MEMORANDUM

To: Interested Parties

From: DCCC Chair Cheri Bustos, DNC Chair Tom Perez, DSCC Chair Catherine Cortez Masto, DGA Chair Phil Murphy, DAGA Co-Chairs Maura Healey and Ellen Rosenblum, DLCC Chair Andrea Stewart-Cousins

Date: Tuesday, May 19, 2020

Subject: Health Care Is On Every Ballot, From Top To Bottom

QUOTE FROM CHAIRS OF THE DCCC, DNC, DSCC, DGA, DAGA AND DLCC

"Sadly, not even a global pandemic can stop Republicans from fighting to take health care coverage away from millions of Americans. It is the worst possible time to try to dismantle our health care system. But Republicans at every level of the ballot are fighting in court to take away people's health care – or blocking millions of working families from life-saving Medicaid coverage. Voters know that Democrats are the party of health care. We're going to keep reminding them of that through November."

BACKGROUND

Democrats experienced tremendous electoral success in '17, '18, and '19 by running on health care. Democrats flipped 435 state legislative seats, 4 state AG seats, 9 governors' seats, 3 Senate seats, and 40 seats in the US House, as well as control of the Speaker's gavel by promising to work to lower health care and prescription drug costs, expand access, and oppose Republican attacks on Americans' health care. Since those wins, Democrats at all levels of government have kept those promises, using their offices to expand Medicaid, work to lower health care and prescription drug costs, defend the Affordable Care Act (ACA) in court, and stand firmly against Republican efforts to eliminate protections for Americans with pre-existing conditions.

Health care remains top of mind for voters in the 2020 elections, and Democrats have continued to focus on this defining issue this cycle. The COVID-19 epidemic underscores the urgency of our efforts to protect Americans' access to affordable health care.

The Republican Attorneys General lawsuit to eliminate the ACA, including pre-existing conditions coverage and other benefits, makes this issue of life and death even more stark as we face a public health crisis.

Their reckless lawsuit puts in jeopardy the ACA's protections for the newly jobless, Medicaid recipients, and Americans battling COVID-19. The lawsuit risks eliminating cost-sharing for vaccinations, essential health benefits, and other protections that [doctors, hospitals, and public health experts](#) have deemed essential to combating the epidemic. On schedule to be heard by the Supreme Court in the [Fall of 2020](#), this lawsuit threatens dismantling our health care system amidst a pandemic that has already killed over 90,000 Americans and infected over 1 million more.

Republican Attorneys General (several of whom ran for governor or U.S. Senate 2018 and four of whom are running for re-election this November) [filed](#) the litigation in *Texas v. Azar* – now called *California v. Texas.* The Trump Administration [joined](#) their cause, and House Republicans repeatedly [voted](#) [in favor](#) of the Trump Administration's efforts. In fact, the House and Senate Republicans' vote for the GOP tax law [made the entire lawsuit possible](#). Then, Republicans doubled down on their efforts to undermine the Affordable Care Act, even as it became undeniable that the law is critical tool for combating the virus.

Republicans at all levels own this lawsuit's attack on Americans' health care. They will be held responsible for their party-wide obsession with throwing our health care system into chaos and stripping health care from 20 million Americans during a global pandemic. Republican governors and state legislators haven't waited for the Supreme

Court to issue a decision in *California v. Texas,* either. Their opposition to expanding Medicaid already endangers health care access for millions of Americans during this crisis.

'REPUBLICANS CAN'T AFFORD TO LITIGATE HEALTH CARE AGAIN'

While Trump and Republican Attorneys General refuse to back out of the ACA repeal lawsuit, several high-profile Republicans have come to realize the trouble their attacks on health care have created for them politically. Though none have said it quite as explicitly as the senior Republican strategist who told *CNN* in May that, "Republicans can't afford to litigate health care for the second election in a row," some have come close.

U.S. Attorney General William Barr warned the Trump Administration before its deadline for filing its briefing in *California v. Texas* that seeking to repeal the entire Affordable Care Act would hurt Republicans in the November elections. Similarly, retiring Republican Senator and Senate, Health, Education, Labor and Pensions Chairman Lamar Alexander voiced his frustration about the lawsuit during a May appearance on *Meet The Press*. Endangered House Republican Rodney Davis changed his position on whether to open the ACA's health insurance marketplace depending upon who was interviewing him. In early April, he repeatedly stated he would defer to the Trump Administration's judgment, but after being dogged by media outlets for weeks, Davis suggested the exact opposite position to an interviewer later that month. Republican gubernatorial candidates have attempted to have it both ways on this issue - in Montana, Greg Gianforte has said he would continue to vote to dismantle the ACA, piece by piece, while pretending Montana's popular Medicaid expansion doesn't rely on the ACA's existence. Republican Attorneys General in swing states like Ohio and Montana even chose to file briefs in support of parts of the law.

Publicly available polling on health care is stark for Republicans. In January, multiple outlets reported that the President [berated](#) Health and Human Services Secretary Azar over the President's abysmal health care approval ratings. On May 11, *Navigator Polling* [found](#) that 53 percent of registered voters disapprove of the President's handling of health care and that voters trust Democrats in Congress to improve the health care system over the President by a 14-point margin. Similarly, a late April DCCC poll of 41 Trump-won districts and 23 Clinton-won districts found that Republicans are most vulnerable on health care – with 62 percent of likely general election voters souring on Republicans after hearing they are still attacking health care amidst the COVID-19 pandemic. *Morning Consult/Politico* [polling](#) found that the majority of Americans disapproved of the President's decision to keep the health insurance marketplaces closed. *NBC/Wall Street Journal* [polling](#) in March measured ACA approval at its highest point in ten years of polling with a +7 favorability rating amongst voters. Democratic governors, working closely with public health experts, have also received [higher approval ratings for their leadership](#) during this crisis than their Republican counterparts.

We only need to turn to the story of Medicaid expansion to see how this will play out for Republicans this Fall. After years of fighting and losing this health care battle, the former head of the RGA declared: [“The battle has been fought and lost on Medicaid expansion.”](#) The message may not have reached every Republican however: in North Carolina, where Democratic Governor Roy Cooper has navigated the state through the crisis, his Republican opponent *still* opposes Medicaid expansion and has refused to oppose the ACA lawsuit which would undermine the health care of millions.

DEMOCRATS ARE ON OFFENSE

It's too late for Republicans to walk back their years of attacks on the Affordable Care Act and the lifeline it provides to millions of Americans. For more than a decade, Republicans have been the architects of countless votes to repeal, lawsuits, electoral

blockades, and executive intransigence that continue to threaten access to affordable health care for millions while the nation battles a deadly virus.

In the presidential campaign, the DNC is holding Trump accountable each day by responding to his false claims about protecting American's health care, highlighting how he is trying to take health care away from millions during a pandemic, and holding events in key battleground states with state leaders, surrogates, and everyday Americans who can localize and define Trump's disastrous health care agenda.

At the U.S. Senate level, vulnerable Republican incumbents are being held accountable for voting repeatedly to dismantle the health care law, enabling the dangerous Republican lawsuit against the ACA with their tax scam, confirming a slew of anti-health care judges, and defending 'junk' insurance plans. Most importantly, GOP senators have to own their records of voting to gut protections for their constituents with pre-existing conditions. Flipping the Senate will mean protecting the progress we've made on health care, bringing down costs, and expanding access to coverage.

At the congressional level, Democrats will continue to hold Republicans accountable for their votes to repeal the ACA and their continued support of the Republican lawsuit. Republicans lost the majority in 2018 in part because of their votes to eliminate protections for Americans battling pre-existing conditions. In 2020, they'll have to defend their votes to let insurance companies discriminate against patients battling COVID-19. House Republicans twice voted to support the Republican ACA lawsuit – and Republican challengers have continued to support repealing the ACA. House Democrats will continue to remind voters that our majority is the firewall against Washington Republican efforts to take away their health care during this pandemic.

At the gubernatorial level, Democratic governors will continue to fight for Medicaid expansion and hold Republican nominees and governors accountable for the human cost of opposing expanded access to health care. In gubernatorial races in 11 states

this year, Democrats will make the case for evidence-based policymaking that protects lives and livelihoods. The DGA will also hold Republicans accountable for opposing widely popular and life-saving policies like Medicaid expansion, targeted restrictions during the COVID-19 pandemic, and commonsense safety nets that would protect Americans from the fallout of unforeseeable emergencies.

At the state attorney general level, Democratic Attorneys General will continue to fight to save the ACA and health care for millions of Americans. DAGA will continue to put access to affordable health care front and center this election cycle. Access to affordable, lifesaving health care is on the line, and there's no clearer distinction for voters than Democratic Attorneys General on one side of the Supreme Court case defending health care and Republican Attorneys General on the other side trying to take that health care away. All four of the Republican Attorneys General incumbents running for re-election this year are part of the GOP coalition in the ACA repeal case - Indiana AG Curtis Hill, Missouri AG Eric Schmitt, Utah AG Sean Reyes, and West Virginia AG Patrick Morrisey. Additionally, Republican AG candidates running for the open seat in Montana, and the ones challenging Democratic incumbents in North Carolina and Pennsylvania are on the record supporting the repeal of the ACA. It is hard to imagine how these GOP incumbents and candidates will explain the heightened risks to our entire health care system and our families' health during a global pandemic. DAGA will pressure Republican Attorneys General and candidates for an explanation and be sure to remind voters where these candidates really stand on this top voting issue.

At the state legislative level, Democrats will spotlight the Republican failure to expand Medicaid and their efforts to undermine the ACA. GOP legislators have governed in lockstep with the Trump Administration's continued attacks on health care. Our Democratic legislators and candidates are laser-focused on the need to protect and expand health care in their states.

Republicans can't afford another cycle of Democratic attacks on their health care policy. But even more so, the American people can't afford two more years of Republican attacks on their health care.