

2018 Affordable Care Act Reform Legislation Tracker

Newly Included Legislation and Procedural Updates

- January 22: Congress passed the [Federal Register Printing Savings Act of 2017](#) (H.R. 195), a continuing resolution (CR) to fund the government, which includes provisions that delay or suspend various ACA taxes (i.e., the Cadillac tax, medical device tax, and health insurance providers' tax).
- January 16: Rep. Ed Perlmutter (D-CO) introduced the [Transparent Health Care Pricing Act of 2018](#) (H.R. 4808), which requires businesses to disclose all health care related costs.
- January 11: Sen. Johnny Isakson (R-GA) introduced the [Access to Independent Health Insurance Advisors Act of 2018](#) (S. 2303), which excludes from the medical ratio loss calculation any compensation earned by private insurance providers.
- January 11: Rep. Maxine Waters (D-CA) introduced the [ACA Outreach Act](#) (H.R. 4784), which provides funding for ACA marketing and outreach purposes.
- December 20: Congress passed the [Tax Cuts and Jobs Act](#) (H.R. 1), which repeals the ACA's individual mandate, effective January 1, 2019.

I. Single-Issue Legislation (115th Congress - 2018) *(all legislation has been introduced; no further action has been taken, unless noted)*

Single Payer/Public Option Proposals

Cadillac Tax Repeal (and Other ACA Taxes and Fees)

Wellness

Health Savings Accounts

Mandate Reform/ Alternatives

Antitrust

Interstate Sales

Stop-Loss

Essential Health Benefits

ACA Market Reforms

Association Health Plans

Multi-Issue Repeal

Section 1332 Waivers

Miscellaneous

Single Payer/Public Option Proposals

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| <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>Medicare-X Choice Act of 2017 S. 1970/H.R. 4094 Sen. Michael Bennet (D-CO)/Rep. Brian Higgins (D-NY)</p> | <p>Builds on the existing Medicare framework to establish a public insurance plan (the “Medicare-X Plan”) offered on individual and small business health exchanges in rating areas where there is only one option or no options on the exchange; makes the plan available on the individual market in 2023 and on the SHOP exchange in 2024; and requires the plan to cover essential health benefits to align with other plans offered on the exchange, 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> |
| <p>Bare County Buy-in Act of 2017 H.R. 4394 Rep. Dina Titus (D-NV)</p> | <p>Establishes a public health option for individuals who live in bare counties (i.e., do not have access to a qualified health plan through the ACA exchange); and requires the public option to provide essential health benefits and equivalent provisions to a plan in the silver level of coverage under the ACA.</p> |

Cadillac Tax Repeal (and Other ACA Taxes and Fees)

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| <p>Federal Register Printing Savings Act of 2017 (CR) H.R. 195 Rep. Steve Russell (R-OK)</p> | <p>Provides a moratorium on the medical device tax until 2020; delays implementation of the Cadillac tax until 2022; and suspends the health insurance providers’ tax from 2019 until 2020. <i>January 22 – Signed into law.</i></p> |
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| Middle Class Health Benefits Tax Repeal Act of 2017 S. 58 Sen. Dean Heller (R-NV) | Repeals the Cadillac tax. |
| H.R. 4617 Reps. Erik Paulsen (R-MN) and Jackie Walorski (R-IN) | Provides a temporary moratorium on the medical device tax until 2023. |

Wellness

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| The Preserving Employee Wellness Programs Act H.R. 1313 Rep. Virginia Foxx (R-NC) | <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

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| Health Savings Act of 2017 S. 403/H.R. 1175 Sen. Orrin Hatch (R-UT)/Rep. Erik Paulsen (R-MN) | <p>On-Site Clinics</p> <p>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 • Monitoring of chronic conditions • Drug testing • Hearing or vision screenings and related services |
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| | <ul style="list-style-type: none"> • 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 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> |

Mandate Reform/Alternatives

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| <p>Tax Cuts and Jobs Act H.R. 1 (<i>Senate version</i>) Sen. Orrin Hatch (R-UT)/Rep. Kevin Brady (R-TX)</p> | <p>Repeals the ACA individual mandate.</p> <p><i>December 22 – Signed into law.</i></p> |
| <p>Forty Hours is Full Time Act S. 1782 Sen. Susan Collins (R-ME)</p> | <p>Defines “full-time employee” as at least 40 hours as opposed to 30 hours.</p> |

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| <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> |
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Antitrust

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| <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

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| <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 Rep. Kenny Marchant (R-TX)</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> |
| <p>S. 1516 Sen. Dean Heller (R-NV)</p> | <p>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.”</p> |
| <p>Commonsense Competition and Access to Health Insurance Act S. 1546 Sen. Mark Warner (D-VA)</p> | <p>Amends section 1333 of the ACA to allow health insurers greater flexibility in offering health insurance coverage across state lines.</p> |

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| <p align="center">Health Care Choice Act S. 2021 Sen. Ted Cruz (R-TX)</p> | <p>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></p> |
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Stop-Loss Insurance

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| <p align="center">The Self-Insurance Protection Act H.R. 1304 Rep. Phil Roe (R-TN)</p> | <p>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.”</p> <p><i>April 5 – Passed the House by a vote of 400-16.</i></p> |
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Essential Health Benefits

ACA Market Reforms

Association Health Plans

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| <p align="center">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); puts forth the requirements to establish the AHPs (certification requirements, application requirements, enforcement, etc.).</p> <p><i>March 22 – Passed the House by a vote of 236-175.</i></p> |
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Multi-Issue Repeal

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| <p align="center">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> |
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Section 1332 Waivers

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| <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> |
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Miscellaneous

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| <p>ACA Outreach Act H.R. 4784 Rep. Maxine Waters (D-CA)</p> | <p>Appropriates \$100,000,000 to HHS from 2018-2021 and awards grants to states that have established exchanges for navigator programs, outreach, and promotional activities.</p> |
| <p>Transparent Health Care Pricing Act of 2017 H.R. 4808 Rep. Ed Perlmutter (D-CO)</p> | <p>Requires businesses, entities, and other health care providers to publicly disclose all costs related to health care items, products, services, and procedures.</p> |
| <p>Access to Independent Health Insurance Advisors Act of 2018 S. 2303 Sen. Johnny Isakson (R-GA)</p> | <p>Excludes from the medical ratio loss calculation any compensation earned by independent agents and brokers who serve the individual and small group markets.</p> |