



# **Health Policy: Keeping You in the Know, Post Elections**

***The Alliance***

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# **Political Landscape**

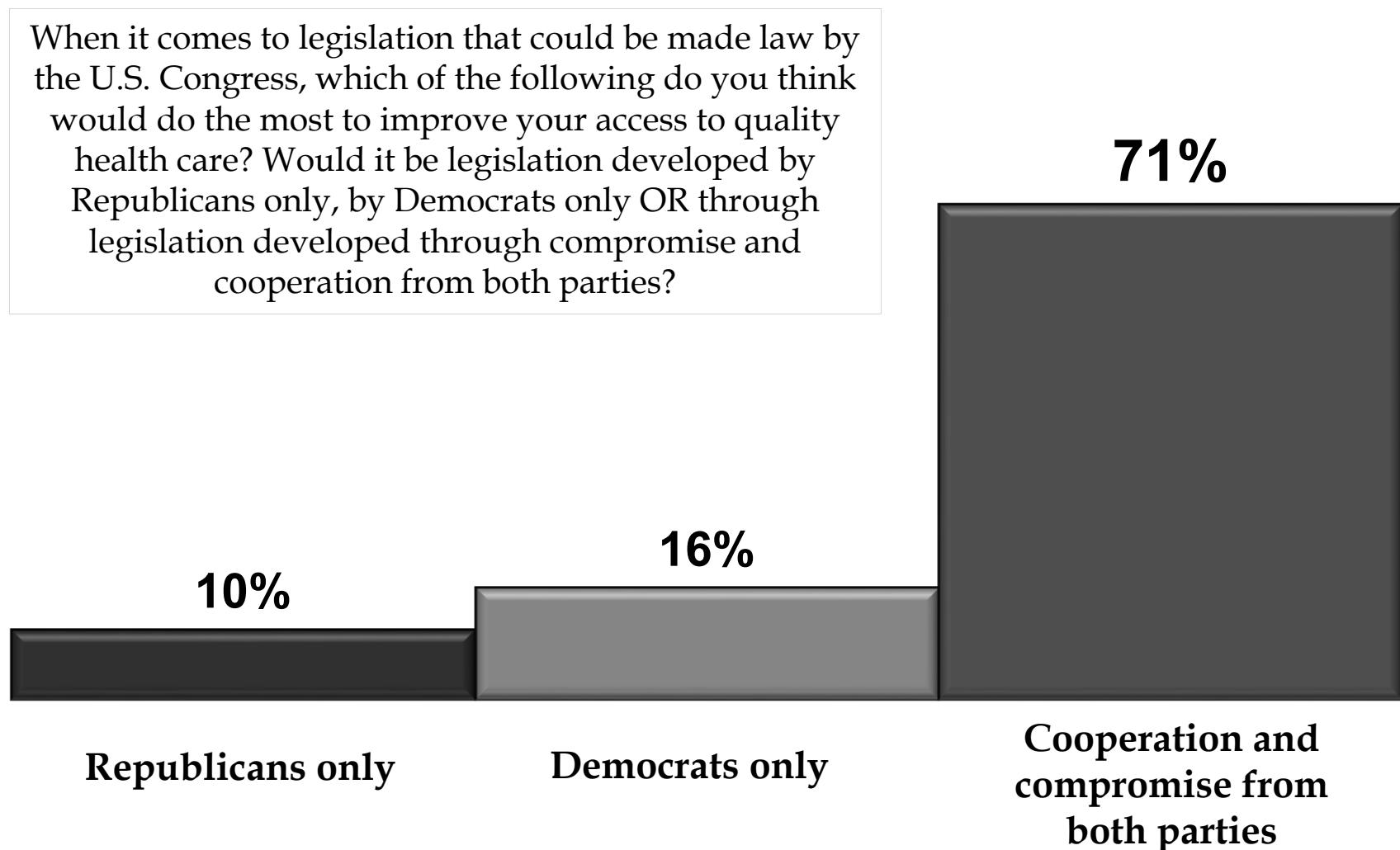
**2018: Democrats picked up 42 seats in the House of Representatives while Republicans gained two seats in Senate**

**26 Democratic seats vs 9 Republican seats**

**Democrats enter 2020 with mathematical advantage**

# Political Landscape

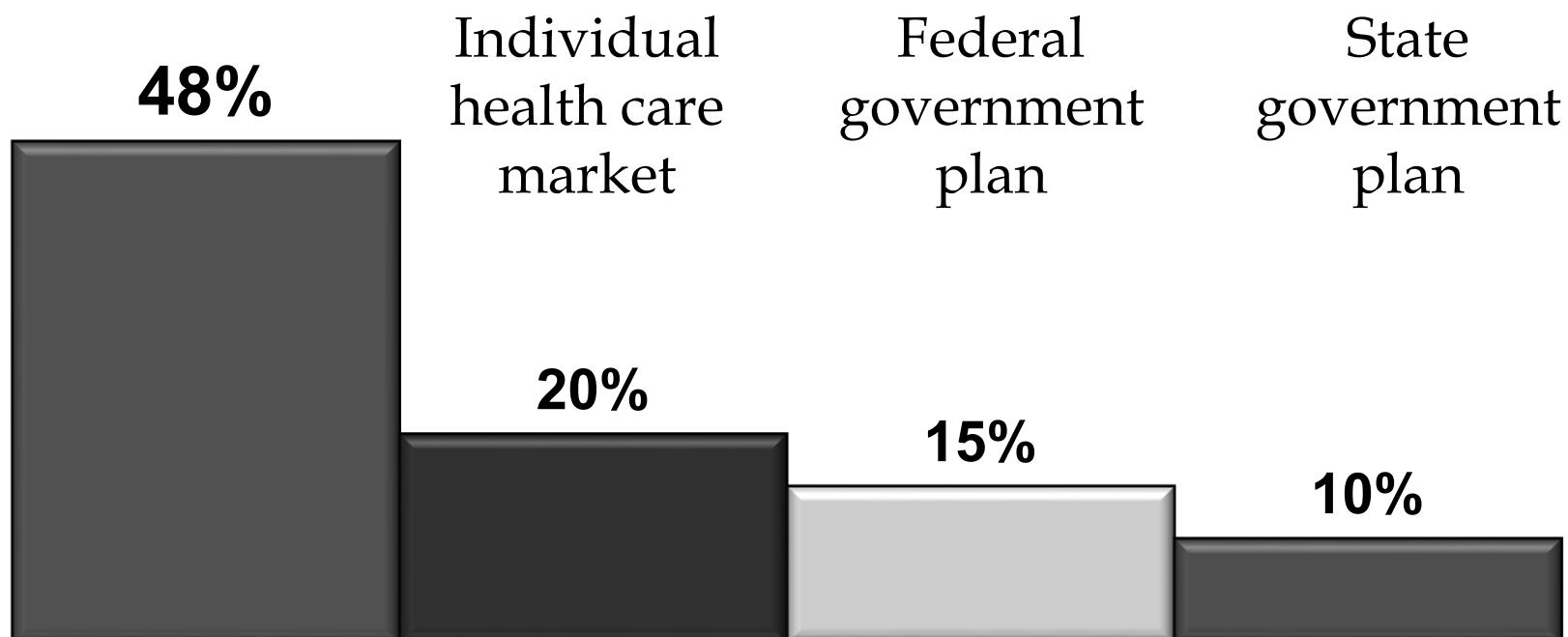
When it comes to legislation that could be made law by the U.S. Congress, which of the following do you think would do the most to improve your access to quality health care? Would it be legislation developed by Republicans only, by Democrats only OR through legislation developed through compromise and cooperation from both parties?



Source: Public Opinion Strategies, November 2018

# Political Landscape

Employer  
plan



Source: Public Opinion Strategies, November 2018

# **Political Landscape**

**Making health care a campaign priority**

**Themes:**

- Short term: protect the ACA
- Long term: move toward a larger role for government

**Future role of employer system and tax treatment of health benefits not stated**

# **Political Landscape**

**Chairman Lamar Alexander (R-TN) and  
Ranking Member Patty Murray (D-WA)**

**Focus on health costs**

**Gathering perspectives and detailed  
information from all stakeholders**

**Plan to proceed with legislation**

# Affordable Care Act

Create a lower value “copper” plan for the individual market

Allow HSA contributions to be used to purchase bronze or catastrophic plans in individual and small group market

Retroactively repeal employer mandate penalty for tax years 2015-2018

Employer reporting simplifications

# Affordable Care Act

**ACA favorability ratings 50% to 37%\***

**Health care was the most important policy issue resulting in Democratic political gains**

**Republicans looking for a new focus: drug prices, transparency, overall costs**

\*Source: Kaiser Family Foundation Tracking Poll, February 2019

# **Surprise Billing**

**Charges from out-of-network providers at in-network facilities and ER services at out-of-network hospitals**

**Risk of imposing balance billing on plan sponsors**

**Mandatory arbitration of disputes**

**Alternatives**

- Disclosure prior to services
- Require acceptance of in-network rates
- Fixed payment amount (e.g., X% of Medicare rate)

# **Medicare-for-All**

**New name: Medicare-for-All**

**2019-2020 sets the stage for 2021 push**

**Democratic presidential candidates  
embracing some version of Medicare-for-  
All**

**Issue excites Democratic base, but hands  
the Republicans a campaign slogan**

**“Medicare-for-Y’all”**

**Medicare-for-Less: \$845 billion cuts**

# **Medicare-for-All**

## **Medicare-for-All divides Democratic caucus**

- Moderate Democrats are responsible for the House of Representatives majority
- Only seven of 42 signed on to MFA bill

**Some versions of “single-payer” preserve a role for employer sponsors**

**Buy-in to Medicare for early retirees**

# **Coverage, Cost and Quality**

**ACA focused primarily on coverage  
2018 election night poll of voters' highest  
health care priorities\***

- 54% reducing health care costs
- 23% covering more people
- 23% covering more health care services

**Renewed focus on quality**

\*Source: Luntz Global, November 2018

# Regulatory Action

Association Health Plans

Short-term limited duration insurance

Electronic health information

Prescription drug rebates

Health Reimbursement Arrangements

What can be done by regulation can be  
*undone* by regulation

# **Prescription Drug Costs**

**Proposed regulation to limit rebates in  
Medicare, Medicaid programs**

**Pharma industry response**

**Drug Price Transparency Act**

**Safe & Affordable Drugs from Canada Act**

# Transparency

## White House and congressional interest Proposals

- Address surprise billing
- Access to price information
- Employers own their data
- Consolidated database of claims information

# Health Reimbursement Arrangements

Contributions to Health Reimbursement Arrangements (HRA) to be used to purchase coverage in the individual market

Already exists for small employers

Guardrails to address “cherry picking”

Attractiveness to employers depends in part on viability of individual market

# **ACA Litigation**

## **Texas v. United States**

- Suit brought by 20 GOP attorneys general
- U.S. Justice Department declined to defend law
- U.S. House of Representatives intervened

## **Fifth Circuit Court of Appeals**

**Virtually certain to end up before the Supreme Court**

# **State Activity**

**Symptom of federal “gridlock”**

**Massachusetts: employer “fair share” penalties**

**New Jersey, Vermont and District of Columbia enacted an individual mandate; under consideration in California and Maryland**

**State reinsurance programs funded with group health plan assessments**

**ERISA preemption**

# **State Innovation Waivers**

**Does not require congressional or state legislative action**

**Administration has encouraged states to apply and lowered criteria for granting waivers**

**Implications for multi-state employers**

# **Local Activity**

**San Francisco**

**Proposed in New York City**

**Designed to withstand an ERISA federal  
preemption challenge**

# **State Law Project**

**Acknowledge positive role for states in addressing gaps in health coverage**

**Avoid intentional or inadvertent interference with plans sponsored by multi-state employers**

**Former Representatives Lynn Jenkins (R-KS) and Earl Pomeroy (D-ND)**

**Multi-pronged approach to state activity**

# Cadillac Tax Repeal

Last year effective date was delayed until 2022

Bipartisan legislation reintroduced

- 230+ cosponsors in House of Representatives
- 20+ cosponsors in Senate

Both parties have mixed views

New obstacle in current Congress: PAYGO

Only one-quarter of the revenue is expected to come from taxing costly health plans

# **Taxation of Health Benefits**

**\$3 trillion over ten years; largest expenditure in the federal budget**

**Flawed assumptions underlie these numbers, but Congress relies upon them**

# Taxation of Health Benefits

President Reagan proposed this in 1985

No current proposal for capping employer deduction, but could be combined with “Cadillac Tax”

Because 2017 tax reform was not revenue-neutral, the health tax expenditure was spared

Joint American Enterprise Institute and Brookings Institution recommendation to cap the exclusion

Funding source for expanded Medicare

# Taxation of Health Benefits

## Actuarial value threshold

- Recognizes there are several reasons health plans are expensive (e.g. older workforce, larger families, chronic conditions, etc.)
- Allows plan sponsors to design plans to avoid being taxed

## Limit tax preferences of employer-sponsored health benefits for high-income individuals

# Taxation of Health Benefits

$\$691.3 \text{ billion (spent)} \div \$155.3 \text{ billion (tax expenditure)} = \$4.45^*$

**Employer-sponsored benefits are a great bargain for federal government/taxpayers**

\*Source: Joint Committee on Taxation and U.S. Department of Commerce