



REDISTRICTING COMMITTEE

Wednesday, December 13, 2023
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Ronald Sorvaag, Chairman, called the meeting to order at 12:03 p.m.

Members present: Senators Ronald Sorvaag, Brad Bekkedahl, Dick Dever, Robert Erbele, Kathy Hogan; Representatives Craig Headland*, Mike Lefor, Mike Nathe, Austen Schauer

Member absent: Representative Josh Boschee

Others present: John Bjornson, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

**Attended remotely*

COMMITTEE RESPONSIBILITIES

Mr. John Bjornson, Director, Legislative Council, presented a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

Chairman Sorvaag commented regarding the committee's responsibilities and direction. He noted:

- It is imperative the committee decide on a plan as directed by the United States District Court for the District of North Dakota expediently so the process may move forward in a timely manner.
- The committee must approve a map, which subsequently must be approved by the Legislative Management, which then must be drafted in bill form with legal descriptions by the Legislative Council staff, and finally approved by the Legislative Assembly in a special or reconvened session to become effective.
- Any individual who wishes to testify at future committee meetings must appear in person.
- Members of the committee may appear virtually due to the sudden nature of the committee reconvening.

Representative Lefor commented regarding the Legislative Management's response to the district court ruling. He noted:

- The Legislative Assembly is not a party to the lawsuit but was ordered to approve a remedial redistricting plan by the district court.
- The Legislative Assembly hired outside counsel to represent the position of the Legislative Assembly, including moving to intervene in the case.
- The Legislative Management appointed this committee to approve a remedial plan.
- The Legislative Management approved a [request for proposals](#) for an expert's assistance in drawing a plan.

In response to questions from committee members, Mr. Bjornson noted:

- The district court ordered the Legislative Assembly to complete a remedial plan by December 22, 2023.
- The objective of the committee is for the remedial plan to satisfy the requirements of the Voting Rights Act (VRA), whether by adopting one of the plaintiffs' maps or creating a new map.
- In developing a plan, the committee must consider traditional districting principles, including respecting political subdivision boundaries and communities of interests.

- Regarding any appeals that may be made by outside counsel on behalf of the Legislative Assembly, this committee should consider those actions to be on a separate but parallel course.

Chairman Sorvaag noted this committee's role is to focus solely on the work of approving a remedial redistricting plan.

LEGISLATIVE REDISTRICTING AND PROPOSED MAPS

Mr. Bjornson presented a memorandum entitled [Legislative Redistricting - Background Memorandum](#). He noted:

- The Constitution of North Dakota 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" based on the federal decennial census.
- The redistricting map approved during the special session in 2021 was challenged twice.
- In *Walen v. Burgum*, a panel of judges, Chief Judge Peter D. Welte, Circuit Judge Ralph R. Erickson, and Judge Daniel L. Hovland, denied the plaintiffs' motion for preliminary injunction because the plaintiffs were unlikely to succeed on the merits of the claim and the election was drawing near. The panel later granted the state's motion for summary judgment after finding the subdistricts drawn in Districts 4 and 9 satisfied strict scrutiny and recognized the Legislative Assembly created the subdistrict in an effort to comply with Section 2 of the VRA.
- In *Turtle Mountain Band of Chippewa Indians v. Howe*, the United States District Court for the District of North Dakota held the drawing of Districts 9 and 15 and Subdistricts 9A and 9B prevents Native American voters from electing a candidate of their choice, violating Section 2 of the VRA. The district court permanently enjoined the Secretary of State from administering, enforcing, preparing for, or in any way permitting the nomination or election of members of the Legislative Assembly from Districts 9 and 15 and Subdistricts 9A and 9B. The district court gave the Secretary of State and Legislative Assembly until December 22, 2023, to adopt a plan to remedy the violation of Section 2. Under the order, the Tribes have until January 5, 2024, to file an objection to a remedial plan and the defendants have until January 19, 2024, to file a response to an objection.
- To address its constitutional duty to adopt a redistricting plan and attempt to comply with the order of the district court, the committee must further evaluate Districts 9 and 15 and Subdistricts 9A and 9B.
- The committee must ensure members of the minority group do not have less opportunity than other members of the electorate to participate in the political process and elect representatives of their choice and in doing so consider traditional districting principles.

Ms. Samantha E. Kramer, Senior Counsel and Assistant Code Revisor, Legislative Council, presented "[Plaintiff's Proposed Map #1](#)," "[Plaintiff's Proposed Map #2](#)," and additional testimony ([Appendix B](#)) related to redistricting data, county-by-county data, and reservation populations. She noted the deviations from ideal population size for the districts affected.

COMMENTS BY INTERESTED PERSONS

Mr. Scott Davis, Chief Executive Officer, Tatanka Consulting Group, presented testimony on behalf of members of the Turtle Mountain Band of Chippewa Indians. He noted:

- The Turtle Mountain Band of Chippewa Indians never wished for their reservation to be combined into one voting district with Spirit Lake Reservation.
- He prefers consideration of other options over the alternative plans provided by the plaintiffs and the district court.
- Rolette County and adjacent areas can make a more compact District 9, without a subdistrict.
- During the initial redistricting process, representatives of the Spirit Lake Tribe requested to include the Spirit Lake Reservation within a subdistrict of District 15.

In response to a request from a committee member, Ms. Erika White, Elections Director, Secretary of State's office, presented a timeline ([Appendix C](#)) related to election deadlines. She noted that if a different map is adopted, affected districts will need to reorganize.

No further business appearing, Chairman Sorvaag adjourned the meeting at 1:39 p.m.

Emily Thompson
Legal Division Director

Samantha E. Kramer
Senior Counsel and Assistant Code Revisor

Liz Fordahl
Counsel

ATTACH:3