



Maine Report: Connecting The Dots on Pharma Lobbying, Political Donations and Senator Collins' Votes on Drug Pricing and Access

October, 2020

The COVID 19 crisis has magnified the perilous limitations in our nation's health care system and highlighted the need for long-overdue reforms that would finally ensure that everyone in the United States has equitable access to affordable health coverage, including prescription medicines they need to stay healthy and take care of their families.

While there is strong bi-partisan support for reforms that would limit drug corporations' monopoly control over prices and finally make prescription medicines affordable for everyone, Big Pharma's lobbying and political contributions often counteract public demand by buying the influence they need in Congress to protect their monopoly power to price-gouge, curtail regulation and score big tax breaks that boost their bottom line.

Through lobbying and political giving, drug corporations leverage influence on lawmakers to support their policy agenda and protect the status quo, even at the expense of patients' health. This report examines the impact of the pharmaceutical industry's lobby and political giving on Senator Susan Collins' votes in Congress. In the end, it is ultimately lawmakers' votes that provide the best indication of whether they are prioritizing lower drug prices for constituents or the objectives of industry donors.

Big Pharma Lobbying Buys Out-Sized Influence

Drug corporations invest heavily in lobbying lawmakers, which helps maintain the industry's power to charge excessive prices by influencing policy outcomes in Congress. Aggressive lobbying is a key reason why even tremendously popular reforms like enabling Medicare to negotiate prescription drug prices have failed to become law.

In addition to direct lobbying by individual corporations, drug corporations pool resources to advance their shared goals through industry associations like the Pharmaceutical Research & Manufacturers Of America (PhRMA) and the Biotechnology Innovation Organization (BIO) which further advance their lobbying efforts.

Drug corporations and the health products industry¹ has exceeded all other industries in lobby expenditures over the last two decades. Between Jan. 1998 to March 31, 2020 the pharmaceutical and health products industry has far outpaced all other industries in lobbying spending, racking up over

¹ Including medical devices, nutritional supplements, etc.

\$4.45 billion in expenditures.² Since 1999, the industry has averaged \$233 million each year, just on lobbying.³

As expected, lobbying expenditures correlate closely to policy debates in Congress. As policies emerge that could potentially increase regulation, impact profits or otherwise force welcome or unwelcome change, spending tends to escalate. For instance, spending spiked in 2009, around the drafting of the Affordable Care Act (ACA)⁴ when the prescription drug industry invested in passage of the law. Drug corporations also mounted a massive effort in 2003 to pass Medicare Part D and influence its implementation through 2006. Total lobbying spending rose every year as Pharma increased its spending 45% overall.⁵

In 2016, PhRMA increased its membership dues for association member companies by 50%, amassing an additional \$100 million in anticipation of battle in Congress the following year about reforms like Medicare negotiations and drug importation, both policies PhRMA vehemently opposed and which both Presidential candidates at the time (Clinton and Trump) were promoting.⁶

The additional funds helped PhRMA surpass its ACA lobby record in 2018, spending \$27.5 million⁷ in response to growing bi-partisan consideration of drug reforms. In 2019, PhRMA topped itself again, spending a record-high \$29 million on lobbying in response to Trump Administration's declarations about lowering drug costs and legislative action in the House to pass the Lower Drug Costs Act, a robust Medicare negotiations bill.⁸ In fact, the pharmaceutical industry spent more on lobbying expenditures than any other industry in 2019, shelling out \$295.2 million. This is more than twice as much as the oil and gas industry and more than 4 times as much as the entire automotive industry.⁹

- In 2019 PhRMA spent \$29.3 million and employed 173 lobbyists, 70% of whom were former Federal employees.¹⁰ BIO spent \$12.2 million.¹¹
- Between the first quarter of 2018 and the first quarter of 2019, the number of lobbyists working on the issue increased sevenfold, hired mainly by organizations that have a record of opposing

²Zucchi, Kristina, "Pharmaceutical Vs. Biotech Investing: Is It Worth The Risk?" Investopedia, 2/28/14.

<https://www.investopedia.com/articles/general/022814/pharmaceutical-vs-biotech-investing-it-worth-risk.asp>

³ Dr. Olivier J. Wouters, "Lobbying Expenditures and Campaign Contributions by the Pharmaceutical and Health Product Industry in the United States, 1999-2018" Journal of the American Medical Association, March 2020.

<https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2762509>

⁴ Jensen, Kristin, "Pfizer, Amgen, Lilly spent most to lobby Congress, study finds" BioPharmaDive, 3/10/20.

<https://www.biopharmadive.com/news/pharma-lobbying-congress-jama-study/573496/>

⁵ Open Secrets "Pharmaceuticals/Health Products"

<https://www.opensecrets.org/industries/lobbying.php?cycle=2020&ind=h04>

⁶ Karlin-Smith, Sarah and Anna Palmer, "Drug lobby adds \$100M to war chest ahead of pricing battle" Politico, 10/25/16. <https://www.politico.com/story/2016/10/phrma-lobby-pricing-battle-230277>

⁷ Scutti, Susan, "Big Pharma spends record millions on lobbying amid pressure to lower drug prices" CNN Health, 1/24/19. <https://www.cnn.com/2019/01/23/health/phrma-lobbying-costs-bn/index.html>

⁸ Hellmann, Jesse, "PhRMA spent record-high \$29 million on lobbying in 2019" The Hill, 1/22/20.

<https://thehill.com/policy/healthcare/479403-phrma-spent-record-high-29-million-lobbying-congress-trump-administration>

⁹ Duffin, Erin, "Leading lobbying industries in the U.S. 2019" Statista, 3/4/20.

<https://www.statista.com/statistics/257364/top-lobbying-industries-in-the-us/>

¹⁰ Duffin, Erin, "Leading lobbying industries in the U.S. 2019" Statista, 3/4/20.

<https://www.statista.com/statistics/257364/top-lobbying-industries-in-the-us/>

¹¹ Data taken from www.opensecrets.org

health care expansions through single payer or Medicare for All policies including PhRMA, which hired the most.¹²

- Both PhRMA and BIO increased spending as drug pricing reform increased in prominence in Congress, both among Democrats and Republicans. BIO increased its spending 24% over 2018; PhRMA raised their expenditures by 5%.

Individual drug corporations and their trade associations also spent big in 2020. In the first three months of 2020, PhRMA and Pfizer, Inc. spent the most. So far in 2020, Pfizer (\$13.1 million), Amgen (\$11.3 million) and Roche (\$10.89 million) have all spent heavily on lobbying.

The drug and health products industry currently employs 1,384 lobbyists; more than 63% of them are former federal government employees including former Congressional staffers, industry regulators and sometimes former members of Congress.¹³ Government employees turned lobbyists bring insider knowledge, relationships and access to the table on Pharma's behalf. That number includes both pharmaceutical and health products industry lobbyists, but even if only drug lobbyists are counted, there are still 1.5 lobbyists per member of Congress.¹⁴ Drug and health products lobbyists outnumber lobbyists in any other industry.

Senator Collins Has Close Ties to Eli Lilly Lobbyist

Senator Collins is a founder of the Senate's Diabetes Caucus, but despite claiming independence from Pharma, she has installed a former PhRMA lobbyist in a top advisory position on her re-election campaign. Josh Tardy is Collins' re-election committee co-chair and currently a registered lobbyist for Eli Lilly¹⁵, the largest domestic producer of insulin. Eli Lilly faces a class-action lawsuit¹⁶ for price-gouging on insulin after raising the price of the medicine over 150%.¹⁷

Nationally, over 1 in 4 diabetes¹⁸ patients ration insulin in because of high prices. Diabetes is a major chronic health issue in Maine, impacting over 11% of the adult population. Every year, 9,000 new cases of diabetes are diagnosed in Maine according to the American Diabetes Association.¹⁹

¹²Sandler, Craig, "Fever Pitch: Surge in Opposition Lobbying and Advocacy Validates the Credibility of the Medicare for All Movement" Public Citizen, 6/28/19. <https://www.citizen.org/article/fever-pitch-medicare-for-all-lobbying/?eType=EmailBlastContent&eld=284af078-de81-47ee-8547-620f5d5ed29d>

¹³Data taken from Open Secrets: <https://www.opensecrets.org/industries/lobbying.php?cycle=2020&ind=h04>

¹⁴Appleby, Julie, "Klobuchar Says D.C. Has Enough Drug Lobbyists To Double-Team Lawmakers" KHN, 7/26/19. <https://khn.org/news/klobuchar-says-d-c-has-enough-drug-lobbyists-to-double-team-lawmakers/>

¹⁵Maine Commission on Governmental Ethics & Election Practices.

<https://lobbyist.maine campaign finance.com/PublicSite/SearchPages/LobbyistClientList.aspx>

¹⁶Sagonowsky, Eric, "Insulin pricing lawsuit against Sanofi, Novo Nordisk and Eli Lilly moves forward" FiercePharma, 2/19/19. <https://www.fiercepharma.com/pharma/insulin-pricing-class-action-lawsuit-to-proceed-against-sanofi-novo-and-lilly>

¹⁷Sagonowsky, Eric, "Insulin pricing lawsuit against Sanofi, Novo Nordisk and Eli Lilly moves forward" FiercePharma, 2/19/19. <https://www.fiercepharma.com/pharma/insulin-pricing-class-action-lawsuit-to-proceed-against-sanofi-novo-and-lilly>

¹⁸Silverman, Ed, "One-quarter of people with diabetes in the U.S. are rationing their insulin" StatNews, 6/18/19. <https://www.statnews.com/pharmalot/2019/06/18/one-quarter-of-people-with-diabetes-in-the-u-s-are-rationing-their-insulin/>

¹⁹American Diabetes Association, "The Burden of Diabetes in Maine" <http://main.diabetes.org/dorg/PDFs/Advocacy/burden-of-diabetes/maine.pdf>

Even as more and more Mainers struggle with affordability, Eli Lilly paid nothing in federal taxes in 2018 and 2019²⁰, after passage of President Trump's Tax Cuts and Jobs Act (TJCA) which dramatically lowered taxes for the wealthy and corporations. Senator Collins voted for the TJCA. She also voted to confirm Alex Azar, former CEO of Eli Lilly, to become Secretary of Health and Human Services (HHS) in 2018. Azar, who helmed Eli Lilly between 2012 and 2017, was hand-picked by President Trump to lead the government agency in charge of regulating drug prices. During his tenure at Eli Lilly, the company raised the price of Humalog, its popular insulin product, by over 300%.²¹

Under Azar's leadership, the price of nearly all drugs sold by Eli Lilly increased by double digits. During a confirmation hearing for his HHS appointment, Azar refused to answer a question about whether Eli Lilly had ever lowered a price for medicine, defending Eli Lilly's price-gouging by claiming innovation costs even though most skyrocketing prices were not, in fact, for new treatments.²²

Leveraging Political Contributions To Bolster Support for Pharma's Agenda

In addition to lobbying elected lawmakers, drug corporations are also heavily involved in helping lawmakers get elected. The pharmaceutical industry is among the largest contributors to political campaigns in the United States. Between 1999 and 2018, the industry gave an average of \$23 million every year to politicians, national committees and outside groups seeking to influence elections. The industry spent a further \$48.7 million yearly on state candidates and committees. In total the companies spent over \$4.3 billion to influence elections.²³

Typically, the pharmaceutical industry ranks in the top 25 largest contributors per election cycle, spending around \$46.4 million. Like lobby expenditures, political contributions tend to fluctuate based on the industry's policy priorities, particularly around issues that would impact drug prices. Drug corporations tend to be pragmatic, spreading donations based on which political party is likely to be in power in order to buy maximum influence in any political contexts.

The 2012 cycle saw a huge increase as the industry contributed more than it ever had before. This was due to Republican led efforts to repeal the ACA after the GOP won majority control of the U.S. House of Representatives in 2010. The flow of contributions reversed itself with nearly 60% of money flowing to the party in power, i.e. Republicans, and then escalated in the 2012 Presidential elections. In the 2016 election cycle, buoyed by President Trump's threats against the ACA, the industry topped itself, contributing over \$64 million, the majority to Republicans,²⁴ in anticipation of a Trump victory and GOP majorities in both chambers.

Most individual drug corporations maintain a Political Action Committee (PAC) to directly contribute to political candidates and causes. Over the last 3 election cycles, Pfizer is the biggest spender averaging

²⁰Gardner, Matthew and Roque, Lorena and Wamhoff, Steve, "Corporate Tax Avoidance in the First Year of the Trump Tax Law" Institute on Taxation and Economic Policy, 12/16/19. <https://itep.org/corporate-tax-avoidance-in-the-first-year-of-the-trump-tax-law/>

²¹Restore Public Trust, "Alex Azar: Fox Guarding the Henhouse at HHS" December 2018. <https://restorepublictrust.org/wp-content/uploads/2018/12/Dec.-2018-Azar-Report.pdf>

²²Restore Public Trust, "Alex Azar: Fox Guarding the Henhouse at HHS" December 2018. <https://restorepublictrust.org/wp-content/uploads/2018/12/Dec.-2018-Azar-Report.pdf>

²³Dr. Olivier J. Wouters, "Lobbying Expenditures and Campaign Contributions by the Pharmaceutical and Health Product Industry in the United States, 1999-2018" Journal of the American Medical Association, March 2020. <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2762509>

²⁴Data taken from Open Secrets: <https://www.opensecrets.org/industries/totals.php?cycle=2020&ind=h04> Accessed on 10/15/20.

between \$2.5-\$3.5 million per cycle. In the same period, Merck spent about \$1.5 million yearly and Abbott \$1.8 million.²⁵ Pfizer alone has cut 548 checks just this cycle.²⁶

Drug corporations also contribute to political decision-makers by funneling money to third party groups that often run issue ads attacking or defending particular candidates for their positions. These 3rd party or so called "dark money" groups that run issue advertisements are largely unregulated, making it difficult to understand precisely how much is spent on specific candidates.

For instance, American Action Network (AAN) and its PAC, the Congressional Leadership Fund, spent \$138 million in 2018 just on Republican House candidates. Given the lack of disclosure requirements around dark money, this figure is likely low.²⁷ AAN ads attack candidates for taking positions that PhRMA opposes including universal health care and changing the law to lift the prohibition on negotiating prices in Medicare, among other things.

Political Contributions: Drug Companies, Individuals Pharma Donors, and PACS 2008-2020

<u>Election Cycle</u>	<u>Rank</u> ²⁸	<u>Total Contributions</u>	<u>Individual Contributions</u>	<u>Contributions from PACs</u>	<u>Soft/Outside Money</u> ²⁹	<u>% to Dems</u>	<u>% to Repubs.</u>
2020	25	\$37,241,494	\$18,786,119	\$13,504,860	\$4,950,515	55%	45%
2018	25	\$44,329,284	\$19,231,955	\$20,171,606	\$4,925,723	50%	50%
2016	24	\$64,611,913	\$23,192,824	\$21,197,017	\$20,222,072	47%	52%
2014	18	\$33,657,269	\$12,172,662	\$18,567,416	\$2,917,191	43%	57%
2012	18	\$51,980,343	\$22,797,935	\$17,856,757	\$11,325,651	42%	58%
2010	13	\$32,839,730	\$11,941,132	\$17,196,064	\$3,702,534	52%	48%
2008	20	\$33,312,989	\$17,973,249	\$15,324,270	\$15,000	52%	48%
Total		\$297,973,022	\$126,095,876,	\$123,818,460	\$48,058,686		

Data taken from www.opensecrets.org.

²⁵ OpenSecrets.org

²⁶ Facher, Lev, "Pharma is showering Congress with cash, even as drug makers race to fight the coronavirus" StatNews, 8/10/20. <https://www.statnews.com/feature/prescription-politics/prescription-politics/>

²⁷ Gibson, Brittany and Andrew Perez, "Big Pharma Keeps Bankrolling House GOP's Dark Money Arm" The American Prospect, 11/15/19. <https://prospect.org/health/big-pharma-keeps-bankrolling-house-gop-dark-money-arm/>

²⁸ Rank is out of 80 total industries tracked by Open Secrets.

²⁹ Money to outside groups or PACS that are not affiliated with individual candidates.

In 2020, the pharmaceutical industry has already spent over \$9.9 million directly on Congressional campaigns. The majority, \$7.7 million, went to incumbents.³⁰ In 2020, House members average raising about \$27,500 from pharmaceutical companies while Senate candidates receive an average of \$62,000. Lawmakers on key committees or in leadership positions tend to receive more in donations as candidates and for their personal PACs.³¹

Senator Collins has received \$22,000 directly from the drug industry so far this year. Since her election to the Senate In 1996, Collins has received over \$478,000 from drug industry corporations, PACS and individuals.³²

It is often difficult to get a complete impression of how important pharmaceutical company money is to a particular candidate. Since May, 2020, Senator Collins has benefitted from huge advertising buys by One Nation, a dark money group run by close allies of Senate Majority Leader, Mitch McConnell (R-KY).³³ The PAC made over \$500,000 in ad buys, a significant amount in Maine. During the same time, the PAC ran ads against Sara Gideon, Collins' opponent in the race. McConnell's various affiliated and allied PACs have been recipients of pharmaceutical money.³⁴

Candidates for office may benefit tremendously from these political contributions, but they may also benefit personally when they and their families are investors in the companies who fuel the political spending. Senator Collins' husband, for instance, owns \$50,000 worth of stock in Johnson & Johnson which profited heavily by supplying raw materials for opioid painkillers.³⁵ Johnson & Johnson may be best known for products like "no more tears" shampoo, baby powder and Band Aids, but more than half the company's revenue comes from pharmaceuticals while only 10% comes from consumer productions like these.³⁶ For well over a decade, J&J supplied 60 percent of the opiate ingredients that drug companies used for opioids like oxycodone, hydrocodone, morphine and codeine.³⁷

While Senator Collins has denied taking political contributions from opioid corporations, records show that she received \$2300 from Jonathan Sackler, former vice president of Purdue

³⁰ OpenSecrets.org: <https://www.opensecrets.org/industries/summary.php?cycle=2020&ind=H4300>

³¹ OpenSecrets.org

³² Data taken from Open Secrets: <https://www.opensecrets.org/members-of-congress/susan-collins/industries?cid=N00000491&cycle=CAREER>

³³ Sollenberger, Roger, "Mitch McConnell pouring dark money into Maine to boost Susan Collins" Salon, 5/5/20. <https://www.salon.com/2020/05/05/mitch-mcconnell-pouring-dark-money-into-maine-to-boost-susan-collins/>

³⁴ Loftus, Tom, "McConnell's biggest donors" Louisville Courier Journal, 8/10/15, <https://www.courier-journal.com/story/politics-blog/2015/08/10/mcconnell-donors-senate-leadership-contributions-influence-money-politics/31400575/>

³⁵ Sollenberger, Roger, "Susan Collins' husband bought and sold stock in pharma companies found liable for opioid crisis" Salon, 6/18/20. <https://www.salon.com/2020/06/18/susan-collins-husband-bought-and-sold-stock-in-pharma-companies-found-liable-for-opioid-crisis/>

³⁶ Rothman, L. Adam, "Johnson & Johnson's 3 Most Profitable Lines of Business (JNJ)" Investopedia, 10/16/19. <https://www.investopedia.com/articles/markets/020316/johnson-johnsons-3-most-profitable-lines-business-jnj.asp>

³⁷ Whorisky, Peter, "How Johnson & Johnson companies used a 'super poppy' to make narcotics for America's most abused opioid pills" Washington Post, 3/26/20. <https://www.washingtonpost.com/graphics/2020/business/opioid-crisis-johnson-and-johnson-tasmania-poppy/>

Pharmaceuticals, the notorious manufacturer of OxyContin, a brand of oxycodone.³⁸ In 1999 and 2000, early in the opioid addiction epidemic, OxyContin was linked to the majority of overdose deaths.³⁹

The Sackler family and Purdue Pharmaceuticals have been involved in numerous lawsuits for their role in the opioid crisis. Most recently, 25 state Attorneys General including Maine's sent a public letter opposing the Trump Administration's effort to negotiate a settlement for Purdue that would allow the Sacklers to retain profits from sale of OxyContin.⁴⁰ During COVID-19, overdose deaths in Maine are on the rise according to a recent report by the state Attorney General.⁴¹

Collins is certainly not the only politician in her state to receive corporate drug money. Since 2008, state-level candidates and committees have taken in more than \$1.4 million in contributions from drug corporations or their PACS according to Maine Ethics Commission data -two-thirds went to Republicans⁴²

Sara Gideon, Collins' opponent, has also received money from drug corporations through her leadership PAC. Gideon has pledged to refuse money from pharmaceutical PACs for her Senate campaign.

The significance of these contributions is difficult to assess without reference to the actions that follow: namely, actions on policy that would impact the drug corporations' prices and profits.

Lobby and Political Donations Result in Policies that Benefit Pharma over People

The prescription drug industry is not unique in leveraging lobby spending and political donations to achieve policy outcomes that benefit their bottom lines, but they are arguably more effective than others thanks to the sheer volume of expenditure and the close ties that industry insiders have to political allies across the political spectrum in Washington, DC.

³⁸Sollenberger, Roger, "Susan Collins' husband bought and sold stock in pharma companies found liable for opioid crisis" Salon, 6/18/20. <https://www.salon.com/2020/06/18/susan-collins-husband-bought-and-sold-stock-in-pharma-companies-found-liable-for-opioid-crisis/>

³⁹Russell, Eric, "Drug overdoses killed a record 418 people in Maine last year" Portland Press Herald, 2/22/18. <https://www.pressherald.com/2018/02/22/drug-overdoses-killed-418-people-in-maine-last-year-up-11-percent/>

⁴⁰State Attorneys General, "Letter to William Barr" Massachusetts Office of the Attorney General, 10/14/20. <https://www.mass.gov/doc/october-14-2020-letter-to-attorney-general-barr/download>

⁴¹Maine Office of the Attorney General "Attorney General Releases Drug Death Report for First Quarter of 2020" 7/17/20. <https://www.maine.gov/ag/news/article.shtml?id=2918002><https://www.maine.gov/ag/news/article.shtml?id=2918002>

⁴²Piper, Jessica, "How contributions from big pharma have fueled Maine campaigns" Bangor Daily News, 1/20/20. <https://wgme.com/news/beyond-the-podium/how-contributions-from-big-pharma-have-fueled-maine-campaigns>

The ultimate test of efficacy is whether the targets of their largesse support Big Pharma priorities when it counts: during key policy votes in which drug corporations could face changes that impact their business model, shareholder and executive profits and tax liability.

Senator Collins’ voting record suggests that despite her claims to fight for lower drug prices Maine constituents, all too often, her votes in Congress have benefitted the drug corporations while doing little to rein in price-gouging or make medicines affordable for those who need them.

Senator Collins’ Health Votes That Impact Drug Affordability and Access 1996-2020

YEAR	LEGISLATIVE	COLLINS’ VOTE
2003	Medicare Prescription Drug, Improvement, and Modernization Act (MMA) -- <i>Medicare overhaul passed on December 8, 2003 that created the voluntary Part D prescription drug benefit in Medicare and includes a “noninterference” clause that prohibits the government from negotiating or setting drug prices in Medicare Part D.</i>	<u>YEA</u>
2010	Patient Protection and Affordable Care Act (PPACA) -- <i>Health care overhaul that expanded coverage for 23 million uninsured people, instituted regulatory and delivery system reforms that improved quality of care. The ACA mandates coverage for prescriptions as an essential health benefit in plans, covers vaccines and birth control as part of no-cost preventive care, and provides discounts to seniors on brand name drugs. ACA closed the Part D donut hole coverage gap for seniors in Part D over a ten year period.</i>	<u>NAY</u>
2011	Amendment Number 13 to S. 223 (FAA Air Transportation Modernization and Safety Improvement Act) -- <i>An amendment to repeal the Affordable Care Act.</i>	<u>YEA</u>
2017	Senate Concurrent Resolution 3 -- <i>Budget resolution bill to fast-track the process of repealing the Affordable Care Act. The bill provided instructions to four key Congressional committees to draft legislation to repeal the ACA.</i>	<u>YEA</u>
2017	American Health Care Act (Senate Amendment 667) -- <i>Bill to repeal key provisions of the Affordable Care Act including the individual mandate, coverage for 15 million people and increased premiums.</i>	<u>NAY</u>
2017	Tax Cuts and Jobs Act (TJCA) -- <i>Tax overhaul bill that lowered tax rates for corporations from 35% to 21% and discounted taxes for corporations with profits stashed in offshore tax havens and at the same time repealed a key provision of Affordable Care Act that led to a Supreme Court case to overturn the healthcare law.</i>	<u>YEA</u>
2018	Confirmation of Eli Lilly Executive Alex Azar as Secretary of Health and Human Services (HHS)	<u>YEA</u>

Senator Collins’ past votes on the Affordable Care Act and taxes are particularly relevant today as the United States Senate contemplates confirmation of a new Justice to the Supreme Court.

The President's nominee has been critical of the ACA and may very well be the deciding vote in overturning the law when the latest challenge to the ACA is heard on November 10th.⁴³

On that day, the SCOTUS will consider *California v. Texas*,⁴⁴ a lawsuit supported by the Trump Administration that argues that the elimination of the individual mandate penalty in the Tax Cuts and Jobs Act automatically invalidates the rest of the ACA. A group of 20 states represented by 18 Republican attorneys general and 2 Republican governors initiated the lawsuit in early 2018. Maine, originally a plaintiff, withdrew from the case in early 2019.

A Supreme Court repeal of the ACA could take health coverage away from 198,000 people in Maine⁴⁵ and eliminate protections for 3,225,000 adults with pre-existing conditions like diabetes, heart disease, or alcohol or drug addiction, who could be denied coverage without the law, according to the Kaiser Family Foundation.⁴⁶ That's nearly a third of the state's non-elderly population. At the same time that millions would lose coverage and protections, repealing the ACA would heap more wealth onto rich households and prescription drug corporations that already comprise the most profitable industry in the nation.⁴⁷

Repealing the ACA would give wealthy households making at least \$3 million a year a [\\$198,000 annual tax break](#), according to the Center on Budget and Policy Priorities.⁴⁸ Households making \$1 million a year would get a \$42,000 tax break. Prescription drug corporations would receive an additional \$2.8 billion annually in tax breaks while seniors would face higher drug costs because of the roll back of ACA provisions that closed the Medicare Part D coverage gap.

The ACA has saved more than 11.8 million Medicare beneficiaries over \$26.8 billion on prescription drugs – an average of \$2,272 per beneficiary, between 2010 and 2016, according

⁴³Goldstein, Amy and Alice Crites, "Judge Barrett's writing criticizes the Supreme Court decision upholding Obama-era health law" Washington Post, 9/28/20. https://www.washingtonpost.com/health/judge-barrett-aca-health-care-law/2020/09/28/429d165e-ff4c-11ea-b555-4d71a9254f4b_story.html

⁴⁴Scotus Blog "California v. Texas" <https://www.scotusblog.com/case-files/cases/california-v-texas/>

⁴⁵Rapfogel, Nicole and Emily Gee, "The Health Care Repeal Lawsuit Could Strip Coverage from 23 Million Americans" Center for American Progress, 6/24/20. <https://www.americanprogress.org/issues/healthcare/news/2020/06/24/486768/health-care-repeal-lawsuit-strip-coverage-23-million-americans/>

⁴⁶Claxton, Gary and Cynthia Cox "Pre-Existing Condition Prevalence for Individuals and Families" KFF, 10/4/19. <https://www.kff.org/health-reform/issue-brief/pre-existing-condition-prevalence-for-individuals-and-families/>

⁴⁷"New Analysis Finds Large Drugmakers Could Lose \$1 Trillion in Sales and Still Be the Most Profitable Industry" West Health Press Release, 7/14/19. <https://www.westhealth.org/press-release/new-analysis-finds-large-drug-makers-could-lose-1-trillion-in-sales-and-still-be-the-most-profitable-industry/>

⁴⁸Center for Budget and Policy Priorities, "ACA Repeal Lawsuit Would Cut Taxes for Top 0.1 Percent by an Average of \$198,000, Weaken Medicare Trust Fund" 10/6/20. <https://www.cbpp.org/research/health/aca-repeal-lawsuit-would-cut-taxes-for-top-01-percent-by-an-average-of-198000-weaken>

to the Center for Medicare and Medicaid Services.⁴⁹ In Maine, 18,792 seniors each saved an average of \$1,059 in just one year thanks to the ACA (2016 is the most recent year available).⁵⁰

As COVID continues to batter the economy and the price of prescription drugs continues to rise faster than any other medical good or service⁵¹ the danger of losing the ACA's provisions that provide access and increased affordability becomes more acute.

Conclusion

As clamor for action on prescription drug pricing continues to grow, Senator Collins may face tough choices in the next Congress assuming that she wins re-election in 2020 and continues to represent Maine in the United States Senate.

Will Senator Collins will reverse her position on Medicare negotiations in Part D, support other policies that enable easier access to affordable medicines including expansions to the Affordable Care Act or work to hold Big Pharma accountable for price-gouging on medicines like Insulin notwithstanding her close relationship with the industry and its lobbyists? Or will Senator Collins continue to support health and tax policies that benefit big pharma corporations at the expense of Mainer's healthcare?

⁴⁹Centers for Medicare and Medicaid Services (CMS) "Nearly 12 million people with Medicare have saved over \$26 billion on prescription drugs since 2010" Press Release, 1/13/17. <https://www.cms.gov/newsroom/press-releases/nearly-12-million-people-medicare-have-saved-over-26-billion-prescription-drugs-2010>

⁵⁰Centers for Medicare and Medicaid Services (CMS) "Part D Donut Hole Savings by State YTD 2016" December 2016. <https://downloads.cms.gov/files/Part%20D%20Donut%20Hole%20Savings%20by%20State%20YTD%202016.pdf>

⁵¹Marsh, Tori, "Prices for Prescription Drugs Rise Faster Than Prices for Any Other Medical Good or Service" GoodRx, 9/17/20. <https://www.goodrx.com/blog/prescription-drugs-rise-faster-than-medical-goods-or-services/>

