

# NRMCA Federal Advocacy Update

Government Affairs Division



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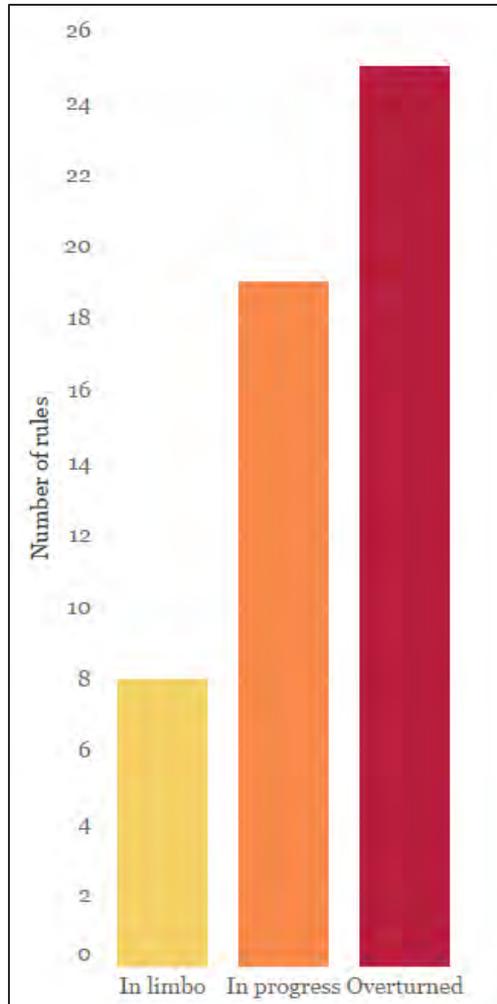
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# Environmental rules and regulations overturned under Trump



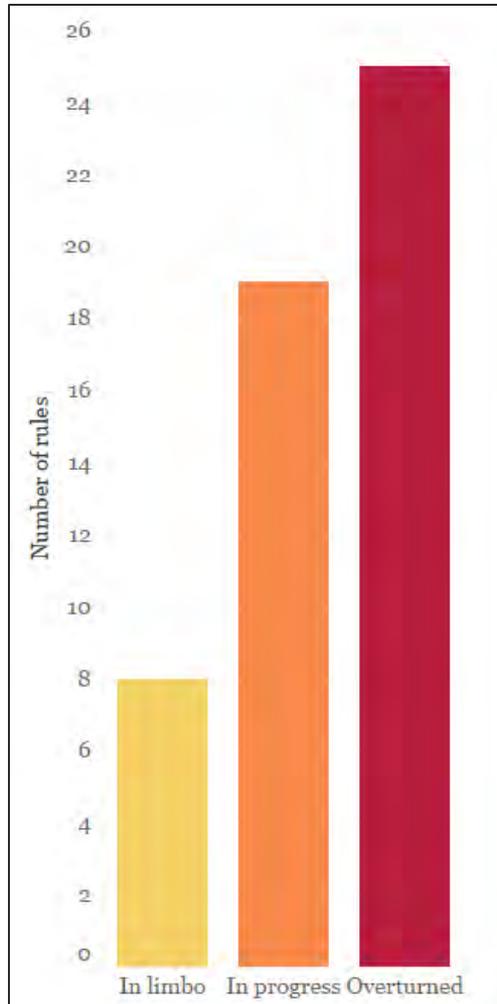
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- Reusable water bottles rule for national parks
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- Third-party settlement funds

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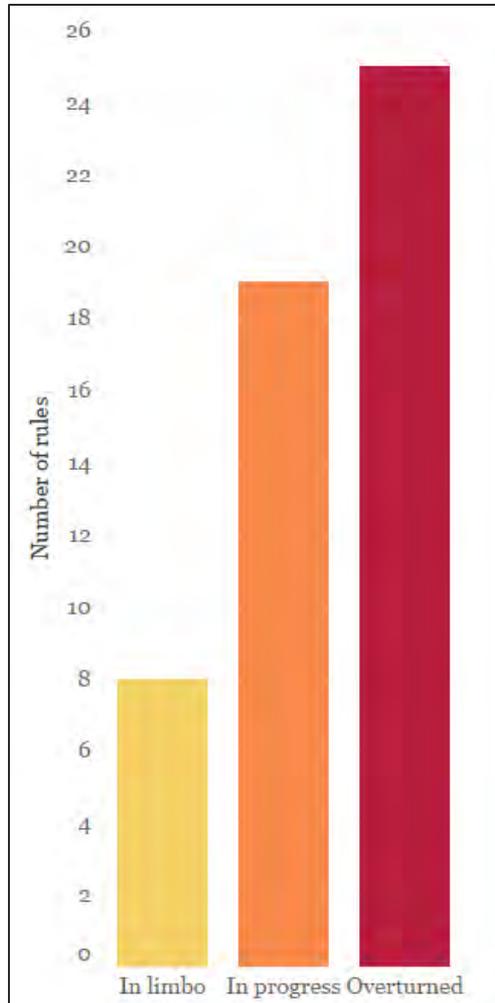
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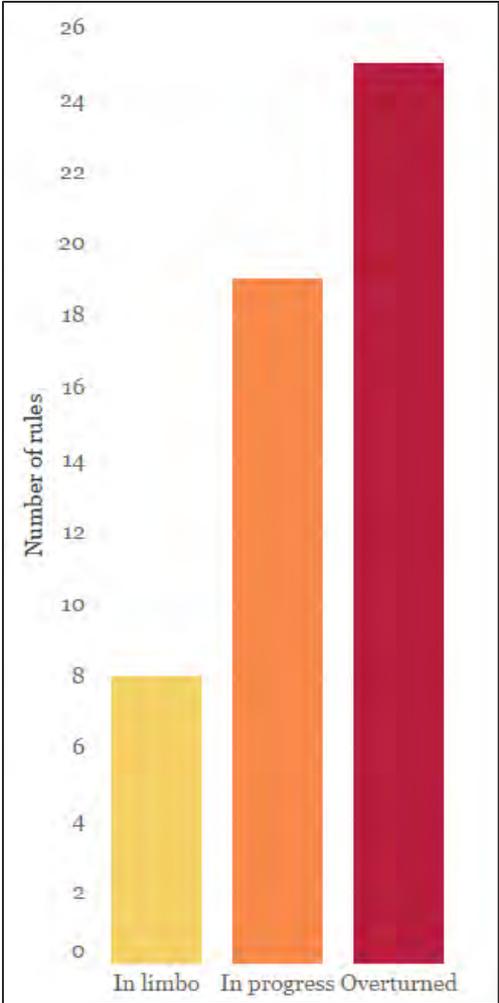
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# Environmental rules and regulations: rollbacks in progress



- Exploratory drilling in the Arctic Wildlife Refuge
- Car and truck fuel-efficiency standard
- Clean Power Plan
- Coal ash discharge regulations
- Emissions standards for new, modified and reconstructed power plants
- Emissions standards for trailers and glider kits
- Emissions rules for power plant start-up and shutdown
- Fracking regulations on public lands
- Hunting method regulations in Alaska
- Limits on toxic discharge from power plants
- Oil rig safety regulations
- Paris climate agreement
- Regulations for offshore oil and gas exploration by floating vessels
- Regulations on oil and gas drilling in some national parks
- Requirement for tracking emissions on federal highways
- Sage grouse habitat protection
- Status of 10 national monuments
- Status of 12 marine areas
- Wetland and tributary protections

# Environmental rules and regulations: rollbacks in limbo



- Efficiency standards for federal buildings
- Groundwater protections for uranium mines
- Hazardous chemical facility regulations
- Limits on landfill emissions
- Limits on methane emissions on public lands
- Mercury emission limits for power plants
- Methane emission limits at new oil and gas wells
- Rule helping consumers buy fuel-efficient tires



# Trump executive orders related to environmental regulation

Executive Order	Date	Details
<i>Expedite environmental review of infrastructure projects</i>	1-24-17	<ul style="list-style-type: none"> <li>Reduces the “incredibly cumbersome, long, horrible permitting process” for infrastructure projects</li> <li>Targets the <b>EPA’s regulatory oversight authority</b>, which critics claim hampers U.S. infrastructure and manufacturing</li> <li>Reduced regulation will also result in less federal agency pushback during negotiations over Keystone XL and allow the Dakota Access Pipeline to continue construction sooner, following renegotiation</li> </ul>
<i>Review manufacturing and industrial regulations</i>	1-24-17	<ul style="list-style-type: none"> <li>Orders the commerce secretary to begin a <b>60-day review of regulations for American manufacturers</b>, with the aim of finding ways to expedite permitting and relevant federal processes</li> </ul>
<i>Promoting energy independence and economic growth</i>	3-28-17	<ul style="list-style-type: none"> <li>Instructs the EPA to start <b>rolling back the Clean Power Plan</b></li> <li>Mandates the reconsideration of carbon standards for new coal plants, methane emission standards for oil and gas operations, and the social cost of carbon calculations</li> <li>Lifts the ban on federal coal leasing and <u>repeals guidance for factoring climate change into National Environmental Policy Act reviews</u></li> <li><u>It also rescinds many Obama-era executive orders on the climate such as the Climate Action Plan</u></li> <li>Generally instructs all agencies to review any rules that might inhibit energy production</li> </ul>

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# Trump signs executive order to reduce federal regulations in general

## Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs

- This order requires any executive department or agency that proposes a new regulation to identify two regulations to be repealed
- For fiscal year 2017 it also instructs that the total (incremental) cost of all new regulations and repealed regulations should be no greater than zero
- For fiscal year 2018, the director of the Office of Management and Budget is required to set a maximum total cost of all new and repealed regulations for each agency — this maximum may not be exceeded “unless required by law or approved in writing” by the OMB director



However, the White House has confirmed that the new executive order does not extend to independent agencies

Independent agencies include the Securities and Exchange Commission (SEC), the Federal Communications Commission (FCC), the Consumer Financial Protection Bureau (CFPB) and the Commodity Futures Trading Commission (CFTC)

Regardless, independent agencies with Republican leadership — such as the SEC, CFTC and FCC — may choose to voluntarily comply with Trump’s executive order

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# Other regulations repealed under Trump



## Farmer Fair Practice rules

- The late Obama-era regulation made it easier for farmers to sue big agricultural companies
- Agriculture contractors argued these rules would provoke massive amounts of litigation by contract workers



## Fracking rules

- Withdrew a rule banning fracking on public land



## Cancel Paris Climate Agreement

- On August 4<sup>th</sup>, President Trump delivered notice of the U.S. intention to withdraw to the UN
- **Under the agreement, the US had pledged to seriously regulate carbon emissions to combat global warming**

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# Other regulations under threat



## **Waters of the United States (WOTUS) rule**

- EPA Administrator Scott Pruitt started an official review process of which waters must be regulated by the EPA and Army Corps of Engineers
- Most farmers opposed the Obama-era definition



## **Overtime rule**

- The DOL confirmed on October 30<sup>th</sup> that it will issue a new overtime rule; it's expected that the new salary threshold for exemptions will be in the low \$30,000 range

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# Environmental rules repealed under President Trump

## Trump signed four CRA bills to repeal Obama-era environmental regulations



### Stream protection rule (H.J. Res. 38)

**Details:** Prevents mining companies from releasing waste in local waterways

**House vote breakdown:**

February 1<sup>st</sup>: Voted 228-194 to repeal the rule

**Senate vote breakdown:**

February 2<sup>nd</sup>: Voted 54-45 to repeal the rule

✓ **Signed by President Trump, February 16<sup>th</sup>**



### Resource extraction rule (H.J. Res. 41)

**Details:** A section of Dodd-Frank that mandates publicly traded oil, gas and mining companies to disclose payments to foreign governments

**House vote breakdown:**

February 1<sup>st</sup>: Voted 235-181 to repeal the rule

**Senate vote breakdown:**

February 2<sup>nd</sup>: Voted 52-48 to repeal the rule

✓ **Signed by President Trump, February 14<sup>th</sup>**



### Non-subsistence take of wildlife, and public participation and closure procedures, on national wildlife refuges in Alaska (H.J. Res. 69)

**Details:** Limits hunting and wildlife management practices on federal lands in Alaska

**House vote breakdown:**

February 16<sup>th</sup>: Voted 225-193 to repeal the rule

**Senate vote breakdown:**

March 21<sup>st</sup>: Voted 52-47 to repeal the rule

✓ **Signed by President Trump, April 3<sup>rd</sup>**



### Resource management planning (H.J. Res. 44)

**Details:** Enables the BLM to more readily address resource issues such as wildfire, wildlife habitat, appropriate development, and the demand for renewable and non-renewable energy sources

**House vote breakdown:**

February 7<sup>th</sup>: Voted 234-186 to repeal the rule

**Senate vote breakdown:**

March 7<sup>th</sup>: Voted 51-48 to repeal the rule

✓ **Signed by President Trump, March 27<sup>th</sup>**

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# Department of Labor rules repealed under President Trump



## Employer's obligation to make and maintain an accurate record of each recordable injury and illness

(H.J. Res. 83)

**Details:** Clarifies that an employer's duty to record an injury or illness continues for the full five-year record-retention period.

**House vote breakdown:**

March 1<sup>st</sup>: Voted 231-191 to repeal the rule

**Senate vote breakdown:**

March 22<sup>nd</sup>: Voted 50-48 to repeal the rule

✓ **Signed by President Trump, April 3<sup>rd</sup>**



## Federal-state unemployment compensation program

(H.J. Res. 42)

**Details:** Limits the states' ability to drug test individuals receiving unemployment insurance

**House vote breakdown:**

February 15<sup>th</sup>: Voted 236-189 to repeal the rule

**Senate vote breakdown:**

March 14<sup>th</sup>: Voted 51-48 to repeal the rule

✓ **Signed by President Trump, March 31<sup>st</sup>**



## Fair play and safe workplaces rule

(aka blacklisting rule for contractors) (H.J. Res. 37)

**Details:** Requires federal contractors to disclose labor law violations from the last three years before they can win a contract

**House vote breakdown:**

February 2<sup>nd</sup>: Voted 236-187 to repeal the rule

**Senate vote breakdown:**

March 6<sup>th</sup>: Voted 49-48 to repeal the rule

✓ **Signed by President Trump, March 27<sup>th</sup>**



## Savings arrangements established by states for non-governmental employees

(H.J. Res. 66)

**Details:** Provides for states to set up retirement savings plans for private sector employees

**House vote breakdown:**

February 15<sup>th</sup>: Voted 231-193 to repeal the rule

**Senate vote breakdown:**

May 3<sup>rd</sup>: Voted 50-49 to repeal the rule

✓ **Signed by President Trump, May 17<sup>th</sup>**

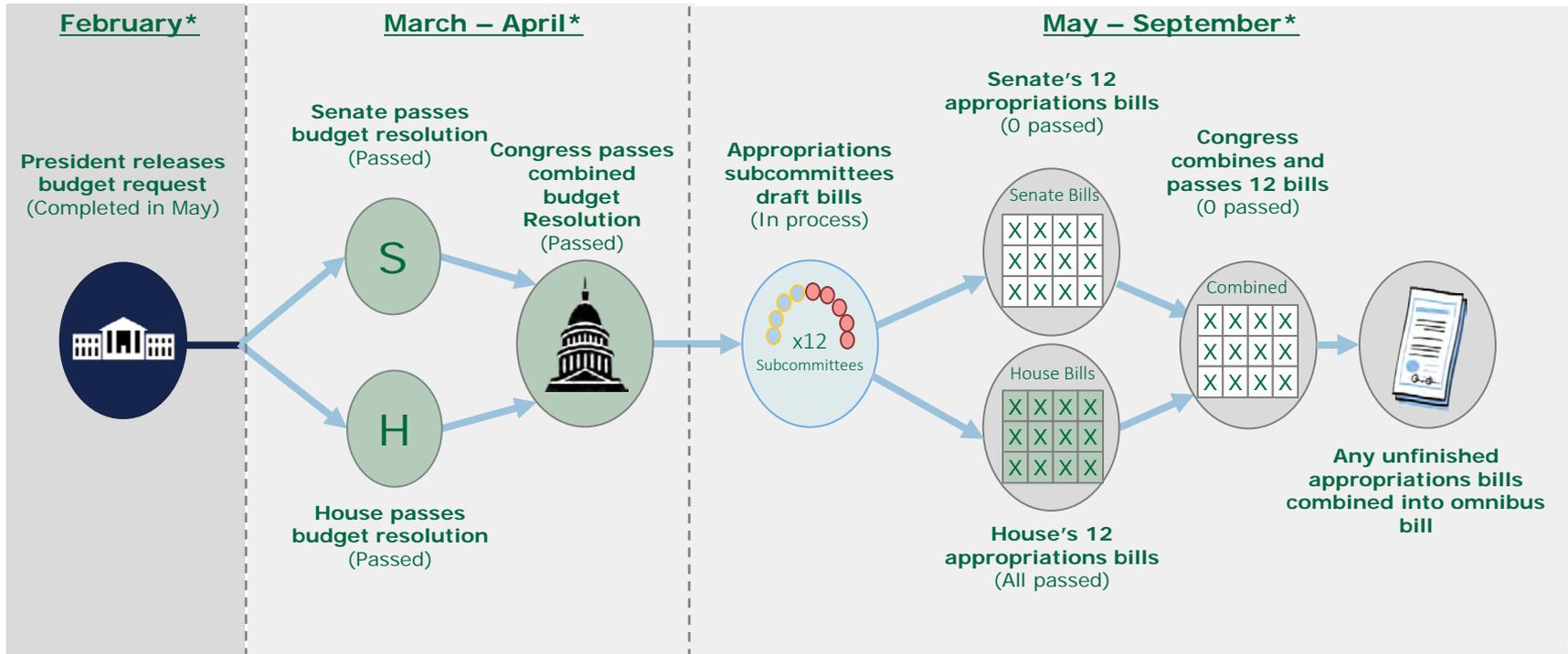
### Analysis

The Senate decided by one vote to block cities from organizing retirement savings accounts for workers without employer plans. The GOP argues that the regulation gave local authorities too much leeway.

# Current status of FY18 budget negotiations

Congress nears an agreement to extend the budget deadline, new deadline will likely be Dec 22

\*Denotes the pace of the process under "regular order"



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# Tax Reform

- Lead Coalition to Repeal Valuation Discount Proposed Rule
- Meeting w/ White House, Treasury, House & Senate Leadership on Death Tax Repeal and Pass Thrus
- Lobbies to Maintain Like-Kinds, Depreciation Bonus, Mortgage Interest Deduction
- **Currently Lobbying to Create Exemption for PTO**

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# Tax Cuts and Jobs Act

Because the House and Senate versions of the bill differ slightly, a conference committee will meet to reconcile the differences and each chamber will vote on the final bill.

	HOUSE BILL	SENATE BILL
Top individual rate	39.6%	38.5%
Number of individual tax brackets	Four	Seven
Estate tax	Expands exemption to about \$11 million a person, repeals in 2025	Expands exemption to about \$11 million a person, no repeal
Corporate rate	20%	20%
Corporate tax rate reduction starts	2018	2019
Top pass-through rate	25% with significant caveats	Below 30%
State/local deduction	Preserves for property tax up to \$10,000. Ends for income tax	Preserves for property tax up to \$10,000. Ends for income tax
Medical expense deduction	Eliminates	Expands temporarily
Student-loan interest rate deduction	Eliminates	Preserves
Personal exemption	Eliminates	Eliminates
Standard deduction	Nearly doubles	Nearly doubles
Individual alternative minimum tax	Eliminates	Retains with bigger exemption
Child tax credit	\$1,600 a child	\$2,000 a child
Expirations	Key credit expires after 2022	Individual tax cuts expire after 2025
Business investments	Full expensing, expires after 2022	Full expensing, phases out after 2022

Sources: U.S. House and U.S. Senate

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# Provisions of the Tax Bill



Cuts corporate rates to 20%.  
Passthroughs treated differently in  
House and Senate versions



Full and immediate  
expensing, expansion of  
Section 179 expensing



Estate tax exemption doubled;  
House eliminates estate tax after  
2024



Keeps like-kind exchange for  
real property

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# Timber Innovation Act



**Timber Innovation Act of 2017**  
**S. 538, H.R. 1380**  
*Sponsors: Sen. Debbie Stabenow (D-MI)*  
*and Rep. Suzan Delbene (D-WA)*



## Proponents Say It Prioritizes:



Commercialization of wood products



Measuring “safety” of wood materials



Evaluating the environmental impact of wood building construction in structures 85 ft and above



Evaluating impact of wood products on wildlife

## The bill:

Directs the USDA to conduct research and development, and expand education, marketing and technical assistance for using wood products in construction. The bill uses federal dollars to place wood in tall building structures 85 ft and above.

The bill also creates an annual Tall Wood Building Prize Competition and funds grants for innovation in wood construction.

**TIA is an earmark for stick construction!**

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# How Did NRMCA Kill TIA?

NRMCA has led a coalition to oppose this bill

- Meetings with key Agriculture & Nat Resource Committee members
- Met with White House Office Environmental Counsel
- Negotiated compromise
- Thousands of letters through grassroots/grasstops efforts
- Forced USDA to remove false claims on the benefits of wood
  - Had Key MOC and staff call the USDA to request Obama-era pro-timber materials be removed from Forrest Products Lab website
  - Had MOC & staff request only fact-based, scientific documentation be included on website



***Be on the alert!***

***The Timber Innovation Act's sponsors are sure to try to include this in the 2018 Farm Bill***

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# Fighting Wood with Resiliency

## **FY2017 and FY2018 Appropriations bills – WIN!**

- NRMCA placed resilient construction language in four appropriations bills

## **National Flood Insurance Program reauthorization – WIN!**

- Use of materials to “minimize the impact of flooding on the usability of the covered property”

## **Federal Emergency Management Agency reauthorization – WIN!**

- Requires considering resiliency in recommendations to reduce disaster costs and losses

## **Disaster Savings and Resilient Construction Act of 2017**

- Resilient construction tax credits – potential disaster bill



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# Transportation

- US DOT Sec Chao “*Trans bill will be later than expected*” due to calendar. 12/5/17
- Up to \$200 bil comes from funding cuts at other agencies
- Need additional revenues from tax reform
- Health Care Next, then transportation
- Four major components of funding

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# Trucking Regulations



In the 2015 FAST Act, ready mixed concrete industry received a permanent exemption from the Hours of Service 30-minute break rule and extended the logging requirement from 12 to 14 hours.

As a result, ready mixed concrete delivery vehicles that don't need to keep RODS or only keep RODS fewer than 8 times in a 30-day period are not required to comply with ELD mandate.



Obama-era Safety Fitness Determination rules withdrawn by Secretary Chao



Fight against Electronic Logging Device mandate continues on Capitol Hill

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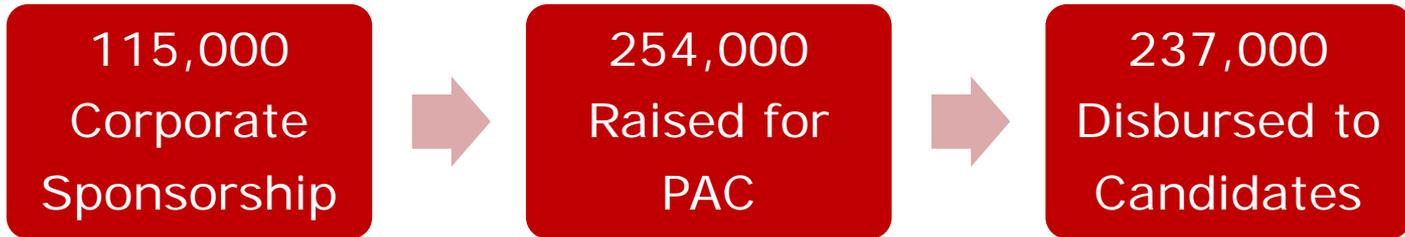
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# CONCRETE PAC



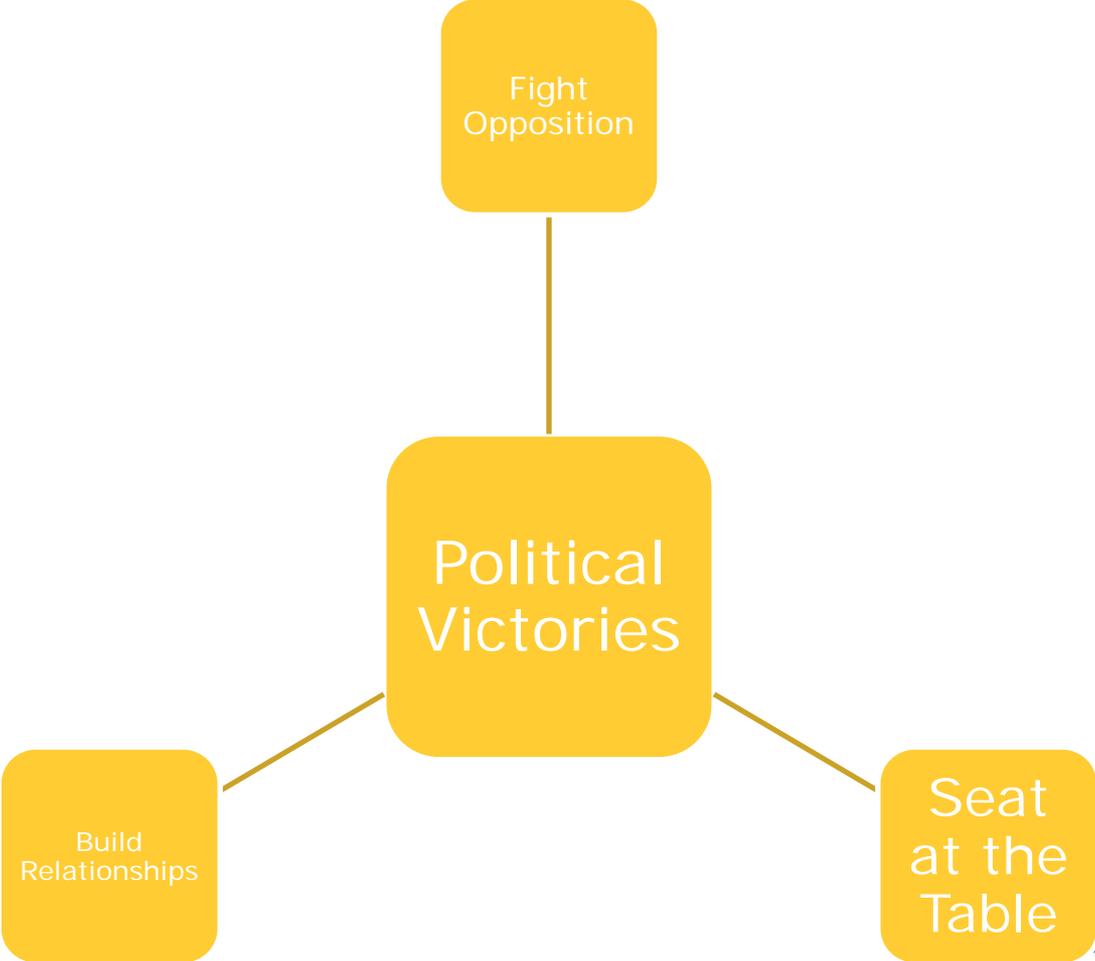
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# Why is *CONCRETEPAC* a Worthy Investment



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# What Can You Do to Help?

Support  
CONCRETEPAC

Become a  
VOICE

Sign Prior  
Authorization

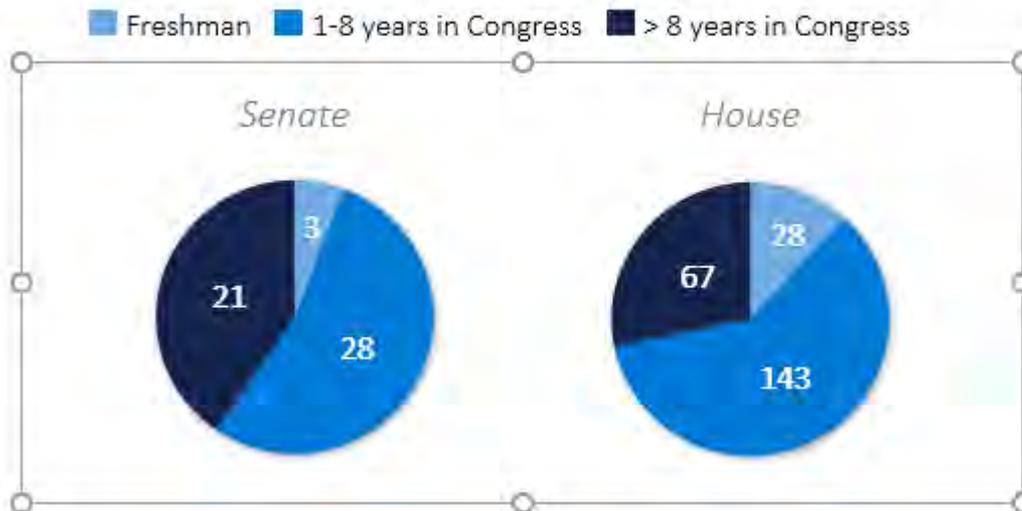
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# Most Republicans in Congress Have Never Served Under a Republican President

## Republicans by number of years served



## Consequences

- Republicans now “own” the federal government
- They must take the **leading role** in raising the debt ceiling, passing the annual budget, **everything**
- The **minority party** has the luxury of “throwing rocks” and voting against anything
- Their policies may now become law, and they will face the **political consequences** of them

“

Moving from an **opposition party** to a **governing party** comes with some growing pains.”

—**Speaker Ryan**, after pulling the first iteration of the AHCA from consideration

6

The number of times Republicans voted under Obama to **repeal the ACA in its entirety**

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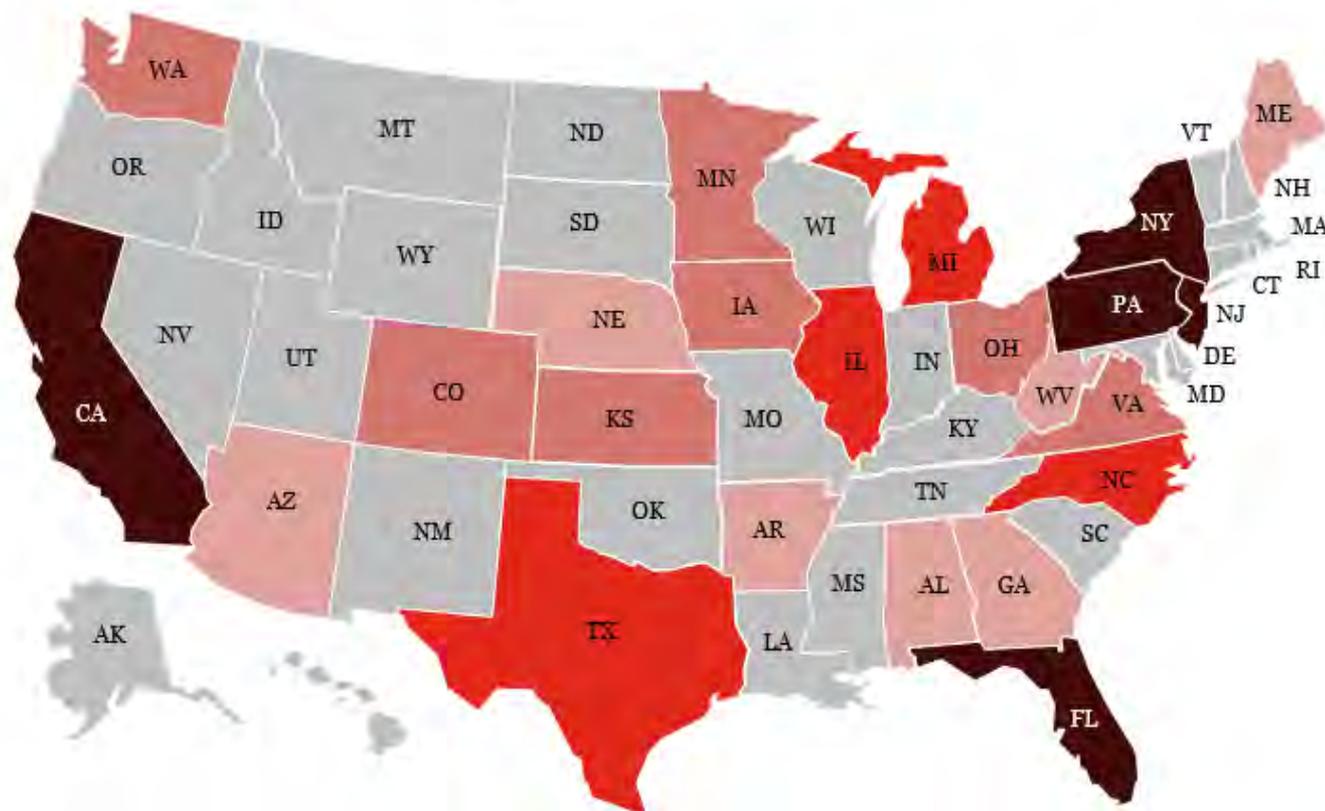
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# DCCC Targets of NRCC House List

## DCCC target district overview

■ 7-4 seats targeted ■ 3 seats targeted ■ 2 seats targeted ■ 1 seat targeted ■ Not listed



### Analysis

- 23 districts were won by Clinton over Trump in 2016
- Democrats hope that Trump will motivate their voters to turn out
- California is the biggest target with 7 districts targeted



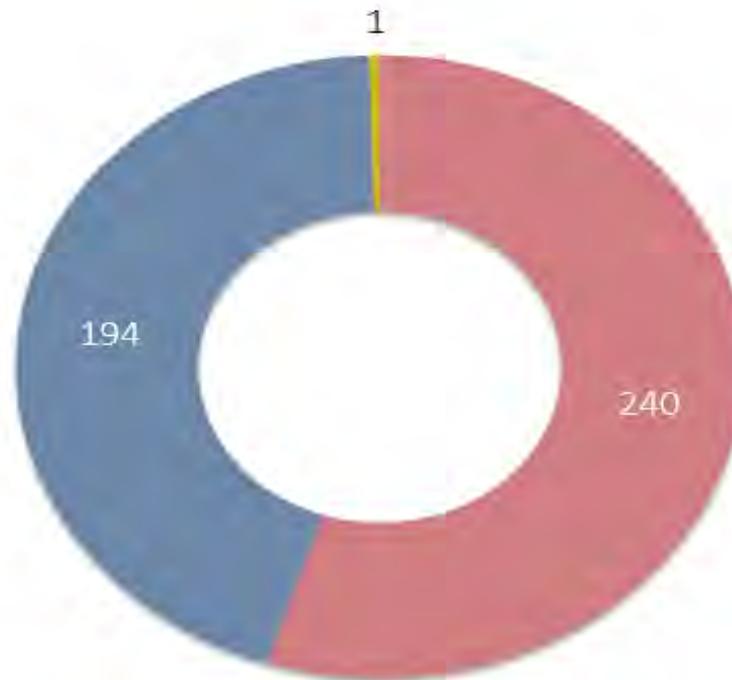
# 115<sup>th</sup> House of Representatives

The House has 4 vacancies, 3 Republican, 1 Democrat

## Representatives in the 115th Congress

As of September 12, 2017

- Democrat held seats
- Republican held seats
- Vacant

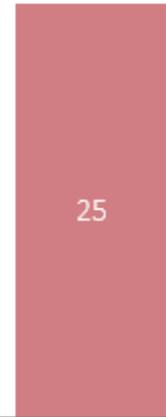
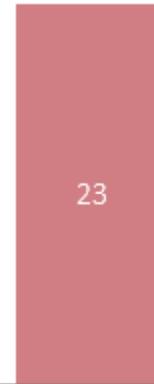
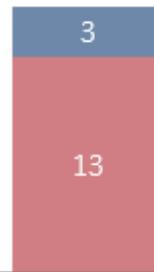
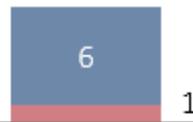
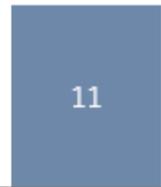


# Most Targeted House Seats in 2018

## Cook Political Report ratings

2017-2018 House races

■ Democrat held seats ■ Republican held seats



Likely Democrat  
**Sinema (AZ-9)\***  
**Carbajal (CA-24)**  
**Crist (FL-13)**  
**Loeb sack (IA-2)**  
**Peterson (MN-7)**  
**Kuster (NH-2)**  
**Suo zzi (NY-3)**  
**Maloney (NY-18)**  
**Schrader (OR-5)**  
**Cartwright (PA-17)**  
**Kind (WI-3)**

Lean Democrat  
**O'Halleran (AZ-1)**  
**Bera (CA-7)**  
**Murphy (FL-7)**  
**Nolan (MN-8)**  
**Kihuen (NV-4)**  
**Gottheimer (NJ-5)**  
**Ros-Lehtinen (FL-27)\***

Toss up  
**Shea-Porter (NH-1)**  
**Rosen (NV-3)\***  
**Walz (MN-1)\***  
**McSally (AZ-2)**  
**Knight (CA-25)**  
**Rohrabacher (CA-48)**  
**Issa (CA-49)**  
**Coffman (CO-6)**  
**Blum (IA-1)**  
**Trott (MI-11)\***  
**Lewis (MN-2)**  
**Bacon (NE-2)**  
**LoBiondo (NJ-2)\***  
**Faso (NY-19)**  
**Comstock (VA-10)**  
**Reichert (WA-8)\***

Lean Republican  
**Denham (CA-10)**  
**Royce (CA-39)**  
**Walters (CA-45)**  
**Curbelo (FL-26)**  
**Handel (GA-6)**  
**Young (IA-3)**  
**Roskam (IL-6)**  
**Bost (IL-12)**  
**Jenkins (KS-2)\***  
**Yoder (KS-3)**  
**Poliquin (ME-2)**  
**Bishop (MI-8)**  
**Paulsen (MN-3)**  
**Lance (NJ-7)**  
**Frelinghuysen (NJ-11)**  
**Tenney (NY-22)**  
**Costello (PA-6)**  
**Meehan (PA-7)**  
**Fitzpatrick (PA-8)**  
**Dent (PA-15)\***  
**Culberson (TX-7)**  
**Hurd (TX-23)**  
**Sessions (TX-32)**

Likely Republican  
**Valadao (CA-21)**  
**Hunter (CA-50)**  
**Mast (FL-18)**  
**Woodall (GA-7)**  
**Davis (IL-13)**  
**Hultgren (IL-14)**  
**Barr (KY-6)**  
**Walberg (MI-7)**  
**Gianforte (MT-0)**  
**Holding (NC-2)**  
**Pittenger (NC-9)**  
**Budd (NC-13)**  
**MacArthur (NJ-3)**  
**Pearce (NM-2)\***  
**Zeldin (NY-1)**  
**Donovan (NY-11)**  
**Katko (NY-24)**  
**Chabot (OH-1)**  
**Renacci (OH-16)\***  
**Smucker (PA-16)**  
**Vacant (PA-18)**  
**Love (UT-4)**  
**Taylor (VA-2)**  
**Garrett (VA-5)**  
**Brat (VA-7)**

- Excludes all seats marked as 'Solid Democrat' or 'Solid Republican'
- Democrats need to pick up 24 seats to flip the House

*\*Incumbent not seeking reelection*

# Multiple long-serving Democrats have announced their retirement, including Gutierrez, Levin and Conyers

## Representatives not seeking re-election in D-leaning districts

ASTERISK-MARKED REPRESENTATIVES ARE SEEKING ANOTHER OFFICE

>D+10



Luis Gutierrez (+33)  
(D-IL04)



John Conyers (+32)  
(D-MI13)



Gene Green (+19)  
(D-TX29)



Beto O'Rourke (+17)  
(D-TX16)\*



Colleen Hanabusa (+17)  
(D-HI01)\*

D+10 — D+6



Jared Polis (+9)  
(D-CO02)\*



Niki Tsongas (+9)  
(D-MA03)



Michelle Lujan Grisham (+7)  
(D-NM01)\*



John Delaney (+6)\*  
(D-MD06)

D+5 — Even



Ileana Ros-Lehtinen (+5)  
(R-FL27)



Sandy Levin (+4)  
(D-MI09)



Kyrsten Sinema (+4)  
(D-AZ09)\*



Dave Reichert (even)  
(R-WA08)

Sources: "2018 House summary" The Cook political report, October 20, 2017.

# Most of the 25 House Republicans who have announced their retirement are from solid-R districts

## Representatives not seeking re-election in R-leaning districts

ASTERISK-MARKED REPRESENTATIVES ARE SEEKING ANOTHER OFFICE

Even — R+5

R+6 — R+10

>R+10



Frank LoBiondo (+1)  
(R-NJ02)



Jacky Rosen (+2)  
(D-NV03)\*



Steve Pearce (+6)  
(R-NM02)\*



Pat Tiberi (+7)  
(R-OH12)



Carol Shea-Porter (+2)  
(D-NH01)



David Trott (+4)  
(R-MI11)



Jim Renacci (+8)  
(R-OH16)



Joe Barton (+9)  
(R-TX06)



Charlie Dent (+4)  
(R-PA15)



Tim Walz (+5)  
(D-MN01)\*



Lou Barletta (+10)  
(R-PA11)\*



Lynn Jenkins (+10)  
(R-KS02)



Lamar Smith (+10)  
(R-TX21)

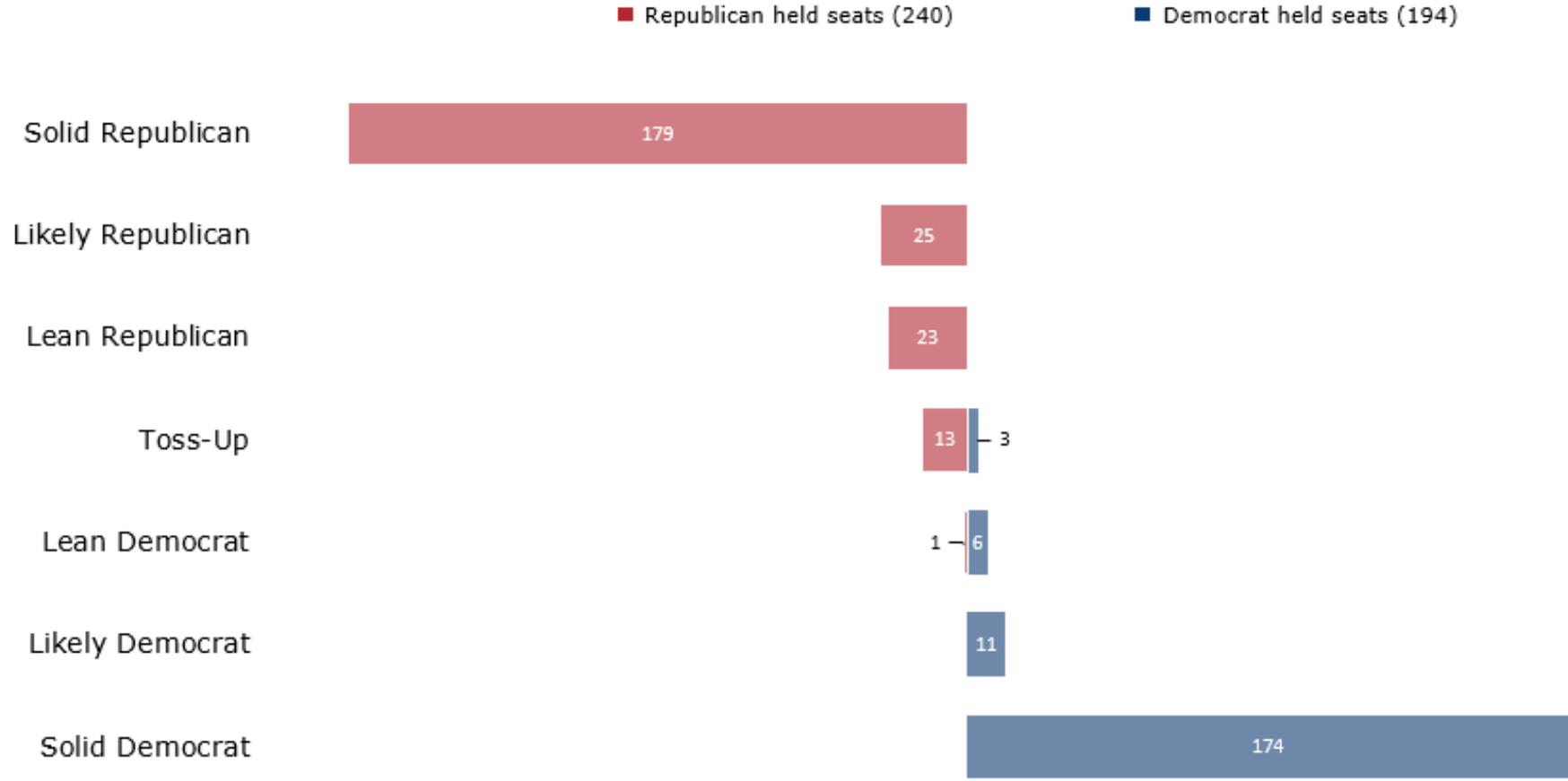
- +11 Tim Murphy (R-PA18)  
Ted Poe (R-TX02)
- +13 Sam Johnson (R-TX03)  
Bob Goodlatte (R-VA06)
- +14 Kristi Noem (R-SD-AL)\*
- +16 Jeb Hensarling (R-TX05)
- +17 Todd Rokita (R-IN04)\*
- +18 Luke Messer (R-IN06)\*
- +20 Jimmy Duncan (R-TN02)  
Marsha Blackburn (R-TN07)\*
- +21 Raul Labrador (R-ID01)\*
- +23 Evan Jenkins (R-WV03)\*
- +24 Diane Black (R-TN06)\*

Sources: "2018 House summary" The Cook political report, October 20, 2017.

# Democrats need to pick up over 20 seats to take back the House in 2018

## Cook Political Report ratings

2017-2018 House races



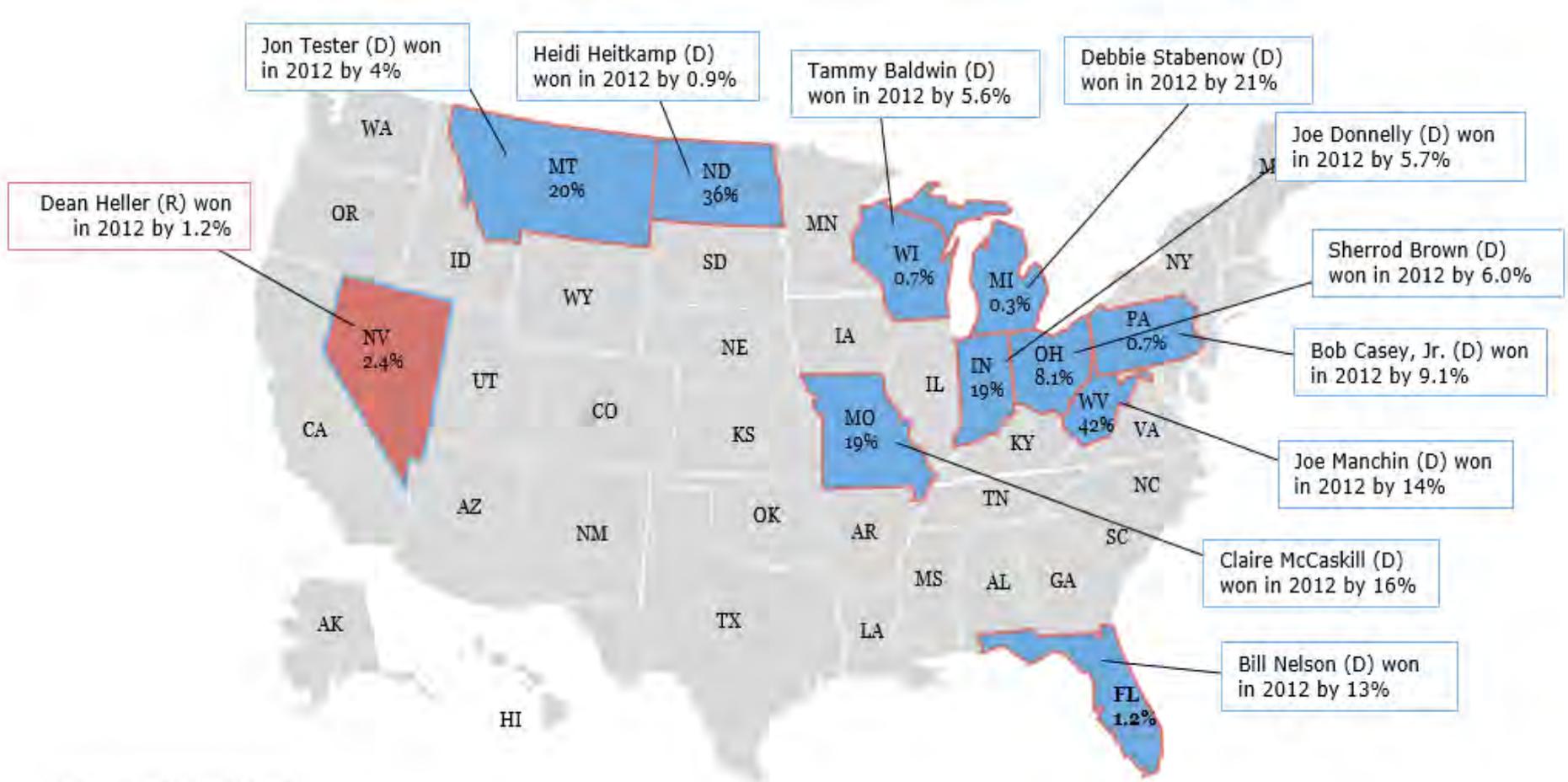
Source: Cook Political Report.

# 2018 Senate Races

## Senators up for re-election in states won by the opposing party's 2016 presidential candidate

PERCENTS INSIDE THE STATE REPRESENT BY HOW MUCH THE OTHER PARTY'S PRESIDENTIAL CANDIDATE WON IN 2016

□ Clinton victory   □ Trump victory   ■ Democratic senator up for re-election   ■ Republican senator up for re-election



# 115<sup>th</sup> US Senate

Number of Senate seats in the 115th Congress, by party

■ Republican seats ■ Democrat seats ■ Independent seats



**PAVE AHEAD**

DURABLE. SUSTAINABLE. CONCRETE.

**BUILD WITH STRENGTH**

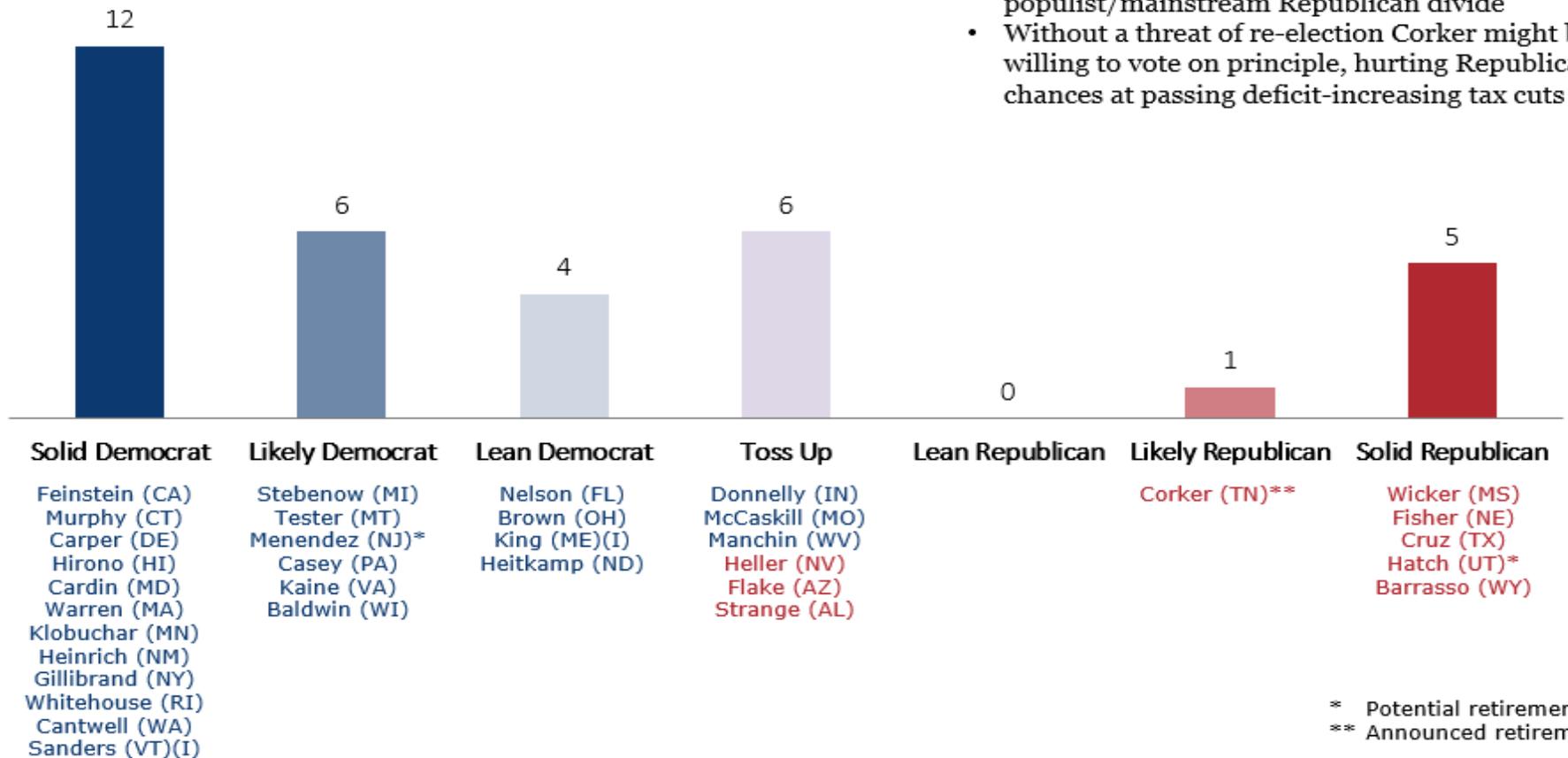


**NRMCA**  
NATIONAL READY MIXED  
CONCRETE ASSOCIATION

# Senate Seats Up in 2018

## Breakdown of 2018 Senate races

THE COOK POLITICAL REPORT



## What does Corker's retirement mean?

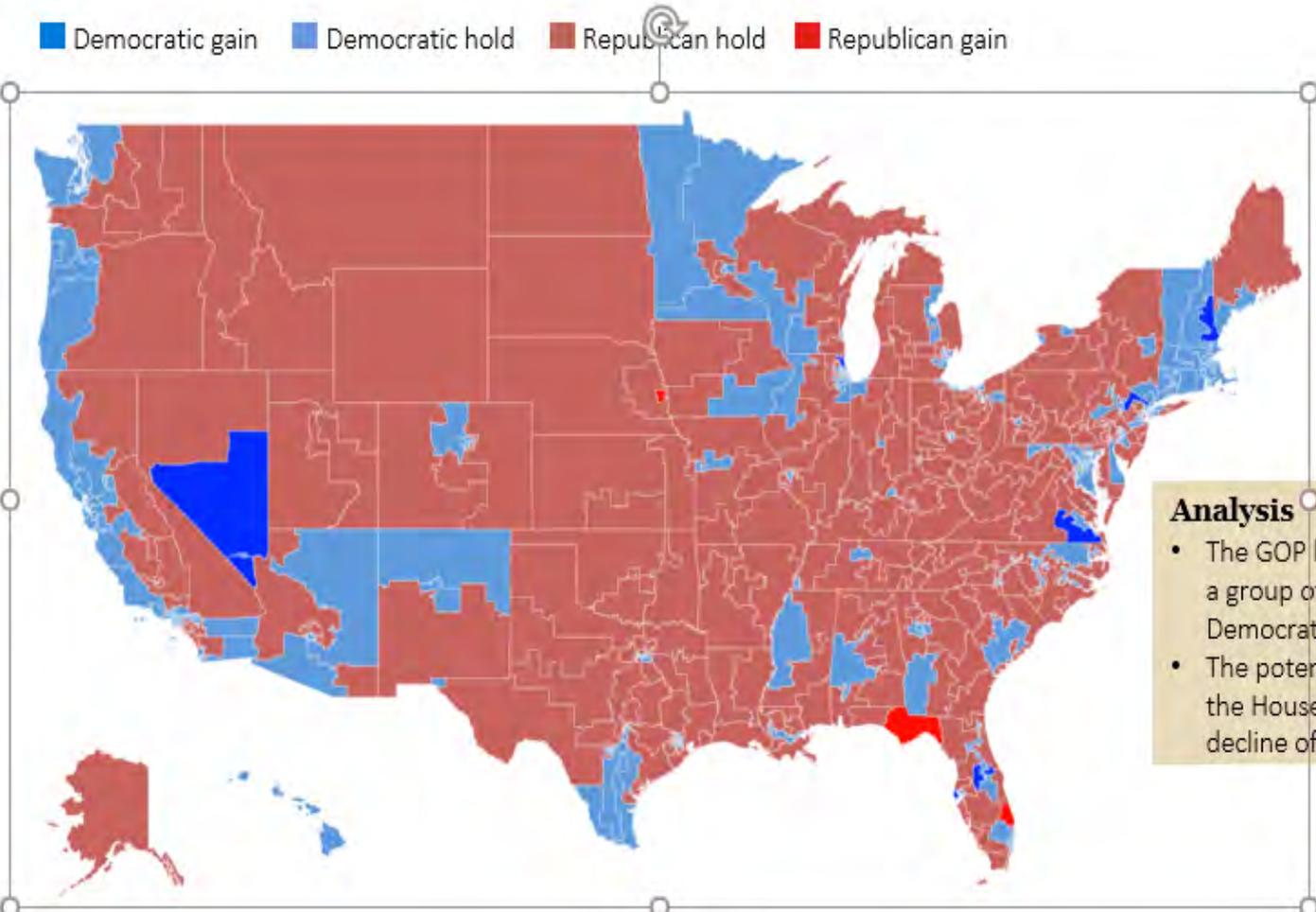
- More money will be spent on primaries that test the populist/mainstream Republican divide
- Without a threat of re-election Corker might be more willing to vote on principle, hurting Republican's chances at passing deficit-increasing tax cuts

\* Potential retirement  
 \*\* Announced retirement

NB: Corker and Strange refer to their seats rather than the candidates who announced retirement and lost a special election primary challenge, respectively.  
 Source: The Cook Political Report, September 29, 2017.

# GOP Losses in Midterm Limited

House seats gained and held, 2016 House elections



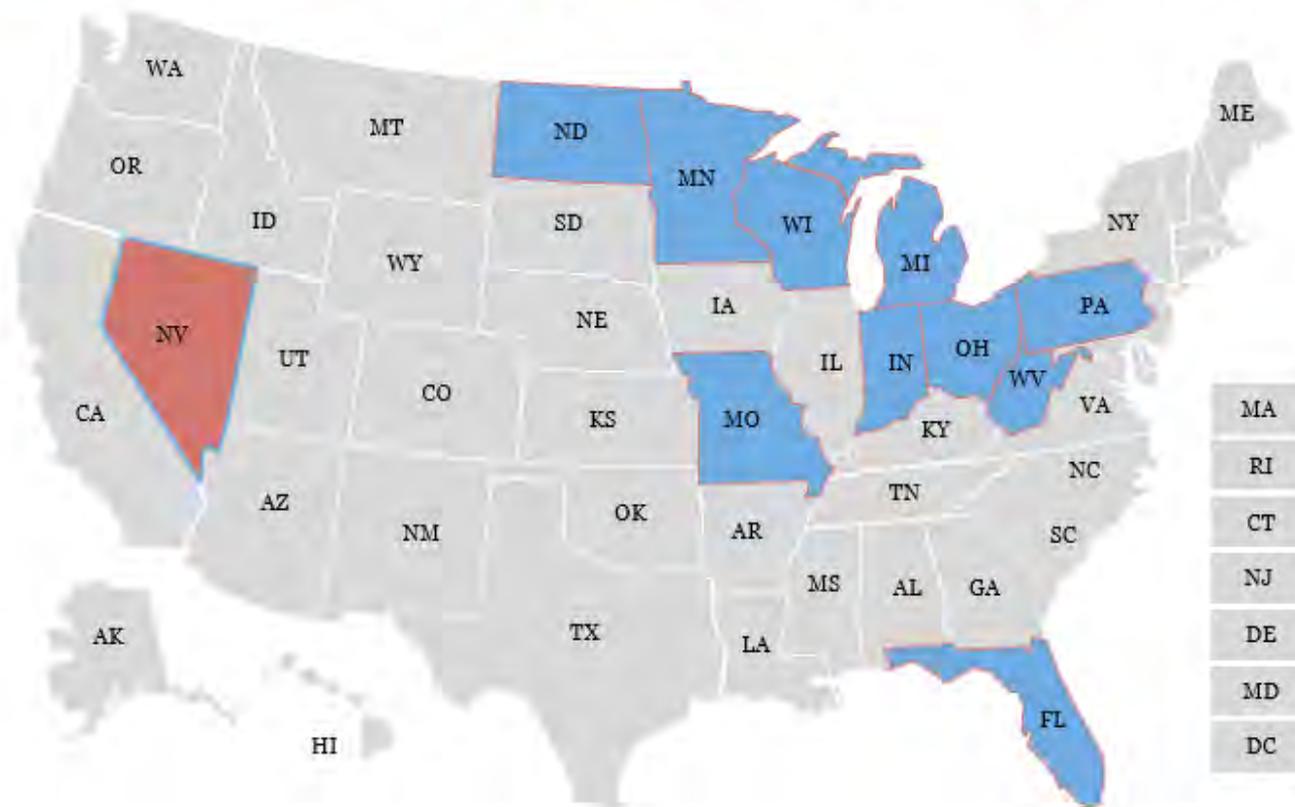
**Analysis**

- The GOP lost six seats in 2016, so there is not a group of freshmen members in formerly Democratic districts vulnerable to challengers
- The potential for large Republican losses in the House is further limited by the continuing decline of swing districts

# Git Down to the Gittin' Down

Senators up for reelection in states won by the opposing party's presidential candidate

□ Clinton victory   □ Trump victory   ■ Democratic Senator up for reelection   ■ Republican Senator up for reelection



**Analysis**

- Republicans historically benefit from low turnout in midterm elections; however, there are exceptions to this pattern
- Trump carried five of the 10 states he won with Democratic Senators up for reelection in 2018 by double digits
- Potential anti-Trump backlash and unpredictable turnout are unknowns
- Any significant turbulence in the 2018 races is likely to occur in gubernatorial and state legislative contests, which could have long term implications for 2021 redistricting



# Charlie Cook: Election day 2017 was a good sign for Democrats, but don't read too much into it

## Key takeaways from National Journal's 6<sup>th</sup> Annual Leadership Summit

### 2017 election day

- **Virginia:** Democrats had every reason to be optimistic and were not disappointed
- **New Jersey:** The only way New Jersey's outcome could have been meaningful would have been if Murphy had only won by a small margin; however, the Democrat performed as expected
- **Maine:** The overwhelming support for Medicaid expansion is notable because of the mix of urban and rural voters in the state's electorate
- **Overall:**
  - Democrats came out in big numbers
  - Minority groups came out in numbers comparable to presidential election years
  - Not yet enough evidence to say that Republicans turned out in lower numbers than usual

### Potential threats to GOP House majority

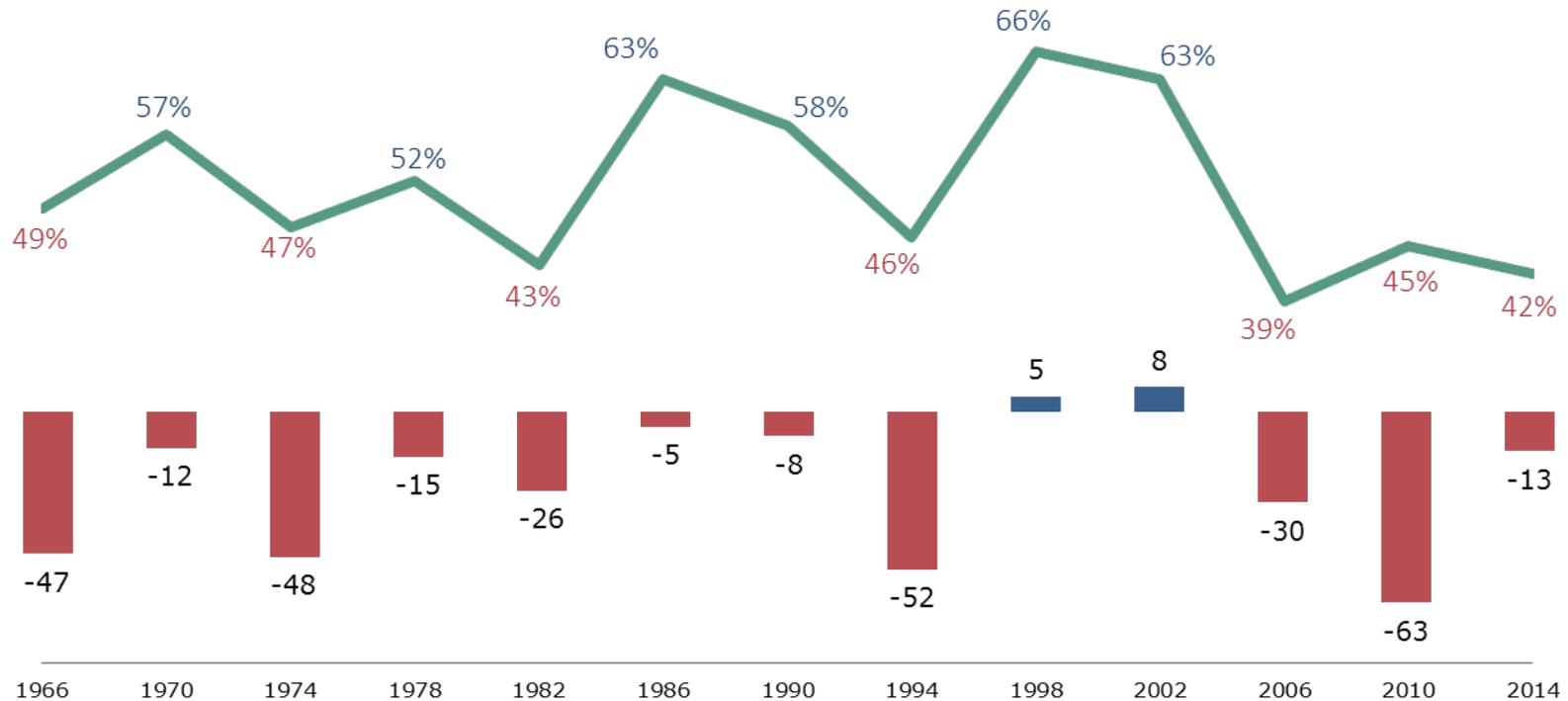
- **GOP in the House:**
  - Although they currently have a majority in the House, more Republicans, especially those in safe districts, will likely retire as the midterm election approaches
  - However, Republicans need to prevent Democrats from picking up over 23 seats to keep their majority, which will be more difficult if representatives from competitive districts start retiring
- **Tax reform:**
  - The last successful tax reform effort came 30 years ago in a bipartisan effort spearheaded by political heavyweights including Ronald Reagan, Jim Baker and Bob Dole
  - If tax reform was difficult for that group, it will be a very large lift to pass any meaningful tax reform today

### Issues to note in 2018 and 2020

- **SCOTUS:**
  - Trump's 2016 victory was by a small enough margin that many factors could be cited as tipping points
  - However, the vacant SCOTUS seat likely played a large role in the minds of moderate Republicans
  - Now that Neil Gorsuch has been confirmed, the oldest members of the court are liberals
- **Policy**
  - There is a lot of focus on the big four legislative hurdles: repeal and replace, building a border wall, infrastructure overhaul and tax reform
  - Do not underestimate small and medium sized legislative victories

# Presidents with a sub-50% approval rating lose an average of 40 seats in the midterms

## Presidential job approval vs. midterm results since 1966



Trump job approval  
**Approve 38.3%**  
 RCP Average: November 9, 2017

Job approval	Average change
Over 60%	+3 Seats
50%-60%	-12 Seats
Under 50%	-40 Seats

Sources: Gallup, The Cook Political Report, National Journal

# Democrats will have to overcome four factors benefitting Republicans in 2018

## Reasons to give House Republicans hope they will not lose their majority



### Population patterns

- Democratic voters are highly concentrated in urban areas and college towns, while Republican voters are more evenly distributed
- Republican voters are geographically **more efficiently allocated** than Democratic voters are



### District boundaries

- Democratic governors had massive losses in 2010 (the last election before the most recent redistricting) so Republicans took the upper hand in a majority of states, drawing lines that benefit the GOP
- With the new computer technology, whichever party is able to draw the maps can be far more precise and effective than in the past



### Exposure

- The more seats a party has, the more seats they have exposed, which means the more they picked up in the previous election—and the more freshmen they have sitting in seats previously held by the other party
- Republicans actually had a net loss of **six seats last year** and a relatively narrow majority – meaning they are less exposed than might be expected



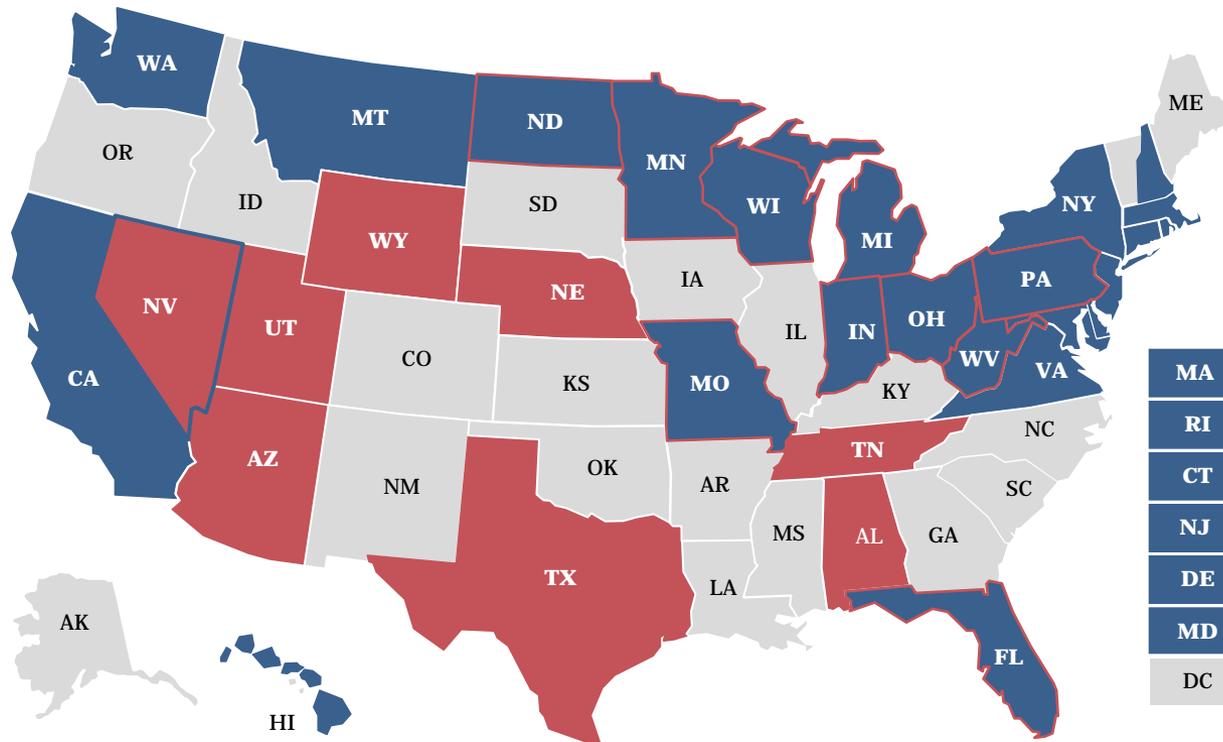
### Midterm norms

- In presidential election years voter turnout is high, broad and diverse, reflecting more or less the overall population
- In midterm election years, voters tend to be older, whiter, more conservative and more Republican, a thumb on the scale for the GOP

# 25 Senate seats up for election in 2018 are Democrat-held out of a total of 33

## States with U.S. Senate seats up for election

Clinton victory    
  Trump victory    
  Democrat-held seat    
  Republican-held seat



### To capture a majority Dems need to:

- 1<sup>st</sup>, hold onto all 25 of their own seats including the 10 in Trump states
- 2<sup>nd</sup>, Beat Dean Heller in Nevada
- And then either win a special Senate election this December in Alabama
- Hope former Gov. Phil Bredesen runs in Tennessee

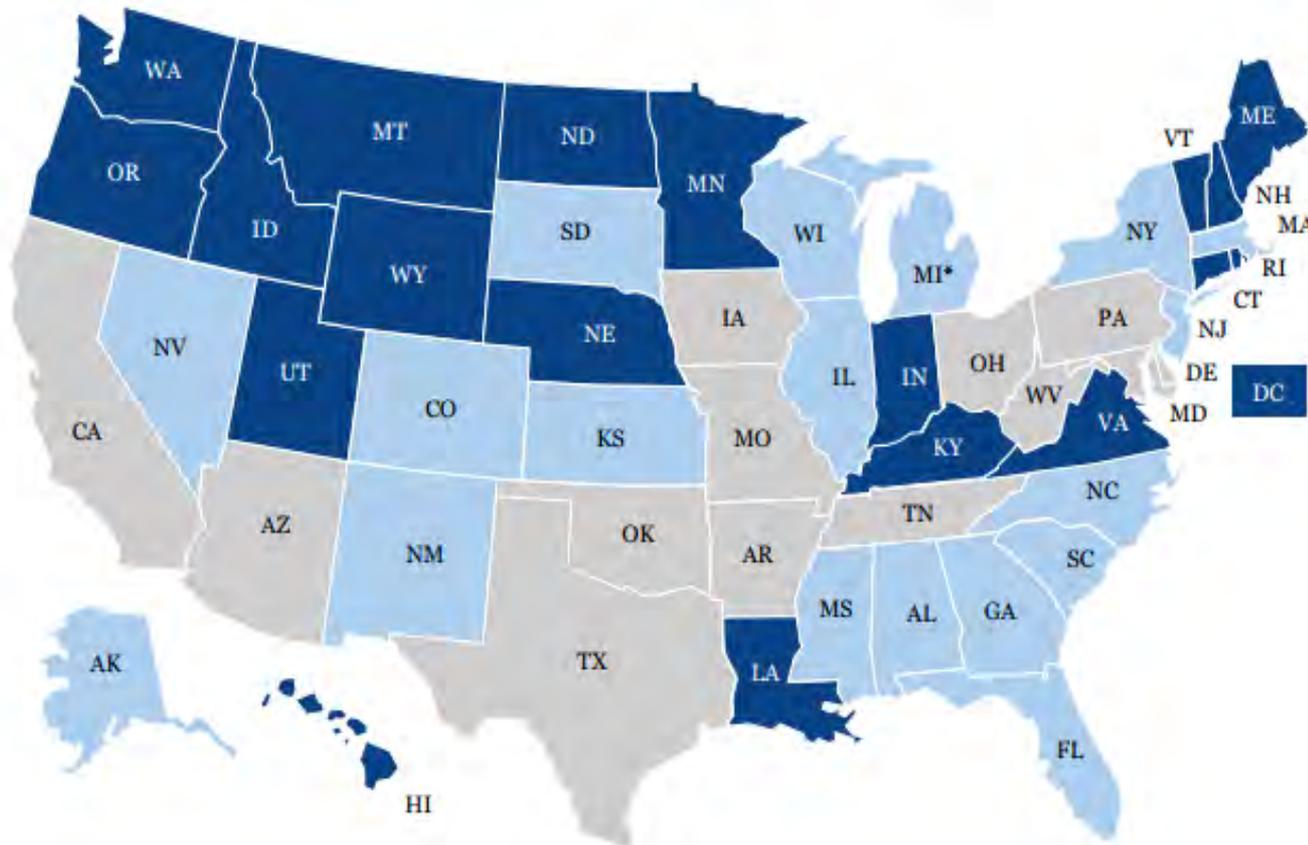
**It's not impossible, but unlikely.**

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

# Does Your State Allow Ballot Selfies?

## Legality of taking voting photos, by state

■ Legal ■ Illegal ■ Unclear



Taking photographs when voting is legal in 19 state and the District of Columbia, but illegal in 18 states.

In the remaining 13 states, the law is unclear. For example, some states have no explicit law on photographs of mail-in ballots.

\*In late October, a federal judge blocked a Michigan law that bans photos at polling places with a preliminary injunction, so it is legal to take a "ballot selfie" this election.