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The 2001 Nevada Redistricting and Perpetuation of the Status Quo

David F. Damore

Between 1990 and 2000 the population of Nevada increased by over 66 percent. Much of this growth was fueled by an influx of minorities and further concentrated the state's population in southern Nevada. These forces altered the state's political landscape and raised the stakes for the decennial redistricting of Nevada's assembly and senate seats. Employing a multi-methodological approach, this effort demonstrates how the 2001 Nevada redistricting maintained the pre-existing partisan divisions in the state legislature despite a number of factors that threatened to alter the status quo. At the same time, the analysis reveals that the desire of key redistricters to maintain the partisan status quo compromised the typical byproduct that results from bipartisan gerrymanders, incumbent protection.

The unprecedented growth experienced in Nevada during the 1990s and the further concentration of the state's population in southern Nevada provided an opportunity for the 2001 redistricting to alter the existing distribution of power in the state legislature. However, after the 2002 state legislative elections, the status quo prevailed with the Democrats maintaining control of the state's lower chamber and the Republicans holding their majority in the upper house. Moreover, the partisan divisions in both chambers were virtually unchanged even though the direct and indirect effects of redistricting left over a third of the seats contested in the November 2002 elections without an incumbent.

Against this backdrop, this effort investigates how Nevada redistricters were able to maintain the status quo in the Nevada legislature despite the presence of numerous forces working against such an outcome. Specifically, drawing on insights offered by prior research and employing a multi-methodological approach (e.g., game theoretic precepts and descriptive and quantitative analysis), the paper examines how partisan control of the state senate and assembly was preserved; how partisan considerations undermined incumbency protection; and how these considerations affected the 2002 state legislative elections.

The paper is organized as follows. After a review of prior research and a discussion of the context in which the 2001 Nevada redistricting took

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place, a game theoretic set-up is used to analyze the affect that a number of formal and informal constraints exerted on redistricting negotiations and how redistricters were able to overcome these obstacles to preserve the partisan status quo. Next, data taken from the redistricting process is used to examine the consequences that the shifting of legislative seats from northern to southern Nevada had for incumbent protection. These data are then combined with data from the 2002 state legislative elections to assess how redistricting affected electoral outcomes in 2002. The paper concludes by integrating the paper's findings into the broader literature.

Prior Research

The politics of redistricting have received ample attention in the literature and without equivocation this research suggests that redistricting matters in that it affects the behavior of voters and legislators and influences electoral and policy outcomes (Rush 1993). In seeking to understand the particulars of redistricting, prior research has largely focused on how the process is used for partisan advantage and/or incumbent protection and the effect these considerations have for legislative responsiveness and partisan bias.¹

The work of Gelman and King (1994) provide a useful starting point for assessing these dynamics. They suggest that redistricting is characterized by conflict and uncertainty that bring the goals of parties, who desire an increase in the number of seats held by their party, and incumbents, who are primarily concerned with insulating themselves from electoral challenges, into conflict.² From their perspective, the key to understanding redistricting is assessing the influence that formal and informal constraints exert on the ability of redistricters to navigate the tension between these goals. To this end, they contend that most plans result in compromises that weight "the political party's overall seat advantage most heavily" (542).

At the same time, other scholars suggest that the ability of parties to use the redistricting process to enhance their electoral prospects is hindered by a number of considerations. First, partisan plans are constrained by existing boundary lines, the requirements of equal size, compactness and contiguity, the need to insure representation of communities of interest, and the preferences of incumbents (see note two). In addition, the ability to implement partisan gerrymanders is hindered by the existing partisan composition of the state government. As the work of Cain (1985), Cox and Katz (1999), McDonald (2004) and others suggest, parties are only able to implement such plans when they control redistricting institutions. In contexts where partisan control is split the typical outcome is a bipartisan compromise that favors incumbent protection.

Moreover, longitudinal analyses indicate that partisan advantages tend to dissipate over time (e.g., Cain 1985; Squire 1985; Basehart and Comer 1991) because partisan gerrymanders require the majority party to spread its voters as efficiently over as many districts as possible. This, in turn, increases the risk that controlling parties may cut their advantages too thin and increase the vulnerability of formally safe incumbents (Cain 1985). As a consequence, partisan gerrymanders may be undermined by small shifts in district constituencies (Gopian and West 1984) or by short-term influences.

The literature largely has examined the consequences of redistricting in terms of partisan bias (the degree to which seat distributions reflect aggregate vote totals) and legislative responsiveness (how the partisan composition of a legislature responds to shifts in voters' preferences). Here, the literature (e.g., Cain 1985; Gelman and King 1994; Cox and Katz 1999) suggests that both bias and responsiveness are affected by the efficiency by which voters are distributed across districts.

As noted above, when a controlling party seeks to implement a partisan gerrymander, its incumbents must forego some protection so that the party can distribute its voters so as to maximize its likelihood of winning the most number of seats (Cain 1985). Plans of this type more efficiently distribute the controlling party's voters, while decreasing the efficiency of the non-controlling party's voters (who are packed into a smaller number of safe seats). The net result is more marginal districts that, all else equal, are sensitive to fluctuations in voters' preference (Cain 1985).³ Conversely, when partisan control over redistricting is split it is unlikely that either party will gain an advantage because doing so would require the consent of the opposition. As a consequence, these plans inefficiently distribute voters of both parties by creating a large number of uncompetitive seats (Cox and Katz 1999). The end result is a decrease in legislative responsiveness (Cain 1985; Cox and Katz 1999).

Not surprisingly, past research indicates that partisan gerrymanders increase the potential for partisan bias (Gelman and King 1994; Cox and Katz 1999). The literature assessing the consequences of bias under bipartisan plans, however, is less clear. For instance, Cox and Katz (1999) suggest that the level of bias in such plans is affected by the parties' assumptions about the relative share of the vote they expect to win and the nature of the court action that may result from a redistricting challenge. Analyses of bipartisan redistricting plans of state legislatures in the 1970s and 1980s (e.g., Squire 1985; Niemi and Jackson 1991) find no systematic evidence of bias.

The work of Gelman and King (1994) take a slightly different position on these issues. Specifically, they argue that because of the competing goals of the key actors and the uncertain and conflictual context in which

redistricting transpires, regardless of the shape of the plan, the net result is a significant shaking-up of the political environment. This tumult, in turn, tends to facilitate political renewal that may reduce partisan bias and increase responsiveness.

The Nevada Context

Formal and Informal Constraints

As is demonstrated below, many of these considerations as well as a number of formal and informal constraints unique to the Nevada context affected the 2001 Nevada redistricting. Perhaps the most important of these considerations was the 66.3 percent increase in the state's population during the 1990s. The majority of this growth occurred in southern Nevada (e.g., Clark County), which saw its population increase by over 85 percent between 1990 and 2000. Today, Clark County is home to nearly seven out of 10 Nevadans.

Of course, the presence of dramatic and asymmetrical growth does not necessitate a threat to the existing distribution of political power. Rather, for this expectation to have merit the preferences of the state's new inhabitants must differ from those of pre-existing residents. Unfortunately, the data needed to evaluate this claim (e.g., a comparison of the voter registration of new residents to those of existing residents) are not available. Evidence in support of this point can be gleaned from inspection of the two party vote distribution in the four most salient statewide races prior to the 2001 redistricting.⁴ The results of these races indicate that the vote distribution in Nevada is anything but symmetrical as Democratic candidates receive anywhere from 11 to 27 percent more of the vote in Clark County as compared to elsewhere in the state. Thus, given the surge in southern Nevada's population and the disparity in voting patterns between southern Nevada and the rest of the state, the 2001 redistricting provided an opportunity to alter existing power in the state legislature in a manner beneficial to the state's Democrats.

A second constraint on the process was accommodating representation for Nevada's burgeoning Hispanic population (Nevada Legislative Counsel Bureau 2001). Indeed, much of the state's growth in the 1990s was fueled by an influx of Hispanics. Whereas Hispanics constituted just over 10 percent of the population in 1990, by 2000 Hispanics accounted for slightly less than 20 percent of the population with 75 percent of the state's Hispanic population residing in Clark County.

A successful redistricting plan also needed to navigate a number of structural constraints. Most notably, redistricters had to contend with the

existing divisions within the state legislature.⁵ Moreover, while the Nevada Constitution delegates near autonomy over redistricting to the state legislature (the governor may veto a plan), if the legislature is unable to reach an agreement, then the judiciary could intervene. From the perspective of redistricters, judicial involvement would be problematic because any intervention would be discretionary (e.g., the court's could determine the conditions under which a reversionary plan would be used, as well as the nature of the reversion itself), as opposed to automatic (e.g., a prespecified plan that would be implemented by a prespecified condition) (Cox and Katz 1999).

At the same time, three peculiarities to the process in Nevada provided redistricters with latitude in crafting the final plan. First, the Nevada Constitution allows the size of the legislature to be expanded beyond its present 63 members. Second, Nevada does not require the contiguousness of assembly seats within senate districts. That is, while senate seats have twice the population of assembly seats, two assembly seats are not required to correspond to the boundaries of one senate seat. Rather, senate seats can be drawn irrespective of the boundaries of the underlying assembly districts. Lastly, Nevada allows for the creation of two-member districts in the state senate. These districts contain twice as many citizens and are represented by two members who compete in alternating elections.

Key Players and Interests

As specified by the Nevada Legislative Counsel Bureau (2001), the goal of the 2001 Nevada redistricting was to redraw legislative boundaries to reflect changes in the state's population and provide representation for the state's Hispanic community. In raw political terms, redistricting would determine partisan control of the state's legislative chambers, as well as which incumbents would be protected. Two side payments also were linked to the state legislative redistricting: the level of funding for Nevada State College at Henderson, the "pet project" of Assembly Speaker Richard Perkins, and the drawing of the boundaries for the state's newly apportioned House seat.

The key actors in the 2001 redistricting in Nevada were Assembly Speaker Perkins and Senate Majority Leader Bill Raggio. The interests of the two players capture the prevailing cleavages in Nevada politics. Whereas Perkins is a Democrat and leader of the legislature's lower chamber, Raggio is Republican and controls the upper house. Perkins comes from urban, Clark County in southern Nevada, while Raggio is the legislature's dominant voice for northern and rural interests. As a consequence and to the chagrin of many rank and file members, Perkins and Raggio acted as the *de facto* negotiators for their respective parties, chambers, and geographic interests.

As noted above, the ability of redistricters to use the process to their advantage is limited by formal and informal constraints (e.g., Gelman and King 1994). In the case of Nevada, the state's population growth and increased concentration in southern Nevada provided Perkins with an advantage. Regardless of the outcome, southern Nevada would gain seats. The collective preferences of the citizens, however, worked to Raggio's advantage. Although the state is evenly split in terms of Republican and Democratic registration, Republicans win most statewide races and in the aggregate, outpoll Democrats in state legislative races.

At the outset of negotiations, the affect of the other constraints outlined above was unclear. On the one hand, the divided control of the Nevada legislature could facilitate a stalemate. At the same time, the uncertainty associated with judicial intervention if an agreement could not be reached created an incentive for the players to reach a compromise (Cox and Katz 1999).⁶ Lastly, the peculiarities of Nevada's redistricting institutions (e.g., the non-contiguity of assembly and senate districts, multi-member senate districts, and the ability to alter the size of the legislature) provided redistricters with flexibility in drawing senate and assembly seats. At the same time, these considerations increased uncertainty about the contours of the final plan.

Partisan Protection

Game theoretic precepts are used to examine the affect that partisan considerations had on redistricting negotiations.⁷ Specifically, the process is conceptualized as a two player mixed-motive game.⁸ Such an approach assumes that players' behavior is shaped by competitive and complimentary considerations and allows side payments to factor into players' decision making.⁹ In the context of interest here, the players had complimentary goals in passing a plan that would not solicit judicial intervention and competing interests in passing a plan that would reflect their preferences.

Thus, given the preferences of the redistricting architects and the informal and formal constraints outlined above, six potential outcomes may have resulted from redistricting negotiations: maintenance of the partisan status quo of either an expanded or non-expanded legislature or unified Republican or Democratic control of either an expanded or non-expanded legislature. Table 1 summarizes these outcomes and the preference orderings of the players over the partisan and expansion.

The players' preferences over the partisan dimension are straightforward. Both Perkins and Raggio ideal outcomes would be a legislature controlled by Democrats and Republicans respectively. The players' preferences over the expansion issue, however, require elaboration. In supporting a

Table 1. Potential Outcomes for 2001 Nevada Redistricting and Preference Orderings of Legislative Leaders

| Outcome | Perkins Preference Ranking | Raggio Preference Ranking |
|--|-------------------------------|------------------------------|
| A. Democratic control of legislature. | 1 | 6 |
| B. Democratic control of expanded legislature. | 2 | 5 |
| C. Partisan status quo. | 3 | 4 |
| D. Partisan status quo, expanded legislature. | 4 | 3 |
| E. Republican control of legislature. | 5 | 2 |
| F. Republican control of expanded legislature. | 6 | 1 |

six seat expansion of the legislature, Raggio argued that doing so would allow the seats of northern incumbents to be preserved and allow more manageable sized districts to be drawn for rural legislators (Morrison 2001b). Conversely, even though Clark County would receive 69 percent of the seats under both an expanded and non-expanded legislature, Perkins was against expansion. He believed that southern Nevada would be better served by concentrating power in fewer hands (Morrison 2001b).

Not surprisingly, the players initially put forth plans that would maximize their preferences: Perkins and the Democrats presented a plan that would facilitate outcome A, a non-expanded legislature where both chambers were likely to be controlled by the Democrats, while Raggio and the GOP countered with a plan that would likely lead to outcome F, an expanded legislature with unified Republican control.¹⁰ However, neither of these outcomes nor outcomes B and E were feasible because they would require a chamber majority to vote against its interest.

As a consequence, a second iteration of the game was played with the feasible set of outcomes reduced to either outcome C, perpetuation of the partisan status quo (a win for Perkins) or outcome D, perpetuation of the partisan status quo in an expanded legislature (a win for Raggio). The initial compromise between the leaders resulted in outcome D, a win for Raggio because he would preserve his chamber majority and be able to protect northern incumbents.¹¹ However, because of concerns about the pro-GOP nature of the drawing of the state’s new House seat, the deal fell apart, necessitating an additional iteration of the game. In nixing the deal, Perkins argued that “I still have no desire to grow this legislature, so if it’s going to happen, I have to benefit somehow, and we’ve seen no benefit” (Morrison 2001c).

The inability to sustain the agreement over outcome D illustrates the difficulty of obtaining a stable outcome in a mixed-motive setting. Because the players' payoffs are variable and therefore, the motives underlying their actions differ, each player is responding to a disparate mix of competitive and complimentary incentives. Raggio had more to lose and hence more to protect, while Perkins would gain with either outcome C or D because irrespective of the size of the legislature southern Nevada would gain seats. These asymmetries in payoffs did not allow the agreement for outcome D to be sustained because to do so would have required Perkins to either adjust his perceptions of the payoffs or alter his incentives to coordinate his actions with Raggio's.

In the third round of play, which transpired under the drama of a special session, Raggio dropped his demand for an expanded legislature.¹² In so doing, Raggio altered his and Perkins' perceptions of the game. Whereas Perkins continued to see the game as a variable sum game, Raggio was faced with a situation that resembled a zero sum game: whatever he lost, Perkins would gain. This shift, in turn, caused Raggio to support outcome C, which maximized Perkins' minimum gain while minimizing Raggio's maximum loss. In addition, both players received their side payments with Raggio benefiting from a pro-Republican drawing of the new House seat and Perkins gaining funding for the state's new college.

While the game theoretic analysis is useful for understanding the broad contours of the 2001 Nevada redistricting, it fails to reveal the specifics by which the partisan status quo was maintained. To better understand these dynamics Table 2 summarizes the distribution of seats in terms of the percent difference in Democratic and Republican voter registration. In the assembly, seats range from +41.69% Democrat to +30.25% Republican. In the senate, seats range from +40.53% Democrat to +19% Republican.

As such, these data suggest two important conclusions. First, because partisan packing was the means by which outcome C was realized, it appears that there is little opportunity for the minority party to gain control of either chamber. This is most obvious in the senate where Democratic seats all have values greater than 10 percent and no seats were drawn with slight Democratic advantages. Of the three senate seats that might be considered competitive (those in the zero to +5% Republican column), two of those seats are in two-member districts, which as discussed below insulate incumbents from serious opposition. In the assembly, the Democrats were drawn 21 safe seats and the Republicans 12, leaving only nine seats (those in the zero to 5% Democrat and 0 to 5% Republican columns) marginally competitive.

Second, by focusing attention on maintaining the partisan status quo, the plan provided little opportunity for Hispanics to gain a foothold in state politics. Despite energetic lobbying on behalf of Hispanic interests and a

Table 2. Partisan Difference in Voter Registration for Redistricted Assembly and Senate Seats

| >+15.1% Dem | +10.1 to 15% Dem | +5.1 to 10% Dem | 0 to +5% Dem | 0 to +5% Rep | +5.1 to 10% Rep | +10.1 to 15% Rep | >+15.1% Rep |
|---------------------------|------------------|-----------------|--------------|--------------|-----------------|------------------|-------------|
| Assembly (<i>n</i> = 42) | | | | | | | |
| 9 | 4 | 8 | 5 | 4 | 0 | 5 | 7 |
| Senate (<i>n</i> = 21) | | | | | | | |
| 5 | 4 | 0 | 0 | 3 | 4 | 3 | 2 |

Note: Data taken from Nevada Legislative Counsel Bureau Redistricting Reports.

directive by the Nevada Legislative Counsel Bureau (2001) that the plan provide representation for Hispanics, only two assembly and one senate seat were drawn with Hispanic populations greater than 60 percent and only one of these seats was drawn as open. Exactly why this occurred was the source of a good deal of *post hoc* finger pointing between Republicans and Democrats. The likely culprit, however, was the Hispanics who by courting both parties in hopes of getting the best deal failed to solidify their efforts behind a single plan. As Ryan Erwin, a Republican operative involved in the process explained, the Hispanics “organized well, but they weren’t good at decision making” (Morrison 2001e).

Incumbent Protection

As detailed above, the 2001 Nevada redistricting maintained the partisan status quo via a bipartisan gerrymander. However, because of uneven growth patterns during the prior decade and the decision of redistricters to maintain the size of the legislature, the plan necessitated the movement of seats from northern to southern Nevada. Specifically, three assembly and one senate seat were moved from northern to southern Nevada. The plan also created six open seats in the assembly and one in the senate. The practical consequence of this decision was that incumbent protection, the typical byproduct of bipartisan gerrymanders, was compromised as the plan dislocated six assembly incumbents and one senate incumbent.¹³

The asymmetry in the ability of redistricters to protect senate and assembly incumbents demonstrates the importance of the peculiarities of Nevada’s redistricting institutions (e.g., multi-member districting and non-contiguity between assembly and senate seats) for protecting senate

incumbents. For those senate incumbents who are drawn into multi-member districts they are effectively insulated from serious electoral challenges because any challenger would be required to compete for the support of twice as many voters in districts that are already drawn in favor of the incumbent's party. Multi-member districts also provide collective benefits for all senate incumbents because the creation of two two-member senate districts requires a 19 way, as opposed to 21 way, division of the electorate. This, coupled with the lack of a requirement that the boundaries for senate seats correspond to the underlying assembly districts, allows the preferences of senate incumbents to be easily accommodated. As a consequence, only one senate incumbent, a northern Nevada Republican lost his seat and was drawn into the district of another GOP incumbent. To offset the loss of the northern GOP seat, an open seat was created in southern Nevada with a partisan registration difference of +5.89 percent Republican.

The analysis presented in the top panel of Table 3 empirically demonstrates these processes at work. Using data taken from the Nevada Legislative Counsel Bureau's Redistricting Reports, the table presents the analysis of variance and difference of means for the senate redistricting. The dependent variable is the percent difference in Democratic and Republican voter registration in each senate seat and the independent variable is the partisanship of the incumbent drawn into the district. Turning first to the overall performance of the model, the value of the F statistic indicates that the between group differences in the partisan composition of the three district types are statistically significant and the eta squared value suggests that over 81 percent of the variance in the dependent variable is accounted for by differences in the independent variable. As expected, difference of means tests for the three district types indicate that the partisan registration difference for the seats drawn for Democratic incumbents are significantly different from the open seat and the seats drawn for Republican incumbents. There is no significant difference in the partisan registration difference between the open seat and the Republican seats (as noted above, the open seat was drawn to offset the loss of a GOP seat in northern Nevada).

Thus, while the peculiarities of multi-member districting and the lack of contiguosness between senate and assembly seats allowed the senate to largely avoid dislocation of its incumbents, the same did not occur in the assembly. To balance the distribution of assembly seats with the growth in southern Nevada, the redistricting plan created six open seats in Clark County. To offset the creation of the new seats in southern Nevada, two sets of Democratic incumbents and two sets of Republican incumbents were drawn into the same districts and two districts were drawn with both Republican and Democratic incumbents.¹⁴

Table 3. Analysis of Variance and Difference of Means Tests for 2001 Redistricting of the Nevada Legislature

| Seat Type | Mean Registration Difference | Number of Observations |
|--|------------------------------|------------------------|
| Senate | | |
| A. Republican Incumbent(s) Drawn Into Seat ^B | +10.38% Rep. | 11 |
| B. Democratic Incumbent Drawn Into Seat ^A | +20.45% Dem. | 9 |
| C. Open Seat ^B | +5.89% Rep. | 1 |
| F = 38.66, p<.001 Eta-squared = .811 | | |
| Assembly | | |
| A. Republican Incumbent(s) Drawn Into Seat ^{B, C} | +15.02 Rep. | 11 |
| B. Democratic Incumbent(s) Drawn Into Seat ^A | +12.15 Dem. | 23 |
| C. Open Seat ^A | +7.15 Dem. | 6 |
| D. Republican and Democratic Incumbents Drawn Into Seat | +10.69 Dem. | 2 |
| F = 10.50, p <.001 Eta squared = .453 | | |
| Note: Subscripts indicate statistically significant difference between group means, p<.001. level. | | |

The bottom portion of Table 3, which presents the analysis of variance and difference of means for the assembly redistricting, captures these dynamics. Consistent with the results for the senate analysis, the F statistic indicates that the between group differences in the partisan composition of the four district types are statistically significant. The value of the eta squared statistic suggests that 45 percent of the variance in the partisan registration of the assembly districts is accounted for by the independent variable. The smaller eta square value for the assembly model reflects the weakened relationship between incumbent partisanship and constituent registration discussed above. Difference of means tests for the seat types indicate that the partisan registration difference for the seats drawn for Republican incumbents are significantly different from the open seats and the seats drawn for Democratic incumbents. The other differences of means are statistically insignificant suggesting no systematic differences between these seat types.

Redistricting and the 2002 Nevada Legislative Elections

Consistent with prior research (e.g., Gelman and King 1996; Kousser 1996; Desposato and Petrocik 2003), the implementation of the 2001 redistricting plan in Nevada had both direct and indirect effects on the subsequent legislative elections. The direct effects of redistricting, which are examined below, stem from the advantage that incumbents gain by competing in districts that are packed with partisan. The indirect effects of redistricting result from the influence that new boundaries exert on incumbents' assessments of their electoral futures.

To this end, prior to the 2002 state legislative elections a significant number of legislative incumbents chose not to defend their seats. Specifically, four assembly and two senate incumbents chose to seek alternative offices instead of run for reelection. An additional four assembly incumbents chose to retire instead of run in districts that were drawn in a manner unfavorable to their reelection goals. In two of these cases, GOP assembly incumbents opted not to run in districts into which another incumbent had been drawn. Similarly, two Democratic assembly incumbents who had been drawn into Republican majority districts (+.9 and +15.6% GOP registration advantages) decided to retire instead of compete as minority candidates. In addition, four assembly incumbents lost in the primaries. The net result was that 14 of the 42 assembly seats and four of the 11 senate seats contested in 2002 featured no incumbent.¹⁵

The existence of so many open seats in 2002 provided yet another opportunity to alter the status quo in the state legislature. Indeed, some observers felt that the open seats in the senate provided the Democrats with a legitimate chance to gain control of the upper chamber and in so doing, oust long standing Majority Leader Bill Raggio, who over his career had done everything possible to stifle the interests of southern Nevada (Bowers 1996). However, after the ballots had been counted, Republicans maintained their 12 to nine majority in the senate and consistent with the GOP surge in 2002, the Democrats lost two seats in the assembly, reducing their majority from 25–17 to 23–19.

A closer inspection of the results of the 2002 legislative elections demonstrate the direct influence that redistricting had on the state's electoral dynamics. In only three of the 44 contested state legislative races did the candidate whose party had a deficit in voter registration win. In one of these races a one-term assembly Democratic incumbent lost her seat by 36 votes to a three-term GOP incumbent who had been drawn into the district. In the second of these contests a Democratic incumbent held her seat despite competing in a district with a GOP registration advantage of 2.91 percent. In the third of these races a northern Democratic incumbent lost her seat by 469

votes despite a Democratic registration advantage of just over 2 percent. All of the open seats races were won by the candidate whose party held the registration advantage.

To further demonstrate the direct effects of redistricting on the 2002 state legislative elections Table 4 presents the results of an OLS regression analysis for the 44 contested legislative districts.¹⁶ The model's dependent variable is the Democratic share of the two party vote as reported by the Nevada Secretary of State's Office. The primary independent variable (*Registration Difference*) is the district partisan registration difference used above. Dummy variables for Democratic incumbents, open seat contests, and assembly races also are included in the model.

The results of the analysis are consistent with the above observations. Specifically, the r-squared value indicates that over 40 percent of the variance in the dependent variable can be accounted for by the independent variables included in the model and the MSE statistic indicates that the model does an adequate job in predicting values of the dependent variable.

Turning next to the performance of the model's independent variables, the coefficient and significance for *Registration Difference* suggest that each increase in a party's registration increases its vote share by .5 percent above the constant. The statistical insignificance of *Democratic Incumbent*

Table 4. OLS Analysis of the Affect of Redistricting on the 2002 Nevada Legislative Races

| Independent Variable | Coefficient (standard error) |
|--|---------------------------------|
| Registration Difference | .515** (.191) |
| Democratic Incumbent | .467 (6.11) |
| Open Seat | -9.46* (5.18) |
| Assembly | 5.17 (3.75) |
| Constant | 51.2*** (5.10) |
| Number of observations | |
| | 44 |
| R-squared | .48 |
| Adjusted R-squared | .42 |
| Root MSE | 9.79 |
| *p<.05; **p<.01; ***p<.001 one-tailed test | |

suggests that these incumbents are not rewarded with an additional boost in the vote. The performance of this variable, however, is not surprising given that so many of the districts were drawn with such large partisan registration majorities that any advantages that incumbents may enjoy was mitigated by the partisan distribution of their districts. The significance and sign of *Open Seat* indicates that Republicans were more likely to do better in those seats (in the assembly the GOP won nine of the 14 open seats and three of four of the senate open seats). However, given that many of the open seats were drawn to offset the loss of districts formally held by northern Republicans, the variable's performance is consistent with expectations. Finally, the lack of significance for *Assembly* suggests that there is no systematic difference in voting patterns between senate and assembly races. In sum, the model indicates that the outcomes of the 2002 legislative elections were largely shaped by the decisions made during the 2001 redistricting negotiations.

Discussion and Conclusions

The 2001 redistricting of the Nevada legislature provided an opportunity to reapportion representation in response to the state's tremendous population growth and continued concentration in southern Nevada during the prior decade. Consistent with these growth patterns, the primary consequence of the 2001 redistricting was an increase in the representation of southern Nevada at the expense of northern and rural interests. Also, the shift in seats from northern to southern Nevada necessitated that the electoral safety of some incumbents be compromised. However, beyond these considerations, the redistricting plan was most notable for its perpetuation of the status quo. Indeed, while the plan either directly or indirectly facilitated a large number of open seats, the manner in which legislative leaders drew seat boundaries decreased the likelihood that the partisan control of either chamber would be altered—a point affirmed by the outcome of the 2002 state legislative elections.

As such, the machinations that permeated the 2001 legislative redistricting in Nevada were consistent with extant literature indicating the importance of institutional procedures and other formal and informal constraints for understanding redistricting outcomes. As suggested by the work of Cain (1994), Cox and Katz (1999), McDonald (2004) and others, the split partisan control over the redistricting process in Nevada prohibited redistricting architects from implementing a partisan gerrymander. Instead, legislative leaders were forced to compromise on a bipartisan gerrymander that preserved the partisan distributions in the senate and assembly. At the same time, Perkins' refusal to expand the size of the legislature undermined the typical byproduct of bipartisan gerrymanders, incumbent protection. Indeed,

consistent with the work Gelman and King (1994), it appears that in the case of Nevada in 2001 partisan and to a lesser extent geographic considerations trumped concerns about incumbent protection and providing representation for Nevada's Hispanic community.

The analysis also reveals that the peculiarities of Nevada's redistricting institutions played important roles in shaping the eventual outcome. As detailed above, the ability to expand the size of the legislature added an additional and highly contentious dimension to redistricting negotiations that became an important bargaining chip that redistricters were able to use to obtain their desired side payments. The use of multi-member districts and the lack of contiguosity between senate and assembly seats also proved to be important mechanisms for protecting senate incumbents.

The substantive consequences of the 2001 Nevada redistricting also are consistent with prior research on at least three fronts. First, as suggested by Gelman and King (1994) and others, the primary effect of redistricting is a substantial shaking-up of the political environment. This was certainly the case in Nevada where redistricting helped to facilitate a large number of open seat races in 2002. At the same time, the outcomes of the 2002 state legislative elections reveal that the intentions of the redistricters were fulfilled as partisan registration differences were the dominant explanatory variable of district level voting in the 2002 legislative elections (Kousser 1996). Moreover, the inability of redistricters to accommodate Hispanics during the redistricting process translated into a poor showing for Hispanics in 2002. As noted above, Hispanics comprise nearly 20 percent of the state's population, but after the 2002 state legislative elections held only 5 percent of the seats and Hispanics failed to win either of the two assembly seats with Hispanic populations exceeding 60 percent.

Second, the Nevada case is consistent with the equivocation in the literature (e.g., Cox and Katz 1999) regarding the level of partisan bias under bipartisan plans. Specifically, while assembly Democrats continue to exert majority control to a degree that exceeds their share of the aggregate vote, the 2002 assembly elections suggest that redistricting did not insulate the chamber from challenges from the minority party. Consistent with the strong showing of Republicans nationwide in 2002, the Republicans were able to pick up two seats in the lower chamber. In the senate, the 2002 elections served to maintain the GOP advantage at a level consistent with the aggregate vote.

Lastly, prior research (e.g., Cain 1985; Cox and Katz 1999) suggests that the main casualty of bipartisan gerrymanders is responsiveness. This tends to be the case because plans of this type pack voters into legislative districts based upon party registration. This formula yields a large number of safe seats for each party and few competitive districts. As a consequence,

while incumbents do not have to worry about losing in the general election, they do need to be concerned with primary challenges from their parties' fringes. These dynamics, in turn, can create a disincentive for legislators to compromise and moderate if doing so is likely to draw an inter-party challenge. The end result is likely to be increased partisan polarization and gridlock and less responsiveness.

The debate over a proposed tax increase that dominated the post-redistricting legislative session provides an example of these processes at work. In response to a proposed billion dollar tax increase by Republican Governor Kenny Guinn, the state legislature was unable to reach an agreement over the amount of the increase or the entities that would be taxed. This stalemate persisted despite agreement among Democrats and Republicans that some increase was needed and polls showing that a majority of voters favored increasing government spending, particularly on education.¹⁷ Despite a myriad of proposals and counter-proposals, the debate over taxes was not resolved during the regular legislative session or during the first of two special sessions. Only after a second special session and judicial intervention by both federal and state courts did the legislature reach a compromise. While blame for the impasse was directed at a number of individuals and interests, certainly the disincentives for moderation and compromise that the 2001 redistricting facilitated hindered the ability of legislatures to find common ground and respond to the demands of their constituents (Damore 2003).

While the short term consequences of the 2001 redistricting largely played out as expected, the long-term consequences for Nevada's future are less clear. Most notably, as Nevada continues to grow and population gains in southern Nevada outpace those in the rest of the state, the state's political landscape may be further altered along two dimensions. First, given that over 70 percent of all Democrats in Nevada live in southern Nevada and assuming that future growth mirrors this trend, Nevada may move from a state that leans Republican to one that leans Democratic. Second, projecting to 2011, a continuation in the state's growth patterns will lead to an even greater concentration of southern Nevada's power in the legislature at the continued expense of northern and rural interests. Indeed, unless the legislature expands, rural members will have to represent larger geographic areas, while the districts of their southern counterparts will become more plentiful and more concentrated. All of this, in turn, should make for an even more spirited redistricting debate in 2011.

NOTES

¹Another vein of research focuses on the relationship between race and redistricting (e.g., Brace, Grofman, and Handley 1987; Bullock 1995; Canon 1999; Cameron, Epstein, and O'Halloran 1996). However, because the concerns of this literature are tangential to this effort, it is not reviewed here.

²Gelman and King (1994) further posit that incumbents may be concerned with excluding prospective challengers from their districts, insuring that important donors are drawn into their districts, and avoiding dislocation of core supporters. Also, while in principle incumbents may be supportive of using redistricting to increase the number of seats held by co-partisans they may be less willing to do so if such plans compromise their individual security.

³As Niemi and Jackman (1991) note, it is this very consideration that may cause controlling parties, even if they are able to implement partisan gerrymanders, from maximizing this potential because doing so increases the party's uncertainty of maintaining its existing majority over the life of a redistricting plan.

⁴The four races are the 2000 presidential election, the 2000 and 1998 United States senate elections, and the 1998 gubernatorial election.

⁵Prior to redistricting, Democrats held a 27 to 15 advantage in the assembly and Republicans had a 12 to nine majority in the senate. Assembly members serve for two year and state senators serve for four year with half of the senate seats up for election every two years. Senate seats contain twice as many citizens as assembly districts.

⁶If redistricting ended up in court, presumably over a dispute about expansion of the legislature, Perkins felt that the Democrats would have the upper hand. Specifically, Perkins suggested that "if it goes to the courts, I think we're in a better position than the Republicans are, first and foremost, because I don't believe the courts have the authority to expand, and secondly because we believe the case law supports this going to the (Nevada) Supreme Court rather than federal court" (Morrison 2001a).

⁷Game theory models the influence that interdependent decision making and structural considerations have on the behavior of political actors. Game theory is deductively based and operationalized using formal modeling techniques. However, a formal model of the negotiations between legislative leaders is not developed here. Rather, the logic of game theory and its underlying assumption of rationality are used to structure a descriptive analysis of this process. The rationality assumption posits that actors have goals that they attempt to achieve through their actions; that actors' choices about how to achieve those goals are constrained by the decision making structure; and that actors' choose actions that they believe will best achieve their goals (Morrow 1994).

⁸Mixed motive games are a type of nonzero-sum game that assumes that players' payoffs are variable. In contrast, the more ubiquitous zero sum framework assumes that what is lost by one player is gained by the other. Although the solutions to nonzero-sum games tend to be less compelling than those in zero-sum games, these games provide a more realistic representation of complex political situations because they allow players to have both competitive and complementary interests (Brams 1975).

⁹More specifically, the redistricting process is conceptualized as a non-cooperative game, which does not allow players to make binding agreements. Rather, in non-cooperative games players must enforce any coordination through the game itself. In cooperative games, it is easier for players to make agreements because players are able to bind themselves to agreements that may not be enforceable. In making this assumption, cooperative

games assume away the key questions of when, how, and why players will cooperate for their mutual benefit (Morrow 1994).

¹⁰The assembly redistricting bill (AB 665) apportioned 29 of 42 assembly seats and 14 of 21 senate seats in Clark County with a majority of seats in both chambers drawn to the advantage of Democrats. The plan also created two majority Hispanic assembly seats and one majority Hispanic senate seat. Because the plan did not expand the size of the legislature, it placed eight assembly and three senate incumbents into the same districts, the majority of whom were Republicans. The senate redistricting bill (SB 575) sought to offset any loss of seats from northern to southern Nevada by expanding the legislature from 63 to 69 seats (46 assembly and 23 senate seats) with a majority of seats in both chambers having a pro-GOP bias. In so doing, the plan allowed rural lawmakers to keep their seat by creating new districts in southern Nevada. The Republican plan also called for three Democratic senate incumbents to compete in a two-member district in Clark County and created four assembly districts that forced eight Democratic incumbents to compete against one another.

¹¹The compromise would expand the senate from 21 to 23 (13 favorable to Republicans and 10 favorable to the Democrats) seats and the assembly from 42 to 46 (29 Democratic leaning seats and 17 districts favorable to the GOP). The plan also added new seats in Clark County, which allowed northern incumbents to keep their seats and sought to give Hispanics representation in both chambers (Morrison 2001d).

¹²As a small-government Republican, Raggio did not want to be responsible for increasing the size of the legislature (even if doing so would allow him to protect northern incumbents) and he was under pressure from the Republicans in Washington D.C. to holdout for a drawing of Nevada's new House seat that would be more favorable to the GOP (Morrison 2001d).

¹³The 2001 plan also reduced the number of two-member senate districts from five to two.

¹⁴Consistent with the skullduggery that is a hallmark of redistricting politics, decisions about which incumbents would be sacrificed was not randomly determined. Instead, those incumbents who received unfavorable treatment during the redistricting process felt that they were being punished for unpopular stands. For example, two northern Nevada Republicans, Don Gustavson and Sharron Angle, who were drawn into the districts of other incumbents, felt that this decision was directly attributable to their vote against a "pet project" of Senate Majority Leader Bill Raggio. As Gustavson explained, "Sharron and I got the shaft. We didn't vote for the good old boys, and now they are making it tough on us" (Ryan 2003).

¹⁵Four assembly Republicans, one senate Republican, three assembly Democrats, and one senate Democrat (competing in a two member district) ran unopposed. The failure of the opposition party to field candidates in these races suggests that the party's were behaving strategically as in all but two of these districts, the party holding the seat held registration advantages in excess of 14 percent. Because of the lack of competition for these seats, they are not included in the analysis below.

¹⁶Prior research utilizes a variety of approaches to assess the affect of redistricting on electoral outcomes. Unfortunately, as Kousser (1996) discusses, many of these approaches are problematic. For instance, the reliability of indirect measures of partisan gerrymandering such as compactness is questionable at best. Others measures provide little insight into the intentions of redistricters because they employ data not available at the time of redistricting (i.e., measures of partisan bias that unfold over the life of a redistricting plan). Perhaps the most commonly used indicator to measure the consequences of redistricting, variants of the seats/votes ratio, which examine the relationship

between aggregate (statewide) votes and seat totals, are problematic for at least two reasons. First, even though legislative seats are allocated based upon population such measures rely on votes, which are determined by a variety of factors (i.e., the socio-economic status of voters, candidates spending, competitiveness, etc.). Second, such measures assume that shifts in the aggregate vote should correspond to aggregate shifts in the parties' shares of seats in a legislature. However, as Kousser notes, small shifts in the aggregate "do not push an otherwise losing candidate over the threshold of a plurality of a district, which is the much more relevant statistic for actual politics" (537). In light of these concerns, Kousser (1996) argues for using a measure of partisan registration to assess the consequences of redistricting. Indeed, using such a measure, he is able to predict nearly 90 percent of the winners in California assembly and congressional contests between 1970 and 1994. Methodologically, such a measure is advantageous for at least three reasons: it provides a direct measure of partisan gerrymandering; it utilizes information available at the time of redistricting and hence, captures the intent of redistricting architects; and by using individual districts as the unit of analysis, the measure eliminates the issues involved with aggregation. For these reasons, I utilize a variation of Kousser's model here.

¹⁷These same polls also indicated that Nevadans were less supportive of any tax increases and instead, preferred to pass the tax burden on to the state's nearly forty million annual visitors.

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