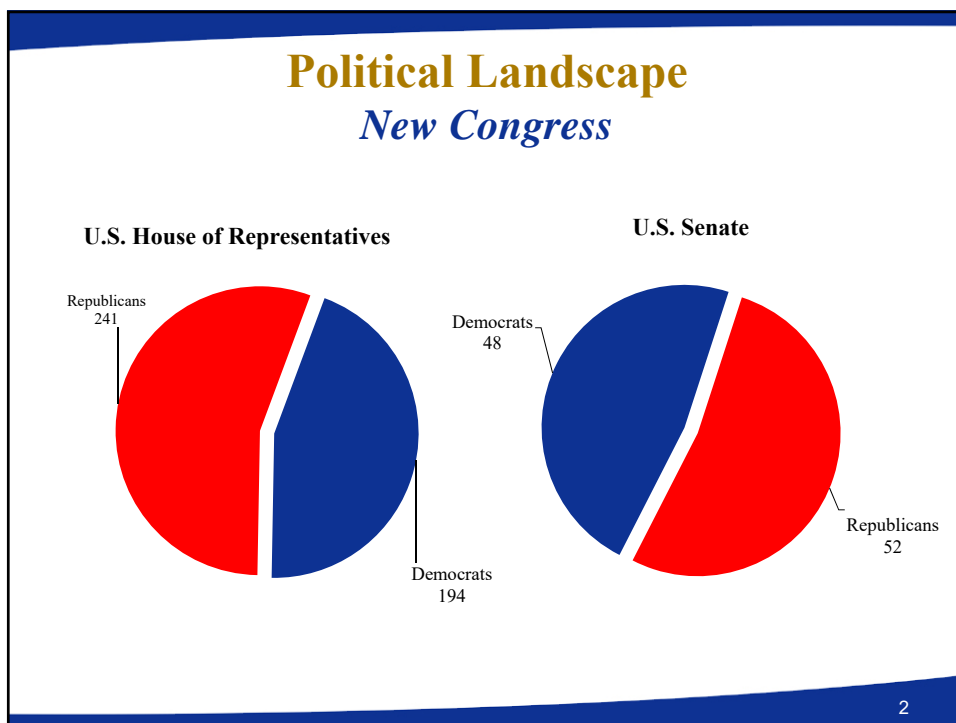




**AMERICAN BENEFITS
COUNCIL**

**Health Care Reform:
The Sequel**

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GOP Majority in Congress

- **Distinction between “majority” and “control”**
 - House of Representative: What have we learned the past two years?
 - Senate: Need 60 votes to advance majority party’s agenda
- **But there is an exception**

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Legislative Process

- **Budget Resolutions for FY 2017 and 2018**
- **Budget reconciliation measure**
 - Cannot be filibustered, so it only requires a simple majority to pass
 - Congress used this process to pass portions of the Affordable Care Act
 - Provisions must have significant impact on federal revenue (e.g. ACA taxes, but not ACA insurance reforms)
- **Very possibly three budget reconciliation bills**
 - Repeal ACA
 - Comprehensive tax reform
 - Replace ACA

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Legislative Changes *Health Policy*

- **Using budget reconciliation to repeal major pieces of the ACA:**
 - “Zero out” individual & employer mandates
 - Repeal exchange subsidies
 - Repeal Medicaid expansion
 - Repeal ACA taxes?
- **“Transition” timeline hotly debated**
- **But employer reporting in 2017 may still apply**

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Legislative Changes *Repeal...delay...replace?*

- **How long will the repeal of the subsidies and the Medicaid expansion be delayed?**
- **What happens to the ACA taxes?**
- **It is possible Congress will include some pieces of “replace” along with “repeal”?**
- **If Congress only “repeals”, how long until they pass “replace”?**
- **In the meantime, how do Congress and the new President avoid collapse of insurance marketplace?**

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Legislative & Regulatory Changes *Preventing Market Collapse in 2017 and 2018*

- Congressional authorization of cost-sharing subsidies?
- Strengthen risk adjustment
- Require up-front verification of special enrollment periods
- Prohibit 3rd party payment of premiums
- Expand age rating from 3:1 to 5:1
- Copper or “catastrophic only” plans
- Allow employers to give workers pre-tax dollars to purchase coverage in the individual market

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Legislative Changes *“A Better Way: Health Care”*

- Repeals the ACA
- Reforms the individual market
- Caps the employee exclusion for employer-sponsored coverage
 - “At a level that ensures job-based coverage continues unchanged for the vast majority”
 - Includes geographic adjustment
 - Omits employee contributions to HSAs
- Health Care “Backpack”: tax credits for those without Medicare, Medicaid, or an offer of employer-sponsored coverage

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Legislative Changes

“The Patient Choice Act”

- **Repeals the ACA**
- **Prohibits lifetime limits, allows kids under 26 to stay on parents’ plan, 5:1 age rating, “continuous coverage” protection**
- **Caps the employee exclusion for employer-sponsored coverage**
 - \$12,000 for an individual and \$30,000 for a family
 - Dollar amounts indexed to grow at an annual rate of CPI+1
- **Tax credits for Americans working for businesses with 100 or fewer employees and for Americans without an offer of health insurance coverage**
- **Age-adjusted, advance able, refundable tax credits for low income individuals**

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Trump’s Positions on Health Care

- **Repeal the ACA**
 - Maintain requirement to cover pre-existing conditions
 - Maintain requirement to cover kids up to age 26
- **Sell insurance across state lines**
- **Allow individuals to fully deduct health insurance premium payments**
- **Expand use of Health Savings Accounts**
- **Require price transparency from providers**
- **Block grant Medicaid to the states**
- **Allow prescription drug importation**
- **Allow Medicare to negotiate drug prices**

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Taxation of Health Benefits?

- **Keep, but modify the Cadillac tax and create an actuarial value safe harbor**
- **Impose a cap on the existing employee exclusion for employer-sponsored coverage**
- **Limit exclusion based on actuarial level**
- **Will changes to tax treatment be linked to ACA repeal, ACA replace or comprehensive tax reform?**
- **Can stakeholders succeed in a campaign to ensure health benefits are not taxed?**

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Employer Priorities

The Best Defense is a Good Offense

- **Repeal the 40% “Cadillac Tax” on health benefits**
- **Maintain the current “employee exclusion”**
- **Strengthen ERISA uniformity**
- **Minimize burdensome employer reporting**
- **Focus on decreasing costs (via payment reforms and shifting to value from volume?)**
- **Increase flexibility for Health Savings Accounts**
- **Increase flexibility for wellness programs**

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Regulatory Changes

Avenues for Regulatory Reform

- **Executive Orders**
 - Rescind previous Executive Orders
- **Congressional Disapproval**
 - Congressional Review Act
 - 60 legislative days (June 2016)
 - One at a time (proposed legislation)
- **Regulatory Moratorium**
 - Freezing and/or delaying
- **New Rulemakings to replace**

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