

# Washington Update

AMERICAN COLLEGE OF OSTEOPATHIC INTERNISTS

NATIONAL HARBOR, MARYLAND

OCTOBER 11- 15, 2017

TIMOTHY W. MCNICHOL, ESQ.



# Disclosures

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Neither I nor my spouse have had a financial relationship in any amount with any commercial interest in the last 12 months.

# Learning Objectives

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As a result of participation in this session, participants will be able to:

- Describe the current political environment in Washington, DC
- Describe the effect of the current political environment on legislative and regulatory activities impacting physicians and patients
- Describe the potential impact of future legislative and regulatory activities on physicians and patients

# The White House

**President Donald J. Trump  
inaugurated as the 45<sup>th</sup> President of  
the United States on January 20,  
2017**

**Repeal of ACA was cornerstone of  
campaign**



# 2017 Congressional Composition – 115<sup>th</sup> Congress

## ■ U.S. Senate

- 52 Republicans
- 46 Democrats
- 2 Independents

## ■ U.S. House of Representatives

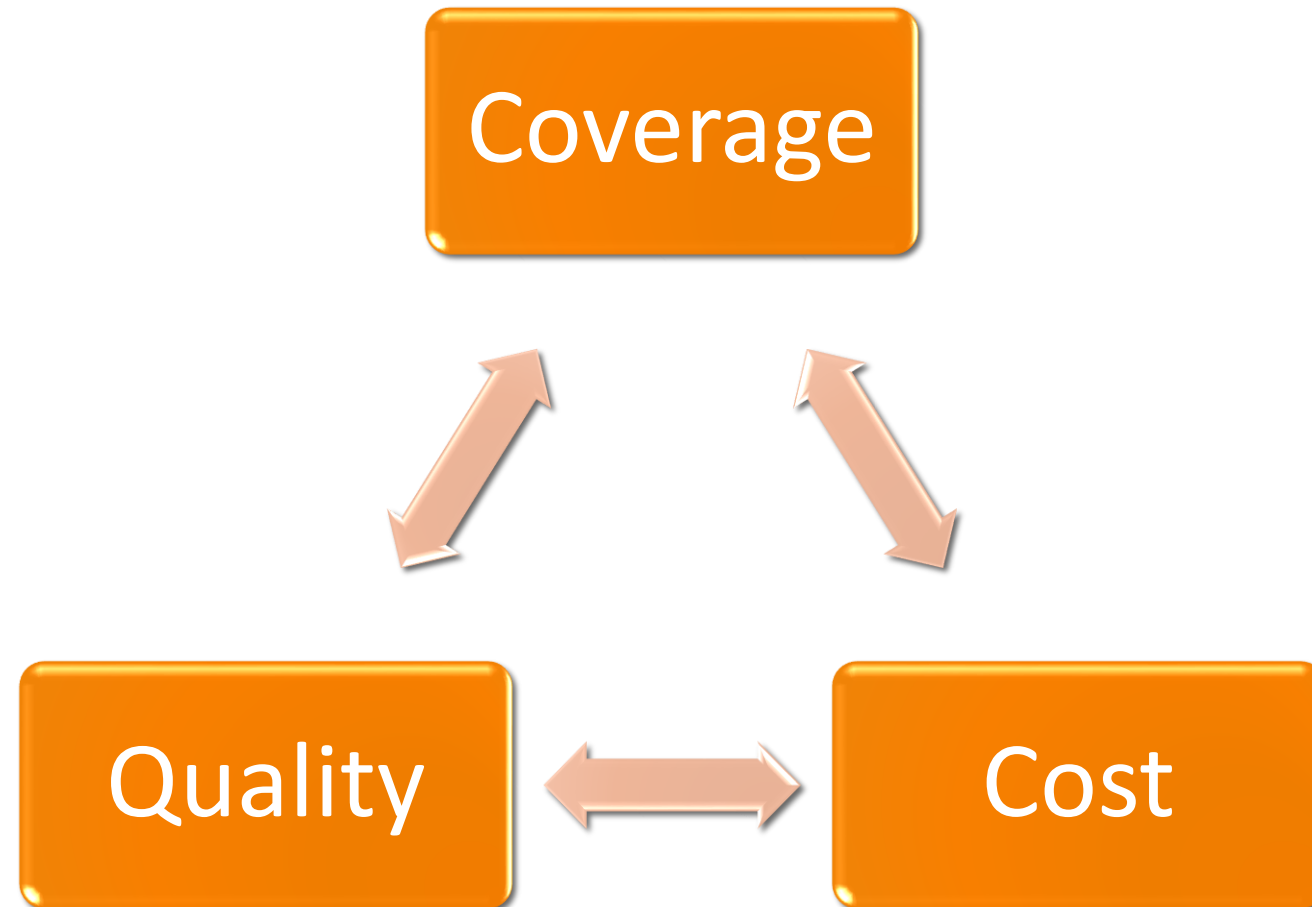
- 240 Republicans
- 194 Democrats
- 1 Vacancy

\*2/3 of Both the House and the Senate are needed to override a Presidential Veto (290 and 67 Respectively)



# The Great Balancing Act -- Yesterday, Today, and Tomorrow

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# Two Bills Reform Healthcare Delivery System

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**“Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111-148)**

- Signed into law March 23, 2010

**“Healthcare and Education Reconciliation Act of 2010 (Pub. L. 111-152)**

- Signed into law March 30, 2010

# Summary of ACA as Amended

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**Requires most US citizens and legal residents to carry health insurance**

**Provided a 10 percent bonus payment for physicians in general internal medicine (2011-2016)**

**Created a 10 percent bonus payment for primary care physicians who practice in health professional shortage areas (2011-2015)**

**Provides health insurance tax credits**

**Expands preventive care services**



# Summary of ACA as Amended (continued)

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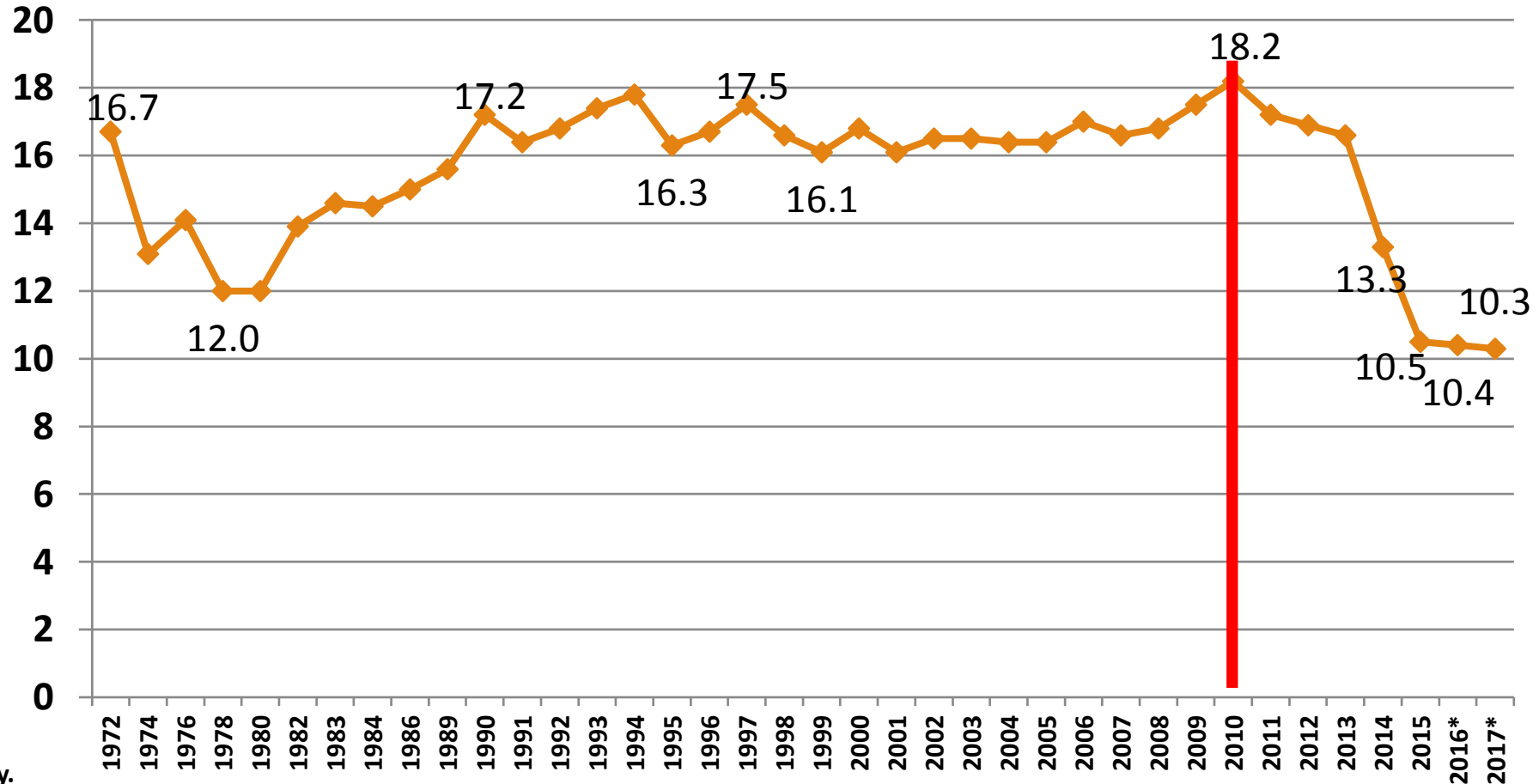
**Establishes the Independent Payment Advisory Board (IPAB)**

**Establishes a hospital value-based purchasing program in traditional Medicare**

**Creates Accountable Care Organizations (ACO's)**

**Expands the Physician Quality Reporting Initiative (PQRI becomes PQRS)**

# ACA Has Reduced the Number of Uninsured



Note: 2017 data is for Q1 only.

Source: CDC/NCHS, National Health Interview Survey, reported in [http://www.cdc.gov/nchs/health\\_policy/trends\\_bc\\_1969\\_2011.htm#table01](http://www.cdc.gov/nchs/health_policy/trends_bc_1969_2011.htm#table01) and <https://www.cdc.gov/nchs/data/nhis/earlyrelease/insur201708.pdf>.

Kaiser Family Foundation – [www.kff.org](http://www.kff.org)

# Some Areas of Contention

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Impact on number of uninsured

Medicaid coverage

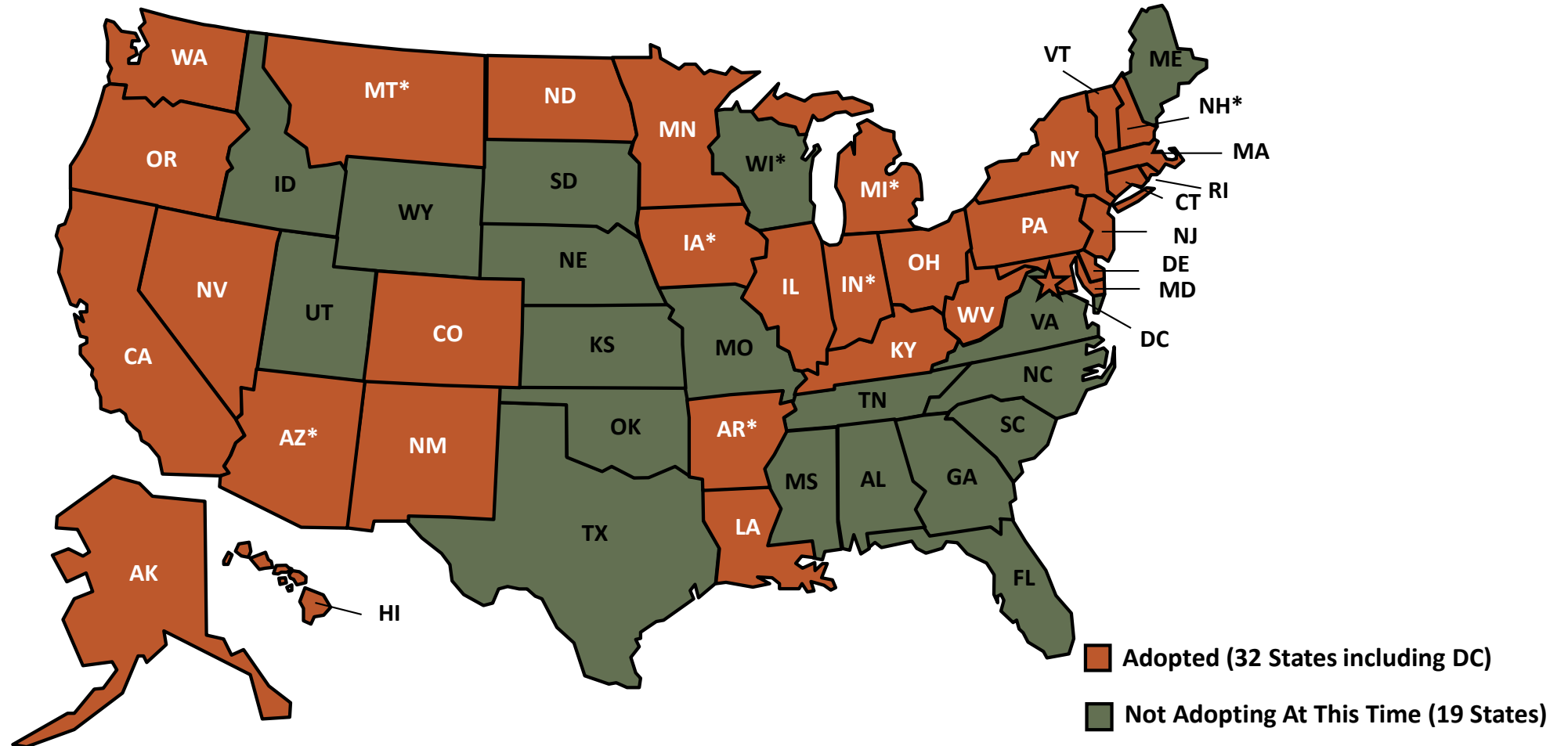
Health Insurance requirements

Tax credit structure

State empowerment – waivers

Stabilization of insurance market places

# Medicaid Expansion Central to ACA Success

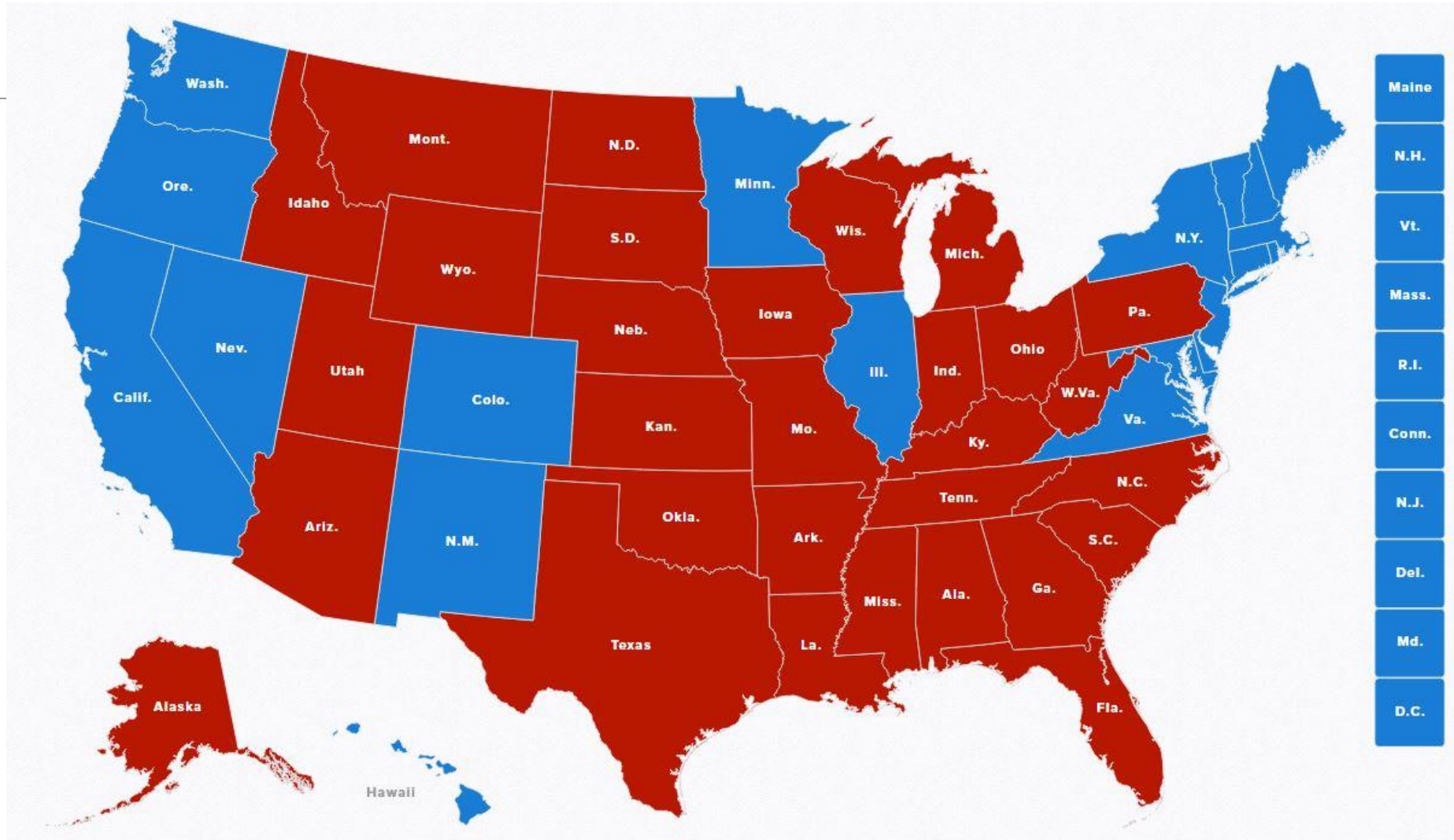


NOTES: Current status for each state is based on KCMU tracking and analysis of state executive activity. \*AR, AZ, IA, IN, MI, MT, and NH have approved Section 1115 waivers. WI covers adults up to 100% FPL in Medicaid, but did not adopt the ACA expansion.

SOURCE: "Status of State Action on the Medicaid Expansion Decision," KFF State Health Facts, updated January 1, 2017.

<http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/>

# Policy and Politics Intersect



# So the Process Begins...EO 13765



## Presidential Documents

Executive Order 13765 of January 20, 2017

### Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1.** It is the policy of my Administration to seek the prompt repeal of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended (the “Act”). In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with law to minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market.

**Sec. 2.** To the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the Act that would impose a fiscal burden on any State or a cost, fee, tax, penalty, or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.

**Sec. 3.** To the maximum extent permitted by law, the Secretary and the heads of all other executive departments and agencies with authorities and

“In the meantime, pending such repeal, it is imperative for the executive branch to ensure that the law is being efficiently implemented, take all actions consistent with the law to minimize the unwarranted economic and regulatory burdens of the act...”

# The Process...Reconciliation

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**House and Senate approved budget resolution requiring \$1 billion in deficit reductions from 2017 through 2026**

- **Ways and Means, Energy and Commerce, Finance and HELP Committees**

**Senate consideration of reconciliation legislation only requires a simple majority**

**Limits debate to 20 hours and prohibits extraneous amendments**

**Provides narrow path for legislation to be considered and approved with reduced procedural hurdles**

# ACOI Principles for Reforming the ACA



11400 Rockville Pike, Suite 801, Rockville, MD 20852 • Office 301-231-8877 • Fax 301-231-8099  
Toll Free 800-327-5183 • www.acoi.org

February 20, 2017

The Honorable Paul Ryan  
Speaker  
US House of Representatives  
Washington, DC

The Honorable Mitch McConnell  
Majority Leader  
US Senate  
Washington, DC

The Honorable Nancy Pelosi  
Minority Leader  
US House of Representatives  
Washington, DC

The Honorable Charles Schumer  
Minority Leader  
US Senate  
Washington, DC

Dear House and Senate Leaders:

There are many issues before Congress, but none as far-reaching and impactful as efforts to repeal and replace the Affordable Care Act (ACA). It is for this reason, I write on behalf of the members of the American College of Osteopathic Internists (ACOI) and our patients to ask that you proceed with caution.

The ACOI, which represents the nation's osteopathic internists and medical subspecialists, is committed to assisting our members' efforts to provide high-quality care and to ensuring that our patients have access to this care at the time it is needed. The debate to repeal and replace the ACA should be guided by two core principles. First, existing coverage levels must be maintained ensuring uninterrupted continuous access to affordable high-quality care. Second, prior to repealing any part of the ACA, a path forward must be clearly known to protect against adversely impacting patients and their ability to access health care services. Congressional action in alignment with these core principles will protect patients and enhance your efforts to attain long-term meaningful reforms.

Our members are unified in their concern for their patients and their ability to access needed health care services. The ACOI and its members stand ready to assist you in your efforts to improve the health care delivery system in a way that preserves access to affordable high-quality patient-centered care. We look forward to working with you.

Sincerely,

John R. Sutton, DO, FACOI  
President

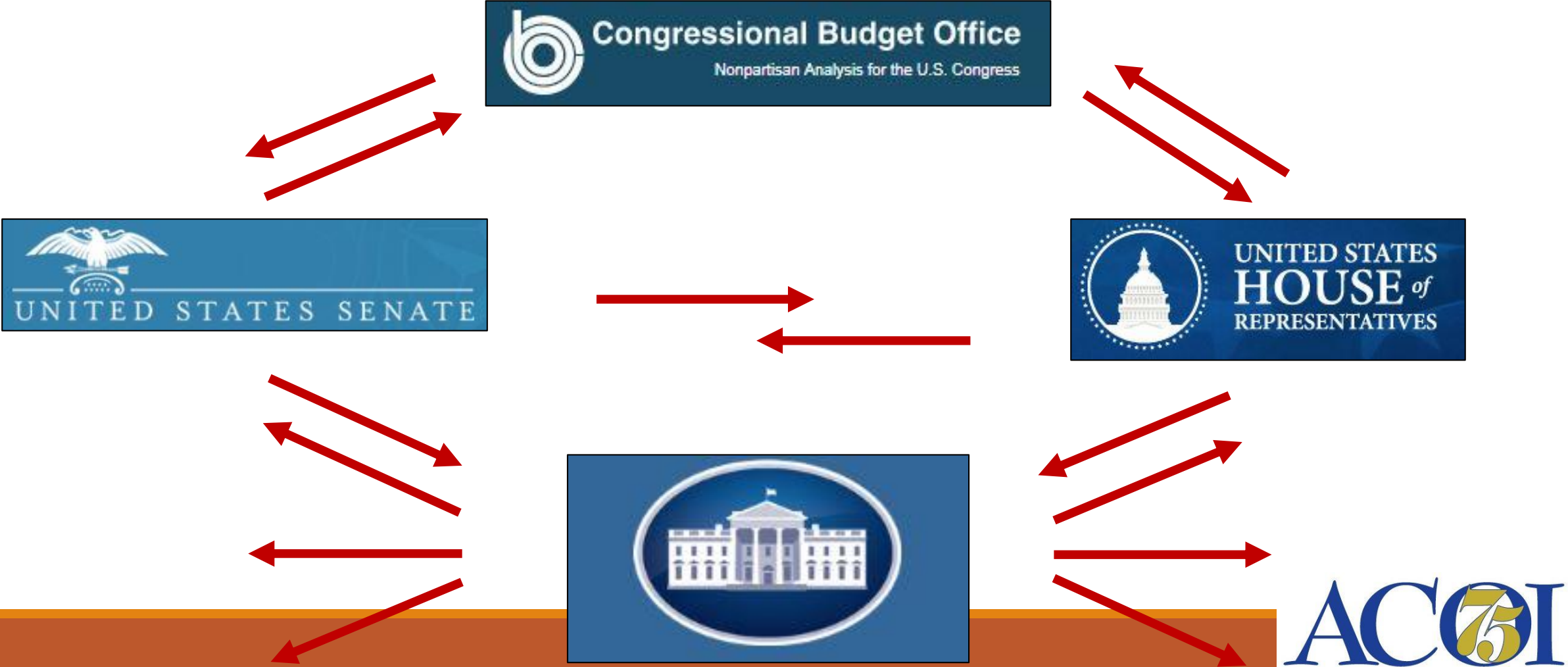
**Existing coverage levels must be maintained to ensure uninterrupted continuous access to affordable high-quality care.**

**Prior to repealing any part of the ACA, a path forward must be clearly known to protect against adversely impacting patients and their ability to access health care services.**





# The New Order



# Seven Years Later...

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**Nearly 60 votes and a veto**

**American Health Care Act of 2017 (H.R. 1628)**

**Graham-Cassidy-Heller-Johnson**

# The TEST...

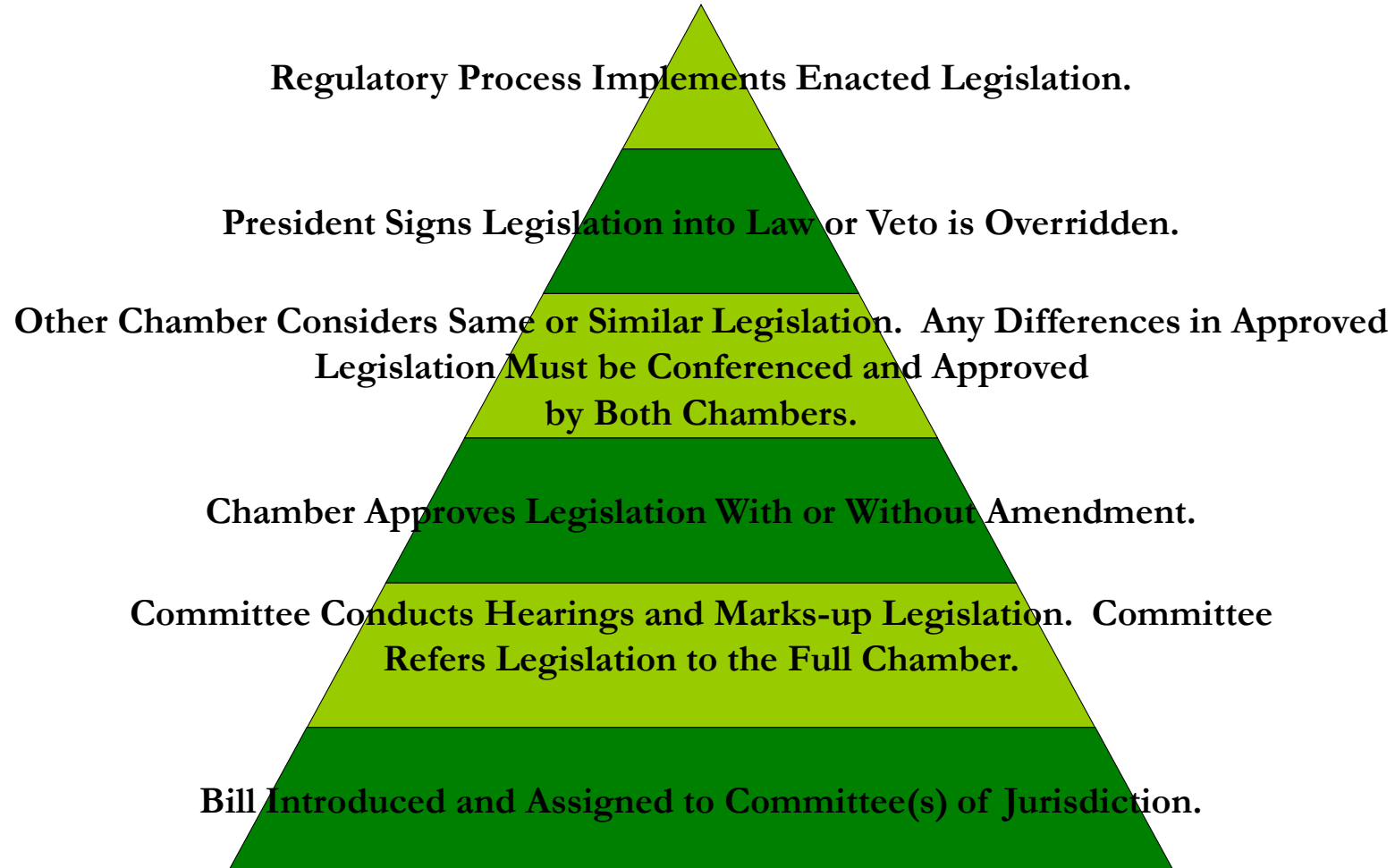
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## BILL CASSIDY (R-LA)

**“I ask, does it pass the Jimmy Kimmel test. Will a child born with a congenital heart disease be able to get everything she or he would need in that first year of life?”**



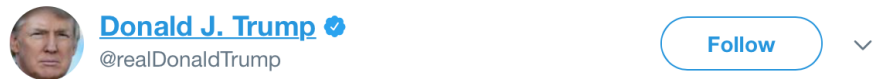
# The Fundamentals of the Legislative Process “Regular Order”



# Who Needs Regular Order?



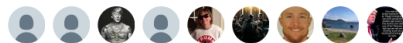
Since Congress can't get its act together on HealthCare, I will be using the power of the pen to give great HealthCare to many people - FAST



ObamaCare is a broken mess. Piece by piece we will now begin the process of giving America the great HealthCare it deserves!

4:14 AM - 13 Oct 2017

13,310 Retweets 63,874 Likes



## Issued Executive Order

**Announced plans not to make cost sharing reduction payments on October 18**

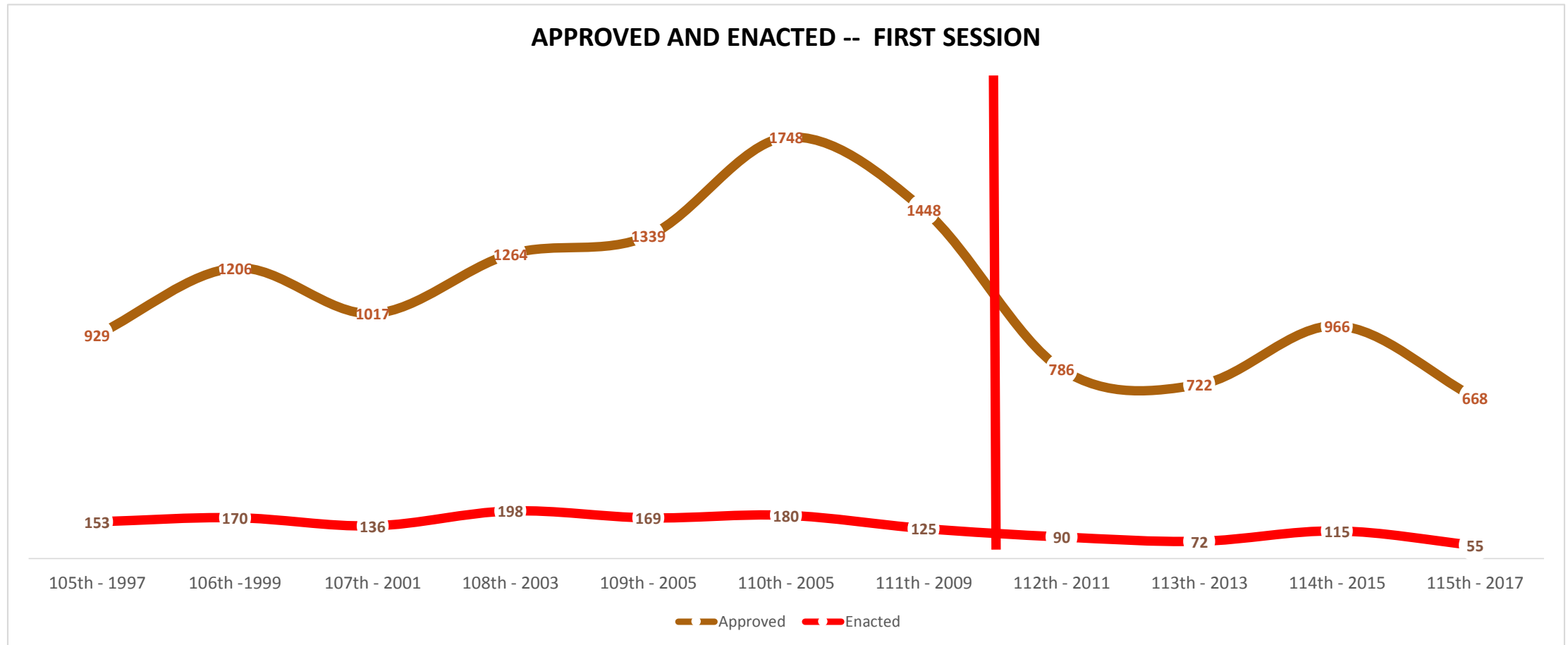
# Congressional Action by the Numbers: First Session

Congress	105th 1997	106th 1999	107th 2001	108th 2003	109th 2005	110th 2005	111th 2009	112th 2011	113th 2013	114th 2015	115th 2017
Introduced	5568	6593	6530	7014	8321	9227	9079	6903	6714	7883	6428
Approved	929	1206	1017	1264	1339	1748	1448	786	722	966	668
Enacted	153	170	136	198	169	180	125	90	72	115	55

Source: Resume of Congressional Activity

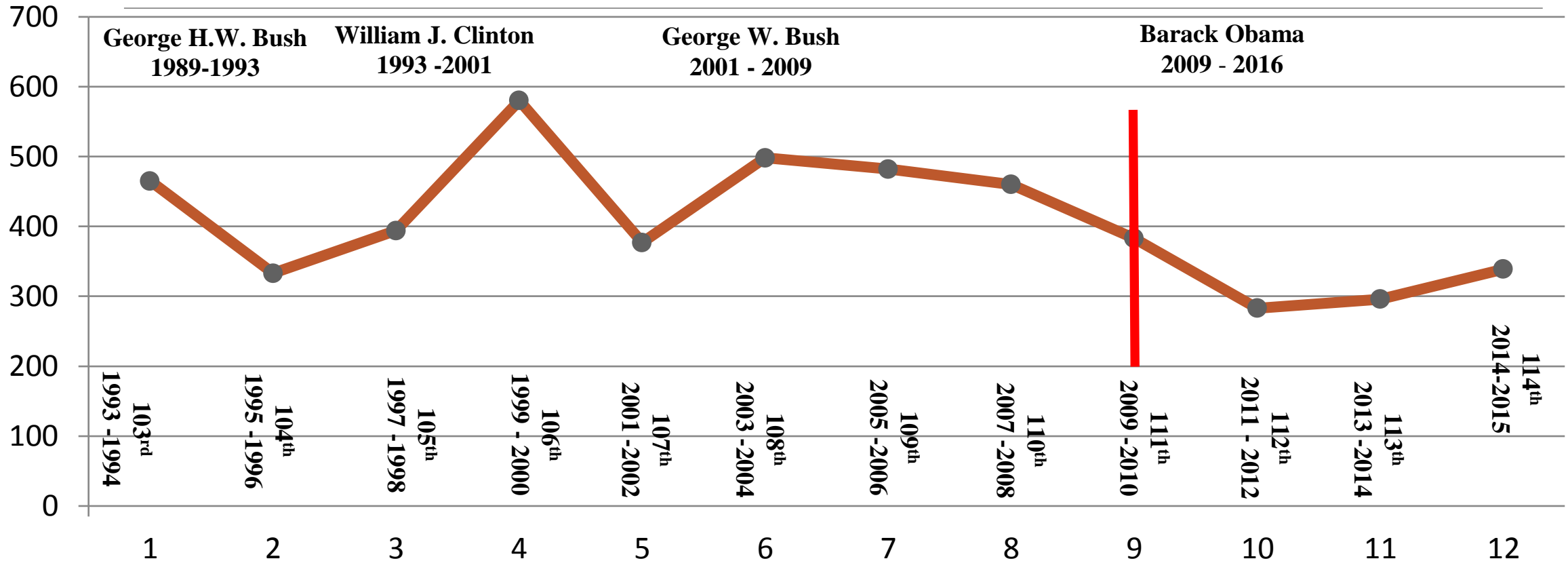


# Congressional Action by the Numbers



Source: Resume of Congressional Activity

# Number of Bills Approved Since 1993





# The Tie-Breaker

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Mike Pence	4	2017 – Present
Joseph Biden	0	2009 – 2017
Richard Cheney	8	2001 – 2009
Albert Gore	4	1993 – 2001
J. Danforth Quale	0	1989 – 1993



Source: United States Senate

# A Look Ahead...Certain to be Uncertain

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**Tax Reform**

**Budget**

**Disaster Recovery**

**ACA Repeal and Replace**

**Immigration**

**The Great Unknown**

**2018 Mid-Term Elections**

# There is Still Some Activity in Washington

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Veterans Choice Program signed into law

Increased NIH funding

Chronic care legislation approved in the Senate (S. 870)

Medical liability reform legislation approved in the House (H.R. 1215)

Termination of Independent Payment Advisory Board (H.R. 849)

Government funded through December 8, 2017

# Government Affairs Committee

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**Robert DiGiovanni, DO, Chair**

**Joseph Giaimo, DO**

**Stephen Bell, DO**

**Peter Meyers, DO**

**Seger Morris, DO**

**Jason Beckrow, DO**

**William Stephenson, DO**

**Megan Eshbaugh, DO**

**Virginia Irwin-Scott, DO**

**David Tolentino, DO**

**Kevin Wietecha, DO**

**Eric Good, DO**

**Andrew Vogel, DO**

# Resources

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## American College of Osteopathic Internists

- [www.acoi.org](http://www.acoi.org)

[www.house.gov](http://www.house.gov)

[www.senate.gov](http://www.senate.gov)

[www.congress.gov](http://www.congress.gov)

[www.regulations.gov](http://www.regulations.gov)

[www.cbo.gov](http://www.cbo.gov)

Questions?

# Contact Information

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