



REDISTRICTING COMMITTEE

Wednesday and Thursday, September 15-16, 2021
 Roughrider Room, State Capitol
 Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson*, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

Members absent: None

Others present: See [Appendix A](#)

**Attended remotely*

It was moved by Senator Bekkedahl, seconded by Senator Klein, and carried on a voice vote that the minutes of the September 8, 2021, meeting be approved as distributed.

COMMENTS BY REPRESENTATIVES OF TRIBAL NATIONS

Mr. Nathan Davis, Executive Director, Indian Affairs Commission thanked the committee for seeking input from the tribal community.

Mr. Mike Faith, Chairman, Standing Rock Sioux Tribe, provided testimony ([Appendix B](#)) relating to the tribe's interest in District 31. He also noted:

- The Standing Rock Sioux Tribe would prefer to be a subdistrict of District 31 with Sioux and Grant Counties in one subdistrict and rural Morton County and the city of Mandan in the other subdistrict; and
- Although the tribe appreciates competition, the tribal community would prefer a chance to have equal representation in the House of Representatives for District 31.

In response to questions from members of the committee, Chairman Faith noted:

- The tribe is open to adding population from rural Morton County and some of Hettinger County to reach the minimum population threshold required; and
- Although the discussion surrounding subdistricts always has existed within the tribal community, the time has come to consider seriously subdistricts as a path forward.

Mr. Charles Walker, Councilman, Standing Rock Sioux Tribe, provided testimony ([Appendix C](#)) relating to the Standing Rock Sioux Tribe's interest in District 31. He noted:

- Existing representation is not adequate because of a lack of communication between the tribal community and those elected to represent them in the House of Representatives;
- The majority of people living in Sioux County do not know who their District 31 Representatives are; and
- The Native American population on the reservation increased by 29.7 percent over the last decade.

Ms. Collette Brown, Executive Director, Gaming Commission, Spirit Lake Casino and Resort, provided testimony ([Appendix D](#)) relating to the Spirit Lake Tribe's interest in redistricting. She noted it is critical for the Legislative Assembly to comply with the Voting Rights Act by moving away from at-large districts that dilute minority voting and to consider the historical undercount of tribal communities during each census.

Mr. Matthew Campbell, Staff Attorney, Native American Rights Fund, noted the Spirit Lake and Standing Rock Sioux Tribes are very interested in subdistricts as they are distinct communities of interest sharing cultural, economic, and political interests.

In response to questions from members of the committee, Mr. Campbell noted:

- Equitable representation is about having a representative is responsive to local needs because of the representative's physical location to those they represent; and
- Data is available to show several members of the Standing Rock Sioux Tribe, Three Affiliated Tribes, and Spirit Lake Tribe have made unsuccessful bids for seats in the House of Representatives.

Ms. Nicole Donaghy, Executive Director, North Dakota Native Vote, provided information ([Appendix E](#)) relating to the Native American communities in the state. She noted the goal is to create an effective policy to promote equitable representation in the state by allowing tribal members the opportunity to elect their candidates of choice.

In response to questions from members of the committee, Ms. Donaghy noted:

- Under the existing districts, tribal members are not able to engage in the elections process; and
- The political party of a representative is irrelevant to the tribal community as the members simply want to have a representative who represents the interests of the tribal community.

Senator Oban provided information ([Appendix F](#)) indicating in two of the three races in District 31 in 2015, the winning candidate still would have won if the district had been subdivided.

COMMITTEE DISCUSSION AND PRESENTATION OF REDISTRICTING MAPS

Representative Lefor presented testimony regarding a [draft map](#) for redistricting the southwestern part of the state. The map included Districts 39, 37, 36, 33, and Y. He noted the map was a concept for discussion and welcomed feedback. Regarding his proposed maps, he also noted:

- Although District 39 contains portions of Dunn, McKenzie, and Mercer Counties, it does not contain any part of the reservation;
- District 37 includes most of the city of Dickinson;
- District 36 needed an additional 4,000 people so it now stretches west to New Salem; and
- District Y is a proposed new district comprising Bowman, Adams, Slope, Golden Valley, Billings, Dunn, and Stark Counties.

In response to questions from the committee, Representative Lefor noted although he considered splitting Stark County into two districts, it became difficult to create whole districts in the surrounding areas.

Representative Nathe presented testimony regarding a [draft map](#) for redistricting Bismarck, Mandan, and the surrounding areas. The map included Districts 33, 7, 47, 34, 35, 31, 32, 30, and 8. He noted the map is a general plan and welcomed comments. Regarding his proposed maps, he also noted:

- District 7 was the biggest challenge as a result of the enormous growth in the area, resulting in the southern area of District 7 being moved to District 8;
- The area in the northwest corner of District 7 comprising the area known as Misty Waters was moved to District 47 because a piece of District 47 south of Interstate 94 was given to District 35;
- District 8 includes the city of Lincoln because the population in that area identifies more with Bismarck than surrounding rural areas;
- Although District 32 did not experience much growth, because District 30 had excess population, a small piece of District 30 along 26th Street, from 9th Street North to 22nd Street North, was included in District 32;
- District 30 was made whole by including the Copper Ridge Development; and
- The top half of District 8 was given to District 6 with the cities of Garrison, Underwood, and Coleharbor being in District 33.

In response to questions from the committee, Representative Nathe noted District 33 includes some of north Mandan and area north of Interstate 94.

Chairman Devlin presented testimony regarding a [draft map](#) for redistricting the eastern half of the state. He noted the plan creates districts from the border of Canada, along the border with Minnesota, and south to South Dakota. Regarding his proposed maps, he also noted:

- Because Rolette County no longer has the population to have its own district, Towner and Cavalier Counties were added to District 9;
- District 10 now includes Pembina County and parts of Cavalier and Walsh Counties;
- District 24 consists of all of Barnes and Ransom Counties;
- Richland County makes a perfect district with a small portion of a reservation that could be included with either Richland or Ransom Counties; and
- The [second plan](#) includes a proposal that would remove Steele County from District 29 and include it with Barnes County and part of Ransom County to leave Cass County whole.

In response to questions from the committee, Chairman Devlin noted his plans result in the elimination of three existing districts.

Senator Holmberg provided testimony regarding a [draft map](#) for redistricting the northeast corner of the state. He noted the majority of the plan is the same as the one he presented at the September 8, 2021, meeting with a few adjustments.

In response to questions from the committee, Senator Holmberg noted the Grand Forks Air Force Base was kept whole in his proposed map.

Senator Poolman provided testimony regarding a [draft map](#) for District X, which would be District 8. She noted because both maps for the eastern half of the state left out Emmons County, this plan includes Emmons County in District 8.

In response to questions from the committee, Senator Poolman noted as a Senator who represents Lincoln, her concept would make Lincoln the largest voting block in District 8 which would be positive for Lincoln and the Bismarck Public School District.

Senator Burkhard provided testimony regarding a [draft map](#) of the Minot area. He noted Minot has experienced significant commercial and residential growth over the last decade, and the footprint of Minot has grown by 60 percent as a result of the flood in 2011 and growth in the oil industry. Regarding his map, he also noted:

- He worked with Representative Bellew to change the boundaries of District 5 by moving the eastern boundary to 3rd Street SE going south to the US Highway 2 Bypass, and going southeast to include the area of the new Trinity Hospital site;
- The actual footprint of the districts in Minot and the surrounding area did not change; and
- The Minot Air Force Base remains split in two districts as it has been since 1991.

Senator Sorvaag provided testimony regarding a [draft map](#) of the Cass County area proposal. He noted the plan keeps Cass County whole, making for a total of 11 districts. Regarding his map, he also noted:

- The plan was created by coming in from the rural areas to the more urban areas with District 22 being the largest rural district;
- Districts 13 and 16 are the largest West Fargo districts with other districts in the plan also containing some portions of West Fargo;
- The plan focused on keeping neighborhoods whole to maintain the sense of community; and
- District XX would be a new district under the plan.

Senator Bekkedahl provided testimony regarding a [draft map](#) of the northwest area proposal. He indicated although there were not many changes from the plan he presented at the September 8, 2021, meeting, the committee should take another look at District 4. Regarding his map, he also noted:

- District 4 has about 16,794 people, and the population of the reservation is 8,350, which could be its own subdistrict; and
- The new District 99 nearly fits into the corporate boundaries of Williston.

COMMENTS BY INTERESTED PERSONS

Mr. Pete Hanebutt, Director of Public Policy, North Dakota Farm Bureau, thanked the committee for their work while also noting legislative districts should consider geographical areas and keep communities of interest together to maximize the impact of rural areas and agriculture.

Mr. Kevin Herrmann, Beulah, submitted testimony ([Appendix G](#)) electronically.

COMMITTEE WORK

Chairman Devlin indicated the committee needs to be ready to move quickly at the next meeting to allow time for the public to view and comment on the plan. He also noted the committee has yet to receive any map proposals from individuals who are not members of the committee and suggested any public proposals be submitted by the next meeting.

Ms. Claire Ness, Senior Counsel, Legislative Council, noted the [maps presented at each meeting](#) are available on the legislative branch website and provided directions to locate them.

No further business appearing, Chairman Devlin adjourned the meeting at 11:10 a.m. On September 16, 2021.

Emily L. Thompson
Code Revisor

Samantha E. Kramer
Senior Counsel

Claire Ness
Senior Counsel

ATTACH:7



North Dakota Native Vote
PO Box 226
Bismarck, North Dakota
58502
info@ndnativevote.org

9/15/2021

North Dakota Legislative Redistricting Committee

Testimony of Nicole Donaghy North Dakota Native Vote, Executive Director

Chairman Devlin and members of the Redistricting Committee,

My name is Nicole Donaghy, I'm a citizen of the Standing Rock Nation and a descendant of the Turtle Mountain Band of Chippewa and the Mandan, Hidatsa, and Arikara people. I live in Lincoln, North Dakota and I'm the Executive Director of North Dakota Native Vote.

North Dakota Native Vote is a non-profit, non-partisan grassroots organization that initially formed in response to the 2018 US Supreme Court decision to uphold the voter identification law that had the potential to disproportionately adversely affect over 5,000 Native voters in North Dakota. Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota.

I joined North Dakota Native Vote in 2018 because the imbalance of power in our state was very apparent to me after being a community organizer for years. I've worked on education issues, protection of land, air, and water, and now civic engagement. I soon realized that the issues that I was working on often stem from a lack of inclusion and representation in the decision making processes.

In North Dakota, the Native American population grew by 29.7% in the last decade, it is North Dakota Native Vote's ask that the Committee take into consideration the perspectives of each of the Tribes as well as tribal members in the redistricting process.

We are asking the Committee to adopt single-member House districts to prevent the dilution of Native American votes. Tribes and tribal members in North Dakota have had to fight for the right to vote, whether by defeating voter I.D. laws, opposing district lines that dilute the Native American vote, or by demanding on reservation polling locations. As we have seen in our early beginning as an organization, tribal citizens in North Dakota have been overburdened by policy that is created by decision makers with little input from their tribal constituents. At-large voting systems, like the current one used for the North Dakota State House, violate the Voting Rights Act when they dilute minority voting power by preventing tribal members from electing the candidate of their choice.

Our State Constitution in Article IV subsection 2, paragraph 2 states "The legislative assembly may... provide for the election of senators at large and representatives at large or from subdistricts from those districts." North Dakota Century Code 54-03-01.5 Legislative subsection 2 also



North Dakota Native Vote
PO Box 226
Bismarck, North Dakota
58502
info@ndnativevote.org

provides that “Representatives may be elected at large or from subdistricts.” North Dakota law allows for the creation of sub-districts and that is what should be done. Single-member House districts, or sub-districts, within districts containing reservations would allow tribal members to elect the candidate of their choice as required under the Voting Rights Act.

Candidates are able to run, but not get elected because of the dilution of their vote by being grouped in with adjacent communities that do not share similar interest.

One example is my home lands in Sioux County on the Standing Rock Reservation. Data from elections for legislative seats over the past decade indicate that Native American residents of District 31 are not currently able to elect representatives of their choice.

For example, in 2014 two Standing Rock Tribal members, Mike Faith and LaDonna Allard, ran for the State House but were out-voted in the at-large system. In 2010, another Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for U.S. House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice.

We recommend that a “Community of Interest” standard should be used by this Committee, which takes into consideration communities that have similar language, culture, and identity, to keep those communities together within a single legislative district. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Lastly, this Committee should be holding hearings on or near reservations so that tribal members who are unable to travel to Bismarck, and who lack internet access, are able to participate in the redistricting process. There are high levels of poverty and a lack of access to transportation and broadband internet on our reservations. This Committee would be doing itself and this state a disservice by failing to provide an opportunity for all of this state’s citizens to take part in this important discussion. All voices must be heard.

North Dakota Native Vote was founded to ensure the inclusion of Native voices in the political discourse of our State. We support and encourage our Native people to engage in the political process that is not always inclusive of our people for various reasons. I thank the Redistricting Committee for its time today and will stand for any questions the Committee may have. Thank you.

**Testimony of the Spirit Lake Nation Regarding Legislative Redistricting
North Dakota Legislative Council Redistricting Committee
September 15, 2021**

Chairman Devlin and members of the Redistricting Committee, thank you for having me here today. I am Collette Brown, the Gaming Commission Executive Director at the Spirit Lake Casino and Resort, and will be testifying today on behalf of the Spirit Lake Nation. I previously testified before this committee on August 26th and I appreciate the Committee allowing me this additional opportunity to speak on behalf of the Spirit Lake Nation. As I informed during my prior testimony, the Spirit Lake Nation is a federally recognized tribe located in the state of North Dakota, with an enrolled membership of 7,559 members as of January 2021. According to the American Community Survey, there are almost 4,000 Native Americans currently living on our reservation, and most of the reservation is located within Benson County.

I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for this Committee to account for all voters in spite of the Census undercount in tribal communities; and (3) to demand the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

As I previously testified to, it is critical that the Legislature comply with the Voting Rights Act. This includes moving away from at-large districts for the State House of Representatives, which has a dilutive effect on minority votes. The Spirit Lake reservation is located in state Legislative District 23. The voters on the Spirit Lake reservation tend to support candidates who are outvoted and opposed by voters in other areas of the district. In order to provide the Native American voters residing in District 23 a better opportunity to elect the representative of their choice, the Spirit Lake Nation requests that the Legislature create two

single-member districts for the State House of Representatives. Failure to draw single-member House districts can dilute the Native vote and may violate the Voting Rights Act.

Second, the Spirit Lake Nation requests that the Legislature consider the historical Census undercount among the tribal communities in North Dakota. If this Committee only looks at the reported numbers from the 2020 Census, it will be blinding itself to the true population of these communities. In the 2010 Census, Native Americans living on reservations were undercounted by almost 5%, much higher than any other group. Given the Coronavirus pandemic, we can expect this undercount to be even higher for the 2020 Census. Only using the currently reported 2020 Census numbers in the redistricting process disproportionately impacts Native American voters. These undercounts should be accounted for by the Legislature, this Committee, and future redistricting committees. The American Community Survey may provide more accurate numbers.

Third, given the extremely short notice of invitation to this hearing, which was sent out on Monday night, Spirit Lake Nation Chairman, Douglas Yankton, Sr., was unable to attend this meeting. The Spirit Lake Nation considers this notice to be far from adequate and shows a lack of good faith on the part of the Committee to sincerely take the Tribe's perspective into account. Additionally, failing to hold hearings near tribal communities silences those tribal member voters who lack the resources to travel to Bismarck or to attend these hearings online. Tribes have continued to advocate for more inclusivity in the redistricting process, and that advocacy has largely been ignored by this Committee.

As I informed the Committee in my prior testimony, the Spirit Lake Nation and its members have fought hard for the right to vote, which has included successful voting rights cases

against the state and county. The Spirit Lake Nation will continue to do so when necessary to protect the rights of its members to vote.

I thank the members of the Committee for your time today. I am happy to address any questions or discuss these issues further.

**Testimony of Standing Rock Sioux Tribe Chairman Mike Faith
Regarding Legislative Redistricting
North Dakota Legislative Council Redistricting Committee
September 15, 2021**

Introduction

Chairman Devlin and members of the Redistricting Committee, thank you for allowing me to testify today. I am Mike Faith, Chairman for the Standing Rock Sioux Tribe. Standing Rock is a federally recognized tribe located in the states of North Dakota and South Dakota. In North Dakota, the reservation makes up Sioux County and has 4,373 residents, 3,644 of whom are Native American. Sioux County has a Native American Voter Age Population of 86%. Standing Rock is a sovereign nation governed by its Tribal Council. Our tribal members are of the Dakota and Lakota nations. I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for Standing Rock to be kept together and not be split into multiple legislative districts; and (3) to request the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

History of North Dakota Native American Voting Rights

Tribes across the nation and in North Dakota have had to fight for their right to vote. North Dakota has a long history of discrimination against Native Americans generally, and of denying Native Americans the right to vote in particular. Courts have recognized the history of discrimination in North Dakota against Native Americans with regard to voting. *See Spirit Lake Tribe v. Benson Cty., N.D.*, No. 2:10- cv-095, 2010 WL 4226614, at *3 (D.N.D. 2010); Consent Judgment and Decree, *United States v. Benson Cty.*, Civ. A. No. A2-00-30 (D.N.D. Mar. 10, 2000); *State ex rel. Tompton v. Denoyer*, 72 N.W. 1014, 1019 (N.D. 1897). In the late 19th Century, an Amendment to North Dakota's initial Constitution, adopted and ratified in 1898,

provided that only “[c]ivilized persons of Indian descent” who “severed their tribal relations two years next preceding such election” were eligible to vote. N.D. Const., art. V, § 121 (1898).

Thus, in order to vote, Native Americans had to be “civilized” and had to have explicitly “severed their tribal relations.” *Id.* This insidious classification only applied to Native Americans and was not removed until 1922. people”

In 1920 in *Swift v. Leach*, 178 N.W. 437 (N.D. 1920), the North Dakota Supreme Court was asked to apply the “civilized persons” constitutional provision to Native American voters. While the Court found that the Native American plaintiffs were eligible voters in that case, it required the local Superintendent of the Bureau of Indian Affairs, as well as other witnesses, to testify that the Natives “live just the same as white people” to show that they were “civilized” and had “severed” their tribal relationship. *Id.* at 438-40. This was despite the Appellant’s argument that the Native Americans, by being dependent on the federal government, could not be “civilized persons.” *Id.* at 441.

In 2000, the United States successfully sued Benson County over its use of at-large elections, which had the effect of diluting the Native American vote. And Standing Rock has also been at the forefront in protecting the right to vote. In 2018, the Tribe, on behalf of its members, sued the North Dakota Secretary of State over the state’s illegal voter identification requirements that would make it impossible for many tribal members to vote. In 2020, the parties entered into a mutually agreed upon consent decree that would allow for the recognition of tribal ID’s and allow tribal voters to identify their residence on a map due to many tribal members lacking a physical street address. The right to vote is a fundamental right in our democracy, and Standing Rock will vigorously defend that right of its members.

North Dakota Legislative Redistricting

In North Dakota, the Native American population grew by 29.7% in the last decade. So as the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, the Legislature should move away from at-large districts for the State House of Representatives, which has a dilutive effect on Standing Rock votes. For the Standing Rock Sioux Tribe, the Legislature should utilize single member House districts to ensure we have equitable representation.

Failure to draw single-member House districts can dilute the Native vote. For example, the North Dakota portion of Standing Rock is located entirely with District 31. Besides Sioux County, District 31 also includes Grant County and parts of Hettinger and Morton counties. The Native population in District 31 is concentrated on the reservation in Sioux County, which has a Native voting age population of 86.1%. Even though the voters in Sioux County tend to strongly favor Democratic candidates, District 31 has been represented by the same three Republicans since 2011.

Indeed, I ran for the State House in 2014, along with another Standing Rock member, LaDonna Allard. But, we were outvoted in the at-large election. In 2010, a different Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for US House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice. This was just like in 2000 when the United States was forced to sue Benson County for its use of

at-large elections that diluted the voting power of Spirit Lake tribal members.¹ Creating a House sub-district would give tribal members the opportunity to elect their preferred candidate.

Second, Standing Rock should not be cracked, but rather kept together in a district. We are a community has similar language, culture, economics, and identity, and our community deserves uniform representation. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, I am extremely disappointed that the Committee has failed to formally consult with the tribes to take Tribal input into account in the redistricting process. Sending an informal invite to tribal leaders to testify a day before a hearing is highly disrespectful. North Dakota Native Vote requested formal government-to-government consultation on redistricting months ago. Failing to reach out to Tribal leaders for months, and then waiting for the last minute to invite us to provide this important information is unacceptable. Many other states began holding redistricting hearings months ago to get feedback directly from citizens and tribal governments. Our tribal governments, just like other governments all across the country, are dealing with the rising impact of the Delta variant. The actions by the Committee send the message that the Committee is not interested in hearing what we have to say and that it is not important at all.

Native people have also been requesting hearings on the reservations. But this Committee has chosen to only hold hearings in Bismarck or Fargo. Holding hearings in far-away communities has a disproportionately negative impact on tribal communities. Having hearings only in Bismarck is disproportionately burdensome for Native Americans, just as the North

¹ See Consent Decree, United States of America v. Benson County, CIVIL ACTION NO. A2-00-30 (March 10, 2000) available at <https://www.justice.gov/crt/case-document/file/1180491/download>.

Dakota District Court found that forcing Native Americans to travel to a driver's license site is disproportionately burdensome.² Additionally, as the North Dakota District Court recently recognized, there are high levels of poverty on our reservation.³ Native people also disproportionately lack access to transportation and broadband internet.⁴ The Committee should be holding hearings on reservations so that all tribal members have the opportunity to have their voices heard, and should hold tribal consultations after it has developed a draft plan. This process is far too important to ignore the perspective of tribal communities.

I thank the members of the Committee for your consideration of these important issues. I am happy to address any questions or discuss these issues further.

² *Brakebill v. Jaeger*, No. 1:16-CV-008, 2016 WL 7118548 at *6 (D.N.D. Aug. 1, 2016) (travel to a Driver's License Site to obtain a non-driver's ID card (or a driver's license) is substantially burdensome for Native Americans).

³ *Id.* at *8 (Native Americans living in North Dakota disproportionately live in severe poverty).

⁴ *Id.* at * 4 (Only 78.2% of Native Americans have a North Dakota driver's license, compared to 94.4% of non-Native Americans).

**Testimony of Standing Rock Sioux Tribe Councilman Charles Walker Regarding
Legislative Redistricting
North Dakota Legislative Council Redistricting Committee
September 15, 2021**

Introduction

Chairman Devlin and members of the Redistricting Committee, thank you for allowing me to testify today. I am Charles Walker, Councilman for the Standing Rock Sioux Tribe. Standing Rock is a federally recognized tribe located in the states of North Dakota and South Dakota. In North Dakota, the reservation makes up Sioux County and has 4,373 residents, 3,644 of whom are Native American. Sioux County has a Native American Voter Age Population of 86%. Standing Rock is a sovereign nation governed by its Tribal Council. Our tribal members are of the Dakota and Lakota nations. I am here to advocate on behalf of the Tribe and its members: (1) for the use of single member districts to elect representatives to the State House; (2) for the Tribe's communities to be considered a community of interest that should not be split into multiple legislative districts; and (3) to request the North Dakota Redistricting Committee listen to tribal input and hold redistricting meetings and tribal consultations on reservations.

Recent History of the Tribe's Fight for Voting Rights

Tribes across the nation have had to fight for their right to vote, and Standing Rock has been at the forefront of that fight. In 2018, the Tribe, on behalf of its members, sued the North Dakota Secretary of State over the state's illegal voter identification requirements that would make it impossible for many tribal members to vote. In 2020, the parties entered into a mutually agreed upon consent decree that would allow for the recognition of tribal ID's and allow tribal voters to identify their residence on a map due to many tribal members lacking a physical street address. The right to vote is a fundamental right in our democracy, and Standing Rock will vigorously defend that right of its members.

North Dakota Legislative Redistricting

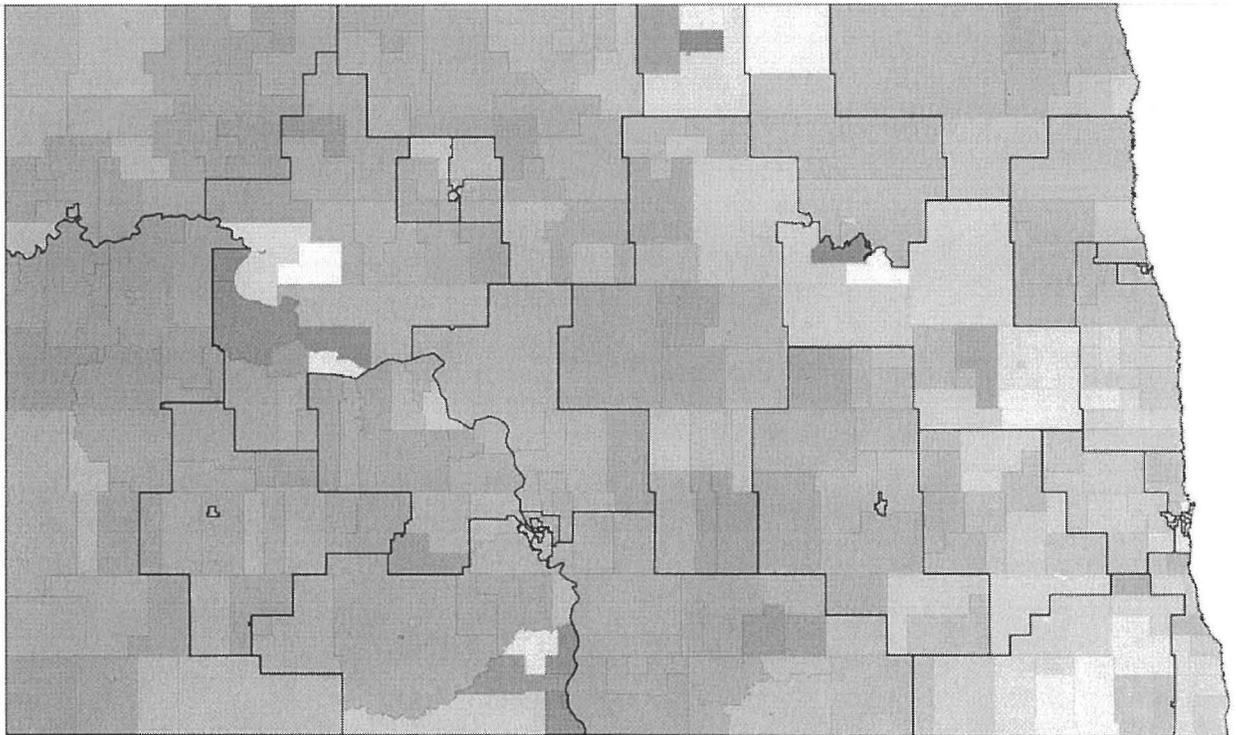
In North Dakota, the Native American population grew by 29.7% in the last decade. So as the state of North Dakota undertakes its redistricting process, the Legislature should take several steps. First, the Legislature should move away from at-large districts for the State House of Representatives, which has a dilutive effect on Standing Rock votes. For the Standing Rock Sioux Tribe, the Legislature should utilize single member House districts to ensure we have equitable representation.

Failure to draw single-member House districts can dilute the Native vote. For example, the North Dakota portion of Standing Rock is located entirely with District 31. Besides Sioux County, District 31 also includes Grant County and parts of Hettinger and Morton counties. The Native population in District 31 is concentrated on the reservation in Sioux County, which has a Native voting age population of 86.1%. Even though the voters in Sioux County tend to strongly favor Democratic candidates, District 31 has been represented by the same three Republicans since 2011.

Indeed, in 2014 two Standing Rock Tribal members, Mike Faith and LaDonna Allard, ran for the State House but were out-voted in the at-large system. In 2010, a different Standing Rock Tribal member ran for the State House, but was likewise outvoted in the at-large system. Chase Iron Eyes, another Standing Rock member and candidate for US House, earned 78% of the vote in Sioux county, but was defeated in each of the other counties in District 31. This shows that the Native American voters have not been able to elect the candidate of their choice. This was just

like in 2000 when the United States was forced to sue Benson County for its use of at-large elections to dilute the voting power of Spirit Lake tribal members.¹

In the map below, you can see the voting patterns in the State of North Dakota. As you can see, in the reservation areas the voters lean democratic. Given this polarized voting, Standing Rock candidates are unable to win in an at-large system as they can always be out voted in every election.



Creating a House subdistrict would give tribal members the opportunity to elect their preferred candidate.

Second, a “Community of Interest” standard should be utilized in redistricting, which can take into consideration communities that have similar language, culture, economics, and identity,

¹ See Consent Decree, *United States of America v. Benson County*, CIVIL ACTION NO. A2-00-30 (March 10, 2000) available at <https://www.justice.gov/crt/case-document/file/1180491/download>.

to keep those communities together within legislative districts. The Standing Rock Sioux Tribe and its communities are a community of interest and should remain in a single legislative district. Splitting the reservation or our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice.

Third, even though the redistricting schedule is abbreviated, there is no excuse for failing to consult with the tribes and taking tribal input into account in the redistricting process. Sending an informal invite to tribal leaders to testify a day before a hearing is highly disrespectful. North Dakota Native Vote requested formal government-to-government consultation on redistricting months ago. Failing to reach out to Tribal leaders for months, and then waiting for the last minute to invite us to provide this important information is unacceptable. Many other states began holding redistricting hearings months ago to get feedback directly from citizens and tribal governments. Our tribal governments, just like other governments all across the country, are dealing with the rising impact of the Delta variant. The actions by the Committee send the message that the Committee is not interested in hearing what we have to say and that it is not important at all.

Native people have also been requesting hearings on the reservations. But this Committee has chosen to only hold hearings in Bismarck or Fargo. Holding hearings in far-away communities has a disproportionately negative impact on tribal communities. Having hearings only in Bismarck is disproportionately burdensome for Native Americans, just as the North Dakota District Court found that forcing Native Americans to travel to a driver's license site is disproportionately burdensome.² Additionally, the North Dakota District Court recently

² *Brakebill v. Jaeger*, No. 1:16-CV-008, 2016 WL 7118548 at *6 (D.N.D. Aug. 1, 2016) (travel to a Driver's License Site to obtain a non-driver's ID card (or a driver's license) is substantially burdensome for Native Americans).

recognized, there are high levels of poverty on our reservation.³ Native people also disproportionately lack access to transportation and broadband internet.⁴ The Committee should be holding hearings on reservations so that all tribal members have the opportunity to have their voices heard, and should hold tribal consultations after it has developed a draft plan. This process is far too important to ignore the perspective of tribal communities.

I thank the members of the Committee for your consideration of these important issues. I am happy to address any questions or discuss these issues further.

³ *Id.* at *8 (Native Americans living in North Dakota disproportionately live in severe poverty).

⁴ *Id.* at * 4 (Only 78.2% of Native Americans have a North Dakota driver's license, compared to 94.4% of non-Native Americans).



REDISTRICTING COMMITTEE

Wednesday and Thursday, September 22-23, 2021
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

Members absent: None

Others present: Representative Kathy Skroch*, Lidgerwood; Representative Mike Schatz, New England John Bjornson, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Representative Monson, seconded by Senator Burckhard, and carried on a voice vote that the minutes of the September 15-16, 2021, meeting be approved as distributed.

Mr. Aaron Birst, Legal Counsel and Assistant Director - Policy, North Dakota Association of Counties, thanked the committee for its work and provided information ([Appendix B](#)) indicating the association's preference of maintaining the integrity of county lines where possible.

LEGAL CONSIDERATIONS RELATING TO THE CREATION OF SUBDISTRICTS

Ms. Claire Ness, Senior Counsel, Legislative Council, provided [information](#) relating to the creation of subdistricts.

In response to questions from members of the committee, Ms. Ness noted:

- It is important to remain consistent with whatever population the committee considers for determining equivalency for whole districts and subdistricts;
- Courts have not established a bright line rule as to when a district should be divided into subdistricts; and
- An analysis of the voting data in the area the committee is considering for subdistricts is an important consideration.

COMMITTEE DISCUSSION AND PRESENTATION OF REDISTRICTING MAPS

Representative Nathe presented testimony regarding a draft map for redistricting the [Bismarck-Mandan area](#) of the state and for [Districts 8 and 33](#). He noted:

- The only changes to the Bismarck-Mandan area map from the map presented at the September 14-15, 2021, meeting are a few changes to clean up Districts 7, 30, and 32; and
- The biggest change to District 33 is the inclusion of Garrison and Coleharbor.

Representative Lefor presented testimony regarding a [draft map](#) for redistricting the southwest area of the state. He noted several townships in Mercer County were moved to District 33 and the border of District 36 was adjusted to ensure the appropriate district size.

Exhibit 21

Representative Headland presented testimony regarding a [draft map](#) for redistricting the northeast area of the state. He noted the area is challenging due to a lack of population growth. He also noted:

- The plan is based on the plan Chairman Devlin presented at the September 14-15, 2021, meeting and he followed the traditional principles of redistricting while focusing on keeping counties and districts whole;
- Districts 23 and 26 were absorbed into other districts;
- Jamestown remains in District 12 with the addition of some rural townships, including 10 townships from District 29; and
- District 29 encompasses LaMoure, Stutsman, Foster, Griggs, and Nelson Counties.

Representative Monson presented testimony regarding a [draft map](#) of the eastern part of the state. He noted his plan is based on Senator Holmberg's plan and keeps counties whole resulting in two districts with deviations the committee would need to balance. He also noted the plan splits Pierce County and puts part of Benson County in District 15.

Senator Oban and Representative Boschee distributed a copy of a [statewide proposal](#) and the principles upon which the proposal was based ([Appendix C](#)).

Senator Oban noted the plan did not consider the residences of incumbents.

In response to questions from members of the committee, Representative Boschee noted redistricting is based on population and the only way to exclude bias is to have an independent redistricting commission.

Senator Holmberg noted if the committee does not make a decision about whether to subdistrict Districts 4 and 9, the courts will.

REDISTRICTING ELECTION SCHEDULES

Ms. Ness presented a memorandum entitled *Impact of Redistricting Impacts on Legislative Election Schedules*.

COMMENTS BY INTERESTED PERSONS

Representative Kathy Skroch, District 26, noted the proposed plans do not consider the survival of District 26. She also noted it would be just as reasonable to dissolve District 14 into Districts 26 and 28.

Representative Mike Schatz, District 36, provided testimony regarding a map ([Appendix D](#)) of the southwest area of the state. He noted New Salem should remain in District 33 with New England remaining in District 36.

Mr. Mark N. Fox, Chairman, Three Affiliated Tribes, Fort Berthold Indian Reservation, provided information ([Appendix E](#)) relating to the possible division of District 4, which would create a subdistrict consisting of the Fort Berthold Indian Reservation. He thanked the committee for requesting tribal input and noted he appreciates the positive working relationship between the tribes and the Legislative Assembly.

The committee received written testimony from:

- Mr. Gerald Wise, Mayor, Lincoln ([Appendix F](#));
- Ms. Jan Jelliff ([Appendix G](#)); and
- Ms. Jennifer Tarlin ([Appendix H](#)).

COMMITTEE WORK

It was moved by Representative Schauer, seconded by Senator Poolman, and carried on a roll call vote that Senator Sorvaag's map from September 16, 2021, with the adjustment to the southern boundary of District 46, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Representative Boschee noted the Democrats were comfortable supporting the plan.

It was moved by Senator Holmberg, seconded by Representative Nathe, and carried on a roll call vote that Districts 17, 18, 42, and 43 from Senator Holmberg's plan, as presented on September 15, 2021, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Representative Nathe, seconded by Representative Schauer, and carried on a roll call vote that Districts 31 and 34 from the Bismarck-Mandan area proposal, as presented on September 22, 2021, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Senator Burckhard, seconded by Representative Bellew, and carried on a roll call vote that Districts 3, 5, 38, and 40 from Senator Burckhard's plan, as presented at the September 16, 2021, meeting be approved. Representatives Devlin, Bellew, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representative Boschee and Senator Oban voted "nay."

It was moved by Representative Nathe, seconded by Representative Schauer, and carried on a roll call vote that Districts 7, 30, 32, 35, and 47 from Representative Nathe's plan, as presented on September 22, 2021, be approved. Representatives Devlin, Bellew, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representative Boschee and Senator Oban voted "nay."

It was moved by Representative Lefor, seconded by Senator Holmberg, and carried on a roll call vote that Districts 36, 37, 39, and Y, from Representative Lefor's plan, as presented on September 22, 2021, be approved. Representatives Devlin, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representatives Bellew and Boschee and Senator Oban voted "nay."

It was moved by Representative Headland, seconded by Senator Holmberg, and approved on a roll call vote that Districts 12 and 29, as presented at the September 22, 2021, meeting be approved. Representatives Devlin, Bellew, Headland, Lefor, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representatives Boschee and Monson and Senator Oban voted "nay."

It was moved by Senator Erbele, seconded by Representative Boschee, and carried on a roll call vote that Districts 24 and 25, as proposed in Chairman Devlin's second proposal at the September 15, 2021, meeting be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Representative Schauer, seconded by Senator Holmberg, and carried on a roll call vote that District 28, as proposed in Chairman Devlin's second proposal at the September 15, 2021, meeting be approved. Representatives Devlin, Boschee, Monson, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representatives Bellew, Headland, Lefor, and Nathe and Senator Oban voted "nay."

It was moved by Senator Holmberg, seconded by Senator Poolman, and carried on a roll call vote that Districts 9, 10, and 20, as proposed in Chairman Devlin's second proposal at the September 15, 2021, meeting be approved. Representatives Devlin, Headland, Lefor, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representatives Bellew, Boschee, and Monson and Senator Oban voted "nay."

It was moved by Senator Poolman, seconded by Senator Klein, and carried on a roll call vote that Districts 14 and 15, as proposed in Chairman Devlin's second proposal at the September 15, 2021, meeting be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Senator Bekkedahl, seconded by Representative Lefor, and carried on a roll call vote that Districts 1, 2, and 99, as proposed by Senator Bekkedahl on September 22, 2021, be approved. Representatives Devlin, Boschee, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Senator Poolman, seconded by Senator Klein, and carried on a roll call vote that District 8, as presented by Senator Poolman on September 23, 2021, be approved. Representatives Devlin, Bellew, Boschee, Monson, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representative Nathe and Senator Oban voted "nay."

It was moved by Senator Bekkedahl, seconded by Senator Poolman, and carried on a roll call vote that Districts 4, 6, and 33, as presented by Senator Bekkedahl on September 23, 2021, be approved. Representatives Devlin, Boschee, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Senator Burckhard, seconded by Senator Poolman, and carried on a roll call vote that the preliminary map incorporating all the approved proposals be approved and reviewed by Legislative Council staff for legal requirements. Representatives Devlin, Boschee, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

No further business appearing, Chairman Devlin adjourned the meeting on September 23, 2021, at 12:45 p.m.

Emily L. Thompson
Code Revisor

Samantha E. Kramer
Senior Counsel

Claire Ness
Senior Counsel

ATTACH:8

Legal Considerations for Subdistricting

Redistricting Committee
September 2021



☎ 701.328.2916

✉ council@nd.gov

🌐 www.legis.nd.gov

Exhibit 22

Subdistricting Multi-Member Districts into Subdistricts

- Multi-member districts are not inherently unlawful but may raise issues under federal law.
- Redistricting bodies may use multi-member or single-member districts for several reasons.
- Federal law provides additional considerations for districting decisions involving race as a factor.
- Subdistricts must comply with the one-person, one-vote principle so the populations in subdistricts must be approximately equal.

Fourteenth Amendment

- Generally, race may not be the "predominant factor" in the creation of a particular district.
- However:
 - Race may be the predominant factor if the district is "narrowly tailored" to achieve a "compelling state interest;" and
 - Race may be one factor out of multiple factors considered in the creation of a particular district.

Compelling State Interest

- Courts have said compelling state interests include:
 - Complying with Section 2 of the federal Voting Rights Act; and
 - Remediating past discrimination.

Compelling State Interest: Complying with the Voting Rights Act

- Complying with the Voting Rights Act can be a compelling state interest if there is direct evidence the votes of members of a racial minority would be diluted without a majority-minority district.
- Look to the Gingles Preconditions, which are covered in an upcoming slide, to help with this analysis.

Compelling State Interest: Remediating Past Discrimination

To show a compelling state interest in remediating past discrimination:

- The state must identify the past discrimination, which may have been public or private, with some specificity, and
- The redistricting body must have had a "strong basis in evidence" to conclude remedial action was necessary before engaging in the remedy.

Narrowly Tailored

- The remedy needs to correct the identified problem without going too far.
- To show a plan is narrowly tailored to complying with the Voting Rights Act, the state needs to show it "has good reason to think that all the Gingles preconditions were met..."
 - If the Gingles preconditions were met, courts then may consider the Senate Factors.

Gingles Preconditions

- The minority group is sufficiently numerous and compact to form a majority in a single-member district.
- The minority group is "politically cohesive" (i.e., tends to vote similarly).
- The majority group votes as a block (i.e., tends to vote similarly) so the minority group's candidate of choice usually is defeated.

Senate Factors

- History of official discrimination
- Racially polarized voting in the state
- Election procedures that diluted the minority vote
- Minority exclusion from the candidate slating process
- Effects of discrimination in health, education, and employment
- Subtle or overt racial appeals in campaigns
- Lack of elected officials' responsiveness to needs of minority
- Extent of minority success being elected to public office

Questions?



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MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

67th Legislative Assembly
Redistricting Committee
September 23, 2021

Testimony of Mark N. Fox, Chairman
Tribal Business Council

Chairman Devlin and members of the Redistricting Committee, my name is Mark Fox, I am the Chairman of the Tribal Business Council of the Mandan, Hidatsa and Arikara Nation (MHA Nation) also known as the Three Affiliated Tribes of the Fort Berthold Indian Reservation (FBIR). I appreciate the opportunity to submit testimony on behalf of the MHA Nation.

Currently, FBIR is located within North Dakota District 4. District 4 consists of portions of the following six counties: McKenzie, Dunn, Mountrail, McLean, Mercer, and Ward. District 4 elects two members to the State House (at-large), and one member to the State Senate. The 2020 Census shows that the District 4 population and FBIR population increased between 2010 and 2020 to 16,794 and 8,350, respectively.

As a result of the overall 15.8% increase in North Dakota population from 672,591 residents to 779,094 residents, the ideal population for two member districts in North Dakota in 2021 is 16,576 and about 8,288 for a single-member house district. The MHA Nation urges the legislature to split the one at-large State House district to two single-member State House districts in District 4.

If single-member house districts were implemented within District 4, then House districts would have an ideal population of about 8,288. All of District 4 is currently about 38.6% Native American. The 2020 Native Voting Age Population (18 and over) is 33.9%.

Block voting is a concern for us. It has historically occurred in the state and has negatively impacted native voting and diminished native opportunities to serve in the legislature and participate in state and local elections. The current district lends itself to block voting.

Exhibit 23

This can be remedied by splitting the district into two single districts, thereby leveling the playing field for candidates. We understand that a split district is no guarantee that a tribal member would be elected, we are confident however that it will increase the representation of our issues and concerns to the legislative body.

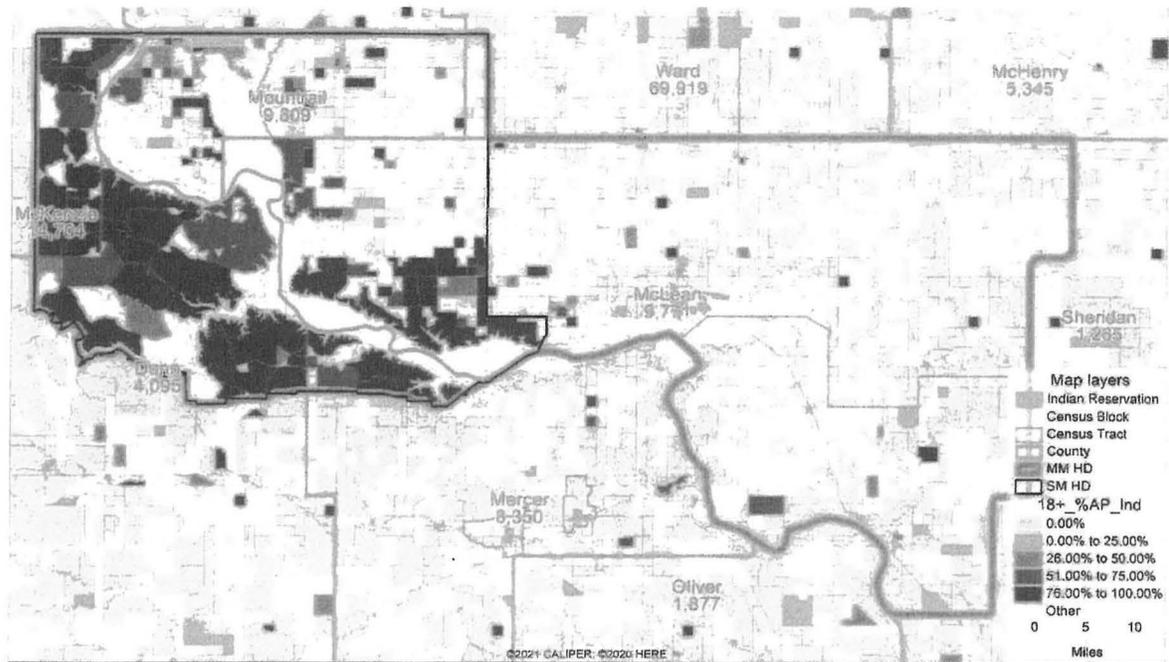
The legislature could easily draw a new single-member House district in our area that would have a Native Citizen Voting Age Population of 67% (*See Attached Proposed Map*). Using such a single-member district would give MHA a much better opportunity to elect a House representative of MHA's choice than under the current at-large system.

Second, the MHA Nation and its communities are a community of interest and should remain in a single legislative district. Splitting the reservation and our communities into multiple districts would dilute the ability of tribal members to elect the representative of their choice. I understand that certain legislators have stated that they will not split up, or crack, reservations into different districts. We can appreciate that position and respectfully request that our communities not be split as we have shared interests and deserve the same representation.

Third, tribal members who are also state citizens that are not only uniquely distinguished as minorities, but are part of a distinct political status that legally distinguishes them from other minority populations.

During the 1990s, the Parshall school district located on FBIR addressed similar concerns with block voting and addressed the issue by splitting the formerly at-large district. This allowed the election of two tribal members on the school board for the first time. The outcome has been beneficial for all of us. We were able to bridge the gap of communication and work together for the benefit of our children and families. I see the development of a single district for FBIR as another opportunity to enhance our communication and work together for a common goal of improving our communities and the lives of the people whom we represent. We ask for this Committee to support us in establishing a single district for the MHA Nation. We appreciate your support. Thank you.

Three Affiliated Tribes of the MHA Nation Proposed Sub-District



District	4 - Sub District	4A - Full District
Population	8353	17065
Deviation	65	489
% Deviation	0.007843	0.0295
18+_Pop	5712	12567
% 18+_Pop	0.683826	0.73642
NH18+_Wht	1462	7921
% NH18+_Wht	0.255952	0.630302
18+_AP_Ind	3838	4044
% 18+_AP_Ind	0.671919	0.321795



REDISTRICTING COMMITTEE

Tuesday, September 28, 2021

Room 327B, State Capitol

Bismarck, North Dakota

Wednesday, September 29, 2021

Roughrider Room, State Capitol

Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 1:00 p.m.

Members present: Representatives Bill Devlin, Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, Austen Schauer; Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, Ronald Sorvaag

Members absent: None

Others present: Representatives Terry B. Jones, New Town, Kathy Skroch, Lidgerwood, and Senator Jason G. Heitkamp, Wahpeton

See [Appendix A](#) for additional persons present.

It was moved by Senator Klein, seconded by Senator Poolman, and carried on a voice vote that the minutes of the September 22-23, 2021, meeting be approved as distributed.

COMMITTEE DISCUSSION AND PRESENTATION OF REDISTRICTING MAPS

The Legislative Council staff distributed a [statewide proposal](#) reflecting the district boundaries approved by the committee to date.

Senator Klein presented a [draft map](#) proposing changes to the boundaries of Districts 14 and 15 as previously approved by the committee. He noted the district line was moved to place the entirety of West Bay and Oberon Townships in Benson County in District 15 to better align with the 2010 district boundaries.

It was moved by Senator Klein, seconded by Representative Schauer, and carried on a roll call vote that the proposed changes to Districts 14 and 15, as presented, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Senator Burckhard presented a [draft map](#) proposing changes to the boundaries of District 5 as previously approved by the committee. He noted a portion of the northern boundary of District 5 was adjusted to align with 3rd Avenue Northwest and a portion of the southern boundary of District 5 was adjusted to align with 37th Avenue Southwest.

It was moved by Senator Burckhard, seconded by Representative Bellew, and carried on a roll call vote that the proposed changes to District 5, as presented, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Representative Headland presented a [draft map](#) proposing changes to the boundaries of Districts 12 and 29 as previously approved by the committee. He noted the boundaries of District 12 were modified to replace townships south of Jamestown with townships north of Jamestown in an effort to keep the majority of Jamestown in one district while retaining Senator Wanzek and himself in District 29.

It was moved by Representative Headland, seconded by Representative Nathe, and carried on a roll call vote that the proposed changes to Districts 12 and 29, as presented, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Senator Poolman presented a draft map illustrating possible changes to the boundaries of Districts 8 and 14 as previously approved by the committee. She noted changes were made to the boundaries of Districts 8 and 14 to bring the population deviations for both districts within the allowable limits. She noted the changes represent an option for how the districts could be structured, but she would like additional time to refine the changes and review alternative options.

Senator Oban also requested additional time to consider alternative district boundary options for the Burleigh County area.

DISCUSSION REGARDING THE CREATION OF SUBDISTRICTS

Senator Holmberg noted the committee had numerous discussions regarding the federal Voting Rights Act of 1965 and reservation populations. He noted:

- A lawsuit from a previous redistricting cycle seeking a subdistrict for a Native American population was dismissed because the Native American population did not rise to the threshold of comprising a majority of the ideal subdistrict size to warrant an analysis under the Voting Rights Act.
- The ideal population for a subdistrict is 8,453.
- Based on the 2020 Census, the total population of the Fort Berthold Reservation is 8,350 and the total population of the Turtle Mountain Reservation is 5,113, each of which is sufficient to constitute a majority of the population in a single-member subdistrict.
- While he is not necessarily in favor of creating subdistricts, the committee must recognize the reality of the population statistics and be cognizant of the possibility of the courts redrawing district boundaries.

It was moved by Senator Holmberg and seconded by Representative Monson that the committee subdivide Districts 4 and 9 in accordance with the Voting Rights Act and traditional redistricting principles.

Some committee members expressed:

- Discomfort with drawing subdistrict boundaries based on race.
- A preference for court-directed creation, rather than the voluntary legislative creation of subdistricts.
- Concerns regarding differential treatment if some citizens of the state are allowed to vote for two representatives and one senator while others are allowed to vote only for one representative and one senator.

Other committee members noted:

- The creation of subdistricts might prevent a possible dilution of the Native American vote that could result from the use of a larger district and provide communities of interest an opportunity to select their candidate of choice and receive more direct representation.
- It would be unfortunate to face a court challenge after the committee's efforts to redistrict in an honest and transparent manner.
- A preference for the Legislative Assembly to draw district boundaries, rather than the courts.

In response to a question from a committee member, Senator Holmberg reviewed the impetus behind the creation of two subdistricts in South Dakota.

Representative Terry B. Jones, District 4, testified in opposition to creating subdistricts. He noted:

- Several of his constituents have expressed a desire to vote for two representatives, rather than one.
- Native American candidates have an equal opportunity to win an election in District 4.
- Tribal nations should not receive special treatment.
- He strives to represent all his constituents fairly and equally.

In response to questions from committee members, Representative Jones noted the majority of the constituents contacting him are non-native. He noted tribal representatives have voiced a preference for subdistricts.

In response to a question from a committee member, Ms. Claire Ness, Senior Counsel, Legislative Council, noted the legal staff has not provided a recommendation regarding whether the committee should create subdistricts. She noted the staff have provided the legal analysis the courts have historically applied and population statistics regarding the Native American populations in the state.

In response to a request from a committee member, Ms. Ness agreed to provide the committee additional research regarding the outcome of Voting Rights Act cases in other states.

Committee members requested a delay in addressing the question of creating subdistricts until additional information is received from the Legislative Council staff.

The motion and second were withdrawn.

POST-REDISTRICTING ELECTION SCHEDULES

Ms. Ness presented a memorandum entitled *Population Changes in Even-Numbered Districts*. She noted the information in the memorandum was obtained by comparing the boundaries approved at the committee's prior meeting to the 2011 district boundaries and tallying the population residing in the new geographic area added to each even-numbered district and recording the figure both as a total population count and as a percentage of the ideal district population. She reminded the committee an election was triggered after the previous redistricting cycle if the population residing in the new geographic area in an odd-numbered district exceeded 25 percent of the ideal district population. She noted the statute pertaining to post-redistricting election requirements contains additional provisions the committee might wish to update.

Chairman Devin noted 25 percent of the ideal district population calculated based on the 2020 Census is 4,144.

COMMITTEE DISCUSSION

Ms. Emily L. Thomson, Code Revisor, Legislative Council, addressed administrative matters and verified the committee's intent to split the city of Grandin along county lines and align the western boundary of District 27 with the Horace city limit.

Senator Poolman, proposed changes to the boundaries of Districts 7, 8, 14, and 30. She noted the Burleigh County Auditor informed her a portion of land contained in the proposed District 30 was annexed by the City of Lincoln. She proposed moving the annexed portion from District 30 to District 8 to keep the city of Lincoln whole. She also proposed straightening the eastern boundary of District 7 and moving a portion of the population from District 8 to District 14.

It was moved by Senator Poolman, seconded by Representative Schauer, and carried on a roll call vote that the proposed changes to Districts 7, 8, 14, and 30, as presented, be approved. Representatives Devlin, Bellew, Headland, Lefor, Monson, Nathe, and Schauer and Senators Burckhard, Erbele, Holmberg, Poolman, and Sorvaag voted "aye." Representative Boschee and Senators Klein and Oban voted "nay."

Representative Lefor noted he would work with Legislative Council staff to make edits required to bring the population of District 39 within the allowable deviation.

Chairman Devlin noted an additional item the committee might wish to consider is a modification to the statutory mandate for political parties to reorganize after redistricting. He noted redistricting might not lead to all political parties having to reorganize, so reorganization should be at the discretion of the political parties, rather than mandated by the state.

In response to a question from Representative Nathe, Ms. Ness noted she would provide additional information regarding the results of recent court-ordered redistricting in Wisconsin.

COMMENTS BY INTERESTED PERSONS REGARDING SUBDISTRICTS

Ms. Lisa DeVille, Mandan, Hidatsa, and Arikara Nation, provided testimony ([Appendix B](#)) regarding the rapid growth of the Native American population in the state and her support for the formation of subdistricts. She noted voters should pick their leaders rather than the leaders picking their voters.

The committee received additional written testimony in support of the formation of subdistricts, including proposed subdistrict boundaries, from:

- Mr. Douglas Yankton Sr., Chairman, Spirit Lake Nation ([Appendix C](#));
- Mr. Mark Fox, Chairman, Tribal Business Council, Mandan, Hidatsa, and Arikara Nation ([Appendix D](#)); and
- Mr. Mike Faith, Chairman, Standing Rock Sioux Tribe ([Appendix E](#)).

Representative Jones spoke in opposition to the formation of subdistricts. He noted the people of District 4 have good representation and the Native American population has had every opportunity to participate in the legislative process.

Committee members questioned whether "fairness" would be a factor courts would take into consideration during an analysis of whether subdistricts are required to be created.

In response to a request from Chairman Devlin, Ms. Ness reviewed the information ([Appendix F](#)) regarding Voting Rights Act cases provided in a email to committee members.

In response to questions from committee members, Ms. Ness noted:

- If a lawsuit is successful, a court has discretion regarding the breadth of the revisions made to legislative district boundaries and may order the use of previous legislative district boundaries until new boundaries are established.
- There is potential for lawsuits to be filed on both sides of the subdistricting issue and it is difficult to predict the outcome of a lawsuit.

A committee member noted courts generally disfavor the use of multimember districts and only a handful of states have retained the use of multimember districts.

Some committee members felt the facts demonstrated the first of the two Gingles preconditions had been met but were unsure whether the third precondition had been met.

Chairman Devlin noted any recommendation made by the committee and approved for introduction by the Legislative Management is subject to a vote by the full Legislative Assembly during a reconvened or special session.

It was moved by Senator Holmberg, seconded by Senator Burckhard, and carried on a roll call vote that traditional redistricting principles be applied to create subdistricts in Districts 4 and 9. Representatives Devlin, Boschee, Monson, and Schauer and Senators Bekkedahl, Burckhard, Holmberg, Oban, Poolman, and Sorvaag voted "aye." Representatives Bellew, Headland, Lefor, and Nathe and Senators Erbele and Klein voted "nay."

COMMENTS BY INDIVIDUALS REPRESENTING DISTRICT 26

Representative Kathy Skroch, District 26, provided testimony ([Appendix G](#)) and a [proposed statewide plan](#) drafted by Representative Sebastian Ertelt, District 26. She expressed concern the legislative district boundaries proposed by the committee will disenfranchise the voters of District 26. She noted the statewide plan prepared by Representative Ertelt demonstrates it is not necessary to dissolve District 26.

A committee member questioned whether a voter who could still vote for one senator and two representatives would be considered to be disenfranchised simply because the voter could not vote for the same senator and representatives.

In response to a question from a committee member, Representative Skroch noted the criteria used to draft the proposed plan, in addition to conforming with population requirements, was maintaining existing district boundaries and the boundaries of District 26 to the extent possible.

Some committee members:

- Questioned why the survival of District 26 should be given preference over other districts eliminated by the proposed plan.
- Expressed concerns regarding the timeliness of proposing a revised statewide plan on the last day the committee is meeting.

Senator Jason G. Heitkamp, District 26, provided testimony in favor of Representative Ertelt's proposed statewide plan. He noted the larger a district is geographically, the harder it is for representatives to engage with all the individuals living in the district. He noted an urban/rural balance was attempted in the proposed plan.

Ms. Norma Kjos, Wyndmere, testified in favor of Representative Ertelt's proposed statewide plan and keeping District 26 whole.

Mr. Peter Leedahl, Vice Chairman, District 26 Republican Party, testified in favor of Representative Ertelt's proposed statewide plan. He noted the proposed plan does a better job of keeping common areas of Richland County together and representing the interests and needs of individuals on the western side of Richland County.

COMMITTEE WORK

Representative Lefor presented proposed changes to Districts 39 and Y to shift a small number of individuals from District Y to District 39 to bring the districts within the allowable population deviations. He noted he also received a request from individuals in Bowman and Adams Counties to rename District Y as District 39 because those counties historically have been located in District 39.

Another committee member noted the southeast corner of Bowman County has been located in District 39 since 1909, whereas McKenzie County has been a part of District 39 for a shorter period of time.

It was moved by Representative Lefor, seconded by Representative Schauer, and carried on a roll call vote that the proposed changes to Districts 39 and Y, as presented, be approved and Districts 39 and Y be renumbered as Districts 26 and 39, respectively. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Chairman Devlin noted he received correspondence from a county commissioner from Eddy County requesting the committee consider keeping Eddy County whole due to election expenses. He noted this change would result in splitting the Spirit Lake Reservation between two districts. He noted he received a similar request from the Sargent County Auditor to keep Sargent County whole, which also would result in splitting the Lake Traverse Reservation between two districts.

Committee members noted the committee repeatedly expressed its intent to keep reservations whole and splitting these two reservations between multiple districts might invite litigation.

It was moved by Senator Erbele, seconded by Senator Klein, and failed on a roll call vote that Sargent County be kept whole by moving that portion of the reservation within Sargent County from District 25 to District 28. Representative Bellew and Senator Erbele voted "aye." Representatives Devlin, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "nay."

Senator Holmberg presented a [draft map](#) of proposed subdistrict boundaries for District 4. He noted subdistrict 4A is comprised of the entirety of the Fort Berthold Reservation and subdistrict 4B is comprised of the remainder of District 4.

It was moved by Senator Holmberg, seconded by Representative Boschee, and carried on a roll call vote that the proposed subdistrict boundaries for Districts 4A and 4B, as presented, be approved. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." Representative Bellew voted "nay."

Senator Holmberg presented a [draft map](#) containing five alternative options for subdistrict boundaries in District 9. He noted the proposed subdistricts in options A, B, and D pair incumbents, whereas the proposed subdistricts in options C and E do not.

It was moved by Senator Holmberg, seconded by Senator Bekkedahl, and carried on a roll call vote that the proposed subdistrict boundaries for Districts 9A and 9B, as presented in option D, be approved. Representatives Devlin, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Poolman, and Sorvaag voted "aye." Representatives Bellew and Boschee and Senator Oban voted "nay."

At the request of Chairman Devlin, Ms. Ness presented a bill draft [21.1094.01000] providing for the staggering of terms of members of the Legislative Assembly after redistricting and other administrative matters commonly contained in redistricting legislation. She noted the bill draft triggers an election in:

- Even-numbered districts in which the population in the new geographic area added to a district exceeds 4,144, which is 25 percent of the ideal district size;
- Districts comprised of subdistricts as a result of redistricting; and
- Certain situations in which incumbents are paired in the same district.

She noted the bill draft also:

- Provides the Secretary of State authority to modify the election deadlines and procedures required to accommodate the 2022 primary election should the implementation of new legislative district boundaries be delayed.
- Provides legislative intent regarding legislative district boundaries and the terms of incumbent legislators.
- Repeals the current legislative district descriptions contained in North Dakota Century Code Section 54-03-01.13.
- Provides the legislation is effective on the date it is filed with the Secretary of State.

In response to a question from a committee member, Ms. Ness noted in certain situations in which incumbents are paired in the same district, an election would be triggered regardless of whether one of the incumbents declined to run for reelection.

Ms. Thompson distributed a memorandum entitled *Population Changes in Even-Numbered Districts*, which illustrated the population in new geography added to even-numbered districts based on the district boundaries most recently revised by the committee and pictured in the committee's final proposed statewide plan. She noted the districts previously numbered as Districts XX, 99, and 10 were renumbered as Districts 10, 23, and 19, respectively, in the final proposed statewide plan based on the committee's earlier discussions, but a motion would be required to formally approve the renumbering of the districts as displayed on the final proposed statewide plan.

It was moved by Senator Bekkedahl, seconded by Senator Burckhard, and carried on a roll call vote that Districts XX, 99, and 10 be renumbered as Districts 10, 23, and 19, respectively. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

FINAL MOTIONS

It was moved by Representative Schauer, seconded by Senator Burckhard, and carried on a roll call vote that the final proposed statewide plan, as distributed, be approved and recommended to the Legislative Management. Representatives Devlin, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." Representative Bellew voted "nay."

It was moved by Representative Monson, seconded by Representative Lefor, and carried on a roll call vote that the bill draft [21.1094.01000] relating to the staggering of terms, the authority of the Secretary of State, and legislative intent be approved and incorporated with the legislative district boundary descriptions and recommended to the Legislative Management. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

Representative Lefor distributed a bill draft [21.1095.01000] regarding requirements for political parties to reorganize after redistricting. He noted he is not seeking action on the bill draft at this time because additional time is needed for review. He noted he might seek introduction of a revised version of the bill draft through the Delayed Bills Committee.

It was moved by Senator Holmberg, seconded by Senator Klein, and carried on a roll call vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill draft recommended by the committee and to present the report and recommended bill draft to the Legislative Management. Representatives Devlin, Bellew, Boschee, Headland, Lefor, Monson, Nathe, and Schauer and Senators Bekkedahl, Burckhard, Erbele, Holmberg, Klein, Oban, Poolman, and Sorvaag voted "aye." No negative votes were cast.

It was moved by Representative Bellew, seconded by Senator Klein, and carried on a voice vote that the meeting be adjourned.

No further business appearing, Chairman Devlin adjourned the meeting at 1:35 p.m.

Emily L. Thompson
Code Revisor

Samantha E. Kramer
Senior Counsel

Claire Ness
Senior Counsel

ATTACH:7

**Written Testimony of Standing Rock Sioux Tribe Chairman Mike Faith
Regarding Legislative Redistricting
North Dakota Legislative Council Redistricting Committee
September 29, 2021**

Chairman Devlin and members of the Redistricting Committee, I am the Chairman of the Standing Rock Sioux Tribe (“Tribe”) and I am respectfully submitting this written testimony as a follow-up to the in-person testimony I provided to the Committee on September 15, 2021. During my testimony on September 15th, I advocated for the creation of a single-member (or sub-district) for the State House district that encompasses the Standing Rock Sioux Tribe reservation. There were several questions raised by members of the Committee that were addressed by myself and other witnesses; however, I felt it important to also address some of those questions in writing for the record. Additionally, as part of this testimony, I am submitting a proposed district map for the Tribe’s area, which includes a proposed sub-district line for a single-member House district that would provide the Tribe, its members, and the surrounding communities of interest with the best opportunity to elect the representative of their choice.

During my in-person testimony, Representative Schauer asked how a sub-district would provide better representation for the Tribe’s members. As I stated during the hearing, a House member who would represent the southern half of the district would be more responsive to the needs of farmers and ranchers, as well as tribal members (many of whom are also farmers and ranchers), who live in the more rural part of the district. A sub-district would enable our smaller, rural communities to send our own representatives to the larger legislative assembly. Currently, the House members for District 31 can generally rely on the Mandan area voters to win elections. That means that a District 31 representative does not need to visit the reservation, or try to win votes in Sioux County and the other surrounding counties south of Mandan in order to win. As a result, a representative has no need to be responsive to our communities in order to win. Further,

a sub-district would provide several advantages: 1) it would give our communities strong constituency representation because each voter would have a single, easily identifiable, district representative; 2) it would maximize accountability because a single representative can be held responsible and can be re-elected or defeated in the next election; and 3) it would ensure geographic representation. A sub-district system would provide the benefits of localized democracy, allowing legislators to be intimately aware of the issues of the local community. This allows the elected member to focus on the needs of their localized constituency rather than the interests of all.

Representative Nathe asked whether the current system gives tribal members a chance to elect the representative of their choice. I appreciate Senator Oban showing the Committee and hearing attendees the election data of how the reservation area tends to vote for candidates who are opposed by the northern portion of Legislative District 31. Our research has shown similar results across the majority of contested elections within the district.

In the 2018 general election for State Senator, District 31 favored Donald Schaible by over thirty (30) points, while Sioux County voted in favor of Rachelle Hall by over sixty (60) points. The race for State House Representative was uncontested in 2018, which would likely have not been the case if the district contained sub-districts. In 2014, the general election for State Senator in District 31 was won by Donald Schiabile by over thirty-five (35) points, but with Sioux County voting for Kristen Vesledahl by over thirty-seven (37) points. The 2014 general election for State Representative saw the candidates who were vastly preferred in Sioux County (each winning Sioux County by over twenty (20) points) lose District 31 by almost twenty (20) points each. I was one of the candidates in the 2014 election who won Sioux County but lost the District.

In 2010, another Standing Rock Sioux Tribe member, Chad Harrison, likewise ran for the State House in District 31, losing by about ten (10) points in the District, but winning Sioux County by over forty (40) points. This polarized voting is also evident in District 31 for state-wide elections. For example, in the 2016 Republican gubernatorial primary election, Doug Burgum won District 31 by almost ten (10) points; but Sioux County voted in favor Wayne Stenehjem by almost sixteen (16) points. Based on the election data, there is no doubt that creating a sub-district for Sioux County and surrounding area would provide our communities with a better opportunity to elect the candidate of our choice. The kind of opportunity that does not currently exist.

Below is a proposed district map, which also includes a proposed sub-district. The proposed district contains a Native American Voting Age Population (“VAP”) of 20%, and the proposed sub-district contains a Native American VAP of over 41%. The creation of such a district would improve the representation of Sioux County and our surrounding communities that have shared interests, and I strongly encourage the Committee to consider adopting this map.

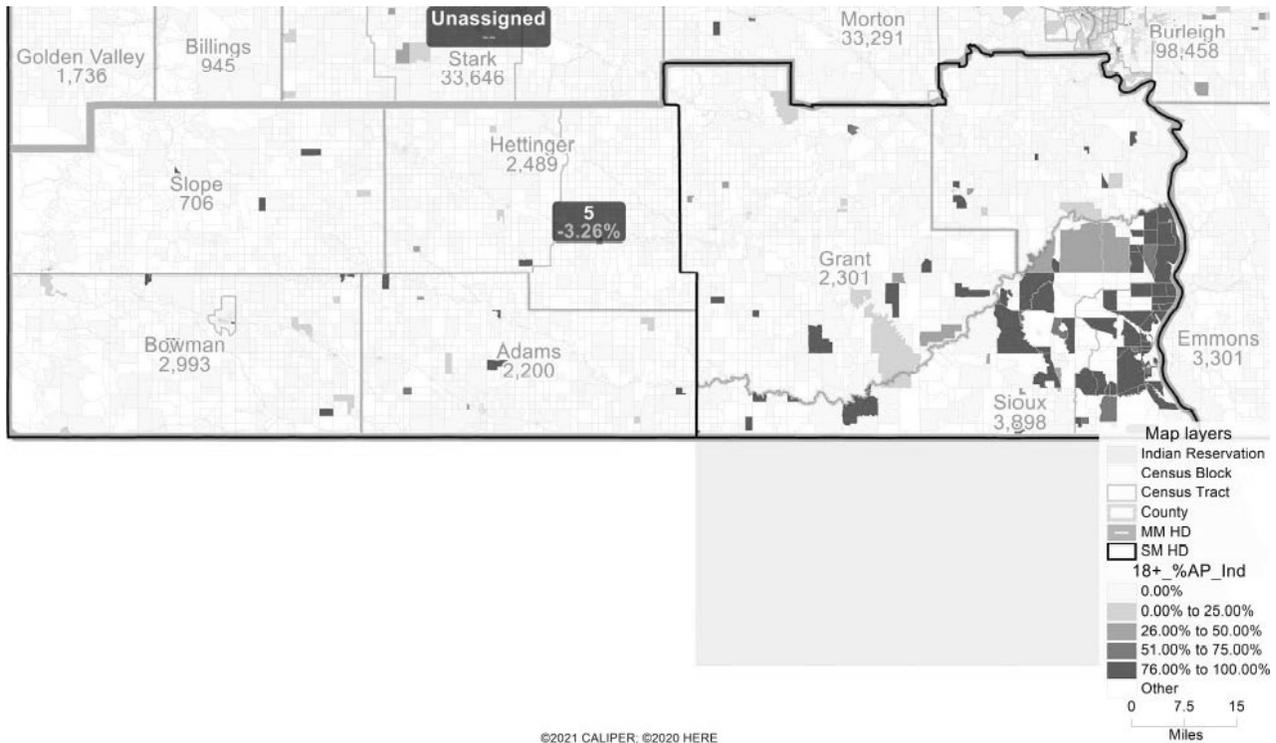
Approval of the below proposed district and sub-district would be legally sound and well within the authority of the Committee and Legislature. Sub-districts are specifically contemplated and authorized under the North Dakota Constitution. Article 4, Section 2 of the North Dakota Constitution states: “A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts.” (emphasis added).

The proposed sub-district would also fit within the standards established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 620 (1993) and *Miller v. Johnson*, 515 U.S. 900 (1995). The *Shaw* and *Miller* cases, and their related cases, have generally held that districts are

constitutional if race is not the predominant factor in drawing its lines. The *Shaw* case focused on the fact that the proposed district in that case was bizarrely shaped and not compact. The proposed sub-district here would be established based on maintaining Sioux County and its surrounding areas as communities of interest, with similar economics, culture, language, political affiliation, and rural farming and ranching identity of the area. Moreover, the Standing Rock Sioux Tribe and its members represent a sovereign Indian nation, which maintains a political relationship with the state of North Dakota and the United States of American. The proposed sub-district would not be established predominately on race, and is sufficiently compact to withstand any potential legal scrutiny.

I thank the members of the Committee for your consideration of this additional testimony and hope the Committee will strongly consider the creation of a sub-district encompassing the Standing Rock Sioux Tribe reservation. I continue to urge the Committee to work with the Tribe to hold a hearing on the reservation to allow tribal members a meaningful opportunity to participate in the redistricting process.

Proposed District and Sub-District



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Proposed District

District	5
Population	16036
Deviation	-540
% Deviation	-0.03258
18+_Pop	12053
% 18+_Pop	0.751621
NH18+_Wht	9340
% NH18+_Wht	0.774911
18+_AP_Ind	2419
% 18+_AP_Ind	0.200697
NH_Wht	11707
% NH_Wht	0.730045
AP_Ind	3841
% AP_Ind	0.239524

Proposed Sub-District Encompassing the Standing Rock Sioux Tribe Reservation

District	5
Population	7648
Deviation	-640
% Deviation	-0.07722
18+_Pop	5497
% 18+_Pop	0.71875
NH18+_Wht	3155
% NH18+_Wht	0.573949
18+_AP_Ind	2272
% 18+_AP_Ind	0.413316
NH_Wht	3921
% NH_Wht	0.512683
AP_Ind	3611
% AP_Ind	0.47215



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

67th Legislative Assembly
Redistricting Committee
September 29, 2021

Testimony of Chairman Mark Fox

Chairman Devlin and members of the Redistricting Committee, I am Mark Fox, Chairman of the Tribal Business Council of the Mandan, Hidatsa, and Arikara Nation. I am respectfully submitting this written testimony as follow-up to the in-person testimony I provided to the Committee on September 23, 2021. During my testimony on September 23rd, I advocated for the creation of a single-member (or sub-district) for the State House district that encompasses the Fort Berthold Reservation. I am resubmitting the proposed district map for District 4, which includes a proposed sub-district line for a single-member House district that would provide the MHA Nation, its members, and the surrounding communities of interest with the best opportunity to elect the representative of their choice.

The proposed sub-district follows the boundaries of the Fort Berthold Reservation; the creation of such a majority-minority sub-district is required under Section 2 of the Voting Rights Act. Section 2, as interpreted by the United States Supreme Court in *Thornburg v. Gingles*, 470 U.S. 30 (1986), requires the establishment of a majority-minority district when: 1) the minority group “is sufficiently numerous and compact to form a majority in a single-member district; 2)

the minority group is “politically cohesive; and 3) the “majority votes sufficiently as a bloc to . . . defeat the minority’s preferred candidate.”

Based on the Committee’s prior discussion, the Committee is aware already from the 2020 Census that the number of tribal members on the Fort Berthold Reservation is sufficiently numerous and compact to form a majority in a single-member district, and that a sub-district following the lines of the reservation would form a perfectly populated sub-district. There is also ample evidence of voting history in District 4 to show that tribal member candidates and tribal member candidates of choice are routinely outvoted by the majority vote in the district.

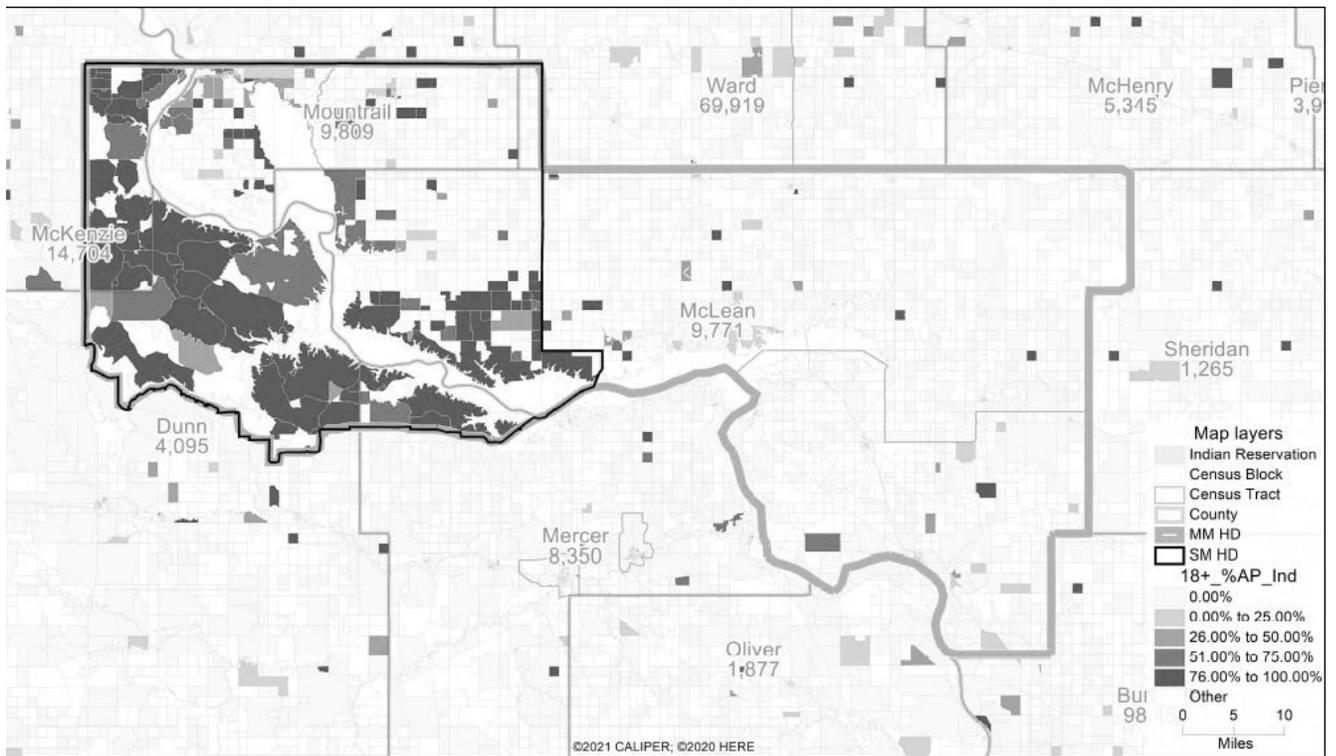
Proven history of bloc voting occurred on the Fort Berthold Reservation in the City of Parshall, e.g., Parshall School Board in 1990. I shared in prior testimony my personal experience when I sought election to the Parshall School Board that nearly five hundred votes were cast, in stark contrast to average voter turnout of less than one hundred when non-native candidates were on the ballot. Additional examples include two other tribal members running for the State House in 2020 and 2016, respectively. Both candidates, Thomasina Mandan and Cesar Alvarez easily won the precincts on the reservation but lost in the overall election. If single member districts were utilized, it is likely both of those candidates would have won. The MHA Nation seeks this Committee’s support of Section 2 of the Voting Rights Act in creating a sub-district for District 4 that includes the Fort Berthold Reservation.

Below is the proposed district and sub-district map. The proposed sub-district contains a Native American VAP of over 67%. The creation of such a district would improve the representation of the MHA Nation’s members within the state, and the adoption of this proposed sub-district would satisfy the Legislature’s requirements under the Voting Rights Act. I strongly

encourage the Committee and the Legislature to follow the law and adopt this proposed sub-district.

Thank you for your consideration of this additional testimony.

MHA Proposed District and Sub-District Map



District	4 - Sub District	4A - Full District
Population	8353	17065
Deviation	65	489
% Deviation	0.007843	0.0295
18+_Pop	5712	12567
% 18+_Pop	0.683826	0.73642
NH18+_Wht	1462	7921
% NH18+_Wht	0.255952	0.630302
18+_AP_Ind	3838	4044
% 18+_AP_Ind	0.671919	0.321795

**Testimony of the Spirit Lake Nation Regarding Legislative Redistricting
North Dakota Legislative Council Redistricting Committee
September 29, 2021**

Chairman Devlin and members of the Redistricting Committee, I am Douglas Yankton, Sr., Chairman of the Spirit Lake Nation (“Nation”), and I submit this testimony on behalf of the Nation. The Nation has taken part in the state’s redistricting process by providing testimony to the Committee at two prior hearings. At those hearings, the Nation advocated for the creation of a sub-district that would provide the Nation’s members with a better opportunity to elect the candidate of their choice. As the Committee is considering the issue of sub-districts, I am submitting this testimony to once again urge the Committee to approve the creation of a sub-district encompassing the Spirit Lake reservation.

The Spirit Lake reservation is located in state Legislative District 23 primarily in Benson County; and as the Committee has been previously informed, the voters on the Spirit Lake reservation tend to support candidates who are outvoted and opposed by voters in other areas of the district. According to the 2020 Census data, Benson County has a Native American population of 56.1%. Since 2010, in every election for the State House in District 23, the two candidates who were heavily supported in Benson County ended up losing their respective elections by being heavily outvoted by the rest of the district.

A sub-district would provide several advantages: 1) it would give our community a strong constituency representation because each voter would have a single, easily identifiable, district representative; 2) it would maximize accountability because a single representative can be held responsible and can be re-elected or defeated in the next election; and 3) it would ensure geographic representation. A sub-district system would provide the benefits of localized democracy, allowing legislators to be intimately aware of the issues of the local community. This

allows the elected member to focus on the needs of their localized constituency rather than the interests of all.

Below is a proposed district map, which also includes a proposed sub-district. The proposed sub-district contains a Native American Voting Age Population of over 41%. The creation of such a district would improve the representation of the Spirit Lake Nation our surrounding communities that have shared interests, and I strongly encourage the Committee to consider adopting this map.

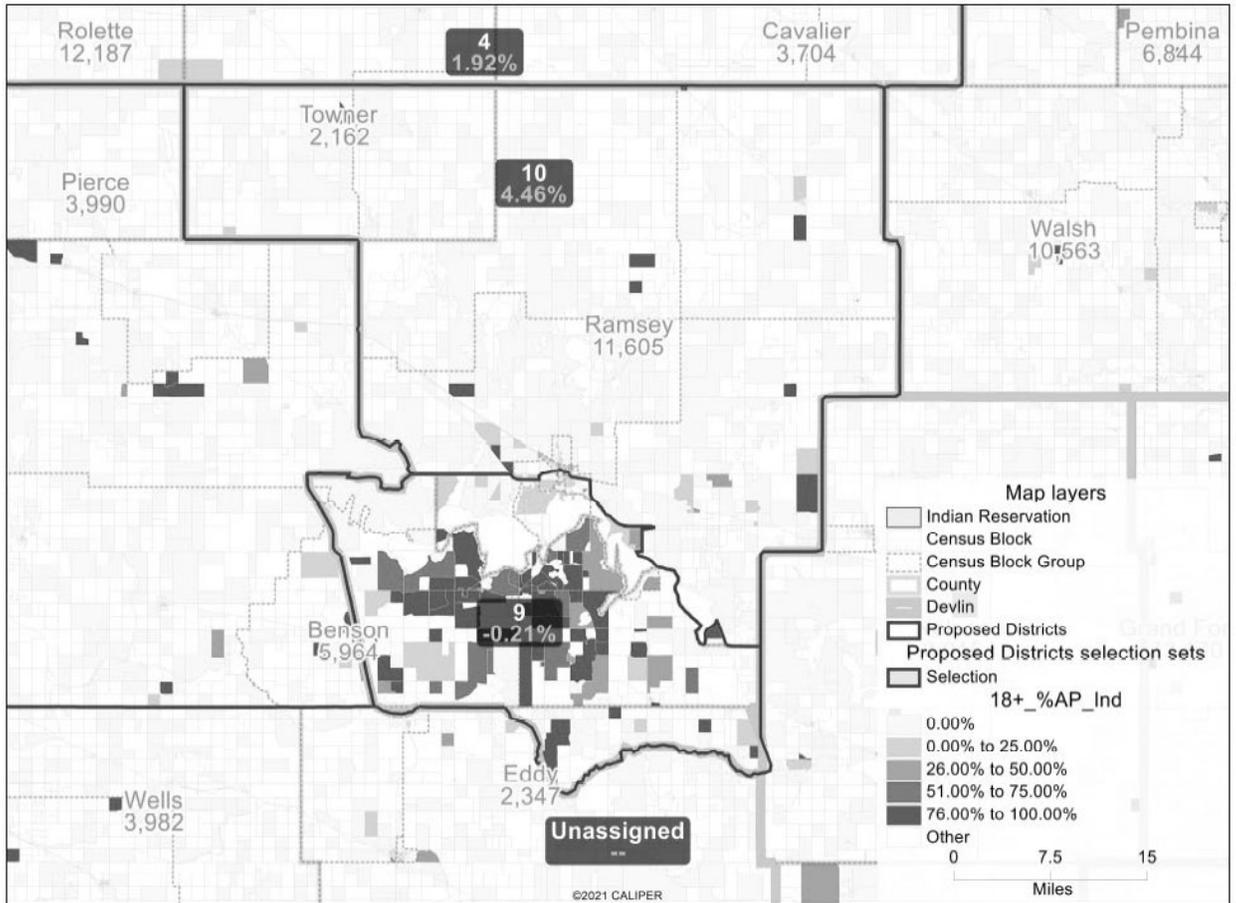
Approval of the below proposed district and sub-district would be legally sound and well within the authority of the Committee and Legislature. Sub-districts are specifically contemplated and authorized under the North Dakota Constitution. Article 4, Section 2 of the North Dakota Constitution states: “A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts.” (emphasis added).

The proposed sub-district would also fit within the standards established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 620 (1993) and *Miller v. Johnson*, 515 U.S. 900 (1995). The *Shaw* and *Miller* cases, and their related cases, have generally held that districts are constitutional if race is not the predominant factor in drawing its lines. The *Shaw* case focused on the fact that the proposed district in that case was bizarrely shaped and not compact. The proposed sub-district here would be established based on maintaining the Spirit Lake reservation and its surrounding areas as communities of interest, with similar economics, culture, language, and political affiliation. Moreover, the Spirit Lake Nation and its members represent a sovereign Indian nation, which maintains a political relationship with the state of North Dakota and the

United States of American. The proposed sub-district would not be established predominately on race, and is sufficiently compact to withstand any potential legal scrutiny.

I hope the Committee will strongly consider the creation of a sub-district encompassing the Spirit Lake reservation. As the Nation has requested in all its prior testimony, I continue to urge the Committee to work with the Nation to hold a hearing on the reservation to allow tribal members a meaningful opportunity to participate in the redistricting process.

Proposed District and Sub-District



District	9	10
Population	8271	8658
Deviation	-17	370
% Deviation	-0.00205	0.044643
18+_Pop	5516	6797
% 18+_Pop	0.666908	0.785054
NH18+_Wht	3090	5999
% NH18+_Wht	0.560189	0.882595
18+_AP_Ind	2291	544
% 18+_AP_Ind	0.415337	0.080035

September 28, 2021

North Dakota Legislative Redistricting Committee

Testimony of Lisa DeVille

Mandaree, ND

Mandan, Hidatsa, Arikara Nation

Chairman Devlin and members of the legislative redistricting committee,

Dosha, my name is Lisa DeVille and I am a citizen of the Mandan, Hidatsa, and Arikara Nation in Fort Berthold. I grew up in Mandaree where I and my family are lifelong residents of our ancestral lands. Thank you for the opportunity to testify today.

The Mandan, Hidatsa, and Arikara Nation is a federally recognized tribe in the state of North Dakota, located in the counties of Dunn, Mountrail, McKenzie, Mercer, Ward and McLean. The Mandan, Hidatsa, and Arikara Nation is a sovereign nation governed by its Tribal Business Council. We have an enrollment of nearly 17,000 members. Under the 2020 Census, the population of the reservation was 8,350. The total population in North Dakota increased overall between 2010 and 2020 from 672,591 residents to 779,094, representing a 15.8% increase. The Native American population outpaced the state, and grew by 29.7% in the last decade. The Fort Berthold Reservation is within North Dakota State District 4, which elects two members to the State House (at-large), and one member to the Senate.

Currently, District 4 is represented by three Republicans: Senator Jordan Kannianen, Representative Clayton Fegley, and Representative Terry B. Jones. Prior to the 2016 election, the District had a Democratic senator and one Democratic representative for several years. In 2020 I challenged Senator Kannianen and unfortunately was not able to be elected even though portions of the district on the reservation strongly supported myself and House of Representatives candidate Thomasina Mandan.

Every decade new district lines are drawn that give each of our votes equal weight, each of our voice's equal stature, and each of our communities equal resources. Voters pick our leaders, and our leaders should not pick their voters. To determine how we will be represented and how funds for schools, hospitals, and other essential services will be allocated we need legislators that work with tribal citizens as well as government.

Representation at state, county, and federal level is not all about oil and gas. We Native American/Indigenous people have our own voice. The Non-Native American have been speaking for us since they landed here.

Recently, I gave a short comment on redistricting during the ND and MHA Tribal relations meeting. I support implementation of subdistricts. We need to be at the table when decisions are made that impact our lives and possibly the lives of future generations. There should be no assumption that ND knows what is best for us Indigenous people when our culture, tradition, and beliefs are different and often not taken into account when decisions are made.

Again, we need to be at the table and we need fair representation in North Dakota.
Maacagiraac-Thank you for this opportunity to speak to you.

Exhibit 28

Thompson, Emily L.

From: Ness, Claire J.
Sent: Tuesday, September 28, 2021 10:20 PM
To: -Grp-NDLA Interim Redistricting
Cc: Bjornson, John D.; Richter, Vonette J.; Kramer, Samantha E.; Thompson, Emily L.
Subject: Voting Rights Act cases

Redistricting Committee members,

This email responds to Representative Lefor's request for more information about Voting Rights Act litigation. There appear to be hundreds of cases in which parties litigated the application of Section 2 of the Voting Rights Act. Not all the cases involve state legislative redistricting. Some involve redistricting of Congressional seats, and other involve the methods for electing political subdivisions' officials. The following are just a few examples of these cases.

Thornburg v. Gingles, 478 U.S. 30 (1986).

Gingles is one of the most cited cases involving Section 2 of the Voting Rights Act. In this case, the United States Supreme Court decided a North Carolina legislative redistricting plan including five multimember districts violated Section 2 of the Voting Rights Act "by impairing the opportunity of black voters 'to participate in the political process and to elect representatives of their choice.'" In a very lengthy opinion citing detailed statistical analyses, the court discussed the way multimember districts may operate to dilute minority votes. The court also articulated the three Gingles preconditions for establishing that a multimember district "operate[s] to impair minority voters' ability to elect representatives of their choice..." and analyzed several of the Senate factors discussed in presentations to the Redistricting Committee. The court also noted the success of some minority candidates in previous elections may be relevant to an analysis of vote dilution, depending on why the candidates were successful. The court stated:

[M]ultimember districts may impair the ability of blacks to elect representatives of their choice where blacks vote sufficiently as a bloc as to be able to elect their preferred candidates in a black majority, single-member district and where a white majority votes sufficiently as a bloc usually to defeat the candidates chosen by blacks. It is the *difference* between the choices made by blacks and whites—not the reasons for that difference—that results in blacks having less opportunity than whites to elect their preferred representatives.

League of United Latin American Citizens v. Perry, 548 U.S. 399 (2006).

League of United Latin American Citizens, like most cases involving Section 2 of the Voting Rights Act, has a complicated background. After years of litigation, the United States Supreme Court decided Texas's mid-decade redistricting plan diluted the Latino vote by reconfiguring one of the state's Congressional districts. The district had been a "Latino opportunity district" but was redrawn in 2003 to protect an incumbent who had become increasingly unpopular with Latino voters. Texas argued the dilution of the Latino vote in that district was offset by the creation of a new majority-minority district. The Supreme Court disagreed. The court applied the three Gingles preconditions, decided the preconditions were met, examined the totality of the circumstances, and said the dilution of the Latino vote in the new redistricting plan was unlawful. The majority opinion of the court stated, in part:

The State chose to break apart a Latino opportunity district to protect the incumbent congressman from the growing dissatisfaction of the cohesive and politically active Latino community in the district. The State then purported to compensate for this harm by creating an entirely new district that combined two groups of Latinos, hundreds of miles apart, that represent different communities of interest. Under § 2, the State must be held accountable for the effect of these choices in denying equal opportunity to Latino voters.

The court also addressed other issues in the case. For example, the court decided the African American population in one district was too small to satisfy the first Gingles precondition.

Bone Shirt v. Hazeltine, 461 F.3d 1011 (8th Cir. 2006).**Exhibit 29**

Bone Shirt has a very complicated procedural history. In 2002, Alfred Bone Shirt sued the South Dakota Secretary of State and multiple legislators asserting the state's legislative redistricting plan diluted the Native American vote by packing too many Native Americans into one district and by preventing them from being a majority voting block in multiple districts. The district court agreed, but the state refused to redraw the plan. The court then adopted a plan for the state reducing the Native American voting-age population in one district from 86 percent to 65.56 percent and creating subdistricts in another district so Native Americans comprised a majority (74.36 percent) of a subdistrict. Ultimately, the federal appellate court applied the Gingles preconditions and Senate factors, found the district court respected traditional redistricting principles and geographic boundaries in its plan, and upheld the district court's decisions.

Department of Justice cases

In addition to private plaintiffs, the federal government may bring vote dilution cases. The Voting Section of the Civil Rights Division of the United States Department of Justice lists the following cases the department has litigated under Section 2 of the Voting Rights Act on its website.

CASES RAISING CLAIMS UNDER SECTION 2 OF THE VOTING RIGHTS ACT

- United States v. City of West Monroe, LA (W.D. La. 2021)
- United States v. Chamberlain School District (D.S.D. 2020)
- United States v. City of Eastpointe, MI (E.D. Mich. 2017)
- United States v. State of North Carolina (M.D.N.C. 2013)
- United States v. State of Texas (W.D. Tex. 2013)
- United States v. State of Texas (S.D. Tex. 2013)
- United States v. Town of Lake Park, FL (S.D. Fla. 2009)
- United States v. Euclid City School District Board of Education, OH (N.D. Ohio 2008)
- United States v. Salem County and the Borough of Penns Grove, NJ (D.N.J. 2008)
- United States v. The School Board of Osceola County, FL (M.D. Fla. 2008)
- United States v. Georgetown County School District, et al. SC (D.S.C. 2008)
- United States v. City of Philadelphia, PA (E.D. Pa. 2007)
- United States v. Village of Port Chester, NY (S.D.N.Y. 2006)
- United States v. City of Euclid, et al. OH (N.D. Ohio 2006)
- United States v. Long County, GA (S.D. Ga. 2006)
- United States v. City of Boston, MA (D. Mass. 2005)
- United States v. Osceola County, FL (M.D. Fla. 2005)
- United States v. Ike Brown and Noxubee County, MS (S.D. Miss. 2005)
- United States v. Berks County, PA (E.D. Pa. 2003)
- United States v. Osceola County, FL (M.D. Fla. 2002)
- United States v. Alamosa County, CO (D. Colo. 2001)
- United States v. Crockett County, TN (W.D. Tenn. 2001)
- United States v. Charleston County, SC (D.S.C. 2001)
- United States v. City of Hamtramck, MI (E.D. Mich. 2000)
- United States v. Upper San Gabriel Valley Municipal Water District, CA (C.D. Cal. 2000)
- United States v. Morgan City, LA (W.D. La. 2000)
- Grieg v. City of St. Martinville, LA (W.D. La. 2000)
- United States v. City of Santa Paula, CA (C.D. Cal. 2000)
- United States v. State of South Dakota (D.S.C. 2000)
- United States v. Roosevelt County, MT (D. Mont. 2000)
- United States v. Town of Cicero, IL (N.D. Ill. 2000)
- United States v. Benson County, ND (D.N.D. 2000)
- United States v. City of Passaic, NJ (D.N.J. 1999)
- United States v. Blaine County, MT (D. Mont. 1999)
- United States v. Marion County, GA (M.D. Ga. 1999)
- United States v. Passaic City and Passaic County, NJ (D.N.J. 1999) Complaint Consent Decree
- United States v. Day County and Enemy Swim Sanitary District, SD (D.S.D. 1999)
- United States v. City of Lawrence, MA (D. Mass. 1998)
- United States v. Cibola County, NM (D. N.M. 1993)
- United States v. Sandoval County, NM (D. N.M. 1988)

Kind regards,
Claire

Claire J. Ness
Senior Counsel
Legislative Council
600 East Boulevard Avenue
Bismarck, ND 58505
(701) 328-3208

GOVERNMENT ADMINISTRATION COMMITTEE

The Government Administration Committee was assigned a study of space needs of the executive, judicial, and legislative branches, and the Ethics Commission.

Committee members were Senators Randy A. Burckhard (Chairman), Jerry Klein, Scott Meyer, and Erin Oban, and Representatives Rick Becker, Glenn Bosch, Jared C. Hagert, Karla Rose Hanson, Pat D. Heinert, Karen Karls, Jim Kasper, Lawrence R. Klemin, Ben Koppelman, Todd Porter, Shannon Roers Jones, and Dan Ruby.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

STUDY OF SPACE NEEDS

The Government Administration Committee studied space needs of the executive, judicial, and legislative branches, and the Ethics Commission. The study included:

- A review of each branch's and the Ethics Commission's employee work location policies;
- An assessment of the space needs of each branch and the Ethics Commission to fulfill their constitutional and statutory responsibilities;
- An evaluation of state agency leases of space from private and other governmental entities in Bismarck, amounts being paid for these leases, and state agency rental payments being made to the Office of Management and Budget from special and federal funds;
- Consideration of the feasibility and desirability of the Office of Management and Budget charging rent to agencies receiving funding from the general fund; and
- The development of a space utilization plan for the Capitol complex.

The study included consideration of whether adequately sized committee rooms, appropriate accommodations under the federal Americans with Disabilities Act of 1990, and flexible meeting areas are available.

Legislative Branch Space

The committee received testimony from the Legislative Council indicating:

- The most significant changes in legislative committee rooms over the last 3 decades occurred during the 2021 legislative session due to the need for social distancing resulting from the COVID-19 emergency.
- The 2021 changes expanded the legislative presence in the judicial wing of the State Capitol through the construction of four new committee rooms.
- Most feedback from legislators and others regarding the newly constructed meeting rooms was positive and many legislators expressed interest in continuing to use the rooms.
- The legislative branch has retained control over the four new rooms since the conclusion of the 2021 legislative session; however, the long-term jurisdiction over the rooms has not been formally resolved.
- North Dakota Century Code Section 48-08-04 identifies areas of the State Capitol which may not be used without the authorization of the Legislative Council.

Recommendations

The committee recommends [Senate Bill No. 2349](#) to transfer certain space in the judicial wing of the State Capitol, including judicial wing room 216 and judicial wing rooms 327 B, C, and E, from the State Department of Health and the Department of Human Services to the legislative branch.

Exhibit 30

GOVERNMENT FINANCE COMMITTEE - SENATE BILL NO. 2290 STUDY

The Chairman of the Legislative Management directed the Government Finance Committee to study the provisions of Senate Bill No. 2290 (2021). The study must include a determination of the appropriateness of the bill's requirement for the Legislative Assembly to approve any Emergency Commission requests to expend funds after the aggregate amount of federal fund requests approved by the commission in a biennium has exceeded \$50 million and after the aggregate amount of other funds requests approved by the commission in a biennium has exceeded \$5 million. The committee is required to report its findings and recommendations to the Legislative Management by October 2021.

As approved by the Legislative Assembly, Senate Bill No. 2290 required the Budget Section to approve requests to receive and spend state special funds and federal funds during the interim if the request exceeds \$50,000. If the request exceeds \$50,000 but is less than \$3 million, the spending request may not be amended by the Budget Section. Requests exceeding \$3 million may be amended by the Budget Section, and any amended requests approved by the Budget Section are deemed to be approved by the Emergency Commission. The Budget Section may not approve more than \$50 million of federal funds spending requests or more than \$5 million of state special funds spending requests in aggregate during a biennium. The Legislative Assembly must approve any spending request for federal funds exceeding \$50 million, but Federal Highway Administration emergency relief funding and emergency recovery funding are exempt from the approval limits. The bill included an emergency clause and became effective April 29, 2021.

Committee members were Representatives Michael Howe (Chairman), Pamela Anderson, Jeff Delzer, Jared C. Hager, Gary Kreidt, Lisa Meier, Corey Mock, Dave Nehring, Gary Paur, Mike Schatz, Jim Schmidt, Steve Vetter, Don Vigesaa and Senators Brad Bekkedahl, Richard Marcellais, Ronald Sorvaag.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

EMERGENCY COMMISSION - BRIEF HISTORY

The Emergency Commission was created in 1915 when the Legislative Assembly appropriated \$25,000 to establish a state contingencies funding pool to address state emergencies. As defined in North Dakota Century Code Section 54-16-00.1, an emergency means a calamity or an unforeseen happening subsequent to the time the appropriation was made and which was clearly not within the contemplation of the Legislative Assembly and the Governor. Initially, the Emergency Commission consisted of the Governor, the Secretary of State, and the State Auditor. Currently, the Emergency Commission consists of the Governor, the Secretary of State, the chairmen of the Appropriations Committees, and the majority leaders of the House and Senate. Until 1975, the Emergency Commission could approve any requests from the state contingencies funding pool up to the total amount appropriated by the Legislative Assembly; however, starting in 1975, Budget Section approval was required when the aggregate approvals from the state contingencies funding pool exceeded \$500,000. In Senate Bill No. 2015 (1999), the Legislative Assembly amended Section 54-16-04.1 and 54-16-04.2 requiring Budget Section approval to receive and spend state special funds or federal funds only if the request exceeded \$50,000.

During the 1989-90 interim, the Legislative Audit and Fiscal Review Committee noted various state agency audit reports included a recommendation for state agencies to comply with Section 12 of Article X of the Constitution of North Dakota, which requires public money to be spent only pursuant to an appropriation made by the Legislative Assembly. As a result, the 1991 Legislative Assembly approved Senate Bill No. 2168 to provide an appropriation of \$10 million of special funds authority to create a special funds state contingencies funding pool, which the Emergency Commission could disburse to state agencies as needed. However, the Legislative Assembly amended Section 54-16-04.2 in Section 11 of Senate Bill No. 2015 (1995) to remove the provision that limited the approvals of the Emergency Commission for state special funds to the amount appropriated by the Legislative Assembly. Therefore, the appropriation of special funds authority for a special funds state contingencies funding pool was removed from the budget in the 1995-97 biennium, and the state contingencies funding pool consisted of \$500,000 from the general fund only.

RECENT BUDGET SECTION SPENDING APPROVALS

Since the 2007-08 interim, the Budget Section approved the following requests, which also were approved by the Emergency Commission, for the acceptance and expenditure of additional state special funds and federal funds:

	Total Requests	State Special Funds	Federal Funds
2007-08 interim	33	\$20,988,584	\$70,454,427
2009-10 interim	39	\$2,130,000 ¹	\$63,413,419 ¹
2011-12 interim	28	\$546,000 ²	\$25,904,860 ²
2013-14 interim	24	\$1,987,856 ³	\$7,169,024 ³

	Total Requests	State Special Funds	Federal Funds
2015-16 interim	17	\$1,460,000 ⁴	\$1,558,365 ⁴
2017-18 interim	11	\$231,550 ⁵	\$31,124,500 ⁵
2019-20 interim	62	\$40,595,000 ⁶	\$1,883,802,474 ⁶

¹These amounts include \$50,701,861 of federal American Recovery and Reinvestment Act (ARRA) funding, but exclude \$131,418,750 related to federal disaster relief funding and \$81,750,000 of emergency transportation funding (\$6,750,000 of matching funds from the state highway fund and \$75,500,000 of Federal Highway Administration emergency relief funds).

²These amounts include \$7,000,000 of federal ARRA funding, but exclude \$386,710,411 related to disaster relief funding (\$33,610,411 from the state disaster relief fund and \$353,100,000 of federal funds) and \$387,100,000 of emergency transportation funding (\$32,400,000 of matching funds from the state highway fund and \$354,700,000 of Federal Highway Administration emergency relief funds).

³These amounts exclude \$27,332,970 from the state disaster relief fund and \$11,134,875 from federal funds related to disaster relief funding.

⁴These amounts exclude \$32,307,427 from the state disaster relief fund related to disaster relief funding.

⁵These amounts exclude \$4,512,468 from the state disaster relief fund related to disaster relief funding.

⁶These amounts include \$1,772,634,147 of federal coronavirus relief funding, but exclude \$494,915 from the state disaster relief fund related to disaster relief funding.

COMMITTEE CONSIDERATIONS

Bill Drafts

The committee considered a bill draft relating to Emergency Commission and Budget Section approval to accept and disburse federal funds and state special funds based on an adjustment to the current limits. The bill draft would have increased the approval limit for federal funds by \$25 million, from \$50 million to \$75 million per biennium. The bill draft also would have increased the approval limit for state special funds by \$70 million, from \$5 million to \$75 million per biennium.

The committee considered a bill draft relating to Emergency Commission and Budget Section approval to accept and disburse federal funds and state special funds based on percentage limits. The bill draft replaces the approval limit of \$50 million for federal funds with an amount based on 2 percent of the current biennial state general fund budget as approved by the Legislative Assembly. The approval limit of \$5 million for state special funds is replaced with an amount based on 1 percent of the current biennial state general fund budget as approved by the Legislative Assembly. The bill draft also includes other minor updates for clarity and consistency. Based on the 2021-23 biennium general fund budget of \$4,992,957,330, the approval limits under the provisions of this bill draft would be \$99,859,147 for federal funds and \$49,929,573 for special funds.

Recommendations

The committee recommends a bill draft [21.1085.01000] for consideration during a 2021 special or reconvened legislative session or during the 2023 regular legislative session relating to Emergency Commission and Budget Section approval to accept and disburse federal funds and state special funds based on percentage limits. The committee also recommends the Legislative Management consider temporarily increasing the state special fund approval limit by \$15 million, from \$5 million to \$20 million, for the remainder of the 2021-23 biennium during a 2021 special or reconvened legislative session.

HUMAN SERVICES COMMITTEE

Pursuant to a Legislative Management Chairman directive, the Human Services Committee was assigned the duty to review the behavioral health bed management system authorized by the 2021 Legislative Assembly to determine if any statutory changes for the program are needed.

Committee members are Senators Judy Lee (Chairman), Howard C. Anderson, Jr., JoNell A. Bakke, Jason G. Heitkamp, Kathy Hogan, and David Hogue and Representatives Gretchen Dobervich, Clayton Fegley, Dwight Kiefert, Alisa Mitskog, Karen M. Rohr, Matthew Ruby, Mark Sanford, Mary Schneider, Randy A. Schobinger, Kathy Skroch, Michelle Strinden, and Greg Westlind.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

BEHAVIORAL HEALTH BED MANAGEMENT SYSTEM

Background

North Dakota Century Code Section 50-06-41.3, as created in [House Bill No. 1012 \(2021\)](#), requires the Department of Human Services (DHS) to establish and maintain a behavioral health bed management system to improve utilization of behavioral health bed capacity. The section requires public and private providers of residential or inpatient behavioral health services to participate in and report daily to DHS the information and documentation necessary to maintain the system. The database can then be used by providers to identify available behavioral health beds in the state.

Testimony and Committee Discussion

The committee received testimony indicating many behavioral health programs managed by the Department of Corrections and Rehabilitation (DOCR) are licensed by DHS and would be included in the behavioral health bed management system. However, because behavioral health beds managed by DOCR are not available to the public, it may not be appropriate to include those beds in the database.

Committee Recommendation

The committee recommends [Senate Bill No. 2348](#) to amend Section 50-06-41.3 to exclude DOCR from participating in the behavioral health bed management system.

INTERIM HOUSE APPROPRIATIONS COMMITTEE

The Chairman of the Legislative Management appointed an Interim House Appropriations Committee and assigned the committee the following duties:

- Review proposals to use funding from the federal State Fiscal Recovery Fund established through the federal American Rescue Plan Act of 2021 and develop recommendations for the use of funds.
- Review legislative appropriations from the federal Coronavirus Capital Projects Fund and recommend any necessary changes to existing appropriations from the fund and develop recommendations regarding the use of any remaining available funding.
- Consider any other budget adjustments requiring legislation that are necessary before the 2023 regular legislative session.

Committee members were Representatives Jeff Delzer (Chairman), Bert Anderson, Larry Bellew, Tracy Boe, Mike Brandenburg, Michael Howe, Keith Kempenich, Gary Kreidt, Bob Martinson, Lisa Meier, Alisa Mitskog, Corey Mock, David Monson, Mike Nathe, Jon O. Nelson, Mark Sanford, Mike Schatz, Jim Schmidt, Randy A. Schobinger, Michelle Strinden, and Don Vigesaa.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

STATE FISCAL RECOVERY FUND

Background

The American Rescue Plan Act of 2021 included \$219.8 billion for the State Fiscal Recovery Fund. Of this amount, \$195.3 billion is available to the states, \$25.5 billion will be distributed equally to the states and the District of Columbia, resulting in \$500 million allocated to each state. After an additional \$755 million is distributed to the District of Columbia, the remaining \$169 billion will be distributed to the states based on each state's share of seasonally adjusted unemployed persons for the 3-month period ending December 2020. North Dakota's allocation from the State Fiscal Recovery Fund is \$1,007,502,515. The funds have been received and are on deposit in the Bank of North Dakota.

Allowable Uses

Allowable uses of funding from the State Fiscal Recovery Fund, which must be obligated by December 31, 2024, and spent by December 31, 2026, are as follows:

- Costs related to the Coronavirus (COVID-19) pandemic, including assistance to households, small businesses, nonprofits, and affected industries, such as tourism, travel, and hospitality;
- Provide premium pay of up to \$13 per hour in addition to base pay, up to a maximum of \$25,000, to state, territory, or tribal government workers who perform essential work during the COVID-19 pandemic, or provide grants to employers with employees who perform essential work, which is defined as work needed to maintain continuity of operations of critical infrastructure and other sectors designated by the Governor as critical to protect the health and well-being of residents;
- The cost of providing government services to the extent there was lost revenue as a result of the COVID-19 pandemic; and
- Investment costs in water, sewer, and broadband infrastructure.

States may not use the funding to reduce taxes directly or indirectly between March 3, 2021, and the last day of the fiscal year in which funds received have been spent or returned. States cannot use funds to make payments to pension plans. The Office of Management and Budget submitted \$1.8 billion of revenue loss as of December 2020; therefore, the funds should be able to be used for the cost of government services.

FEDERAL CORONAVIRUS CAPITAL PROJECTS FUND

Background

The American Rescue Plan Act of 2021 appropriated \$10 billion to the United States Department of the Treasury for a Coronavirus Capital Projects Fund to provide payments to states, territories, freely associated states, and tribal governments "to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19)."

North Dakota received an initial allocation of \$112,473,563 from the Coronavirus Capital Projects Fund. North Dakota's allocation was later increased to \$113,276,228. The Legislative Assembly, based on initial information provided regarding the fund, approved using \$106,474,000 of the funding for the following projects for the 2021-23 biennium:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Department of Career and Technical Education	Statewide area career center initiative grant program	70,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total - 2021-23 appropriations		\$106,474,000

Eligible Uses Based on September 2021 Guidance

The September 2021 guidance provides grant funds may be used for critical capital projects that directly enable work, education, and health monitoring in response to COVID-19. To be eligible for funding, a project must meet all of the following criteria:

1. The capital project invests in capital assets designed to directly enable work, education, and health monitoring;
2. The capital project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
3. The capital project is designed to address a critical need of the community to be served by it.

PROPOSALS RECEIVED

The committee reviewed proposals from members of the Legislative Assembly and the Governor for the use of federal American Rescue Plan Act funds and for other budget adjustments as detailed in this section.

Federal Coronavirus Capital Projects Fund

The committee reviewed a proposal to adjust the funding source of certain projects that received an appropriation from the federal Coronavirus Capital Projects Fund during the 2021 regular legislative session. The proposal would change the funding source of nine projects from the fund to federal state fiscal recovery funds.

Agency	Description	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total		\$36,474,000

Federal State Fiscal Recovery Funds

The committee reviewed 156 proposals to use federal state fiscal recovery funds as follows:

Category	Proposals Received
Infrastructure	The committee reviewed 15 proposals to use federal state fiscal recovery funds for infrastructure projects, including natural gas pipelines, roads, water control, and other projects.
Aid to political subdivisions	The committee reviewed 33 proposals to use federal state fiscal recovery funds to provide aid to political subdivisions for road and bridge projects, local park district infrastructure projects, water and sewer projects, and other purposes.

Category	Proposals Received
Capital improvements	The committee reviewed 34 proposals to use federal state fiscal recovery funds for capital projects for state agency and institution building projects, deferred maintenance, and other purposes.
Information technology	The committee reviewed 19 proposals to use federal state fiscal recovery funds for information technology projects, including cybersecurity enhancements, state agency software projects, and other purposes.
Economic development	The committee reviewed 29 proposals to use federal state fiscal recovery funds for economic development, including research programs, workforce initiatives, business incentives, and other purposes.
Other proposals	The committee reviewed 26 proposals to use federal state fiscal recovery funds for other purposes, including human service programs, long-term care facility assistance, child care programs, and other purposes.

Other Budget Adjustments

The committee reviewed 27 proposals for other budget adjustments. The proposals included adjustments to federal spending authority for agencies, the authorization of new full-time equivalent (FTE) positions, additional authority to allow for the distribution of federal local fiscal recovery funds, and other purposes.

COMMITTEE RECOMMENDATIONS

Bill Draft 21.1104.06000

The committee recommends [House Bill No. 1505](#) to appropriate \$509,150,228 of federal COVID-19 relief funding, of which \$113,276,228 is from the federal Coronavirus Capital Projects Fund, \$383,474,000 is from the federal State Fiscal Recovery Fund, and \$12,400,000 is from the federal Coronavirus Relief Fund to various state agencies, as follows:

Federal Coronavirus Capital Projects Fund		
Agency	Description	Federal Funds
Department of Career and Technical Education ¹	Section 1 - Statewide area career center initiative grant program for career academies	\$50,000,000
Information Technology Department	Section 8 - Broadband infrastructure grants to providers to expand coverage and ensure reliable high-speed broadband Internet to all addresses in the state	63,276,228
Total		\$113,276,228

¹House Bill No. 1015 (2021) provided \$70 million from the federal Coronavirus Relief Fund to the Department of Career and Technical Education for career academies. Section 1 of the bill draft would provide a total of \$80 million for this purpose, of which \$50 million is from the federal Coronavirus Capital Projects Fund and \$30 million is from the federal State Fiscal Recovery Fund.

Federal State Fiscal Recovery Fund		
Agency	Description	Federal Funds
Department of Career and Technical Education ¹	Section 1 - Statewide area career center initiative grant program	\$30,000,000
Department of Public Instruction	Section 1 - Grant to a children's science center project to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	5,900,000
University of North Dakota	Section 1 - Funding to reconstruct the University of North Dakota apron at Grand Forks International Airport to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	5,000,000
Dickinson State University	Section 1 - Funding for Dickinson State University projects, including a Pulver Hall project, a meat processing laboratory remodel, and other projects to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	4,000,000
Highway Patrol	Section 1 - Funding for a Law Enforcement Training Academy Center to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	3,000,000
Office of Management and Budget	Section 1 - Medical center grant to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	500,000
Judicial branch	Section 1 - Information technology equipment to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1015 (2021)	157,600
State Historical Society	Section 2 - Historic site deferred maintenance to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1018 (2021)	4,200,000

Federal State Fiscal Recovery Fund		
Agency	Description	Federal Funds
Parks and Recreation Department	Section 3 - State park deferred maintenance and essential infrastructure to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1019 (2021)	7,900,000
Parks and Recreation Department	Section 4 - State park capital improvements to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1019 (2021)	816,400
Parks and Recreation Department	Section 5 - Funding for the International Peace Garden to replace funding from the federal Coronavirus Capital Projects Fund in House Bill No. 1019 (2021)	3,000,000
Agriculture Commissioner	Section 6 - Intermodal facility construction grant program to replace funding from the federal Coronavirus Capital Projects Fund in Senate Bill No. 2245 (2021)	2,000,000
Department of Transportation	Section 7 - State road and bridge projects (\$200 million), to improve county bridges (\$50 million), for allocations to counties based on the highway tax distribution formula (\$50 million), and for allocations to townships (\$17 million), which was appropriated in House Bill No. 1395 (2021)	317,000,000
Total		\$383,474,000

¹House Bill No. 1015 (2021) provided \$70 million from the federal Coronavirus Relief Fund to the Department of Career and Technical Education for career academies. Section 1 of the bill draft would provide a total of \$80 million for this purpose, of which \$50 million is from the federal Coronavirus Capital Projects Fund and \$30 million is from the federal State Fiscal Recovery Fund.

Federal Coronavirus Relief Fund		
Agency	Description	Federal Funds
Department of Human Services	Section 9 - Payroll expenses	\$4,400,000
Department of Corrections and Rehabilitation Adjutant General	Section 9 - Payroll expenses	7,000,000
	Section 9 - Payroll expenses	1,000,000
Total		\$12,400,000

Bill Draft 21.1130.03000

The committee recommends [House Bill No. 1506](#) to appropriate funding to the State Treasurer, Attorney General, Department of Human Services, Retirement and Investment Office, and Department of Public Instruction; transfer Bank of North Dakota profits to the University of North Dakota; authorize 16 FTE Department of Human Services positions; provide Department of Human Services transfer authority; and authorize 6 FTE Retirement and Investment Office positions, as follows:

Federal State Fiscal Recovery Fund		
Agency	Description	Federal Funds
Department of Public Instruction	Section 16 - Information technology project upgrades in lieu of withholding state school aid from school districts not eligible for federal Elementary and Secondary School Emergency Relief (ESSER) funding allocations	\$100,000
Total		\$100,000

Other Fiscal Items			
Agency	Description	Special Funds	Federal Funds
State Treasurer	Section 1 - Provides additional appropriation authority to the State Treasurer to distribute funding from the federal Local Fiscal Recovery Fund to cities, to provide a total of \$53,174,975 appropriated to the State Treasurer for this purpose	\$0	\$3,014,975
University of North Dakota	Section 2 - Transfers Bank of North Dakota profits to the University of North Dakota for campus network upgrades	750,000	0
Attorney General	Section 3 - Funding from the Attorney General refund fund for State Crime Laboratory salary equity increases	537,297	0
Department of Human Services	Section 4 - Authorizes 16 FTE positions for the Department of Human Services	0	0

Other Fiscal Items			
Agency	Description	Special Funds	Federal Funds
Department of Human Services	Section 5 - Appropriates federal funding due to the increased federal medical assistance percentage (FMAP) and provides the department an exemption to use up to \$16 million of any general fund savings to address any decreases in the regular FMAP rate	0	79,600,000
Department of Human Services	Section 6 - Medicaid postpartum coverage	0	600,000
Department of Human Services	Section 7 - Lifespan respite care program	0	386,690
Department of Human Services	Section 8 - Vulnerable adult protection services program	0	1,936,350
Department of Human Services	Section 9 - Supplemental nutrition assistance program verification database	0	239,558
Department of Human Services	Section 10 - Children and Family Services transition program	0	1,168,347
Department of Human Services	Section 11 - Provides line item transfer authority to the Department of Human Services for House Bill Nos. 1394 and 1395 (2021)	0	0
Department of Human Services	Section 12 - Funding for the State Hospital	0	200,000
Department of Human Services	Section 13 - Money follows the person capacity program	0	5,000,000
Department of Human Services	Section 14 - Randolph Sheppard vocational rehabilitation program	0	22,663
Retirement and Investment Office	Section 15 - Authorizes 6 new FTE positions and appropriates funding for salaries and operating expenses	1,806,862	0
Department of Public Instruction	Section 16 - Funding from state school aid withholding for information technology upgrades	10,000,000	0
Total		\$13,094,159	\$92,168,583

Bill Draft 21.1137.01000

The committee recommends a bill draft [21.1137.01000] to appropriate \$570,035,705 from the federal State Fiscal Recovery Fund, included in Section 1 of the bill, as follows:

Federal State Fiscal Recovery Fund		
Agency	Description	Federal Funds
Industrial Commission	Pipeline infrastructure to transport natural gas from western to eastern North Dakota	\$150,000,000
Industrial Commission	Abandoned oil well conversion to water supply grant program to convert abandoned wells to livestock freshwater supply wells for permanent drought resiliency	3,200,000
Department of Water Resources	Water projects with \$50 million used to replace funding from the resources trust fund for current projects	75,000,000
Department of Corrections and Rehabilitation	Stipends to county jails for costs to house inmates sentenced to the department but deferred admission due to the pandemic	4,800,000
Parks and Recreation Department	Grants to local park districts to renovate and upgrade existing outdoor facilities with a maximum of \$1.5 million per park district and a 1-to-1 matching requirement	5,000,000
North Dakota State University Main Research Center	Capital projects, including \$446,000 for projects at the Carrington Research Extension Center (REC), \$1,963,000 at the Central Grasslands REC, \$3,420,000 at the Hettinger REC, and \$2,200,000 at the Dickinson REC	8,029,000
State Department of Health	Public health laboratory project	15,000,000
Department of Corrections and Rehabilitation	Free through recovery program for capacity increase, wait time reduction, recidivism reduction, and to improve outcomes	2,995,200
Parks and Recreation Department	State park deferred maintenance or small capital projects with each of the 13 state parks receiving a minimum of \$100,000	10,000,000
Office of Management and Budget	Critical maintenance projects	10,000,000
Office of Management and Budget	Human resources transformation initiative	

Federal State Fiscal Recovery Fund		
Agency	Description	Federal Funds
Office of Management and Budget	Heating, ventilation, and air conditioning improvements to the legislative chambers and Brynhild Haugland Room	7,000,000
State Historical Society	Essential infrastructure at historic sites	950,000
State Board of Higher Education	High performance computing at North Dakota State University	2,200,000
State Board of Higher Education	Higher education capital projects, including \$25 million for Hartnett Hall at Minot State University, \$50 million for Merrifield Hall at the University of North Dakota, and \$38 million for a polytechnic building at Bismarck State College	113,000,000
State Board of Higher Education	Equipment and personnel for hyperbaric oxygen therapy at the University of North Dakota School of Medicine and Health Sciences	2,104,121
State Board of Higher Education	Dakota Digital Academy	475,000
Attorney General	Establishment of a missing persons database	75,000
Attorney General	Replacement of the prosecuting case management system	1,000,000
Information Technology Department	Funding for radios compatible with the statewide interoperable radio network, including \$2,612,000 for the Highway Patrol and \$2,057,384 for the Department of Corrections and Rehabilitation	4,669,384
Information Technology Department	Grant to the North Dakota Stockmen's Association for the conversion of a paper-based brand inspection program to an electronic system	401,000
Adjutant General	State active-duty software replacement project	450,000
Judicial branch	Supreme Court docket system replacement project	2,020,000
Office of Administrative Hearings	Development of a web-based document management system	20,000
Department of Human Services	Retention bonuses for direct service professionals serving clients with intellectual or developmental disabilities	2,500,000
Department of Human Services	Funding for long-term care facilities, including nursing facilities (\$20.8 million), basic care facilities (\$2.95 million), and assisted living facilities (\$1.25 million)	25,000,000
Department of Human Services	Funding for western North Dakota behavioral health (\$4 million), child care services (\$17 million), Medicaid eligibility system upgrades (\$5 million), and substance use disorder treatment voucher system grants (\$3 million)	29,000,000
Department of Human Services	North Dakota Pregnancy Resource Network	1,500,000
Adjutant General	Camp Grafton housing enhancements	2,000,000
Department of Veterans' Affairs	Grant to assist in the construction of the \$8 million Fisher House at the Fargo VA Medical Center	500,000
Department of Veterans' Affairs	Improve and expand veteran medical transportation	147,000
Bank of North Dakota	Fuel production facility loan forgiveness program	21,000,000
Department of Commerce	Transfer to the innovation technology loan fund program	5,000,000
Department of Commerce	Hydrogen development grants	20,000,000
Department of Commerce	Autonomous agriculture matching grant program to accelerate innovation and research within the autonomous agriculture industry, also known as the Grand Farm Initiative	10,000,000
Department of Commerce	Local workforce development incentive grant program to support efforts to recruit, retain, or retrain workers. Requires 25 percent matching funds from local sources.	15,000,000
Department of Commerce	Technical skills training grant program for the expansion of successful workforce training programs to allow businesses to establish or expand internal training and training for new workers and workforce innovation grant programs to focus on attracting skilled workers to the state from targeted communities and regions	5,000,000
State Board of Higher Education	Establishment of a Center for Space Education and Research at the University of North Dakota	10,000,000
Aeronautics Commission	Airport grants	5,000,000
Total		\$570,035,705

Department of Transportation

The bill also includes a \$100 million appropriation in Section 2 from federal funds in excess of the regular federal funding amounts included in the Department of Transportation's 2021-23 biennium budget, to the Department of Transportation for road and bridge construction projects for the remainder of the 2021-23 biennium.

Appropriation Recommendation Summary

The following is a summary of the committee's appropriation recommendations:

Bill Draft	Federal State Fiscal Recovery Fund	Federal Coronavirus Capital Projects Fund	Federal Coronavirus Relief Fund	Other Federal Funds	Special Funds	Total
21.1104.06000	\$383,474,000	\$113,276,228	\$12,400,000	\$0	\$0	\$509,150,228
21.1130.02000	100,000	0	0	92,168,583	13,094,159	105,362,742
21.1137.01000	570,035,705	0	0	100,000,000	0	670,035,705
Total	\$953,609,705	\$113,276,228	\$12,400,000	\$192,168,583	\$13,094,159	\$1,284,548,675

Bill Draft 21.1135.02000

The committee recommends a bill draft [\[21.1135.02000\]](#) to provide legislative intent to reduce integrated formula payments to school districts eligible to receive ESSER funds by a one-time amount of \$88 per student based on fall 2021 enrollment for information technology upgrades to the state automated reporting system and the statewide longitudinal data system. Legislative intent is provided that the Department of Public Instruction use ESSER funds appropriated to the department by the 2021 Legislative Assembly to reimburse eligible school districts for the amount of integrated formula payments withheld.

Bill Draft 21.1134.01000

The committee recommends [House Bill No. 1507](#) to amend North Dakota Century Code Chapter 15.1-21 to require school districts to offer computer science and cybersecurity courses to students.

INTERIM SENATE APPROPRIATIONS COMMITTEE

The Chairman of the Legislative Management appointed an Interim Senate Appropriations Committee and assigned the committee the following duties:

- Review proposals to use funding from the federal State Fiscal Recovery Fund established through the federal American Rescue Plan Act of 2021 and develop recommendations for the use of funds.
- Review legislative appropriations from the federal Coronavirus Capital Projects Fund and recommend any necessary changes to existing appropriations from the fund and develop recommendations regarding the use of any remaining available funding.
- Consider any other budget adjustments requiring legislation that are necessary before the 2023 regular legislative session.

Committee members were Senators Ray Holmberg (Chairman), Brad Bekkedahl, Kyle Davison, Dick Dever, Robert Erbele, Joan Heckaman, David Hogue, Karen K. Krebsbach, Tim Mathern, Dave Oehlke, Nicole Poolman, David S. Rust, Ronald Sorvaag, and Terry M. Wanzek.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

STATE FISCAL RECOVERY FUND

Background

The American Rescue Plan Act of 2021 included \$219.8 billion for the State Fiscal Recovery Fund. Of this amount, \$195.3 billion is available to states, \$25.5 billion will be distributed equally to the states and District of Columbia, resulting in \$500 million allocated to each state. After an additional \$755 million is distributed to the District of Columbia, the remaining \$169 billion will be distributed to the states based on each state's share of seasonally adjusted unemployed persons for the 3-month period ending December 2020. North Dakota's allocation from the State Fiscal Recovery Fund is \$1,007,502,515. The funds have been received and are on deposit in the Bank of North Dakota.

Allowable Uses

Allowable uses of funding from the State Fiscal Recovery Fund, which must be obligated by December 31, 2024, and spent by December 31, 2026, are as follows:

- Costs related to the Coronavirus (COVID-19) pandemic, including assistance to households, small businesses, nonprofits, and affected industries, such as tourism, travel, and hospitality;
- Provide premium pay of up to \$13 per hour in addition to base pay, up to a maximum of \$25,000, to state, territory, or tribal government workers who perform essential work during the COVID-19 pandemic, or provide grants to employers with employees who perform essential work, which is defined as work needed to maintain continuity of operations of critical infrastructure and other sectors designated by the Governor as critical to protect the health and well-being of residents;
- The cost of providing government services to the extent there was lost revenue as a result of the COVID-19 pandemic; and
- Investment costs in water, sewer, and broadband infrastructure.

States may not use the funding to reduce taxes directly or indirectly between March 3, 2021, and the last day of the fiscal year in which funds received have been spent or returned. States cannot use funds to make payments to pension plans. The Office of Management and Budget submitted \$1.8 billion of revenue loss as of December 2020; therefore, the funds should be able to be used for the cost of government services.

CORONAVIRUS CAPITAL PROJECTS FUND

Background

The American Rescue Plan Act of 2021 appropriated \$10 billion to the United States Department of the Treasury for a Coronavirus Capital Projects Fund to provide payments to states, territories, freely associated states, and tribal governments "to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID-19)."

North Dakota received an initial allocation of \$112,473,563 from the Coronavirus Capital Projects Fund. North Dakota's allocation was later increased to \$113,276,228. The Legislative Assembly, based on initial information

provided regarding the fund, approved using \$106,474,000 of the funding for the following projects for the 2021-23 biennium:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Department of Career and Technical Education	Statewide area career center initiative grant program	70,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total - 2021-23 appropriations		\$106,474,000

Eligible Uses Based on September 2021 Guidance

The September 2021 guidance provides grant funds may be used for critical capital projects that directly enable work, education, and health monitoring in response to COVID-19. To be eligible for funding, a project must meet all of the following criteria:

1. The capital project invests in capital assets designed to directly enable work, education, and health monitoring;
2. The capital project is designed to address a critical need that resulted from or was made apparent or exacerbated by the COVID-19 public health emergency; and
3. The capital project is designed to address a critical need of the community to be served by it.

PROPOSALS RECEIVED

The committee reviewed proposals from members of the Legislative Assembly and the Governor for the use of American Rescue Plan Act funds and for other budget adjustments as detailed in this section.

Coronavirus Capital Projects Fund

The committee reviewed a proposal to adjust the funding source of certain projects that received an appropriation from the Coronavirus Capital Projects Fund during the 2021 regular legislative session. The proposal would change the funding source of nine projects from the Coronavirus Capital Projects Fund to federal state fiscal recovery funds.

Federal State Fiscal Recovery Funds

The committee reviewed 156 proposals to use federal state fiscal recovery funds as follows:

Category	Proposals Received
Infrastructure	The committee reviewed 15 proposals to use federal state fiscal recovery funds for infrastructure projects, including natural gas pipelines, roads, water control, and other projects.
Aid to political subdivisions	The committee reviewed 33 proposals to use federal state fiscal recovery funds to provide aid to political subdivisions for road and bridge projects, local park district infrastructure projects, water and sewer projects, and other purposes.
Capital improvements	The committee reviewed 34 proposals to use federal state fiscal recovery funds for capital projects for state agency and institution building projects, deferred maintenance, and other purposes.
Information technology	The committee reviewed 19 proposals to use federal state fiscal recovery funds for information technology projects, including cybersecurity enhancements, state agency software projects, and other purposes.
Economic Development	The committee reviewed 29 proposals to use federal state fiscal recovery funds for economic development, including research programs, workforce initiatives, business incentives, and other purposes.
Other proposals	The committee reviewed 26 proposals to use federal state fiscal recovery funds for other purposes, including human service programs, long-term care facility assistance, child care programs, and other purposes.

Other Budget Adjustments

The committee reviewed 27 proposals for other budget adjustments. The proposals included adjustments to federal spending authority for agencies, the authorization of new full-time equivalent (FTE) positions, additional authority to allow for the distribution of federal local fiscal recovery funds, and other purposes.

COMMITTEE RECOMMENDATIONS

The committee recommends the following bill drafts:

1. A bill draft [21.1108.03000] to:

- Adjust the funding source of the following projects from the Coronavirus Capital Projects Fund to federal state fiscal recovery funds:

Agency	Project	Amount
Office of Management and Budget	Medical center construction grant	\$500,000
Judicial branch	Information technology equipment	157,600
Department of Public Instruction	Children's science center grant	5,900,000
University of North Dakota	Airport apron project	5,000,000
Dickinson State University	Pulver Hall and meat processing laboratory projects	4,000,000
Highway Patrol	Law Enforcement Training Academy remodel project	3,000,000
State Historical Society	Capital project planning and historic site repairs	4,200,000
Parks and Recreation Department	Deferred maintenance projects and repayment of International Peace Garden project loan	11,716,400
Agriculture Commissioner	Intermodal facility grant program	2,000,000
Total		\$36,474,000

- Provide for the Coronavirus Capital Projects Fund to be allocated for career and technical education center projects (\$53.3 million) and rural broadband projects (\$60 million). In addition, \$30 million is provided from state fiscal recovery funds for career and technical education projects.
- Appropriate \$317 million of state fiscal recovery funds to the Department of Transportation for state road and bridge projects (\$200 million), county bridge projects (\$100 million), and transportation funding distributions to townships (\$17 million).
- Authorize any unused federal coronavirus relief funds to be used for salary costs of the Highway Patrol, Department of Corrections and Rehabilitation, and Adjutant General.

2. A bill draft [21.1131.04000] to:

- Provide federal funds authorization of \$3,014,975 to the State Treasurer for additional local fiscal recovery fund allocations to political subdivisions.
- Continue the authorization for the University of North Dakota to use \$750,000 of Bank of North Dakota profits for campus network upgrades.
- Provide an appropriation of \$537,297 to the Attorney General from the Attorney General refund fund for salary equity increases for State Crime Laboratory employees.
- Provide an appropriation of \$10 million to the Department of Public Instruction from withheld integrated formula payments for information technology upgrades.
- Authorize 16 FTE positions for the Department of Human Services for the county social and human services project.
- Authorize the Department of Human Services to transfer funding between line items in House Bill Nos. 1394 and 1395 (2021).
- Provide federal funds authority of \$92,453,608 to the Department of Human Services for federal medical assistance percentage adjustments and for other various programs.
- Provide an appropriation from the Bank of North Dakota operating fund to the bank for salaries and wages.
- Provide funding of \$1,806,862 from the Retirement and Investment Office operating fund to the agency for six new FTE positions and other salary adjustments.
- Provide an appropriation of \$10 million from the Department of Public Instruction operating fund from withheld integrated formula payments and \$100,000 from the State Fiscal Recovery Fund to the department for information technology upgrades and for information technology upgrade funding in lieu of withholding from schools ineligible to receive allocations from the federal Elementary and Secondary School Emergency Relief Fund.
- Amend Section 9 of Chapter 46 of the 2021 Session Laws relating to grant requirements for the beyond visual line of sight unmanned aircraft system program.

3. Senate Bill No. 2345 to:

- Appropriate federal state fiscal recovery funds to the following state agencies:

Agency	Purpose	Amount
Industrial Commission	Grants for a natural gas pipeline project to transport natural gas from western to eastern North Dakota	\$150,000,000
Industrial Commission	Abandoned oil well conversion to water supply grant program	3,200,000
Department of Water Resources	Water infrastructure projects	75,000,000
Department of Corrections and Rehabilitation	Stipends to county jails for costs to house inmates sentenced to the department but deferred admission	4,800,000
Parks and Recreation Department	Grants to local park districts to renovate and upgrade existing outdoor facilities with a \$1 to \$1 matching requirement	5,000,000
Main Research Center	Capital projects at the Carrington, Dickinson, Hettinger, and Central Grasslands Research Extension Centers	8,029,000
State Department of Health	State health laboratory project	15,000,000
Department of Corrections and Rehabilitation	Free through recovery program increase in capacity	2,995,200
Parks and Recreation Department	State park projects with a minimum of \$100,000 spent on projects at each park	10,000,000
Office of Management and Budget	State facility critical maintenance projects	10,000,000
Office of Management and Budget	Heating and cooling upgrades in the legislative wing of the Capitol	7,000,000
State Historical Society	State historic site repairs	950,000
North Dakota State University	Higher performance computing	2,200,000
Minot State University	Harnett Hall project	25,000,000
University of North Dakota	Merrifield Hall project	50,000,000
Bismarck State University	Polytechnic building project	38,000,000
University of North Dakota School of Medicine and Health Science	Hyperbaric oxygen therapy project	2,104,121
North Dakota University System	Dakota Digital Academy	475,000
Attorney General	Missing persons database	75,000
Attorney General	Prosecuting case management system replacement	1,000,000
Highway Patrol	Radios compatible with the statewide interoperable radio network	2,612,000
Department of Corrections and Rehabilitation	Radios compatible with the statewide interoperable radio network	2,057,384
Information Technology Department	Grant to North Dakota Stockmen's Association for brand inspection program software	401,000
Adjutant General	State active duty software replacement	450,000
Judicial branch	Replace docket system	2,020,000
Office of Administrative Hearings	Web-based document management system	20,000
Department of Human Services	Retention bonuses for direct service professionals	2,500,000
Department of Human Services	Funding to assist long-term care facilities	25,000,000
Department of Human Services	Funding for western North Dakota behavioral health (\$4 million), Medicaid eligibility system upgrade (\$5 million), child care services (\$17 million), and substance use disorder voucher program (\$3 million)	29,000,000
Department of Human Services	Grant to organization providing alternatives to abortion services	1,500,000
Adjutant General	Camp Grafton housing upgrades	2,000,000
Department of Veterans' Affairs	Grant to assist in Fisher House construction	500,000
Department of Veterans' Affairs	Improve and expand veterans' medical transportation	147,000
Bank of North Dakota	Fuel production facility grant program	21,000,000
Department of Commerce	Transfer to the innovation technology loan fund	5,000,000
Department of Commerce	Hydrogen development grants	20,000,000
Department of Commerce	Autonomous agriculture matching grant program	10,000,000

Agency	Purpose	Amount
Department of Commerce	Local workforce development incentive grant program with 25 percent local match requirement	15,000,000
Department of Commerce	Technical skills training grant program	5,000,000
University of North Dakota	Space education and research	10,000,000
Aeronautics Commission	Airport grants	5,000,000
Total		\$570,035,705

- Appropriate \$100 million of additional federal funds to the Department of Transportation. The funds are not subject to the excess federal funds requirements in House Bill Nos. 1015 and 1431 (2021).
4. Senate Bill No. 2346 to authorize the Department of Public Instruction to withhold integrated formula payments to school districts to be used for information technology project upgrades to the state automated reporting system and the statewide longitudinal data system.

LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE

The Legislative Management delegated to the Legislative Procedure and Arrangements Committee the Legislative Management's authority under North Dakota Century Code Section 54-35-11 to make arrangements for legislative sessions. Legislative rules also are reviewed and updated under this authority. The Legislative Management also delegated to the committee the Legislative Management's responsibility under Section 46-02-05 to determine contents of contracts for printing of legislative bills, resolutions, journals, and Session Laws; and the power and duty under Section 54-35-02 to determine access to legislative information services and impose fees for providing such services and copies of legislative documents.

Committee members are Senators Rich Wardner (Chairman), Joan Heckaman, Ray Holmberg, Jerry Klein, Larry Luick, and Erin Oban and Representatives Joshua A. Boschee, Kim Koppelman, Scott Louser, Alisa Mitskog, and Chet Pollert.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

SPECIAL OR RECONVENED SESSION ARRANGEMENTS

At the time of the committee's most recent meeting, the Governor had not committed to calling a special session for legislative redistricting. The committee approved arrangements to accommodate either a special or reconvened session. The committee reviewed four areas of consideration for the special or reconvened session--legislative rules, session employees, a bill draft regarding printing services, and miscellaneous matters.

Legislative Rules

The committee received testimony regarding the legislative rules amendments adopted during previous special sessions. The amendments primarily addressed the introduction of measures, length of time to consider a measure after it is reported from committee, length of time to reconsider a measure, and special committees during the special session. The committee recommends changes to legislative rules which are substantively similar to those rules amendments adopted during the 2001 and 2011 special sessions. The committee recommends creation of Joint Rules 303 and 304; amendment of Senate Rules 318(4), 333, 337, 347, 401(1), 402, 403, 501, 504, and 601; House Rules 318(4), 337, 347, 401(1), 402, 403, 501, 504, and 601; and Joint Rules 202, 207, 302, and 501(4); and repeal of Senate Rule 502, House Rule 502, and Joint Rule 208.

The recommended rules provide bills and resolutions, other than bills and resolutions introduced by the Legislative Management, must be introduced through the Delayed Bills Committee of the house of introduction. The requirement for approval by the Delayed Bills Committee is intended to limit introduction of measures to those measures of significant importance for consideration during the special or reconvened session, which is intended to address legislative redistricting and appropriations of certain federal funds received by the state. By requiring measures to be introduced through the Delayed Bills Committees, bills and resolutions would be screened to assure promotion of the session objectives.

The recommended rules eliminate specific meeting days for committees. Instead, the rules amendments allow the committee chairman or a majority of committee members to call a committee meeting. Specifically listing the days on which committees may meet could create misconceptions if the committees met on other than regularly scheduled days.

The recommended rules authorize a measure to be considered on the same day it is reported from committee or placed on the consent calendar. The normal time frame for consideration of a measure is shortened from the day after a measure is reported from committee or placed on the consent calendar.

The recommended rules allow an amendment made upon second reading in the Senate of a bill providing for redistricting of the Legislative Assembly to be proposed as a concept. Upon approval of the concept, the redistricting bill would be rereferred to the Joint Redistricting Committee for preparation by the Legislative Council of the exact language required for the amendment. The Joint Redistricting Committee then would report the amendment back to the Senate for action. This change is intended to limit the time taken for drafting and proofing exact legal descriptions of legislative districts to those floor amendments supported by a majority of the Senate members.

The recommended rules authorize a measure to be transmitted from one house to the other immediately after approval unless a Majority or Minority Leader gives notice of intention to reconsider. If notice is given, the measure

cannot be transmitted until the end of that day. Without this amendment, the normal procedure would be to retain the measure until the end of the next legislative day.

The recommended rules allow either house to consider receding more than once on the same day before a conference is called. Without the amendment, reconsideration could not be made until the next legislative day.

The recommended rules require the return of a fiscal note within 1 day of the request instead of 5 days. This recommendation recognizes the shortened time frames for considering bills and resolutions during the special or reconvened session.

The recommended rules establish a Joint Legislative Redistricting Committee and a Joint Technical Corrections Committee and provide for the House and Senate Appropriations Committees and procedural committees to meet during the special or reconvened session. The Joint Legislative Redistricting Committee would be responsible for all bills and resolutions relating to redistricting. The Joint Technical Corrections Committee would be responsible for all bills and resolutions relating to other substantive matters except appropriations. Voting in joint committees would be by house and would operate similarly to voting in conference committees.

Session Employees

The committee reviewed the employee positions filled during the 2011 special session. The committee determined the House Employment Committee may hire up to 11 employees and the Senate Employment Committee may hire up to 10 employees for the special or reconvened session. The rates of pay for employees during the special or reconvened session would be the compensation levels established by Senate Concurrent Resolution No. 4003 (2021).

Printing Services

During the 2019-20 interim, the committee authorized the Legislative Council to solicit bids for printing legislative materials for the 67th Legislative Assembly. Despite soliciting bids twice, no bids were received. Central Duplicating Services within the Office of Management and Budget provided printing for the 67th Legislative Assembly and will provide printing during the special or reconvened session. The committee received testimony noting several sections of the Century Code could be clarified to authorize Central Duplicating Services to provide legislative printing services. The committee recommends Senate Bill No. 2347 providing the legislative branch the option of having legislative materials printed by Central Duplicating Services or soliciting bids for a private printing vendor. This bill is recommended for consideration during the special or reconvened session so the Legislative Assembly may consider contracting with Central Duplicating Services during the 2021-22 interim to print materials for the 68th Legislative Assembly.

Miscellaneous Matters

The committee recognizes the nature of the special or reconvened session will be limited in scope. Many services or items normally available during a regular session would not be feasible or economical during the special or reconvened session. The committee received testimony the bill and journal room has not been open to the public during special sessions. Committee hearings often are called on short notice during special or reconvened sessions, and printed schedules would become outdated quickly. Instead, measures, journals, and other documents have been made available on the legislative branch website and may be available through the North Dakota Legislative Daily application. Information on hearings also will be available on kiosks and signs throughout the Capitol. Journals typically have been printed after special sessions adjourn. The committee did not recommend any changes to these practices. The Legislator's Automated Work Station (LAWS) will be available to legislators during the special or reconvened session. Committee schedules and documents will continue to be available online, and the public may view committee meetings and floor sessions online as has been the practice since early 2020.

REDISTRICTING COMMITTEE

The Redistricting Committee was assigned the responsibility to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election. House Bill No. 1397 (2021) required the Chairman of the Legislative Management to appoint a committee to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election. The bill provided:

1. The committee must consist of an equal number of members from the Senate and the House of Representatives appointed by the Chairman of the Legislative Management.
2. The committee shall ensure any legislative redistricting plan submitted to the Legislative Assembly for consideration must be of compact and contiguous territory and conform to all constitutional requirements with respect to population equality. The committee may adopt additional constitutionally recognized redistricting guidelines and principles to implement in preparing a legislative redistricting plan for submission to the Legislative Assembly.
3. The committee shall submit a redistricting plan and legislation to implement the plan to the Legislative Management by November 30, 2021.
4. A draft of the legislative redistricting plan created by the Legislative Council or a member of the Legislative Assembly is an exempt record as defined in North Dakota Century Code Section 44-04-17.1 until presented or distributed at a meeting of the Legislative Management, a Legislative Management committee, or the Legislative Assembly, at which time the presented or distributed draft is an open record. If possible, the presented or distributed draft must be made accessible to the public on the legislative branch website such as through the use of hyperlinks in the online meeting agenda. Any version of a redistricting plan other than the version presented or distributed at a meeting of the Legislative Management, a Legislative Management committee, or the Legislative Assembly is an exempt record.
5. The Chairman of the Legislative Management shall request the Governor to call a special session of the Legislative Assembly pursuant to Section 7 of Article V of the Constitution of North Dakota to allow the Legislative Assembly to adopt a redistricting plan to be implemented in time for use in the 2022 primary election and to address any other issue that may be necessary.

Committee members were Representatives Bill Devlin (Chairman), Larry Bellew, Joshua A. Boschee, Craig Headland, Mike Lefor, David Monson, Mike Nathe, and Austen Schauer and Senators Brad Bekkedahl, Randy A. Burckhard, Robert Erbele, Ray Holmberg, Jerry Klein, Erin Oban, Nicole Poolman, and Ronald Sorvaag.

The committee submitted this report to the Legislative Management on November 1, 2021. The Legislative Management accepted this report for submission to the Legislative Assembly.

BACKGROUND

Redistricting History in North Dakota

1931-62

Despite the requirement in the Constitution of North Dakota that the state be redistricted after each census, the Legislative Assembly did not redistrict itself between 1931 and 1963. At the time, the Constitution of North Dakota provided:

1. The Legislative Assembly must apportion itself after each federal decennial census; and
2. If the Legislative Assembly failed in its apportionment duty, a group of designated officials was responsible for apportionment.

Because the 1961 Legislative Assembly did not apportion itself following the 1960 Census, the apportionment group (required by the constitution to be the Chief Justice of the Supreme Court, the Attorney General, the Secretary of State, and the Majority and Minority Leaders of the House of Representatives) issued a plan, which was challenged in court. In *State ex rel. Lien v. Sathre*, 113 N.W.2d 679 (1962), the North Dakota Supreme Court determined the plan was unconstitutional and the 1931 plan continued to be law.

1963

In 1963 the Legislative Assembly passed a redistricting plan that was heard by the Senate and House Political Subdivisions Committees. The 1963 plan and Sections 26, 29, and 35 of Article II of the Constitution of North Dakota were challenged in federal district court and found unconstitutional as violating the equal protection clause in *Paulson v. Meier*, 232 F.Supp. 183 (1964). The 1931 plan also was held invalid. Thus, there was no constitutionally valid legislative

redistricting law in existence at that time. The court concluded adequate time was not available with which to formulate a proper plan for the 1964 election and the Legislative Assembly should promptly devise a constitutional plan.

1965

A conference committee during the 1965 legislative session consisting of the Majority and Minority Leaders of each house and the Chairmen of the State and Federal Government Committees produced a redistricting plan. In *Paulson v. Meier*, 246 F.Supp. 36 (1965), the federal district court found the 1965 redistricting plan unconstitutional. The court reviewed each plan introduced during the 1965 legislative session and specifically focused on a plan prepared for the Legislative Research Committee (predecessor to the Legislative Council and the Legislative Management) by two consultants hired by the committee to devise a redistricting plan. That plan had been approved by the interim Constitutional Revision Committee and the Legislative Research Committee and was submitted to the Legislative Assembly in 1965. The court slightly modified that plan and adopted it as the plan for North Dakota. The plan contained five multimember senatorial districts, violated county lines in 12 instances, and had 25 of 39 districts within 5 percent of the average population, four districts slightly over 5 percent, and two districts exceeding 9 percent.

1971

In 1971 an original proceeding was initiated in the North Dakota Supreme Court challenging the right of senators from multimember districts to hold office. The petitioners argued the multimembership violated Section 29 of Article II of the Constitution of North Dakota, which provided each senatorial district "shall be represented by one senator and no more." The court held Section 29 was unconstitutional as a violation of the equal protection clause of the United States Constitution and multimember districts were permissible. *State ex rel. Stockman v. Anderson*, 184 N.W.2d 53 (1971).

In 1971 the Legislative Assembly failed to redistrict itself after the 1970 Census and an action was brought in federal district court which requested the court order redistricting and declare the 1965 plan invalid. The court entered an order to the effect the existing plan was unconstitutional, and the court would issue a plan. The court appointed three special masters to formulate a plan and adopted a plan submitted by Mr. Richard Dobson. The "Dobson" plan was approved for the 1972 election only. The court recognized weaknesses in the plan, including substantial population variances and a continuation of multimember districts.

1973-75

In 1973 the Legislative Assembly passed a redistricting plan developed by the Legislative Council's interim Committee on Reapportionment, which was appointed by the Legislative Council Chairman and consisted of three senators, three representatives, and five citizen members. The plan was vetoed by the Governor, but the Legislative Assembly overrode the veto. The plan had a population variance of 6.8 percent and had five multimember senatorial districts. The plan was referred and was defeated at a special election held on December 4, 1973.

In 1974 the federal district court in *Chapman v. Meier*, 372 F.Supp. 371 (1974) made the "Dobson" plan permanent. However, on appeal, the United States Supreme Court ruled the "Dobson" plan unconstitutional in *Chapman v. Meier*, 420 U.S. 1 (1975).

In 1975 the Legislative Assembly adopted the "Dobson" plan but modified it by splitting multimember senatorial districts into subdistricts. The plan was proposed by individual legislators and was heard by the Joint Reapportionment Committee, consisting of five senators and five representatives. The plan was challenged in federal district court and was found unconstitutional. In *Chapman v. Meier*, 407 F.Supp. 649 (1975), the court held the plan violated the equal protection clause because of the total population variance of 20 percent. The court appointed a special master to develop a plan, and the court adopted that plan.

1981

In 1981 the Legislative Assembly passed House Concurrent Resolution No. 3061, which directed the Legislative Council to study and develop a legislative redistricting plan. The Legislative Council Chairman appointed a 12-member interim Reapportionment Committee consisting of seven representatives and five senators. The chairman directed the committee to study and select one or more redistricting plans for consideration by the 1981 reconvened Legislative Assembly. The committee completed its work on October 6, 1981, and submitted its report to the Legislative Council at a meeting of the Council in October 1981.

The committee instructed its consultant, Mr. Floyd Hickok, to develop a plan for the committee based upon the following criteria:

1. The plan should have 53 districts.
2. The plan should retain as many districts in their present form as possible.
3. No district could cross the Missouri River.
4. The population variance should be kept below 10 percent.

Mr. Hickok presented a report to the committee in which the state was divided into 11 blocks. Each block corresponded to a group of existing districts with only minor boundary changes. The report presented a number of alternatives for dividing most blocks. There were 27,468 different possible combinations among the alternatives presented.

The bill draft recommended by the interim committee incorporated parts of Mr. Hickok's plans and many of the plans presented as alternatives to the committee. The plan was introduced in a reconvened session of the Legislative Assembly in November 1981 and was heard by the Joint Reapportionment Committee.

The committee considered a total of 12 legislative redistricting bills. The reconvened session adopted a redistricting plan that consisted of 53 senatorial districts. The districts containing the Grand Forks and Minot Air Force Bases were combined with districts in those cities, and each elected two senators and four representatives at large.

1991-95

In 1991 the Legislative Assembly adopted House Concurrent Resolution No. 3026, which directed a study of legislative apportionment and development of legislative reapportionment plans for use in the 1992 primary election. The resolution encouraged the Legislative Council to use the following criteria to develop a plan or plans:

1. Legislative districts and subdistricts had to be compact and of contiguous territory except as was necessary to preserve county and city boundaries as legislative district boundary lines and so far as was practicable to preserve existing legislative district boundaries.
2. Legislative districts could have a population variance from the largest to the smallest in population not to exceed 9 percent of the population of the ideal district except as was necessary to preserve county and city boundaries as legislative district boundary lines and so far as was practicable to preserve existing legislative district boundaries.
3. No legislative district could cross the Missouri River.
4. Senators elected in 1990 could finish their terms, except in those districts in which over 20 percent of the qualified electors were not eligible to vote in that district in 1990, senators had to stand for reelection in 1992.
5. The plan or plans developed were to contain options for the creation of House subdistricts in any Senate district that exceeds 3,000 square miles.

The Legislative Council established an interim Legislative Redistricting and Elections Committee, which undertook the legislative redistricting study. The committee consisted of eight senators and eight representatives. The Legislative Council contracted with Mr. Hickok to provide computer-assisted services to the committee.

After the committee held meetings in several cities around the state, the committee requested the preparation of plans for 49, 50, and 53 districts based upon these guidelines:

1. The plans could not provide for a population variance over 10 percent.
2. The plans could include districts that cross the Missouri River so the Fort Berthold Reservation would be included within one district.
3. The plans had to provide alternatives for splitting the Grand Forks Air Force Base and the Minot Air Force Base into more than one district and alternatives that would allow the bases to be combined with other contiguous districts.

The interim committee recommended two alternative bills to the Legislative Council at a special meeting held in October 1991. Both of the bills included 49 districts. Senate Bill No. 2597 (1991) split the two Air Force bases so neither base would be included with another district to form a multisenator district. Senate Bill No. 2598 (1991) placed the Minot Air Force Base entirely within one district so the base district would be combined with another district.

In a special session held November 4-8, 1991, the Legislative Assembly adopted Senate Bill No. 2597 with some amendments with respect to district boundaries. The bill was heard by the Joint Legislative Redistricting Committee. The bill also was amended to provide any senator from a district in which there was another incumbent senator as a result of legislative redistricting had to be elected in 1992 for a term of 4 years, to provide the senator from a new district created in Fargo had to be elected in 1992 for a term of 2 years, and to include an effective date of December 1, 1991. In addition, the bill was amended to include a directive to the Legislative Council to assign to the committee the responsibility to develop a plan for subdistricts for the House of Representatives.

The Legislative Council again contracted with Mr. Hickok to provide services for the subdistrict study. After conducting the subdistrict study, the interim committee recommended House Bill No. 1050 (1993) to establish House subdistricts

within each Senate district except in Districts 18, 19, 38, and 40, which are the districts that include portions of the Air Force bases. In 1993 the Legislative Assembly did not adopt the subdistricting plan.

In 1995 the Legislative Assembly adopted House Bill No. 1385, which made final boundary changes to four districts, including placing a small portion of the Fort Berthold Reservation in District 33.

2001

In 2001, the Legislative Assembly budgeted \$200,000 for a special session for redistricting and adopted House Concurrent Resolution No. 3003, which provided for a study and the development of a legislative redistricting plan or plans for use in the 2002 primary election. The Legislative Council appointed an interim Legislative Redistricting Committee consisting of 15 members to conduct the study. The Legislative Redistricting Committee began its work on July 9, 2001, and submitted its final report to the Legislative Council on November 6, 2001.

The Legislative Council purchased two personal computers and two licenses for redistricting software for use by each political faction represented on the committee. Because committee members generally agreed each caucus should have access to a computer with the redistricting software, the committee requested the Legislative Council to purchase two additional computers and two additional redistricting software licenses. In addition, each caucus was provided a color printer.

The Legislative Redistricting Committee considered redistricting plans based on 45, 47, 49, 51, and 52 districts. The committee determined the various plans should adhere to the following criteria:

1. Preserve existing district boundaries to the extent possible.
2. Preserve political subdivision boundaries to the extent possible.
3. Provide for a population variance of under 10 percent.

The interim committee recommended Senate Bill No. 2456 (2001), which established 47 legislative districts. The bill repealed the existing legislative redistricting plan, required the Secretary of State to modify 2002 primary election deadlines and procedures if necessary, and provided an effective date of December 7, 2001. The bill also addressed the staggering of terms in even-numbered and odd-numbered districts.

Under the 47-district plan, the ideal district size was 13,664. Under the plan recommended by the committee, the largest district had a population of 14,249 and the smallest district had a population of 13,053. Thus, the largest district was 4.28 percent over the ideal district size and the smallest district was 4.47 percent below the ideal district size, providing for an overall range of 8.75 percent.

In a special session held November 26-30, 2001, the Legislative Assembly adopted the 47-district plan included in Senate Bill No. 2456 (2001) with amendments, most notably amendments to the provisions relating to the staggering of terms. The bill was heard by the Joint Legislative Redistricting Committee. The term-staggering provisions provided a senator and a representative from an odd-numbered district must be elected in 2002 for a term of 4 years and a senator and a representative from an even-numbered district must be elected in 2004 for a term of 4 years. The bill further included provisions to address situations in which multiple incumbents were placed within the same district and in which there were fewer incumbents than the number of seats available. In *Kelsh v. Jaeger*, 641 N.W.2d 100 (2002), the North Dakota Supreme Court found a portion of the staggering provisions to be an impermissible delegation of legislative authority in that it allowed an incumbent senator to decide whether to stop an election for the Senate in a district that had two incumbent senators with terms expiring in different years.

2011

In 2011, the Legislative Assembly passed House Bill No. 1267 (2011), which directed the Chairman of the Legislative Management to appoint a committee to develop a legislative redistricting plan to be implemented in time for use in the 2012 primary election. The Legislative Redistricting Committee consisted of 16 members and held its first meeting on June 16, 2011. The committee concluded its work on October 12, 2011, and submitted its final report to the Legislative Management on November 3, 2011.

The Legislative Council purchased a personal computer and a license for the Maptitude for Redistricting software for use by each of the four caucuses represented on the committee. In addition, because there were significantly more members of the majority party caucuses on the committee, the Legislative Council purchased an additional computer and redistricting software license for the shared use of the members of those groups. A template of the existing legislative districts was provided in the redistricting software to use as a starting point in creating districts because the committee members generally agreed potential redistricting plans should be based upon the cores of existing districts.

The committee considered increasing the number of districts and received information regarding the estimated cost of a district based on a 77-day legislative session, which amounted to approximately \$1,190,170 for the decade. The committee elected to maintain a 47-district plan and determined the plan should adhere to the following criteria:

1. Preserve existing district boundaries to the extent possible.
2. Preserve political subdivision boundaries to the extent possible and preserve the boundaries of the Indian reservations.
3. Provide for a population variance of 9 percent or less.

The committee recommended a bill to repeal the existing redistricting plan, establish 47 legislative districts, provide for the staggering of terms of members of the Legislative Assembly, and authorize the Secretary of State to modify primary election deadlines and procedures if any delays arose in implementing the redistricting plan. Under the 47-district plan recommended by the committee, the ideal district size was 14,310. The population of the largest district was 14,897, which was 4.10 percent over the ideal district size, and the population of the smallest district was 13,697, which was 4.28 percent below the ideal district size, providing for an overall range of 8.38 percent. The plan included 33 counties that were not split, 3 counties that were split only to preserve the boundaries of the Fort Berthold Indian Reservation, and 3 counties that were split only because the counties included cities that were too large for one district.

The committee also recommended a bill draft to the Legislative Management which would have required each legislative district contain at least six precincts. The Legislative Management rejected the portion of the committee's report relating to this bill draft.

In a special session held November 7-11, 2011, the Legislative Assembly adopted the committee's 47-district plan included in House Bill No. 1473 (2011) with minor amendments to legislative district boundaries and a change in the effective date from December 1 to November 25, 2011. The bill was heard by the Joint Legislative Redistricting Committee and approved by the 62nd Legislative Assembly by a vote of 60 to 32 in the House and 33 to 14 in the Senate.

NORTH DAKOTA REDISTRICTING LAW

Constitutional Provisions

Section 1 of Article IV of the Constitution of North Dakota provides the "senate must be composed of not less than forty nor more than fifty-four members, and the house of representatives must be composed of not less than eighty nor more than one hundred eight members." Section 2 of Article IV requires the Legislative Assembly to "fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators." The section provides districts ascertained after the 1990 federal decennial census must "continue until the adjournment of the first regular session after each federal decennial census, or until changed by law."

Section 2 further requires the Legislative Assembly to "guarantee, as nearly as practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates." This section requires the apportionment of one senator and at least two representatives to each senatorial district. This section also provides that two senatorial districts may be combined when a single-member senatorial district includes a federal facility or installation containing over two-thirds of the population of a single-member senatorial district and that elections may be at large or from subdistricts.

Section 3 of Article IV requires the Legislative Assembly to establish by law a procedure whereby one-half of the members of the Senate and one-half of the members of the House of Representatives, as nearly as practicable, are elected biennially.

Statutory Provisions

In addition to the constitutional requirements, Section 54-03-01.5 requires a legislative redistricting plan based on any census taken after 1999 must provide that the Senate consist of 47 members and the House consist of 94 members. The plan must ensure legislative districts be as nearly equal in population as is practicable and population deviation from district to district be kept at a minimum. Additionally, the total population variance of all districts, and subdistricts if created, from the average district population may not exceed recognized constitutional limitations.

Sections 54-03-01.8 and 54-03-01.10 provided for the staggering of Senate and House terms after redistricting in 2001. Section 54-03-01.8, which addressed the staggering of Senate terms, was found to be, in part, an impermissible delegation of legislative authority in that it allowed an incumbent senator to decide whether to stop an election for the Senate in a district that had two incumbent senators with terms expiring in different years. House Bill No. 1473 (2011) repealed Sections 54-03-01.8 and 54-03-01.10 and created a new section regarding the staggering of terms. Section 54-03-01.13 provides senators and representatives from even-numbered districts must be elected in 2012 for 4-year terms; senators and representatives from odd-numbered districts must be elected in 2014 for 4-year terms, except the

senator and two representatives from District 7 must be elected in 2012 for a term of 2 years; the term of office of a member of the Legislative Assembly elected in an odd-numbered district in 2010 for a term of 4 years and who as a result of legislative redistricting is placed in an even-numbered district terminates December 1, 2012, subject to certain change in residency exceptions; the term of office of a member of the Legislative Assembly in an odd-numbered district with new geographic area that was not in that member's district for the 2010 election and which new geographic area has a 2010 population that is more than 25 percent of the ideal district population terminates on December 1, 2012; and a vacancy caused in an odd-numbered district as a result of legislative redistricting must be filled at the 2012 general election by electing a member to a 2-year term of office.

Section 16.1-01-02.2 pertains to procedures regarding special elections. As a result of concerns regarding the timetable for calling a special election to vote on a referral of a redistricting plan, the Legislative Assembly amended Section 16.1-01-02.2 during the November 1991 special session. The amendment provided "notwithstanding any other provision of law, the governor may call a special election to be held in thirty to fifty days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan." This 30- to 50-day timetable was later amended to 90 days in 2007.

Section 16.1-03-17 provides if redistricting of the Legislative Assembly becomes effective after the organization of political parties and before the primary or the general election, the political parties in the newly established precincts and districts shall reorganize as closely as possible in conformance with Chapter 16.1-03 to assure compliance with primary election filing deadlines.

FEDERAL REDISTRICTING LAW

Before 1962, the courts followed a policy of nonintervention with respect to legislative redistricting. However, in 1962, the United States Supreme Court, in *Baker v. Carr*, 369 U.S. 186 (1962), determined the courts would provide relief in state legislative redistricting cases when there are constitutional violations.

Population Equality

In *Reynolds v. Sims*, 377 U.S. 533 (1964), the United States Supreme Court held the equal protection clause of the 14th Amendment to the United States Constitution requires states to establish legislative districts substantially equal in population. The Court also ruled both houses of a bicameral legislature must be apportioned on a population basis. Although the Court did not state what degree of population equality is required, it stated "what is marginally permissible in one state may be unsatisfactory in another depending upon the particular circumstances of the case."

The measure of population equality most commonly used by the courts is overall range. The overall range of a redistricting plan is the sum of the deviation from the ideal district population--the total state population divided by the number of districts--of the most and the least populous districts. In determining overall range, the plus and minus signs are disregarded, and the number is expressed as an absolute percentage.

In *Reynolds*, the United States Supreme Court recognized a distinction between congressional and legislative redistricting plans. That distinction was further emphasized in a 1973 Supreme Court decision, *Mahan v. Howell*, 410 U.S. 315 (1973). In that case, the Court upheld a Virginia legislative redistricting plan that had an overall range among House districts of approximately 16 percent. The Court stated broader latitude is afforded to the states under the equal protection clause in state legislative redistricting than in congressional redistricting in which population is the sole criterion of constitutionality. In addition, the Court said the Virginia General Assembly's state constitutional authority to enact legislation dealing with political subdivisions justified the attempt to preserve political subdivision boundaries when drawing the boundaries for the House of Delegates.

A 10 percent standard of population equality among legislative districts was first addressed in two 1973 Supreme Court decisions--*Gaffney v. Cummings*, 412 U.S. 735 (1973), and *White v. Regester*, 412 U.S. 755 (1973). In those cases, the Court upheld plans creating house districts with overall ranges of 7.8 percent and 9.9 percent. The Court determined the overall ranges did not constitute a prima facie case of denial of equal protection. In *White*, the Court noted, "[v]ery likely larger differences between districts would not be tolerable without justification 'based on legitimate considerations incident to the effectuation of a rational state policy'."

Justice William J. Brennan's dissents in *Gaffney* and *White* argued the majority opinions established a 10 percent de minimus rule for state legislative district redistricting. He asserted the majority opinions provided states would be required to justify overall ranges of 10 percent or more. The Supreme Court adopted that 10 percent standard in later cases.

In *Chapman v. Meier*, 420 U.S. 1 (1975), the Supreme Court rejected the North Dakota Legislative Assembly redistricting plan with an overall range of approximately 20 percent. In that case, the Court said the plan needed special justification, but rejected the reasons given, which included an absence of a particular racial or political group whose

power had been minimized by the plan, the sparse population of the state, the desire to maintain political boundaries, and the tradition of dividing the state along the Missouri River.

In *Conner v. Finch*, 431 U.S. 407 (1977), the Supreme Court rejected a Mississippi plan with a 16.5 percent overall range for the Senate and a 19.3 percent overall range for the House. However, in *Brown v. Thomson*, 462 U.S. 835 (1983), the Court determined adhering to county boundaries for legislative districts was not unconstitutional even though the overall range for the Wyoming House of Representatives was 89 percent.

In *Brown*, each county was allowed at least one representative. Wyoming has 23 counties and its legislative apportionment plan provided for 64 representatives. Because the challenge was limited to the allowance of a representative to the least populous county, the Supreme Court determined the grant of a representative to that county was not a significant cause of the population deviation that existed in Wyoming. The Court concluded the constitutional policy of ensuring each county had a representative, which had been in place since statehood, was supported by substantial and legitimate state concerns and had been followed without any taint of arbitrariness or discrimination. The Court found the policy contained no built-in biases favoring particular interests or geographical areas and that population equality was the sole other criterion used. The Court stated a legislative apportionment plan with an overall range of less than 10 percent is not sufficient to establish a prima facie case of invidious discrimination under the 14th Amendment which requires justification by the state. However, the Court further concluded a plan with larger disparities in population creates a prima facie case of discrimination and must be justified by the state.

In *Brown*, the Supreme Court indicated giving at least one representative to each county could result in total subversion of the equal protection principle in many states. That would be especially true in a state in which the number of counties is large and many counties are sparsely populated and the number of seats in the legislative body does not significantly exceed the number of counties.

In *Board of Estimate v. Morris*, 489 U.S. 688 (1989), the Supreme Court determined an overall range of 132 percent was not justified by New York City's proffered governmental interests. The city argued that because the Board of Estimate was structured to accommodate natural and political boundaries as well as local interests, the large departure from the one-person, one-vote ideal was essential to the successful government of the city--a regional entity. However, the Court held the city failed to sustain its burden of justifying the large deviation.

In a federal district court decision, *Quilter v. Voinovich*, 857 F.Supp. 579 (N.D. Ohio 1994), the court ruled a legislative district plan with an overall range of 13.81 percent for House districts and 10.54 percent for Senate districts did not violate the one-person, one-vote principle. The court recognized the state interest of preserving county boundaries, and the plan was not advanced arbitrarily. The decision came after the Supreme Court remanded the case to the district court. The Supreme Court stated in the previous district court decision, the district court mistakenly held total deviations in excess of 10 percent cannot be justified by a policy of preserving political subdivision boundaries. The Supreme Court directed the district court to follow the analysis used in *Brown*, which requires the court to determine whether the plan could reasonably be said to advance the state's policy, and if so, whether the population disparities exceed constitutional limits.

Although the federal courts generally have maintained a 10 percent standard, a legislative redistricting plan within the 10 percent range may not be safe from a constitutional challenge if the challenger is able to show discrimination in violation of the equal protection clause. In *Larios v. Cox*, 300 F.Supp.2d 1320 (N.D. Ga. 2004), a federal district court in Georgia found two legislative redistricting plans adopted by the Georgia General Assembly which had an overall range of 9.98 percent violated the "one person one vote" principle. Although legislators and redistricting staff indicated they prepared the plans under the belief that an overall range of 10 percent would be permissible without demonstrating a legitimate state interest, the district court found the objective of the plan, protection of certain geographic areas and protection of incumbents from one party did not justify the deviations from population inequality, particularly in light of the fact that plans with smaller deviations had been considered. With respect to protection of incumbents, the court indicated while it may be a legitimate state interest, in this case the protection was not accomplished in a consistent and neutral manner. Although protection of political subdivision boundaries is viewed as a traditional redistricting principle, the court held regional protectionism was not a legitimate justification for the deviations in the plans. The United States Supreme Court upheld the district court opinion in *Larios*.

In *Evenwel v. Abbot*, 136 S. Ct. 1120 (2016), the Texas Legislature redrew Senate districts based on total population, rather than registered voter population. Opponents of the redistricting plan argued the use of total population, rather than voter population, gave voters in districts with a large immigrant population a disproportionately weighted vote compared to voters in districts with a small immigrant population. The Supreme Court held states may, but are not required to, use total population when drawing districts to comply with the one-person, one-vote principles under the equal protection clause.

In *Harris v. Arizona Independent Redistricting Commission*, 136 S. Ct. 1301 (2016), the Supreme Court upheld a redistricting plan with an overall deviation of 8.8 percent. The Supreme Court held even though partisanship may have played a role in developing the plan "the population deviations were primarily a result of good-faith efforts to comply with the Voting Rights Act." The plaintiffs failed to meet the burden of showing it was more probable than not that the deviation predominately resulted from the use of illegitimate redistricting factors.

Case law has established if a legislative redistricting plan with an overall range of more than 10 percent is challenged, the state has the burden to demonstrate the plan is necessary to implement a rational state policy and the plan does not dilute or eliminate the voting strength of a particular group of citizens. A plan with an overall range of less than 10 percent may be subject to challenge if the justifications for the deviations are not deemed legitimate and plans with lower deviations have been considered.

Partisan Gerrymandering

Before 1986 the courts took the position that partisan or political gerrymandering was not justiciable. In *Davis v. Bandemer*, 478 U.S. 109 (1986), the United States Supreme Court stated political gerrymandering is justiciable. However, the Court determined the challengers of the legislative redistricting plan failed to prove the plan denied them fair representation. The Court stated a particular "group's electoral power is not unconstitutionally diminished by the simple fact of an apportionment scheme that makes winning elections more difficult, and a failure of proportional representation alone does not constitute impermissible discrimination under the Equal Protection Clause." The Court concluded "unconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or group of voters' influence on the political process as a whole." Therefore, to support a finding of unconstitutional discrimination, there must be evidence of continued frustration of the will of the majority of the voters or effective denial to a minority of voters of a fair chance to influence the political process.

In 2004 a sharply divided Supreme Court addressed a challenge to a congressional redistricting plan adopted in Pennsylvania. In *Vieth v. Jubelirer*, 541 U.S. 267 (2004), four of the justices concluded partisan gerrymandering cases are nonjusticiable due to a lack of judicially discernible and manageable standards for addressing the claims. One other justice concurred in the opinion, but on other grounds, and the remaining four justices issued three dissenting opinions. Despite the challenge being dismissed, a majority of the court--the four dissenting justices and the one justice concurring in the decision to dismiss the claim--continued to maintain partisan gerrymandering cases may be adjudicated by the courts.

The Supreme Court again issued a divided opinion 2 years later in *League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006). In that decision, six justices wrote opinions and five justices agreed partisan gerrymandering cases are justiciable. However, the court did not agree on a standard for addressing claims and the partisan gerrymandering claim was dismissed.

The question of whether partisan gerrymandering cases are justiciable was settled by the Supreme Court in 2019. In the consolidated case of *Rucho v. Common Cause*, 139 S. Ct. 2428 (2019), the congressional redistricting maps for North Carolina and Maryland were challenged as unconstitutional partisan gerrymanders. In *Rucho*, the Supreme Court held "partisan gerrymandering claims present political questions beyond the reach of the federal courts." The Court further stated, "the Constitution supplies no objective measure for assessing whether a districting map treats a political party fairly." However, the Court noted state courts may look to state statutes and state constitutions for guidance and standards to apply in partisan gerrymandering cases.

Instances in which state courts have addressed partisan gerrymandering include *League of Women Voters of Florida v. Detzner*, 172 So. 3d 363 (Fla. 2015). In this case, the challengers of the plan alleged the congressional redistricting plan was drawn to favor incumbent lawmakers and the Republican Party in violation of the Fair Districts Amendment to the Constitution of Florida, which prohibits political consideration in redistricting. The Florida Supreme Court upheld the trial court's findings that the map was tainted by the unconstitutional intent alleged and the Legislature was required to redraw the boundaries of several districts.

Partisan gerrymandering also was addressed at the state level in *League of Women Voters of Pennsylvania v. Commonwealth*, 644 Pa. 287 (2018). In this case, the challengers of the plan alleged the state's 2011 congressional plan violated the Free and Equal Elections Clause of the Constitution of the Commonwealth of Pennsylvania by providing one party an unfair advantage. The Pennsylvania Supreme Court found the plan lacked compactness and split local jurisdiction boundaries to an inordinate degree. The court held application of traditional redistricting principles must be the overriding consideration when preparing a redistricting map to avoid a violation of the Free and Equal Elections Clause. The Supreme Court held the map unconstitutional and substituted the 2011 map with a remedial map drawn by a special master.

Thus, though now precluded at the federal level, partisan gerrymandering cases may be justiciable in state court.

Multimember Districts and Racial or Language Minorities

According to data compiled by the National Conference of State Legislatures, North Dakota is 1 of 10 states that have multimember districts. Section 2 of the federal Voting Rights Act prohibits a state or political subdivision from imposing voting qualifications, standards, practices, or procedures that result in the denial or abridgment of a citizen's right to vote on account of race, color, or status as a member of a language minority group. A language minority group is defined as "persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage." A violation of Section 2 may be proved through a showing that as a result of the challenged practice or standard, the challengers of the plan did not have an equal opportunity to participate in the political process and to elect candidates of their choice.

Many decisions under the Voting Rights Act have involved questions regarding the use of multimember districts to dilute the voting strengths of racial and language minorities. In *Reynolds*, the United States Supreme Court held multimember districts are not unconstitutional per se; however, the Court has indicated it prefers single-member districts, at least when the courts draw the districts in fashioning a remedy for an invalid plan. The Court has stated a redistricting plan including multimember districts will constitute an invidious discrimination only if it can be shown the plan, under the circumstances of a particular case, would operate to minimize or eliminate the voting strength of racial or political elements of the voting population.

The landmark case addressing a Section 2 challenge is *Thornburg v. Gingles*, 478 U.S. 39 (1986). In that case, the Supreme Court stated a minority group challenging a redistricting plan must prove:

1. The minority is sufficiently large and geographically compact to constitute a majority in a single-member district;
2. The minority is politically cohesive; and
3. In the absence of special circumstances, bloc voting by the majority usually defeats the minority's preferred candidate. To prove that bloc voting by the majority usually defeats the minority group, the use of statistical evidence is necessary.

Until redistricting in the 1990s, racial gerrymandering--the deliberate distortion of boundaries for racial purposes--generally had been used in the South to minimize the voting strength of minorities. However, because the United States Department of Justice and some federal courts had indicated states would be required to maximize the number of minority districts when redistricting, many states adopted redistricting plans that used racial gerrymandering to create more minority districts or to create minority influence districts when there was not sufficient population to create a minority district. As a result, a number of redistricting plans adopted in the 1990s were challenged by white voters on equal protection grounds and the United States Supreme Court subsequently has held several redistricting plans to be unconstitutional as a result of racial gerrymandering.

In *Shaw v. Reno*, 509 U.S. 630 (1993), the Supreme Court invalidated a North Carolina plan due to racial gerrymandering. In that case, the Court made it clear race-conscious redistricting may not be impermissible in all cases. However, the Court held the plan to a test of strict scrutiny and required the racial gerrymander be narrowly tailored to serve a compelling state interest. The Court stated if race is the primary consideration in creating districts "without regard for traditional districting principles," a plan may be held to be unconstitutional. However, compliance with the Voting Rights Act and other circumstances may justify or necessitate the use of race in that manner.

Through the *Shaw* decision and subsequent decisions of the United States Supreme Court, the Court indicated unless race was the predominant factor in the creation of a district, a racial gerrymander challenge is not likely to be successful. In addition, the Court articulated seven policies that have been identified as being "traditional districting principles." Those policies are:

1. Compactness.
2. Contiguity.
3. Preservation of political subdivision boundaries.
4. Preservation of communities of interest.
5. Preservation of cores of prior districts.
6. Protection of incumbents.
7. Compliance with Section 2 of the Voting Rights Act.

Section 5 of the Voting Rights Act requires certain states and political subdivisions to submit their redistricting plans to the United States Department of Justice or the district court of the District of Columbia for review. Section 5 of the Voting Rights Act applied to states and political subdivisions that demonstrated a history of voter discrimination. However, in 2013, the formula used to determine which jurisdictions were subject to the preclearance requirements in

Section 5 was held unconstitutional by the Supreme Court in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013). Thus, states and jurisdictions formerly subject to review are no longer required to submit their redistricting plans for preclearance under Section 5.

TESTIMONY AND COMMITTEE CONSIDERATIONS

Redistricting Computers and Software

The Legislative Council purchased a personal computer and a license for the Maptitude for Redistricting software for use by each of the four caucuses represented on the committee. In addition, because there were significantly more members of the majority party caucuses on the committee, the Legislative Council purchased two additional computer and redistricting software licenses for the shared use of the members of those groups. The members of the committee were encouraged to use the redistricting software to develop redistricting plans to present for the review of the committee at each meeting. A template of the existing legislative districts was provided in the redistricting software to use as a starting point in creating districts.

Population Changes

The committee received the results of the 2020 Census on August 12, 2021. The data indicated the population in North Dakota increased by 15.8 percent over the past decade, which was the fourth largest percentage increase in state populations nationwide. The committee reviewed the changes in population between the 2010 to 2020 Census for legislative districts, counties, and cities. The majority of the population growth occurred in urban areas and in oil-producing counties, and the county with the largest percentage increase in population nationwide was McKenzie County, which increased in population by 131 percent over the past decade. Despite large gains in certain areas of the state, 30 of the state's 53 counties lost population. Population gains and losses in legislative districts varied dramatically, with some legislative districts increasing in population by more than 100 percent and others decreasing in population by more than 10 percent.

The committee discussed concerns regarding the accuracy of census data in smaller census units due to the application of differential privacy. The committee was mindful of the compressed time frames for completing redistricting as a result of delays in receiving census data.

Urban and Rural Considerations

The committee received testimony expressing concerns regarding the shift in urban and rural populations. Concerns included whether individuals living in primarily rural districts would be shifted to districts comprised of a majority of urban areas, leading to minimization of rural concerns, and whether primarily rural districts would be required to expand geographically due to population losses, leading to reduced direct access to legislators. Suggestions to address these concerns included creating subdistricts in rural districts or increasing the size of the Legislative Assembly as an attempt to preserve more existing district boundaries to lessen the impact of redistricting on rural areas of the state.

Size of the Legislative Assembly

Committee members debated whether to consider redistricting plans that would increase the size of the Legislative Assembly. The committee received information provided to the 2011 Redistricting Committee regarding the cost of a legislative district, which in 2011 amounted to an estimated \$1.2 million in salaries and benefits for a 10-year period. The committee received information showing the ideal district size for a 47-district plan is 16,576, while the ideal district size for a 54-district plan, which is the maximum number of constitutionally permissible districts, is 14,428. Proponents of maintaining 47 legislative districts noted South Dakota has a larger population than North Dakota but only 35 legislative districts. The committee determined it was prudent to require proposals submitted to the committee conform with a 47-district plan, rather than allowing proposals for varying numbers of districts due to the abbreviated timeline the committee had to complete its work.

Population Deviation

The committee received information regarding the overall population deviation in past redistricting plans. Because an overall range of 10 percent generally has been considered as an acceptable level of population deviation, committee members agreed any plan recommended by the committee should have an overall range of 10 percent or less. Plans submitted to the committee for consideration generally remained within plus or minus 5 percent of the ideal district size. The final plan considered by the committee had an overall deviation of 9.87 percent, with the largest district 4.88 percent over the ideal district population and the smallest district 4.99 percent below the ideal district population.

Preservation of Political Subdivision Boundaries

The committee received testimony requesting the committee avoid splitting counties whenever possible. The final plan considered by the committee included 33 counties that were not split, 4 counties that were split only to preserve the boundaries of a reservation, 8 counties that were split only because the population of each county exceeded the ideal district size, and 8 counties that were split for other reasons. By comparison, the redistricting plan adopted by the

Legislative Assembly in 2011 had 33 counties that were not split, 3 counties that were split only to preserve the boundaries of the Fort Berthold Reservation, 3 counties that were split only because the counties included cities that were too large for one district, and 14 counties that were split for other reasons.

Existing Districts and Communities of Interest

Committee members were encouraged to keep traditional redistricting principles in mind when completing redistricting plans. Factors other than population and preserving political subdivision boundaries which were considered in proposed plans presented to the committee included preservation of the cores of existing districts, protection of incumbents, and preservation of communities of interest. Committee members also identified district boundaries using major streets and other easily identifiable geographic features when possible.

Native American Voters and the Creation of Subdistricts

The committee solicited and received testimony from several individuals representing tribal interests, tribal nations, and Native American rights organizations, including the Executive Director of the Indian Affairs Commission and representatives of the Spirit Lake Nation, Standing Rock Sioux Tribe, Three Affiliated Tribes, Native American Rights Fund, and North Dakota Native Vote. The testimony:

- Noted the growth of Native American populations in North Dakota;
- Urged the creation of subdistricts for Native American voters to comply with the federal Voting Rights Act and prevent dilution of votes cast by Native Americans;
- Requested tribal members be considered communities of interest;
- Urged the committee to provide equitable, more direct, and more responsive representation for Native Americans;
- Urged the committee not to split reservations into multiple districts;
- Noted multiple Native American candidates have had unsuccessful campaigns for membership in the House;
- Asserted there has been a history of discrimination in North Dakota against Native Americans; and
- Asserted a history of racial bloc voting has prevented Native American voters from electing their candidates of choice.

The committee also received updates from committee members who serve on the Tribal and State Relations Committee, which met with representatives of the Turtle Mountain Band of Chippewa, Three Affiliated Tribes, and Spirit Lake Nation on their respective reservations regarding redistricting and other matters. The updates generally were consistent with the testimony presented to the Redistricting Committee. One member of the House testified in opposition to subdistricts.

The committee reviewed the 2020 Census data for tribal reservations, including the total population, total voting-age population, American Indian population, and American Indian voting-age population for each of the five reservations in North Dakota. ("American Indian" is the official United States Census Bureau designation for Native Americans.) Committee members noted the American Indian populations on the Fort Berthold Reservation and Turtle Mountain Reservation exceeded 4,145, the number required to constitute a majority of a House subdistrict with the ideal population size of 8,288. According to the Census Bureau, 5,537 American Indians live on the Fort Berthold Reservation, and 4,767 American Indians live on the Turtle Mountain Reservation. The numbers of American Indians on the Spirit Lake Reservation and the North Dakota portions of the Lake Traverse Reservation and Standing Rock Reservation are 3,134, 56, and 3,332, respectively.

The committee received information from the Legislative Council staff and testimony from others on constitutional and statutory provisions regarding the use of race in redistricting. In particular, the committee received detailed testimony and information regarding the 14th Amendment, the federal Voting Rights Act, and caselaw applying them to multi-member and single-member districts. The testimony and information included in-depth discussions of the *Gingles* preconditions and the circumstances under which majority-minority districts or subdistricts are required under federal law. The committee also received information regarding *Grinnell v. Sinner*, a case in which Native Americans sued Governor George Sinner and other officials alleging the Voting Rights Act required North Dakota's 1991 redistricting plan to include a subdistrict for Native Americans in District 4. The plaintiffs lost the case because they were unable to meet the first *Gingles* precondition based on the Native American population in District 4 in the 1990 Census. According to the Census Bureau, 2,999 Native Americans lived on the Fort Berthold Reservation in 1990. The ideal district population for North Dakota based on the 1990 Census was 13,037, and the ideal subdistrict population was 6,518. The committee also received information regarding the creation of two Native American-majority subdistricts in South Dakota and the litigation concerning the subdistricts.

The committee engaged in several discussions regarding subdistricts. Some committee members expressed discomfort with drawing subdistrict boundaries based on race, a preference for court-directed subdistricts over legislatively initiated subdistricts, and concerns about having most citizens vote for two members of the House of Representatives while citizens residing in subdistricts vote for only one representative. Other committee members noted the creation of subdistricts might prevent a possible dilution of Native Americans' votes, provide communities of interest an opportunity to select their candidates of choice, and potentially stave off a court challenge to the redistricting map for which the committee had worked in an honest and transparent manner. Some committee members expressed a preference for legislatively drawn district boundaries over court-drawn boundaries that may result from litigation.

Staggering of Terms

The committee reviewed information regarding the procedures for staggering the terms of senators and representatives. The committee reviewed a bill draft that would maintain 4-year terms for members of the Legislative Assembly and:

- Require elections for senators and representatives in odd-numbered districts and subdistricts in 2022; and
- Require elections for senators and representatives in even-numbered districts in 2024, except in the following situations in which elections in 2022 would be required:

Three or more representatives elected from even-numbered districts in 2020 are located in an even-numbered district;

Two or more senators elected from even-numbered districts in 2020 are located in an even-numbered district;

A member of the Legislative Assembly elected from an even-numbered district is located in an odd-numbered district, and the member does not move back into the even-numbered district and provide the requisite certification of the change of residence by February 1, 2022;

The even-numbered district has been divided into subdistricts; and

The 2020 population of the geographic area added to the even-numbered district since 2010 is more than 25 percent of the ideal district population.

The bill draft also would provide a member of the Legislative Assembly is deemed to "live in" the district from which the member was elected until December 1, 2022, for purposes of Section 5 of Article IV of the Constitution of North Dakota. This provision would allow the member to continue serving the district from which the member was elected even if the member is located in a different district in the 2021 redistricting map.

RECOMMENDATIONS

The committee recommends [House Bill No. 1504](#) to establish 47 legislative districts, including subdistricts in Districts 4 and 9, and to include the provisions of the bill draft relating to the staggering of terms of members of the Legislative Assembly. The bill draft also repeals the current legislative redistricting plan, provides the Secretary of State authority to modify 2022 primary election deadlines and procedures as necessary to conduct the 2022 primary election, provides legislative intent regarding legislative district boundaries and the terms of incumbent legislators, and becomes effective upon its filing with the Secretary of State.

Under the plan recommended by the committee, the largest district has a population of 17,385 and the smallest district has a population of 15,749. Thus, the largest district is 4.88 percent over the ideal district size and the smallest district is 4.99 percent below the ideal district size, providing for an overall range of 9.87 percent. The plan includes 33 counties that were not split, 4 counties that were split only to preserve the boundaries of a reservation, 8 counties that were split because the population of each county exceeded the ideal district size, and 8 counties that were split for other reasons. Population data and maps of the proposed districts are included with this report.



Governor Doug Burgum



EXECUTIVE ORDER 2021-17

WHEREAS, under Article V, Section 7 of the North Dakota Constitution, the Governor is authorized to convene special sessions of the Legislative Assembly.

NOW, THEREFORE, pursuant to authority under Article V of the North Dakota Constitution, Governor Doug Burgum hereby convenes a special session of the North Dakota Legislative Assembly on Monday, November 8, 2021, in the legislative chambers at the State Capitol in Bismarck, North Dakota.

- 1. This special session is convened under the following authority:
a. The Governor is vested with the executive power under the North Dakota Constitution Article V, Section 1;
b. The Governor is vested with the specific authority to convene a special session of the Legislative Assembly under Article V, Section 7 of the North Dakota Constitution.
2. The special session of the Legislative Assembly is convened for the following purposes:
a. To provide for redistricting of government pursuant to Article IV, Section 2, of the North Dakota Constitution following the 2020 census;
b. To address funding sources for statewide infrastructure and capital projects previously authorized by the 67th Legislative Assembly;
c. To address natural gas utilization and transmission from western North Dakota to central and eastern communities for residential, commercial and industrial uses;
d. To address statewide workforce program funding;
e. To address investments economic development opportunities;
f. To address road, water and deferred maintenance needs across the state;
g. To address income tax relief for North Dakota taxpayers.

Executed at the State Capitol, Bismarck, North Dakota this 29th day of October 2021.

Doug Burgum
Doug Burgum
Governor

ATTEST:
Al Jaeger
Secretary of State

Exhibit 31

2021 JOINT LEGISLATIVE REDISTRICTING

HB 1504

Exhibit 32

2021 JOINT STANDING COMMITTEE MINUTES

Redistricting Committee
Room JW327E, State Capitol

HB 1504
11/8/2021

A bill relating to legislative redistricting and staggering of terms of members of the legislative assembly and relating to legislative districts and staggering of terms of members of the legislative assembly.

Chairman Devlin called the meeting to order at 2:50pm.

Roll call-all present.

LEGISLATORS	PRESENT
Chairman Devlin	Y
Co-Chairman Holmberg	Y
Representative Bellew	Y
Representative Boschee	Y
Representative Headland	Y
Representative Lefor	Y
Representative Monson	Y
Representative Nathe	Y
Representative Schauer	Y
Senator Bekkedahl	Y
Senator Burckhard	Y
Senator Erbele	Y
Senator Klein	Y
Senator Oban	Y
Senator Poolman	Y
Senator Sorvaag	Y

Discussion Topics:

- Subdistricts division
- District boundaries

Representative Kreidt distributed proposed amendments 21.1113.02007 (#12169).

Emily Thompson, Legislative Council, displayed maps showing Morton County with specifically the city of Judson.

Senator Anderson distributed proposed amendments 21.1113.02008 (#12168).

Emily Thompson, Legislative Council, displayed maps showing districts. (3:08pm)

Representative Headland made a motion to adopt amendment 21.1113.02008.

Senator Holmberg seconded the motion.

HB 1504

November 8, 2021

Page 2

Voice vote-motion carried to adopt the amendment.

Representative Ertelt proposed two amendments, 21.1113.02003 (#12167) and 21.1113.02004 (#12166).

Senator Marcellais proposed amendments 21.1113.02006 (#12165) with a handout including two maps (#12164).

Douglas Yankton, Chairman for the Spirit Lake Nation, testified in opposition (#12163) (3:21pm).

Jamie Azure, Chairman of the Turtle Mountain Band of Chippewa Indians, testified in opposition (#12162). (3:30pm).

Representative Nelson testified in opposition with no written testimony. (3:34pm).

Representative Boschee made a motion to adopt **Senator Marcellais' amendment 21.1113.02006**.

Senator Oban seconded the motion.

Voice vote-motion failed.

Representative Jones testified in opposition with no written testimony. (3:57pm)

Senator Holmberg explained how the bill could be divided.

Emily Thompson, Legislative Council, map presentation.

Representative Bellew proposed amendment on page 4 line 12 changing third avenue to fourth avenue. Legislative Council is able to make this correction without a vote.

Emily Thompson, Legislative Council, map presentation.

Chairman Devlin adjourned at 4:16pm.

Additional written testimony:

Rick Gion, Director of North Dakota Voters First, testimony in opposition #11790.

Mary Brucker, Committee Clerk

21.1113.02008
Title.

Prepared by the Legislative Council staff for
Senator Anderson

November 5, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 20, line 13, remove "eighth street southwest, then east on eighth street southwest until
its"

Page 20, remove line 14

Page 20, line 15, remove "twenty-third avenue southwest until its intersection with"

Renumber accordingly

21.1113.02006
Title.

Prepared by the Legislative Council staff for
Senator Marcellais

November 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 7, line 12, remove "all of Towner County except that portion"

Page 7, remove lines 13 through 31

Page 8, remove lines 1 through 6

Page 8, line 7, replace "north on United States highway 281 to the point of beginning" with "those portions of Eddy County, Nelson County, and Ramsey County within the Spirit Lake reservation; that portion of Pierce County bound by a line commencing at a point where forty-fifth avenue northeast intersects the north boundary of Pierce County, then east, south, and west on the boundary of Eddy County until its intersection with the centerline of forty-seventh avenue northeast, then north on forty-seventh avenue northeast until its intersection with the centerline of sixty-ninth street northeast, then west on sixty-ninth street northeast until its intersection with the centerline of forty-fifth avenue northeast, then north on forty-fifth avenue northeast to the point of beginning; that portion of Benson County bound by a line commencing at the point where forty-seventh avenue northeast intersects the north boundary of Benson County, then east, south, east, south, and west along the boundary of Benson County until its intersection with the centerline of fifty-fourth avenue northeast, then north on fifty-fourth avenue northeast until its intersection with the centerline of thirty-fourth street northeast, then west on thirty-fourth street northeast until its intersection with the centerline of fifty-third avenue northeast, then north on fifty-third avenue northeast until its intersection with the centerline of thirty-sixth street northeast, then west on thirty-sixth street northeast until its intersection with the centerline of fifty-second avenue northeast, then north on fifty-second avenue northeast until its intersection with the centerline of forty-second street northeast, then west on forty-second street northeast until its intersection with the centerline of fifty-third avenue northeast, then north on fifty-third avenue northeast until its intersection with the centerline of forty-third street northeast, then west on forty-third street northeast until its intersection with the centerline of fifty-first avenue northeast, then north on fifty-first avenue northeast until its intersection with the centerline of forty-fifth street northeast, then west on forty-fifth street northeast until its intersection with the centerline of fiftieth avenue northeast, then north on fiftieth avenue northeast until its intersection with the centerline of fifty-first street northeast, then west on fifty-first street northeast until its intersection with the centerline of forty-ninth avenue northeast, then north on forty-ninth avenue northeast until its intersection with the centerline of fifty-third street northeast, then west on fifty-third street northeast until its intersection with the centerline of forty-eighth avenue northeast, then north on forty-eighth avenue northeast until its intersection with the centerline of United States highway 2, then west on Unites States highway 2 until its intersection with the centerline of forty-seventh avenue northeast, then north on forty-seventh avenue northeast to the point of beginning"

Page 10, line 25, remove "Fort Totten, Lallie, Lallie North, Lohnes, Minco,"

Page 10, line 26, replace "Mission, Oberon, Rock, Twin Tree, Warwick, West Bay, and Wood Lake Townships" with "that part contained in District 9"

Page 11, line 3, remove "; Atkins, Bethel, Cando, Coolin, Maza,"

Page 11, line 4, replace "Olson, Springfield and Zion Townships in" with "and"

Page 11, line 4, remove "Lallie, Lohnes, Minco."

Page 11, remove lines 5 through 13

Page 11, line 14, replace "reservation boundary" with "and that portion of Cavalier County bound by a line commencing at a point where the west boundary of Cavalier County intersects with the north boundary of Cavalier County, then east on the north boundary of Cavalier County until its intersection with the centerline of one hundred thirteenth avenue northeast, then south on one hundred thirteenth avenue northeast until its intersection with the centerline of ninetieth street northeast, then east on ninetieth street northeast until its intersection with one hundred fourteenth avenue northeast, then south on one hundred fourteenth avenue northeast until its intersection with the south boundary of Cavalier County, then west on the south boundary of Cavalier County until its intersection with the west boundary of Cavalier County, then north on the west boundary of Cavalier County"

Page 31, line 23, remove "a."

Page 31, line 23, after "senator" insert "and two representatives"

Page 31, remove lines 25 through 28

Renumber accordingly

21.1113.02007
Title.

Prepared by the Legislative Council staff for
Representative Kreidt
November 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 22, line 29, after the underscored semicolon insert "that part of East Morton Township in Morton County bound by a line commencing at the point where the centerline of county road 84 intersects with the centerline of old highway 10, then east on old highway 10 until its intersection with an extended line from the centerline of thirty-eighth avenue, then south on a straight line extended from thirty-eighth avenue, on thirty-eighth avenue, and on an straight line extended from thirty-eighth avenue until its intersection with an extended line from the centerline of forty-first street, then west on a straight line extended from forty-first street and on forty-first street until its intersection with the centerline of county road 84, then north on county road 84 to the point of beginning;"

Renumber accordingly

21.1113.02008
Title.

Prepared by the Legislative Council staff for
Senator Anderson

November 5, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 20, line 13, remove "eighth street southwest, then east on eighth street southwest until
its"

Page 20, remove line 14

Page 20, line 15, remove "twenty-third avenue southwest until its intersection with"

Renumber accordingly



21.1113.02003
Title.

Prepared by the Legislative Council staff for
Representative Ertelt
November 5, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 33, line 6, remove "four"

Page 33, line 7, replace "thousand one hundred forty-four" with "one thousand six hundred fifty-
seven"

Renumber accordingly

21.1113.02004
Title.

Prepared by the Legislative Council staff for
Representative Ertelt
November 5, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 1, line 3, replace "staggering of terms" with "elections"

Page 31, line 22, replace "**Staggering of terms**" with "**Elections**"

Page 31, line 23, remove "odd-numbered"

Page 31, line 25, remove "odd-numbered"

Page 31, line 27, remove "odd-numbered"

Page 31, line 29, remove "A senator and two representatives from districts ten and twenty-six
must be elected in"

Page 31, remove line 30

Page 32, remove lines 1 through 31

Page 33, remove lines 1 through 7

Page 33, line 8, remove "8."

Re-number accordingly

21.1113.02006
Title.

Prepared by the Legislative Council staff for
Senator Marcellais
November 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 7, line 12, remove "all of Towner County except that portion"

Page 7, remove lines 13 through 31

Page 8, remove lines 1 through 6

Page 8, line 7, replace "north on United States highway 281 to the point of beginning" with "those portions of Eddy County, Nelson County, and Ramsey County within the Spirit Lake reservation; that portion of Pierce County bound by a line commencing at a point where forty-fifth avenue northeast intersects the north boundary of Pierce County, then east, south, and west on the boundary of Eddy County until its intersection with the centerline of forty-seventh avenue northeast, then north on forty-seventh avenue northeast until its intersection with the centerline of sixty-ninth street northeast, then west on sixty-ninth street northeast until its intersection with the centerline of forty-fifth avenue northeast, then north on forty-fifth avenue northeast to the point of beginning; that portion of Benson County bound by a line commencing at the point where forty-seventh avenue northeast intersects the north boundary of Benson County, then east, south, east, south, and west along the boundary of Benson County until its intersection with the centerline of fifty-fourth avenue northeast, then north on fifty-fourth avenue northeast until its intersection with the centerline of thirty-fourth street northeast, then west on thirty-fourth street northeast until its intersection with the centerline of fifty-third avenue northeast, then north on fifty-third avenue northeast until its intersection with the centerline of thirty-sixth street northeast, then west on thirty-sixth street northeast until its intersection with the centerline of fifty-second avenue northeast, then north on fifty-second avenue northeast until its intersection with the centerline of forty-second street northeast, then west on forty-second street northeast until its intersection with the centerline of fifty-third avenue northeast, then north on fifty-third avenue northeast until its intersection with the centerline of forty-third street northeast, then west on forty-third street northeast until its intersection with the centerline of fifty-first avenue northeast, then north on fifty-first avenue northeast until its intersection with the centerline of forty-fifth street northeast, then west on forty-fifth street northeast until its intersection with the centerline of fiftieth avenue northeast, then north on fiftieth avenue northeast until its intersection with the centerline of fifty-first street northeast, then west on fifty-first street northeast until its intersection with the centerline of forty-ninth avenue northeast, then north on forty-ninth avenue northeast until its intersection with the centerline of fifty-third street northeast, then west on fifty-third street northeast until its intersection with the centerline of forty-eighth avenue northeast, then north on forty-eighth avenue northeast until its intersection with the centerline of United States highway 2, then west on Unites States highway 2 until its intersection with the centerline of forty-seventh avenue northeast, then north on forty-seventh avenue northeast to the point of beginning"

Page 10, line 25, remove "Fort Totten, Lallie, Lallie North, Lohnes, Minco,"

Page 10, line 26, replace "Mission, Oberon, Rock, Twin Tree, Warwick, West Bay, and Wood Lake Townships" with "that part contained in District 9"

Page 11, line 3, remove "; Atkins, Bethel, Cando, Coolin, Maza,"

Page 11, line 4, replace "Olson, Springfield and Zion Townships in" with "and"

Page 11, line 4, remove "Lallie, Lohnes, Minco."

Page 11, remove lines 5 through 13

Page 11, line 14, replace "reservation boundary" with "and that portion of Cavalier County bound by a line commencing at a point where the west boundary of Cavalier County intersects with the north boundary of Cavalier County, then east on the north boundary of Cavalier County until its intersection with the centerline of one hundred thirteenth avenue northeast, then south on one hundred thirteenth avenue northeast until its intersection with the centerline of ninetieth street northeast, then east on ninetieth street northeast until its intersection with one hundred fourteenth avenue northeast, then south on one hundred fourteenth avenue northeast until its intersection with the south boundary of Cavalier County, then west on the south boundary of Cavalier County until its intersection with the west boundary of Cavalier County, then north on the west boundary of Cavalier County"

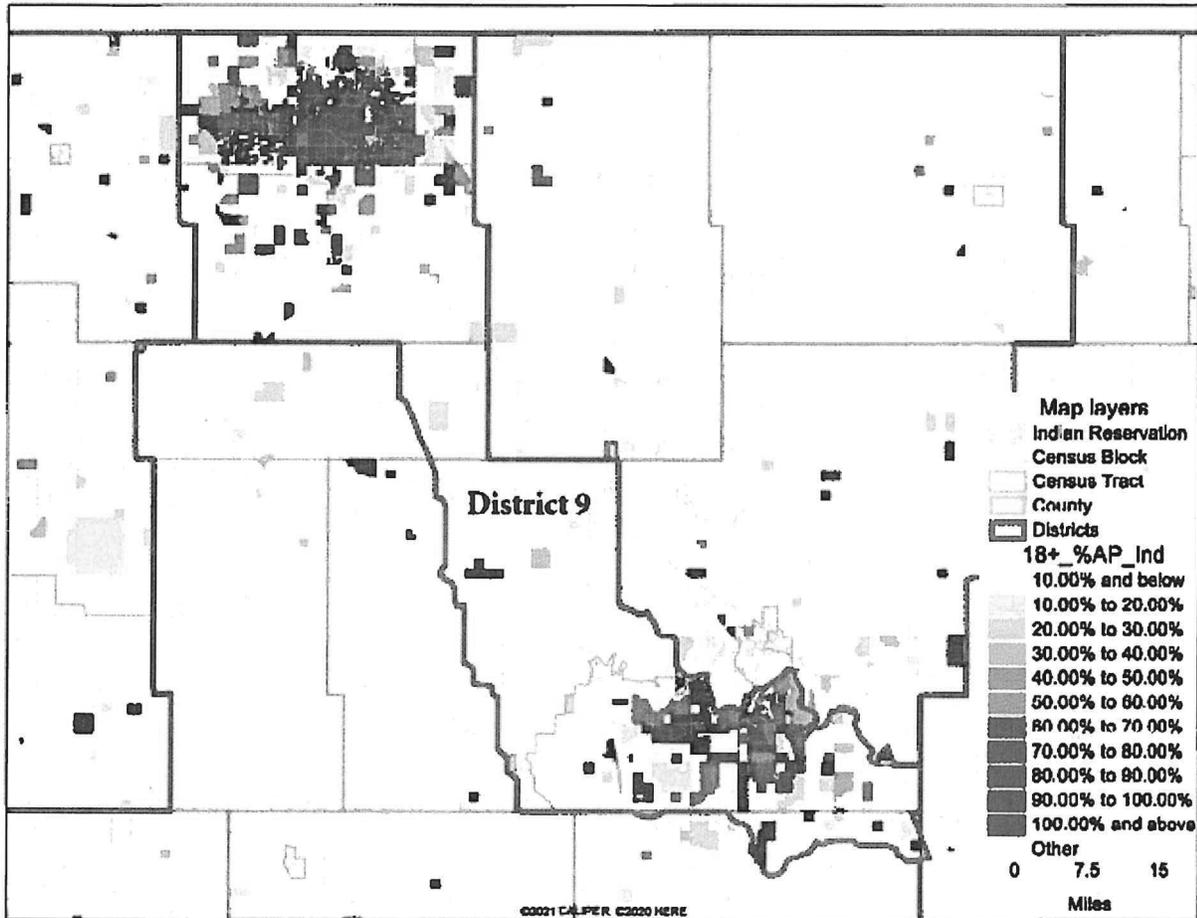
Page 31, line 23, remove "a."

Page 31, line 23, after "senator" insert "and two representatives"

Page 31, remove lines 25 through 28

Renumber accordingly

Figure 1 – Proposed District Including Spirit Lake and Turtle Mountain Reservations



District	Population	Deviation	%Deviation	18+ Native American Population	% 18+Native American Population
9	17,341	765	4.62%	7,887	69.06%

Figure 2 – Proposed District as Incorporated Into State-Wide District Map

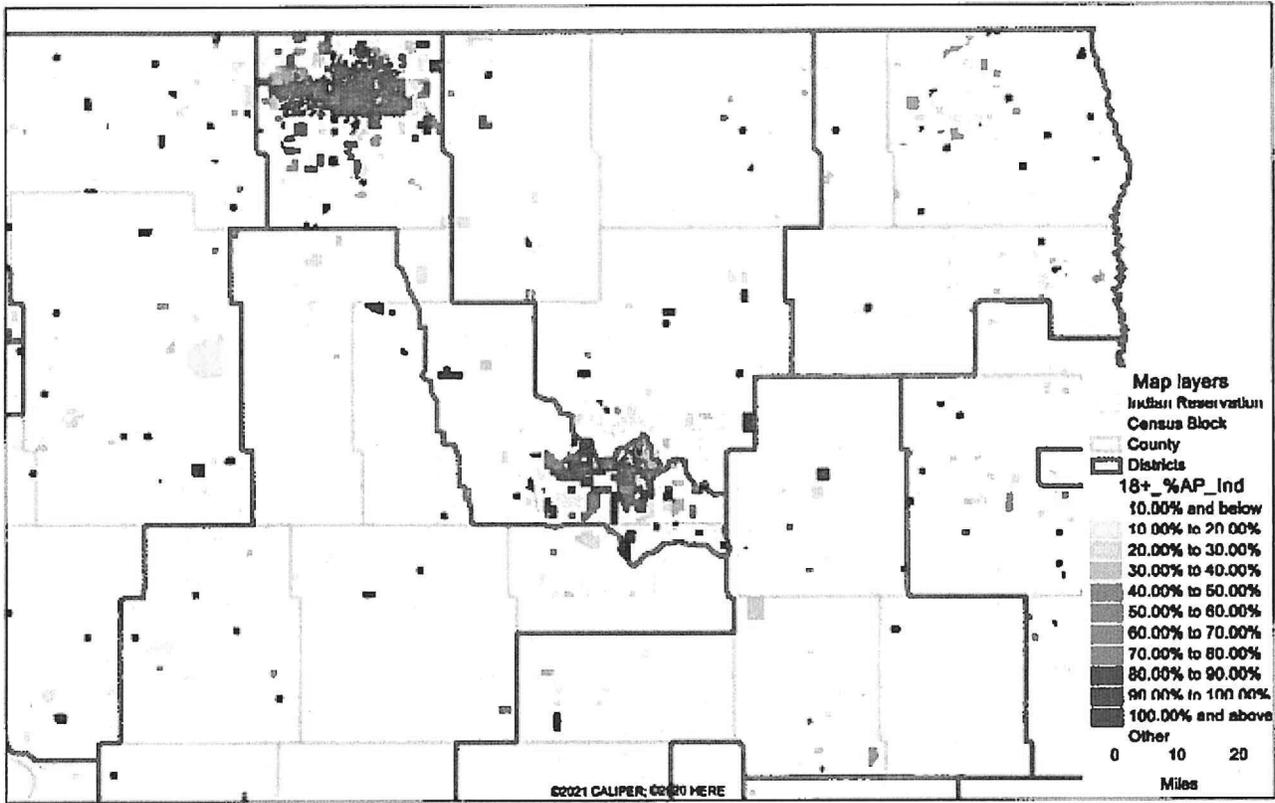
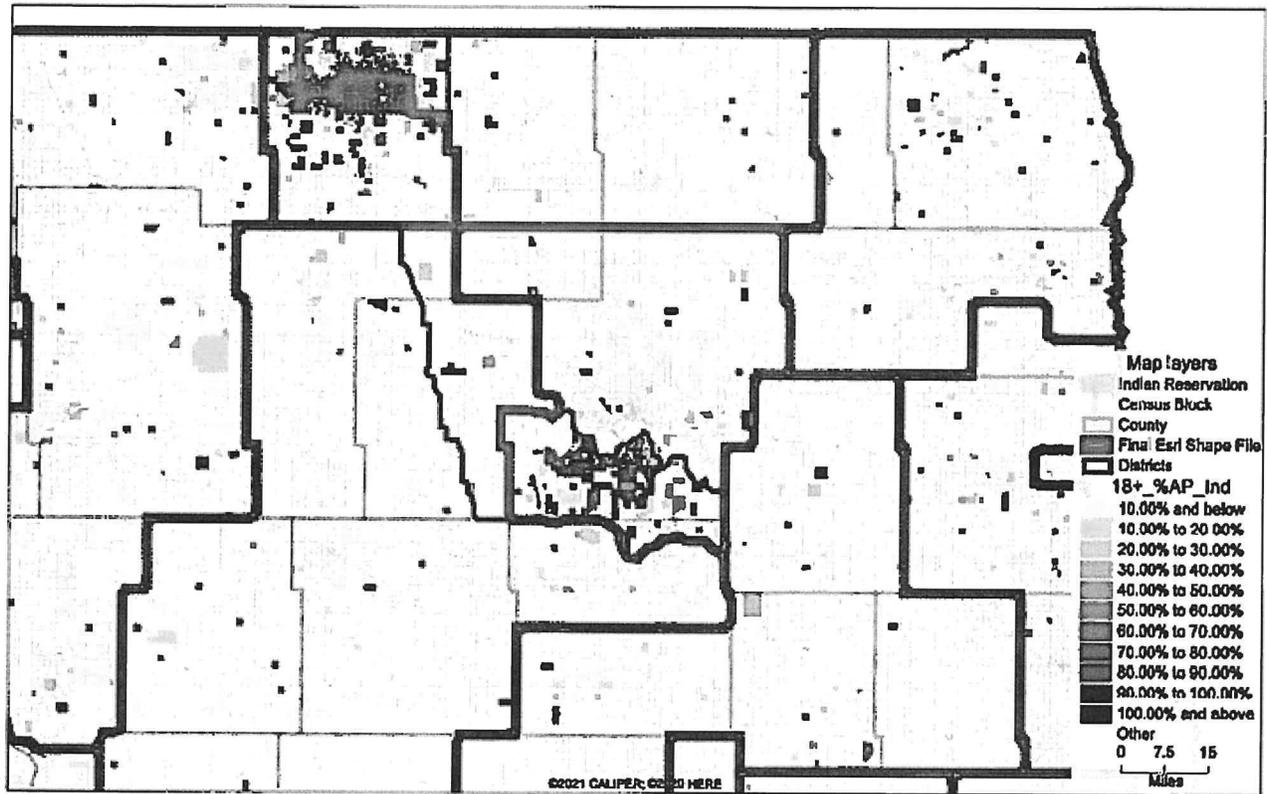


Figure 3 – Our Proposed District as Incorporated into State-Wide Map (Dark Brown Lines), Overlaid with and the Redistricting Committee’s Map (Green Lines)



**Testimony of Spirit Lake Nation Chairman Douglas Yankton, Sr.
Before the North Dakota Legislative Council Redistricting Committee
November 8, 2021**

Members of the Redistricting Committee, thank you for allowing me to testify today. I am Douglas Yankton, Sr., Chairman of the Spirit Lake Nation. Spirit Lake is a sovereign nation and a federally recognized Indian Tribe with over 7,500 enrolled members. The Spirit Lake reservation is located mostly in Benson County, but also in portions of Eddy, Ramsey, Wells and Nelson counties.

I am here to ask that the Committee slightly revise its map to draw a single legislative district that includes the Spirit Lake Nation reservation and the Turtle Mountain Band of Chippewa reservation. This request was originally conveyed through a letter from myself and Chairman Azure, submitted to the Governor and Legislature on November 1st. I have attached a copy of the letter to my testimony. The letter includes a map of the proposed district, as well as maps showing how the proposed district could easily be incorporated into the Committee's approved map with very little change.

Spirit Lake and Turtle Mountain have many shared interests. We are the only two federally recognized Tribes in the North Eastern part of the state. We have similar economic interests, as well as cultural and political values. We both deal with the federal government on a government-to-government basis. We live just over an hour's drive from each other, and, because the boundaries between our two

November 8, 2021 Testimony of Chairman Douglas Yankton, Sr.

Page 2 of 2

reservations are less than 55 miles apart as the crow flies, the district would be geographically compact. Additionally, a strong majority of the district's voters would be Native American, which means subdistricts would not be required for this district. Finally, we believe that joining our Tribes together into a single legislative district will improve the government-to-government relationships between our Tribes and with the State. In short, as sovereign tribal governments we have unique communities that have uniquely shared values. It only makes sense for us to have a shared political district.

I hope the Committee will give full consideration to this request. I thank you for your time today, and will stand for any questions the Committee may have.



November 1, 2021

The Honorable Doug Burgum
Governor of the State of North Dakota
600 East Boulevard Ave.
Bismarck, ND 58505

The Honorable Joshua Boschee
Minority Leader
North Dakota House of Representatives
600 East Boulevard Ave.
Bismarck, ND 58505

The Honorable Kim Koppelman
Speaker
North Dakota House of Representatives
600 East Boulevard Ave.
Bismarck, ND 58505

The Honorable Rich Wardner
Majority Leader
North Dakota State Senate
600 East Boulevard Ave.
Bismarck, ND 58505

The Honorable Chet Pollert
Majority Leader
North Dakota House of Representatives
600 East Boulevard Ave.
Bismarck, ND 58505

The Honorable Joan Heckaman
Minority Leader
North Dakota State Senate
600 East Boulevard Ave.
Bismarck, ND 58505

Dear Governor Burgum, Speaker Koppelman, and Leaders Pollert, Boschee, Wardner and Heckaman:

On behalf of the Turtle Mountain Band of Chippewa Indians (“Turtle Mountain”) and the Spirit Lake Nation (“Spirit Lake”), we write to express concerns with the proposed legislative map to be considered for approval by the State Legislature on November 8, and to respectfully request that our Tribal Nations be incorporated into the same legislative district.

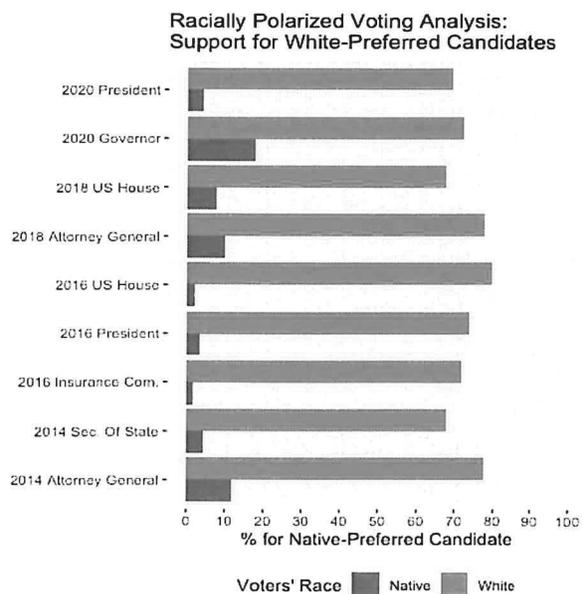
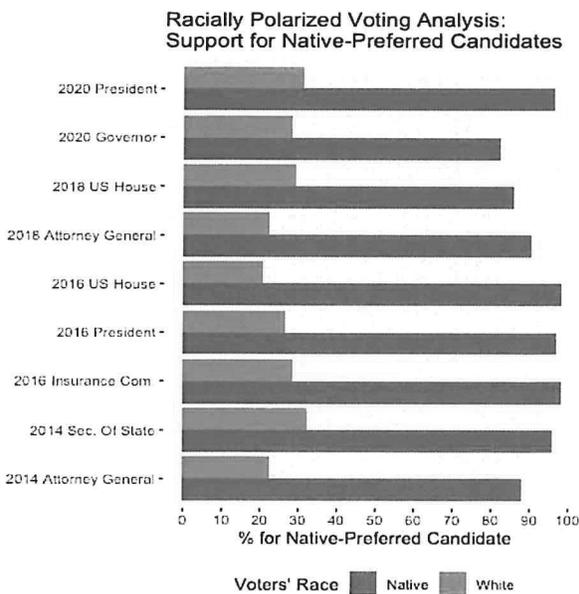
Throughout the redistricting process, the Tribes of North Dakota made numerous requests to the Legislature’s Redistricting Committee to hold redistricting hearings on and near reservations to allow tribal members an opportunity to be heard on how their state legislative representation will be guided for the next ten years. Those requests fell on deaf ears. Many of our tribal members lack the means to travel to Bismarck and were therefore shut out of the redistricting process. Also concerning was the Redistricting Committee’s position that the Tribal and State Relations Committee could report back to it if any redistricting comments happened to be brought up during the Tribal and State Relations Committee meetings. That approach was wholly inadequate. Despite repeated requests, the only outreach from the

Redistricting Committee was the e-mailing of a hearing notice to the Tribes with one day’s notice. Of course, given the short notice, not all of the Tribes were able to make it to Bismarck to attend the hearing. Indeed, we as tribal leaders are governing in the middle of a pandemic with limited resources, and so one day’s notice is far from sufficient.

At that redistricting hearing, representatives from the Spirit Lake Nation, Standing Rock Sioux Tribe, and Three Affiliated Tribes advocated for the creation of legislative subdistricts to improve their representation. Of these requests, only a subdistrict for the Three Affiliated Tribes reservation area was approved by the Redistricting Committee. The Committee, however, also decided to create subdistricts in the Turtle Mountain reservation area, even though no subdistricts were ever requested by Turtle Mountain to the Redistricting Committee.

As a result of the poor outreach to our Tribal Nations, despite our repeated requests, the Redistricting Committee’s proposed District 9, containing the Turtle Mountain reservation, is illegally drawn and we believe will be struck down in court if it is adopted by the State Legislature. To remedy this situation, and to also allow the members of Turtle Mountain and Spirit Lake to be able to elect the representatives of their choice in accordance with federal law, we have developed a proposed district containing the Turtle Mountain and Spirit Lake reservations. (Attached as Figure 1).

Given that our Tribal communities together would be sufficiently large and geographically compact to form a majority-minority district, and given the racially polarized voting that exists when comparing our communities to the surrounding areas, our proposed district satisfies the Voting Rights Act, and would negate the need for a subdistrict. To illustrate, the below charts show the differences between Native American and non-Native American voting patterns in 2016 and 2020 state-wide elections for the precincts within the district we have proposed. Our Tribal communities have voted cohesively in favor of clearly identified Native American preferred candidates. On the other hand, the non-Native American voters have, without exception, overwhelmingly voted against the Native American candidate of choice.



The disparity is even more severe when Native American candidates have run for office. In the 2016 election for the United States House of Representatives, a Native American candidate, Chase Iron Eyes, was preferred by an estimated 98 percent of Native American voters, but received only 21 percent of the vote from white voters. The vast majority of white voters rallied behind the eventual winner of the race, Kevin Cramer, who received only an estimated 2 percent of the Native American vote. A similar pattern is visible in the 2016 race for Insurance Commissioner, where an estimated 98 percent of Native American voters cast a ballot in favor of the Native American candidate, Ruth Buffalo, while being favored by only 28 percent of white voters.

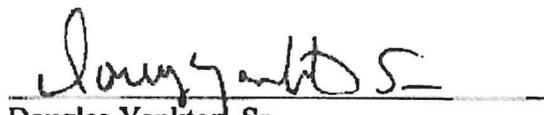
Not only will adopting the district proposed by our Tribes allow the State of North Dakota to forgo costly litigation (which would likely result in the Redistricting Committee's map being overturned anyway), the proposed district can also be incorporated into the overall state-wide redistricting map very easily, with minimal impacts to the districts proposed by the Redistricting Committee for the rest of the state. We have taken the additional step of drawing a full state-wide map that incorporates our proposed district. (**Attached as Figure 2**). To illustrate this minimal impact, we have additionally provided a map that shows the lines of a proposed state-wide map that incorporates our proposed district, overlaid with the lines of the Redistricting Committee's proposed map. (**Attached as Figure 3**). As you can see, incorporation of our proposed district only creates small changes to the other districts proposed by the Redistricting Committee, and only in the northeast corner of the state.

We respectfully bring this request forward, not only as the leaders of sovereign Tribal Nations, but as fellow citizens of the State of North Dakota. All citizens deserve to have their voices heard and to be treated fairly and equally under the law. Our proposed district accomplishes this, which benefits our Tribes as well as the State of North Dakota and all of its citizens. We appreciate your thorough attention to this matter.

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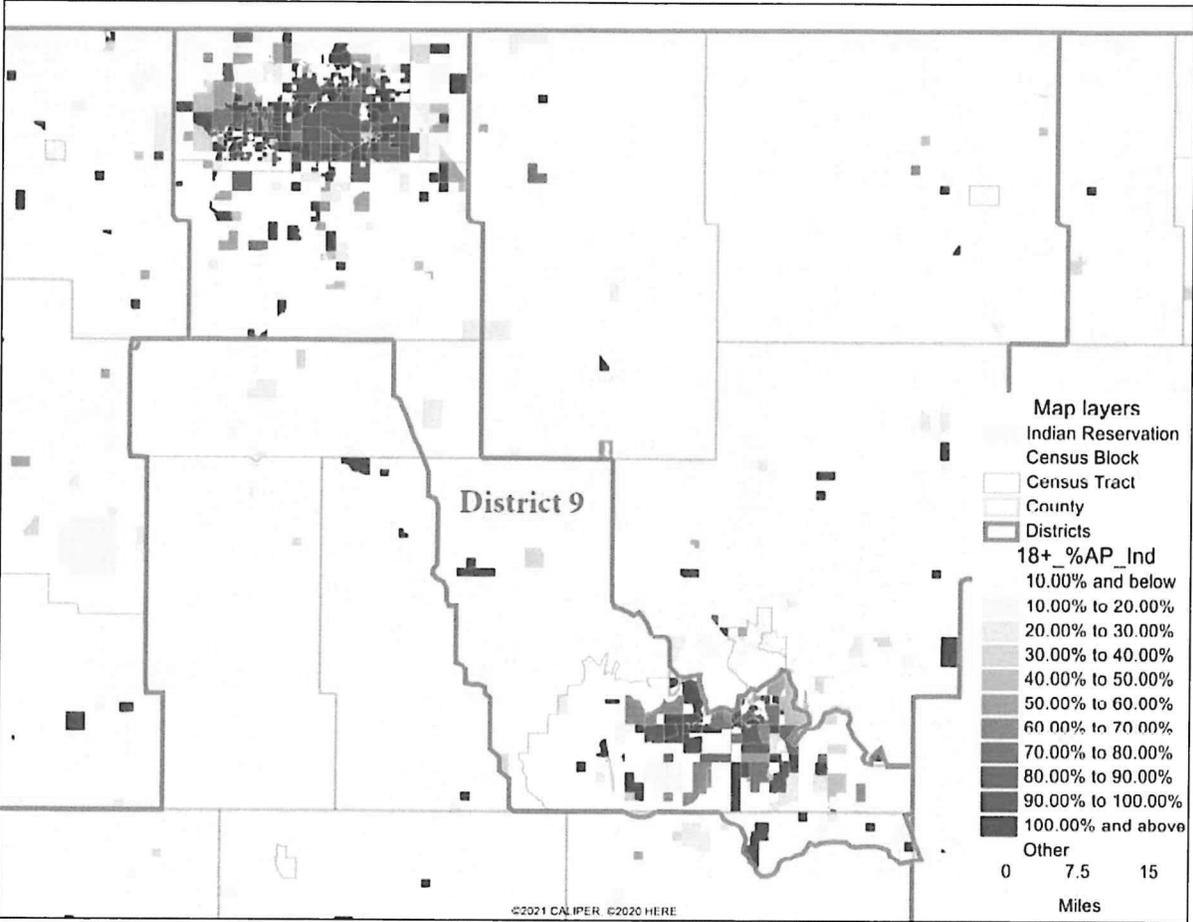


Jamie Azure
Chairman
Turtle Mountain Band of Chippewa Indians



Douglas Yankton, Sr.
Chairman
Spirit Lake Nation

Figure 1 – Proposed District Including Spirit Lake and Turtle Mountain Reservations



District	Population	Deviation	%Deviation	18+ Native American Population	% 18+Native American Population
9	17,341	765	4.62%	7,887	69.06%

Figure 2 – Proposed District as Incorporated Into State-Wide District Map

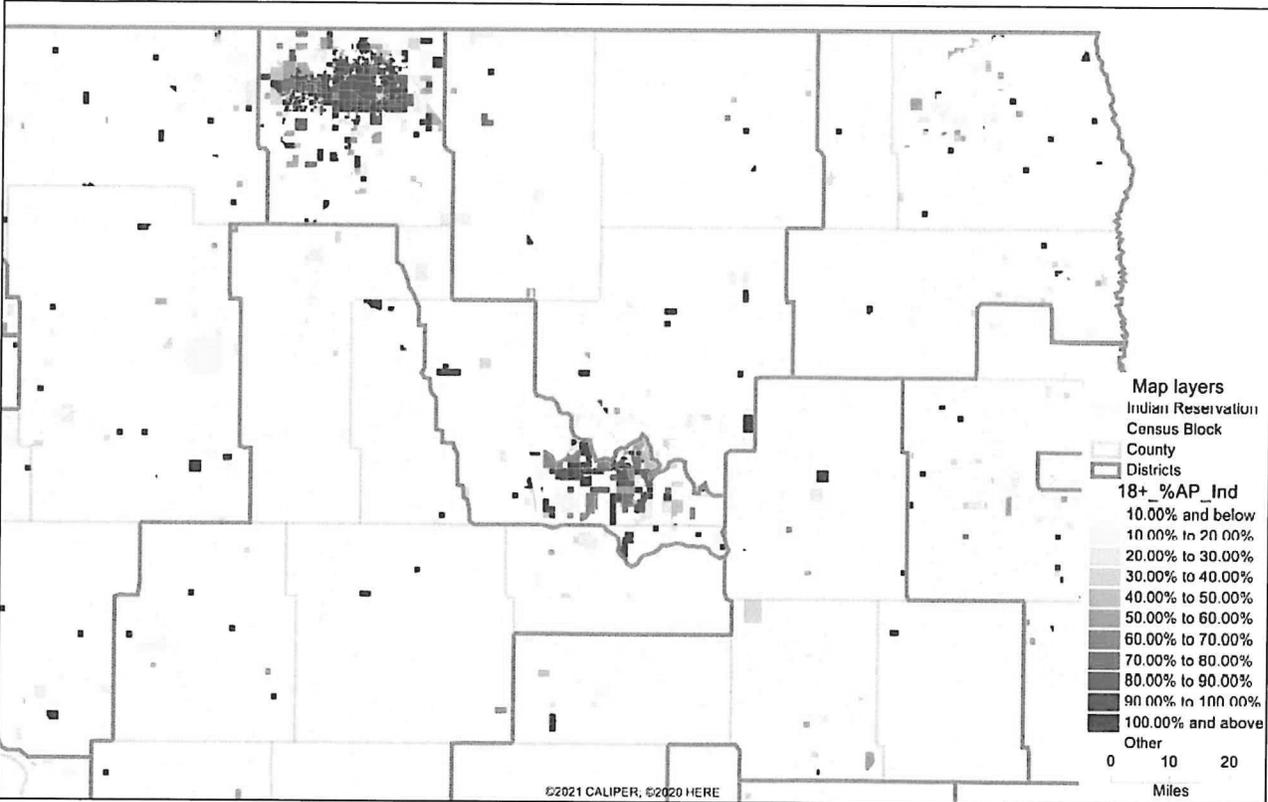
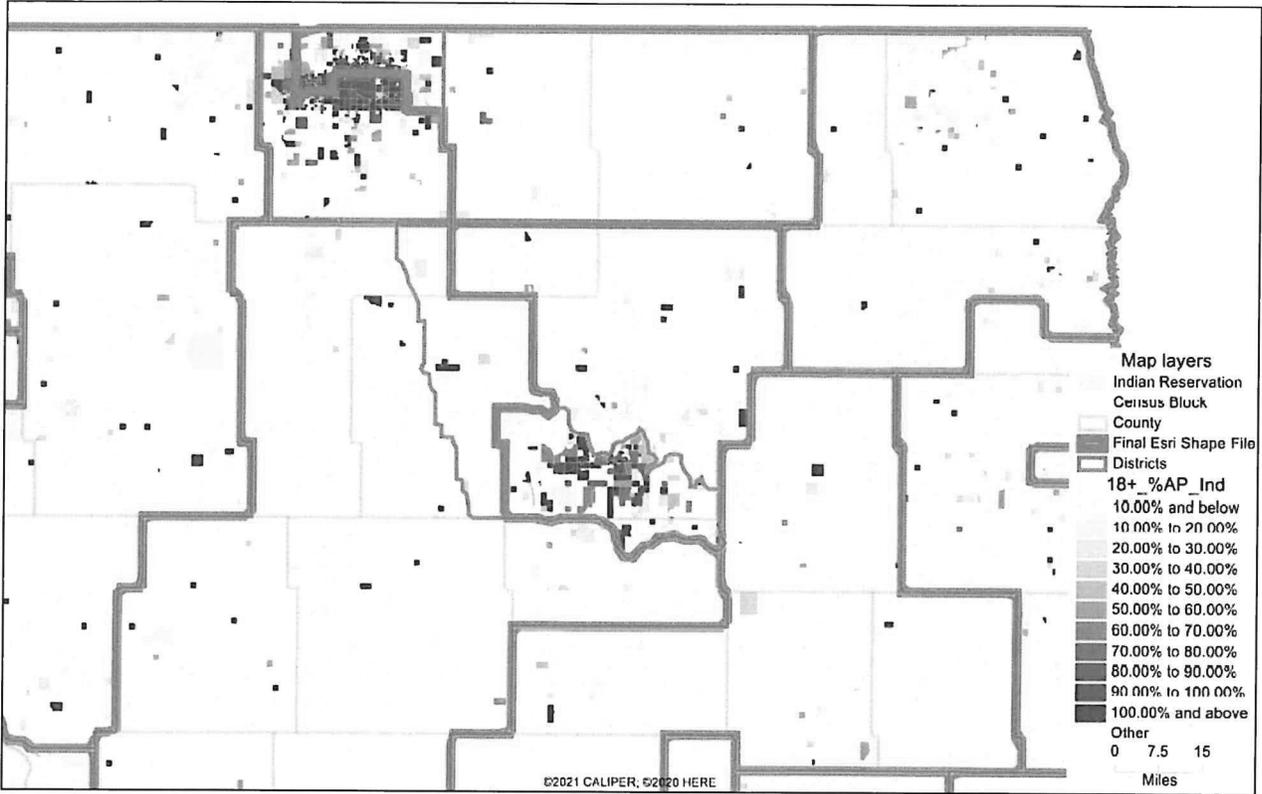


Figure 3 – Our Proposed District as Incorporated into State-Wide Map (Dark Brown Lines), Overlaid with and the Redistricting Committee’s Map (Green Lines)



**Testimony of Turtle Mountain Band of Chippewa Indians Chairman Jamie Azure
Before the North Dakota Legislature Redistricting Committee
November 8, 2021**

Members of the Redistricting Committee, thank you for allowing me to testify today. I am Jamie Azure, Chairman of the Turtle Mountain Band of Chippewa Indians. Turtle Mountain is a federally recognized Indian Tribe with over 30,000 enrolled members. The Turtle Mountain reservation is located entirely within Rolette County with our Tribal Headquarters located in Belcourt. The reservation is seventy-two square miles and is one of the most densely populated reservations in the United States. Turtle Mountain operates the Sky Dancer Casino, and founded the Turtle Mountain Community College.

Today, I come before the Committee to ask that you honor the request of Turtle Mountain and the Spirit Lake to approve a legislative district that includes both of our communities. As you know, this request was submitted to the Legislature on November 1st through a joint letter from Chairman Yankton and myself. I have attached a copy of the letter to my testimony. If approved, this district would be the first of its kind in North Dakota, by allowing two Tribal Nations to share one voice in the State's Senate and House elections.

I am very concerned about the Committee's proposed District 9 that encompasses the Turtle Mountain reservation. The Committee's proposed district would dilute the Native American vote, would not provide our tribal members with

the ability to elect the candidates of their choice. On the other hand, a single district with Turtle Mountain and Spirit Lake together would allow the tribal members from both Tribes to elect their preferred candidates.

Turtle Mountain and Spirit Lake have many shared interests. We are the only two federally recognized Tribes in the North Eastern part of the state. We have similar economic interests, as well as cultural and political values. We both deal with the federal government on a government-to-government basis and we both have federal Bureau of Indian Education Schools on our reservations. Due to the short distance between our two reservations, the district would be geographically compact; and due to sufficient Native American voter population in the district, subdistricts would not be required. Joining our Tribes together into a single legislative district will improve the government-to-government relationships between our Tribes and with the State. As sovereign tribal governments we have unique communities that have uniquely shared values; therefore, it makes sense for us to have a shared political district.

As you can see from our letter, adopting our proposed district would (1) require very little change to the map already approved by the Committee; (2) comply with redistricting laws; and (3) not require subdistricts.

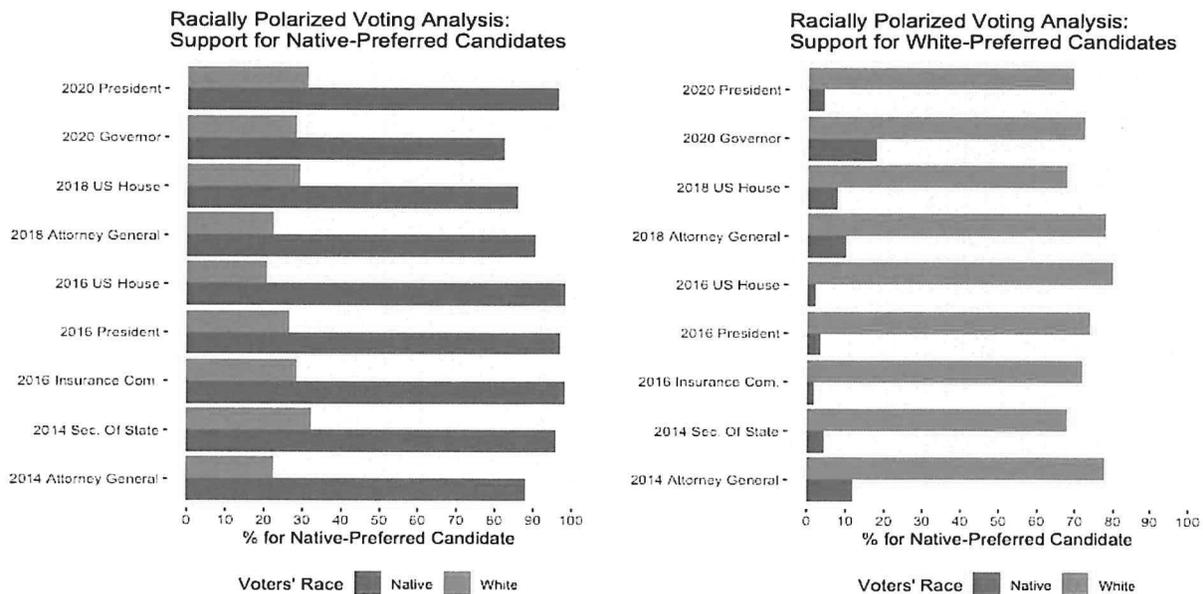
Thank you for your attention. I can address any questions the Committee may have.

Redistricting Committee was the e-mailing of a hearing notice to the Tribes with one day’s notice. Of course, given the short notice, not all of the Tribes were able to make it to Bismarck to attend the hearing. Indeed, we as tribal leaders are governing in the middle of a pandemic with limited resources, and so one day’s notice is far from sufficient.

At that redistricting hearing, representatives from the Spirit Lake Nation, Standing Rock Sioux Tribe, and Three Affiliated Tribes advocated for the creation of legislative subdistricts to improve their representation. Of these requests, only a subdistrict for the Three Affiliated Tribes reservation area was approved by the Redistricting Committee. The Committee, however, also decided to create subdistricts in the Turtle Mountain reservation area, even though no subdistricts were ever requested by Turtle Mountain to the Redistricting Committee.

As a result of the poor outreach to our Tribal Nations, despite our repeated requests, the Redistricting Committee’s proposed District 9, containing the Turtle Mountain reservation, is illegally drawn and we believe will be struck down in court if it is adopted by the State Legislature. To remedy this situation, and to also allow the members of Turtle Mountain and Spirit Lake to be able to elect the representatives of their choice in accordance with federal law, we have developed a proposed district containing the Turtle Mountain and Spirit Lake reservations. (**Attached as Figure 1**).

Given that our Tribal communities together would be sufficiently large and geographically compact to form a majority-minority district, and given the racially polarized voting that exists when comparing our communities to the surrounding areas, our proposed district satisfies the Voting Rights Act, and would negate the need for a subdistrict. To illustrate, the below charts show the differences between Native American and non-Native American voting patterns in 2016 and 2020 state-wide elections for the precincts within the district we have proposed. Our Tribal communities have voted cohesively in favor of clearly identified Native American preferred candidates. On the other hand, the non-Native American voters have, without exception, overwhelmingly voted against the Native American candidate of choice.



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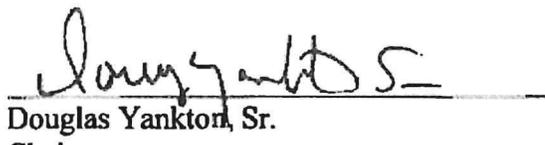
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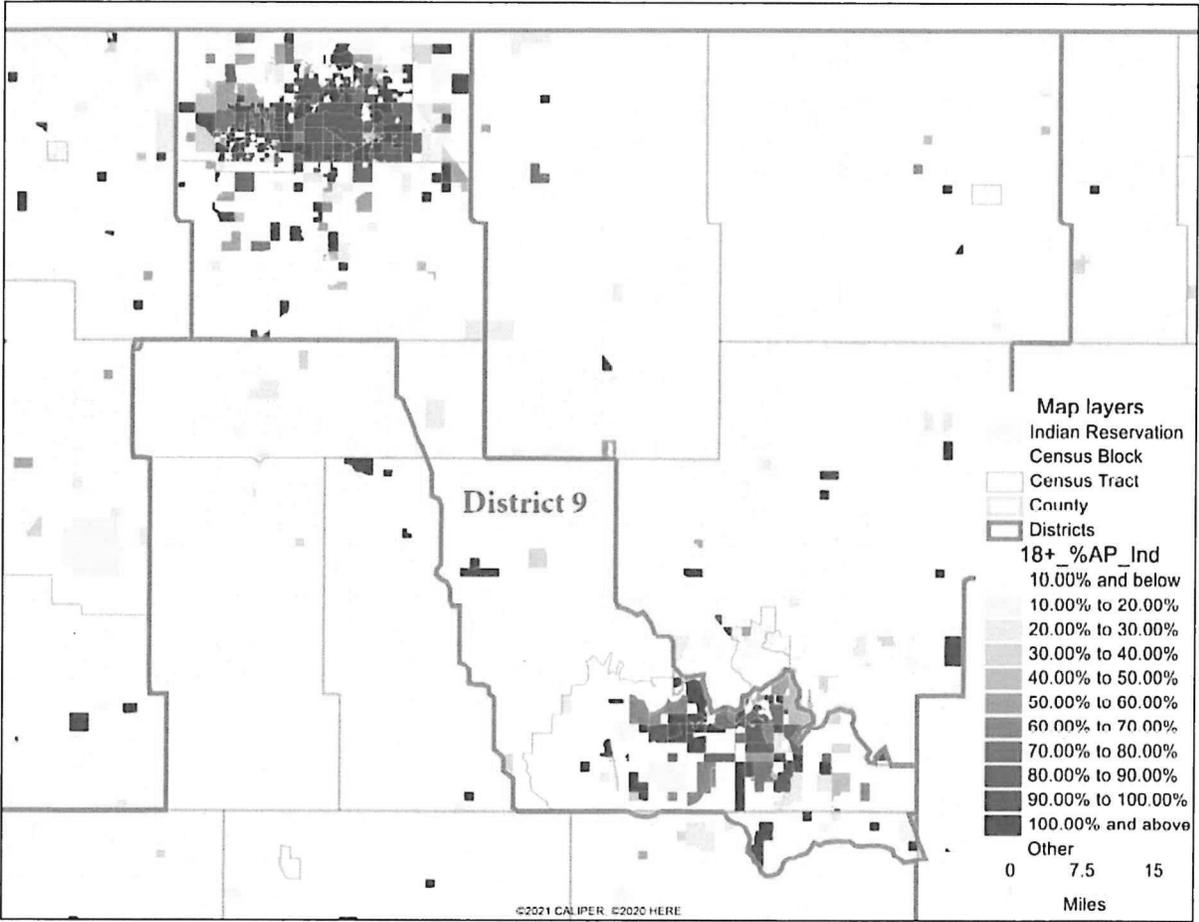


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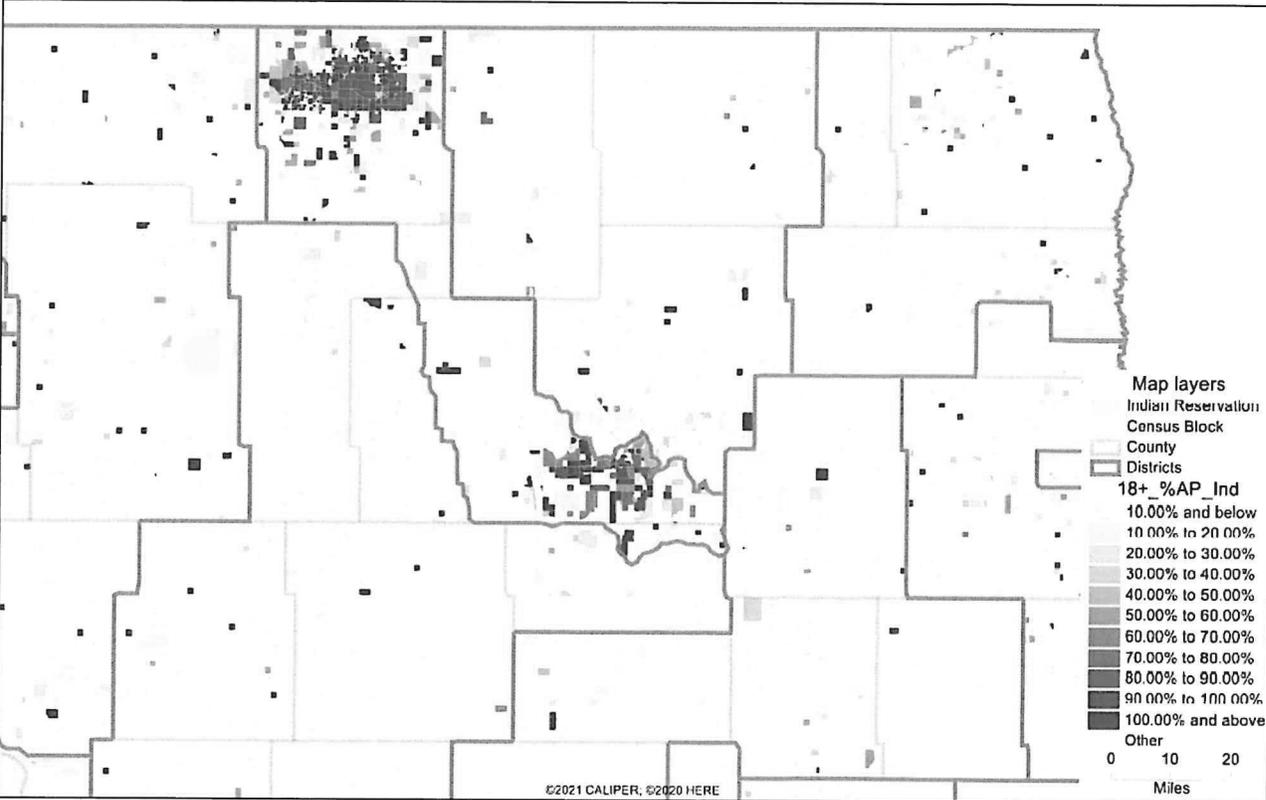
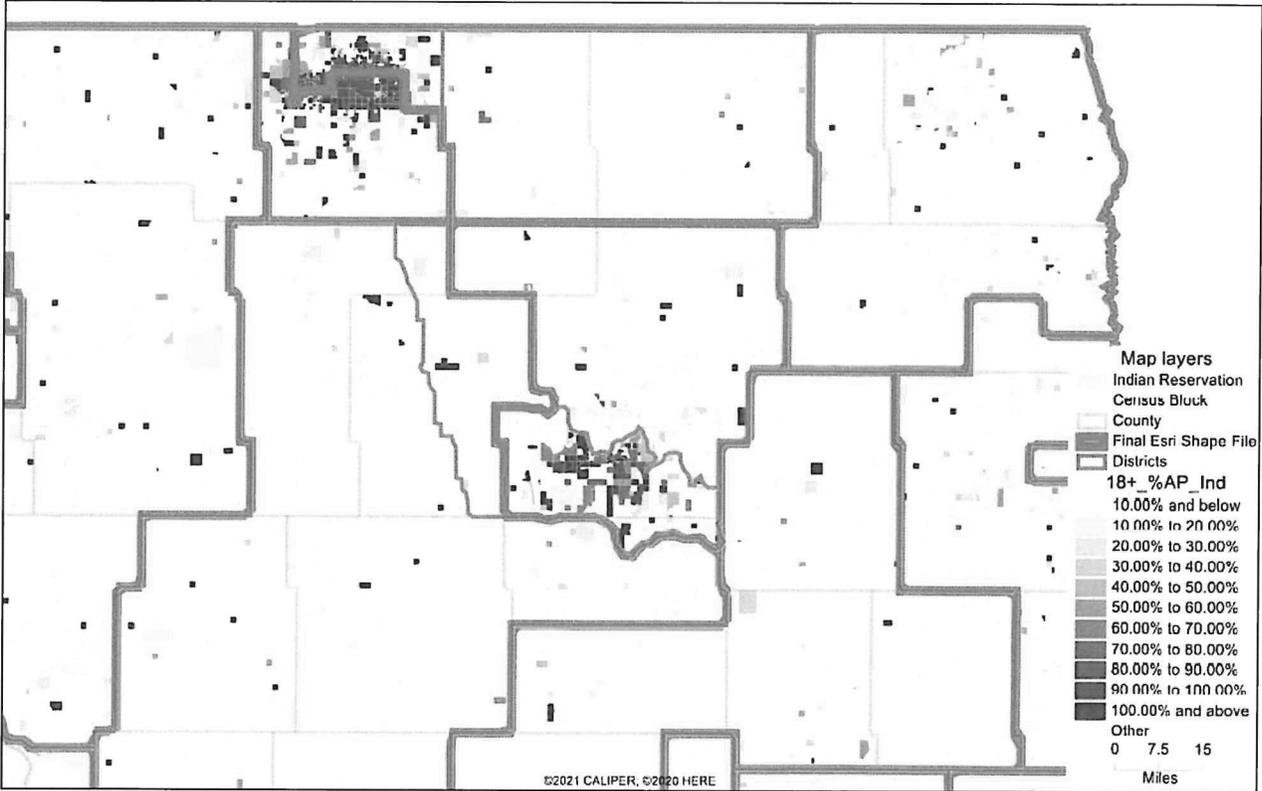


Figure 3 – Our Proposed District as Incorporated into State-Wide Map (Dark Brown Lines), Overlaid with and the Redistricting Committee’s Map (Green Lines)





Joint Redistricting Committee written testimony
2021 special session of the Legislature
November 8, 2021

Chairman and members of the committee,

My name is Rick Gion, speaking on behalf of the North Dakota Voters First board of directors. I live in Fargo, ND.

North Dakota Voters First is a non-partisan, grassroots organization dedicated to strengthening democracy. Our organization focuses on educating and engaging North Dakota citizens to make elections and public policy more accountable, ethical, and transparent.

We commend the 2021 Redistricting Committee for their hard work and prudent decision to comply with the U.S. Voting Rights Act of 1965 by creating two House subdistricts. We are aware that this provision may be separated from the current redistricting bill, so please continue to advocate for these split districts if that's how a floor vote transpires.

As you know, North Dakota Voters First remains committed to House subdistricts throughout the whole state to bring elected officials closer to their voters. This isn't a new idea. It was discussed at length during the 2001 North Dakota redistricting process. Our neighbor to the east, Minnesota, uses this system. It was also recently endorsed by the Bismarck Tribune.

Throughout the redistricting process, leaders from our organization and other local voting rights groups have had concerns with the 2021 redistricting process. Our concerns include incumbent protection, scheduled time periods for public comment not being adhered to, agendas not being posted in a timely fashion, and draft maps not being posted prior to most meetings. This was unfortunate and disappointing. For these reasons and more, we feel that an independent redistricting commission would benefit the state and its citizens in future legislative redistricting.

Thank you for your time and hard work.

Sincerely,

Rick Gion
Fargo, ND
Lobbyist #1086

2021 JOINT STANDING COMMITTEE MINUTES

Redistricting Committee
Room JW327E, State Capitol

HB 1504
11/9/2021

A bill relating to legislative redistricting and staggering of terms of members of the legislative assembly and relating to legislative districts and staggering of terms of members of the legislative assembly.

Chairman Devlin opened the meeting at 8:00am.

Roll call-all present.

LEGISLATORS	PRESENT
Chairman Devlin	Y
Co-Chairman Holmberg	Y
Representative Bellew	Y
Representative Boschee	Y
Representative Headland	Y
Representative Lefor	Y
Representative Monson	Y
Representative Nathe	Y
Representative Schauer	Y
Senator Bekkedahl	Y
Senator Burckhard	Y
Senator Erbele	Y
Senator Klein	Y
Senator Oban	Y
Senator Poolman	Y
Senator Sorvaag	Y

Discussion Topics:

- District division

Emily Thompson, Legislative Council, distributed and explained proposed amendment per yesterday's discussion, 21.1113.02009 (#12175).

Senator Bekkedahl made a motion to adopt this amendment 21.1113.02009.

Representative Nathe seconded the motion.

Voice vote-motion carried.

Representative Bellew proposed an amendment on page 26 starting on line 24 changing fourth avenue northwest to third avenue northwest and "also identified as third avenue northwest" can be eliminated.

Representative Bellew made a motion to adopt this amendment.

HB 1504

November 9, 2021

Page 2

Senator Burkhard seconded the motion.

Voice vote-motion carried.

Emily Thompson, Legislative Council, discussed Secretary of State's clarifications.

Senator Holmberg made a motion for a Do Pass as Amended.

Senator Burckhard seconded the motion.

Roll call vote-16-0-0. Motion carried.

<u>LEGISLATORS</u>	<u>VOTE</u>
Chairman Devlin	Y
Co-Chairman Holmberg	Y
Representative Bellew	Y
Representative Boschee	Y
Representative Headland	Y
Representative Lefor	Y
Representative Monson	Y
Representative Nathe	Y
Representative Schauer	Y
Senator Bekkedahl	Y
Senator Burckhard	Y
Senator Erbele	Y
Senator Klein	Y
Senator Oban	Y
Senator Poolman	Y
Senator Sorvaag	Y

Chairman Devlin adjourned the meeting at 8:12am.

Mary Brucker, Committee Clerk

21.1113.02009
Title.

Prepared by the Legislative Council staff for
the Joint Redistricting Committee
November 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 22, line 29, after the underscored semicolon insert "that part of East Morton Township in Morton County bound by a line commencing at the point where the centerline of county road 84 intersects with the centerline of interstate highway 94, then east on interstate highway 94 until its intersection with the centerline of Sweet Briar Creek, then south on Sweet Briar Creek until its intersection with the centerline of old highway 10, then east on old highway 10 until its intersection with an extended line from the centerline of thirty-eighth avenue, then south on a straight line extended from thirty-eighth avenue, on thirty-eighth avenue, and on a straight line extended from thirty-eighth avenue until its intersection with an extended line from the centerline of forty-first street, then west on a straight line extended from forty-first street and on forty-first street until its intersection with the centerline of county road 84, then north on county road 84 to the point of beginning."

Renumber accordingly

21.1113.02010
Title.03000

Adopted by the Joint Redistricting Committee

November 9, 2021

*Done
11/9/21
Lof*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1504

Page 4, line 13, after "of" insert "fourth avenue northwest, then east on fourth avenue northwest until it becomes"

Page 20, line 13, remove "eighth street southwest, then east on eighth street southwest until its"

Page 20, remove line 14

Page 20, line 15, remove "twenty-third avenue southwest until its intersection with"

Page 22, line 29, after the underscored semicolon insert "that part of East Morton Township in Morton County bound by a line commencing at the point where the centerline of county road 84 intersects with the centerline of interstate highway 94, then east on interstate highway 94 until its intersection with the centerline of Sweet Briar Creek, then south on Sweet Briar Creek until its intersection with the centerline of old highway 10, then east on old highway 10 until its intersection with an extended line from the centerline of thirty-eighth avenue, then south on a straight line extended from thirty-eighth avenue, on thirty-eighth avenue, and on a straight line extended from thirty-eighth avenue until its intersection with an extended line from the centerline of forty-first street, then west on a straight line extended from forty-first street and on forty-first street until its intersection with the centerline of county road 84, then north on county road 84 to the point of beginning;"

Page 26, line 24, after "of" insert "third avenue northwest until it becomes"

Page 26, line 24, remove "also"

Page 26, line 25, remove "identified as third avenue northwest,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1504: Joint Redistricting Committee (Rep. Devlin, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1504 was placed on the Sixth order on the calendar.

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November 8, 2021

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Renumber accordingly

09-29-21

Proposed Statewide Plan

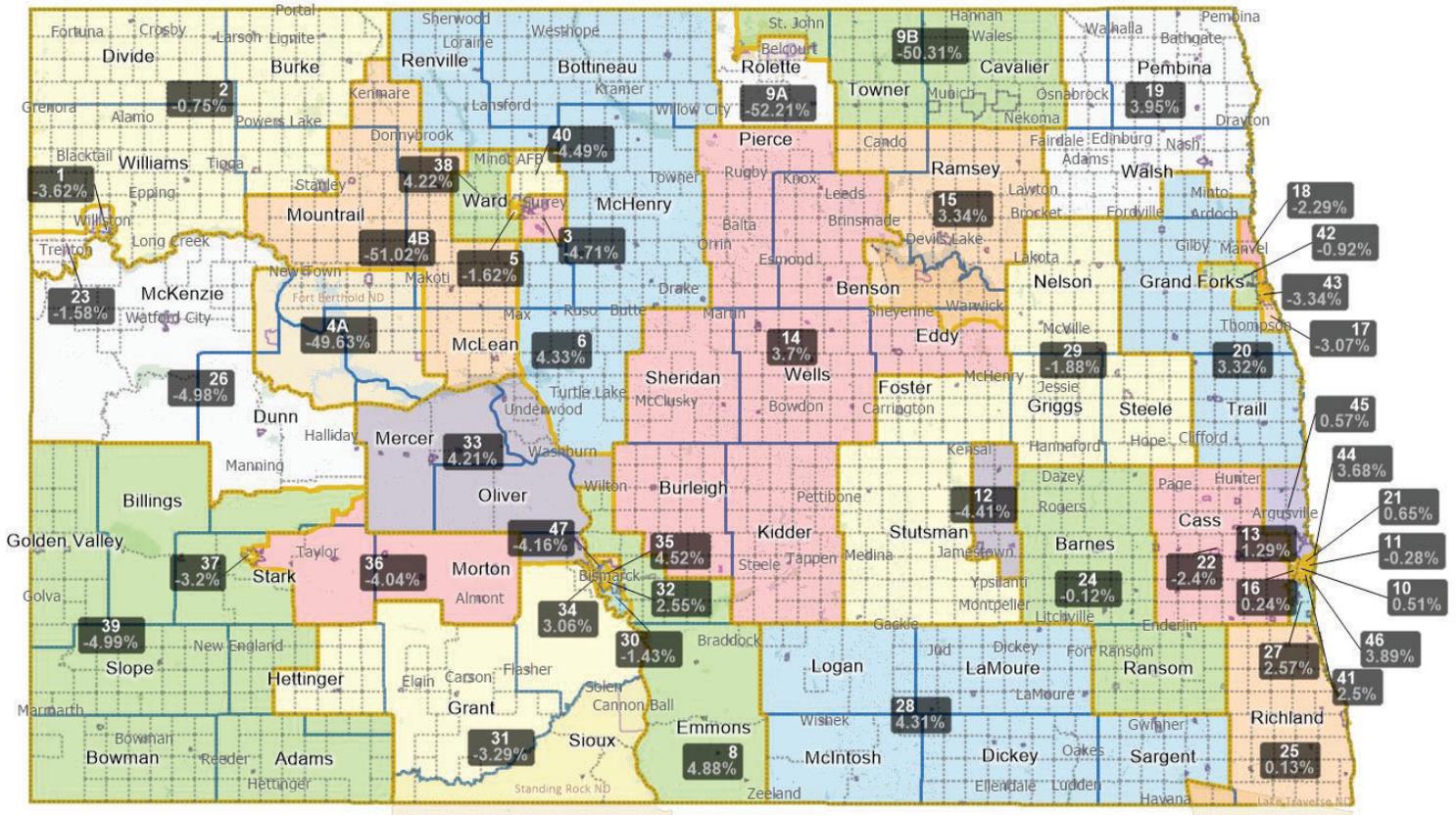
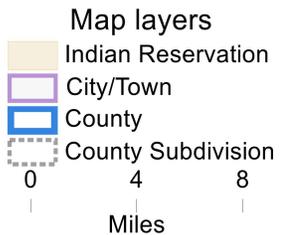
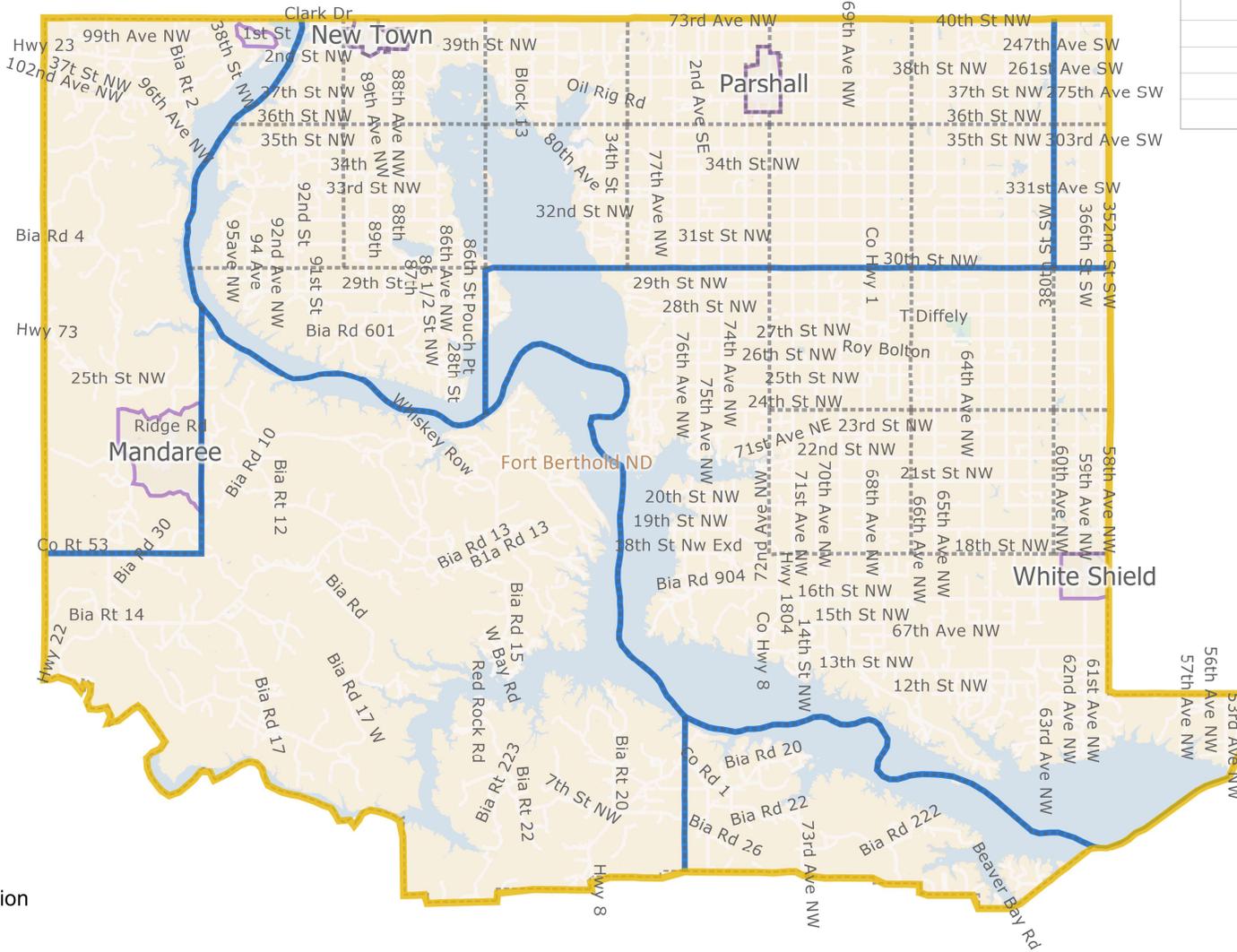


Exhibit 33

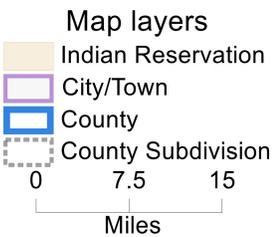
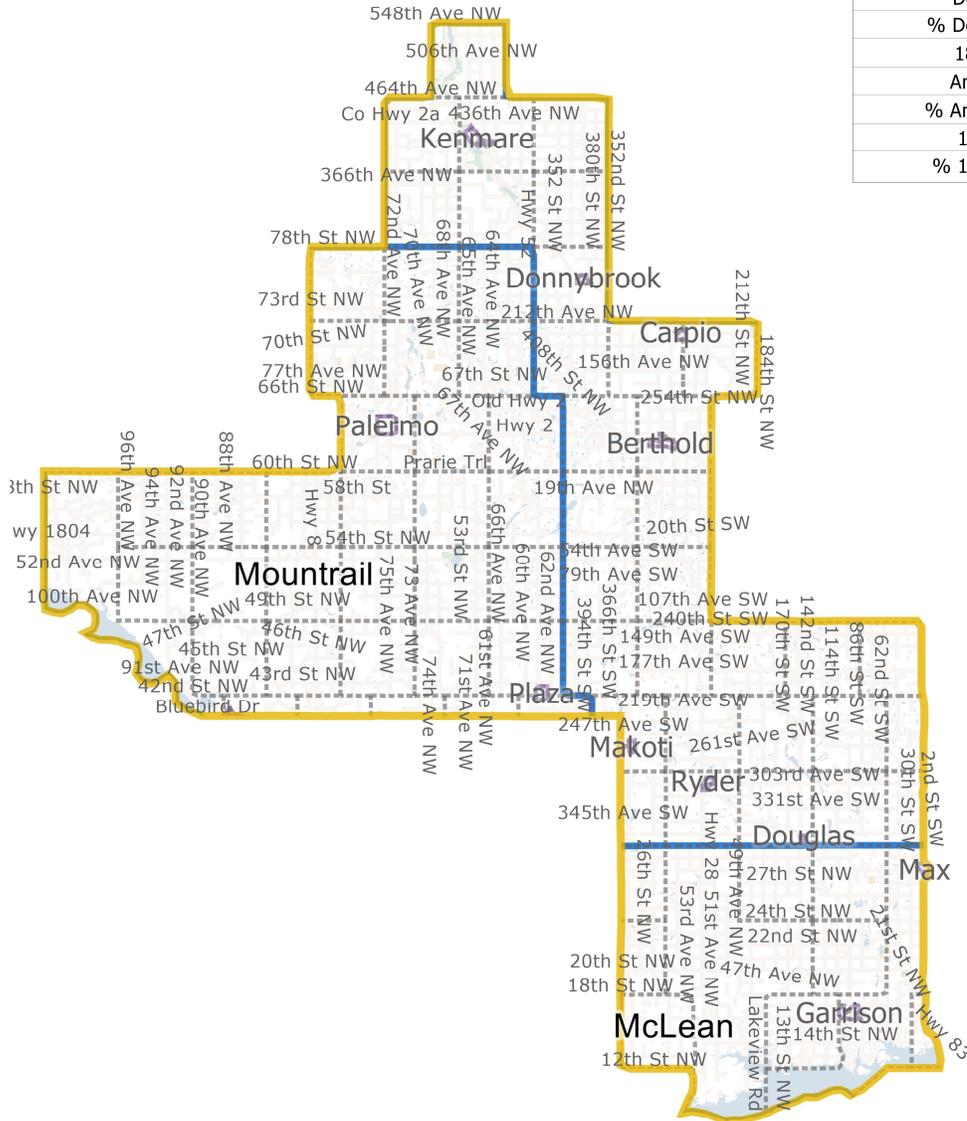
District: 4A

Field	Value
District	4A
Population	8350
Deviation	-8,226
% Deviation	-49.63%
18+_Pop	5709
AmIndian	5537
% AmIndian	66.31%
18+_Ind	3547
% 18+_Ind	62.13%



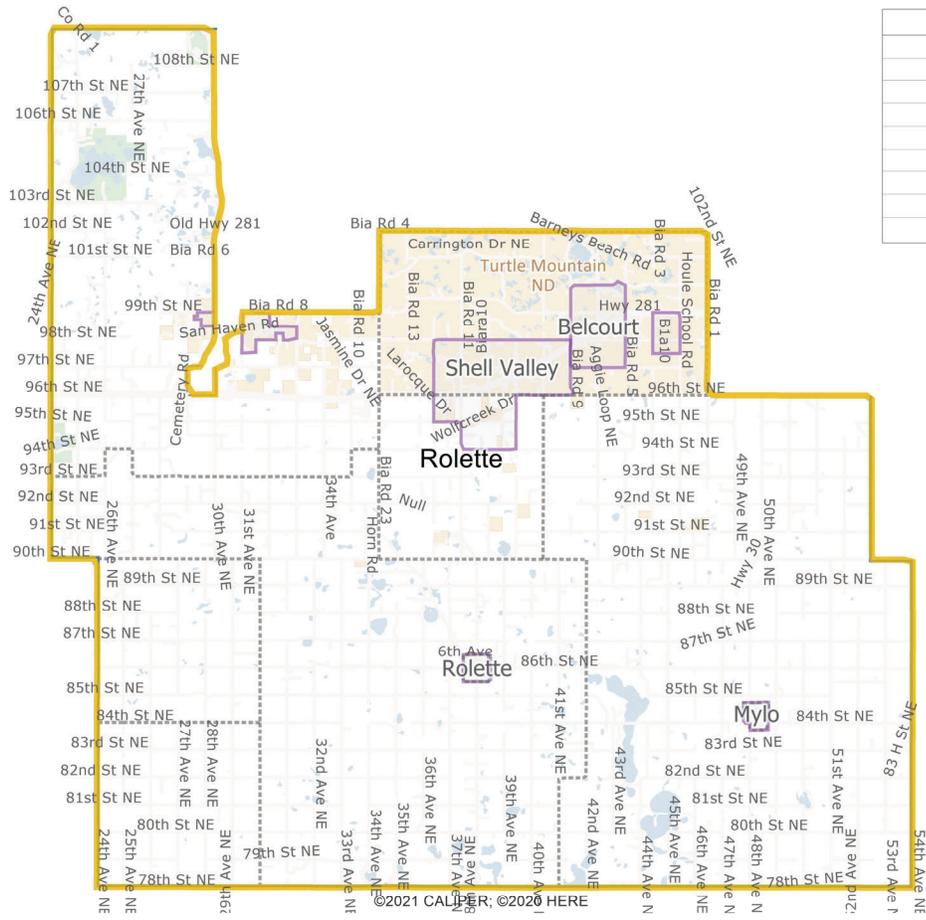
District: 4B

Field	Value
District	4B
Population	8119
Deviation	-8,457
% Deviation	-51.02%
18+_Pop	6207
AmIndian	204
% AmIndian	2.51%
18+_Ind	145
% 18+_Ind	2.34%



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District: 9A



Field	Value
District	9A
Population	7922
Deviation	-8,654
% Deviation	-52.21%
18+_Pop	5269
AmIndian	6460
% AmIndian	81.55%
18+_Ind	4055
% 18+_Ind	76.96%

Map layers

- Indian Reservation
- City/Town
- County
- County Subdivision

0 3 6
Miles

© 2021 CALIFORNIA HERE

District: 9B

Field	Value
District	9B
Population	8236
Deviation	-8,340
% Deviation	-50.31%
18+_Pop	5986
AmIndian	2856
% AmIndian	34.68%
18+_Ind	1760
% 18+_Ind	29.4%

