2008 Legislative Elections

By Tim Storey

Democrats have been on a roll in legislative elections and increased their numbers again in 2008. Buoyed by the strong campaign of President Barack Obama in many key states, Democratic gains last year leave them at their best political position in legislatures in well over a decade. Democrats control 24 legislatures, Republicans control 14 and 8 are divided between the two parties.

For the third consecutive election cycle, Democrats made gains in legislatures in 2008 elections. Democrats now hold more than 55 percent of all legislative seats for the first time since getting crushed by Republicans in 1994. Democrats netted just shy of 100 seats in 2008 padding their 350 seat gains over the past four years. The gains were far from a landslide and definitely limited because the party has come off of two consecutive election cycles where they increased their numbers.

Nationally, it’s been a rough four years for Republican legislative candidates. After the 2004 election, there were almost exactly the same number of Republican and Democratic state legislators. Now, there are 862 more Democratic legislators than Republicans, and Democrats control a majority of all state legislatures.

Courtesy of 2008 gains, Democratic legislators fill 4,084 of the nation’s 7,382 state legislative seats with Republicans holding 3,222. Third party candidates, including the country’s only current Green Party legislator in Arkansas, control 17 legislative seats, or less than one percent. Candidates run for the Nebraska Senate in nonpartisan elections, so those 49 senate seats are considered nonpartisan. As is always the case, a handful of seats are vacant pending special elections or appointments.

President Obama’s convincing Electoral College win spelled good news for many Democratic legislative candidates. At the top of the ticket, Obama, a former Illinois state senator, won the Electoral College vote 365-173 and defeated Arizona Senator John McCain by more than 9.4 million votes garnering 52.9 percent of all votes cast for president. Obama’s coattails and vaunted campaign field operation undoubtedly helped Democrats gain seats, and in some cases majority control, in legislatures in some highly contested battleground states such as Nevada, Ohio and Wisconsin. However, in states like Oklahoma and Tennessee that did not see substantial campaign activity from either McCain or Obama, Republicans picked up seats and took majority control, and in fact, an anti-Obama backlash in those states may have helped Republican candidates. Oklahoma was the only state in the country where Senator McCain won every county.

With redistricting just around the proverbial corner, Republicans are hoping for a big comeback in 2010 when traditionally, the party controlling the White House loses big in legislative races. The GOP can also take solace in the fact that the last time a party gained seats in four consecutive elections was in the 1930s. Winning four election cycles in a row has only happened twice in the past 110 years. But 2008, like 2006 and 2004, belonged to the Democrats.

Post-2008 Numbers

A total of 5,824 of the nation’s 7,382 state legislative seats were scheduled for elections last year in 44 states. Six states did not have regular legislative elections in 2008. Louisiana, Mississippi, New Jersey and Virginia hold state-level elections in odd-numbered years, so they had only special elections to fill vacancies in 2008. In Maryland and Alabama, all legislators serve four-year terms and were last elected in 2006, so they also did not have any elections. Michigan and Minnesota only had state house elections last year; no senate seats were up in those two states.

More than 10,000 candidates ran in the general election for legislative seats in 2008, and as usual, about 35 percent of the races were uncontested.

Prior to the 2008 election, Democrats controlled the legislative branch in 23 states while Republicans had majority control in both chambers in 14 states. In 12 states, partisan control was divided with neither party controlling both the house/assembly and senate. The legislature of Nebraska is unicameral and nonpartisan. Elections in 2008 led to Democrats adding four to the number of states in their column—all states that were previously divided. At 27 states, Democrats now control more than half of all legislatures for the first time since before the 1992 election.
when they had the majority of both chambers in 30 states. Republicans emerged from the election controlling both houses of the legislature in 14 states. Only eight legislatures have divided control which is the lowest number of split legislatures in 25 years.

Democrats gained legislative seats in 31 of the 44 states with 2008 elections, and Republicans picked up seats in nine states. There were three states (Kansas, Missouri and Washington) where the overall partisan numbers were the same before and after the election.

There were only 11 governor’s races in 2008. Missouri was the only state where the party of the governor changed in the election going from Republican to Democrat. However, Republicans regained control of the governor’s office in Arizona after Democrat Gov. Janet Napolitano resigned to become the Secretary of the Department of Homeland Security under President Obama thus making Republican Secretary of State Jan Brewer Arizona’s governor. Democrats still hold the majority of governors with a 28 Democrat-22 Republican advantage. There are 17 states in all regions of the country where Democrats control all of state government. Republicans control the governor and the legislature in nine states, and 23 states have divided control.

In terms of legislative chambers, the post-2008 numbers looked good for Democrats. Headed into 2009 sessions, Democrats had numerical majorities in 60 chambers. Republicans claim an outright majority in 36 legislative bodies and two wound up tied. The election left the Alaska Senate, the nation’s smallest legislative body, tied at 10 Democrats to 10 Republicans and the Montana House, the nation’s most competitive legislative body, tied at 50 Democrats to 50 Republicans.

New Majorities

Since 1900, an average of 12 legislative chambers change hands in every election cycle and just like in 2006, this was an average year. Twelve chambers switched hands in this election cycle including two that went from tied to Democratic control. In the 2008 elections, Democrats supplemented their pick-up of the Virginia Senate in 2007 by adding five chambers to their control column. Republicans earned the majority in four legislative bodies. As noted above, two chambers went from GOP control to being tied—the Alaska Senate and the Montana House.

The Montana House, now tied 50 Democrats to 50 Republicans, has been the most competitive chamber in the country for the past 20 years. Party control in the Montana House has shifted nine times since 1980—more than any other legislative body. Montana takes the prize for political competitiveness in legislative elections because in addition to the House, the next most competitive chamber in the

---

**Figure A: State Legislative Party Control, 2009**

country over the past 30 years is the Montana Senate. It has switched eight times since 1980 and is now held by Republicans after four years of a Democratic majority. Under Montana law, the party holding the governor’s office gets to organize and choose the leaders when there is a tie in the legislature. Since the state has a Democratic governor, the Montana House Speaker is Democratic Rep. Bob Bergren. At least one state legislative body has been tied with an even number of Democrats and Republicans for the past 25 years. During that time, both the Alaska Senate and Montana House were tied twice before, so those two chambers are now tied for the third time in 25 years.

The other tied legislative body following last year’s elections is the Alaska Senate. A coalition including all 10 Democratic and three Republican senators voted to elect Republican Sen. Gary Stevens as the Senate President in Alaska. Democrats gained seats in both chambers of the Alaska Legislature even though the state’s popular governor, Sarah Palin, was at the top of the GOP ticket as the vice-presidential candidate.

The coalition vote for Alaska Senate President where the leader needed a substantial block of the opposite, or minority, party to get elected was one of several such arrangements coming off the 2008 election. There are similar, coalition style, leadership arrangements in four additional chambers—the Louisiana House, the New Mexico Senate, the Tennessee House and the Texas House. It is not unusual for there to be coalition leadership in one or two legislatures every year, but five chambers at once is unusually high.

In addition to taking the Montana Senate, the other bright spots for the GOP were in two southern states, Oklahoma and Tennessee. Before the election, the Oklahoma Senate was tied 24 Democrats to 24 Republicans and had been operating with co-Senate leaders for two years under a power sharing agreement. In a state where Republican presidential candidate U.S. Sen. John McCain ran very strong, the party grabbed two Senate seats emerging with a 26 Republican to 22 Democrat majority. It is the first time since Oklahoma became a state in 1907 that Republicans have controlled the Sooner State Senate.

Technically, the Tennessee Senate was also tied at 16-16 with one independent prior to last fall’s election although Republicans had functional control over the body under a coalition vote including the lone independent. Tennessee was another state where

![Figure B: Percentage of Legislative Seats Held by Democrats and Republicans, 1900–2008](image-url)

**Note:** Percentage calculation excludes nonpartisan elections in Minnesota (1938–74) and Nebraska (1938–present).

**Source:** National Conference of State Legislators, 2008.
McCain ran strong helping Republicans there win three additional seats and earn a 19 Republican to 14 Democrat majority. The Tennessee House results were far closer. In the 2008 election, 50 Republican candidates won Tennessee House seats giving the party a numerical majority in the House for the first time since reconstruction. However, in a contentious vote for the House Speaker, all 49 Democratic Representatives joined to elect Republican Kent Williams as the new Speaker. The Tennessee State Republican Party subsequently expelled Williams from the state party.

Democrats picked up chambers from Republicans in five states including several in large states that had been controlled by the GOP for decades. Perhaps the biggest prize for Democrats was the New York Senate. Barack Obama won New York by a 25 percent margin and that helped Democrats pry away two state Senate seats and get a majority of 32 Democrats to 30 Republicans. It is the first time Democrats have controlled the Empire State Senate since 1966. Looking at overall control of state government including the Assembly and the governor’s office in New York, it is the first time that Democrats have controlled the state since 1935 when Herman H. Lehman was the governor.

Another state that shifted demonstrably to all-Democratic control was Delaware where the party won the House after picking up six seats. With Delaware’s favorite son, U.S. Sen. Joe Biden, running at the top of the ticket for vice-president, Democrats swept into power including a victory over long-time House Speaker Terry Spence. Before losing his re-election race, Spence had served as speaker for 20 years and had the distinction of being the longest serving House speaker in the country.

In Ohio, term limits helped open the door for Democrats to take the House for the first time since losing it in 1994. Of the 21 representatives termed-out in 2008, 17 of them were Republican, so it was a golden opportunity for the Democrats who took advantage of record spending in the state by the Obama campaign to flip the numbers from 53 Republicans to 46 Democrats before the election to a 53 Democrat to 46 Republican advantage.

Also for the first time since 1994, Democrats took over the Wisconsin legislature by winning the Assembly 52 Democrats to 47 Republicans with one independent. Democrats won the Wisconsin Senate in 2006.

Democrats unified control in Nevada by winning a 12 Democrat to 9 Republican majority in the Senate, the second-smallest state legislative body in the United States. Republicans controlled the Nevada Senate for 16 years although never by more than three seats.

**Regional Breakdown**

Republicans renewed their success in the southern part of the United States in the 2008 election cycle although not by much. The party netted 6 legislative seats in the 15 southern states. Since 1982, Republicans have steadily gained seats in the south in every election except for 2006 when Democrats won 24 seats. Republicans now hold 14 of the 30 legislative chambers in the south. Republican gains in the region were hampered by a strong Democratic showing in Texas House races where Republicans held on to a 76 Republican to 74 Democrat majority. One Texas House Republican incumbent won re-election by 19 votes out of more than 40,000 cast or the chamber would have been tied.

With the addition of the Delaware House and New York Senate, Democrats now dominate the northeastern part of the country. The only legislative body north of Virginia and east of Ohio held by Republicans is the Pennsylvania Senate. Democrats now hold more than 65 percent of all legislative seats in the eastern states which is the highest percentage Democrats have enjoyed in that region, formerly dominated by the Republican Party, since at least 1900. The best region for the GOP is the Midwest where they command just more than half of all legislative seats. In the west, Democrats have increased their share of seats to more than 53 percent.

**Diversity of Legislators**

The 2008 legislative elections brought about the most diverse picture of state legislatures in history. Women now make up nearly a quarter of state legislators increasing to 24.2 percent—the highest level ever. Another historic first for the country occurred in New Hampshire when women candidates won more than half of the races for the Granite State Senate. It is the first time in U.S. history that a legislative body has a majority of women members.

The number of African-American legislators also surged in the election. Nine percent of state legislators are African-American. And in another historic first, the Colorado Senate and House both elected African-American presiding officers—Senate President Peter Groff and House Speaker Terrance Carroll. It is the first time in American history that two black legislators presided over a legislature in the same state at the same time. The number of Latino state legislators also increased in 2008 with Latino legislators now...
making up more than 3 percent of legislatures. Most Latino legislators serve in five states: New Mexico, California, Texas, Florida and Nevada.

Conclusion

Overall legislative turnover was down slightly in 2008 to 17.3 percent with more than 1,100 new state legislators taking office in 2009. The turnover numbers may spike up in 2010 because the national parties will be pouring money into state legislative races at unprecedented levels in advance of redistricting. That could lead to more volatility. It is also possible that some current members will want to retire before 2010 rather than face a rancorous redistricting process.

Even though 2008 was another Democratic year in legislative elections, Republicans have plenty of reasons to be optimistic about the all-important 2010 pre-redistricting election. Since 1900, the party holding the White House has lost seats in legislatures in every presidential mid-term election except for two—in 1934 during the depression and in 2002 in an election dominated by the events of Sept. 11, 2001. That means that the party out of the White House has gained seats in 25 out of the last 27 mid-term election cycles which is a daunting trend for Democrats to break. And if Democrats could manage to net seats in 2010, it would be the fourth consecutive election cycle to go their way, and that hasn’t happened since Democrats did it in 1936. Unless legislative election trends going back over a century break, 2010 could be a resurgent year for the GOP just in time for legislative and congressional redistricting.

About the Author

Tim Storey is a senior fellow in the Legislative Management Program of the Denver, Colo.-based National Conference of State Legislatures. He specializes in the areas of elections and redistricting as well as legislative organization and management. He has staffed NCSL’s Redistricting and Elections Committee since 1990 and authored numerous articles on the topics of elections and redistricting. Every two years, he leads NCSL’s StateVote project to track and analyze legislative election results. He graduated from Mars Hill College in North Carolina and received his master’s degree from the University of Colorado’s Graduate School of Public Affairs.