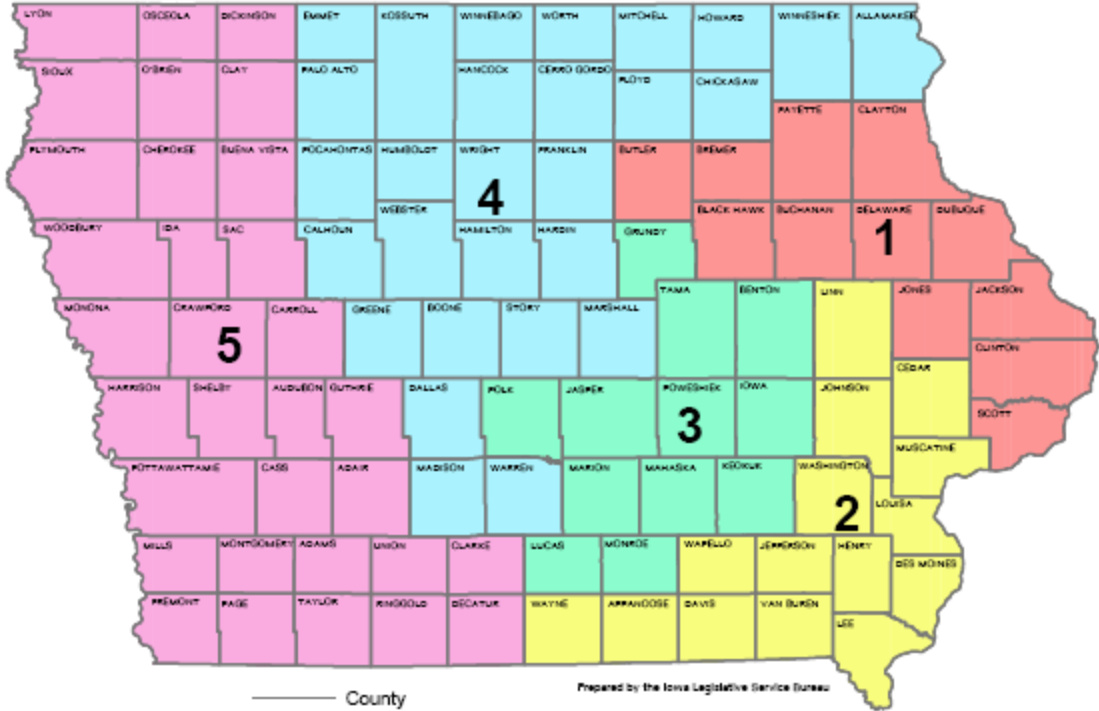


Redistricting in Iowa

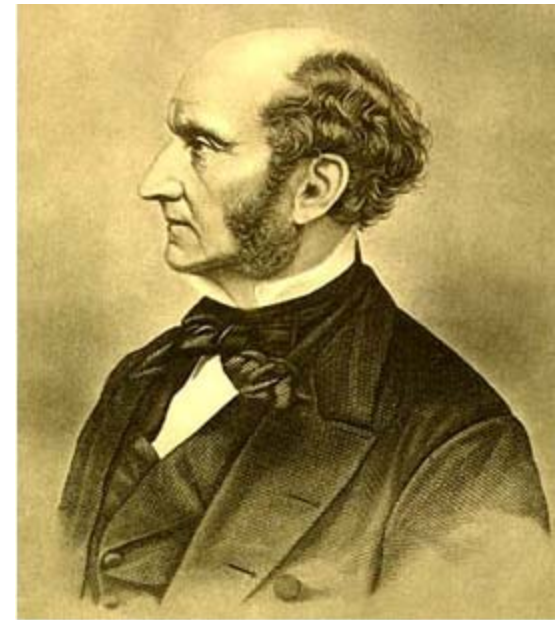


Ed Cook, Senior Legal Counsel

Why Redistrict at All?

Districts are an important element
of a representative democracy

Considerations on Representative Government (1862), John Stuart Mill



"the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate.... But since all cannot, in a community exceeding a small town, participate personally in any but very minor portions of the public business, it follows that the ideal type of a perfect government must be representative"

Controversy from the Start ...

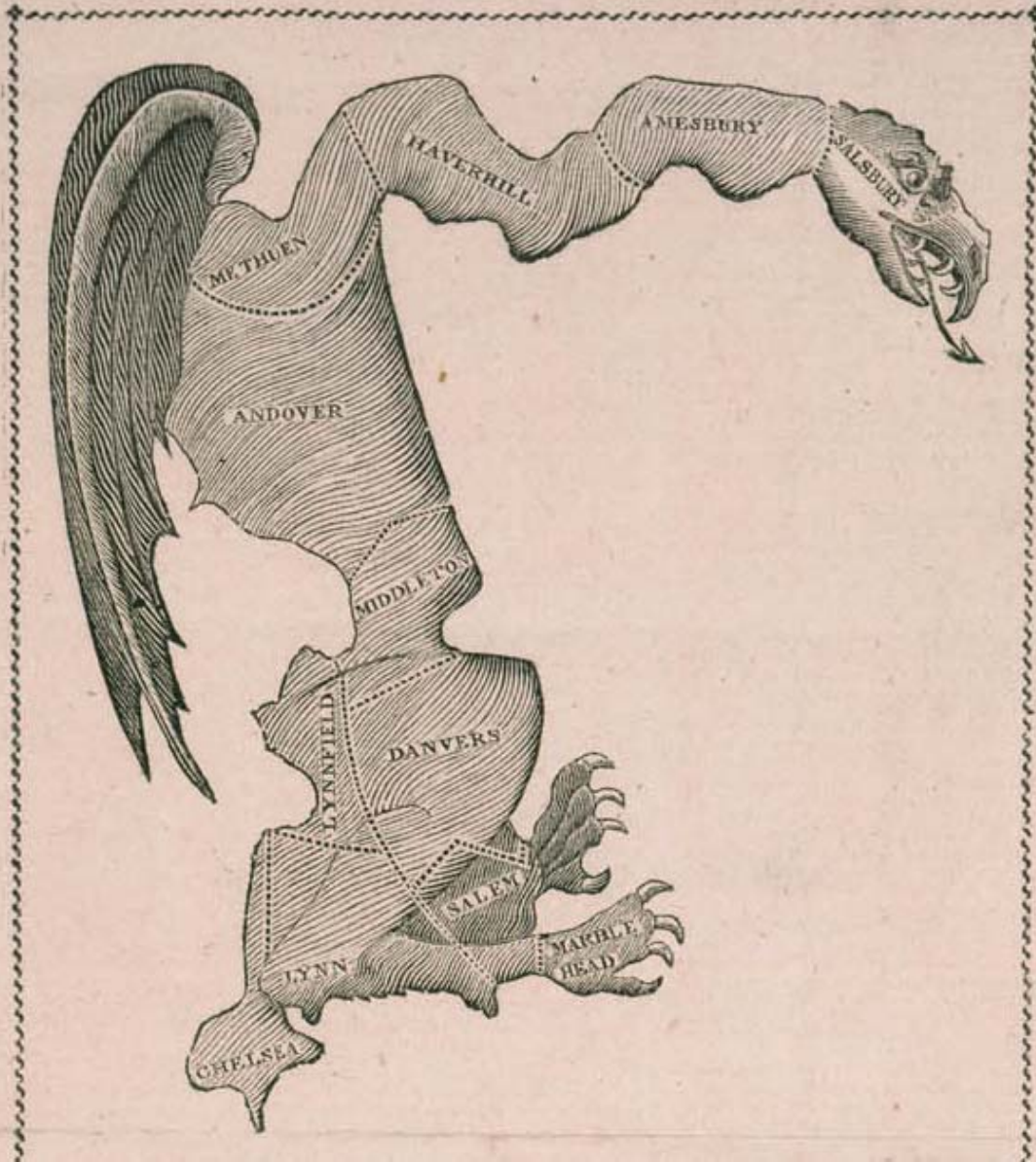
On February 11, 1812, Massachusetts Governor Elbridge Gerry signed a bill into law that redistricted his state to benefit his Democratic-Republican party.

The commentary wasn't entirely positive ...

THE GERRY-MANDER.

Boston Gazette, March 26, 1812.

A new species of *Monster*, which appeared in *Essex South District* in Jan. 1812.



"O generation of VIPERS!
who hath warned you of the
wrath to come?"

"THE horrid Monster of which
this drawing is a correct
representation, appeared in the
County of Essex, during
the last session of the
Legislature."

"For these reasons and other
valuable considerations, the Doctor
has decreed that the monster shall
be denominated a Gerry-mander,"

Federal Redistricting Law

United States Constitution

- U.S. Constitution: Article I, section 2:
Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, and excluding Indians not taxed.
...The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.

Congressional Apportionment

- The allocation of congressional seats among the states.

(Redistricting is the process of redrawing boundaries of election districts)

- Determined every 10 years following census – 2 U.S.C. § 2a (a)

Congressional Redistricting

2 U.S.C. § 2a (c)

- State responsibility but no requirement to redistrict after each apportionment
- Impact of state inaction
 - No change in seats:
 - elect from existing districts
 - Increase in seats:
 - additional seats at large, remaining seats from existing districts
 - Decrease in seats:
 - all seats elected from the State at large

State Legislative Redistricting?

No specific federal constitutional
or statutory requirements

... at least at first

Iowa Redistricting Law

-- before 1962

Iowa Constitution

Congress – General Assembly

- Article III, Section 37

Districts. Sec. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.



Counties

Iowa Congressional Redistricting 1847 through 1962

No boundary changes except when apportionment changed*

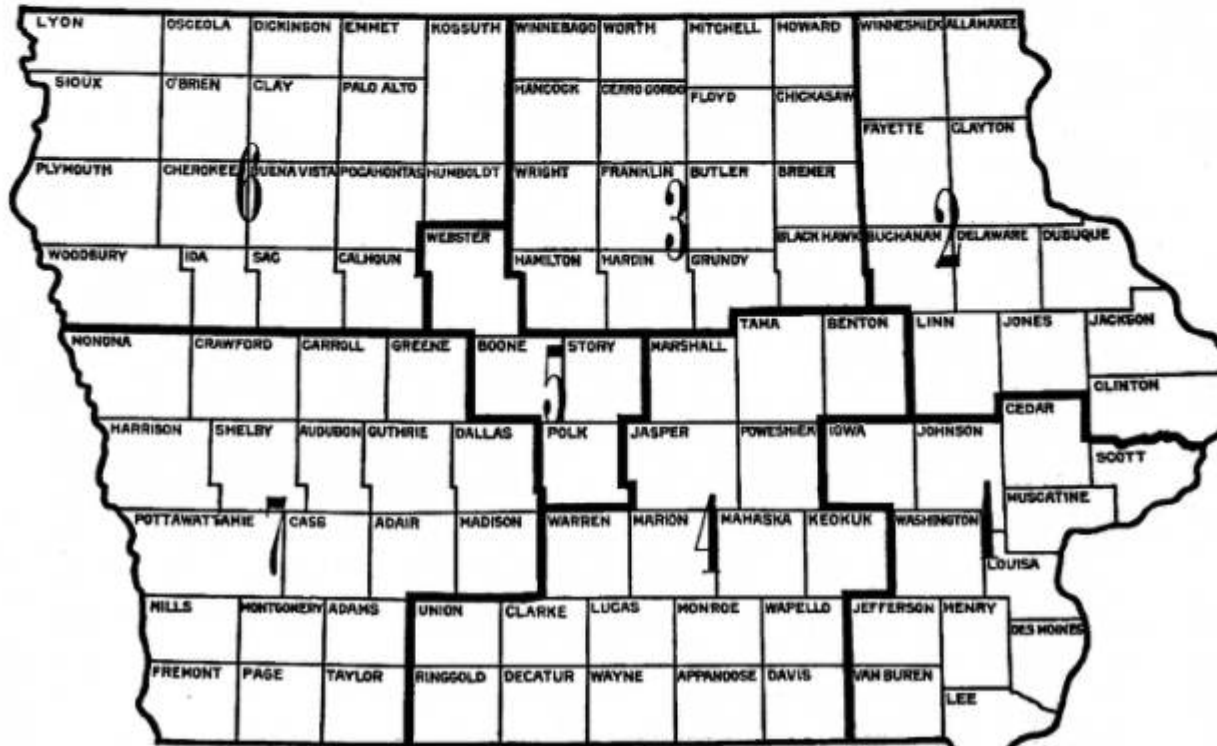
- | | |
|---|--|
| <ul style="list-style-type: none">• 1846-1856: 2
– not statewide• 1857-1861: 2
– statewide• 1862-1871: 6• 1872-1881: 9 | <ul style="list-style-type: none">• 1882-1886: 11• 1886-1931:* 11• 1931-1941: 9• 1941-1961: 8• 1961- : 7 |
|---|--|

1963-64 Iowa Official Register

Iowa Congressional Districts

The seven representatives from Iowa who were elected to the Eighty-eighth Congress in 1962 were elected from seven congressional districts which were established by act (S.F. 480) of the Fifty-ninth General Assembly which convened Jan. 9, 1961.

Redistricting was required because the 1960 census revealed that Iowa's representation in the house would have to be reduced by one. The seven districts determined by the general assembly have populations as follows: first, 403,048; second, 442,406; third, 403,442; fourth, 366,119; fifth, 391,489; sixth, 397,877; seventh, 353,156. The districts are as shown below:



Iowa Constitution- 1960

General Assembly - Senate

Senators - number - method of apportionment. SEC. 34.

- *composed of 50 members*
- *apportioned among the several counties or districts of the state, according to population as shown by the last preceding census*
- *no county shall be entitled to more than one (1) senator.*

Iowa Constitution- 1960

General Assembly - House

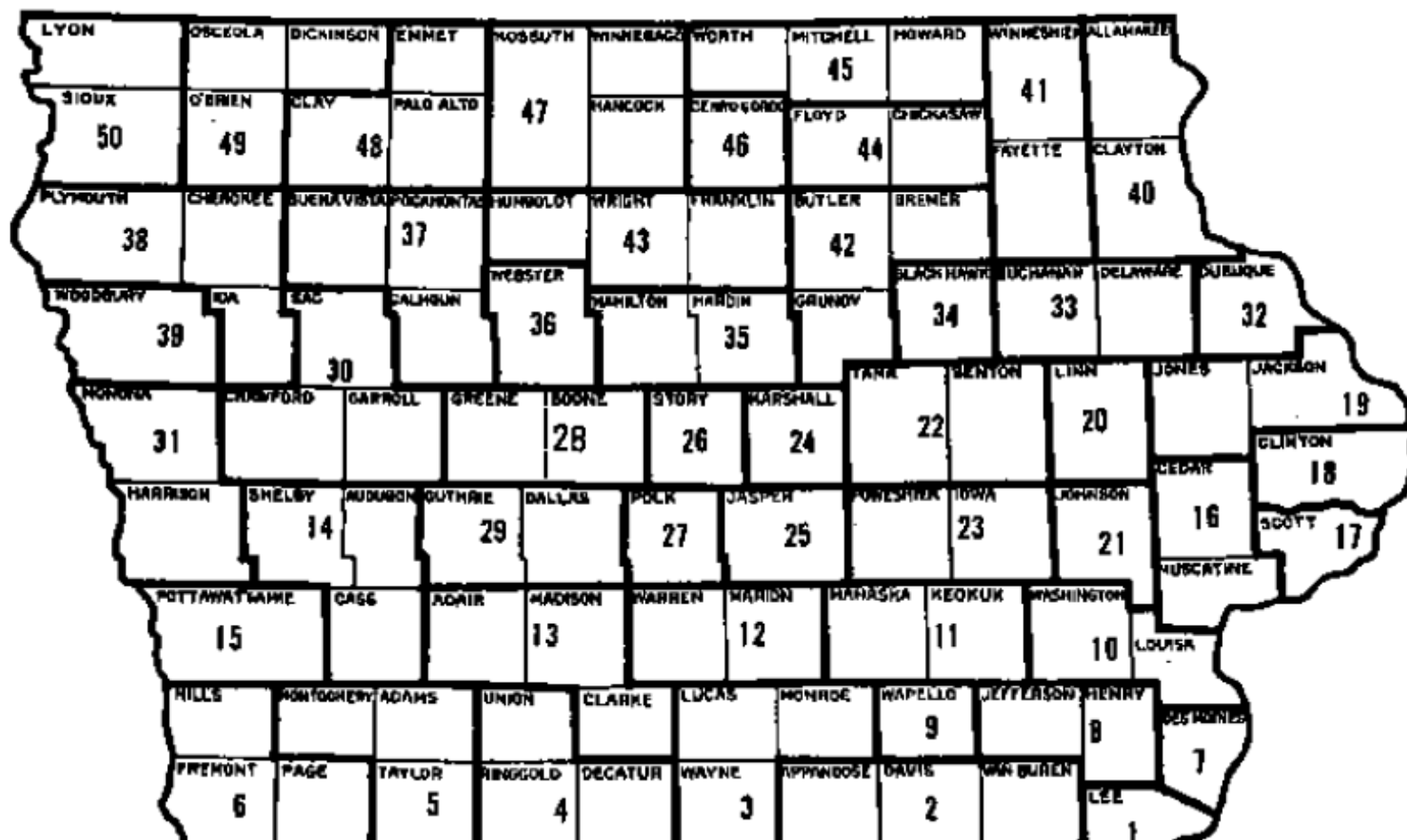
- **Representatives - number - apportionment. SEC. 35.**
 - *consist of not more than 108 members.*
 - *each county shall constitute one representative district and be entitled to one representative*
 - *each county having a population in excess of the ratio number*, as herein provided of three fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population*
 - ** determined by dividing the population of the state as shown by the last preceding census, by the number of counties*
- **Ratio of representation. SEC. 36.**
 - *The General Assembly shall, after the taking of such census, fix the ratio of representation, and apportion the additional representatives*

Iowa Code - 1962

- Chapter 40: Congressional Districts
- Chapter 41: State Senatorial Districts
 - Section 41.1 “The number of senators in the general assembly is hereby fixed at fifty, and they are hereby apportioned among the several counties according to the number of inhabitants in each, ...”
- Chapter 42: State Representative Districts
 - Section 42.2. Number. “The counties of Polk, Woodbury, Linn, Scott, Pottawattamie, Dubuque, Black Hawk, Clinton, and Johnson shall be entitled to two representatives ...”

NEW DISTRICTS

Senators were elected in 1962 from the districts so indicated, and will be elected in 1964 from the districts so indicated. Terms are for four years, except as indicated. Seven counties, as designated, are attached to certain designated old districts for the purpose of representation in the 1963 session.



Population “Equality” as of 1962:

(1960 Iowa Population: 2,757,537)

- Congressional Districts (7):
 - Ideal Population: 393,934
 - Range: 442,406 to 353,156
 - Ratio: 1.25 to 1
 - Overall range percentage variance: 22.66%
- State Senate Districts (50) (no more than 3 counties):
 - Ideal Population: 55,151 (5 districts over, 45 under)
 - Range: 266,315(Polk) to 29,696 (Louisa & Washington)
 - Ratio: 8.97 to 1
 - Overall range percentage variance: 429%
- State Representative Districts (108):
 - Ideal Population: 25,533 (22 districts over, 86 under)
 - Range: 133,157 (Polk -multimember) to 7,468 (Adams)
 - Ratio: 17.83 to 1
 - Overall range percentage variance: 492%

But, No Judicial Remedy for Population Inequality

Colegrove v. Green, 328 U.S. 549, 556 (1946)

- Challenge to 1901 Illinois State Apportionment Act – established Illinois Congressional Districts based upon 1900 census
- No change in districts enacted after the 1910, 1920, 1930, or 1940 Census
- Impact of no change, as of 1940 Census, district populations ranged from 112,000 to 900,000
- U.S. Supreme Court dismissed the complaint

“Political Thicket”

- *Colegrove v. Green*, 328 U.S. at 556

Justice Frankfurter:

"To sustain this action would cut very deep into the very being of Congress. Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure State legislatures that will apportion properly, or to invoke the ample powers of Congress. The Constitution has many commands that are not enforceable by courts, because they clearly fall outside the conditions and purposes that circumscribe judicial action."

But then,

In 1961, a case was argued before the United States Supreme Court reexamining judicial authority to address redistricting



Baker v. Carr, 369 U.S. 186 (1962)

- 6-2 Decision
- The Court held that legislative apportionment was a justiciable issue and merited judicial evaluation.
- No standard for review established

One Person One Vote

“[t]he conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing— one person, one vote.” Justice Douglas

Gray v. Sanders, 372 U.S. 368, 382 (1963)

One Person One Vote

Congressional districts

Article I, section 2, of the United States Constitution requires that districts within states had to be drawn with the population in each district to be equal “as nearly as practicable.”

– *Wesberry v. Sanders*, 376 U.S. 1 (1964)

One Person One Vote

State legislative districts

Equal Protection Clause of the 14th Amendment to the United States Constitution requires states to make an honest and good faith effort to construct districts for both houses of its Legislature based on population.

– Reynolds v. Sims, 377 U.S. 533 (1964)

Iowa Constitutional Response 1968

- Amendment 3. Section six (6) of Article three (III), section thirty-four (34) of Article three (III) and the 1904 and 1928 amendments thereto, sections thirty-five (35) and thirty-six (36) of Article three (III) and the 1904 amendment to each such section, and section thirty-seven (37) of Article three (III) are hereby repealed and the following adopted in lieu thereof:

State Legislature – Number, District Standards

- **Senators - number and classification. SEC. 6.**
 - not more than one-half the membership of the house of representatives
 - classified so that as nearly as possible one-half of the members of the senate shall be elected every two years
- **Senate and House of Representatives - limitation. SEC. 34.**
 - The senate shall be not more than 50 and the house of representatives shall be not more than 100 members.
 - Each district shall be of compact and contiguous territory.
 - Senatorial and representative districts shall be apportioned on the basis of population.
 - The General Assembly may provide by law for factors in addition to population, not in conflict with the Constitution of the United States, which may be considered in the apportioning of senatorial districts.
 - A majority of the members of the senate shall not represent less than 40 percent of the population of the state as shown by the most recent United States decennial census.

Timeline and Procedure

- **Senators and representatives - number and districts. SEC. 35.**
 - The General Assembly shall complete the apportionment of senatorial and representative districts prior to September 1 of the year ending in one. If the apportionment fails to become law prior to September 15 of such year, the Supreme Court shall cause the state to be apportioned into senatorial and representative districts prior to December 31 of such year.
 - The reapportioning authority shall, where necessary in establishing senatorial districts, shorten the term of any senator prior to completion of the term. (No senator whose term is so terminated shall be compensated for the uncompleted part of the term).
- **Review by Supreme Court. SEC. 36.**
 - Upon verified application by any qualified elector, the Supreme Court shall review an apportionment plan adopted by the General Assembly. If the Supreme Court determines such plan does not comply with the requirements of the Constitution, the court shall adopt or cause to be adopted a compliant apportionment plan within ninety days.
 - The Supreme Court shall have original jurisdiction of all litigation questioning the apportionment of the General Assembly or any apportionment plan adopted by the General Assembly.

Congress

- **Congressional districts. SEC. 37.** When a congressional district is composed of two or more counties it shall not be entirely separated by a county belonging to another district and no county shall be divided in forming a congressional district.

Population Equality

How equal and by what standard?

Population Equality Terms

- **Absolute deviation:** The difference, expressed as a positive number, between the actual population in a district and the ideal population for that district.
- **Absolute mean deviation:** The sum of the absolute deviations of all districts in a plan divided by the number of districts.
- **Ideal population:** The total population of the state as reported in the federal decennial census divided by the number of districts to be created.
- **Mean deviation percentage variance:** The absolute mean deviation of a plan divided by the ideal population for districts in that plan, and expressed as a percentage.
- **Overall range:** The difference between the most populous and least populous districts in a proposed redistricting plan.
- **Overall range percentage variance:** The absolute overall range for a plan, divided by the ideal population for a district, and expressed as a percentage.
- **Overall range ratio:** The ratio calculated by dividing the population of the most populous district by the least populous district.

Congressional Population Standard

Strict Equality

- Karcher v. Daggett, 462 U.S. 725 (1983)
- Held overall range percentage of .6984 unconstitutional
- “We thus reaffirm that there are no de minimis population variations, which could practicably be avoided, but which nonetheless meet the standard of Art. I, Sec. 2, without justification.”

Population Analysis – What Variation Can be Justified?

“(a)ny number of consistently applied legislative policies might justify some variance, including, for instance, making districts compact, respecting municipal boundaries, preserving the cores of prior districts, and avoiding contests between incumbent Representatives.”

Karcher, at 740.

Congressional Redistricting Standard

- As close to 0 as possible – no safe harbor percentage deviation percentage
- Overall range percentage variance most commonly used
- Case by case analysis – is the population variation specifically justified - up to .73 overall range percentage variation has been allowed, deviation must be based on identifiable state objectives
 - minimizing the number of counties and the number of people relocated to new districts
 - compactness
 - respect for political boundaries and communities of interest
 - the use of undivided census tracts, and compliance with the federal Voting Rights Act
 - avoiding the splitting of precincts, avoiding splitting less populous counties, and maintaining the cores of prior districts

State Legislative Districts Population Standards

Less Stringent Federal Constitutional Requirement

“Thus, whereas population alone has been the sole criterion of constitutionality in congressional redistricting under Art. I, Sec. 2 [of the United States Constitution], broader latitude has been afforded the States under the Equal Protection Clause in state legislative redistricting The dichotomy between the two lines of cases has consistently been maintained.

Mahan v. Howell, 410 U.S. 315, 322 (1973).

10% Rule

An overall range percentage of less than 10% generally does not violate the equal protection standard and need not be specifically justified by some particular state policy.

– *Brown v. Thompson*, 462 U.S. 835, 842-843 (1983)

What About Iowa?

Post 1968 Iowa Legislative Redistricting

- Plans drawn for the 1971-72 General Assembly
- 1969 Iowa Acts, ch. 328 (S.J.R. 5) established procedure:
 - Utilized 14 member commission appointed by the state party chairs (2 members per congressional district)
 - Based upon 1960 census
 - 100 State representatives, 50 State senators, nested
 - No voting precinct to be divided
 - Follow counties whenever possible
 - General Assembly retained ability to adopt the commission's plan, modify it, or adopt its own plan
- 1969 Iowa Acts, ch. 89 (House File 781)(enacted plan)
- Overall range percentage variances:
 - Senate: 12 percent
 - House: 14 percent

Court Challenge – Round 1

In re Legislative Districting of General Assembly, 175 N.W.2d 20 (Iowa 1970)

- Population variances exceeded those constitutionally permissible
 - Protection of incumbents and limiting contests with existing members held insufficient justification for population variations
- Utilized exacting congressional standard
- Time constraints prevented adoption of a constitutionally valid plan for 1970 elections
- Directed 1971 Legislature to adopt an acceptable plan for next decade

1971 Legislative Redistricting Plan

- 1971 Iowa Acts, chapter 95 (HF 732)
- Overall range percentage variances:
 - Senate: 3.2 percent
 - House: 3.8 percent
- Plan challenged before the Iowa Supreme Court

Court Challenge – Round 2

In re Legislative Districting of General Assembly, 193 N.W.2d 784 (Iowa 1972)

- Declared the Legislatively enacted plan unconstitutional on population and compactness grounds
- Rejected establishing a de minimus population variance standard for districts
- Impermissible considerations to justify population variances
 - protecting incumbents
 - preserving present districts
 - avoiding joining part of a rural county with an urban county
 - avoiding election contests
 - ensuring the passage of the redistricting plan

Court drawn redistricting plan

In re Legislative Districting of General Assembly, 196 N.W.2d 209 (Iowa 1972); as modified 199 N.W.2d 614 (Iowa 1972)

- Court drawn plan
- Court utilized expertise of Legislative Service Bureau to assist drawing of plan
- Overall range percentage variances:
 - Senate: .05 percent
 - House: .09 percent

Non-population Redistricting Standards

Federal Strictures on Redistricting

Racial and Ethnic discrimination

Voting Rights Act of 1965

Section 2 (42 U.S.C. § 1973)

- Applies to all jurisdictions
- Prohibits a state or political subdivision from imposing or applying voting qualifications; prerequisites to voting; or standards, practices, or procedures to deny or abridge the right to vote on account of race or color or because a person is a member of a language minority group.
- Vote dilution

Section 2 Cause of Action

[B]ased on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of ... [a racial, color, or language minority class] ... in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Voting Rights Act of 1965

- Section 5 (42 U.S.C. § 1973c)
 - Applies to selected jurisdictions (states and some counties) generally related to whether the jurisdiction had a history of racially discriminatory electoral practices (not Iowa)
 - Requires covered jurisdictions to submit changes in any voting related practice to either the U.S. Department of Justice or the U.S. District Court for the District of Columbia for preclearance before the change may be implemented.
 - 2006 amendment extending §5 for 25 years recently held constitutional: *Northwest Austin Municipal Utility District Number One v. Holder* (U.S. Supreme Court) (No. 08–322. June 22, 2009)

Section 2 and Redistricting

- Basic claim: The political process was not equally open to certain minorities because of the use of multimember districts, packing minorities into a single district, or fracturing minorities into several districts. In essence, the votes of a particular minority group are diluted.
- Usual remedy – creation of a “majority-minority” district
- Key issue – When do the requirements of section 2 apply?

Gingles Preconditions

Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986)

Three-part test: The minority group must prove each part in order to establish a vote dilution claim under Section 2.

1. It is sufficiently large and geographically compact to constitute a majority in a single-member district.
2. It is politically cohesive.
3. In the absence of special circumstances, bloc voting by the White majority usually defeats the minority's preferred candidate.

Section 2 Action

If the three preconditions exist, then:

The minority group can attempt to establish that the effect of the challenged redistricting plan is discriminatory by proving by the totality of the circumstances that the members of the minority group have “less opportunity than other members of the electorate to participate in the electoral process and to elect representatives of their choice” under the challenged redistricting plan.

What Constitutes a majority?

- Bartlett v. Strickland, March 9, 2009
 - U.S. Supreme Court
- North Carolina: Legislature violated whole county provision to create a district with 39.36 percent of the voting age population African-American assuming section 2 would apply. Maintaining whole county would result in a district of only 35.33 percent of the voting age population African-American.
- Issue: Is a numerical majority of the minority group required before section 2 rights attach, or does section 2 apply if the minority group is sufficiently large, although less than 50%, so that it can elect its chosen candidate when combined with a reliable number of crossover voters?
- Held: A minority group must constitute a numerical majority of the voting age population in an area before section 2 applies.

Voting Rights Act and Iowa

- Has not been an issue for Congressional and Legislative redistricting.
 - Minority population not sufficiently large or compact whereby a majority-minority district could be created.
- Potential issue for county, city, & school district redistricting.

Iowa's Redistricting Process

Creation and codification

- 1980 Legislation – H.F. 707
- 1980 Iowa Acts, ch 1021
- Codified in Iowa Code chapter 42

Key Elements

- Redistricting standards
- Redistricting process

Redistricting Standards

- Include both absolute and relative standards
- Hierarchical structure – standards generally described in order of precedence
- Objective measurement for relative standards

What Are the Specific Redistricting Standards?

Codified in Iowa Code § 42.4

Generally applicable to all levels
of redistricting in Iowa

Iowa Code § 42.4(1)

Population

- Congressional districts
 - As nearly equal as practicable.
 - No district shall vary by more than 1% from ideal population except as necessary to comply with whole county constitutional provision.
 - Burden on General Assembly to justify any district with a variation in excess of 1% from ideal population.

LSA Practical Considerations

- As close to 0 population deviation as possible consistent with the Iowa Constitution's whole county provision.
- Reliance on 1% provision unwise – no safe harbor percentage under U.S. Constitution and applicable case law.
- “As equal as practicable” standard requires each successive congressional plan presented to have an equal or lower population variance.

Iowa Code § 42.4(1)

Population

- Legislative Districts
 - As nearly equal as practicable.
 - Mean deviation percentage variance shall not exceed 1%.
 - Overall range percentage variance shall not exceed 5%.
 - Burden on General Assembly to justify any district with a variation in excess of 1% from ideal population.

LSA Practical Considerations

- No district shall vary from the ideal population by more than 1%.
 - prevent shifting of burden to General Assembly to justify wider population variances
- 1972 Iowa Supreme Court case imposed an exacting population standard for state legislative districts.

Iowa Code § 42.4(2)

Political Subdivisions

- To the extent consistent with the population standards, district boundaries shall coincide with boundaries for political subdivisions.
- Number of counties and cities divided shall be as small as possible.
- Split the larger political subdivision over the smaller unless a legislative district line follows a county line and splits a city.

LSA Practical Considerations

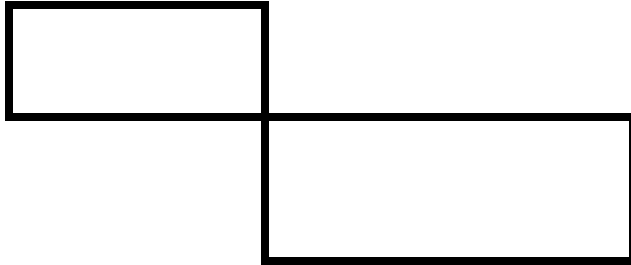
- Congress: Follow county lines pursuant to Art III, § 37. No county shall be split.
- Legislative districts: Follow statutory requirements and, if a political subdivision is to be split, keep the number of splits to a minimum.

Iowa Code § 42.4(3)

Contiguity

- Districts shall be composed of convenient contiguous territory.

- No point contiguity allowed



- Absolute requirement

LSA Practical Considerations

“Convenient” contiguous territory means that districts should not be irregularly shaped.

Iowa Code § 42.4(4)

Compactness

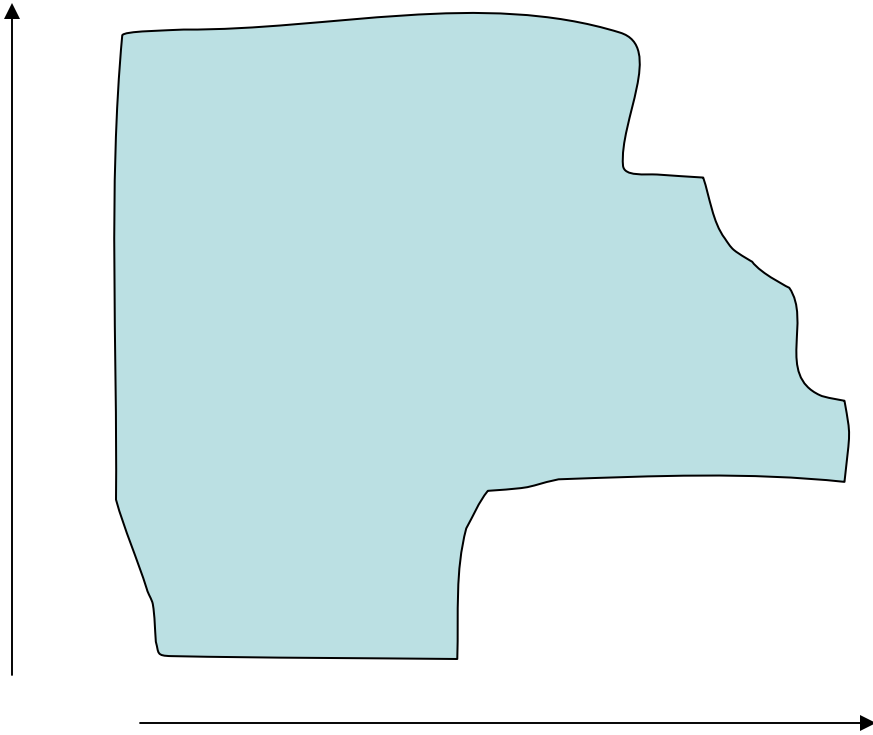
- Districts shall be reasonably compact in form, consistent with the population, political subdivision, and contiguity standards.
- Compact districts are square, rectangular, or hexagonal in shape, and not irregularly shaped.
- 2 compactness measurements established.

Compactness measurements

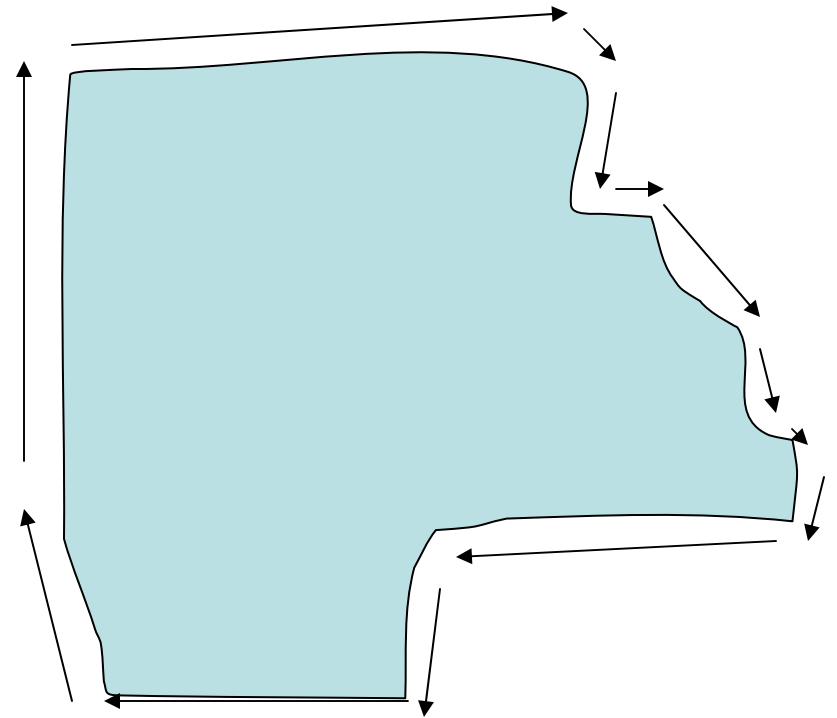
- Length-width compactness:
 - The compactness of a district is greatest when the length of the district and the width of the district are equal.
- Perimeter compactness:
 - The compactness of a district is greatest when the distance needed to traverse the perimeter boundary of a district is as short as possible.

Compactness Tests

- Length-Width



- Perimeter



Iowa Code § 42.4(5)

Prohibited Factors

- No district shall be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group.
- Prohibited data:
 - Addresses of incumbent legislators or members of Congress.
 - Political affiliations of registered voters.
 - Previous election results.
 - Demographic information, other than population head counts, except as required by the Constitution and the laws of the United States.

Iowa Code § 42.4(6)

Nesting

- Each representative district shall be wholly included within a single senatorial district.
- So far as possible, and subject to the other standards, each representative and each senatorial district shall be included within a single congressional district.

Iowa Code § 42.4(8)

Senate Elections - Numbering

Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with Article III, section 6, of the Constitution of the State of Iowa.

LSA Practical Considerations

- Article III, section 6 provides that Senate districts shall be classified so as to keep, as nearly as possible, the number of Senate elections for a two-year term in the year ending in 2 to a minimum.
- Requires numbering of newly created Senate districts to try and create as many “holdover” senatorial districts as possible. (For 2011, focus on odd numbered districts, those with 2010 elections)
- Numbering only done after district boundaries established – political considerations not allowed in drawing of proposed districts.

Iowa Redistricting Process

Preliminary Work

Establishing Geographic Boundaries

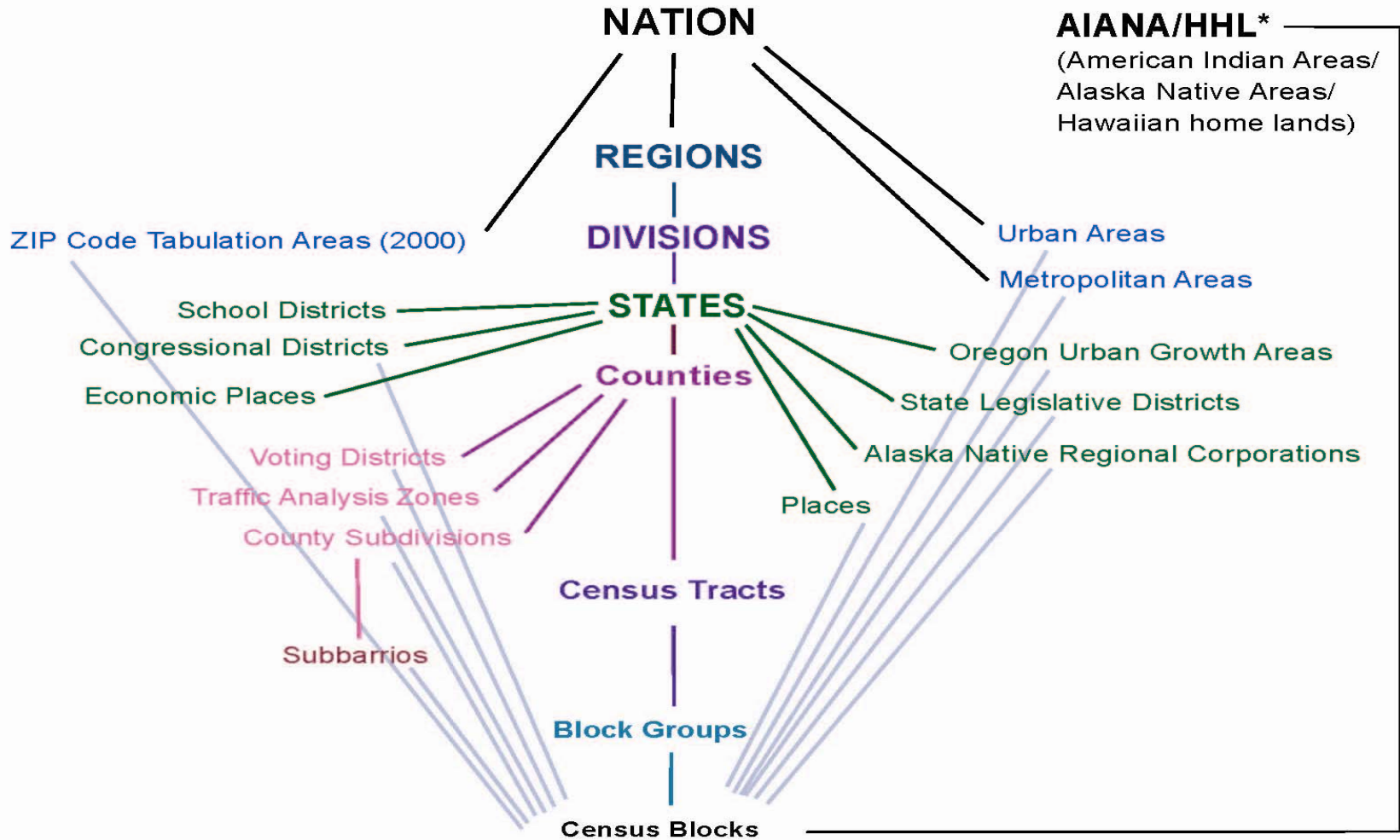
Census Geography

TIGER®, **TIGER/Line®** and **TIGER®-Related Products**

Topologically Integrated
Geographic Encoding and
Referencing system



Standard Hierarchy of Census Geographic Entities



CENSUS BLOCKS

- Statistical areas bounded by visible features, such as streets, roads, streams, and railroad tracks, and by nonvisible boundaries, such as city, town, township, and county limits, and short line-of-sight extensions of streets and roads
- Census blocks nest within all other tabulated census geographic entities.
- Smallest geographic unit for which population and certain demographic data is reported to the states by the Census Bureau

Block Groups

- Clusters of blocks within the same census tract
- Block groups generally contain between 600 and 3,000 people.
- Most Block Groups were delineated by local participants in the Census Bureau's Participant Statistical Areas Program.

Census Tracts

- Small, relatively permanent statistical subdivisions of a county or equivalent entity
- Updated by local participants prior to each decennial census as part of the Census Bureau's Participant Statistical Areas Program
- Census tracts generally have a population size between 1,200 and 8,000 people with an optimum size of 4,000 people

Census Redistricting Data Program

Public Law 94-171 (enacted in 1975)

- Directs the U.S. Census Bureau to make special preparations to provide redistricting data needed by the 50 states. Within one year following the Census Day the Census Bureau must send to the governor and legislature in each state the data they need to redraw districts for the United States Congress and state legislatures.
- Allows state input concerning the geographic units (blocks) used in reporting population and other data to the states
- Multiyear program each decade designated into phases

Phase 1: State Legislative District Project (SLDP): 2005-2006

Purpose: Afford participating states the opportunity to provide the Census Bureau with their legislative district plans, codes and names. These new areas will be included in the Public Law 94-171 data sets.

Phase 2: Voting District/Block Boundary Suggestion Project (VTD/BBSP): 2007-2009

- Purpose: Afford participating states the opportunity to provide the Census Bureau with their Voting District (VTD) boundaries and updates to congressional and legislative districts for inclusion in the Public Law 94-171 data sets. States also will submit block boundary suggestions for inclusion in the 2010 Census block tabulations during this phase of the Redistricting Data Program.
- Voluntary: Iowa participates.

Preparations for Redistricting

Population Data

Census Day 2010

- Decennial Census:
 - Required by U.S. Constitution
- Conducted by the U.S. Census Bureau on April 1, 2010.

Congressional Apportionment

- Required by U.S. Constitution
- U.S. Code requires that the resident population totals for each state be delivered to the President by December 31, 2010.
- Within a week of the opening of the next session of Congress, the President reports the census counts for each state and the number of representatives to which each state is entitled.
 - Apportionment totals determined utilizing the “method of equal proportions.” *United States Department of Commerce v. Montana*, 503 U.S. at 442 (1992)

Phase 3: Delivering the Data: 2011

PL 94-171

- Delivery of population totals to states no later than April 1, 2011.
- Population totals provided at multiple levels of census geography, down to the census block level. Includes reported totals for local voting districts (Phase 2) and prior legislative districts (Phase 1) for participating states.
- Population totals by race, Hispanic origin, and voting age and housing units by occupied and vacancy status for each reportable geographic unit.
- Census maps showing blocks, census tracts, counties, towns, cities (as of their January 1, 2010 corporate limits), county subdivisions, state legislative districts, and voting districts for participating states. TIGER/Line® Shape files also will also be provided.

Iowa Responsibilities

Legislative Services Agency Duties

- Legislative Services Agency Duties
 - Acquire appropriate information, review and evaluate available facilities, and develop programs and procedures.
 - Utilize Census Bureau geography to prepare necessary descriptions of geographic and political units for which census data will be reported, and which are suitable for use as components of legislative districts.
 - Legislative council approval for expenditure of funds for the purchase or lease of equipment and materials.
 - Iowa Code section 42.2.

Temporary Redistricting Advisory Commission (TRAC)

- 5 members
- Established no later than February 15, 2011.
- 4 members appointed by majority and minority leaders of General Assembly, 5th member, and chairperson, selected by majority vote of 4 appointed members.
- Member requirements:
 - Eligible elector of state, holds no partisan office or political party office, not an employee or relative of member of General Assembly or Congress

TRAC Duties

Iowa Code section 42.6

- Provide advice and guidance to the Legislative Services Agency on certain redistricting matters.
- Conduct public hearings and submit a report to the General Assembly on the first proposed redistricting plan.

Advice and Guidance

- Provide direction to the Legislative Services Agency as to how to resolve certain redistricting questions that are not clearly answered by the Code or applicable constitutional mandates, upon written request by the Legislative Services Agency.
- Establish guidelines governing the release of information by the Legislative Services Agency about a particular redistricting plan prior to its formal release to the Senate and House.

Hearings and Report

- Conduct at least three public hearings in different geographic regions of the state upon release of first proposed redistricting plan.
- Prepare a report summarizing information and testimony received in the course of the hearings plus any additional comments and conclusions deemed appropriate by the TRAC members.
 - Report due no later than fourteen days after the redistricting bill is delivered.
 - Report date triggers legislative action.

TRAC Does NOT ...

- Have any access to LSA redistricting plans prior to delivery of first proposed bill.
- Have approval authority over any proposed redistricting plan submitted by the LSA.
- Have authority to direct LSA regarding requirements for the development of plans except upon LSA written request.

LSA Plan Preparation

General Requirements

- Legislative Services Agency solely responsible for preparing each proposed redistricting plan.
- No interaction or involvement with TRAC, legislators, or any outside interest while plans are developed and selected.

LSA Redistricting Office?



- Plan submitted in bill form.
 - subject to enactment through legislative process
- Plan includes both a Congressional and Legislative redistricting plan.
 - Qualified nesting requirement necessitates simultaneous submission and consideration.
 - Iowa Code requires.

- Information prepared and released by the LSA to the General Assembly and the public upon submission of proposed plan:
 - Copies of bill
 - Maps illustrating the plan
 - Summary of standards for development of plan
 - Population totals, and relative deviation from the ideal population, of each district created in the plan.

- LSA responsible for submitting up to three proposed plans of Congressional and Legislative redistricting.

First Plan

- Delivery: No less than 45 days after release of official census population (PL 94-171) data but no earlier than April 1.
- Consideration of bill subject to certain requirements:
 - Legislature may not consider until at least 3 days after TRAC report released.
 - Bill must be brought to a vote expeditiously (continues through process until rejected by vote of entire House or Senate).
 - Only corrective amendments allowed.

Second Plan

- Delivery: 35 days after first plan disapproved.
- Prepared by LSA in accordance with reasons for rejection of first plan – if reasons do not conflict with Code standards.
 - House or Senate resolution adopted within 7 days of plan rejection.
 - Governor's veto message
- Consideration of bill subject to certain requirements:
 - Legislature may not consider until at least 7 days after LSA delivery of bill.
 - Bill must be brought to a vote expeditiously (continues through process until rejected).
 - Only corrective amendments allowed.
 - Cannot consider rejected first plan.

Third Plan

- Delivery: 35 days after second plan disapproved.
- Prepared by LSA in accordance with reasons for rejection of second plan – if reasons do not conflict with Code standards
 - House or Senate resolution adopted within 7 days of plan rejection.
 - Governor's veto message
- Consideration of bill subject to certain requirements:
 - Legislature may not consider until at least 7 days after LSA delivery of bill.

HOWEVER: Bill is subject to amendment in the same manner as other bills.

Legislative Inaction

Judicial Intervention

- General Assembly:
 - Article III, section 35, directs the Iowa Supreme Court to develop a redistricting plan for the General Assembly prior to December 31 of any year ending in one if the General Assembly fails to pass an apportionment plan by September 1 of that year that becomes law by September 15.
- Congress:
 - No constitutional directive for Iowa Supreme Court to develop a Congressional redistricting plan if General Assembly fails to act.

Judicial Intervention

Review of enacted plans

- Article III, section 36, of the Iowa Constitution provides that the Iowa Supreme Court has original jurisdiction to review an enacted Congressional or legislative redistricting plan and if the plan is challenged and struck down, the Supreme Court has 90 days to adopt a valid apportionment plan.
 - Review of redistricting plans generally a state court responsibility: *Grove v. Emison*, 507 U.S. 25 (1993)

Post Redistricting Effects

- Local Redistricting
 - Secretary of State responsibility
 - LSA statutorily authorized to assist
- Election of Senators in 2012

2012 Senate Elections

- Senate elections dependent on whether district number is odd or even.
 - Odd-numbered districts have elections in 2010 and 2014.
 - Even-numbered districts have elections in 2008 and 2012
- Newly adopted redistricting plan effective for the General Assembly terms beginning in 2013 and the 2012 elections for that General Assembly.
- Redistricting impacts the staggered election year cycle for Senators by occurring just two years after an election for half of the seats in the Senate and by inevitably changing the boundaries and numbering of senatorial districts.

How to Handle 2012 Senate Elections?

- The Iowa Constitution permits shortening the term of any senator if necessary when establishing new senatorial districts but Iowa law does not mandate an election in every senatorial district for the next general election cycle following redistricting.
- Iowa law provides that certain Senate incumbents shall be allowed to continue serving for a four-year term without being subject to an election during the first general election following redistricting.

Which Incumbent Senator Must Seek Reelection in 2012?

Governed by Iowa Code § 42.4(8)

Incumbent Senator

Iowa Code § 42.4(8)(c)(2)

“a state senator who holds the office of state senator on the first Wednesday in February of the year ending in two, and whose declared residence on that day is within the district from which the senator was last elected.”

Key questions

- Whether a particular senatorial district is required to conduct an election during that general election.
- Where the incumbent senator resided during the senator's last election and on February 1, 2012.
- Whether more than one incumbent senator resides in a particular new senatorial district on February 1, 2012.
- Whether an incumbent senator has resigned the senator's seat, effective prior to the convening of the next General Assembly, by February 15, 2012.
 - Each incumbent Senator shall declare their residences as of February 1, 2012, by filing a form with the Secretary of State

Even-numbered Senate districts

Senate election required in 2012 for a 4-year term

All incumbent Senators located in an even numbered district in the new plan are required to seek reelection in 2012, even if elected in 2010 from an odd-numbered district - no Senator is entitled to a 6-year term.

Odd-numbered Senate districts

- Designated as a holdover senatorial district for 2012 – election required in 2014 for 4-year term.
- Senate election may be required in 2012 for a shortened 2-year term.

Election required for shortened 2-year term in 2012

- If no incumbent senator resides in a new holdover senatorial district as of February 1, 2012.
- If at least two incumbent senators reside in a holdover senatorial district as of February 1, 2012 and have not resigned from office effective no later than January of the following year by February 15, 2012.
- If only one incumbent senator resides in a new holdover senatorial as of February 1, 2012 but the requirements to avoid an election in 2012 are not met.

Election not required for shortened 2-year term in 2012

- Only one incumbent senator, who has not resigned as of February 15, 2012, and who was elected from a district requiring an election in 2010, is residing in a new holdover senatorial district as of February 1, 2012. **AND**
- The senatorial district in the new plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the holdover senatorial district in which the senator resides on February 1, 2012, or is contiguous to such holdover senatorial district.

2010 Elections

1



O

2

E

4

E

3

O



2011 Map

1

3

O

E

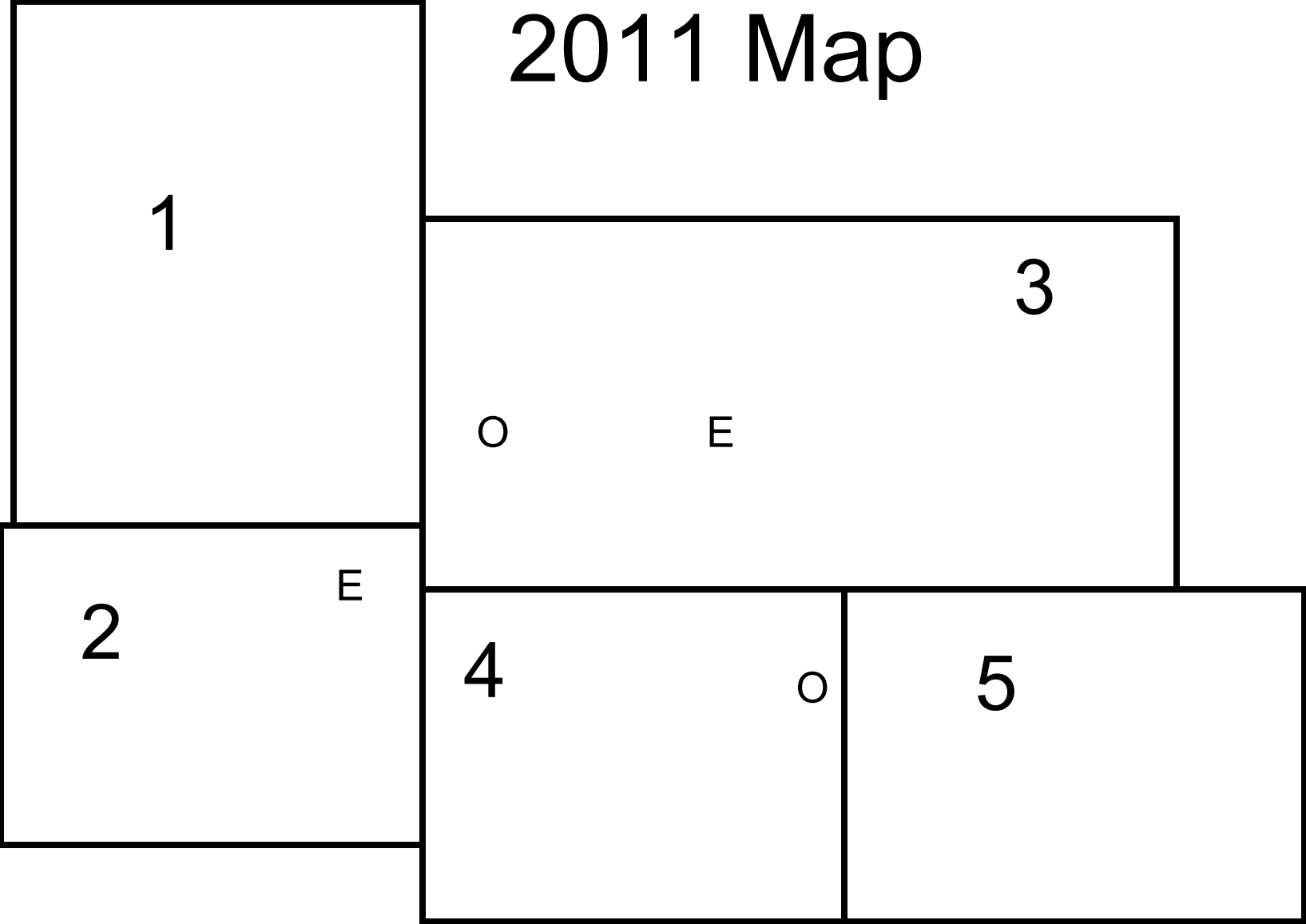
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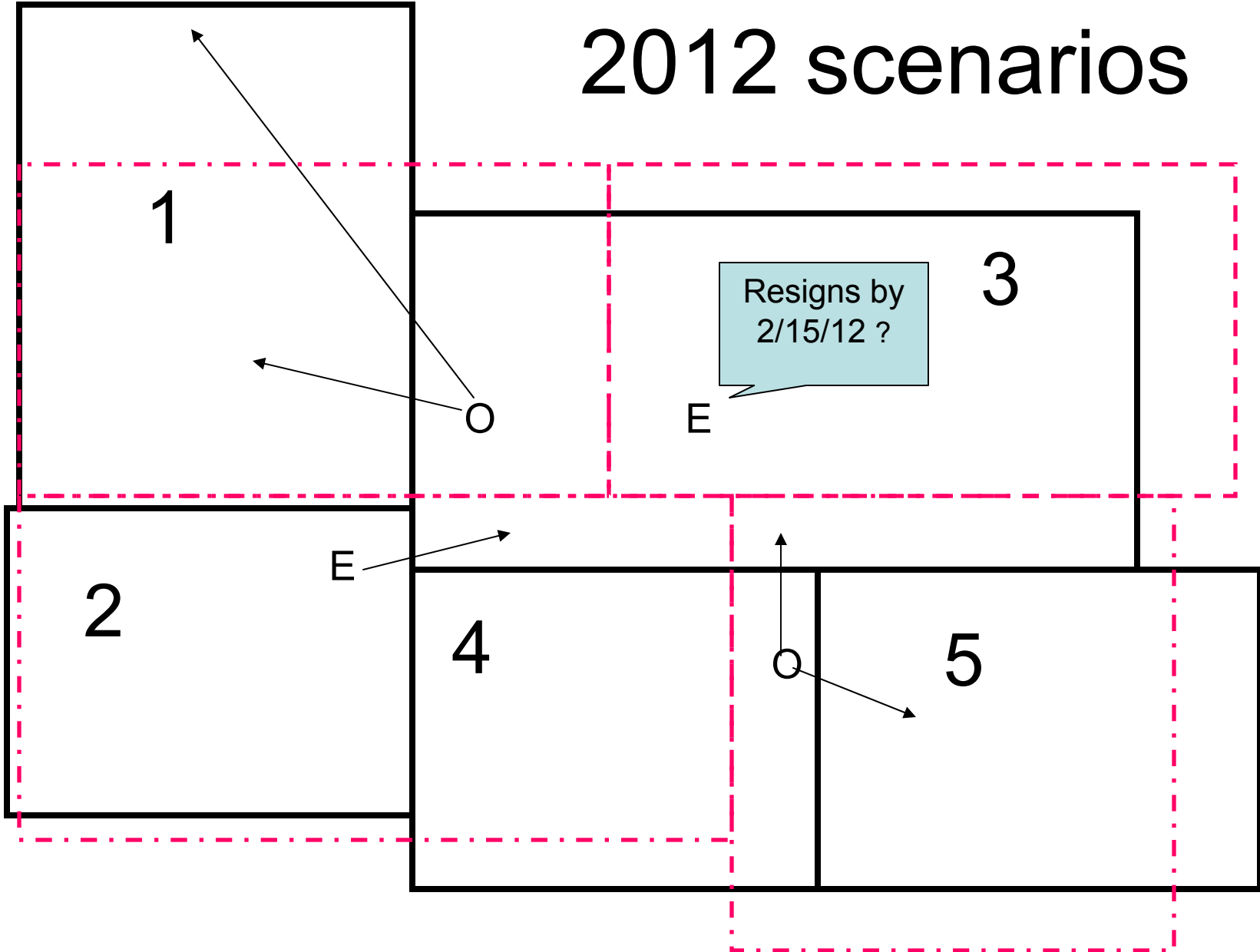
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2012 scenarios



Holdover Senators

Historical Perspective

- 1982:
 - 21 of 25 Holdover Senators
- 1992:
 - 18 of 25 Holdover Senators
- 2002:
 - 15 of 25 Holdover Senators

Iowa Redistricting in Practice

Philosophy, myths, and plan
creation considerations

Iowa Redistricting Philosophy

- A system designed to enact a redistricting plan in an efficient and timely manner without political gridlock and to prevent political gerrymandering.
- Goal is to enact a plan that is defensible in court.
 - Each successive plan must be “better,” primarily from a population deviation perspective, especially as it relates to congressional districts.
- A blind system, from a partisan perspective, will most often result in an acceptable redistricting plan.

Why Iowa's Redistricting Process Works

Factors Ensuring Success

- *Institutional Acceptance*
 - LSA viewed as fair and nonpartisan
 - Unwilling to risk an alternative approach, such as bypassing LSA, amending a third plan, or accepting an Iowa Supreme Court imposed plan.
- *Objective Criteria*
 - Limits number of acceptable plans (*and the ability to gerrymander*)
 - Intent is to eliminate, to the extent possible, the concern that subjective political factors were used to draw plans.
- *Partisan Considerations Limited but not Eliminated.*
 - LSA plan must be enacted – not imposed
- *Unique Iowa Factors*
 - No significant federal Voting Rights Act issues

Iowa Redistricting Myths

Does the computer
just create the
plans?





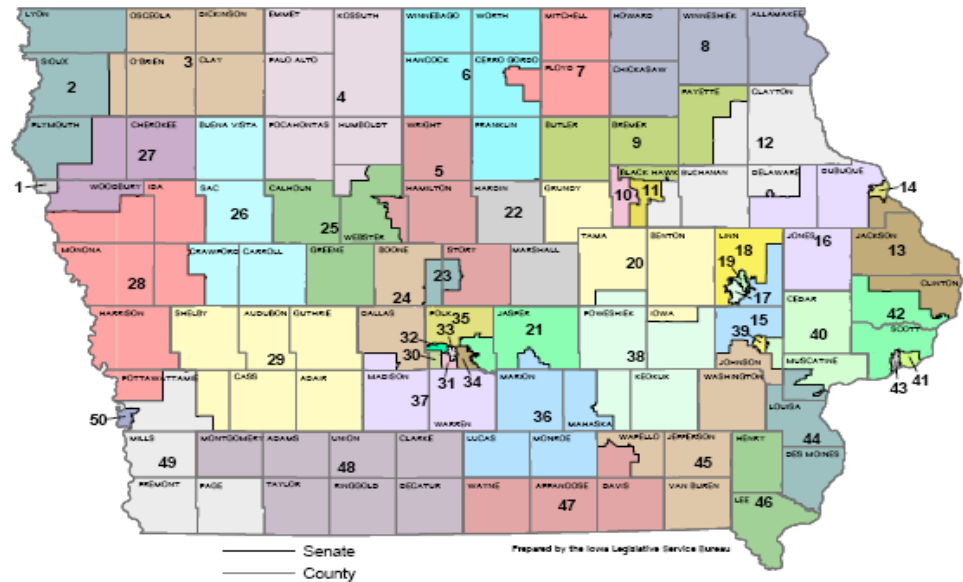
Are all 3 plans selected before the first plan is released?



Adjust existing boundaries?

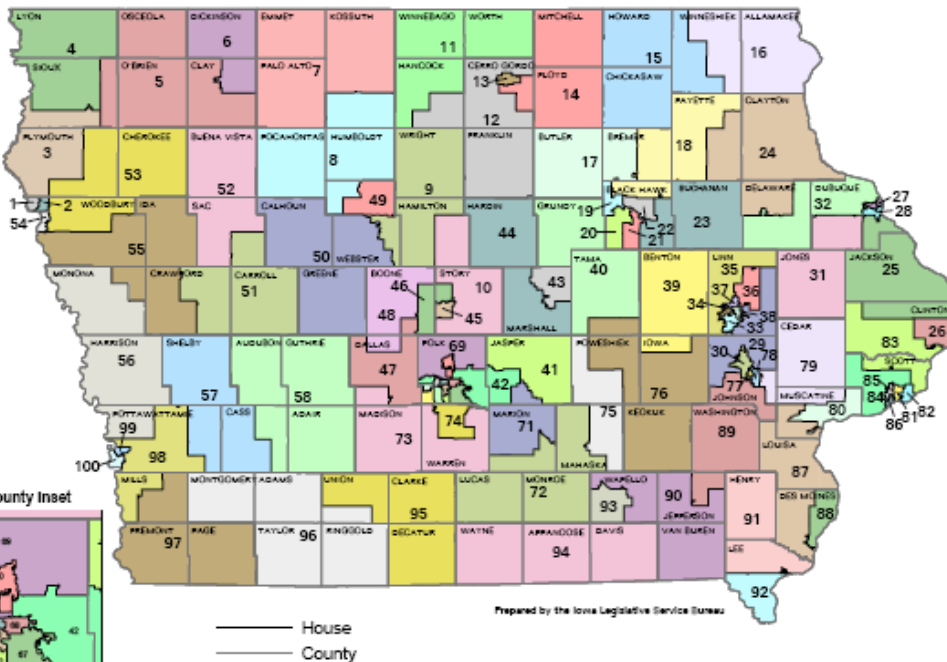
IOWA SENATE DISTRICTS

Effective Beginning with the Elections in 2002 for the 80th Iowa General Assembly



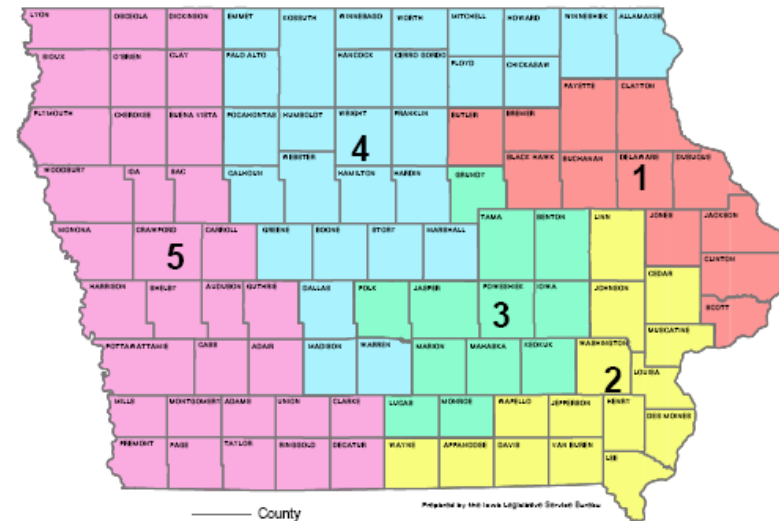
IOWA HOUSE DISTRICTS

Effective Beginning with the Elections in 2002 for the 80th Iowa General Assen



IOWA CONGRESSIONAL DISTRICTS

Effective Beginning with the Elections in 2002 for the 108th U.S. Congress



Practical Considerations

How is redistricting done

- Geographic units used
 - Counties, cities, townships, and precincts
 - (precincts can not exceed 3500 people when created)
- Time constraints limit options
 - Congressional map selected first
 - In 2001, Congressional plan 1 selected 8 days after release of Census data
- No designated starting point
- Look for geographic units equal to or a multiple of the ideal population of a district

Practical Considerations

What if the General Assembly or Governor want to reject a plan?

Before a Plan is Rejected ...

- Can you “beat” the proposed plan from a population variance perspective and, if so, would you prefer any of these plans?
- If the proposed Congressional plan is a basis for rejection, a new Congressional plan will likely result in a significantly different Legislative plan.
- Significant litigation risk exists in ultimately adopting a rejected plan if a subsequent plan with better population variances is submitted by LSA.

Iowa's Redistricting Process

Historical Review

1981 Redistricting

- Plan overview
 - Iowa total population: 2,913,387
 - Political landscape: Gov: R; Senate: R; House: R
 - Plan 3 enacted without amendment
- Plan characteristics
 - Congressional districts (6):
 - Ideal district population: 485,564
 - Absolute overall range: 217 (+144, -73)
 - Overall Range ratio: 1.00045
 - Overall range percentage variance: .045%
 - Paired incumbents: 2
 - Senate districts
 - Ideal district population: 58,268
 - Absolute overall range: 412 (+226, -186)
 - Overall Range ratio: 1.0071
 - Overall range percentage variance: .71%
 - Paired incumbents: 14
 - House districts:
 - Ideal district population: 29,134
 - Absolute overall range: 520 (+289, -231)
 - Overall Range ratio: 1.018
 - Overall range percentage variance: 1.78%
 - Paired incumbents: 36

1991 Redistricting

- Plan overview
 - Iowa total population: 2,776,755
 - Political landscape: Gov: R; Senate: D; House: D
 - Plan 1 enacted
- Plan characteristics
 - Congressional districts (5):
 - Ideal district population: 555,351
 - Absolute overall range: 265 (+143, -122)
 - Overall Range ratio: 1.00048
 - Overall range percentage variance: .05%
 - Paired incumbents: 2
 - Senate districts
 - Ideal district population: 55,535
 - Absolute overall range: 804 (+457, -347)
 - Overall Range ratio: 1.015
 - Overall range percentage variance: 1.45%
 - Paired incumbents: 20
 - House districts:
 - Ideal district population: 27,768
 - Absolute overall range: 548 (+272, -276)
 - Overall Range ratio: 1.02
 - Overall range percentage variance: 1.97%
 - Paired incumbents: 40

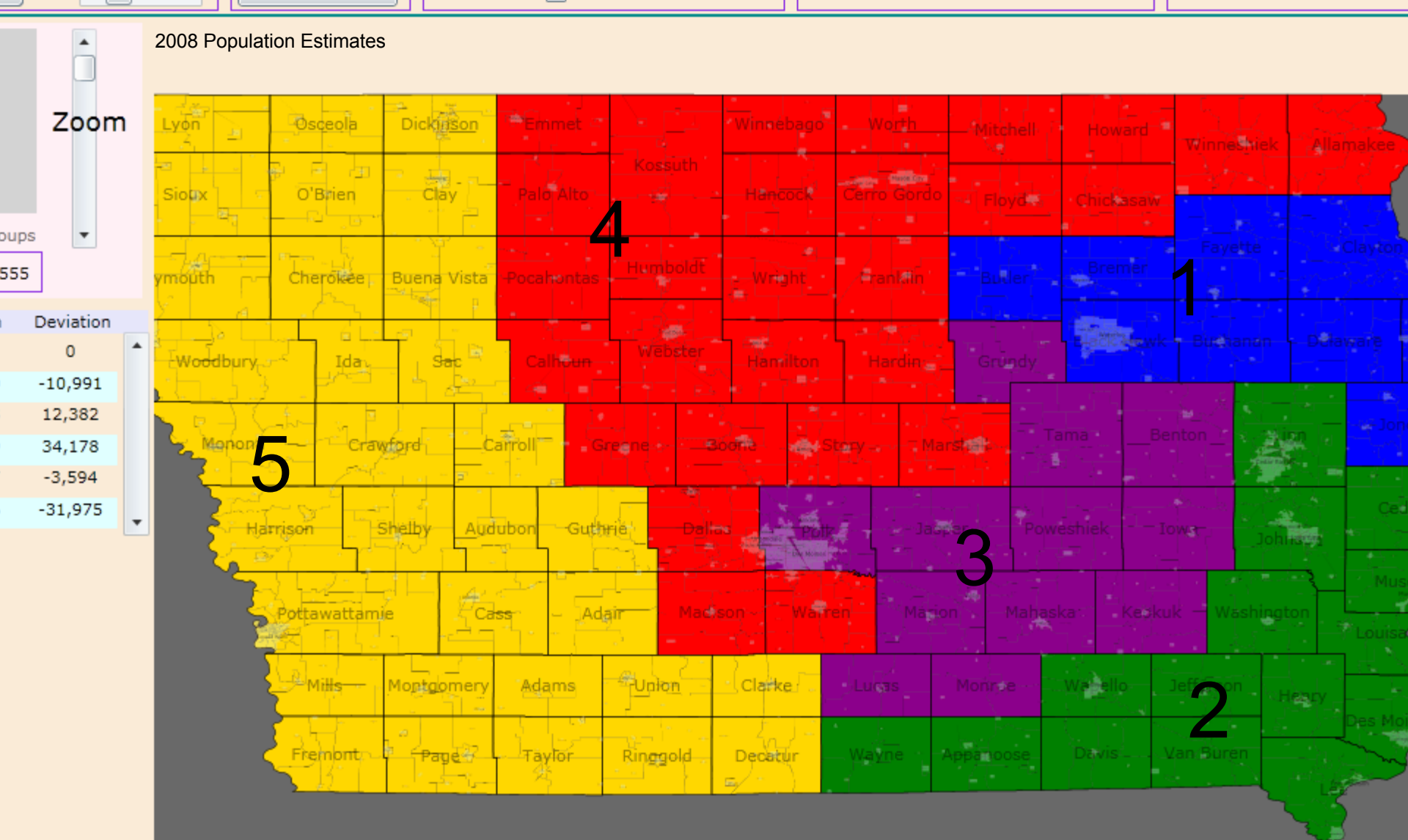
2001 Redistricting

- Plan overview
 - Iowa total population: 2,926,324
 - Political landscape: Gov: D; Senate: R; House: R
 - Plan 2 enacted
- Plan characteristics
 - Congressional districts (5):
 - Ideal district population: 585,265
 - Absolute overall range: 134 (+40, -94)
 - Overall Range ratio: 1.00023
 - Overall range percentage variance: .023%
 - Paired incumbents: 2
 - Senate districts
 - Ideal district population: 58,526
 - Absolute overall range: 855 (+439, -416)
 - Overall Range ratio: 1.0147
 - Overall range percentage variance: 1.46%
 - Paired incumbents: 25
 - House districts:
 - Ideal district population: 29,263
 - Absolute overall range: 552 (+281, -271)
 - Overall Range ratio: 1.019
 - Overall range percentage variance: 1.886%
 - Paired incumbents: 39

2011 Redistricting

What to expect

It will definitely be different



What Do We Think We Know?

- 2010 Census Population:
 - April 1, 2000: 2,926,324
 - July 1, 2008 estimate: 3,002,555
 - July 1, 2010 projection: 3,009,907
(July 1, 2005)
- Congressional districts: 4
 - Short 112,000 persons based on 2008 estimate
 - Senate districts will have to cross Congressional boundaries
- Ideal District Populations - approximate
 - Congress: 750,000
 - Senate: 60,000
 - House: 30,000

And the New Map Will Look Like?



Redistricting on the Web

- [Iowa General Assembly – Educational](#)
 - Iowa Redistricting in 2001
- [NCSL - Legislatures & Elections](#)
 - www.ncsl.org
- [The Redistricting Game](#)
 - www.redistrictinggame.org

Questions ???