



Map of Montana’s Gerrymandered HD 15 and SD 8

A Primer on Gerrymandering

Gerrymandering is one of the most important problems facing Montanans today. We’ll look at what it is, how it occurs, and why it is a problem.

ELECTORAL DISTRICTS AND REDISTRICTING

In order to understand what gerrymandering is, you first have to understand *redistricting*.

As you know, Americans live in a representative democracy (also known as a democratic republic). That is, we elect people to represent us at various levels of government. We elect mayors, commissioners, presidents, congressmen, senators, etc... We march into our polling place on election day and cast our ballots. But how do we know which candidates will appear on which ballots?

Some offices (like governor) are elected statewide, which means the candidates appear on every ballot in the state. Some (like mayors) are elected only in

their own municipality. One office (president) is elected country-wide.

But for our purposes, let’s focus on U.S. senate elections. Every state gets two senators, no matter the size. California, with 37,253,956 people has the same number of U.S. senators as Wyoming, with 563,626. Because the number of representatives is not proportional to the representative’s population (A U.S. senator from California represents more people than one from Wyoming), this is known as *non-proportional representation*. This system was put into place during the Constitutional Convention because small states were worried that their votes would be meaningless if the big states had more representatives.

But, as you know, the U.S. Congress (which makes *federal* laws) has two houses, the Senate being the upper house. The lower house, the House of Representatives, is elected on the basis of *proportional representation*. This means that each state is given a number of congressional seats based on how big or small their populations are — the bigger the state, the more representatives. And the states divided these seats up proportionally, so that each congressman represents roughly the same amount of people.

This is where electoral districts come in. In the next election, Montana will have 1 seat in the U.S. House of Representatives. That person represents one million plus people. In other states where there is more than one representative, each must represent an approximately equal number of people. In order to account for this, we draw *electoral districts*. Electoral districts are political boundaries that define who represents you.

But, since populations are always changing — people are born, die, and move all the time — that means electoral districts’ compositions are always changing. And by the end of a decade, two districts that were once the same size could suddenly be very different. So, every ten years, we redraw the districts, to keep the sizes equal and the representation fair. The process by which these districts are redrawn is known as *redistricting*.

WHAT IS GERRYMANDERING?

Unfortunately, politicians since the founding of the country have taken this noble goal of proportional representation and used it for their own means. Gerrymandering is the result. Essentially, *gerrymandering* occurs when the people redrawing the district lines do so with ulterior motives.

Back in the day, a lot of gerrymandering was racial. Politicians would draw lines that split up minority populations into different voting districts, so that none of them would be represented. Say, for instance, that an outspoken racist had a lot of minority voters in his district. Those voters could pose problems for his re-election. So, when redistricting came around, the lines would be redrawn to divide the minority population into several districts — and also to include people in his district that he knew would vote for him. With less minority voters in his electorate (and more supporters), his re-election was assured.

Though the courts have ruled racial gerrymandering unconstitutional, they have found no workable standard for political gerrymandering, where groups are split up or put together based on voter registration figures. People that redraw political lines use information on how many Republicans or Democrats are in an area to decide where the lines will be drawn. Clever redistricting allows those in charge of the process to consolidate power, reward friends, punish foes, and escape accountability. They are allowed to pick their constituents, instead of their constituents picking them.

Political gerrymandering has a long and storied history in the United States. The term “gerrymandering” itself comes from Massachusetts Governor and Founding Father Elbridge Gerry, who signed off on a redistricting map that the opposition said looked like a salamander, or (once they combined it with the governor’s name) a “gerrymander.”

WHAT ARE SOME OF GERRYMANDERING’S EFFECTS?

Gerrymandering has many effects. First, it *undermines our system of governance and the*

Constitution. Our system is based on representative government and accountability. Both of these are subverted if a handful of people are able to redraw the lines in such a way that designs districts with the specific purpose of isolating the opposition. Imagine a district that is 50% Democrats and 50% Republicans, and all around it is surrounded by areas that are 75% Democratic. With a little maneuvering, the Democrats can split the Republicans in that 50-50 district, putting some in one district, some in another until voila! Suddenly, the Democrats have a commanding lead in *every* district. And the Republicans can do the same thing in the places where they control the process.

Under these circumstances, pretty much everyone knows who is going to win in the general election. The seat is *safe*. In the words of Louisiana Governor Edwin Edwards, “The only way I can lose this election is if I’m caught in bed with either a dead girl or a live boy.” Nothing short of a full-blown scandal or major misstep will unseat them. And when voters already know the outcome of an election before it is even held, there is little reason to turn up at the polls. *Decreased voter turnout* is another vicious effect of gerrymandering. Where’s the democracy or accountability in that?

Furthermore, when an electoral challenge comes, it won’t be in the general election. The opposition doesn’t have enough votes to launch a credible challenge. Under these circumstances, a challenge normally comes from *within* the incumbent’s party. A Republican, for example, challenging a fellow Republican in the primary.

Voters in primary elections are often (though not always) more partisan or ideological purists. Fending off a primary challenge means an incumbent will pander to his base and take extremist positions on issues instead of cooperating and compromising. That is another effect of gerrymandering: creating a dysfunctional atmosphere of *polarization* and *partisanship*.

Gerrymandering also allows political powerbrokers to punish enemies and reward friends. For instance, an annoying legislator can have his district

eliminated or merged with another, nearby district in the hopes that he will lose the next election battle against a fellow incumbent. Potential challengers can likewise be redrawn out of districts, in order to reward loyalty with a safe seat.

This type of chicanery makes legislators beholden not to their constituents, but to those people drawing the political boundaries.

HOW DO WE REDISTRICT IN MONTANA?

Montana's congressional and state legislative lines are drawn by a five-member independent commission, created in 1994. Each of the four legislative leaders (majority and minority leader in each legislative house) each select one commissioner, and those four commissioners choose one more as chair; in 2009, because the first four commissioners were unable to agree on a chair, the Montana Supreme Court selected the fifth commissioner. The commissioners are listed here.

[Montana Districting and Apportionment Commission](#)

The state constitution provides that no commissioner may be a public official. State law further requires that two of the first four commissioners must be selected from certain counties (roughly, in the Montana Rockies to the west) and two must be selected from the rest of the state (to the east); though state cases suggest that this statute may unlawfully limit discretion under the state constitution.

Timing

Census data were delivered to Montana on March 15, 2011.

The Montana state constitution requires the independent commission to submit a plan to the legislature in the first legislative session after the census figures are available; the session begins on January 7, 2013, and ends at most 90 legislative days later. After the plan is submitted, the legislature must return recommendations within 30

days, and the commission must produce final maps within 30 days thereafter. Candidates must file for state legislative primary elections by March 12, 2012.

Montana law ties the drawing of districts to the Census, and might therefore be construed to prohibit redrawing lines mid-decade.

Public input

Montana statutes require the independent commission to hold at least one public hearing, at the state capitol, before submitting its proposed plan to the legislature; this statutory requirement, however, may be unlawful under the state constitution. [districting-outreach-one-pager.pdf](#)

Criteria

Like all states, Montana must comply with constitutional equal population requirements. The Montana constitution further asks that state legislative districts be as nearly equal in population "as is practicable"; the independent commission has adopted guidelines -- which it may alter, if it wishes -- further restricting districts to at most 3% deviation from the average population, with an explanation justifying each deviation. (Montana statutes purport to require districts that have at most 1% deviation from the average, unless necessary to keep political subdivisions intact or to comply with the Voting Rights Act, but these statutory requirements were declared unlawful under the state constitution.)

Montana must also, like all states, abide by section 2 of the Voting Rights Act.

The Montana constitution further requires that districts be compact and contiguous. **Brushfires Note: Look at the map of Senate District 8 and House District 15 on page 1 of this document. Does it look compact and contiguous to you?** The independent commission has stated that it may gauge compactness by looking to a district's general appearance, and the degree to which it fosters "functional compactness" through "travel and transportation, communication, and

geography." The commission has similarly determined that it will, in drawing legislative districts, consider the boundary lines of political subdivisions (counties, cities, towns, school districts, Indian reservations, neighborhood commissions, and others); follow geographic boundaries; and consider keeping intact communities of interest (based on "Indian reservations, urban[, suburban, or rural] interests, . . . neighborhoods, trade areas, geographic location, communication and transportation networks, media markets, social, cultural and economic interests, or occupations and lifestyles"). [Congressional and Legislative Redistricting Criteria]

(Montana statutes purport to further restrict legislative redistricting, by defining a particular measure of compactness, limiting crossing political boundary lines, prohibiting use of political and election data, and prohibiting drawing districts for the purpose of favoring a political party or incumbent. These statutory requirements, however, have been declared unlawful limits on the commission's authority, under the state constitution.)

State legislative districts are nested; each state Senate district is composed of two adjoining state House districts.

Article: [Gerrymandering in Montana](#)

THE WAY FORWARD

There are ways to minimize the dangers of gerrymandering. Other states use independent commissions, comprised of citizens not holding any elected office, to redraw political boundaries. These commissions can be barred, by law, from using political considerations (like voter registration figures) when drawing districts. With specific prohibitions on such practices, the courts would have an easier time striking down blatantly political maps.

Maps could also be judged by contiguousness and compactness formulas that are designed to make

preempt the creative drawing that often signals rampant gerrymandering.

Finally, advances in technology are continually providing us with more tools of transparency and accountability, and it is conceivable that the redistricting process could be undertaken by a computer algorithm, and signed off on by an independent, or other appointed or elected, commission (with no powers to amend, only to approve or reject).

CONCLUSION

Gerrymandering is one of the most important political issues of our day — but it is complicated and unglamorous. The blatantly gerrymandered maps that are turned out every decade are an indication that those who draw the boundaries know the electorate cares very little about the issue. They do not even try to hide the fact that they are engineering these maps in a way that benefits their political parties and ambitions.

Reform will come only from one place: the grassroots. That makes educating the public about gerrymandering and its effects that much more important. Our Constitutional, Representative Republic depends on it.

