

GOP zeal for bill repeal

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November midterm election results create obstacles for both friend and foe of health reforms signed into law by President Obama earlier this year.

Democrats will face the immediate challenge of a tougher political climate for implementing health care reform due to Republican control of the House of Representatives and a narrower Democratic majority in the Senate. GOP zeal for repeal will be tempered by elements of the new law already proving to be popular with the public.

Republican gains in Congress had more to do with widespread dissatisfaction with the nation's economic performance and public frustration with Washington than the issue of health reform per se. Nonetheless, what Congress does (and does not do) for the next two years may well determine whether landmark health reform legislation succeeds or fails.

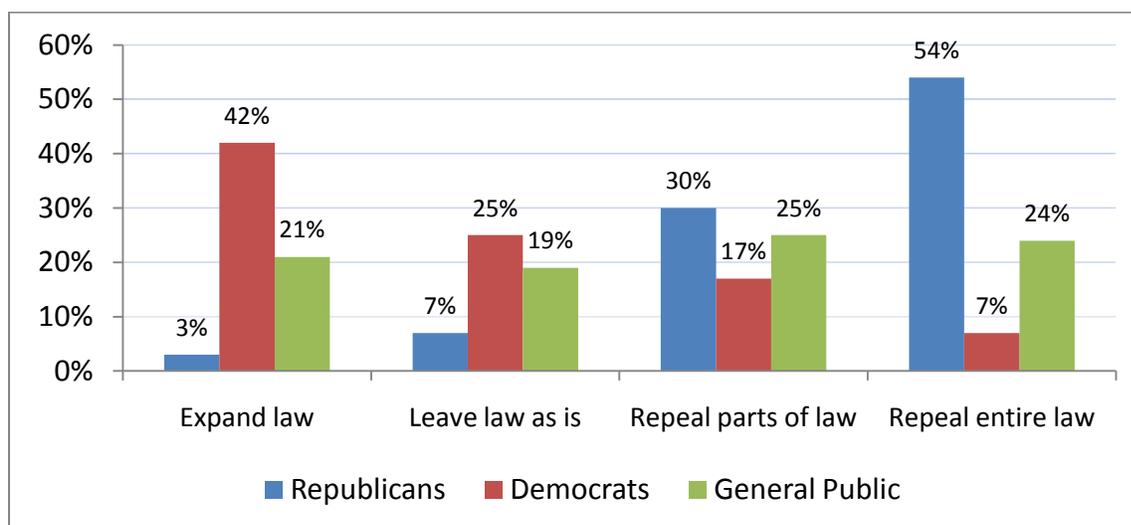
Mandate for repeal?

According to the December 2010 Kaiser Health Tracking Poll, public opinion on the new health reform law ended the year essentially as divided as it was when passed earlier this spring: 42 percent of the public have a favorable view of the new health reform law, 41 percent view it unfavorably, and 17 percent have no opinion.

The public is also split on what lawmakers in Washington should do with the new health reform law. The same Kaiser poll indicates that 40 percent of Americans reported that the law should be expanded or left as is, while 49 percent would like to see parts of the law repealed or repealed altogether.

A closer look at the Kaiser data indicates that the partisan divide on health care has only widened. Over two thirds of Democrats who voted in the midterm elections would like to see the law expanded or left as is, as compared to 84 percent of Republicans who would like to see it repealed in part or in its entirety.

Thus, while GOP gains in Congress and conservative appetite for repeal do not represent a popular mandate for overturning the reform law in its entirety – an unlikely proposition that would certainly be vetoed by President Obama anyway – challenges to the law will be unrelenting and take a number of forms.



Source: Kaiser Family Foundation, December 2010.

### Death by a thousand cuts

First, attempts will be made to repeal parts of the bill and not the whole enchilada. This scenario is tricky for both political and practical reasons given the fact that many provisions, such as rules barring insurers from denying or canceling coverage, are popular and over 150 parts of the law will have already been enacted when the next Congress begins.

Second, Republican lawmakers will aim to defund implementation of reform or, more precisely, controversial pieces of the law, such as the Independent Payment Advisory Board opposed by the hospital industry and other providers.

Third, reform's implementation will be slowed via an onslaught of promised committee hearings and investigations by Republican Representatives for the next two years. My guess is that we won't hear the last of "death panels" and "government-run health care" anytime soon.

Efforts will also be undertaken by Governors and Republican-controlled legislatures to challenge reform's major new responsibilities for states. These include overseeing the law's expansion of Medicaid eligibility, setting up insurance exchanges for small businesses, and individuals, and enforcing the new insurance reforms. The response of Nevada's lawmakers and new Governor to reform's new demands next spring will be anything but dull.

Finally, legal challenges to the law already underway – namely, the constitutionality of the mandate for individuals to purchase insurance – represent a key obstacle to the new law's success. These legal challenges will ultimately be decided by the Supreme Court over the next two years as we approach the next Presidential election.

Be careful what you wish for

Combined, these challenges represent serious obstacles to the full implementation and promise of reform.

Pushing for repeal nonetheless represents a risky political strategy for Republicans. Writing recently in the *New England Journal of Medicine*, Jonathan Oberlander notes that “overturning the law would effectively de-insure 32 million Americans, deregulate the insurance industry, strip insured persons of coverage protections and enhance benefits, and worsen the projected federal budget deficit – all while the number of people without insurance gallops upward, along with premium prices.”

He concludes that “Republicans’ pledge to not simply repeal the law but replace it with a compelling alternative – that reduces the deficit, expands insurance coverage, and controls health care spending – will be difficult to fulfill.”

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