

Amendment - 2nd Reading/2nd House-tan - Requested by: Kim Abbott - (H) Committee of the Whole

68th Legislature - 2023

Drafter: Rachel Weiss, 406-444-5367

SJ0008.002.008

1 SENATE JOINT RESOLUTION NO. 8

2 INTRODUCED BY J. ELLSWORTH

3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA PROVIDING RECOMMENDATIONS ON THE LEGISLATIVE REDISTRICTING PLAN TO THE
6 MONTANA DISTRICTING AND APPORTIONMENT COMMISSION.

7
8 WHEREAS, the Montana Districting and Apportionment Commission submitted its legislative
9 redistricting plan to the Legislature on January 6, 2023, as required by Article V, section 14, of the Montana
10 Constitution; and

11 WHEREAS, the Montana Constitution requires the Commission to submit a proposed plan to the
12 Legislature for recommendations to alter the proposal; and

13 WHEREAS, the Montana Constitution mandates that districts must be as equal in population as is
14 practicable and be compact and contiguous; and

15 WHEREAS, the Commission established a maximum average standard deviation of plus or minus 1%,
16 which surpasses the standards of the 2013 Commission, which maintained a standard deviation of 3%; and

17 WHEREAS, the Commission formed districts that successfully comply with all requirements of the
18 federal Voting Rights Act and that protect the voting rights of minority populations; and

19 WHEREAS, the Legislature finds that the Commission's tentative map does not meet Montana's state
20 constitutional mandate of compactness in urban areas in Missoula County, Lewis and Clark County, and
21 Gallatin County; and

22 WHEREAS, the Legislature finds that the Commission's tentative map does follow its own criterion for
23 functional compactness in several areas around the state; and

24 WHEREAS, the Legislature finds the Commission did not follow its criterion to minimize the splitting of
25 municipalities whenever possible, such as the city of Whitefish; and

26 WHEREAS, the Legislature finds the Commission did not follow its criterion to consider
27 competitiveness of proposed districts; and

28 WHEREAS, the Legislature finds the Commission did not follow its mandatory criterion for keeping

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1 ~~communities of interest whole; and~~

2 ~~WHEREAS, the Legislature finds the Commission did not apply its criterion consistently when drawing~~
3 ~~legislative districts ; and~~

4 ~~WHEREAS, the Legislature finds the Commission did not follow its criterion to keep communities of~~
5 ~~interest intact when pairing House districts into Senate districts, including in Flathead County and districts in~~
6 ~~Granite, Powell, Lewis and Clark, and Jefferson Counties~~

7 WHEREAS, THE MONTANA CONSTITUTION REQUIRES DISTRICTS TO PROTECT MINORITY VOTING RIGHTS; AND

8 WHEREAS, THE MONTANA CONSTITUTION FURTHER MANDATES DISTRICTS BE COMPACT AND CONTIGUOUS;

9 AND

10 WHEREAS, the Legislature finds that despite Montana being the fourth largest state geographically
11 and the third least densely populated state, the Commission's tentative House map is more compact on
12 average on the Know It When You See It compactness score than at least 28 other lower chamber legislative
13 maps across the country, including 1-Alabama, 2-Alaska, 3-Arizona, 4-Arkansas, 5-California, 6-Colorado, 7-
14 Georgia, 8-Illinois, 9-Iowa, 10-Kentucky, 11-Louisiana, 12-Massachusetts, 13-Mississippi, 14-Missouri, 15-New
15 Jersey, 16-New Mexico, 17-New York, 18-Ohio, 19-Oregon, 20-Pennsylvania, 21-Rhode Island, 22-South
16 Carolina, 23-Tennessee, 24-Texas, 25-Virginia, 26-Washington, 27- West Virginia, and 28-Wisconsin; and

17 WHEREAS, THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION ADOPTED ADDITIONAL
18 DISCRETIONARY CRITERIA TO GUIDE ITS REDISTRICTING PLAN, INCLUDING PREVENTING FAVORITISM TOWARD POLITICAL
19 PARTIES, MINIMIZING THE DIVISION OF CITIES, TOWNS, COUNTIES, AND FEDERAL RESERVATIONS, AND KEEPING
20 COMMUNITIES OF INTEREST INTACT.

21
22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
23 THE STATE OF MONTANA:

24 (Refer to Introduced Bill)

25 Strike everything after the resolving clause and insert:

26

27 In an era of significant political division, Montana's elected representatives still believe in working
28 together. After evaluating the public comments and reviewing the proposal of the Montana Districting and

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1 Apportionment Commission, the bipartisan members of the Legislature agree to the following changes to the
2 Commission's tentative map:

3 (1) redraw as necessary to keep Broadwater County whole;

4 (2) redraw as necessary to keep Musselshell County whole;

5 (3) in the greater Pablo area, include in House District 11 the area south of Pablo Road West and
6 north of Carbine Road with Montana Avenue as the eastern boundary;

7 (4) redraw as necessary to keep Georgetown Lake with Granite and Powell Counties;

8 (5) redraw as necessary to keep House District 84 wholly contained within Lewis and Clark
9 County; and

10 (6) redraw House District 41 to include 22 Upper Road, Hardin, and House District 91 to include
11 35566 Terrace Lake Road, Ronan.

12 BE IT FURTHER RESOLVED, that the Republican majority finds that:

13 (1) after inspecting the map and receiving substantial public comment in opposition, the current
14 proposal does not follow the constitutional requirements. The Commission did not consistently or fairly apply
15 the discretionary criteria regarding communities of interest. Furthermore, the Commission often sacrificed
16 constitutionally mandatory compactness for discretionary competitiveness.

17 (2) the Commission's failure to prioritize the Constitution's mandates created districts that are
18 neither visually nor functionally compact. The Joint Select Committee on Redistricting heard substantial
19 testimony from legislators and citizens about how this lack of compactness will impact voters. Commenters
20 pointed out that several proposed districts extend hundreds of miles across county lines and geographic
21 boundaries. Other commenters mentioned that some districts are connected by roads that are either closed or
22 unreliable in winter. Creating districts that neither pass the eye test for compactness nor allow elected leaders
23 and voters to travel the district is contrary to the requirements set forth in the Constitution.

24 (3) the Commission's discretionary criteria were not consistently applied. The Commission aimed
25 to keep towns and cities intact where possible but divided communities unnecessarily in the name of
26 proportionality. Additionally, the Commission's criteria prioritized keeping rural, suburban, and urban interests in
27 the same district, but frequently drew urban areas into rural ones to create more competitive districts by splitting
28 voting blocs. The mixing and dividing of Montana's communities of interest created districts where the

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1 representative will likely have little knowledge of the areas beyond his or her own front door.

2 (4) although the Commission adopted criteria that no district should be drawn to unduly favor a
3 single political party, in the urban areas, this proposed map does exactly that. In Gallatin County, 45% of voters
4 are Republican, but only two of the county's 11 seats lean Republican. Republican voters in Missoula and
5 Lewis and Clark Counties are also underrepresented. The Commission's discretionary competitiveness
6 criterion, which has no basis in the Constitution, was prioritized to favor the representation of Democrats in
7 urban areas at the expense of the compactness mandated in the Constitution.

8 (5) for example, in Lewis and Clark County, the Commission disregarded city boundaries and drew
9 multiple districts that crossed city boundaries to capture territory in the Helena Valley. Additionally, in Gallatin
10 County, the Commission drew a district running from Gardiner into the center of Bozeman.

11 (6) many other states do not have statutory or constitutional directives requiring districts to be
12 compact and contiguous, and, for those states that do have directives, many qualify the requirement with
13 language saying that it must be done only "to the extent practicable". Montana's constitutional imperative for
14 compact and contiguous districts is not diluted with this type of exception.

15 (7) it cannot endorse the proposed map as it exists today. To remedy the proposal's lack of
16 constitutionally mandated compactness and reintegrate the communities of interest that were impermissibly
17 divided in the name of proportionality, the majority recommends the following alterations:

18 (a) redraw House Districts 3, 4, 5, and 6 to make the communities of Whitefish and Columbia Falls
19 whole. House District 4 on the existing map was drawn specifically to create a Democratic House seat and a
20 Senate seat that leans Democratic. It ignores the distinct Whitefish and Columbia Falls communities of interest
21 and unduly favors the Democratic Party to carve out seats based on the partisan makeup of the districts. The
22 Commission must redraw these seats to reflect functional compactness and to recognize unique communities
23 of interest.

24 (b) redraw House Districts 65 and 66 to create a more urban district in Bozeman proper and a
25 suburban rural district. As drawn, these districts give Democrats two safe House seats while ignoring the
26 constitutionally mandated compactness requirement. To create these safe Democratic seats, the Commission
27 included rural portions of Gallatin County with the urban core of Bozeman. In addition to clearly violating the
28 Constitution's compactness requirement, the districts blatantly disregard communities of interest.

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(c) redraw the entire Gallatin County area with the constitutional requirement of compactness in mind instead of unduly favoring the Democratic Party. There are numerous changes that could be made in Bozeman and the surrounding area to ensure that the Commission respects compactness and better reflects communities of interest. For example, House Districts 62, 63, and 64 are elongated districts that could be made much more compact and keep communities of interest together. Three different House districts that all go west of Jackrabbit Lane, as well as into Bozeman city limits, cannot be considered functionally compact, much less represent communities of interest.

(d) redraw House District 57 in a more compact fashion as required by the Montana Constitution. This district was drawn to unduly favor the Democratic Party. It is an egregious violation of the compactness requirement to have a large portion of Main Street Bozeman in the same House district as rural Park County, Cooke City, and Clyde Park and completely ignores communities of interest.

(e) redraw House Districts 79 and 80 to meet compactness requirements. As currently drawn, House District 79 borders House District 80 on its north, south, and western boundaries, as well as going farther east than all of House District 80. Again, these districts were drawn to create safe Democratic seats at the expense of compactness.

(f) redraw House Districts 81 and 82 to prioritize compact districts instead of unduly favoring the Democratic Party. These districts are drawn to create two Democratic safe seats while sacrificing compactness. This is a simple fix. The Commission can create an urban Helena district and a suburban/rural district that goes into the Helena Valley. This will create two districts that are much more compact and better reflect communities of interest.

(g) redraw the boundaries of House Districts 91 and 99 to make them more functionally compact by consolidating the Rattlesnake area with portions of the Northside. Again, these districts were drawn to unduly favor the Democratic Party and give them two safe seats. Ronan and the Rattlesnake portion of Missoula are combined with rural areas of western Montana to create a single House district that has many disparate communities of interest and flagrantly violates the Constitution's compactness requirement.

(h) redraw the boundaries of House Districts 89 and 94 to make these districts more functionally compact and better reflective of communities of interest by making House District 94 a more urban district in southern Missoula and making a more suburban/rural district that goes south and includes the greater Lolo

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1 area. This will also require population shifts with House District 93, which, as drawn now, combines the urban
2 University District with the rural areas surrounding Clinton and Turah. These districts completely ignore
3 compactness and communities of interest for the sake of unduly favoring the Democratic Party.

4 (i) redraw House District 42. As currently drawn, the district is not compact and combines different
5 urban and rural communities. House District 42 should not go into the urban core of Billings and take in portions
6 of the south side. The south side portion of House District 42 can be combined with other Billings urban districts
7 with House District 42 picking up urban portions of House Districts 54 and 55.

8 (j) redraw House Districts 36, 37, 38, 60, and 41 to reflect the House District Proposal 4; and

9 (k) keep established communities of interest intact by reconfiguring House pairings to Senate
10 seats.

11 BE IT FURTHER RESOLVED, that a copy of this resolution be kept on file with the Secretary of State
12 and that copies be sent by the Secretary of State to the presiding officer and each member of the Montana
13 Districting and Apportionment Commission.

14 - END -