LIVE

from

NAHU

With Janet Trautwein

Executive Vice President & CEO

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Janet Trautwein is the Chief Executive Officer of the National Association of Health Underwriters (NAHU) and President of the National Association of Health Underwriters Education Foundation in Washington, D.C. NAHU represents more than 100,000 employee benefits professionals involved in the design, implementation and management of health plans all over the United States.

Her responsibilities include oversight of all NAHU and NAHU Education Foundation activities including oversight for 30 staff members in Washington, DC and 210 state and local chapters. She is the primary spokesperson for NAHU to the media, government agencies and elected officials at all levels.

A frequent speaker on health policy issues, Janet's expertise in issues related to health insurance markets, the uninsured, health insurance pools, risk and reinsurance pooling, health related tax issues, and both national and global health reform has been recognized throughout the industry. Janet has testified before Congress numerous times, and has been published in major newspapers, including *The Wall Street Journal*, *The Washington Post*, and *The New York Times* and has appeared on hundreds of radio and television programs around the world.

WHERE
Are We Today?

Key Actors in the Administration

Don Wright

Acting Secretary of the Department of Health and Human Services

Donald Trump

President

Steven Mnuchin

Secretary of the Treasury

Seema Verma

Administrator of the Centers for Medicare and Medicaid Services

Alexander Acosta

Secretary of Labor

Key Actors in Congress

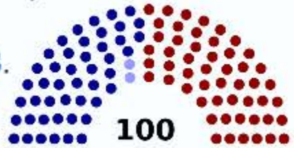
Speaker of the House
Paul Ryan (R-WI)

Republicans control the chamber **240**-**194**.

Republicans have more than the 218 votes necessary to pass legislation under regular order using only a simple majority.

Senate Majority Leader
Mitch McConnell (R-KY)

Republicans control the chamber **52**-**48**.



Republicans ***do not*** have enough votes to overcome a filibuster (60 votes), and will need *at least* 8 Democrats to pass legislation through regular order.

Which Democrats might support Trump?

SENATOR	STATE	RE-ELECT YEAR	ISSUE ALIGNMENT	PERSONAL SUPPORT	ELECTORAL INCENTIVE	TRUMP SUPPORT SCORE
Heitkamp	ND	2018	3.5	1	5	3.4
Manchin	WV	2018	3	1	5	3.3
Tester	MT	2018	2.5	1	5	3.1
Donnelly	IN	2018	3	1	4.5	3.1
McCaskill	MO	2018	2.5	1	4.5	2.9
Brown	OH	2018	1	1	4	2.3
Stabenow	MI	2018	2	1	3	2.1
Klobuchar	MN	2018	2	1	3	2.1
Casey	PA	2018	2	1	3	2.1

Source: https://fivethirtyeight.com/features/which-republican-senators-are-most-likely-to-fight-trump/

Which Republicans might defy Trump?

SENATOR	STATE	RE-ELECT YEAR	ISSUE ALIGNMENT	PERSONAL SUPPORT	ELECTORAL INCENTIVE	TRUMP SUPPORT SCORE
Collins	ME	2020	2.5	3	2.5	2.7
Heller	NV	2018	3.5	3	2.5	2.9
McCain	AZ	2022	3	3	3.5	3.1
Gardner	CO	2020	4	3	2.5	3.2
Portman	OH	2022	3	3	4	3.2
Murkowski	AK	2022	3	3	4.5	3.3
Flake	AZ	2018	3.5	3	3.5	3.4
Graham	SC	2020	4	2	4.5	3.5
Lee	UT	2022	3.5	3	4.5	3.5
Toomey	PA	2022	4	4	3	3.8

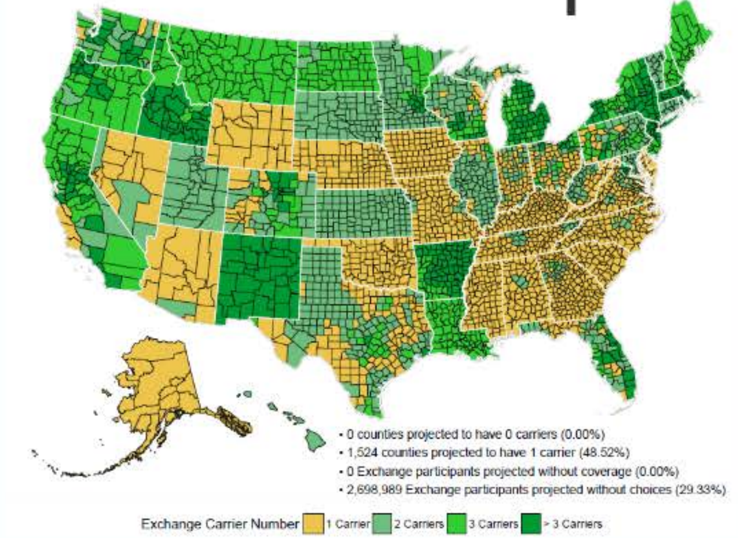
Source: https://fivethirtyeight.com/features/which-republican-senators-are-most-likely-to-fight-trump/

HEALTH REFORM CHALLENGES

Status of the Markets

Market Stabilization Required

- Carrier Participation

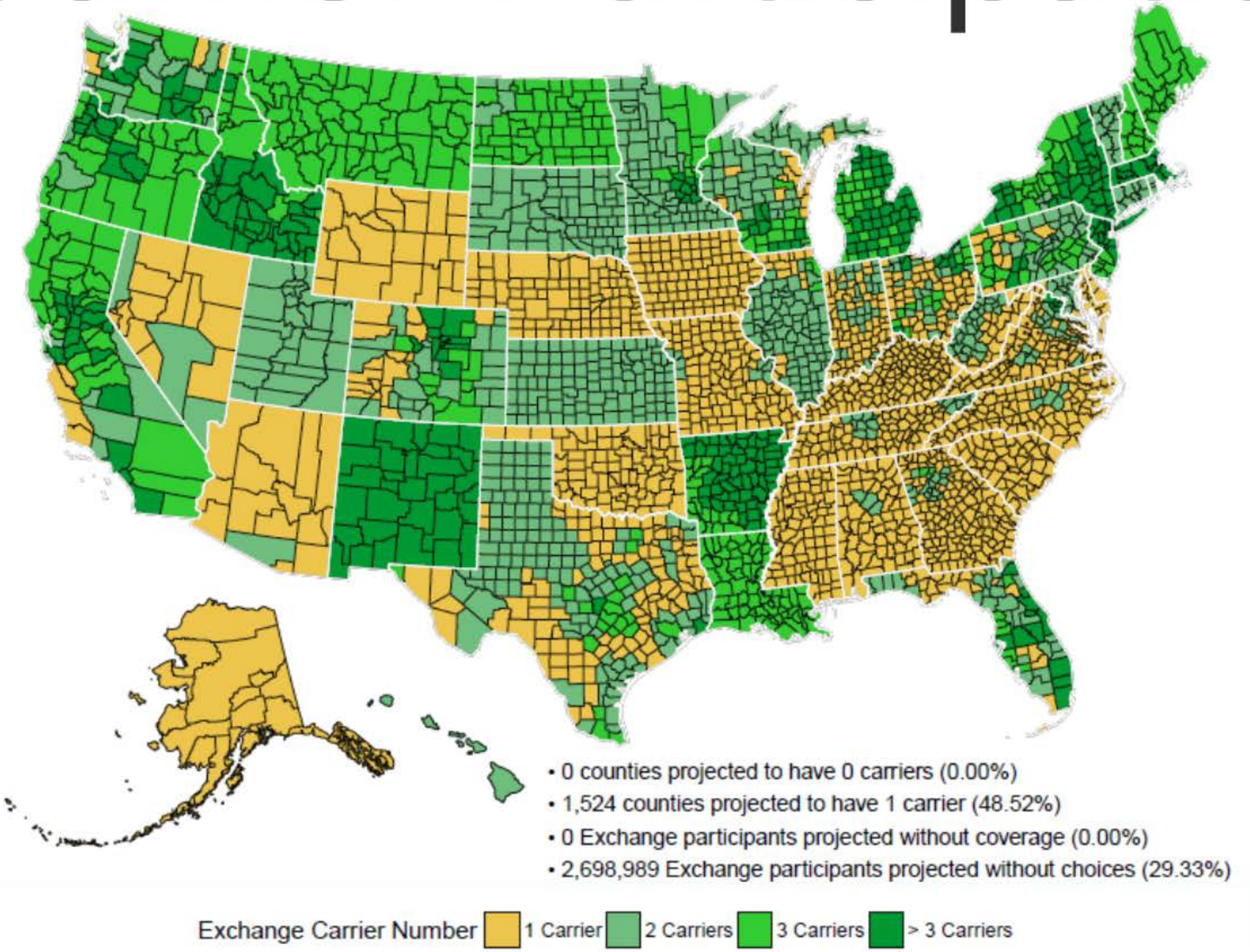


Source: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/2018-Projected-Health-Insurance-Exchange-Coverage-Maps.html

- Bare Counties

- Plan Rates
  - Cost-sharing Reduction (CSR) payments

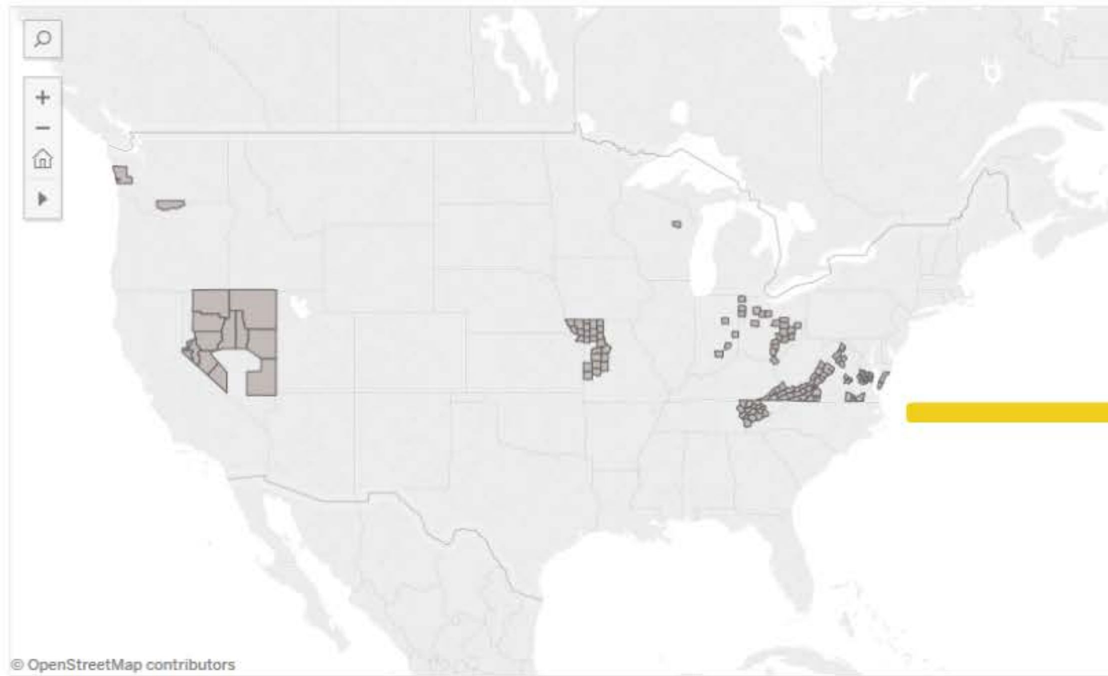
• Carrier Participation



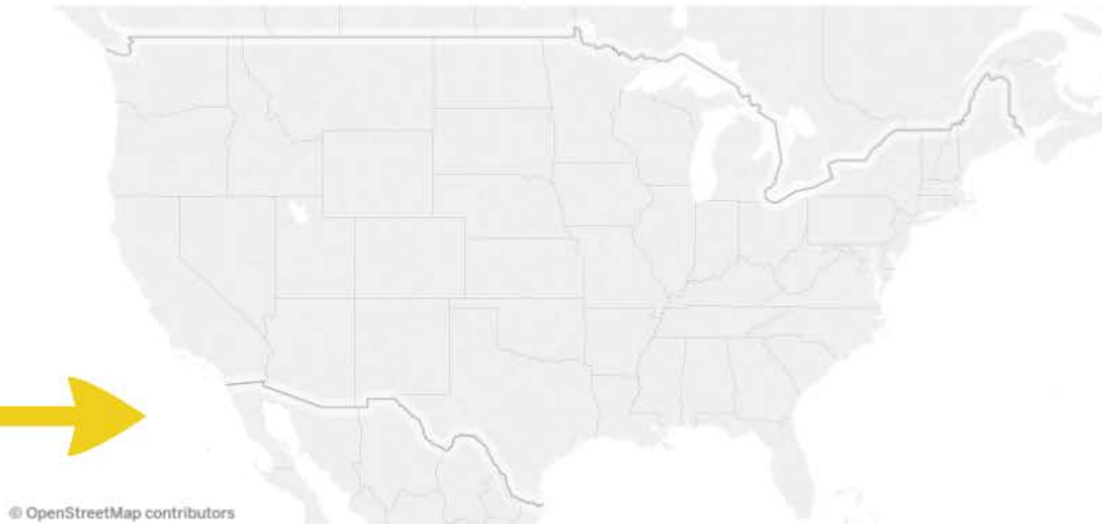
Source: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/2018-Projected-Health-Insurance-Exchange-Coverage-Maps.html

Some insurers said they would not participate in the marketplaces for 2018, resulting in many states having several counties without *ANY* insurer participating.

Counties that Have Been at Risk of Having No Insurer on the Marketplace (Exchange) in 2018



Counties at Risk of Having No Insurer on the Marketplace (Exchange) in 2018, as of September 15, 2017

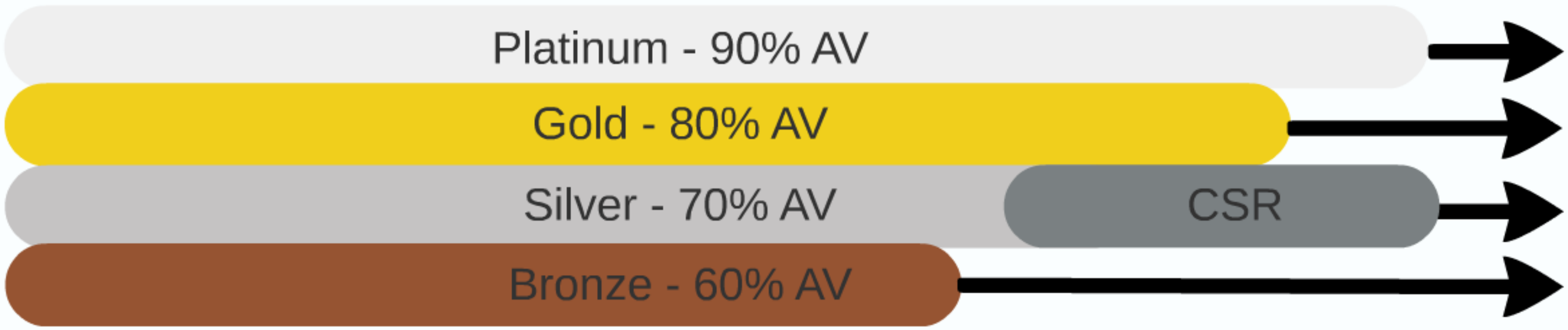


Number of Counties and People at Risk of Having No Insurer on the Marketplace (Exchange) in 2018, as of September 15, 2017

Counties	Enrollees
0	0

As plan rates became due, other insurers stepped in to offer coverage in these "bare counties," resulting in every county having at least one insurer participating.

- Cost-sharing Reduction (CSR) payments

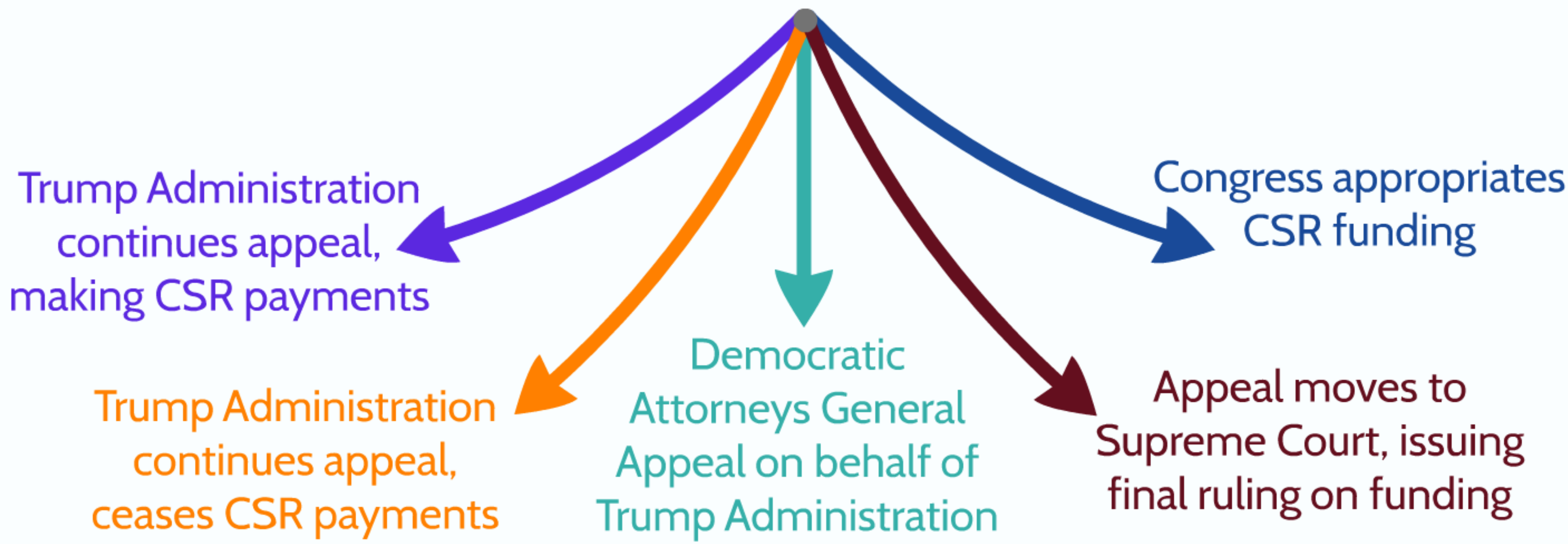


CSR payments are indirect

ACA was written so that insurers would be paid to provide the CSR to consumers, and in turn, would receive funding back from the government

Federal court ruled in May 2016 that funding was never Congressional appropriated, but allowed funding to continue so long as Administration continued their appeal

Possibilities for CSR Future



HOW TO ADDRESS
Health Reform Challenges

Three Buckets of Health Reform

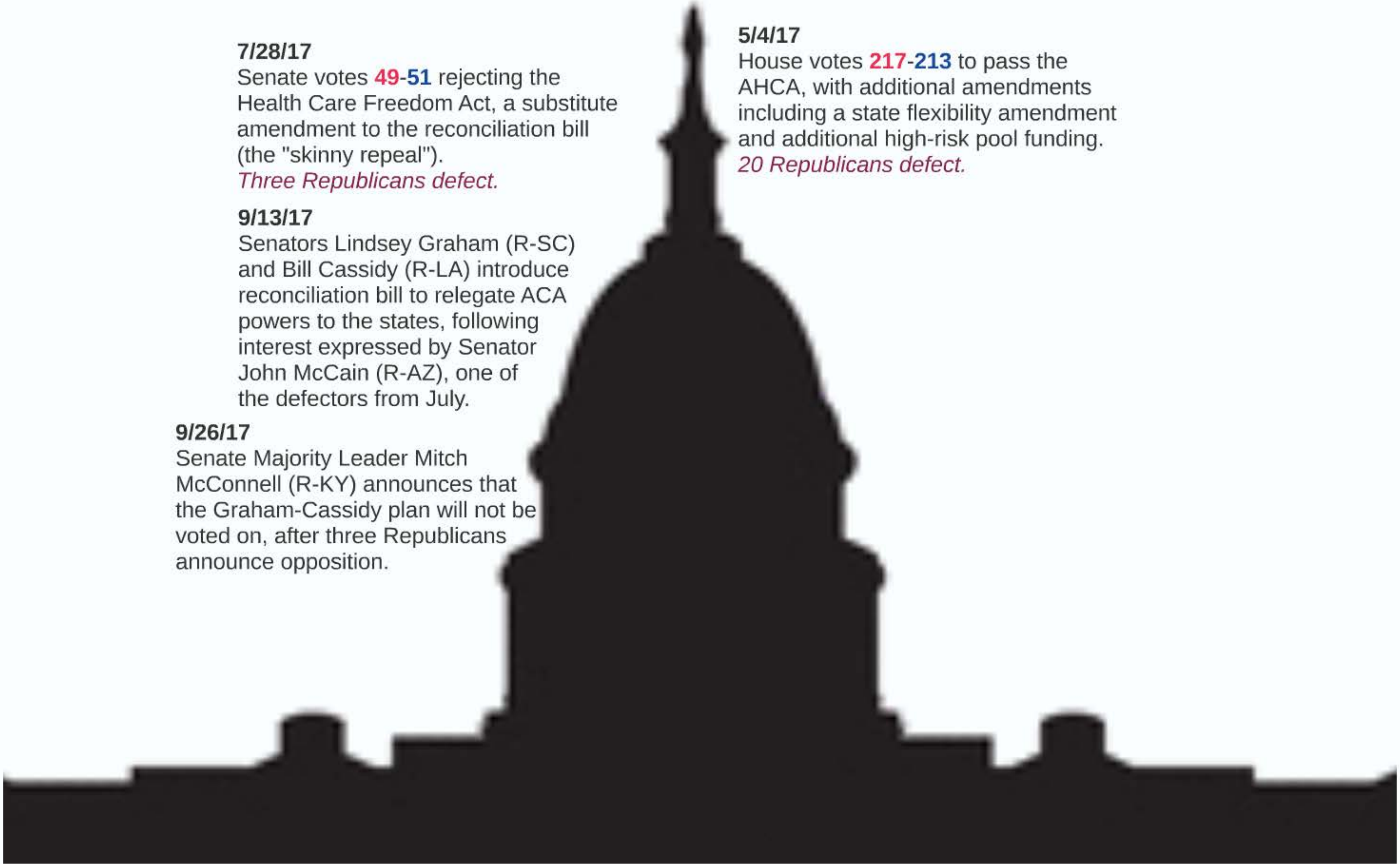
Recent Legislative Actions

7/28/17
Senate votes **49**-**51** rejecting the Health Care Freedom Act, a substitute amendment to the reconciliation bill (the "skinny repeal").
Three Republicans defect.

9/13/17
Senators Lindsey Graham (R-SC) and Bill Cassidy (R-LA) introduce reconciliation bill to relegate ACA powers to the states, following interest expressed by Senator John McCain (R-AZ), one of the defectors from July.

9/26/17
Senate Majority Leader Mitch McConnell (R-KY) announces that the Graham-Cassidy plan will not be voted on, after three Republicans announce opposition.

5/4/17
House votes **217**-**213** to pass the AHCA, with additional amendments including a state flexibility amendment and additional high-risk pool funding.
20 Republicans defect.



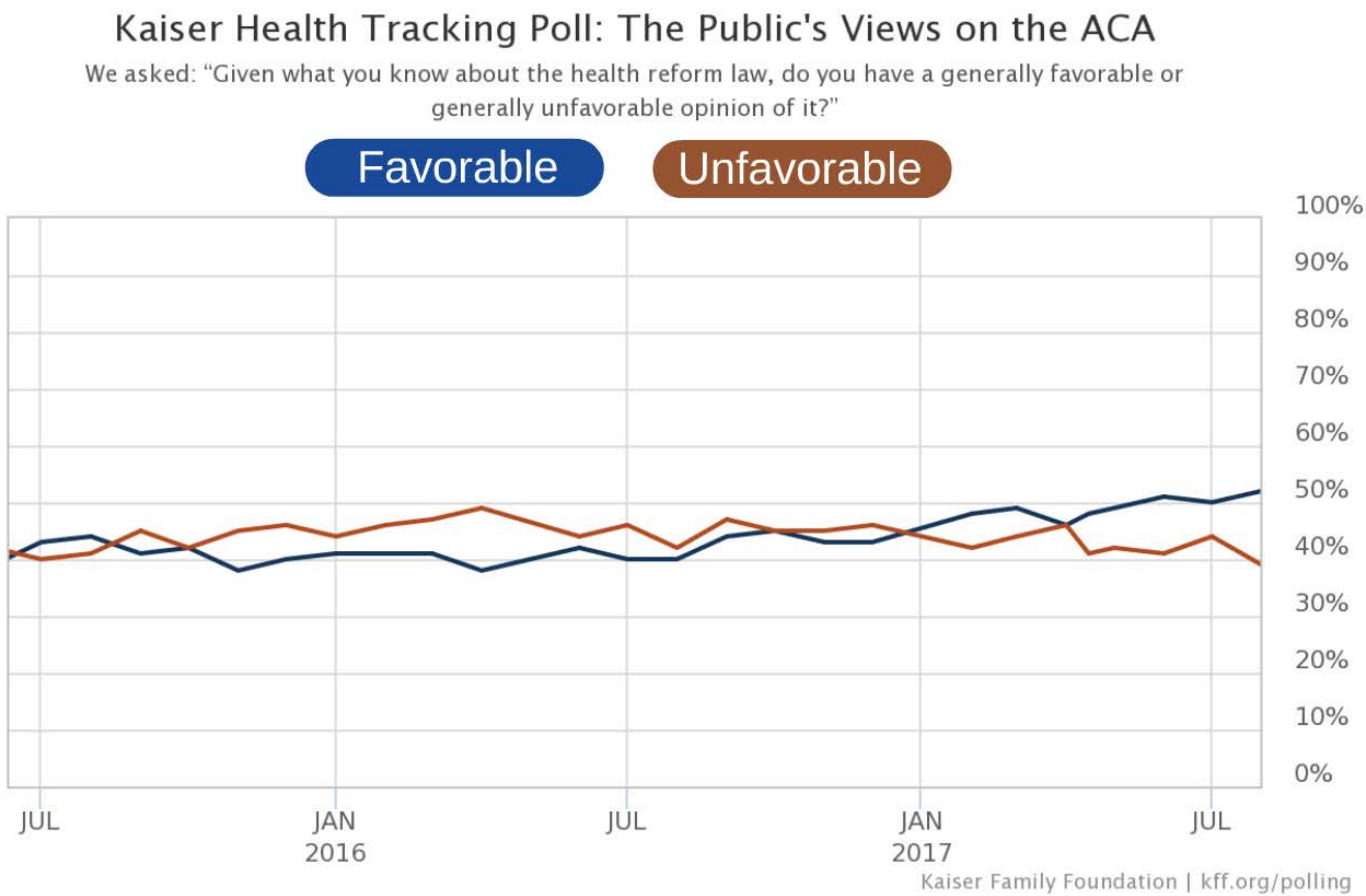
Senator Pat Roberts (R-KS):

Look, we’re in the back seat of a convertible being driven by Thelma and Louise, and we’re headed toward the canyon... So we have to get out of the car, and you have to have a car to get into, and this is the only car there is.

WHY?

couldn't Republicans repeal and replace the ACA?

- Americans were turned off by **partisan** debate
- Republican proposals led to opposite effect as intended:
  - **increased support** for the ACA and **decreased opposition**



WHAT'S NEXT?

A Future Reconciliation

Congress can attempt to pass a reconciliation repeal of the ACA with the FY 2018 (current), FY 2019 (available in 2018), or future budget reconciliation vehicle.

How could "Repeal/Replace" Work?

Complete Repeal and Replace

Republicans use "regular order" and pass a bill repealing and replacing it in both chambers (218 votes needed in House, 60 votes in senate), send to President Trump to sign into law. **Would need at least 8 Democrats in the Senate.**

2

Amend the Current Law

Republicans work with Democrats under regular order to change the components of the law that have bipartisan appeal. Needs 218 House votes, 60 Senate votes. **Would need at least 8 Democrats in the Senate.**

Partial/Piecemeal Repeal through Reconciliation

Republicans pass a budget document instructing Congress to pass legislation repealing parts of the law that are budget relevant. Needs 218 votes in the House, 51 votes in Senate. **Would retain many existing elements of the ACA.**

The Problem Solvers

Rep. Tom Reed (R-NY)

A bipartisan group of 43 centrist House Republicans and Democrats who work to find bipartisan agreement, build consensus, and advance common sense legislation

Rep. Josh Gottheimer (D-NJ)

On July 31, they proposed a 4-point plan to stabilize the individual market and provide immediate bipartisan health reform solutions:

Fully fund and make mandatory the Cost Sharing Reduction (CSR) payments through the annual appropriations process

Establish a reinsurance stability fund for states to use to reduce premiums and limit losses, particularly for those with pre-existing conditions

Adjust:

- The employer mandate from 50+ employees to 500+ employees
- The definition of full-time employment from 30-hours to 40-hours

Repeal the Medical Device Tax

In the Senate

Senators Lamar Alexander (R-TN) and Patty Murray (D-WA)

- Will renew bipartisan negotiations for a market stability package to be passed by the end of the year to fund the ACA's cost-sharing reduction (CSR) program and provide additional state flexibility through waivers.

Senators Lindsey Graham (R-SC) and Bill Cassidy (R-LA)

- Plan to continue working on a revised package to restructure the ACA from the federal government to the states.
- Unlike the failed attempt in September, this would be considered under regular order that can win either 60 bipartisan votes, or 50 Republican votes through a future reconciliation vehicle (FY 2018, FY 2019).

Key Deadlines

September 30:

- **Reconciliation Repeal/Replace of the ACA**
  - Must be passed before the end of FY 2017
- **Children's Health Insurance Program (CHIP) funding expires**
  - Legislators seeking a two-year extension
- **Other Reauthorizations:**
  - Coast Guard; Federal Aviation Administration (FAA), National Flood Insurance Program (NFIP), Intelligence Agencies

December 8:

- **Debt Ceiling is reached**
  - Currently set at $20 trillion, default on federal debt will occur without an increase
- **Continuing Resolution for Fiscal Year (FY) 2017 Funding expires**

Other Issues:

- Presidential nominations - 1,200 positions require Senate confirmation
  - 277 people have been nominated, 124 have been confirmed to date
- Immigration - Deferred Action for Childhood Arrivals (DACA)

Regulatory Actions

January 20

President Trump signs executive order for federal agencies to reduce regulatory burden of the ACA

Spring/Summer

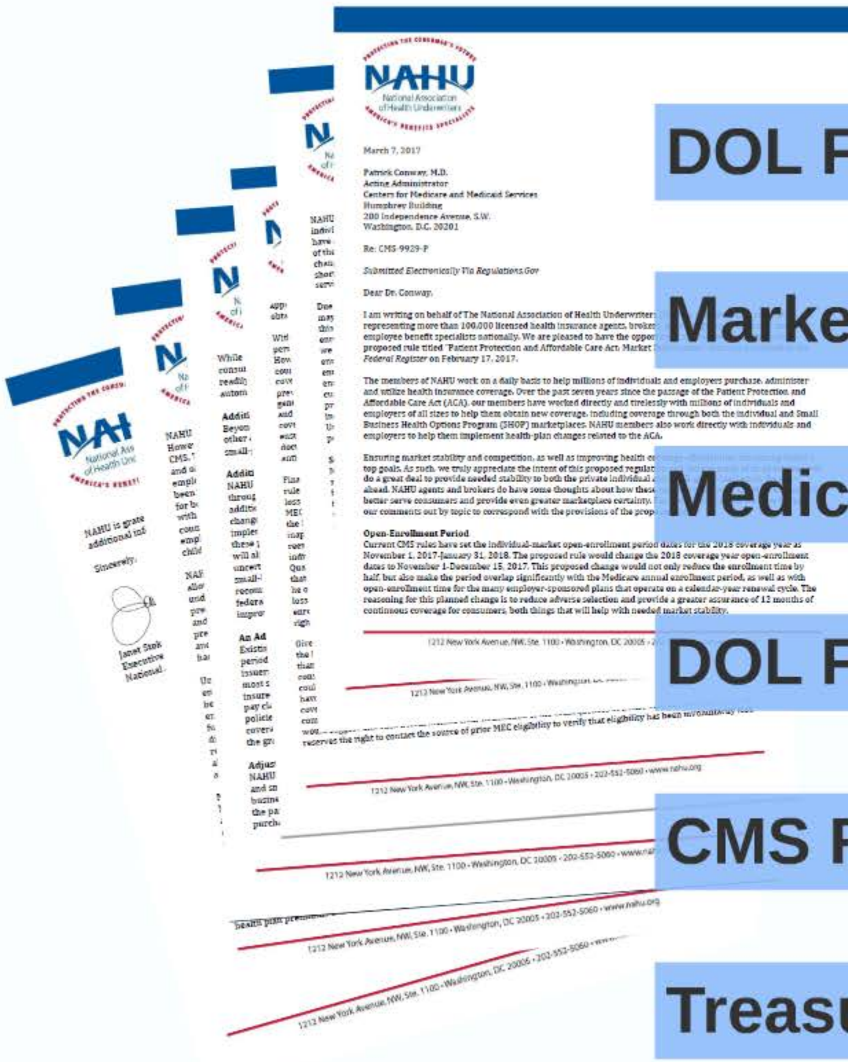
CMS, Treasury, Labor Department send requests for comments to reduce regulations

October

President Trump to sign executive order permitting sale of insurance across state lines through AHPs

NAHU Regulatory Advocacy

Recent NAHU Comment Letters:



- DOL Fiduciary Rule
- Market Stability Rule
- Medicare Marketing Rule
- DOL Fiduciary RFI
- CMS Regulatory Fixes RFI
- Treasury RFI

NAHU's Legislative Advocacy

Employer-based Market

Preserve the employer exclusion

The employer-based system is highly efficient at providing American workers and their families with affordable coverage options through group purchasing and its associated economies of scale by spreading risk and avoiding adverse selection.

The success of this system is possible because of the preferential tax treatment of employer-sponsored insurance coverage, where employer-paid contributions for an employee's health insurance are excluded from that employee's compensation for income and payroll tax purposes.

Proposals that would cap the maximum value of the exclusion or eliminate it altogether would be detrimental to the stability of the employer-based market and would negatively affect middle-class Americans who currently benefit from this provision.

CONGRESS MAY RUIN THE INSURANCE RISK POOL

POOL ANNOUNCEMENTS

Congress may cap the "employer exclusion," which allows employers to make tax-free contributions towards employees' health insurance. **Let's look at what could happen** if Congress starts taxing employer-sponsored plans.

BOB, 59
Manager

BARBARA, 58
Self-Employed

Bob's employer might stop offering insurance because of the new taxes. He and his wife Barbara would then **pay over $1,100 per month** for a plan they'd buy on the individual marketplace – about **double what they paid for their work-sponsored plan.**[1] When Bob had job-based insurance, his share of the cost was much lower, because risk was spread among workers of all ages.

SARAH, 40
Small Business Owner

Sarah could find herself **paying thousands of dollars in new taxes** on her employees' health premiums. She might consider dropping coverage – but she should know that almost **half of workers say they'd quit** within a year if their employers stopped offering insurance.[2]

RACHEL, 27
Teacher

Middle-class Americans, not just the wealthy, would **pay more in tax.** Rachel's salary is modest, but the health plan provided by her school is very generous. So she could face a big tax hike. Rachel's not alone. **More state and local government employers would be exposed to taxes** on high-cost health plans **than finance firms.**[3]

DON'T RAIN ON THE EMPLOYER-SPONSORED COVERAGE PARADE

The government excludes employer contributions to an employee's health insurance from the employee's income for tax purposes for both parties. This "employer exclusion" encourages businesses to offer health insurance and lowers the employee's taxable income.

Some in Congress want to cap the employer tax exclusion. That could harm millions of workers and their families by reducing their benefits and increasing their taxable income.

WIDESPREAD COVERAGE

175 million Americans get health insurance through their employers.[1] People with employer-sponsored plans are more likely to maintain health coverage year after year.[2]

HELPS MOST WORKERS

82 percent of workers are satisfied with their employer-sponsored health insurance.[3] Nearly half say they'd quit if their employer stopped offering benefits.[4]

SHARED RISK, STABLE PREMIUMS

It's easy for employees and their families to sign up for coverage through work. So an employer's insurance pool contains people of all ages and health backgrounds. That spreads risk – and leads to lower, more stable premiums.

LESS COVERAGE, LOWER PAY

Workers and employers would pay tax on health plans with premiums above a to-be-determined amount. Employers would respond by cutting benefits, to stay under the tax threshold.

There's no guarantee that employers would increase salaries to replace lost benefits.

HARMS MANY WORKERS

Because premiums are rising faster than inflation, more and more plans would exceed the tax threshold each year. Ordinary workers, not just those with generous plans, would pay higher taxes and suffer reduced benefits.

As taxes mount, some employers may stop offering insurance altogether.

HEIGHTENED RISK, HIGHER PREMIUMS

As more employers drop coverage, employees would have to buy insurance on their own.

Older workers would see their premiums spike, since the risk of insuring them would no longer be spread across the entire workforce.

PROTECTING THE CONSUMER'S FUTURE
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[1]https://www.census.gov/content/dam/Census/library/publications/2015/demo/p60-253.pdf table 1
[2]http://newsmanager.commpartners.com/nahuw/issues/2016-04-15/index.html
[3]https://www.accenture.com/us-en/insight-employer-beware-workers-demand-health-coverage
[4]https://www.accenture.com/_acnmedia/Accenture/Conversion-Assets/DotCom/Documents/Global/PDF/Dualpub_18/Accenture-Chart-Employer-Beware-Impact.pdf#zoom=50

Employer-based Market

Ease Employer Reporting Requirements

Establish a new voluntary reporting system for employers to report to the IRS information about their health plans. Only employees (and/or their dependents) who access subsidized coverage through the exchanges would need to be reported to the IRS, greatly simplifying the requirement of all employees be reported. Allow employers to deliver reports to employees electronically without another consent form.

H.R. 3919 | Reps. Diane Black (R-TN) and Mike Thompson (D-CA)
S. 1908 | Sens. Mark Warner (D-VA) and Rob Portman (R-OH)

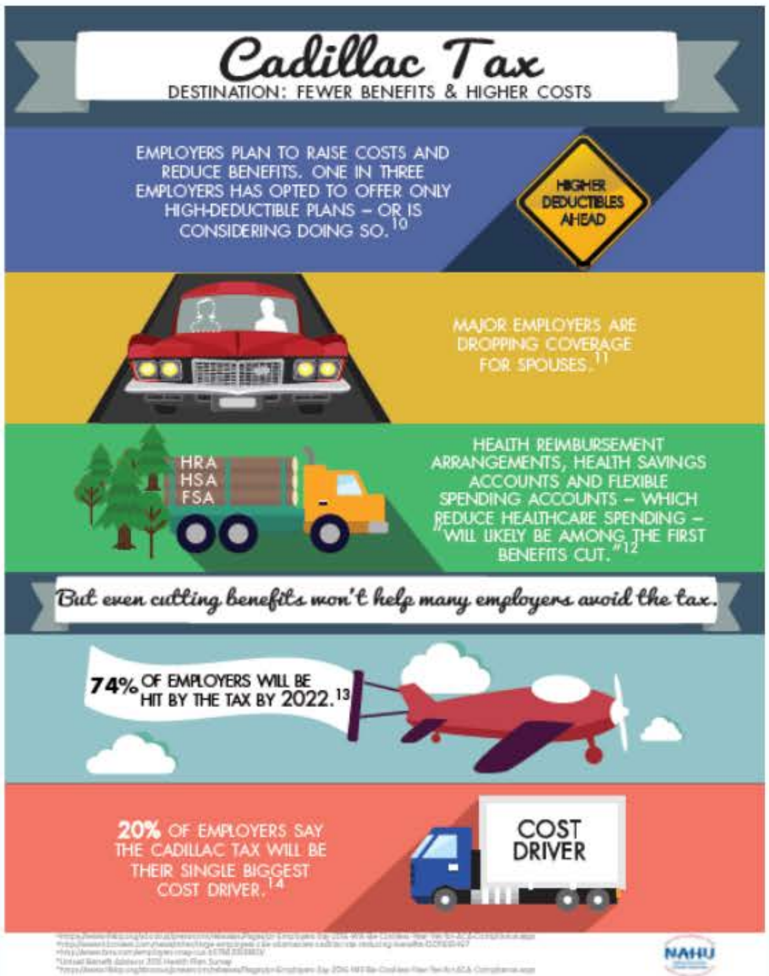
Taxes & Other Repeals

Repeal the Excise/Cadillac Tax

Permanently repeal the “Cadillac Tax,” which will impose a 40% excise tax on health plans that exceed certain cost thresholds beginning in 2020, following the two-year delay passed in December 2015.

H.R. 173 | Reps. Mike Kelly (R-PA) and Joe Courtney (D-CT)
S. 58 | Sens. Dean Heller (R-NV) and Martin Heinrich (D-NM)

NAHU Advocacy to Influence Cadillac/excise Tax Repeal



Taxes & Other Repeals

Repeal the Health Insurance Tax

Permanently eliminate the national premium tax (HIT) that will add more than $500 annually in costs to a typical family policy, with the total cost in 2016 of $11.3 billion.

H.R. 246 | Reps. Kristi Noem (R-SD) and Kyrsten Sinema (D-AZ)
S. 1859 | Sen. Cory Gardner (R-CO)
(one-year moratorium for 2018)

Individual Market

Allow states to be eligible for funding for new hybrid high-risk pools

The new pools would not issue coverage but would be available as a reinsurance mechanism to insure risk above certain levels for high-risk individuals who were enrolled after going longer than 60 days without coverage. Individuals would still be insured by the health insurance carrier of their choice and would not pay a higher premium because of their health status.

How an Idea from the Past Can Be Modernized for the Future

APRIL 2017

The individual health insurance market is inherently different than the employer-sponsored market. Adverse selection, or people waiting until they are sick to purchase coverage, is a significant problem under the best of circumstances and can increase the cost of coverage dramatically by affecting the balance of health risks in the overall pool of covered individuals. In the employer-sponsored market, because plan enrollment is strictly controlled, adverse selection is not a big problem. The employer's financial contribution and the fact that plan enrollment is governed by date of hire and date of employment termination prevents employees from enrolling only when they know they have an existing health condition.

Prior to the Affordable Care Act, because of the problem of adverse selection, health insurance coverage in the individual market in most states was medically underwritten, meaning health questions could be asked of the applicant and if a person's health condition was serious enough, the application for coverage could be turned down. Many states at that time established high-risk pools to provide coverage to those individuals who were unable to qualify for individual health insurance coverage. Most of these pools charged the high-risk individual an increased premium and most of the pools were funded by assessments on insurance carriers.

In today's post-ACA world, we now have guaranteed issue of coverage in the individual health insurance market and no preexisting-condition exclusions as well as a mandated essential benefits package. No person is charged more for coverage just because he or she has a health condition. Insurers are required to accept applicants during open-enrollment periods and certain special enrollment periods. In spite of specified enrollment periods, many people have discovered that they can obtain coverage for limited periods of time to cover needed medical care, dropping coverage after care is received. This type of adverse selection has become a significant problem. This means that the pool of covered individuals at any given time has become sicker overall and since the biggest part of a health insurance premium is governed by the cost of medical care, health insurance premiums have gone up dramatically as a result.

Although there are a number of strategies that can be developed to discourage adverse selection in the individual market, one of the most effective would be creation of a new style of high-risk pool designed to function in today's world. Health insurance coverage would still be issued without health questions during specified enrollment periods and there would be no preexisting-condition exclusions. However, a new state hybrid high-risk pool would be available for health insurance carriers, not for the purpose of issuing coverage at higher rates to those with health conditions, but rather for the purpose of providing financial backing for the higher risk associated with some individuals.

These new hybrid pools are designed for today, and are not the pools that existed before the Affordable Care Act or even the federal high-risk pool that existed during the initial years of the ACA. The new pools would be less expensive to operate since they would operate solely to back up the risk of high-risk individuals, not issue coverage to them with all of the costs of claims processing and other administrative tasks associated with the actual provision of benefits. The high-risk individual would most likely not be aware that part of the risk of insuring her had been ceded to such a hybrid high-risk pool, but doing so would lower costs for everyone purchasing coverage in the market. The individual would receive coverage through the carrier of her choice and could purchase the plan of her choice. The carrier would have the option of ceding part of the risk of providing coverage to the high-risk pool. This means that the carrier would retain the first part of the risk, lowering pool-operating costs compared to the old pools that covered 100% of the risk. If claims reached a certain level, the pool would be responsible for costs for the remainder of the calendar year.

One idea that might be used by some pools to encourage smaller regional carriers and larger national carriers to participate in the market would be to offer more than one ceding level, allowing smaller carriers to cede risk sooner than larger carriers that could safely retain a higher level of risk. There would be a relatively small cost to the carrier related to ceding the risk with a higher cost for the lower attachment level and a lower cost for carriers that retained a larger share of the risk. In any case, the carrier would retain enough of the risk to have a clear incentive for using good medical-management techniques.

To be clear, these ceding costs would represent only a small part of the cost of operating the pool. Other funding could be obtained through late-enrollment penalties. A state could, as a condition of offering the pool to carriers operating in the state, require that a carrier that cedes risk to the pool reimburses funds received through late-enrollment penalties, minus the cost it had paid to the pool for ceding the risk. This would cover part but not all of the cost of operating the pools.

Since coverage in the individual market would still be required to be issued without regard to health status, the financing mechanism of the past high-risk pools – carrier assessments – would not be appropriate. Some level of federal funding would ensure pool stability and ensure that a more competitive market with lower costs for consumers could exist. AHCA includes funding for all 50 states in its Patient and State Stability Fund designed to enhance market stability and this new style of hybrid high-risk pool is an excellent way to improve market stability relatively quickly.

New hybrid high-risk pools are one of an important set of ideas to improve the cost, plan choice and healthcare provider options available to consumers in the individual market. They would serve as an important market stabilizer and should be a first priority in actions taken to improve healthcare in the individual market.

NAHU represents licensed health insurance agents, brokers, consultants and benefit professionals who serve the health insurance needs of employers and individuals seeking health insurance coverage

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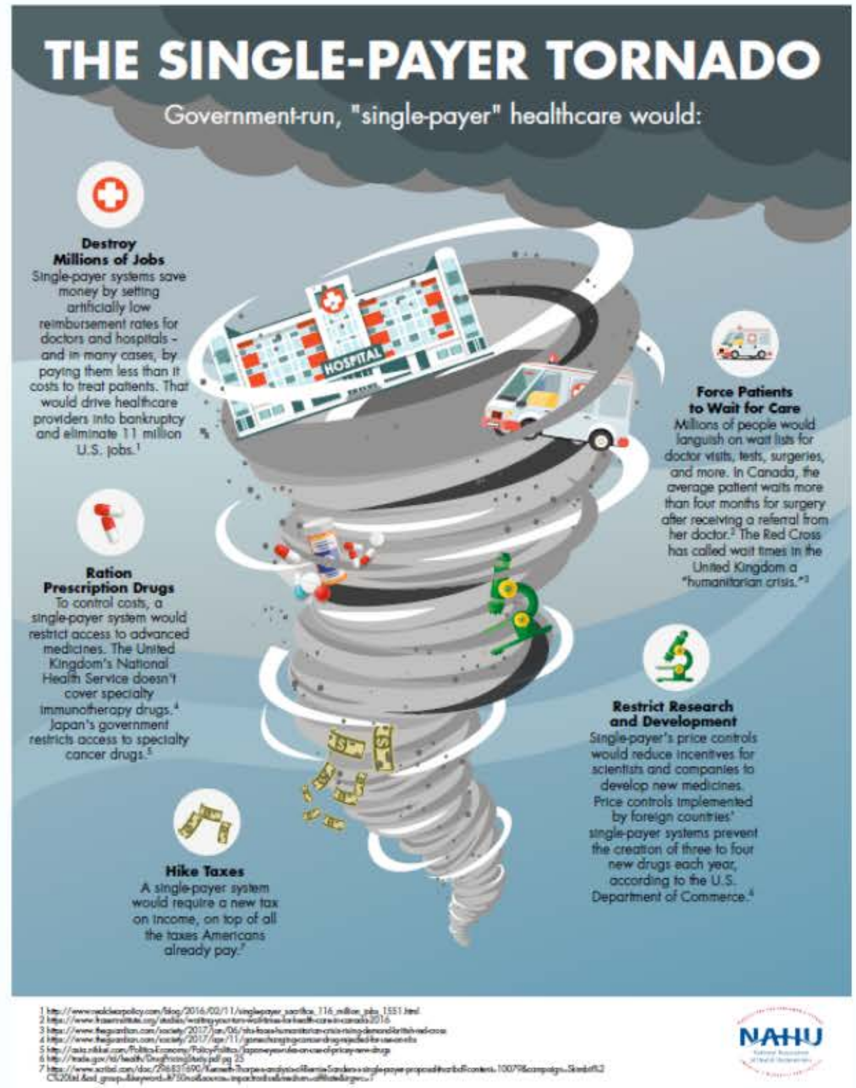
Single Payer

Senator Bernie Sanders (I-D-VT) introduced **S. 1804**, a "Medicare for All" single-payer legislation.

A record 16 Senators signed on as co-sponsors.



Medicare Initiatives

- Treating COBRA as creditable coverage
  - Working to line up co-sponsors to introduce legislation
- Observation rule legislation
  - H.R. 1421 & S. 568
- Broker bill to address onerous marketing rules that restrict agent/brokers in enrollment and servicing, and also eliminate marketing rules, including scope of appointment and adjusting rules on compensation.
- Working on legislation to allow HSA contributions beyond age 65 for those still in the workforce.

Crystal Ball

Where we might end up?

Meanwhile...

Until any legislation with repeal and specific time frame has been enacted into law...

The ACA and all of its regulations, penalties, enforcement, etc

Remain the

Law of the Land

WHAT
You Can Do

How You Can Get Involved

PROTECTING THE CONSUMER'S FUTURE

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Join Us!

We're Puzzled!

Why Haven't You Joined NAHU?

See how joining NAHU benefits you!

INDUSTRY MONITOR

NAHU newsletters give members **timely updates** about new regulations and guidelines.

STRENGTH IN NUMBERS

NAHU's **100,000-strong professional network** amplifies members' voices in negotiations with carriers and public officials.

ALLIES IN GOVERNMENT

NAHU leaders **influence legislation** before it's written. Members can directly **engage lawmakers** through Operation Shout, NAHU's Legislative Action Center.

COMPLIANCE EXPERTS

Members have exclusive access to NAHU's Compliance Corner, where **experts answer members' client-specific questions**.

EXCLUSIVE RESOURCES

NAHU's ACA Decision Support Tool enables members to **model various cost-saving scenarios** for clients.

REGULATORY GUIDANCE

NAHU's PPACA Certification Course **helps members counsel clients** on the Affordable Care Act's regulations.

PROFESSIONAL DEVELOPMENT

NAHU's Online Learning Institute empowers members to **continue their education** through courses, webinars and professional certifications.

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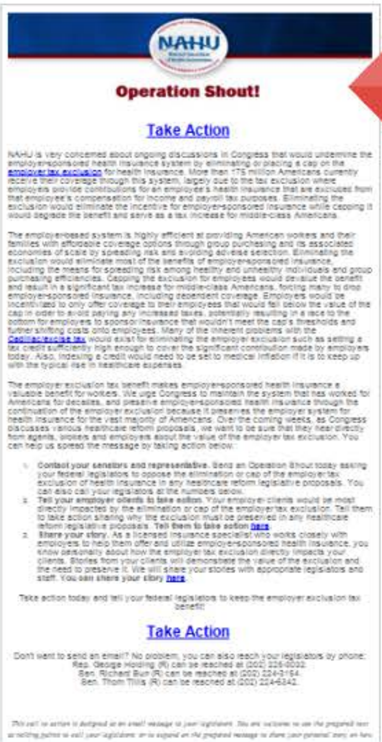
How You Can Get Involved



Operation Shout!

Email/call your federal representatives

Stay Informed:

Read the *Washington Update* every Friday and the *NAHU Newswire* every morning

Contribute to HUPAC:

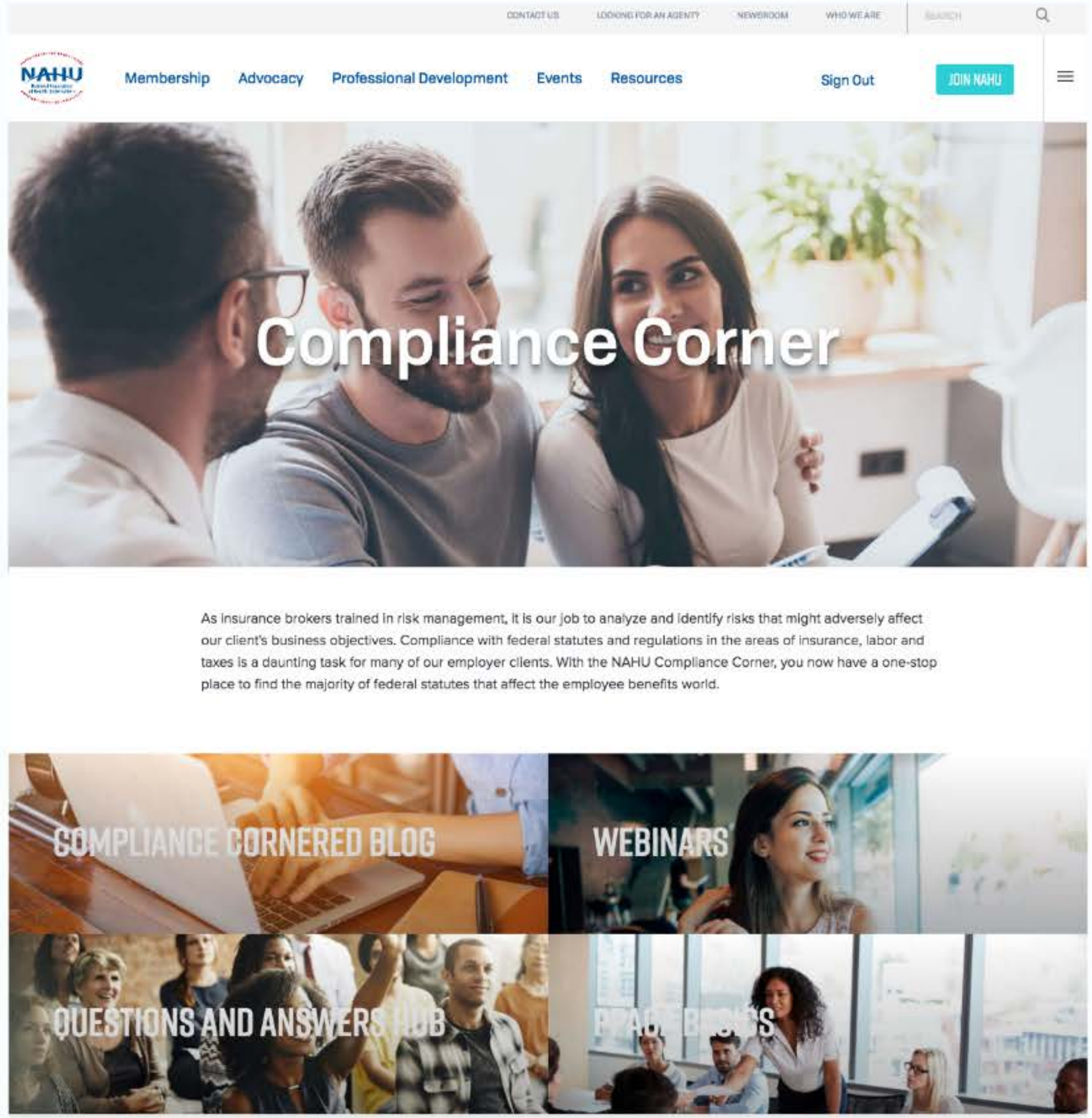
Support legislators who fight for agents and brokers and the employer-based system

HUPAC
Health Underwriters
POLITICAL ACTION COMMITTEE

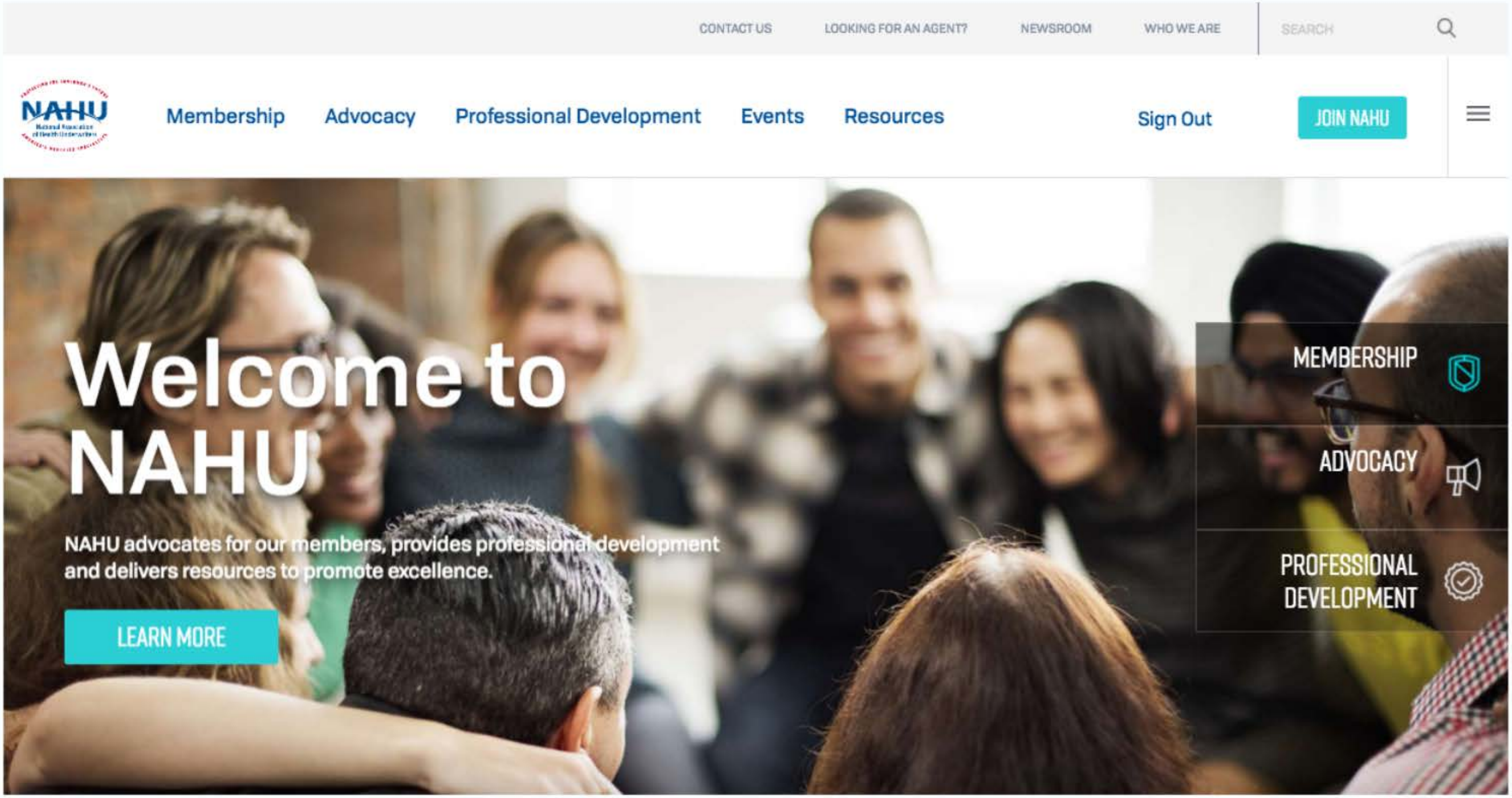
As new changes come to health reform, let us help you be their resource

Compliance Corner:

- Webcasts
- Blog
- Questions
- Tools
- Resources



New NAHU Website



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