

DRAFT as of 12/20/2022

# LEGISLATIVE REDISTRICTING PLAN

## As Submitted to the 68<sup>th</sup> Legislature

### Based on 2020 Census

Insert Map Image

Submitted to the 68<sup>th</sup> 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 XX, 2023



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## COMMISSIONERS

Maylinn Smith, Arlee

Presiding Officer

Appointed by the Montana Supreme Court, 2020

Jeff Essmann, Billings

Appointed by Senate Majority Leader Fred Thomas, 2019

Denise Juneau, Bozeman

Appointed by Senate Minority Leader Jill Cohenour, 2021

Dan Stusek, Helena

Appointed by House Majority Leader Brad Tschida, 2019

Kendra Miller, Bozeman

Appointed by House Minority Leader Casey Schreiner, 2019

### *Prior Commissioners*

Sheila Stearns, Presiding Officer, 2019-2020

Appointed by the Montana Supreme Court

Joe Lamson, Helena, 2019-2021

Appointed by Senate Minority Leader Jon Sesso





## INTRODUCTION

This report details the process used by the Montana Districting and Apportionment Commission, which is authorized by Article V, section, 14, of the Montana Constitution to revise congressional and legislative district lines after each federal decennial census. The commission was appointed in the spring of 2019 and will continue to serve until early 2023 when the commission files a final legislative redistricting plan with the Montana Secretary of State and is dissolved.

Redistricting is a historic but difficult process, and the 2020 redistricting cycle was no different. Montana became the first state to regain a congressional seat after losing one in a prior reapportionment. In addition, the COVID-19 pandemic and associated challenges resulted in delays in the release of the detailed Census data needed to complete redistricting. However, the 2020 commission weathered the challenges thrown its way and became the first commission to take advantage of new technology that made videoconference meetings a practical option.

At each step of the process, the commission prioritized hearing from the public about their priorities, criteria, and draft maps and expanded the public's opportunity to participate by embracing improved mapping and meeting technology.

## BUDGET

Commissioners are entitled to the same salary that legislators receive for each day they are engaged in commission business. They also are reimbursed for travel expenses.

The commission's budget is contained in two biennial budgets because of the four-year lifespan of the commission. In 2019, House Bill 776 appropriated \$150,000 to support the commission.<sup>1</sup> Of that \$150,000, half was earmarked for commissioner and staff training. The other half was for software for the commission's staff. The House Bill 2 budget in 2019 appropriated \$20,779 to cover the commission's personal services and operating costs.

The 2021 Legislature appropriated \$101,479 to support the commission's congressional and state legislative redistricting work through June 2023.

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

The vote records, draft maps, reports prepared for the commission, official audio minutes, summary minutes, copies of written public comment, and other commission materials are maintained on the commission's website: [mtredistricting.gov](http://mtredistricting.gov).

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<sup>1</sup> In addition to providing that appropriation, the bill also removed from law the requirement that the commissioners be appointed from specific regional designations.

## MEMBERSHIP

Article V, section 14(2), of the Montana Constitution requires a five-member citizen commission to redistrict the state's congressional and state legislative districts. Commissioners are selected during the legislative session immediately prior to the decennial census.

The majority and minority leaders of the Montana Legislature in the appropriate session select the first four commissioners. Those four commissioners have 20 days to select the fifth member, who will serve as the commission's presiding officer. If the first four commissioners are unable to reach agreement, the Montana Supreme Court must select the presiding officer.

Because Montana holds biennial sessions in odd-numbered years, the commissioners were initially appointed in 2019. The Senate majority leader appointed Jeff Essmann of Billings. The Senate minority leader selected Joe Lamson of Helena. The House majority leader selected Dan Stusek, then of Billings and now of Helena. The House minority leader selected Kendra Miller of Bozeman. The first four commissioners failed to agree on a presiding officer, so in June 2019, the Montana Supreme Court selected Sheila Stearns of Missoula to serve as the commission's presiding officer.

When Commissioner Stearns resigned in December 2020, the Supreme Court selected Maylinn Smith of Arlee to replace her as presiding officer. When Commissioner Lamson resigned in October 2022, he was replaced by Denise Juneau of Bozeman.



## CENSUS DATA

By law, the U.S. Census Bureau must deliver Census data to the states for use in redistricting. The dataset, 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 procedures that required publicly submitted plans to be based on Census geography and use P.L. 94-171 data to ensure that the plans matched the information commissioners used.

## LEGISLATIVE REDISTRICTING PROCESS

According to the 2020 Census, Montana's population was 1,084,225 on April 1, 2020. The U.S. Census released the results in mid-August 2021, several months later than its planned spring 2021 release. The delays were due to data collection complications related to the COVID-19 pandemic.

While waiting for the data necessary to redistricting, the commissioners focused on planning. In May and June 2021, the commissioners took public comment on the redistricting criteria and goals they proposed to guide the state legislative and congressional line-drawing.

Commissioners heard public comment from multiple stakeholders about the importance of reallocating state prisoners from the prison address at which they are counted for Census purposes to the prisoners' last known addresses prior to incarceration. Stakeholders encouraged the commission to gather address data for the prisoners in state facilities on Census day and to adjust the Census data to count those individuals at that last known address.

With assistance from the Legislative Council, which granted the commission \$10,000 from the Council's emerging issues fund, the commission hired a contractor to process address data from the Montana Department of Corrections and adjust the Census data to reallocate prisoners to their last known home addresses. Prisoners whose last known address could not be used or was not available were removed from the overall population count. The completion of the reallocation work in early 2022 marked the first time the state adjusted Census data to account for prisoners' home addresses.

About half of the state prisoners had usable prior address data. The rest of the prisoners were subtracted from the total state population. After these adjustments, the population of Montana for redistricting purposes is 1,082,671.

The commission also hired a consultant to perform a racial bloc voting analysis to ensure compliance with Section 2 of the Voting Rights Act. The commission received \$50,000 for this work from Legislative Council's emerging issues and general program support funds.

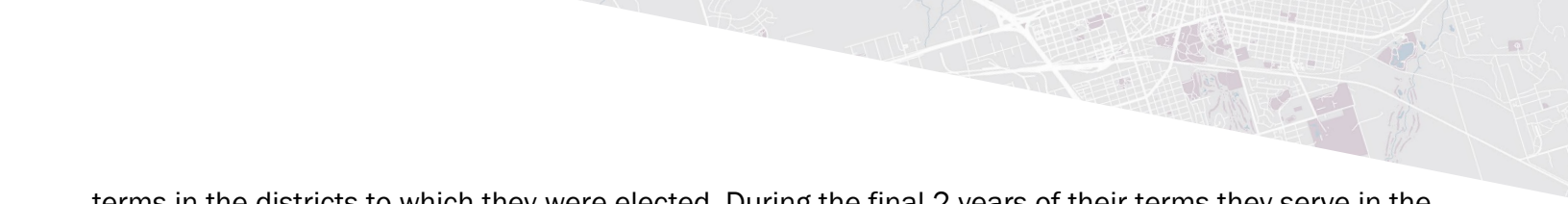
Because the Montana House of Representatives has 100 representatives, each of the 100 districts must have approximately 10,827 people in it. The Montana Constitution requires Senate districts to be composed of two contiguous House districts. Each of the 50 Senate districts must contain approximately 21,654 people.

In an August 2022 meeting, four of the commissioners proposed House district maps to solicit public comment during a series of in-person and online public hearings that autumn.

From late August to mid-September 2022, the commission held 9 public hearings on these four maps. Six were held in-person, one at each of Missoula, Bozeman, Great Falls, Billings, Crow Agency, and Pablo. Three meetings were conducted entirely on Zoom.

The commissioners met in late November and early December to craft a tentative House district proposal. On December 10, the commissioners heard public comment on this tentative proposal, including how the House districts could pair to form Senate districts. On December 15 and 19, the commissioners adjusted the House districts to respond to public comments, selected the Senate pairs, and assigned the holdover senators. Holdover senators were elected in 2022 to 4-year terms. They 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 serve in the districts drawn by the commission.

The commission met on December 21 to hear public comment on the House and Senate districts and holdover senator assignments. The hearing fulfills the requirement in section 5-1-108, MCA, that the commission hold at least one public hearing on the entire legislative plan at the state Capitol.

From 2019 to December 2022, the commission met on 49 days to propose and adopt congressional districts and prose legislative districts. Of those, 7 days were related solely to congressional redistricting while 42 days related all or in part to state legislative redistricting.

Montanans took advantage of their opportunity to have their voices heard about redistricting and their communities. In total, the commissioners:

- heard from more than 400 Montanans during the in-person and Zoom autumn hearings;
- listened to 102 speakers during the December 10 public hearing and XXX at the December 21 public hearing;
- received more than 1,050 written comments by midnight on December 20;
- viewed at least 70 comments submitted on the interactive online maps; and
- received 17 regional or statewide maps submitted by members of the public, some of which were used as the basis for district proposals made by commissioners.

On December XX, the commission finalized its proposal and is submitting it to the 68<sup>th</sup> Montana Legislature before the 10<sup>th</sup> legislative day in fulfillment of the constitutional and statutory requirements. The 68<sup>th</sup> Legislature has 30 days from the date of submission to provide recommendations to the commission. After receiving the recommendations, the commission has 30 days to consider them, though the commission is not required to make changes. The plan becomes law and the commission is dissolved when the commission submits the plan to the Secretary of State.

## LEGISLATIVE DISTRICTING CRITERIA AND GOALS

On July 21, 2021, the commission adopted four mandatory criteria and five goals for state legislative districts. The mandatory criteria are generally similar to those adopted by prior commissions. One difference is the commission chose to use a 1% deviation for districts, with exceptions allowed up to the federally allowable 5% deviation if needed to comply with the Voting Rights Act, to maintain political subdivisions, or to comply with other constitutionally mandated criteria. The commission assigned itself a maximum deviation range of +/- 1% for all House districts.

For the first time since the 1990s redistricting cycle, the commission adopted a goal to draw districts that do not unduly favor a political party. Also for the first time, the commission also adopted goals related to competitiveness and to assign holdover senators to the districts that contain the greatest number of residents of their prior districts when possible. See Appendix A for the full list of mandatory criteria and goals.

On June 3, 2022, the commission defined a competitive district using a metric of 10 statewide elections for which results were available on a popular, public redistricting site, Dave's Redistricting App.

The metric is as follows:

Using the 10 races available publicly on Dave's Redistricting App, a competitive district is one in which both major parties won at least 30% of the time (or 3 of the 10 races).

- The 10 races are:
  - o 2016 Presidential
  - o 2016 Governor
  - o 2016 Attorney General
  - o 2018 U.S. Senate
  - o 2020 Presidential
  - o 2020 U.S. Senate
  - o 2020 Governor
  - o 2020 Attorney General
  - o 2020 Secretary of State
  - o 2020 Auditor

## LEGISLATIVE REDISTRICTING PLAN<sup>2</sup>

Population of Montana:

Adjusted<sup>3</sup> Population of Montana:

### Data on House Districts in Legislative Plan

Number of House Districts: 100

Ideal District Size: 10,827

Mean Deviation: X.XX% (approximately XX people)

Standard Deviation: XXX people

Largest District: XX,XXX people (X.XX%)

Smallest District: XX,XXX people (X.XX%)

Overall Range: X.XX% (XXX people)

Counties split between House Districts: XX, including X involving no population

### Data on Senate Districts in Legislative Plans

Number of Senate Districts: 50

Ideal District Size: 10,827

Mean Deviation: X.XX% (approximately XX people)

Standard Deviation: XXX people

Largest District: XX,XXX people (X.XX%)

Smallest District: XX,XXX people (X.XX%)

Overall Range: X.XX% (XXX people)

Counties split between Senate Districts: XX, including X involving no population

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<sup>2</sup> The plan adopted by the commission to submit to the 68<sup>th</sup> Legislature is subject to change until the plan is submitted to the Montana Secretary of State in early 2023.

<sup>3</sup> Population of the state after the prisoner reallocation data adjustments described on page XX.

# HOUSE DISTRICT POPULATION SUMMARY

TCP-2 Population Summary



## SENATE DISTRICTS AND ASSIGNMENT OF HOLDOVER SENATORS

Will contain the table of Senate district pairs, counties in each Senate district, and assigned senator, if any

<https://leg.mt.gov/content/Districting/2020/Legislative/2024-holdover-senators-commission-proposal.pdf>

## DISTRICT POPULATION BY COUNTY REPORTS FOR HOUSE AND SENATE DISTRICTS

House: [https://leg.mt.gov/content/Districting/2020/maps/State-Legislative/Commission-Proposals/December-2022/TCP2-house-communities-interest\\_12192022.pdf](https://leg.mt.gov/content/Districting/2020/maps/State-Legislative/Commission-Proposals/December-2022/TCP2-house-communities-interest_12192022.pdf)

Senate: <https://leg.mt.gov/content/Districting/2020/maps/State-Legislative/Commission-Proposals/December-2022/TCP2-senate-community-interest-12-2022.pdf>

## APPENDIX A: Mandatory Criteria and Goals for State Legislative Districts

### Mandatory Criteria for State Legislative Districts

- Legislative districts must be as equal in population as is practicable. The commission shall remain within plus or minus 1% deviation, to be exceeded within federally allowable standards only for purposes of complying with the Voting Rights Act, maintaining political subdivisions, or other constitutionally mandatory criteria. The maximum average deviation of all House districts shall be no more than plus or minus 1% deviation. The commission may adjust this deviation if undercount analysis from the U.S. Census Bureau demonstrates that systematic undercounting occurred among identified geographic or demographic groups.
- Protection of minority voting rights are guaranteed in Article II, Section 4 of the Montana Constitution and through 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). Race cannot be the predominant factor to which traditional redistricting criteria are subordinated. (Shaw v. Reno, 509 U.S. 630 1993).
- Each district shall consist of compact territory. (Article 5, Section 14 of the Montana Constitution). The Commission shall consider the district’s functional compactness in terms of travel and transportation, communication, and geography.
- Each district shall be contiguous, meaning that a district must be in one piece. (Article 5, Section 14 of the Montana Constitution). Areas that meet only at points of adjoining corners shall not be considered contiguous. Areas separated by natural geographical or artificial barriers that prevent transportation by vehicle on a maintained road shall be avoided when not in conflict with the commission's adopted criteria and goals.

### Goals for State Legislative Districts

- No plan may be drawn to unduly favor a political party.
- The commission shall attempt to minimize dividing cities, towns, counties and federal reservations when possible.
- Keeping communities of interest intact. The Commission may consider keeping communities of interest intact. Communities of interest can be based on Indian reservations; urban interests, suburban interests, rural interests, including elementary and high school districts; tribal interests; neighborhoods; trade areas; geographic location; demographics; communication and transportation networks;

social, cultural, historic, and economic interests and connections; or occupations and lifestyles.

- The commission may consider competitiveness of districts when drawing plans.
- The commission shall consider assigning holdover senators to the Senate District which contains the greatest number of residents of the district from which they were previously elected when possible.