ahead: How Will Biden Win Over Bernie Supporters **and** Swing Voters?



- **Biden has unveiled several policies intended to appeal to progressives:** On April 9, the presumptive nominee announced **two new policy positions** that are more in line with progressive ideals. The first would **lower the Medicare eligibility age to 60**, while the second would **expand student debt forgiveness programs** to low-income and middle-class families. Biden also recently endorsed Elizabeth Warren's **bankruptcy reform** plan.
- **Biden has gathered support from some very big names:** Bill Clinton, Barack and Michelle Obama, Republican John Kasich, and others.
- **We've seen many of his former challengers endorsing him during the Democratic National Convention this week.**



# Presidential Election: VP Running Mate



*Kamala Harris  
U.S. Senator (D-CA),  
Former CA Attorney  
General*

- **What considerations are there in selecting a running mate?**
  - How does a running mate further electability?
  - How does a running mate balance the ticket ideologically - for a moderate like Biden, will the person appeal to progressives? Will they appeal to moderate voters in **swing states**?
  - Will this person appeal to those who previously sought a woman or person of color for president?
- Kamala Harris does fit these requirements but in addition:
  - Her experience as a battle-tested presidential contender,
  - Her efforts leading major law enforcement offices
  - political track record of three election wins in California
- **Harris isn't known for her health care positions** but has frequently pushed policies to boost health equity for vulnerable Americans. That message could resonate during a pandemic and in a moment of national reflection on race.

# Candidate Policy Comparison: Healthcare



## Joe Biden

- **Expand government healthcare programs** by establishing a Medicare-type public option to compete with private insurance.
- This would not be through insurance but would be managed by CMS, who would negotiate directly with providers.
- Biden would change the Medicare eligibility age to 60 even for those covered in employer sponsored plans.
- **Allow Medicare to negotiate Rx drug prices.**
- **And some of this pricing concession would be passed down to non-Medicare programs.**
- **Prohibit surprise billing**
- **Bring back the individual mandate**
- **Would allow undocumented immigrants to buy in to the public option.**



## Donald Trump

*How will Trump address voters' increasing attention to healthcare issues?*

### **Pillars of the Trump healthcare plan:**

- **Continue efforts to limit implementation of the Affordable Care Act (ACA)**
- **Proceed with drug pricing rulemaking.** Trump previously issued notices of proposed rulemaking to allow the importation of certain Rx drugs from Canada, require manufacturers to include list prices in television advertisements, and reform rebates to pharmacy benefit managers (PBMs)
- **Promote efforts to pass a bipartisan, bicameral deal from Congress to reduce drug prices**
- **Combat surprise billing.** The administration proposed rules require hospitals and insurers to transparently display prices online.



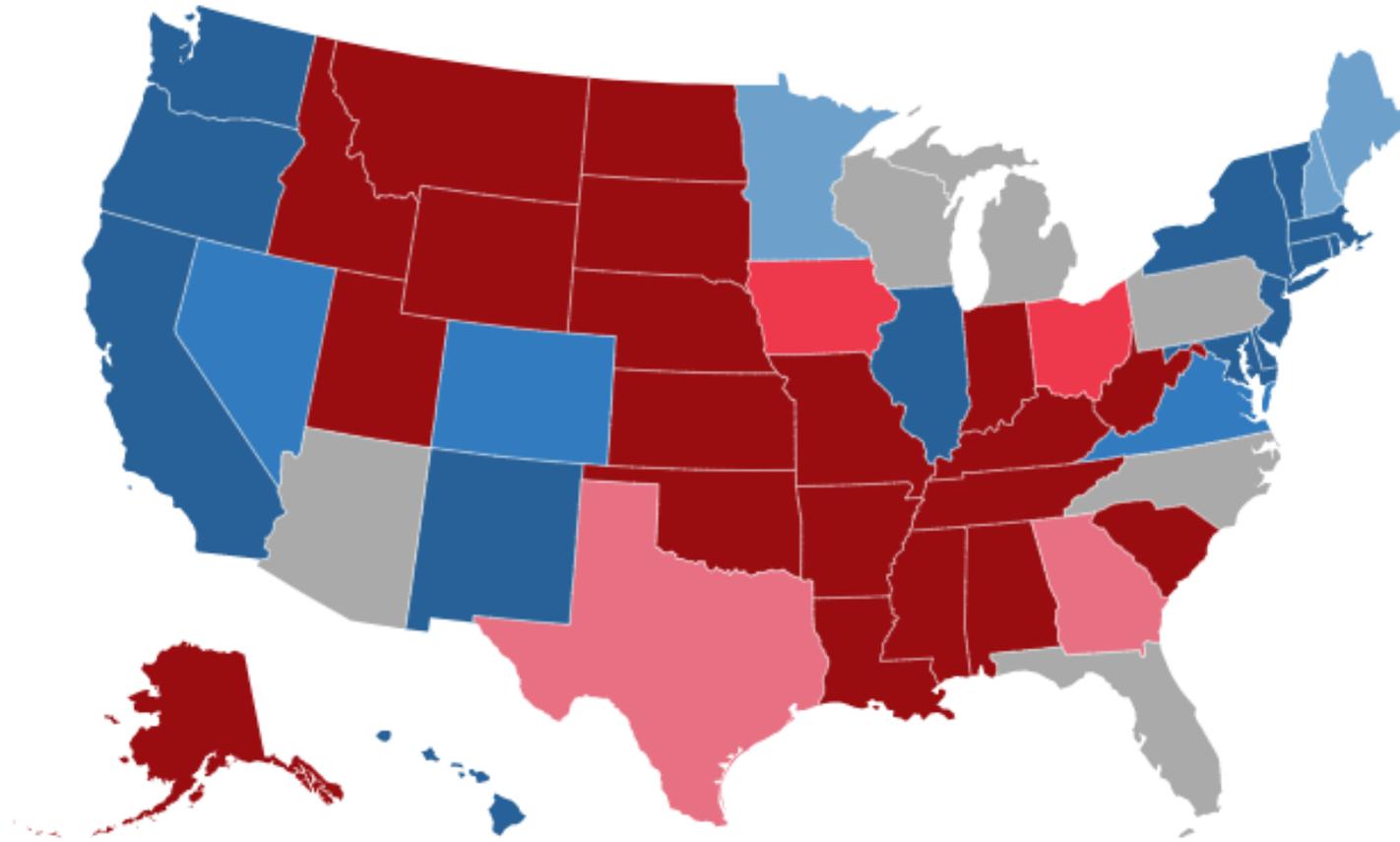


# Presidential Election: Electoral College Projections



Democrats have **232** electoral votes in the Solid, Likely and Lean categories and would need **39 (38%)** electoral votes from the Toss Up column.

Republicans have **204** electoral votes in the Solid, Likely and Lean categories and would need **67 (66%)** electoral votes from the Toss Up column.



**Solid D** **Likely D** **Lean D** **Toss Up** **Lean R** **Likely R** **Solid R**

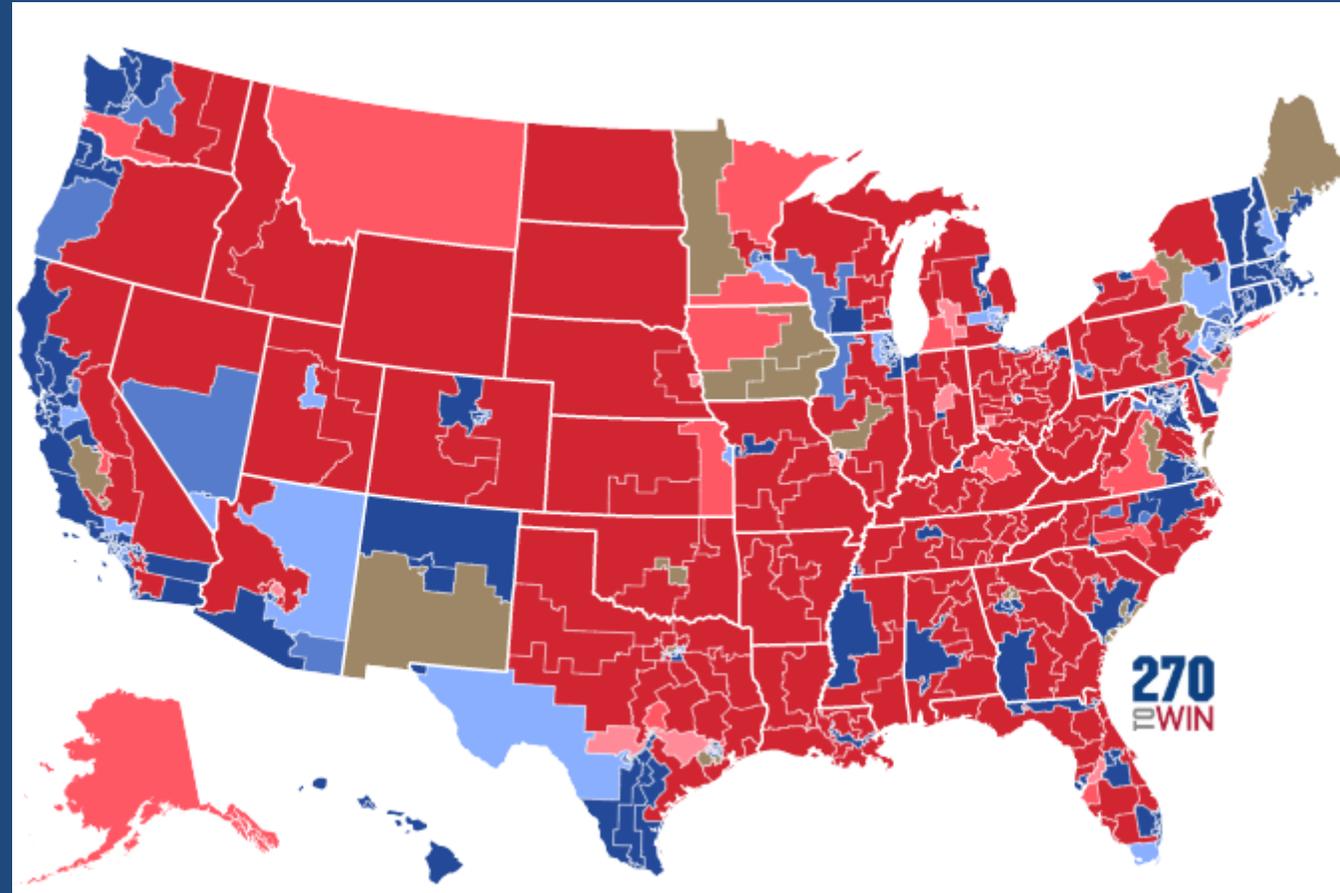




# Presidential Election: Electoral College Projections



# HOUSE PROJECTIONS



20 Lean Democratic

19 Likely Democratic

182 Solid Democratic

12 Lean Republican

17 Likely Republican

164 Solid Republican

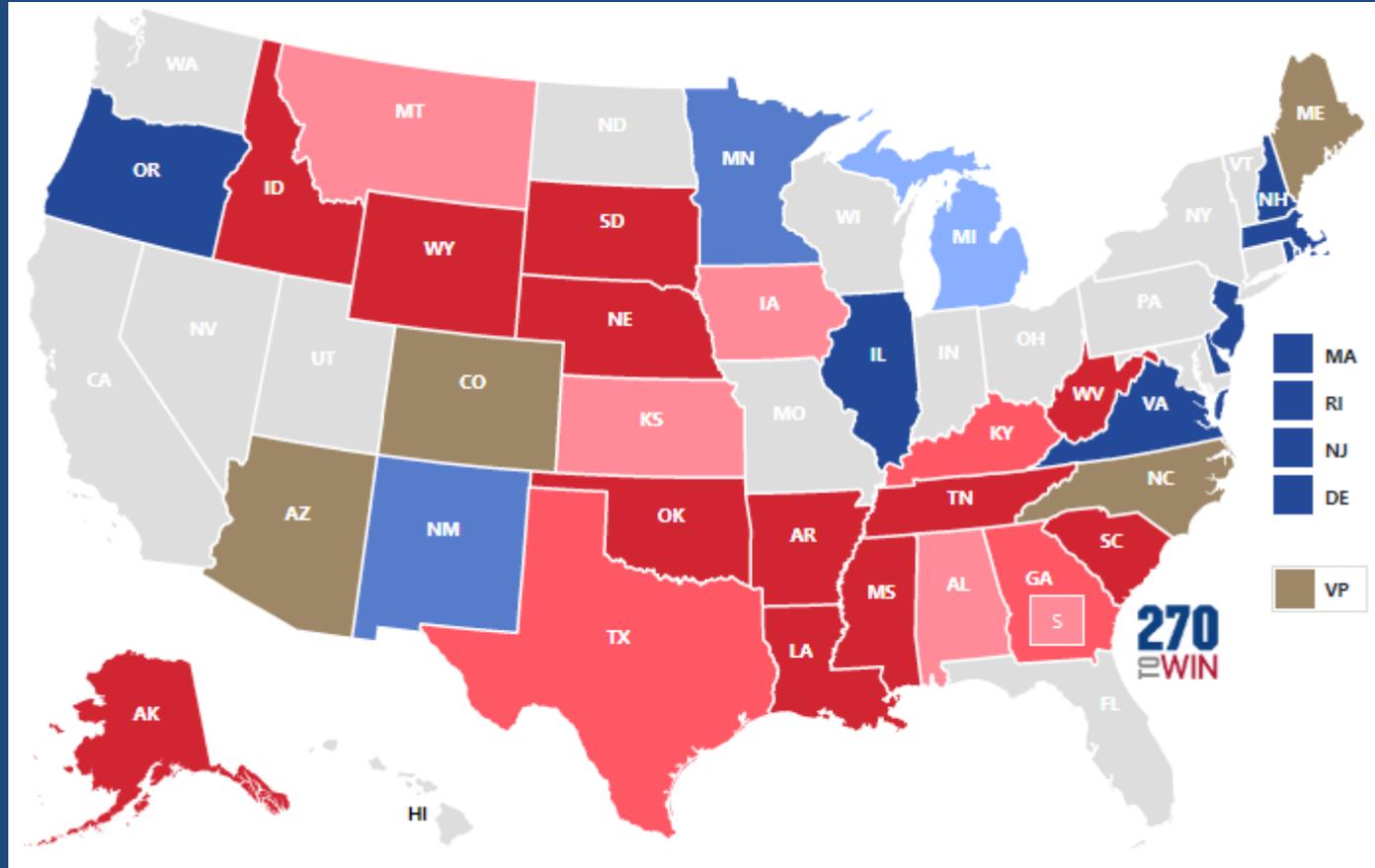
221 Democratic 193 Republican

21 Toss Ups

*218 needed for majority*

*Projections from  
Cook Political Report  
270 to Win*

# SENATE PROJECTIONS



3 Lean  
Democratic

2 Likely  
Democratic

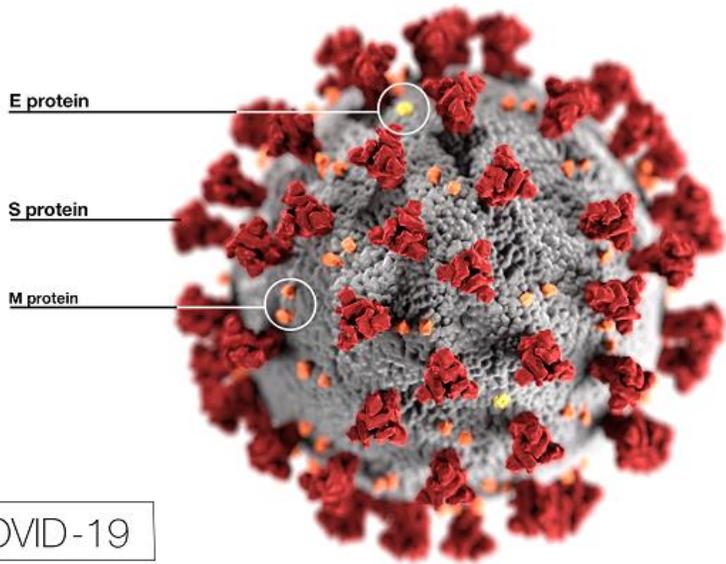
8 Solid  
Democratic

5 Lean  
Republican

3 Likely  
Republican

10 Solid  
Republican

35 Senate seats up for Election: Now predicted  
outcome: 47-47  
6 Toss Ups



# Response to COVID-19

# Changes To Medicare Telehealth Benefits

- ❑ Medicare has temporarily expanded its coverage of [telehealth services](#) to respond to the current Public Health Emergency to allow visits with a range of providers (like doctors, nurse practitioners, clinical psychologists, licensed clinical social workers, physical therapists, occupational therapists, and speech language pathologists) through telemedicine services.
- ❑ Previously telemedicine was only allowed if there was a previous physician relationship with the provider.
- ❑ Medicare also pays for “[virtual check-ins](#)” —brief, virtual services with a beneficiary’s personal physician (existing relationship required).
- ❑ Medicare also covers communication with a beneficiary’s physician using [online patient portals](#) without going to the doctor’s office.
- ❑ Since some people don’t have access to interactive audio-video technology needed for Medicare telehealth services, or choose not to use it even if offered by their practitioner, Medicare is allowing people to use an audio-only phone.



## Applying for Part A and/or Part B

- CMS has been coordinating with SSA on workarounds for initial enrollments into Social Security and Medicare.
- Beneficiaries can now use the SSA locator to identify a local office with a dedicated fax number to process applications.
- Documentation flexibility includes forms beneficiaries are likely to have in their possession such as tax returns, pay stubs, health insurance cards.
- No wet signature required.
- Beneficiaries who have been delayed enrolling in Part B due to COVID-19 (and also in certain cases Part A) will be allowed to enroll without penalty retroactive to their original effective date.



# Observation Stay Relief

- CMS issued two waivers to allow relief from current Observation Stay rules for Medicare beneficiaries impacted by the COVID-19 emergency.
- SNF care without a 3-day inpatient hospital stay will be covered for beneficiaries who experience dislocations or are affected by the emergency.
- Due to the current crisis, CMS also is utilizing the authority under section 1812(f) providing renewed SNF coverage to beneficiaries without starting a new spell of illness and allowing them to receive up to an additional 100 days of SNF Part A coverage.
- The policy applies only for those beneficiaries who have been delayed or prevented by the emergency itself from beginning or completing the process of ending their current benefit period and renewing their SNF benefits.



# COVID-19 (Coronavirus) legislative Response

<p><b>EMERGENCY SUPPLEMENTAL</b> (Phase 1)</p> <p><u>Coronavirus Preparedness and Response Supplemental Appropriations Act</u> (Public Law No. 116-123)</p>	<p><b>FAMILIES AND WORKERS</b> (Phase 2)</p> <p><u>Families First Coronavirus Response Act</u> (Public Law No. 116-127)</p>	<p><b>ECONOMIC STIMULUS</b> (Phase 3)</p> <p><u>Coronavirus Aid, Relief, and Economic Security (CARES) Act</u> (Public Law No. 116-136)</p>	<p><b>INTERIM SUPPLEMENTAL</b> (Phase 3.5)</p> <p><u>Paycheck Protection Program and Health Care Enhancement Act</u> (Public Law No. 116-139)</p>
<p>Signed into law on March 6<sup>th</sup></p> <p>\$8.3 billion supplemental appropriations package, comprised of \$500 million in mandatory spending for Medicare telehealth and \$7.8 billion in discretionary spending, including:</p> <ul style="list-style-type: none"> <li>➤ More than \$3 billion for R&amp;D for vaccines, therapeutics, and diagnostics;</li> <li>➤ \$2.2 billion in public health funding, including \$950 million for state and local agencies;</li> <li>➤ \$1 billion for medical supplies healthcare preparedness, CHCs, and medical surge capacity; and</li> <li>➤ \$1.25 billion for international efforts</li> </ul> <p>Provides emergency aid to HHS, FDA, CDC, NIH, DOS, USAID, and SBA</p>	<p>Signed into law on March 18<sup>th</sup></p> <ul style="list-style-type: none"> <li>➤ <b>Paid leave:</b> Expands family and medical leave as well as guarantees paid sick leave for certain workers, including those employed at companies with fewer than 500 employees. This would be made available through a refundable payroll tax credit to reimburse businesses</li> <li>➤ <b>Testing:</b> requires free access to COVID-19 tests</li> <li>➤ <b>Food assistance:</b> provides more than \$1 billion in food assistance to students and seniors and to other vulnerable populations through WIC, TEFAP, and EBT</li> <li>➤ <b>Unemployment:</b> provides \$500 million in emergency administrative grants to increase state capacity to process unemployment applications</li> <li>➤ <b>FMAP:</b> increases the federal medical assistance percentage (FMAP) the federal government provides to state Medicaid programs by 6.2%</li> </ul>	<p>Signed into law on March 27<sup>th</sup></p> <p>The \$2 trillion package directs financial aid to many Americans, small businesses, and larger industries through several provisions, including:</p> <ul style="list-style-type: none"> <li>➤ \$300 billion in direct payments to households, including checks for up to \$1,200 per person and \$500 per child</li> <li>➤ \$260 billion in expanded unemployment insurance (UI)</li> <li>➤ \$350 billion in loans for small businesses (500 employees or fewer)</li> <li>➤ \$500 billion in loans, loan guarantees, and other aid for large corporations, to be overseen by a Treasury Department inspector general/Congressional oversight</li> <li>➤ \$150 billion in direct aid to states</li> <li>➤ \$340 billion in supplemental spending, including more than \$100 billion for hospitals and healthcare workers</li> </ul>	<p>Signed into law on April 24<sup>th</sup></p> <p>The nearly \$500 billion package – originally proposed as a \$250 billion stopgap to replenish the Paycheck Protection Program (PPP) – includes:</p> <ul style="list-style-type: none"> <li>➤ \$310 billion for PPP, with \$60 billion set aside for community banks and small lenders</li> <li>➤ \$60 billion for emergency disaster loans and grants</li> <li>➤ \$75 billion for hospitals</li> <li>➤ \$25 billion for expanded COVID-19 testing</li> </ul> <p>Notably, the package omits additional fiscal assistance for state and local governments</p>

# General Areas of Agreement

## HEROES ACT

- State & local relief
- UI extension at \$600/week
- Hazard pay
- FMAP increase
- COBRA subsidy
- SNAP increase
- Rent, mortgage and utility assistance
- Broadband
- Election security



- CARES Act technical fixes
- Supply chain reforms
- Additional stimulus payments
- Resources for testing, contact tracing, vaccines
- Support for healthcare providers
- Nursing home assistance
- Expanded PPP eligibility
- Additional education funding
- Supplemental transit funds
- Child care assistance

## HEALS ACT

- Liability protections
- UI extension at \$200/week
- Additional PPP round
- Refundable payroll tax credit for PPE
- Expanded ERTC and WOTC
- Safe harbor for gig economy workers
- Federal trust fund programs



# President Trump Announces Executive Orders After Stimulus Talks Break Down

- President Trump signed four executive orders on August 8th, including:
  - Actions to defer payroll taxes for Americans earning less than \$100,000 a year;
  - Implement a moratorium on evictions and give financial assistance to renters;
  - Add \$400 per week in extra unemployment benefits through the end of 2020 (requiring states to cover 25% of the additional benefits);
  - And postpone student loan interest and payments through the end of 2020.
- The White House's new executive actions will likely face legal challenges.



## Other Important Legislative Issues



# Balance/Surprise Billing

NAHU is committed to working with policymakers at both the federal and state levels to address the issue of surprise and balance medical bills. The NAHU Legislative Council's special Balance-Billing Workgroup is specifically tasked with identifying potential solutions and proposing them to policymakers.

**S. 1895** | Lower Health Care Costs Act

Sens. Lamar Alexander (R-TN) and Patty Murray (D-WA)

**H.R. 3630** | No Surprises Act

Reps. Frank Pallone (D-NJ) and Greg Walden (R-OR)

**H.R. 5800** | **Ban Surprise Billing Act**

*Reps. Bobby Scott (D-VA) and Virginia Foxx (R-NC)*

**H.R. 5826** | **Consumer Protections Against Surprise Medical Bills Act of 2020**

*(Arbitration)*

*Reps. Richard Neal (D-MA) and Kevin Brady (R-TX)*

# COBRA

Treat COBRA coverage as creditable coverage for Medicare, the same way that similar employer-sponsored insurance is already treated as creditable.

**H.R. 2564** | Reps. Kurt Schrader (D-OR) and Gus Bilirakis (R-FL)  
**TBD** | Sen. Todd Young (R-IN) and Sherrod Brown (D-OH)

# Medicare/Medicaid Buy-In

NAHU strongly opposes all single-payer health insurance proposals, to include Medicare for All, Medicare buy-in, Medicaid buy-in, or a public option.

"Medicare for More" (allows those aged 50-64 to buy into current Medicare coverage)

**S. 470** | Sen. Debbie Stabenow (D-MI) +20 co-sponsors

**H.R. 1346** | Rep. Brian Higgins (D-NY) +45 co-sponsors

**Medicare "X" Buy-In** (public option plan parallel to Medicare coverage)

**S. 981** | Sen. Michael Bennet (D-CO) + 11 co-sponsors

**H.R. 2000** | Rep. Antonio Delgado (D-NY) +18 co-sponsors

**Medicare "E" Buy-In** (allows everyone, including with private/employer plans, to buy Medicare)

**S. 1261** | Sen. Jeff Merkley (D-OR) +14 co-sponsors

**H.R. 2463** | Rep. Cedric Richmond (D-LA) +5 co-sponsors

**Medicaid Buy-In** (allows states to create a Medicaid buy-in program for all residents)

**S. 2489** | Sen. Brian Schatz (D-HI) +22 co-sponsors

**H.R. 1277** | Rep. Ben Ray Luján (D-NM) +50 co-sponsors