

## **2018 Affordable Care Act Reform Legislation Tracker**

### *Newly Included Legislation and Procedural Updates*

- March 21: Sen. Elizabeth Warren (D-MA) introduced the [Consumer Health Insurance Protection Act \(S. 2582\)](#), which incorporates several other congressional health care reform efforts and aims to increase affordability of ACA coverage.
- March 13: Rep. Mark DeSaulnier (D-CA) introduced the [Affordable Health Insurance for the Middle Class Act \(H.R. 5258\)](#), which expands eligibility for the premium tax credit.
- March 10: Sen. John Barrasso (R-WY) introduced the [Improving Choices in Health Care Coverage Act \(S. 2507\)](#), which extends the maximum coverage period of STLDI to less than 12 months and allows for guaranteed renewability of such plans.
- March 5: Rep Mike Kelly (R-PA) introduced the [Bipartisan HSA Improvement Act \(H.R. 5138\)](#), which expands access for individuals to HSAs and FSAs by permitting HSA dollars to be used for additional purposes (e.g., wellness benefits and telehealth) and allowing individuals to contribute to a spouse’s HSA account, among other things.
- March 5: Sen. Tammy Baldwin (D-WI) introduced the [Fair Care Act \(S. 2494\)](#), which prohibits the implementation or enforcement of the Trump Administration’s proposed rule on STLDI plans and establishes minimum standards for STLDI plans.
- March 5: Rep Frank Pallone (D-NJ) introduced the [Undo Sabotage and Expand Affordability of Health Insurance Act of 2018 \(H.R. 5155\)](#), which aims to stabilize the marketplace through a series of reforms.

### **I. Single-Issue Legislation (115<sup>th</sup> 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 Bills*

*Section 1332 Waivers*

*Miscellaneous*

**Single Payer/Public Option Proposals**

<p><b>Medicare for All Act of 2017</b>  <a href="#">S. 1804</a>                  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><b>Expanded &amp; Improved Medicare For All Act</b>  <a href="#">H.R. 676</a>                  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><b>Medicare-X Choice Act of 2017</b>  <a href="#">S. 1970/H.R. 4094</a>                  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><b>State Public Option Act</b>  <a href="#">S. 2001/H.R. 4129</a>                  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><b>Bare County Buy-in Act of 2017</b>  <a href="#">H.R. 4394</a>                  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)**

<p><b>Federal Register Printing Savings Act of 2017 (CR)</b>  <a href="#">H.R. 195</a>                  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>
<p><b>Middle Class Health Benefits Tax Repeal Act of 2017</b>  <a href="#">S. 58</a>                  Sen. Dean Heller (R-NV)</p>	<p>Repeals the Cadillac tax.</p>

<p style="text-align: center;"><a href="#"><u>H.R. 4617</u></a> Reps. Erik Paulsen (R-MN) and Jackie Walorski (R-IN)</p>	<p>Provides a temporary moratorium on the medical device tax until 2023.</p>
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**Wellness**

<p style="text-align: center;"><b>The Preserving Employee Wellness Programs Act</b> <a href="#"><u>H.R. 1313</u></a> 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 style="text-align: center;"><b>Health Savings Act of 2017</b> <a href="#"><u>S. 403/H.R. 1175</u></a> Sen. Orrin Hatch (R-UT)/Rep. Erik Paulsen (R-MN)</p>	<p><b>On-Site Clinics</b> 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"> <li>• Physicals and immunizations</li> <li>• Injecting antigens provided by employees</li> <li>• Medications available without a prescription (pain relievers, antihistamines, etc.)</li> <li>• Treatment for injuries occurring at the employer’s place of employment or otherwise in the course of employment</li> <li>• Tests for infectious diseases and conditions</li> <li>• Monitoring of chronic conditions</li> <li>• Drug testing</li> <li>• Hearing or vision screenings and related services</li> <li>• Other services and treatments of a similar nature</li> </ul>
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	<p><b>OTC Medications</b> 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><b>Contribution Amount</b> Increases maximum contribution limit.</p> <p><b>Medicare Enrollment</b> Allows Medicare beneficiaries enrolled only in Part A to continue to contribute to HSAs after turning 65 if otherwise eligible.</p> <p><b>Other</b> 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><b>Health Savings Account Expansion Act of 2017</b> <a href="#">S. 28/H.R. 247</a> Sen. Jeff Flake (R-AZ)/Rep. David Brat (R-VA)</p>	<p><b>OTC Medications</b> Repeals the restriction on using HSAs for OTC medications.</p> <p><b>Contribution Amount</b> Increase the maximum contribution amounts.</p> <p><b>Other</b> 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><b>Bipartisan HSA Improvement Act</b> <a href="#">H.R. 5138</a> Rep. Mike Kelly (R-PA)</p>	<p>Expands access to HSAs (and, in some instances FSAs) by (1) allowing individuals to make contributions to a spouse’s HSA; (2) permitting the use of HSA dollars for wellness benefits, including exercise; (3) allowing employers to offer “excepted benefits”, like telehealth through HSAs; (4) offering pre-deductible coverage for medication and services to help chronic conditions; (5) simplifying FSA and HSA rollovers; and (6) eliminating taxes on employees’ income for failing to have maintained HSA-qualified health plan coverage.</p>

### *Mandate Reform/Alternatives*

<b>Tax Cuts and Jobs Act</b> <a href="#">H.R. 1</a> ( <i>Senate version</i> ) Sen. Orrin Hatch (R-UT)/Rep. Kevin Brady (R-TX)	Repeals the ACA individual mandate.  <i>December 22 – Signed into law.</i>
<b>Forty Hours is Full Time Act</b> <a href="#">S. 1782</a> Sen. Susan Collins (R-ME)	Defines “full-time employee” as at least 40 hours as opposed to 30 hours.
<b>Commonsense Reporting Act of 2017</b> <a href="#">S. 1908/H.R. 3919</a> Sen. Rob Portman (R-OH)/Rep. Diane Black (R-TN)	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.

### *Antitrust*

<b>Competitive Health Insurance Reform Act of 2017</b> <a href="#">H.R. 372</a> Rep. Paul Gosar (R-AZ)	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>
<b>Health Insurance Industry Antitrust Enforcement Act of 2017</b> <a href="#">H.R. 143</a> Rep. John Conyers (D-MI)	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.

### *Interstate Sales*

<b>Health Care Choice Act of 2017</b> <a href="#">H.R. 314</a> Rep. Marsha Blackburn (R-TN)	Repeals the ACA; allows consumers to shop for insurance across state lines.
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<p><b>Local and Municipal Health Care Choice Act of 2017</b>  <a href="#">H.R. 1319</a>  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><a href="#">S. 1516</a>  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><b>Commonsense Competition and Access to Health Insurance Act</b>  <a href="#">S. 1546</a>  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>
<p><b>Health Care Choice Act</b>  <a href="#">S. 2021</a>  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>

***Stop-Loss Insurance***

<p><b>The Self-Insurance Protection Act</b>  <a href="#">H.R. 1304</a>  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*

*Short-Term, Limited-Duration Insurance*

<p><b>Improving Choices in Health Care Coverage Act</b> <a href="#">S. 2507</a> Sen. John Barrasso (R-WY)</p>	<p>Redefines STLDI to allow a maximum coverage period of less than 12 months; allows for renewability at the option of the applicant; permits the applicant to decline renewability of such coverage at the time of application for enrollment; and requires the contract between the applicant and the issuer to specify whether the individual opted for renewability or not.</p>
<p><b>Fair Care Act</b> <a href="#">S. 2494</a> Sen. Tammy Baldwin (D-WI)</p>	<p>Prohibits the Secretaries of Treasury, HHS, and Labor from implementing, enforcing, or otherwise giving effect to the STLDI proposed rule; requires the Secretaries to give effect to the Obama-era definition; redefines STLDI to (1) allow a maximum coverage period of less than 93 days (except coverage may continue until the end of the period of hospitalization for a condition for which the individual was hospitalized before the coverage ended); (2) require such policies to be non-renewable and issued only to individuals who are not been covered under an STLDI policy within the last 12 months; (3) require the issuer to display prominently in application materials that coverage and benefits are limited; (4) cover EHBs; (5) meet several requirements for individual health insurance coverage; and (6) require the issuer to provide documentation to the Secretaries and the state insurance commissioners regarding the individuals covered by the plan (together with documentation about the plan) to ensure that the plan satisfies the requirements of the bill.</p>

*Association Health Plans*

<p><b>Small Business Health Fairness Act of 2017</b> <a href="#">H.R. 1101</a> 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 Bills**

<p><b>Healthcare Market Certainty and Mandate Relief Act of 2017</b>  <a href="#">S. 2052/H.R. 4200</a>                  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>
<p><b>Undo Sabotage and Expand Affordability of Health Insurance Act of 2018</b>  <a href="#">H.R. 5155</a>                  Rep. Frank Pallone (D-NJ)</p>	<p>Qualifies STLDI plans as individual health insurance coverage (e.g., requires STLDI plans to follow the same guidelines as ACA-compliant plans); establishes a national reinsurance program and associated funding; funds CSRs; prevents DOL from implementing, finalizing, or enforcing its proposed rule on association health plans; prohibits substitution of EHBs across benefit categories; requires HHS to establish a structure for a “standard benefit plan” (i.e., a standardized qualified health plan for each of the metal levels of coverage and for each actuarial value variation of a silver plan); and creates and temporarily funds a navigator program for the federally-facilitated marketplace; provides \$200 million annually for state innovation programs (i.e., efforts to encourage enrollment in small and individual group markets), among other things.</p>
<p><b>Consumer Health Insurance Protection Act</b>  <a href="#">S. 2582</a>                  Sen. Elizabeth Warren (D-MA)</p>	<p>Increases the medical loss ratio offered by a health insurer in the individual/small group markets to 85% (from 80%); funds CSRs (among other changes to the eligibility for/operation of CSRs); implements a framework requiring states and HHS to develop a “standardized option” for bronze, silver, and gold levels of coverage; amends the affordability determination for employer-sponsored coverage (i.e., lowers the maximum required contribution from 9.5% of taxable income to 8.5%); establishes a network adequacy standard for QHPs; requires QHPs to cover out-of-network EHB services, provided certain circumstances are present; qualifies STLDI plans as individual health insurance coverage; prohibits substitution of EHBs across benefit categories; qualifies AHPs as individual/small group market coverage (notwithstanding state law) if (1) coverage is offered to an AHP member other than in connection with a group health plan, and (2) coverage is offered to an AHP member that has fewer than 2 participants who are employees on the first day of the plan year; prevents the DOL from enforcing its proposed rule on AHPs, if finalized; and other market reforms addressing affordability (e.g., preventing “unreasonable increases” in premiums, expanding eligibility for premium tax credits, capping prescription drug cost-sharing), access (e.g., setting minimum duration of annual open enrollment periods, encouraging enrollment through marketing/outreach programs, ensuring adequate coverage in areas with fewer than 3 carriers); and consumer protection (e.g., addressing consumer data, treatment of emergency services, and provider terminations), among other things.</p>

**Section 1332 Waivers**

<p><b>Lower Premiums Through Reinsurance Act of 2017</b>  <a href="#">S. 1835</a>                  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*

<p><b>ACA OUTREACH Act</b> <a href="#">H.R. 4784</a> 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><b>Transparent Health Care Pricing Act of 2017</b> <a href="#">H.R. 4808</a> 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><b>Access to Independent Health Insurance Advisors Act of 2018</b> <a href="#">S. 2303</a> 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>
<p><b>Affordable Health Insurance for the Middle Class Act</b> <a href="#">S. 1307/H.R. 5258</a> Sen. Dianne Feinstein (D-CA)/Rep. Mark DeSaulnier (D-CA)</p>	<p>Expands eligibility for the premium tax credit for future taxable years by allowing taxpayers with taxable income that equals or exceeds 100% of the poverty line (previously capped at 400%) to receive the credit.</p>