

# The Trump Effect: Impact To The Employee Benefits Industry

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## Working With The 115<sup>th</sup> Congress

### Priorities Of The Trump Administration

### Looking to 2018





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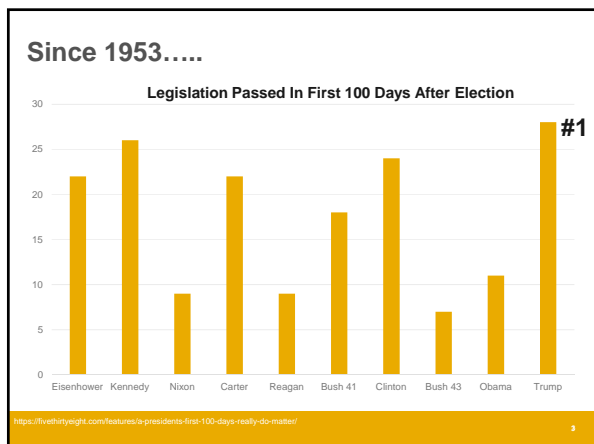
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## What Drove His Legislative Success?



### Congressional Review Act

- CRAs must be used with 60 "legislative days" of a new regulation
- Removes regulation and forbids that Agency from issue a "substantially similar" regulation in the future
- 1996 – 2017: Used 1 time (2001)
- 2017: Used 15 times to roll back "midnight regulations"
- Requires only a simple majority vote – cannot be filibustered

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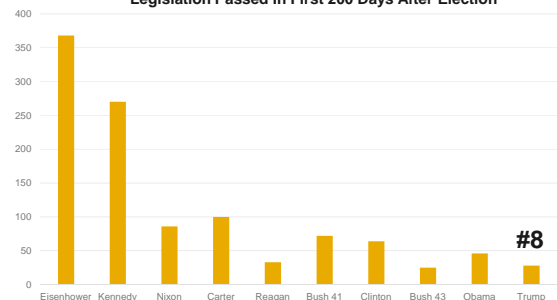
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## Since 1953.....

Legislation Passed In First 200 Days After Election



<http://www.businessinsider.com/how-many-laws-has-trump-signed-so-far-200-days-obama-clinton-bush-reagan-2017-6>

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## How Do You Define Legislative Success?

### President Trump has:

- Passed 47 bills
- Repealed 15 Obama-era Regulations
- Filled 1 Supreme Court Vacancy
- Avoided an October Government Shutdown
- Increased US Debt Ceiling, avoiding an October financial crisis

### President Trump has not:

- Signed a "signature" piece of legislation
- Moved ACA Repeal or Tax Reform as quickly as planned

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## Senate rules have slowed President Trump

### With a 52 seat majority in the Senate Republicans:

- Cannot bring most legislation to a vote on the Senate floor because of filibuster and amendment rules
  - Generally requires 60 votes for "Cloture"
- Certain budget legislation cannot be filibustered
  - Generally speaking, this legislation can not increase federal spending or increase deficits

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## Recent uses of Reconciliation

- **Bush Tax Cuts**
  - Economic Growth & Tax Relief Reconciliation Act of 2001
  - Jobs & Growth Tax Relief Reconciliation Act of 2003
  - Both leveraged "sunset" provisions
- **Affordable Care Act**
  - Health Care and Education Reconciliation Act of 2010

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## Can Congress Pass ACA Repeal & Tax Reform?

- ACA Repeal & Replace: Seems Unlikely Before 2019
  - 9/30 Deadline is Saturday
- Tax Reform: Yes, after 9/30
  - Reconciliation Instructions for 2018 Fiscal Year will be used for Tax Reform
  - Bush Tax Cuts – 10 Year Cut
  - Could they be used for ACA & Tax Reform?

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**Working With The 115<sup>th</sup> Congress**

**Priorities Of The Trump Administration**

**Looking to 2018**

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**Priorities Of The Trump Administration**

- Next Steps For ACA
- Tax Reform

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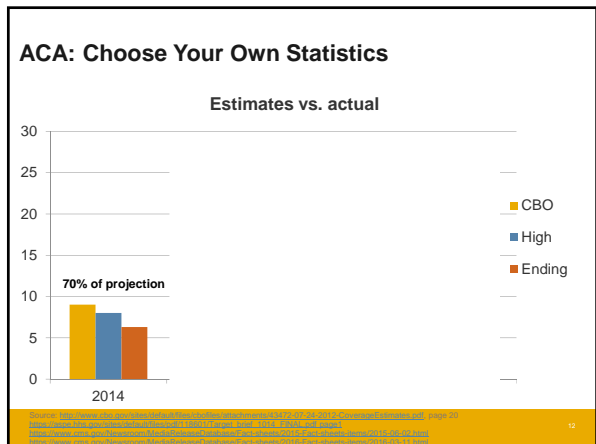
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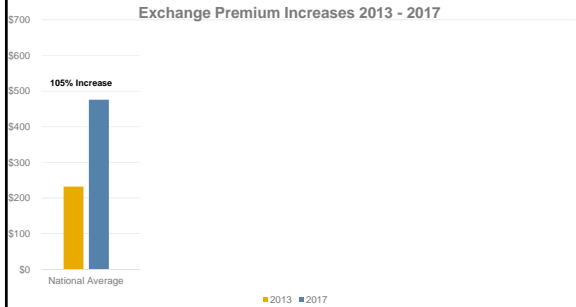
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### ACA: Choose Your Own Statistics



Source: <https://aspe.hhs.gov/system/files/pdf/256751/IndividualMarketPremiumChanges.pdf> 13

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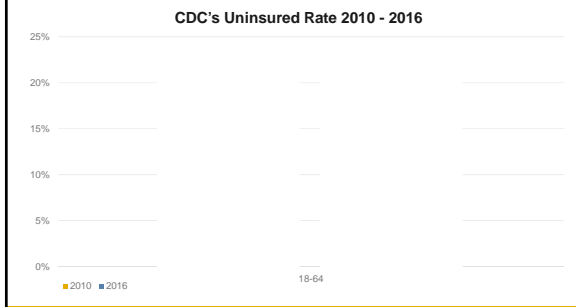
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### ACA: Choose Your Own Statistics



<https://www.cdc.gov/nchs/data/brb/earlyrelease/brsu201702.pdf> 14

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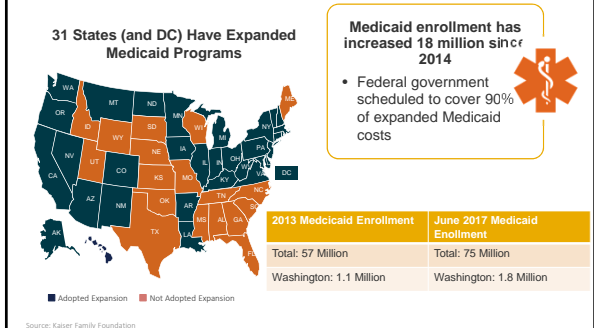
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### Medicaid Expansion Has Grown Insured Population




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## What Is Next For ACA?

### Repeal and Replace

- No near term viable path forward after 9/30

### Bi-Partisan "Fix" For Cost Sharing Reductions

- Possible, but difficult path forward

### Single Payer

- No near term viable path forward – but important to watch

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## Next ACA Battleground: Cost Sharing Reductions

### Two types of ACA financial assistance

#### 1. Premium Subsidy

- Available if you earn less than 400% of the FPL
- Fully funded by ACA

#### 2. Cost Sharing Reductions

- Available if you earn less than 250% of the FPL
  - Reduce Deductible and OOP costs
- Unclear if properly funded by ACA
  - House Lawsuit
  - President Trump must authorize month to month

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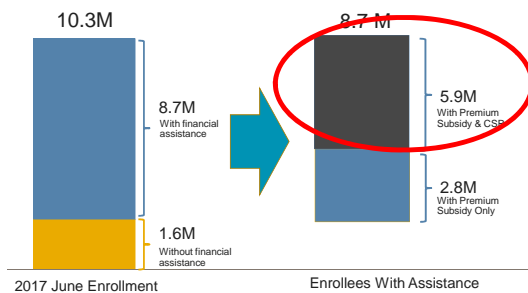
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## ACA enrollment figures



Source: Center for Medicare & Medicaid Services  
<https://www.cms.gov/Research-Statistics-Data-and-Systems/reports-trends/aca-report-06-17-17.pdf>

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### Bi-Partisan Proposal Being “Discussed”

#### Senate Health, Education, Labor & Pension (HELP) Committee

- Fully fund CSRs for a period of time vs month to month
- “Stabilize” insurer participation in the individual market
- Provide more Section 1332 flexibility
- Status: Was dead, but now possible (maybe)

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### Senator Sanders’ Single Payer Proposal

- Create a single payer system run by Federal Government
- Would end employer based coverage, Medicare, and Medicaid coverages, all combining into this new program
- Eliminate of pocket costs EXCEPT for prescription drug costs
- Plan’s \$1.4 Trillion cost paid for through:
  - 2.2% employee payroll tax
  - 6.2% employer payroll tax
  - Targeted tax increases on high income earners
- Plan would be phased in over a 4 year period

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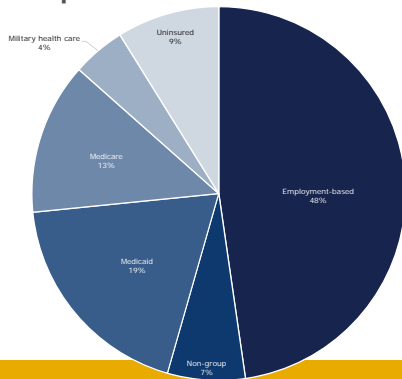
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### Why Disrupt The Entire Market?



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## Supporters of Senator Sanders' Proposal

*Co-sponsors of the bill:*

- Kamala Harris (D-CA)
- Tammy Baldwin (D-WI)
- Cory Booker (D-NJ)
- Kirsten Gillibrand (D-NY)
- Martin Heinrich (D-NM)
- Mazie Hirono (D-HI)
- Patrick Leahy (D-VT)
- Jeff Merkley (D-OR)
- Brian Schatz (D-HI)
- Tom Udall (D-NM)

*Co-sponsors of the bill:*

- Elizabeth Warren (D-MA)
- Ed Markey (D-MA)
- Richard Blumenthal (D-CT)
- Al Franken (D-MN)
- Sheldon Whitehouse (D-RI)

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## Priorities Of The Trump Administration

- Next Steps For ACA
- **Tax Reform**

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## A Tough Choice For Republicans

Option #1: 10 Year Tax Cut – Ignore Revenue Neutrality

- Reduce individual and corporate rates
- Keep most deductions / exclusions in place
- The Pitch: Economic growth will offset lower tax rates

Option #2: Tax Reform – Revenue Neutral

- Reduce individual and corporate rates
- Offset reduced revenue by eliminating certain tax deductions / exclusions
- The Pitch: Fiscally prudent way to create a pro-growth economy

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### Highlights Of “Unified Framework”

#### Individual Tax Rates Decrease

- 7 Tax Brackets Move To 3 Tax Brackets
  - 12% / 25% / 35%
  - AMT Repealed
- Standard Deduction Doubles
  - \$12,000 Individuals / \$24,000 Married
- “Eliminates Most Itemized Deductions”
  - Mortgage Interest & Charitable Deduction will stay in place
- Eliminates Estate & Generation Skipping Tax

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### Highlights Of “Unified Framework”

#### Individual Tax Rate Questions

- Where do the bracket splits?
  - How does this impact those in the 10% bracket today?
- Which deductions go away?
  - State and local tax deduction?
- What is the impact on Retirement Savings?
  - Is “Rothification” still on the table?
- Do upper income earners benefit?
  - “An additional top rate may apply....”

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### Highlights Of “Unified Framework”

#### Corporate Tax Rates Decrease

- Top Tax Rate Falls To 20%
  - Pass Through / S-Corp Rate Top Rate 25%
- Territorial Tax System & Deemed Repatriation
  - Pay taxes only in jurisdiction where revenue occurs
  - Earnings currently overseas are deemed brought back to US
- 5 Year Window For “Full Expensing”
  - Buy a depreciable asset in the next 5 years, expense immediately
- Examine industry specific tax breaks
  - “Modernize” to stop tax avoidance

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## Highlights Of “Unified Framework”

### Corporate Tax Questions

- What is the “deemed repatriation” rate?
  - How long can companies spread out those costs?
  - Pay taxes only in jurisdiction where revenue occurs
  - Earnings currently overseas are deemed brought back to US
- What tax exemptions / deductions are changing?
- Does a 10 Year Corporate Tax cut really work?

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## Largest 10 Year Tax Expenditures

#1. Exclusion For Employer Paid Health Premiums: \$2.9 Trillion

#2(Foreign Income) + #3(Net Imputed Rental)= \$2.5 Trillion

#4 Capital Gains: \$1.1 Trillion

#5 Defined Contribution Plans: \$958 Billion

#6 Mortgage Interest: \$895 Billion

#7 Local Tax Deductibility: \$783 Billion

#8 Defined Benefit Plans: \$655 Billion

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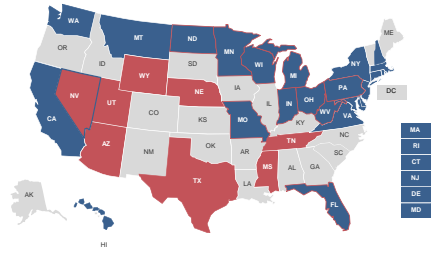
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## 2018 Is A Difficult Map For Democrats



Source: CNN.com, "Who's Winning? Who's Still Running?" The 2018 Midterm Election Results. P. 107. Updated November 13, 2018.

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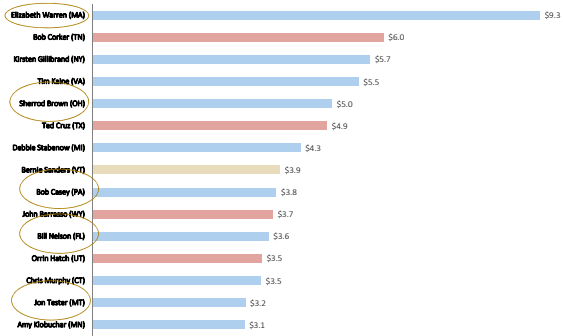
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## Following The Money....



Source: OpenSecrets.org, "2018 House Campaign Finance Report."

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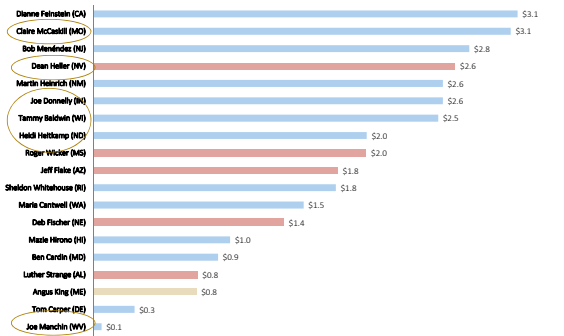
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Source: OpenSecrets.org, "2018 House Campaign Finance Report."

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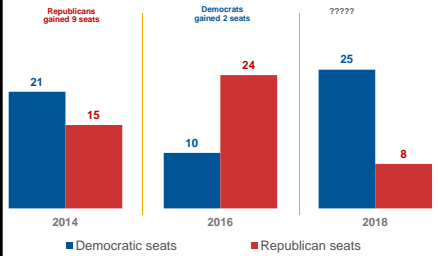
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## What to watch for in mid-terms

Senate seats in play, by election year



### Follow The Trump Trail?

Indiana (+6)  
Missouri (+16)  
Montana (+4)  
North Dakota (+1)  
West Virginia (+24)

Florida (+13)  
Ohio (+5)  
Michigan (+13)  
Pennsylvania (+9)  
Wisconsin (+6)

Source: Cook Political Report

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## Summary

- Senate Rules Make It Hard To Pass Legislation Without 60 Votes
- ACA Repeal Will Become ACA Fix
- On To Tax Reform – Will Be Difficult As Well
- 2018 Is Around The Corner

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## Questions?

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Thank you



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