

## National Caucus of Environmental Legislators 2020 Post-Election Analysis

### Overview

Following the 2020 elections, state legislative majorities remain relatively unchanged despite a shift at the national level. This memo outlines what the state legislative landscape looks like following the elections and what the elections mean for state environmental policy.

The outcome of the 2020 election at the national level will halt and reverse the rollback of administrative environmental regulations, and possibly lead to stronger regulations than existed before 2017. However, the partisan split in Congress will likely result in continued gridlock, limiting the advancement of bold environmental and climate legislation.

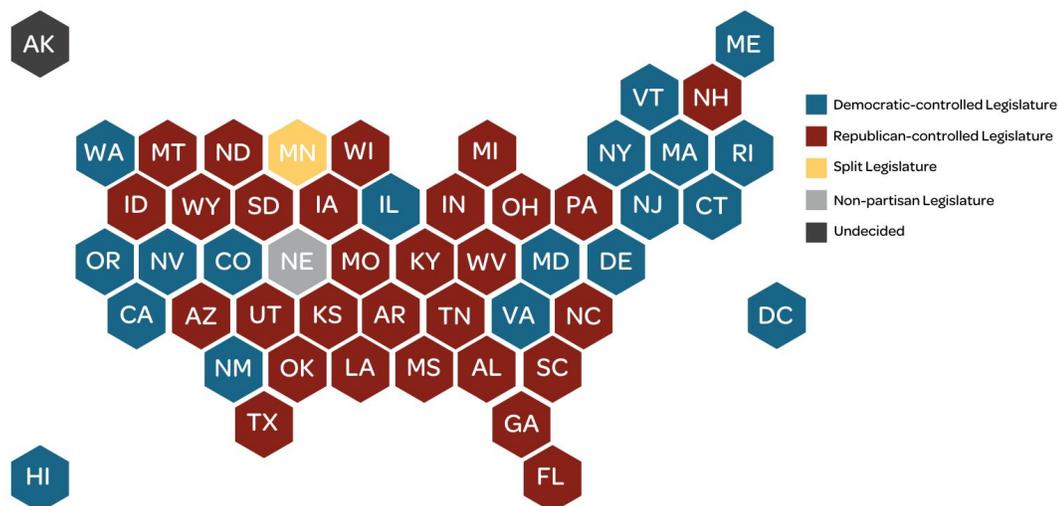
With partisan control of state legislatures remaining largely static, except for New Hampshire flipping, states continue to hold the key to advancing climate and environmental policy. As we look out to 2021 and beyond, it will be crucial to maintain and increase investment in state action on climate and the environment.

### Broad Trends Across the States

Following the 2020 election, Republicans will hold 60 state legislative chambers and Democrats will control 37 chambers across the nation's 98 partisan state legislative chambers. Republicans slightly expanded their legislative majority from 59 chambers following the 2018 elections.

While Republicans won a plurality of seats in Alaska's House and Senate, control of the chambers depends on establishing a governing coalition. These are still yet to be determined leaving the control of Alaska still unknown.

### 2021 Partisan Control of State Legislatures

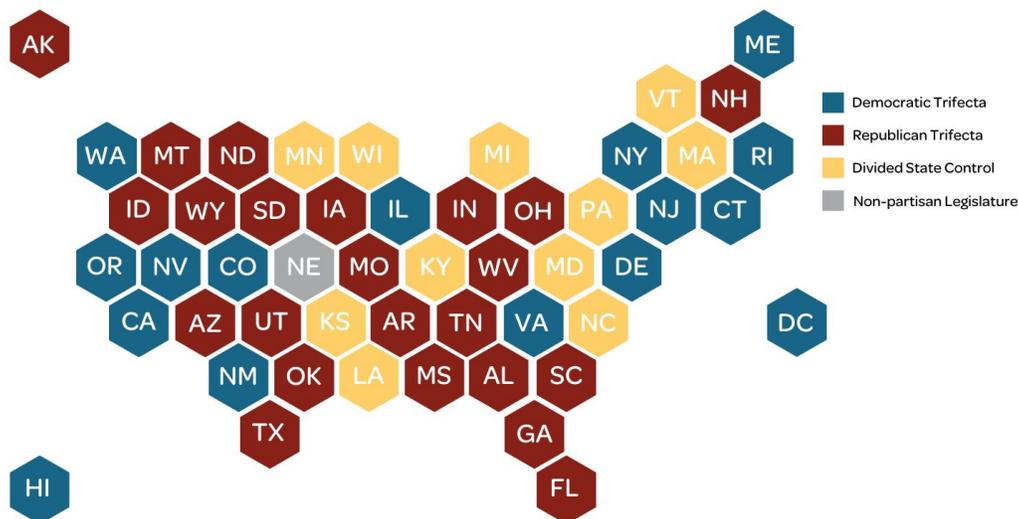


Party-control of Governorships remained unchanged with the exception of Montana, which elected a Republican for the first time since 2000 in an open race. This gubernatorial win, combined with Republicans flipping both of New Hampshire's chambers, establishes two new Republican trifectas in Montana and New Hampshire. Minnesota is currently the only split legislature in the country.

Overall party control of the states -- holding the House, Senate, and Governorship -- is as follows:

- Republicans fully control 22 states. This is two more states than before the election.
- Democrats fully control 15 states. This is the same amount as before the election.
- 11 states have divided governments with split control between legislatures and the governorship.
- Minnesota is currently the only state with split party control of the legislature.
- Control in Alaska is still to be determined due to unknown coalitions.

### Post-Election Partisan Control of State Governments



### **Diversity in State Legislature**

2020 was a year like none-other for electing diverse legislators all across the country. Nine states elected openly LGBTQ+ members to state legislator positions for the first time, with Delaware electing the first-ever transgender State Senator in the United States. And for the first time in state history, New Mexico's House of Representatives will be majority female.

State legislatures also grew more diverse racially and by religious affiliation. Four states elected their first Muslim State Representatives, Wisconsin elected its first Asian-American state legislator, and New Mexico elected its first Black State Senator. Additionally, Pennsylvania elected its first LGBTQ+ woman to its legislature, New York elected its first Black LGBTQ+ member, and Florida elected its first Black female LGBTQ+ member to its House of Representatives.

NCEL has begun tracking diversity in state legislatures because we recognize that historically disenfranchised and minority communities have experienced disproportionately high impacts from environmental hazards. Therefore, NCEL views it as imperative to engage diverse legislators in order to progress an environmental caucus that considers and benefits *all* constituents, now and in the future.

### **Role of States After 2020 Election**

As outlined earlier, while the election results will likely mean an end to attacks on federal environmental regulations, gridlock is likely to endure in Washington, D.C. due to the partisan split in Congress. This will mean most environmental action at the federal level is done through regulations or executive actions. State legislation is stronger and has a more lasting impact than regulations and executive orders which can be overturned by other administrations. As such, a focus on state action will remain crucial for continued progress and action on climate and the environment. Where environmental progress in Congress will be possible, pressure and guidance from state leaders will be a crucial component of making progress.

### **Impacts on Environmental Policy**

As many state legislatures experienced few changes to their makeup, NCEL sees many paths forward for state environmental action. NCEL staff have identified a few of what we believe to be policy opportunities in the states. For more information on what legislation is moving in the states, visit [ncel.net](http://ncel.net).

### ***Climate and Energy - [ncel.net/climate-and-energy](http://ncel.net/climate-and-energy)***

**Bold Decarbonization** - With the election of President Joe Biden and anticipated reentry into the Paris Agreement, we anticipate increased attention to climate change at the federal level. However, uncertainty in the Senate means that President-elect Biden will likely pursue his climate policy platform through Executive Order and agency regulations. Due to the pandemic, climate-induced natural disasters, and racial injustice, NCEL staff are receiving many requests for information on comprehensive climate policies that intertwine decarbonization, equitable job creation, and environmental justice.

**Clean Energy Jobs** - As states balance budget shortfalls with the need to spur economic activity, we anticipate a greater focus on job creation in the clean energy sector. Many states are already linking labor protections and job quality to clean energy projects. There is also greater awareness that clean energy jobs can help mitigate systemic inequality by creating opportunities for people of color, low income communities, tribal nations, returning citizens, and fossil fuel workers. A forthcoming COVID stimulus package may present an opportunity for states to direct funding towards workforce development and clean energy expansion.

**Carbon Pricing** - Some legislators are looking to pricing carbon emissions as a form of creative financing in the face of budget shortfalls. In the Northeast, the Transportation and Climate Initiative (TCI) would create a regional cap-and-invest market for transportation emissions. Details of the final TCI program - and gubernatorial support - will be released in

December, and some states may need to pass enabling legislation in order for it to take effect within their borders.

### ***Conservation - [ncel.net/conservation](https://www.ncel.net/conservation)***

**Wildlife Diseases** - The topic of wildlife diseases became very popular as a result of COVID-19. States can address and prevent the spread of future zoonotic diseases through several policy options, including the introduction of wildlife trafficking bans to reduce the illegal trade of animal parts and products. However, the issue of wildlife diseases is beyond a wildlife conservation issue. A changing climate and a loss of habitat is driving wildlife closer to humans. As states continue to address climate change and continue addressing the COVID-19 pandemic, many will be looking at ways to address the spread of future wildlife diseases.

**30x30 Land and Water Conservation** - With President-elect Biden highlighting 30x30 conservation in his platform, we expect to see movement and progress on this issue at both the federal and state level. State lawmakers and the public grow more excited by the concept and promise of establishing state 30x30 goals as well as supporting federal efforts. We expect states to continue working on this issue in 2021 and see it as a great opportunity for federal and state collaboration.

**Green Amendment** - Five states and counting are considering green amendments, a constitutional amendment that would enshrine a healthy environment as an inherent, inalienable, and generational right of all citizens. Following the 2020 elections, we expect to see many of the states currently considering a green amendment to continue moving forward.

### ***Environmental Health - [ncel.net/environmental-health](https://www.ncel.net/environmental-health)***

**Environmental Justice** - Events of 2020, such as the Black Lives Matter movement and COVID-19's disproportionate impacts on communities of color, refocused national attention on racial and environmental justice issues. As some states, such as [New Jersey](https://www.ncel.net/new-jersey), considered and passed monumental environmental justice bills in 2020, others are starting to consider and look for models of how they can act and meet this moment. NCEL staff expect to see greater state policy focus on environmental justice and equity in 2021.

**Plastic Pollution** - The past few years has seen a surge in public interest and legislative action on plastic pollution. In 2020, 35 states introduced over 230 bills to limit or ban single-use plastics. Circular economy advocates celebrated the introduction of a federal Break Free From Plastic Pollution Act bill that was authored by Senator Tom Udall and Representative Alan Lowenthal. This bill was directly inspired by action at the state level and serves as a clear blueprint on a range of policy options to address single-use plastics, including extended producer responsibility (EPR). When COVID-19 hit, many states were forced to shift focus, or pause some of their work on banning single-use plastics. We expect to see renewed energy on this topic in 2021 and the potential for multiple state policy successes as lawmakers and advocates center their efforts on the plastic lifecycle and its detrimental effects on health.

Toxic Chemicals - States continue to pursue limits and regulations on PFAS chemicals in water, food packaging, and firefighting foam. In 2020, four states passed bills increasing the regulation of PFAS in consumer products and 24 other states considered legislation. NCEL expects to see continued progress and momentum on this issue heading into 2021.

### ***States to Watch***

Arizona - Three new regulators were elected to the Arizona Corporation Commission, one of whom is strongly supportive of a recent rulemaking to require 100% carbon-free energy. However, several other members of the Commission are opposed to carbon-free energy mandates, so enactment of the rule may come down to a swing vote.

### **Ballot Measures**

Citizens voted on a handful of energy and environmental ballot measures. Below is a brief recap of some of the major measures:

- **[Alaska's 190GTX](#): Failed**  
This initiative would have raised oil production taxes on the North Slope for the state general fund.
- **[Colorado Proposition 114](#): Passed**  
This initiation would reintroduce gray wolves on public lands in Colorado.
- **[Louisiana's Amendment 2](#): Passed**  
This amendment allows local governments to property tax subsurface oil and gas resources.
- **[Michigan's Amendment 20-1](#): Passed**  
This amendment changes how state park revenue can be spent. Specifically, it removes the cap on how much money the Michigan Natural Resources Trust Fund can receive. [The Fund](#) uses royalties from the sale of state-owned minerals (largely gas and oil) for the creation of land for natural resource protection and conservation.
- **[Montana's I-190](#): Passed**  
Allocates 50% of all tax revenue from recreational marijuana sales to state public lands and conservation efforts.
- **[Nevada Question 6](#): Passed**  
Nevada Question 6 is a constitutional amendment establishing a 50% renewable energy standard by 2030. This ballot measure was first voted on and passed in 2018. To be added to the state constitution, the measure had to be passed again in 2020.
- **[New Mexico's 2019 SJR 1](#): Passed**  
This ballot measure changes the Public Regulation Commission from an elected five person body to a three person, nonpartisan body nominated by the Governor. The commission is in charge of regulating public utilities. The new makeup is expected to increase the speed of clean energy commitments by Gov. Lujan-Grisham.

### **Conclusion: States Matter**

With a new administration providing support for proactive environmental policy, states must and will continue to lead on ensuring clean air and water, decarbonizing their energy, and protecting their ecosystems. Any proactive measures from Congress will be piecemeal

approaches, or will contain stimulus funding that state leaders can help shape and will be instrumental in distributing in a manner that is equitable and ensures a more sustainable future. The 2021 state sessions will face enormous challenges from the pandemic and the need for economic recovery, but environmental champions in the legislatures remain committed to action, and their ranks have grown. Ongoing investment and focus on the states will continue to yield tremendous environmental successes in the years ahead.