

# The Trump Effect: Impact To The Employee Benefits Industry

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



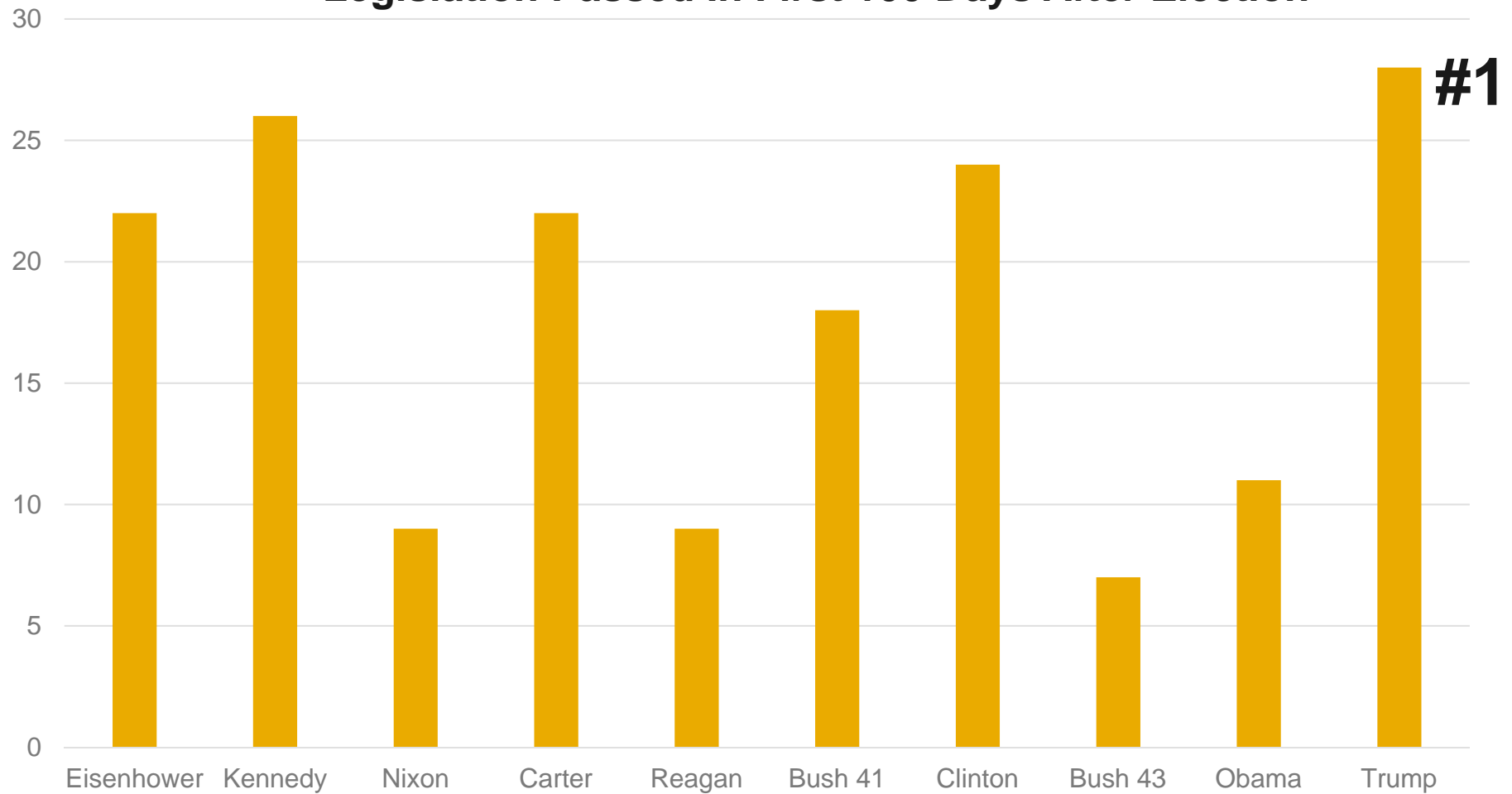
## Priorities Of The Trump Administration



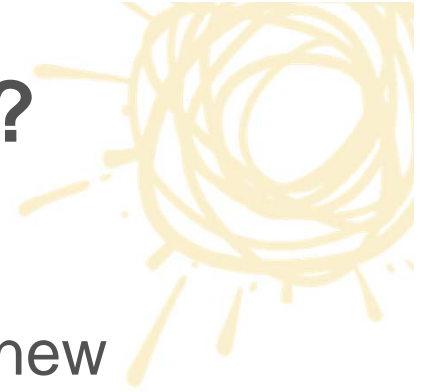
## Looking to 2018

# Since 1953.....

## Legislation Passed In First 100 Days After Election



# What Drove His Legislative Success?

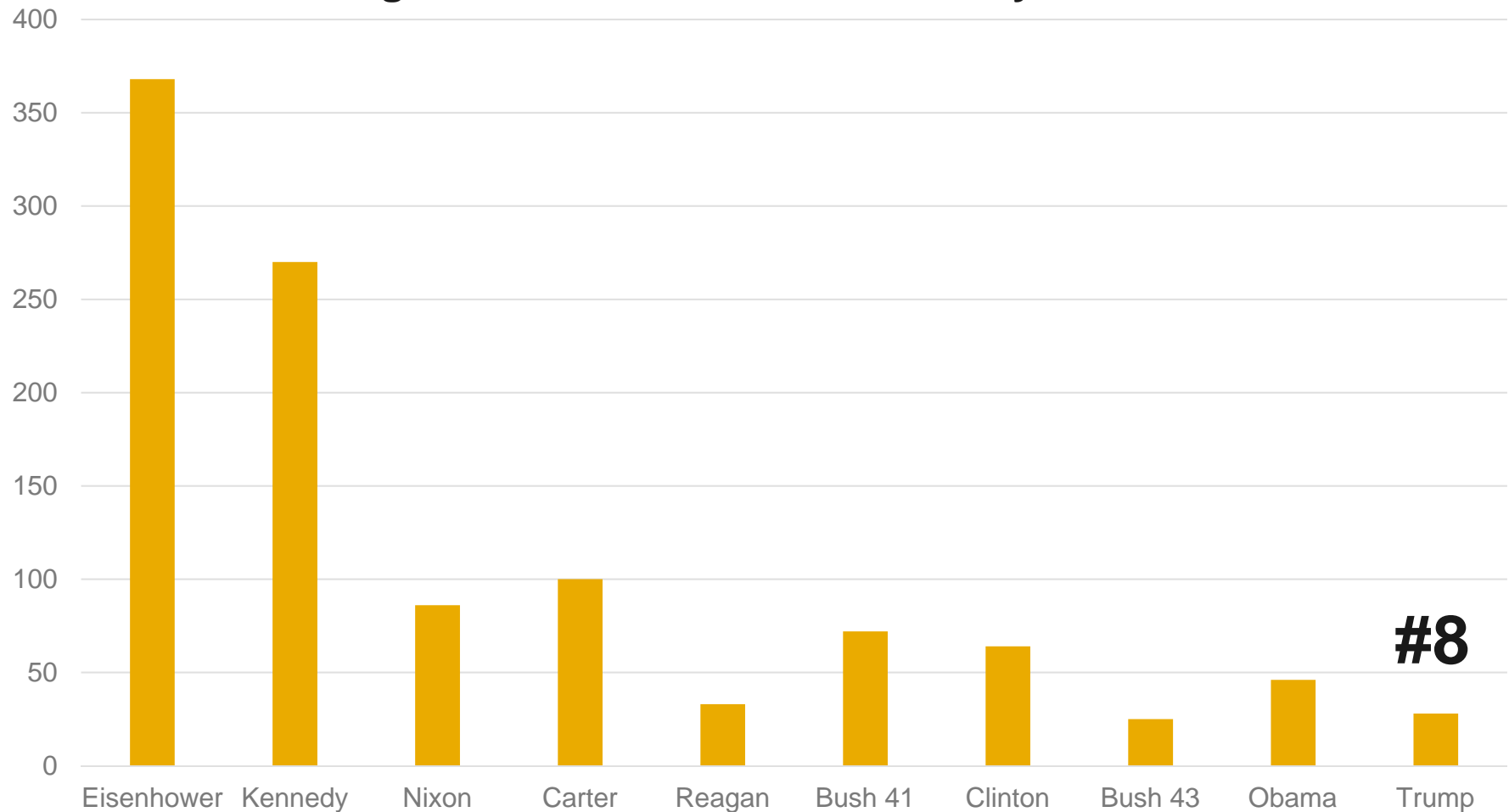


## Congressional Review Act

- 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

# Since 1953.....

## Legislation Passed In First 200 Days After Election



# 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- Repealed 15 Obama-era Regulations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

# 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

# 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



# 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?



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



## Priorities Of The Trump Administration



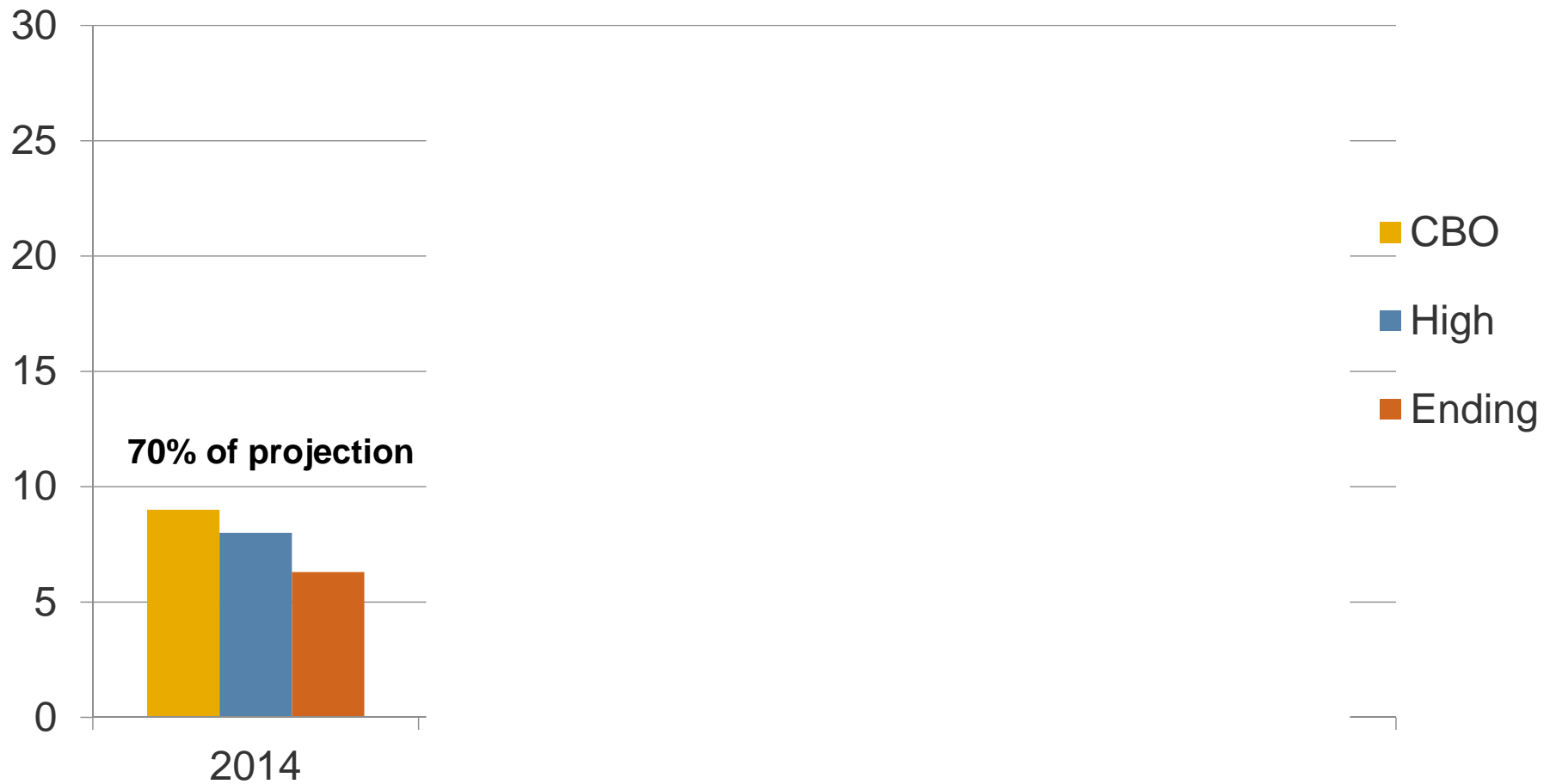
## Looking to 2018

# Priorities Of The Trump Administration

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

# ACA: Choose Your Own Statistics

## Estimates vs. actual



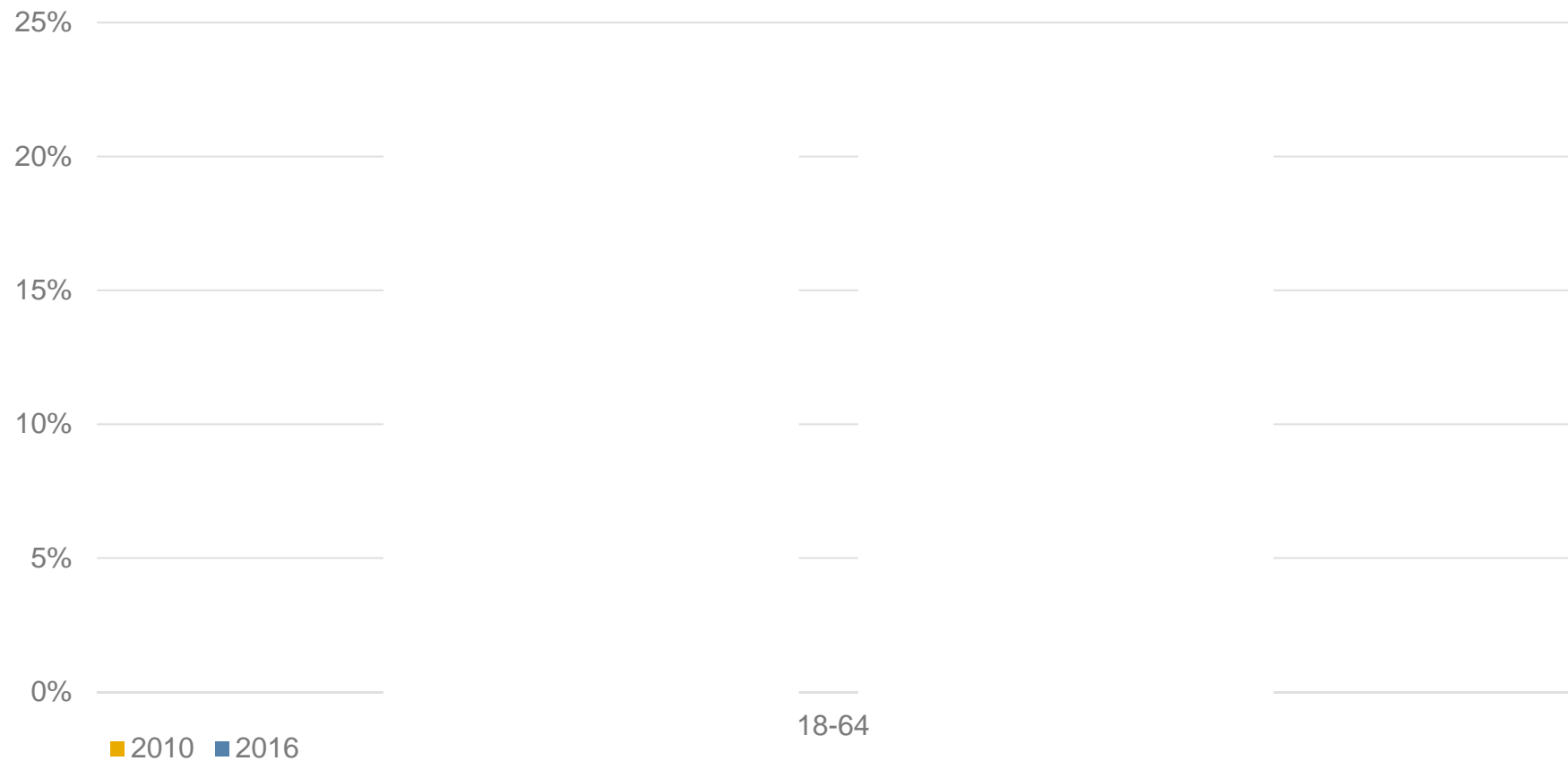
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# ACA: Choose Your Own Statistics



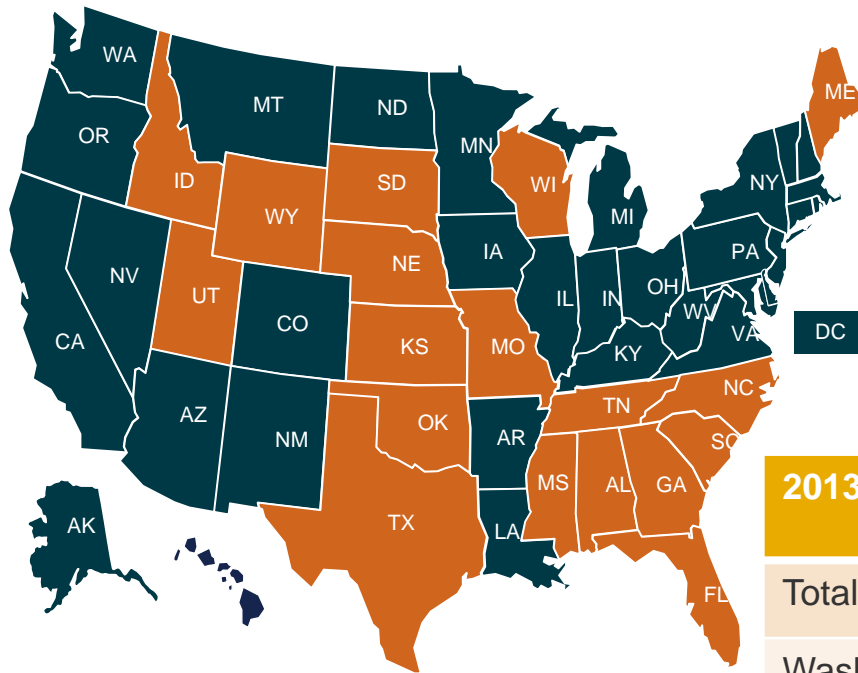
# ACA: Choose Your Own Statistics

CDC's Uninsured Rate 2010 - 2016



# Medicaid Expansion Has Grown Insured Population

## 31 States (and DC) Have Expanded Medicaid Programs



**Medicaid enrollment has increased 18 million since 2014**

- Federal government scheduled to cover 90% of expanded Medicaid costs



2013 Medicaid Enrollment	June 2017 Medicaid Enrollment
Total: 57 Million	Total: 75 Million
Washington: 1.1 Million	Washington: 1.8 Million

Source: Kaiser Family Foundation

# 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



# **Next ACA Battleground: Cost Sharing Reductions**

## **Two types of ACA financial assistance**

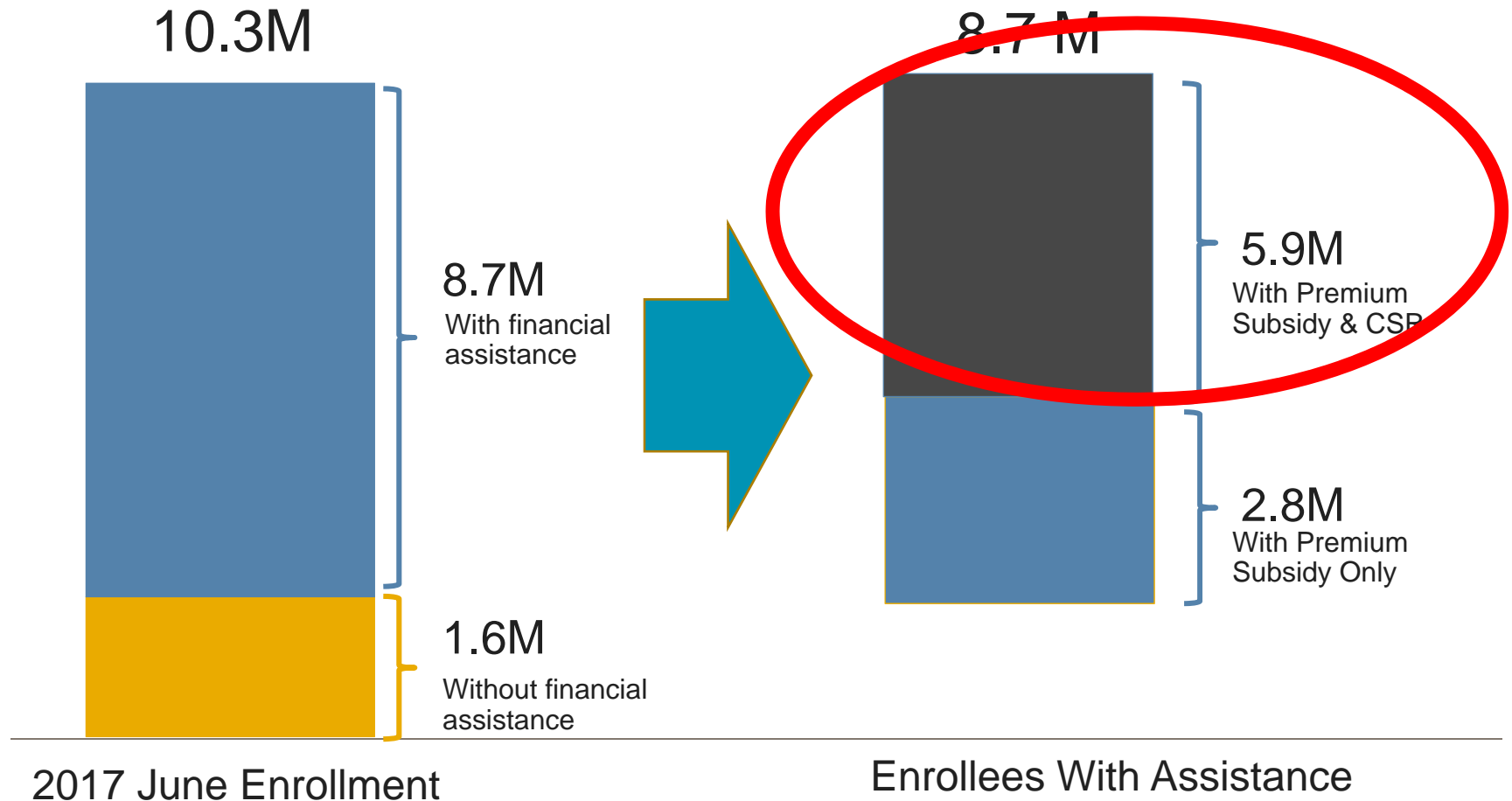
### **1. Premium Subsidy**

- 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**

# ACA enrollment figures



# Bi-Partisan Proposal Being “Discussed”

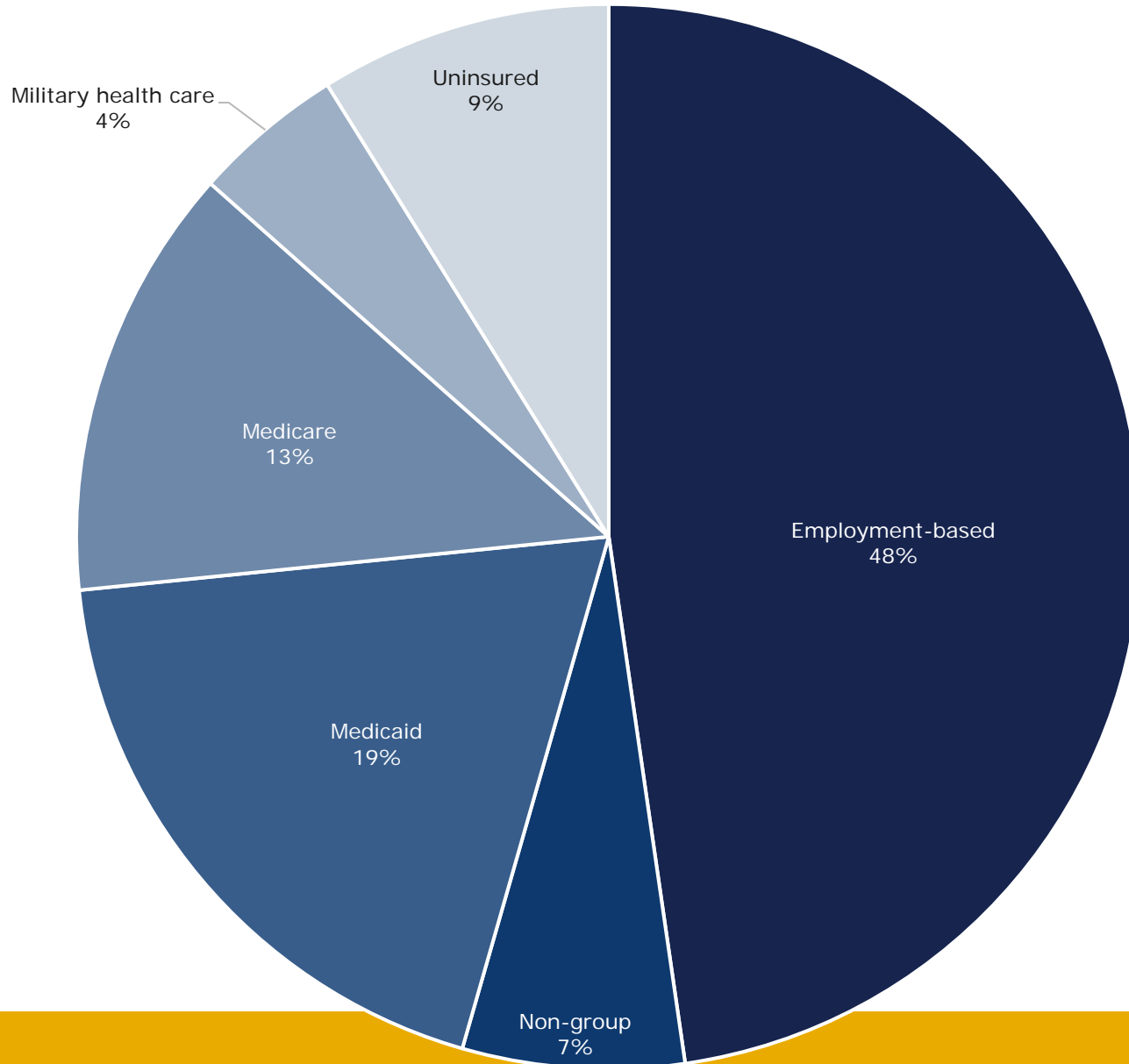
## Senate Health, Education, Labor & Pension (HELP) Committee

- 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)

# 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

# Why Disrupt The Entire Market?



# 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)

# Priorities Of The Trump Administration

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

# 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



# 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

# 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....”

# 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

# 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?

# 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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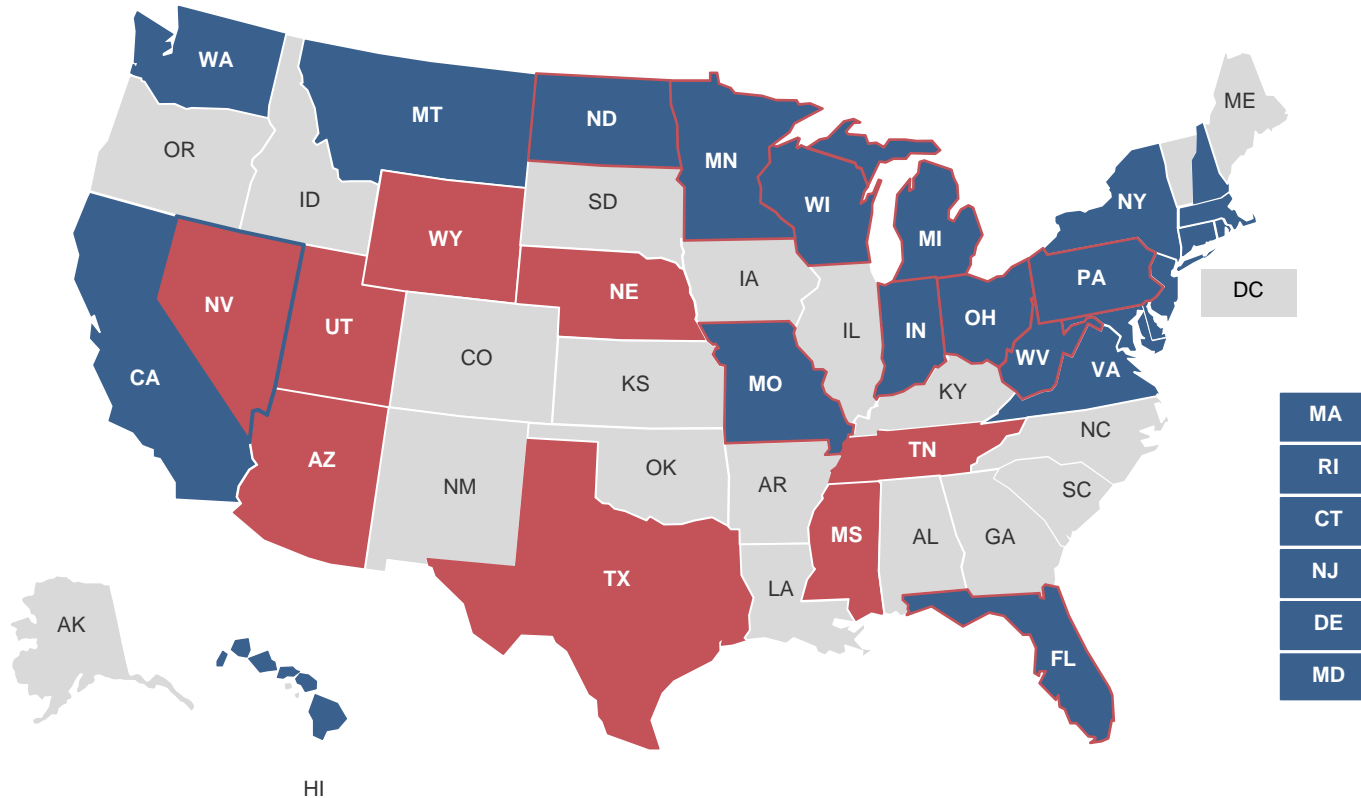


## Priorities Of The Trump Administration



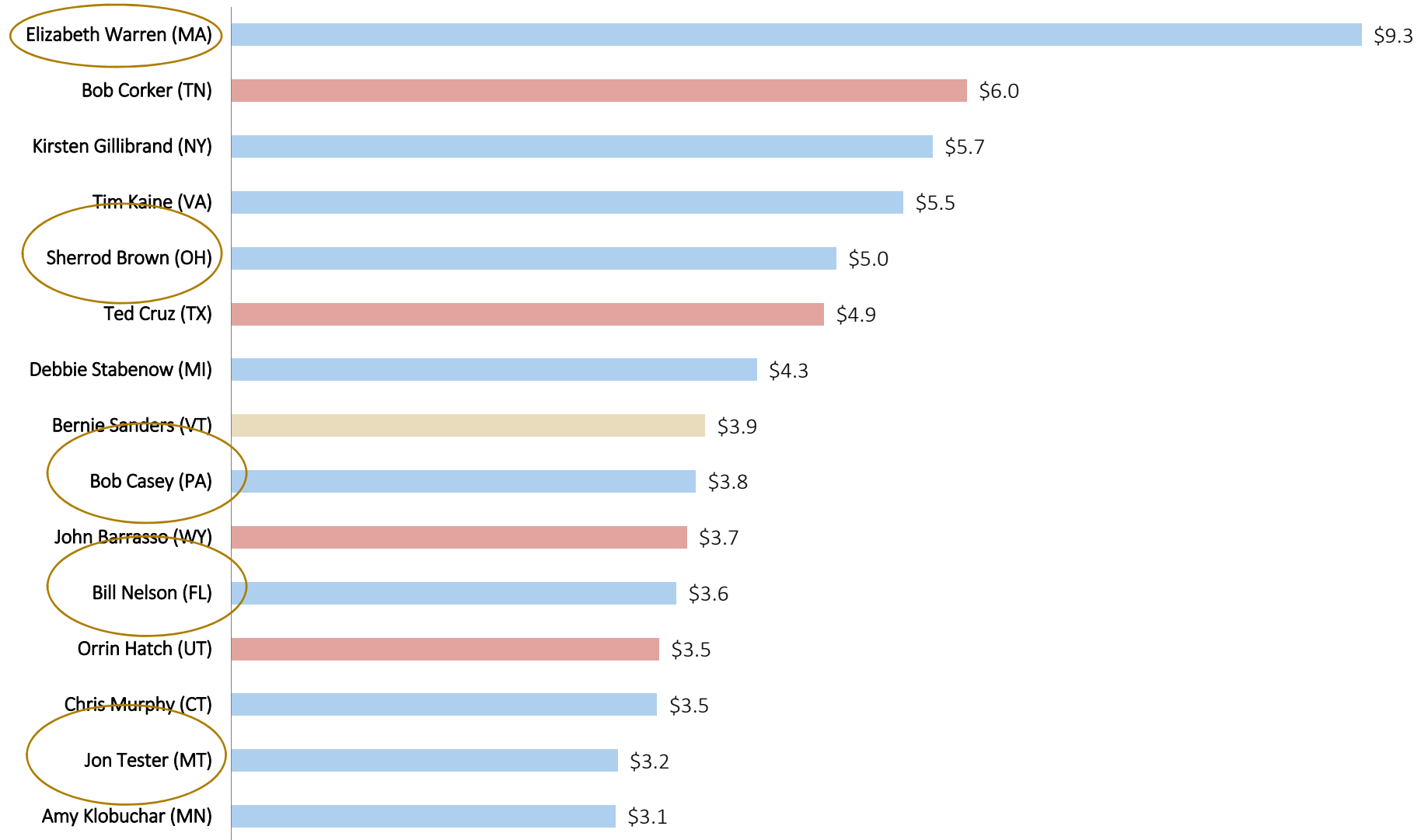
## Looking to 2018

# 2018 Is A Difficult Map For Democrats



Sources: Charlie Cook, "Will History Hold in 2018 Midterms?" The Cook Political Report, January 9, 2017, National Journal Research, 2017.

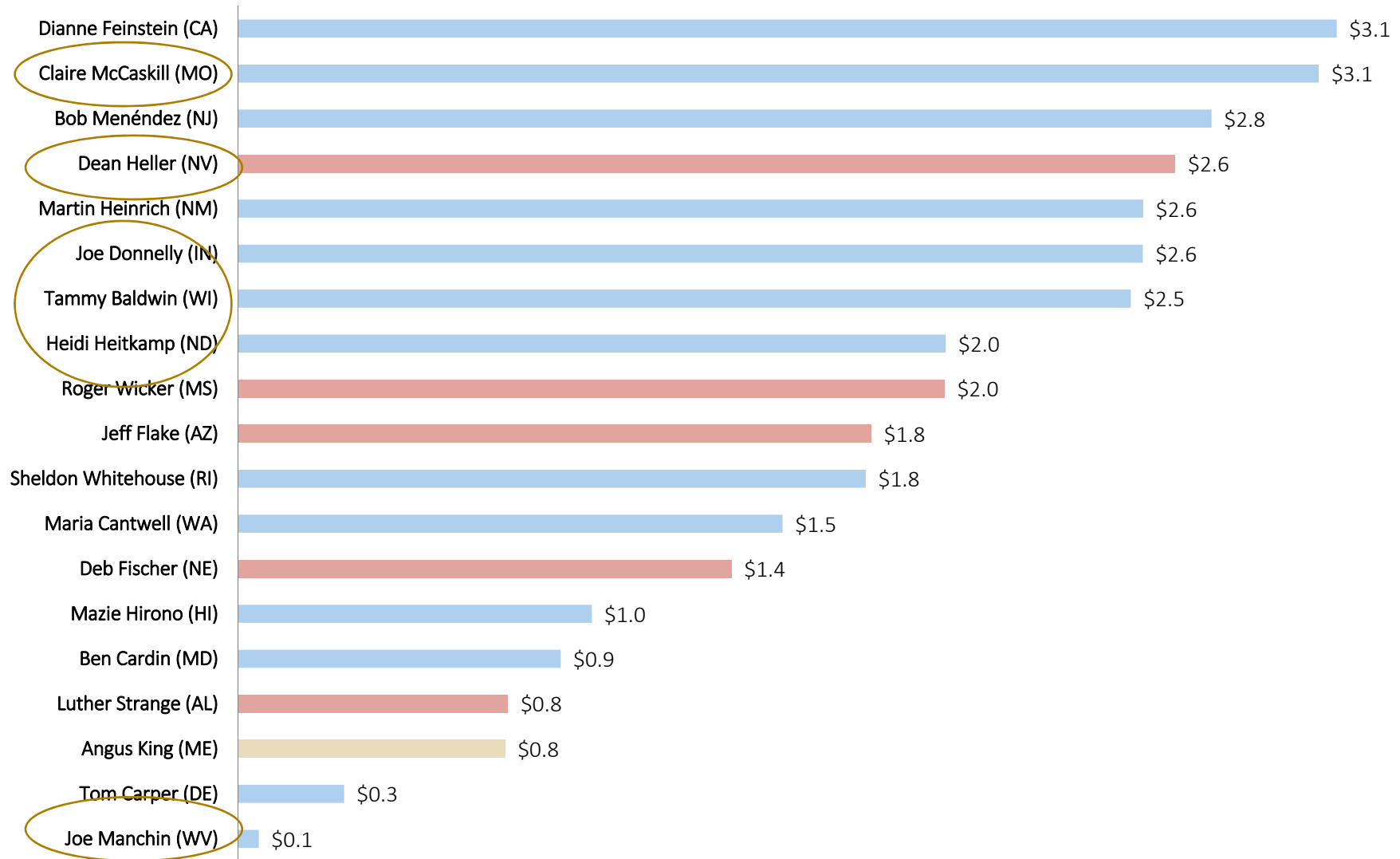
# Following The Money....



Sources: Opensecrets, 2017, National Journal Research, 2017.



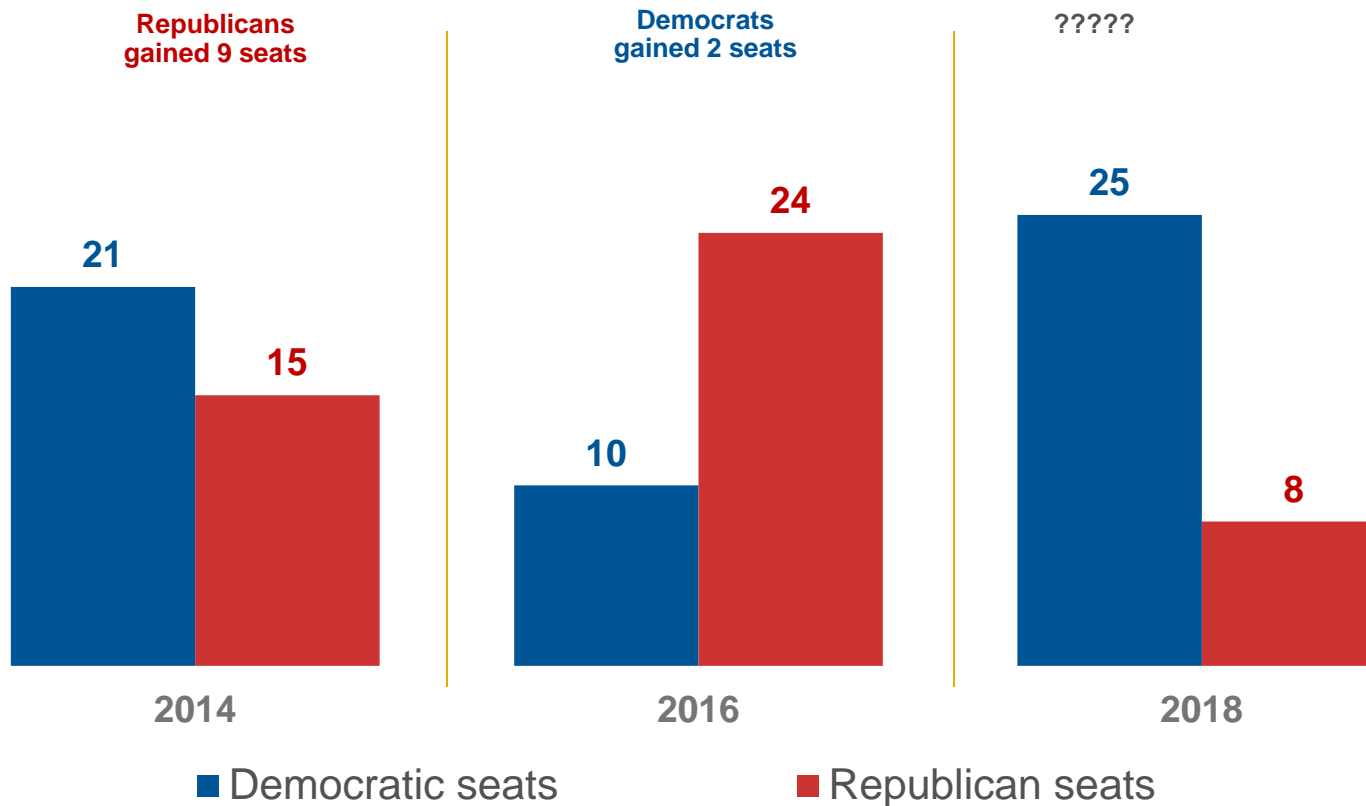
# Following The Money....



Sources: Opensecrets, 2017, National Journal Research, 2017.

# 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.

# 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



## Questions?

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*Life's brighter under the sun*

# Thank you



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