



Testimony: State Primary System Types

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Mr. Chairman and members of the committee, thank you for including NCSL in today's presentation. It's a privilege to be here at Villanova speaking with you about a major topic the Elections & Redistricting program covers: primary election system types.

A century ago, political parties did not select their nominees through primary elections. Instead, parties ran their own processes using their own rules, and hearing from—mostly—party stalwarts, with little role for rank-and-file members. In other words, nominees were selected in the proverbial smoke-filled back room. Half a century ago, primaries were still uncommon. By then, in an effort to be more inclusive, caucuses had largely replaced insider decision-making. At a caucus, the rank-and-file could express support for the candidates of their choice. Still, only highly motivated party members attended caucuses, then or now. Over the last few decades, most parties have switched from caucuses to primary elections to select their nominees for general elections. The motivating factor was—again—to permit participation by more party members, continuing a century-long trend.

Of course, state practices regarding primaries vary considerably. NCSL categorizes state primary systems by how they answer the following questions:

- Should the state require voters to register with a party (or register as unaffiliated)?
- In states with party registration, should unaffiliated voters be permitted to participate in party primaries? If so, will they maintain or lose their unaffiliated status?
- In states with party registration, should all voters be permitted to participate in any party's primaries?
- Are the state's laws binding on parties, or may parties choose their own policies?

The following descriptions of each category are drawn from NCSL's webpage on primary election system types. Because this document will be provided in digital and print form, here is the full URL:

<https://www.ncsl.org/research/elections-and-campaigns/primary-types.aspx>.

Closed Primaries. A voter seeking to vote in a closed primary must first be a party member, excluding unaffiliated voters from the process. Typically, the voter affiliates with a party on his or her voter registration application, and it is through an update to the voter registration record that party affiliation changes can be



made. This system deters “cross-over” voting by members of other parties, or by independent or unaffiliated voters, and may contribute to a strong party organization. Nine states use closed primaries: Delaware, Florida, Kentucky, Maryland, Nevada, New Mexico, New York, Oregon and Pennsylvania.

Partially Closed Primaries. In this system, state law permits political parties to choose whether to allow voters unaffiliated with any party to participate in their nominating contests. The decision can shift before each election cycle. In this system, parties can still exclude members of opposing parties and unaffiliated voters. This system gives the parties more flexibility from year-to-year about which voters to include, and it gives the two parties power over their own systems—they need not make the same choice. At the same time, it can create uncertainty about whether or not certain voters can participate in party primaries in a given year. Six states use partially closed primaries: Connecticut, Idaho, North Carolina, Oklahoma, South Dakota and Utah.

Open to Unaffiliated Voters. A number of states require that parties allow unaffiliated voters to participate in the primary of their choice (while prohibiting voters who are registered with one party to vote in another party’s primary). This system differs from a true open primary because a Democrat cannot cross over and vote in a Republican party primary, or vice versa. New Hampshire requires that unaffiliated voters declare affiliation with the party whose primary ballot they select in order to vote in that party’s primary; party affiliation can be switched back to “unaffiliated” after the election. In Colorado, unaffiliated voters must choose just one party’s ballot, but it does not change their unaffiliated status. The voter’s choice is public information. Nine states use primaries open to unaffiliated voters: Arizona, Colorado, Kansas, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island and West Virginia.

Partially Open Primaries. This system permits voters to cross party lines, but they must either publicly declare their ballot choice, or their ballot selection may be regarded as a form of registration with the corresponding party. Political parties keep track of who votes in their primaries as a means of identifying their supporters. Unaffiliated voters can participate in either party’s primary, and their participation is not considered registration with said party. Six states use partially open primaries: Illinois, Indiana, Iowa, Ohio, Tennessee and Wyoming.

Open Primaries. “Open primary” states do not register voters by party, either at the time of registration or when a primary ballot is selected. In an open primary, voters may choose which party’s ballot to vote, and this decision is private and does not register the voter with that party. In this system, any voter can cast a vote with any party for the primary election. Critics argue that the open primary dilutes the parties’ ability to nominate a candidate of their choice. Supporters say this system gives voters maximal flexibility, maintains their privacy, and also may force candidates to appeal to a broader section of the electorate. Fifteen states use open primaries:

Alabama, Arkansas, Georgia, Hawaii, Michigan, Minnesota, Mississippi, Missouri, Montana, North Dakota, South Carolina, Texas, Vermont, Virginia and Wisconsin.

Other Primary Systems. All candidates regardless of party run in a single primary in California, Washington and Alaska. In California and Washington the two candidates with the greatest number of votes advance to the general election, while in Alaska the top four candidates advance. In all three states, the winning candidate in the general election must receive a majority of votes. Alaska achieves this by using ranked choice voting. Louisiana has an all-comers, or “jungle,” primary on the same day as other states’ general elections. Any candidate receiving more than 50% of the vote in the primary wins the office; if no candidate receives more than 50%, the top two vote recipients advance to a runoff in December. Because Nebraska’s legislature is elected on a nonpartisan basis, its primary process closely resembles California and Washington: the top two vote recipients advance to the general election.

A majority of states extend these rules to presidential preference primaries. Twelve states use different processes for presidential nominee selection: Arizona, California, Connecticut, Hawaii, Kansas, Louisiana, Maine, Michigan, Nebraska, New Jersey, North Dakota and Washington. In some cases, this is to ensure that each major party nominee appears on the ballot; in other cases, it is to allow the parties more flexibility in how they run their primary systems—including running them privately or using a different nomination process (e.g., a caucus).

While the categories defy partisan categorization, the overall trend has been towards including more voters of different stripes in the process. Below is a timeline showing when each state adopted its current system, sorted by primary type. Please note that this information comes from Westlaw, and is the earliest confirmed date of codification for controlling language. Because Westlaw only has some digitized records for statutes over 30 years old, the actual origin date of primary system may be earlier:

Closed

- 1908: New York
- 1909: Nevada
- 1927: Florida
- 1937: Maryland
- 1937: Pennsylvania
- 1953: New Mexico
- 1955: Delaware
- 1973: Oregon



- 1974: Kentucky

Partially closed

- 1987: Connecticut
- 1987: Oklahoma
- 1994: North Carolina
- 1994: Utah
- 1996: South Dakota
- 2011: Idaho

Partially open

- 1971: Illinois
- 1973: Iowa
- 1974: Ohio
- 1974: Tennessee
- 1986: Indiana
- 1991: Wyoming

Open to unaffiliated voters

- 1977: New Jersey
- 1978: Kansas
- 1978: Rhode Island
- 1979: New Hampshire
- 1986: Massachusetts
- 1998: Arizona
- 2011: West Virginia
- 2016: Colorado
- 2022: Maine

Open

- 1905: North Dakota (note: North Dakota does not have voter registration)
- 1965: Wisconsin
- 1969: Montana
- 1970: Hawaii



- 1971: Minnesota
- 1972: Michigan
- 1973: Arkansas
- 1975: Alabama
- 1976: South Carolina
- 1977: Vermont
- 1978: Missouri
- 1985: Texas
- 1985: Virginia
- 1986: Mississippi
- 1998: Georgia

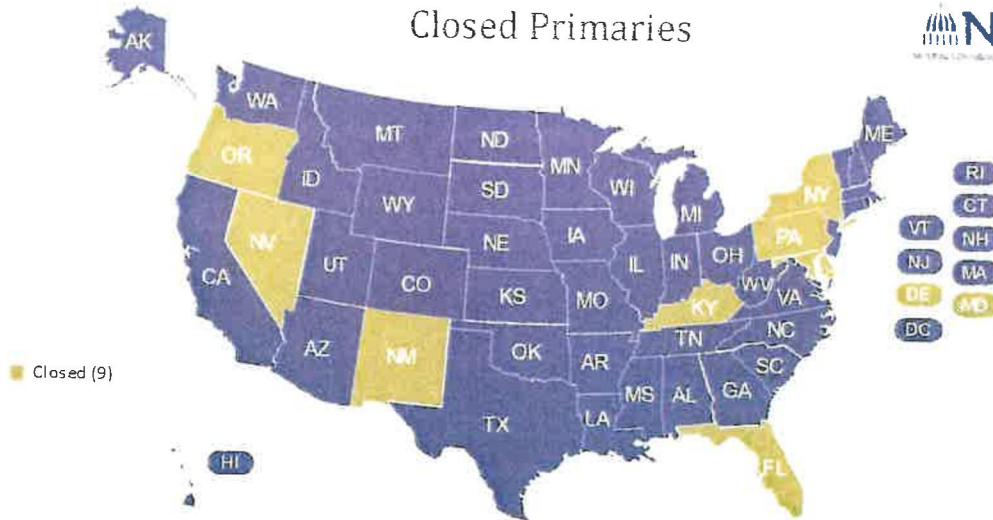
Other

- 1976: Louisiana (all comers)
- 2004: Washington (top two)
- 2010: California (top two)
- 2020: Alaska (top four)
- N/A: Nebraska (nonpartisan)

The last three pages of my testimony are maps showing which states have adopted which types of primary systems. I welcome any questions from committee members and thank you for your time.

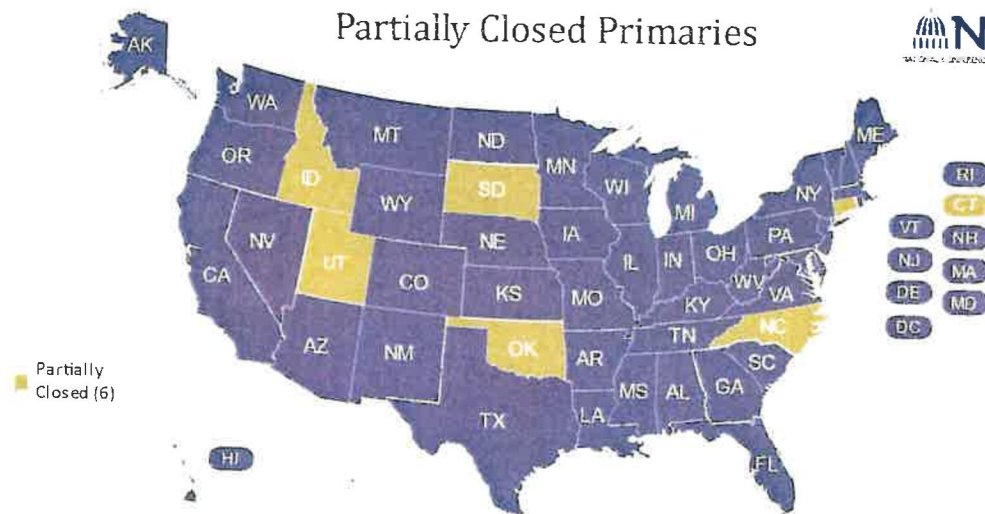


Closed Primaries



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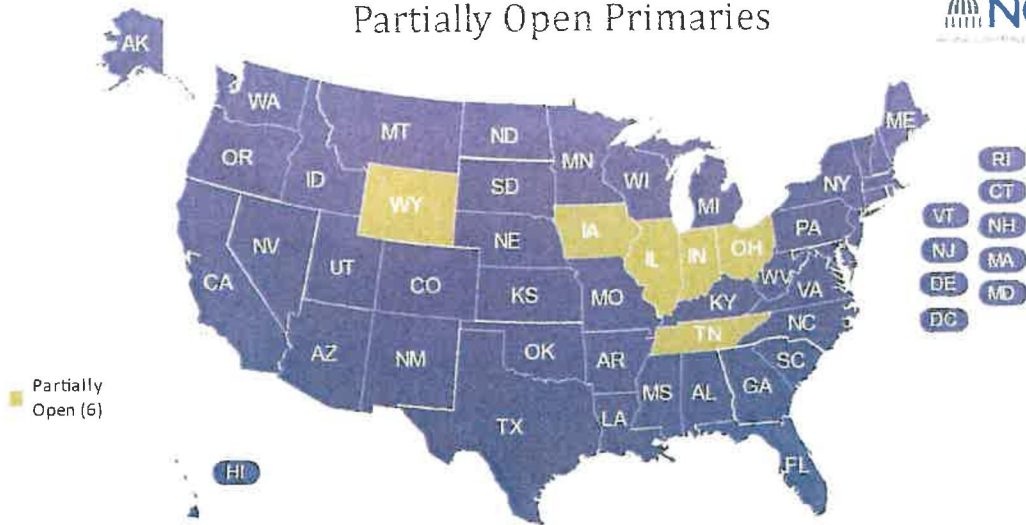
Partially Closed Primaries



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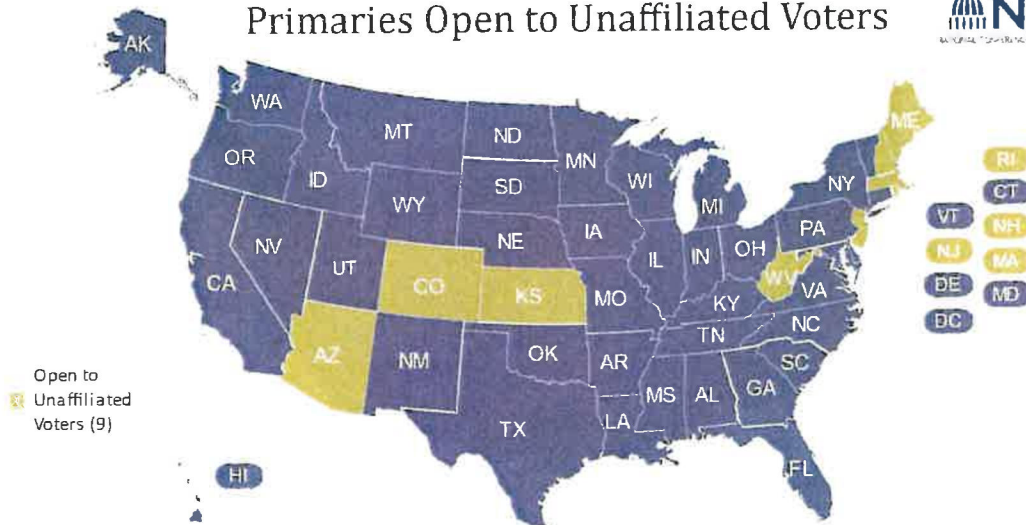


Partially Open Primaries



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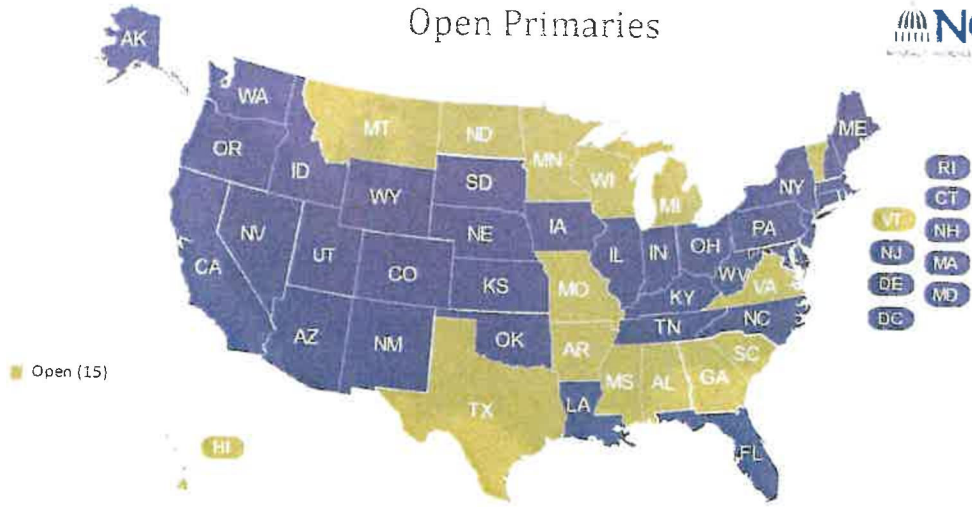
Primaries Open to Unaffiliated Voters



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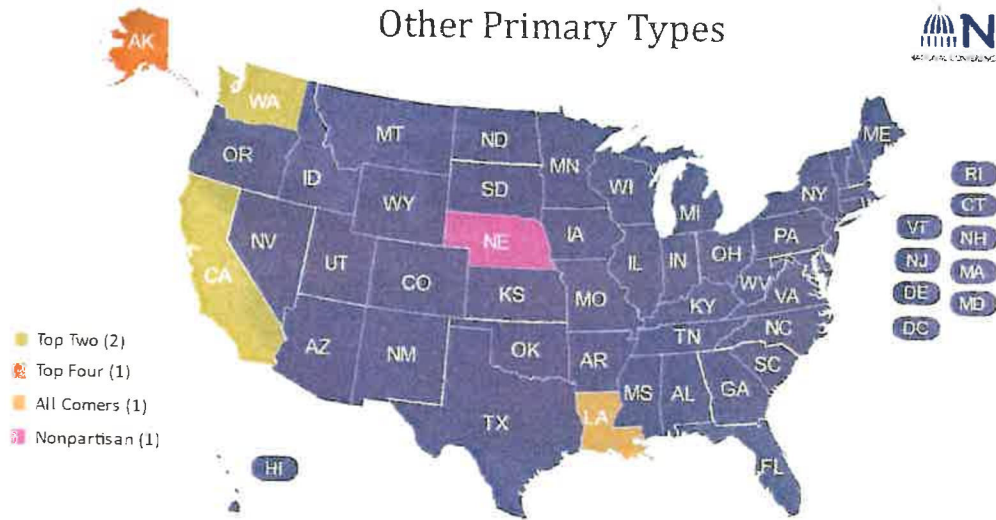


Open Primaries



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Other Primary Types



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