2021 HOUSE POLITICAL SUBDIVISIONS

HB 1397
An act to establish a legislative management redistricting committee, to provide for implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency.

Chairman Dockter: (8:30). Opened the hearing.

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Discussion Topics:
- Redistricting committee
- Open record exemption


Jack McDonald, North Dakota Newspaper and Broadcasters Associations: In opposition, testimony #6354.

Nicole Donaghy, Director ND Native Vote: In opposition, testimony #6384.

Don Morrison, North Dakota Voters First: In opposition, testimony #6353.
Additional written testimony:
#'s 6338, 6336

Chairman Dockter:( 9:10). Closed the hearing.

Carmen Hickle, Committee Clerk
CHAIRMAN DOCKTER AND COMMITTEE MEMBERS:

   My name is Jack McDonald. I’m appearing on behalf of the North Dakota Newspaper and Broadcasters Associations. We object to this bill without our suggested amendment.

   We recognize that normally drafts of reports, audits, studies, etc. are exempt records until presented to the public entity that requested them.

   However, redistricting only comes around once every 10 years. Redistricting plans are incredibly complex and involve very detailed changes to the state’s 47 legislative district, sometimes coming down to block to block changes in larger cities.

   HB 1397 prevents North Dakota citizens, whose rights to legislative representation are seriously affected by these plans, the opportunity to review and respond, object, agree, offer amendments, etc., to these plans until they are presented to a meeting of Legislative Management or the Legislature.

   Obviously there is not time in the maybe 15-20 minutes when the drafts are made available at a public meeting to prepare logical and meaningful objections and/or amendments to plans that took months of planning and computerized research to develop.

   Thank you for your time and consideration. I’d be happy to answer any questions.
PROPOSED AMENDMENTS TO HB 1397

On page 1, line 22, after the word “is,” delete the remainder of the line and insert “exempt from Section 44-04-18(6) and is a public record.”

On page 1, delete lines 22-24.
On page 2, delete lines 1-2.

And renumber accordingly.
Testimony HB 1397
House Political Subdivisions Committee
February 11, 2021

Mr. Chairman and members of the House Political Subdivisions Committee, my name is Nicole Donaghy, I live in Lincoln, and am an enrolled citizen of Standing Rock Sioux Tribe. I am the Executive Director for North Dakota Native Vote. I am providing testimony for NDNV today. North Dakota Native Vote is a non-profit, non-partisan social justice organization that initially formed in response to the 2018 United States Supreme Court decision to uphold voter identification law that had the potential to disenfranchise over 5,000 voters in North Dakota.

Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota. We do this by fostering sustainable positive social change in our communities through community organizing, mobilization, leadership development, and policy advocacy.

Thank you for the opportunity to present our concerns about the process proposed in HB 1397. North Dakota Native Vote's position is to keep our communities intact during the redistricting process, maintain transparency with opportunity for community input that gives tribes an equal opportunity to elect representatives of their choosing, and to employ fairness and common sense in the reapportionment of State Legislative Districts. We understand the growing concern of governmental dysfunction that has a direct link to the gerrymandering of our legislative districts. The people should choose their elected officials and not be subjected to partisan bias.

According to Section 2 of the 1965 voting rights act, voting practices or procedures that discriminate on the basis of race, color, or membership of an identified minority language group is prohibited this would include redistricting plans. As we have seen in our early beginning as an organization, tribal citizens in North Dakota have been disenfranchised due to policy that is created by decision makers without input from their constituents. Native American voters have been harmed through discriminatory redistricting practices such as: vote dilution, intimidation at polling places, distances to voting locations, and forms of voter suppression tactics such as restrictive voter identification requirements.

There are 5 federally recognized tribes in North Dakota. Each tribe has its own unique history, traditions, customs, and languages. Additionally, each has democratically elected governments that provide leadership and services to their people. As with any population, Native American communities have differences in social, economic, and geographic conditions. Since the redistricting process focuses on where populations reside, we believe it's important for decision makers to understand both historical and contemporary experiences of Native Americans in North Dakota — specifically how federal relocation, allotment, termination, and assimilation initiatives have determined where and how we live today.

For these reasons we deem it important to not only include tribes in public community input sessions but also actively involve each of the individual 5 federally recognized tribes and their leaders in an engaging and transparent process. The redistricting process should provide Native Americans with as much opportunity to elect candidates of their choice, recognizing that past apportionment decisions make that objective impossible. The redistricting process should also reflect the specific wishes of the individual tribes.
We believe it is important that the redistricting process recognize both the reservations and urban populations and incorporate to the greatest extent. NDNV’s goal is to see stronger Native American communities of interest that are no longer subjected to strong partisan district lines.

The process should take into account Native American tribes’ historic and contemporary relationship with each other, with the State of North Dakota honoring our cultural preservation, sovereignty, and economic development objectives.

We also recommend amendments to develop an independent redistricting committee to create a redistricting plan that is transparent and representative of all North Dakotans. And that the committee host community forums, in a safe manner, to provide public comment either in-person or virtually.

North Dakota Native Vote does not support HB 1397 as it is proposed, but trough these recommendations, I hope we can accomplish a fair method that will recognize Native American people and our unique role that we play in the political discourse of this State and Country. We encourage policymakers to act with a good heart and good mind so that all North Dakotans can fairly and openly exercise their right as citizens in this process. Thank you.

Nicole Donaghy
ndonaghy@ndnativevote.org
701-202-0927
Mr. Chairman and members of the House Political Subdivisions Committee, my name is Don Morrison. I live in Bismarck and am providing testimony as a volunteer for North Dakota Voters First. We are a non-partisan group of North Dakotans working to strengthen our democracy, help make our elections and public policy more open, ethical, and accountable to the people of our state.

Thank you for the opportunity to speak to our concerns about the redistricting process as it currently is proposed in HB 1397.

Re-drawing the boundaries of legislative districts is one of the most important tasks required to maintain a well-functioning, understandable, and representative decision-making process in our state. We believe that the goal of redistricting should be to work as much as we can to ensure that everyone’s vote matters as much as anyone else’s. Towards that end, there is a lot of thinking and work around the country to do a better job of redrawing the district lines.

One of the major problems to avoid is gerrymandered districts that are designed to produce electoral advantages for the political party in power. Let’s look at the graphic on page 3 of this testimony to see how much difference partisan considerations in redistricting can meet or undermine the goal of every vote matters.

As one piece of evidence showing how party considerations have been important in the North Dakota Legislative Assembly’s redistricting, here is a quote in the Bismarck Tribune from Majority Leader Al Carlson in 2011 after the current district plan was approved. Carlson said, “This is a Republican plan for the next 10 years. Those new districts should be Republican, and I believe they’re very Republican. There should be six new Republican members (of the Legislature) as we go into the next election cycle.”

Let’s be very clear. Trying to avoid that type of manipulation is not a partisan issue. According to one report, the top two states for gerrymandering for greater party power are Democratic Maryland and Republican North Carolina. This is not an issue for or against Democrats or Republicans. It’s a voter issue.

North Dakota Voters First would like to help make 2021 redistricting in North Dakota do better at being understandable and representative and would like to propose
amendments to Section 1 of HB 1397. These amendments are intended to help the process more likely be:

1. Bipartisan
2. Open to public input
3. In tune with goals and criteria
4. Less secret

I will briefly review each amendment to Section 1.

In number 1, add the word “bipartisan” and add public committee meetings in each quadrant of the state. These public sessions would include both in-person and virtual opportunities. In 2011, the Redistricting Committee held meetings in Bismarck, Fargo and Devils Lake.

In number 2, add a report that identifies and describes deviations from criteria and goals. In 2011, the report described deviations from the norm for population conformity. This year, we would like the report to also include further explanations of deviations from the state’s current requirements of compactness and contiguous territory. Compact in this sense means that constituents should live as near to one another as possible. This happens when districts are closer to being squares with straight borders or when there is a shared culture within the district. So, for example, in the report squiggly lines would need to be explained.

Also, add four goals:

1. More likely keep counties, cities, townships and tribal communities intact.
2. Include consultation with leaders of tribal, racial or minority language groups. This is related to the 1965 Voting Rights Act.
3. Equal opportunity of all candidates without considering their address or incumbency.
4. Representation for communities of interest, but not for common relationships with parties or candidates.

In number 4, remove the last sentence that exempts everything but the completed plan from our state’s open records law. The partnership should be between the legislature and the voters. It is difficult to do that when the information and considerations are secret. We would work with you to make this as open as possible.

We propose these amendments to help improve the redistricting process. If amended in this way, North Dakota Voters First would recommend a DO PASS. Thank you.
Gerrymandering, explained

Three different ways to divide 50 people into five districts

1. Perfect representation
   - 60% blue, 40% red
   - 3 blue districts, 2 red districts
   - BLUE WINS

2. Compact, but unfair
   - 5 blue districts, 0 red districts
   - BLUE WINS

3. Neither compact nor fair
   - 2 blue districts, 3 red districts
   - RED WINS

Adapted from Stephen Nass

By Christopher Ingraham
Reporter
NDVF Amendments to HB 1397, Section 1

1. The chairman of the legislative management shall appoint a bipartisan committee to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election. The committee must consist of an equal number of members from the senate and the house of representatives appointed by the chairman of the legislative management. Public safety permitting, the committee shall meet in each quadrant of the state, and all meetings shall provide for public comment both in-person and virtually.

2. The committee shall ensure any legislative redistricting plan submitted to the legislative assembly for consideration must be of compact and contiguous territory and conform to all constitutional requirements with respect to population equality. The committee may adopt additional constitutionally recognized redistricting guidelines and principles to implement in preparing a legislative redistricting plan for submission to the legislative assembly. Before the committee adopts a final recommended statewide plan, the committee will publish with its agenda, review in open session, and invite public comment on a written analysis of its recommended statewide map that identifies any deviations from the following required criteria:
   • Compact and contiguous territory;
   • Conformity to population equality requirements.
   And from the following goals:
   • No unnecessary division of city, county, township, or tribal boundaries;
   • Consultation with leaders of tribal, racial, or minority language groups during the redistricting process;
   • Equal opportunity for all candidates without consideration of their address or incumbency;
   • Representation for communities of interest, meaning areas with recognized similarities of interest such as tribal, racial, ethnic, economic, social, cultural, geographic, and historic identities and not including common relationships with political parties or political candidates.

3. The committee shall submit a redistricting plan and legislation to implement the plan to the legislative management by October 31, 2021.

4. A draft of the legislative redistricting plan created by the legislative council or a member of the legislative assembly is an exempt record as defined in section 44-04-17.1 until presented or distributed at a meeting of the legislative management or the legislative assembly. Any version of a redistricting plan created before the completion of the plan is an exempt record regardless of whether the completed plan is presented or distributed subsequently at a meeting.

5. The chairman of the legislative management shall request the governor to call a special session of the legislative assembly pursuant to section 7 of article V of the Constitution of North Dakota to allow the legislative assembly to adopt a redistricting plan to be implemented in time for use in the 2022 primary election and to address any other issue that may be necessary.
Chairperson Dockter and members of the Political Subdivision Committee;

Thank you for the opportunity to provide written testimony on HB 1397.

My name is Kristin Rubbelke and I am Executive Director of the North Dakota Chapter of the National Association of Social Workers (NASW-ND). I am submitting testimony on behalf of NASW-ND’s opposition to HB 1397.

NASW-ND opposes HB 1397 due to the purposeful intent to keep secret the discussions and documents that would shape future electoral district boundaries of North Dakota. These deliberations should be made available to the public by allowing public input in order to prevent exploitation or discrimination of vulnerable, disadvantaged, oppressed, and exploited people and groups; as well as to ensure transparency, social justice, and equality for all North Dakotans.

The North Dakota legislature should approve a process that gives validity and transparency to its residents. This bill does the opposite. Therefore, NASW-ND urges the committee to withdraw HB 1397 or vote do not pass on the measure.

Thank you for your consideration.

Sincerely,

Kristin Rubbelke, LBSW, MSW
Executive Director
NASW-ND
Written testimony of House Bill 1397

Chairman Dockter and Political Subdivisions Committee Members

My name is Kevin Herrmann from Beulah, ND. I am a lifelong citizen of North Dakota. I am representing myself.

I am oppose to House Bill 1397. House Bill 1397 is a partisan, non-independent redistricting committee. This bill will have the makeup of the redistricting committee of all legislators. The legislators will continue to lie to the public of how the legislative districts lines are based on getting as close to equal population for each district. This bill will also exempt drafts of redistricting plans from open records requirements from the public like myself, which this proves of gerrymandering will be happening.

In 2001, there was gerrymandering with District 33. Prior to the change of District 33 in 2001, District 33 was Oliver County, Mercer County, small part of Dunn County and part of Fort Berthold Reservation. Because the Senator at that time was not getting the votes from part of Dunn County and part of Fort Berthold Reservation, the Senator made sure those areas would not be part of District 33. I do have the map prior to 2002 when the new legislative district took effect.

The fact is there needs to be independent citizens from North Dakota on the legislative redistricting committee in order to keep the legislators from gerrymandering.

There was Senate Bill 2228 which was close to being a more independent legislative redistricting committee but of course the Republicans voted the bill down. I testified in favor of Senate Bill 2228.

Again, I oppose House Bill 1397 even though I know the supermajority of the legislators are not going to listen to the citizens of North Dakota.

I challenge any of the legislators to amend the bill to put independent citizens of North Dakota on the redistricting committee.

Kevin Herrmann
300 Fair St. SW
Beulah, ND 58523
701-873-4163
An act to establish a legislative management redistricting committee, to provide for implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency

Chairman Dockter: (8:30). Opened for committee work.

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Discussion Topics:
- 16-member committee
- Amendment

John Bjornson: Explained the redistricting plan and answered questions.


Motion failed for a lack of a second.

Rep. Johnson: Moved to approve an amendment to change the date to “by November 30”.


Voice vote carried.


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Motion carried 12-0-2


Chairman Dockter, (9:07) Closed committee work.

Carmen Hickle, Committee Clerk
PROPOSED AMENDMENTS TO HOUSE BILL NO. 1397

Page 1, line 20, replace "October 31" with "November 30"

Renumber accordingly
REPORT OF STANDING COMMITTEE

HB 1397: Political Subdivisions Committee (Rep. Dockter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1397 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "October 31" with "November 30"

Renumber accordingly
2021 SENATE POLITICAL SUBDIVISIONS

HB 1397
2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Sakakawea, State Capitol

HB 1397
3/26/2021

A BILL for an Act to establish a legislative management redistricting committee, to provide for the implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency.

Chairman Burckhard opened the hearing on HB 1397 at 8:30 a.m.

Discussion Topics:
- Redistricting process
- Tribal nation impact
- Exempt records


[9:00] Nicole Donaghy, Executive Director, ND Native Vote. Provided testimony #10812 in opposition and proposed amendment (testimony #10811).


[9:19] Cynthia Monteau, On Behalf of Chairman Fox, MHA Nation. Provided oral testimony in opposition #10860

Additional written testimony: (1)

Karen Ehrens, Bismarck Resident. Written testimony #10827 in opposition.

Chairman Burckhard closed the hearing on HB 1397 at 11:03 AM

Patricia Lahr, Committee Clerk
My name is Jack McDonald. I’m appearing on behalf of the North Dakota Newspaper and Broadcasters Associations. We object to this bill without our suggested amendment.

Redistricting only comes around once every 10 years. So it’s kind of a big deal, right? Redistricting plans are incredibly complex and involve very detailed changes to the state’s 47 legislative district, sometimes coming down to block to block changes in larger cities.

HB 1397 prevents North Dakota citizens, whose rights to legislative representation are seriously affected by these plans, the opportunity to review and respond, object, agree, offer amendments, etc., to these plans until they are presented to a meeting of Legislative Management or the Legislature.

Obviously there is not time in the maybe 15-20 minutes when the drafts are made available at a public meeting to prepare logical and meaningful objections and/or amendments to plans that took months of planning and computerized research to develop. And there would be no time to draft written testimony or prepare amendments or alternative plans.

This is similar to saying no one could see any bill during this session until the day of the hearing. That really wouldn’t work very well.
The sponsor has said HB 1397 is exactly how it was handled in 2011. Well, yes and no. Exhibit 1- attached to my testimony - is engrossed HB 1267 from the 62nd Legislative Assembly that does not exempt the drafts.

Exhibit 2 shows the amendment from then Senate majority leader Sen. David Nething that added the exemption provisions, and Exhibit 3 shows the final version of the bill.

It's just not fair to hide these plans from your constituents. We believe a good compromise would be to make these proposed drafts public at least two weeks prior to the meeting at which they are presented. That's what our proposed amendment does.

Thank you for your time and consideration. I'd be happy to answer any questions.

PROPOSED AMENDMENTS TO ENGROSSED HB 1397

On page 1, line 23, after the word “until” insert “two weeks prior to when it will be”

On page 1, line 24, after the word “assembly” insert “and shall be made available to the public on the assembly’s web page”

And renumber accordingly.
Mr. Chairman and members of the House Political Subdivisions Committee, my name is Nicole Donaghy, I live in Lincoln, and am an enrolled citizen of Standing Rock Sioux Tribe. I am the Executive Director of North Dakota Native Vote. I am providing testimony for NDNV today. North Dakota Native Vote is a non-profit, non-partisan grassroots organization that initially formed in response to the 2018 United States Supreme Court decision to uphold voter identification law that had the potential to disenfranchise over 5,000 voters in North Dakota.

Our mission is to create and affect policy to promote equitable representation for the Native people of North Dakota. We do this by fostering sustainable positive social change in our communities through community organizing, mobilization, leadership development, and policy advocacy.

Thank you for the opportunity to present our concerns about the process proposed in HB 1397.

North Dakota Native Vote’s position is to keep our communities intact during the redistricting process, to maintain transparency with opportunity for community input that gives tribes an equal opportunity to elect representatives of their choosing, and to employ fairness and common sense in the reapportionment of State Legislative Districts. We understand the growing concern of governmental dysfunction has a direct link to the gerrymandering of our legislative districts. The people should choose their elected officials and not be subjected to partisan bias.

According to Section 2 of the 1965 voting rights act, voting practices or procedures that discriminate on the basis of race, color, or membership of an identified minority language group is prohibited this would include redistricting plans. As we have seen in our early beginning as an organization, tribal citizens in North Dakota have been disenfranchised due to policy that is created by decision makers without input from their constituents. Native American voters have been harmed through discriminatory redistricting practices such as: vote dilution, intimidation at polling places, distances to voting locations, and forms of voter suppression tactics such as restrictive voter identification requirements.

There are 5 federally recognized tribes in North Dakota. Each tribe has its own unique history, traditions, customs, and languages. Additionally, each has democratically elected governments that provide leadership and services to their people. As with any population, Native American communities have differences in social, economic, and geographic conditions. Since the redistricting process focuses on where populations reside, we believe it’s important for decision makers to understand both historical and contemporary experiences of Native Americans in North Dakota — specifically how federal relocation, allotment, termination, and assimilation initiatives have determined where and how we live today.

For these reasons we deem it important to not only include tribes in public community input sessions but also actively involve each of the individual 5 federally recognized tribes and their leaders in an engaging and transparent process. The redistricting process should provide Native Americans with as much opportunity to elect candidates of their choice, recognizing that past apportionment decisions make that objective impossible. The redistricting process should also reflect the specific wishes of the individual tribes.
We believe it is important that the redistricting process recognize both the reservations and urban populations and incorporate to the greatest extent. NDNV’s goal is to see stronger Native American communities of interest that are no longer subjected to strong partisan district lines.

The process should take into account Native American tribes’ historic and contemporary relationship with each other, with the State of North Dakota honoring our cultural preservation, sovereignty, and economic development objectives.

We recommend that Ruth Buffalo be appointed to the Redistricting Committee. As the first Native American Democratic woman elected to the North Dakota Legislature and a member of the MHA Nation, we believe that she will adequately represent the interests of Native Americans in North Dakota and ensure the legislative redistricting plan is legally and constitutionally compliant.

We also recommend amendments to develop an independent redistricting committee to create a redistricting plan that is transparent and representative of all North Dakotans. And that the committee host community forums, in a safe manner, to provide public comment either in-person or virtually.

Finally, we recommend single-member House districts. At-large elections dilute Native voting strength and deny us of any meaningful opportunity to participate in elections.

North Dakota Native Vote does not support HB 1397 as it is proposed, but through these recommendations, I hope we can accomplish a fair method that will recognize Native American people and our unique role that we play in the political discourse of this State and Country. We encourage policymakers to act with a good heart and good mind so that all North Dakotans can fairly and openly exercise their right as citizens in this process. Thank you.

Nicole Donaghy
ndonaghy@ndnativevote.org
701-202-0927
A BILL for an Act to establish an **independent** redistricting committee, to provide for the implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency.

**SECTION 1. LEGISLATIVE MANAGEMENT INDEPENDENT REDISTRICTING COMMITTEE — OPEN RECORDS EXEMPTION — SPECIAL LEGISLATIVE SESSION.**

1. The chairman of the legislative management shall appoint an **independent redistricting committee**, consisting of five members with no more than two members being of the **same political party**, in order to develop a legislative redistricting plan to be implemented in time for use in the 2022 primary election. The committee must consist of an equal number of members from the senate and the house of representatives appointed by the chairman of the legislative management.

2. The committee shall ensure any legislative redistricting plan submitted to the legislative assembly for consideration, other than as provided for in N.D. Const. art. IV, § 2, must establish single-member legislative districts using the following criteria as set forth in the following order of priority:

   a. **Districts shall conform to all constitutional requirements with respect to population equality.**

   b. **Districts shall comply with the Voting Rights Act of 1965 (52 U.S.C. § 10301 et. seq.)**

   c. **Districts shall be of compact and contiguous territory, and conform to all constitutional requirements with respect to population equality.**
d. Districts shall respect communities of interest, neighborhoods, and political subdivisions to the extent practicable and after compliance with the requirements of (a) through (c). A community of interest is defined as an area with recognized similarities of interest, including but not limited to ethnic, racial, economic, tribal, social, cultural, geographic or historic identities. The term communities of interest may, in certain circumstances, include political subdivisions such as counties, municipalities, tribal lands and reservations, or school districts.

3. The committee may adopt additional constitutionally recognized redistricting guidelines and principles to implement in preparing a legislative redistricting plan for submission to the legislative assembly.

2. The committee shall hold each of its meetings in public, shall solicit, accept and take into consideration comments from the public, including proposed maps, throughout the process of developing the redistricting plan, and shall carry out its duties in an open and transparent manner that provides for the widest public dissemination reasonably possible of its proposed and final redistricting plan.

4. The committee shall have timely and meaningful consultation with all Tribal Nations within the State with respect to its duties, activities and procedures.

5. To the greatest extent practicable, the committee shall hold its meetings and hearings in various geographic regions and locations, including on Indian reservations.

3.6. The committee shall submit a redistricting plan and legislation to implement the plan to the legislative management by November 30, 2021.

4. A draft of the legislative redistricting plan created by the legislative council or a member of the legislative assembly is an exempt record as defined in section 44-04-17.1 until presented or distributed at a meeting of the legislative management or the legislative assembly. Any version of a redistricting plan created before the completion of the plan is an exempt record regardless of whether the completed plan is presented or distributed subsequently at a meeting.
The chairman of the legislative management shall request the governor to call a special session of the legislative assembly pursuant to section 7 of article V of the Constitution of North Dakota to allow the legislative assembly to adopt a redistricting plan to be implemented in time for use in the 2022 primary election and to address any other issue that may be necessary.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2022, and after that date is ineffective.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.
Testimony HB 1397
Senate Political Subdivisions Committee
Don Morrison, North Dakota Voters First ● March 26, 2021

Mr. Chairman and members of the Senate Political Subdivisions Committee, my name is Don Morrison. I live in Bismarck and am providing testimony as a volunteer for North Dakota Voters First. We are a non-partisan group of North Dakotans working together to strengthen our democracy and to help make our elections and public policy more open, ethical, and accountable to the people and values of our state.

Thank you for the opportunity to address our concerns about the redistricting process as it is currently proposed in HB 1397.

Re-drawing the boundaries of legislative districts is one of the most important tasks required to maintain a well-functioning, understandable, and representative decision-making process in our state. We believe that the goal of redistricting should be to work as much as we can to ensure that everyone’s vote matters as much as anyone else’s. Towards that end, there’s been a lot of thinking and work going on in North Dakota as well as around the country to do a better job of redrawing district lines.

One of the major problems to avoid is gerrymandered districts that are designed to produce electoral advantages for the political party in power. At the outset, let’s be very clear. Efforts to avoid that type of manipulation for political advantage are not partisan. According to one report, the top two states for gerrymandering for greater party power are Democratic Maryland and Republican North Carolina. This is not an issue for or against Democrats or Republicans. This is a voter issue.

North Dakota Voters First believes 2021 redistricting in North Dakota should be as understandable and representative as possible. As you make decisions about the redistricting process, we would ask that you approve a process that is open to public participation, keeps communities intact, and avoids partisan manipulation.

In 2011, the Redistricting Committee held meetings in Bismarck, Fargo and Devils Lake. In 2021 we would suggest that public meetings be held in each quadrant of the state and on one or more Native American reservations. These public sessions should include both in-person and virtual opportunities. After the excellent technology that went into your virtual hearings during this regular legislative session, I have high hopes for the redistricting meetings.

However, to participate, the public needs to have the information the committee is using. Section 1, number 4 of the bill exempts from our state’s open records law everything but the completed plan. In conversations with legislators, we understand some legislators have a concern that work product and legislative counsel-legislator privilege needs to be protected. However, they already are protected in state law. N.D.C.C. 44-04-18.6, which covers access to legislative records and information, specifically exempts “a record that is legislative council...
work product or is legislative council-client communication” [see attached]. Therefore, the secrecy provision of HB 1397 is not necessary and should be removed.

Voters’ representation is of primary concern in redistricting. It is difficult to participate in the process when information and considerations are not available in a timely manner. Therefore, we would ask you to make certain that voters can have information to participate in the process by requiring maps and information to be reviewed at a meeting be provided to the public at least three days before the redistricting body meets. When constituents can see the process and have information, they are much less likely to make things up to fill in the blanks.

Districts that keep communities intact have greater voter connection to the process. Therefore, district lines should follow boundaries of counties, cities, school districts and townships as much as possible. Boundaries of Native American reservations must be followed. Leaders of the five tribal nations within the state need to be involved in the redistricting process. Consultations with communities of interest should be included in the process. Again, the interests of voters should be the priority.

With these priorities in mind, North Dakota Voters First is pleased to support the amendments proposed today by North Dakota Native Vote (NDNV).

First, my testimony already has covered many reasons for the changes made by the NNDV amendments.

Second, an independent redistricting committee is much more likely to use the criteria we discussed and less likely to use incumbency and partisan manipulation. That is why more states are moving to independent commissions. This is not a new idea. When North Dakotans think of their legislative districts, they often wonder about how the lines got so convoluted. People in North Dakota would like fewer districts with squiggly borders, obviously drawn to make sure certain candidates, incumbents, or party has greater advantages.

Third, I have not yet addressed the advantages of single-member House districts. Rural districts in North Dakota have become incredibly large geographic areas. As you know, one district goes from northern McKenzie County to South Dakota. Another goes from Kenmare to Twin Buttes. With the 2020 Census, these distances are going to become worse as is the difficulty of drawing rural district boundaries. Single-member House districts are nothing new in the United States. In the 1960s half of the legislators were in single-member districts and by 1984, 74 percent of representatives were. Today only 10 states still have multiple-member districts with West Virginia going to single-member next year. Most states have already found single-member House districts to work better for voters and constituents because smaller areas help representatives cover their territory better and bring representatives and constituents closer.

If you adopt the North Dakota Native Vote amendments, we would recommend a DO PASS. Without the amendment North Dakota Voters First recommends a DO NOT PASS. Thank you.
Mr. Chairman and members of the Committee, my name is Cynthia Monteau, representing and on behalf of Chairman Mark Fox of the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara Nation (MHA Nation). I come before you today as an Opponent of House Bill 1397, a bill that provides for the implementation of a legislative redistricting plan and exempts drafts of redistricting plans from open record requirements.

It is concerning that the bill does not provide for any consultation with the tribes in the State of North Dakota. The tribes need to be consulted on any bill that affects the fundamental right to vote because Tribes have been historically undercounted and underrepresented in the State of North Dakota.

The process of redistricting needs to be based on the principal of justice for all and a fair process that includes the native tribes in this state.

Mr. Chairman we urge a Do Not Pass, unless this bill contains amendments proposed by the North Dakota Native Vote. Thank you.
Testimony in opposition to HB 1397  
March 26, 2021

Chair Burckhard and Members of the Political Subdivisions Committee:

**Fair. Open. Accessible.**

Good day. I am Karen Ehrens, a resident of Bismarck and member of the League of Women Voters. The state of North Dakota has in front of us a once-in-a-decade opportunity to ensure that when our legislative districts are re-apportioned and district lines are re-drawn, the process happens in a fair, open and accessible manner.

In the best and most democratic way, a group that makes recommendations and decisions should be independent and not made up of elected officials who stand to directly benefit from the way that lines are drawn. If it is to be a committee of the legislature, representing the people of North Dakota, that will draw these lines, that committee has important responsibilities to me and to all of us represented by this body. Redistricting impacts our lives in every way.

While there will be a short timeframe in which to take the data obtained in the U.S. Census and prepare the districts in time for elections, a short timeframe is no excuse to deny input by the people of the state who will be impacted by these decisions for the next 10 years. With the new meeting technology in place this year, with advance planning, and with determination, the members of a redistricting committee can set up a process that is fair, open and accessible.

There are tools available to guide a redistricting process. The League of Women Voters of the United States partnered with the Campaign Legal Center (CLC) to produce a redistricting transparency report: *Designing a Transparent and Ethical Redistricting Process: A Guide to Ensuring that the Redistricting Process is Fair, Open, and Accessible.* The link is shared with you right here to serve as a blueprint and guide for the work of the redistricting committee.

Key recommendations of this report are not currently included in this bill to guide the work of North Dakota’s Redistricting Committee, and I recommend that they be included to ensure that the process of redistricting in North Dakota is transparent, **fair, open and accessible.** Recommendations from the Guide include that the redistricting process shall:

- Require a minimal number of meetings or public hearings throughout the state;
- Require all data used by the committee to be made public in accessible formats;
- Require all draft maps and reports to be released on a publicly-accessible website;
- Require a reasonable public comment period for proposed maps;
- Require that committee members act in an impartial way and follow ethical standards.

Special consideration must also be given so that the members of the five tribal nations in the state of North Dakota have a role in the redistricting process, and that their communities are kept as intact as possible in the drawing of the districts.
I ask you to not pass HB 1397 as written, but improve it to include critical provisions to make the redistricting process fair, open and accessible.

Karen Ehrens
Bismarck, ND 58501
2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee
Sakakawea, State Capitol

HB 1397
4/1/2021

A BILL for an Act to establish a legislative management redistricting committee, to provide for the implementation of a legislative redistricting plan, to exempt drafts of redistricting plans from open records requirements, and to provide for a special legislative session; to provide an expiration date; and to declare an emergency.

Chairman Burckhard opened the discussion on HB 1397 at 11:02 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

Discussion Topics:
- Proposed amendment
- State Legislative redistricting


Senator Anderson moves to ADOPT AMENDMENT 21.0909.02002
Senator Larson seconded.

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<td>Senator Erin Oban</td>
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The motion passed 7-0-0

Senator Lee moves DO PASS, AS AMENDED.
Senator Kannianen seconded.

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The motion passed 7-0-0

Senator Anderson will carry HB 1397.
Additional written testimony: N/A

Chairman Burckhard closed the discussion on HB 1397 at 11:20 a.m.

Patricia Lahr, Committee Clerk
PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1397

Page 1, line 3, after the comma insert "to provide for public access to plans that are distributed or reported,"

Page 1, line 23, after "management" insert ", a legislative management committee,"

Page 1, line 24, after "assembly" insert ", at which time the presented or distributed draft is an open record. If possible, the presented or distributed draft must be made accessible to the public on the legislative branch website such as through the use of hyperlinks in the online meeting agenda"

Page 1, line 24, remove "created before the"

Page 2, line 1, replace "completion of the plan" with "other than the version presented or distributed at a meeting of the legislative management, a legislative management committee, or the legislative assembly"

Page 2, line 1, remove "regardless of whether the completed plan"

Page 2, line 2, remove "is presented or distributed subsequently at a meeting"

Renumber accordingly
REPORT OF STANDING COMMITTEE

HB 1397, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1397 was placed on the Sixth order on the calendar.

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