STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota,

                    Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt,

                    Plaintiff-Intervenors

vs.

Steve Simon, Secretary of State of Minnesota; and Kendra Olson, Carver County Elections and Licensing Manager, individually and on behalf of all Minnesota county chief election officers,

                    Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer,

                    Plaintiffs,

**WATTSON PLAINTIFFS'
NOTICE OF MOTION AND MOTION
TO ADOPT CONGRESSIONAL AND
LEGISLATIVE REDISTRICTING
PLANS**

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpao Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

           Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

           Defendant.

TO: Defendant Steve Simon, Secretary of State of Minnesota, through his Attorneys
Angela Behrens and Nathan J. Hartshorn, Minnesota Attorney General's Office, 445
Minnesota Street, Suite 1400, St. Paul, MN 55101.

Defendant Kendra Olson, Carver County Elections and Licensing Manager, through her
Attorney Jennifer Tichey, Carver County Attorney, 604 E. 4th Street, Chaska, MN 55318.

Plaintiff-Intervenors Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman,
Carol Wegner, and Daniel Schonhardt, through their attorneys Elizabeth M. Brama, Maren
M. Forde, and Samuel N. Louwagie, Taft Stettinius & Hollister LLP, 2200 IDS Center, 80
S 8th Street, Minneapolis, MN 55402.

Plaintiffs Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer
Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main,
and Wayne Grimmer, through their attorneys Charles N. Nauen, David J. Zoll, Kristen G.
Marttila and Rachel A. Kitze Collins, Lockridge, Grindal Nauen P.L.L.P., 100 Washington
Avenue South, Suite 2200, Minneapolis, MN 55401.

Plaintiff-Intervenors Dr. Bruce Corrie, Shelly Diaz, Alberder Gillespie, Xiongpao Lee,
Abdirazak Mahboub, Aida Simon, Beatriz Winters, Common Cause, OneMinnesota.org,
and Voices for Racial Justice, through their attorneys Brian A. Dillon and Amy Erickson,
Lathrom GPM, LLP, 80 S Eighth Street, 500 IDS Center, Minneapolis, MN 55402.

NOTICE

PLEASE TAKE NOTICE, that on January 4, 2022, Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota ("Wattson Plaintiffs") in the above-captioned matter, through their undersigned counsel, will move the Minnesota Special Redistricting Panel for the relief requested below.

MOTION

Pursuant to the Minnesota Special Redistricting Panel's (the "Panel") Order Dated October 26, 2021 and Order Stating Preliminary Conclusions, Redistricting Principles, and Requirements for Plan Submissions dated November 18, 2021, the Wattson Plaintiffs bring this motion to request that the Panel adopt the Congressional and Legislative Redistricting Plans filed by the Wattson Plaintiffs in this case. The Wattson Plaintiffs' Redistricting Plans are Attached as Exhibits A and B to the Affidavit of Peter S. Wattson dated December 6, 2021 and were created using the Block Equivalency Files emailed to the Panel on December 7, 2021.

This Motion is based on the memorandum of law and supporting affidavits filed herewith, arguments of counsel, and all files, records, and proceedings herein.

Respectfully Submitted,

Date: December 7, 2021   JAMES H. GILBERT LAW GROUP, P.L.L.C.

By: */s/ Adam L. Sienkowski*
    James H. Gilbert (0034708)
    Adam L. Sienkowski (0395659)
    Jody E. Nahlovsky (0330139)
    12700 Anderson Lakes Parkway
    Eden Prairie, MN 55344
    952/767-0167
    asienkowski@lawgilbert.com
    Attorneys for Petitioners Peter S. Wattson,
    Joseph Mansky, Nancy B. Greenwood,
    Mary E. Kupper, Douglas W. Backstrom,
    and James E. Hougas III and League of
    Women Voters Minnesota

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy
B. Greenwood, Mary E. Kupper, Douglas
W. Backstrom and James E. Hougas III,
individually and on behalf of all citizens
and voting residents of Minnesota
similarly situated, and League of Women
Voters Minnesota,

          Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven,
Karen Lane, Joel Hineman, Carol Wegner,
and Daniel Schonhardt,

          Plaintiff-Intervenors

vs.

Steve Simon, Secretary of State of
Minnesota; and Kendra Olson, Carver
County Elections and Licensing Manager,
individually and on behalf of all
Minnesota county chief election officers,

          Defendants,

and

Frank Sachs, Dagny Heimisdottir,
Michael Arulfo, Tanwi Prigge, Jennifer
Guertin, Garrison O'Keith McMurtrey,
Mara Lee Glubka, Jeffrey Strand, Danielle
Main, and Wayne Grimmer,

          Plaintiffs,

**WATTSON PLAINTIFFS'
MEMORANDUM IN SUPPORT OF
THEIR CONGRESSIONAL AND
LEGISLATIVE REDISTRICTING
PLANS**

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpao Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

     Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

     Defendant.

TABLE OF CONTENTS

I.   **INTRODUCTION.**

Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota ("Wattson Plaintiffs") submit to the Minnesota Special Redistricting Panel (the "Panel") this memorandum of law in support of their proposed Congressional and Legislative Redistricting Plans. The Wattson Plaintiffs' respectfully request that the Panel adopt the Congressional Redistricting Plans that are attached as Exhibit A to the Affidavit of Peter S. Wattson dated December 6, 2021 ("Wattson Affidavit") and the Legislative Redistricting Plans that are attached as Exhibit B to the Wattson Affidavit which can be reproduced by the Panel using the Block Equivalency Files filed with the Panel on December 7, 2021 (hereinafter "Plans" or "Redistricting Plans").

The Wattson Plaintiffs' Redistricting Plans use the Congressional and Legislative plans adopted by the 2012 Special Redistricting panel in *Hippert v. Ritchie* as the point of departure. *Hippert v. Ritchie*, 813 N.W2d 374 (Final Order Adopting a Legislative Redistricting Plan) (Minn. Spec. Redist. Panel, Feb. 21, 2012); 813 N.W.2d 391 (Final Order Adopting a Congressional Redistricting Plan) (Minn. Spec. Redist. Panel, Feb. 21, 2012) (the "*Hippert*" panel). From this point of departure, the Wattson Plaintiffs' Plans make those changes necessary to conform the existing *Hippert* plans to all redistricting principles adopted by the Panel. This approach by the Wattson Plaintiffs has been used by prior Minnesota redistricting panels, including the *Hippert* panel which called this a 'least-change' approach.

Throughout this process, the Wattson Plaintiffs have been proponents of transparency to both this Panel and the public. This push for transparency is why the Wattson Plaintiffs requested a redistricting principle involving partisanship and why the Wattson Plaintiffs support the Panel's requirement that no party draw their plans "with the purpose of protecting, promoting, or defeating any incumbent, candidate, or political party." Order Stating Preliminary Conclusions, Redistricting Principles, and Requirements for Plan Submissions dated November 18, 2021 ("Redistricting Principles Order"), p. 8. The Wattson Plaintiffs believe it is important that the Panel have a mechanism to police this principle. Accordingly, the Wattson Plaintiffs have offered Partisanship reports to test the plans of the parties to determine whether there is evidence of partisan intent in drawing those plans.

In another effort to promote transparency, the Wattson Plaintiffs have offered the affidavit of the creator of the Wattson Plaintiffs' Plans, Plaintiff Peter S. Wattson. His affidavit explains why he drew the maps the way he did, including why certain political subdivisions were divided, why population was taken from certain districts, how certain reports support the Wattson Plaintiffs' Plan, and numerous other explanations. Testimony from Plaintiff Joseph Mansky and from Civic Engagement Director Nick Harper of Plaintiff League of Women Voters Minnesota also adds insight, sworn to under oath, to the logic and reasoning behind these Plans. This testimony allows the Panel to understand the "why" behind the Wattson Plaintiffs' Plans, as told by those who actually created the Plans.

This memorandum also explains how the Wattson Plaintiffs created and provided multiple reports to test their Plans for the Panel, even though they were not required by the

Panel. The Wattson Plaintiffs have provided a Core Constituency report to show this Panel how many Minnesotans will live under new Legislative and Congressional Districts under the Wattson Plaintiffs' Plans. They have run Partisanship reports against their own Plans so that this Panel can see that the Plans were not drawn with the purpose of protecting, promoting, or defeating any party. The Wattson Plaintiffs have also provided to the Panel a set of Maptitude reports run against what they call a "Base Plan." Each Base Plan consists maps of the district boundaries adopted by the *Hippert* panel in 2012, as adjusted by annexations since then. Maptitude reports were then run against these *Hippert* districts using the 2020 Census data. These Base Plan reports enable the Panel to see how much each party's plans deviate from the *Hippert* districts using the same 2020 Census data that is being used by the parties to propose plans in this case. The Panel can use the Base Plan Maptitude reports on Political Subdivision Splits, Minority Representation, Partisanship, and other measures to get an apples-to-apples comparison of the parties' plans to the *Hippert* plans currently in place.

The Wattson Plaintiffs have also provided two tables for the Panel, called the 2022 Congressional Plan Comparison and 2022 Legislative Plan Comparison, which provide the Panel with comparative data for plans adopted by the panel in *Hippert* and *Zachman v. Kiffmeyer*, No. C0-01-160 (order adopting a Congressional Redistricting Plan) (order adopting a Legislative Redistricting Plan) (Minn. Spec. Redist. Panel March 19, 2002) ("*Zachman*"). All this information is provided in an effort to give the Panel a full and complete record upon which to complete this extremely important process.

This memorandum explains how the Wattson Plaintiffs' Plans comply with each

redistricting principle adopted by the Panel, as well as all other requirements in the Panel's

Redistricting Principles Order. It also discusses in detail how the Maptitude reports filed

by the Wattson Plaintiffs support their Plans. *See* Redistricting Principles Order, p. 8

(stating that the parties shall include in their memorandum "an explanation of how each

report supports the proposed plans"). In addition to the aims of transparency above, this

memorandum also illustrates to the Panel that the Wattson Plaintiffs' Plans comply with

the redistricting principles ordered by the Panel. The reports illustrate this compliance, and

the affidavits of the Plaintiffs provide further evidence to support the Plans.

II. **THE WATTSON PLAINTIFFS' PLANS COMPLY WITH THE MOST BASIC BUT IMPORTANT REQUIREMENTS IN THE PANEL'S REDISTRICTING PRINCIPLES ORDER.**

The Wattson Plaintiffs begin with an explanation of the more straightforward

requirements in the Panel's Redistricting Principles Order. The Wattson Plaintiffs used the

2020 Census Redistricting Data (Public Law 94-171) Summary File for Minnesota, subject

to correction of errors acknowledged by the United States Census Bureau, with population

data determined to the census-block level. Wattson Affidavit, ¶ 18. The Wattson Plaintiffs'

Legislative Plan contains 67 state Senate districts and 134 state House districts. The ideal

population of a Minnesota state Senate district is 85,172 and 42,586 for a Minnesota state

House district. Exhibits B-1, D-1, E-1. Their Congressional Plan contains 8 districts with

ideal populations of 713,312. *Id.*, Exhibit A-1, C-1. The Wattson Plaintiffs' Congressional

and Legislative Plans are numbered as required by the Panel's Redistricting Principles

Order and all House districts are nested within Senate districts. *Id.*, Exhibit A-1, B-1.

The Wattson Plaintiffs have submitted the following reports with their

Congressional and Legislative Plans, which are attached as Exhibit C, D and E to the

Wattson Affidavit.[1]

- Population Summary (Exhibits C-1, D-1, E-1)*
- Minority Representation – Voting Age Population (Exhibits C-2, D-2, E-2)*
- Contiguity Report (Exhibits C-3, D-3, E-3)*
- Political Subdivisions Split Between Districts (Exhibits C-4, D-4, E-4)*
- American Indian Reservation Splits (Exhibits C-5, D-5, E-5)
- Measures of Compactness (Exhibits C-6, D-6, E-6)*
- Districts and their Incumbents (Exhibits C-7, D-7, E-7)
- Core Constituency (Exhibits C-8, D-8, E-8)
- Partisanship (Exhibits C-9, D-9, E-9)
- Plan Components (Exhibits C-10, D-10, E-10)*
- Minority Incumbents (Exhibit E-11)

Exhibit C to the Wattson Affidavit contains the Congressional Plan reports, Exhibit

D contains the Senate Plan Reports, and Exhibit E contains the House Plan reports.

As mentioned above, the Wattson Plaintiffs have also submitted a 2022

Congressional Plan Comparison and 2022 Legislative Plan Comparison which, using

Maptitude reports, compares data from the Wattson Plaintiffs' Plan to the plans adopted by

the panels in *Hippert* and *Zachman*. Wattson Affidavit, Exhibit F, G. The 2022

Congressional Plan Comparison includes four columns: (1) 2002 Court, (2) 2012 Court,

(3) 2020 PW CBase202, and (4) 2022 PW 8C08. Wattson Affidavit, Exhibit F. The

columns in the 2022 Legislative Plan Comparison are similarly identified as (1) 2002

Court, (2) 2012 Court, (3) 2020 PW LBase202, and (4) 2022 PW L10. Wattson Affidavit,

Exhibit G. Column four in each report, 2022 PW 8C08 and 2022 PW L10, contains data

from the reports submitted with the Wattson Plaintiffs' Redistricting Plans attached as

---

[1] Reports required by the Panel in its Redistricting Principles Order are denoted by a *.

Exhibits A and B.

Column three in each report, 2020 PW CBase202 and 2020 PW LBase202, contains data from each "Base Plan." Wattson Affidavit, ¶ 24. As partially explained above, the Base Plan submitted by the Wattson Plaintiffs consists of maps of the districts drawn by the *Hippert* panel, as used in the 2020 elections, and contains each type of reports in Exhibit C, D, and E. The reports on the Base Plans were generated by using the *Hippert* districts, the 2020 Census data, and election results from 2012 to 2020. Wattson Affidavit, ¶ 28. There are three Base Plans and accompanying reports, a Congressional Base Plan, a Senate Base Plan, and a House Base Plan. They are each attached to the Wattson Affidavit as Exhibits H, I, J.

These reports show the Panel where the *Hippert* Congressional and Legislative districts stood during the 2020 election using the 2020 Census population data. *Id.*, ¶ 28. These Base Plans are a valuable tool, in that they offer the Panel a way to compare the *Hippert* districts to the districts drawn by the parties using Maptitude reports with the same 2020 Census population data. These reports can show the Panel how far the parties' plans deviate from the *Hippert* maps in terms of political subdivision splits, minority opportunity districts, partisanship, compactness and all other measures identified in the Maptitude reports. The data on the Base Plan reports is summarized in column three of the 2022 Congressional Plan Comparison and 2022 Legislative Plan Comparison.

In the 2022 Congressional Plan Comparison and 2022 Legislative Plan Comparison, column one is labeled "2002 Court" and was created by running Maptitude reports against the *Zachman* panel districts using the 2000 Census population data. Wattson Affidavit, ¶

22. The second column labeled "2012 Court" was created by running Maptitude reports against the *Hippert* panel districts using the 2010 Census population data. Wattson Affidavit, ¶ 23. Due to the volume of information being reviewed by this Panel, the Wattson Plaintiffs did not submit the reports used to create column one (2002 Court) and column two (2012 Court), but Plaintiff Peter S. Wattson has offered sworn testimony averring that he did run those reports and the data in the 2022 Plan Comparisons is from those reports. Wattson Affidavit, ¶¶ 22, 23. These 2022 Plan Comparisons offer the Panel a way to compare data from the parties' plans to data from the *Zachman* and *Hippert* plans using a short compilation of the data.

III. USING THE PANEL'S PRELIMINARY CONCLUSIONS AND REDISTRICTING PRINCIPLES, THE WATTSON PLAINTIFFS HAVE PROVIDED THE PANEL WITH A 'LEAST-CHANGE' PLAN.

The 'least-change' approach is a legitimate state policy that has been used by prior panels in Minnesota, including the panel in *Hippert*, which stated:

> Because courts engaged in redistricting lack the authority to make the political decisions that the Legislature and the Governor can make through their enactment of redistricting legislation, the panel utilizes a least-change strategy where feasible. *Cf. LaComb v. Growe,* 541 F. Supp. 145, 151 (D. Minn. 1982) (stating that the "starting point" for new, court-drawn congressional districts is the last configuration of districts, "modified only to serve State policy and satisfy the constitutional mandate that one person's vote shall equal another's").

813 N.W2d at 380-81; *see also* 813 N.W.2d at 397 (using a 'least-change' approach and "declin[ing] to follow the more sweeping reconfigurations of Congressional districts in the plans proposed by the respective plaintiffs to this action"). "One benefit of a least-change strategy is that it minimizes voter confusion." *Hippert*, 813 N.W.2d at 381. The

state of Georgia has also identified maintaining core districts as a legitimate state policy. *Abrams v. Johnson*, 521 U.S. 74, 99-100 (1997); *see also Karcher v. Daggatt*, 462 U.S. 725, 740 (1983) ("preserving the cores of prior districts" is a "legitimate state objective"). The Wattson Plaintiffs utilized a least-change approach when creating their Plans. Wattson Affidavit, ¶ 90.

A. The Core Constituency report included with the Wattson Plaintiffs' Plans identifies the number of Minnesotans who have moved from one district to another as a result of a redistricting plan, and under the Wattson Plaintiffs' Congressional Plan, 94% of Minnesotans remain in the same district they were in under the *Hippert* plan used for the 2020 election.

With their Plans, the Wattson Plaintiffs have supplied a report called "Core Constituencies." Wattson Affidavit, Exhibits C-8, D-8, E-8. This report will aid the Panel in determining how many Minnesotans have been moved to a new district as a result of the plans submitted by the parties. Wattson Affidavit, ¶ 30. To explain how this report can be used, the entries for Congressional Districts 1 ("CD 1") in the attached Core Constituencies report will be analyzed.

Core Constituencies

Monday, November 29, 2021						7:23 PM
	Population		[18+_Pop]		Average Core of Prior District Population Moved	94% 325,963
Plan: 2022 PW 8C08, District 1 --				713,312	**Total Population**	
From Plan: 2020 PW CBase202						
Dist. 1	687,101	96%	528,089	96%		
Dist. 2	26,211	4%	21,175	4%		

The total population in the Wattson Plaintiffs' proposed CD 1 is 713,312. Using the 2020 Census population, this report shows that to achieve this CD 1 population, the

Wattson Plaintiffs used 687,101 persons from the existing CD 1 adopted in *Hippert* and 26,211 persons from the existing CD 2 in *Hippert* (687,101+26,211 = 713,312). Wattson Affidavit, ¶ 30. The numbers to the right, 528,089 and 21,175 represent the voting-age populations. *Id.* Thus, 96% of the people, both total population and voting-age population, in the Wattson Plaintiffs' CD 1 were in CD 1 under the Congressional plan adopted by the *Hippert* panel. *Id.* In the top right of the report, the "Average Core of Prior District" of 94% means that, across all eight districts, 94% of the voting-age population was not moved to a new Congressional district under the Wattson Plaintiffs' Plan. *Id.* Under the Wattson Plaintiffs' Congressional Plan, only 325,963 people, or 6% of the total Minnesota population, were moved into new districts. *Id.*

The average core of prior district for the eight Congressional districts in the Wattson Plaintiffs' Plan are as follows:

District 1 – 96%	District 5 – 100%
District 2 – 94%	District 6 – 90%
District 3 – 95%	District 7 – 87%
District 4 – 99%	District 8 – 93%

The Core Constituencies report will provide the Panel with a good indicator of whether the parties are using a 'least-change' approach, or whether they are offering a wholesale redrawing of the *Hippert* maps. *Id.*, ¶ 31. Using a least-change approach will prevent sweeping changes that will disrupt local communities and avoid negative effects on minority representation or partisan representation.

The Wattson Plaintiffs' Congressional Plan is a 'least-change' plan and only asks this Panel to make changes necessary to comply with the Panel's redistricting principles.

B. Under the Wattson Plaintiffs' Senate Plan, 78% of Minnesota's voting-age population remains in the same district they were in under the *Hippert* plan used for the 2020 election.

The average core of prior district in the Wattson Plaintiffs' Senate Plan is 78%. As the number of districts increases, it becomes more difficult to keep Minnesotans in their prior district. Wattson Affidavit, ¶ 32. This is because the greater number of districts causes the percentage deviations within the districts to be higher. *Id.* For example, the most underpopulated district under the *Hippert* Congressional plan is CD 7 which, according to the 2020 Census, is underpopulated by 39,828, or -5.58% of the district's ideal population. *Id.*, Exhibit H, p. 2. The most overpopulated district under the *Hippert* Congressional plan is CD 3 at 24,211 people, or 3.39% of the district's ideal population. *Id.* In contrast, under the *Hippert* Senate plan, the most underpopulated district is Senate District 23 ("SD 23") in southcentral Minnesota at 8,093 people, or -9.50%. Wattson Affidavit, Exhibit I, p. 4. This is fewer people, but a higher percentage of the district's population, than in the Congressional plan. The most overpopulated senate district is SD 59 in Minneapolis at 9,757 people, or 11.46%. Wattson Affidavit, Exhibit I, p. 5. The larger percentage deviations in the Senate districts require the movement of a greater percentage of the Senate district's population to meet equal population requirements as compared to the Congressional plan.

The *Hippert* panel's average core of prior districts of 81% for its Senate plan is slightly higher than the Wattson Plaintiffs' 78%. Wattson Affidavit, Exhibit G, D-8.

C. Under the Wattson Plaintiffs' House Plan, 71% of Minnesota's voting-age population remains in the same district they were in under the *Hippert* plan used for the 2020 election.

Because there are more House districts than Senate districts, the average core of prior district for any House plan is likely to be lower than for the Senate districts in the same Legislative plan. The Wattson Plaintiffs have an average core of prior district of 71% in their House Plan. *Hippert* had a slightly higher average at 76%. The most underpopulated district under the *Hippert* House plan is House District 28A ("HD 28A") in Winona County which, according to the 2020 Census, is underpopulated by 5,338, or 12.53%. The most overpopulated district under the *Hippert* House plan is HD 60B in Minneapolis at 9,993 people, or 23.47%. These larger percentage deviations in the House districts require the movement of a greater percentage of a district's population to meet equal population requirements than is required in the Congressional or Senate plans.

IV. THE PLANS SUBMITTED BY THE WATTSON PLAINTIFFS MINIMIZE PRECINCT SPLITS WHICH SIGNIFICANTLY ENHANCES COMPLIANCE WITH THIS PANEL'S REDISTRICTING PRINCIPLES.

The Wattson Plaintiffs' Congressional Plan splits 10 precincts, their Senate Plan splits one precinct, and their House Plan splits 28 precincts. Wattson Affidavit, Exhibits C-4, D-4, E-4. By comparison, the *Hippert* panel split 9 precincts in its Congressional plan, 98 in its Senate plan and 242 in its House plan. *Id,* Exhibits F, G. This approach of minimizing precinct splits serves numerous legitimate State policies and enhances compliance with this Panel's redistricting principles.

A. Preserving precincts makes districts more convenient.

As ordered by the Panel and required by the Minnesota Constitution, districts must

be convenient. Minn. Const. Art. IV, Sec. 3; Redistricting Principles Order, p. 6. Districts that are drawn around precinct boundaries are more convenient for numerous reasons.

Plaintiff Joseph Mansky was a member of the Election Division staff in the Office of the Secretary of State for 15 years, serving the last 11 years as Minnesota state election director. Affidavit of Joseph Mansky dated December 5, 2021 ("Mansky Affidavit"), ¶ 2. He later served as the Ramsey County elections manager for 17 years. *Id*. In his position as Ramsey County elections manager, he was responsible for the preparation of precinct boundary maps for approval by the City of Saint Paul and suburban cities contracting for election services with the Ramsey County Elections Office. He performed his duties as Ramsey County elections manager in both 2002 and 2012. *Id.*, ¶ 3.

"Precincts must be arranged so that no precinct lies in more than one Legislative or congressional district." Minn. Stat. § 204B.14, subd. 3(f). Precinct splits create a financial and administrative burden on election administration. According to Plaintiff Joseph Mansky, every time that a new precinct is created, a new polling place corresponding to that precinct must also be designated. Mansky Affidavit, ¶¶ 8-9. Considerable effort goes into selecting the appropriate boundaries for each precinct to ensure that they work for the voters and can be administered without undue hardship. When drafting the plan to create precinct boundaries, Mr. Mansky used major physical features clearly identifiable by the voters, such as freeways, arterial streets, railroad tracks and bodies of water to the greatest extent possible. *Id.*, ¶ 4. In his experience, approximately 40% of the voters in the City of Saint Paul walked to their polling place on election day. *Id.*, ¶ 5. As such, his goal was to create precinct boundaries that eliminated to the greatest extent possible the need for the

voters, in particular elderly and disabled voters, to have to cross a freeway, arterial street, railroad track or major body of water in order to reach their polling place. *Id.*

To maintain the integrity of the communities of interest in the City of Saint Paul, Mr. Mansky sought to the greatest extent possible to create precinct boundaries that were coterminous with the 17 district council boundaries that define Saint Paul's neighborhoods. *Id.*, ¶ 6. Local governments, which are responsible for creating precinct boundaries, have in-depth knowledge of the local geography that the parties to this matter lack. Thus, deferring to local authorities will create districts that are more convenient.

Every polling place must be furnished with an optical scan voting system and an accessible ballot marking device. *Id.*, ¶ 10. In addition, most polling places – especially in the metropolitan area – also are furnished with electronic pollbooks. *Id.* In Mr. Mansky's experience with Ramsey County, the fixed cost of establishing each additional polling place resulting from redistricting is approximately $10,000. *Id.*, ¶ 11. Mr. Mansky found that newly established polling places resulting from the establishment of precincts created to accommodate the results of Legislative redistricting also incur additional fixed and variable costs for the entire ten-year period they are in use by the voters. *Id.*, ¶ 12. These additional costs include salaries of election judges, transportation of voting equipment and supplies, ballot programming and voting equipment testing. *Id.* These costs typically amount to several thousand dollars over ten years. *Id. See Karcher*, 462 U.S. at 758 (Stevens, J., concurring) (discussing "administrative convenience").

A redistricting process that does not use existing precinct boundaries as a base often results in the creation of new precincts comprising marginal territory resulting from the

legal requirements to use district boundaries as precinct boundaries. *Id.*, ¶ 13; Minn. Stat. 204B.14, subd. 3(f). Two such precincts are in the City of Saint Paul: W1 P12 and W6 P7. Mansky Affidavit, ¶ 13. Both are underpopulated precincts squeezed between district boundaries. Such precincts unnecessarily create both financial tails and additional administrative duties for the Elections Office. *Id.*

Voters identify with the polling place to which they are assigned to vote. *Id.*, ¶ 14. Changes to polling place locations, like those resulting from the local implementation of the Legislative redistricting process, invariably create confusion among some voters. *Id.* To the extent that polling place locations – and the precincts to which they have a legal nexus – remain stable, this is to the advantage of the voters affected. *Id.*

The *Zachman* panel discussed the importance of preserving precinct boundaries and its analysis is consistent with the testimony of Plaintiff Joseph Mansky. In discussing its legislative plan, the panel in *Zachman* stated, "While precincts are not entitled to the same deference as political subdivisions, preserving precinct boundaries is another means of minimizing voter confusion in the coming elections. Minimizing precinct splits will also reduce the statutory burden on local governments to draw new precinct and ward boundaries by April 20, 2002." CO-01-160 (Order Adopting a Legislative Redistricting Plan), p. 4. The *Zachman* panel also noted that as a result of the panel's objectives, which it expressly stated included preserving precinct boundaries, "minority groups have great opportunities to influence their legislators under this plan." *Id.* at 5.

Other states and courts have identified preserving precincts as a legitimate state interest. In *Larios v. Cox*, the district court stated:

14

"Georgia has a historical tradition of splitting as few precincts as possible… [and] has an interest in splitting precincts along only easily recognizable boundaries. When small residential roads are used as district lines, it is hard for both voters and election officials to accurately ascertain the voting district within which one resides. This problem is exacerbated when other voting districts, such as those used by the state legislature or local school officials, do not create districts along those same small roads. *See Johnson v. Miller,* 922 F. Supp. at 1562 n. 7 (explaining the ballot secrecy concerns that arise when small blocks are drawn out of a precinct).

300 F. Supp. 2d 1320, 1344 (N.D. GA 2004). The United States Supreme Court in *Abrams v. Johnson* acknowledged Georgia's strong historical preference "for not splitting precincts." 521 U.S. 74, 99-100 (1997).

Preserving precinct boundaries, as is done in the Wattson Plaintiffs' Plans, will make districts much more convenient and accessible to voters.

B. Preserving precincts ensures districts are not drawn with either the purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority, and protects the equal opportunity of racial, ethnic, and language minorities to participate in the political process and elect candidates of their choice.

The United States Supreme Court has repeatedly acknowledged and discussed "the evidentiary difficulty of proving that a redistricting plan is, in fact, a racial gerrymander." *Bush v. Vera*, 517 U.S. 952, 1000 (1996) (citing *Miller v. Johnson*, 515 U.S. 900, 916-17 (1995) and *Shaw v. Reno*, 509 U.S. 630, 646-47 (1993)). "The distinction between being aware of racial considerations and being motivated by them may be difficult to make." *Miller*, 515 U.S. at 916. By drawing districts that preserve precincts, this Panel can increase the likelihood that its plans will not unintentionally have a negative impact on voting rights of citizens on account of race, ethnicity, or membership in a language minority group.

Further, because precinct boundaries are drawn by these local communities themselves, these boundaries reflect how these local groups wish to divide themselves based on numerous factors that cannot be considered or contemplated in a statewide redistricting process. *See Zachman*, CO-01-160 (Order Adopting a Legislative Redistricting Plan), p. 4 (stating that when precincts are preserved, "minority groups have great opportunities to influence their legislators under this plan."). This Panel should defer to these local communities as to how they desire to have their own communities divided. By maintaining precinct boundaries and the communities that they establish, racial, ethnic, and language minorities will have more opportunity to participate in the political process and elect candidates of their choice.

"The Supreme Court has indicated that one 'traditional districting principle[ ]' whose disregard may indicate racial predominance includes 'respect for political subdivisions.' Shaw I, 509 U.S. at 647, 113 S. Ct. 2816. For example, the division of counties, municipalities, **and precincts** may be evidence of racial predominance. Miller, 515 U.S. at 908, 918, 115 S. Ct. 2475." *Covington v. North Carolina*, 316 F.R.D. 117, 137 (M.D. N.C. 2016) (emphasis added). In *Covington*, the court found, "Generally, it appears that little to no attention was paid to political subdivisions, communities of interest, or precinct boundaries when drawing the challenged districts' lines. All such criteria were 'subordinated ... to racial considerations.'" 316 F.R.D. at 138.

In *Navajo Nation v. San Juan County*, the court found that "race was the predominant factor in the development" of the school board and county commission districts. 266 F. Supp. 3d 1341, 1345 (D. Utah 2017). In making this determination, the

16

court relied, in part, on the fact that "the number of precinct splits related to District 3 provides additional circumstantial evidence that race predominated over the traditional districting criteria of maintaining precinct boundaries." *Id.* at 1362. In finding a Section 2 and the Fourteenth Amendment violation in the drawing of Congressional districts, the court in *Perez v. Abbott* stated, "Thus, the evidence indicates that the splits were likely race-based, and Defendants fail to proffer a non-racial basis for the numerous precinct splits in CD30." 253 F. Supp. 3d 864, 953, 962 (W.D. TX 2017).

Plans submitted by the parties with a large number of precinct splits without justification may have a purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority. This Panel should consider these precinct splits when reviewing the submissions of the parties. The Panel should also attempt to minimize precinct splits in its own plan to avoid any unintentional impact on voting rights.

C. Preserving precincts can help to combat plans that are submitted with the purpose to promote, protect, or defeat a political party.

A large number of precinct boundary splits can also be evidence of a partisan gerrymander. In *Common Cause v. Rucho*, the individual drawing maps for the defendant "used the results of past statewide elections to predict whether a particular precinct or portion of a precinct was likely to vote for a Republican or Democratic Congressional candidate in future elections." 318 F.Supp.3d 777, 803 (M.D. N.C. 2018) (*vacated and remanded*, *Rucho v. Common Cause*, 139 S.C. 2484 (2019) (finding claims of political gerrymandering are not justiciable). A party could choose to split a heavily leaning

17

Republican or Democratic precinct solely because not all of the precinct supports the map

drawer's party of choice. Where the Panel is using the submissions by the parties and the

public to draw its maps, limiting precinct splits will help neutralize the partisan impact of

any plan.

D. Reducing precinct splits will minimize future map corrections.

In the past, numerous corrections have been required following the release of a

panel's plans due to various errors with respect to dividing properties, misplacing census

blocks and mistaking a drainage ditch for a road. *See* Affidavit of Peter Wattson dated

October 12, 2021, ¶ 5.e, *History of Minnesota Redistricting*, Minn. Leg. Ref. Lib., p. 8

(first   published   2001,   last   update   June   22,   2021),

https://www.lrl.mn.gov/docs/NonMNpub/oclc1268219807.pdf.[2]

According to a Star Tribune article, 28 corrections were made after the *Hippert*

maps were adopted. Affidavit of Peter Wattson dated October 12, 2021, Exhibit 1.[3] In

LaComb v. Growe, 53 corrections were made after plans were adopted. Order, 4-81 Civ.

152 (D. Minn. March 25, 1982), Wattson Affidavit, Exhibit L. Using precinct boundaries

as a guide for drawing district boundaries can be a useful tool for the Panel because precinct

boundaries are drawn by local officials who know the logical boundaries for their precincts,

---

[2] *History of Minnesota Redistricting* has links to numerous corrections that were made to
plans by prior redistricting panels.
[3] The Secretary of State's website contains a list of 19 boundary adjustments that have been
made   since   2012.   They   can   be   seen   at
https://officialdocuments.sos.state.mn.us/Document/DocumentSearch?Page=1&Descripti
on=boundary%20correction%20order&DocumentTypeId=4&SortBy=DocumentNumber
&ItemsPerPage=10.

whether they be main roads, waterways, property lines, bridges, or other landmarks. *See*

Mansky Affidavit, ¶ 4.

V.   THE DISTRICTS PROPOSED BY THE WATTSON PLAINTIFFS DO NOT DIVIDE POLITICAL SUBDIVISIONS MORE THAN NECESSARY TO MEET CONSTITUTIONAL REQUIREMENTS.

The Panel's political subdivisions redistricting principle is a restatement of Minn.

Stat. § 2.91 and states, "Political subdivisions must not be divided more than necessary to

meet constitutional requirements." Redistricting Principles Order, p. 7. In accordance with

that principle, the Wattson Plaintiffs split political subdivisions only to (1) meet

constitutional population equality requirements, (2) comply with the 14th and 15th

Amendments to the United States Constitution, and (3) draw districts of convenient and

contiguous territory as required by Minnesota's Constitution. The Wattson Plaintiffs also

ensured that any divisions did not implicate Section 2 of the Voting Rights Act, 52 U.S.C.

§ 10301(a).

The Panel's principle that, "The reservation lands of a federally recognized

American Indian tribe will be preserved and must not be divided more than necessary to

meet constitutional requirements" may sometimes conflict with its principle of preserving

political subdivisions. When there was a conflict, Wattson Plaintiffs often chose to preserve

American Indian reservations at the cost of dividing a county, city, or township. This choice

was based on the "well-established federal 'policy of furthering Indian self-government'"

and the "commitment to the goal of tribal self-determination." *Santa Clara Pueblo v.*

Martinez, 436 U.S. 49, 62 (1978). Preserving American Indian reservations is also justified

under the principle of convenience.

A. **The Wattson Plaintiffs' Congressional Plan splits only 10 minor civil divisions and 12 counties.**

In their Congressional Plan, the Wattson Plaintiffs divided 12 counties 18 times and 10 minor civil divisions 10 times. By comparison, the *Hippert* panel split nine counties 12 times and seven minor civil divisions seven times. As the population shifts more towards the urban areas, as occurred over the past ten years, additional splits become necessary. Wattson Affidavit, ¶ 103.

Nine of the 12 counties split by the Wattson Plaintiffs' Congressional Plan are either in the 11-county metro (Anoka, Carver, Hennepin, Ramsey, Scott, Washington, Wright) or just outside the 11-County metro area (Benton, Stearns). Wattson Affidavit, ¶ 36.

Northern Becker County contains part of the White Earth American Indian reservation, and its division was, in part, to keep the entire White Earth reservation in CD 8. This split of Becker County also helped to achieve the constitutional requirement of population equality. Wattson Affidavit, ¶ 37.
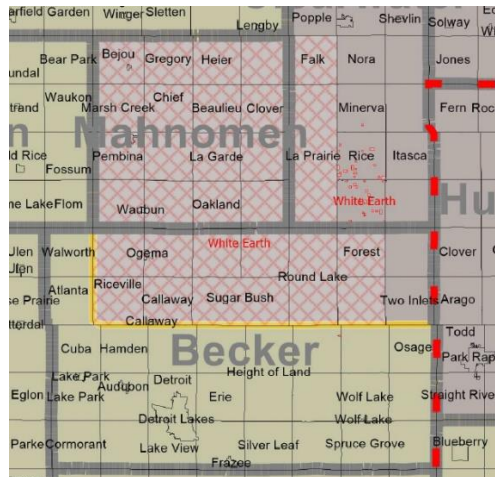
Wattson Affidavit, Exhibit A-1.

Morrison County was split so that a small part of Morrison County containing the

city of Motley, 911 people, and a portion of Swanville, 81 of 321 people, could move to CD 7 to help achieve population equality. Wattson Affidavit, ¶ 38.

Wattson Affidavit, Exhibit A-1.

Wabasha County was split so that a small part of Wabasha County could move into CD 1 to help achieve population equality. This split of Wabasha County placed 127 residents of Plainview Township in CD 1 and 329 residents of Plainview Township in CD 2. Wattson Affidavit, ¶ 39.
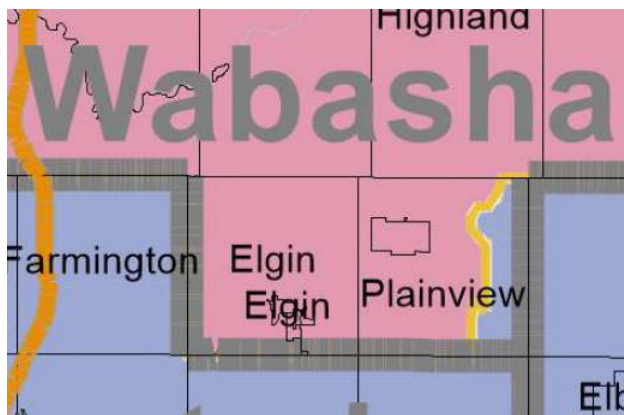
Wattson Affidavit, Exhibit A-1.

Hennepin County was split due to its population being much larger than the size of

a constitutionally permissible district and to help achieve population equality. Western portions of Hennepin County containing Hanover, Minnetrista, Independence and St. Bonifacius were moved into the Third District to achieve population equality. Wattson Affidavit, ¶ 40.
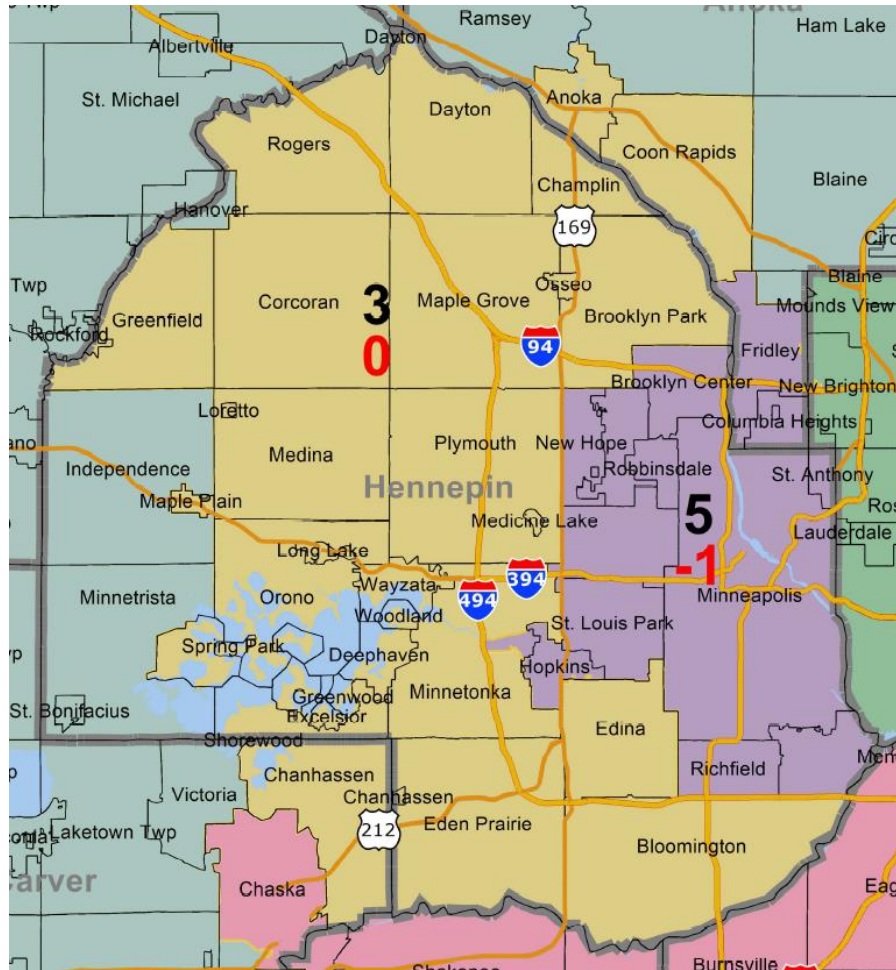
Wattson Affidavit, Exhibit A-2.

Benton County, which was entirely in CD 6 under the *Hippert* plan, was split to add population to the underpopulated CD 7. These movements are necessary with the population shift from rural to urban taking place in Minnesota. While not a split, this population shift is also made apparent as most of the half of Stearns County that was in CD

22

6 under the *Hippert* plan is now in CD7. Wattson Affidavit, ¶ 41. A comparison between the Wattson Plaintiffs' Congressional Plan and the *Hippert* Congressional Plan makes this population shift apparent.

Below is the *Hippert* Congressional Plan.
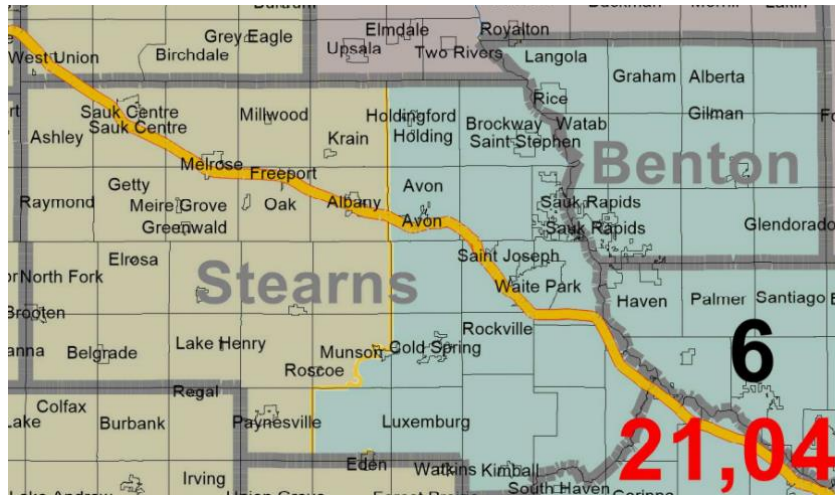
Wattson Affidavit, Exhibit H, p. 1.

The Wattson Plaintiffs' Congressional Plan is below.

Wattson Affidavit, Exhibit A-1.

The remaining six county splits (Anoka, Carver, Ramsey, Scott, Washington, Wright) were necessary to shift population among the Twin Cities districts and to push

23

population out to CD 1, CD 7, and CD 8 in greater Minnesota. Wattson Affidavit, ¶ 42.

The maps of these counties are below.

Anoka County is split between CD 3, CD 4, CD 5 and CD 6.

Wattson Affidavit, Exhibit A-2.

Carver (CD 2, CD 3, and CD 7) and Scott (CD 2 and CD 7) Counties are shown below.
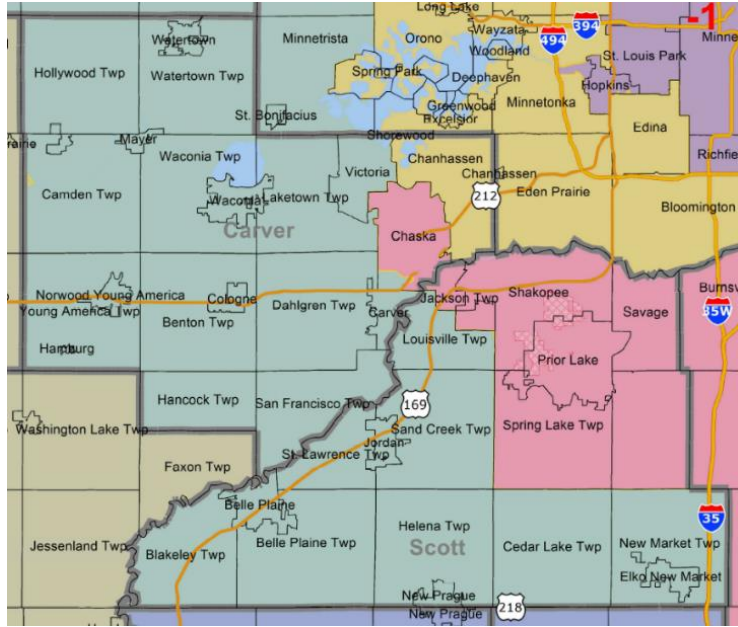
Wattson Affidavit, Exhibit A-2. Three people in Camden Township in Carver County were moved to CD 7 to achieve population equality.

Washington County is in CD 2, CD 4 and CD 6 and is shown below.

25
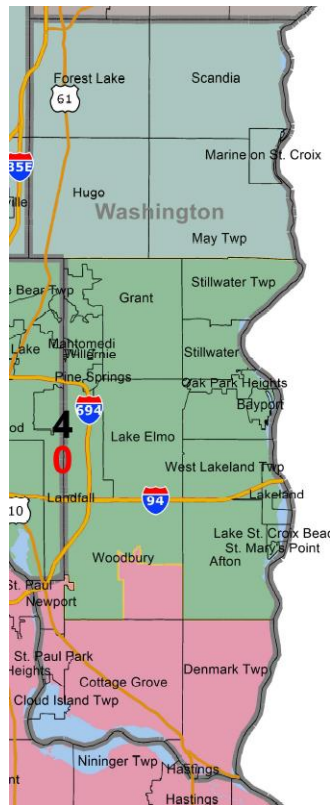
Wattson Affidavit, Exhibit A-2.

Ramsey County is in CD 4 and 476 Ramsey County Residents are in CD 5.

Wattson Affidavit, Exhibit A-2.

Wright County is split between CD 6 and CD 7.

Only ten cities were split in the Wattson Plaintiffs' Congressional Plan, including Plainview Township and Swanville mentioned above, and these splits were necessary to achieve the constitutional requirement of population equality and convenience. Wattson Affidavit, ¶ 43.

Edina, Hopkins, Minnetonka are split between CD 3 and CD 5.

Wattson Affidavit, Exhibit A-2.

Fridley and New Brighton are split between CD 4 and CD 5.

Wattson Affidavit, Exhibit A-2.

Woodbury is split between CD 2 and CD 4.
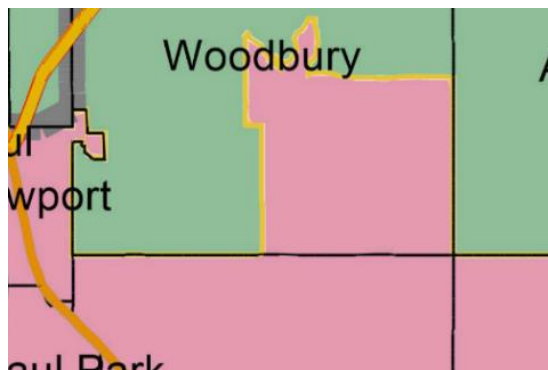
Wattson Affidavit, Exhibit A-2.

Chaska (CD 2 and CD 6) and Camden Township (CD 6 and CD 7) are below.
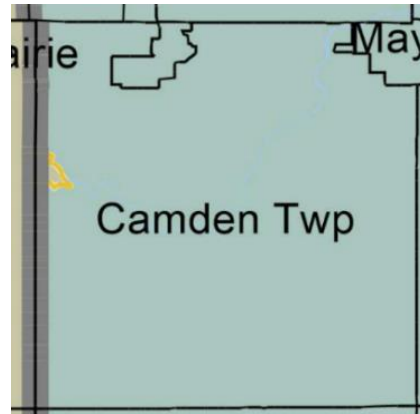
Wattson Affidavit, Exhibit A-2.

These political subdivision splits were necessary to meet equal population constitutional requirements.

B. Divisions of political subdivisions in the Wattson Plaintiffs' House and Senate plans were done to meet constitutional requirements of population equality and convenience.

The Wattson Plaintiffs' House and Senate Plans divide political subdivisions only to the extent necessary to meet constitutional requirements and, as discussed above, to avoid splitting the reservation lands of federally recognized American Indian tribes. Wattson Affidavit, ¶ 44. The Wattson Plaintiffs' House and Senate Plans have a number of splits that is similar to the plans adopted by the *Hippert* panel. The Wattson Plaintiffs' Senate Plan splits 45 counties 97 times while the *Hippert* Senate plan split 39 counties 85 times. Wattson Affidavit, Exhibits D-4, G. The Wattson Plaintiffs' Senate Plan splits 38 minor civil divisions 47 times while the *Hippert* panel split a slightly higher 44 minor civil divisions 53 times. *Id.* As for the House Plan, the Wattson Plaintiffs split 54 counties 174 times while the *Hippert* panel split 54 counties 163 times. Wattson Affidavit, Exhibits E-4, G. The Wattson Plaintiffs' House Plan split 73 minor civil divisions 104 times while the

28

Hippert panel split 88 minor civil divisions 118 times *Id.* The explanation of each district below evidences the fact that all divisions were done to achieve population equality and convenience, and sections below show that some splits were to create districts that do not deny or abridge the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority group (*see* Section VII, *infra*) and to preserve the reservation lands of federally recognized American Indian tribes (*see* Section VI, *infra*).

1. <u>Northern Minnesota.</u>

The substantial shift in population from the rural areas of the state into the Twin Cities suburbs and exurbs requires the rural districts to grow in area and add more people to meet constitutional population requirements for equal population. Wattson Affidavit, ¶ 45. The 2020 Census shows that the Senate districts in northern Minnesota are significantly underpopulated and need to grow in area to add population to meet constitutional requirements. Wattson Affidavit, Exhibit I, p. 4. Rather than keep the same three Senate districts that currently span the state on the northern border, the proposed Senate Plan drops one. Additional changes to current district numbers flow from that first decision. Wattson Affidavit, ¶ 45. The *Hippert* panel drew Districts 1, 2 and 3 along the Minnesota – Canada border (see *Hippert* Senate map below).
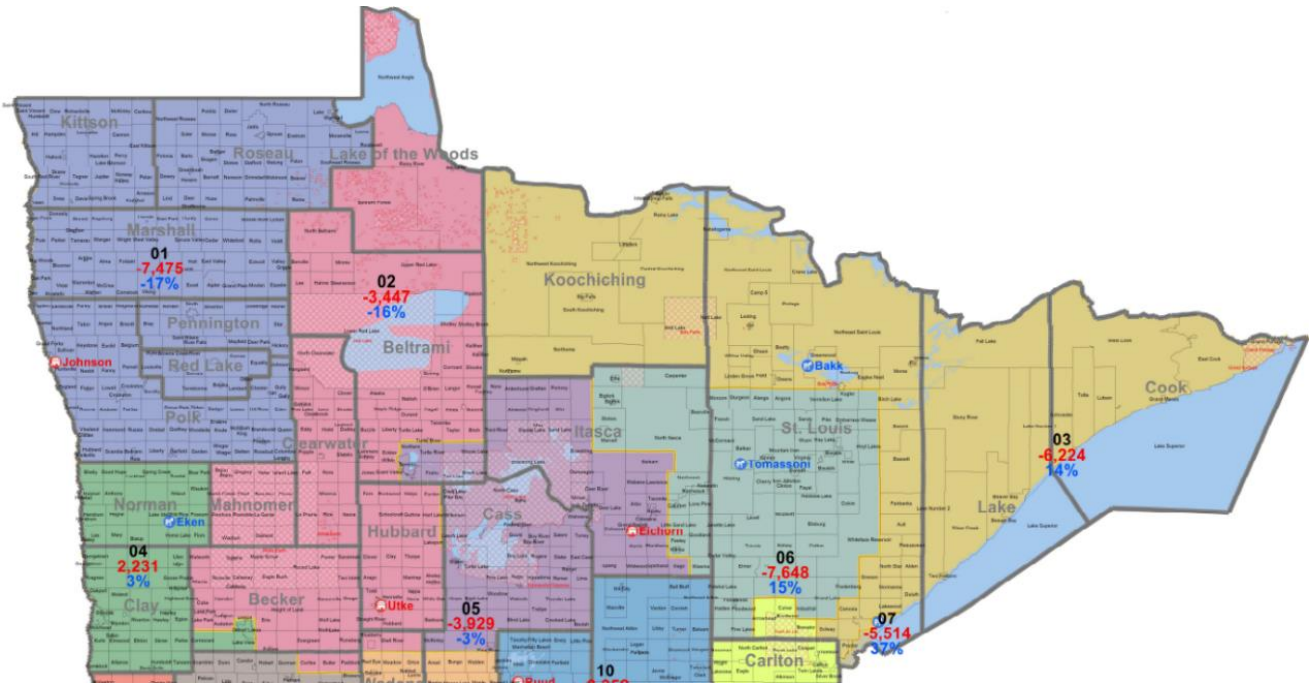
Wattson Affidavit, Exhibit H, p. 1.

Because these three districts are underpopulated by 8.78% (District 1), 4.05% (District 2) and 7.31% (District 3), the size of these districts needs to grow. Continuing to move these districts south will make them longer, narrow and inconvenient. Wattson Affidavit, ¶ 45. Thus, difficult choices needed to be made to account for these population shifts. In this case, rather than keep the same three Senate districts that currently span the state on the northern border, the Wattson Plaintiffs' Plan drops one. It does this by adding to SD 1 all of Lake of the Woods County and the portions of Beltrami County above Red Lake. SD 2 (current SD 3) adds the population it needs by adding cities and towns in St. Louis County in the upper and lower tiers of current SD 6. The second tier of districts, from SD 3 to SD 7, are thus freed from each having to be long and skinny. The new SD 3 is a Moorhead metropolitan area district. It is little changed from the *Hippert* plan. (*See* the Wattson Plan below).

30
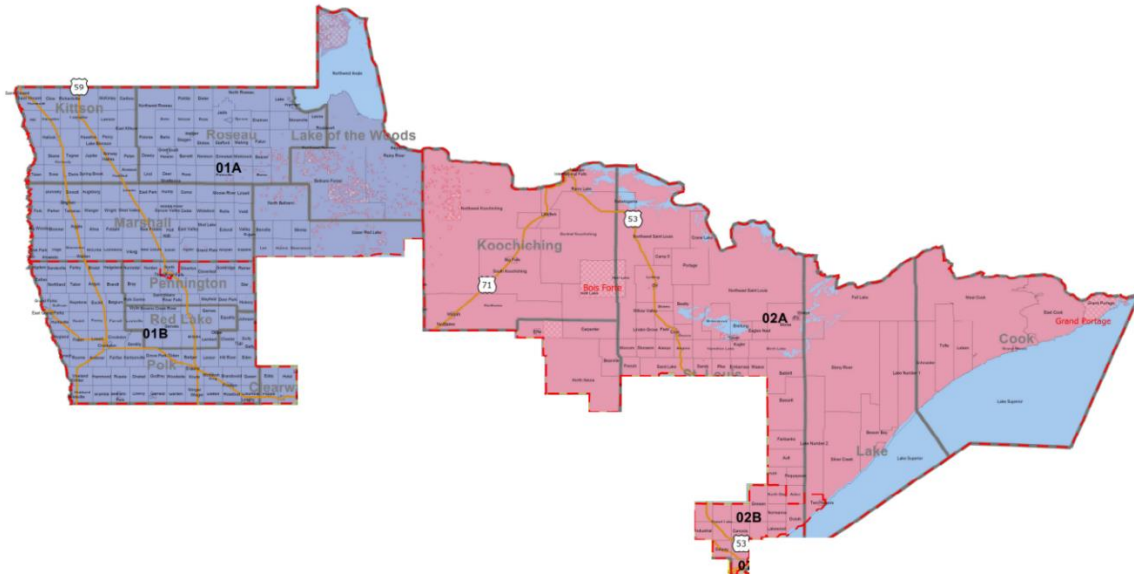
Wattson Affidavit, Exhibit B-1.

SD 4 encompasses all the White Earth Indian Reservation and all but one person in the Red Lake Indian Reservation. To add the necessary population, it moves south, to encompass the two northern tiers of cities and towns in Otter Tail County. Wattson Affidavit, ¶ 47.

SD 5 encompasses all of the Leech Lake Indian Reservation. To add the necessary population, it moves further south in Cass County, and picks up the northern portions of Wadena, Crow Wing, and Aitkin Counties, and some northern portions of Itasca County that were in SD 6. SD 6 makes up for the population lost to SD 2 and SD 5 by moving further into Itasca County. SD 7 expands to take in all but one precinct in Duluth. Wattson Affidavit, ¶ 48.
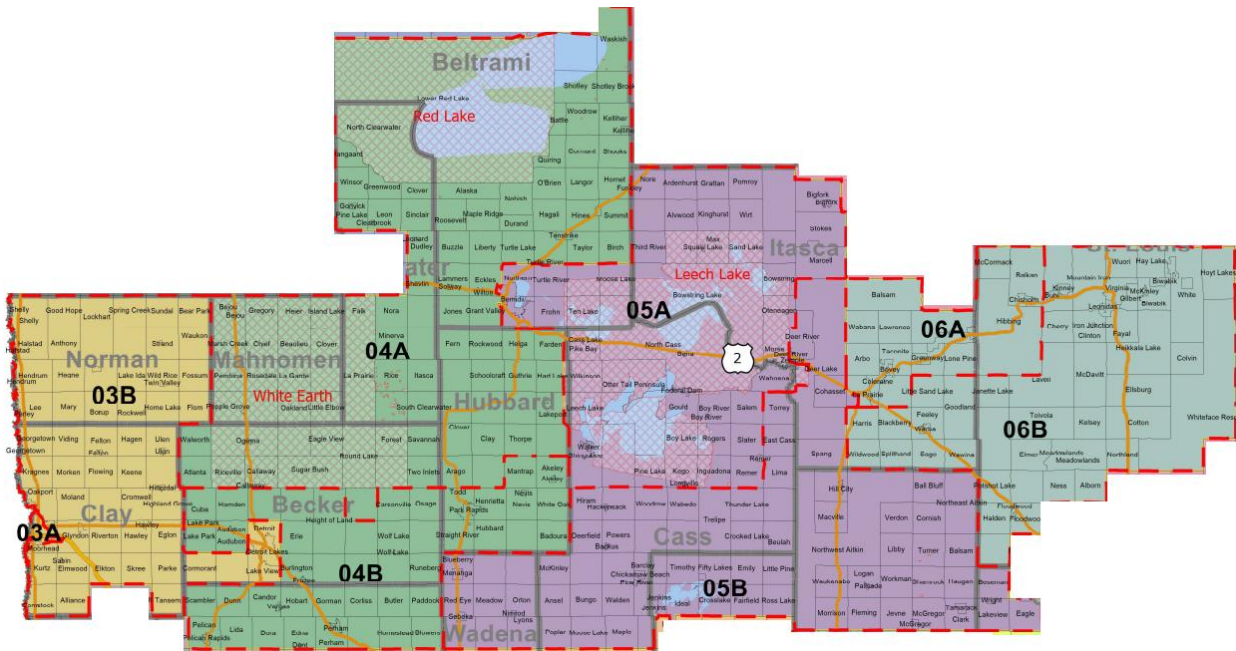
Wattson Affidavit, Exhibit B-1.
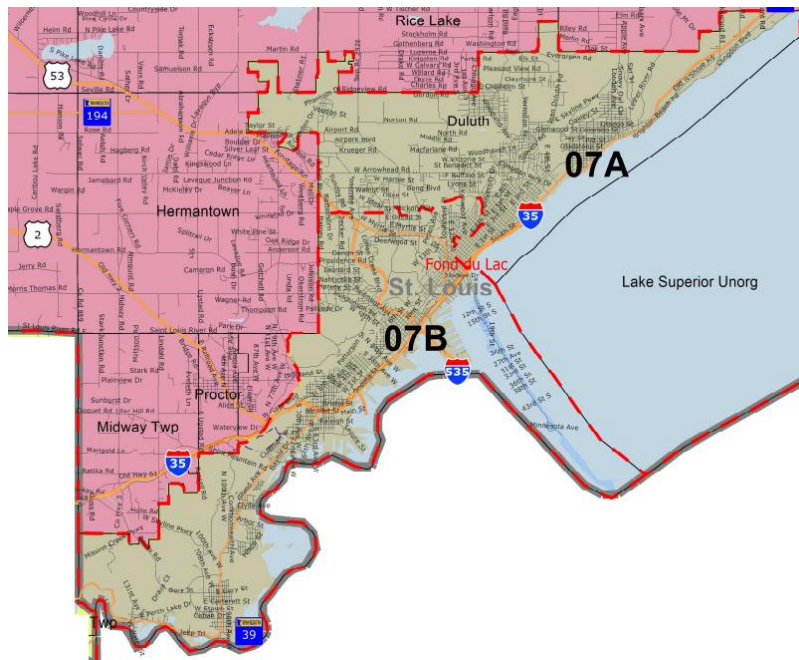
Wattson Affidavit, Exhibit B-3.

2. Central Minnesota.

SD 8 is anchored in Ottertail County, where Fergus Falls is the largest city, but also

has a sizeable population in Douglas County, including the city of Alexandria. SD 8 makes up for the population lost to SD 4 by adding Wilkin County, the Barnesville area of Clay County, and the townships in Douglas County that border Alexandria on the west and south. Wattson Affidavit, ¶ 49.

SD 9 encompasses the Brainerd Lakes area and surrounding cities and towns in Crow Wing, Cass, and Wadena Counties. Wattson Affidavit, ¶ 50.

SD 10 encompasses almost all the Mille Lacs Indian Reservation (4,573 people in and 194 out). Its largest city is Little Falls, population 9,150. SD 11 is a district linked by Interstate Highway 35, encompassing most of the highway's length from the Twin Cities to Duluth. It is little changed by this Plan. It adds Fine Lake Township in St. Louis County, so that all the Fond du Lac Indian Reservation will be in one district. It makes up for losing population to SD 5 and SD 10 by adding six cities and towns in Kanabec and Chisago Counties. Wattson Affidavit, ¶ 51.

SD 12 makes up for the loss of population to SD 8 by adding most of Swift County, the northern tier of townships in Kandiyohi County, and the southern two tiers of townships in Todd County. SD 13, eastern Stearns County outside of St. Cloud and Waite Park, trades some cities and towns with SD 12 to balance both their populations. It also gives Waite Park to St. Cloud SD 14 in exchange for picking up St. Augusta. SD 14 remains St. Cloud and Waite Park, plus adjacent cities and towns in Benton and Sherburne Counties. Wattson Affidavit, ¶ 52.
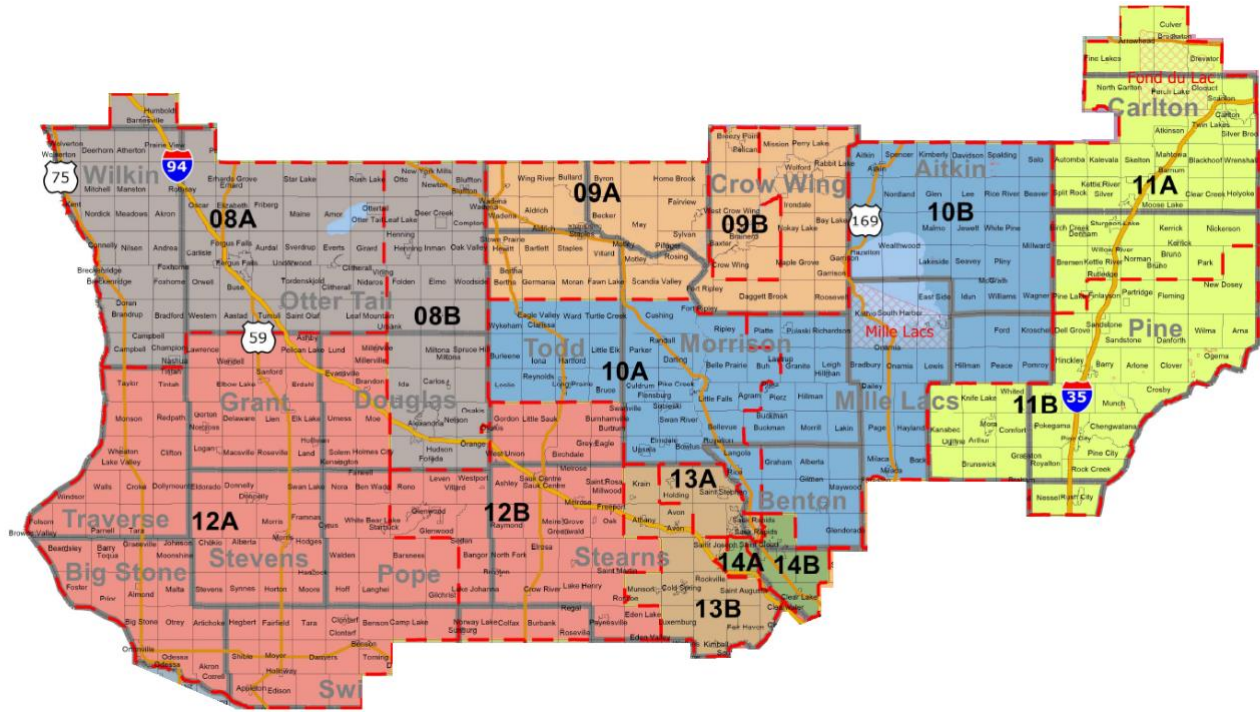
Wattson Affidavit, Exhibit B-1.

SD 27, having lost much of its former population to new SD 10, as well as to SD 14, moves east to add Zimmerman and part of Elk River in Sherburne County and Cambridge and Isanti in Isanti County, as well as townships in between. SD 15 is linked by U.S. Highway 12. Its main population centers are Willmar and Litchfield. It has lost most of Swift County and the northern part of Kandiyohi County to SD 12. It loses Renville County to new SD 16 and SD 17. To make up those losses, it adds most of Meeker County and three townships in Wright County, plus the city of Cokato. Wattson Affidavit, ¶ 53.

SD 16 is mostly south of the Minnesota River, running from Ortonville on the South Dakota border to just east of New Ulm. The 2020 Census showed it needed to add about 8,000 people, which it could do by adding most of Renville County. But it also loses population to new SD 19, which adds the balance of Lyon County to eliminate a county

split as it expands from the southwest corner of the state. That means adding the balance of Redwood County, all of Cottonwood County, and the northeast third of Jackson County to SD 16. Wattson Affidavit, ¶ 54.

SD 17 is linked by U.S. 212. It needs to add about 6,000 people. But it also loses most of Meeker County, plus Cokato in Wright County, to SD 15. It finds the necessary population in northwest Nicollet County, eastern Renville County, and western Wright and Carver Counties. Wattson Affidavit, ¶ 55.
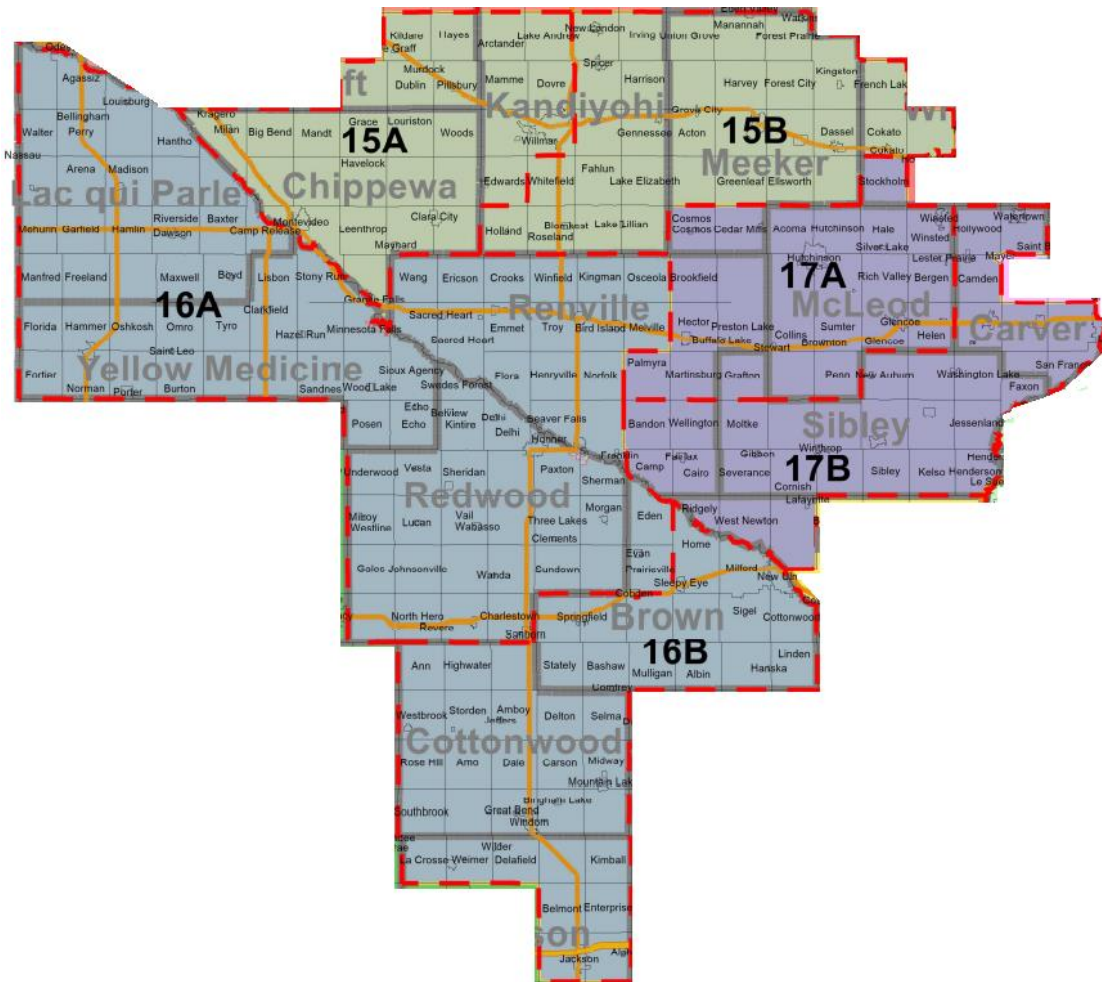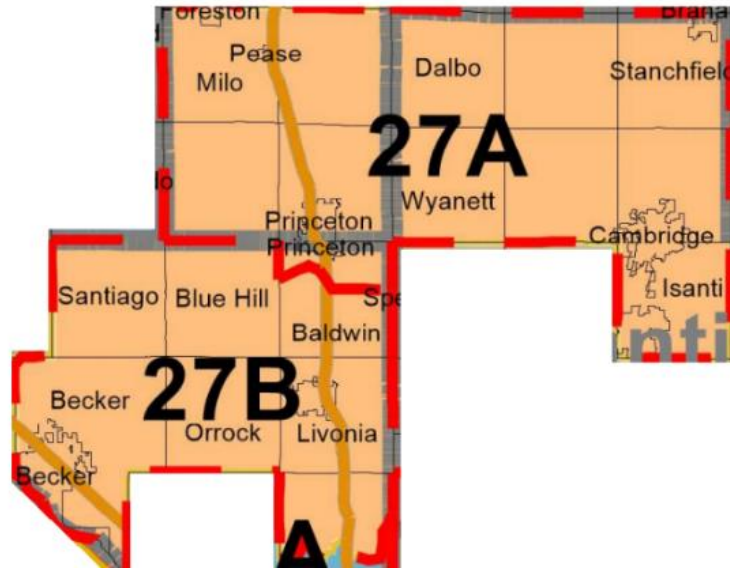
Wattson Affidavit, Exhibit B-1.

3. Wright and Sherburne Counties.

SD 28 encompasses most of Wright County and is anchored in Buffalo. The 2020 Census showed it needed to add only 151 people. But SD 15 and SD 17 took three of its western townships. To replace them, it adds Clearwater and Clearwater Township in the north. SD 29 includes St. Michael, Albertville, and Otsego in Wright County and most of Big Lake and all of Elk River in Sherburne County. It crosses the Mississippi River at Elk River on MN Highway 101. It needs to lose about 8,000 people. It does that by adding the last precinct in Big Lake and subtracting the two northernmost precincts of Elk River. Wattson Affidavit, ¶ 56.
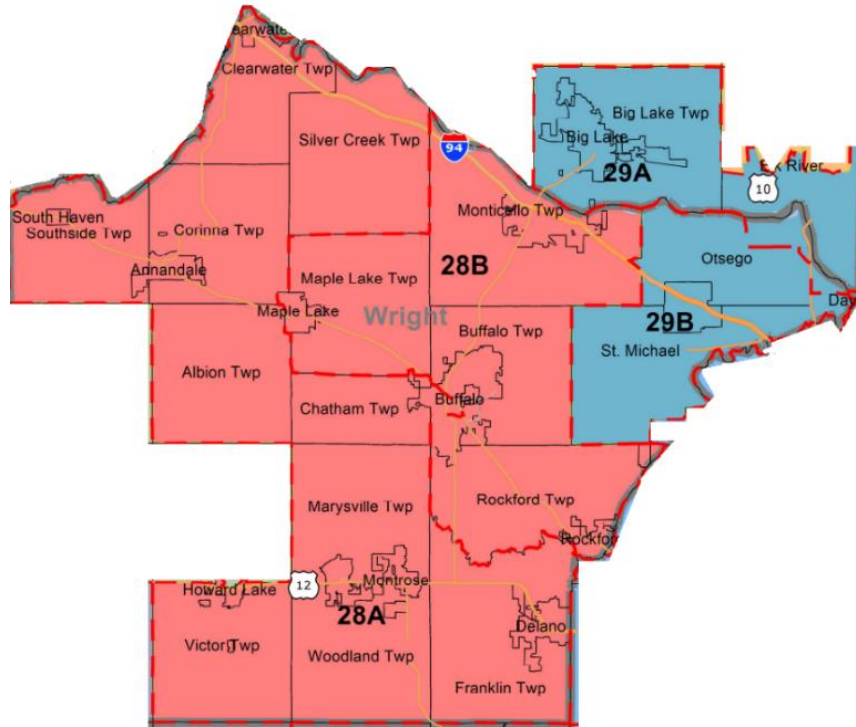
Wattson Affidavit, Exhibit B-2.

4. <u>Anoka County.</u>

The 2020 Census showed that Anoka County has enough population for 4.3 Senate districts. Those districts are numbered 30 to 34. Senate districts 30, 32, and 33 are entirely within Anoka County. SD 31 and SD 34 are dominated by Anoka County, but also include portions of other counties. SD 30 consists of Andover, Ramsey, Anoka, and Nowthen, plus Precinct 4 of Oak Grove. SD 31 includes the balance of Oak Grove and such major cities as Ham Lake, East Bethel, and St. Francis in Anoka County, North Branch in Chisago County, and six townships in Isanti County. SD 32 is anchored by Coon Rapids, completing the necessary population with seven precincts in Blaine and one precinct in Fridley. Unlike current SD 36, it does not cross the Mississippi River nor include any territory outside Anoka County. Wattson Affidavit, ¶ 57.

37

SD 33 includes the balance of Blaine and the cities of Lino Lakes, Circle Pines, Centerville and Lexington. SD 34 is dominated by Anoka County. It consists of 11 precincts of Fridley, plus the cities of Columbia Heights, Hilltop, and Spring Lake Park in Anoka County. It also has all but one precinct of New Brighton in Ramsey County and both the Ramsey and Hennepin County portions of St. Anthony. Wattson Affidavit, ¶ 58.

Wattson Affidavit, Exhibit B-2.

5. <u>Hennepin County Outside Minneapolis.</u>

The 2020 Census showed that Hennepin County has enough population for 15 Senate districts. Those 15 districts are numbered 35-44 and 59-63. All but two are entirely within Hennepin County: SD 35 includes both the Hennepin and Wright County portions of the city of Hanover, and SD 42 includes two precincts in Carver County. These additions to Hennepin County districts are balanced off by the Hennepin County portion of St.

38

Anthony that is in SD 34, which is anchored in Anoka County but includes the Ramsey County portion of St. Anthony. Ten Senate districts, numbered 35 to 44, are in the portion of Hennepin County outside Minneapolis, except for two Minneapolis precincts included in SD 44, which is anchored in Bloomington. Wattson Affidavit, ¶ 59.

SD 35 is in northwest Hennepin County, and its anchor is 11 precincts in Maple Grove. SD 36 is in northeast Hennepin County, including Dayton, Champlin, and Osseo, a dozen precincts in northeast Maple Grove, and five precincts in northern Brooklyn Park. Unlike current district 36, which includes Champlin and portions of Brooklyn Park, it does not cross the Mississippi River to include part of Coon Rapids. Wattson Affidavit, ¶ 60.

SD 37 is anchored by the balance of Brooklyn Park and completed with three precincts in northeast Brooklyn Center. SD 38 consists of Plymouth and one precinct in Maple Grove. Under the current plan, Plymouth is divided into three Senate districts. SD 39 consists of New Hope, Crystal, and Robbinsdale, four precincts in southwest Brooklyn Center, and three precincts in Golden Valley. Wattson Affidavit, ¶ 61.
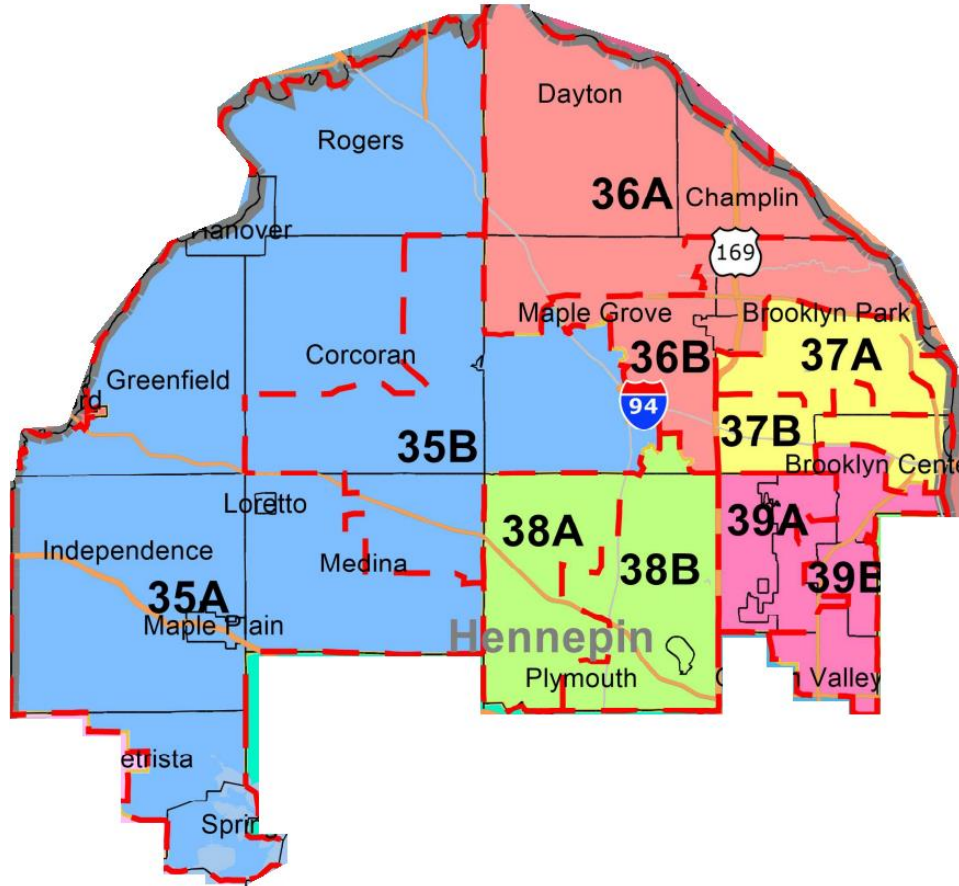
Wattson Affidavit, Exhibit B-2.

SD 40, the Minnetonka district, consists of Long Lake, all but one precinct of the city of Minnetonka, and all but two of the cities (Mound and Minnetrista) that have shoreline on Lake Minnetonka. SD 41 is anchored by St. Louis Park and completed with Hopkins, one precinct in Minnetonka, and five precincts in southwest Golden Valley. SD 42 is anchored by Edina and completed with nine precincts in Eden Prairie and two in Chanhassen, all linked by U.S. 212. SD 43 is anchored by west Bloomington and completed by 11 of the 12 precincts in Eden Prairie that are south of MN 5. SD 44 consists of east Bloomington, Richfield, Ft. Snelling, and two precincts in south Minneapolis. Wattson Affidavit, ¶ 62.
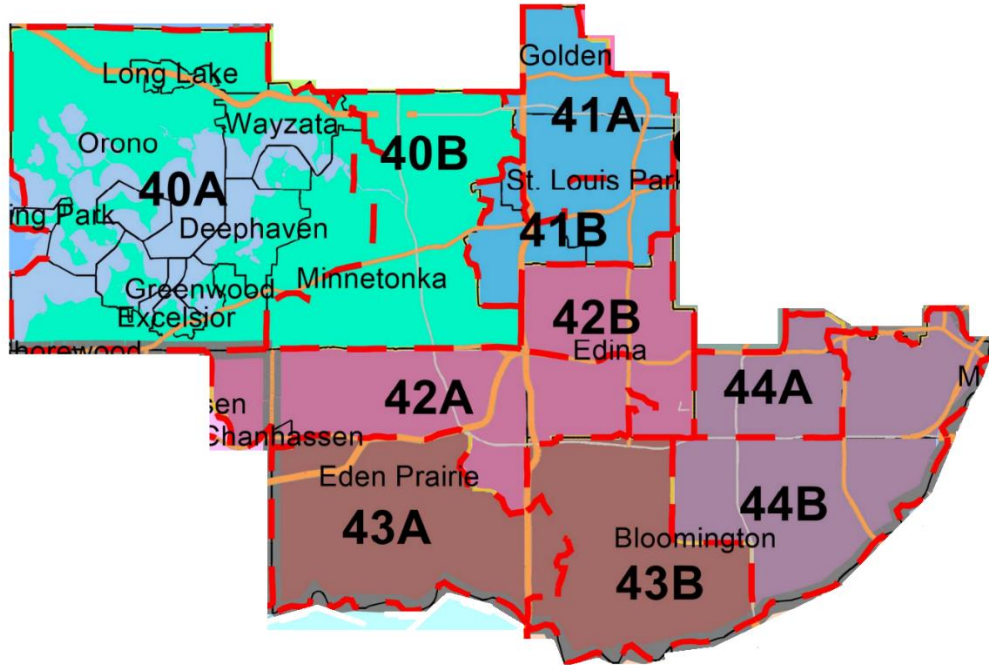
Wattson Affidavit, Exhibit B-2.

6. Minneapolis.

The 2020 Census showed that Minneapolis has enough population for five Senate districts. Those districts are numbered 59 to 63 and are entirely within Minneapolis. SD 59 is the North Side and part of Downtown. The 2020 Census showed it needed to shrink by almost 10,000 people. It does that by shedding three precincts in Bryn Mawr and one Downtown, where I-35W turns north to cross the Mississippi River. Wattson Affidavit, ¶ 63.

SD 60 is Northeast Minneapolis, encompassing all of the city east of the Mississippi River, plus precincts in Ward 2 and Ward 6 that are across the river in Downtown. The 2020 Census showed that, like SD 59, it needed to shrink by almost 10,000 people. It does that by shedding the two precincts in Ward 6. SD 61 is Southwest Minneapolis. The 2020 Census showed it needed to shrink by about 3,000 people. But the shrinking of SD 59 to

its north caused it to add three precincts in Bryn Mawr, so SD 61 had to drop the precinct between Loring Park and I-94, as well as two precincts bordering on Powderhorn Park. Wattson Affidavit, ¶ 64.

SD 62 extends south of Downtown along both sides of I-35W, mostly between Lyndale Ave and MN 55. The 2020 Census showed it needed to add 2,400 people. It gained far more than that from the shrinking of the adjacent SDs 59, 60, and 61, so had to drop several precincts in the south. Wattson Affidavit, ¶ 65.

SD 63 is the balance of South Minneapolis not included in SD 62 or SD 44. The 2020 Census showed it needed to add about 1,500 people. After losing Ft. Snelling, four precincts in Richfield, and one in south Minneapolis to SD 44, it equalizes its population by taking in precincts from the southern portions of current SDs 61 and 62. Wattson Affidavit, ¶ 66.
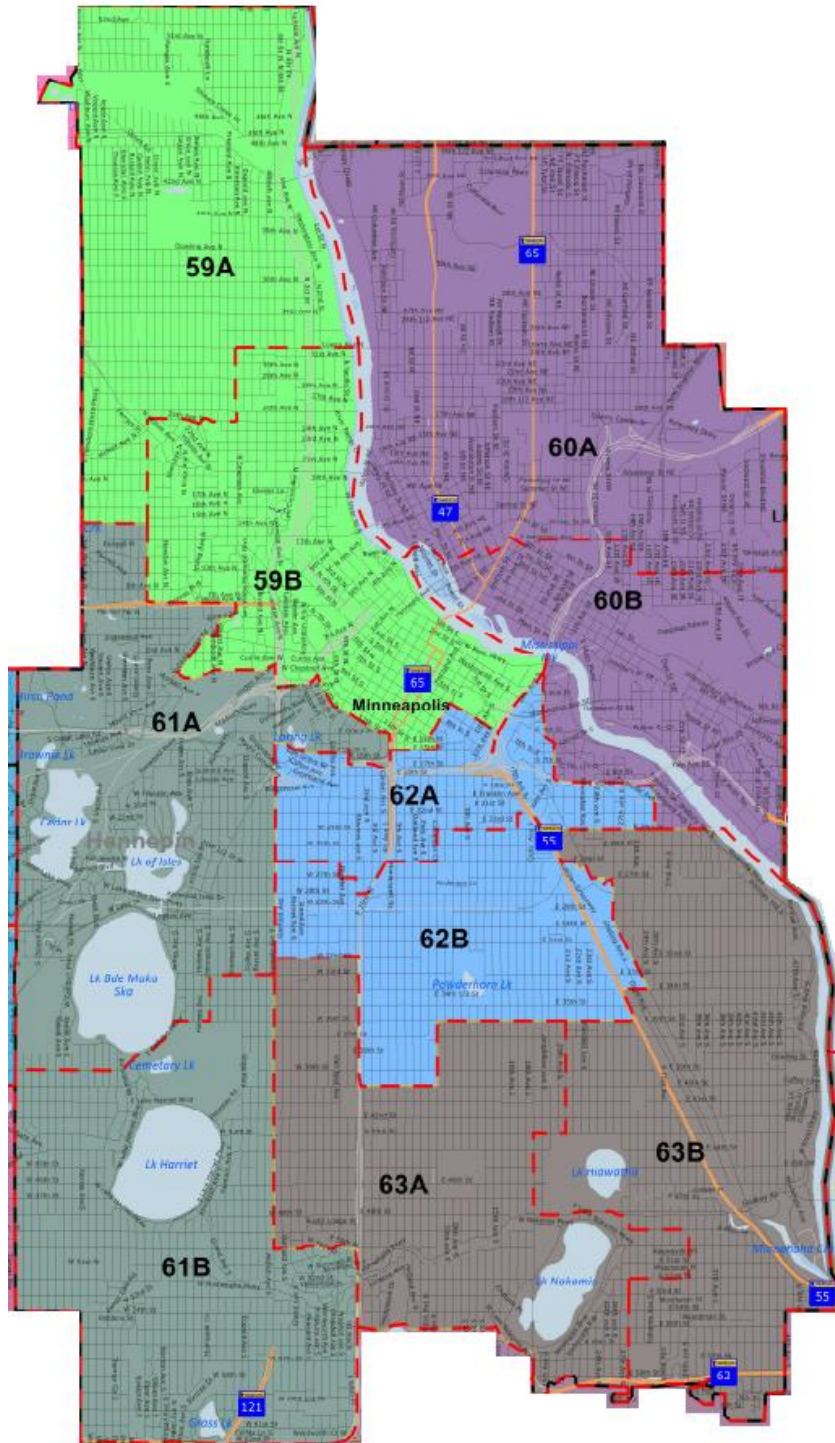
Wattson Affidavit, Exhibit B-4.

7. Ramsey County Outside St. Paul.

The 2020 Census showed that Ramsey County has enough population for 6.5 Senate

districts. Those districts are numbered 45, 46, and 64 to 67, plus part of SD 34, which is anchored in Anoka County, but includes the Ramsey County portion of St. Anthony and all but one precinct of New Brighton. SD 45 and 46 are outside St. Paul. Wattson Affidavit, ¶ 67.

SD 45 is in northern Ramsey County, consisting of Shoreview, Mounds View, Vadnais Heights, Arden Hills, and North Oaks, three precincts from Roseville, one each from New Brighton and White Bear Township, and the Ramsey County portions of Spring Lake Park and Blaine (which are primarily in Anoka County). SD 46 is in northeast Ramsey County, consisting of White Bear Lake, North St. Paul, Little Canada, Gem Lake, eight precincts from Maplewood, three precincts from White Bear Township, and one precinct from Roseville. Wattson Affidavit, ¶ 68.
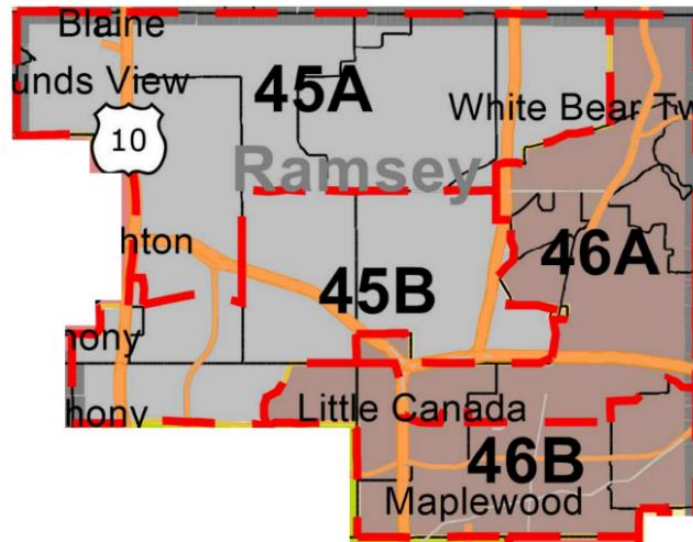
Wattson Affidavit, Exhibit B-2.

8. St. Paul.

The 2020 Census showed that St. Paul has enough population for 3.7 Senate

44

districts. Those districts are numbered 64 to 67. Senate Districts 64, 65 and 67 are entirely within St. Paul. SD 66 is anchored by 16 precincts in northwest St. Paul that contain 55,174 of the 84,873 people in the district. The balance of the population comes from six precincts in Roseville and all of Falcon Heights and Lauderdale. Wattson Affidavit, ¶ 69.

SD 64 is in southwest St. Paul. It is unchanged from current SD 64. SD 65 changes only slightly from current SD 65. The 2020 Census showed it had to shrink by about 2,000 people. It does that by shedding two precincts north of the Pierce Butler Route and adding one south of it, plus two that are east of I-35E and north of University Ave. SD 67, on St. Paul's East Side, changes only slightly from current SD 67. The 2020 Census showed it had to shrink by about 5,000 people. It does that by shedding the two precincts east of I-35E and north of University Ave that were added to SD 65, as well as by shedding the precinct that contains Lake Phalen. Wattson Affidavit, ¶ 70.
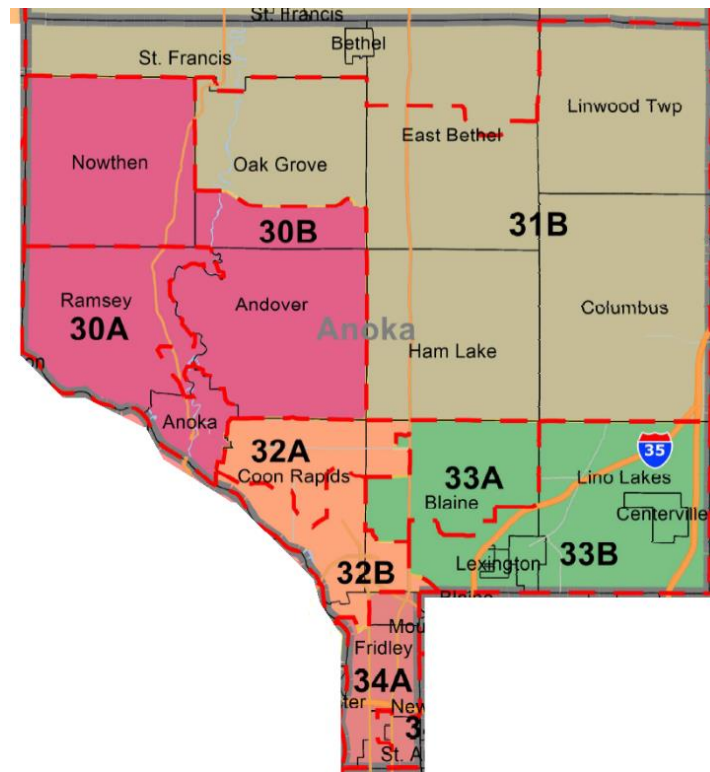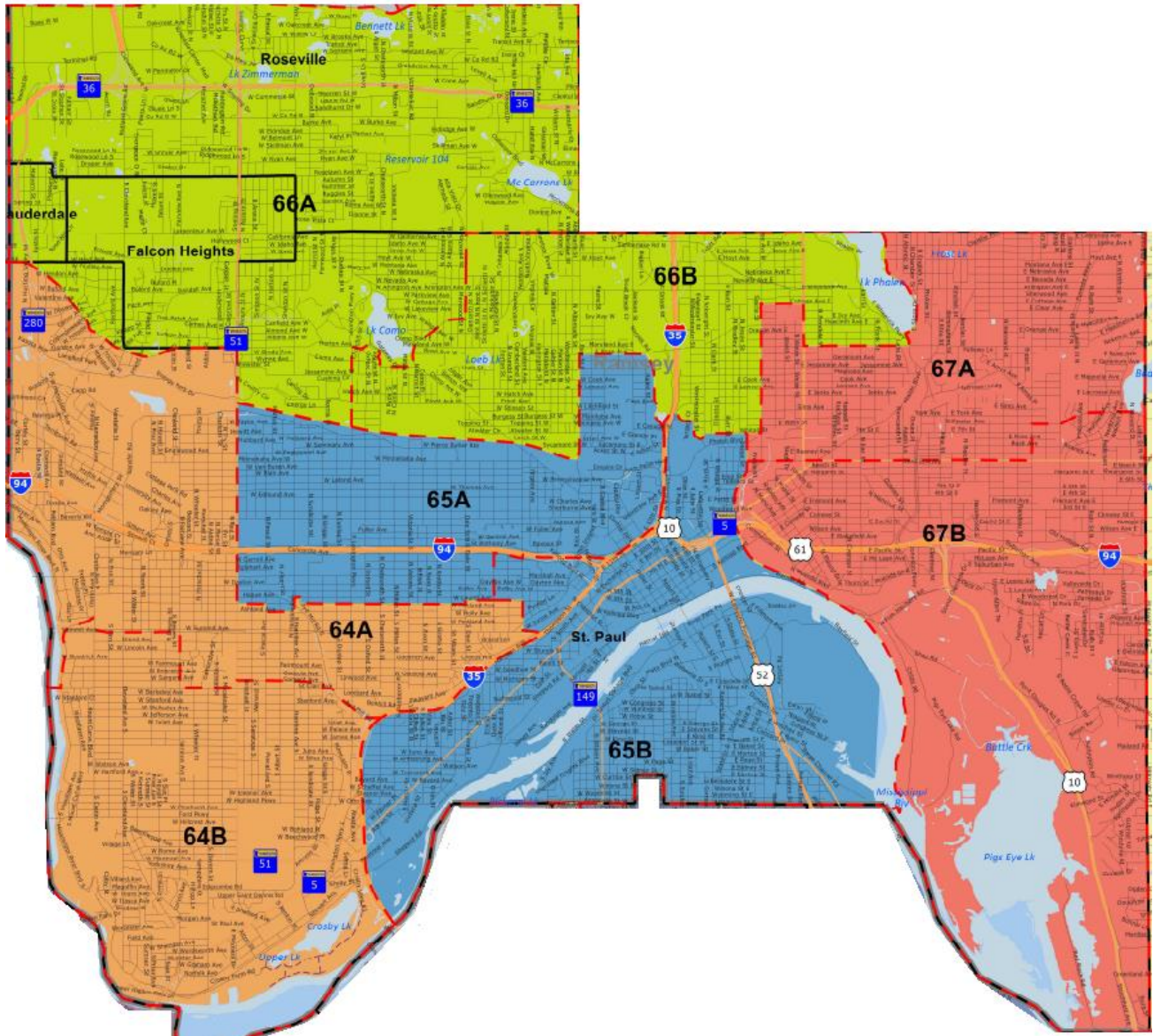
Wattson Affidavit, Exhibit B-4.

9. Washington County.

The 2020 Census showed that Washington County has enough population for 3.1 Senate districts. Those districts are numbered 47 to 50. Only SD 48 is entirely within Washington County. SD 47 also has territory in Chisago County, SD 49 also has territory in Ramsey County, and SD 50 also has territory in Dakota County. Wattson Affidavit, ¶

71.

SD 47 is a St. Croix River district, linked by MN 95 and U.S. 61, running from Taylors Falls, Chisago City, and Wyoming in Chisago County on the north to Forest Lake, Marine on St. Croix, Hugo, and Grant in Washington County on the south. More than 60% of the population lives in Washington County. SD 48 is also a St. Croix River district, running from Stillwater Township on the north to Afton in the south, linked by MN 95, MN 36, and MN 5. Its largest cities are Oakdale, Stillwater, and Lake Elmo. Wattson Affidavit, ¶ 72.

SD 49, anchored by Woodbury, is little changed from current SD 53, which the 2020 Census showed had to shrink by about 8,500 people. It does that by dropping two precincts in Woodbury and one in Oakdale and adding back one in Maplewood. The choice of which precincts to add and subtract was dictated by their populations, and what combination of precincts made it possible to achieve a deviation of no more than two percent. It remains anchored by Woodbury, which has almost 77% of the district's population. It is completed by Landfall, one precinct in Oakdale, and five precincts in Maplewood in Ramsey County. Wattson Affidavit, ¶ 73.

SD 50 has about 60% of its population in Washington County, anchored by Cottage Grove and including Denmark Township and two precincts in Woodbury. Like current SD 54, it crosses the Mississippi River to get the balance of its population, taking in Hastings and Nininger Township in Dakota County. It completes the district by adding two precincts in eastern Rosemount. Wattson Affidavit, ¶ 74.
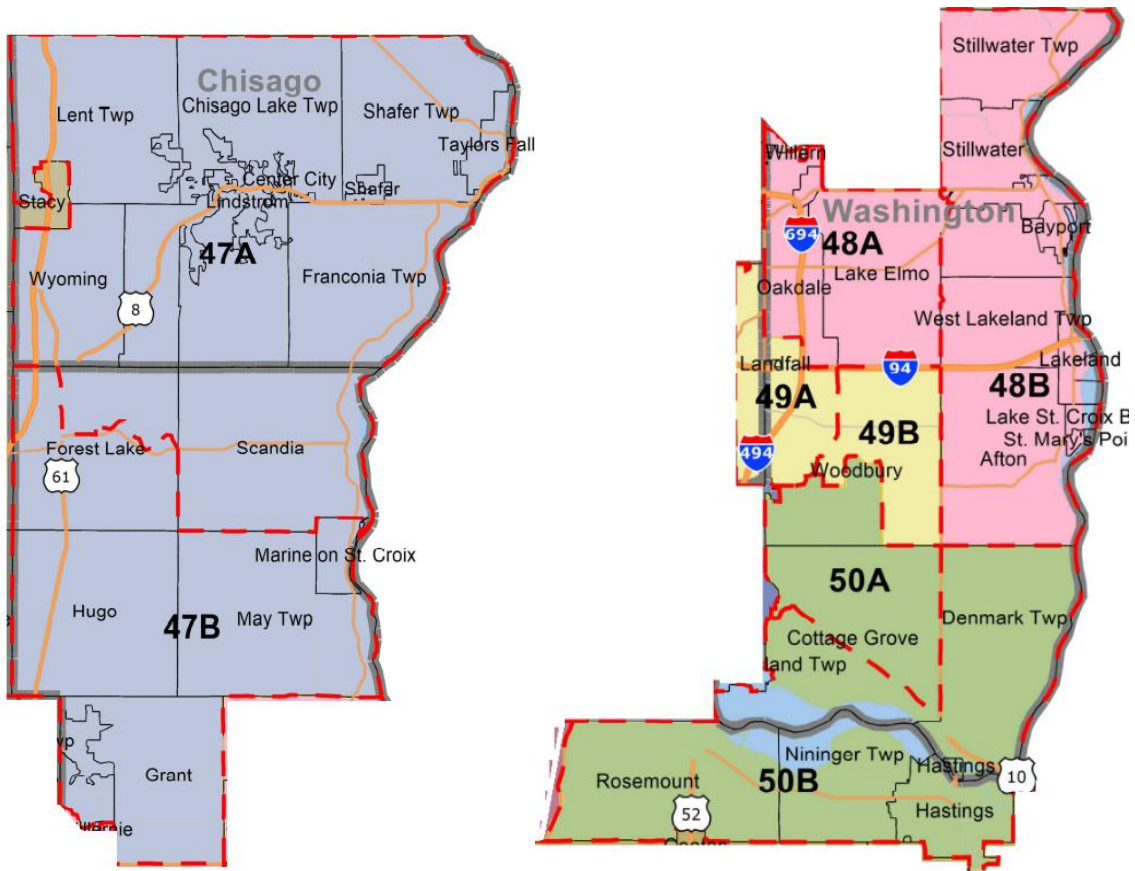
Wattson Affidavit, Exhibit B-2.

10. Carver County.

The 2020 Census showed that Carver County has enough population for 1.3 Senate districts. The portion of Carver County not in SD 17 or SD 42 is numbered SD 51, whose largest cities are Chaska, Victoria, Waconia, and Chanhassen. It also includes the Hennepin County city of St. Bonifacius and the three Minnetrista precincts not in SD 65. Wattson Affidavit, ¶ 75
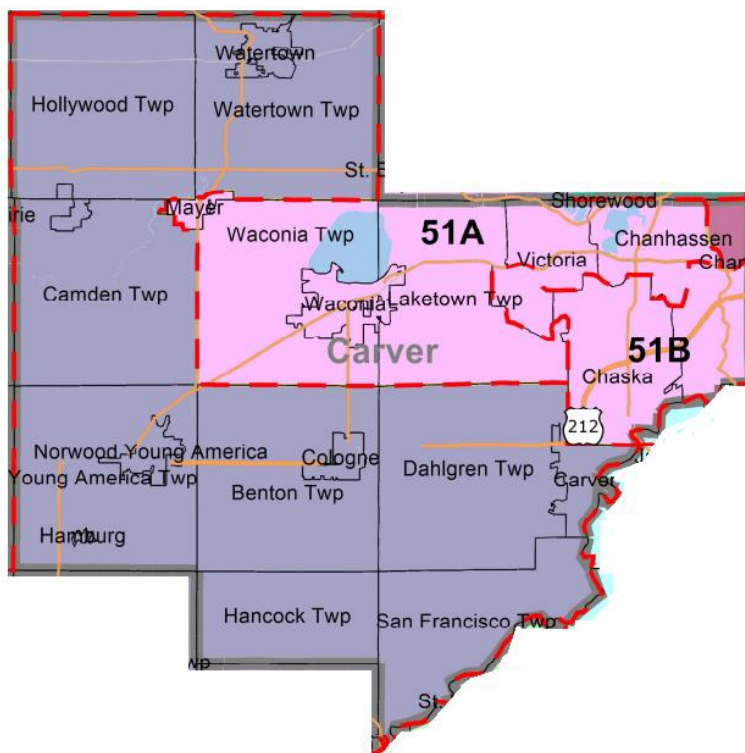
Wattson Affidavit, Exhibit B-2.

11. Scott County.

The 2020 Census showed that Scott County has enough population for 1.8 Senate districts. Those districts are numbered 52 and 53. SD 52 is dominated by the cities of Shakopee, Prior Lake, and Jordan, but also includes the smaller townships of Jackson, Louisville, Sand Creek, and Spring Lake. It encompasses all the Shakopee Mdewakanton Sioux American Indian Reservation. SD 53 has four precincts and part of a fifth in Savage but is mostly the rural areas of Scott, Dakota, Rice, and Le Sueur Counties, stretching along the Minnesota River from St Lawrence Township north of Belle Plaine to Washington Township near Mankato. Wattson Affidavit, ¶ 76.

49
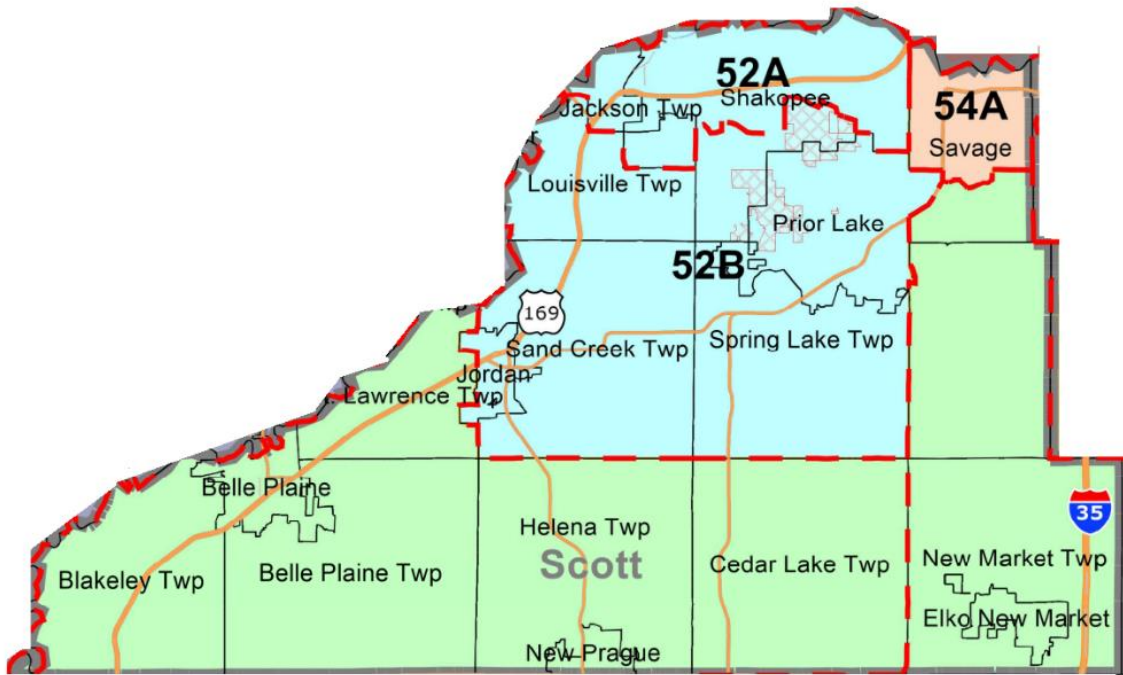
Wattson Affidavit, Exhibit B-2.

12. Dakota County.

The 2020 Census showed that Dakota County has enough population for 5.2 Senate districts. Those districts are numbered 54 to 58. SD 54 is anchored by Burnsville and completed by five precincts and part of a sixth in Savage in Scott County. SD 55, in the northwest tip of the county, is anchored by Eagan and completed by Mendota Heights, Mendota, Lilydale, and one precinct in Inver Grove Heights. SD 56, in the northeast tip of the county, includes the larger cities of South St. Paul, West St. Paul, and Inver Grove Heights (other than the one precinct in SD 55). It also crosses the Mississippi River on I-494 (as does current SD 54) to include the Washington County cities of Newport and St. Paul Park, plus Grey Cloud Island Township. SD 57 is anchored by Apple Valley and completed by the balance of Rosemount not included in SD 50 and four precincts in

northern Lakeville. SD 58 is anchored by 13 precincts in Lakeville and completed by Farmington and 11 rural cities and towns in southern Dakota County. Wattson Affidavit, ¶ 77.

Wattson Affidavit, Exhibit B-2.

13. Southern Minnesota.

SD 18 is in the Mankato metropolitan area. It is little changed from current SD 19, which the 2020 Census showed had to shrink by about 1,300 people. It does that by dropping four cities and towns in the northwest corner of Nicollet County and adding Le Ray Township east of Eagle Lake. It remains anchored by Mankato and completed by North Mankato, St. Peter, Eagle Lake, and 17 other small cities and towns in Blue Earth,

Le Sueur, and Nicollet Counties. Wattson Affidavit, ¶ 78.

SD 21 includes the large cities of Northfield and Faribault in Rice County and Owatonna in Steele County and their surrounding small cities and towns, all a short drive from the Twin Cities on I-35. SD 22 includes all of Goodhue and Wabasha Counties and smaller cities and towns in Dakota, Dodge, and Winona Counties. Its eastern border is the Mississippi River. Wattson Affidavit, ¶ 79.

The 2020 Census showed that Olmsted County has enough population for 1.9 Senate districts. Those districts are numbered 23 and 24. SD 24 consists of the portion of Rochester lying generally north of U.S. 14, the townships adjacent to that portion of the city, Oronoco city and township, and Farmington Township. Almost 90% of its population is in the City of Rochester. SD 24 consists of the remainder of Olmsted County, plus Kasson and Mantorville city and township in Dodge County. More than 50% of its population is in the City of Rochester. Wattson Affidavit, ¶ 80.

SD 19 consists of six counties in the southwest corner of the state (Lincoln, Lyon, Murray, Nobles, Pipestone, and Rock), plus 13 cities and towns in Jackson County. SD 20, in south central Minnesota, runs from the southern border to north of Mankato. It consists of Martin, Waseca, and Watonwan Counties, and portions of Blue Earth, Faribault, Le Sueur, and Rice Counties. Its largest city is Fairmont in Martin County, population 10,487. It is linked by I-90 and U.S. 169. Wattson Affidavit, ¶ 81.

SD 25, also in south central Minnesota, is little changed from current SD 27, which the 2020 Census showed had to add 5,400 people. It does that by adding adjacent townships and their embedded cities, two in Faribault and Dodge Counties and six in Steele County.

52

It is linked by I-90, I-35, and U.S. 218. SD 26, in the southeast corner of the state bordering the Mississippi River, is little changed from current SD 28, which the 2020 Census showed had to add almost 7,900 people. It does that by adding three adjacent townships and their embedded cities in Winona County. Wattson Affidavit, ¶ 82.
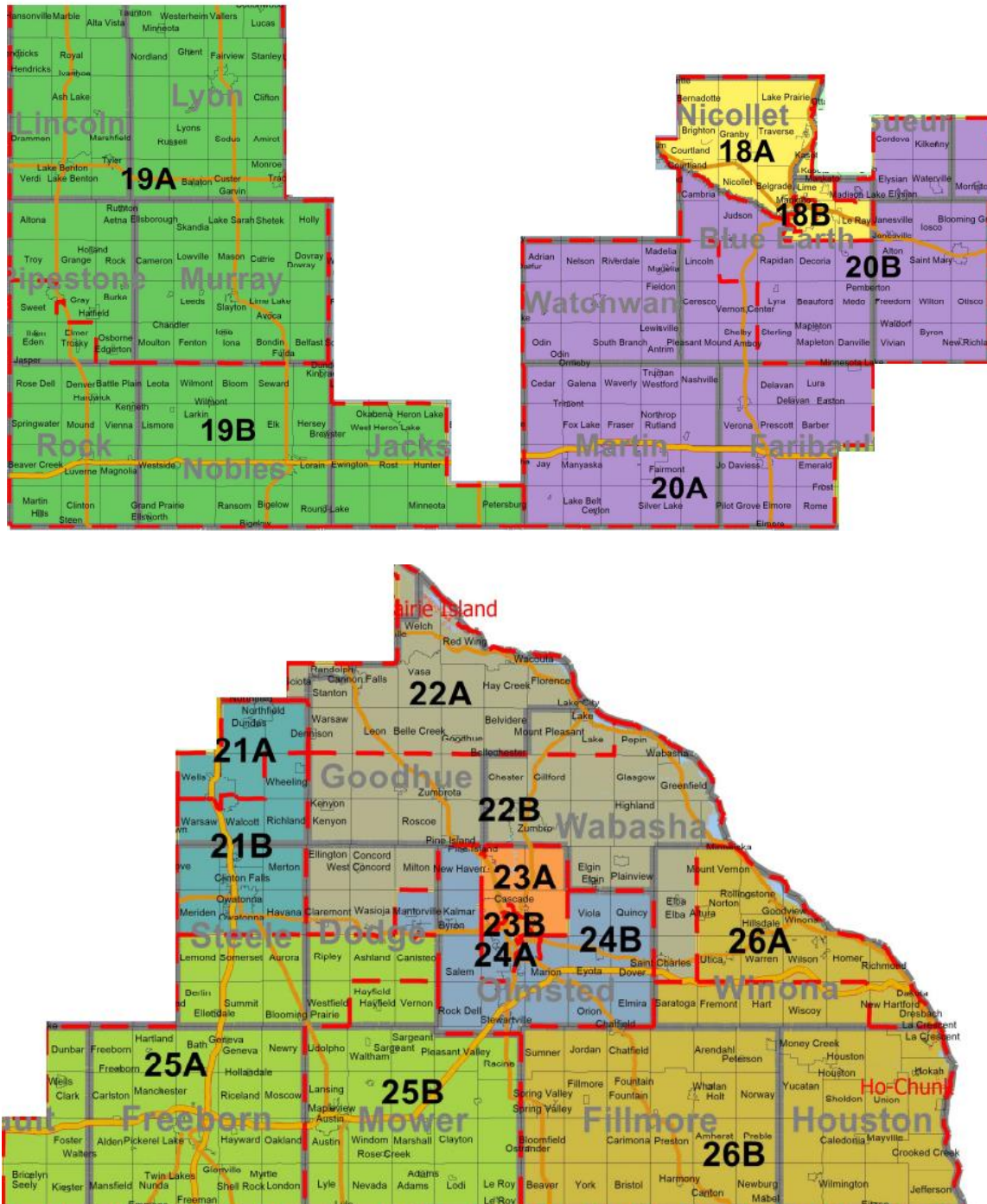
Wattson Affidavit, Exhibit B-1.

As can be seen from the maps and explanations above, the rural to urban shift required populations to be shifted out of the urban and suburban districts and into the rural districts. The size of the rural districts in Greater Minnesota had to grow to capture additional population while the urban districts had to shrink. The Wattson Plaintiffs' Plans drew its districts to account for these changing dynamics and to create districts that are convenient in light of these changes necessary to equalize their populations.

VI. THE WATTSON PLAINTIFFS' PLANS SPLIT THE RESERVATION LANDS OF ONLY ONE FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE, AND THIS SPLIT DOES NOT DIVIDE ANY POPULATION.

The Panel has instructed the parties to preserve the reservation lands of federally recognized American Indian tribes, with divisions only allowed to meet constitutional requirements. Redistricting Principles Order, p. 6. The Panel also stated, "Placing noncontiguous portions of reservation lands in separate districts does not constitute a division." *Id.* The Wattson Plaintiffs included with their Plans an American Indian Reservations Split Report that shows which reservations were split under their Plans. Wattson Affidavit, Exhibits C-5, D-5, E-5. The report treats off-reservation trust land as if it were part of the reservation, to assist plan drafters who would prefer to keep them all together. The report shows all reservation splits, whether the splits involve noncontiguous or contiguous reservations. Wattson Affidavit, ¶ 83.

A. The Wattson Plaintiffs' Congressional Plan does not split any contiguous reservation lands of federally recognized American Indian tribes.

In their Congressional Plan, the Wattson Plaintiffs do not divide any contiguous reservation lands of a federally recognized American Indian tribe. Wattson Affidavit, Exhibit A-1, C-5, ¶ 84. The report does note that there are two American Indian Reservation splits involving noncontiguous reservations, but these splits involve 0 people (Red Lake Reservation) and seven people (Minnesota Chippewa Reservation). Wattson Affidavit, ¶ 84. While these noncontiguous splits are not deemed splits under the Panel's redistricting principles, the Wattson Plaintiffs feel it is important for anyone drawing a plan to know where all these reservations are located and may be divided. *See Reynolds v. Sims*, 377 U.S. 533, 563 (1964) ("Legislators represent people, not trees or acres").

B. In Wattson Plaintiffs' House and Senate Plans, the contiguous land of federally recognized American Indian Reservations is divided only once.

In the Wattson Plaintiffs' Senate Plan, the contiguous land of federally recognized American Indian Reservations is divided only once, but this division involves no people. Wattson Affidavit, ¶ 85. The Upper Sioux Reservation is divided between SD 15 and SD 16. Wattson Affidavit, Exhibits B-1, D-5. The map below shows this division.
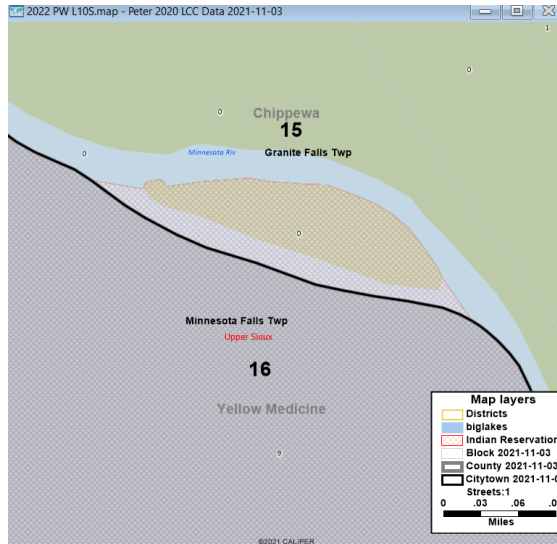
This reservation split is necessary to keep Chippewa County and Granite Falls Township in SD 15 whole. The split places a small, uninhabited island in the Minnesota River in SD 15. There are no known voters on this island. The Upper Sioux Community voters who reside in this community all live in District 16. Wattson Affidavit, ¶ 85.

The American Indian Reservation Splits report for the Wattson Plaintiffs' Senate Plan shows that five reservations were split ten times, but as noted above, the only split of a contiguous reservation was the Upper Sioux reservation split between SD 15 and 16, with no population being split. The other splits involve noncontiguous reservation lands and as can be seen on the report, very little population was separated as a result of those splits. Wattson Affidavit, ¶ 86.

The American Indian Reservations Split report for the Wattson Plaintiffs' House Plan shows that six reservations were split 13 times. Again, only one of these splits involves contiguous reservation land, and the noncontiguous splits shift very little population. Wattson Affidavit, ¶ 87.

The Wattson Plaintiffs made great effort to preserve the reservation lands of federally recognized American Indian tribes which is evidenced by only one split of contiguous reservation lands among all Congressional, Senate, and House districts.

VII. **THE DISTRICTS PROPOSED BY THE WATTSON PLAINTIFFS DO NOT DENY OR ABRIDGE THE VOTING RIGHTS OF ANY UNITED STATES CITIZEN ON ACCOUNT OF RACE, ETHNICITY, OR MEMBERSHIP IN A LANGUAGE MINORITY GROUP, AND THEY PROTECT THE EQUAL OPPORTUNITY OF RACIAL, ETHNIC, AND LANGUAGE MINORITIES TO PARTICIPATE IN THE POLITICAL PROCESS AND ELECT CANDIDATES OF THEIR CHOICE, WHETHER ALONE OR IN ALLIANCE WITH OTHERS.**

As a built-in safeguard against racial gerrymanders, and to ensure plans are not "drawn with either the purpose or effect of denying or abridging the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority group", the Wattson Plaintiffs encourage the Panel to adopt a plan that minimizes precinct splits. As more fully discussed above, the approach of minimizing precinct splits has numerous benefits, and one of these benefits is to prevent (intentional or unintentional) racial gerrymanders. Also, as noted by the *Zachman* panel, "minority groups have great opportunities to influence their legislators" when precincts are not split. *Zachman*, CO-01-160 (Order Adopting a Legislative Redistricting Plan), p. 4. Because precinct boundaries are drawn by these local communities themselves, these boundaries reflect how these local groups wish to divide themselves based on numerous factors that cannot be considered or contemplated in a statewide redistricting process. By maintaining precinct boundaries and the communities that they establish, racial, ethnic, and language minorities will have more opportunity to participate in the political process and elect candidates of their choice.

57

The Wattson Plaintiffs' Plan illustrates how it is possible to create greater opportunities for traditionally under-represented voters to have a fair chance to elect members of their choice.

A. Congressional Districts.

As shown on the Minority Representation – Voting Age Population Report, the Wattson Plaintiffs' Congressional Plan has two Minority opportunity districts, the fourth and fifth districts. Wattson Affidavit, Exhibit C-2.

District	Black	%	Asian	%	Hispanic	%	Indian	%	Other	%	Minority	%
4	53,102	9.6	65,848	12.0	34,296	6.2	2,801	0.5	20,770	3.8	176,817	32.1
5	84,423	14.7	34,967	6.1	49,286	8.6	5,119	0.9	25,976	4.5	199,771	34.9

A Minority Opportunity District is one where at least 30% of the voting age population consists of minorities. *Id.* The Panel's redistricting principles require the parties to protect the "equal opportunity of racial, ethnic, and language minorities to participate in the political process and elect candidates of their choice, whether alone or in alliance with others." Redistricting Principles Order, p. 6. While no district contains more than 15% of any one minority, two districts can be created when coalitions of minorities are used. *Id.*

B. Senate Districts.

The Wattson Plaintiffs' Senate Plan contains 10 Minority Opportunity districts and four Majority-Minority districts. A table of these districts is below.

District	Black	%	Asian	%	Hispanic	%	Indian	%	Other	%	Total Minority	%
40	18,873	30.1	10,708	17.1	6,259	10.0	365	0.6	2,661	4.2	38,866	61.9
41	9,047	13.4	4,418	6.6	5,665	8.4	473	0.7	2,738	4.1	22,341	33.1
50	6,378	9.4	4,844	7.1	7,550	11.1	419	0.6	2,818	4.1	22,009	32.4
59	21,889	30.1	6,644	9.1	6,093	8.4	991	1.4	3,720	5.1	39,337	54.2
60	10,490	12.6	8,087	9.7	5,176	6.2	549	0.7	3,753	4.5	28,055	33.8
62	14,585	22.6	1,977	3.1	11,833	18.4	1,451	2.3	3,195	5.0	33,041	51.2
65	13,559	20.3	8,556	12.8	6,796	10.2	572	0.9	3,041	4.5	32,524	48.6
66	7,294	11.5	10,825	17.0	3,939	6.2	345	0.5	2,520	4.0	24,923	39.2
67	9,660	15.3	19,008	30.1	7,492	11.9	534	0.8	2,527	4.0	39,221	62.1

In addition to the Minority Opportunity districts above, it is also worth discussing SD 4 and SD 5. SD 4 encompasses all the White Earth Indian Reservation and all but one person in the Red Lake Indian Reservation. Wattson Affidavit, Exhibit D-2. It has an American Indian voting-age population that is 11% of the voting-age population of the district, the largest in the state. Wattson Affidavit, Exhibit D-2. SD 5 encompasses all of the Leech Lake Indian Reservation. It has an American Indian voting-age population that is 8% of the voting-age population of the district. Wattson Affidavit, Exhibit D-2. These districts provide American Indians with a larger voice than in any other district.

Overall, the Wattson Plaintiffs' Senate Plan has one more Minority Opportunity district than the *Hippert* Base Plan, which has nine. Wattson Affidavit, Exhibits G, I, p. 6.

C. House Plan.

The Wattson Plaintiffs' House Plan has 21 Minority Opportunity districts and nine majority-minority districts.

District	Black	%	Asian	%	Hispanic	%	Indian	%	Other	%	Total Minority	%
34A	5,039	15.2	1,958	5.9	3,174	9.5	278	0.8	1,438	4.3	11,887	35.8
37A	8,416	27.3	6,353	20.6	1,801	5.8	124	0.4	1,201	3.9	17,895	57.9
37B	9,658	32.1	4,156	13.8	3,136	10.4	182	0.6	1,237	4.1	18,369	61.0
39A	5,122	15.1	1,526	4.5	2,217	6.5	174	0.5	1,410	4.2	10,449	30.8
39B	5,056	15.2	3,011	9.0	2,700	8.1	157	0.5	1,590	4.8	12,514	37.6
44A	2,902	8.5	2,144	6.3	4,751	13.9	175	0.5	1,511	4.4	11,483	33.7
44B	3,725	11.1	2,514	7.5	4,054	12.1	198	0.6	1,416	4.2	11,907	35.6
59A	9,977	33.2	2,982	9.9	3,100	10.3	438	1.5	1,859	6.2	18,356	61.0
59B	9,180	27.1	3,219	9.5	2,308	6.8	461	1.4	1,414	4.2	16,582	48.9
60B	2,723	6.9	6,020	15.2	1,936	4.9	197	0.5	1,843	4.6	12,719	32.0
62A	12,451	35.5	1,701	4.8	3,364	9.6	640	1.8	1,642	4.7	19,798	56.4
62B	7,737	25.0	914	3.0	8,452	27.3	911	2.9	1,390	4.5	19,404	62.7
46B	2,743	8.2	5,195	15.5	2,199	6.5	134	0.4	1,240	3.7	11,511	34.3
66B	5,304	18.1	9,083	31.0	2,752	9.4	243	0.8	1,203	4.1	18,585	63.5
65A	8,765	28.1	5,596	17.9	2,452	7.9	215	0.7	1,440	4.6	18,468	59.2
65B	4,796	13.6	2,019	5.7	4,217	12.0	344	1.0	1,564	4.4	12,940	36.8
67A	3,986	13.6	10,375	35.4	3,741	12.8	291	1.0	1,176	4.0	19,569	66.8
67B	5,111	16.7	7,940	25.9	3,463	11.3	216	0.7	1,236	4.0	17,966	58.6
52A	2,470	8.0	3,675	11.9	2,976	9.6	317	1.0	991	3.2	10,429	33.7
54A	3,525	11.2	2,744	8.7	2,254	7.1	129	0.4	1,182	3.7	9,834	31.1
54B	3,726	11.3	1,692	5.1	3,307	10.0	99	0.3	1,302	3.9	10,126	30.7

Wattson Affidavit, Exhibit E-2.

This is slightly above the 20 Minority-Opportunity districts and equal to the nine Majority-Minority districts in the *Hippert* Plan. Wattson Affidavit, Exhibit G, J, p. 8.

D. Creation of Senate District 62 to represent the East African residents of Minneapolis.

As an example of a way the Wattson Plaintiffs have attempted to protect the equal opportunity of racial, ethnic, and language minorities to participate in the political process to elect candidate of their choice, in the Wattson Plaintiffs' Senate Redistricting Plan, the Wattson Plaintiffs have created Senate District 62 that attempts to encompass the East African community in the Cedar Riverside and Phillips neighborhoods in Minneapolis. Affidavit of Nick Harper dated December 3, 2021, ¶ 3. Throughout the summer and fall of

2021, multiple organizations in Minnesota drew community of interest maps to identify, describe, and geographically place their communities for the state and local redistricting processes. *Id.*, ¶ 4.

In August 2021, the Islamic Civic Society of America (ICSA), Pillsbury United Communities (PUC), and the Minnesota chapter of the Council on American Islamic Relations (CAIRMN) held a combined total of at least ten mapping sessions with each of their constituents. These maps and community descriptions identified a strong East African community in the Cedar Riverside and Phillips neighborhoods in Minneapolis. ¶ 5. Nick Harper, the Civic Engagement Director for Plaintiff League of Women Voters Minnesota, attended two of these community mapping sessions to observe, help take notes, and provide technical mapping assistance with Districtr, an online mapping tool used to create and describe communities of interest. ¶ 6. Some of these mapping sessions were assisted by League volunteers, including Paul Huffman, Redistricting Coordinator. The mapping sessions were led and facilitated, however, by community leaders chosen by the sponsoring organizations. *Id.*

During these meetings, community members identified their community and shared interests and characteristics. Nick Harper reviewed the description of each map, as well as used word and phrase frequency analysis of the descriptions to determine common themes among them. Members of the community are Black residents of Minneapolis. ¶ 7. They are primarily immigrants from eastern Africa like Somalia and Ethiopia or are descendants from recent immigrants. *Id.* Many speak a language other than English, such as Somali, Amharic, or Oromo. *Id.* Many are Muslim, observe religious holidays, and practice daily

prayers. *Id.* These members of the community also identified many shared policy issues that they have concerns about, including health and human services, housing, education, and law enforcement and public safety. *Id.* And because the community has a strong cultural focus on community and family, many of the community members are particularly concerned about how these policy areas affect the children and young members of their community. *Id.*

Mr. Harper reviewed ten maps that identify geographic areas of Minneapolis, some pieces which overlap and some which do not. *Id.*, ¶ 8.[4] After analyzing these maps by overlaying them on top of each other, the Wattson Plaintiffs have determined that SD 62 reflects the precincts in Minneapolis that were most agreed upon as being geographically part this community. *Id.* This community was split between at least two senate districts during the last redistricting cycle (Senate Districts 62 and 63). *Id.* An image overlaying these maps with the Wattson Plaintiffs' SD 62 is included below.

---
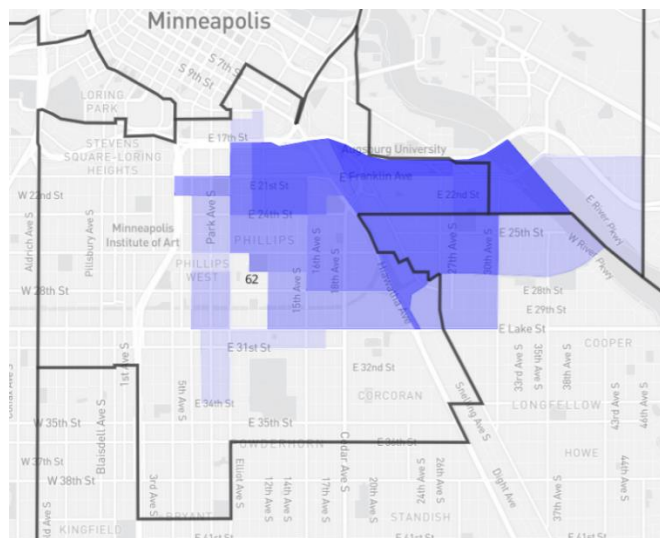
[4] Links to these 10 maps are in the Affidavit of Nick Harper dated December 3, 2021, ¶ 8.

Portions of the overlays were excluded from the Wattson Plaintiffs' SD 62 because those precincts were not agreed upon as common geographic areas by the community and because the White Voting Age Population for those precincts was significantly higher than Black Voting Age Population. *Id.*, ¶ 9. One of those precincts is Minneapolis Ward 2 Precinct 9, the southern portion of which is the western riverbank near E. Franklin Ave. *Id.* This precinct is only 13.0% Black VAP, but 76.1% White VAP. *Id.* The other precinct is Minneapolis Ward 2 Precinct 2, covering the southern portion of the Seward neighborhood between E. 24th St. and E. 27th St. *Id.* This precinct is only 7.7% Black VAP, but 80.8% White VAP. *Id.* Therefore, including those precincts in SD 62 would have diluted the Black Voting Age Population. *Id.*

By keeping this community intact in SD 62, this minority community will have a greater opportunity to participate in the political process and elect candidates of their choice.

E. The Wattson Plaintiffs' treatment of Incumbents in their House Plan does not negatively impact the ability of racial, ethnic, and language minorities to participate in the political process and elect candidates of their choice.

Most house incumbents who are members of a racial or ethnic minority group see little change in the racial and ethnic composition of their district and its electoral performance. This section focuses on the districts that warrant an explanation. The explanation discusses both the Minority Incumbents table for the Base Plan used for the 2020 election (Wattson Affidavit, Exhibit 0), and the Minority Incumbents table for the Wattson Plaintiffs' House Plan (Wattson Affidavit, Exhibit E-11).

1. <u>Brooklyn Center/Brooklyn Park.</u>
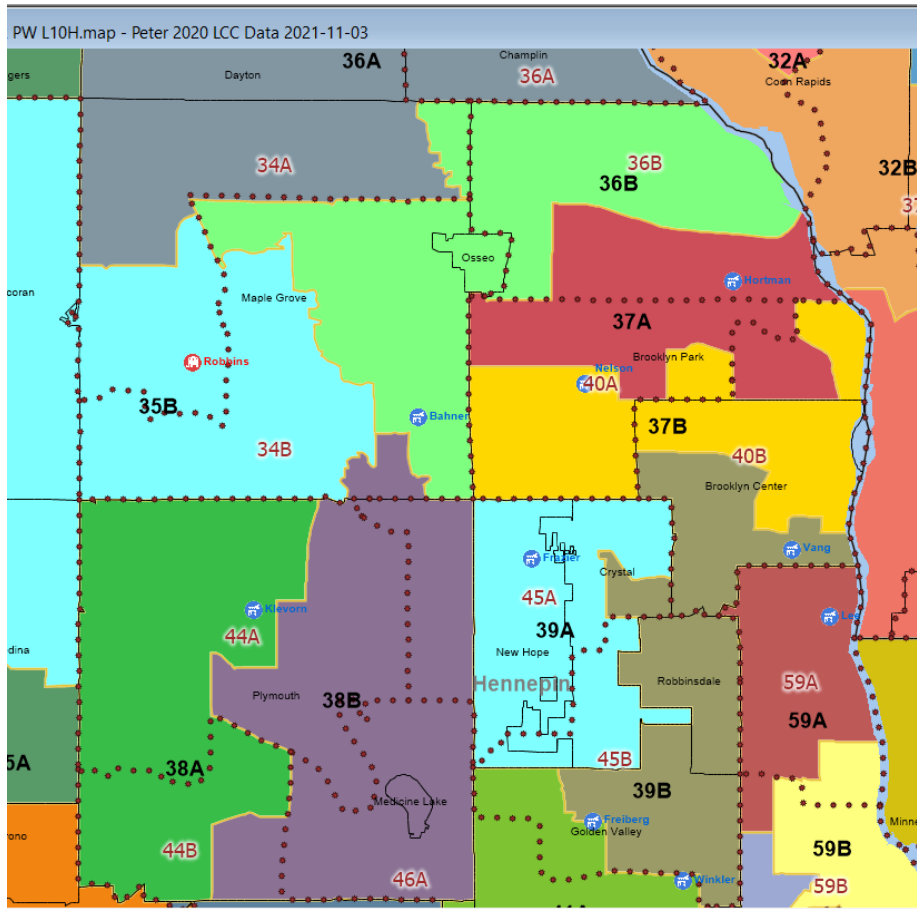
To begin at the top of the 2020 table, the district with the highest Total Minority voting-age population, the one White incumbent in a majority-minority district, Rep. Michael Nelson in HD 37B, sees his Total Minority voting-age population drop from 66% on the 2020 table to 61% on the 2022 table, where he would reside in 37B. The one White incumbent who would rise into a majority-minority district, Speaker Melissa Hortman in 37A, sees her Total Minority rise from 36% to 58%. She gets that minority population from Rep. Nelson's district, which accounts for the drop in his district. Rep. Nelson, in turn, takes minority population from Rep. Samantha Vang, an Asian woman, in HD 39B.

Rep. Vang was elected from a 2020 district that had 59% Total Minority, with 24% Black and 18% Asian. So, she was elected by a coalition of minority voters plus White voters.

The Wattson Plaintiffs' Plan takes her Total Minority down to 38%, with 15% Black and 9% Asian. Her district is 39% Democrat. The Wattson Plaintiffs do not assume their House Plan would deprive minority voters of an opportunity to elect a candidate of their choice. Not pairing incumbents is near the bottom of the Wattson Plaintiffs' priorities. The district has the boundaries it does because of the populations of the precincts needed to equalize its population. The reader can see on the map below that splitting Brooklyn Center precincts 2, 5, and 7 to take from her district the northern blocks of P-5 and P-7 and add to her district the southern blocks of P-2, would make both districts more compact, but it might not change the Total Minority population.

Under the Wattson Plaintiffs' House Plan, minority voters should still have an equal opportunity to elect a candidate of their choice in HD 37A, 37B, and 39B.

2. St. Paul – East Side.
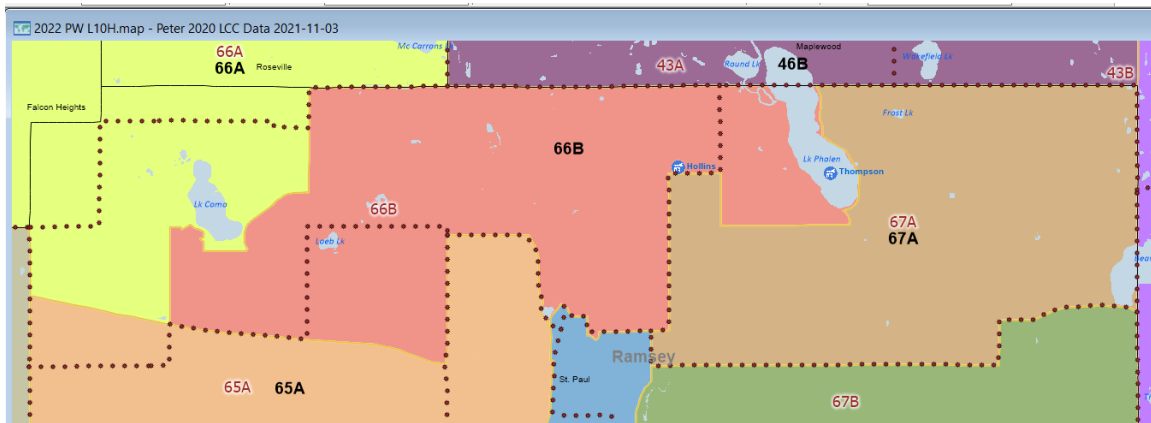
At the top of the 2022 table which represents the Wattson Plaintiffs' Plan is an open seat in HD 67A, the northeast corner of St. Paul. It has a Total Minority population of 67%, its largest minority is 35% Asian, and it is 14% Black. It is open because the current incumbent, Rep. John Thompson, may be the only incumbent not to have made public his residential address when filing for office with the Secretary of State in 2020. We don't know where he lives, so Mr. Wattson put his incumbent icon in Lake Phalen, HD 66B, to make it obvious that was not his real address. So, he may or may not actually be paired with Rep. Athena Hollins in HD 66B, with a Total Minority of 64% and a largest minority population of 31% Asian. HD 66B does not prevent minority voters from having an equal opportunity to elect a candidate of their choice.

3. <u>Minneapolis – South Side.</u>
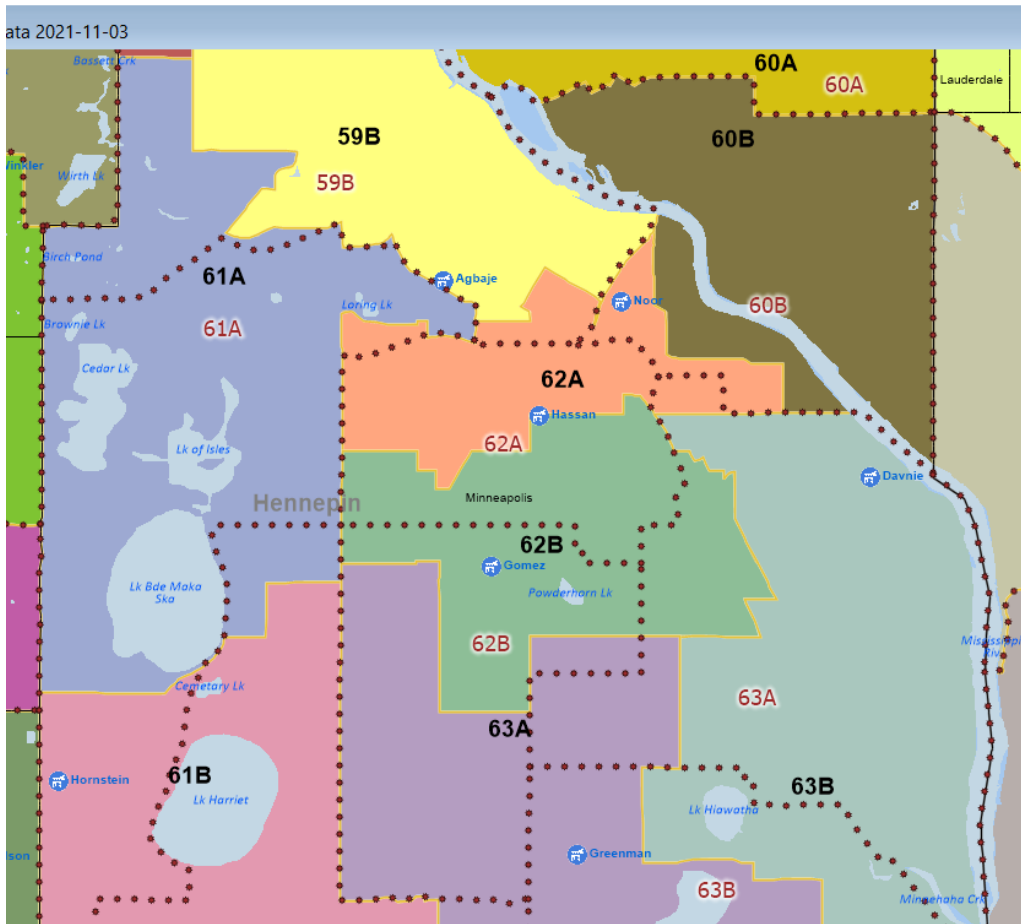
In South Minneapolis, Rep. Aisha Gomez is paired in HD 62B with Rep. Hodan Hassan. Roughly equal numbers of voters came from their previous districts. They were pushed together because the overpopulation of districts along the Mississippi River in Minneapolis caused the districts north of them to shrink, and theirs to move north to fill the void. At the same time, the overpopulation of Rep. Mohamud Noor's HD 60B caused it to shrink toward the northeast, leaving him out of it. But that would pair her with Rep. Noor in his new HD 62A. In 2020, that district was 39% Total Minority and 16% Black. In 2022, 62A is 56% Total Minority and 35% Black, the highest Black percentage in the

state, while 60B goes from 39% Total Minority, 16% Black and 14% Asian, to 32% Total Minority, 7% Black and 15% Asian.

Whatever these three minority incumbents decide to do under the Wattson Plaintiffs' House Plan, the minority voters in HD 60B, 62A, and 62B will have an equal opportunity to elect candidates of their choice.

4. <u>Eagan/Mendota Heights/Inver Grove Heights.</u>
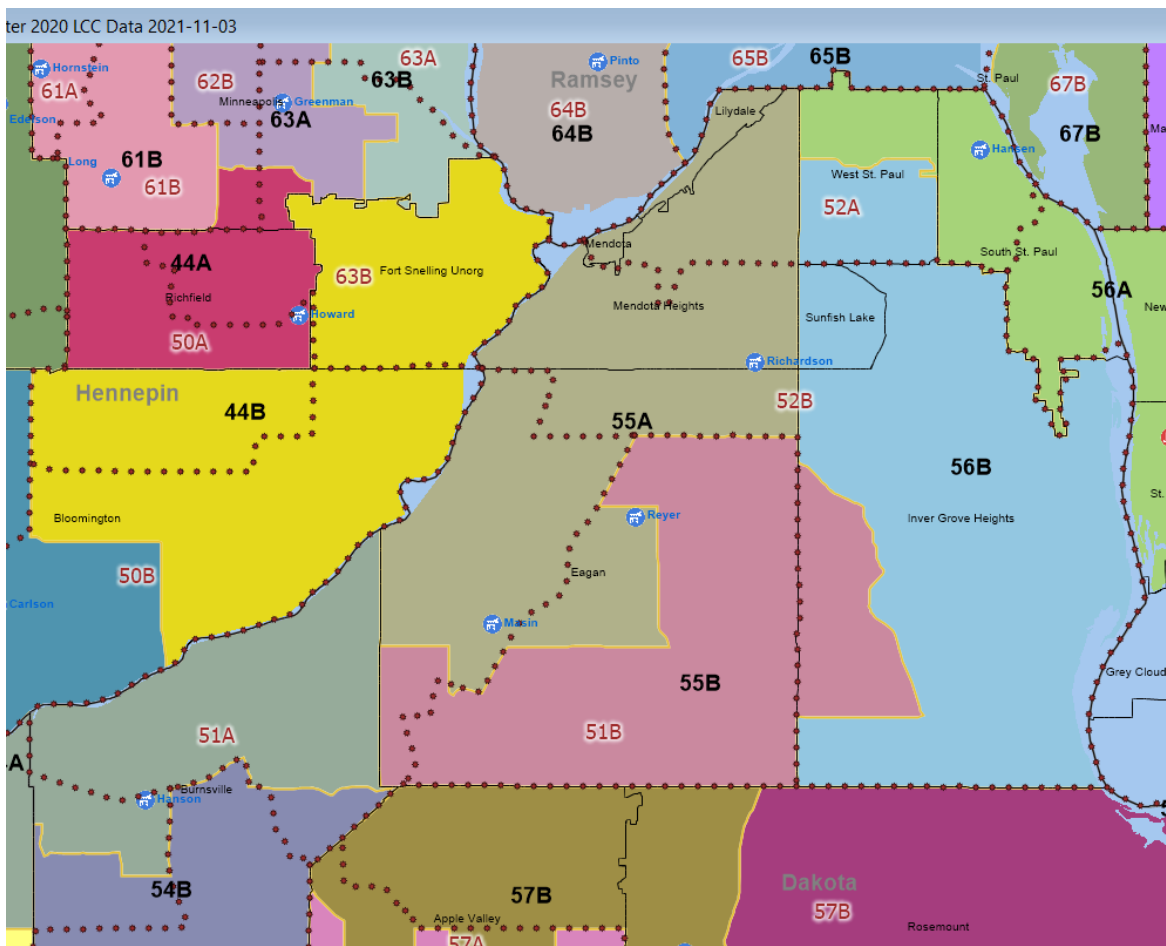
In the Wattson Plaintiffs' House Plan, HD 55A pairs minority incumbent Rep. Ruth Richardson, a Black woman, with two White women incumbents, Rep. Sandra Masin and Rep. Liz Reyer. The district has a Total Minority voting-age population of 24%, its largest

minority is the 8% who are Asian, and the Black minority is 7%. Rep. Richardson's 2020 district, HD 52B, had a Total Minority of 22%, its largest minority was the 9% who were Hispanic, and 5% were Black. She could not have been elected by Black voters alone, nor even all minority voters alone. She must have received most of her votes from White voters. The racial and ethnic composition of the proposed 2022 district is more favorable for her than her 2020 district.

The Core Constituencies report for the Wattson Plaintiffs' House Plan shows that half the voting-age population of the new district came from 2020 HD 51A in Eagan and Burnsville, where Rep. Masin is the incumbent, 17% came from HD 51B in Eagan and Inver Grove Heights, where Rep. Reyer is the incumbent, and 13% came from HD 52B in Mendota Heights, Eagan, and Inver Grove Heights, where Rep. Richardson is the incumbent. Being paired with two other incumbents who each have more former constituents than she does is not favorable for Rep. Richardson.

This is not a minority-opportunity district under either the Voting Rights Act or the panel's Principle 3 on minority representation. Nevertheless, if the panel chooses to draw districts in this area that will enhance Rep. Richardson's chances of being re-elected, the Wattson Plaintiffs offer some possibilities below.

The district's shape is driven by the Wattson Plaintiffs' approach of minimizing both the number of cities and the number of precincts split. In the *Hippert* House plan, Mendota Heights and Eagan are split. In the Wattson Plaintiffs' House Plan, Mendota Heights is not split, but Inver Grove Heights is, so the number of splits does not increase. The Plan splits no precinct in these districts. Keeping all of Mendota Heights and Eagan

together in SD 55 and dividing the senate district along existing precinct lines when equalizing the populations forces all three incumbents into the same house district and leaves HD 55B open.
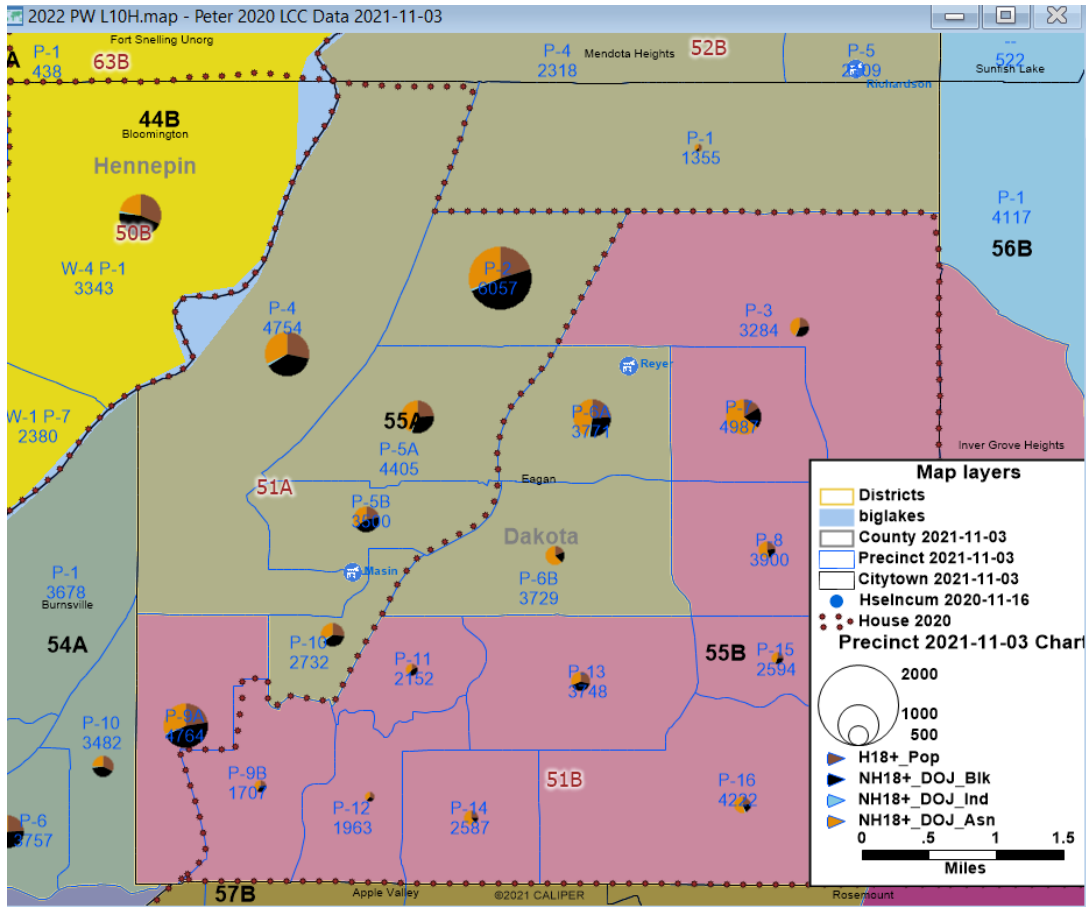
As shown in the map above, splitting Eagan P-6A at the block level could easily put Rep. Reyer into 2022 HD 55B, which is currently open. Likewise, the panel could choose to split Eagan P-5B and P-10 to put Rep. Masin into HD 55B. The panel could even do both, if it wanted to leave Rep. Richardson alone in HD 55A. The Wattson Plaintiffs would not oppose either, or both, of those changes

VIII. THE CONGRESSIONAL DISTRICTS PROPOSED IN THE WATTSON PLAINTIFFS' PLANS ACHIEVE ABSOLUTE POPULATION EQUALITY, AND THE LEGISLATIVE DISTRICTS PROPOSED BY THE WATTSON PLAINTIFFS ARE WITHIN THE +/-2% MAXIMUM DEVIATION ADOPTED BY THE PANEL. ANY DEVIATIONS ARE NECESSARY TO ACCOMMODATE A CLEARLY IDENTIFIED, LEGITIMATE STATE POLICY OBJECTIVE.

The Wattson Plaintiffs' Congressional districts comply with the constitutional requirement of one person, one vote. The Panel ordered that the Congressional districts must be as nearly equal in population as is practicable and stated that absolute population equality shall be the goal. Redistricting Principles Order, p. 5. The Wattson Plaintiffs' Congressional Plan achieves absolute population equality. The ideal result for a Congressional plan is six districts of 713,312 people and two districts of 713,311 people. The Wattson Plaintiffs' Congressional Plan contains just that, with CD 1, CD 2, CD 3, CD 4, CD 6, and CD 7 containing 713,312 people, and CD 5 and CD 8 containing 713,311 people. Wattson Affidavit, Exhibit C-1.

With respect to Legislative districts, the Wattson Plaintiffs' Senate Plan has an average deviation of 656 people, or 0.77%. The most overpopulated district is SD 43, which contains West Bloomington and 11 precincts in Eden Prairie, and is overpopulated by 1,676 persons, or 1.97%. SD 56 is the most underpopulated district in the Plan, being underpopulated by 1,586, or -1.86% and includes cities in Dakota and Washington Counties. While these deviations approach the maximum threshold of 2% adopted by the Panel, these districts are not representative of the vast majority of the Plan with a mean deviation of 0.75%. These deviations are shown on the Population Summary Report

attached as Exhibit D-1 to the Wattson Affidavit.

The Wattson Plaintiffs' House Plan has an average deviation of 421 people, or 0.99%. The most overpopulated district is HD 24B, which contains parts of Dodge and Olmsted Counties, and is overpopulated by 852 persons, or 2.00%. HD 12A is the most underpopulated district in the Plan, being underpopulated by 836, or -1.96% and includes Big Stone, Grant, Stevens, Traverse, and parts of Douglas, Pope, and Swift Counties. Again, while these deviations approach the maximum threshold of 2% adopted by the Panel, these districts are not representative of the vast majority of the Plan, which has a mean deviation of 0.99%. These deviations are shown on the Population Summary Report attached as Exhibit E-1 to the Wattson Affidavit.

For Legislative districts, the Panel permitted a deviation of +/-2, but also stated that "This is a maximum deviation, not a level under which all population deviations will be presumed acceptable." The Panel stated, "Some deviation from perfect equality is permissible to accommodate a state's clearly identified, legitimate policy objectives." Redistricting Principles Order, p. 5. The districts in the Wattson Plaintiffs' Legislative Plan fall within the maximum deviation of 2%. Any deviations are to accommodate legitimate policy of objectives of the state of Minnesota.

"When faced with the necessity of drawing district lines by judicial order, a court, as a general rule, should be guided by the Legislative policies underlying the existing plan, to the extent those policies do not lead to violations of the Constitution or the Voting Rights Act." *Abrams*, 521 U.S. at 79. In *LaComb*, a Minnesota federal district court used the following approach: "The districts are modified only to serve State policy and satisfy the

72

constitutional mandate that one person's vote shall equal another's." 541 F. Supp. 145, 151 (D. Minn. 1982). The *Hippert* panel followed the approach in *LaComb*. 813 N.W2d at 380-81; 813 N.W.2d at 397.

The Wattson Plaintiffs' Legislative deviations accommodate numerous state policy objectives. Many of these deviations are the result of eliminating precinct splits. Only one precinct is split in the Senate Plan and only 28 are split in the House Plan. This compares to 98 in the *Hippert* Senate plan and 242 in the *Hippert* House plan. Reducing precinct splits makes districts more convenient. *See* Section IV, *supra*.

Preserving precincts reduces the likelihood of a 14th or 15th Amendment constitutional violation or a Voting Rights Act violation, which is consistent with the Panel's principle that prohibits creating districts that deny or abridge the voting rights of any United States citizen on account of race, ethnicity, or membership in a language minority group (*See* Section IV.B, *supra*); Redistricting Principles Order, p. 6. Reducing precinct splits also reduces the likelihood of a partisan gerrymander (*See* Section IV.C, *supra*); Redistricting Principles Order, p. 8. Partisan and racial gerrymanders have the effect of diluting the strength of a person's vote. *See Perez*, 253 F. Supp. 3d at 953 (finding "race was used as a proxy for political affiliation, and that this was done intentionally to dilute minority voting strength"); *Rucho*, 318 F.Supp.2d at 835-36 (finding partisan gerrymandering can dilute vote). "From the beginning it has been the policy of the state to give effect to the votes of legal voters." *Clayton v. Price*, 151 N.W. 911, 912 (Minn. 1915). Diluting or limiting the effect of votes goes against this long-stated policy of this state.

The population deviations in the Wattson Plaintiffs' Plans were necessary to

preserve and protect the voting rights of United States citizens on account of race, ethnicity and membership of a language minority group (*see* Section VII, *supra*), preserve the reservation lands of federally recognized American Indian tribes (*see* Section VI, *supra*), preserve political subdivisions (*see* Section V, *supra*), and to preserve the core of prior districts (*see* Section III, *supra*; *Hippert*, 813 N.W.2d at 380 (adopting least change rule); *see also Karcher*, 462 U.S. at 740 ("preserving the cores of prior districts" is a "legitimate state objective" in justifying Congressional Legislative population deviation); *Marylanders for Fair Representations, Inc. v. Schaefer*, 849 F. Supp. 1022, 1037 (D. Maryland 1994) (recognizing that preserving cores of prior districts justifies the state's Legislative population deviations).

The deviations in the Wattson Plaintiffs Legislative Plans are to accommodate Minnesota's clearly identified, legitimate policy objectives. Wattson Affidavit, ¶ 91.

IX. THE DISTRICTS PROPOSED BY THE WATTSON PLAINTIFFS CONSIST OF CONVENIENT, CONTIGUOUS TERRITORY.

All of the Wattson Plaintiffs' Congressional and Legislative districts consist of contiguous territory. Wattson Affidavit, Exhibits C-3, D-3, E-3. The Wattson Plaintiffs' Congressional and Legislative Plans all meet the constitutional requirement of convenience. As stated above, the Wattson Plaintiffs' Plan emphasizes preserving precincts, which makes districts more convenient for many reasons. (Section IV, *supra*).

There are additional specific general and specific reasons that the Wattson Plaintiffs' Congressional districts are convenient. These include: (1) the districts do not divide any contiguous reservation lands of federally recognized American Indian tribes,

(2) Interstate 90 is contained entirely within the CD 1, and both the *Hippert* panel and the *Zachman* panel noted that having a district along the state's southern border is convenient because of Interstate Highway 90 (*Zachman*, C0-01-160 (Order Adopted a Congressional Redistricting Plan), p. 6; *Hippert,* 813 N.W. 2d at 401); (3) CD 6 follows the I-94 Corridor, as previous Panels have done (*Zachman*, Co-01-160, (Order Adopting Congressional Plan), p. 9); (4) Congressional District 2 follows U.S. Hwy 52; (5) Congressional District 3 follows I-494; and (6) Consistent with the Panel in *Hippert*, in CD 4, "The communities on the Saint Croix River are connected to the east metropolitan area by thoroughfares such as Interstate Highway 94 and Minnesota State Highway 36." *Hippert*, 813 N.W.2d at 401.

The Wattson Plaintiffs' Plan also preserves 94% of the cores of prior districts. This reduces voter confusion and enables voters to more efficiently identify their polling location and remain familiar with the candidates that have represented them in the past.

With respect to the Wattson Plaintiffs' Legislative Plans, the elements of convenience are in the discussion regarding precincts (Section IV, *supra*) and political subdivision splits (Section V, *supra).*

X.   THE PANEL'S REDISTRICTING PRINCIPLES PROHIBIT PARTIES FROM DRAWING DISTRICTS "WITH THE PURPOSE OF PROTECTING, PROMOTING OR DEFEATING AN INCUMBENT, CANDIDATE, OR POLITICAL PARTY." THE DATA PROVIDED BY THE WATTSON PLAINTIFFS ALLOWS THE PANEL TO TEST THE PLANS OF ALL PARTIES THROUGH THE USE OF PARTISANSHIP AND SWING TO LOSE PENDULUM REPORTS.

The redistricting principles adopted by the Panel prohibit drawing districts for the "purpose of protecting, promoting, or defeating a[]…political party." Redistricting

Principles Order, p. 8. Proving intent or "purpose" can realistically only be done with the use of data. The second part of this principle states, "The panel…will not consider past election results when drawing districts." *Id.* The Wattson Plaintiffs have submitted Partisanship reports that use an index of past election results, but these reports were not submitted for the Panel to use in drawing its plans. This data was provided to test the plans of the parties to this action to determine whether any party has submitted a plan that has the "purpose of protecting, promoting, or defeating an incumbent, candidate or party."

While there is no perfect way to measure partisanship, the only logical way to do so is empirically, and using past election results is the industry standard and the most reliable way known to measure partisanship. Wattson Affidavit, ¶ 93. Thus, the Partisanship reports provided by the Wattson Plaintiffs use an index of the historical vote for each of the two largest parties and all other parties and write-in votes (grouped as "third parties") to generate the reports discussed below.

In *Rucho*, the expert used by Republicans to draw partisan gerrymanders used past election results to draw a map that significantly favored Republicans and significantly hindered Democratic candidates. The district court noted:

> In order to minimize the electoral opportunities of Democratic candidates, Dr. Hofeller used the results of past statewide elections to predict whether a particular precinct or portion of a precinct was likely to vote for a Republican or Democratic congressional candidate in future elections. *See id.* at 132:22–134:13, 159:20–160:12. According to Dr. Hofeller, "past voting behavior," as reflected in "past election results," is "the best predictor of future election success." Ex. 2037. Past election data have become "the industry standard" for predicting the partisan performance of a districting plan, he explained, because "as more and more voters ... register non-partisan or independent," party registration data have decreased in predictive value. *Id.* (emphasis added).

76

Rucho, 318 F. Supp. 3d at 803.

The Ohio Constitution, as amended in 2015, requires use of past election results to prevent partisan gerrymanders. It states, "The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio." Ohio Const. art. XI, § 6(B) (2015).

Statewide elections are the most reliable indicators of future elections because, Congressional and Legislative district elections tend to turn more on the strengths of the individual candidates than on their party affiliation. Top of the ballot, high-turnout elections tend to be a fair test of party strength Elections for minor constitutional officers are a good test of party strength, because voters tend to know less about the candidates than they do about their party affiliations. Wattson Affidavit dated October 12, 2021, ¶ 16.

A. The reports provided by the Wattson Plaintiffs allow the Panel to see the partisan effect of each party's plans.

The Partisanship report included with the Wattson Plaintiffs' Plans provides eight measures that allow the Panel to discover partisan intent or purpose in the plans submitted by the parties. These measures include: (1) districts with a plurality, (2) proportional seat gap, (3) competitive districts, (4) safe districts, (5) mean-median gap, (6) lopsided wins gap, (7) declination and (8) efficiency gap. Wattson Affidavit, ¶ 94.

In order to apply any of these measures, an index using past election results must be created, (hereinafter "the Index"). The Wattson Plaintiffs used 14 of the 16 Minnesota statewide partisan races of the last decade. The 14 races used are:

77

2012 Presidential Election	2014 United States Senate	2014 Governor
2014 Secretary of State	2014 State Auditor	2014 Attorney General
2014 Presidential Election	2018 United States Senate Special Election	2018 Governor
2018 Secretary of State	2018 State Auditor	2018 Attorney General
2020 Presidential Election	2020 United States Senate	

Wattson Affidavit, ¶ 95; Exhibits C-9, D-9, E-9.

The Wattson Plaintiffs' Index excludes the U.S. Senate general elections of 2012 (Klobuchar 65% v. Bills 31%) and 2018 (Klobuchar 60% v. Newberger 36%), which were not close and thus outliers in Minnesota. Wattson Affidavit, ¶ 96.

The Wattson Plaintiffs have taken the Secretary of State's election results by precinct for the 14 Index races and allocated them to the census blocks within each precinct. This allocation is done using Maptitude for Redistricting software and a process Maptitude calls "disaggregating." The disaggregation is based on the voting-age population in each block as a proportion of the voting-age population in the precinct. Each census block thus shows the same partisanship as the precinct, even though users of the software know that is probably not the reality. The more precincts that are split to create a district, the less reliable will be its partisan lean as shown in the Partisanship report. Nevertheless, disaggregating election results to census blocks is the industry standard when creating redistricting plans at the block level. Wattson Affidavit, ¶ 97.

The Partisanship report sums the Index votes in all the census blocks in a district for each district drawn (Congressional, House or Senate). It shows the number of Index votes

in each district, the percentage of the votes cast for Democratic, Republican, or other candidates (grouped as "Third Parties"), and the percentage by which the votes cast for Democratic candidates exceeded the percentage of votes cast for Republican candidates. This excess is called the "Dem Plurality," or average winning margin. If the number is positive, it is shown in blue to indicate that the district favors Democrats. If the number is negative, because Republican candidates in the district received more votes than Democratic candidates, the Dem Plurality is shown in red to indicate the district favors Republicans. Wattson Affidavit, ¶ 98.

Statewide, the Index shows a voter preference of 51% Democrat, 44% Republican, and 6% for Third Parties (the three numbers do not add because each has been rounded). Wattson Affidavit, ¶ 99.

The 2022 Congressional Plan Comparison and 2022 Legislative Plan Comparisons also use an index for the "2002 Court" and "2012 Court" data. Wattson Affidavit, Exhibits F, G. The "2002 Court" partisanship data is based on aggregate election results for all Minnesota statewide partisan races that took place in 1998. Wattson Affidavit, ¶ 100. The "2012 Court" partisanship data is based on aggregate election results for all Minnesota statewide partisan races that took place in 2006, 2008 and 2010. *Id.*

In the discussion of each partisanship measure below, the Wattson Plaintiffs have included the Base Map for the Congressional, Senate, and House plans adopted by the *Hippert* panel in 2012 and used, most recently, for the 2020 election. Applying the Index to these Base Maps shows how the *Hippert* districts, if they were used again for the 2022 election, would be expected to perform. This data can be a valuable tool because it shows

how much the partisanship of each district and the plan as a whole submitted by each party deviates from the districts and plans drawn by the *Hippert* panel. If the differences between the partisanship measures in a party's plans as compared to the Base Plan are substantial, that may alert the panel to the possibility that a party is attempting to draw a district for the purpose of favoring one party over another. A small difference between the Base Plan and a party's plan would suggest that a party's plan is not drawn for the purpose of favoring a party and would also be consistent with the least-change approach.

The Wattson Plaintiffs believe that the plans of all the parties, including the Plans submitted by the Wattson Plaintiffs, should be tested for partisanship and compliance with the Panel's principle on partisanship. Below is a description of how, using the Index, each measure of partisanship applies to the Base Plan and the Wattson Plaintiffs' Plans.

1. Districts with a Plurality.

The "Districts with a Plurality" measure shows the number of districts likely to be won by the Democrat and Republican parties under a plan. Wattson Affidavit, ¶ 102. Below are the Districts with a Plurality measures for the plans drawn by the *Hippert* panel in 2012 and used in the 2020 election (the Base Plan).

a. *Congressional – Base Plan.*

	Dem Index	Rep Index
Districts with a Plurality	4	4

Wattson Affidavit, Exhibit H, p. 10. The measure shows that, if the *Hippert* districts were used again for the 2022 election, based on the Index, the Democrat and Republican parties would each be likely to win four Congressional seats. The *Hippert* Senate and

House plans below are measured similarly using 2020 Census data.

b. *Senate – Base Plan.*

	Dem Index	Rep Index
Districts with a Plurality	38	29

Wattson Affidavit, Exhibit I, p. 24.

c. *House – Base Plan.*

	Dem Index	Rep Index
Districts with a Plurality	71	63

Wattson Affidavit, Exhibit J, p. 39.

Below are the Districts with a Plurality measures for the Plans the Wattson Plaintiffs propose be used for the 2022 election. The results are similar to the *Hippert* plans as used for the 2020 election (Base Plans) but differ because of the shifts of population from rural to urban areas documented by the 2020 Census. Wattson Affidavit, ¶ 103. This shift in population can be seen in the Congressional Base Plan Population Summary report, which shows that CD 2, CD 3, CD 4, CD 5, and CD 6 are overpopulated, and CD 1, CD 7 and CD 8 are underpopulated. Wattson Affidavit, Exhibit H, p. 2. The shifts to the urban areas require most rural districts to grow in area and most urban districts to shrink in order to equalize their populations. Wattson Affidavit, ¶ 103. This would tend to show a minimal reduction in the number of rural (Republican) districts and a minimal increase in the number of urban (Democrat) districts. Wattson Affidavit, ¶ 103; *see* Wattson Affidavit, Exhibit N showing Senate Seats in Selected Areas (Sept. 24, 2021).

d. *Congressional – Wattson Plaintiffs' Plan.*

	Dem Index	Rep Index
Districts with a Plurality	4	4

Wattson Affidavit, Exhibit C-9.

e. *Senate – Wattson Plaintiffs' Plan.*

	Dem Index	Rep Index
Districts with a Plurality	38	29

Wattson Affidavit, Exhibit D-9.

f. *House – Wattson Plaintiffs' Plan.*

	Dem Index	Rep Index
Districts with a Plurality	75	59

Wattson Affidavit, Exhibit E-9.

2. Proportional Seat Gap.

The "Proportional Seat Gap" subtracts from the Districts with a Plurality measure the number of seats the party would receive if it were proportional to the party's share of the statewide vote. The difference, if any, is the Gap, which may be positive or negative. The ideal is no Gap. Wattson Affidavit, ¶ 104. Below is the Proportional Seat Gap for the Congressional plan drawn by the *Hippert* panel and used for the 2020 election.

a. Congressional – Base Plan.

	Dem Index	Rep Index	Third Index
Districts with a Plurality	4	4	

	Dem Vote	Rep Vote	Third Vote
Proportional Seat Gap			
Statewide Vote	51 %	44%	6%

	Dem Seats	Rep Seats	Third Seats
Proportional Seats	4	3	
Gap (Districts with a plurality minus proportional seats)		1	

Wattson Affidavit, Exhibit H, p. 10.

The Districts with a Plurality line predicts that, if the *Hippert* districts were used for the 2022 election, both Democrats and Republicans would win four seats. The Proportional Seats line calculates that, if the seats were awarded instead based on a party's share of the statewide vote, Democrats would win four seats, but Republicans would win only three seats. The Proportional Seat Gap would be plus one for Republicans. There is no Proportional Seat Gap for Third Parties in a congressional plan, because 6% of the vote is not enough to win even one congressional seat. The Senate and House plans below are measured similarly. Wattson Affidavit, ¶ 105.

b. *Senate – Base Plan.*

	Dem Index	Rep Index	
Districts with a Plurality	38	29	

Proportional Seat Gap	Dem Vote	Rep Vote	Third Vote
Statewide Vote	51 %	44 %	6 %
	Dem Seats	Rep Seats	Third Seats
Proportional Seats	34	29	4
Gap (Districts with a plurality minus proportional seats)	4		

Wattson Affidavit, Exhibit I, p. 24.

For Third Parties, 6% of the vote would be enough to win four Senate seats. But that 6% is divided among 67 Senate districts, never enough to win even one Senate seat.

c. *House – Base Plan.*

	Dem Index	Rep Index	
Districts with a Plurality	71	63	

Proportional Seat Gap	Dem Vote	Rep Vote	Third Vote
Statewide Vote	51 %	44 %	6 %
	Dem Seats	Rep Seats	Third Seats
Proportional Seats	68	58	8
Gap (Districts with a plurality minus proportional seats)	3	5	

Wattson Affidavit, Exhibit J, p. 39.

Under the *Hippert* House plan, the Third-Party seats are divided, three to Democrats and five to Republicans. Below are the Proportional Seat Gaps for the Plans the Wattson Plaintiffs propose to be used for the 2022 election.

84

d. *Congressional – Wattson Plaintiffs' Plan.*

	Dem Index	Rep Index	
Districts with a Plurality	4	4	

Proportional Seat Gap	Dem Vote	Rep Vote	Third Vote
Statewide Vote	51 %	44%	6%
	Dem Seats	Rep Seats	Third Seats
Proportional Seats	4	3	

| Gap
(Districts with a plurality minus proportional seats) | | 1 | |

Wattson Affidavit, Exhibit C-9.

e. *Senate – Wattson Plaintiffs' Plan.*

	Dem Index	Rep Index	
Districts with a Plurality	38	29	

Proportional Seat Gap	Dem Vote	Rep Vote	Third Vote
Statewide Vote	51 %	44%	6%
	Dem Seats	Rep Seats	Third Seats
Proportional Seats	34	29	4

| Gap
(Districts with a plurality minus proportional seats) | 4 | | |

Wattson Affidavit, Exhibit D-9.

f. House – Wattson Plaintiffs' Plan.

	Dem Index	Rep Index	
Districts with a Plurality	75	59	

	Dem Vote	Rep Vote	Third Vote
Proportional Seat Gap			
Statewide Vote	51 %	44%	6%
	Dem Seats	Rep Seats	Third Seats
Proportional Seats	68	58	8
Gap (Districts with a plurality minus proportional seats)	7	1	

Wattson Affidavit, Exhibit E-9.

3. Competitive Districts and Safe Districts.

The Partisanship report also counts the number of "Competitive" districts and "Safe" districts. A Competitive district is one that has an average historical winning margin of 8% or less. A Safe seat is one that has an average historical winning margin of 20% or more. This is determined by applying the Index votes to each census block in a party's proposed district and measuring how the district performs. A district whose average historical winning margin is above 8% but below 20%, so it is neither Competitive nor Safe, is "Strong." (The report does not yet count the number of Strong districts. They must be counted by hand when creating the Swing to Lose Pendulum report, described later in this memorandum.) Wattson Affidavit, ¶ 106. Below are the Competitive and Safe Seat counts for the plans drawn by the *Hippert* panel and used for the 2020 election.

a. *Congressional – Base Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	4	2	2
Safe Seats (20% Plurality or more)	2	2	0

Wattson Affidavit, Exhibit H, p. 10.

As shown by the 2022 Congressional Plan Comparison, when the *Hippert* panel's Congressional plan was adopted in 2012, it had five Competitive districts and one Safe seat, as measured by an index of statewide partisan election results from 2006 to 2010. Wattson Affidavit, Exhibit F. The drop from five to four in Competitive districts, and the increase from one to two Safe seats, between 2012 and 2020 is presumably a reflection of an electorate that has become more polarized. The Senate and House plans below are counted similarly.

b. *Senate – Base Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	16	11	5
Safe Seats (20% Plurality or more)	25	15	10

Wattson Affidavit, Exhibit I, P. 24.

c. *House – Base Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	28	13	15
Safe Seats (20% Plurality or more)	55	31	24

Wattson Affidavit, Exhibit J, p. 39.

Below are the Competitive and Safe Seats counts for the Plans the Wattson Plaintiffs propose to be used for the 2022 election.

d. *Congressional – Wattson Plaintiffs' Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	3	1	2
Safe Seats (20% Plurality or more)	2	2	0

Wattson Affidavit, Exhibit C-9.

As shown by the 2022 Congressional Plan Comparison, the number of Competitive Congressional districts drops from four under the *Hippert* plan used for the 2020 election to three under the Plan proposed by the Wattson Plaintiffs to be used for the 2022 election. That drop can partly be explained by the same shift of population from rural to urban areas described above in connection with the Districts with a Plurality measure. The Senate and House Plans below are counted similarly. The impact of the shift of population from rural to urban areas may be more apparent with the larger number of Senate and House districts. Wattson Affidavit, ¶ 107.

e. *Senate – Wattson Plaintiffs' Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	13	9	4
Safe Seats (20% Plurality or more)	25	15	10

Wattson Affidavit, Exhibit D-9.

f. *House – Wattson Plaintiffs' Plan.*

	Total	Democratic	Republican
Competitive Districts (8% Plurality or less)	27	14	13
Safe Seats (20% Plurality or more)	58	33	25

Wattson Affidavit, Exhibit E-9.

4. Mean-Median Gap.

The mean of a party's Index votes is the average of its statewide votes. For the Index proposed by the Wattson Plaintiffs, the mean vote is 51% for Democrats and 44% for Republicans. The mean vote is the same for all plans (Base Plans and Wattson Plaintiffs' Plans) since it is a statewide total for all the districts in a plan, regardless of how individual districts are drawn. Wattson Affidavit, ¶ 108.

The party's median vote is its share of the vote in the middle of all the districts after they are ranked from the highest vote in a district to the lowest vote in a district. In a Senate plan, with 67 districts, it is the party's vote in its 34th best district, with 33 districts above and 33 districts below. The median vote is more likely to vary from plan to plan. Wattson Affidavit, ¶ 109.

If the party's median vote is less than its mean vote, it is winning fewer seats than its share of the statewide vote. The plan is biased against that party. A party's median vote is brought down by packing its voters into districts they can win easily and cracking them into districts they are unlikely ever to win. Wattson Affidavit, ¶ 110.

The Mean-Median Gap measures the difference between the mean and the median vote for each party and compares the two parties to each other with a single number. The

ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats. Wattson Affidavit, ¶ 111. Below are the Mean-Median Gaps for the plans drawn by the *Hippert* panel in 2012 and used, most recently, in 2020.

a. *Congressional – Base Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44%	6%
Median Vote		47 %	47%	6%
Gap (Ideal is 0.)	6 %	3 %	-3%	0%

Wattson Affidavit, Exhibit H, p. 10.

The *Hippert* panel's Congressional plan has a Mean-Median Gap of +6%. The Senate and House plans below both have Mean-Median Gaps of +5%.

b. *Senate – Base Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44%	6%
Median Vote		48 %	46%	6%
Gap (Ideal is 0.)	5 %	3 %	-2%	0%

Wattson Affidavit, Exhibit I, p. 24.

c. *House – Base Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44%	6%
Median Vote		48 %	46%	6%
Gap (Ideal is 0.)	5 %	3 %	-3%	0%

Wattson Affidavit, Exhibit J, p. 39.

Below are the Mean-Median Gaps for the Plans the Wattson Plaintiffs propose to be used for the 2022 election. Their Plans have a slightly higher positive Mean-Median Gap than the *Hippert* panel's plans.

d. *Congressional – Wattson Plaintiffs' Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44 %	6 %
Median Vote		48 %	47 %	6 %
Gap (Ideal is 0.)	6 %	3 %	-3 %	0 %

Wattson Affidavit, Exhibit C-9. The Wattson Plaintiffs' Gap of 6% for Congress is the same as the *Hippert* panel's Gap.

e. *Senate – Wattson Plaintiffs' Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44 %	6 %
Median Vote		49 %	45 %	6 %
Gap (Ideal is 0.)	4 %	2 %	-2 %	0 %

Wattson Affidavit, Exhibit D-9. The Wattson Plaintiffs' Gap of 4% for the Senate is one percent less than the *Hippert* panel's Gap.

f. *House – Wattson Plaintiffs' Plan.*

Mean-Median Gap	Dem Minus Rep	Dem Vote	Rep Vote	Third Vote
Mean Vote		51 %	44 %	6 %
Median Vote		50 %	45 %	6 %
Gap (Ideal is 0.)	3 %	1 %	-1 %	0 %

Wattson Affidavit, Exhibit E-9. The Wattson Plaintiffs' Gap of 3% for the House is

two percent less than the *Hippert* panel's

5. Lopsided Wins Gap.

The Lopsided Wins Gap measures the difference between the average winning margin in districts won by each party. A party whose average winning margin is higher than the other party may be wasting its votes, making it unable to win as many districts. The Lopsided Wins Gap is computed by subtracting one party's average winning margin from the other party's margin. A positive number is a partisan bias in favor of Republicans. A negative number is a partisan bias in favor of Democrats. The ideal is zero. Wattson Affidavit, ¶ 112. Below are the Lopsided Wins Gaps for the plans drawn by the *Hippert* panel in 2012 and used, most recently, in 2020.

a. *Congressional – Base Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	13 %	23 %	10%

Wattson Affidavit, Exhibit H, p. 10.

b. *Senate – Base Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	9 %	25 %	16%

Wattson Affidavit, Exhibit I, p. 24.

c. *House – Base Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	12 %	28 %	16%

Wattson Affidavit, Exhibit J, p. 39.

Below are the Lopsided Wins Gaps for the Plans that the Wattson Plaintiffs propose

to be used for the 2022 election. They show that the Wattson Plaintiffs' Plans have only a

slightly higher lopsided Wins Gap than the *Hippert* plans.

d. *Congressional – Wattson Plaintiffs' Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	14 %	24 %	10%

Wattson Affidavit, Exhibit C-9.

The Wattson Plaintiffs' Gap of 14% for Congress is one percent more than the

Hippert panel's Gap.

e. *Senate – Wattson Plaintiffs' Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	9 %	26 %	16%

Wattson Affidavit, Exhibit D-9.

The Wattson Plaintiffs' Gap of 9% for the Senate is the same as the *Hippert* panel's

Gap.

f. *House – Wattson Plaintiffs' Plan.*

Lopsided Wins Gap (Democratic winning margin minus Republican winning margin. Ideal is 0.)	Dem Minus Rep	Dems Win By	Reps Win By
	10 %	27 %	17%

Wattson Affidavit, Exhibit E-9.

The Wattson Plaintiffs' Gap of 10% for the House is two percent less than the

Hippert panel's Gap.

    6. Declination.

    Declination is best understood when viewed on a graph. To calculate Declination, you plot one party's mean vote share in every district on a graph. The other party's vote share is not on the graph. In the graph below, the vote shares of Democrats are plotted. The dots below the 50% threshold represent the percentage of votes received by Democratic candidates in races won by Republicans. The dots above the 50% threshold represent the percentage of votes received by Democratic candidates in races won by the Democrat. If, upon crossing the 50% threshold, the line following that plot takes a significant turn one way or the other, the map favors one particular party. Wattson Affidavit, ¶ 113. In the example graph below, Graph A favors Democrats and Graph B favors Republicans.[5]
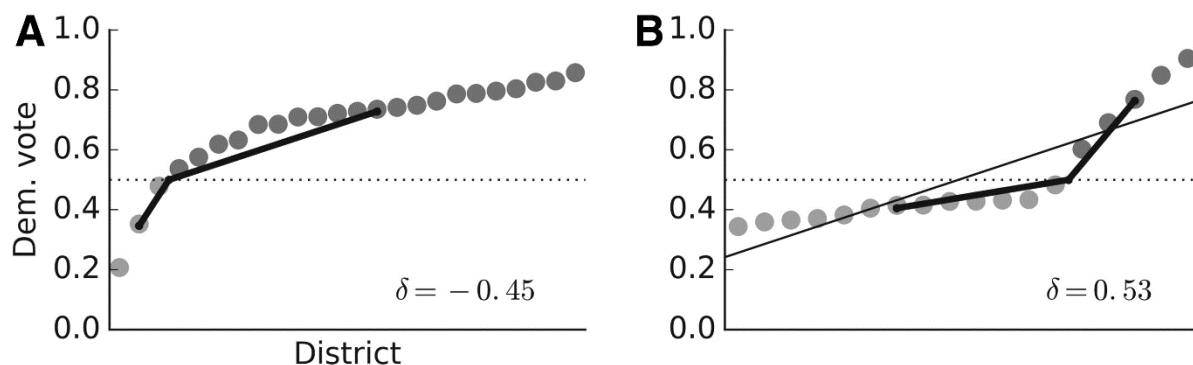
    The ideal declination is 0, with a small number resulting in less bias and a larger number showing a more biased plan. Wattson Affidavit, ¶ 114. Below are the Declination

[5] Gregory S. Warrington, *Quantifying Gerrymandering Using the Vote Distribution*, ELECTION L. J.: RULES, POLITICS AND POLICY: VOL. 17, No. 1 (March 1, 2018), *available at* https://www.liebertpub.com/doi/full/10.1089/elj.2017.0447.

measures for the plans drawn by the *Hippert* panel in 2012 and used, most recently, for the 2020 election. A positive Declination number favors Republicans, and a negative number favors Democrats.

a. <u>Congressional – Base Plan.</u>

Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of -1 to 1. Ideal is 0.)	16 %

Wattson Affidavit, Exhibit H, p. 10.

The *Hippert* panel's Congressional plan has a positive Declination of 16%. The Senate and House plans are measured similarly.

b. <u>Senate – Base Plan.</u>

Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of 1 to -1. Ideal is 0.)	4 %

Wattson Affidavit, Exhibit I, p. 24.

c. <u>House – Base Plan.</u>

Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of 1 to -1. Ideal is 0.)	11 %

Wattson Affidavit, Exhibit J, p. 39.

Below are the Declination measures for the Plans the Wattson Plaintiffs propose to be used for the 2022 election. They show that the Wattson Plans have a bias only slightly

different from the *Hippert* plans.

    d. *Congressional – Wattson Plaintiffs' Plans.*

Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of 1 to -1. Ideal is 0.)	17 %

Wattson Affidavit, Exhibit C-9.

The Wattson Plaintiffs' Declination of 17% for Congress is one percent more than

the *Hippert* panel's Declination.

    e. *Senate – Wattson Plaintiffs' Plans.*

Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of 1 to -1. Ideal is 0.)	5 %

Wattson Affidavit, Exhibit D-9.

The Wattson Plaintiffs' Declination of 5% for the Senate is one percent more than

the *Hippert* panel's Declination.

    f. *House – Wattson Plaintiffs' Plans.*

| Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Difference of angles of losing and winning graphs converted to a scale of 1 to -1. Ideal is 0.)	6 %

Wattson Affidavit, Exhibit E-9.

The Wattson Plaintiffs' Declination of 6% for the House is five percent less than

the *Hippert* panel's Declination.

7. Efficiency Gap.

The Efficiency Gap is a measure of the number of votes for the candidates of each party that are "wasted." "Wasted" votes are those cast for a losing candidate and those cast for a winning candidate in excess of the number necessary to win. By way of example, if a party's candidate loses a race 47 votes to 53 votes, that losing party has 47 wasted votes. The winning party has 5 wasted votes, because it needed only 48 votes to win but received 53 votes. Wattson Affidavit, ¶ 115.

Partisan gerrymandering is carried out by some combination of cracking a party's voters among many districts, in which their preferred candidates lose by relatively narrow margins, and packing a party's voters into a few districts, in which their preferred candidates win by enormous margins. Both cracking and packing produce votes that are wasted, in the sense that they do not contribute to a candidate's election. The Efficiency Gap is calculated by taking one party's wasted votes as a percentage of the total votes cast and subtracting it from the other party's wasted votes as a percentage of the total votes cast. The difference between the two percentages is the Efficiency Gap. It captures in a single number the extent to which district lines crack and pack one party's voters more than the other party's voters. Wattson Affidavit, ¶ 116.

In the Partisanship report, the Republican wasted vote percentage is subtracted from the Democratic wasted vote percentage. A positive number shows the plan is biased in favor of Republicans. A negative number shows it is biased in favor of Democrats. The ideal is zero. Wattson Affidavit, ¶ 117. Below are the Efficiency Gaps for the plans drawn by the *Hippert* panel in 2012 and used, most recently, for the 2020 election.

97

a. Congressional – Base Plan.

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	9 %	32%	23 %

Wattson Affidavit, Exhibit H, p. 10.

The *Hippert* panel's Congressional plan has a positive Efficiency Gap of 9%. The Senate and House plans are measured similarly.

b. Senate – Base Plan.

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	4 %	31%	27%

Wattson Affidavit, Exhibit I, p. 24.

c. House – Base Plan.

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	8 %	33%	25%

Wattson Affidavit, Exhibit J, p. 39.

Below are the Efficiency Gaps for the Plans the Wattson Plaintiffs propose to be used for the 2022 election. They show that the Wattson Plaintiffs' Plans have a bias only slightly different from the *Hippert* plans.

d. Congressional – Wattson Plaintiffs' Plan.

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	10 %	33%	23%

Wattson Affidavit, Exhibit C-9.

The Wattson Plaintiffs' Efficiency Gap of +10% for Congress is one percent more

than the *Hippert* panel's Gap.

e. *Senate – Wattson Plaintiffs' Plan.*

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	4 %	31%	27%

Wattson Affidavit, Exhibit D-9.

The Wattson Plaintiffs' Efficiency Gap of 4% for the Senate is the same as the

Hippert panel's Gap.

f. *House – Wattson Plaintiffs' Plan.*

Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	Dem Minus Rep	Dem Wasted Votes	Rep Wasted Votes
	5 %	32%	26%

Wattson Affidavit, Exhibit E-9.

The Wattson Plaintiffs' Efficiency Gap of +5% for the House is three percent less

than the *Hippert* panel's Gap.

8. District List.

In addition to the data above, the Partisanship report contains Index votes by party in each district. The district list in the Wattson Plaintiffs' Congressional Plan is below:

District	Index Votes	Dem Plurality	Dem Index %	Rep Index %	Third Index %
1	4,144,121	(3)	45.5	48.5	6.0
2	4,373,857	3	48.5	46.0	5.6
3	4,697,634	9	52.0	43.2	4.9
4	4,303,509	30	62.4	31.9	5.7
5	4,295,755	55	74.7	19.3	6.0
6	4,229,718	(17)	38.7	55.6	5.7
7	4,272,631	(19)	38.0	56.6	5.4
8	4,582,102	(1)	46.6	47.6	5.7
State Total:	**34,899,327**		17,736,165	15,201,653	1,961,508 6
			51	44	

Wattson Affidavit, Exhibit C-9. The "Dem Plurality" column subtracts the Republican Index % from the Democratic Index % to show the average winning margin in the district in all the races included in the Index. That winning margin is labeled the "Dem Plurality." If the Democrat Index % is larger than the Republican Index %, the Dem Plurality will be a positive number, shown in blue to highlight that it is a Democratic district. If the Republican Index % is larger, the Dem Plurality will be a negative number, shown in red to highlight that it is a Republican district. One can quickly see which party is predicted to win each district, and by how much. Wattson Affidavit, ¶ 118.

The Partisanship Report can be used by any party to this action to evaluate whether a plan proposed to this Panel was drawn with the purpose of promoting, protecting or defeating a political party. The Congressional Base Plan district list is below.

District	Index Votes	Dem Plurality	Dem Index %	Rep Index %	Third Index %
1	3,995,689	(5)	44.6	49.3	6.1
2	4,518,683	2	48.4	46.1	5.6
3	4,839,078	7	51.2	44.0	4.8
4	4,372,290	30	62.1	32.2	5.7
5	4,448,440	54	74.1	19.9	5.9
6	4,343,416	(17)	38.6	55.6	5.8
7	3,990,968	(16)	39.2	55.3	5.5
8	4,390,763	(2)	46.3	48.0	5.7
State Total:	**34,899,327**		17,736,165	15,201,653	1,961,508 6
			51	**44**	

Wattson Affidavit, Exhibit H, pp. 10-11. The State Total of Index votes for the Congressional, Senate and House Plans, will be the same (17,736,165 Democrat and 15,201,653 Republican), regardless of the way any particular plan is drawn. Likewise, the 51% Democrat – 44% Republican breakdown remains the same for the plan as a whole. The differences from plan to plan occur in the number of votes for each party in each district. These Index votes are spread across districts at the block level and are spread differently in each plan depending on how the districts are drawn. Wattson Affidavit, ¶ 119.

9. Swing to Lose Pendulum.

The Swing to Lose Pendulum on its left side lists all the Democratic districts in the order of their Dem Plurality, from largest to smallest, and shows on its right side the Republican districts ranked in order of their Dem Plurality, smallest to largest. Wattson Affidavit, ¶ 14.

It sorts them into three groups: Safe (a Dem Plurality of 20% or more), Strong (a Dem Plurality less than 20% but more than 8%), and Competitive (a Dem Plurality of 8%

or less). *Id.* The Safe districts are all at the top, the Strong districts in the middle, and the Competitive districts at the bottom. *Id.* As with any pendulum, the greatest movement is likely to occur at the bottom.

The name of any incumbent or incumbents residing in the district is shown next to the district number. *Id.* Names of Democrat incumbents are in blue and Republican incumbent names are in red. *Id.*

The middle column in the Pendulum shows the "Swing to Lose" number, which is roughly one-half the district's average historic winning margin, its "Dem Plurality." If half or more of the winning margin in the district swings from one party to the other, the candidate whose party has lost those votes is likely to lose that seat. If a district's Dem Plurality is a competitive eight percent, a swing of four percent or more to the other party would flip the district. Wattson Affidavit, ¶ 15.

But winning elections is not just about the partisan lean of a district, it is also about the candidates who run, the quality of their campaigns, and the political winds blowing on Election Day.

By showing the names of any incumbents residing in the district, and their political party, the Swing to Lose Pendulum permits the reader to see the partisan lean of the districts in which incumbents have been paired, as well as the extent to which a proposed plan places an incumbent into a district for 2022 where they are significantly more or less likely to win than in the district they won in 2020. Wattson Affidavit, ¶ 16.

10. Incumbents.

Also included with the Wattson Plaintiffs' submissions is a report on Districts and

their Incumbents. Wattson Affidavit, Exhibits C-7, D-7, E-7. In its districting principles, the Panel stated, "Districts must not be drawn with the purpose of protecting, promoting or defeating an incumbent." Redistricting Principles Order, p. 8 The Panel also instructed that it would "not draw districts based on the residence of incumbent officeholders." *Id.* The Wattson Plaintiffs provide these Incumbent reports not to aid the Panel in drawing its plans, but to test how the plans of the parties treat incumbents. The Incumbents report shows the number of incumbents paired, the number of open seats, Democrat vs. Democrat pairings, Republican vs. Republican pairings and Democrat vs. Republican pairings. The report also contains the old district number and new district number for each incumbent. The Wattson Plaintiffs' Plans pair incumbents in the following manner:

	Incumbents Paired	Open Seats	Democrat v. Democrat	Republican v. Republican	Democrat v. Republican
Congressional	0	0	0	0	0
Senate	10	5	2	3	0
House	47	24	9	9	5

Wattson Affidavit, Exhibit C-7, D-7, E-7.

B. Using industry standard measures of partisanship, the Wattson Plaintiffs' Plans and the *Hippert* plans have a slight bias, but this bias is natural given how Minnesotans situate themselves geographically and when a plan must comply with neutral redistricting principles such as convenience, minimizing political subdivision splits and drawing compact districts.

No plan is likely to be perfect on all measures of partisanship, even when it is drawn in compliance with neutral redistricting principles. The way voters group themselves into

103

communities will impact the partisan lean of a map, even if the map is not drawn with the purpose of promoting, protecting or defeating a political party. "Consider, for example, a legislature that draws district lines with no objectives in mind except compactness and respect for the lines of political subdivisions. Under that system, political groups that tend to cluster (as is the case with Democratic voters in cities) would be systematically affected by what might be called a natural packing effect." *Vieth v. Jubelirer*, 541 U.S. 267, 289 (2004).

Democrats tend to live in compact urban areas, while Republicans tend to live in the more rural and exurban areas, with the suburbs being a mix of Democrats and Republicans. Wattson Affidavit, ¶ 121. With this geographic distribution of the political parties, political proportionality cannot be achieved simply by complying with neutral redistricting principles such as convenient districts, minimizing political subdivision splits, and drawing compact districts. One will want to ensure that this natural packing effect that creates partisan bias is not exacerbated, which would indicate a purpose to promote or defeat a political party.

In summary, the Wattson Plaintiffs' Congressional Plan has a Mean-Median gap of +6%, a lopsided wins gap of +14%, a Declination of +17% and Efficiency Gap of +10%. Positive numbers in these measures of partisanship indicate a bias in favor of Republicans. The Wattson Plaintiffs' Senate Plan has a Mean-Median gap of +4%, a lopsided wins gap of +9%, a Declination of +5% and Efficiency Gap of +4%. The Wattson Plaintiffs' House Plan has a Mean-Median gap of +3%, a lopsided wins gap of +10%, a Declination of +6% and an Efficiency Gap of +5%. These positive numbers are similar to the *Hippert* panel's

measures as set forth in the Base Plans provided by the Wattson Plaintiffs.

The fact that the Wattson Plaintiffs' partisanship measures are close to those in the *Hippert* panel plans as measured by the Base Plan is significant. The same Index and 2020 Census data that was applied to the Wattson Plaintiffs' Plan when running the Partisanship reports was used to create the Base Plans using the *Hippert* plan boundaries. This shows that, using the exact same population and partisan data, the *Hippert* plans and Wattson Plaintiffs' Plans perform close to the same in terms of partisanship. A plan that deviates from the *Hippert* plans significantly may have been drawn for partisan purposes.

The Index and reports are valuable tools for this Panel to ensure that each party uses neutral districting principles when drawing plans and does not run afoul of the Panel's principle of not drawing districts "with the purpose of protecting, promoting, or defeating any incumbent, candidate, or party." Redistricting Principles Order, p. 8. These industry standard measures of partisanship show that the Wattson Plaintiffs' Plans do not violate that principle.

XI.   THE WATTSON PLAINTIFFS' DISTRICTS ARE COMPACT.

The Panel subordinated the compactness principle to all other redistricting principles. The Wattson Plaintiffs' Plans are reasonably compact and have similar compactness scores to the plans adopted by the *Hippert* panel. These similar scores are to be expected where the Wattson Plaintiffs have used the 'least-change' approach.

The Panel's Plan Submission Requirements required the parties to use the Polsby-Popper, Area/Convex Hull, Reock, Population Polygon, and Population Circles measures of compactness. The measures for each of the Wattson Plaintiffs' Plans are below, with a

comparison to the plans adopted by the *Hippert* panel.[6]

Measures	Base Cong. Plan	Wattson Cong. Plan		Base Senate Plan	Wattson Senate Plan		Base House Plan	Wattson House Plan
Reock (Higher is better)	0.41	0.39		0.45	0.44		0.44	0.41
Polsby-Popper (Higher is better)	0.33	0.28		0.41	0.39		0.41	0.37
Convex Hull (Higher is better)	0.77	0.74		0.80	0.79		0.79	0.77
Population Polygon (Higher is better)	0.71	0.69		0.77	0.75		0.75	0.72
Population Circle (Higher is better)	0.36	0.37		0.49	0.48		0.45	0.42

While the Wattson Plaintiffs' Plans are slightly less compact than the *Hippert* plans,

the differences are marginal.

---

[6] As evidenced by the Plan Comparison, compactness scores in the Base Plans are slightly different from the *Hippert* panel's 2012 compactness scores. This is because some of the districts drawn in 2012 have changed their boundaries due to annexations. *See* Wattson Affidavit, Exhibits F, G. If an annexation involves no more than 50 registered voters, the city may move the Legislative or Congressional boundary to remain coterminous with the city boundary. Minn. Stat. § 204B.146, subd. 3. When the boundaries change, some of the compactness measures may change.

XII.   CONCLUSION.

The Wattson Plaintiffs have attempted to provide the Panel with relevant and important information, data, and testimony that will allow the Panel to make decisions that will have a significant impact on the governing of this state for the next ten years. They have asked this Panel to defer to communities and their governments by preserving the current precincts. Preserving precincts serves to limit partisan and racial gerrymanders, create convenient districts, and prevent creating districts with boundaries that do not serve these communities well. The importance of deferring to these local communities may be illustrated best by the testimony of Plaintiff Joseph Mansky, where he explained that his "goal was to create precinct boundaries that eliminated to the greatest extent possible the need for the voters, in particular elderly and disabled voters, from having to cross a freeway, arterial street, railroad track or major body of water in order to reach their polling place." Mansky Affidavit, ¶ 5. This Panel simply does not have the information or time to account for all of the important decisions about how to conduct elections that are made by the hundreds of cities, townships, and counties in this state. Deferring to local government, which also enhances compliance with this Panel's principles, will benefit countless communities.

The Wattson Plaintiffs have offered this Panel a way to draw districts using a least-change approach that complies with the principles announced by the Panel. Using a least-change approach will prevent sweeping changes that may have a substantial effect on minority representation, the partisan make-up of this state, or voter confusion caused by moving a large number of individuals to new districts. The 'least-change' approach offered

by the Wattson Plaintiffs offers numerous opportunities for minorities. It only divides one contiguous American Indian reservation (and that division involves no population) and keeps communities together. This approach will serve Minnesota and its residents well.

The Wattson Plaintiffs respectfully request that this Panel adopt their Congressional and Legislative Redistricting Plans.

Dated: December 7, 2021

Respectfully Submitted,

JAMES H. GILBERT LAW GROUP, P.L.L.C.

By: */s/ Adam L. Sienkowski*
James H. Gilbert (0034708)
Adam L. Sienkowski (0395659)
Jody E. Nahlovsky (0330139)
12700 Anderson Lakes Parkway
Eden Prairie, MN 55344
952/767-0167
asienkowski@lawgilbert.com
Attorneys for Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom, James E. Hougas, III and League of Women Voters Minnesota

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy
B. Greenwood, Mary E. Kupper, Douglas
W. Backstrom and James E. Hougas III,
individually and on behalf of all citizens
and voting residents of Minnesota
similarly situated, and League of Women
Voters Minnesota,

                    Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven,
Karen Lane, Joel Hineman, Carol Wegner,
and Daniel Schonhardt,

                Plaintiff-Intervenors

vs.

Steve Simon, Secretary of State of
Minnesota; and Kendra Olson, Carver
County Elections and Licensing Manager,
individually and on behalf of all
Minnesota county chief election officers,

                  Defendants,

and

Frank Sachs, Dagny Heimisdottir,
Michael Arulfo, Tanwi Prigge, Jennifer
Guertin, Garrison O'Keith McMurtrey,
Mara Lee Glubka, Jeffrey Strand, Danielle
Main, and Wayne Grimmer,

                  Plaintiffs,

**AFFIDAVIT OF JOSEPH MANSKY
IN SUPPORT OF THE WATTSON
PLAINTIFFS'
PROPOSED CONGRESSIONAL AND
LEGISLATIVE REDISTRICTING
PLANS**

1

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpao Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

                    Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

                    Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

        Joseph Mansky, being first duly sworn, deposes and states as follows:

        1.   I am a Plaintiff in the above-captioned matter and make this Affidavit in

support of the Proposed Congressional and Legislative Redistricting Plans of Plaintiffs

Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W.

Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting

residents of Minnesota similarly situated, and League of Women Voters Minnesota

("Wattson Plaintiffs").

        2.   I was a member of the Election Division staff in the Office of the Secretary

of State for 15 years, serving the last 11 years as Minnesota state election director. I

subsequently served as manager of Governor Jesse Ventura's Citizen Advisory

Commission on Redistricting from 2000 to 2002. Most recently, I was the Ramsey County elections manager for 17 years.

3. In my position as Ramsey County elections manager, I was responsible for the preparation of precinct boundary maps for approval by the City of Saint Paul and suburban cities contracting for election services with the Ramsey County Elections Office. I performed this activity in both 2002 and 2012 in the aftermath of the conclusion of the legislative redistricting process.

4. When drafting the plan to create precinct boundaries, I used major physical features clearly identifiable by the voters, such as freeways, arterial streets, railroad tracks and bodies of water to the greatest extent possible.

5. In my experience, approximately 40% of the voters in the City of Saint Paul walked to their polling place on election day. As such, my goal was to create precinct boundaries that eliminated to the greatest extent possible the need for the voters, in particular elderly and disabled voters, from having to cross a freeway, arterial street, railroad track or major body of water in order to reach their polling place.

6. To maintain the integrity of the communities of interest in the City of Saint Paul, I sought to the greatest extent possible to create precinct boundaries that were coterminous with the 17 district council boundaries, which define Saint Paul's neighborhoods.

7. In my position as elections manager, I also designated the polling place location assigned to each precinct for authorization by the Saint Paul city council and the councils of the suburban cities contracting with the Elections Office. I performed this

activity in 2002, 2011 and 2012 as part of the redistricting process.

8.   Each election precinct created under the provisions of Minn. Stat. 204B.14 has established, on a one-to-one basis, a polling place for use by the voters residing in that precinct. Minn. Stat. 204B.16.

9.   Every time that a new precinct is created, a new polling place corresponding to that precinct must also be designated.

10.   Every polling place must be furnished with an optical scan voting system and an accessible ballot marking device. Minn. Stat. 204B.18. In addition, most polling places – especially in the metropolitan area – also are furnished with electronic pollbooks. Minn. Stat. 201.225.

11.   In my experience with Ramsey County, the fixed cost of establishing each additional polling place resulting from redistricting is approximately $10,000.

12.   Newly established polling places resulting from the establishment of precincts created to accommodate the results of legislative redistricting also incur additional fixed and variable costs for the entire ten-year period that they are in use by the voters. These additional costs include salaries of election judges, transportation of voting equipment and supplies, ballot programming and voting equipment testing. These costs typically amount to several thousand dollars over ten years.

13.   A redistricting process that does not use existing precinct boundaries as a base often results in the creation of new precincts comprising marginal territory resulting from the legal requirements to use district boundaries as precinct boundaries. Two such precincts are in the City of Saint Paul: W1 P12 and W6 P7. Both are underpopulated

precincts squeezed between district boundaries. Such precincts unnecessarily create both financial tails and additional administrative duties for the Elections Office.

14.   In my experience, voters identify with the polling place in which they are assigned to vote. Changes to polling place locations, like those resulting from the local implementation of the legislative redistricting process, invariably create confusion among some voters. To the extent that polling place locations – and the precincts to which they have a legal nexus – remain stable, this is to the advantage of the voters affected.

Consistent with Minnesota Statute § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: December 5, 2021   */s/ Joseph Mansky*
                                                Joseph Mansky

                                                Washington County, Minnesota
                                                County and state signed

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy
B. Greenwood, Mary E. Kupper, Douglas
W. Backstrom and James E. Hougas III,
individually and on behalf of all citizens
and voting residents of Minnesota
similarly situated, and League of Women
Voters Minnesota,

        Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven,
Karen Lane, Joel Hineman, Carol Wegner,
and Daniel Schonhardt,

        Plaintiff-Intervenors

vs.

Steve Simon, Secretary of State of
Minnesota; and Kendra Olson, Carver
County Elections and Licensing Manager,
individually and on behalf of all
Minnesota county chief election officers,

        Defendants,

and

Frank Sachs, Dagny Heimisdottir,
Michael Arulfo, Tanwi Prigge, Jennifer
Guertin, Garrison O'Keith McMurtrey,
Mara Lee Glubka, Jeffrey Strand, Danielle
Main, and Wayne Grimmer,

        Plaintiffs,

**AFFIDAVIT OF NICK HARPER IN
SUPPORT OF THE WATTSON
PLAINTIFFS'
PROPOSED CONGRESSIONAL AND
LEGISLATIVE REDISTRICTING
PLANS**

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpao Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

                  Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

                  Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Nick Harper, being first duly sworn, deposes and states as follows:

1. I am the Civil Engagement Director for Plaintiff League of Women Voters Minnesota in the above-captioned matter and make this Affidavit in support of the Proposed Congressional and Legislative Redistricting Plans of Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota ("Wattson Plaintiffs").

2. In my role as Civic Engagement Director, I advise our organization's members and volunteers on nonpartisan voter engagement and lead our staff advocacy efforts. Part of this work includes working with other organizations on civic engagement

opportunities, including nonpartisan candidate forums and voter registration, civic education, legislative advocacy, and litigation. During the last several years, these efforts have included education and engagement on census and redistricting to encourage Minnesotans to participate in the apportionment and redistricting process.

3.   In the Wattson Plaintiffs' Senate redistricting plan, we have created Senate District 62 that attempts to encompass the East African community in the Cedar Riverside and Phillips neighborhoods in Minneapolis.

4.   Throughout the summer and fall of 2021, multiple organizations in Minnesota drew community of interest maps to identify, describe, and geographically place their communities for the state and local redistricting processes.

5.   In August 2021, the Islamic Civic Society of America (ICSA), Pillsbury United Communities (PUC), and the Minnesota chapter of the Council on American Islamic Relations (CAIRMN) held a combined total of at least ten mapping sessions with each of their constituents. These maps and community descriptions identified a strong East African community in the Cedar Riverside and Phillips neighborhoods in Minneapolis.

6.   I attended two of these community mapping sessions to observe, help take notes, and provide technical mapping assistance with Districtr, an online mapping tool used to create and describe communities of interest. Some of these mapping sessions were assisted by League volunteers, including Paul Huffman, Redistricting Coordinator. The mapping sessions were led and facilitated, however, by community leaders chosen by the sponsoring organizations.

7.   During these meetings, community members identified their community and

shared interests and characteristics. I have also reviewed the description of each map, as well as used word and phrase frequency analysis of the descriptions to determine common themes among them. Members of the community are Black residents of Minneapolis. They are primarily immigrants from eastern Africa like Somalia and Ethiopia or are descendants from recent immigrants. Many speak a language other than English, such as Somali, Amharic, or Oromo. Many are Muslim, observe religious holidays, and practice daily prayers. These members of the community also identified many shared policy issues that they have concerns about, including health and human services, housing, education, and law enforcement and public safety. And because the community has a strong cultural focus on community and family, many of the community members are particularly concerned about how these policy areas affect the children and young members of their community.

8.   The ten maps below identify geographic areas of Minneapolis, some pieces which overlap and some which do not. After analyzing these maps by overlaying them on top of each other, I have determined that SD 62 reflects the precincts in Minneapolis that were most agreed upon as being geographically part this community. This community was split between at least two senate districts during the last redistricting cycle (Senate Districts 62 and 63). An image overlaying these maps with the Wattson Plaintiffs' SD 62 is included below.
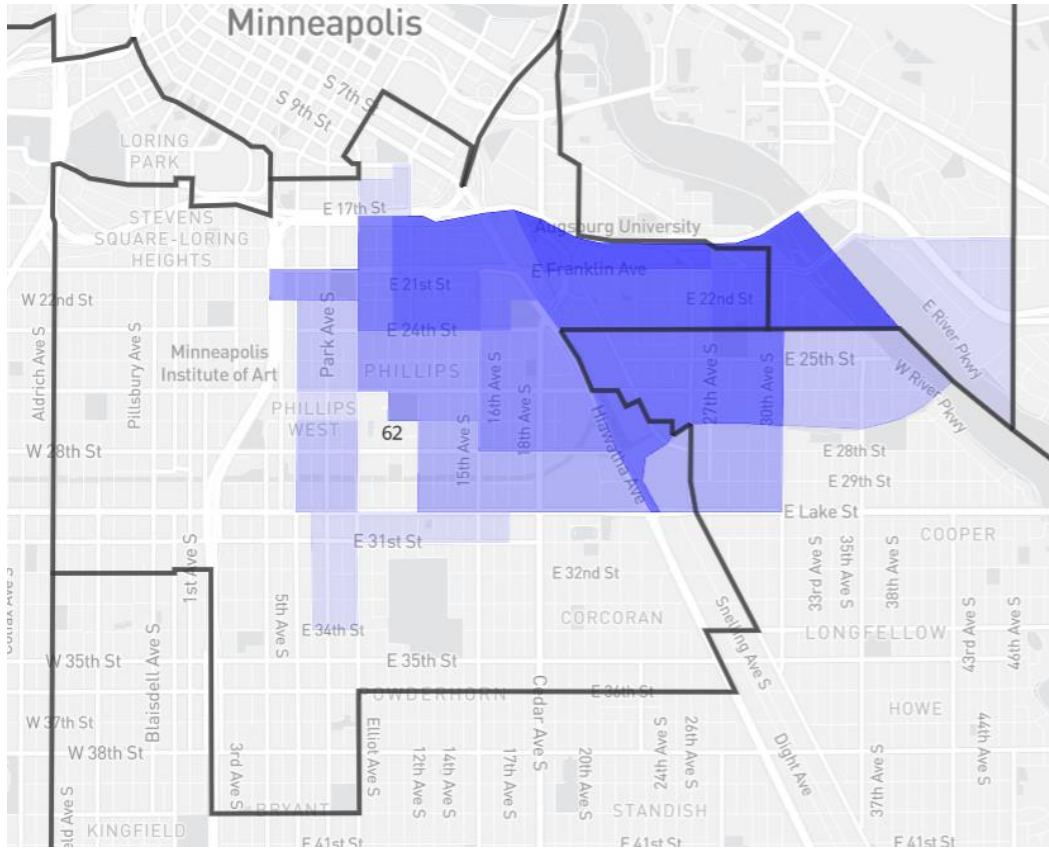
The above referenced maps are available at:

https://districtr.org/edit/60050?event=ourmapsmn

https://districtr.org/edit/41090?event=ourmapsmn

https://districtr.org/edit/39877?event=ourmapsmn

https://districtr.org/edit/38605?event=ourmapsmn

https://districtr.org/edit/37604?event=ourmapsmn

https://districtr.org/edit/37034?event=ourmapsmn

https://districtr.org/edit/36850?event=ourmapsmn

https://districtr.org/edit/35874?event=ourmapsmn

https://districtr.org/edit/35092?event=ourmapsmn

https://districtr.org/edit/33912?event=ourmapsmn

9.   Portions of the overlays were excluded from the Wattson Plaintiffs' SD 62 because those precincts were not agreed upon as common geographic areas by the community and because the White Voting Age Population for those precincts were significantly higher than Black Voting Age Population. One of these precincts is Minneapolis Ward 2 Precinct 9, the southern portion of which is the western riverbank near E. Franklin Ave. This precinct is only 13.0% Black VAP, but 76.1% White VAP. The other precinct is Minneapolis Ward 2 Precinct 2, covering the southern portion of the Seward neighborhood between E. 24th St. and E. 27th St. This precinct is only 7.7% Black VAP, but 80.8% White VAP. Therefore, including those precincts in SD 62 would have diluted the Black Voting Age Population.

Consistent with Minnesota Statute § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: December 3, 2021   */s/ Nick Harper*
                                                Nick Harper

                                                Hennepin County, Minnesota
                                                County and state signed

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy
B. Greenwood, Mary E. Kupper, Douglas
W. Backstrom and James E. Hougas III,
individually and on behalf of all citizens
and voting residents of Minnesota
similarly situated, and League of Women
Voters Minnesota,

               Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven,
Karen Lane, Joel Hineman, Carol Wegner,
and Daniel Schonhardt,

           Plaintiff-Intervenors

vs.

Steve Simon, Secretary of State of
Minnesota; and Kendra Olson, Carver
County Elections and Licensing Manager,
individually and on behalf of all
Minnesota county chief election officers,

              Defendants,

and

Frank Sachs, Dagny Heimisdottir,
Michael Arulfo, Tanwi Prigge, Jennifer
Guertin, Garrison O'Keith McMurtrey,
Mara Lee Glubka, Jeffrey Strand, Danielle
Main, and Wayne Grimmer,

              Plaintiffs,

**AFFIDAVIT OF PETER S.
WATTSON IN SUPPORT OF THE
WATTSON PLAINTIFFS'
CONGRESSIONAL
AND LEGISLATIVE
REDISTRICTING PLANS**

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpao Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

       Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

       Defendant.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

  Peter S. Wattson, being first duly sworn, deposes and states as follows:

  1. I am a Plaintiff in the above-captioned matter and make this Affidavit in support of the Congressional and Legislative Redistricting Plans of Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota ("Wattson Plaintiffs").

  2. Attached as **Exhibit A** to this Affidavit are true and correct copies of the following maps:

    A. A Statewide Map of the Wattson Plaintiffs' Congressional Plan (**Exhibit A-**

1)

B. An 11-County Metro Map of the Wattson Plaintiffs' Congressional Plan (**Exhibit A-2**)

C. A Statewide and Metro-Area map of the Wattson Plaintiffs' Congressional Plan (**Exhibit A-3**)

3.   Attached as **Exhibit B** to this Affidavit are true and correct copies of the following maps:

D. A Statewide Map of the Wattson Plaintiffs' Legislative Plan (**Exhibit B-1**)

E. An 11 County Metro Map of the Wattson Plaintiffs' Legislative Plan (**Exhibit B-2**)

F. A map of the cities of Moorhead, Duluth, St. Cloud, Mankato, and Rochester for the Wattson Plaintiffs' Legislative Plan (**Exhibit B-3**)

G. An Inner Metro Map of the Wattson Plaintiffs' Legislative Plan (**Exhibit B-4**)

4.   I personally prepared the maps attached as **Exhibits A** and **B** using Maptitude for Redistricting 2021, build 4960, 64-bit ("MTR 2021"). I used data from the 2020 Census and Minnesota's census geography as prepared by the Geographic Information Services Office of the Minnesota Legislative Coordinating Commission ("LCC-GIS"). The data was first posted on the LCC-GIS website as a series of files dated August 17, 2021. The files have been updated at least four times since then, their most recent date being November 3, 2021. That is the date of the downloaded files I used to create the maps attached as **Exhibits A** and **B**.

3

5.   In preparing the maps attached as **Exhibits A** and **B**, I made my best efforts to comply with redistricting principles adopted by the Special Redistricting Panel ("Panel") in its Order Stating Preliminary Conclusions, Redistricting Principles, and Requirements for Plan Submissions.

6.   The seven paper maps (9 copies each) delivered to the Panel on December 6, 2021, are exact copies of the seven maps that are attached to this affidavit as **Exhibits A** and **B**.

7.   Attached as **Exhibit C** to this Affidavit are true and correct copies of the following Maptitude Reports for the Wattson Plaintiffs' Congressional plan.

   A. Population Summary (**Exhibit C-1**)

   B. Minority Representation – Voting Age Population (**Exhibit C-2**)

   C. Contiguity (**Exhibit C-3**)

   D. Political Subdivisions Split Between Districts (**Exhibit C-4**)

   E. American Indian Reservation Splits (**Exhibit C-5**)

   F. Measures of Compactness (**Exhibit C-6**)

   G. Districts and Their Incumbents (**Exhibit C-7**)

   H. Core Constituencies (**Exhibit C-8**)

   I. Partisanship (**Exhibit C-9**)

   J. Plan Components (**Exhibit C-10**)

8.   Attached as **Exhibit D** to this Affidavit are true and correct copies of the following Maptitude Reports for the Wattson Plaintiffs' Senate plan.

   A. Population Summary (**Exhibit D-1**)

B. Minority Representation – Voting Age Population (**Exhibit D-2**)

C. Contiguity (**Exhibit D-3**)

D. Political Subdivisions Split Between Districts (**Exhibit D-4**)

E. American Indian Reservation Splits (**Exhibit D-5**)

F. Measures of Compactness (**Exhibit D-6**)

G. Districts and Their Incumbents (**Exhibit D-7**)

H. Core Constituencies (**Exhibit D-8**)

I. Partisanship (**Exhibit D-9**)

J. Plan Components (**Exhibit D-10**)

    9.   Attached as **Exhibit E** to this Affidavit are true and correct copies of the following Maptitude Reports for the Wattson Plaintiffs' House plan.

A. Population Summary (**Exhibit E-1**)

B. Minority Representation – Voting Age Population (**Exhibit E-2**)

C. Contiguity (**Exhibit E-3**)

D. Political Subdivisions Split Between Districts (**Exhibit E-4**)

E. American Indian Reservation Splits (**Exhibit E-5**)

F. Measure of Compactness (**Exhibit E-6**)

G. Districts and Their Incumbents (**Exhibit E-7**)

H. Core Constituencies (**Exhibit E-8**)

I. Partisanship (**Exhibit E-9**)

J. Plan Components (**Exhibit E-10**)

K. Minority Incumbents (**Exhibit E-11**)

10.   I personally prepared the reports attached as **Exhibits C**, **D**, and **E** using MTR 2021 for Redistricting.

11.   I have been using and editing Maptitude for Redistricting Reports since 2001. The standard reports in MTR 2021, when downloaded and installed by a user, include five with "(ALT)" in their names. Before 2021, those report names said "(PSW)," in recognition of the fact that they were the product of designs I had suggested over the years to Caliper Corp., vendor of Maptitude for Redistricting. Those reports are titled Population Summary, Political Subdivisions Split Between Districts, Measures of Compactness, Districts and Their Incumbents, and Plan Components. Two additional standard reports incorporate my design suggestions and are the only version in MTR 2021. They are Contiguity and Core Constituencies. The Minority Representation – Voting-Age Population and Partisanship reports, available only to Minnesota users, are also products of my design.

12.   For redistricting based on the 2020 Census, I have edited the reports described above to incorporate my current design ideas. These ideas include adding the date and time on each page of every report. In addition, I have edited the MTR 2021 Communities of Interest (Landscape, 11x8.5) report to produce the American Indian Reservation Splits report.

13.   Attached as **Exhibit K** to this Affidavit is a true and correct copy of a Swing to Lose Pendulum ("Pendulum") that I prepared for the Wattson Plaintiffs' Congressional Plan, Senate Plan and House Plan. To create the Pendulum, I first export both the Partisanship report and the Incumbents report to an Excel workbook. In order to ensure that the districts the Partisanship report counts as Competitive or Safe are listed exactly the

same in the Pendulum, I have edited the Partisanship report to set forth the Dem Plurality

to the third decimal place when exported to Excel, even though it shows no decimals when

the report is exported to PDF. In both the Partisanship and Incumbents reports, I delete the

rows above and below the district list and then work exclusively with the district list. I

merge and delete columns in the district list until only the columns with useful data remain.

I delete blank rows within each district list and then match the district with its incumbent

(or incumbents, in districts where incumbents are paired). This gives me the incumbent,

political party, and partisan lean of each district. I then sort the districts in the order of their

Dem Plurality, first from highest to lowest to rank the Democratic districts, then from

lowest to highest to rank the Republican districts. I add to the lists a column for the Swing

to Lose number (roughly half of the Dem Plurality percentage, positive or negative), and

enter that number beside the first incumbent at that percentage.

14.   If there is no incumbent at the next highest percentage, I add the percentage

number and the number at each lower percentage until I come to the next incumbent.

Having the two partisan lists in rank order from highest to lowest partisan lean, I then copy

the entry for each incumbent into the Swing to Lose grid at the proper level, so that

Democrats and Republicans in equally strong districts are opposite each other. I group them

as Safe, if their Dem Plurality is a positive or negative 20% or more, Strong, if their Dem

Plurality is less than 20% but more than 8%, and Competitive, if their Dem Plurality is 8%

or less. The Partisanship report colors each district number, and its Dem Plurality, blue if

the number is positive (indicating a Democratic lean), or red if the number is negative

(indicating a Republican lean). I color the names of any incumbents in the district in

accordance with their party when they filed for election in 2020: blue for Democrats and red for Republicans. If a district is open, without an incumbent, I enter "Open" in the color of the column it is in, as a Democratic seat or a Republican seat. I count the number of Safe and Competitive seats to verify it agrees with the Partisanship report. I enter the count on the Excel spreadsheet, whose formulas should display totals that agree with the Partisanship report on the number of Democratic and Republican seats and the number that are Competitive or Safe. If not, I troubleshoot until I find the error and fix it. I then save the Excel workbook as a PDF and add the PDF to the packet of maps and reports on the plan.

15.   The middle column in the Pendulum shows the "Swing to Lose" number, which is roughly one-half the district's average historic winning margin, its "Dem Plurality." If half or more of the winning margin in the district swings from one party to the other, the candidate whose party has lost those votes is likely to lose that seat. If a district's Dem Plurality is a competitive eight percent, a swing of four percent or more to the other party would flip the district.

16.   By showing the names of any incumbents residing in the district, and their political party, the Swing to Lose Pendulum permits the reader to see the partisan lean of the districts in which incumbents have been paired, as well as the extent to which a proposed plan places an incumbent into a district for 2022 where they are significantly more or less likely to win than in the district they won in 2020.

17.   On December 6, 2021, my attorney emailed to the Panel block equivalency files for the Wattson Plaintiffs' Congressional, Senate and House plans. The block

8

equivalency files emailed to the Panel are the block equivalency files for the MTR 2921 the plans I used to prepare the maps attached as **Exhibit A** and **B** and the reports attached as **Exhibits C**, **D**, and **E**.

18.   To create the maps attached as **Exhibits A** and **B**, I used the 2020 Census Redistricting Data (Public Law 94-171) Summary File for Minnesota, subject to correction of errors acknowledged by the United States Census Bureau, with population data determined to the census-block level.

19.   Attached as **Exhibit F** to this Affidavit is a 2022 Congressional Plan Comparison.

20.   Attached as **Exhibit G** to this Affidavit is a 2022 Legislative Plan Comparison.

21.   I created the 2022 Congressional Plan Comparison by creating four columns, (1) 2002 Court, (2) 2012 Court, (3) 2020 PW CBase202, and (4) 2022 PW 8C08. I created the 2022 Legislative Plan Comparison by creating four similar columns, with the legislative plans named 2020 PW LBase202 and 2022 PW L10. The data in each row of these **Exhibits F** and **G** is data that is extracted from reports that are generated with Maptitude.

22.   I created most of the "2002 Court" column data on March 19, 2002, the day the plan was announced by the *Zachman* Panel. I ran Maptitude for Redistricting 4.5 versions of the same type of reports attached as **Exhibit C** against the plans adopted by the *Zachman* Panel using the 2000 Census population data. The MTR 4.5 reports run in 2002 did not include some of the Compactness and Partisanship measures that are in MTR 2021. To get those numbers for the comparison, I ran MTR 2020 on the 2000 Census database

9

on January 29, 2021, to get the new Compactness measures and on January 30, 2021, to get the new Partisanship measures. I did not include any of the reports on the 2002 plan as exhibits, in an attempt to limit the volume of documents, but I did run those reports, and the data in the Plan Comparison is the result of the reports that were generated

23. The "2012 Court" column data was created using the same methods as for the 2002 plan. On February 21, 2012, the day the *Hippert* Panel announced its plans, I ran Maptitude for Redistricting 6.0 versions of the reports attached as **Exhibit C** against the plans adopted by the *Hippert* Panel using the 2010 Census population data. As with the reports on the 2002 plan, the contemporaneous reports on the 2012 plans did not include some of the current Compactness and Partisanship measures. I updated the Compactness measures by running MTR 2020 on the 2010 Census database and the *Hippert* plans on January 14, 2021, and the Partisanship measures on January 30, 2021. I did not include those reports as exhibits in an attempt to limit the volume of documents, but I did run those reports and the data in the Plan Comparison is the result of the reports that were generated

24. The columns labeled 2020 PW CBase202 in **Exhibit F** and 2020 PW LBase202 in **Exhibit G** contain data from reports for a "Base Plan" that I created for the *Hippert* Panel's Congressional, Senate, and House plans.

25. Attached as **Exhibit H** to this Affidavit is a true and correct copy of the Congressional Base Plan.

26. Attached as **Exhibit I** to this Affidavit is a true and correct copy of the Senate Base Plan.

27. Attached as **Exhibit J** to this Affidavit is a true and correct copy of the House

Base Plan.

28.   The Base Plan consists of maps, the same Maptitude reports run in **Exhibit C** to this Affidavit, and a Swing to Lose Pendulum. The maps are simply the maps of the districts adopted by the *Hippert* Panel as used in the most recent 2020 elections. The Maptitude reports and the Swing to Lose Pendulum included with the maps were run using the *Hippert* districts and the 2020 Census data. These Base Plans tell the Panel how the *Hippert* districts perform using 2020 Census data.

29.   As an example of what is in these Base Plan reports, the Population Summary report attached to each Base Plan shows the deviations in each district drawn by the *Hippert* Panel using the population data from the 2020 Census. As another example, the Minority Representation – Voting Age Population report shows the number of minority opportunity districts and majority-minority districts that exist under the *Hippert* plans using the population data from the 2020 Census.

30.   The "Core Constituencies" report attached as **Exhibit C-8** to this Affidavit will aid the Panel in determining how many Minnesotans have been moved to a new district as a result of the plans submitted by the parties. To explain how this report can be used, the entries for Congressional Districts 1 ("CD 1") in the attached Core Constituencies report will be analyzed.

The total population in the Wattson Plaintiffs' proposed CD 1 is 713,312. Using the 2020 Census populations, this report shows that to achieve this CD 1 population, the Wattson Plaintiffs used 687,101 persons from the existing CD 1 adopted in *Hippert* and 26,211 persons from the existing CD 2 in *Hippert* (687,101+26,211 = 713,312). The numbers to the right, 528,089 and 21,175, represent the voting-age populations. Thus, 96% of the people, both total population and voting-age population, in the Wattson Plaintiffs' CD 1 were in CD 1 under the plans adopted by the *Hippert* Panel. In the top right of the report, the "Average Core of Prior District" of 94% means that, across all eight districts, 94% of the voting-age population among all districts was not moved to a new congressional district by the Wattson Plaintiffs' plan. Under the Wattson Plaintiffs' congressional plan, only 325,963 people, or 6% of the total Minnesota population, were moved into new districts.

31.   The Core Constituencies report will give the Panel a way to measure whether the parties are using a 'least-change' approach, or whether they are offering a wholesale redrawing of the *Hippert* maps.

32.   As the number of districts increases, it becomes more difficult to keep

12

Minnesotans in their prior district. This is because the greater number of districts causes the percentage deviations within the districts to be higher.

33.   Attached as **Exhibit L** to this Affidavit is a true and correct copy of *LaComb v. Growe*, 4-81 Civ. 152, Order (D. Minn. March 25, 1982).

34.   In creating the Wattson Plaintiffs' plans, I split political subdivisions only (1) to meet constitutional population equality requirements, (2) to comply with the 14th and 15th Amendments to the United States Constitution, and (3) to draw districts of convenient and contiguous territory as required by Minnesota's Constitution. The Wattson Plaintiffs also ensured that any divisions did not implicate Section 2 of the Voting Rights Act, 52 U.S.C. § 10301(a).

35.   The Panel's principle that, "The reservation lands of a federally recognized American Indian tribe will be preserved and must not be divided more than necessary to meet constitutional requirements" may sometimes conflict with its principle of preserving political subdivisions. When there was a conflict, I often chose to preserve American Indian reservations at the cost of dividing a county, city, or township. This choice was based on well-established federal policy.

36.   Nine of the 12 counties split by the Wattson Plaintiffs' congressional plan are either in the 11-county metro area (Anoka, Carver, Hennepin, Ramsey, Scott, Washington, Wright) or just outside the 11-County metro area (Benton, Stearns).

37.   Northern Becker County contains part of the White Earth American Indian reservation, and its division was, in part, to keep the entire White Earth reservation in CD 8. This split of Becker County also helped to achieve the constitutional requirement of

population equality.

38.   Morrison County was split so that a small part of Morrison County containing the city of Motley, 911 people, and a portion of Swanville, 81 of 321 people, could move to CD 7 to help achieve population equality.

39.   Wabasha County was split so that a small part of Wabasha County could move into CD 1 to help achieve population equality. This split of Wabasha County placed 127 residents of the Plainview Township in CD 1 and 329 residents of Plainview Township into CD 2.

40.   Hennepin County was split due to its population being much larger than the size of a constitutionally permissible district and to help achieve population equality. Western portions of Hennepin County containing Hanover, Minnetrista, Independence and St. Bonifacius were moved into the Third District to achieve population equality.

41.   Benton County, which was entirely in CD 6 under the *Hippert* plan, was split to add population to the underpopulated CD 7. These movements are necessary with the rural to urban shift taking place in Minnesota. While not a split, this population shift is also made apparent as the half of Stearns County that was in CD 6 under the *Hippert* plan is now in CD7.

42.   The remaining six county splits (Anoka, Carver, Ramsey, Scott, Washington, Wright) were necessary to shift population among the Twin Cities districts and to push population out to CD 1, CD 7, and CD 8 in greater Minnesota.

43.   Ten cities were split in the Wattson Plaintiffs' congressional plan, and these splits were necessary to achieve the constitutional requirement of population equality and

14

convenience.

44.   The Wattson Plaintiffs' House and Senate plans divide political subdivisions only to the extent necessary to meet constitutional requirements, and as discussed above, to avoid splitting the reservations of federally recognized American Indian tribes.

45.   The substantial shift in population from the rural areas of the state into the Twin Cities suburbs and exurbs requires the rural districts to grow in area and add more people to meet constitutional requirements for equal populations. The 2020 Census shows that the Senate districts in northern Minnesota are significantly underpopulated and need to grow in area to add population to meet constitutional requirements. Rather than keep the same three Senate districts that currently span the state on the northern border, the Wattson Plaintiffs' Senate plan drops one. Additional changes to current district numbers flow from that first decision.

46.   Because these three districts are underpopulated by 8.78% (District 1), 4.05% (District 2) and 7.31% (District 3), the size of these districts needs to grow. Continuing to move these districts south will make them longer, narrow and inconvenient. Thus, difficult choices needed to be made to account for these population shifts. In this case, rather than keep the same three Senate districts that currently span the state on the northern border, The Wattson Plaintiffs' plan drops one. It does this by adding to SD 1 all of Lake of the Woods County and the portions of Beltrami County above Red Lake. SD 2 (current SD 3) adds the population it needs by adding cities and towns in St. Louis County in the upper and lower tiers of current SD 6. The second tier of districts, from SD 3 to SD 7, are thus freed from each having to be long and skinny. The new SD 3 is a Moorhead metropolitan

15

area district. It is little changed from the 2020 plan.

47.   SD 4 encompasses all the White Earth Indian Reservation and all but one person in the Red Lake Indian Reservation. To add the necessary population, it moves south, to encompass the two northern tiers of cities and towns in Otter Tail County.

48.   SD 5 encompasses all of the Leech Lake Indian Reservation. To add the necessary population, it moves further south in Cass County, and picks up the northern portions of Wadena, Crow Wing, and Aitkin Counties, and some northern portions of Itasca County that were in SD 6. SD 6 makes up for the population lost to SD 2 and SD 5 by moving further into Itasca County. SD 7 expands to take in all but one precinct in Duluth.

49.   SD 8 is anchored in Ottertail County, where Fergus Falls is the largest city, but also has a sizeable population in Douglas County, including the city of Alexandria. SD 8 makes up for the population lost to SD 4 by adding Wilkin County, the Barnesville area of Clay County, and the townships in Douglas County that border Alexandria on the west and south.

50.   SD 9 encompasses the Brainerd Lakes area and surrounding cities and towns in Crow Wing, Cass, and Wadena Counties. Both senators Ruud in Breezy Point and Gazelka in Fairview Township live in the district.

51.   SD 10 encompasses almost all the Mille Lacs Indian Reservation (4,573 people in and 194 out). Its largest city is Little Falls, population 9,150. SD 11 is a district linked by Interstate Highway 35, encompassing most of the highway's length from the Twin Cities to Duluth. It is little changed by this plan. It adds Fine Lake Township in St. Louis County, so that all the Fond du Lac Indian Reservation will be in one district. It

makes up for losing population to SD 5 and SD 10 by adding six cities and towns in Kanabec and Chisago Counties.

52.   SD 12 makes up for the loss of population to SD 8 by adding most of Swift County, the northern tier of townships in Kandiyohi County, and the southern two tiers of townships in Todd County. SD 13, eastern Stearns County outside of St. Cloud and Waite Park, trades some cities and towns with SD 12 to balance both their populations. It also gives Waite Park to St. Cloud SD 14 in exchange for picking up St. Augusta. SD 14 remains St. Cloud and Waite Park, plus adjacent cities and towns in Benton and Sherburne Counties.

53.   SD 27, having lost much of its former population to new SD 10, as well as to SD 14, moves east to add Zimmerman and part of Elk River in Sherburne County and Cambridge and Isanti in Isanti County, as well as townships in between. SD 15 is linked by U.S. Highway 12. Its main population centers are Willmar and Litchfield. It has lost most of Swift County and the northern part of Kandiyohi County to SD 12. It loses Renville County to new SD 16 and SD 17. To make up those losses, it adds most of Meeker County and three townships in Wright County, plus the city of Cokato.

54.   SD 16 is mostly south of the Minnesota River, running from Ortonville on the South Dakota border to just east of New Ulm. The 2020 Census showed it needed to add about 8,000 people, which it could do by adding most of Renville County. But it also loses population to new SD 19, which adds the balance of Lyon County to eliminate a county split as it expands from the southwest corner of the state. That means adding the balance of Redwood County, all of Cottonwood County, and the northeast third of Jackson

County to SD 16.

55.   SD 17 is linked by U.S. 212. It needs to add about 6,000 people. But it also loses most of Meeker County, plus Cokato in Wright County, to SD 15. It finds the necessary population in northwest Nicollet County, eastern Renville County, and western Wright and Carver Counties.

56.   SD 28 encompasses most of Wright County and is anchored in Buffalo. The 2020 Census showed it needed to add only 151 people. But SD 15 and SD 17 took three of its western townships. To replace them, it adds Clearwater and Clearwater Township in the north. SD 29 includes St. Michael, Albertville, and Otsego in Wright County and most of Big Lake and all of Elk River in Sherburne County. It crosses the Mississippi River at Elk River on MN Highway 101. It needs to lose about 8,000 people. It does that by adding the last precinct in Big Lake and subtracting the two northernmost precincts of Elk River.

57.   The 2020 Census showed that Anoka County has enough population for 4.3 Senate districts. Those districts are numbered 30 to 34. Senate districts 30, 32, and 33 are entirely within Anoka County. SD 31 and SD 34 are dominated by Anoka County, but also include portions of other counties. SD 30 consists of Andover, Ramsey, Anoka, and Nowthen, plus Precinct 4 of Oak Grove. SD 31 includes the balance of Oak Grove and such major cities as Ham Lake, East Bethel, and St. Francis in Anoka County, North Branch in Chisago County, and six townships in Isanti County. SD 32 is anchored by Coon Rapids, completing the necessary population with seven precincts in Blaine and one precinct in Fridley. Unlike current SD 36, it does not cross the Mississippi River nor include any territory outside Anoka County.

18

58.   SD 33 includes the balance of Blaine and the cities of Lino Lakes, Circle Pines, Centerville and Lexington. SD 34 is dominated by Anoka County. It consists of 11 precincts of Fridley, plus the cities of Columbia Heights, Hilltop, and Spring Lake Park in Anoka County. It also has all but one precinct of New Brighton in Ramsey County and both the Ramsey and Hennepin County portions of St. Anthony.

59.   The 2020 Census showed that Hennepin County has enough population for 15 Senate districts. Those 15 districts are numbered 35-44 and 59-63. All but two are entirely within Hennepin County: SD 35 includes both the Hennepin and Wright County portions of the city of Hanover, and SD 42 includes two precincts in Carver County. These additions to Hennepin County districts are balanced off by the Hennepin County portion of St. Anthony that is in SD 34, which is anchored in Anoka County but includes the Ramsey County portion of St. Anthony. Ten Senate districts, numbered 35 to 44, are in the portion of Hennepin County outside Minneapolis, except for two Minneapolis precincts included in SD 44, which is anchored in Bloomington.

60.   SD 35 is in northwest Hennepin County, and its anchor is 11 precincts in Maple Grove. SD 36 is in northeast Hennepin County, including Dayton, Champlin, and Osseo, a dozen precincts in northeast Maple Grove, and five precincts in northern Brooklyn Park. Unlike current district 36, which includes Champlin and portions of Brooklyn Park, it does not cross the Mississippi River to include part of Coon Rapids.

61.   SD 37 is anchored by the balance of Brooklyn Park and completed with three precincts in northeast Brooklyn Center. SD 38 consists of Plymouth and one precinct in Maple Grove. Under the current plan, Plymouth is divided into three Senate districts. SD

19

39 consists of New Hope, Crystal, and Robbinsdale, four precincts in southwest Brooklyn Center, and three precincts in Golden Valley.

62.   SD 40, the Minnetonka district, consists of Long Lake, all but one precinct of the city of Minnetonka, and all but two of the cities (Mound and Minnetrista) that have shoreline on Lake Minnetonka. SD 41 is anchored by St. Louis Park and completed with Hopkins, one precinct in Minnetonka, and five precincts in southwest Golden Valley. SD 42 is anchored by Edina and completed with nine precincts in Eden Prairie and two in Chanhassen, all linked by U.S. 212. SD 43 is anchored by west Bloomington and completed by 11 of the 12 precincts in Eden Prairie that are south of MN 5. SD 44 consists of east Bloomington, Richfield, Ft. Snelling, and two precincts in south Minneapolis.

63.   The 2020 Census showed that Minneapolis has enough population for five Senate districts. Those districts are numbered 59 to 63 and are entirely within Minneapolis. SD 59 is the North Side and part of Downtown. The 2020 Census showed it needed to shrink by almost 10,000 people. It does that by shedding three precincts in Bryn Mawr and one Downtown, where I-35W turns north to cross the Mississippi River.

64.   SD 60 is Northeast Minneapolis, encompassing all of the city east of the Mississippi River, plus precincts in Ward 2 and Ward 6 that are across the river in Downtown. The 2020 Census showed that, like SD 59, it needed to shrink by almost 10,000 people. It does that by shedding the two precincts in Ward 6. SD 61 is Southwest Minneapolis. The 2020 Census showed it needed to shrink by about 3,000 people. But the shrinking of SD 59 to its north caused it to add three precincts in Bryn Mawr, so SD 61 had to drop the precinct between Loring Park and I-94, as well as two precincts bordering

20

on Powderhorn Park.

65. SD 62 extends south of Downtown along both sides of I-35W, mostly between Lyndale Ave and MN 55. The 2020 Census showed it needed to add 2,400 people. It gained far more than that from the shrinking of the adjacent SDs 59, 60, and 61, so had to drop several precincts in the south.

66. SD 63 is the balance of South Minneapolis not included in SD 62 or SD 44. The 2020 Census showed it needed to add about 1,500 people. After losing Ft. Snelling, four precincts in Richfield, and one in south Minneapolis to SD 44, it equalizes its population by taking in precincts from the southern portions of current SDs 61 and 62.

67. The 2020 Census showed that Ramsey County has enough population for 6.5 Senate districts. Those districts are numbered 45, 46, and 64 to 67, plus part of SD 34, which is anchored in Anoka County, but includes the Ramsey County portion of St. Anthony and all but one precinct of New Brighton. SD 45 and 46 are outside St. Paul.

68. SD 45 is in northern Ramsey County, consisting of Shoreview, Mounds View, Vadnais Heights, Arden Hills, and North Oaks, three precincts from Roseville, one each from New Brighton and White Bear Township, and the Ramsey County portions of Spring Lake Park and Blaine (which are primarily in Anoka County). SD 46 is in northeast Ramsey County, consisting of White Bear Lake, North St. Paul, Little Canada, Gem Lake, eight precincts from Maplewood, three precincts from White Bear Township, and one precinct from Roseville.

69. The 2020 Census showed that St. Paul has enough population for 3.7 Senate districts. Those districts are numbered 64 to 67. Senate Districts 64, 65 and 67 are entirely

within St. Paul. SD 66 is anchored by 16 precincts in northwest St. Paul that contain 55,174 of the 84,873 people in the district. The balance of the population comes from six precincts in Roseville and all of Falcon Heights and Lauderdale.

70. SD 64 is in southwest St. Paul. It is unchanged from current SD 64. SD 65 changes only slightly from current SD 65. The 2020 Census showed it had to shrink by about 2,000 people. It does that by shedding two precincts north of the Pierce Butler Route and adding one south of it, plus two that are east of I-35E and north of University Ave. SD 67, on St. Paul's East Side, changes only slightly from current SD 67. The 2020 Census showed it had to shrink by about 5,000 people. It does that by shedding the two precincts east of I-35E and north of University Ave that were added to SD 65, as well as by shedding the precinct that contains Lake Phalen.

71. The 2020 Census showed that Washington County has enough population for 3.1 Senate districts. Those districts are numbered 47 to 50. Only SD 48 is entirely within Washington County. SD 47 also has territory in Chisago County, SD 49 also has territory in Ramsey County, and SD 50 also has territory in Dakota County.

72. SD 47 is a St. Croix River district, linked by MN 95 and U.S. 61, running from Taylors Falls, Chisago City, and Wyoming in Chisago County on the north to Forest Lake, Marine on St. Croix, Hugo, and Grant in Washington County on the south. More than 60% of the population lives in Washington County. SD 48 is also a St. Croix River district, running from Stillwater Township on the north to Afton in the south, linked by MN 95, MN 36, and MN 5. Its largest cities are Oakdale, Stillwater, and Lake Elmo.

73. SD 49, anchored by Woodbury, is little changed from current SD 53, which

the 2020 Census showed had to shrink by about 8,500 people. It does that by dropping two precincts in Woodbury and one in Oakdale and adding back one in Maplewood. The choice of which precincts to add and subtract was dictated by their populations, and what combination of precincts made it possible to achieve a deviation of no more than two percent. It remains anchored by Woodbury, which has almost 77% of the district's population. It is completed by Landfall, one precinct in Oakdale, and five precincts in Maplewood in Ramsey County.

74. SD 50 has about 60% of its population in Washington County, anchored by Cottage Grove and including Denmark Township and two precincts in Woodbury. Like current SD 54, it crosses the Mississippi River to get the balance of its population, taking in Hastings and Nininger Township in Dakota County. It completes the district by adding two precincts in eastern Rosemount.

75. The 2020 Census showed that Carver County has enough population for 1.3 Senate districts. The portion of Carver County not in SD 17 or SD 42 is numbered SD 51, whose largest cities are Chaska, Victoria, Waconia, and Chanhassen. It also includes the Hennepin County city of St. Bonifacius and the three Minnetrista precincts not in SD 65.

76. The 2020 Census showed that Scott County has enough population for 1.8 Senate districts. Those districts are numbered 52 and 53. SD 52 is dominated by the cities of Shakopee, Prior Lake, and Jordan, but also includes the smaller townships of Jackson, Louisville, Sand Creek, and Spring Lake. It encompasses all the Shakopee Mdewakanton Sioux American Indian Reservation. SD 53 has four precincts and part of a fifth in Savage, but is mostly the rural areas of Scott, Dakota, Rice, and Le Sueur Counties, stretching along

the Minnesota River from St. Lawrence Township north of Belle Plaine to Washington Township near Mankato.

77.   The 2020 Census showed that Dakota County has enough population for 5.2 Senate districts. Those districts are numbered 54 to 58. SD 54 is anchored by Burnsville and completed by five precincts and part of a sixth in Savage in Scott County. SD 55, in the northwest tip of the county, is anchored by Eagan and completed by Mendota Heights, Mendota, Lilydale, and one precinct in Inver Grove Heights. SD 56, in the northeast tip of the county, includes the larger cities of South St. Paul, West St. Paul, and Inver Grove Heights (other than the one precinct in SD 55). It also crosses the Mississippi River on I-494 (as does current SD 54) to include the Washington County cities of Newport and St. Paul Park, plus Grey Cloud Island Township. SD 57 is anchored by Apple Valley and completed by the balance of Rosemount not included in SD 50 and four precincts in northern Lakeville. SD 58 is anchored by 13 precincts in Lakeville and completed by Farmington and 11 rural cities and towns in southern Dakota County.

78.   SD 18 is in the Mankato metropolitan area. It is little changed from current SD 19, which the 2020 Census showed had to shrink by about 1,300 people. It does that by dropping four cities and towns in the northwest corner of Nicollet County and adding Le Ray Township east of Eagle Lake. It remains anchored by Mankato and completed by North Mankato, St. Peter, Eagle Lake, and 17 other small cities and towns in Blue Earth, Le Sueur, and Nicollet Counties.

79.   SD 21 includes the large cities of Northfield and Faribault in Rice County and Owatonna in Steele County and their surrounding small cities and towns, all a short

24

drive from the Twin Cities on I-35. SD 22 includes all of Goodhue and Wabasha Counties and smaller cities and towns in Dakota, Dodge, and Winona Counties. Its eastern border is the Mississippi River.

80.   The 2020 Census showed that Olmsted County has enough population for 1.9 Senate districts. Those districts are numbered 23 and 24. SD 24 consists of the portion of Rochester lying generally north of U.S. 14, the townships adjacent to that portion of the city, Oronoco city and township, and Farmington Township. Almost 90% of its population is in the City of Rochester. SD 24 consists of the remainder of Olmsted County, plus Kasson and Mantorville city and township in Dodge County. More than 50% of its population is in the City of Rochester.

81.   SD 19 consists of six counties in the southwest corner of the state (Lincoln, Lyon, Murray, Nobles, Pipestone, and Rock), plus 13 cities and towns in Jackson County. SD 20, in south central Minnesota, runs from the southern border to north of Mankato. It consists of Martin, Waseca, and Watonwan Counties, and portions of Blue Earth, Faribault, Le Sueur, and Rice Counties. Its largest city is Fairmont in Martin County, population 10,487. It is linked by I-90 and U.S. 169.

82.   SD 25, also in south central Minnesota, is little changed from current SD 27, which the 2020 Census showed had to add 5,400 people. It does that by adding adjacent townships and their embedded cities, two in Faribault and Dodge Counties and six in Steele County. It is linked by I-90, I-35, and U.S. 218. SD 26, in the southeast corner of the state bordering the Mississippi River, is little changed from current SD 28, which the 2020 Census showed had to add almost 7,900 people. It does that by adding three adjacent

25

townships and their embedded cities in Winona County.

83.   The Wattson Plaintiffs included with their Plan Submissions an American Indian Reservations Split Report that shows which reservations were split under their plans. The report shows all reservation splits, whether the splits involve noncontiguous or contiguous reservations. The report treats off-reservation trust land as if it were part of the reservation, to assist plan drafters who would prefer to keep them all together.

84.   In their congressional Plan, the Wattson Plaintiffs do not divide any contiguous reservation lands of federally recognized American Indian tribes. The report does note that there are two American Indian Reservation splits involving noncontiguous reservations, but these splits involve 0 people (Red Lake Reservation) and seven people (Minnesota Chippewa Reservation).

85.   In the Wattson Plaintiffs' Senate plan, the contiguous land of a federally recognized American Indian Reservation is divided only once, but this division involves no people. The Upper Sioux Reservation is divided between SD 15 and SD 16. This reservation split is necessary to keep Chippewa County and Granite Falls Township in SD 15 whole. The split places a small, uninhabited island in the Minnesota River in SD 15. There are no known voters on this island. The Upper Sioux Community voters all live in SD 16.

86.   The American Indian Reservation Splits report for the Wattson Plaintiffs' Senate plan, attached as **Exhibit D-5**, shows that five reservations were splits ten times, but as noted above, the only split of a contiguous reservation was the Upper Sioux reservation split between SD 15 and 16 with no population being split. The other splits

involve noncontiguous reservation lands and as can be seen on the report, very little population was separated as a result of these splits.

87. The American Indian Reservation Splits report for the Wattson House plan shows that six reservations were split 13 times. Only one of these splits involve contiguous reservation land, and the noncontiguous splits shift very little population.

88. When creating the Wattson Plaintiffs' plans, I made great effort to preserve the reservation lands of a federally recognized American Indian tribes.

89. In creating SD 62, I relied on information in the Affidavit of Nick Harper dated December 3, 2021, and filed in this case.

90. In creating districts for the Wattson Plaintiffs' plan, I used a least change-approach. I tried to keep Minnesotans in the districts they were in under *Hippert* while also complying with the principles adopted by the Special Redistricting Panel.

91. The population deviations in the Wattson Plaintiffs' legislative plans were to accommodate Minnesota's clearly identified, legitimate policy objectives, including to preserve political subdivisions, create districts of convenient and contiguous territory, meet minority representation requirements, preserve the reservation lands of federally recognized American Indian tribes, and create compact districts.

92. When creating the Wattson Plaintiffs' plans, minimizing precinct splits and preserving the cores of prior districts helps to create districts that accommodate Minnesota's clearly identified, legitimate policy objectives mentioned in the previous paragraph.

93. While there is no perfect way to measure partisanship, the only logical way

to do so is empirically, and using past election results and partisanship reports is industry standard and the most reliable way known to measure partisanship. Thus, the Partisanship reports provided by the Wattson Plaintiffs use an index of the historical vote for each of the two largest parties and all other parties and write-in votes (grouped as "third parties") to generate the reports discussed below.

94.   The Partisanship report included with the Wattson Plaintiffs' plans provides eight measures that allow the Panel to discover any partisan bias in the plans submitted by the parties. These measures include: (1) districts with a plurality, (2) proportional seat gap, (3) competitive districts, (4) safe districts, (5) mean-median gap, (6) lopsided wins gap, (7) declination and (8) efficiency gap.

95.   In order to apply any of these measures, an index using past election results must be created, (hereinafter "the Index"). I used 14 of the 16 Minnesota statewide partisan races of the last decade. The 14 races used are:

2012 Presidential Election	2014 United States Senate	2014 Governor
2014 Secretary of State	2014 State Auditor	2014 Attorney General
2014 Presidential Election	2018 United States Senate Special Election	2018 Governor
2018 Secretary of State	2018 State Auditor	2018 Attorney General
2020 Presidential Election	2020 United States Senate	

96.   The Wattson Plaintiffs' Index excludes the U.S. Senate general elections of 2012 (Klobuchar 65% v. Bills 31%) and 2018 (Klobuchar 60% v. Newberger 36%), which were not close and thus outliers in Minnesota.

97.   I took the Secretary of State's election results by precinct for the 14 Index races and allocated them to the census blocks within each precinct. This allocation is done using Maptitude for Redistricting software and a process Maptitude calls "disaggregating." The disaggregation is based on the voting-age population in each block as a proportion of the voting-age population in the precinct. Each census block thus shows the same partisanship as the precinct, even though users of the software know that is probably not the reality. The more precincts that are split to create a district, the less reliable will be its partisan lean as shown in the Partisanship report. Nevertheless, disaggregating election results to census blocks is the industry standard when creating redistricting plans at the block level.

98.   The Partisanship report sums the Index votes in all the census blocks in a district for each district drawn (congressional, House or Senate). It shows the number of Index votes in each district, the percentage of the votes cast for Democratic, Republican, or other candidates (grouped as "Third Parties"), and the percentage by which the votes cast for Democratic candidates exceeded the percentage of votes cast for Republican candidates. This excess is called the "Dem Plurality," or average winning margin. If the number is positive, it is shown in blue to indicate that the district favors Democrats. If the number is negative, because Republican candidates in the district received more votes than Democratic candidates, the Dem Plurality is shown in red to indicate the district favors Republicans.

99.   Statewide, the Index shows a voter preference of 51% DFL, 44% Republican, and 6% for Third Parties (the three numbers do not add because each has been rounded).

29

100. The 2022 Congressional Plan Comparison and 2022 Legislative Plan Comparisons also use an index for the "2002 Court" and 2012 Court" data. The "2002 Court" partisanship data is based on aggregate election results for all Minnesota statewide partisan races that took place in 1998. The "2012 Court" partisanship data is based on aggregate election results for all Minnesota statewide partisan races that took place in 2006, 2008 and 2010.

101. Applying the Index to the Base Maps shows how the 2020 districts, if they were used again for the 2022 election, would be expected to perform. This data can be a valuable tool because it shows how much the partisanship of each district and the plan as a whole submitted by each party deviates from the districts and plans drawn by the *Hippert* Panel.

102. The "Districts with a Plurality" measure shows the number of districts likely to be won by the DFL and Republican parties under a plan submitted to the Panel.

103. The shifts to the urban areas require most rural districts to grow in area and most urban districts to shrink in order to equalize their populations. This would tend to how a minimal reduction in the number of rural (Republican) districts and a minimal increase in the number of urban (DFL) districts.

104. The "Proportional Seat Gap" subtracts from the Districts with a Plurality measure the number of seats the party would receive if it were proportional to the party's share of the statewide vote. The difference, if any, is the Gap, which may be positive or negative. The ideal is no Gap.

105. The Districts with a Plurality line predicts that, if the *Hippert* districts were

used for the 2022 election, both Democrats and Republicans would win four seats. The Proportional Seats line calculates that, if the seats were awarded instead based on a party's share of the statewide vote, Democrats would win four seats, but Republicans would win only three seats. The Proportional Seat Gap would plus one for Republicans. (There is no Proportional Seat Gap for Third Parties in a congressional plan, because 6% of the vote is not enough to win even one congressional seat.)

106. The Partisanship report also counts the number of "Competitive" districts and "Safe" districts. A Competitive district is one that has an average historical winning margin of 8% or less. A Safe seat is one that has an average historical winning margin of 20% or more. This is determined by applying the Index votes to each census block in a party's proposed district and measuring how the district performs. A district whose average historical winning margin is above 8% but below 20%, so it is neither Competitive nor Safe, is "Strong." (The report does not yet count the number of Strong districts. They must be counted by hand when creating the Swing to Lose Pendulum report, attached as **Exhibit K**.

107. As shown by the 2022 Congressional Plan Comparison, the number of Competitive congressional districts drops from four under the *Hippert* plan used for the 2020 election to three under the plan proposed by the Wattson Plaintiffs to be used for the 2022 election. That drop can partly be explained by the same shift of population from rural to urban areas described above in connection with the Districts with a Plurality measure. The Senate and House plans are counted similarly. The impact of the shift of population from rural to urban areas may be more apparent with the larger number of Senate and

31

House districts.

108.   The mean of a party's Index votes is the average of its statewide votes. For the Index proposed by the Wattson Plaintiffs, the mean vote is 51% for Democrats and 44% for Republicans. The mean vote is the same for all plans (Base Plans and Wattson Plaintiffs' Plans) since it is a statewide total for all the districts in a plan, regardless of how individual districts are drawn.

109.   The party's median vote is its share of the vote in the middle of all the districts after they are ranked from the highest vote in a district to the lowest vote in a district. In a Senate plan, with 67 districts, it is the party's vote in its 34th best district, with 33 districts above and 33 districts below. The median vote is more likely to vary from plan to plan.

110.   If the party's median vote is less than its mean vote, it is winning fewer seats than its share of the statewide vote. The plan is biased against that party. A party's median vote is brought down by packing its voters into districts they can win easily and cracking them into districts they are unlikely ever to win.

111.   The Mean-Median Gap measures the difference between the mean and the median vote for each party and compares the two parties to each other with a single number. The ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats.

112.   The Lopsided Wins Gap measures the difference between the average winning margin in districts won by each party. A party whose average winning margin is higher than the other party may be wasting its votes, making it unable to win as many

districts. The Lopsided Wins Gap is computed by subtracting one party's average winning margin from the other party's margin. A positive number is a partisan bias in favor of Republicans. A negative number is a partisan bias in favor of Democrats. The ideal is zero.

113.   Declination is best understood when viewed on a graph, such as the one below.
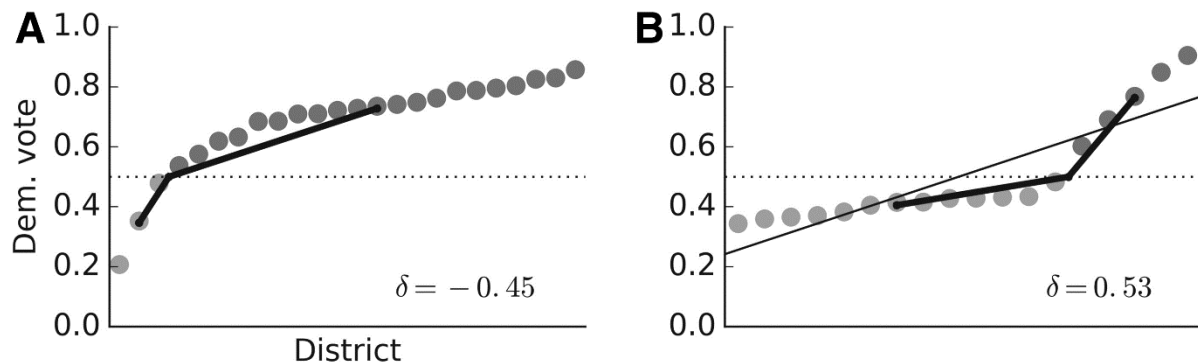
To calculate Declination, you plot one party's mean vote share in every district on a graph. The other party's vote share is not on the graph. In the graph above, the vote shares of Democrats are plotted. The dots below the 50% threshold represent the percentage of votes received by Democratic candidates in races won by Republicans. The dots above the 50% threshold represent the percentage of votes received by Democratic candidates in races won by the Democrat. If, upon crossing the 50% threshold, the line following that plot takes a significant turn one way or the other, the map favors one particular party.

114.   The ideal declination is 0, with a small number resulting in less bias and a larger number showing a more biased plan.

115.   The Efficiency Gap is a measure of the number of votes for the candidates of each party that are "wasted." "Wasted" votes are those cast for a losing candidate and those cast for a winning candidate in excess of the number necessary to win. By way of example,

if a party's candidate loses a race 47 votes to 53 votes, that losing party has 47 wasted votes. The winning party has 5 wasted votes, because it needed only 48 votes to win but received 53 votes.

116.   Partisan gerrymandering is carried out by some combination of cracking a party's voters among many districts, in which their preferred candidates lose by relatively narrow margins, and packing a party's voters into a few districts, in which their preferred candidates win by enormous margins. Both cracking and packing produce votes that are wasted, in the sense that they do not contribute to a candidate's election. The Efficiency Gap is calculated by taking one party's wasted votes as a percentage of the total votes cast and subtracting it from the other party's wasted votes as a percentage of the total votes cast. The difference between the two percentages is the Efficiency Gap. It captures in a single number the extent to which district lines crack and pack one party's voters more than the other party's voters.

117.   In the Partisanship report, the Republican wasted vote percentage is subtracted from the Democratic wasted vote percentage. A positive number shows the plan is biased in favor of Republicans. A negative number shows it is biased in favor of Democrats. The ideal is zero.

118.   In addition to the data above, the Partisanship report contains Index votes by party in each district. In the District List, the "Dem Plurality" column subtracts the Republican Index % from the Democratic Index % to show the average winning margin in the district in all the races included in the Index. That winning margin is labeled the "Dem Plurality." If the Democratic Index % is larger than the Republican Index %, the Dem

34

Plurality will be a positive number, shown in blue to highlight that it is a Democratic district. If the Republican Index % is larger, the Dem Plurality will be a negative number, shown in red to highlight that it is a Republican district. One can quickly see which party is predicted to win each district, and by how much.

119.   The State Total of Index votes for the congressional, Senate and House plans, will be the same (17,736,165 DFL and 15,201,653 Republican), regardless of the way any particular plan is drawn. Likewise, the 51% Democrat – 44% Republican breakdown remains the same for the plan as a whole. The differences from plan to plan occur in the number of votes for each party in each district. These Index votes are spread across districts at the block level and are spread differently in each plan depending on how the districts are drawn.

120.   The Partisanship report can be used by any party to this action to evaluate whether a plan proposed to the Panel has been drawn "with the purpose of protecting, promoting, or defeating [a] political party."

121.   Democrats tend to live in compact urban areas, while Republicans tend to live in the more rural and exurban areas, with the suburbs being a mix of Democrats and Republicans. With this geographic distribution of the political parties, political proportionality cannot be achieved simply by complying with neutral redistricting principles such as convenient districts, minimizing political subdivision splits, and drawing compact districts. One will want to ensure that this natural packing effect that creates partisan bias is not exacerbated, which would indicate a purpose to promote or defeat a political party.

122.   Attached as **Exhibit M** to this Affidavit is a true and correct copy of a map that shows the winning party by precinct in the Minnesota House of Representatives 2020 general election. The map was prepared and published on its website by the staff of LCC-GIS.

123.   Attached as **Exhibit N** to this Affidavit is a true and correct copy of a document I created to assist the redistricting process following the 1990 Census and have updated each decade since. I call it "Senate Seats in Selected Areas, 2022 vs. 2112, 2002, and 1992." It shows the number of seats in the Minnesota Senate that various areas would be entitled to if the seats were allocated among them strictly on the basis of their populations according to the decennial census. The latest version shows the results for each census from 1990 to 2020 and how the population and number of seats have changed. The areas shown in the document are the 11-county metropolitan area and the largest counties and cities in the state.

124.   The report labeled **Exhibit E-11** attached to this affidavit and named "Minority Incumbents, 2022 PW L10H," is one I created to show how incumbent members of the Minnesota House of Representatives who are members of a racial, ethnic, or language minority group would be impacted by the House plan proposed by the Wattson Plaintiffs. A similar report on the Wattson Plaintiffs' base plan, 2020 PW LBase202H, is included in the packet of maps and reports on that plan and attached to this affidavit as **Exhibit O**. Comparing the districts and how their incumbents are treated by the Base plan and the proposed plan shows the impact the proposed House plan would have on them.

125.   Most house incumbents who are members of a racial or ethnic minority group

36

would see little change in the racial and ethnic composition of their district and its electoral performance. This portion of my affidavit focuses on the districts that warrant an explanation. The explanation discusses both the Minority Incumbents table for the Base plan used for the 2020 election, 2020 PW LBase202H, and the Minority Incumbents table for the proposed plan, 2022 PW L10H. The reader may want to have those tables at hand when reading this explanation.

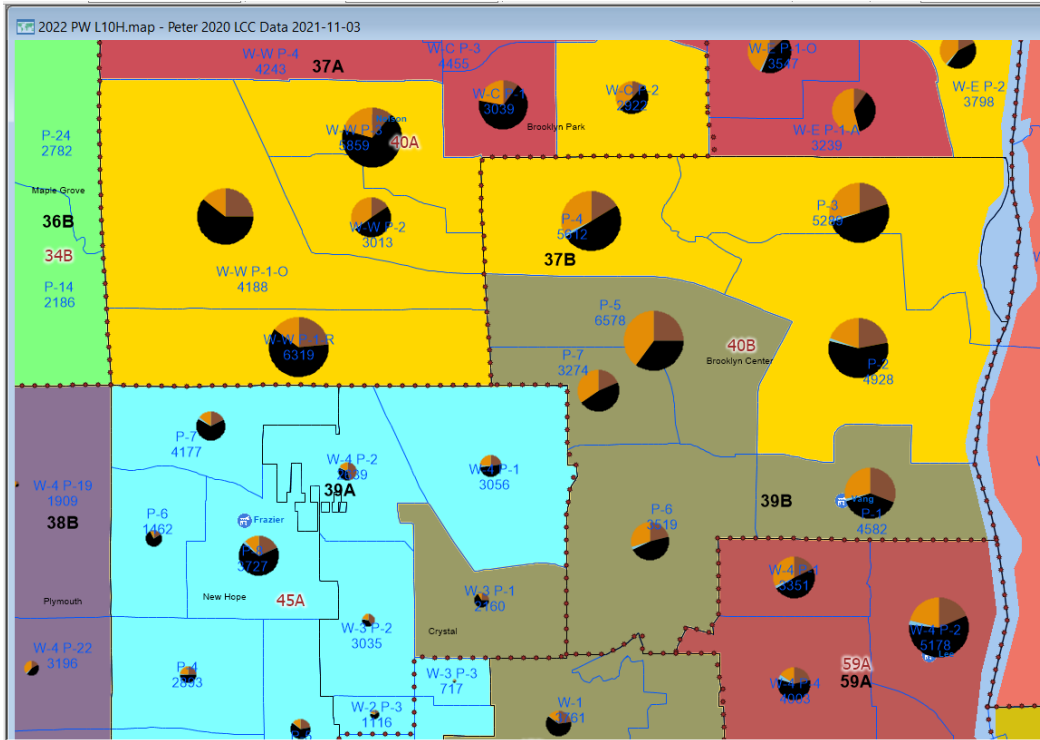126. **Brooklyn Center/Brooklyn Park**
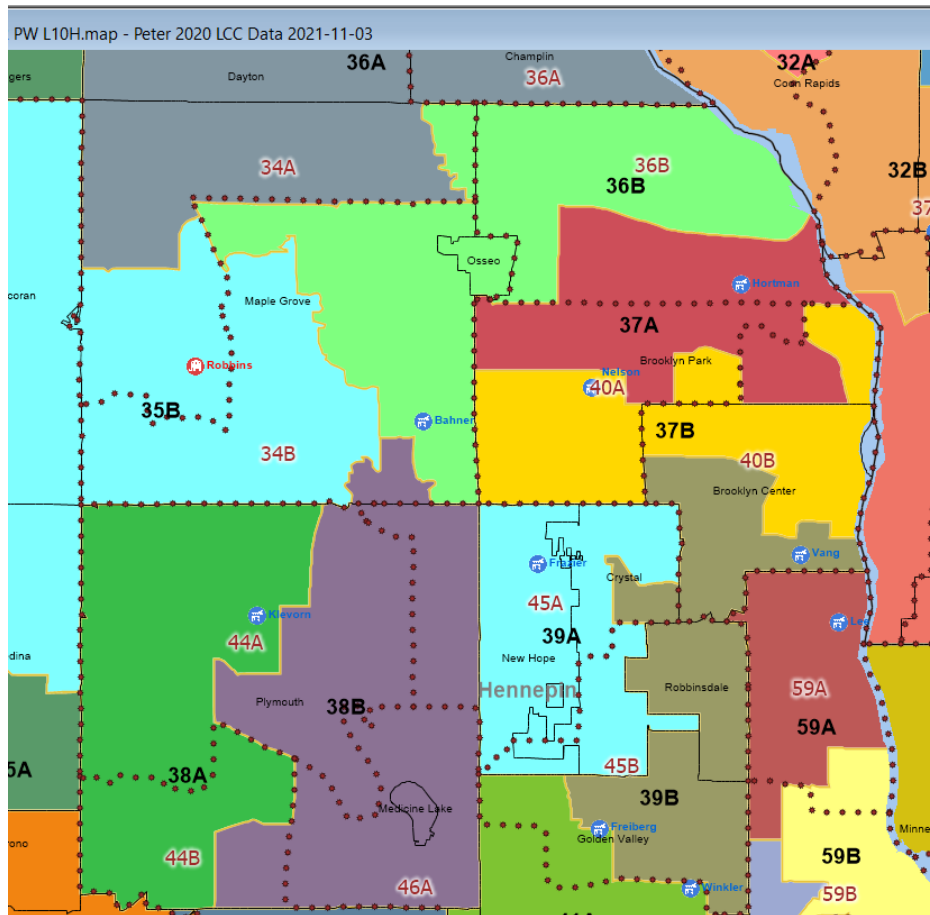
To begin at the top of the 2020 table, the district with the highest Total Minority voting-age population, the one White incumbent in a majority-minority district, Rep. Michael

Nelson in HD 37B, sees his Total Minority voting-age population drop from 66% on the 2020 table to 61% on the 2022 table, where he would reside in 37B. The one White incumbent who would rise into a majority-minority district, Speaker Melissa Hortman in 37A, sees her Total Minority rise from 36% to 58%. She gets that minority population from Rep. Nelson's district, which is what brings him down. Rep. Nelson, in turn, takes minority population from Rep. Samantha Vang, an Asian woman, in HD 39B.

127.   Rep. Vang was elected from a 2020 district that had 59% Total Minority, with 24% Black and 18% Asian. So, it was not Asian voters alone who got her elected, but a coalition of minority voters plus White voters.

128.   The Wattson Plaintiffs' House Plan (2022 PW L10H) takes her Total Minority down to 38%, with 15% Black and 9% Asian. Her district is 39% DFL. The Wattson Plaintiffs do not assume plan L10H would deprive minority voters of an opportunity to elect a candidate of their choice. Not pairing incumbents is near the bottom of the Wattson Plaintiffs' priorities. The district has the boundaries it does because of the populations of the precincts needed to equalize its population. The reader can see on the map below that splitting Brooklyn Center precincts 2, 5, and 7 to take from her district the northern blocks of P-5 and P-7 and add to her district the southern blocks of P-2, would make both districts more compact, but it might not change the Total Minority population.

Under the Wattson Plaintiffs' House Plan, minority voters should still have an equal opportunity to elect a candidate of their choice in HD 37A, 37B, and 39B.

129. **St. Paul – East Side**
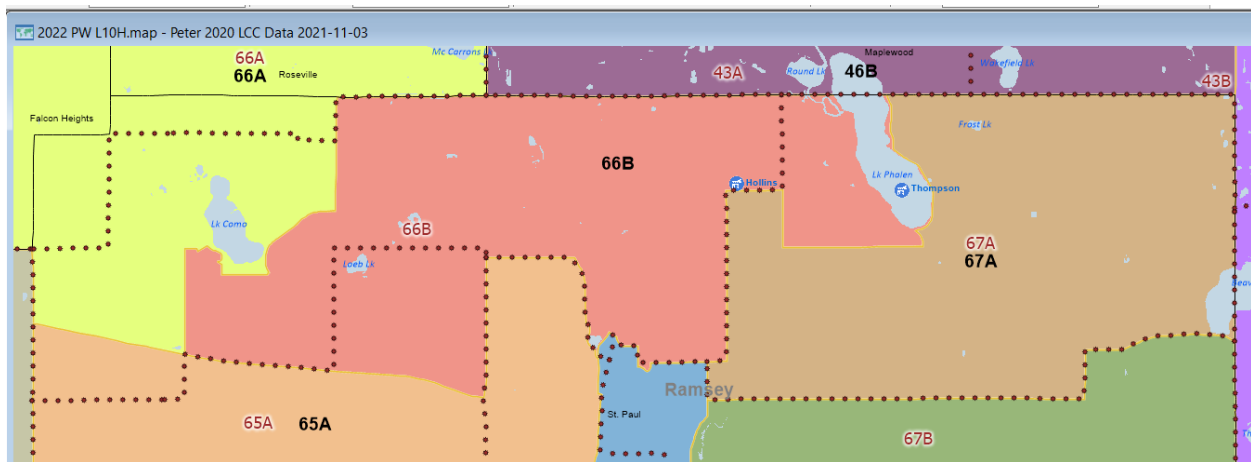
At the top of the 2022 table is an open seat in HD 67A, the northeast corner of St. Paul. It has a Total Minority population of 67%, its largest minority is 35% Asian, and it is 14% Black. It is open because the current incumbent, Rep. John Thompson, may be the only

incumbent not to have made public his residential address when filing for office with the secretary of state in 2020. We don't know where he lives, so I put his incumbent icon in Lake Phalen, HD 66B, to make it obvious that was not his real address. (At that time, I was not aware of the 13 people the 2020 Census recorded as living in the waters of Lake Minnetonka just outside my window. Maybe Differential Privacy actually did put Rep. Thompson's residence in the waters of Lake Phalen.) So, he may or may not actually be paired with Rep. Athena Hollins in HD 66B, with a Total Minority of 64% and a largest minority population of 31% Asian. If he is, and he is willing to move, 67A is an open district on the east shore of Lake Phalen. HD 66B does not prevent minority voters from having an equal opportunity to elect a candidate of their choice.

130. **Minneapolis – South Side**
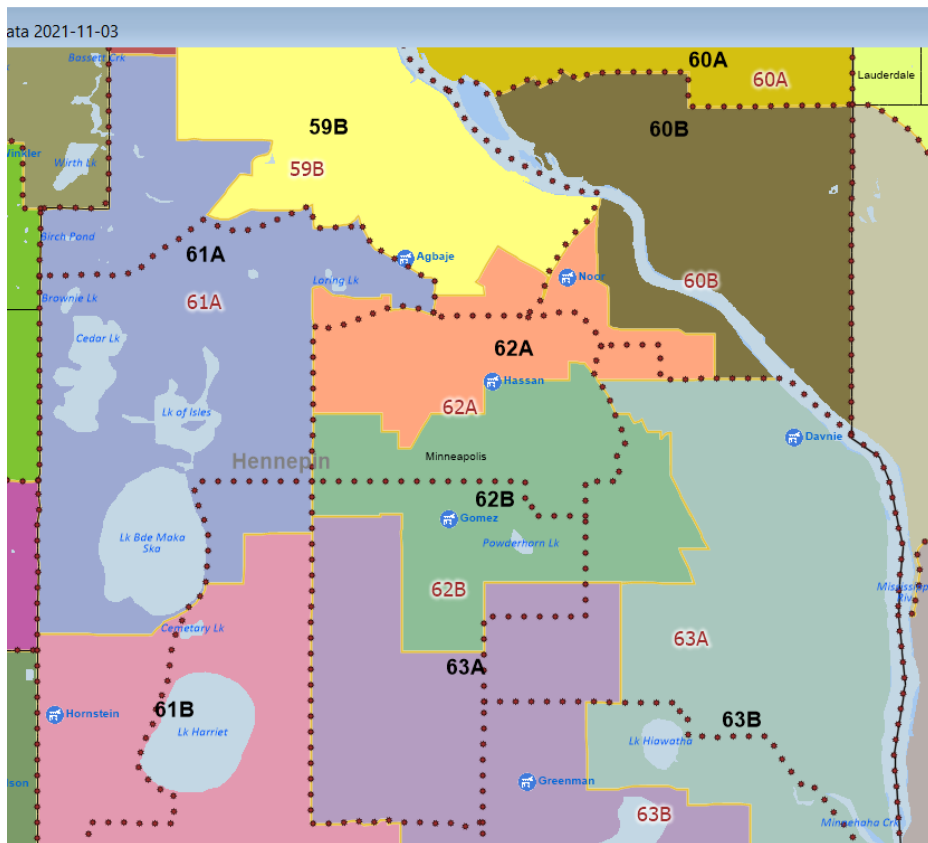
In South Minneapolis, Rep. Aisha Gomez is paired in HD 62B with Rep. Hodan Hassan. Roughly equal numbers of voters came from their previous districts. They were pushed together because the overpopulation of districts along the Mississippi River in Minneapolis caused the districts north of them to shrink, and theirs to move north to fill the void. At the same time, the overpopulation of Rep. Mohamud Noor's HD 60B caused it to shrink toward the northeast, leaving him out of it. Rep. Hassan could move her residence out of Rep. Gomez's HD 62B as simply as finding a residence on the north side of her street, which is the district boundary. But that would pair her with Rep. Noor in his new HD 62A. He could move a few blocks north or east and be back in his old HD 60B. In 2020, that district was 39% Total Minority and 16% Black. In 2022, 62A is 56% Total Minority and 35% Black, the highest Black percentage in the state, while 60B goes from 39% Total Minority, 16% Black and 14% Asian, to 32% Total Minority, 7% Black and 15% Asian. Perhaps he will want to stay in the new 62A and let an Asian candidate run for the open seat in 60B.

131.   Whatever these three minority incumbents decide to do under 2022 PW L10H, the minority voters in HD 60B, 62A, and 62B will have an equal opportunity to elect candidates of their choice.

132.   **Eagan/Mendota Heights/Inver Grove Heights**
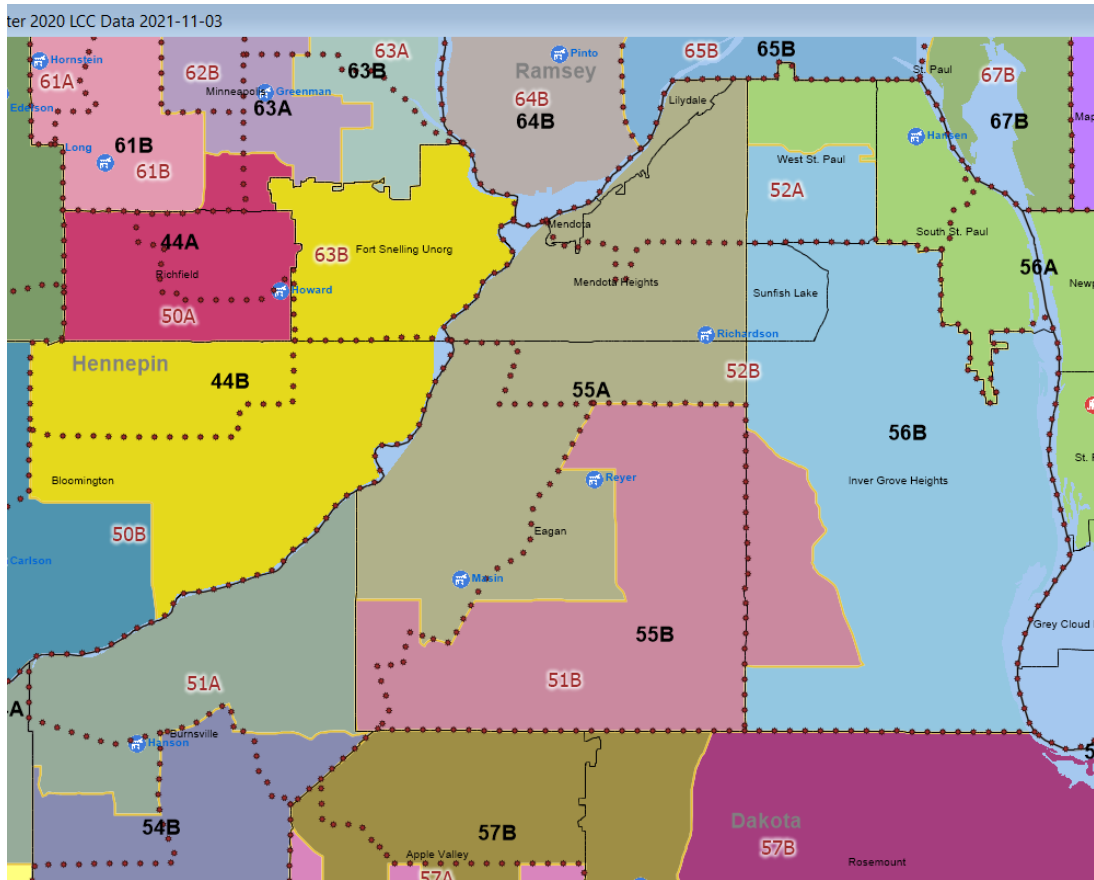
In 2022 PW L10H, HD 55A pairs minority incumbent Rep. Ruth Richardson, a Black woman, with two White women incumbents, Rep. Sandra Masin and Rep. Liz Reyer. The district has a Total Minority voting-age population of 24%, its largest minority is the 8% who are Asian, and the Black minority is 7%. Rep. Richardson's 2020 district, HD 52B, had a Total Minority of 22%, its largest minority was the 9% who were Hispanic, and 5% were Black. She could not have been elected by Black voters alone, nor even all minority voters alone. She must have received most of her votes from White voters. The racial and ethnic composition of the proposed 2022 district is more favorable for her than her 2020 district.

133.   The Core Constituencies report for the Wattson Plaintiffs' House plan shows

that half the voting-age population of the new district came from 2020 HD 51A in Eagan and Burnsville, where Rep. Masin is the incumbent, 17% came from HD 51B in Eagan and Inver Grove Heights, where Rep. Reyer is the incumbent, and 13% came from HD 52B in Mendota Heights, Eagan, and Inver Grove Heights, where Rep. Richardson is the incumbent. Being paired with two other incumbents who each have more former constituents than she does is not favorable for Rep. Richardson.

134.   This is not a minority-opportunity district under either the Voting Rights Act or the Panel's Principle 3 on minority representation. Nevertheless, if the Panel chooses to draw districts in this area that will enhance Rep. Richardson's chances of being re-elected, I offer some possibilities below.

135.   The district's shape is driven by the Wattson Plaintiffs' approach of minimizing both the number of cities and the number of precincts split. In the 2020 Base plan for the house, Mendota Heights and Eagan are split. In the Wattson Plaintiffs' House Plan, Mendota Heights is not split, but Inver Grove Heights is, so the number of splits does not increase. No precinct is split to create these districts. Keeping all of Mendota Heights and Eagan together in SD 55 and dividing the senate district along existing precinct lines when equalizing the populations, forces all three incumbents into the same house district and leaves HD 55B open.
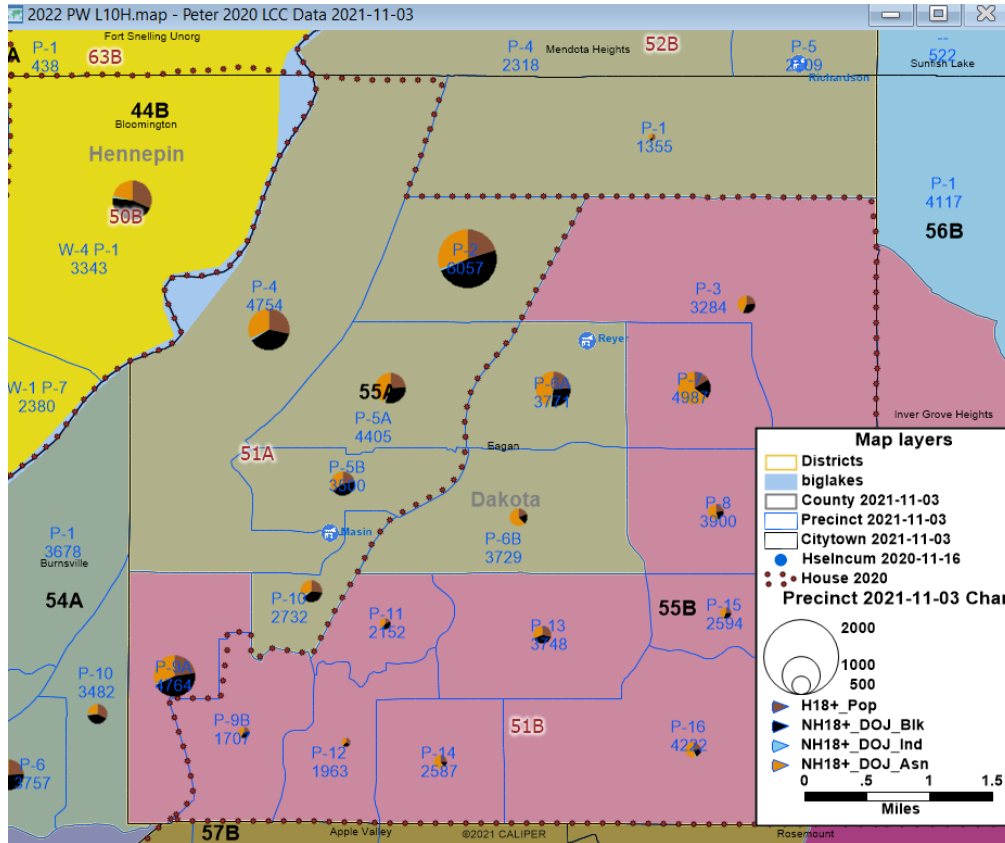
136. As shown in the map above, splitting Eagan P-6A at the block level could easily put Rep. Reyer into 2022 HD 55B, which is currently open. Likewise, the Panel could choose to split Eagan P-5B and P-10 to put Rep. Masin into HD 55B. The Panel could even do both, if it wanted to leave Rep. Richardson alone in HD 55A. The Wattson Plaintiffs would not oppose either, or both, of those changes.

Consistent with Minnesota Statutes § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date: December 6, 2021   */s/ Peter s. Wattson*
                                                                                        Peter S. Wattson

                                                                                        Hennepin County, Minnesota
                                                                                        County and state signed

44