

## **2019 Affordable Care Act Reform Legislation Tracker**

### *Newly Included Legislation and Procedural Updates*

- January 10: Rep. Jeff Fortenberry (R-NE) introduced the Affordable Limited Health Coverage Act ([H.R. 458](#)), which prohibits implementation of the Obama administration's regulation governing STLDI plans.
- February 6: Sen. Steve Daines (R-MT) and Rep. Peter DeFazio (D-OR) introduced the Competitive Health Insurance Reform Act of 2019 ([S. 350/H.R. 1418](#)), which amends McCarran-Ferguson to clarify that it does not modify or supersede any antitrust laws with regard to health insurance.
- February 14: Rep. Michael Turner (R-OH) introduced the First Responder Medical Device Tax Relief Act ([H.R. 1290](#)), which exempts certain emergency medical devices from the medical device tax.
- February 25: Rep. Bruce Westerman (R-AR) introduced the Fair Care Act of 2019 ([H.R. 1332](#)), which implements various private health insurance reforms, among other things.
- February 26: Sen. Tammy Baldwin (D-WI) and Rep. Collin Peterson (D-MN) introduced the Ensuring Lasting Smiles Act ([S. 560/H.R. 1379](#)), which requires group and individual health plans to provide coverage for medically necessary treatment of a congenital anomaly or birth defect.
- March 6: Sen. John Thune (R-SD) introduced the Personal Health Investment Today Act of 2019 ([S. 680](#)), which allows taxpayers to use HSAs or other pre-tax health accounts to pay for sports equipment and other fitness expenses.
- March 6: Sen. Martin Heinrich (D-NM) and Rep. Joe Courtney (D-CT) introduced the Middle Class Health Benefits Tax Repeal Act of 2019 ([S. 684/H.R. 748](#)), which repeals the Cadillac tax.
- March 7: Sen. Pat Toomey (R-PA) introduced the Protect Medical Innovation Act of 2019 ([S. 692](#)), which repeals the medical device tax.

### **I. Single-Issue Legislation (116<sup>th</sup> Congress - 2019) *(all legislation has been introduced; no further action has been taken, unless noted)***

#### ***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***

#### ***Short-Term, Limited-Duration Insurance***

*Association Health Plans*  
*Multi-Issue Bills*  
*Section 1332 Waivers*  
*Blanket Repeal*  
*Miscellaneous*

*Cadillac Tax Repeal (and Other ACA Taxes and Fees)*

<p><b>Jobs and Premium Protection Act</b>  <a href="#">S. 80</a>          Sen. John Barrasso (R-WY)</p>	<p>Repeals the ACA’s health insurance tax.</p>
<p><b>Health Insurance Tax Relief Act</b>  <a href="#">S. 172/H. R. 1398</a>          Sen. Cory Gardner (R-CO)/Rep. Ami Bera (D-CA)</p>	<p>Delays the implementation of the ACA’s health insurance tax until 2022.</p>
<p><b>Middle Class Health Benefits Tax Repeal Act of 2019</b>  <a href="#">S. 684/H.R. 748</a>          Sen. Martin Heinrich (D-NM)/Rep. Joe Courtney (D-CT)</p>	<p>Repeals the Cadillac tax.</p>
<p><b>First Responder Medical Device Tax Relief Act</b>  <a href="#">H.R. 1290</a>          Rep. Michael Turner (R-OH)</p>	<p>Exempts certain emergency medical devices from the medical device tax.</p>
<p><b>Protect Medical Innovation Act of 2019</b>  <a href="#">S. 692</a>          Sen. Pat Toomey (R-PA)</p>	<p>Repeals the medical device tax.</p>

*Wellness*

**Health Savings Accounts**

<p><b>Health Savings Act of 2019</b>  <a href="#">S. 12</a>                  Sen. Marco Rubio (R-FL)</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> <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</b>  <a href="#">H.R. 603</a>                  Rep. Mike Gallagher (R-WI)</p>	<p><b>OTC Medications</b> – Repeals the restriction on using HSAs for OTC medications.</p> <p><b>Contribution Amount</b> – Increases maximum contribution limit.</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>Health Savings Account Act</b>  <a href="#">H.R. 457</a>                  Rep. Jeff Fortenberry (R-NE)</p>	<p><b>Contribution Amount</b> – Increases maximum contribution limit.</p> <p><b>Other</b> – Allows HSAs to be used for fitness center memberships; allows individuals who receive direct primary care services in exchange for a fixed periodic fee or payment to participate in an HSA, among other things.</p>

<b>Personal Health Investment Today Act of 2019</b> <a href="#">S. 680</a> Sen. John Thune (R-SD)	<i>Other</i> – Allows taxpayers to use HSAs or other pre-tax health accounts to pay for sports equipment and other fitness expenses.

***Mandate Reform/Alternatives***

***Antitrust***

<b>Competitive Health Insurance Reform Act of 2019</b> <a href="#">S. 350/H.R. 1418</a> Sen. Steve Daines (R-MT)/Rep. Peter DeFazio (D-OR)	Amends McCarran-Ferguson to clarify that it does not modify or supersede any antitrust laws with respect to health insurance.
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***Interstate Sales***

***Stop-Loss***

***Essential Health Benefits***

***ACA Market Reforms***

<b>Continuing Coverage for Preexisting Conditions Act</b> <a href="#">H.R. 383</a> Rep. David Joyce (R-OH)	Ensures that the ACA’s prohibition against preexisting condition exclusions is protected if the ACA is found to be unconstitutional or otherwise invalid.
<b>Preexisting Conditions Protection Act</b> <a href="#">H.R. 692</a> Rep. Greg Walden (R-OR)	Maintains the ACA’s consumer protections (e.g., preexisting condition coverage, non-discrimination requirements, genetic information collection prohibitions, wellness provisions), if the ACA is repealed.

**Short-Term, Limited-Duration Insurance**

<p style="text-align: center;"><a href="#"><u>H.R. 1010</u></a> Rep. Kathy Castor (D-FL)</p>	<p>Prevents the Departments of Health and Human Services, Treasury, and Labor from implementing, enforcing, or giving effect to the Administration’s final rule on STLDI plans and from promulgating any substantially similar rule.</p> <p><i>February 13 – A hearing was held on the legislation.</i></p>
<p style="text-align: center;"><b>Educating Consumers on the Risks of Short-Term Plans Act of 2019</b> <a href="#"><u>H.R. 1143</u></a> Rep. Anna Eshoo (D-CA)</p>	<p>Preempts state laws governing STLDI plans; requires health insurance issuers offering STLDI plans to disclose certain information to consumers (e.g., such plans may not cover preexisting conditions or the cost of medical services, coverage may be rescinded if the consumer seeks treatment for a preexisting condition, etc.); prevents a health insurance issuer from enrolling any individual in an STLDI plan during any ACA-qualifying open enrollment period, among other things.</p> <p><i>February 13 – A hearing was held on the legislation.</i></p>
<p style="text-align: center;"><b>Affordable Limited Health Coverage Act</b> <a href="#"><u>H.R. 458</u></a> Rep. Jeff Fortenberry (R-NE)</p>	<p>Prohibits the Departments of Health and Human Services, Treasury, and Labor from implementing the Obama Administration’s final rule on the definition of STLDI; requires the Departments to use the definition of STLDI in use immediately prior to publication of the rule.</p>

**Association Health Plans**

**Multi-Issue Bills**

<p style="text-align: center;"><b>Keeping Health Insurance Affordable Act of 2019</b> <a href="#"><u>S. 3</u></a> Sen. Ben Cardin (D-MD)</p>	<p>Appropriates \$2 billion to HHS for the purposes of establishing a public health insurance option that offers bronze, silver, and gold ACA-compliant plans on the exchanges alongside private health plans; establishes a permanent Individual Market Reinsurance program; and permanently appropriates funds for cost-sharing reductions, among other things.</p>
<p style="text-align: center;"><b>Fair Care Act of 2019</b> <a href="#"><u>H.R. 1332</u></a> Rep. Bruce Westerman (R-AR)</p>	<p>Implements several private-sector health insurance reforms, including, among other things:</p> <ul style="list-style-type: none"> <li>• Appropriates \$200 billion over 10 years to establish an invisible high risk pool reinsurance program;</li> <li>• Increases the baseline age band rating ratio from 3:1 to 5:1;</li> <li>• Repeals the employer mandate;</li> <li>• Requires employers with 100+ employees to provide certain information to those beneficiaries annually;</li> <li>• Amends 1332 waiver requirements to streamline the application process, facilitate expedited determinations, increase the waiver’s duration etc.;</li> <li>• Codifies existing regulations related to STLDI plans (i.e., setting a maximum duration of 12 months, guaranteed renewability, etc.);</li> </ul>

	<ul style="list-style-type: none"> <li>• Appropriates \$10 million to fund research/pilot programs focused on promoting interstate health insurance sales;</li> <li>• Amends McCarran-Ferguson to clarify that it does not exempt the business of health insurance from federal antitrust laws;</li> <li>• Reinstates CSR payments and authorizes HHS to approve 1332 waivers to provide funds equivalent in amount to those that would be distributed; through CSRs for the sole purpose of redistributing them to HSAs of individuals/families with incomes below 250% of the federal poverty line;</li> <li>• Permits <u>all</u> policyholders (i.e., even those without HDHPs) to contribute to/qualify for HSAs;</li> <li>• Codifies existing regulations related to AHPs; and</li> <li>• Repeals certain ACA taxes (e.g., Cadillac tax, health insurance tax, medical device tax, etc.).</li> </ul>
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***Section 1332 Waivers***

<p><b>Protecting Americans with Preexisting Conditions Act</b>  <a href="#">S. 466/H.R. 986</a>          Sen. Mark Warner (D-VA)/Rep. Ann Kuster (D-NH)</p>	<p>Prohibits HHS and Treasury from implementing, enforcing, or giving effect to the agencies’ 2018 “State Relief and Empowerment Waivers” guidance; prevents the agencies from promulgating any similar guidance or rule.</p>
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***Blanket Repeal***

<p><b>Responsible Path to Full Obamacare Repeal Act</b>  <a href="#">H.R. 83</a>          Rep. Andy Biggs (R-AZ)</p>	<p>Repeals the ACA in its entirety.</p>
<p><b>ObamaCare Repeal Act</b>  <a href="#">H.R. 185</a>          Rep. Steve King (R-IA)</p>	<p>Repeals the ACA in its entirety.</p>

*Miscellaneous*

<p><b>Transparency and Accountability of Failed Exchanges Act</b>  <a href="#">H.R. 59</a>  Rep. Rick Allen (R-GA)</p>	<p>In the event a state-awarded exchange fails/is terminated, requires the state to (1) provide audits of the use of grant funds and (2) return unused funds to the federal government.</p>
<p><b>Protection from Obamacare Mandates and Congressional Equity Act</b>  <a href="#">H.R. 90</a>  Rep. Andy Biggs (R-AZ)</p>	<p>Provides an exemption to the ACA’s individual mandate for individuals residing in counties with fewer than two health insurance issuers offering plans on an exchange; expands the requirement that members of Congress and certain congressional staff purchase coverage on the exchange to include committee staffers, political appointees, the President and Vice President, and others.</p>
<p><b>Care for All Act</b>  <a href="#">H.R. 456</a>  Rep. Jeff Fortenberry (R-NE)</p>	<p>Allows catastrophic health plans to be offered as QHPs to any individual in the individual or group market.</p>
<p><b>Holding Health Insurers Harmless Act</b>  <a href="#">H.R. 352</a>  Rep. Ted Yoho (R-FL)</p>	<p>Provides a safe harbor from the ACA’s penalties to health insurers that offer plans that are not ACA-compliant.</p>
<p><a href="#">H.R. 518</a>  Rep. Steve King (R-IA)</p>	<p>Bans the Supreme Court from citing certain ACA-related cases (e.g., <i>NFIB v. Sebelius</i>, <i>King v. Burwell</i>, and <i>Burwell v. Hobby Lobby</i>) in future decisions.</p>
<p><b>Marketing and Outreach Restoration to Empower (MORE) Health Education Act of 2019</b>  <a href="#">S. 455/H.R. 987</a>  Sen. Jeanne Shaheen (D-NH)/Rep. Lisa Blunt Rochester (D-DE)</p>	<p>Appropriates \$100 million in annual funding for ACA-related education, marketing, and outreach efforts; prohibits the funds from being used for non-ACA compliant health insurance plans (e.g., AHPs and STLDI plans).</p>

<p><b>Responsible Additions and Increases to Sustain Employee (RAISE) Health Benefits Act of 2019</b>  <a href="#">S. 503/H.R. 1366</a>  Sen. Roy Blunt (R-MO)/Rep. Steve Stivers (R-OH)</p>	<p>Increases the annual cap for contributions to FSAs and allows participants to rollover any unused balance in perpetuity.</p>
<p><b>Expand Navigators' Resources for Outreach, Learning, and Longevity (ENROLL) Act</b>  <a href="#">H.R. 1386</a>  Rep. Kathy Castor (D-FL)</p>	<p>Requires Navigators to meet certain additional requirements to receive state funding (e.g., Navigators must demonstrate how they will provide individuals with information on STLDI plans and AHPs); requires Navigators to maintain a physical presence in the state in which the contract is awarded; and restores funding for the Navigator program and for consumer outreach/advertising to ACA-mandated levels.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p>
<p><b>State Allowance for a Variety of Exchanges (SAVE) Act</b>  <a href="#">H.R. 1385</a>  Rep. Andy Kim (D-NJ)</p>	<p>Appropriates \$200 million to award grants to states that are currently participating on the federally-facilitated exchanges that want to transition to a state-based marketplace.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p>
<p><b>State Health Care Premium Reduction Act</b>  <a href="#">H.R. 1425</a>  Rep. Angie Craig (D-MN)</p>	<p>Appropriates \$10 billion in annual funding to be allocated to states for one of two purposes: (1) establish a reinsurance program; or (2) provide financial assistance to reduce out-of-pocket costs for participants enrolled in QHPs offered on the individual market through an exchange.</p> <p><i>March 6 – A hearing was held on the legislation.</i></p>
<p><b>Ensuring Lasting Smiles Act</b>  <a href="#">S. 560/H.R. 1379</a>  Sen. Tammy Baldwin (D-WI)/Rep. Collin Peterson (D-MN)</p>	<p>Requires group and individual health plans to provide coverage for medically necessary treatment of a congenital anomaly or birth defect.</p>