

Government of the Few in the “Decided Dozen” States: Frozen Representation and the Distorted Demographics of Decisive Primary Elections

FairVote: The Center for Voting and Democracy
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Introduction

Grounded in voters’ politically polarized voting patterns, the startling lack of competition in many state legislative general elections means that the dominant party’s primary voters often are the only citizens with a meaningful choice over who will run their legislature. The outcomes of most individual races and the preservation of the dominant party’s power are never in doubt. Partisan shifts large enough to make these chambers competitive are of the sort that take decades, insulating the majority party from short-term fluctuations in voter opinion. In such an environment, majority party primary voters – small groups that are often highly unrepresentative of their states’ voters as a whole – effectively dictate who will control the legislature, and select the representatives who will make policy for all.

While meaningful competition is scarce in state legislative elections, this report identifies twelve states in which a striking lack of competition is combined with a persistent case of one party dominance. This “Decided Dozen” consists of Georgia, Idaho, Hawaii, Massachusetts, Missouri, New York [Assembly only], Rhode Island, South Carolina, Tennessee, Texas, Utah, and Wyoming. Legislative elections in most of these states share three common elements: a change in majority party control would require enormous and unlikely shifts in voters’ partisan preferences; few individual districts are likely to be competitive; and candidates rarely find ways to win on their opponents’ turf. Furthermore, voters in the dominant parties’ primaries in these states – the only group to which majority legislators owe their power – are highly unrepresentative of their states’ voters more broadly. This is true not only of their partisan ideological views, but also for demographic measures like age and ethnicity.

In this analysis we introduce two tools that FairVote will use in a series of reports:

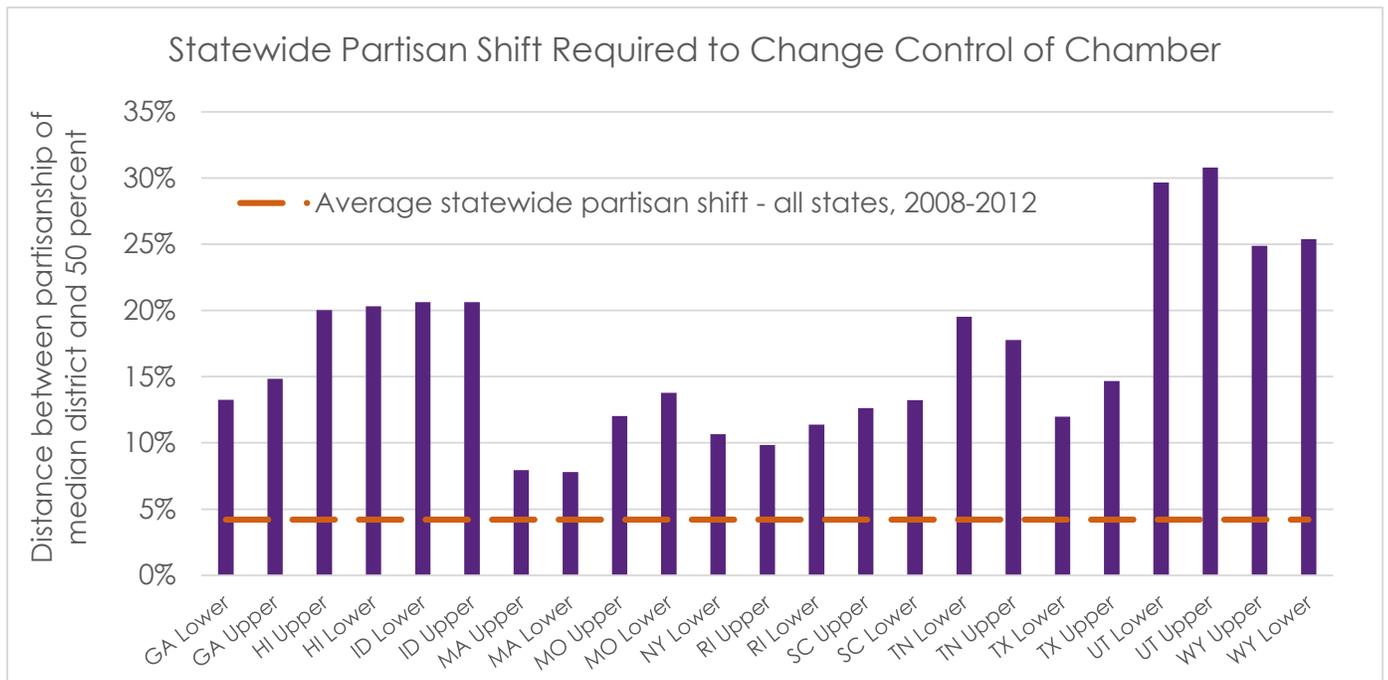
- First is a dataset that combines 2012 presidential election results by state legislative district with a range of metrics focused on competition and politically polarized voting.¹ The presidential election results allow us to calculate the partisanship of legislative districts, by comparing the two-party presidential vote in the district with the national vote shares of the major party nominees.²
- Second is an extensive analysis of voter participation rates for different demographic groups in primary and general elections, based on L2’s VoterMapping software.³

Together, these tools tell powerful stories about American elections. We begin our series of reports with this analysis because of particularly compelling data that underscores the serious flaws the United States’ current electoral rules – more specifically, winner-take-all, plurality elections that render voters in most state legislative general election contests irrelevant, with little ability to impact the control and composition of state chambers, which are instead chosen in primary elections dominated by participants who are on average far older, whiter and more partisan than the electorate overall.

Frozen Representation: The “Decided Dozen” States without Meaningful Competition in Legislative Elections

Predictable Party Dominance

Each state chamber examined here is under the firm control of one party, and is likely to remain so for the foreseeable future. The chart below depicts an estimate of the minimum shift in the statewide partisan vote that would be required in each state for control of the chamber to flip between the parties. The impact of the incumbency advantage means that the actual figure might be higher, as incumbents tend to earn several percentage points more than their districts’ partisanship due to their name-recognition and constituent work.

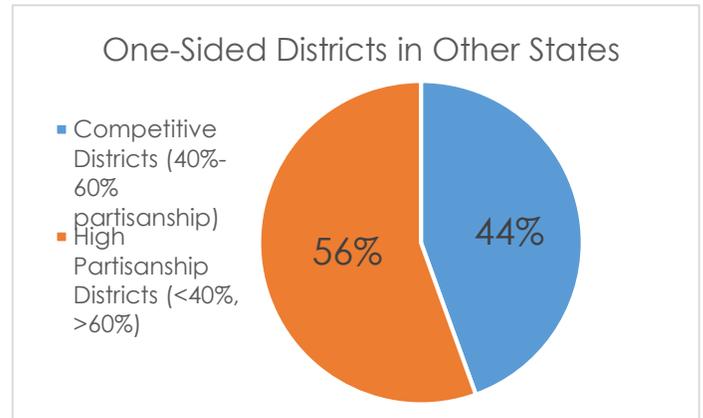
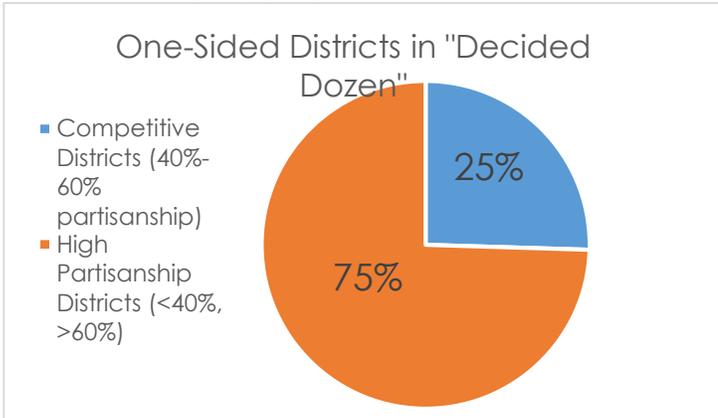


The charted value for each chamber is the distance between the partisanship of the chambers’ median district and 50 percent. Assuming a uniform swing, this is the size of the shift in the statewide partisan vote that would be required for the current minority party to take control of the chamber. To put that in perspective, a partisanship shift of 17 percent would require a district that has a two to-one advantage for one party to become a 50-50 district – an enormous change that would require a larger shift than a Republican presidential nominee winning Vermont or a Democratic presidential nominee winning Mississippi. The shift that would be required in some state is even larger: the median district in state chambers in Hawaii, Idaho, Utah, and Wyoming has over 70 percent partisanship for the majority party.

The orange dashed line represents the average change in partisanship for all states between the most recent presidential elections. Clearly, a reversal of partisan control is very unlikely in the near future in the chambers examined. In most cases, it would require a shift several times larger than the average statewide partisan shift nationally between 2008 and 2012 (and in most cases, one that would reverse the state’s partisan trend).

Few Competitive Districts

Not only is overall partisan control of these chambers uncompetitive, most individual races are uncompetitive as well. As the charts below illustrate, only 25 percent of the districts in this sample of states have partisanship between 40 and 60 percent, the range in which state legislative elections generally have any chance to be competitive. In the remaining states, the number of potentially competitive districts is 44 percent -- still low, but much higher than in our "Decided Dozen." In the remaining highly partisan districts, the general election is usually irrelevant, serving only to rubber-stamp the result of the truly decisive election: the primary of the districts' majority party.

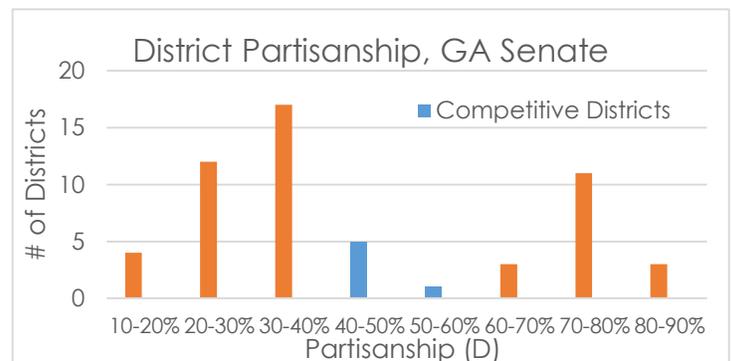
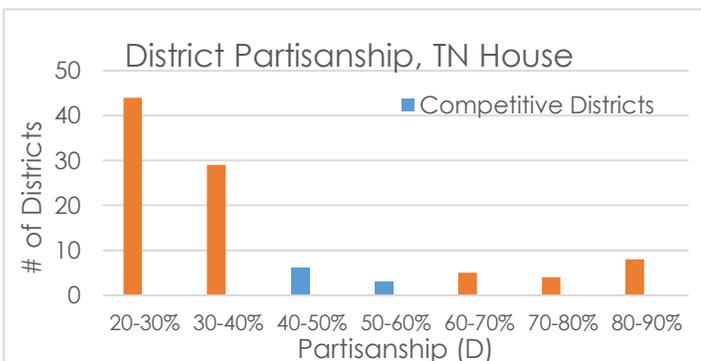


With so few competitive districts, and chambers that are dominated by a single party, shifts in the views of voters in general elections are unlikely to have a significant impact on the allocation of seats between the parties, much less on overall chamber control or legislative outcomes, which are even further insulated from their preferences.

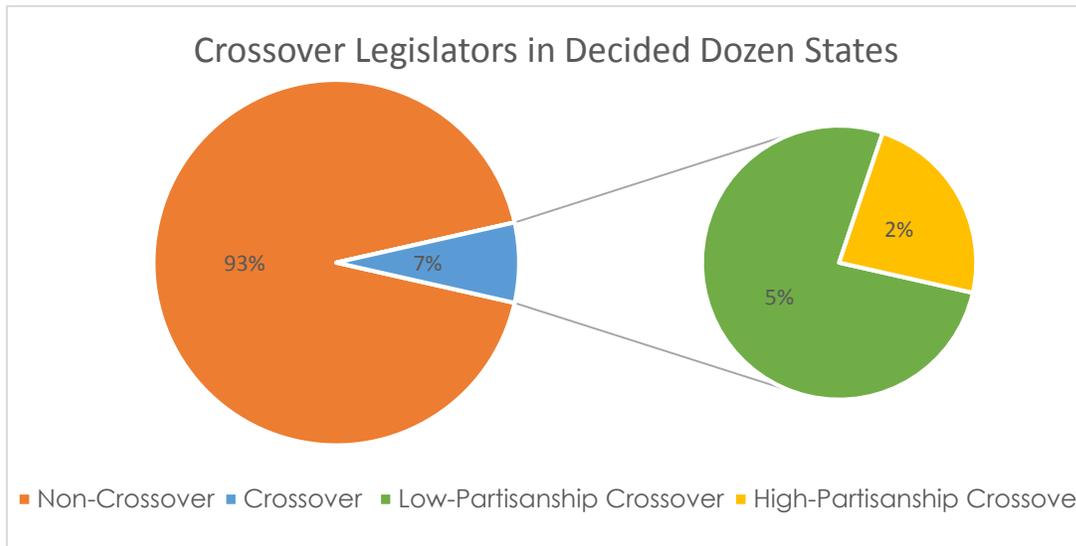
In many states, competitive districts are even rarer. This is true not only in states with few districts favoring the minority party, like Tennessee, but also in states with a substantial minority party presence, like Georgia, as illustrated in the charts above.

Few "Crossover" Representatives

Highly partisan districts doom states to uncompetitive elections, because voters are unlikely to cast their ballots for candidates outside their preferred party, making partisanship highly predictive of electoral outcomes. This is true not only of the twelve states highlighted in this report, but of most other states as well (with some notable

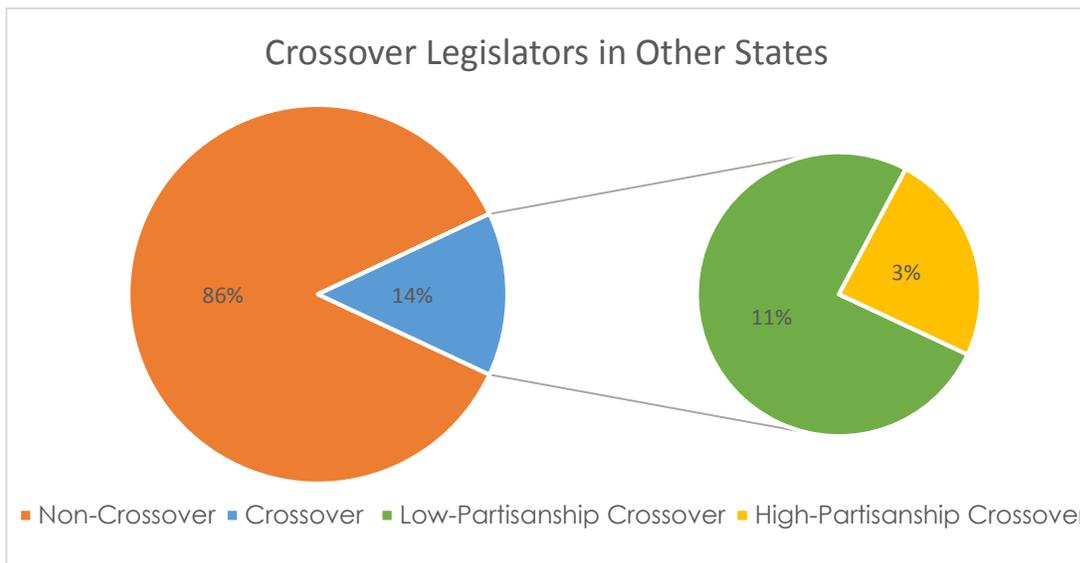


exceptions, which explain Republicans' success in some parts of New England, and the continued election of Democrats to state offices in a several states in the outer South).



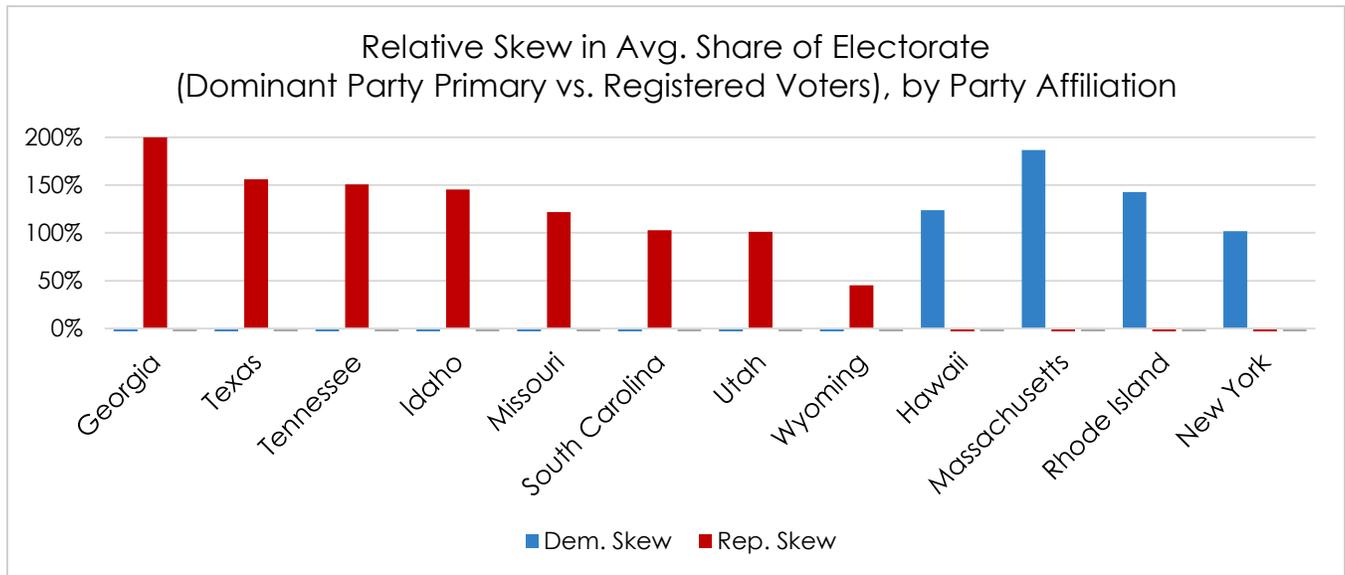
Within our Decided Dozen sample of states, only 7 percent of seats are held by “crossover representatives” – that is, legislators whose party is in the minority in their district by partisanship. Only 2 percent are crossovers in highly partisan districts, those partisanship is outside the 40-60 percent range.

Outside the sample, crossover representatives remain uncommon, holding only 14 percent of state legislative seats. Only 3 percent are crossovers in high partisanship districts.



The Distorted Demographics of Decisive Primary Elections

Partisan Disparities



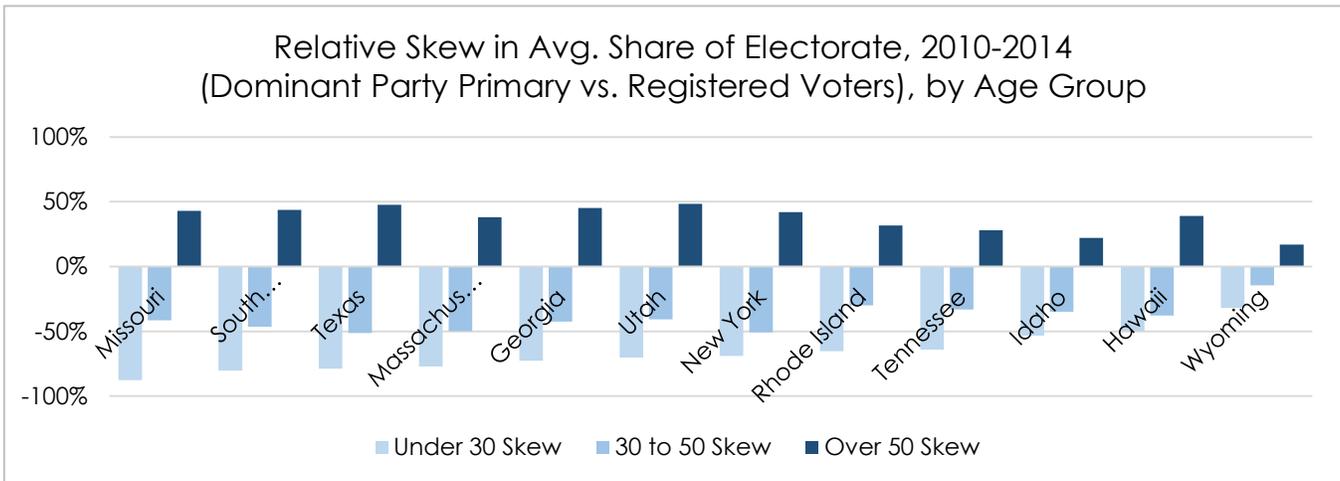
When the majority party’s primary election is the decisive contest for choosing an elected body, as it is in the Decided Dozen, independents and voters from the other party are largely shut out of the process, with little ability to impact the ultimate outcome of elections. Naturally, representation of these voters is heavily skewed in the decisive electorate in the Decided Dozen, even those with an open primary system.⁴ *Relative skew*, as shown in the chart above, represents the percent change in share of voters; the share of Utah Republicans, for example, jumps from 50 percent of registered voters to 100 percent of Republican primary voters—a positive 100 percent change.

Unaffiliated voters in Tennessee, for instance, make up around 36 percent of registered voters and were 29 percent of 2012 presidential election voters; despite the state’s open primary status, however, they were just 4 percent of combined 2012 Democratic and Republican primary voters.

In the four safely Democratic states, the Democratic primary more than doubles the influence of Democratic voters; for example, Democrats make up roughly 35 percent of Massachusetts voters, which means that the generally decisive Democratic primary results in a 187 percent increase in their representation.

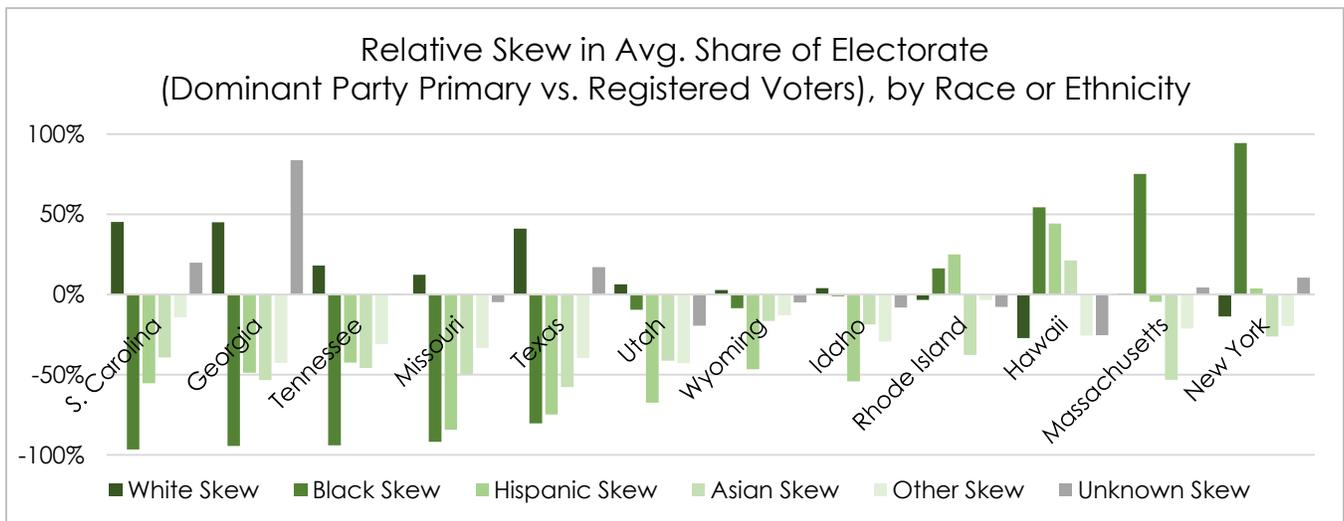
This pattern holds for safely Republican states as well. Republican voters in seven of the eight safe Republican states saw their influence at least double; Wyoming, a nearly 70 percent Republican state, only saw a 45 percent increase. In Georgia, a roughly 33 percent registered Republican state, a decisive Republican primary results in a 200 percent increase in Republican representation.

Age Disparities



Since 2010, decisive partisan primaries in all twelve states have skewed much older than the pool of registered voters and general election voters. Across the Decided Dozen states, voters over 50 averaged 56 percent of registered voters and 59 percent of 2012 presidential election voters, yet their average share of decisive primary electorates was 77 percent. Moreover, this age group saw its relative share of the electorate increase by at least 30 percent in seven of the ten states. Conversely, the share of voters aged 30 to 50 drops significantly between the pool of registered voters and decisive partisan primary voters. This demographic disparity is even more dramatic for voters under 30; the relative share of voters under 30 decreased by at least 30 percent in all twelve states and by at least 60 percent in nine of the twelve states. In Missouri, voters under 30 are 13 percent of registered voters and were 10 percent of 2012 presidential election voters but only 2 percent of Republican primary voters.

Racial and Ethnic Disparities



The relative primary skew by race or ethnicity splits decisively between safely Democratic and safely Republican states.⁵

In safely Democratic states (HI, MA, NY, RI), the primary electorate skews toward black and Hispanic voters, while the share of white voters declines. In Hawaii, for example, the Democratic primary electorate skews much more black, Hispanic, and Asian than the pool of registered voters.

In safely Republican states, the primary electorate skews disproportionately toward white voters to the sometimes dramatic disadvantage of black, Hispanic, and Asian voters. White voters in Georgia, for example, made up 85 percent of the Republican primary electorate but are only 59 percent of registered voters and were 60 percent of 2012 presidential election voters. In fact, the relative share of black voters dropped by at least 80 percent in five of the eight Republican states and the share of Hispanic voters dropped by at least 40 percent in all eight states.

Implications

Unrepresentative Government

In the twelve states with frozen representation, unrepresentative primaries with very low turnout effectively decide who will wield power and who has meaningful representation in the state legislature. Across the country, voter turnout in primary elections persistently lags behind general election participation. In safely Democratic or Republican states, this means that a significantly smaller group of voters controls government for all; New York, for example, has averaged less than 10 percent voter turnout in state legislative primaries since 2010.

The fact that the voices of these small groups of voters have such outsized impact is particularly significant because of how unrepresentative they are of states' voters collectively. The primary electorates in these states skew more partisan, much older, and generally whiter than the respective pools of registered voters. Both major parties' primary elections typically exclude independent and third party voters, yet primaries in safely Democratic or Republican states disadvantage the opposition party as well. In fact, even in states in which Democrats or Republicans make up a majority of voters, candidates must appeal to the most ardent and partisan base constituents for support, often staking out policy positions much farther left or right than the majority of their constituents.

The smaller primary electorate disproportionately also favors older voters compared to the broader general electorate; in every state, voters under 30 see their share of the electorate plummet between general and primary elections. Furthermore, white voters are typically overrepresented in primary electorates in safe states, though it varies between Democratic and Republican states; a few safely Democratic states, like Hawaii and New York, black, Hispanic, and Asian voters actually see their share of the electorate rise between registered and primary electorates. In both situations, however, decisive primary elections ensure that a very small and vastly different group of voters with specific interests control representation for all.

Voter Apathy

Uncompetitive general elections leave many voters with little incentive to engage in the democratic process. By the time the general election rolls around, most voters in safe Democratic or Republican seats typically have little opportunity to meaningfully influence election outcomes because a) they either did not or could not have participated in the decisive dominant party primary, or b) if they did participate, their choices were drastically limited by incumbency. Despite a few notable primary challenges from the left and right, many incumbents in safely Democratic or Republican state legislative districts run unopposed or face no serious opposition. Exclusion from primary election participation and unopposed incumbency in safe seats fuels an environment in which voters feel that their voices and their votes are not meaningful.

Conclusion

In legislative elections in which ultimate control of the chamber is never in doubt, and few individual races are meaningfully competitive, the dominant party's primary voters wield the bulk of the power in choosing the legislature and influencing the policy that it pursues. Unfortunately, in most cases these primary voters are highly unrepresentative of the electorate at large. In addition to being more partisan, they are significantly older than the pool of registered voters. They also fail to reflect the true racial and ethnic diversity of their states voters: In Republican states, they are disproportionately white. In Democratic states, they are disproportionately African American. These conditions not only lead to unrepresentative government, but also foster voter apathy by obscuring and excluding most voters from the elections' only decisive and meaningful races.

FairVote's electoral reform agenda has key components that we believe are essential for addressing these problems:

Modify the "top two primary" with ranked choice voting: We see great value in modifying the "top two primary" as used in California or Louisiana. The California system allows all voters to choose among candidates of all parties in the primary, with the top two facing off in November. Such rules still give the primary electorate dominant power, as the great majority of races are effectively decided there. But advancing four candidates and handling this increased number of ballot choices with ranked choice voting would open up far more general elections to real competition while creating new incentives for winners to reach out to more voters and be more representative of their district. The Louisiana system would mean eliminating the primary altogether; we would modify it with ranked choice voting in the November election to reduce the number of low-turnout December runoffs.

Replace gerrymandered single-winner districts with fair representation: Although the high partisanship of most state legislative districts is primarily a result of the natural distribution of voters, pervasive gerrymandering exaggerates these trends and is indefensible. But to truly address the widespread lack of competition, we need to accept that the real problem is not redistricting, but districting itself. In order to allow more voters to participate in meaningful elections and be represented, we support moving to multi-winner districts with ranked choice voting and other forms of fair representation voting that are already used in many local elections in the United States. Our simulations of such a plan for congressional elections (see fairvoting.us) indicate that nearly every such district would elect representatives of more than one party, and reflect greater diversity within the major parties as well.

The first step to change is admitting the problem. Although we focus on the Decided Dozen states in this report as emblematic of what is wrong with elections in the United States, these problems extend across all 50 states. Future reports in this series will clarify the sweeping nature of our dysfunctional status quo and make it clear that the Decided Dozen might just as easily be summarized as "the Failing Fifty."

ENDNOTES

¹ Special thanks goes to FairVote intern Brandon Leinz for his hard work collecting and helping to process this data. The data on presidential vote by state legislative district and other district data comes from Jeff Singer at DailyKos: <http://www.dailykos.com/story/2013/07/09/1220127/-Daily-Kos-Elections-2012-election-results-by-congressional-and-legislative-districts?detail=hide#>

² The district partisanship figure represents the underlying partisan lean of a district. Partisanship is calculated by taking the Democratic presidential candidate's two-party vote share in a district and subtracting half his national margin of victory. In 2012, for instance, Obama's national margin of victory was 3.85 percent. Thus, if Obama received 55 percent of the two-party vote in a district, that district's partisanship would be about 53 percent.

³ L2 VoterMapping is a voter analysis and data selection tool built on complete voter file data. L2's nationwide voter file contains over 166 million regularly updated voter records and is scrubbed against the national change of address database and deceased voters list. The VoterMapping tool offers unique analysis of current registered voters by voting history, party affiliation, gender, age, race or ethnicity, income, and other demographic and lifestyle characteristics.

Data sources include state and county level registered voter files, five national telephone source files, current U.S. Census Data, county-level election return data, and L2's privately-owned lifestyle and issue data. For data not available through voter registration forms or the aforementioned sources, L2 partners with analytics companies, like Latino Decisions and HaystaqDNA, for racial, ethnic, and issue-based modeling as well as Likely Party Modeling in states lacking party registration. As such, these data should be considered estimates. For more information, please visit: www.votermapping.com or www.l2political.com.

⁴ Note: The L2 VoterMapping system includes data for each primary election but does not separate the data by the Democratic or Republican primary. Therefore, to determine turnout in a given Republican primary, for example, this analysis uses "registered or likely Republican voters" as a proxy for those eligible to participate in the Republican primary. However, a number of the included states, such as Georgia, Hawaii, and Tennessee, use an open primary system in which independents may vote in Democratic or Republican primaries. As such, this methodology will underestimate participation in Republican and Democratic primaries by independents or voters who choose to vote in the opposing party's primary, thereby skewing the estimates for Democratic and Republican Skew. This methodology was applied for the analysis of age disparities and racial and ethnic disparities, as well.

⁵ L2 VoterMapping partners with analytics companies, like Latino Decisions, for racial and ethnic modeling to determine a given voter's racial and ethnic identity. As such, these figures are based off of estimates.