

THIS WEEK IN WASHINGTON

Week of May 8, 2017



This Week in Washington

Thanks for your continued interest in Washington, D.C. – and This Week in Washington.

Last week was a busy one in Washington. Glenn Hamer and a group of Chamber members joined the Greater Phoenix Economic Council in a trip to Washington, D.C. for a series of meetings. Both the House of Representatives and the Senate passed legislation appropriating funds for the government through the end of September. The House Financial Services Committee continued their work on Dodd-Frank reform. And – oh yes – the House of Representatives passed their version of healthcare legislation that would repeal and replace Obamacare.

HR 1628 – The American Health Care Act – is significant both as a legislative product and as part of the legislative and political process, so we’re going to examine the bill both ways.

Todd Smith and Blake Fulenwider, Total Spectrum’s newest partners, are both experts in health care legislation, and have taken the lead in a review of what’s in the House bill. Todd and Blake worked with then-Congressman Nathan Deal from Georgia when he was both the chairman and the ranking member of the House Energy and Commerce Subcommittee on Health. Todd served Congressman Deal as his Chief of Staff, and Blake was his Legislative Director.

Congressman Deal later ran for and was elected Governor of Georgia. Todd serves Governor Deal as an outside consultant representing the State of Georgia before the Administration and Congress. Blake was the Health Policy Advisor for the 2010 Deal for Governor Campaign, and served Governor Deal in a number of official capacities, including –

ICYMI: Arizona Issues in the News

[Arizona lawmakers pass \\$9.8 billion budget](#)

[Tempe receives \\$50 million federal grant for streetcar system](#)

[GOP senator pushes to improve hiring process for border patrol agents](#)

[John McCain: Why we must support human rights](#)

Senators take stance on Trump's picks

Click the image below for a complete update on votes of Trump's cabinet picks from senators who are up for re-election in 2018.

- Helped to create the Georgia Department of Public Health
- Advised on the creation of the Georgia Prescription Drug Monitoring Program
- Selected as Deputy Commissioner of the Georgia Department of Community Health
- Served as Healthcare Reform Administrator in the Governor's Office of Planning and Budget
- Appointed in 2013 to serve on the Joint Legislative Study Group on Federal Healthcare Funding

Steve Gordon discusses the legislative and political impact of the House healthcare bill, the legislation that kept the lights on in government, and some of the other things he heard last week in Heard on the Hill. John McKechnie, Total Spectrum's Senior Partner, writes about the bill that was passed out of the House Financial Services Committee to modernize Dodd-Frank.

Thanks as always for your comments, feedback, and suggestions for future issues of This Week. We're sincerely grateful for your interest.

Heard on the Hill, Week of May 8

By Steve Gordon, Managing Director, Total Spectrum

Health Care

Healthcare is 1/6th of the economy. It impacts people's lives in the most direct way. Donald J. Trump made Repeal and Replace a keystone of his presidential campaign, as have scores of Republican candidates and office holders ever since Obamacare became law.

The first attempt to pass repeal and replace was taken off the House floor in March because the Speaker and his Whip team didn't have the votes, and that wasn't a surprise. Congressional district lines have been drawn to minimize the number of swing districts, maximizing a majority of bright red and bright blue districts -- and leaving very few easily persuadable Republican votes in the House. A group of moderate Republican Congressmen called the Tuesday Group wanted to preserve medical benefits for more people, while a group of House conservatives, the Freedom Caucus, wanted to lower insurance premiums and deductibles for individuals by reducing insurance mandates. The President tried working with the Freedom Caucus, but they wouldn't budge. The moderates wouldn't budge either. [Read more.](#)

Repeal and Replace: The House Version

By Todd Smith and Blake Fulenwider, Partners, Total Spectrum

The House of Representatives passed the American Health Care Act (AHCA) on May 4, taking a significant step forward in the White House's and Congressional Republicans' efforts to 'repeal and replace' the Affordable Care Act (ACA), also known as Obamacare. The AHCA has garnered praise, criticism, and everything in between, as moderate and conservative Republicans worked to strike a balance that sufficiently eliminates Obamacare but does not undermine popular health insurance provisions the ACA put into place.

The AHCA prescribes dramatic changes to the way the federal government reimburses states for Medicaid in exchange for

CONFIRMED (Prior vote)	CABINET SECRETARY	AGENCY	Bob Casey (D-PA)	Sherrod Brown (D-OH)	Tammy Baldwin (D-WI)	Tim Kaine (D-VA)	Joe Donnelly (D-IN)
100-0 ✓	David Shulkin	VA					
99-1 ✓	Jim Mattis	DEFENSE					
93-6 ✓	Elaine Chao	DOT					
88-11 ✓	John Kelly	DEP.					
87-11 ✓	Sunny Perdue	USDA					
72-27 ✓	Wilbur Ross	COMMERCE					
69-31 ✓	Ryan Zinke	INTERIOR					
62-37 ✓	Rick Perry	ENERGY					
60-38 ✓	Alexander Acosta	LABOR					

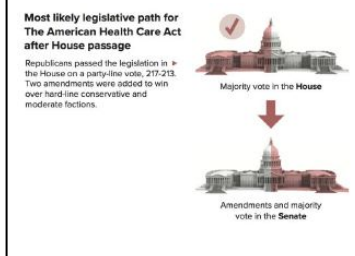
Pre-existing Conditions Key Issue in Senate Health Care Battle

Click on the image below for full coverage of the pre-existing conditions that are a key issue in the Senate health care battle.



House passes AHCA, focus now shifts to Senate

Click the image below for an update on the most likely path for AHCA after House passage.



Government funded through end of Fiscal 2017

Click the image below details about the proposed \$1.2 trillion omnibus to fund the government through the end of fiscal 2017 by the House Appropriations Committee.

insured large group health plans. It also includes federal funding to stabilize risk pools, particularly with respect to consumers with pre-existing medical conditions. [Read more.](#)

House Committee approves Dodd-Frank Reform Bill

by [John McKenchie](#), Senior Partner, Total Spectrum

The House Financial Services Committee took the first step toward granting regulatory relief for the financial services industry by approving a bill Thursday to revise or repeal much of the controversial 2010 Dodd-Frank Act.

The panel voted along party lines, 34-26, to send Chairman Jeb Hensarling's (R-TX) Financial CHOICE Act to the House floor. The bill would accomplish a long-term Republican goal: to revoke the expansive financial regulations passed under President Obama after the 2008 crisis.

The measure was passed after three days of contentious debate. Democrats attempted to slow the bill's progress by taking the unusual step of requiring a reading of all 600 pages of the legislation, which consumed nearly 4 hours on the first day of the markup session. Republicans voted down all 19 amendments aimed at weakening the bill that were offered by Democrats. [Read more.](#)



On the Calendar This Week (All Times ET)

Tuesday

9:30 a.m.

[Senate Armed Services Committee hearing on the U.S. Cyber Command. NSA Director Adm. Michael Rogers will testify.](#)

10 a.m.

[Senate Finance hearing on the future of the Children's Health Insurance Program. Congress has until Sept. 30 to extend funding for the program.](#)

2:30 p.m.

[Senate Armed Services confirmation hearing on the nominations of David Norquist as Pentagon comptroller and Elaine McCusker for principal deputy undersecretary in the comptroller's office, along with Bob Daigle to be director of the Cost Assessment and Program Evaluation Office.](#)

2:30 p.m.

[Senate Commerce, Science and Transportation subcommittee hearing on maritime transportation.](#)

2:30 p.m.

[Senate Environment and Public Works subcommittee hearing on water resources.](#)

Wednesday

10 a.m.

[Senate HELP markup of two bills: S. 934: It would reauthorize the FDA's user fee programs for prescription drugs, medical devices, generic drugs, and biosimilars; and S. 1028: It would direct HHS to develop, maintain and update a so-called national family caregiving strategy.](#)

10 a.m.

[Senate Judiciary confirmation hearing on three nominations: Steven Engel to head the Justice Department's Office of Legal Counsel, Makan Delrahim for DOJ antitrust chief and Noel Francisco as solicitor general.](#)

10 a.m.

[Senate Homeland Security and Governmental Affairs hearing on cyber threats.](#)

10 a.m.

[Senate Banking, Housing and Urban Affairs subcommittee hearing on sanctions against China.](#)

10 a.m.

[Senate Environment and Public Works hearing on overhauling the](#)

2:30 p.m.
Senate Energy and Natural Resources subcommittee hearing on seven bills.

2:30 p.m.
Senate Indian Affairs hearing on two bills.

2:30 p.m.
Senate Veterans' Affairs hearing on the Veterans Choice Program.

3 p.m.
Senate Small Business and Entrepreneurship confirmation hearing on Althea Coetzee's nomination for deputy administrator of the Small Business Administration.

Thursday
 9:30 a.m.
Senate Agriculture, Nutrition, and Forestry hearing on pesticide registration.

10 a.m.
Senate Banking hearing on the housing finance system. Federal Housing Finance Agency Director Mel Watt will testify.

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Heard on the Hill, continued.

Some Republican members were relieved to have avoided a vote, and wanted to move on to tax reform. Others knew that moving on without first resolving health care was not possible because the massive taxes that fund Obamacare needed to be removed to make tax reform achievable.

Still others knew that the White House and the House Leadership needed a win. Small victories are still victories, but the legislative goal was to pass big things -- health care, tax reform, infrastructure -- and harder, more

Dodd-Frank Reform Bill, continued.

Chairman Hensarling's bill would remove large, sweeping regulations placed on the financial sector through Dodd-Frank, particularly ones that required the largest banks to comply with additional regulations and capital levels. The bill also imposes limits on the power of the Consumer Financial Protection Bureau (CFPB), replaces financial institution liquidation authority with new bankruptcy processes, and allows banks to opt-out of certain regulations if they hold additional capital.

Enter Tom MacArthur, a second term Republican member of the House from New Jersey. He began his career as a claim adjuster, and went on to become the Chairman of York Risk Services Group, a provider of insurance and managed care services. Congressman MacArthur was recently elected to be cochairman of the Tuesday Group, and began negotiations with Congressman Mark Meadows of North Carolina, Chairman of the Freedom Caucus. The result was a compromise that few members loved but moved the bill forward.

Fred Upton (R-MI) is the former Chairman of the House Energy and Commerce Committee, is well respected by most members of the House, and was still undecided or leaning no on the vote. Congressman Upton went to the White House at the request of the President. He returned to Capitol Hill with a commitment from the President to put an additional \$8 billion into high risk pools for the states. Congressman Upton got another bow to the moderates, and the House Leadership got a powerful and well respected ally. The final vote was 217 to 213, with one member not voting; twenty republicans voted no.

Republican members were cajoled by both President Trump and House Leadership. Most got behind the bill because they didn't think turning back was an option. It's one thing to object when you're in the minority. House Republicans realized that their base was promised repeal and replace. They knew that voting for the compromise was handing Democrats a hammer that they would use next November, but Republicans needed to take a vote that was not perfect to insure a motivated base. They also knew that the voters had given Republicans the keys to Congress and the White House, and they had to govern.

The Speaker and his leadership team got a win, so they were happy. The President and his team got one too, so they were happy. The Democrats think they have an issue for the 2018 election, so they too are happy.

House Republicans needed to keep repeal and replace process going – and they did. House Republicans expected that the Senate would write their own bill, and they were right about that also. Senate Republicans have assembled a working group of conservatives and moderates from expansion and nonexpansion states. They are working to try to find a way to get 51 bullfrogs in the repeal and replace wheelbarrow. Additionally, Bill Cassidy, a physician and Senator from Louisiana, is working with Senator Susan Collins of Maine on their own plan. Senator Chuck Grassley of Iowa, a member of the Finance Committee and its former chairman, is reporting his ideas

only to enforcing pre-existing consumer protection laws. Its sole director would be removable at will by the President, and its budget would be controlled by Congress through the appropriations process. Committee Republicans long criticized the CFPB as an abusive threat to the economy and Constitutional separation of powers, while Democrats touted the more than \$11 billion the agency returned to consumers through enforcement actions.

Several Committee Democrats asked Chairman Hensarling to narrow the CHOICE Act to focus on community and mid-size institutions. Relief for smaller banks and credit unions is one of the few areas of bipartisan agreement on the committee.

The CHOICE Act now heads to the House floor, although it's unclear when the full chamber will vote on it.

One aspect of the legislation that is sure to be a hot button item during House action is the provision that would repeal the so-called Durbin Amendment that caps debit card fees charged to retailers for card processing. This effort pits the financial services industry versus merchants, who want to keep the Durbin Amendment on the books. Democrats largely favor the Durbin Amendment, and may be joined by a sizable number of Republicans who may vote to maintain it under serious pressure from the retail industry. House Republican leaders are considering ways to remove the contentious Durbin repeal language before the bill gets to the House floor, thus sparing members from casting difficult votes on it.

If Chairman Hensarling's bill does pass the House it is not likely to be brought up in the Senate in its current form. The Senate Banking Committee is working on its own version of Dodd-Frank reform.

The Republican Senate Leadership says they have no time frame – but I hear there really is one. The 2018 budget and appropriations bills must be dealt with this fall, the debt ceiling must be raised, and health care must be dealt with before tax reform (or tax reduction) can become ripe.

Funding Government Agencies

It's easy to let this event slide without a special note, but it needs one. Republicans need Democratic votes on spending issues, and they received them. Neither party got everything they wanted, but Republicans kept the lights on. That has to be scored as a win.

The Southern Border

Senate leadership is talking about a Border Security Plan that would maximize enforcement and minimize the need for fully funding a southern wall.

Taxes

There's a growing acceptance that the Border Adjustment Tax is a non-starter, and there is not a viable revenue source to replace the BAT. Senators that I talk to are looking at the concept of tax reduction without a revenue offset as the most practical way to stimulate the economy.

Concluding thought

“The goal of everything we want to do is economic growth” - Majority Leader Mitch McConnell, May 9, 2017

Repeal and Replace, continued.

The conservative Freedom Caucus and the moderate Tuesday Group took center stage after the original legislative proposal was pulled from consideration in March due to insufficient support. Freedom Caucus Chairman Mark Meadows (R-NC) and Tuesday Group Chairman Tom MacArthur (R-NJ) worked for weeks to strike a deal acceptable to their caucuses. Amid ongoing pressure from the White House to move forward on a key promise to the American people to 'repeal and replace' (and the promise of another \$8 billion to states for high risk pools), the AHCA was scheduled for passage very quickly once sufficient votes were attained.

Key Provisions:

Medicaid: The AHCA would cap Medicaid funding to states under either a Per Capita or Block Grant Allotment mechanism and would eliminate open-ended federal matching dollars that pay for the vast majority of Medicaid

from Washington, providing federal budget certainty while driving states to reduce the rate of growth of Medicaid spending in their programs. In exchange for budget certainty from the federal government, states would be given greater flexibility with Medicaid program design. This includes greater latitude to streamline benefits, impose restrictions on eligibility such as cost-sharing and work requirements for certain populations, and greater options under Medicaid waivers to test new delivery systems. During a transition period, states that did not expand Medicaid eligibility under the Affordable Care Act would be eligible to receive a proportion of \$2 billion each year for five years to support increased provider reimbursement and access to care for their Medicaid recipients.

The future is less certain under this measure for Arizona and other states that have adopted Medicaid Expansion. The AHCCCS population report shows that there are approximately 400,000 individuals enrolled in the childless adult restoration and expansion populations in Arizona. The Affordable Care Act committed to no less than 90% federal matching for expenses to cover low-income parents and childless adults in the program.

After December 31, 2019, new enrollees would not be eligible for the enhanced matching rates and will revert to traditional Federal Medical Assistance Percentage (FMAP), currently 66%. Enrollees prior to the end of 2019 who maintain eligibility with no greater than a 30 day break in enrollment would continue to be eligible for enhanced matching payments to the state.

There are about 82,000 in the expansion population and 317,000 in the restoration population – both are impacted by the federal changes. A significant reduction of matching funds for this population translates to millions of dollars the state would need to absorb with state funds to maintain current eligibility or consider changes to Medicaid benefit or eligibility criteria. If a break in coverage under Medicaid Expansion occurs, or someone enrolls in Medicaid for the first time after 2020, the ACA-enhanced matching rate would no longer apply. This is particularly problematic in Arizona, where there is a voter-mandated requirement to provide coverage to childless adults with incomes below 100% of the Federal Poverty Level.

Individual, Small Group, and Commercial Health Insurance: Provisions affecting the individual, small group, and fully-insured large group markets were the primary focus of negotiations leading up to passage of the AHCA. The legislation proposes a number of changes designed to reduce premiums with the aim of increasing market participation by insurers and consumers alike. Subsidies available to consumers today, which are based

from \$2,000 to \$4,000 per year with a maximum limit of \$14,000 per year for a family with dependent children. Additionally, current limits that restrict the ability of an insurer to charge higher risk consumers no more than three times the amount of younger, healthier individuals would increase to a 5:1 ratio, or higher if a state implements a waiver to do so.

States would also be allowed to relax certain benefit requirements for health insurance that were put into place by the Affordable Care Act, including requiring coverage of certain Essential Health Benefits (EHBs) if desired. The objective would be to address rapid increases in premiums and encourage greater enrollment, which have been widely observed issues in markets across the country.

In exchange for the ability to waive certain EHBs, the AHCA provides funds to states to support coverage for individuals with pre-existing conditions, either by subsidizing state-based High Risk Pools or funding the proposed Federal Invisible Risk Sharing Program for states that do not operate their own pools. The legislation provides \$138 billion to states to help them with these pools. Protecting coverage for citizens with pre-existing conditions became a decisive issue as the AHCA evolved in the House. It will certainly continue to be a major point of contention in the Senate.

Applicability to Members of Congress and Staff: Arizona Congresswoman Martha McSally successfully included an amendment to the AHCA which made its provisions apply equally to everyone, including Members of Congress and their staff.

On to the Senate

After narrowly passing in the House by a 217–212 vote, ‘repeal and replace’ now rests with the Senate, which is not going to consider the House bill but rather will begin to write its own.

Majority Leader Mitch McConnell has assembled a working group comprised of Republican Senators from Red states, Blue states, Purple states, Medicaid expansion and non-expansion states. Some of the differences in the predicted Senate bill may surround tax credits which would be used for age-based premium assistance for consumers, the amount of money Medicaid expansion and non-expansion states would receive, and risk sharing programs.

At this point, there isn’t a set date for completion and consideration by the Senate. Senator McConnell will use a rule tied to the budget process – reconciliation – to allow for a majority vote of 51 rather than the 60 votes necessary to break a filibuster. But the

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expansion states -- will be even tougher than in the House.

We'll highlight the challenges issue by issue in future issues of *This Week*.