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Views of Governors and Insurance Commissioners on ACA Repeal and Changes to Medicaid: Responses to a Congressional Request for State Input on Health Reform

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Executive Summary

This brief summarizes publicly available responses from governors and insurance commissioners in 35 states, including DC, to a [request from members in the House of Representatives](#) for state input on health care reform. Among the 35 state responses, 18 had a Republican governor at the time of the response, while 17 had a Democratic governor. The responses provide insight into the views of governors and insurance commissioners on repeal and replacement of the Affordable Care Act (ACA) and the changes Congress is considering making to the financing and structure of Medicaid. The findings do not reflect views of all states and represent general themes of perspectives of governors and insurance commissioners. Key findings include:

Respondents have mixed views on the ACA and potential repeal and replacement of the ACA.

While some state leaders are in clear support of the ACA or ACA repeal, others have a more mixed perspective, recognizing both benefits of the ACA and opportunities for continued improvement. Respondents point to several key benefits of the ACA, including coverage gains, improved health and health care, and economic benefits. Key areas of concern about the ACA include the balance of federal and state authority, instability in the individual market and rising premiums, and sustainability of Medicaid enrollment growth.

Most respondents (29 of 35) expressed cautions or concerns about repeal, which are shared among both Republicans and Democrats and those who oppose and support repeal. The most frequently cited concerns are the potential for coverage losses, increased market instability, and loss of federal funding and increased costs for states. Many respondents who support repeal but still express concerns suggest it is important for replacement to occur at the same time as repeal and for there to be adequate transition time to implement changes. They also stressed the importance of maintaining some provisions during an interim or transitional period to prevent against market instability and coverage losses.

Most respondents from Democratic states highlighted concerns about capped financing for Medicaid; 6 of the 18 Republican respondents cited general support for capped financing, subject to key caveats. Key concerns respondents cited about a capped financing structure included it shifting risks and costs to states; leading states to make difficult choices about program cutbacks in eligibility, benefits, and/or provider payments; and locking historic program choices and state variation in place. While 6 respondents from Republican-led states were generally supportive of a capped structure, they outlined suggestions for how the cap should be structured that are not consistent with previous and emerging federal

cap proposals. For example, some suggested that the cap be responsive to changing economic conditions and/or be reviewed annually. Moreover, these respondents generally did not tie capped financing to a reduction in federal funds.

Many of the respondents from Republican states (11 of 18) cited interest in increased state flexibility in Medicaid, while most respondents from Democratic states did not provide specific comments on flexibility. However, across states, some respondents asserted that increased flexibility should not be tied to reductions in federal financing and/or felt that states already had sufficient flexibility for innovation within existing program rules. The scope of increased flexibility respondents called for varied widely. In general, respondents wanted greater flexibility to charge enrollees premiums and cost sharing, to provide more limited benefits, and to reduce or limit eligibility and enrollment. Some also indicated interest in increased flexibility related to provider payments and delivery systems, as well as other areas, such as care and payment for dual-eligible beneficiaries and prescription drug coverage. Such changes to federal standards and state options affect the extent of accountability for the federal investment in the program and the scope of nationwide protections available for enrollees.

Nearly all respondents from states with a Republican governor (16 of 18), called for returning authority to the states to regulate insurance markets. In contrast, most Democratic respondents supported the insurance market changes made by the ACA and cautioned that altering these rules could lead to market instability and loss of coverage. In addition to enhanced regulatory authority in general, some respondents called for specific changes to essential benefit requirements and premium rating rules. Among the 12 respondents who provided comments on the individual mandate, most of the 10 respondents who opposed the mandate suggested it be replaced with continuous coverage provisions to protect against adverse selection. Slightly less than half of state respondents (15 of the 35) wanted the federal government to maintain financial assistance for consumers either through the transition to a replacement plan or as part of a replacement plan. While many Democratic respondents did not specifically call for maintaining financial assistance in a replacement plan, they noted the importance of tax credits to the coverage gains achieved under the ACA.

Few respondents expressed interest in provisions to allow the sale of insurance across state lines, expand the use of Health Savings Accounts (HSAs), or create state high-risk pools, which are key elements of Republican ACA replacement proposals. Most respondents did not provide comments on the sale of insurance across state lines and those that did had mixed views. Five suggested that this practice would increase competition in the markets and expand consumer choice, while three expressed concerns it would undermine their regulatory authority. Only four respondents suggested expanding the use of HSAs, although it was not clear if they believed HSAs should be used in lieu of or in addition to tax credits. Twelve respondents indicated they would consider setting up a high-risk pool, but nearly all of these respondents noted that the pools would need to be adequately funded at the federal level.

Introduction

In December, Republican Leaders in the [House of Representatives](#) sent a letter to governors and insurance commissioners requesting their views on health care reforms, including changes to the Affordable Care Act (ACA) and Medicaid. This brief analyzes publicly available responses identified from governors and/or insurance commissioners from 35 states, including the District of Columbia. These responses provide insight into state perspectives on the ACA, the potential repeal and replacement of the ACA, as well as fundamental changes Congress is considering making to the financing and structure of Medicaid. (Separate letters requesting state input also have been sent by [Republican](#) and [Democratic](#) Members of the Senate Finance Committee. However, this analysis does not include responses provided to these requests.)

Who Responded to the Letters?

Respondents included a mix of governors and/or insurance commissioners in 34 states and the Mayor of the District of Columbia (Appendix Table 1). In 21 states only the governor provided a response, in 6 states only the insurance commissioner provided a response, while both the governor and insurance commissioner provided responses in the remaining 8 states. The scope of responses varied, with some including answers to all questions included in the request and others offering more general recommendations and views. Most of the general responses were provided by states with Democratic governors who support the ACA. Several associations, including the American Academy of Actuaries, the National Governors Association, the Republican Governors Association, and the Democratic Governors Association also provided responses, which are summarized in Appendix B. In addition, state senators in one state and legal services advocates in another state provided responses, but these were excluded from the analysis.

Among the 35 states that provided responses, 18 had a Republican governor at the time of the response while 17 had a Democratic governor. In Louisiana, both the governor and insurance commissioner provided responses. The governor is a Democrat, while the independently elected insurance commissioner is a Republican. Since the responses were provided, four states had a change in governorship (DE, NH, VT, and WV). In New Hampshire and Vermont, this change resulted in a change of the political affiliation of the governor from Democrat to Republican; there was no change in the political affiliation of the governor in Delaware or West Virginia, which both retained Democratic leadership.

Three-fourths (26 of 35) of the states that responded have adopted the ACA Medicaid expansion to low-income adults. Just under half of responding states (17 of 35) have State-Based Marketplaces—5 of which use the federal Healthcare.gov platform—while 14 rely fully on the Federally-Facilitated Marketplace and 4 use a Partnership model.

Findings

This brief provides an overview of the perspectives expressed by governors and insurance commissioners in the responses related to the potential repeal and replacement of the ACA broadly as well as potential changes to Medicaid financing and state flexibility and to private insurance markets. (See Appendix Tables 2-4 for a summary of responses in each topic area.) The findings do not reflect views of all states since not all states responded to the request. Moreover, views on some topics are limited to a smaller subset of states, since not all respondents provided comments related to each area. For example, responses provided by insurance

commissioners generally did not include comments specific to Medicaid financing and flexibility. Lastly, in some cases, it was difficult to categorize a respondent's viewpoint because of the nuanced nature of the responses. As such, the findings presented here should be interpreted as general themes of the perspectives among governors and insurance commissioners on these topics. They do not represent a comprehensive analysis of state stances on potential policy changes.

VIEWS ON THE ACA AND ACA REPEAL

The House members' request did not specifically ask about views on the ACA or ACA repeal. However, a number of respondents provided information on the effects of the ACA in their state as well as their views on ACA and repeal and replacement of the ACA. Some respondents were in clear support of the ACA and opposed to repeal, while others supported complete repeal. However, a number of respondents had mixed views, recognizing both benefits and improvements that have occurred as a result of the ACA as well as remaining challenges and continued opportunities for improvement.

POSITIVE EFFECTS OF ACA

Most state responses (23 of the 35) cited positive effects of the ACA. This group included all respondents from Democratic-led states at the time of the response and 6 of the 18 respondents from Republican-led states. It also included a mix of respondents who support the ACA overall as well as some that support repeal of the ACA but still point to positive aspects that they believe should be retained. For example, although Governor Kasich in Ohio indicated support for a "thoughtful strategy to repeal and replace the ACA," he strongly recommended that states be able to retain the Medicaid expansion to adults and its enhanced federal matching funds. Respondents pointed to positive effects of the ACA in several key areas:

- **Coverage gains and increased affordability of coverage.** Respondents emphasized that the ACA had led to gains in coverage and reduced uninsured rates, in a number of cases noting that their state uninsured rate had reached a historic low. In particular, they pointed to enrollment gains through the Medicaid expansion and the Marketplaces as well as coverage increases from the provisions allowing dependents to stay on their parents' coverage until age 26 and the prohibition on exclusion of pre-existing conditions from coverage. Respondents also noted that the Marketplace subsidies have increased the affordability of coverage for consumers and led to increased competition among insurers.

As a result of health care reform, 5 million more Californians now have health insurance. The uninsured rate in California has gone down from 17.2 percent in 2013 to a historic low of 7.4 percent in 2016. Equally impressive, California has created competitive markets in our exchange—Covered California—and in Medi-Cal [Medicaid], resulting in lower costs, increased efficiency and improved quality.

-Governor Brown, Democrat, California

- **Improved health and health care.** Respondents highlighted a number of ways the ACA has improved health and health care for their state residents. These improvements included increased access to and utilization of care, particularly preventive care, as well as improvements in quality of care. Some respondents noted that increased access and utilization had led to diagnoses of conditions and improvements in health and well-being. Several respondents specifically highlighted improved access to

and use of behavioral health care and noted that this access has been central to their state's ability to address substance use disorders, particularly the growing opioid epidemic.

Ohioans who became eligible for coverage through the expansion reported that it was easier for them to keep or find work, and most reported better health and financial security as a result of obtaining coverage.”- Governor Kasich, Republican, Ohio and Mary Taylor, Lieutenant Governor, Director, Department of Insurance

The NH Health Protection Plan [Medicaid expansion] has also been crucial in helping address New Hampshire's opioid crisis, a public health emergency in our state and in many others.”
-Former Governor Hassan, Democrat, New Hampshire

- **Positive economic effects.** Economic benefits cited in responses included state savings, revenue growth, and new jobs. Several respondents also pointed to reductions in uncompensated care among hospitals as a result of coverage growth under the ACA.

“In just this first fiscal year, Louisiana will save \$184 million and will save an estimated \$330 million next year... [the ACA has] expand[ed] coverage... create[d] tens of thousands of jobs across state... [and] has provided hundreds of new jobs in the health care sector, and infusions of new capital into health care and related services.” –Governor Bel Edwards, Democrat, Louisiana

CHALLENGES WITH THE ACA

Challenges with the ACA were cited in 21 of the 35 state responses. All 18 respondents from states with Republican governors at the time of the response cited challenges, as well as respondents from 3 states (CT, LA, and WV) with Democratic governors. However, for Louisiana, the concerns were expressed by the insurance commissioner, who is an independently elected Republican. Respondents citing challenges included a mix of those who support repeal as well some that support the ACA, but recognize opportunities for continued improvement. Respondents pointed to challenges in several areas:

- **Balance of federal and state authority.** The most frequently cited issue was that the ACA had shifted too much control of health insurance to the federal government and that greater authority and flexibility should be given back to states to regulate and manage their insurance markets. A number of respondents also commented that the law had increased the regulatory burden on states.

“The one-size-fits-all approach in Obamacare is failing our country—states must be empowered to be the epicenters of innovation.” –Governor Bevin, Republican, Kentucky

- **Limited access and choice and remaining affordability challenges.** Some respondents indicated that the ACA had caused insurers to leave the individual market leading to more limited access and choice for consumers. Respondents also pointed to continuing premium increases that contribute to remaining affordability challenges for coverage and the prevalence of narrow network plans that limit access to providers.

“Costs are skyrocketing, people have not been able to keep their doctors and many people have fewer doctors to choose from.” –Governor Scott, Republican, Florida

- **Sustainability of Medicaid enrollment growth.** Respondents in a few states pointed to significant enrollment growth in Medicaid under the Medicaid expansion and noted concerns about ongoing sustainability of the program.

CONCERNS ABOUT REPEALING THE ACA

Across both parties, most respondents (29 of the 35) highlighted concerns or cautions about repealing the ACA. All 17 responses from states with a Democratic governor at the time of the response noted cautions or concerns about repeal, as did 12 of the 18 responses from states with a Republican governor at the time of the response. Respondents included some that support repeal but are still concerned about potential negative consequences. Many of these respondents stressed the importance of replacement occurring at the same time as repeal and the need for adequate transition time to minimize potential negative effects. Some respondents indicated they could implement changes quickly, but others suggested it could take up to several years.

“...any discussion of repeal, must also include discussion of what replace will look like. I have been clear: I don’t want to see any Arizonans have the rug pulled out from under them.”

–Governor Ducey, Republican, Arizona

Respondents’ cautions and concerns about repeal of the ACA focused on several key areas:

- **Potential coverage losses and increased costs to consumers.** The most frequently cited concern was that repeal could lead to coverage losses for individuals covered through the Medicaid expansion and Marketplaces. Some respondents also noted the potential for losses among those covered due to other provisions, such as the extension of dependent coverage up to age 26 and the prohibition on exclusion of pre-existing conditions. Similarly, respondents expressed concern that repeal could lead to increased costs to consumers due to coverage losses, loss of the Marketplace subsidies, and price increases among insurers.

“While we agree that there are significant opportunities for improving the ACA, we caution the new administration in making any swift changes that will destabilize the market or upend the gains made to coverage for New Mexico residents.” –John G. Franchini, Superintendent of Insurance, New Mexico

- **Marketplace instability.** Another commonly expressed concern was that repeal could contribute to instability in the insurance marketplaces. In particular, a number of respondents who generally support repeal were concerned about potential instability in the short-term or during a transition period. Several of these respondents suggested that allowing consumers to maintain coverage and subsidies during a transitional period and ensuring that the federal government fully funds risk adjustment and risk corridor programs will be important to maintaining stability. Respondents also requested changes to market rules related to special enrollment periods and grace periods as immediate steps that could help stabilize the markets. Other respondents who generally oppose repeal were more broadly concerned that repeal would significantly disrupt or destroy individual insurance markets.
- **Loss of federal funding/increased state costs.** A number of respondents cited concerns that loss of federal funding under the ACA, particularly for the Medicaid expansion, would shift costs to states and threaten the stability of their state budgets as well as their ability to provide health and other public

services. Several respondents also noted specific concerns about the potential loss of ACA investments in prevention and public health as well as the potential to lose the enhanced federal matching rate for CHIP that was provided under the ACA. Respondents also noted that repeal could lead to increases in uncompensated care for hospitals.

“...the health of our state budget and local economy is dependent on ACA funding... These federal dollars support jobs across the state while improving the lives of Minnesotans who have health insurance as a result of these programs.” -Governor Dayton, Democrat, Minnesota

- **Jeopardizing state delivery reform initiatives.** Several respondents were concerned that repeal of the ACA would disrupt or impede their progress with delivery and payment reform initiatives they had embarked on in recent years, including initiatives in Medicaid.
- **Administrative costs/burden.** Some respondents also indicated they had made significant investments and improvements in their Medicaid eligibility and enrollment systems and processes under the ACA. They noted that moving back to old standards would lead to wasted investments and increased administrative complexity and costs.

“The Nevada Department of Health and Human Services invested approximately \$95 million dollars to upgrade eligibility determination systems, and the state’s Medicaid Management Information System... To adopt another system that disregards these investments will have an adverse effect on our healthcare system, waste millions of dollars and cost hundreds of Nevadans their jobs.”
-Governor Sandoval, Republican, Nevada

VIEWS ON MEDICAID FINANCING AND FLEXIBILITY

One specific question outlined in the House members’ request was what key administrative, regulatory or legislative changes would help states reduce costs and improve health outcomes in their Medicaid program. The Administration and Republican leaders in Congress have called for changes to fundamentally restructure Medicaid financing a [block grants or per capita cap](#). These proposals are often designed to achieve federal budget savings by setting federal funding limits below the levels that would be expected if current law were to stay in place. In exchange for these federal caps, proposals could provide states increased flexibility to design and administer their programs. Changes to [federal rules and state options](#) for Medicaid would affect the extent of accountability for the federal investment in the program and the scope of nationwide enrollee protections.

MEDICAID FINANCING STRUCTURE

Just over half of the state responses (18 of 35) included comments on Medicaid financing, particularly the potential to move to a block grant or per capita cap financing structure. The remaining 17 state responses did not include comments on Medicaid financing.

Most respondents that commented on Medicaid financing (12 of 18) indicated concerns about a capped financing structure. Most of those expressing concerns (10 of 12) were from states with a Democratic governor at the time of response. The most frequently cited concern was that a cap would transfer risk and costs to the state and that capped financing would lead to states having to make difficult decisions about program cutbacks in eligibility, benefits, or provider payments. A few respondents highlighted concerns

that a cap could lock historic state program choices and variation in place, potentially penalizing states that run more efficient Medicaid programs.

“...[T]his policy change will result in the single largest transfer of risk ever from the federal government to the states.” –Governor Ducey, Republican, Arizona

*“These proposals would shift the cost of providing health care to Colorado’s most vulnerable citizens on our limited state budget or force us to make difficult cuts. We should not be forced to choose between providing hardworking older Coloradans with blood pressure medication or children with their insulin.”
–Governor Hickenlooper, Democrat, Colorado and Marguerite Salazar, Commissioner of Insurance*

Respondents in 6 of the 18 Republican states indicated general support for capped financing, but most included suggestions on how a cap should be structured that are not consistent with federal proposals. For example, suggestions included limiting capped financing to only certain parts of the Medicaid population (e.g., excluding seniors and people with disabilities), having the cap allow for enhanced funding during economic downturns, reviewing the cap annually, and ensuring that the cap does not disadvantage states that have not taken up certain program options, like the Medicaid expansion. Many of these suggestions are not consistent with previous and emerging federal cap proposals, which increase by a set amount each year and are not responsive to changing economic conditions or annual review. Moreover, while Governor Kasich in Ohio pointed out that the implications of capped financing would depend on many details, including how funds are allocated across states, the growth in funding over time, and which federal requirements remain in place, other respondents’ who indicated general support for capped financing did not reference the potential for a cap to be tied to reductions in federal funding. Lastly, some respondents citing support for capped financing noted that it would take time to transition to a new financing structure.

*“Don’t disadvantage states that haven’t yet fully utilized certain programs, including expansion. States like Utah that have been fiscally prudent and careful not to act too quickly should not be penalized in the allocation of funding in the future. All states should begin any new process on a level playing field.”
–Governor Herbert, Republican, Utah*

STATE MEDICAID FLEXIBILITY

Among the 35 state responses, 14 respondents, most from Republican states, indicated interest in increased state Medicaid flexibility. Two respondents (CT and MN) indicated that they were able to innovate within the existing program options. Four respondents, including two of those calling for increased flexibility (MA and MT), asserted that increased flexibility should not be tied to financing changes that would shift costs to states. The remaining 18 respondents did not provide comments on flexibility within Medicaid.

*“Increased flexibility for states is a political imperative in places like Montana, but that flexibility should not be conflated with funding structures that will ultimately threaten the health of our state budget and reduce access to healthcare for tens of thousands of vulnerable Montanans.”
–Governor Bullock, Democrat, Montana*

There was wide variation in scope of increased flexibility called for among respondents interested in increased flexibility. Some called for maximum state flexibility to design their programs, while others had more limited requests focused on specific areas. Areas where respondents provided suggestions for increased flexibility included:

- **Premiums and cost sharing.** In particular, they cited interest in the ability to charge more populations premiums and cost sharing, to charge higher amounts, and to disenroll and lock individuals out of coverage due to unpaid monthly contributions.
- **Benefits.** Some specifically noted interest in eliminating coverage of non-emergency transportation, scaling back coverage currently provided to children under the Early and Periodic, Screening, Diagnostic, and Treatment (EPSDT) benefit, and more flexibility around behavioral health services. A few respondents also pointed to interest in targeting benefits by population, although states currently have options to do this under existing law. A few wanted more flexibility to use premium assistance to serve enrollees.
- **Eligibility, including enrollment caps and work requirements.** Three states specifically called for the ability to freeze or cap enrollment (AZ, TN, and UT) and four (AL, AZ, TN, and UT) requested the ability to institute work requirements as a condition of eligibility. Other areas of interest were more flexibility to choose which groups are covered and to establish income standards, elimination of hospital-based presumptive eligibility, and elimination of the maintenance of effort provision that requires states to maintain eligibility levels for children until 2019.
- **Provider payments and delivery systems.** States already have substantial flexibility to determine how they pay providers and deliver care to Medicaid enrollees. Specific types of increased flexibility requested by respondents included the ability to negotiate rates with Federally-Qualified Health Centers, fewer requirements to provide a choice of plan to enrollees in managed care arrangements, fewer requirements related to network adequacy, and the ability to mandatorily enroll high-need groups into managed care that are currently excluded from mandatory enrollment.
- **Other.** Other areas of increased flexibility respondents highlighted included care and payment for dual eligible beneficiaries, provision of long-term care services, prescription drug coverage, and alignment of Medicaid with other programs. Some of the specific requests included eliminating the exclusion of Medicaid payments for services provided to patients in mental health and substance use disorder residential treatment facilities (i.e., the IMD exclusion), increased flexibility to provide community-based long-term care services, eliminating states' responsibility for Medicare Part B and Part D costs, allowing states to require dual eligible beneficiaries to enroll in Special Needs Plans and managed care, providing states greater ability to exclude drugs from formularies, and providing options for states to align Medicaid eligibility with Marketplace eligibility or eligibility for other programs, such as the Supplemental Nutrition Assistance Program.

WAIVERS

Republican respondents in 10 of the 35 states cited interest in increased flexibility and/or streamlined processes to make changes through [Section 1115 waivers](#). Specific comments included providing a pathway for waivers to become permanent and eliminating or reducing renewal requirements for waivers, allowing other states to replicate waiver changes approved for other states, and providing expedited and streamlined approval processes for waivers and state plan amendments. A number of these respondents also called for more general reductions in regulatory requirements and state reporting requirements.

Although the request specifically asked about state plans to pursue a 1332 waiver, most respondents (20 of the 35) did not provide comments on 1332 waivers. Seven respondents indicated they are or would potentially consider pursuing a 1332 waiver or that they supported maintaining 1332 waiver authority. In contrast, eight respondents indicated that they are not planning to utilize this authority. Several respondents indicated that the current rules related to 1332 waivers are too restrictive, limiting their interest in pursuing a waiver.

VIEWS ON PRIVATE INSURANCE

The House members' request included several questions related to what legislative and regulatory changes would assist states in increasing insurance options; lowering costs; and stabilizing individual, small group, and large group insurance markets. The request also included a question on whether states would consider operating a high risk pool. Republican leaders in Congress are seeking to rollback or alter many of the insurance market reforms enacted by the ACA, particularly [guaranteed issue provisions](#), the essential health benefit requirements, and age rating rules. They would replace the individual mandate with continuous coverage provisions and would retain tax credits but base them on age instead of income. Republican [replacement plans](#) also include proposals to permit the sale of insurance across state lines, encourage the use of Health Savings Accounts (HSAs), and implement state high-risk pools as mechanisms to increase access to insurance.

INSURANCE MARKET REGULATION

Among the 35 state responses, 19 respondents, including 16 of the 18 respondents from Republican states, requested enhanced authority to states to regulate the individual, small, and large group insurance markets. In contrast, most Democratic respondents supported the insurance market changes made by the ACA and cautioned that altering these rules could lead to market instability and loss of coverage. Most of the respondents calling for increased state regulatory authority noted that states regulated these markets prior to the ACA and are better able to develop rules that will meet the specific needs of their residents. Some states wanted return of full authority over these insurance markets, while others requested additional state flexibility within an overall federal framework.

"...[O]ur overarching request with regards to crafting a replacement for the [ACA] is straightforward: return power to the states to manage their private insurance markets and enhance their healthcare systems." –Governor Hutchinson, Republican, Arkansas

Some respondents identified specific areas where they sought additional flexibility or enhanced regulatory authority, including:

- **Essential health benefits and plan design.** Some respondents called for elimination of the essential health benefits requirement established by the ACA, arguing that states should be allowed to define benefit standards. Others wanted greater flexibility within federal benefit standards to design plans tailored to consumer needs.
- **Premium rating rules.** Some respondents also wanted the ability to increase the age rating band from the 3 to 1 ratio specified in the ACA to 5 to 1, which is the ratio many states had in place prior to the ACA.

Other respondents wanted flexibility to set rating areas and categories. Respondents in two states, Idaho and Nevada, called for elimination of the prohibition on health status rating.

- **Selling insurance across state lines.** Although permitting the sale of insurance across state lines is included in some Republican ACA replacement proposals, most respondents did not provide comments on this approach. The eight respondents who commented had mixed views. Five respondents from Republican states (AZ, AR, FL, GA, and OK), representing a mix of states with limited insurer participation and those with more robust insurance markets, suggested that this practice would increase competition in the markets and expand consumer choice. In contrast, three respondents (CA, ID, and ND) expressed concerns that this approach would undermine their regulatory authority.

“Allow insurance companies to sell across state lines. This will reduce costly state-to-state administrative expenses created by the current system, and allow for more competition in the marketplace.

–Governor Scott, Republican, Florida

“We support states being able to protect their consumers from practices contrary to state law; states must retain the ability to enforce state law in regard to any carrier or product sold in that state.”

–Governor Otter, Republican, Idaho

COVERAGE REQUIREMENTS AND FINANCIAL ASSISTANCE

Respondents in 10 Republican states opposed the individual mandate or wanted to replace it with other mechanisms to encourage enrollment, while respondents in 2 states indicated interest in being able to maintain the mandate. Respondents in the remaining 23 states did not comment on the individual mandate; however, a number of respondents noted the importance of guaranteed coverage provisions for which the individual mandate was intended to support. Most respondents who oppose the mandate (7 of 10) suggested it be replaced with provisions to encourage people to maintain continuous coverage and protect against adverse selection in the market. These continuous coverage provisions include premium discounts for maintaining coverage without a break, paying a higher premium for later enrollment, or adding a waiting period for coverage of pre-existing conditions following a break in coverage.

“A repeal of the individual mandate alone... will further erode the individual market by reducing the number of insurers who offer plans, limit the products offered, and increase premiums... [it] must be balanced with appropriate measures to restrict individuals from gaming the system by accessing insurance only when care is needed.” –Governor Herbert, Republican, Utah

Respondents in 15 of the 35 states wanted the federal government to maintain [financial assistance for consumers](#), either through the transition to a replacement plan or as part of a replacement plan. This group included 12 of the 18 respondents from Republican states. Respondents noted that tax credits are important for making coverage affordable to consumers and that loss of the credits could lead to coverage losses and disruptions. While many Democratic respondents did not comment specifically on maintaining financial assistance in a replacement plan, they noted the importance of tax credits to the coverage gains achieved under the ACA.

“Importantly, tax credits and cost-sharing reductions serve a vital function in diversifying the risk pool of individuals who purchase insurance...Any change that eliminates these tax credits and cost-sharing reductions would raise the cost of insurance premiums to levels that would be unaffordable for most eligible New Mexico households.” –Superintendent of Insurance Franchini, New Mexico

Although Republican replacement plans propose expanding the use of HSAs as a vehicle to increase access to insurance, only four respondents, all from Republican states, suggested expanding the use of HSAs. These four states did not indicate whether they wanted expanded HSA options to be in lieu of or in addition to tax credits. The remaining 31 respondents did not include any comments specific to HSAs.

STATE HIGH RISK POOLS

A total of 12 respondents, nearly all from Republican states, indicated they would consider setting up a [high-risk pool](#), while 4 respondents highlighted concerns about high-risk pools. The remaining 19 respondents did not include comments on high-risk pools. Nearly all respondents who indicated they would consider establishing a high-risk pool (11 of 12), noted that it would need to be adequately funded at the federal level. Respondents in four states indicated that they would be opposed to or concerned about state high risk pools. These states alluded to previous unsuccessful experiences with state high risk pools due to high premiums and deductibles as well as limits on coverage of pre-existing conditions. In addition, the New Mexico Insurance Superintendent noted that, while the state continues to operate a high risk pool, it has not protected the state’s individual market from large premium increases, suggesting that these pools alone will not address adverse selection in the markets.

“We may consider recreating a high risk pool, but would need to see Congressional legislative language... we would be hesitant to stand up a new high-risk pool with only state resources and without assistance from the federal government.” – Governor Haslam, Republican, Tennessee

Conclusion

In sum, these 35 state responses to the House members’ request provide insight into state perspectives on potential repeal and replacement of the ACA, as well as fundamental changes Congress is considering making to the financing and structure of Medicaid. The analysis shows that state leaders have varied views on ACA repeal and replacement and potential changes to Medicaid. Many of these views fall along party lines, but some views are shared across parties and those who support and oppose repeal. State responses illustrate the ongoing balance between states and the federal government. State perspectives, even among Republicans, were not fully aligned with Republican proposals at the federal level in a number of key areas. As proposals continue to develop, the balance between federal and state roles and priorities will be a key factor that will have implications for federal accountability, state flexibility, and the extent of protections provided to individuals nationwide.

Appendix Table 1: Characteristics of Respondents to House Members' Request

State	Respondent		Political Affiliation of Governor at Time of Response	Implemented Medicaid Expansion?	Marketplace Structure*
	Governor	Insurance Commissioner			
Total: 35	29	14	Republican: 18 Democrat: 17	26	FFM: 14 SBM: 12 SBM- FP: 5 Partnership: 4
Alabama	Y		Republican		FFM
Arizona	Y		Republican	Y	FFM
Arkansas	Y	Y	Republican	Y	SBM-FP
California	Y	Y	Democrat	Y	SBM
Colorado	Y	Y	Democrat	Y	SBM
Connecticut	Y	Y	Democrat	Y	SBM
Delaware	Y	Y	Democrat	Y	Partnership
District of Columbia**	Y		Democrat	Y	SBM
Florida	Y		Republican		FFM
Georgia		Y	Republican		FFM
Idaho		Y	Republican		SBM
Illinois		Y	Republican	Y	Partnership
Kentucky	Y		Republican	Y	SBM-FP
Louisiana	Y	Y	Democrat***	Y	FFM
Maryland	Y		Republican	Y	SBM
Massachusetts	Y		Republican	Y	SBM
Minnesota	Y		Democrat	Y	SBM
Montana	Y		Democrat	Y	FFM
Nevada	Y		Republican	Y	SBM-FP
New Hampshire	Y		Democrat****	Y	Partnership
New Mexico		Y	Republican	Y	SBM-FP
New York	Y		Democrat	Y	SBM
North Dakota		Y	Republican	Y	FFM
Ohio	Y	Y	Republican	Y	FFM
Oklahoma		Y	Republican		FFM
Oregon	Y		Democrat	Y	SBM-FP
Pennsylvania	Y		Democrat	Y	FFM
Rhode Island	Y		Democrat	Y	SBM
Tennessee	Y		Republican		FFM
Utah	Y		Republican		FFM
Vermont	Y		Democrat****	Y	SBM
Virginia	Y		Democrat		FFM
Washington	Y	Y	Democrat	Y	SBM
West Virginia	Y		Democrat	Y	Partnership
Wisconsin	Y		Republican		FFM

Table Notes: *This column describes whether a state has elected to use the Federally-facilitated Marketplace (FFM), establish a Marketplace in partnership with the federal government (Partnership), establish a State-based Marketplace that uses the federal platform (SBM-FP) or establish and operate its own State-based Marketplace (SBM). **The affiliation for the District of Columbia is for Mayor, not Governor. ***In Louisiana, the Insurance Commissioner is an elected position. The Insurance Commissioner who provided a response for Louisiana is Republican. ****In New Hampshire and Vermont, the Governorship switched after the response was provided, which resulted in a change in the political party of these states' governors from Democrat to Republican.

Source: Kaiser Family Foundation analysis of responses provided to request from members of the [House of Representatives](#) for state input on health reform.

**Appendix Table 2:
Comments from Governors and Insurance Commissioners on ACA and ACA Repeal**

State	Implemented Medicaid Expansion?	Cited Positive Effects of ACA	Cited Concerns with ACA	Cited Concerns/Cautions About Repeal of ACA
Total: 35	26	23	21	29
Democratic Governor: 17	16	17	3	17
California	Y	Y		Y
Colorado	Y	Y		Y
Connecticut	Y	Y	Y	Y
Delaware	Y	Y		Y
District of Columbia	Y	Y		Y
Louisiana*	Y	Y	Y	Y
Minnesota	Y	Y		Y
Montana	Y	Y		Y
New York	Y	Y		Y
New Hampshire**	Y	Y		Y
Oregon	Y	Y		Y
Pennsylvania	Y	Y		Y
Rhode Island	Y	Y		Y
Virginia		Y		Y
Vermont**	Y	Y		Y
Washington	Y	Y		Y
West Virginia	Y	Y	Y	Y
Republican Governor: 18	10	6	18	12
Alabama			Y	Y
Arizona	Y		Y	Y
Arkansas	Y		Y	
Florida			Y	
Georgia			Y	
Idaho			Y	Y
Illinois	Y		Y	Y
Kentucky	Y		Y	
Maryland	Y	Y	Y	
Massachusetts	Y	Y	Y	Y
Nevada	Y	Y	Y	Y
New Mexico	Y	Y	Y	Y
North Dakota	Y		Y	Y
Ohio	Y	Y	Y	Y
Oklahoma			Y	Y
Tennessee			Y	
Utah		Y	Y	Y
Wisconsin			Y	Y

Table Notes: *In Louisiana, both the Democratic governor and the independently elected Republican insurance commissioner provided responses. **In New Hampshire and Vermont, the governorship switched after the response was provided, which resulted in a change in the political party of these states' governors from Democrat to Republican.

Source: Kaiser Family Foundation analysis of responses provided to request from members of the [House of Representatives](#) for state input on health reform.

**Appendix Table 3:
Comments from Governors and Insurance Commissioners on Medicaid Financing and Flexibility and Waivers**

State	Capped Medicaid Financing	State Medicaid Flexibility	Increase Section 1115 Waiver Flexibility/ Streamline Processes	Section 1332 Waivers
Total: 35	Concerns: 12 Support: 6 NC: 17	Increase: 14 Can already innovate: 2 Do not tie to reduced financing: 4 NC: 18	Yes: 10 NC: 25	Support: 7 No plans: 8 NC: 20
Democratic Governor: 17	Concerns: 10 Support: 0 NC: 7	Increase: 3 Can already innovate: 2 Do not tie to reduced financing: 3 NC: 11	Yes: 0 NC: 17	Support: 2 No plans: 2 NC: 13
California	Concerns	NC	NC	NC
Colorado	Concerns	Increase	NC	Support
Connecticut	Concerns	Can already innovate	NC	NC
Delaware	NC	NC	NC	No plans
District of Columbia	NC	NC	NC	NC
Louisiana*	Concerns	Do not tie to reduced financing	NC	No plans
Minnesota	Concerns	Can already innovate; Do not tie to reduced financing	NC	Support
Montana	Concerns	Increase; Do not tie to reduced financing	NC	NC
New York	Concerns	NC	NC	NC
New Hampshire**	Concerns	NC	NC	NC
Oregon	Concerns	NC	NC	NC
Pennsylvania	NC	NC	NC	NC
Rhode Island	NC	NC	NC	NC
Virginia	NC	NC	NC	NC
Vermont**	NC	NC	NC	NC
Washington	Concerns	NC	NC	NC
West Virginia	NC	Increase	NC	NC
Republican Governor: 18	Concerns: 2 Support: 6 NC: 10	Increase: 11 Can already innovate: 0 Do not tie to reduced financing: 1 NC: 7	Yes: 10 NC: 8	Support: 5 No plans: 6 NC: 7
Alabama	NC	Increase	Yes	No plans
Arizona	Concerns	Increase	Yes	No plans
Arkansas	Support, w/ caveats	Increase	Yes	No plans
Florida	Support, w/ caveats	Increase	Yes	NC
Georgia	NC	NC	NC	NC
Idaho	NC	NC	NC	No plans
Illinois	NC	NC	NC	NC
Kentucky	Support	Increase	Yes	Support
Maryland	NC	NC	NC	NC
Massachusetts	Concerns	Increase, Do not tie to reduced financing	Yes	Support
Nevada	NC	Increase	Yes	Support
New Mexico	NC	NC	NC	Support
North Dakota	NC	NC	NC	NC
Ohio	Support, w/ caveats	Increase	NC	NC
Oklahoma	NC	NC	Yes	Support
Tennessee	NC	Increase	Yes	No plans
Utah	Support, w/ caveats	Increase	Yes	No plans
Wisconsin	Support	Increase	NC	NC

Notes: *In Louisiana, both the Democratic governor and the independently elected Republican insurance commissioner provided responses. **In New Hampshire and Vermont, the governorship switched after the response was provided, which resulted in a change in the political party of these states' governors from Democrat to Republican.

NC indicates no comments provided on that topic or response could not be classified based on the comments provided.

"Support w/caveats" indicates cases in which the respondent cited support for capped financing but included qualifications regarding how the cap should be structured.

Source: Kaiser Family Foundation analysis of responses provided to request from members of the [House of Representatives](#) for state input on health reform.

**Appendix Table 4:
Comments from Governors and Insurance Commissioners on Changes to Private Insurance**

State	Increase State Regulatory Authority	Sale of Insurance Across State Lines	Individual Mandate	Maintain Financial Assistance for Consumers	Expand HSAs	High Risk Pools
Total: 35	Yes: 19 NC: 16	Support: 5 Oppose: 3 NC: 27	Oppose Mandate: 3 Alternative Approach: 7 Maintain Mandate: 2 NC: 23	Support: 11 In Transition: 4 NC: 20	Yes: 4 NC: 31	Consider: 12 Concerns: 4 NC: 19
Democratic Governor: 17	Yes: 3 NC: 14	Support: 0 Oppose: 1 NC: 16	Oppose Mandate: 0 Alternative Approach: 0 Maintain Mandate: 1 NC: 16	Support: 2 In Transition: 1 NC: 14	Yes: 0 NC: 17	Consider: 2 Concerns: 2 NC: 13
California	NC	Oppose	Maintain	Support	NC	Concerns
Colorado	NC	NC	NC	NC	NC	NC
Connecticut	Yes	NC	NC	NC	NC	NC
Delaware	NC	NC	NC	NC	NC	Concerns
District of Columbia	NC	NC	NC	NC	NC	NC
Louisiana*	Yes	NC	NC	In transition	NC	Consider w/federal funds
Minnesota	NC	NC	NC	NC	NC	NC
Montana	NC	NC	NC	NC	NC	NC
New York	NC	NC	NC	NC	NC	NC
New Hampshire**	NC	NC	NC	NC	NC	NC
Oregon	NC	NC	NC	NC	NC	NC
Pennsylvania	NC	NC	NC	NC	NC	NC
Rhode Island	NC	NC	NC	NC	NC	NC
Virginia	NC	NC	NC	NC	NC	NC
Vermont**	NC	NC	NC	NC	NC	NC
Washington	NC	NC	NC	NC	NC	NC
West Virginia	Yes	NC	NC	Support	NC	Consider w/federal funds
Republican Governor: 18	Yes: 16 NC: 2	Support: 5 Oppose: 2 NC: 11	Oppose Mandate: 3 Alternative Approach: 7 Maintain Mandate: 1 NC: 7	Support: 9 In Transition: 3 NC: 6	Yes: 4 NC: 14	Consider: 10 Concerns: 2 NC: 6
Alabama	Yes	NC	Alternative	Support	Yes	Consider w/federal funds
Arizona	Yes	Support	NC	In transition	NC	Consider w/federal funds
Arkansas	Yes	Support	Oppose	Support	NC	Consider w/federal funds
Florida	Yes	Support	Alternative	Support	Yes	NC
Georgia	Yes	Support	Oppose	NC	NC	Consider w/federal funds
Idaho	Yes	Oppose	Alternative	Support	NC	Consider w/federal funds
Illinois	NC	NC	NC	NC	NC	NC
Kentucky	Yes	NC	Oppose	Support	NC	Consider
Maryland	Yes	NC	NC	NC	NC	NC
Massachusetts	Yes	NC	Maintain	Support	NC	Concerns
Nevada	Yes	NC	NC	NC	NC	Consider w/federal funds
New Mexico	Yes	NC	Alternative	Support	NC	Concerns
North Dakota	Yes	Oppose	NC	In transition	NC	NC
Ohio	Yes	NC	Alternative	NC	Yes	NC
Oklahoma	Yes	Support	Alternative	Support	Yes	Consider w/federal funds
Tennessee	Yes	NC	NC	NC	NC	Consider w/federal funds
Utah	Yes	NC	Alternative	In transition	NC	Consider w/federal funds
Wisconsin	NC	NC	NC	Support	NC	NC

Table Notes: *In Louisiana, both the Democratic governor and the independently elected Republican insurance commissioner provided responses. **In New Hampshire and Vermont, the governorship switched after the response was provided, which resulted in a change in the political party of these states' governors from Democrat to Republican.

NC indicates no comments provided on that topic or response could not be classified based on the comments provided.

Source: Kaiser Family Foundation analysis of responses provided to request from members of the [House of Representatives](#) for state input on health reform.

Appendix B: Summary of Responses from Associations

Four associations (American Academy of Actuaries, Democratic Governors Association, National Governors Association, and the Republican Governors Association) responded to Congress' request for input. Key takeaways from the associations include:

American Academy of Actuaries. The American Academy of Actuaries urges Congress to consider the potential adverse consequences of repealing provisions of the ACA, including the individual mandate and enrollee subsidies, without also enacting a replacement approach at the same time. They express concern that a repeal of major provisions of the ACA would lead to loss of enrollment, affordability challenges, and market instability. They note that offering pre-existing condition protections requires incentives for enrollment; eliminating provisions that encourage enrollment would threaten sustainability; and increasing risks or eliminating cost-sharing reduction reimbursements could cause an increase in insurer withdrawals from the market.

Democratic Governors Association. The Democratic Governors Association opposes a repeal of the Affordable Care Act, including its Medicaid expansion, citing concerns over financial stability and health of states. They note that repealing the ACA would result in loss of coverage, shift of costs to state governments, economic uncertainty, loss of consumer protections provided under the ACA, and increases in uncompensated care. The letter also highlights the role of Medicaid and its expansion on increased coverage and combatting the opioid use epidemic.

National Governors Association. The National Governors Association highlights the need to work in a bipartisan manner to build a more efficient health care system, put patients first, and address the underlying issues of unsustainable health care spending. They urge Congress to consider incorporating Governors' suggestions throughout the legislative process; consider reforms to private health insurance that provide meaningful state flexibilities; maintain a meaningful federal role in the Medicaid financing partnership that does not shift costs to states; protect states from unforeseen financial risks; maintain predictability in health reform legislation; and support the continuation of innovative state health care programs that rely on federal funding.

Republican Governors Association. The Republican Governors Association seeks to advance alternatives to the ACA. They also highlight concerns about the quality and sustainability of the Medicaid program. The Republican Governors Association seeks to reflect on state flexibilities gained in recent years and factors inhibiting state innovation to respond to the unique needs of Medicaid beneficiaries.