

# A view from the Swamp

Where are we? Where were we?

Where are we going and will CA and  
the Admin keep fighting?

Or Navigating in Chaos

January 16, 2018

# 2017 Scorecard & Look Ahead

President keeps a campaign promise punch list and whittles it down, moves without Congress

# President Trump's Campaign Promise Punch List

■ Completed
 ■ In progress
 ■ Stalled
 ■ No action



## Health care reform

- Despite the failure of repeal and replace in the Senate over the summer, the tax bill will repeal the individual mandate..Admin action to follow



## Reductions in federal spending

- With tax reform costing a projected \$1.5 trillion, Republicans are looking to cut welfare and entitlements in order to better balance the federal deficit



## Tax reform and simplification

**PASSED**



## Welfare reform

- Republicans are pledging to decrease welfare spending to help offset the cost of tax cuts



## Immigration reform

- The Trump administration has outlined a three-part plan focusing on border security, and Democrats are demanding a long term reform for DACA immigrants



## Strengthen national defense

- President Trump signed the 2018 National Defense Authorization Act into law, authorizing the largest pay increase in eight to defense, amounting to \$700 billion dollars

### What's next?

- Passing a budget may prove difficult, as Republicans in the House disagree over what programs and entitlements to cut
- The repeal of the ACA individual mandate is included in the Senate tax reform bill, which opens an opportunity to further dismantle Obama's signature piece of legislation
- Republicans will look to fix immigration, cut federal spending, reform welfare and build infrastructure

Sources: National Journal Research, 2017; Thomas Kaplan, "Senate Approves Budget Plan That Smooths Path Toward Tax Cut," NYT, October 19, 2017; Chairman Diane Black, "Building a Better America: House FY18 Budget," House Budget Committee, 2017; Office of Management and Budget, "A New Foundation For American Greatness, Fiscal Year 2018," White House, 2017; Kate Zernike and Alan Rappeport, "Heading Toward Tax Victory, Republicans Eye Next Step: Cut Spending," NYT, December 2, 2017.

# Cybersecurity: Trump improves domestic cybersecurity, but fails to take a stance on Russian election hacking

■ Completed
 ■ In progress
 ■ Stalled
 ■ No action



## Cybersecurity EO

- October marked the deadline for OMB and DHS to submit a cybersecurity plan to the president based on agencies' self-evaluations
- The self-evaluations identified cybersecurity gaps and plans to mitigate them, which the OMB and DHS will consider when reviewing budget needs
- Building on the cyber EO, White House Homeland Security Adviser Tom Bossert announced the creation of a new cybersecurity strategy



## S.1428

- The Small Business Cyber Training Act of 2017 has been unanimously approved by the Senate Small Business Committee
- The bill awaits a full Senate vote



## Kaspersky anti-virus

- The House Science, Space and Technology Committee cancelled a hearing on Sept. 27 that would feature Eugene Kaspersky
- The committee is has planned multiple hearings on the issue, including one on Oct. 25 that did not include Mr. Kaspersky, the firm's founder
- Kaspersky announced they will sue for deprivation of rights



## S. 754

- Sens. Tim Kaine (D-VA) and Roger Wicker (R-MS) offered the Cyber Scholarship Opportunities Act of 2017 as an amendment to the FY18 NDAA, which was enacted on December 12

## What's next?

- **Comprehensive cyber policy:** At a Senate Armed Services Committee hearing on Oct. 19, senators heard testimony from top cyber officials at the Pentagon, FBI and DHS on efforts to respond to cyberthreats. The meeting highlighted tensions as senators pushed for a more comprehensive cyber policy and Sen. John McCain (R-AZ) said he might subpoena White House official Rob Joyce on the issue
- **Trump's national security strategy focuses on cyber:** The strategy announced on Monday outlines 5 directives to keep America safe from cyberthreats: manage risks, defend government networks, deter cyberthreats, improve information sharing and use layered defenses. The document does not address Russia's interference in the 2016 election nor the Russia's cyber tactic against other nations

Sources: National Journal research, 2017; Shawn Campbell, "Acting on the cyber executive order: 3 keys to compliance," FCW, October 13, 2017; Morgan Chalfant, "House committee plans multiple hearings on Kaspersky," The Hill, October 11, 2017; Morgan Chalfant, "Frustrated senators demand cyber war strategy from Trump," The Hill, October 19, 2017; Joseph arks, "Trump administration plans a new cybersecurity strategy," NextGov, October 24, 2017.; "Kaspersky files lawsuit over anti-virus software ban," BBC News, December 18, 2017; Mark Pomerleau, "What Trump's National Security Strategy says on cyber," Fifth Domain, December 19, 2017.

# Criminal justice: side-stepping Congress, Sessions and Trump have spearheaded many hard-line changes

■ Completed ■ In progress ■ Stalled ■ No action



## Crack down on drug crimes

- AG Jeff Sessions has been vocal about instituting a return to harsher federal charging policies
- In May he overturned Obama-era flexibility on mandatory minimums. In Jan rescinds Cole Memos



## Create task force on crime reduction and public safety

- Trump instructed Jeff Sessions to create the task force in February via executive order
- The task force has not yet initiated policy change



## Cut down on police regulation

- The DOJ is rolling back an Obama-era program that investigates and issues public reports about problems in individual police departments



## Change policy on transgender students

- Trump rescinded Obama's guidance to the nation's schools, which warned that failing to allow students to use the bathrooms matching their gender identity could cause them to lose federal funds



## Appoint a new Supreme Court justice

- President Trump's nominee, Neil Gorsuch, was confirmed by the Senate

### What's next?

- Attorney General Jeff Sessions said the DOJ will be **less interested in opening civil rights investigations** of local police departments than the DOJ was under Eric Holder
- Trump assigned Jared Kushner to set the White House agenda on criminal justice, though he has also been assigned purview over a number of other issue areas
- Kushner had a meeting on Capitol Hill in mid-April to discuss the future of criminal justice reform with House and Senate leaders who plan to resurrect a criminal justice reform bill from 2015 which Jeff Sessions has vocally opposed
- Legislative progress on criminal justice will likely be a **low priority** behind the challenges of dealing with health care and tax reform

Sources: National Journal Research, 2017

# Defense: Trump’s pledge to increase US military strength relies on Congress lifting budget caps

■ Completed   ■ In progress   ■ Stalled   ■ No action



### Restoring National Security Act

- The act would expand military investment, end the defense sequester and protect infrastructure from cyber-attacks
- These action items have been incorporated into other pieces of legislation



### Plan to defeat ISIS

- The Pentagon announces in early December that the US has 5,200 troops in Iraq and 2,000 in Syria, but those numbers are trending down



### Relations with Russia over Syria

- The open-ended cease-fire in place in southern Syria brokered by Russia, the US and Jordan is holding
- Countries are beginning to think about who will have the most influence in Syria and Iraq as the conflict ebbs



### Increase defense spending & size of the US military

- President Trump signed the 2018 NDAA on December 12, but the defense sequester still threatens the increased spending authorized in the legislation
- The NDAA authorizes a military pay increase of 2.4% and 20,000 more troops across military services



### Relations with North Korea

- The Trump administration is pressuring North Korea to dismantle its nuclear program via the UN and congressional sanctions
- Tensions with North Korea continue to rise. With President Trump’s hawkish rhetoric conflicting with efforts by members of his cabinet to find a diplomatic solution, the situation is unlikely to de-escalate in the near future

### What’s next?

- **Russia:** Russia joined with China in urging the United States not to take military action against North Korea, saying the escalating threats of war traded between Washington and Pyongyang could reach the point of no return
- **Ban on transgender service members:** Judge Kollar-Kotelly rejected the administration’s request to delay the order requiring military services to allow transgender troops to serve openly starting January 1. It is unclear how Trump will respond
- **Afghanistan:** Trump implemented a new strategy in Afghanistan for ramping up troop numbers and giving military leadership more autonomy on the battlefield
- **Trump releases a National Security Strategy:** Shifting the focus of the national security strategy to incorporate economic and trade policies, Trump harps on confronting unfair trade practices and protectingg American intellectual property. Cybersecurity also has a dominant role in the strategy

Sources: National Journal Research, 2017

# Energy & Environment: in eight months, Trump has made significant strides in reducing the regulatory burden

■ Completed ■ In progress ■ Stalled ■ No action



## Revive coal industry

- President Trump signed an executive order that starts the process of withdrawing and rewriting the Clean Power Plan



## Keystone XL and Dakota Access

- Both pipelines have now received all of the Federal-level permits required, but obstacles at the local level could hinder completion



## Reduce regulatory burden

- Through executive actions and congressional use of the CRA, several Obama-era rules have been repealed and the ANWR is likely to be opened



## Open federal lands for extraction

- In late April, Trump signed an executive order that removed certain royalty fees assessed for energy extracted from federal lands



## Eliminate Waters of the U.S.

- The EPA and the Army Corps of Engineers are coordinating efforts to review the definition of “waters of the U.S.”



## Cancel Paris Climate Agreement

- On August 4<sup>th</sup>, President Trump delivered notice of the U.S. intention to withdraw to the UN

## What's next?

- President Trump submitted notice to the UN that the U.S. would withdraw from the Paris Climate Agreement, he included a provision that the U.S. might remain if the deal was modified
- Despite policy actions to revive the coal industry, market forces remain a major obstacle and direct intervention would likely be needed to achieve this goal

- Certain regulatory rollback initiatives by the Trump administration have run into trouble in the courts, including a methane rule that they said the administration did not have the power to delay while it was under consideration
- Under the tax reform plan that has been moved through the conference committee and will open up the Arctic National Wildlife Refuge to oil exploration and drilling which was a goal of the Trump administration

Sources: National Journal Research, 2017

# Education: Trump administration has worked to deregulate public education, promote school choice

■ Completed   ■ In progress   ■ Stalled   ■ No action



## Eliminate Common Core

- Trump promised to cut Common Core, but states, not the federal government, already have the power to opt into the program



## Increase funding for school choice

- Trump pledged some \$20 billion in federal funding for school choice programs
- The House and the Senate Committee on Appropriations approved a bill with no funding for private school vouchers



## Reduce student debt

- Trump promised on the campaign trail to reduce student debt and promote loan forgiveness
- The department reinstated large fees on defaulted student loan debt, revoked two consumer protection rules for students and has approved no student borrower defense claims



## Scale back Department of Education

- Trump's May budget proposal called for a \$9.2 billion cut to the Department of Education
- The House approved a bill to cut \$2.3 billion from the Ed Dept, but the Senate Approps. Committee approved a \$29 million increase in funding for the department



## Fund more charter schools

- Trump's education budget called for \$168 million for charter schools (a 50% increase)
- The administration has struggled to gain support for its proposed education budget



## Deregulate education mandates

- Trump ordered a review of the government's role in K-12 education, which is still ongoing
- The department overturned two rules mandating new teacher training and school performance standards

## What's next?

- **The GOP tax bill** initially revoked the student loan interest deduction and included a tax on graduate tuition waivers, but neither of these provisions were included in the final version of the bill
- **For-profit college:** Trump has signaled his support for a free market approach to public education, which DeVos may pursue going forward
- **Every Student Succeeds Act:** The first deadline for ESSA state plans was Apr. 3, and the second deadline was Sept. 18. All states and DC have submitted plans; the Department of Education has begun reviewing these, and DeVos has approved 12 states' plans so far, though no plans have been approved since late November

Sources: "Promises about Education on Trump-O-Meter," Politifact; Lauren Camera, "Trump Promises to Spend Big on Education Weeks After Proposing Billions in Cuts," US News, Apr. 4, 2017; Michael Hansen et al., "Reflecting on education policy during Trump's first 100 days—and predicting what's next," Brookings Institute, May 2, 2017; "ESSA State Plan Submission," US Department of Education; Andrew Ujifusa, "With White House Backing, Senate Overturns ESSA Accountability Rules," EdWeek, Mar. 9, 2017; Danielle Douglas-Gabriel, "House Republicans at odds with Trump's proposed higher education cuts," Washington Post, Jul. 19, 2017; Miranda Marquit, "President Trump's First 100 Days: Student Loan Edition," Student Loan Hero, Apr. 26, 2017; Mercedes Schneider, "Senate appropriations has no funding for Betsy DeVos' private school voucher hopes," Huffington Post, Sept. 10, 2017.

# Finance: Trump is setting the stage for a wave of financial deregulation

■ Completed   ■ In progress   ■ Stalled   ■ No action



## Dismantle Dodd-Frank

- The Financial CHOICE Act, which would roll back many Dodd-Frank provisions, passed in the House on June 8
- On Dec. 5, the Senate Banking Committee passed the first significant bipartisan proposal to provide relief for small and regional lenders from a number of Dodd-Frank regulations



## Repeal the CFPB arbitration rule

- The House voted to repeal the rule in July
- On Oct. 24, Vice President Pence broke the Senate tie in a vote to repeal the rule
- The repeal is the most significant legislative victory for the financial industry since President Trump took office



## Repeal the fiduciary rule

- The best-interest core principle of the rule was implemented in June
- On Nov. 27, the DOL announced an official 18-month extension for the start of key provisions of the rule, extending the compliance date to July 1, 2019



## Glass-Steagall

- Though Trump has stated he plans to bring back Glass-Steagall, to date there has been no significant action on that front

## What's next?

- So far, Trump has not been able to roll back major Wall Street regulations as he promised, in part because many of his nominees for regulatory posts were only recently confirmed or are still awaiting confirmation
- As more appointees are confirmed, it is likely that regulators will take further measures to ease individual Dodd-Frank provisions
- Trump has appointed Mick Mulvaney to be acting director of the CFPB; he will likely appoint a more industry-friendly regulator to head the agency in 2018 as he has done at the Fed, SEC and OCC
- While Republicans lack the Senate votes to pass the CHOICE Act, Congress is moving forward to repeal individual provisions of Dodd-Frank, including modifying the Volcker rule, easing bank capital requirements and reducing the frequency of regulator stress tests

Sources: Ryan Tracy and Dave Michaels, "Trump Chips Away at Postcrisis Wall Street Rules," The Wall Street Journal, August 13, 2017; Sylvian Lane, "Bank industry searches for wins under Trump," The Hill, October 19, 2017; National Journal research, 2017.

# Health care: GOP works to amend Obamacare through tax reform bill

■ Completed ■ In progress ■ Stalled ■ No action



## Repeal and replace ACA

- The House has voted to approve a version of the tax reform bill that would repeal the individual mandate
- The Senate must now vote on a bill that includes the same provision



## Drug pricing

- Congress passed the FDA Reauthorization Act, allowing the FDA to continue collecting user fees



## The opioid crisis

- President Trump has tapped Kellyanne Conway to head White House efforts to combat the opioid crisis



## Trump's HHS confirmations

- A hearing for HHS secretary nominee Alex Azar has not yet been scheduled, but he is expected to be approved by the Senate Finance Committee



## CSR payments

- In October, President Trump announced that he would be ending CSR payments
- Sens. Lamar Alexander (R-TN) and Patty Murray (D-WA) announced a bipartisan proposal that would extend CSR payments for two years and give states more flexibility, but this plan has not been brought to the Senate floor

## What's next?

- If the tax bill passes in the Senate, the individual mandate will be repealed beginning in 2019. The CBO estimates that as many as 13 million fewer people would have health insurance after a decade if the mandate is repealed
- The Alexander-Murray plan is unlikely to obtain the level of support it needs to be voted on in the Senate
- Trump has invoked the Public Health Service Act, but his order will not immediately increase federal funding. The Trump administration will instead work to improve current efforts to fight the opioid crisis
- Because subsidies will be increasing with the price of the silver plans, many ACA plans will actually be cheaper in 2018
- Sen. Orrin Hatch (R-UT) expressed his support of HHS secretary pick Alex Azar after meeting with him at the end of November 2017

Sources: National Journal Research, 2017

# Immigration: Trump has made progress on his promises regarding immigration, but not without significant setbacks

■ Completed ■ In progress ■ Stalled ■ No action



## End DACA

- Trump ordered an end to the Obama-era program, which shields undocumented children from deportation
- He then ordered Congress to legalize DACA



## Prohibit federal funding to sanctuary cities

- Trump's executive order seeking to withhold funds from sanctuary cities was blocked by a federal judge



## Remove illegal immigrants

- The Trump administration is working with local sheriffs on a plan to channel illegal immigrants from local jails to federal detention facilities



## Temporarily ban travel from “high risk” countries

- The supreme court has allowed the Trump administration's most recent travel ban on eight countries to go into effect, six of which are predominantly Muslim



## Build a border wall

- Trump has not yet successfully attached funding for the border wall to any legislation



## Reform legal immigration

- The Trump administration is working with Tom Cotton and David Purdue to support the RAISE Act, which would cut legal immigration by 50%

## What's next?

- Although the Trump administration announced that DACA would be phased out, they said they would continue to renew permits for the next 6 months, giving Congress until March 5, 2018 to act on legalizing the program before DACA recipients lose their status
- In a move praised by Democrats, the administration agreed to allow those rejected because of mail delays to resubmit their renewals for DACA status
- With the departure of Steve Bannon, Trump's chief strategist and an ardent supporter of hard-line immigration reform, there may be an opening for more moderate voices on immigration
- The battle over sanctuary city funding and the implementation of the travel ban will be litigated in court over the coming months

Sources: National Journal Research, 2017

# Infrastructure: Trump continues to kick the can down the road on a comprehensive bill, has only addressed pipelines

■ Completed   ■ In progress   ■ Stalled   ■ No action



## Approve permits for Keystone XL and Dakota Access pipelines

- Despite Trump's "America First" platform, Keystone XL was allowed to proceed without using American steel



## Streamline infrastructure approval process

- In August, Trump passed an executive order to roll back the Federal Flood Risk Management Standard: an Obama-era environmental standard that required federally funded projects to account for climate change



## Comprehensive infrastructure bill

- Despite being on his list of priorities for the first 100 days, Trump has released few details on his infrastructure proposal
- Congressional leaders said they would address infrastructure following health care and tax reform



## Privatize air traffic control

- Trump unveiled his plan to privatize air traffic control in June
- The proposal was met with mixed reaction in the House and was rejected by a Senate panel while crafting FAA reauthorization legislation

### What's next?

- The White House plans to submit an update to the principles of Trump's infrastructure proposal to Congress in early January

Sources: Lauren Gardner and Tanya Snyder, "Democrats cool to Trump's infrastructure pitch," Politico, December 14, 2017; Melanie Zanona, "Trump officials push application overhaul for infrastructure projects," The Hill, December 12, 2017; Jeffrey Cook, "What privatizing air traffic control could mean, as Trump outlines proposal," ABC News, June 5, 2017; Lisa Friedman, "Trump signs order rolling back environmental rules on infrastructure," NY Times, Aug. 15, 2017; National Journal Research, 2017.

# International relations: tension with adversaries has risen, but so far the Trump administration has avoided conflict

■ Completed ■ In progress ■ Stalled ■ No action



## Press North Korea to dismantle its nuclear weapons program

- While in Asia, Trump spoke with leaders about increasing pressure on North Korea
- Kim Jong Un tested North Korea's longest-range ICBM yet, and the US re-added North Korea to the list of state sponsors of terrorism



## Boost NATO defense spending

- During a speech at NATO headquarters, Trump did not reaffirm Article 5, which provides for mutual defense. He later clarified his support of defense for all NATO nations
- A NATO report stated that member states will increase NATO spending by 4.3 percent



## Improve relations with Russia

- Russia seized two US diplomatic properties and demanded the reduction of US staff at embassies and consulates to 455 people after Trump signed a bill increasing sanctions
- Four Trump campaign officials were charged in the Russia special counsel investigation



## Renegotiate the Iran nuclear deal

- Trump signed new sanctions against Iran in August for its ballistic missile program
- After certifying twice that Iran was complying with the agreement negotiated by President Obama, Trump decertified the Iran deal

### What's next?

- Kim Jong Un continues to threaten missile attacks against the US. Trump is trying to work with regional allies to increase pressure
- Trump will face pushback from both the European Union and Democrats as Congress decides what to do next about the Iran nuclear deal
- A number of positions remain unfilled in Tillerson's Department of State and it is rumored that Tillerson may be on his way out, making it difficult to conduct standard diplomatic relations with many nations
- Trump threatened military action in Venezuela over internal political unrest and opposition to Venezuelan President Nicolas Maduro

Sources: Adam Taylor, "What the new UN sanctions on North Korea mean," Washington Post, August 7, 2017; "US-Russia sanctions: How did we get here?" BBC News, August 3, 2017; Daniel Politi, "Trump's Threat to Invade Venezuela Boosts Embattled Leader Maduro," Slate, August 12, 2017; Dan Merica, Kevin Liptak, Jeff Zeleny, "Trump, showered in Polish praise, backs NATO's Article 5," CNN, July 6, 2017; Peter Baker, "Trump recertifies Iran Nuclear Deal, but only reluctantly," NY Times, July 17, 2017; Jacopo Barigazzi, "NATO to increase non-US spending by 4.3 percent in 2017," Politico, June 28, 2017.

# Tax, labor and economy: Congress passes tax reform bill, NAFTA renegotiations stalled, overtime rule to be revised

■ Completed ■ In progress ■ Stalled ■ No action



## Tax reform

- The House passed tax legislation on November 16 and the Senate approved its version of the bill on December 2
- The final conference committee bill was passed by both chambers on December 20



## 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



## China currency status

- Trump has walked back his pledge to name China a currency manipulator in exchange for Chinese cooperation on North Korea



## NAFTA renegotiation

- NAFTA renegotiations began in August and will continue through the first quarter of 2018
- Trump has expressed his willingness to withdraw from the trade deal if negotiations are unsuccessful



## TPP withdrawal

- Trump issued an executive order withdrawing the US from the trade deal on January 23



## Buy American, Hire American

- Trump issued an executive order mandating the federal government to prioritize domestic workers and US products

## What's next?

- President Trump will sign tax legislation
- NAFTA negotiations have reached an impasse; Mexico and Canada won't accept Trump's demands, such as 50 percent American-made parts in tariff-free cars and a "sunset" clause that would require reassessment of the trade deal every 5 years
- Alexander Acosta, the newly appointed Secretary of Labor, is expected to replace the Obama overtime rule with a more conservative version of the wage regulation
- The Department of Commerce may propose new tariffs or countervailing duties against specific products or other countries that run trade surpluses with the United States

Sources: National Journal Research, 2017

# Tech: FCC votes to repeal net neutrality

■ Completed ■ In progress ■ Stalled ■ No action



## Repeal privacy oversight law

- Trump signed a GOP bill repealing an FCC rule that prevented internet service providers from selling customer data to third parties without the users' affirmative consent



## Roll back net neutrality

- The White House supported the FCC proposal to rescind net neutrality, which was approved in December
- The FCC decision will now face a legal challenge



## Establish technology council

- Through an executive order, Trump created the American Technology Council, which is made up of government officials and aims to modernize government IT



## Expand rural broadband service

- Trump has pledged to expand broadband service to rural areas as part of his \$1 trillion infrastructure plan; he proposed spending \$25 billion over 10 years on rural infrastructure needs



## Limit regulations for self-driving cars

- Trump's Department of Transportation released updated guidelines for self-driving cars that encouraged manufacturers to put autonomous vehicles on the roads and advised states to institute only light regulations

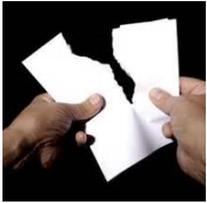
## What's next?

- The FCC put forth a proposal to rescind net neutrality that received over 20 million responses online, although many believe that a substantial number of the comments were fraudulent; after reviewing the responses, the FCC is expected to try to move forward with eliminating net neutrality rules
- After Republicans repealed FCC internet privacy laws, several states have attempted to pass their own laws; California and Massachusetts seem likely to pass internet privacy laws in the next year

Sources: National Journal Research, 2017

# Top Line Take Aways

CA vs Feds is real, but lets not overstate it...it is CA vs Base



If President Obama did it through Executive Action, President Trump has sought to undo it through similar actions.



When in doubt, just as it was in the last administration, opponents of executive action have sued



CA and the Trump Administration have found themselves in conflict, and in court, this uncertainty will continue. Unless Congress addresses and the President signs.



With a paper thin majority in the Senate, expect the administration to move aggressively on its own. See Coastal Drilling, Weed, ACA



Political rhetoric aside, Sacramento will have a greater bearing on the regulatory climate in the short term.



Knowing Executive Orders will face judiciary scrutiny, expect the Administration to aggressively push boundaries.

# Administration Update

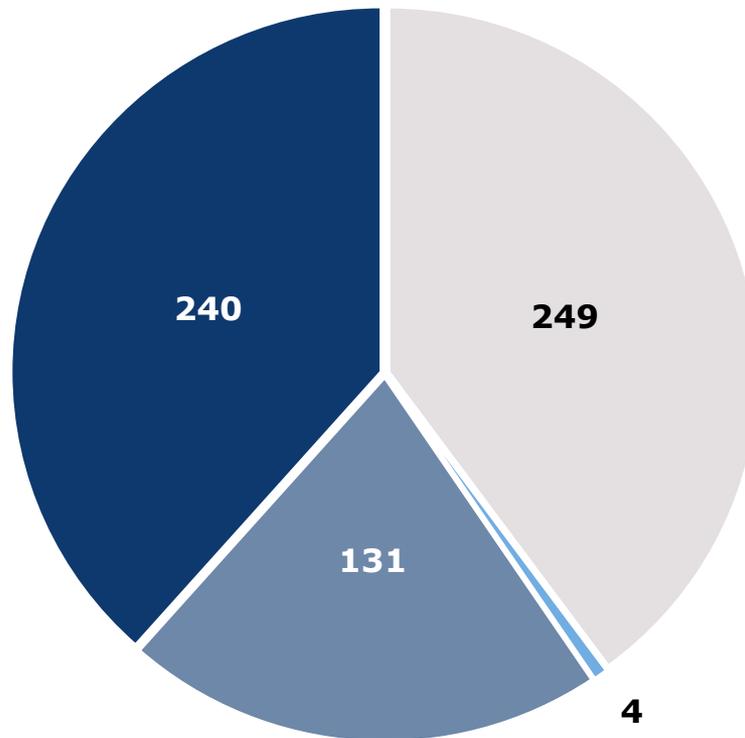
Open Desks, some say by design, =  
slow moving government, some also  
say by design

# Of 624 key Trump administrations positions requiring Senate approval, 240 have been confirmed

## Status of key positions requiring Senate confirmation

AS OF DECEMBER 26, 2017

■ No nominee   ■ Awaiting nomination   ■ Awaiting confirmation   ■ Confirmed

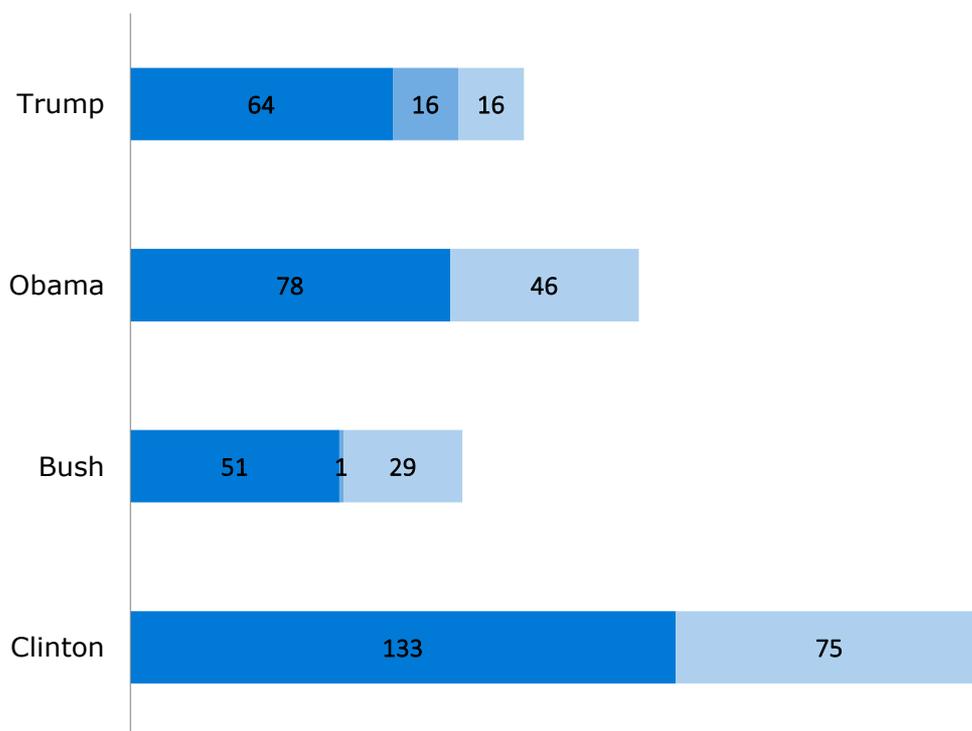


Source: "Tracking how many key positions Trump has filled so far," Washington Post, Sept. 22, 2017.

# Trump now has a major legislative win with tax reform, but he still trails two recent presidents in total bills signed into law

## Bills signed into law by presidents through December of their first term

■ Non-CRA legislation ■ Congressional Review Act (CRA) legislation ■ Ceremonial



## Most important legislation signed by December of their first term

- 16 Congressional Review Act bills
- H.R. 1 the “Tax Cuts and Jobs Act”
- Department of Veterans Affairs Accountability & Whistleblower Protection Act of 2017

- American Recovery and Reinvestment Act of 2009
- Lilly Ledbetter Fair Pay Act of 2009
- Helping Families Save Their Homes Act of 2009
- Fraud Enforcement & Recovery Act of 2009
- Credit CARD Act of 2009

- Economic Growth & Tax Relief Reconciliation Act of 2001
- Fallen Hero Survivor Benefit Fairness Act of 2001
- Authorization for the Use of Military Force
- USA PATRIOT Act

- Family and Medical Leave Act of 1993
- Emergency Unemployment Comp. Amendments of 1993
- National Voter Registration Act of 1993
- Omnibus Budget Reconciliation Act of 1993
- Brady Handgun Violence Prevention Act
- NAFTA Implementation Act

Sources: National Journal Research, 2017. Congress.gov.

# Top Line Take Aways Dysfunction by Design?



Lack of nominees , coupled with retirements and buy out packages has left the Federal government, from enforcement to policy development short handed.



Open positions, at every level, has slowed the workings of government to a snails pace...by design



Legislating is HARD. Even with majorities and procedural moves, Administrative action has been more successful

# Supreme Court

## Culture Wars, Employment, Gerrymandering and More

# The court began the 2017 session with employment-related disputes

## Select cases during the 2017-2018 term, October sitting

Case	Status	Issues at stake
Epic Systems Corp. v. Lewis	Argued: 10/2/2017	Whether an agreement that requires an employer and an employee to resolve employment-related disputes through individual arbitration, and waive class and collective proceedings, is <b>enforceable under the Federal Arbitration Act</b> , notwithstanding the provisions of the National Labor Relations Act.
Ernst & Young LLP v. Morris	Argued: 10/2/2017	<b>Collective bargaining:</b> The case deals with whether collective-bargaining provisions of the National Labor Relations Act prohibit the enforcement under the Federal Arbitration Act of an agreement requiring an employee to arbitrate claims against an employer on an individual, rather than collective, basis.
National Labor Relations Board v. Murphy Oil USA	Argued: 10/2/2017	<b>Unfair labor practices:</b> Should arbitration agreements with individual employees that bar them from pursuing work-related claims on a collective or class basis in any forum be prohibited as an unfair labor practice because they limit the employees' right under the National Labor Relations Act to engage in "concerted activities" in pursuit of their "mutual aid or protection."
Sessions v. Dimaya	Argued: 10/2/2017	<b>Immigration:</b> Is section 18 U.S.C. 16(b), as incorporated into the Immigration and Nationality Act's provisions governing an alien's removal from the United States, unconstitutionally vague?

# SCOTUS heard a high profile immigration case on October 3<sup>rd</sup>

## Select cases during the 2017-2018 term, October sitting

Case	Status	Issues at stake
Gill v. Whitford	Argued: 10/3/2017	<b>Gerrymandering:</b> The case examines several issues related to potential violations of <i>Vieth v. Jubelirer</i> . The main question is whether the district court was in violation of <i>Vieth v. Jubelirer</i> 's precedents when it held that Wisconsin's redistricting plan was an impermissible partisan gerrymander.
Jennings v. Rodriguez	Argued: 10/3/2017	<b>Immigration:</b> Whether aliens seeking admission to the U.S. who are subject to mandatory detention must be afforded bond hearings, with the possibility of release into the U.S. if the detention lasts six months.
District of Columbia v. Wesby	Scheduled: 10/4/2017	<b>Fourth Amendment:</b> Whether police officers had probable cause to arrest late-night partiers for trespassing in a vacant home under the Fourth Amendment, and whether, even if there was no probable cause to arrest the apparent trespassers, the officers qualify for immunity because the law was not clearly established in this regard.
Class v. U.S.	Scheduled: 10/4/2017	<b>Constitutionality:</b> Whether a guilty plea inherently waives a defendant's right to challenge the constitutionality of his statute of conviction.
Hamer v. Neighborhood Housing Services of Chicago	Scheduled: 10/10/2017	<b>Appellate procedure:</b> Whether Federal Rule of Appellate Procedure can deprive a court of appeals of jurisdiction over an appeal that is statutorily timely

# In October the court will establish the extent to which the U.S. government can define waters in the Clean Waters Act

## Select cases during the 2017-2018 term, October sitting

Case	Status	Issues at stake
National Association of Manufacturers v. Dept. of Defense	Scheduled: 10/11/2017	<b>Clean Water Act jurisdiction:</b> Whether the 6 <sup>th</sup> Circuit Court of Appeals erred when it held that it has jurisdiction to decide petitions to review the Waters of the United States rule, even though the rule does not issue or deny any permit, but instead defines the waters that fall within Clean Water Act jurisdiction.
Jesner v. Arab Bank, PLC	Scheduled: 10/11/2017	<b>Corporate liability:</b> Whether the Alien Tort Statute, 28 U.S.C. § 1350, categorically forecloses corporate liability.

# In November the court heard a case on voter registration in Ohio

## Select cases during the 2017-2018 term, November sitting

Case	Status	Issues at stake
Ayestas v. Davis	Scheduled: 10/30/2017	<b>Burden of proof:</b> Whether the U.S. Court of Appeals for the 5th Circuit erred in holding that 18 U.S.C. § 3599(f) withholds “reasonably necessary” resources to investigate and develop an ineffective-assistance-of-counsel claim that state habeas counsel forfeited, where the claimant's existing evidence does not meet the ultimate burden of proof at the time the Section 3599(f) motion is made.
Artis v. District of Columbia	Scheduled: 11/1/2017	<b>Tolling:</b> Whether a tolling provision suspends the limitations period for the state-law claim while the claim is pending and for 30 days after the claim is dismissed, or whether the tolling provision does not suspend the limitations period but merely provides 30 days beyond the dismissal for the plaintiff to refile.
Husted v. Philip Randolph Institute	Scheduled 11/8/2017	<b>Voter registration:</b> Whether a statute permits Ohio's voter list-maintenance process, which uses a registered voter's voter inactivity as a reason to send a confirmation notice to that individual under the National Voter Registration Act of 1993 and the Help America Vote Act of 2002.

# Later this year, SCOTUS will hear cases on topics like religious liberty, civil rights and digital privacy

## Other noteworthy upcoming cases not yet scheduled



### Religious liberty vs. LGBT rights

- The case originated when a bakery owner refused to make a cake for a same-sex couple's marriage
- Lower courts ruled in favor of the couple, citing a state anti-discrimination law
- The bakery owner says his First Amendment rights are being violated while the couple maintains upholding the baker's actions would set a precedent for discrimination



### Cell phone privacy

- The court will hear a case concerning whether investigators need to obtain a warrant to access cell tower data, which they use to track location and movements of cell phone users
- The case was brought by the ACLU on behalf of two men who were arrested after a string of robberies in Michigan and Ohio
- How the justices decide the issue could provide a framework for other issues such as facial recognition technology and surveillance law



### Revised travel ban

- The court planned to hear oral arguments on the travel ban in early October, but after the Trump administration issued a revised version the court has to decide whether or not to hear the case at all
- If they decide not to hear the case, it will be sent back down to the lower courts to take a fresh look

# Congressional Outlook

2018 Campaign has begun as retirements stack up and Dems seek to nationalize Election Day

# 2018 Legislative calendar

## January

	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## February

				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

## March

				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

## April

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

## May

		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

## June

					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

## July

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## August

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

## September

						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

## October

	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## November

				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

## December

						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## Key

- Legislative
- Ceremonial
- Major recess / Holiday
- .....
- Jan. 3: Congress returns for 2018
- Jan 5: Supreme Court session begins
- Jan 19: FY2018 stopgap funding expires
- Jan. 30: Trump's first State of the Union address
- .....
- Feb. 5: President's Budget Request (approximate date)
- March: Debt limit deadline (exact date not yet known)
- March 6: Deferred Action for Childhood Arrivals (DACA) program benefits begin to expire
- .....
- April 1: Senate Budget Committee (traditionally) reports concurrent resolution on the budget
- April 15: Congress (traditionally) completes action on the concurrent resolution on the budget
- .....
- May 15: Annual appropriation bills may be considered in the House
- .....
- Sep. 4: Congress returns from August recess
- Sep. 28: Final weekday of FY18 (deadline for FY19 appropriations)
- .....
- Oct. 1: Farm Bill funding expires
- .....
- Nov 6: Election Day
- .....
- Dec. 14: Congress ends 115<sup>th</sup> session
- .....

Source: National Journal research, 2017.  
December 28, 2017 | Justin C. Brown

# 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, December 14, 2017.

# Most of the 26 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)

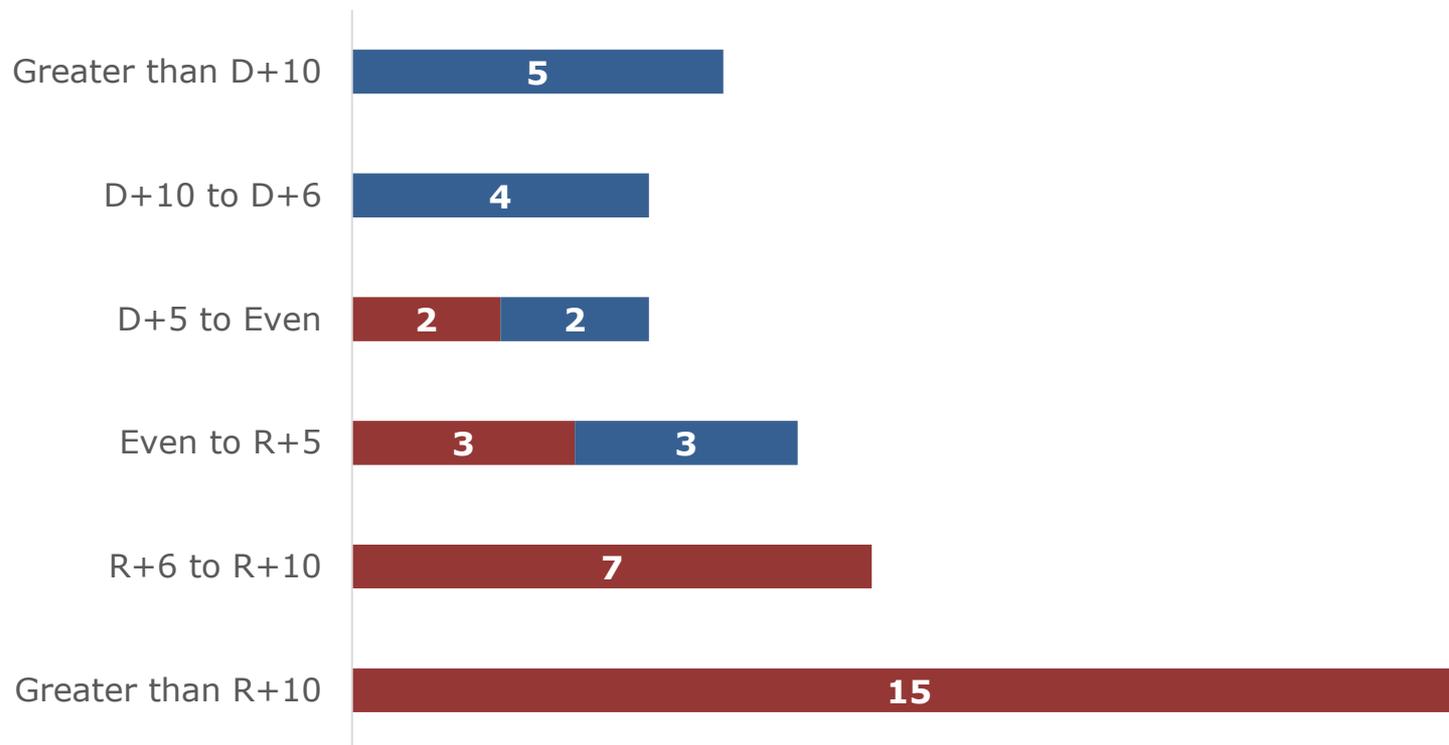
- +11 Tim Murphy (R-PA18)  
Ted Poe (R-TX02)
- +13 Sam Johnson (R-TX03)  
Bob Goodlatte (R-VA06)  
Trent Franks (R-AZ08)  
Blake Farenthold (R-TX27)
- +14 Kristi Noem (R-SD-AL)\*
- +16 Jeb Hensarling (R-TX05)
- +17 Todd Rokita (R-IN04)\*
- +18 Luke Messer (R-IN06)\*
- +20 Jimmy Duncan (R-TN02)  
Marsha 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, December 14, 2017.

# Only two retiring Republicans are in D-leaning districts, compared to three retiring Democrats in R-leaning districts

## Representatives not seeking re-election

BASED ON THE COOK PARTISAN VOTER INDEX



Sources: "2018 House summary" The Cook political report, December 14, 2017.

# Special election: Alabama Senate

## Acting senator



**Luther Strange (R)**  
*Appointed  
2017—present*

## Previous senator



**Jeff Sessions (R)**  
*Attorney  
general*

## 2017 candidates

*'17 Senate general election  
results*

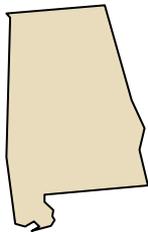
### Democrat:

- Doug Jones (winner),  
*US attorney*

### Republican:

- Roy Moore,  
*AL Supreme  
Court Justice*

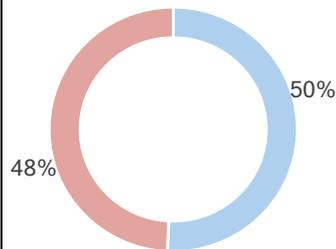
## Election dates



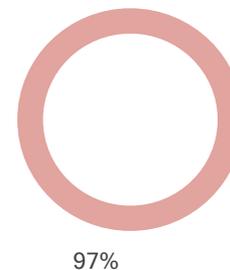
Primary: 8/15/17  
General Election: 12/12/17

## District overview

*'17 Senate race results*



*'14 Senate race results*



*'16 presidential race results*



■ GOP percent of vote ■ Democrat percent of vote

## Other notes

- Kay Ivey (R), the new governor of Alabama, announced that the state would hold an election to fill the seat formerly held by Jeff Sessions

Sources: Ballotpedia, National Journal research.

# Special election: Utah's 3<sup>rd</sup> district

## Seat previously held by



**Jason Chaffetz (R)**  
Retiring to private sector

## 2017 candidates

'17 House general election results

### Democrats:

- Dr. Kathie Allen, physician, business owner

### Republicans:

- John Curtis (winner) mayor of Provo

The Cook Political Report rates Utah's 3<sup>rd</sup> congressional district as the 16<sup>th</sup> most Republican in the country.

## Election dates



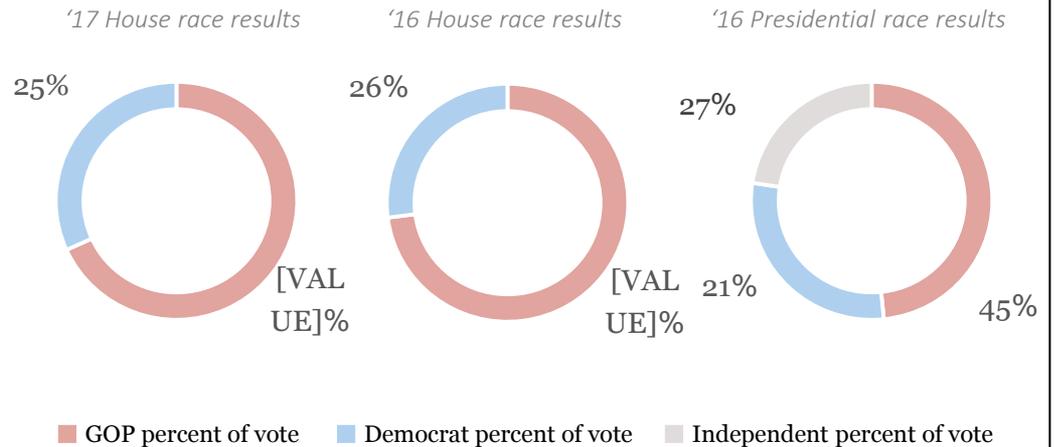
GOP primary: 8/15/17  
General Election: 11/7/17

Cook Political Report Rating: **Solid Republican**

## Other notes

- Chaffetz was the chair of the House Oversight Committee
- Chaffetz will be a contributor on Fox News

## District overview



Sources: Ballotpedia, National Journal research.

# Special election: Montana at-large

### Seat previously held by



**Ryan Zinke (R)**  
*Secretary of the Interior*

### 2017 candidates

*'17 House general election results*

<p><b>Democrats:</b></p> <ul style="list-style-type: none"> <li>Rob Quist, musician</li> </ul>	<p><b>Republicans:</b></p> <ul style="list-style-type: none"> <li><b>Greg Gianforte (winner)</b> <i>Tech entrepreneur</i></li> </ul>	<p><b>Libertarian:</b></p> <ul style="list-style-type: none"> <li>Mark Wicks, Tech entrepreneur</li> </ul>
--	--	--

### Election dates

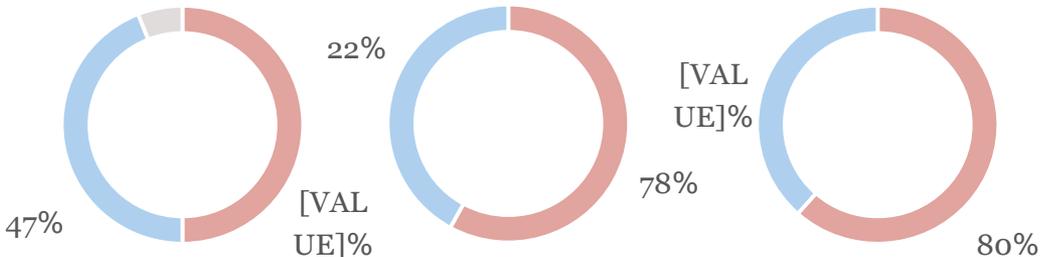


General Election: 05/25/17

Cook Political Report Rating: **Lean Republican**

### District overview

*'17 House race results*      *'16 House race results*      *'16 Presidential race results*



47%	22%	[VAL UE]%
[VAL UE]%	78%	80%

■ GOP percent of vote   ■ Democrat percent of vote   ■ Independent percent of vote

### Other notes

- Democrats retained the governorship last year and have one senator up for reelection in 2018
- Trump won the state by over 20 points

Sources: Harry Enten, "What's going on in the first House elections of the Trump era," FiveThirtyEight, February 21, 2017; National Journal research, Ballotpedia.

# Special election: California 34<sup>th</sup> district

## Seat previously held by



**Xavier Becerra (D)**  
California Attorney General

## 2017 candidates

*'17 House general election results*

### Democrats:

- Jimmy Gomez (winner)  
California assemblyman
- Robert Lee Ahn,  
former LA city planning commissioner

The past two elections in the 34<sup>th</sup> district have also resulted in a race between two Democrats.

## Election dates

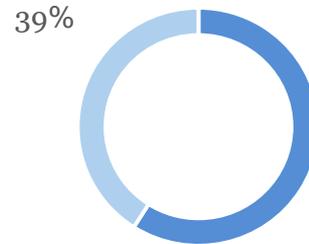


Primary: April 4  
Run-off: June 6

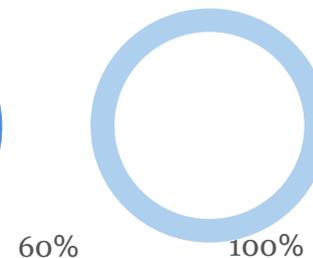
Cook Political Report Rating: **Solid Democrat**

## District overview

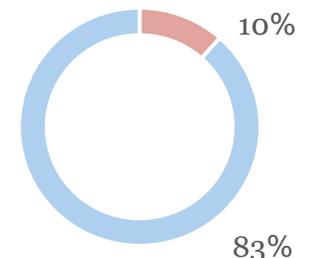
*'17 House race results*



*'16 House race results*



*'16 Presidential race results*



■ GOP percent of vote   ■/■ Democrat percent of vote

## Other notes

- Gomez has the most notable endorsements, including from former incumbent Becerra and the California Democratic Party
- Gomez has raised the most money so far
- California special elections tend to have low turnout

Sources: Harry Enten, "What's going on in the first House elections of the Trump era," FiveThirtyEight, February 21, 2017; National Journal research, Ballotpedia.

# Special election: Georgia's 6<sup>th</sup> district

## Seat previously held by



**Tom Price (R)**  
Secretary of Health and Human Services

## 2017 candidates

'17 House general election results

### Democrats:

- Jon Ossoff, national security aide, businessman

### Republicans:

- Karen Handel (winner)** businesswoman

This was the most expensive US House race in history. The two campaigns combined with outside organizations spent more than \$50 million on the election.

## Election dates



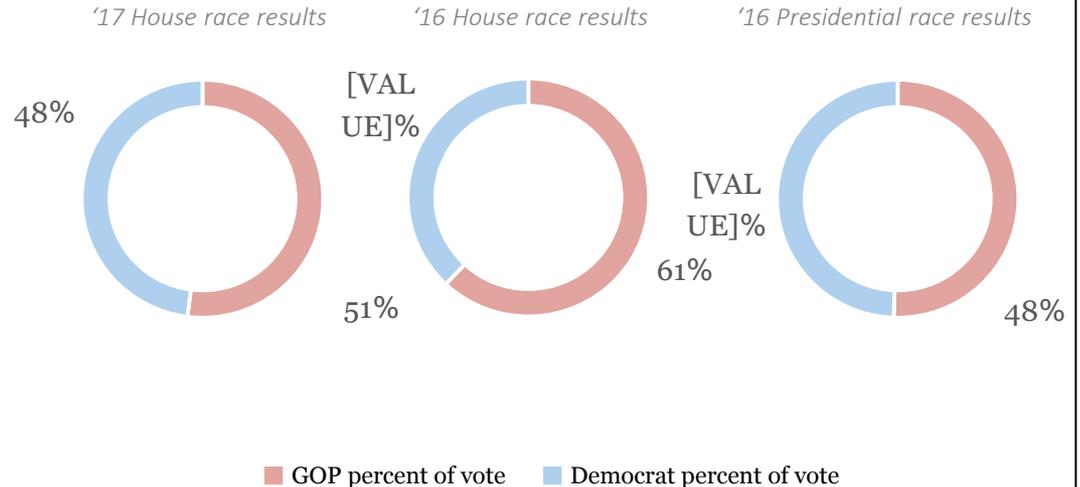
Election: April 18  
Run-off: June 20

Cook Political Report Rating: **Toss up**

## Other notes

- All the Democrats and Republicans run in one primary and the top two finishers face off in a run-off election, regardless of what party they are in, unless one candidate reaches 50% of the vote in the first round

## District overview



Sources: Harry Enten, "What's going on in the first House elections of the Trump era," FiveThirtyEight, February 21, 2017; National Journal research, Ballotpedia.

# Special election: South Carolina 5<sup>th</sup> district

## Seat previously held by



**Mick Mulvaney (R)**  
*Director, Office of Management and Budget*

## 2017 candidates

*'17 House general election results*

### Democrats:

- Archie Parnell, *tax attorney for US Dept. of Justice*

### Republicans:

- **Ralph Norman (winner)** *real estate developer*

The 2017 special election was the closest Democrats have come to retaking South Carolina's 5<sup>th</sup> district House seat since 1994.

## Election dates

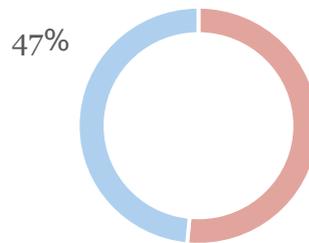


Primary: May 2  
 GOP Run-off: June 6  
 General Election: June 20

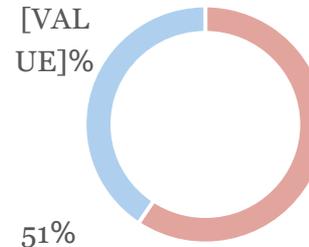
Cook Political Report Rating: **Solid Republican**

## District overview

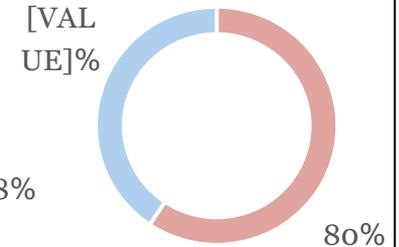
*'17 House race results*



*'16 House race results*



*'16 Presidential race results*



■ GOP percent of vote   ■ Democrat percent of vote

## Other notes

- Many Republicans are considering running; the top two finishers in the GOP primary will face each other in a runoff if the winner receives less than 50% of the vote

Sources: Harry Enten, "What's going on in the first House elections of the Trump era," FiveThirtyEight, February 21, 2017; National Journal research, Ballotpedia.

# Special election: Kansas 4<sup>th</sup> district

### Seat previously held by



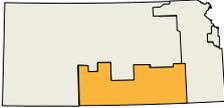
**Mike Pompeo (R)**  
*CIA Director*

### 2017 candidates

*'17 House general election results*

<p><b>Democrats:</b></p> <ul style="list-style-type: none"> <li>James Thompson, <i>civil rights attorney</i></li> </ul>	<p><b>Republicans:</b></p> <ul style="list-style-type: none"> <li>Ron Estes (winner) <i>Kansas State Treasurer</i></li> </ul>	<p>Democrats made significant strides in 2017, performing 16 points better than in they had in the 2016 election.</p>
---	---	---

### Election dates



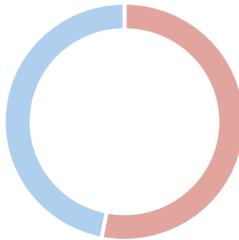
General Election: 04/11/17

### Other notes

- Prior to 2017, Republicans won this seat by more than 20 points in every election since 2002

### District overview

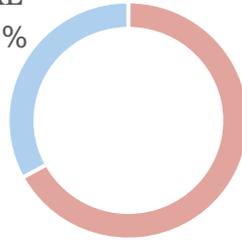
*'17 House race results*



45

*'16 House race results*

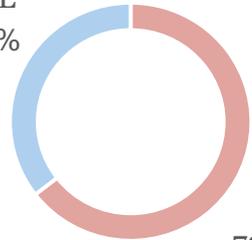
[VAL UE]%



53%

*'16 Presidential race results*

[VAL UE]%



70%

■ GOP percent of vote    ■ Democrat percent of vote

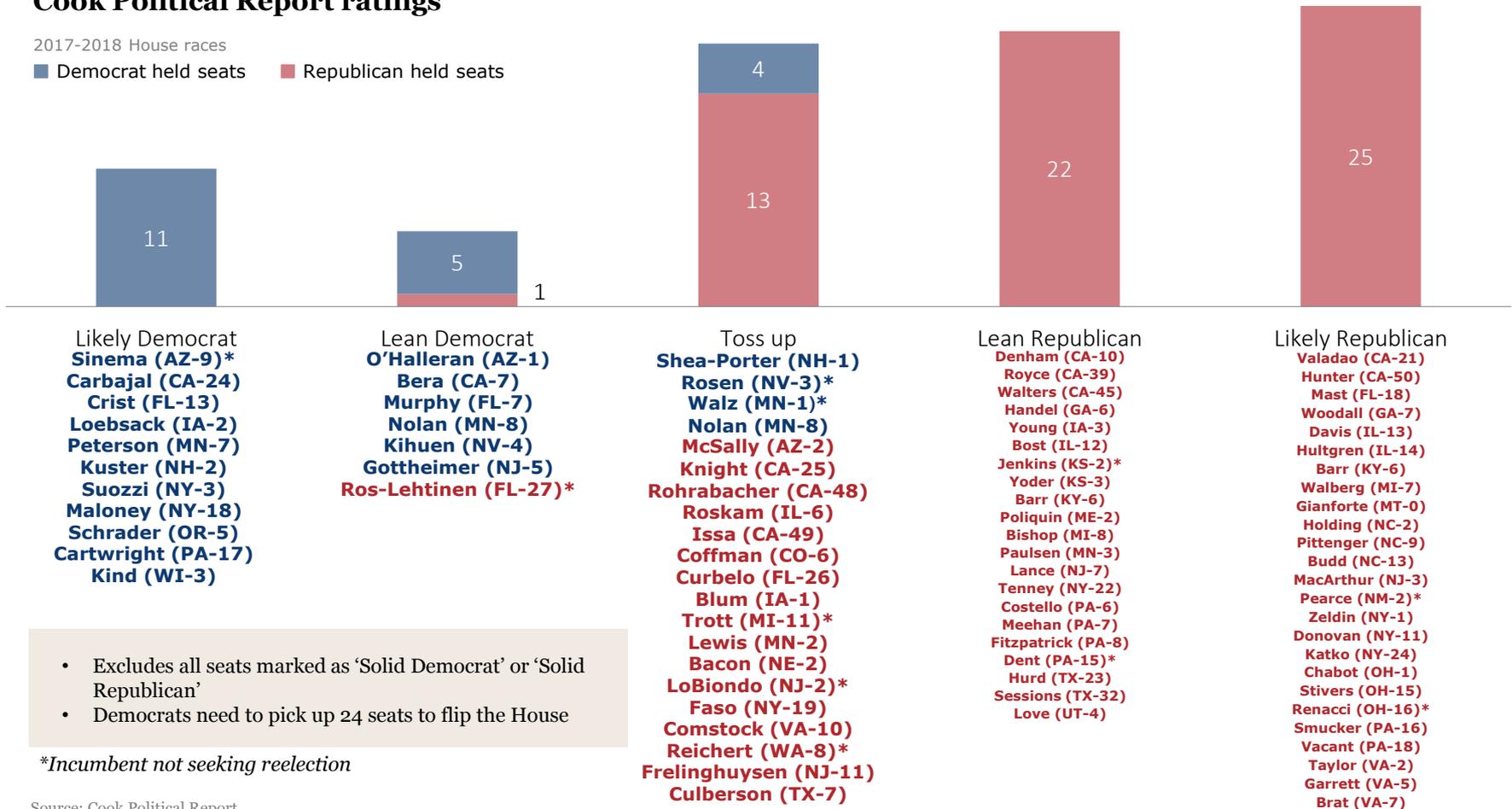
Sources: Harry Enten, "What's going on in the first House elections of the Trump era," FiveThirtyEight, February 21, 2017; National Journal research; Ballotpedia.

# 2018 House elections bring in political newcomers hoping to unseat Republican incumbents

## Cook Political Report ratings

2017-2018 House races

■ Democrat held seats ■ Republican held seats

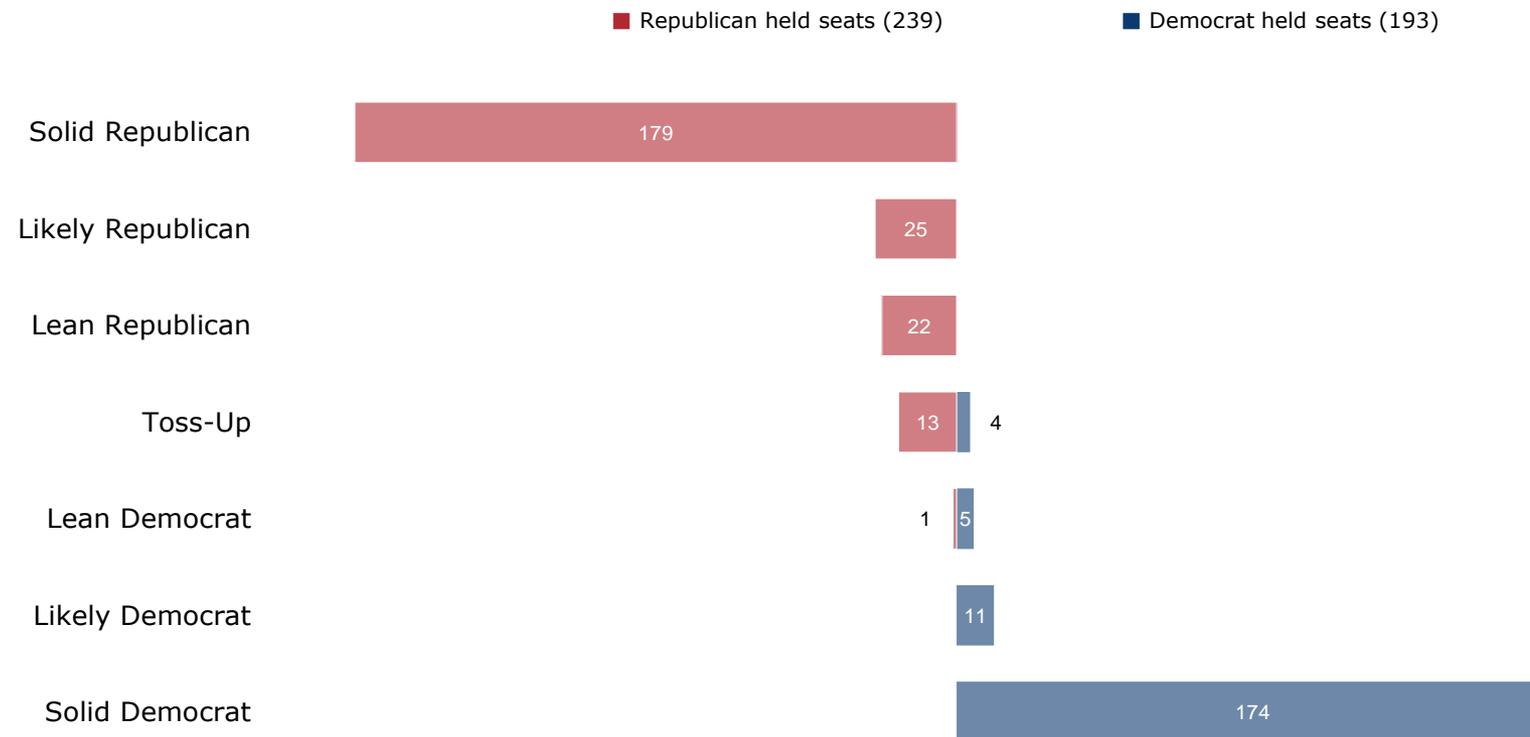


Source: Cook Political Report.

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

## Cook Political Report ratings

2017-2018 House races



\*Three vacancies in PA-18, MI-13 and AZ-08

Source: Cook Political Report.

# There is likely to be little volatility in the House in 2018

## David Wasserman's House preview



House of Representatives

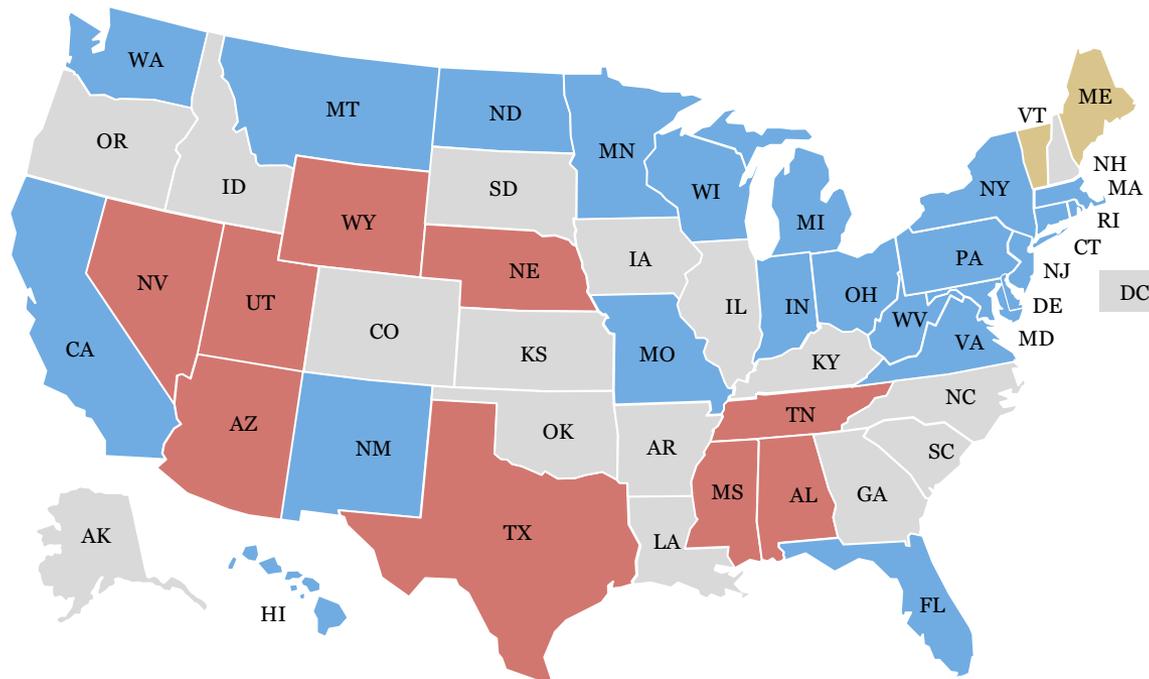
- There are **23 Republicans** sitting in districts carried by Hillary Clinton and just **12 Democrats** in districts won by Donald Trump
- The party holding the White House usually loses House seats in midterm elections, but it's unlikely that the House will flip
- Republicans won the presidency **while losing House seats**, so they aren't going into the midterm with a lot of new seats to defend
- There is no route for the Democrats to win a majority in the House without **winning at least one of the districts Trump carried in 2016**

Source: Cook subscriber briefing, April 4, 2017; Charlie Cook, "Uphill climb for Democrats in 2018," *The Cook Political Report*, December 2, 2016.

# Democrats need a three-seat net gain to win a 2018 Senate majority; Republicans are defending fewer seats

## States with Senate elections, 2018

■ Democrat incumbent ■ Independent incumbent ■ Republican incumbent



### Analysis

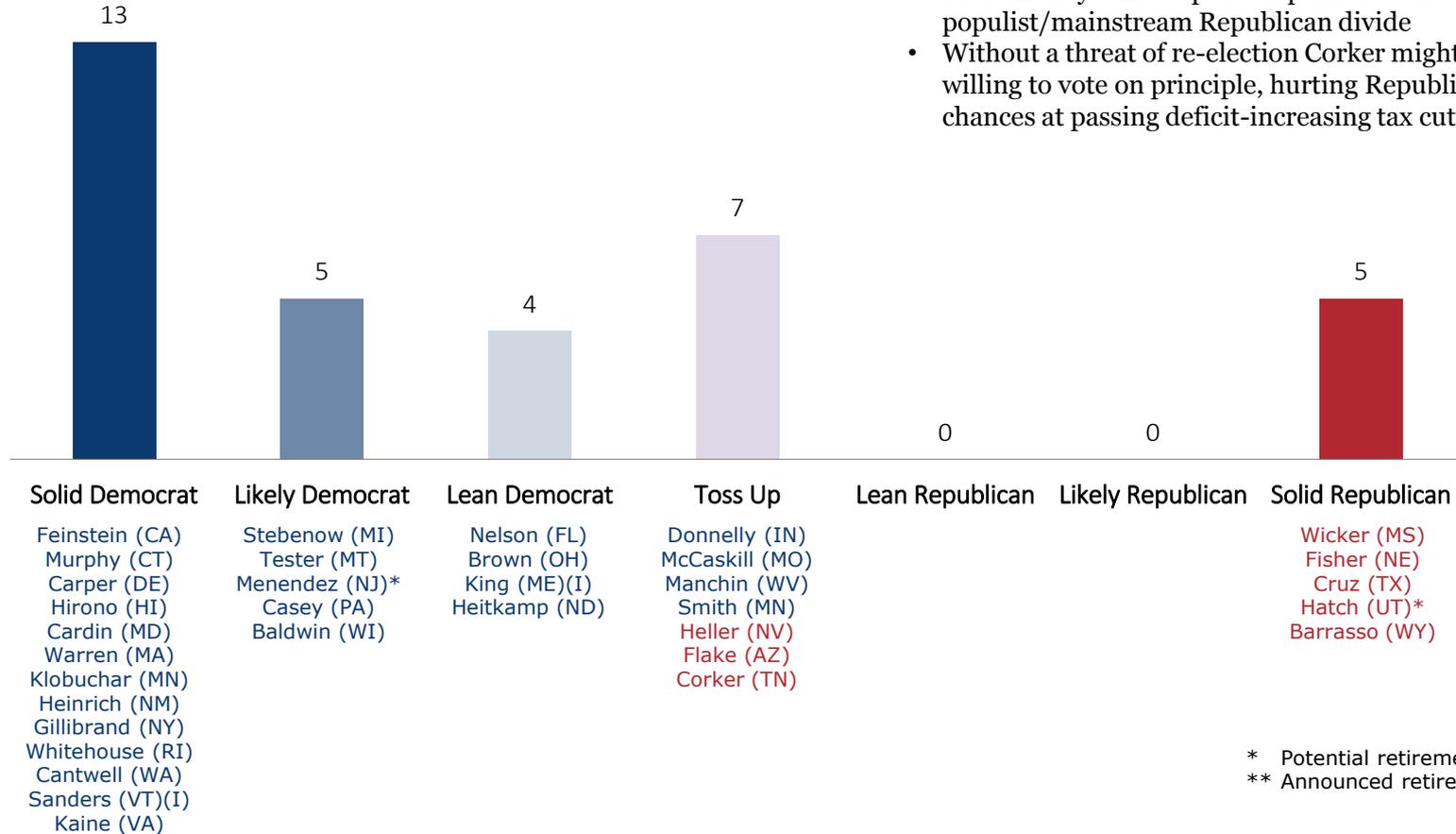
- Democrats will be defending **25 seats** in 2018, while Republicans are defending only **nine**
- Of the nine Republican seats, just **Nevada**, held by **freshman Sen. Dean Heller**, is in a state won by Democrats in the 2012 or 2016 presidential elections
- No other GOP-held seat appears in danger, which means **Republicans are likely to hold onto their majority**
- Democrats will likely be on defense in **North Dakota** (a state Romney won by 20 points and Trump won by 36) and **West Virginia** (a state Romney won by 27 points and Trump won by 42)

Source: Cook subscriber briefing, April 4, 2017; Charlie Cook, "Uphill climb for Democrats in 2018," *The Cook Political Report*, December 2, 2016.

# Senate Dems are defending 25 seats in 2018, four toss-ups

## 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

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.

\* Potential retirement  
 \*\* Announced retirement

## 2018 Senate races by 2016 presidential performance

### Senate seats in play, by election year

Clinton +15 or greater	Clinton +5 to +14.9	Clinton +4.9 to Trump +4.9	Trump +5 to +14.9	Trump +15 or greater
<b>DEMOCRATS (25)</b>				
Feinstein (CA) +16.2 Hirono (HI) +32.2 Cardin (MD) +25.2 Warren (MA) +27.3 Gillibrand (NY) +21.3 Whitehouse (RI) +15.6 Sanders (VT)(I) +28.5 Cantwell (WA) +16.2	Murphy (CT) +13.3 Carper (DE) +11.5 Menendez (NJ) +13.2 Heinrich (NM) +8.3	King (ME)(I) D +2.7 Klobuchar (MN) D +1.5 Kaine (VA) D +4.9 Stabenow (MI) R +0.3 Nelson (FL) R +1.3 Baldwin (WI) R +1 Casey (PA) R +1.2	Brown (OH) +8.6	Donnelly (IN) +19.3 McCaskill (MO) +19.1 Tester (MT) +20.5 Heitkamp (ND) +36.3 Manchin (WV) +42.2
<b>REPUBLICANS (9)</b>				
		Heller (NV) +2.4	Flake (AZ) +4.1 Wicker (MS) +18.6	Fischer (NE) +226.3 Corker (TN) +26.2 Cruz (TX) +9.2 Hatch (UT) +18.1 Strange (AL) +28.3 Barrasso (WY) +47.6

Source: "2016 Senate election results," Politico, December 13, 2016.

# It is best to aggregate polls to find reliable trends

## 4 tips for reading polls

1

### **Beware of polls labeled “bombshells” or “stunners,” instead take an average**

These polls are likely outliers and outliers are usually wrong. Aggregating polls, especially in general elections, is the method that leads to the most accurate projection of the eventual result most often. Aggregating **state polls** usually provides a better idea of who will win than national polls.

2

### **Polling likely voters is more accurate than polling registered voters**

Closer to the election, pollsters start questioning likely voters instead of any registered voter. This change tends to boost Republicans because core Democratic voters like nonwhites and young people have lower turnout rates. However, social pressures make people inclined to say they will vote, so good pollsters also ask about interest in the election and their past voting history.

3

### **Margin of error and sample size matter less than who’s in the sample**

Calling harder to reach people (like young voters) costs a lot of money but is important to correctly project who will vote.

4

### **Even at the end of the campaign, polls probably won’t predict the results perfectly**

Polls do get more accurate as election day approaches, but even the night before, they are not perfect. The average presidential poll within the final 21 days of the election has been off by 3.6 percentage points since 2000.

Sources : Harry Enten, “13 tips for reading general election polls like a pro,” FiveThirtyEight, September 2, 2016; Ryan Struyk, “How to read the polls: a guide to the 2016 election horserace,” ABC News, September 14, 2016.

# Thank you

大成 DENTONS



**John R. Russell, IV**  
Principal, Washington, DC  
Dentons  
john.russell@dentons.com  
+1 (202) 408 6392



**Darry A. Sragow**  
Senior Counsel, Los Angeles  
Dentons  
darry.sragow@dentons.com  
+1 (213) 892 2925

---

Dentons is the world's largest law firm, delivering quality and value to clients around the globe. Dentons is a leader on the Acritas Global Elite Brand Index, a BTI Client Service 30 Award winner and recognized by prominent business and legal publications for its innovations in client service, including founding Nextlaw Labs and the Nextlaw Global Referral Network. Dentons' polycentric approach and world-class talent challenge the status quo to advance client interests in the communities in which we live and work.

[www.dentons.com](http://www.dentons.com)