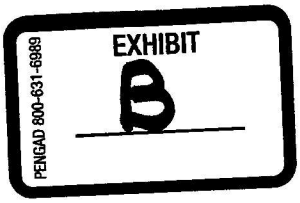

C

Supreme Court of New Hampshire.

Representative Peter BURLING and another
v.
Gene CHANDLER, Speaker of the House and another.

No. 2002-0210.

Argued June 11, 2002.
Decided July 26, 2002.

Incumbents in state legislature filed petition for original jurisdiction requesting the Supreme Court to declare existing representative districts unconstitutional and to impose deadline for legislature to enact valid reapportionment plan for the house. The Supreme Court rejected parties' proposed plans and adopted court-designed plan.

Reapportionment plan adopted.

West Headnotes

[1] Elections 12(9.1)
144k12(9.1)

It is not the court's function to decide the peculiarly political questions involved in reapportionment, but it is the court's duty to insure the electorate equal protection of the laws. Const. Pt. 2, Arts. 9, 11.

[2] Elections 12(9.1)
144k12(9.1)

When the legislature has failed to act, it is the judiciary's duty to devise a constitutionally valid reapportionment plan.

[3] States 27(10)
360k27(10)

Given the imperative to establish state legislative redistricting plan consistent with constitutional requisites before the next elections, Supreme Court accepted jurisdiction over incumbents' petition for original jurisdiction requesting court to declare existing representative districts unconstitutional and to impose deadline for legislature to enact valid reapportionment plan for the house.

[4] Constitutional Law 1.1
92k1.1

The state constitution is the supreme law of the state.

[5] Constitutional Law 18
92k18

The oath the Supreme Court justices took to honor the state constitution makes it the justices' duty to apply the state constitution when it does not conflict with the United States Constitution.

[6] Constitutional Law 82(8)
92k82(8)

Provisions of the state constitution are at least as protective of a citizen's right to vote as the federal constitutional standard of one person/one vote. U.S.C.A. Const.Amend. 14; Const. Pt. 2, Arts. 9, 11.

[7] Elections 12(6)
144k12(6)

Overriding objective of apportionment must be substantial equality of population among the various legislative districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the state.

[8] Elections 12(6)
144k12(6)

Although absolute population equality need not be achieved, a court devising a remedial apportionment plan for a state legislature must ordinarily achieve the goal of population equality with little more than de minimis variation.

[9] Elections 12(9.1)
144k12(9.1)

Any deviation from approximate population equality in a court-ordered remedial apportionment plan must be supported by enunciation of historically significant state policy or unique features.

[10] Elections 12(9.1)

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144k12(9.1)

In devising a court-ordered remedial apportionment plan, court must act circumspectly, and in a manner free from any taint of arbitrariness or discrimination.

[11] Elections 12(7)
144k12(7)

Single-member districts are preferred in achieving "substantial equality" in an apportionment plan, but use of multi-member districts is constitutionally permissible, unless the districts are designed to or would minimize or cancel out the voting strength of racial or political elements of the voting population, or their use produces deviations from substantial equality beyond the range of constitutional tolerance. Const. Pt. 2, Arts. 9, 11.

[12] Elections 12(6)
144k12(6)

In devising a court-ordered remedial apportionment plan, court considers the state's traditional redistricting policy of maintaining county boundaries; preserving county boundaries has been important historically because the state representatives of the districts of each county comprise the county convention, which has the power to raise county taxes, make appropriations, and authorize the purchase or sale of county real estate.

[13] Elections 12(6)
144k12(6)

In devising a court-ordered remedial apportionment plan, a consideration is that representative districts have traditionally been comprised of contiguous territories; a state may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory in designing a legislative apportionment scheme.

[14] Elections 12(6)
144k12(6)

The established method to determine whether a reapportionment plan affords citizens an equal right to vote is to calculate the extent to which the plan deviates from the ideal district population; the first step is to determine the ideal population, and then relative deviation is the most commonly used measure to determine the extent to which a given district population deviates from the ideal, by dividing the difference between the district's population and the ideal population by the ideal population. Const. Pt. 2, Arts. 9, 11.

[15] States 27(5)
360k27(5)

To calculate the ideal population of a single-member district in determining whether a state legislative redistricting plan affords citizens an equal right to vote, the state population is divided by the total number of state representatives, while the ideal population for a multi-member district is expressed as a multiple of the ideal population for a single-member district. Const. Pt. 2, Arts. 9, 11.

[16] States 27(5)
360k27(5)

Discrepancies between the ward populations as reported by various cities and as reported in federal census data required court to reject parties' state legislative redistricting plans.

[17] Elections 12(9.1)
144k12(9.1)

While political considerations are tolerated in legislatively-implemented redistricting plans, they have no place in a court-ordered plan.

[18] States 27(10)
360k27(10)

None of the submitted state legislative redistricting plans could be adopted by the Supreme Court, where each plan relied on incorrect population data, each plan miscalculated the overall range of population deviation, each plan had calculated partisan political consequences, and court had no principled way to choose among the plans.

[19] States 27(7)
360k27(7)

Court-adopted state legislative redistricting plan had 88 representative districts, none of which was a floterial, 65% of which had four or fewer representatives, and all of which were comprised of contiguous territories, and no town, ward, or place was divided unless it had requested division by referendum, county boundaries were not crossed in creating districts, plan had a range of deviation of 9.26%, and in devising the plan the court did not consider the impact on either political parties or

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incumbency. Const. Pt. 2, Arts. 9, 11, 11-a.

[20] States 27(5)
360k27(5)

Deviation range of approximately 9% in a court-ordered reapportionment plan achieved "substantial equality."

[21] States 27(5)
360k27(5)

Deviations in house legislative redistricting plan in the range of 49.7% were too high to be justified by any state interest.

[22] Elections 12(6)
144k12(6)

Floterials, which are districts that "float above" several distinct districts, are rejected as an unsound redistricting device.

[23] Elections 12(6)
144k12(6)

An actual census taken by an individual city is not a general census taken by the authority of the United States or of the state, as required by the state Constitution, and may not be used as a basis for apportionment. Const. Pt. 2, Art. 9.

****474 *144** Hatem & Donovan, P.C., of Salem (Michael D. Hatem and Bonnie J. Boulanger on the memorandum, and Mr. Hatem orally), for the petitioners.

Hinckley, Allen & Snyder, LLP, of Concord (Michael J. Connolly and Christopher H.M. Carter, on the memorandum, and Mr. Carter orally) for the Speaker of the New Hampshire House of Representatives.

Betsy B. Miller, house legal counsel, by memorandum and orally, for the New Hampshire House of Representatives.

John M. Pratt, by memorandum, and Mr. Pratt orally, pro se, as amici curiae.

Barry J. Glennon, staff attorney, of Concord, filed no memorandum, for the Secretary of State.

PER CURIAM.

Daniel Webster once said, "[T]he right to choose a representative is every man's portion of sovereign power." *Luther v. Borden*, 48 U.S. (7 How.) 1, 30, 12 L.Ed. 581 (1849) (statement of counsel).

For the first time in the history of this State, the supreme court is required to scrutinize the process of apportioning the people's right to vote in the election of representatives. That scrutiny has revealed significant anomalies, perpetuated for many years in the legislative redistricting process, which have undermined the principles of equality upon which the New Hampshire House of Representatives was founded. *See* N.H. CONST. pt. II, art. 9. Rather than protecting the people's constitutional right to "one person/one vote," a system has evolved that falls far short of that ideal. We hold, therefore, that the current method of creating districts fails to insure that "every voter is equal to every other voter" in this State. *Gray v. Sanders*, 372 U.S. 368, 380, 83 S.Ct. 801, 9 L.Ed.2d 821 (1963).

[1][2] This court has been drawn reluctantly into what is primarily a legislative task. "It is not our function to decide the peculiarly political questions involved in reapportionment, but it is our duty to insure the electorate equal protection of the laws." *Silver v. Brown*, 63 Cal.2d 270, 46 Cal.Rptr. 308, 405 P.2d 132, 140 (1965). Therefore, when the legislature has failed to act, it is the judiciary's duty to devise a constitutionally valid reapportionment plan. *See Scott v. Germano*, 381 U.S. 407, 409, 85 S.Ct. 1525, 14 L.Ed.2d 477 (1965) (*per curiam*).

In furtherance of that duty, we establish a plan for new house districts. Accordingly, RSA 662:5 (1996) is no longer applicable. This plan corrects ***145** the constitutional deficiencies in the existing districts and eliminates the present inequities. We are primarily governed by the constitutional requirement of "one person/one vote." In addition, in this case, we are able to adhere to other New Hampshire constitutional requirements and traditional State redistricting policies. We are indifferent to political considerations, such as incumbency or party affiliation. The plan we establish restores as nearly equal weight as possible to the votes of the people of New Hampshire. We do this by eliminating floterials and creating as many single-member districts as possible, with as few multi-member districts as necessary.

I. Background and Procedural History

The New Hampshire Constitution requires the

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legislature to redraw each representative district "as equal as circumstances **475 will admit" every ten years, based upon the decennial census. N.H. CONST. pt. II, art. 9; *see* N.H. CONST. pt. II, art. 11. In anticipation of the results of the 2000 census, the house began the reapportionment process in January 2001 with the introduction of House Bill (HB) 420.

According to the 2000 census, between 1990 and 2000, New Hampshire's population grew more than 10%, increasing from 1,109,252 citizens in 1990 to 1,235,786 citizens in 2000. This growth was unevenly distributed between the northern and southern portions of the State, however, with the largest population growth occurring in the south. As a result, it is undisputed that following the 2000 census, the existing representative districts, established in 1992 pursuant to the 1990 census, violate both the State and Federal Constitutions. *See* N.H. CONST. pt. I, art. 11; N.H. CONST. pt. II, art. 9; U.S. CONST. amend. XIV; RSA 662:5.

In the winter of 2002, after a series of public hearings on proposed reapportionment plans, HB 420, containing a new apportionment plan for the house was passed by both the house and the senate along party lines. The Governor vetoed the bill, however, on April 3, 2002. The house considered the Governor's veto on May 22, 2002, but was unable to achieve the two-thirds vote necessary to override it. As a result, HB 420 did not become law. *See* N.H. CONST. pt. II, art. 44.

[3] In April 2002, the eleven petitioners, all incumbents, filed a petition for original jurisdiction requesting the court to declare the existing representative districts unconstitutional and to impose a deadline for the legislature to enact a valid reapportionment plan for the house. Given the imperative to establish a redistricting plan consistent with constitutional requisites before the 2002 elections, the court accepted jurisdiction. *See* *Monier v. Gallen*, 122 N.H. 474, 476, 446 A.2d 454 (1982).

***146** Because the senate and house recessed on May 22, 2002, without enacting a house reapportionment plan, the court determined that it must establish a constitutional reapportionment plan for the house before a 2002 election could be held. *See* *Reynolds v. Sims*, 377 U.S. 533, 585, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964); *Connor v. Finch*, 431 U.S. 407, 415, 97 S.Ct. 1828, 52 L.Ed.2d 465 (1977).

The court has endeavored to reapportion the house as fairly, as efficiently and as quickly as possible. It ordered the parties to submit constitutional reapportionment proposals by June 6, 2002. The court further required that any proposal submitted be based upon the 2000 census data and comply with the constitutional principle of one person/one vote. Oral argument was held on June 11, 2002. It was not until July 16, 2002, that the parties finally provided the court with all necessary information. This decision follows ten days later.

The court informed the parties of its intent to appoint Bobby Bowers, Director of the South Carolina Budget and Control Board Office of Research and Statistics, as its technical advisor in this case because it is an "extraordinary [one] where the introduction of outside skills and expertise, not possessed by the judge, will hasten the just adjudication of a dispute without dislodging the delicate balance of the juristic role." *Reilly v. United States*, 863 F.2d 149, 156 (1st Cir.1988). Without objection, the court appointed him pursuant to its inherent authority. *See id.* *See generally* *State v. Coon*, 974 P.2d 386, 395-96 (Alaska 1999) (discussing authority of courts to appoint expert technical advisors). Bowers was appointed to serve the same role in this case as he was appointed to serve in **476 *Below v. Gardner*, 148 N.H. ----, 2002 WL 1369821 (decided June 24, 2002).

We have reviewed, in detail, each plan filed in accordance with court deadlines and have also considered the written and oral submissions of the parties.

II.Governing Principles

[4][5] The New Hampshire Constitution is the supreme law of this State. *See* *Merrill v. Sherburne*, 1 N.H. 199, 217, 1818 WL 479 (1818). The oath we took to honor that constitution makes it our duty to apply the State Constitution when it does not conflict with the United States Constitution. *See* *State v. LaFrance*, 124 N.H. 171, 177, 471 A.2d 340 (1983).

A. One Person/One Vote

1. History of Part II, Articles 9 and 11

[3] We begin with a discussion of the one person/one vote standard under our own constitution. The New Hampshire Constitution guarantees that each citizen's vote will have equal N.H. Const. pt. I, art. 11. ***147** With respect to the house of representatives, this right is assured by Part II, Articles 9 and 11 of the State Constitution.

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Part II, Article 9, as amended in 1964, requires that the house of representatives be "founded on principles of equality" and that representation in the house of representatives "be as equal as circumstances will admit." N.H. CONST. pt. II, art. 9. Part II, Article 11, as amended in 1964, states, in pertinent part:

> When any town, ward, or unincorporated place, according to the last federal decennial census, has less than the number of inhabitants necessary to entitle it to one representative, the legislature shall form those towns, wards, or unincorporated places into representative districts which contain a sufficient number of inhabitants to entitle each district so formed to one or more representatives for the entire district. In forming the districts, the boundaries of towns, wards and unincorporated places shall be preserved and the towns, wards and unincorporated places forming one district shall be reasonably proximate to one another.

N.H. CONST. pt. II, art. 11.

Both articles were last amended as a result of the Constitutional Convention in 1964. *See Journal of Constitutional Convention* 334, 358 (1964). Before 1964, Part II, Article 9 required the legislature to reapportion the house of representatives every ten years, following the taking of the national census. *See Levitt v. Stark*, 233 F.Supp. 566, 567 (D.N.H.1964). It further provided:

> The number of inhabitants necessary to entitle any town or ward to representatives additional to the first shall be for each additional representative twice the number of inhabitants required for the first representative, so that the mean increasing number for every additional representative shall be twice the number required for the first or one representative.

Id. (quotation omitted).

Before 1964, Part II, Article 11 required the legislature to provide representation for towns or wards having fewer than the number of inhabitants to entitle them to a representative "in at least one session in every ten years." *Id.* at 567-68 (quotation omitted). These towns or wards elected a representative "such proportionate part of the time as the number of its inhabitants shall bear to the requisite number established for one representative." *Id.* at 568 (quotation omitted).

***148** In 1961, the legislature set the number of inhabitants entitling a town to one representative at 822. *Id.*; *see* Laws 1961, ch. ****477** 275. It also established the election years in the decade to follow in which towns having fewer than 822 people were to elect a representative. *Levitt*, 233 F.Supp. at 568; *see* Laws 1961, ch. 275. Under the 1961 law, the smallest of these towns elected a representative to only one out of the five legislatures to be called in the decade, and the largest of these towns elected a representative to four out of the five legislatures to be called in the decade. *Levitt*, 233 F.Supp. at 568. Inhabitants of unincorporated places had no representation. *Id.* Thus, before 1964, representation in the house was essentially based upon a principle of one *town*/one vote, not one *person*/one vote.

At the 1964 Constitutional Convention, resolutions were introduced to amend both Part II, Article 9 and Part II, Article 11 to comply with recent United States Supreme Court decisions. The Governor supported amending Part II, Article 9 because he was "convinced that our present requirement that a town or ward have twice as much population for each additional representative as it needs for the first, would be declared unconstitutional." *Journal of Constitutional Convention, supra* at 48. He urged delegates to amend Part II, Article 11 so as to "provide a system of full-time representation in the House of every citizen in New Hampshire" and, thus, "forestall action by the courts." *Id.* The Governor warned that if the convention failed to amend these articles, "precedents in other states show that the courts will take action in your place." *Id.*

Approximately one week after the convention began, the United States District Court for the District of New Hampshire issued its opinion in *Levitt*. In *Levitt*, the federal court stated that it "entertain[ed] serious doubt of the federal constitutional validity of the New Hampshire method for selecting the members of the legislature." *Levitt*, 233 F.Supp. at 569. The court noted, however, that the United States Supreme Court had not yet held that *both* houses of a bicameral state legislature had to be apportioned on the basis of population, and intimated that if only one of the houses of the New Hampshire Legislature were apportioned on the basis of population, the other house might survive federal court scrutiny. *Id.*

Before adjourning on June 10, 1964, the convention successfully passed a resolution to amend Part II, Article 11. The resoultion to amend Part II, Article 11 "was intended to grant to the General Court the power to create districts where there are towns, wards and unincorporated places which are too small to be entitled to one full-time representative." Journal of Constitutional Convention, *supra* at 231. As one delegate noted, "At the present time, such towns, wards and places send representatives on a part-time

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basis only" and the delegates "have been warned in [*Lewitt*] that ***149** this provision for part-time representation is probably unconstitutional." *Id.*

The amendment was also intended to give the legislature "a large measure of flexibility in forming districts." *Id.* Thus, the legislature was not confined to drawing single-member districts, but was authorized to form districts that were represented by "one or more representatives." *Id.*; *see* Opinion of the Justices, 111 N.H. 146, 150-51, 276 A.2d 825 (1971). Nor was the legislature required to form these multi-member districts only from the towns, wards and places that formerly had only part-time representation. The reference to "those towns, wards or unincorporated places" was not intended to limit the legislature's discretion as to how to form multi-member districts. *Journal of Constitutional Convention, supra* at 231. As one delegate observed, "[W]e cannot here draw ****478** up a districting. That is a matter which will have to be taken up with the Legislature." *Id.* at 220.

The requirement that the towns, wards and places within a district be "reasonably proximate" to one another was also intended to give the legislature flexibility in drawing house districts. The convention delegates "felt that the Legislature should join towns and places which are close together wherever possible, but that there might be some instances where it would be just that two or more towns in the same county be put into a district though not adjacent or very close to each other." *Id.* at 231. The amendment the delegates passed, however, did not require the legislature to maintain county boundaries. *Id.*

The convention was unable to pass a resolution to amend Part II, Article 9 before adjourning on June 10, 1964. *See id.* at 399-402 (history of resolution nos. 4, 19 and 29); *Levitt v. Maynard*, 105 N.H. 447, 450- 51, 202 A.2d 478 (1964). The convention reconvened on July 8, 1964, however, following the United States Supreme Court decision in Reynolds. In *Reynolds*, 377 U.S. at 576, 84 S.Ct. 1362, the Court held, for the first time, that the Equal Protection Clause of the Federal Constitution requires both houses of a bicameral state legislature to be apportioned on the basis of population. *See Levitt*, 105 N.H. at 450-51, 202 A.2d 478. When it reconvened, the convention resolved to amend Part II, Article 9 to state that the house of representatives was "founded on principles of equality" and to require that representation in the house be "as equal as circumstances will admit." *Journal of Constitutional Convention, supra* at 351 53, 355, 358; N.H. CONST. pt. II, art. 9.

[6] In light of the history of the 1964 amendments to Part II, Articles 9 and 11, we hold that these provisions are at least as protective of a citizen's right to vote as the federal constitutional standard of one person/one vote. Accordingly, we need not undertake a separate federal analysis and we base this decision upon our State Constitution. *See* ***150***State v. Ball*, 124 N.H. 226, 233, 471 A.2d 347 (1983). We rely upon federal cases interpreting the Federal Constitution only to aid in our analysis. *See id.*

2. Substantive Requirement of One Person/One Vote

[7][8][9][10] "[T]he overriding objective [of apportionment] must be substantial equality of population among the various [legislative] districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State." *Reynolds*, 377 U.S. at 579, 84 S.Ct. 1362. Although "absolute population equality" need not be achieved, *Karcher v. Daggett*, 462 U.S. 725, 732-33, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983), a court devising a remedial apportionment plan for a state legislature "must ordinarily achieve the goal of population equality with little more than de minimis variation." *Chapman v. Meier*, 420 U.S. 1, 26-27, 95 S.Ct. 751, 42 L.Ed.2d 766 (1975). "[A]ny deviation from approximate population equality must be supported by enunciation of historically significant state policy or unique features." *Id.* at 26, 95 S.Ct. 751. In devising a court-ordered remedial apportionment plan, we must also act "circumspectly, and in a manner free from any taint of arbitrariness or discrimination." *Connor*, 431 U.S. at 415, 97 S.Ct. 1828 (quotation omitted).

a. Single- and Multi-Member Districts

[11] To achieve "substantial equality" in an apportionment plan, States generally use two types of districts: single-member districts consisting of one representative elected by the district's voters, and multi- ****479** member districts from which more than one representative are elected. *See Burns v. Richardson*, 384 U.S. 73, 88, 86 S.Ct. 1286, 16 L.Ed.2d 376 (1966); *see also* G. Moncrief & R. Joula, *When the Courts Don't Compute: Mathematics and Floterial Districts in Legislative Reapportionment Cases*, 4 J.L. & Pol. 737, 741 (1988).

Single-member districts are preferred. *See Connor*, 431 U.S. at 415, 97 S.Ct. 1828; *Chapman*, 420 U.S. at 19, 95 S.Ct. 751. Use of multi-member districts is

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constitutionally permissible, however, unless the districts are designed to or would "minimize or cancel out the voting strength of racial or political elements of the voting population," *Fortson v. Dorsey*, 379 U.S. 433, 439, 85 S.Ct. 498, 13 L.Ed.2d 401 (1965); *see Opinion of the Justices*, 111 N.H. at 150-51, 276 A.2d 825, or their use "produces deviations from substantial equality beyond the range of constitutional tolerance," Opinion of the Justices, 307 A.2d 198, 209 (Me.1973) (quotation omitted).

b. Floterials

A third method of representation used in a very few States, including New Hampshire within the last few decades, is a "floterial." *See* G. Moncrief & R. Joula, *supra* at 742. A floterial has been described as a district that "floats above" several distinct districts. *See id.* at 738 ***151** (quotation omitted). Floterials, as constructed in New Hampshire, have led to unusual results and voting right inequities.

For example, in Carroll County, the 1992 house reapportionment plan included three floterials: Districts 3, 8 and 10. A map of the 1992 plan for Carroll County is attached to this opinion as Appendix A. Each floterial consisted of some locations that were part of the floterial only and other locations that were part of either a single-member or multi-member district, in addition to the floterial.

Carroll County District 10 was a floterial with two representatives covering four towns, Moultonborough, Sandwich, Tamworth and Tuftonboro, with a total population of 8,029, according to the 1990 census. Moultonborough was also a single-member district with one representative for the town's total population of 2,956. Thus, voters in Moultonborough voted for three representatives and voters in the other three towns voted for two representatives.

Also in the 1992 plan, Carroll County District 8 consisted of one floterial representative for Wakefield, Wolfeboro and Brookfield. In addition, Wakefield was a single-member district with one representative for the town's population of 3,057 and Wolfeboro was a single-member district with one representative for the town's population of 4,807. Because of the floterial, voters in both Wakefield and Wolfeboro voted for two representatives, despite the difference in the population of these towns.

Finally, Carroll County District 3, a floterial, consisted of six communities: Bartlett (population 2,290), Chatham (population 268), Conway (population 7,940), Hale's Location (population 0), Hart's Location (population 36), and Jackson (population 678). Using 1990 census figures, the combined population of the six communities in District 3 was 11,212. The floterial representative covered all six communities in District 3. Additionally, four of the six communities in District 3 (Bartlett, Chatham, Hart's Location and Jackson with a combined total population of 3,272) were also in District 1, a single-member district; the other two communities in District 3 (Conway and Hale's Location with a combined total population of 7,940) were in District 2, a multi-member district with two representatives. The result of this configuration was that voters in Hart's ****480** Location, population 36, voted for the same number of representatives as the voters in Bartlett, population 2,290.

We select Carroll County as an example because it best illustrates that floterials are usually complicated and often confusing. By contrast, the court plan for Carroll County, attached as Appendix B, simply has one single-member district and four multi-member districts, each with four or fewer representatives. Moreover, as explained more fully in Sections III and IV below, when the towns within a floterial have vastly different ***152** populations, the use of the floterial can cause substantial deviations from the one person/one vote principle. *See* G. Moncrief & R. Joula, *supra* at 745. While the New Hampshire Constitution specifically contemplates the use of multi-member districts, *see* N.H. Const. pt. II, art. 11, it is silent as to floterials.

B. Other State Constitutional Principles

In addition to requiring that representative districts be drawn "as equal as circumstances will admit," the New Hampshire Constitution directs that any apportionment be based upon "the last general census of the inhabitants of the state taken by authority of the United States or of this state." *McGovern v. Secretary of State*, 138 N.H. 128, 131, 635 A.2d 498 (1993) (quotation omitted); N.H. CONST. pt. II, art. 9. The State Constitution also mandates that: (1) the house of representatives be comprised of no fewer than 375 and no more than 400 members; (2) no town, ward or place be divided unless it requests to be divided by referendum; and (3) the boundaries of towns, wards and places be preserved. N.H. CONST. pt. II, arts. 9, 11, 11-a. As previously discussed, the New Hampshire Constitution also requires that the towns, wards and places in a district be "reasonably proximate to one another." N.H. CONST. pt. II, art. 11.

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C. Traditional Reapportionment Principles

[12] We also consider the State's traditional redistricting policy of maintaining county boundaries. *See Boyer v. Gardner*, 540 F.Supp. 624, 629- 30 (D.N.H.1982). Preserving county boundaries has been important historically because "the state representatives of the districts of each county comprise the County Convention, which has the power to raise county taxes, make appropriations, and authorize the purchase or sale of county real estate." *Id.* at 630 n. 10; RSA 24:1 (2000),:13 (2000),:13-a (2000).

[13] A second consideration is that representative districts have traditionally been comprised of contiguous territories. "A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of contiguous territory in designing a legislative apportionment scheme." *Reynolds*, 377 U.S. at 578, 84 S.Ct. 1362.

III. Determining Whether a Plan Complies with One Person/One Vote

[14][15] The established method to determine whether a reapportionment plan affords citizens an equal right to vote is to calculate the extent to which the plan deviates from the ideal district population. *See New York City Bd. of Estimate v. Morris*, 489 U.S. 688, 700, 700-01 n. 7, 109 S.Ct. 1433, 103 L.Ed.2d 717 (1989). The first step is to determine the ideal population. To calculate the ideal population of a ***153** single-member district, the state population is divided by the total number of state representatives. In New Hampshire, assuming that the house contains 400 members, the ideal population for a single-member district ****481** is 3,089 (1,235,786 people divided by 400 representatives). The ideal population for a multi-member district is expressed as a multiple of the ideal population for a single-member district. In New Hampshire, the ideal population for a district with three representatives is 3,089 multiplied by 3, or 9,267.

Once the ideal population is calculated, it is then possible to determine the extent to which a given district population deviates from the ideal. Relative deviation is the most commonly used measure and is derived by dividing the difference between the district's population and the ideal population by the ideal population.

For example, the relative deviation for a single-member district in New Hampshire with a population of 4,000 is calculated by subtracting 3,089 from 4,000 and dividing the difference (+911) by 3,089. The relative deviation is 29%. For a multi-member district, the relative deviation is calculated using the "aggregate method," which aggregates the total number of representatives and the total population in the district to calculate deviation. Thus, for a district with a population of 8,000 and three representatives, the difference between 8,000 and 3 x 3,089 (9,267) is divided by 9,267, and the relative deviation is -14%.

Using the relative deviation, one can calculate the range of deviation by adding the largest positive deviation and the largest negative deviation without regard to algebraic sign. *See Abrams v. Johnson*, 521 U.S. 74, 98, 117 S.Ct. 1925, 138 L.Ed.2d 285 (1997). Thus, in the example above, 29% and - 14% yields a range of deviation of 43%.

IV. Plans Submitted by the Parties

We have carefully reviewed each plan against the neutral principles set forth above. All of the plans submitted for our consideration suffer from the same flaws. None is appropriate for wholesale adoption by the court. Moreover, none is appropriate for use as the court's starting point.

First, all of the plans contain erroneous population figures. All of the submitted plans were based upon ward boundaries drawn after the 2000 federal census was conducted. None of the plans identified which boundaries had changed, their location, or the data from which the changes were derived.

[16] Despite repeated requests, the parties did not forward this information to the court until July 1, 2002. After the court received the information, it discovered that there were discrepancies between the ward populations as reported by various cities and as reported in federal census data. This fact ***154** alone would require us to reject the parties' plans. However, the court notified the parties of the discrepancies, and on July 16, 2002, the parties filed a joint stipulation to the accuracy of most of the federal census data. The only portion of the data the parties disputed concerned the federal census data for Manchester wards 5, 6 and 7 as reconfigured after the 2000 census. After reviewing the boundaries used by the city of Manchester for wards 5, 6 and 7, the court learned that the city did not use census block features as ward lines in two areas in these wards. Accordingly, the court used the census block features that were closest to the ward lines set by the city.

Although the parties stipulated to the federal census

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figures for all other cities with changed wards, the cities of Dover and Claremont filed separate partial objections to the figures for their cities. The court was able to verify the information submitted by Dover, but was not able to verify the information submitted by Claremont. Thus, the court used the information ****482** submitted by Dover in constructing its plan, but did not use the information submitted by Claremont.

More importantly, *all* of the plans miscalculate the extent to which they deviate from the one person/one vote principle. All of the plans rely upon floterials and use the aggregate method to calculate the deviation of the floterials. The aggregate method is appropriate for multi-member districts, but is not appropriate for the floterials in the parties' plans because it masks substantial deviation from the one person/one vote principle.

For example, in the plan submitted by the house, the towns of Epping (population 5,476) and Fremont (population 3,510) are combined in a floterial with one representative. Each town also constitutes a single-member district and thus each town has its own representative. The plan calculates the deviation as if all three representatives represents both towns together (-3.03%). In fact, each town is represented by one representative as well as a floterial representative. Thus, treating this floterial as if it were simply a three-member district is misleading.

Similarly, in the plans submitted by the speaker of the house, Brentwood, Epping and Fremont are single-member districts and all three are also part of a floterial. The plans calculate the deviation as if the representative for Epping, the representative for Fremont, the representative for Brentwood, and the floterial representative represent all four towns. They do not. In fact, each town is represented by its own representative and also the floterial representative. Again, treating this floterial as if it were simply a four- member district distorts the actual deviation.

***155** The parties rely upon Boyer, 540 F.Supp. 624, as support for their use of the aggregate method. In Boyer, the United States District Court for the District of New Hampshire reviewed the constitutionality of the seventeen floterials included in the 1982 New Hampshire legislative apportionment plan under the Federal Constitution. *Id.* at 625-26. In assessing the validity of the floterials, the court ruled that it was proper to apply the aggregate method of calculating the range of deviation. *Id.* at 627-28. *Boyer*, however, is not binding on this court when we are construing our own constitution. Moreover, we believe that, particularly as used by the parties in this case, the aggregate method obscures substantial deviations from the one person/one vote principle. *See* G. Moncrief & R. Joula, *supra* at 745.

No party has argued that, to the extent a plan relies upon floterials, the deviations for the floterials should be calculated using the component method. *See* Appendix C. Nor has any party relied upon *Morris*, 489 U.S. at 700-02, 702 n. 9, 109 S.Ct. 1433, in which the court apparently relied upon a version of the component method to calculate total deviation in districts that had both single-member and at-large representatives. Here, unlike *Morris*, we have a record devoid of application of the component method to floterials.

Nonetheless, our own calculations indicate that even using the component method, the range of deviation produced by the floterials in the plans submitted is unacceptably high. For example, in the speaker's plans, the deviation created by the Rockingham District 25 floterial (Brentwood, Epping and Fremont) is -18.1% for Brentwood and +22.3% for Epping, yielding an overall deviation of 40.4%. In the house plan, the deviation created by the Rockingham District 24 floterial (Fremont and Epping) is -18.3% for Fremont and +10.1% for Epping, yielding a total deviation of 28.4%. In the petitioners' plan, the deviation created by the Rockingham District 9 floterial (Epping, Newfields, Newmarket ****483** and Nottingham) for Epping alone is 37.2%. Even without analysis of all of the floterials in each plan, these few examples demonstrate impermissible deviations, which are also far in excess of the deviation in the plan the court establishes today.

Another method for calculating the deviation for a floterial is the same as the method for calculating the deviation for a single-member district; this method results in exceptionally high deviations. Under this method, the ideal population (3,089) is subtracted from the floterial population and the result is divided by the ideal population. For example, a floterial that has a population of 10,000--and there are many this size or larger in the plans submitted--would have a deviation of 223%.

Because each plan miscalculates the deviation for floterials, the plans necessarily miscalculate their range of deviation. The properly calculated ranges of deviation for all of the submitted plans significantly exceed "the ***156** range of constitutional

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tolerance." *Opinion of the Justices*, 307 A.2d at 209. All of the submitted plans thus deviate substantially and impermissibly from the one person/one vote principle.

[17] Further, all of the submitted plans openly embrace political agendas. For instance, in the plan submitted by the speaker, he asserts, over the minority leader's objection, that one of the districts was created "despite a high deviation and a subsequently necessary floterial, at the request of the Minority Leader." Similarly, in the supporting memorandum submitted by the house, the house notes that certain districts have been apportioned to preserve incumbent seats, the apportionment of one district in Merrimack County "was part of a bi-partisan agreement," and the apportionment of a district in Sullivan County was also "a political agreement." At oral argument, the parties accused each other of crafting apportionment plans to achieve partisan advantage. While political considerations are tolerated in legislatively- implemented redistricting plans, they have no place in a court-ordered plan. *See* *Wilson v. Eu*, 1 Cal.4th 707, 4 Cal.Rptr.2d 379, 823 P.2d 545, 576-77 (1992); *see also* *Wyche v. Madison Parish Police Jury*, 769 F.2d 265, 268 (5th Cir.1985) (*per curiam*).

The degree to which the submitted plans may reflect political considerations is perhaps best illustrated by how each plan treats the same cities and towns differently. For example, in the speaker's plans, the city of Berlin (population 10,331) constitutes a multi-member district with three representatives and is also part of a two-representative floterial that includes twenty-two other towns (from Bean's Grant to Whitefield).

By contrast, in the house plan, Berlin has no dedicated representatives. Rather, it is part of two multi-member districts, each with two representatives. The first multi-member district has thirteen other towns and the second has nineteen other towns. The towns in the first multi-member district are also part of the second multi-member district.

In the petitioners' plan, Berlin, Jefferson, Milan and Randolph are in one multi-member district that has four representatives. And, in the amici plan, Berlin, along with eight other towns, is part of a multi-member district that has four representatives.

[18] Based upon our review of the submitted plans, we conclude that none can be adopted by the court. Each plan relies upon incorrect population data. Each plan miscalculates the overall range of population deviation. Each plan has "calculated partisan political consequences (the details of which are unknown).... We have no ****484** principled way to choose [among] the plans, especially knowing that we would be endorsing an unknown but intended political consequence by the choice we make." *Wilson*, 4 Cal.Rptr.2d 379, 823 P.2d at 576-77.

***157** Accordingly, the court has devised a reapportionment plan consistent with neutral State and federal constitutional principles.

V. Court's Plan

[19] The court's plan, which is attached as Appendix D, retains the same number of representatives (400) as in the 1992 house plan. The court's plan creates eighty-eight representative districts, none of which is a floterial. Five are single-member districts, fourteen are two-member districts, twenty- four are three-member districts, fourteen are four-member districts and thirty- one are districts with more than four representatives. Thus, 65% of the districts have four or fewer representatives.

All of the districts are comprised of contiguous territories. No town, ward or place was divided unless it had requested division by referendum. *See* N.H. CONST. pt. II, arts. 11, 11-a. Nor were county boundaries crossed in creating the districts.

[20] The court's plan has a range of deviation of 9.26%, which is dramatically lower than the range of deviation in any of the submitted plans. The plan's deviation range was derived by adding the deviations of the highest relative positive deviation (Nashua ward 2 at +4.72%) and the highest negative relative deviation (Manchester ward 9 at 4.54%). These deviations were calculated by using the traditional method to calculate the deviations of single-member and multi-member districts. *See* *Morris*, 489 U.S. at 700, 700-01 n. 7, 109 S.Ct. 1433. Given the small population of this State, the unusually large size of its house of representatives, and our State Constitution and traditional redistricting policies, we hold that a deviation range of approximately 9% achieves "substantial equality." *Reynolds*, 377 U.S. at 579, 84 S.Ct. 1362.

New Hampshire has the largest state house of representatives in the country. *See* Council of State Governments, 33 *The Book of the States* at 70 (2000). New Hampshire also has one of the smallest state populations in the country. According to the 2000 federal census, New Hampshire ranks 41st in

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population. *See* U.S. Census Bureau, *Statistical Abstract of the United States*: 2001 at 21 (121st ed.2001). Because New Hampshire has such a large house of representatives (400 members) and such a small population (1,235,786), it takes very few people to affect deviation substantially. For instance, a 10% deviation represents only 309 people, and a 1% deviation represents a mere 31 people.

By contrast, Pennsylvania, with the next largest house of representatives (203) has a much larger population (12,281,054, according to the 2000 census). *See* Council of State Governments, *supra* at 70; U.S. Census Bureau, *State and County QuickFacts Pennsylvania, ***158** available at* http: // quickfacts.census.gov./ qfd/states/ 42000.html. The ideal district population in Pennsylvania is 60,498--about twenty times the size of the ideal district population in New Hampshire. A 10% deviation from the ideal district population in Pennsylvania represents 6,050 individuals--about twenty times the number of individuals represented by a 10% deviation from the ideal district population in New Hampshire (309 people).

Even Maine, with a population that is similar in size to New Hampshire's (1,274,923, according to the 2000 census), has a ****485** larger ideal district population than does New Hampshire. U.S. Census Bureau, *State and County QuickFacts Maine, available at* http://quickfacts.census.gov./ qfd/states/23000.html. The ideal district population in Maine is 8,443. This is because the size of the Maine House of Representatives is only 151 representatives, compared to New Hampshire's 400 representatives. *See* Council of State Governments, *supra* at 70. A 10% deviation in Maine represents more than 800 people--almost three times the number of individuals represented by the same deviation from the ideal district in New Hampshire (309 persons).

[21] The court did not use the 1992 house districting plan as its starting point because it was of dubious constitutionality at the time it was passed. The range of deviation for the 1992 plan, using the 1990 census figures, was at least 49.7%. Deviations in this range are too high to be justified by any state interest. *See* Gaffney v. Cummings, 412 U.S. 735, 744, 93 S.Ct. 2321, 37 L.Ed.2d 298 (1973); *Morris*, 489 U.S. at 702, 109 S.Ct. 1433.

[22] Moreover, the 1992 plan relied heavily upon floterials. Although it ostensibly contained seventy-two single-member districts, only nine of these districts were true single-member districts. The rest were created by floterials. For the reasons stated above, we reject floterials as an unsound redistricting device. The range of deviation calculated above did not include the floterials. Had they been included in the calculation using the component method, the range of deviation would likely have been higher.

The court attempted to create as many true single-member districts as possible, but the mathematical reality is that only a handful of towns have a population that is close to the ideal district population of 3,089.

Although the court's plan achieves a range of deviation that complies with the one person/one vote principle, the court considered taking steps to reduce the deviation range even further. The court discovered, however, that reducing the range of deviation further required dividing wards into single-member districts. Dividing wards would violate Part II, Article 11-a of the New Hampshire Constitution. Indeed, if the court divided one ward, it would have no principled basis for keeping the boundaries of any other ***159** ward intact. In other words, if the court were to ignore the boundaries of one town, ward or place to create a single-member district, it would have no valid reason not to create single-member districts statewide.

Although creating 400 single-member districts statewide would have resulted in little or no deviation, such a radical restructuring of the house was not only not required by the one person/one vote principle, but would have contravened other State constitutional imperatives.

The court endeavored to create multi-member districts that had as few representatives as possible because of its concern that large multi-member districts may tend to dilute the voting strength of racial or political elements of the voting population. *See Opinion of the Justices*, 111 N.H. at 151, 276 A.2d 825. Although we are not called upon, today, to determine the effect of RSA 656:5 (Supp.2001), requiring majority party candidates for the house to be listed first on all ballots, the number and size of multi- member districts in this plan may justify the concern about the statute raised at oral argument by the *amici*.

Large multi-member districts exist in the court's plan for three reasons: (1) the city or town did not request division, *see* N.H. CONST. pt. II, art. 11-a; (2) a city ****486** divided into wards had not properly drawn its ward boundaries; or (3) joining contiguous towns and/or joining contiguous wards was required to produce deviations within the 5% range.

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[23] For instance, the court discovered that in the city of Rochester, city officials used features unrecognized by the United States Census Bureau as ward boundaries and used its own enumeration, instead of federal census data, to determine ward populations. "An actual census taken by an individual city ... [is] not ... a general census taken by the authority of the United States or of this State," as required by Part II, Article 9 of the New Hampshire Constitution, and may "not be used as a basis for apportionment." *Opinion of the Justices*, 111 N.H. at 150, 276 A.2d 825 (quotation omitted). Accordingly, the court was required to consider the city of Rochester as a whole and did not use the city's ward boundaries. It is now the largest multi-member district.

Similarly, the court was forced to consider the city of Claremont as a whole, rather than to use its ward boundaries, because the court was not able to verify the populations totals provided by the city for its adjusted wards.

One of the largest multi-member districts, Salem/Windham, has 13 representatives, the same number which the two communities had between them under the 1992 plan.

In Manchester, wards 2, 3, 10 and 11 are combined into an eleven representative multi-member district because it was the only combination ***160** of wards that considered in light of all other towns, wards and places, would produce a deviation of less than 5%.

In devising the reapportionment plan, the court did not consider the impact upon either political parties or incumbency.

VI. Conclusion

The court recognizes that its redistricting plan changes house districts significantly. These changes were unavoidable because past house districting plans have not given the fundamental democratic principle of one person/one vote the attention and weight to which it is entitled. The court's plan reinstates the primacy of this principle and ensures that "the vote of any citizen is approximately equal in weight to that of any other citizen in the State." *Reynolds*, 377 U.S. at 579, 84 S.Ct. 1362.

This plan is effective immediately and the injunction against the house filing period is dissolved as of 12:01 a.m. July 31, 2002. Unless otherwise ordered by the court, the filing of any motion to reconsider shall not stay the effective date of the plan.

So ordered.

BROCK, C.J., and NADEAU, DALIANIS and DUGGAN, JJ., concurred.

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****487 *161** APPENDIX A

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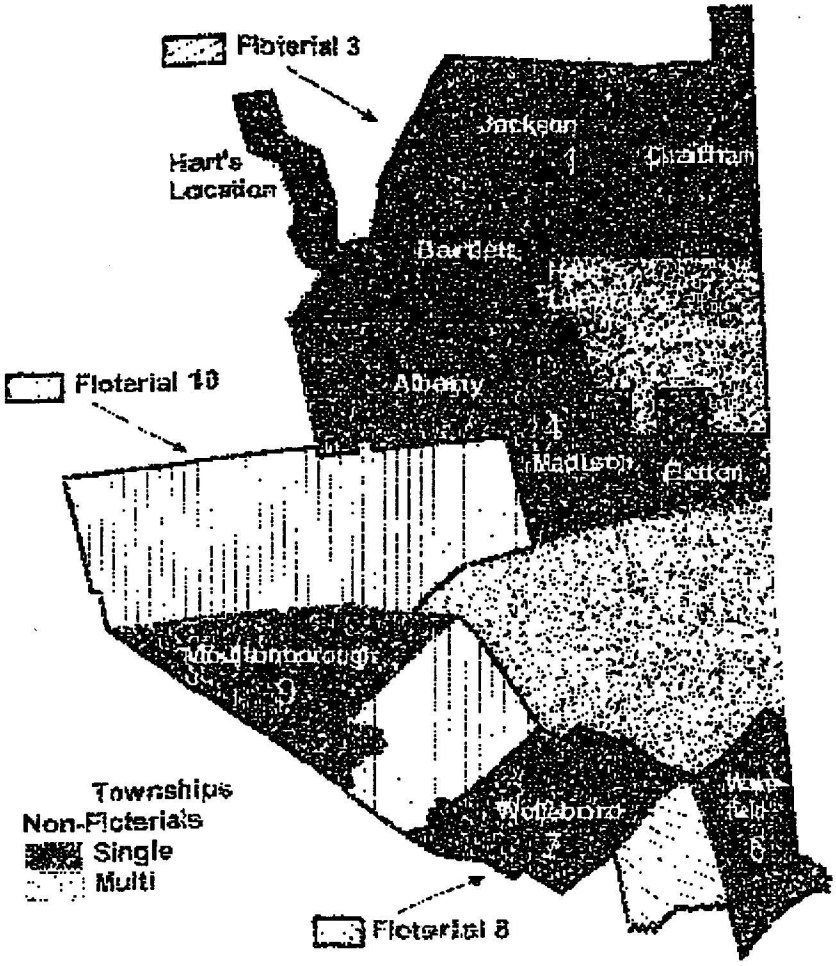
APPENDIX A

Carroll County
New Hampshire House Districts 1992



**488 *162 APPENDIX B

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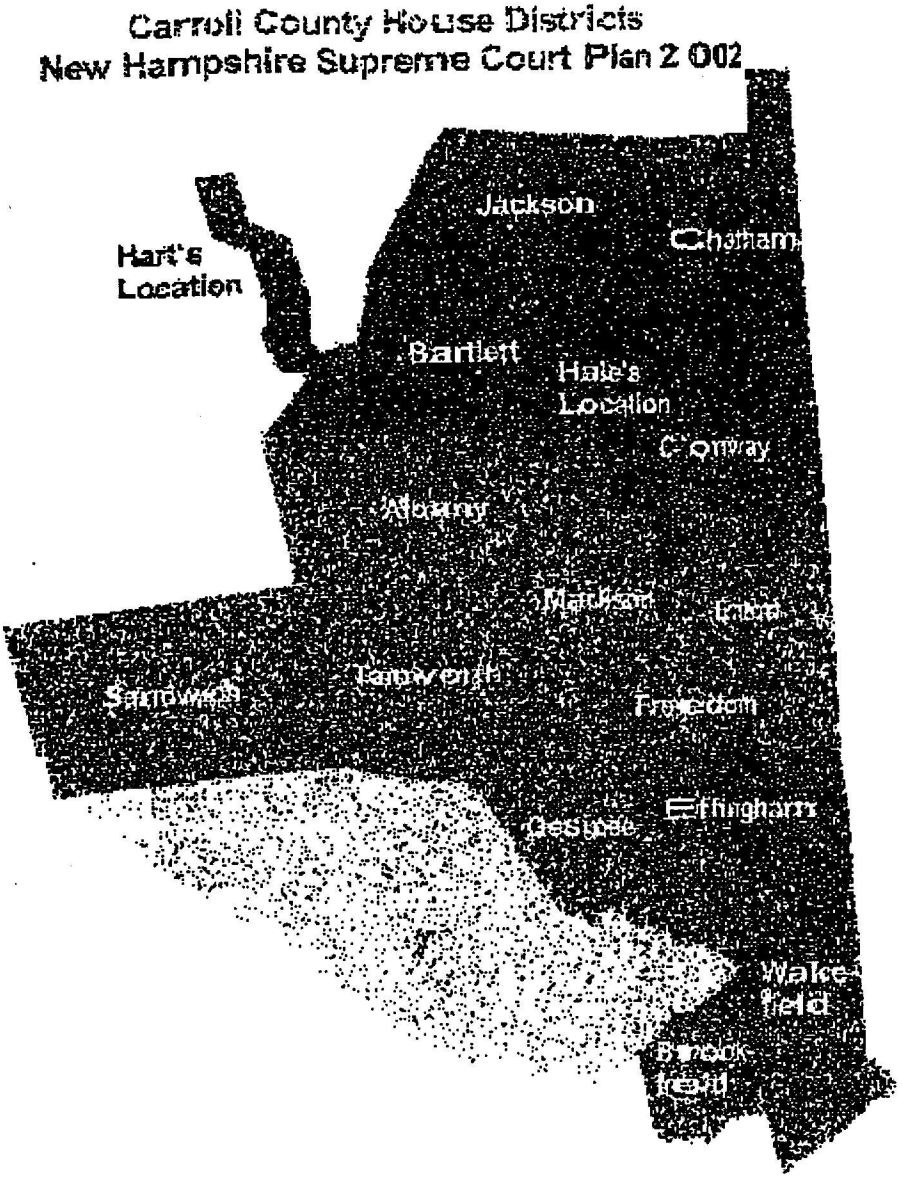
APPENDIX B



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APPENDIX C

Component Method

To Calculate Ratio Share

Divide the town population by the total population – this assigns each town their share of the floterial plus their dedicated seats – divide by total seats and convert to percentage

3,286 ÷ 27,640 = .1188 = 11.9%

To Calculate Deviation

Ratio Share + Other Seats in Town = Adjusted Number of Seats

1 ÷ .119 = 1.119

Town Population ÷ Adjusted Seats = Component Population

3286 ÷ 1.119 = 2936.55

(Component Population – Ideal Population) ÷ Ideal Population =

2936.55 – 2773 = 163.55 ÷ 2773 = .0589 = 5.89%

See N.H. Redistricting Committee, Methods for Calculating Deviation, available at http://gencourt.state.nh.us/houseredistrict/deviationcalculation.html.

**490 *164 APPENDIX D

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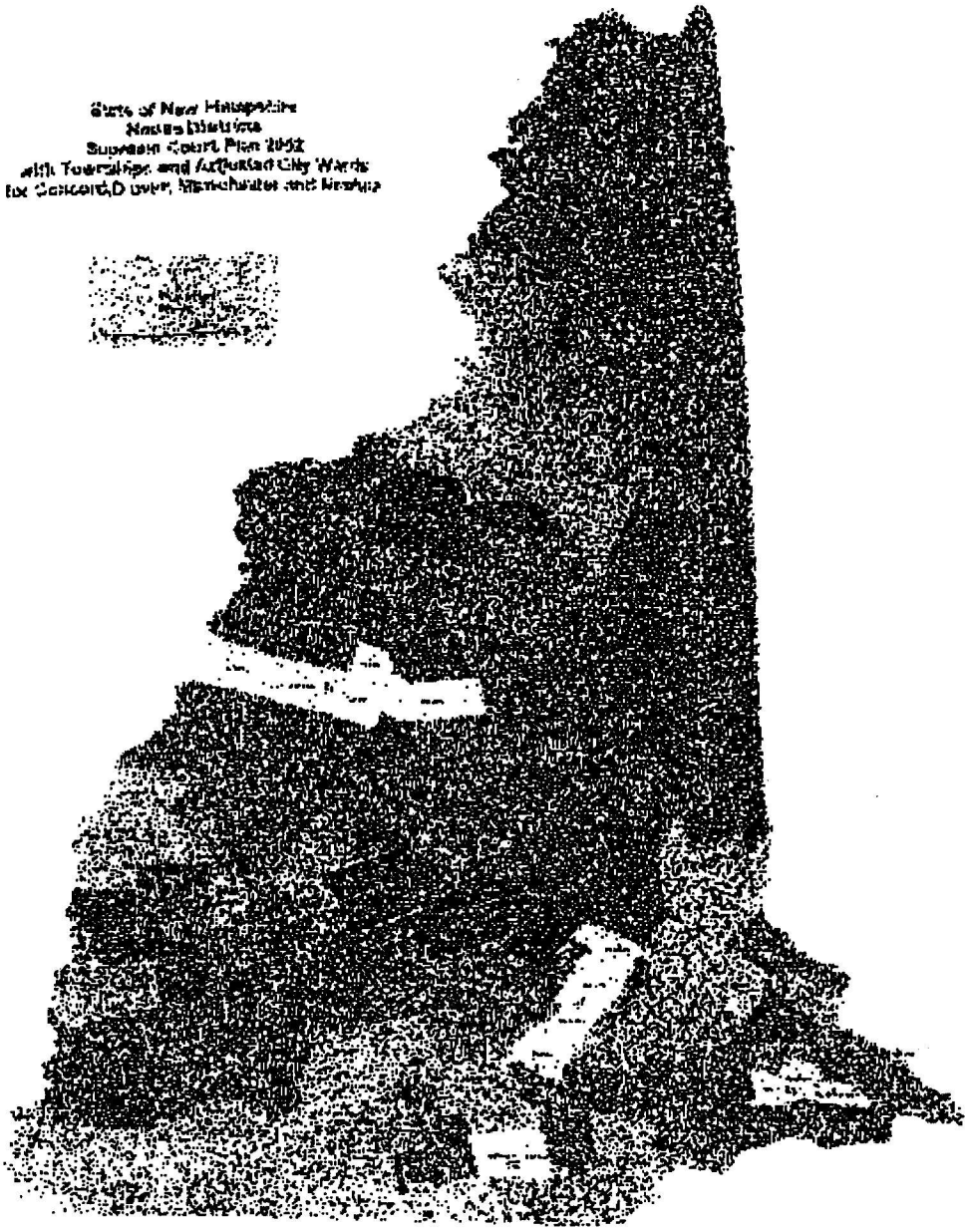
APPENDIX D



**491 *165 APPENDIX E

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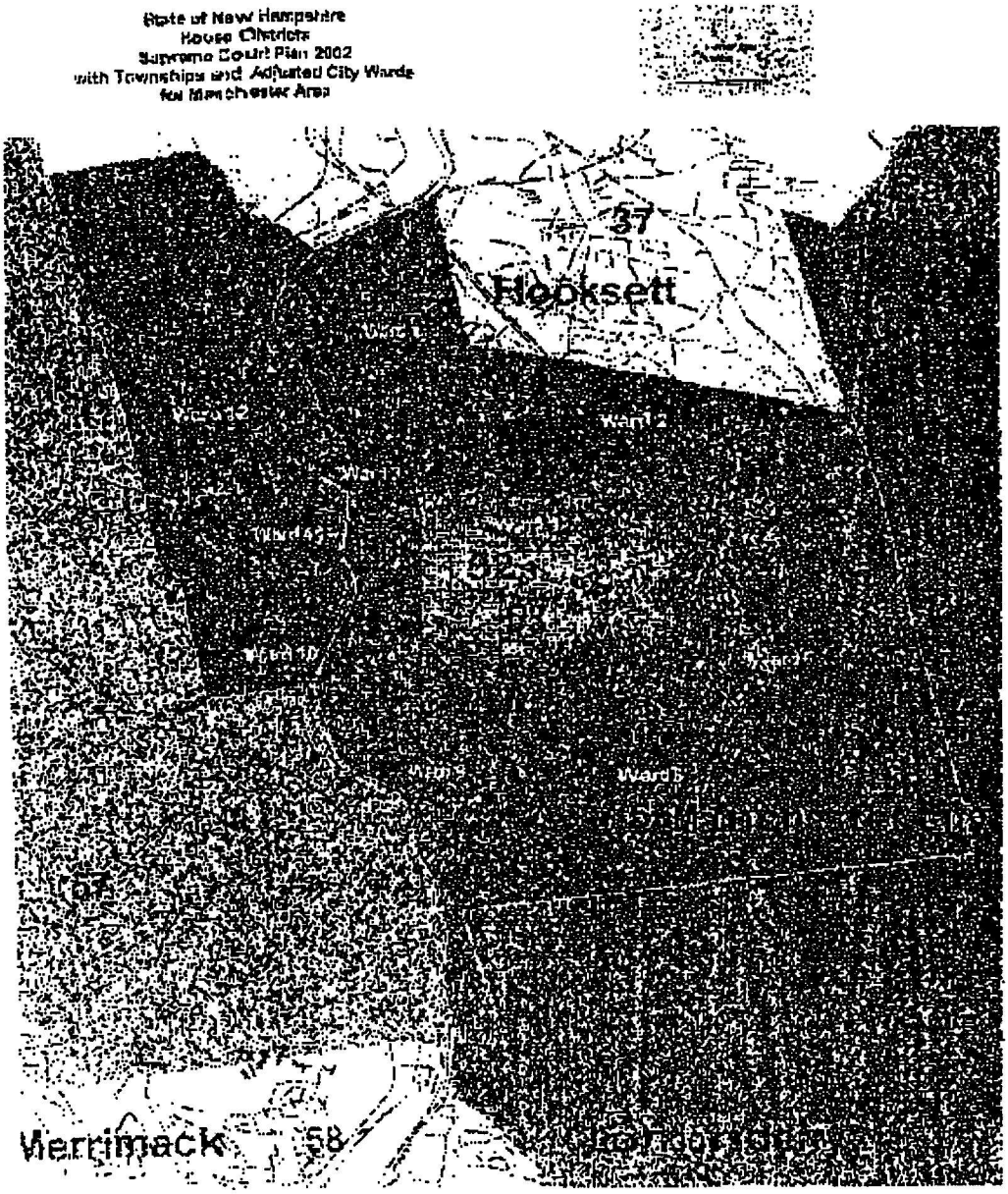
APPENDIX F



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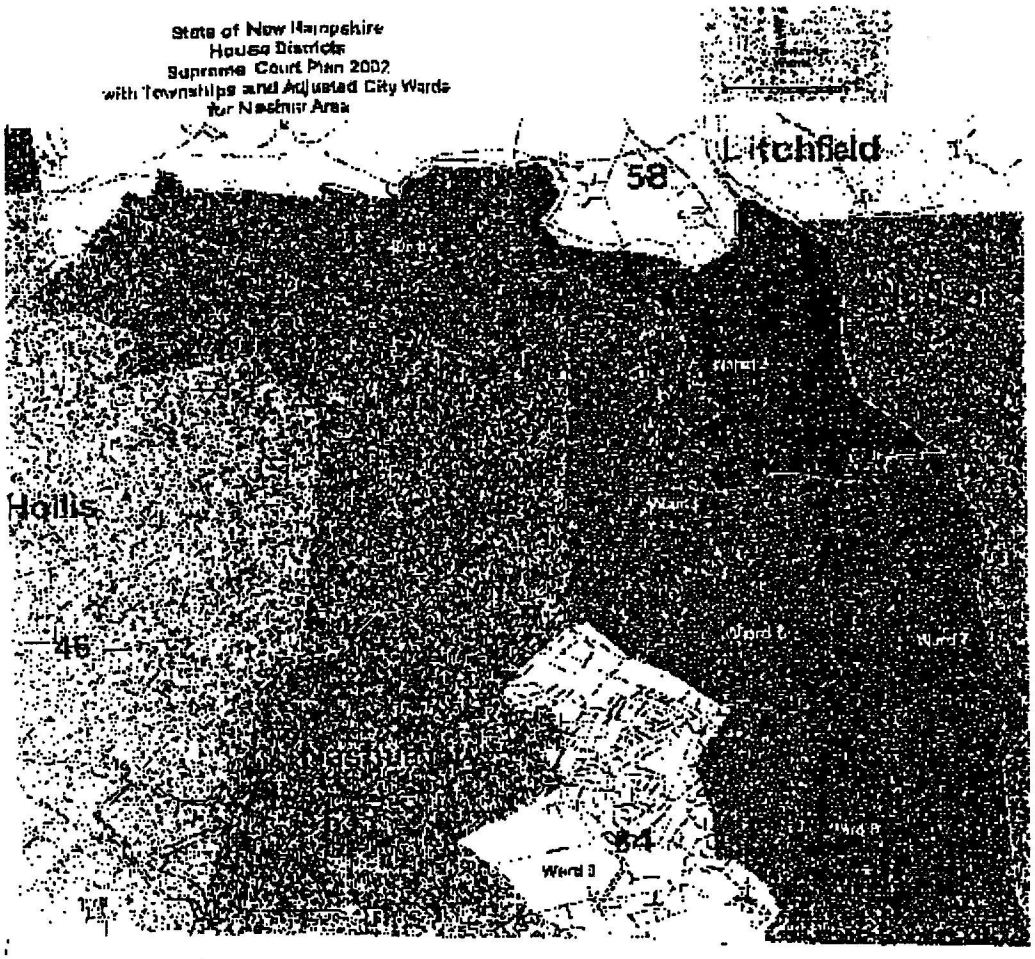
APPENDIX F



**493 *167 APPENDIX G

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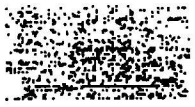
APPENDIX G

State of New Hampshire
House Districts
Supreme Court Plan 2002
with Townships and Adjusted City Wards
for Concord Area



**494 *168 APPENDIX H

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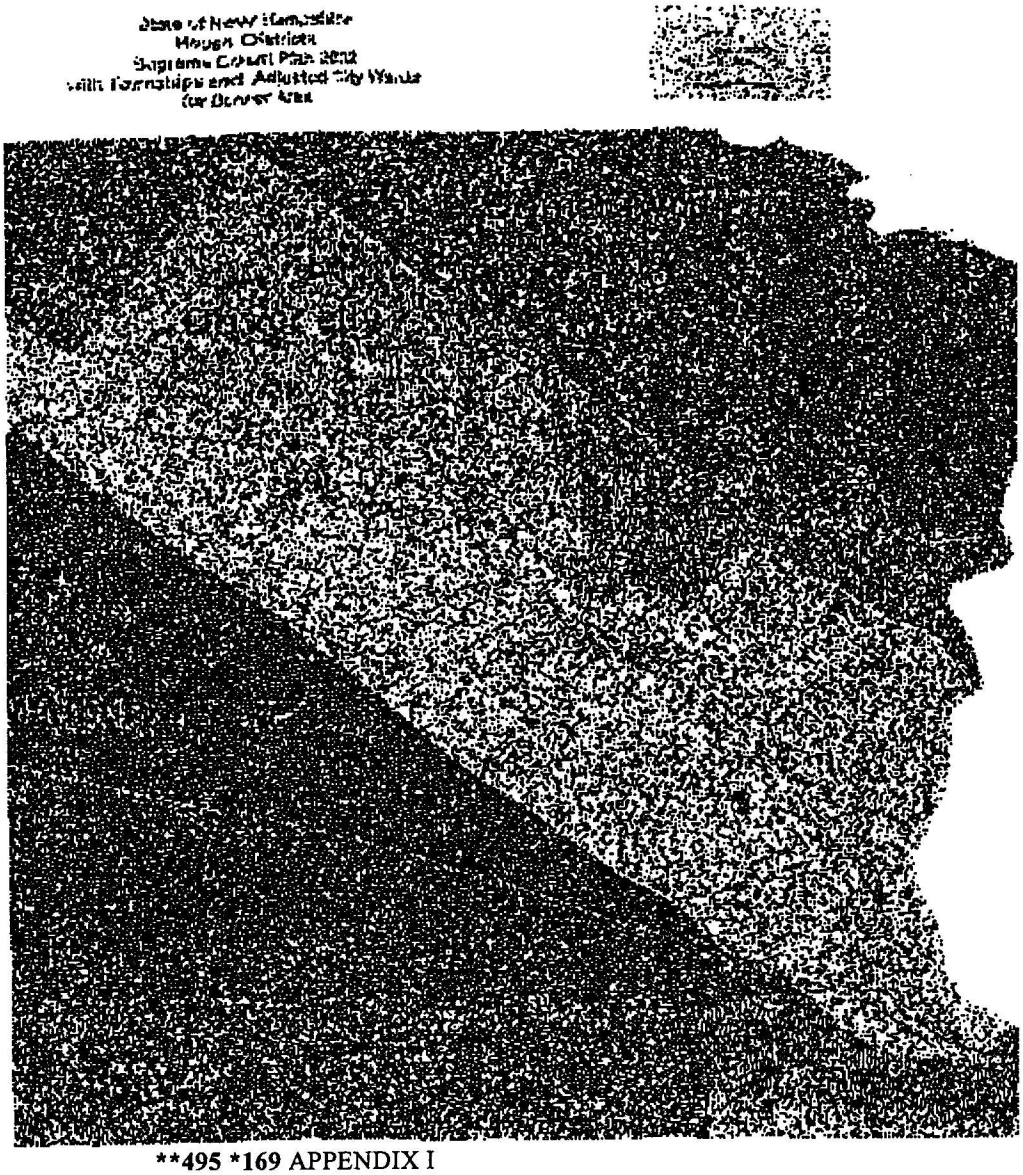
APPENDIX H



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APPENDIX I

State of New Hampshire
House Districts
Supreme Court Plan 2002
Population Summary Report

DISTRICT	Seat(s)	TOTAL PERSONS	IDEAL	DEVIATION	BLACK	HISPANIC	ASIAN	NAT. AMERICAN	HAWAIIAN	TAHAWPAC	OTHER
1	2	6626	3089	2.58%	2	25	17	10	2	2	9
2	5	15044	3089	-2.83%	16	100	47	73	2	2	54
3	4	12047	3089	2.83%	30	72	29	40	1	2	23
4	4	12439	3089	1.13%	25	46	37	79	1	2	41
5	1	3013	3089	-2.46%	3	20	15	5	2	2	5
6	3	9310	3089	2.46%	20	56	29	19	0	0	12
7	4	12715	3089	2.91%	15	74	13	52	0	0	5
8	2	6129	3089	-0.76%	9	31	25	11	1	1	9
9	2	6339	3089	2.49%	23	86	34	50	3	3	37
10	1	3123	3089	1.10%	4	20	19	14	0	0	4
11	2	5907	3089	-3.42%	2	24	16	25	0	0	7
12	1	2982	3089	-3.46%	6	21	6	7	1	1	12
13	2	6312	3089	2.17%	22	35	13	26	1	1	10
14	2	3175	3089	-0.05%	11	33	15	34	5	5	16
15	2	5951	3089	2.60%	27	36	6	60	0	0	38
16	3	9677	3089	4.42%	25	51	24	77	1	1	24
17	7	22255	3089	2.35%	211	542	88	793	7	7	110
18	4	12568	3089	1.72%	104	208	54	335	1	1	51
19	2	6069	3089	-1.76%	17	28	18	22	3	3	13
20	3	9511	3089	2.63%	9	62	34	26	0	0	15
21	1	3055	3089	-1.10%	0	14	6	11	1	1	12
22	5	15652	3089	1.34%	42	73	44	84	5	5	18
23	2	6171	3089	-0.11%	32	38	18	9	0	0	4
24	4	12027	3089	2.86%	33	40	55	40	1	1	13
25	7	22565	3089	4.35%	59	172	45	153	7	7	50
26	3	14986	3089	-2.67%	50	95	63	38	16	16	24
27	4	11946	3089	-4.13%	16	65	26	42	1	1	14
28	4	12420	3089	0.30%	91	86	35	70	1	1	30
29	3	9004	3089	-2.84%	12	97	27	47	3	3	14
30	7	22354	3089	2.39%	130	159	78	174	8	8	57
31	8	24587	3089	1.03%	59	159	85	110	2	2	21
32	2	6331	3089	2.48%	12	34	4	37	2	2	9
33	3	9587	3089	1.40%	33	102	34	47	2	2	23
34	6	19871	3089	1.82%	41	137	41	81	6	6	38
35	5	17930	3089	-3.24%	58	124	51	35	5	5	23
36	3	9132	3089	-1.46%	53	46	25	29	0	0	8
37	9	24516	3089	-0.72%	123	230	45	230	3	3	50
38	4	12594	3089	1.62%	147	254	44	130	0	0	23
39	5	15082	3089	3.36%	185	210	40	254	13	13	65
40	4	12031	3089	-2.25%	79	127	38	203	0	0	31
41	3	9364	3089	1.05%	11	42	17	84	0	0	22
42	5	9317	3089	0.54%	22	53	36	62	0	0	8
43	2	6413	3089	3.60%	19	47	25	12	2	2	22
44	4	12766	3089	3.24%	74	98	20	104	3	3	25
45	4	12707	3089	3.07%	39	101	16	48	0	0	45
46	4	12565	3089	-0.11%	48	114	17	147	6	6	27
47	8	24924	3089	1.80%	188	287	35	280	3	3	51
48	6	24705	3089	-0.03%	56	145	57	86	2	2	72
49	8	27712	3089	-4.44%	308	417	70	346	2	2	159
50	11	35509	3089	4.50%	807	1926	143	725	21	21	653
51	3	8900	3089	-3.95%	218	432	27	245	3	3	177
52	3	9070	3089	-2.13%	251	562	39	324	3	3	303
53	5	9070	3089	-2.13%	130	568	32	176	2	2	147
54	3	8978	3089	-3.12%	103	137	18	163	0	0	52
55	3	8840	3089	-4.54%	270	328	25	192	3	3	105

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APPENDIX I

State of New Hampshire
House Districts
Supreme Court Plan 2002
Population Summary Report

DISTRICT	Seats(s)	CAPACITY	IDEAL	DEVIATION	TOT. ASIA	HISPANIC	AMERIND	BLACK	TAHAWPAC	WHITE
56	3	8921	3089	-3.73%	69	223	16	178	4	46
57	6	18274	3089	-1.40%	56	135	11	234	4	25
58	11	33478	3089	-4.41%	273	333	69	420	10	85
59	3	9704	3089	4.72%	179	435	18	619	2	277
60	3	9899	3089	4.86%	143	735	58	165	0	258
61	3	9554	3089	3.08%	121	175	25	254	5	66
62	8	19895	3089	3.57%	521	2644	82	213	8	1419
63	3	9825	3089	3.80%	110	152	6	233	2	55
64	3	9576	3089	0.00%	118	247	19	532	3	84
65	8	18251	3089	3.88%	474	1060	80	1343	9	545
66	11	33642	3089	-0.40%	241	451	58	383	13	152
67	14	42585	3089	-1.53%	233	456	86	372	13	144
68	8	24445	3089	-1.08%	41	180	59	77	4	40
69	3	8995	3089	-2.82%	153	115	16	145	7	46
70	3	8995	3089	-2.82%	151	119	22	344	7	29
71	3	8880	3089	-4.07%	47	72	13	145	1	18
72	6	18318	3089	-1.17%	127	213	40	475	24	56
73	5	14930	3089	-3.33%	41	91	41	73	7	29
74	3	8874	3089	-4.38%	54	78	23	18	5	95
75	9	27910	3089	0.42%	136	400	51	746	6	68
76	13	38821	3089	2.33%	190	866	68	600	31	285
77	11	34021	3089	0.12%	305	545	71	582	18	205
78	2	6178	3089	0.00%	16	45	4	73	0	15
79	11	34964	3089	2.50%	92	509	55	142	9	99
80	4	12183	3089	-1.40%	44	110	23	64	2	40
81	2	6313	3089	-1.70%	31	62	9	9	2	34
82	3	9578	3089	5.30%	86	147	16	254	0	38
83	8	24672	3089	-0.15%	92	198	29	212	0	59
84	4	12551	3089	1.58%	35	84	23	70	4	31
85	5	14937	3089	-3.23%	53	135	28	125	10	37
86	7	21550	3089	-0.32%	455	284	48	518	5	56
87	1	3208	3089	3.85%	3	23	1	39	1	1
88	2	6192	3089	0.23%	13	37	4	29	0	5
Totals	430	1328076			8015	30428	2980	15863	372	7411

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APPENDIX J

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	PERSONS	Deviation
001	2	Coos County	Atkinson & Gilmanton Academy Grant	12	
		Coos County	Cambridge	10	
		Coos County	Clarksville	294	
		Coos County	Colebrook	2321	
		Coos County	Columbia	750	
		Coos County	Dix Grant	0	
		Coos County	Dixville	75	
		Coos County	Dummer	309	
		Coos County	Errol	298	
		Coos County	Erving's Location	1	
		Coos County	Millsfield	22	
		Coos County	Odell	5	
		Coos County	Pittsburg	867	
		Coos County	Second College Grant	0	
		Coos County	Stewartstown	1012	
		Coos County	Wentworth Location	44	
Totals				6020	-2.96%
002	5	Coos County	Beans Grant	0	
		Coos County	Cargo	885	
		Coos County	Chandlers Purchase	0	
		Coos County	Crawfords Purchase	0	
		Coos County	Cutts Grant	0	
		Coos County	Dalton	927	
		Coos County	Gorham	2895	
		Coos County	Greens Grant	0	
		Coos County	Hadleys Purchase	0	
		Coos County	Jefferson	1224	
		Coos County	Kilkenny	0	
		Coos County	Lancaster	5280	
		Coos County	Lowand Burbanks Grant	0	
		Coos County	Martins Location	0	
		Coos County	Northumberland	2439	
		Coos County	Pinkhams Grant	0	
		Coos County	Randolph	336	
		Coos County	Sargents Purchase	0	
		Coos County	Stark	516	
		Coos County	Stratford	942	
		Coos County	Thompson and Meserves Purchase	0	
		Coos County	Whitefield	2058	
Totals				13454	-2.60%
003	4	Coos County	Bean's Purchase	4	
		Coos County	Berlin city	10331	
		Coos County	Milan	1331	
		Coos County	Shelburne	370	
		Coos County	Success	2	
				12047	-2.50%
004	4	Carroll County	Bartlett	2726	
		Carroll County	Chatham	250	
		Carroll County	Conway	9004	
		Carroll County	Hart's Location	58	

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DISTRICT	SEATS	COUNTY	TOWN/WARD	TAPERGONS	deviation
		Carroll County	Hart's Location	37	
		Carroll County	Jackson	835	
Totals				12499	1.16%
005	1	Carroll County	Albany	654	
		Carroll County	Eaton	575	
		Carroll County	Madison	1984	
Totals				3013	-2.46%
006	3	Carroll County	Freedom	1303	
		Carroll County	Ossipee	4211	
		Carroll County	Sandwich	1286	
		Carroll County	Tamworth	2510	
Totals				9310	0.48%
007	4	Carroll County	Moultonborough	4484	
		Carroll County	Tuftonboro	2148	
		Carroll County	Wolfeboro	6083	
Totals				12715	2.91%
008	2	Carroll County	Brookfield	804	
		Carroll County	Effingham	1273	
		Carroll County	Wakefield	4252	
Totals				6129	-0.79%
009	2	Grafton County	Littleton	5546	
		Grafton County	Lyman	487	
Totals				6033	2.49%
010	1	Grafton County	Bethlehem	2199	
		Grafton County	Franconia	924	
Totals				3123	1.10%
011	2	Grafton County	Bath	893	
		Grafton County	Easton	258	
		Grafton County	Landaff	375	
		Grafton County	Lincoln	1271	
		Grafton County	Lisbon	1557	
		Grafton County	Livermore	3	
		Grafton County	Monroe	759	
		Grafton County	Sugar Hill	565	
		Grafton County	Waterville Valley	257	
Totals				5967	-3.42%
012	1	Grafton County	Thornton	1843	
		Grafton County	Woodstock	1139	
Totals				2982	-3.48%

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	TAPERSONS	Deviation
013	2	Grafton County	Benton	314	
		Grafton County	Haverhill	4410	
		Grafton County	Piermont	709	
		Grafton County	Warren	979	
Totals				6412	2.27%
014	2	Grafton County	Campton	2719	
		Grafton County	Ellsworth	87	
		Grafton County	Orford	1091	
		Grafton County	Rumney	1480	
		Grafton County	Wentworth	798	
Totals				6175	-0.05%
015	2	Grafton County	Hebron	452	
		Grafton County	Plymouth	5899	
Totals				6351	2.80%
016	3	Grafton County	Alexandria	1323	
		Grafton County	Ashland	1055	
		Grafton County	Bridgewater	974	
		Grafton County	Bristol	3033	
		Grafton County	Groton	156	
		Grafton County	Holderness	1930	
Totals				9677	4.42%
017	7	Grafton County	Canaan	3319	
		Grafton County	Dorchester	393	
		Grafton County	Enfield	4616	
		Grafton County	Grafton	1138	
		Grafton County	Hanover	10850	
		Grafton County	Lyme	1676	
		Grafton County	Orange	289	
Totals				22296	2.93%
018	4	Grafton County	Lebanon city	12588	
Totals				12588	1.72%
019	2	Sullivan County	Cornish	4001	
		Sullivan County	Grantham	2167	
		Sullivan County	Plainfield	2241	
Totals				6408	-1.76%
020	3	Sullivan County	Croydon	381	
		Sullivan County	Goshen	741	
		Sullivan County	Newport	6288	
		Sullivan County	Springfield	945	
		Sullivan County	Washington	895	

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	TAPERSONS	Deviation
Totals				9511	2.83%
021	1	Sullivan County	Surrey	3055	
Totals				3055	-4.10%
022	5	Sullivan County	Claremont city	13151	
		Sullivan County	Lempster	971	
		Sullivan County	Unity	1530	
Totals				15652	1.34%
023	2	Sullivan County	Acworth	639	
		Sullivan County	Charlestown	4749	
		Sullivan County	Langdon	596	
Totals				6171	-0.11%
024	4	Cheshire County	Alstead	1944	
		Cheshire County	Gilsum	777	
		Cheshire County	Marlow	747	
		Cheshire County	Nelson	854	
		Cheshire County	Roxbury	257	
		Cheshire County	Stoddard	825	
		Cheshire County	Sullivan	746	
		Cheshire County	Surry	673	
		Cheshire County	Walpole	3924	
		Cheshire County	Westmoreland	1747	
Totals				12027	-2.66%
025	7	Cheshire County	Keene city	22583	
Totals				22583	4.36%
026	5	Cheshire County	Chesterfield	3542	
		Cheshire County	Fitzwilliam	2147	
		Cheshire County	Hinsdale	4062	
		Cheshire County	Richmond	1077	
		Cheshire County	Winchester	4144	
Totals				4144	-2.97%
027	4	Cheshire County	Harrisville	1075	
		Cheshire County	Marlborough	2009	
		Cheshire County	Swanzey	6800	
		Cheshire County	Troy	1962	
Totals				11846	-4.13%
028	4	Cheshire County	Dublin	1478	
		Cheshire County	Jaffrey	5476	
		Cheshire County	Rindge	5451	
Totals				12403	0.38%

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	TAPERSONS	Deviation
029	3	Belknap County	Center Harbor	896	
		Belknap County	New Hampton	1950	
		Belknap County	Sanbornton	2561	
		Belknap County	Tilton	3477	
Totals				9004	-2.84%
030	7	Belknap County	Laconia city	16411	
		Belknap County	Meredith	5943	
Totals				22354	1.38%
031	8	Belknap County	Alton	4502	
		Belknap County	Barnstead	3886	
		Belknap County	Belmont	6716	
		Belknap County	Gilford	6803	
		Belknap County	Gilmanton	3060	
Totals				24967	1.03%
032	2	Merrimack County	Danbury	1071	
		Merrimack County	New London	4116	
		Merrimack County	Wilmot	1144	
Totals				6331	2.48%
033	3	Merrimack County	Franklin city	8405	
		Merrimack County	Hill	992	
Totals				9397	1.40%
034	8	Merrimack County	Bradford	1454	
		Merrimack County	Henniker	4433	
		Merrimack County	Hopkinton	5399	
		Merrimack County	Newbury	1762	
		Merrimack County	Sutton	1544	
		Merrimack County	Warner	2760	
		Merrimack County	Webster	1579	
Totals				18871	1.82%
035	6	Merrimack County	Andover	2109	
		Merrimack County	Boscawen	3672	
		Merrimack County	Canterbury	1070	
		Merrimack County	Loudon	4481	
		Merrimack County	Northfield	4548	
		Merrimack County	Salisbury	1137	
Totals				17926	-3.28%
036	3	Merrimack County	Chichester	3233	
		Merrimack County	Pembroke	5897	
Totals				9133	-1.45%
037	8	Merrimack County	Allenstown	4845	

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	TAPERSONS	Deviation
		Merrimack County	Epsom	4021	
		Merrimack County	Hooksett	11721	
		Merrimack County	Pittsfield	3921	
Totals				24516	-0.79%
038	4	Merrimack County	Concord Ward 01	4161	
		Merrimack County	Concord Ward 02	4175	
		Merrimack County	Concord Ward 03	4228	
Totals				12564	1.83%
039	5	Merrimack County	Concord Ward 04	3907	
		Merrimack County	Concord Ward 05	4029	
		Merrimack County	Concord Ward 08	3967	
		Merrimack County	Concord Ward 10	4159	
Totals				16062	3.99%
040	4	Merrimack County	Concord Ward 05	4210	
		Merrimack County	Concord Ward 06	3871	
		Merrimack County	Concord Ward 07	3950	
Totals				12031	-2.63%
041	2	Merrimack County	Bow	7138	
		Merrimack County	Dunbarton	2326	
Totals				9364	1.06%
042	3	Hillsborough County	Antrim	2449	
		Hillsborough County	Hancock	1738	
		Hillsborough County	Hillsborough	4928	
		Hillsborough County	Windsor	201	
Totals				9317	0.54%
043	2	Hillsborough County	Bennington	1401	
		Hillsborough County	Deering	1875	
		Hillsborough County	Francestown	1480	
		Hillsborough County	Greenfield	1657	
Totals				6413	3.80%
044	4	Hillsborough County	Greenville	2224	
		Hillsborough County	New Ipswich	4289	
		Hillsborough County	Peterborough	5893	
		Hillsborough County	Sharon	350	
Totals				12756	3.24%
045	4	Hillsborough County	Lyndeborough	1585	
		Hillsborough County	Mont Vernon	2054	
		Hillsborough County	New Boston	4132	
		Hillsborough County	Temple	1297	
		Hillsborough County	Wilton	3743	

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DISTRICT	SEATS	COUNTY	TOWNS&WARD	TAPERSONS	Deviation
Totals				12797	3.57%
046	4	Hillsborough County	Brookline	4181	
		Hillsborough County	Hollis	7015	
		Hillsborough County	Mason	1147	
Totals				12343	-0.11%
047	6	Hillsborough County	Amherst	10789	
		Hillsborough County	Milford	13535	
Totals				24304	-1.65%
048	6	Hillsborough County	Goffstown	16828	
		Hillsborough County	Weare	7770	
Totals				24703	-0.03%
049	6	Hillsborough County	Manchester Ward 01	6033	
		Hillsborough County	Manchester Ward 12	5679	
Totals				11712	-4.44%
050	11	Hillsborough County	Manchester Ward 02	3073	
		Hillsborough County	Manchester Ward 03	3013	
		Hillsborough County	Manchester Ward 10	5715	
		Hillsborough County	Manchester Ward 11	5708	
Totals				15509	4.50%
051	3	Hillsborough County	Manchester Ward 04	8900	
Totals				8900	-3.96%
052	3	Hillsborough County	Manchester Ward 05	9070	
Totals				9070	-2.13%
053	3	Hillsborough County	Manchester Ward 07	9070	
Totals				9070	-2.13%
054	3	Hillsborough County	Manchester Ward 06	8978	
Totals				8978	-3.12%
055	3	Hillsborough County	Manchester Ward 08	8845	
Totals				8845	-4.54%
056	3	Hillsborough County	Manchester Ward 09	8921	
Totals				8921	-3.73%
057	5	Hillsborough County	Bedford	12272	

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	TAPESHOLD	Deviation
Totals				18274	-1.40%
058	11	Hillsborough County	Litchfield	7360	
		Hillsborough County	Merrimack	25119	
Totals				32479	-4.41%
059	3	Hillsborough County	Nashua Ward 02	9704	
Totals				9704	4.72%
060	3	Hillsborough County	Nashua Ward 03	9698	
Totals				9698	4.65%
061	3	Hillsborough County	Nashua Ward 01	9551	
Totals				9551	3.06%
062	6	Hillsborough County	Nashua Ward 04	9943	
		Hillsborough County	Nashua Ward 06	9252	
Totals				19195	1.57%
063	3	Hillsborough County	Nashua Ward 05	9625	
Totals				9625	1.88%
064	3	Hillsborough County	Nashua Ward 09	9578	
Totals				9578	0.00%
065	2	Hillsborough County	Nashua Ward 07	7438	
		Hillsborough County	Nashua Ward 08	11816	
Totals				19254	3.46%
066	11	Hillsborough County	Hudson	22928	
		Hillsborough County	Pelham	10914	
Totals				33842	-0.40%
067	14	Strafford County	Rochester city	28481	
		Strafford County	Rollinsford	2648	
		Strafford County	Somersworth city	11477	
Totals				42586	-1.53%
068	6	Strafford County	Barrington	7475	
		Strafford County	Farmington	5774	
		Strafford County	Middleton	1440	
		Strafford County	Milton	5916	
		Strafford County	New Durham	2226	
		Strafford County	Strafford	3027	

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DISTRICT	SEATS	COUNTY	TOWNSHIP/WARD	PAYSRSONS	Deviation
Totals				24445	-1.06%
069	3	Strafford County	Dover Ward 05	4497	
		Strafford County	Dover Ward 06	4404	
Totals				8898	-2.92%
070	3	Strafford County	Dover Ward 01	4042	
		Strafford County	Dover Ward 02	4456	
Totals				8498	-2.94%
071	3	Strafford County	Dover Ward 03	4411	
		Strafford County	Dover Ward 04	4479	
Totals				8890	-4.07%
072	6	Strafford County	Durham	12864	
		Strafford County	Lee	4145	
		Strafford County	Madbury	1509	
Totals				18318	-1.17%
073	6	Rockingham County	Candia	3911	
		Rockingham County	Deerfield	3678	
		Rockingham County	Northwood	3640	
		Rockingham County	Nottingham	3701	
Totals				14930	-3.33%
074	3	Rockingham County	Raymond	9674	
Totals				9674	4.38%
075	9	Rockingham County	Auburn	4582	
		Rockingham County	Londonderry	23236	
Totals				27918	0.42%
076	15	Rockingham County	Salem	28112	
		Rockingham County	Windham	10709	
Totals				38821	-3.33%
077	11	Rockingham County	Derry	34021	
Totals				34021	0.12%
078	2	Rockingham County	Atkinson	6178	
Totals				6178	0.09%
079	11	Rockingham County	Chester	3792	
		Rockingham County	Danville	4023	
		Rockingham County	Hampstead	5297	
		Rockingham County	Kingston	5852	

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DISTRICT	SEATS	COUNTY	TOWN/WARD	TAPERSONS	Deviation
		Rockingham County	Plaistow	7747	
		Rockingham County	Sandown	5143	
Totals				34884	2.60%
080	4	Rockingham County	Brentwood	3197	
		Rockingham County	Epping	6476	
		Rockingham County	Fremont	3510	
Totals				12183	-1.40%
081	2	Rockingham County	East Kingston	1784	
		Rockingham County	Newton	4289	
Totals				6073	-1.70%
082	3	Rockingham County	Newfields	1561	
		Rockingham County	Newmarket	8027	
Totals				9578	3.58%
083	4	Rockingham County	Exeter	14058	
		Rockingham County	North Hampton	4259	
		Rockingham County	Stratham	6355	
Totals				24672	-0.16%
084	4	Rockingham County	Hampton Falls	1860	
		Rockingham County	Kensington	1893	
		Rockingham County	Seabrook	7934	
		Rockingham County	South Hampton	844	
Totals				12531	1.58%
085	5	Rockingham County	Hampton	14937	
Totals				14937	-3.29%
086	7	Rockingham County	Newington	775	
		Rockingham County	Portsmouth city	20734	
Totals				21509	-0.30%
087	1	Rockingham County	Greenland	3208	
Totals				3208	3.85%
088	2	Rockingham County	County subdivisions not defined	0	
		Rockingham County	New Castle	1010	
		Rockingham County	Rye	5182	
Totals				6192	0.23%

804 A.2d 471, 148 N.H. 143

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HB1292 Docket

Bill Title: apportioning state representative districts.

Date	Body	Description
9/4/2003	H	Introduced and ref to Elec Law; HJ 67, p 1839
12/18/2003	H	Hearing Jan 8 9:30 RM308,LOB
2/10/2004	H	Maj Report OTP/AM for Feb 19 (vote 14-3;Reg)
2/10/2004	H	Min Report ITL
2/10/2004	H	Prop Maj Am{0378}; HC 14, p 626-631
2/13/2004	H	Rep Malloy Prop Fl Am{0391}; HC 14, p 631-632
2/19/2004	H	Maj Am{0378}, AA VV; Rep Malloy Fl Am{0391}, AL RC(120-228); Reps Hopper & Vaillancourt Fl
2/19/2004	H	Am{0525}, AL RC(88-259); Passed with Am RC(247-100); Rep Burling moved Lay on the Table, LOT ML
2/19/2004	H	RC(126-220); HJ 16, p 665-686 + 702
3/4/2004	S	Introduced and Referred to Internal Affairs; SJ 7, Pg.140-141
3/5/2004	S	Hearing; March 10, 2004, Room 103, LOB, 10:15 a.m.; SC10
3/12/2004	S	Committee Report; Ought to Pass [03/17/04]; SC11
3/17/2004	S	Ought to Pass, MA, VV; OT3rdg; SJ 9, Pg.197
3/17/2004	S	Passed by 3rd Reading Resolution; SJ 9, Pg.233
3/17/2004	S	Enrolled; SJ 9, Pg.237
3/18/2004	H	Enrolled; HJ 27, p 1097
4/5/2004	H	Signed by the Governor on 4/5/2004 Eff: 4/5/2004* Chap: 0018
4/5/2004	H	*Multiple Effective Dates, See sec. 3 of Chap. 18

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Docket Abbreviations