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House Republican efforts to advance the American Health Care Act (AHCA), their long-awaited replacement for the Obama-era Patient Protection and Affordable Care Act (PPACA), suffered a setback this week after Speaker Paul Ryan, R-Wis., canceled a planned March 24 floor vote because the measure appeared very unlikely to attract enough GOP votes to guarantee its passage.

The decision to cancel the vote – which had already been postponed from the previous day – followed a week of legislative negotiating and strong lobbying efforts by Ryan, along with Vice President Mike Pence and President Donald Trump, to win over Republican skeptics and fence-sitters.

Trump’s negotiating tactics included sticks as well as carrots. He offered a number of policy concessions to the House Freedom Caucus (a 30-member strong group of the most conservative Republicans in the chamber) during the days leading up to the floor vote; but he also warned Republicans at their weekly conference meeting on March 21 that they would risk losing their seats in 2018 if they voted against the bill. And after Ryan decided to postpone the vote that had been planned for March 23 after party whip operations determined that he didn’t yet have a secure majority, Trump (through Office of Management and Budget Director Mick Mulvaney) demanded that leaders hold a vote on March 24 and stated that he would abandon health care reform and move on to other issues if the measure failed.

Ryan stated at a March 24 press conference – held after he told Republican lawmakers that the vote would not take place – that the likely vote count appeared “close” to a majority but that Republicans ultimately “came up short.” (A whip list published in *The Hill* indicated that 36 House Republicans were prepared to vote “no” as of March 24 and

another 39 were either leaning toward “no” or were undecided.) Ryan said he told President Trump that in view of the likely results the wiser course of action would be to pull the bill ahead of the vote rather than risk defeat on the floor – a recommendation that Trump accepted.

Competing concerns

Since the AHCA was unveiled in early March, GOP leaders have grappled with concerns of lawmakers at both ends of the Republican ideological spectrum. Conservative Republicans – namely members of the Freedom Caucus – contended that the AHCA left in place too many elements of the law they want to dismantle; more moderate lawmakers, meanwhile, voiced concerns about the impact of the new bill on older and less affluent individuals. (For prior coverage, see *Tax News & Views*, Vol. 18, No. 9, Mar. 10, 2017 and *Tax News & Views*, Vol. 18, No. 10, Mar. 17, 2017.)

URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/170310_1.html

URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/170317_1.html

After the tax and nontax titles cleared the House Ways and Means and Energy and Commerce committees, respectively, and were then moved out of the Budget Committee as a combined package, the bill was modified in the Rules Committee this week to incorporate two separate manager’s amendments (one released on March 20 and one released on March 24, just hours before the floor vote was canceled) that accelerated repeal of many of the PPACA’s tax provisions, carved out revenue to modify the health care tax credit, and made numerous additional nontax policy changes, all of which were intended to assuage many of the concerns that have been expressed to date. But those modifications ultimately proved insufficient to allow House Republican leaders to cobble together a majority.

With all the chamber’s Democrats committed to voting against the measure, Republicans could afford to lose only 22 votes and still maintain the margin of support they needed to get the bill across the finish line. President Trump and Vice President Pence met throughout the week with small groups of House Republicans, negotiating changes that gained the votes of some members while losing those of others.

The lobbying campaign included a Statement of Administration Policy urging support for the measure and a last-ditch White House meeting on the morning of March 23 with members of the House Freedom Caucus. However, the administration’s offers – for example, agreeing to a Freedom Caucus demand to allow individual states to determine “essential benefits” coverage requirements for health insurers – not only proved to be insufficient for conservatives but also led some wavering moderates to defect.

Revised CBO estimate

It is unclear whether any lawmakers were swayed one way or the other by the release on March 23 of an updated budget estimate from the Congressional Budget Office (CBO) that incorporates the effects of tax and nontax changes included in the initial manager’s amendment to the AHCA.

URL: <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628.pdf>

Among its more notable findings, the CBO concluded that:

- On net, the revised bill would reduce the deficit by an estimated \$150 billion over the 2017-2026 budget window (down from \$337 billion of deficit reduction in the original bill). According to the CBO, the revised net reduction in the deficit is the result of a \$1.15 trillion reduction in direct spending that is partially offset by \$999 billion in revenue losses attributable to proposed tax policy changes. (The original version of the bill called for \$1.2 trillion in direct spending cuts and \$883 billion in tax-related revenue losses.)
- The revised bill, like the original, would not increase the deficit in any of the four subsequent decades beginning in 2027 – an important indication that the bill, at least with respect to overall net budget effects, would not violate the Senate’s Byrd Rule against increasing the deficit over the long run.
- The revised legislation, like the original bill, would increase the ranks of the uninsured by 14 million in 2018 and by 24 million by 2026, relative to current law – which probably did little to ease the minds of certain moderate House Republicans who expressed concern at the coverage declines projected by CBO under the original bill.

The updated revenue score does not include the budget impact of policy concessions negotiated between President Trump and conservative House Republicans over the course of the past week and folded into the bill as part of the second manager's amendment just prior to the canceled floor vote.

Next steps – and implications for tax reform

At his press conference, Ryan did not indicate exactly how he intends to pursue health care reform going forward, saying only that GOP leaders would “go back and figure out what the next steps are.”

Ryan stated that Republicans intend to move forward with the rest of their legislative agenda – including tax reform. But he also acknowledged that with the PPACA still in place, tax reform becomes “more difficult, but not impossible.”

The GOP's original agenda for the year called for action on health care to come first, using the reconciliation instructions in the FY 2017 budget resolution approved in January, followed quickly by passage of comprehensive tax reform using reconciliation instructions in a yet-to-be-passed budget resolution for FY 2018. (Budget reconciliation instructions set up a fast-track process shielding qualifying legislation from a filibuster in the Senate by allowing legislation to be passed in that chamber with only 51 votes, rather than the 60 votes normally needed to clear procedural hurdles – a useful tool for Republicans, who currently control only 52 Senate seats.)

While there is no procedural reason Congress can't instead move tax reform first, the AHCA contains nearly \$1 trillion in tax cuts over 10 years that, if enacted into law, would result in a lower revenue baseline and potentially make it easier for Republicans to achieve their goal of revenue-neutral tax reform. (Deficit neutrality over the long-run – that is, beyond the 10-year budget window – is a necessary condition for advancing permanent legislation under the budget reconciliation process.)

Earlier in the week, President Trump acknowledged the sequencing challenge, telling the crowd at a campaign-style rally in Kentucky that “[w]e want a very big tax cut, but cannot do that until we keep our promise to repeal and replace the disaster known as Obamacare.”

The House's top taxwriter, Ways and Means Committee Chairman Kevin Brady, R-Texas, also told reporters ahead of the scrubbed health care vote that tax reform won't be “as pro-growth” as the Republican blueprint envisions unless Congress can repeal the Affordable Care Act taxes first.

“Making sure we have an accurate tax foundation on which to start tax reform is very important,” Brady said.

Additional details on how lawmakers plan to proceed are likely to emerge in the coming days, but we can expect a renewed focus on tax reform from House Republicans as they look to go back on the offense after what Speaker Ryan admitted was a “disappointing” outcome to the party's efforts to repeal and replace the Affordable Care Act.

— Alex Brosseau, Michael DeHoff, and Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

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