The Center for Voting and Democracy

November 2013

THE RISE OF SAFE SEATS:
THE RELATIVE IMPACT OF REDISTRICTING AND "THE BIG SORT"

Spotlighted Facts

- **Fewer competitive U.S. House districts**
  - Number of **2010** election districts with a partisan balance of 47% to 53% (2010 districts with partisanship based on 2008 presidential election): **70**
  - Number of **2012** election districts with a partisan balance of 47% to 53% (current districts with partisanship based on 2008 presidential election): **53**
  - Number of **2014** election districts with a partisan balance of 47% to 53% (current districts with partisanship based on 2012 presidential elections): **47**

- **Rise of safe, one-party districts in congressional elections**
  - Percentage of all congressional districts in 2010 where partisanship advantage was more than 58% for one party: **59%**
  - Percentage of all congressional districts in 2014 where partisanship advantage is more than 58% for one party: **65%**
  - Number of these 284 strongly partisan districts currently represented by a Member of the minority party**: only 3**
  - Rise in safe "landslide districts" (>60% partisanship, as measured by Nate Silver) in between rounds of redistricting from 1992 to 2000: **71 districts** (From 113 in 1992 to 184 in 2000)
  - Rise in such districts from 2000 to 2004, after redistricting: **24 districts** (from 184 in 2000 to 208 in 2004)

- **Vulnerable incumbents protected in 2011 redistricting**
  - Number of vulnerable incumbents (won by less than 10% in 2010) who benefited from redistricting (redrawn district more than 3% safer after redistricting): **26**
  - Number of such incumbents who had a shift of at least 3% against their party: **5**

- **Impact of independent redistricting in California**
  - Number of California's 53 districts in 2010 with a partisanship between 47% and 53%: **5**
  - Number of such competitive districts in 2012 after nonpartisan districting: **5**
  - Percent of safe, strongly partisan districts (more than 58% for one party) in California after nonpartisan districting: **70%**

- **Simulations of nonpartisan redistricting**
  - FairVote's simulations of nonpartisan redistricting in Maryland and North Carolina show both the value and the limitations of independent commissions

The effects of the 2011-2012 redistricting process can now be observed directly in the results of the 2012 election. They are exactly what might be expected of a winner-take-all redistricting process largely under the control of state legislators and partisan interests: fewer competitive districts, more safe districts, and a bias toward the party that controlled the most state legislatures. Our analysis shows that while partisan redistricting is highly problematic, it is a relatively minor reason for the large and growing number of safe seats in U.S. House elections. The more significant causes are the "big sort" of partisan voting patterns and a decline in ticket-splitting.

The distorted redistricting process was exacerbated by polarizing trends in the voting population itself. Districts that already strongly favored one party in the 2008 presidential election often voted even more strongly for that party's presidential nominee in 2012, resulting in even fewer competitive districts and more safe districts. This phenomenon is consistent with Bill Bishop's theory of "The Big Sort," which argues that Americans have increasingly sorted themselves into ideologically consistent communities in recent decades. One result of that sorting is more consistent identification with one major party over the other in all races down the ballot. The "Big Sort" has made it easier to use redistricting to protect incumbents and benefit one party over the other, but it also means that the number of safe seats continues growing in between redistrictings. In fact, many of the largest election-to-election jumps in non-competitive districts have occurred without any changes in districts.

These phenomena - intentional gerrymandering, natural partisan sorting, and more consistently partisan voting behavior - feed off each other, forming a vicious feedback loop that is making American congressional elections increasingly less democratic. All these trends are enabled or exacerbated by our continued use of winner-take-all elections

But while natural partisan sorting may be unavoidable, intentional gerrymandering could easily be prevented by law. How did the United States congressional district lines come to be drawn by the exact people who should be furthest away from the process?

A Brief History of Gerrymandering

In the 1960s, the Supreme Court leapt squarely into the "political thicket," ignoring the famous warning of Justice Felix Frankfurter regarding the hazards of judicial intervention into matters involving representation in Congress. The Court ordered all states to have congressional districts in which each representative had the same number of constituents, changing longstanding practices where urban districts often had far more people than rural districts.

While correcting an obvious abuse of the principles of political equality, the Court's ruling threw open the doors to another abuse of equality: political gerrymandering. Now every state with more than one House seat redraws congressional district lines after each decennial census. When drawing those lines, state legislators are often instructed to consider the public interest, but typically prioritize protecting political friends, hurting political enemies, and maximizing partisan advantage.

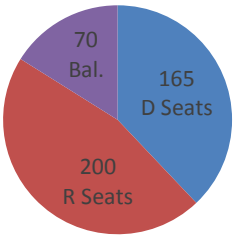
Furthermore, because we use winner-take-all voting rules for electing the U.S. House of Representatives and voters have exhibited highly consistent partisan preferences in federal elections, those drawing

redistricting maps have immense power to determine outcomes and affect competitiveness in congressional elections. As mapmakers become more sophisticated at determining the partisan preferences of the majority of voters, the gerrymandering problem grows worse every time they redraw district lines.

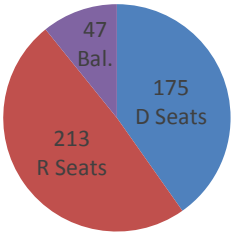
After redistricting in 2011-2012, districts as a whole have become more partisan than ever. Although a few longtime incumbents lost their seats in 2012 as a result of redistricting, most became even more secure in increasingly polarized districts. Stagnation in congressional elections will only grow over the course of the decade as incumbents settle into their new districts. Indeed, only two changes might alter this projection: a sea change in partisan preferences during the decade or a change in voting rules to replace single-member, winner-take-all districts with fair voting methods. Only electoral reform is a change within our control.

The Partisan Landscape of U.S. House Districts: Competition and Representation

2010 Districts



2014 Districts



Prior to the cast of a single vote in the 2012 elections, redistricting had already managed to secure more safe seats for incumbents seeking reelection. The results of the 2012 elections revealed a district map even more polarized than FairVote projected in its *Monopoly Politics 2012* report. The number of congressional districts with a balanced partisanship (meaning districts where the presidential candidates ran within 3% of their national average in that district in the most recent election) has declined by nearly a third since 2010 – from 70 then to 53 immediately after redistricting to 47 after votes were cast in 2012. Overall, only one in ten of our nation's congressional districts is now balanced in terms of partisanship. The ability of a member of the minority party to take a seat from an incumbent (even an unpopular one) is becoming increasingly remote.

Meanwhile, nearly two-thirds of congressional districts (65%) have a partisanship of 58% or more for one party, meaning that the presidential nominee of the majority party ran at least 8% ahead of his national average. In strongly partisan districts it is becoming extremely difficult for a member of the minority party to win a seat. In 2012, Democrats won all 129 districts that were more than 58% Democratic, and Republicans won 152 of 155 districts that were more than 58% Republican. In fact, Republicans did not take over a single one of the 275 Democratic districts in which the partisanship was at least 42.3% Democratic, while Democrats did not take a single one of the 201 Republican districts in which the partisanship was at least 54% Republican.

The following are two more specific lowlights from the latest round of redistricting:

- ***Most vulnerable incumbents were helped***: The great majority of potentially vulnerable incumbents were not hurt in redistricting, and many were helped. For those 59 incumbents who had won close elections in 2010 (with a victory margin of less than 10%), 26 were significantly helped by having their district's partisanship grow by at least 3% toward their party. For example, a Republican in a 51% Republican district might get a new district that is 56% Republican, which would reflect a 5% shift in partisanship and a 10% projected shift in victory margin. In contrast, only five such vulnerable incumbents were significantly hurt in redistricting (the remaining 28 were mostly unaffected).

- ***Open seat races in 2012 reinforced partisan voting trends***: Even when no incumbent was directly affected by redistricting, most districts ended up with a strong partisan tilt, usually because most areas of the country strongly favor one party or the other. Of the 60 open seats in the November 2012 elections, only four were considered balanced by our partisanship standards. Of the remaining 56 races outside of that 47%-53% range, 55 were won by the district's majority party. Given that the outcome of open seat elections is overwhelmingly determined by district partisanship, there is every reason to believe that these districts' new representatives will behave similarly to their incumbent colleagues in Congress.

FairVote's analysis of the 2011-2012 redistricting process now takes into account partisanship data based on the 2012 presidential election, unlike its *Monopoly Politics 2012* report released in July of 2012 that was based on the 2008 presidential elections. The 2012 presidential results revealed a congressional map that is even more polarized than the 2008 numbers indicated for these same districts.

Whether the most recent shifts in partisanship were anticipated by map-drawers or not, there can be no doubt that the current congressional map leaves more voters than ever without meaningful choices on Election Day.

Reforms to the Redistricting Process: Independent Commissions and Fair Voting Plans

The most obvious initial reform for partisan gerrymandering and incumbent-protection in redistricting is the establishment of an independent redistricting process. Implementing independent redistricting, which is already in place in a handful of states including California, Washington, Arizona, and Iowa, would certainly be an improvement over the current system. Independent redistricting would put an end to lines being drawn specifically for the benefit of politicians and parties. However, it would not resolve the more fundamental problem of safe seats in the current congressional map that result from natural demographic patterns.

Below are two examples of how independent redistricting could make significant improvements in two of the most gerrymandered states in the country – Maryland and North Carolina. These cases also demonstrate, however, that independent redistricting would neither guarantee fair outcomes reflecting voter preference or competitive elections.

Simulating Independent Redistricting Processes in Maryland and North Carolina

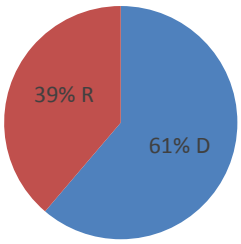
Criteria used:

- Districts must be geographically coherent and compact
- The population for each district is determined only from the total population, and must be equal in each district
  - Political and racial population data was not used in the creation of the district, only the final analysis
- Equal population per district:
  - **Maryland:** 721,700 and **North Carolina:** 749,250
  - No district deviates by more than 6,000 people from the target population level
- Partisanship data was **not used in the creation of the maps**.
  - For the purposes of analysis after the creation of the maps, partisanship data is derived from 2008 voting precinct results found in Dave's redistricting app
- Racial data was **not used in the creation of the maps**, as they are designed to show what would happen if redistricting commissions did not have to comply with the Voting Rights Act

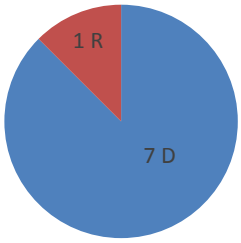
Maryland

Partisanship comparison of different plans:

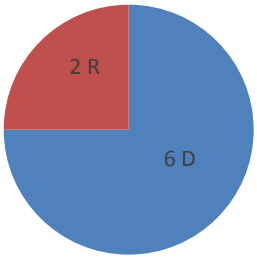
Statewide Partisanship



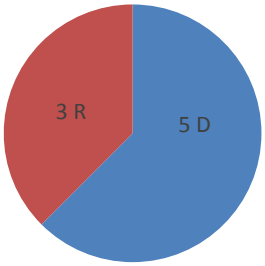
Current Map



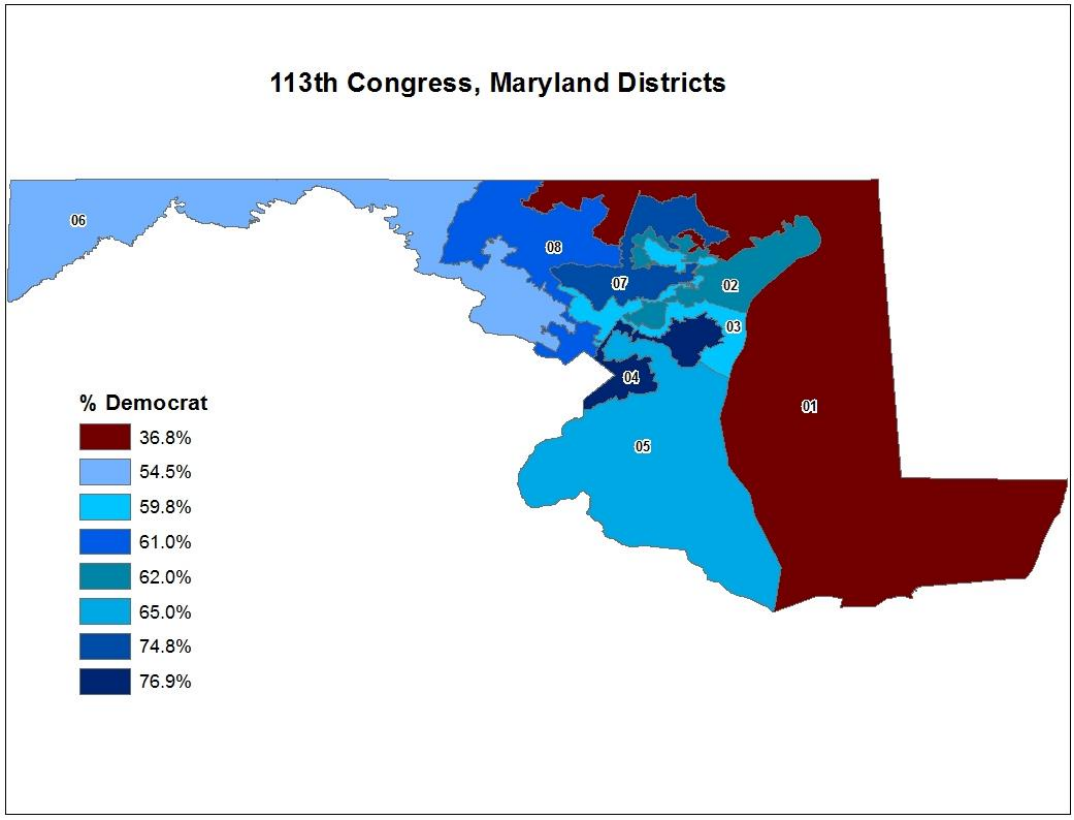
Simulated Independent Redistricting



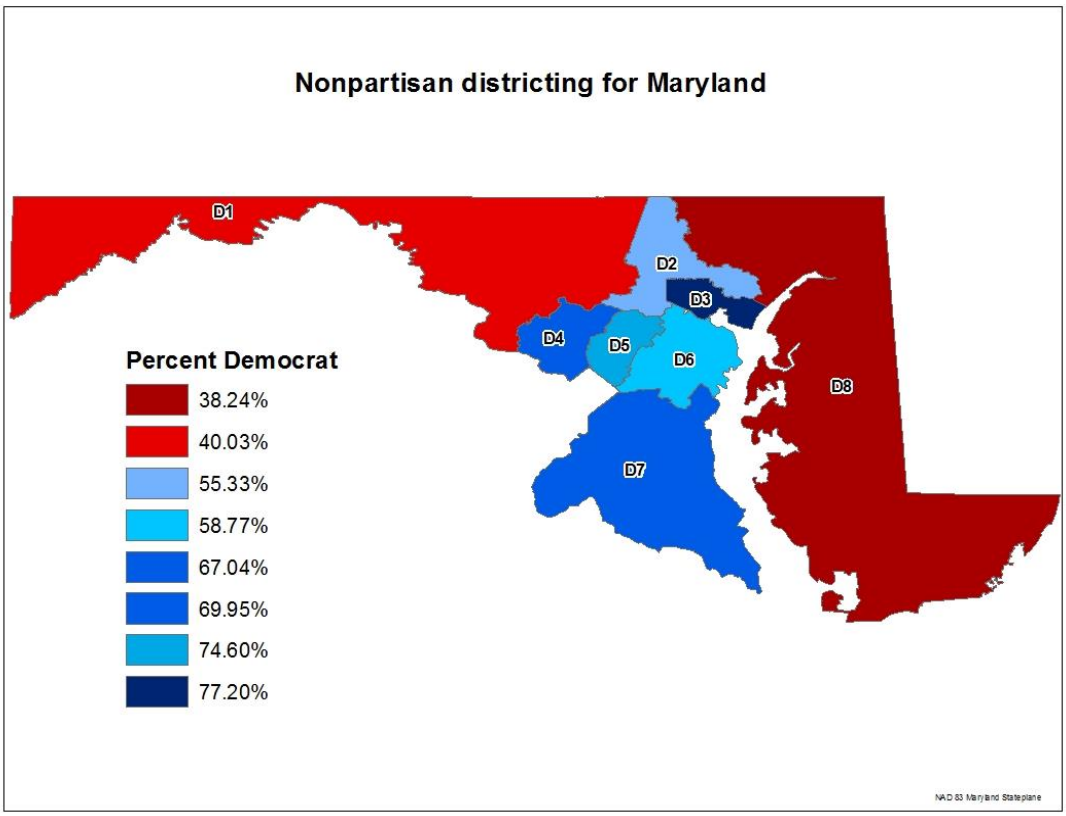
Fair Voting



Current Map



Simulated Independent Redistricting Map:



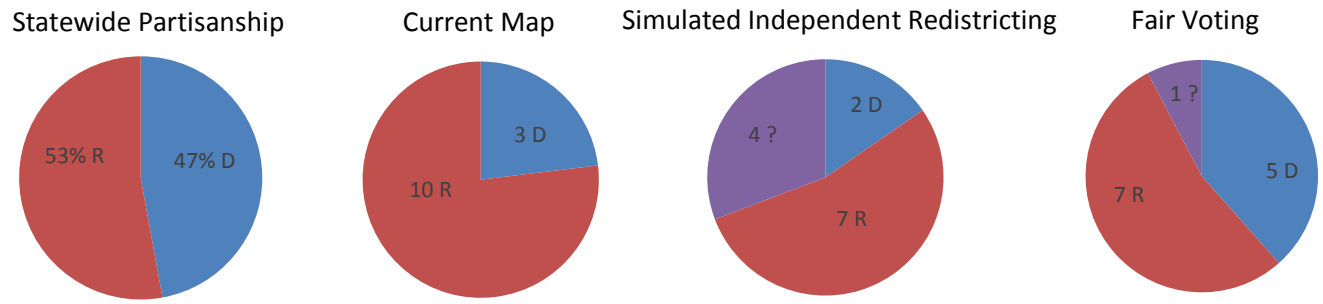
Following the 2010 census, the Maryland General Assembly started the process of redistricting with the intention of defeating one of Maryland's two Republican incumbents. The district plan that was approved by the General Assembly and the Governor is considered one of the most gerrymandered district maps in the nation. The final version of the plan provided the Democrats with six safe districts and one 'likely district' held by Republican incumbent Roscoe Bartlett, leaving just one safe district for Republicans. Democrat John Delaney defeated Bartlett in the 2012 elections.

This plan created significant disproportionality in Maryland's vote-to-seat ratio, as the state's partisanship is 39% Republican but the plan leaves Republicans with just 12.5% of the seats. We do not project a single one of Maryland's eight districts to be competitive in 2014. The current map is profoundly undemocratic and only defensible in the context of the national partisan battle where each party seeks to maximize its opportunities in its stronghold states in order to keep up with the other.

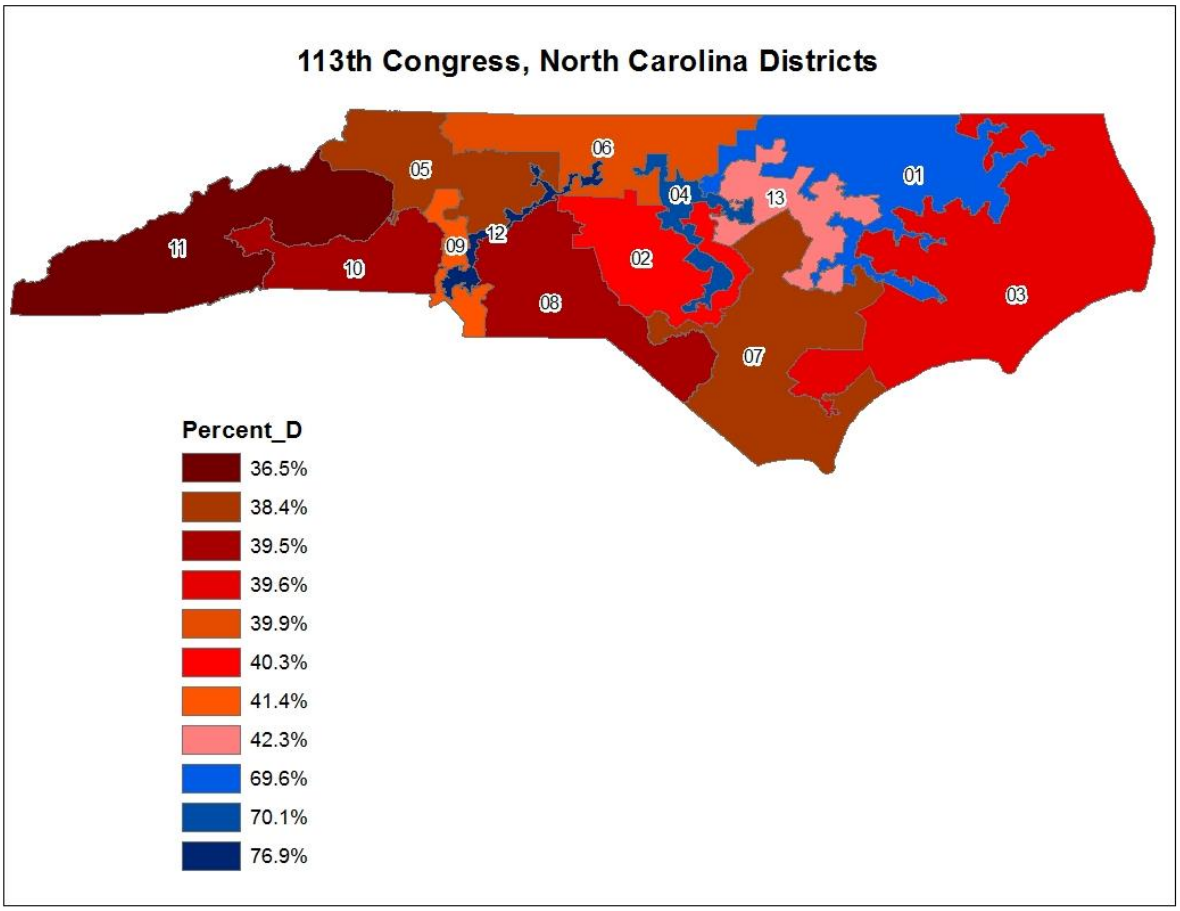
FairVote's simulated nonpartisan map for Maryland would slightly ameliorate the current plan's partisan bias, with Democrats likely to win 75% of seats instead of 87.5%. Furthermore, the map would slightly increase opportunities for non-white representation in Maryland, maintaining two majority-black districts (Districts 3 & 7) and creating one district with no racial majority (District 5). Even in this nonpartisan map, however, no districts would be competitive and Republicans would still be underrepresented.

North Carolina

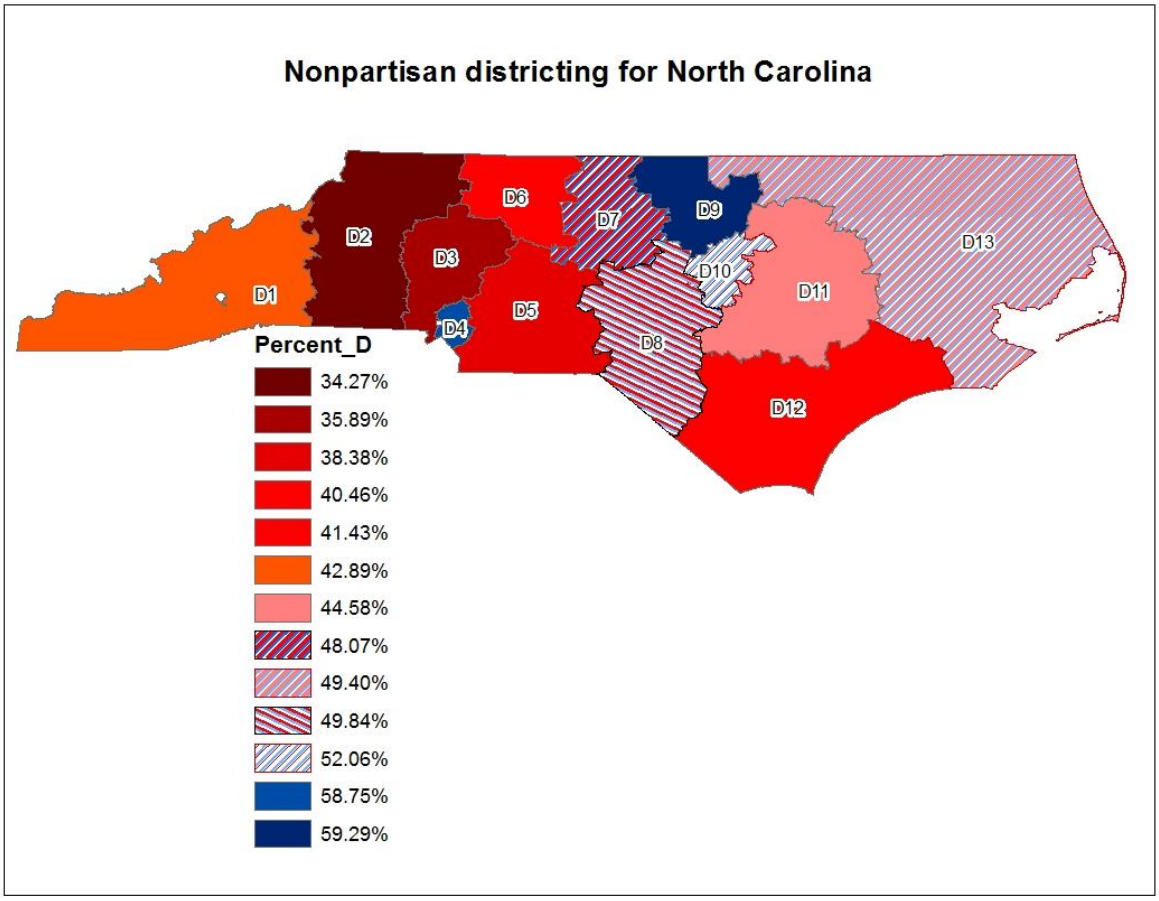
Partisanship comparison of different plans:



Current Map:



Simulated Independent Redistricting Map:



The 2011-2012 redistricting process in North Carolina provides an example of similar gerrymandering tactics used by the other party. In 2010, Democrats won seven of 13 U.S. House seats, including three in Republican-leaning districts. After the 2010 census, the North Carolina General Assembly redistricted with the intent to target four of these Democratic seats. The seats shifted in their partisanship toward Republicans by an average of nine percentage points. The remaining three Democratic districts were each made more Democratic. The final plan created ten districts that were at least 58% Republican and three districts that on average were more than 70% Democratic. This map was approved by the North Carolina General Assembly and the Justice Department. The Democratic governor objected to the plan but was unable to veto the map.

In 2012, Republicans won nine districts, and are projected to easily win them again in 2014. The Democrats won their three safe districts by large margins. Democratic incumbent Mike McIntyre held on in a heavily Republican district in one of the closest House races in the country, and will be targeted again by Republicans in 2014. The plan creates heavily disproportionate representation in the state's congressional delegation. North Carolina's statewide partisanship is 47% Democrat, but Republicans hold 69% of its seats and will almost certainly claim a tenth seat when Mike McIntyre retires or is defeated.

FairVote's simulated nonpartisan map with single-member districts improves proportionality and competitiveness. Five districts favor Democrats in this map instead of three, although only two of those districts are safe. Republicans, however, would always win at least seven seats absent a major wave. Four districts would typically be competitive in an even partisanship year, including two of the Democratic-leaning seats.

This competitiveness and increased proportionality comes at a price, however. Because racial data was not used in creating these districts, the map does not include a single majority-black district – making it all too likely that, as was the case from 1900 to 1992, no African American would win a seat in a state with a voting age population that is 22% black. The North Carolina case illustrates the tradeoffs that must always be made in districting under a winner-take-all system. It is impossible for even a nonpartisan independent commission to create maps that guarantee competitiveness, proportionality, and fair racial representation if it is limited to winner-take-all elections.

Real Comprehensive Redistricting Reform: Ending Winner-Take-All

The only reform that would truly ensure that the will of all voters is reflected in the U.S. House is passing a statute to replace winner-take-all elections with fair representation voting systems in multi-member "super districts." With an independent redistricting commission to impose these systems and draw nonpartisan lines, our congressional elections would be fair and provide real choice to voters in every region of the country.

One can see the potential impact of this change by comparing our plans to the districts as they are now in Maryland and North Carolina and as they would plausibly be in districts drawn by a nonpartisan redistricting commission. Under a fair voting system, there would be fairer representation by party and also more opportunities for people of color to elect preferred candidates.

	Percent of competitive districts	Projected partisan outcome	Projected racial outcome
Maryland			
• **2010 plan**	0%	2R, 6D	2 African American preferred candidates
• **2012 plan**	0%	1R, 7D	2 African American preferred candidates
• **Nonpartisan plan**	0%	2R, 6D	2 African American preferred candidates
• **Fair voting**	100%	3R, 5D	2 African American preferred candidates
North Carolina			
• **2010 plan**	15.4%	7R, 4D, 2?	0 African American preferred candidates
• **2012 plan**	0%	10R, 3D	2 African American preferred candidates
• **Nonpartisan plan**	30.8%	7R, 2D, 4?	0 African American preferred candidates
• **Fair voting**	100%	7R, 5D, 1?	3 African American preferred candidates

Fair representation voting would allow an independent redistricting process to draw maps without making difficult choices between contiguity, competitiveness, and partisan and racial fairness. Because redistricting would no longer have significant implications for the ultimate partisan composition of Congress, the process of drawing new congressional lines would become much less controversial.

Our broken redistricting process needs to be fixed, and fair representation voting is a necessary part of any comprehensive solution.