

THE BROOKINGS INSTITUTION 5 on 45:

After Graham-Cassidy, what's next for health care and tax reform?

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(MUSIC)

PITA: You're listening to 5 on 45 from the Brookings Podcast Network, analysis and commentary from Brookings experts on today's news regarding the Trump administration.

REYNOLDS: My name is Molly Reynolds, and I'm a fellow in the Governance Studies program at the Brookings Institution.

With the September 30th deadline looming, and a persistent inability to get 50 votes in favor of a plan to repeal and replace the Affordable Care Act, Senate Republicans announced this week they will not hold yet another vote to roll back President Obama's signature achievement.

What happened this week was largely a replay of what happened in the Senate in July. Republicans may have shared the goal of repealing the law as good for their Party's collective interest, but they failed yet again in writing an actual piece of legislation that 50 individual senators were willing to vote for. But is the option of party-line legislating on health care really off the table for good? Depends in large part on Republicans' answers to several questions.

First, can Republicans in the House and the Senate agree to a new budget resolution? To use the fast track reconciliation process in any given fiscal year, Congress must first adopt a budget resolution that contains reconciliation instructions or language outlining which congressional committees will develop reconciliation legislation. When the 115th Congress began in January, the plan was to use the process twice; once for health care with the instructions initiated by the fiscal 2017 budget resolution, and then a second time for tax legislation with instructions contained in the fiscal 2018 budget resolution. With the Fiscal Year 2017 health care attempt now exhausted, Republicans could write Fiscal Year 2018 instructions that allow them to tackle both policy goals. So far Republicans have struggled to come to agreement on what a budget resolution with reconciliation instructions for 2018 would look like. That's without introducing health care into the fight.

One major obstacle, House conservative's insistence that they need more details on a tax bill before they support the budget resolution, may have been overcome with the House Freedom Caucus announcing its support of the recently released tax framework. But the two chambers must still reach agreement. Senator Lindsey Graham threatened over the weekend that he would not vote for a budget resolution that doesn't allow the health care debate to continue.

It would be relatively easy to meet that demand in principle, but since canceling the vote yesterday other Republicans have expressed skepticism about such a strategy. In the Senate especially, Republicans can spare relatively few votes and still adopt the resolution needed to kick off the reconciliation process.

If Republicans decide to pursue health care through the expedited reconciliation process they next have to decide whether to try to tackle the same bills tax changes or in a separate one. Theoretically, under the current interpretation of the reconciliation rules the Senate Republicans could separate the pieces of the health care bill that affect federal spending from those that change revenue, put those revenue provisions in their broader tax bill, and take two bites the reconciliation apple in Fiscal Year 2018. Because some aspects of Obamacare touched both spending and revenue however that can be mechanically difficult.

Republicans would also have to choose which bill to tackle first. All signs point to the so-called pivot to tax reform being real this time, and given that tax legislation would be hard, the calendar might prevent action on health care under this approach especially in an election year. If Republicans decide to put health care on taxes together in a single reconciliation bill, and can adopt a budget resolution that sets up that process, they still need to figure out how to get to yes. So far writing a health care bill with majority support in the House and Senate has proved elusive. The path to tax legislation hasn't been much smoother.

While there are some situations where adding one hard thing Congress to another hard thing produce something that's easier to pass, this year has presented little evidence to suggest that putting tax legislation and health care together in one measure would be one of those situations.

Given how much time and energy Republicans have spent thus far with nothing to show for it on health care many may be reluctant to tie the fate of a tax bill to an issue where victory has been so difficult. Since canceling a planned vote, several Senate Republicans have expressed a preference for the original tax-only plan for the reconciliation bill in 2018 and others have suggested postponing health care until the 2019 budget process.

What's more, there are plenty of ways for Republicans to try to undermine the success of Obamacare that do not require congressional effort. But as much as President Trump may insist through his tweets that a legislative victory on health care is imminent, major challenges, some procedural but more importantly political, remain going forward.

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