EXHIBIT X

2015 Report

Maryland Redistricting Reform Commission

2015 REPORT

MARYLAND REDISTRICTING REFORM COMMISSION

NOVEMBER 3, 2015

November 3, 2015

Larry Hogan
Governor, State of Maryland
100 State Circle
Annapolis, MD 21401

Dear Governor Hogan:

Since you created this commission through executive order in August, we have been working diligently to develop redistricting reform recommendations for Maryland.

We applaud your leadership in recognizing this problem and taking an important first step toward finding a solution.

As part of our deliberations, we held regional public meetings across the state to gather input from citizens. What we heard is that Marylanders have been harmed as voters and citizens by the political practices of the past and they resoundingly favor a new fair and independent process for creating election districts.

We respectfully submit the following report and stand ready to continue to assist you in your efforts to make these reforms a reality.

Sincerely,

Walter K. Olson

Alexander Williams, Jr.

Walter Olson
Co-Chair

Alexander Williams, Jr.
Co-Chair

Cc: President Thomas V. Mike Miller, Jr.
Speaker Michael E. Busch

MARYLAND REDISTRICTING REFORM COMMISSION

Commission Members

The Governor appointed the following seven members to the commission.

Walter Olson (co-chair), a Frederick County resident, is a senior fellow with the Cato Institute, a Washington, D.C. nonprofit research institution and the author of four books and many other writings on law, government, and public policy.

Alexander Williams, Jr. (co-chair) is a retired United States District Judge, a former elected State's Attorney for Prince George's County, and has been widely recognized as a leading civic leader in Maryland and beyond.

Dr. Michael J. Goff is President and CEO of the Northeast-Midwest Institute, a nonpartisan research, policy, and education organization. He also serves on the board of directors of Common Cause Maryland, a leading advocate for redistricting reform. He is also adjunct professor of political science at George Washington University.

Tessa Hill-Aston is president of the Baltimore City Branch of the NAACP, where she has built and grown partnerships between local government, businesses, and religious and community leaders. For more than 25 years, Ms. Hill-Aston has been a prominent voice for social change and equality, in the effort to build a better Baltimore.

Ashley Oleson is Administrator for the League of Women Voters of MD. The League of Women Voters has been a leading voice calling for redistricting reform and educating voters about the issue.

Carol Ramirez is a Georgetown University graduate and 25 year resident of Bethesda, with a wide-ranging background as a small business owner, banker and volunteer and leader in local community, school and church organizations.

Christopher B. Summers is founder and president of the Maryland Public Policy Institute, one of Maryland's leading public-policy think tanks. A native of Baltimore City and veteran of the Armed Forces, Mr. Summers has an extensive background in public policy and economic policy research.

The President of the Senate, the Speaker of the House, and the Minority Leaders of the Senate and House appointed the following four legislators to the commission.

Sen. Joan Carter Conway (D-Baltimore City) Senator Conway is the chair of the Education, Health, and Environmental Affairs Committee. She was appointed by Senate President Thomas V. Mike Miller, Jr.

Sen. Steve Waugh (R-St. Mary's and Calvert Counties) Senator Waugh is a member of the Education, Health, and Environmental Affairs Committee. He was appointed by Senate Minority Leader J.B. Jennings.

Del. Alonzo Washington (D-Prince George's County) Delegate Washington is a member of the Ways and Means Committee. He was appointed by Speaker of the House Michael E. Busch.

Del. Jason Buckel (R-Allegany County) Delegate Buckel is a member of the Ways and Means Committee. He was appointed by House Minority Leader Nic Kipke.

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SECTION I: FIXING MARYLAND'S GERRYMANDER PROBLEM

GOVERNOR'S EXECUTIVE ORDER

During the 2014 gubernatorial campaign, redistricting reform was raised as an issue important to Democrats, Republicans and unaffiliated voters in Maryland. Then-candidate Larry Hogan promised voters, if elected, he would work to fix the state's flawed redistricting process.

On August 6, 2015, Governor Hogan issued Executive Order 01.01.2015.21, which created the Maryland Redistricting Reform Commission. While announcing this new commission, the Governor stated that Maryland has some of the most gerrymandered districts in the country and he noted this is not a distinction of which we should be proud. He continued, "For far too long, this political gamesmanship has stifled real political debate and deprived citizens of meaningful choices. Through the work of this commission, my administration's goal is to reform this process and put Maryland's redistricting process on a new path toward transparency, fair representation, and election integrity."

WE'RE NUMBER ONE

A glance at Maryland's congressional districts map confirms that our State has been gerrymandered, and national news publications have confirmed that Maryland's problem is severe compared to other states'.

According to a report from The Washington Post, Maryland is tied with North Carolina as having the most gerrymandered congressional districts in the country. Additionally, the report ranked Maryland's 3rd congressional district as the 2nd most gerrymandered district in the country.

Top 10 states whose districts have the lowest average compactness

	Polsby-Popper	Shwartzberg	Convex Hull	Reock
MD	1	1	1	2
NC	4	4	4	5
LA	3	3	3	7
WV	5	5	2	8
VA	7	7	13	4
HI	2	2	25	18
NH	8	8	12	1
IL	9	9	5	6
PA	10	10	6	11
RI	18	18	10	3

Source: Azavea. (2012). *Redrawing the Map on Redistricting 2012 Addendum* [White paper]. Retrieved from http://cdn.azavea.com/com.redistrictingthenation/pdfs/Redistricting_The_Nation_Addendum.pdf

Governing Magazine highlighted a report by Azavea, a geospatial software firm, which measured the compactness of congressional districts across the country using four different metrics. The report ranked Maryland as having the least compact congressional districts in the country.

COMMISSION AND DUTIES

Governor Hogan appointed seven members to the Commission of whom three are Democrats, three are Republicans and one is not affiliated with a political party. The Governor selected Walter Olson, a Republican from Frederick County and Senior Fellow at the Cato Institute, and Alexander Williams, a Democrat from Prince Georges County and former U.S. District Court Judge, to serve as co-chairmen of the Commission. Additional members appointed by the Governor include Tessa Hill-Aston, President of the Baltimore City branch of the NAACP, and Michael Goff, who is the President of the Northeast-Midwest Institute and a board member at Common Cause Maryland. Christopher Summers, who is President of the Maryland Public Policy Institute, Carol Ramirez, a Bethesda resident and small business owner, and Ashley Oleson, Administrator for the League of Women Voters of Maryland were also added to the commission by Governor Hogan.

President of the Maryland Senate Thomas V. Mike Miller, Jr. appointed Senator Joan Carter Conway who represents District 43 in Baltimore City and serves as Chair of the Education, Health and Environmental Affairs Committee.

Speaker of the Maryland House of Delegates Michael E. Busch appointed Delegate Alonzo Washington who represents District 22 in Prince Georges County and serves on the Ways and Means Committee.

Minority Leader of the Maryland Senate J.B. Jennings appointed Senator Stephen Waugh who represents District 29 in Calvert and St. Mary's Counties and serves on the Education, Health and Environmental Affairs Committee.

Minority Leader of the Maryland House of Delegates Nicholaus Kipke appointed Delegate Jason Buckel who represents District 1B in Allegany County and serves on the Ways and Means Committee.

The Governor's executive order, issued on August 6th, charged the Commission with conducting a comprehensive examination of ideas that can enhance the integrity of Maryland's

congressional and legislative district process, reviewing approaches other states have used in establishing independent redistricting commissions, and seeking input from the public through regional meetings and written correspondence. The Commission was also tasked with making recommendations to **improve Maryland's process by November 3rd**, so the Governor and legislature can consider them prior to the start of the 2016 Session of the Maryland General Assembly.

It is worth noting that because 2016 is an election year, it is an opportunity to place a constitutional amendment on an election ballot for referendum.

Duties of the Commission

1. Conduct a comprehensive examination of ideas that could enhance the **integrity of Maryland's congressional** and legislative redistricting process;
2. Review approaches of other states that have established independent, non-partisan redistricting commissions;
3. Conduct regional summits in various parts of the State, including the Eastern Shore, Southern Maryland, Western Maryland and Central Maryland to allow citizens to offer their ideas and input on redistricting reform;
4. Provide an electronic portal for citizens to submit their comments to the Commission;
5. Develop a recommendation for a constitutional amendment on congressional and legislative redistricting; and
6. Promote redistricting reform publicly across the State as an essential component of ensuring fair elected representation and election integrity in Maryland.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

After soliciting input from citizens, legislators and scholars, and working through the many complicated issues related to redistricting, the commission reached consensus on the following recommendations. These reforms would put Maryland in the front ranks of redistricting reform and establish an independent, balanced approach to creating congressional and state legislative districts.

DISTRICTING CRITERIA (FOR CONGRESSIONAL AND LEGISLATIVE DISTRICTS)

1. Districts must be of **substantially equal population** as required by the U.S. Constitution and federal law.
2. Districts must **comply with the Voting Rights Act** and other applicable federal law. Having satisfied the preceding two criteria, redistricting plans must meet the following conditions.
3. **Congruence**: district lines must pay due regard to county and municipal boundaries;
4. **Contiguity**: districts must be of adjoining territory conveniently connected for purposes of travel and communication;
5. **Compactness**: districts must be compact in form.

INDEPENDENT COMMISSION

Maryland should establish, every ten years after the decennial census, an **independent commission** with the duty of drawing congressional and state legislative districts.

The commission should consist of **nine members**, of whom three should be affiliated with the state's largest party by registration, three with the second largest party, and three with neither of those parties.

All citizens resident in Maryland and not otherwise disqualified may apply to serve on the commission.

A **screening panel** will select thirty from the pool of applicants who are well qualified for service, ten from the largest political party, ten from the second largest, and ten affiliated with neither of these parties. The pool of thirty should reasonably reflect the racial, ethnic, gender and geographic diversity of the state.

A **random or lottery selection** should be used to select nine members from the thirty, three from each of the three pools, to create an overall commission of **three persons affiliated with the largest party, three with the next largest, and three affiliated with neither**.

The full commission should then select one of its members as chair, who must be one of the members not affiliated with either of the two largest political parties.

LIMITATIONS ON SERVICE

There should be limitations on service which would disqualify certain persons from serving on the commission. Some of the recommended limitations would disqualify the following persons from serving on the commission.

- Non-residents of Maryland
- Anyone who has changed their party voter registration in the previous five years.
- Member of the U.S. Congress or the Maryland General Assembly, or those who recently ran for these elected offices.
- Staff members of member of Congress or members of the Maryland General Assembly.
- Registered lobbyists.
- Immediate family of any excluded person.

COMMISSION PROCESS

The commission should be required to use the following process and criteria when creating congressional and legislative districts.

- The commission shall not use voter registration information or past voting results
- The commission shall not use the home addresses of incumbents, challengers, or any other person.
- The commission shall hold ample public hearings on its proposed plan.
- Approval of a districting plan shall require an affirmative vote from at least 6 of the 9 commission members.

LEGISLATIVE REJECTION AUTHORITY

The legislature should have the option to approve or reject the districting plan.

Rejection requires a supermajority vote (of the same level required to pass a law notwithstanding a governor's veto) by both chambers of the legislature.

If the legislature rejects the plan it goes back to the commission with recommendations from the legislature.

If the legislature approves the plan, it goes to the Governor who has an option to sign or veto the plan.

If Governor vetoes the plan, legislature will have the option to override the veto by supermajority vote.

If the legislature overrides the Governor's veto, the plan becomes law.

If the legislature fails to override the Governor's veto, the plan goes back to the commission with recommendations from the Governor.

If a subsequent plan from the commission is rejected by the legislature or vetoed by the Governor and not overridden by the legislature, the Maryland Court of Appeals shall create a districting plan.

STATE LEGISLATIVE DISTRICTING RECOMMENDATIONS

Current practice allows population variance among legislative districts of +/- 5%, resulting in an overall 10 percent spread. The commission heard extensive testimony that this discretion has been used for political purposes unrelated to sound districting goals. Maryland should join many other states in **forbidding a population variance among districts greater than +/- 1%, for an overall 2 percent spread**.

The Governor and the legislature should **examine the benefits of establishing a uniform standard of using three single-member delegate districts** in every legislative district. Should triple-member districts be employed in some instances, it should result from the application of clear, objective, and predictable rules. The commission **recommends prohibiting the practice of subdividing districts into a two-member and a single-member district**, except as needed to meet requirements of federal law.

MARYLAND AS AN EXAMPLE

While redistricting is a state responsibility, Maryland's example can be important to the nation, and the commission recommends that Governor Hogan and the presiding officers of the Maryland Senate and Maryland House of Delegates send letters to the leadership of the U.S. Congress and to governors and legislative leaders from every state, communicating the steps Maryland is taking, congratulating states that already have moved to address this issue, and urging that other states do the same.

SECTION II: INVESTIGATIONS

OVERVIEW

For more than two months, this commission has studied Maryland's redistricting process and the laws that govern it. The commission also thoroughly examined redistricting models used in other states, with a focus on those that use independent commissions. Public hearings were held in various regions of the state to allow citizens to offer their input and the commission provided a website and email address to receive testimony from citizens. The commission reached out to every legislator in Maryland inviting them to testify at a public hearing or provide written comments. Additionally, the commission reviewed redistricting reform proposals introduced in recent years in Maryland and in Congress.

The commission also held multiple workshop meetings to talk through the many complicated issues that impact the creation of election districts and studied literature from various academic sources.

SUMMARY OF CURRENT LAW AFFECTING MARYLAND

The first step taken by the commission was to gain a better understanding of the federal and state laws governing redistricting and how the process works in Maryland. Every ten years, after the census when new population data is available, Maryland and every other state create new election districts to ensure population is evenly distributed among districts to comply with the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. In 1962, the Supreme Court held, in *Baker v. Carr*, that electoral districts must periodically be redrawn to account for shifts in population. The court established the "one person, one vote" doctrine, which considers unevenly apportioned districts problematic because the votes of voters in overpopulated districts count less than those in underpopulated districts.

In 1962, the Supreme Court held, in *Baker v. Carr*, that electoral districts must periodically be redrawn to account for shifts in population.

MARYLAND PROCESS FOR CONGRESSIONAL REDISTRICTING

The Maryland General Assembly has the authority to redistrict congressional districts, but the state constitution and laws are silent on congressional redistricting. A congressional district plan is introduced as a bill in the General Assembly and must be passed by both chambers and signed by the Governor. Any member can introduce a map, but typically the Governor introduces a congressional plan with a legislative plan which becomes the default plan.

MARYLAND PROCESS FOR LEGISLATIVE REDISTRICTING

The Maryland Constitution requires the Governor to prepare a legislative plan every ten years after the census. The plan is then presented to the President of the Senate and the Speaker of the House who must introduce the plan as a joint resolution on the first day of the General Assembly's second regular session after the census. The General Assembly has 45 days to enact a different plan or the Governor's plan becomes law.

While Maryland's constitution and laws offer no criteria or guidelines for congressional redistricting, the Commission was particularly interested to learn that the Maryland Constitution does provide criteria for legislative districts. Article III, section 4 of the Maryland Constitution requires legislative districts to be contiguous, compact, substantially equal in population, and must give "due regard" to political boundaries, so county and municipal boundaries must be respected as much as possible.

Source: Maryland Reporter

The Commission also noted that while the Supreme Court requires congressional districts to be drawn with nearly equal population, the court has established a less stringent standard with regard to population in legislative districts in *White v. Regester* and *Gaffney v. Cummings*. The precedent from these cases considers an overall population deviation of less than 10% to be constitutional. Maryland's current legislative district population variances flirt dangerously close to that 10% threshold. The Commission received the following data from the Maryland Department of Planning which illustrates the differences in population among legislative districts.

VOTING RIGHTS ACT

The Voting Rights Act of 1965 was passed to prohibit election practices that disqualified minorities from exercising their right to vote. These election practices included poll taxes, literacy tests, and other prerequisites to voting that discouraged minorities from voting.

To hinder minorities after the passing of the Voting Rights Act, gerrymandering of minorities became more prominent. This occurred by spreading a compact minority population across several districts to dilute their voting power. Another form was to create districts around minority populations thus creating a higher number of minorities in the district. As a result it prevented the creation of additional minority districts.

These actions prompted the U.S. Supreme Court decision in the 1986 case *Thornburg v. Gingles, 478 U.S 30.* This case stressed two requirements of the Voting Rights Act; Sections 2 and 5.

Section 2 is important because it forbids redistricting plans that were created for a discriminatory purpose. It determined if the practice was discriminatory, if based on the totality of circumstances, minorities have "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."

Section 5 also is significant because it prohibits, "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" without first receiving preclearance from the U.S. Department of Justice or the U.S. District Court for the District of Columbia.

To be compliant with the requirements of the Voting Rights Act, race is an allowable consideration if and when necessary to fulfill a compelling state interest. State and local officials are required to give thought to race to maintain redistricting proposals that do not dilute minority voting strength.

COURT CHALLENGES TO MARYLAND REDISTRICTING

Redistricting plans may be challenged either in U.S. District Court, on the grounds that they violate the federal constitution or federal law, or in the Maryland Court of Appeals (which has original jurisdiction), on the grounds that they violate the requirements of the Maryland Constitution. In practice, in recent years, all but one successful challenge has come in the Maryland Court of Appeals rather than federal court, and all have involved legislative maps. No successful challenges have been brought against congressional maps, and only once has a federal court intervened to correct a problem with Maryland maps.

That sole successful challenge at the federal level came in 1994 when a federal judge ruled that a portion of the governor's 1992 legislative plan failed to create a majority-minority district as required by the Voting Rights Act of 1965, and ordered the creation of that new district, designated District 37A. The map was otherwise upheld. A federal court challenge to Maryland's 1992 redistricting on the grounds of partisan unfairness failed, as have many similar challenges around the country, because under current Supreme Court precedent gerrymandering whose motives are merely political, as to benefit a certain party or defeat a certain candidate, does not

violate the U.S. Constitution unless it also involves improper motives related to race or another classification under the Equal Protection Clause.

Because the Maryland Constitution is silent on congressional districting, challenges to a congressional-level district plan are unlikely to succeed at the Maryland Court of Appeals. The Maryland Constitution does prescribe meaningful standards for legislative districting, however, and challenges in that category have fared better. The Court of Appeals invalidated a 1973 plan on grounds that it had been adopted without adequate public hearings as provided by the state's constitution; following more extensive hearings around the state, a plan became law. In 1993, a fractured court upheld a plan with repeated crossings of lines between Baltimore City and Baltimore County but warned that it came "perilously close" to overstepping the constitutional standard of congruence with county lines. Ten years later, making good on its warnings, it invalidated a 2002 plan on the grounds that a similar pattern of line-crossing between city and county had improperly subordinated the constitutional congruence standard to other policy goals. In two other cases, the court turned down challenges based on alleged lack of compactness and population deviation from ideal district size.

In summary, neither federal nor state courts currently provide any reliable check on even the most flagrant gerrymandering of congressional districts. The Maryland Court of Appeals has played a valuable role in checking some problems with state districting, but the record of cases reminds us that elected officials constantly seek to manipulate the process to seek benefit for themselves, and that while such pressure is continual, courts typically respond only in limited ways to fix one or another issue that is brought to their attention.

SUMMARY OF REGIONAL PUBLIC HEARINGS AND ONLINE COMMENTS

Pursuant to the Executive Order, the Commission held regional public meetings in various parts of the State, including the Eastern Shore, Southern Maryland, Western Maryland, and Central Maryland to allow citizens to offer their ideas and input on redistricting reform. In addition, the Commission also received public comments through the website. To encourage participation by elected officials, the commission emailed every legislator to request comment.

CENTRAL MARYLAND

The commission held its first regional public meeting in Towson on the campus

of Towson University. It was noted by Chairman Williams that the commission was holding the meeting in the 3rd congressional district, ranked by multiple reports as one of the most gerrymandered district in the country. Additionally, the chairman pointed out that the campus of Towson University is divided between the 2nd and 3rd congressional districts.

Below is a sampling of testimony offered at this regional meeting. For complete minutes from the meeting, please visit the Commission's website.

Featured Presentation

Lu Pierson from the League of Women Voters (MD)
Jennifer Bevan-Dangel from Common Cause (MD)

Common Cause and the League of Women Voters both have national platforms for redistricting reform and have been at the forefront of calling for redistricting reform including playing an active role with this commission.

Lu Pierson announced that polling indicates 73% of Marylanders want redistricting reform. She believes Maryland should not wait for Congress to implement redistricting reform and should be a leader for other states. Jennifer Bevan-Dangel referred to California and Arizona as "gold star" examples for how to run a commission because of their extensive outreach. California conducted over 100 public meetings and received over 20,000 comments which resulted in greater responsiveness from elected officials.

Polling indicates 73% of Marylanders want redistricting reform. (Goucher Poll)

Testimony from Elected Officials

Senator James Brochin (D-Baltimore County) informed the commission he believes a clash with Governor O'Malley resulted in retaliation and the packing of more republicans in his district.

Delegate Christopher West (R-Baltimore County) stated he believes it is not effective to have his constituents represented by four different congressmen.

Delegate Eric Bromwell (D-Baltimore County) believes his constituents in Perry Hall do not have the same issues as those on the Eastern Shore yet they share the same congressional district.

Delegate John Cluster (R-Baltimore County) provided a personal perspective. He has two children that live within a half mile of him, but they reside in three separate congressional districts.

Testimony from Citizens

Several citizens discussed their difficulties with proximity to their elected officials. Deborah Harris lives in Baltimore City and can walk four steps from her house and be in a different district. This makes it inaccessible for many to reach their congressman.

A number of people testifying also believe Maryland should develop an independent commission. Phil Andrews said, "If an independent commission came back with the current map, they would be laughed out of the room." He also said that gerrymandering is done to right elections and it disempowers voters.

WESTERN MARYLAND

The commission held its second regional hearing in Hagerstown at the Hagerstown Community College. Hagerstown is part of the 6th congressional district which one report ranked as one of the top ten least compact districts in the nation.

Below is a sampling of testimony offered at this regional meeting. For complete minutes from the meeting, please visit the Commission's website.

Featured Presentation

Karl Aro, Director of Maryand's Department of Legislative Services
Jodie Chilson, Senior Policy Analyst at Maryland's Department of Legislative Services

The presenters provided the commission and public with a detailed history and explanation of the redistricting process. Karl Aro emphasized the Department of Legislative Services is a nonpolitical agency and their main function in the process is to be a resource for the General Assembly and does not assist the Governor or his staff with drawing districts. Jodie Chilson presented bills introduced by members of the General Assembly on redistricting reform since the most recent districts were approved. None of the bills reached the floor of the House or Senate. A list of those bills is provided in a subsequent section of this report.

Testimony from Elected Officials

Delegate Neil Parrott (R-Washington County) spoke about legislation he introduced based on California's independent commission model. He also co-sponsored a redistricting reform bill introduced by former **Delegate Heather Mizeur** (D-Montgomery County). He also pointed out that Maryland's 3rd congressional district was featured

> *"Maryland needs redistricting reform. This isn't a partisan issue; it's a good government issue."*
> *- Congressman John Delaney (MD-6)*

on the television network Comedy Central as the ugliest district in the nation. He believes it makes it difficult for citizens to know who is representing them when some delegate districts have one member and others have three members.

Senator Andrew Serafini (R-Washington County) is also a proponent of single member districts for delegates.

Delegate Brett Wilson (R-Washington County) believes in single vote, single count representation.

Testimony from Citizens

Kai Hagen, former Frederick County Commissioner and Director of Envision Frederick County, has been studying redistricting for over twenty years. He said he is thrilled to have Rep. Chris Van Hollen as his congressman instead of former Rep. Roscoe Bartlett, but as a Democrat he still believes Maryland needs redistricting reform. He believes the current process is an exercise in pure political power. He also stated, "This isn't about Governor Hogan or the party trying to make maps that go the other way" and he believes there needs to be more Democrats with courage to say this needs to change.

Members of the public urged the commission to create a solution for redistricting to not favor one party. Robert Wood called for a system where no party can take an unfair advantage.

SOUTHERN MARYLAND

The commission held its third regional public hearing in Waldorf at the Charleston Senior Center.

Below is a sampling of testimony offered at this regional meeting. For complete minutes from the meeting, please visit the Commission's website.

Featured Presentation

Todd Eberly, Associate Professor of Political Science and Public Policy at St. Mary's College of Maryland

Source: Maryland Reporter

Professor Eberly provided an overview of the national problem of gerrymandering and his analysis on what California has achieved through redistricting

reform. He stated that in Maryland and Illinois democrats use redistricting to their advantage and in Texas and North Carolina republicans do the same. He shared maps of California's congressional districts before and after reforms to illustrate the amazing results an independent commission can have on make districts more fair and compact. He believes there should be standards followed when drawing lines for compactness and contiguity and incumbents or political parties should not be considered. He stated that he believes only direct democracy can work and gerrymandering hinders this.

Testimony from Elected Officials

Delegate Tony O'Donnell (R-Calvert and St. Mary's Counties) offered three suggestions for reform. He suggested redistricting be done by an independent commission, delegate districts should be uniformly single-member, and congressional districts should be required to be drawn compact and contiguous.

Delegate Mark Fisher (R-Calvert County) said Charles County has an urban center and rural center. He believes the needs of the rural and urban centers are different and those in the rural centers are increasingly not being heard. He stated he supports an independent commission.

Former **Delegate Aisha Braveboy** (D-Prince Georges County) said she voted against the congressional district map because it reduced the influence of the growing minority districts. She explained the 3rd congressional district comes out of Baltimore and grabs minority voters in Montgomery County for the purpose of making it a stronger democrat district. She believes as a result it created no majority-minority districts in Montgomery County. She said, "Montgomery County is the most diverse county in the state, but if you look at representation it does not reflect that." She said she was happy the Governor created this commission and believes there has to be more guidance for drawing congressional maps.

Former Charles County **Commissioner Reuben Collins** (D) reflected on the issue of minority representation when he was counsel to the NAACP. He wants the commission to recognize the problem that creating robust democratic districts can be at the expense of ensuring minority districts are in place.

Testimony from Citizens

Tommi Makila said he is a strong, dedicated Democrat, but he is embarrassed to be a Maryland Democrat because of gerrymandering. He said he believes Democrats should get behind reform and he supports an independent commission or a model similar to what Iowa uses.

"Why should voters go to polls if they feel their vote won't make a difference?"

-Erin Chase

Erin Chase, a student at St. Mary's College, said she is an advocate for redistricting reform. She asked, "Why should voters go to polls if they feel their vote won't make a difference?"

Culver Ladd said Maryland should use an independent commission for redistricting and suggested something similar to California.

Other members of the public said the current system for redistricting protects incumbents and does not encourage accountability among elected officials.

EASTERN SHORE

The commission held its fourth regional meeting on the Eastern Shore at the Talbot County Community Center in Easton.

Below is a sampling of testimony offered at this regional meeting. For complete minutes from the meeting, please visit the Commission's website.

Testimony from Elected Officials

Congressman Andy Harris (R-MD1) stated that Maryland should not wait for the federal government to act on the issue of redistricting reform. He said he would not wait on the federal government to do anything. He stressed the current bills in front of congress don't address all of the details this Commission is examining. He gave the example of Congressman John Delaney filing a bill to set a study in place, which means it would delay reform until the future. Congressman Harris said he feels the Eastern Shore of Maryland should receive more attention and stresses the need to keep areas of like issue sets together.

Senator Steve Hershey (R- Caroline, Cecil, Kent & Queen Anne's Counties) is in favor of an independent counsel to look over maps and also feels it's important to evaluate what other states are doing. He also said that single-member delegate districts would not work in his district.

Delegate Jeff Ghrist (R- Caroline, Cecil, Kent & Queen Anne's Counties) presented the commission with information displaying the differences in population in legislative districts. He said the more people a legislator represents, the more challenging it is for the representatives and constituents and called for a smaller variance of population between districts.

Testimony from Citizens

Members of the public called for an independent commission. Dan Watson from Talbot County believes we need to create a commission that is independent in name and action.

Joe Brown from Queen Anne's County also called for the need for a non-partisan commission.

Catherine Poel highlighted the 1st district, saying it is so broad, representing Harford County and the Eastern Shore. This could dilute rural votes with non-rural votes.

Kevin Waterman suggested using software to draw lines and put limitations on how far the lines can divert and how much lines can change.

CENTRAL MARYLAND

The commission held its fifth regional meeting at Partnership Hall in Laurel. This meeting was held in one of Maryland's two majority-minority congressional districts.

Below is a sampling of testimony offered at this regional meeting. For complete minutes from the meeting, please visit the Commission's website.

Featured Presentation

Elbridge James, NAACP of Montgomery County

Mr. James stressed the need to comply with the Voting Rights Act. He pointed out Maryland's 2011 maps did not create equal representation for African Americans. He said elected officials have a direct result on lives and we should not be creating districts to keep incumbents safe.

Source: Maryland Reporter

Testimony from Elected Officials

Senator C. Anthony Muse (D-Prince Georges County) talked about the problem of protecting incumbents with redistricting. He gave an example of a few party leaders drawing lines for one of his colleagues. He said only a few people spoke for the entire state and that did not work for his people and it did not work for people in a diverse state. He said he hopes the commission will work for the people and not the party. He feels the Voting Rights Act should be looked to for guidance and not merely elected officials as the driving force.

Senator Gail Bates (R-Carroll and Howard Counties) said her constituents are disenfranchised by having three different congressmen. She said that when an agricultural area is tacked on to a

district mostly comprised of city voters, it is hard to expect the representative to spend much time learning about the issues farmers have with government.

"I have long supported redistricting reforms to end the damage partisan gerrymandering does to our democracy."

- Congresswoman Donna Edwards (MD-4)

Delegate Bob Flanagan (R-Howard County) discussed legislation he has introduced to reform the redistricting process. He proposed an independent commission with guidance for drawing districts. He called for compactness and fairness to communities. He suggested an independent commission be selected by lottery. He also supports single-member delegate districts and reducing the size of population variances in legislative districts.

Testimony from Citizens

Angie Boyter testified that her community of Dunloggin was a highly recognized community that was split between district 9 and 12. They were previously one proud community.

Caroline Ann Hecht thanked Governor Hogan for taking the time to reform the system. She emphasized Maryland should have standards in place with respect for communities. She continued to say we shouldn't wait for other states to act. She said, "I'm a Marylander and I care that people receive proper representation."

Anne Rutherford voiced her experience with Governor O'Malley's redistricting commission. She stressed people listened, but didn't care. She went on to say, "Those maps were so unfair and ridiculous."

Kenneth Stevens believes all states should undergo redistricting reform on a federal level. Ed Levy also agreed redistricting should be done on a federal level. He believes if we are looking for a fair Congress with equal representation it's not going to happen unless we have company.

PROBLEMS WITH GERRYMANDERING

During the public meetings, the commission heard from citizens and advocacy organizations, including the League of Women Voters and Common Cause, about problems that arise from gerrymandering. Some of the problems mentioned were splitting of communities, unresponsive representatives, voter confusion and apathy.

The commission was also provided with a report from the Brennan Center for Justice at New York University School of Law by Justin Levitt, associate professor at Loyola Law School, Los Angeles. The report details additional problems with gerrymandering, including the inherent conflict of

allowing politicians choose their voters, personal retaliation against incumbents and challengers, diluting minority votes, and destroying civility in state legislatures.

SUMMARY OF ACADEMIC LITERATURE

Academic literature reflects a broad consensus that redistricting in the U.S. is a badly flawed process that can generate some unacceptably poor outcomes, but less consensus on the best way forward. Some favor efforts to separate redistricting from politically minded actors, others urge instead "harnessing politics to fix politics" by channeling partisan impulses in better directions than at present (Gerken 2010). Some see fuller public involvement as the most promising strategy, others emphasize the expertise of experienced redistricting professionals who can serve as repeat-player staff or consultants. Many agree that advances in data technology, which have made it fast and inexpensive under the right circumstances to generate alternative maps and to allow sharing and comparison of maps between redistricting authorities and the general public in an iterative process, holds promise for entirely new ways of reaching better redistricting outcomes.

Academic Literature Summary

METHOD I: SEPARATION FROM POLITICIANS
METHOD II: PRESCRIBING REDISTRICTING RULES
METHOD III: CHANNELING COMPETITION
METHOD IV: PUBLIC PARTICIPATION

THE PROBLEM OF LEGISLATIVE REDISTRICTING

Under Article 1, Section 4 of the U.S. constitution, state legislatures are responsible for regulating elections. While states retain primary authority, the federal government has constrained their freedom in certain ways, primarily through decisions of the Supreme Court. For instance, the *Baker v. Carr* line of cases established that the population of congressional districts should deviate by no more than 1% between the largest and smallest congressional district and by 10% among state legislative districts. The most notable case of Congressional involvement in state elections has been the Voting Rights Act of 1965, which has far-reaching effects on redistricting.

In every state except Nebraska, with its unicameral nonpartisan legislature, state legislative chambers are partisan bodies dominated by either the Republican or Democratic Party. These political parties want to maximize their electoral success. As a consequence, state legislatures that are controlled by a particular party have an incentive to produce redistricting maps that favor their particular party. This practice of drawing maps intended to produce a certain political outcome is known as "gerrymandering". Legislatures controlled by Democrats gerrymander

maps to favor Democrats, and Republicans do the same. A successful partisan gerrymander wastes the votes of the opposition party. Two main tools used in partisan gerrymandering are "cracking" and "packing" (McDonald 2005). Cracking spreads opposition party supporters across districts favoring the gerrymandering party, thereby wasting opposition votes in districts that they cannot win. The gerrymandering party's goal is to place just enough of its supporters in their districts so that their candidates win comfortably, but not so many as to waste surplus supporters' votes. Packing concentrates many opposition party supporters into a few districts, thereby wasting opposition votes in overwhelming victories.

Given this, one might expect split state legislatures to produce superior redistricting results. However, legislatures that are split by party can still usually agree on one principle: protecting incumbents. Any redistricting process, if only by shifting lines from slower to faster growing regions of a state, can pose an existential risk for incumbent legislators, threatening to upset their long-cultivated name recognition, campaign organization, and constituent trust. (McDonald 2005). Re-establishing these lost advantages in newly annexed areas is often quite costly. More radical changes may force an incumbent to retire early or purchase a home in a friendlier district. On the other hand, redistricting can also help politicians through jettisoning hostile former constituents. In cases where control over the legislative body is split between politicians from opposing parties, the ordinary result is a collusive bipartisan gerrymander that protects both parties' incumbents, thereby resulting in uncompetitive elections (McDonald 2005).

The practice of gerrymandering is self-evidently problematic. There is a fundamental conflict of interest when officials are given power to draw the lines of the districts from which they are elected. In democracies, the political actors derive their legitimacy from their selection by voters through the electoral process. When politicians are instead empowered to choose the voters that they represent, the basis of this legitimacy is called into question. Yet despite the overwhelming evidence that legislative redistricting results in gerrymandering, the vast majority of state legislatures retain direct control over the process.

There are two main reasons for this lack of change. First, elected officials' incentives, and often those of the political organizations and voters who follow the lead of successful and dominant politicians, tend to favor the status quo. Tolbert, Smith, and Green (2009) point out that dominant political factions are risk averse, and thus seek to maintain their structural advantage. Although the "outs" among both parties (at both the primary and general election levels) form a countervailing with a concentrated incentive for reform, they are, as the name implies, out of power, even if their views on this issue happen to be popular with the general public. And if they should happen to win election, well, then, they become the "ins," with all of a sudden less of a sharp motive to pursue reform.

The second reason for the lack of political movement on the issue of redistricting is that there is no agreement on a perfect solution to the problem. Proposed fixes broadly fit into four categories: separating redistricting from politics, channeling competition, increasing public involvement, and imposing stricter rules on the redistricting body.

METHOD I: SEPARATION FROM POLITICIANS

The redistricting fix that has shown most momentum in recent years is the separation of redistricting authority from elected politicians. The reasoning behind this proposed fix is relatively straightforward. Since so many of the problems with redistricting arise from elected officials' status as both participants and highly interested stakeholders, the power to redistrict should be transferred from legislators, from legislators with their tendency toward horse trading and the carving out of personal deals, to a body with more or less independence of the legislature.

In recent years, a number of states have implemented independent commissions. These generally fall into four categories: politician commissions, advisory commissions, backup commissions, and independent citizen commissions (Cottrill 2012). Politician commissions (e.g. New Jersey) are comprised, or are chosen by, elected politicians. Advisory commissions (e.g. Virginia) draft and then submit plans to the legislature for its approval. Backup commissions (e.g. Connecticut) are charged with drawing boundaries in the rare instance that the legislature fails to do so. Finally, independent citizen commissions (e.g. California) operate completely independently of the legislature. Cain (2012) characterizes the different commission formats according to the degrees of separation from the state legislature they attempt to accomplish. Politician commissions like New Jersey constitute the lowest degree of separation, "separation by dilution", since they allow legislators to appoint nonlegislators to the commission (Cain 2012). On the other end of the spectrum, California's independent citizen commission designates an independent institution that almost entirely separates the redistricting process from elected actors, thereby maximizing separation.

The effectiveness and performance of each of these commission formats remains a hotly debated topic. Commissions that serve a purely advisory role, with the legislature entirely at liberty to ignore or accept their work, tend to result in outcomes no different from direct legislative control.

Among commissions with a stronger degree of power in the redistricting process, their procedural structure (e.g. membership and voting rules) can prove determinative of their redistricting outcomes. McDonald (2005) finds these commissions ultimately result in two types of outcomes: partisan and bipartisan. A partisan commission, defined as one with a majority of members drawn from a single party, will reliably produce a partisan map. On the other hand, a bipartisan commission results in a bipartisan compromise, which usually protects incumbents. In the post-2000 round of redistricting, one countervailing instance of a seemingly political commission whose bipartisan compromise exhibited elements of genuine neutrality was New Jersey (McDonald 2005). This anomalous result is likely due to the unique way the New Jersey commission operates, to be discussed below.

One of the hopes for independent redistricting, and a logical expectation, is that it will result in a greater number of competitive districts. The findings on such an effect, however, are mixed. Lindgren and Southwell (2013) find that independent citizens' commissions and "backup" commissions indeed tend to produce more competitive districts. On the other hand, Cottrill (2012) finds that non-legislative redistricting contributes neither to decreased vote percentages when incumbents win elections nor to a greater probability of their defeat. Karch, McConnaughy, and Theriault (2007) find that California's reforms not only failed to produce more competitive elections, but possibly made the problem worse. Others disagree and rate the eventual California outcome highly.

Both Arizona and California, the two states where commissions are most fully separated from political actors, have come under intense litigation. Partisans, political insiders and interest groups have invested heavily (and at times covertly) in influencing the independent California panels, while Arizona's pioneering commission, which enjoyed something of a honeymoon in its first cycle, became the target of intense attacks in its second (Cain 2012). While many scholars believe the independent formats have on balance worked as intended to increase fairness, these gains are bought at high cost if the commissions themselves have to expect a continuing siege of political attack, legal challenge, and gamesmanship.

No summary of the varying formats used in the fifty states is complete without a discussion of Iowa, which alone among the states entrusts the task of redistricting largely to professional state legislative staff whose jobs embrace an ethic of civil-service-style nonpartisanship and impartiality. (Redistricting methods in most other democratic countries tend to follow this model too.) In general, scholars and other commentators tend to think very highly of the fair, low-conflict outcomes Iowa has obtained through these methods, though not without an undercurrent of criticism that the process is less open to the public and less transparent in Iowa than in many other states. Iowa's system has been described as often praised but seldom imitated (Cain 2012), but it deserves careful study by anyone concerned with the future of

redistricting, especially as the issue of how a redistricting commission can assure itself of expert and impartial staff support is a crucial if often neglected part of the redistricting conundrum (Cain 2012).

METHOD II: PRESCRIBING REDISTRICTING RULES

A second proposed method for obtaining better redistricting results is by applying rules to constrain the decisions of the redistricting authority. These rules have many points of legal origin: some are prescribed in state constitutions, others through statute or legislative resolution, yet others in guidelines adopted by a redistricting authority as part of its deliberations. Some of the most commonly found rules prescribe a predefined set of criteria for the redistricting body to adhere to (e.g. compactness, respect for the boundaries of existing political subdivisions, district competitiveness). There is some evidence that stipulations of this sort can deliver their intended results. For instance, Lindgren and Southwell (2013) find that language stipulating competitive districts is associated with more competitive elections. However, instituting guidance criteria of this sort is not as straightforward a matter as it may seem (McDonald 2007). The longer and more complex the criteria prescribed, the more chances that they will conflict, leading to inconsistent and unpredictable results. Commissioners tasked with weighing the relative weight of redistricting goals will inevitably be forced to make controversial judgment calls. Furthermore, certain criteria are so vague that it can be difficult to enforce them in an objective manner. For example, a popular yet nebulous term often set as a criterion for redistricting is "communities of interest", which can be applied to almost any conceivable grouping of localities someone wishes to designate as a community. An affluent farming community with many older residents on the outskirts of a large city might be grouped with other affluent areas, other farming areas, other areas with many older persons, other communities outlying the same city, and so forth.

Another way of equipping a commission with strong and objective marching orders, rather than subjective and unpredictable discretion, is to prescribe (or direct it to adopt) relatively objective outcome measures of what are considered desirable qualities in a map. For example, one quantifiable measure of compactness (there are others) is the total perimeter of all district boundaries added together, and one measure of congruity (respect for existing political subdivisions) is a calculation of the number of county splits that a map involves. In both cases, lower numbers rate better. McDonald (2007) notes the advantages of outcome-based conditions that can be verified objectively. Like so many tools, however, these can prove double-edged: rigid adherence to a particular mathematical formula has the consequence of limiting some discretion in the redistricting process that most people would consider beneficial (Altman and McDonald 2014). For example, a rule requiring the attainment of the absolute lowest total perimeter of boundaries will tend to carve up a state in stark, straight lines, which might result

in dividing many counties and communities needlessly, or might unite in one district two population centers that are separated from each other by a mountain range.

In addition, each metric has a tendency to encourage a particular kind of redistricting which may have its own political implications: a rule that fosters many mixed city-and-rural districts will result in different representation than an alternative rule that fosters many city districts and many rural. Cain (2012) offers an intriguing proposal for settling on more impartial standards. He suggests that redistricting regulatory language be adopted at least 4 years prior to each decennial redistricting. Forcing these rules to be adopted long before anyone has the census data forces drafters to act behind a "veil of ignorance". The effect of such a measure would be to mitigate politically calculated rule making.

METHOD III: CHANNELING COMPETITION

Several scholars have noted that politically interested parties can sometimes play a productive role in a redistricting process if ways can be found to set them in competition with each other, as opposed to colluding to carve up electoral spoils at others' expense. For example, Cain (2012), who believes that redistricting is doing well if it arrives at a "reasonably imperfect" compromise rather than aspiring to perfection, points to New Jersey as an example of a state that has succeeded in channeling competition to public advantage. In New Jersey, the commissioners are appointed directly by political party operatives along with a single "tiebreaking member" selected by the other commissioners or, if a consensus cannot be met, the state's Supreme Court. New Jersey has developed a distinctive "informal bargaining system" under which the two party delegations are given specific goals to compete over (e.g. creating competitive seats, minimizing party bias, retaining voters in the same districts as previously to the degree possible). Using these goals, the two parties are invited to present competing plans in an iterative fashion. In instances of disagreement, the tie-breaking member utilizes the predefined goals to decide a "winner". This contest to garner the approval of the nonpartisan tiebreaker creates incentives for a path to the "reasonably imperfect" middle.

Cain (2012) contends there is room for further improvement on the New Jersey model. One ambitious improvement would attempt to graft its bargaining system into the Independent Citizen Commission structure. This would shift the commissioners' roles from drawing lines to judging, revising, and adopting plans sourced through online, public submissions which could be submitted by independent-minded outsiders, nakedly partisan advocates, or anyone in between. This system could offer three main advantages. First, it would lessen some of the burdens on the commissioners to try to be all-purpose experts by allowing their roles to evolve in a more judge-like direction. Second, the state might save a great deal of money on consultants because much of the time, expense, and effort of map construction and evaluation would be pushed onto those among the public who care enough to enter maps or offer critiques of others' maps. Third, an

open competition with all sides invited to enter could have the effect of sabotaging potential collusion between political professionals, who otherwise might be tempted to unite behind a shut-out-newcomers plan.

METHOD IV: PUBLIC PARTICIPATION

The proposals offered in Cain (2012) concerning online public submissions raises the fourth avenue through which meaningful redistricting reform may be achieved. Historically, public participation in the redistricting process has taken place through public forums or town hall meetings. Through these events, the public could voice redistricting concerns and offer criticism of proposals. While public hearings of this sort contribute to democratic legitimacy and will continue to have a role, newer online technologies hold the promise of reaching out to more audiences and more kinds of voter – potentially even mass numbers under the right circumstances – and harnessing public participation toward entirely new goals.

Altman and McDonald (2014) sketch out a number of ways to channel public involvement to produce better redistricting results. Geographic information systems (GIS) are already an essential tool in redistricting. These programs enable the manipulation of immense amounts of geo-spatial, demographic, and election data. While this technology was previously confined to political parties and other big players, it is now easy to use and available to the general public. One particularly useful function of GIS software is the ability to calculate "quantitative indicia". This function enables users to access summaries of demographic characteristics of districts, predictions of election results, and district features such as their shape and intersection with other geographies. This software has the potential to be utilized to detect and expose purposeful gerrymanders and to propose fixes. For instance, the software can identify districts that run afoul of reasonable compactness standards, at least if those standards have been well defined. Inevitably, there are complications, especially in ensuring compliance with the Voting Rights Act, which sometimes forbids the use of an otherwise neutral criterion in a particular situation. (Indeed, quantitative indicia might themselves come under legal scrutiny for systematically disadvantaging certain groups, if only unintentionally.) Despite these issues, both New Jersey and Arizona have employed quantitative indicia to evaluate proposed redistricting plans.

Beyond that, Altman and McDonald (2014) point out that open-access and open-source approaches, so long as authorities are willing to cooperate, now for the first time in history give private citizens the capability to submit their own redistricting plans via the Internet. Allowing citizens to submit their own plans expands the policy debate by increasing the number of plans available for discussion, and is likely to result itself in a jump in the level of public information and engagement, as publicly submitted plans stir interest, discussion and emulation among other members of the public. Most remarkably, perhaps, we now know that sometimes the publicly submitted plans can pass into law, whether by persuading the redistricting authority that they

are best or later, in a court challenge, by demonstrating superiority to what the authority had chosen instead. In the past few years, courts in Virginia and Pennsylvania have implemented publicly generated plans. In Pennsylvania, notes one scholar, "the state supreme court found a plan drawn by a piano teacher with DistrictBuilder to be superior to the state legislature's plan." [Halberstam 2015]

Altman and McDonald (2014) caution that successful implementation of public participation hinges upon both a receptive citizenry and cooperative public officials. Implementation of open-access redistricting requires transparency on behalf of redistricting authorities. Commissioners must be willing to make their census data, maps and evaluation criteria, and perhaps also their deliberations, available online. In addition, commission members should be required to upload their redistricting maps in block equivalency files, as opposed to formats that obscure fine urban boundaries and require extensive research or guesswork to transform into data equivalents (e.g. Adobe PDF documents or JPEG images). Recent advances in technology have made possible unprecedented public involvement in redistricting, but their ultimate utility will rest on whether states can cooperate willingly with the public.

LOOKING FORWARD

Although the academic literature is still divided on many points, it suggests that a successful approach will draw on multiple reform themes. The most interested parties, legislators, should not have their hands on the controls steering the process to their preferred outcome. Objective rules, a limited enough set of them to avert incoherence or contradiction, should be prescribed to guide the redistricting body. Expertise is a must, including some expertise in specialized disciplines, and needs to be sought through some combination of knowledgeable appointees, impartial professional staff, and talents contributed by the public. Competition should if possible be employed to channel political jealousies into the submission of multiple plans each seeking to demonstrate greater fairness and evenhandedness than its rivals. And the public should be let into the process, both in small ways and in big.

EXAMINATION OF OTHER STATE MODELS

The commission took seriously its assignment to explore redistricting methods used in other states, especially those that use citizen commissions and other independent methods. Almost every meeting included discussion, sometimes extensive, about experience in other states and the strong and weak points of various models, especially those of **California**,

Arizona, and **Iowa**, but also including **Montana**, **Washington**, **Kansas**, **New Jersey**, **Idaho**, and other states. Much of the scholarly literature reviewed by the commission and its members, and many of the experts testifying at the regional hearings likewise focused on ways in which different state models had performed well or less well. Citizen testimony contributed as well, as at the Waldorf public meeting where a politically active Accokeek Democrat who had previously lived for years in **Iowa** shared his experience with redistricting in that state.

Among the recurring topics were how to encourage well qualified citizens to volunteer for service on commissions, who should screen applicant pools, ways to improve public openness, best practices for the use of geographic information systems, public data exchange and open source software.

Of particular interest were the ways in which different states have employed standards to quantify and measure such desired attributes as compactness, contiguity, and congruence with political subdivisions. The commission heard about mathematical tests used for compactness in **Iowa**, **Colorado**, and other states, and about how states like **Oregon** use road connections and convenient transportation access as a practical measure of contiguity. **South Carolina**, citing the value of ready communication between lawmaker and constituent, includes language in its guidelines about drawing districts easy to traverse and within coherent media markets. These examples were particularly relevant because of the repeated hearing testimony from citizens who seldom expected to see their member of Congress because they lived in an area remote from the major population centers of his or her district. And they also shed light on **Maryland** episodes like the "Gerrymander Meander" in which a group of citizens attempted to jog the entire length of the famous Third District, two of whose sections are contiguous to each other only by boat.

Another theme of recurring interest was that some states have done better than others at assuring strong staff support for independent commissions and at protecting commission members from political and litigation pressures. The **Iowa** model, in which nonpartisan legislative staff handle a wide range of tasks, was discussed many times, as were models in which private consultants or various executive divisions of government (such as the Attorney General's office in the case of Voting Rights Act analysis) supply assistance within their sphere of expertise. Many sources emphasized that the best time to think out staffing needs and choices is before a

commission gets off the ground, not after it has begun to encounter difficulties for lack of qualified and impartial sources of expertise. Methods also need to be found that will account for the possibility that a commission or its members will face prolonged litigation over honest differences of opinion, and work to ensure that participation remains an attractive option for citizen volunteers.

A detailed view of some of the state models the Commission reviewed is available in the Appendix of this report.

RESEARCH ON COMPACTNESS, CONTIGUITY AND DISTRICT BOUNDARIES

The commission's research indicated that each of the main criteria for a map after other legal prerequisites are satisfied -- compactness, contiguity, and respect for political subdivisions -- is susceptible to measurement and comparison on an objective, quantifiable basis. Realizing that our understanding of best approaches may grow and evolve over time, the commission chose not to recommend specific formulas, but it is clear that in each category helpful and objective measures are already available and used in various states.

Of the three criteria, perhaps the most widely studied is that of compactness. Of the two most popular tests of compactness, one measures districts' deviation from an ideally compact shape such as a circle or square, while the other measures the total sum of all district boundaries as if added together lengthwise. Both of these methods discourage wide-area gerrymandering that employs long or serpentine district lines, while the total-perimeter approach also discourages the zigzagging of lines at a local level, a practice that can arise from motivations both benign (drawing lines around neighborhoods to keep them together) and less benign. Convenient transportation access between sections of a district is one measure of practical contiguity, and may be of special importance in Maryland, a state in which district lines have on occasion been drawn across sections of the Chesapeake Bay not connected by convenient bridge or ferry. Congruence with political subdivision boundaries can be translated into numbers based on, e.g., the number of county splits included in a plan.

A fuller account of this research is found in the Appendices.

MARYLAND REFORM PROPOSALS

Since the last legislative and congressional districting plans were adopted, there have been a number of bills introduced in the Maryland General Assembly to reform the redistricting process. Some sought to create commissions, some would have established criteria for drawing lines and

others simply would have created taskforces to study the issue. None of these bills passed the legislature. In fact, none of these bills were even brought up for a vote by committee.

FEDERAL REFORM PROPOSALS

While the vast majority of citizens who provided comments at the public meetings and through the commission's website urged Maryland to enact state-level redistricting reform, some suggested to the Commission that reform should be left to the federal government. At the public meeting in Easton, Congressman Andy Harris provided the Commission with the status of bills pending before the 114th Congress of the United States. None of the bills have been scheduled for a hearing.

Lists of both state and federal reform bills are available in the appendices of this report.

SECTION III: RECOMMENDATIONS

The Maryland Redistricting Reform Commission recommends the following reforms, which except where otherwise specified should govern both congressional and legislative districting:

DISTRICTING CRITERIA

1. Districts must be of substantially equal population as required by the U.S. Constitution, federal and state law.
2. Districts must comply with other applicable federal law, such as the Voting Rights Act.

   These two criteria having been satisfied, redistricting plans must meet the following conditions:

3. Congruence: district lines must pay due regard to county and city boundaries;
4. Contiguity: districts must be of adjoining territory conveniently connected for purposes of travel and communication;
5. Compactness: districts must be compact in form.

ESTABLISHMENT OF AN INDEPENDENT COMMISSION; STRUCTURE AND SELECTION PROCESS

Maryland should establish, every ten years after the decennial census, an independent commission with the duty of drawing congressional and state legislative districts.

The commission should consist of nine members, of whom three shall be affiliated with the state's largest party by registration, three with the second largest party, and three with neither of those parties.

All citizens resident in Maryland and not otherwise disqualified may apply to serve on the commission.

Applications to serve on the commission will be submitted to a panel of officials drawn from a branch of government service associated with neutrality, independence, and responsibility, following the example set by California, which employs the state auditor's office, and Arizona, which employs a judicial appointments panel. Members of this screening panel may themselves, where otherwise feasible, be selected by random process.

Methods the commission considers optimal include:

- A panel of retired or senior federal judges including magistrate, bankruptcy, and Fourth Circuit Court of Appeals judges resident in Maryland, augmented, in case of need, by distinguished private citizens selected by consensus of those judges.
- A panel of judges, retired or otherwise, composed of one from the Court of Special Appeals and two from the Circuit Court.

The screening panel will evaluate the overall pool of citizen applicants and select 30 who in their estimation are well qualified for service, 10 from the largest political party by registration, 10 from the next largest party, and 10 affiliated with neither of these parties. As a group, the resulting pool of 30 should reasonably reflect racial, ethnic, gender and geographical diversity from across Maryland.

After selecting those thirty, the screening panel should then apply a random or lottery selection process to select nine members, three from each of the three pools, to create an overall commission consisting of three persons affiliated with the largest party by registration, three with the next largest, and three affiliated with neither.

If the random lottery results in a panel that in the screening panel's opinion does not reasonably reflect diversity as noted above, random lottery methods may be repeated until a reasonably diverse panel results.

The full commission should then select one of its members as chair, who must be one of the members not affiliated with either of the two largest political parties.

Should a vacancy occur due to departure of a commissioner, the screening panel shall apply random methods to select a replacement from among remaining pool members reflecting the same considerations of partisan balance and diversity.

Commission members should be subject to the same level and access of disclosure as members of the Maryland legislature.

LIMITATIONS ON SERVICE

Persons are not eligible to apply for a seat on the commission if they:

- have resided in a place other than Maryland over the previous 5 years.
- have served as a member of the legislature or Congress during the previous 5 years, or run for either position in a primary or general election over that time.
- are employed by any member of the legislature or Congress.
- are a registered lobbyist.
- are an immediate family member of any person excluded under the above categories.

- have changed the party status of their voter registration within the previous 5 years, including changes to or from independent or third party status.

Persons shall also not be eligible to serve on the neutral screening panel should they fall into any of these categories, except for the last mentioned on change of party status.

COMMISSION PROCESS

A preamble will declare that it is the goal of Maryland law to achieve redistricting drawn with no intentional or purposeful favor or disfavor toward or against any incumbent, candidate, or political party.

In establishing districts, no use should be made of voter registration information or past voting results except as required by federal law or the U.S. Constitution.

In establishing districts, no use should be made of the home addresses of incumbents, potential challengers, or any other person.

The commission should adopt data transparency and open source methods so that the data it uses in districting is promptly and conveniently available to the public, and should be provided with resources adequate to assure this task.

The approval of a proposed districting plan should require an affirmative vote from at least 6 of the 9 commission members.

The commission should hold ample public hearings on its proposed plan. Should it amend or correct some aspect of its plan in a way short of devising a new plan, it has discretion to hold additional hearings.

The completed plan proposal should be submitted to the Maryland legislature at least 30 days before the beginning of its annual session.

LEGISLATIVE REJECTION AUTHORITY

The Maryland legislature should have 30 days from the beginning of its session to approve affirmatively each districting plan, to reject it by supermajority, or to do neither. It need not approve a legislative plan and Congressional plan together, but may choose to approve or reject one but not the other. It may not amend a plan.

Legislative rejection of a plan requires a super majority vote (of the same level required to pass a law notwithstanding a governor's veto) by both chambers of the legislature. If the legislature votes by supermajority to reject a plan, it goes back to the commission with recommendations from the legislature.

If after 30 days of session the legislature has neither voted by supermajority to reject nor affirmatively approved a plan, the plan is deemed approved. A legislature can therefore, if it likes, secure a plan's approval simply by not acting.

A third option for the legislature is to affirmatively approve a plan by simple majority vote of both houses. If it does so the matter goes to the Governor who has an option to sign or veto. If the Governor vetoes, the legislature will have the option to override the veto by super majority vote, making the plan law. Should the legislature fail to override the Governor's veto, the plan goes back to the commission with recommendations from the Governor.

In case of rejection by either method, the commission may revise its plan in response to objections from the disapproving branch of government. Timelines shall be arranged so that there is, if possible, a reasonable chance for second-round map approval or rejection before the end of a legislative session. The second map submission may be approved or rejected in the same manner as the first, and in the absence of definite legislative decision shall become law. If a second map meets with rejection either by a legislative supermajority or by the following of a legislative approval by a Governor's veto that is not itself overridden, the Maryland Court of Appeals shall create a plan in place of the rejected plan.

RECOMMENDATIONS ON LEGISLATIVE DISTRICTING

Current practice allows a population variance among legislative districts of +/- 5%, resulting in an overall 10 percent spread. The commission heard extensive testimony that this discretion has been used for political purposes unrelated to sound districting goals. Maryland should join many other states in forbidding a population variance among districts greater than +/- 1%, for an overall 2 percent spread.

Article III, section 3 of the Maryland Constitution presently allows three-member delegations to consist of three delegates elected at large, a single-member district combined with a two-member district, or three districts each with a single member. The commission heard extensive testimony supporting a uniform practice of single-member districting, along with some testimony finding value in three-member districts to localities or constituents. Little if any testimony supported the current practice in which different methods are arbitrarily imposed on different areas around the state, with the inconsistency of practice creating a strong suspicion that the discretion is being abused for tactical political ends.

The Governor and the legislature should examine the benefits of establishing a uniform standard of using three single-member delegate districts in every legislative district. Should triple-member districts be employed in some instances, it should result from the application of clear, objective, and predictable rules. The commission recommends prohibiting the practice of subdividing

districts into a two-member and a single-member district, except as needed to meet requirements of federal law.

MARYLAND AS AN EXAMPLE FOR OTHER STATES

The Maryland Redistricting Reform Commission notes that responsibility for Congressional redistricting is entrusted to each state rather than to the federal government or the U.S. Congress, and that it would be inappropriate for the U.S. Congress to insert itself into the local process which establishes the constituencies from which its own members are elected. The commission believes Maryland should proceed with its own reforms.

At the same time, because developing a reformed redistricting process is a significant need in many states in addition to Maryland, the commission also recommends that Governor Hogan and the presiding officers of the Maryland Senate and Maryland House of Delegates send letters to the leadership of the U.S. Congress, the Governors and legislative leaders in each of the 49 other states, as well as the National Governors Association and the associations of Democratic and Republican governors, communicating the steps Maryland is taking, congratulating states that already have moved to address this issue, and urging that every state do the same.

APPENDIX

The State of Maryland

Executive Department

EXECUTIVE ORDER
01.01.2015.21

Maryland Redistricting Reform Commission

WHEREAS, The integrity of elections is essential to the success of our democracy;

WHEREAS, Fairness in process and good governance are what the citizens of Maryland expect and deserve;

WHEREAS, The process of redistricting should be fully transparent and subject to input and scrutiny from the public;

WHEREAS, An overwhelming majority of Marylanders favor an independent, non-partisan commission for redistricting over the existing process for drawing district lines;

WHEREAS, It could be considered a conflict of interest for politicians to redraw the districts in which they run for re-election;

WHEREAS, National publications have listed Maryland as having some of the most "gerrymandered" congressional districts in the United States;

WHEREAS, Maryland's redistricting can negatively impact the creation of majority-minority districts causing underrepresentation of racial minorities;

WHEREAS, Every effort should be made to keep communities, counties, and municipalities within a single election district to help ensure all Marylanders have effective representation;

WHEREAS, Independent commissions in other states have greatly reduced politics and partisanship in redistricting and have established more election districts based on population, compactness, and natural boundaries;

WHEREAS, Maryland should lead on this issue and should not wait for the federal government or other states to act on the issue of redistricting reform; and

WHEREAS, The establishment of the Maryland Redistricting Reform Commission would benefit the State by gathering citizens, experts, and interested parties to conduct a comprehensive examination of Maryland's redistricting process and make recommendations on ways to reform our system.

NOW THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. There is a Maryland Redistricting Reform Commission (Commission).

B. Membership. The Commission consists of the following voting members:

(1) Two members of the Maryland Senate, one appointed by the President of the Senate and one appointed by the Minority Leader of the Senate;

(2) Two members of the Maryland House of Delegates, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House of Delegates;

(3) Two representatives from policy research organizations;

(4) One representative from a non-profit voter advocacy organization;

(5) One representative from a government reform advocacy organization; and

(6) Up to five additional members appointed by the Governor.

C. The members identified in Sections B(3) through B(6). shall be appointed by the Governor and shall serve at the pleasure of the Governor.

D. The Governor shall designate the Chair or Co-Chairs from among the members.

E. In the event of a vacancy, the Governor shall appoint a successor to fill the remainder of the term.

F. To the extent practicable, the members of the Commission shall reflect the diversity of the population of the State.

G. Procedures.

(1) The majority of voting members of the Commission shall constitute a quorum for the transaction of any business.

(2) The Commission shall hold publicly announced meetings at such times and such places as it deems necessary. The meetings shall be accessible to the general public in accordance with the Maryland Open Meetings Act or other applicable law.

(3) The Commission may adopt such other procedures as may be necessary to ensure the orderly transaction of business, including the creation of committees.

(4) The Chair or Co-Chairs may, with the consent of the Commission, designate additional individuals, including interested citizens, elected officials, educators, or specialists with relevant expertise, to serve on any committee.

(5) The Commission may consult with the principal departments of State government to obtain such technical assistance and advice as it deems necessary to complete its duties. All Executive Branch departments shall cooperate with and assist the Commission in carrying out its responsibilities.

H. Duties. The Commission shall:

(1) Conduct a comprehensive examination of ideas that could enhance the integrity of Maryland's congressional and legislative redistricting process;

(2) Review approaches of other states that have established independent, non-partisan redistricting commissions;

(3) Conduct regional summits in various parts of the State, including the Eastern Shore, Southern Maryland, Western

Maryland, and Central Maryland to allow citizens to offer their ideas and input on redistricting reform;

(4) Provide an electronic portal for citizens to submit their comments to the Commission;

(5) Develop a recommendation for a constitutional amendment on congressional and legislative redistricting; and

(6) Promote redistricting reform publicly across the State as an essential component of ensuring fair elected representation and election integrity in Maryland.

I. Reports and Recommendations.

(1) The Commission shall issue a report addressing the duties listed in Section H.

(2) The report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Delegates, no later than November 3, 2015.

(3) The Commission may issue additional reports as directed by the Governor.

J. Termination of the Commission. The Commission shall terminate on November 8, 2016, unless the Governor declares before that date that the Commission shall remain in operation.

Given Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 6th Day of August, 2015.

Lawrence J. Hogan, Jr.
Governor

ATTEST:

John C. Wobensmith
Secretary of State

LEGAL CHALLENGES TO MARYLAND REDISTRICTING

The following was provided to the commission by the Maryland Department of Legislative Services.

State Constitutional Issues

Jurisdiction

The Maryland Court of Appeals has original jurisdiction to review legislative redistricting and may grant appropriate relief if it finds that the plan is not consistent with the requirements of the Maryland Constitution.

Public Hearing Requirement

The 1973 legislative redistricting plan was invalidated by the Maryland Court of Appeals for failure to comply with the State constitutional requirement for public hearings. The Governor had held only one public hearing, which was announced in a single press release two days earlier. A Special Master was designated by the court to hold several adequately publicized hearings around the State. The plan was subsequently adopted by the court in March 1974. (In The Matter of Legislative Redistricting of the State, 271 Md. 320, 317 A.2d 477)

Compactness Requirement

The State constitutional compactness requirement was considered by the Maryland Court of Appeals in a challenge to the 1982 legislative redistricting plan. Several districts in several counties were challenged, the principle districts being in Montgomery County and Baltimore City. The court upheld each challenged district stating that none of them reached the level of noncompactness contemplated by the State constitution. (In ReLegislative Redistricting 299 Md. 658, 475 A.2d 428 (1982))

Due Regard Requirement

In 1993 the Maryland Court of Appeals considered a challenge to the Governor's enacted 1992 legislative redistricting plan based on alleged violations of the State constitution's requirement that the State give due regard to natural boundaries and political subdivisions. The focus of attention were five legislative districts in Baltimore City which crossed into Baltimore County. A majority of a fractured court narrowly upheld the plan. The majority stated that the plan came "perilously close" to violating the State constitution when it crossed political subdivision lines in order to group communities that the Governor's redistricting advisory committee felt had shared interests. (Legislative Redistricting Cases, 331 Md. 574, 629 A.2d 646).

Due Regard for Political Subdivisions

The Governor's 2002 Legislative districting plan was challenged on the basis that it violated the state constitution's requirement that a plan give due regard to the boundaries of political subdivision lines. As in 1992 the focus was on the 9 instances where legislative district lines crossed the Baltimore City and Baltimore County border. The Court of Appeals invalidated the plan because the map impermissibly prioritized other policy goals over and above minimizing the crossing of political subdivision boundaries. (369 Md. 398, 800 A.2d 744 (2002))

Equal Population

The Governor's 1992 legislative redistricting plan was also challenged on the basis that its districts did not comply with the "substantially equal" population requirement of the State constitution. The difference between the least and the most populated senatorial district was 9.84%. Federal case law presumes a state legislative districting plan to be constitutional if its overall deviation is below 10% unless a challenger can show the deviations are the result of an "unconstitutional or irrational" state policy. (849 F.Supp 1022, 1032 (1994))

The Maryland Court of Appeals interpreted the State constitutional provision as being even less strict than the federal 10% rule and cited the legislative history surrounding the enactment of the constitutional provision, which contemplated a maximum allowable deviation of 15%. (Legislative Redistricting Cases, 331 Md. 574, 629 A.2d 646).

Federal Constitutional Issues

Jurisdiction

The Maryland Court of Appeals may be bypassed if it is alleged that a violation of the Voting Rights Act of 1965 or any of the relevant U.S. Constitutional provisions. (14th Amendment, 15th Amendment) has occurred. In that case, the Federal District Court has jurisdiction and may exercise that jurisdiction narrowly or broadly, irrespective of the specifics of the suit.

Minority Vote Dilution

A portion of the Governor's 1992 legislative redistricting plan for the Maryland House of Delegates was invalidated by a Federal District court in (Marylanders for Fair Representation v. Schaefer, 849 F.Supp 1022 (D. Md. 1994)), for violating section 2 of the Voting Rights Act. While the court explained that the State was not obligated under section 2 to create a majority minority district wherever possible in a plan, the creation of these districts are required whenever the conditions set forth under the U.S. Supreme Court decision in (Thornburg v. Gingles, 478 U.S. 30 (1986)) are present. The court found that only the district 37 met these conditions, which included racial block voting, geographical compactness and political cohesion of the African-American population, and a history of racial discrimination in the area. The court ordered the State to create district 37A, a new, single-member, majority minority district.

Partisan Gerrymandering

A federal District court dismissed a claim that the Governor's 1992 legislative plan was an illegal partisan gerrymander in violation of the Equal Protection Clause of the 14th Amendment. It found that the plan did not cause the degree of discriminatory effect on the minority party necessary to invalidate the plan. The plan did not take away their political influence in the legislature or among voters as a result of the redistricting plan as the decision in (Davis v. Bandemer, 478 U.S. 109 (1986)) required.

ANALYSIS OF SYSTEMS IN OTHER STATES

In accordance with the Executive Order, the Commission thoroughly examined redistricting processes in other states that have established independent commissions. Particular attention was paid to Arizona and California as these state's models have been held up by reform advocates as having achieved significant independence and have produced improved congressional maps. Listed below is a sampling of some of the states the Commission examined including information about the composition and selection process of the commission and the criteria used to create districts.

Arizona

Composition

In 2000, Arizona voters approved Proposition 106, creating the Arizona Independent Redistricting Commission (AIRC) to redraw congressional and legislative districts. The commission is comprised of five members of the public: two Democrats, two Republicans and one independent, who serves as chair of the commission. The AIRC acts independently of the state legislature.

The Arizona Commission on Appellate Court Appointments reviews applications from members of the public and nominates 25 people: 10 Democrats, 10 Republicans and five independents. The party leadership in each legislative chamber selects their two commission members. The four selected members then choose the fifth independent member and chair.

AIRC changes membership between redistricting cycles.

Criteria

In order to ensure that each AIRC begins its map drawing process from scratch, Arizona's constitution requires redistricting to begin with grid maps. However there are other criteria to which the commission must adhere in drawing new lines.

- Equal protection;
- Compact and contiguousness;
- Compliance with the U.S. Constitution and Voting Rights Act;
- Respect for communities of interest;
- Incorporation of visible geographic features including city, town, and county boundaries, as well as undivided census tracts; and
- Creation of competitive districts where there is no significant detriment to other goals.

California

Composition

In 2008, Californians approved Proposition 11, which created the California Citizens Redistricting Commission. The commission was initially tasked with creating legislative districts, however with the passage of Proposition 20 in 2010 the commission's duties included drawing Congressional districts.

The 14-member commission is comprised of five Democrats, five Republicans and four unaffiliated members.

Candidates submit applications online, and those who meet the qualifications set forth in California's Voters First Act submit a supplemental application containing answers to essay questions. Independent auditors from the Bureau of State Audits review the supplemental applications and narrow the pool down to 120 (40 Democrats, 40 Republicans, 40 unaffiliated) of the most qualified candidates. That pool is further reduced to 60 candidates with equal sub-pools of Democrats, Republicans and unaffiliated. Those 60 names are sent to the leadership of both houses in the legislature, who can remove up to 24 names from the pool.

The first eight commissioners (3 Democrats, 3 Republicans, 3 unaffiliated) are selected by a random drawing by the State Auditor. Those eight commissioners then select the final commissioners.

The criteria for the Commission to follow is laid out in the Voters First Act:

- Districts must be of equal population to comply with the US Constitution.
- Districts must comply with the Voting Rights Act to ensure that minorities have an equal opportunity to elect representatives of their choice.
- Districts must be contiguous so that all parts of the district are connected to each other.
- Districts must respect the boundaries of cities, counties, neighborhoods and communities of Interest, and minimize their division, to the extent possible.
- Districts should be geographically compact, that is, have a fairly regular shape.
- Where practicable each Senate District should be comprised of two complete and adjacent Assembly Districts and Board of Equalization districts shall be composed of 10 complete and adjacent State Senate Districts.
- Districts shall not be drawn to favor or discriminate against an incumbent, candidate, or political party.

Idaho

Composition

The Idaho Citizen's Commission on Reapportionment was created via constitutional amendment approved in 1994. The six member commission is comprised of one non-legislator citizen appointed by the House Speaker, the Senate Pro Tem, the House Minority Leader, the Senate Minority Leader, the Chairman of the Idaho Republican Party, and the Idaho Democratic Party. Appointed members may not have been a registered lobbyist one year prior to appointment or an elected official or state party officer at least two years prior to appointment. Commissioners are prohibited from serving in the legislature for at least five years after serving on the commission.

Criteria

- Congressional districts should be mathematically equal, unless justified by a "legitimate state objective."
- There shall be not less than thirty nor more than thirty-five legislative districts in the State of Idaho.
- Legislative districts should not differ in population by more than ten percent unless justified by a "rational state policy." 3 An example of a "rational state policy" might be avoiding dividing

political subdivisions. BUT ten percent is not a "safe harbor" if there other indications of systematic favoring of one party over another in drawing districts. Such districts will be struck down as violating the Equal Protection Clause. On the other hand, merely showing that an alternative plan with a lower overall range could be used was not in itself sufficient to require invalidation of a plan. A legislative redistricting plan that has more than a ten percent deviation is presumptively unconstitutional.

- Section 2 of the Voting Rights Act provided that no state or jurisdiction could abridge the right to vote on account of race or color. The interpretation of what this section requires has been subject to many judicial interpretations and legislative changes over the decades. Most recently, in 2009 the U.S. Supreme Court affirmed the North Carolina Supreme Court in holding that, in considering potential district populations as violative of Section 2, only voting age citizens should be considered, and that only a majority-minority district is necessary where possible (no coalition, crossover, or influence districts need be attempted).
- Gerrymandering: The creation of bizarrely-shaped districts in order to string together voters of a particular race will be given strict scrutiny by the courts and struck down if race was the predominant factor in the creation of the districts. Further, oddly-shaped districts for ANY reason are disfavored under Idaho law.
- Legislative districts in Idaho should, as much as possible:
    - Avoid dividing counties: "A county may [not] be divided and aligned with other counties to achieve ideal district size if that ideal district size may be achieved by internal division of the county."9 If a division is necessary, the counties being melded must be contiguous and connected by a highway.
    - Preserve communities of interest and traditional neighborhoods;
    - Maintain local voting precinct boundaries.
- Legislative districts in Idaho must:
    - Be drawn using U.S. Census population data;
    - Not divide counties in order to protect an incumbent or party;
    - Not be floterial districts.

Iowa

Composition

Iowa uses a unique process among the states whereby the legislature's Legislative Services Agency, similar to the Maryland General Assembly's Department of Legislative Services, devises legislative and congressional maps. Both maps are submitted as one piece of legislation for approval. During every reapportionment the Iowa legislature creates a Temporary Redistricting Advisory Committee, which can direct the Legislative Services Agency for decisions where no applicable guidelines in Iowa statute.

If the plan submitted by to the legislature is not approved or vetoed, the LSA must submit a new plan. The LSA can submit up to three plans for approval. If the third and final plan is not approved, then the legislature can amend and vote on the third plan, however that plan is also subject to the governor's veto.

Criteria

Abide by the Voting Rights Act

State legislative districts to be as nearly equal as practicable except where necessary to comply with other requirements, and in no event may the overall average deviation exceed 1%, or the deviation for any one district exceed 5%;

Districts may not be drawn for the purpose of augmenting or diluting the voting strength of a language or racial minority group;

Districts must be convenient and contiguous, preserve the integrity of political subdivisions like counties and cities, and be reasonably compact.

Where possible House Districts must be nested within state Senate districts and both House and Senate districts must be nested within congressional districts.

Residences of incumbents, political data, or demographic data (other than that required by federal law) may be considered.

OTHER NOTABLE STATES WITH INDEPENDENT REDISTRICTING COMMISSIONS

Alaska

Composition

The Alaska Redistricting Board is a 5-member commission, tasked with reapportionment of state legislative districts after each census. The Governor appoints two members, presiding officer of the Senate, presiding officer of the House, and chief justice of the Supreme Court appoint one member each.

Commission members may not be elected officials or public employees. Commissioners barred from running for office until after one election after their service.

Alaska has only one at-large member in the U.S. House of Representatives, and therefore does not draw districts.

Criteria

- Draw 40 House and 20 Senate districts;
- Compact and contiguous districts;
- Have a population equaling, as nearly as practically possible, a quotient of the state population divided by 40;
- Senate districts composed of two house districts;
- Natural geographic features shall be used in creating boundaries.

Montana

Composition

Montana's five-member Districting and Apportionment Commission is selected by the majority and minority leaders of both houses of the state legislature. Leadership selects the first four members and those four then select a chair. Commission members may not be public officials. If the first four members cannot agree on a chair within 20 days of their appointment, then the Montana Supreme Court selects the chair.

Montana has only one at-large member of the U.S. House of Representatives, therefore the Districting and Apportionment Commission only draws legislative districts.

Criteria

Montana law has four mandatory criteria, and three discretionary criteria for redistricting.

Mandatory

- Legislative districts must have equal population to the extent practicable, any deviation must not exceed 3% plus or minus from equal population;
- Compact and contiguous districts;
- Protection of minority voting rights and compliance with the Voting Rights Act;

- Race cannot be a factor to which discretionary criteria are subordinated.

Discretionary

- Give consideration to political boundaries of counties, towns, municipalities and Indian reservations;
- District lines should follow geographic boundaries;
- Keep communities of of interest intact.

Washington

Composition

The Washington State Redistricting Commission was created via a constitutional amendment in 1983. The commission consists of five members. The first four are chosen by the Democratic and Republican caucuses from each chamber of the legislature. The commission appointees then select a non-partisan, non-voting chair.

Commission members may not be registered lobbyists or elected officials or party officials, and not held such a position two years prior to appointment. Commissioners are also prohibited from running for office for two years after service and from actively donating or participating in or donating to a congressional or state office campaign.

Criteria

- Districts must contain equal populations to the extent practicable;
- Comply with the Voting Rights Act;
- Parts of a district may not be physically separated;
- Respect political boundaries of counties, towns, and municipalities;
- Avoid discrimination against or favor toward incumbent, candidate or political party.

RECENT STATE LEGISLATION

Maryland Reform Proposals

2012

HB 451 - Election Law - Legislative Districting and Apportionment Commission (Better Maryland – Nonpartisan Redistricting)
Sponsors: Delegates Schuh, Costa, Dwyer, George, Kipke, McConkey, McMillan, and Vitale
http://mgaleg.maryland.gov/2012rs/bills/hb/hb0451f.pdf

Key points: Uses a complicated multi-step selection process, 4/7 are ultimately selected by legislative leaders from both parties. No legislative rejection authority. Similar to HB 915 and SB 740

SB 160 - General Assembly – Legislative Districting – Process
Sponsors: Senators Brochin, Colburn, Kittleman, and Raskin
http://mgaleg.maryland.gov/2012rs/bills/sb/sb0160f.pdf

Key points: Supplemental bill for SB 160. Establishes conduct for public input forums.

SB 161 - General Assembly – Legislative Districting
Sponsors: Senators Brochin, Colburn, and Kittleman
http://mgaleg.maryland.gov/2012rs/bills/sb/sb0161f.pdf

Key points: Politician commission with tie-breaking commission chair selected by other members.

SB 162 - Congressional Districting Process
Sponsors: Senators Brochin, Colburn, and Kittleman
http://mgaleg.maryland.gov/2012rs/bills/sb/sb0162f.pdf

Key points: Similar to SB 160, but with no provisions for judicial review and language barring the Chesapeake Bay from acting as a barrier to contiguity.

2013

HB 832 - Congressional Districting Process
Sponsors: Delegates Norman, Healey, Gaines, Haddaway–Riccio, O'Donnell, and A. Washington
http://mgaleg.maryland.gov/2013RS/bills/hb/hb0832F.pdf

Key points: Creates temporary congressional districting commission, vests sole power to adopt plan with commissioners. Identical to SB 814/99.

SB 361 - Congressional Districting Process
Sponsors: Senators Pinsky, Colburn, Ferguson, Kittleman, Montgomery, and Raskin
http://mgaleg.maryland.gov/2013RS/bills/sb/sb0361F.pdf

Key points: Same as HB 832

HB 1199 - Citizens' Congressional Redistricting Commission
Sponsors: Delegates Parrott, Afzali, Bates, Boteler, Dwyer, Eckardt, Elliott, Frank, Glass, Haddaway–Riccio, Hogan, Hough, Impallaria, Kipke, Krebs, McComas, McConkey, McDermott, McDonough, McMillan, O'Donnell, Ready, Schuh, Smigiel, Stocksdale, Szeliga, Vitale, and Wood
http://mgaleg.maryland.gov/2013RS/bills/hb/hb1199F.pdf

Key points: Same as HB 1213

2014

HB 915 - Election Law – General Assembly and Congressional Legislative Districting and Apportionment Commission
Sponsors: Delegates George, Afzali, Costa, Eckardt, Fisher, Glass, Krebs, McComas, Otto, Parrott, Ready, Schuh, Szeliga, and Vitale
http://mgaleg.maryland.gov/2014RS/bills/hb/hb0915F.pdf

Key points: Similar to HB 451 and SB 740

SB 740 - Election Law – General Assembly and Congressional Legislative Districting and Apportionment Commission
Sponsors: Senators Kittleman, Brinkley, Brochin, Colburn, Getty, Hershey, Jacobs, Jennings, Kelley, Reilly, and Simonaire
http://mgaleg.maryland.gov/2014RS/bills/sb/sb0740F.pdf

Key points: Similar to HB 915 and 451

HB 970 - General Assembly and Congressional Legislative Redistricting and Apportionment Commission
Sponsor: Delegate Hogan

http://mgaleg.maryland.gov/2014RS/bills/hb/hb0970F.pdf

Summary: California style redistricting plan.

HB 1213 - Maryland Congressional Redistricting Commission
Sponsors: Delegates Mizeur, Arora, Carr, Glass, Gutierrez, Jacobs, Kach, Krebs, A. Miller, Otto, Parrott, Smigiel, and Stocksdale
http://mgaleg.maryland.gov/2014RS/bills/hb/hb1213F.pdf

Key points: California style redistricting plan.

2015

SB 99 - Congressional Districting Process
Sponsors: Senators Norman, Cassilly, Hough, and Waugh
http://mgaleg.maryland.gov/2015RS/bills/sb/sb0099F.pdf
Key points: Previously introduced as HB 832.

HB 267 - Legislative and Congressional Districting – Standards and Processes
Sponsors: Delegates Afzali, Buckel, Cluster, Ghrist, Hornberger, Krebs, McComas, McConkey, Metzgar, W. Miller, Saab, Simonaire, Vogt, and West
http://mgaleg.maryland.gov/2015RS/bills/hb/hb0267F.pdf
Key points: Creates Legislative and Congressional Redistricting Committees, Legislative plans are advisory to the General Assembly. Mandates single-member House districts.

HB 427 - Voters' Legislative Districting Panel – Establishment
Sponsors: Delegates Flanagan, Bromwell, Carozza, Cluster, S. Howard, Kipke, Kittleman, Krebs, McComas, Metzgar, W. Miller, Shoemaker, Szeliga, West, and B. Wilson
http://mgaleg.maryland.gov/2015RS/bills/hb/hb0427F.pdf
Key points: Members of Panel are selected by a lottery conducted by the State Ethics Commission. Plan is advisory to General Assembly.

HB 428 - Voters' Congressional Districting Panel – Establishment
Sponsors: Delegates Flanagan, Bromwell, Carozza, Carr, Cluster, S. Howard, Kipke, Kittleman, Krebs, McComas, Metzgar, W. Miller, Otto, Shoemaker, Szeliga, West, and B. Wilson
http://mgaleg.maryland.gov/2015RS/bills/hb/hb0428F.pdf
Key points: Congressional Districting version of HB 427, above.

HB 850 - Congressional Districts – Standards and Process

Sponsors: Delegates Gutierrez, Atterbeary, Carr, Carter, Flanagan, Fraser–Hidalgo, Ghrist, Glass, Hill, C. Howard, Kelly, Kittleman, Korman, Krebs, Lam, Mautz, McComas, McConkey, A. Miller, Moon, Morales, Otto, Parrott, Pena–Melnyk, B. Robinson, Smith, Sophocleus, Tarlau, Turner, A. Washington, and West
http://mgaleg.maryland.gov/2015RS/bills/hb/hb0850F.pdf
Key Points: Establishes Governor as originator of congressional districting plan.

SB 448 - Congressional Districts – Standards and Process
Sponsors: Senators Kelley, Bates, Benson, Currie, Lee, Madaleno, Manno, and Montgomery
http://mgaleg.maryland.gov/2015RS/bills/sb/sb0448F.pdf
Key Points: Senate companion of HB 850, above.

SB 814 - Congressional Districting Process
Sponsor: Senator Pinsky
http://mgaleg.maryland.gov/2015RS/bills/sb/sb0814F.pdf
Key Points: Concurrently introduced as SB 99 above. Previously introduced as HB 832.

HB 906 - Legislative and Congressional Districting – Standards and Processes
Sponsors: Delegates Miele, Cassilly, Impallaria, Krebs, McComas, Metzgar, Shoemaker, and West
http://mgaleg.maryland.gov/2015RS/bills/hb/hb0906F.pdf
Key Points: 4 members are political appointments, 5 members selected by random lottery. Establishes single-member house districts. Vests sole power to adopt plan with commissioners.

RECENT FEDERAL LEGISLATION

Federal Legislation introduced 2015-2016

H.Res.357 *Resolution*

Rep. Nolan, Richard M. [D-MN-8] (Introduced 07/10/2015)

Expressing the sense of the House of Representatives regarding the need to eliminate partisan redistricting and gerrymandering.

- Congress should establish a federal reapportionment system that would create compact and contiguous congressional districts that, to the greatest extent possible, follow geographic boundaries and county lines;
- Congressional districts should not favor or disfavor an incumbent or political party;
- Congressional districts should adhere to the existing standards of equal population; and
- the highest court of each state should have the power to reject congressional district maps that do not meet the above criteria

Action:

Introduced in the House on 7/10/2015
Referred to House Judiciary on 7/10/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice on 7/29/2015

https://www.congress.gov/bill/114th-congress/house-resolution/357?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=1

H.R.2655

Rep. Delaney, John K. [D-MD-6] (Introduced 06/04/2015)

Open Our Democracy Act of 2015

- Mandatory open-primaries with top two advancing
- Makes election day a federal holiday
- Expresses the sense of Congress that private employers should give their employees a day off on the general election day.
- Directs the Government Accountability Office to study the procedures used by states to conduct congressional redistricting.

Action:

Introduced in the House on 6/4/2015
Referred to House Oversight and Government Reform on 6/4/2015
Referred to House Judiciary on 6/4/2015

Referred to House Judiciary Subcommittee on Constitution and Civil Justice on 6/16/2015
Referred to House Rules on 6/4/2015

https://www.congress.gov/bill/114th-congress/house-bill/2655?q=%7B%22search%22%3A%5B%22open+our+democracy+act%22%5D%7D&resultIndex=2

H.R.2173
Rep. Lofgren, Zoe [D-CA-19] (Introduced 04/30/2015)
Redistricting Reform Act of 2015

- Prohibits mid-decade redistricting unless the map violates the Voting Rights Act of 1965.
- Requires independent redistricting commission if such a plan is not enacted into law, with the redistricting plan developed and enacted into law by a three-judge panel of the U.S. District Court for the District of Columbia
- Set forth provisions relating to:
  (1) the establishment by a nonpartisan agency of a state independent redistricting commission (including requirements for holding each of its meetings in public and maintaining a public Internet site).
  (2) the development and publication of a preliminary redistricting plan and the holding of at least three public hearings on such plan.
  (3) the enactment of a redistricting plan, under specified conditions, by a three-judge panel of the U.S. District Court for the District of Columbia.
  (4) redistricting conducted under a federal court order.
  (5) Election Assistance Commission payments to states for carrying out redistricting.
  (6) Authorizes the Department of Justice to bring a civil action to enforce this Act, which shall be given expedited consideration.

Actions:
Introduced in House 4/30/2015
Referred to House Judiciary 4/30/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 6/01/2015

https://www.congress.gov/bill/114th-congress/house-bill/2173?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=2

H.R.1347
Rep. Cooper, Jim [D-TN-5] (Introduced 03/10/2015)
John Tanner Fairness and Independence in Redistricting Act

Prohibits a state that has been redistricted after an apportionment from being redistricted again until after the next apportionment of Representatives, unless the state is ordered by a court to conduct such a subsequent redistricting in order to: (1) comply with the U.S. Constitution, or (2) enforce the Voting Rights Act of 1965.

Requires such redistricting to be conducted through a plan developed by the independent redistricting commission established in the state.

Prescribes requirements for: the establishment of a state independent redistricting commission, selection of members, development of pan, selection of plan, and payment by the Election Assistance Commission.

Action:
Introduced in House 3/10/2015
Referred to House Judiciary 3/10/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 3/31/2015

https://www.congress.gov/bill/114th-congress/house-bill/1347?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=3

H.R.1346
Rep. Cooper, Jim [D-TN-5] (Introduced 03/10/2015)
Redistricting Transparency Act of 2015

- Mandatory provision of public information of redistricting proposals via the Internet
- Requires the opportunity to participate in the development of such proposals prior to their adoption.
- Requires each state redistricting entity to establish and maintain a public Internet site meeting specified requirements.
    (1) solicit the input of members of the public in its work to develop initial congressional redistricting plans for the stat.
    (2) post the proposed final plan on the Internet site at least 10 days before its adoption, as well as no later than 7 days after its adoption, together with a map, the reasons for adoption, dissenting opinions, and certain other information.

Action:
Introduced in House 3/10/2015
Referred to House Judiciary 3/10/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 3/31/2015

https://www.congress.gov/bill/114th-congress/house-bill/1346?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=4

H.R.934
Rep. Green, Al [D-TX-9] (Introduced 02/12/2015)
Redistricting and Voter Protection Act of 2015

Requires a state that enacts a congressional redistricting plan prior to the next decennial census and apportionment of Representatives to obtain a declaratory judgment or preclearance from the Attorney General that such plan does not have the purpose or effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees of the Voting Rights Act of 1965.

Action:
Introduce in House 2/12/2015
Referred to House Judiciary 2/12/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 3/16/2015

https://www.congress.gov/bill/114th-congress/house-bill/934?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=5

H.R.219
Rep. Cohen, Steve [D-TN-9] (Introduced 01/08/2015)
John Tanner Fairness and Independence in Redistricting Act

Prohibits a state that has been redistricted after an apportionment from being redistricted again until after the next apportionment of Representatives, unless the state is ordered by a court to conduct such a subsequent redistricting in order to: (1) comply with the U.S. Constitution, or (2) enforce the Voting Rights Act of 1965.

Requires such redistricting to be conducted through a plan developed by the independent redistricting commission established in the state.

Prescribes requirements for: the establishment of a state independent redistricting commission, selection of members, development of pan, selection of plan, and payment by the Election Assistance Commission.

Actions:
Introduced to House 1/08/2015
Referred to House Judiciary 1/08/2015

Referred to House Judiciary Subcommittee on Constitution and Civil Justice 02/02/2015

https://www.congress.gov/bill/114th-congress/house-bill/219?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=6

H.R.75
Rep. Jackson Lee, Sheila [D-TX-18] (Introduced 01/06/2015)
Coretta Scott King Mid-Decade Redistricting Prohibition Act of 2015

Prohibits any state whose congressional districts have been redistricted after a decennial census from carrying out another redistricting until after the next apportionment of Representatives following a decennial census, unless a court requires such state to conduct a subsequent redistricting to comply with the Constitution or enforce the Voting Rights Act of 1965.

Action:
Introduced in House 1/06/2015
Referred to House Judiciary 1/06/2015
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 1/22/2015

https://www.congress.gov/bill/114th-congress/house-bill/75?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=7

H.R.2501
Rep. Rohrabacher, Dana [R-CA-48] (Introduced 05/21/2015)
Citizens' Districts Preservation Act

Requires states with independent redistricting bodies to leave those bodies in effect until 2020. Introduced to preempt the Supreme Court's 2015 ruling on the Arizona commission.

Actions:
Introduced to House 5/21/2015
Referred to House Judiciary 5/21/205
Referred to House Judiciary Subcommittee on Constitution and Civil Justice 6/16/2015

https://www.congress.gov/bill/114th-congress/house-bill/2501?q=%7B%22search%22%3A%5B%22redistricting%22%5D%7D&resultIndex=8

ADDITIONAL RESEARCH ON METHODS TO DETERMINE COMPACTNESS, CONTIGUITY AND CONGRUENCE WITH POLITICAL SUBDIVISIONS

COMPACTNESS

There are at least four approaches that can be used to achieve compactness. The two most widely used, both of which can be turned into mathematical scores for the commission, the public and the courts to use in comparisons, are "total perimeter" and radius or length-width (two different ways to measure basically the same thing). The two other criteria are grid tiling and intuitive oddness vs. normality. All criteria that encourage formal compactness can also make it harder to achieve other goals, such as community of interest, when a relevant community is spread out.

Total perimeter, employed in various states: calculate the length of the boundary line that surrounds each district, and minimize the sum you get by adding up that number for all districts.

The **Colorado** constitution's language on this is some of the strongest: "Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible."

Advantage: This method strongly discourages both wide-area gerrymandering and tactical zigzagging of local lines to punish or reward candidates. Disadvantage: It discourages zigzagging of local lines that may make sense to respect municipal boundaries or unite coherent communities.

Length-width or radius approaches, also used in many states: minimize the aggregate size of the rectangles or circles you would need to draw around each district to enclose them individually. Iowa: "In general, reasonably compact districts are those which are square, rectangular, or hexagonal in shape...[length + width sums] may be cumulated for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans". **Michigan** uses circles rather than rectangles: "Compactness shall be determined by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district."

Advantage: This method discourages wide-area gerrymandering that uses long or serpentine districts. Disadvantage: It does little to discourage tactical local zigzagging.

Grid tiling: **Arizona** seems to be unique in prescribing that mappers begin with "districts of equal population in a grid-like pattern across the state" then adjust it to account for a list of factors.

Oddness: **Idaho** says "To the maximum extent possible, the plan should avoid drawing districts that are oddly shaped."

Some states use **more than one formula**. **Iowa**, widely admired for its fair results, prescribes (by law, not in its constitution) detailed versions of both the total-perimeter and length-width

tests "if it is necessary to compare the relative compactness of two or more districts, or of two or more alternative districting plans."

CONTIGUITY

Many states prohibit corner-to-corner connection between parts of a district from being deemed contiguous.

Several others cite road connections as relevant in deciding whether a district is contiguous.

In **Oregon**, each district must be "connected by transportation links." **Maine** has a similar idea defining: "functionally contiguous and compact territory" as "one that facilitates representation by minimizing impediments to travel within the district. Impediments to travel include, but are not limited to, physical features such as mountains, rivers, oceans" etc. **South Carolina** cites "a representative's reasonable access to constituents via roads and highways."

On water connections, relevant to Maryland's issues with the Chesapeake Bay, **Minnesota** uses "Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district."

COUNTY SPLITS AND POLITICAL SUBDIVISIONS

Because of equal-population and Voting Rights Act considerations, there will always need to be a certain number of county splits, but many states give a high priority to minimizing the number of splits given these constraints.

Iowa uses, "To the extent consistent with [provisions on population variance], district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous," with an exception for cities that are in more than one county.

Colorado has some of the strongest language: "Except when necessary to meet the equal population requirements of section 46, no part of one county shall be added to all or part of another county in forming districts. Within counties whose territory is contained in more than one district of the same house, the number of cities and towns whose territory is contained in more than one district of the same house shall be as small as possible. When county, city, or town boundaries are changed, adjustments, if any, in legislative districts shall be as prescribed by law."

Idaho is also very strong. Its constitution: "a county may be divided in creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States." Statute: "Counties should be divided into districts not wholly contained within that county only to the extent reasonably necessary to meet the requirements of the equal population principle.

In the event that a county must be divided, the number of such divisions, per county, should be kept to a minimum."

Kansas guidelines add some philosophy that may be relevant for us too. "Whole counties should be in the same congressional district to the extent possible while achieving population equality among districts. County lines are meaningful in Kansas and Kansas counties have historically been significant political units. Many officials are elected on a countywide basis, and political parties have been organized in county units. Election of the Kansas members of Congress is a political process requiring political organizations which in Kansas are developed in county units. To a considerable degree most counties in Kansas are economic, social, and cultural units, or parts of a larger socioeconomic unit."

Alabama, **Kansas**, **Kentucky**, and **Wyoming** are among states that specify that census blocks, voting precinct boundaries, or both must be respected where feasible.

Minnesota discourages multi-splits of a single jurisdiction: "When any county, city, or township must be divided into one or more districts, it will be divided into as few districts as possible."

Massachusetts, where the town rather than the county is the basic political unit, protects its smaller towns from splits: "no town containing less than twenty-five hundred inhabitants according to said census shall be divided." "such districts shall be formed, as nearly as may be, without uniting two [political subdivisions] into one district."

ADDITIONAL ACADEMIC LITERATURE REVIEWED BY THE COMMISSION

Arizona and Anti-Reform

Nicholas O. Stephanopoulos

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2551556

Abstract

The Supreme Court is on the cusp of rejecting one of the best ideas for reforming American elections: independent commissions for congressional redistricting. According to the plaintiffs in a pending case, a commission is not "the Legislature" of a state. And under the Elections Clause, it is only "the Legislature" that may set congressional district boundaries.

There are good reasons, grounded in text and precedent, for the Court to rebuff this challenge. And these reasons are being aired effectively in the case's briefing. In this symposium contribution, then, I develop three other kinds of arguments for redistricting commissions. Together, they illuminate the high theoretical, empirical, and policy stakes of this debate.

First, commissions are supported by the political process theory that underlies many Court decisions. Process theory contends that judicial intervention is most justified when the political process has broken down in some way. Gerrymandering, of course, is a quintessential case of democratic breakdown. The Court itself thus could (and should) begin policing gerrymanders. And the Court should welcome the transfer of redistricting authority from the elected branches to commissions. Then the risk of breakdown declines without the Court even needing to enter this particular thicket.

Second, commission usage leads to demonstrable improvements in key democratic values. The existing literature links commissions to greater partisan fairness, higher competitiveness, and better representation. And in a rigorous new study, spanning federal and state elections over the last forty years, I find that commissions, courts, and divided governments all increase partisan fairness relative to unified governments. At the federal level, in particular, commissions increase partisan fairness by up to fifty percent.

And third, the implications of the plaintiffs' position are more sweeping than even they may realize. If only "the Legislature" may draw congressional district lines, then governors should not be able to veto plans, nor should state courts be able to assess their legality. And beyond redistricting, intrusions into any other aspect of federal elections by governors, courts, agencies, or voters should be invalid as well. In short, a victory for the plaintiffs could amount to an unnecessary election law revolution.

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