Redrawing the Map: Redistricting Issues in Michigan
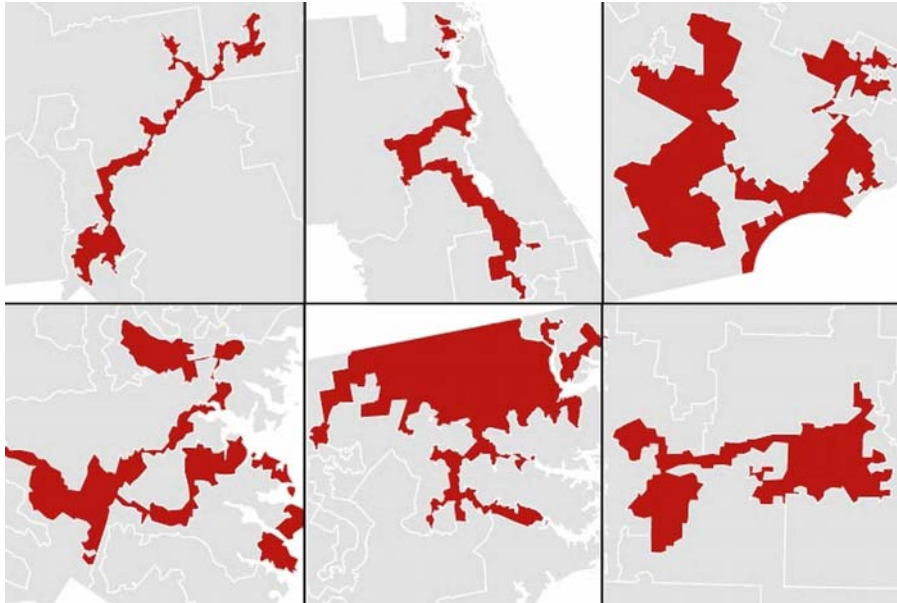
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Why Does Redistricting Matter?

Importance of Redistricting

- District maps have a large impact on candidates and outcomes
  - Can lower accountability
  - Distorts voter preferences
  - Decides who represents which voters
- State and congressional results have a large impact
  - Deciding how to allocate state and federal dollars
  - Laws and regulations all must live under

Michigan Redistricting Laws

How We Got Here

Michigan Constitution of 1963

- Article IV Sections 2-6 creates the following guidelines
  - Senate and House apportionment
  - Compact, contiguous, square-shaped districts
  - Preference to not divide county and city borders
  - 75 to 125 percent population range
  - Creates the Commission on Legislative Apportionment

The
Constitution
OF THE STATE OF MICHIGAN
OF 1963
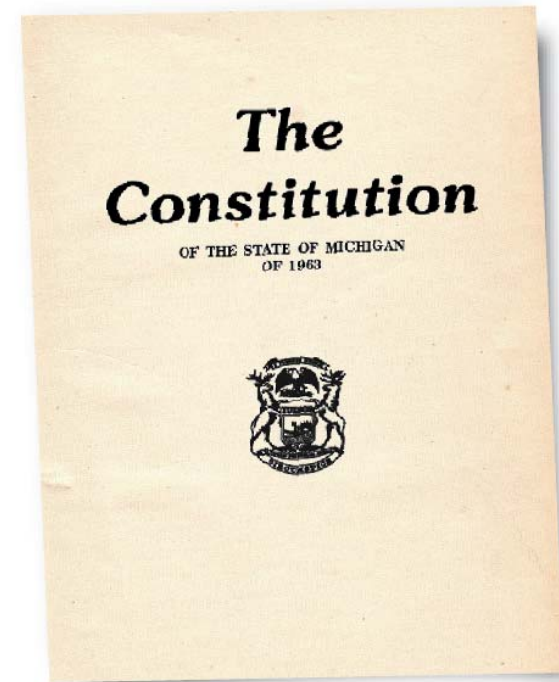
Commission on Legislative Apportionment

- The Commission on Legislative Apportionment was responsible for district plans
  - 4 members from each major party
  - Geographic diversity with commissioners
  - Majority required to approve a map
  - Deadlocks would require court intervention
- The Commission was responsible for drafting state legislative and congressional maps in 1960s, 1970s, and 1980s
  - Deadlocked all three times

Court Invalidates Redistricting Provisions

- After the Commission deadlocked in the 1980s, the State Supreme Court considered the authority of the court
  - Reynolds v. Sims (1964) and "One person, one vote"
  - State apportionment requirements included land area
- Court found that the apportionment requirements unconstitutional
  - Also determined Article 4, Sections 2-6 non-severable
  - Michigan no longer had constitutional guidelines for the redistricting process

"Apol Standards"

- The court appointed Bernard Apol to create a new plan.
  - Former director of elections
- Created a list of standards to follow:
  - Preserve county lines without violating equal population
    - Fewest cities/towns possible when lines are broken
  - Compact, contiguous districts
  - 16.4 percent divergence
    - 4 percent if city is divided
- Became known as the "Apol Standards".

1990s Legislation

- After the 1980s, redistricting became a legislative task
- 2 acts to direct future legislatures
  - Redistricting Plans Act of 1996
    - Set Apol Standards as guide for state legislative redistricting
    - Reduced the population variance allowed
  - Congressional Redistricting Act of 1999
    - Precise mathematical equality
    - Respect political boundaries
    - Compact, contiguous districts

2001 Redistricting Controversy

- 2001 redistricting plan was challenged in courts
  - Claimed congressional plan violated Congressional Redistricting Act
- Court upheld the plan
  - Congressional statute not binding
  - The law implementing the new districts superseded Congressional Redistricting Act
- Functionally made all statutory rules on redistricting non-binding
  - Only constitutional change or federal law can bind the legislature

A Brief History of Gerrymandering

What is Gerrymandering

- Gerrymandering is when a state redistricting process intentionally draws lines to disfavor a person, class, or party
- There are two main types of gerrymandering
  - Racial gerrymandering
  - Political gerrymandering
- There are two main tools of gerrymandering
  - Packing – stuffing as many of a voter group into a district as possible
  - Cracking – dividing a voter group to prevent them from winning districts
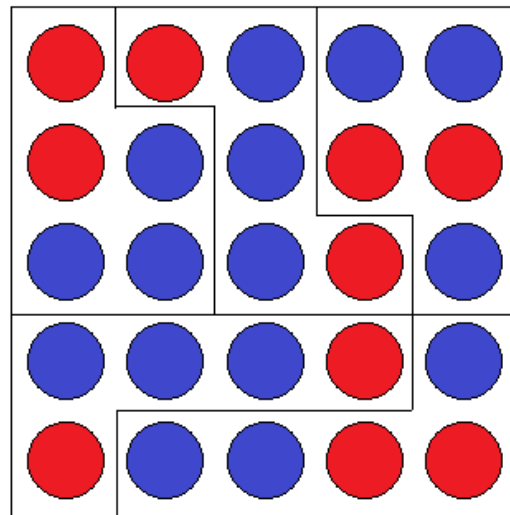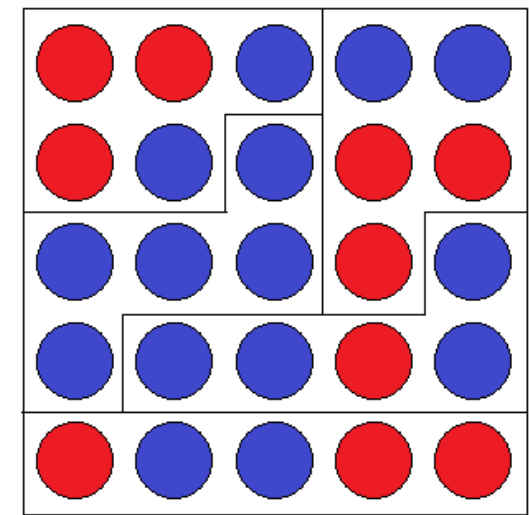
How Packing and Cracking Work

Simple Districts

Cracked Districts
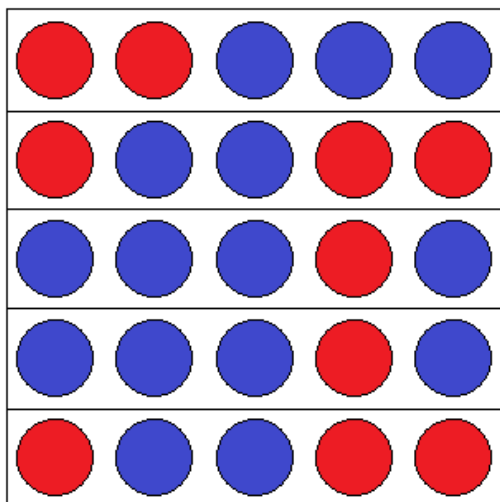
Packed Districts

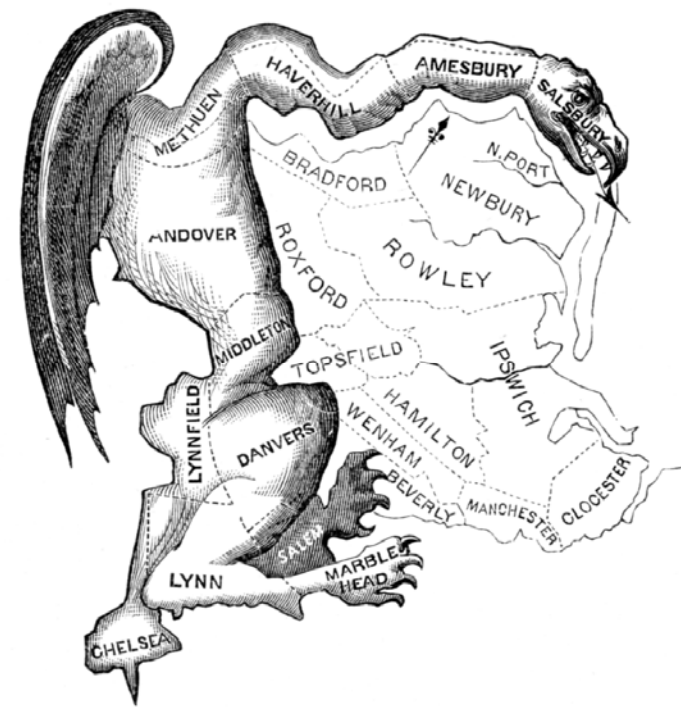3 blue districts, 2 red districts

5 blue districts, 0 red districts

2 blue districts, 3 red districts

Gerrymandering: A Long Tradition

- Political gamesmanship started early
  - Legislatures often altered the process to benefit themselves
- Gerrymandering was widespread in early 1800's
  - Most notable was Massachusetts
  - Elbridge Gerry's "Gerry-Mander"

The Court Weighs In

- Majority of claims come from the Equal Protection Clause
  - *Reynolds v. Sims (1964)*
  - "One person, one vote" standard
- 1986 was the first Supreme Court ruling on partisan gerrymandering
  - *Davis v. Bandemer (1986)*
  - Gerrymandering violated the equal protection clause
  - No standard was agreed upon to judge if gerrymandering occured
- 2004 was the next landmark case
  - *Vieth v. Jubelirer (2004)*
  - No standard to judge district plans

Recent Advancements
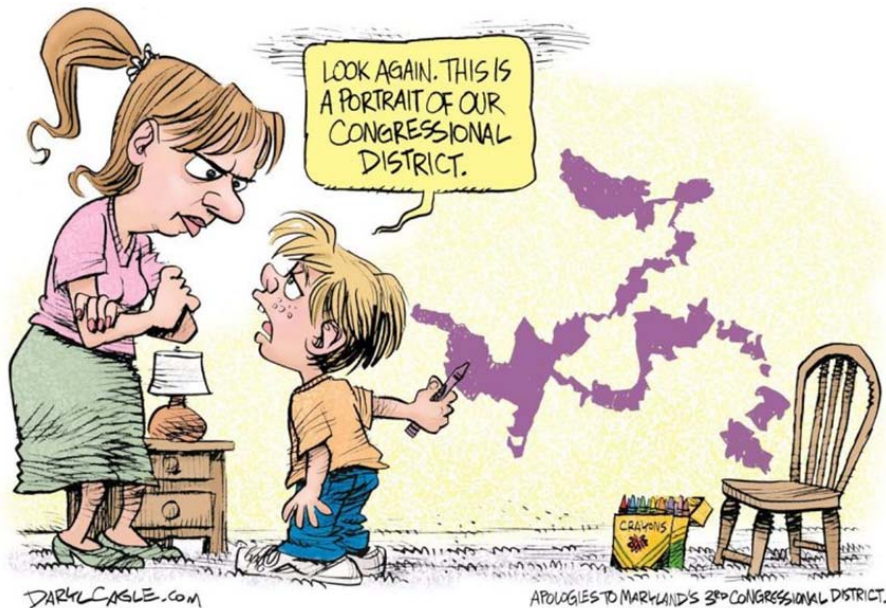
- Computers drastically increased precision in map drawing
    - Most states have 1 person or fewer variation in Congressional districts
    - Able to evaluate data on maps real-time
        - Includes historical voting trends and demographics
    - Allows more influence from interest groups and political decision-making
- Data shows a significant increase in gerrymandering
- Two cases are in the Supreme Court
    - *Gill v. Whitford* – Wisconsin
   - *Benisek v. Lamone* – Maryland

League of Women Voters v. Johnson

- Plaintiffs claim the maps suffer from a partisan gerrymander
  - Argue it violates First Amendment and Equal Protection Clause
- Claims there is evidence of diluted effect of democratic votes
  - Disparity in votes cast vs seats won
  - The "Efficiency Gap"
- The case is currently before federal district court

2000s Districts

2010s Districts

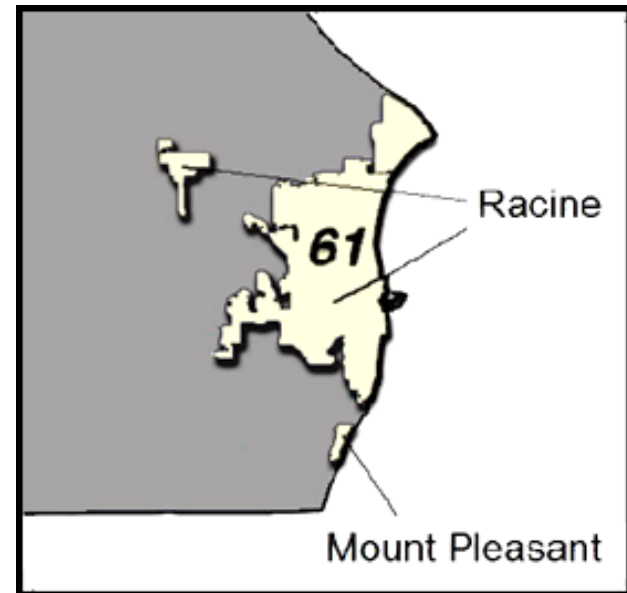Detroit Metro Area

Detroit Metro Area
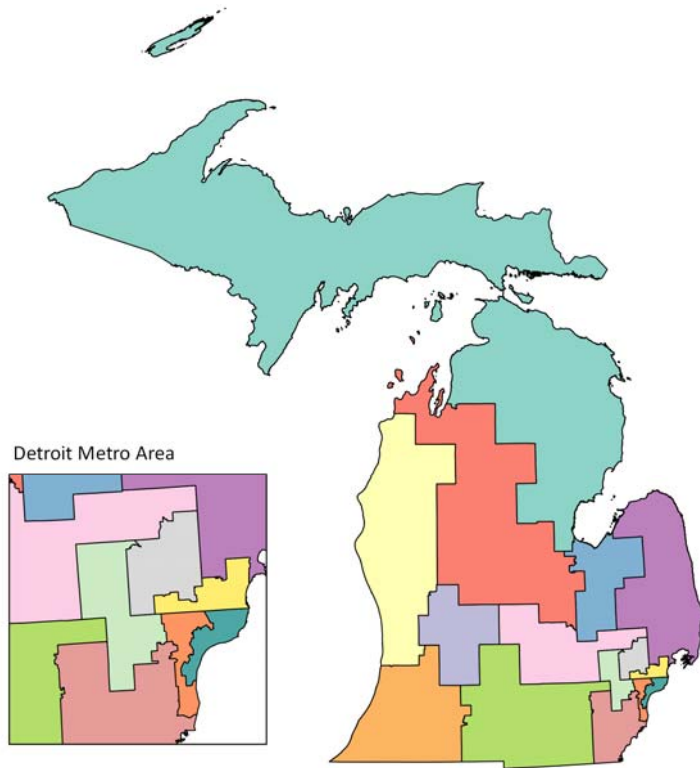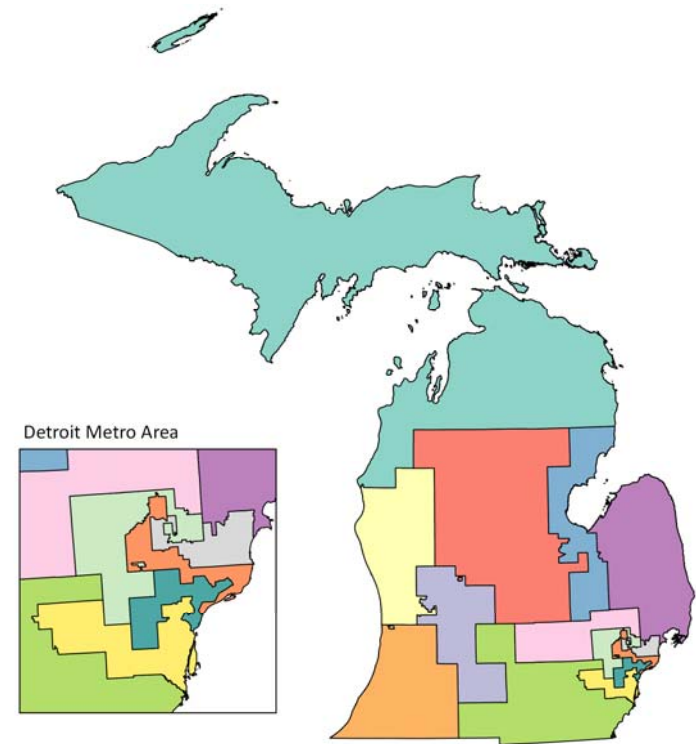
What Other States Require
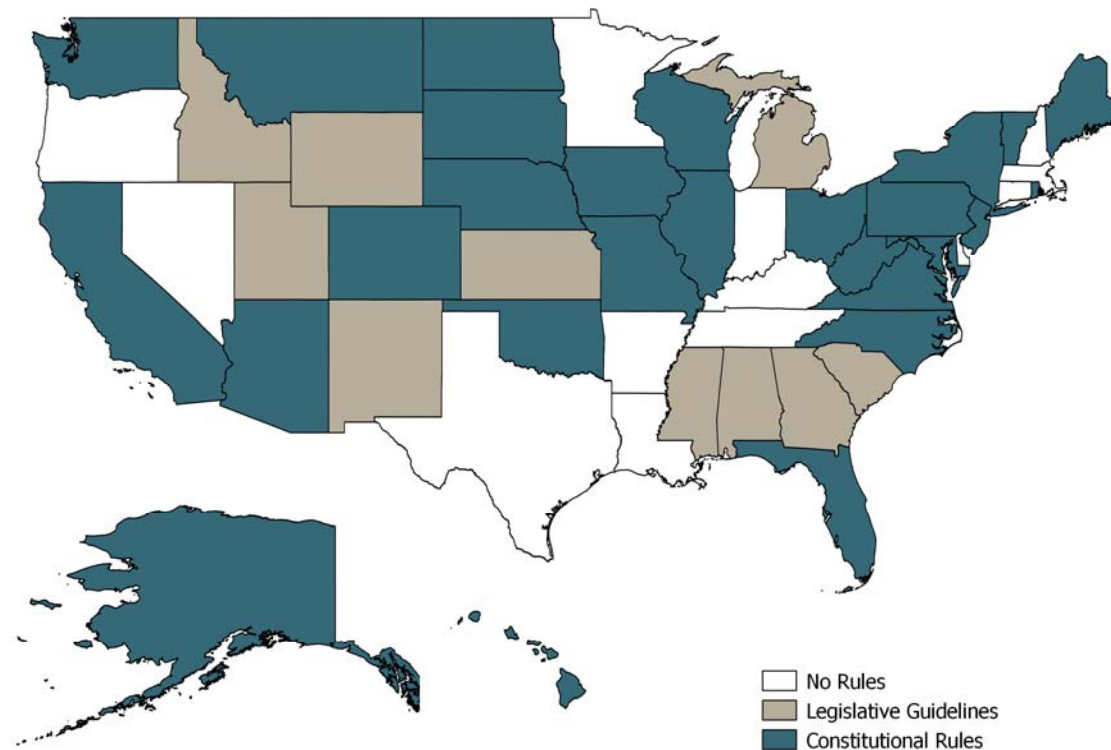
Common State Requirements

- All states must comply with 2 sets of federal rules
  - "One person, one vote"
  - Voting Rights Act
- Common state level requirements include
  - Contiguous districts
  - Compact districts
  - Adhere to political boundaries
  - Maintain communities of interest

Contiguous Districts

- Virtually all states have a contiguous district requirement
- Must be connected via land or bridge at all points
  - Islands are contiguous with their county
- Some exceptions exist for city borders

Compact Districts

No Rules
Legislative Guidelines
Constitutional Rules

Political Boundary Requirements

No Rules
Legislative Guidelines
Constitutional Rules

Communities of Interest

No Rules
Legislative Guidelines
Constitutional Rules

Other Requirements
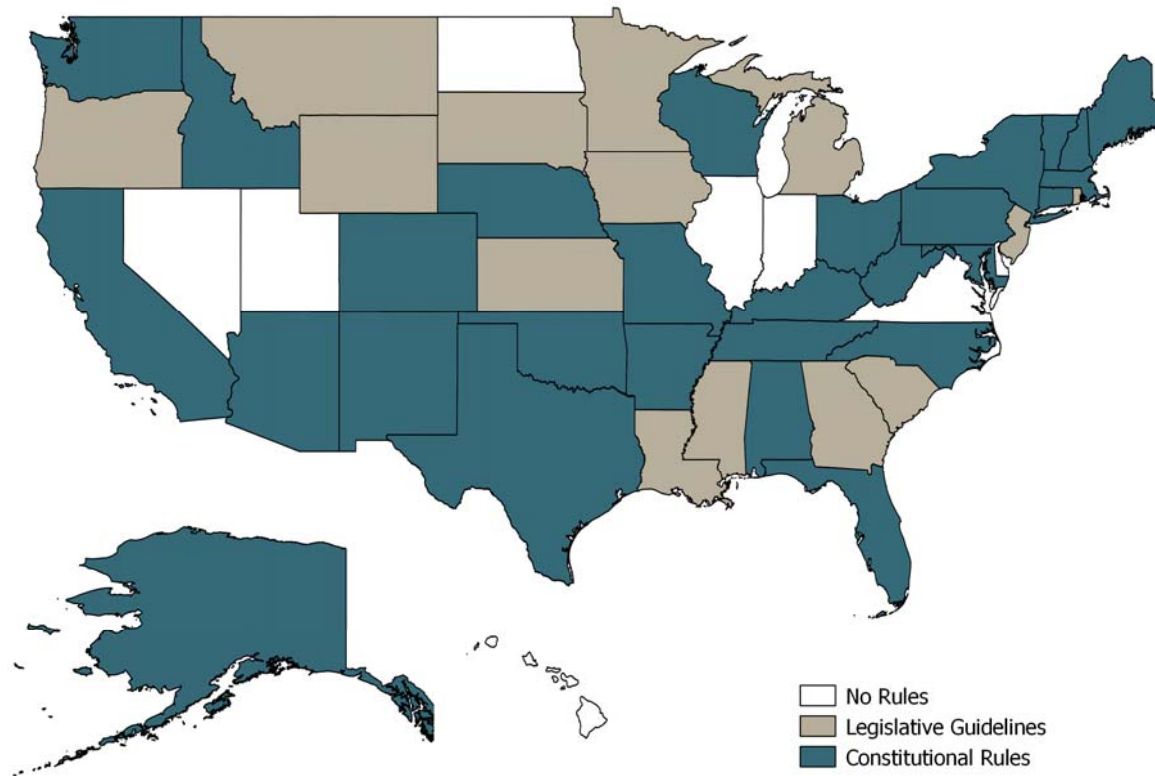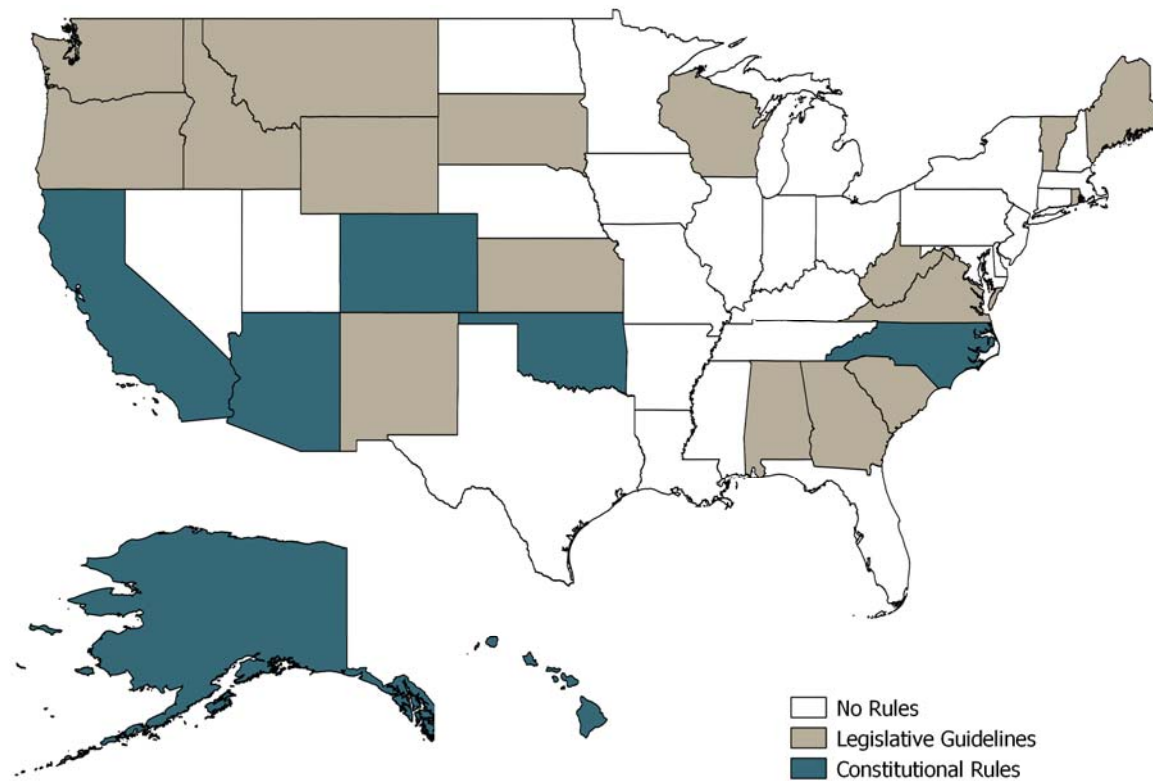
Legend:
- No Rules
- Exclude Certain Political Considerations
- Favor Competitive Districts
- Exclude Political Considerations and Competitive Districts
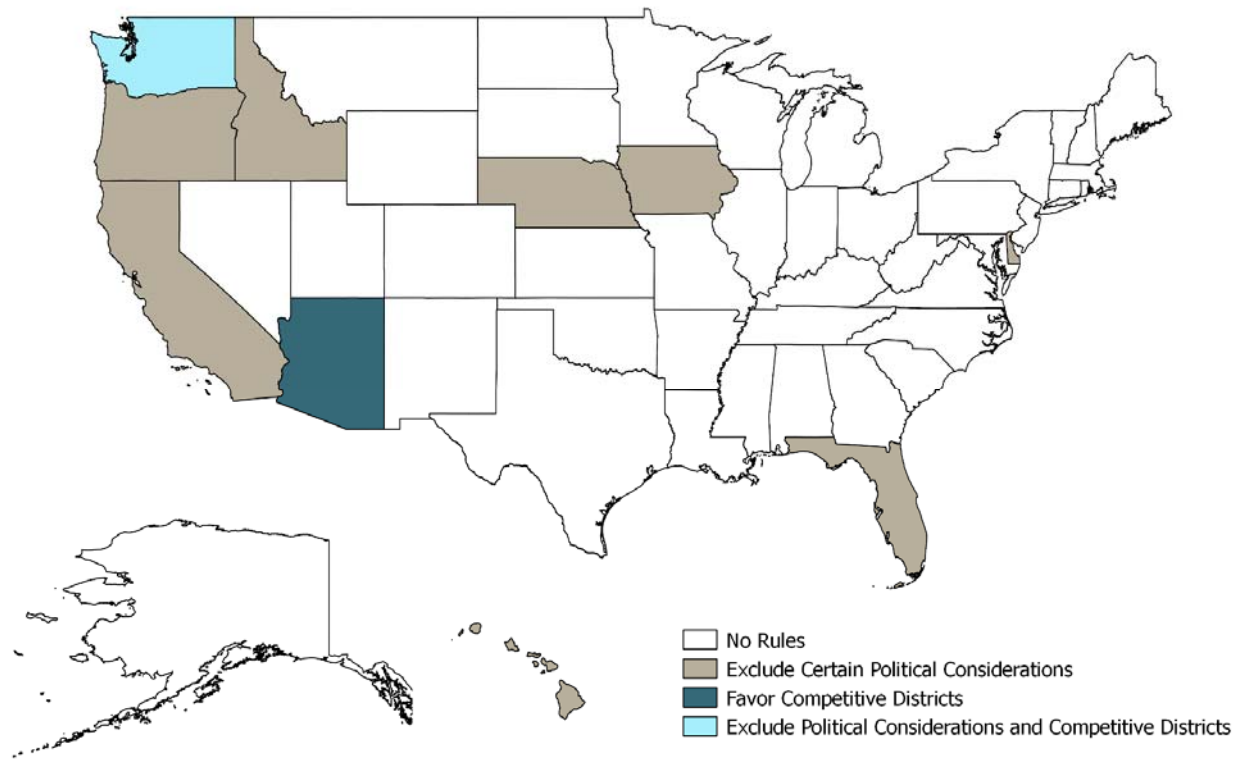
CRC Recommendations

- In 2011, CRC research recommended Michigan restore constitutional requirements for redistricting
  - No population variation among districts
  - Single-member districts
  - Contiguous districts
  - Adhere to political boundaries as possible
  - Preserve communities of interest

Issues Moving Forward?

- Self sorting creates problems interpreting gerrymandering and dividing districts
- Many standards conflict
  - Voting Rights Act and compact districts
  - Communities of interest/Voting Rights Act and competitive representation
  - Political boundaries and communities of interest
- Prioritizing goals: "fair" districts, proportional representation, competition, ensuring a minority voice, or sensible standards?

Who Draws the Maps?

State Procedures

- There are 3 ways states draw maps, with small variations
  - Legislature drawn maps
    - Advisory commission
    - Backup Commission
  - Politician commission drawn maps
  - Independent commission drawn maps

Who Draws Congressional Maps

Legend:
- Legislature
- Politician Commission
- Independent Commission
- Advisory Commission
- Backup Commission

Who Draws State Maps

Legend:
- Legislature
- Politician Commission
- Independent Commission
- Advisory Commission
- Backup Commission
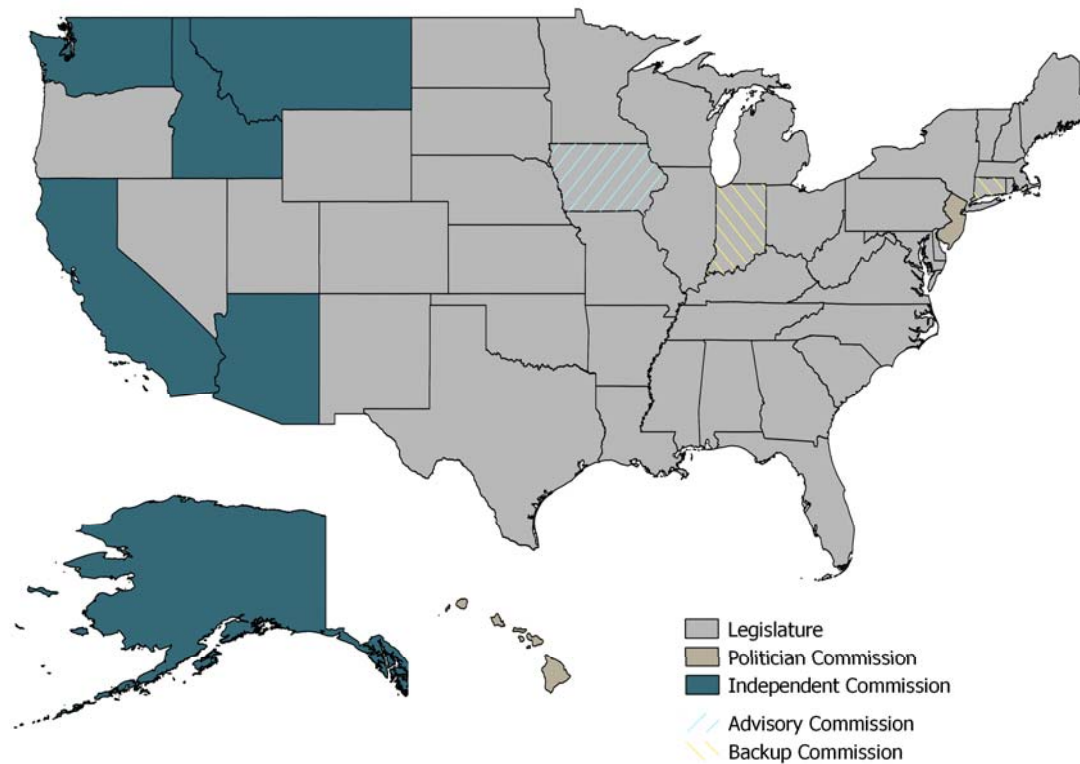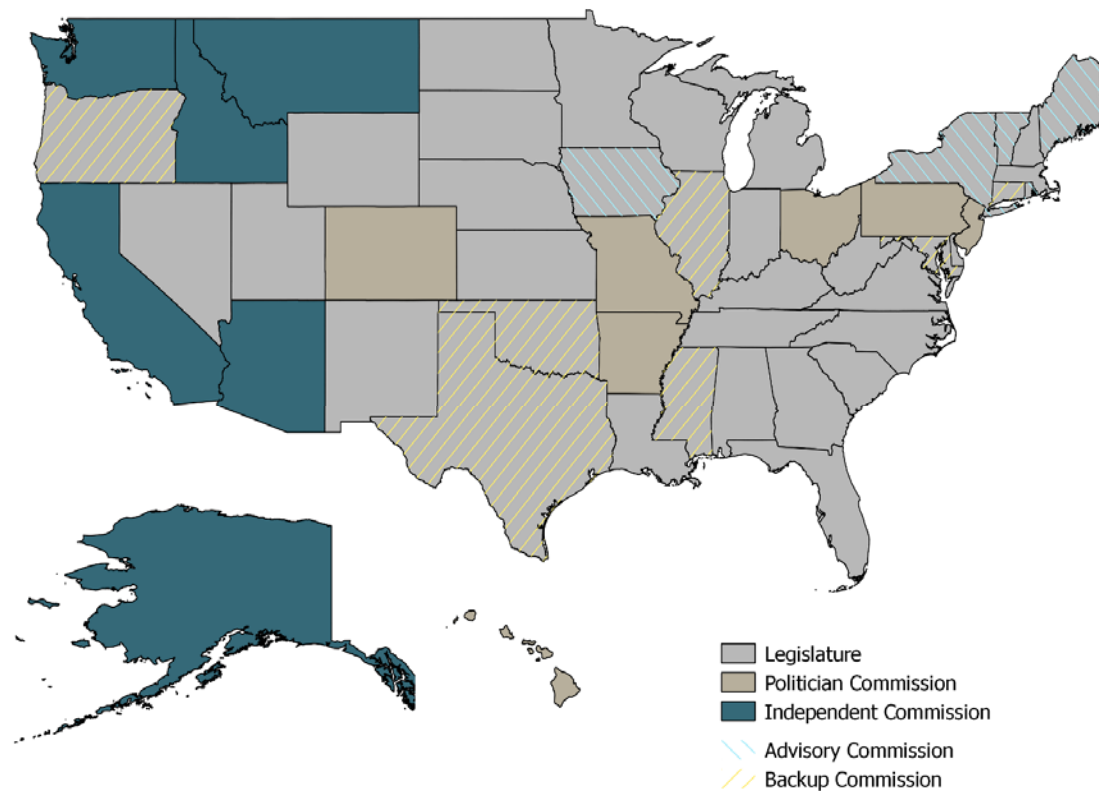
CRC Recommendations

- Previous CRC research recommends restoring the Commission on Legislative Apportionment with modifications
  - A smaller, odd-numbered commission
    - 1 selected by majority and minority leader of each chamber
    - 1 non-partisan nominated by the other 4
  - Ensure third party access
  - Maintain and strengthen restrictions on who can be a commissioner
  - Expand commission outreach and transparency efforts

Iowa's Advisory Commission

- Maps drawn by an independent Legislative Services Agency
  - Majority and Minority Leaders each appoint a commissioner
  - The 4 appointees select a fifth
- No political data can be used
- Legislature has to give an up or down vote
  - If rejected 3 times, legislature draws the maps
- Effectively limited gerrymandering
- Potential problems in exporting
  - Concerns over Voting Rights Act compliance
  - Concerns over unelected officials
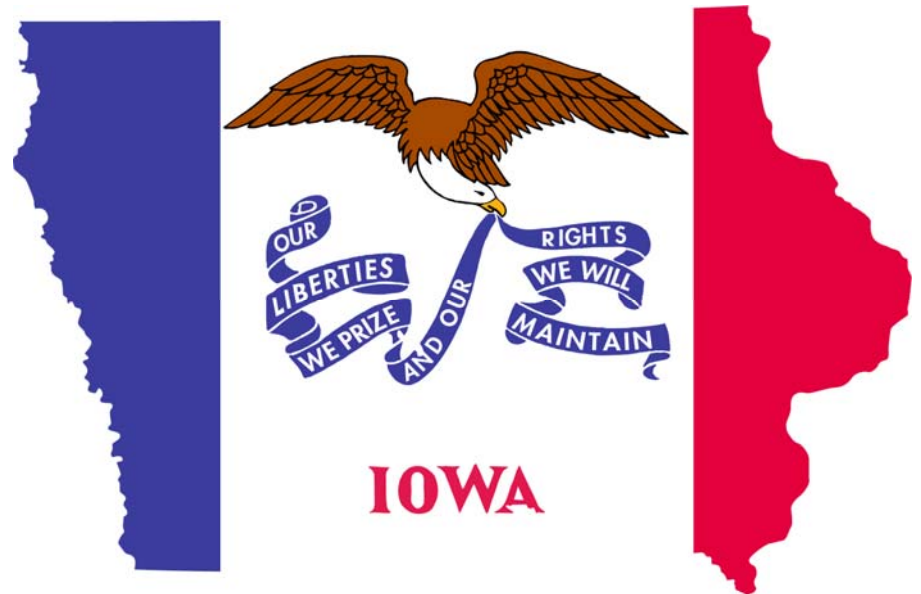
California's Independent Commission

- 14-person citizen commission
  - No political involvement allowed
  - Extensive application process
- No legislature approval needed
- Mandates public input on communities of interest
- Potential problems
  - Concerns over misuse of communities of interest
  - Accountability of unelected commissioners

Arizona's Independent Commission

- Independent, 5 member commission
  - Majority and minority leader select from groups
  - 4 choices nominate fifth from a different party
- Requirement for competitive districts
- No legislative approval
- Created controversy
  - Nonpartisan chairperson impeached
  - Legislature challenged legality of the commission

Voters Not Politicians Ballot Initiative

- Creates a 13-member commission to draw state districts
  - 4 from 2 major parties, 5 non-affiliated commissioners
- Orders requirements
  - Equal population and Voting Rights Act compliance
  - Contiguous
  - Reflect non-political communities of interest
  - No partisan advantage
  - Not favor/disfavor an incumbent
  - Maintain political boundaries
  - Compact borders

Alternatives to Redistricting Reform?

Is Redistricting Reform Sufficient?

- Some say redistricting reform isn't enough
  - Other causes to polarization
  - The sorting problem
  - No impartial map drawers
- Other solutions have been offered

Top Two Primary

- Washington, California and Nebraska are the only states using a top-2 primary

- It can reduce partisanship and create fairer elections
  - Opens voting to non-partisans
  - Incumbents are more strongly challenged

- Drawbacks
  - Limits small-party competitiveness
  - Single-party elections
  - Limited to no effect on polarization

Statewide Elections

- Not currently allowed under federal law
- Representational elections have some benefits
  - Removes districting entirely
  - Allows accurate proportional representation
  - Better allows third party competition
- Creates some problems
  - No local representation
  - Coalition governments don't always function well
  - Party control over candidates

Questions?