

# 2004 Legislative Elections

By Tim Storey

*Before launching into the analysis of the 2004 state legislative elections, it is instructive to go back two years to the last major legislative elections. The year 2002 was a banner year for the Republican Party in legislatures; they seized eight legislative chambers and claimed bragging rights by taking the majority of legislative seats nationwide for the first time in 50 years.*

When it comes to state legislatures, Democrats bounced back big in 2004 despite their defeat at the top of the ticket where George Bush extended his stay in the White House by defeating John Kerry by a relatively close 35 electoral vote margin. The Democrats took control of seven legislative chambers and had a quasi-victory by gaining ties in both the Iowa Senate and Montana House—both controlled by the GOP before the election. The Democrats also regained the title of holding the most seats although their margin is a tiny fraction of 1 percent—a mere one seat at press time.

Republicans were not without victories in 2004 and some of them were historic. Helped in part by President Bush's coattails, they won four legislative chambers. Republicans still control more legislatures than the Democrats, but it's as close as possible without being tied. As 2005 sessions were gavelled to order, Republicans controlled 20 legislatures, Democrats held 19, and 10 were split with neither party having both legislative chambers. Nebraska is not only a unicameral legislature but also nonpartisan. Before the election, the breakdown was 21 Republican legislatures, 17 Democratic and 11 split.

The number of chambers controlled by each party also ended up very close after the election. Democrats hold 47 chambers—only two less than the 49 legislative bodies where Republicans have the majority. Two legislative chambers are tied in 2005—the Iowa Senate now deadlocked at 25–25, and the Montana House knotted at 50–50.

There were regular legislative elections in 85 chambers in 2004. All states except Alabama, Louisiana, Maryland, Mississippi, New Jersey and Virginia had seats up in 2004. In Michigan and Minnesota, just the House of Representatives were up for election—not the Senates. Overall, 79 percent, or 5,809, of the nation's legislative seats held scheduled elections. In 35 percent of those races, a major party candidate did not have opposition from the opposite party but may have had an opponent from a third party.

## Control of Legislative Seats

Perhaps the parity in state legislatures is best understood by looking at the total number of seats held by each party. There are 7,382 total legislative seats in the 50 states. Of those, 7,316 are held by partisans from the two major political parties. Third party legislators hold 16 seats, and Nebraska voters choose the 49 senators there in a non-partisan election. As of mid-January 2005, the difference between the two major parties was a miniscule one seat, with the advantage going to the Democrats. That means that the Democrats have a .00014 percent edge over Republicans in the total number of seats held—almost exact parity. Heading into 2004 elections, Republicans had an advantage of just under 1 percent or 65 seats. Democrats closed the gap in November. The Democrats success came despite losing the race for the White House. This was only the sixth time since 1940 that the party winning the White House actually lost seats in state legislatures. The last time that happened was in 1992 when Bill Clinton won the presidency but Democrats lost well over 100 seats in legislatures.

## Altered States

In every two-year election cycle, an average of 12 legislative chambers sees a shift in majority control. Democrats began the election cycle on a good note by taking control of the previously tied New Jersey Senate in the 2003 election. Last November, 13 legislative chambers switched party control bringing the total number of switches in this round to 14.

Republicans won control of four chambers previously held by Democrats including three Southern legislative chambers long held by Democrats. In the Oklahoma House, Republicans gained nine seats to take control for the first time in 82 years. In 2004, Oklahoma became the 12th state where term limits have taken effect, and the first-year impact definitely helped make Oklahoma House Democrats vulnerable to a takeover. There are 15 states with term limits for legislators on the books.

## STATE LEGISLATIVE BRANCH

Another big Southern victory for Republicans was in Georgia where the House went Republican for the first time since 1870. A court-drawn redistricting map in use for the first time in the November election left Democrats open to a sweep by Republican challengers. Including several post-election party switches by Democrats changing to Republican, the GOP picked up a stunning 25 seats in the Georgia House to establish a comfortable majority of 99–81.

Like Georgia, the Tennessee Senate went Republican for the first time since the 1870s. The Republican advantage there is only one seat and that narrow margin led to a coalition vote electing Democratic Senator John Wilder as leader. Wilder is the longest serving legislative leader in the United States having assumed his post in 1971. Republicans also seized the Indiana House, a chamber that has swapped hands 14 times since 1938. The Montana House and Connecticut Senate have switched party control 15 times

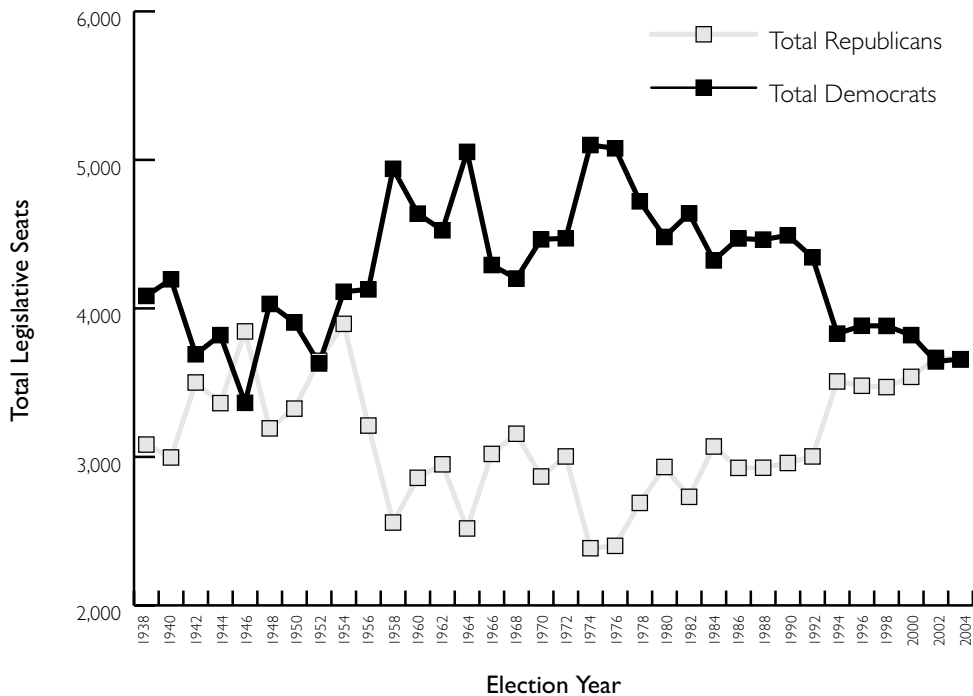
since 1938 earning them the top spot in terms of the highest number of shifts in majority party.

Another chamber that has gone back and forth between the two parties is the Washington Senate taken back in this election by the Democrats. That marks the fourth time in the last 10 years that the Washington Senate has changed hands—the most volatile chamber in that regard over the past decade due partially to a competitive redistricting plan drawn by a commission following the 2000 census.

Other Democratic gains were largely in the West, where the party saw five legislative bodies go to their column. The Washington Senate, Oregon Senate, Montana Senate, Colorado Senate and Colorado House all switched to Democratic majorities. The Oregon Senate was tied entering the election. Democrats have not controlled both chambers of the Colorado legislature since 1960.

In addition to the Western gains, Democrats lone

**Figure A: Legislative Seats Held by Democrats and Republicans 1938–2005**



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

bright spot in the South was in North Carolina where the House of Representatives moved back to the Democrats after two years of unsettled control that saw a tied chamber due to a legislator switching parties operate under a power sharing arrangement.

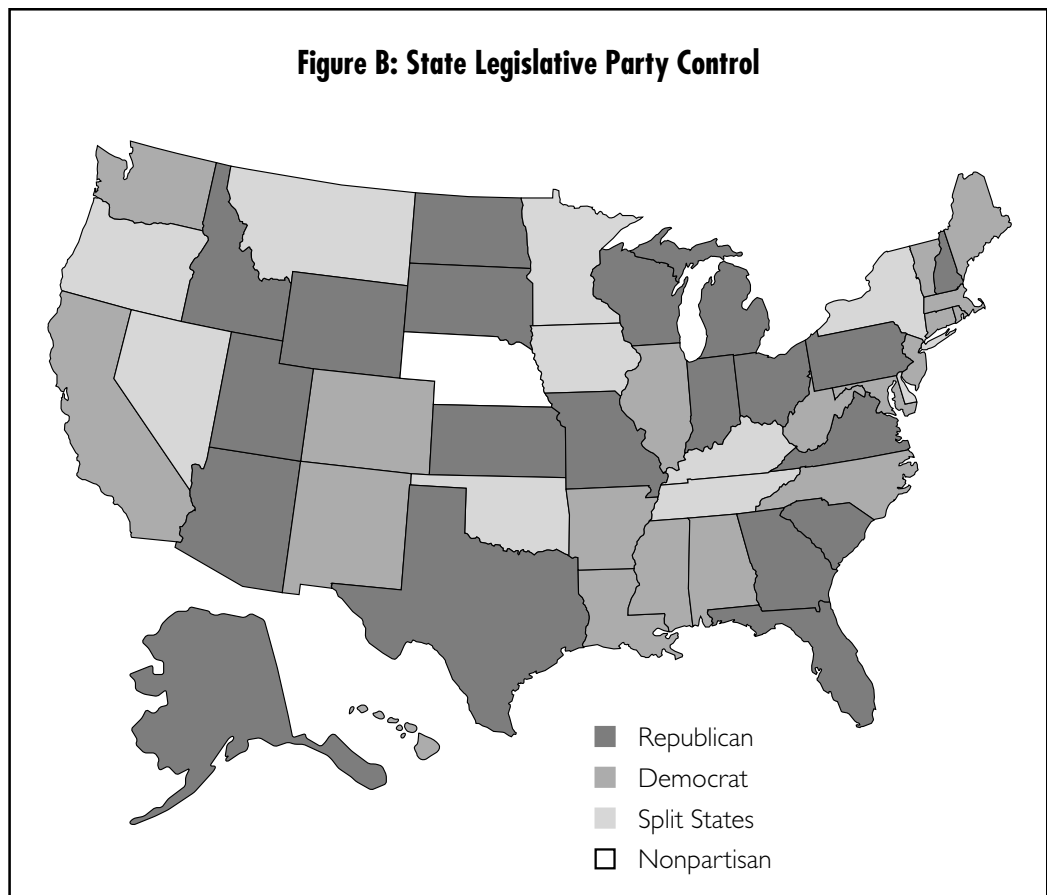
The only state in the Northeast where party control shifted was Vermont. Democrats took control of the Vermont House by picking up 14 seats to give them a comfortable working majority of 23 seats over the Republicans in 2005.

**One Vote Does Count**

The 2004 race for governor of Washington was one of the closest gubernatorial elections in American history. But a legislative race in Montana perhaps offered the best lesson for voters on why one vote really matters. After votes were tallied on election night, Constitution Party candidate Rick Jore appeared the victor by a mere two votes in

Montana House district 12 over the nearest challenger, Democrat Jeanne Windham. The Republican candidate received a few hundred votes less in the three-way race. Election officials conducted a recount that left the race exactly tied with 1,559 votes each. Under Montana law, if a legislative race ends in a tie, the sitting governor gets to select the person to serve. Outgoing Montana Gov. Judy Martz chose Jore saying that he better reflected the conservative views of the district. However, the Montana Supreme Court invalidated a handful of ballots counted for Jore and awarded the seat to Windham.

What makes this an even more cautionary tale is that the partisan composition of the Montana House ended up at 50 Republicans, 50 Democrats. The tied race proved critical in determining control of the Montana House. Voters should know that there are close races in every election, and sometimes, one vote decides the winner.



## STATE LEGISLATIVE BRANCH

### Regional Analysis

Democrats once again lost ground in the South, showing a net loss of 70 seats since the 2002 election. Republicans controlled not a single legislative chamber in the South until the 1994 election. In the 10 years since, they have made remarkable strides and now control half of the chambers in the region. The Democrats still have more seats in the South holding 53 percent of all Southern legislative seats down from 94 percent in 1960.

The strongest region for the GOP continues to be the Midwest, where they control 58 percent of all seats and only saw a net loss of one seat from 2002 to 2004. The Democrats made their largest gains in the East, picking up 58 seats during the last two years and in the West, where they netted 27 seats.

### Divided Government

After factoring the winners in this year's 11 gubernatorial contests, the number of states with divided partisan control of government will once again be near a record high at 29—that is two less than the high mark of 31 last seen following the 1998 election. Democrats control all of state government in only eight states while Republicans claim both the legislature and governor in 12 states.

### Turnover

Legislative turnover returned to normal levels in the 2004 election after spiking up in the post-redistricting election of 2002. Overall, 19.6 percent of the legislators will be new to their chambers in 2005. Some of those “freshmen” are actually moving from one chamber to the other or served previously in the legislature. That figure is considerably lower than the 26.3 percent turnover two years ago. Not surprisingly, the highest turnover was in the term limited states. The Maine Senate topped the list with just over 45 percent turnover. The Oklahoma House, where term limits took effect for the first time, saw 39.6 percent turnover in this election. Term limits prevented a total of 257 legislators in 12 states from running for reelection in the 2004 elections.

### Demographics of Legislators

Since 1969, the number of women serving in leg-

islatures has increased substantially from several hundred to 1,659 in 2005—or 22.5 percent. After three decades of growth, the number of women in legislatures has held steady in recent years. Colorado and Maryland currently have the highest percentages of women legislators, at 34 percent.

The 2000 census showed the percentage of Americans reporting Hispanic heritage was roughly equal to the percentage of African-Americans, at about 12.5 percent each. That equality is not evident in state legislatures, where just over 8 percent of legislators are black and only 3 percent are Latino. There are now 231 Hispanic state legislators according to a count by the National Association of Latino Elected Officials which is up 13 from 2003.

The average age of a state legislator is 53 years old. Lawyers remain the top occupational category but are only 16 percent of state legislators.

### Conclusion

Only the Virginia House of Delegates and New Jersey Assembly stand for regular elections in 2005, so most legislators will get a break from campaigning. Several trends continued in 2004 legislative elections. The partisan competition for control of legislatures and state governments continued to grow in intensity resulting in near stalemate on Election Day. The costs of legislative campaigns continued to skyrocket in swing districts, and the sophistication of those campaigns continued to grow. The big question for 2006 is whether either party can break away and establish itself as the dominant party of legislatures.

---

### About the Author

**Tim Storey** is a senior fellow in the Legislative Management Program of the National Conference of State Legislatures (NCSL) in Denver, Colo. He specializes in the areas of elections and redistricting as well as legislative staff organization and management. He has staffed NCSL's Redistricting Task Force since 1990 and authored many articles on the redistricting and elections process. Every two years, Storey leads NCSL's elections project tracking and analyzing the outcome of state legislative races and statewide ballot questions. He received his undergraduate degree from Mars Hill College and his master's degree from the Graduate School of Public Affairs of the University of Colorado.