

LEGISLATIVE REDISTRICTING PLAN
As Submitted to the 63rd Montana Legislature
Based on the 2010 Census

Submitted to the 63rd Montana Legislature
by the Montana Districting and Apportionment Commission
in fulfillment of Article V, section 14, of the Montana Constitution
and section 5-1-109, MCA
January 8, 2013

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MONTANA DISTRICTING AND APPORTIONMENT COMMISSION

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"The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing -- one person, one vote."

Justice Douglas, writing for the majority in Gray v Sanders, 372 U.S. 368, 381 (1963)

INTRODUCTION

This report provides background on the work of the Montana Districting and Apportionment Commission, which was appointed in the spring of 2009 and continued its work through early 2013. The commission is authorized in Article V, section 14, of the Montana Constitution to adjust congressional and legislative district lines after each federal decennial census.

Montana is one of only a few states that use a citizen commission to perform the redistricting function. Until the 1970s, Montana was among the many states that leave redistricting to the state legislature. At the 1971-1972 Constitutional Convention, delegates debated about the complex and highly political nature of redistricting and eventually chose to create a five-member citizen commission to redistrict.

Although drawing political district lines and apportioning representatives among those districts have been happening since the beginning of our nation, it is only recently that these tasks were performed routinely. For decades, state and federal district lines were adjusted only periodically. Over time, as the United States experienced both population growth and the shift from a rural, agrarian society, to an urban, industrial one, political districts became badly malapportioned. Rural districts in Montana were granted more representation in the state legislature than their population would otherwise dictate. Montana was not alone; most states in the nation experienced similar shifts in population.

In the 1960s, the Judicial Branch entered the "political thicket" of redistricting that it had long avoided. In a series of cases in that decade, the U.S. Supreme Court set out constitutional requirements for representation and redistricting. Foremost among these was that voters were to be treated equally no matter where they lived. These rulings outlined the concept that most Americans today identify as a cornerstone of our democracy: "one person, one vote".

Accordingly, the 1972 Montana Constitution requires that Montana legislative districts must be "as nearly equal in population as practicable". This report details the process used by the 2010 Montana Districting and Apportionment Commission to adjust Montana's congressional and legislative districts based on the 2010 U.S. Census.

The Montana Legislative Services Division staff prepared this report in support of the commission, as required in section 5-1-106, MCA.

The vote record, draft maps, official audio minutes, summary minutes, copies of public comment, and other meeting materials and reports are available in the files of the Legislative Services Division and are also maintained on the Legislature's website, www.leg.mt.gov.

MEMBERSHIP

Article V, section 14(2), of the Montana Constitution provides that redistricting will be carried out by a commission consisting of five citizens. Commissioners are selected in the session immediately before a federal census; the majority and minority leaders of the Montana Legislature in the appropriate session make the first four appointments. After the first four commissioners have been selected, they have 20 days to select a fifth member, who will serve as the commission's presiding officer. If the four commissioners are unable to agree, the Montana Supreme Court will select the presiding officer.

The Montana Districting and Apportionment Commission responsible for redistricting after the 2010 Census was appointed in 2009. The first four commissioners were chosen by legislative leadership on April 17, 2009. Those four met three times that spring but were unable to agree upon a presiding officer. The Montana Supreme Court selected former Montana Supreme Court Justice Jim Regnier in a unanimous vote on May 22, 2009.

- Senate Majority Leader Jim Peterson appointed Linda Vaughey, Helena.
- House Majority Leader Margaret Campbell appointed Joe Lamson, Helena.
- Senate Minority Leader Carol Williams appointed Pat Smith, Arlee
- House Minority Leader Scott Sales appointed Jon Bennion, Clancy
- The Montana Supreme Court appointed Jim Regnier, Lakeside

CONGRESSIONAL APPORTIONMENT AND REDISTRICTING

On January 12, 2011, Karen L. Haas, Clerk of the United States House of Representatives, certified to Governor Brian Schweitzer that Montana would continue to receive only one representative in the House. Montana lost its second representative after the 1990 Census.

On March 15, 2011, the Montana Legislative Services Division received the P.L. 94-171 final census population data. This data file is compiled by the United States Census Bureau of the United States Department of Commerce and distributed to the states for use in redistricting. The receipt of the data triggered a 90-day period for the commission to complete a congressional redistricting plan and file the plan with the Montana Secretary of State. On May 16, 2011, the commissioners held a public hearing on the plan and then voted to file it with Secretary of State Linda McCulloch. The plan confirmed that the State of Montana, in its entirety, comprises one congressional district.

LEGISLATIVE REDISTRICTING PROCESS

According to the 2010 Census, Montana has a population of 989,415 people. Because the Montana House of Representatives currently has 100 representatives, each of the 100 districts must have approximately 9,894 people in it. Senate districts are required by the Montana Constitution to be composed of two contiguous House districts. Each of the 50 Senate districts must contain approximately 19,788 people.

The process to divide the population into these 100 House and 50 Senate districts started in September 2009, when the commission adopted a work plan and voted to hold public hearings before adopting the mandatory and discretionary criteria it would use to guide its line drawing. The commission held three public hearings in 2010 to gather input on criteria. The commission met in Helena, Missoula, and Bozeman and used videoconferences to link to Great Falls, Havre, Kalispell, and Miles City. Hearings were noticed as widely as possible in advance, and the commission also issued an op-ed piece to encourage Montanans to attend the hearings or to submit written testimony. After considering the comments, the commission met in May 2010 to adopt the criteria it would use in the next 3 years.

After receiving Census data in 2011, the commission instructed staff to visit election administrators, legislators, tribal officials, political party members, local officials, and other interested parties or notify them of the redistricting process and solicit local ideas for how district lines might be shifted or redrawn to accommodate the new population figures. Staff conducted these visits during the summer and fall of 2011 and also tried to attend conferences of election administrators and local officials to increase knowledge of and participation in the process. Individual commissioners also spent numerous hours on the road visiting with Montanans about redistricting.

At an organizational meeting in July 2011, the commissioners directed staff to create up to five draft statewide maps of 100 House districts. This decision marked a change in direction from previous commissions. In the past, commissions redistricted on a regional basis, holding public hearings and tentatively adopting maps for one large region of Montana before moving to another region and performing a similar function. The 2010 commission adopted a "statewide" approach, meaning it wanted to consider maps and solicit public comment on those maps from the whole state at the same time.

At the July meeting, commissioners also provided staff with several "themes" to use to develop different maps for consideration. The maps, along with any complete maps submitted by individual commissioners or members of the public, would be used to gather public comment through the spring and summer of 2012. The themes were:

- emphasize clear lines between population centers and rural areas;
- use the existing district lines as a starting point for new lines;
- emphasize the districting criterion on relative population equality between districts; and

- attempt to keep political subdivisions intact when possible.

The commission stressed to staff that regardless of theme, each draft plan should attempt to preserve existing American Indian majority-minority districts if possible given the various demographic and population changes reflected in the 2010 Census.

Draft maps were presented to the commission at a February 2012 meeting. In total, the commission used five maps to gather public comment during the first half of 2012. Maps drafted according to the commissioners' themes were accompanied by a statewide map submitted to the commission by Commissioners Joe Lamson and Pat Smith.

From March to May 2012, the five commissioners held 14 public hearings across the state, from Kalispell to Missoula to Miles City to Crow Agency and Wolf Point. The commissioners tried to strike a balance between visiting large population centers and more rural areas, as well as visiting several reservations or areas with sizable populations of American Indians. The hearings were generally held in the evening, though some afternoon hearings were held to allow the commissioners to have two hearings in 1 day.

During this hearing schedule, the commissioners accepted pages upon pages of written public testimony on the various plans. They also received several regional maps, including maps developed in Gallatin, Yellowstone, Broadwater, Jefferson, Ravalli, and Cascade Counties. All maps, whether developed by staff, commissioners, or the public, were made available for all to view on the commission's website. Maps included pdf copies of smaller areas, as well as files allowing the public to use Google Earth and Google Maps to view more detailed versions of the statewide maps.

The commission met for a week in August 2012 to debate and adopt lines for a statewide map. By late on Friday, August 17, the commission voted 5-0 to tentatively adopt what became known as the Tentative Commission Plan, which included 100 House districts. Throughout the fall, the commission continued to take public comment on the Tentative Commission Plan.

After the 2012 general election, the commission held another public hearing to solicit comments about how it should pair up House districts to create 50 Senate districts and which 25 "holdover" senators should be assigned to what districts. (Holdover senators were elected in 2012 to 4-year terms. They will serve the first 2 years of their terms in the districts to which they were elected. During the final 2 years of their terms, they will transition to serve in districts drawn by the commission.)

The commission adopted Senate districts and holdover senator assignments on November 30. During a December 6 executive session, the commissioners revised the lines of the Tentative Commission Plan and voted to use the complete plan of 100 House districts, 50 Senate districts, and 25 holdover senator assignments to gather public comments at a December 19 public hearing. Section 5-1-108, MCA, requires the commission to hold at least one public hearing on

the entire legislative redistricting plan at the State Capitol. The December 19 hearing satisfied that requirement.

From 2009 to December 2012, the commission held 29 separate meetings and hearings to perform its redistricting task. This includes the 5-day August 2012 meeting at which the commission considered, debated, and tentatively adopted the 100 House districts that formed the core of the commission's legislative redistricting plan.

The commission finalized its plan and is submitting it to the 2013 Montana Legislature before the 10th legislative day in fulfillment of the constitutional and statutory requirements. The 63rd Legislature will have 30 days from the date of submission to provide recommendations to the commission. After receiving the recommendations, the commission will have 30 days to consider the recommendations. The commission is not required to adopt changes recommended by the Legislature, though it may do so if it wishes. Once the commission submits the entire plan to the Secretary of State, the plan becomes law and the commission is dissolved.

CENSUS DATA

By law, the U.S. Census Bureau must provide to the states official data to use in redistricting. The data, called P.L. 94-171 data, contains total population data, as well as racial and ethnic data on the populations of various levels of census geography (block, census place, block group, tract, county, etc.)

The commission adopted operating guidelines on July 12, 2011. The guidelines stated the commission would use the P.L. 94-171 data to complete its legislative redistricting task. To comply with the Voting Rights Act, especially section 2, the commission decided to use the racial and ethnic data contained in the P.L. 94-171 data set.

According to the 2010 Census, the predominant racial minority in Montana is included in the American Indian and Alaska Native race category. Because the Census allows each respondent to select the category of race and ethnicity that best matches the respondent's individual situation, the data contains multiple categories for race and ethnicity. The commission chose to aggregate these multirace categories according to the prescriptions provided in Part II of the Office of Management and Budget (OMB) Bulletin No. 00-02.¹ For example, a person who chose American Indian or American Indian plus White would be allocated to the American Indian category for the purposes of compliance with the Voting Rights Act. A person who chose American Indian plus Black would be allocated to the American Indian population unless the number of American Indian and Black responses each totaled more than 1% of the district's population, in which case the response would be analyzed and assigned to one race category and then the other.

In the single race category for American Indian and Alaska Native, 62,555 people were reported in Montana for the 2010 Census. This number is slightly more than 6% of Montana's total population. When all the categories that contain American Indian and Alaska Native in combination with one or more other races are totaled, there are 78,601 people in Montana who are wholly or partially American Indian or Alaska Native as of the 2010 Census. This number is nearly 8% of Montana's total population.

¹ The OMB bulletin can be accessed at http://www.whitehouse.gov/omb/bulletins_b00-02.

CONGRESSIONAL AND LEGISLATIVE DISTRICTING CRITERIA

On May 28, 2010, the Montana Districting and Apportionment Commission adopted four mandatory and three discretionary criteria to use when drawing new state district lines. The criteria were similar to criteria adopted by previous commissions. One change was that after considering testimony gathered during the April 2010 hearings, the commission voted to use a 3% deviation from the ideal district population. The previous commission used a 5% deviation, as is allowed in federal redistricting case law.

A second notable change was that the commission voted to require a written justification for any deviations from the ideal district size. The justification would be made part of the written record that accompanies the district description in the commission's report.

Mandatory Criteria for Congressional Districts

1. Population equality. All congressional districts shall be as nearly equal in population as is practicable. (Article 1, section 2, of the U.S. Constitution, U.S. Supreme Court cases).

Mandatory Criteria for Legislative Districts

1. Population equality and maximum population deviation. Each legislative district shall be as nearly equal in population as is practicable. (MT Constitution). It is the goal of the Commission that each district have a population of 9,894 people for each House district and 19,788 people for each Senate district. Any deviation may not exceed plus or minus 3% from this ideal population. Each deviation will be accompanied by an explanation of the mandatory or discretionary criteria justifying such deviation. An explanation for the deviation shall be articulated and made part of the written record that accompanies each district description in the Commission report.
2. Compact and contiguous districts. Each district shall consist of compact and contiguous territory. (MT Constitution). The Commission may use, but not be limited to, a general appearance test regarding compactness of the district and consider the district's functional compactness in terms of travel and transportation, communication, and geography.
3. Protection of minority voting rights and compliance with the Voting Rights Act. No district, plan, or proposal for a plan is acceptable if it affords members of a racial or language minority group "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice". (42 U.S.C. 1973).
4. Race cannot be the predominant factor to which the traditional discretionary criteria are subordinated. (Shaw v. Reno, 509 U.S. 630 (1993)).

Discretionary Criteria for Legislative Districts

1. Following the lines of political units. The Commission will consider the boundary lines of counties, cities, towns, school districts, Indian reservations, neighborhood commissions, and other political units.
2. Following geographic boundaries. District lines will be drawn to follow geographic boundaries as provided in the TIGER/Line files of the U.S. Bureau of the Census.
3. Keeping communities of interest intact. The Commission will consider keeping communities of interest intact. Communities of interest can be based on Indian reservations, urban interests, suburban interests, rural interests, neighborhoods, trade areas, geographic location, communication and transportation networks, media markets, social, cultural, and economic interests, or occupations and lifestyles.

LEGISLATIVE REDISTRICTING PLAN²
as adopted on December 19 for submission to the 63rd Legislature

Data on House Districts in Legislative Plan

Number of House Districts: 100

Ideal District Size: 9,894 people

Mean Deviation: 0.91% (approximately 90 people)

Standard Deviation: 121 people

Largest District: 10,136 people (2.45%)

Smallest District: 9,598 people (-2.99%)

Overall Range: 5.44% (538 people)

Data on Senate Districts in Legislative Plan

Number of Senate Districts: 50

Ideal District Size: 19,788 people

Mean Deviation: 0.76% (approximately 151 people)

Standard Deviation: 207 people

Largest District: 20,240 people (2.28%)

Smallest District: 19,199 people (-2.98%)

²The adopted plan is subject to change until the plan is submitted to the Secretary of State in early 2013.

House Districts

House Districts Data and Deviation Justifications by Region

Northwestern Region - Lincoln, Flathead, Lake, Mineral, and Sanders Counties

House District	2010 Total Population	% Deviation from Ideal	2010 Total Population - American Indian/Alaska Native	% Voting Age Population of American Indian/Alaska Natives	Justification for Deviation (will be adopted by commissioners in February 2013)
1	9,838	-0.57	264	2.52	
2	9,849	-0.45	221	2.13	
3	9,981	0.88	323	3.07	
4	9,915	0.21	250	2.27	
5	9,869	-0.25	168	1.40	
6	9,953	0.60	169	1.58	
7	9,955	0.62	346	3.01	
8	9,989	0.96	254	2.28	
9	9,999	1.06	325	2.78	
10	9,890	-0.04	171	1.64	
11	9,988	0.95	147	1.45	
12	9,886	-0.08	1,899	15.61	
13	9,987	0.94	238	2.18	
14	9,981	0.88	780	7.06	
15	9,600	-2.97	6,159	58.59	
16	9,604	-2.93	6,808	67.04	
17	9,901	0.07	390	3.83	
18	9,903	0.09	768	6.86	

House District	2010 Total Population	% Deviation from Ideal	2010 Total Population - American Indian/Alaska Native	% Voting Age Population of American Indian/Alaska Natives	Justification for Deviation (will be adopted by commissioners in February 2013)
19	9,919	0.25	400	3.82	
20	9,956	0.63	266	2.28	
21	9,894	0.00	563	4.94	
22	9,859	-0.35	773	6.73	
23	9,868	-0.26	982	7.93	
24	9,791	-1.04	864	6.97	
25	9,834	-0.61	722	6.24	
26	10,076	1.84	623	5.86	
27	9,900	0.06	207	1.59	
28	9,975	0.82	1,587	12.31	
29	10,029	1.36	219	2.17	
30	9,957	0.64	164	1.52	
31	9,837	-0.58	6,845	62.47	
32	9,800	-0.95	6,731	62.95	
33	9,766	-1.29	786	6.89	
34	9,882	-0.12	558	4.39	
35	9,746	-1.50	277	2.36	
36	9,983	0.90	266	2.27	
37	10,131	2.40	125	0.86	
38	9,890	-0.04	289	2.41	
39	9,960	0.67	355	2.68	
40	9,909	0.15	318	2.52	
41	9,598	-2.99	6,098	56.81	
42	9,601	-2.96	5,913	54.82	

House District	2010 Total Population	% Deviation from Ideal	2010 Total Population - American Indian/Alaska Native	% Voting Age Population of American Indian/Alaska Natives	Justification for Deviation (will be adopted by commissioners in February 2013)
43	9,833	-0.62	488	3.79	
44	9,873	-0.21	535	4.18	
45	9,865	-0.29	521	4.24	
46	9,873	-0.21	178	1.43	
47	9,826	-0.69	772	6.26	
48	9,751	-1.45	491	3.88	
49	9,734	-1.62	973	8.64	
50	9,846	-0.49	597	4.90	
51	9,844	-0.51	922	7.49	
52	9,832	-0.63	850	6.37	
53	9,898	0.04	165	1.46	
54	9,904	0.10	235	1.96	
55	9,875	-0.19	309	2.31	
56	9,894	0.00	570	4.40	
57	9,636	-2.61	154	1.42	
58	10,078	1.86	152	1.30	
59	9,632	-2.65	132	1.26	
60	9,666	-2.30	199	1.92	
61	9,829	-0.66	89	0.80	
62	9,908	0.14	79	0.87	
63	9,896	0.02	393	3.18	
64	9,924	0.30	160	1.59	
65	9,815	-0.80	160	1.47	
66	9,727	-1.69	150	1.33	

House District	2010 Total Population	% Deviation from Ideal	2010 Total Population - American Indian/Alaska Native	% Voting Age Population of American Indian/Alaska Natives	Justification for Deviation (will be adopted by commissioners in February 2013)
67	9,952	0.59	177	1.67	
68	9,958	0.65	171	1.39	
69	9,974	0.81	111	1.08	
70	9,934	0.40	275	2.33	
71	10,104	2.12	163	1.43	
72	10,136	2.45	228	1.91	
73	10,049	1.57	287	2.42	
74	10,048	1.56	575	5.16	
75	9,887	-0.07	291	2.60	
76	10,056	1.64	162	1.25	
77	10,058	1.66	304	2.68	
78	10,049	1.57	597	6.10	
79	9,914	0.20	318	2.74	
80	9,893	-0.01	253	2.49	
81	9,866	-0.28	307	2.86	
82	9,882	-0.12	385	3.69	
83	9,911	0.17	451	3.71	
84	9,918	0.24	464	3.61	
85	10,063	1.71	226	1.85	
86	10,042	1.50	203	1.63	
87	10,057	1.65	239	2.21	
88	10,050	1.58	188	1.79	
89	9,869	-0.25	300	2.82	
90	9,845	-0.50	416	3.28	

House District	2010 Total Population	% Deviation from Ideal	2010 Total Population - American Indian/Alaska Native	% Voting Age Population of American Indian/Alaska Natives	Justification for Deviation (will be adopted by commissioners in February 2013)
91	9,722	-1.74	220	2.16	
92	10,121	2.29	373	3.00	
93	9,904	0.10	2,852	25.06	
94	9,821	-0.74	771	6.48	
95	9,708	-1.88	683	5.98	
96	9,976	0.83	315	2.65	
97	9,979	0.86	285	2.44	
98	9,819	-0.76	437	3.64	
99	9,845	-0.50	310	2.64	
100	9,797	-0.98	379	3.29	

Senate Districts and Assignment of Holdover Senators

Senate District	House Districts	Counties	Holdover Senator
1	1 & 2	Lincoln	
2	3 & 4	Flathead	Dee Brown
3	5 & 6	Flathead	Tutvedt
4	7 & 8	Flathead	
5	9 & 10	Flathead/Lake	
6	11 & 12	Flathead/Lake	Janna Taylor
7	13 & 14	Flathead/Sanders/Mineral	Fielder
8	15 & 16	Flathead/Lake/Glacier/Pondera	
9	17 & 18	Lewis & Clark/Teton/Pondera/Toole	Ripley
10	19 & 20	Cascade	Hamlett
11	21 & 22	Cascade	
12	23 & 24	Cascade	
13	25 & 26	Cascade	
14	27 & 28	Cascade/Chouteau/Liberty/Hill	
15	29 & 30	P e t r o l e u m / F e r g u s / G o l d e n Valley/Wheatland/Meagher/Judith Basin/Cascade	
16	31 & 32	Roosevelt/Valley/Phillips/Blaine/Hill/Chouteau	Windy Boy
17	33 & 34	Hill/Blaine/Phillips/Valley/Roosevelt/Daniels/ Sheridan	Brendan
18	35 & 36	Richland/Dawson/Wibaux	Rosendale
19	37 & 38	McCone/Garfield/Prairie/Custer/Fallon/Carter/ Powder River	
20	39 & 40	Custer/Rosebud/Treasure/Yellowstone/Musselshell	
21	41 & 42	Powder River/Rosebud/Big Horn/Yellowstone	Stewart-Peregoy
22	43 & 44	Yellowstone	
23	45 & 46	Yellowstone	Webb
24	47 & 48	Yellowstone	
25	49 & 50	Yellowstone	Driscoll
26	51 & 52	Yellowstone	Arntzen
27	53 & 54	Yellowstone	
28	55 & 56	Yellowstone	Taylor Brown
29	57 & 58	Carbon/Stillwater/Sweet Grass	
30	59 & 60	Sweet Grass/Park/Gallatin	
31	61 & 62	Gallatin	Phillips
32	63 & 64	Gallatin	
33	65 & 66	Gallatin	
34	67 & 68	Gallatin	

Senate District	House Districts	Counties	Holdover Senator
35	69 & 70	Gallatin/Broadwater/Lewis & Clark	Sales
36	71 & 72	Madison/Beaverhead/Silver Bow/ Jefferson	Debbie Barrett
37	73 & 74	Silver Bow	Sesso
38	75 & 76	Silver Bow/Jefferson	Keane
39	77 & 78	Granite/Deer Lodge/Silver Bow/Powell	Vuckovich
40	79 & 80	Powell/Lewis & Clark	Kaufmann
41	81 & 82	Lewis & Clark	
42	83 & 84	Lewis & Clark	
43	85 & 86	Ravalli	
44	87 & 88	Ravalli	Thomas
45	89 & 90	Missoula	Dick Barrett
46	91 & 92	Missoula	Malek
47	93 & 94	Missoula/Lake	Larson
48	95 & 96	Missoula	
49	97 & 98	Missoula	
50	99 & 100	Missoula	