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FOR JUSTICE

REDISTRICTING AND  
CONGRESSIONAL CONTROL:  
A FIRST LOOK

Sundeep Iyer and Keesha Gaskins

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The statements and views expressed in this publication, or any errors therein, are solely the responsibility of the Brennan Center.

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## EXECUTIVE SUMMARY

Following the 2010 Census, states redrew Congressional districts across the country. In America's deeply divided political climate, even small changes to district boundaries can determine which party controls Congress. The outcome of redistricting can make the difference between which policies are adopted and which ones are ignored — not just in 2013, but for the next decade. But redistricting is not just consequential for partisan control. It also affects how communities are represented and determines whether legislators are responsive to the citizens they represent.

What has happened in this redistricting cycle? What will be the likely consequences? Of course, it is too early to say for sure — the votes have not been counted. But it is not too early to make some preliminary assessments. This study — a prologue to a more extensive analysis forthcoming in the spring — features our initial analysis of the 2010 congressional redistricting cycle. It focuses on the likely impact of redistricting on the partisan balance of power in Congress.

Based on our preliminary analysis, it is clear that:

- **Republicans were the clear winners of the 2010 redistricting cycle.** Compared to the current partisan makeup of Congress, the net effect of redistricting was roughly a “wash.” However, before redistricting, Republicans were not in position to maintain long-term control of several seats they won in the 2010 election. During redistricting, Republican-controlled legislatures shored up many of their recent gains: **The GOP may now be in position to maintain long-term control of about 11 more seats than they would have under the pre-redistricting district lines.** As a result, Democrats will find it harder to gain the 25 seats needed to take control of the House in 2012.
- **Democrats and Republicans used redistricting to their political advantage.** Where Republicans controlled redistricting, they may now be in position to win nine Congressional seats currently represented by Democrats. Democrats countered some of these gains where they controlled the process, but Republicans redrew the lines for four times as many Congressional seats as Democrats.

Many election contests are decided not on Election Day, but months and years before, when states redraw their districts. Both parties use redistricting to tilt the electoral terrain to achieve specific political objectives. This political gamesmanship brings with it important long-term electoral and policy consequences for voters.

Nonetheless, recent reforms in some states have taken redistricting out of partisan hands — or, at the very least, may have reduced the ability of partisans to manipulate the process to their advantage. For example, California's new redistricting commission dismantled several incumbent-protecting gerrymanders, reducing the number of safe seats in the state by nine. Meanwhile, Florida, where Republican line-drawers were required to comply with the state's new “Fair Redistricting” criteria, is the only state where Republican state legislators drew new Congressional districts that may have actually increased the opposing party's political power.

Of course, it is far too early to draw conclusions about what effects these reforms and others have had. This report is the starting point for the Brennan Center's ongoing assessment of redistricting and its effects on citizen

representation. The analysis in this report is limited to the findings from the most recent redistricting cycle based on available data on partisan voting patterns. This report does not address the fairness of district boundaries, nor does it explore whether communities of interest are effectively represented in the new districts. The analysis also does not draw any causal links between who controlled redistricting and the eventual outcomes of the election.

Following the 2012 election, the Brennan Center will examine other aspects of redistricting, including its effect on minority representation and the fairness of the process, among others. That broader assessment will describe in greater detail the lessons learned from the 2010 redistricting cycle.



## INTRODUCTION

Every decade, after the national Census is completed, the Census Bureau determines the number of Congressional representatives from each state based upon the overall population count. Using Census population data, each state draws new boundaries for Congressional, state legislative, and local political districts.

Redistricting is the process of creating district boundaries to determine which constituents each legislator represents. Most often, elected officials in state legislatures draw the district lines. In some states, independent or politician commissions control redistricting. If commissions or legislatures are unable to complete the task because of gridlock, excessive delays, or a finding of illegality, courts take control of the redistricting process and determine what district lines will be used.

This report features the Brennan Center's preliminary analysis of the 2010 Congressional redistricting cycle, focusing on who drew the lines — legislatures, commissions, or courts — and how that shaped the outcomes of the process. Specifically, the study reviews the new Congressional districts and presents data on how the new lines could affect electoral competitiveness and the partisan balance of power in Congress. When assessing whether redistricting furthers the public interest, electoral competitiveness only tells part of the story. Prior to an election, however, it provides a clear lens for preliminarily understanding the potential implications of redistricting for Congressional representation.

This report does not comprehensively analyze whether redistricting met the goal of enhancing effective representation. It does not examine Congressional districts for compliance with principles of compactness and contiguity, for consistency with political boundaries, nor for whether the districts adequately protect communities of interest. It also does not consider whether line-drawers incorporated citizen input or made the process sufficiently transparent to constituents. And the report does not study minority representation or how the Voting Rights Act of 1965, hallmark legislation that protects minorities against electoral discrimination, shaped the end results of redistricting. After the 2012 election, the Brennan Center will undertake a broader assessment of the 2010 redistricting cycle, examining the lessons learned, and evaluating how the process can be improved, in 2020 and beyond.

Before the 2010 redistricting cycle began, several important developments set the stage for the process. First, in the 2010 election, Republicans won six governorships and about 675 state legislative seats previously held by Democrats.<sup>1</sup> As a result, Republicans began the redistricting cycle controlling redistricting for 213 of the 435 seats in Congress.<sup>2</sup> By contrast, Democrats drew the lines for just 44 seats.

**Redistricting** is the process of redrawing legislative district lines.

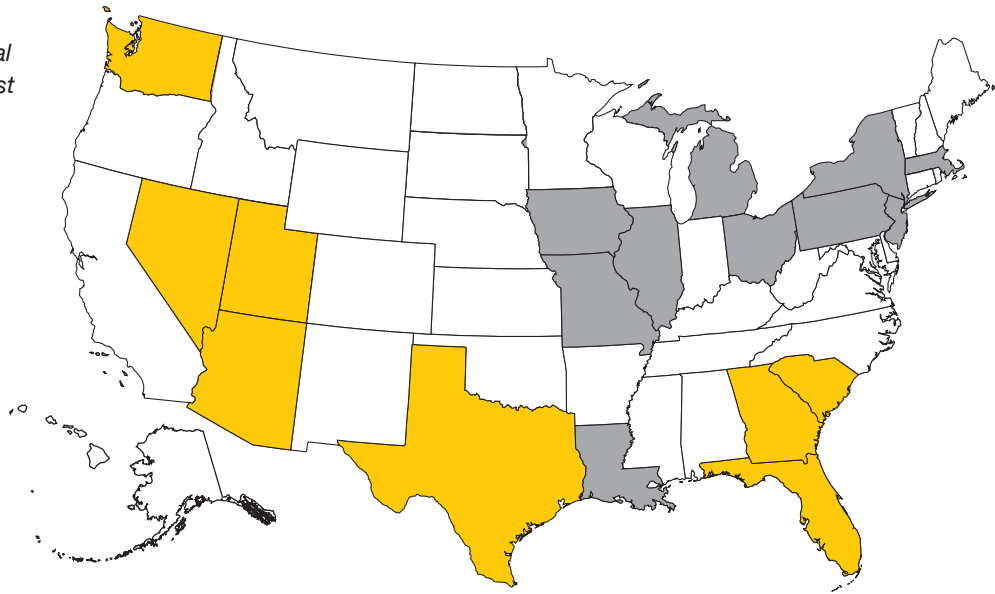
**Reapportionment** is the process of using a state's population to decide how many representatives it gets.

**Gerrymandering** is a practice whereby line-drawers manipulate district lines to establish a political advantage for a particular party or group. A gerrymandered district is best identified by understanding the intent of the line-drawers rather than simply by looking at its shape.

Because of population shifts, eight states gained Congressional representatives, and 10 states lost representatives.

States Gaining Representatives	
Texas	+4
Florida	+2
Arizona	+1
Georgia	+1
Nevada	+1
South Carolina	+1
Utah	+1
Washington	+1
<b>Total</b>	<b>12</b>

States Losing Representatives	
New York	-2
Ohio	-2
Illinois	-1
Iowa	-1
Louisiana	-1
Massachusetts	-1
Michigan	-1
Missouri	-1
New Jersey	-1
Pennsylvania	-1
<b>Total</b>	<b>12</b>



Second, although partisans controlled redistricting for more than half of all Congressional districts, independent redistricting commissions became much more prominent, and courts continued to play an important role in the process. Independent commissions controlled redistricting for 78 seats, while courts ended up controlling 62 seats.<sup>3</sup>

Third, America experienced significant demographic shifts during the past decade. In particular, the nation’s Hispanic, Asian, and African-American populations experienced dramatic growth since 2000. While the white population grew by just 5 percent, the Hispanic and Asian populations increased by 43 percent, and the African-American population increased by 12 percent.<sup>4</sup>

Finally, trends in population growth and migration patterns shifted political power from the Northeast and Midwest to the Southeast and West.

Based on the Brennan Center’s preliminary analysis of the 2010 redistricting cycle, it is clear that:

- Republicans benefited more from redistricting, primarily because they controlled redistricting for nearly four times as many seats as Democrats.
- Where they controlled the process, partisan actors — both Democrat and Republican — used redistricting to increase their political advantage.

The preliminary findings of our analysis suggest that the type of authority that controlled redistricting — whether legislature, commission, or court — may have mattered immensely for the results of the process. As the study shows, redistricting by partisans has altered the political playing field for the upcoming decade.

## REDISTRICTING AND PARTISAN CONTROL OF CONGRESS

As noted earlier, there are many ways to measure the outcomes of redistricting. This section focuses on electoral competitiveness and the partisan balance of power in Congress. To assess how redistricting affects the partisan makeup of Congress, this report assigns each Congressional district, before and after redistricting, one of three competitiveness ratings:<sup>5</sup>

- **Safe seats:** Districts where one party regularly receives 60 percent or more of the two-party vote in recent Congressional, Presidential, and state-level elections. Safe seats are not competitive. The incumbent party rarely, if ever, loses.
- **Likely seats:** Districts where one party regularly receives between 55 and 59.9 percent of the two-party vote in recent Congressional, Presidential, and state-level elections. The incumbent party usually wins an election in a likely seat, but the opposing party still occasionally has an opportunity to wrest control. Likely seats are sometimes competitive.
- **Marginal seats:** Districts where one party regularly receives between 50 and 54.9 percent of the two-party vote in recent Congressional, Presidential, and state-level elections. Marginal seats are often highly competitive. Victory is not certain for either party.

These three categories — safe, likely, and marginal — are derived from the political science literature examining the competitiveness of Congressional elections. There is not universal agreement regarding the appropriate vote share thresholds for safe, likely, and marginal seats, as some scholars consider 55 percent as the threshold for safe seats.<sup>6</sup> But there is little dispute in the literature that districts where the winning candidate ordinarily receives between 50 and 54.9 percent of the two-party vote are generally competitive districts. Previous research also suggests that Congressional challengers have greater probabilities of victory in districts within the 50 to 54.9 percent range than in districts within the 55 to 59.9 percent range.<sup>7</sup> Meanwhile, several of the most important studies in the field have used 60 percent of the two-party vote as the threshold for safe seats.<sup>8</sup> This study does not resolve the debate over the thresholds for safe, likely, and marginal seats. However, the thresholds used in this report are supported by many of the seminal studies on Congressional electoral competitiveness.<sup>9</sup> The core conclusions of this report also would not be altered even if 55 percent were used as the threshold for safe seats.

For each of the three competitiveness ratings, we attach a party label indicating whether the partisan voting history in the district from 2006 onward favors Republican or Democratic candidates.<sup>10</sup> Importantly, the competitiveness labels are not tied to the party of the current incumbent. For example, if the voting history in a marginal district tends to favor Democrats, the report classifies the district as a marginal Democratic seat, even if the seat is currently represented by a Republican.

The classifications in this report are *not* projections of 2012 election outcomes; they only consider the partisan leanings of voters in each district. The classifications do not account for election-specific factors such as incumbency or campaign spending that can affect a particular election result.

### Republican Freshmen and Incumbent Protection

The 2010 redistricting cycle actually decreased the number of safe seats in Congress — regardless of political party — by 11, from 207 to 196 (see Table A1 in Appendix A). But line-drawers do not always need to put incumbents in safe seats to improve their re-election prospects.

In fact, Congressional redistricting protected many of the most vulnerable incumbents without giving them safe seats. Of the 87 Republican freshmen elected to Congress in 2010, 59 represented seats where the winning candidate ordinarily received between 50 and 54.9 percent of the two-party vote before redistricting: 14 were in districts that tended to elect Democrats, and 45 were in districts that tended to elect Republicans. After redistricting, nearly half of the most vulnerable GOP freshmen — 24 of 59 — received districts with a more favorable competitiveness rating.<sup>16</sup> Moreover, redistricting reduced the number of GOP freshmen in districts that ordinarily elect Democrats from 14 to just 6. Notably, even as many of the most vulnerable 59 Republican freshmen received more favorable districts, not a single one received a safe seat as part of redistricting.

## A. Republicans Won the 2010 Redistricting Cycle

Following the most recent election, Republicans held 242 seats in the House, and Democrats held 193. (Currently, there are five vacant seats in the House, leaving 240 sitting Republicans and 190 sitting Democrats.<sup>11</sup>) But according to this report’s competitiveness ratings analysis, there were only 230 seats categorized as Republican (safe, likely, or marginal) before redistricting.

Republican success in the 2010 elections explains the discrepancy between the competitiveness ratings and the current partisan makeup of Congress. Sixteen percent of the freshman Republicans in Congress won elections in marginal Democratic districts, where Democrats have historically won elections with between 50 and 54.9 percent of the vote.<sup>12</sup> But for redistricting, Republicans may have had trouble holding onto these seats, and Democrats might have had an opportunity to roll back some of the Republican gains from 2010.

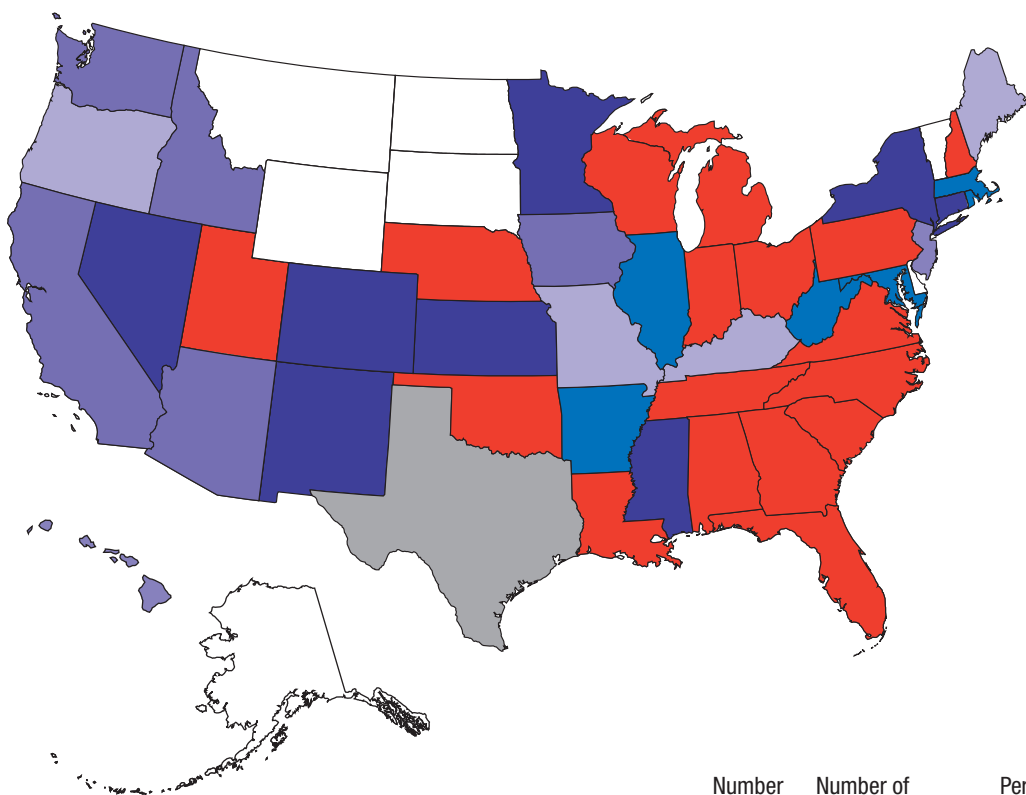
	Republican	218 seats for majority	Democrat
Current Partisan Makeup of Congress	242		193
Partisan Voting History Based on Competitiveness Ratings, Before Redistricting	230		205
Partisan Voting History Based on Competitiveness Ratings, After Redistricting	241		194

**Table 1:** Republican and Democratic Seats in Congress, before and after redistricting. The table shows the number of Republican and Democratic seats in Congress based on the current partisan makeup of Congress and based on competitiveness ratings.

As Table 1 shows, redistricting increased the number of seats categorized as Republican (safe, likely, or marginal) from 230 to 241. Republicans achieved these gains by shoring up many of the most vulnerable GOP incumbents, moving them from districts that historically favored Democrats into districts that, following redistricting, now favor Republicans. Consequently, Republicans were the clear beneficiaries of the 2010 redistricting cycle. The GOP is now in position to maintain long-term control of about 11 more seats than they would have under the old district lines. To put this in perspective, Democrats must win 25 seats to retake the majority in the House.<sup>13</sup>

Alternately, it is possible to assess the net results of redistricting by examining whether the process will change the current partisan makeup of the House.<sup>14</sup> As indicated in Table 1, following redistricting, Republicans are expected to hold 241 seats, and Democrats are expected to hold 194 seats. Compared to the current partisan makeup of Congress, then, Democrats gained one seat during redistricting.<sup>15</sup> This suggests that the net result of redistricting was roughly a “wash.”

However, this report takes a different approach to assessing the partisan outcomes of redistricting. In concluding that Republicans benefitted from Congressional redistricting, the report’s methodology acknowledges that before redistricting, Republicans were not in position to maintain long-term control over several seats they won in the 2010 election. As David Wasserman of *The Cook Political Report* notes, Republicans “saved about a dozen seats that they would have otherwise lost in 2012 if they hadn’t undergone the remap.”<sup>17</sup> In fact, it is primarily because of Republican success in shoring up recent electoral gains that redistricting is unlikely to substantially change the current partisan makeup of Congress.



### Who Drew the Lines?

There are six types of redistricting authorities: Republican state legislature and governor; Democratic state legislature and governor; state legislature and governor with split control between Republicans and Democrats; an independent commission; a politician commission; and a state or federal court. Because of unique circumstances in Texas, documented in Appendix B, we do not include Texas among any of the six categories.<sup>18</sup> For a list of states in each category of redistricting authorities, consult Appendix B.

	Number of States	Number of Districts	Percent of All Congressional Districts
<b>Republican- Controlled Legislature</b>	17	173	39.8%
<b>Independent Commission</b>	5	78	17.9%
<b>State or Federal Court</b>	8	62	14.3%
<b>Democratic- Controlled Legislature</b>	6	44	10.1%
<b>Split Control</b>	4	21	4.8%
<b>Politician Commission</b>	2	14	3.2%
<b>No Congressional Redistricting (One District)</b>	7	7	1.6%
<b>Texas (Not Included in Other Categories)</b>	1	36	8.3%

## B. The Outcomes of Partisan and Nonpartisan Redistricting

Republican success during the most recent round of redistricting was partly the result of GOP control of state legislatures, which drew the lines in many states. During the 2010 election, Republicans gained control of 12 more state legislatures, increasing the total number of state legislatures they commanded to 26. This was more than any time since 1952.<sup>19</sup> As a result, Republican state legislatures and governors controlled redistricting for about two-fifths of all Congressional districts — 173 out of 435.<sup>20</sup> By contrast, Democratic state legislatures and governors controlled redistricting for 44 districts. In other states, legislative control was split or the governor was from the opposite political party, so the parties needed to compromise to adopt new districts.

*What's the difference between independent and politician commissions?*

*A **Politician Commission** is a redistricting body that can be made up of elected officials and their appointees; however, the legislature as a whole is not involved in the line-drawing process.*

***Independent Commissions** entirely preclude the participation of elected and party officials in drawing district lines. Partisan officials may have a role in selecting the commissioners, but they do not serve on the commission or formally take part in creating new district boundaries.*

However, state legislatures did not draw the lines for every district. In some states, independent or politician commissions drew the lines. Where state legislative plans failed to conform to state or federal law or were not completed in a timely fashion, courts took over the redistricting process.<sup>21</sup> Because of the unique situation surrounding redistricting in Texas, we exclude the state from all of these categories.<sup>22</sup>

For each category of redistricting authorities, Table 2 assesses the net partisan result of redistricting in two ways. Columns three and four examine how redistricting could change the current partisan makeup of the House. As described in the previous section, this methodology concludes that the overall net effect of redistricting was roughly a “wash.”<sup>23</sup> By contrast, columns five and six rely on this report’s competitiveness ratings analysis, assessing whether redistricting changed which party would *ordinarily* be expected to win in each district. As noted in the previous section, the Brennan Center’s methodology (displayed in columns five and six) indicates that Republicans were the overall winners of the 2010 redistricting cycle. Unlike columns three and four, columns five and six reflect GOP success in shoring up some of their gains from the most recent election.

The net change in each category in Table 2 does not always sum to zero, as some states gained or lost seats during reapportionment. Moreover, Table 2 is not a measure of partisan “fairness.” Because this report does not assess the fairness of the previous district lines, the potential Democratic or Republican gains identified in Table 2 are not by themselves an indication of whether the new lines enhance representation or improve the fairness of district boundaries.<sup>24</sup> Rather, Table 2 is only an assessment of the net partisan outcomes of 2010 redistricting.



	Total Congressional Districts Controlled During Redistricting	Predicted Change to Current Partisan Makeup of Congress		Projected Change in Electoral Success, Based on Partisan Voting History (Competitiveness Ratings)	
		R	D	R	D
<b>Republican-Controlled Legislature</b>	<b>173</b>	<b>+9</b>	<b>-9</b>	<b>+16</b>	<b>-16</b>
Independent Commission	78	-4	+5	-4	+5
State or Federal Court	62	-2	+1	+1	-2
<b>Democratic-Controlled Legislature</b>	<b>44</b>	<b>-6</b>	<b>+4</b>	<b>-5</b>	<b>+3</b>
Split Control	21	0	-1	0	-1
Politician Commission	14	0	-1	0	-1
Texas (not included in other categories)	36	+2	+2	+3	+1
<b>TOTAL</b>	<b>428</b>	<b>-1</b>	<b>+1</b>	<b>+11</b>	<b>-11</b>

**Table 2:** Predicted Net Partisan Result of Redistricting, by Actor Controlling Redistricting. Columns three and four represent the analysis which concludes that the net overall effect of redistricting was roughly a “wash.” Columns five and six represent the Brennan Center’s analysis, which accounts for vulnerable incumbents who were shored up during redistricting. The table excludes the seven states that did not redistrict Congressional seats because they have only one district. It includes Texas in a separate category because of the unique circumstances surrounding redistricting in the state.

The sections below examine four of the categories listed in Table 2: Republican legislatures, Democratic legislatures, independent commissions, and courts. As split control states redistricted just 4.8 percent, and politician commission states only 3.2 percent, of all seats in Congress, these two categories are not included in the analysis below.

### 1. Republican Control: Maximizing GOP Opportunities

Republicans controlled redistricting in 17 states, redrawing the lines for 173 of the 435 seats in Congress. Based on this report’s competitiveness ratings, redistricting in these states increased the number of expected Republican seats by 16. Three-quarters of the Congressional seats in states where the GOP controlled redistricting — 130 of 173 — are now categorized as Republican (safe, likely, or marginal).

Table 3 shows the number of marginal districts, where the winning candidate tends to receive between 50 and 54.9 percent of the two-party vote, in states where Republicans controlled redistricting, both before and after redistricting. As Table 3 demonstrates, Republican-controlled redistricting dramatically reduced the total number of such seats from 48 to 36. The decline resulted from the way that Republican line-drawers redrew the 19 districts where Democrats tended to receive between 50 and 54.9 percent of the two-party vote. Following redistricting, only one such marginal Democratic district remains: Florida’s 18th district, held by African-American freshman Republican Rep. Allen West. West is the only one of the 45

### Incumbent Threats: Redistricting and Primary Challenges

Making a district less competitive in two-party terms often increases competition in primary elections. For example, Pennsylvania’s 17th district, held by Rep. Tim Holden,<sup>25</sup> a 10-term conservative Democrat, became significantly more Democratic during redistricting.<sup>26</sup> This made Holden, dean of Pennsylvania’s congressional delegation, vulnerable to a primary challenge from the left. As a result, in the 2012 primary, Holden was defeated by a more liberal challenger, lawyer Matt Cartwright.<sup>27</sup> Cartwright slammed Holden for voting against the Affordable Care Act, a position that favored Holden in his old district.<sup>28</sup> David Wasserman of The Cook Political Report noted that Holden was vulnerable in the primary “because of redistricting — Holden began the campaign pretty much unknown in...80 percent of the seat.”<sup>29</sup>

Redistricting also affects intra-party competition when two incumbents are paired against one another. In 2012, 10 incumbents will lose their seats because of an election battle with another incumbent from their own party.<sup>30</sup>

*The 17 States Where Republicans Controlled Redistricting: Alabama, Florida, Georgia, Indiana, Louisiana, Michigan, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Wisconsin*

### Changing the Rules of the Game

Historically, Wisconsin handled redistricting from the ground up. Wisconsin law requires that each legislative district must be designed as a contiguous territory bounded by county, precinct, town, or ward lines.<sup>33</sup> Accordingly, cities and towns drew municipal ward lines first. Only then would the legislature draw new boundaries for Congressional and legislative districts.

But this redistricting cycle was different. In 2011, after a highly contentious legislative session, the Wisconsin state legislature recessed in May as it has every year, planning to reconvene in September. Because of major partisan battles over public employee pay, benefits, and collective bargaining guarantees, recall elections for eight Democratic legislators and eight Republican legislators were scheduled for July and August 2011.<sup>34</sup> Depending on the outcome, the recall elections threatened GOP control of the state legislature.<sup>35</sup>

Suddenly, on July 19, 2011, while counties and municipalities were still working to redistrict their political boundaries, Republican leaders convened a special session of the legislature.<sup>36</sup> They passed a final Congressional map on July 20.<sup>37</sup> The legislature also approved a surprising new law requiring municipalities to draw — or in some cases, redraw — ward lines after the legislature drew new Congressional and legislative districts.<sup>38</sup>

The legislature took these extraordinary steps in order to ensure that redistricting would occur before the legislature could change political hands.

Republican freshmen members in Republican-controlled states who will run for re-election in a district that tilts Democratic; the other seven Republican freshmen who were in seats that tend to elect Democrats before are now protected in seats that tilt Republican.

**Table 3: Number of Marginal (50 to 54.9 Percent) Seats in Republican-Controlled States**

**Before Redistricting**



**Total Number of Marginal Seats Before Redistricting: 48**

**After Redistricting**



**Total Number of Marginal Seats After Redistricting: 36**

**Table 3:** Number of Marginal (50 to 54.9 Percent) Seats in Republican-Controlled States, based on the competitiveness ratings used in this report.

Even assessing the net results of redistricting by reference to the current partisan makeup of the House — a methodology which concludes that the net national effect of redistricting was a “wash” — demonstrates that where Republicans drew the lines, the GOP may now be in position to pick up nine seats held by Democratic incumbents. Before redistricting, many experts, such as David Wasserman of *The Cook Political Report*, predicted that “Republicans made so many gains in 2010 that they don’t have a lot left to gain...they simply have a lot left to shore up.”<sup>31</sup> The result of redistricting in Republican-controlled states suggests that the GOP found a way not only to reinforce their gains from 2010, but also to make inroads in several traditionally Democratic districts.

In North Carolina, for example, Republican line-drawers carved Democratic voters out of the districts of several vulnerable incumbent Democrats and placed them in safe Republican districts. This strategy weakened the state’s Democratic incumbents. Republicans now have an inside track to winning 10 of the state’s 13 Congressional districts, even though they hold just 6 of the 13 seats now.

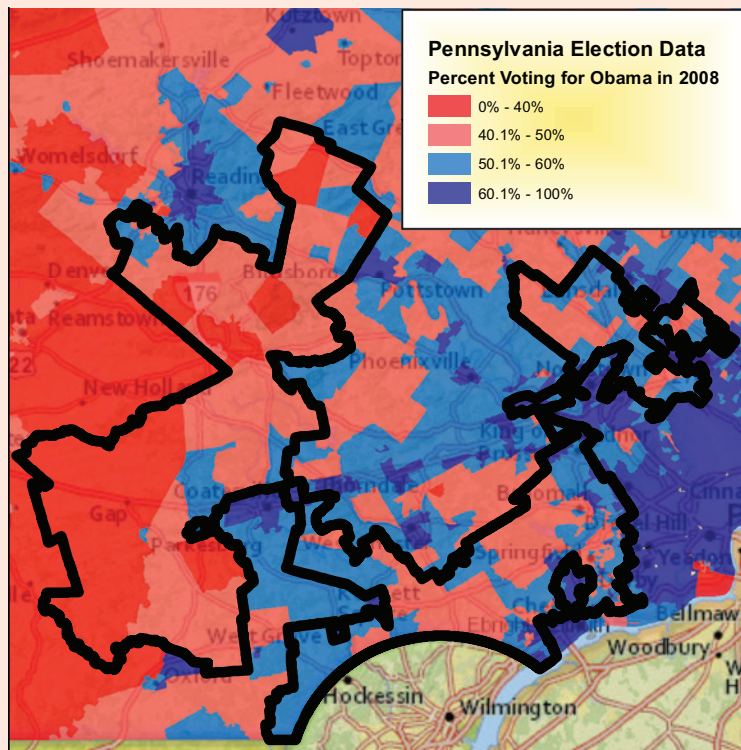
**Redistricting Spotlight: Florida Fair Redistricting Amendments**

In November 2010, Florida voters approved a ballot measure amending the state constitution to include new criteria for Congressional and legislative districts. The amendments required that districts “not be drawn to favor or disfavor an incumbent or political party” or “to deny racial or language minorities the equal opportunity to participate in the political process and elect representatives of their choice.”<sup>32</sup>



## Protecting Freshman Incumbents in Highly Competitive Democratic Seats

To protect GOP freshmen who won in seats where Democrats tend to receive between 50 and 54.9 percent of the two-party vote, Republican line-drawers produced some of the country's most visually striking districts. One of them was the new district drawn for Rep. Pat Meehan in Pennsylvania, shown in Figure 1. Meehan's new 7th district snakes through the western suburbs of Philadelphia, tiptoeing around Democratic urban and suburban enclaves. Republican line-drawers made Meehan's district significantly more Republican, turning it from a district that tended to elect Democrats into one that tilts Republicans.<sup>39</sup>



**Figure 1:** Rep. Pat Meehan's 7th district after redistricting. The figure shows the percentage of the two-party vote that Barack Obama won in the 2008 Presidential election, by Vote Tabulation District (VTD). Meehan's 7th district turns from a marginal Democratic seat to a marginal Republican one.

Democrats compared the district to an “oil spill” and to “roadkill.” One said he was still “trying to think of the appropriate animal name, or monster name, for it.”<sup>40</sup> Even State Sen. Chuck McIlhinney, a Republican member of the state senate committee responsible for redistricting, acknowledged that the district “looks crazy” and defended the district by noting that “there are 18 districts [in Pennsylvania] and the 17 other ones look pretty good.”<sup>41</sup>

To be sure, there may be many explanations — not all of them suspect — for an unusually-shaped district. But in this case, protecting a vulnerable incumbent was at least part of the reason the 7th district now looks as it does.

Control of redistricting remained with Florida's Republican-controlled legislature, but the amendments curtailed their ability to gerrymander the state's Congressional districts. As Rep. Steve Israel, chairman of the Democratic Congressional Campaign Committee, noted before the state drew its new lines, "The only way that they could conceivably add more Republicans to Florida without violating Florida's own fair redistricting standards would be to redistrict into Bermuda and the Cayman Islands."<sup>42</sup>

Israel's prediction proved correct. The state gained two Congressional seats thanks to population growth, but the legislature could not create any additional Republican-leaning districts, so the two districts lean Democratic and one of the two is majority non-white.<sup>43</sup> In part because of the Fair Redistricting amendments, Florida is the only GOP-controlled state where Democrats are likely to pick up seats.

## *2. Democratic Control: Few Chances to Counter Republican Gains*

Democrats controlled the redistricting process for only 44 seats in 6 states. Redistricting in these six states increased by three the number of seats categorized as Democratic and reduced by five the number of seats categorized as Republican.<sup>44</sup> As Table 2 shows, after accounting for the party affiliation of the current incumbent in each district, Democratic-controlled redistricting resulted in a potential four seat gain for Democrats and a potential six seat loss for Republicans.

Like Republicans, Democrats increased their political advantage where they controlled redistricting. But because they redistricted about one-quarter the number of seats as Republicans, they could counteract only a fraction of the GOP gains this redistricting cycle.

### *Redistricting Spotlight: Illinois*

After redistricting, Illinois has two more marginal Democratic seats and four fewer marginal Republican ones. To achieve these gains, the legislature moved Republican voters from some vulnerable GOP districts into other vulnerable Republican districts, making some GOP incumbents safer while weakening others. For instance, the legislature took Republican voters out of the 8th district, held by freshman Republican Rep. Joe Walsh, and the 10th district, held by freshman GOP Rep. Robert Dold. Those Republican voters were then added to the marginal 6th district held by Republican Rep. Peter Roskam. As a result, Roskam is now in a safer seat, but Walsh and Dold are now in competitive Democratic-leaning seats and face an uphill battle in their re-election bids.

*The Six States Where Democrats Controlled Redistricting: Arkansas, Illinois, Maryland, Massachusetts, Rhode Island, and West Virginia*

This strategy explains why all six marginal districts in Illinois, where the winning candidate tends to receive between 50 and 54.9 percent of the two-party vote, received a different competitiveness rating after redistricting.<sup>45</sup>

### *3. Independent Redistricting Commissions*

In five states, independent commissions controlled redistricting. They set the boundaries for 78 Congressional districts, though a single state — California — was responsible for 53 of these districts. Overall, commission-driven redistricting increased the total number of seats categorized as Democratic (marginal, likely, and safe) by five and reduced the total number of seats categorized as Republican by four.<sup>46</sup> Columns three and four in Table 2 indicate that the result is not different even after accounting for the partisan affiliation of the incumbent in each seat. Again, because this report does not evaluate the fairness of the previous district lines, these results do not, by themselves, permit the conclusion that commissions generally benefit one party over another.<sup>47</sup>

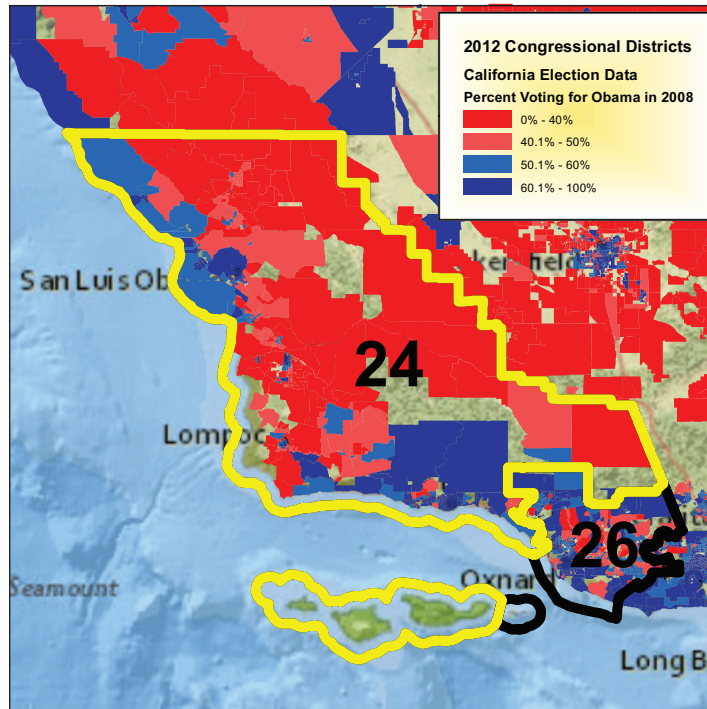
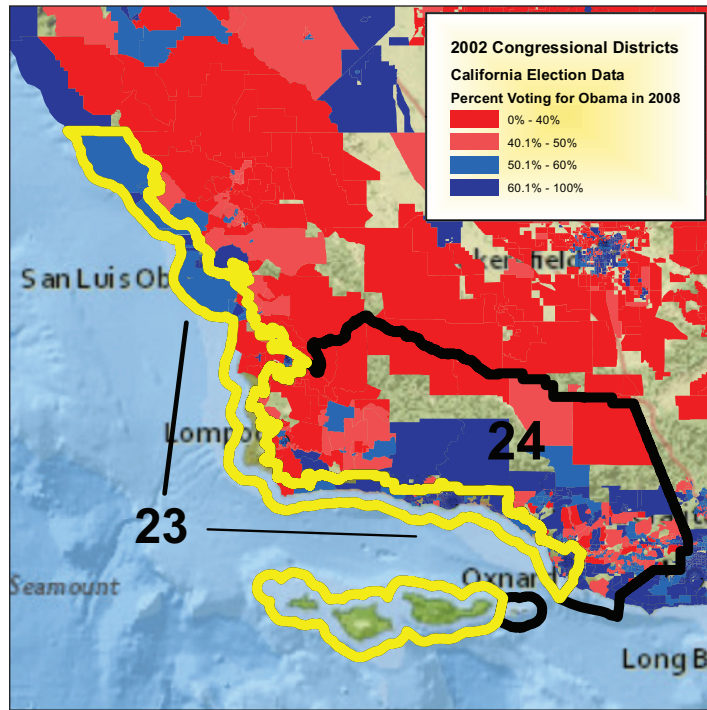
*The Five States Where Independent Commissions Controlled Redistricting: Arizona, California, Idaho, Iowa, and Washington*

In the five states with independent commissions, there are now five fewer safe seats. However, electoral competition did not uniformly increase in states where commissions controlled redistricting. Though competition increased in Iowa and California, it decreased in Arizona and Washington. Arizona's commission actually doubled the total number of safe seats, from three to six.

### *Redistricting Spotlight: California Citizens Redistricting Commission*

In November 2008, a successful ballot initiative in California created a 14-member independent commission to draw the state's Congressional and legislative district lines.<sup>48</sup> This redistricting cycle, the California Citizens Redistricting Commission reduced the number of safe seats by nine, more than any other state. They achieved this result partly by undoing incumbent-protecting Democratic gerrymanders from the 2000 redistricting cycle.

Take, for instance, the old 23rd district, held by Rep. Lois Capps, a Democrat. The safe Democratic district snaked along the California coast north of Los Angeles for nearly 200 miles, avoiding GOP enclaves further inland. Gov. Arnold Schwarzenegger called the district a “ribbon of shame,” and locals have dubbed it “the district that disappears at high tide.”<sup>49</sup> Figure 2 shows Capps' old 23rd district; Figure 3 shows her new 24th district. The figures also show the likely Republican old 24th district (held by longtime Republican Rep. Elton Gallegly) and the new 26th district.



**Figure 2 (top):** Rep. Lois Capps' old 23rd district and Rep. Elton Gallegly's old 24th district, before redistricting. **Figure 3 (bottom):** Rep. Capps' new 24th district and Rep. Gallegly's new 26th district, after redistricting. The figure shows the percentage of the two-party vote that Barack Obama won in the 2008 Presidential election, by Vote Tabulation District (VTD). Capps' district transitions from a safe Democratic to a marginal Democratic seat, while Gallegly's district transitions from likely Republican to marginal Democrat.

The Citizens Commission made these districts more geographically compact. Capps' new district goes further inland, including many GOP strongholds; it turns from a safe Democratic seat to a highly competitive Democratic seat. As a result, Capps is locked in a heated re-election battle with former GOP Lt. Governor Abel Maldonado.<sup>50</sup> Meanwhile, Gallegly's new district shifts from a likely Republican seat to a highly competitive Democratic one. Gallegly has decided that he will retire instead of running in his new district.<sup>51</sup>

#### **4. Court-Controlled Redistricting**

State and federal courts redistricted 62 Congressional districts in eight states. Where redistricting fell to the courts, there are now four fewer safe seats. Based on this report's competitiveness classifications, court-controlled redistricting increased the number of seats categorized as Republican by one and reduced the number of seats categorized as Democratic by two. But after accounting for the party affiliation of the current incumbent in each seat, as shown in Table 2, redistricting by the courts resulted in a potential net two seat loss for Republicans and a one seat gain for Democrats.<sup>52</sup>

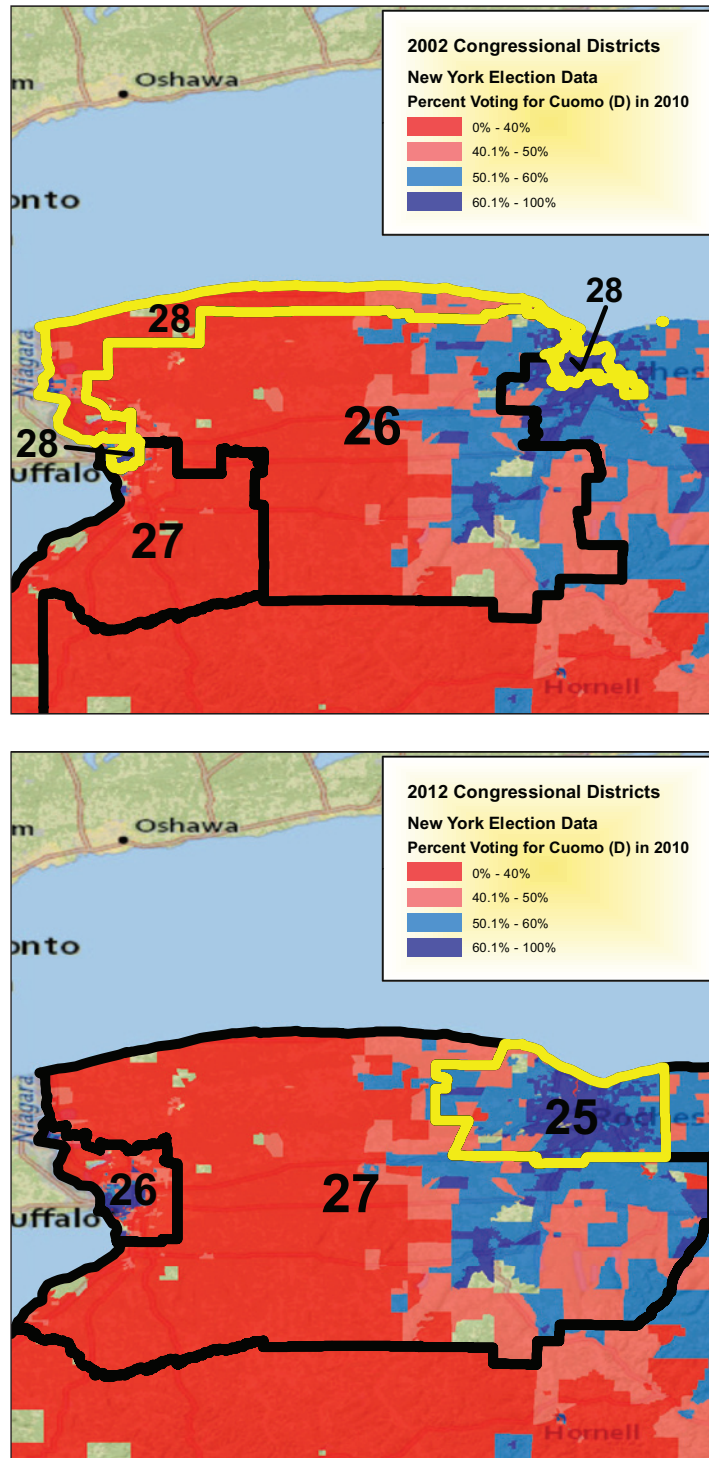
*The Eight States With Court-Controlled Redistricting: Colorado, Connecticut, Kansas, Minnesota, Mississippi, Nevada, New Mexico, and New York*

Each court approached the redistricting process differently, based upon the facts in each case. For instance, in Colorado, where each party controls one chamber of the state legislature, a state court chose to adopt the map proposed by the Democrats.<sup>53</sup> In other states, like New York and Connecticut, a court-appointed special master drafted the map that the courts adopted.<sup>54</sup> This makes it difficult to draw conclusions about the results of court-controlled redistricting.

#### **Redistricting Spotlight: New York**

The federal court in New York redrew one of the most striking districts created during the previous redistricting cycle: the old 28th district. Figure 4 shows the district, held by Democrat Rep. Louise Slaughter, which connected parts of Rochester and Buffalo via a thin tract along Lake Ontario and had been described as the “earmuff district.”<sup>55</sup> Figure 5 shows how redistricting changed the district — and the districts of other incumbents around it.





**Figure 4 (top):** Rep. Louise Slaughter’s old 28th district and Rep. Kathy Hochul’s old 26th district, before redistricting. **Figure 5 (bottom):** Rep. Slaughter’s new 25th district and Rep. Hochul’s new 27th district, after redistricting. The figure shows the percentage of the two-party vote that Democrat Andrew Cuomo won in the 2010 gubernatorial election, by Vote Tabulation District (VTD). Slaughter’s district transitions from a safe Democratic to a likely Democratic seat. Hochul’s district shifts from marginal Republican to likely Republican.

Slaughter, a resident of a Rochester suburb, is now running for re-election in the much more compact 25th district. Without heavily-Democratic downtown Buffalo, her district turns from a safe Democratic seat into a likely Democratic seat.<sup>56</sup> Dismantling Slaughter's old "earmuffs" district also affects Rep. Kathy Hochul, a Democrat who won a special election in 2011 to represent the old 26th district.<sup>57</sup> Hochul's new 27th district loses several Democrat-leaning areas west of Rochester to Slaughter's new district; her new district also absorbs many of the Republican-leaning areas southeast of Buffalo. As a result, her district shifts from a marginal Republican seat to a likely Republican one.

Thanks in part to the federal court's new district map, upstate New York is an important Congressional battleground: As of the publication of this report, 7 of the 11 upstate Congressional districts are competitive seats for the 2012 election, according to Sabato's Crystal Ball at the University of Virginia.<sup>58</sup>

## CONCLUSION

As demonstrated throughout this report, the rules governing the redistricting process help define the results. Partisan actors used the process to their political advantage, tilting the electoral terrain for the next decade. Conversely, courts and independent commissions dismantled some of the incumbent-protecting districts drawn by partisans during previous redistricting cycles.

This study is the first of several Brennan Center publications examining the 2010 redistricting cycle. The others will describe in greater detail how new redistricting reforms in several states may have affected the end results of the process. These reports will explain the lessons learned from 2010 redistricting and assess how redistricting can be fairer, more transparent, and more inclusive in 2020 and beyond.



## APPENDIX A: DATA AND METHODOLOGY

To classify districts by competitiveness, we examine the voting history in each district. Specifically, we analyze — in order of importance — Congressional election results dating back to 2006, Presidential election results from 2008, and state-level election results from the most recent statewide contests, where available by Census Vote Tabulation Districts (VTDs). We recognize the limitations associated with examining such a small pool of data. We are also aware of the difficulty of relying on Congressional election data, which often tends to favor incumbents and to mask underlying trends in the district when incumbents retire, and on data from the 2008 Presidential contest, which was a wave election at the Presidential level. This is why we supplement our analysis with state-level election data, where available. Because we use data from several different types of election contests, there is some amount of subjective judgement required in rating each district. After all, in some districts, not every data point falls within the same competitiveness range. We provide all 435 district ratings in an online map.<sup>59</sup>

We obtained much of our data from the Harvard Election Data Archive, which provides shapefiles and datasets by VTD for nearly every state.<sup>60</sup> Where available, we also relied on state-issued political data.<sup>61</sup> We compiled shapefiles for the old districts from the U.S. Census Bureau,<sup>62</sup> and we obtained shapefiles for the new districts from state websites (or state officials, where shapefiles were not available online).<sup>63</sup> To determine how the Congressional districts perform, we first disaggregate the VTD election data into Census blocks. VTDs are larger than Census blocks, so we apportion the election data in each VTD to its constitutive census blocks based on the proportion of the VTD’s voting-age population contained in the census block.<sup>64</sup> We then aggregate the Census blocks into the new districts.

When assessing how each district’s competitiveness classification changed because of redistricting, we generally follow the incumbent from their old district into their new one. For most incumbents, this strategy is not problematic. In some cases, redistricting weakened the current district of an incumbent, causing him or her to move to an open seat created by redistricting; we count the current seat as the incumbent’s new district, and we count the open seat as a newly created seat. In other cases, redistricting paired together two incumbents by eliminating or splintering one of the incumbents’ districts; we count the splintered district as a district eliminated during redistricting, and we track the change in competitiveness between the other incumbent’s old seat and the new district.

Our specific district-by-district choices in tracking competitiveness before and after redistricting are all available in the online map.<sup>65</sup> Table A.1 shows the distribution of safe and competitiveness seats in Congress, before and after redistricting.

	Before Redistricting	After Redistricting
<b>Safe Republican</b>	<b>87</b>	<b>80</b>
<b>Likely Republican</b>	<b>85</b>	<b>99</b>
<b>Marginal Republican</b>	<b>58</b>	<b>62</b>
<b>Total Republican</b>	<b>230</b>	<b>241</b>
<b>Safe Democratic</b>	<b>120</b>	<b>116</b>
<b>Likely Democratic</b>	<b>47</b>	<b>52</b>
<b>Marginal Democratic</b>	<b>38</b>	<b>26</b>
<b>Total Democratic</b>	<b>205</b>	<b>194</b>

**Table A.1:** Seat Distribution in Congress, Based on Seat Competitiveness Classifications. The table disregards the party affiliation of the incumbent currently holding the seat.

## APPENDIX B: CLASSIFYING WHO DREW THE LINES

In this report, we define six constellations of line-drawers who controlled redistricting:

- **Republican-controlled legislature and governor:** Alabama, Florida, Georgia, Indiana, Louisiana, Michigan, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and Wisconsin.
- **Democrat-controlled legislature and governor:** Arkansas, Illinois, Maryland, Massachusetts, Rhode Island, and West Virginia.
- **Split legislative and gubernatorial control between Democrats and Republicans:** Kentucky, Maine, Missouri, and Oregon.
- **Independent commission:** Arizona, California, Idaho, Iowa, and Washington
- **State or federal court:** Colorado, Connecticut, Kansas, Minnesota, Mississippi, Nevada, New Mexico, and New York.
- **Politician commission:** Hawaii and New Jersey.
- **States without Congressional redistricting:** Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming.

We exclude Texas from any of these six categories. Though a federal court approved the interim redistricting map for the 2012 election, that court — because of the Supreme Court’s ruling in *Perry v. Perez* — was required to defer to the district map adopted by the Republican legislature and signed into law by the governor.<sup>66</sup> This makes it difficult to cleanly classify which actors were responsible for creating Texas’s interim district map.

In North Carolina, Republicans control the legislature and the governor is a Democrat. However, North Carolina law does not permit the governor to veto redistricting legislation. Therefore, we include North Carolina among the states with Republican control of redistricting.<sup>67</sup> We also include Nebraska in the Republican-controlled category, even though the state has a non-partisan legislature, because their unicameral legislature is widely considered to be controlled by a sizable Republican majority.<sup>68</sup> We include New Hampshire in this category, as well. The state has a Democratic governor, but the legislature has veto-proof Republican majorities in both chambers.<sup>69</sup>

Even though Rhode Island has an independent governor, we consider Rhode Island a Democrat-controlled state because the legislature has veto-proof majorities in both houses.<sup>70</sup> Even though Maine’s legislature and governor’s office are both controlled by Republicans, we consider Maine a split-control state because state law requires redistricting plans to be approved by a two-thirds majority, which Republicans do not have in either house of the state legislature.<sup>71</sup>

In Iowa, responsibility for redistricting rests with the legislature, but the legislature relies on a non-partisan advisory body and an independent commission to propose new district lines. The legislature has the option of wholly accepting or rejecting the independent proposal, but they have chosen to accept it in every redistricting cycle since the procedure’s inception in 1980.<sup>72</sup> Accordingly, for purposes of this report, we classify Iowa as an independent commission state.<sup>73</sup>

## ENDNOTES

- <sup>1</sup> Karen Hansen, *A GOP Wave Washed Over State Legislatures on Election Day*, NAT'L CONFERENCE OF STATE LEGISLATURES (Dec. 2010), <http://www.ncsl.org/legislatures-elections/elections/red-tide.aspx>; NAT'L CONFERENCE OF STATE LEGISLATURES, 2011 STATE AND LEGISLATIVE PARTISAN COMPOSITION (2011), available at [http://www.ncsl.org/documents/statevote/2010\\_Legis\\_and\\_State\\_post.pdf](http://www.ncsl.org/documents/statevote/2010_Legis_and_State_post.pdf); NAT'L CONFERENCE OF STATE LEGISLATURES, 2010 STATE AND LEGISLATIVE PARTISAN COMPOSITION PRIOR TO THE ELECTION, available at [http://www.ncsl.org/documents/statevote/2010\\_Legis\\_and\\_State\\_pre.pdf](http://www.ncsl.org/documents/statevote/2010_Legis_and_State_pre.pdf).
- <sup>2</sup> See Appendix B for classification of who controlled redistricting in each state. This estimate also includes Texas and Kansas; in these two states, Republicans started with control of redistricting, but courts ended up deciding the final maps.
- <sup>3</sup> The remaining seats were in states where redistricting control was split between Democrats and Republicans or where a politician commission was responsible for redistricting.
- <sup>4</sup> KAREN R. HUMES, NICHOLAS A. JONES & ROBERTO RAMIREZ, U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010 4, tbl 1 (2011), available at <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf>.
- <sup>5</sup> Appendix A describes the methodology in detail. The analysis only considers the two major national parties. All seats in the House are currently held by either Democrats or Republicans. In the event of a major challenger from outside the two main parties in any Congressional district, our competitiveness and party categorization for that particular district might not be valid. Third-party members of Congress are rare: Virgil Goode and Bernie Sanders were the only two members of Congress who were not Democratic or Republican since 1993. See *House History*, OFFICE OF THE CLERK OF THE U.S. HOUSE OF REPRESENTATIVES, [http://artandhistory.house.gov/house\\_history/](http://artandhistory.house.gov/house_history/) (last visited Oct. 11, 2012). However, the number of third-party candidates on the ballot has increased dramatically in recent elections: the 2010 election marked the midterm election with the greatest number of third-party candidates on the ballot since 1934. Eric Ostermeier, *Third Party U.S. House Candidate Spike to Largest Midterm Election Mark Since 1934*, SMART POLITICS BLOG (Oct. 29, 2010), [http://blog.lib.umn.edu/cspg/smartpolitics/2010/10/third\\_party\\_us\\_house\\_candidate.php](http://blog.lib.umn.edu/cspg/smartpolitics/2010/10/third_party_us_house_candidate.php).
- <sup>6</sup> For example, although Ansolabehere et al. and Gross and Garand use 60 percent as the cutoff between safe and competitive seats, they also mention 55 percent as a possible cutoff between safe and competitive seats. Stephen Ansolabehere, John Mark Hansen, Shigeo Hirano & James M. Snyder, *The Decline of Competition in U.S. Primary Elections, 1908-2004*, in *THE MARKETPLACE OF DEMOCRACY* (Michael McDonald and John Samples eds., 2006); Donald A. Gross & James C. Garand, *The Vanishing Marginals, 1824-1980*, 46 J. OF POLIT. 226 (1984). However, they find that the results of their inquiries did not change substantially when using the 55 percent cutoff instead of 60 percent.
- <sup>7</sup> See Stephen Ansolabehere, David Brady & Morris Fiorina, *The Vanishing Marginals and Electoral Responsiveness*, 22 BRIT. J. OF POL. SCI. 21, 24-25 (1992), available at <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=2804940> (Ansolabehere et al. refer to competitive seats between 50 and 55 percent as “Mayhew marginals” and between 55 and 60 percent as “Jacobson marginals.”); See generally David R. Mayhew, *Congressional Elections: The Case of the Vanishing Marginals*, 6 POLITY 295 (1974) available at <http://www.jstor.org/discover/10.2307/3233931?uid=3739832&uid=2&uid=4&uid=3739256&sid=52072230154377>; Gary C. Jacobson, *The Marginals Never Vanished*, 31 AM. J. OF POL. SCI. 126, 126-141 (1987), available at <http://www.jstor.org/discover/10.2307/2111327?uid=3739832&uid=2&uid=4&uid=3739256&sid=52072230154377>.
- <sup>8</sup> See David R. Jones, *Partisan Polarization and Congressional Accountability in House Elections*, 54 AM. J. OF POL. SCI. 332 (2010), available at [http://www.baruch.cuny.edu/wsas/academics/political\\_science/documents/Jones2010ajps.pdf](http://www.baruch.cuny.edu/wsas/academics/political_science/documents/Jones2010ajps.pdf); Ansolabehere, Hansen, Hirano & Snyder, *The Decline of Competition in U.S. Primary Elections*, *supra* note 6; Gross and Garand, *The Vanishing Marginals*, *supra* note 6; John A. Ferejohn, *On the Decline of Competition in Congressional Elections*, 71 AM. POL. SCI. REV. 166 (1977), available at <http://www.jstor.org/discover/10.2307/1956960?uid=3739832&uid=2129&uid=2&uid=70&uid=4&uid=3739256&sid=21101139903103>.
- <sup>9</sup> See *supra* notes 6, 7, & 8.
- <sup>10</sup> Appendix A describes the methodology in detail.
- <sup>11</sup> *Congressional Profile*, OFFICE OF THE CLERK OF THE U.S. HOUSE OF REPRESENTATIVES, [http://clerk.house.gov/member\\_info/cong.aspx](http://clerk.house.gov/member_info/cong.aspx) (last visited Oct. 12, 2012). For the five seats that are currently vacant, we count the party affiliation of the last occupant of the seat; this yields a count of 242 Republicans and 193 Democrats in the House.
- <sup>12</sup> There were 15 Republican members elected in marginal Democratic districts, and 3 Democrats elected in marginal Republican seats, during the 2010 election.

- <sup>13</sup> Democrats currently hold 193 seats in Congress. They must hold 218 seats in order to have a majority in the House.
- <sup>14</sup> On some occasions, the well-respected *Cook Political Report* and *Rothenberg Political Report* have adopted this approach. Stuart Rothenberg, *Redistricting's Bottom Line*, THE ROTHENBERG POLITICAL REPORT (Mar. 20, 2012), <http://rothenbergpoliticalreport.com/news/article/redistrictings-bottom-line> (finding that Democrats gained one seat during redistricting); *2012 Cook Political Report Redistricting Scorecard and Maps*, THE COOK POLITICAL REPORT (Jun. 20, 2012), <http://cookpolitical.com/house/redistricting> (finding that Republicans gained one seat during redistricting); [http://dccc.org/blog/entry/the\\_real\\_redistricting\\_story/](http://dccc.org/blog/entry/the_real_redistricting_story/); *The Real Redistricting Story*, DEMOCRATIC CONGRESSIONAL CAMPAIGN COMM. (May 01, 2012), [http://dccc.org/blog/entry/the\\_real\\_redistricting\\_story/](http://dccc.org/blog/entry/the_real_redistricting_story/). This report does not disagree with the approach that these experts have sometimes adopted. In fact, that approach is a worthwhile tool for assessing the net results of redistricting. This report simply adopts a different perspective in assessing the net results of redistricting.
- <sup>15</sup> This result holds even when we changed the competitiveness designation of marginal seats won by the opposing party to reflect the party of the current incumbent. Using this approach, we still found that redistricting created only a one seat net Democratic gain.
- <sup>16</sup> In this category, we include incumbents who were in marginal Democratic seats before redistricting and who are now in marginal Republican seats.
- <sup>17</sup> Chad Pergram, *Republicans and the Purple Crayon*, FOXNEWS.COM (Oct. 12, 2012), <http://politics.blogs.foxnews.com/2012/10/12/republicans-and-purple-crayon>.
- <sup>18</sup> See *infra* note 22.
- <sup>19</sup> *Table of Partisan Control of State Legislatures, 1938-2010*, NAT'L CONFERENCE OF STATE LEGISLATURES (Mar. 22, 2011), <http://www.ncsl.org/legislatures-elections/elections/ncslnet-historic-partisan-control.aspx>.
- <sup>20</sup> Republicans started with control of redistricting for 213 districts, but they only ended up redrawing the lines for 173 districts. In Texas and Kansas, courts were involved in approving the final redistricting maps. For a list of states in each category of redistricting authorities, consult Appendix B.
- <sup>21</sup> Where courts have created new district plans, they have either adopted proposed legislative plans, used special masters to propose draft plan, or created new plans themselves.
- <sup>22</sup> Though a federal court approved the interim redistricting map for the 2012 election, that court — because of the Supreme Court's ruling in *Perry v. Perez* — was required to defer to the district map adopted by the Republican legislature and signed into law by the Governor. See *Perry v. Perez*, 132 S. Ct. 934 (2012). The final interim map looks similar to a compromise map proposed by the state of Texas and several Latino non-profit groups. Aaron Blake, *Texas Judges Release New Interim Redistricting Map*, THE FIX BLOG (Feb. 28, 2012, 5:14 PM), [http://www.washingtonpost.com/blogs/the-fix/post/texas-judges-release-new-interim-redistricting-map/2012/02/28/gIQA0rBlgR\\_blog.html](http://www.washingtonpost.com/blogs/the-fix/post/texas-judges-release-new-interim-redistricting-map/2012/02/28/gIQA0rBlgR_blog.html). This further complicates classification of the interim Texas districts.
- <sup>23</sup> See *supra* note 14.
- <sup>24</sup> For example, if the old district lines were unfair for Republican voters, then a five-seat Republican gains in a particular state may not necessarily mean that the lines were unfair to Democrats. Accordingly, it is not possible to draw conclusions about the fairness of the new district lines from the data in Table 2 alone.
- <sup>25</sup> Alex Isenstadt & Jonathan Allen, *Blue Dogs move to protect Time Holden*, POLITICO (Apr. 18, 2012, 6:20PM), <http://www.politico.com/news/stories/0412/75326.html>.
- <sup>26</sup> President Obama won nine percent more of the two-party vote in the new 17th district than the old 17th district. See Appendix A for methodology.
- <sup>27</sup> Rachel Weiner, *Mark Critz Defeats Jason Altmire, Matt Cartwright Beats Tim Holden*, THE FIX BLOG (Apr. 24, 2012, 10:53PM), [http://www.washingtonpost.com/blogs/the-fix/post/mark-critz-defeats-jason-altmire-matt-cartwright-beats-tim-holden/2012/04/24/gIQA0rBlgR\\_blog.html](http://www.washingtonpost.com/blogs/the-fix/post/mark-critz-defeats-jason-altmire-matt-cartwright-beats-tim-holden/2012/04/24/gIQA0rBlgR_blog.html).

<sup>28</sup> Adam Clark, *Final Drama in Holden, Cartwright Primary*, MORNING CALL (Allentown), Apr. 23, 2012, [http://articles.mcall.com/2012-04-23/news/mc-matt-cartwright-and-tim-holden-drama-20120423\\_1\\_holden-campaign-tim-holden-infamous-kids](http://articles.mcall.com/2012-04-23/news/mc-matt-cartwright-and-tim-holden-drama-20120423_1_holden-campaign-tim-holden-infamous-kids); Adam Clark, *Can Blue Dog Democrat Holden Survive in More Liberal District?*, POCONO REC., Apr. 22, 2012, <http://www.pocorecord.com/apps/pbcs.dll/article?AID=/20120422/NEWS90/204220338/-1/NEWS>.

<sup>29</sup> Jennifer Steinhauer, *Redistricting Shapes Pennsylvania Primaries*, THE CAUCUS BLOG (Apr. 24, 2012, 12:09 PM), <http://thecaucus.blogs.nytimes.com/2012/04/24/redistricting-shapes-pennsylvania-primaries/>.

<sup>30</sup> In Arizona, Louisiana, and Florida, redistricting paired together a “tea party” incumbent and an “establishment” Republican incumbent. Adam Snider, *Jeff Landry Takes on Fellow Incumbent Charles Boustany in Louisiana*, POLITICO (May 15, 2012, 7:19 AM), <http://www.politico.com/news/stories/0512/76298.html>; Stephanie Grace, *Government by Gimmick Wearing Thin*, TIMES-PICAYUNE (New Orleans), Sept. 16, 2012, [http://www.nola.com/opinions/index.ssf/2012/09/government\\_by\\_gimmick\\_wearing.html](http://www.nola.com/opinions/index.ssf/2012/09/government_by_gimmick_wearing.html); Jake Sherman, *Arizona Race Reflects Larger GOP Divide*, POLITICO (Feb. 23, 2012, 12:46 PM), <http://www.politico.com/news/stories/0212/73202.html>; Alex Isenstadt, *John Mica Makes Tea Party Sweat in Florida*, POLITICO (Aug. 13, 2012, 4:54 AM), <http://www.politico.com/news/stories/0812/79579.html>. Rep. David Schweikert defeated Rep. Ben Quayle in a primary in Arizona, Rep. John Mica defeated Rep. Sandy Adams in a primary in Florida, and Rep. Jeff Landry and Rep. Charles Boustany will face off in the general election in Louisiana. Rebekah L. Sanders, *Schweikert Defeats Quayle in District 6 Battle of Incumbents*, AZCENTRAL.COM (Aug. 29, 2012, 2:33 PM), <http://www.azcentral.com/news/politics/20120828cd-schweikert-leads-quayle-closely-watched-race.html>. Aaron Blake, *Rep. Mica Defeats Rep. Adams in Florida; Rep. Stearns on Verge of Defeat*, THE FIX BLOG (Aug. 14, 2012, 9:28 PM), <http://www.washingtonpost.com/blogs/the-fix/wp/2012/08/14/rep-jon-mica-defeats-rep-sandy-adams-in-florida/>.

Redistricting in six states — Ohio, Michigan, Pennsylvania, New Jersey, Missouri and California — pitted Democrat incumbents against one another. California’s Citizens Commission paired Democrats Howard Berman and Brad Sherman into the same district; the two will face off in the general election. California Democrats Janice Hahn and Laura Richardson will also face each other in the general election. Ian Jaffe, *Congressional Allies Turned Enemies In Redistricting*, NPR.ORG (May 14, 2012), <http://www.npr.org/2012/05/14/152694874/congressional-allies-turned-enemies-in-redistricting>. Redistricting in Ohio paired Rep. Dennis Kucinich and Rep. Marcy Kaptur; Michigan paired Rep. Hansen Clarke and Rep. Gary Peters; Pennsylvania paired Rep. Jason Altmire and Rep. Mark Critz; New Jersey paired Rep. Steve Rothman and Rep. Bill Pascrell; Missouri paired Democrats Rep. Russ Carnahan and Rep. Lacy Clay. In all five contests, the latter candidate won. Amanda Terkel & Ryan Grim, *Marcy Kaptur Beats Dennis Kucinich In Ohio 9th District Primary*, HUFFINGTON POST (Mar. 7, 2012, 9:52 AM), [http://www.huffingtonpost.com/2012/03/07/marcy-kaptur-dennis-kucinich-ohio-primary\\_n\\_1325014.html](http://www.huffingtonpost.com/2012/03/07/marcy-kaptur-dennis-kucinich-ohio-primary_n_1325014.html); Chad Pergram, *Peters Defeats Clarke in Feisty Member-Versus-Member Michigan Democratic Primary*, FOX NEWS (Aug. 7, 2012), <http://www.foxnews.com/politics/2012/08/07/peters-defeats-clarke-in-feisty-member-versus-member-michigan-democratic/>; Scott Bland, *Critz Defeats Altmire in Pa. 12th District Democratic Primary*, NATIONAL JOURNAL (Apr. 24, 2012, 10:42 PM), <http://www.nationaljournal.com/houseraceresults/critz-defeats-altmire-in-pa-12th-district-democratic-primary-20120424>; Matt Friedman, *U.S. Rep. Pascrell Beat Rep. Rothman in Democratic Primary*, N.J. STAR-LEDGER, Jun. 05, 2012, [http://www.nj.com/news/index.ssf/2012/06/pascrell\\_beats\\_rothman\\_in\\_demo.html](http://www.nj.com/news/index.ssf/2012/06/pascrell_beats_rothman_in_demo.html); Alan Scher Zagier, *Lacy Clay Beats Russ Carnahan in Missouri Congressional Primary*, HUFFINGTON POST (Aug. 07, 2012, 11:27 PM), [http://www.huffingtonpost.com/2012/08/08/lacy-clay-russ-carnahan\\_n\\_1755256.html](http://www.huffingtonpost.com/2012/08/08/lacy-clay-russ-carnahan_n_1755256.html).

<sup>31</sup> Micah Cohen, *Let’s Talk About Redistricting*, FIVETHIRTYEIGHT BLOG (Jun. 19, 2011, 9:49 AM), <http://fivethirtyeight.blogs.nytimes.com/2011/06/19/lets-talk-about-redistricting/>.

<sup>32</sup> *Standard for Legislature to follow in Congressional Redistricting 07-15*, FLORIDA DEPARTMENT OF STATE DIVISION OF ELECTIONS, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=43605&seqnum=1>; *Standards for Legislature to Follow in Congressional Redistricting 07-16*, FLA. DEPT. OF STATE DIV. OF ELECTIONS, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=43605&seqnum=2>.

<sup>33</sup> See Justin Levitt, *Wisconsin*, ALL ABOUT REDISTRICTING, <http://redistricting.ils.edu/states-WI.php#criteria> (last visited Oct. 15, 2012).

<sup>34</sup> Liz Halloran, *Efforts in Wisconsin Face Tough Odds*, NPR.ORG (Mar. 8, 2011), <http://www.npr.org/2011/03/08/134340952/recall-efforts-in-wisconsin-face-tough-odds>.

<sup>35</sup> *Id.*

<sup>36</sup> *Wisconsin Legislative Spotlight*, WIS. LEGISLATIVE REFERENCE BUREAU (Sept. 24, 2012), <http://legis.wisconsin.gov/spotlight/spot491.htm>



- <sup>37</sup> *Assembly Okes redistricting maps; bill now heads to Walker*, Wis. St. J., Jul. 20, 2011, [http://host.madison.com/wsj/news/local/govt-and-politics/article\\_5ab697ca-b329-11e0-90f3-001cc4c002e0.html](http://host.madison.com/wsj/news/local/govt-and-politics/article_5ab697ca-b329-11e0-90f3-001cc4c002e0.html).
- <sup>38</sup> 2011 Wis. Act 39 of July 25, 2011, *available at* <https://docs.legis.wisconsin.gov/2011/related/acts/39>.
- <sup>39</sup> President Obama won four percent more of the vote in 2008 in Meehan's old district than his new one, based on the two-party vote in the 2008 Presidential election. *See* Appendix A for methodology. The line-drawers also strengthened Rep. Jim Gerlach's 6th district by moving his district entirely outside of Philadelphia's Democratic core: his marginal Republican district becomes five percentage points more Republican, as well.
- <sup>40</sup> Angela Couluombis & Thomas Fitzgerald, *Pa. GOP's Congressional Map Draws Democratic Ire*, PHILA. INQUIRER, Dec. 13, 2011, <http://mobile.philly.com/news/?wss=/philly/news&id=135551093&viewAll=y>.
- <sup>41</sup> Gary Weckselblatt, *GOP Redistrict Plan: Keeps Bucks, Carves Montco*, PHILLYBURBS.COM (Dec. 15, 2011, 6:45 AM), [http://www.phillyburbs.com/news/local/the\\_intelligencer\\_news/congressional-redistricting-plan-keeps-bucks-whole-chops-up-montco/article\\_b9ae9b48-5bdc-5fc2-a026-9e0572ea9132.html](http://www.phillyburbs.com/news/local/the_intelligencer_news/congressional-redistricting-plan-keeps-bucks-whole-chops-up-montco/article_b9ae9b48-5bdc-5fc2-a026-9e0572ea9132.html).
- <sup>42</sup> Aaron Blake, *'Fairness' in Florida and How It Could Help Democrats*, THE FIX BLOG (Feb. 17, 2011, 12:12 PM), <http://voices.washingtonpost.com/thefix/mapping-the-future/fairness-in-florida-and-how-it.html>.
- <sup>43</sup> The new 9th district in Florida has a majority non-white voting-age population. *District Summary Statistics: Population Only (H000C9047)*, THE FLORIDA SENATE (Jan. 25, 2012), [http://www.flsenate.gov/PublishedContent/Session/Redistricting/Plans/H000C9047/H000C9047\\_pop\\_sum.pdf](http://www.flsenate.gov/PublishedContent/Session/Redistricting/Plans/H000C9047/H000C9047_pop_sum.pdf)
- <sup>44</sup> This net calculation does not sum to zero because both Illinois and Massachusetts lost one seat due to reapportionment following the 2010 Census.
- <sup>45</sup> The six marginal districts before redistricting were the 6th, 8th, 10th, 11th, 14th, and 17th districts. The Republican incumbents affected by changes to these districts are Peter Roskam, Joe Walsh, Robert Dold, Adam Kinzinger, Randy Hultgren, and Bobby Schilling.
- <sup>46</sup> This net calculation does not sum to zero because the number of districts in states with independent commissions increased as a result of apportionment. Arizona and Washington both gained one seat, while Iowa lost one seat during reapportionment.
- <sup>47</sup> In fact, in the 2000 redistricting cycle, some believed that the independent commission in Arizona favored Republicans over Democrats. Chip Scutari, *Redistricting Map Finished; New boundaries don't please all*, Arizona Republic, Oct. 13, 2001, <http://archive.fairvote.org/redistricting/reports/remanual/aznews3.htm#finished>.
- <sup>48</sup> CAL. GOV'T CODE § 8252(a), *available at* <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=08001-09000&file=8251-8253.6>.
- <sup>49</sup> Patrick McGreevy, *New Redistricting Panel Takes Aim at Bizarre Political Boundaries*, L.A. TIMES, Dec. 19, 2010, <http://articles.latimes.com/2010/dec/19/local/la-me-gerrymander-20101220>.
- <sup>50</sup> *See* Garance Burke, *Pete Stark, California Congressman, Faces Competitive Race*, HUFFINGTON POST (Sept. 26, 2012, 11:10 PM), [http://www.huffingtonpost.com/2012/09/26/pete-stark\\_n\\_1917630.html?utm\\_hp\\_ref=elections-2012](http://www.huffingtonpost.com/2012/09/26/pete-stark_n_1917630.html?utm_hp_ref=elections-2012); Kyle Trygstad, *California: GOP polls Find Competitive House Races*, ROLL CALL (Jul. 20, 2012, 11:17 AM), <http://atr.rollcall.com/california-gop-polls-house-races-capps-maldonado-delong-lowenthal/>.
- <sup>51</sup> Jim Puzanghera and Richard Simon, *Longtime Rep. Elton Gallegly Will Retire*, L.A. TIMES, Jan. 07, 2012, <http://articles.latimes.com/2012/jan/07/news/la-pn-longtime-rep-elton-gallegly-will-retire-20120107>.
- <sup>52</sup> The difference is explained by Republican Reps. Joe Heck (NV-03), Kevin Yoder (KS-03), and Chip Cravaack (MN-08). The former two represented marginal Democratic seats, but their districts became marginal Republican seats during redistricting. Meanwhile, Cravaack was in a marginal Democratic seat before redistricting and remains in one after redistricting.
- <sup>53</sup> Tim Hoover, *Judge Rules in Favor of Democratic Map in Colorado Redistricting*, DENVER POST, Nov. 14, 2011, [http://www.denverpost.com/breakingnews/ci\\_19310668](http://www.denverpost.com/breakingnews/ci_19310668); Lynn Bartels, *Democrats Win Fight Over Colorado Congressional Boundaries*, DENVER POST, Dec. 05, 2011, [http://www.denverpost.com/breakingnews/ci\\_19473229?source=pkg](http://www.denverpost.com/breakingnews/ci_19473229?source=pkg).

- <sup>54</sup> *In re Petition of Reapportionment Comm'n*, 303 Conn. 798, 799-800 (2012), available at [http://www.jud.ct.gov/external/news/SC18907\\_021012.pdf](http://www.jud.ct.gov/external/news/SC18907_021012.pdf); *Favors v. Cuomo*, No. 11-5632, 2012 WL 928223, at \*8 (E.D.N.Y. Mar. 19, 2012), available at <https://ecf.nyed.uscourts.gov/dropbox/324457/1.11.cv.5632.6762393.0.pdf>.
- <sup>55</sup> Jill Terrieri, *Slaughter Likes District She Has Now*, VOTE UP NY.COM (Feb. 13, 2012, 5:32 PM), <http://blogs.democratandchronicle.com/voteup/2012/02/13/slaughter-likes-district-she-has-now/>.
- <sup>56</sup> Obama won ten percent less of the two-party vote in the 2008 Presidential election in the new district than in the old district. See Appendix A for methodology.
- <sup>57</sup> Aaron Blake & Paul Kane, *Democrat Hochul Wins N.Y. Special House Election*, WASH. POST, May 24, 2011, [http://www.washingtonpost.com/politics/democrat-hochul-wins-ny-special-election/2011/05/24/AFwPGqAH\\_story.html](http://www.washingtonpost.com/politics/democrat-hochul-wins-ny-special-election/2011/05/24/AFwPGqAH_story.html).
- <sup>58</sup> Kyle Kondik, *Gubernatorial and House Rating Update*, SABATO'S CRYSTAL BALL (Oct. 4, 2012), <http://www.centerforpolitics.org/crystalball/articles/category/2012-house/>.
- <sup>59</sup> Sundee Iyer & Keesha Gaskins, *Redistricting and Congressional Control: A First Look*, BRENNAN CENTER FOR JUSTICE, Oct. 25, 2012, [http://www.brennancenter.org/content/resource/redistricting\\_and\\_congressional\\_control\\_a\\_first\\_look](http://www.brennancenter.org/content/resource/redistricting_and_congressional_control_a_first_look).
- <sup>60</sup> *Election Data Archive Dataverse*, HARVARD ELECTION DATA ARCHIVE, <http://projects.iq.harvard.edu/eda/data> (last visited Oct. 11, 2012).
- <sup>61</sup> In particular, Arizona, Nevada, North Carolina, Texas, and Virginia made at least some political data for the new districts openly available. See FINAL CONGRESSIONAL DISTRICTS – APPROVED 1/17/13 -- COMPACTNESS AND COMPETITIVENESS MEASURES, ARIZ. INDEP. REDISTRICTING COMM. 1, available at <http://azredistricting.org/Maps/Final-Maps/Congressional/Reports/Final%20Congressional%20Districts%20-%20Compactness%20and%20Competitiveness%20Data%20Table.pdf>; *Nevada Reapportionment & Redistricting 2011*, NEVADA LEGISLATURE (June 7, 2012), <http://www.leg.state.nv.us/Division/Research/Districts/Reapp/2011/FinalPlans.cfm>; *Rucho-Lewis Congress 3*, NORTH CAROLINA GENERAL ASSEMBLY, [http://www.ncleg.net/representation/Content/Plans/PlanPage\\_DB\\_2011.asp?Plan=Rucho-Lewis\\_Congress\\_3&Body=Congress](http://www.ncleg.net/representation/Content/Plans/PlanPage_DB_2011.asp?Plan=Rucho-Lewis_Congress_3&Body=Congress) (last visited Oct. 11, 2012); *Plan C235 Court-Ordered Interim Congressional Plan Reports*, TEX. LEGISLATIVE COUNCIL (Feb. 29, 2011, 1:24 PM) <ftp://ftpgis1.tlc.state.tx.us/PlanC235/Reports/PDF/>; *Congressional Plan: 1 – New Congressional Districts (2012 HB 251)*, VA. DIV. OF LEGISLATIVE SERV., <http://redistricting.dls.virginia.gov/2010/RedistrictingPlans.aspx#31> (last visited Oct. 11, 2012).
- <sup>62</sup> *2010 TIGER/Line Shapefiles*, U.S. CENSUS BUREAU, <http://www.census.gov/cgi-bin/geo/shapefiles2010/main> (last visited Oct. 11, 2012).
- <sup>63</sup> *Redistricting Shapefiles*, SRR PROJECT, <http://www.srrproject.org/resources/redistricting-shapefiles/> (last visited Oct. 11, 2012) (providing documentation for state shapefiles).
- <sup>64</sup> As Michael McDonald and Micah Altman note, this method is the second-most accurate method of aggregating election results into new districts. The most accurate method is to use voter registration data when apportioning election data from VTDs into census blocks. However, many states do not make voter registration data easily available, and this data is sometimes riddled with errors. Therefore, we use publicly available Census data in order to apportion election data into Census blocks. *About the Data*, PUBLIC MAPPING PROJECT, <http://www.publicmapping.org/resources/data#TOC-Election-Data>.
- <sup>65</sup> See *supra* note 59.
- <sup>66</sup> See *supra* note 22.
- <sup>67</sup> See Justin Levitt, North Carolina, ALL ABOUT REDISTRICTING, <http://redistricting.ills.edu/states-NC.php#institution> (last visited Oct. 11, 2012).
- <sup>68</sup> See Larry J Sabato, *Our Continuing Focus on State Legislatures*, RASMUSSEN REPORTS (Feb. 4, 2011), [http://www.rasmussenreports.com/public\\_content/political\\_commentary/commentary\\_by\\_larry\\_j\\_sabato/our\\_continuing\\_focus\\_on\\_state\\_legislatures](http://www.rasmussenreports.com/public_content/political_commentary/commentary_by_larry_j_sabato/our_continuing_focus_on_state_legislatures).
- <sup>69</sup> Justin Levitt, New Hampshire, ALL ABOUT REDISTRICTING, <http://redistricting.ills.edu/states-NH.php#institution> (last visited Oct. 11, 2012).

<sup>70</sup> Justin Levitt, *Rhode Island*, ALL ABOUT REDISTRICTING, <http://redistricting.ils.edu/states-RI.php#institution> (last visited Oct. 11, 2012).

<sup>71</sup> Justin Levitt, *Maine*, ALL ABOUT REDISTRICTING, <http://redistricting.ils.edu/states-ME.php#institution> (last visited Oct. 11, 2012).

<sup>72</sup> Justin Levitt, *Iowa*, ALL ABOUT REDISTRICTING, <http://redistricting.ils.edu/states-IA.php#institution> (last visited Oct. 11, 2012).

<sup>73</sup> In *A Citizen's Guide to Redistricting*, the Brennan Center classifies Iowa as a state with an advisory commission, not an independent commission. Under an advisory commission, the legislature holds final responsibility over the redistricting process. See JUSTIN LEVITT, *A CITIZEN'S GUIDE TO REDISTRICTING* 47 (2010), available at [http://www.brennancenter.org/content/resource/a\\_citizens\\_guide\\_to\\_redistricting/](http://www.brennancenter.org/content/resource/a_citizens_guide_to_redistricting/). For purposes of this report, however, we focus on the *behavior* of each redistricting body, not just the statutory rules regarding redistricting in each state. As noted in the main text, Iowa's advisory commission behaved like an independent redistricting commission this redistricting cycle – and has operated that way for the three redistricting cycles before this one, as well. Therefore, we do not classify Iowa as a state where the legislature controlled redistricting this cycle.



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