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## Senate kicks off Affordable Care Act repeal process

The Senate kicked off the 115th Congress January 4 by introducing and voting to take up budget legislation that would begin making good on Republican promises to repeal key elements of the Patient Protection and Affordable Care Act (PPACA). As expected, the proposed budget resolution is narrowly focused on making use of “reconciliation” instructions – i.e., legislative language that can set up a fast-track process shielding qualifying legislation from a filibuster in the Senate and allowing legislation to be passed in that chamber with only 51 votes, rather than the 60 votes normally needed to clear procedural hurdles. (Reconciliation is a useful tool for Senate Republicans, who currently hold 52 seats.)

In accordance with the budget’s reconciliation instructions, the Finance and Health, Education, Labor & Pensions (HELP) committees in the Senate and the Ways and Means and Energy and Commerce committees in the House each are charged with finding \$1 billion in savings as part of the PPACA repeal process. The instructions direct the committees to report conforming legislation by January 27.

### No specific directives

Due to the strict rules governing the reconciliation process, the budget resolution – which applies to the half-finished fiscal year 2017 since Congress could not agree on a budget last year – does not provide any specific directives beyond naming the relevant committees, the required budget impact for the bills, and the deadline for action. (Congressional Republicans are expected to move a more detailed budget resolution for fiscal year 2018 later this

year, and Republican leaders have indicated that measure may also include reconciliation instructions aimed at advancing broader tax reform legislation.)

If agreed to by the Senate and House, the budget resolution would compel the taxwriting committees to decide the fate of the various health care-related taxes adopted as part of the PPACA, including the 3.8 percent net investment income tax and the 0.9 percent Medicare payroll tax on certain high-income taxpayers, the medical device tax, and the so-called "Cadillac tax" on high-cost employer-sponsored health plans, in addition to the law's coverage-related requirements (e.g., the individual and employer mandates).

### **Next steps**

Under Senate rules that govern consideration of a budget resolution, debate on the measure will last 50 hours, followed by a lengthy series of amendment votes that has come to be known as the "vote-a-rama." Budget resolutions need only a simple majority to pass, so Senate Democrats will not be able to mount a filibuster. However, with just a four-vote majority, the Republicans cannot afford to lose many of their own members on the vote for passage.

Sen. Rand Paul, R-Ky., was the only Republican to vote against the initial procedural motion to begin debate on the resolution this week, saying that he does not support the increase to the federal debt that would result from the underlying budget.

### **Long game: Repeal and delay?**

As the budget resolution moves forward and lawmakers contemplate the prospect of a post-PPACA health care system, congressional Republicans have begun to discuss a "repeal and delay" strategy that would allow them more time to develop a replacement for the current law; but lawmakers have indicated there is not yet agreement on the timing for eliminating the existing regime, including the tax provisions.

"There is just not consensus on this," Rep. Pat Tiberi, R-Ohio, who chairs the Ways and Means Subcommittee on Health, told reporters this week, calling the January 27 deadline "a challenging goal."

Several Republicans, however, have said they believe a health care replacement system should be enacted at the same time as PPACA repeal, without a delay, and this subject will likely be part of the debate in the weeks ahead.

For his part, House Speaker Paul Ryan, R-Wis., stated at a January 5 press conference that although the effective date of the eventual PPACA repeal and replacement legislation may currently be uncertain, the legislation itself will be in place in 2017.

"Our legislating on Obamacare – our repealing, replacing, and transitioning – the legislating will occur this year," Ryan said.

### **Tax reform update**

On the tax reform front, House Ways and Means Committee Chairman Kevin Brady, R-Texas, told reporters this week that House GOP taxwriters have formed informal working groups to examine and develop consensus around certain questions raised by the tax reform blueprint that House Republicans released last June. (For prior coverage of the blueprint, see *Tax News & Views*, Vol. 17, No. 23, June 24, 2016.)

**URL:** [http://newsletters.usdbriefs.com/2016/Tax/TNV/160624\\_1.html](http://newsletters.usdbriefs.com/2016/Tax/TNV/160624_1.html)

Brady did not lay out a specific timetable for the process to unfold but said that the working groups would be expected to make their recommendations "fairly quickly."

Rep. Kenny Marchant, R-Texas, told Tax Analysts that the working groups would focus primarily on educating their Ways and Means colleagues on specific issues and would not be issuing formal reports or white papers on their findings.

An official list of the working groups and their members was not available at press time; however, in comments to the press various lawmakers have indicated that groups have been formed to consider passthrough issues, retirement taxation, and energy credits.

## Ryan retains House speakership; taxwriting panels take shape as new Congress gets to work

As one of its first actions in the 115th Congress, the House of Representatives on January 3 voted to re-elect Wisconsin Republican Rep. Paul Ryan as speaker. Ryan faced no serious challengers for the gavel and secured 239 votes – all from Republicans – comfortably exceeding the margin of 218 required for victory. (House Minority Leader Nancy Pelosi, D-Calif., received 189 votes and four other members garnered a combined total of 5 votes.)

In his first full term in charge of the House – he was previously elected in October 2015 after the resignation of then-speaker John Boehner, R-Ohio – Ryan plans to advance an ambitious agenda that includes repealing and replacing the Patient Protection and Affordable Care Act (PPACA) as well as legislation to reform the tax code. Ryan laid considerable groundwork for those challenges as part of the “Better Way” agenda that House Republicans unveiled last June. (For prior coverage of the “Better Way” agenda, see *Tax News & Views*, Vol. 17, No. 23, June 24, 2016; for details on recent developments on the PPACA repeal process and tax reform, see separate coverage in this issue.)

URL: [http://newsletters.usdbriefs.com/2016/Tax/TNV/160624\\_1.html](http://newsletters.usdbriefs.com/2016/Tax/TNV/160624_1.html)

### Ways and Means, Finance rosters

In other organizational developments this week, the House Republican Steering Committee selected Reps. David Schweikert of Arizona, Jackie Walorski of Indiana, and Carlos Curbelo of Florida to fill three newly vacant Republican slots on the House Ways and Means Committee. Schweikert, Walorski, and Curbelo will replace Todd Young of Indiana, who was elected to the Senate in November; Charles Boustany of Louisiana, who mounted an unsuccessful Senate bid in his home state; and Robert Dold of Illinois, who lost his re-election race for his House seat.

The Steering Committee’s selections are expected to be formally approved by the House Republican Conference on January 6.

Republicans will need to fill an additional Ways and Means Committee vacancy if taxwriter Tom Price of Georgia, who has been tapped by President-elect Donald Trump to be Secretary of Health and Human Services, is confirmed by the Senate for the cabinet post.

Democrats joining the panel in the 115th Congress include Reps. Suzan DelBene of Washington, Brian Higgins of New York, and Terri Sewell of Alabama. The three will replace Reps. Jim McDermott of Washington and Charles Rangel of New York, who retired at the end of 2016, and Rep. Xavier Becerra of California, who has been nominated to serve as that state’s attorney general. The House Democratic Caucus is expected to formally approve the nominations of DelBene, Higgins, and Sewell sometime during the week of January 9.

Across the rotunda, Senate Majority Leader Mitch McConnell’s office announced on January 3 that Republican Sen. Bill Cassidy of Louisiana would fill the Finance Committee vacancy created by the retirement of Sen. Dan Coats, R-Ind., at the end of the 114th Congress.

Democrats will also have a new face on the Finance panel: Sen. Claire McCaskill of Missouri was selected to take the spot vacated by Sen. Charles Schumer of New York. (Schumer was elevated to Senate minority leader following the retirement of Nevada Sen. Harry Reid.)

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