

# Post-Election Health Policy Outlook

The results are in - how Republican control of the White House and Congress could reshape health policy

**November 2024**

# 1 Overview



## Political landscape

President-elect Donald Trump will return to the White House on January 20, with Republicans in control of both the House and Senate. The Republican trifecta has increased opportunities for larger packages to move forward via the budget reconciliation process, but Republicans will still need to maneuver around narrow margins in both chambers, limiting some of the legislation that could move forward.

Republicans have spent months laying the groundwork for a budget reconciliation bill in the event of a red wave. House Speaker Mike Johnson (R-LA), who was re-elected by House Republicans on November 13th, in June suggested that Republicans would pursue a broad budget reconciliation bill that addresses many issues, including tax and health care.

“Back in the 2017 timeframe and in previous years, we Republicans kind of took a single-subject approach to reconciliation. We did one round of health care reform, one round of tax reform. But we’re looking at for [FY 2025], we want to have a much larger scope, multiple issues to address in addition to the expiration of the [ Tax Cuts and Jobs Act (TCJA),” he said. Republicans also will be able to use the Congressional Review Act to overturn certain Biden administration rules.

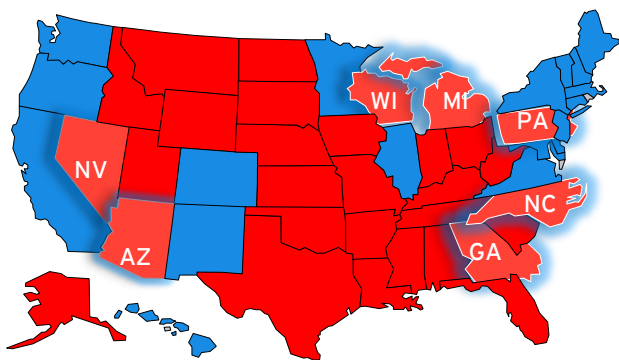
This brief will explore the health care policies congressional Republicans may look to advance in 2025 and how they align with President-elect Trump’s health policy agenda.



# Election results

## Presidential

In the months leading up to the election, there was widespread speculation about a historically close election and electoral vote paths to victory through the seven battleground states. Ultimately, the race was called quickly and decisively in favor of President-elect Trump, who won in each of the major battleground states.

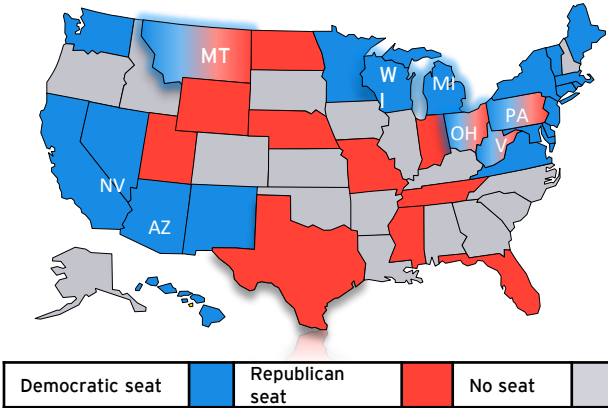


State - electoral votes	Result
Arizona - 11	Trump 52%-47%
Georgia - 16	Trump 51%-49%
Michigan - 15	Trump 50%-48%
Nevada - 6	Trump 51%-48%
North Carolina - 16	Trump 51%-48%
Pennsylvania - 19	Trump 50%-49%
Wisconsin - 10	Trump 50%-49%

In the weeks following the election, President-elect Trump has been busy naming nominees and appointees to key Cabinet and ambassador positions. On November 14th, he announced Robert F. Kennedy Jr., an environmental lawyer who has been critical of vaccines and federal public agencies, to serve as Secretary of the Department of Health and Human Services, and former Rep. Doug Collins (R-GA), a lawyer, to head the Department of Veterans Affairs. On November 13th, Trump announced Rep. Matt Gaetz (R-FL) to lead the Department of Justice, which is responsible for defending federal health issues that go to trial. Nominees to lead other health agencies, including the Food and Drug Administration and the Centers for Medicare and Medicaid Services, have not been named as of the time of publishing. Senate confirmation is required for each of the positions, though President-elect Trump may seek recess appointments for nominees.

## Senate

Republicans flipped four Democratic seats, giving them control of the chamber with 53 senators. Democrats will have 47 seats. Republicans flipped seats in West Virginia, Ohio, Montana and Pennsylvania. Pennsylvania's US Senate race between incumbent Bob Casey (D) and David McCormick (R) will go to a recount. While Republicans will control the Senate, they will not have a filibuster-proof 60 votes, making budget reconciliation the main pathway to passing larger bills like the TCJA cliff bill and other health care reforms. Policy strategy in the Senate will be led by Sen. John Thune (R-SD), who was elected Majority Leader on November 13.



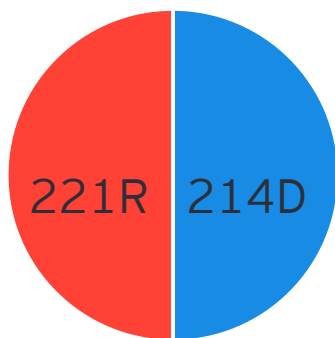
State	Incumbent	Result
West Virginia	Joe Manchin retiring	Jim Justice won
Montana	Jon Tester	Tim Sheehy won
Ohio	Sherrod Brown	Bernie Moreno won
Pennsylvania	Bob Casey	Dave McCormick won
Wisconsin	Tammy Baldwin	Tammy Baldwin won
Michigan	Debbie Stabenow retiring	Elissa Slotkin won
Nevada	Jacky Rosen	Jacky Rosen won
Arizona	Kyrsten Sinema retiring	Ruben Gallego won

2024 ratio	51	49	2025 ratio	53	47
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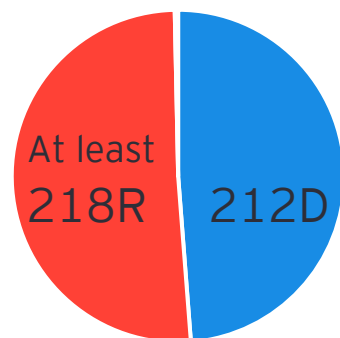
## House

Republicans held onto the majority in the House, securing the needed 218 members. Democrats currently will hold 212 seats. About nine races remain uncalled, meaning the size of the Republican majority could grow, though it is likely to remain narrow. Republicans early in 2025 also will be a few members down as President-elect Trump has nominated a few Representatives to serve in his Cabinet or as ambassadors.

2024 ratio



2025 ratio



# 3

## Budget reconciliation & CRA

### Overview of budget reconciliation

Budget reconciliation is a procedural tool that can be used to make changes in mandatory spending (but not Social Security), revenues or the debt limit. Reconciliation cannot be used to change discretionary spending - annual appropriations. Congress can combine all three topics into one bill or can handle them separately. The new Congress could have the opportunity to use reconciliation twice in 2025.

Typically, budget resolutions are approved in advance of the upcoming fiscal year. For example, a fiscal year (FY) 2025 budget resolution would be approved during calendar year 2024. Importantly, a budget resolution for FY 2025, which began October 1, 2024, has not been considered by Congress this year. However, Congress may approve a budget resolution at any point during the fiscal year (prior to September 30, 2025), meaning this vehicle will be available to the new Congress taking office in January 2025. The new Congress will also be able to use a FY 2026 budget resolution to create a separate set of reconciliation instructions next year, providing a potential path for at least two reconciliation exercises in 2025.

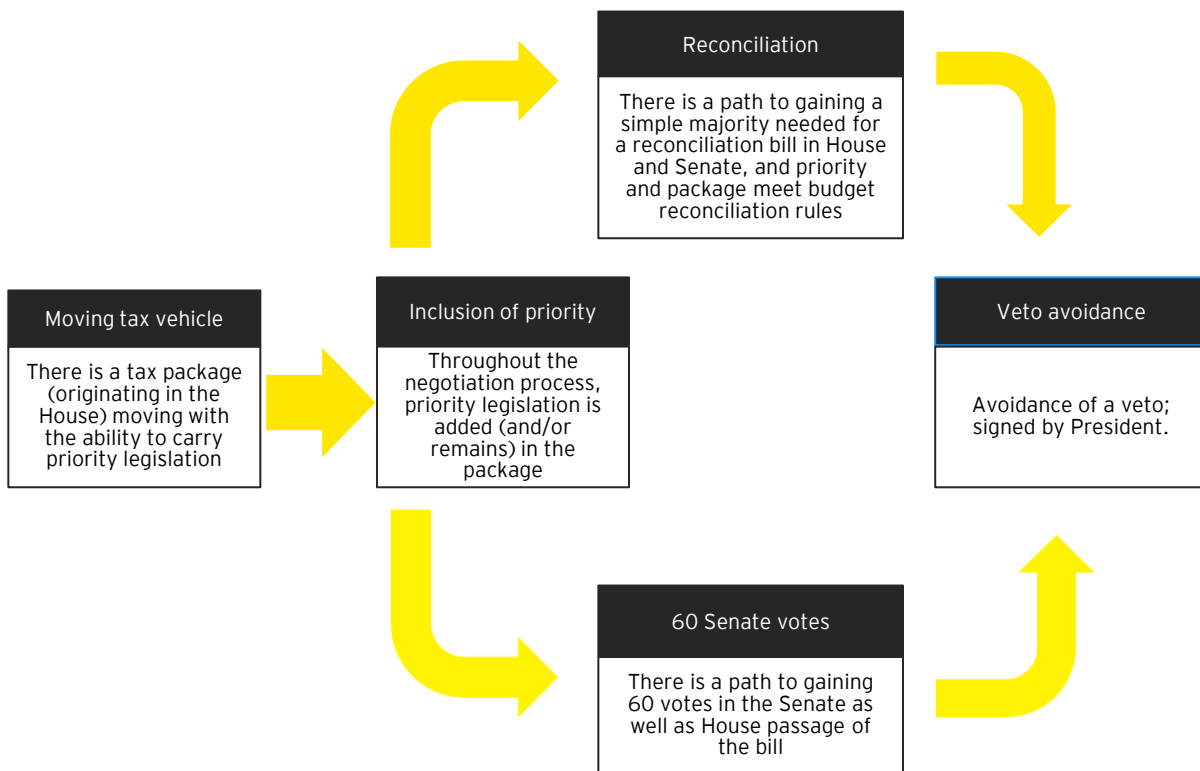
### Understanding the process

The process begins with each chamber passing a “budget resolution” setting parameters for revenues and/or spending for the fiscal year. If Congress intends to consider a reconciliation bill, the budget resolution will include “instructions” to committees of jurisdiction to change spending or revenue (or both) to meet specific targets. The reconciliation instructions cannot prescribe specific policies to achieve the number targets. The budget resolution must be approved by the House and Senate in the same form but is not signed by the president.

Once a budget resolution with reconciliation instructions is approved, the committees that are given instructions begin putting together legislation to meet the targets. In addition to meeting the targets set out in the resolution, a reconciliation bill must meet very specific rules to preserve its status and avoid a Senate filibuster. These rules are called Byrd Rules after former Senator Robert C. Byrd (D-WV). For example, each provision in the bill must affect revenues or spending in some way. Provisions that do not must be removed.

Another requirement is that a reconciliation bill must not worsen the deficit beyond the “budget window.” A budget resolution will specify this term, which is traditionally 10 years but could be shorter or longer if Congress wishes. In the Senate, debate is limited to 20 hours and all amendments must be relevant to the underlying provisions of the bill. The 20-hour time limit for debate, germaneness requirements, and the Senate minority’s inability to filibuster the bill are key reasons why lawmakers are often inclined to use the process to move major legislation with revenue implications.

Chart on how potential legislation could move in a narrow Congress



## About the Congressional Review Act

The Congressional Review Act (CRA) allows a disapproval resolution by Congress to overturn a final agency rule when considered within 60 legislative days after publication of the rule. If the Senate acts on a disapproval resolution during a 60-days-of-Senate-session period, it cannot be filibustered; i.e., the resolution requires only simple majority vote as opposed to the usual Senate supermajority of 60 votes.

The lookback period is estimated to have begun in early August. The CRA gives Congress the ability to review rules submitted toward the end of a president's administration, while giving the incoming president the ability to quickly overturn said rules with congressional support. Republicans are expected to move CRAs that express disapproval for Biden administration rules unpopular among conservatives. Federal rules that could fall under this purview include the mental health parity final rule and HHS' rule enhancing coverage of preventive services, though regulators also could revise rules through the rulemaking process.

Historically, the CRA process has been used minimally. During his first administration, President-elect Trump signed 16 resolutions of disapproval in 2016, including one on Title X family planning grants.

Prior to 2017, there was only one successful use of the CRA: to overturn a rule addressing a DOL ergonomics program. President Biden signed three resolutions of disapproval into law in 2021, including rules on EEOC info sharing, EPA methane emission standards, and a Comptroller of Currency (OCC) rule on banks giving money to third-parties to lend to borrowers



# Health policy implications

## Overview

A Republican-controlled Senate and House will enable President-elect Trump to enact his agenda on tax, health and other issues, including a budget reconciliation bill anchored by extensions of TCJA provisions expiring at the end of 2025. Less certain are the health care policies that could move in the year-end or during the 2025 tax debate.

Republican health care priorities for 2025 will be shaped by how much health policy lawmakers can advance before they adjourn, which they are targeting for December 20. Health policies on the table for possible inclusion in a year-end spending bill include extending Medicare and employer telehealth flexibilities, pharmacy benefit manager (PBM) reforms, and transparency measures for providers. Items left out of a year-end package in 2024 could also ride in a reconciliation bill or be considered as part of the FY 2026 spending bills.

Some congressional Republican health policy priorities for 2025 include: expanding association health plans; expanding tax-exempt savings accounts, including health savings accounts; expanding GLP-1 coverage in Medicare; rolling back the Inflation Reduction Act drug pricing provisions; lowering the Affordable Care Act's 90% FMAP match rate, and codifying ICHRAs. Lawmakers in 2025 also will be tasked with deciding whether to allow the ACA's enhanced tax credits to expire, which could open discussions to phase the enhanced tax credits out, particularly those for individuals with incomes over 400% FPL, or pursuing reforms of the ACA's tax credits more broadly.

Much of the health policy debate in Congress will be shaped by the policy positions of President-elect Trump. The below table explores Trump's position on several health policy topics.



**Table: Trump health policy positions**

<b>Potential Trump health policies (Coverage)</b>	
<b>Affordable Care Act and Commercial Coverage</b>	
<ul style="list-style-type: none"> <li>• Unlikely to pursue repeal and replace, instead widely expected to support reforming the ACA's tax subsidies, including scaling back or allowing the expiration of the IRA's enhanced subsidies; cost-sharing reductions; and coverage requirements</li> <li>• Expected to renewed effort around alternative coverage vehicles (AHPs, limited duration health plans, HSAs, ICHRAs, etc.)</li> <li>• May seek to expand HSAs and tax saving vehicles for nutrition and wellness spending</li> <li>• Opposes DACA recipients' enrollment in ACA plans</li> <li>• Supports state-run exchanges and expected to approve state flexibilities through waivers</li> <li>• Expected to lower navigator funding, increase oversight of brokers and automatic enrollments</li> <li>• Supports limiting open enrollment periods, increases flexibilities in qualified health plan offerings</li> <li>• Will reform Section 1557 non-discrimination rules</li> <li>• May seek to expand wellness plans</li> <li>• Expected to focus on program integrity efforts</li> </ul>	
<b>Medicare</b>	
<ul style="list-style-type: none"> <li>• Supports expanding site-neutral payments</li> <li>• May continue "patients before paperwork" initiative</li> <li>• May rescind the rule on minimum staffing standards for nursing facilities</li> <li>• Expected to undo DEI changes, like rolling back enhanced Medicare payments for physicians that create an anti-racism plan</li> <li>• May look at "food as medicine" and increase coverage for non-traditional treatments</li> <li>• Expected to revisit the Medicare Coverage of Innovative Technology</li> <li>• Expected to support increased use of telemedicine</li> <li>• Expected to integrate the use of AI and digital health into plans and the agency</li> </ul>	
<b>Medicare Advantage</b>	
<ul style="list-style-type: none"> <li>• May look to quietly curb spending growth through regulatory reforms, but not expected to support major changes</li> <li>• Expected to support enrollment increases and favor MA over traditional Medicare</li> </ul>	
<b>Medicaid</b>	
<ul style="list-style-type: none"> <li>• May support Medicaid per-capita-caps, revisit work requirements and other policies focused on eligibility and potential state gaming, re-examine expansion of state Medicaid matches.</li> <li>• Could revisit the Medicaid Fiscal Accountability Rule</li> <li>• May increase eligibility verification processes</li> <li>• Supportive of state waivers to control costs, like allowing cost-sharing</li> <li>• Opposed to noncitizens enrolling in Medicaid plans</li> <li>• Expected to support PBM reforms in Medicaid</li> </ul>	
<b>Value-based payment/CMMI</b>	
<ul style="list-style-type: none"> <li>• May refocus CMMI on cost-saving models</li> <li>• Could use CMMI as a tool to implement broad payment reform, like MFN</li> <li>• More likely to favor voluntary models</li> </ul>	
<b>Mental health</b>	
<ul style="list-style-type: none"> <li>• Expected to support increased access to mental health services through telehealth</li> <li>• Supportive of increased funding for veterans' mental health treatment</li> <li>• Could pull back or revise mental health parity rule in response to industry concerns</li> </ul>	

**Table 1: Trump health policy positions**

<b>Potential Trump health policies (Life Sciences)</b>
<b>Drug Costs</b>
<ul style="list-style-type: none"> <li>• Trump’s position on extending the \$35 insulin out-of-pocket cost to commercial market is unclear, but this could be an area in which he breaks from Republicans in Congress. Trump in the past proposed allowing Medicare plans to lower insulin costs to bridge Part D coverage gap and could be supportive of the Inflation Reduction Act’s cap</li> <li>• While there will be pressure from Republicans in Congress to repeal the IRA, Trump may favor keeping the law’s drug pricing policies with potential modifications to protect innovation and address orphan drugs</li> <li>• Trump also could split with congressional Republicans by continuing Part D Premium Stabilization Demonstration to smooth premium increases, and could leverage in the future to offset premium spikes</li> <li>• May revisit drug rebate reform</li> <li>• Expected to pursue other policies to bring down US cost of drugs, such as international reference pricing</li> <li>• Expected to support PBM reforms</li> </ul>
<b>Drug supply chain &amp; shortages</b>
<ul style="list-style-type: none"> <li>• Trump in 2020 campaigned on “decoupling” global manufacturing from China and is expected to accelerate and strengthen push for more domestic or “friendly-nation” manufacturing of APIs and less reliance on manufacturing in foreign countries seen as adversaries. It is possible that Trump would directly support initiatives like BIO 5 or seek to start his own efforts</li> <li>• Expected to continue a more unpredictable and unilateral approach, possibly including increasing Sec. 301 tariff rates and expanding the list of impacted products</li> </ul>
<b>Price transparency</b>
<ul style="list-style-type: none"> <li>• Expected to add more severe penalties to address compliance</li> <li>• Expected to support proposals to codify price transparency rules</li> <li>• May support proposals to extend price transparency to other stakeholders</li> <li>• May require payers and providers to submit cost information through API</li> </ul>
<b>Oversight and antitrust</b>
<ul style="list-style-type: none"> <li>• Expected to continue probe into pharmacy benefit managers</li> <li>• Supports increasing competition through breaking up consolidation in the market</li> </ul>
<b>340B Drug Pricing Program</b>
<ul style="list-style-type: none"> <li>• Critical of 340B spending. In 2018, Trump administration issued rule that cut 340B payments from ASP+6% to ASP-22.5%. This was later overturned by Supreme Court and CMS issued lump sum repayments. Could see Trump administration drop support for contract pharmacies, support manufacturer programs to scale costs (i.e. rebate model)</li> <li>• May revisit rule to require community health centers to pass on 340B discounts to patients</li> </ul>
<b>FDA and CDC</b>
<ul style="list-style-type: none"> <li>• Expected to increase scrutiny of drug approvals, especially for vaccinations</li> <li>• May revisit vaccine safety data and CDC Advisory Committee on Immunizations Practices recommendations and FDA's Advisory Committee recommendations</li> <li>• Efforts to reform or increase oversight of the Center for Food Safety and Applied Nutrition</li> <li>• May attempt to reform prescription drug user fees program</li> <li>• May increase studies on endocrine disruptors</li> <li>• Expected to decrease regulation of laboratory developed tests</li> <li>• Expected to reform and reorganize the CDC to address "scope creep"</li> <li>• May reform labeling and distribution of mifepristone</li> </ul>

**Table: Trump health policy positions**

<b>Potential Trump health policies (Provider/Payer)</b>
<b>Surprise medical bills</b>
<ul style="list-style-type: none"> <li>• May reissue rules adjusting the use of QPA in payment calculations</li> <li>• Expected to prioritize implementation of advanced EoBs</li> <li>• May encourage Congress to expand statute to cover ground ambulances</li> </ul>
<b>Telehealth</b>
<ul style="list-style-type: none"> <li>• Supportive of telehealth flexibilities used during Covid and expected to support its continuation</li> </ul>
<b>Workforce</b>
<ul style="list-style-type: none"> <li>• Expected to oppose the use of DEI in medical schools</li> <li>• Immigration changes could impact visas for foreign providers</li> <li>• May seek to improve incentives for primary care workers and workforce dedicated to preventative health care</li> <li>• May require nutrition classes in medical school</li> <li>• May seek to conduct oversight on medical school funding</li> </ul>
<b>Substance use disorder</b>
<ul style="list-style-type: none"> <li>• Supports strengthening the border to stop illegal trafficking of fentanyl</li> <li>• Supports expanding faith-based treatment programs</li> <li>• Supports increased access to medication-assisted treatments (MATs)</li> <li>• May support telehealth prescribing of MATs</li> </ul>
<b>Maternal &amp; reproductive health</b>
<ul style="list-style-type: none"> <li>• Continue efforts to reduce maternal mortality rate, less emphasis on equity</li> <li>• Deference to states on full spectrum of reproductive health</li> <li>• Support coverage and access to IVF</li> <li>• Expected to reinstate “global gag rule” and restrictions on Title X funding</li> <li>• Expected to increase funding opportunities for faith-based institutions and crisis pregnancy centers</li> </ul>
<b>Long-term care</b>
<ul style="list-style-type: none"> <li>• Expected to repeal nursing home staffing ratio mandates, could seek to overturn Medicaid Access final rule</li> <li>• May continue Patients Over Paperwork initiative</li> <li>• May repeal SNF civil monetary penalties</li> <li>• Trump supported a caregiver tax credit</li> </ul>
<b>Primary care</b>
<ul style="list-style-type: none"> <li>• Support for advanced primary care and direct primary care; support for on-site clinics</li> <li>• Expected to increase focus on preventive health and chronic care</li> </ul>

**Table: Trump health policy positions**

<b>Potential Trump health policies (Digital Health)</b>
<b>Artificial Intelligence</b>
<ul style="list-style-type: none"> <li>• Supports flexibilities for AI</li> <li>• Pledged to repeal Biden administration’s AI executive order (EO), expected to replace with his own EO</li> </ul>
<b>Interoperability</b>
<ul style="list-style-type: none"> <li>• Supports patient access to health information and increased interoperability to support patient access to info</li> <li>• Supports increased interoperability between the DoD and VA</li> </ul>
<b>Data privacy</b>
<ul style="list-style-type: none"> <li>• May seek to strengthen or accelerate data privacy protections, particularly sensitive data shared with countries deemed foreign adversaries</li> <li>• Unclear if Trump would support congressional efforts to enact a national data privacy law</li> </ul>
<b>Remote monitoring technology</b>
<ul style="list-style-type: none"> <li>• Expected to support policies to expand Medicare coverage of remote monitoring technology as a way to increase access to care and improve care affordability</li> </ul>
<b>Cybersecurity</b>
<ul style="list-style-type: none"> <li>• Supports defense and military efforts to strengthen cybersecurity protections against foreign threats</li> <li>• Expected to be forced to address major cybersecurity shortcomings raised by GAO</li> </ul>



## Parting thoughts

### Looking ahead

President-elect Trump and his appointees to lead health agencies will be tasked with overseeing the continued implementation of key health care policy initiatives including the implementation of the No Surprises Act, drug pricing provisions in the Inflation Reduction Act (e.g. round two of negotiations, Part D redesign, Medicare Prescription Payment Plan), implementation of CMMI models, ACA coverage, and more. Policy changes in 2025 could serve as a litmus test for health care regulation legal challenges in a post-*Chevron* environment, in which agency decisions are accorded less deference in legal proceedings.

After the lame duck session, Congress is expected to turn its attention to processing the president-elect's nominees and addressing the expiring TCJA tax provisions. Those expiring provisions created a trillion-dollar cliff that is expected to require extensive pay-fors, potentially placing health care items that generate revenue and do not make it into a year-end package back on the negotiating table. The expiring TCJA tax provisions also come as the ACA's enhanced subsidies are set to expire, another multibillion-dollar cliff, which is largely opposed by Republicans. Proactive health care stakeholders can start preparing now for potential policy priorities and chart a strategic plan for success.

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