Filed in District Court
State of Minnesota
3/15/2021 6:19 PM

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

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,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt, individually and on behalf of all citizens of Minnesota similarly situated,

Plaintiffs in Intervention.

v.

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.

Court File No. 10-CV-21-127

COMPLAINT IN INTERVENTION

Plaintiffs in Intervention Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt, individually and on behalf of all citizens of Minnesota similarly situated, for their Complaint in Intervention, state and allege as follows:

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PARTIES

1. Plaintiffs in Intervention are citizens and qualified voters of the United States of America and the State of Minnesota residing in various counties, legislative districts, and congressional districts in the state of Minnesota, as follows:

Name	County	Legislative District	Congressional District
Paul Anderson	Hennepin	59, 59A	5
Ida Lano	Ramsey	64, 64A	4
Chuck Brusven	Hennepin	44, 44A	3
Karen Lane	Carver	47, 47B	3
Joel Hineman	Clay	4, 4A	7
Carol Wegner	Hennepin	44, 44A	3
Daniel Schonhardt	Wright	30, 30B	6

2. Existing Plaintiffs have brought this action individually and on behalf of themselves and all other citizens and voters of the United States of America who reside in Minnesota who are similarly situated as having been denied due process and equal protection of the laws as further stated in the Complaint. Existing Plaintiffs contend that the class is so situated as to make joinder impossible or impractical; there are common questions of law and fact which predominate over individual questions of law and fact; the claims of the named individuals are typical of the claims of the members of this class; that Plaintiffs will fully and adequately represent and protect the interests of this class; that the prosecution of separate actions by individual members of the class would create a risk of inconsistency or varying adjudications which would establish incompatible standards of conduct for the named Defendants; and that the common questions of law which predominate are the constitutionality of the current plan of legislative districts and congressional districts established by the Minnesota Special Redistricting Panel in *Hippert v. Ritchie*, No. A11-152, 813 N.W.2d 374 (Minn. 2012) ("*Hippert*"), which is being

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enforced by the Defendants. To the extent the Court certifies one or more Plaintiff classes, Plaintiffs in Intervention request to be class representatives.

3. Defendants are each citizens of the United States who reside in the State of Minnesota.

4. Defendant Steve Simon is the duly elected and qualified Secretary of State of the State of Minnesota. Under the provisions of Minnesota Statutes 2010, Chapters 200 through 212, he is charged in his official capacity with the duty of keeping records of state elections, giving notice of state elections, preparing ballots and instructions for voters, receiving the filings of candidates for state elective offices, distributing copies of the election laws of the State of Minnesota, receiving election returns, furnishing blank election ballots and forms to the several county auditors, furnishing certificates of election to successful legislative candidates in multi-county districts and to successful candidates for election to the United States Congress, serving on the State Canvassing Board, conducting recounts, and various other election duties.

5. Defendant Kendra Olson is the duly qualified Elections and Licensing Manager of Carver County, State of Minnesota, and as such is the chief election officer for Carver County, charged with the duties of keeping records of state elections, giving notice of such elections, receiving filings for office, preparing ballots and instructions to voters, distributing election laws, receiving election returns, furnishing blank election ballots and forms, and furnishing certificates of elections in Carver County legislative districts and congressional districts.

6. Existing Plaintiffs brought this action against Kendra Olson individually and as representative of all other county auditors and/or chief election officers similarly situated in the State of Minnesota. To the extent the Court certifies a Defendant class, Plaintiffs in Intervention assert their rights as against such class.

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JURISDICTION

7. This Court has authority as a court of general jurisdiction to redress the claims of Plaintiffs in Intervention of violations of the Minnesota State Constitution and authority to grant declaratory relief under Minn. Stat. §§ 555.01 *et seq*.

8. This Court has jurisdiction under 42 U.S.C. §§ 1983, 1988 to redress the claims of Plaintiffs in Intervention of violations of the United States Constitution.

CLAIM OF ENTITLEMENT TO INTERVENE

9. Plaintiffs in Intervention claim an interest relating to the legislative and congressional reapportionments that are the subject of this action, and are so situated that this action's disposition may as a practical matter impair or impede their ability to protect that interest.

10. The existing Plaintiffs do not adequately represent the interests of the Plaintiffs in Intervention. Each Plaintiff in Intervention is Republican and/or a member or supporter of the Republican Party of Minnesota, a "major political party" within the meaning of Minnesota election law, and seeks to advance the interests of Republicans in Minnesota in this action. The existing Plaintiffs do not identify themselves as Republicans and/or supporters of the Republican Party of Minnesota in their complaint, and on information and belief, the existing Plaintiffs do not seek to advance the interests of Republicans in Minnesota in this action.

11. The claims herein share common questions of law and fact with the original action, namely the constitutionality of the current plan of congressional districts and legislative districts established by the Minnesota Special Redistricting Panel in *Hippert*, which is being enforced by the Defendants.

12. Plaintiffs in Intervention have sought intervention early in this action, before Defendants' deadline to respond to the Complaint, and are thus timely.

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13. Plaintiffs in Intervention accordingly claim an entitlement to intervention in each claim asserted by the Plaintiffs who commenced this action in their Complaint of February 19, 2021, of the same nature and to the same extent asserted by the Plaintiffs who commenced this action.

COUNT I

CONGRESSIONAL REDISTRICTING

14. This claim arises under the United States Constitution, of which Article I, § 2 provides:

> The House of Representatives shall be composed of members chosen every second Year by the People of the several States … Representatives … shall be apportioned among the several States … according to their respective Numbers.

15. The Fourteenth Amendment to the United States Constitution further provides in Section 1:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction of the equal protection of the laws.

16. The Fifth Amendment to the United States Constitution further provides:

> No person shall be … deprived of life, liberty or property without due process of law.

17. This claim also arises under the Minnesota Constitution, of which Article IV, § 3 provides:

> At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional … districts.

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18. These provisions guarantee to citizens of the United States the right to vote in state and federal elections and guarantee that the vote of each shall be equally effective as any other vote cast in such elections. These provisions further guarantee that congressional representation shall be equally apportioned throughout a state in districts in equal population.

19. Minnesota's current eight congressional districts were established by the Special Redistricting Panel in *Hippert*. Based on the 2010 Census, Minnesota's population was 5,303,925. Because that number was not equally divisible among Minnesota's eight congressional districts, the Special Redistricting Panel ordered five congressional districts with a population of 662,991 and three districts with a population of 662,990.

20. Due to changes in the number and distribution of the population in the State of Minnesota, the congressional districts ordered in *Hippert* are no longer equally populated. As of 2018, according to an estimate of the Minnesota State Demographic Center, the state population had increased to 5,629,416. Thus, each of Minnesota's eight congressional districts should have populations of 703,677.

21. The populations of districts 2, 3, 4, 5 and 6 are higher than 703,677, while the populations of districts 1, 7, and 8 are lower. *See* Exhibit A. As a results, residents of districts 2, 3, 4, 5 and 6 have diminished electoral power relative to residents of districts 1, 7, and 8.

22. Certain Plaintiffs in Intervention reside in disproportionately highly populated congressional districts as follows, according to the Minnesota State Demographic Center's 2018 estimates:

Name	District	Population	% Deviation
Paul Anderson	5	728,052	3.46%
Ida Lano	4	721,825	2.58%
Karen Lane	3	722,148	2.62%
Chuck Brusven	3	722,148	2.62%
Carol Wegner	3	722,148	2.62%

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Daniel Schonhardt	6	714,043	1.47%

23. Plaintiffs in Intervention thus have diminished electoral power relative to less populated congressional districts, in violation of Article IV of the Minnesota Constitution and Article I, § 2 of the United States Constitution.

24. The eight congressional districts established by *Hippert* will be even more problematic if, as expected, Minnesota is apportioned only seven congressional districts after 2020 Census data is released. The United States Department of Commerce, Bureau of the Census issued a report on December 22, 2020 estimating that Minnesota's population growth has been slower than that of other states. If the release of official 2020 Census data confirms those estimates, Minnesota will be apportioned seven congressional districts for the 2022 elections for the United States House of Representatives and thereafter.

25. Plaintiffs in Intervention allege that they intend to vote in the 2022 Minnesota primary and general elections and thereafter for candidates for the United States House of Representatives from Minnesota, and that elections conducted in accordance with *Hippert* will continue to deprive Plaintiffs in Intervention of their rights guaranteed under the United States Constitution and the Minnesota Constitution.

26. Minn. Stat. § 204B.14 establishes a February 15, 2022 deadline for redrawing and redistricting plans.

27. On information and belief, the Minnesota Legislature has failed and will fail to timely equalize the populations of Minnesota's congressional districts in conformity with Article I, § 2 of the United States Constitution and Article IV, § 3 of the Minnesota Constitution and will likewise fail to establish congressional districts as apportioned based on the 2020 census. On information and belief, all Defendants will therefore conduct elections for the 2022 United States

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House of Representatives and thereafter on the basis of the congressional districts ordered in *Hippert* unless prevented from so doing by the Court.

28. The relief sought against Defendants in their official capacities relates to their respective jurisdictions in carrying out all matters related to the election of Representatives to Congress.

29. In the absence of any reapportionment of the congressional districts of the State of Minnesota in conformity with the United States Constitution and the Minnesota Constitution, any action of Defendants in conducting an election for Representatives in Congress in accordance with the districts from Hippert has deprived and will continue to deprive Plaintiffs in Intervention of their constitutional rights under: (1) the Fifth and Fourteenth Amendments to the United States Constitution; (2) Article I, § 2 of the United States Constitution; (3) Article I, § 2 of the Minnesota Constitution; (4) Article IV, § 3 of the Minnesota Constitution; and (5) Article VII, § 1 of the Minnesota Constitution.

30. The Plaintiffs in Intervention are entitled to an equal and timely apportionment among congressional districts by the Legislature pursuant to the Minnesota Constitution, Art. IV, § 3. If the Legislature does not equally or timely apportion congressional districts pursuant to the Minnesota Constitution, then Plaintiffs in Intervention are entitled to a judicial remedy equally apportioning those districts.

COUNT II

LEGISLATIVE APPORTIONMENT

31. This claim arises under the Minnesota Constitution, Article IV, § 2 of which provides:

> The number of members who compose the senate and house of representatives shall be prescribed by law. The representation in

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> both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.

32. Article IV, Section 3 of the Minnesota Constitution further provides:

> At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of … legislative districts.

33. These provisions guarantee to the residents of Minnesota that the vote of each shall be equally effective as any other vote cast in an election for members of the Minnesota Legislature. These provisions further require that the members of the Minnesota Legislature be elected by the people of the State of Minnesota on a basis of equal representation of the individual citizens of the state.

34. This claim also arises under the United States Constitution, the Fourteenth Amendment to which provides in Section 1:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

35. The Fifth Amendment to the United States Constitution further provides that:

> No person shall be … deprived of life, liberty or property without due process of law.

36. The Fourteenth and Fifth Amendments guarantee to the citizens of the United States in each state the right to vote in state and federal elections and that the vote of each shall be equally effective as any other vote cast in such elections. These provisions further guarantee that state legislative representation shall be equally apportioned throughout a state in districts of equal population.

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37. Minnesota's current legislative districts were established by the Special Redistricting Panel in *Hippert*. The *Hippert* panel ordered senate districts with an ideal population of 79,163, and house districts with an ideal population of 39,582.

38. On information and belief, based on the most recent population estimates of the Minnesota State Demographic Center, the legislative districts ordered in Hippert are no longer equal in population. In 2019, the Minnesota State Demographic Center estimated Minnesota's population as 5,680,337. *See* Exhibit B. Based on that estimate, the ideal population for each of Minnesota's 67 senate districts is thus 84,781, and the ideal population for each of Minnesota's 134 house districts is 42,391.

39. As shown in Exhibits B and C, attached hereto, most of the house and senate districts ordered in *Hippert* are now either overpopulated or underpopulated as compared with their ideal numbers.

40. The most recent population estimates show that the Minnesota Special Redistricting Panel in *Hippert* enacted a legislative apportionment which now discriminates against citizens in the most highly populous legislative districts and prefers other citizens in the least populous legislative districts, in violation of Article IV of the Minnesota Constitution and the Fourteenth and Fifth Amendments to the United States Constitution.

41. The Plaintiffs in Intervention reside and vote in disproportionately highly populated legislative districts as follows:

Name	District	Population	% Deviation
Paul Anderson	59B	45,143	6.49%
Ida Lano	64A	43,920	3.6%
Karen Lane	47B	47,162	11.25%
Chuck Brusven	44A	44,528	5.04%
Joel Hineman	4A	44,654	5.3%
Carol Wegner	44A	44,528	5.04%
Daniel Schonhardt	30B	46,561	9.84%

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42. Plaintiffs in Intervention thus have diminished electoral power relative to less populated legislative districts, in violation of Article IV of the Minnesota Constitution and the Fourteenth and Fifth Amendments to the United States Constitution.

43. As citizens of the United States and the State of Minnesota, Plaintiffs in Intervention have the right under the United States Constitution and the Minnesota Constitution to have the entire membership of the Minnesota Legislature apportioned and elected on the basis of equally-apportioned districts.

44. Since 1881, the Minnesota Legislature has only once enacted a legislative redistricting plan at its first session following a United States Census in accordance with the Minnesota Constitution, Article IV, § 3.

45. The 2021 Minnesota Legislature has failed, and on information and belief will fail, to apportion legislative representation pursuant to the United States Constitution and the Minnesota Constitution, Article IV, § 3.

46. Unless and until the Minnesota Legislature constitutionally apportions legislative representation, on information and belief the Defendants will hold elections for the Legislature according to the legislative districts ordered in *Hippert*, in violation of Article IV of the Minnesota Constitution and the Fourteenth and Fifth Amendments to the United States Constitution.

47. Plaintiffs in Intervention further allege that they intend to vote in the 2022 Minnesota primary and general elections and thereafter for candidates for the Minnesota Legislature, and that any elections conducted in accordance with Hippert will continue to deprive Plaintiffs in Intervention of their rights under Article IV of the Minnesota Constitution and the Fourteenth and Fifth Amendments to the United States Constitution.

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48. The relief sought against Defendants in their official capacities relates to their respective jurisdictions in carrying out all matters related to the election of members of the Minnesota Legislature.

49. In the absence of any reapportionment of the legislative districts of the State of Minnesota in conformity with the United States Constitution and the Minnesota Constitution, any action of Defendants in conducting an election for members of the Minnesota Legislature in accordance with the districts in Hippert has deprived and will continue to deprive Plaintiffs in Intervention of their constitutional rights under: (1) the Fifth and Fourteenth Amendments to the United States Constitution; (2) Article I, § 2 of the Minnesota Constitution; (3) Article IV, § 3 of the Minnesota Constitution; and (4) Article VII, § 1 of the Minnesota Constitution.

50. The Plaintiffs in Intervention are entitled to an equal and timely apportionment among the legislative districts by the Legislature pursuant to the Minnesota Constitution, Article IV § 3 and the Fourteenth and Fifth Amendments to the United States Constitution.

51. If the Legislature does not equally or timely apportion the legislative districts, then Plaintiffs in Intervention are entitled to a judicial remedy equally apportioning those districts.

WHEREFORE, Plaintiffs in Intervention pray for the following relief:

1. That this Court declare pursuant to Minn. Stat. § 555.01 et seq.:

    a. That the present congressional apportionment of the State of Minnesota violates the rights of Plaintiffs in Intervention and the class they represent of Due Process of Law and the Equal Protection of the Law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and of the right to equal representation under Article I, § 2 of the United States Constitution.

    b. That the present congressional district boundaries do not conform to the apportionment of congressional seats pursuant to the 2020 census;

    c. That the present legislative apportionment of the State of Minnesota violates the rights of Plaintiffs in Intervention and the class they represent of their

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rights of equal representation and equal apportionment of legislative districts mandated by the Minnesota Constitution;

d. That the present legislative apportionment of the State of Minnesota violates the rights of Plaintiffs in Intervention and the class they represent of Due Process of Law and the Equal Protection of the Law in violation of the Fourteenth and Fifth Amendments to the United States Constitution;

2. That the Court permanently restrain Defendants and the class of persons they represent from taking any actions necessary to the holding of primary or general elections for members of the Minnesota Legislature and members of the United States House of Representatives in the legislative and congressional districts set out and described in *Hippert*.

3. That this Court retain jurisdiction of this action and, upon the failure of the State of Minnesota to adopt constitutionally valid plans of congressional redistricting and legislative reapportionment, the Court will consider evidence, determine and order a proper plan for congressional redistricting and legislative reapportionment.

4. That this Court grant Plaintiffs in Intervention their attorneys' fees and costs, pursuant to 42 U.S.C. § 1988 and Minn. Stat. § 555.08; and

5. For such other and further relief as is just and equitable.

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Dated: March 15, 2021

TAFT STETTINIUS & HOLLISTER LLP

By: */s/ Elizabeth M. Brama*

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Attorneys for Plaintiffs in Intervention

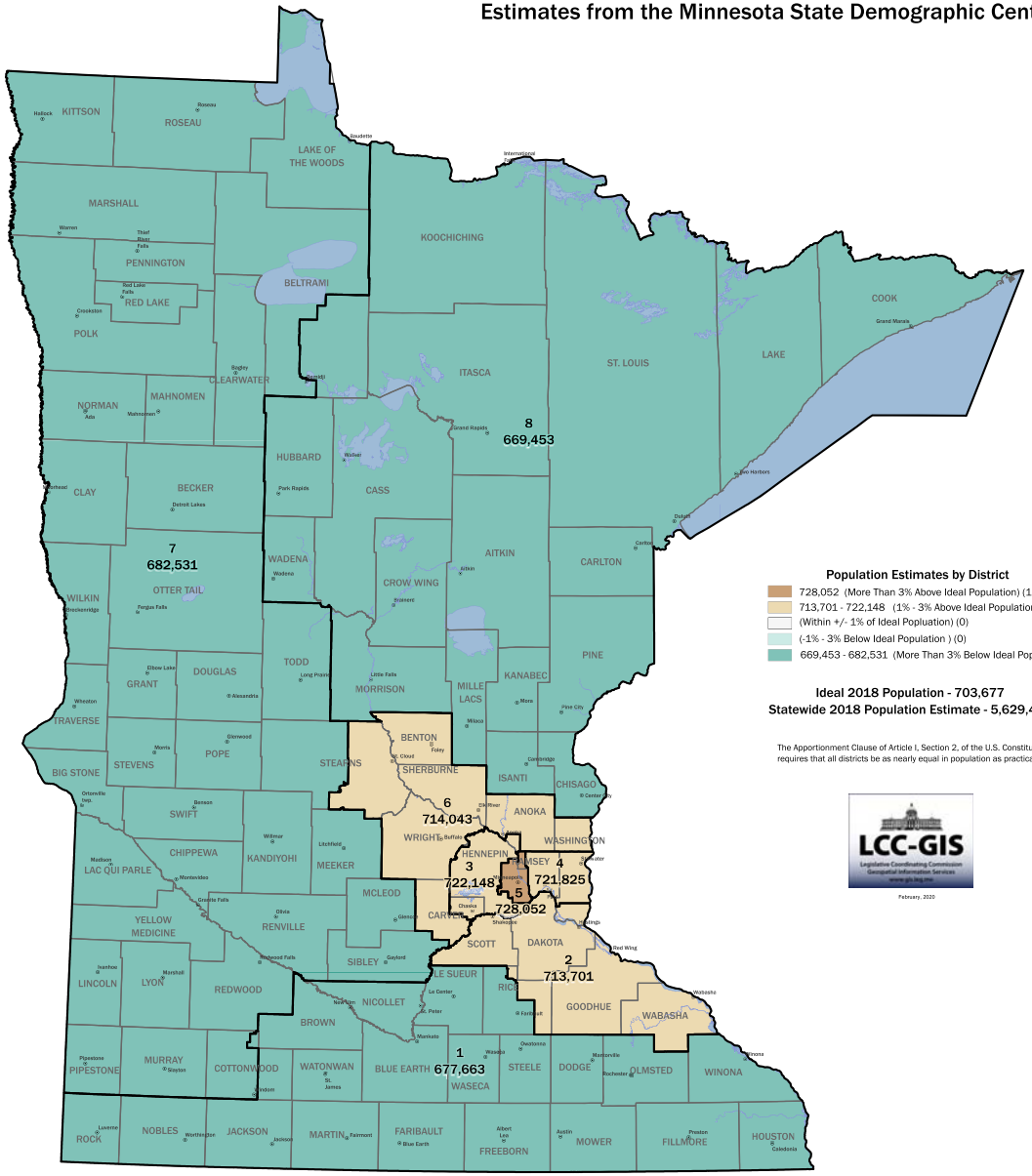
ACKNOWLEDGMENT

The parties, through their undersigned counsel, hereby acknowledges that sanctions may be imposed for a violation of Minn. Stat. § 549.211, subd. 2 pursuant to Minn. Stat. § 549.211, subd. 3.

/s/ Elizabeth M Brama
Elizabeth M. Brama

2018 Congressional District Population

Estimates from the Minnesota State Demographic Center



Population Estimates by District

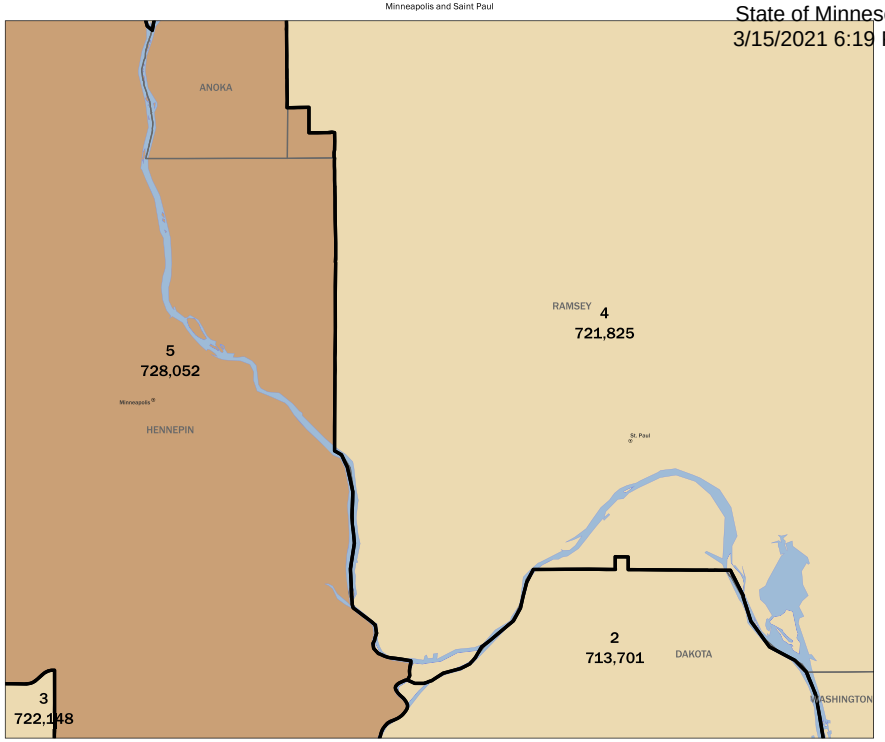
- 728,052 (More Than 3% Above Ideal Population) (1)
- 713,701 - 722,148 (1% - 3% Above Ideal Population) (4)
- (Within +/- 1% of Ideal Popluation) (0)
- (-1% - 3% Below Ideal Population) (0)
- 669,453 - 682,531 (More Than 3% Below Ideal Population) (3)

Ideal 2018 Population - 703,677
Statewide 2018 Population Estimate - 5,629,416

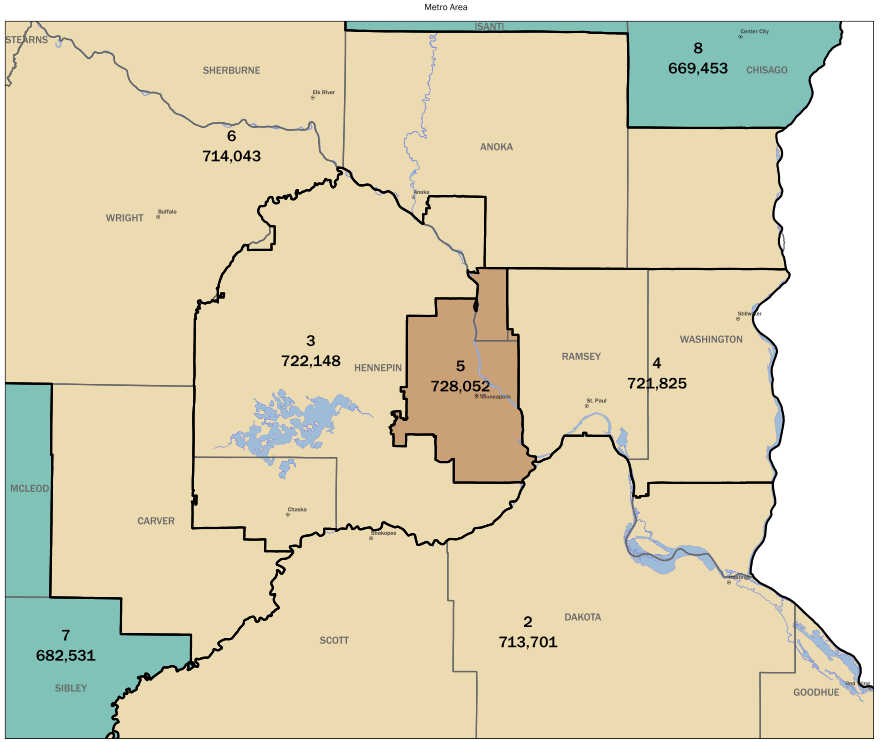
The Apportionment Clause of Article I, Section 2, of the U.S. Constitution requires that all districts be as nearly equal in population as practicable.

LCC-GIS
Legislative Coordinating Commission Geospatial Information Services
www.gis.leg.mn
February, 2020

Minneapolis and Saint Paul



Metro Area



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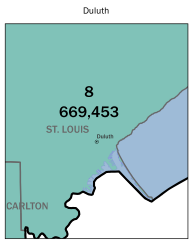

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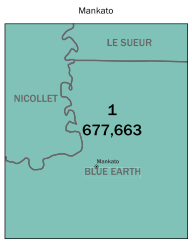
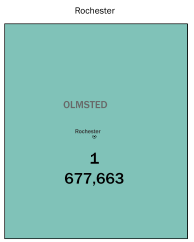
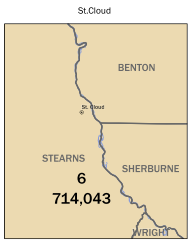


Rochester



St.Cloud



Moorhead

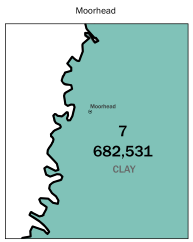
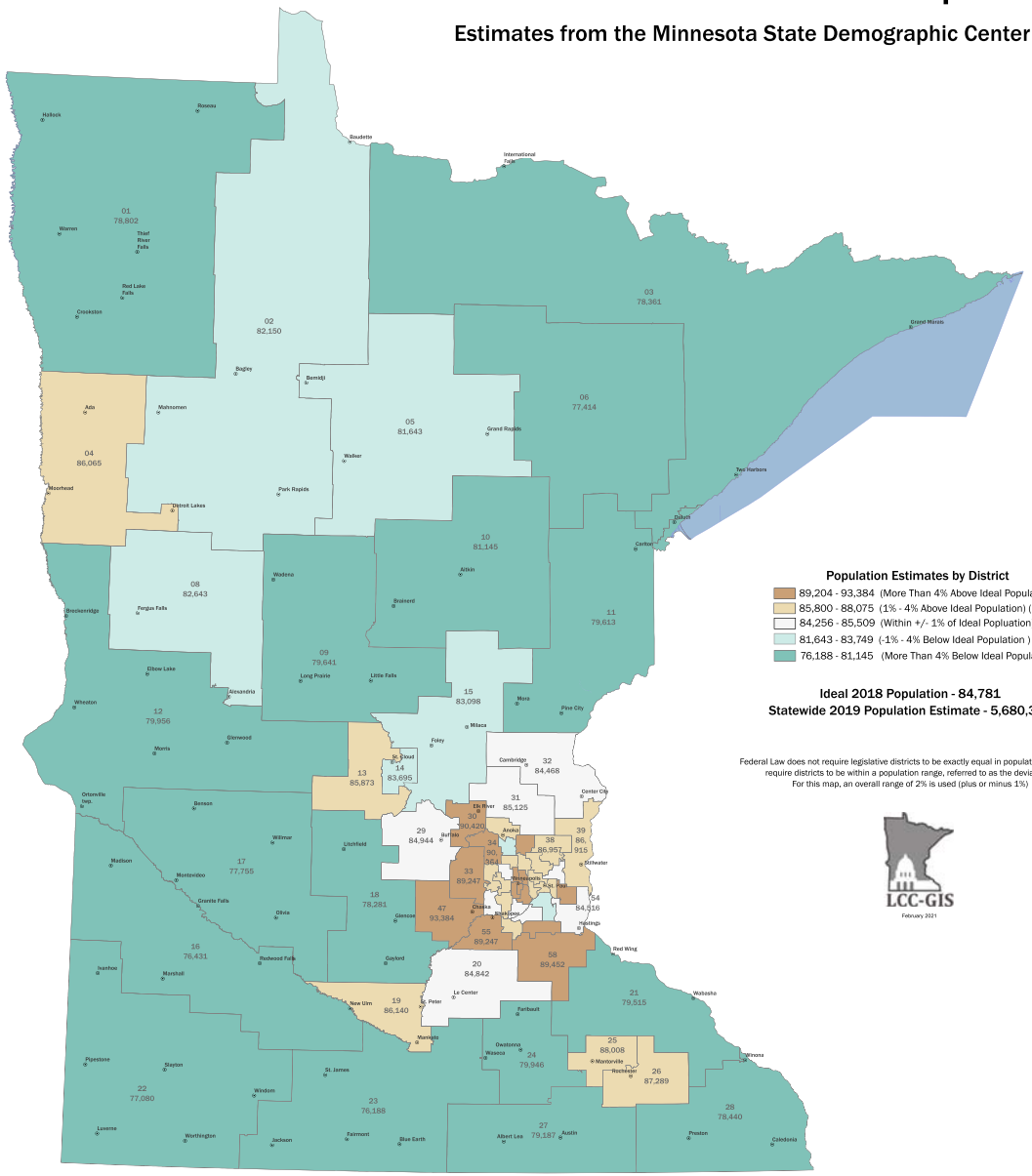


EXHIBIT A

2019 Minnesota Senate District Population

Estimates from the Minnesota State Demographic Center



Population Estimates by District

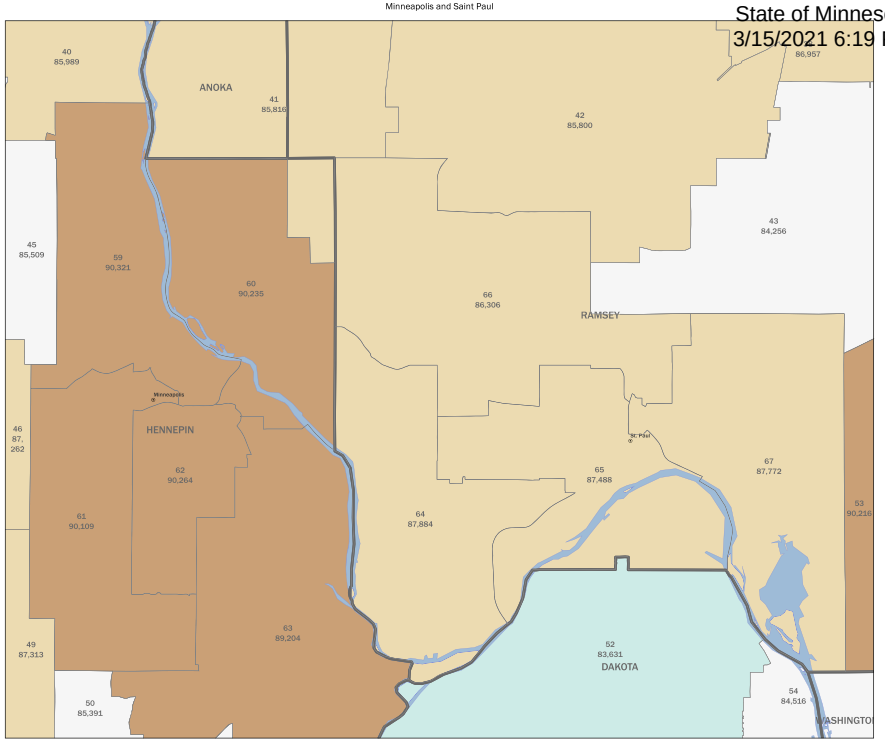
- 89,204 - 93,384 (More Than 4% Above Ideal Population) (14)
- 85,800 - 88,075 (1% - 4% Above Ideal Population) (19)
- 84,256 - 85,509 (Within +/- 1% of Ideal Popluation) (10)
- 81,643 - 83,749 (-1% - 4% Below Ideal Population) (7)
- 76,188 - 81,145 (More Than 4% Below Ideal Population) (17)

Ideal 2018 Population - 84,781
Statewide 2019 Population Estimate - 5,680,337

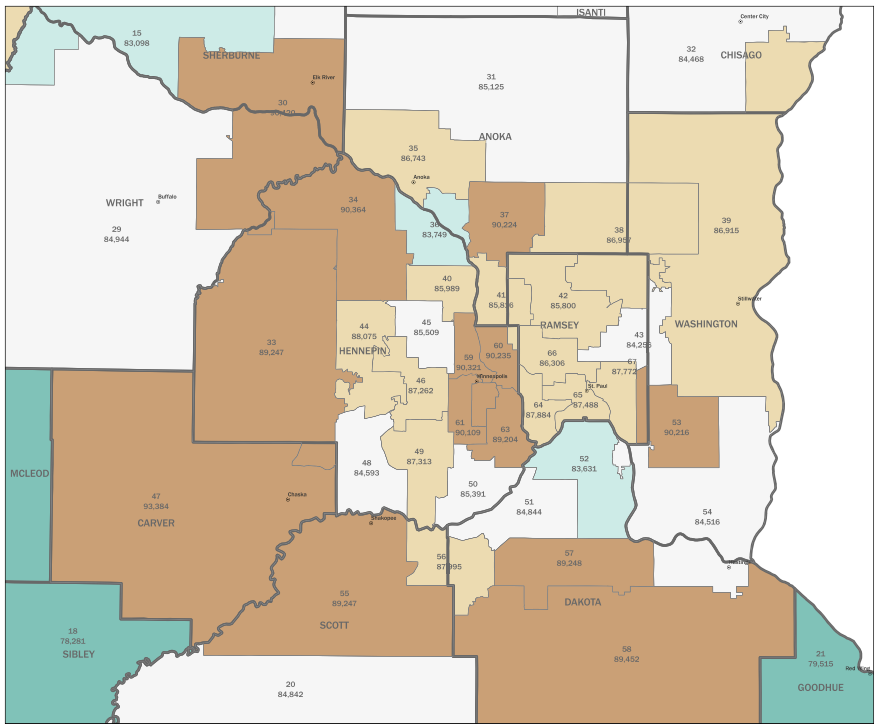
Federal Law does not require legislative districts to be exactly equal in population but does require districts to be within a population range, referred to as the deviation. For this map, an overall range of 2% is used (plus or minus 1%)

LCC-GIS
February 2021

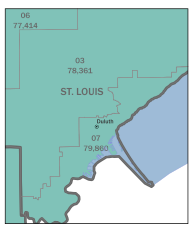
Minneapolis and Saint Paul



Metro Area



Duluth



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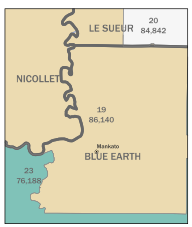
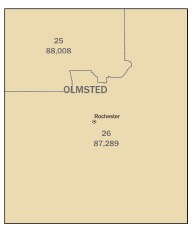
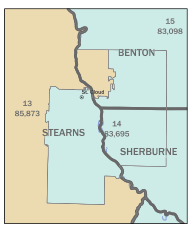


Rochester



St.Cloud



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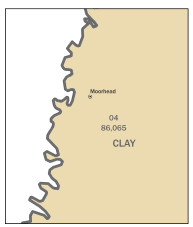
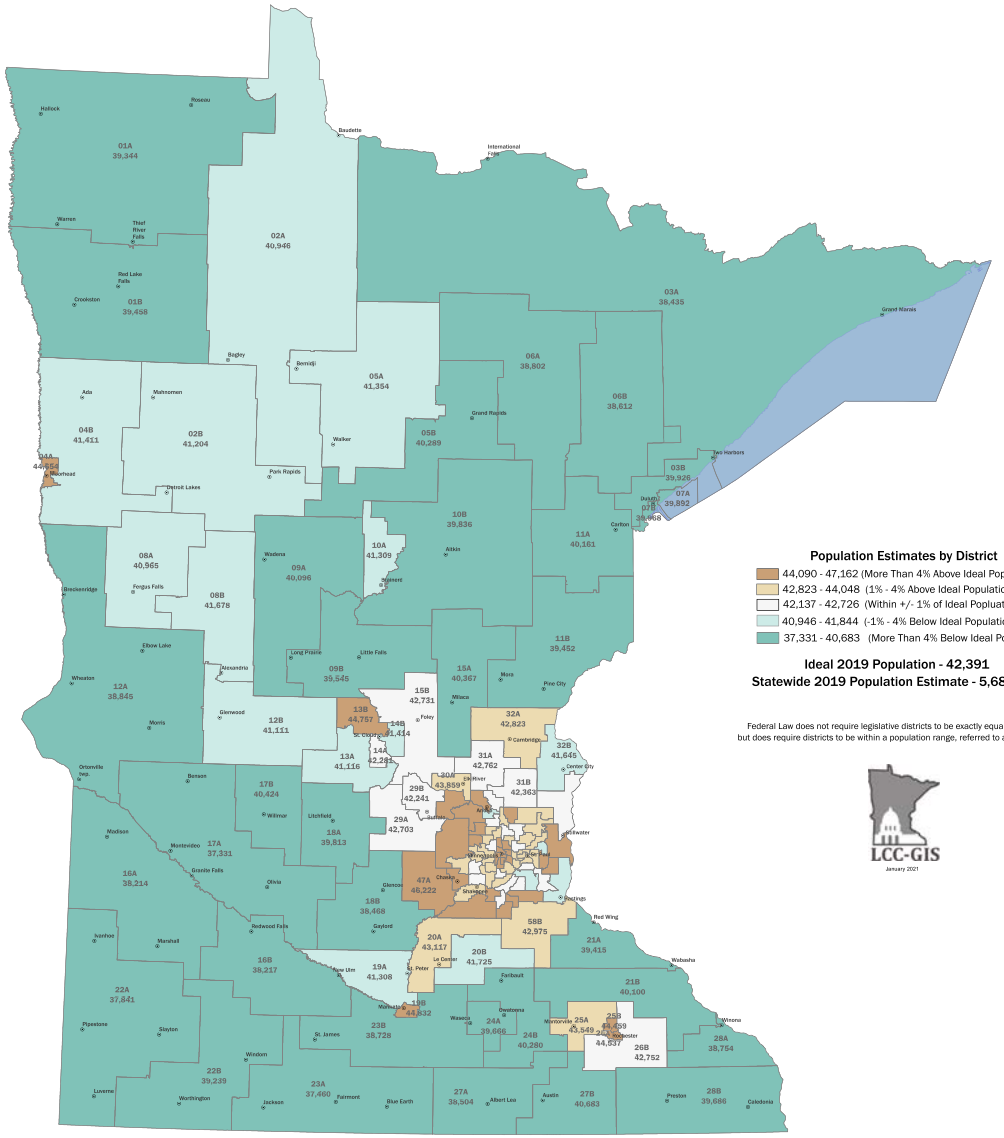


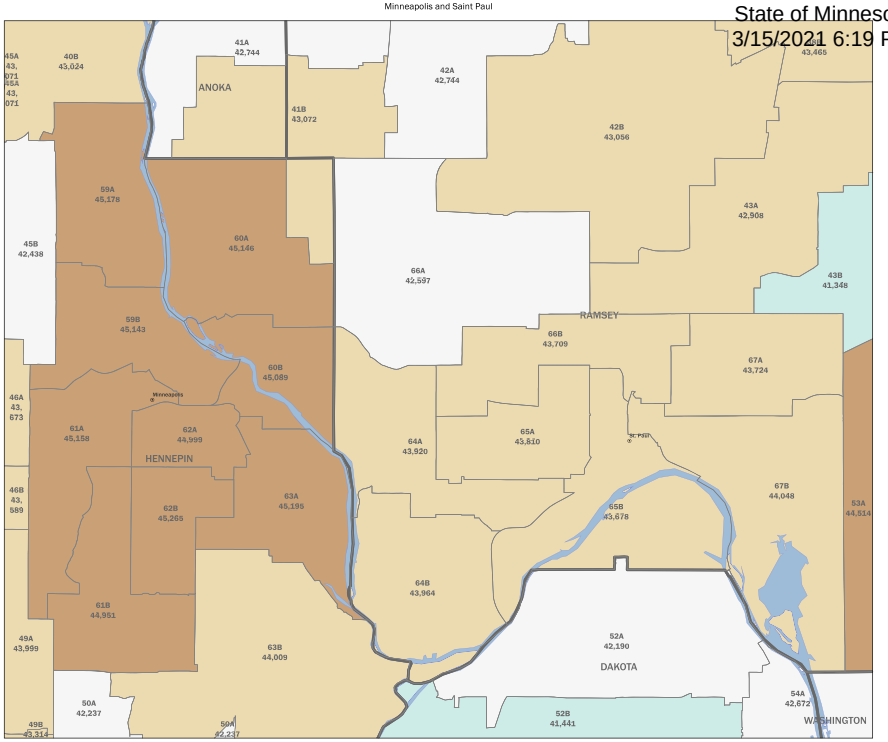
EXHIBIT B

2019 Minnesota House District Population

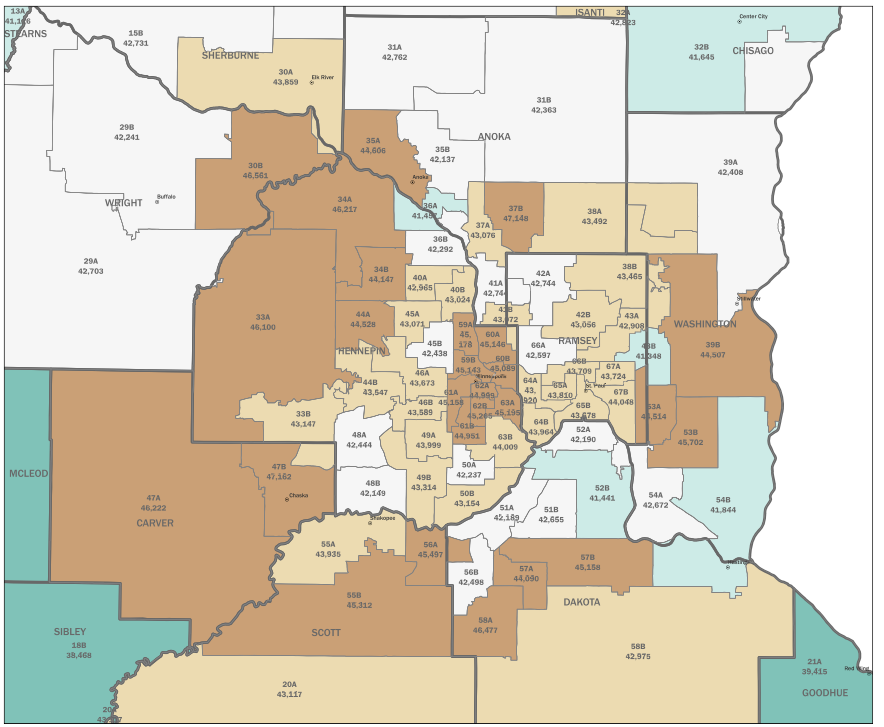
Estimates from the Minnesota State Demographic Center



Minneapolis and Saint Paul



Metro Area



Population Estimates by District

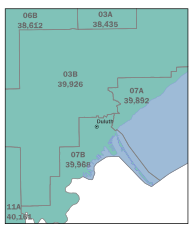
- 44,090 - 47,162 (More Than 4% Above Ideal Population) (31)
- 42,823 - 44,048 (1% - 4% Above Ideal Population) (30)
- 42,137 - 42,726 (Within +/- 1% of Ideal Popluation) (22)
- 40,946 - 41,844 (-1% - 4% Below Ideal Population) (17)
- 37,331 - 40,683 (More Than 4% Below Ideal Population) (34)

Ideal 2019 Population - 42,391
Statewide 2019 Population Estimate - 5,680,337

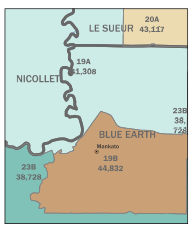
Federal Law does not require legislative districts to be exactly equal in population but does require districts to be within a population range, referred to as the deviation.

LCC-GIS
January 2021

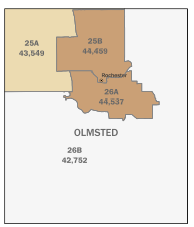
Duluth



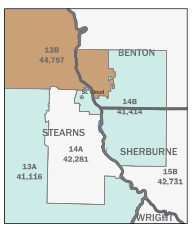
Mankato



Rochester



St.Cloud



Moorhead

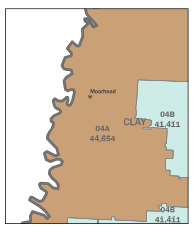


EXHIBIT C