State and Federal Legislative Update
May 22, 2014





Christopher Schrader, SPHR
Director – Government Affairs

Agenda

Federal Update

- Presidency
- Senate
- House
- What's up in this session of Congress?
- Current R & D coalitions & why they are important
- ACA Update

State Update

- House
- Senate
- Primary Results
- HR bills passed in the General Assembly

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Federal Update



President Obama

The President's State of the Union speech called for a "year of action" focused on reducing inequality

- Supports the general election theme for the Democrat Party in the 2014 election
- The President said he has a "phone and a pen" and expects to use them
  - Legislation supporting his agenda will be difficult to pass both houses
  - President expects to use Executive Orders
  - Expectations are that the federal agencies will be tasked with implementing the agenda

Legislation

Minimum Wage Increase (S 460)

- **Would increase minimum wage to $8.20 ninety days after enactment, $9.15 in the following year and $10.10 two years after enactment**
  - **Senator Reid holds lift to $10.10 “non-negotiable”**
  - **Most D’s want a lower amount (lift on percentage basis is unprecedented historically)**
  - **Few D senators up for re-election have co-sponsored**
  - **R senators are almost universally opposed**
  - **CBO report said any gains in pay would be offset by corresponding price increases and job loss**
  - **Senator Reid hopes to bring to a vote in May**

Legislation

Paycheck Fairness Act (S 84)

- Would modify Fair Labor Standards Act
  - Limit reasons for pay disparity between males and females solely to “bona fide” factors of education, training or experience
  - “Establishment” refers to workplace located in a county of a state or similar political sub-division
  - Bill has 52 co-sponsors including Sen. Donnelly
  - Bill passed committee but lacks the votes to pass
  - Senator Reid is expected to not allow amendments

President Obama

Executive Orders

Establishing a minimum wage for contractors

- Requires all federal contractors to pay a minimum wage of $10.10 per hour effective January 1, 2015
  - Annually escalates minimum wage based on CPI for urban clerical workers
  - Increases will be rounded up to the nearest $.05
  - Pointed primarily at the ~ 80,000 food service operations on federal property
  - DoD has asked for exemption as compliance will lead to mass closures of fast food locations on military bases.

President Obama

NLRB

Ambush Union Election Rules Proposed

- **Proposed rules are virtually identical to those in 2012 set aside by District Court for DC**
  - **Allow for electronic filing and transmission of election petitions and other documents;**
  - **Require inclusion of telephone numbers, addresses and email addresses in voter lists**
  - **Consolidate all election-related appeals to the Board into a single post-election appeals process**
  - **Permit elections to occur in as little as 10 days of notice**

President Obama

DOL

President has directed the DOL to come up with a plan to increase opportunities for overtime

- **Secretary Perez has announced review of FLSA**
  - **Current floor (salary test) is $24,000 per year**
  - **Duties tests for managerial and administrative are expected to be reviewed**
  - **Public comment period expected soon and as brief as legally allowed**

Presidential Approval

Polling Data					
Poll	**Date**	**Sample**	**Approve**	**Disapprove**	**Spread**
RCP Average	**4/23 - 5/19**	**--**	**44.0**	**51.9**	**-7.9**
Gallup	5/17 - 5/19	1500 A	42	53	-11
Rasmussen Reports	5/17 - 5/19	1500 LV	49	50	-1
FOX News	5/10 - 5/13	1025 RV	44	49	-5
The Economist/YouGov	5/10 - 5/12	674 RV	45	53	-8
CNN/Opinion Research	5/2 - 5/4	1008 A	43	55	-12
ABC News/Wash Post	4/24 - 4/27	855 RV	41	55	-14
USA Today/Pew Research	4/23 - 4/27	1501 A	44	50	-6
NBC News/Wall St. Jrnl	4/23 - 4/27	1000 A	44	50	-6

Presidential Approval

Dead Tie





Congress

Democrats hold the Senate

Democrats 55 – Republicans 45

Republicans Hold the House

Republicans 234 – Democrats 201

The Indiana Delegation to Congress

- Senator Dan Coats
- Senator Joe Donnelly
- District 1 Representative: Pete Visclosky
- District 2 Representative: Jackie Walorski
- District 3 Representative: Marlin Stutzman
- District 4 Representative: Todd Rokita
- District 5 Representative: Susan Brooks
- District 6 Representative: Luke Messer
- District 7 Representative: Andre Carson
- District 8 Representative: Larry Bucshon
- District 9 Representative: Todd Young

What happened in Congress?

Senate

- Passed Comprehensive Immigration Bill
- Passed ENDA
- Passed a budget bill (first in four years)
- Did not hear ACA related bills

House

- Passed a budget bill
- Did not hear Senate's Immigration Bill
- Did not hear ENDA
- Passed several ACA related bills

Congressional Approval Ratings

Polling Data					
Poll	Date	Sample	Approve	Disapprove	Spread
RCP Average	5/8 - 5/13	--	13.7	75.0	-61.3
FOX News	5/10 - 5/13	1025 RV	16	73	-57
The Economist/YouGov	5/10 - 5/12	674 RV	10	72	-62
Gallup	5/8 - 5/11	A	15	80	-65

Congressional Approval Ratings

14%





70%



Why Can't Congress Get Anything Done?

Because we are deeply divided

- 41% believe nonwhites have fewer opportunities than whites. 56% of Democrats agree compared to 25% of Republicans support that statement.
- 29% trust the government to do the right thing. 69% of liberal Democrats trust the government while only 18% of conservative Republicans feel this way
- 51% support legal status for undocumented immigrants. 77% of liberal Democrats support the a pathway to citizenship, while just 32% percent of conservative Republicans support it.

ABC News/Washington Post Poll October 2013

Current Party Coalitions

Democrats

- Poorest and richest Americans of all ethnicities
- Large corporations (Wall Street)
- ½ of college educated
- Single females (outnumber married females)
- Blacks, Hispanics, and Government Union Members

Republicans

- Church going Christians (Catholic and Protestant)
- ½ of college educated
- Small and medium business owners (Main Street)
- Married females
- White working class (including many union workers)
- Rural citizens

Capitol Hill Forecast

- Will he or won't he?
  - John Boehner has twice said he will pass immigration reform and has twice walked it back.
- Minimum Wage bill may pass the Senate
  - Won't pass the House
  - President Obama enacted same via executive order ($10.10 effective January 1, 2015)
- Paycheck Fairness Act failed in the Senate
  - President Obama enacted the same via executive order

Primary Results

- District 1 Representative: Pete Visclosky
- District 2 Representative: Jackie Walorski
- District 3 Representative: Marlin Stutzman
- District 4 Representative: Todd Rokita
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2014 General Election

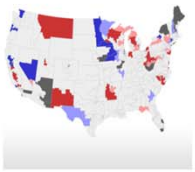
BATTLE FOR THE SENATE

45 Dem | Toss Ups 8 | GOP 47



BATTLE FOR THE HOUSE

188 Dem | Toss Ups 16 | GOP 231



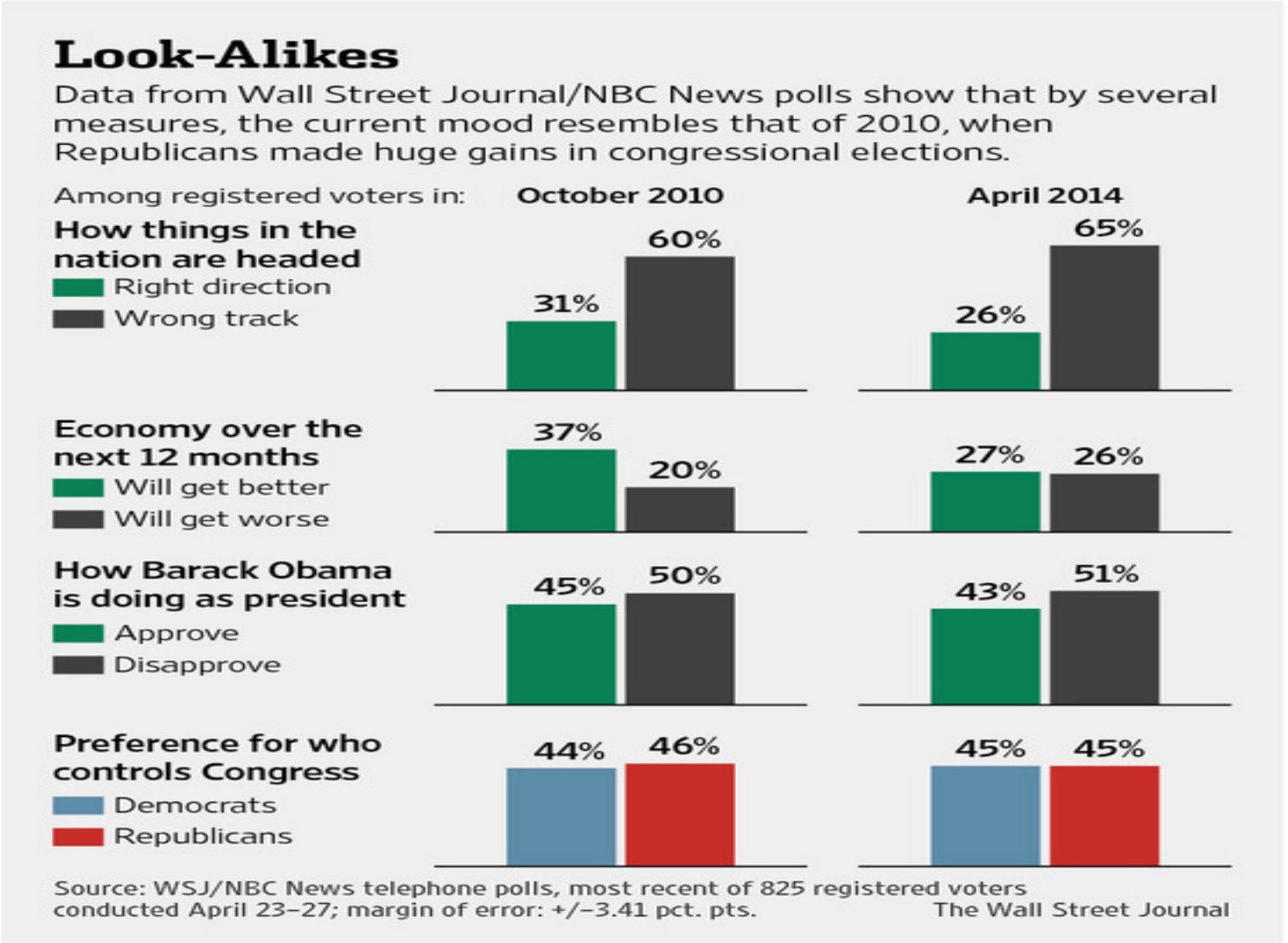
REAL CLEAR POLITICS

2014 General Election

2014 Generic Congressional Vote

Poll	Date	Sample	Republicans (R)	Democrats (D)	Spread
RCP Average	**4/13 - 5/4**	**--**	**43.6**	**43.0**	**Republicans +0.6**
CNN/Opinion Research	5/2 - 5/4	911 RV	46	45	Republicans +1
Rasmussen Reports	4/28 - 5/4	3500 LV	37	41	Democrats +4
USA Today/Pew Research	4/23 - 4/27	1162 RV	47	43	Republicans +4
ABC News/Wash Post	4/24 - 4/27	855 RV	44	45	Democrats +1
FOX News	4/13 - 4/15	1012 RV	44	41	Republicans +3

2014 General Election

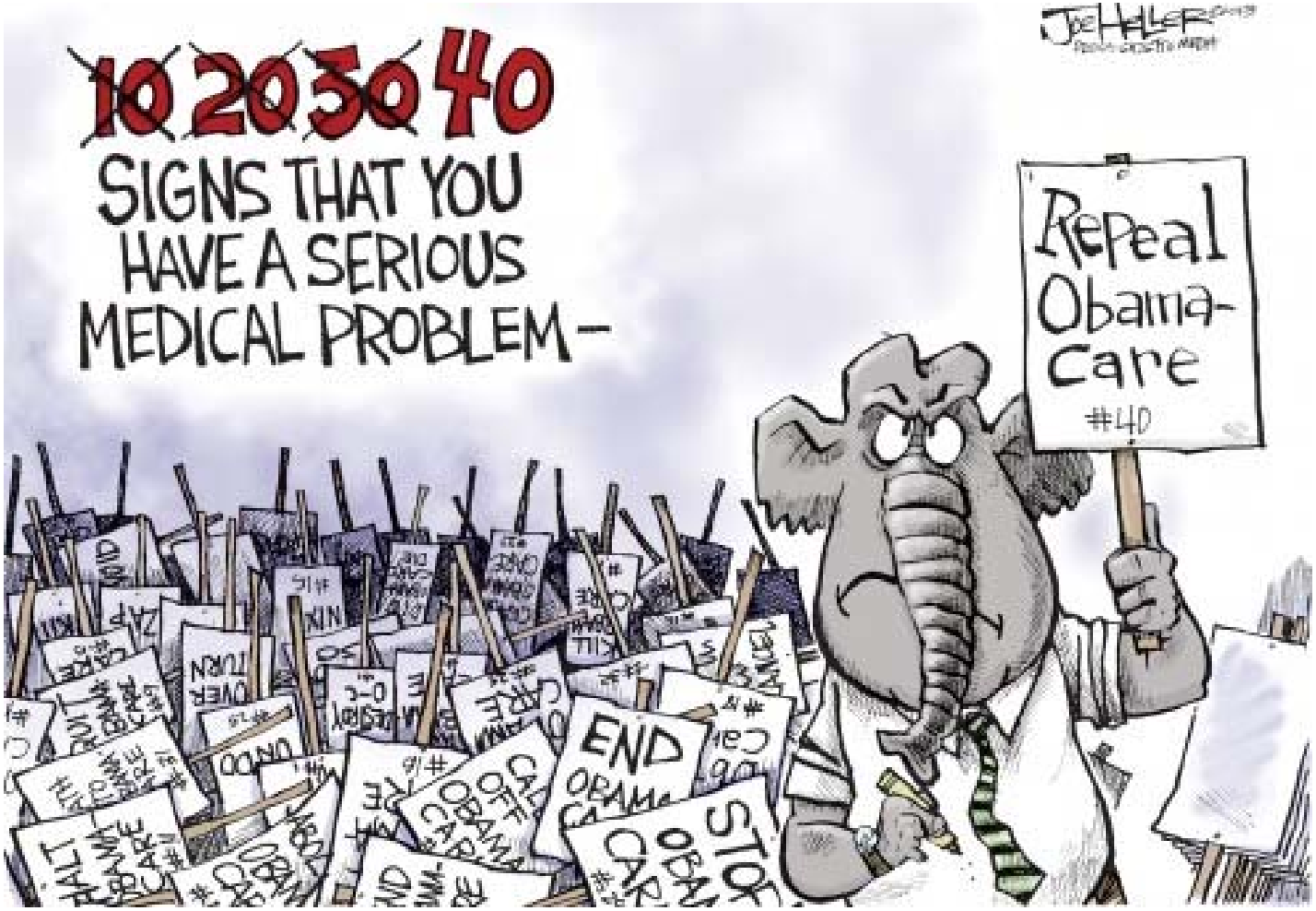


2014 General Election

Forecasted Winners

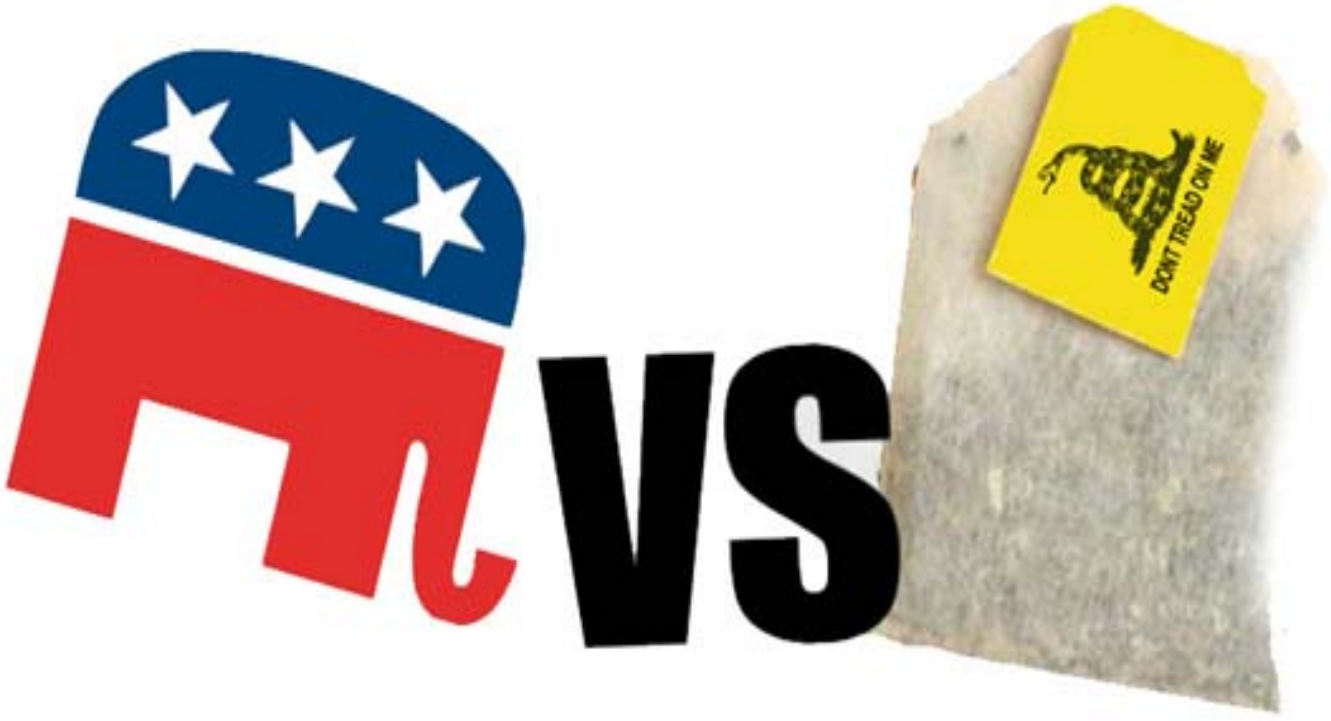
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How Progressive Democrats See DC



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How Establishment Republicans See DC

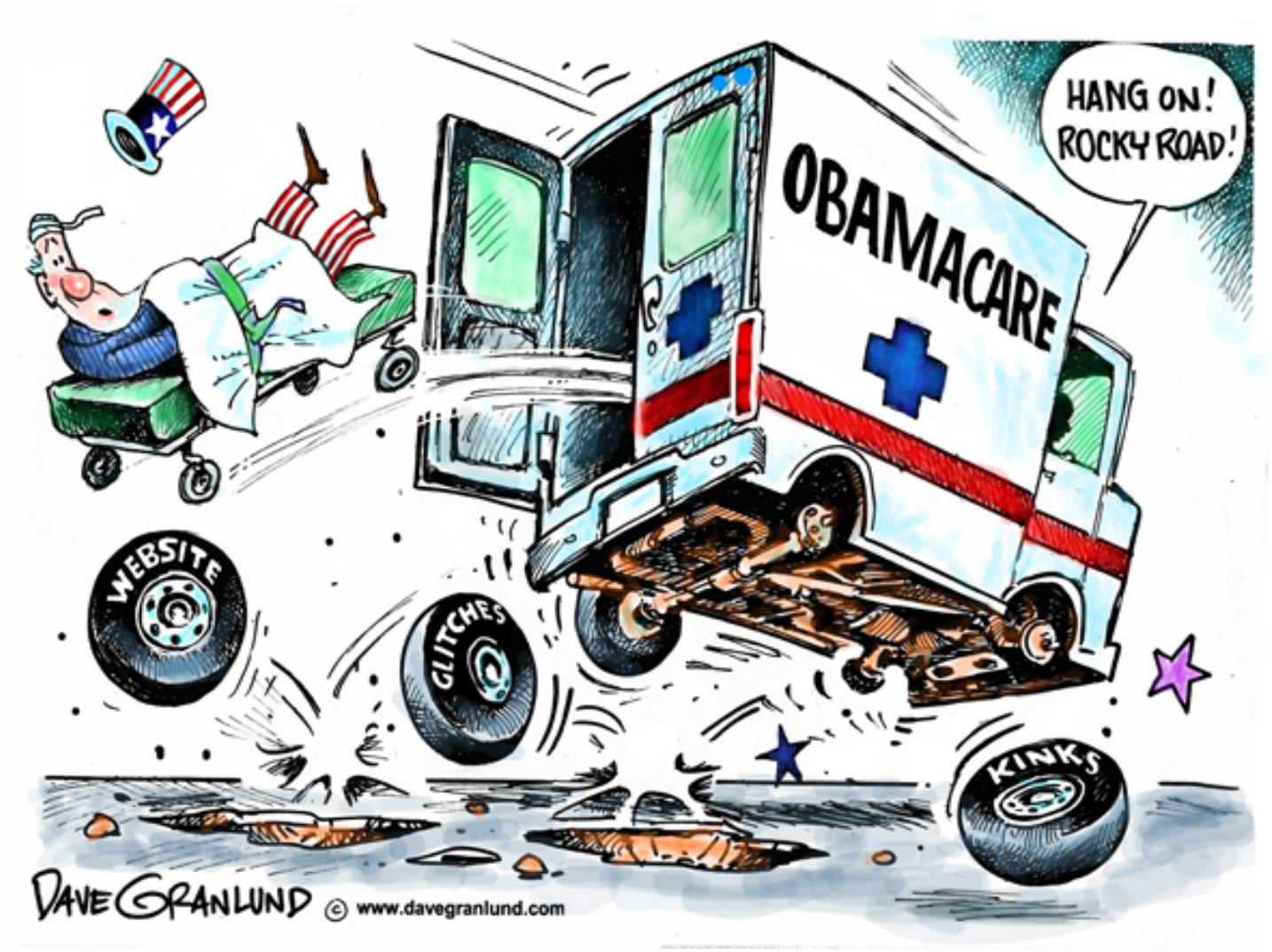


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How Tea Party Republicans see DC



ACA Update


HANG ON! ROCKY ROAD!
OBAMACARE
WEBSITE
GLITCHES
KINKS
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Delays and Postponements

- Employers with 100 or fewer FTE employees do not have to comply with employer mandate nor offer dependent coverage until 2016
- Effectively exempts 96% of all eligible companies from compliance through 2016
- Employers with more than 100 FTE have to offer qualified insurance plans to at least 70% of their employees by 2015 and 95% by 2016
  - Nearly 98% of companies this size are already in compliance with the 2016 standard

Waivers

- Employers with Taft-Hartley health plans (union) do not have to pay re-insurance taxes
- Insurance companies may offer non-compliant individual health insurance policies through 2016
- Individuals with cancelled personal health insurance policies may avoid the ACA individual shared responsibility payment through 2016 by producing a copy of cancellation notice
- The hardship exemption has been expanded to include those who believe enrollment in an ACA plan was too hard or the plans too expensive. NO documentation is required; personal attestation only.

Enrollment Numbers

- HHS announced 8,500,000 enrollments through April 15; state run marketplaces are responsible for 5,200,000. Cancelled private insurance polices were 6,200,000 through the same period.
- HHS nationwide enrollment goal was 7M by March 31; HHS disavowed the goal until it was achieved
- Indiana's share is 64,972 against a target of 125,000 or 52% of goal. Uninsured in 2013 numbered 791,947
- Medicaid enrollment exceeded 4,000,000; this does NOT include the 600,000 who were tracked to Medicaid through the federal or state market place sites.

Enrollment Numbers

Age Distribution

- Age <18 2%
- Age 18 – 34 28%
- Age 34 – 54 37%
- Age 55 - 64 33%

*Note: Ratio is more important then percentages. Average 55 yr. old is 6 times more expensive to cover than 25 yr. old

Enrollment Numbers

- 62% of the persons who selected a Marketplace plan selected a **Silver** plan
- 19% of the persons who selected a Marketplace selected a **Gold** plan
- 12% of the persons who selected a Marketplace plan selected a **Bronze** plan
- 6% of the persons who selected a Marketplace plan selected a **Platinum** plan
- 1% of the persons who selected a Marketplace plan selected a **Catastrophic** plan

Enrollment Numbers

What we DON'T know:

- HHS has not disclosed how many enrollees have paid premiums. Insurance companies estimate nearly 20% of enrollees have never made a premium payment
- McKinsey and Avalare estimate of 14% of new enrollees were previously uninsured; the lion's share of enrollees were insured under cancelled policies
- Less than 20% of new Medicaid enrollees are a result of expansion; most all were previously eligible
- How insurers will react to claims payment during 90 grace period following first missed premium payment

Private Insurance Market

- HHS projected 2 years ago that 7M people would lose their individual coverage; latest estimate is 9M
- CBO projects 45M will lose coverage when (if) employer mandate is enforced in 2017
- Although the President has said he will allow issuance of non-compliant policies through 2016, the state commissioners of insurance do not seem to be going along
  - No word on what Indiana's Commissioner will decide

Government Announcements

- Secretary Sebelius Resigns
  - President Obama announced Sylvia Burwell will succeed as Secretary HHS
    - Senate approval will be a breeze as senate rules changed in March making it impossible for Republicans to influence events
  - 2014 open enrollment period “closed” April 15
    - Battered spouses have until the end of May (personal attestation)
    - Others who had “difficulty enrolling” have until the end of May

Government Announcements

- CBO revises expected health care costs down
  - Takes forecast down 5 Billion for 2014
    - Original estimates anticipated 14 million enrollees
    - Factors in narrow networks and costs that will be born by enrollees
    - Factors in high deductibles
- Will Indiana allow great grandfathering of non-compliant individual health insurance plans?
  - Anthem has indicated they are willing to write
  - How to get around the law?

Legislative Action

- **Forty Hours is Full-Time Act** (S 1188) Author: Collins (R-ME) Co-Sponsors: Donnelly (D-IN) and 16 R's. POTUS opposes; will not get a committee hearing from Harkins (D-IA)
- **Authority for Employer Mandate Delay Act** (HR 2667) Author Griffin (R-AR) Co-Sponsors (33). Passed 264 – 161 with 35 D's in support. POTUS says will veto; has not received a committee hearing in Senate
- **Fairness for American Families Act** (HR 2667) Author Young (R-IN); Co-Sponsors (33). Passed 251-174 with 22 D's in support. POTUS says will veto; has not received a committee hearing in Senate

Legislative Action

Bills Cont'd

- **Keep Your Health Plan Act** (HR 3350) Author: Upton (R-MI) Co-Sponsors 70 (68 R 2 D) POTUS opposes; passed the House 261 – 157 (39 D's). Unlikely to received a Senate committee hearing.
- **Save American Workers Act** (HR 2575) Author Young (R-IN); Co-Sponsors (210). Passed House 248 – 179 (18 D's). POTUS says will veto; unlikely to receive a committee hearing in Senate

Public Approval of the ACA

Polling Data					
Poll	**Date**	**Sample**	**For/Favor**	**Against/Oppose**	**Spread**
RCP Average	**4/23 - 5/13**	**--**	**41.4**	**51.2**	**Against/Oppose +9.8**
FOX News	5/10 - 5/13	1025 RV	43	53	Against/Oppose +10
Rasmussen Reports*	5/3 - 5/4	1000 LV	43	53	Against/Oppose +10
ABC News/Wash Post	4/24 - 4/27	855 RV	44	49	Against/Oppose +5
USA Today/Pew Research	4/23 - 4/27	1501 A	41	55	Against/Oppose +14
NBC News/Wall St. Jrnl	4/23 - 4/27	1000 A	36	46	Against/Oppose +10

Governor Pence's Proposal

- HIP 2.0 would eliminate traditional Medicaid for all non-disabled Hoosiers age 19 – 64 with up to 138% of FPL income
  - It maintains and increases the Personal Wellness and Responsibility (POWER) account, modeled after a Health Savings Account, from which members would pay for medical services
  - It provides a new option for families to be covered by the same health plan
  - It facilitates linkages to employment services and rewards individuals for securing employment and moving off public assistance
- Funding would come from existing cigarette taxes and Hospital Fee Assessments plus federal Medicaid Expansion funds; no new taxes would be required

Governor Pence's Proposal

HIP 2.0 »»

HIP 2.0 builds upon the framework and success of the Healthy Indiana Plan by establishing an even more robust health coverage model to replace traditional Medicaid for all non-disabled adults ages 19-64. HIP 2.0 provides low-income Hoosiers with three pathways to coverage grounded in personal responsibility and consumer behavior. All HIP 2.0 plans include a Personal Wellness and Responsibility (POWER) account which functions like a Health Savings Account (HSA) to help pay for deductible expenses.

HIP → Employer Benefit

- Provides financial support to members who wish to access employer-sponsored insurance options
- Empowers Hoosiers with greater choices and increased access to providers while also encouraging use of existing private insurance options
- Eligible individuals can choose the employer-sponsored plan that works best for them
- Allows HIP-eligible individuals to choose to either enroll in HIP Plus or receive a defined contribution POWER account funded by the State

HIP + Plus

- Consumer-driven Medicaid alternative for Hoosiers with incomes below 138% of federal poverty level
- Available to all members who successfully make their monthly POWER account contributions
- Members and the State of Indiana jointly fund a $2,500 POWER account, to which members contribute based on a sliding income scale
- Required POWER account contributions range from $3 - $25 per month
- No other required cost-sharing

HIP ✓ Basic

- Default plan for Hoosiers below 100% of federal poverty level who do not make required POWER account contributions
- Requires co-payments for all services, which may exceed the cost of monthly POWER account contributions under HIP Plus
- HIP Basic plan members will use an entirely State-funded POWER account to cover their $2,500 annual deductible
- Reduced benefit package
- More limited prescription drug benefit

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State Update



The General Assembly

Republican supermajority – both houses

- Last occurred for R's in 1969-70; D's in1965-66
- R's hold 69 of 100 seats in the house
- R's hold 38 of 50 seats in the Senate
- Republicans have held the Senate for over 20 years

Leadership

- Brian Bosma (R) Speaker of the House
- Scott Pelath (D) House Minority Leader
- David Long (R) Senate Pro Tem
- Tim Lanane (D) Senate Minority Leader

The Short Session At High Level

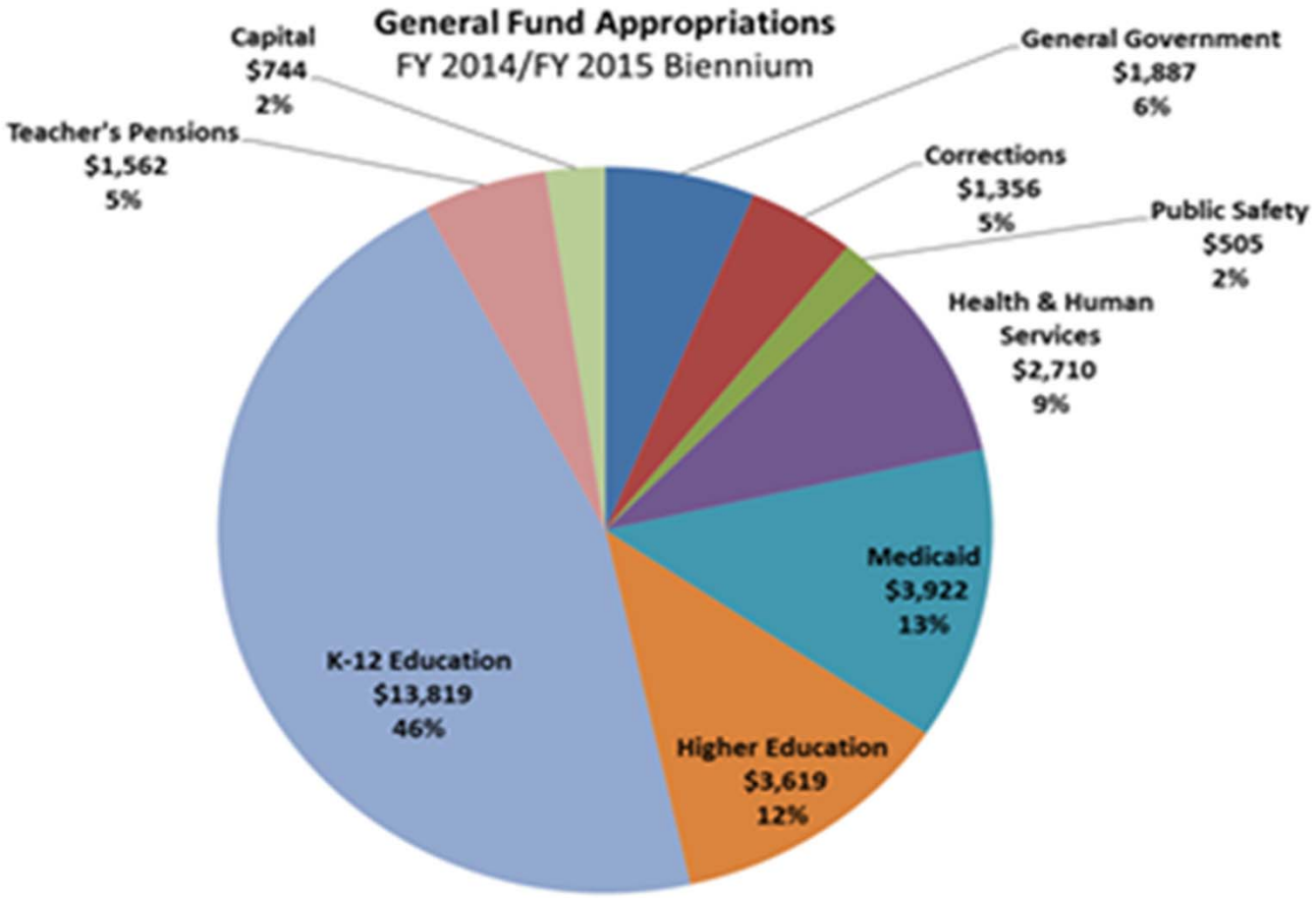
Legislation

- HJR-6 dominated media (but not the legislature)
- Session was average in terms of legislation passed
- 31 education related bills passed
  - Common Core rejected
  - Pre-School pilot program passed

Governor Pence

- Achieved most, but not all of agenda; pre-school pilot program was most important

The Biennial Budget



Education = 63%

IndianaChamber
The Voice of Indiana Business.®

Human Resources Related Legislation

- HJR – 3 passed. Constitutional Amendment to define marriage existing solely between a man and woman altered to allow the state to recognize civil unions
  - The legislature will have to pass it again in 2015 in order to place it on the 2016 ballot
- SB 294 Workers' Compensation passed. Several cost control elements aimed at prescription drugs
- HB 1242 Employment Discrimination Against Veterans passed. Makes it illegal to discriminate against a prospective employee on basis of veteran status.

Primary Results

- Few Surprises, but three incumbents lost
  - Rep. Rebecca Kubacki (R) Kosciusko Co.
  - Rep. Kathy Huer (R) Allen Co.
  - Sen. John Waterman (R) Greene, Martin and Daviess Co's

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Contact Information

- Christopher Schrader, SPHR
- President – Schrader and Associates
- Email: Chris@christhehrpro.com
- Phone: (812) 322-0380
- Web: www.christhehrpro.com
- Blog:christhehrpro.com/category/blog
-  @ChrisTheHRPro