



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy.

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### **2018 State Legislative Elections: Will History Prevail? | Sept. 27, 2018 | OAS Episode 44**

Welcome to “Our American States,” a podcast of meaningful conversations that tell the story of America’s state legislatures, the people in them, the politics that compel them, and the important work of democracy. For the National Conference of State Legislatures, I’m your host, Gene Rose.

Our guest today is Tim Storey, director of State Services for the National Conference of State Legislatures. Tim, welcome to the program.

Tim: Oh what a pleasure to be with you, Gene. Thank you.

Gene: So, Tim, you’ve been tracking state legislative elections for a number of years now, haven’t you?

Tim: Well, over two decades, so longer than I can imagine I would be doing this. But I love it. It’s a joy for me. I’m fascinated by it. And every election cycle is different.

Gene: So talk to us about this election cycle, 2018. How many state legislators do we have on the ballots this year? And talk a little bit about what the political landscape looks like.

Tim: Well, every two years is a big election cycle for state legislatures and this one is no different. There are over 6,000 seats that are up for general election, plus a handful of special election seats. So the numbers that are official scheduled for election, the general election seats, 6,066, there are 7,383 state legislators. So that’s over 80 percent of all legislative seats. But that’s standard every two years.

There are a handful of states that do not have elections this year. Of course, we have the states that have their elections in odd-numbered years: Mississippi, Louisiana, New Jersey and Virginia, so there are no legislative elections there. And then you’ve got a few states where just the House is up, not the Senate: in New Mexico, Kansas, Minnesota and South Carolina. So you’ve just got the House in those four states.

But all the other chambers are up; there’s a lot on the line. What really makes this election different ... well, there are a number of things, but the biggest thing is that it’s a midterm election of the first term of a president who has one of the lowest approval ratings since Gallup has been doing presidential approval ratings back to Harry S. Truman.

Midterm elections are historically very, very difficult for the party that holds the White House, so Republicans know that, they knew it a year ago, they knew it two years ago, they've been preparing for that, and they know they have a strong, strong headwind. They also have some things going for them in terms of the economy and some of the president's ability to motivate and activate his base of voters.

I think the real question is: How do voters feel about Donald Trump? There's a lot of history that tells us that the popularity of the president has a very outsized influence on who controls state legislatures.

Gene: So right now the Republicans do have an advantage in terms of numbers of state legislators.

Tim: A historically high advantage—as of today there are 31 states that have a Republican House and Republican Senate. There are 14 where the Democrats control the House and the Senate. And then there are four that are divided: Colorado is divided, Maine is divided—in Maine the Senate is Republican, the House is Democratic. In Colorado the Senate is Republican and the House is Democratic. In Connecticut the House is Democratic and the Senate is tied, so it's split technically.

And then you've got a really interesting case with Minnesota. The Minnesota House has a fairly sizeable Republican majority. The Minnesota Senate is technically tied right now because they have an open vacancy. There was one senator who became the Lieutenant Governor and she had to vacate her seat. So now there's a special election to be held on November 6<sup>th</sup> and that will determine the control of the Minnesota Senate. It's a heavily Republican district, but this is an unusual election cycle and I would expect surprises.

Now, I have to just go into a little more detail because there are a handful of states that have coalitions, so they don't fit nicely into: It's a Republican legislature or a Democratic legislature. For example, in Alaska there are more Republicans in the House than Democrats, but there is a small number of Republicans who have gone into a coalition with Democrats. So there's a Democratic Speaker in the Alaska House. So you would think of that as also a divided legislature: It takes one away from Republicans and puts it into the split category.

That's also the case in New York, where Republicans have functional control of the New York state Senate even though the Democrats have more actual numbers of Democratic senators than Republican senators in New York. So we have some coalition situations out there that you have to factor in.

But at the end of the day, the Republicans are at essentially their greatest point of strength in control of state legislatures in the history of the United States. You can look at that in terms of chambers; you can look at it in terms of legislatures; you can look at it in terms of members. There have been more Republican legislators in the past back in the early 1920s.

About 56 percent of all legislators are Republican and that's near their high-water mark of all time. So we enter this midterm election with Republicans in a very dominant position in terms of state legislatures.

Gene: So that's a pretty good segue to my next question which is about unopposed races. My guess would be that with the country as politically divided as it is, there are more people running for office and having opposition. Is that true or what do the numbers say?

Tim: Well, in any given election cycle in state legislatures, you see about 35 percent of all seats are unopposed by the two major parties. Sometimes you'll have third-party candidates. Third-party candidates almost never get elected. They control a fraction of 1 percent of all legislative seats. So it's really whether the two major parties have a candidate.

In this election cycle in the chambers that have elections, only 28 percent of seats are unopposed. So the number of unopposed seats is down fairly substantially. Republicans have 4,741 candidates for the 6,000 legislative seats roughly. Democrats have 5,349 candidates for those 6,000 seats.

So Democrats, as one would expect, are more energized this year. They knew this midterm of the Republican president would be an opportunity election for Democrats. So they have over 600 more candidates running for the state legislative seats, but only 28 percent are unopposed, and that's down from the norm.

Gene: What about turnover, Tim? What do you typically expect in an election year, and do you expect anything different this year?

Tim: Yeah, turnover has definitely ticked up. It's not dramatic, but we usually see turnover in the states with elections somewhere in the neighborhood of 18/19 percent. Pre-election turnover is already 21 percent of the total seats in the states with elections. So that's before anybody loses, any incumbents lose in the general election.

Now, most incumbents win. Well over 90 percent of incumbents will win in November this year. So the election day turnover tends to be relatively small. But we'll definitely see overall turnover over 20 percent, and that's big for a non-post-redistricting election. Usually you see turnover spike up like to 23/25 percent after a redistricting cycle because the districts are new; a lot of people retire because their district has changed dramatically.

So this 21 percent pre-election turnover is somewhat striking. It definitely jumps off the page and there are any number of reasons for that. Part of it is that I think there are some Republican candidates or incumbents who realize this is going to be a very tough cycle and maybe it was time for somebody else to try it.

Term limits are really having a major effect in a handful of states; particularly the Missouri House I think has 60 open seats this time around out of 163. So they've got 60 open seats in the Missouri House. That's a huge turnover of over 35 percent. Michigan also has a dramatic turnover, well over 25 percent in the House there. So turnover is up.

Gene: I've been reading a lot about the number of women. It seems to be historical how many are running for federal office. Are you seeing that at the state legislative level as well?

Tim: Yes. While we don't have solid statistics that go back decades, of course there was a time when women were a relatively small percentage of all legislators; now they are roughly 26 percent of

all state legislators. But there are 3,527 women running. That's roughly 35 percent of all the candidates running for the legislature. It is historic numbers of women running for office, running for legislatures this year. You're definitely going to see the number of women legislators serving probably go to its highest level in American history after this election.

Gene: So you mentioned redistricting earlier. Is this election going to have any impact on the redistricting process that takes place after the new decade starts?

Tim: Yes it is. I mean, of course, this election is about far more than redistricting. It's about who is going to set policy on healthcare, who is going to set policy on education, who is going to decide how to fund transportation infrastructure—these big issues that are confounding for states and that are always on the table.

But then lurking in the background is the sort of political element, which is that the census will be taken in 2020. There will be one more election before the actual line drawing takes place in 2021 and 2022. But in this election over 800 of the seats being filled, most of them in the state senates that have four-year terms, are not going to be up for election before the line drawing.

So about 800 seats are going to be filled with people who will be directly involved in redistricting. It's not the big kahuna; it's the little kahuna of redistricting elections. And the parties are keenly aware of that. Record fundraising on the Democratic side; I think the Republicans are also seeing strong fundraising numbers, not as strong as the Democrats. There, again, they've got the wind in their sails.

Gene: So this might be an unfair question, Tim, but you did mention policy issues that are going to be on the table and will be affected by the outcome of the election here. What are you hearing from people who are running for office this year? What are the big issues that candidates are putting before voters?

Tim: Well, I think the biggest issue is President Donald Trump, and then the second biggest issue is President Donald Trump, and then the third biggest issue is probably President Donald Trump.

It is a bit of an unfair question. I've certainly heard from a number of candidates out there, and I'm being a little facetious. But the data is very strong: that the popularity of the president has a three times greater impact on who can win a legislative election than the popularity of the legislators themselves. There's actually political science research on that question. So the popularity of Donald Trump will be the major issue, so to speak, in this election.

But, you know, people are very concerned about traditional pocketbook economic issues and the economy is strong. There's no doubt the nation is in an era of growth, that unemployment is low, approaching record lows. But despite that, many people are still very anxious and looking to see what the candidates' tax policies are, what their budget policies are.

A lot of the issue conversation is driven by the governors' races. There are 36 governors' races this year. They're not all open; many of them are incumbents. But in some of the states like in Georgia and Florida, you've got really stark contrasts between Democratic candidates who are talking about expanding Medicaid and supporting Obamacare and healthcare, for example, and investing in education. And you've got Republicans who are opposed to Obamacare and

Medicaid expansion in their states and who are running hard on reducing taxes and certainly not raises taxes, pouring more money into programs like education.

So I think some of these governors' races, which are extremely interesting this year, will drive some of the legislative conversation.

Gene: For the election night on November 6<sup>th</sup>, what are you going to be looking for? Are there certain states that you're going to be paying particular attention to?

Tim: Yeah. I mean, there are always a handful of battleground states and this year is no different, and those are states where the numbers are relatively close. But you know what's interesting about this, before I maybe talk about a few states, is that in every two-year election cycle, 13 legislative chambers switch party on average. So we expect every two years that there will be 12 or 13 chambers that will change from Republican to Democrat or Democrat to Republican.

This year, there are fewer states in that battleground zone where it appears they're really in play, and that's probably because of the Republican dominance in so many chambers. But you can say that the Maine House and Senate, but primarily the Senate in Maine where the Democrats see that as a big opportunity to switch a chamber, that's one of the key battlegrounds; the New Hampshire House, which has changed in three of the last six elections—Democrats will need about 30 seats; of course, that's a 400-seat chamber, like no other legislative chamber in the country, but they've got their eyes on the New Hampshire House.

Democrats also would like to pick up two seats to tie the New Hampshire Senate. It's a state where President Trump has been unpopular and his approval ratings are lower than the national average. The Arizona Senate, which has 13 Democrats and 17 Republicans—Democrats think they've got a real shot at winning back the Arizona Senate and maybe even making a run at the Arizona House.

The Colorado Senate is one of the closest chambers. There are currently 17 Democrats, 18 Republicans. There are two Republican seats where they only won by less than 8 percent last time. I think there are two Republican seats that went for Hillary Clinton in 2016, so Democrats, their eyes are on those. There's also a Democratic seat Republicans think they can pick up. So the Colorado Senate is going to be extremely interesting to watch.

The New York Senate: On paper, it's 32 Democrats and 31 Republicans, but there's one Democrat who always votes with the Republicans. So the Democrats need one or two. And there were these independent Democrats who had been allied with the Republicans; five of them lost in the primary, so the chances of another coalition of Democrats and Republicans running the New York Senate are very unlikely. So Democrats want to win back the New York Senate.

The Wisconsin Senate: 18 Republicans, 15 Democrats—it's also a chamber where Republicans could actually pick up a seat they lost in a special election, but then there are two or three that Democrats would like to switch.

Interestingly, there are some states like the Washington House and Senate, both of which are close with chambers that have gone back and forth numerous times in the past decade; right

now Democrats have a two-seat majority in the House and a one-seat majority in the Senate. Republicans are certainly hoping for a bit of a Hail Mary to win back one of those two chambers.

As I said, the Connecticut Senate is tied. Both chambers would like to get an outright majority there. So there's plenty of battleground action out there.

Gene: So in terms of the media attention, Tim, it seems like the battleground attention is on what's going to be happening in Congress. What would you say to people on why they should pay attention to what's going to happen in state legislative elections this year?

Tim: Well, that's always the case. You know, Washington gobbles up all the oxygen and there are thousands and thousands of reporters who are tracking it and watching the horse race polls. And of course you've got the president tweeting and driving the news cycle every day.

But the real work is being done in state legislatures, the real work of governing, and most of it by the way is being done across the aisle in a bipartisan fashion. So legislatures are doing the heavy lifting of really thinking through where states need to be, not just in the next budget year, but in five years and in ten years, and thinking about infrastructure investment, they're thinking about the healthcare of their citizens, they're thinking about how do we confront the opioid crisis in a way that's customized for our state and the culture in our state.

They're also involved in environmental policy, in immigration policy at a time when Washington, despite being controlled by one party, just continues to be in gridlock. So governing and innovation, that's happening in the states, not in Washington, and that's not going to change. So there's an inverse relationship between the amount of attention that Washington gets and actually the amount of work that they do when you compare it to the states.

Gene: Well, Tim, I've asked you a lot of questions about a lot of different things. What haven't I asked you that people should know about for election night?

Tim: I think the most interesting thing is there's going to be a Democratic wave. The question is: Will it be a small wave or a fairly large wave? And the reason I say this ... There are a variety of reasons and some years I talk about how the Republican wave is coming because of what history tells us and what we're seeing in terms of candidates running.

But this is clearly one where it's the uphill climb for the Republicans. But there have been 29 midterm elections since 1902 and in 27 of those the party in the White House loses seats in legislatures. Midterms are typically bad and sometimes awful for the party in the White House.

The two exceptions were 1934, when Roosevelt was in the White House and we were in the teeth of the Great Depression and Democrats actually gained seats as they were starting to confront the economy. And then in 2002, where George Bush was in the White House, Republicans gained seats in legislatures. We were post-9/11, the country was mobilizing for the global war on terror, we were discussing whether or not to go to war in Iraq and Republicans did well.

But on average, the party in the White House loses 412 legislative seats in midterm elections, and if Republicans lose somewhere around 412 seats or 500 seats, they're probably going to lose six/eight chambers. That's what matters.

The big picture is: These are tough election years. The president's popularity continues to be stuck in the 38-42 approval rating and that is really a scary number for Republican incumbents and they want to change the topic and talk about local issues and that's extremely difficult to do given the media climate that we live in.

Is there going to be a big Democratic wave, a little Democratic wave? Can Republicans hold onto majorities around the country? I think that's the most interesting part of this. I think it will be very difficult for Republicans to gain from where they are; they're at a pretty high level. So this is going to be some kind of a bounce-back for Democrats' election and the question is how much.

Gene: We've been talking with Tim Storey, director of State Services for the National Conference of State Legislatures. Tim, thank you so much for sharing your expertise with us today.

Tim: Oh, my pleasure, Gene. Thank you again. I love being on the podcast.

Music and Gene VO:

And that concludes this edition of "Our American States." We invite you to subscribe to this podcast on iTunes and Google Play. Until our next episode, this is Gene Rose for the National Conference of State Legislatures. Thanks for listening.