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## **BREAKING NEWS: House Committees Issue ACA Replacement Bill**

The Republican effort to repeal and replace the Affordable Care Act (ACA) is beginning to take shape, with the release by the House Commerce Committee and the House Ways and Means Committee of their long awaited proposals to undo the healthcare reform law. The House Commerce Committee's 66-page [bill](#) includes many of the rumored provisions that have been reported over the past several weeks including the elimination of the individual and employer mandate. The House Ways and Means Committee has also finished its draft of [related repeal legislation](#), and has released a [bullet point](#) breakdown of the bill.

The nonpartisan Congressional Budget Office (CBO) has yet to evaluate the bill, so estimates of its impact on government spending and revenue and the number of people who may gain or lose insurance coverage are still forthcoming. Republicans plan to move ahead with the first steps of considering the bill in committee without such a CBO budget score. Members are expected to start marking up and debating the bill immediately. The bill, which will go through many revisions and challenges, will ultimately need approval first by the full House and then the Senate before it goes to President Trump for his signature. Until then, most of the ACA will stay in place.

*Importantly, the proposed bill does not include capping or changing the employer tax exclusion for employer provided benefit plans.* However, the bill does maintain the Cadillac Tax, but delays its implementation until 2025. Based on a preliminary review of the bill, here are some headlines:

- The bill allows young people to stay on their parents' health plans until age 26 and preserves the prohibition against insurers charging more or denying coverage to those with pre-existing conditions.
- The bill implements an advanceable, refundable tax credit of between \$2,000 to \$4,000 to individuals who do not have access to government health insurance programs or an offer from any employer; are a citizen, national or qualified alien of the United States (and are not incarcerated) who purchase qualifying insurance on their own. The provision ultimately phases out for people making more than \$75,000 or \$150,000 for a couple filing jointly. The size of the credit grows with age and the credits are additive for a family and capped at a total of \$14,000.
- The bill ends the individual and employer mandate for insurance by reducing the penalties to zero. To deal with adverse selection, the law will require persons to maintain "continuous" insurance coverage. Starting with open enrollment for 2019, individuals (non-group) who go uninsured for at least 63 days at a time during the previous 12 months will be assessed a 30% late-enrollment surcharge on top of their base premium.

- Regrettably, the onerous employer reporting requirements must be streamlined or eliminated through regulatory procedures since such fixes won't meet the budget reconciliation requirements in the Senate. Since employer reporting is not considered a part of the cost of the bill, it cannot be included in the bill at this time. This would be highly frustrating for employer plan sponsors given the cost and ongoing challenge of reporting as financial penalties for non-reporting might still apply, even if the employer mandate penalties are amended to make them zero dollars. Some advocates of the tax credit concept also believe that some form of continued employer information reporting is needed to determine eligibility for any new tax credit.
- The legislation delays the Cadillac Tax from 2020 to 2025. It is expected that a significant number of group health plans would trigger the 40% excise tax by 2025 if there aren't any adjustments made to the threshold. The current Cadillac Tax threshold is \$10,200 for an individual plan and \$27,500 for families. Last year, more than two-thirds of the House of Representative supported the elimination of the Cadillac tax and 90 senators voted to repeal it, so it remains to be seen if this controversial aspects of the law will survive the forthcoming debate.
- The bill makes over-the-counter medications eligible for purchase through tax-advantaged savings plans like flexible spending accounts and health savings accounts and removes the limits on annual contributions to flexible spending accounts.
- The bill would expand the allowable size of health savings accounts that can be coupled with high-deductible insurance plans up to \$6,550 for an individual or \$13,100 for a family.
- The bill eliminates the ACA's expansion of Medicaid after 2020 and changes it to a per-capita system whereby the states will be given a set amount for the number of people in categories including the disabled, elderly, childless adults and pregnant mothers.
- The bill would give states a \$100 billion fund over a decade to help lower-income people afford insurance and to help stabilize state insurance markets. The fund could also be used to help lower patients' out of pocket costs or to promote access to preventive services.

Republicans are not unified in their support of the bill, and it remains to be seen whether the various factions in the Republican party will ultimately come together around this plan. In the meantime, while Congress considers options to repeal and replace the ACA, taxpayers and employers should be prepared to continue to comply with the law through at least 2018. We will continue to watch decisions over the coming weeks, and provide details on new and revised employer obligations as they take shape over time. Should you have questions about any aspect of federal health insurance reform, please contact your Conner Strong & Buckelew account representative toll free at 1-877-861-3220. For a complete list of Legislative Updates issued by Conner Strong & Buckelew, visit our online [Resource Center](#).



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