

REDISTRICTING IN INDIAN COUNTRY

MONTANA



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WHAT IS REDISTRICTING?

Redistricting is the redrawing of the geographic lines that divide districts for the U.S. House of Representatives, state legislatures, county boards of commissioners, city councils, school boards, and other local bodies. It is required by the U.S. Constitution. Redistricting usually takes place every ten years, after the United States conducts the decennial Census to determine how many people live in each state.

This guide is focused on redistricting in Montana, including redistricting of seats for the U.S. House and seats in the state legislature. Information on county-level redistricting in Montana is available at <https://vote.narf.org/redistricting/>.

By redrawing district lines every ten years, redistricting takes into account where populations have increased or decreased. The main goal of redistricting is to ensure that all districts have approximately the same number of people. This protects the constitutional right to have a vote that is equal to any other person's vote.

It is crucial that Native Americans have an equal voice in redistricting to protect their ability to elect candidates of their choice. How can your Native community participate in this process? How can you ensure that your community's political power is protected? This guide explains the redistricting process and how we all can participate.

WHY IS REDISTRICTING IMPORTANT?

Redistricting matters because it controls access to political representation. It influences who runs for office and who is elected. Elected representatives make many decisions that influence our daily lives, from acknowledging tribal sovereignty to honoring treaties to protecting the land. Residents of a district should be able to hold their representative accountable and be sure that their representative is truly representing the interests of the people. And the maps that are created this year will be used for the next ten years. This is our chance to impact what they look like.

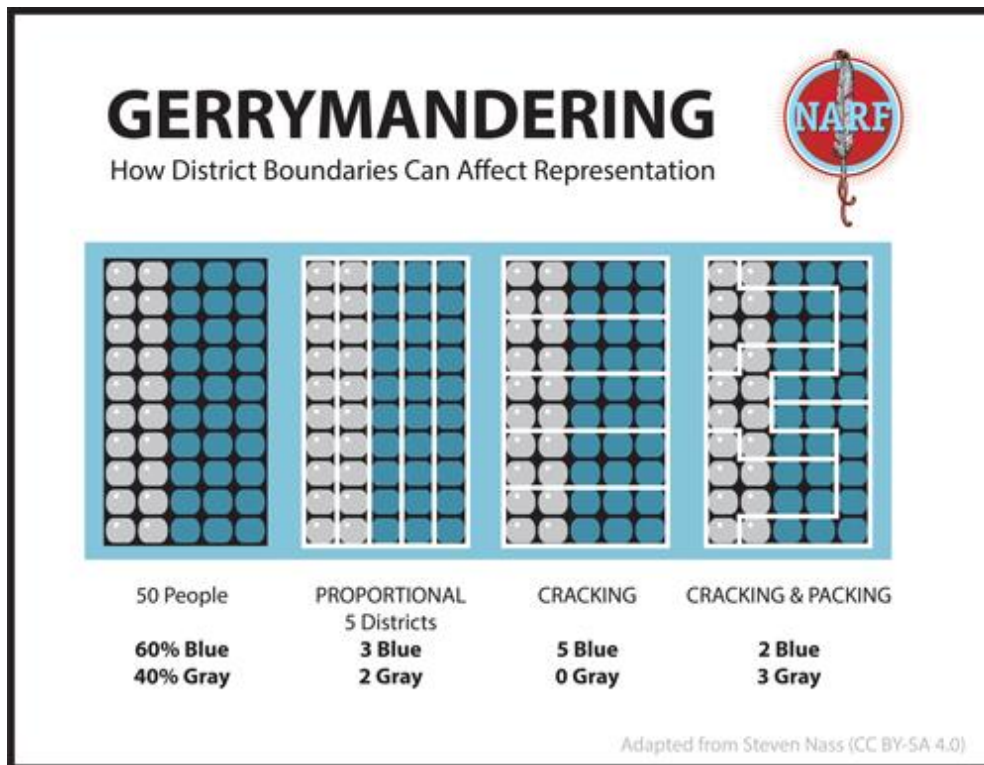
The U.S. Constitution requires that electoral districts have roughly equal populations. This requirement ensures that each person's vote is worth the same as any other person's. Because populations change over time, districts must be redrawn to reflect those changes. Otherwise, the voting power of a particular community would be diluted. For example, one state legislator might represent 40,000 people, while another represents only 25,000. The people in the smaller district would have disproportionately more representation, making the system unfair.



WHAT ABOUT GERRYMANDERING?

Even when districts have nearly equal populations, a particular map can still limit a certain group's political power. This abuse of redistricting is called *gerrymandering*. Often it is used to exclude minority communities from political power. Even in an election with one hundred percent voter turnout, gerrymandering can still prevent communities from electing their candidates of choice.

Maps often dilute votes in two ways. First, a map can “crack” minority voters into many districts, where they are only a small percentage of the population in each. This leaves them unable to elect their representative of choice, despite having enough votes to do so. In the image below, gray voters have been cracked in the third map, leaving them without control of any districts, even though they represent forty percent of the population. Second, a map might “pack” minority voters into one district, when if they were spread out in multiple districts they would have more political power. In the final map in the image below, most of the blue voters have been packed into two districts, and the rest of the blue voters have been cracked up in the other districts. This leaves the blue voters with forty percent of the districts, even though they are sixty percent of the population.



When voters are unfairly “packed” or “cracked,” even turning out every eligible voter usually will not be enough to win an election. This is why redistricting is so important. It is our chance to create a fair system that will stay in place for the next ten years.



WHO IS IN CHARGE OF DRAWING THE LINES?

Each state has its own rules about who is responsible for drawing new lines. In Montana, at the state level, redistricting is done by the Montana Districting and Apportionment Commission. This includes lines for both U.S. House districts and state legislative districts. The Commission is an independent body with five members of the public serving on it. Four of the commissioners are selected by leaders of the state legislature. They select the fifth commissioner, who is the presiding officer of the Commission. However, if they cannot agree on a fifth member, then the Montana Supreme Court selects them instead. The current commissioners are:

- Maylinn Smith, Presiding Officer
- Jeff Essman
- Joe Lamson
- Dan Stusek
- Kendra Miller

For more information on the Commission, visit <https://leg.mt.gov/districting/2020-commission/>.

WHEN WILL REDISTRICTING HAPPEN?

Redistricting takes place at least every ten years after the Census is completed. Every state has its own timeline for when maps should be finalized. The COVID-19 pandemic has delayed the process of reporting the Census results, which pushed back when states can start redistricting. Data is currently expected in August or September 2021.

In Montana, there are different deadlines for redistricting of the maps for the U.S. House and for the maps of the state legislature. Under the state constitution, redistricting for the U.S. House must be completed within ninety days of the state receiving the official Census data from the federal government. Assuming that data is released in August or September 2021, this means that a map for the U.S. House districts must be completed by November or December 2021.

Redistricting for the state legislature, including the State House and State Senate, takes place under a much more flexible timeline. For these maps, the Commission must submit a plan to the state legislature by the tenth day of the legislative session following the release of the data. This deadline will be in January of 2023. After that submission, the legislature must provide recommendations within thirty days. The Commission then has an additional thirty days to finalize the maps. This final deadline will be in mid-March 2023.

WHAT ARE THE RULES FOR DRAWING THE LINES?

Each state has its own rules about how to draw maps. But there are some federal rules that have to be followed when redistricting in any state. These take priority over Montana's own rules.

- **One person, one vote**—Districts must have roughly equal populations. This applies to congressional districts, state legislative districts, local school board districts, and more. However, this requirement doesn't mean that every district must have the exact same number of people. Under federal law, state and local plans may have districts with total population deviations of up to ten percent of the size of an ideal district. Congressional maps, on the other hand, should aim for mathematical equality.



- **Section 2 of the Voting Rights Act**—This law prohibits redistricting plans that dilute the power of a person’s vote due to their race or ethnicity. A map violates this law if Native Americans have less opportunity than other voters do to elect representatives of their choice. In order for this rule to apply, the Native voters must be relatively geographically compact, they must generally support the same candidates, and they must have enough people to be a majority of eligible voters in at least one district. When considering whether it is possible to draw a majority-Native district, determine the percentage of people of voting age who are Native, not just the overall percentage of Native people in the district. Fifty percent of the total population may not be enough.

When Native Americans meet these requirements, they may be entitled to a district in which they have the opportunity to elect their candidate of choice. This is called a “majority-minority district.” In drawing an effective majority-minority district, you should consider the percentage of Native people who are of voting age, not just the overall percentage of Natives in the district. Make sure to also factor in registration and turnout rates when determining how many Native voters need to live in a district in order to have equal opportunities to elect candidates. This number could be lower than fifty percent if some non-Native voters usually support the Native-preferred candidate, or it could be considerably higher if Native turnout and registration rates are lower than average.

NARF can help you determine whether this legal protection applies to you and whether a potential district would be an effective Native-majority district. Contact us at vote@narf.org.

Montana’s Constitution also has rules for drawing state legislative districts. And the Commission can adopt more guidelines regarding congressional districts and/or state legislative districts.

- Montana’s State House has 100 members and the State Senate has 50 members. The Constitution allows the legislature to change these numbers, but the Commission does not have that power. Therefore, the new maps should have **50 Senate districts** and **100 House districts**, each of which elects one legislator.
- Each Senate district is created by combining two neighboring House districts.
- Districts must have populations that are “**as nearly equal in population as is practicable.**” The ideal population for a district is found by dividing the total population of the state by the number of districts. Given the total state population of 1,084,225, each Senate district should have about 21,685 residents and each House district should have about 10,842 residents.
- Districts should be **contiguous**. This means that every part of the district must be physically connected.
- Districts should be **compact**. This refers to the district’s shape, and means that it should not be overly irregular or have long, unnecessary appendages.



- The Commission can decide to adopt additional criteria for its map-drawing process. The 2010 criteria are at <https://bit.ly/3arG7gw>. Once the Commission has adopted criteria for this year, NARF will update this guide with that information.

In the U.S. House, Montana has gained a second congressional seat, due to its population growth over the last ten years. This means that Montana has two seats in the U.S. House and the Commission will need to draw those two districts as well. Each U.S. House district will have about 542,113 residents. The Commission can set additional guidelines to govern the process of creating this map.

HOW CAN I PARTICIPATE?

Even though the five commissioners are in charge of making final decisions about how to draw district lines, you can still think about how you would like districts to be drawn and advocate for fair maps. The Commission will hold public meetings and public hearings across the state, to seek input on developing guidelines and where to draw lines.

The first step is organizing your Native community. Find others who are interested in redistricting and educate your neighbors about why this process is important for Indian Country. As a community, you should talk about your goals. What issues are important to you—clean water, Indian child welfare? What levels of government control those issues? Do you want to propose a single district or an entire map?

Part of this advocacy will require you to geographically define your community. The people living on your reservation may be in your community. But there may be others as well. Think about what other nearby areas have similar, shared interests. You can even work together to create a proposed map.

Find more details about how to be an effective advocate at <https://vote.narf.org/redistricting/>.

If Montana's tribes come together and make their voices heard, we can help ensure that the redistricting process is fair and that the maps used to elect our state representatives and congressional representatives for the next ten years protect Native political power.

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More information available at <https://vote.narf.org/>.

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