

Affordable Care Act Reform Legislation Tracker, November 13, 2017

Newly Included Legislation and Procedural Updates

- November 1: Rep. Kevin Brady (R-TX) and Sen. Orrin Hatch (R-UT) introduced the [Healthcare Market Certainty and Mandate Relief Act of 2017 \(S. 2052/H.R. 4200\)](#), which temporarily funds ACA cost-sharing subsidies for plan years 2017-2019, delays enforcement of the employer and individual mandates, and increases the maximum contribution limit to HSAs.
- October 26: Sen. Ted Cruz (R-TX) introduced the [Health Care Choice Act \(S. 2021\)](#), which repeals Title I of the ACA, including the individual and employer mandates, and allows insurers to sell health insurance across state lines.
- October 25: Sen. Brian Schatz (D-HI) and Rep. Ben Ray Lujan (D-NM) introduced the [State Public Option Act \(S. 2001/H.R. 4129\)](#), which creates a Medicaid-based public health care option in the insurance marketplace.
- October 18: Sen. Heidi Heitkamp (D-ND) introduced the [Small Business and Family Health Tax Relief Act of 2017 \(S. 1978\)](#), which delays the implementation of the annual fee on health insurance providers (i.e., the health insurance tax) until 2020, after which the fee becomes tax-deductible.
- October 17: Sen. Tom Cotton (R-AR) introduced the [Mandate Relief Act of 2017 \(S. 1967\)](#), which exempts certain lower-income individuals from the individual mandate and reduces the HSA tax penalty.
- October 17: Sen. Tim Scott (R-SC) introduced the [Increasing Access to Care Act \(S. 1976\)](#), which allows individuals in the individual market over the age of 30 to purchase catastrophic health care plans beginning in 2019.

I. Introduced Comprehensive Health Care Reform Legislation (115th Congress) (*all legislation has been introduced; no further action has been taken, unless noted*)

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates & Subsidy Alternatives	Self-Insurance/ Stop Loss	Interstate Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
The American Health Care Act H.R. 1628 *	Does not cap the employee tax deduction for employer-sponsored coverage;	Telemedicine N/A		Eliminates individual and employer mandates by making penalties \$0 for tax years				Increases age rating band to 5-to-1. State waivers also available to further increase	Eliminates the Cadillac tax for years 2020 through 2025 (leaving the possibility that	

* Note: The House Energy and Commerce Committee has also released legislation. The issues of greatest importance to The Council are included in the House Ways and Means Committee bill. For further information on the House Energy and Commerce Committee Print, please click [here](#). *On March 8, the legislation was reported favorably out of the House Energy and Commerce Committee—as amended—by a vote of 31-23. On*

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<i>May 4 –Passed the House by a vote of 217-213.*</i>	retains the obligation that the employer report coverage amounts on Form W-2, and adds an additional W-2 field: each month with respect to which an employee is eligible for a group health plan.			<p>starting after December 31, 2015.</p> <p>Replaces individual subsidies with a tax credit that is tiered by age</p> <p>Reduces the credit amount for individuals with high incomes; includes an annual subsidy cap for any taxpayer of \$14k, and would deny eligibility for the credit if coverage includes abortions or if</p>				<p>the age rating ratio.</p> <p>Regarding preexisting conditions - states may apply for waivers that allow health status underwriting, in certain circumstances, for individuals who do not maintain continuous coverage (in lieu of 30% surcharge).</p>	<p>the tax could be imposed beginning in 2026).</p> <p>Repeals several of the ACA taxes and fees beginning in 2017:</p> <ul style="list-style-type: none"> • Annual provider fee; • Medicare tax increase; • ACA net investment income tax; • Prescription drug tax; and • Medical device tax. 	

March 16, the bill, packaged with the bill reported out of the House Ways and Means Committee, was reported favorably out of the House Budget Committee by a vote of 19-17. To see the combined House Budget Committee Print, please click [here](#).

* Passed concurrently with H.R. 1628 was [H.R. 2192](#), a bill introduced by Representative Martha McSally to ensure continued application of healthcare-related provisions of the Public Health Service Act to Members of Congress and their staff. It passed the house unanimously, by a vote of 429-0. This provision could not be included in H.R. 1628 due to constraints in the reconciliation process. The bill was received in the Senate on June 7 and referred to the Committee on Homeland Security and Government Affairs.

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		<p>OTC Medications Eliminates the prohibition on over the counter drugs as qualified medical expenses.</p> <p>Contribution Amount Raises the contribution limit to the out-of-pocket cost for high deductible health plans.</p> <p>Medicare Enrollment N/A</p>		<p>married couples file individually.</p> <p>Limits the tax credit to individual market plans and unsubsidized COBRA coverage. Credits are not available to individuals who are eligible for a group health plan (including employer plans), Medicare, Medicaid or other government</p>						

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		<p>Other Allows spouses to make catch-up contributions to the same HSA.</p>		<p>coverage. They also are not available for ACA grandfathered or grandmothered (i.e., grandfathered plans that received transition relief from CCIIO) plans.</p> <p>Promotes continuous coverage by mandating a penalty of 30% of otherwise-applicable premium rates for 12 months.</p>						

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<p>Better Care Reconciliation Act (BCRA)</p> <p><i>July 27- Failed in Senate, 49-51</i></p>	<p>Does not cap the employee tax benefit for employer-sponsored coverage.</p>	<p>Reduces tax penalty for HSA withdrawals used for non-qualified expenses from 20% to 15%.</p> <p>Telemedicine N/A</p> <p>OTC Medications Reinstates OTC drugs as qualified medical expenses.</p>		<p>Eliminates the individual and employer mandate by making the penalties \$0 for tax years as of 2016.</p> <p>Retains ACA premiums subsidy structure but adjusts eligibility and amounts; subsidies are available to individuals with</p>			<p>Adds new ERISA structure that allows for the establishment of association health plans (AHPs) as large group plans for small businesses and individuals.</p> <ul style="list-style-type: none"> The plans would be exempt from community rating and essential 	<p>Retains ACA market reforms but allows states to opt out of many of them through section 1332 waivers.</p> <p>Requires states to set their own MLR and rebating rules (2019)</p> <p>Allows payment of medical expenses for</p>	<p>Repeals the Cadillac tax from 2020-2025 (leaving possibility tax could be reinstated in 2026).</p> <p>Repeals several ACA taxes:</p> <ul style="list-style-type: none"> Small business tax credit (2019) Annual provider fee (will not go into effect) 	

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		<p>Contribution Amount Raises the contribution limit to the out-of-pocket cost for high deductible health plans (\$6,500 for individual; \$13,100 for family).</p> <p>Other Allows spouses to make catch-up contributions to the same HSA.</p>		<p>incomes not above 350% of federal poverty level.</p> <p>ACA subsidies are tiered by income and age; beginning in 2020, subsidies may be used for catastrophic health plans.</p> <p>Incentivizes continuous coverage by mandating a 6-month waiting period for coverage for individuals who cannot demonstrate 12 months of continuous coverage (i.e., had a 63+ day gap in creditable coverage, as defined in the</p>			<p>benefit requirements currently imposed on small group and individual plans.</p>	<p>dependents through age 26.</p> <p>Allows for payment of HDHP premiums, but prohibits HSA funds from being used to cover HDHPs that cover abortions.</p> <p>Increases age rating band to 5-to-1.</p>	<p>after current 2017 moratorium)</p> <ul style="list-style-type: none"> • Prescription drug tax (2021) • Medical device tax (2018) <p>Prohibits tax credits for health insurance plans that cover abortion.</p>	

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				Internal Revenue Code).						
<u>Graham-Cassidy bill</u>	Does not cap employer-sponsored coverage tax benefit.	Reduces tax penalty on HSAs from 20 percent to 10 percent. Stipulates that direct premium care arrangements (coverage restricted to primary care in exchange for a fixed fee) do not constitute “health plans” or “insurance” for purposes of HSA/HDHP rules and restrictions. Telemedicine N/A		Eliminates individual and employer mandates by making penalties \$0 for tax years starting after December 31, 2015. Eliminates ACA’s individual subsidies by 2020. • Federal dollars spent on Obamacare subsidies would be block-					Does not repeal the Cadillac tax. • Eliminates small business tax credit by 2020 • Eliminates the medical device tax but keeps other Obamacare taxes in place. Prohibits tax credits for health insurance plans that cover abortion.	States participating in new block grant program may apply for waivers that will allow them to: • Permit variation in rates, except based on sex and constitutionally protected classes • Allow carriers to charge different premiums for the same plan based on health status

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		<p>OTC Medications Eliminates the prohibition on over the counter drugs as qualified medical expenses.</p> <p>Contribution Amount Raises the contribution limit to the out-of-pocket cost for high deductible health plans.</p> <p>Other Allows spouses to make catch up contributions to the same HSA.</p>		<p>granted to the states.</p> <p>Restricts federal funds to healthcare spending in the forms of tax credits, subsidies, and health savings account premiums.</p> <p>Allows anyone to buy a lower-cost catastrophic health insurance plan beginning in 2019.</p>						<ul style="list-style-type: none"> Eliminate essential health benefit requirements Not require insurer rebates based on premium dollars received versus premium dollars expended on care
		<p>Telemedicine N/A</p>	Raises wellness benefit/penalty cap to 50% of	Creates a standard deduction for		Allows sales across state lines; issuers exempt	Allows small businesses to			<p>Antitrust Amends McCarran-</p>

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<p>American Health Care Reform Act of 2017 H.R. 277 Rep. Phil Roe (R-TN)</p>		<p>On-Site Clinics N/A</p> <p>OTC Medications Includes within the definition of “preventive care” prescription and OTC drugs.</p> <p>Contribution Amount Increases maximum contribution limit.</p> <p>Medicare Enrollment Allows Medicare beneficiaries enrolled only in Part A to continue to contribute to HSAs after turning 65 if otherwise eligible.</p>	value of benefits under the plan (does not address EEOC issues).	health insurance (“SDHI”)—a tax deduction applied to both income and payroll taxes of \$7,500 for an individual and \$20,500 for a family (after the first year, these dollar amounts will be increased by an amount equal to the original dollar amount multiplied by the COLA for the calendar year in which the taxable year begins); applies to any individual who is covered under a qualified health plan; taxpayers can elect not to have the SDHI apply; the amount		from “secondary state’s” laws (except consumer protections and taxes).	pool together in “AHPs.”			Ferguson to restore the application of antitrust and unfair trade practices laws to the health insurance sector.

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		<p>Other Allows for an additional contribution amount between spouses; allows HSAs to be used to pay premiums for long-term care insurance, COBRA coverage, and HSA-qualified policies; simplifies limitations on FSA and HSA rollovers; eliminates tax for failure to maintain HDHP coverage; renames HDHP to HSA “qualified plans.”</p>		allowed as a deduction is reduced by the amount paid into an Archer MSA or an HSA.						
		<p>Telemedicine N/A</p>		States <i>elect</i> : (1) keep the ACA,			States may auto enroll uninsured	No lifetime or annual limits;		

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<p>Patient Freedom Act of 2017 S. 191</p> <p>Sen. Susan Collins (R-ME) & Sen. Bill Cassidy (R-LA)</p>		On-Site Clinics N/A		<p>including cost-sharing, (2) “state alternative option,” or (3) reject the ACA and federal assistance; for “state alternative option,” qualifying low-income state residents receive federally-supported deposits (included in gross income) into Roth HSAs for premiums and other coverage cost-sharing (deposit amounts are reduced when the individual has employer-sponsored coverage by the amount of the income tax</p>			<p>individuals in default coverage and establish Roth HSAs for such residents, unless the individual affirmatively opts out.</p>	<p>dependent coverage until 26; no pre-ex exclusions; preventive services and mental health coverage; federal exchanges remain operational; for “state alternative option,” states must have: appropriate annual and open enrollment periods in the individual market, a “default coverage” option that meets certain minimum requirements (i.e., HDHP, adequate provider</p>		
		OTC Prescription N/A								
		Contribution Amount N/A								
		Medicare Enrollment N/A								
		Other Creates a new tax-exempt category for Roth HSAs (trusts created exclusively for paying qualified medical expenses— medical care and/or insurance that constitutes creditable coverage under the PHSA), subject to annual contribution								

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		limits (\$5,000 for each person covered by creditable coverage); no tax deductions are allowed for Roth HSA contributions, but distributions from Roth HSAs for qualifying expenses are not included in gross income; no contributions to HSAs are allowed after date of enactment.		deduction for that coverage).				network, etc.), and consequences for lacking continuous coverage (i.e., underwriting, penalties, etc.).		
Obamacare Replacement Act S. 222/H.R. 1072 Sen. Rand Paul (R-KY)/ Rep. Mark	Permits individuals who receive employer coverage to exclude premium amount from taxable income.	Telemedicine N/A On-Site Clinics N/A OTC Medications N/A		Equalizes tax treatment of insurance purchases for individuals and employers via a universal deduction on both income and payroll taxes,	Clarifies that stop-loss insurance is not group health insurance.	Allows sales across state lines; issuers exempt from “secondary state’s” laws (except consumer protections and taxes).	Allows individuals to pool together in IHPs; allows small businesses to pool together across state lines in “AHPs.”	Provides a 2-year open enrollment for pre-ex individuals.		Antitrust Amends McCarran-Ferguson to restore the application of antitrust and unfair trade practices laws to

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Sanford (R-SC)		<p>Contribution Amount Allows unlimited HSA contributions.</p> <p>Medicare Enrollment N/A</p> <p>Other Provides an optional individual tax credit up to \$5,000 for HSA contributions (additional HSA contributions still tax-preferred); no HDHP enrollment requirement; HSA funds may be used for premiums; allows HSA rollovers to family members.</p>		regardless of where/how coverage is purchased.						<p>the health insurance sector.</p> <p>Non-Discrimination (Highly-Compensated Employees) Repeals section 2716 of the ACA governing the prohibition on discrimination in favor of highly-compensated individuals.</p>

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<p>The World's Greatest Healthcare Plan of 2017 H.R. 1275</p> <p>Rep. Pete Sessions (R-TX)</p>		Clarifies that an employer health care arrangement under which an employer reimburses an employee for the purchase of individual health insurance (e.g., an HRA) does not constitute a group health plan.		Eliminates individual and employer mandates.			States may elect to provide for the enrollment of uninsured individuals in default insurance coverage and establish Roth HSAs for such residents, unless the individual affirmatively opts out.	<p>Continues to apply some of the ACA's consumer protections, including: no lifetime or annual limits; dependent coverage through 26; guaranteed renewability; prohibiting pre-ex exclusions; prohibiting discrimination based on health status.</p>	<p>Repeals the Cadillac tax; and eliminates the tax deduction for medical expenses.</p>	
	Telemedicine N/A		Establishes an advanceable, refundable health insurance tax credit for taxpayers enrolled in coverage (does not cover abortion services).							
	On-Site Clinics N/A									
	OTC Medications N/A									
	Contribution Amount N/A									
	Medicare Enrollment N/A									

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		<p>Other Creates a new tax-exempt category for Roth HSAs (trusts created exclusively for paying qualified medical expenses— medical care and/or insurance that constitutes creditable coverage under the PHSA), subject to annual contribution limits (\$5,000 for each person covered by creditable coverage); no tax deductions are allowed for Roth HSA contributions, but distributions from Roth HSAs for qualifying expenses are not</p>								

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		included in gross income; no contributions to HSAs are allowed after date of enactment.								

II. Single-Issue Legislation (115th Congress) (*all legislation has been introduced; no further action has been taken, unless noted*)

Single Payer/Public Option Proposals

Cadillac Tax Repeal

Wellness

Health Savings Accounts

Mandate Reform/ Alternatives

Antitrust

Interstate Sales

Stop-Loss

Essential Health Benefits

ACA Market Reforms

Cost-Sharing Reductions

Association Health Plans

Blanket Repeal

Miscellaneous

Single Payer/Public Option Proposals

<p>Medicare for All Act of 2017 S. 1804 Sen. Bernie Sanders (D-VT)</p>	<p>Establishes a “Medicare For All” national health insurance program; expands Medicare eligibility to all U.S. citizens over four years, after which a program would be implemented to provide universal entitlement with full benefits and protections funded through the Universal Medicare trust; broadens Medicare benefits to create a new set of “covered health benefits;” and provides states with a right to further expand eligibility, among other things.</p>
<p>Expanded & Improved Medicare For All Act H.R. 676 Rep. John Conyers (D-MI)</p>	<p>Establishes the “Medicare For All Program,” which would expand the Medicare program to provide all individuals residing in the U.S. with free health care; broadens Medicare benefits to create a new set of “covered health benefits;” permits only nonprofit, public institutions from serving as participating providers, among other things.</p>
<p>State Public Option Act S. 2001/H.R. 4129 Sen. Brian Schatz (D-HI) and Rep. Ben Ray Lujan (D-NM)</p>	<p>Allows states to create a Medicaid buy-in program for all residents, providing state residents with the option of enrolling in Medicaid as a qualified health plan.</p>

Cadillac Tax Repeal

<p>Middle Class Health Benefits Tax Repeal Act of 2017 S. 58 Sen. Dean Heller (R-NV)</p>	<p>Eliminates section 4980I of the Internal Revenue Code to repeal the excise tax on employer-sponsored coverage, known as the Cadillac tax.</p>
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Wellness

<p>The Preserving Employee Wellness Programs Act H.R. 1313 Rep. Virginia Foxx (R-NC)</p>	<p>Contains provisions governing specific subsets of workplace wellness programs: (1) programs offered in conjunction with an employer-sponsored health plan, (2) programs offering more favorable treatment for adverse health factors, and (3) programs not offered in conjunction with an employer sponsored health plan—each of these sections is deemed to comply with certain sections of the ADA, GINA, and the Public Health Service Act; provides that the collection of information about “the manifested disease or disorder of a family member” will not be considered an unlawful acquisition of genetic information with respect to another family member participating in workplace a wellness program, and it does not violate GINA; and allows employers offering a wellness program to establish a deadline of up to 45 days for employees to request and complete an alternative program if it is unreasonably difficult or medically inadvisable for the employee to participate in the original wellness program.</p> <p><i>March 8 – Reported favorably out of the Education and the Workforce Committee—as amended—by a vote of 22-17 (amendments are technical in nature).</i></p>
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Health Savings Accounts

<p>Health Savings Act of 2017 S. 403/H.R. 1175 Sen. Orrin Hatch (R-UT)/Rep. Erik Paulsen (R-MN)</p>	<p>On-Site Clinics Creates a special rule for individuals eligible for on-site medical clinic coverage (eligibility to receive health care benefits from an on-site medical clinic of an employer does not qualify as coverage under a health plan if such health care benefits are not significant benefits). Examples of such benefits include:</p> <ul style="list-style-type: none"> • Physicals and immunizations • Injecting antigens provided by employees • Medications available without a prescription (pain relievers, antihistamines, etc.) • Treatment for injuries occurring at the employer’s place of employment or otherwise in the course of employment • Tests for infectious diseases and conditions
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	<ul style="list-style-type: none"> • Monitoring of chronic conditions • Drug testing • Hearing or vision screenings and related services • Other services and treatments of a similar nature <p>OTC Medications Includes an amount paid for any prescription or OTC medicine or drug within the definition of a “qualified medical expense;” includes within the definition of “preventive care” prescription and OTC drugs.</p> <p>Contribution Amount Increases maximum contribution limit.</p> <p>Medicare Enrollment Allows Medicare beneficiaries enrolled only in Part A to continue to contribute to HSAs after turning 65 if otherwise eligible.</p> <p>Other Renames HDHP as “HSA-qualified health plan;” allows both spouses to make catch up contributions to the same HSA account; simplifies limitations on FSA and HSA rollovers; eliminates tax for failure to maintain HDHP coverage.</p>
<p>Health Savings Act of 2017 H.R. 35 Rep. Michael Burgess (R-TX)</p>	<p>Contribution Amount Increases the maximum HSA contribution limit to match the amount of the deductible and out-of-pocket expenses under a high deductible health plan.</p> <p>Other Allows an additional tax deduction for amounts paid to the HSA of a taxpayer’s child or grandchild; allows a rollover of HSA funds to the child, parent, or grandparent of an account holder; expands the definition of an HSA compatible plan to include bronze, silver, and catastrophic plans on an insurance exchange; amends the federal bankruptcy code to treat HSAs in the same manner as individual retirement accounts for purposes of determining exemptions from the bankruptcy estate.</p>
<p>Health Savings Account Expansion Act of 2017 S. 28/H.R. 247 Sen. Jeff Flake (R-AZ)/Rep. David Brat (R-VA)</p>	<p>OTC Medications Repeals the restriction on using HSAs for OTC medications.</p> <p>Contribution Amount Increase the maximum contribution amounts.</p> <p>Other Permits the use of HSAs to pay health insurance premiums and direct primary care expenses; eliminates the requirement that a participant in an HSA be enrolled in an HDHP; decreases the additional tax for HSA distributions not used for qualified medical expenses.</p>

<p>The Health Savings Account Act H.R. 1280 Rep. Jeff Fortenberry (R-NE)</p>	<p>Contribution Amount Increases the maximum contribution limit to HSAs.</p> <p>Other Defines direct primary care service arrangements and clarify that they are not treated as a “health plan” or as “insurance;” provides that “medical care”—expenses for which a deduction is allowed by the Internal Revenue Code—would include certain periodic provider fees (e.g., “periodic fees paid to a primary physician for a defined set of medical services or the right to receive medical services on an as-needed basis;” and “pre-paid primary care services designed to screen for, diagnose, cure, mitigate, treat, or prevent disease and promote wellness”); permits fitness center memberships to qualify as an allowable HSA expense.</p>
<p>Restoring Access to Medication Act of 2017 S. 85/H.R. 394 Sen. Pat Roberts (R-KS)/Rep. Lynn Jenkins (R-KS)</p>	<p>OTC Medications Amends the Internal Revenue Code to repeal amendments made by the ACA which disqualify expenses for OTC drugs under HSAs and FSAs.</p>

Mandate Reform/Alternatives

<p>Obamacare Regressive Tax Relief Act H.R. 562 Rep. Luke Messer (R-IN)</p>	Amends the Internal Revenue Code to reduce penalties for individuals who fail to meet MEC requirements.
<p>Unaffordable Care Act H.R. 562 Rep. Luke Messer (R-IN)</p>	Amends the Internal Revenue Code to exempt from the requirement to maintain minimum essential health coverage an individual who: (1) resides in a location with fewer than two qualified health plans offered through an exchange established under the ACA, or (2) was covered under MEC for the last month of the preceding year and the premium is at least 125% percent of the premium for that month.
<p>Budget Process Accountability Act H.R. 537 Rep. Andy Biggs (R-AZ)</p>	Amends the Internal Revenue Code to exempt individuals from the MEC requirement if they reside in a county with fewer than two health insurers offering coverage on the exchange; amends the ACA to extend the requirement for participation in the exchanges to the President, Vice President, political appointees, and employees of congressional committees and leadership offices.
<p>Employee/Patient Fairness and Relief Act of 2017 H.R. 661/H.R. 633 Rep. Brett Guthrie (R-KY)/Rep. Gregg Harper (R-MS)</p>	Allows health insurance issuers to sell previously available health insurance coverage in the small group market in satisfaction of the MEC requirement.

<p>Healthcare Tax Relief and Mandate Repeal Act H.R. 285 Rep. Michael Turner (R-OH)</p>	<p>Amends the Internal Revenue Code to repeal the ACA’s individual and employer mandates.</p>
<p>No Coverage, No Penalty Act/Freedom from the ACA Tax Penalty Act H.R. 2086/H.R. 2516 Rep. Marsha Blackburn (R-TN)/Rep. David Young (R-IA)</p>	<p>Redefines who may be an “applicable individual” for the purposes of minimum essential coverage to exclude “individuals residing in exempted areas” (i.e., those who reside in a rating area or country where the HHS Secretary certifies that no qualified health plans are offered through an exchange).</p>
<p>Health Care Options Act of 2017 H.R. 1933/S. 761 Rep. John Duncan (R-TN)/Sen. Lamar Alexander (R-TN)</p>	<p>Permits plans authorized by a state and not done through an exchange to be treated as a qualified health plan; crafts new reporting requirement for plans that qualify as “coverage not enrolled in through an exchange,” and eliminates the individual mandate penalty.</p>
<p>H.R. 2769 Rep. David Loebsack (D-IA)</p>	<p>Amends the Internal Revenue Code to mandate that individuals in areas with no qualified health plans are exempt from individual mandate provisions and deemed to have suffered a hardship, making them unable to obtain coverage.</p>
<p>Forty Hours is Full Time Act S. 1782 Sen. Susan Collins (R-ME)</p>	<p>Amends section 4980H(c) of the Internal Revenue Code by defining “full-time employee” as at least 40 hours as opposed to 30 hours.</p>
<p>Repeal and Refund Act S. 1898 Sen. Steve Daines (R-MT)</p>	<p>Amends the Internal Revenue Code to retroactively repeal the ACA’s individual mandate.</p>
<p>Commonsense Reporting Act of 2017 S. 1908/H.R. 3919 Sen. Rob Portman (R-OH)/Rep. Diane Black (R-TN)</p>	<p>Amends sections 6055 and 6056 of the Internal Revenue Code to streamline current employer requirements by establishing a voluntary prospective reporting system to report general employee information in forms 1094-C and 1095-C.</p>
<p>Simplifying Technical Aspects Regarding Seasonality (STARS) Act of 2017 H.R. 3956 Rep. James Renacci (R-OH)</p>	<p>Simplifies the employer shared responsibility requirement and provide an exception for seasonal employees—employees employed in a position where the customary annual employment is not more than 6 months.</p>

<p>Mandate Relief Act of 2017 S. 1967 Sen. Tom Cotton (R-AR)</p>	<p>Provides additional exemptions to the individual mandate for individuals (1) whose household incomes are below the national median, (2) whose premiums have increased by more than 10% in a given year, or (3) who have only one issuer offering plans in their county; and reduces the HSA tax penalty from 20% to 10%.</p>
<p>Healthcare Market Certainty and Mandate Relief Act of 2017 S. 2052/H.R. 4200 Sen. Orrin Hatch (R-UT)/Rep. Kevin Brady (R-TX)</p>	<p>Retroactively delays enforcement of the ACA’s individual and employer mandates from 2017-2021 and 2015-2017, respectively; increases the maximum contribution limit to HSAs to \$5,000 for self-coverage and \$10,000 for family coverage; and temporarily funds ACA cost-sharing subsidies for the remainder of 2017 and for plan years 2018 and 2019.</p>

Antitrust

<p>Competitive Health Insurance Reform Act of 2017 H.R. 372 Rep. Paul Gosar (R-AZ)</p>	<p>Amends McCarran-Ferguson to restore the application of antitrust and unfair trade practices laws to the health insurance sector. <i>March 22 – Passed the House by a vote of 416-7.</i></p>
<p>Health Insurance Industry Antitrust Enforcement Act of 2017 H.R. 143 Rep. John Conyers (D-MI)</p>	<p>Prohibits McCarran-Ferguson from being construed to permit health insurance or medical malpractice insurance issuers to engage in price fixing, bid rigging, or market allocations in connection with providing health insurance or medical malpractice coverage; amends McCarran-Ferguson to provide that nothing in that Act modifies, impairs, or supersedes the operation of antitrust laws with respect to the business of health insurance.</p>

Interstate Sales

<p>Health Care Choice Act of 2017 H.R. 314 Rep. Marsha Blackburn (R-TN)</p>	<p>Repeals the ACA; allows consumers to shop for insurance across state lines.</p>
<p>Local and Municipal Health Care Choice Act of 2017 H.R. 1319</p>	<p>Facilitates multistate sales by authorizing a local government in a “secondary state” or provide group health coverage to its officers, employees, or retirees (and their dependents) through a local government employee health benefits pool or program authorized under the laws of a “primary state.”</p>

Rep. Kenny Marchant (R-TX)	
S. 1516 Sen. Dean Heller (R-NV)	Allows licensed health insurers to offer coverage to individuals across state lines (i.e., in a “secondary state”), provided that the coverage is offered in the “primary state.”
Commonsense Competition and Access to Health Insurance Act S. 1546 Sen. Mark Warner (D-VA)	Amends section 1333 of the ACA to allow health insurers greater flexibility in offering health insurance coverage across state lines.
Health Care Choice Act S. 2021 Sen. Ted Cruz (R-TX)	Repeals Title I of the ACA and allows licensed health insurers to offer coverage to individuals across state lines (i.e., in a “secondary state”), provided that the coverage is offered in the “primary state.” <i>This language permitting the interstate sale of insurance is nearly identical to the text introduced by Sen. Dean Heller (S. 1516) discussed above.</i>

Stop-Loss Insurance

The Self-Insurance Protection Act H.R. 1304 Rep. Phil Roe (R-TN)	Clarifies that a stop loss policy is not included within the definition of “health insurance coverage” as defined by ERISA, the Public Health Service Act, and the Internal Revenue Code—in each of these code sections, the following statement follows the definition of “health insurance coverage:” “Such term shall not include a stop loss policy obtained by a self-insured health plan or a plan sponsor of a group health plan that self-insures the risks of its plan participants to reimburse the plan or sponsor for losses that the plan or sponsor incurs in providing health or medical benefits to such plan participants in excess of a predetermined level set forth in the stop loss policy obtained by such plan or sponsor.” <i>April 5 – Passed the House by a vote of 400-16.</i>
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Essential Health Benefits

<p>Ensuring Health Care Opportunities Act H.R. 208 Rep. Don Young (R-AK)</p>	<p>Waives the essential health benefits requirements for certain states that request such a waiver.</p>
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ACA Market Reforms

<p>Pre-Existing Conditions Protection Act of 2017 H.R. 1121 Rep. Greg Walden (R-OR)</p>	<p>Prohibits application of pre-existing condition exclusions; guarantees availability of health insurance coverage in the individual and group markets. Application of the bill is contingent on the repeal of the ACA.</p>
<p>Guaranteed Health Coverage for Pre-Existing Conditions Act of 2017 H.R. 628 Rep. Rodney Davis (R-IL)</p>	<p>Maintains the following requirements from the ACA and HCERA upon repeal: (1) health insurance includes coverage for preexisting conditions, and (2) health insurers accept every employer and every individual in a group that applies for coverage in the group market and every individual that applies for coverage in the individual market.</p>

Cost Sharing Reductions

<p>Marketplace Certainty Act H.R. 3258 Rep. Raul Ruiz (D-CA)</p>	<p>Amends section 1402 of the Patient Protection and Affordable Care Act to further reduce cost-sharing for health insurance issuers of a qualified health plan.</p>
<p>Individual Health Insurance Marketplace Improvement Act S. 1354/H.R. 1331 Sen. Thomas Carper (D-DE)/ Rep. Jim Langevin (D-RI)</p>	<p>Establishes a permanent reinsurance program for the individual health insurance market, providing funding to health insurance issuers, with respect to each high-cost individual enrolled in a qualified health plan, beginning in 2018.</p>
<p>Keeping Health Insurance Affordable Act of 2017 S. 1511 Sen. Benjamin Cardin (D-MD)</p>	<p>Establishes an “Individual Market Reinsurance Fund,” which provides federal funding to cover 80 percent of insurance claims between \$50,000 and \$500,000 from 2018-2020 and 80 percent of insurance claims between \$100,000 and \$500,000 starting in 2021. The bill extends cost-sharing reductions to all market place enrollees up to 400 percent federal poverty level.</p>

Association Health Plans

<p>Small Business Health Fairness Act of 2017 H.R. 1101 Rep. Sam Johnson (R-TX)</p>	<p>Allows small employers to band together and offer coverage through association health plans (AHPs). The bill, which is identical to Subtitle F in Rep. Roe’s comprehensive ACA package, puts forth the requirements to establish the AHPs (certification requirements, application requirements, enforcement, etc.).</p>
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	<i>March 22 – Passed the House by a vote of 236-175.</i>
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Blanket Repeal

<p>H.R. 370 Rep. Bill Flores (R-TX)</p>	Repeals the ACA and the health care-related provisions in HCERA, effective 2020. Provisions of law amended by repealed provisions are restored.
<p>ObamaCare Repeal Act/State Health Flexibility Act H.R. 175/H.R. 1718/S. 106/H.R. 352 Rep. Steve King (R-IA)/Rep. Mo Brooks (R-AL)/Sen. Ted Cruz(R-TX)/Rep. Todd Rokita (R-IN)</p>	Repeals the ACA and HCERA, effective upon enactment. Provisions of law amended by repealed provisions are restored.
<p>Responsible Path to Full Obamacare Repeal Act H.R. 3276 Rep. Andy Biggs (R-AZ)</p>	Repeals the ACA and HCERA, effective October 1, 2018. Provisions of law amended by repealed provisions are restored.

Miscellaneous

<p>The ROSIE Act H.R. 32 Rep. Richard Hudson (R-NC)</p>	Amends the Internal Revenue Code to exempt the spouses of active duty members of the Armed Forces from the determination of whether an employer is subject to the employer health insurance mandate.
<p>Care for All Act of 2017 H.R. 551 Rep. Jeff Fortenberry (R-NE)</p>	Amends the ACA to allow catastrophic plans to be offered as qualified health plans to any individual in the individual or group markets.
<p>Protecting Access to Care Act H.R. 1215 Rep. Steve King (R-IA)</p>	Enacts measures governing (1) the speedy resolution of claims (including enacting a statute of limitations for the commencement of a health care lawsuit), (2) compensation of patient injury, and (3) maximizing patient recovery. <i>June 13 — Reported to the House, provided rules for consideration.</i>

<p>Consumer Health Options and Insurance Competition Enhancement Act S. 194/H.R. 635 Sen. Sheldon Whitehouse (D-RI)/Rep. Janice Schakowsky (D-IL)</p>	<p>Provides a public health insurance option that can be offered on the exchanges; plans must comply with the ACA’s applicable provisions to health plans offered through exchanges (benefits, benefit levels, provider networks, notices, consumer protections, cost-sharing, etc.).</p>
<p>Holding Health Insurers Harmless Act H.R. 1592 Rep. Ted Yoho (R-FL)</p>	<p>Provides a safe harbor for private sector health insurance providers (including sponsors of group health plans) from fines and penalties if plans are not compliant with ACA requirements, pursuant to some exceptions.</p>
<p>Medical Practice Freedom Act of 2017 H.R. 1766 Rep. Phil Roe (R-TN)</p>	<p>Prohibits the Secretary of Health and Human Services from requiring health care providers to participate in any health plan or comply with any requirements relating to the “meaningful use of electronic health records” as a condition of licensure.</p>
<p>Access to Federal Employees Health Benefits Program H.R. 2400 Rep. Darrell Issa (R-CA)</p>	<p>Allows individuals, who are not Federal employees, to enroll in the Federal Employees Health Benefits Program.</p>
<p>Verify First Act H.R. 2581 Rep. Lou Barletta (R-PA)</p>	<p>Mandates that individuals have a verified social security number before receiving the ACA health insurance premium tax credit. <i>June 14 –Passed the House by a vote of 238-184.</i></p>
<p>Hold Congress Accountable on Healthcare Act H.R. 3253 Rep. David Loebsack (D-IA)</p>	<p>Repeals Members of Congress’ eligibility to be enrolled in a health plan offered under the ACA exchange or a health plan under the Federal Employees Health Benefit Program, should there be an increase of the uninsured rate as of January 20, 2017. The legislation also eliminates Members’ eligibility for any Federal tax credit or subsidy with respect to health insurance coverage.</p>
<p>Broader Options for Americans Act H.R. 2579 Rep. Patrick Tiberi (R-OH)</p>	<p>Amends the Internal Revenue Code to allow individuals under COBRA to receive premium tax credits for individual insurance markets. <i>June 15—Passed the House by a vote of 267-144.</i></p>
<p>Health Care Options for All Act S. 1201/H.R. 2770 Sen. Claire McCaskill (D-MO)/Rep. David Loebsack (D-IA)</p>	<p>Requires HHS, Treasury, and the Office of Personnel Management to establish a mechanism that ensures that individuals without access to exchange plans can enroll in the small group market through the D.C. exchange.</p>

<p>Lower Premiums Through Reinsurance Act of 2017 S. 1835 Sen. Susan Collins (R-ME)</p>	<p>Amends section 1332 of the Patient Protection and Affordable Care Act to provide federal funding to States to establish high-risk pool or reinsurance programs.</p>
<p>Healthcare Tax Relief Act S. 1859 Sen. Cory Gardner (R-CO)</p>	<p>Extends the moratorium on the health insurance providers' tax until December 31, 2018.</p>
<p>Access to Marketplace Insurance Act H.R. 3976 Rep. Kevin Cramer (R-ND)</p>	<p>Permits churches, civic groups, and non-profits to pay cost-sharing and health insurance premiums for individuals and families enrolled in qualified health plans.</p>
<p>H.R. 4004 Rep. Bill Posey (R-FL)</p>	<p>Requires employees of the White House—like Members of Congress and congressional staff—to enroll in programs offered in the ACA exchange.</p>
<p>Increasing Access to Care Act S. 1976 Sen. Tim Scott (R-SC)</p>	<p>Allows individuals over the age of 30 to purchase catastrophic health insurance (i.e., “lower premium copper plans”) beginning in 2019.</p>
<p>Small Business and Family Health Tax Relief Act of 2017 S. 1978 Sen. Heidi Heitkamp (D-ND)</p>	<p>Delays the implementation of the health insurance tax until 2020; and makes it tax-deductible should it go into effect.</p>

III. Proposals (115th Congress) (no legislative text)

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
House Health Care Blueprint	Caps employer-based coverage tax exclusion for individuals (level not specified, but "majority of plans" would not be impacted).	Telemedicine N/A	Retains ACA limits on wellness program rewards/surcharges; clarifies wellness programs within those ACA limits do not violate ADA or GINA.	For those without access to employer-sponsored coverage, provides a fixed, age-adjusted, portable credit (available at the start of each month); excess credit not used to purchase coverage deposited in an HSA-type account to cover other medical expenses (e.g., dental, vision, OTC drugs).	Clarifies that stop-loss insurance is not group health insurance.	Allows for purchase across state lines.	Promotes expansion of private exchanges; allows small businesses to pool in Association Health Plans ("AHPs") (with some nondiscrimination requirements); allows individuals to pool in Individual Health Pools ("IHPs").	Retains ACA pre-exclusion prohibition; dependent coverage up to age 26; expansion of HIPAA continuous coverage protections (e.g., standard rates apply if someone switches between markets but maintains coverage, despite any potential illnesses); 5-to-1 age rating ratio.		
		On-Site Clinics N/A								
		OTC Medications N/A								
		Contribution Amount Sets maximum HSA contribution at the maximum combined allowable deductible and out-of-pocket expense limits.								
		Medicare Enrollment N/A								
Other N/A										

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
House Health Care Policy Brief		Telemedicine N/A		Creates an advanceable, portable, refundable tax credit to assist with the purchase of health insurance on the individual market for those not offered other qualifying insurance; if the individual does not use the full value of the credit, then the excess can be deposited into an HSA.			Offers “State Innovation Grants” (the next generation of high risk pools).			
		On-Site Clinics N/A								
		OTC Medications N/A								
		Contribution Amount Sets maximum HSA contribution at the maximum combined allowable deductible and out-of-pocket expense limits.								
		Medicare Enrollment N/A								
	Other Allows spouse catch-up contributions to HSA accounts.									

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
President Trump's Joint Session Address		Expands use of health savings accounts.		Endorses new tax credits to help individuals purchase coverage.	Prohibits tax credits	Promotes freedom to buy health coverage across state lines, a move he said would create "a truly competitive national marketplace that will bring cost way down and provide far better care."		Maintains protections for pre-existing conditions.		
The Patient CARE Act Sen. Orrin Hatch (R-UT)	Caps the tax exclusion for an employee's health coverage (\$12,000 for individuals; \$30,000 for families).	Telemedicine N/A On-Site Clinics N/A OTC Medications Reinstates OTC drugs as qualified medical expenses for HSAs, FSAs, HRAs, and Archer MSAs. Contribution Amount N/A		Provides for a targeted tax credit solely for purchase of health care (employees of small employers + those with no offer of employer coverage would be eligible); renders individuals with annual income up to 300% of FPL eligible to receive an age-adjusted, advanceable, refundable tax credit to buy coverage or "health care services;"		Allows states to enter into interstate compacts to offer plans across state lines.	Gives states the authority to utilize default enrollment (with state-selected default plan options) for individuals who have a health tax credit but do not choose a plan within a certain timeframe (but individuals have option to switch plans or opt out completely); small businesses may pool together to negotiate with plans.	No lifetime limits; 5-to-1 age rating ratio (with flexibility for states to alter); dependent coverage up to age 26 (but states may opt out); guaranteed issue/renewability; no pre-ex exclusions and standard rates apply if the individual has had continuous coverage.	Repeals the Cadillac tax.	

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
		<p>Medicare Enrollment N/A</p> <p>Other Expands eligibility for and use of HSAs; HSA funds may be used for COBRA coverage; spouses may make catch-up contributions to the same HSA account.</p>		creates Health Financing Office at Treasury to administer credits.						
<p>Problem Solvers Caucus Bipartisan Proposal</p>				<p>Adjusts the employer mandate by raising the threshold on the requirement for employers to provide insurance under the employer mandate to businesses of 500 employees or more.</p> <ul style="list-style-type: none"> The definition of “full time” under the employer mandate is 40 hours. 		Provides clear and technical guidelines for states to promote the interstate sale of health insurance.			<p><u>Does not</u> repeal the Cadillac tax.</p> <p>Repeals the ACA medical device tax.</p>	Brings cost-sharing reduction payments under the Congressional oversight and appropriations process.

IV. Introduced Legislation (114th Congress)

	Employee Pre-Tax Treatment of Group Plan Premiums	HSA, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
<p>Restoring Americans' Healthcare Freedom Act of 2015</p> <p>Rep. Tom Price (R-GA)</p> <p><i>January 6, 2016- Vetoed by former President Barack Obama</i></p> <p><i>July 26, 2017- Reintroduced by Senate. Senate</i></p>	Limits amount of employer's contribution to health coverage that can be excluded from employee's taxable income (\$8,000 for individuals; \$20,000 for a family); allows employees enrolled in an employer plan to opt out and receive a tax credit instead; encourages employer auto-	<p>Telemedicine N/A</p> <p>On-Site Clinics N/A</p> <p>OTC Medications N/A</p> <p>Contribution Amount Expands annual HSA contribution limit.</p> <p>Medicare Enrollment N/A</p>	Raises wellness benefit/penalty cap to 50% of value of benefits under the plan (does not address EEOC issues).	Eliminates employer and individual mandates. Provides for universal, refundable, age-adjusted tax credit for coverage purchased in the individual market (and for HSA contributions).		Allows for interstate sales in the individual market; issuer designates "primary state" for regulatory and oversight purposes, but primary state must meet "federal floor" (e.g., risk-based capital formula for issuer capital and surplus requirements, independent external appeals processes).	Provides for establishment and governance of AHPs.	Allows pre ex exclusions from coverage under certain conditions.	Repeals the Cadillac tax. Repeals medical device tax.	

	Employee Pre-Tax Treatment of Group Plan Premiums	HSAs, HRAs, etc.	Wellness Programs	Mandates/Reform Alternatives	Self-Insurance/Stop-Loss	Interstate Health Sales	Coverage Purchase Options (e.g., private exchanges, pooling, etc.)	Popular ACA Market Reforms (and other market reforms)	ACA Taxes and Fees	Other
<i>rejected bill, 45-55.</i>	enrollment (limits on state restrictions and credits for small employer auto-enrollment).	Other Allows HSAs to pay some primary care fees; allows for HSA rollovers to family; allows spouse catch-up contributions to the same HSA account; HDHPs become “HSA qualified plans.”								