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**Political Reform in US States:
Governors, Legislators, and Struggles over
Election Redistricting Law Reform**

A thesis
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Abstract

In the United States, the decentralization of power over redistricting to the states has prevented the emergence of a national compromise between the major political parties to mutually reject election manipulation through gerrymandering. A confusing patchwork of redistricting regimes exist across the US, with significant variations between states in their gerrymandering practices and attempted anti-gerrymandering constraints. State legislators and parties typically cling tenaciously to their authority over redistricting in order to protect their own electoral interests, including through gerrymandering when possible. But in a quarter of US states, legislators have agreed to reduce their own redistricting powers in some way, for example, by delegation to a commission or executive officers. This research investigates why. Why has election redistricting law reform been enacted by some US state legislatures and not others, and under what conditions do legislators give up some of their powers over redistricting?

The chief original contribution of this thesis is the development of a new index to systematically measure and compare the redistricting systems of US states, as an alternative to simple arbitrary categorizations. System information has been collected inductively through analysis of all state constitutions, laws, and practices relevant to redistricting, and coded for all states to create a ten-point index of redistricting neutrality. This institutional and input-based approach complements the map-focused and output-based approach to gerrymandering detection popular in political science, such as the efficiency gap statistical test of Stephanopoulos and McGhee (2015) that was recently rejected by the US Supreme Court. Hypotheses have been methodically tested against the redistricting neutrality index and the key finding is that the variables normally used to explain inter-state political

differences fail to explain variation in the redistricting index. Reform is not exclusive to small states, or rich states, or liberal states, or white states, or rural states, or Democratic states. An additional contribution of the thesis is a small expansion in our knowledge of redistricting system history, through brief case studies that examine political struggles over specific reforms in individual states.

The core argument of this research is that two factors most plausibly answer the research questions. First, gubernatorial leadership. Strong support from the governor is a necessary condition for reform in nearly all cases, as a means of herding legislative cats to a common purpose. This is true of most state policy areas and it is true of political reform as well. Second, strategic windows of opportunity are essential for providing leverage for leaders and reformers to persuade legislators to prioritize redistricting reform over their other interests. For example, perceived meddling by courts, ballot initiative threats, and concerns about future election losses can temporarily boost legislator support for reform, if a policy entrepreneur has done the work and is prepared to seize a rare opportunity when it arises. Gerrymandering does not harm individuals directly (as does denial of the right to vote) but rather indirectly through a distortion of democratic representation and the balance of political power, so reform coalitions struggle to mobilize public opinion about redistricting or to sustain issue salience. For states to reform redistricting, they need pro-reform governors and favourable contingent factors to help sway legislators.

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Table of Contents

Abstract.....	ii
Acknowledgments.....	iv
Table of Contents.....	v
List of Figures.....	viii
List of Tables.....	xi
Glossary.....	xiii
CHAPTER 1 Introduction: A Politician’s Dream, A Voter’s Nightmare.....	1
1.0 Research Problem.....	1
1.1 Significance of the Topic.....	5
1.2 Existing Research.....	11
1.3 Theoretical Framework.....	22
1.3.1 Policy Change.....	22
1.3.2 Democracy and the State.....	31
1.3.3 Interests, Institutions, and Ideas.....	34
1.4 Research Methods.....	39
1.4.1 Quantitative Analysis.....	40
1.4.2 Case Studies.....	44
1.5 Summary.....	49
CHAPTER 2 Discussion of Hypotheses: “What Makes Things Happen”.....	50
2.0 Introduction.....	50
2.1 Political Leadership.....	52
2.1.1 Presidents.....	52
2.1.2 Political Context.....	60
2.1.3 Governors.....	64
2.1.4 Legislative Leaders.....	75
2.1.5 Congress.....	77
2.2 Legislatures.....	80
2.2.1 Legislatures and Courts.....	81
2.2.2 Legislatures and Ballot Measures.....	85
2.2.3 Legislatures and Ideas.....	88
2.3 Political Influences.....	91
2.3.1 Public Opinion.....	92
2.3.2 Interest Groups.....	95
2.3.3 News Media.....	99
2.4 Political Parties.....	103
2.4.1 Temporary Minority Power.....	103
2.4.2 Competitiveness.....	105
2.4.3 Polarization.....	106
2.4.4 Democratic Party Control.....	108
2.5 State Institutional Features.....	110
2.5.1 Gubernatorial Power.....	110
2.5.2 Legislature Type.....	114

2.6	State Demographic Features.....	116
2.6.1	Population Size	117
2.6.2	Racial Homogeneity.....	119
2.6.3	Political Culture	121
2.6.4	Political Ideology	126
2.7	Summary	128
CHAPTER 3 Electoral Math: Comparing the Fifty States		133
3.0	Introduction	133
3.1	Creating The Index	135
3.1.1	Use and Justification of Indexes	135
3.1.2	Discussion of Concepts.....	138
3.1.3	Index Construction.....	145
3.1.4	Redistricting Neutrality Index (RNI)	160
3.1.5	Limitations	168
3.2	Checking the Index.....	169
3.2.1	Efficiency Gap Check	173
3.3	Analysis of Demographic Features	182
3.3.1	State Population	185
3.3.2	State Racial Homogeneity.....	191
3.3.3	State Geography and Culture	197
3.3.4	State Political Ideology	204
3.4	Analysis of Institutional Features.....	210
3.4.1	Governors.....	211
3.4.2	Legislatures	218
3.5	Analysis of Political Parties	224
3.5.1	Democratic Party Control	225
3.5.2	Polarization	230
3.5.3	Competitiveness.....	234
3.6	Summary	238
CHAPTER 4 Stories of Success and Failure		242
4.0	Introduction	242
4.1	Texas	243
4.2	Maine.....	249
4.3	Iowa.....	257
4.4	Montana.....	266
4.5	Idaho.....	271
4.6	New Jersey	279
4.7	Alaska.....	284
4.8	Oklahoma	290
4.9	California.....	295
4.10	New Hampshire.....	304
4.11	Summary	308
CHAPTER 5 Conclusions: Democracy and America		311
5.0	Findings and Arguments	311
5.1	Theoretical Implications.....	316
5.2	Relevance	320

5.2.1	2020s Redistricting	320
5.2.2	The Republican Party and Democracy	322
5.3	Further Research	324
5.3.1	Improvements	325
5.3.2	Extensions.....	326
5.4	Conclusion.....	330
References.....		332
Cases cited.....		389
Appendices.....		390
Appendix A: Data on state redistricting regimes		390
Appendix B: State ideology scores		445
Appendix C: State legislative professionalism scores		447

List of Figures

Figure 1: State Redistricting Reform Status and Origin	4
Figure 2: Examples of Majority-Minority Congressional Districts	16
Figure 3: Incrementalism Versus Punctuated Equilibrium.....	26
Figure 4: Case Studies Case Selection.....	48
Figure 5: Number of States Per Cycle Where Courts Drew Legislative Maps	84
Figure 6: Ballot Initiative States	85
Figure 7: National Survey On Who Should Control Redistricting.....	95
Figure 8: Gubernatorial Term Limits.....	111
Figure 9: Institutional Powers of Governors.....	113
Figure 10: State Legislature Types	114
Figure 11: State Size As Measured by US House of Representatives Seats (2012-2020)	117
Figure 12: Voting Rights Act Section 5 Pre-clearance States	120
Figure 13: Elazar’s State Political Cultures	123
Figure 14: Redistricting Process and Categories	148
Figure 15: Comparing State RNI Scores for State Legislature and Congress	167
Figure 16: Variation Between the State Legislative and Congressional RNI Scores	169
Figure 17: RNI Comparison With Efficiency Gap for Congressional Districts	180
Figure 18: RNI Comparison With Efficiency Gap for Congressional Districts Annotated ..	180
Figure 19: Biden 2020 Vote Versus African-American Population Proportion.....	183
Figure 20: Biden 2020 Vote Versus Moderate/Liberal Population Proportion	184
Figure 21: US States in Quintiles Ranked by Total Population.....	185
Figure 22: RNI Comparison With State Population Size (Millions).....	186
Figure 23: RNI Comparison With State Population Size (Millions) (CA Omitted).....	187
Figure 24: RNI Comparison With Number of US House Seats Per State	189

Figure 25: RNI Comparison With Number of US House Seats Per State (CA Omitted).....	189
Figure 26: RNI Comparison With State Population Density (People Per Square Mile)	190
Figure 27: US States and African-American Population Proportion.....	192
Figure 28: RNI Comparison With State African-American Population Percentage	193
Figure 29: US States and Hispanic & Latino Population Proportion	194
Figure 30: RNI Comparison With State Hispanic & Latino Population Percentage	195
Figure 31: RNI Comparison With Majority-Minority Proportion of Congress Districts	196
Figure 32: Four US Regions Defined by the Census Bureau	198
Figure 33: Ten US Regions Defined by the Office of Management and Budget	198
Figure 34: OMB Regional Means Compared to the National Mean	202
Figure 35: RNI Comparison With State GDP Per Capita.....	203
Figure 36: RNI Comparison With State Ideology Measured by NOMINATE Scores.....	206
Figure 37: RNI Comparison With State Legislature Median Ideology	207
Figure 38: RNI Comparison With State Voter Ideology – Percentage of Liberals	208
Figure 39: RNI Comparison With State Voter Ideology – Percentage of Conservatives.....	209
Figure 40: RNI Rank Comparison with State Policy Liberalism Rank.....	210
Figure 41: RNI Comparison with Gubernatorial Institutional-Powers Index (2018).....	211
Figure 42: RNI Comparison with Gubernatorial Institutional-Powers Index (2021).....	212
Figure 43: RNI Comparison with Gubernatorial Combined Power Index (1968).....	213
Figure 44: RNI Rank Comparison with Beyle Gubernatorial Index Rank.....	214
Figure 45: RNI Comparison with Gubernatorial Powers Index (1985).....	216
Figure 46: RNI Rank Comparison with Mueller Gubernatorial Index Rank.....	216
Figure 47: RNI Comparison with Squire Index of Legislative Professionalism (2017).....	218
Figure 48: RNI Rank Comparison with Squire Index Rank (2017)	219
Figure 49: RNI Comparison with Squire Index of Legislative Professionalism (1992).....	221

Figure 50: Map of Five Types of State Legislatures.....	222
Figure 51: RNI Comparison with Mooney Index of Legislative Leader Powers (2013)	224
Figure 52: RNI Comparison With % Time Under Democratic Governors (2001-2020)	225
Figure 53: RNI Comparison With % Time Under Democratic Governors (1971-2020)	226
Figure 54: RNI Comparison With Proportion of Time With Democratic State Legislature .	227
Figure 55: RNI Comparison With Proportion of Time With A Divided State Legislature ...	228
Figure 56: RNI Comparison With State PVI (2021)	229
Figure 57: RNI Comparison With State House Polarization (2018)	231
Figure 58: RNI Comparison With State House Polarization (1993-2018)	231
Figure 59: RNI Comparison With Competitiveness (Pallay and Graves 2021)	234
Figure 60: RNI Comparison With Competitiveness (Holbrook and La Raja 2018).....	235
Figure 61: RNI Comparison With Competitiveness (Donovan, Mooney, and Smith (2013))	236
Figure 62: Map of Texas.....	244
Figure 63: Map of Maine	250
Figure 64: Map of Iowa	257
Figure 65: Map of Montana	267
Figure 66: Map of Idaho	271
Figure 67: Map of New Jersey.....	280
Figure 68: Map of Alaska	285
Figure 69: Map of Oklahoma.....	290
Figure 70: Map of California	296
Figure 71: Map of New Hampshire	305
Figure 72: Apportionment of US House Seats Per State	320

List of Tables

Table 1: Areas of Redistricting Scholarship	12
Table 2: Schneider and Ingram’s Typology of Social Groups	29
Table 3: Six Hypotheses	39
Table 4: Redistricting Index Scores for State Legislatures, 2021	42
Table 5: Case Studies Case Selection	48
Table 6: Hypotheses and Subhypotheses	51
Table 7: Greenstein’s Evaluation of Presidential Skills	56
Table 8: Barber’s Typology of Presidential Character	56
Table 9: Cycle of Liberal and Conservative Periods	61
Table 10: Skowronek’s Typology of Presidential Leadership.....	62
Table 11: State Legislature Regular Sessions – Months Per Year.....	68
Table 12: Comparing Elazar’s Three Political Cultures	124
Table 13: Subhypotheses and Data Sources	129
Table 14: Democracy Index Categories.....	139
Table 15: Construction of the Democracy Index.....	146
Table 16: Categories for Redistricting Index Based on State Data	147
Table 17: Index indicator values for redistricting system for the state legislature (2021)	160
Table 18: Index indicator values for redistricting system for Congress (2021)	162
Table 19: State Scores for the Redistricting Neutrality Indexes (2021)	163
Table 20: Example 1 of Efficiency Gap Calculation	173
Table 21: Example 2 of Efficiency Gap Calculation.....	174
Table 22: Example 3 of Efficiency Gap Calculation – Iowa in 2020.....	174
Table 23: Example 4 of Efficiency Gap Calculation – Iowa in 2012 to 2018.....	175
Table 24: RNI Comparison With the Efficiency Gap, for State Legislatures	177

Table 25: RNI Comparison With the Efficiency Gap, for Congress	179
Table 26: RNI Comparison With State African-American Population Percentage.....	193
Table 27: Comparing Census Bureau Regions and OMB Regions	199
Table 28: Redistricting Index Mean and Median Per Census Bureau Region	201
Table 29: Redistricting Index Mean and Median Per OMB Region	201
Table 30: Redistricting Index Mean and Median Per State Political Culture.....	204
Table 31: Top Ten and Bottom Ten States for Redistricting Index Rank with Beyle Rank .	215
Table 32: Top Ten and Bottom Ten States for Redistricting Index Rank with Squire Rank	220
Table 33: RNI Comparison with State Legislature Type Categories	222
Table 34: States with $RNI \geq 4.0$ and Polarization Values.....	232
Table 35: RNI Means for Election Competitiveness Categories	237
Table 36: Summary of Findings	239
Table 37: Single-Member Custom Election Districts for National Legislatures.....	327
Table 38: State Ideology Scores Calculated Using NOMINATE Data.....	445

Glossary

BEA	Bureau of Economic Analysis
CAWP	Center for American Women and Politics
CSG	Council of State Governments
DCCC	Democratic Congressional Campaign Committee
EG	Efficiency gap
EIU	Economist Intelligence Unit
FEC	Federal Election Commission
GDP	Gross Domestic Product
GOP	Grand Old Party, a nickname for the Republican Party
HRC	Human Rights Campaign
IPU	International Parliamentary Union
LCV	League of Conservation Voters
LWV	League of Women Voters
NCSC	National Center for State Courts
NCSL	National Conference of State Legislatures
NDRC	National Democratic Redistricting Committee
NGA	National Governors Association
NIMP	National Institute on Money in Politics
NOAA	National Oceanic and Atmospheric Administration
NOMINATE	Nominal Three-Step Estimation, a method for calculating legislator ideology
NRA	National Rifle Association
NRCC	National Republican Congressional Committee
OMB	Office of Management and Budget
PVI	Partisan voting index

RNI	Redistricting neutrality index
RSLC	Republican State Leadership Committee
VRA	Voting Rights Act of 1965

CHAPTER 1

Introduction: A Politician's Dream, A Voter's Nightmare

1.0 Research Problem

- Why has election redistricting law reform been enacted by some US state legislatures but not by others?
- Why and under what conditions do state legislators give up some of their powers over election redistricting?

Fair and impartial rules are essential to democratic elections, but efforts by legislators to engineer electoral rules to their own advantage are commonplace in the United States.

Gerrymandering – the manipulation of election district boundaries by politicians for partisan gain – is legally restricted by most of the world's democracies, but only by a small number of US states. Why has election redistricting law reform been enacted by some state legislatures but not by others? Given the strong incentives for American legislators to use gerrymandering to choose their own voters, why and under what conditions do they reduce some of their powers over election redistricting? These are the central questions examined in this research.

The ancient Romans recognized the general principle of *nemo iudex in causa sua*, that no one shall judge their own case, and this became an important concept in the common law in England and America (Fellmeth and Horwitz 2009, O'Brien 2013, Page 2015). James Madison argued in Federalist No. 10 that "No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity" (Madison 2009, 49). When the US Supreme Court debated gerrymandering in the

1980s, however, Justice Sandra Day O'Connor argued for a contrary norm. She believed politicians should be able to shape election districts, because they have a democratic obligation to maximize their party's political advantage, and went so far as to suggest that any legislator who failed to do this "ought to be impeached" (quoted in Dickson 2001, 866). In US election redistricting laws today, the politicized norm promoted by O'Connor prevails and Madison's neutral principle is seldom evident. In most states, politicians possess the dominant power in determining the shape of legislative election districts, thereby judging their own cause. Two American scholars lament that "voters are supposed to choose their representatives, but the flawed redistricting process in our nation too often allows representatives to choose their voters" (Mann and Ornstein 2011).

US state legislatures have always had the power to decide how to conduct their own elections (Keyssar 2000, 4). This power was inherited from British practice. By the 1500s, the House of Commons determined the rules for its own membership, including regulating its elections (Hawkyard 2017). Colonial assemblies in America exercised the same power over their elections, and this was subsequently incorporated into US state constitutions (Greene 1969, 344; Kromkowski 2002, 84-93). According to Alexander Hamilton in Federalist No. 59, three options were considered at the Constitutional Convention in 1787 for who should run federal elections: "it must either have been lodged wholly in the national legislature, or wholly in the State legislatures, or primarily in the latter and ultimately in the former" (Hamilton 2009, 301). The framers chose the third option, and thus the US Constitution largely delegates the conducting of federal elections to state governments. Article 1, Section 4, says:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

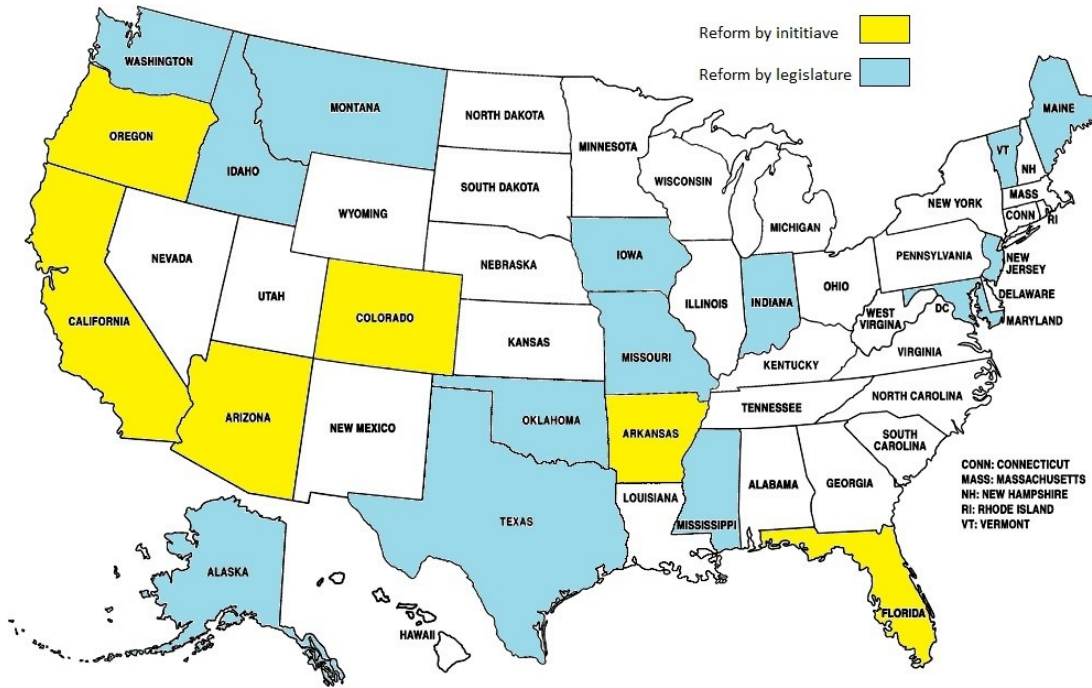
US state legislatures thus originally had (and in many places retain) primary control over the drawing and periodic redrawing of the boundaries of both its own state legislative districts and the congressional districts used to elect the US House of Representatives.

It is no mystery why state legislators today tend to cling tenaciously to their authority over redistricting, given the personal stake they have in its outcomes. As a general rule in politics, “no government is going to reform the system that put it into power” (Jay and Lynn 1988). Scholars have long argued that members of Congress are primarily motivated by the goal of re-election, and characterize politics as “a struggle among men to gain and maintain power” (Mayhew 1974, 6; Arnold 1990, 5). State legislators are no different, equally prioritizing re-election in order to retain power (Rosenthal 2009, 109). Squire and Moncrief (2010, 47) thus explain why redistricting reform is rare: “the likelihood of a majority party giving up the chance to enhance its future electoral prospects is very small.” What is curious, however, is that this position, although persistent and dominant, is no longer universal.

In a quarter of US states, legislators have given up some of their redistricting powers, to a smaller or greater extent. State legislatures which have voted to do this include those of Texas (1947), Vermont (1965), Indiana (1969), Maryland (1969), Maine (1975), Mississippi (1977), Iowa (1980), Missouri (1982), Washington (1982), Montana (1983), Idaho (1994), New Jersey (1995), Alaska (1998), Oklahoma (2009), Colorado (2018) and Virginia (2020) (see figure 1). System change has also been accomplished at state constitutional conventions, such as in Hawaii (1968) and Pennsylvania (1968) (Dixon and Hatheway 1969, 899; McLaughlin 2012, 31), or directly by voters, who bypass the legislature by initiating a measure by petition and then approving it at the ballot (Persily et al 2016). Arkansas (1936), Oregon (1952), Colorado (1974), Arizona (2000), California (2008, 2010), and Florida (2010) are among

those to successfully change their redistricting rules this way. However, overall, more reforms have come from legislatures than from conventions or ballot initiatives, and initiatives to reform redistricting are rejected by voters more often than they are adopted (Stephanopoulos 2007, 342). California voters, for example, adopted some reforms in 2008 only after having rejected them on four previous occasions in the past thirty years (Kousser 2006). State governments also find ways to resist, evade, sabotage, or reverse redistricting initiatives imposed upon them (Kam 2011, Schott 2018). For example, in 2020 a ballot initiative created by Missouri legislators reversed a redistricting reform adopted by voters in 2018, and in Florida the state legislature implemented an initiative reform insincerely (Wheeler 2020, Klas 2021). In addition, most unreformed US states today either have no ballot initiative system or have one where qualifying for the ballot is difficult (Bowler and Donovan 2004, 350). Bates (2005, 370) argues that “the spread of independent redistricting commissions to nonreferendum states is limited, however, by the very self-interested parties that the commissions seek to control: the state legislative majorities currently in control of the redistricting process.” State legislatures are thus the key forum for US redistricting system reform debates in the future (Scarow 2002, 58). This political reality focuses our attention on the puzzle of why state legislators would even consider – let alone enact – changes that reduce their power over the redistricting process and with it a measure of control over their own re-election chances.

Figure 1: State Redistricting Reform Status and Origin



Source: Figure created by author, partly based on data assembled by Levitt (2010).

1.1 Significance of the Topic

Investigating why election redistricting law reform has been enacted by some US state legislatures but not others, and why legislators agree to reduce their redistricting powers, is valuable for several reasons. First, gerrymandering is more prevalent in the US than any other democracy (Martinez i Coma and Lago 2018, 100). Redistricting laws remain unreformed in three-quarters of US states. A better understanding of the circumstances and causes of any kind of change in reformed states may provide lessons and insights that could be put to practical use elsewhere. Although a liberal federal judiciary imposed radical malapportionment¹ reforms upon the states in the 1960s, a conservative federal judiciary today is not going to replicate that for gerrymandering. The US Supreme Court ruled in 2019 that partisan “gerrymandering claims present political questions beyond the reach of the

¹ Malapportionment and gerrymandering are separate tools politicians may use to manipulate election districts. Malapportionment manipulates the *number of people* per district. A malapportionment example would be if one district had 50,000 people and another had 100,000 people (instead of both districts having ~75,000, which would be equal apportionment). Gerrymandering manipulates the *boundaries* of election districts, even where there is equal apportionment.

federal courts” and instead identified state-level reform as the appropriate vehicle for addressing gerrymandering problems (*Rucho v. Common Cause* 2019, 1, 5). Federal courts cannot be expected to solve state gerrymandering problems. *Rucho* “puts the question of partisan gerrymandering firmly in the hands of states” (Skowran 2020, 323). It is the responsibility of state legislatures (and state courts and state voters) to shape and determine redistricting system reform in the future.

Second, federal legislators cannot be relied upon to remedy gerrymandering by the states either. Congress today is overwhelmed, dysfunctional, and has a limited capacity to respond to national problems (LaPira, Drutman, and Kosar 2020). State legislatures are critical to congressional redistricting reform because of a political vacuum on the topic in Congress that has existed for decades. Congress has the power to regulate how states run federal elections. However, since the Reapportionment Act of 1929, Congress has imposed no conditions on the states that might be used to limit partisan gerrymandering of congressional districts.² All efforts to do so have failed. For example, in 1979, a US Senate committee held public hearings on a Congressional Anti-gerrymandering bill, but the bill did not even receive a floor vote (US Congress 1979). Similar legislation periodically introduced in subsequent Congresses has also never progressed. In 2019, the newly-elected Democratic majority in the US House of Representatives included a mandate requiring states to use independent redistricting commissions in H.R. 1, their flagship election reform bill, but this was opposed by Senate Republicans and then-Majority Leader Mitch McConnell (R-KY) accurately said of the bill: “That’s not going to go anywhere” (quoted in Jamerson 2018). In 2020, the Democratic Party narrowly won the trifecta of control of the US House, the US Senate, and the White House, but anti-gerrymandering legislation was not passed by either chamber in

² As discussed later, the Voting Rights Act of 1965 targets racial gerrymandering, but not partisan gerrymandering.

2021, and the chances of passage appear slim (Kilgore 2021, Lowell 2021). The persistent congressional vacuum on redistricting reform focuses our attention on the states instead.

Third, partisan gerrymandering has been a feature of American political life since the 18th century (Engstrom 2006, Hunter 2011, Martis 2008, Summers 2004, 125-138). However, in the last fifty years, it has steadily increased in practice and significance, due to several factors, including rapid technological progress, growing levels of national partisan polarization, activist and interest group pressure, and judicial indifference (Pildes 1997, Altman, MacDonald, and McDonald 2005, Newkirk 2017, Hopkins 2017, Wang and Remlinger 2017, Levy 2018). Karl Rove argues that “he who controls redistricting can control Congress” (quoted in Berman 2018). Partisan gerrymandering schemes also seem to be increasingly successful (Squire 1995, Daley 2016). For instance, Republican Party gerrymandering in key states was credited for the Democratic Party’s failure to win a House majority in the congressional elections of 2012, 2014, or 2016 (Jacobson 2013, Goedert 2014, Kondik 2013, 2015, 2017). The GOP openly boasted of being able “to erect a Republican firewall through the redistricting process that paved the way to Republicans retaining a U.S. House majority in 2012” (RSLC 2013, 1). The scale of the Democratic victory in winning control of the House in 2018 would have been greater if not for GOP gerrymandering in key states like Michigan, North Carolina, and Ohio (Savage 2018). A court’s abolition of a Republican congressional gerrymander in Pennsylvania helped Democrats gain three US House seats in that state in 2018 (Grofman and Cervas 2018, Johnson 2019). The impact of gerrymandering on the 2022 US congressional elections is already being debated. Berman (2021) argues that gerrymandering in just four states (Florida, Georgia, North Carolina, and Texas) will produce a House majority for Republicans. Historian David Walsh (2021) therefore worries that “with redistricting alone, the Democratic Party is all but guaranteed to

be wiped out in the midterms.” With the “gerrymandering wars” continuing to be waged vigorously (McClory 2001, 37), it is worth trying to better understand any occasional outbreaks of disarmament or détente that have ever occurred.

Fourth, gerrymandering is a bipartisan industry in the United States. Democrats and Republicans alike have gerrymandered whenever they thought they could get away with it. Republicans had more opportunity to gerrymander Congress after the 2010 census, because of patterns of partisan control of state legislatures, but it is not clear Democrats would have resisted the temptation had positions been reversed. For instance, Democrats did not hesitate to impose a congressional gerrymander in Maryland in 2011, in 2018 they tried to make partisan gerrymandering easier to accomplish in New Jersey, and in 2021 Illinois adopted a Democratic gerrymander of its state legislature (Andrews 2018, Friedman 2018, Nowlan 2021). Barack Obama and Eric Holder formed a non-profit group to promote redistricting reform, but primarily in places where it harms the Democratic Party. Their organization, the National Democratic Redistricting Committee (NDRC), calls itself “the centralized hub for executing a comprehensive redistricting strategy that shifts the redistricting power, creating fair districts where Democrats can compete” (NDRC 2018a). Redistricting reform can be seen as outside the normal domain of two-party competition over policy, and instead might be seen as belonging to the category of issues where many political elites of both parties tend to be on one side, and ordinary Americans plus reform activists are on the other side. A 2017 opinion poll reported that 71 per cent of Americans support reforms to end partisan gerrymandering (Lake and Stephenson 2017). In 2021, gerrymandering was described as “a major problem” by 74 percent of Democrats and 60 percent of Republicans in one poll, and 89 per cent of voters said they opposed gerrymandering in another poll (Kruzel 2021).

Fifth, election redistricting is just one example of many political reform and conflict-of-interest questions facing state legislatures (Rosenson 2005, Kusnetz 2015, Whyte and Foley 2017). How legislators decide to reform or not reform redistricting laws may illuminate their behaviour on other issues, from ethics laws to campaign finance to lobbying reform.

American democracy can be critiqued in many ways (Foley 2007, 88–93; Jacobs and King 2009), and some argue that “our highest priority going forward is to fix our broken political system” (Greenspan 2013, 302). We could have more confidence about the future health of the US political system if there were demonstrated viable ways for American legislatures to pursue systemic reforms, even when these challenge legislator self-interests.

Sixth, and finally, this research could contribute to political science knowledge of American exceptionalism and the quality of democracy. The United States is one of many democracies in the world to utilize a district-based electoral system. In a global context, however, the US has been much slower to adopt redistricting reforms compared to other countries, such as Australia, Britain, Canada, Germany, or New Zealand (Handley and Grofman 2008). There is a tremendous literature about the exceptionalism of the United States and its political development (for example, Hartz 1955, Lipset 1996, Shafer 1999, Wilson and Schuck 2008, Lockhart 2012, Taylor et al 2014). Redistricting is an issue empirically consistent with an American exceptionalism thesis. It may be useful to try to compare and reconcile the causes of America’s unusual unreformed redistricting with arguments that seek to explain its political or democratic exceptionalism more broadly. In particular, the role of US state governments in keeping America different from other democracies needs more examination (Mickey 2015). In addition, quality of democracy scholarship seeks to evaluate and compare how democratic practice can be measured, evaluated, and improved in different countries (O’Donnell, Cullell, and Iazzetta 2004, Diamond and Morlino 2005, Roberts 2009, Bühlmann

et al 2012). This research can be considered a focused application of the quality of democracy approach to the United States, a country which it tends to overlook (Stepan and Linz 2011).

“The emergence of democracy is less a settled accomplishment than a precarious achievement” (Levi et al 2008, 1). Democracy falters in many countries which adopt it (Mainwaring and Bizzarro 2019). The big picture for this research is that maintaining fair and effective election laws is an ongoing project for all democracies, which in turn shapes public support for democracy itself. Carothers (2015, 69) argues that:

Democracy’s travails in both the United States and Europe have greatly damaged the standing of democracy in the eyes of many people around the world. In the United States, dysfunctional political polarization, the surging role of money in politics, and distortions in representation due to gerrymandering are particular problems.

The subject of election redistricting law seldom arouses popular passions, for “the public has little knowledge or opinion concerning the redistricting process” (Fougere, Ansolabehere, and Persily 2010, 325). However, this is probably true of many modern political processes and institutions, and neither elite satisfaction with the status quo nor popular complacency can justify scholarly indifference. Some people seek to revitalize democratic political systems through the greater use of alternative mechanisms, such as forms of participatory or deliberative democracy (Della Porta 2013). This research instead focuses on the incremental reform of existing institutions, and, in particular, *democratic self-reform*, that is, evaluating the capacity of democratic countries, and especially of core democratic institutions such as legislatures, to identify, adapt, and self-correct their own deficiencies (Rijkema 2018, 134). Many Americans feel they are living through challenging political times, which is all the more reason to explore small practical steps for improving the US political system (Dionne, Ornstein, and Mann 2017). Improving democracy in America might also help to reverse the deteriorating view of democracy held by many people around the world (Carothers 2015).

Compared to other democracies, redistricting laws in the United States appear profoundly politicized and old-fashioned. Indeed, redistricting has been called “the most naked exercise of political power in the states” (Smith, Greenblatt, and Vaughn 2010, 249). But compared to America fifty or one-hundred years ago, a slow stream of legislative reform is evident. This thesis seeks to try to illuminate that stream in this research, to explain the variety of outcomes that have been experienced to date by different states, and to contribute to the “reform studies” subfield in political science (Cain 2007). In any country, democracy is an endless ongoing project made up of many parts, large and small (Tilly 2007, xi). Redistricting is a small but strategic piece of America’s political machinery. Its design, and the struggles in the states to redesign it, warrant more attention. Redistricting is now progress for districts for elections in 2022. There has never been a better time to reflect on what state legislatures were able to accomplish in the past, and how they did that, as we move forward into a period of heightened debate and conflict about gerrymandering and its reform in the United States.

1.2 Existing Research

There is a sizeable academic literature on election redistricting. Partly this is because of the subject’s potential political significance, as scholars readily recognize that “electoral districts profoundly affect the distribution of political power” (Morrill 1994, 135). Partly this is because the study of redistricting attracts the attention of researchers not just from political science, but also from law, geography, statistics, and other disciplines. And partly this is because real-life changes and conflict over redistricting – including periodic census-driven updates, legislative debates, court cases, and reform efforts – help fuel and sustain scholarly interest, in the same way that new elections provide fresh data and opportunities for analysis for electoral studies. The goals of this section are, first, to briefly outline the major areas of

focus of redistricting scholarship in general, and, second, to examine and review existing research that specifically concentrates on investigating and understanding redistricting law reform. (Existing research relevant to particular hypotheses for this thesis is mainly discussed in chapter 2.)

Table 1: Areas of Redistricting Scholarship

Areas	Examples
Redistricting map analysis	Evaluating specific maps or proposals, analysis of election results, prediction of expected effects
Redistricting process analysis	Explaining redistricting actions as they happen in the states, e.g. by legislatures, other bodies
Theories of redistricting	Discussing significance and impact on the political system, or on features such as polarization
Race and redistricting	Detection and regulation of racial gerrymandering, majority minority districts and their effect
Statistics and redistricting	Proposals to automate redistricting, statistical tests to detect gerrymandering or evaluate redistricting
Congress and redistricting	Debates about voting rights legislation
Courts and redistricting	Political and legal analysis of litigation in state and federal courts
Referendums and redistricting	State ballot measures and initiatives
The public and redistricting	Public opinion, public input and consultation, efforts to improve public participation in redistricting
Redistricting history	How and why the malapportionment era ended in the 1960s, origins of gerrymandering
Redistricting and local governments	City, country, and school district redistricting
Redistricting and other countries	Discussion of countries other than the US, international comparisons
Redistricting and reform	Ideas and proposals for systemic reform and their evaluation

Table 1 summarizes the major areas of scholarship with redistricting research. Empirical analysis of redistricting processes and outcomes are the largest areas of focus. Scholars here seek to explain how the game of redistricting has been played, to identify winners and losers in given situations, and to evaluate the consequences of redistricting outcomes on specific states, individuals, political parties, elections, and institutions. Examples include the work of Cain (1985), Schwab (1988), Campagna and Grofman (1990), Rush (1993), Cox and Katz

(2002), Hill (2002), Issacharoff (2002), Johnston (2002), Hirsch (2003), Carson and Crespino (2004), Galderisi (2005), Lublin and McDonald (2006), Winburn (2008), Grofman and Brunell (2010), Bullock (2010), Grainger (2010), Ansolabehere and Snyder (2012), and Altman and McDonald (2015). Some studies analyze redistricting processes or outcomes in one particular state. For example, Cirincione, Darling, and O'Rourke (2000) discuss South Carolina, Bullock (2010) has a case study of Georgia, and Herschlag et al (2020) examine North Carolina.

Theoretical discussions of redistricting can be divided into two types: research that concludes that gerrymandering or its effects are a significant problem, or research skeptical about gerrymandering's power or negative consequences. O'Neill (2006, 683) sums up the former view with his argument that "partisan gerrymandering is a political tradition that the United States can no longer afford." On the other hand, it must be acknowledged that not all political scientists agree that gerrymandering is a major problem, or that redistricting reform is worthwhile or desirable in the United States. For instance, Gelman and King (1994, 1996) defend the dominant status quo, which they refer to as "conflictual redistricting," arguing that its partisan conflict and compromise has significant benefits compared to more neutral alternatives. Persily (2002, 650) defends incumbent-protection gerrymandering, suggesting that although "partisan competition may suffer from bipartisan gerrymanders, representation may be the beneficiary." Kang (2005) distinguishes between "defensive" gerrymandering to protect incumbents and "offensive" partisan gerrymandering to wrest seats from the opposition party, and celebrates the latter as healthy in a democracy. Buchler (2005) argues that gerrymandered districts are desirable, because they better align the ideological positions of voters and representatives. Abramowitz, Alexander, and Gunning (2006) downplay redistricting's impact, saying it is not to blame for uncompetitive elections, while Maskett,

Winburn, and Wright (2012, 39) agree, insisting that “the effects of partisan redistricting on competition and polarization are small.” Brunell (2008) opposes reforms to make redistricting politically neutral and claims that “competitive elections are bad for America,” because voters prefer to live with like-minded partisans in safe districts. La Raja (2009, 203) argues that “there is insufficient evidence from empirical research to justify any particular reform of the redistricting process.” Tolson (2010, 860) suggests that partisan gerrymandering is an important safeguard which protects states within the federal system. Chen and Rodden (2013) see patterns of political geography as the major source of “unintentional gerrymandering,” rather than biased decision-making by politicians. Eisler (2018) argues that the threat from partisan gerrymandering is illusory, because political parties and voter affiliations can and should dynamically adapt in the political marketplace. Carter (2019) defends gerrymandering as an “American political tradition” that is “as American as apple pie.” There are reasons to be skeptical about many of the arguments of gerrymandering’s defenders or apologists, and it should be noted that some US scholars make arguments that ignore the reality of what actually occurs in the rest of the world. However, this research does not rely upon any normative or theoretical claim that US state legislatures *should* pursue redistricting law reform. It merely observes empirically that some have and many have not, and seeks to explain these different choices states have made and continue to make.

There is a significant body of scholarship on race and redistricting. Understanding race is central to understanding American politics. Lowndes, Novkov, and Warren (2008, 1) argue that “race is present at every critical moment in political development in the United States, shaping political institutions, political discourse, public policy and its denizens’ political identities.” Gerrymandering comes in different flavours. This research focuses on partisan gerrymandering and its reform, and not explicitly on racial gerrymandering. However, the

two are often related. A wide range of legal and political tools have been used to suppress minority voting in American history (Kousser 1974, Keyssar 2000, Daniels 2020). The US Supreme Court ruled in *Gomillion v. Lightfoot* (1960) that it was unconstitutional under the 15th amendment for cities to draw election boundaries to deliberately disenfranchise racial minorities. This decision opened the door for racial gerrymandering practices to be contested in federal courts (Peltason 2009).

Scholarship on race and redistricting mainly emphasizes struggles and outcomes under federal law (Grofman, Handley and Niemi 1992, Hill 1995, Cameron, Epstein and O'Halloran 1996, Ely 1998, Lowenstein 1998, Canon 1999, Lublin 1999, Clayton 2000, Yarbrough 2002, Shotts 2003, Tate 2003, Barabas and Jerit 2004, Thernstrom 2009, Light 2010, Cox and Holden 2011, Hayes and McKee 2012, Flores 2015). Under the federal Voting Rights Act (VRA) of 1965, certain states are required to preserve the representation of minorities in Congress by maintaining a number of majority-minority districts, that is, districts where non-whites are a majority of voters (Handley and Grofman 1994, Epstein and O'Halloran 1999). The Supreme Court upheld this in *Thornburg v. Gingles* (1986) and *Bartlett v. Strickland* (2009). States engage in what could be called affirmative racial gerrymandering to achieve this preservation, grouping minority voters into unusually-shaped districts like the Texas 15th (Hispanic majority), and the Alabama 7th, and the Maryland 4th (both African-American majority) (see figure 2). As a federal law imposed on states, the origins of majority-minority districts are outside the scope of this research, but their existence and possible effects on state redistricting lawmaking need to be accounted for in any study of a state which has them. For instance, some politicians have suggested that partisan gerrymandering cannot be reformed because that might violate VRA requirements for

minority representation, but scholars argue that such claims lack merit (NRCC 2017, 39-41; Li and Royden 2017).

Figure 2: Examples of Majority-Minority Congressional Districts



Source: created by author using public domain material from US Census Bureau (2017).

There is significant overlap between partisan identification and racial and ethnic identity among voters in many states, which has been called “conjoined polarization” (Cain and Zhang 2016). For example, African-Americans made up 33% of the population of Georgia and 28% of the population of South Carolina (US Census Bureau 2019). In November 2020, Democratic presidential candidate Joe Biden received the votes of 88% of African-Americans in Georgia and 90% of African-Americans in South Carolina, according to exit polls (CNN 2020). When nearly all African-Americans are Democrats, and a majority of Democrats in a state are African-American, surely it is impossible in practice to distinguish partisan gerrymandering motivations and outcomes from racial gerrymandering motivations and outcomes (Hasen 2018). Or, in other words, all racial gerrymandering has become a subset of partisan gerrymandering. In racially-diverse states, this research had to consider the role and significance of racial politics in affecting law reform efforts.

State and federal courts have played a significant role in redistricting since the 1960s. Gardner (2006, 967) examines the historical role of state courts in trying to restrain or reform gerrymandering, and concludes that “state constitutional anti-gerrymandering provisions have been largely ineffective.” Cotrill and Peretti (2013, 272) present evidence that courts are better at redistricting than legislatures, because they produce more competitive districts, but they do not examine how to shift redistricting power to courts in the first place. Major redistricting litigation generates a wave of new scholarship. For instance, the *Rucho* (2019) case has already stimulated many journal articles in law and political science, such as Cover (2020), Curiel and Steelman (2020), Engstrom (2020), Keraga (2020), Nickel (2020), Tofighbakhsh (2020), and Wender (2020). Scholarship on the courts is pursued and justified by their significant power as a potential constraint on gerrymandering. Cram (2021) argues that with *Rucho* and *Shelby County*, the Supreme Court has “deregulated” redistricting from most federal oversight. He is concerned about the effects in 2022 of the fact that “for the first time in fifty years, Southern States will redistrict free of the preclearance process that long protected minorities” (Cram 2021, 1).

There is also a specialist body of research on the application of statistics, algorithms, and simulations to redistricting. This has been developed for various purposes, including efforts to simplify and automate redistricting (Nagel 1965, Altman 1997, Altman and McDonald 2011, Magleby and Mosesson 2018, Karapetyan and Maurer 2021), to theoretically optimize gerrymandering (Owen and Grofman 1988, Sherstuyk 1998, Friedman and Holden 2008), or to detect and measure gerrymandering’s effects (Taylor 1973, Engstrom and Wildgen 1977, Young 1988, Chambers and Miller 2010, Chen and Rodden 2015, Stephanopoulos and McGhee 2015, Tapp 2019). However, the expectation that better use of mathematics,

computer technology, or software can solve the problem of gerrymandering has persisted, unfulfilled, for sixty years. Vickery (1961, 110) argued, for instance, that

elimination of gerrymandering would seem to require the establishment of an automatic and impersonal procedure for carrying out a redistricting. It appears to be not at all difficult to devise rules for doing this.

In practice, there has been no end of difficulties. Gatesman and Unwin (2021, 189) insist, reasonably, that “since gerrymandering issues can be formulated as well-stated mathematical problems, one can develop tools and tests to identify and inhibit such practices.” However, no matter how impressive the tools might be, American politicians or judges must be persuaded to be inhibited by them, which has not been very successful. The Supreme Court’s *Rucho* rejection of the use of statistical tests for gerrymandering is a recent, emphatic example.

International research on redistricting provides a valuable perspective that helps to justify this thesis. Placing American redistricting reform in a comparative international context makes it clear empirically how much of an outlier the United States has become. Rejecting “methodological nationalism” reveals US assertions like “partisanship in redistricting is inevitable” or “all districting is gerrymandering” to be idiosyncrasies worth investigating, rather than assumptions to take for granted (Rose 2005, 6; Kang 2005, 445; O’Rourke 1972, 38). Gerrymandering has been practiced in many democracies, including Australia, Hungary, Malaysia, Singapore, and Northern Ireland (Jackman 1994; Pap 2018, 24; Wong, Chin, and Othman 2010; Tan 2013; O’Leary 2019, 38-48). Some scholars have sought to tell the story of redistricting reform in individual countries. For example, Neil Atkinson (2003, 71-76) discusses why reform was adopted in New Zealand in the late 19th century. John Courtney has traced the diffusion of redistricting reform across Canada’s provincial legislatures, and suggests ways Canada can be a model for America (Courtney 2001, 2004, 2008; see also Gaughan 2013). There are some chapter-length discussions of the historical development of

British redistricting (Butler and McLean 1996, Rossiter, Johnston and Pattie 1999). Handley and Grofman (2008) also collect chapter redistricting histories for several countries, including France, India, Mexico, and New Zealand. This literature demonstrates that the struggle to reform redistricting in the US is not a unique dilemma, just one where democratic progress is taking “an unusually long time to be completed” (Congleton 2011, 522).

This section concludes with a discussion about existing research directly related to reform. Reform scholars have mainly identified and analyzed ideas and options for redistricting reform in the future, and have devoted limited attention to reviewing past reform efforts (Cox 2006, McDonald 2007, Gerken 2010). Scholars have not adequately addressed key historical questions, and thus ignore an important part of the story. Where did the rules of the game come from? Why have state efforts to reform redistricting laws succeeded or failed? Is there an overall pattern to the US states which have reformed successfully? To investigate such questions, it is necessary to move beyond the study of redistricting’s operations or effects, and to focus our attention on origins and system change.

Limited work has been done already on these questions. Scholars have, of course, recognized that state legislators are the key obstacles to redistricting reform, and that the “almost insurmountable primary difficulty is that of persuading the groups now controlling the state legislatures” (Key 1932, 1058). Two studies have come closest to undertaking research similar to this thesis. Karch, McConnaughy and Theriault (2007) investigated and compared congressional redistricting commission proposals in 3 states – California, Indiana, and Ohio. They distinguished between two types of legislative trajectories, an insider-led “partisan path” and an interest-group dominated “good government path,” which typically is triggered by a controversial focusing event (Karch, McConnaughy and Theriault 2007, 809). They

concluded that both insider and outsider strategies are viable, but which is best is shaped by whether or not a state has an initiative process for interest groups to use as leverage (Karch, McConnaughy and Theriault 2007, 822). This study asked excellent questions, but is incomplete. It only discusses 3 cases from a short time period; its discussion of each state is brief and relies on few sources; it only examines cases where reform ultimately failed, whereas the more interesting question is when and how does it succeed; and it only considers redistricting for Congress, not for state legislatures, where more reform efforts have occurred. Nonetheless, Karch, McConnaughy and Theriault provide a valuable step towards research that is a little more comprehensive.

Similarly, Stephanopoulos (2007) studied twelve state ballot initiatives on redistricting commissions and sought to explain why they passed or failed. He did not discuss legislative reforms at all, on the grounds that “legislators are the primary beneficiaries of the redistricting status quo, and therefore have a strong incentive not to change the rules that allow them to get reelected time after time” (Stephanopoulos 2007, 332). This statement is accurate, but many legislative efforts occur nonetheless. Stephanopoulos concluded that the critical factor in explaining the fate of redistricting commission initiatives is the position taken by the majority party in the state legislature – when it opposes such an initiative, it fails, and only when majority party opposition is defused somehow do such initiatives succeed (Stephanopoulos 2007, 388). However, there are different ways to reform redistricting and there are different kinds of redistricting commissions (Butler and Cain 1992, McDonald 2004). By focusing only on commission initiatives, Stephanopoulos has investigated redistricting reform in a narrow context. For example, numerous ballot measures on redistricting have been adopted by legislatures and referred to voters for ratification, rather than created by petition. For such measures, the behaviour of legislators is just as important

as that of voters. In addition, Stephanopoulos's argument that state parties are important to reform supports a focus upon legislatures, where there have been many more attempts to reform, successful and unsuccessful, than Stephanopoulos considers.

Historical research on redistricting reform has been generally limited. Argersinger (1989, 60) argues that this is due to "American historians' tendency to overlook the institutional framework of the electoral system." A noteworthy exception is *Reapportionment Politics: The History of Redistricting in the 50 States* by Hardy, Heslop, and Anderson (1981), an edited collection of fifty chapters, one for the each state. However, this is now out-of-date for most states and often has a more descriptive than explanatory historical focus. There are many books focusing on the politics and political history of individual states. However, while such works usually mention when a redistricting reform occurs, they seldom elaborate or explain how and why it was successfully adopted (for example: Cronin and Loevy 1993, 159; Weatherby and Stapilus 2005, 110; Salmore and Salmore 2008, 172). In short, existing research on US state politics has largely neglected the central puzzle of why legislators occasionally give up some of their powers over election redistricting in certain states, but not in others.

All kinds of electoral reform tend to be complicated, difficult to understand, and prone to unintended consequences (Katz 2004, 85; Murkens 2014). The lack of studies into the origins of US redistricting law reform reflects a neglect among scholars of the origins and reasons for change in electoral law reform in general (Grofman 2004, xiii). However, this broader neglect is being remedied (Benoit 2004, 2007). For instance, some scholars focus on economic interests to explain why different countries have adopted different electoral systems (Rokkan 1970, Cusack, Iversen and Soskice 2007). Lundell (2005) alternatively emphasizes the power

of political culture and processes of diffusion across many countries. Rahat (2008, 5) uses a case study of Israel to argue that reforms can be achieved when power is highly dispersed among political actors. Renwick (2010, 254) conducts comparative case studies of six electoral reforms in four countries (France, Italy, Japan, and New Zealand), sees a key distinction between elite-driven and mass-driven processes, and concludes that his evidence suggests that “the power of politicians to determine the electoral system will decline.” Blais (2008, 6) compares voting system reform efforts in four countries (Britain, Canada, New Zealand, and the United States) and concludes that “no simple and parsimonious model can explain why electoral reform does or does not emerge on the political agenda, and, when it does, why it sometimes succeeds and, more often, fails.” These types of studies explore “what kinds of countries tend to adopt what kinds of rules” for elections in general, which is comparable to this research’s focus on what kinds of US states adopt what kinds of redistricting system rules (Massicotte, Blais, and Yoshinaka 2004, ix). They also offer methodological models for this research, such as Blais’s (2008, 4) use of case studies to examine and explain the fate of electoral reform bills in national legislatures.

1.3 Theoretical Framework

1.3.1 Policy Change

In a speech in Edinburgh to promote a reform bill in 1867, Benjamin Disraeli argued that “in a progressive country, change is constant, change is inevitable” (Disraeli 1882, 487). If this is true, then Schattschneider (1960, vii) asked the right questions: “The great problem in American politics is: What makes things happen?... What is the process of change? What does change look like?” Understanding policy change and agenda-setting is a major focus of research in political science and public policy. This section discusses several approaches,

including Lindblom (1959), Kingdon (1984, 1995), Baumgartner and Jones (1993, 2009), and Schneider and Ingram (1997, 2005).

“Public policy is whatever governments choose to do or not to do” (Dye 2005, 1). Early models of policy change took a modest approach that emphasized incrementalism. Lindblom (1959, 84) suggested “democracies change their policies almost entirely through incremental adjustments. Policy does not move in leaps and bounds.” He argued that in practice policy formulation is seldom comprehensive and derived from first principles, but instead usually consists of a series of gradual changes made in sequence to existing policies, which he described as “muddling through” (Lindblom 1959, 86, 88). Trial and error and error correction are central to this approach. In Lindblom’s (1958, 301) view, “a policy is directed at a problem; it is tried, altered, tried in its altered form, altered again and so on.” The main source of policy change is people carrying out problem-solving and policy fine-tuning. However, it is not clear how things gets defined (or not defined) as a problem worthy of political attention in the first place.

Kingdon’s work on agenda-setting is considered innovative, important, and “one of the popular models used for understanding policy processes” (Howlett and Ramesh 2003, 120; Greer 2015, 417; Rawat and Morris 2016, 609). He seeks “to understand why some subjects become prominent on the policy agenda and others do not, and why some alternatives are seriously considered while others are neglected” (Kingdon 1995, 3). He rejects incrementalism as important but insufficient. Kingdon (1995, 80, 83) says that approach “does not describe agenda change particularly well,” in part because in practice “agendas exhibit a good deal of nonincremental change.” He has several contributions relevant to this research.

Kingdon (1995, 19) describes an overall policy process that resembles a river delta, where there is interaction between what he identifies as three distinct, largely independent streams: a “problem stream,” a “policy stream,” and a “political stream.” Not every situation that exists is a political problem that needs to be solved. Some conditions come to be seen as problems, and some do not (Kingdon 1995, 109). The problem stream is Kingdon’s term for when issues temporarily become politically salient and worthy of attention. One way problems join the agenda is due to “focusing events,” where a policy area experiences a disaster, crisis, or other event that captures public attention (Kingdon 1995, 94). The policy stream consists of numerous ideas and solutions generated by specialty policy communities, often haphazardly or for their own purposes. Kingdon (1995, 117) refers to this as “policy primeval soup,” a wide array of ideas that float around, “bubble up,” and fade in popularity, often including policy solutions shopping around for a problem to attach themselves to. Policy ideas can evolve and percolate for years before becoming accepted (Kingdon 1995, 143). Finally, the political stream is the perceived demand and opportunity for political action, driven by factors such as swings in the “national mood,” elections, public opinion, and changes in government personnel (Kingdon 1995, 162). Kingdon (1995, 163) sees the political stream as “the balance of forces in the political system,” which may favour action or inaction, and thus is “an important promoter or inhibitor of high agenda status” for possible policy changes. The three-stream framework provides a way to break down and analyze a situation to help judge if the time seems ripe for any political reform.

Kingdon also discusses the concepts of hidden actors, policy entrepreneurs, and policy windows. He distinguishes between visible and hidden actors in agenda-setting (Kingdon 1995, 68). Visible actors are insiders you would expect, such as executives and legislators.

Hidden actors affect agenda-setting from behind the scenes, typically by exerting pressure or influence on visible actors, in ways the public may not know about. These actors may include people from the bureaucracy, interest groups, think tanks, and universities (Kingdon 1995, 45). Kingdon (1995, 70) argues that agenda setting is usually driven by visible participants, and policy alternatives are shaped by hidden actors. For example, he says that “interest groups often try to insert their preferred alternatives into a discussion once the agenda has been set” (Kingdon 1995, 67). This insight supports having hypotheses that focus not just on politicians, but also on other sources of political power in a state.

Policy entrepreneurs are “advocates for proposals or for the prominence of an idea” (Kingdon 1995, 122). They are people committed to a policy, and willing “to invest their resources – time, energy, reputation, and sometimes money” into getting that policy successfully adopted (Kingdon 1995, 122). Anyone can be a policy entrepreneur, for any reason. Some have material motivations, such as bureaucrats seeking to grow an agency or lobbyists working for a business, while others might be citizens just seeking to promote their values or improve their community (Kingdon 1995, 123-124). Policy entrepreneurs are significant because they play the key coordinating role, of trying to join the three streams together to create political action (Kingdon 1995, 182). “They hook solutions to problems, proposals to political momentum, and political events to policy problems,” Kingdon argues, and also shop around for the most favourable forum for advancing an issue (Kingdon 1995, 182, 230). The concept of policy entrepreneurs highlights the need to investigate the range of non-politician actors trying to make a reform happen.

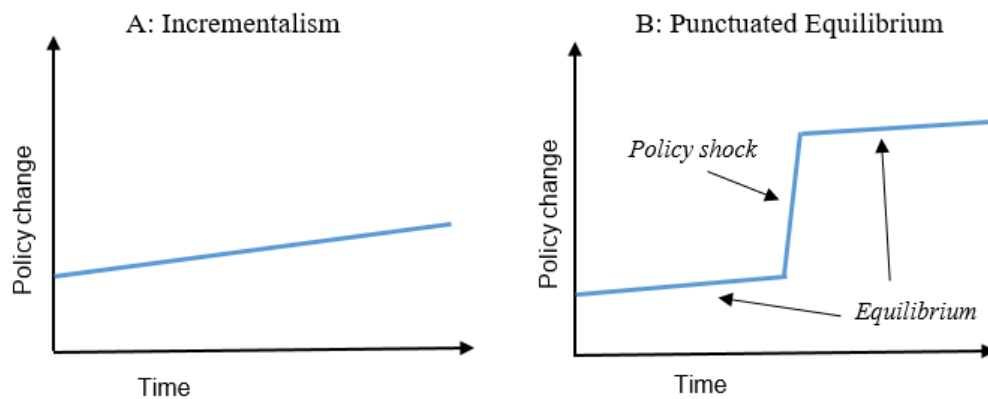
Policy windows are critical time periods when policy entrepreneurs can be successful. They are “opportunities for action on given initiatives” that exist in the context of a policy system

and political environment, and which “stay open for only short periods” (Kingdon 1995, 166). You have to strike when the iron is hot, because media and public attention is fickle, and political circumstances can change quickly (Kingdon 1995, 58-59, 67). For example, President Obama’s Affordable Care Act was enacted and signed into law in early 2010, during a brief period when it was politically possible, early in a new president’s term. It could not have been adopted in 2008 or early 2009 or late 2010 or in 2011.³ Policy windows may open at periodic intervals, such as after an election, or emerge unpredictably, such as after a disaster or financial crisis (Kingdon 1995, 203). Policy windows are a useful concept because they focus attention on the intermittent conditions when political reform is more likely to be viable or observed in a state.

Kingdon combines incremental policy development with rapid action during policy windows. Baumgartner and Jones (1993, 2009) have one of the best-known public policy models, which also focuses on the balance between policy continuity and change (John 2015, 577). They argue that “the course of public policy in the United States is not gradual and incremental, but rather is disjoint and episodic” (Baumgartner and Jones 2009, xvii). They present a “punctuated equilibrium model of policy change,” which is driven by the “emergence and recession of policy issues from the public agenda” (Baumgartner and Jones 2009, 1). Long periods of conservative policy stability are interrupted from time to time by radical instability and policy divergence, as illustrated in figure 3.

Figure 3: Incrementalism Versus Punctuated Equilibrium

³ In 2008 there was a Republican president, in early 2009 the bill’s content had not yet been negotiated with essential interest groups, by late 2010 the midterm elections would have distracted/scared Congress, and by 2011 there was a Republican majority in the House of Representatives.



Source: created by the author, based on Baumgartner and Jones (2009).

The media plays a key role in directing and shifting public attention, which is critical to creating a burst of rapid change or policy shock, which is then followed by a return to stability in the form of a new equilibrium (Baumgartner and Jones 2009, 103). Baumgartner and Jones (2009, 256) argue that the “most important” cause of policy stability is “scarcity of attention.” Most policy areas most of the time are stable because policy elites and vested interests keep it that way, and public and media interest and attention is low (Baumgartner and Jones 2009, 256). Stability is disrupted by the interaction of changes in policy image, or how the public understands an issue, with changes in policy venues, or the institutional forums where issues are decided (Baumgartner and Jones 2009, 25, 31).

Policies are understood in simplified ways by the public. Supporters and opponents of a policy usually focus on a different policy image, the “mixture of empirical information and emotional appeals” that comprises the simple positive or negative impression people have about an issue (Baumgartner and Jones 2009, 26). For instance, on the issue of strict voter identification requirements, proponents have crafted a policy image centered on the need to crackdown and prevent widespread voter fraud, especially by illegal immigrants, whereas opponents rely on a policy image of resistance to partisan voter suppression, which seeks to exclude vulnerable members of the community from elections, like the elderly and the poor

(Fund 2008, Bentele and O'Brien 2013, Udani and Kimball 2017). Every political debate therefore “involves conflict over the definition of policy images”, a struggle to frame or reframe a debate for the media and the public in favourable terms for one side or the other (Baumgartner and Jones 2009, 28). The concept of policy images reinforces the importance to investigating how actors in redistricting reform try to frame or manipulate public understanding and media reporting of the issue.

Changing policy venues is another way to undermine an enduring policy equilibrium. If one venue is unfavourable, seek to shift the debate to another. Policy venues are “the institutional locations where authoritative decisions are made concerning a given issue” (Baumgartner and Jones 2009, 32). Five ways to define and solve a problem are by using: professional expertise, political judgements, bureaucratic standards, legal adjudication and norms, or free-market forces (Baumgartner and Jones 2009, 31). For example, some US politicians want to change the policy equilibrium about the US Postal Service through the means of privatization, which would shift postal policy from its current bureaucratic venue to a market one (Smith 2018a). Litigation is a common strategy to try to shift decision making about an issue into a judicial policy venue. For instance, the Supreme Court’s decision in *Rucho v. Common Cause* (2019) was a rejection of efforts to relocate gerrymandering arguments from political venues to the judiciary. There have been ongoing struggles to reposition redistricting as a professional, political, bureaucratic, or legal question in reform debates, so the need to pay attention to entrepreneurship about policy venues is apt advice for this research.

The final policy scholars discussed here are Schneider and Ingram (1997, 2005). They argue that policymakers do not treat everyone equally or according to merit. Instead, certain groups in society are targeted for preferential or inferior treatment, based on perceptions about their

social value. Some groups may acquire a sympathetic social status, like veterans, while other groups have an unsympathetic social status, like the homeless (Schneider and Ingram 1997, 107). Combining social construction of status with perceptions about group political power creates four categories, as illustrated in table 2. Schneider and Ingram argue that “the advantaged,” groups which are politically powerful and perceived sympathetically, are more likely to see favourable policies implemented on their behalf, whereas unsympathetic and weak social groups (“deviants”) are less likely to benefit from any policymaking process. Government is firmly biased in favour of the advantaged and against those who can be dismissed or demonized as ‘undeserving’. In their view, “the behaviour of public officials is strongly influenced by the political power and the social constructions of potential target populations” (Schneider and Ingram 1997, 111).

Table 2: Schneider and Ingram’s Typology of Social Groups

Perceptions about a group’s political power	Social construction of how deserving of sympathy groups are perceived to be	
	<i>Deserving</i>	<i>Undeserving</i>
<i>Stronger</i>	Advantaged Examples: veterans, scientists, military	Contenders Examples: CEOs, gun owners, the rich
<i>Weaker</i>	Dependents Example: mothers, children, the poor, Native Americans	Deviants Examples: homeless, criminals, gangs

Source: adapted from Schneider and Ingram (1997, 109).

When a policy debate is essentially a fight about who gets government funding, then the identity of the direct beneficiaries (or ‘target population’) of the policy shapes legislative support. For example, most politicians readily support financial aid for 9/11 first-responders (seen as deserving heroes), but the food-stamp program to help the poor is often threatened

with budget cuts (Davis 2019, Davidson 2019). Politicians think it's popular to be seen to help firefighters but not popular to be seen to help welfare recipients. This example also underlines the role of race in social constructions. Schneider and Ingram say "target populations are often selected for benefits or burdens along well entrenched racial" divisions (Schneider and Ingram 1997, 193). In American politics, firefighters are perceived to be mostly white, while welfare recipients are perceived to be mostly non-white (Otis 2015, Gilens 1999, 7).

Schneider and Ingram's framework is also applicable to policy debates that are not about money (Mettler and Soss 2004). Social constructions underpin the public policies that shape membership in a political community. "Citizenship," "democracy," and "democratic citizenship" are all socially constructed concepts (Schneider and Ingram 2006, 330, 342). In debates about the laws of democracy, if a reform can be presented as helping or hurting a specific group, then that might be used to mobilize legislator support or opposition. Schneider and Ingram (1997, 198) say "the significance of social constructions has been all but ignored by mainstream political science." Their work is relevant to this research because it encourages vigilance and sensitivity to how actors in any reform process try to label or characterize groups of people who may gain or lose as a consequence of reform. Partisan gerrymandering and racial gerrymandering are often intertwined in the United States, so it is plausible that reforms about the former may prompt arguments about the latter (Hasen 2018).

This policy change subsection has examined several scholars and identified key concepts relevant to conducting research into state reform efforts, such as considering the role of policy entrepreneurs, hidden actors, policy windows, the existence of multiple streams, punctuated equilibrium, policy images, and the social construction of groups in a state. In the

next subsection, this thesis is situated in terms of theories of democracy and the state, and then several approaches are discussed for thinking about and answering political science questions.

1.3.2 Democracy and the State

The study of redistricting is embedded within the study of democracy and the state (Schultz 2014). There are many contrasting views about how to understand and conceptualize both democracy (Dahl 2000, Cunningham 2002, Held 2006) and the state⁴ (Dunleavy and O’Leary 1987, Vincent 1987, Cudworth, Hall, and McGovern 2007, Vom Hau 2015). Any research about democracy requires a theoretical choice, because “there is no democratic *theory*—there are only democratic *theories*” (Dahl 1956, 1). There are also many theories of the state to choose from. For instance, Vom Hau (2015) identifies four analytical traditions in state theory: liberal, class-based, institutional (or neo-Weberian), and cultural. Dunleavy and O’Leary (1987) identify five approaches: pluralist, elitist, Marxist, the new right, and neo-pluralist. Which theoretical approach to the democratic state is relevant and appropriate for the purposes of this thesis? Three common perspectives will be briefly examined: that of liberal theorists, class theorists, and elite theorists.

One option is offered by liberal theorists, who see the state as a neutral forum and arbiter for solving conflicts between different interests within a pluralist society. Liberal social contract theorists suggested the state exists to protect individuals and their rights. Locke (1982) argued that people have inalienable natural rights and that a legitimate state required the consent of the governed. He wrote that

Men being, as has been said, by nature, all free, equal, and independent, no one can be put out of his estate, and subjected to the political power of another, without his own

⁴ This is the only section of this thesis which uses *state* to mean the political authority that governs a country, as opposed to one of the US subnational units.

consent. The only way whereby anyone divests himself of his natural liberty, and *puts on the bonds of civil society* is by agreeing with other men to join and unite into a community. (Locke 1982, 58)

Montesquieu (1949) argued that a liberal state should have a separation of powers, with authority divided between and exercised by distinct executive, legislative, and judicial branches, to prevent corruption and despotism. Rousseau (2002) opposed representative democracy, and claimed that the “general will” of the people should govern the state because it was the only legitimate exercise of popular sovereignty. He suggested that “the general will alone can direct the forces of the State according to the object of its founding, which is the common good” (Rousseau 2002, 172). John Stuart Mill (1985) argued that the job of the liberal state was not only to not oppress people’s liberty itself, but also to help constrain other forces in society which might limit a citizen’s political, economic, and social freedoms, such as overbearing public opinion. He warned that the “tyranny of the majority is now generally included among the evils against which society requires to be on its guard” (Mill 1985, 62). The US system of liberal representative democracy is the practical context for this research, However, it is not clear that a liberal focus on state legitimacy, or personal freedoms, or the relationship between individuals and the state is the most useful theoretical framework for studying redistricting reform. It is a policy area which does not directly affect an individual’s well-being, and redistricting’s costs and benefits are not usually defined as significant in terms of individual citizens or rights (but see Niven, Cover, and Solimine 2021).

An alternative approach is taken by class theorists, who view the modern state as merely an expression and tool of class interests. Marx and Engels (2008, 36) famously wrote in the *Communist Manifesto* that the capitalist class has

conquered for itself, in the modern representative state, exclusive political sway. The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie.

The state exists to protect and promote capitalist power and interests, and represents “the unbridled despotism of one class over another” (Marx 1926, 33). Further Marxist theorists have adapted this perspective. Poulantzas (1980, 12) rejected the idea that “every state is merely a class dictatorship” of the bourgeoisie. He argued that the state was not a direct instrument, but instead “enjoyed relative autonomy” from capitalist factions and interests, in order to facilitate their long-term position over the working class (Poulantzas 1980, 127). Gramsci (1971) emphasized the way the state achieved hegemony over the masses. He saw the state as the “entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its dominance, but manages to win the consent of those over whom it rules” (Gramsci 1971, 244). More recently, Parenti (2002, 314) argues that the capitalist state is both “a front for the economic interests it serves” and where “ruling-class factions struggle over how best to keep the whole system going.” However, it is not clear that primarily conceptualizing the democratic state as the location of class struggles about capitalism is the right framework for the study of redistricting reform, a non-economic policy area that seems dominated by partisan rather than class conflict.

Elite theories of the state see democracy as a shallow exercise or a façade, to the extent it purports to feature genuine popular participation and sovereignty. Instead, politics is considered to be a game played between elites, who are ambitious for power and compete with one another to rule. Elections are when voters pick which elites will govern them. Pareto (1968) argued elite rule was inevitable and cyclical. He saw political history as really “the history of the continuous replacement of certain elites, as one ascends another declines,” and called this the law of circulation of elites (Pareto 1968, 36). Mills (1956) focused on socialization to explain how American elites recruit newcomers to maintain their power over generations. Weber sought to reconcile elite theory with liberal democracy, and hoped that

“public bureaucracies can be subordinated to the elites generated by party competition (Dunleavy and O’Leary 1987, 142).

An elitist theoretical approach is interesting because its pragmatic realism appears very relevant for redistricting reform, where debates seem chiefly a struggle about power and self-interest among politicians. Another key scholar was Joseph Schumpeter. He rejected the classical theory that democracy features rational voters collectively pursuing the common good by electing representatives to carry out a preferred policy agenda (Schumpeter 1954, 251). Instead, Schumpeter (1954, 269) argued that democracy is best conceived of procedurally, as an “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.” Democracy is rule not by the people, but by political elites. The people simply and periodically choose between competing teams of leaders (Schumpeter 1954, 285). Schumpeter thus emphasized the role of political leadership, seeing politicians are career-oriented professionals focused on their own short-term success in achieving or staying in power. For example, he admiringly quoted one anonymous politician as saying: “what businessmen do not understand is that exactly as they are dealing in oil so I am dealing in votes” (Schumpeter 1954, 285). Under Schumpeter’s approach, the decisions of state legislatures should be explored by focusing on key politicians like governors and legislators, and their behaviour, interests, and motivations.

1.3.3 Interests, Institutions, and Ideas

Research into legislatures and legislators was one of the earliest activities undertaken in the modern discipline of political science (for example, Wilson 1885, Lowell 1902). The study of legislative behaviour in the United States has primarily focused on Congress (for example,

Mayhew 1974, Fenno 1978, Sundquist 1981, Fiorina 1989, Arnold 1990, Rohde 1991, Krehbiel 1998, Sinclair 2000, Schickler 2001, Cox and McCubbins 2004, Lee 2009, Adler and Wilkinson 2013). However, America's state legislatures offer an underappreciated opportunity for comparative political research (Dye 2005, 285; Squire and Hamm 2005, 1). Different theoretical approaches are used to investigate questions in political science (Parsons 2007). Three of these include those that emphasize the role of interests, institutions, or ideas in explaining legislative action and political change.

According to an interests approach, legislatures are motivated by considerations of power: they seek to retain, preserve, or expand their power. Legislatures can be analyzed at different levels, including that of the individual legislator, the party, the chamber, and the institution as a whole. Politicians and parties are rational actors and support political reforms only if they are advantaged by it, or at least not disadvantaged (Benoit 2004). Legislators seldom vote against their self-interests (Blau 2008, 62). On the surface, this might appear to be unusual explanation to include for this project, given that the research question focuses on why politicians in fact *give up* some of their powers over election redistricting. However, there may be different situations in which people or institutions give up some power in order to secure power in other ways. For instance, in *Marbury v. Madison* (1803), the US Supreme Court gave up a small power – its original jurisdiction to hear writs of mandamus directly from citizens, as authorized by the Judiciary Act of 1789 – in exchange for the greater power of judicial review, the ability to strike down such statutes as unconstitutional (Nelson 2000). Similarly, in Britain, Parliament passed the Reform Act of 1832 because many legislators feared a revolution if the public were not placated by a measure of reform (Wright 1970, 40-43; Evans 1983, 1). Here are four examples that could arise in redistricting reform. If legislators fear that courts will intervene in the operation of redistricting and in practice take

away all of the legislature's power (perhaps because that has happened in the past), they may agree to some kind of reform, which takes away some of their redistricting power but which guarantees them a residual amount of power (for example, delegating all drawing of district lines to someone else but giving the legislature final approval) (Winburn 2008, 27). If legislators fear that a ballot measure initiated by citizen petition might pass and take away all of the legislature's power, they may enact their own more limited reform instead, which again takes away some of their redistricting power but guarantees them a residual amount (Gerber 1997). If the majority party in the legislature today fears that it will not be in the majority at a point in the future when periodic redistricting occurs (perhaps because it is usually the minority party in state politics), it may enact reform now to reduce the opposite political party's anticipated future power over redistricting. Finally, if the majority party in a legislature fears that it is heading for defeat at the next election for reasons unrelated to redistricting, it may enact or promote a package of "good government" reforms including redistricting, in the hope that by giving up narrow powers in some areas it can win popularity and re-election, thus retaining its broad power to continue to govern (Blais and Shugart 2008, 199). Blais and Shugart (2008, 205) see explanations based on these kind of calculations of interests as the most satisfactory in explaining legislative electoral reform in general. Other interests variables can also be analyzed. Redistricting reform might be associated with particular configurations of partisan control of the legislature and the governor's office. Many advocacy groups support or oppose state redistricting reforms (see, for example, League of Women Voters 2007, McGhee 2008). Reform might be associated with the nature or strength of the interest group system within states (Gray and Lowery 1996, 2001).

According to an institutions approach, the different institutions of state government present an "obstacle course" that legislative reform efforts must successfully navigate (Parsons 2007,

18). Institutions are “humanly devised constraints that structure human interaction” (North 1990, 3). On the surface, institutions might also appear to be an unusual explanation to include for this project. While there are clear differences between America’s system of government and those of other countries, which may explain international redistricting disparities (Butler and Cain 1992, 117), within the United States it might be assumed that the fifty states are politically similar because they all use the same set of governing institutions. However, this is dubious. There are significant political differences between US states, and the more you scrutinize them, the more their diversity becomes evident (Garreau 1981, Chinni and Gimpel 2010, Gray 2017). Variations in state institutional configurations or strengths may correlate with reform outcomes. For example, in redistricting, reform can be driven by strong governors, who are able to push changes through the state legislature, overriding the concerns or interests of individual legislators (Waldman 2011). Political scientists have developed measures of the differing institutional strength of state governors (Dometrius 1979, Beyle and Ferguson 2008, Kousser and Phillips 2012). Certain kinds of legislatures are more likely to acquiesce to reform, such as part-time, citizen legislatures rather than the full-time, professionalized legislatures that have become more widespread in recent decades. Political scientists have developed measures of such state legislative professionalization (Mooney 1994, Squire 2007, 2017). The number of political actors with an effective veto over reform may be decisive (Blau 2008), as might the strength of state direct democracy (Bowler and Donovan 2004). In addition, variables used in cross-national comparative studies of democracy (such as Lijphart 1999) may be adaptable to institutional comparisons of the states.

According to an ideas approach, “ideas are a primary source of political behavior” (Beland and Cox 2011, 3). Redistricting reform may require sufficient numbers of people in a state to

come to appreciate its merits or value, so that a new norm develops which holds that politicized redistricting is divisive, unethical, or corrupt, while more neutral redistricting is acceptable and legitimate (Handley 2007). Politicians struggle to accept new norms that conflict with long-held assumptions of their self-interest. As Upton Sinclair once observed, “it is difficult to get a man to understand something, when his salary depends upon his not understanding it” (Sinclair 1935, 109). However, arguably, many changes to the operation of modern democracy correlate with evolving social and political beliefs among the public or elites or both, such as the adoption of the secret ballot (Fredman 1968), the expansion of voting rights to women (Keyssar 2000, 178), or the rise of proportional representation in Europe (Blais, Dobrynska and Indridason 2005). Perhaps redistricting reform is driven directly by legislators buying into changing norms in the United States about how the redistricting process ought to be conducted. Scholars have found that the attitude of politicians toward electoral institutions is shaped not just by interests, but also by their ideology and attitudes (Bowler, Donovan and Karp 2006). In addition, perhaps redistricting reform is indirectly driven by changes in public opinion in the states (Tolbert, Smith and Green 2009), by the ideological positions of state citizens (Berry et al 2007), or by state political subcultures (Elazar 1984, 1994, Lieske 2010), which in turn affect legislator views and behaviour.

This brief review of approaches suggests different types of hypotheses can be derived from each. For instance, an interests approach focuses attention on the role of political leadership within a state, an institutions approach focuses attention on the powers and capacity of branches of state government, and an ideas approach focuses on state political culture and public opinion. In chapter 2, hypotheses for this research are identified and discussed in detail

(including appropriate subhypotheses) and justified according to relevant literature. The six hypotheses are outlined in table 3.

Table 3: Six Hypotheses

Hypothesis Number	Hypothesis Statement
H ₀	A state legislature adopts redistricting law reform because of reasons not explained by a variable investigated in this research
H ₁	A state legislature adopts redistricting law reform if it is supported by state political leaders
H ₂	A state legislature adopts redistricting law reform if the legislature would gain a benefit or advantage from reform
H ₃	A state legislature adopts redistricting law reform if it is supported by people in the state
H ₄	A state legislature adopts redistricting law reform if it is advantageous for state political parties
H ₅	A state legislature adopts redistricting law reform if the state has institutional features favourable to reform
H ₆	A state legislature adopts redistricting law reform if the state has demographic features favourable to reform

1.4 Research Methods

“Researchers may choose to observe lots of cases superficially, or a few cases more intensively. They may of course do both” (Gerring 2007a, 1). This research does both, and uses two major empirical components to investigate the behaviour of state legislatures and legislators on redistricting. Chapter 3 creates an index of the states and conducts quantitative analysis to systematically compare state redistricting systems. Hypotheses 4, 5, and 6 are investigated in the quantitative chapter. Chapter 4 conducts case study analysis of a small sample of states, discussing stories of reform success and reform failure, and drawing upon a variety of qualitative data sources. Hypotheses 1, 2, and 3 are investigated in the case studies chapter. Mixed-methods approaches combining quantitative and qualitative analyses have become common in political science, because different methods can be used to locate different kinds of evidence, combining methods can help alleviate the weaknesses of each if

done alone, and findings from one method can be used to frame research and to check and corroborate findings from other methods (Collier and Elman 2008). For example, case selection for chapter 4 was shaped by the results of the quantitative analysis in chapter 3. Mixed approaches have been used by scholars of democracy (Teorell 2010) and in traditional studies of redistricting outcomes (Winburn 2008, Bullock 2010). Bennett (2004, 19) argues that “there is a growing consensus among social scientists that research programs advance more effectively through the iterative or collaborative use of different research methods than through the use of any one method alone.”

1.4.1 Quantitative Analysis

Before anything can be compared, it must first be measured (Teune 1968, 124). The first empirical step in this research defines and measures election redistricting law reform across the states. There are two ways this could have been done. One approach would have been to try to measure redistricting outcomes through statistical analysis of district maps, in the same way malapportionment is assessed (Cox 2004, 756). Scholars have invented numerous gerrymandering-detection tests to apply to election maps after redistricting, such as the efficiency gap measure created by Stephanopoulos and McGhee (2015). However, there is no consensus about the correct way to measure gerrymandering outcomes, and neither scholars nor the US Supreme Court have been able to agree on appropriate standards to use (Farley 2008, Curiel and Steelman 2020). Walter Dean Burnham long ago warned that “there is no sure way to detect gerrymandering by examining election results” (Burnham 1971, 276). Therefore, this thesis has not tried to measure redistricting reform through effects evident in maps. A second approach is to focus on inputs not outputs, and to evaluate each state’s “redistricting regime” (Kousser 1996, 525). This term refers to a state’s redistricting decision-making institution, including the political and partisan status of those directly involved in

redistricting work, the rules that govern and constrain their actions, and the processes for developing, reviewing, and adopting redistricting plans. The nature of a state regime can be assessed by identifying all provisions relevant to redistricting in a state's constitution, laws, and other practices such as guidelines a legislature adopts to shape their redistricting work. Redistricting regime information has been collected and coded for all states and used in chapter 3 to create an index of states.

The redistricting neutrality index (RNI) has been developed to evaluate and compare states according to the range of ways politicians can or cannot influence the redistricting process. It has a ten-point scale, where zero is a state with no reforms of any kind, that is, the state legislators have exclusive control and discretion over redistricting. A maximum score of ten represents an ideal state where politicians are not involved and the redistricting process is governed by all possible neutral criteria. An index score has been calculated for all states. A state where legislators have exclusive and unfettered power over redistricting with few constraining rules, for example, achieves a low index score, whereas a state where non-politicians are in control and the process is governed by neutral criteria achieves a high score. Unreformed states tend to have an index score of 0/10 or 1/10, whereas states with some amount of reform achieve higher scores, such as 5/10 or 7/10. The indicators and components used to create the index were obtained through an inductive process that aimed to capture data on all of the ways states try to restrain gerrymandering in practice. Legal analysis of every state's redistricting regime (summarized in appendix A) was used to identify all possible factors, which were then grouped together logically to create the index. In other words, a score of 10/10 on the index is not a theoretical ideal, but a hypothetical empirical ideal, that a best-practices state could achieve if it adopted every single anti-gerrymandering idea found in the laws of all of the US states combined. Sherstyuk (1998, 27) observed that

“the debate about multiple criteria that should be used to provide for fair districting is neverending among political scientists.” This thesis has sidestepped that debate by focusing on all criteria states have enacted or claim to follow in practice, rather than trying to identify a set of all criteria scholars might identify or prefer in theory.

The index has three main components: map creation, map approval, and map rules. Using the map rules component as an example, it was constructed from many indicators, one for each of thirty-one criteria applicable to election redistricting that were found in state constitutions and laws. Examples of the most popular criteria include requirements for compactness, contiguity, respecting natural boundaries, and respecting communities of interest. An example of an indicator question is “C4 – Are districts required to protect communities of interest? (no=0, yes =1).” This was coded for every state. For example, Alabama’s legislature has guidelines which say “districts shall respect communities of interest, neighborhoods, and political subdivisions to the extent practicable” (Alabama Legislature 2021), so Alabama received a score of 1 on this question. Arkansas has no such provision, and its redistricting rules say nothing about communities of interest, so it received a score of zero. Every state was assessed for every indicator question as part of the construction of the index (see chapter 3 for further details). The overall index scores (out of ten) for all states for state legislative redistricting are summarized in table 4.

Table 4: Redistricting Index Scores for State Legislatures, 2021

<u>State</u>	<u>Index Score</u>	<u>State</u>	<u>Index Score</u>
Alabama	1.6	Montana	4.5
Alaska	5.0	Nebraska	1.9
Arizona	5.8	Nevada	1.8
Arkansas	3.3	New Hampshire	1.2
California	7.3	New Jersey	3.3

Colorado	4.6	New Mexico	3.4
Connecticut	2.2	New York	4.7
Delaware	1.9	North Carolina	1.1
Florida	2.1	North Dakota	0.9
Georgia	1.2	Ohio	4.1
Hawaii	4.0	Oklahoma	1.6
Idaho	5.3	Oregon	2.2
Illinois	1.6	Pennsylvania	3.3
Indiana	1.2	Rhode Island	1.6
Iowa	4.9	South Carolina	1.1
Kansas	1.6	South Dakota	1.5
Kentucky	1.0	Tennessee	1.0
Louisiana	1.3	Texas	1.7
Maine	2.3	Utah	4.7
Maryland	2.2	Vermont	1.6
Massachusetts	1.4	Virginia	2.8
Michigan	7.0	Washington	4.9
Minnesota	1.3	West Virginia	1.2
Mississippi	1.4	Wisconsin	1.2
Missouri	4.9	Wyoming	1.4

The index serves as a dependent variable for quantitative analysis in the second half of chapter 3, testing hypotheses 4, 5, and 6. Two or more subhypotheses and associated independent variables have been identified for each hypothesis. Political scientists have developed and used indexes like this to compare US states for many research questions. For example, they have measured and compared state ballot measure qualification difficulty, the institutional strength of governors, and levels of state legislative professionalization (Bowler and Donovan 2004, Beyle and Ferguson 2008, Mooney 1995). Similar indexes have been used to measure and compare democracy across countries (Munck and Verkuilen 2002, Högström 2013).

1.4.2 Case Studies

The second research method that has been conducted is case study analysis. A series of case studies examine and seek to explain in detail the political process and struggle about redistricting law reform efforts in a small sample of individual US states. Case studies are a widely used research method in the social sciences (Hammersley and Gomm 2009, Thomas 2011, Yin 2012). According to McNabb (2004, 357), “the case method has long been one of the most popular approaches in political science.” Bennett, Barth, and Rutherford (2003, 375) found that forty per cent of research published in comparative politics journals used case study methods.

The term *case study* is ambiguous and can refer to various kinds of research, which may include one case or multiple cases (Bennett 2004, Flyvbjerg 2011). Eckstein (1975, 79) described a case study as “the intensive study of individual cases.” Bryman (2012, 709) defines a case study as “a research design that entails the detailed and intensive analysis of a single case” or sometimes “two or three cases.” Bennett (2004, 21) takes a broader approach and uses the term case study methods “to refer to both within-case analysis of single cases and comparisons among a small number of cases.” In his view, inevitably “most case studies involve both kinds of analysis, because “even single-case studies usually draw implicit comparisons to wider groups of cases” (Bennett 2004, 21).

The difference between a case, an observation, and a unit of analysis can be unclear (Eckstein 1975, 85; Yin 2012, 8). In chapter 3 of this research, the unit of analysis is the state, and the fifty US states are subject to quantitative analysis. In the case studies in chapter 4, the unit of analysis can also be considered the state, with a small sample of state cases being investigated. However, the true object of study here is actually a redistricting reform effort

within a state. One state can have multiple reform efforts across time and thus hypothetically there could be multiple cases per state (e.g. California in 2006, California in 2008, California in 2010). As Eckstein (1975, 85) notes, a study of six British elections could be an $n = 1$ study or an $n = 6$ study, depending on whether countries or elections are defined as the cases. In practice, however, in this research only one reform effort per state is examined, so for our purposes it is effectively equivalent to treat states as cases or to treat state reform efforts as cases.

Like any research method, case study analysis has strengths and weaknesses and its overall value is contested (Gerring 2007b). Van Evera (1997, 50-51) says political scientists have three ways to test their theories (experiments, large- n analysis, or case studies) and acknowledges that “social scientists have long considered case studies the weakest of these three testing methods.” One criticism is that case studies lack generalizability (Bryman 2012, 405). No matter how well any single case has been researched and understood, it is questioned if the findings can really apply to or illuminate other cases (Van Evera 1997, 53). McNabb (2004) argues that this does not matter, because it is not the goal. He says a case study’s purpose “is not to be a representative picture of “the world,” but rather simply to represent the specific case or cases” that were examined (McNabb 2004, 359). On the other hand, Flyvbjerg (2006) rejects the generalizability critique. He says “it is incorrect to conclude that one cannot generalize from a single case,” because case studies are well-suited for falsification testing (Flyvbjerg 2006, 225, 227). Karl Popper (1959) identified falsification as essential to the scientific method, arguing that a single contrary observation or case can falsify a proposition. If there is a theory that all swans are white, then a single case of a black swan is sufficient to reject this theory (Popper 1959, 101).

Other criticisms of case studies include that they may lack analytical rigor, tend to be poorly designed, are too subjective, and are difficult to replicate (Bryman 2012, 405). Yin (2012) argues that careful design and a systematic approach are essential to all forms of social science research, including case studies and other methods, and that there is nothing inherent in case studies that makes them less rigorous. Flyvbjerg (2006, 241) insists that “the case study is a necessary and sufficient method for certain important research tasks in the social sciences,” and one which “holds up well compared to other methods.” He argues that the valuable strengths of case studies include strong conceptual validity, and their focus on understanding context and process, and the links between causes and outcomes (Flyvbjerg 2011, 314).

Two common designs in case study research are the “most similar systems” (MSS) design and the “most different systems” (MDS) design (Meckstroth 1975). The goal of an MSS design is to simplify the analysis, if ideally a researcher is able to “choose as objects of research systems that are as similar as possible, except with regard to the phenomenon, the effects of which we are interested in assessing” (Anckar 2008a, 389). This can sometimes be problematic to accomplish for international comparative research, because of the significant differences between countries. However, US states are a natural set of cases for an MSS design, because as subnational units of the United States they share many things in common, such as history, language, culture, and national political institutions.

Case studies are appropriate for investigating why and how something happened (Yin 2012, 5), which is an important goal in this research. Consider, for example, the case of Iowa, a relatively-reformed state with an index score of 4.9/10. The Iowa legislature passed a redistricting reform bill in May 1980 and it was signed into law by the governor. This bill

delegated the redrawing of election districts from legislators to a nonpartisan state agency (Cook 2010). Why was this bill passed, and at this time? Who supported it and who opposed it in the legislature? Why did the governor sign it? Such questions can only be answered by the collection and analysis of qualitative data from Iowa, including primary sources such as legislative debates and secondary sources such as media reporting. Limited scholarship has examined the legislative politics of redistricting reform at the state level, in Iowa or elsewhere, although some national media sources discuss Iowa (for instance, Walsh 1991, Clymer 2002). The goal for each case is to develop a narrative of state politics to discuss why and how a specific redistricting reform was adopted or not adopted. March and Olsen (1996, 259) justify the value of this approach:

Politics depends on *accounts* of political events and responsibility for them, interpretations of political history. Accounts form the basis for defining situations within which identities are relevant. Meanings and histories are socially constructed. Political myths are developed and transmitted. Accountability is established. It is possible to study the processes by which a current situation is defined or history is understood and by which political events and possibilities are interpreted.

Appropriate case selection is essential to case study research. Some scholars advocate random selection of qualitative cases, in order to prevent systematic bias (Fearon and Laitin 2009, 1168). Others emphasize choosing a wide diversity of cases, to enable “the achievement of maximum variance along relevant dimensions” (Seawright and Gerring 2008, 300). The small size of the universe for this research (i.e. only fifty states) makes random selection of cases impractical. Instead, an “information-oriented selection” of cases to maximize their utility has been adopted, to include cases with diverse outcomes in terms of the redistricting index, and cases with variation in explanatory variables such as states of different size and region (Flyvbjerg 2006, 230). The selection of twelve state cases is listed in table 5 (along with their index scores) and illustrated in figure 4. The category of “reformed”

cases include states with moderate levels of generally-effective reform (such as Iowa) as well as states with a small amount of reform of limited effectiveness (such as Texas), whereas New Hampshire is an example of an unreformed state.

Table 5: Case Studies Case Selection

State	Index Score	State	Index Score
Alaska	5.0	Montana	4.5
California	7.3	New Hampshire	1.2
Idaho	5.3	New Jersey	3.2
Iowa	4.9	Oklahoma	1.6
Maine	2.3	Texas	1.7

Figure 4: Case Studies Case Selection



Source: Figure created by author.

1.5 Summary

The simple assumption that politicians prize power and protect their power as much as possible does most of the work in explaining why state legislatures still control election redistricting in many US states. Explaining the *exceptions* to this general rule is the task of this thesis. This chapter has identified two key research questions: why has election redistricting law reform been enacted by some US state legislatures but not by others? Why and under what conditions do state legislators give up some of their powers over election redistricting? Spending time answering these questions is justified by the outlier status of the US among the world's democracies due to its slow progress toward gerrymandering reform, by gerrymandering's on-going powerful effect on US elections, and by the failure of reform to advance in alternative venues to state legislatures (like in Congress or the US Supreme Court). Existing research on this topic mainly focuses on the analysis of specific redistricting processes in states, the maps so created, and their consequences. Limited work has been done to investigate and compare state redistricting systems and their origins and reform efforts, and that is what this thesis builds upon and contributes to. The study of policy change is a staple of public policy scholarship, and offers insights into how to analyze reform efforts and struggles, and numerous hypotheses can be generated from different theoretical approaches in political science. Two major methods have been implemented in this research, quantitative analysis of all states in chapter 3, and case studies of selected states in chapter 4. First, however, is a detailed discussion of hypotheses and subhypotheses, framed within the context of relevant literature, in chapter 2.

CHAPTER 2

Discussion of Hypotheses: “What Makes Things Happen”

“Shallow men believe in luck, believe in circumstances: It was somebody’s name, or he happened to be there at the time, or, it was so then, and another day it would have been otherwise. Strong men believe in cause and effect.”

– Ralph Waldo Emerson (1860, 191-192)

“Politics, *n.* A strife of interests masquerading as a contest of principles. The conduct of public affairs for private advantage.”

– Ambrose Bierce (1999, 148)

2.0 Introduction

Political change is hard to accomplish. People are typically cautious and strategic, especially politicians, who are tempted to value their own interests ahead of those of their community.

Tolbert, Smith, and Green (2009, 92) argue that “political elites are generally reluctant to alter the status quo unless a change will benefit them.” What factors drive policy change in redistricting laws? Can the adoption of redistricting reform provide benefits to state legislators? Or is it a rare exception to the rule of politician self-interest? This chapter explores different ways to think about these questions.

Many hypotheses might plausibly explain inter-state differences in how and why election redistricting reform occurs. The six hypotheses investigated in this research are outlined in table 6. For each, two or more subhypotheses have been identified. The goal of this chapter is to discuss each hypothesis and subhypothesis in the context of relevant political science research. One or more appropriate variables or ways to measure each subhypothesis are identified, for investigation in chapters 3 or 4. We start with the topic of political leadership.

Table 6: Hypotheses and Subhypotheses

Hypothesis Number	Subhypothesis Number	Hypothesis Statement
H ₀		A state legislature adopts redistricting law reform because of reasons not explained by a variable investigated in this research.
H ₁		<i>A state legislature adopts redistricting law reform if it is supported by state political leaders</i>
	H _{1a} H _{1b} H _{1c}	If it is supported by the state governor. If it is supported by state legislative leaders. If it is supported by members of Congress.
H ₂		<i>A state legislature adopts redistricting law reform if the legislature would gain a benefit or advantage from reform</i>
	H _{2a} H _{2b} H _{2c}	If courts have intervened to take control of past redistricting. If a ballot measure on the topic has been proposed and may pass. If legislators believe the existing system is corrupt or unethical.
H ₃		<i>A state legislature adopts redistricting law reform if it is supported by people in the state</i>
	H _{3a} H _{3b} H _{3c}	If it is supported by public opinion in the state. If it is supported by interest groups in the state. If it is supported by news media in the state.
H ₄		<i>A state legislature adopts redistricting law reform if it is advantageous for state political parties</i>
	H _{4a} H _{4b} H _{4c} H _{4d}	If the political party usually in the minority is in power in the state. If elections are competitive between the state's major parties. If there is low polarization between the state's major parties. If the Democratic Party is in power in the state.
H ₅		<i>A state legislature adopts redistricting law reform if the state has institutional features favourable to reform</i>
	H _{5a} H _{5b}	If the governor is an institutionally-powerful position in state politics. If the state legislature is a part-time citizens legislature.
H ₆		<i>A state legislature adopts redistricting law reform if the state has demographic features favourable to reform</i>
	H _{6a} H _{6b} H _{6c} H _{6d}	If the state has a low population. If the state is racially homogenous. If the state has a moralistic political culture. If the state has a liberal political ideology.

2.1 Political Leadership

“Democracy needs good leaders” (Rhodes and ‘t Hart 2014, 2). Politics requires collective action by people, which in turn requires leadership. Human beings are individual agents who need to be organized, mobilized, and inspired by leaders. The first hypothesis focuses on the agency and behaviour of specific actors within a state’s political system, who can provide leadership on reform adoption. *Hypothesis 1: A state legislature adopts redistricting law reform if it is supported by state political leaders.* Before examining the subhypotheses, some background on the presidency is discussed first. Presidents are not state actors and have little directly association with gerrymandering, but research about national leadership may be insightful into how state leaders behave.

2.1.1 Presidents

In 1960, presidential candidate John Kennedy envisioned an activist presidency. He argued that America needed “a Chief Executive who is the vital center of action in our whole scheme of Government” (Kennedy 1960). The presidency is the single most important actor in the US political system and probably the most-studied institution in American politics as a result (McKay 2014, 440). Presidential scholarship is certainly far more sizable than work on state governors. Research on how presidents manage and lead Congress may be relevant and applicable to understanding how governors manage and lead state legislatures. This subsection discusses approaches to studying the presidency, and identifies scholarship which might be applied fruitfully to political leadership in the states.

How does a president get members of Congress to do what he or she wants them to do? In the mid-1900s, scholars such as Corwin (1941), Rossiter (1956, 1964), and Koenig (1964) popularized the approach of analyzing the presidency by unpacking it into different core

functions or roles (Edwards, Kessel, and Rockman 1993, 4). Rossiter (1964, 14-38), for instance, identified ten roles performed by the President, including five mandated by the Constitution – “chief of state, chief executive, chief diplomat, commander in chief, and chief legislator” – and five additional roles acquired through practice and public expectations – “party chief, voice of the people, protector of peace, manager of prosperity, and leader of the free world.” Most of these roles also apply to governors, including chief of state, chief executive, commander in chief (of the state National Guard), chief legislator, (state) party chief, and manager of prosperity (of the state economy).

Chief legislator is the role most pertinent to this research. Rossiter (1964, 326) suggested the role emerged in the 20th century as a response to complexity and public expectations:

Congress has a wealth of strong and talented men, but the complexity of the problems they are asked to solve by a people who assume that all problems are solvable has made *external* leadership a requisite of effective operation. The President alone is in a political, constitutional, and practical position to provide such leadership.

He argued that Theodore Roosevelt, Woodrow Wilson, and Franklin Roosevelt transformed the presidency into “an active participant in every stage of the legislative process” (Rossiter 1964, 105). Interestingly, Rossiter suggested the prior gubernatorial experience of all three⁵ was essential to them valuing pro-active legislative leadership, seeing it as a key measure of their success, and thus changing the norm of how presidents relate to Congress (Rossiter 1964, 105). The same three men also changed how presidents communicate with the public.

Public attention is one asset presidents try to use and manage, argue scholars such as Tulis (1987), Kernell (1986), and Canes-Wrone (2006). Tulis (1987, 25) says 19th century presidents acted as trustees with regard to the public interest and avoided trying to shape or

⁵ T. Roosevelt was Governor of New York in 1899-1900, Wilson was Governor of New Jersey in 1911-1913, and F. Roosevelt was Governor of New York in 1929-1932 (NGA 2018).

respond too sensitively to what we now call ‘public opinion.’ However, under Theodore Roosevelt and Woodrow Wilson, a “rhetorical presidency” emerged (Tulis 1987, 4). It began under Roosevelt, who conceived of the president as an energetic steward of the people, and actively “coordinated his legislative and rhetorical efforts” (Tulis 1987, 106). The rhetorical presidency solidified under Wilson, who saw himself as the embodiment of the nation, as the only officeholder elected by all Americans. An example of this mindset is Wilson insisting on delivering State of the Union addresses to Congress as in-person speeches, instead of the written reports that had been the norm since John Adams (Tulis 1987, 133). New technologies have allowed subsequent presidents to innovate and expand the reach of their rhetoric, such as the use of radio by Coolidge and Franklin Roosevelt, of television by Kennedy and Reagan, and of the internet and social media by Obama and Trump (Milkis and Nelson 2003, 274, 311; Katz, Barris, and Jain 2013; Ouyang and Waterman 2020). As a result, the presidency today is seen as more energetic and “more capable of leading comprehensive social change” (Tulis 1987, 175).

Kernell (1986) and Canes-Wrone (2006) examine the effects of leader efforts to gain public support. Kernell says that it has become more common for presidents to make direct appeals to voters in order to put pressure on Congress to pass legislation. He argues that increased political conflict and frequent divided government have made elite-bargaining strategies of legislative leadership less effective, forcing the use of public-mobilization strategies instead (Kernell 1986, 47). As an example, Kernell (1986, 111) depicts communications with the public as vital to the legislative successes achieved by Reagan. Canes-Wrone (2006, 5) agrees that public appeals are important, and that “presidents’ involvement of the mass public does shift policy toward majority opinion.” This may be because presidents usually play it safe and make appeals only on initiatives which lack serious opposition. But Canes-Wrone says public

appeals do make a difference, increasing a president's ability to achieve legislative success on policies they and the people support. She argues that "presidents' involvement of the public increases the likelihood popular initiatives are enacted" (Canes-Wrone 2006, 6).

A variety of other factors affect if presidents succeed. Leadership depends on the leader. Clark Clifford suggested that "the executive branch of our government is like a chameleon. To a startling degree it reflects the character and personality of the President" (quoted in Greenstein 2009, 219). Pfiffner (2003, 4) argues that "presidential character is manifestly important. The values, principles, and habit of behavior that mark an individual strongly influence that person's behavior." Greenstein (1992, 2000, 2009) and Barber (1972, 1977) both explored the role of personal psychology, skills, and character in presidential leadership. Greenstein (2009, 219) argued that

The highly personalized nature of the modern American presidency makes the strengths and weaknesses of the White House incumbent of the utmost importance. It places a premium on the ability of chief executives to get the most out of their strong points and compensate for their limitations.

Greenstein (2009, 225-229) identified six categories of leadership skills: public communication, organizational capacity, political skills, vision, cognitive style, and emotional intelligence. Table 7 summarizes how he rated twelve presidents across these categories. No one is perfect – everyone is weak in some skill areas and strong in others. For example, Franklin Roosevelt's organizational abilities are criticized, notwithstanding his other "towering strengths" (Greenstein 2009, 220).

Table 7: Greenstein’s Evaluation of Presidential Skills

Key: Strengths = ✓ Weaknesses = ✗

	<i>Public communication skills</i>	<i>Organizational capacity</i>	<i>Political skills</i>	<i>Policy vision</i>	<i>Cognitive style</i>	<i>Emotional intelligence</i>
Roosevelt	✓	✗	✓	✓		
Truman	✗	✓	✓		✗	
Eisenhower	✗	✓		✓	✓	✓
Kennedy	✓			✓		
Johnson		✗	✓			✗
Nixon				✓	✓	✗
Ford		✓				✓
Carter			✗		✗	✗
Reagan	✓			✓	✗	
Bush 1	✗	✓		✗		✓
Clinton	✓	✗	✓			✗
Bush 2				✓		✓

Source: created by the author based on data in Greenstein (2009, 220-231).

Psychology is at the heart of Barber’s study of presidents. His goal was to “produce psychological interpretations of political behaviour” (Barber 1977, ix). He identified four types of presidents, as illustrated in table 8, based on responses to two key factors: the amount of energy a person invests in the presidency, and how a president feels about their political life, such as if it is a source of joy, fun, or genuine satisfaction (Barber 1977, 11).

Table 8: Barber’s Typology of Presidential Character

Presidential level of investment in their job	Presidential feeling toward their political life	
	<i>Positive</i>	<i>Negative</i>
<i>Active</i>	Active-positive Wants to achieve results Examples: Jefferson, FDR, Truman, JFK	Active-negative Wants to get and keep power Example: Adams, Wilson, Hoover, LBJ, Nixon
<i>Passive</i>	Passive-positive Wants to be loved	Passive-negative Wants to have civic virtue

	Examples: Madison, Taft, Harding	Example: Washington, Coolidge
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Source: adapted from Barber (1977, 12-14).

Active-positive presidents combine an intense effort and emotional investment in their job with a healthy, positive attitude toward doing it, and are idealized by Barber as the best type. He argued that they avoid weaknesses like “obsession and lassitude” and muster strengths such as objectivity, imaginativeness, self-assuredness, and the ability to motivate people (Barber 1977, 210-211). By contrast, active-negative is a type to avoid. Barber argued that “significant policy failures were rooted in the President’s character” for past active-negative presidents, like Wilson and Lyndon Johnson (Barber 1977, 95). Passive-positive types are reactive rather than pro-active, boosters but not risk-takers, people who enjoy the backslapping and camaraderie of political life (Barber 1977, 173-174). However, Barber said such presidents are “nice guys who finished first, only to discover not everyone is a nice guy” (Barber 1977, 174). Barber’s final category, the passive-negative, are presidents motivated by a sense of duty, who do the job reluctantly, and who seek to provide dignity and normalcy, but do not have high levels of energy or show strong initiative (Barber 1977, 172-173).

One view of political leadership is that “character is everything” (Pfiffner 2003, 4). The research of Greenstein and Barber stresses the existence and importance of human agency. The quality of leadership of a president or governor is greatly affected by who they are, the skills they hone, and the choices they make in how to approach their leadership job. Greenstein might argue that state leaders with good skill sets, in say communications, politics, and vision, are the most likely suspects for having the ability to push through political reforms. Barber might argue that state leaders with an active-positive disposition are

more likely to be successful in exercising leadership over others, more hands-on and energetic, less flawed or detached. The main methodological advice they offered on how to conduct case-study research was: collect and evaluate biographical information about governors, to help make arguments about why certain leaders were reform-achievers and others were not.

The last part of this subsection examines Neustadt (1960, 1990), who emphasized the need for persuasion in managing political elites. Neustadt's book *Presidential Power* has been described as "one of the most influential books ever written about political leadership" (Jones 2003, 1). In the mid-20th century, there was a sea-change in presidential-congressional relations. Rather than mostly deferring to Congress on the business of legislating, all presidents were now expected to create their own legislative program, to submit it to Congress, and to work to secure the adoption of their proposals (Rudalevige 2002, 3). Neustadt, having observed the Truman and Eisenhower administrations, wrote to advise presidents on how to rise to this heightened leadership challenge (Neustadt 1990, 4). In a system of separate branches sharing power, the core characteristic of the presidency is the need to persuade and bargain with other actors to accomplish presidential goals (Neustadt 1990, 29).

Neustadt saw a key distinction between presidential "power" and "powers" (Neustadt 1990, 320-321). Powers, plural, are the different types of formal authority any president can exercise under the constitution, such as the ability to veto bills, issue pardons, negotiate treaties, or nominate judges and other officials. Power, singular, for Neustadt referred to a president's informal power and is "synonymous with personal influence," especially "on the conduct of others" (Neustadt 1990, 7, 321). "Presidential power is the power to persuade," he

argued, and varies between individuals (Neustadt 1990, 11). Neustadt (1990, 10) quoted President Harry Truman to illustrate this point:

I sit here all day trying to persuade people to do the things they ought to have sense enough to do without my persuading them ... that's all the powers of the President amount to.

Moreover, tactics of persuasion and bargaining are not only needed for members of Congress or other external actors. A president needs to persuade within the White House and the executive branch as well, to make sure his or her own appointees are pursuing the president's goals rather than ones of their own. It has been said, for example, that "members of the Cabinet are a president's natural enemies," because of the opportunities they have for autonomous policy entrepreneurship, if the president does not monitor them closely enough (Neustadt 1990, 34-37).

Neustadt identified two subjective factors presidents must attend to, in order to guard and sustain their persuasion power: their professional reputation and their public prestige (Neustadt 1990, 50, 73). Presidents are surrounded by the wider political community of Washington, from Senators and staffers to bureaucrats and journalists. These people are always professionally judging presidents, anticipating their actions, and adjusting their own behaviour accordingly (Neustadt 1990, 52). A president able to establish a solid professional reputation with insiders early on, for action and "tenacity and skill," will be perceived to be more formidable and have an easier time in persuading others (Neustadt 1990, 54). Neustadt used the term reputation to refer to insider opinions of the president and "public prestige" to refer to outsider opinions, the president's "standing with the public outside Washington" (Neustadt 1990, 73). A popular president with high job approval ratings in polls is in a stronger position to persuade, because insiders may respect or fear the president's ability to mobilize public opinion in support of his or her policies (Neustadt 1990, 82).

To sum up the argument of Neustadt in his own words, authority, reputation, and prestige are the three sources of presidential power:

First are the bargaining advantages inherent in his job with which to persuade other men that what he wants of them is what their own responsibilities require them to do. Second are the expectations of those other men regarding his ability and will to use the various advantages they think he has. Third are those men's estimates of how his public views him and of how their publics may view them if they do what he wants. (Neustadt 1990, 150)

Neustadt serves as connection between some of the other scholars discussed. Personal skills, and perceptions of these skills, constrain what any leader can achieve in their elite-bargaining and persuasion strategies. The public is important not just because they can be appealed to and mobilized, but because they can *potentially* be mobilized, and risk-averse political actors are always mindful of going up against someone else's popularity or prestige.

2.1.2 Political Context

Structure-agency debates in social science are between explanations that emphasize the importance of the structural environment and long-term conditions, versus those that privilege the agency and power of individual actors. Ferguson and Barth (2002, 788-789) make a similar distinction, between two approaches to the study of presidential leadership: the personal model and the institutional model. The authors discussed so far have largely prioritized personal agency. This subsection briefly discusses some structural or institutional contexts that limit a leader's political options.

One way to think about how structure constrains political leadership is through the lens of cycle theory. This is the idea that not every leader faces the same circumstances. Instead, American politics tends to have recurring long-term patterns, or cycles, or eras. It is therefore valuable to consider where leaders are situated with regard to the arc of political time, in

order to understand the constraints and opportunities they have. Some leaders have more room to maneuver than others, and this difference should be accounted for when evaluating successes and failures. Skowronek (1993, 2020) is the exemplar of this approach for presidents, but earlier versions of cycle theory were discussed by historians.

For instance, Henry Adams (1890) thought early American politics swung like a pendulum, back and forth, between periods of national power and centralization, and periods of decentralization and diffused power. He saw this as a recurring twelve-year cycle, with, for instance, centralization of power under Washington and John Adams in 1788-1800, followed by decentralization under Jefferson and Madison in 1800-1812 (Adams 1890, 123).

Schlesinger (1949) applied this idea to all of American history and suggested the country regularly alternated between liberalism and conservatism. Liberal periods expanded democracy and economic opportunities, and conservative periods were reactionary and defended property rights and the status quo (Schlesinger 1949, 81). Schlesinger's periodization is summarized in table 9. Klingberg (1952, 239) identified a similar recurring pattern in foreign policy, with alternating moods of introversion and extroversion toward US involvement in world affairs.

Table 9: Cycle of Liberal and Conservative Periods

<u>Years</u>	<u>Key features</u>	<u>Type of period</u>
1765-1787	Independence & Constitution making	Liberal
1787-1801	Hamiltonian Federalism	Conservative
1801-1816	Jeffersonian liberalism	Liberal
1816-1829	Conservative reaction after War of 1812	Conservative
1829-1841	Jacksonian Democracy	Liberal
1841-1861	Antebellum slaveowner domination	Conservative
1861-1869	Slavery abolition and Reconstruction	Liberal
1869-1901	Gilded Age	Conservative
1901-1919	Progressive Era	Liberal
1919-1931	Republican Restoration	Conservative
1931-1947	New Deal Era	Liberal

Source: adapted from Schlesinger (1949, 81)

Skowronek is probably the most influential contemporary proponent of cycle theory. His *The Politics Presidents Make* has been described as “the most impressive book on the American presidency since Neustadt’s *Presidential Power*” (Moe 2009, 713). Skowronek argues that US presidents should be understood and compared to other presidents based on where they are situated with regard to the prevailing political regime. He identifies four possible types of presidents, who are forced by circumstances to engage in what he labels as the politics of reconstruction, articulation, pre-emption, or disjunction, depending on their partisan affiliation and the strength or weakness of the regime (Skowronek 1993, 36-45). This typology is outlined in table 10. Reconstruction is when a president is able to repudiate an old regime and build a new one, articulation is insider regime-maintenance, pre-emption is when opposition presidents are constrained by a dominant regime, and disjunction is when a president is in power at the end of an era and presiding over a regime in decline or crisis.

Table 10: Skowronek’s Typology of Presidential Leadership

Power of the current political regime is:	President’s relationship to party that created current regime:	
	<i>Opposed</i>	<i>Affiliated</i>
<i>Vulnerable</i>	Politics of reconstruction (building a new regime) Example: FDR, Reagan	Politics of disjunction (dealing with regime decline) Example: Hoover, Carter, Trump
<i>Resilient</i>	Politics of preemption (constrained by the regime) Example: Eisenhower, Obama	Politics of articulation (maintaining the current regime) Example: Truman, LBJ, Bush

Source: adapted from Skowronek (1993, 36; 2016).

Historians typically compare presidents in chronological sequence, such as comparing Kennedy to Eisenhower and Johnson, or Carter with Reagan (Schlesinger 1986, 33). By contrast, because Skowronek emphasizes a president's place in the long-run cycle, he sees regime-in-crisis Carter as situated very differently from regime-creator Reagan, and so suggests we compare Carter to Hoover, or Clinton to someone also constrained by the opposition's regime, like Eisenhower (Skowronek 1993, 362, 446). Skowronek (2020) similarly sees Obama as a constrained president like Clinton, and Trump as a disjunctive president who belongs in the same category as Hoover and Carter.

Another major application of cycle theory in political science is to elections. Studying election realignments is an enduring subfield, which has been the focus of numerous scholars (for example, Key 1955, Burnham 1970, Sundquist 1983, Shafer 1991, Mayhew 2002, Rosenof 2003, Norpoth and Rusk 2007, Schlozman 2015). The essential argument is that not all American elections are equal. Instead, there should be a typology of elections, because some are much more significant than others. Key (1955, 4) argued there are a few elections "in which the depth and intensity of electoral involvement are high, in which more or less profound readjustments occur in the relations of power within the community, and in which new and durable electoral groupings are formed." For example, 1896 was a critical election because "the 1896 alignment persisted in its basic form until 1928," and was "powerful enough to determine the nature of American politics for more than thirty years" (Key 1955, 11; Schattschneider 1960, 78). Other elections identified as critical include those of 1932 and 1980 (Burnham 1970, 1; Sundquist 1983, 1). The concept of critical elections or realignments has been criticized for lacking empirical justification. Mayhew (2002, 141) suggests that "the claims of the realignments genre do not hold up well, and its illuminative power has not proven great." He calculates that no individual critical election actually meets all of the

theoretical claims made about such elections (Mayhew 2002, 144). However, the concept remains widely applied (Davis 2008, Douthat 2012, Siegel 2017).

Structural approaches are relevant to an investigation of redistricting reform because they highlight the importance of context. Political feasibility is a common obstacle to any policy change (Meltsner 1972). American politics also tends to experience “reform cycles,” where certain ideas “cycle in and out of fashion” (Cain 2015, 93). The electoral, historical, or ideological period during which a reform is debated may provide resources to or impose constraints upon key state actors. Reform may be more feasible during a period of dominant liberalism, which tend to expand democracy. Reform may be more feasible if a political leader is aligned with a dominant regime, or is allied to a regime reconstruction. Reform may be more feasible following a realignment election which has brought a new balance of political forces to power. Political reform does not happen in a vacuum. Ferree, Powell, and Scheiner (2014, 436) argue that “it seems almost certain that a polity’s context—whether social, economic, or political—shapes political outcomes.” Each case study for this research has tried to consider the big picture of the long-run context of politics within which a reform debate occurs. Having reviewed some scholarship on policy change and presidents, we will now discuss each hypothesis and subhypothesis in the order outlined in table 6, starting with governors.

2.1.3 Governors

The governor is the most important and powerful political actor in a state (Kousser and Phillips 2012, 30; Bernick 2016, 132). This has not always been true. State legislatures were pre-eminent in 19th century state politics, but governors in the 20th century became more significant and evolved from being a figurehead to being a real leader (Lipson 1939, Sabato

1978, Dometrius 1999). The powers of governors have significantly increased (Beyle 2002, 142). Their state role today is akin to the central position of the president in the federal government (Bowman, Woods, and Stark 2010). Governors therefore may play a decisive role in state legislatures adopting or not adopting redistricting law reform. Legislatures have a diverse membership full of competing and conflicting interests. Someone needs to provide leadership, and to persuade, bargain, and bully legislators into collective action. That someone may well be the governor. This section discusses research on governors, with a focus on governor-legislature relations, to explore the means of gubernatorial leadership.

If presidents are perhaps over-studied in political science, then governors are under-studied (Thrower 2019, 369). Graves, writing in 1957, argued that “the office of the governorship, like the field of state government in general, has been largely neglected by political scientists” (Graves 1957, 655). Little has changed. Gubernatorial biographies and autobiographies are common, but scholarship examining governors in general, especially in a comparative perspective across states, remains rare (Rosenthal 2013, vii; Wanna 2014, 574). However, scholars agree that governors today are powerful. Rosenthal (2013, 8) says

governors

can accomplish a lot. They can set their own agendas, which legislators have a more difficult time doing. They can focus more on solving problems than on matters of representation. They can be a formidable force for something they believe needs to be done.

Many factors contribute to gubernatorial leadership capacity. Governors have both formal and informal powers (Bernick 1979). Roles derived from formal powers that help governors be strong leaders include serving as chief legislator, manager of legislative special sessions, manager of the state budget, and chief administrator as head of the state executive branch.

The governor is a necessary partner in legislating and essentially a *de facto* member of the legislature (Squire and Moncrief 2010, 184). The key tool that makes governors central to the state legislative process is the veto, the ability to reject legislation, subject to a possible override by legislators (Brown 2012). Presidents have always been able to veto bills passed by Congress, under Article 1, Section 7 of the US Constitution. However, the veto power was originally rare for governors. In 1789, only two out of thirteen governors had a veto (Prescott 1950, 98). The adoption of gubernatorial vetoes in the 19th century was slow (Fairlie 1917, 476). North Carolina became the last state to grant its governor a veto in 1996 (Fleer 2008, 134). Executive-legislative conflict is inevitable in the US, given the separate existence and election of the two branches (Edwards 1978). The veto embodies this conflict (Klarner and Karch 2008, 581). A governor can block a legislature from doing anything supported by fewer legislators than the veto override requirement, which is usually two-thirds of legislators. Approximately 95% of gubernatorial vetoes prevail, and are not subsequently overridden (Wiggins 1980, 1115). On the other hand, legislatures also have the power to obstruct governors. As Rosenthal (2013, 30) says, “legislatures can modify, delay, and reject. They can frustrate governors and keep them from doing what they want to do.”

However, the power to destroy is distinct from the power to create. How do governors act as chief legislator to positively pursue their agenda, as opposed to obstructing others? Primarily, the veto gives governors bargaining leverage. Legislators who have bills they are sponsoring naturally seek the governor’s support (to prevent a veto), and the governor in return may ask for support for his or her own favoured bills. Many scholars study this phenomenon of mutual vote-trading or logrolling within legislatures (Dearing and Smith 1997, Carrubba and Volden 2000). For the governor, this reciprocal relationship is not just with individual legislators, but,

more importantly, with the state legislative leadership. “The leaders of the majority party in the legislature are pivotal for the governor’s policy leadership,” argues Rosenthal (2013, 129). Governors and legislative leaders can negotiate and bargain and reach an agreement about whole sets of policies and the budget, not just on individual issues. Both sides know they will be facing each other for multiple years, typically at least the four years of a gubernatorial term, and maybe more depending on election results. This can provide an incentive to create and sustain an on-going cooperative relationship that benefits both sides (Rosenthal 2013, 130). Many governors meet regularly, even weekly, with legislative leaders in order to make such a relationship work well (Rosenthal 2013, 133-135).

Governors also possess significant formal powers over the state budget and the system of state administration. Kousser and Phillips (2005, 3) expect “governors will be most successful when playing the budget game.” Sigelman and Dometrius (1988, 167) argue that the governor’s chief administrator role is important, and “appointment powers are particularly crucial as a source of influence over state agencies.” Budget and administration powers do not directly affect redistricting reform. However, they are general sources of leverage for governors bargaining with the legislature. For instance, legislators inevitably have pet projects they want funded, which is more likely to occur with the governor’s support (especially if he or she has an item veto) (Berch 1992, 336). Legislators may have favourite state programs they want protected, perhaps because these particularly impact their donors or voters (Smith 2003, 101). Legislators might want to benefit from gubernatorial patronage, such as securing a job with a state agency for themselves or someone they know (Blair 1984). Legislators might want to obtain a favour in how a state department goes about its business. Or legislators might seek the governor’s aid in providing constituency services to their district. In short, there are myriad ways in which governors, if they choose, can use their

budgeting and administrative powers to make themselves either a helpful ally and benefactor for a legislator or a frustrating antagonist.

Next, governors have the formal power to determine when special sessions of the legislature occur, which is useful for episodic issues such as redistricting (Bernick 1994, 84). The amount of time legislatures spend in session each year varies widely, as shown in table 11. For full-time legislatures special sessions are superfluous. But many legislatures meet for limited periods, or only every second year. For these part-time legislatures, the governor’s power to call special sessions is potentially significant, and forces legislators to devote extra attention to the governor’s agenda for that session (Ransone 1982, 157). Six states held special sessions in 2019 and nine in 2018, mainly for budget and tax debates (NCSL 2019a).

Table 11: State Legislature Regular Sessions – Months Per Year

State	2018	2019	18/19	State	2018	2019	18/19	State	2018	2019	18/19
Montana	0	4	4	Arkansas	2	6	8	South Carolina	5	5	10
North Dakota	0	4	4	Maryland	4	4	8	Vermont	5	5	10
Wyoming	2	2	4	Oklahoma	4	4	8	Maine	5	7	12
Nevada	0	5	5	Oregon	2	6	8	New Hampshire	6	6	12
New Mexico	2	3	5	Florida	3	6	9	Delaware	7	6	13
Texas	0	5	5	Iowa	5	4	9	Rhode Island	7	6	13
Virginia	3	2	5	Minnesota	4	5	9	North Carolina	6	8	14
Alabama	3	3	6	Nebraska	4	5	9	California	8	10	18
Louisiana	3	3	6	Tennessee	4	5	9	Illinois	12	6	18
Mississippi	3	3	6	Washington	5	4	9	Massachusetts	12	12	24
South Dakota	3	3	6	Alaska	5	5	10	Michigan	12	12	24
Utah	3	3	6	Arizona	5	5	10	New Jersey	12	12	24
West Virginia	3	3	6	Colorado	5	5	10	New York	12	12	24
Georgia	3	4	7	Connecticut	4	6	10	Ohio	12	12	24
Idaho	3	4	7	Hawaii	5	5	10	Pennsylvania	12	12	24
Indiana	3	4	7	Kansas	5	5	10	Wisconsin	12	12	24
Kentucky	4	3	7	Missouri	5	5	10	Mean	5.1	5.8	10.9

Source: calculated from data reported in NCSL (2019a). For example, a legislature in session during the months of January through May in a given year is coded as a 5 in the table.

A related formal aspect of legislatures indirectly and unintentionally empowers the governor: term limits for legislators. Twenty-one US states adopted term limits for the state legislature during the 1990s (Carey, Niemi, and Powell 2000, 4-5). Political scientists argue this shifted the balance of power in those states in favour of the governor, because the stability, continuity, and experience of legislators and legislative leaders notably declined (Rosenthal 2013, 33). One state senator says legislative term limits

increase the power of the governor with the legislature because you have so many new people, and information is power, and the executive has so much more information than the legislature does – with so many people who don't know the history of what's going on with government. (quoted in Carey, Niemi, and Powell 2000, 72)

All governors from the same state have the same formal powers. However, applying Neustadt, we would expect how leaders use their *informal* powers determines the impact of formal and informal alike. Beyle (1983, 203) says “the true measure of a governor” is whether he or she can “translate the potential formal powers into effective action.” Formal powers are just a foundation for gubernatorial leadership, an “opportunity to wield influence,” that might or might not be exploited successfully by specific leaders in specific situations (Sigelman and Dometrius 1988, 158, 159). Informal powers of any governor include their role as state party leader, their perceived political authority and prestige (such as from polling and elections), their ability to mobilize attention and support from the public and interest groups, their strategic choices, and their personal leadership qualities.

The governor is the leader of his or her political party in the state. Governors and state legislators from the same party are essentially members of the same team, for both campaigning and governing purposes (Morehouse 1998). For example, the Republican governor of Massachusetts, Charlie Baker, is effectively leader of the Massachusetts

Republican Party, while next-door the Democratic governor of Connecticut, Ned Lamont, is leader of the Connecticut Democratic Party (NGA 2021). Party leadership provides various opportunities to exert influence. For instance, governors may endorse and help all kinds of election candidates in their state (Vining and Wilhelm 2011, 1073). Governors can lobby legislators of their own party to try to sway who they elect as leaders in the legislature (Masket 2009, 96). In shaping the public agenda, governors promote the policies and goals widely supported by their state party, not just their own rogue ideas (Herzik 1991).

Legislators usually have only a small number of issues where they specialize, consider themselves experts, and personally care a lot about policymaking details. For all other issues that are contested, most state legislators are reliable partisans who just go with the flow of whatever their political party is supporting or opposing (Jewell 1955, 791). Governors who invest time and energy into leading their party well are rewarded with loyalty in return and party backing for their initiatives (McCally 1966).

The public popularity of a governor contributes to their prestige, and thus their ability to persuade others (Fording, Woods, and Prince 2002). When you have high job approval ratings, everyone wants to be your friend. When you have low job approval ratings, no one returns your calls. Governors Charlie Baker and Ned Lamont were mentioned above, and illustrate the range of gubernatorial popularity. They were both in office in 2019. That year, in Massachusetts, 73% of people approved of Baker's job performance, according to polls, making him the most popular governor in the United States (Morning Consult 2019). By contrast, Lamont's job approval of 32% made him the least popular governor (Morning Consult 2019). As a result, all other things being equal, popular Baker should have been better positioned politically to implement his agenda than unpopular Lamont. For example, hypothetically, if you're a legislator, a threat from Baker, to say mobilize the public against

you over an issue, would probably be more plausible and dangerous than a threat from Lamont. Likewise, a promise of campaigning or fundraising support from a popular politician is more useful and welcome than such a promise from someone who is unpopular.

Everyone loves a winner. Large electoral victories help governors achieve legislative success, because “the greater the electoral margin, the more political capital at a governor’s disposal,” argue Barrilleaux and Berkman (2003, 412). Baker and Lamont also illustrate the role of election margins. Both men were on the gubernatorial ballot in November 2018. But Baker won in Massachusetts by 66% to 33%, whereas Lamont won by 49% to 46% in Connecticut (Galvin 2018, Merrill 2018, 5). There may have been coat-tail effects in both states, that is, the performance of the candidate at the top of ticket affected other races (Hogan 2005). In a good year for Democrats, Baker’s strong showing in the governor’s race minimized Republican legislator losses, while Lamont’s weak performance may have limited Democratic gains in Connecticut (NCSL 2018a). The Republican Baker was even endorsed in his election by several Democratic state legislators (Schoenberg 2018). No Republicans endorsed Lamont. “Winning big” helps executives influence legislators (Goodin 1977). When a governor has high prestige from a big win, everything is easier, morale is strong, and people (journalists, other politicians, voters) are impressed and give you the benefit of the doubt. For a governor with low prestige from weak results, nothing is easy. Governor Lamont struggled to get legislative support for his agenda in 2019, even from fellow Democrats, which is no surprise given his election and polling numbers (Keating 2019).

Recruiting and retaining a team of respected and competent staff can make a significant difference to gubernatorial performance, especially if the legislature lacks the same (Behn

2011). In particular, professional staff enhance “the governor’s ability to process information in order to reach decisions without dependence on others,” argues Dilger (1995, 118).

Governors usually have well-staffed offices and can make use of people and knowledge from the rest of the state executive branch (Wyner 1970). The size of gubernatorial staffs has grown. Beyle (2006) says nationwide the average number of people working in a state governor’s office increased from 11 in the 1950s, to 29 in the 1970s, to 59 in 2004. The staffing of legislatures varies between states. Part-time legislators have few staff and rely on other sources for information and advice, including the governor’s office (Fisher and Nice 2005). Staffing of legislatures has evolved in some states, as legislatures “staff up” to improve their institutional capacity and perhaps catch up with the governor. One former governor noted, “as the legislature got more staff, they grew more independent of the governor’s office” (quoted in Rosenthal 2013, 31).

Many state political issues are readily resolved, because a consensus already exists or because the issue does not have a sharp partisan divide (Rosenthal 2013, 152). For everything else, though, governors need a sound strategy to achieve their goals despite active opposition. A governor’s “strategic choices may also influence his or her legislative success,” argues Ferguson (2003, 161). Rosenthal (2013, 154) identifies two types of strategies governors use to advance a contested agenda in the legislature: an outsider strategy or an insider strategy. An outsider strategy aims to increase external pressure on legislators (Rosenthal 2013, 155). Governors can command media attention and try to rally public support for a policy, with the aim of persuading reluctant legislators to respect and follow the popular will. Governors can also try to mobilize interest group support, especially from groups popular with the public or which can offer endorsements or donations to legislators. The media is itself a target for attention, as governors seek editorials supporting their policies or coverage slanted to present

the issue in a favourable light. One governor says that “the most important power a governor has is the power of communicating,” and another argues that “a lot of the times you have to sell a big idea” to people (quoted in Rosenthal 2013, 155). An insider strategy, by contrast, focuses on political elites directly, and applying pressure within a legislature through backroom dealing (Rosenthal 2013, 165). Governors can work to build coalitions of legislators behind an issue, try to motivate legislators to support a consensus position, and negotiate to achieve workable compromises (Rosenthal 2013, 166-177). Insider strategies are suitable when there is real potential for inside cooperation, whereas if a legislature is recalcitrant, a governor might be willing to criticize and embarrass legislators publicly (Rosenthal 2013, 160). Behn (2011) suggests an additional distinction, between offense and defense. He says, “offensive issues reflect the governor’s agenda; they have become public issues because the governor has highlighted them. In contrast, defensive issues are those with which the governor is forced to cope” (Behn 2011, 7). Insider and outsider strategies are both attacking options for governors on offense, but a governor playing defense might rely more on the shield of the veto, unless a large legislative majority seems to be taking a view contrary to his or her own.

The last area of informal power relates to personal factors. Individual leaders have their own skill sets and personalities. Dilger (1995, 118) argues that a governor’s “intellectual, political, and verbal skills, including charm, charisma, and sense of humor... represent the ability to persuade others to take actions that the governor believes are necessary. Crew and Lewis (2011) investigate verbal skills, and conclude that the “verbal style” governors use in policy speeches makes a difference. They say that governors who “choose words and phrases that connote enthusiasm and activity” in their speeches are more influential (Crew and Lewis 2011, 640). Barth and Ferguson (2002) suggest that personality is important because it affects

public approval. “A governor’s personality shapes his or her actions, with subsequent evaluations of the governor by the public being based upon those actions and their results,” they argue (Barth and Ferguson 2002, 270). Rosenthal (2013, 56) agrees and says that “in politics friendships matter.” A leader with an amiable personality, or who makes an effort to be liked, to socialize, or to treat people respectfully, can develop an insider reputation that is positive and helpful when pursuing their agenda (Rosenthal 2013, 56-58). However, not all scholars accept that these kinds of personal factors make a real difference. Sigelman and Smith (1981) are skeptical, and their research finds no individual characteristic or skill that is clearly associated with gubernatorial success. They conclude instead that

There is no single path to outstanding performance in office: individuals with different personal attributes serving in offices endowed with different powers in states with different characteristics have become outstanding governors. (Sigelman and Smith 1981, 180).

Theodore Roosevelt was Governor of New York for two years. He later reflected that “more than half of my work as governor was in the direction of getting needed and important legislation” (Roosevelt 1920, 282). Most governors today emulate Roosevelt and try to make themselves a vital center of action for state legislation. Subhypothesis 1a for this research says *Reform is adopted if it is supported by the state governor*. It is no coincidence this is first. If this research had only one hypothesis, then it would credit gubernatorial leadership. As the most powerful state actor, the governor is the most likely suspect in enabling the adoption of any state policy reform. Governors are also not personally affected by redistricting, since they are elected statewide. With no skin in the game, they can concentrate on statewide interests. “The governor more than anyone else can focus attention on the needs of the whole state and propose means of satisfying them,” argued Lipson (1938, 74). The most common way to study sub-national leaders like state governors is through “leadership

biographies or case studies” (Wanna 2014, 567). There is usually an emphasis on political relationships, that is, tracing “the patterns of relations leaders manage to conduct or negotiate with other significant actors” (Wanna 2014, 569). This research has collected available data about the actions and views of individual governors in office during reform debates, including from media reporting, legislature records, public speeches, memoirs, and archival information.

“He cannot lead it” (Bryce 1906, 193). That was Bryce’s blunt rejection of the idea that governors provide leadership to their state’s legislature. Over a century later, the opposite view now prevails about the political obligations and opportunities governors possess with regard to the legislature. He or she must lead it. Lipson (1938, 77), an early advocate of gubernatorial leadership, argued that “there is more unity, more purpose, more consistency, when the governor leads; though, if he default, the legislature may supply the deficiency.” Some alternative or supplementary sources of leadership and influence in state politics are discussed in the next subsections.

2.1.4 Legislative Leaders

Legislatures need someone to provide leadership and to corral individual legislators into collective action. Governors can perform this function from outside the legislature, but not exclusively. Internal leadership is also pivotal. Legislators of each political party in each chamber of a state legislature elect their own leaders (Squire and Moncrief 2010, 125-126). Common leader job titles include Speaker for the state house, President for the state senate, and Minority Leader for both chambers.⁶ Legislative leaders face a difficult job, which one

⁶ The names used for state legislative chambers vary a little. 41 states call their lower house the House of Representatives, but 3 states continue to use the colonial-era name of House of Delegates (MD, VA, WV) and 5 use the name Assembly (CA, NJ, NV, NY, WI) (Squire 2012, 84). 49 states have an upper house called the Senate. Nebraska has a unicameral state legislature officially called the “Legislature,” although members are called Senators and the body is often referred to as the State Senate (Heltzer 2016, 276).

former house speaker describes as like “pushing a wheelbarrow full of frogs” (quoted in Squire and Moncrief 2010, 126). However, leaders have various tools to keep individual legislators in line. Squire and Moncrief relate the story of a California legislator who was giving a passionate speech *against* a bill. Speaker Willie Brown walked past the legislator’s desk on the assembly floor and told him “don’t get too wound up, you’re voting for this bill” (quoted in Squire and Moncrief 2010, 137). The legislator in question promptly sat down and voted for the bill, but most state legislative leaders probably need to do a little more work than that to impose their will.

Legislative leaders have both informal and formal ways to influence their colleagues. Leaders play a major role for their political party in fundraising, candidate recruitment, and planning how to protect vulnerable incumbents (Powell 2012, 91; Rosenthal 2009, 229-231).

Legislators have an incentive to support a leader if they want his or her fundraising support. Leaders have significant agenda-setting powers, determining what bills get considered when for floor debates (Rosenthal 2009, 235-236). If ordinary legislators want a bill or spending proposal they favour to become law, they’ll usually need leadership backing. Leaders are role models for legislators that can shape how they vote, work to build consensus on issues within their caucus, and are key negotiators over bill content and votes (Rosenthal 2009, 238-247). Chamber leaders are at the top of the hierarchy of people within the legislature and may have appointment power over other key posts, such as party whips, chairs of standing committees, and committee assignments for everyone else (Rosenthal 2009, 232-233). Leaders may be in charge of the distribution of various job perks and resources, such as office space, travel opportunities, support staff, and even parking spots (Rosenthal 2009, 234). Leaders may also have patronage powers with regard to the rest of the state government, such as picking people to serve on various boards or agencies (Rosenthal 2009, 235). Overall, each party’s

legislative leaders have numerous carrots and sticks they can use when bargaining with individual legislators, unrelated to the merits or popularity of any specific legislation.

A North Carolina legislator says, “it’s simple. If [the Speaker] wants a bill to pass, it passes. If he doesn’t want a bill to pass, it fails” (quoted in Thompson 1986, 95). The leaders of state legislative chambers have a powerful voice in state politics. Subhypothesis 1b (*Reform is adopted if it is supported by state legislative leaders*) recognizes that power, and its capacity to shape redistricting reform in a state. It would be difficult for any reform to be adopted without the support or at least acquiescence of legislative leaders. On the other hand, leaders live by the sword and die by the sword of party democracy. Elected by their colleagues, they can be ousted if they do their job poorly or stray too far from what most legislators want (Donovan, Mooney, and Smith 2013, 267; Rosenthal 2009, 260). For example, to preserve their position, leaders may allow a bill they personally oppose to be go to the floor for a vote, if they know a majority of their colleagues support it (Squire and Moncrief 2010, 138). Data for this subhypothesis included public statements legislative leaders made for or against a reform, as well as what the media and legislators said about leader views on reform proposals.

2.1.5 Congress

Members of Congress have no direct power over congressional redistricting, because decision-making is delegated to the states, and any direct federal action occurs through the Department of Justice or the courts. However, congress members are often former state legislators, and may wield some influence over state politics (Clapp 1963, 9). They shepherd federal funding to projects in the state, may sway appointments to state-based federal jobs, and can exercise limited patronage (Clapp 1963, 101). They also can help state politicians to

win elections, by providing endorsements and advice, making donations, and assisting with fundraising. Many ambitious state politicians would also like to climb the political ladder and get elected to Congress themselves one day, and existing members of Congress can help them do that (Squire and Moncrief 2010, 109). In addition, the more powerful a congress member is in Washington, the more clout they are likely to wield back home. The Speaker of the US House of Representatives, for example, is likely to be a very influential person in politics in their home state.

Congressional leaders have been significant actors in redistricting reform, but in a negative sense: they have mainly worked to prevent reform and to preserve the ability of states to gerrymander. Nancy Pelosi (D-CA), as House Minority Leader and then as Speaker of the House, was a major opponent of redistricting reform in California, which was pushed as initiatives by Governor Arnold Schwarzenegger in 2006, 2008, and 2010 (Stephanopoulos 2007, 373; Walters 2017). In fact, Schwarzenegger adjusted his 2008 reform plan to only cover state districts and to exclude congressional districts, precisely in order to defuse Pelosi's opposition (MacDonald 2012, 474). Steny Hoyer (D-MA), presently House Majority Leader, is a confessed "serial gerrymanderer" who orchestrated the gerrymandering of Maryland's congressional districts to favour Democrats in 2011 (*Benisek v. Lamone*, 348 F. Supp. 3d 493, 502). John Boehner (R-OH), while Speaker of the House, opposed reform in his home state of Ohio and instead took an active role in maximizing Republican gerrymandering in 2011 (Litton 2012, 849, 874). Similarly, Paul Ryan (R-WI), before he became Speaker, spearheaded Republican gerrymandering in Wisconsin (Nelson 2014).

It should be noted that Congress as a whole could exercise regulatory power over the congressional redistricting carried out by states, but chooses not to. Article 1, Section 4 of the

Constitution delegates federal election rule-making to the states, but gives Congress an override:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

In the past, Congress used this power to impose basic rules on congressional district map-drawing by the states. For example, district contiguity and single-member districts were imposed upon the states by the Apportionment Act of 1842, section 2:

That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts, composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled; no one district electing more than one Representative.

Similarly, district contiguity, district compactness, population equality, and single-member districts were all requirements imposed by the Apportionment Act of 1911, section 3:

That in each State entitled under this apportionment to more than one Representative, the Representatives to the Sixty-third and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory, and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative.

Contiguity and compactness standards can be used to constrain or litigate against gerrymandering, because districts with disconnected areas or oddly-shaped boundaries are common gerrymandering hallmarks (Pildes and Niemi 1993). However, these federal rules were subsequently omitted from the Reapportionment Act of 1929, and Congress has not reinstated them or passed any other regulation to limit partisan gerrymandering by the states.⁷ When the Supreme Court declined to police partisan gerrymandering in 2019, it identified Congress as an alternative solution-provider, noting that “the Framers gave Congress the power to do something about partisan gerrymandering in the Elections Clause” (*Rucho v.*

⁷ The US Supreme Court ruled in *Wood v. Broom* (1932) that the omission of the standards from the 1929 Act meant that the standards from earlier laws had expired, and thus could no longer be used to limit the states.

Common Cause 588 U.S. ___, 32-33). However, no one expects such action from the current Congress (or, more accurately, from a Senate with fifty Republicans).

Some Congress members are sympathetic to redistricting reform. A bipartisan Congressional Anti-Gerrymandering bill introduced in 1979 was the subject of committee hearings (US Senate 1979). In 2017 and 2018, fifteen different redistricting reform bills were introduced in Congress, including a Senate bill (S.1880) sponsored by 14 Senators and a House bill (H.R.1102) with 49 sponsors (Brennan Center 2018). In 2019, House Resolution 1, an omnibus package of political reforms including anti-gerrymandering provisions, passed the House with 225 votes (DeBonis and Wagner 2019). Politicians who back federal reform bills might support and work to advance state-level reform efforts as well. Hypothesis 1c (*Reform is adopted if it is supported by members of Congress*) acknowledges the potential influence individuals from Congress could wield in debates back in their home state. In addition to public statements by Senators or Representatives, other sources of data for this hypothesis included media reports and remarks by state politicians about the views of Congress members.

2.2 Legislatures

When young journalist Molly Ivins first began covering the Texas legislature in the 1970s, she concluded that “all anyone needs to enjoy the state legislature is a strong stomach and a complete insensitivity to the needs of the people” (Ivins 1971). The number of Americans who agree varies hugely by state. The proportion of voters approving of their state legislature’s job performance can range from under 20 per cent in some states to over 60 per cent in others (Richardson, Konisky, and Milyo 2012, 101). Among state institutions, state legislatures on average are slightly less popular and less trusted by the people than governors

or state courts (Squire and Moncrief 2010, 238). Nonetheless, state legislatures are essential to a state's political system. Rosenthal (2009, 2) describes them as "engines of democracy," and argues that "not much can happen in state government unless the legislature is on board."

State legislatures are strategic institutions. They are not altruistic but self-interested, seeking to preserve and protect their institutional power and prestige. Presidents usually protect the privileges of the presidency, the Chief Justice tries to safeguard the prestige and legitimacy of the Supreme Court, and Congress sometimes defends its institutional capacity and prerogatives (Moe 1993, 374; Fettig and Benesh 2016; Schickler 2001, 7-8). State legislatures behave in the same way. With redistricting power traditionally in the hands of state legislators, any reform threatens to reduce the legislature's power. There may be strategic explanations for why a reform advances, if legislators believe they are gaining something in return for giving up an amount of redistricting power. For example, if there is an external institutional threat, which could lead to an expected reduction in power over redistricting by say amount X , a legislature might adopt an alternative reform that reduces its power by amount Y , where $X > Y$. If the adoption of the small Y reform pre-empts and prevents the probable imposition of the big X reform, then the legislature has protected itself in the long-term. This section discusses the sometimes-competitive relationship between the state legislature and two other institutions that might be able to steal some of its redistricting power: state courts and state ballot measure systems. It then concludes with a discussion of legislators and the role of ideas versus interests.

2.2.1 Legislatures and Courts

The United States is a "law-permeated society," where "courts do not merely resolve large numbers of disputes; they also actively participate in governing" (Tarr 2010, 1). American

courts have more political power than courts in most democracies. Many policy decisions made by US judges are made by legislators elsewhere. For example, same-sex marriage was legalized nationwide by legislatures in Britain, France, and Germany, but in America by the Supreme Court⁸ (Burns and Cowell 2013, Sayare 2013, Connolly 2017). Abortion is another example of a policy where the final say rests with legislatures in many countries but in the US with the courts⁹ (Halfmann 2011, 37, 39). The appointment of Supreme Court justices is treated as a critical power of the president, and a vital issue during US elections (Moraski and Shipan 1999, 1059; Baum 2019, 1). Some suggest the US Supreme Court “should be regarded as a political institution little different from Congress and the presidency” (Hoffer, Hoffer, and Hull 2018, 6). Whittington (2007) adds that much of the political power of US courts has actually been intentionally fostered by elected politicians, for their own purposes. Pavone and Stiansen (2021) argue that policy makers sometimes anticipate future court actions and implement reforms preemptively.

State judiciaries including state supreme courts are just as politically significant as federal courts (Tarr 2010, 311).¹⁰ Brace, Hall and Langer (2001, 82) argue that “state supreme courts are powerful institutions with a dramatic impact upon the American political landscape.” Wilhelm (2009) suggests state courts act as a constraint on state legislators. She says “courts serve as reference points for legislatures that wish to calculate what may happen to the policies they create” (Wilhelm 2009, 4). State supreme courts possess the power of judicial review and can strike down state laws and actions as unconstitutional under the state constitution, although the extent to which they do this varies greatly by state (Hall 2008, 251-252). State supreme court judges are also affected by electoral politics, because many are

⁸ In *Obergefell v. Hodges* (2015).

⁹ As exercised in cases such as *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992).

¹⁰ Most states use the term Supreme Court. Maryland and New York refer to their highest court as the Court of Appeals, while Oklahoma and Texas have two highest courts: a Supreme Court for civil appeals and a separate Court of Criminal Appeals (NCSC 2019).

chosen at elections or remain in office subject to retention elections (Kritzer 2015). Only eleven states copy the federal model and appoint judges by gubernatorial nomination and legislative confirmation (Squire and Moncrief 2010, 223). Lindquist (2017, 108) says this makes a big difference:

Retention via partisan or nonpartisan elections increases levels of judicial activism, whether measured in terms of courts' propensity to invalidate statutory enactments or overrule precedent. In both circumstances, elected judges involve themselves more prominently in state policy-making.

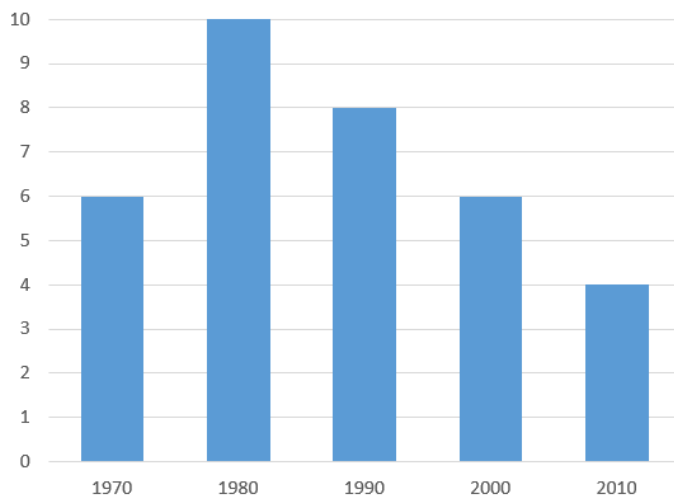
Until the 1960s, many state election systems were severely affected by malapportionment, or population inequalities between districts. For example, in California in 1960 one state senator represented Los Angeles county (population 6 million) and one state senator represented Mono and Inyo counties (population 14,000) (Goldberg 1962, 90). In 1962, a majority of the seats in the state senate could be elected by just 8% of voters in Nevada, by 11% of voters in California, or by 12% of voters in Florida (Taylor and Johnston 1979, 356). The US Supreme Court in a series of cases beginning with *Baker v. Carr* (1962)¹¹ began a revolution that ended malapportionment everywhere¹² (Baker 1966, Bickel 1971, Cox and Katz 2002). Chief Justice Earl Warren called *Baker* “the most important case of my tenure on the Court” (Warren 1977, 307). During the same period, Congress passed the Voting Rights Act of 1965, which enfranchised African-Americans and imposed federal oversight of election management in many states (Davidson and Grofman 1994). These two developments prompted a sustained high level of interventions into and regulation of election and redistricting matters by federal and state courts (Weber 1995, Issacharoff and Karlan 2004, Persily 2005). Litigation now occurs in nearly every state during or after the decennial redistricting process. In addition, every cycle, some state legislatures lose control of the

¹¹ *Baker* concerned state house districts. Other key malapportionment cases include *Wesberry v. Sanders* (1964) for congressional districts, *Reynolds v. Sims* (1964) for state senate districts, and *Avery v. Midland County* (1968) for local government election districts.

¹² Except in the United States Senate (Lee and Oppenheimer 1999, 24).

process entirely and see courts take charge, imposing election maps drawn by judges, as summarized in figure 5.

Figure 5: Number of States Per Cycle Where Courts Drew Legislative Maps



Sources: created by the author, using data from Carson, Crispin, and Williamson (2014, 176).

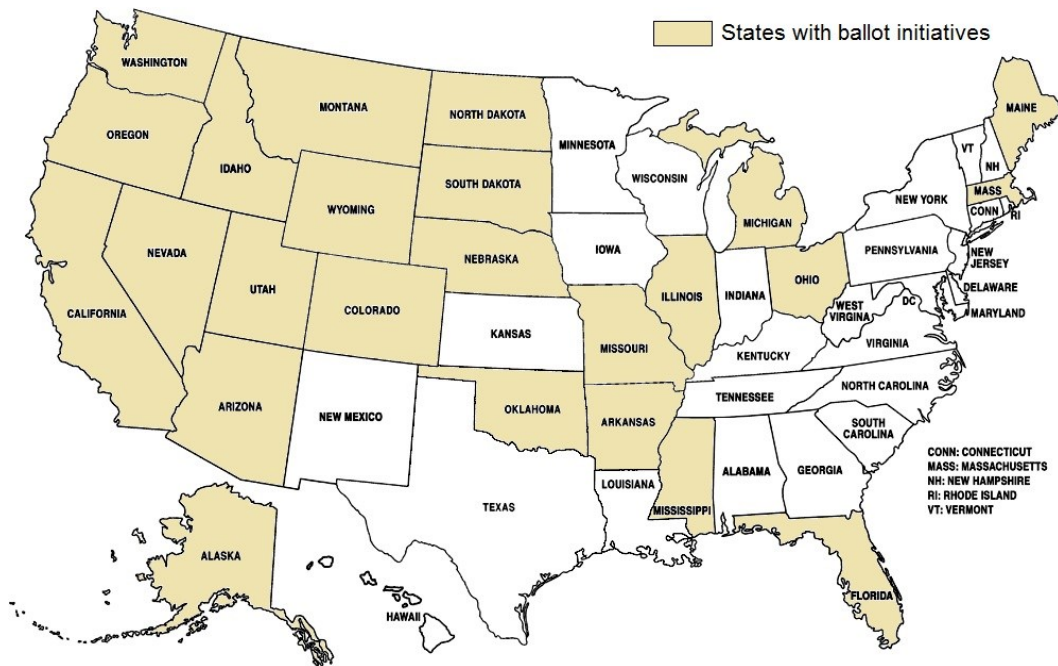
When courts strike down a redistricting plan adopted by a state legislature and create and impose a new plan, often there is no input from legislators. Fast-approaching deadlines for elections are one justification for this behaviour. When a legislature has a redistricting plan rejected or modified by courts, without its input, this means legislator power over the redistricting is low. A legislature may theoretically have a high level of power over redistricting, but in practice actually have a low level of power over redistricting, if there are repeated court interventions which overturn legislative decisions about redistricting matters. In reality, court-drawn maps have been imposed on 19 different states over the last five cycles, and 10 states were affected in multiple cycles (Carson, Crispin, and Williamson 2014, 175). In such a context, a legislature might accept a reform that reduces its theoretical power over redistricting from high to medium but at the same time makes judicial intervention less likely in the future, thus increasing its expected actual power over redistricting from low to

medium. Nunez and Jacobs (2016) argue that court actions have triggered electoral reforms by legislatures in several countries in Europe. Perhaps the same has occurred in America. Subhypothesis 2a (*Reform is adopted if courts have intervened to take control of past redistricting*) is an opportunity to investigate this scenario. Media and politicians' discussion of court decisions and their consequences, as well as the record of court cases affecting redistricting in a state, are relevant data for this subhypothesis.

2.2.2 Legislatures and Ballot Measures

Representative democracy is the historical and standard form of democracy practiced in the United States. Citizens periodically elect legislators, and the power to make policy decisions is delegated to legislative bodies, like Congress and state legislatures (Keane 2009, 165). However, since the start of the 20th century, some US states have adopted a form of direct democracy as a supplement to the representative system (see figure 6). The ballot initiative system allows citizens both to put an issue directly on to the state agenda (through a petition achieving a minimum number of signatures) and to make a decision about the issue (through a statewide majority vote). Initiatives were championed by the Populist and Progressive movements, which “believed that both the state legislatures and the judicial system were corrupt, and that new mechanisms were needed to restore control of government to the people” (Schmidt 1989, 8; Goebel 2002). William U'Ren was the chief advocate of ballot initiatives in Oregon, the first state to implement and use the system. U'Ren spent years building public support and trying to persuade the state legislature to adopt it, ultimately succeeding in 1901 (Keane 2009, 347-351).

Figure 6: Ballot Initiative States



Source: map created by the author, using data from NCSL (2018b).

The ballot initiative system is a powerful tool for people in a state to implement political reforms regardless of the views of state legislators. Many reforms originated with ballot initiatives, such as the popular election of US Senators (first adopted by Oregon in 1908) and the presidential primary election (first adopted by Oregon in 1910) (Keane 2009, 350).

Woodrow Wilson was a leading early supporter of ballot initiatives, but saw their role as supplementary. He said they were “merely a means to an end, that end being the restoration of the control of public opinion” over politics (Wilson 1911). He argued that “no one thought of these new methods of action as a substitute for representative institutions, but only as a means of stimulation and control... It is merely ‘a gun behind the door’” (Wilson 1911).

Wilson expected legislators to be more attentive and responsive to public opinion, knowing that the public had the threat of passing an initiative up their sleeve.

Ballot initiatives are often a political battleground between legislators and interest groups or citizen groups. When a legislature’s policymaking fails to meet the expectations of other

political actors, the latter can back an initiative instead (Gerber 1999). Some argue that interest groups have hijacked the system. Gerber (1999, 5) calls this the “populist paradox” – that ballot measures have been transformed from “a tool of regular citizens to a tool of special interests.” The US Supreme Court ruled in *Meyer v. Grant* (1988) that states cannot ban signature-collectors from being paid.¹³ This has created a ballot initiative industry in some states, where, for a price, anyone can put any issue on the state agenda (Magleby 1988, 605). On the other hand, legislatures also have the power to propose their own initiatives, sometimes referred to as referendums or legislative-referral measures, as opposed to citizens-initiated measures (Schmidt 1989, 3). States can have multiple competing initiatives on the ballot at the same time on the same issue, typically because a legislature has put up a counterproposal to rival one already initiated by citizens (Bowler and Donovan 1998, 17-18). Although the ballot initiative system originated as an alternative to the power of the legislature, research has shown that a key factor in whether any initiative passes or fails is the opinion of the legislature. When legislators strongly oppose an initiative, it usually fails (Stephanopoulos 2007, 388). Some states have so many initiatives on the ballot at each election that voters appear to be falling back on the views of their representatives as a cue for deciding how to vote on many measures.

On the subject of redistricting reform, ballot initiatives to reform redistricting are rejected by voters far more often than they are adopted (Stephanopoulos 2007, 342). Subhypothesis 2b (*Reform is adopted if a ballot measure on redistricting reform has been proposed and may pass*) focuses on the interplay between legislatures and ballot initiatives. If a measure has been proposed or has qualified for the ballot, which would reduce legislative power over redistricting, then the legislature might pursue a counterproposal featuring a less-radical

¹³ Although states can ban signature-collectors from being paid per-signature, as opposed to a wage or salary (*Initiative & Referendum Institute v. Jaeger* 2001).

reform which reduces its power by less. Citizen groups have used ballot initiatives to pursue redistricting reform. For example, in 2000, “the League of Women Voters and Common Cause advocated successfully for redistricting reform through ballot initiatives in Washington, Idaho, and Arizona” (McDonald 2008a, 147). Governors also use ballot measures to promote their agenda, sometimes to circumvent the legislature (Lubbock 2015). The example of the Schwarzenegger redistricting initiatives in California has already been mentioned. Regardless of an initiative’s origins or supporters, the threat of redistricting being reformed without input from legislators may be a powerful incentive for a legislature to make concessions and attempt to implement its own version of reform. Research into this hypothesis required data on state ballot initiatives, legislator statements about such initiatives, and media reporting on the legislature’s response.

2.2.3 Legislatures and Ideas

Victor Hugo (1877) wrote that “an invasion of armies can be resisted; an invasion of ideas cannot.” Some political scientists sympathize and argue that “ideas are a primary source of political behavior,” or that “values appear to be as crucial as party interest in explaining the overall electoral reform story” (Beland and Cox 2011, 3; Bol 2016, 93). However, the role of ideas, values, ideologies, or beliefs in shaping politics is difficult to investigate. Ideas can sincerely motivate individuals. Or they can be tools for propaganda, which people clothe themselves in to disguise or conceal their true motivations, “a cloak for shabby motives and appearances” (Apter 1964, 16). Or ideas can be ingredients people use to construct rationalizations to justify their behaviour to themselves, to help satisfy their psychological need to be a hero in their own mind (Audi 1988). The key problem is that it is hard to untangle interests and ideas. After all, “arguments can always be found to turn desire into policy” (Tuchman 1962, 332). Where interests and ideas coincide and reinforce one another,

ideas may do little or no real work as a cause of action, acting only as “props to the pursuit of interest” (Dodds 2013, 221). Where ideas and interests point in opposite political directions, and ideas prevail in how a person behaves, perhaps motivational ideas be clearly separated from propaganda ideas or rationalization ideas. Here are two examples to illustrate the ideas/interests problem.

Tax policy illustrates the mixture of ideas and interests in politics. Rich Americans tend to vote Republican and poor Americans tend to vote Democratic. In 2020, Biden won a majority of voters in income brackets earning less than \$100,000 a year, while Trump won in income brackets above \$100,000 (CNN 2020). Republicans generally have a lower-tax policy for the wealthy, whereas Democrats support progressive taxation. Republicans and Democrats both deploy various ideas to justify and sell their views on tax, but, in practice, the policies benefit the economic interests of each party’s voters (and donors, at least for Republicans). Interests alone surely does the political work of explaining the tax position of the two parties. The ideas are probably propaganda, or, if you, like, marketing – useful politically, but not causal. On the other hand, if we see a Republican voting for higher taxes on the rich, or a Democrat advocating flat tax rates, perhaps that would indicate individuals genuinely motivated by ideas, not interests.

A second example concerns race in US history. In the 18th and 19th centuries, white Americans used force to obtain land from Native Americans and slave labour from African-Americans (Young and Meiser 2008). The role of ideas in this expropriation of wealth is disputed. Rogin (1971) argues that the ideology of liberalism was central in causing land-theft and slavery to happen, because whites at the time justified their behaviour in liberal terms. On the other hand, using force to steal land, labour, and other resources from non-

white people can be explained by the motivation of material interests. Greed has been a dominant causal factor in human history (Gigantès 2002). White Americans may have justified their racial imperialism (to themselves and others) in a liberal way, but you do not need ideology to explain why things happened. The balance of power and wealth between the groups can do the causal work. The ideas are just window-dressing.

Przeworski (2016, 9) argues that “many political practices in the United States would constitute corruption in other countries.” State legislators face ethical challenges in their personal behaviour and their political choices (Rosenthal 1996a). Gerrymandering can be evaluated from a perspective that focuses on ethical principles and norms. For example, Levy (2016, 377) proposes a “nonpartisanship principle” for American election systems, and suggests there should be a norm that “partisan political advantage is not a legitimate purpose for election rules.” But legislative ethics and interests mix complexly. Political parties have a clear interest in maintaining gerrymandering in those states where it benefits them, and an interest in gerrymandering reform in those states where it does not. Some politicians may talk negatively about gerrymandering and positively about redistricting reform. But it is problematic to just believe them, or take their words at face value. For example, Arnold Schwarzenegger has been an advocate for gerrymandering reform (Schwarzenegger 2012, 555, 557). However, he was a Republican governor of a state often gerrymandered by Democrats. It is difficult to distinguish whether Schwarzenegger’s reformist words are motivational ideas for him or just propaganda ideas. Similarly, President Obama and former Attorney General Eric Holder have criticized gerrymandering and formed a non-profit group to promote redistricting reform (NDRC 2018a). It is unclear whether Obama and Holder truly support gerrymandering reform in principle, everywhere, or whether they mainly care about reform in places where it harms Democrats. For instance, Maryland has a Democratic

gerrymander of its congressional districts, which limits Republicans to one US House seat, when a neutral map might allow them to win two seats (Ingraham 2018). Obama and Holder’s organization is silent on reform in Maryland, or any other place where Democrats gerrymander, which suggests their anti-gerrymandering rhetoric may be about serving partisan interests rather than being an ethical idea that motivates them (NDRC 2018b).

Pitt (1848, 94) said “unlimited power is apt to corrupt the minds of those who possess it.” Using your political power to carry out gerrymandering can be criticized as a form of corruption (Weinstock 2018, 228). A redistricting system where power is in hands of politicians can be criticized as unethical or a conflict of interest (Kennedy 2017, 266). If politicians in a state make use of rhetoric that supports either of these two positions, then that might indicate they genuinely think gerrymandering is corrupt or unethical. If the same politicians also belong to a political party that benefits from gerrymandering, and would not benefit from redistricting reform, that increases the probability the politicians are saying something they believe in. Hypothesis 2c (*Reform is adopted if legislators believe the existing system is corrupt or unethical*) exists to account for this situation. Research for this hypothesis involved examining the ideas expressed in public statements by politicians and trying to determine whether or not belief in those ideas might be an authentic motivation.

2.3 Political Influences

Upon arriving in Bristol in 1774, parliamentary candidate Edmund Burke told the city’s electors that “your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion” (Burke 1899, 95). Debates about a trustee model of representation versus a delegate model of representation have continued ever since (Rehfeld 2009). In US state legislatures, politicians seldom follow in

Burke's trustee footsteps and rely only on their own judgement. Instead, public opinion and the views of political activists, donors, the media, interest groups, and social movements all seem to play a significant role in shaping legislator behaviour. Politicians today have many sources of information they can choose to listen to. This section discusses how much influence the public at large and the public in small groups can wield with state legislatures.

2.3.1 Public Opinion

One person's view on an issue is just what they think. One thousand people's views on an issue is public opinion. Scholars are divided about the significance of the public's political views. On the one hand, in a democracy, political power must be accountable to voters. V.O. Key (1961, 7) argued, "unless mass views have some place in the shaping of policy, all the talk about democracy is nonsense." Responsiveness to the public is meant to be both a normative principle and an empirical advantage of democratic politics, and enormous attention is devoted to how best to determine what the public thinks and why they think that (Canes-Wrone 2015, Berinsky 2017). Delli Carpini and Keeter (1996, 1) are among many who argue that "democracy functions best when its citizens are politically informed."

On the other hand, theories of democracy might place too great a burden on the shoulders of ordinary citizens. The public struggles to understand a complex world, and relies on others to summarize the issues (Lippmann 1922, 148, 243). Lippmann (1922, 248) suggested elites in democracies engage in the "manufacture of consent" and argues that such "persuasion has now become a self-conscious art and a regular organ of popular government." Downs (1957) argued that the political ignorance of citizens is a rational position for them to take, because for many the personal cost of being well-informed exceeds the benefits. Zaller (1992, 265) doubts ordinary people possess genuine opinions on many issues, and says "most of what

gets measured as public opinion does not exist except in the presence of a pollster.” Instead, he argues that the news media mainly transmits “elite discourse about politics,” which powerfully moulds mass opinion, even though not everyone is affected to the same extent (Zaller 1992, 16, 22).

We certainly know that the public can be fooled and can be fickle. For example, elite media outlets stoked popular support for the Iraq War (Dimitrova and Stromback 2005). The public were quickly persuaded that the war was a good idea (75 per cent support in 2003) and then changed their minds (39 per cent support in 2005) (Gallup 2019). One in five Americans refuse to say that the Moon landing was real (Ipsos 2019). One in five Americans were convinced Trump won the popular vote in 2016 (Pew Research 2016). One in four Americans believed the lie that President Obama was not born in Hawaii (Newport 2011). Scholars suggest some people who voted for Trump in 2016 were misled by his false statements or were gullible for believing him (Pfiffner 2019, Cooper and Avery 2021). Pennycook and Rand (2021) report that many Americans falsely believe Trump won the 2020 election, and that higher levels of political knowledge were associated with increased false beliefs. Public opinion matters in a democracy, but that does not mean it’s always right.

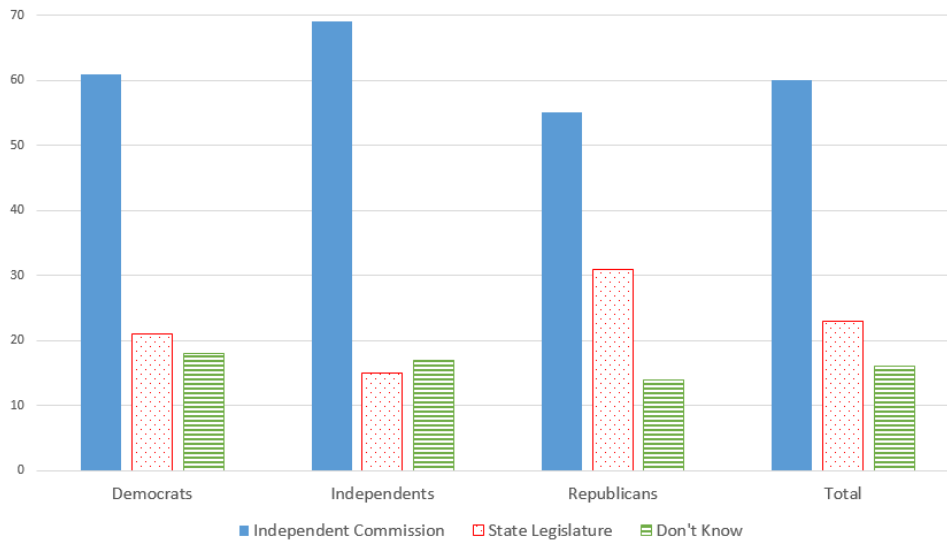
Redistricting is not a subject that sets the world on fire, captures the public imagination, or creates compelling pictures and soundbites for television news. Most of the time, most Americans do not know much about it and do not care much about it either. Redistricting has “overwhelmingly low salience” with the public, argues Fougere, Ansolabehere, and Persily (2010, 340). In a national survey by Pew conducted in 2006, 51 per cent of people reported knowing nothing about debates over redistricting, 47 per cent did not know how redistricting was done in their state, and 70 per cent had no opinion about their own satisfaction with their

state's process (McDonald 2008a, 156). A state opinion poll in California in 2005 found that 62 per cent of respondents said they knew little or nothing about redistricting (Fougere, Ansolabehere, and Persily 2010, 327). Ignorant voters are fickle voters. State polls in California and Ohio showed comfortable majority support for redistricting reform in mid-2006, but, that November, ballot measures to implement such reforms failed to pass in either state, by large margins (Tolbert, Smith, and Green 2009, 93-94). Cain (2004) is skeptical that citizens have any real commitment to reform. He says:

It's not the voters who want competition, it's political scientists like me who think it's better for the system to have competition. Most voters don't know anything about redistricting and don't care. They don't see the lines. And if you go to the reapportionment hearings, most voters will say "I want to be in the district with more people like me." Democrats want to be in Democratic areas, and Republicans want to be in Republican areas, and they're not interested in competitive seats. (Cain 2004)

However, ignorance never prevents Americans from expressing an opinion. Pew in 2006 found that only 10 per cent of respondents wanted to keep power over redistricting in the hands of state legislatures, while 50 per cent wanted an independent commission to be in charge (Fougere, Ansolabehere, and Persily 2010, 338). Nine out of ten Americans say that they think it's very important or somewhat important that "the way congressional voting districts are determined is fair and reasonable" (Pew Research 2018, 131). In 2017, 73 per cent of poll respondents opted for congressional districts with no partisan bias over districts with partisan bias, "even if that means your own preferred party would not win as many seats" (Lake and Stephenson 2017, 3). In a 2018 national survey, when asked who should "set the guidelines for drawing boundaries for legislative and congressional districts in states," 60 per cent of respondents chose an independent redistricting commission and 23 per cent chose state legislatures (ALG Research 2019, 3). There were limited variations associated with party identification, as illustrated in figure 7, with Republicans 10 points more favourable toward legislatures, but still expressing majority support for commissions.

Figure 7: National Survey On Who Should Control Redistricting



Source: chart created by the author, using data from ALG Research (2019, 3).

Klarreich (2017) argues that partisan gerrymandering “is one of the few issues that voters of all stripes find common cause in condemning.” On some issues within a state, there is a wide gap between the views of political elites and the views of ordinary voters (Montjoy, Shaffer, and Weber 1980, Koven and Shelley 1993, Broockman and Skovron 2018). Redistricting reform may be one of those issues. Subhypothesis 3a (*Reform is adopted if it supported by public opinion in the state*) is included in this research to cover the possibility that policy entrepreneurs in a state might try to bridge the public-elites gap, and somehow boost the salience of redistricting as part of a reform effort. Data sources for this subhypothesis included state opinion polls, media reporting about state public opinion, and politicians publicly referring to public views to justify their own positions.

2.3.2 Interest Groups

“American politics is the politics of interests” (Petracca 1992, 1). Interest groups flourish in the United States more than in other democracies, and have done so since the 19th century, in part because the US system is “much more conducive to the formation of interest groups than to new political parties” (Tichenor and Harris 2002, Berry 1999, 16). There are different approaches to understanding the value of interest groups in society. Pluralism is a venerable tradition stretching back to Madison and Tocqueville that essentially defines American politics in interest group terms, as “the outcome of group struggle” (Tichenor and Harris 2005, 251, 252). Truman and Dahl are examples of 20th century political scientists who popularized pluralism and argued that interest group competition is good because it means no one group can dominate policymaking. Truman (1951) said interest groups are needed due to the complexity of society. American policymaking reflects American society and is thus an open “mosaic of overlapping groups of various specialized sorts” (Truman 1951, 43). Dahl (1961) investigated politics in New Haven, Connecticut, and said pluralism features rival groups and interests competing with one another and forming coalitions, but there is not one elite who is able to rule. He saw the main role for government as serving as a neutral arbiter between contending groups, rather than having an agenda of its own (Dahl 1961, 89, 102). Kingdon (1995) says that politicians value interest groups, because groups they’ve learned to trust are a useful source of reliable information that cuts through the clutter. He quotes a congressional staffer who says “the big problem on the Hill is the oversupply of information” (Kingdon 1995, 60). Keane (2009) also values the informational function of interest groups. He argues we now live in age of “monitory democracy” where the priority is to use democracy as a tool to protect citizen equality against concentrations of political power (Keane 2009, xxii). He says “power-monitoring and power-controlling devices have begun to extend sideways and downwards through the whole political order” (Keane 2009, xxvii). He depicts a multitude of bodies, including NGOs, interest groups, and civil society

organizations, serving a benevolent watchdog role that may empower voters as a result of a “constant public scrutiny of power” (Keane 2009, 713, 743).

Despite their numerous defenders, however, interest groups “don’t get no respect” (Dangerfield 2004, 127). The American public are suspicious of them and fear the worst. Berry (1999, 19) argues that “the popular perception is that interest groups are a cancer spreading unchecked through the body politics, making it gradually weaker, until they eventually kill it.” Over 80 per cent of Americans tell pollsters that “special interests get more from government than the people do” (Lindblom and Woodhouse 1993, 73). Schattschneider (1960, 30) suggested interest groups (or pressure groups as he calls them) inevitably insert a bias into politics because “organization is itself a mobilization of bias in preparation for action.” The US interest group system is biased toward business and socio-economic elites. Schattschneider (1960, 35) wrote, memorably, that “the flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent. Probably about 90 per cent of people cannot get into the pressure system.” He warned that “business so dominates the nongovernmental world that it looks very much like a power system able to compete with the government itself” (Schattschneider 1960, 118). Lowi (1969, 1979) similarly criticized pluralism, saying interest groups succeed because of power and not merit. Interest group liberalism has replaced “self-regulation through economics with self-regulation through politics,” which produces clientelism and replaces popular democracy with representation by interest groups (Lowi 1969, 29). Corruption is enabled, he argued, because the system makes “conflict-of-interest a principle of government rather than a criminal act” (Lowi 1969, 86). Another criticism of pluralism is the omission of race: most interest groups happily competing are *white* interest groups. Lowi argued that an interest-group approach to politics devalues the moral authority of oppressed racial minorities, by reducing everything to

interests and then treating all interests as more or less the same (Lowi 1969, 247). Dahl's chapter on "ethnicity" was actually about Italians and his brief discussion of African-Americans claimed they experience no discrimination and high participation (Dahl 1961, 32-51, 294). Studying a city in a 96%-white state was not going to give a Dahl a case representative of American diversity (US Census Bureau 1961, 31).

The net effect of interest groups in politics is far from a settled question. In practice, though, interest groups are ubiquitous and expanding at the national level and in the states. In the 1980s, Walker identified 1,000 interest groups in Washington and said the number was growing rapidly, in what Knoke calls an "advocacy explosion" (Walker 1983, 392; Knoke 1986, 1). There are 7,000 associations registered to lobby in Washington DC, including 1,000 "citizen and public interest groups" and over 5,000 business corporations are also registered to lobby (Holyoke 2014, 44). At the state level, interest groups and their lobbyists far outnumber legislators even in small states. The total number of state-level lobbyists was 15,000 in 1980 and it has tripled since then (Donovan, Mooney, and Smith 2013, 204). In Alabama, as an example, the 140 members of the state legislature face 569 individuals registered as state lobbyists, or four lobbyists per legislator (Alabama Legislature 2019, NIMP 2020a). California has 120 state legislators and 1,982 registered state lobbyists, or 16 lobbyists per legislator (California Legislature 2019, NIMP 2020b). These figures illustrate the variations in the size and density of state interest group systems (Lowery and Gray 1993). The business sector accounts for three-quarters of all state interest organizations, which is consistent with Schattschneider's expectation (Anderson et al 2004, 146).

Interest groups and their lobbyists are "an important part of the legislative scene" in the states, and pay close attention to the issues before state legislatures, even if few members of

the public are doing the same (Squire and Moncrief 2010, 201). Squire and Moncrief (2010, 201) argue that state lobbyists and legislators have a “symbiotic relationship” whereby “lobbyists seek to be heard on behalf of their clients, and legislators seek information on the likely political and policy consequences of proposed laws.” Because of term limits, it’s also now not unusual for lobbyists to possess more experience and knowledge about state politics than elected officeholders, which can only enhance interest group power (Kousser 2005, 57). Governors can have a similar reciprocal relationship with interest groups. They work to recruit interest group support within the state for their proposals, and try to prevent powerful interests from blocking their ideas (Rosenthal 2013, 156, 158). Thus subhypothesis 3b (*Reform is adopted if it supported by interest groups in the state*) is included in this research. It’s not uncommon for interest groups to operate behind the scenes, which limited the ability to collect data for this hypothesis. The main sources were reporting on interest group activity by the news media, by politicians, and self-reporting by interest groups themselves.

2.3.3 News Media

The first amendment added to the US Constitution protected journalism: “Congress shall make no law... abridging the freedom of speech, or of the press.” Skepticism about the news media is just as old. “Americans have never been truly fond of their press,” argues Fallows (1997, 3). Thomas Jefferson wrote that “nothing can now be believed which is seen in a newspaper... the man who never looks into a newspaper is better informed than he who reads them” (Jefferson 1807). But American democracy has always relied on journalists to perform the necessary function of being an intermediary between the public and politicians, which unavoidably makes the news media a “central political force” (Cook 2005, 3). The US media system is as layered as the political system, with local, state, and national media

organizations (newspapers, radio, television, news websites) existing in parallel with local, state, and national levels of government.¹⁴ Every state has its own media ecosystem, whose size and complexity reflects state population and wealth, although journalists tend to cluster disproportionately in certain states, like California and New York (Shafer and Doherty 2017).

The media has significant power in political agenda-setting (Jones and Wolfe 2010), as discussed above in the policy change section. McCubbins and Schwartz (1984) use the metaphors of fire alarms and police patrols in the context of legislative oversight. This is also applicable to the media (Boydston 2013). A police-patrol approach is pro-active but labour-intensive, calmly and steadily monitoring a broad area for problems on your own initiative, whereas a fire-alarm approach is reactionary, waiting for a problem to become apparent before investigating, and perhaps rushing from one fire to another during busy times (McCubbins and Schwartz 1984, 166). State media often lack the resources to conduct all of the reporting it might prefer, which fosters a fire-alarm approach. This has been exacerbated by the so-called “death of newspapers” – a significant decline in US local and state news coverage, as financial pressures force many newspapers to slim down their staff or shut down entirely (Bennett 2012, 224; Greenblatt 2019). For example, Cleveland’s *The Plain Dealer*, Ohio’s biggest newspaper, had 340 staff in 2000 and 33 in 2019 (Greenblatt 2019). Since 2004, one in five American newspapers have closed, the number of daily papers has decreased to 1,200 nationwide, and the number of people reading newspapers has halved (Abernathy 2018, 8-9). This has politically significant effects:

The dramatic pullback in circulation and coverage of state and regional papers has dealt a double blow to residents of outlying rural counties, as well as close-in suburban areas. Many of these communities have also lost their weekly hometown

¹⁴ For example, residents of Eugene, Oregon, can get local news from city papers (*The Register-Guard*, *Eugene Weekly*), local news sites, and local radio; state news from state papers (*The Oregonian*), state news sites, and state radio and TV stations (including *Oregon Public Broadcasting*); and national news from national broadcast and cable networks, papers with a national print distribution (such as *USA Today*), and national news sites (Dondero, Lunch, and Moore 2005).

paper and are left without any credible and comprehensive sources of either local or regional political and economic news. (Abernathy 2018, 11)

Abernathy (2018, 16) argues that increasing numbers of Americans are being left in “news deserts.” There is no shortage of national news, but newspapers are critical to local and state news production. Their hollowing out leaves voters with an unbalanced menu of useful news sources about politics – a national abundance but state and local deficits.

State media seems to be more important to state politics than the other way around. State governments suffer from a “visibility problem” and “benign neglect” by the news media (Lynch 2003, 120). One study in the 1970s found that only 18% of newspaper stories about local and state news were related to politics, and only 14% of television stories (Lynch 2003, 203). This is attributed to the high cost of coverage, especially if the state capital is not the main city in a media market (Gormley 1978, 358). In the 1990s, Layton and Walton (1998, 7) found that “coverage of state government is in steep decline. In capital press rooms around the country, there are more and more empty desks and silent phones.” State media coverage may have low quality as well as low quantity. Lynch (2003, 136) suggests state political reporters may lack the knowledge to adequately cover state government. Rosenthal (1998, 109) suggests state legislators find the “the urge to play to the media is irresistible.” Cooper and Johnson (2006) agree that journalists find state politicians to be useful sources. One (perhaps naïve) reporter is quoted as saying this is because legislators:

like to have their name in the paper, and they like to point out things the opposite parties do. So they love it. They just absolutely love it. They tend to be gossipy people. So they love to call you and share their knowledge and because usually they’re in the know. Their information is almost always good and then they almost always know some constituent or someone who’s affected by whatever’s going on. (Cooper and Johnson 2006, 25)

The current political economy of state media is unlikely to have improved state political reporting. There has been a massive consolidation of media ownership in America since the 1990s, with many local and state media companies being bought up by a small number of major corporations (Bennett 2012, 226-229). Consolidation has facilitated the ideological nationalization of local news. For instance, Sinclair Broadcast Group, the largest owner of TV stations, has a far-right conservative owner who “has not been shy about using his stations to advance his political ideology” (Kolhatkar 2018). Newspapers have also consolidated, with the top 25 newspaper companies now owning 63 per cent of all daily papers (Abernathy 2018, 31). Lynch (2003, 131) argues that “within a single state, one or two firms may own many of the news outlets and have effective control over much of the political information available to the public.” A wave of non-profit news outlets have emerged to try to keep state and local governments honest and accountable, including the Pulitzer-prize-winning ProPublica (Smith 2019). However, their impact and long-term survival remains to be seen, especially when “many Americans don’t know there even is a local news crisis” (Smith 2019).

Subhypothesis 3c (*Reform is adopted if it supported by news media in the state*)

acknowledges the power the media may exercise over state politics. It was expected to be straightforward to collect data about this hypothesis, because most media influence is inherently public – the whole point is to publish or broadcast information. For newspapers and news magazines, data was obtained from websites, archives, and archive databases. For more ephemeral media types, such as radio or television, locating any data records was more challenging. In any case study where the news media is politically significant, agitating for or against reform, an analysis of media ownership is advisable, including who owns a media

organization, what form of ownership (e.g. a family firm, a national conglomerate), known political affiliations, and if ownership is local or out-of-state.

2.4 Political Parties

Political parties are essential to understanding US politics. The Democratic Party and the Republican Party have been the two dominant parties in the United States since the 1850s, and nearly all state politicians are either Democrats or Republicans (Hershey 2009, 27).¹⁵ Schattschneider (1942, 1) argued “that political parties created democracy and that modern democracy is unthinkable save in terms of the parties.” This might be an exaggeration, but most political scientists would agree that “virtually everything important in American politics is rooted in party politics” (Hershey 2009, xix). This importance applies to the states as much as to the federal level. Morehouse and Jewell (2003, 15) suggest “the single most important factor in state politics is the political party.” Hypothesis 4 is that *Reform is adopted if it is advantageous for state political parties*. This section discusses subhypotheses that feature variations in state party systems and circumstances.

2.4.1 Temporary Minority Power

Not every US state has robust two-party competition all the time (Holbrook and La Raja 2017, 81). Instead, in many states, one party may dominate the governorship and/or the legislature for long periods, possibly creating a “one-party monopoly” on state political power that may last for decades (Hershey 2009, 36). This was once a norm in southern states (Key 1949). Today, no Democrat has been elected governor in South Dakota since 1974, in Utah since 1980, or in North Dakota since 1988, and no Republican has been elected governor in Washington since 1980, in Oregon since 1982, or in Delaware since 1988 (NGA

¹⁵ Setting aside Nebraska, whose unicameral state legislature is officially nonpartisan.

2018). Similarly, the Democratic Party has held the majority in both houses of the state legislature of Maryland continuously since 1920, of Massachusetts and Rhode Island since 1959, of Hawaii since 1963, and of California since 1997 (NCSL 2019b). The Republican Party has controlled both houses of the state legislature in Idaho since 1961, in Wyoming since 1977, in Utah since 1979, and in Arizona and Kansas since 1993 (NCSL 2019b).

For everything there is a season. Major political parties which have been stuck in the minority usually come to power eventually. For instance, Georgia in 2002 elected its first Republican governor in 130 years, Hawaii in 2002 elected its first Republican governor in 40 years, and Kentucky in 2003 elected its first Republican governor in 32 years (NGA 2018). Vermont in 1962 elected its first Democratic governor in 110 years, Iowa in 1998 elected its first Democratic governor in 30 years, and Illinois in 2002 elected its first Democratic governor in 26 years (NGA 2018). The rise to power of a previously-minority party may provide a temporary window of opportunity for political reform.

When you have been in the minority for a long time, you might be inclined to adopt political reform for two different reasons. You might expect an imminent return to minority status in the foreseeable future, which provides an incentive for reforms that reduce the power future partisan majorities might use against you. For instance, Republican governors occasionally elected in Democratic Maryland inevitably favour a neutral system to end partisan gerrymandering in that state (Sherfinski 2019). Alternatively, an ex-minority political party might have feelings of empathy for those in opposition, and seek ways to make political institutions more inclusive or protective of “minority rights,” the prerogatives of the political party in the minority, regardless of who that is (Martorano 2004, Clark 2015). A real-life example of a victorious ex-minority adopting reform is Japan. When the Liberal Democratic

Party lost an election in 1993 after 38 years in office, the opposition, now in power, quickly moved to adopt a package of electoral reforms, including redistricting reforms such as a new independent boundary commission (Moriwaki 2008).

Subhypothesis 4a (*Reform is adopted if the political party usually in the minority controls the legislature and governorship*) focuses attention on shifts in the partisan balance of power within states, and whether these correlate with the timing of redistricting reform efforts. State election results were one source of data for measuring this. Scholars have also developed indexes that calculate the level of party competition within a state and how it changes over time (Ranney 1965, King 1989, Holbrook and Van Dunk 1993, Ceaser and Saldin 2005).

2.4.2 Competitiveness

The level of party competition within states varies significantly. Some states experience vigorous inter-party competition, while others are solidly safe for one political party or the other, as discussed above. This difference might be significant for redistricting in a different way from rare minority victories. In a one-party dominant state, there is little scope for inter-party conflict about redistricting and few incentives for reform. Instead, as Thucydides (1963, 301) wrote, “the strong do what they can and the weak suffer what they must.” Dominant political parties will cling to power for as long as they can.

However, a high level of on-going party competition within a state is likely to produce a periodic alternation in power between the parties. Thus, Democrats might control redistricting in one cycle, Republicans the next, then Democrats again, and so forth. If both parties realize their chances of controlling redistricting in the future is roughly equally shared, then that might encourage them toward reciprocity and mutual disarmament (Palfrey and

Rosenthal 1994). McDonald (2008a, 155) argues that “when political actors are uncertain as to who will control the process or are stalemated in a divided control situation, then they have a greater incentive to seek reform.” If you expect to lose a game half the time, it is in your interest to de-escalate the stakes of the contest. A redistricting reform that locks in some limits on your own power to gerrymander when it’s your turn, and your opposition’s power to gerrymander when it’s their turn, may be preferable to both sides compared to the risks and drama of a cyclical winner-takes-all. This has actually occurred in some parliamentary democracies. Mutual disarmament to eliminate excessive conflict is a central explanation for why redistricting reform was implemented in countries such as Ireland and New Zealand (Coakley 2008, McRobie 2008). Subhypothesis 4b (*Reform is adopted if state elections are competitive between the two major parties*) thus aims to investigate the possibility that strong party competition can encourage certain kinds of political cooperation.

2.4.3 Polarization

This research investigates cases occurring at different points in time from the 1940s to the 2010s. However, neither the Democratic Party nor the Republican Party have been static. Parties evolve over time, and change at different speeds at different levels of government. Although all cases feature Democrats and Republicans as the two biggest parties, how political parties evolve and their composition at any timepoint needs to be taken into account.

From the mid-1800s to the early 1900s, the Republican Party was the main liberal party in the US and the Democratic Party was the main conservative party (Lewis 2018, 206-207; Gerring 1994, 766). For example, Grover Cleveland was a conservative Democrat and Theodore Roosevelt was a progressive Republican (Pafford 2013, Skowronek 1993, 236). Then, for a long period in the 20th century, both parties were cross-ideological coalitions: the

Democratic Party included both liberal Democrats and conservative Democrats, and the Republican Party included both liberal Republicans and conservative Republicans (Burns 1963, Rae 1989, 3). As late as 1960, Rossiter (1960, 108) argued that

in some important respects there is and can be no real difference between the Democrats and the Republicans, because the unwritten laws of American politics demand that the parties overlap substantially in principle, policy, character, appeal, and purpose—or cease to be parties with any hope of winning a national election.

However, even when Rossiter wrote this, a great transformation was underway, with southern white conservatives, a bedrock of the Democratic Party, starting to defect to the Republican Party (Black 2004, Lowndes 2008). This shift first became evident in presidential elections, and eventually in congressional and state voting (Shafer and Johnston 2009, 69, 195). Today, Americans are sorted out ideologically between the two biggest political parties once more, but this time most liberals are Democrats and most conservatives are Republicans (Ware 1987, 122; Levendusky 2009, Campbell 2016).

For each case in this study, it is not sufficient to just identify which political party is in power where, such as the governorship, state house, and state senate. Instead, it would be useful, where possible, to identify which factions within a party are present and their relative power. For instance, as mentioned in chapter 1, a Republican governor in Iowa, Robert Ray, backed redistricting reform in his state in 1980. Was Ray a liberal Republican or a conservative Republican? Were the Democratic legislators who supported his reform bill liberal Democrats or conservative Democrats? A few states today still occasionally elect liberal Republicans to office, such as Governor Charlie Baker of Massachusetts, or conservative Democrats, such as Governor John Bel Edwards of Louisiana (Richards 2018, Little 2015).

Subhypothesis 4c (*Reform is adopted if there is low polarization between the state's major parties*) is framed in terms of polarization, sometimes considered “the central and most

problematic feature of contemporary American politics” (Mann and Ornstein 2012, 44). Sartori (1976, 126) defined polarization as “ideological distance” between political parties. A big gap between parties “implies an intense disagreement in the preferred policy solutions and preferences of political actors” (Jordan and Bowling 2016, 220). Ideological distance is significant because it affects how politicians behave and interact. Schmitt (2016, 7) argues that when ideological distance is low, more cooperation and negotiation is possible between parties, whereas higher levels of ideological distance are associated with higher levels of conflict. In other words, liberal Republican legislators are more likely to find common ground with Democrats on issues than are conservative Republicans. By contrast, in a highly-polarized legislature with plenty of very liberal Democrats and very conservative Republicans but almost no one in the middle, we would expect low levels of cross-party teamwork.

Polarization can be measured in many ways (Dalton 2008). Poole and Rosenthal (1984, 1991) pioneered the systematic study of polarization in Congress using legislator roll call votes. Berry et al (1998) then used congressional data to create measures of state-level ideology. More recently, Shor and McCarty (2011, 2020) have used state-level roll call data to create measures of state legislature ideology, and have kept their data sets up-to-date. Both state-level measures can be used to help evaluate the polarization context of the cases.

2.4.4 Democratic Party Control

Democrats and Republicans today do not share the same attitude towards the right to vote. Berinsky (2005, 47) argues that “both major political parties believe that increasing turnout among less-privileged groups will benefit Democratic politicians.” In 2020, Trump voters were 82% white and Biden voters were 53% white (CNN 2020). In the US House of

Representatives, 77% of Republicans are white men, compared to 34% of Democrats (Manning 2021, CAWP 2021). The Democratic Party today is demographically-diverse and the Republican Party is not. As a result, since the 1960s, Democrats have tried to increase the number of people able to vote, whereas Republicans increasingly support measures that limit or burden voter participation (Wang 2012, Berman 2015, Bullock, Gaddie, and Wert 2016, Herd and Moynihan 2018). For instance, in the states, Republican legislatures continue to pass laws that restrict voting rights (Berman 2019, Stuart 2019). In Congress, Republicans refuse to resurrect the Voting Rights Act (Henderson 2016, Kilgore 2019). At the Supreme Court, Republican appointees have made election-related decisions that benefit Republicans, such as upholding strict voter identification requirements (*Crawford v. Marion County*), deregulating campaign finance (*Citizens United v. FEC*), allowing state voter purges (*Husted v. Randolph Institute*) and ending federal oversight of state election mischief-making (*Shelby County v. Holder*).¹⁶ Tomasky (2019) sums up this situation:

The Republican Party is no longer simply trying to compete with and defeat the Democratic Party on a level playing field. Today, rather than simply playing the game, the Republicans are simultaneously trying to rig the game's rules so that they never lose.

Hacker and Pierson (2019, 42-43) agree, saying that:

There is one overriding culprit behind the failure of the U.S. political system: the Republican Party. Over the last two and half decades, the GOP has mutated from a traditional conservative party into an insurgent force that threatens the norms and institutions of American democracy.

However, redistricting reform is not necessarily consistent, at all times and in all places, with the bigger picture of the state of American democracy just outlined, of Democrats as pro-reform and Republicans anti-reform. Sometimes the net effect of partisan gerrymandering nationwide has benefited the Democratic Party, and sometimes it has benefited the

¹⁶ There is substantial scholarship on these topics. For instance, on voter ID laws: Bowler and Donovan (2016), Hajnal, Lajevardi, and Nielson (2016), Hicks, McKee and Smith (2016), Grimmer and Yoder (2019). On campaign finance: Levitt (2011), Klumpp, Mialon, and Williams (2016). On voter purges: Manheim and Porter (2018). On voting rights: Anderson (2018), Smith (2018b), Morley (2019).

Republican Party (Campagna and Grofman 1990, Chen and Cottrell 2016). Nonetheless, because election lawmaking is so polarized in the United States today (Hasen 2012), it was important directly confront and test the question of overt partisan responsibility for redistricting reform success, which is subhypothesis 4d (*Reform is adopted if the Democratic Party is in power in both legislative houses and the governorship*). Which political party is in control has a significant effect on most state policymaking outcomes, and redistricting policy may be one of them (Dye 1984, Barrilleaux 2000).

2.5 State Institutional Features

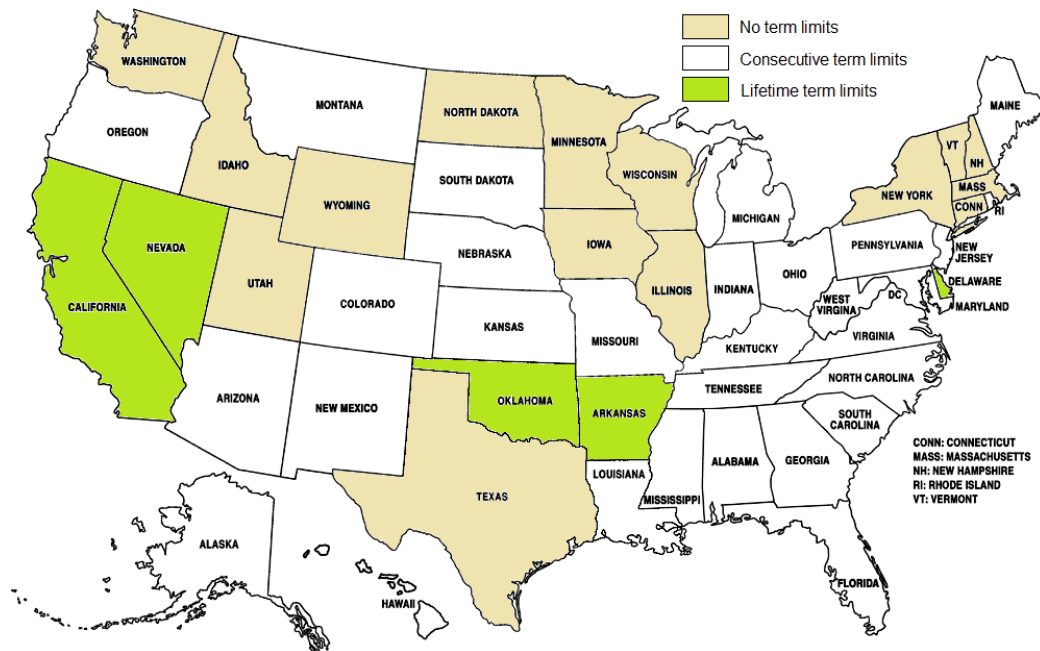
Every US state has the same set of core institutions: a governor, a state legislature, a state supreme court. But the common labels on the surface can mask important differences between states in how an institution operates in reality, and in what powers it may exercise according to the state constitution or state law. Not all governors are equal: some are significantly more powerful than others. Not all state legislatures are equal: some are significantly more powerful than others. This section discusses relevant state institutional variations. Hypothesis 5 is that *Reform is adopted if the state has institutional features favourable to reform*.

2.5.1 Gubernatorial Power

The role of governors in state politics has already been discussed above in subsection 2.2.3. The additional aspect relevant here is variations in gubernatorial institutional power. There are numerous formal differences in governorships that can affect their influence over the legislature. For example, some governors are subject to term limits and some are not, as illustrated in figure 8 (Grofman and Sutherland 1996, 282). A term-limited governor can be seen as a “lame-duck” by other politicians, with less leverage because he or she is not going

to be around for long (Ferguson 2003, 162). By contrast, a governor who can run for re-election to another term is someone legislators may have to deal with repeatedly for years, which makes co-operation and bargaining more likely.

Figure 8: Gubernatorial Term Limits



Source: map created by the author, using data from CSG (2017, 187-188).

Governors are in charge of the executive branch of state government. An axiom in politics is that “personnel is policy” – the people you appoint to top jobs has a significant effect on the policies you can implement, regardless of your intentions. Gubernatorial control over executive appointments varies between states. Some strong governors can hire and fire other state executives as they see fit. Other governors are constrained by needing legislative approval for their nominees. And some governors are in a weak situation where key statewide executive appointments are mostly out of their hands and made by someone else, such as the lieutenant governor, legislative leaders, or voters. Governors able to easily pick their own

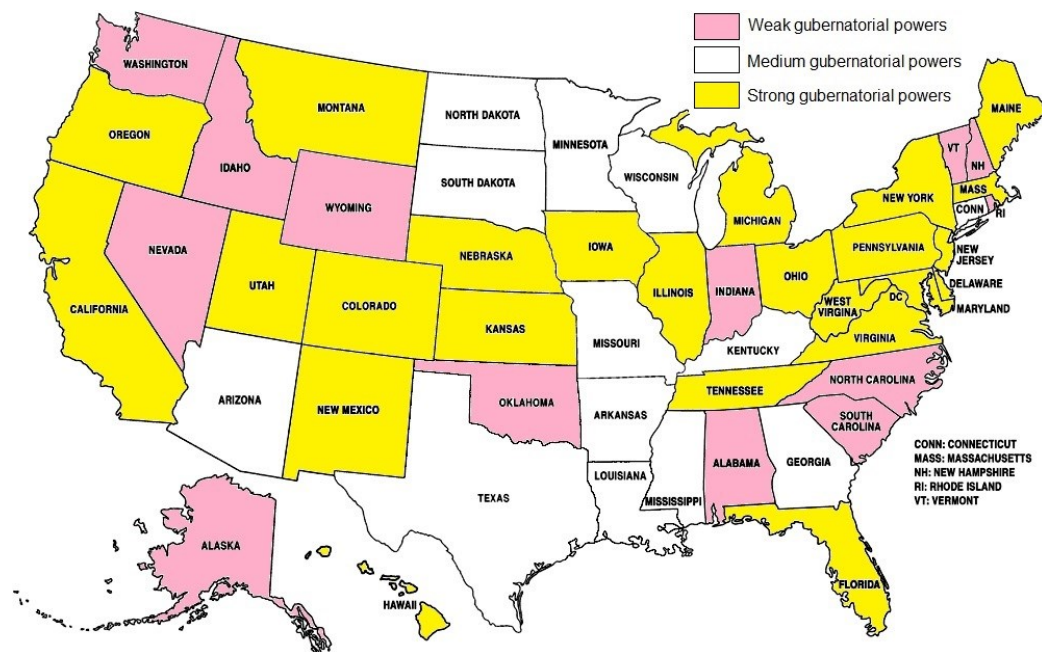
loyal team of appointees to run the state government will have more willing allies when it comes to managing the state legislature (Beyle 2006).

The veto power makes governors central to the state legislative process, but it differs in how it is exercised and constrained across the states. Presidential vetoes can be over-ridden by a 2/3 majority vote in Congress, but state over-ride requirements vary. A lower percentage makes the gubernatorial veto less politically significant. In addition, governors in some states have an extra and powerful veto type, the item veto, which presidents lack (Teaford 2002, 19). Item vetoes allow governors to disapprove of specific parts of a bill or budget (rather than all or nothing), which notably increases their negotiating position with regard to their state legislature (Dearden and Husted 1993). A state governor with an item veto and a high over-ride threshold is significantly more powerful than a governor with no veto or with a veto that has a modest over-ride requirement, like 50% (McGrath, Rogowski, and Ryan 2018).

The other major area of variation in formal powers concern a governor's ability to manage legislative business. All governors make "state of the state" speeches to try to set the annual legislative agenda (Herzik 1991, 31). But gubernatorial powers differ in their ability to determine when the legislature meets and to call special sessions. The formal role of the governor also varies across states in how much responsibility they have for preparing and submitting a budget to the legislature, and thus in the extent to which they dominate the budget process (Barrilleaux and Berkman 2003, 409). Although redistricting is one of the rare state issues that is not fundamentally a fight about the allocation of funding, governors who are powerful in budgeting can use that leverage to extract concessions from legislators over other, non-budget-related issues.

Overall, a state's precise configuration of formal powers can produce gubernatorial offices that run the spectrum from great institutional strength, such as in Utah, to noteworthy institutional weakness, such as in Texas (Brown 2018, 111; Hill and Mladenka 1996, 53). Subhypothesis 5a (*Reform is adopted if the state governor is an institutionally powerful position in state politics*) investigates whether this variation has had a noticeable effect on redistricting reform. Schlesinger (1965) and Dometrius (1979, 1987) pioneered comparative measurements of gubernatorial power. Beyle maintained and updated the original Schlesinger index, most recently in Beyle and Ferguson (2008), and his work has been widely used in political science research (Krupnikov and Shipan 2012, 439, 440). Ferguson (2018) alone has also conducted further updates. Figure 9 illustrates how the formal powers of governors vary across states using a simple measurement.

Figure 9: Institutional Powers of Governors



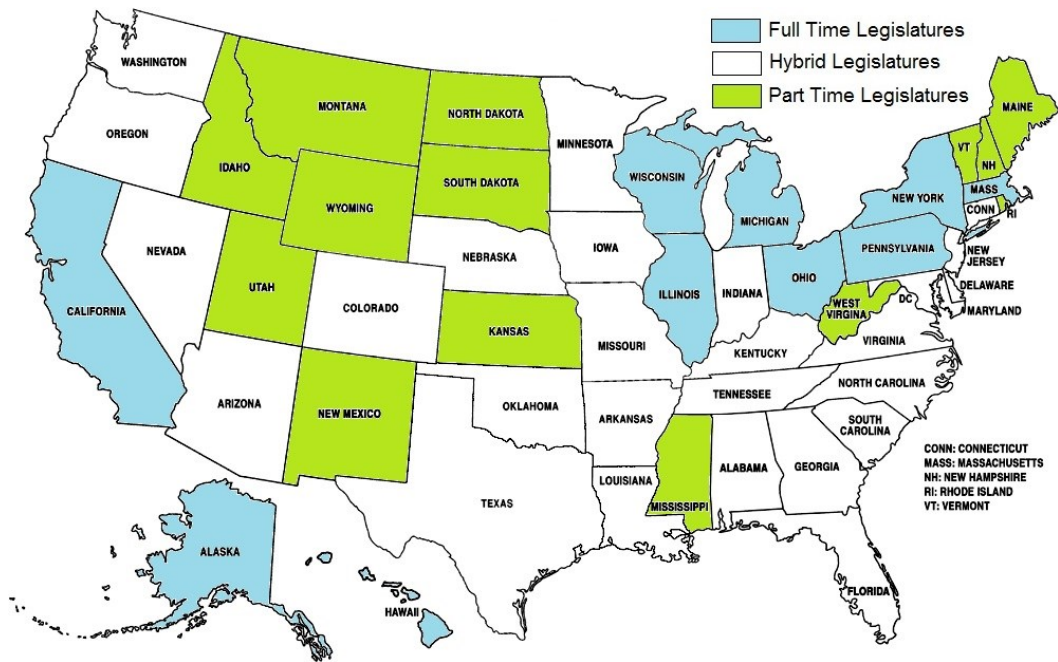
Source: map created by the author, using data from Donovan, Mooney and Smith (2013, 301).

2.5.2 Legislature Type

State legislatures come in as many flavours as governors. The legislatures of the states are the most enduring elements of American government (Squire 2006, 2012, 2019). Some trace their existence deep into colonial history. For example, Virginia's legislature calls itself the "oldest continuous law-making body in the New World", having been established in 1619 (Virginia General Assembly 2019). Institutional variations between state legislatures reflect the extent to which they have or have not evolved historically, especially in the last century. A movement for greater professionalization of state legislatures began in California in the 1960s and spread to many states (Mooney 1995, Rosenthal 1996b). Bowen and Greene (2014, 278) argue that "the utility of legislative professionalism for the study of state politics is unquestionable."

Today, some state legislatures are full-time, well-institutionalized, professional bodies essentially comparable to the US Congress (Lynch and Rozell 2002). Legislators are paid a substantial salary, have significant office space, staff, and expense budgets, and are in session for a large portion of the year. Other state legislatures are still old-fashioned part-time bodies, made up mostly of members who either are retired or have other paid employment, and are more comparable to, say, a city council. Legislators are paid a modest honorarium, have little office space or staff, and may be in session for only a few weeks each year (Squire and Moncrief 2010, 74-80). The distinction between types is often described as professional legislatures versus citizens legislatures, with a third type, hybrid legislatures, for those states who place somewhere in the middle (Kousser 2005, 14-16). The three types are illustrated in figure 10.

Figure 10: State Legislature Types



Source: map created by the author, using data from NCSL (2017).

Melissa Hurtado and Fred Baldwin are legislators who exemplify the two extremes of state legislature types. They are both currently-serving state senators. Hurtado represents California’s 14th senate district, and Baldwin represents Wyoming’s 14th senate district (California Senate 2021, Wyoming Legislature 2021). Hurtado is paid a salary of \$110,000 a year, employs 13 staff members, has an office in the state capital and three more offices throughout her district, and attends legislative sessions for nine months of the year (California Senate 2021). Baldwin is paid approximately \$10,000 a year (depending on how many days he works), has his own desk in the senate chamber but no other office, lists his home phone number on the senate website, shares a secretary with other senators, and attends legislative sessions for less than three months per year (Squire and Moncrief 2010, 74-75, Wyoming Legislature 2021). Hurtado’s senate district has 946,000 residents and she spent \$2.3 million on her most recent campaign, while Baldwin’s district has 19,000 residents and he spent \$26,000 on his last election (US Census Bureau 2019, California Secretary of State 2018,

NIMP 2021). Hurtado and Baldwin have exactly the same job title, but the big gap in their professional circumstances may affect some of the ways in which they do that job.¹⁷

Subhypothesis 5b (*Reform is adopted if the state legislature is a part-time, non-professional body*) focuses on whether differences between legislature types is significant for redistricting reform. For instance, a professional legislature provides more pay and benefits to legislators, which might increase the personal attachment they have to being in office, which in turn might discourage an interest in redistricting reform. By contrast, if serving as a member of a citizens legislature is less financially-motivated and more driven by a sense of civic duty, then perhaps redistricting reform is less personally threatening. Peverill Squire (1992, 2007, 2017) has developed an index to measure state legislative professionalism, which is widely used by political scientists and can readily be used for this research (Moncrief 2019, 423).

2.6 State Demographic Features

The first census in 1790 reported that the United States had 3.9 million people living in 13 states, including 700,000 black slaves, whereas today 332 million people live in 50 states (US Census Bureau 1793, 2021).¹⁸ There is great demographic diversity between individual states, which may have political significance. For example, politics in Wyoming (population 563,000) may be quite different from politics in California (population 37 million), and politics in New Jersey (5% rural population, 95% urban) may be different from politics in Vermont (61% rural, 39% urban) (US Census Bureau 2010a). The politics of Montana (0.67% African-American) may differ from the politics of Mississippi (37% African-American), and West Virginia (1% Hispanic) may be quite different from New Mexico (42%

¹⁷ This paragraph is inspired by and adapted from a similar comparison made by Squire and Moncrief (2010, 74-75).

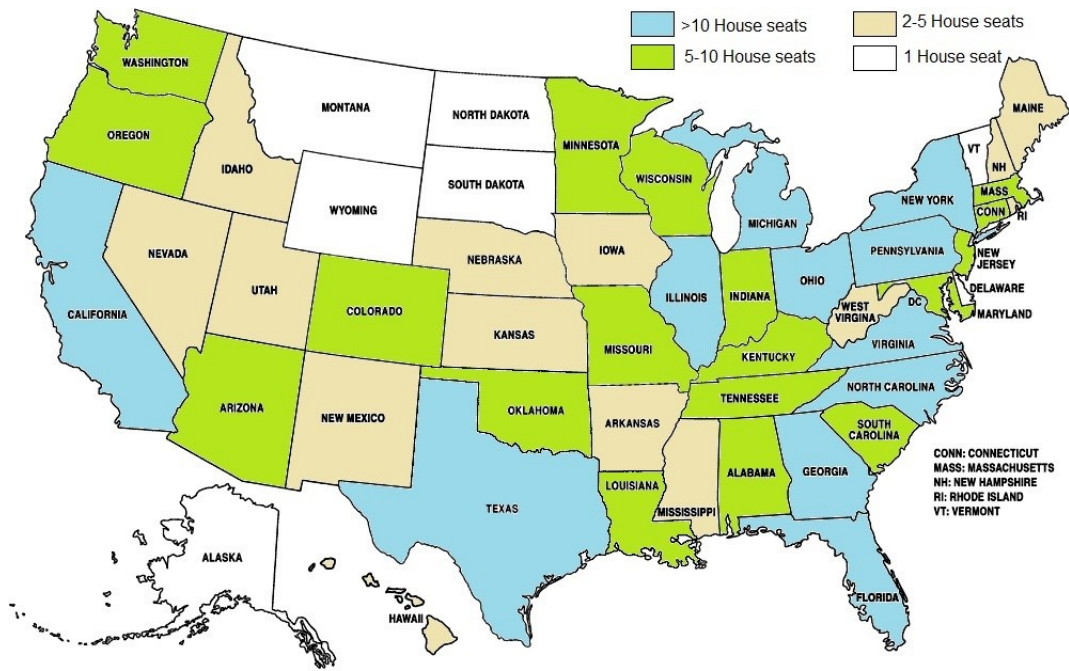
¹⁸ The 1790 census excluded Native Americans. One estimate is that in 1800 there were approximately 600,000 Native Americans living in what is now the United States (Reddy 1993, 4).

Hispanic) (US Census Bureau 2010a). This section discusses how variations in state demography and culture might affect redistricting reform. Hypothesis 6 is that *Reform is adopted if the state has demographic features favourable to reform.*

2.6.1 Population Size

State size has been a fulcrum of interstate political conflict throughout US history (Zagarri 1987). The size of a state's population may affect whether or not a state adopts redistricting reform. One argument concerns smaller states being less relevant to national actors. Article 1, Section 2 of the US Constitution guarantees that "each state shall have at least one representative," but, beyond this minimum, the number of residents living in a state determines the number of members that state is entitled to elect to the US House of Representatives. When a state has a small number of congressional seats, it is less relevant to the overall balance of power in the House, whereas states with a large number of seats are more important. A shift in partisan control of one or two seats is not going to affect which party controls the House, but a shift of ten seats might. Therefore, national political actors are not likely to care much about, or invest time and resources, into opposing gerrymandering reform in small states with only, say, two, three, or four congressional seats, like Idaho, New Mexico, or Iowa. On the other hand, national actors are much more likely to pay attention to reform activities in big states with, say, 15, 28, or 38 House seats, like Ohio, Florida, or Texas (US Census Bureau 2021b). Figure 11 illustrates the low-population states likely to attract less national attention on gerrymandering, and the high-population states where national interest may be significant.

Figure 11: State Size As Measured by US House of Representatives Seats (2012-2020)



Source: map created by the author, using data from the US House of Representatives (2018).

A second argument about size and democracy concerns the alleged virtue of small polities. There is considerable research related to this idea. Madison (2009) in Federalist No 10 pioneered the argument that large republics are superior to small republics, because being small makes a polity more vulnerable to the tyranny of the majority. However, many scholars sympathize with the small. For example, Ott (2000, 9) argues that being small positively impacts a state’s “formation and maintenance of democracy.” Alesina and Spolaore (2003) say “smaller countries may find it easier to respond to citizen preferences in a democratic way.” Remmer (2010, 296) reports that community size significantly affects electoral participation, with smaller communities experiencing higher participation. On the other hand, Anckar’s (2008b, 433) results “show that size per se contains little explanatory value” about levels of democracy.

Smaller US states may enjoy less political intensity, greater civic participation, and more politician responsiveness to citizens. Hibbing and Brandes (1983, 818) argue that residents of

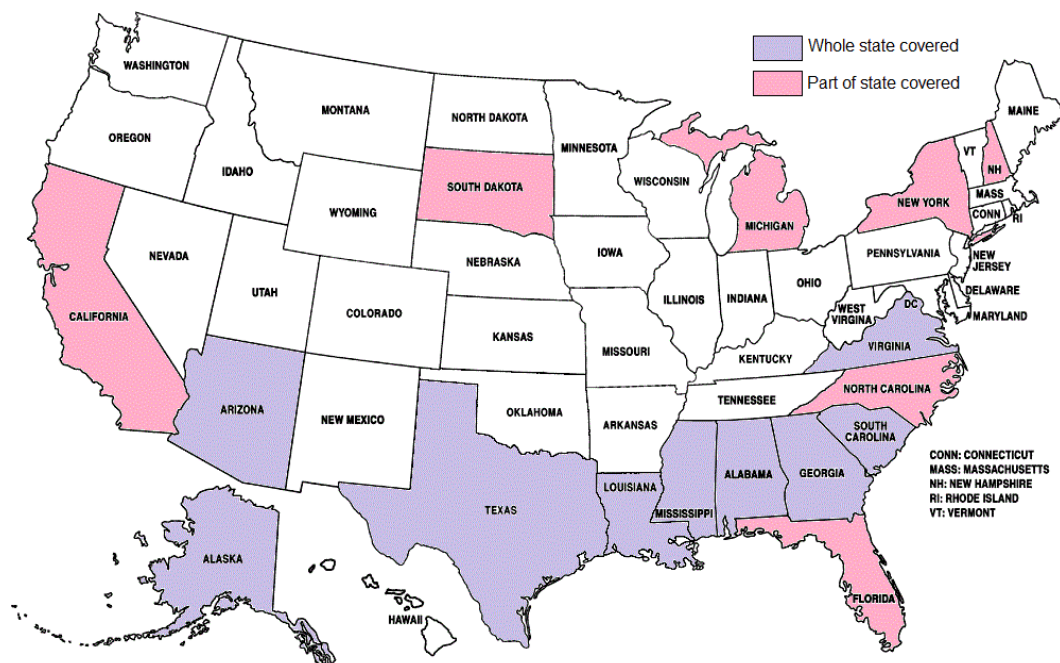
smaller US states feel better served by their elected officials, and that “it is hard to believe that population size is not somehow connected to the feelings of alienation and mistrust toward the government.” Oppenheimer (1996, 1297) suggests state size affects the quality of democratic representation, and that small-state politicians have better relationships with their constituents. Oliver (2000, 371, 361) finds that “people in smaller places are more civically involved,” which includes being more “likely to contact officials, attend community or organizational meetings, or vote in local elections.”

Regardless of whether national inattention to small states or small-state internal virtues is key, subhypothesis 6a (*Reform is adopted if the state has a low population*) focuses on connections between state size and redistricting reform. A state’s population, its population density, and its number of seats in the US House of Representatives are different measures of state size.

2.6.2 Racial Homogeneity

Race has always powerfully shaped American politics (Lowndes, Novkov, and Warren 2008, Hutchings and Valentino 2004). Today, the racial diversity of states varies greatly. Racially heterogeneous states are likely to have more complicated redistricting politics. Section 5 of the Voting Rights Act used to require certain states and localities to obtain prior approval, or “pre-clearance,” from the US Department of Justice before making changes to their election laws. As illustrated in figure 12, nine states were subject to this statewide, and another seven states were affected for specific local jurisdictions only. The Supreme Court ruled in *Shelby County v. Holder* (2013) that section 5 could no longer be implemented. However, the section 5 map remains useful because it draws attention to states where racial heterogeneity is politically significant.

Figure 12: Voting Rights Act Section 5 Pre-clearance States



Source: map created by the author, using data from the US Department of Justice (2015).

A state that is 99% white may still have significant political conflict and internal cleavages, such as those of class, ideology, or geography (e.g. north/south, urban/rural) (Rae 1992, Barrilleaux 2006, Gimpel and Schuknecht 2002). A state with significant racial and ethnic minorities may not necessarily have any *more* political conflict than states lacking racial diversity, but the dimensions of political conflict may be different. Conflict along class lines or geographic lines in a mono-racial state might be displaced by conflict along racial lines in a multi-racial state. For example, in Maine, which is 95% white, north-south regionalism (described as the ‘two Maines’) has been a key factor in state politics (US Census Bureau 2010a, Palmer et al 2009, 2). By contrast, Alabama is 66% white, and historian Wayne Flynt says that as a result “Alabama politics begins and pretty much ends with race” (US Census Bureau 2010a, Flynt 2017). A state’s racial politics is an essential context for any

redistricting reform efforts. Hero and Tolbert (1996, 868) argue that “racial/ethnic diversity provides a parsimonious and highly useful theory of policy variation in the states.”

Some election redistricting maps benefit white Republicans and black Democrats, at the expense of white Democrats (Brace, Grofman, and Handley 1987, Hill 1995, Petrocik and Desposato 1998). This can produce unusual cross-party coalitions. For example, US Representative Corrine Brown (D-FL), an African-American, joined with Republicans to unsuccessfully fight redistricting reforms in Florida that threatened her gerrymandered black-majority congressional district (Rosica 2016). Case study research on individual states should therefore pay attention to any race-based coalitions within state legislatures that support or oppose reform, as well as to arguments about racial representation that are made by legislators or other political actors, and to how specific reform proposals plan to comply with federal restrictions on racial gerrymandering. In addition, quantitative analysis can use census data about state demographics, such as the percentage of the population identifying as African-American, Hispanic, etc. This is the kind of data was used to investigate subhypothesis 6b (*Reform is adopted if a state is racially homogenous*).

2.6.3 Political Culture

Political culture is a popular but contested concept (Patrick 1984, Chilton 1988, Welch 2013). Almond (1956, 391) imported the concept into political science from anthropology in the 1950s. He argued that “every political system is embedded in a particular pattern of orientations to political action” and defined such patterns as political culture (Almond 1956, 396). Political scientists commonly define political culture as “psychological or subjective orientations towards politics” (Patrick 1984, 266). Wiarda (2016, 1) argues that it is important for political scientists to account for political culture, which he defines as the “deep-seated

ideas, beliefs, values, and behavioral orientations that people have, or carry around in the heads, toward the political system.” Citrin (2008, 147) sees political culture as “a patterned way of thinking about political life that is widely shared, spans the generations, and excludes other values and customs.” He argues that political culture is significant because it limits what is imagined to be politically possible or desirable in a society. It “imposes constraints on what government can do and the way it can do it” (Citrin 2008, 147). Moynihan (1987) claimed that conservatives and liberals tend to see culture differently. In his view, “the central conservative truth is that it is culture, not politics, that determines the success of a society. The central liberal truth is that politics can change a culture and save it from itself” (Moynihan 1987, 190).

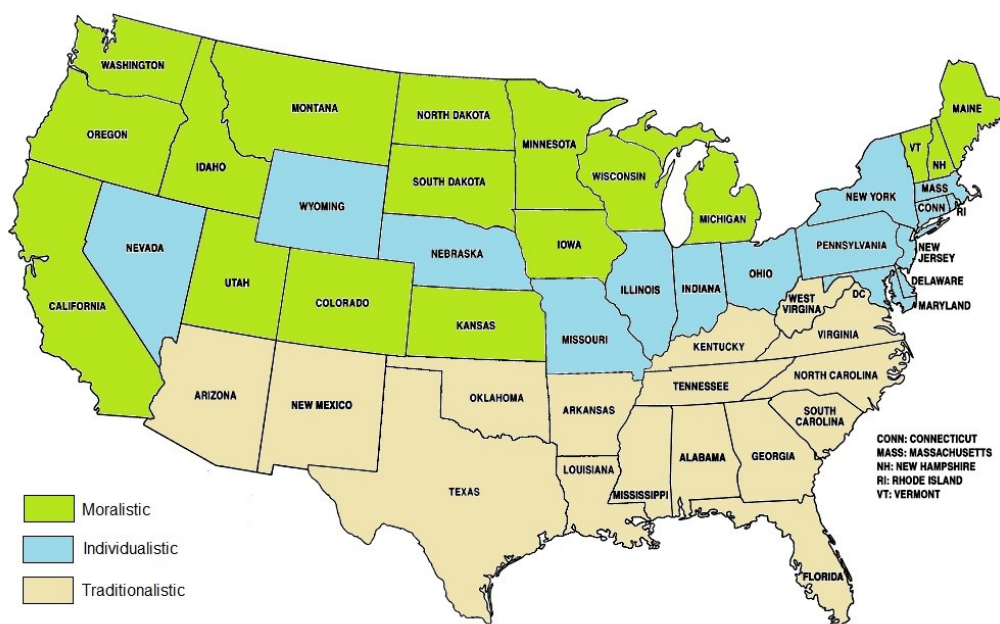
Huntington (1993, 22) treats culture as one of “the great divisions among humankind,” organized into large civilizations that may feature dozens of countries. He identifies seven or eight distinct civilizations, including Western, Slavic-Orthodox, and Islamic (Huntington 1993, 25). However, most scholars of political culture operate at a lower level, and instead focus on national political cultures. Almond and Verba (1963) suggest different countries have different types of political culture, such as a “civic culture”, which they find prospering in Britain and the United States. Merelman (1991) compares the distinct political cultures of America, Britain, and Canada, Gaffney and Kolinsky (1991) study France and Germany, and Eatwell (1997) compares multiple national political cultures in Europe. Many researchers examine the political culture of one country, such as China or Japan (Hua 2001, Richardson 1975).

Some scholars depict America as having a single national political culture (Hartz 1955).

Others detect multiple political cultures within the United States. For instance, Smith (1993)

argues that the Lockean liberalism Hartz emphasizes actually co-exists alongside ascriptive political traditions, and Ellis (1993) identifies five political cultures that have flourished in American history. Another approach argues that different political cultures dominate in different parts of the country. A pioneer of this view is Daniel Elazar (1966, 1972, 1984, 1994). As illustrated in figure 13, Elazar identifies three American political subcultures, which he labels individualistic, moralistic, and traditionalistic, and which thrive in different states (Elazar 1972, 93). Elazar’s theory has been influential in the comparative study of US states, where it has “generated a large body of empirical research, much of it wholly or partly confirmatory” (Kincaid 2000, 94). It has also been adapted to evaluate national political cultures, including in Europe (Mamadouh 1997).

Figure 13: Elazar’s State Political Cultures



Source: map created by the author, using data from Elazar (1972, 106-107).

Elazar argues that America’s “national political culture is a synthesis of three major political subcultures that jointly inhabit the country” (Elazar 1966, 114). In his view, immigration was

the driver of subcultural formation. Subcultures are “tied to specific sections of the country, reflecting the streams and currents of migration that have carried people of different origins and background across the continent in more or less orderly patterns” (Elazar 1966, 115). Inside the US, individual settlers followed “lines of least resistance which generally led them due west from the immediately previous area of settlement” (Elazar 1966, 99). This produces a map like figure 13, with horizontal patterns. Like-minded individuals migrated together and stayed together. For example, Scandinavians settled in New England, and then in northern Midwest states like Wisconsin and Minnesota. People from Connecticut populated northern Ohio, a Connecticut territory until 1800, and people from Massachusetts settled in Michigan, a Massachusetts territory until 1785 (Kern and Wilson 2013, 102).

Table 12: Comparing Elazar’s Three Political Cultures

	Moralistic	Individualistic	Traditionalistic
<i>Nature of politics</i>	A moral purpose. Community-oriented. “To achieve a good and just society.” “The means to achieve the collective good.”	A utilitarian purpose. “Just another way for individuals to achieve their goals.” “Every man for himself.”	A conservative purpose. Defend the status quo and maintain the traditional social order.
<i>Public service</i>	Considered worthwhile and honourable, open to all, not for own gain. One of the great activities of man in the search for the “good society.”	A self-interested career like any other. Emphasis on limiting community or government intervention into private activities.	A means for elites to preserve their power. Idea of a family obligation to govern. Social ties are prominent.
<i>Citizen behaviour</i>	All citizens are expected to actively participate. Norm of civic participation.	Leave politics to the professionals. Cynicism. Accept dirty politics as just the way things are.	The masses are not expected to concern themselves with politics.
<i>Resulting government</i>	Low corruption, greater innovativeness, greater government intervention in society.	High corruption is tolerated, close-knit networks, favour-trading, pro-business policies.	Uncompetitive elections, fewer government services, stricter class divisions.

Source: table created by the author based on data from Elazar (1984, 114-121).

Table 12 summarizes what Elazar sees as the key differences between his three subcultures. Subhypothesis 6c (*Reform is adopted if a state has a moralistic political culture*) focuses on states with a moralistic political culture as being more likely to engage in redistricting reform. These are the more civic-minded states, where corruption tends to be lower, innovativeness thrives, and citizen engagement and participation in politics is higher (Morgan and Watson 1991). Researchers have found Elazar's political cultures to be consistent with interstate variations in features like corruption and political participation (Nice 1983, Nechemias 1985, 128). Some scholars of individual states also acknowledge Elazar's depiction of their state's culture as appropriate (Palmer et al 2009, 7). Although not everyone finds Elazar useful (Lowery and Sigelman 1982, Nardulli 1990), it is an approach worth investigating in this research. The value of a political culture analysis might also be checked by comparing redistricting reform variability directly with factors Elazar sees shaped by culture, like state levels of political corruption (Schlesinger and Meier 2002).

Elazar is not alone in identifying geographically-distinct American subcultures, but there is a lack of agreement about how many exist. Fischer (1989) argues that four political cultures dominated the early United States. Each originated in different parts of Britain, was exported across the Atlantic with certain kinds of immigrants, and eventually flourished in different places in America (Fischer 1989, 787). Garreau (1981) divides North America into "nine nations" based on cultural differences. Lieske (1993, 2010) uses census and survey data on individuals to identify ten regional cultures, and identifies which one is dominant at the level of counties. Woodard (2011) finds eleven regional cultures. Chinni and Gimpel (2010) see a "patchwork nation" consisting of twelve different cultural communities. However, these scholars all report multiple subcultures present in some states, which greatly complicates state-level analysis.

2.6.4 Political Ideology

One criticism of theories of culture is obsolescence: that political culture has become less relevant over time because ideological conflict has grown and taken its place. Political behaviour may be more affected today by the ideological attachments people have than by state political culture or personal identities (Egan 2020). Political party evolution, discussed above, has produced ideologically-coherent parties. As a result, ideology matters more than ever in American politics (Schier and Eberly 2016, 7), and it makes a big difference in how states behave. Brace, Grofman, and Handley (1987, 529) argue that “interstate differences in public ideology are important in accounting for notable differences among the states in the policies they adopt.” Erikson, Wright, and McIver (1993, 95) suggest “state political structures appear to do a good job in delivering more liberal policies to more liberal states and more conservative policies to more conservative states.” Scholars report that state political ideology significantly affects state policies in many areas, such as health care, LGBT rights, and immigration (Shor 2018, Lax and Phillips 2009, Zingher 2014).

Political ideology is hard to define because the term is used to mean different things by different researchers (Gerring 1997, 957). Mannheim (1936, 51) defined ideology broadly as the fundamental beliefs of a society, its “intellectual world,” which features fundamental “thought-systems” and unique “modes of experience and interpretation.” By contrast, Gerring (1997, 980) identifies a minimal definition, that “ideology, at the very least, refers to a set of idea-elements that are bound together.” Since the 1980s, some scholars have sought to measure state political ideology using individual survey data (Wright, Erikson, and McIver 1985, 471). Members of the public are asked to self-identify their own position on a basic ideological spectrum. For example, “How would you describe your views on most political

matters? Generally, do you think of yourself as liberal, moderate, or conservative?” (Wright, Erikson, and McIver 1985, 471). This approach has the advantage of being simple and empirical, and the disadvantage that respondents may be ill-informed, or inconsistent, or would prefer to identify themselves ideologically using other categories not mentioned, such as ‘socialist’ or ‘libertarian’. On the other hand, Donovan, Mooney, and Smith (2013, 30) say that this approach just reflects reality, arguing that “the most common way Americans think about general political values is along a one-dimensional continuum of political ideology, from liberal to conservative.”

Why might a liberal ideology be more conducive to redistricting reform in American states? A standard summary of the core principles and beliefs of liberalism includes individualism, equality, meritocracy, democracy, the rule of law, and majoritarianism (Heywood 2012, 27-40). Conservatism includes respect for tradition, hierarchy and authority, an organic view of society, paternalism, and protection of property rights (Heywood 2012, 68-81). Any proposal to reduce the power of a traditional, paternal place of authority (a state legislature), in order to improve meritocracy, political inclusion, and representation, sounds like a change you would expect liberals to sympathize with and conservatives to doubt. Resisting change, regardless of what it is about, is naturally consistent with conservatism, which is “inspired by self-interest and fear of change” (O’Sullivan 2013, 293). American political reforms have also usually been promoted by liberal political actors, like the Progressive movement working for women’s suffrage or the Civil Rights movement fighting for racial equality and voting rights (Langan Teele 2019, Horton 2005).

Subhypothesis 6d (*Reform is adopted if a state has a liberal political ideology*) tests whether state liberalism is associated with redistricting reform. Scholars have investigated multiple

ways to measure the ideology of a state. For example, measurements of the ideology of state governments (Berry et al 2012, Kelly and Witko 2014), state legislators (Shor 2018), state delegations to Congress (Berry et al 1998), or state citizens (Erikson, Wright, and McIver 2007, Enns and Koch 2013). Given the different time periods in which reform cases occur, it could be useful to consider changes in state political ideology over time (Brace et al 2004).

2.7 Summary

James Madison expressed skepticism about small republics. He warned that they

are too unstable, that the public good is disregarded in the conflicts of rival parties, and that measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority. (Madison 2009, 47)

US state legislatures have an anti-reform reputation consistent with Madison's doubts. State tend to resist political reform initiatives, embrace anti-reform backlashes, and value the wider public interest less than partisan, parochial, or elite interests. There are many examples in US political history. For instance, in the early republic the right to vote was often determined by wealth or property requirements, and it took until the Jackson presidency in the 1820s for state legislatures to expand voting rights to working-class white men (Ratcliffe 2013). The secret ballot, copied from Australia and sometimes called the Australian ballot in America, was introduced in the 1880s but resisted by some state legislatures for decades (Walker 2005, 221). The long struggle for voting rights for women throughout the 19th century achieved some early successes in the territories of Utah and Wyoming in 1869, and in the state of Colorado in 1893, but a majority of state legislatures had not granted women the right to vote by 1920, when they were overruled by the adoption of the 19th Amendment to the US Constitution (Banaszak 1996, 4). Between the 1870s and the 1960s, the long Jim Crow era, numerous state legislatures implemented tools of voter suppression to prevent most African-

Americans from voting (Keyssar 2000). The direct election of US Senators was proposed in the 19th century, and backed by the Populist Party in the 1890s, but was resisted by many states until they were overruled by the adoption of the 17th Amendment in 1913 (Schiller and Stewart 2014). States began introducing direct democracy in the early 20th century, such as ballot initiatives and recall elections, but half of state legislatures have prevented these from being allowed in their state, despite popular support (Gerber 1999, 147). In the mid-20th century, malapportionment affected most state legislatures, sometimes extremely, but few were willing to act to take action, before the US Supreme Court intervened in the 1960s (Cox and Katz 2002). When the term limits movement became highly popular in the 1980s and 1990s, a majority of state legislatures resisted adopting this reform (Caress and Kunioka 2012, 5).

The historical behaviour of state legislatures across many reform types illustrate that self-interest usually dominates how many legislators do business. State politicians preserving or expanding their power is normal and not an exception in American politics. Understanding any exceptions, as this project aims, is therefore important. This chapter has discussed six broad hypotheses, organized into numerous subhypotheses, with one or more ways to collect data for each. This information is summarized in table 13. Each hypothesis has been examined in the context of relevant political science research.

Table 13: Subhypotheses and Data Sources

<i>Hypothesis Number</i>	<i>Subhypothesis Number</i>	<i>Hypothesis Statement</i>	<i>Data Sources</i>
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H ₀		A state legislature adopts redistricting law reform because of reasons not explained by a variable investigated in this research.	
H ₁		<i>A state legislature adopts redistricting law reform if it is supported by state political leaders</i>	
	H _{1a} H _{1b} H _{1c}	If it is supported by the state governor. If it is supported by state legislative leaders. If it is supported by members of Congress.	Gubernatorial public speeches and statements; Legislator public speeches and statements; Media reporting on views of governors and legislators
H ₂		<i>A state legislature adopts redistricting law reform if the legislature would gain a benefit or advantage from reform</i>	
	H _{2a} H _{2b} H _{2c}	If courts have intervened to take control of past redistricting. If a ballot measure on the topic has been proposed and may pass. If legislators believe the existing system is corrupt or unethical.	Number of past state/federal cases and how they affected redistricting in the state; Media reports on legislature's response to court cases; Legislators publicly refer to courts to justify reform Number and nature of ballot initiatives; Media reports on legislature's response to ballot initiatives; Legislators publicly refer to initiatives to justify reform Legislators publicly refer to ethics of the existing system to justify reform; Media reports on legislators describing system as corrupt or unethical
H ₃		<i>A state legislature adopts redistricting law reform if it is supported by people in the state</i>	
	H _{3a} H _{3b} H _{3c}	If it is supported by public opinion in the state. If it is supported by interest groups in the state. If it is supported by news media in the state.	Public opinion polls; Media reporting on public opinion; Politicians publicly refer to public opinion to justify reform Media reporting on interest groups; Interest group reports on their views and activity; Politicians publicly refer to interest groups to justify reform Media reporting and editorials; Politicians publicly refer to media reporting or endorsements to justify reform
H ₄		<i>A state legislature adopts redistricting law reform if it is advantageous for state political parties</i>	
	H _{4a} H _{4b}	If the political party usually in the minority is in power in the state. If elections are competitive between the state's major parties.	Party results in elections; Legislators publicly refer to minority-status history to justify reform Party results in elections; Legislators publicly refer to political competitiveness to justify reform; Measures of partisan competitiveness

	H _{4c}	If there is low polarization between the state's major parties.	Measures of ideological polarization (e.g., Shor and McCarty 2011); Legislators publicly refer to polarization to justify reform
	H _{4d}	If the Democratic Party is in power in the state.	Partisan control of seats in the state legislature and of the governorship
H ₅		<i>A state legislature adopts redistricting law reform if the state has institutional features favourable to reform</i>	
	H _{5a}	If the governor is an institutionally-powerful position in state politics.	Measures of gubernatorial power (e.g., Dometrius 1979, Dilger 1995, Beyle 2006); Legislators publicly refer to the governor's power to justify reform
	H _{5b}	If the state legislature is a part-time citizens legislature.	Measures of legislative professionalism (e.g., Squire 2007, 2017); Legislators publicly refer to the nature of legislature to justify reform
H ₆		<i>A state legislature adopts redistricting law reform if the state has demographic features favourable to reform</i>	
	H _{6a}	If the state has a low population.	State population; State population density; Number of congressional seats
	H _{6b}	If the state is racially homogenous.	State's minority proportion of minorities; Number of majority-minority congressional districts
	H _{6c}	If the state has a moralistic political culture.	Measures of state culture (e.g., Elazar 1984); Legislators publicly refer to state political culture to justify reform
	H _{6d}	If the state has a liberal political ideology.	Measures of state political ideology; Legislators publicly refer to liberal values to justify reform

The hypotheses listed in the table can be divided into two categories. Hypotheses 1, 2, and 3 focus on political leadership, legislature advantages, and popular support as key explanations. These were thought to be the most likely reasons for successful state reforms, although such expectations could well have been contradicted by the data. These three hypotheses are mainly tested in chapter 4 through case study analysis. On the other hand, hypotheses 4, 5, and 6 focus on the role of political parties, state institutions, and state demographics in facilitating redistricting law reform. For these three, no obvious pattern was readily apparent

in advance of the research, but they included commonly-investigated variables that needed to be accounted for. A surprise was always possible, but finding no evidence to support these hypotheses would not be unexpected or disappointing. These three hypotheses have been tested mainly in chapter 3 through quantitative analysis, to which we now turn.

CHAPTER 3

Electoral Math: Comparing the Fifty States

“It is only through contact and comparison that the relative value or worthlessness of the various cultural elements can be clearly and critically seen and understood. What is sacred among one people may be ridiculous in another.”

– Hu Shih (1934, 46)

“Ay me! what act, That roars so loud and thunders in the index?”

– William Shakespeare, *Hamlet* (1603), Act 3, Scene 4

3.0 Introduction

Imagine two scenarios. In scenario A: redistricting is conducted by a nonpartisan and independent board, on which current or former politicians cannot serve; the public can submit their own map ideas, question and testify before the board, and provide feedback on draft plans; explicit anti-gerrymandering rules must be followed, guiding how districts can be drawn; politicians cannot meddle with redistricting maps once they are created; judges and not politicians are the backstop to resolve any disputes about compliance with the rules; and, as a consequence of all of these elements, partisan gerrymandering is difficult and rare. In scenario B: redistricting is conducted by elected politicians, who may be drawing their own districts; the public has little or no input into the process, which is conducted in secrecy; few or no rules constrain district design or the information used to create maps; politicians are the arbiter of whether politicians have followed any rules that do exist; and, as a consequence of all of these elements, partisan gerrymandering is easy and commonplace. Scenarios A and B are both imaginary, ideal points at opposite ends of a spectrum of possibilities. In reality, however, a number of countries have actually-existing redistricting systems fairly close to A, while many US states have systems much closer to B. Some Americans genuinely doubt whether scenario A really exists or could ever exist, but the world disagrees.

Prior to 1697, Europeans were convinced that the definition of a swan included that the colour of their feathers had to be white. Anything else was thought impossible. When Dutch captain Willem de Vlamingh and his crew explored what is now Western Australia, they discovered a species of black swans, previously unknown and unimagined in Europe (Ketelaar 2008, 17). Europeans had to adjust their thinking about what a swan could be, based on this new evidence from the rest of the world (Popper 1959, 101). Some Americans today just imagine a world without partisan gerrymandering. For instance, they may believe that “all redistricting is gerrymandering,” that “apolitical redistricting is an impossibility,” or that “if we have lived with partisan gerrymanders so long, we will survive,” so there’s no point in worrying much about the issue (Dixon 1968, 462; Buchler 2010, 17; Kagan 2019, 9). Nonetheless, nonpartisan election boundary commissions actually exist and successfully operate in many countries, such as Britain, where they were first created in 1831 (Robson 2014, Spychal 2017). This chapter seeks to illustrate and measure the different ways redistricting systems work in practice and could work hypothetically.

All state and federal redistricting is conducted by state governments in the United States (McDonald 2008b). Each of the fifty states has decided on a system to use to determine its state legislative districts. Forty-five states have also decided on a system to use for federal congressional districts, which may or may not be the same as the one used for the state legislature.¹⁹ States in practice have a wide variety of rules and institutions, and there are periodic efforts to change these. As a result, there is a complex and shifting patchwork of state redistricting regimes, which makes interstate comparisons difficult. This chapter has two admittedly ambitious goals. First, it develops a way to comprehensively compare redistricting

¹⁹ Six states need no system for federal redistricting because their low population entitles them to only one US Representative, who is elected at-large by the whole state. These states are: Alaska, Delaware, North Dakota, South Dakota, Vermont, and Wyoming (US Census Bureau 2021a). Montana was also in this category from 1992 to 2020, but kept its congressional redistricting law anyway, because it hoped to regain its second US House seat, which it did after the 2020 census (Dennison 2019, Lutey 2021). Wyoming’s constitution (article 3, §3 & §49) optimistically mentions congressional redistricting even though the state has never been entitled to more than one US House seat.

laws and institutions across all of the states, so as to readily identify which states have adopted redistricting reforms of any kind, and which have not. Second, it investigates if there are connections between state redistricting regimes and hypotheses about political parties, state institutions, and state demographics discussed in the previous chapter.

3.1 Creating The Index

Measurement precedes comparison. This section develops a redistricting index as a tool to measure state redistricting systems, so that they then can be compared. The index evaluates states according to factors such as: who is in charge of redistricting, how they do their work, what rules and conditions apply, and who has final approval. It seeks to account for the whole range of ways politicians can or cannot influence a state's redistricting process. The first subsections discuss the use of indexes in political science and why indexes are a legitimate research tool. The next section reviews the ways states differ institutionally or procedurally in how they conduct redistricting, in order to identify features the regime index must account for. It then draws on relevant literature to determine the appropriate design for constructing an index, assembles the regime index, and classifies all states. Once the index is complete, later sections of this chapter check index validity and reliability and then apply the index as a tool in inter-state quantitative analysis.

3.1.1 Use and Justification of Indexes

“Comparison requires classification” (Finer 1999, 34). Scholars have created categories and classified political systems since ancient times. Aristotle (1981, 239), for instance, described six types of constitutions: kingship, aristocracy, polity, tyranny, oligarchy, and democracy. Bodin (1955, 51) identified three types of states: monarchies, aristocracies, and democracies. Montesquieu (1949, 8) examined “three species of government” – republican, monarchical,

and despotic – and divided republics into two subtypes, democratic and aristocratic. Weber (1948, 78-79) differentiated states by their source of legitimacy, which could be charismatic, traditional, or rational-legal. By the twentieth century, numerous varieties of democracy were being identified (Held 1996, 5). The rapid increase in the number of independent nation-states caused by decolonization rejuvenated comparative political scholarship, and led to the development of new classification and coding measures (Munck and Verkuilen 2002). In the 1970s, international regime indexes covering many countries were developed, including the Polity data series and Freedom House’s comparative surveys of freedom (Gurr 1974, Gastil 1990). Polity classifies countries into three core categories – democracies, anocracies (essentially semi-democracies), and autocracies – while Freedom House designates countries as free, partly free, or not free (Marshall and Ezinga-Marshall 2017, 2; Freedom House 2019, 10). The Economist’s Democracy Index has been published since 2006 and employs four categories: full democracies, flawed democracies, hybrid regimes, and authoritarian regimes (EIU 2021, 3). This index is discussed in more detail below, because it is useful a methodological model for this chapter’s redistricting index.

The use of indexes has become common in political science and public policy (McNabb 2004, 303; Ragin 2008, 177). One popular application is to compare and rank countries. The United Nations identifies several hundred international indexes that have been created (Bandura 2011). For example, international corruption indexes, such as Transparency International’s Corruption Perceptions Index, have become a well-known tool for trying to measure and compare levels of corruption between countries (Ko and Samajdar 2010). In the United States, political scientists studying state politics similarly use indexes for inter-state comparisons and rankings. Indexes have been applied to both state political institutions (for example, comparing gubernatorial power or state legislative effectiveness) as well as to state

laws and policies (for example, on abortion, gun control, or LGBT rights) (Beyle and Ferguson 2008, Burns 1971, Phillips 2018, Bruce and Wilcox 1998, Warbelow, Avant, and Kutney 2021).

Indexes are thus a legitimate and valid method in political science research (McNabb 2004, 303). An index is just a tool. The existence or possession of a hammer does not need to be justified. A hammer can be used for different purposes, some of which may be more legitimate (to help build a house) or less legitimate (to help commit a crime), and more valid (attaching a nail to a wall) or less valid (detaching a spider from a wall). It is the hammer's use, not the hammer itself, that may require justification. Indexes are justified in political science if used correctly for an appropriate research purpose, which most commonly is "to communicate in a quick and easily understood way information in quantitative terms" (McNabb 2004, 303). The redistricting neutrality index (RNI) developed in this chapter aims to be reasonable and adequate for its specific purpose, but does not try to be perfect or claim to be the single legitimate approach. It is assumed and accepted that "science cannot provide an objective method for developing the one-and-only true composite indicator to summarise a complex system" (Saisana and Tarantola 2002, 6).

Indexes have both advantages and disadvantages in academic research. Saisana and Tarantola (2002) argue that using indexes can offer several benefits. They can succinctly summarize complex issues, are easier to interpret than some alternatives, and by being more interesting to the public can help improve the public's understanding of an issue (Saisana and Tarantola 2002, 5). On the other hand, like every research tool, indexes can have disadvantages. Simplification of a complex comparison can be misleading. Simplifying an issue can lead to the embrace of over-simplified policy ideas or responses. Researcher judgements made in the

construction of an index may be questionable or non-transparent to the users of that index. An index may also produce misleading results if it is poorly designed (Saisana and Tarantola 2002, 5). Although indexes summarize past developments, they cannot reliably predict the future (McNabb 2004, 303). Another challenge in index construction is the question of how to appropriately weight component variables, which is discussed further below.

3.1.2 Discussion of Concepts

If we wanted to compare the population of the fifty US states, or their economic output, or the proportion of state residents receiving Social Security payments, data on these three things is readily available from existing sources. For example, the Census Bureau produces annual estimates of state population and the Census itself involves an actual count per state every ten years. But if we want to compare in detail the redistricting systems of the fifty states, and contrast the amount of redistricting reform each state has or has not undertaken, then there is no detailed pre-existing data or systematic measurement. There are many useful measures that evaluate redistricting *outcomes*, by analyzing specific electoral maps that have been produced (Grofman and King 2007, Stephanopoulos and McGhee 2015, Wang 2016). However, there are few comparative measures of redistricting *systems*, that is, the processes and institutions that states use to produce maps, so this chapter must create something new. Some scholars have classified states into different redistricting categories, such as states that do or do not use a commission model (Grainger 2010). Cain (2012) goes further and categorizes states according to how much power legislators have in redistricting. He assigns states to one of six groups: legislative control, separation by dilution, separation by office, separation from office, separation by independent pool, and separation from legislative designation (Cain 2012, 1844). This chapter takes the categorization of states one more step beyond Cain, by creating an index, coding all states, and assigning states a score out of 10, to

try to capture more of the complexity and variation in state redistricting systems.

Classification measures with simple categories are useful for certain purposes, but are not sufficient here, and the information in Grainger and Cain is out of date for a number of states.

An index approach will also enable a rank ordering of states based on their redistricting system.

A redistricting index can take inspiration from indexes of democracy. For instance, the Economist Group produces an annual comparative measurement of countries which it calls the Democracy Index (EIU 2021). This index was created to provide a “thicker, more inclusive and wider measure of democracy” than previous alternatives, such as those of Freedom House or Polity (EIU 2021, 56, 54). Every country rated receives a score between 10.0 and 0.0, where the higher the number, the greater the amount of democracy, according to The Economist. For example, for 2020, very-democratic Norway received a score of 9.81 and undemocratic North Korea received 1.08, the highest and lowest scores respectively in the index (EIU 2021, 8, 13). As illustrated in table 14, countries that fall within specific bands are labelled as one of four categories (EIU 2021, 57). Categories are created from the bottom up based on the data, not imposed top-down. The boundaries between the categories are clearly arbitrary. For example, South Korea and France have a 2020 score that differs by 0.02, so they are almost identical to one another, but they end up assigned to separate categories (full democracies and flawed democracies, respectively). However, the four categories are just simplifications to help people understand the index and monitor broad trends. It is scores and not categories that are used in most analysis (Rahman and Nahar 2017).

Table 14: Democracy Index Categories

<u>Score Range</u>	<u>Category Label</u>	<u>Country Examples (2020 Scores, out of 10.0)</u>
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8.01 to 10.0	Full democracies	New Zealand 9.25, Australia 8.96, Germany 8.67, Costa Rica 8.16, Japan 8.13, South Korea 8.01
6.01 to 8.00	Flawed democracies	France 7.99, USA 7.92, Brazil 6.92, India 6.61, Mexico 6.07, Singapore 6.03
4.01 to 6.00	Hybrid regimes	Ukraine 5.81, Fiji 5.72, Tanzania 5.10, Turkey 4.48, Nigeria 4.10
0.0 to 4.00	Authoritarian regimes	Russia 3.31, China 2.27, Iran 2.20, Saudi Arabia 2.08, North Korea 1.08

Source: EIU (2021, 8-13).

This chapter’s goal is to create a redistricting index that resembles the democracy index and can be used analytically in a similar way. This would enable comparison of the redistricting systems of the fifty US states. Hypothetically, the same approach could also be used to assess the redistricting system of any democratic polity. An index measures a particular phenomenon. Babbie (2016, 156) defines an index as a “composite measure that summarizes and rank-orders several specific observations and represents some more general dimension.” The ‘general dimension’ for a redistricting index therefore needs to be identified.

The Democracy Index seeks to compare levels of democracy and to identify which countries are more democratic or less democratic. Some scholars are not convinced this is appropriate. They argue that the concept of democracy should be treated as a dichotomous variable, and thus have only two possible categories. Democracy is like a light switch: it’s either on or it’s off. A country is a democracy or it’s not, and there are no semi-democracies. Lipset (1960), Alvarez et al (1996), Geddes (1999), Linz (2000), and Bayer and Bernhard (2010) take this approach. However, this is only one perspective. Other scholars treat democracy as an ordinal variable, which features a clear ordering of multiple levels of differentiation. Democracy is like a faucet: it can be on at maximum, or a moderate amount, or a trickle, or not at all. Dahl (1971), Bollen and Jackman (1989), and Beetham (1994) take this approach. These two

contrasting ways to think about democracy are summed up by Saward (2003, 86) as a threshold approach which polices a “boundary between democracy and non-democracy,” versus a continuum approach which tries to determine “how much democracy is present” in a polity. Hyland (1995, 49-50) draws a similar distinction between sortal versus scalar concepts of democracy. The two ways to conceptualize democracy are both useful for scholars, when used for appropriate purposes (Collier and Adcock 1999). Sartori (1987, 185) argues sensibly that “*What is (democracy)?* and *How much (democracy)?* are both rightful and complementary, not mutually exclusive, questions” for researchers to investigate.

Redistricting is a process and a system, but not a condition. The existence of redistricting is a dichotomous variable: electoral systems either do or do not use custom election districts. The need for occasional redistricting is either turned on or turned off. So redistricting’s existence is not a directly indexable concept. A differentiable aspect or quality of redistricting systems must be identified to be the dimension of interest for an index. The quality that is the focus of this research is the power and control of elected politicians. The index needs to capture all the ways in which politicians can or cannot influence or interfere with how the redistricting system operates, along a continuum from unconstrained domination by politicians at one end, to a maximum-possible immunity and insulation from politicians at the other end. What concept sums up this spectrum and could be used to frame the index? Three possibilities will be briefly examined: political influence, fairness, and neutrality.

One plausible option is a redistricting political influence index. Influence is central to Cain’s (2012) classification scheme and in political science generally. Lasswell (1936, 3) wrote that “the study of politics is the study of influence and the influential.” However, although the concept of influence is used by scholars in many fields today, there is no clear consensus

about its meaning (Mokken and Stokman 1976, 33; Willer, Lovaglia, and Markovsky 1997). Political influence might be a problematic index frame because of this ambiguity. The public, business corporations, interest groups, churches, and the media are among the many depicted sources of political influence (Parsons 1963, Salamon and Siegfried 1977, Becker 1983, Djupe and Gilbert 2005, Stromback 2010). Not everyone would clearly understand what a redistricting index meant by political influence or who it was referring to. Other concepts might be more readily understood. In addition, indexes are typically named positively (after the explicit or implied best end of the spectrum) rather than negatively (after the worst end of the spectrum). The Economist does not publish an Authoritarianism Index, and Freedom House does not report on the state of Unfreedom in the World. A positively-named index would idealize the absence of political influence within a redistricting system, rather than the presence.

Gerrymandering is a common label for biased redistricting, so an examination of how that term is defined or synonymized might be helpful in reviewing options for conceptualizing the index. Gerrymandering definitions include “to divide (an area) into political units in an unnatural and unfair way with the purpose of giving special advantages to one group,” or “to manipulate in order to gain an unfair advantage,” or “to manipulate unfairly” (Webster’s 1993, 952; OED 1989, 472; Chambers 1996, 561). A thesaurus places the term gerrymandering under the category of deception, in the fraud subsection, along with cheating and graft, while ‘to gerrymander’ is placed in the cunning section, in the ‘to manipulate’ subsection along with to scheme and to intrigue (Roget’s 2001, §415, §609). Reflecting on these definitions and synonyms suggests another two possible concepts that could be used to focus and positively name an index: “redistricting fairness” or “redistricting neutrality.”

Unfairness is a typical element of gerrymandering definitions, so fairness is an option for conceptualizing a redistricting index. Redistricting systems could be described as falling along a spectrum from maximum to minimum fairness. Fairness is used as a goal or name by some advocates of redistricting reform. For example, a reform effort in Florida called its ballot measures the Fair Districts amendments, and an electoral-reform nonprofit organization calls itself FairVote (Foreman 2018, 111; FairVote 2019). However, fairness is also a problematic concept. Like political influence, fairness is ambiguous, and subjective and open to interpretations – fair to whom? (Finkel 2001, 7). Fairness is often attached to actions and behaviours. For instance, are people being treated fairly, are the rules being followed fairly, are costs or benefits being distributed fairly? (Carr 2000, 2). Carr (2000, 10, 56) suggests that the most politically salient conceptualization of fairness is when people do not take advantage of their circumstances in socially unacceptable ways. Unfairness is sometimes used to describe unfortunate consequences – it’s unfair he got caught in the rain – without assigning blame (Finkel 2001, 91). None of these implications of fairness seem especially helpful for an index of systems.

In a redistricting context, fairness usually implies an evaluation of outcomes, like asking if a particular map is fair or if the consequences will be fair (for voters, or candidates, or parties). Scholars usually connect fairness to redistricting effects. As Elmendorf and Schleicher (2012, 1846) argue, “most commentary on redistricting is concerned with fairness to groups, be they racial, political, or geographic.” For example, King, Bruce, and Gelman (1995) investigate how many African-Americans should be in Congress, and refer to this as trying to set “standards of racial fairness in legislative redistricting.” Eisler (2017) defends partisan maps produced by gerrymandering by saying they are only an “illusion of unfairness.” Fromer (2005, 1621) argues that unfair outcomes are unavoidable in redistricting. In her view, “any

districting scheme is unfair to someone,” so she rejects the idea that there is a “redistricting method or standard that guarantees substantive fairness to everyone.” Overall, fairness would probably be a misleading label to use for a redistricting systems index, because too many people would falsely expect it to perform map-evaluation rather than system-evaluation.

Neutrality may be a suitable concept. Manipulation is another common element in gerrymandering definitions. Neutrality can be used to refer to the absence of manipulation or the absence of a motivation for manipulation. Neutrality is “the state or condition of not being on any side,” and if you have an “absence of decided views, feeling, or expression; indifference; impartiality, dispassionateness,” then you have no reason to manipulate or act in biased ways (OED 2003). Neutrality is also a characteristic of systems or institutions, and has a narrower range of meanings than fairness (Gaus 2009). For example, if two people are having a dispute, and a third party chooses to treat them with neutrality, then he or she is not taking a side or exhibiting any kind of favouritism. If two people are having a dispute, and a third party chooses to treat them with fairness, then he or she might do several things. One response may be neutrality. An alternative response may be intervention, that is, deciding on the merits that A is wrong and B is right and therefore taking B’s side, because that would be the fair thing to do. The index’s purpose is a better fit with the first scenario than the second. The limited and non-interventionist concept of neutrality seems the most appropriate of the three options of political influence, fairness, or neutrality. The index can depict the range of politician-free to politician-dominant redistricting systems as covering the spectrum of maximum to minimum political neutrality.

In a democracy, the delegation of authority over a narrow-defined operational area to a politically-neutral specialist decision-making body is not unusual (Pond 2021). For example,

as a general rule, legislatures do not decide how to punish individual criminals – judges and juries perform that task. Legislatures do not calculate how much tax an individual must pay for a given year – tax-collection agencies perform that task. Legislatures do not decide what the weather forecast should be – meteorological agencies perform that task. Legislatures do not set benchmark interest rates for the economy – independent central banks perform that task.

The comparison between redistricting and central banking may be particularly apt. At one time, it was not unusual for the setting of benchmark interest rates to be a decision for politicians, such as a finance minister (Blinder 1998). For example, this was the norm in Britain until 1997 (Patel 2008). It is now common for central bank governors or governing boards to have the independence to set monetary policy themselves (Bernhard 2002, McNamara 2002). This has been done to promote economic merit over political convenience as the top priority in decision-making. A high level of independence for a central bank is associated with lower levels of inflation for a country, whereas “political meddling has consistently caused or worsened financial instability” (Alesina and Summers 1993; Taylor 2013, 465). The concept of political neutrality in central banking systems, to pursue outcomes that benefit the whole economy and not just the government in power, is strikingly similar to the concept of neutrality in redistricting systems, and underlines its relevance to our index construction.

3.1.3 Index Construction

Babbie (2016, 159-165) argues that the three key steps to index construction are item selection, empirical relationship-testing, and item scoring. The Democracy Index provides an example of item selection. It comprises five categories, as shown in table 15, with each

category based on between 8 and 17 indicators (EIU 2019, 47-48). Indicators are phrased as questions and treated as dichotomous variables (scored as 0 or 1) or modified dichotomous variables that allow for “grey areas” (scored 0, 0.5, or 1) (EIU 2019, 49). Data sources for the indicators include expert assessments, public opinion surveys, and official statistics, and the total index score out of 10.0 is the simple weighted average of all five categories (EIU 2019, 48-50).

Table 15: Construction of the Democracy Index

<u>Category names</u>	<u>Number of indicators</u>	<u>Indicator example</u>	<u>Indicator data source types</u>
Electoral process and pluralism	12	Can citizens cast their vote free of significant threats to their security from state or non-state bodies? 1: Yes. 0: No.	Experts 12/12
Functioning of government	14	Public confidence in government. 1: High. 0.5: Moderate. 0: Low.	Experts 11/14, Surveys 3/14
Political participation	9	Women in parliament. % of members of parliament who are women. 1 if more than 20% of seats. 0.5 if 10-20%. 0 if less than 10%.	Experts 2/9, Surveys 3/9, Statistics 4/9
Democratic political culture	8	Degree of popular support for democracy. 1: High. 0.5: Moderate. 0: Low. If available, from World Values Survey % of people who agree or strongly agree that democracy is better than any other form of government. 1 if more than 90%. 0.5 if 75-90%. 0 if less than 75%.	Experts 2/8, Surveys 6/8
Civil liberties	17	Are citizens free to form professional organisations and trade unions? 1: Yes. 0.5: Officially free, but subject to some restrictions. 0: No.	Experts 16/17, Surveys 1/19
TOTAL	60		Experts 43/60, Surveys 13/60, Statistics 4/60

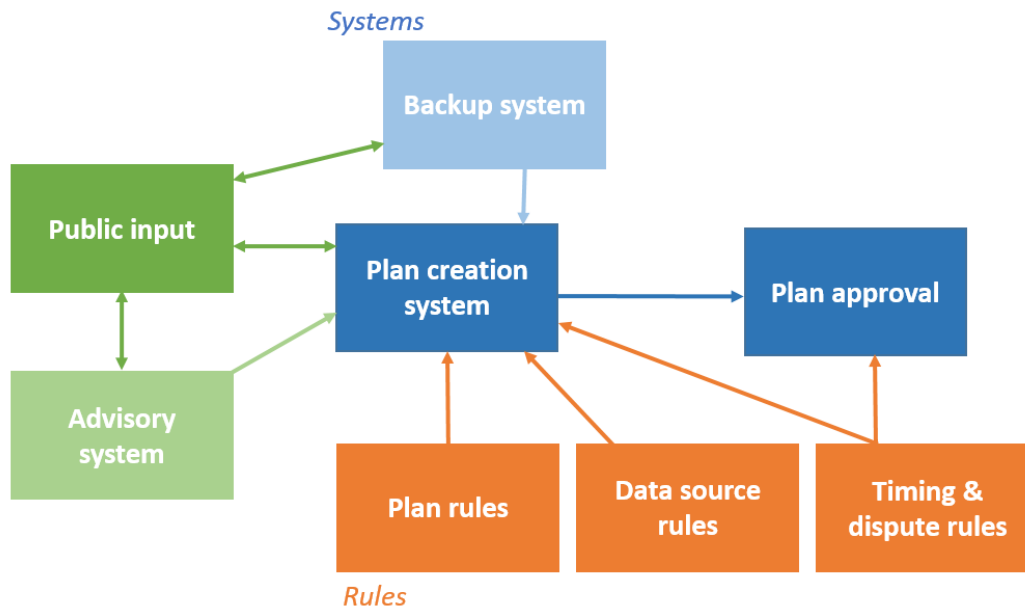
Source: adapted from EIU (2019, 51-60).

Spector (1992) discusses inductive and deductive approaches to the construction of scales and indexes in social science research. He says “the approach strongly recommended here is an inductive one” (Spector 1992, 13). For the redistricting neutrality index, item selection was carried out inductively, that is, real-world data was collected first about all possible rules and practices in the universe of cases and possible index categories were identified second, rather than the other way around. The legal structure of the redistricting system of every US state was examined. All state constitutional provisions and laws relevant to redistricting were identified, using primary and secondary sources. The resulting data and its sources are included as appendix A. The RNI needs to capture all of the ways in which state redistricting can vary in theory, so the starting point was checking all the ways states do vary in practice. Based on the appendix A data, possible categories and indicators for the RNI can be identified. State provisions can be grouped logically into categories, shown in table 16. These categories represent the major components of a redistricting process if it were visualized, as illustrated in figure 14.

Table 16: Categories for Redistricting Index Based on State Data

<u>Category Label</u>	<u>Example Indicator Questions</u>
Plan creation system	Are politicians drawing their own maps? Are map-drawers appointed by politicians?
Backup system	Who draws the maps if a deadline is missed? Who appoints a special master to draw maps?
Advisory system	Is there an advisory body to comment on plans?
Plan approval	Do politicians approve their own maps?
Plan amendment	Can politicians change maps drawn by others?
Map rules	Are districts required to be contiguous? Are districts required not to be oddly shaped?
Data source rules	Can data on voter party identification be used? Can data on politician residences be used?
Timing rules	Are there firm deadlines? Can politicians manipulate new map timing?
Public input rules	Are public hearings held? Can the public comment on draft maps?
Dispute resolution rules	Is it clear which court has jurisdiction to resolve disputes?

Figure 14: Redistricting Process and Categories



Indicators need to be identified for every index category. It needs to be decided if each indicator should be a dichotomous variable (0 or 1 are the only responses), a modified dichotomous variable (0, 0.5, or 1 are responses), or an interval variable. The argument of the creators of the Democracy Index is that interval variables are too arbitrary and inconsistent. If something is being coded on a scale of say 1-5, then that increases the chances of mis-coding, because one person might think a state rates as a 2 and someone else might think it should be a 3 (EIU 2019, 49). When there are fewer choices, there is less room for error or personal interpretation. The Democracy Index also uses 0.5 coding for grey areas. This could be of value here. Some redistricting provisions are entrenched in state constitutions (and thus more difficult to change) while others are just features in state law or recent practice, and thus fairly easy to change. The former could be coded 1 and the latter 0.5. For example, one indicator question might be, “does the redistricting body hold public hearings?” This could be

coded 0 for no public hearings, 0.5 for public hearings held and required by law, and 1 for public hearings held and constitutionally required. Index validation will check if the inclusion of such a distinction between the two types of hearings significantly affects the index results. The rest of this section discusses each of the categories, including a theoretical justification for their inclusion, their relevance to redistricting neutrality, and a list of indicators.

3.1.3.1 Map creation

When establishing index indicators, we start with redistricting plan creation, because it is arguably the most important. This subsection considers the three ways that plans are usually created: by a regular system that a state has set up in its constitution or laws; by a backup system (if any) that a state might use if the regular system fails to complete its work on time; or by an advisory system (if any) that a state might use to try to supplement or legitimate the decisionmaking of the regular plan creators.

PLAN CREATION

“The hand that rocks the cradle is the hand that rules the world” (Wallace 1873). The category of election districting plan creation is pivotal, because the hand that draws the map wields the greatest power in redistricting, regardless of what rules may apply. Map creators are often able to circumvent many rules intended to be constrain them (Kagan 2019, 9-10). The identity and partisanship of map creators is therefore an essential factor. The situation of maximum legislator power is when legislators are the only decision makers involved, with no role for anybody else, such as the governor, other elected officials, or non-politicians. The situation of minimum legislator power is when they have no way to select map-creators or to influence who is selected. As previously mentioned, Cain categorizes redistricting institutions by their degree of separation from legislative control: legislative control, separation by

dilution, separation by office, separation from office, separation by independent pool, and separation from legislative designation (Cain 2012, 1844). The factor of appointment power can be further expanded from Cain's approach. Combining these two aspects produces the following hierarchy of indicator questions about who is responsible for redistricting plan creation:

Indicator A1: Who draws redistricting maps?

- Legislators (1 point)
- Body which includes nonlegislators (chosen by legislators) (2 points)
- Body which includes nonlegislators (not chosen by legislators) (3 points)
- Body which excludes legislators (but some members chosen by legislators) (4 points)
- Body which excludes elected officials (but some members chosen by elected officials) (5 points)
- Body which excludes legislators (and members are not chosen by legislators) (6 points)
- Body which excludes elected officials (and members are not chosen by elected officials) (7 points)
- Body which excludes affiliated partisans (but some members chosen by affiliated partisans) (8 points)
- Body which excludes affiliated partisans (and members are not chosen by affiliated partisans) (9 points)
- Body which excludes current or former affiliated partisans (and members not chosen by affiliated partisans) (10 points)

For this category, the maximum possible value is 10 points and the minimum value is 0 points. The word *body* is used here as a generic term for a redistricting map-creation authority. The actually-existing authorities in the states are assigned various labels, such as commission, committee, board, or agency. Body in this context can be plural or singular in its membership. For instance, it includes when just one person creates a map, usually at the direction of a court, which is a role often described as a special master (Persily 2005).

BACKUP SYSTEM

Some states have a backup system for plan creation used if the main system fails, which typically occurs when a divided legislature fails to agree upon a redistricting plan by the

deadline mandated in state law. Backup systems are accounted for in the index in two respects. First, the institution of the backup system is assessed in the same way as normal plan creation, thus indicators A1 and A2 are identical. Second, the backup system is relevant only if it has actually been used in a state's recent redistricting history. Therefore, the regular system and the backup system are weighted in the index according to how many times each has been used in practice in the five redistricting cycles from 1970 to 2010. For instance, if the regular system was used five times and the backup system zero times, then the regular system is weighted 100% and the backup system 0%. If the regular system was used three times and the backup system two times, then the regular system is weighted 60% and the backup system 40%. For example, Oregon has a regular system of legislative control and a backup system of nonlegislator commission (namely the Secretary of State). In 1970, 1980, 1990, and 2000, the backup system was used, while in 2010 the legislature completed its work on time (Seiler 2012). To create a historical index, the backup system would be weighted 80% and the regular system 20%, for identifying the redistricting plan-creation body actually used in Oregon. For each state, the score for plan creation is the weighted average of the regular system and backup system scores. For example, if Oregon's regular system was rated 1/10 and its backup system was rated 3/10, then Oregon's historical map creation score is thus $((1/10 \times 20\%) + (3/10 \times 80\%)) = (0.2 + 2.4) = 2.6$ out of 10. To create a snapshot index of Oregon's current law, with the regular and backup systems equally weighted, the formula would be $((1/10 \times 50\%) + (3/10 \times 50\%)) = (0.5 + 1.5) = 2$ out of 10.

Indicator A2: What is the backup system for who draws redistricting maps?

- Legislators (1 point)
- Body which includes nonlegislators (chosen by legislators) (2 points)
- Body which includes nonlegislators (not chosen by legislators) (3 points)
- Body which excludes legislators (but some members chosen by legislators) (4 points)
- Body which excludes elected officials (but some members chosen by elected officials) (5 points)
- Body which excludes legislators (and members are not chosen by legislators) (6 points)
- Body which excludes elected officials (and members are not chosen by elected officials) (7 points)
- Body which excludes affiliated partisans (but some members chosen by affiliated partisans) (8 points)
- Body which excludes affiliated partisans (and members are not chosen by affiliated partisans) (9 points)
- Body which excludes current or former affiliated partisans (and members not chosen by affiliated partisans) (10 points)

ADVISORY SYSTEM

State governments are usually inundated with advice about redistricting from the media, citizens, academia, and other interest groups, when engage in each redistricting cycle. Where redistricting is performed by legislators, some states and localities create an official form of advisory system. For instance, a legislature may create a temporary commission to collect public input and to provide advice and perhaps draft maps to the real decision-makers, the legislators (Scarinci & Lowy 2003, 825). Sometimes advisory commissions see their work adopted by the legislature, and sometimes their work is completely ignored. The composition of the advisory system can be assessed using the same hierarchy of questions used to assess normal plan creation or a backup system. If a state legislature adopts maps produced by an advisory system, then the advisory system score should be weighted to supplement the regular system for that cycle. For example, if a state legislature did redistricting without using an advisory system, then indicator A will equal A1 only, but if it used an advisory system's map, then A should be an equal weighting of the state's scores for A1 and A3.

Indicator A3: What advisory system exists to propose redistricting maps?

- Legislators (1 point)
- Body which includes nonlegislators (chosen by legislators) (2 points)
- Body which includes nonlegislators (not chosen by legislators) (3 points)
- Body which excludes legislators (but some members chosen by legislators) (4 points)
- Body which excludes elected officials (but some members chosen by elected officials) (5 points)
- Body which excludes legislators (and members are not chosen by legislators) (6 points)
- Body which excludes elected officials (and members are not chosen by elected officials) (7 points)
- Body which excludes affiliated partisans (but some members chosen by affiliated partisans) (8 points)
- Body which excludes affiliated partisans (and members are not chosen by affiliated partisans) (9 points)
- Body which excludes current or former affiliated partisans (and members not chosen by affiliated partisans) (10 points)

3.1.3.2 Map approval

A redistricting map has been created for a state. How does this map take effect? The power to approve or reject redistricting maps, and to amend or not amend maps, is the other key power alongside map creation. If an impressively neutral map-creation system is partnered with a legislative approval process that makes it easy for maps to be adjusted by politicians (including perhaps their own districts), then the index should work in such so that such a situation is clearly distinguishable from one where map creation and approval are both highly neutral. The same indicator for map creation is a useful starting point for this purpose.

However, there is a complication. Important pieces of data from appendix A related to plan approval have not yet been accounted for: whether approval is subject to amendment or is an up-and-down vote, and whether approval requires a supermajority vote or not. Also, the role of executive vetoes and role of appointment process. UPDATE

Indicator B: Who must approve a redistricting map before it can take effect?

- Legislators by majority vote and can amend, no executive veto (0 points)
- Legislators by majority vote and can amend, with executive veto (1 point)
- Legislators by majority vote and cannot amend, no veto (2 points)
- Legislators by majority vote and cannot amend, with executive veto (3 points)
- Legislators by supermajority vote and can amend, no executive veto (4 points)
- Legislators by supermajority vote and can amend, with executive veto (5 points)
- Legislators by supermajority vote and cannot amend (6 points)
- Body which includes nonlegislators, by majority vote (7 points)
- Body which excludes legislators, by majority vote (8 points)
- Body which excludes officials, by majority vote (9 points)
- Body which excludes affiliated partisans, by majority vote (10 points)
- Body which excludes current or former affiliated partisans, by majority vote (11 points)
- Body which includes nonlegislators, by supermajority vote (12 points)
- Body which excludes legislators, by supermajority vote (13 points)
- Body which excludes officials, by supermajority vote (14 points)
- Body which excludes affiliated partisans, by supermajority vote (15 points)
- Body which excludes current or former affiliated partisans, by supermajority vote (16 points)

3.1.3.3 Map rules

All other constraints and factors that shape a redistricting process have been grouped under the label *map rules*. These include both virtues and vices. Redistricting maps or districts may be required to possess certain desirable features or they may be required to not possess certain undesirable features. There are many different criteria that states have chosen to adopt, and they are found in state constitutions, laws, and regulations (Grofman 1985).

Unlike the map creation and approval indicators, which are a cumulative hierarchy of possibilities, the map rules indicators are a series of independent measures which have no hierarchy. These have been organized into the following logical categories of rules: district features, data sources, public input, and timing and dispute rules. All component indicators are scored the same: no=0 and yes=1, if it is a legal requirement.

The most common type of district feature rules relate to geographic or political requirements of districts or of district maps. Indicators C10 and C11 are scored negatively because they are

anti-neutrality provisions that encourage gerrymandering. For this category, the maximum possible value is 8 points and the minimum possible value is -2 points.

Indicator C: District features rules

- C1. Are districts required to be compact? (no=0, yes =1)
- C2. Are districts required to be contiguous? (no=0, yes =1)
- C3. Are districts required to respect existing community or natural boundaries? (no=0, yes =1)
- C4. Are districts required to protect communities of interest? (no=0, yes =1)
- C5. Are districts required to provide fair or equal representation? (no=0, yes =1)
- C6. Are districts required to protect minority representation? (no=0, yes =1)
- C7. Are districts required to be easily identifiable and understandable? (no=0, yes =1)
- C8. Are districts required to be drawn so as to not favour any political party? (no=0, yes =1)
- C9. Are districts required to be drawn so as to not favour any person? (no=0, yes =1)
- C10. Are districts required to be drawn to avoid having an odd shape? (no=0, yes =1)
- C11. Are districts required to be drawn to promote electoral competition? (no=0, yes =1)
- C12. Are districts required to be drawn to protect incumbents or to avoid pairing incumbents? (no=0, yes =-1)
- C13. Are districts required to be drawn to retain existing district cores? (no=0, yes =-1)

The category of data source rules determines what data mapmakers cannot use. Some states try to constrain redistricting by trying to prevent decision makers from using or exploiting certain kinds of information. One example of this is information about the home addresses of politicians. For instance, California’s redistricting rules say that “The place of residence of any incumbent or political candidate shall not be considered in the creation of a map” (California Constitution Article XXI, §2(e)). Legislators believe that living in the district they represent or seek to represent is an electoral advantage, and some jurisdictions make this a legal requirement for running for office. A common gerrymandering tactic is to try to harm a political opponent by moving their home out of their current district and into a different one, forcing the legislator affected to either change districts or move house, which can be expensive and inconvenient. Another example of information denial concerns the partisan

affiliations of voters. In many, but not all, US states, citizens when they register to vote can self-identify a party affiliation at the same time, which subsequently becomes publicly available data. The practice of registering a party was created and is encouraged by political parties to help them to reach their voters. In some states it is also used to regulate who can participate in primary elections. Preventing redistricting mapmakers from using such data does not stop gerrymandering, but makes it a little less precise. For instance, they will still know that a particular suburb usually votes one way and a neighbouring suburb votes the opposite, but voter-level information allows mapmakers to construct district boundaries at the level of streets and even individual households.

Indicator D: Data source rules

- D1. Are mapmakers banned from using data about legislator places of residence? (no=0, yes =1)
- D2. Are mapmakers banned from using data on past voting patterns? (no=0, yes =1)
- D3. Are mapmakers banned from using data on the partisan identification of voters? (no=0, yes =1)
- D4. Are mapmakers banned from using data on the socio-economic status of voters? (no=0, yes =1)
- D5. Are mapmakers banned from using prison addresses for people held in prison (rather than their last known address outside of prison)? (no=0, yes =1)

The next category is system capacity for public input. This is concerned with both the passive role of the public having access to information about redistricting decision-making, and the active role of the public's ability to submit ideas, to question, to complain, and to provide feedback during the process. Transparency is important because secrecy protects the powerful: "real power begins where secrecy begins" (Arendt 1958, 403). Woodrow Wilson (1961, 76-77) warned that

The very fact that so much in politics is done in the dark, behind closed doors, promotes suspicion. Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it is fair presumption that secrecy means impropriety... Publicity is one of the purifying elements of politics.

Doing government work in secret suggests you have something to hide. Perhaps this is legitimate in certain sensitive policy contexts, such as defense or tax, where temporary administrative secrecy is needed (Bok 1983, 175). But election redistricting lacks legitimate reasons for government secrecy. Secrecy's purpose might just be bureaucratic convenience. But it also could be to conceal the pursuit of partisan or personal interests. A secretive redistricting system could still achieve a high level of neutrality, in theory. But a genuinely neutral system would not fear openness and public scrutiny.

There are different ways for redistricting processes to incorporate public input. Holding public hearings about redistricting plans has become common (Miller and Grofman 2018). Some states allow or encourage members of the public to devise and submit their own original suggestions for redistricting maps. Ohio held a public competition to see who could submit the best redistricting plan (Altman and McDonald 2018). McDonald and Altman (2018) argue that public participation in redistricting makes a big difference. Another component that can be considered under public input is permitting citizen feedback after a proposed redistricting map has been drawn, but before it has been finalized or approved. An opportunity to comment on and complain about a specific proposal, and to make suggestions for remedying its perceived deficiencies, provides an added source of democratic input and accountability.

Indicator E: Public input rules

- E1. Are public hearings held? (no=0, yes =1)
- E2. Are public comments or testimony accepted? (no=0, yes =1)
- E3. Can the public submit complete maps for consideration? (no=0, yes =1)
- E4. Are draft maps available for the public? (no=0, yes =1)
- E5. Is public comment on draft maps accepted? (no=0, yes =1)
- E6. Does the public have access to the same redistricting software and data used by officials? (no=0, yes =1)
- E7. Are mapmaker meetings open to the public? (no=0, yes =1)
- E8. Do mapmakers write a report for the public to explain and justify their work? (no=0, yes =1)

The final category concerns rules about timing and dispute resolution.

Indicator F: Timing and dispute rules

- F1. Is there a ban on discretionary mid-cycle redistricting? (no=0, yes =1)
- F2. Are there clear deadlines for completion of maps within a cycle? (no=0, yes =1)
- F3. Are there clear deadlines for approval of maps within a cycle? (no=0, yes =1)
- F4. Is it clear which court has jurisdiction to resolve redistricting disputes? (no=0, yes =1)
- F5. Does a court automatically check the constitutionality of proposed maps (no=0, yes =1)

3.1.3.4 Weighting

Babbie argues that by default categories within an index should be weighted equally, unless there is a compelling reason to do otherwise (Babbie 2016, 164). This is sensible advice but a problem for this index. The categories have been used to logically group together various indicator questions that reflect the diversity of rules evident in appendix A. There is nothing necessarily natural or objective about the category identification – it could plausibly be done in several different ways. For instance, all of the map rules indicators, which have been assigned to four categories, could be one category or two categories. An equal weighting scheme may be as arbitrary as any non-equal weighting scheme, given the categories are not previously clearly established. But a weighting scheme is nonetheless needed.

Three core elements of the restricting process have been identified: map creation, map approval, and map rules, which apply to the whole process. These three elements have been

given equal weighting in the index, of one-third each. This captures the relative power and importance of the elements in practice. Creating maps and approving maps are surely the most critical parts of the process and deserve a significant weighting. State legislators know this, which is one reason why they cling to their mapmaking power so tenaciously. The potential constraints in the map rules component are certainly numerous, but a determined gerrymanderer will not be slowed down too much by many of these limitations. They need to be weighted adequately, but not excessively. Most individual rules about maps are subject to criticism or doubts about their effectiveness. For instance, Forest and Medeiros (2020) argue that the principle of contiguity is over-rated as a useful constraint in restricting, and may harm minority representation. Compactness is a contested constraint (Humphreys 2013). There are “no generally accepted measures of compactness, in spite of many proposals and much analytical study” (Chou et al 2014, 534). Dixon so doubted the value of this constraint that he called it the “myth of compactness” (Dixon 1968, 460). Population equality is widely enforced as a key limitation in redistricting, but DeFord and Duchin (2019, 120) argue that “tightening or loosening population deviation has no effect at all” on measures of district partisanship. Webster (2013, 5) has suggested that today an excessively “strict adherence to perfect population equality makes little sense,” even though it is widely practiced in the United States. Overall, the prominence and range of the redistricting criteria states have adopted means they must be taken into account by the index, but their sheer quantity does not justify outweighing the power of the other components of map creation and approval. Babbie’s (2016) advice for equal weighting of index components has been followed, with the proviso that deciding what the components are is non-obvious.

3.1.4 Redistricting Neutrality Index (RNI)

Some states have faithfully used the same redistricting system for the last fifty years, whereas others have changed their system, perhaps multiple times. The existence and unpredictable use of backup systems to carry out redistricting now and then also significantly increases the variety of systems used across time across all of the states. The RNI in general can be calculated across different timeframes, depending on the purpose needed. One calculation can be based on the law today, for contemporary analysis, and that is included below. However, historical analyses could also be conducted, based on the law that was in place for any of the past five decennial cycles (which may or may not differ), and it is also possible to create an historical weighted average score for post-1970 state redistricting systems.

For each state, two different RNIs have been calculated: one to compare state redistricting systems for the state legislature, and one to compare state redistricting systems for congressional districts. Tables 17 and 18 show the sum of values for each indicator for each state as at 2021, for the state legislature’s redistricting system, and for the congressional system.

Table 17: Index indicator values for redistricting system for the state legislature (2021)

STATE	A	B	C	D	E	F
Alabama	1	1	3	0	5	2
Alaska	7	7	4	0	5	2
Arizona	7	9	4	3	7	1
Arkansas	3	8	2	0	2	2
California	7	14	6	2	8	3
Colorado	3	7	7	1	7	5
Connecticut	1	5	2	1	2	3
Delaware	1	1	4	1	6	2
Florida	1	0	5	0	6	5
Georgia	1	1	4	0	2	0

Hawaii	2	7	6	0	7	4
Idaho	5	9	4	4	5	3
Illinois	1	1	2	0	4	4
Indiana	1	1	1	0	2	3
Iowa	10	2	4	0	3	4
Kansas	1	1	5	0	1	4
Kentucky	1	1	1	0	0	3
Louisiana	1	1	2	0	3	2
Maine	1	5	3	0	2	4
Maryland	3	0	3	1	3	4
Massachusetts	1	1	2	0	3	3
Michigan	7	14	6	0	7	3
Minnesota	1	1	2	0	3	2
Mississippi	1	1	3	0	3	2
Missouri	2	12	6	0	6	4
Montana	2	9	5	4	6	3
Nebraska	1	1	6	2	5	0
Nevada	1	1	3	1	6	2
New Hampshire	1	1	2	0	2	2
New Jersey	2	7	3	1	5	2
New Mexico	5	1	3	3	7	1
New York	5	6	7	1	6	3
North Carolina	1	0	2	0	2	3
North Dakota	1	1	2	0	0	1
Ohio	3	7	4	0	8	3
Oklahoma	1	1	3	0	4	3
Oregon	1	1	6	0	6	3
Pennsylvania	2	7	3	0	4	4
Rhode Island	1	1	4	0	5	1
South Carolina	1	1	2	0	3	0
South Dakota	1	1	5	0	2	2
Tennessee	1	1	2	0	2	0
Texas	1	3	2	0	3	2
Utah	8	1	4	3	7	3
Vermont	1	1	4	0	2	4
Virginia	3	3	3	1	4	3
Washington	5	5	7	1	8	4
West Virginia	1	1	3	0	2	1
Wisconsin	1	1	3	0	1	2
Wyoming	1	1	4	0	2	2
<i>Maximum score</i>	<i>10</i>	<i>16</i>	<i>13</i>	<i>5</i>	<i>8</i>	<i>5</i>

Table 18: Index indicator values for redistricting system for Congress (2021)

STATE	A	B	C	D	E	F
Alabama	1	1	2	0	5	2
Alaska						
Arizona	7	9	4	3	7	1
Arkansas	1	1	0	0	2	0
California	7	14	6	2	8	2
Colorado	1	1	7	1	7	5
Connecticut	1.5	5	2	1	2	3
Delaware						
Florida	1	1	5	0	6	3
Georgia	1	1	3	0	2	0
Hawaii	2	7	0	0	7	4
Idaho	5	9	4	4	5	3
Illinois	1.5	1	2	0	0	1
Indiana	1	1	0	0	2	2
Iowa	7.5	2	4	2	3	3
Kansas	1	1	4	0	1	2
Kentucky	1	1	3	0	0	0
Louisiana	1	1	2	0	3	0
Maine	1.5	5	3	0	2	3
Maryland	1	1	0	1	3	0
Massachusetts	1	1	0	0	3	1
Michigan	7	14	6	0	7	3
Minnesota	1	1	4	0	3	2
Mississippi	1	1	0	0	3	0
Missouri	1	1	2	0	6	2
Montana	2	9	5	4	6	3
Nebraska	1	1	6	2	5	0
Nevada	1	1	3	1	6	0
New Hampshire	1	1	0	0	2	0
New Jersey	2	7	0	1	5	2
New Mexico	5	1	4	3	7	0
New York	5	6	7	1	6	2
North Carolina	1	0	2	0	2	1
North Dakota						
Ohio	2	5	5	0	8	3
Oklahoma	1	1	3	0	4	1
Oregon	2	1	6	0	6	1
Pennsylvania	1	1	3	0	4	0
Rhode Island	1	1	4	0	5	0

South Carolina	1	1	2	0	3	0
South Dakota						
Tennessee	1	1	0	0	2	1
Texas	1	3	0	0	3	0
Utah	8	1	4	3	7	2
Vermont						
Virginia	3	3	3	1	4	3
Washington	5	5	7	1	8	3
West Virginia	1	1	3	0	2	0
Wisconsin	1	1	0	0	0	0
Wyoming						
<i>Maximum score</i>	<i>10</i>	<i>16</i>	<i>13</i>	<i>5</i>	<i>8</i>	<i>5</i>

The total index score out of ten for each state per system as at 2021 is provided in table 19.

Table 19: State Scores for the Redistricting Neutrality Indexes (2021)

State	State Legislature	Congress
Alabama	1.6	1.5
Alaska	5.0	
Arizona	5.8	5.8
Arkansas	3.3	0.8
California	7.3	7.2
Colorado	4.6	2.7
Connecticut	2.2	2.4
Delaware	1.9	
Florida	2.1	2.0
Georgia	1.2	1.1
Hawaii	4.0	3.3
Idaho	5.3	5.3
Illinois	1.6	1.0
Indiana	1.2	1.0
Iowa	4.9	4.2
Kansas	1.6	1.3
Kentucky	1.0	0.9
Louisiana	1.3	1.1
Maine	2.3	2.4
Maryland	2.2	1.0

Massachusetts	1.4	1.0
Michigan	7.0	7.0
Minnesota	1.3	1.5
Mississippi	1.4	0.9
Missouri	4.9	1.6
Montana	4.5	4.5
Nebraska	1.9	1.9
Nevada	1.8	1.6
New Hampshire	1.2	0.8
New Jersey	3.3	3.0
New Mexico	3.4	3.4
New York	4.7	4.6
North Carolina	1.1	0.9
North Dakota	0.9	
Ohio	4.1	3.4
Oklahoma	1.6	1.4
Oregon	2.2	2.3
Pennsylvania	3.3	1.3
Rhode Island	1.6	1.5
South Carolina	1.1	1.1
South Dakota	1.5	
Tennessee	1.0	0.9
Texas	1.7	1.3
Utah	4.7	4.6
Vermont	1.6	
Virginia	2.8	2.8
Washington	4.9	4.8
West Virginia	1.2	1.1
Wisconsin	1.2	0.5
Wyoming	1.4	

Here is an example of how the RNI numbers have been calculated. Take the state of Alabama, which received a score of 1.6 for the state legislature index in table 19. How was this score determined? For map creation, Alabama was assigned an A1 indicator value of 1 and A2 and A3 indicator values of 0. This reflects that for Alabama the response to the Indicator A1 question “Who draws redistricting maps?” is “Legislators (1 point).” Alabama does not have a backup system or advisory system for map creation so A2 and A3 are scored

as zero, which means the total A indicator score for Alabama is 1, as only A1 is used. (If A2 had a non-zero score, then A would have been the equal weighting of A1 and A2.) For map approval, Alabama was assigned an Indicator B value of 1. This reflects that for Alabama the response to the question “Who must approve a redistricting map before it can take effect?” is “Legislators by majority vote and can amend, with executive veto (1 point).”

Next, for map rules, Alabama was assigned points for Indicators C, E, F, and G. As shown in table 17, Alabama was assigned the values of 3 for Indicator C, 0 for Indicator D, 5 for Indicator E, and 2 for Indicator F. These values are the sum of the item responses for each indicator. In response to the thirteen Indicator C questions, Alabama received a positive answer and scored one point for four questions: C1 “Are districts required to be compact?”, C2 “Are districts required to be contiguous?”, C3 “Are districts required to respect existing community or natural boundaries?”, and C4 “Are districts required to protect communities of interest?” For question C12 “Are districts required to be drawn to protect incumbents or to avoid pairing incumbents?” Alabama received a positive response, which was worth -1 point, so the net score for Indicator C was $4-1=3$. The C2 positive response is due to a provision in the Alabama Constitution (§200) which says “no district shall be made up of two or more counties not contiguous to each other.” The responses for C1, C3, C4, and C12 are based on the guidelines adopted by state legislature for its redistricting committee. These impose the rules that “districts will be composed of contiguous and reasonably compact geography”, “districts shall respect communities of interest, neighborhoods, and political subdivisions to the extent practicable,” and “contests between incumbents will be avoided whenever possible” (Alabama Legislature 2021).

Some states ban the creators of redistricting maps from using certain types of data, like the party registration of voters or legislator home addresses. The five questions in Indicator D ask about different data being off-limits. Alabama’s constitution, laws, and legislature rules do not identify any limits to the kind of data that can be used in redistricting, so the state received a zero for each question and a zero for Indicator D overall. Indicator E asks eight questions about different ways states allow for public input into the redistricting process. Alabama received a positive response and one point each for five questions: E1 “Are public hearings held?”, E2 “Are public comments or testimony accepted?”, E3 “Can the public submit complete maps for consideration?”, E6 “Does the public have access to the same redistricting software and data used by officials?”, and E7 “Are mapmaker meetings open to the public?” These responses are based on the guidelines the state legislature adopted for itself. For example, the legislature says that “A redistricting plan may be presented to the Reapportionment Committee by any individual citizen or organization by written presentation at a public meeting or by submission in writing to the Committee” and “Electronic submissions of redistricting plans will be accepted”, which resulted in a positive answer to question E3 (Alabama Legislature 2021).

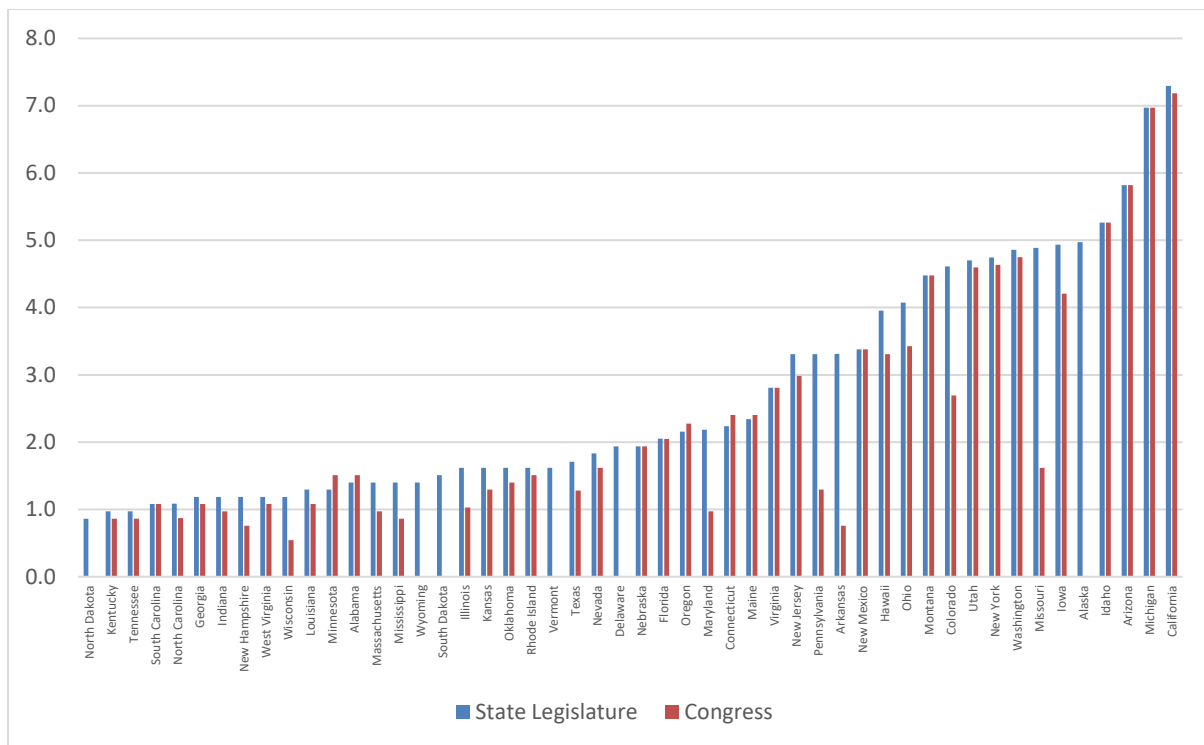
Some states have timing and dispute rules that might constrain legislator power, which are captured in Indicator F. Alabama has received a positive response to two questions here, F1 “Is there a ban on discretionary mid-cycle redistricting?”, and F2 “Are there clear deadlines for completion of maps within a cycle?” The F1 response is based on the Alabama Constitution (§198) which says that after a state legislative redistricting map has been approved, it “shall not be subject to alteration until the next session of the legislature after the next decennial census of the United States shall have been taken.” The F2 response is based on the state constitution (§199) which says state legislative redistricting is “the duty of the

legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census.”

Alabama’s points for Indicators C, D, E, and F are summed to determine the total points for map rules, which is $3+0+5+2=10$ out of a possible total of 31. For the three elements of map creation, map approval, and map rules, Alabama has received 1 out of 10, 1 out of 16, and 10 out of 31 respectively. These three values are equally weighted to produce an overall index score out of 10. This equation is: $(1/10 \times 3^{1/3}) + (1/16 \times 3^{1/3}) + (10/31 \times 3^{1/3}) = 0.333 + 0.208 + 1.074 = 1.617$. Alabama’s index score for the state legislature has therefore been reported as 1.6 in table 19.

Index scores have been calculated separately for the state legislature and for congressional districts. The two scores are also compared in figure 15. The next section evaluates the indexes to check if they are suitable for use.

Figure 15: Comparing State RNI Scores for State Legislature and Congress



3.1.5 Limitations

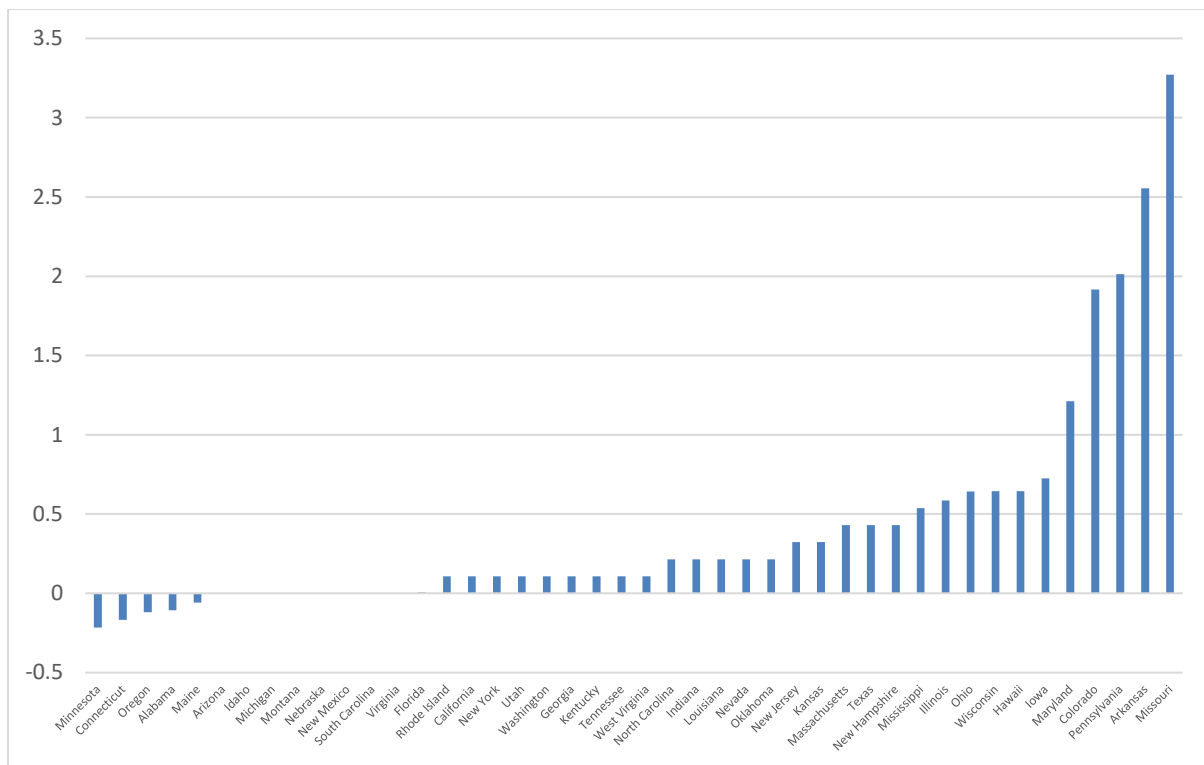
There are limitations to the redistricting indexes developed in this chapter. One is that the fifty US states are not the only redistricting polities. Handley (2008, 268) estimates that sixty countries around the world use custom election districts, including Australia, Britain, Canada, France, India, Japan, and New Zealand. Each of these countries practices election redistricting in one form or another and possesses a legal regime to govern it at a national or subnational level. The US indexes do not account for features, constraints, or rules affecting redistricting neutrality that exist in other countries but not in any US state. A global version of the index could be developed that reflects map creation, map approval, and map rules for all democracies around the world, and which provides scores for all countries or other redistricting polities. Such an undertaking is outside the scope of this project, but could be conducted in future. It is also debatable whether an index based on global data would be superior to an index based on US data, for the specific purpose in this chapter of comparing US states only to one another.

3.2 Checking the Index

Any index needs to be checked prior to use for validity and reliability. How do we know the redistricting indexes are appropriate to use? A variety of checks can be made for internal and external validation. Internal reliability is “the degree to which the indicators that make up a scale are consistent,” and validity is “whether an indicator (or set of indicators) that is devised to gauge a concept really measures that concept” (Bryman 2012, 171, 712).

One simple check of index reliability is to compare the results of the RNI for state legislative redistricting with the RNI for congressional redistricting. Many states use slightly different systems, which should produce slightly different index scores, whereas a small number of states use identical systems and thus should have identical scores. The variations outlined in figure 16 match exactly with expectations for what they should be between the two indexes. Most states have a variation of less than 0.5 points on the index, reflecting the widespread similarity in how states approaches the two types of redistricting. For example, Arizona and South Carolina are known to use the same system for both types of redistricting, and are among the states to report identical scores on both indexes. A few states, such as Arkansas and Pennsylvania, are known to use different systems and have notably divergent scores, at the right-hand side of figure 16.

Figure 16: Variation Between the State Legislative and Congressional RNI Scores



A validity check is to compare the index to election data and to gerrymandering analyses by other scholars. The purpose of the index is to compare redistricting *systems* across the states, not *outcomes*. However, the two should be associated to some extent. The worst examples of gerrymandered congressional maps should seldom occur in states with high ratings for redistricting neutrality. If such a correlation was found, it may suggest the RNI has not adequately captured some essential aspects of redistricting neutrality and needs further revision. By contrast, if measures of the level of gerrymandering evident in state maps are inversely related to levels of redistricting neutrality (the more neutral the system, the less gerrymandered the map), then that is one piece of evidence to suggest the index is working as intended. The best way to detect, measure, and compare the presence of gerrymandering in a map of districts is the subject of ferocious debate (Cho and Liu 2016, Grofman 2019, Warrington 2019). Tokaji (2017, 2160) calls a judicially-enforceable standard for detecting gerrymandering as “the holy grail of election law.” The US Supreme Court majority in *Rucho*

v. Common Cause (2019) was not convinced by any proposed gerrymandering-detection measures and rejected all of them. However, their decision tells us nothing about whether or not such measures are wrong or ineffective. It merely suggests that Republican-appointed judges have little interest in knocking down the ladder of gerrymandering while the Republican Party is still standing on it.

One simple way to evaluate a districting map for possible gerrymandering is to examine an election result and compare the proportion of seats won by a political party with its proportion of the vote. Investigating the relationship between votes and seats is a staple of research on electoral systems (Rae 1967, Tufté 1973, Linzer 2012). If a party wins 55% of the state vote for the legislature and wins 55% of the seats in a state legislature, then that sounds reasonable and normal. If a party wins 40% of the vote and 55% of the seats, then that suggests something may be wrong. Justice Kagan, in her dissenting opinion in *Rucho*, made these kind of comparisons to argue that partisan gerrymandering was clearly a problem in some states (Kagan 2019, 3, 6, 10).

An example is to compare the November 2020 election results for the state house of representatives in Alaska and North Carolina. In Alaska, Republicans won 149,728 votes statewide (48.31% of all votes) and won 21 out of 40 state house seats (52.5% of seats), whereas Democrats won 100,080 votes (32.29%) and 15 seats (37.5%) (Alaska Division of Elections 2020).²⁰ In North Carolina, Republicans won 2,632,672 votes statewide (50.0% of all votes) and won 69 out of 120 state house seats (57.5%), whereas Democrats won 2,583,773 votes (49.1%) and 51 seats (42.5%) (North Carolina State Board of Elections 2020). Thus, there was a 16-point gap in vote share in Alaska, which produced a 15-point gap

²⁰ Four independents also won seats in the Alaska state house, winning 14.8% of the vote and 10% of the seats.

in seat share, but in North Carolina a 1-point gap in vote share produced a 15-point gap in seat share. A large difference in seat share versus vote share suggests the possibility of gerrymandered districts (Grofman and King 2007, Royden and Li 2017). If the index has been constructed appropriately, then the RNI scores for Alaska and North Carolina ought to be dissimilar, in light of this election result. In practice, the RNI for state legislative districts gave Alaska a score of 5.0 out of 10, which is one of the highest in the index and in the top five of all states, and North Carolina a score of 1.1 out of 10, one of the lowest scores and in the bottom five. This example demonstrates that the RNI has correctly identified that a significant difference likely exists in how Alaska and North Carolina conduct legislative redistricting.

A similar example can be examined for congressional redistricting, such as comparing the November 2020 election results for the US House of Representatives in Arizona and Tennessee, two states that both have nine congressional seats. In Arizona, Republicans won 1,638,516 votes statewide (50.1% of all votes) and won four out of nine US House seats (44.4%), whereas Democrats won 1,629,318 votes (49.9%) and five seats (55.6%) (Johnson 2021, 6). In Tennessee, Republicans won 1,685,255 votes statewide (59.3% of all votes) and won seven out of nine US House seats (77.8%), whereas Democrats won 1,105,537 votes (38.9%) and two seats (22.2%) (Johnson 2021, 62-63). Thus, there was a <1-point gap in vote share in Arizona, which produced an 11-point gap in seat share and a one-seat gap, and in Tennessee a 20-point gap in vote share produced a 55-point gap in seat share and a five-seat gap. If the congressional index has been constructed appropriately, then the RNI scores for Arizona and Tennessee should be significantly different. In practice, the RNI gave Arizona a score of 5.8 out of 10 and Tennessee 0.8 out of 10. The RNI correctly suggests that a difference exists in how Arizona and Tennessee conduct congressional redistricting.

3.2.1 Efficiency Gap Check

The RNI can also be compared to state results from the efficiency gap measure of gerrymandering. The efficiency gap test was proposed by Stephanopoulos and McGhee (2015) and is a “highly praised tool for detecting partisan districting” (Kean 2018). A federal district court in *Whitford v. Gill* (2016) accepted an argument by litigants that the efficiency gap helped demonstrate that Wisconsin’s legislature had been gerrymandered, although the US Supreme Court later disagreed in *Gill v. Whitford* (2018). The efficiency gap is defined as

the difference between the parties’ respective wasted votes in an election – where a vote is wasted if it is cast (1) for a losing candidate or (2) for a winning candidate but in excess of what she needed to prevail. (Stephanopoulos and McGhee 2015, 834)

For example, imagine that a state has four congressional districts and two political parties.

Party A wins 55% of the vote in three districts and party B wins 95% of the vote in the fourth district. The efficiency gap calculation is illustrated in table 20.

Table 20: Example 1 of Efficiency Gap Calculation

District	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	A	B	A	B	A	B	A	B
1	55	45	0	45	4	0	4	45
2	55	45	0	45	4	0	4	45
3	55	45	0	45	4	0	4	45
4	5	95	5	0	0	44	5	44
Total	170	230	5	135	12	44	17	179

Source: created by the author, based on Stephanopoulos and McGhee (2015, 852)

The efficiency gap is the sum of B’s wasted votes minus A’s wasted votes, divided by total votes, which in example 1 would be $(179-17)/400 = 162/400 = 40.5\%$.

Table 21: Example 2 of Efficiency Gap Calculation

District	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	A	B	A	B	A	B	A	B
1	59	41	0	41	8	0	8	41
2	55	45	0	45	4	0	4	45
3	45	55	45	0	0	4	45	4
4	49	51	49	0	0	0	49	0
Total	200	200	94	86	12	4	106	90

In example 2, each party wins two districts, as shown in table 21, and the efficiency gap calculation is $(106-90)/400 = 16/400 = 4\%$. The election numbers in example 2 are those typical of a competitive state, whereas (in the absence of any other information) the extreme concentration of party B voters into district 4 suggests example 1 is a gerrymandered state. The politically-competitive state has a low efficiency gap number (4%) compared to the high number (40%) for the probably-gerrymandered state. Stephanopoulos and McGhee (2015) argue that a large efficiency gap is suspicious and may indicate that gerrymandering has occurred. The efficiency gap measure can be applied to a real-life example. The state of Iowa happens to have four congressional districts. Table 22 shows the efficiency gap calculation for Iowa for the actual 2020 election.

Table 22: Example 3 of Efficiency Gap Calculation – Iowa in 2020

District	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	D	R	D	R	D	R	D	R
1	49	51	49	0	0	2	49	2
2	50	50	0	0	0	0	0	0
3	51	49	0	49	2	0	2	49
4	38	62	38	0	0	14	38	14
Total	187	213	7	49	2	16	99	65

Source for data: Iowa Secretary of State (2020). Third party voting data excluded.

In 2020, the Democratic Party won one congressional seat in Iowa and the Republican Party won one three. The efficiency gap calculation is $(99-65)/400 = 34/400 = 8.5\%$. Example 4 also uses real data from Iowa, from the 2018, 2016, 2014, and 2012 elections.

Table 23: Example 4 of Efficiency Gap Calculation – Iowa in 2012 to 2018

2018	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	D	R	D	R	D	R	D	R
District								
1	53	47	0	47	2	0	2	47
2	56	44	0	44	5	0	5	44
3	51	49	0	49	0	0	0	49
4	48	52	48	0	0	1	48	1
Total	208	192	48	140	7	1	55	141

2016	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	D	R	D	R	D	R	D	R
District								
1	46	54	46	0	0	3	46	3
2	54	46	0	46	3	0	3	46
3	43	57	43	0	0	6	43	6
4	39	61	39	0	0	10	39	10
Total	182	218	128	46	3	19	131	65

2014	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	D	R	D	R	D	R	D	R
District								
1	49	51	49	0	0	0	49	0
2	53	47	0	47	2	0	2	47
3	44	56	44	0	0	5	44	5
4	38	62	38	0	0	11	38	11
Total	184	216	131	47	2	16	133	63

2012	Total Votes by Party		Lost Votes by Party		Surplus Votes by Party		Wasted Votes by Party	
	D	R	D	R	D	R	D	R
District								
1	58	42	0	42	7	0	7	42

2	57	43	0	46	6	0	6	46
3	45	55	45	0	0	4	45	4
4	46	54	36	0	0	3	36	3
Total	182	218	91	88	13	7	94	95

Source for data: Iowa Secretary of State (2018, 2016, 2014, 2012). Third party voting data excluded.

The Democratic Party won one seat in 2016 and 2014 and two seats in 2012 and 2018, as shown in table 23. The efficiency gap calculation for 2018 is $(141-55)/400 = 86/400 = 21.5\%$, for 2016 is $(65-131)/400 = -66/400 = -16.5\%$, for 2014 is $(63-133)/400 = -70/400 = -17.5\%$, and for 2012 is $(95-94)/400 = 1/400 = 0.25\%$. The absolute value of the mean efficiency gap over the five elections from 2012 to 2020 (when the same congressional map was in use) is therefore 12.8%. The average over a series of elections is better to use because it dampens the impact of any unusual factors affecting one election, and also smoothes for the higher and lower voter turnout between congressional elections held at the same time as presidential elections (2012, 2016, 2020) or not (2014, 2018). The 12.8% figure is a moderately low number for evaluating just four congressional districts, and closer to hypothetical example 2 than 1, which is consistent with Iowa’s congressional RNI score of 4.2 out of 10, a medium rating that places the state in the top ten for redistricting neutrality.

Table 24 compares the RNI with the efficiency gap (EG) calculated for state legislatures. The efficiency gap data is sourced from the online replication files created by Stephanopoulos and Warshaw (2020). The efficiency gap scores are the mean of the absolute value of the three EGs Stephanopoulos and Warshaw calculated for the last three state legislative elections for which data was available, usually the elections of 2012, 2014, and 2016 (which should all be held on the same districting maps, as created after the 2010 census). For a few states no EG data was available (e.g., Alaska, Louisiana, New Hampshire) and they were omitted from the analysis.

Table 24: RNI Comparison With the Efficiency Gap, for State Legislatures

STATE	RNI	Efficiency Gap
Florida	2.1	11.88%
Rhode Island	1.6	11.83%
South Dakota	1.5	11.05%
Wisconsin	1.2	10.65%
North Carolina	1.1	10.53%
North Dakota	0.9	10.49%
Virginia	2.8	10.43%
Michigan	7.0	9.72%
Indiana	1.2	8.73%
New Jersey	3.3	8.28%
Colorado	4.6	7.92%
Kansas	1.6	7.82%
Missouri	4.9	7.34%
Nevada	1.8	7.08%
Wyoming	1.4	6.39%
Ohio	4.1	5.79%
Minnesota	1.3	5.29%
Montana	4.5	5.18%
Idaho	5.3	5.08%
Pennsylvania	3.3	5.07%
Kentucky	1.0	5.00%
West Virginia	1.2	4.97%
Arkansas	3.3	4.40%
Arizona	5.8	4.28%
New York	4.7	4.26%
Illinois	1.6	4.12%
Hawaii	4.0	3.91%
South Carolina	1.1	3.91%
Texas	1.7	3.72%
Massachusetts	1.4	3.71%
Oklahoma	1.6	3.51%
Georgia	1.2	2.85%
Mississippi	1.4	2.59%
Alabama	1.4	2.50%
Tennessee	1.0	2.46%
California	7.3	2.44%
Washington	4.9	2.43%

Connecticut	2.2	2.28%
Oregon	2.2	2.19%
New Mexico	3.4	2.13%
Iowa	4.9	2.03%
Maine	2.3	1.89%
Utah	4.7	1.87%
Delaware	1.9	1.69%
Maryland	2.2	0.46%

This table illustrates that states with gerrymandered redistricting outcomes tend to have unreformed redistricting systems, as expected. Unreformed systems can still produce outcomes with low gerrymandering as measured by the efficiency gap. For example, Delaware and Tennessee have systems that rate poor for neutrality (RNI scores under 2.0) but their EG scores are also low (under three per cent). On the other hand, the states with the highest efficiency gaps all have relatively low index scores, and all states in the lowest quartile for the neutrality of their system are in the top quartile for the worst efficiency gaps. (Virginia and Michigan have reformed their system since the elections used for the efficiency gap analysis, so their true index score for ten years ago would be lower than reported here.)

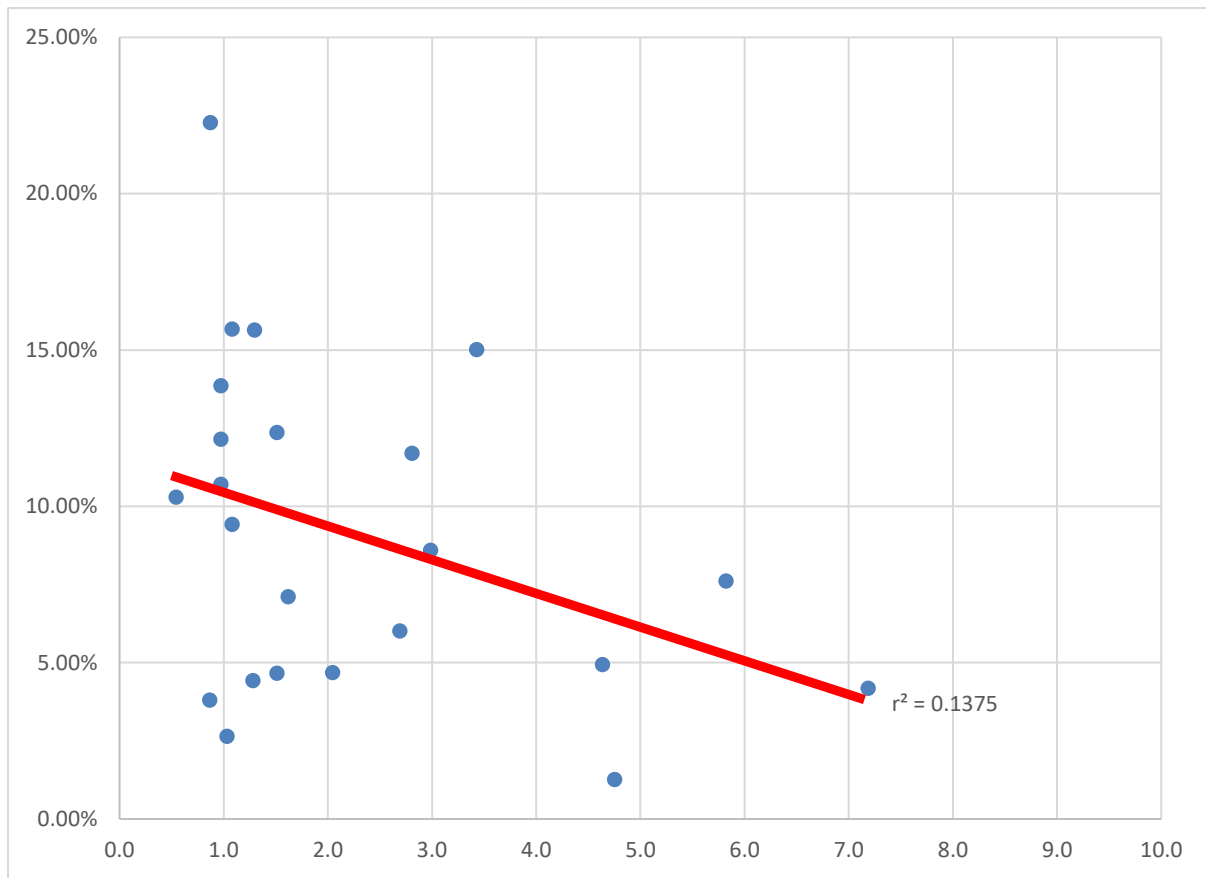
A similar analysis can be conducted comparing RNI scores with efficiency gaps for congressional districts. Stephanopoulos and Warshaw (2020) calculate efficiency gaps for states with seven or more congressional districts. All other states are omitted from the analysis, as is Michigan which has changed their system. The efficiency gap scores are the mean of the absolute value of the four EGs calculated for the congressional elections of 2012, 2014, 2016, and 2018 (which in most states will all have been held using the same congressional districting map, as created after the 2010 census).

Table 25: RNI Comparison With the Efficiency Gap, for Congress

STATE	RNI	Efficiency Gap
North Carolina	0.9	22.27%
South Carolina	1.1	15.68%
Pennsylvania	1.3	15.64%
Ohio	3.4	15.02%
Massachusetts	1.0	13.86%
Alabama	1.5	12.37%
Indiana	1.0	12.15%
Virginia	2.8	11.70%
Maryland	1.0	10.71%
Wisconsin	0.5	10.29%
Georgia	1.1	9.43%
New Jersey	3.0	8.59%
Arizona	5.8	7.61%
Missouri	1.6	7.11%
Colorado	2.7	6.01%
New York	4.6	4.94%
Florida	2.0	4.69%
Minnesota	1.5	4.67%
Texas	1.3	4.43%
California	7.2	4.18%
Tennessee	0.9	3.80%
Illinois	1.0	2.65%
Washington	4.8	1.27%

First, it can be observed that the efficiency gap scores tend to be larger for Congress than for state legislatures. For the states in table 25, the average efficiency gap score was 9.30% for congressional districts, compared to 5.78% for state legislative districts. Eleven states have an efficiency gap variation of more than two points in favour of congressional districts, compared to only one in favour of state legislative districts. This suggests that more effort has been invested into gerrymandering Congress, perhaps because politicians think more is at stake in federal politics than in state politics. Figure 17 illustrates the relationship between the efficiency gap for congressional districts and the redistricting index.

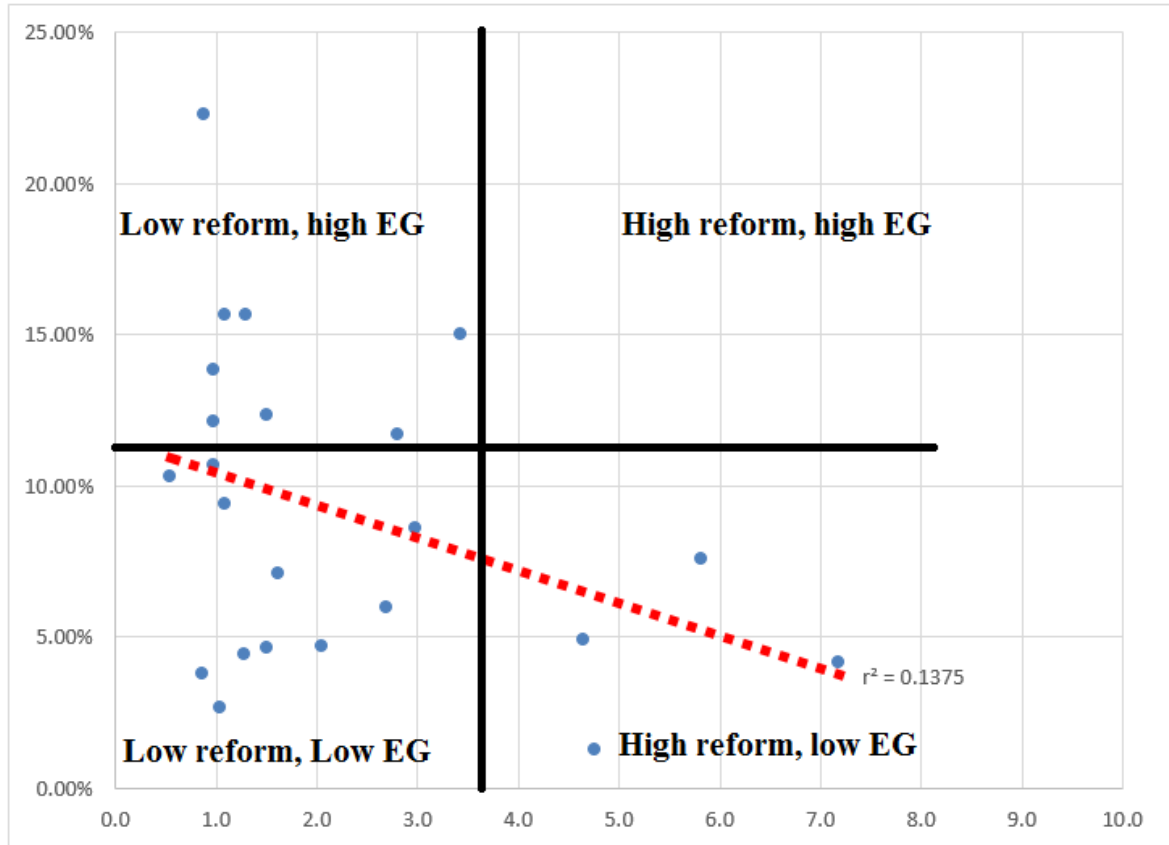
Figure 17: RNI Comparison With Efficiency Gap for Congressional Districts²¹



We could divide this figure into four quadrants, as shown in figure 18.

Figure 18: RNI Comparison With Efficiency Gap for Congressional Districts Annotated

²¹ This scatterplot uses the Pearson's test for simple regression, as does all other scatterplots in this chapter, except for figures 40, 44, 46, and 48, which use the Spearman's rho test for rank correlation.



The top-left and bottom-right quadrants are consistent with the idea that there is an inverse relationship between the efficiency gap measure of gerrymandering outcomes and the RNI measure of redistricting neutrality. More reform and lower EGs, or less reform and higher EGs. The bottom-left quadrant contains states which produced low EGs despite a system not rated well for neutrality. This is acceptable because not everyone chooses to gerrymander when they have the opportunity. The empty quadrant in the upper-right helps validate the approach taken to constructing the indexes. The lack of states with high RNI scores producing high efficiency gaps suggests that the indexes have captured the essence of what prevents extreme gerrymandering by states, assuming that EG scores are a reasonable proxy for gerrymandered outcomes.

3.3 Analysis of Demographic Features

Drawing on past political science research, chapter 2 outlined hypotheses that might plausibly explain why legislatures in some US states have adopted election redistricting law reform and in other states have not. Some state-level political phenomena can be explained by straightforward relationships. People who do not know much about the details of redistricting might jump to conclusions about which states have engaged in systemic reform and which states gerrymander as much as they can get away with. To assume, for instance, that Democratic states must be reformers and that Republican states are not. Or to assume that gerrymandering flourishes in the South while other regions are progressive and reform trail-blazers. Or to assume that virtuous civic-minded small states have surely reformed, while big urbanized states experience conflict and corruption. The goal of this section is to use the redistricting index to examine evidence that might support any of the simple explanations.

The redistricting index provides a dependent variable (DV) that can be tested methodically against different independent variables (IVs), which operationalize different subhypotheses. This section uses the Pearson's test for simple regression or Spearman's rho test for rank correlation (McNabb 2004, 279; Vogt and Johnson 2011, 285). Spearman's rho test was used for figures 40, 44, 46, and 48, and Pearson's test was used for all other scatterplots in figures 17 through 61. For each test, a scatterplot has been provided and the r^2 identified, the coefficient of determination between two variables. The r^2 reflects "how much of the variability of the dependent variable is explained by the independent variable" (Vogt and Johnson 2011, 319). For instance, if $r^2 = .30$ then 30% of the variability in the DV has been accounted for by the IV (Vogt and Johnson 2011, 319). Scholars and disciplines do not agree on the appropriate language to use for different r^2 ranges, but an $r^2 = 0.1$ might be described as a negligible association, $r^2 = 0.2$ as weak, and $r^2 = 0.3$ as moderate (Akoglu 2018, 92). Falk and

Miller (1992, 80) argue that in social science research, an r^2 needs to be above 0.1 to be worthy of attention.

As an example, figures 19 and 20 illustrate the range of possibilities. Both investigate the dependent variable of Joe Biden's percentage of the popular vote per state in the 2020 presidential election (FEC 2021). Figure 19 tests this against the independent variable of state racial diversity, measured as the African-American proportion of the state population (US Census Bureau 2019), and figure 20 tests this against the variable of political ideology, measured as the percentage of state residents who self-identify as moderate or liberal according to opinion surveys (Pew Research 2014). Figure 19 shows there is no relationship between Biden's vote and this measure of state racial diversity ($r^2=0.0004$), whereas figure 20 demonstrates a strong relationship between Biden's vote and state political ideology ($r^2=0.72$). This section investigates if there any hypothesized independent variables account for variations in the redistricting index like in figure 20, or whether they are unconnected like in figure 19.

Figure 19: Biden 2020 Vote Versus African-American Population Proportion

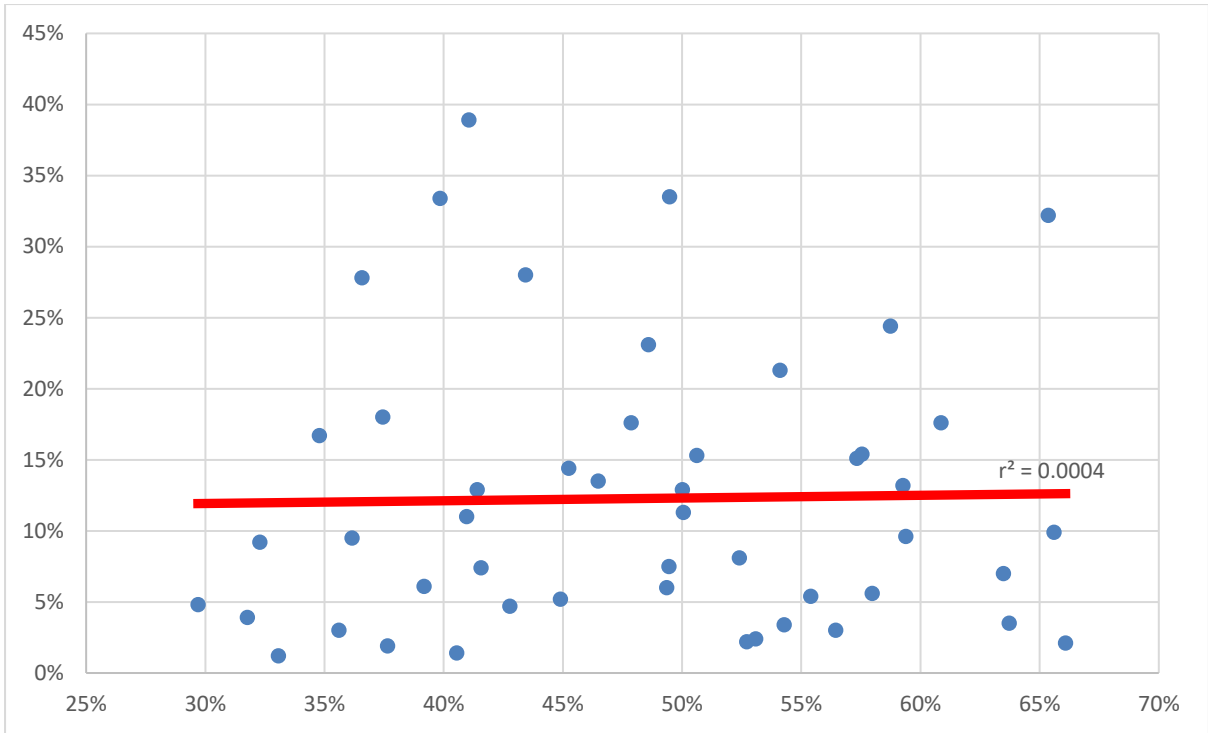
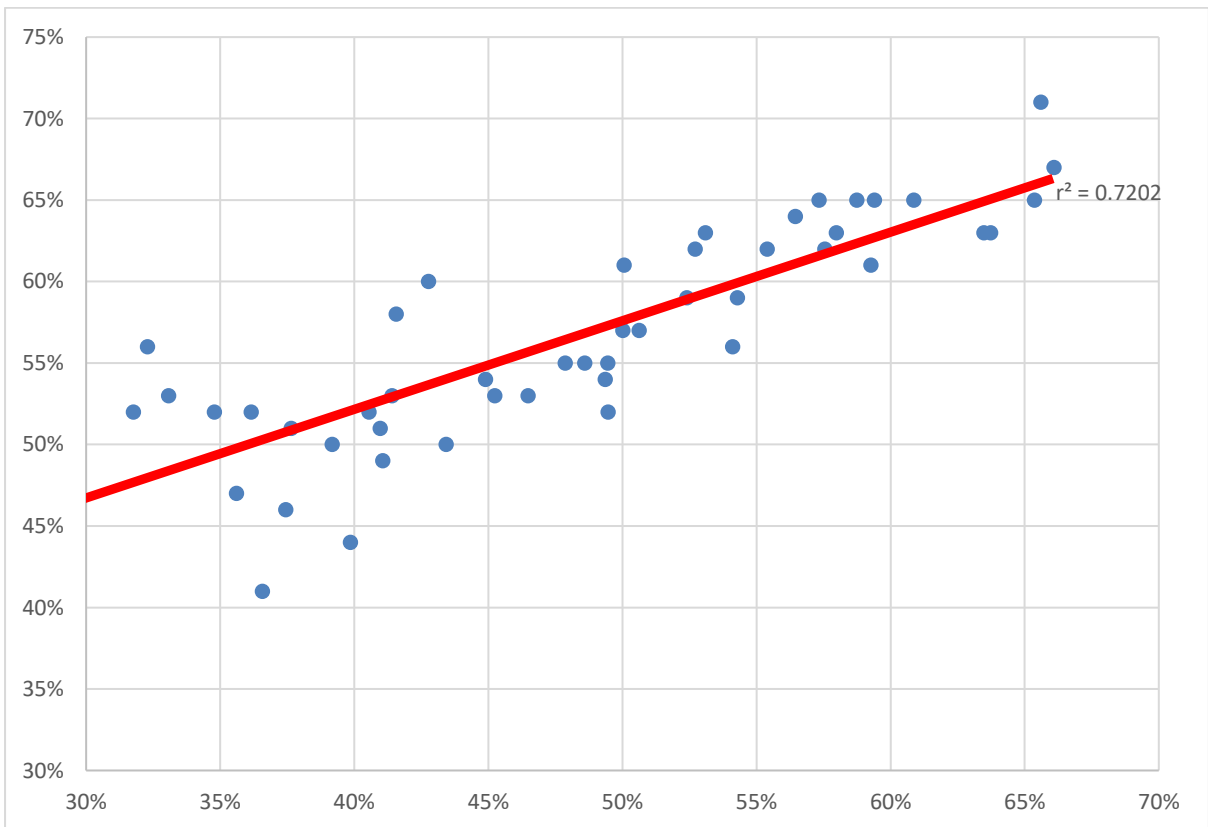


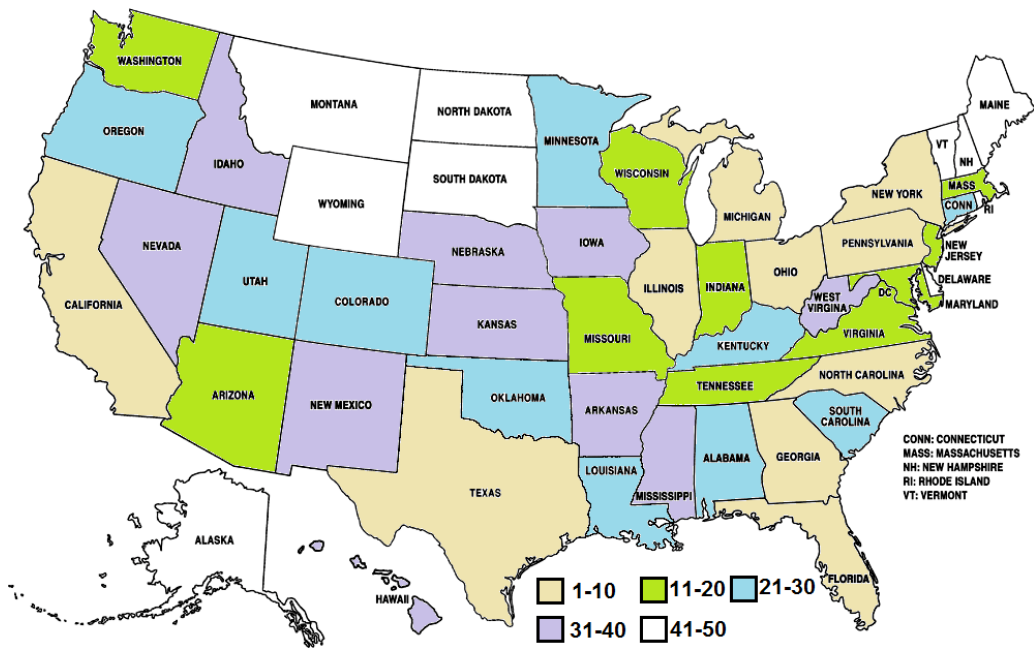
Figure 20: Biden 2020 Vote Versus Moderate/Liberal Population Proportion



3.3.1 State Population

State demographic differences can result in political differences between states. Hypothesis 6 suggests a state legislature adopts redistricting law reform if the state has demographic features favourable to reform. This subsection tests demographic variables against the redistricting index, starting with population size. Subhypothesis H_{6a} is that a state legislature adopts redistricting law reform *if the state has a low population*. There are substantial variations between states in their size. The population differences between the original thirteen states was limited, with a factor of ten separating the largest from the smallest (US Census Bureau 1793). The subsequent growth in state numbers to fifty included the deliberate creation of a number of low-population rural states in the West, such as North Dakota and South Dakota, to boost the Republican Party's fortunes in the equally-apportioned US Senate (Richardson 2010, 101). The existence of the Senate has also served as a disincentive for any small states to merge. Partly as a result, the gap between the largest and smallest states by population has greatly increased. California (39.5 million residents) now has 68 times the population of Wyoming (577,000 residents) (US Census Bureau 2021a). Arranging the states into five quintiles of ten, as illustrated in figure 21, illustrates that every region of the United States has a mix of high- and low-population states.

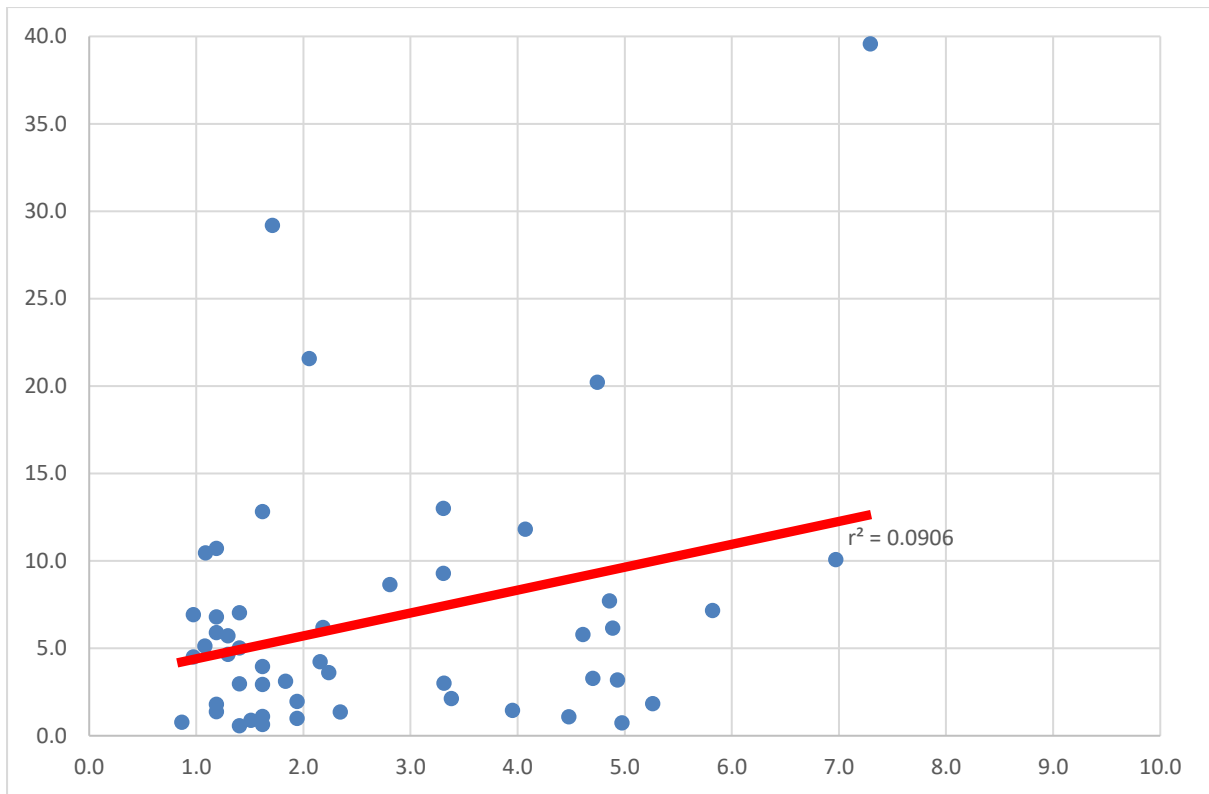
Figure 21: US States in Quintiles Ranked by Total Population



Source: created by the author, based on data from US Census Bureau (2021a)

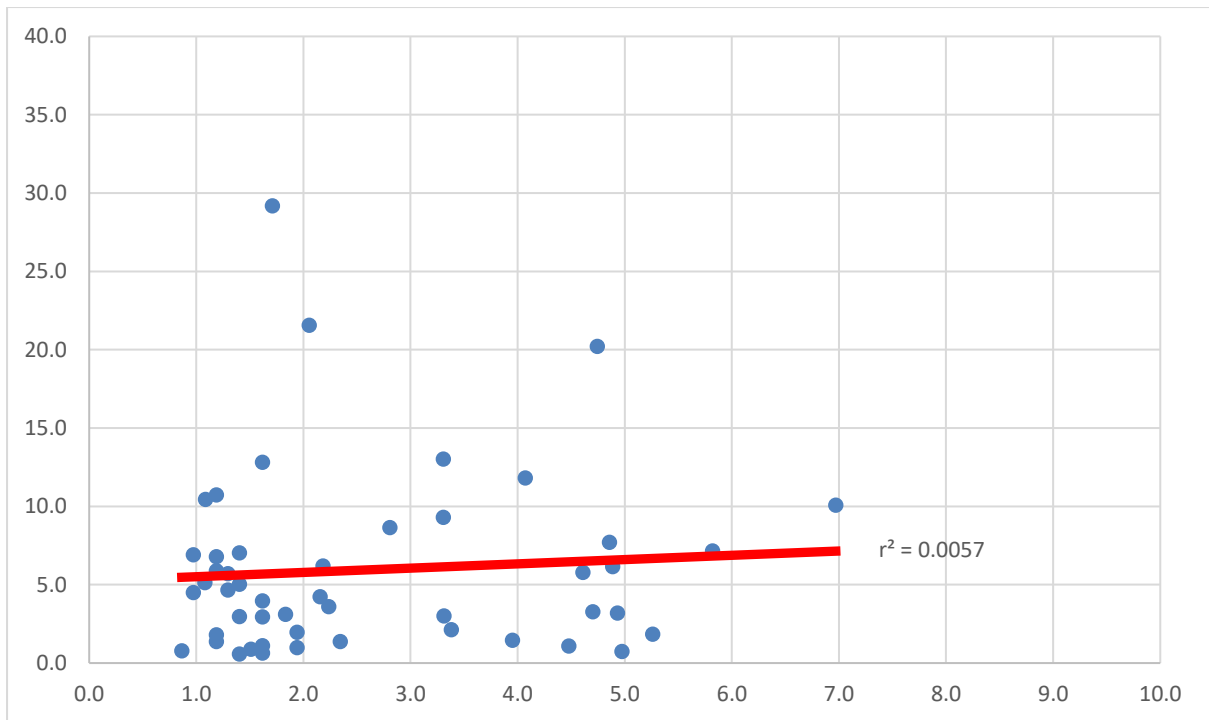
The simplest measure of size is state raw population, as determined by the US Census Bureau (2021a). Figure 22 compares the redistricting index scores to a state’s total population, as determined by the 2020 census.

Figure 22: RNI Comparison With State Population Size (Millions)



This scatterplot shows a weak relationship between the two variables. But it is also important to be wary of outliers, which “can have a significant distorting effect” on data analysis (McNabb 2004, 294). In this comparison, the state of California, represented by the upper-right dot, stands out as a notable outlier in figure 22. When it is omitted from the analysis and the calculation re-run, as in figure 23, the already-weak apparent association between state size and the index disappears. A relationship that depends on the presence of a single observation out of fifty is not robust.

Figure 23: RNI Comparison With State Population Size (Millions) (CA Omitted)



Raw population is only one measure of state size, and a careful analysis should check alternatives. Another size measure relevant to redistricting is the number of seats a state has in the US House of Representatives. This varies between the constitutional minimum of one (Article I, section 2, of the US Constitution stipulates that “each State shall have at Least one Representative”) and a population-determined maximum of 53 House seats, which California currently has, although this will decrease to 52 House seats for the 2022 election (US House 2021, US Census Bureau 2021b).

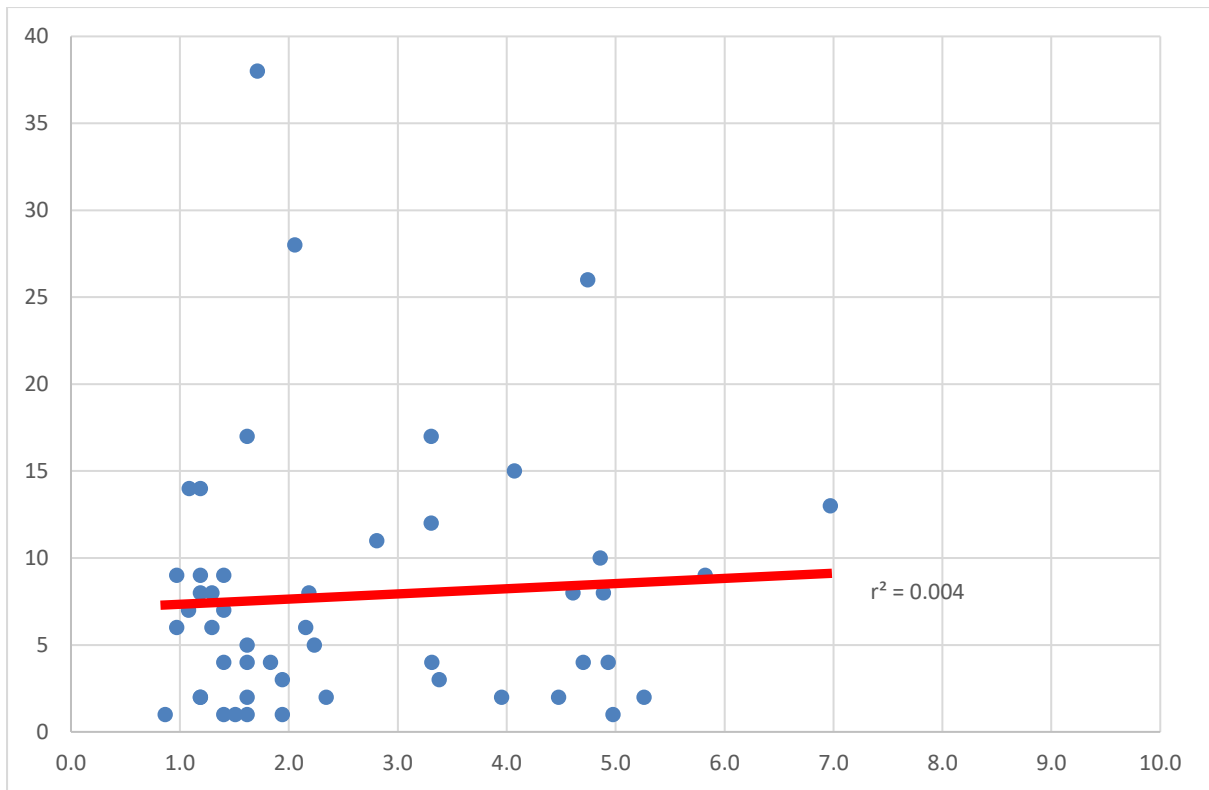
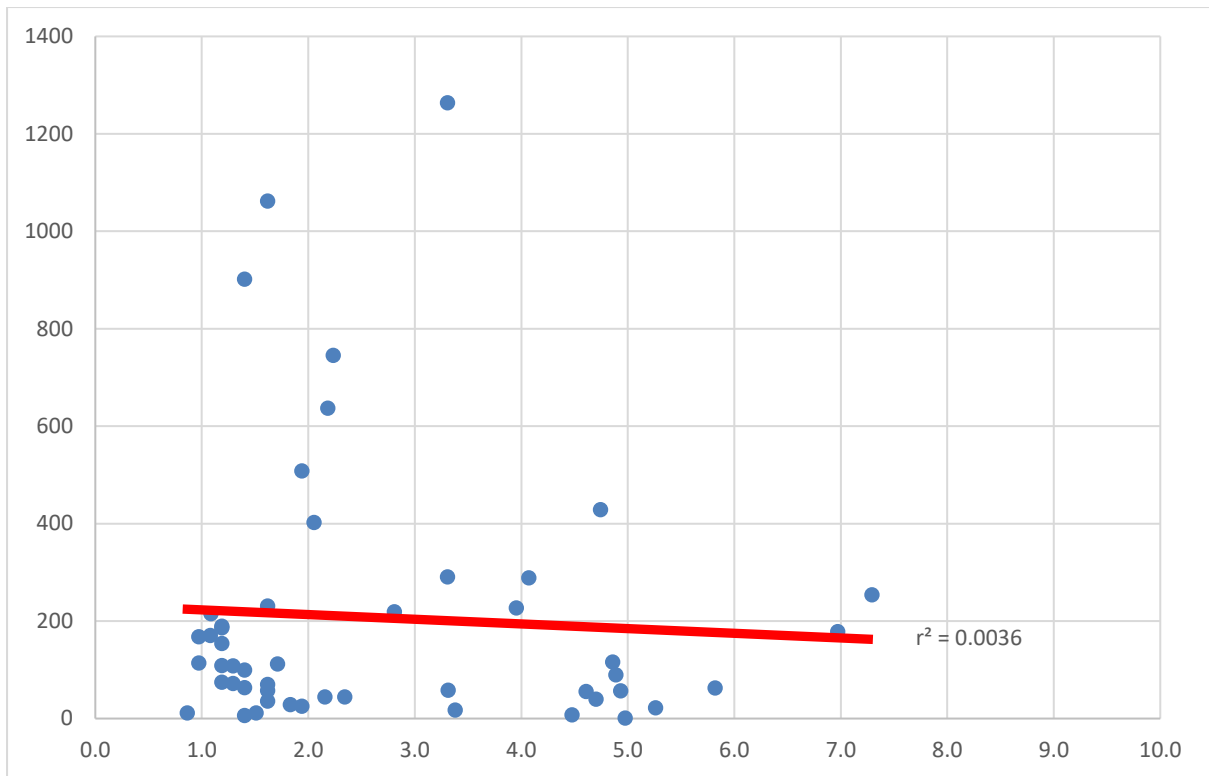


Figure 24 shows little association between the two variables, and when the outlier state of California is again omitted as in figure 25 there is no association evident between congressional delegation size and the redistricting index. Some scholars argue when comparing states population density is useful to consider, rather than just total population (Nice 1987, Smoluk and Andrews 2005). For the scatterplot in Figure 26, state population density has been calculated as the state's total population according to the census divided by the state's total land area (US Census Bureau 2021a, 2010b).

Figure 26: RNI Comparison With State Population Density (People Per Square Mile)



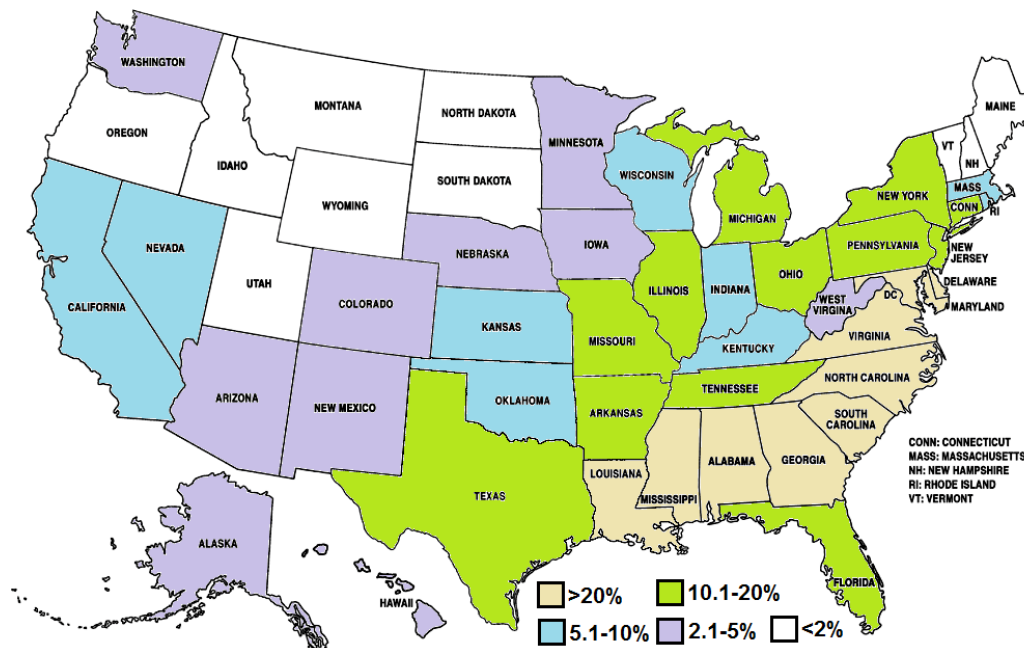
However, figure 26 confirms that state population density is also unhelpful in explaining index variations, and reinforces the conclusion that there is no association evident between state population size and the redistricting index. Subhypothesis H_{6a} is therefore not supported by the data in this chapter. Redistricting law reform does not appear to be a story contrasting big states with small states.

3.3.2 State Racial Homogeneity

Subhypothesis H_{6b} is that a state legislature adopts redistricting law reform *if a state is racially homogenous*. There are notable differences in the racial diversity of state populations. For example, in 2010 the proportion of state residents self-identifying as African-American varied from a high of 37.3% in Mississippi to a low of 0.67% in Montana (Rastogi et al 2011, 8). Accounting for all minorities, the proportion of state residents self-identifying as non-white varied from a low of 5.6% in Maine to a high of 77.3% in Hawaii

(Hixson, Hepler and Kim 2011, 8). Many debates and court cases about specific redistricting maps focus on the implications for minority representation and accusations of racial gerrymandering (Saito 2006, Pitts 2018). Looking ahead to 2022, Li warns that “racial gerrymandering remains a serious threat” and predicts a “proliferation of racial gerrymandering” in states like Georgia and Texas (Li 2021, 12). But although racial factors are evident in redistricting outcomes, it is unclear if and how race has affected the construction of state redistricting systems. As discussed in chapter 2, significant political divisions about race within a state might make it less likely to implement redistricting reform. Census data on the racial composition of state populations can be compared with the redistricting index to investigate this possibility. Figure 27 illustrates the varied distribution of the African-American population throughout the states. Figure 28 compares a state’s African-American population (as a percentage of the whole) with the redistricting index.

Figure 27: US States and African-American Population Proportion



Source: created by the author, based on data from US Census Bureau (2018)

Figure 28: RNI Comparison With State African-American Population Percentage

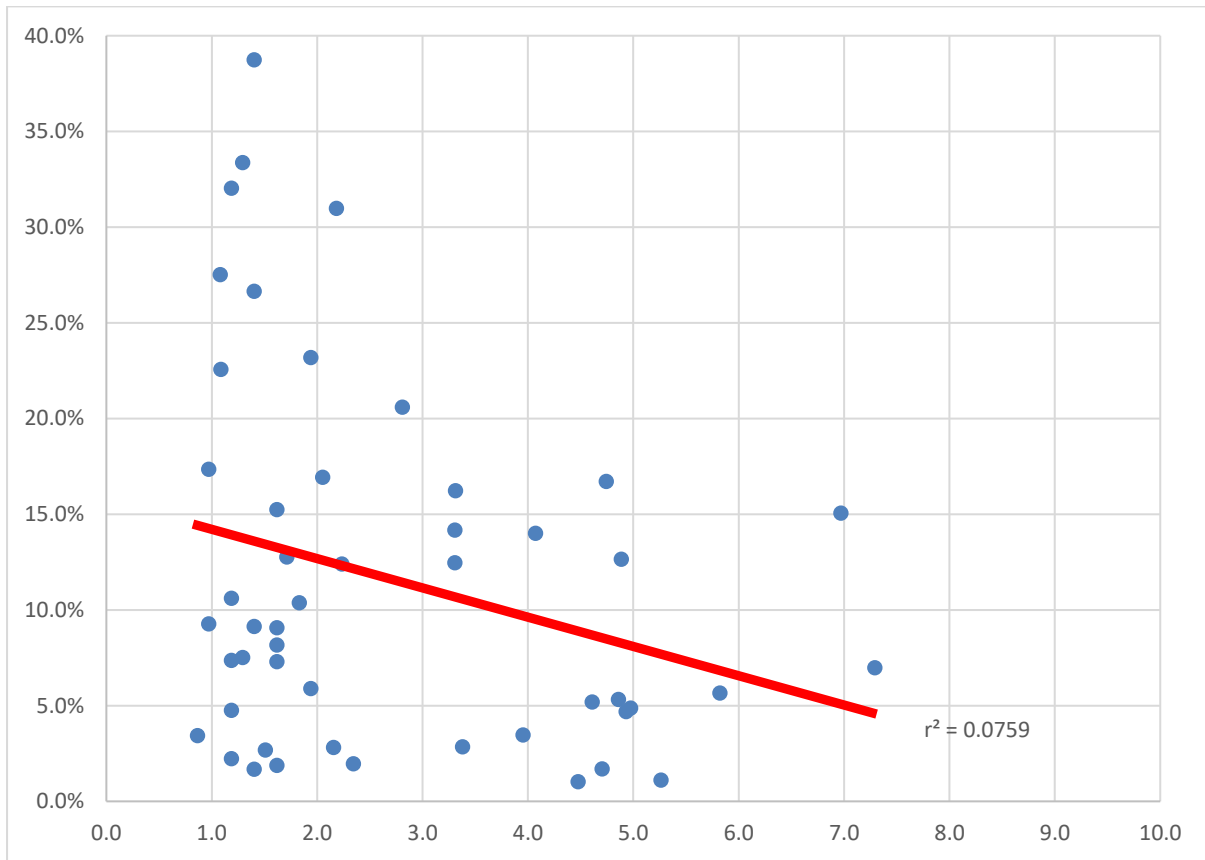


Figure 28 suggests that when comparing the two variables there is a weak association between a state’s African-American composition and its redistricting index score. However, the quintile of states with the *highest* proportion of African-Americans all have relatively *low* index scores, as detailed in table 26.

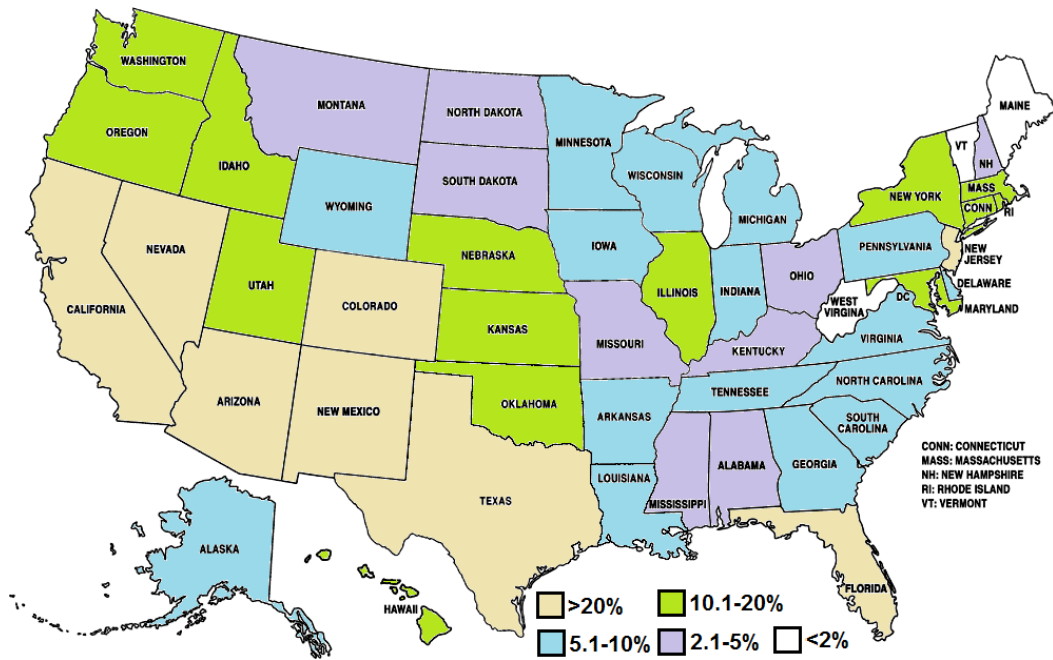
Table 26: RNI Comparison With State African-American Population Percentage

<u>State</u>	<u>RNI</u>	<u>AA%</u>	<u>State</u>	<u>RNI</u>	<u>AA%</u>
Montana	4.5	1.0%	Massachusetts	1.4	9.2%
Idaho	5.3	1.1%	Kentucky	1.0	9.3%
Wyoming	1.4	1.7%	Nevada	1.8	10.4%
Utah	4.7	1.7%	Indiana	1.2	10.6%
Vermont	1.6	1.9%	Connecticut	2.2	12.4%
Maine	2.3	2.0%	Pennsylvania	3.3	12.5%
New Hampshire	1.2	2.2%	Missouri	4.9	12.7%
South Dakota	1.5	2.7%	Texas	1.7	12.8%

Oregon	2.2	2.8%	Ohio	4.1	14.0%
New Mexico	3.4	2.9%	New Jersey	3.3	14.2%
North Dakota	0.9	3.4%	Michigan	7.0	15.1%
Hawaii	4.0	3.5%	Illinois	1.6	15.2%
Iowa	4.9	4.7%	Arkansas	3.3	16.2%
West Virginia	1.2	4.8%	New York	4.7	16.7%
Alaska	5.0	4.9%	Florida	2.1	16.9%
Colorado	4.6	5.2%	Tennessee	1.0	17.4%
Washington	4.9	5.3%	Virginia	2.8	20.6%
Arizona	5.8	5.7%	North Carolina	1.1	22.6%
Nebraska	1.9	5.9%	Delaware	1.9	23.2%
California	7.3	7.0%	Alabama	1.4	26.7%
Kansas	1.6	7.3%	South Carolina	1.1	27.5%
Wisconsin	1.2	7.4%	Maryland	2.2	31.0%
Minnesota	1.3	7.5%	Georgia	1.2	32.0%
Rhode Island	1.6	8.2%	Louisiana	1.3	33.4%
Oklahoma	1.6	9.1%	Mississippi	1.4	38.7%

In addition, the ten states with the high African-American population percentage are (unsurprisingly) all in the same region, the South. The contribution of race to Southern regional exceptionalism will be discussed further below. A similar check for population homogeneity can be conducted for Americans who identify as Hispanic or Latino, which varies across the states as illustrated in figure 29.

Figure 29: US States and Hispanic & Latino Population Proportion



Source: created by the author, based on data from US Census Bureau (2019)

Figure 30: RNI Comparison With State Hispanic & Latino Population Percentage

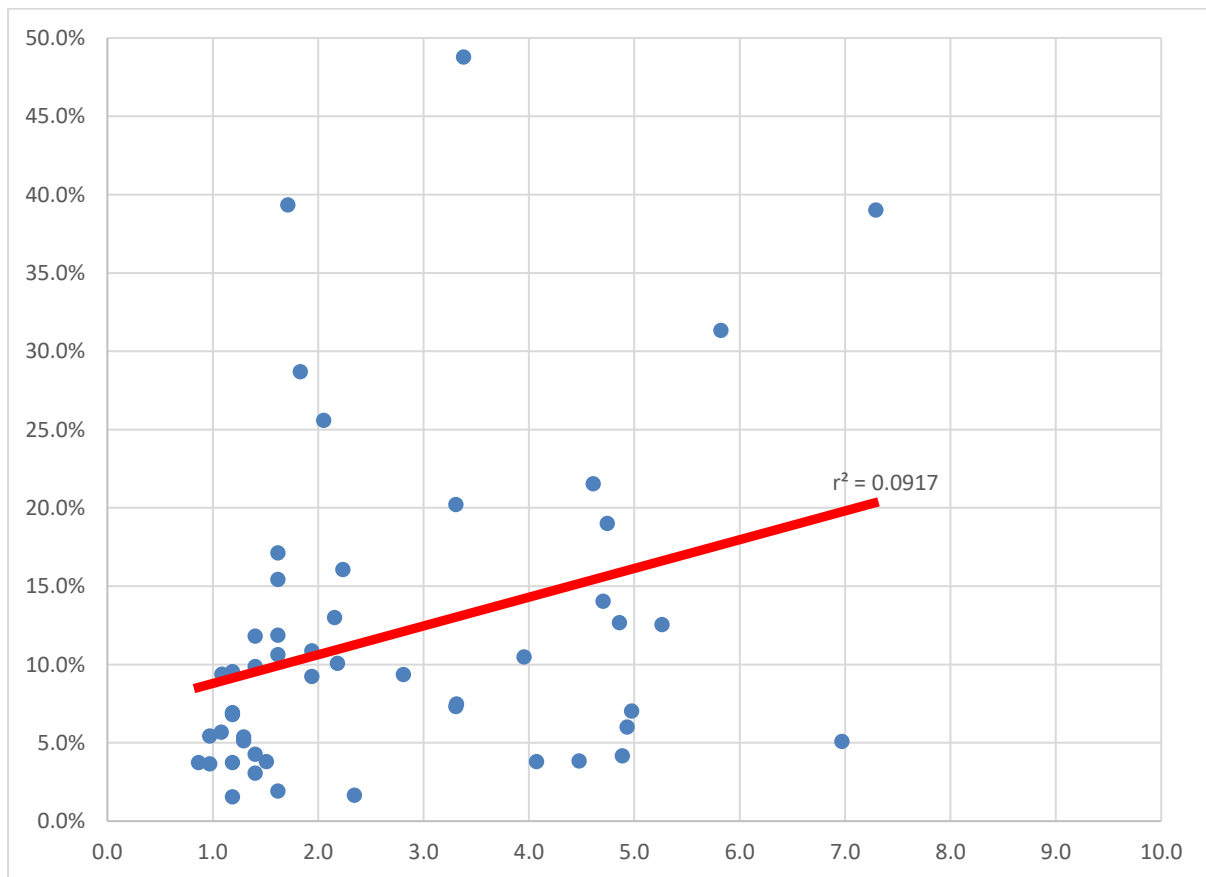


Figure 30 suggests that when comparing the two variables there is a weak association between a state's Hispanic and Latino composition and its redistricting index score, albeit in a positive direction (more Hispanics, more reform) rather than in figure 28 (more African-Americans, less reform).

Another variable to measure racial homogeneity is the proportion of a state's congressional districts that are majority-minority districts. "A majority-minority district is one in which a racial or language minority group comprises a voting majority" (Whitaker 2015, 2).

Typically, a majority-minority district contains a population that is over 50 per cent non-white, and may consist of one or multiple minority groups. The Voting Rights Act was amended in 1982 to improve minority representation, and promoted the creation of more majority-minority districts (Overby and Cosgrove 1996). Since the 1980s, the "creation of majority-minority districts has become the standard method for securing minority representation in legislative institutions" in the US (Barreto, Segura, and Woods 2004, 65).

Most state legislators and members of Congress who belong to a racial or ethnic minority are elected from majority-minority districts (Lublin et al 2019, 293). According to an analysis in 2015, there were 122 majority-minority congressional districts, out of 435 in total, and thus they account for 28 per cent of all districts (Ballotpedia 2015).

Figure 31: RNI Comparison With Majority-Minority Proportion of Congress Districts

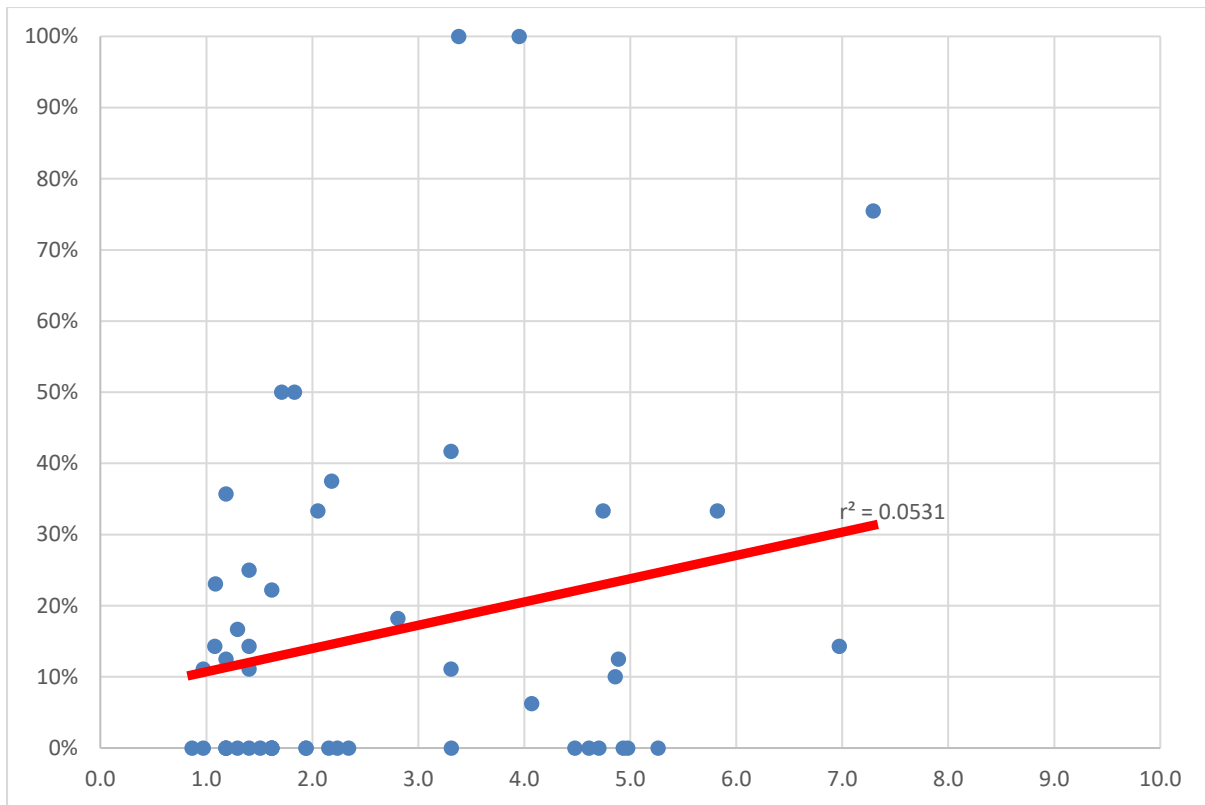


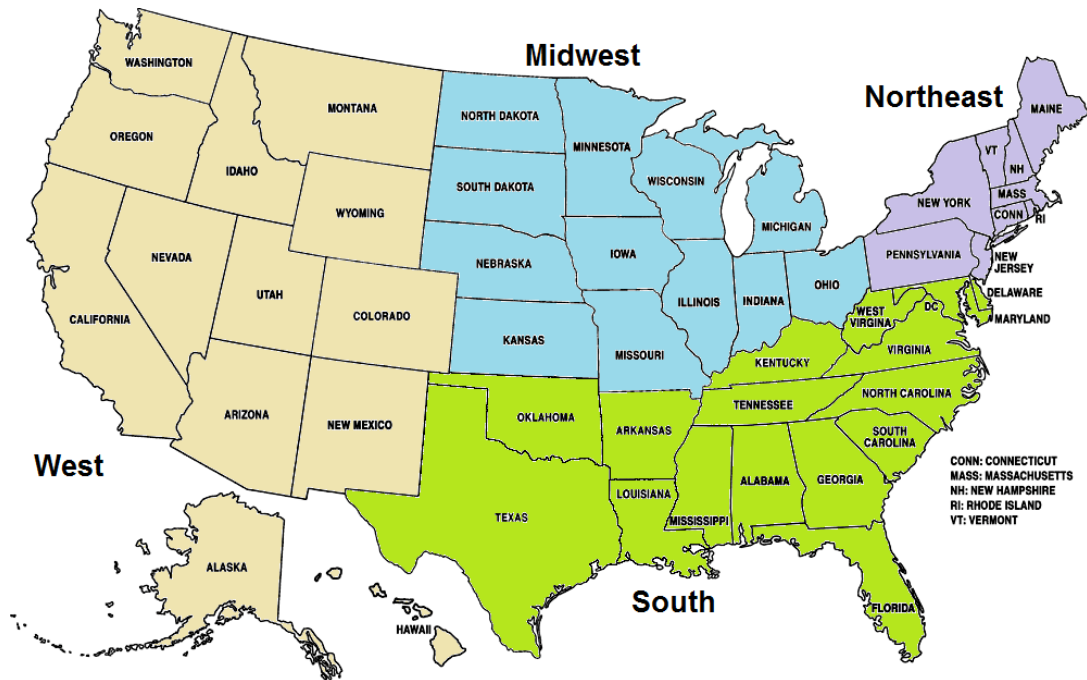
Figure 31 compares the proportion of a state congressional districts that are majority-minority with the redistricting index. For example, all of the districts in Hawaii and New Mexico are majority-minority, so they are represented by the two 100% dots at the top of the chart. Some outliers have significant influence. Removing one outlier state, California (75% majority-minority districts, or 40 out of 53), further weakens the association between the two variables and reduces the r^2 to 0.0119. In light of the homogeneity results so far, subhypothesis H_{6b} has not been supported by the data in this chapter.

3.3.3 State Geography and Culture

One way to classify the fifty states is by geographic or cultural region. However, there is no consensus about which states belong to which regions. Even different agencies in the US federal government define geographic regions differently for their own purposes. For example, the Census Bureau identifies four regions – the West, South, Midwest, and

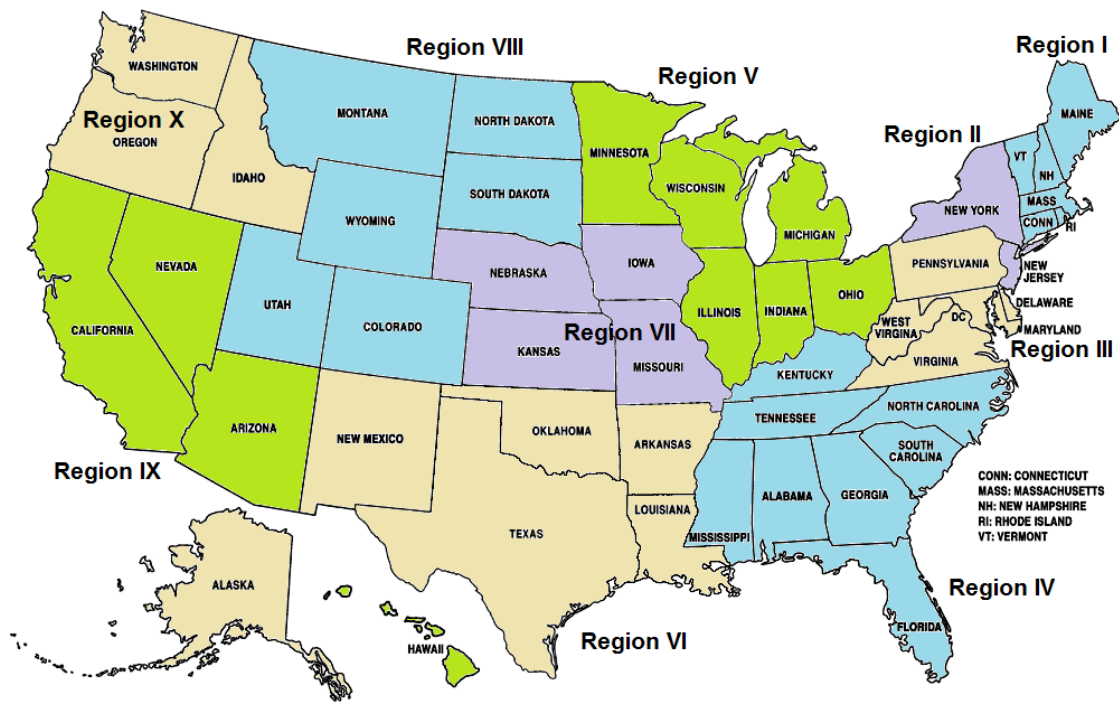
Northeast – as illustrated in figure 32. The Office of Management and Budget (OMB) identifies ten regions instead, which are widely used by many other agencies, as illustrated in figure 33.

Figure 32: Four US Regions Defined by the Census Bureau



Source: created by the author, based on data from the US Census Bureau (2013)

Figure 33: Ten US Regions Defined by the Office of Management and Budget



Source: created by the author, based on data from the OMB (1974)

Unfortunately, the ten OMB regions do not nest within the Census Bureau’s four, as outlined in table 27. Some states in different Census regions are grouped together in OMB regions, such as New Mexico and Texas. In addition, other important federal institutions, such as the US Court of Appeals, the Federal Reserve, and the Bureau of Economic Analysis, have their own unique regional definitions which are different from one another and different from both the Census Bureau and the OMB.

Table 27: Comparing Census Bureau Regions and OMB Regions

<u>Census Bureau regions</u>	<u>Relevant OMB regions</u>
Northeast	All of Region I and II, plus 1 state from Region III (PA)
South	All of Region IV, Region III minus 1 state (PA), and Region VI minus 1 state (NM)
Midwest	All of Region V and VII, plus 2 states from Region VIII (ND and SD)
West	All of Region IX and X, plus 1 state from Region VI (NM), plus 4 states from Region VIII (MT, WY, UT, CO)

Academia has not taken a more consistent approach than government. The allocation of states to regions by scholars also varies widely. For example, Scher (1997, 8) argues that “there is almost no agreement on what is meant by the geographical South.” Landmark texts such as *Southern Politics in State and Nation* by V. O. Key (1949, 4), *Politics and Society in the South* by Earl and Merle Black (1987, 13) and *The New Southern Politics* by J. David Woodard’s (2013, 3) all define the South to include only the eleven former states of the Confederacy.²² By contrast, *The New Politics of the Old South* by Bullock and Rozell (2018, 12) defines the South as twelve states (adding Oklahoma), *Interest Group Politics in the Southern States* by Hrebendar and Thomas (1992, 4) defines the South as twelve states including Kentucky but excluding Oklahoma, and *The Resilience of Southern Identity* by Cooper and Knotts (2017, 56) discusses thirteen states, including both Kentucky and Oklahoma. None of these writers include West Virginia in their definition of the South but other scholars disagree and say that state “is very much a part of the South” (Haider-Markel 2009, 336).

To compare the redistricting index against geographic regions requires checking different regional definitions. Table 28 groups the states according to the four regions of the Census Bureau, and calculates the mean and median index score per region. The Midwest and Northeast regions are very close to the national averages, with a difference of no more than 0.3. However, the South region has a lower mean (1.6 compared to the national average of 2.7) while the West has a higher mean (4.2 compared to 2.7) and median index score (4.6 compared to 1.9). There is a little less redistricting reform in Southern states and there is

²² They exclude the border states (that is, pro-Union slave states) of Kentucky, Maryland and Delaware, as well as West Virginia (created in 1863) and Oklahoma (admitted as a state in 1907).

more in Western states, as measured by the index. Whatever factors enable reform seem less present or powerful in the South, and more present or powerful in the West.

Table 28: Redistricting Index Mean and Median Per Census Bureau Region

<u>Census Bureau region</u>	<u>Number of states</u>	<u>Mean index score</u>	<u>Difference in means: regional minus national</u>	<u>Median index score</u>	<u>Difference in medians: regional minus national</u>
Midwest	12	2.7	0.0	1.6	-0.3
Northeast	9	2.4	-0.3	2.2	0.3
South	16	1.6	-1.1	1.4	-0.5
West	13	4.2	1.5	4.6	2.7
<i>Total US</i>	<i>50</i>	<i>2.7</i>		<i>1.9</i>	

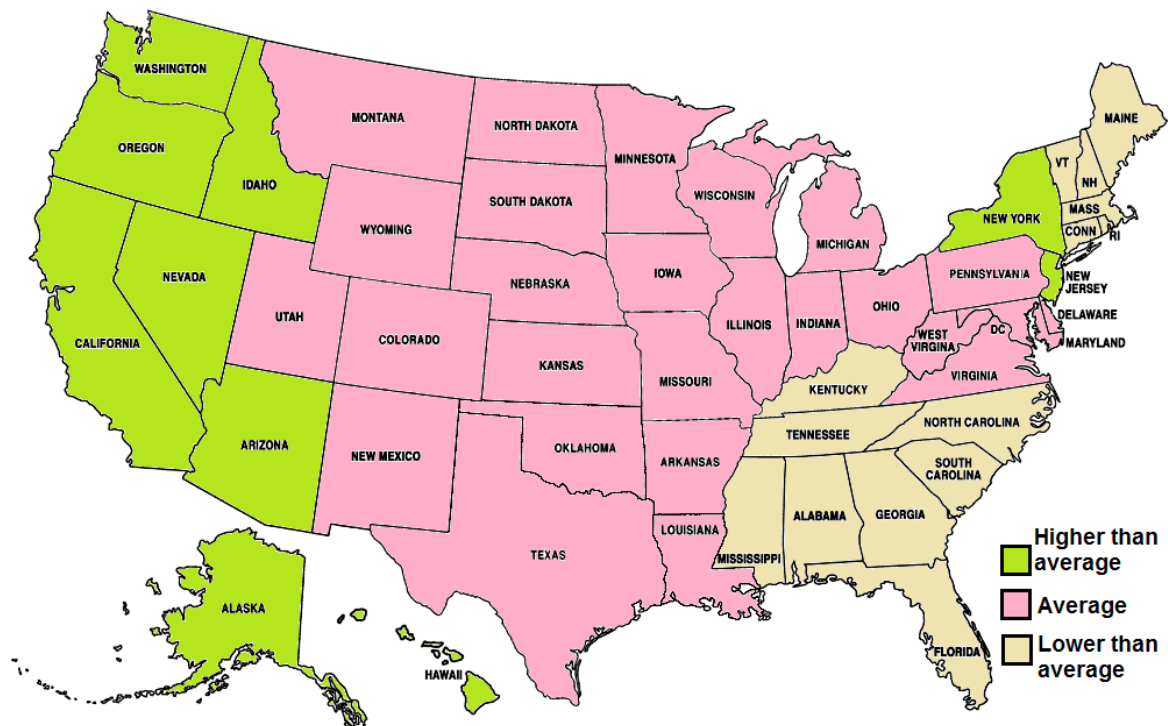
Table 29: Redistricting Index Mean and Median Per OMB Region

<u>OMB region</u>	<u>Number of states</u>	<u>Mean index score</u>	<u>Difference in means: regional minus national</u>	<u>Median index score</u>	<u>Difference in medians: regional minus national</u>
IV	8	1.3	-1.4	1.1	-0.8
I	6	1.7	-1.0	1.6	-0.3
III	5	2.3	-0.4	2.2	0.3
VI	5	2.3	-0.4	1.7	-0.2
V	6	2.7	0.0	1.5	-0.4
VIII	6	2.9	0.2	3.0	1.1
VII	4	3.3	0.6	3.4	1.5
II	2	4.0	1.3	4.0	2.1
X	4	4.3	1.6	4.8	2.9
IX	4	4.7	2.0	4.9	3.0
<i>Total US</i>	<i>50</i>	<i>2.7</i>		<i>1.9</i>	

Table 29 conducts the same analysis as table 28, but using the ten OMB regions instead, and then sorted by the fourth column of difference in means (where a negative number is a lower mean than the national average and thus less reform). Table 29 is consistent with 28. OMB region IV has the lowest mean and median index scores and is entirely located within the Census southern region, while OMB regions IX and X have the highest means and medians and are entirely in the Census west region. Figure 34 depicts the OMB regions by whether

they have a regional mean index score lower than the national average (by -1.0 or more), roughly the same (between -1.0 and 1.0), or higher than the national average. The OMB data re-affirms the suggestion that whatever factors enable reform seem more significant in the West and less significant in the South, and perhaps in New England too.

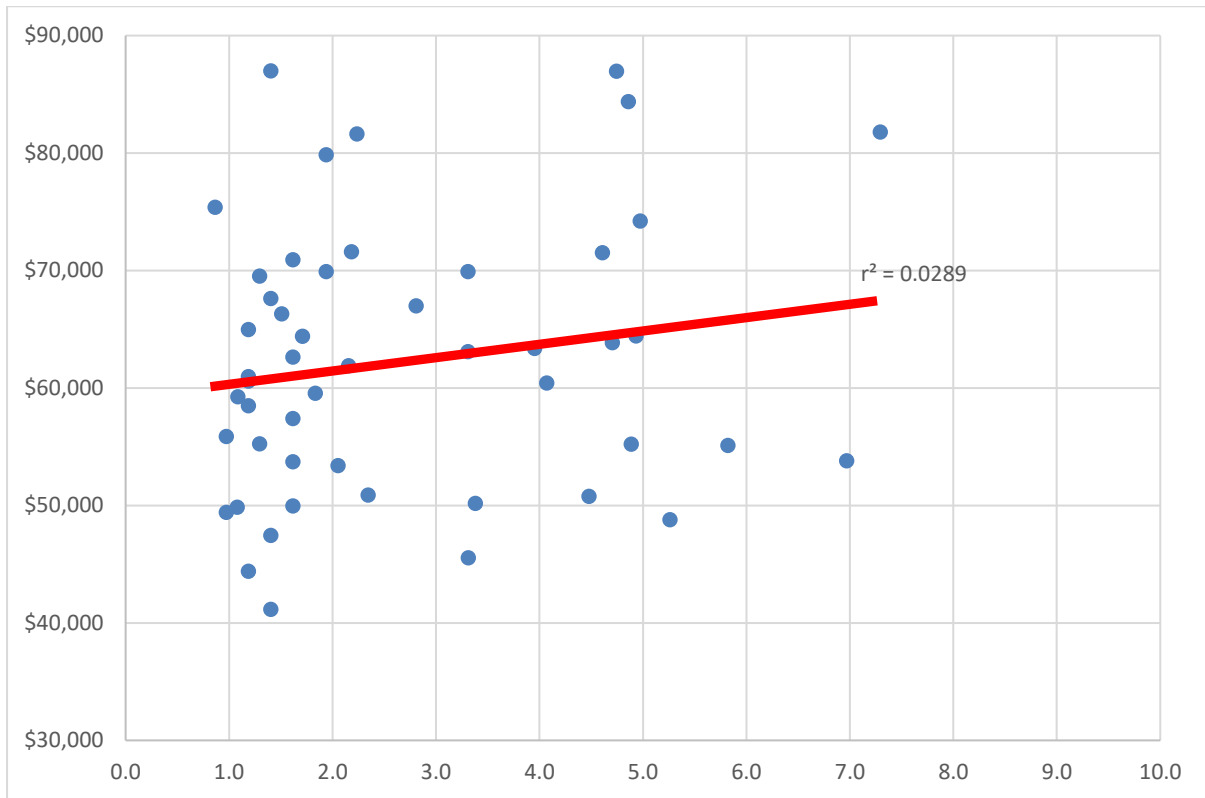
Figure 34: OMB Regional Means Compared to the National Mean



There are significant variations in the wealth and economic production of different states and different regions in the US. For example, GDP per capita varies from a low of \$41,000 in Mississippi to a high of \$87,000 in Massachusetts (BEA 2021, US Census Bureau 2021a). Figure 35 compares state redistricting index scores to state GDP per capita (as at Q1 2021), and finds no relationship between the two variables, suggesting that any geographic

variations or patterns in redistricting reform are not the result of interstate economic differences.

Figure 35: RNI Comparison With State GDP Per Capita



Source: created by the author and calculated using state GDP data from the BEA (2021) and state population data from the US Census Bureau (2021a)

The Census Bureau, the Office of Management and Budget, and other agencies and scholars assign states to regions based on various factors, including proximity, bureaucratic convenience, historical assignments, and perceptions of similarity between states. A related approach to organizing states into categories is to use the idea of political culture.

Subhypothesis H_{6c} is that a state legislature adopts redistricting law reform *if a state has a moralistic political culture*. Political culture refers to the values and attitudes people in a state have about politics and government (Donovan, Mooney, and Smith 2013, 31). This includes

“what is considered acceptable and normal, as well as abnormal and unacceptable” (Hague, Harrop, and McCormick 2019, 200). Chapter 2 identified different scholars of political culture on the US, including the pioneering work of Daniel Elazar (1984), who discussed three dominant state political cultures: individualistic, moralistic, or traditionalistic. In table 30, the mean and median redistricting index scores have been calculated for the three sets of states belonging to each of Elazar’s types, as previously depicted in figure 13. The index mean and median are slightly higher (by 0.6 and 0.4 respectively) for the moralistic set of states, whereas traditionalistic states have a lower mean and media than the national average (by -0.7 and -0.5 respectively). This result is consistent with Elazar’s expectation that moralistic states value political participation and good government, whereas traditionalistic states see politics as an elite concern rather than something the masses be involved with (Donovan, Mooney, and Smith 2013, 32-33). However, the cultural differences are notably smaller than the geographic differences, for either the Census Bureau or OMB regions.

Table 30: Redistricting Index Mean and Median Per State Political Culture

<u>Elazar political culture area</u>	<u>Number of states</u>	<u>Mean index score</u>	<u>Difference in means: regional minus national</u>	<u>Median index score</u>	<u>Difference in medians: regional minus national</u>
Individualistic	17	2.7	0.0	2.2	0.5
Moralistic	17	3.3	0.6	2.3	0.4
Traditionalistic	16	2.0	-0.7	1.4	-0.5
<i>Total US</i>	<i>50</i>	<i>2.7</i>		<i>1.9</i>	

3.3.4 State Political Ideology

Another way to group US states together into clusters is by political ideology. Some states are considered to be more liberal than the national average and others to be more conservative. One problem with ideology that does not arise with geographic region is change over time. For most states, the region it is perceived to belong remains consistent. However, the

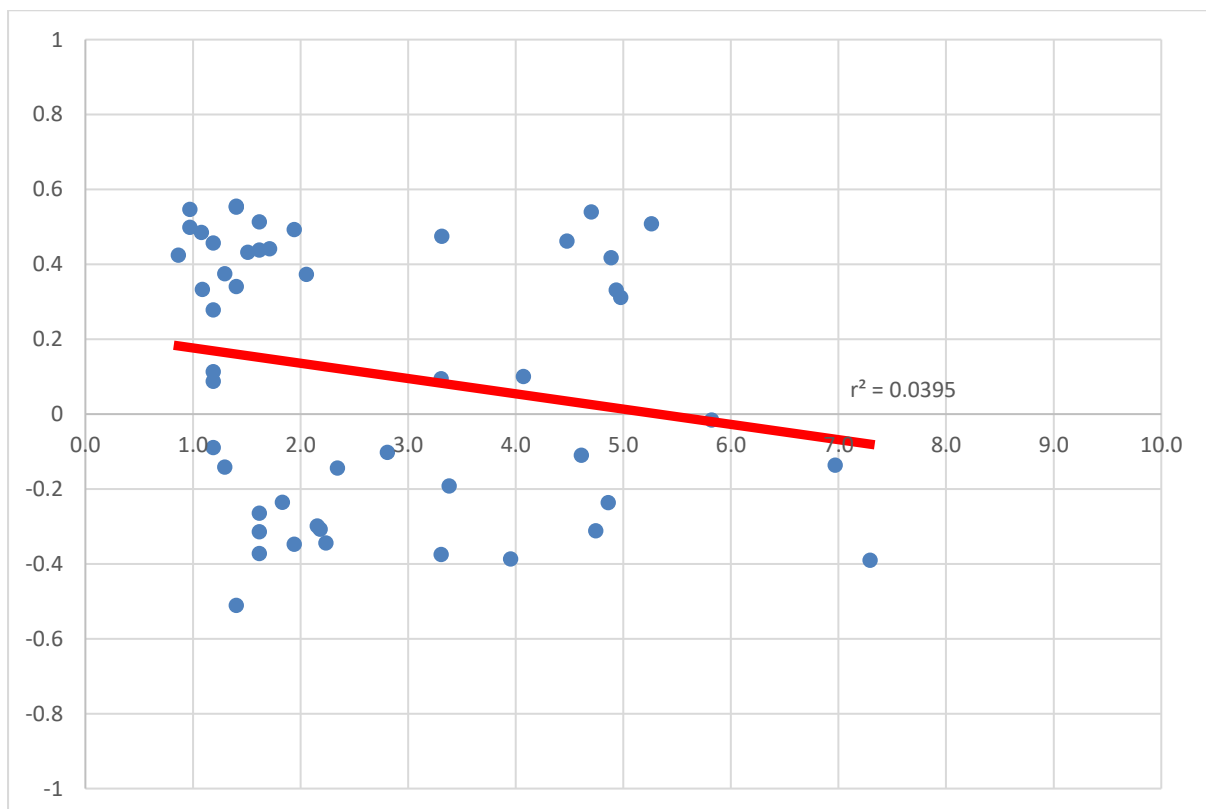
dominant ideology of a state might gradually change over time, if the people of that state change (due to say migration patterns, generational replacement, or individuals changing their views). Scholars have debated this possibility: some see state ideology as stable (Brace et al 2004) and others see change evident (Berry et al 2007).

State political ideology was used above as example of a variable highly correlated with the state popular vote in the 2020 US presidential election. Subhypothesis H_{6d} is that a state legislature adopts redistricting law reform *if the state has a liberal political ideology*. Political ideology has become more highly salient in American politics, including in the states and within state political parties. Many state party staffers and activists are now driven by ideologically motivations, resulting in a “development of deep ideological polarization between the parties” (Wright 2010, 411). Wright argues that in the 1970s “state partisanship and ideological preferences were virtually unrelated; today they are increasingly correlated” (Wright 2010, 409). There are different ways to measure political ideology, based on whose views are considered: federal politicians, state politicians, state voters, or state policies.

States elect politicians to serve in the US Congress, and there is a well-established literature monitoring and evaluating the ideology of Congress members. Poole and Rosenthal (1984, 1985) pioneered the use of roll-call voting data to calculate legislator ideology, and their NOMINATE measure has become a popular tool within political science (Everson et al, 2016). Lewis et al (2021) collect and provide NOMINATE House and Senate data for all time periods. Legislator ideology scores are created based on the assumption that “patterns of congressional roll-call voting can accurately be summarized by locating each member along a primary liberal–conservative axis that describes preferences over fundamental issues of

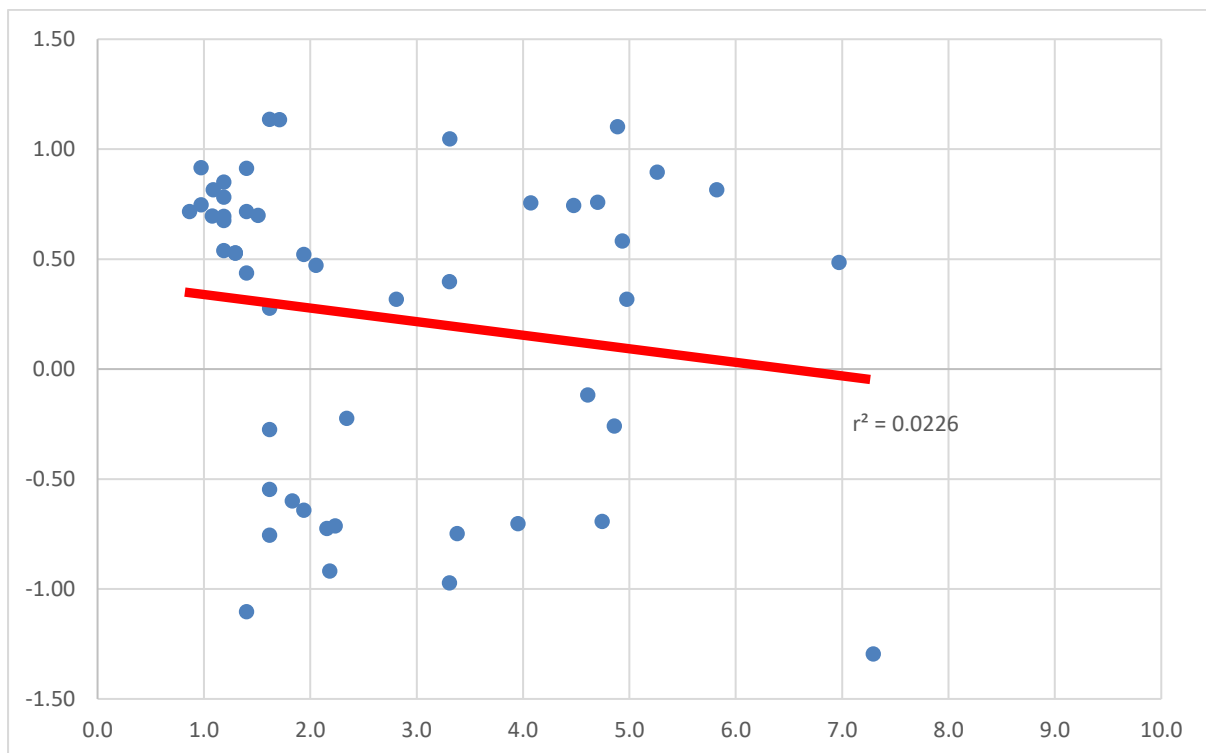
taxation, spending and redistribution” (Boche et al 2018, 18). Figure 36 compares the redistricting index per state with the congressional NOMINATE ideology score averaged within and then across each houses in the current Congress, where +1.0 is maximum liberalness and -1.0 is maximum conservativeness. (Appendix B has further information about NOMINATE and shows the state averages calculated from Lewis et al (2021) to produce this chart.) Unlike in figure 20, figure 36 reports little relationship between ideology and a state’s redistricting regime. Figure 36 uses an average of each state’s House average score and Senate average score (where $r^2 = 0.0395$), but testing each chamber separately produces a similar result (Senate only: $r^2 = 0.053$, House only: $r^2 = 0.0162$).

Figure 36: RNI Comparison With State Ideology Measured by NOMINATE Scores



A related approach is to focus on state politicians. An ideological mapping of state legislatures has been calculated by Shor and McCarty (2011). They provide a median estimate per chamber per state per year (Shor and McCarty 2020), and the average of the two chambers for the most recent year available has been used here. Figure 37 compares the RNI with Shor and McCarty's data for all states. A positive number indicates a more conservative ideology and a negative number indicates more liberal. For example, California is rated the most liberal state (-1.3), bottom right of the chart, whereas Oklahoma and Texas in the upper left are the most conservative states (rated 1.13). The scatterplot shows little support for a relationship between redistricting system reform and the median ideology of state legislatures, and if California is omitted then the result weakens to $r^2 = 0.0011$.

Figure 37: RNI Comparison With State Legislature Median Ideology



Another approach is to measure ideology by considering the views of state voters. The Cooperative Congressional Election Study (CCES) is a large survey of over 50,000 people that reports the ideological and partisan identification of residents per state (Phillips 2018, 132). Respondents are asked to self-identify ideology as liberal, moderate, or conservative. Figure 38 compares the index with the percentage of state respondents who identify as liberal, and figure 39 compares the index with the percentage who say they are conservative, using the state data reported in Phillips (2018). Neither scatterplot shows support for a relationship between the redistricting system of a state and variations in the self-reported ideology of state voters.

Figure 38: RNI Comparison With State Voter Ideology – Percentage of Liberals

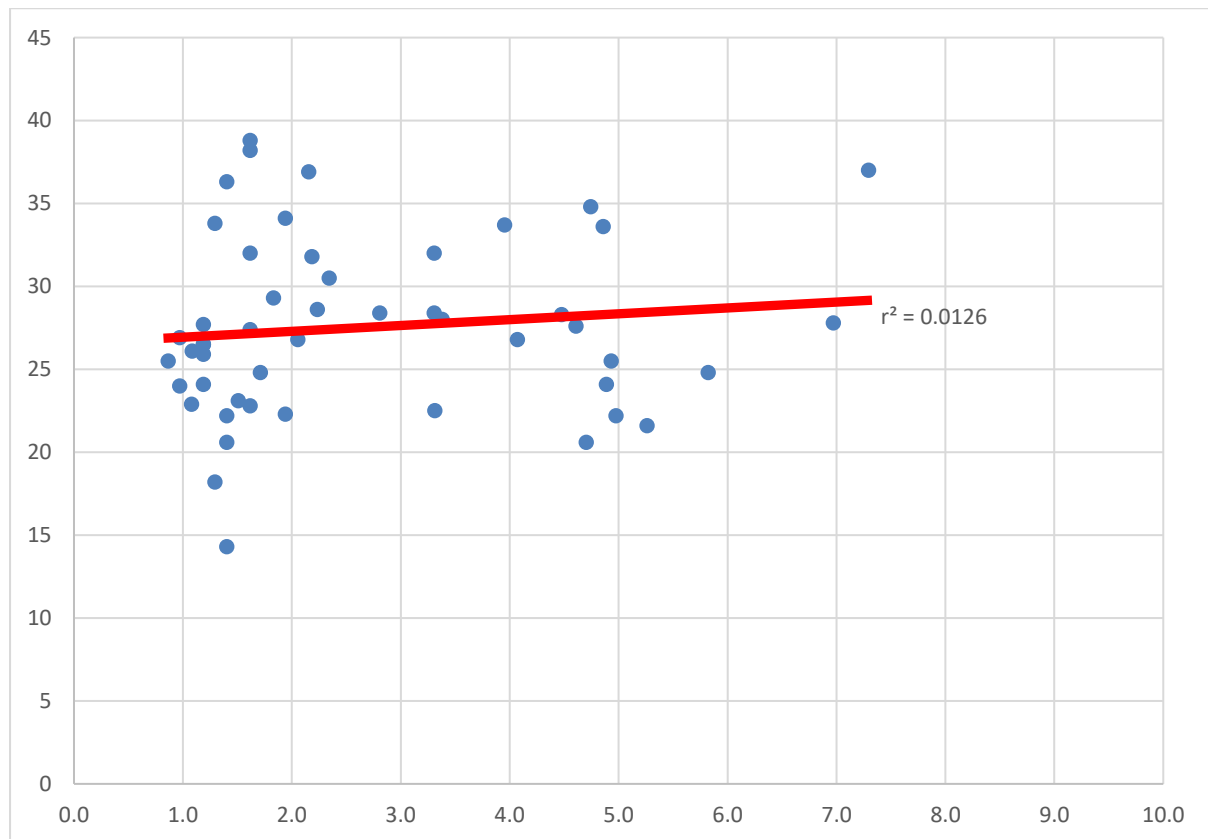
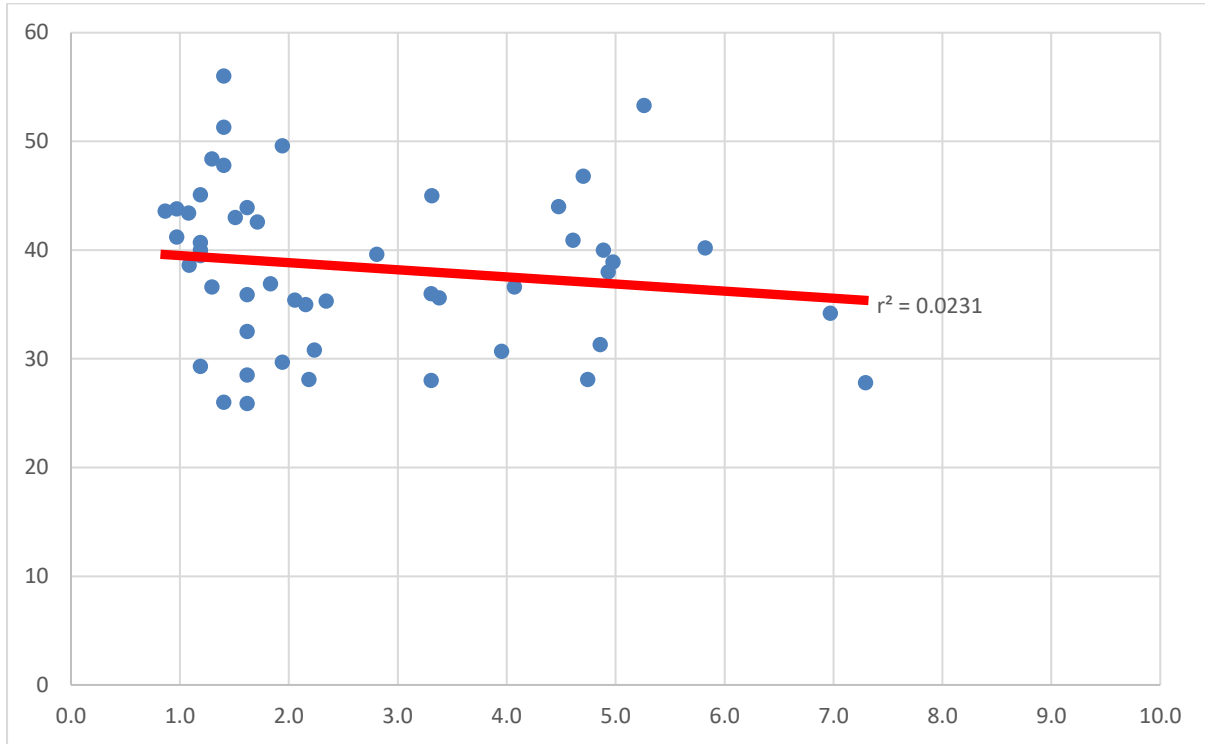
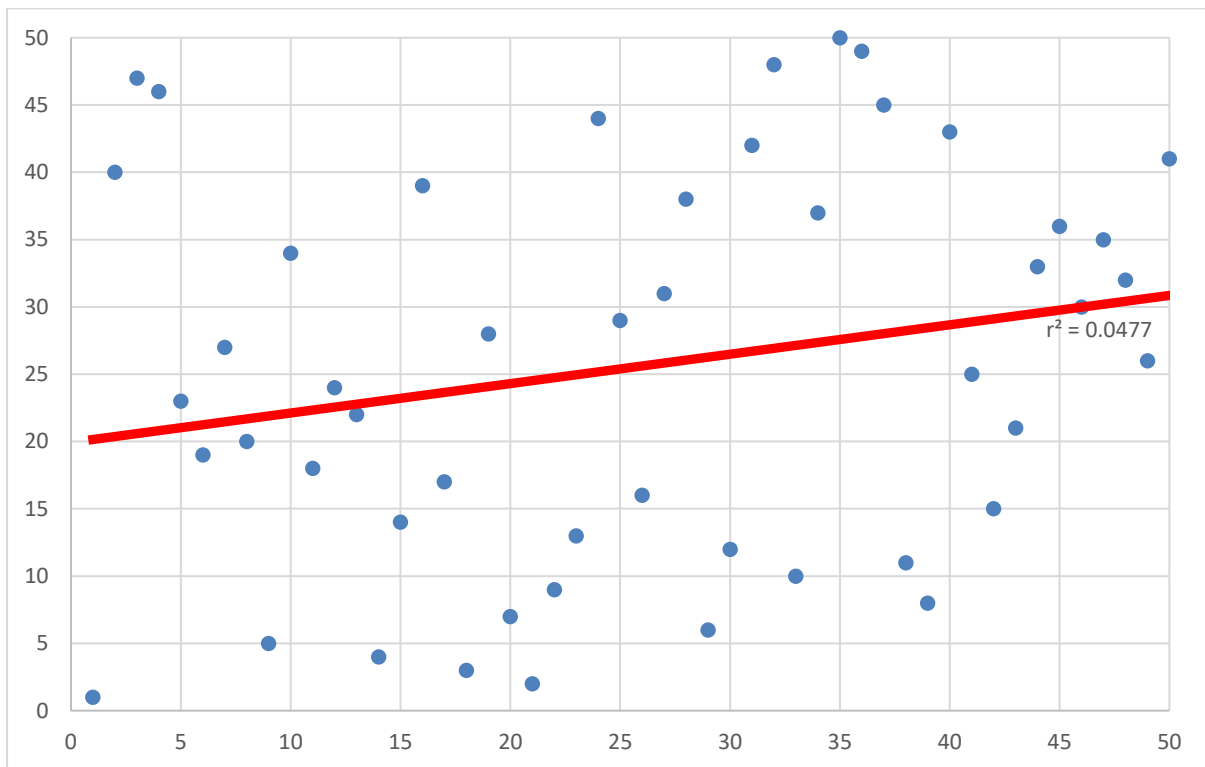


Figure 39: RNI Comparison With State Voter Ideology – Percentage of Conservatives



Another approach to measuring state ideology taken by some scholars is to construct a policy ideology index. For instance, Gray (2018, 3-5) identifies five key policy areas (abortion, guns, labour union laws, taxes, and welfare), and creates a composite policy liberalism index which ranks the states from 1, the most liberal across this set of policies (California), to 50, the least liberal (South Dakota). A rank correlation analysis between Gray’s index and a rank ordering of the RNI is depicted in Figure 40. For example, California, ranked 1 in both indexes, is the dot in the bottom left corner. The relationship between the two indexes is weak, according to this chart. Only two of the top-ten most liberal states in Gray’s index also appear in the top-ten for redistricting neutrality (namely California and New York).

Figure 40: RNI Rank Comparison with State Policy Liberalism Rank²³



This section has analyzed variables related to hypothesis 6, that a state legislature adopts redistricting law reform if the state has demographic features favourable to reform.

Subhypotheses have been tested about state population size, racial diversity, geography and political culture, and political ideology, and no significant relationship has been found between any variable and the redistricting index. Hypothesis 6 has therefore not been supported by this data.

3.4 Analysis of Institutional Features

Every state has the same basic political institutions, like a constitution, governor, legislature, and state supreme court. But this superficial diversity conceals variations in how political

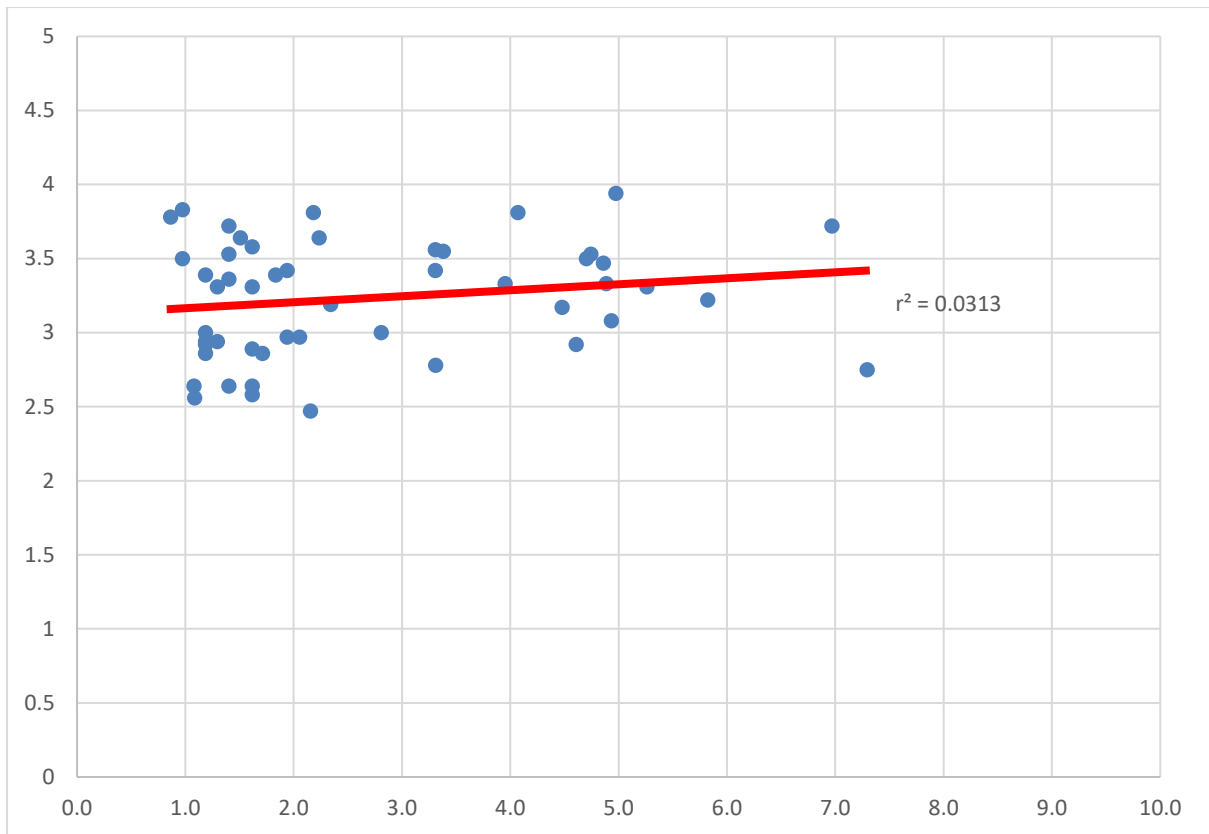
²³ This scatterplot uses the Spearman's rho test for rank correlation, as does figures 44, 46, and 48. Pearson's test for simple regression was used for all other scatterplots in this chapter.

power is actually exercised in practice within the states and in the strengths and weaknesses of state institutions. Hypothesis 5 is that a state legislature adopts redistricting law reform if the state has institutional features favourable to reform. This subsection tests institutional variables against the redistricting index, starting with the governorship. Subhypothesis H_{5a} is that a state legislature adopts redistricting law reform *if the governor is an institutionally-powerful position in state politics*. A governor who is more powerful may be more capable of enacting a reform agenda within a state.

3.4.1 Governors

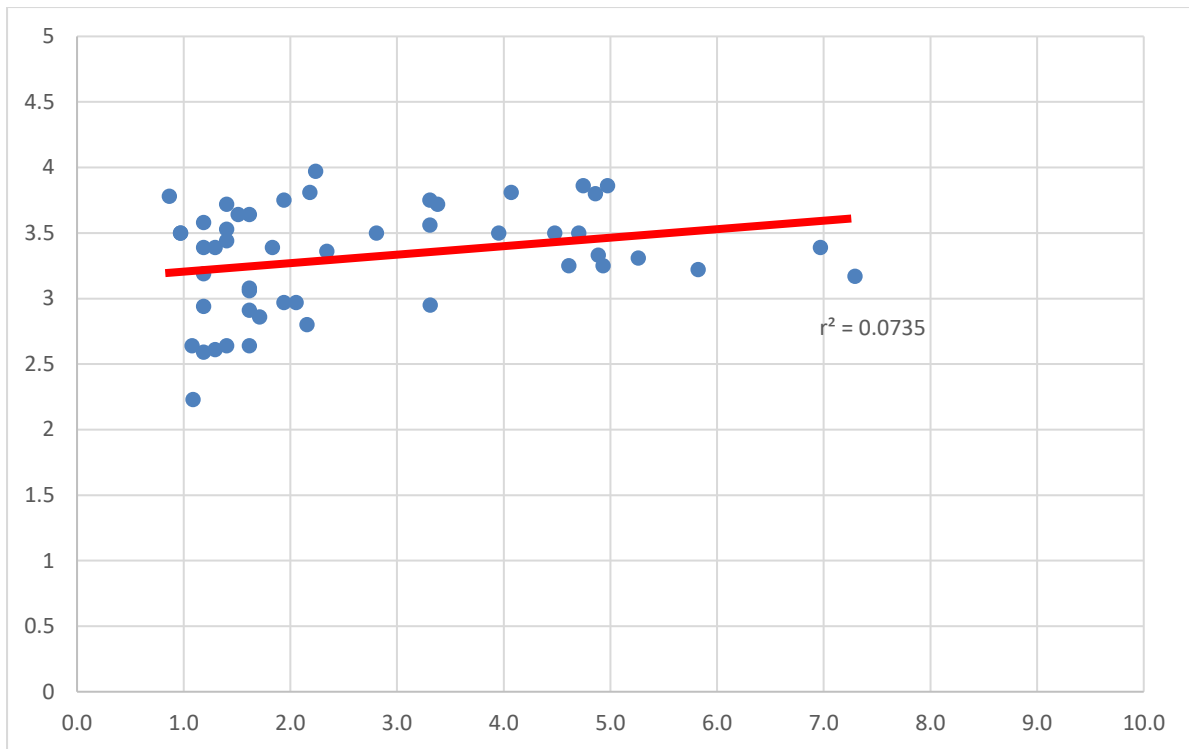
Scholars have developed various ways to measure and compare the power of state governors. One approach is to develop an index of gubernatorial institutional power that accounts for factors such as the number of other statewide elected executives, a governor's potential tenure in office, and gubernatorial control over appointments, budgeting, and legislation (through types of vetoes) (Ferguson 2018). Figure 41 compares two indexes of the states: the redistricting index and the governor's institutional-powers index reported by Ferguson (2018, 252-253). For the Ferguson index states receive a score out of five, the average score is 3.23, and the range of scores include North Carolina with a weak governor (score 2.56/5) and Alaska with a strong governor (3.94/5). The scatterplot shows no significant association between the two indexes.

Figure 41: RNI Comparison with Gubernatorial Institutional-Powers Index (2018)



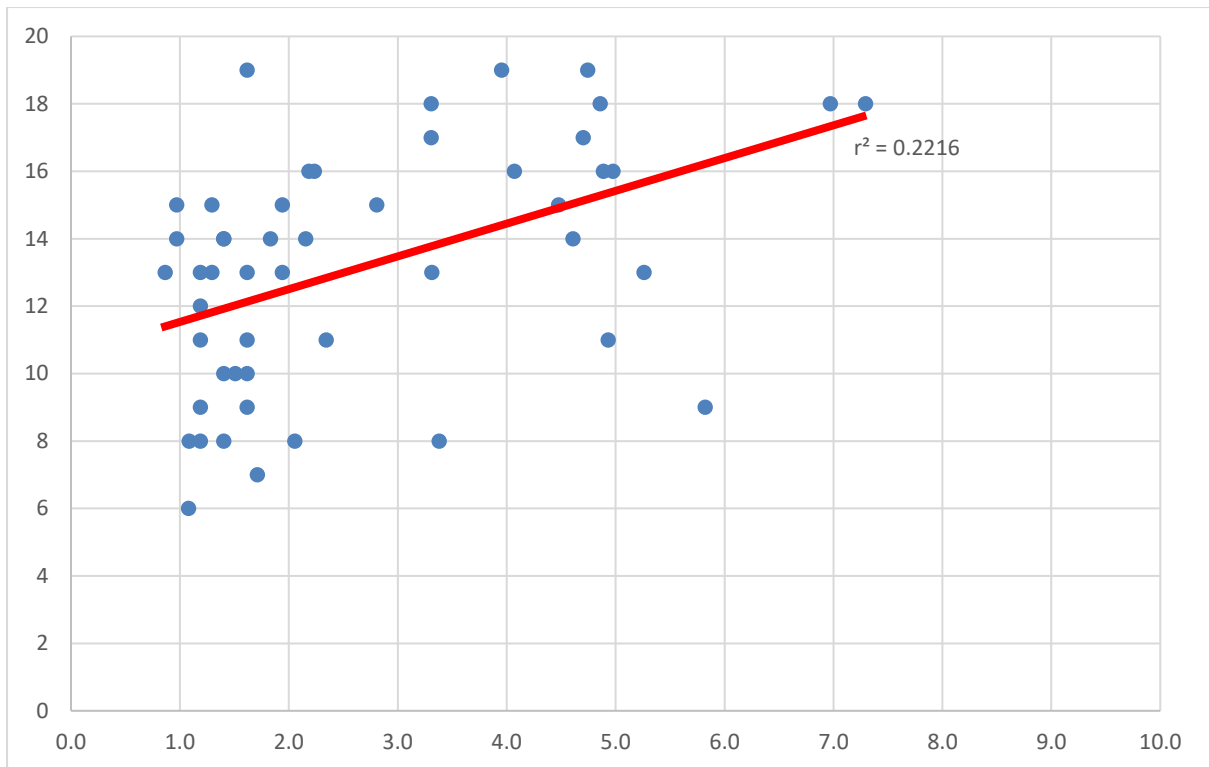
One component of the Ferguson index, party control, measures a governor’s influence on the legislature by considering the proportion of legislators from his or her party. The Ferguson data reflects party control of governorships and legislatures in the mid-2010s. This index component has been recalculated using 2021 data, and the whole gubernatorial index updated accordingly. Figure 42 re-compares the redistricting index with this revised version of Ferguson’s index. The revised average score is 3.32, reflecting slightly fewer governors with opposition-controlled legislatures, and the new range of scores includes a low of North Carolina (score 2.23/5) and a high of Connecticut (3.97/5). However, the scatterplot still shows no significant association between the two indexes.

Figure 42: RNI Comparison with Gubernatorial Institutional-Powers Index (2021)



An alternative approach would be to use a historical measure of gubernatorial power rather than one that seeks to be contemporary. Beyle (1968) evaluated the power of governors in the mid-1960s (and several times since then), revising the original index of Schlesinger (1965). Redistricting reform since the 1960s might be more associated with gubernatorial power as determined early in the period being studied rather than at the end of that period. According to Beyle’s data, Hawaii receives the highest rating (19/19) and has the strongest governor, whereas South Carolina has the lowest rating (6/19) and weakest governor, and the average of all states is 13.18/19. Figure 43 compares the redistricting index with Beyle’s 1968 power index.

Figure 43: RNI Comparison with Gubernatorial Combined Power Index (1968)



The scatterplot using historical gubernatorial power shows a moderate association between the two indexes. The $r^2 = 0.2216$ in figure 43 is three times the value of the contemporary data from figure 42, where the $r^2 = 0.0735$. Another way of presenting this data is shown in figure 44, which reports a rank correlation between Beyle's index and a rank ordering of the redistricting index, and identifies a similar $r^2 = 0.2608$. If governors play a pivotal role in achieving redistricting reform, then variations in their institutional capacities across the states *as measured today* do not appear to be relevant to getting such reform accomplished.

However, efforts to measure gubernatorial power at *points in the past* show some association with the state of redistricting systems today. As reported in table 31, of the ten states with the highest scores in the redistricting index, six are also in the top ten of the ranking for gubernatorial power in the 1960s.

Figure 44: RNI Rank Comparison with Beyle Gubernatorial Index Rank

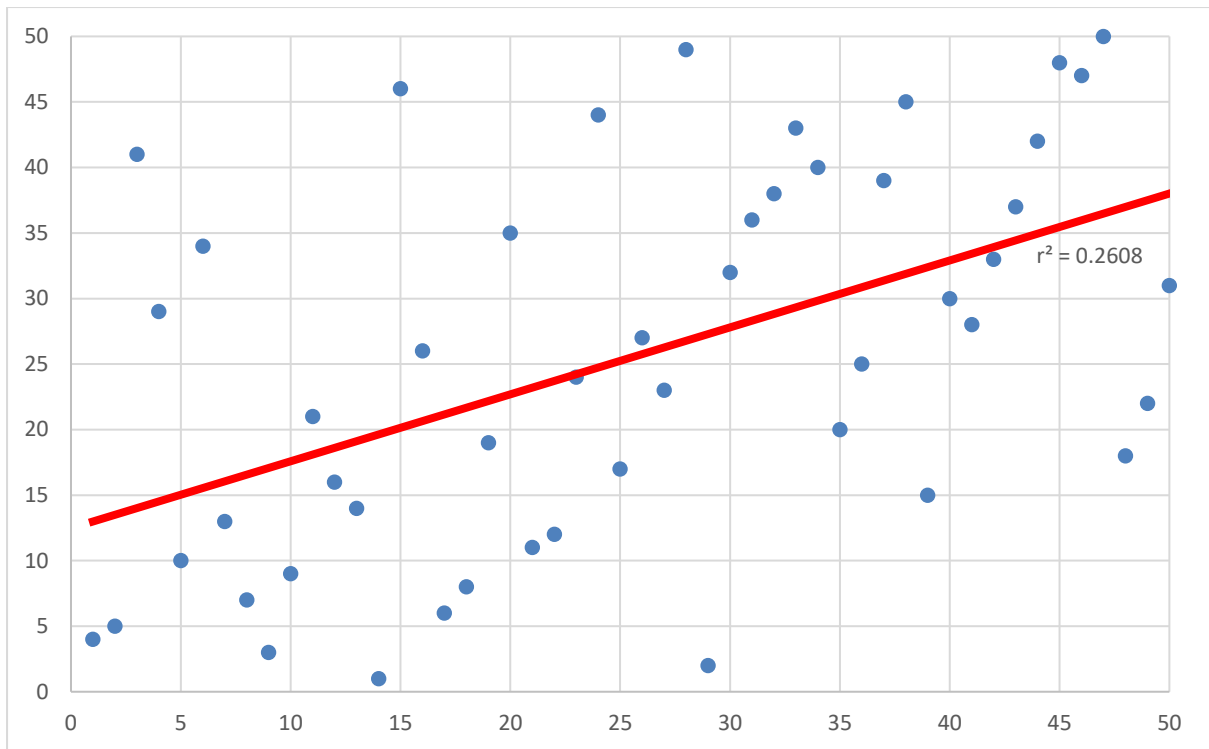


Table 31: Top Ten and Bottom Ten States for Redistricting Index Rank with Beyle Rank

<u>State</u>	<u>Redistricting Index Rank</u>	<u>Beyle Rank</u>	<u>State</u>	<u>Redistricting Index Rank</u>	<u>Beyle Rank</u>
California	1	4	Georgia	41	28
Michigan	2	5	Indiana	42	33
Arizona	3	41	Wisconsin	43	37
Idaho	4	29	New Hampshire	44	42
Alaska	5	10	West Virginia	45	48
Iowa	6	34	North Carolina	46	47
Missouri	7	13	South Carolina	47	50
Washington	8	7	Tennessee	48	18
New York	9	3	Kentucky	49	22
Utah	10	9	North Dakota	50	31
<i>Average: 15.5</i>			<i>Average: 35.6</i>		

One further test of the gubernatorial power subhypothesis can be run. If data from the 1960s shows a small relationship and data from today shows no relationship, what would data about gubernatorial power from a mid-point between these two dates show? Mueller (1985)

repeated and updated Beyle's index for the 1980s. According to Mueller's data, Massachusetts receives the highest rating (20/20) and Mississippi the lowest rating (10/20), and the average of all states is 16.18/20. A scatterplot of this measure of gubernatorial power is tested against the redistricting index in figure 45 and a rank correlation between Mueller's index and a rank ordering of the redistricting index is reported in figure 46.

Figure 45: RNI Comparison with Gubernatorial Powers Index (1985)

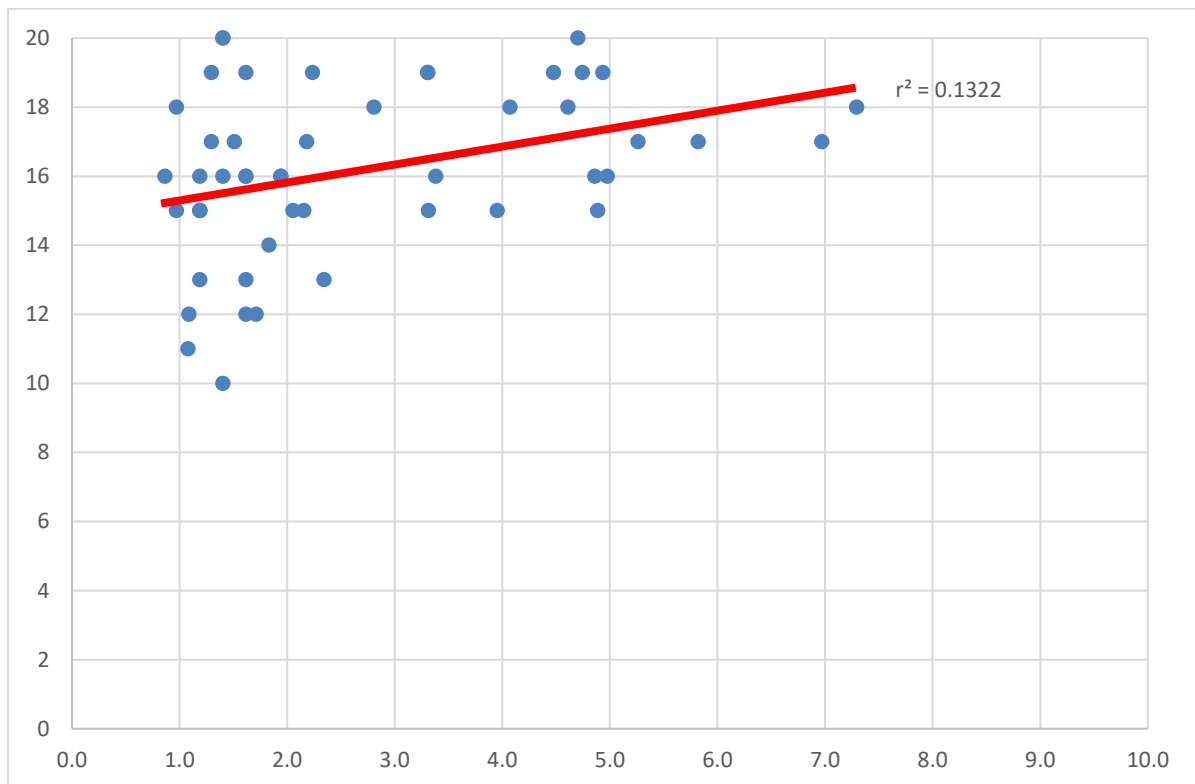
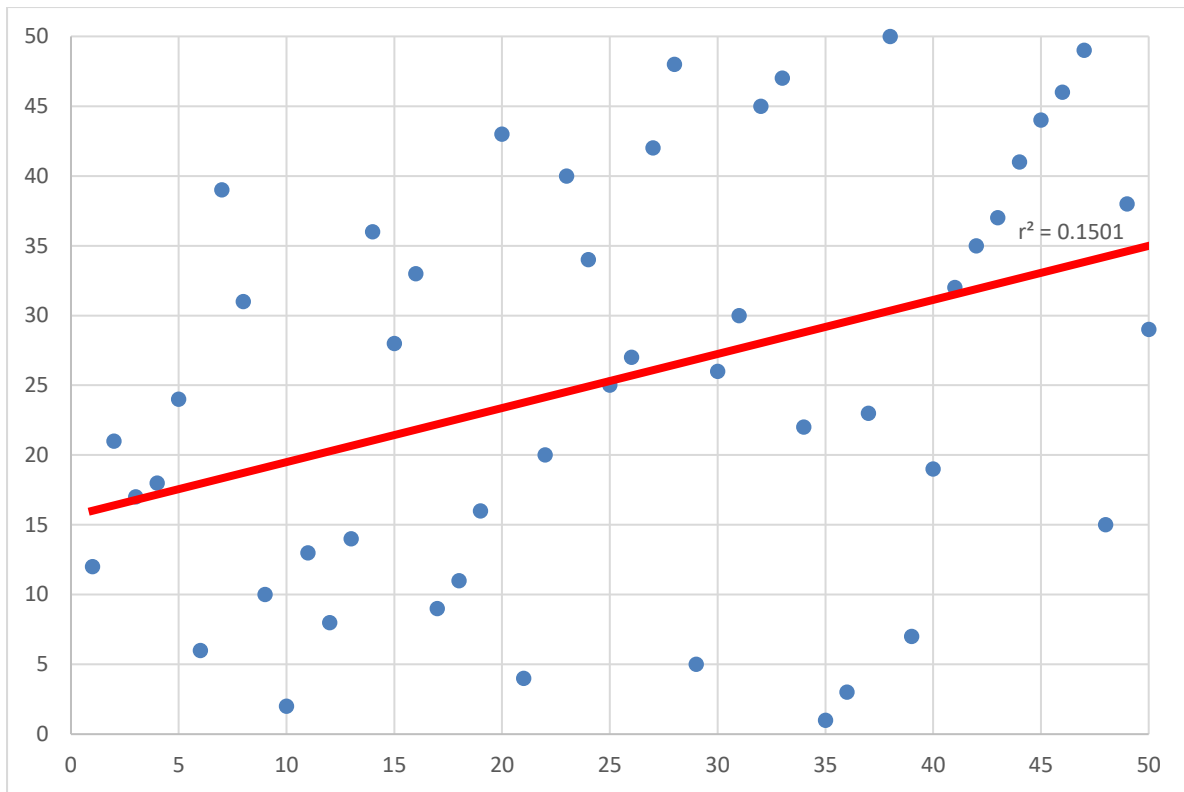


Figure 46: RNI Rank Comparison with Mueller Gubernatorial Index Rank



The Mueller measure of gubernatorial power across the states in the 1980s has a notably weaker relationship with the redistricting index than that found with the Beyle data from the 1960s, although Mueller is more significant than the Ferguson data from the 2010s. Of the top ten states in the redistricting index, only two states (Iowa and Utah) also rank in the top ten for gubernatorial power according to Mueller, down from six states according to Beyle. Subhypothesis H_{5a} is that a state legislature adopts redistricting law reform *if the governor is an institutionally-powerful position in state politics*. This subhypothesis is not supported when using recent measurements of gubernatorial institutional powers. However, it clearly had some merit in the second half of the 20th century, and further research is needed to investigate this relationship.

3.4.2 Legislatures

There are wide differences among the states in how state legislatures work. Some are highly professionalized full-time bodies, like Congress, while others are part-time bodies comprised of essentially amateurs or citizen legislators, more akin to a city council or county commission. Kousser and Phillips (2012, 57-58) argue that “the range of legislative professionalism across the American states is astonishing, meaning that different governors sit across the bargaining table with very different sorts of opponents.” Subhypothesis H_{5b} is that a state legislature adopts redistricting law reform *if the state legislature is a part-time citizens legislature*. A professional legislature may be more self-absorbed and concerned with protecting its own powers and privileges, whereas a citizens legislature might be more focused on the public interest and responsive to popular opinion about reform.

Peeverill Squire (1992, 2017) has periodically published measures of state legislative professionalism since 1992, with the most recent in 2017. Squire (2017, 362) defines professional state legislatures as “those with unlimited legislative sessions, superior staff resources, and salaries sufficient to allow members to pursue service as their full-time occupation.” According to Squire’s data, the states with the highest scores are California (0.629) and Massachusetts (0.431) and the lowest are Wyoming (0.081) and New Hampshire (0.048). The average score is 0.225, close to the scores of Oklahoma (0.229) and Oregon (0.214). A scatterplot of this measure of legislative professionalism is tested against the redistricting index in figure 47 and a rank correlation between Squire’s index and a rank ordering of the redistricting index is reported in figure 48.

Figure 47: RNI Comparison with Squire Index of Legislative Professionalism (2017)

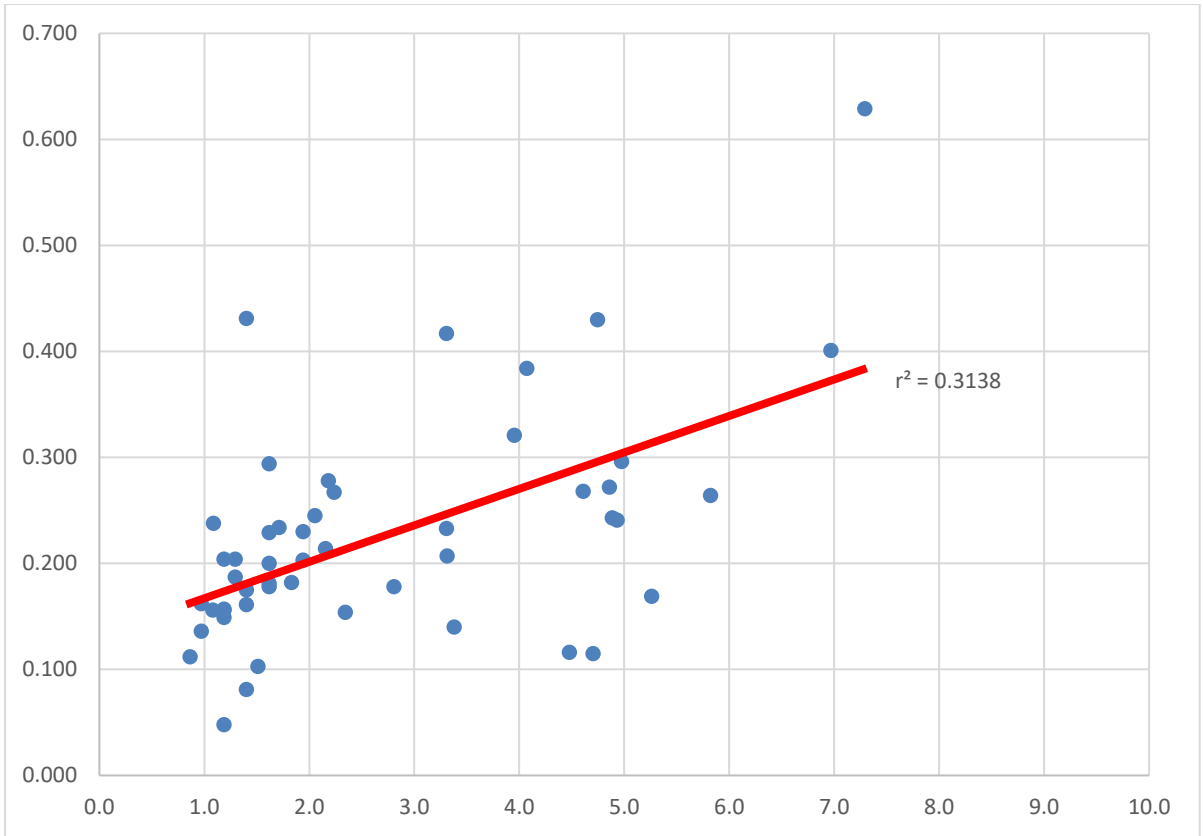
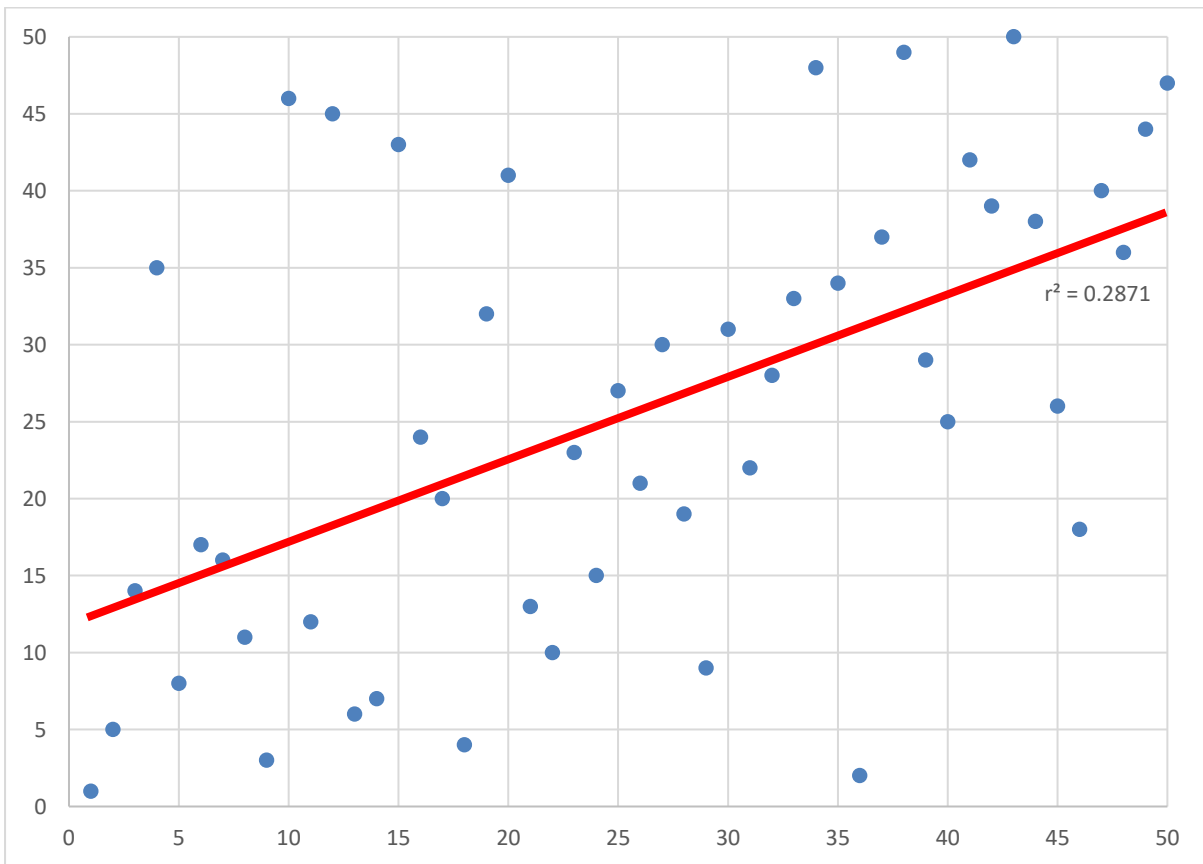


Figure 48: RNI Rank Comparison with Squire Index Rank (2017)



The scatterplot using legislative professionalism shows a moderate association between the two indexes. The $r^2 = 0.3138$ reported in figure 47 is the most significant relationship that has been identified in this chapter, as is the $r^2 = 0.2871$ for the rank correlation between Squire's index and a rank ordering of the redistricting index. However, it is important to note that this relationship is in the *opposite direction* to the one framed in subhypothesis H_{5b}, which associated less professionalism with more redistricting reform, whereas the Squire data associates more professionalism with more reform. As reported in table 32, of the ten states with the highest scores in the redistricting index, four are also in the top ten of the ranking for state legislative professionalism.

Table 32: Top Ten and Bottom Ten States for Redistricting Index Rank with Squire Rank

<u>State</u>	<u>Redistricting Index Rank</u>	<u>Squire Rank</u>	<u>State</u>	<u>Redistricting Index Rank</u>	<u>Squire Rank</u>
California	1	1	Georgia	41	42
Michigan	2	5	Indiana	42	39
Arizona	3	14	Wisconsin	43	50
Idaho	4	35	New Hampshire	44	38
Alaska	5	8	West Virginia	45	26
Iowa	6	17	North Carolina	46	18
Missouri	7	16	South Carolina	47	40
Washington	8	11	Tennessee	48	36
New York	9	3	Kentucky	49	44
Utah	10	46	North Dakota	50	47
	<i>Average:</i>	<i>16</i>		<i>Average:</i>	<i>38</i>

In the previous subsection on gubernatorial power, it was found that a relationship was evident in the past but not in the present. An additional test that can be done is to use historical data on legislative professionalism to see if that shows the same association depicted in figures 47 and 48. Squire (1992, 71) evaluated and rated the professionalism of legislatures using data from 1986-88. According to this data, four states had highly

professionalized legislatures at the time – New York, Michigan, California, and Massachusetts. “Each of these bodies pays well, meets in unlimited sessions, and provides ample staff” (Squires 1992, 71). New York receives the highest rating (0.659) and New Hampshire the lowest (0.42) (Squire 1992, 72). The average score is only slightly higher in 2017 than it was back in 1992 (0.225 instead of 0.221), but 37 states have a higher individual professionalism score (see appendix C for details).

Figure 49: RNI Comparison with Squire Index of Legislative Professionalism (1992)

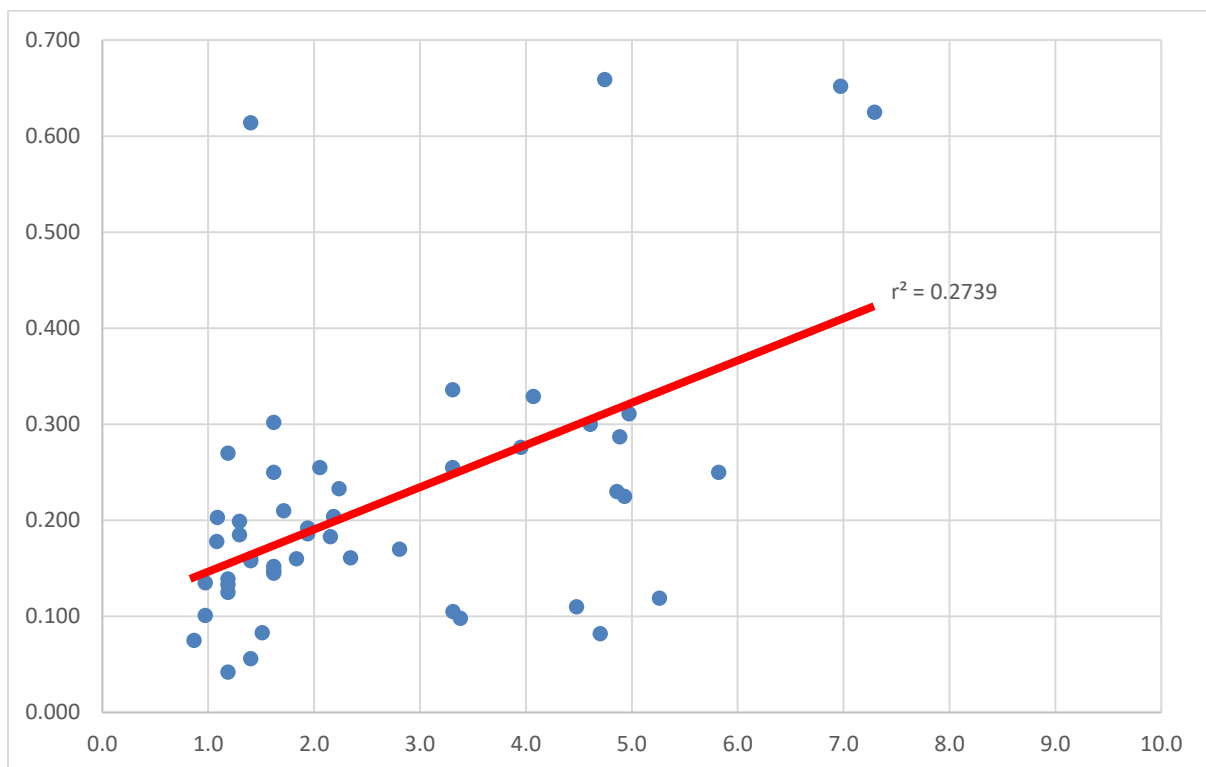
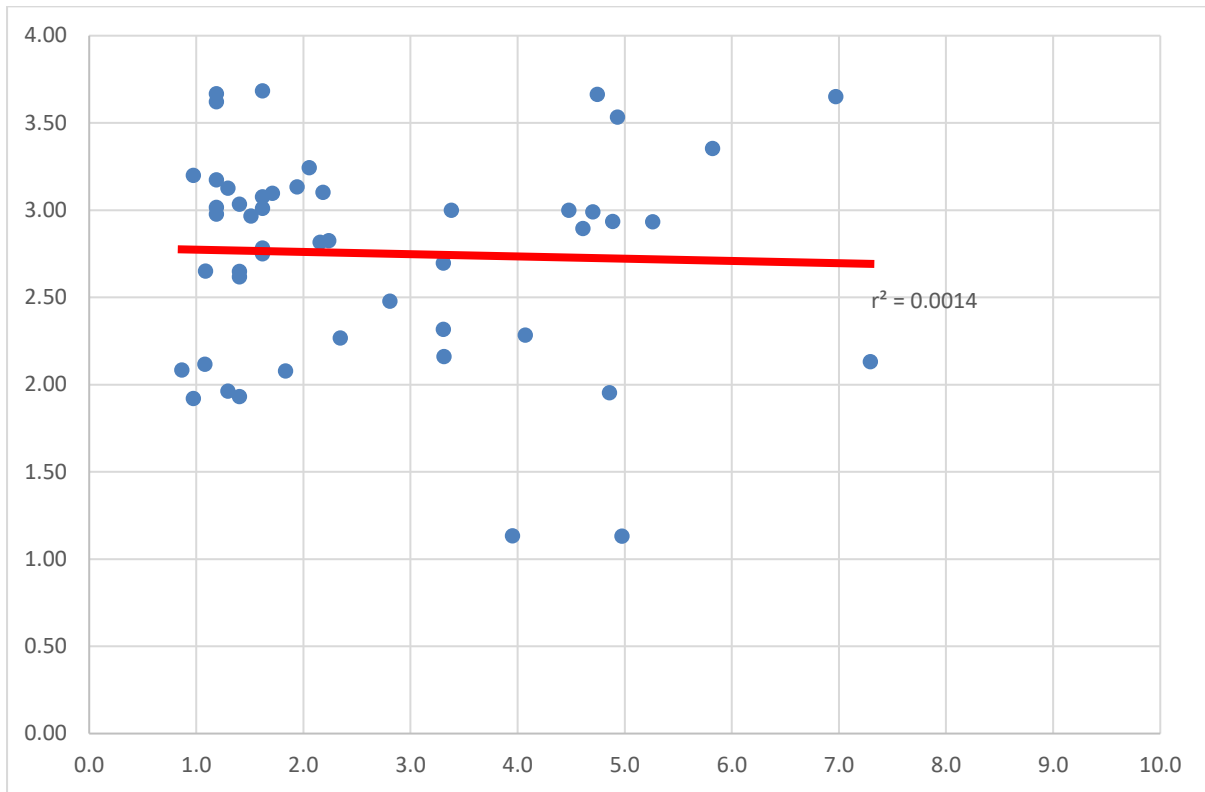


Figure 49 compares the redistricting index with Squire’s 1992 index. Unlike with gubernatorial power, a similar moderate association between the two variables is evident in both time periods (the 1980s and 2010s). Squire’s approach is not the only method for classifying US state legislatures by type. Some scholars and the National Conference of State Legislatures (NCSL) prefer to assign states to several basic categories. For instance, the

Table 33 calculates the Squire index means for each of the five types and confirms a clear relationship between two. The redistricting index mean for the sets of states assigned to each type has also been calculated and shows that the association of more professionalism=more reform is also supported by this measure of state legislature type. For example, the four full-time legislature states have a high redistricting index mean of 5.6/10, while the four part-time legislature states have a low index mean of 2.1/10. Overall, there is sufficient evidence to conclude that subhypothesis H_{5b} (that a state legislature adopts redistricting law reform if the state legislature is a part-time citizens legislature) is not supported by the data, which instead suggests that the opposite subhypothesis (that a state legislature adopts redistricting law reform if the state legislature is a professional legislature) is better supported.

Clucas (2007) argues that “more professional state legislatures tend to have more powerful leaders.” This might explain why this subsection has found that professionalism is associated with more redistricting reform. If state legislative leaders, such as the state house speaker or state senate president, are more institutionally powerful in professional legislatures, then they may be better-placed to promote and enact political reforms that they support. Declercq (1977) comparatively rated the states on state legislative leadership strength, and an index of state house speaker powers was developed by Clucas (2001). Mooney (2013, 266-268) has updated the index approach to cover thirty years, organized into separate ratings of state house speaker formal powers for fifteen two-year periods for each state. This data has been aggregated into a single mean house leadership rating per state for our purposes, and then compared to the redistricting index in figure 51. The highest score and strongest state house speaker belongs to Oklahoma (3.68), the lowest rating is Hawaii (1.13), and the average is 2.75.

Figure 51: RNI Comparison with Mooney Index of Legislative Leader Powers (2013)



The scatterplot in figure 51 illustrates that there is no support in this data for the idea that legislative leadership powers are associated with the redistricting index. The reason for an association between state legislative professionalism and redistricting reform remains to be determined.

3.5 Analysis of Political Parties

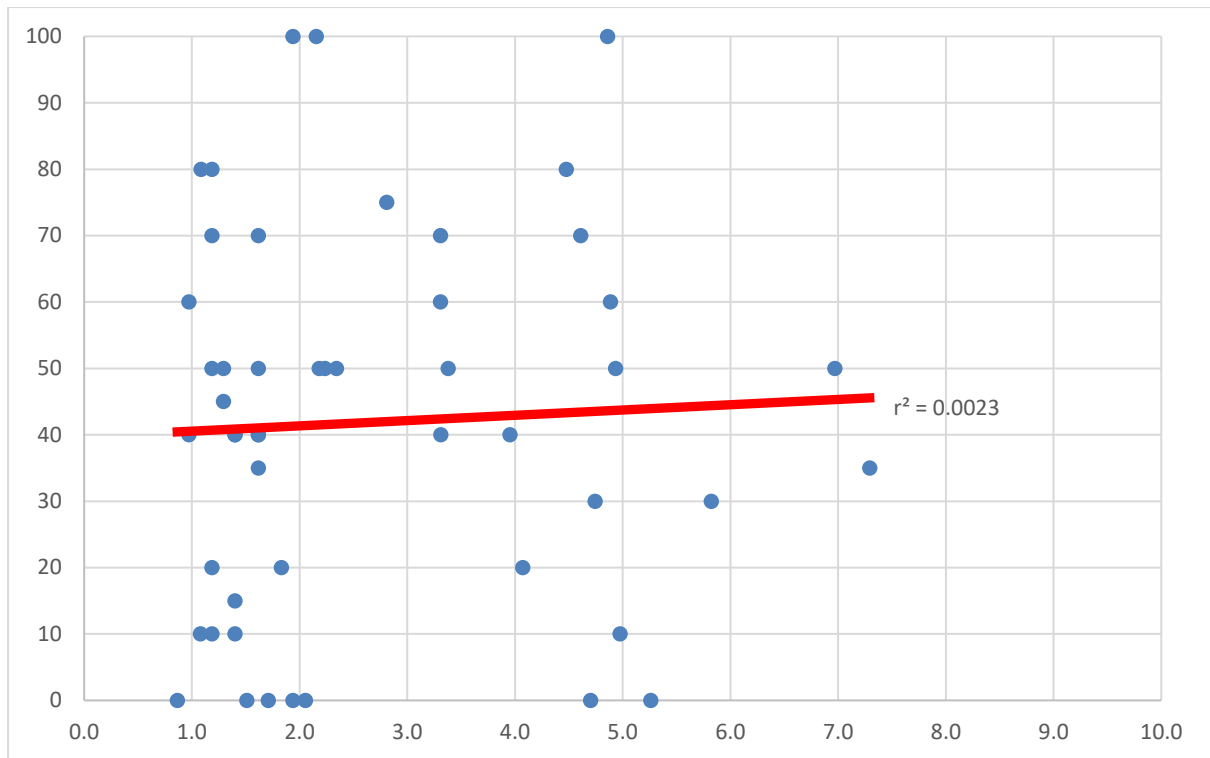
Political parties are essential to how democracies work today, and US parties compete fiercely to control state governments where possible. Political parties are important in state politics, even in places that value non-partisanship like Nebraska (Benes 2021). Hypothesis H₄ is that a state legislature adopts redistricting law reform if it is advantageous for state

political parties. There could be a simple relationship between reform and partisanship. For example, are reformed states all Democratic states or all Republican states? To examine this possibility, subhypothesis H_{4d} is that a state legislature adopts redistricting law reform if the Democratic Party is in power.

3.5.1 Democratic Party Control

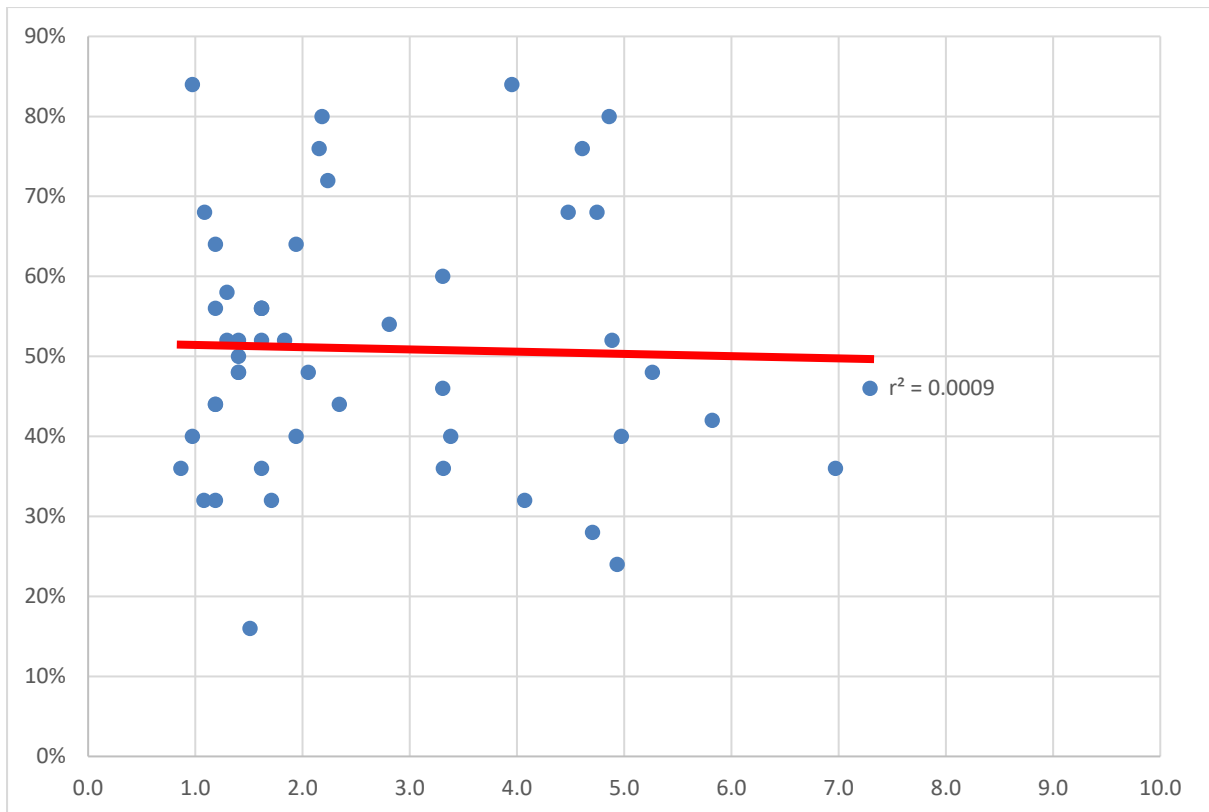
There are numerous measures or data we could use to operationalize the Democratic Party being in power. For example, party control of the governor's office or party control of the state legislature. A state may be more likely to reform the more time Democrats spend in office. Figure 52 compares the redistricting index for state legislatures with the proportion of time that the Democratic Party has spent in power in the governor's office over twenty years from 2001 to 2020 (NGA 2021). The scatterplot illustrates that there is no significant relationship between the partisan identity of state governors and the redistricting index score of states. Some states with high scores (Arizona, California, and Iowa) have not had Democratic governors in office for a significant period of time, whereas some states with low scores (Kentucky, New Hampshire, and North Carolina) have had Democratic governors in office for a significant proportion of the last two decades. It can be observed that partisan variation over time is relatively high among governors, with 80% of states having had both Democratic and Republican governors during the last twenty years. Few states score 100 (20 years of Democratic governors) or 0 (20 years of Republican governors) on the vertical axis in figure 52.

Figure 52: RNI Comparison With % Time Under Democratic Governors (2001-2020)



A criticism of the analysis in figure 52 is that the twenty-year period is arbitrary. However, any time period for this test will essentially be arbitrary. One option is to re-run the test using a longer time period. The United States has been in a new era of gerrymandering since the 1960s, after federal courts ended malapportionment and Congress enacted the Voting Rights Act. Figure 53 repeats the check on Democratic governorship time using a fifty-year period instead. Over that interval, Hawaii and Kentucky have the highest proportion of time with Democratic governors (42 years out of 50 or 84%), South Dakota has the lowest (16%), and the all-state average is 51%, suggesting that the US two-party system is evenly balanced with regard to state governorships in the long run. No states score 100% or 0% on the vertical axis this time. However, the scatterplot in figure 53 still finds no association between party control of the governorship and the redistricting index.

Figure 53: RNI Comparison With % Time Under Democratic Governors (1971-2020)



Control of the state legislature is the other major source of political power in the states.

Figure 54 compares the redistricting index with the proportion of time over the last twenty years that the Democratic Party held a majority in both state houses (NCSL 2021b). And figure 55 compares the RNI with the proportion of time over the last twenty years that there was divided government in the legislature, that is, one party had a majority in one chamber and a different party held a majority in the other chamber. The scatterplots illustrate that there is no significant relationship evident between state legislative partisan control and the redistricting index.

Figure 54: RNI Comparison With Proportion of Time With Democratic State Legislature

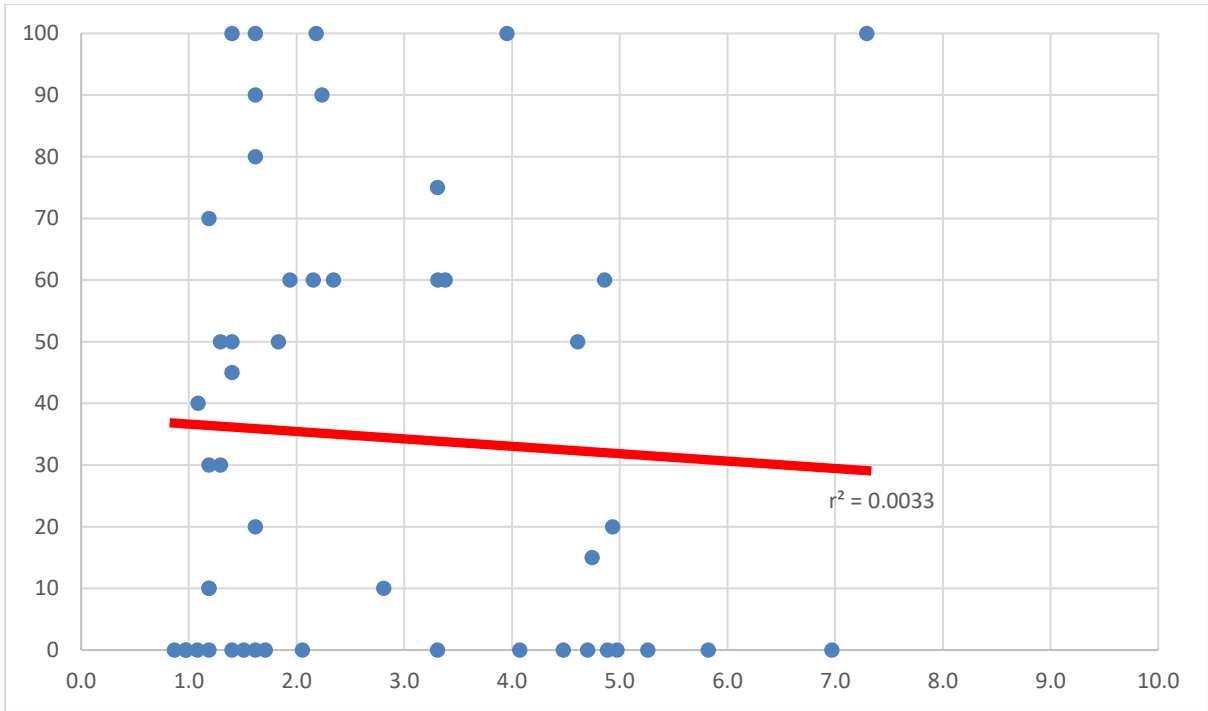
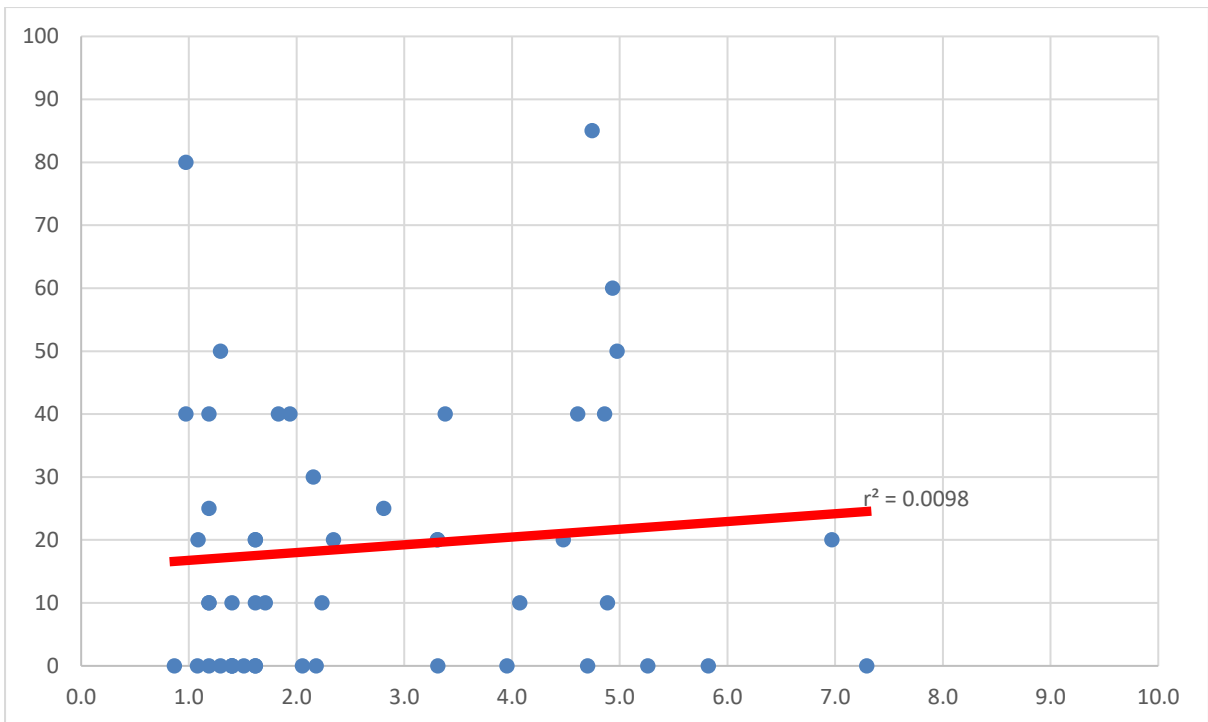


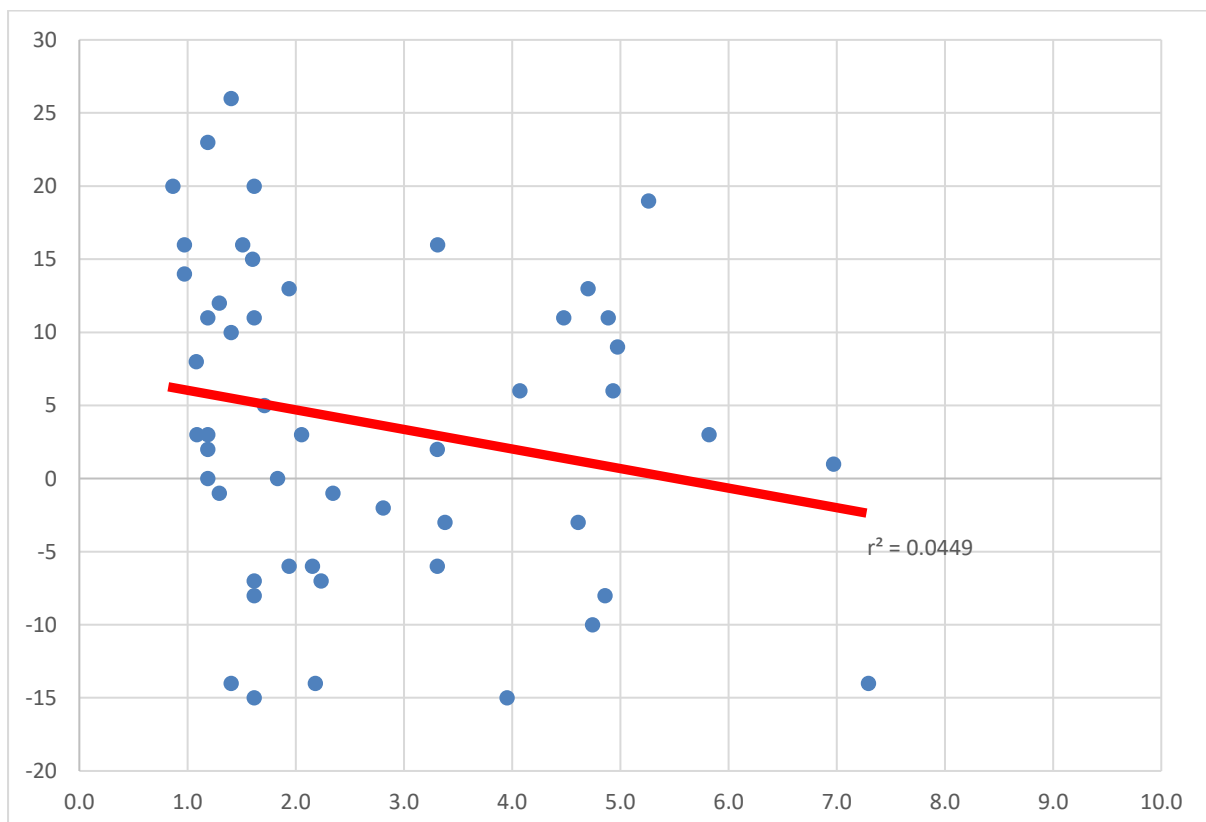
Figure 55: RNI Comparison With Proportion of Time With A Divided State Legislature



This subsection has so far compared used historical election data about partisanship patterns for state offices. Another popular measure of partisanship is the partisan voting index (PVI),

introduced by Charlie Cook in 1997 (Cook and Wasserman 2014). PVI measures how states and districts perform compared to the nation as a whole over the past two presidential elections. It produces ratings such as D+2 or R+10, where D+2 means a state/district was two percentage points more Democratic than the nation, or R+10 means a state/district was ten percentage points more Republican than the nation (Wasserman and Flinn 2021). If a Democrat was elected president by a five point margin nationwide, he or she might be expected to win a D+2 state by seven points and to lose a R+10 state by three points. State PVI values for 2021 (thus based on the 2016 and 2020 presidential elections) have been converted into a single measure with negative values for a Democratic partisan lean and positive values for a Republican lean, and have been compared to the redistricting index in figure 56.

Figure 56: RNI Comparison With State PVI (2021)



The figure 56 scatterplot shows little relationship between the variables, and if California is omitted the r^2 drops further to 0.0179. Consistent with the above measures of partisan control, there is a lack of evidence in this data to support subhypothesis H_{4d}. The partisan leaning of a state or partisan identity of those in power in a state have not been plausibly connected to the redistricting index.

3.5.2 Polarization

The significance of political parties to redistricting reform may depend not on which side is in power but on the amount of distance and hostility between the two sides. Polarization is the “ideological distance” between political parties (Sartori 1976, 126). Subhypothesis H_{4c} is that a state legislature adopts redistricting law reform if there is low polarization between the state’s major parties, because that may lower the stakes or passions involved in political conflict. A party may be more likely to compromise on the redistricting system if they do not perceive the opposite party to be an enemy that must be defeated at all costs because they are so different.

Shor and McCarty (2011, 2020) analyze the ideological polarization of all US state legislatures. They aggregate individual legislators into an ideological party median per legislative chamber, and their preferred measure of polarization is then the distance between the Democratic and Republican party medians for each chamber (Shor and McCarty 2020, 4). Figures 57 and 58 compare the redistricting index with Shor and McCarty’s 2020 dataset for the polarization of state lower houses, with figure 57 reporting a snapshot of polarization for one year (2018 or the latest year available) and figure 58 reporting polarization as measured

over three decades (the mean of all years available in the period from 1993 to 2018). According to data for the year 2018, the three most polarized state legislatures are in California (3.024), Colorado (2.908), and Arizona (2.837), and the three least are in South Dakota (0.963), Rhode Island (0.657), and Hawaii (0.487).

Figure 57: RNI Comparison With State House Polarization (2018)

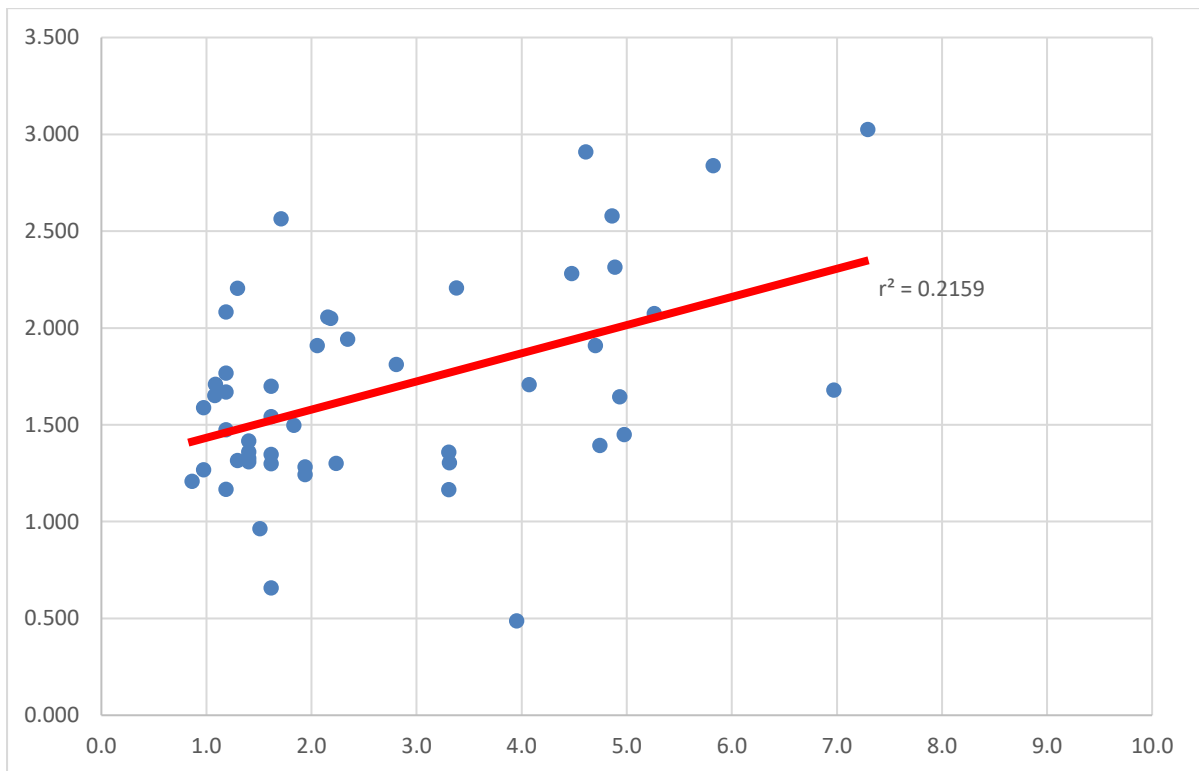
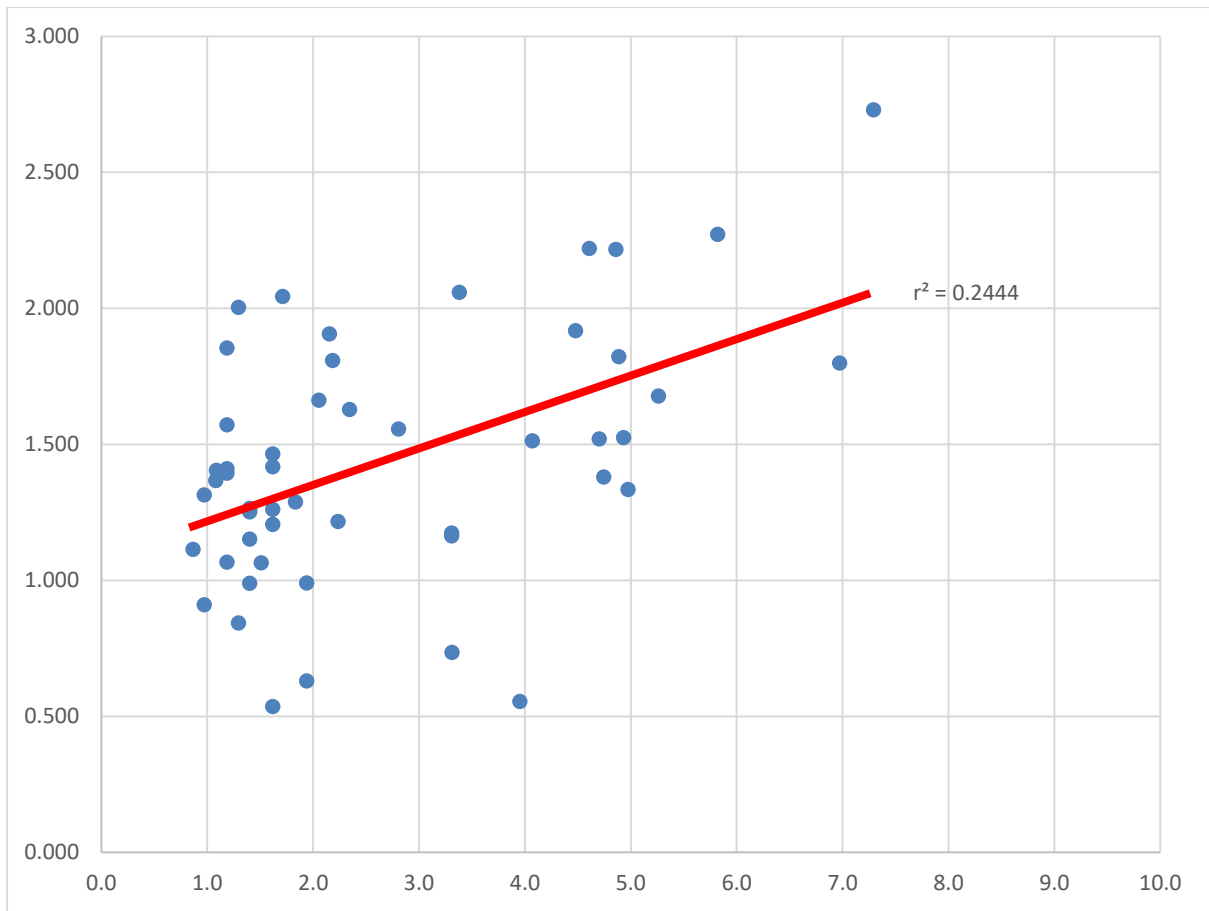


Figure 58: RNI Comparison With State House Polarization (1993-2018)



The scatterplots in both figures illustrate a moderate relationship between the two variables, with the $r^2 > 0.2$ for both the one-year and 25-year measures. However, the *direction* of the association is the opposite to that expected by subhypothesis H_{4c}. Instead of lower polarization=more reform, the figures depict higher polarization=more reform, as measured by the redistricting index. (Omitting the most polarized state, California, from the data (the top right dot) does not affect the 1-year r^2 but does reduce the 25-year r^2 to 0.1612.)

Table 34: States with RNI ≥ 4.0 and Polarization Values

<u>State</u>	<u>Redistricting Index</u>	<u>Polarization 1993-2018</u>
California	7.3	2.731
Michigan	7.0	1.799

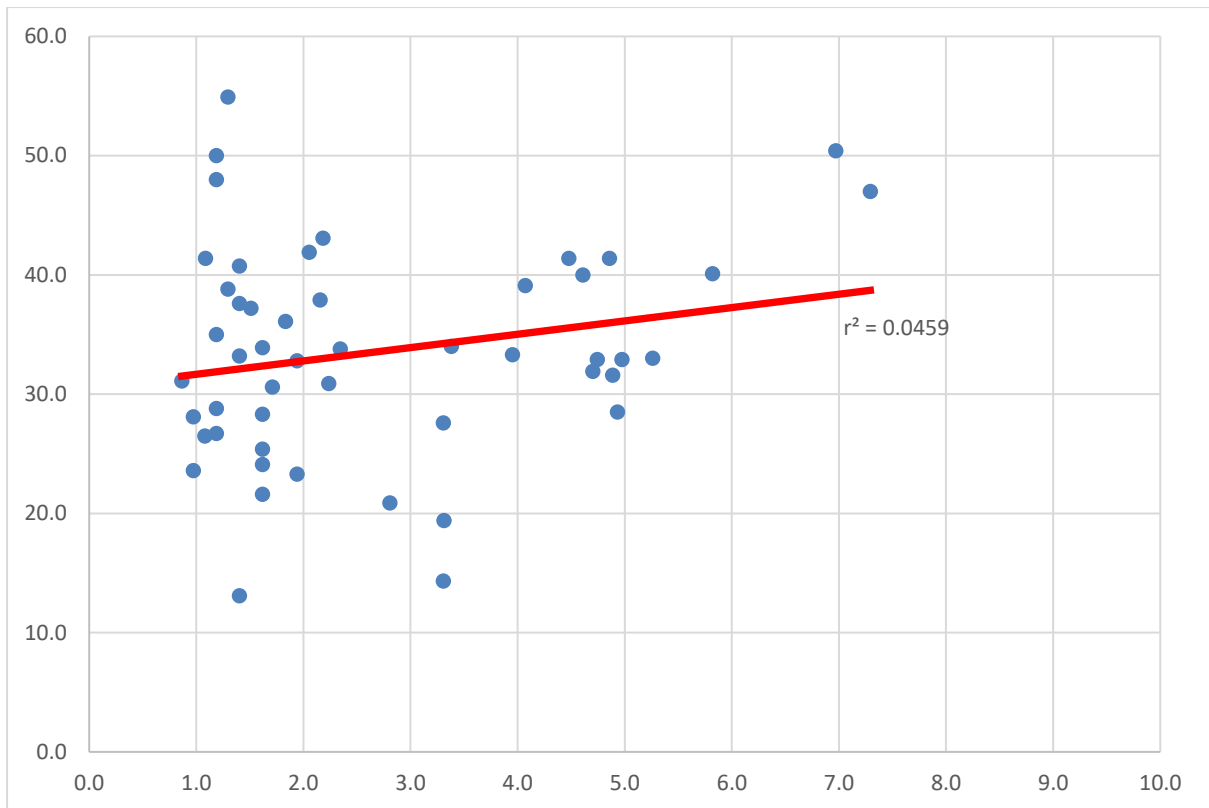
Arizona	5.8	2.272
Idaho	5.3	1.678
Alaska	5.0	1.334
Iowa	4.9	1.525
Missouri	4.9	1.823
Washington	4.9	2.217
New York	4.7	1.380
Utah	4.7	1.521
Colorado	4.6	2.221
Montana	4.5	1.918
Ohio	4.1	1.513
Hawaii	4.0	0.555
<i>Top 14 states average</i>		<i>1.749</i>
<i>All 50 states average</i>		<i>1.444</i>

Table 34 shows the polarization data for all states that scored 4.0 or more on the redistricting index. The average for that set is slightly higher than the average for all states. However, the redistricting index measures a state's redistricting system regardless of how that system was created or by whom. Reforms adopted by ballot initiative and reforms adopted by state legislative action are both reflected in the state constitutions and laws from which the index was derived. California and Arizona are highly polarized states according to Shor and McCarty, and have a high level of redistricting neutrality according to the index. But redistricting reform in those two states occurred mainly by ballot measures, not by the state legislatures. The explanation is thus: a highly-polarized state legislature did not agree on reform, and was bypassed by voters and interest groups who succeeded in enacting reform at the ballot instead. By contrast, for states that implemented redistricting system changes legislatively, like Iowa or Utah, their polarization number (1.525, 1.521 respectively) is close to the national average of 1.444. Therefore, subhypothesis H_{4c} (that a state legislature adopts redistricting law reform if there is low polarization between the state's major parties) has not been supported by this data, but the opposite hypothesis is also not supported despite the scatterplots in figures 57 and 58.

3.5.3 Competitiveness

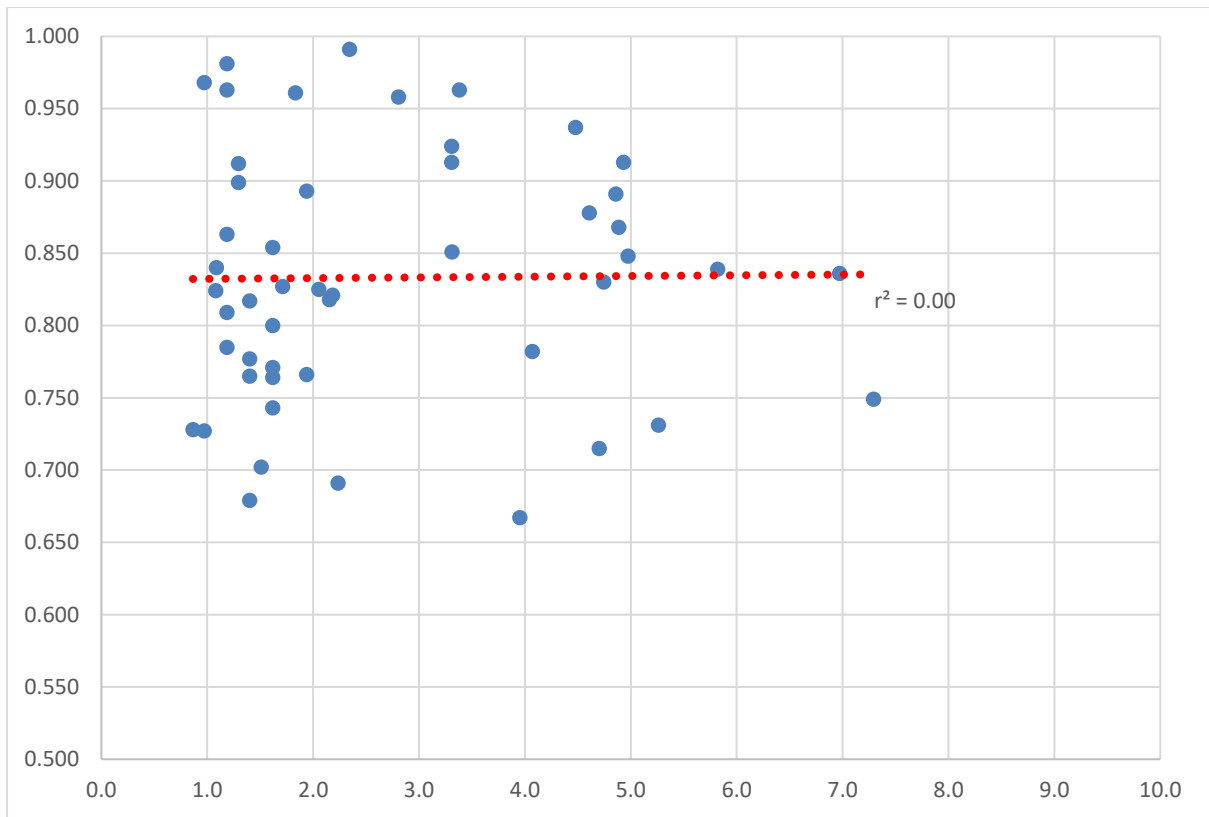
One final aspect of political parties that can be measured and compared quantitatively is election competitiveness. Subhypothesis H_{4b} is that a state legislature adopts redistricting law reform if elections are competitive between the state's major parties. There is no consensus about how to measure competitiveness (Cox, Fiva, and Smith 2020). One simple option is that Pally and Graves (2021) prepare an annual report for Ballotpedia that evaluates the states to create a competitiveness index, comprised of three factors: the percentage of open seats, the percentage of incumbents in contested primaries, and the percentage of seats with major party competition. Louisiana (54.9) and Michigan (50.4) are rated the most electorally-competitive states, and New Jersey (14.3) and Massachusetts (13.1) the least. For example, 99% of state legislative seats in Michigan were contested by both parties at the last election, but only 20% of seats were so contested in Massachusetts. However, according to the scatterplot in figure 59, there is no relationship evident between a state's recent electoral competitiveness as measured by Pally and Graves and its score on the redistricting index.

Figure 59: RNI Comparison With Competitiveness (Pally and Graves 2021)



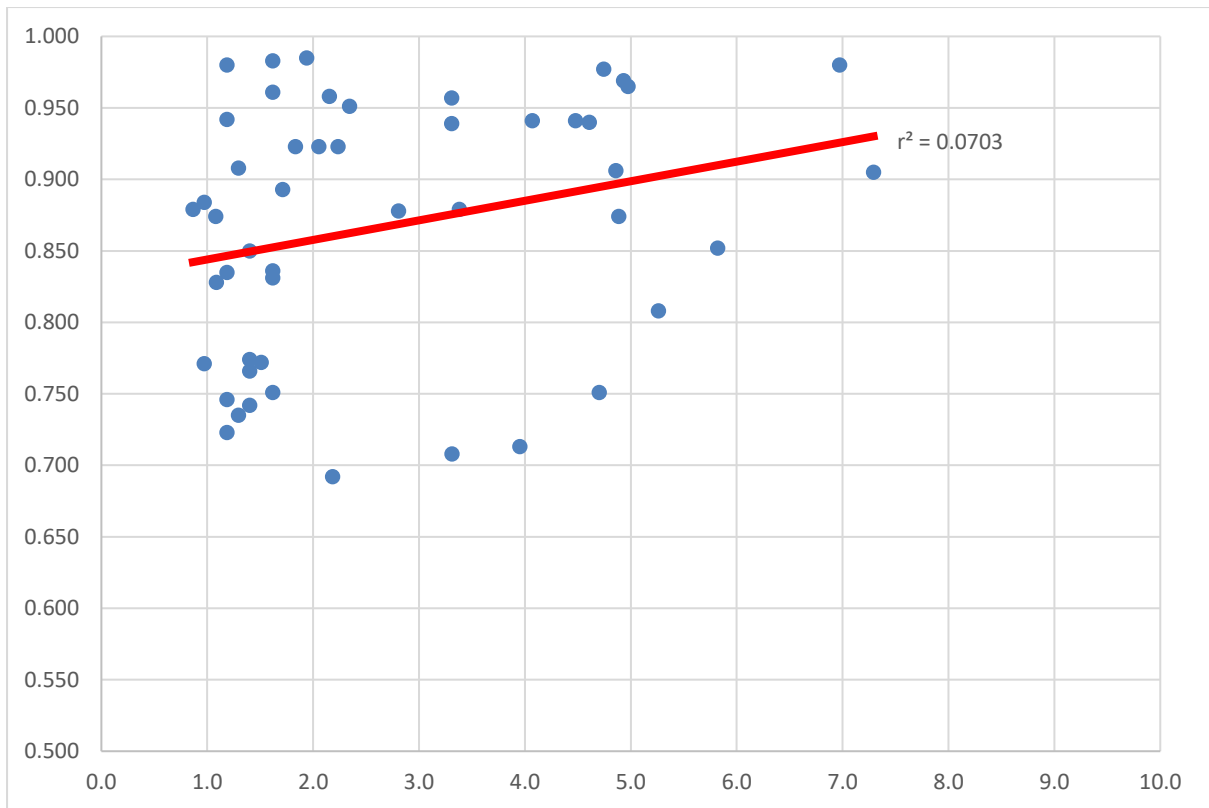
A popular academic measure of state-level election competition is the Ranney index (Holbrook and Van Dunk 1989). Originally developed by Ranney (1965), this index gives states a score between 0.500 for no competition to 1.000 for perfect competition (Holbrook and La Raja 2018, 80). In Holbrook and La Raja’s (2018, 81) most recent calculation of the Ranney index (covering 2012 to 2017), the most competitive states are Maine (0.991) and New Hampshire (0.981) and the least competitive are Wyoming (0.679) and Hawaii (0.667). Figure 60 compares this 2010s competitiveness data with the redistricting index and finds literally zero relationship between the two variables.

Figure 60: RNI Comparison With Competitiveness (Holbrook and La Raja 2018)



The Beyle gubernatorial power index discussed above found an association in past measures that was not in more recent measures. Donovan, Mooney, and Smith (2013, 182-183) report a calculation of the competition index for the period 1980-2000. For this data, the most competitive states are Delaware (0.985) and Illinois (0.983) and the least competitive are Arkansas (0.708) and Maryland (0.692), with Hawaii (0.713) bumped to third-least competitive. This measure has been tested in figure 61, but only a weak association is evident in that time period, albeit that slightly greater than for the 2010s.

Figure 61: RNI Comparison With Competitiveness (Donovan, Mooney, and Smith (2013))



One criticism that can be made of the election competitiveness measures is that they aggregate low competition within a state where the Democratic Party is dominant and low competition where the Republican Party is dominant. For example, in Holbrook and La Raja’s data Republican Wyoming (0.679) and Democratic Hawaii (0.667) receive close to the same score. However, they also classify states into three categories: those with two-party competition, one-party dominance by Democrats, or one-party dominance by Republicans (Holbrook and La Raja 2018, 81). Table 35 identifies the states per category and shows the means for the redistricting index values for the states assigned per category.

Table 35: RNI Means for Election Competitiveness Categories

<u>Category</u>	<u>Number of states</u>	<u>States assigned</u>	<u>Redistricting Index Mean</u>
-----------------	-------------------------	------------------------	---------------------------------

One-party dominant Republican	19	AL, AZ, FL, GA, ID, IN, KS, MI, MS, NC, ND, OH, OK, SC, SD, TN, TX, UT, WY	2.4
One-party dominant Democratic	11	CA, CT, DE, HI, IL, MD, MA, NY, OR, RI, VT	2.8
Two-party competitive states	19	AK, AR, CO, IA, KY, LA, ME, MN, MO, MT, NV, NH, NJ, NM, PA, VA, WA, WV, WI	3.0
<i>All states</i>	<i>50</i>		<i>2.7</i>

The states Holbrook and La Raja identify as two-party competitive have a slightly higher mean score on the redistricting index, and the mean for the one-party dominant states is a little different depending on whether Democrats or Republicans are the dominant party. Interestingly, a similar result is achieved by using 2020 presidential election data to allocate states to the same three categories. Assigning states as Republican if won by Trump by more than 10% points, as Democratic if won by Biden by more than 10% points, and as two-party competitive if won by less than 10%, produces redistricting index means per category of 2.3/10 (Republican states), 2.8/10 (competitive states), and 3.1/10 (Democratic states). The data has not been found to support subhypothesis H_{4b} that a state legislature adopts redistricting law reform if elections are competitive between the state’s major parties. But there is a weak association between Democratic-dominated states having slightly more reform and Republican-dominated states having less.

3.6 Summary

The chief finding of this chapter is that a wide range of plausible factors usually utilized by political scientists to account for inter-state differences *do not explain* redistricting system variations, according to the data analyzed here. No variable used to examine demographic or partisanship hypotheses produced an r^2 value ≥ 0.1 , as summarized in Table 36. Many subhypotheses have thus not been supported, so the pool of suspects has been narrowed.

Table 36: Summary of Findings

DEMOGRAPHIC VARIABLES	r ²
State population size	0.0906
House seats per state	0.0869
State population density	0.0036
African-American population %	0.0759
Hispanic & Latino population %	0.0917
Majority-minority % of House districts	0.0531
State GDP per capita	0.0289
State ideology by congress	0.0395
State ideology by state legislators	0.0226
State ideology by voter liberalism	0.0126
State ideology by policy liberalism	0.0477

INSTITUTIONAL VARIABLES	r ²
Gubernatorial powers as at 2015	0.0313
Gubernatorial powers as at 2021	0.0735
Gubernatorial powers as at 1968	0.2216
Gubernatorial powers as at 1985	0.1322
State legislative professionalism as at 2017	0.3138
State legislative professionalism as at 1992	0.2739
Legislative leadership powers as at 2013	0.0014

POLITICAL PARTY VARIABLES	r ²
Time under Democratic governors (last 20 years)	0.0023
Time under Democratic governors (last 50 years)	0.0009
Time under Democratic state legislatures	0.0033
Time under divided state legislatures	0.0098
State PVI	0.0449
State legislature polarization as at 2018	0.2159
State legislature polarization over 1993-2018	0.2444
State electoral competitiveness as at 2021	0.0459
State electoral competitiveness over 2012-2017	0.0000
State electoral competitiveness over 1980-2000	0.0703

The two key political institutions in the states are the governorship and the state legislature. Variables measuring each institution were found to exhibit a weak or moderate correlation with inter-state redistricting variations. Beyle's historical measure of gubernatorial powers (figure 43) produced an $r^2 > 0.2$, two measures of the amount of polarization within the state legislature (figures 59 and 60) also produced r^2 values > 0.2 , and Squire's index of state legislative professionalism (figures 47 and 49) produced an $r^2 > 0.3$. What is the significance of these findings? The gubernatorial powers result is problematic because the connection exists in past data but not in recent data, according to figures 41 and 42. Time series analysis to consider changes over time to both gubernatorial powers and the redistricting index would therefore be valuable future research but is beyond the scope of this thesis. The state legislative professionalization and polarization results suggest a background *condition* that might be useful for reform but not a specific *mechanism* for reform. Further investigations are needed to examine how higher levels of professionalization or polarization may have facilitated redistricting reform within state legislatures.

With regard to all other variables, the general conclusion of this chapter is that redistricting reform within a state is not driven by what a state looks like, or its basic demographic and political features. The evidence discussed suggests that reform states are not all small states, or rich states, or Western states, or white states, or rural states, or Democratic states. Instead, to explain the research question of state differences, we must look further inside the black box of state politics, at individual leadership actions and political conditions, and qualitatively investigate individual cases of progress and debate about redistricting reform. Perhaps reformed states had governors or other leaders who fought hard for reform, plus certain kinds of favourable circumstances or opportunities that made legislative action more

likely to succeed. The next chapter discusses several state-level case studies of specific reform efforts that succeeded or failed.

CHAPTER 4

Stories of Success and Failure

“There is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new.”

– Niccolò Machiavelli (1532, 13)

“I counsel you, put down in record even your doubts and surmises. Hereafter it may be of interest to you to see how true you guess. We learn from failure, not from success!”

– Bram Stoker (1897, 114)

4.0 Introduction

If Leo Tolstoy had been a political scientist writing about redistricting in the United States, he might have claimed that all unreformed states are alike, and unreformed for the same reason, whereas all reformed states are different, and have each reformed in their own way (Tolstoy 1877, 1). This chapter investigates whether such a characterization would be warranted. It examines a series of individual states, exploring and discussing how and why a variety of redistricting reforms, large or small, were approved by state legislatures or why they failed.

States have adopted redistricting reform through at least three methods: action by the state legislature, or by constitutional convention, or by a citizens-initiated ballot measure. This chapter investigates nine cases of reform instigated by state legislative action, presented in chronological order: Texas (reform adopted in 1947), Maine (1975), Iowa (1980), Montana (1983), Idaho (1994), New Jersey (1995), Alaska (1998), Oklahoma (2009). This is followed by brief discussions of debates in California (2006) and New Hampshire (2019). For each case, primary and secondary sources are used to discuss what reform happened, how it happened, and possible reasons why it happened. Some states specify their core redistricting rules in their state constitution, so redistricting reforms adopted by state legislatures take one

of two forms: ordinary statutes that become law when signed by the governor; or proposed constitutional amendments that need to be submitted to voters for final approval.

Case selection was briefly discussed in chapter 1 in section 1.4.2 and the cases selected illustrated in figure 4. To provide geographic diversity, reforming states have been selected from every major region of the United States, for example, Iowa from the Midwest, Texas from the South, Maine and New Jersey from the Northeast, and Idaho and Montana from the West. To provide diversity on redistricting systems, states have been selected with high, medium, and low ratings from the redistricting index. Redistricting reform has been proposed in every state legislature at some point, but talk is cheap. Only state legislatures where a reform progressed to approval by one house were included on the shortlist of potential cases. Of the states not discussed in this chapter, many were excluded due to a lack of sufficient redistricting reform activity in their legislature. States with more significant activity, successful or unsuccessful, were prioritized instead.

4.1 Texas

Texas is the second largest US state, as measured by population (29 million) or land area (268,000 square miles) (see figure 62). Formerly Spanish and Mexican territory, it was annexed by the United States in 1845 following the Mexican-American War, after a brief period as an independent republic. The state of Texas was in the Union for only 15 years before it tried to leave, by joining the Confederacy in 1861. Despite its area, Texas accounted for only 6.5 per cent of the Confederate population²⁴ and no significant Civil War battles were fought there. After the war, Texas was a stronghold for the Democratic Party, and

²⁴ In the 1860 census, Texas had a population of 600,000 (including 200,000 slaves), whereas all soon-to-be Confederate states combined had 9.1 million people (including 3.5 million slaves) (US Census Bureau, 1861).

produced national leaders such as John Garner, Sam Rayburn, and Lyndon Johnson.²⁵ Only Democrats served as governor from 1874 to 1979, and only Republicans have served since 1995 (NGA 2018, 2021). Like the rest of the south, Texas was staunchly Democratic for a century, and is now solidly Republican. Texas voters last opted for a Democratic presidential candidate in 1976. Texas shares a long border with Mexico and its diverse population identifies as 42% non-Hispanic white, 40% Hispanic (of any race), and 14% African-American (US Census Bureau 2021c).

Figure 62: Map of Texas



Source: public domain map from Macky (2013)

²⁵ Garner was US House Speaker 1931-33 and Vice President 1933-41, Rayburn was Speaker 1940-47, 1949-53, and 1955-61, and Johnson was Senate Majority Leader 1955-61, Vice President 1961-63, and President 1963-69.

What reform happened

In 1947, the Texas state legislature passed Senate Joint Resolution 2 (SJR 2), which referred a constitutional amendment to voters on redistricting reform. The resolution created a five-member backup commission, called the Legislative Redistricting Board (LRB), to conduct state redistricting if the legislature failed to do so itself on time. The board consists of the House speaker, lieutenant governor, attorney general, comptroller, and land commissioner (Texas Constitution, Article III, §28). The amendment was approved by Texas voters in November 1948, by 77 per cent of the vote (Texas Legislative Council 2012, 14). The LRB has actually conducted redistricting in Texas several times.

How did reform happen

The Texas legislature in the early 20th century repeatedly resisted or outright failed to conduct redistricting, despite being required to do so under the state constitution after 1876 (Bickerstaff 1980, 622). Legislators reluctantly reapportioned in special sessions in 1901, 1911, and 1921, only under intense pressure from the governor (Keith 2013, 3). No reapportionment for the state legislature was completed after the censuses of 1930 or 1940 (Edwards 1989, 718), and the state's congressional districts were also not redrawn after 1940 (Aguilar 1998, 784). These legislative failures have been attributed to “a variety of complicated reasons”, especially “conflict between urban and rural representatives, regional conflicts, and partisan conflicts” among legislators (Snare 2001, 85).

Senate Joint Resolution 2 was introduced into the state Senate on January 16, 1947, and was referred to the Committee on Constitutional Amendments (Texas Senate Journal 1947, 32). The resolution was sponsored by Sen. George Moffett, a long-serving Democrat who had previously served as president pro tempore of the Senate in 1945–46 (Legislative Reference

Library 1999). A revised version of SJR 2 was reported out of committee on February 26, and was approved by the Senate as a whole by 23–7 on May 29 (Texas Senate Journal 1947, 283, 1246). The state House received the Senate resolution and referred it to its own Committee on Constitutional Amendments, which promptly recommended that the proposal be adopted (Texas House Journal 1947, 3004, 3032). The House approved SJR 2 on June 4, by a vote of 100–36 (Texas House Journal 1947, 3155-3156). This was the minimum needed for the resolution to pass, and one representative, Doyle Henry Willis, said he voted for it solely to provide the 100th vote. “I would not be the one man in this large body to keep the people of Texas from having a right to vote on this constitutional issue. My vote made an even 100”, Willis told his colleagues (Texas House Journal 1947, 3156).

In 1947, Texas was a one-party state; every single member of the state legislature was a Democrat (Dubin 2007, 181). The voting on the reform was not therefore about different partisan perspectives. One issue raised by opponents was concern about reducing the power of the legislature. Rep. James C. Spencer voted against the proposal, arguing that

this joint resolution provides for an unconstitutional delegation of legislative authority. It is the plain duty of the legislature to redistrict after the next census and no threat should be held over the head of the legislature. The traditional separation of legislative, executive and judicial branches should be maintained. (Texas House Journal 1947, 3156)

However, Rep. Spencer was from Henderson County in east Texas, a region over-represented in the legislature due to malapportionment, which may have affected his position (Legislative Reference Library 2009).

Geography appears to have been the key factor in the attitudes of legislators regarding reform. The legislature had long been dominated by agricultural and rural interests, and by east and north Texas (Keith 2013, 4). Legislators from overrepresented areas that would lose

from a more equal future apportionment were more likely to oppose SJR 2 (Lowe 1984, 99). Of the seven senators who voted against the resolution, none came from under-represented west Texas or south Texas, whereas two were from central Texas, and five from north Texas (Texas Senate Journal 1947, 3, 1246). Likewise, of the 36 representatives who voted against the resolution, none represented west Texas or south Texas, eight came from central Texas, and 28 were from north or northeast Texas (Texas House Journal 1947, 2-4, 3156).

Texas Governor Beaufort Jester, a Democrat who served 1947-1949, had no formal role in passing the reform bill, since it was a joint resolution that did not need his signature, and was instead referred to voters for ratification (Texas State Legislature 2010). However, Jester had considerable influence in the legislature, and was a popular governor with a “record of progressive accomplishments” (Phares 1998, 157; Loew 1984, 274). For example, he persuaded the legislature to pass key initiatives, including a reorganization of public schools, hospitals reform, a revised labour law, and a reform of state prisons (Phares 1998, 157; Lowe 1984, 272). Lowe argued that “Jester achieved a creditable record of reforms, and he did it during a period of intense political acrimony,” and overall was a “successful and effective governor” (Lowe 1984, 3, 274).

Gantt argues that Governor Jester had a “political philosophy of moderation, introducing a middle-of-the-road approach to Texas politics” (Gantt 1964, 313). The Texas Democratic Party had developed distinct left-wing and right-wing factions by the 1940s (Key 1949, 256). In his 1946 election, Jester created a new coalition within the Democrats, adding moderates to the party’s conservative base, to form a union of what Gantt describes as “conservative liberals and liberal conservatives” (Gantt 1964, 313). Jester himself said that his agenda “charted a path between the extremes of the left and the right” (Texas House Journal 1947,

62). This enabled the governor to be a powerful party leader, able, for instance, to face down a challenge from the arch-conservative Dixiecrat faction²⁶ in 1948 (Gantt 1964, 314). Jester also implemented institutional changes as governor. For example, to improve government coordination, he invited all statewide elected executives to join him in a cabinet which met regularly, rather than just meeting with other executive officers individually (Gantt 1964, 112). In addition, Jester frequently used informal discussion with the legislature about aspects of bills with which he had problems and might veto, rather than just relying on actual vetoes and public messages afterward, which tended to embarrass legislators (Gantt 1964, 188). Morehead summarizes that, in 1947, the legislative “session under Jester’s direction had been one of the most progressive in Texas history” (Morehead 1982, 85).

SJR 2 was consistent with Governor Jester’s moderate reform agenda and his lack of dependence on his party’s most conservative elements, who benefitted the most from malapportionment. Jester included legislative redistricting in his campaign platform in the 1946 gubernatorial election (Lowe 1984, 99). After he was elected governor, in his State of the State speech to the legislature on January 28, 1947, Jester encouraged the legislature to tackle redistricting, calling it a “needed reform”, and in a formal message to legislators on April 21, he again urged them to work on the issue (Texas House Journal 1947, 90, 1766). Once the state Senate passed the reform resolution, the governor “mounted an intensive campaign on behalf” of it in the state House, personally persuaded some legislators, including House speaker William Reed, to vote in favour, and overall “contributed significantly to securing passage” of the reform (Lowe 1984, 100, 273; Chumlea 1959, 160-161).

Why reform happened

²⁶ The Dixiecrats, or States Rights Democrats, were a breakaway, southern, pro-segregation faction within the Democratic Party, led by Strom Thurmond of South Carolina, who challenged President Truman in the 1948 election, winning four states (Frederickson 2001).

Several factors appear to be key to the adoption of the Texas reform of 1947. First, it was a reform of limited scope, which gave state legislators the ability to preserve their power over redistricting, as long as they completed their work on time. Second, it was a response to past failures by the legislature to conduct timely reapportionment and redistricting. By adopting the reform, legislators gave themselves an incentive to behave better in the future. Third, ongoing malapportionment created a ready constituency of reform supporters, from under-represented areas of Texas (and, on the other hand, opponents from over-represented areas). Fourth, and perhaps most importantly, Texas had a popular, effective, and reform-minded governor, who was committed to the change, and who was able to exert influence over and outmanoeuvre the conservatives in his party and the legislature.

4.2 Maine

Maine is a relatively rural state in the far northeast, bordering Canada, with a small population (1.3 million) but a large land area for the region (35,000 square miles) (see figure 63). A territory of Massachusetts for 150 years, Maine seceded and became its own state in 1820, because of tensions fuelled by the War of 1812. Some argue that “a love-hate relationship has continued to exist between Maine and Massachusetts since that time” (Smith 2002, 20). For a century, Maine had a reputation as a bellwether of American politics, captured in the catch phrase “As Maine goes, so goes the nation” (Robinson 1932). Since the mid-20th century, Maine has been a politically competitive state, regularly alternating the governorship between political parties, and on two occasions electing independents as governor (NGA 2018). Maine was one of just two states that never voted for Franklin Roosevelt, but the last Republican presidential candidate to carry the state was Ford in 1976, although Trump captured one electoral vote from Maine in 2016 by winning the 2nd

congressional district (Cousins 2017). Maine’s population is 95% white, which makes it the whitest state in the Union (US Census Bureau 2021c).

Figure 63: Map of Maine



Source: public domain map from Macky (2013)

What reform happened

In 1975, Maine’s state legislature approved a redistricting reform proposal which referred a state constitutional amendment called Amendment 54 to voters (Tinkle 1992, 78). The proposal established a fifteen-member bipartisan apportionment commission that would conduct state legislative redistricting after each census and submit a plan to the legislature.

The commission is composed of three members appointed by the House speaker, three by the House minority leader, two by the Senate majority leader, two by the Senate minority leader, one private citizen appointed by the Democratic commissioners, one private citizen appointed by the Republican commissioners, and a third private citizen chosen by the other two (Maine Constitution, Article IV, Part 3, §1-A). The legislature is not obligated to vote on the commission's plan, and can instead ignore it and devise one of its own, but a two-thirds majority vote is required for passage either way, and the state Supreme Court takes over redistricting if the legislature fails to act on time (Maine Constitution, Article IV, Part 1, §3). Amendment 54 was approved by Maine voters in November 1975, with 67 per cent of the vote (Maine State Legislature 2016a).

How did reform happen

Maine's legislature was historically malapportioned in favour of rural interests, but more moderately than in many states (Chapman 1981, 142). In 1970, the census showed that the population variance between Maine's two existing congressional districts was small, less than 0.5 per cent, and in fact had grown smaller than when the districts were originally drawn in 1961 (Moxley 1973, 83). As a result, no congressional redistricting was necessary for the 1972 election. Maine's legislature did undertake state legislative redistricting in 1971, but a state court rejected the plan for the House in 1973, because it clearly "sacrificed substantial equality" in an attempt to preserve traditional political subdivisions (Chapman 1981, 145). Maine's Supreme Court likewise had to conduct state legislative redistricting itself following the 1960 census, after the legislature failed to agree on a new plan in time (Jackson 1983).

Maine was once very Republican. Until the 1950s, it was considered "the most thoroughly Republican state in the country", and proud of almost never voting for a Democrat for

president; for example, it rejected Franklin Roosevelt four times (Palmer, Taylor and LiBrizzi 1992, 25). The state legislature was likewise strongly Republican; in 1941, for instance, it had 159 Republican members (or 87 per cent) and only 23 Democrats (Palmer, Taylor and LiBrizzi 1992, 68). However, from the 1960s, Maine developed a more competitive two-party system at the state level (Moen, Palmer, and Powell 2005, 22). At the 1974 elections, the Democratic Party won a majority in the state House for only the third time ever (its previous majority periods were 1911-1916 and 1965-1966), and reduced the Republican majority in the state Senate to 19–14 (Maine State Legislature 2015).

The 1970s was a time of political reform in Maine. Kenneth Curtis, governor from 1967 to 1975, was a Democrat and a dedicated reformer who “presided over the modernization of Maine state government” (Condon and Berry 1995, 556). Curtis implemented major tax reforms, reorganized hundreds of state agencies into fifteen executive departments, and initiated the Maine Management and Cost Survey, led by businessman James Longley, which identified many ways to make state government more efficient (Condon and Berry 1995, 568).

Longley, a maverick and nonpartisan, was elected governor himself in November 1974 (Potholm 2003, 4). He ran because he said he was disappointed that Curtis did not implement his survey’s recommendations (Longley 2010). Longley was elected as an Independent and pulled off the “most astounding political upset of the year” by beating Democratic gubernatorial candidate George Mitchell by 40–37 per cent (Reinhold 1974). In addition to self-described independent voters, Longley received more support from Republicans than from Democrats, probably due to his emphasis on fiscal conservatism and law and order issues (Reiter and Marsh 1995, 657, 660). He was seen as a “prototype of a post-Watergate

politician”, and his election was also felt to illustrate the readiness of Maine voters to support “candidates who presented less partisan solutions to statewide problems” (Johnson 1978, 2; Moen, Palmer, and Powell 2005, 23). As governor, Longley was committed to political reform and to improving the state government’s efficiency and effectiveness (Johnson 1978, 70). Due in part to his political inexperience and combative personality, he developed a difficult relationship with the divided state legislature, and ultimately vetoed a record number of bills (Johnson 1978, 100, 110; Day 1995). Nonetheless, five different state constitutional amendments supported by Longley were put to voters in November 1975, all of which involved a reform to Maine’s government (Maine State Legislature 2016a).

A resolution to make several changes to the Maine state legislature was introduced in the state House of Representatives on March 5, 1975, by Walter Birt, a Republican state representative, who had been Assistant Majority Leader when Republicans were in the majority in 1973-74 (Maine Legislative Record 1975, B85; Maine State Legislature 2014). Birt’s resolution proposed an apportionment commission to take over redistricting from the legislature, as well as reducing the size of the House and abolishing multi-member districts (Maine Legislative Record 1975, B85). The resolution was referred to the legislature’s joint Committee on State Government (Maine Legislative Record 1975, B1042). The apportionment commission and single-member districts proposals were separated out into their own resolution (L.D. 27), which was debated in the House on March 20 (Maine Legislative Record 1975, B228).

A leading advocate of the resolution, Rep. Rodney Quinn (D-Gorham), described the commission as a means “to permanently establish a fair, unbiased reapportionment procedure”, which would “guarantee political balance, regardless of who enjoys power” and

“guarantee freedom from future partisan gerrymandering within this body” (Maine State Legislature 2016b; Maine Legislative Record 1975, B224, B225). He defended the bipartisan nature of the commission’s membership, arguing that

For the first time it will guarantee security for legislative minorities. No longer will a minority be hostage to the manipulations or abuse of a determined majority. The bill will set into constitutional concrete the method by which future appointments must be accomplished, a method as fair, as open, and as proven as any method yet devised. (Maine Legislative Record 1975, B225).

Much of the legislative debate about the resolution focused on the single-member districts component, rather than the apportionment commission component, which appears to have been far less controversial (Maine Legislative Record 1975, B224-B228). One legislator who ended up voting against the proposal, Rep. Roland Gauthier (D-Sanford), complained about how fast the House had moved on the issue, saying “I don’t think we have been discussing this bill very long, and I am very very surprised that this was brought up” so quickly (Maine State Legislature 2016b; Maine Legislative Record 1975, B225). The House Majority Leader, Neil Rolde (D-York), acknowledged that the resolution posed “a difficult political problem” for Democrats, because “ones selfishness rebels against ones sense of duty” (Maine State Legislature 2016b; Maine Legislative Record 1975, B227). He said Republicans all supported the proposal because they expected to be advantaged, whereas Democrats were divided, worried about the political consequences. “Why should any Democrat, never mind the members of the Democratic leadership, support the change that is being proposed here today?” he pondered (Maine Legislative Record 1975, B227). But Rolde concluded that the reform was the right thing to do for Maine, that its electoral effects were not guaranteed, and argued that, regardless, the “progressive and courageous stances taken by the Democratic Party in the past two decades have not hurt us but have been underlying reasons for our current success” (Maine Legislative Record 1975, B227).

The resolution was passed by the House by 123–21, with seven abstentions (Maine Legislative Record 1975, B228). The votes against were cast by one independent member (Rep. George Call) and twenty Democrats (Maine Legislative Record 1975, B228; Maine State Legislature 2016b). The following day, March 21, the Republican-controlled Senate swiftly passed the same resolution, 27–2, with almost no debate (Maine Legislative Record 1975, B246). The only senators to vote against the resolution were two Democrats: Anton Cianchette (D-Pittsfield) and Donald O’Leary (D-Mexico) (*Lewiston Daily Sun* 1975a). Sen. Richard Berry (R-Cumberland), the former Senate Majority Leader, suggested that “I think that at long last we are going to really see truly the one-man one-vote theory applied here in Maine”, and thanked his fellow legislators “who have swallowed their thoughts and who have acted in the best interests of Maine” (Maine State Legislature 2016b; Maine Legislative Record 1975, B246).

The legislature’s resolution was welcomed by some newspapers. The *Lewiston Daily Sun* described its passage as “a statesmanlike action”, and, although it too focused on the single-member districts component, also criticized past legislatures for being “lax about reapportionment” and “pass[ing] the buck” to state courts (*Lewiston Daily Sun* 1975b). During the leadup to the November public vote, legislative leaders of both parties supported the reapportionment commission amendment, and a bipartisan citizens committee was formed, led by Sen. Theodore Curtis (R-Orono), which advocated throughout Maine on behalf of all the state constitutional amendments on the ballot (Day 1975). Curtis told voters that the package of amendments “represents the greatest chance for reform since Maine broke away from the Commonwealth of Massachusetts” (quoted in Day 1975). Governor Longley also publicly backed all of the constitutional amendments (*Lewiston Evening Journal* 1975). In the end, all five were adopted by voters (Maine State Legislature 2016a).

The value of Maine's new commission was demonstrated in the 1980 cycle. In 1981, Maine's legislature gave the Apportionment Commission statutory responsibility for congressional redistricting as well (Taylor and Palmer 1993, 118). The Commission then consulted extensively and worked, reportedly harmoniously, to complete state and congressional redistricting plans, which were both subsequently adopted by the legislature by large margins and upheld by the courts (Taylor and Palmer 1993, 115, 119). Commission maps were also readily adopted by the state legislature in the 2010 cycle (Russell 2011b). However, on the congressional side, Maine legislators failed to agree on a new plan after 1990 or 2000, which forced the Maine Supreme Court to step in and draw the lines instead (Cover 2011).

Why did reform happen

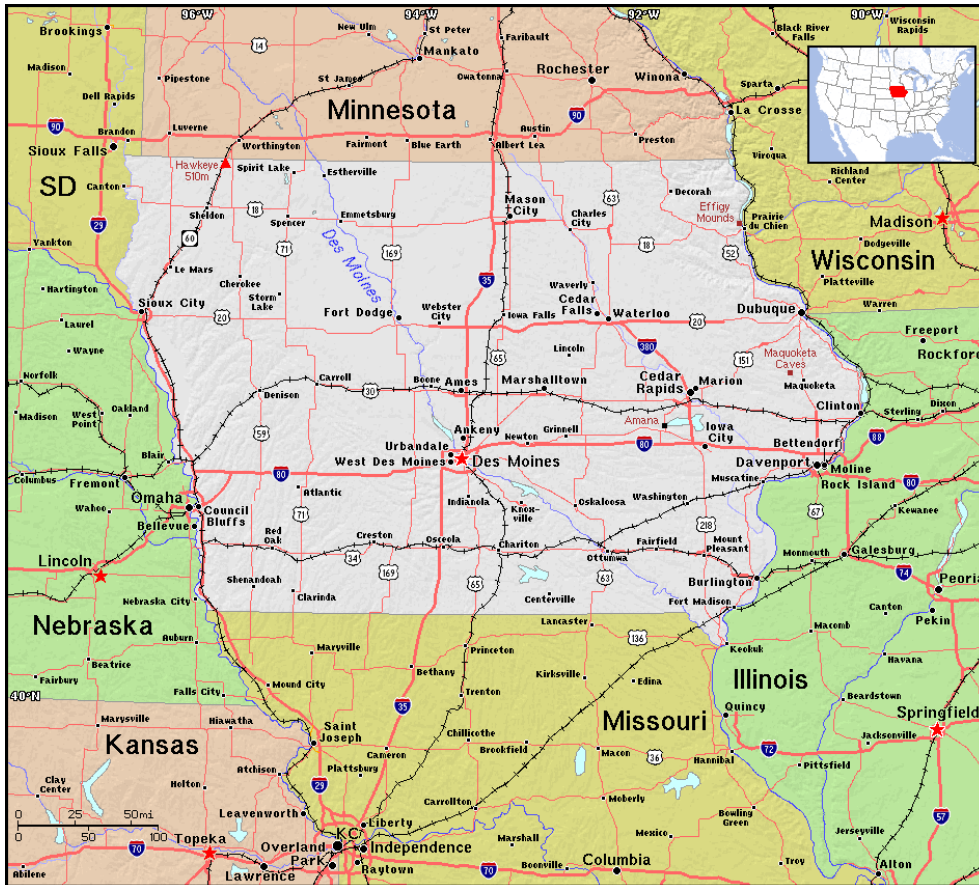
Several factors appear to be key to the adoption of the Maine reform of 1975. First, it was a reform of limited scope, which reduced the power of the state legislature as a whole, but delegated responsibility to a commission mainly composed of a small number of legislators. Second, it was a response to past failures by the legislature, which saw the courts take over redistricting, whereas the reform increased the chance of the legislature reaching consensus itself. Third, a pro-reform independent governor supported the change, whereas a major-party governor might have been willing or able to obstruct it, especially with divided government in the state legislature. Fourth, and perhaps most importantly, Maine had recently transitioned to two-party competition for the state legislature, and some Democrats had an incentive to support reform (as frequent victims of past gerrymandering attempts). Republicans, on the other hand, had an incentive as well, namely that their long period of one-party rule had clearly ended, and a bipartisan system would now be safer for them in the long run. The Democratic Party's legislative leadership chose to strongly back the reform, despite the

misgivings of some Democratic legislators who felt it might not be in their political self-interest.

4.3 Iowa

Iowa is a predominantly-agricultural inland Midwestern state near the geographic center of the US, with a relatively small population (3.1 million) and moderate land area (58,000 square miles) (see figure 64). France explored and claimed to control the Iowa territory in the 16th and 17th centuries. President Thomas Jefferson in 1803 bought Iowa for the US as part of the Louisiana Purchase and “regarded the acquisition as new area that would allow for the continued expansion of white settlers into the west” (Schwieder 1996, 11). After local Native American inhabitants were killed or evicted by the US Army, white settlers eventually began arriving in 1833, and Iowa became a state in 1846 (Schwieder 1996, 35). Since the 1970s, Iowa has become famous for hosting the Iowa caucuses, which make it the first state to vote in presidential nomination contests (Redlawsk, Tolbert, and Donovan 2010.). Iowa has been a swing state in presidential elections, voting for the national winner in nine of the last ten elections. Iowa’s population is 39% rural and 85% white (US Census Bureau 2021c).

Figure 64: Map of Iowa



Source: public domain map from Macky (2013)

What reform happened

In 1980, Iowa’s legislature passed a law, House File 707, to reform its state redistricting system. The Legislative Services Bureau (LSB), a nonpartisan state agency reporting to the legislature, was empowered to draw legislative and congressional redistricting plans every ten years, and to submit them to the legislature (Iowa Code, chapter 42). The plans must follow specific politically-neutral criteria laid down in the law, and cannot take into account political factors such as incumbent addresses (Liittschwager 1981, 119). The legislature has the final say and must enact the plan for it to take effect, but cannot amend a plan that has been submitted, only reject it completely, forcing the bureau to devise and submit another (Iowa Code, chapter 42).

How reform happened

Iowa traditionally was a reliably Republican state. For example, federally, from 1856 to 1984, Iowa voted for the Republican candidate for president in 28 out of 33 elections, and between 1860 and 1932, Iowa had 19 Republican US Senators and just one Democrat (Iowa Official Register 2015, 280). Similarly, at the state level, the Iowa Republican Party enjoyed a century of dominance from the Civil War onward, with 90 years of Republican governors and ten years of Democratic governors (Iowa Official Register 2015, 336-337). However, from the mid-1900s, Iowa became more competitive between the two major parties (Larew 1980). Democratic governors served from 1957-61 and 1963-69, and the Democratic Party held majorities in the state house in 1975-79, and in the state senate in 1965-69 and 1975-79 (Iowa Official Register 2015, 337, 345; Iowa Legislature 2019).

During the 20th century, Iowa's legislature was highly malapportioned, as in most states (Bullock 2010, 8). Each of Iowa's 99 counties was assigned one state senator, regardless of population, and one or two state representatives (Stark 1998, 107). Iowa's congressional districts were also often not redrawn after the census, unless the total number of seats the state received had changed (Cook 2007, 1). Numerous efforts to enact a fairer legislative apportionment plan for one or both chambers failed in the 1950s, due to on-going deadlock in the legislature between rural and urban interests (Wiggin 1973, 409). Following the US Supreme Court's decisions requiring population equality across state and federal legislative districts, Iowa changed its state constitution in 1968 to allow customized state legislative districts, instead of using counties (Wiggin 1973, 424). The state legislature was empowered to draw and maintain these districts after each census, along with their existing authority to create and update congressional districts (Iowa Constitution, Article 3, §34, §37). In 1969, looking ahead to redistricting after the 1970 census, the Iowa legislature set up a 14-member

bipartisan committee of legislators to help develop and submit recommended redistricting plans (Liittschwager 1981, 117).

Following the 1970 census, Iowa adopted a new redistricting plan which featured significant population variations, exceeding ten percent, but this plan was rejected by the Iowa Supreme Court (Wiggin 1973, 428). In 1971, the legislature tried again, and achieved lower population variations (of less than four per cent) in its new plan, but this was judged not acceptable by the court (Wiggin 1973, 429-430). It determined that the legislature's plan was a "dilution of the principle of equal population among legislative districts", and instead primarily aimed to "protect incumbents, preserve present districts and avoid joining rural and urban counties" (Cooke 1981, 3A). As a result, the Iowa Supreme Court implemented its own redistricting plan in 1972, devised with the help of the LSB, and which achieved very low population variations between districts (of no more than 0.1 per cent) (Cook 2007, 2). However, the court's plan achieved population equality at the cost of district lines which had complete disregard for existing county, town, or city boundaries, and thus some state "legislators thought the courts did a terrible job in the plan" (Curtis, McMillan, and Racheter 2013, 15).

In 1979, looking ahead to the next redistricting cycle, other Iowa legislators thought that the court-imposed plan had worked well, because it was seen as equitable and politically balanced, and "some lawmakers wanted to devise a redistricting process that would produce a similar neutral outcome" (Squire 2011, 162). Three state representatives on the House committee on State Government, including one Democrat and two Republicans, proposed delegating redistricting to the LSB, with the legislature restricted to an up-or-down vote on accepting or rejecting the bureau's recommended plans (Squire 2011, 163). A redistricting reform bill to do this, numbered as House File 707 (HF 707), was introduced into the Iowa

House of Representatives on March 23, 1979, on the advice of the committee (Iowa House Journal 1979, 1074). The bill was swiftly approved by the House on March 28, by a vote of 97–0, with 3 abstentions (Iowa House Journal 1979, 1210-1211).

HF 707 was received by the Iowa Senate on April 2, 1979, and was assigned to the Senate's own committee on State Government (Iowa Senate Journal 1979, 1038, 1064). That committee also acted quickly, voting by 13–0 on April 5 to recommend to the whole Senate that an amended version of the reform bill be adopted (Iowa Senate Journal 1979, 1132). However, the committee's amendment (S-3415) sought a major change: they wanted to invest map-drawing power not in the independent hands of the LSB, as the House proposed, but instead in a 5-member reapportionment commission, which would be composed entirely of legislators, including the party leaderships in each chamber or their nominees (Iowa Senate Journal 1980, 1134; Iowa Legislature 1980, 43). The committee's watered-down version of redistricting reform was not accepted by the Senate (Iowa Senate Journal 1979, 1309). The reform bill therefore languished for a year, after not being brought up for a vote before the Senate adjourned its annual session on May 11, 1979 (Iowa Senate Journal 1979, 1757).

In 1980, the legislature tried again. The Senate committee on State Government approved a new version of HF 707 by 14–0 on April 3, 1980 (Iowa Senate Journal 1980, 1292). This iteration (amendment S-5663) retained the reapportionment commission model, but instead of comprising legislators chosen by legislators, it would comprise private citizens chosen by legislators (Iowa Senate Journal 1980, 2275-2283). These citizen commissioners also could not be current or retired politicians, or lobbyists, or their relatives (Iowa Senate Journal 1980, 2277). On April 9, the whole Senate reconsidered the issue, approving the committee's revised commission approach by 39–10, and then passing the whole bill, by 46–2 (Iowa

Senate Journal 1980, 1347, 1348). Nine out of the ten senators who resisted the commission idea were Republicans (Iowa Senate Journal 1980, 1347; Iowa Legislature 2019). The two senators opposed to the whole bill were two of those Republicans, Sen. James Briles and Sen. Ray Taylor (Iowa Senate Journal 1980, 1348; Iowa Legislature 2019).

The state House received the Senate's amended bill on April 11 (Iowa House Journal 1980, 1502). To save the bill, two Republicans, Rep. Reid Crawford and Rep. Nancy Shimanek, proposed a compromise with the Senate's approach, amendment H-6307 (Iowa House Journal 1980, 1963). Their idea was to give full mapmaking power to the LSB, as the House originally planned, but to convert the Senate's commission proposal into an extra temporary advisory commission of 5 legislators, which would assist the Bureau in interpreting the law upon request and provide public input, but which would have no actual say over the plans the LSB submitted to the legislature (Iowa House Journal 1980, 2006-2011). On April 24, the House passed amendment H-6307, and then reapproved the whole bill by 91–2 (Iowa House Journal 1980, 2031-2032). The dissenters were two Republicans, Rep. Arlyn Danker and Rep. Thomas Lind (Iowa House Journal 1980, 2032; Iowa Legislature 2019). On April 25, an attempt in the Senate to reject the House's compromise was unsuccessful, with the amendment upheld 31–16 (Iowa Senate Journal 1980, 1764). The Iowa Senate then gave final approval to HF 707, by a vote of 45–0, with 5 abstentions (Iowa Senate Journal 1980, 1764).

The redistricting reform bill was signed into law by Iowa Governor Robert Ray on May 19, 1980 (Iowa Senate Journal 1980, 2600). Ray, a Republican who served 1969-1983, was a reformer committed to upholding Iowa's tradition of competent and not overly-partisan government, and respected as one of the most effective governors in the nation (Iowa Official Register 2015, 337; Dilger, Krause and Moffett 1995, 558). He had a reputation for “usually

play[ing] politics the same way he governs, doing what he thinks is right and decent, and only then looking at the political implications” (Bowermaster 1987, 250). Ray was a popular innovator, who initiated major changes in state government, such as reducing the size of the legislature and reforming the court system (Sobel and Raimo 1978, 454; Iowa Official Register 1979, 10).

In 1979, Ray had repeatedly proposed that an independent body take charge of redistricting in Iowa (Squire 2011, 163). In a speech to the state legislature on January 9, 1979, the governor identified redistricting reform as one of his priorities for the year, saying that “reapportionment will be a timely issue in two years; this task should be assigned to a bipartisan citizens panel, subject to legislative approval” (Iowa House Journal 1979, 56). He suggested that “gerrymandering often offers only short-term returns”, and argued that Iowa’s “citizens would be better off if we had a bipartisan citizens panel to draw congressional and legislative district lines that give recognition to population and local political boundaries but avoid unfair political advantages. A citizens commission would be prepared and equipped to offer the legislature an equitable solution, while retaining in the legislature final decision-making authority” (Iowa House Journal 1979, 62).

After the Iowa Senate failed in 1979 to adopt the HF 707 bill passed by the House, Governor Ray again urged the state legislature to act. In a speech to legislators on January 15, 1980, he reiterated that a bipartisan approach to redistricting was one of his top priorities, saying that “the House has passed reapportionment legislation which will avoid gerrymandering while respecting local political boundaries. Quick action by the Senate can complete this important reform” (Iowa House Journal 1980, 54). Ray reminded them that “the 1980 session will be the last chance to adopt a bipartisan approach for the drawing of congressional and legislative

district lines prior to the time the General Assembly must face reapportionment upon completion of the 1980 census” (Iowa House Journal 1980, 54).

Republican Senate president Terry Branstad favoured redistricting reform, because he was concerned about Iowa public opinion. He said, “if there is a public perception that the party in power is gerrymandering, the public may very well take it out on the party doing it” (quoted in Clymer 1981). US Representative Jim Leach (R-Iowa) also supported the reform, having sponsored a bill in Congress to try to enact a federal ban on gerrymandering (Kane 1978, 1).

Some Republican state legislators may have backed the reform bill because they feared they might lose control of the legislature again in the 1980 elections, and wanted to put in place a neutral method beforehand to try to thwart possible future Democratic gerrymandering (Clymer 1981). If that was their aim, they were arguably successful, because Iowa’s six congressional incumbents – three Democrats and three Republicans – were all re-elected in 1982 (Iowa Secretary of State 1982). Looking back on the reform later, Democratic state senator Bill Hutchins also defended the law in terms of political even-handedness, despite the upheavals it sometimes creates for legislators forced into new districts. He said, “even though some of us get a bum draw, we still think that it’s probably the right thing to do. On balance, it treats Democrats and Republicans the same in both houses, so you know that it’s the luck of the draw” (quoted in Wolf 1991, B1, B5).

During the debate in 1979 about HF 707, some legislators suggested that the bill’s delegation of authority to the LSB might be unconstitutional under the Iowa Constitution (Miller 1980, 344). The Attorney General of Iowa, Thomas Miller, was asked to provide advice to the legislature. In a report to the Speaker of the House in August 1979, Miller argued that HF 707

was constitutional, because the legislature: did have the power to codify its decision-making rules in statute like in HF 707; was not completely sacrificing its amending power, because it could alter the LSB's third submitted plan; and was not excessively binding future legislatures, because they could always change the redistricting law if they did not want to follow its procedures (Miller 1980, 344-347).

Some interest groups and media outlets in Iowa also expressed support for the redistricting reform bill as it was being discussed in 1979 and 1980. For example, Common Cause had long advocated for a bipartisan commission approach to redistricting in Iowa (Des Moines Register 1979). In 1979, the League of Women Voters of Iowa took the position that the state should conduct redistricting "by a non-legislative authority", and should include "anti-gerrymandering provisions in reapportionment procedures" (League of Women Voters 2014). The editorial board of the *Cedar Rapids Gazette* welcomed the reform bill and especially the bipartisan support it received, saying that anytime a legislature unanimously votes "for a bill containing the word "reapportionment," it borders on earth-shaking news" (Cedar Rapids Gazette 1979). The *Des Moines Register* also approved of the bill, especially the anti-gerrymandering provision that the legislature cannot amend the initial maps proposed by the LSB (Des Moines Register 1979).

Why reform happened

Today, the Iowa reform of 1980 is widely admired, and the system it created is "considered one of the best in the country" (Yepsen 2001). Several factors seem important in explaining why Iowa was able to implement redistricting reform in 1980. Reform was supported by key individual actors (e.g., governor, lieutenant governor) who saw it as electorally popular or appropriate given Iowa's political culture. Strategically, reform also held partisan appeal, to

some legislators who preferred to reduce their own power over redistricting rather than risk it falling into the unrestrained hands of the opposing party. Reform also enabled the legislature as a whole to guarantee a limited amount of institutional power over redistricting for itself, rather than facing the likelihood of losing again to courts. The experience of seeing repeated legislative plans overturned by the courts in the previous cycle, and the Supreme Court then taking control over redistricting for itself, seems to have spurred legislators to adopt a reform that would minimize the possibility of future judicial intervention while preserving some power for the state legislature (Walsh 1991, Clymer 2002). In the redistricting cycles since the law was adopted, the Iowa legislature has enacted one of the bureau's recommended maps each time and thus successfully avoided any court involvement (Grossman 2010, Clayworth and Petroski 2011). During this same period, litigation and court intervention into redistricting has become common in many other states (Weber 1995, Persily 2005).

In addition, Iowa also already had a pre-existing nonpartisan agency, the Legislative Services Bureau, which was respected by state politicians and not seen as a threat to them. The Bureau had been subcontracted by the Iowa Supreme Court to help with technical aspects of redistricting after the 1970 census, and the reform adopted in time for the 1980 cycle simply repeated that procedure, but made the LSB accountable to the legislature instead of the courts (Bullard 1979).

4.4 Montana

Montana is a northwestern border state neighbouring Canada with a small population (1.1 million) but a large land area (147,000 square miles) (see figure 65). It is the fourth largest state and “a classic “acreage state,” with lots of land and few people” (Malone, Roeder, and Lang 1991, 3). Different Native American tribes successively inhabited the area, such as the

Shoshoni, and by the late 1700s “a successful Plains Indian culture had been established throughout present-day Montana east of the Rockies” (Malone, Roeder, and Lang 1991, 11). The Continental Divide runs through western Montana. Land east of it was part of the Louisiana Purchase from France by the US in 1803, while land to the west was confirmed as US territory by the Oregon Treaty with Britain in 1846 (Malone, Roeder, and Lang 1991, 94). Montana is a reliable Republican state in most presidential elections, with Lyndon Johnson and Bill Clinton being the only two Democrats to carry the state since Harry Truman. Montana’s population is 91% white, 6% Native American, and 1% African-American (US Census Bureau 2021c).

Figure 65: Map of Montana



Source: public domain map from Macky (2013)

What reform happened

Since a constitutional convention in 1972, a five-member bipartisan commission, the Montana Districting and Apportionment Commission, has been in charge of congressional and state legislative redistricting. In 1983, Montana's legislature passed House Bill 151, which referred a constitutional amendment called Amendment No. 14 to voters (Elison and Snyder 2001, 122). This amendment increased the power of the bipartisan commission, changing its role so that instead of just advising the legislature, it would become independent, with its congressional plan taking effect without needing approval from either the state legislature or governor (Montana Constitution, Article V, §14, §§3). Amendment No. 14 was approved by voters in November 1984 with 66 per cent of the vote (Montana Secretary of State 2006).

How did reform happen

Montana's state legislature was highly malapportioned from statehood until the 1960s (Waldron 1970, 166-168). Although the Montana constitution required reapportionment for the state house every ten years, the legislature regularly failed to accomplish this, due to "general inertia and the desire of rural counties to maintain their representation against loss to the rapidly growing counties with urban areas" (Renne 1958, 57). In 1964, legislators tried to enact reapportionment as directed by the US Supreme Court, but failed, and a federal court had to do it for them in 1965 (Malone, Roeder, and Lang 1991, 391). After Montana's legislature adopted redistricting plans with an incumbent-protecting gerrymander in 1965 and again in 1971, the state's 1972 constitutional convention handed the task of drawing redistricting plans over to the Montana Districting and Apportionment Commission (Waldron 1981, 189).

In contrast to its neighbours, in Montana the two major parties have been relatively evenly matched in state politics for most of its history, with the state possessing “a strong liberal bent that is usually balanced by equally strong conservative tendencies” (Malone, Roeder, and Lang 1991, 379). For example, since 1977, majority control of the state Senate has changed between the parties at elections on seven occasions, and the state House has changed nine times (Montana State Legislature 2012). Following the 1982 elections, the Democratic Party held a 55–45 majority in the House, while Republicans were in the majority in the state Senate, by 26–24 (Montana State Legislature 2012).

House Bill 151 was introduced in the state House on January 10, 1983, at the request of the state’s redistricting commission, and referred to the House committee on State Administration (Montana House Journal 1983, 41). The bill’s eight co-sponsors included both Democrats and Republicans (Montana House Journal 1983, iii-iv, 41). The bill was reported out of committee on January 27, with a recommendation that it be adopted, and six days later was passed by the House on its third reading by 99–0 (Montana House Journal 1983, 294, 388). HB 151 was introduced into the state Senate on February 3, and referred to the Senate committee on State Administration (Montana Senate Journal 1983, 247, 248). The bill was reported back from committee favourably on March 14, and two days later passed its second reading by the Senate by 28–5, with 15 abstentions (Montana Senate Journal 1983, 884, 924). Unlike the easy unanimity in the House, the Senate was initially more skeptical, particularly the GOP. Even though the Republican Party were in the majority, most Republican senators did not vote for the bill on the second reading, and it advanced only due to Democratic support. The 28 senators supporting the bill consisted of 17 Democrats and 11 Republicans, while all 5 ‘no’ votes were Republicans, as were 9 of the 15 abstentions (Montana Senate Journal 1983, iii, 924). By March 18, however, Republican concerns had

been satisfied, and HB 151 passed its Senate third reading by 50–0 (Montana Senate Journal 1983, 965).

Democrat Ted Schwinden was Governor of Montana from 1981 to 1989 (Cook 2010).

Schwinden feared gerrymandering of congressional districts reduced election competitiveness and the responsiveness of the US House of Representatives (Schwinden 2006, 20). Although he supported Montana's reform, the governor had no formal role in approving HB 151. As a proposed constitutional amendment, the bill was instead delivered to Montana's Secretary of State, on April 11, to be put on the ballot at the next election (Montana House Journal 1983, 2057).

After the reform was adopted, Montana unexpectedly lost one of its congressional seats as a result of the 1990 census, having held two seats since 1913 (Mills 2001, 2). The state sued to try to preserve its second seat, but was defeated at the US Supreme Court in 1992 (*Department of Commerce v. Montana*, 503 U.S. 442). Montana's commission has therefore so far not had an opportunity to exercise its increased power over congressional redistricting. Following the 2010 census, the fell short of getting a second congressional seat by only 10,000 people (Crocker 2011, 6). Montana finally re-gained its second seat following the 2020 census, and the commission will be in charge of drawing a boundary between the two districts (Lutey 2021).

Why did reform happen

Neither Democrats nor Republicans felt threatened by a congressional redistricting commission for Montana, which only had two congressional districts at the time anyway. The significance of the state legislature's capacity to gerrymander was thus already limited.

Empowering the commission was only a small reduction in the legislature's powers, and did not affect state legislative redistricting.

4.5 Idaho

Idaho is another northwestern border state neighbouring Canada with a small population (1.8 million) and large land area (83,000 square miles) that was secured as a US possession by the Oregon Treaty with Britain in 1846 (see figure 66). The Idaho territory, with the same border as the later state, was organized in 1863 and had an initial white population of 31,600 people, comprised of 30,600 men (mostly miners) and 1,000 women (Schwantes 1991, 4). The sense of space in the interior West has shaped its culture, and Schwantes (1991, 10) argues that “fundamental to the Idaho character is the fact that much of the state remains uninhabited or only lightly populated.” Idaho is a conservative and reliably-Republican state, which Barry Goldwater lost by only 5,300 votes in 1964 (Wasserman and Flinn 2021, Menendez 2005, 87). Idaho's population today is 90% white, 3% Native American, and 1% African-American (US Census Bureau 2021c).

Figure 66: Map of Idaho



Source: public domain map from Macky (2013)

What reform happened

In 1993, Idaho's legislature passed Senate Joint Resolution 105, which referred a constitutional amendment to voters. The resolution created a six-member bipartisan commission, the Idaho Commission on Reapportionment, to take charge of both congressional and state legislative redistricting. The state House speaker, House minority leader, state Senate president, Senate minority leader, Republican state party chair, and Democratic state party chair each appoint one commission member (Idaho Constitution, Article III, §2, §§2). The Commission decides on and certifies a redistricting plan without

requiring the consent of the legislature or governor, and, if the Commission fails to agree, then the state Supreme Court takes over (Idaho Constitution, Article III, §2, §§5). The ballot measure to ratify Senate Joint Resolution 105 was approved by voters in November 1994 with 64 per cent of the vote (Idaho Secretary of State 1994).

How did reform happen

Idaho was a two-party state in the early and mid-20th century, but the Republican Party has come to dominate Idaho's state legislature (Weatherby and Stapilus 1995, 113). The last time the Democratic Party held a majority in both state houses was in 1961 (Schwantes 1991, 237). However, Democrats have often held the Idaho governorship, including from 1971 to 1995 (Idaho Governor 2007). Divided government in the state significantly contributed to Idaho's problems with redistricting in the past.

The Idaho constitution of 1889 originally specified that both houses of the state legislature would be apportioned according to population, but the state Senate was soon changed to elect one senator per county (Crowley and Heffron 1994, 76-77). As a result, Idaho's legislature was heavily dominated by rural interests, notably the agricultural, timber, mining, and railroad industries (Moen, Palmer and Powell 2005, 110). The 1960s saw a protracted and bitter struggle in Idaho over the state's compliance with the US Supreme Court's decisions ending malapportionment. Various reapportionment plans were enacted in 1963, 1965, and 1966, and resisted by the courts, and it was only after three years of litigation and two Supreme Court cases that Idaho voters finally got to elect an equally-apportioned legislature in 1967 (Borning 1970, 145-153). Resistance to reapportionment was fierce among rural legislators and interests, who feared that "about four or five cities would dictate to the rest of the state" (Borning 1970, 153). Opponents included Republican Robert Smylie, governor

from 1955 to 1967, who, even after leaving office, would continue to insist that Idaho's "legislatures before reapportionment were much more capable of producing sound legislation than those since reapportionment was literally forced upon the state" (Smylie 1998, 185).

The securing of equal apportionment did not end Idaho's redistricting conflicts. The state continued to experience contentious and long-running political battles in the state legislature, and repeated judicial interventions. In the 1970 cycle, a redistricting plan was produced in 1972 after heated partisan debate, and Democratic Governor Cecil Andrus allowed it to become law without his signature due to concerns about population disparities (McFeeley and Duncombe 1981, 98). This proved prescient, because the US Supreme Court struck the plan down in 1973 (*Summers v. Cenarussa*). In 1974, the legislature finally developed a new map acceptable to the courts, with the help of a bipartisan citizen committee it created for that purpose (Crowley and Heffron 1994, 78).

The 1980 cycle has been described as a "particularly tortuous" experience (Moncrief 1993, 73). Democratic Governor John Evans vetoed a Republican redistricting plan in 1981 that had a gerrymander aimed at giving the GOP a super-majority in the state Senate, exactly the same thing happened again in 1982, and then a compromise map was adopted later that year (Moncrief 1993, 73-74). In March 1982, two Republican legislators who disagreed about redistricting got into a fistfight with one another in a corridor of the legislature building (Russell 2011). The compromise map was struck down by the state courts for excessively dividing counties in 1982, and a district court judge imposed a complicated plan of his own in 1983, which was upheld by the state Supreme Court (Duncombe and Stewart 1985). The state legislature was given an opportunity to produce an acceptable equivalent plan of their own in

1984, and one was enacted, but this too was ultimately rejected by the state Supreme Court (Moncrief 1993, 74-75).

Some expected the 1990 redistricting cycle in Idaho to be easier than previous one (Moncrief 1993, 76). It was not. The Republican Party retained their state House majority at the 1990 elections, but the Democratic Party gained enough seats in the state Senate to produce a 21–21 tie in that body (Idaho Secretary of State 1991, 170). The even split led to frequent stalemates over policy and increased levels of partisanship in the legislature (Fick 1991). A 20-person joint redistricting committee of the legislature was formed in 1991, held hearings and deliberated for seven months, but ultimately could not agree upon a bipartisan plan (Kenyon 1991a). A Republican plan was eventually adopted by a party-line vote in 1992, was vetoed by the governor, and then a new compromise plan was finally adopted only two months before the primaries (Russell 2011a).

Following the failure of Idaho’s legislature to pass any redistricting plan in 1991, the media began describing the process as “an impossible task” and reported that “leaders of the Idaho Legislature would like the reapportionment problem to go away” (Kenyon 1991b). During 1992, proposals were introduced in the state legislature to reform redistricting in Idaho. One suggested creating a five-member commission made up of retired judges that would draw plans for legislative consideration. Another plan proposed cutting the legislature out of the process completely and giving redistricting authority to a citizens commission. Neither of these ideas achieved the two-thirds majority vote needed in the Idaho legislature for a constitutional amendment (Crowley and Heffron 1994, 80).

At the 1992 election, Republicans recaptured full control of the state legislature with big majorities in both chambers (Idaho Secretary of State 2011, 200). But the Democratic Party's strong showing in 1990, when it won half the state senate, helped convince the GOP to agree to a bipartisan commission for the future (Trillhaase 2012). In early 1993, redistricting reform was immediately fast-tracked with bipartisan support. Senate Joint Resolution 105 was referred to the Senate's State Affairs committee, where it was discussed on March 1. Senator Evan Frasure (R), the reform's Senate sponsor, urged adoption of the proposal, and it was approved by a vote of 6–1 and recommended to the Senate as whole. The state Senate passed the resolution on March 9 by 26–9, with all 12 Senate Democrats supporting the proposal, along with 14 Republicans, while 9 Republicans voted against (Idaho State Legislature 1993).

Next, the House's State Affairs committee considered and endorsed the reform resolution on March 17, where Frasure testified that the commission's members would be bipartisan and not selfishly motivated. He argued that, "as a true citizens committee, those individuals could not run for the legislature for five years after serving on the committee, so they would have no personal vested interest. You have to have bipartisan support in order for any reapportionment plan to pass. It is very fair to both parties" (Idaho State Legislature 1993). Senate president Jerry Twiggs (R) encouraged the House committee to approve the bill. House Speaker Mike Simpson (R) and state representative Pam Ahrens (R) sponsored the resolution in the house, where it was approved on March 19 by 50–17, with all 20 Democrats and 30 Republicans voting in favour, and 17 Republicans opposed (Idaho State Legislature 1993). The Idaho GOP's moderate and ultra-conservative factions often disagree with one another on policy issues, and this pattern appears evident in the reform vote, with moderate Republicans joining with Democrats to ensure its passage (Moen, Palmer and Powell 2005, 113-114).

Idaho's difficult past experience with redistricting is identified as a major reason why reform was adopted in the state. Crowley and Heffron argue that, after 1991, "the painful process of redistricting awakened interest in the legislature for a major change in the process" (Crowley and Heffron 1994, 80). SJR 105 sponsor Pam Ahrens chaired the legislature's own redistricting committee in 1991/92, and advocated reform because of that experience, arguing that, when conducted by legislators, redistricting "consumed the legislative activity and agenda completely" (quoted in Russell 2011a). She lamented that "the greatest waste of time and legislative energy that I have seen is legislative reapportionment", whereas "the Legislature could have been using that time to find solutions to major problems, such as property tax relief, the school formula and water issues" (quoted in Kenyon 1993). House GOP caucus chair Bruce Newcomb supported the reform, and described the legislature's own process as "not pretty" and the cause of "a lot of angst" among legislators (quoted in Russell 2011a). State representative Jim Hensen (D) also voted for the reform in 1993 because of the earlier bitter fight over redistricting, saying that "it just completely poisoned the atmosphere in the Legislature" (quoted in Russell 2011a). He also observed that "there's statewide support for a citizen commission, and the only people who want the Legislature to do reapportionment are the lawmakers themselves" (quoted in Kenyon 1992a).

Opposition to the redistricting reform among Republicans was concentrated among legislators from rural counties, concerned about their loss of influence in the future. State representative Tom Loertscher argued that legislators "shouldn't dodge our responsibility when it comes to reapportionment", regardless of how difficult the job might be (quoted in Kenyon 1993). State representative Bob Geddes rejected claims by GOP leaders that redistricting was too time-consuming for the legislature to do itself, saying that "I don't think

they wasted their time. They did a fantastic job the last time around on reapportionment” (quoted in Kenyon 1993).

Idaho’s news media and editorial boards were supportive of redistricting reform. One newspaper was pleased to see Idaho follow the example of Washington State in moving to a commission (*Spokesman Review* 1991). Another recognized the leadership required to overcome legislator self-interest, saying that “It took a pretty impressive display of political courage on the part of the majority Republicans to put the redistricting commission in place” (*Times-News* 2010).

Governor Cecil Andrus was in office when redistricting reform was passed in Idaho. A Democrat, he served as governor from 1971 to 1977 and again from 1987 to 1995 (Idaho Secretary of State 2011, 60-61). Andrus strongly supported redistricting reform, saying to the legislature in his 1992 State of the State message, “Save yourselves and the public the aggravation by agreeing even at this late date to let a citizens’ committee complete the task that you really can’t be expected to do” (quoted in Kenyon 1992b). However, because the reform was a joint resolution for a constitutional amendment, it was referred directly to voters, and the governor had no formal role in the process (Idaho Constitution, Article XX, §1).

Idaho has had two congressional districts since the 1918 election (Idaho Secretary of State 2011, 47). However, congressional redistricting has not historically been a major source of struggle in the state, because only small population shifts are needed to rebalance the two seats, which traditionally have been split by a roughly southwest-northeast line dividing north Idaho and south Idaho (Borning 1970, 156; McNeil 1982, 170; Moncrief 1993, 76). For

example, in 1971, congressional redistricting was easily approved, by 65–5 in the state House and 34–1 in the state Senate (Moxley 1973, 52). The same happened in 1981, and only 20,000 people had to be moved between the two districts (McNeil 1982, 170). In 1992, congressional redistricting was approved unanimously by the state legislature, and only 6,000 people had to be shifted between districts (Mahtesian 1992).

Why did reform happen

Three key factors seem to explain why Idaho’s legislature adopted redistricting reform in 1993: past judicial intervention, past negative experiences within the legislature, and strong leadership by party leaders. The Democratic Party supported the reform unanimously in the legislature, as you would expect since the commission gives them an equal say in redistricting despite being the long-term minority party in the state. The Republican Party was divided, but its leaders in the state House and Senate, Mike Simpson and Jerry Twiggs, strongly backed reform and persuaded enough GOP legislators to ensure its passage (Popkey 2012).

4.6 New Jersey

Sandwiched on the east coast between two bigger states, New York to the north and Pennsylvania to the west (see figure 67). New Jersey was one of the original thirteen colonies. European settlement of the area was begun by the Dutch, who established farms, and their land was conquered by the English in 1664 (Veit 2012, 19, 22). During the 20th century, New Jersey was a bellwether in presidential elections, voting for the nationwide winner 23 times out of 26 elections. However, the Democratic Party has recently achieved dominance, winning the state eight elections in a row from 1992. New Jersey has a diverse

population that is 55% white, 13% African-American, 10% Asian-American, and 20% Hispanic or Latino (US Census Bureau 2021c).

Figure 67: Map of New Jersey



Source: public domain map from Macky (2013)

What reform happened

In 1993, New Jersey's legislature passed Assembly Concurrent Resolution No. 25, which referred a constitutional amendment called Public Question 1 to voters. The proposal created a thirteen-member bipartisan commission, the New Jersey Redistricting Commission, to take charge of redistricting for New Jersey's US House seats. The state House speaker, House minority leader, state Senate president, Senate minority leader, Republican state party chair, and Democratic state party chair, would each appoint two commission members, with the

thirteenth member (who would also be the commission's chair) chosen by the other twelve, or by the state's Chief Justice if they cannot agree (New Jersey Constitution, Article II, § II, §§1). The Commission decides on and certifies a redistricting plan without requiring approval from the legislature or governor, and, if the Commission fails to agree, then the state Supreme Court takes over (New Jersey Constitution, Article II, § II, §§3). Public Question 1 passed in November 1995 with 55% per cent of the vote (New Jersey Division of Elections 1995).

How did reform happen

In the past, political struggles over redistricting in New Jersey focused on congressional seats, because until the 1960s the state legislature was elected on the basis of counties, which were treated as multi-member districts (Reock 1981, 216). Changes in the distribution of the population resulted in adjusting the number of members per county, rather than adjusting county boundaries. It was only in the aftermath of the US Supreme Court's reapportionment revolution that New Jersey adopted single-member legislative districts, which need periodic redistricting.

Congressional redistricting by the New Jersey legislature in the past often resulted in litigation and partisan plans (Born 1985, 308). For example, after the 1970 census, state courts rejected several redistricting maps drawn by the state legislature (Reock 1981, 218). In the 1980 cycle, New Jersey adopted a Democratic gerrymander described as mischievous and "creative", and featuring "some of the most bizarrely shaped districts in the nation" (Goldinger and Mudge 1982, 20). This redistricting plan was eventually rejected in 1983 by the US Supreme Court, for failing to minimize population differences between congressional districts (*Karcher v. Daggett*, 462 U.S. 725).

New Jersey has experience with using commissions to help the state legislature conduct redistricting. Since a constitutional convention in 1966, state legislative redistricting has been conducted by an eleven-member commission (New Jersey Constitution, Article IV, § III, §§1). Convention delegates hoped to “greatly reduce the partisan gerrymandering that might otherwise occur in the districting process” (Reock 2008, 4). The legislative commission was seen as successful and bipartisan, especially when compared to the state legislature’s ongoing problems with congressional redistricting (Stokes 1991, 22). The commission focuses on ensuring partisan fairness, which tends to protect incumbents and produce few competitive districts (Scarinci and Lowy 2003, 829). New Jersey’s state Supreme Court has said that incumbent protection is a valid purpose for the state to pursue, because it believes that such political considerations are inherent in redistricting (Friedelbaum 1975, 225).

New Jersey has historically been a politically competitive state, with the two major parties regularly alternating in power in state government (Rosenthal 1975, 142). The Democratic Party lost their majority in both houses of New Jersey’s legislature at the November 1991 election, with Republicans winning control of the state Senate 27–13 and the state Assembly 58–22 (New Jersey Division of Elections 1991). In the face of the impending GOP takeover, Democrats at a lame-duck session of the state legislature created a temporary bipartisan commission to draw congressional districts for the 1992 election (Scarinci and Lowy 2003, 825). The legislature’s official justification for the law was because “the practice of gerrymandering needs to be eliminated from the redistricting process” (New Jersey Legislature 1992, 15). The bill was sponsored by outgoing Senate majority leader Daniel Dalton (D), who argued that “assigning the task of redistricting to an independent commission will remove politics from the process and ensure that both political parties are treated as fairly as possible” (quoted in Associated Press 1992). The timing of the temporary

commission, signed into law just before Democrats became the legislative minority, suggests that partisan considerations were influential. The idea of a bipartisan commission for congressional redistricting was part of the Republican Party's election platform (Donnelly 1992). Republicans thus suggested that Democrats changed their mind about a commission because they lost the state election. Donald Sico, GOP Assembly staff director, said that "I think they understand they have lost control of the redistricting process. When they thought they did have control they weren't looking for an even playing field. Elections tend to change people's minds" (quoted in Layton 1991).

The temporary commission was perceived to be a success, and this encouraged state legislators to create a permanent equivalent (Reock 2008, 13). Assembly Concurrent Resolution No. 25 was introduced in early 1993 and enjoyed strong bipartisan support. Republican assemblyman Robert Franks, the principal sponsor of the resolution, was a long-time advocate for a congressional redistricting commission (Sullivan 1987). The Assembly's State Government committee held public hearings in February, April, and May (Reilly 1993, Wald 1993). ACR 25 was passed by the Assembly by 72–0 on June 10, and by the state Senate by 32–2 on December 16 (Scarinci and Lowy 2003, 827).

The Governor of New Jersey has traditionally been a strong executive, with comparatively broad institutional powers (Rosenthal 1975, 168; Beyle 2008, 207). Jim Florio, a Democrat who was governor from 1991 to 1995, had previously served in the New Jersey General Assembly in the 1970s, where he chaired the committee responsible for congressional redistricting, and was on the receiving end of congress members pressuring state legislators to protect and preserve their US House districts (Aron 2012, 7). Florio supported the redistricting reform in 1993, having previously signed the temporary commission into law

(Ahearn 1992). However, because the reform was a concurrent resolution, it was referred directly to voters, and no formal action was required or possible by the governor (New Jersey Legislature 2012).

Public Question Number 1 should have been presented to voters in November 1994, but New Jersey Secretary of State Lonna Hooks inexplicably overlooked the ballot measure, so the public vote on it was delayed for a year until November 1995 (Martello 1995). However, the reform did not apply until after that 2000 census, so the delay was unlikely to have been significant.

Why did reform happen

Bipartisan interests were served by New Jersey's adoption of a congressional redistricting commission. The commission tends to protect incumbents, helping Democrats to avoid the loss of any powerful members of Congress, and also helps Republicans, by averting a potential legal challenge by Democrats over any Republican map.

4.7 Alaska

Alaska's path to statehood took an uncommon path through Russian colonization in the 19th century, sale to the United States in 1867, a long period as a neglected territory, until finally being admitted to the union as the 49th state in 1959, only a few months before Hawaii became the 50th. Alaska is the only mainland state with no contiguous connection to other states, being separated from Washington by western Canada (see figure 68). Although the largest state by area (571,000 square miles), Alaska is the third-smallest state by population (736,000 people). Native peoples have lived in Alaska for millennia, and it is believed that the ancestors of all the indigenous peoples of North America and South America crossed from

Asia and through what is now Alaska. Today, Alaska's population is 70% white and 22% Native Alaskan or Native American (US Census Bureau 2021c). Alaska voted for Lyndon Johnson in 1964, but he is the only Democrat to ever win the state in a presidential election.

Figure 68: Map of Alaska



Source: public domain map from Macky (2013)

What reform happened

In 1998, Alaska's legislature passed House Joint Resolution 44, which referred a constitutional amendment called Ballot Measure No. 3 to voters. The resolution created a new five-member commission, the Alaska Redistricting Board, to conduct redistricting for the state legislature (Alaska Division of Elections 1998a). The Governor would appoint two members, the Senate president and House speaker would appoint one member each, and the

Chief Justice would appoint one member, who had to be a state judge (Alaska Constitution, Article VI, §8). Ballot Measure 3 passed in November 1998 with 52 per cent of the vote (Alaska Division of Elections 1998b).

How did reform happen

Alaska has always had only one US House seat, so redistricting energies in the state focus on the state legislature. Before statehood, Alaska's territorial legislature was originally districted by area and not population, and thus very malapportioned, until Congress imposed districting by population for the state house in 1942 (Harrison 2012, 113). The original Alaska Constitution of 1959 established a nonpartisan redistricting advisory board, entirely appointed by the Governor, and to whom it would make redistricting plan recommendations (Ender 1981, 31). However, the Governor was constitutionally empowered to draw redistricting plans and to proclaim them as law, subject only to judicial (and not legislative) oversight (Clarke and Dickson 1970, 33). Alaska's constitutional convention did not give the legislative branch power over redistricting because, at the time, so many US state legislatures were failing to redistrict themselves regularly (Harrison 2012, 114).

Most redistricting cycles in Alaska have been contentious and required judicial intervention. In the 1970 cycle, legislative maps produced by Governor William Egan's mostly Democratic reapportionment board were rejected several times by the state Supreme Court, and the final redistricting was largely done at the court's direction (Ender 1981, 33-34). In 1982, Republican Governor Jay Hammond's board attempted modest gerrymandering, but their plan was rejected by the court and had to be modified in 1983 (McBeath and Morehouse 1994, 137). In the 1990 cycle, the board appointed by Governor Walter Hickel, an Independent and former Republican, dramatically redrew state legislative districts to favour

the Republican Party, but changes were again required by the court (Germain 1996; Harrison 2012, 115). However, because the struggles over redistricting were in court and not the legislature, they are not as partisan in tone or effects. Morehouse argued that redistricting “does not appear to be an effective tool of party control in Alaska state government” (Morehouse 1987, 133), and he and McBeath believe that “generally speaking, Alaska’s weaker partisan forces provoke less heated reapportionment battles than those pitched in other states” (McBeath and Morehouse 1994, 138-9).

By 1998, the Republican Party had a majority in both houses of the state legislature, by margins of 25–15 in the state House and 14–6 in the state Senate (Alaska State Legislature 2010, 74-75). Incumbent Governor Tony Knowles, a Democrat elected to his first term in 1994, was popular and a strong likelihood for re-election in 1998 (*National Journal* 1998), which would give him power over redistricting for the 2000 cycle under the existing law.

House Joint Resolution 44 (HJR 44) was introduced in January 1998, principally sponsored by two Republican state representatives, Brian Porter and Eldon Mulder. Two House committees, Judiciary and Finance, separately considered the proposal. Judiciary endorsed the resolution on February 18 by a vote of 4–2, with four Republicans supporting and two Democrats opposed (Alaska House Journal 1998, 2343). The Finance committee also endorsed the resolution, on March 6, by a vote of 5–3, with four Republicans and one Democrat supporting, two Democrats and one Republican opposed (Alaska House Journal 1998, 2535). However, the one supporting Democrat, Richard Foster, caucused with the Republican minority anyway (Cockerham 2009). HJR 25 was originally passed by the state House as a whole on April 2 by 27–11, an amended version passed the state Senate on May 10 by 15–5, and the House approved the amended HJR 25 on May 12, 1998, by 27–13

(Alaska State Legislature 1998). As with the committee votes, the chamber votes were along party lines, with Republicans supporting the resolution and Democrats opposed. The main sticking point in legislative negotiations over the resolution concerned who would make commission appointments, with early versions in the House proposing to exclude the governor completely (Alaska House Journal 1998, 2820).

The chief GOP advocates for the reform, Porter and Mulder, argued that the previous governor-dominated process spawned constant litigation and was often criticized for “being partisan and gerrymandered rather than creating redistricting plans based on bipartisan fairness and objectivity” (quoted in Alaska Division of Elections 1998a). Mulder also said that it was wrong that Alaska was the only state to give its governor such power over redistricting: “in the name of good government, this is a situation that cannot be allowed to continue”, he said (quoted in Miller 1998a). Porter agreed that “it just isn’t a power that any individual should have” (quoted in Queary 1998).

On the other hand, the Democratic Party opposed the redistricting reform, with state party chair Deborah Bonito criticizing it as partisan and “a political power grab” (quoted in Alaska Division of Elections 1998a). Some Democrats worried that new commission would place less emphasis on fair geographical representation than governors had in the past. State representative Reggie Joule said he feared that under the reform “we are going to have less and less of a voice in these chambers for the people of rural Alaska” (quoted in Miller 1998a). However, Democrats also admitted that the existing law suited them politically, looking ahead to the post-2000 redistricting. “We feel strongly that we’re going to have a Democratic governor and we would like him to be in charge of reapportionment,” said Bonito (quoted in Queary 1998).

Governor Knowles also opposed the resolution. His spokesman argued that Republicans were trying to take power away from the governor to help themselves, saying that “it’s a bill that can certainly be viewed as against this governor and against the next reapportionment. I don’t think you amend the state constitution just on a whim” (quoted in Miller 1998b). Although HJR 44 was transmitted to the governor for notice purposes, he did not have the power to veto or block it, since the law took the form of a joint resolution to submit a constitutional amendment to voters (Alaska State Legislature 2012, 19). Knowles did not actively participate in the election battle about Ballot Measure 3, but four out of the five then-living former Alaska governors, Democratic and Republican, joined the campaign against it (Associated Press 1998).

Alaska media outlets questioned the motives of Republicans in passing HJR 44. The *Anchorage Daily News*, the state’s largest newspaper, editorialized against the resolution, saying that “it’s striking that reapportionment only became a burning issue when Gov. Tony Knowles emerged as the favorite for reelection. One wonders if the Republicans would have such zeal for reapportionment reform if one of their number were favored in the November gubernatorial election” (*Anchorage Daily News* 1998).

Why did reform happen

The 1998 reform had a significant short-term partisan effect on the power to redistrict Alaska. It shifted mapmaking for the 2000 redistricting from a Democrat, Governor Knowles, to a commission that would have at least two and perhaps three Republican members. The GOP, as expected, retained control of the state legislature in the 1998 elections, so both legislative leaders were Republicans. Indeed, Brian Porter, architect of the reform, himself became

Speaker of the state House from 1999–2003 (Alaska State Legislature 2010, 77). In addition, Warren Matthews, Alaska’s Chief Justice from 1997 to 2000, was a Republican appointee to the court (Stolpe 2010). At a minimum, the post-2000 redistricting was expected to be more bipartisan, and the leverage of the governor notably reduced.

4.8 Oklahoma

A landlocked state of 68,000 square miles in the central interior of the United States (as shown in figure 69), Oklahoma was admitted to the union in 1907. In the 19th century, what is now Oklahoma was a place of exile for Native Americans forcibly evicted from their traditional homelands further east. Under President Andrew Jackson’s Indian Removal Act of 1830, the Trail of Tears for native peoples from Florida, Georgia, Alabama, and Mississippi all had Oklahoma as its final destination—for those lucky enough to survive the journey (Sturgis 2007). “Oklahoma was the ultimate backwater of the rural-land frontier, set aside for American Indians who had been driven out of the rest of the country as part of the white advance” (Elazar 1991, xxi). Today, more Native Americans live in Oklahoma than any other state: of the state’s 4 million people at the 2020 census, 16 per cent or more than 600,000 identified as Native American (US Census Bureau 2021c). The white majority in the state is traditional, conservative, and identifies with the south (Elazar 1991, xviii). Oklahoma voted for the GOP candidate in the last 14 presidential elections, and is one of the most reliably Republican states in the country (Wasserman and Flinn 2021).

Figure 69: Map of Oklahoma



Source: public domain map from Macky (2013)

What reform happened

In 2009, Oklahoma’s legislature passed Senate Joint Resolution 25 (SJR 25), which referred a constitutional amendment called State Question 748 to voters. The resolution created a seven-member bipartisan commission to conduct redistricting for the state legislature, if the latter fails to do so (Oklahoma Constitution, Article 5, §V-11A). The Senate president, House speaker, and Governor each appoint one Democrat and one Republican to the commission, and the Lieutenant Governor is the nonvoting chair (State Election Board 2010a, 3). Question 748 was approved by voters in November 2010 with 58 per cent of the vote (State Election Board 2010b).

How did reform happen

Historically, Oklahoma had one of the most malapportioned state legislatures in the country (Morgan, England, and Humphreys 1991, 81). Recognizing that reapportionment “was a

long-awaited and increasingly needed Oklahoma governmental reform”, Democratic Governor James Edmondson made a major effort to achieve reapportionment reform in 1960, but was ultimately stymied by the state legislature (Hawkins 1985, 108). Efforts by citizens to establish a commission for redistricting through the initiative process failed in 1961 (Mabbutt 1993, 207). Following the US Supreme Court’s reapportionment cases, Oklahoma held a special election in 1964 to update its state constitution to adopt equal apportionment, and also formed a backup Apportionment Commission for state legislative redistricting, consisting of three statewide executives – the attorney general, treasurer, and superintendent of public instruction (Adkison and Palmer 2001, 64). The commission was intended to provide an incentive for the legislature to not get mired in redistricting politics and fail to act on time, because if it did the commission would take over (Adkison and Palmer 2001, 66). For most of Oklahoma’s history since then, the three commission office holders were always Democrats (McNutt 2011).

Oklahoma is known as a reliable Republican state in federal elections; since Truman, Oklahoma has voted for a Democratic presidential candidate only once, in 1964 (Todd and Gawiser 2009, 220). However, the Democratic Party has historically been dominant in state legislative elections and thus in redistricting (Morgan, England, and Humphreys 1991, 16; Goldinger and Mudge 1982, 216). For example, a Democratic congressional redistricting plan was adopted in the 1960s over the veto of Republican Governor Henry Bellman (Hanneman 1985, 166). From the 1970s, however, a “rough equality” between Democrats and Republicans emerged at the state level (Scales and Goble 1982, 334). Democratic legislatures conducted redistricting relatively smoothly in each cycle from 1970 to 1990 (Singleton 1981, 269; Mabbutt 1993, 208). The Republican Party won a majority of seats in the Oklahoma Senate for the first time ever in November 2008, by a margin to 26–22 seats, and retained a

House majority, by 62–39, giving Republicans full control of the state legislature (Oklahoma Senate 2009).

Several proposals for redistricting reform were introduced and debated in the legislature in the 2000s. For instance, in 2007, House Democrats proposed establishing a six-member independent commission, made up of four retired state judges, one Republican, and one Democrat, to take control of redistricting from legislators, but the bill failed to get out of committee (McNutt 2010). State representative Ryan McMullen (D) introduced bill HB 1937, which proposed a bipartisan commission that would use nonpartisan staff from Oklahoma’s Legislative Services Bureau to assist with district line-drawing, but this was not reported out of committee. McMullen argued that “it is time to allow voters to pick their legislators instead of allowing politicians to choose their voters” (quoted in Pitts 2007). However, committee chair Trebor Worthen (R) criticized the bill as “a solution in search of a problem,” and noted that Democrats made no effort to establish an independent commission when they controlled the legislature for the 2000 redistricting cycle (Talley 2007).

Senate Joint Resolution 25 was enacted speedily. Introduced in January 2009, the Senate’s Rules Committee approved SJR 25 on February 16, 2009, and it was passed by the state Senate as a whole on March 10, and by the state House on April 21 (Oklahoma Senate Journal 2009, Oklahoma House Journal 2009). Two Republicans, state senator (and Senate president) Glenn Coffee and state representative Chris Benge, were the principal sponsors of SJR 25, and the resolution was supported by Republicans and opposed by Democrats along party lines. SJR 25 passed the state Senate 25–21, and the state House 59–38 (McNutt 2011). Speaking in favour of the resolution, Coffee argued that SJR would guarantee bipartisanship, saying “the way the constitution is currently drafted, it arbitrarily picks three statewide

officers to draw the lines if the Legislature and the governor cannot agree. Under the current configuration, all three of those officeholders are of the same party” (quoted in McNutt 2010). Democrats criticized the reform for not being nonpartisan and independent of the legislature. House minority leader Danny Morgan (D) argued that “if it’s not broke, why are we trying to fix it? If it is in fact broke, we need an independent council that is appointed, particularly by having some justices involved or people who have no vested interest in it. We don’t mind changing the system; we just don’t think that this is actually going to be an independent commission because of the people who make the appointments” (quoted in McNutt 2010).

Oklahoma legislators tend to respect the legitimacy of gubernatorial leadership (Kirkpatrick 1978, 188). However, because the law took the form of a joint resolution to submit a constitutional amendment to voters, SJR 25 bypassed the governor’s office completely, and Democratic incumbent Brad Henry had no formal opportunity to approve or block the proposal (Oklahoma Senate 2012). However, Governor Henry had previously promoted a bipartisan approach to redistricting, so may not necessarily have vetoed the law even if he had had the power to do so (Francis-Smith 2007).

Oklahoma media outlets were divided in their views about Question 748 when it came to offering endorsements for the November 2010 election. Some newspapers supported a yes vote, arguing, for example, that “we don’t see the harm in adding new bipartisan members to the commission” (*Enid News and Eagle* 2010). Others suggested a no vote, arguing that the proposal was a “pointless referendum and should be rejected”, even if “no great harm would come to the state from either the question’s passage or failure” (*Tulsa World* 2010; *Daily Oklahoman* 2010).

After Measure 748 was passed, Oklahoma’s Libertarian Party filed a lawsuit against it, alleging that the inclusion of only Democrats and Republicans on the commission, and the exclusion of other parties or independents, was unconstitutional (Talley 2011). However, Oklahoma’s State Supreme Court ultimately refused to hear the case (Oklahoma State Courts Network 2011).

Why did reform happen

Oklahoma’s Republican Party was in the minority in the state legislature for the redistricting cycles of 1970, 1980, 1990, and 2000. In advance of the 2010 cycle, they finally became the legislature’s majority. Taking advantage of this opportunity to put in place a more neutral backup redistricting mechanism – a bipartisan commission rather than a typically partisan one – seems to have been a strategic decision to try to prevent Republicans from potentially being completely locked out of state redistricting in future cycles, as they had been in the past. In addition, the Republican majority in the state Senate was small, and it appears Oklahoma is now in a period of more competitive legislative elections, compared to past Democratic dominance. This suggests that, in future redistricting cycles, the state legislature may be more likely to deadlock and thus hand redistricting to the commission, in turn increasing the importance for Republicans to adopt a more balanced, bipartisan commission in 2009, while they could.

4.9 California

California occupies 800 miles of the west coast of North America, and is the largest US state by population (39.5 million people) and the third-largest by land area (155,000 square miles) (NOAA 1975; US Census Bureau 2019; 2012, 43) (see figure 70). Once home to a significant indigenous population, after the arrival of Europeans “disease, starvation, homicide, and a

declining birthdate for native people took a heavy toll” (Hurtado 1988, 1). Spanish explorers reached the coast of what is now California in 1542, when the region had an estimated 300,000 native inhabitants (Rolle and Verge 2015, 21; Hurtado 1988, 1). However, the first Spanish settlements in California were not established until 1769, and sought to deter other European powers from colonizing the area (Simpson 1966, 202). The native population steadily decreased, to approximately 72,000 in 1821, 50,000 in 1848, and 32,000 in 1860 (Hackel 2007, 638; Dolnick 2014, 20; Hurtado 1988, 194). Europeans by contrast numbered about 1,000 in 1800, 7,000 in 1840, 15,000 in 1848, 100,000 in 1849, 225,000 in 1852, and 350,000 in 1860 (Fehrenbacher 1964, 18, 34; Dolnick 2014, 20; Hurtado 1988, 195). California was a territory claimed by Spain for 250 years and then by an independent Mexico for 25 years, until it was annexed by the United States in the 1840s following the Mexican-American War (Vazquez 2010). Although that war was primarily about Texas, Presidents Andrew Jackson and James Polk had previously tried to purchase Californian land from Mexico, and it has been argued that “Polk wanted war because he wanted California” (Fehrenbacher 1964, 24; Lepore 2018, 243; Johnson 1998, 378).

Figure 70: Map of California



Source: public domain map from Macky (2013)

In 1848, California became American and golden. Mexico signed the Treaty of Guadalupe Hidalgo on February 2, ceding California to the US (Lepore 2018, 250). Gold was found in northern California on January 28, and this discovery became public knowledge in San Francisco in March and in New York by June (Fehrenbacher 1964, 33; Dolnick 2014, 25). President Polk excited Easterners when he confirmed the news in his State of the Union message in December 1848 (Fehrenbacher 1964, 34). Tens of thousands of people poured into California in the Gold Rush of 1848/49 (Dolnick 2014, 18). The region quickly became the most populous US territory west of the Mississippi, with San Francisco's population

jumping from 800 to 30,000 in three years (Dolnick 2014, 12). Johnson argues that “the California gold rush as a whole was a world-historical event of some importance” because it had powerful effect on both population patterns and capital markets and thus on US economic development (Johnson 1998, 386). California, an unorganized territory, applied to join the Union as a state, and as part of the Compromise of 1850 was admitted as a free state on September 9, 1850 (Lepore 2018, 260-261).

Six years later, John Fremont, an explorer and military governor of California, was the Republican Party’s first-ever candidate for president, losing to Democrat James Buchanan in the 1856 election (Gienapp 1987, 414). Fremont did not actually carry California, but the state voted for Republicans for president in most elections until the 1930s (NARA 2020). California in the 20th century produced prominent Republican leaders such as progressive Senator Hiram Johnson, Chief Justice Earl Warren, and two presidents, Richard Nixon and Ronald Reagan (Critchlow 2018, 27, 142). In state politics, California was also a Republican Party stronghold from the late 19th century to the mid-20th century (Hennings 1962, Sullivan 2014). Between 1890 and 1959, only two out of fourteen governors were Democrats (NGA 2018). During the same period, Republicans held a majority in the state senate for the entire time, and had a majority in the state assembly nearly as often, for 59 years out of the 69 (Dubin 2007).

California became much more politically-competitive in the second half of the 20th century. The last ten governors of California include five Democrats and five Republicans (Janiskee and Masugi 2011, 73). The state’s contemporary reputation as a Democratic bastion is relatively recent (Bell 2006). For example, California last voted for a Republican presidential candidate in 1988, last elected a Republican US Senator in 1988, and last elected a

Republican majority in a state legislative chamber in 1994 (NARA 2020; US Congress 2020; Dubin 2007). No Republican has won statewide office since 2006 (Janiskee and Masugi 2011, 76-77; US Congress 2020). Bruce Cain argues that “California is the most misunderstood state in the country. It has always been that way” (quoted in Canon 2020).

What reform was attempted

In 2006, the California Senate passed Constitutional Amendment 3, which would have submitted a redistricting law reform proposal to the state’s voters. The amendment sought to create an eleven-member bipartisan commission of citizens to conduct redistricting in place of the state legislature (California Legislature 2006). However, the California Assembly failed to agree to the amendment, despite the Senate’s backing and the governor’s enthusiastic support (California Senate 2006, 1195).

How did reform make some progress

In 2002, Democrat Gray Davis was elected to a second term as Governor of California. However, his re-election was controversial because Davis aggressively intervened in that year’s Republican gubernatorial primary. He ran ads attacking the moderate Republican frontrunner, former Los Angeles mayor Richard Riordan, hoping to run instead against a more conservative and beatable GOP candidate, like Secretary of State Bill Jones or businessman Bill Simon (Gerston and Christensen 2004, 44). A Riordan staffer complained, “Davis is spending millions of dollars to nominate Jones or Simon” (quoted in Wildermuth 2002). It worked. Simon was chosen by Republicans, then Davis defeated him in the general election in November 2002, by 47% to 42% (California Secretary of State 2002, 3). But in the eyes of some voters, the legitimacy of Davis’s re-election was tainted, and he had low job approval ratings despite being re-elected (Bowler 2004). The Republican Party exploited

Davis's political weaknesses and successfully petitioned to hold a recall election. California voters removed Davis from office in October 2003, and chose moderate Republican Arnold Schwarzenegger as governor instead (California Secretary of State 2003, xiv).

The change from Davis to Schwarzenegger was consequential, because Schwarzenegger supported redistricting reform whereas Davis did not. Analysis of 'State of the State' speeches is one common way to evaluate the gubernatorial agenda (Coffey 2005, Weinberg 2010, Heidbreder 2012). Governor Davis gave five annual State of the State speeches to the California legislature. He never mentioned gerrymandering, redistricting, or redistricting reform in any of them (Davis 1999, 2000, 2001a, 2002, 2003). The state legislature passed an incumbent-protection gerrymander in 2001, which ruthlessly minimized the number of competitive election districts in California (Kang 2006, 667). Davis praised this gerrymander, calling it "a most cooperative bipartisan endeavor" when he signed it into law (Davis 2001b). The archive of his official papers also provides no evidence Davis has made any statement criticizing gerrymandering in California or supporting redistricting reform (Davis 2020).

By contrast, Governor Schwarzenegger repeatedly urged the legislature to act on gerrymandering reform. In 2005, he argued in detail that

We must make California's elections democratic once again. When I was studying to take my citizenship test, I learned about gerrymandering and how politicians changed the boundaries of a voting area to protect themselves. For a long time I thought that was something that happened way back in the 1800s, but the practice is still alive and well today. Here is a telling statistic: 153 of California's congressional and legislative seats were up in the last election and not one changed parties. What kind of democracy is that? I will propose that an independent panel of retired judges – not politicians – determine California's legislative and congressional districts. They can draw fair, honest district lines that make politicians of both parties accountable to the people. The current system is rigged to benefit the interests of those in office, not the interests of those who put them there. And we must reform it. (Schwarzenegger 2005)

In 2006 and 2007, Schwarzenegger again encouraged the state legislature to take action on redistricting law reform in his State of the State speeches (Schwarzenegger 2006, 2007). Political reform and reducing elite power were part of Schwarzenegger's overall agenda. He ran for governor promising to "clean up Sacramento", arguing that the state's "political system was rigged for the incumbents", and criticizing the "disconnect between the people of California and the politicians of California" (Schwarzenegger 2012, 510, 486, 487). Schwarzenegger identified redistricting reform as one of his top ten goals to achieve as governor (Schwarzenegger 2012, 527). On the campaign trail he said he wanted "to emphasize that I would tackle systemic political problems like gerrymandering, which let election officials decide the shape of their own districts so that they could keep lock on them forever" (Schwarzenegger 2012, 505).

Senate Constitutional Amendment 3 (SCA 3) was introduced into the California Senate on December 6, 2004, with bipartisan support, co-sponsored by two Republicans and nine Democrats (California Senate 2006, 1195, 1482; California Assembly 2006, 4-5). Republican Roy Ashburn and Democrat Alan Lowenthal were the lead sponsors in the Senate (California Senate 2006, 1195). The amendment was discussed in committee several times, received multiple hearings, and underwent minor revisions. In 2006, SCA 3 was approved by two different Senate committees on March 15 and May 25 respectively, and referred to the Senate as a whole. The Senate passed Amendment 3 on August 16, 2006, by 27 votes to 11 (California Senate 2006, 1195). Both parties were divided on the proposal – 16 Democrats and 11 Republicans voted yes, and seven Democrats and four Republicans voted no (California Legislature 2006, California Senate 2006, 1482-1483). SCA 3 was then

transmitted to the California Assembly for consideration, but its members took no further action on the proposal. The amendment died when the legislative session ended on November 30, 2006 (California Senate 2006, 1195).

Governor Schwarzenegger was disappointed with the failure to pass SCA 3, saying that “lawmakers have missed an important opportunity to move forward with political reform this year” (quoted in Vogel and Rau 2006, 21). The governor had also bargained with state legislators, linking redistricting reform (unpopular with legislators) with term limit reform (popular with legislators, who want to stay in office longer). Schwarzenegger “promised to support a change in state term limits – the most stringent in the country – if lawmakers crafted a redistricting measure” in 2006 (Vogel and Rau 2006, 21).

The leaders of both state legislative chambers – Senate president Don Perata (D) and Assembly speaker Fabian Nuñez (D) – supported SCA 3, after promising to advance their own version of redistricting reform while opposing Schwarzenegger’s version which was a 2005 ballot measure (Vogel and Rau 2006). Some Senate Democrats opposed the reform. For instance, Senator Kevin Murray argued that voter geography shaped redistricting, not politicians. He said that “people self-select where they live” and “that is what drives redistricting more than anything else... The fact is, in the center of Los Angeles you’re unlikely to round up enough Republicans to even have a meeting, much less a district” (quoted in Vogel and Rau 2006, 21). Murray’s own district looked like a gerrymander. He represented the 26th State Senate district, located in western Los Angeles, which in 2006 had a highly-irregular shape, suggesting different groups of voters had been carefully included or excluded (Senate Office of Demographics 2001). The same area is now covered by the

commission-created 30th Senate district, which is much more compact and regular in shape (Senate Office of Demographics 2014).

Some supporters of SCA 3 “said they hoped it would help to restore voters’ faith in the Legislature” (Vogel and Rau 2006, 21). For instance, Senator Jackie Speier complained that past redistricting processes in California had all been about “cutting deals for individual members that wanted to make sure they would have a comfortable seat to run in the future”, whereas she thought voters “would like to see us run in districts where in fact we are not the architects” of the redistricting (quoted in Vogel and Rau 2006, 21). Speier’s own district did not rely on gerrymandering. She represented the heavily-Democratic 8th State Senate district, covering suburbs and towns south of San Francisco, which in 2006 was relatively compact (Senate Office of Demographics 2001). It is similar to the existing compact 13th Senate district, which was created by an independent commission (Senate Office of Demographics 2014).

Why did reform fail

The support of the governor and the state senate was not enough for redistricting reform to be passed in California in 2006. Why not? Legislators knew that a ballot initiative could be proposed that might result in a reform less favourable than one they created themselves. However, Nancy Pelosi was strongly opposed and was the de facto leader of the California Democratic Party (MacDonald 2012). A federal politician, Pelosi was House Minority Leader from 2003 to 2007, where her top priority was to help Democrats to win back the house majority lost in 1994. Democrats won 33 of 53 congressional seats (or 62%) in California at the 2004 election, and the reducing gerrymandering in the state might have threatened this

domination (California Secretary of State 2004). In 2006, Democrats won the US House back, with a cushion of just 15 seats above the minimum majority of 218, and one of the extra seats won came from California. A “close Pelosi ally” among state politicians was Assembly leader Karen Bass (Caygle and Ferris 2021). She also could have tried to push reform through but did not, and was subsequently elected to the US House of Representatives in 2010 with the support of Pelosi.

Governor Schwarzenegger’s redistricting reform efforts in the state legislature in 2006 ended in failure. However, that was not the end of the reform story in California. He shifted venues in 2008, and worked with a coalition that persuaded state voters to directly adopt Proposition 11, which created an independent citizen commission for state legislative redistricting (Garcia 2008). In 2010, a similar commission for congressional redistricting was also adopted by voters as Proposition 20 (York 2010). California today has one of the most reformed redistricting systems among the states, but this was achieved despite the state legislature and not because of it.

4.10 New Hampshire

New Hampshire is a rural state in the northeast, bordering Canada, with a small population (1,359,000 people) and land area (8,900 square miles) (US Census Bureau 2019; 2012, 43) (see figure 71). European exploration of the New Hampshire coastline is known to have begun in the early 1500s, although Viking sailors may have visited centuries earlier (Piotrowski 2002, 7; Pohl 1966, 179). European settlement began in the early 1600s, initially as the result of English colonists from Massachusetts Bay moving north (Taylor 2002, 165). Coastal villages were established at Dover and Portsmouth by 1630 (Page 1922, Harrington

1983), and more than 20,000 white settlers arrived in New England between 1620 and 1640 (Warren 2017, 2). The indigenous inhabitants of the region are the Abenaki, a subset of the Algonquin people (Carson 2002, 108). War and disease devastated the Abenaki. European-introduced illnesses reduced the native population from an estimated 10,000 people pre-contact to less than 1,000 by 1650 (Piotrowski 2002, 13). Then “Indian warfare in New Hampshire was practically continuous for nearly a hundred years” until the mid-1700s, when the remaining population was driven out of the state (Carson 2002, 114). The 1900 census claimed there were only 22 Indians living in New Hampshire (Calloway 1997, 11).

Figure 71: Map of New Hampshire



Source: public domain map from Macky (2013)

The British crown colony of New Hampshire was separated from Massachusetts and given its own royal governor in 1680 (Bailyn et al 1977, 129). The European population of the area slowly increased from approximately 1,000 people in 1640 to 2,000 in 1680, 5,000 in 1700, 10,000 in 1730, 27,000 in 1750, and 62,000 in 1770 (US Census Bureau 1975, 1168). Colonial New Hampshire developed a distinct political culture, based on its economics. Unlike southern colonies which were typically dominated by large plantations staffed by slaves, New Hampshire's economy chiefly consisted of many small independent farmers who owned and worked their own land (Bailyn et al 1977, 170-171). Some New Hampshire royal governors accumulated great power. Wealthy landowner Benning Wentworth, governor from 1741 to 1766, is said to have "possessed the most consolidated hierarchy of royal authority in all of colonial America" (Bailyn et al 1977, 273).

Today, New Hampshire has a reputation for high levels of local democratic participation, as embodied by the New England town-hall meeting. Elazar argues that "New England has a localistic tradition dating back to its settlement" (Elazar 1972, 200). New Hampshire has hosted the first presidential primary in the nation since 1948, which gives its outsized political attention and influence.²⁷ In state politics, New Hampshire was a Republican Party stronghold from the mid-19th century to the late 20th century (Moore and Smith 2015, 153). In presidential elections from 1856 to 1988, the state supported only three Democrats and 19 Republicans (NARA 2020). During the same time period, New Hampshire voters elected 46 Republican governors and only five Democratic governors (NGA 2018). When Democrats won majorities in both houses of the state legislature in 2006, it was the first time they had done so since 1874 (Dubin 2007, 122-123). New Hampshire today has "become a competitive hotbed for Democrats and Republicans" (Cohen et al 2020, 1108). Control of the

²⁷ Although Iowa's presidential nomination contest is earlier than New Hampshire's, it is a caucus not a primary.

state legislature and the governor's office has changed back and forth between the parties several times this century (NGA 2018).

What reform was attempted

In 2019, the New Hampshire legislature passed House Bill 706, which proposed to create an independent redistricting commission for the state. The state house approved the bill in February 2019, the state senate approved an amended bill in May, and the house then accepted the senate's revised bill in June (New Hampshire Legislature 2019). The Governor of New Hampshire Chris Sununu vetoed the bill on August 9, 2019 (Sununu 2019). The following month, the state legislature narrowly failed to achieve the two-thirds majority vote needed to override the gubernatorial veto (New Hampshire Legislature 2019).

How did reform make some progress

In November 2018, the Democratic Party won majorities in both chambers of the New Hampshire legislature. The state house flipped from having 217 Republicans and 176 Democrats before the election to 234 Democrats and 166 Republicans afterward, while the state senate changed from 14 Republicans and 10 Democrats to 14 Democrats and 10 Republicans (New Hampshire Secretary of State 2018). The Democratic state election platform included a section on voting rights and democracy which supported making it easier for people to vote and opposed voter suppression and gerrymandering. The platform declared that "we support a non-partisan state redistricting process designed to be free of partisan gerrymandering" (New Hampshire Democratic Party 2018).

The vote to override the veto got 61% support in the state house, but needed 67% to pass (New Hampshire Legislature 2019). The incumbent Republican governor of New Hampshire,

Chris Sununu, was re-elected to a second two-year term in November 2018 (New Hampshire Secretary of State 2018). Sununu's family is well-known in state politics. His father, John H. Sununu, was a state representative, served as New Hampshire Governor from 1983 to 1989, and then worked as White House Chief of Staff for President George Bush Sr (Whipple 2017, 161). His older brother, John E. Sununu, represented New Hampshire as a US Representative (1997-2003) and US Senator (2003-2009) (US Congress 2021).

Why did reform fail

Strong support in both house of the state legislature was not enough for redistricting reform to be passed in New Hampshire in 2019. Why not? Gubernatorial opposition was critical. Abolishing gerrymandering was not in the interests of the Republican Party and the Republican governor was in a clear position to prevent reform. Governor Sununu was known for his frequent vetoes, although sometimes these were overridden, such as on death penalty abolition. But Sununu did not pay a political price with voters for preventing redistricting reform in New Hampshire. He ran for re-election in November 2020 and won comfortably with 65% of the vote (New Hampshire Secretary of State 2020). This was a sharp increase from his two previous elections for governor. He won with 49% of the vote in 2016 and 53% in 2018 (New Hampshire Secretary of State 2016, 2018).

4.11 Summary

This chapter has discussed cases where US state legislatures debated different kinds of election redistricting reforms, which reduced or potentially reduced their own power over redistricting in some way. The goal of this chapter is to examine the data to evaluate whether or not it supports hypotheses 1, 2, or 3. These are that a state legislature adopts redistricting law reform if it is supported by state political leaders (e.g., governor, legislative leaders,

members of Congress), if the legislature would gain a benefit or advantage from reform (e.g. because courts have intervened to take control of past redistricting, or a ballot measure on the topic has been proposed and may pass), or if it is supported by people in the state.

There is evidence in this chapter to support hypothesis 1. Law-making is highly dependent on bargaining and negotiation among key actors. The most important factor which seems to underpin redistricting law reform is the agency of state governors and, perhaps to a lesser extent, legislative leaders. For reform to occur, the evidence of these cases suggests it must be supported and approved by governors, and, ideally, initiated and driven by them. Agenda-setting for state legislatures is primarily driven by the will and priorities of governors, across all policy areas, and it appears redistricting law reform is not an exception. In Idaho, Iowa, Maine, and Texas, governors championed redistricting reform in their state. State legislative leaders were also pivotal, especially in Idaho and Maine. However, while gubernatorial power and attention may be necessary, is not sufficient.

There is also evidence in this chapter to support hypothesis 2. There seem to be several other factors which can help can help create – or fail to create – favourable conditions for state legislative action, given gubernatorial initiative or buy-in. State politicians are willing to compromise and accept a partial reduction in their own power, when the alternative threatens a probable larger reduction in power imposed upon them. Sources of such threats can include judicial intervention, a ballot initiative that might pass, and a minority party which temporarily finds itself in power. Evidence of this type of strategic incentive for reform arises in this chapter's cases. Maine Republicans, sensing the winds of change against them, supported reform to blunt Democratic future dominance, whereas Oklahoma Republicans, newly resurgent, sought to lock in their political position. Legislators in Alaska, Idaho, Iowa,

Maine, and New Jersey hoped reform would reduce litigation and prevent courts from again taking control of redistricting. Iowa Democrats and Republicans both feared being worse off after the next redistricting cycle if they stayed with a partisan system, rather than changing to a less partisan regime. New Jersey Democrats and Republicans collaborated on a reform plan that still protected both of their interests.

There is limited evidence in this chapter to support hypothesis 3. Under certain conditions, state politicians and parties can perceive that supporting redistricting reform is a vote-winner that may increase their popularity and chances of re-election. This is made more likely if there is significant activity and attention by interest groups and media outlets in a state promoting reform, or if past gerrymandering practices have been sufficiently extreme or egregious as to stimulate public or interest group motivations. Reform in Alaska, Iowa, Maine, and Texas was stimulated by a high level of interest group activity and public dissatisfaction with past redistricting cycles and reform failures.

The limitations of case studies mean they can seldom provide a definitive answer. More data can be collected and more cases could be examined, which might offer contradictory findings. But based on the data and states examined in this chapter, enough plausible evidence has been found to support hypotheses 1 and 2, and to reject the idea that leadership and contingent factors that shape legislator motivations are irrelevant to a state's success or failure in changing their redistricting system.

CHAPTER 5

Conclusions: Democracy and America

“You can depend on Americans to do the right thing when they have exhausted every other possibility.”

– Bernard Hillenbrand (1970, 471)

“Like a seed that has to be watered every day to become a flower, democracy needs constant attention and care.”

– Shirin Ebadi (2005, 98)

5.0 Findings and Arguments

In the United States, the decentralization of power over redistricting to the states has prevented the emergence of a national compromise between the major political parties to mutually reject election manipulation through gerrymandering. In many other democracies such a national compromise readily emerged, including in Britain and New Zealand. Some federal countries achieved the same outcome, including Australia and India, where a federal body is responsible for redistricting for both federal and state legislative districts (Medew 2008, McMillan 2008). The opposite happens in the US: state governments are in charge of both state and federal redistricting, and carry this out according to a messy patchwork of state legal regimes that feature significant variations in gerrymandering practices and attempted anti-gerrymandering constraints.

In chapter 1, two closely-related research questions were identified: why has redistricting reform been enacted by some US state legislatures but not by others, and why and under what conditions do state legislators give up some of their powers over redistricting? Chapter 1 also identified two research methods to investigate these questions: a quantitative analysis using a newly-developed index of state redistricting systems as the dependent variable, and a set of small qualitative case studies discussing several state election redistricting law reform efforts. Chapter 2 discussed in detail six hypotheses that were identified as plausible answers to the

research questions. These were that a state legislature adopts redistricting law reform: (1) if it is supported by state political leaders; (2) if the legislature would gain a benefit or advantage from reform; (3) if it is supported by people in the state; (4) if it is advantageous for state political parties; (5) if the state has institutional features favourable to reform; or (6) if the state has demographic features favourable to reform. The null hypothesis was that a state legislature adopts redistricting law reform because of reasons not explained by a variable investigated in this research. Past research in political science that justifies or illuminates each hypothesis was reviewed, and different subhypotheses and variables were identified that could be tested.

The first half of chapter 3 outlined the development of a new redistricting neutrality index (RNI) to systematically measure and compare the redistricting systems of US states. Rather than relying on simple and subjective categories, like commission states or politician states, the index gives all states a rating on a scale from zero to ten. For example, states with significant reform like California (7.3/10), Arizona (5.8/10), and Iowa (4.9/10) received high scores, and low reformed states received scores of 1 or 2. Two redistricting indexes were created: one for state legislative redistricting, and one for congressional redistricting. This was necessary because some states use different systems for the two purposes. The indicators underlying the elements used in index construction were derived inductively from an analysis of state redistricting systems, such as state constitutions, laws, and practices relevant to redistricting. All states were then coded and their index scores calculated. Output-based approaches that aim to detect gerrymandering by analyzing election maps continue to be popular in political science, such as the efficiency gap statistical test of Stephanopoulos and McGhee (2015). The use of an index of states is an alternative institutional and input-based

approach to comparing the capacity of states to gerrymander and the amount of redistricting reform that states have adopted or claimed to follow.

The second half of chapter 3 methodically tested a number of subhypotheses related to hypotheses 4, 5, and 6 against the redistricting index. The goal was to determine if there were one or more simple explanations that explained the variation in the index, such as that reform mostly occurred in small states, or rich states, or liberal states, or white states, or rural states, or Democratic states. The key finding in this chapter is that none of the variables normally used to explain inter-state political differences were significantly associated with variations in the redistricting index. Only two variables that measure state institutions (hypothesis 5) were moderately or weakly correlated to the redistricting index and reported an $r^2 > 0.2$. These were Beyle's historical measure of gubernatorial powers (figure 43) and Squire's index of state legislative professionalism (figure 47). The data examined in chapter 3 for hypotheses 4 and 6 did not support any of their subhypotheses, and we are not able to reject the null hypothesis as a consequence.

Scholars in political science and other disciplines may be reluctant to report research that ended up finding null effects, and this can produce a publication bias if and when “many unpublished studies likely yielded null results” (Alrababa'h et al 2020, 1). However, as discussed in chapter 2, the hypotheses and variables tested in chapter 3 were ones that often successfully explain inter-state differences in political science. The fact that this set of usually-useful variables does not explain patterns of redistricting reform across the states is still a significant and worthwhile finding. Redistricting is different. It does not behave like many other areas of state policy, where variations can be associated with more predictable explanations.

In chapter 4, brief case studies examined several state redistricting law reform efforts, some of which led to a major system change, some of which led to minor change, and some of which led to no change at all. Hypotheses 1, 2, and 3 were evaluated with this data. The first key finding of chapter 4 is the importance of gubernatorial leadership. Where governors have not supported or pursued redistricting reform, it has not occurred. Agenda-setting for state legislatures is primarily driven by the will and priorities of governors across all policy areas, and redistricting law reform is not an exception. Lawmaking is highly dependent on bargaining and negotiation among key actors. Governors and state legislative leaders play a key role. For instance, Iowa Governor Robert Ray was instrumental in pushing through reform in his state. California Governor Arnold Schwarzenegger strongly supported reform in his state in 2005, 2008, and 2010; but it failed the first time, before passing the next two times. Redistricting reform has not been supported by Ohio governors, and has repeatedly failed in that state, both legislatively and by ballot measures. Redistricting failed in New Hampshire, almost entirely due to opposition by the governor, whereas gubernatorial leadership was essential in Virginia.

Gubernatorial power and attention is therefore an apparently necessary condition for reform, though not sufficient alone. Governors and reforms need to develop additional leverage, especially due to low public engagement with the policy area of redistricting. Reform coalitions struggle to mobilize public opinion about redistricting or to sustain issue salience, in part due to the type of problem it poses. Some political reforms focus on problems that directly harm individuals in easily-understood ways, such as a denial of voting rights or strict and expensive voter identification requirements. But gerrymandering does not directly harm individual voters. Instead, it causes an indirect harm by distorting democratic representation and the balance of political power in legislatures. A voter who turns up to vote and is denied

the ability to do so acquires a high awareness of the problem of voter suppression, if they did not already know about it. A voter who turns up to vote and does so in an extremely gerrymandered district does not necessarily acquire a higher level of awareness of gerrymandering. They may well not even know or care about the shape of their district.

A second finding of chapter 4 is that strategic windows of opportunity help provide leverage for leaders and reformers to persuade legislators to prioritize redistricting reform over their other interests. A number of examples were discussed that can temporarily boost legislator support for reform, including a desire to prevent future meddling by courts, the threat of ballot initiatives, and concerns about future election losses. State politicians are willing to compromise and accept a partial reduction in their own power when the alternative is a probable larger reduction in power imposed upon them through judicial intervention or a ballot initiative, or when the political party in power in a state looks ahead and believes that it will be back in the minority when redistricting next takes place, or if it is usually the minority in a one-party dominant state. A party may calculate that it will be better off in the long term under a type of neutral redistricting than facing opposition-party gerrymandering most of the time. Under certain conditions, state politicians and parties can perceive that supporting redistricting reform is a vote-winner that may increase their popularity and chances of re-election. Different circumstances increased the likelihood of this happening. One is if there has been significant activity and attention by interest groups and media outlets in a state promoting redistricting reform. This can both increase lobbying pressure on legislators and increase the salience and visibility of redistricting among the public, for whom it is usually a neglected and low-priority issue. A second, often related circumstance, is when past gerrymandering has been sufficiently extreme or egregious as to stimulate public or interest group motivations.

Political developments do not have single causes. Ursula Hicks reminds us that

In assessing causes of failure or success it is seldom a matter of identifying a unique factor; it is rather a question of judging which elements in a complex situation were most responsible for the result. (Hicks 1978, 171)

For states to reform redistricting, they need pro-reform governors and favourable contingent circumstances or events that boost or adjust legislator motivations. The analysis in chapter 3 struggled to find data that provided clear and simple explanations of which states have reformed their redistricting systems and which states have not. Chapter 4 emphasizes the central role of governors, but that alone is not sufficient. All reformed states are different, and have each reformed in their own complex way.

5.1 Theoretical Implications

In reviewing the literature relevant to hypotheses in chapter 2, the views and theories of a wide range of scholars were discussed. This section reflects on theoretical contributions that this research can make to debates in political science beyond the specific context of legislative redistricting.

One implication of this thesis concerns the extent of the powers of state governors. It has been well-established that agenda-setting for state legislatures is largely driven by governors. Most previous research has focused on the traditional major areas of policymaking and budgeting (Ferguson 2018, Dometrius and Wright 2010). Governors can wield great influence over what bills the legislature passes, and over state tax and spending plans. This thesis has extended that focus of gubernatorial activity to irregular and extraordinary items, such as the reform of political institutions. In his outstanding text on gubernatorial leadership, *The Best Job in Politics*, Rosenthal (2013) discusses many policy areas where governors have

played a vital role in making change happen, but the reform of state democracy or election systems is not mentioned. Protecting democracy or providing political reform leadership for a state should be added as one of the various roles that governors perform.

A parallel implication concerns Kingdon's approach to analyzing public policy agenda-setting, as discussed in section 1.3.1 in chapter 1. Many scholars use Kingdon's model in their research. The most common policy areas to which it has been applied are health care, education, and environmental policymaking, and it has also been used to study law, communications, and foreign policy (Rawat and Morris 2016, 614). In their analysis of 120 journal articles that applied Kingdon, Rawat and Morris (2016, 612) report that none focused on election systems or policy changes about democracy. This thesis suggests such an omission is unjustified and that further research on changes to democratic systems utilizing Kingdon's model would be valuable.

An ancient debate in political thought considers the question, who guards the guards? Plato (1930, 265) in *The Republic* argued that a city-state's guardians or rulers should be trusted to behave properly and need no further oversight. A similar and common argument made by opponents of redistricting reform is to claim that it would be undemocratic to reduce the power of elected politicians over redistricting. Governor Chris Sununu, for example, after vetoing reform in New Hampshire argued that "legislators should not abrogate their responsibility to the voters and delegate authority to an unelected and unaccountable commission" (quoted in Timm 2019). Redistricting reform is one example of a broader category of legislation that might be in the community's interest but is contrary to legislator self-interests. Little evidence has been found that state political elites readily accept and respect the views of the public, who clearly support redistricting reform according to polling

(Lake and Stephenson 2017, Kruzel 2021). It is therefore highly problematic that state legislatures are considered the most plausible forum for reform debates (Scarrow 2002, 58). A key implication of this thesis is to support those who advocate an increase in the avenues available for reform. The rise and spread of direct democracy in the United States was a major development of the first half of the 20th century (Schmidt 1989). Today, half of the states have no ballot initiative system, as illustrated in figure 6. The limited reform capacity of legislatures found in this thesis suggests that a new political movement to spread direct democracy systems to all states that lack them would be a worthwhile long-term effort. Adding another venue for political reform activities would help disrupt the pro-gerrymandering policy equilibrium prevalent in many states.

Research on democracy and autocracy is a central focus of comparative politics (Croissant and Haynes 2021, 1). Another contribution of this thesis is toward the debate about the nature of federalism as it is practiced in America. One side argues that US states foster participation by citizens, “keep government close to the people,” and function as innovative laboratories of democracy (Rozell and Wilcox 2019, 78). The other side sees this latter claim as a myth, is skeptical about the record of states on protecting minorities, and is concerned state governments have become “laboratories of autocracy” (Tyler and Gerken 2021, Tarr 2004, Pepper 2021). This research has found that it is rare and difficult for state legislatures to enact reforms to make election systems more democratic. A state acting as a laboratory of democracy seems to be an exception, not the general rule. There is little evidence state politicians have an altruistic motivation to improve the quality of democracy in America. Political actors are chiefly interested in what helps them and their party to win elections and exercise power. Occasionally, voting in favour of a redistricting reform will coincide with a party’s electoral interests.

A corollary of this conclusion is that federalism plays a pivotal role in guarding American democracy. There is a fundamental debate about the role of the federal government in incentivizing US states to respect democratic procedures. The Supreme Court's decision about the Voting Rights Act in *Shelby County* illustrates this debate. Echoing Plato, the conservative majority argued that all state governments can and should be trusted to protect democracy and operate fair elections without federal oversight. States must be treated equally by the federal government. Chief Justice Roberts (2013, 15) wrote that since the 1960s significant improvements in minority voter registration and voter turnout have occurred "in large part because of the Voting Rights Act." But he ruled that Congress could no longer require some states but not others to obtain federal approval for election-law changes, based on patterns of discrimination that existed fifty years ago. The liberal minority on the court took a different view. In her dissent, Justice Ginsburg (2013, 33) wrote that "throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet." The minority argued that the legal equality of states does not mean they cannot be treated differently by Congress depending on social or economic circumstances, and "federal statutes that treat States disparately are hardly novelties" (Ginsburg 2013, 31). This thesis agrees that without federal incentives or oversight, a higher quality of democracy (for example, a reformed redistricting system) will be achieved in practice by only a limited number of states. State legislatures struggle to reform any element of democracy that involves their own political or partisan interests. The desire to 'leave it to the states,' however well-intentioned, is effectively equivalent to saying that it does not matter whether this rule or aspect of democracy exists or not. Congressional action is therefore indispensable to creating an appropriate regulatory environment for federal elections that applies to all states.

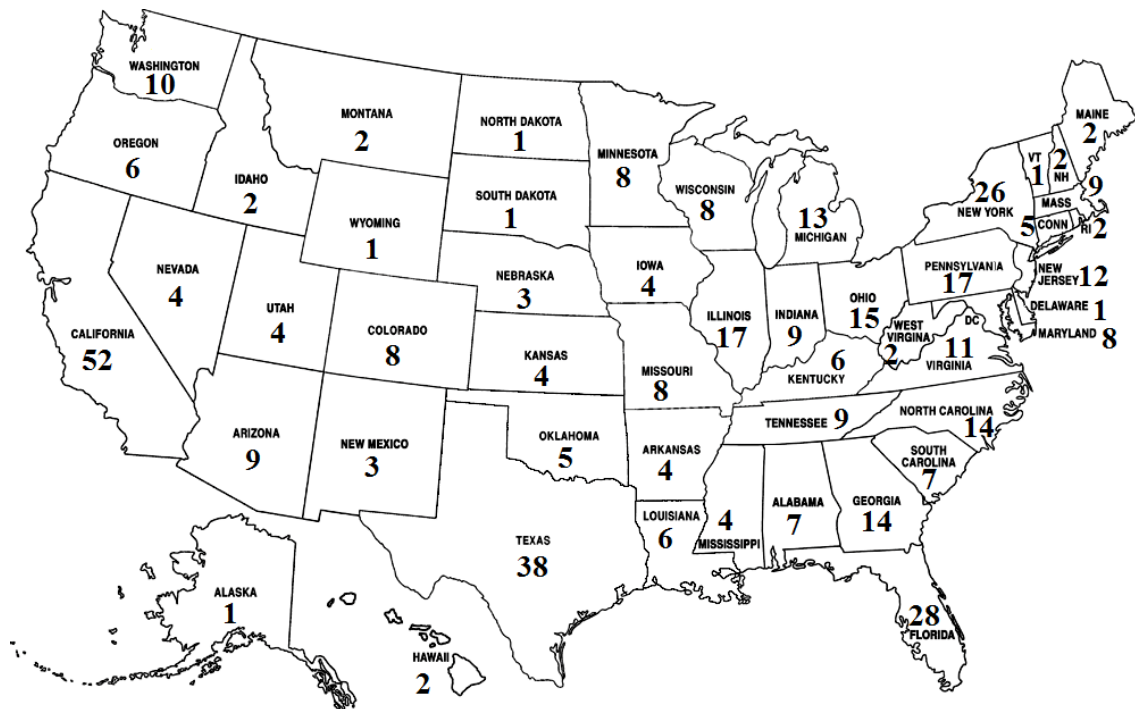
5.2 Relevance

Real-world developments in contemporary American politics might affect the potential relevance of this research. Significant anti-gerrymandering reforms have been adopted in the past from time to time, such as in Iowa in 1980, but successful passage of a reform like Iowa's seems unthinkable in many states today. This section considers two issues that might cast doubt about whether there really can be future windows of opportunity for state legislatures to self-reform their redistricting systems.

5.2.1 2020s Redistricting

It is easy to be a patriot when the sun is shining. It is easy to support gerrymandering reform in principle when winning a vital national election is not an imminent concern in practice for the political party you belong to or support. A new redistricting cycle is currently in progress, following the decennial US Census conducted in 2020. The new apportionment has been announced, shown in figure 72, calculating how many seats in the US House of Representatives each state is entitled to, for the elections of 2022 through 2030 (US Census Bureau 2021b). The changes will also have a minor effect on the presidential electoral college for 2024 and 2028. Joe Biden's 2020 victory, under the new House apportionment and thus revised electoral votes, would have given him 303 electoral votes in total, down three from the 306 he actually achieved (Brace 2021).

Figure 72: Apportionment of US House Seats Per State



Source: created by the author using data from US Census Bureau (2021b)

As the states presently carry out redistricting and draw new election maps, the Democratic Party has been urged to temporarily set aside its opposition to gerrymandering and to instead prioritize retaining control of the US House of Representatives in 2022 in all states where it has political control of the redistricting process, as in Illinois and New York (Berman 2021a, Itkowitz 2021). In other words, they are urged to gerrymander as much as possible to create more winnable Democratic seats because Republicans are surely doing the same thing in states where they control redistricting, like Texas (Solomon 2021). That is what happened last time. After the 2010 elections, Republicans were able to gerrymander more districts in more states than ever before (Lieb 2021). Berman (2021b) warns that Republicans “could retake the House in 2022 just by gerrymandering four southern states.” David Wasserman predicts “Republicans could conceivably pick up 10 seats from redistricting in the states that they control” (quoted in McKinney 2021). On the Democratic side, Illinois has already adopted gerrymandered maps for 2022 (Ciciaora 2021, Tabor 2021). Given this, perhaps the

prospects for redistricting law reform in the states in the foreseeable future have never looked dimmer. But conflict can stimulate reform. In the past, highly-contested redistricting debates have subsequently led to systemic change. The Iowa reform of 1980 was in part a response to messy court interventions in the previous cycle. Montana, Missouri, and Washington, adopted reforms in the early 1980s in the aftermath of a contested cycle.

Partisan gerrymandering is likely to be prominent in the 2022 elections. However, it is not precise and predictable, and can lead to unforeseen consequences. For instance, Republicans were originally expected to receive a big advantage from redistricting in 1982, but this failed to be materialize (Abramowitz 1983). Conversely, despite predictions that redistricting for 2012 would result in neither party making significant gains (Barone 2012), in practice adroit partisan gerrymandering proved critical in enabling Republicans to retain their House majority (Horsey 2013). The actual impact, if any, of the current cycle of redistricting on Congress and state legislatures therefore remains fluid and uncertain in many states.

5.2.2 The Republican Party and Democracy

The United States celebrates a complacent myth about its enduring democracy, but in reality its democratic system is fresh and fragile. Vann Newkirk explains:

Democracy in America is only a little over five decades old. That's difficult to square with the America that exists in the storytelling tradition: a brave experiment in a government run for and by the people. In reality, the country has always been defined as much by whom it's kept from voting as by who is allowed to participate, and the ideal of democracy has always been limited by institutions designed to disenfranchise. Put another way: The great majority of all elections in American history would have been entirely illegitimate under modern law. (Newkirk 2018)

There are reasons to doubt the depth of democratic consolidation in the United States today (Runciman 2018). There are stark partisan divisions among citizens about the core features of

democracy. For instance, an opinion poll in 2021 found that 78 per cent of Democrats agreed that “voting is a fundamental right for every U.S. citizen and should not be restricted,” whereas 67 per cent of Republicans took the opposing view, and agreed that “voting is a privilege that comes with responsibilities and can be limited” (Gomez and Doherty, 2021).

The Republican Party used to be confident of winning national elections by winning the national majority vote, something comfortably accomplished in three presidential elections in the 1980s. The party had majority control of the US Senate in 1981-1986 and won both houses of Congress in 1994, ending a forty-year losing streak in the US House. President George W. Bush successfully increased Republican support among minority voters such as Hispanics (Kenski and Tisinger 2006). However, over the past two decades there has been a revival of historical conservative strategies of using voter suppression to win elections. For instance, strict voter identification requirements have proliferated since the Supreme Court upheld them in *Crawford v. Marion County Election Board* (2008), despite infinitesimal evidence of in-person voter fraud. The Voting Rights Act was reauthorized in 2006 with bipartisan support, at a time when Republicans controlled both chambers of Congress, but the severe weakening of the VRA by the Supreme Court in *Shelby County v. Holder* (2013) was welcomed by many Republicans (Calmes, Brown, and Robertson 2013).

Since 2016, the rise to power within the Republican Party of an authoritarian faction under Donald Trump’s leadership has substantially reduced the party’s commitment to democratic norms (Klass 2017). Republican state legislatures have been adopting laws that reduce voting rights and increase partisan control of elections (Hasen 2020, Stanton 2021), in a manner reminiscent of late 19th century efforts to disenfranchise African-Americans (Perman 2001). Although the Trump era has raised questions about the health of democracy in the US

(Sheingate 2020), the patient has never been particularly healthy. Lieberman argues (2020, 191-192) that “Trump is a symptom, not a cause, of a political system in distress,” because “democratic norms have been volatile and perpetually fragile in the United States over the centuries.”

The Republican Party in the 2020s is not Robert Ray’s Republican Party or Arnold Schwarzenegger’s Republican Party. Ray and Schwarzenegger are examples of mainstream Republican governors (of Iowa 1969-83 and California 2003-2011 respectively) who eventually got redistricting reform accomplished in their state, one way or another. But today in California “Schwarzenegger has gone from being the standard bearer of the Republican Party to an outcast” (Bardella 2021). The decline of moderate conservatism and the rise of far-right ideologies in the Republican Party substantially reduces the scope for state reform. Klass (2021) suggests that “the modern GOP is fundamentally different” because “it now openly embraces authoritarianism” and “prominent figures in the party inhabit a delusional alternate reality defined by conspiracy theories.” Former Congressman Joe Walsh (2021) argues that “It’s no longer Democrats vs Republicans. It’s democracy vs authoritarianism.” Keleman (2020) worries that Americans will find it “hard to sustain a two-party democratic system when one of the parties opposes democracy.” It must be acknowledged that the US political environment has changed substantially since the time of many of the state cases discussed in this research, such that the 2020s may be more challenging than ever for any democracy reform efforts in the states.

5.3 Further Research

A thesis is inevitably limited by the constraints of time and word limits. But this work provides a foundation for an agenda of further research, either to expand or improve upon the

evidence and arguments discussed here, or to pursue related avenues of inquiry. A number of research opportunities can be identified.

5.3.1 Improvements

Further work could improve the quantitative component of this research in several ways. The redistricting neutrality index could be subjected to further investigation and testing. For example, in any index the weighting of the component elements is potentially significant. The three elements of the RNI have been equally weighted, as recommended (Babbie 2016, 164). The effect of different weightings could be examined by testing variables with different versions on the index. The redistricting index could also be checked or validated against additional measures, for instance, other ways to test election maps for the presence of gerrymandering.

The redistricting index takes its component indicators (derived from state laws and practices) at face value and does not try to interrogate them. Some might have real practical effect in restraining gerrymandering, and others may be nominal or symbolic provisions perhaps adopted precisely because politicians expected them to be toothless. There is no discussion in chapter 3 of the merits of any indicators or how states justify them or why they were adopted. Empirical evidence and normative arguments about the principles behind the indicators (e.g., compactness, contiguity, incumbency protection, use of voter data) could be examined.

Bivariate analysis was methodically used to examine a large number of variables and subhypotheses in chapter 3. Multivariate analysis is also necessary, for instance, to investigate if confounding variables are influencing both the independent and dependent variables, or if there is interaction between independent variables (Babbie 2016, 436-437).

Preliminary multivariate analysis upon the variables examined in chapter 3 has not identified any results inconsistent with those from the bivariate analyses that have been discussed. However, more detailed and comprehensive multivariate analysis would be a valuable addition to the quantitative component of this research.

Further work could also improve the qualitative component of this research in several ways. The process of qualitative research is sometimes characterized as “describe, describe, describe” (Piquero 2015, 202). A feature of case study research is that more data can almost always be collected. You do not run out of evidence, you run out of time. All case studies in chapter 4 could benefit from the collection and analysis of further evidence. Existing cases could be expanded to consider multiple reform attempts over time, and interesting additional cases could be added to the analysis. A comprehensive comparative history of US state redistricting systems and their origins and development has yet to be written, and this thesis is barely an exploratory step in the direction of such a project.

5.3.2 Extensions

Redistricting is not unique to the United States. Many democracies use custom election districts for their national legislature, such as those listed in table 37. Each of these countries must have a redistricting system which can be evaluated in the same way US state systems were evaluated for chapter 3. A global redistricting neutrality index could then be created, combining both American and international data sources and adding any rules that exist in foreign countries but not in US states. A global index could have two useful purposes. Expanding the index to be international would increase the number of cases against which US states can be compared. The common claim that the United States allows gerrymandering far more than other countries could then be empirically investigated, and states perceived to be

reformed could be compared against countries perceived to have reformed. A second purpose for a global version of the index would be that it may improve index completeness. Judging US states by US standards (as the existing RNI does) has considerable merit, but applying a potentially-wider global standard might also be useful. It could focus attention on anti-gerrymandering rules or practices found in other democracies but not in the US, but which states might wish to emulate.

Table 37: Single-Member Custom Election Districts for National Legislatures

<u>Africa</u>	<u>Asia</u>	<u>Europe</u>	<u>North America</u>	<u>Oceania</u>	<u>South America</u>
Botswana	India	Britain	Canada	Australia	Bolivia
Ghana	Japan	France	Haiti	New Zealand	
Mauritius	Malaysia	Germany	Jamaica	Papua New Guinea	
Nigeria	Philippines	Hungary	Mexico		
	South Korea	Italy	Trinidad & Tobago		
	Taiwan	Lithuania			
		Malta			
		Ukraine			

Source: calculated by the author from ACE (2019) and IPU (2019).

This research might also be extended through the collection of additional types of data, for example, from interviews or surveys. This thesis was prepared outside the US and during the COVID-19 pandemic, which prevented in-person data collection or fieldwork. Elite interviews are a well-established method for researching US state politics (Beamer 2002, 86). It might be possible, for certain cases, to obtain evidence from interviews with key figures who observed or participated in a state reform effort. Survey research is another staple in comparative scholarship on the US states. Political scientists have directly surveyed state legislators about many topics (for example, Wayne 1967, Carey, Niemi and Powell 2000, Rosenthal 2004, Kurtz, Cain and Niemi 2007; for a review, see Maestas, Neeley, and Richardson 2003). Surveying state legislators about redistricting reform is a future research

possibility, and would give them an opportunity to provide direct input on a topic mainly about them and their behaviour.

Another promising avenue for further research is an analysis of inter-state policy diffusion, or “the process by which an innovation is communicated through certain channels over time among the members of a social system” (Rogers 1995, 5). Politicians seldom reinvent the wheel in policymaking, and may draw inspiration from what others have done. It is usually easier and faster to copy or adapt something that has already worked elsewhere, than to put the effort into creating something brand new. Thus, Rustow (1970, 347) argued that “the speed of a political reform or transformation depends on whether there are earlier models or adopters to emulate.” Once one state government in the United States has successfully adopted a reform, other states, especially neighbours, have a clear example to imitate if they choose. The concept of policy diffusion has been widely used in public policy and political science research for over fifty years, especially in the comparison of US states (Walker 1969, Gray 1973, Mintrom 1997, Karch 2007, Freeman 2008, Boushey 2010, Graham, Shipan, and Volden 2012).

In his dissent in *New State Ice Co. v. Liebmann* (1932), Louis Brandeis wrote that “it is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments.” Building upon this thesis, research could be conducted to examine if and how there has been any diffusion of redistricting reform practices or rules between states. Diffusion appears to have played a role in jumpstarting reform in other countries. For example, Manitoba was the first province to adopt redistricting reform in Canada in the 1950s. Lacking local role models, Manitoba looked around the British Commonwealth for inspiration and found it in Australia, whose

nonpartisan commission model was closely copied (Courtney 2008, 15). Quebec and then other Canadian provinces subsequently emulated Manitoba's reformed redistricting model (Courtney 2008, 16). Diffusion research was outside the scope of this research project, but could be an interesting extension of it in the future.

A final area of further research concerns influences and interactions between federal and state governments over redistricting powers. Congress has not imposed federal anti-gerrymandering rules on the states. Many bills to that effect have been introduced but none of them have yet become law. For example, the newly-elected Democratic House majority introduced H.R. 1, the *For The People Act*, in 2019. The bill would have required states to use 15-member independent commissions of citizens to conduct congressional redistricting, but would have had no effect on state legislative redistricting (Stephanopoulos 2019). H.R. 1 was passed by the US House of Representatives in March 2019 but never progressed in the Republican-controlled Senate (Edmondson 2019, Levine 2019). A similar bill was again passed by the US House in March 2021, but its prospects remain dubious in the evenly-divided US Senate (Foran and Grayer 2021). The six Supreme Court justices appointed by Republican presidents may also take a skeptical approach to the constitutional justifications for greater federal oversight of redistricting by the states (Feldman 2021). An analysis could be conducted of how states under federal proposals would be affected in terms of their rating on the redistricting index. H.R. 1 can be thought of as a federal minimum benchmark for carrying out redistricting. For some states (as it happens with low RNI scores) it would force significant change in their systems, while other states might already have a better system, meaning a more highly rated system according to the index. The index could also be used to evaluate if H.R. 1 is really a best-practice standard, by comparing which state anti-gerrymandering provisions have been copied by the bill and which ones have been omitted.

5.4 Conclusion

The start of this thesis quoted former Supreme Court justice Sandra Day O'Connor. She wrote that partisan gerrymandering was an acceptable practice, and suggested that politicians might have an *obligation* to gerrymander, in order to promote the interests of their political party. A context that may explain O'Connor's blunt pro-gerrymandering views is that she is the only US Supreme Court justice in the last sixty years who previously held elected office as a state legislator.²⁸ O'Connor was a member of the Arizona State Senate from 1969 to 1975, and was the Senate majority leader from 1973 to 1975 (Alter 2016). In fact, she was the first woman to serve as the chamber leader in any US state legislature (Beard 2013). O'Connor was an experienced politician who "had been through the internecine wars of state politics" and "was definitely from the conservative wing of the Arizona Republican Party" (McFeatters 2005, 6, 9). During her time in the state senate, her Republican majority drew several highly-partisan redistricting plans (Mason and Hink 1975, 104). Where you stand often depends on where you sit (Miles 1978). O'Connor the Supreme Court justice voted to uphold the kind of gerrymandered redistricting previously supported by O'Connor the state senator. Perhaps you can take the judge out of the legislature, but you apparently cannot take the legislator out of the judge.

All political systems must adapt to survive. In Edmund Burke's phrasing, "a state without the means of some change is without the means of its conservation" (Burke 1999, 21). Alexis de Tocqueville was optimistic about the future of the United States. He argued that "many nations may perish for lack of the time to discover their mistakes," whereas "the great

²⁸ The last justice prior to O'Connor to have been a state legislator was Harold Burton, who served on the court from 1945 to 1958, and was an Ohio state representative from January to October 1929 (Ohio Supreme Court 1999).

privilege enjoyed by the Americans is not only to be more enlightened than other nations, but also to have the chance to make mistakes that can be retrieved” (Tocqueville 1969, 225). He then noted: “one must add that in order to profit by past experience, a democracy must already have reached a certain degree of civilization and enlightenment” (Tocqueville 1969, 225). Even if America and her states have been frequently unenlightened in allowing their politicians to use partisan gerrymandering to manipulate representation and weaken democracy, there is still time to remedy that mistake. This research has examined and compared state redistricting systems to examine variations in how some states have identified and implemented anti-gerrymandering remedies. More states could choose to walk the same path.

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Appendices

Appendix A: Data on state redistricting regimes

Based on an inspection of US state constitutions, laws, and practices relevant to redistricting, this appendix identifies for every state the state-specific rules that apply to redistricting of the state legislature, beyond those that apply to the passage of an ordinary law. Rules for congressional redistricting are also identified, where these vary from the state legislative rules. Sources are listed at the end.

STATE	STATE LEGISLATIVE FACTORS	US HOUSE FACTORS
Alabama	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto • Deadlines <ul style="list-style-type: none"> ○ Constitution: Done in first legislative session after census conducted. “the duty of the legislature at its first session after the taking of the decennial census of the United States in the year nineteen hundred and ten, and after each subsequent decennial census” (section 199). • Frequency <ul style="list-style-type: none"> ○ Constitution: Midterm redistricting banned. Once a map has been approved, it “shall not be subject to alteration until the next session of the legislature after the next decennial census of the United States shall have been taken” (section 198). • Public consultation <ul style="list-style-type: none"> ○ Legislature conducts public hearings, accepts public submissions, gives access to software. ○ Meetings of the Reapportionment Committee and its sub-committees are open to the public (Arkansas Legislature 2021). • Rules for maps 	<p>Same except:</p> <ul style="list-style-type: none"> • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not banned • Rules for maps <ul style="list-style-type: none"> ○ None in law, but legislature can follow some if it wants ○ Legislative committee adopted guidelines that required compactness and preservation of communities of interest.

	<ul style="list-style-type: none"> ○ Constitution: Contiguous. “no district shall be made up of two or more counties not contiguous to each other” (section 200). ○ State Senate districts follow county lines except where necessary to comply with other legal requirements ○ Legislative committee adopted guidelines: “districts will be composed of contiguous and reasonably compact geography”, “districts shall respect communities of interest, neighborhoods, and political subdivisions to the extent practicable,” and “contests between incumbents will be avoided whenever possible” (Alabama Legislature 2021). ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Alaska	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 5-member independent commission (called the Redistricting Board) ○ “none of whom may be public employees or officials at the time of or during the tenure of appointment” (Alaska Constitution, article VI, section 8a) ○ Governor chooses two commissioners, the state Senate and House majority leaders each choose one, and the Chief Justice of the state Supreme Court chooses one ○ Each commissioner must be chosen without regard to party affiliation. ○ Each commissioner must have lived in Alaska for at least a year, and at least one commissioner must be appointed from each of the state’s judicial districts ● Adoption <ul style="list-style-type: none"> ○ Board decisions taken by majority vote (section 10), plans take effect without legislature being involved ● Deadlines 	One seat, since admission as a state in 1959.

	<ul style="list-style-type: none"> ○ State law requires that its commission draw initial proposals for state legislative lines within 30 days of the commissioners' appointment or within 30 days of the delivery of Census data, whichever is later ○ Final maps are due 90 days after the commission's appointment or delivery of the Census data, whichever is later ● Public consultation <ul style="list-style-type: none"> ○ Commission must hold hearings on the proposals and makes appropriate adjustments ○ Citizens were entitled to submit proposed maps to the Redistricting Board ○ Accepts written comments ○ Voters may sue to compel board to act (section 11) ● Frequency <ul style="list-style-type: none"> ○ Law prohibits midterm redistricting ● Rules for maps <ul style="list-style-type: none"> ○ State legislative lines be contiguous and compact ○ “Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area” (section 6) ○ Commission may consider local government boundaries, and should use “drainage and other geographic features” to describe districts wherever possible” ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Arizona	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 5-member independent commission ○ For the three years before their appointment to the commission, none of the commissioners may have been appointed to, or a candidate for, any public office; an 	Same

	<p>officer of a political party; a paid lobbyist; or an officer of a candidate's campaign committee</p> <ul style="list-style-type: none"> ○ State's commission on appellate court appointments nominates 10 Republicans, 10 Democrats, and 5 individuals not registered with either major party ○ Four legislative leaders (majority and minority leader in each legislative house) each choose one commissioner from this pool of 25 nominees ○ Four commissioners then select a fifth tiebreaker who is not registered in the same party as any other commissioner. ○ Each commissioner must be an Arizona voter registered with the same political party (or unaffiliated) for at least three years ○ At most two of the first four commissioners may live in the same county <ul style="list-style-type: none"> ● Deadlines <ul style="list-style-type: none"> ○ State law does not impose a particular deadline for drawing congressional or state legislative lines ● Frequency <ul style="list-style-type: none"> ○ State law prohibits redrawing district lines mid-decade ● Public consultation <ul style="list-style-type: none"> ○ Commission shall conduct business in meetings open to the public, with 48 or more hours public notice provided. ○ Advertise a draft map of congressional districts and a draft map of legislative districts to the public for comment ● Rules for maps <ul style="list-style-type: none"> ○ Constitution requires that the district map begin with a "grid-like pattern." ○ Districts adjusted to be contiguous, geographically compact, and respect communities of interest -- all to the extent practicable 	
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	<ul style="list-style-type: none"> ○ To the extent practicable, competitive districts be favored where doing so would not significantly detract from the goals above ● Data sources <ul style="list-style-type: none"> ○ Party registration and voting history data may not be used in the "initial phase" of the mapping process, but can be used to ensure that plans ultimately meet the goals above. ○ Commission may not consider the home addresses of candidates or incumbents. ○ No ban on prison gerrymandering ● Adoption <ul style="list-style-type: none"> ○ Self-executing. The independent redistricting commission shall certify to the secretary of state the establishment of congressional and legislative districts. ● Influences <ul style="list-style-type: none"> ○ Employees of the department of administration or its successor shall not influence or attempt to influence the district-mapping decisions of the independent redistricting commission. 	
Arkansas	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 3-member politician commission, consisting of state's Governor, Secretary of State, and Attorney General ○ Board acts by majority vote ○ Created by Amendment 23 in 1936 ● Adoption <ul style="list-style-type: none"> ○ Board approves maps by majority vote ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ● Deadlines <ul style="list-style-type: none"> ○ On or before February 1 immediately following each Federal census, said board shall reapportion the State ● Frequency 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ None ● Frequency <ul style="list-style-type: none"> ○ No law on midterm redistricting

	<ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting ● Rules for maps <ul style="list-style-type: none"> ○ State legislative districts be equally populated "as nearly as practicable ○ Senate districts be contiguous ○ Follow county lines except where necessary to comply with other legal requirements ● Public consultation <ul style="list-style-type: none"> ○ Public comment invited by commission and public hearings ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
California	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 14-member independent commission ○ Commissioners must have voted in at least two of the last three statewide elections, and may not have changed party affiliation for at least five years. Neither commissioners nor immediate family may have been, within ten years of appointment, a candidate for federal or state office or member of a party central committee; an officer, employee, or paid consultant to a federal or state candidate or party; a registered lobbyist or paid legislative staff; or a donor of more than \$2,000 to an elected candidate. Furthermore, neither commissioners nor immediate family may be staff, consultants, or contractors for state or federal government while serving on the commission ○ analytical skills, impartiality, and diversity, a panel of three state auditors choose 20 Democrats, 20 Republicans, and 20 who are neither to be nominees for the commission; the four legislative leaders (majority and minority leader in each legislative house) may each cut two people from each pool. Eight commissioners (3 Democrats, 3 Republicans, 2 	Same

	<p>neither) are chosen randomly from the remaining nominees; those eight choose six colleagues (2 Democrats, 2 Republicans, 2 neither), to reflect the diversity of the state. The final commission thus has 14 members (5 Democrats, 5 Republicans, 4 neither)</p> <ul style="list-style-type: none"> • Adoption <ul style="list-style-type: none"> ○ Nine votes are necessary to approve a plan: 3 Democrats, 3 Republicans, and 3 neither. ○ Each map is also subject to public referendum. ○ If commission fails to pass a map, or a map is overturned by referendum, the California Supreme Court will select special masters to draw that map • Review <ul style="list-style-type: none"> ○ California Supreme Court also has exclusive jurisdiction in state court for legal challenges to maps that are passed. • Public consultation <ul style="list-style-type: none"> ○ Commission chose to release draft maps ○ Commission proceedings are subject to the state Open Meetings Act; commission records, redistricting data, and computer software will be available to the public. ○ Commission and the legislature must issue public reports after drawing the plans for state legislative or congressional districts, explaining their decisions. ○ Voters may sue to compel commission to act • Deadlines <ul style="list-style-type: none"> ○ Commission must produce congressional and state legislative plans by August 15 year after census ○ If fails, the Secretary of State must ask the California Supreme Court to appoint special masters to do so. ○ If, within 90 days of the plan's enactment, a referendum petition is signed by voters amounting to 5% of the 2010 gubernatorial vote (which would be 504,759 voters), the 	
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	<p>plan will be submitted for referendum at a special statewide election or at the next general election</p> <ul style="list-style-type: none"> • Frequency <ul style="list-style-type: none"> ○ Law bans midterm redistricting • Rules for maps <ul style="list-style-type: none"> ○ Constitution further requires that districts be contiguous. ○ To the extent possible, they must also preserve the geographic integrity of cities, counties, neighbourhoods, and communities of interest. ○ To the extent practicable, and where so doing does not violate higher-priority constraints, districts must also encourage compactness, defined by lines that do not bypass nearby population in favour of more distant population. ○ Finally, where practicable, and where not in conflict with the criteria above, state Senate and Assembly districts must be nested within each other. ○ Districts may not be drawn to favour or discriminate against a candidate or party. • Data sources: <ul style="list-style-type: none"> ○ Commission may not consider candidate residences ○ State ban on prison gerrymandering 	
Colorado	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ 11-member politician commission, in place since 1974. Each of the four legislative leaders (majority and minority leader in each legislative house) may choose one commissioner, the Governor chooses three, and the chief Justice of the state Supreme Court chooses four. ○ No more than four commissioners may be members of the legislature, no more than 6 may be registered with the same political party, and no more than four may live in the same congressional district; at least one commissioner must be 	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ Law bans midterm redistricting

	<p>from each congressional district, including at least one commissioner living west of the continental divide.</p> <ul style="list-style-type: none"> • Review <ul style="list-style-type: none"> ○ State supreme court automatically reviews state leg plan. Commission has chance to fix if not ok. • Deadlines <ul style="list-style-type: none"> ○ State law requires that its commission draw initial proposals for state legislative lines by September 5, 2011. The commission must approve final maps by October 7, 2011. • Frequency <ul style="list-style-type: none"> ○ Law bans midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ Under Colorado’s Open Meetings Law, all commission, committee, and floor sessions to consider redistricting plans are open to the public, and members of the public may provide testimony at hearings, or by submitting written testimony. • Rules for maps <ul style="list-style-type: none"> ○ Constitution: state legislative lines contiguous, and as compact as possible based on their total perimeter. ○ To the extent possible, districts must also preserve the integrity of counties, cities, towns ○ Where doing so does not conflict with other goals -- communities of interest. ○ Districts should be drawn to promote competitiveness. ○ Intentionally favoring or disfavoring an incumbent, party, or candidate for office is prohibited. • Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering 	
Connecticut	<ul style="list-style-type: none"> • Adoption <ul style="list-style-type: none"> ○ Supermajority requirement to pass redistricting plan (2/3) 	Same

	<ul style="list-style-type: none"> • Body: Backup commission if no plan approved <ul style="list-style-type: none"> ○ Half appointed by SL majority leaders ○ Half appointed by SL minority leaders ○ 8 commissioners pick 9th member, not a legislator • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ Court will appoint special master if backup commission fails to complete on time (e.g. 2012) • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Deadlines <ul style="list-style-type: none"> ○ Sept 15 year after census says Constitution • Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public hearings and accept comments • Rules for maps <ul style="list-style-type: none"> ○ Contiguous. Do not divide towns, unless required to comply with other requirements • Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering 	
Delaware	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ June 30 in year after census by statute • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Adoption <ul style="list-style-type: none"> ○ Constitution: Citizens can sue to compel redistricting. • Public consultation 	One seat since 1823.

	<ul style="list-style-type: none"> ○ Legislature chose to hold hearings, subject all redistricting information to the Freedom of Information Act, accept public comment, get feedback on draft maps. ● Rules <ul style="list-style-type: none"> ○ Contiguous ○ Nearly equal in population ○ Bounded by roads, streams, and other natural boundaries. ○ May not be drawn to unduly favour any person or political party ● Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering. HB 384 in 2010. 	
Florida	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, without any gubernatorial veto. Joint resolution. ● Review <ul style="list-style-type: none"> ○ Plans automatically go to State supreme court for review ○ Legislature gets second chance if not plans not lawful ● Deadlines <ul style="list-style-type: none"> ○ Must be done by end of legislative session in second year after census. ○ If fails then 30 day special session. If still fails, then State Supreme Court. ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not authorized. ● Public consultation <ul style="list-style-type: none"> ○ Legislature conducted hearings across the state to collect public input, accepted public map submissions ● Rules for maps <ul style="list-style-type: none"> ○ Districts “not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ There is a gubernatorial veto. ● Review <ul style="list-style-type: none"> ○ No rules. ● Deadlines <ul style="list-style-type: none"> ○ None. ● Frequency <ul style="list-style-type: none"> ○ No limit ● Rules for maps <ul style="list-style-type: none"> ○ Same

	<p>diminish their ability to elect representatives of their choice”</p> <ul style="list-style-type: none"> ○ “Districts must be contiguous. Unless otherwise required, districts must be compact, as equal in population as feasible, and where feasible must make use of existing city, county and geographical boundaries.” ○ “Congressional districts or districting plans may not be drawn to favor or disfavor an incumbent or political party.” <ul style="list-style-type: none"> ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Georgia	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ None ● Frequency <ul style="list-style-type: none"> ○ Not clear that midterm redistricting is banned. ● Public consultation <ul style="list-style-type: none"> ○ Legislative committee chose to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: Contiguity ○ Legislative committees chose to consider: a. The boundaries of counties and precincts; b. Compactness; and c. Communities of interest. Efforts should be made to avoid the unnecessary pairing of incumbents. ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<p>Same, except</p> <ul style="list-style-type: none"> ● Rules for maps <ul style="list-style-type: none"> ○ Legislative committees chose to consider: a. The boundaries of counties and precincts; b. Compactness; and c. Communities of interest. Efforts should be made to avoid the unnecessary pairing of incumbents.
Hawaii	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 9-member politician commission ○ Each of the four legislative leaders (majority and minority leader in each legislative house) chooses two commissioners, and those eight normally choose a ninth; if 	<p>Same body is responsible for congressional redistricting, but state requirements do not apply, only federal laws and judicial precedents.</p>

	<p>they cannot, the Supreme Court appoints a tiebreaking member.</p> <ul style="list-style-type: none"> ○ Act by majority vote ○ Commissioner ineligible to run for election next two cycles <ul style="list-style-type: none"> ● Adoption <ul style="list-style-type: none"> ○ Plans are filed by commission with chief election officer and take effect then ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ People who want to complain must petition within forty-five days after the filing of a reapportionment plan. ● Deadlines <ul style="list-style-type: none"> ○ Constitution requires that the commission produce plans no later than 150 days from the date that it was formed. ● Public consultation <ul style="list-style-type: none"> ○ State statutes require that the commission produce draft plans for public comment no later than 100 days from the date that the commission is formed ○ State statutes provide for public hearings on draft redistricting plans, with at least one public hearing in each of the state's basic island units before a plan is finalized ○ The commission's website links to online software, which allows members of the public to draw and submit plans to the commission. ● Frequency <ul style="list-style-type: none"> ○ Law does not say it allows midterm redistricting ● Rules for maps <ul style="list-style-type: none"> ○ State legislative lines, Hawaii has further set a goal of achieving districts as nearly equal to average permanent resident population within each of the four basic island units (centered on Hawaii, Maui, Oahu, and Kauai) as practicable 	
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	<ul style="list-style-type: none"> ○ Districts must be contiguous; must be compact, if practicable; and must follow permanent and easily recognized features where possible, and coincide with census tracts where practicable. Where practicable, districts must also avoid submerging one area in another with substantially different predominant socioeconomic interests ○ No district may be drawn so as to unduly favour a person or political faction ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Idaho	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 6-member independent commission ○ Four legislative leaders (majority and minority leader in each legislative house) each select one commissioner ○ Chairs of the two largest political parties each select one commissioner, with an eye to geographic diversity. ○ Constitution: no commissioner may be an elected or appointed official ○ State law: prohibits registered lobbyists within the last year -- or elected officials or district, county, or state party officers within the last two years -- from serving as a commissioner. ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ● Deadlines <ul style="list-style-type: none"> ○ Constitution requires that the commission produce draft congressional and state legislative plans within 90 days from the date that the commission is formed ● Frequency <ul style="list-style-type: none"> ○ Law does not appear to authorize midterm redistricting ● Public consultation 	Same

	<ul style="list-style-type: none"> ○ Commission proceedings are open to the public and subject to the state Open Meetings Act; redistricting data and plans submitted by the public are all available to the public at large. The commission must hold meetings in different portions of the state ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: state legislative districts must be contiguous, and that counties be preserved intact where possible. ○ State law: requires preservation of counties to the extent possible; it also requires that districts preserve traditional neighbourhoods, communities of interest, and (if possible) voting precinct boundaries; and that districts not be oddly shaped. ○ If a district contains more than one county or portion of a county, those constituent pieces must also be connected by a state or federal highway. ○ County lines may not be divided in order to protect a political party or incumbent. ● Data sources: <ul style="list-style-type: none"> ○ Population data is the only data that the commission may use to draw district lines. ○ No ban on prison gerrymandering 	
Illinois	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto ○ Back up commission if legislature fails to act. ○ Commission of eight members, no more than four from any one political party. Speaker and Minority Leader of the House appoint to the Commission one Representative and one non-legislator. President and Minority Leader of the Senate appoint to the Commission one Senator and one non-legislator. ● Deadlines 	Same

	<ul style="list-style-type: none"> ○ June 30 in year after census by statute ○ Back up: Not later than August 10, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members. An approved redistricting plan filed with the Secretary of State shall be presumed valid ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Public consultation <ul style="list-style-type: none"> ○ Required by law to hold public hearings on state legislative maps ● Rules <ul style="list-style-type: none"> ○ Districts shall be compact, contiguous and substantially equal in population ○ State legislative districts must allow racial or language minority groups to elect their candidates of choice when possible ● Data sources: <ul style="list-style-type: none"> ○ Ban on prison gerrymandering does come into effect until 2030. 	
Indiana	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ End of legislative session in year after census ● Rules for maps <ul style="list-style-type: none"> ○ The territory in each district shall be contiguous ● Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public hearings ● Data sources: 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Back up commission in statute. ○ 5: House speaker, senate president, chair of senate and house legislative apportionment committees, fifth member a legislator appointed by governor. ● Adoption

	<ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ○ Plans approved by majority of BC take effect on approval by governor and executive order. ● Deadlines <ul style="list-style-type: none"> ○ End of legislative session in year after census ○ Commission has 30 days after end of session ● Rules for maps <ul style="list-style-type: none"> ○ None
Iowa	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Independent agency - Legislative Services Agency - draws maps. ○ Advisory commission offers advice. ○ five-person independent commission; each of the four legislative leaders (majority and minority leader in each legislative house) select one commissioner, and those four select a fifth. None of the commissioners may hold partisan public office or an office in a political party, and none may be a relative or employee of a federal or state legislator (or the legislature as a whole). ○ Legislature approves or disapproves first LSA plan but cannot modify. ○ If not approved, LSA makes second plan. Legislature approves or disapproves second LSA plan but cannot modify. ○ If not approved, LSA makes third plan. Can be modified by legislature. ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ● Deadlines <ul style="list-style-type: none"> ○ Leg session in year after census 	<p>Same, except</p> <ul style="list-style-type: none"> ● Frequency <ul style="list-style-type: none"> ○ No law bans midterm redistricting

	<ul style="list-style-type: none"> ○ LSA must deliver its first set of congressional and state legislative plans to the legislature by April 1 year after census. ○ If rejected, the LSA must deliver its second set of plans within 35 days of that rejection. ○ If second set of plans is rejected, the LSA must deliver its third and final set of plans within 35 days of that rejection. ● Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting ● Public consultation <ul style="list-style-type: none"> ○ LSA must make public a copy of the plan and associated data. ○ Advisory commission must then conduct at least three public hearings in different regions of the state, and summarize feedback from the hearings for the legislature. ● Rules for maps <ul style="list-style-type: none"> ○ Districts be convenient and contiguous ○ Preserve the integrity of political subdivisions like counties and cities ○ To extent consistent with other requirements, reasonably compact -- defined in terms of regular polygons, comparison of length and width, and overall boundary perimeter. ○ Where possible, and where not in conflict with the criteria above, state House districts must be nested within state Senate districts, and both nested where possible within congressional districts. ● Data sources: <ul style="list-style-type: none"> ○ Consideration of partisan data is prohibited ○ No ban on prison gerrymandering 	
Kansas	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. 	<ul style="list-style-type: none"> ● Body

	<ul style="list-style-type: none"> • Review <ul style="list-style-type: none"> ○ State supreme court automatically reviews state leg plan. Leg has chance to fix if not ok. • Deadlines <ul style="list-style-type: none"> ○ End of the first legislative session after the census. • Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ Leg chooses to hold public hearings • Rules for maps <ul style="list-style-type: none"> ○ State legislative guidelines for itself: districts should be: as equal in population as practical; contiguous, as compact as possible, and recognize and consider communities of common “social, cultural, racial, ethnic, and economic” interests; preserve existing political subdivisions and avoid contests between incumbents to the extent possible; be easily identifiable and understandable by voters. ○ Plans must “have neither the purpose nor the effect of diluting minority voting strength” • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ No law bans midterm redistricting • Rules for maps <ul style="list-style-type: none"> ○ Same, plus congressional districts should maintain the core of existing districts.
Kentucky	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Review <ul style="list-style-type: none"> ○ Specific court has original jurisdiction (Franklin Circuit Court, state trial court in county where state capital Frankfort is) • Deadlines <ul style="list-style-type: none"> ○ In second year after census • Frequency <ul style="list-style-type: none"> ○ State law bans midterm redistricting 	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Review <ul style="list-style-type: none"> ○ Nothing • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting ok • Rules for maps

	<ul style="list-style-type: none"> • Public consultation <ul style="list-style-type: none"> ○ Legislature not legally required to hold public hearings • Rules for maps <ul style="list-style-type: none"> ○ Constitution requires districts be contiguous ○ Preserve whole counties when possible ○ State legislative guidelines for itself: preserve cores of existing districts where such efforts are consistent with and do not violate other criteria • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ○ State legislative guidelines for itself: congressional districts should attempt to preserve communities of interest where such efforts do not violate other criteria
Louisiana	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ State supreme court may be petitioned to act if legislature fails to do so. • Deadlines <ul style="list-style-type: none"> ○ End of December in year after census • Frequency <ul style="list-style-type: none"> ○ No limit on midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public hearings • Rules for maps <ul style="list-style-type: none"> ○ State legislature adopts own guidelines: districts that are substantially equal in population, contiguous geography, respect the recognized political boundaries and natural geography of this state, to the extent practicable • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<p>Same except:</p> <ul style="list-style-type: none"> • Deadlines <ul style="list-style-type: none"> ○ None
Maine	<ul style="list-style-type: none"> • Body: <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Advisory commission is permanent, recurring 	<p>Same except:</p> <ul style="list-style-type: none"> • Deadlines

	<ul style="list-style-type: none"> ○ Senate majority and minority leaders each choose 2 commissioners; House majority and minority leaders each choose 3; chair of state's two major parties each choose 1. Those 12 commissioners then choose two more from the public, with each party's representatives coordinating to choose 1 commissioner, and those 2 commissioners select a third and final member. ○ Legislature can ignore ● Adoption <ul style="list-style-type: none"> ○ Supermajority requirement to pass redistricting plan (2/3) ● Deadlines <ul style="list-style-type: none"> ○ State plans by end of leg session 3 years after census e.g. 2013 ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ State supreme court draws plans if leg fails to meet deadlines (e.g. 2003 St Senate) ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Public consultation <ul style="list-style-type: none"> ○ Commission required to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Compact ○ Contiguous ○ Cross political subdivision lines as few times as possible ○ A “functionally contiguous and compact territory” is one that facilitates representation by minimizing impediments to travel within the district. ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ○ Federal court imposed deadline of new plans for 2012 election ● Frequency <ul style="list-style-type: none"> ○ No rules about midterm redistricting
Maryland	<ul style="list-style-type: none"> ● Body: 	<ul style="list-style-type: none"> ● Body

	<ul style="list-style-type: none"> ○ Governor initiates. Governor submits plan to legislature at start of session second year after census ○ Legislature has 45 days to pass a joint res with a new plan (may or may not be based on governor’s plan) ○ Governor’s plan takes effect if leg doesn’t agree pass JR by deadline ● Public consultation <ul style="list-style-type: none"> ○ Public hearings must be held before Governor submits a plan to the legislature ○ Governor has used advisory commission of own creation to help ○ Commission has accepted public comments on draft plans ○ Public can submit plans to commission ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction (known as MD Court of Appeals) ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Rules for maps <ul style="list-style-type: none"> ○ “Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions” ● Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering (No Representation Without Population Act 2010) 	<ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto.
Massachusetts	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ● Deadlines <ul style="list-style-type: none"> ○ No deadline for when redistricting due 	<p>Same, except:</p> <ul style="list-style-type: none"> ● Frequency <ul style="list-style-type: none"> ○ No limits ● Rules for maps <ul style="list-style-type: none"> ○ No rules

	<ul style="list-style-type: none"> • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public hearings • Rules for maps <ul style="list-style-type: none"> ○ Contiguous ○ Reasonably preserve counties, towns, and cities intact, where otherwise possible ○ Each district to contain, as nearly as may be, an equal number of inhabitants • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Michigan	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ 13-member independent commission. ○ Commissioners must be residents who have not been politicians, lobbyists or state employees in the past 6 years, or family thereof. ○ Cannot run for election for five years after date of appointment. ○ Qualified applicants selected at random by Secretary of State. • Adoption <ul style="list-style-type: none"> ○ Bipartisan majority vote of commission. ○ An adopted redistricting plan shall become law 60 days after its publication by the commission. • Public consultation <ul style="list-style-type: none"> ○ Commission must hold at least 10 public hearings ○ Public comment period on proposed plans • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction • Frequency 	Same

	<ul style="list-style-type: none"> ○ No law authorizes midterm redistricting ● Deadlines <ul style="list-style-type: none"> ○ November 1 in year after census ● Rules for maps <ul style="list-style-type: none"> ○ Districts must have equal population, geographically contiguous, reflect communities of interest, consider county, city, and township boundaries, and be reasonably compact. ○ Districts shall not provide a disproportionate advantage to any political party, as determined using accepted measures of partisan fairness, and shall not favour or disfavour an incumbent elected official or a candidate. ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Minnesota	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ Legislative session in year after census ● Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting ● Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public hearings and accept comments ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: legislative districts to have “convenient contiguous territory” ○ Otherwise up to legislature to determine rules. These add: “political subdivisions not be divided more than necessary,” preserve communities of interest and prohibit the intentional favoring or disfavoring of incumbents. ● Data sources: 	Same

	<ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Mississippi	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Statute: Legislature is assisted by a 20-member joint legislative committee ○ Backup commission acts if plan not adopted. (Legislatively referred constitutional amendment 1977, approved by voters in 1979, in Constitution). ○ Members: The commission consists of: Chief Justice, Attorney General, Secretary of State, House and Senate majority leaders ● Deadlines <ul style="list-style-type: none"> ○ End of the regular session in the second year following the census ○ If fails, then 30-day special apportionment session ○ If that fails, then backup commission convenes must provide a plan within 180 days. ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting explicitly permitted ● Public consultation in statute: <ul style="list-style-type: none"> ○ Legislature conducted public hearings and accepted comments and proposals ● Rules for maps in statute: <ul style="list-style-type: none"> ○ “Every district shall be compact and composed of contiguous territory and the boundary shall cross governmental or political boundaries the least number of times possible; and districts shall be structured, as far as possible and within constitutional standards, along county lines; if county lines are fractured, then election district lines shall be followed as nearly as possible.” ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	Same, but statute does not impose rules for maps to congressional districts.

Missouri	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Separate politician commissions for state house and state senate. ○ State House, each major party's congressional district committee nominates 2 members per congressional district (who may not share the same state legislative district), and the Governor chooses 1 per district per party. ○ state Senate, each major party's state party committee nominates 10 members, and the Governor chooses 5 per party. ○ Active lobbyists not serve on either commission. ○ Commission plans must receive support from 70% of the commissioners in order to pass. • Review <ul style="list-style-type: none"> ○ If commission fails to meet deadline, State supreme court appoints 6 judges to draw maps. 90 days to finish. • Deadlines <ul style="list-style-type: none"> ○ Commissions must be appointed by March year after census. ○ 6 months after commission formed map due. • Public consultation <ul style="list-style-type: none"> ○ Constitution: Redistricting commission must hold at least three public hearings to gather testimony and objections to proposed map. ○ Statute: Requires the establishment of a “Redistricting Public Comment Portal,” a website that facilitates the submission of public comments and maps. • Rules for maps <ul style="list-style-type: none"> ○ State legislative districts must be compact, contiguous, preserve political subdivisions, promote partisan fairness and competitiveness, and do not intentionally favor an incumbent, party, or candidate for office. 	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.”
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	<ul style="list-style-type: none"> • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Montana	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ A commission of five citizens, none of whom may be public officials ○ Majority and minority leaders of each house shall each designate one commissioner. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him. ○ State law: two of the first four commissioners must be selected from certain counties (roughly, in the Montana Rockies to the west) and two must be selected from the rest of the state (to the east). • Deadlines <ul style="list-style-type: none"> ○ Within 90 days after the official final decennial census figures are available, the commission shall file its final plan for congressional districts with the secretary of state and it shall become law. ○ The commission shall submit its plan for legislative districts to the legislature at the first regular session after its appointment or after the census figures are available. ○ Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter, the commission shall file its final plan for legislative districts with the secretary of state and it shall become law. • Public consultation in statute: <ul style="list-style-type: none"> ○ Commission conducted public hearings and accepted comments 	Same

	<ul style="list-style-type: none"> • Rules for maps <ul style="list-style-type: none"> ○ Constitution: Each district shall consist of compact and contiguous territory. ○ All districts shall be as nearly equal in population as is practicable. ○ Statute: “districts must be as equal as practicable, meaning to the greatest extent possible, within a plus or minus 1% relative deviation from the ideal population of a district”, and “District boundaries must coincide with the boundaries of political subdivisions of the state to the greatest extent possible.” ○ Statute: “A district may not be drawn for the purposes of favouring a political party or an incumbent legislator or member of congress.” ○ Statute: compact means “A district may not have an average length greater than three times the average width” • Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting • Data sources: <ul style="list-style-type: none"> ○ “The following data or information may not be considered in the development of a plan: (a) addresses of incumbent legislators or members of congress; (b) political affiliations of registered voters; (c) partisan political voter lists; or (d) previous election results, unless required as a remedy by a court.” ○ No ban on prison gerrymandering 	
Nebraska	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None • Frequency 	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None

	<ul style="list-style-type: none"> ○ Court case: Legislature may only redistrict itself once every ten years. <i>Exon v. Tiemann</i>, 279 F.Supp. 603 (D. Neb. 1967). ● Public consultation <ul style="list-style-type: none"> ○ Legislature chooses to hold public hearings ○ Releases data and drafts to public for comment ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: “separate and distinct legislative districts, as nearly equal in population as may be and composed of contiguous and compact territory” and “In any such redistricting, county lines shall be followed whenever practicable” ○ Court case: When the population of a county is such that it can legally constitute a legislative district and it is practicable to do so, the Legislature must establish a district which follows that county's boundaries. <i>Day v. Nelson</i>, 240 Neb. 997, 485 N.W.2d 583 (1992). ○ State legislative guidelines: District boundaries should not be established with the intention of favouring a political party, other group, or any person ● Data sources <ul style="list-style-type: none"> ○ State legislative guidelines: those drawing the lines should refuse to consider political data except where otherwise required by law ○ No ban on prison gerrymandering 	
Nevada	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ Constitution: Mandatory duty by end of the first regular legislative session after the census. ● Frequency 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ None. ● Rules for maps

	<ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting for the state legislature ● Public consultation <ul style="list-style-type: none"> ○ Statute: redistricting maps available to the public ○ Legislature chooses to hold public hearings ○ Legislature chooses to make computers available at the offices for public to use ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: state legislative districts must respect county boundaries ○ Court criteria for state legislative districts: consider contiguity, political subdivisions, communities of interest, compactness, and avoiding pairing incumbents. ● Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering. AB 450 in 2019. 	<ul style="list-style-type: none"> ○ Court criteria for congressional districts: consider contiguity, political subdivisions, communities of interest, compactness, and avoiding pairing incumbents.
New Hampshire	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ Deadline is end of legislative session after census ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Public consultation <ul style="list-style-type: none"> ○ Legislature chooses to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ State house: Respect local boundaries “In making such apportionment, no town, ward or place shall be divided” unless they request it by referendum ○ State rep districts: towns or wards near the average population for one or more seats are to constitute whole districts ○ State senate: “single member districts, as nearly equal as may be in population, each consisting of contiguous towns, 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ No deadline for when redistricting due ● Frequency <ul style="list-style-type: none"> ○ No rules about midterm redistricting ● Rules for map <ul style="list-style-type: none"> ○ No state-specific rules

	<p>city wards and unincorporated places, without dividing any town, city ward or unincorporated place” unless they ask</p> <ul style="list-style-type: none"> • Review <ul style="list-style-type: none"> ○ State supreme court can draw up plans if asked after legislature fails (e.g. 2002) 	
New Jersey	<ul style="list-style-type: none"> • Body: politician commission draws maps <ul style="list-style-type: none"> ○ Permanent recurring ○ Chairs of the state's two major political parties each choose five commissioners ○ If the ten commissioners can't agree on a plan by deadline, Chief Justice appoints eleventh member to serve as tiebreaker. • Review <ul style="list-style-type: none"> ○ No rules • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Public consultation <ul style="list-style-type: none"> ○ Constitution requires the congressional redistricting commission to hold at least three public hearings in different parts of the state, and to review all plans submitted by the public, as time and convenience permits. ○ Legislature chose to hold public hearings in state legislative maps • Rules for maps <ul style="list-style-type: none"> ○ Compact and contiguous: “districts shall be composed of contiguous territory, as nearly compact and equal in the number of their inhabitants as possible” ○ Municipalities intact: “no county or municipality shall be divided among Assembly districts unless it shall contain more than one-fortieth of the total number of inhabitants of the State” • Data sources: 	<ul style="list-style-type: none"> • Body: separate politician commission draws maps <ul style="list-style-type: none"> ○ 13 members ○ SL leaders pick ○ Non-legislators ○ 13th member picked by 12 or state Sup Court • Public consultation <ul style="list-style-type: none"> ○ Must hold 3 public hearings ○ Review rival plans submitted by public if possible • Deadline: <ul style="list-style-type: none"> ○ If missed, commission submits 2 plans to Supreme Court, which selects 1 • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted

	<ul style="list-style-type: none"> ○ State ban on prison gerrymandering 	
New Mexico	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Citizen redistricting committee of seven members. 4 by senate and house leaders, 3 by state ethics commission (2 who shall not be members of the largest or second largest political parties in the state; and one “who shall be a retired justice of the New Mexico supreme court or a retired judge of the New Mexico court of appeals, and who shall chair the committee”) ○ Bipartisan: “No more than three members of the committee shall be members of the same political party.” ○ Committee members cannot be office holders, lobbyists, state employees. ● Deadlines <ul style="list-style-type: none"> ○ By October 31 in year after census develop state and federal redistricting plans ● Public consultation <ul style="list-style-type: none"> ○ Committee must hold public hearings ○ “proposed district plans that the committee issues for public comment shall be based, in part, on the testimony, documents and information received” ● Rules for maps <ul style="list-style-type: none"> ○ “contiguous and that are as compact as is practical and possible.” ○ “state districts shall be substantially equal in population; no plans for state office will be considered that have a total deviation of more than ten percent” ○ Plans “shall not be composed of districts that split precincts” ○ Districts to be “drawn consistent with traditional districting principles”, “composed of contiguous precincts and shall 	<p>Same.</p> <ul style="list-style-type: none"> ● Rules for maps <ul style="list-style-type: none"> ○ Same ○ Legislative guidelines: “congressional districts shall be as equal in population as practicable”

	<p>be reasonably compact”, “to the extent feasible, districts shall be drawn in an attempt to preserve communities of interest and shall take into consideration political and geographic boundaries, including the boundaries of Indian nations, tribes and pueblos” and “to the extent feasible, the committee may seek to preserve the core of existing districts”</p> <ul style="list-style-type: none"> ○ “Plans that dilute a protected minority's voting strength are unacceptable” ● Data sources <ul style="list-style-type: none"> ○ Banned: committee shall not “use, rely upon or reference partisan data, such as voting history or party registration data” or “consider the voting address of candidates or incumbents, except to avoid the pairing of incumbents unless necessary to conform to other traditional districting principles.” ○ No ban on prison gerrymandering ● Adoption of plans: <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Review <ul style="list-style-type: none"> ○ State trial court has drawn maps in past when governor and legislature could not agree on maps 	
New York	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ 10-member commission, eight appointed by senate and house leaders, and two by the other eight. ○ Members cannot be politicians, state employees, lobbyists, party officials, or spouse thereof ● Adoption <ul style="list-style-type: none"> ○ Districts for state Senate and state Assembly must be enacted by the same law 	Same.

	<ul style="list-style-type: none"> ○ Up/down vote by legislature on commission plans. Legislature must reject two separate sets of redistricting plans before it can amend commission proposals. ○ Supermajority of 60% needed to approve a plan if one party has majority in both state legislative chambers ○ Governor can veto ● Deadlines <ul style="list-style-type: none"> ○ January in year ending two ● Review <ul style="list-style-type: none"> ○ State courts can review state legislative maps ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Public consultation <ul style="list-style-type: none"> ○ Commission must hold public hearings ○ Must make all draft redistricting plans and data easily available so as to allow citizens to “develop alternative redistricting plans for presentation to the commission at the public hearings.” ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: all districts must “preserve minority rights, be equally populated, and consist of compact and contiguous territory” ○ Districts “not be drawn to discourage competition or to favour/disfavour candidates or parties.” ○ Account for “historic and traditional significance of counties” ● Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering 	
North Carolina	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature draws maps. Governor has no veto. ● Review <ul style="list-style-type: none"> ○ Special three-member court has original jurisdiction 	<p>Same, but:</p> <ul style="list-style-type: none"> ● Deadlines <ul style="list-style-type: none"> ○ None.

	<ul style="list-style-type: none"> ○ Legislature must be given time to correct problems, rather than court imposing maps. ● Public consultation <ul style="list-style-type: none"> ○ Legislative committees chose to conduct hearings across the state to collect public input, plus online form ● Deadlines <ul style="list-style-type: none"> ○ Redistricting to be done in regular session of year after census. ● Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: each state legislative “district shall at all times consist of contiguous territory” and “no county shall be divided” ○ Guidelines adopted by state legislative committees: “improve the compactness of the current districts,” “consider municipal boundaries,” “avoid pairing incumbent members,” and “political considerations and election results data may be used in the drawing of legislative districts” (North Carolina General Assembly 2017) ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ● Frequency <ul style="list-style-type: none"> ○ No limit. ● Rules for maps <ul style="list-style-type: none"> ○ Guidelines adopted by joint committee: “contiguous territory. Contiguity by water is sufficient,” “maintain the current partisan makeup of North Carolina’s congressional delegation,” improve compactness, avoid pairing incumbents in new districts (North Carolina General Assembly 2016)
North Dakota	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ End of the first regular legislative session after the census. ● Frequency <ul style="list-style-type: none"> ○ No law bans midterm redistricting ● Public consultation <ul style="list-style-type: none"> ○ No requirement for or record of public hearings 	One seat, since 1973.

	<ul style="list-style-type: none"> • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “districts of compact and contiguous territory” ○ Statute: “districts must be as nearly equal in population as is practicable. Population deviation from district to district must be kept at a minimum.” • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Ohio	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ 7 member politician commission draws state legislative maps: governor, state auditor, secretary of state, other 4 are appointed by state house and senate leaders • Adoption <ul style="list-style-type: none"> ○ Commission adopts plans itself. No role for legislature. ○ Ten year plans require bipartisan support of Commissioners. Otherwise, 4 commissioners can approve 4 year plans. • Rules for maps <ul style="list-style-type: none"> ○ “contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line,” no general assembly district plan shall be drawn primarily to favour or disfavour a political party,” districts “shall be compact,” “The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favour each political party shall correspond closely to the statewide preferences of the voters of Ohio.” ○ Counties big enough to be own district become one. Minimize municipal splits. • Public consultation 	<p>Same except:</p> <ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature by 60% vote, by September of year after census ○ But if legislature fails to act, then the same commission also draws up congressional maps, by October 31. ○ But if commission fails to act, then back to the legislature for passage like a normal bill, subject to gubernatorial veto. • Public consultation <ul style="list-style-type: none"> ○ Requires public meetings if state legislature acts ○ “facilitate and allow for the submission of proposed congressional district plans by members of the public” • Rules for maps <ul style="list-style-type: none"> ○ “shall not pass a plan that unduly favors or disfavors a political party or its incumbents”

	<ul style="list-style-type: none"> ○ Requires public meetings, public displays of maps, and a public letter explaining any plan the Commission adopts by a simple majority vote. ○ Citizens can use free software to submit own maps online ○ Public explanation for how map complied with criteria ● Review <ul style="list-style-type: none"> ○ State supreme court has original exclusive jurisdiction ○ Commission must be given chance to fix problems ● Deadlines <ul style="list-style-type: none"> ○ Oct 1 year after census ● Frequency <ul style="list-style-type: none"> ○ State law bans midterm redistricting ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> ○ “not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations”
Oklahoma	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Backup if state legislature fails to act in time: 7-member backup Apportionment Commission. Lieutenant Governor is the nonvoting chair of the commission; the Governor, state Senate majority leader, and state House majority leader each choose one Republican and one Democrat to serve as commissioners. ○ Before 2010, the Apportionment Commission was composed of the Attorney General, Superintendent of Public Instruction and the State Treasurer. ● Adoption <ul style="list-style-type: none"> ○ “Each order of apportionment rendered by the Bipartisan Commission on Legislative Apportionment shall be in writing and shall be filed with the Secretary of State and shall be signed by at least four members of the Commission.” ○ No role for state legislature if Commission acts. 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Frequency <ul style="list-style-type: none"> ○ No limit on midterm redistricting

	<ul style="list-style-type: none"> • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ “Any qualified elector may seek a review of any apportionment order of the Commission, or apportionment law of the legislature, within sixty days from the filing thereof” • Deadlines <ul style="list-style-type: none"> ○ 90 days after start of the first legislative session after the census. ○ If the legislature fails to pass a plan by then, the backup commission will be convened within 90 days, and must pass a state legislative plan within 60 days of convening. • Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ Legislature chose to hold public meetings to receive feedback and accepts public map submissions • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “consideration shall be given to population, compactness, area, political units, historical precedents, economic and political interests, contiguous territory, and other major factors, to the extent feasible” ○ State legislative guidelines: contiguous and reflect county and municipal boundaries that coincide with physical features; where not in conflict with those principles, consideration will be given to draw districts that are compact and that preserve “long-standing communities of interest based on social, cultural, ethnic, and economic similarities.” ○ May “seek to preserve the core of existing districts.” • Data sources <ul style="list-style-type: none"> ○ May consider the place of residence of incumbents. 	
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	<ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Oregon	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Backup system: Secretary of State must act if the state legislature fails to do so. Secretary of State plan does not require approval of the legislature to take effect. ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ Citizens can sue. “An elector may file a petition in Marion County Circuit Court on or before August 1 in the year following the federal decennial census to: (a) Challenge a legislatively adopted reapportionment plan; or (b) Request a reapportionment of congressional districts if: The Legislative Assembly failed to pass a reapportionment of congressional districts by July 1” or governor vetoed and not over-ridden. ● Deadlines <ul style="list-style-type: none"> ○ If the state legislature does not enact a redistricting statute by July 1, year after census, the process will fall to the Secretary of State, who must file a plan by August 15. ● Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting. ● Public consultation <ul style="list-style-type: none"> ○ Constitution: “The Secretary of State shall conduct a hearing on the reapportionment at which the public may submit evidence, views and argument.” ○ Statute: “When apportioning the state into congressional or legislative districts, the Legislative Assembly shall hold at least 10 public hearings” and five after publishing a preliminary plan. ○ Must provide adequate notice of hearings, and allow for remote testimony. 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Back up: if past deadline, citizens are empowered to file a special lawsuit in a designated county court. Chief justice of Oregon Supreme Court appoints retired judges to a panel to adopt congressional districts for the Supreme Court to review and approve. ● Frequency <ul style="list-style-type: none"> ○ No law bans midterm redistricting

	<ul style="list-style-type: none"> • Rules for maps <ul style="list-style-type: none"> ○ Constitution: contiguity ○ Statute: “Each district, as nearly as practicable, shall (a) Be contiguous; (b) Be of equal population; (c) Utilize existing geographic or political boundaries; (d) Not divide communities of common interest; and (e) Be connected by transportation links.” ○ “No district shall be drawn for the purpose of favoring any political party, incumbent legislator or other person” and “No district shall be drawn for the purpose of diluting the voting strength of any language or ethnic minority group.” ○ Secretary of State’s own guidelines: focus “geographic or political boundaries” on county and city lines, focus “transportation links” on the presence of county roads in populated areas, and note that media markets will be considered in “determining communities of common interest.” • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Pennsylvania	<ul style="list-style-type: none"> • Body: <ul style="list-style-type: none"> ○ 5-member politician commission draws maps ○ Legislative leaders pick 1 commissioner each; those 4 pick 5th (non-officeholder) or Supreme Court picks if they can’t agree • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction • Deadlines <ul style="list-style-type: none"> ○ Commission must report within 90 days. Complaints can be heard by Supreme Court. Then plan takes effect without involvement of legislature. ○ If Commission fails to act, Supreme Court can draw own plan. 	<ul style="list-style-type: none"> • Body: <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto.

	<ul style="list-style-type: none"> • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Public consultation <ul style="list-style-type: none"> ○ Commission chooses to hold hearings ○ Draft plan released for public comment ○ Anyone can submit objection to draft plan • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “compact and contiguous territory as nearly equal in population as practicable” and “Unless absolutely necessary no county, city, incorporated town, borough, township or ward shall be divided.” • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Rhode Island	<ul style="list-style-type: none"> • Body: <ul style="list-style-type: none"> ○ Legislature, subject to veto by governor. ○ In 2011, the legislature created a temporary Advisory Commission, appointed by house and senate leaders, and mostly legislators (12/18), but legislature could ignore • Public consultation <ul style="list-style-type: none"> ○ Legislature said commission must hold public hearings, give public access to software, submit public report • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not authorized • Deadlines <ul style="list-style-type: none"> ○ Temporary law set January 2012 deadline • Rules for maps <ul style="list-style-type: none"> ○ Constitution: state districts “shall be as nearly equal in population and as compact in territory as possible.” ○ Temporary law: “districts shall be as compact in territory as possible and, to the extent practicable, shall reflect natural, historical, geographical and municipal and other 	<p>Same, except:</p> <ul style="list-style-type: none"> • Frequency <ul style="list-style-type: none"> ○ No limits

	<p>political lines, as well as the right of all Rhode Islanders to fair representation and equal access to the political process,” and “shall be composed of contiguous territory.”</p> <ul style="list-style-type: none"> • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
South Carolina	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ No limit • Public consultation <ul style="list-style-type: none"> ○ Legislature chooses to hold public hearings and accept map submissions from the public • Rules for maps <ul style="list-style-type: none"> ○ Constitution identifies state legislature as being in charge of districts, but no further rules ○ Legislative committees adopt guidelines, nothing in statute. Criteria: population equality, compactness, contiguity, communities of interest, incumbent protection (South Carolina House of Representatives 2011). • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	Same
South Dakota	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ State Supreme Court is backup system. Constitution: “If any Legislature whose duty it is to make an apportionment shall fail to make the same as herein provided, it shall be the duty of the Supreme Court within ninety days to make such apportionment.” • Deadlines 	One seat, since 1983.

	<ul style="list-style-type: none"> ○ Dec 1 in year after the census. ● Frequency <ul style="list-style-type: none"> ○ Law bans midterm redistricting ● Public consultation <ul style="list-style-type: none"> ○ Legislature chooses to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: districts “shall consist of compact, contiguous territory and shall have population as nearly equal as is practicable” ○ Statute: key principles in redistricting: “(1) Adherence to standards of population deviance,” “(2) Protection of communities of interest by means of compact and contiguous districts; (3) Respect for geographical and political boundaries; and (4) Protection of minority voting rights.” ● Review <ul style="list-style-type: none"> ○ Federal court has drawn maps when legislature fails to fix maps struck down for non-VRA (2005) ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Tennessee	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. “the General Assembly shall establish senatorial and representative districts.” ● Deadlines <ul style="list-style-type: none"> ○ None ● Frequency <ul style="list-style-type: none"> ○ Law expressly permits redrawing state legislative lines mid-decade ● Public consultation <ul style="list-style-type: none"> ○ Legislature not required to hold public hearings and did not 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Rules <ul style="list-style-type: none"> ○ There are no state law requirements for drawing congressional districts.

	<ul style="list-style-type: none"> ○ Public could submit map ideas ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: “apportionment of senators and representatives shall be substantially according to population.” ○ Statute: “districts shall be contiguous and contiguity by water is sufficient.” “Districts must be substantially equal in population.” ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Texas	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ If fails to act on time, 5-member backup commission acts, in place since 1948. The commission consists of Lieutenant Governor, house speaker, Attorney General, Comptroller of Public Accounts, and Commissioner of the General Land Office. ● Deadlines <ul style="list-style-type: none"> ○ End of the first legislative session after the census. ○ If the legislature fails to pass a plan by then, the backup commission will be convened within 90 days, and must pass a state legislative plan within 60 days of convening. ○ Commission plan takes effect when filed with the Secretary of State; no legislature involvement. ● Review <ul style="list-style-type: none"> ○ Supreme Court of Texas has jurisdiction. ● Frequency <ul style="list-style-type: none"> ○ Law could be interpreted to ban midterm redistricting by legislature if they’ve already done it once (and not court) ● Public consultation <ul style="list-style-type: none"> ○ Legislature chooses to hold public hearings and accepts map ideas from the public 	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ None ● Frequency <ul style="list-style-type: none"> ○ No limit on midterm redistricting ● Rules <ul style="list-style-type: none"> ○ There are no state law requirements for drawing congressional districts.

	<ul style="list-style-type: none"> • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “Districts of contiguous territory.” Try to preserve whole counties: “whenever a single county has sufficient population to be entitled to a Representative, such county shall be formed into a separate Representative District” • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Utah	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ 7-member commission, appointed 1 by governor and 6 by state legislative leaders. Cannot be registered party members, lobbyists, state or federal employees, or election candidates in last 5 years. • Adoption <ul style="list-style-type: none"> ○ Requires 5 votes to adopt a plan by Commission and send to legislature ○ If fails, Commission sends two plans to Chief Justice who chooses one and sends to legislature ○ Legislature can accept or reject but not amend plans. If it rejects, can create own plan. • Deadlines <ul style="list-style-type: none"> ○ End of the first regular legislative session after the census. • Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ Statute: “make computer software and information and data concerning proposed redistricting plans reasonably available to the public so that the public has a meaningful opportunity to review redistricting plans” ○ “The Commission shall make available to each commissioner and to the public all plans or elements of 	Same

	<p>plans submitted to the Commission or to any commissioner.”</p> <ul style="list-style-type: none"> ○ “maintain a website” and hold seven public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Statutory standards for redistricting: “minimizing the division of municipalities and counties across multiple districts, giving first priority to minimizing the division of municipalities and second priority to minimizing the division of counties; (c) creating districts that are geographically compact; (d) creating districts that are contiguous and that allow for the ease of transportation throughout the district; (e) preserving traditional neighborhoods and local communities of interest; (f) following natural and geographic features, boundaries, and barriers; and (g) maximizing boundary agreement among different types of districts.” ○ “shall use judicial standards and the best available data and scientific and statistical methods, including measures of partisan symmetry” ● Data sources: <ul style="list-style-type: none"> ○ “Partisan political data and information, such as partisan election results, voting records, political party affiliation information, and residential addresses of incumbent elected officials and candidates or prospective candidates for elective office, may not be considered.” ○ No ban on prison gerrymandering 	
Vermont	<ul style="list-style-type: none"> ● Body: <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ○ Permanent, recurring Advisory commission exists, called Vermont Apportionment Board 	One seat, since 1933.

	<ul style="list-style-type: none"> ○ Board members: Governor appoints one for each party in legislature; state party chairs pick one each; special master picked by Chief Justice ○ Constitution: “The General Assembly may provide for establishment of a legislative apportionment board to advise and assist the General Assembly concerning legislative apportionment. If the General Assembly fails to revise the legislative districts as required in this section, the Supreme Court in appropriate legal proceedings brought for that purpose may order reapportionment of the districts.” ● Adoption <ul style="list-style-type: none"> ○ Board submits tentative and final proposals to legislature ● Deadlines <ul style="list-style-type: none"> ○ Commission has deadline for producing plans ○ Legislature to redistrict in session after the census ● Frequency <ul style="list-style-type: none"> ○ Constitution: Legislature can apportion when it likes ● Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ Citizens can sue if they think plan violates statutory standards ● Public consultation <ul style="list-style-type: none"> ○ Board chooses to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: “In establishing senatorial/representative districts, which shall afford equality of representation, the General Assembly shall seek to maintain geographical compactness and contiguity and to adhere to boundaries of counties and other existing political subdivisions.” ○ Statutory principles: “preservation of existing political subdivision lines; (2) recognition and maintenance of 	
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	<p>patterns of geography, social interaction, trade, political ties, and common interests; (3) use of compact and contiguous territory.”</p> <ul style="list-style-type: none"> • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Virginia	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Virginia Redistricting Commission of 16 members ○ 8 members appointed by the senate and house majority and minority leaders (2 each) ○ 8 citizens members chosen by selection committee of retired judges • Adoption <ul style="list-style-type: none"> ○ Commission submits maps to legislature. Supermajority of commissioners must approve (6/8 for each type). ○ Legislature has up/down vote, cannot amend. ○ Supreme Court steps in if no plan is submitted on time. • Deadlines <ul style="list-style-type: none"> ○ Redistricting to be done in year after census. Maps due to Legislature 45 days after census data provided. • Public consultation <ul style="list-style-type: none"> ○ Commission meetings open to public. Must be three public hearings. Accepts public comments on its website. • Frequency <ul style="list-style-type: none"> ○ Midterm redistricting not permitted • Rules for maps <ul style="list-style-type: none"> ○ Constitution: “Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population” ○ “Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.” 	Same

	<ul style="list-style-type: none"> • Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering 	
Washington	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ 5-member independent commission ○ Four legislative leaders (majority and minority party leader in each legislative house) each select one registered voter to serve as commissioner, and those four commissioners choose a nonvoting fifth commissioner to serve as chair. If the commissioners cannot agree on a chair, the state Supreme Court will select one ○ Constitution provides that no commissioner may have been an elected official or elected district, county, or state party officer within two years of appointment to the commission. ○ State law prohibits those who have been registered lobbyists within the last year from serving as a commissioner; this latter limitation may be altered by the state legislature • Deadlines <ul style="list-style-type: none"> ○ Constitution requires that the commission produce congressional and state legislative plans by January 1 of election year after census ○ Legislature has 30 days thereafter to amend the plan. ○ If the commission does not produce plans by January 1, the state Supreme Court will produce a plan, by March 1. • Review <ul style="list-style-type: none"> ○ State supreme court has original jurisdiction ○ Automatic authority to draw plans itself if the commission has not adopted a plan by January 1, 2nd year after census • Adoption <ul style="list-style-type: none"> ○ Commission will submit its districting plan to the legislature, which may within the next 30 days amend the plan if two-thirds of each house approves the amendment 	Same

	<ul style="list-style-type: none"> ● Public consultation <ul style="list-style-type: none"> ○ Commission meetings are open to the public and distributed via interactive webcast. ○ Commission must publish a report explaining itself. ○ Commission allows members of the public to comment on ideas or plans for redistricting, or to submit their own plans ● Frequency <ul style="list-style-type: none"> ○ Washington law prohibits redrawing state legislative lines mid-decade, before the next Census. However, by a two-thirds vote of each house of the legislature, the independent commission may be reconvened to redraw district lines at any time ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: “single districts of convenient and contiguous territory” ○ To the extent reasonable, both congressional and state legislative districts should be contiguous, compact, and convenient, and follow natural geographic, artificial, or political subdivision boundaries. ○ Must not purposely draw plans to favour or discriminate against any political party or group. ○ Statute: districts should be drawn to preserve areas recognized as communities of interest, and that the number of divided counties and municipalities be as small as possible; they also define contiguous areas as those without geographical boundaries or artificial barriers preventing transportation. ○ Statute: “provide fair and effective representation and to encourage electoral competition.” ● Data sources: <ul style="list-style-type: none"> ○ State ban on prison gerrymandering. 2019: SB 5287. 	
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West Virginia	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ State law bans midterm redistricting • Public consultation <ul style="list-style-type: none"> ○ State Senate conducted public hearings and public may post comments online • Rules for maps <ul style="list-style-type: none"> ○ Constitution: state Senate districts “shall be compact, formed of contiguous territory, bounded by county lines, and, as nearly as practicable, equal in population.” ○ (State house uses mix of both single-member and multi-member districts) • Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Rules for maps <ul style="list-style-type: none"> ○ Constitution: congressional districts “shall be formed of contiguous counties, and be compact. Each district shall contain, as nearly as may be, an equal number of population.”
Wisconsin	<ul style="list-style-type: none"> • Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. • Deadlines <ul style="list-style-type: none"> ○ Legislative session in year after census • Frequency <ul style="list-style-type: none"> ○ Law does not authorize midterm redistricting • Review <ul style="list-style-type: none"> ○ No special rules • Public consultation <ul style="list-style-type: none"> ○ Under state law, there is no public input requirement. ○ 2011: one public hearing held regarding state legislative districts, none for congressional districts. • Rules for maps 	<p>Same, except:</p> <ul style="list-style-type: none"> • Deadlines <ul style="list-style-type: none"> ○ None • Frequency <ul style="list-style-type: none"> ○ No law bans midterm redistricting • Rules for maps <ul style="list-style-type: none"> ○ There are no state law requirements for drawing congressional districts.

	<ul style="list-style-type: none"> ○ Constitution: house districts “to be bounded by county, precinct, town or ward lines, to consist of contiguous territory and be in as compact form as practicable.” ○ Constitution: senate districts to be “single districts of convenient contiguous territory.” ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	
Wyoming	<ul style="list-style-type: none"> ● Body <ul style="list-style-type: none"> ○ Legislature, subject to gubernatorial veto. ● Deadlines <ul style="list-style-type: none"> ○ End of the first budget legislative session after the census. ● Frequency <ul style="list-style-type: none"> ○ Law does not authorize bans midterm redistricting ● Public consultation <ul style="list-style-type: none"> ○ Under state law, there is no public input requirement. Legislature chooses to hold public hearings ● Rules for maps <ul style="list-style-type: none"> ○ Legislative guidelines: “Election districts should be contiguous, compact, and reflect a community of interest.” ○ “To the greatest extent possible, in establishing election districts: a. County boundaries should be followed; b. The majority of the population of each county should be in one district; c. Census blocks should be followed.” ○ “Significant geographical features should be considered in establishing districts.” ● Data sources: <ul style="list-style-type: none"> ○ No ban on prison gerrymandering 	<p>One seat, since admission as a state in 1889.</p> <ul style="list-style-type: none"> ● Frequency <ul style="list-style-type: none"> ○ Constitution: “Congressional districts may be altered from time to time as public convenience may require. “ ● Rules for maps <ul style="list-style-type: none"> ○ Constitution: “When a congressional district shall be composed of two or more counties they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of congressional districts.”

Sources for the information contained in this appendix include:

STATE	SOURCES
Alabama	Alabama Constitution, article IX Representation, sections 198-200.
Alaska	Alaska Constitution, article VI Legislative Apportionment, sections 1-11.
Arizona	Arizona Constitution, article IV Legislative Department, part 2 The Legislature, section 1.
Arkansas	Arkansas Constitution, article 8 Apportionment, sections 1-6.
California	California Constitution, article XXI Redistricting, section 1-3.
Colorado	Colorado Constitution, article V Legislative Department, sections 44-48 Congressional and Legislative Apportionments.
Connecticut	Connecticut Constitution, article 3 Legislative Department, sections 3-5.
Delaware	Delaware Constitution, article II, section 2A Additional representative districts [but this section was ruled unconstitutional by the US Supreme Court in <i>Roman v. Sincock</i> (1964)]. Delaware Code, title 29, chapter 8 Composition of and Reapportionment of the General Assembly, sections 801-806.
Florida	Florida Constitution, article 3 Legislature, sections 16, 20, 21.
Georgia	Georgia Constitution, article 3 Legislative Branch, section II, paragraph II Apportionment of General Assembly. Reapportionment committee's guidelines (Georgia House of Representatives 2011).
Hawaii	Hawaii Constitution, article IV Reapportionment, sections 1-10.
Idaho	Idaho Constitution, article III Legislative Department, section 5. Idaho Statutes, chapter 15 Commission for Reapportionment.
Illinois	Illinois Constitution, article IV Legislature, section 3 Legislative Districting
Indiana	Indiana Constitution, article 4 Legislative, section 5. Indiana Code, title 3, article 3 Congressional Apportionment.
Iowa	Iowa Constitution, article III Of the Distribution of Power, 2nd chapter, section 39 Legislative districts. Iowa Code section 42.4 Redistricting standards.
Kansas	Kansas Constitution, article 10 Apportionment of the Legislature. State legislature's guidelines for redistricting (Kansas Legislature 2012).
Kentucky	Kentucky Constitution, section 33 Senatorial and Representative districts. Redistricting subcommittee's criteria/standards (Kentucky Legislature 1991).
Louisiana	Louisiana Constitution, article 3 Legislative Branch, section 6 Legislative Reapportionment. Rules for redistricting (Louisiana House of Representatives 2011).

Maine	Maine Constitution, article IV, part first, section 2; part second, section 2; part third, section 1-A Legislature to establish Apportionment Commission. Maine Revised Statutes, title 21-A, section 1206 Reapportionment, section 1206A Reapportionment of state legislative districts.
Maryland	Maryland Constitution, article III Legislative Department, section 4.
Massachusetts	Massachusetts Constitution, articles of amendment, articles CI and CIX.
Michigan	Michigan Constitution, article IV Legislative Branch, section 6 Independent citizens redistricting commission.
Minnesota	Minnesota Constitution, article IV Legislative Department, section 2 Apportionment of members & section 3 Congressional and legislative district boundaries. Minnesota Statutes, chapter 2, section 2.91 Redistricting plans.
Mississippi	Mississippi Code, title 5 Legislative Department, chapter 3 Legislative Committees, sections 81, 91-103, 121-129 Legislative committees on reapportionment.
Missouri	Missouri Constitution, article 3 Legislative Department, section 3 Election of representatives & section 45 Congressional apportionment. Revised Statutes of Missouri, title IX Suffrage and Elections, chapter 127 State Demographer.
Montana	Montana Constitution, article V The Legislature, section 14 Districting and apportionment. Montana Code, title 5 Legislative Branch, Chapter 1 Congressional, Senatorial and Representative Districts.
Nebraska	Nebraska Constitution, article III, section 5 Legislative districts.
Nevada	Nevada Constitution, article 4 Legislative Department, section 5 Number of Senators and members of Assembly; apportionment. Nevada Revised Statutes, chapter 304 Election of United States Senators and Representatives.
New Hampshire	New Hampshire Constitution, part 2 House of Representatives, articles 9, 11, 11-A; part 2 Senate, articles 26
New Jersey	New Jersey Constitution, article IV Legislative, sections II & III
New Mexico	New Mexico Statutes, chapter 1 Elections, article 3A Redistricting, and chapter 2 Legislative Branch, sections 7C-3 and 8D.
New York	New York Constitution, article III Legislature, sections 4 Readjustments and reapportionments, 5 & 5-b Independent redistricting commission.
North Carolina	North Carolina Constitution, article II Legislative, section 3 Senate districts; apportionment of Senators, section 5 Representative districts; apportionment of Representatives, section 22 Action on bills subsection 5 (Governor cannot veto redistricting bills).
North Dakota	North Dakota Constitution, article IV Legislative Branch, section 2. North Dakota Code, chapter 54, section 03-01.5 Legislative redistricting requirements.
Ohio	Ohio Constitution, article XI General Assembly Redistricting, article XIX Congressional Redistricting.
Oklahoma	Oklahoma Constitution, article V, section 9A Senatorial districts, section 11A Apportionment Commission. Guidelines for redistricting (Oklahoma House of Representatives 2011).

Oregon	Oregon Constitution, article IV Legislative Branch, section 6 Apportionment of Senators and Representatives & section 7 Senatorial districts; senatorial and representative subdistricts. Oregon Revised Statutes, volume 5 State Government, title 19, chapter 188 Congressional and Legislative Districts; Reapportionment.
Pennsylvania	Pennsylvania Constitution, article II The Legislature, section 16 Legislative districts & section 17 Legislative Reapportionment Commission.
Rhode Island	Rhode Island Constitution, article VII Of the House of Representatives, section 1, & article VIII Of the Senate, section 1.
South Carolina	South Carolina Constitution, article III Legislative Department.
South Dakota	South Dakota Constitution, article III Legislative Department, section 5 Legislative reapportionment. South Dakota Codified Laws, title 2 Legislature and Statutes, chapter 2 Legislative Districts, section 41 Legislative policy in redistricting.
Tennessee	Tennessee Constitution, article II, section 4. Tennessee Code, title 3 Legislature, chapter 1 General Assembly, section 102 Composition of state senatorial districts, & section 103 Composition of state house of representative districts.
Texas	Texas Constitution, article 3 Legislative Department, section 25 Senatorial districts, 26 Apportionment of members of House of Representatives, section 28 Time for apportionment.
Utah	Utah Constitution, article IX Congressional and Legislative Apportionment. Utah Code, title 20A Election Code, chapter 19 Utah Independent Redistricting Commission and Standards Act.
Vermont	Vermont Constitution, chapter II Legislative Department, sections 13 & 18, and amendment 73 Manner of apportionment of the General Assembly. Vermont Statutes, title 17 Elections, chapter 34A Periodic Reapportionment, sections 1901-1909.
Virginia	Virginia Constitution, article II Franchise and officers, section 6 Apportionment & section 6-A Virginia Redistricting Commission.
Washington	Washington Constitution, article II Legislative Department, section 6 Election and term of office of senators & section 43 Redistricting. Revised Code of Washington, title 44 State Government-Legislative, chapter 44.05 Washington Redistricting Act.
West Virginia	West Virginia Constitution, article I, section 1-4 Representatives to Congress.
Wisconsin	Wisconsin Constitution, article IV, section 3 Apportionment.
Wyoming	Wyoming Constitution, article 3 Legislative Department, section 3 Legislative apportionment [but this section is void to the extent it violates the anti-malapportionment decisions of the US Supreme Court] & section 49 District representation. Legislative committee's Redistricting principles (Wyoming Legislature 2011).

Appendix B: State ideology scores

Poole and Rosenthal (1984, 1985) pioneered the calculation of legislator ideology scores based on how legislators vote on bills in the legislature. Their approach is called NOMINATE (Nominal Three-Step Estimation). NOMINATE uses congressional roll-call voting data to annually measure the ideology of individual members of Congress on a spectrum from +1.0 to -1.0, where +1.0 is the maximum conservative score and -1.0 is the maximum liberal score. The measurement is relative to all other members of Congress that year. For instance, a score of 0.800 in a given year for a person indicates they were one of the most conservative congress members that year based on their voting record. The person must have taken the conservative position on nearly all the bills in Congress on which they voted. Individual scores can be summed and averaged to produce a score for a state's House delegation, a state's Senate delegation, or the two combined, for any year or period of years. The scores calculated in this appendix are for all states for the sum of all time periods available per state, which is a year in the 1990s for most states. Annual NOMINATE data for individuals and state delegations is available online at Lewis et al (2021), and has been averaged across time by the author to calculate the data in table 38.

Table 38: State Ideology Scores Calculated Using NOMINATE Data

State	House+Senate	House	Senate
Alabama	0.556	0.424	0.688
Alaska	0.312	0.284	0.340
Arizona	-0.015	0.115	-0.145
Arkansas	0.475	0.444	0.507
California	-0.390	-0.229	-0.551
Colorado	-0.109	0.111	-0.330
Connecticut	-0.343	-0.353	-0.334
Delaware	-0.347	-0.438	-0.256
Florida	0.373	0.132	0.614

Georgia	-0.089	0.244	-0.422
Hawaii	-0.386	-0.295	-0.478
Idaho	0.509	0.467	0.550
Illinois	-0.264	-0.187	-0.342
Indiana	0.458	0.282	0.634
Iowa	0.332	0.223	0.440
Kansas	0.438	0.394	0.483
Kentucky	0.500	0.358	0.641
Louisiana	0.375	0.220	0.530
Maine	-0.144	-0.267	-0.022
Maryland	-0.307	-0.260	-0.355
Massachusetts	-0.510	-0.385	-0.636
Michigan	-0.136	0.023	-0.294
Minnesota	-0.141	0.058	-0.341
Mississippi	0.341	0.289	0.392
Missouri	0.418	0.277	0.560
Montana	0.463	0.748	0.177
Nebraska	0.493	0.400	0.586
Nevada	-0.235	-0.144	-0.326
New Hampshire	0.088	0.410	-0.234
New Jersey	-0.375	-0.271	-0.479
New Mexico	-0.192	-0.035	-0.349
New York	-0.311	-0.206	-0.416
North Carolina	0.334	0.232	0.435
North Dakota	0.425	0.477	0.373
Ohio	0.101	0.231	-0.029
Oklahoma	0.514	0.454	0.574
Oregon	-0.299	-0.212	-0.385
Pennsylvania	0.095	0.028	0.162
Rhode Island	-0.372	-0.383	-0.361
South Carolina	0.485	0.456	0.515
South Dakota	0.432	0.462	0.403
Tennessee	0.547	0.409	0.685
Texas	0.442	0.223	0.660
Utah	0.540	0.472	0.609
Vermont	-0.314	-0.243	-0.385
Virginia	-0.102	0.020	-0.223
Washington	-0.236	-0.178	-0.294
West Virginia	0.279	0.452	0.105
Wisconsin	0.113	0.174	0.053
Wyoming	0.553	0.494	0.613

Appendix C: State legislative professionalism scores

State	<u>Squire</u> 1992	<u>Squire</u> 2017	<u>2017-1992</u>
Alabama	0.158	0.175	0.017
Alaska	0.311	0.296	-0.015
Arizona	0.250	0.264	0.014
Arkansas	0.105	0.207	0.102
California	0.625	0.629	0.004
Colorado	0.300	0.268	-0.032
Connecticut	0.233	0.267	0.034
Delaware	0.192	0.203	0.011
Florida	0.255	0.245	-0.010
Georgia	0.133	0.149	0.016
Hawaii	0.276	0.321	0.045
Idaho	0.119	0.169	0.050
Illinois	0.302	0.294	-0.008
Indiana	0.139	0.156	0.017
Iowa	0.225	0.241	0.016
Kansas	0.152	0.181	0.029
Kentucky	0.101	0.162	0.061
Louisiana	0.185	0.187	0.002
Maine	0.161	0.154	-0.007
Maryland	0.204	0.278	0.074
Massachusetts	0.614	0.431	-0.183
Michigan	0.652	0.401	-0.251
Minnesota	0.199	0.204	0.005
Mississippi	0.160	0.161	0.001
Missouri	0.287	0.243	-0.044
Montana	0.110	0.116	0.006
Nebraska	0.186	0.230	0.044
Nevada	0.160	0.182	0.022
New Hampshire	0.042	0.048	0.006
New Jersey	0.255	0.233	-0.022
New Mexico	0.098	0.140	0.042
New York	0.659	0.430	-0.229
North Carolina	0.203	0.238	0.035
North Dakota	0.075	0.112	0.037
Ohio	0.329	0.384	0.055
Oklahoma	0.250	0.229	-0.021
Oregon	0.183	0.214	0.031

Pennsylvania	0.336	0.417	0.081
Rhode Island	0.148	0.200	0.052
South Carolina	0.178	0.156	-0.022
South Dakota	0.083	0.103	0.020
Tennessee	0.135	0.136	0.001
Texas	0.210	0.234	0.024
Utah	0.082	0.115	0.033
Vermont	0.145	0.178	0.033
Virginia	0.170	0.178	0.008
Washington	0.230	0.272	0.042
West Virginia	0.125	0.157	0.032
Wisconsin	0.270	0.204	-0.066
Wyoming	0.056	0.081	0.025