

# BURIED BY BAD NEWS?

Signs point to huge GOP gains in legislative chambers. But the question remains: How far might the Democrats fall?

BY TIM STOREY

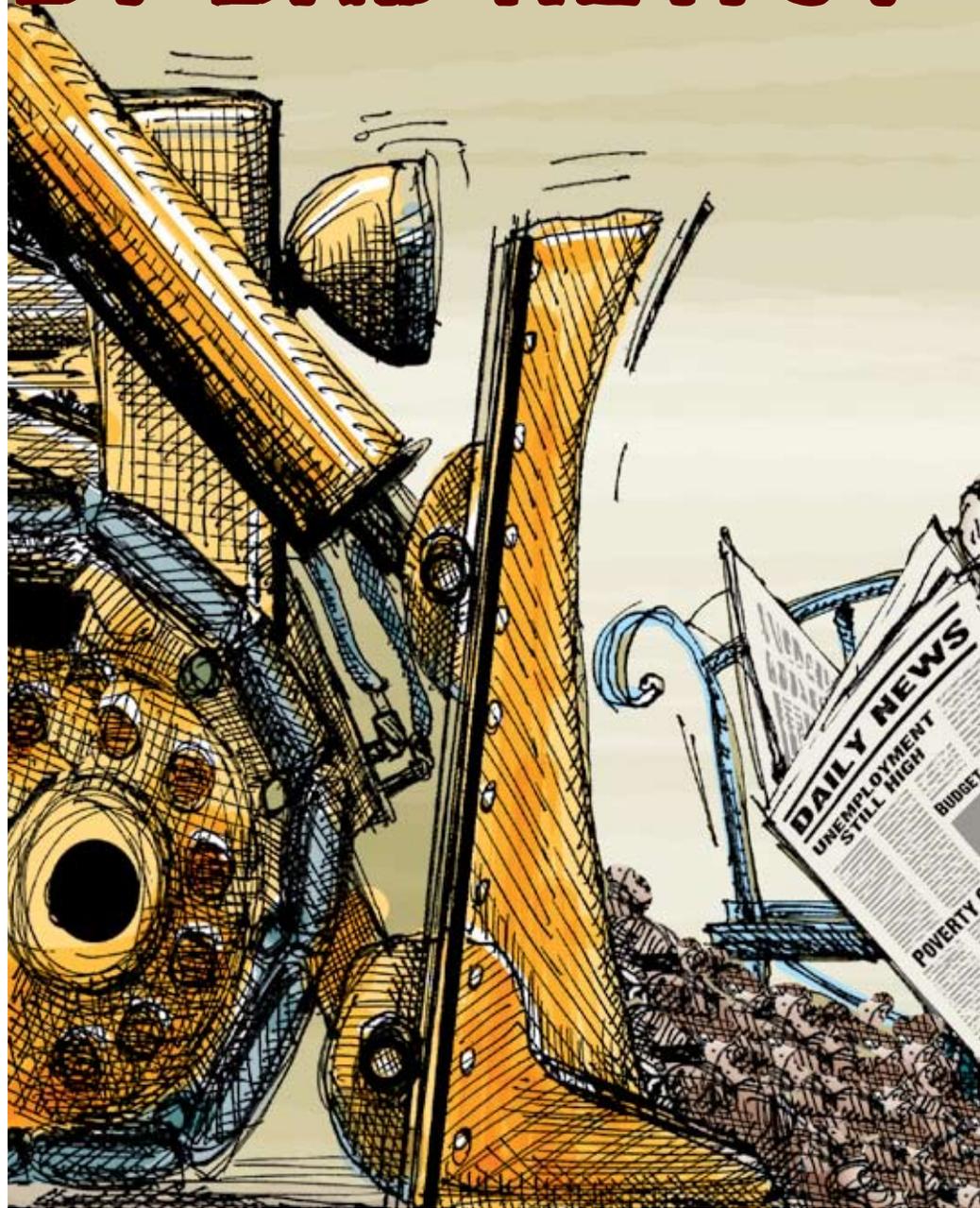
**O**n Election Night 2008, Democrats were euphoric after winning the White House for the first time in eight years. They also netted more than 100 state legislative seats, giving them control of almost 56 percent of the partisan state legislative seats and majority control of 60 of the nation's 99 legislative chambers—the highest numbers in 15 years.

As this year's election nears, Democrats are far from euphoric. They are playing electoral defense in almost every state, and Republicans are poised to make gains across the country.

Ask any voter, candidate, pundit or pollster what the key issues are for this election and you get the same answer—it's all about the pocketbook. That is not going to help Democrats. The U.S. economy continues to stumble toward any kind of bona fide recovery. High unemployment, a stagnant housing market and ongoing foreclosures are taxing consumer confidence. Political guru Charlie Cook, who publishes the Cook Political Report, thinks the sour economy will spell big trouble for Democratic candidates.

“With 9.5 percent unemployment, 1 million home foreclosures this year, a president with a low approval rating, Republican voters highly motivated, Democratic voters lethargic, and independent voters pretty upset with Democrats,” Cook says, “it is safe to assume Democrats are going to lose a lot of state leg-

*Tim Storey is NCSL's elections expert.*



islative seats this year.”

In terms of controlling legislatures, Democrats enter this election in the best position they've been in since before the 1994 election. That's when the GOP gained 514 legislative seats, winning control of 20 chambers in the first midterm election under President Clinton. On average, 13 chambers switch control in every election, and not all in one direction, as in 1994.

## BY THE NUMBERS

The big question, as Nov. 2 approaches, is: Will this election, like 1994, be a nightmare for Democrats? Or can they hold on so they're in the driver's seat when legislatures embark on redistricting of U.S. House and state legislative maps early next year?

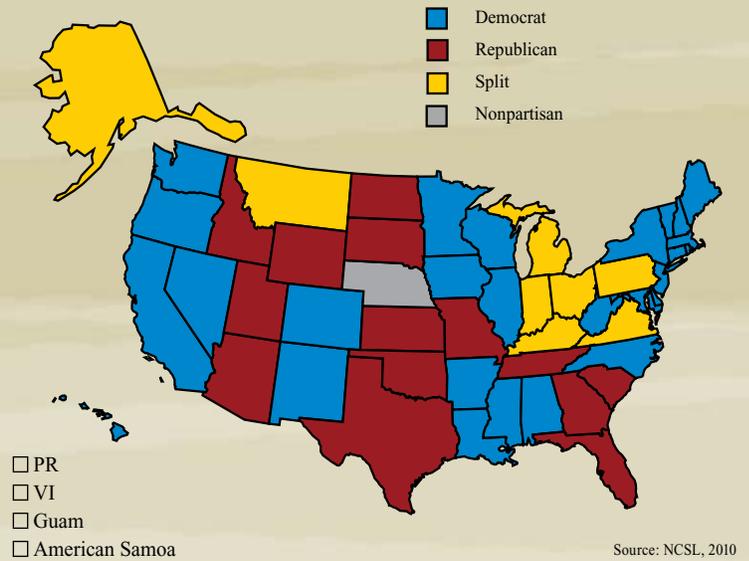
Out of 7,382 total state legislative seats, 6,115 in 46 states are up for election. Louisiana, Mississippi, New Jersey and Virginia

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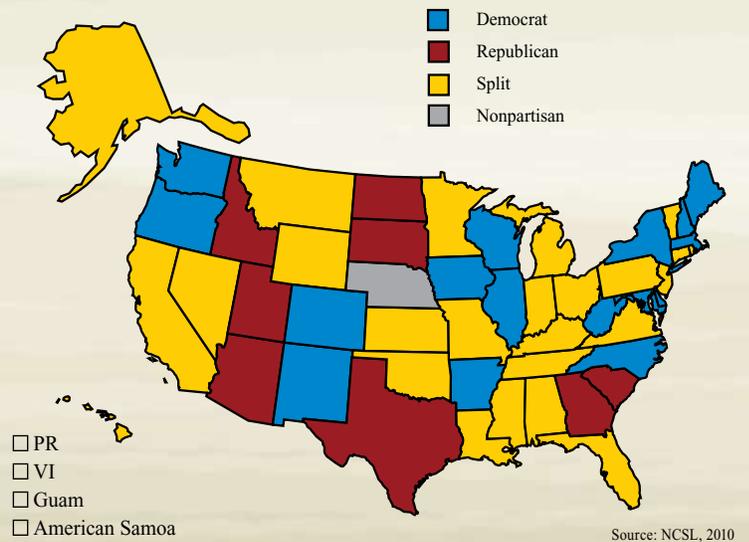
LOU JACOBSON, POLITIFACT, ST. PETERSBURG TIMES



## STATE LEGISLATURE CONTROL 2010



## STATE GOVERNMENT CONTROL 2010



The U.S. Virgin Islands has a unicameral Senate with the Democratic Party in the majority. In Guam's unicameral Senate, Democrats hold the majority. American Samoa has a nonpartisan legislature. Puerto Rico does not have any elections in 2010.

hold legislative races in odd-numbered years. In Kansas, New Mexico and South Carolina, only House seats, not Senate ones, are up. And Nebraska has a unicameral Legislature that is chosen in nonpartisan elections.

Both major parties are fielding candidates in only about 75 percent of state legislative races. And in only about 25 states are the Democratic and Republican numbers close enough for the minority party to have a real-

istic chance to come out on top.

There also will be 20 House seats decided in American Samoa, 15 Senate seats in Guam and 15 Senate seats in the U.S. Virgin Islands.

After adding five chambers in 2008, Democrats have been in charge of most legislatures for the past two years. In 27 states, Democrats control both chambers; Republicans do so in 14 states. In eight states, legislative control is split.

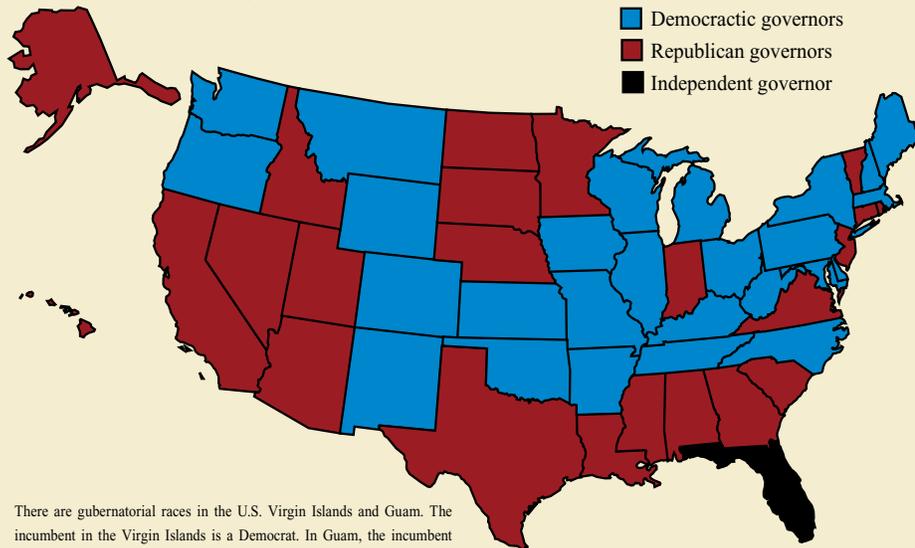
Democrats have a majority of seats in 60 of the 99 state chambers. That is the most chambers held by either party since 1994 when Democrats held 64. Republicans currently have the majority in 36 chambers. Two legislative bodies are tied—the Alaska Senate and Montana House. There are 4,048 Democratic state legislators, 3,251 Republicans and 22 third-party lawmakers. Nebraska has 49 nonpartisan senators and the remaining seats are vacant.

## BUMPER CROP OF ROOKIE GOVERNORS

Beyond the legislature, Democrats also have the edge going into the election in the tally of governors—26-23—with one Independent. There are a record 37 races for governor this year.

Because of term limits, retirements and primary defeats, there are 24 states guaranteed to have a new governor next January. In addition, North Dakota Governor John Hoeven is running for an open U.S. Senate seat that he is heavily favored to win, which will force him to resign as governor. That will bring the number of guaranteed new governors to 25 in 2011.

If just two of the 13 incumbent governors seeking re-election fail to win, that will tie the record for most rookie governors set in 1920 at 27.



There are gubernatorial races in the U.S. Virgin Islands and Guam. The incumbent in the Virgin Islands is a Democrat. In Guam, the incumbent is a Republican.

Fourteen of the 15 states with term limits for state lawmakers hold elections in 2010, and 380 incumbent legislators are barred from seeking reelection. That number ties the record for most termed-out members set in 2000.

In the Michigan Senate, 29 of the body's 38 senators are termed out, meaning turnover will be a staggering 76 percent and could go even higher if any incumbents lose. It's very likely, although hard to document, that the Michigan Senate turnover is the highest turnover of any state legislative body since Reconstruction 130 years ago, and possibly in American history.

### BATTLEGROUND

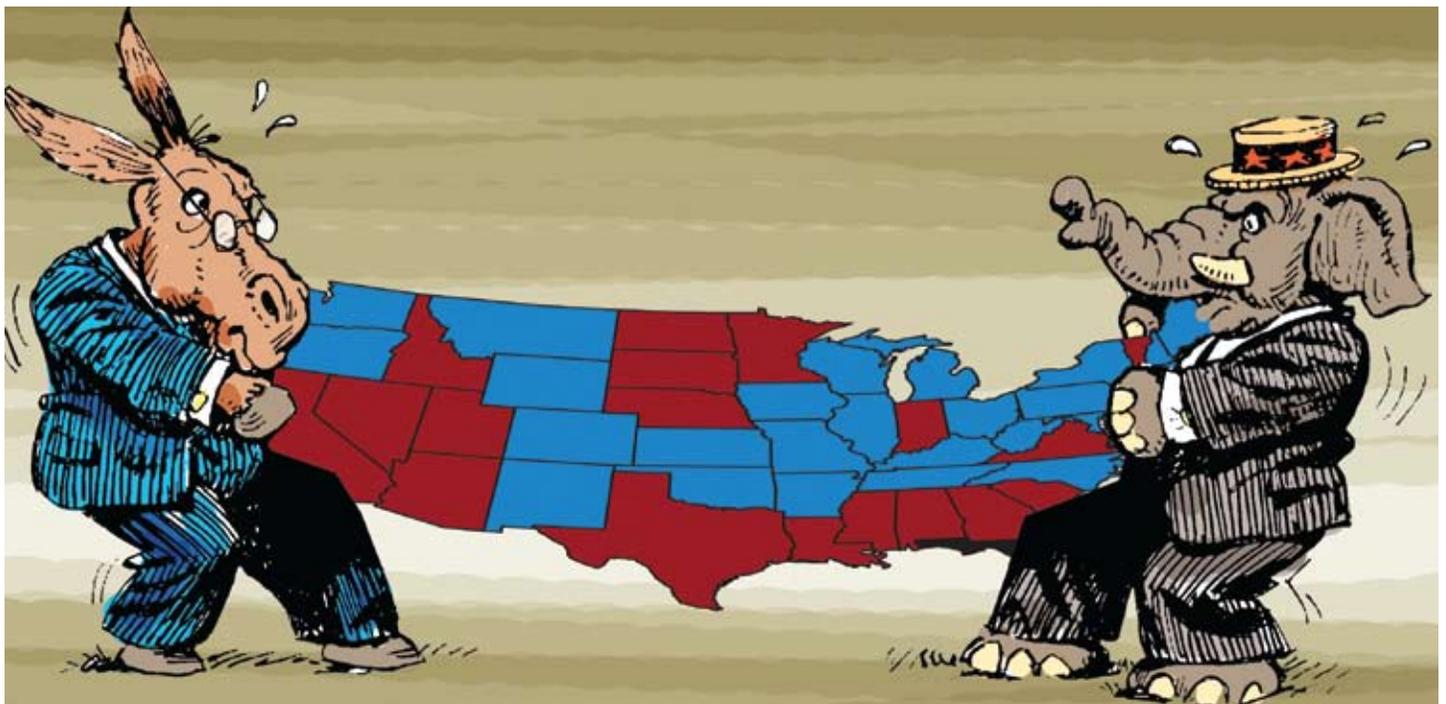
Of the 88 chambers holding elections this year, at least 31 are legitimately in play for both parties, and another seven or eight could switch control if there is an historic shift toward the GOP.

The Alaska Senate and Montana House are currently tied and top the list of potential switches. Lou Jacobson, a writer for the St. Petersburg Times' Pulitzer Prize-winning Politifact, rates legislative elections every two years. He thinks a higher percentage of legislative chambers are in play this year than at any time since he first began handicapping the races in 2002.

### TURNOVERS AND TERM LIMITS

Turnover in legislatures is expected to be average, although it might tick up slightly if voters are in an anti-incumbent mood. Typi-

cally, about 20 percent of legislators are new following every election. The highest turnover will undoubtedly be in states with legislative term limits.



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Jacobson lists 12 chambers as toss-ups: the Alabama, Alaska, New Hampshire, New York and Wisconsin senates, and the Alabama, Iowa, New Hampshire, Ohio, Pennsylvania and Wisconsin houses. Every one of these is currently either tied or held by Democrats. Jacobson thinks the most likely chamber to switch is the Indiana House.

“The Indiana House is likely to be taken over by Republicans,” he says. “But the really big losses for the Democrats could come if they start to lose their grip on the 10 chambers they hold that are vulnerable.”

The Indiana House is one of the nation’s most closely divided chambers, with Democrats holding a 52-48 edge. It is also a chamber that has changed hands frequently, switching party control 19 times over the past 110 years. Only the Connecticut Senate has switched more times over the past century.

Perhaps the most striking state on Jacobson’s toss-up list is Alabama. Democrats took control of the Alabama House in the 1870 election and the Senate in 1872, and have been in charge ever since. Alabama legislators run every four years, so the whole Legislature has not been up for grabs since 2006. If Alabama were to move to the GOP column, it would reflect a 20-year trend of Southern legislatures re-aligning under the Republican banner.

In 1990, no legislative chambers in the South were held by the GOP. Today, 15 chambers out of 28 in the South have a Republican majority. In the 2008 election, the South was the only part of the country where Republicans managed to gain seats, and they won control of three legislative chambers in the region despite losing everywhere else.



#### **THE STAKES ARE HIGH**

The 2010 state legislative elections take on added importance because they will have a direct impact on who controls Congress for the next decade. This is the redistricting election.

Legislators elected in November will be responsible for redrawing the vast majority of the 435 seats in the U.S. House. Only 46 of those districts are drawn by commissions or are in states that have only one seat in the House. Legislators elected this fall will receive detailed data from the Census Bureau beginning in late February 2011 and will begin the often contentious task of drawing not only congressional districts but also their own state legislative lines.

To limit partisan shenanigans, a massive body of federal and state law governs how redistricting is done. Nevertheless, if one party controls the redistricting process, that party will do its best to seek a partisan advantage while complying with the law.

If 2010 is a landslide election—with wins

by the GOP in most of the key **governors** races and in almost all of the close legislative chambers—Republicans would control the drawing of approximately 165 U.S. House seats compared to only about 30 for Democrats. The rest of the seats would be in states with redistricting commissions or with divided partisan control.

#### **THE PENDULUM SWINGS**

In State Legislatures’ 2008 pre-election article, University of Virginia political scientist Larry Sabato predicted it would be another Democratic year and added, presciently: “Everything in politics is cyclical. It’s quite possible that the pendulum swings the other way in 2010—just in time for Republicans to bounce back for redistricting.”

Sabato’s take appears right on the mark that this year’s election will deliver a move back toward the GOP after several years of Democratic success. The question is: How big will the swing be?



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CHARLIE COOK, COOK POLITICAL REPORT

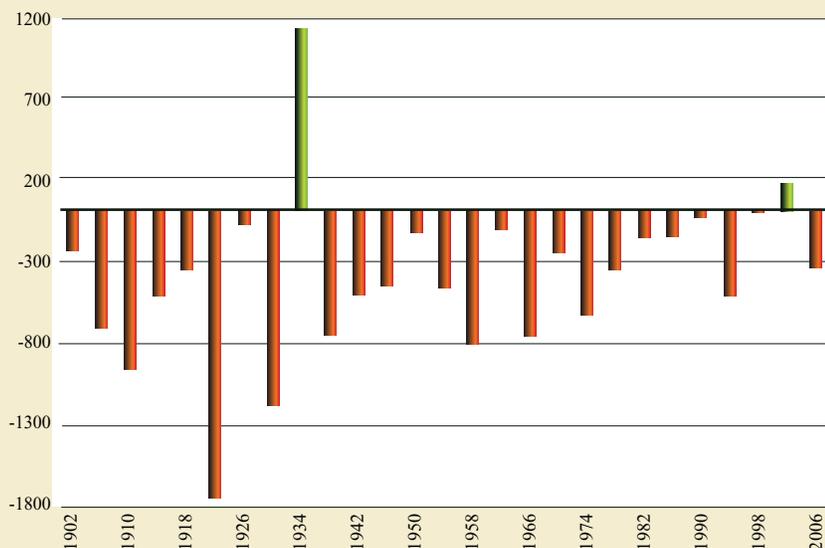
### TREND BODES ILL FOR DEMOCRATS

If Democrats are going to continue their dominance at the state level, they will have to buck one of the most consistent trends in American politics. Legislative and congressional elections held in the middle of a presidential term are almost always bad news for the party in the White House.

Going back to 1900, there have been 27 midterm elections. The party of the president lost seats in state legislatures in every one of those except 1934 and 2002. Democrats campaigned on Roosevelt’s New Deal in 1934 and netted a whopping 1,100 legislative seats. In 2002, it was the Republicans who defied history and added 177 seats in the first midterm election under George W. Bush.

In the other 25 midterm years, however, the party holding the White House lost on average 495 state legislative seats. Since modern redistricting began to make huge seat swings less common in the 1980s, losses have been milder—perhaps a silver lining for Democrats in this first mid-term election under President Obama. Democrats came extremely close to breaking the trend in 1998, losing only one state legislative seat.

Another challenge for Democrats is that they have been on a winning streak in legislative elections, having gained seats in each of the past three elections. The last time either party picked up seats in four straight elections was when Democrats did it in 1936. Winning four election cycles in a row may be a thing of the past.



Emory University political scientist Alan Abramowitz recently looked at historic shifts of seats in legislatures taking into account the party in the White House and the gap between the two parties going into the election. He found a strong relationship between Gallup’s polling on the so-called generic ballot for Congress and the number of legislative seats gained by the winning party.

As of early September, Republicans held the lead in Gallup’s generic ballot polling by 3 percent. If Abramowitz is right, Republicans can expect to gain about 400 seats this November. That fits with the expectations of political experts like Cook and Sabato who expect that this year could very well see a Republican landslide.

“The voters who contributed to the big Democratic win in 2008—young people, African Americans and Hispanics—are simply not motivated this year. Conservatives are champing at the bit to vote,” Cook says.

Where would that leave things in January when most legislatures convene? Perhaps pretty much at parity. If Republicans net an impressive 400 seats, making it a landslide election, that would leave them with only a three-seat advantage out of the total 7,382 total legislative seats.

As states continue to cope with dismal budgets, the two parties will once again have to find common ground to get through the 2011 sessions and pass balanced budgets. Add the hyper-partisan task of decennial redistricting to the mix and things could get ugly.

**CHECK OUT** State legislatures’ revamped StateVote homepage for details on legislative elections and watch a video of Tim Storey, NCSL’s elections expert, discussing the upcoming midterm elections at [www.ncsl.org/magazine](http://www.ncsl.org/magazine).