

<p style="text-align: center;"><b>Federal and State Constitutional Provisions and State Laws Relative to Redistricting 2021</b></p>
---

**United States Constitution**

*Article I, §2, cl. 3; as amended by the Fourteenth Amendment, §2:*

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each States, excluding Indians not taxed<sup>1</sup>. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by law direct.

<sup>1</sup>Fourteenth Amendment, first sentence, §2

**New Hampshire Constitution**

*Part 2, Art 9:*

*Representatives Elected Every Second Year; Apportionment of Representatives.*

There shall be in the legislature of this state a house of representatives, biennially elected and founded on principles of equality, and representation therein shall be as equal as circumstances will admit. The whole number of representatives to be chosen from the towns, wards, places, and representative districts thereof established hereunder, shall be not less than three hundred seventy-five or more than four hundred. As soon as possible after the convening of the next regular session of the legislature, and at the session in 1971, and every ten years thereafter, the legislature shall make an apportionment of representatives according to the last general census of the inhabitants of the state taken by authority of the United States or of this state. In making such apportionment, no town, ward or place shall be divided nor the boundaries thereof altered.

*Part 2, Art 9-a:*

*Legislative Adjustments of Census with Reference to Non-Residents.*

The general court shall have the power to provide by statute for making suitable adjustments to the general census of the inhabitants of the state taken by the authority of

the United States or of this state on account of non-residents temporarily residing in this state.

***Part 2, Art 11***

***Small Towns; Representation by Districts.***

When the population of any town or ward, according to the last federal census, is within a reasonable deviation from the ideal population for one or more representative seats, the town or ward shall have its own district of one or more representative seats. The apportionment shall not deny any other town or ward membership in one non-floterial representative district. When any town, ward, or unincorporated place has fewer 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 contiguous. The excess number of inhabitants of a district may be added to the excess number of inhabitants of other districts to form at-large or floterial districts conforming to acceptable deviations. The legislature shall form the representative districts at the regular session following every decennial federal census.

***Part 2, Art 11-a***

***Division of Town, Ward or Place; Representative Districts.***

Notwithstanding Articles 9 and 11, a law providing for an apportionment to form representative districts under Articles 9 and 11 of part Second may divide a town, ward, or unincorporated place into two or more representative districts if such town, ward or place, by referendum requests such division.

***Part 2, Art 26***

***Senatorial Districts, How Constituted.***

And that the state may be equally represented in the senate, the legislature shall divide the state into single-member districts, as nearly equal as may be in population, each consisting of contiguous towns, city wards and unincorporated places, without dividing any town, city ward or unincorporated place. The legislature shall form the single-member districts at its next session after approval of this article by the voters of the state and thereafter at the regular session following each decennial federal census.

***Part 2, Art 26-a******Division of Town, Ward or Place; Senatorial Districts.***

Notwithstanding Article 26 or any other article, a law providing for an apportionment to form senatorial districts under Article 26 of Part Second may divide a town, ward or unincorporated place into two or more senatorial districts if such town, ward or place by referendum requests such division.

**New Hampshire Statutes*****§ 44:4-a. Boundaries of Wards.***

All boundaries of wards, other than those boundaries which are coterminous with the boundaries of municipalities, shall follow easily identifiable physical features. For the purposes of this section, physical features include public and private ways, public utility lines, railroad tracks, and surface waters. Ward lines shall be clearly shown on a map of suitable scale. Those portions of physical features with names and used as ward boundaries shall be clearly labeled on the ward map.

***Elective Districts***

RSA 662:1 – U.S. Representative districts

RSA 662:2 – Executive Council districts

RSA 662:3 – State Senate districts

RSA 662:4 – County Commissioner districts

RSA 662:5 – State Representative districts

RSA 662:6 – Number of delegates to state party convention elected from each town or city

**CHAPTER 662-A****DIVISION OF STATE REPRESENTATIVE DISTRICTS OF TOWNS**

**662-A:1 Purpose and Intent.** – It is the purpose of this chapter to implement the provisions of part 2, article 11-a of the New Hampshire constitution regarding division of representative districts into 2 or more representative districts. To that end, the general court hereby provides a mechanism whereby a town established as a multi-member representative district may divide into 2 or more districts for the purpose of electing representatives to the general court.

**662-A:2 Scope of Authorization.** – Any incorporated town comprising a single state representative district under RSA 662:5 shall be entitled to exercise the powers

recognized by article 11-a, part second, of the New Hampshire constitution, and implemented through this chapter, to create a redistricting commission to present to its voters a referendum to request that the legislature divide the town into 2 or more districts for the purpose of electing representatives to the general court. If a town to be divided into districts under this chapter is included in a floterial district and also has a non-floterial district solely made up of representatives from the town, the provisions of this chapter shall only apply to the non-floterial district.

662-A:3 Placement of Article on Ballot. –

I.(a) The board of selectmen, or the voters of the town by the procedure established in RSA 39:3, may place an article on the warrant for annual town meeting at which town officers are elected, concerning the establishment of a redistricting commission. Such question shall be voted on by official ballot.

(b) In a town with a town council, the town council, or the voters by petition submitted to the council signed by 25 or more registered voters or 2 percent of the registered voters of the town, whichever is less, may place a question on the official ballot for any regular municipal election for the election of town officers, concerning the establishment of a redistricting commission.

II. The wording of the question shall be:

"Shall the town establish a redistricting commission to divide the town into 2 or more districts for the purpose of electing representatives to the general court?"

III. [Repealed.]

662-A:4 Redistricting Commission; Membership. –

I. The redistricting commission shall consist of 5 members, all of whom shall be registered voters of the town appointed by the governing body of the town, as defined in RSA 672:6.

II. The town clerk shall within 7 days after the appointment of the commission members, notify those appointed to the commission of the date, time, and place of the organizational meeting of the commission. Such date, time, and place shall be fixed by the clerk and 7 days' notice of the organizational meeting shall be given. The commission shall organize by electing from its members a chairperson, a vice chairperson and a secretary and shall file notice thereof with the town clerk. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the town. Members shall serve without compensation.

III. The commission may adopt rules governing the conduct of its meetings and proceedings. A town shall provide its redistricting commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and information from municipal officers, officials, and employees during ordinary working hours. A town may from time to time appropriate additional funds to the commission.

IV. The commission shall proceed to determine how to divide the town into representative districts. Any such division shall be based on population figures determined at the latest federal decennial census. Any proposal for division recommended by the commission shall provide for equality of representation in

accordance with the principle of one-person, one-vote.

V. (a) Within 14 days after its organizational meeting, the redistricting commission shall hold a public meeting for the purpose of receiving information, views, comments, and other pertinent material relative to its functions.

(b) Within 90 days after its appointment, the commission shall prepare a preliminary report including the text of the proposal for new districts which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable. The preliminary report shall be submitted to the secretary of state for approval pursuant to RSA 662-A:5.

(c) Within 225 days after its appointment, the commission shall submit to the town officers its final report, which shall include the full text and explanation of the redistricting proposal and such comments as the commission deems desirable.

(d) All public hearings before the commission shall be held within the town at such times and places as may be specified in a notice published at least 7 days prior to the hearing in a newspaper having general circulation in the town. Hearings may be adjourned from time to time without further published notice.

VI. Upon the filing of the final report, the town officers shall order the redistricting proposal to be submitted to the voters at the next regular town election pursuant to RSA 662-A:6.

VII. Upon the submission of the final report, the commission shall be dissolved.

#### 662-A:5 Approval and Review. –

I. Within 10 days of the filing of a preliminary report relative to any redistricting proposal, the town clerk shall file certified copies of the report with the secretary of state. Within 30 days of the receipt of the preliminary report, the secretary of state shall review the redistricting proposal to insure that it is consistent with the principle of one-person, one-vote using the most recent decennial census figures for the town and to insure that no provision of the redistricting of the town is in conflict with the constitution or laws of this state or the United States.

II. If the secretary of state approves the preliminary report, the redistricting proposal shall be presented to the voters pursuant to RSA 662-A:6 or RSA 662-A:7.

III. If the secretary of state does not approve, the redistricting proposal shall not be placed on the ballot for voter approval. The secretary of state shall specify objections in writing to the commission within the period of time allowed for review and shall offer recommendations for changes in the redistricting proposal which would correct any inconsistencies in the proposal. Failure to specify objections to a redistricting proposal under this section shall constitute approval by the secretary of state.

IV. The commission may seek judicial review of a disapproval of the proposal by the secretary of state in superior court to determine the lawfulness of the decision of the secretary of state. The clerk of the court shall schedule a hearing on any such appeal within 10 days of the filing of the petition.

#### 662-A:6 Submission of Redistricting Proposal to Voters. –

I. Following approval of the commission's proposal, the secretary of state shall submit proposed districts to the voters of the town at the next town election. The wording of the question shall be:

"Do you favor dividing the town into representative districts for the purpose of electing representatives to the general court as recommended by the redistricting commission?"

II. The selectmen or town council shall cause the final report of the commission to be printed in the town report, shall make copies available in the clerk's office, and shall post the report in the same manner that proposed ordinances are posted.

III. If a majority of voters voting on the question answer in the affirmative, the secretary of state shall cause a bill to divide the town into representative districts to be submitted to the general court at the next legislative session. Upon passage of the bill and the signing of the bill into law, the town shall be deemed divided into the approved districts for the next succeeding election of representatives to the general court and all subsequent elections until the completion of the next decennial census and reapportionment of the general court. If legislation adopting the town's proposed districts is not enacted by the general court in the next succeeding session of the general court, no further action or approval by the town is required for future introduction of legislation adopting the districts approved by the town pursuant to this chapter.

IV. If a majority of the voters voting on the question do not answer in the affirmative, the town shall continue as a multi-member district for the purposes of electing representatives to the general court and reapportionment of the general court.

#### 662-A:7 Amendment of Districts. –

I. A town which has been divided into districts pursuant to this chapter may amend its representative districts created pursuant to this chapter only by following the procedures in this chapter.

II. The question proposed to voters shall be:

"Shall the town establish a redistricting commission for the purpose of amending the representative districts previously adopted by the town and enacted by the legislature?"

III. If the redistricting commission proposes to amend the representative districts previously adopted by the town and enacted by the legislature, the question submitted to voters shall be:

"Shall the proposal of the redistricting commission to amend the representative districts of the town for the purpose of electing representatives to the general court be adopted?"

#### 662-A:8 Rescission of Divided Districts. –

I. A town which has been divided into districts pursuant to this chapter may rescind its decision and return to a single-member district.

II. The article proposing rescission shall be placed on the ballot in accordance with the provisions of RSA 662-A:3, I.

III. The wording of the question shall be:

"Do you favor rescinding the representative districts previously adopted by the town and enacted by the legislature?"

IV. If a majority of voters voting on the question answer in the affirmative, the secretary of state shall cause a bill to return the town to a single, multi-member district to be submitted to the general court, at the next legislative session. Upon passage of the bill and signing of the bill into law, the town shall be deemed to be returned to a single, multi-member district for the next succeeding election of representatives to the general court and all subsequent elections until the completion of the next decennial census and

reapportionment of the general court. If legislation returning the town to a single, multi-member district is not enacted by the general court in the next succeeding session of the general court, no further action or approval by the town is required for future introduction of legislation adopting the change approved by the town pursuant to this chapter.

662-A:9 Prevailing Vote. – If a question to amend the representative districts created pursuant to this chapter appears on the same ballot as a question to rescind the division of a town into representative districts, and if a majority of the voters voting on each question vote in the affirmative on each question, then the question that receives the plurality of votes shall prevail.