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# Government Matters

## 2018 Update

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NATIONAL  
**CLUB**  
ASSOCIATION  
Advocacy | Insight | Governance



# NCA's Mission



- *“To defend, protect and advance the interests and well-being of private social and recreational clubs”*
- As the trade association for the private club industry, NCA is based in Washington, D.C. to do two things:
  - Be involved in the political world, and
  - Shape the policies that come from it
- Simply put, we make sure the private club industry's voice is heard
  - On Capitol Hill,
  - In the agencies,
  - In the statehouses, and
  - In the courthouses



# Today's Roadmap

- Balance of Power
- Legislative Issues
- Regulatory Issues
- State Issues
- Midterm Elections



# Balance of Power

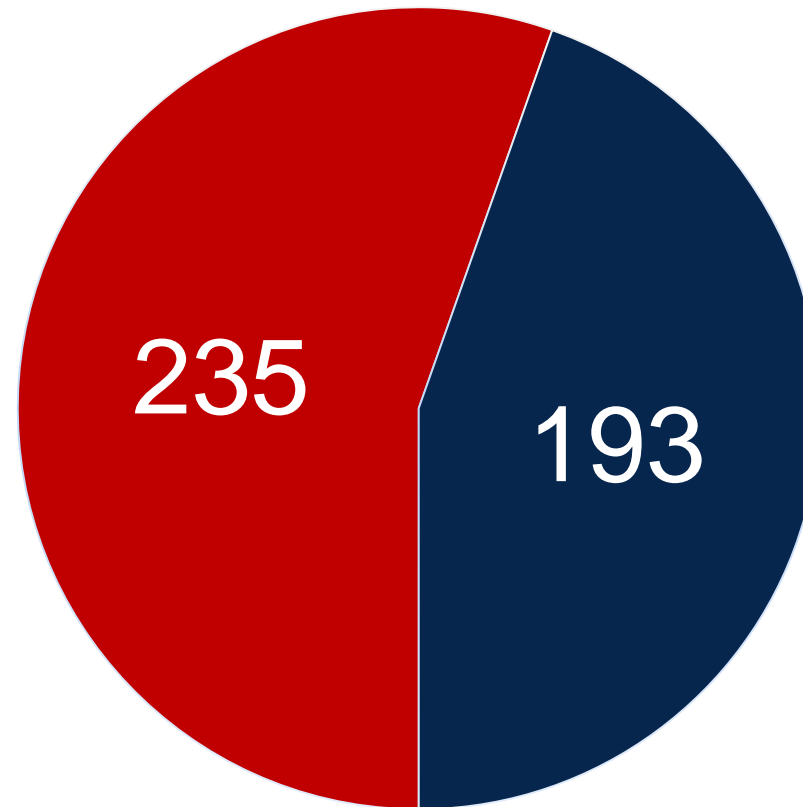


# House of Representatives

## ■ Balance of power

### ■ 235 Republicans – 193 Democrats

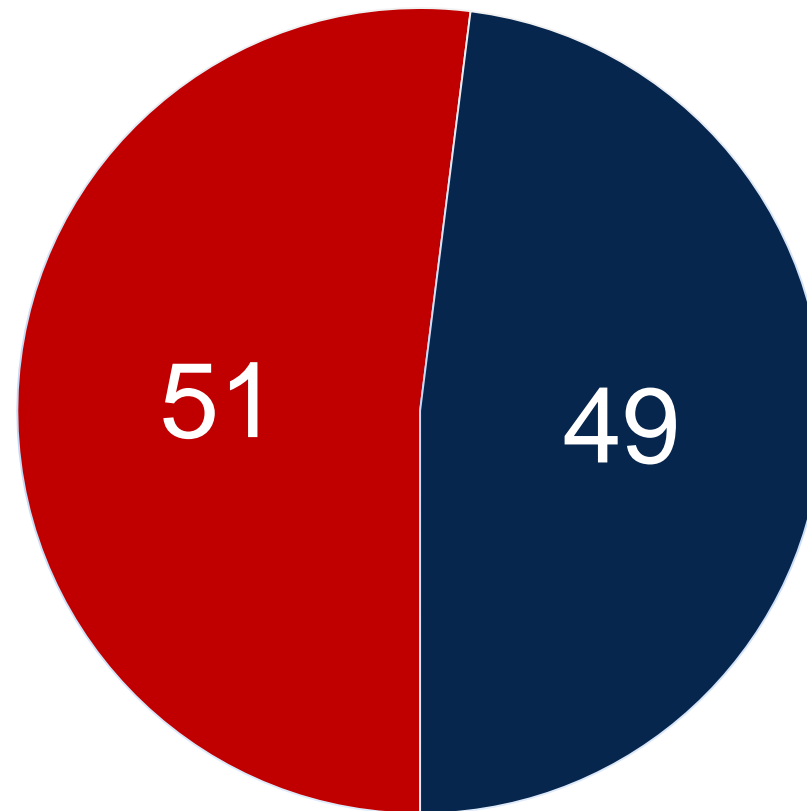
- Seven vacancies, but seats should stay in the same party control – maybe...
  - Rep. John Conyers (D-Mich.) – 11/6
  - Rep. Louise Slaughter (D-N.Y.) – 11/6
  - Rep. Patrick Meehan (R-Pa.) – 11/6
  - Rep. Charlie Dent (R-Pa.) – 11/6
  - Rep. Jim Bridenstine (R-Okla.) 11/6
  - Rep. Ron DeSantis (R-Fla.) 11/6
  - Rep. Evan Jenkins (R-W.Va.) 11/6
- Republicans can only lose 22 of their members and still pass legislation



- Republicans
- Democrats

# Senate

- Balance of power
  - 51 Republicans – 49 Democrats
    - Without 60 votes, Rs still susceptible to a D filibuster of any controversial bill
  - In 2018, 26 Ds will be up for re-election and only nine Rs
    - Ten Ds are running for re-election in states Trump won
      - Five of those states he won by more than 19%
    - R margin could increase



- Republicans
- Democrats

# Legislative Issues





# Healthcare Fixes

- Big win for clubs on Obamacare taxes
  - Cadillac tax and Health Insurance tax delayed in 2018 and 2019, respectively
  - House repealed the Medical Device Tax and further delayed the HIT through 2020
- Other targeted, bipartisan fixes we're pursuing
  - STARS Act to resolve the "seasonal worker" and "seasonal employee" definition issue
  - Reporting requirement overhaul
  - Redefining "full-time" back to 40 hours per week – Save American Workers Act passed House
- It is unclear just how much of an appetite Congress has to touch healthcare again



# H-2B Visa Program



- The program allows foreign workers to come for seasonal work when Americans aren't available
  - 66,000 cap
  - We worked to increase that number in FY2018, and it succeeded
  - Cap expanded by 15,000 this year – those 15,000 were gone in six days (lottery instituted)
- Clubs have had a hard time getting these workers because of the cap limits
  - NCA and our allies are fighting to get a permanent increase to the cap on the books
- Rep. Andy Harris (R-Md.) has brought back the Returning Worker Exemption
  - Included in DHS FY19 spending bill
  - Need to work through border wall funding and then the H-2B fix will pass
    - Finally, a permanent fix to the issue

# Regulatory Issues



# DOL's Overtime Rule

- Sec. of Labor Alex Acosta has formally begun crafting a new rule – Jan. 2019
  - We have submitted comments suggesting what a new rule should look like
  - The minimum weekly salary threshold will likely be \$634/week (\$33,000/year)
- There will be no change to the “duties test” for the White Collar Exemptions
  - Clubs must be certain to correctly classify an employee as exempt from overtime pay
    - He must be paid a salary, earn at least the min. weekly salary and fit into one of the White Collar Exemptions
  - To fit into one of the White Collar Exemptions, he must satisfy the duties test of that exemption:
    - Executive – manage a dept., supervise two FTers, and have a say in hire/fire
    - Administrative – perform office work (no manual labor) related to the management of club and exercise discretion on matters of significance
    - Professional – perform work that requires advanced knowledge earned from specialized academic training; **or** artistic or creative endeavors; **or** teaching in an academic institution (not golf or tennis pros)

# Employee/IC Classification



- Best Practices to help ensure they are ICs and to avoid liability under the FLSA
  - Clubs should not:
    - Have ICs attend staff meetings, ask for time off, do separate work around the club or wear the club's logo
    - Set ICs' prices, schedule them or pair them with players
  - Three options for ICs
    - Have players hire their ICs themselves – club is completely out of it
      - Educate players on their responsibilities (1099s, etc.) – CaddieNow App
    - Engage third party entities to do the job – valet company, fitness company, massage company, CaddieMaster
    - Reclassify ICs as employees – could provide best protection
      - Club has complete control over their training, work, discipline and pay – ambassadors of the club
      - Players expect club to provide the service and will pay for it – caddie fee vs. cart fee, fitness class fee
      - They can still be tipped employees – so they can still receive cash
- DOL now looking at creating its own rule



# State Issues



# Maryland Property Tax Bill



- Bill to change the way club property is assessed in the Free State
  - St. Delegate David Moon (D)
  - Md. allows clubs to enter an agreement that limits assessed value in return for prohibiting the club from selling land for development
    - Moon's bill increased the assessed value on many clubs while lowering it for others
      - He looked to drive a wedge between more affluent clubs and the rest
  - This could have resulted in a five to ten fold increase in assessed value for our clubs
- We created the Maryland Coalition of Concerned Clubs to stop the bill
  - Moon first offered the bill in a single county – we killed it by a vote of 7-17
  - Full House of Delegates never voted on it
  - Likely to return in 2019

# The Midterm Elections



# The Midterm Elections

- Tight Senate margin means Upper Chamber could be in play
  - Ten Ds are running in states Trump won
    - He won by the largest margin in three of those states (W.Va., N.D., and Mont.), yet polls have the races very close
  - Three R seats could be in jeopardy, too – Ariz., Nev., and Tenn. with Texas as a kicker
- The midterm elections could be challenging for Republicans in the House
  - Party holding the WH historically loses seats
  - Over 40 Rs not running for re-election – most since 28 Ds in ‘94
  - Polls indicate an enthusiasm gap between R and D voters
    - Significant uptick in D turnout in *primaries*
  - 12 R seats “likely” to flip based on retirements or other factors
  - 28 of 30 “toss-up” seats are held by Rs



# House Races to Watch

- Illinois 6<sup>th</sup> District
  - Rep. Peter Roskam (R) – R+2 District that Clinton won by 7% & Roskam won by 19%
  - This race will determine who has 218 seats in the House
- New Jersey 7<sup>th</sup> District
  - Rep. Leonard Lance (R) – R+3 District that Clinton won by 1% & Lance won by 11%
  - SALT deduction issue & “Summer White House” major issues
- Michigan 8<sup>th</sup> District
  - Rep. Mike Bishop (R) – R+4 District that Trump won by 2% & Bishop won by 17%
  - Detroit suburbs District that will show if Rs can hold the line with female voters in the burbs
  - His female opponent was a CIA analyst with 3 tours in Iraq – former Bush & Obama defense official
- Kentucky 6<sup>th</sup> District – if this seat flips, it will be a long night
  - Rep. Andy Barr (R) – R+9 District that Trump won by 15% & Barr won by 22%
  - Heavily suburban District w/ a female Marine fighter pilot who logged 89 combat missions in Afghanistan – on the tarmac on 9/11

# The National Club Association

Your Voice In Washington, D.C.

