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## AGENDA ITEM

For Possible Action

Information Only

**Date:** June 8, 2017  
**Item Number:** VII  
**Title:** Affordable Care Act status report

### PURPOSE

The purpose of this report is to provide information to the Board and public regarding the status of the Exchange’s implementation of a state based health insurance exchange and other operational matters of the Exchange.

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### GENERAL COMMENTS

The continued debate regarding health care reform remains on the forefront of the national policy agenda. The House of Representatives passed the American Health Care Act (AHCA) on May 4, 2017 with a narrow vote of 217-213. House Democrats unanimously opposed the legislation and were joined by 20 Republicans. The bill must go through the Senate Parliamentarian, Senate vote, House and Senate reconciliation, final passage vote, and then the President must sign the bill into law. There are several more procedural steps ahead for the AHCA, each of which present challenges to the final passage of the bill.

The Republican majority hopes to pass the AHCA through a budget reconciliation process, whereby it will require a simple majority in the Senate of 51 votes. Leaders must ensure that the bill complies with the Senate “Byrd Rule” that generally requires a reconciliation bill to relate to the budget, meaning some of the ACA provisions cannot be adjusted or addressed through this process because they do not address taxes or spending. It is now up to the Senate Parliamentarian

to determine if the bill meets the Byrd Rule standards. Many observers and policy experts believe that there are several areas of the bill that will have to be removed or modified because the budget impact is merely incidental—or, indirect—to a broader policy. Provisions that seem particularly at risk include changes that will directly impact individual market insurance rules, state waivers, pre-existing conditions, and essential health benefits.

The Senate could not officially begin work on the AHCA until the Congressional Budget Office (CBO) provided their estimate of the cost and coverage impacts. The CBO report was released on May 24, 2017 and indicated similar numbers to the previous report—23 million consumers will lose coverage over the next 10 years and \$119 billion federal dollars will be saved as a result. The CBO report is an important factor in determining which provisions of the House bill may be subject to scrutiny under the budget reconciliation process. Key Senate Republican leaders have already signaled that the process will not be rushed. Orrin Hatch, Chairman of the Senate Finance Committee, noted that Senators should “manage expectations” and “remain focused on the art of the doable.” Senator Lamar Alexander, Chairman of the Senate Health, Education, Labor and Pensions Committee, said that the Senate “will take the time to get it right.” The expiration of the Federal Fiscal Year 2018 (FFY18) budget reconciliation instruction, which will occur once a new FFY18 resolution is enacted, (September 30, 2017), is the only deadline for getting the repeal bill to the President. There is indication from Senate leadership that a Senate bill will be ready for initial review the week of June 5, 2017.

The Senate has created a special committee to handle the bill which is expected to break into three sub-groups to address specifics as they relate to Medicaid, tax credits, and insurance reforms. It is seen as likely that the Senate will do a comprehensive rewrite of the recently passed House AHCA bill. Republican leaders can only afford to lose two votes (50 plus the Vice President) for passage. Senator Dean Heller has indicated that he does not support the bill as passed through the House stating “we cannot pull the rug out from under states like Nevada that expanded Medicaid and we need assurances that people with pre-existing conditions will be protected.”

When and if the Senate passes a version of the AHCA, any differences between their bill and the House’s bill will need to be reconciled before final passage. The House made significant compromises to pass their version of the AHCA and it is likely that a Senate bill will face scrutiny and challenges in the reconciliation process.

If a bill can be reconciled between the House and Senate and is finalized for passage, the bill will be presented to the President to be signed into law. The President has the authority to pass or veto the bill.

In its current form, the AHCA is largely unpopular amongst industry and consumer advocacy groups. It will likely undergo significant changes prior to any final passage. The Exchange will remain observant in tracking bill changes and the impacts they may have on Nevada Exchange consumers.

The Exchange remains focused on development for plan year 2018; however the uncertainty about who will enroll or maintain coverage under the AHCA may cause disruption to the individual market in both the long and short term. Any disruptions to the market are likely to lead to higher premiums and potentially loss of insurance carriers participating in the Nevada marketplace.

The Exchange works closely with community partners, navigators, the broker and agent community, and various stakeholders to monitor the marketplace and looks forward to continued engagement both at the state and federal level to inform the deliberation and direction of the AHCA.