

David Toscano Transcript

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Mila Atmos: [00:00:25] Welcome to Future Hindsight, a podcast that takes big ideas about civic life and democracy and turns them into action items for you and me. I'm Mila Atmos. Before we get to the episode, we have a favor to ask. We're running a short survey during the month of April, and it's all about you. We want to learn more about what you think of the show. If there's anything you'd like to change. And by taking part in our survey, you could win the chance to be on the show! You can find the survey link and more details in our show notes or at futurehindsight.com.

Mila Atmos: [00:00:25] you listen to Future Hindsight a lot, you'll know that there are a couple of questions I always ask our guests, and one of them is what are two things everyday people can do to make change? And often, not every time, but more often than not, our esteemed guests will say: "vote," and more specifically, they say, "Vote all the way down the ticket. Pay attention to and vote in state house races, school board elections, races for county judge, you know, focus on all that local stuff." And why do they say that? Because local government, state government, is what most directly affects our daily lives. So I wanted to understand more about state government and the importance of state politics. Today's guest is going to help us understand the possibilities and opportunities with state politics. What can be achieved if we focus on civic engagement at the local level? David J. Toscano served 14 years from 2006 to 2020 in the Virginia House of Delegates, representing the 57th District, which includes all of Charlottesville and parts of Albemarle County. He's the author of *Fighting Political Gridlock: How States Shape Our Nation and Our Lives*. And I started asking David why when we hear over and over that progressives need to focus more on the state level, it seems at the same time that they're really bad at it.

David J. Toscano: [00:02:38] I mean, I trace it back to the Obama election. I think a lot of people thought, "well, Obama's elected. This is a watershed election. We don't have to worry about anything ever again." And I love Barack Obama, but I think he missed

the boat also because he had an opportunity to shape state politics if he simply had helped rebuild state parties. Instead, what happened was that the Republicans, almost the day after, they woke up from the Obama 2008 election, concluded that unless we do something, we're going to lose the country, we'll lose control. And what they decided on was a strategy which some people called Red Map, which was designed to target state legislatures, try to get more Republicans elected in state legislatures, and then control the redistricting process by which congressional district lines are drawn and therefore control who gets elected to Congress. It was a brilliant strategy, and by 2010 and 2012, it was being played out with a vengeance at the state level. There were many more state houses controlled by Democrats at the time Obama won than in the mid 2010s, and that really changed the dynamic in the Congress, ironically.

Mila Atmos: [00:04:07] Yeah, right. It went from the state to the national level really quickly. So do you think the lessons have been learned by progressives and is it changing?

David J. Toscano: [00:04:17] I think we're waking up. I think people are waking up all around the country that if you want to take control of the country, you have to take control of state legislatures. And we talk all about voting all the time, right? I mean, and we've been so focused on the John Lewis voting rights bill or various congressional measures that now have gone pretty much up in smoke. I mean, it's been important to do, but we've been doing it at our own peril because at the same time, this is happening, the redistricting process is occurring in every single state, and elections are occurring in every single state to control the redistricting process. Besides that, who makes the laws regarding voting? Who determines the voting times? Who determines who can vote? What idea, if any, you have to bring to the polls? What absentee voting process you have, whether you can have mail in votes or dropbox voting. It's the states. It's not the federal government and too many progressives don't really realize that. And so they've been fighting this fight in Washington that is kind of a losing battle, but not fighting the fight in Columbus, Ohio, in Alabama, Florida. Those places where progressives really have to engage so that they can change their states and our country.

Mila Atmos: [00:05:46] So let's talk about redistricting. Let's go back to 2010 and we'll lay the land a little bit of where we are today. So, of course, it was a seismic shift in U.S.

politics, as we mentioned earlier. Progressives didn't really see it all. So what happened in 2010?

David J. Toscano: [00:06:02] Well, by 2010, the Republicans and their funders had poured tons of money into these state electoral races. Now, what progressives have focused on, a lot of people have focused on, is the wipeout in the congressional midterms in 2010. You remember even Obama got up there and said we were shellacked and it was a historic defeat for Democrats in Congress. But at the same time, the defeat for Democrats and progressives in statehouses was even more dramatic, where you had a majority of Democrats controlling statehouses in 2008 and it flipped in 2010. So the vast majority of statehouses was controlled by Republicans, and that led in to the redistricting process. And, of course, that led into the Republicans taking control of the House of Representatives shortly thereafter. And we've seen what a decade of that has brought. It's not been good. The good news, I think, is that people are waking up. You've got all these groups around the country now who are trying to engage a little bit more in state politics. It's just going to take a little time to reverse some of the defeats that have occurred over the last ten years. We did it in Virginia, though.

Mila Atmos: [00:07:18] You did it in Virginia. Tell us about that, because that's a good example and we can understand how it works.

David J. Toscano: [00:07:23] Well, this is a good example of civic engagement, because we began to realize that we had to go after these seats in ways we had never done before. And so we got help from all over the country. I mean, people like Sister District in New York, Run for Everything. There were countless groups of people who are in relatively blue states who would help us try to flip the House of Delegates. We had to do two things. One was we had to mobilize our vote, which is basically house to house civic engagement. And then we had to win a court case to overturn the redistricting plan that had been put in place in Virginia in 2011. It took us six years to win that case, and we won it in 2018. And in 2019 we took over when I was elected Democratic leader in the Virginia House. In 2012, we had 32 Democrats out of 100. And my goal before I left was to get to the majority. And I knew it would take many cycles. You couldn't get there all at once, but we kept at it. And between the mobilization and the successful court case, we were able to get the majority with the 2019 election.

Mila Atmos: [00:08:42] That's tremendous.

David J. Toscano: [00:08:43] And then I retired.

Mila Atmos: [00:08:44] And then. Well, well, tell us about the redistricting. What was the redistricting map that you were able to win the lawsuit about? What did it look like before and what is it now?

David J. Toscano: [00:08:55] We were in a really strange situation in Virginia because we were one of the states affected by the Voting Rights Act, which said that you could not create districts that discriminated against African American voters. And ironically, the Supreme Court threw that part of the Voting Rights Act out so that no longer was there a requirement that you had to submit your redistricting plans to the federal attorney general. And no longer did you have to make sure that these districts were drawn to protect African Americans. So this happened after the Republicans had drawn their map. The Republicans drew their map to make sure they could pass the voting rights bill and the tests involved in it. So they drew a lot of African Americans all into these very small numbers of districts. So they had very concentrated blue dots around the Commonwealth of Virginia, where all these Democrats were concentrated, leaving a ruby red sea outside of those districts. Those Democratic districts are largely concentrated in urban areas. Now, what the lawsuit did was challenged the Republicans ability to draw these racially dictated lines, i.e., they flipped the whole voting rights argument on its head in order to say these were racially discriminatory lines that the Republicans drew. And therefore, you had to unpack the lines you had to spread out those voters and the courts accepted that argument. Most redistricting cases are not thrown out by courts, but in this case, the federal courts accepted the Democratic argument. And so what happened was the courts drew new maps, and those new maps came into play in 2018. The new maps basically spread out some of the African American vote so that it made all of the. Districts a lot more competitive. And when we were in a competitive district, we could win. And we did.

Mila Atmos: [00:11:08] But other states do it differently, like in your case, the court did it. But in some places there're independent redistricting commissions. And actually you really like that model. Tell us about that.

David J. Toscano: [00:11:17] I love the concept of independent redistricting commissions, but when you look around the country, there are a number and some of them work better than others. The key is to get the politicians off of the commissions. When you have politicians on the commissions, they inevitably break down into partisan bickering. So let's take a recent example in Ohio. They have a redistricting commission, but they have stacked it with Republican legislators. So it really isn't much of a real independent body. And they have been going through a whole series of iterations with new maps that then are challenged in court. And the courts say, well, wait a minute here, these are not fair maps. We're not going to let you pass these maps. And Iowa, on the other hand, the redistricting commission is genuinely independent. And for the most part, there's no argument with the districts that they come up with. Now, Iowa is a red state. It's hard to make it blue, but you can get at least fairer districts and more competitive districts so that some Democrats can win congressional seats, especially in urban areas in Iowa. So as you go through the process, every state has its own little wrinkle on independent commissions. Virginia, we supposedly had one too, and that broke down just last fall. So just because you have an independent commission or a redistricting commission doesn't mean you have a terrific process.

Mila Atmos: [00:12:48] Right. Right. It's not assured. I want to change tacks a little bit here about sort of the other ways in which state and local politics have very tangible impacts on everyday lives. So can you talk about some of the ways in which state politics really, you know, affects our our daily existence?

David J. Toscano: [00:13:06] Well, let's think about it in terms of the future of democracy and what kind of civic body we're going to create over time. Education. There it is right there. This is another one that they're not really aware of how important the local and state governments are. But if you look at the funding for education, less than 10% comes from the federal government and very few strings are attached to the educational funding coming from the feds. So everything comes down to the state and what kind of monies they're going to put in for what kind of programs. It also involves curriculum. We have this huge issue now about parental rights and to what extent parents ought to control their public school education of their child. And while I'm one who says that parental involvement is key to how children are educated, at the same time it's being used by conservatives to essentially try to keep certain kinds of learning

out of the classroom. Our history of slavery and racial discrimination is now up for debate in how state curriculums consider those issues. That is a huge contested terrain upon which we're fighting for the future of democracy because people need to know the history. And all of that debate is going on at the local level and at the state level, and it calls out for civic engagement by people who are concerned about the future of the country.

Mila Atmos: [00:14:41] Right. Well, specifically to your state, there was a lot of talk and many opinion pieces that the gubernatorial election in Virginia was won and lost in the critical race theory debate. What's your feeling about that?

David J. Toscano: [00:14:53] Well, you know, critical race theory is generally not taught in schools. And if you were to ask people who mentioned the term to describe it, they would be hard put to really define it and explain what it is. It's become a euphemism, a coding for people who want to attack a liberal approach to education where you consider lots of different issues. The other thing that's happening, of course, is that people are scared about the country's losing its identity. And this notion, it's a great notion in our country that somehow we are exceptional. And, you know, I kind of believe it, too. I kind of believe Virginia is an exceptional state. Most people think their states are exceptional. The exceptionalism has to be balanced by some of the things that have happened in the past that are not so good, so that we can learn and not repeat them. And I think that people who are concerned about losing the idea of our exceptionalism are also concerned about having an alternative perception, of being introduced to their children. And I think they shouldn't be afraid of that, because that is part of our exceptionalism, the notion that we are a democratic nation, where we compete on the field in terms of our ideas and having people who can think creatively is at the backbone of what made the country great. So we'll see what happens. But we're seeing this played out in state houses all around the country.

Mila Atmos: [00:16:29] Yeah. Well, in places like Texas, for example, they teach the history of slavery totally differently than they do in California. So in some states, that battle has already been waged and won, even though it continues to come back up, because even today, of course, they're talking about critical race theory in Texas, which, of course, to your point, it's not taught in schools. If it is taught at all, it's taught in law school and not at every law school.

David J. Toscano: [00:16:54] That's right.

Mila Atmos: [00:16:55] But I want to talk about, you know, working together. You served for 14 years and working together, of course, with Republicans. So nowadays it seems like and the year '22, reaching across the aisle is like ancient history in these polarized times. So how do you reach across the aisle without throwing bombs and work effectively?

David J. Toscano: [00:17:19] It's a huge challenge and I think that we've lost largely the ability in Washington and the disease is spreading out, coming across the Potomac into Virginia. And it's been like that for the last 14 years. I think it's going to be incumbent first upon citizens to insist that they get some level of commitment from their legislators to work across the aisle, because there are plenty of places where people can work together to get things done. One of the unique things about states is that every state has to have a balanced budget by the end of their session. None of these continuing resolutions in Washington, you have to get a balanced budget and a balanced budget signals your intentions about what you want to do in your state. And there's a lot of give and take in how a balanced budget gets prepared at the state level. So right there, people are forced to work together. Now, beyond that, there are a lot of bills in state legislatures that are not controversial. In fact, most that get passed are not controversial at all. So one of the things I always encourage people to do is if you've got a legislator who has an idea for a bill, try to get a co-patron from the other side. It helps the bill get passed and it builds this notion of camaraderie that you really need to have if you're really going to be honest with each other and how to sort out these issues. And the public has to insist that you have legislators who are like that, and legislators have to wake up to the fact that every time a partisan bomb is thrown--and admittedly, you have to throw them some time--every time a bomb like that is thrown, it rips at the fabric of the relationships within the body that help the body work together for a productive solution.

Mila Atmos: [00:19:21] Well, it feels as though it's not just legislators, right, who are failing to work together, the polarization and radicalization is showing up in a lot of places. And in fact, in your own hometown of Charlottesville, it was the center of racialized political violence. So I'm also thinking about the violence that's showing up

more and more in everyday life from school boards to state houses. And how can people, I mean, to your point, they can work across the aisle. You have a co-sponsor of a bill, but how can people work together when the threat of violence looms?

David J. Toscano: [00:19:51] Well, I think, first of all, people have to recognize where people are coming from. I mean, as I said, there are a lot of people in this country. Some are located in inner cities, some are in rural areas that feel that their lives are falling apart and they're scared to death. And when you get that kind of situation, they either recoil and don't engage at all, or they engage in hyperbolic ways of communication that make getting together very difficult. So you have to listen creatively. You on this podcast... I mean, you're really good at listening creatively and dynamically where I say something or your guest says something and you will feed back into that after you've listened and contemplate it, you'll even confront people if you think perhaps they didn't get it right. A couple of really interesting quotes that I brought with me today. "Each of us is more than the worst thing we've ever done." Right? This, you've got to get rid of this straitjacket of saintliness that we want to project on people. That quote comes from Bryan Stevenson, who runs the Equal Justice Initiative out of Montgomery. And some people saw the movie *Just Mercy*. It was all about about him. But I have another one for you. "All of us need to give a little bit of ourselves in order to make our society better." Do you know who said that? That was you?

Mila Atmos: [00:21:13] Yes, I said that. Yes,

David J. Toscano: [00:21:16] But it's so true!

Mila Atmos: [00:21:17] Thank you for quoting me back.

David J. Toscano: [00:21:18] It's so true. And and to listen with empathy, humility, but confront because you cannot let some of this stuff stand. If I have a constituent who's making some argument that Barack Obama is a Muslim who tried to infiltrate the country, I've got to confront that. Just like John McCain did in the presidential campaign in 2008. So, yeah, that's incumbent upon leaders to do.

Mila Atmos: [00:21:44] Yes leaders, but also everyday people, like you said earlier, that it's also the voters have to demand that our representatives actually represent us and

work together. So in your mind, you know, we're talking about state politics. How can ordinary citizens have more influence in state politics? I think that's often lost because we think about it, but then we actually don't do anything. And what is something that's really tangible that people can do?

David J. Toscano: [00:22:09] Well, they got to vote down the ticket for one thing. I mean, you mentioned it before. That's, you know, relatively easy. I'd encourage people to go to their their state house during a session, especially if they have a bill that concerns them or that they support. It's an amazing process to watch. Unlike Congress, a person can show up to a committee session and simply testify. They just get on a list and they testify just like they were going down to city council or their Board of Supervisors meeting. And I've seen individual people actually derail a bill that everybody thought was going to pass, simply because they got up and said, "well, have you thought about this?" That's really citizen initiative at its best. Sometimes there're bigger issues that citizens can get involved with. I remember maybe a decade ago, I had a youngster come in with her mother and this youngster was in a wheelchair. She was about eight and she was subject to grand mal seizure, epileptic seizures, as many as like 30 a day. And her mother had discovered a CBD oil, cannabis oil, which is a derivative of the marijuana plant. Now, this is before so many states legalized marijuana. This woman and her daughter started on a campaign to make that oil available to Virginians. And she worked at it for three or four years, meeting with every single legislator, working on these bills again and again and again. And they were able to change that law. It was an amazing thing to watch and an example of citizen initiative that you can't see in the federal system.

Mila Atmos: [00:24:04] We're taking a brief break. And when we come back, David's going to reveal what most people get wrong when they're thinking about state legislatures. And he's going to share a really surprising tip about how to influence local politics. All that's coming up after a message from our sponsor, Novo. Fortune favors the bold, the strong, the brave. For your business checking to break out of anything holding you back, you need business checking as brave as you are. Introducing Novo business checking. Novo is powerfully simple business checking. And unlike the traditional banking model, Novo has no minimum balances, no transaction limits, and no hidden fees. Instead of a one size fits all approach, Novo is customized to your business to save you time and free up cash flow. With seamless integrations to Stripe,

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Mila Atmos: [00:26:04] What do you think people get wrong when they're thinking about state politics? Because you've just told us about how you can actually do so much, but people don't really seize that opportunity. Or some do, of course.

David J. Toscano: [00:26:17] I think they don't realize that their legislators are everyday folks who put on their trousers every day or their pants every day, and they don't have a corner on wisdom, to be sure. They don't have a corner on the facts and they need help. There's so many bills that come at you in a legislative session that the more citizens can let you know about what things make sense to them and what things don't, the better the job you can do. And that by and large, these folks are approachable. Most of the people I know in state legislatures are trying to serve for the right reason. They want to make their communities better. Now, some of them have political axes to grind, ideological positions, ambitions that are bigger than themselves. But most of them, you know, just want to do a good job for their constituents. So help them. You let them know what you think. I've had people email me 10 minutes before a floor vote on a bill that I didn't know very much about who said, "Look, you should vote no on this bill because of this, this and this." And I didn't have very strong feelings about it, but I got this email and somebody did. And so I voted no. Now, that doesn't happen in most cases because, you know, a lot of these bills. But but there are a lot of bills. You can have an impact if you do a little bit to try to exert it.

Mila Atmos: [00:27:41] Yeah. Well, it's encouraging you said you received this email and that you read it and then you voted after you...

David J. Toscano: [00:27:46] Yeah, I actually read it.

Mila Atmos: [00:27:48] Yeah. Well, so this is the other thing. I think there's a misconception that if you write your representative or you call that nobody cares, that these things fall into the void, and nobody knows that you did it. But in fact, I tell people all the time that actually your email gets read. Somebody reads your email, maybe not necessarily the representative, you know, because sometimes there are 100 letters that are the same. Essentially the message will be passed on, but still somebody reads them. And I said, you absolutely should reach out, but.

David J. Toscano: [00:28:19] Can I give you a tip?

Mila Atmos: [00:28:19] Yeah, tell us.

David J. Toscano: [00:28:21] So oftentimes I give these lectures: the ten ways you can be successful in the legislative process. And one of the ways is to cultivate the gatekeepers. The gatekeeper is usually the staff member for the legislator or the secretary who works in the legislator's office. They are typically the people who see these emails first, and they have the ability to either essentially hit the delete button or throw some letter in a trash can. They've got more power than you think, so you have to cultivate them. You call your legislators office, ask to talk to the legislative aide. They're usually young people who are very, very, very idealistic, really want to serve. And you develop a personal relationship with them. I mean, don't stalk them or don't do anything like inappropriate. But, you know, occasionally you want to ask, where did you go to school? You know, that sort of thing. And if you develop this relationship, you can get access in ways you would never think. And that's a little trick that people don't think about.

Mila Atmos: [00:29:28] It works. Yeah, it's good. It's a good trick. I have a question about this, though, and I know that I have said myself that we need to give a little bit of ourselves to get engaged, you know, in order to make our society better. But there are also people who say, "listen, I voted for this person and I expect that person to do the job and represent me. And I don't want to think about it anymore." Well, what would you say to that?

David J. Toscano: [00:29:51] Well, I think a lot of people feel that way. Even I feel that way to some extent because I'm not in the legislature anymore. You have to place some trust in the legislator to do the right thing. But to quote Ronald Reagan, "you trust, but verify." I mean, you want to look to see what they're doing to make sure that they're representing the things you consider important. And you do that, you at least have to read the newspaper or follow something that talks about what your state houses are doing. Information is power. You've got to have the information to know how you should approach a legislator. Sometimes they just get tired and they're not paying attention anymore. And if that's the case, you've got to tell them that, because the biggest risk that legislators have is that they get told just the positive things that go on. They don't really know that there's maybe anxiety out there about what they're doing and maybe they don't search it out. So you've got to help them understand that if they've done something wrong, they should know about it.

Mila Atmos: [00:30:57] Mm hmm. Well said. So I want to go back to the mechanisms of government at the state level. There's a whole chapter in your book on how states can change constitutions. And in fact, Louisiana has rewritten theirs 11 times. And we know that at least four states have triggers in their constitutions to ban abortion if Roe v Wade is overturned. I think it's something a lot of people miss -- the role of state constitutions and amendments to state constitutions. So can you talk about that?

David J. Toscano: [00:31:26] Well, you know, this is both a little wonky and very important. People don't pay attention to this at all. You know that the United States Constitution does not guarantee the right to vote. It's nowhere in the Constitution; sort of implied in the various amendments. Do you know, almost every I think it's 49 state constitutions have explicit statements that the right to vote is protected under the law of this state. That gives people the ability to confront voting rights in a totally different way. And now you're seeing some of that in some states. In North Carolina, for example, they've confronted voter suppression measures and redistricting measures based on the state constitution. And state constitutions are much easier to amend than the federal constitution. Each state is a little bit different. Virginia, the legislature has to pass an amendment twice with an intervening election, and then it goes on the ballot for the public to ratify. But in other states, it can be different and it can be faster. And in some states you can change the Constitution simply by having enough names on a petition. To submit the measure to the voters in California who had that with the various

propositions. You see that in a lot of states, primarily in the West, where they have this thing called citizen initiative, i.e. the citizens take it upon themselves to change a law or change the Constitution. And there are some states, Colorado and Montana being two of them, and Virginia, for that matter, that have environmental protections in the Constitution. We don't have that in the United States Constitution. And as a consequence, people can sue using the state constitution. And it goes through a different process than the federal process. And it never gets to the United States Supreme Court, which for progressives is we want to be in the states in some cases, because we can't depend on the United States Supreme Court. So these are some things that progressives need to look at as options that they didn't think might be available ten years ago.

Mila Atmos: [00:33:44] I love what you said at the beginning, that it's wonky but very important, and that's exactly what we aspire to on this show. So as a follow up question, I want to know in what way are state houses laboratories for democracy?

David J. Toscano: [00:34:00] A lot of states consider things that are unique to their states that could be used in other states to make them better. And in some cases, you've got states enacting policies that become federal law. Look at Massachusetts. Back in 2006, a Republican governor, Governor Romney and the state legislature, which were Democrats, decided they wanted to dramatically reduce the uninsured people without health insurance in that state. So they took a conservative concept known as the individual mandate, which would require individuals to all buy health insurance and make sure everybody was covered and therefore reduce the uninsured rate. And that was passed by Massachusetts, and that was the model for Obamacare. A Republican governor, a conservative idea, and a Democratic president. I mean, what more could you ask as a laboratories of democracy? Now, some people say that they can almost be laboratories of autocracy. There's a great book that a guy named David Pepper wrote just recently. He was a Democratic chairman in Ohio. And he points out, and I do in my book, that a number of states in the South have enacted legislation that essentially makes abortion illegal if Roe v Wade is repealed or overturned by the US Supreme Court. So those are laboratories because they're experimenting with things that typically are not done at the state level and in some places now it's in their state constitutions. Texas, of course, just recently passed this law that allowed private individuals to sue abortion providers or even people who made recommendations about

abortion providers. I don't think that's constitutional, but they still have passed that law and it's on the books until the courts overturn it. And we'll just have to see what happens with that.

Mila Atmos: [00:35:58] Mm hmm. So I have a question about state constitutions being challenged at the federal court and in the Supreme Court. Does that happen? And how often does it happen if it does? And what is like a really good example of this?

David J. Toscano: [00:36:13] Oh, boy. Now we're really getting into wonk territory now. You gotta get a constitutional scholar involved in this one. But the United States Supreme Court just can't take a case that's in a state court and grab it, take a hold of it and litigate it. They can't do that. So you often find these state decisions coming up where the state court makes a decision, and that's the law of the state, and that's it. Now, occasionally those get tested in other ways by somebody filing a suit in this federal court challenging the state decision. And that would be the only way you could get to the Supreme Court, and probably only if there was a difference of opinion between the state courts and if it really represented a federal issue as opposed to a state one. You hardly ever see that. It's very, very rare. I wouldn't point you to an example. You get your constitutional scholar on here and he or she can do it, but I can't. But generally, if the state Supreme Court rules on something, it's the law of the state until somebody changes it.

Mila Atmos: [00:37:21] Hmm. Interesting. I want to go back to your comment that you made about the states also being potentially laboratories of autocracy. What do you make of the Trump backed candidates in the state races, specifically? Like I don't know whether you've paid attention in Texas. Won't they simply poison the well? How can we prevent this? You know, they're basically challenging conservatives from the right.

David J. Toscano: [00:37:45] Yeah, it's really weird to watch. I mean, Ken Paxton in Texas is the attorney general now. I mean, how can you get more conservative than that guy and yet he's being attacked from the right? I think this is just going to have to run its course. I mean, people of goodwill are going to have to say, look, enough of this stuff. I mean, we almost ran off the rails in 2020 and we can't have that happen again. January 6th was a big awakening for the country, and you're still seeing vestiges of it in various states, like all of these states that want these audits of the election. And then

the audits, of course, turn up nothing. Arizona had one. It turned up nothing. Wisconsin is trying to pass something. I think Michigan is trying. Also, there are these groups of people out there keep talking about audits and it's totally undermining the legitimacy of our election process. At some point, leaders just have to say, "look, you know, we have elections. The United States has unbelievably free elections. Very little fraud, certainly not enough to overturn an election." We just have to recognize that we are exceptional and that we have to embrace that exceptionalism. And to those who would say we're not, well, they shouldn't be elected to office because that's not who we want in office. Those are the people, they say they're doing it because America is exceptional. They're not. They're basically undermining our exceptionalism. But it's hard. And I think the next two elections are going to be key for the country because we've got the midterms and the Democrats are worried about that. And I am, too. And then you get the next presidential. And who knows what that's going to look like?

Mila Atmos: [00:39:35] Yeah. Yes. Get engaged. This midterm election will be incredibly important in defending our democracy. I have a question about why you wrote this book at this time. Because you're no longer in office. Like, is this a case of hindsight or why did you write it? Why now?

David J. Toscano: [00:39:52] Pure hindsight, not future hindsight, right? I've been in public office now 25 years and 12 years in local government, 14 years in state government. I've learned a lot of things and one of the things I learned is how important states are. I wrote this book so that people would read about how important states are and maybe change some of their perspective on just focusing on congressional races or the presidency. A lot of people do this. They will focus on some local races and they'll focus on the federal. But they'll lose, they'll lose, the state altogether. But that's where a lot of the action is, because the states can even enforce things on localities with their plenary power, they call it in constitutional verbiage. So I'm trying to write this book so that I can illustrate how states are making a big difference in people's lives from education and criminal justice, even to climate change and energy issues. The book ends with the chapter on civic engagement about ways people can think about that. So hopefully folks will pick it up and learn something from it.

Mila Atmos: [00:40:57] Yes. Well, I have to tell you that my favorite part about your book is when you were talking about the high voter turnout in some of the states that

have same day registration and or automatic registration and how much higher voter participation is in those states. And I feel like people should be talking about that and people should be demanding it state to state, you know, but we don't know about it. Like, I didn't know that in Oregon, basically the voter turnout is something like 70%. Unbelievable.

David J. Toscano: [00:41:24] Yeah. Minnesota, too. I mean, there are some states that are very, very high.

Mila Atmos: [00:41:29] Yes. So since we are at the end of your chapter, of your book, looking into the future, what makes you hopeful?

David J. Toscano: [00:41:38] Well, what makes me hopeful is there's a proliferation of media sources like yours out there that are trying to get this word to people. And it really makes a difference. We're also seeing greater interest in coverage of states by newspapers which were in grand decline over the last decade. And now you see some resurgence in the state houses. But the big hope I have is because I see lots of young people who just say we can't have a society like the one we've had for the last couple of decades. We really have to change this and they really are rolling up their sleeves. The generation before them really didn't get much engaged. But this generation, I think, is really engaged, and I think they're stepping up. I hope they're stepping up because they're going to determine the future of democracy. We're in the fight of our lives and everybody's got to be on the front lines of that fight.

Mila Atmos: [00:42:37] Hear, hear. I totally agree. Just as an aside, my 18 year old just registered to vote and he just received the thing in the mail that said that he's a registered voter.

David J. Toscano: [00:42:45] Great. Congratulations.

Mila Atmos: [00:42:48] Thank you. Thank you. Well, thank you very much, David, for being on the show. I really appreciate your book and I appreciate our conversation.

David J. Toscano: [00:42:55] Well, I thank you very much. Good luck with all your work.

Mila Atmos: [00:42:58] Thank you. David J. Toscano served 14 years in the Virginia House of Delegates and is the author of *Fighting Political Gridlock: How States Shape Our Nation and Our Lives*.

Mila Atmos: [00:43:15] Next time on Future Hindsight. We've talked on this podcast before about disinformation, misinformation and post-truth. Next week's guest wants you to think about the true long-term repercussions of the proliferation of cheap speech.

Rick Hasen: [00:43:29] The big problem with cheap speech that I've been talking about is the erosion of confidence in reliable intermediaries. And the more that that happens, the more we're going to be in danger of lacking a common understanding about how the world works. And that's what's really dangerous.

Mila Atmos: [00:43:48] How can we avoid this and not run afoul of the First Amendment? Rick Hasen will show us how. His new book is *Cheap Speech: How Disinformation Poisons Our Politics and How to Cure It*. You won't want to miss it on the next episode of Future Hindsight! And one more thing. Remember, you can find our survey link in the show notes and our newsletter. Thank you for your time and look forward to your thoughts. This episode was produced by Zack Travis and Sara Burningham. Until next time, stay engaged.

The Democracy Group: [00:44:26] This podcast is part of the Democracy Group.