

Strategic Implications of 2008 Elections on Climate Change and Clean Air Policy

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Overview

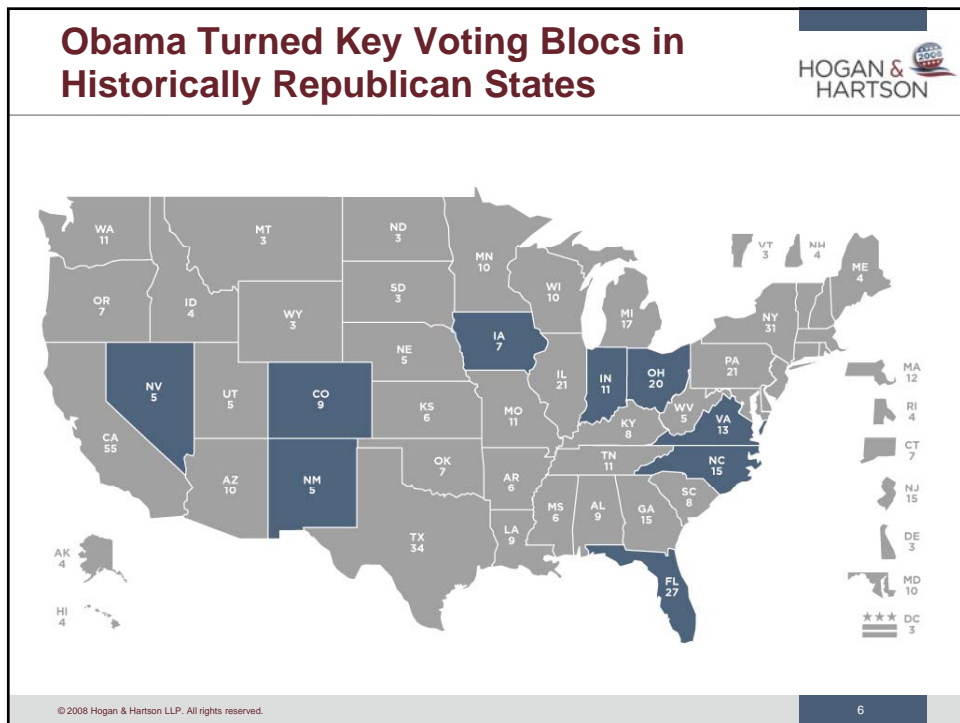
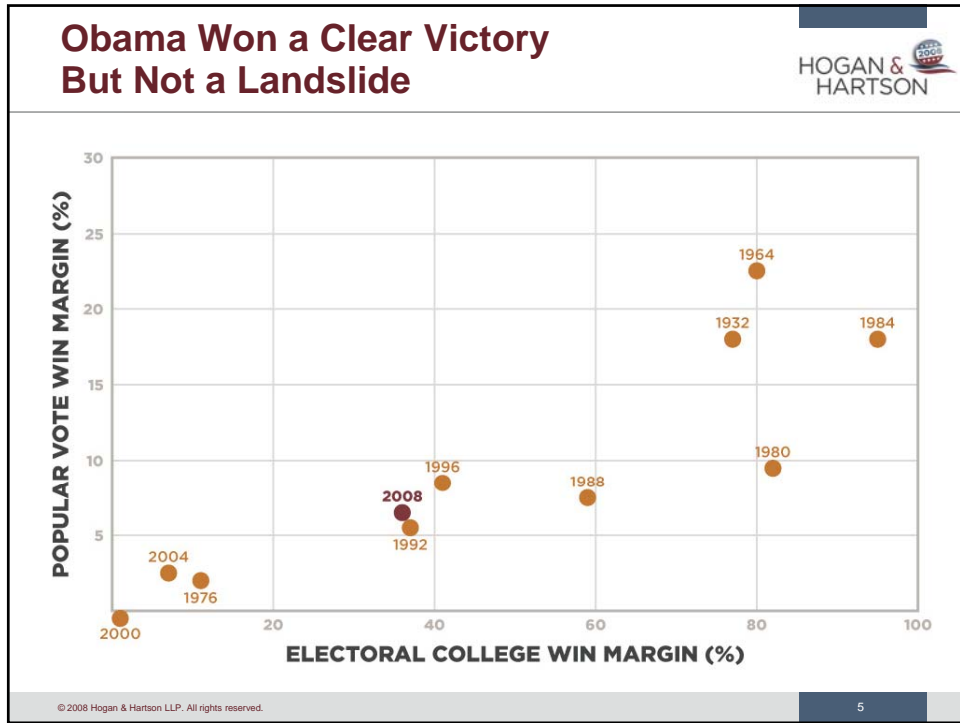


Significant Conclusions

- **Government Activism:** Washington is entering a period of heightened legislative and regulatory activism affecting a broad range of sectors and constituencies.
- **Significant Impact:** These changes are likely to reshape regulation of large parts of the American economy, with significant impacts on affected companies, non-profits, and other stakeholders.
- **Fiscal Pressure Rising:** The fiscal pressure imposed by the financial crisis spending will impact this entire period. Ongoing tension between government activism and fiscal restraint.
- **Legislative Action In Stages:** Enactment of comprehensive reforms may take some time, but action will begin immediately. Interim measures likely sought in short-term to demonstrate progress.

Strength of Presidential Mandate

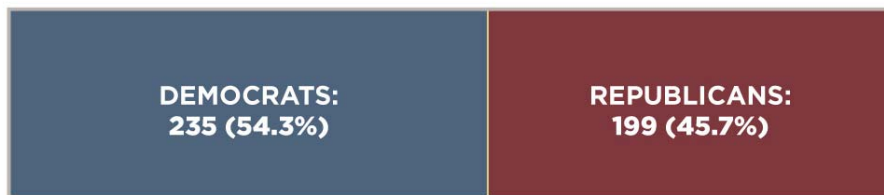




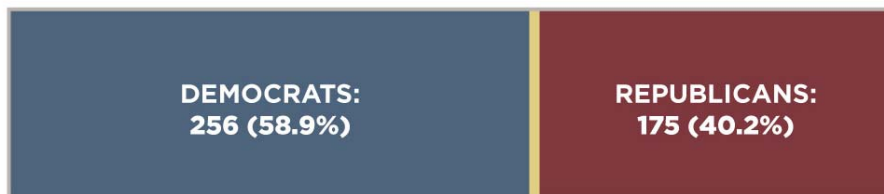
Shifting Power Within Congress



Congressional Make-up: House

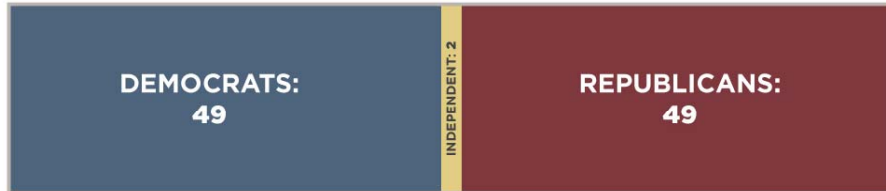


110th CONGRESS (435 SEATS)
 435 TOTAL SEATS. ONE UNFILLED



111th CONGRESS (435 SEATS)
 435 TOTAL SEATS. FOUR UNDECIDED

Congressional Make-up - Senate



110th CONGRESS



111th CONGRESS

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Key Air Quality Initiatives



Climate Change

Key philosophical goal and principal challenge is the internalization of GHG-related externalities while at the same time improving the United States' international competitiveness and energy-related security

Climate Change—Political Dimensions

- **California domination:** Schwarzenegger; Pelosi; Boxer; Waxman
- **Multi-Dimensional Effort:** Effort will involve interplay between Congress, multiple agencies, and a wide variety of stakeholders. Legislative, judicial and executive efforts all likely to be involved.
- **Business Alliances/Divisions:** Business divisions will intensify legislative challenges. Views on key questions (like auctioning v. grants) will depend on the strategic positioning of individual companies within an industry and vary further among industries.
- **Politics/Region:** Energy remains a regional issue in large measure, so even some Democrats will balk at more aggressive proposals.

Climate Change—Timing



- Complexity, recession and other factors reduces likelihood a comprehensive bill will get done early in the next Congress. But action will begin immediately. Obama has listed as high priority.
- *Massachusetts v. EPA* requires some agency action, though the agency has sufficient time to make a clear decision
- Brad Campbell predicts an EPA endangerment finding within 30 days, a framework for further administrative action within 90 days.

Climate Change—Substance



• Mechanisms

- Clean energy (wind, solar, advanced biofuels)
- Smart grid (supporting distributed green energy generation and use)
- Plug-in hybrids (as a transition to full electric)
- Green buildings (aggressive demand side management)
- GHG regulation (technology forcing through pricing carbon; FutureGen)
- Green jobs (\$15 billion per year; EPA versus Commerce; leveraging public funds to transition to “green collar jobs”)

Climate Change—Substance



• Important Issues

- Cap & Trade versus GHG tax (market solutions have won the day)
- Cap & Trade auctions versus allocations (cui bono? Peter Orszag)
- Administrative versus congressional solution (EPA ANPRM)

• International

- Chief question: will U.S. collectively meet multilateral expectations in time for year-end 2009 UN meeting?
- Poland preparation (cracks in the EU approach; Sensenbrenner statement)

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SO₂/NO_x/Hg



• Clean Air Mercury Rule

- Supreme Court briefing to be completed in January 2009
- Indications that Obama Administration will pull CAMR and proceed with Hg MACT/4P legislative solution

• Clean Air Interstate Rule

- Phase I NO_x begins January 1
- D.C. Circuit considering vacatur/remand
- Administrative action more likely than not, with 4P legislative solution in the medium- to long-term

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2008 POLITICS IN PLAY
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