

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

MILES BROWN, ET AL

v.

SECRETARY OF STATE

DOCKET NO. 2022-0629

Rule 7 Mandatory Appeal
From Hillsborough Superior Court Southern Division
Docket No. 226-2022-CV-00181

**BRIEF OF *AMICI CURIAE* AMERICAN CIVIL LIBERTIES UNION
AND AMERICAN CIVIL LIBERTIES UNION OF NEW
HAMPSHIRE**

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QUESTIONS PRESENTED

1. Plaintiffs allege that the 2022 State Senate districting plan and the 2022 Executive Council districting plan are partisan gerrymanders because they were designed to, and do, unfairly and unequally benefit Republican voters and candidates. Are Plaintiffs' claims of unconstitutional partisan gerrymanders non-justiciable political questions?

2. Does the New Hampshire Constitution prohibit partisan gerrymandering?

STATEMENT OF INTEREST OF *AMICI CURIAE*

The American Civil Liberties Union ("ACLU") is a nationwide, nonprofit, nonpartisan organization with approximately two million members and supporters dedicated to the principles of liberty and equality embodied in the Constitution and our nation's civil rights laws. Since its founding in 1920, the ACLU has frequently appeared before courts throughout the country in cases involving the exercise of voting rights, both as direct counsel and as *amicus curiae*.

The American Civil Liberties Union of New Hampshire ("ACLU-NH") is the New Hampshire affiliate of the ACLU and has more than nine thousand members and supporters across the state. ACLU-NH engages in litigation, by direct representation and as *amicus curiae*, to encourage the protection of individual rights guaranteed under state and federal law, including voting rights. *See Casey v. Secretary of State*, 173 N.H. 266 (2020) (challenge to law requiring voters to get driver's licenses); *Saucedo v. Gardner*, 335 F.Supp.3d 202 (D.N.H. 2018) (challenge to signature comparing for absentee ballots); *Libertarian Party of New Hampshire v. Gardner*, 843 F.3d 20 (1st Cir. 2016) (challenge to ballot access

requirements); *Rideout v. Gardner*, 838 F.3d 65 (1st Cir. 2016) (challenge to ban on ballot selfies); *Guare v. State*, 167 N.H. 658 (2015) (challenge to confusing registration forms); *Norelli v. Secretary of State*, 175 N.H. 186 (2022) (challenge to failure of political branches to redistrict congressional plan, as *amicus*). ACLU-NH believes that its experience in these issues will make its brief of service to this Court.

STATEMENT OF FACTS AND OF THE CASE

Following the 2020 decennial census, *see* U.S. CONST. Art. 1, Sec. 2, cl. 3, New Hampshire, like all states, began the redistricting process. Because New Hampshire’s population grew unevenly, the General Court was tasked with drawing new electoral districts for the United States House of Representatives, the Executive Council, the New Hampshire Senate, and the New Hampshire House of Representatives. Ultimately, the political branches were unable to agree on a plan for the U.S. House, and this Court was called upon to design the new plan. *See generally Norelli v. Secretary of State*, 175 N.H. 186 (2022). They did, however, enact new plans for the state bodies.

On May 6, 2022, twelve registered voters filed this case challenging Senate Bill 240 (the 2022 State Senate Plan) and Senate Bill 241 (the 2022 Executive Council Plan) as unconstitutional partisan gerrymanders that “were enacted to entrench Republican Party control over New Hampshire’s Senate and Executive Council regardless of the wishes of the electorate.” Compl., ¶ 3, Add. 31.¹ According to the Complaint, the General Court did

¹ References to the record are as follows:
Add. __ refers to the addendum to this brief.

this by “packing” and “cracking”; i.e. by combining Democratic voters into a small number of districts where they would easily win, and dispersing the rest of the Democratic voters into a larger number of districts such that they would have little or no ability to influence elections. Compl., ¶ 4, Add. 31. Together, these techniques would lead to Democrats “wasting” comparatively more votes than Republicans by winning fewer districts but by larger margins. Plaintiffs’ legal theory is that by drawing the districts in a way to entrench Republican control in Concord regardless of the will of the electorate, the State has violated the Free and Equal Elections Clause, as well as guarantees of equal protection and free speech and association, of the New Hampshire Constitution. Plaintiffs alleged that Republican candidates were favored to win a majority of seats on the basis of districting even if they won fewer votes. *See* Compl. ¶¶ 75, 87, Add. 52, 55-56.

ACLU-NH hired an independent company, FLO Analytics, to conduct a non-partisan analysis of the state senate plan, and FLO released its report on January 31, 2022. *See* Add. 68. The plan increased the number of Republican leaning districts in the Senate from 11 to 13 and moved the median seat further from the state median. Add 69. The entire report concerning the Senate is appended to this brief. *See id.* ACLU-NH also hired FLO Analytics to analyze the Executive Council plan that was ultimately adopted, and that analysis was released on April 14, 2022. That report is appended to this brief. *See* Add. 105. Significantly, the report found that (1) Democratic voters are heavily concentrated within a single district, District 2; (2) that the boundary of District 2 bypasses nearby wards in favor of more distant wards, resulting in a high concentration of

Democratic voters in that district, and (3) that the boundary of District 1 bypasses nearby wards in favor of more distant wards, reducing the number of Democratic voters in District 3. *Id.* As a result, the map “establishes districts that are likely to reduce the ability of Democratic leaning voters to elect their favored candidates in Districts 1, 3, 4, and 5, while heavily concentrating democratic voters in District 2.” Add. 107. The report continued, “The line drawing process appears to have prioritized partisan leanings over other redistricting criteria (e.g. following established boundaries, creating compact districts).” *Id.*

On May 9, 2022—one business day after Governor Sununu signed Senate Bill 240 and Senate Bill 241—the Plaintiffs moved for a preliminary injunction, asking the trial court to enjoin the Secretary from conducting the 2022 elections using the challenged plan. However, the trial court did not act on the motion before the candidate filing period ran between June 1 and June 10. Instead, the trial court certified to this Court three questions: whether the New Hampshire Constitution prohibits drawing districts in a manner that heavily favors one political party over another, whether political gerrymandering claims are justiciable in New Hampshire courts, and what framework should a court use in evaluating such claims. This Court declined to accept the interlocutory transfer. The trial court subsequently granted a motion to dismiss on October 5, 2022, and the Plaintiffs timely appealed.

While the appeal was pending, the plaintiffs’ predictions about the effects of the challenged plans largely came to pass, as in each body Republican candidates won more seats, despite Democratic candidates receiving more votes overall. According to the Secretary of State’s office,

in the November 8, 2022 General Election, Republican candidates for Executive Council received 301,723 votes statewide. *See* Add. 110-118. Democratic candidates for Executive Council received 303,233 votes. *Id.* However, Republican candidates won 4 out of the five seats. In races for State Senate, Republican candidates received 293,299 votes statewide. Add. 119-134. Democratic candidates received 299,382 votes. *Id.* Yet, Republican candidates won 14 of the 24 seats. *Id.*²

SUMMARY OF ARGUMENT

This is a challenge to the egregious partisan gerrymander the General Court created when it drew new apportionment plans for the Executive Council and State Senate. Through the districting process, the General Court created maps designed to systematically benefit Republican candidates and voters over Democratic candidates and voters in those two bodies. The plaintiffs allege that this benefiting Republican voters over Democratic voters violates the guarantee that elections are to be free and fair under Part I, Article 11 of the New Hampshire Constitution.

² These figures are based on returns following the recount in Senate District 24. In addition, there was one seat for each party which was not contested in the General Election.

The trial court granted Defendants' Motion to Dismiss, and in doing so erred in two ways. *First*, the trial court erred by ruling that the plaintiffs' claims present non-justiciable political questions. The trial court's opinion cited *Rucho v. Common Cause*, 139 S.Ct. 2484 (2019) for the proposition that partisan gerrymandering claims are not justiciable in state courts when, in fact, *Rucho* suggests the opposite. Moreover, the trial court erred by concluding that the mere fact that the New Hampshire Constitution contains several explicit districting requirements prohibits adjudication of the rights contained in Part I, Article 11. This Court's precedents demonstrate that this case *is* justiciable because the courts of this state can (and indeed, must) adjudicate matters of constitutional or other fundamental rights. This is true whether those constitutional rights are implicit or explicit.

Second, the trial court erred when it failed to recognize that the New Hampshire Constitution prohibits partisan gerrymandering. Courts in six states have adjudicated partisan gerrymandering claims and held that district maps violate their state constitutions (including in three states—North Carolina, Pennsylvania, and Maryland—with constitutional provisions that do not explicitly address partisan gerrymandering). Like courts in those states have done, this Court should recognize that partisan gerrymanders like the ones here unfairly take political power away from the electorate and hand it instead to the politicians that draw the district lines.

To be clear, this Court need not conclude in this case that partisan gerrymandering occurred (though it did). It need only conclude that a claim exists to vindicate an important constitutional right that, absent judicial review, can become a dead letter. The decision of the trial court to grant Defendants' Motion to dismiss should be reversed, and the case should be remanded.

ARGUMENT

The plaintiffs brought this challenge in response to the legislature's carving up the state to ensure Republican dominance in the Senate and Executive Council regardless of the wishes of the broader electorate. The districts were drawn in a way that ensures Republican candidates disproportionately win more seats per vote received than Democratic candidates, and thus to entrench Republican control in Concord. For example, Republican candidates for Executive Council and Senate won fewer votes than Democratic candidates for the same offices in the 2022 General Election, yet Republicans won 4 of 5 seats on the Council and 14 of 24 seats in the Senate. The drawing of the districts disproportionately favors Republican voters over Democratic voters, thus violating the New Hampshire Constitution's guarantee that "[a]ll elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." N.H. CONST. Pt. I, Art. 11.

The trial court did not recognize that the New Hampshire constitution's guarantee of free and equal elections bars excessive partisan gerrymandering, and as a result it ruled that such a challenge is a non-justiciable political question. This was error.

I. The Trial Court Erred in Holding Plaintiffs' Challenge Were Non-Justiciable

On October 5, 2022, the trial court (Colburn, J.) granted the Defendants' joint motion to dismiss because it concluded that the plaintiffs' challenge to the constitutionality of excessive political gerrymandering present non-justiciable political questions. The trial court's ruling was incorrect because the courts of this state are empowered (and, indeed, required) to address unconstitutional actions by other branches of government and, as discussed *infra* at Section II, the New Hampshire Constitution prohibits partisan gerrymandering.

A. Supreme Court of the United States Precedent Supports a Finding of Justiciability

The trial court suggests it followed the U.S. Supreme Court decision in *Rucho v. Common Cause* by finding petitioners' partisan gerrymandering claims non-justiciable. 139 S. Ct. 2484 (2019). Quite the opposite. The trial court's decision to dismiss petitioners' claims for lack of jurisdiction abrogates *Rucho*'s assurance that state courts will play an important role in limiting political gerrymandering.

Rucho reiterated that gerrymandering is "incompatible with democratic principles," *id.* at 2506 (citing *Arizona State Legislature v. Arizona Independent Redistricting Commission*, 576 U.S. 787 (2015)), and recognized that "excessive partisanship in districting leads to results that reasonably seem unjust," *id.* at 2507. The Court in *Rucho* was clear that the fact that federal courts "have no license" to adjudicate partisan gerrymandering claims did not "condemn complaints about districting to

echo into a void,” *Rucho*, 139 S. Ct. at 2507, because state courts retain the power to apply “standards and guidance” arising from “state statutes and state constitutions” to check partisan gerrymandering, *id.* Far from excluding partisan gerrymandering claims from all judicial review, the Court invited state courts to apply state constitutional law to adjudicate them. *Id.* By dismissing petitioners’ claims, the superior court has now put partisan gerrymandering in New Hampshire beyond review by *any* court.

In describing why *Rucho* does not “condemn complaints about districting to echo in the void,” *id.* at 2507, the Court provides a broad range of examples of states addressing partisan gerrymandering. The Court does not limit its discussion to states that have “outright prohibited partisan favoritism in redistricting,” such as Florida, Ohio, and New York. It *also* recognizes states thwart partisan gerrymandering by other means, such as mandating traditional districting criteria, *id.* at 2507-08 (“Other States have mandated at least some of the traditional districting criteria for their mapmakers.”), and as we have seen since *Rucho*, by state courts interpreting and applying broader guarantees of fairness in elections in their state constitutions. Rather than serve *Rucho*’s expectation that voters will have a state forum for these claims, the trial court limits New Hampshire courts’ jurisdiction over redistricting to challenges based in “the mandatory, express requirements of [Part II,] Article 26 and Article 65.” *Order on Defendants’ Joint Motion to Dismiss*, p. 6.

B. New Hampshire Law Shows This Case is Justiciable

“The justiciability doctrine prevents judicial violation of the separation of powers by limiting judicial review of certain matters that lie

within the province of the other two branches of government.” *Hughes v. Speaker, N.H. House of Representatives*, 152 N.H. 276, 283 (2005).

“Deciding whether a matter has in any measure been committed by the Constitution to another branch of government is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the [State] Constitution.” *Id.* Whether a particular case is nonjusticiable is “a question of law, which [this Court] review[s] *de novo*.” *Id.*

To determine whether a particular controversy is non-justiciable, this Court conducts a two-step inquiry. First, the Court must determine whether the constitution had committed the question to another branch of government. “A controversy is nonjusticiable – *i.e.*, involves a political question—where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department.” *Burt v. Speaker of the House of Representatives*, 173 N.H. 522, 525 (2020) (quotation omitted). “Where there is such a commitment, [the Court] must decline to adjudicate the matter to avoid encroaching upon the powers and functions of a coordinate political branch.” *Hughes*, 152 N.H. at 283.

However, this Court’s “conclusion that the constitution commits to the legislature [such] exclusive authority ... does not end the inquiry into justiciability.” *Horton v. McLaughlin*, 149 N.H. 141, 145 (2003). As a second step, this Court must evaluate whether controversy implicates the constitution. *See id.* (“The court system [remains] available for adjudication of issues of constitutional or other fundamental rights.”). As this Court has explained, “While it is appropriate to give due deference to a co-equal branch of government as long as it is functioning within constitutional

constraints, it would be a serious dereliction on our part to deliberately ignore a clear constitutional violation.” *Burt*, 173 N.H. at 526 quoting *Baines v. N.H. Senate President*, 152 N.H. 124, 129 (2005).

In *Hughes*, the Court considered a challenge brought by a Representative against the chamber leaders and members of the House and Senate conference committees. 152 N.H. at 279. The plaintiff alleged that the defendants violated the open meeting law, RSA ch. 91-A, and Part I, Article 8 of the New Hampshire Constitution by secretly negotiating a committee of conference report out of sight of the public. *Id.* at 282. Considering first the statutory challenge, the Court observed that “the New Hampshire Constitution commits to each house of the legislature the authority to adopt its own rules of proceedings and as there is no constitutional mandate that committee of conference proceedings be open, the question of whether the defendants violated the procedures set forth in RSA chapter 91-A is nonjusticiable.” *Id.* at 287.

But while the Court found the plaintiff’s Right-to-Know challenge was not justiciable, it reached the opposite conclusion with respect to the Part I, Article 8 challenge. It noted that “claims regarding compliance with these kinds of mandatory constitutional provisions are justiciable.” *Id.* at 288 (quotation omitted). It observed that “[w]hile the constitution vests the legislature with the authority to create its own rules of procedure, no provision of the constitution commits to the legislature the determination of whether the public’s right of access to governmental proceedings has been unreasonably restricted.” *Id.* In other words, while the General Court is constitutionally empowered to set its own rules governing committees of conference, whether those rules comply with the Constitution’s guarantee

of open government is subject to judicial review. The same is true here. The legislature is directed by the Constitution to create electoral districts, but it *does not* provide that those districts escape all judicial review.

Similarly, in *Burt*, this Court considered a challenge brought by five Representatives to a rule passed by the New Hampshire House of Representatives which, with limited exceptions, prohibited the carrying or possession of any deadly weapon in Representatives Hall. 173 N.H. at 522. This Court began its analysis by noting that Part II, Article 22 provided that the House of Representatives was entitled to “settle the rules of proceedings in their own house.” *Id.* The Court then quoted *Hughes* and observed its prior ruling that “the legislature’s internal rulemaking authority, although ‘continuous’ and ‘absolute,’ remains subject to constitutional limitations.” *Id.* at 526 quoting *Hughes*, 152 N.H. at 284, 288. The Court noted that, “although claims regarding the legislature’s compliance with such rule-based or statutory procedures are not justiciable, claims regarding compliance with mandatory constitutional provisions *are* justiciable.” *Id.* (cleaned up). Ultimately, the Court concluded that whether the rule limiting guns in Representatives Hall complied with the fundamental right to keep and bear arms under Part I, Article 2-a was justiciable. *Id.* at 528.

In light of this court’s precedent, the trial court erred in determining that this claim was not justiciable. It is true, as the trial court held, that the New Hampshire Constitution places redistricting authority with the legislature. *See* N.H. CONST., Pt. II, Art. 26, 65. But this argument proves too much, as the Constitution likewise places the responsibility for the passing of *all* laws with the legislature. *See* N.H. CONST., Pt. II, Art. 44. (“Every bill which shall have passed both houses of the general court, shall,

before it becomes a law, be presented to the governor...”). This is the reason this Court’s precedents require the second step in the analysis—a question is justiciable if it implicates constitutional or fundamental rights. Indeed, just last year this Court resolved a challenge to the Congressional districting plan after the political branches failed to redistrict following the census—holding that the old plans violated the one-person/one-vote standard in the United States Constitution. *See Norelli*, 175 N.H. at 199.

Instead of conducting a detailed analysis of whether the New Hampshire Constitution protects against partisan gerrymandering, which would make plaintiffs’ challenge justiciable, the trial court rejected the claim because the state constitution does not explicitly identify partisan fairness as a component of free and fair elections. *See Order on Defendants’ Joint Motion to Dismiss*, p. 7 (“Rather, the Court believes that if [sic] the citizens of this State intended to require the legislature to meet additional criteria in drawing legislative and executive council districts, they would have explicitly provided those requirements alongside the existing ones in Part II of the constitution.”), p. 8 (“Accordingly, once the legislature performs its decennial redistricting duties in compliance with the explicit requirements of Articles 26 and 65, this Court should not reexamine or micromanage all the difficult steps the legislature took in performing the high-wire act that is legislative district drawing”) (cleaned up).

But constitutional rights need not be explicit to be protected. Indeed, this Court has recognized constitutional rights exist in the state Constitution, even where not spelled out with granularity. *See, e.g., Martineau v. Helgemoe*, 117 N.G. 841, 842 (1977) (state Constitution

includes a right to a public trial); *State v. Zorzy*, 136 N.H. 710 (1993) (state Constitution prohibits criminal trial for incompetent defendant); *Opinion of the Justices*, 121 N.H. 434, 436 (1981) (state Constitution protects right to association). Even more to the point, courts have adjudicated redistricting cases where the challenge was that districts were not of the same population, even though the United States Constitution does not explicitly require uniformity of population. *See Baker v. Carr*, 369 U.S. 186 (1962) (Fourteenth Amendment challenge to malapportioned state legislative districts justiciable); *Reynolds v. Sims*, 377 U.S. 533 (1964) (Fourteenth Amendment requires state electoral districts be roughly equal in population); *Norelli*, 175 N.H. at 199 (existing congressional districting statute violates Article 1, Section 2 of United States Constitution).

In sum, because questions involving constitutional or fundamental rights are justiciable, and because the New Hampshire Constitution prohibits partisan gerrymandering, *see infra* section II, the trial court erred in concluding that plaintiffs' challenge is not justiciable.

II. The New Hampshire Constitution Prohibits Partisan Gerrymandering

This Court has never before addressed whether and to what extent the New Hampshire Constitution prohibits partisan gerrymandering by cabinining the legislature's ability to apportion districts to maximize the majority party's ability to preserve its power. It is true that this court has recognized political considerations *may* be permissible in a legislatively-implemented redistricting plan. *See Below v. Gardner*, 148 N.H. 1, 11 (2002). But the trial court goes further, in essence holding that excessive

partisanship—no matter how ruthlessly implemented or what effect it has on voters’ ability to elect their preferred candidates—may never infringe on the electorate’s right to a free and fair election. This case shows why that is wrong: the facts alleged in the plaintiffs’ complaint (and supported by the results of the 2022 general election) show that the Republican majority in the General Court drew districts for the State Senate and Executive Council so that, regardless of the outcome of the election, Republican candidates would be overrepresented in office as compared to their vote share in the electorate. Put another way, the General Court drew the districts to make Republican votes more successful in their seat-share than they were in their vote-share. And this plan achieved its intended results during the 2022 General Election—results which the trial court was unable to consider given the timing of its decision.

While the Constitution may tolerate some political considerations in districting, this Court has never decided whether the New Hampshire Constitution’s Free and Equal Elections clause permits the General Court to favor one party’s voters and candidates over another in excess and with no forum for review.³ Defendants would limit *Rucho*’s expectation of state court review to states with explicit prohibitions on partisan gerrymandering in their state constitutions. But a state constitution need not have an outright prohibition on partisan gerrymandering to raise a cognizable claim. And while this may be an issue of first impression in New Hampshire, it has

³ Given the procedural posture, *amici* do not believe it is necessary for this Court to announce the standard of review for partisan gerrymandering claims now. Rather, that can be developed by the trial court on remand.

been addressed in other states. The weight of authority in other state courts' interpretation of their state constitutions following *Rucho* supports the justiciability of political gerrymandering claims. That holds true both where state constitutions prohibit partisan gerrymandering explicitly, and where a state constitution more broadly guarantees fairness and equality in elections. Courts have applied free and equal election clauses like Part I, Article 11 to claims of excessive partisanship, and done so as a matter of first impression, before and after *Rucho*.

Notably, three state courts have undertaken the task set forth by *Rucho* and ably adjudicated partisan gerrymandering claims under their state constitutions' broader guarantees of voting rights. But the trial court did not engage with these decisions, and instead cited only the one state court case that came out the other way.⁴ Other state court decisions interpreting similar constitutional provisions provide persuasive authority that Part I, Article 11 of the New Hampshire Constitution (like its counterparts in North Carolina, Pennsylvania, and Maryland) prohibits excessive partisan gerrymandering.

Last year, the North Carolina Supreme Court struck down congressional district plans as a partisan gerrymander. *See Harper v. Hall*, 868 S.E.2d 499, 508 (N.C. 2022) (“[D]oes our state constitution recognize that the people of this state have the power to choose who govern us, by giving each of us an equally powerful voice through our vote? Or does our constitution give to members of the General Assembly...unlimited power

⁴ The trial court does cite Chief Justice Newby's dissent, but does not mention the portion of the opinion that commanded a majority of the Court.

to draw electoral maps that keep themselves and our members in Congress as long as they want, regardless of the will of the people?”). The state court applied a substantive standard based on more general rights incorporated into the state constitution of 1776 through a free and fair elections provision with language nearly identical to N.H. Constitution. *See id.* at 510–11 (N.C. 2022) quoting N.C. CONST. art. I, § 10 (“All elections shall be free.”). The text of New Hampshire’s constitution is *more* explicit than North Carolina in also requiring equal voting rights. N.H. Const. Pt. I, Art. 11 (“every inhabitant of the state of 18 years and upwards shall have an equal right to vote in any election.”)

The Supreme Court of Pennsylvania also recently considered a free elections clause that does not explicitly address partisan gerrymandering, and interpreted it as “indicative of the framers’ intent that all aspects of the electoral process. . . be kept open and unrestricted to the voters of our Commonwealth” and guarantee “equal participation in the electoral process for the selection of [a voter’s] representatives in government.” *League of Women Voters of Pa. v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018) (“Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” quoting PA. CONST. Art I §5). The court looked to the text, history and case law of the clause to ascertain and apply a manageable standard, *see id.* at 801-14, and concluded that the challenged plan violated the commonwealth’s free and equal elections clause because it was the product of politically-motivated gerrymandering, *id.* at 811. And a magistrate court in Maryland concluded that the state’s free elections clause, adopted in 1776, “was meant to secure a right of participation,” and struck down a

redistricting plan that suppressed the will of voters through partisan gerrymandering. *Kathryn Szeliga, et al. v. Linda Lamone, et al.*, 2022 M.D. Cir. Ct. LEXIS 9, *30 (Md. Cir. Ct. Mar. 25, 2022), appeal dismissed by appellants, 478 Md. 241 (April 4, 2022).⁵ All three derived manageable standards for adjudicating partisan gerrymandering claims as matters of first impression and based on language similar to, or less explicit than, part 1, Article 11 of the New Hampshire Constitution.

State courts have also ably adjudicated political gerrymandering claims where their state constitution explicitly prohibits it. In *League of Women Voters of Florida v. Detzner*, cited approvingly in *Rucho*, 139 S. Ct. at 2507, the Florida supreme court struck down a congressional district map based on the 2010 state constitutional amendment prohibiting maps “drawn to favor or disfavor an incumbent or political party.” 172 So.3d 363, 399 (Fla. 2015). In *Harkenrider v. Hochul*, the New York court struck down state legislative maps based on a state constitutional amendment prohibiting partisan gerrymandering, requiring expedited judicial review of redistricting, and authorizing judicial remedies in the absence of a constitutionally viable legislative plans. 197 N.E.3d 437, 440 (N.Y. 2022). And in Ohio, the state supreme court struck down both congressional and state legislative maps that violated the 2019 constitutional amendments prohibiting excessive partisanship in districting. *See Adams v. DeWine*, 195

⁵ After the trial court had struck down the Maryland congressional districting plan as a partisan gerrymander, a political compromise was reached between the Republican governor and Democratic legislature that led to the appeal being dismissed. *See* <https://wtop.com/maryland/2022/04/hogan-to-sign-maryland-redistricting-map-into-law/>.

N.E.3d 74 (2022) (holding congressional maps “unduly favor or disfavor a political party or its incumbents”); *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 192 N.E.3d 379 (Ohio 2022) (holding that state legislative maps were “drawn primarily to favor or disfavor a political party.”).

The trial court neither acknowledges nor discusses any of these recent state court decisions. Instead, the court cites only *Rivera v. Schwab*, 512 P. 3d 168 (Kan. 2022), a state court case that declared partisan gerrymandering claims non-justiciable under section 2 of the Kansas bill of rights. But the Kansas court determined that plaintiffs political gerrymandering claims were governed by equal protection rights co-extensive with federal Fourteenth Amendment guarantees of equal protection. *Rivera*, 512 P.3d at 178. Notably, like Pennsylvania and North Carolina, New Hampshire courts have a long history of recognizing that the state constitution is *more* protective than the federal constitution. *See State v. Ball*, 124 N.H. 226, 231 (1983) (“[A]lthough we have often treated Federal and New Hampshire constitutional protections similarly, our citizens are entitled to an independent interpretation of State constitutional guarantees”)⁶; *see also League of Women Voters of Pa.*, 178 A.3d at 812-13

⁶ This court has developed precedent interpreting and applying Part I, Article 11 and the equal protection guarantees of the New Hampshire Constitution, separate and apart from, although consistent with, the Fourteenth Amendment of the U.S. Constitution. *See N.H. Democratic Party v. Secretary of State*, 174 N.H. 312, 325-27 (2021) (applying intermediate scrutiny to a voting rights challenge under Part I, Article 11 of the N.H. constitution); *Guare v. State*, 167 N.H. 658, 665-68 (2015) (same)

(“Indeed, the unique historical reasons discussed above, which were the genesis of Article I, Section 5, and its straightforward directive that “elections shall be free and equal” suggests such a separate analysis is warranted.”); *Harper*, 868 S.E.2d at 377-78 (“our state constitution's equal protection clause in article I, section 19 provides greater protections in redistricting cases than the federal constitution.”). And, in any event, the Kansas court’s decision is contrary to the weight of authority discussed above.

The Kansas court itself also recognized that it differs from states like North Carolina, which properly applied discernable standards from case precedent. *See Rivera*, 512 P.3d at 186 (discussion of *Harper v. Hall*, 380 N.C. at 317, 364, 385, 389). The Kansas court noted that North Carolina *could* validly determine that its constitutional incorporation of “traditional neutral” principles for reapportionment provided its state court with adequate guidance to distinguish constitutional redistricting plans from partisan gerrymanders, thereby rendering political gerrymandering claims justiciable. *Id.* at 186-87 (citing *Harper*, 380 N.C. at 317). New Hampshire courts can do the same.

No principle is more basic than the constitutional constraint on all branches of state government and judicial review for constitutional violations. The court cannot avoid its integral role in enforcing the voting rights guarantees in the state constitution because this case arises as a matter of first impression.

CONCLUSION

For the reasons discussed above, the decision of the trial court to grant Defendants' Motion to dismiss should be reversed, and the case should be remanded.

Respectfully Submitted,

American Civil Liberties Union and American
Civil Liberties Union of New Hampshire,

By and through their attorneys,

/s/ Henry Klementowicz

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January 20, 2023

STATEMENT OF COMPLIANCE

Counsel hereby certifies that pursuant to New Hampshire Supreme Court Rule 26(7), this brief complies with New Hampshire Supreme Court Rule 26(2)–(4). Further, this brief complies with New Hampshire Supreme Court Rule 16(11), which states that “no other brief shall exceed 9,500 words exclusive of pages containing the table of contents, tables of citations, and any addendum containing pertinent texts of constitutions, statutes, rules, regulations, and other such matters.” Counsel certifies that the brief contains 5,241 (including footnotes) from the “Question Presented” to the “Conclusion” sections of the brief.

/s/ Henry Klementowicz
Henry Klementowicz, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of forgoing was served this 20th day of January, 2023 through the electronic-filing system on all counsel of record.

/s/ Henry Klementowicz
Henry Klementowicz, Esq.

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Mapping and Analysis: New Hampshire's Proposed Executive Council & State Senate Districts

Gerrymandering in the Granite State, Visualized

A Report Commissioned by The American Civil Liberties Union of New Hampshire
January 31, 2021



MEMORANDUM

To: Devon Chaffee, Executive Director ACLU-NH

Date: January 31, 2022

From: FLO Analytics

Project No.:

F2186.01.001

RE: Analysis of the Gray Amendment #2022-0013S to SB240 and the Status Quo New Hampshire Executive Council Districts

EXECUTIVE SUMMARY

This memo analyzes the Gray Amendment #2022-0013S to SB240 and its likely consequences for the partisan composition of New Hampshire's state senate. Additionally, we provide an analysis of the state's status quo executive council districts.

Tabulating ward-level vote returns for the 2020 Presidential race facilitate a key analytical comparison – i.e., between the partisan leanings of the state house districts as they are currently constituted, and prospectively, as they would be constituted in Senator Gray's proposed map. Notice that the status quo electoral map was enacted by a previous GOP majority ten years ago following the preceding decennial redistricting.

In sum, three clear and politically significant conclusions emerge from our analysis of the Gray Amendment:

- The Gray Amendment #2022-0013S to SB240 would increase the number of GOP-leaning districts represented in the state senate. Specifically, the proposal would reverse the current political makeup of the senate. In its current form, the New Hampshire senate has 13 democratic leaning districts and 11 GOP leaning districts, according to our analysis of partisan lean. Under the proposal, this would change to 13 GOP leaning districts and 11 democratic leaning districts.
- The Gray Amendment #2022-0013S to SB240 would increase the “median seat lean difference” – a technical term discussed below which simply captures the degree to which the partisan leanings of the political significant median district created by a districting plan diverges from the state at large.

Concerning the status quo New Hampshire executive council districts, the clear takeaway is that while four of the five districts are competitive, much like the Granite State itself, District 2 leans heavily Democratic, with a partisan lean of DEM + 6.3.

INSTITUTIONAL CONTEXT

To preserve some of the Republic's most fundamental principles, the New Hampshire state constitution requires that its legislature revisit its Congressional boundaries on a ten-year basis, after each decennial Census. Following a decade of significant population growth between 2020 and 2010 – especially in southern areas of the state – New Hampshire's state legislature has been tasked with passing a plan that preserves the established democratic principle of “one person-one vote.”

Significantly, the legislature's decennial map-making is constitutionally constrained to respect the municipal boundaries of the state's constituent townships – i.e., it is enjoined from drawing senate lines that bisect town or city ward boundaries.

ANALYSIS

Concretely, our objective is to evaluate the Gray Amendment #2022-0013S's impact on the distribution of partisan lean among the 24 senate districts that elect New Hampshire's upper house and analyze the partisan leanings of the five status quo executive council districts.

Methodology

The standard metric used to quantify a party's support in a particular district is a concept known as “partisan lean” (PL). In the present context, we compute the PL of a (current or proposed) house district by comparing precisely how well the GOP fared in the focal district during the most recent Presidential contest minus the Party's performance in the US as whole.

In 2020, for instance, Donald Trump (R) won 47.7% of all votes cast for one of the two major parties in the US. In New Hampshire's two current US House districts, however, Trump's (R) two-party vote share was 47.2% and 45.3%, respectively. The PL of the congressional districts were thus R-0.5 and R-2.5. Both US House electorates, in other words, were competitive and, like the Granite State itself, relatively centrist.

It is worth noting that there are a variety of alternative ways one might choose to compute partisan lean – for example, by measuring GOP (or Democratic) support using vote shares in down-ballot state or federal contests, or (since New Hampshire has a partisan voter registry) using the proportion of registrants in the focal district who identify as Republicans. These alternatives are not without logical merit.

Nevertheless, we eschew down-ballot contests because local idiosyncrasies among the state's 24 elections (e.g., a political scandal or candidate's death during the campaign) would provide a distorted view of the parties' strength in that district. One adverse consequence of this choice is that, though we may capture the relative strength of GOP support, we may understate GOP support insofar as (1) the Republican Presidential standard-bearer in 2020 (Donald J. Trump) was comparatively unpopular and (2) Republicans do better relative to Democrats in down-ballot races compared to more prominent ones. These observations are in fact strong possibilities but tend to make our estimates more conservative.

We focus on vote shares rather than the partisan composition of the voter registration rolls because, if one looks at the population of registered voters at any given time, one is almost certainly going to find a biased sample of the general population that overstates the GOP vote to some degree. This follows from the notion that the citizens most likely to be on the roll at any given time are more apt to be residually stable. Democrats, traditionally mobilize to get out their vote with registration drives – a phenomenon which may be exacerbated by New Hampshire’s move to Election Day registration (EDR).

Gray Amendment #2022-0013S to SB240 is Favorable to GOP Electoral Fortunes

As Table 1 indicates, Gray Amendment #2022-0013S to SB240 would increase the number of GOP-leaning state senate districts. The table shows the net effect is to increase the number of GOP-leaning seats by 2, reversing the current political makeup of the senate from democratic leaning to republican leaning. Furthermore, the 11 democratic leaning districts would be far more concentrated with democratic voters than the GOP leaning districts are with GOP voters. For example, the average PL for democratic leaning districts is DEM + 9.11 whereas in GOP leaning districts it is GOP + 5.04. The significance of this is that a higher proportion of democratic votes are “wasted”, in that they are not necessary to elect the democratic candidate. This point is illustrated in Figure 1.

Gray Amendment #2022-0013S to SB240 Moves the Median Seat Further from the State Median

Building on the district-level partisan lean variable, political analysts employ a metric known as the “median seat lean differences” as a means of judging the degree to which the partisan leanings of the politically important median district differ from the leanings of the state as a whole.

Specifically, the median seat lean difference (MSLD) is defined as the difference between the partisan leanings of the state’s median district and the state as a whole. For example, as it pertains to vote shares, if one arrays New Hampshire’s senate districts from least to most Republican in the 2020 presidential election, one finds the median Republican share is 47.5% in the state house districts as they are currently configured and 49.6% were the Gray Amendment enacted in its present form, increasing the difference from the 46.3% of the two-party vote he won in New Hampshire as a whole. The median electoral district assumes special significance because of the majoritarian rules that govern the legislature. By definition, if it is Republican leaning, then a majority of districts in the legislature are as well. The MSLD therefore provides an indication as to how much partisan bias is inherent in a particular political map. Note, per our standard definition, Trump need not have obtained a plurality of the two-party vote in a district for it to qualify as “GOP-leaning,” he simply needed to do better there than he did in the nation at-large.

CONCLUSION

The Gray Amendment #2022-0013S to SB240 is favorable to GOP prospects in future New Hampshire state senatorial elections. According to our analysis the two districts with a partisan lean that moves from one party to the other, both change from democratic to republican leanings. The partisan leanings of the status quo executive council districts are largely centrist, with the notable exception of District 2, which skews heavily democratic.

Table 1: Partisan Lean by District – SB240

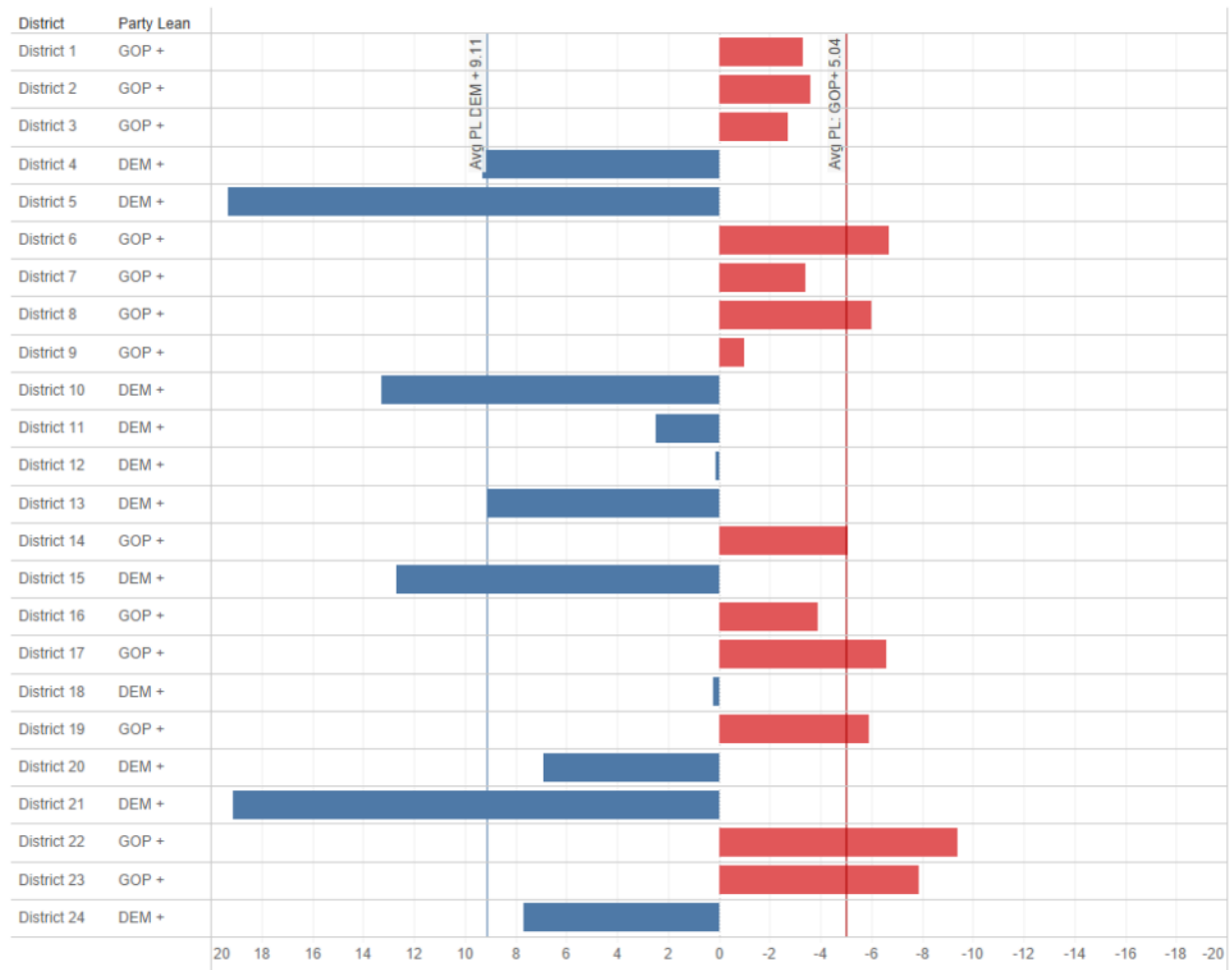
District	Partisan Lean - Status Quo		Partisan Lean - Proposed		Median Seat Lean Difference (MSLD)
District 1	GOP +	2.1	GOP +	3.3	Avg. GOP Vote Share State: 46.3% Status Quo: 47.5% Gray Amendment: 49.6% MSLD: GOP +3.3
District 2	GOP +	2.1	GOP +	3.6	
District 3	GOP +	2.5	GOP +	2.7	
District 4	DEM +	9.3	DEM +	9.3	
District 5	DEM +	16.9	DEM +	19.3	
District 6	GOP +	7.5	GOP +	6.7	
District 7	GOP +	5.8	GOP +	3.4	
District 8	GOP +	2.4	GOP +	6.0	
*District 9	DEM +	2.2	GOP +	1.0	
District 10	DEM +	10.6	DEM +	13.3	
District 11	DEM +	2.5	DEM +	2.5	
District 12	DEM +	0.1	DEM +	0.1	
District 13	DEM +	9.1	DEM +	9.1	
District 14	GOP +	5.1	GOP +	5.1	
District 15	DEM +	12.5	DEM +	12.7	
*District 16	DEM +	1.7	GOP +	3.9	
District 17	GOP +	7.3	GOP +	6.6	
District 18	DEM +	0.2	DEM +	0.2	
District 19	GOP +	5.9	GOP +	5.9	
District 20	DEM +	3.3	DEM +	6.9	
District 21	DEM +	19.2	DEM +	19.1	
District 22	GOP +	9.4	GOP +	9.4	
District 23	GOP +	1.7	GOP +	7.9	
District 24	DEM +	2.4	DEM +	7.7	
GOP Leaning Districts		11	13		
DEM Leaning Districts		13	11		

*Partisan lean party change

Table 1: Partisan Lean by District – Status Quo NH Executive Council Districts

District	Partisan Lean	
District 1	DEM +	1.4
District 2	DEM +	6.3
District 3	GOP +	1.0
District 4	GOP +	0.2
District 5	DEM +	1.1
GOP Leaning Districts		2
DEM Leaning Districts		3

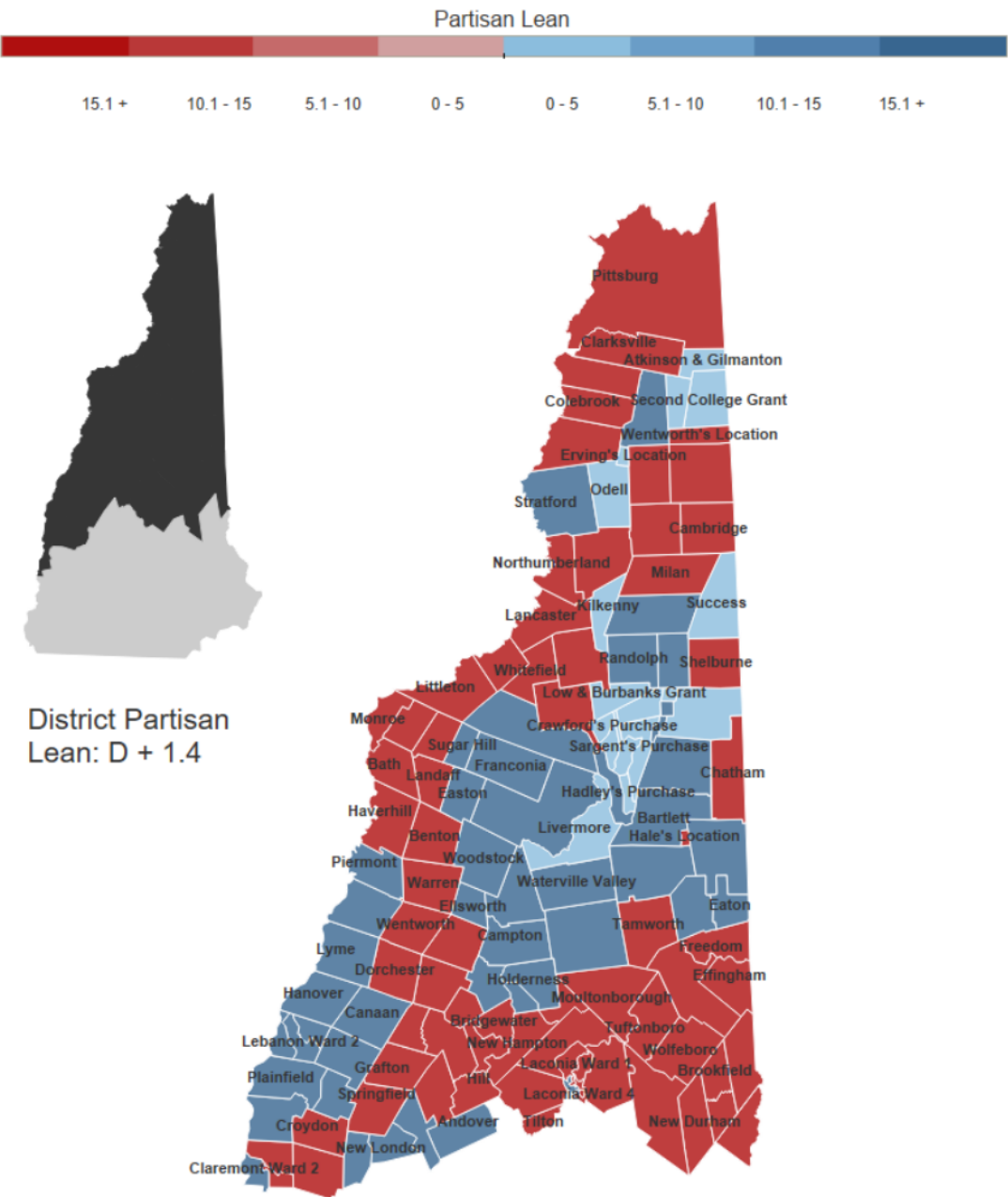
Figure 1: Partisan Lean by District – SB240



Executive Council

Showing Partisan Lean

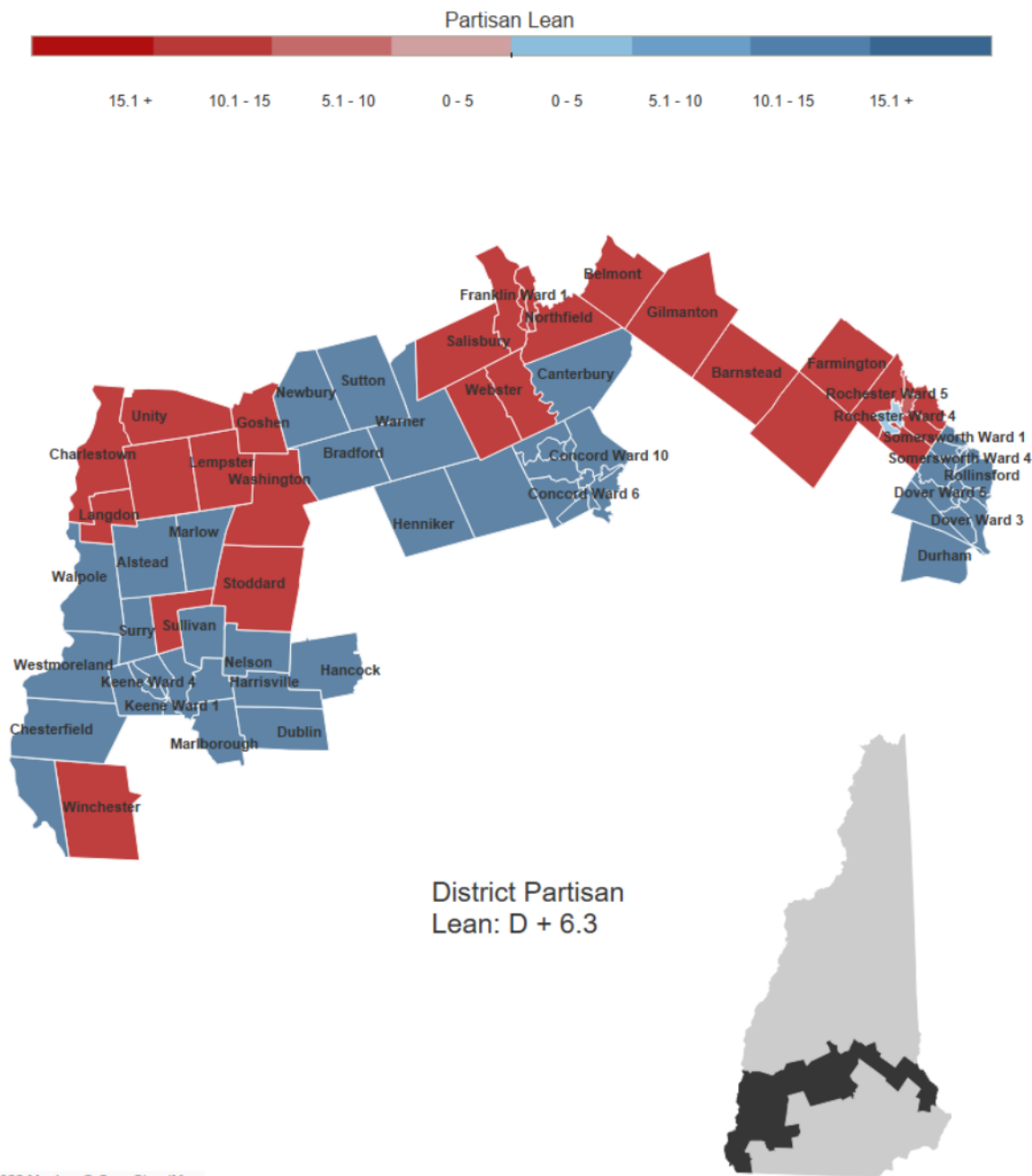
New Hampshire Executive Council District 1



© 2022 Mapbox © OpenStreetMap

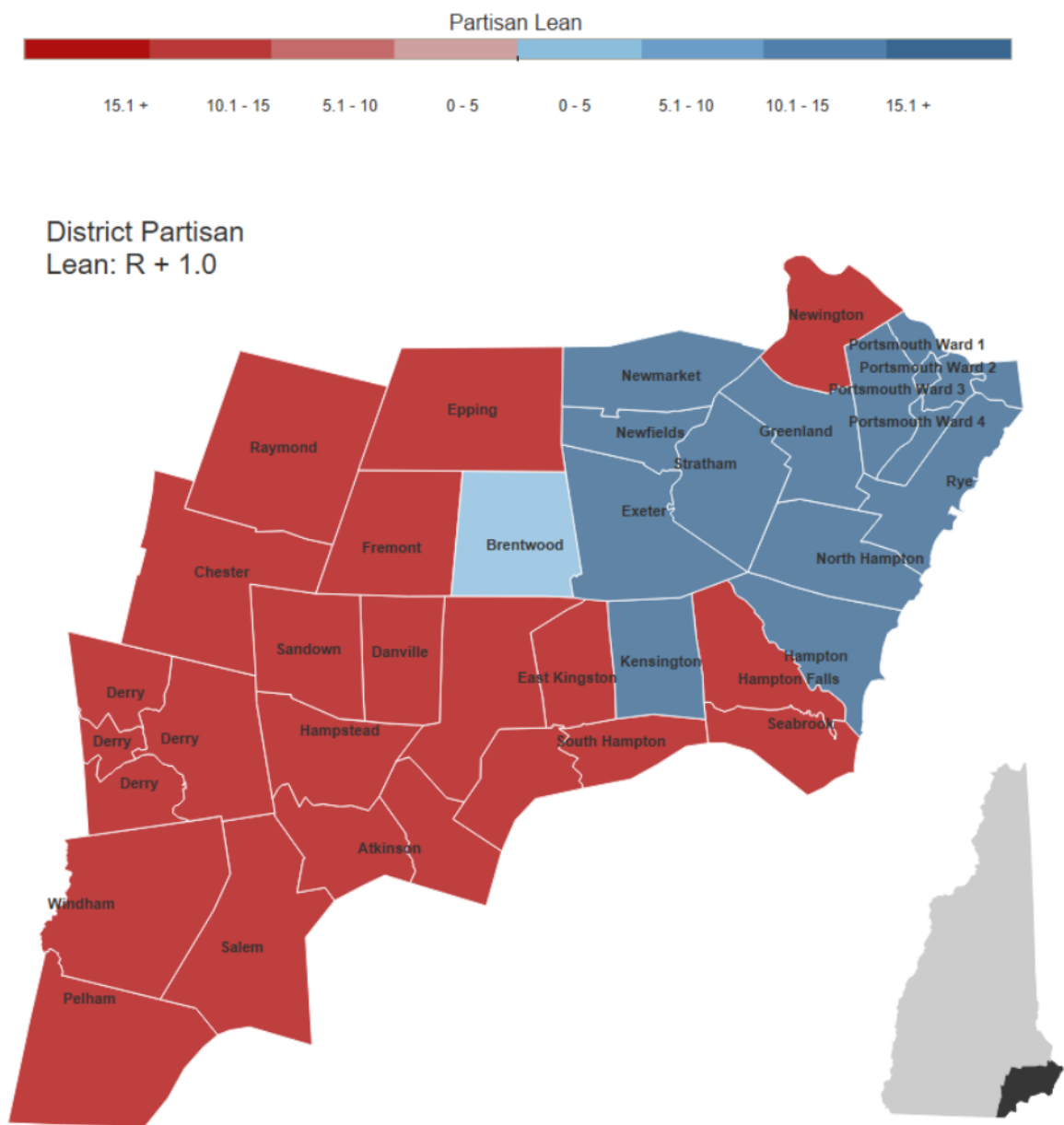
Data Sources: The General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

New Hampshire Executive Council District 2



Data Sources: The General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

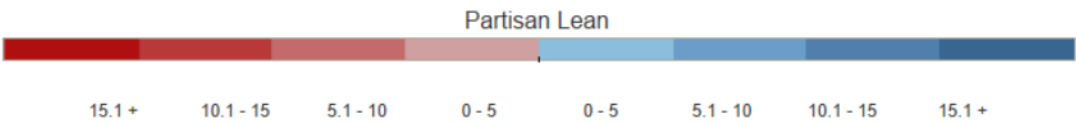
New Hampshire Executive Council District 3



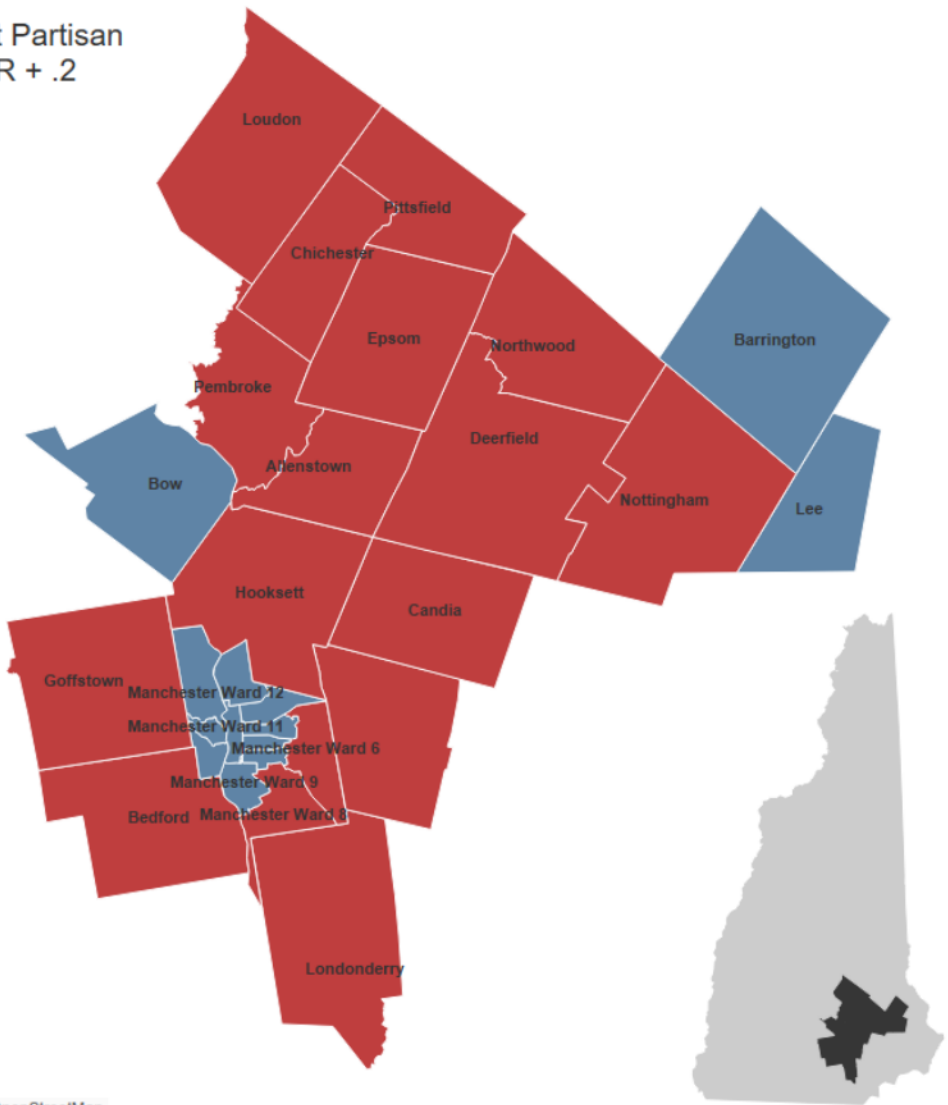
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Data Sources: The General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

New Hampshire Executive Council District 4



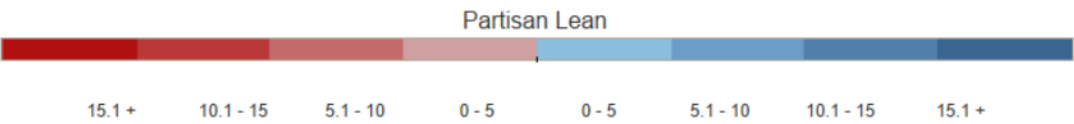
District Partisan
Lean: R + .2



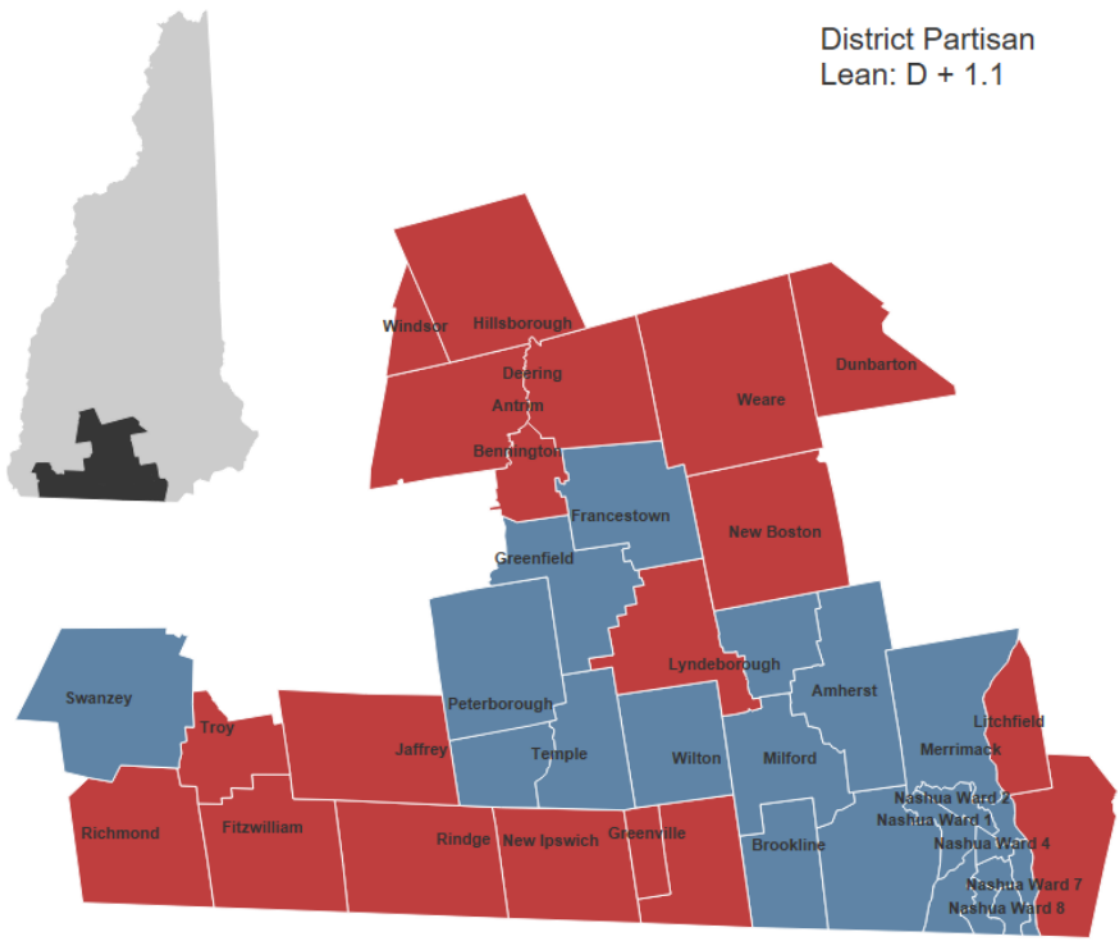
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Data Sources: The General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

New Hampshire Executive Council District 5



District Partisan
Lean: D + 1.1



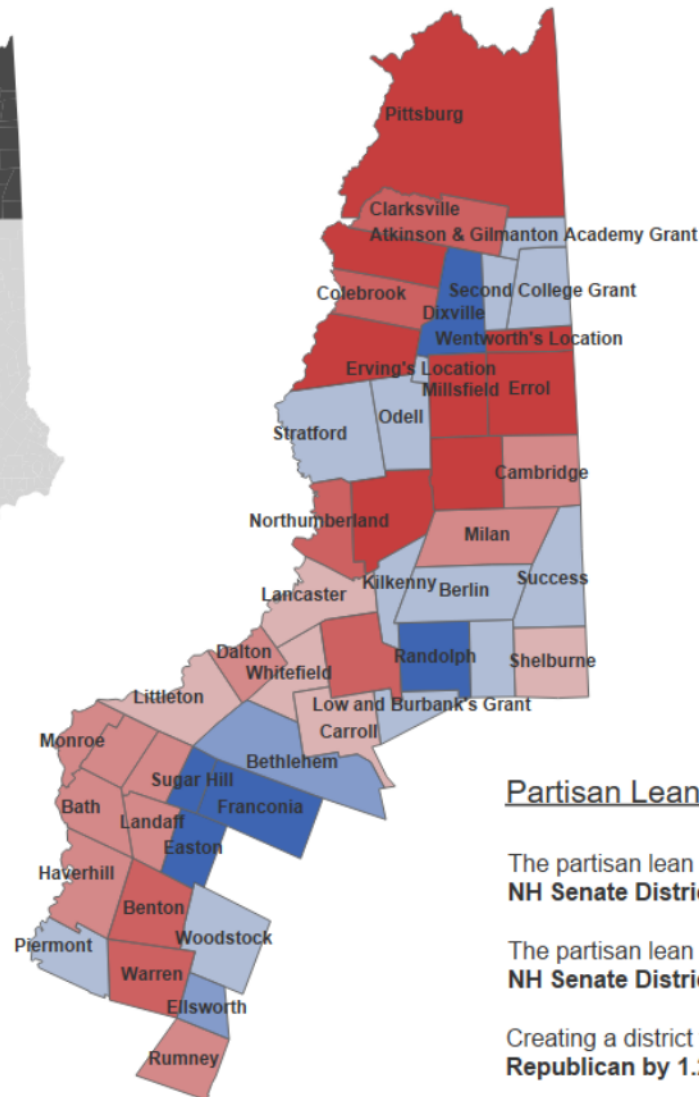
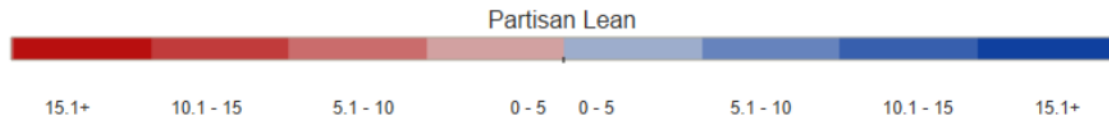
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Data Sources: The General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

N.H. Senate by District

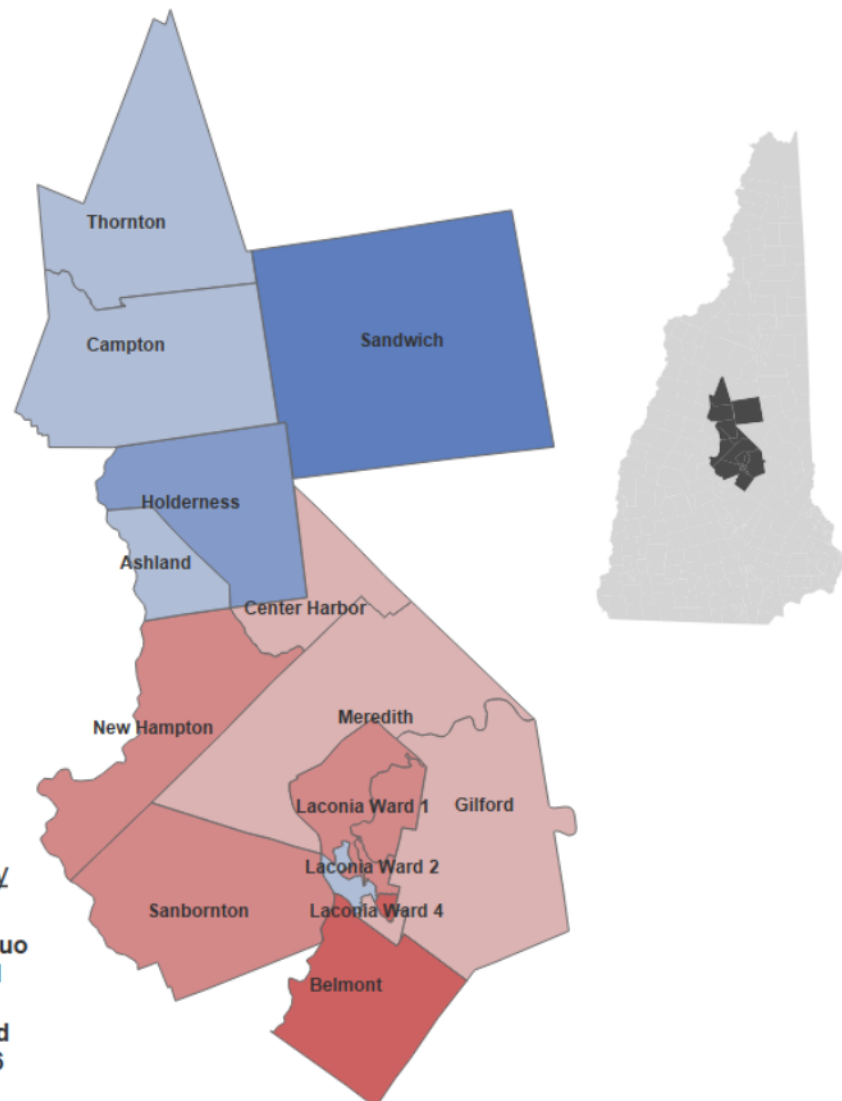
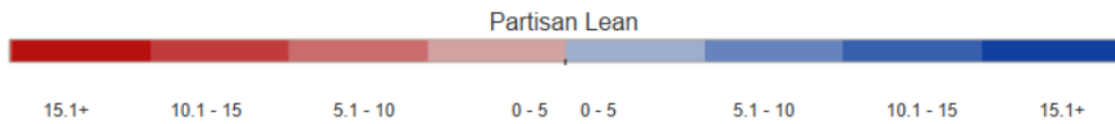
Showing Partisan Lean

Proposed NH Senate District 1



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 2



Partisan Lean Summary

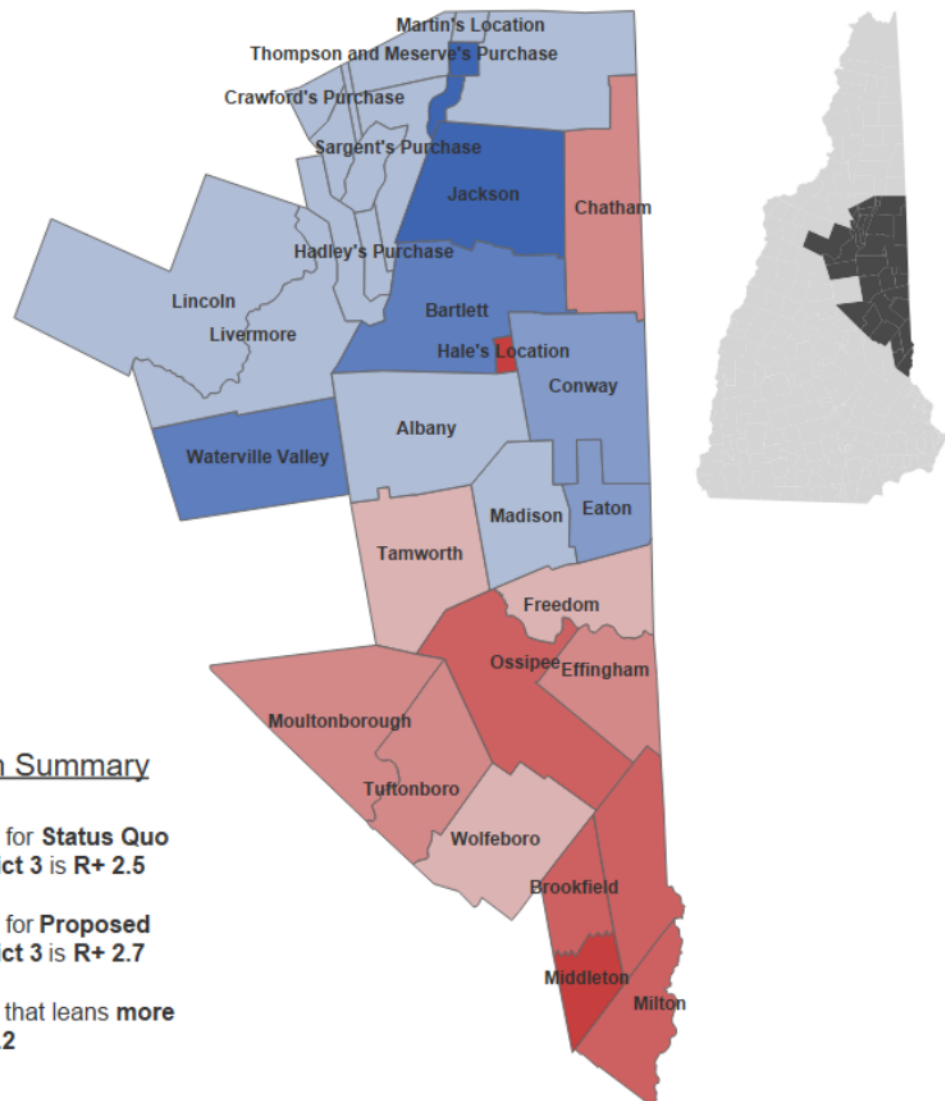
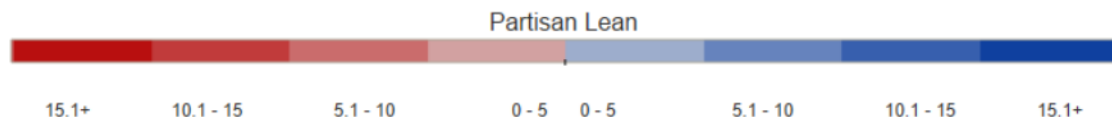
The partisan lean for **Status Quo NH Senate District 2** is **R+ 2.1**

The partisan lean for **Proposed NH Senate District 2** is **R+ 3.6**

Creating a district that leans **more Republican by 1.2**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 3



Partisan Lean Summary

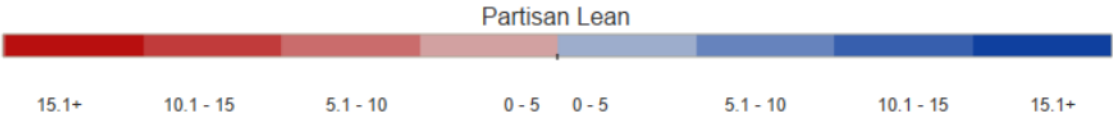
The partisan lean for **Status Quo NH Senate District 3** is **R+ 2.5**

The partisan lean for **Proposed NH Senate District 3** is **R+ 2.7**

Creating a district that leans **more Republican by 0.2**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

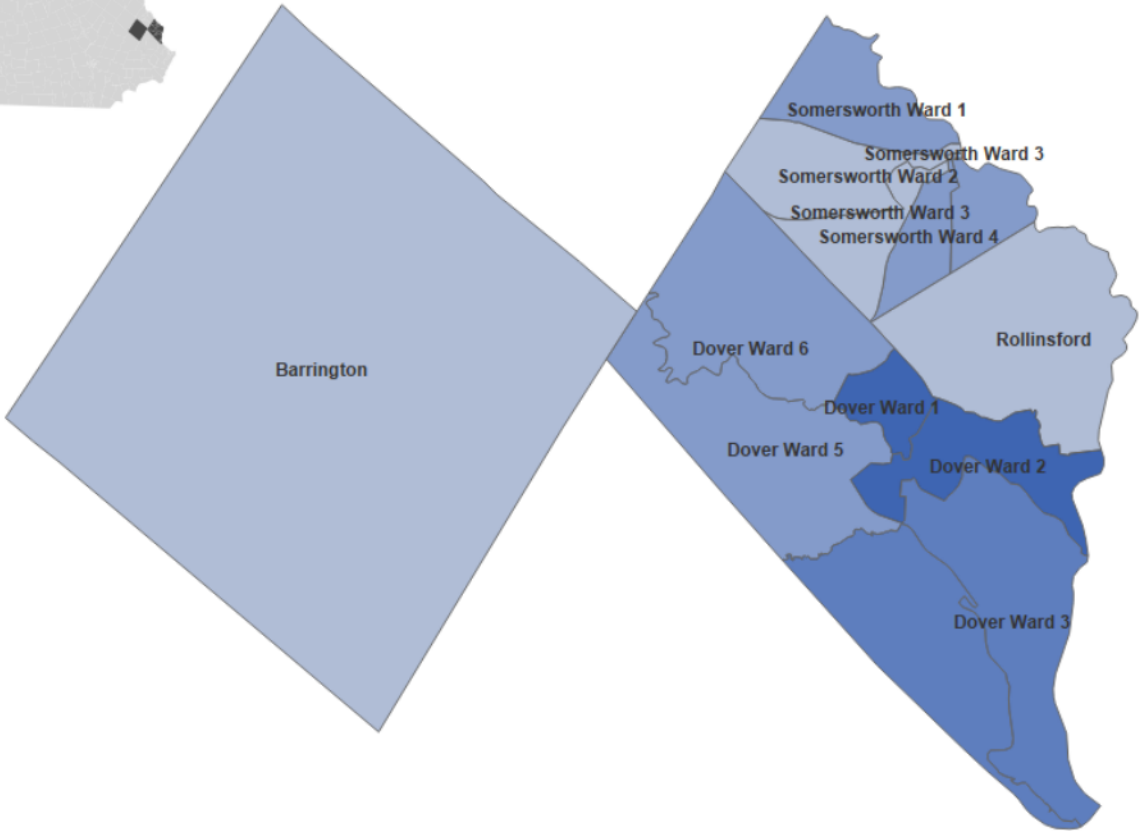
Proposed NH Senate District 4



Partisan Lean Summary

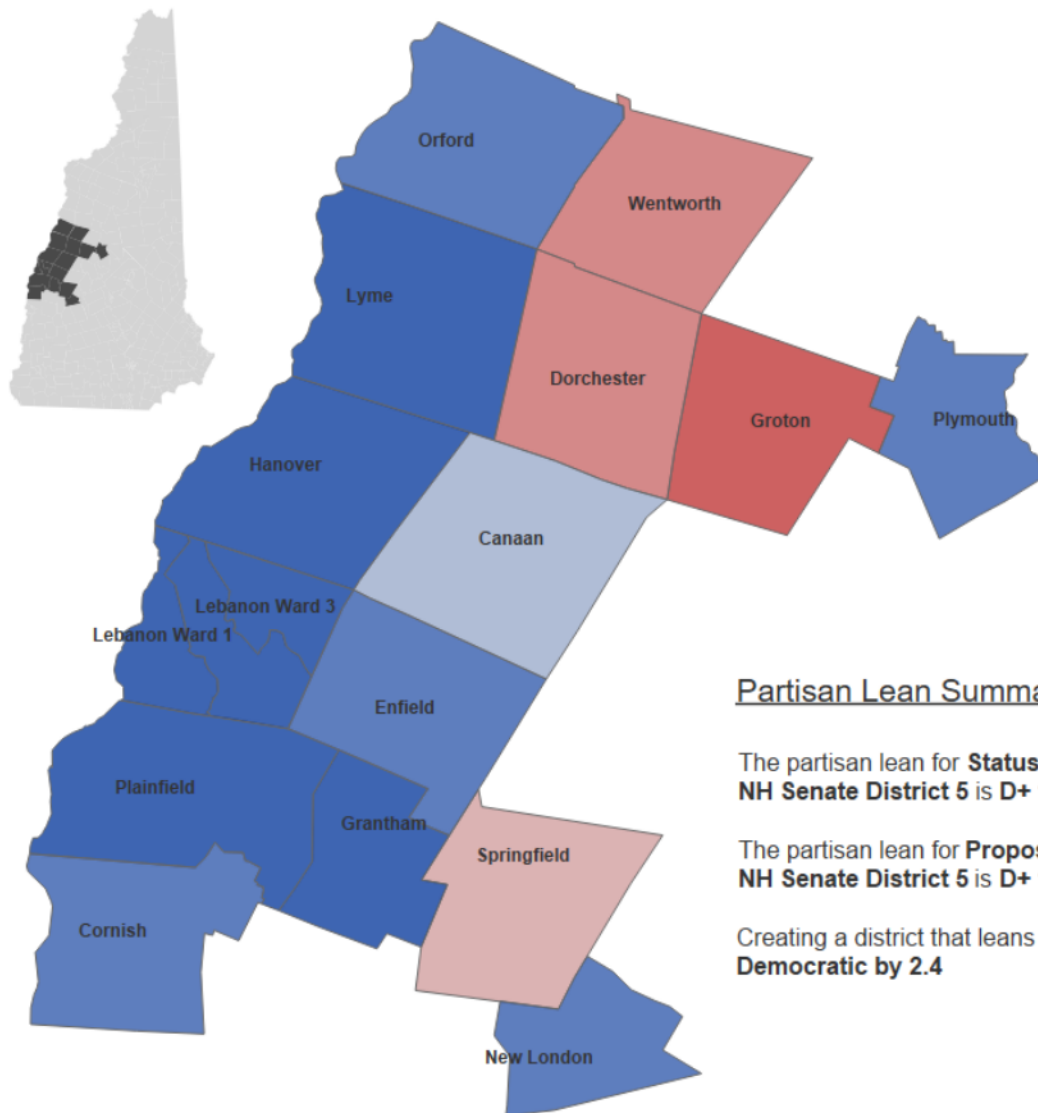
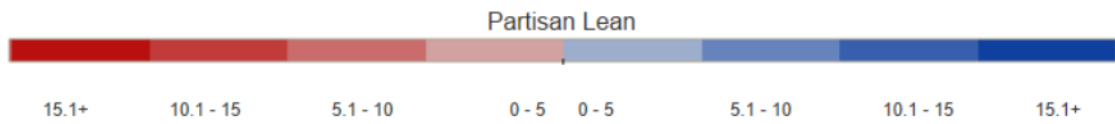
The partisan lean for **Status Quo NH Senate District 4** is **D+ 9.3**

The partisan lean for **Proposed NH Senate District 4** is **D+ 9.3**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 5



Partisan Lean Summary

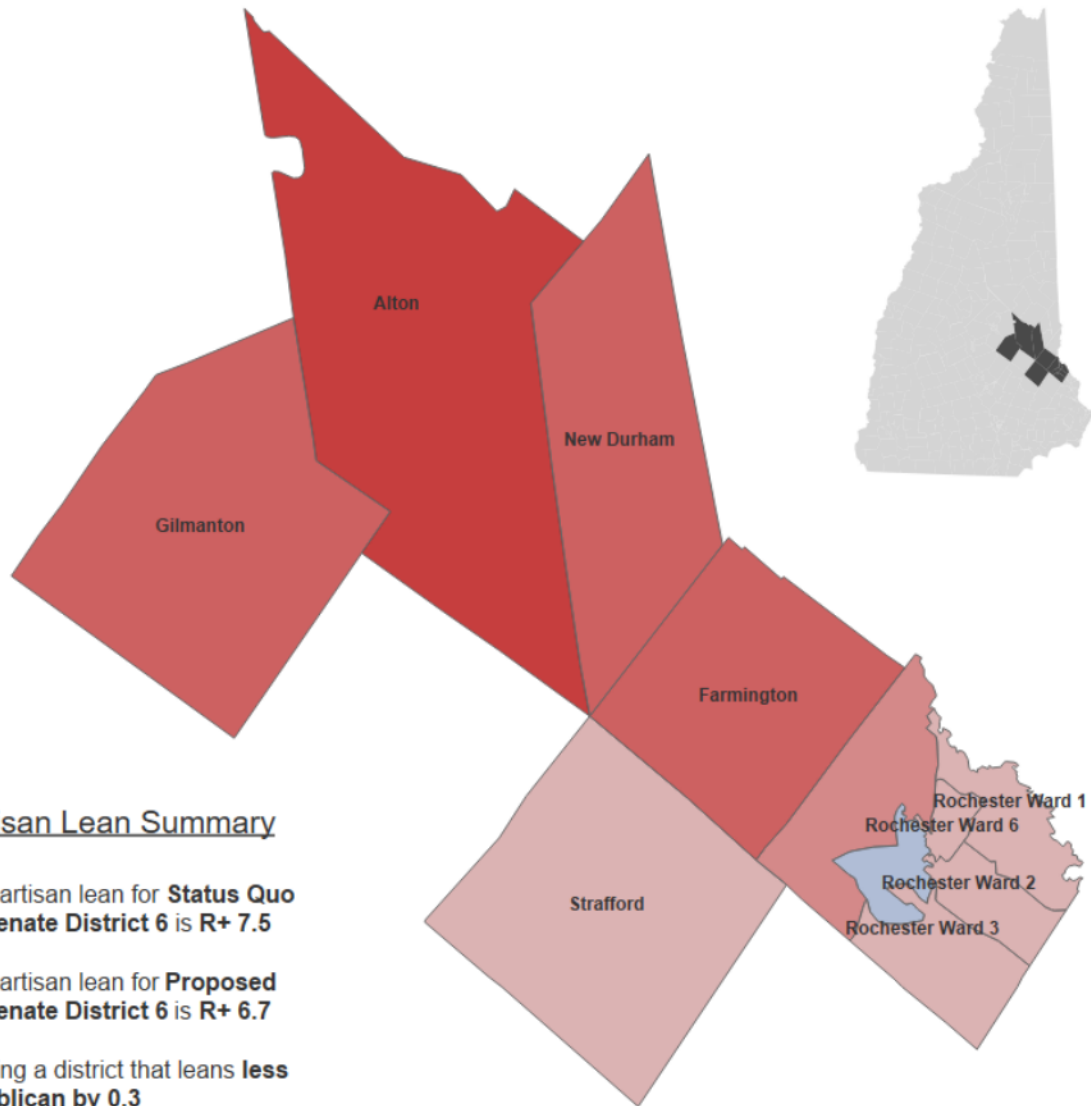
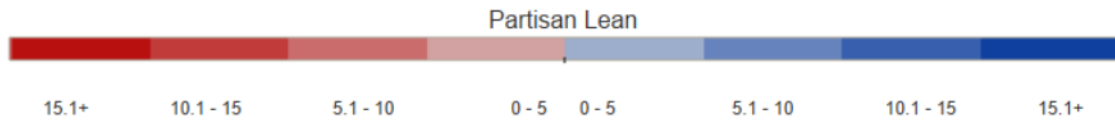
The partisan lean for **Status Quo NH Senate District 5** is **D+ 16.9**

The partisan lean for **Proposed NH Senate District 5** is **D+ 19.3**

Creating a district that leans **more Democratic by 2.4**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 6



Partisan Lean Summary

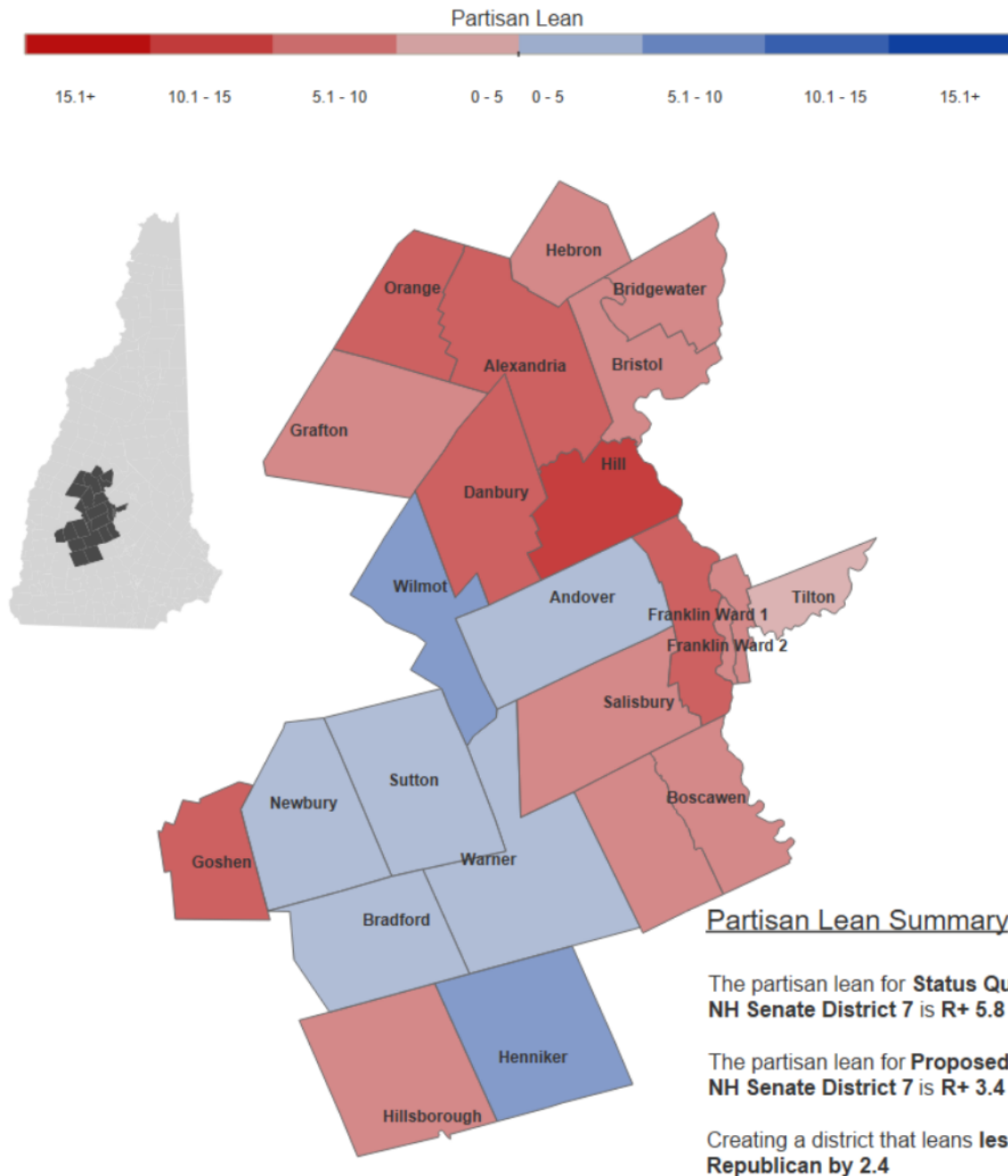
The partisan lean for **Status Quo NH Senate District 6** is **R+ 7.5**

The partisan lean for **Proposed NH Senate District 6** is **R+ 6.7**

Creating a district that leans **less Republican by 0.3**

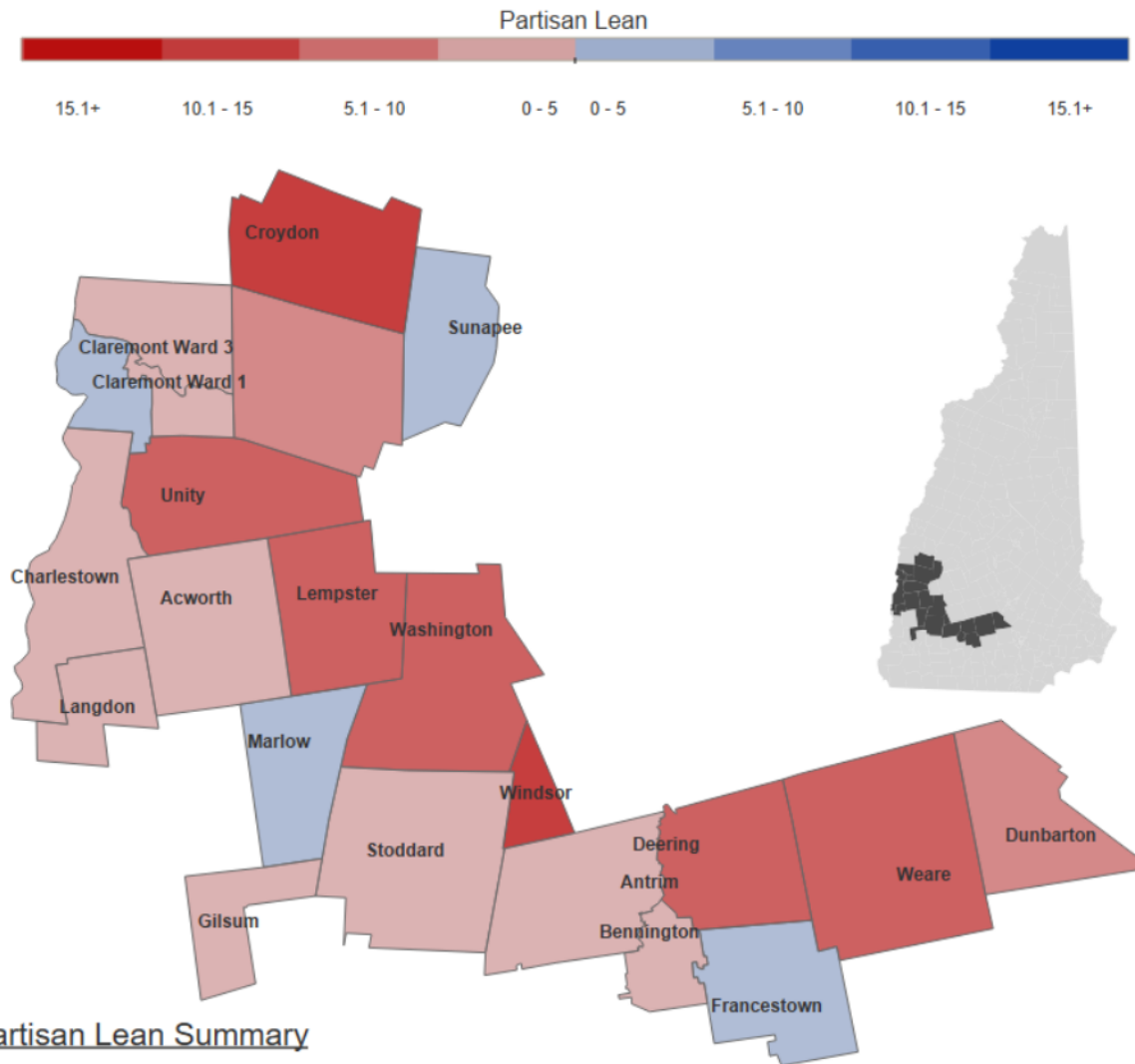
Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 7



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 8



Partisan Lean Summary

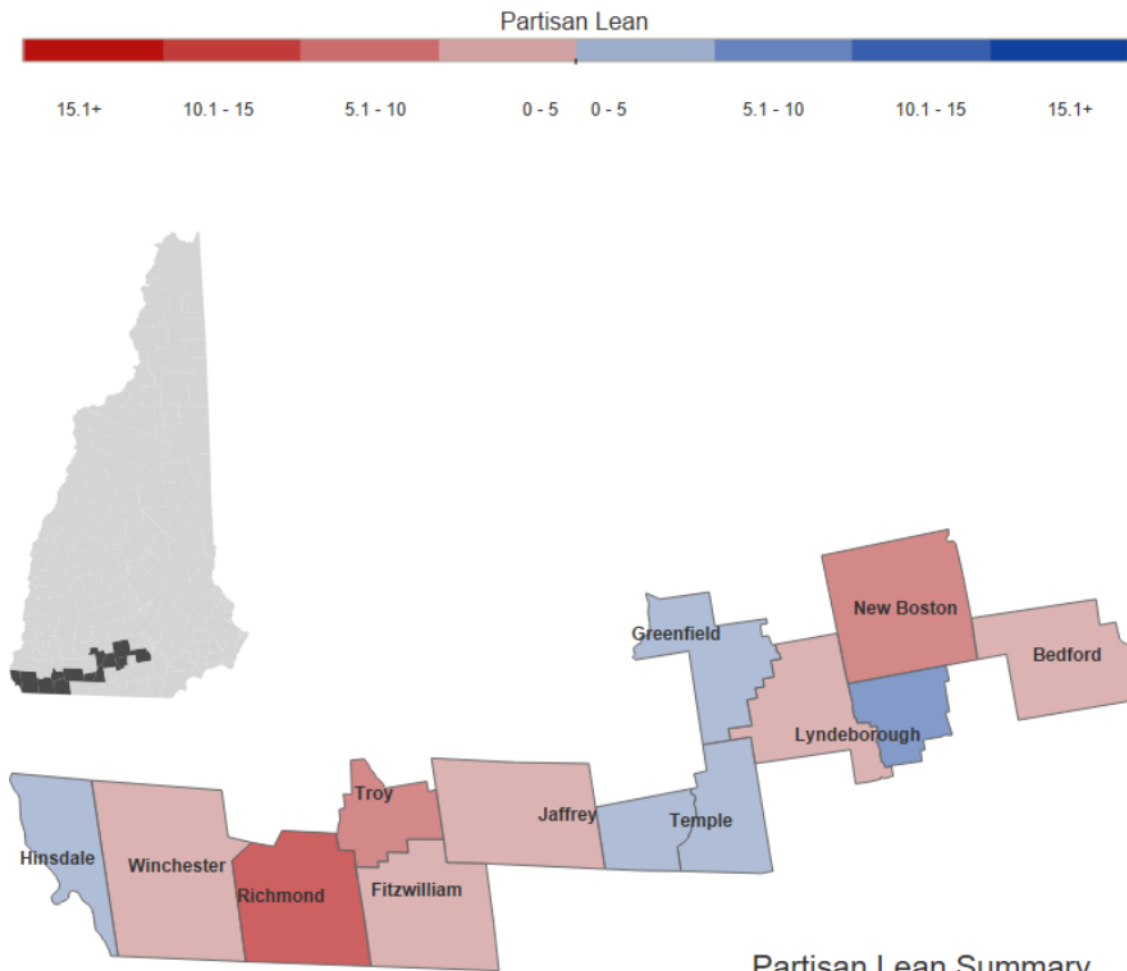
The partisan lean for **Status Quo NH Senate District 8** is **R+ 2.4**

The partisan lean for **Proposed NH Senate District 8** is **R+ 6.0**

Creating a district that leans **more Republican by 3.6**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 9



Partisan Lean Summary

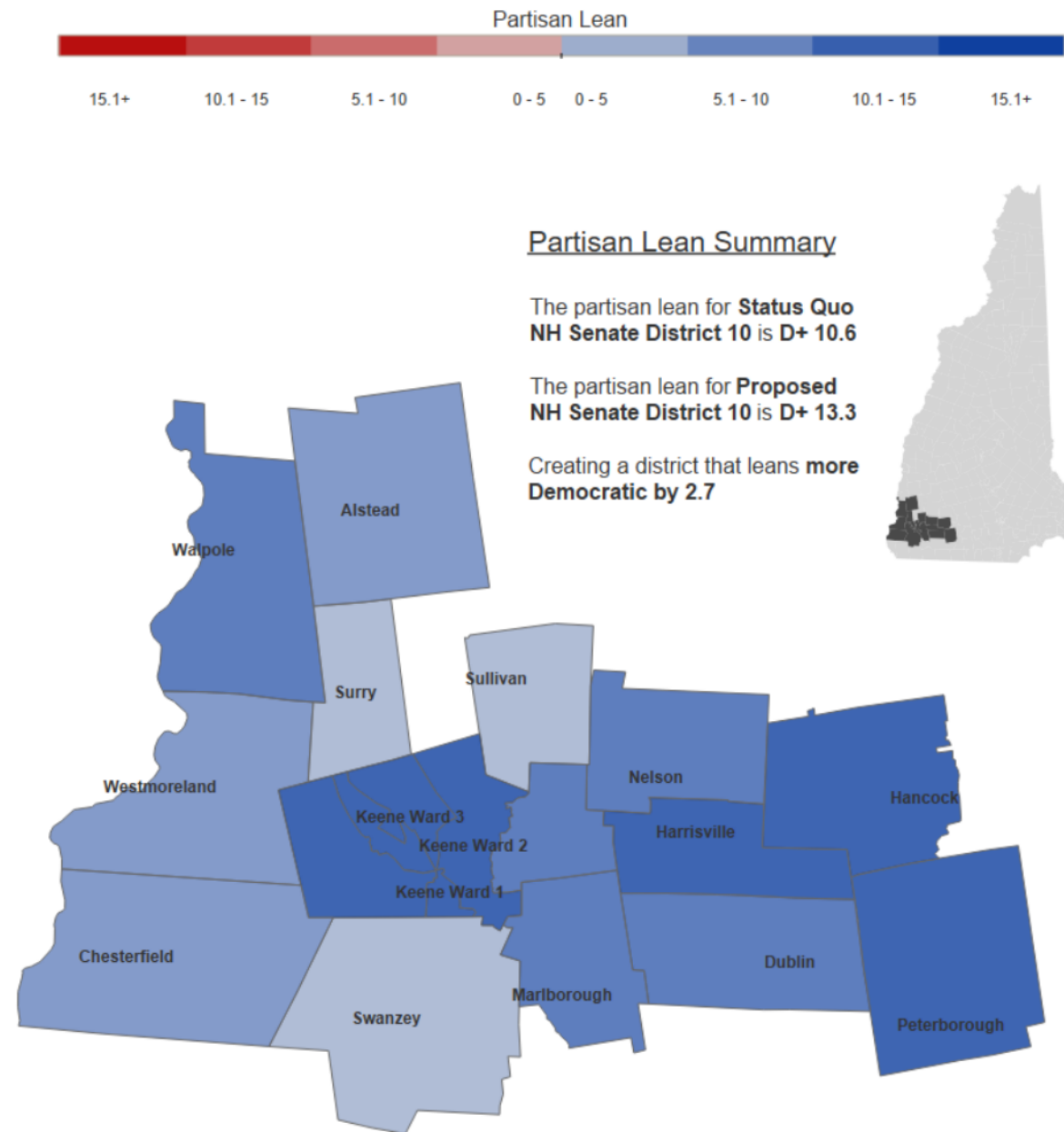
The partisan lean for **Status Quo NH Senate District 9** is **D+ 2.2**

The partisan lean for **Proposed NH Senate District 9** is **R+ 1.0**

Creating a district that leans **more Republican by 3.2**

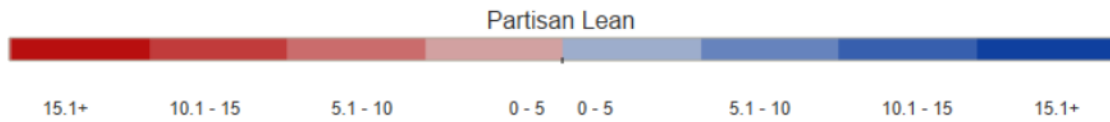
Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 10



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

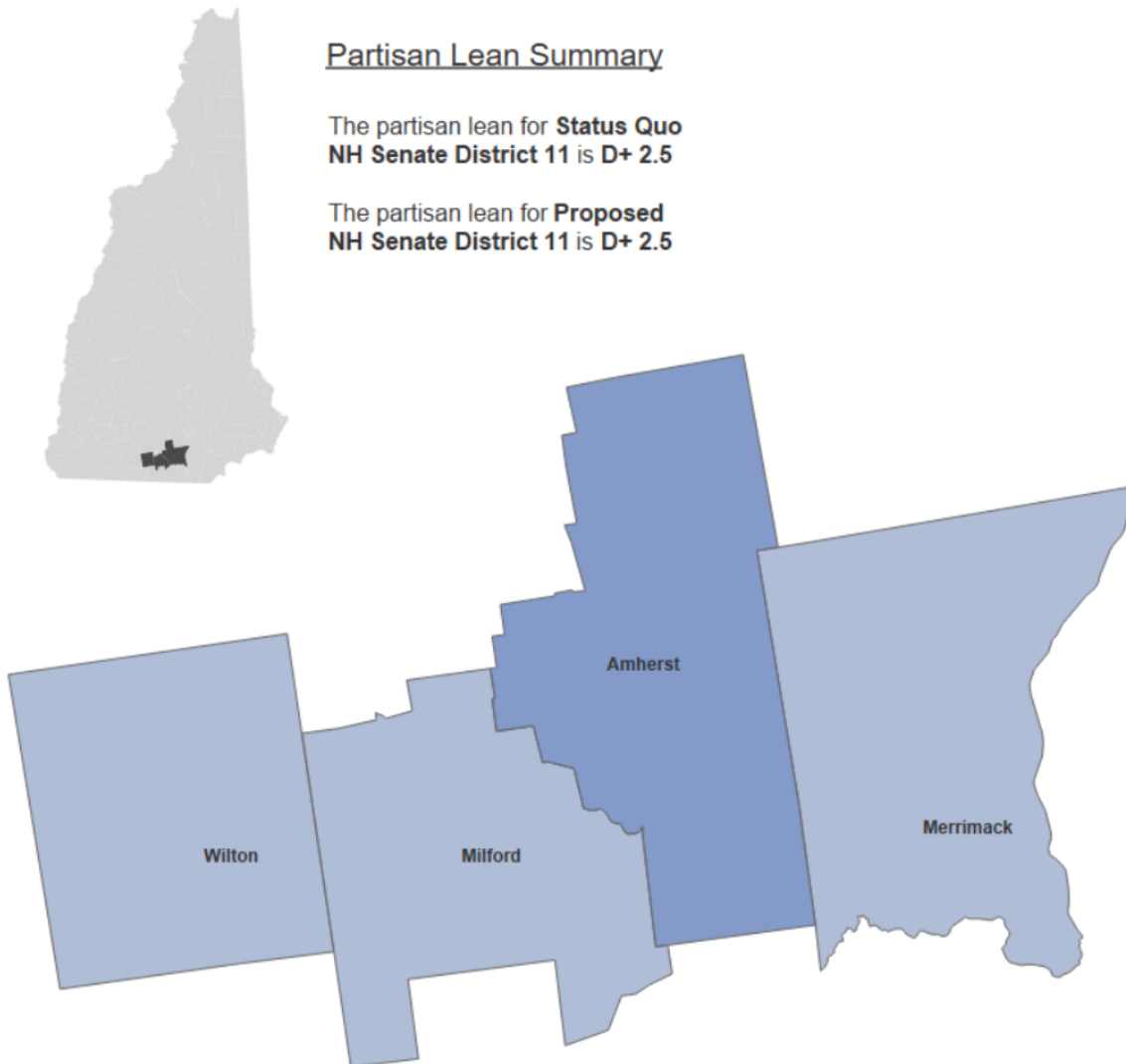
Proposed NH Senate District 11



Partisan Lean Summary

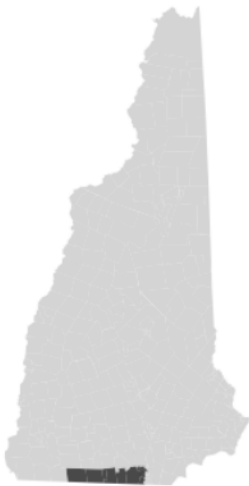
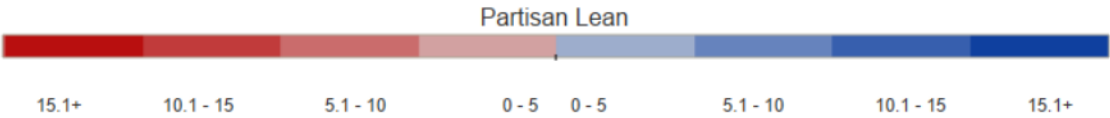
The partisan lean for **Status Quo NH Senate District 11** is **D+ 2.5**

The partisan lean for **Proposed NH Senate District 11** is **D+ 2.5**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

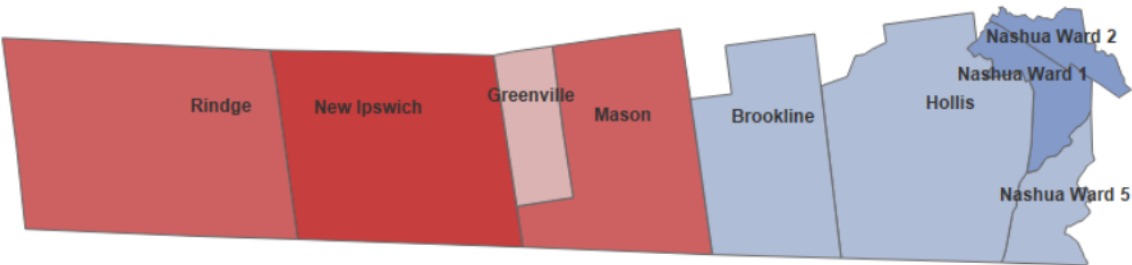
Proposed NH Senate District 12



Partisan Lean Summary

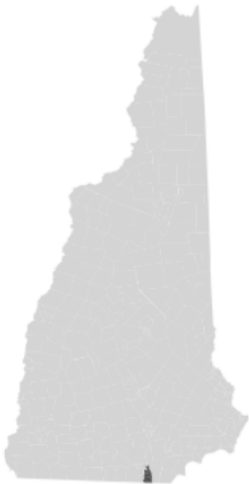
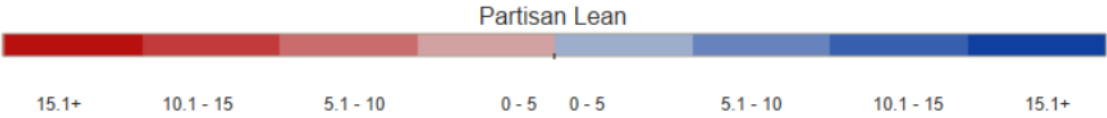
The partisan lean for **Status Quo NH Senate District 12** is **D+ 0.1**

The partisan lean for **Proposed NH Senate District 12** is **D+ 0.1**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

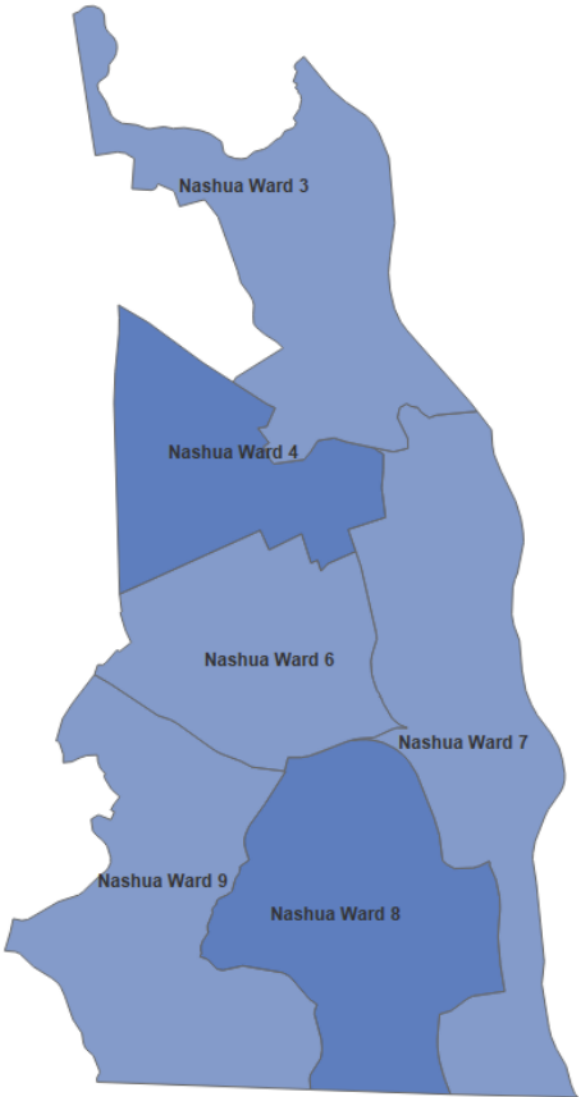
Proposed NH Senate District 13



Partisan Lean Summary

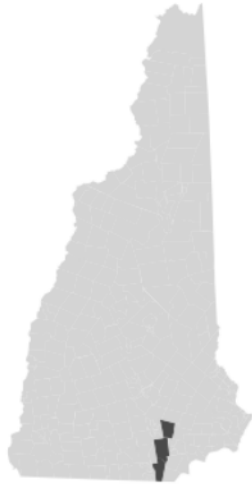
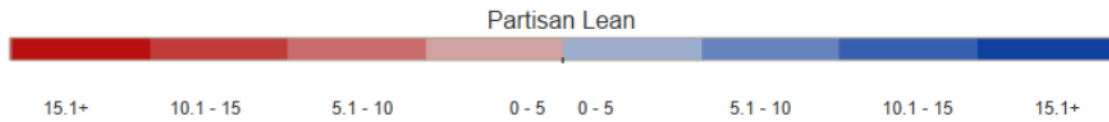
The partisan lean for **Status Quo NH Senate District 13** is **D+ 9.1**

The partisan lean for **Proposed NH Senate District 13** is **D+ 9.1**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

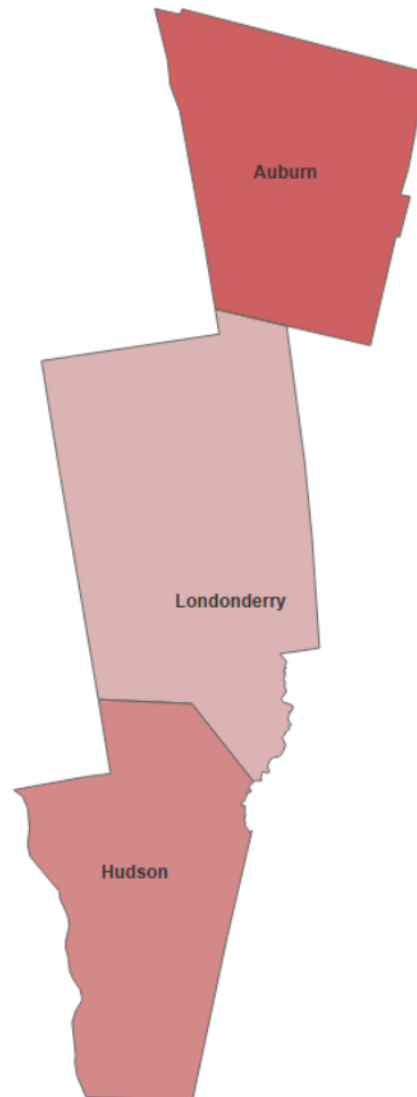
Proposed NH Senate District 14



Partisan Lean Summary

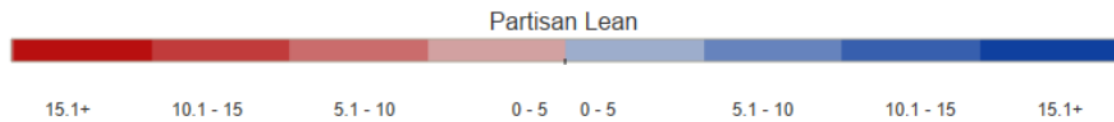
The partisan lean for **Status Quo NH Senate District 14** is **R+ 5.1**

The partisan lean for **Proposed NH Senate District 14** is **R+ 5.1**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 15

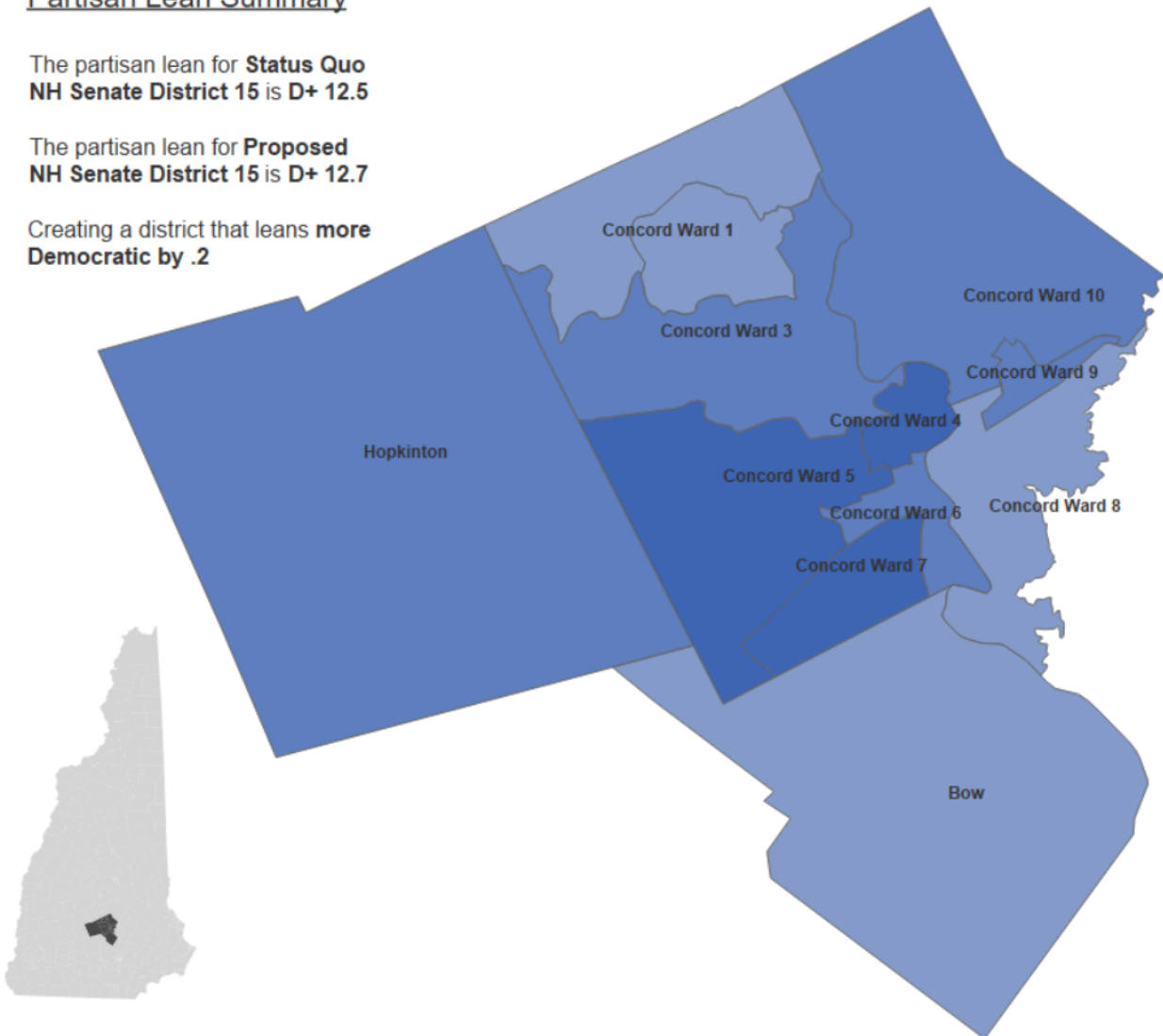


Partisan Lean Summary

The partisan lean for **Status Quo**
NH Senate District 15 is **D+ 12.5**

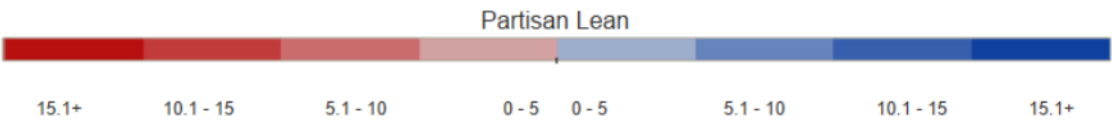
The partisan lean for **Proposed**
NH Senate District 15 is **D+ 12.7**

Creating a district that leans **more**
Democratic by .2



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 16

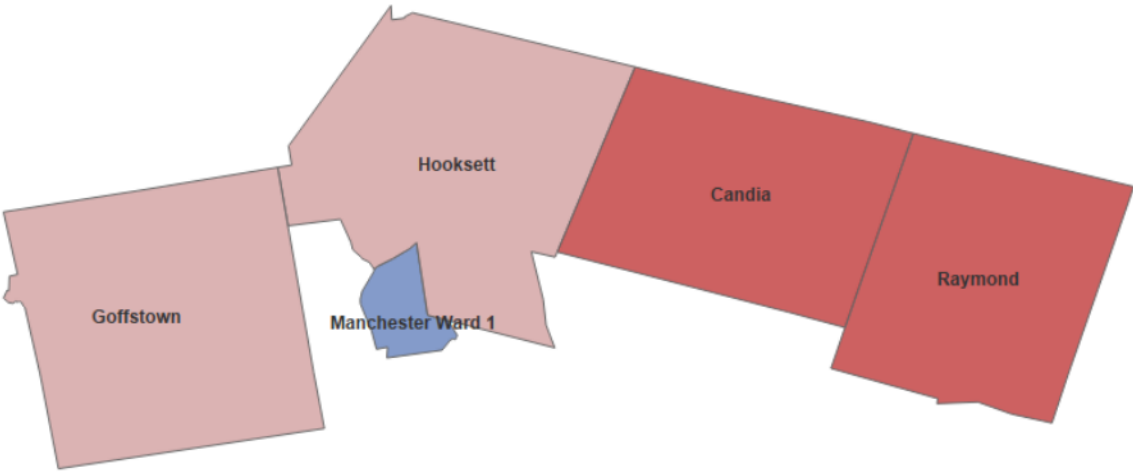


Partisan Lean Summary

The partisan lean for **Status Quo NH Senate District 16** is **D+ 1.7**

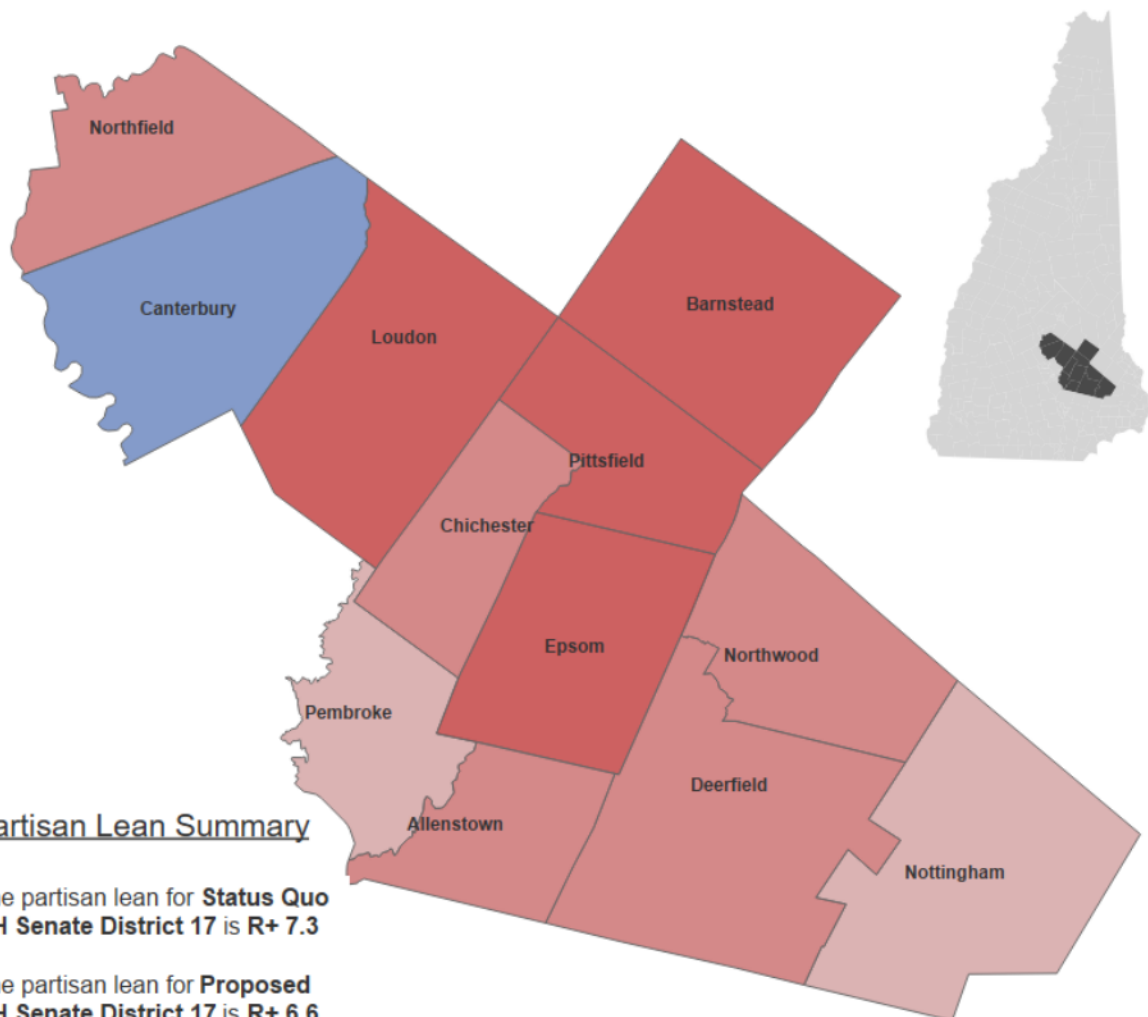
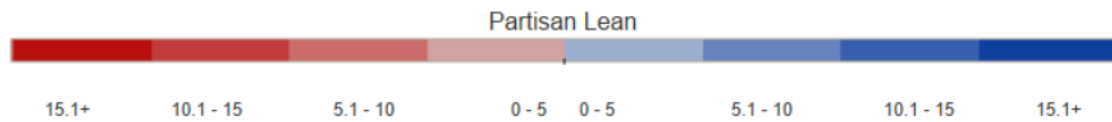
The partisan lean for **Proposed NH Senate District 16** is **R+ 3.9**

Creating a district that leans **more Republican by 4.2**



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 17



Partisan Lean Summary

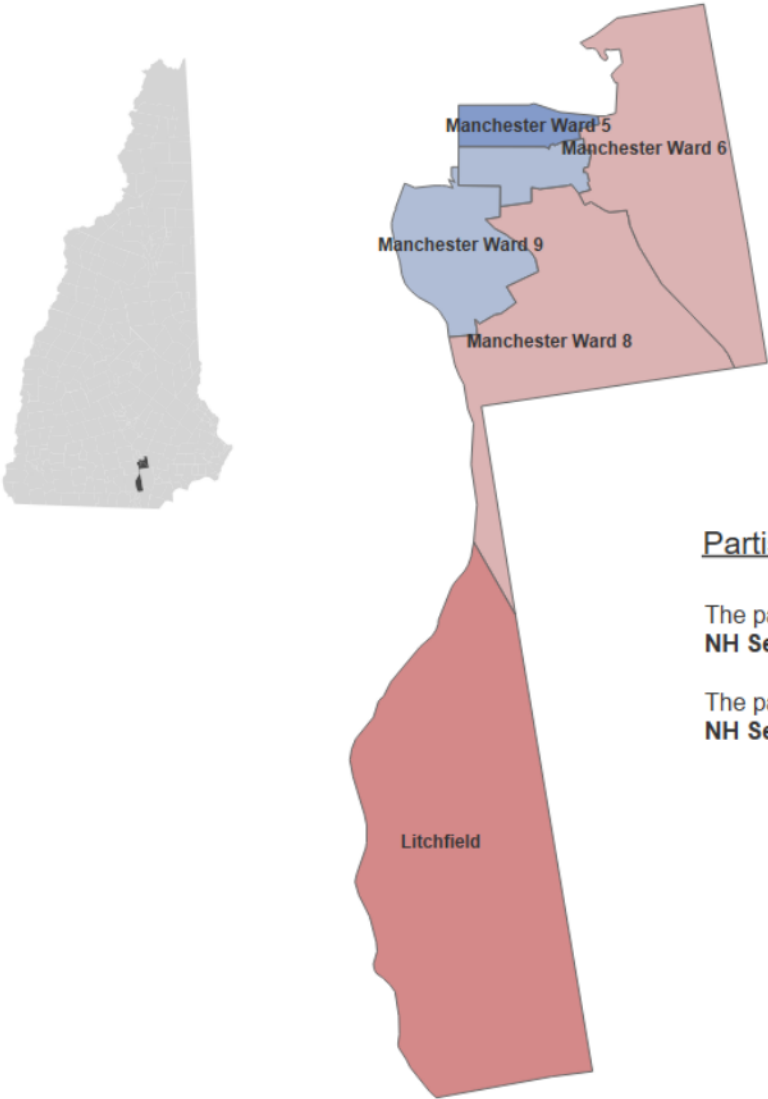
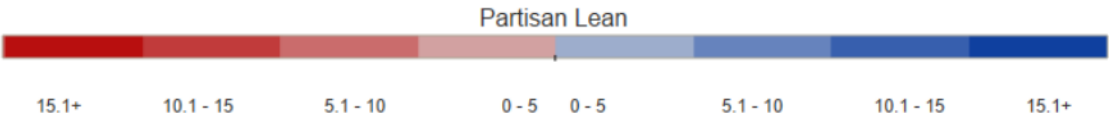
The partisan lean for **Status Quo NH Senate District 17** is **R+ 7.3**

The partisan lean for **Proposed NH Senate District 17** is **R+ 6.6**

Creating a district that leans **less Republican by 1.7**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 18



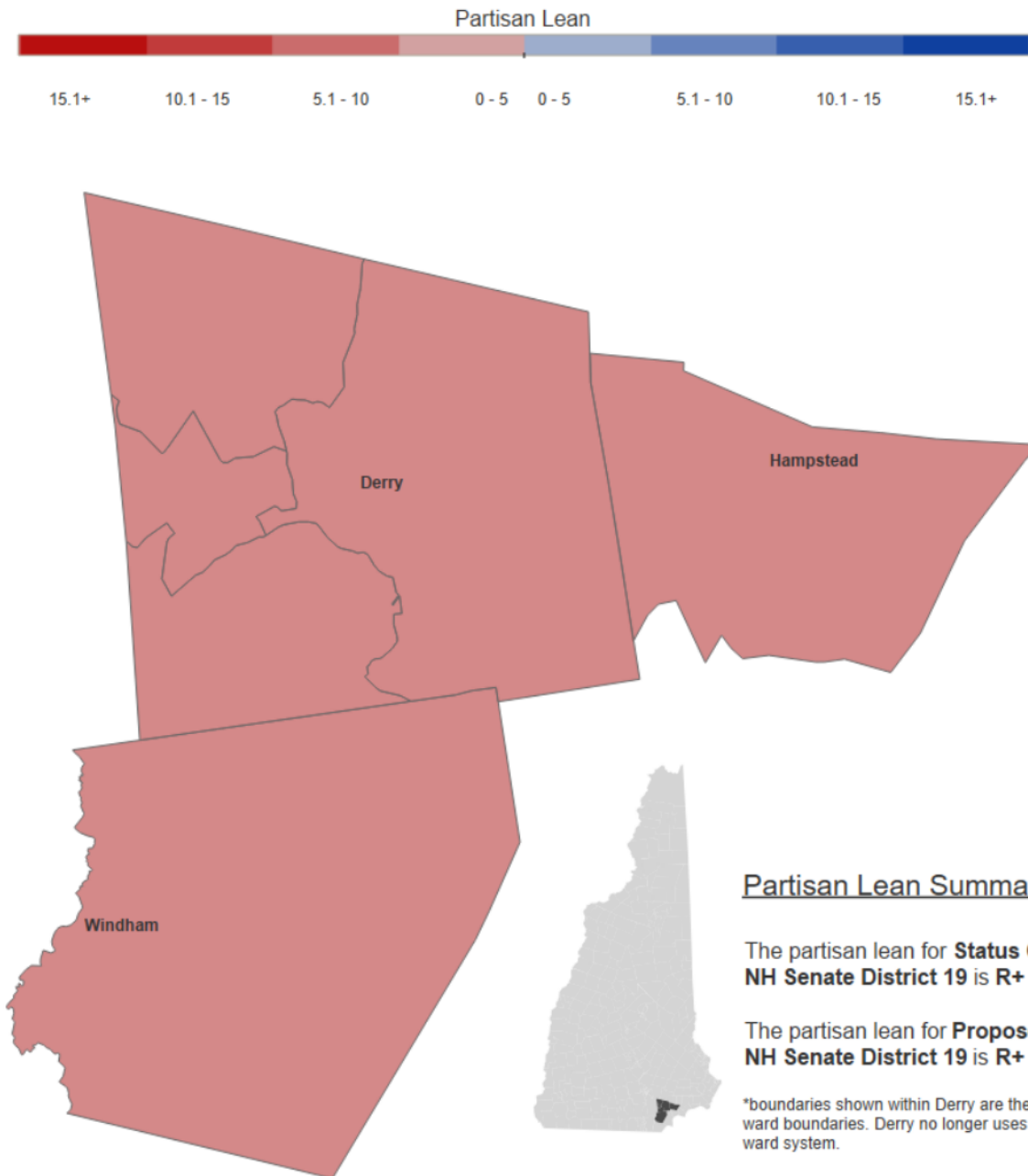
Partisan Lean Summary

The partisan lean for **Status Quo NH Senate District 18** is **D+ 0.2**

The partisan lean for **Proposed NH Senate District 18** is **D+ 0.2**

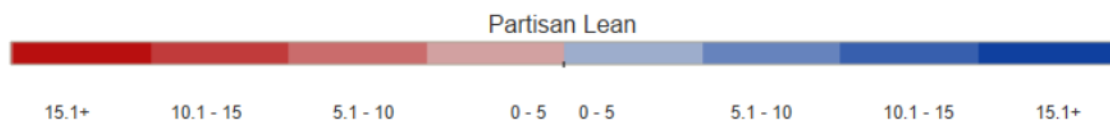
Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 19



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 20

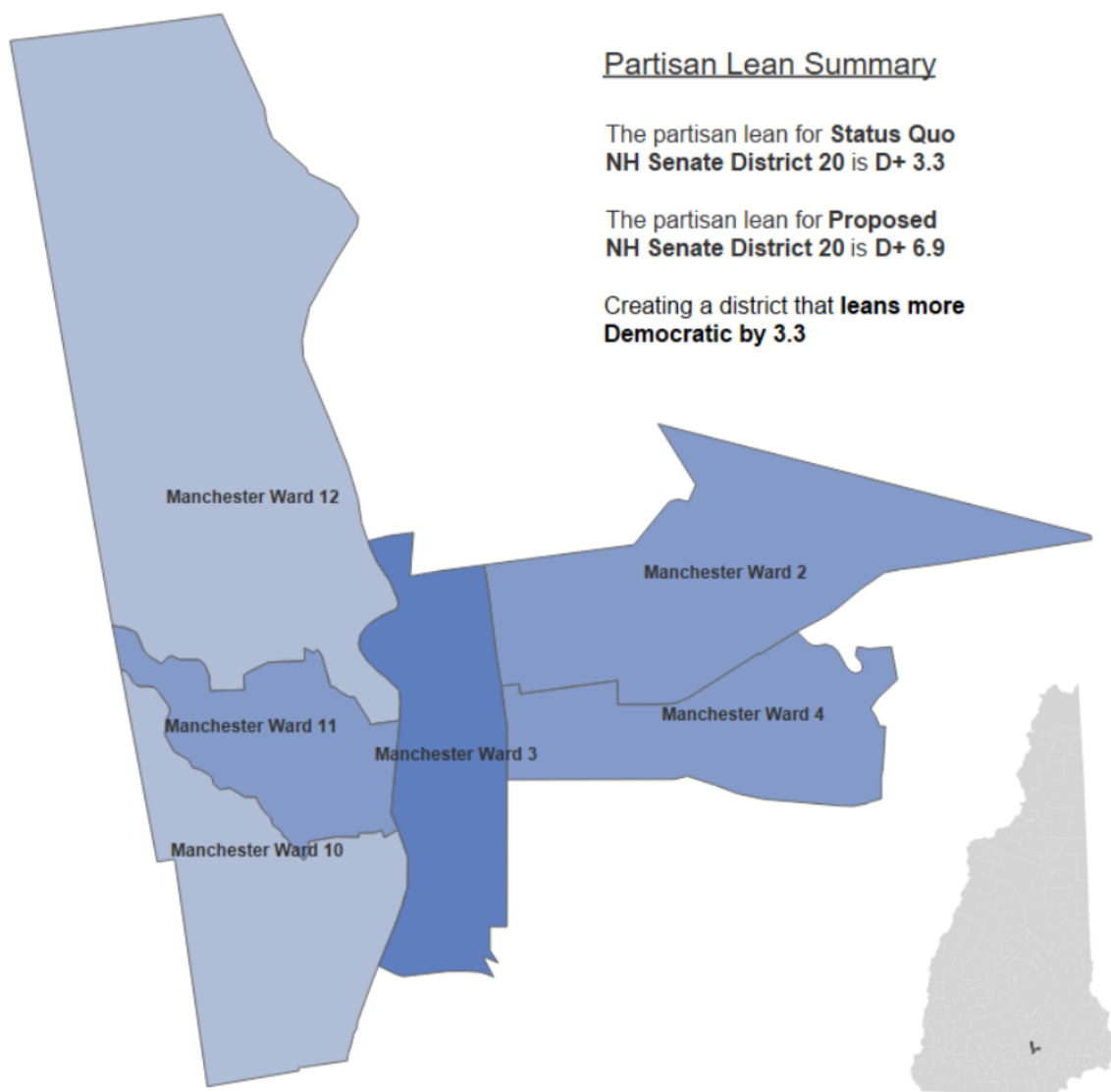


Partisan Lean Summary

The partisan lean for **Status Quo NH Senate District 20** is **D+ 3.3**

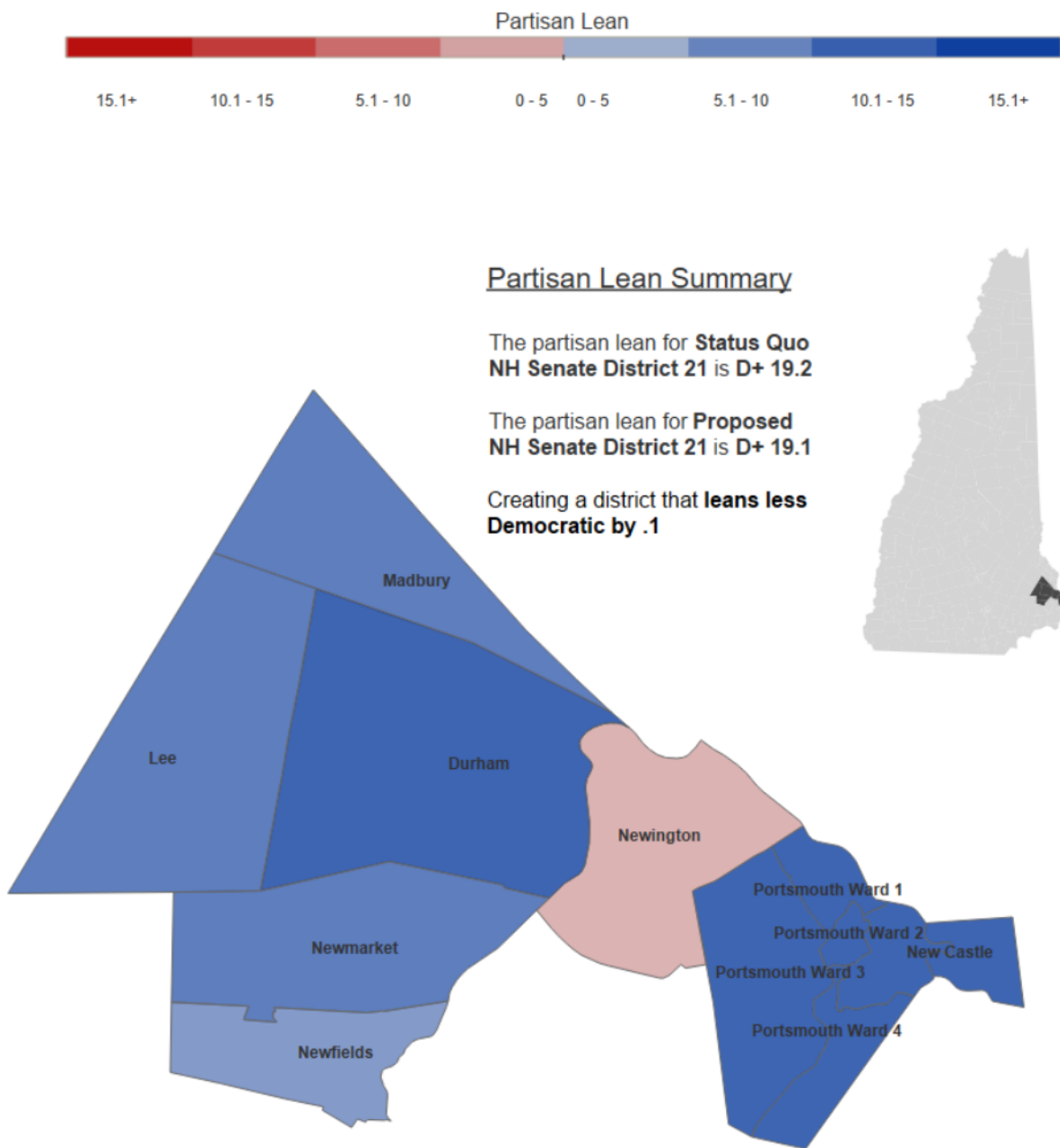
The partisan lean for **Proposed NH Senate District 20** is **D+ 6.9**

Creating a district that **leans more Democratic by 3.3**



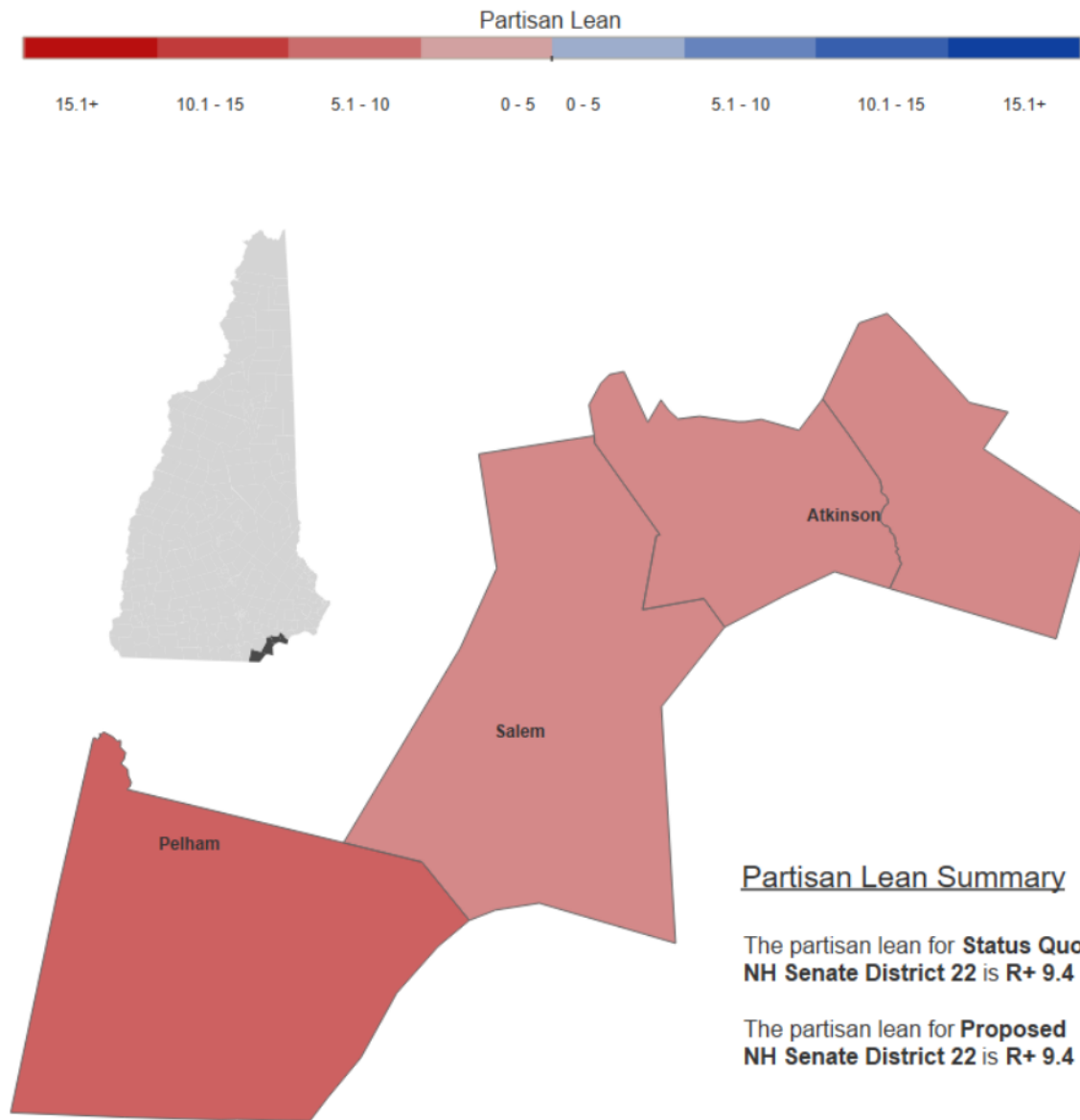
Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 21



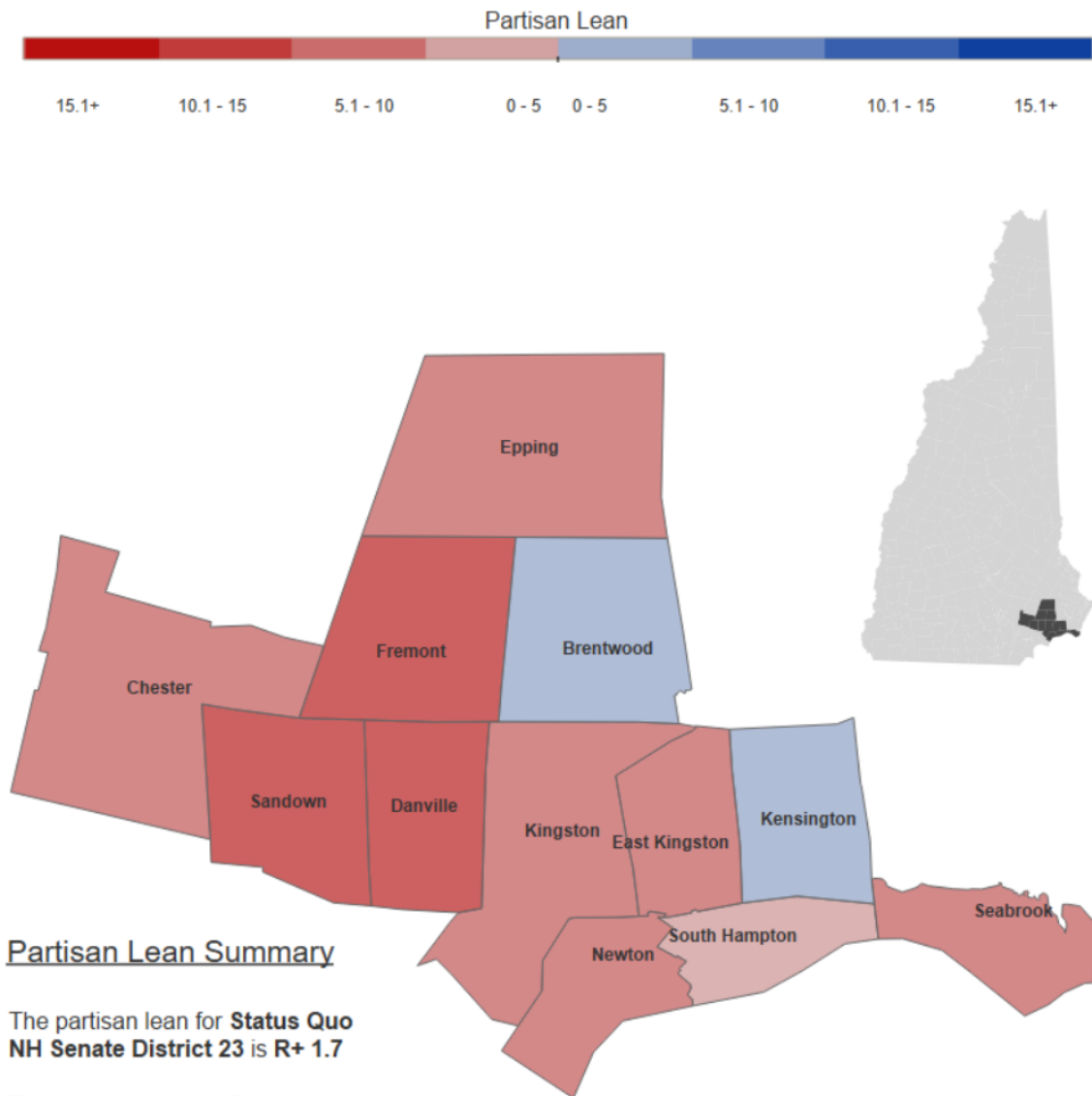
Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 22



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 23



Partisan Lean Summary

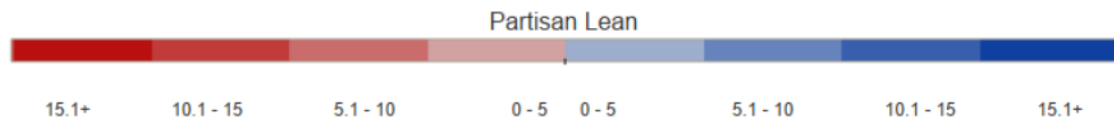
The partisan lean for **Status Quo NH Senate District 23** is **R+ 1.7**

The partisan lean for **Proposed NH Senate District 23** is **R+ 7.9**

Creating a district that **leans more Republican by 6.2**

Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.

Proposed NH Senate District 24

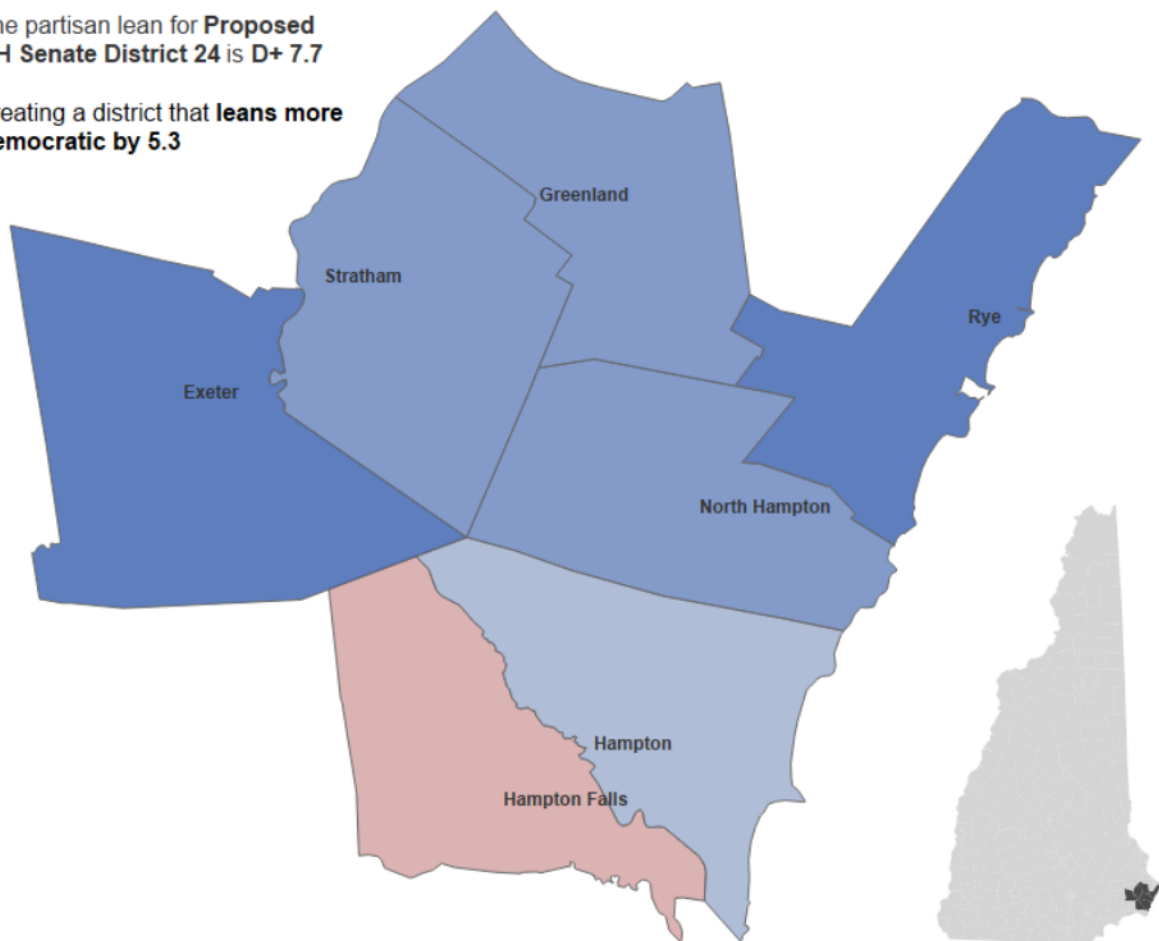


Partisan Lean Summary

The partisan lean for **Status Quo**
NH Senate District 24 is **D+ 2.4**

The partisan lean for **Proposed**
NH Senate District 24 is **D+ 7.7**

Creating a district that **leans more**
Democratic by 5.3



Data Sources: Senator Gray Amendment to SB 240 and the General Court of New Hampshire (status quo). Partisan lean computed at the ward level based on 2020 two-party Presidential vote. GOP leaning districts are those in which Trump (R) garnered a larger share than his national average (47.7%). Conversely, democratic districts - denoted in blue - are those in which Trump's two-party vote share was less than his national average.



MEMORANDUM

To: Devon Chaffee, Executive Director ACLU-NH Date: April 14, 2022
From: FLO Analytics Project No.: F2186.01.001

RE: Analysis of the New Hampshire Executive Council Districts passed by the New Hampshire Senate on Thursday, March 24th, 2022.

EXECUTIVE SUMMARY

This memo analyzes the New Hampshire Executive Council districts as recently passed by the New Hampshire Senate.

Our analysis tabulated ward-level vote returns for the 2020 Presidential race to determine the partisan leanings of the executive council districts they are constituted in the map recently passed by the New Hampshire Senate. Notice that the existing map was enacted by a previous GOP majority ten years ago following decennial redistricting.

In sum, three significant conclusions emerge from our analysis of the proposed map:

- Democratic voters are heavily concentrated within a single district, District 2.
- The boundary of District 2 bypasses nearby wards in favor of more distant wards, resulting in a high concentration of democratic voters.
- The boundary of District 1 bypasses nearby wards in favor of more distant wards, reducing the number of democratic voters in District 3.

INSTITUTIONAL CONTEXT

To preserve some of the Republic's most fundamental principles, New Hampshire's state constitution requires that its legislature revisit its Executive Council boundaries on a ten-year basis, after each decennial Census. Following a decade of significant population growth between 2020 and 2010 – especially in southern areas of the state – New Hampshire's state legislature has been tasked with passing a plan that preserves the established democratic principle of “one person-one vote.”

Significantly, the legislature's decennial map-making is constitutionally constrained to respect the municipal boundaries of the state's constituent townships – i.e., it is enjoined from drawing senate lines that bisect town or city ward boundaries.

ANALYSIS

Methodology

The standard metric used to quantify a party's support in a particular district is a concept known as "partisan lean" (PL). In the present context, we compute the PL of a (current or proposed) executive council district by comparing precisely how well the GOP fared in the focal district during the most recent Presidential contest minus the Party's performance in the US as whole.

In 2020, for instance, Donald Trump (R) won 47.7% of all votes cast for one of the two major parties in the US. In New Hampshire's five current executive districts, however, Trump's (R) two-party vote share was 46.3%, 47.5%, 44.2%, 52.1%, and 43.7%, respectively. The PL of the executive council districts were thus D+1.4, D+2.4, D+3.5, R+4.4, and D+4. The executive council districts, in other words, were generally competitive and, like the Granite State itself, relatively centrist.

It is worth noting that there are a variety of alternative ways one might choose to compute partisan lean – for example, by measuring GOP (or Democratic) support using vote shares in down-ballot state or federal contests, or (since New Hampshire has a partisan voter registry) using the proportion of registrants in the focal district who identify as Republicans. These alternatives are not without logical merit.

Nevertheless, we eschew down-ballot contests because local idiosyncrasies among the state's 24 elections (e.g., a political scandal or candidate's death during the campaign) would provide a distorted view of the parties' strength in that district. One adverse consequence of this choice is that, though we may capture the relative strength of GOP support, we may understate GOP support insofar as (1) the Republican Presidential standard-bearer in 2020 (Donald J. Trump) was comparatively unpopular and (2) Republicans do better relative to Democrats in down-ballot races compared to more prominent ones. These observations are in fact strong possibilities but tend to make our estimates more conservative.

We focus on vote shares rather than the partisan composition of the voter registration rolls because, if one looks at the population of registered voters at any given time, one is almost certainly going to find a biased sample of the general population that overstates the GOP vote to some degree. This follows from the notion that the citizens most likely to be on the roll at any given time are more apt to be residentially stable. Democrats, traditionally mobilize to get out their vote with registration drives – a phenomenon which may be exacerbated by New Hampshire's move to Election Day registration (EDR).

Democratic voters are heavily concentrated within District 2

As Figure 1 illustrates, the recently passed executive council map creates a District 2 that is highly concentrated with democratic voters. District 2 leans 9.9 points more democratic than New Hampshire as a whole. This results in adjacent districts (4 and 5, specifically) having fewer democratic voters, which will likely favor republican electoral fortunes.

The boundary of District 2 bypasses nearby wards in favor of more distant wards, resulting in a high concentration of democratic voters.

Figure 2 clearly demonstrates that the boundary of District 2 navigates around nearby GOP leaning wards to include more distant democratic leaning wards. For example, the southeastern boundary circumvents eight GOP leaning towns (Goshen, Lempster, Washington, Stoddard, Hillsborough, Windsor, Antrim, Bennington) with a combined population of 14,833 to encapsulate

nine democratic leaning towns (Sullivan, Roxbury, Marlborough, Nelson, Harrisville, Dublin, Hancock, Peterborough, and Sharon) with a nearly equal population (14,627) that lie further from the district's geographic center.

The boundary of District 1 bypasses nearby wards in favor of more distant wards, reducing the number of democratic voters in district 3.

As shown in Figure 2, District 1 follows a serpentine path into the southeast portion of the state, bypassing more northerly towns. The resulting districts split the City of Portsmouth from its democratic leaning neighbors along routes 4 and 16 (Durham, Madbury, Dover, and Somersworth) and establishes GOP leaning districts in District 1 and District 3.

CONCLUSION

The recently passed New Hampshire executive council map establishes districts that are likely to reduce the ability of democratic leaning voters to elect their favored candidates in Districts 1, 3, 4, and 5, while heavily concentrating democratic voters in District 2. The line drawing process appears to have prioritized partisan leanings over other redistricting criteria (e.g. following established boundaries, creating compact districts).

Figure 1: Partisan Lean by District – Executive Council districts as passed by the New Hampshire Senate on March 22, 2022

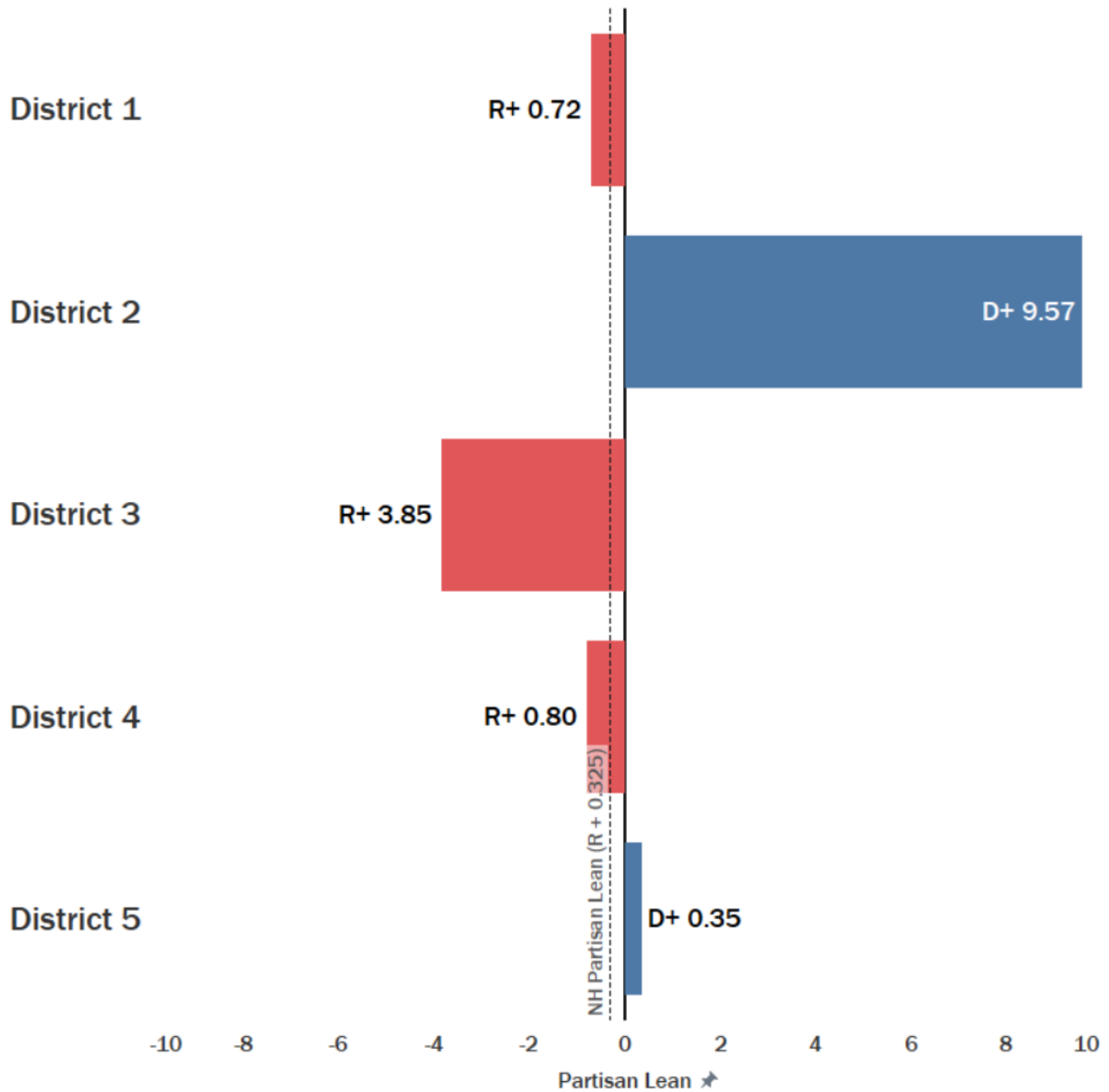
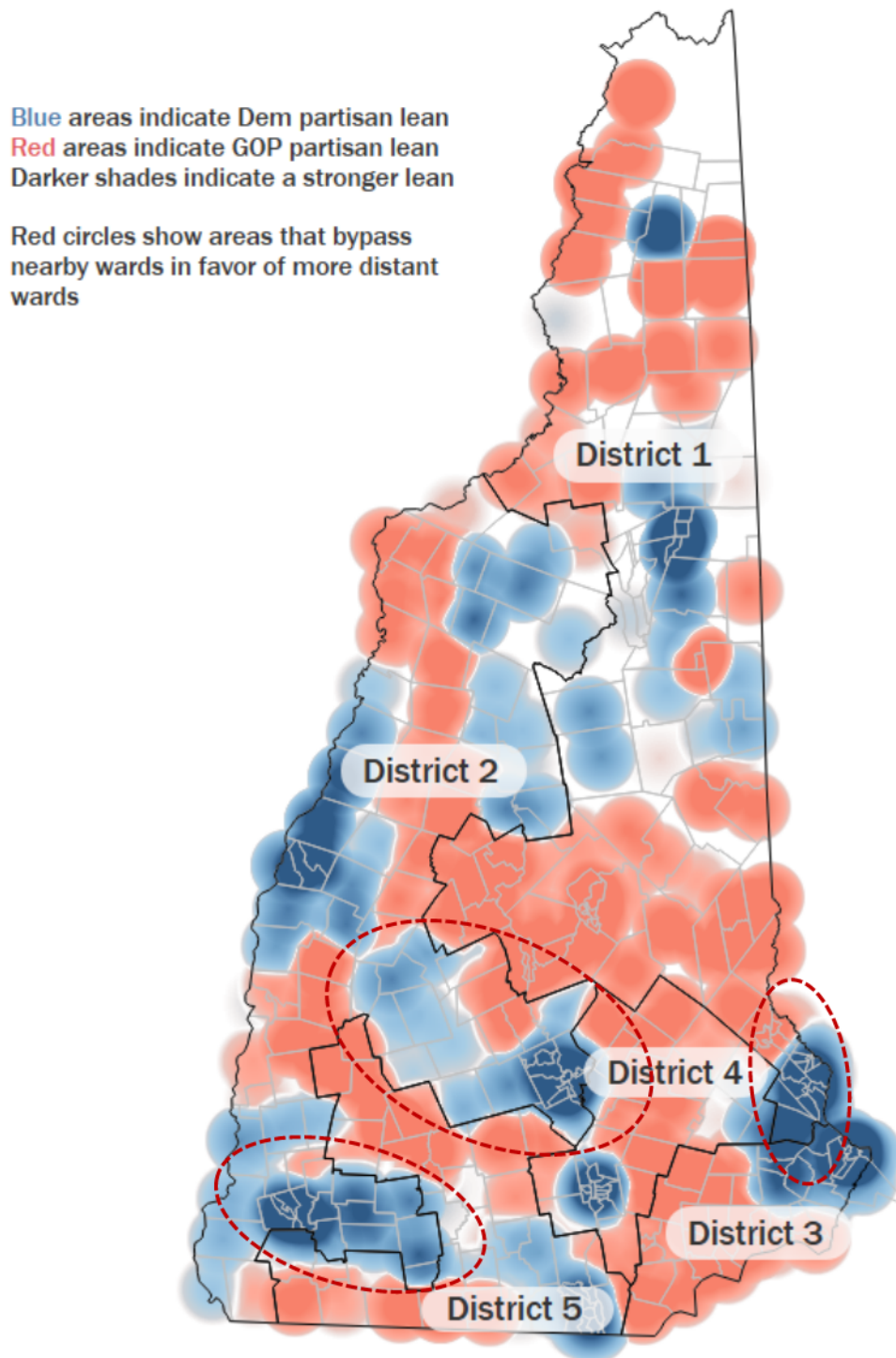


Figure 2: Partisan Lean overlayed on Executive Council District Map



State of New Hampshire - General Election			
Executive Council - District No. 1			
November 8, 2022	Joseph D. Kenney, r	Dana S. Hilliard, d	Scatter
Albany	164	184	0
Alexandria	511	308	0
Alton	2,059	1,052	0
Atkinson & Gilm Academy Gt	0	0	0
Bartlett	751	1,022	0
Bean's Grant	0	0	0
Bean's Purchase	0	0	0
Belmont	1,934	1,130	1
Berlin	1586	1314	1
Bridgewater	422	277	1
Bristol	837	663	1
Brookfield	297	167	0
Cambridge	2	-	0
Center Harbor	368	288	0
Chandler's Purchase	0	0	0
Chatham	107	82	0
Clarksville	103	50	0
Colebrook	616	244	0
Columbia	220	78	0
Conway	1,987	2,281	1
Crawford's Purchase	0	0	0
Cutt's Grant	0	0	0
Dalton	268	179	0
Danbury	356	231	0
Dix's Grant	0	0	0
Dixville	4	1	0
Dover Ward 1	577	1,771	3
Dover Ward 2	620	1,718	0
Dover Ward 3	1,104	1,796	2
Dover Ward 4	898	1,711	1
Dover Ward 5	739	1,368	0
Dover Ward 6	943	1354	2
Dummer	87	40	0
Durham	1200	4548	3
Eaton	106	154	1
Effingham	458	268	1
Errol	128	46	0
Erving's Location	0	0	0
Farmington	1,473	979	4
Franklin Ward 1	615	443	2
Franklin Ward 2	418	308	1
Franklin Ward 3	679	558	1
Freedom	537	396	0
Gilford	2,323	1,733	0
Gilmanton	1,204	779	2
Gorham	660	605	2

State of New Hampshire - General Election			
Executive Council - District No. 1			
November 8, 2022	Joseph D. Kenney, r	Dana S. Hilliard, d	Scatter
Green's Grant	0	1	0
Hadley's Purchase	0	0	0
Hale's Location	82	40	0
Hart's Location	22	15	0
Hebron	257	190	0
Hill	325	177	1
Jackson	238	452	0
Jefferson	362	169	0
Kilkenny	0	0	0
Laconia Ward 1	937	654	1
Laconia Ward 2	495	445	0
Laconia Ward 3	529	596	0
Laconia Ward 4	489	392	0
Laconia Ward 5	472	354	2
Laconia Ward 6	908	522	0
Lancaster	741	525	0
Livermore	0	0	0
Low & Burbank's Grant	0	0	0
Madbury	391	621	0
Madison	669	701	1
Martins' Location	0	0	0
Meredith	2,003	1,531	1
Middleton	550	240	0
Milan	367	230	0
Millsfield	16	2	0
Milton	1,207	676	1
Moultonborough	1,896	1,168	1
New Durham	955	540	0
New Hampton	750	535	1
Northfield	1,036	839	1
Northumberland	505	232	0
Odell	0	0	0
Ossipee	1,271	683	0
Pinkham's Grant	1	0	0
Pittsburg	358	105	0
Randolph	84	149	0
Rochester Ward 1	1,181	1,144	0
Rochester Ward 2	1,100	1,026	3
Rochester Ward 3	1,152	890	0
Rochester Ward 4	972	962	4
Rochester Ward 5	1,111	967	3
Rochester Ward 6	871	900	1
Rollinsford	571	779	0
Sanbornton	981	697	0
Sandwich	370	625	0
Sargent's Purchase	0	0	0

State of New Hampshire - General Election			
Executive Council - District No. 1			
November 8, 2022	Joseph D. Kenney, r	Dana S. Hilliard, d	Scatter
Second College Grant	0	0	0
Shelburne	131	86	0
Somersworth Ward 1	472	673	0
Somersworth Ward 2	376	486	0
Somersworth Ward 3	363	477	0
Somersworth Ward 4	369	698	0
Somersworth Ward 5	217	401	0
Stark	182	69	0
Stewartstown	246	48	1
Stratford	137	100	0
Success	0	0	0
Tamworth	717	668	1
Thompson & Meserve's Pur	0	0	0
Tilton	817	676	1
Tuftonboro	933	616	1
Wakefield	1,771	791	0
Waterville Valley	168	183	0
Wentworth's Location	15	4	0
Whitefield	576	474	0
Wolfeboro	2,154	1,710	1
Totals	63,230	59,060	56

State of New Hampshire - General Election			
Executive Council - District No. 2			
November 8, 2022	Harold F. French, r	Cinde Warmington, d	Scatter
Acworth	217	239	0
Alstead	393	513	0
Andover	585	602	2
Ashland	478	443	2
Bath	282	198	0
Benton	114	62	0
Bethlehem	517	825	4
Boscawen	816	637	3
Bow	1,905	2,429	0
Bradford	441	440	0
Campton	819	845	3
Canaan	672	876	0
Canterbury	630	798	1
Carroll	233	183	0
Chesterfield	838	1,063	0
Charlestown	975	798	1
Claremont Ward 1	523	593	0
Claremont Ward 2	809	818	0
Claremont Ward 3	747	642	0
Concord Ward 1	700	1,077	0
Concord Ward 2	645	968	3
Concord Ward 3	371	628	0
Concord Ward 4	508	1,301	1
Concord Ward 5	612	1,763	3
Concord Ward 6	459	1,005	1
Concord Ward 7	710	1,620	1
Concord Ward 8	698	1,015	0
Concord Ward 9	537	992	0
Concord Ward 10	929	1,492	0
Cornish	395	524	1
Croydon	283	144	0
Dorchester	93	85	0
Dublin	364	541	0
Easton	59	148	0
Ellsworth	30	31	0
Enfield	789	1,373	0
Franconia	242	441	1
Gilsum	195	193	0
Grafton	358	244	0
Grantham	678	1,370	0
Groton	194	112	0
Hancock	364	773	0
Hanover	746	4,662	3
Harrisville	168	460	0
Haverhill	996	659	0
Henniker	895	1,146	3
Hinsdale	588	682	0
Holderness	500	681	1

State of New Hampshire - General Election			
Executive Council - District No. 2			
November 8, 2022	Harold F. French, r	Cinde Warmington, d	Scatter
Hopkinton	1,298	2,110	4
Keene Ward 1	335	1,063	2
Keene Ward 2	513	1,386	0
Keene Ward 3	550	1,273	0
Keene Ward 4	603	1,265	0
Keene Ward 5	648	1,486	0
Landaff	134	76	0
Langdon	173	145	0
Lebanon Ward 1	476	1,498	3
Lebanon Ward 2	485	1,502	2
Lebanon Ward 3	517	1,530	1
Lincoln	328	365	0
Lisbon	339	249	1
Littleton	1,281	1,111	3
Lyman	189	130	0
Lyme	184	860	0
Marlborough	326	640	0
Marlow	172	186	0
Monroe	252	151	0
Nelson	134	221	0
New London	982	1,643	0
Newbury	663	686	0
Newport	1,313	938	0
Orange	78	70	0
Orford	215	418	1
Peterborough	1,032	2,429	4
Piermont	181	167	1
Plainfield	424	900	1
Plymouth	773	1,453	6
Roxbury	34	72	0
Rumney	474	308	0
Salisbury	463	291	0
Sharon	105	124	2
Springfield	372	356	1
Sugar Hill	144	261	0
Sullivan	154	157	1
Sunapee	995	956	0
Surry	198	237	0
Sutton	525	588	0
Thornton	678	731	1
Unity	404	220	0
Walpole	685	1132	1
Warner	693	845	1
Warren	236	125	0
Webster	555	426	1
Wentworth	304	186	0
Westmoreland	366	519	0
Wilmot	330	468	0

State of New Hampshire - General Election			
Executive Council - District No. 2			
November 8, 2022	Harold F. French, r	Cinde Warmington, d	Scatter
Winchester	724	682	4
Woodstock	291	338	2
Totals	49,428	74,107	77

State of New Hampshire - General Election			
Executive Council - District No. 3			
November 8, 2022	Janet Stevens, r	Katherine Harake, d	Scatter
Atkinson	2,435	1,542	1
Brentwood	1,257	1116	0
Chester	1,649	998	2
Danville	1,348	721	1
Derry	6,462	5,033	0
East Kingston	800	564	0
Epping	2,015	1,423	0
Exeter	2,938	5,261	0
Fremont	1,505	807	1
Greenland	1,066	1,259	1
Hampstead	2,802	1,685	2
Hampton	4,450	4,582	4
Hampton Falls	793	595	0
Kensington	639	567	1
Kingston	1,871	1,211	3
New Castle	291	442	0
Newfields	484	570	1
Newington	296	231	0
Newmarket	1,647	2,937	5
Newton	1,352	871	1
North Hampton	1,283	1,445	2
Pelham	4,168	2,269	3
Plaistow	1,992	1,286	4
Portsmouth Ward 1	687	1,573	1
Portsmouth Ward 2	608	1,993	0
Portsmouth Ward 3	734	1,444	2
Portsmouth Ward 4	755	1,194	1
Portsmouth Ward 5	598	1,698	3
Raymond	2,804	1,618	4
Rye	1,636	2,001	4
Salem	7,791	4,687	19
Sandown	1,886	1,055	1
Seabrook	2,182	1,250	3
South Hampton	282	220	0
Stratham	2,000	2,499	3
Windham	4,392	2,859	10
Totals	69,898	61,506	83

State of New Hampshire - General Election			
Executive Council - District No. 4			
November 8, 2022	Ted Gatsas, r	Kevin J. Cavanaugh, d	Scatter
Allenstown	992	722	0
Auburn	1,943	1,153	5
Barnstead	1,402	786	2
Barrington	2,237	2,387	0
Bedford	6,049	5,257	3
Candia	1,462	800	4
Chichester	803	562	4
Deerfield	1,470	1,092	4
Epsom	1,408	863	2
Goffstown	4,075	3,499	6
Hooksett	3,499	3,075	10
Lee	815	1,521	0
Londonderry	6,414	5,248	6
Loudon	1,810	1,070	7
Manchester Ward 1	1,913	2,596	2
Manchester Ward 2	1,673	2,196	4
Manchester Ward 3	865	1,355	1
Manchester Ward 4	1,087	1,299	5
Manchester Ward 5	789	879	3
Manchester Ward 6	2,071	1,828	3
Manchester Ward 7	1,193	1,302	2
Manchester Ward 8	2,208	1,824	1
Manchester Ward 9	1,395	1,472	1
Manchester Ward 10	1,489	1,441	5
Manchester Ward 11	1,100	1,236	3
Manchester Ward 12	1,561	1,738	0
Northwood	1,167	977	4
Nottingham	1,479	1,409	3
Pembroke	1,589	1,613	3
Pittsfield	951	613	10
Strafford	1,214	1,045	1
Totals	58,123	52,858	104

State of New Hampshire - General Election			
Executive Council - District No. 5			
November 8, 2022	Dave Wheeler, r	Shoshanna Kelly, d	Scatter
Amherst	2,995	3,571	6
Antrim	680	585	1
Bennington	378	300	0
Brookline	1,538	1,334	0
Deering	581	321	1
Dunbarton	986	635	3
Fitzwilliam	603	504	0
Francestown	469	477	0
Goshen	245	107	0
Greenfield	422	387	0
Greenville	429	296	1
Hillsborough	1,344	1,071	0
Hollis	2,283	2,362	1
Hudson	5,952	4,091	2
Jaffrey	1,219	1,129	1
Lempster	363	199	0
Litchfield	2,382	1,633	2
Lyndeborough	487	433	0
Mason	482	272	0
Merrimack	6,447	5,989	0
Milford	3,468	3,343	0
Mont Vernon	712	761	0
Nashua Ward 1	2,206	2,483	0
Nashua Ward 2	1,831	2,281	0
Nashua Ward 3	1,336	1,793	0
Nashua Ward 4	657	990	0
Nashua Ward 5	2,280	2,485	0
Nashua Ward 6	1,282	1,504	0
Nashua Ward 7	1,282	1,491	0
Nashua Ward 8	1,399	2,233	0
Nashua Ward 9	1,870	2,166	0
New Boston	1,723	1,402	0
New Ipswich	1,779	618	1
Richmond	342	184	1
Rindge	1,775	1,000	1
Stoddard	369	317	0
Swanzey	1,551	1,432	0
Temple	386	397	0
Troy	474	321	0
Washington	381	261	0
Weare	2,654	1,544	2
Wilton	927	969	0
Windsor	75	21	0
Totals	61,044	55,692	23

New Hampshire - General Election			
State Senate District 1			
November 8, 2022	Carrie L. Gendreau, r	Edith Tucker, d	Scatter
Atkinson and Gilmanton Ac. Gt.	0	0	0
Bath	297	200	0
Benton	119	62	0
Berlin	1,533	1,394	3
Bethlehem	519	841	0
Cambridge	2	1	0
Carroll	227	193	1
Clarksville	106	50	1
Colebrook	581	294	0
Columbia	202	97	0
Dalton	253	196	2
Dix's Grant	0	0	0
Dixville	2	3	0
Dummer	83	46	0
Easton	64	147	0
Ellsworth	31	29	0
Errol	120	56	0
Erving's Location	0	0	0
Franconia	243	447	0
Gorham	621	651	2
Haverhill	1,063	634	0
Jefferson	341	198	1
Kilkenny	0	0	0
Lancaster	695	580	1
Landaff	137	81	0
Lisbon	353	244	2
Littleton	1,308	1,138	0
Low and Burbank's Grant	0	0	0
Lyman	189	135	0
Milan	350	254	0
Millsfield	13	4	0
Monroe	256	162	0
Northumberland	434	309	0
Odell	0	0	0
Piermont	181	175	0
Pittsburg	337	122	1
Randolph	69	168	0
Rumney	472	322	0
Second College Grant	0	0	0
Shelburne	123	98	0
Stark	176	76	0
Stewartstown	232	71	0
Stratford	124	118	0
Success	0	0	0
Sugar Hill	148	263	0
Warren	234	127	0
Wentworth's Location	14	4	0
Whitefield	550	528	2

New Hampshire - General Election			
State Senate District 1			
November 8, 2022	Carrie L. Gendreau, r	Edith Tucker, d	Scatter
Woodstock	310	337	0
Totals	13,112	10,855	

**New Hampshire - General Election
State Senate District 2**

November 8, 2022	Timothy Lang, r	Kate Miller, d	Scatter
Ashland	486	442	1
Belmont	1,993	1,080	3
Campton	828	852	4
Center Harbor	362	297	0
Gilford	2,346	1,708	2
Holderness	520	673	0
Laconia Ward 1	950	634	3
Laconia Ward 2	515	433	1
Laconia Ward 3	521	597	2
Laconia Ward 4	507	381	0
Laconia Ward 5	495	343	1
Laconia Ward 6	931	506	1
Meredith	1,989	1,570	5
New Hampton	758	530	1
Sanbornton	1,069	630	2
Sandwich	369	630	0
Thornton	682	732	1
Totals	15,321	12,038	27

New Hampshire - General Election			
State Senate District 3			
November 8, 2022	Jeb Bradley, r	Bill Marsh, d	Scatter
Albany	189	162	1
Bartlett	850	950	1
Bean's Grant	0	0	0
Bean's Purchase	0	0	0
Brookfield	297	179	1
Chandler's Purchase	0	0	0
Chatham	110	79	0
Conway	2,120	2,188	9
Crawford's Purchase	0	0	0
Cutt's Grant	0	0	0
Eaton	119	148	0
Effingham	473	266	0
Freedom	574	366	1
Green's Grant	0	1	0
Hadley's Purchase	0	0	0
Hale's Location	84	38	0
Hart's Location	23	15	0
Jackson	280	426	0
Lincoln	366	337	0
Livermore	0	0	0
Madison	729	657	1
Martin's Location	0	0	0
Middleton	558	229	0
Milton	1,267	633	3
Moultonborough	1,983	1,134	0
Ossipee	1,330	650	3
Pinkham's Grant	1	0	0
Sargent's Purchase	0	0	0
Tamworth	747	660	1
Thompson & Mes's Purchase	0	0	0
Tuftsboro	974	602	2
Wakefield	1,807	786	2
Waterville Valley	172	179	0
Wolfeboro	2,283	1,624	3
Totals	17,336	12,309	28

New Hampshire - General Election			
State Senate District 4			
November 8, 2022	Seamus Casey, r	David H. Watters, d	Scatter
Barrington	2,147	2,462	0
Dover Ward 1	546	1,816	2
Dover Ward 2	595	1,742	2
Dover Ward 3	1,088	1,830	2
Dover Ward 4	882	1,733	2
Dover Ward 5	716	1,393	0
Dover Ward 6	887	1,416	3
Rollinsford	555	793	0
Somersworth Ward 1	457	681	0
Somersworth Ward 2	376	472	0
Somersworth Ward 3	369	462	0
Somersworth Ward 4	372	684	0
Somersworth Ward 5	217	395	0
Totals	9,207	15,879	11

New Hampshire - General Election			
State Senate District 5			
November 8, 2022	John McIntyre, r	Suzanne M. Prentiss, d	Scatter
Canaan	695	875	0
Cornish	396	530	1
Dorchester	98	83	0
Enfield	812	1,370	16
Grantham	687	1,374	1
Groton	199	112	0
Hanover	833	4,631	6
Lebanon Ward 1	486	1,527	1
Lebanon Ward 2	505	1,504	0
Lebanon Ward 3	541	1,522	1
Lyme	204	850	0
New London	1,015	1,627	1
Orford	263	377	2
Plainfield	449	901	1
Plymouth	789	1,448	5
Springfield	383	355	1
Wentworth	301	183	0
Totals	8,656	19,269	36

New Hampshire - General Election			
State Senate District 6			
November 8, 2022	James P. Gray, r	Ruth Larson, d	Scatter
Alton	2,006	1,128	0
Gilmanton	1,195	815	1
Farmington	1,466	990	1
New Durham	940	561	1
Rochester Ward 1	1196	1137	4
Rochester Ward 2	1,123	1,023	2
Rochester Ward 3	1,159	891	2
Rochester Ward 4	962	973	3
Rochester Ward 5	1,031	955	2
Rochester Ward 6	893	899	3
Strafford	1,196	1062	1
Totals	13,167	10,434	20

New Hampshire - General Election State Senate District 7			
November 8, 2022	Daniel E. Innis, r	Richard A. Lobban, Jr., d	Scatter
Alexandria	520	301	0
Andover	595	588	2
Boscawen	797	631	4
Bradford	445	434	6
Bridgewater	412	288	0
Bristol	817	683	1
Danbury	354	211	3
Franklin Ward 1	635	408	4
Franklin Ward 2	431	295	4
Franklin Ward 3	710	512	0
Goshen	241	106	3
Grafton	353	245	0
Hebron	251	201	0
Henniker	924	1,118	5
Hill	330	167	0
Hillsborough	1,366	1,042	0
Newbury	707	646	0
Orange	82	67	0
Salisbury	469	283	0
Sutton	550	567	2
Tilton	843	630	0
Warner	694	838	0
Webster	544	427	0
Wilmot	343	458	0
Totals	13,413	11,146	34

New Hampshire - General Election			
State Senate District 8			
November 8, 2022	Ruth Ward, r	Charlene Marcotte Lovett, d	Scatter
Acworth	248	220	-
Antrim	675	589	-
Bennington	371	307	-
Charlestown	1,008	793	2
Claremont Ward 1	535	617	-
Claremont Ward 2	832	840	-
Claremont Ward 3	772	648	-
Croydon	298	134	-
Deering	594	315	2
Dunbarton	955	655	2
Fracestown	481	470	-
Gilsum	206	189	-
Langdon	181	139	-
Lempster	368	201	-
Marlow	185	179	-
Newport	1,400	893	-
Stoddard	378	315	1
Sunapee	1,053	950	2
Unity	416	227	-
Washington	405	256	-
Weare	2,643	1,563	1
Windsor	76	20	-
Totals	14,080	10,520	10

New Hampshire - General Election State Senate District 9			
November 8, 2022	Denise Ricciardi, r	Matthew McLaughlin, d	Scatter
Bedford	5,976	5,364	5
Fitzwilliam	610	502	-
Greenfield	418	397	-
Hinsdale	588	689	-
Jaffrey	1,171	1,186	3
Lyndeborough	500	424	1
Mont Vernon	699	765	-
New Boston	1,667	1,480	-
Richmond	332	191	-
Sharon	109	123	3
Temple	386	393	-
Troy	473	321	-
Winchester	758	675	2
Totals	13,687	12,510	14

New Hampshire - General Election			
State Senate District 10			
November 8, 2022	Sly Karasinski, r	Donovan Fenton, d	Scatter
Alstead	379	539	1
Chesterfield	819	1,096	1
Dublin	360	544	0
Hancock	359	740	0
Harrisville	165	466	0
Keene Ward 1	317	1,093	2
Keene Ward 2	477	1,444	1
Keene Ward 3	524	1,338	0
Keene Ward 4	567	1,344	1
Keene Ward 5	610	1,577	0
Marlborough	322	654	0
Nelson	124	232	0
Peterborough	1,006	2,446	7
Roxbury	36	69	0
Sullivan	152	156	2
Surry	184	259	0
Swanzey	1,447	1,583	0
Walpole	662	1,177	0
Westmoreland	350	548	0
Totals	8,860	17,305	15
State Senate District 11			
	Gary L. Daniels, r	Shannon E. Chandley, d	Scatter
Amherst	2,861	3,758	1
Merrimack	6,359	6,184	2
Milford	3,453	3,395	0
Wilton	918	983	0
Totals	13,591	14,320	

New Hampshire - General Election

State Senate District 12			
November 8, 2022	Kevin A. Avard, r	Melanie Levesque, d	Scatter
Brookline	1,449	1,456	1
Greenville	422	311	0
Hollis	2,249	2,436	1
Mason	467	289	0
Nashua Ward 1	2,182	2,533	
Nashua Ward 2	1,798	2,344	
Nashua Ward 5	2,250	2,564	
New Ipswich	1,741	662	1
Rindge	1,756	1,031	0
Totals	14,314	13,626	

State Senate District 13			
	Stephen Scaer, r	Cindy Rosenwald, d	Scatter
Nashua Ward 3	1211	1947	
Nashua Ward 4	627	1014	
Nashua Ward 6	1197	1569	
Nashua Ward 7	1199	1571	4
Nashua Ward 8	1340	2087	1
Nashua Ward 9	1745	2257	3
Totals	7,319	10,445	

New Hampshire - General Election			
State Senate District 14			
November 8, 2022	Sharon M. Carson, r	John Robinson, d	Scatter
Auburn	1,972	1,094	4
Hudson	5,979	4,039	4
Londonderry	6,680	5,000	4
Totals	14,631	10,133	12

State Senate District 15			
	Linda Rae Banfill, r	Becky Whitley, d	Scatter
Bow	1,852	2,478	1
Concord Ward 1	690	1,084	-
Concord Ward 2	607	996	1
Concord Ward 3	365	632	1
Concord Ward 4	484	1,314	3
Concord Ward 5	595	1,782	3
Concord Ward 6	440	1,025	-
Concord Ward 7	686	1,633	1
Concord Ward 8	695	1,014	-
Concord Ward 9	543	983	-
Concord Ward 10	923	1,479	4
Hopkinton	1,191	2,205	5
Totals	9,071	16,625	19

State Senate District 16			
	Keith Murphy, r	June Trisciani, d	Scatter
Candia	1,458	799	1
Goffstown	3,927	3,570	6
Hooksett	3,548	2,982	7
Manchester Ward 1	1,774	2,671	6
Raymond	2,787	1,761	4
Totals	13,494	11,783	24

New Hampshire - General Election			
State Senate District 17			
November 8, 2022	Howard Pearl, r	Christine M. Tappan, d	Scatter
Allenstown	974	737	2
Barnstead	1,402	792	3
Canterbury	625	806	2
Chichester	821	555	1
Deerfield	1,469	1,086	3
Epsom	1,415	862	-
Loudon	1,873	1,034	6
Northfield	1,111	781	1
Northwood	1,159	1,001	2
Nottingham	1,465	1,427	4
Pembroke	1,590	1,615	3
Pittsfield	974	615	5
Totals	14,878	11,311	32

State Senate District 18			
	George A. Lambert, r	Donna M. Soucy, d	Scatter
Litchfield	2,175	1,854	7
Manchester Ward 5	696	977	3
Manchester Ward 6	1,841	2,041	9
Manchester Ward 7	1,061	1,431	-
Manchester Ward 8	2,007	2,015	6
Manchester Ward 9	1,235	1,602	1
Totals	9,015	9,920	26

New Hampshire - General Election State Senate District 19			
November 8, 2022	Regina Birdsell, r		Scatter
Derry	7,111		0
Hampstead	3,111		12
Windham	4,921		98
Totals	15,143		110

State Senate District 20			
	Richard H. Girard, r	Lou D'Allesandro, d	Scatter
Manchester Ward 2	1,578	2,258	8
Manchester Ward 3	781	1,427	2
Manchester Ward 4	1,027	1,371	1
Manchester Ward 10	1,331	1,608	8
Manchester Ward 11	993	1,354	2
Manchester Ward 12	1,462	1,841	4
Totals	7,172	9,859	25

State Senate District 21			
		Rebecca Perkins Kwoka, d	Scatter
Durham		4,729	33
Lee		1,610	31
Madbury		664	4
New Castle		484	10
Newfields		608	6
Newington		261	2
Newmarket		3,193	21
Portsmouth Ward 1		1,726	13
Portsmouth Ward 2		2,119	16
Portsmouth Ward 3		1,572	34
Portsmouth Ward 4		1,305	42
Portsmouth Ward 5		1,813	19
Totals		20,084	231

New Hampshire - General Election			
State Senate District 22			
November 8, 2022	Daryl Abbas, r	Wayne Haubner, d	Scatter
Atkinson	2,443	1,571	3
Pelham	4,208	2,321	2
Plaistow	2,014	1,292	3
Salem	7,957	4,743	12
TOTALS	16,622	9,927	20

State Senate District 23			
	Bill Gannon, r	Brenda Oldak, d	Scatter
Brentwood	1,251	1,147	-
Chester	1,673	1,024	1
Danville	1,366	736	1
East Kingston	789	597	-
Epping	2,049	1,441	-
Fremont	1,518	831	4
Kensington	627	602	1
Kingston	1,913	1,215	-
Newton	1,353	894	2
Sandown	1,933	1,054	3
Seabrook	2,162	1,279	3
South Hampton	268	244	-
Totals	16,902	11,064	15

State Senate District 24				
	Lou Gargiulo, r	Recount	Debra Altschiller, d	Recount
Exeter	2,908	2,915	5,408	5,425
Greenland	1,060	1,060	1,312	1,312
Hampton	4,649	4,654	4,513	4,521
Hampton Falls	821	824	598	597
North Hampton	1,299	1,300	1,480	1,482
Rye	1,619	1,623	2,036	2,037
Stratham*	1,930	1,932	2,622	2,646
Totals	14,286	14,308	17,969	18,020

*correction received from clerk