

# THESE UNIFIED STATES

The country's highly polarized politics has significant repercussions for state governments.

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BY KARL KURTZ

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**T**he political landscape changed dramatically after the 2012 election. For the first time in more than 50 years, one party controls both chambers of the legislature and the governors' office in 37 states—Republicans in 23 states, Democrats in 14.

“The 2012 election drove home a key political trend: The red states are getting redder and the blue states are getting bluer,” says University of Virginia political scientist Larry Sabato. “This is a highly polarized era.”

This stark political divide has significant political and policy consequences in highly charged partisan areas such as health care, labor, social issues, immigration and tax policy.

The last time there were this many states under one-party control was during the height of the Cold War and “Communist threat,” following Dwight D. Eisenhower’s first election as president in 1952. Just about everyone liked Ike, his coattails were long, and Republicans won the majority of state legislatures outside the South.

Following Eisenhower’s time in the Oval Office and through the 1970s, the number of “unified governments” declined to about half the states. Then during the mid-’80s through 2004, divided governments were more common than not, with each party controlling at least one chamber or the governorship in more than half the states.

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*Karl Kurtz, director of NCSL's Trust for Representative Democracy, has analyzed legislatures and elections for NCSL for more than 40 years.*

The change in the dominant party has been just about as dramatic. Until 1994, Democrats controlled more states than Republicans, partly because they held the 13 southern states. Since Democrats started losing their dominance in the Solid South in 1994, Republicans have controlled more states after every election except two.

What has brought about this increase in unified governments? According to Sabato, nearly 90 percent of voters identify with or lean toward one party, and increasingly they vote for all or almost all members of that party on Election Day. A 2012 Gallup Poll at the national level showed that a record-high 38 percent of voters preferred that the president and Congress be of the same party. “The electorate itself does what straight-party levers in the voting machines used to do,” says Sabato.

The 2012 state elections reflect this party-line voting. In 22 of the 24 states that Governor Mitt Romney carried, Republicans either held on to or gained the majority in both legislative chambers. The exceptions are Kentucky and West Virginia, where Democrats still hold on at the state legislative level against the trend of Republican gains in the South, but voters reliably choose Republicans in presidential elections.

Likewise, Democrats now control or maintained the majority of both houses in 18 of the 26 states President Barack Obama won.

The eight states that voted for Obama but have legislatures at least partially under Republican control are Florida, Iowa, Michigan, New Hampshire, Ohio, Pennsylvania, Virginia and Wisconsin. All were battleground states and could have gone either way in the presidential results. Obama won all eight, and Democrats made some gains in their state legislatures, but not enough to take control of both chambers.

### Safe States and Districts

The great majority of states are anchored so deeply in either the blue or red political sea that only 12 to 15 states are competitive enough that both parties have a chance to control the entire government during the next 10 years. Not that either party couldn't win the odd governorship or one chamber of the legislature in the other states, but the great majority of states are "safe" for one party or the other.

Of course safe states are a result in part of safe districts—constituencies that overwhelmingly vote for one party, and the other one often doesn't even contest. The number of safe districts ebbs and flows over time and is comparatively high right now. Just as the national parties pick and choose a few states to focus on in presidential elections, state parties target only certain state legislative races. And the more likely the majority party is to prevail in the election, the less like the minority party is to field candidates—at both the state and district levels.

Experts disagree about whether partisan redistricting or the tendency of people with similar political leanings to flock together is more responsible for the increasingly large number of "safe" legislative districts. But there can be little doubt that partisan redistricting after the 2010 Census solidified the advantages of the party that controlled the process in the states that had unified government and the legislature controls the redistricting process.

A handful of states have nonpartisan redistricting commissions.

Still, history warns against assuming any political shift is permanent. "Divided government isn't going to disappear," says Sabato. "One reason is because we have staggered elections, with different state offices coming up in different years that generate contrary party waves." He points out 2006 and 2008 as examples of wave elections for Democrats, while the Republicans, in 2010, took the big census year in a landslide.

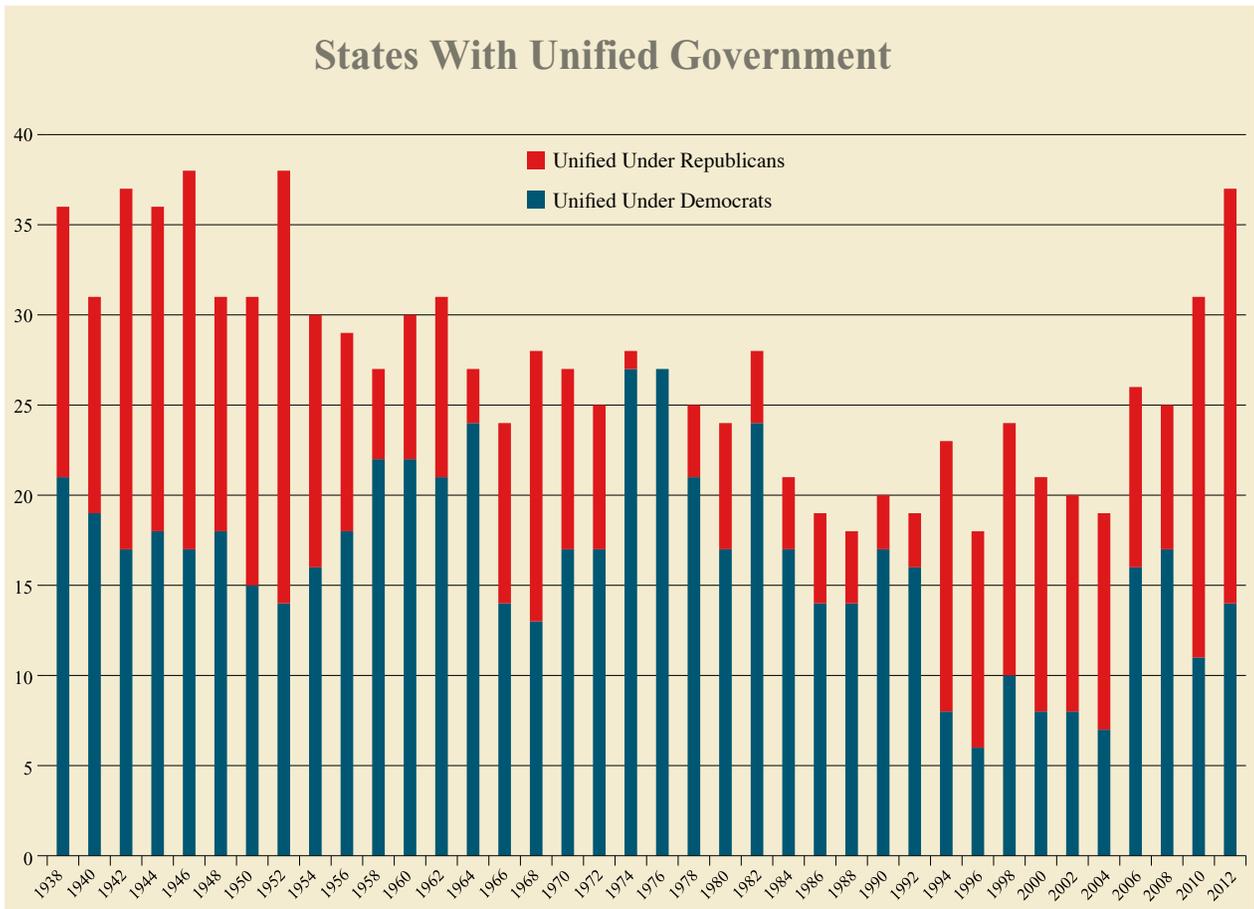
"This creates a mix-and-match landscape in many states," he says. "What's truly remarkable is that we have this degree of unified government in the states today despite staggered elections."

### Policy Pendulum Swings

"Whatever the reasons for the increase in unified state governments, it means that one party controls the policy agenda and usually the outcomes," says Boise State University political scientist Gary Moncrief.

In policy terms, the all-Republican and all-Democratic states are like trains going in opposite directions on parallel tracks. On highly charged partisan issues like collective bargaining, immigration, gay marriage, abortion, health care exchanges and voter ID, Republican governors and legislators are moving in one direction while Democrats head the opposite way.

The most interesting states to watch are the ones that have



## Counting to 37

Determining how many unified state governments there are at any one time is an inexact science and can change even within a two-year election cycle. Depending how and when one counts, for example, puts the number of unified states after the 2012 election anywhere from 34 to 38 states. Historically, NCSL has counted whether one party holds the majority of seats in both chambers of the legislature and the governorship immediately after even-numbered-year elections only. This method, however, has the following caveats:

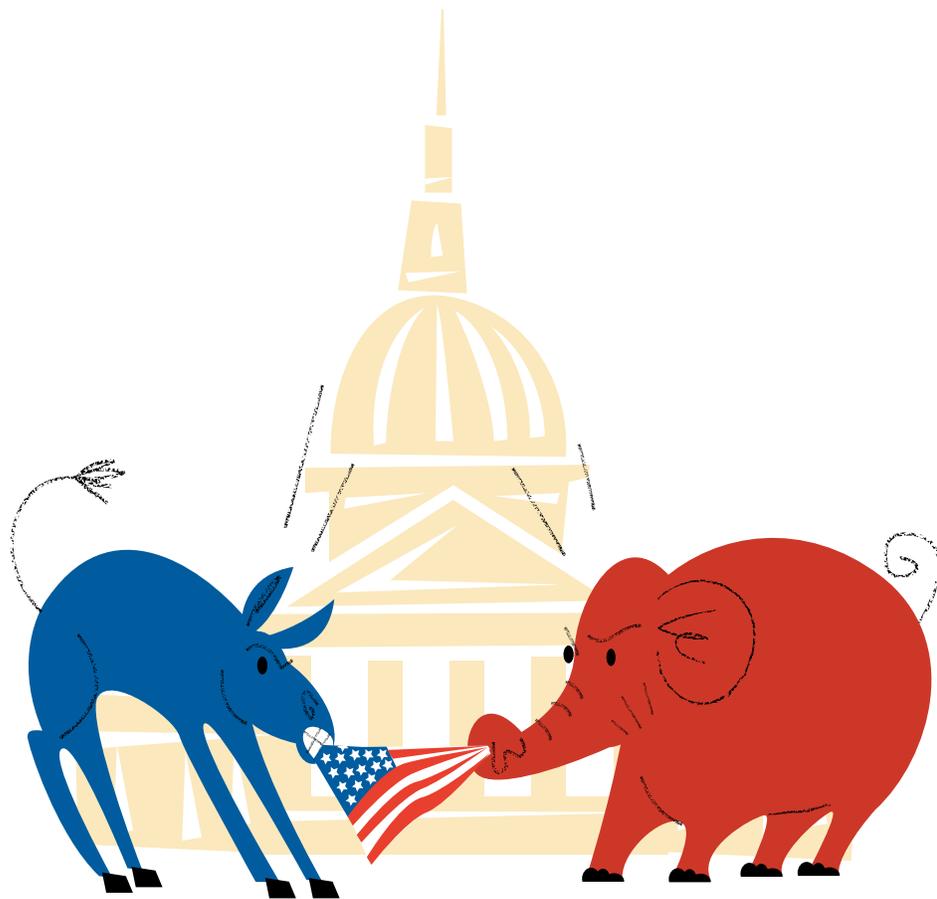
- ◆ The states that hold odd-year elections are counted in the succeeding even-numbered year.
- ◆ Nebraska is not counted because it is officially non-partisan, even though it is widely known to be a unified state under Republican control. Adding the Cornhusker State would increase the total to 38 states.
- ◆ Coalitions formed after an election to change party control are not counted. This happened in the New York and Washington senates this year, where a small number of Democrats, who are nominally in the majority, joined with Republicans to take control of those chambers. To count those states as divided would reduce the number of unified states to 35.
- ◆ Judgment calls must be made on occasion. For example, the Virginia Senate is tied, but the Republican lieutenant governor has the tie-breaking vote, so NCSL counts Virginia as unified under the Republicans. If counted as divided, the total number of states under the control of one party would be reduced to 34.

flipped the most. In Wisconsin, Republicans wasted no time making significant policy changes after winning control of both chambers and the governorship in the 2010 election. The most visible change was the controversial rollback in 2011 of public employee unions' power to bargain collectively.

Republicans also took control in Maine after the 2010 election and proceeded to cut taxes, curtail the issuance of bonds for infrastructure development and take positions against the establishment of a health care exchange.

This year, the new Democratic majorities in both legislative chambers are looking to alter those decisions, although they likely face the opposition of Republican Governor Paul LePage.

Similarly, the election of a Republican governor in Michigan in 2010 allowed the already Republican legislature to



pass a right-to-work bill and a number of restrictions on abortions at the end of the 2011-12 biennium.

When Democrats recaptured the House in Colorado in 2012, they went immediately to work on two issues stymied in the previous Republican-controlled legislature: civil unions for gays and in-state college tuition for children of undocumented immigrants. A third issue emerged as well in the wake of last summer's theater shootings in a Denver suburb—gun restrictions. The General Assembly passed all three, and Democratic Governor John Hickenlooper signed them into law.

In North Carolina, the 2012 election of Governor Patrick McCrory rounded out Republican control in the Tar Heel State. And as a result, the 2013 legislative session has focused on voter ID, environmental deregulation and tax reform initiatives that the conservative majority was unable to pass under the previous Democratic governor.

"We call this the 'policy pendulum swing.' When one party gains substantial control after years in the minority or in a divided government, the pendulum swings," says Moncrief. "But if the new majority party overreaches, and the pol-

icy swings too far, there may be public reaction."

Examples of his point include a series of recall elections against Wisconsin senators initiated by both sides over the contentious collective bargaining debate, as well as popular referenda that successfully repealed legislation enacted by powerful legislative majorities in Idaho (teacher collective bargaining and pay and education financing), Maine (elimination of election day registration), Michigan (state authority for local government emergency management), Ohio (collective bargaining) and South Dakota (teacher pay and collective bargaining.)

### Veto-Proof Majorities

Today's polarized politics also have produced majorities with enough votes to overturn a governor's veto in 25 states. In most states, this requires a two-thirds majority in both houses. But in a few states, either a three-fifths or a simple majority suffices.

While this is an unusually large number of veto-proof legislatures, these supermajorities only really matter in the three states where the governor and the legislature are from different parties—Arkansas, Missouri and Rhode Island.

(When they are of the same party, differences are more often negotiated, and governors seldom resort to vetoes.)

In Rhode Island, Republican-turned-independent Governor Lincoln Chafee—who had five of his 20 vetoes overridden during the 2011-12 biennium now faces even more Democrats, in three-fourths of the legislative seats. In Arkansas, holdover Democratic Governor Mike Beebe faces a new Republican majority in both chambers where a simple majority suffices to overturn vetoes. While Beebe did not veto any bills in the previous legislative session when his fellow Democrats held a majority in both chambers, he has vetoed three bills already this session, two dealing with abortion restrictions and one on voter ID, and the legislature has overridden them within hours.

Missouri Governor Jay Nixon (D) now faces a stronger Republican majority in the General Assembly after it gained in the last election the two-thirds needed to override his vetoes. (The legislature was able to overturn only one of Nixon's 33 vetoes during the previous two years.)

Both Beebe and Nixon face a new political reality that requires a different kind of negotiation in which the veto is less a threat to the legislature. In fact, today's extreme polarization has changed the way legislatures, in general, do business, says Rutgers University's Alan Rosenthal, a national expert on state government.

Based on his research on governors, he says they "tend to be very pragmatic, often more so than their own party in the legislature. They're looking for a legacy, a history of governing. They may act as a brake on a legislature that might want to hammer the political opposition."

In the past, even when the majority party was in firm control, leaders might negotiate with the minority party, giving them something to get them to go along, he says. "Today, the bases of the two parties are further apart. There's no overlap between conservatives and liberals, so there's no benefit to negotiating. The party in power goes for everything they can get. There's no longer any need or desire to go across the aisle for support," says Rosenthal.

### Lessons from the States

Could the federal government learn something from states? It's definitely easier to compromise in the states than in the federal government, Rosenthal says, because of the lower visibility of state policy issues. He also points

out that one-party dominance does not necessarily mean the end of compromise. Even in unified states there is a need and a willingness to negotiate, he says, because governors and legislators of the same party don't always have the same perspectives or goals.

Moncrief and Peverill Squire with the University of Missouri, co-authors of *Why States*

Matter, find another benefit to the Washington, D.C., comparison. "With political stalemate on many issues at the national level, states are left with more latitude to pursue their own policy agendas on some issues. And unified government with supermajorities means different states may pursue widely different policies. It is federalism, and it is an example of why states still matter." ■

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