STATE OF WISCONSIN

IN SUPREME COURT

No. 2023AP1399-OA

REBECCA CLARKE, RUBEN ANTHONY, TERRY
DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD,
CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE
KIRST, SELIKA LAWTON, FABIAN MALDONADO,
ANNEMARIE MCCLELLAN, JAMES MCNETT,
BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS,
NATHANIEL SLACK, MARY SMITH-JOHNSON, DENISE
SWEET, and GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS, in his official capacity;
NATHAN ATKINSON, STEPHEN JOSEPH WRIGHT,
GARY KRENZ, SARAH J. HAMILTON, JEAN-LUC
THIFFEAULT, SOMESH JHA, JOANNE KANE and LEAH
DUDLEY,

Intervenors-Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS,
ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN S.
JACOBS, MARGE BOSTELMANN, CARRIE RIEPL, in
their official capacities as Members of the Wisconsin
Election Commission; MEAGAN WOLFE, in her official
capacity as the Administrator of the Wisconsin Elections
Commission; ANDRE JACQUE, TIM CARPENTER, ROB
HUTTON, CHRIS LARSON, DEVIN LEMAHIEU,
STEPHEN L. NASS, JOHN JAGLER, MARK SPREITZER,
HOWARD MARKLEIN, RACHAEL CABRAL-GUEVARA,
VAN H. WANGGAARD, JESSE L. JAMES, ROMAINE
ROBERT QUINN, DIANNE H. HESSELBEIN, CORY
TOMCZYK, JEFF SMITH and CHRIS KAPENGA, in their
official capacities as Members of the Wisconsin Senate.

Respondents,

WISCONSIN LEGISLATURE; BILLIE JOHNSON,
CHRIS GOEBEL, ED PERKINS, ERIC O'KEEFE,
JOE SANFELIPPO, TERRY MOULTON, ROBERT
JENSEN, RON ZAHN, RUTH ELMER
and RUTH STRECK,

Intervenor-Respondents.

GOVERNOR TONY EVERS' BRIEF IN SUPPORT OF PROPOSED REMEDIAL MAPS

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INTRODUCTION

Governor Tony Evers submits this brief in support of his accompanying proposed remedial maps. Those proposals meet the requirements from this Court's December 22, 2023, decision and the December 26, 2023, Technical Specifications Memorandum and perform impressively under those metrics.

This redistricting case concerns fundamental public rights, "implicating the sovereign rights of the people of this state." *Jensen v. Wis. Elections Bd.*, 2002 WI 13, ¶ 17, 249 Wis. 2d 706, 639 N.W.2d 537. In vindicating the constitutional rights of Wisconsin citizens, *id.* ¶ 14, this Court can follow only one path: adopting districts that reject partisan bias and instead achieve "fair and effective representation for all citizens." *Reynolds v. Sims*, 377 U.S. 533, 565 (1964). Anything else would be "incompatible with democratic principles." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 791 (2015) (citation omitted).

The Governor plays a unique role in this highly important litigation. Only the Governor "represents the people as a whole." *State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 558, 126 N.W.2d 551 (1964). That is true without respect to voter's party or affiliation, and the Governor submits proposed maps that are, above all else, "responsive to the popular will." *Reynolds v. Sims*, 377 U.S. 533, 565, 84 S. Ct. 1362, 1383, 12 L. Ed. 2d 506 (1964).

The Governor's submissions advance districts that are unbiased, competitive, and responsive to Wisconsin voters. The maps perform well when measured against widely accepted metrics of partisan fairness and far outperform the preceding maps. The *Johnson* maps, for example, "waste" an alarmingly high percentage of votes, effectively ossifying legislative control and flouting changes in voter preference. The Governor's proposals, however, dramatically lower the

number of wasted votes and significantly reduce partisan bias and asymmetry. In short, the Governor's proposals would create much more competitive districts that respond to prevailing political trends and provide all voters an opportunity to translate their votes into representation.

The Governor's proposed maps also perform well when measured using constitutional and traditional redistricting criteria. The proposed districts are contiguous and significantly more compact than their predecessors. Whether reviewed statistically or by the naked eye, the maps form coherent, sensible districts; they split fewer counties and municipalities; and they keep together communities with shared interests. From respecting municipal boundaries, to uniting voters in Native American communities, to keeping together cranberry growers, to unifying dairy farmers and cheesemakers, the proposed maps are focused on reality on the ground.

Simply put, the Governor's submissions promote and protect fair and effective representation for all citizens. By adopting the Governor's proposed maps, the Court would "'restore the core principle of republican government', namely, 'that the voters should choose their representatives, not the other way around.'" *Ariz. Indep. Redistricting Comm'n*, 576 U.S. at 824 (citation omitted).

BACKGROUND

In a December 22, 2023, ruling, this Court held that Wisconsin's state legislative maps were unconstitutionally noncontiguous. *Clarke v. WEC*, 2023 WI 79, ¶ 34. In light of the "pervasiveness" of the problem and the fact that any remedy "will cause a ripple effect across other areas of the state," the Court enjoined the maps as a whole and ordered the adoption of remedial maps. *Id.* ¶ 56. At the same time, the Court issued an order regarding post-decision matters that

set out a process by which the parties could propose maps to the Court and the Court could evaluate those proposals.

When discussing that process and the applicable criteria, the Court held that it "will not consider least change when adopting remedial maps" because, among other reasons, it is "unworkable in practice." *Id.* ¶¶ 60, 63. Rather, the Court explained that constitutional and other required criteria would apply along with traditional districting criteria. *Id.* ¶¶ 64, 68.

First, the maps must comply with population equality requirements, allowing for "minor deviations," which the cases cited by the Court explain means total deviation of less than 2% between districts, as that range is considered de minimis. *Id.* ¶ 64.

Second, the districts must conform to article IV of the Wisconsin Constitution. It requires that Assembly districts be bounded by county, precinct, town, or ward lines, consist of contiguous territory, be as compact as practicable, and conform to nesting requirements, where each Senate district consists of three Assembly districts. *Id.* ¶ 65. Contiguity means a district's territory "must be touching such that one could travel from one point in the district to any other point in the district without crossing district lines," *id.* ¶ 66; territory separated by only water is considered contiguous, *id.* ¶ 27. Splits are considered, but the courts "no longer interpret the requirement to entirely prohibit any splitting of the enumerated political subdivisions." *Id.* ¶ 66. And compactness means "closely united in territory," although the Court has not adopted a particular measure. *Id.*

Third, the maps must comply with federal law, which includes a population equality requirement and also involves Equal Protection and the Voting Rights Act. *Id.* ¶ 67.

Fourth, the Court explained that it would consider traditional districting criteria of reducing municipal splits and preserving communities of interest, while pointing out that these considerations will not supersede constitutional mandates. *Id.* ¶ 68.

Fifth, the Court concluded that it would "consider partisan impact" to ensure that the Court remains "politically neutral," and so would "take care to avoid selecting remedial maps designed to advantage one political party over another." *Id.* ¶¶ 69–71.

The Court then provided that the parties may submit proposed maps, expert reports, and supporting briefs by January 12.[1]

ARGUMENT

The Governor's proposed maps excel under the redistricting criteria and serve democracy with their responsiveness to the vote.

A.   The   Governor's   proposed   maps   are responsive to the vote and avoid political bias.

In Wisconsin, the government derives its "just powers from the consent of the governed." Wis. Const. art. I, § 1. Thus,

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[1] Depictions of the proposed maps are appended to the end of this brief. Detailed depictions also are available on Dave's Redistricting App at the following links:

The Assembly map:

https://davesredistricting.org/maps#viewmap::3ea16205-6662-4951-afda-27bb434b32a9

The Senate map:

https://davesredistricting.org/maps#viewmap::774bbf42-46fa-4451-a5be-3d147592961a

"any reapportionment or redistricting case is, by definition, publici juris." *Jensen*, 249 Wis. 2d 706, ¶ 17. The U.S. Supreme Court has similarly observed that "the basic aim of legislative apportionment" is "achieving . . . fair and effective representation for all citizens." *Reynolds*, 377 U.S. at 565.

Those principles are reflected in the proposed legislative districts: the Governor's maps were drawn for the benefit of Wisconsin voters to ensure that each district is and will continue to be "responsive to the popular will." *Id.*; *Karcher v. Daggett*, 462 U.S. 725, 752 (1983) (Stevens, J., concurring) (criticizing districts that "frustrate the popular will"). This means that, in some elections, under the Governor's maps, voters will elect a Republican majority and in others a Democratic majority. But, in all elections, the Governor's maps guard against an entrenched partisan effort to "defeat or circumvent the sentiments of the community." *Whitcomb v. Chavis*, 403 U.S. 124, 177 (1971) (Douglas, J., concurring).

The proposed maps also respect this Court's well-reasoned commitment to political neutrality. *See Clarke*, 2023 WI 79, ¶ 70 ("[T]his court must remain politically neutral. We do not have free license to enact maps that privilege one political party over another."). The maps are not designed for "partisan advantage." *Id.* (quoting *Jensen*, 249 Wis. 2d 706, ¶ 12, and collecting cases). Rather, enactment of the Governor's maps will ensure that the Court makes good on its pledge that "its political neutrality must be maintained." *Id.*

Indeed, widely accepted statistical measures used to assess the partisan impact of legislative districts confirm the relative neutrality and responsiveness of the Governor's proposals. Courts across the country have repeatedly used "partisan fairness metrics to ensure that all voters have 'an equal opportunity to translate their votes into representation.'" *Carter v. Chapman*, 270 A.3d 444, 470 (Pa. 2022), *cert. denied sub nom. Costello v. Carter*, 143 S. Ct. 102

(2022) (citation omitted). Applying five commonly used metrics and approaches to quantifying partisan fairness, the Governor's plans perform exceptionally well: [2]

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[2] The Governor's redistricting expert, Anthony Fairfax, determined the efficiency gap for the Governor's proposed maps using two sources, (1) the website PlanScore, *see* Score Electoral District Maps, https://planscore.org/#!2022-statehouse and (2) the mapping software platform Maptitude, *see* Maptitude Mapping Software, https://www.caliper.com/maptitude/mapping-software.htm.

PlanScore is a 501(c)(3) nonprofit organization consisting of "legal, political science, and mapping technology experts tackling the challenge of making redistricting fair and easy to understand." What is PlanScore?, https://planscore.org/about/. PlanScore allows users to "[u]pload a map to instantly receive projected data about its partisan consequences." Score a Plan, https://planscore.org/upload.html. PlanScore's methodology is publicly available, *see* Unified District Model, https://planscore.org/models/data/2022F/, and courts have repeatedly relied on PlanScore's partisan fairness calculations, *see*, *e.g.*, Report of the Special Master at 12-13, Jonathan Cervas, *Harkenrider v. Hochul*, No. E2022-0116CV, (N.Y. Sup. Ct. May 20, 2022), https://jonathancervas.com/2022/NY/CERVAS-SM-NY-2022.pdf.

Maptitude is computer software commonly used to "develop redistricting plans." *Georgia State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357, 1360 (N.D. Ga. 2018). It is "the professional tool for political redistricting" and is "used by a supermajority of the state legislatures, political parties, and public interest groups." Overview: Maptitude for Redistricting Software, https://www.caliper.com/mtredist.htm. Maptitude makes its methodology for calculating efficiency gap publicly available. *See* What is the Efficiency Gap?, https://www.caliper.com/glossary/what-is-the-efficiency-gap-measure.htm. According to Dr. Jonathan Cervas, "Maptitude for Redistricting is the all-in-one, easy to use, most accurate product available." Maptitude Mapping Software, https://www.caliper.com/maptitude/mapping-software.htm.

1. The Governor's proposed plan significantly improves the efficiency gap.

The Governor's plan improves upon the previous plans' efficiency gap by 40% to 90%.

The efficiency gap metric measures "wasted votes" or "the difference between the parties' respective 'wasted votes' (i.e., the number of votes above the 50 percent plus 1 that a party needs to win an election), divided by the total number of votes cast." *Adams v. DeWine*, 195 N.E.3d 74, 91 (Ohio 2022); (Fairfax Rep. ¶ 75). Typically, redistricting plans that "crack," i.e., disperse voting block members to diminish voting power, or "pack," i.e., combine voting block members to dilute their effect on other districts, waste large numbers of votes. *See* Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*, 82 U. Chi. L. Rev. 831, 834 (2015).

In other words, "[t]he practices of cracking and packing can be used to create wasted votes . . . . [I]n a cracked district, the disadvantaged party loses narrowly, wasting a large number of votes without winning a seat; in a packed district, the disadvantaged party wins overwhelmingly, again, wasting a large number of votes." *League of Women Voters v. Commonwealth*, 178 A.3d 737, 777 (Pa. 2018) (citations omitted). Thus, the higher the efficiency gap—the more one political party's voters are cracked or packed—the easier it is for the other political party to win legislative seats without having to claim more votes. Stephanopoulos & McGhee, *Partisan Gerrymandering and the Efficiency Gap* at 852.

Here, the Governor's maps reflect lower numbers of "wasted votes," and significantly outperform the 2022 Enacted Plans and the 2021 Plans.[3]

As the chart below demonstrates, the Governor's Assembly map has a low efficiency gap of 3.77% to 6.14%, depending on the software and elections data used. In comparison, the Assembly 2022 Enacted Plan's efficiency gap is 11% to 16.91%, and the 2021 Plan's efficiency gap is 10.24% to 14.64%. The Governor's Senate map is similar in comparison to these previous plans.

Assembly Plan Efficiency Gap Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
PlanScore	6.4%	11%	10.4%
Maptitude (2022 Gubernatorial Election)	4.16%	16.91%	10.24%
Maptitude (2020 Presidential Election)	3.77%	16.88%	14.64%

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[3] The "2022 Enacted Plan" refers to the maps adopted by this Court in the *Johnson* litigation. The "2021 Plan" refers to the maps in place immediately before that litigation.

Senate Plan Efficiency Gap Comparison			
	Governor's Proposed Senate Plan	Senate 2022 Enacted Plan	Senate 2021 Plan
PlanScore	7.7%	13.7%	12.8%
Maptitude (2022 Gubernatorial Election)	1.17%	16.19%	12.33%
Maptitude (2020 Presidential Election)	1.8%	19.06%	19.22%

2. The Governor's proposed plan significantly improves the mean-median gap.

Under the Governor's plan, the mean-median gap improves by around 40% compared to the previous maps.[4]

The mean-median gap measures "the difference between a party's vote share in the median district and its average vote share across all districts." *Adams*, 195 N.W.3d at 91; (Fairfax Rep. ¶ 105). "If the party wins more votes in the median district than in the average district, they have an advantage in the translation of votes to seats." *Ohio A. Philip Randolph Inst. v. Householder*, 367 F. Supp. 3d 697, 718 (S.D. Ohio 2019). To calculate the mean, "one looks at the average vote share per party in a particular district. To calculate the median, one 'lines up' the districts from the lowest to the highest vote share; the 'middle best district' is the median. The median district is the district that either party has to win

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[4] The numbers provided here are from PlanScore only, as Maptitude does not calculate the mean-median gap or declination score, discussed below.

in order to win the election." *League of Women Voters*, 178 A.3d at 774; *see also Adams*, 195 N.W.3d at 91.

Here, the Governor's maps reflect minimal difference between the parties' vote share in median districts and across all districts, and significantly outperform the 2022 Enacted Plan and the 2021 Plan.

The chart below shows that the Governor's Assembly Plan has a mean-median gap of 2.9%, compared to 5% in the Assembly 2022 Enacted Plan, and 4.6% in the Assembly 2021 Plan. This translates to a mean-median improvement of up to 37% in the Assembly, and up to 42% in the Senate.

Assembly Plan Mean-Median Gap Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
PlanScore	2.9%	5%	4.6%

Senate Plan Mean-Median Gap Comparison			
	Governor's Proposed Senate Plan	Senate 2022 Enacted Plan	Senate 2021 Plan
PlanScore	2.9%	5%	4.9%

3. The Governor's proposed maps significantly improve on declination.

The declination metric shows that the Governor's proposed maps somewhat favor Republicans—but would improve fairness by reducing the Republican advantage in the previous maps by about 40%.

Declination measures "the asymmetry in the distribution of votes across districts." *Adams,* 195 N.W.3d at 91; (Fairfax Rep. ¶ 102). "The declination metric starts from

the assumption that a plan that advantages one party will arrange the distribution of district vote shares in a way that treats the 50 percent threshold for victory differently than other vote values. The declination metric can be quantified using a number between -1 and 1 (positive values favor Democrats and negative values favor Republicans)." *Householder*, 367 F. Supp. 3d at 718.

Here, the Governor's maps reflect minimal asymmetry in the distribution of votes across districts, and significantly outperform the 2022 Enacted Plans and the 2021 Plans.

Specifically, the chart below shows that the Governor's proposed plan has a declination measure of .37 favoring Republicans, compared to .63 in the Assembly 2022 Enacted Plan and .59 in the Assembly 2021 Plan. Likewise, in the Senate, the Governor's proposed plan nearly cuts the previous maps declination scores favoring Republicans in half.

Assembly Plan Declination Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
PlanScore	.37 fav. Rep.	.63 fav. Rep.	.59 fav. Rep.

Senate Plan Declination Comparison			
	Governor's Proposed Senate Plan	Senate 2022 Enacted Plan	Senate 2021 Plan
PlanScore	.32 fav. Rep.	.57 fav. Rep.	.53 fav. Rep/

4. The Governor's proposed plans significantly improve partisan symmetry.

The Governor's proposed plans improve upon partisan symmetry (also called partisan bias) by as much as 50% for the Assembly and 57% for the Senate.

Partisan symmetry measures "whether each party would receive the same share of legislative seats assuming that each had identical percentage vote shares." *League of Women Voters of Ohio v. Ohio Redistricting Comm'n, 2022-Ohio-65*, 192 N.E.3d 379, 411 (Ohio 2022); (Fairfax Rep. ¶ 104). "For example, if the Democratic Party would win 51 percent of the seats if it received 55 percent of the votes, but the Republican Party would win 66 percent of the seats if it received 55 percent of the votes, then the partisan-symmetry metric indicates that the map favors the Republican Party." *Adams*, 195 N.W.3d at 91–92. In all, lower partisan symmetry scores mean the map is less skewed.

Here, the Governor's maps reflect desirable levels of partisan symmetry, and again, significantly outperform the 2022 Enacted Plans and the 2021 Plans.

The chart below demonstrates that partisan symmetry in the Governor's proposed Assembly plan is 6%, compared to 13.9% in the Assembly 2022 Enacted Plan, and 10.6% in the Assembly 2021 Plan. For the Senate, the Governor's proposed plan has a partisan symmetry score of 7%. This again is far less than the Senate 2022 Enacted Plan's score of 13.9% and the Senate 2021 Plan's score of 12.9%.

Assembly Plan Partisan Symmetry Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
PlanScore	6%	13.9%	10.6%

Senate Plan Partisan Symmetry Comparison			
	Governor's Proposed Senate Plan	Senate 2022 Enacted Plan	Senate 2021 Plan
PlanScore	7%	13.9%	12.9%

> **5.** **The Governor's proposed plan significantly increases the number of competitive seats.**

The Governor's proposed plan could increase the number of competitive Assembly seats by 68% and could more than triple competitive Senate seats compared to the previous maps.

This metric measures districts that can flip from one party's control to another in competitive elections, here using PlanScore's predictive model. (*See* Fairfax Rep. ¶ 100.) *See also Report of the Special Master* at 11, Jonathan Cervas, *Harkenrider v. Hochul*, No. E2022-0116CV, (N.Y. Sup. Ct. May 20, 2022) (using "a definition that is standard in the political science literature: an average (of past recent elections) with a two-party vote share between 45% and 55%").[5] The number of competitive seats in a plan is reflective of its responsiveness. *See* Bernard Grofman and Jonathan R.

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[5] Available at https://jonathancervas.com/2022/NY/CERVAS-SM-NY-2022.pdf.

Cervas, *Can State Courts Cure Partisan Gerrymandering: Lessons from League of Women Voters v. Commonwealth of Pennsylvania*, 17 Election L.J. 268, 277 (2018) ("the responsiveness level in the plan is tied to the number of highly competitive seats[.]"). In other words, "[one] way in which responsiveness is fostered is to have districts that are sufficiently competitive that they might realistically change in outcome in response to a change in voter preferences." *Report of the Special Master* at 10, Jonathan Cervas, *Harkenrider v. Hochul*, No. E2022-0116CV, (N.Y. Sup. Ct. May 20, 2022), (observing that special master "reviewed whether . . . maps allowed for state-wide partisan outcomes to be responsive to changes in voter preferences by having a reasonable number of politically competitive districts").

Here, the Governor's maps reflect ample competitive seats and significantly outperform the 2022 Enacted Plan and the 2021 Plan.

The chart below shows that there are 32 competitive seats in the Governor's proposed Assembly plan, compared to just 19 in the 2022 Enacted Plan, and 24 in the 2021 Plan. The Governor's proposed Senate plan increases competitive seats to 11, from just 3 competitive seats in the 2022 Enacted Plan and just 5 in the 2021 Plan.

Assembly Plan Competitive Seats Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
PlanScore	32 competitive seats	19 competitive seats	24 competitive seats

Senate Plan Competitive Seats Comparison			
	Governor's Proposed Senate Plan	Senate 2022 Enacted Plan	Senate 2021 Plan
PlanScore	11 competitive seats	3 competitive seats	5 competitive seats

In sum, across all metrics, the proposed plans promote neutrality and responsiveness. This is especially clear when the Governor's proposals are compared to the 2022 Enacted Plans and the 2021 Plans. The partisan neutrality and competitiveness considerations should weigh in favor of adopting the Governor's maps—they create conditions where the will of the voters translates into changes in their representatives.

B.   The Governor's proposed maps perform impressively on traditional districting criteria.

1.   The proposed maps fall within the de minimis safe harbor for population equality.

The Governor's maps perform well under the population equality metric. In fact, because the maps fall within a 2% safe harbor for population deviation, there is nothing more to analyze under this factor.

As this Court explained, "[s]tate and federal law require a state's population to be distributed equally amongst legislative districts with only minor deviations." *Clarke v. WEC*, 2023 WI 79, ¶ 64. This Court's citation to *Wisconsin State AFL-CIO v. Elections Board*, 543 F. Supp. 630 (E.D. Wis. 1982), further reflects that court-drawn or adopted legislative maps should have a total deviation of less than 2%. *See id.* A "constitutionally acceptable plan . . . should, if possible, be kept below 2%." *Wis. State AFL-CIO*, 543 F. Supp. at 634. In

other words, courts have recognized a "de minimis 2% threshold" for state legislative maps.[6] *Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471, at *7 (E.D. Wis. May 30, 2002).

The 2% threshold also aligns with the decisions of courts in other states, which generally "have approved maps ranging up to two percent total deviation." *Essex v. Kobach*, 874 F. Supp. 2d 1069, 1082 (D. Kan. 2012); *see also Larios v. Cox.*, 314 F. Supp. 2d 1357, 1364 (N.D. Ga. 2004) (holding that a 2% total deviation was de minimis); *Hippert v. Ritchie*, 813 N.W.2d 374, 379 (Minn. 2012) (explaining that court-drawn legislative maps should have "a maximum deviation of two percent from the ideal population"); *Colleton County Council v. McConnell*, 201 F. Supp. 2d 618, 652 (D.S.C. 2002) (approving a plan with a total deviation of 2%, and rejecting maps with 4.86% and 3.13% deviations).

Here, based on the 2020 Census, the ideal population for each of Wisconsin's 99 Assembly districts is 59,533 persons. The ideal population for each of Wisconsin's 33 Senate districts is 178,598 persons. (Fairfax Rep. ¶ 44.)

For both maps, the Governor's proposed plans deviate from the ideal by no more than 1%—in other words, the maps fall within the de minimis safe harbor of a total range of deviation of 2%. For the Assembly, the proposed plan has a range of deviation of 1.96%, meaning all districts are within 1% of ideal. (Fairfax Rep. ¶ 45.) Likewise, for the Senate, the map has a range of deviation of 1.46%, again meaning that all districts are within 1% of the ideal. (Fairfax Rep. ¶ 47.)

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[6] This is in contrast to congressional maps, which have stricter population equality requirements. *See Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471, at *2 n. 3 (E.D. Wis. May 30, 2002).

These deviations are within the safe-harbor permitted for court-drawn maps and are consistent with the deviations in the court-drawn examples both in Wisconsin and elsewhere in the country. *See, e.g.*, *Baumgart*, 2002 WL 34127471, at *7; *Essex*, 874 F. Supp. 2d at 1082. Because it is a safe harbor, the particular deviation below 2% does not matter: any map that falls below this safe harbor equally satisfies the population equality requirement. Thus, the Governor's maps satisfy the population equality criterion and, as to this metric, are on par with any other map beneath the 2% threshold.

2. The proposed maps perform impressively on splits, lowering county and municipal splits compared to the previous maps.

The Court has explained that parties should consider "the extent to which assembly districts split counties, towns, and wards (particularly towns and wards as the smaller political subdivisions)." *Clarke v. WEC*, 2023 WI 79, ¶ 66. However, as the Court stated, courts "no longer interpret the requirement to entirely prohibit any splitting of the enumerated political subdivisions." *Id.*

Wisconsin caselaw demonstrates courts have approved Assembly maps with between 50 and 100 municipal splits. *Johnson v. Wis. Elections Comm'n* (*Johnson III*), 2022 WI 19, ¶¶ 68–69, 401 Wis. 2d 198, 972 N.W.2d 559. And federal panels agree that splits are permissible to a certain extent. For example, the panel in *Wisconsin State AFL-CIO* explained that "[w]hile maintaining the integrity of county lines may be a desirable objective, we believe its general incompatibility with population equality makes it only a consideration of secondary importance." *Wis. State AFL-CIO*, 543 F. Supp. at 635. Thus, some splits are allowed, although a map-drawer may seek to minimize them while balancing other redistricting factors.

The proposed maps perform very well under this metric. The Assembly maps split just 55 municipalities compared with 59 municipal splits in the 2022 Enacted Plan and 78 municipal splits in the 2021 Plan. *Johnson III*, 401 Wis. 2d 198, ¶ 69; (Fairfax Rep. ¶ 64). That is, the Governor's Assembly map lowers the number of municipal splits as compared to those recent plans, and significantly lowers them compared to the 2021 Plan. Likewise, the proposed Assembly plan lowers county splits—it has only 45, compared to 53 for the 2022 Enacted Plan and 58 for the 2021 Plan.

Assembly Splits Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan[7]
Counties	45	53	58
Municipalities	55	59	78

(Fairfax Rep. Table 1.)

The Senate plan likewise compares favorably. It has 33 municipal splits as compared to 35 in the 2022 Enacted Plan. And it has only 33 county splits, compared to 42 in the 2022 Enacted Plan. (Fairfax Rep. Table 2.)

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[7] The number of municipal splits for the 2021 map are taken from this Court's *Johnson III* decision. *Johnson III*, 401 Wis. 2d 198, ¶ 69 ("58 county splits and 78 municipality splits"). The Fairfax report states a higher number (188 splits), but that report used boundaries from 2020 when evaluating all maps, and so it does not necessarily represent the splits as of the time the 2021 Plan was enacted in 2011.

The Governor's proposal thus performs well when it comes to splits: *Johnson III* described even *higher* splits in the Assembly as "low."[8] *Johnson III*, 401 Wis. 2d 198, ¶ 68. As the Court explained, the maps there fell "well within accepted historical practice," and "[w]hen federal courts drew maps for the 1980, 1990, and 2000 censuses, they included a similar number of local government splits as the Legislature's maps"—in fact, some maps were significantly higher. *Id.* ¶ 69 (citing examples of 115 municipal splits, 50 municipal splits, and 58 county splits and 78 municipal splits). For example, the *Prosser* panel "split[] 115 political subdivisions smaller than counties." *Prosser v. Elections Bd.*, 793 F. Supp. 859, 871 (W.D. Wis. 1992).[9]

In all, the Governors' Remedial Plans are comfortably within the mainstream when it comes to splits and improves upon the 2022 Enacted Plans and the 2021 Plans, especially when it comes to county splits.

The Governor's Assembly map also has a minimal amount of ward splits—five.[10] Even then, two of the ward splits relate to a no-longer-existing municipality (the Town of Madison) that has been absorbed into adjoining

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[8] The number of municipal splits calculated here for the 2022 Enacted Plan differ slightly from what *Johnson III* reported. However, even using the *Johnson III* figure, the Governor's proposed maps have a nearly identical number of splits to those described as "low" in *Johnson*. *Johnson v. Wis. Elections Comm'n* (*Johnson III*), 2022 WI 19, ¶ 68, 401 Wis. 2d 198, 972 N.W.2d 559 (identifying 52 municipal splits).

[9] In *Wisconsin State AFL-CIO*, the court-drawn map split 41 counties. *Wis. State AFL-CIO v. Elections Bd.*, 543 F. Supp. 630, 635 (E.D. Wis. 1982). In *Baumgart*, "the court plan split[] 50 municipalities." *Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471, at *7 (E.D. Wis. May 30, 2002).

[10] The remainder that are generated by the split report stem from ward misassignments that the parties have stipulated do not constitute ward splits in reality. (Fairfax Rep. ¶ 59.)

municipalities. (Fairfax Rep. ¶ 60.) Two other ward splits contain zero population in the Town of Middleton and City of West Allis. (Fairfax Rep. ¶ 60.) Lastly, a single ward split exists in the Town of Middleton that contains seven people— it is an isolated census block and keeping this ward intact would require splitting the City of Middleton. (Fairfax Rep. ¶ 61.) Further, it will take only a minor adjustment to realign that ward boundary post-redistricting.

Similarly, there are two ward splits in the Governor's Senate map—one for the no-longer-exiting municipality and the other for the Town of Middleton ward mentioned above. (Fairfax Rep. ¶¶ 48–49.)

In any event, all of these minor ward splits are only temporary, as municipalities must adjust ward boundaries to reflect redistricting, meaning these splits will disappear once that process occurs. *See* Wis. Stat. § 5.15(4)(a).

In all, the Governor's maps perform impressively on splits, lowering the number of municipal and county splits, and containing only de minimis, temporary ward splits. This factor thus should weigh in favor of adopting the Governor's maps.

3. The proposed maps contain only contiguous districts.

As this Court recently analyzed, the Wisconsin Constitution requires that districts "consist of contiguous territory." Wis. Const. art. IV, §§ 4, 5. On that requirement, the Court held that "for a district to be composed of contiguous territory, its territory must be touching such that one could travel from one point in the district to any other point in the district without crossing district lines." *Clarke v. WEC*, 2023 WI 79, ¶ 66. Further, a "district can still be contiguous if it contains territory with portions of land separated by water." *Id.* ¶ 27.

Under this governing definition, all of the districts in the Governors' proposals are contiguous. That is, every district in the proposed plans is physically connected such that one can travel to all points in the district without crossing another district's lines.

There are several districts that involve islands in bodies of water, but all of those districts comply with the same rule: no travel through other districts is necessary to connect to them and, as this Court held, land separated by water does not render them noncontiguous. For example, Assembly District 73 includes adjoining islands, including Madeline Island and the Apostle Islands. And Assembly District 1 includes adjoining Washington Island.

Thus, the Governor's proposals satisfy the constitution's contiguity requirement.

4. The proposed Assembly districts are highly compact, outperforming prior districts.

The Wisconsin Constitution also requires that Assembly districts "be in as compact form as practicable." Wis. Const. art. IV, § 4. "Compact" traditionally means "closely united in territory," but some allowances may be made for natural or political subdivision boundaries or other redistricting considerations. *Wis. State AFL-CIO*, 543 F. Supp. at 633. The Governor's maps again perform very well under this metric.

While the constitution proscribes no single way to measure compactness, certain measures are recognized as relevant to compactness. For example, the "Reock" and "Polsby-Popper" measure "compare a district to a circle which is considered the most compact shape." Minorities/Majorities and Electoral Success, *Mun. Liabilty L. & Prac.* § 9.04. "Reock" computes "the ratio of the area of the district to the area of the minimum enclosing circle for the district" and

"Polsby-Popper" computes "the ratio of the district area for the area of a circle with the same parameter." *Id.* They produce scores between 0 and 1, with 1 being the most compact. *Id.*; *see also League of Women Voters*, 178 A.3d at 771 ("the higher the score, the more compact the district."); (Fairfax Rep. ¶ 80).

Here, the Governor's proposed Assembly districts perform impressively under these compactness metrics. The Assembly plan has a Reock score of .42 and a Polsby-Popper score of .35. That is more compact (as the score is higher) than the Assembly districts in the 2022 Enacted Plan, which score .38 on Reock and .24 on Polsby-Popper—that is, in the Governor's proposal, the Polsby-Popper score jumps from .24 to .35. The Governor's proposed Assembly map similarly improves upon the 2021 Plan, which had a Reock score of .40 and a Polsby-Popper score of only .26.

<u>Assembly Plan Compactness Comparison</u>			
	<u>Governor's Proposed Assembly Plan</u>	<u>Assembly 2022 Enacted Plan</u>	<u>Assembly 2021 Plan</u>
Roeck	.42	.38	.40
Polsby-Popper	.35	.24	.26

(Fairfax Rep. Table 6.)

On a district-by-district level, the Governor's Assembly proposal also performs very well. The difference is dramatic in terms of Polsby-Popper: the Governor's plan is more compact in a whopping 73 districts, while the 2022 Enacted Plan is more compact in only 14 districts. (Fairfax Rep. ¶ 83.) Using the Reock measure, the Governor's Assembly map also performs better in the majority of the plan's districts—53 districts—while the 2022 Enacted Plan performs better on compactness in only 29 districts. (Fairfax Rep. ¶ 82.) A similar

pattern is seen in the Senate: under Polsby-Popper, the Governor's plan again performs dramatically better: it improves on compactness in 26 districts, with the 2022 Enacted Plan performing better in only 3 districts. And, under Reock, the Governor's plan performs better in 19 districts, while the 2022 Enacted Plan is better in only 12. (Fairfax Rep. ¶¶ 88–89.)

And although the Wisconsin Constitution does not contain a Senate compactness requirement, the fact that the Governor's Senate map is also compact demonstrates that it also was drawn using sound redistricting practices. For instance, as the chart reflects, the Governor's Senate map is nearly 50% more compact under the Polsby-Popper measure than the previous two plans.

Senate Plan Compactness Comparison			
	Governor's Proposed Assembly Plan	Assembly 2022 Enacted Plan	Assembly 2021 Plan
Roeck	.42	.39	.40
Polsby-Popper	.32	.22	.23

(Fairfax Rep. Table 7.)

The Governor's proposed districts also compare favorably to districts adopted by other courts. For instance, a recent redistricting court described a mean Reock score of 0.40 and mean Polsby-Popper score of 0.23 as "reasonably compact"—the Governor's scores are even better. *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 587 F. Supp. 3d 1222, 1259 (N.D. Ga. 2022). Similarly, a redistricting court recently stated that a district with a "Reock Score (0.35) and the Polsby-Popper score (0.24)" was "reasonably compact"— again, the Governor's averages are better. *Singleton v. Allen*, No. 2:21-CV-1291-AMM, 2023 WL 6567895, at *16 (N.D. Ala.

Oct. 5, 2023). Other courts have reached similar conclusions. *E.g.*, *GRACE, Inc. v. City of Miami*, No. 1:22-CV-24066-KMM, 2023 WL 4853635, at *20 (S.D. Fla. July 30, 2023) (concluding that districts were "compact, both visually and according to statistical compactness scores" where they had "an average compactness score of 39.6 on the Polsby-Popper scale [and] 35.4 on the Reock scale.").

In all, as these examples show, the Governor's maps' scores on the Reock and Polsby-Popper scales are even better than maps that have been deemed "reasonably compact" nationally. And perhaps more to the point, they are significantly better than what was seen in the two most recent plans in Wisconsin. In other words, as applied to Wisconsin's particular geography, the Governor's maps excel when it comes to compactness. This factor should weigh in favor of adopting the Governor's proposals.

5. The proposed maps comply with federal law.

The Governor's maps also comply with federal law.

First, compliance with federal law's one-person-one-vote requirement is already discussed above in the context of population deviation—again, the Governor's maps fall within the 2% safe harbor.

Second, the only other potential federal issue is the Voting Rights Act and equal protection. The Voting Rights Act prohibits denial of the right to vote on account of race or color. 52 U.S.C. § 10301. However, there is no Voting Rights Act claim at issue in this case. *See* Tech. Spec. Memo (Dec. 26, 2023), item 5.

As for equal protection, this Court recognized that "race-conscious districting is permitted by the Equal Protection Clause only if strict scrutiny is satisfied." *Clarke v. WEC*, 2023 WI 79, ¶ 67 (citing *Wis. Legislature v. WEC*,

595 U.S. 398, 401 (2022)). That test is not applicable here because the Governor did not consider race when drawing the Remedial Assembly or Senate Plans. (Fairfax Rep. ¶ 72.) Likewise, it is established that Milwaukee area Assembly Districts 10–12 and 16–18, which were enacted in the 2022 maps, are "indisputably race-neutral" and were drawn with no race-based motivation. *Johnson III*, 401 Wis. 2d 198, ¶¶ 51–52, 59. The Governor's proposed maps retain Assembly Districts 8–12 and 16–18's prior configurations without changes because they were contiguous and satisfied all other redistricting criteria.[11] Accordingly, the proposed maps raise no equal protection issue or other federal issue.

### 6. The proposed maps have been carefully crafted to join communities of interest together.

Although it is not required by the Wisconsin Constitution, maintaining communities of interest is another important districting criterion that is often (rightly) given considerable weight. As this Court put it, here it "will consider other traditional districting criteria," which include "preserving communities of interest." *Clarke v. WEC*, 2023 WI 79, ¶ 68; *see also* Tech. Spec. Memo (Dec. 26, 2023), item 6. That makes sense: of course it is proper to examine a map to see if it contains coherent districts that, in turn, will forward responsive representation that serves communities.

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[11] Those were not the only districts that retained their configuration in the Governor's proposal. In all, the Governor retained the 2022 Enacted Plan's configuration of Assembly Districts 1, 8–12, 16–19, and 34, and Senate Districts 4 and 6. These Assembly and Senate districts required no changes because they were comprised of contiguous territory, there were no spillover effects, and they met other districting criteria including compactness and communities of interest.

While a "community of interest" does not necessarily have a singular definition, courts have referred to "the shared interests of communities" as involving not only the "cartographer's line but also . . . historical, social, economic, and ethnic realities." *Brady v. New Jersey Redistricting Comm'n*, 622 A.2d 843, 856 (N.J. 1992). To that end, it can generally mean "actual shared interests." *Miller v. Johnson*, 515 U.S. 900, 916 (1995). The U.S. Supreme Court has discussed the "manifestations of community of interest" as including things like "shared broadcast and print media, public transport infrastructure, and institutions such as schools and churches." *Bush v. Vera*, 517 U.S. 952, 964 (1996). And the concept also may include "socio-economic status, education, employment, health, and other characteristics." *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 424 (2006). For example, the concept may encompass "neighboring towns in the north country" or various other groupings. *Norelli v. Sec'y of State*, No. 2022-0184, 2022 WL 1749182, at *17 (N.H. May 27, 2022), *adopted*, No. 2022-0184, 2022 WL 1747769 (N.H. May 31, 2022).

In all, the term communities of interest refers not only to physically connected communities but also to shared social, economic, and institutional interests. With that in mind, the Governor's maps promote communities of interest in various ways across the State. The following highlights a few examples of this. A more comprehensive explanation is provided in an appendix at the end of this brief. (*See also* Fairfax Rep. Table 5.)

For instance, the Governor's maps newly join Lake Superior shoreline communities that have strong maritime traditions and economic and cultural connections. That is accomplished in Assembly District 73 (shown in yellow below) and Senate District 25.
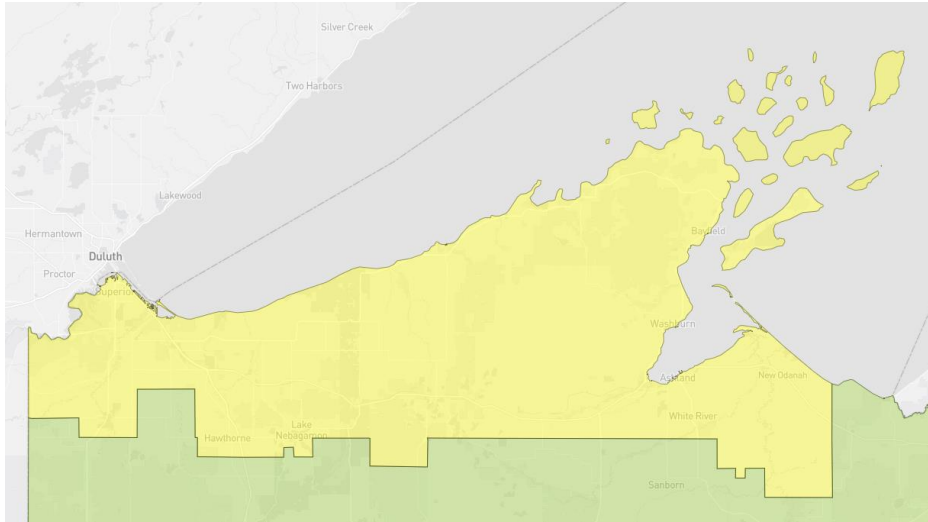
Unlike the previous districts, this design keeps communities with lakeshore-related economies together. It also joins in one district the two largest cities in far northern Wisconsin—Superior (in the far top left of the district) and Ashland (on the right). Further, the design keeps the portions of the Bad River Reservation in Ashland County (which are located both on the mainland and on Madeline Island) together. This configuration also ensures that Madeline Island—which is part of Ashland County but is only accessible from Bayfield County by ferry for most of the year—is practically reachable without having to travel through another district. Lastly, it keeps the Apostle Islands National Lakeshore all within one Assembly district.

The overarching Senate District 25 joins districts defined by their forests and waters, including a national lake shore and national scenic riverway. This, in turn, unites maritime, tourism, and recreation-focused economies in these communities. In other words, the districts make sense based on the economic realities on the ground.

Another example is Green Bay, which is contained in Assembly Districts 88 (blue), 89 (lighter green), and 90 (purple), all of which are nested in Senate District 30.
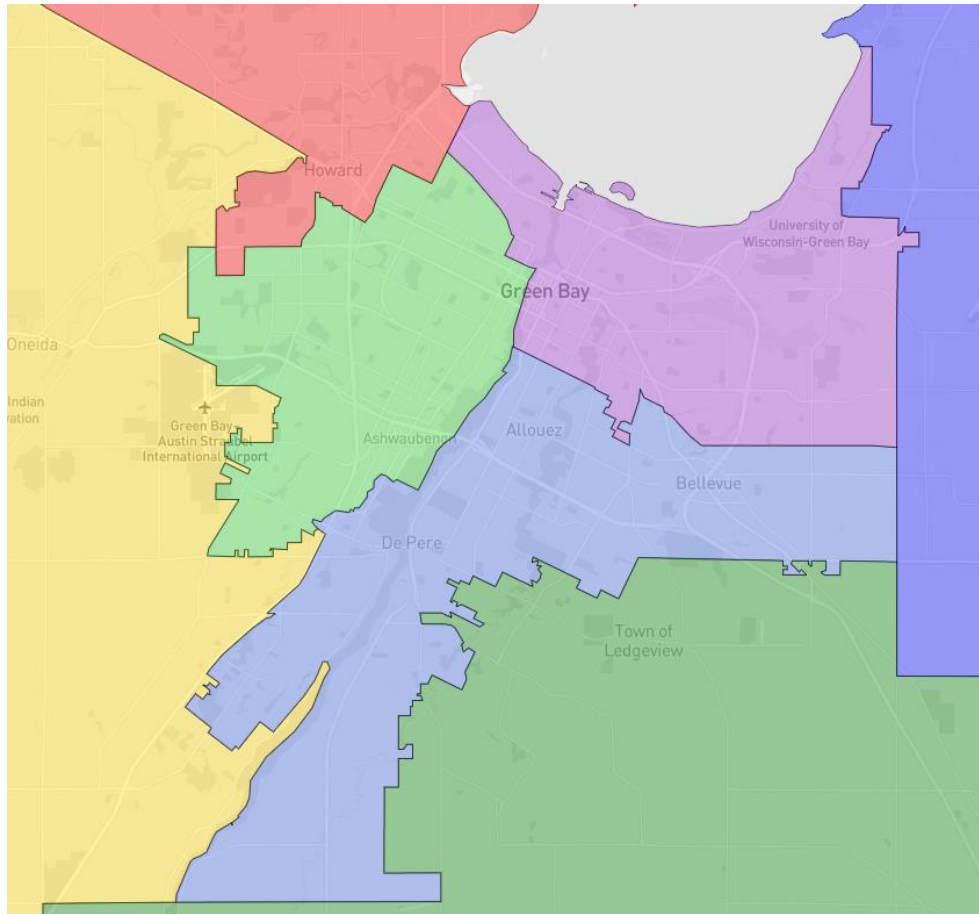
Unlike the previous maps, this configuration puts essentially all of the City of Green Bay (with the exception of two wards) into one Senate district, as well the core of the Green Bay metropolitan area, including all of the incorporated municipalities along the Fox River.

The nested Assembly districts likewise are designed to create coherent groupings within the Green Bay metro community. Assembly District 88 (in blue) includes all of Bellevue, Allouez, and De Pere, which are fast-growing urban and suburban communities in the sourthern part of the metro area. Assembly District 89 (in lighter green) captures the Green Bay metro area's west side, including all of the Village of Ashwaubenon. This district also contains the major

sporting and entertainment facilities in Green Bay (Lambeau Field, the Titletown District, the Resch Center, the Oneida Casino, Bay Park Square Mall, and surrounding commercial areas). And Assembly District 90 (in purple) is wholly contained within the City of Green Bay and captures the community east of the Fox River—including downtown Green Bay and UW-Green Bay—while keeping the Port of Green Bay within one assembly district. Again, these districts make sense.

Another example is in the Fox Valley, the core portion of which is contained in Assembly Districts 52 (light green), 53 (pink), and 54 (tan), all of which are nested in Senate District 18.
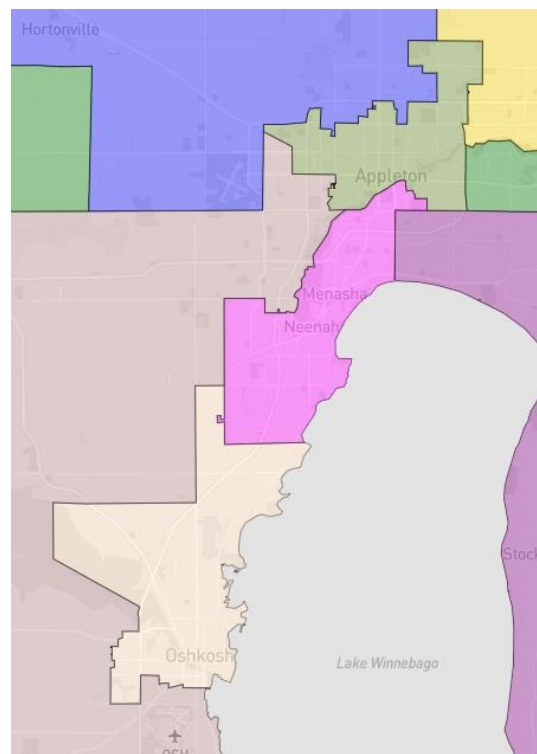
As a whole, Senate District 18 connects the urban core of the primary municipalities of the Fox Cities—Appleton (near the top) and Oshkosh (near the bottom) and the Lake Winnebago shoreline between those municipalities. It also contains both major universities in the Fox Cities.

In turn, nested Assembly District 52 (light green) contains the core of Appleton (which must be divided due to its population), including its downtown. Its shape in the northern portion of the district is a result of keeping wards whole. Assembly District 53 (pink) contains the whole of the City and Town of Neenah and the Winnebago County portions of the cities of Appleton and Menasha. In addition to making geographical sense, the pairing of Neenah and Menasha also makes economic sense: both have large papermaking industries. And Assembly District 54 (tan) includes the majority of the City of Oshkosh (which must be split due to its size) and all of the Town of Oshkosh. The district includes downtown Oshkosh as well as UW-Oshkosh and its hospital district. Further, this particular splitting of the city makes it so none of the adjacent townships need to be split.

A further example is the Eau Claire metropolitan area. It consists of Assembly Districts 91 (light orange), 92 (blue), and 93 (light green), all of which are nested in Senate District 31.
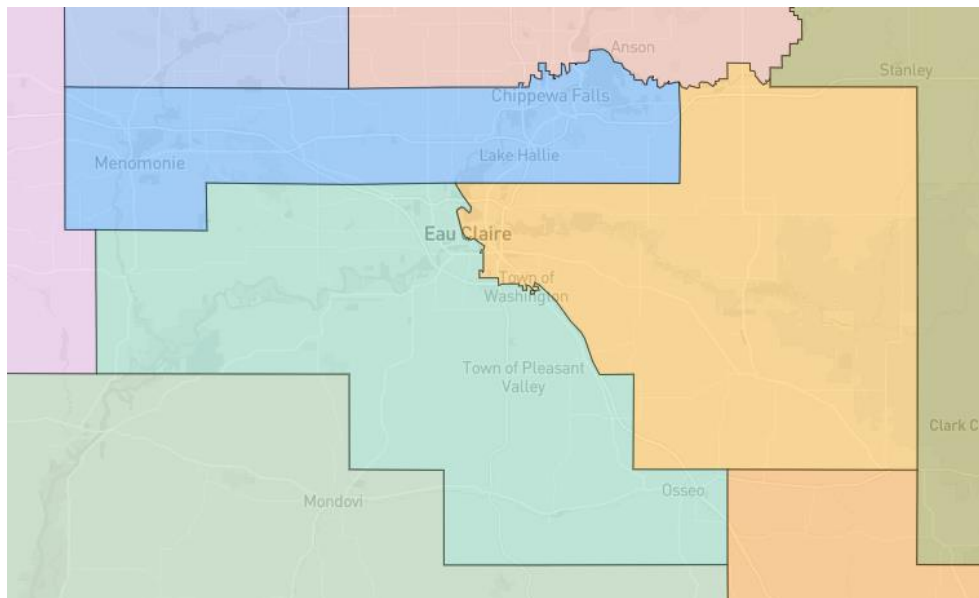

Senate District 31 unites the Eau Claire metro area, including all of the City of Eau Claire and Eau Claire County as well as communities of the larger metro area: the City of Chippewa

Falls (to the north) and the City of Menomonie (to the west). It also contains two universities. It thus creates a coherent and community-based senate district.

In terms of the Assembly, nested Assembly District 91 (in light orange) contains downtown Eau Claire (the city is too populous to be in one district), the City of Altoona, and eastern Eau Claire County. Assembly District 92 (in blue) joins the northern portion of the City of Eau Claire located in Chippewa County with the cities of Menomonie (which contains UW-Stout) and Chippewa Falls, which are growing communities that have interconnecting economic interests. And Assembly District 93 includes all of the City of Eau Claire west of the Chippewa River, all of UW-Eau Claire, and western Eau Claire County. It also contains adjacent communities in Trempealeau County and Dunn County—again keeping together in legislative districts communities that practically function jointly in reality.

Another area of note is the Janesville and Beloit region in southern Wisconsin. It consists of Assembly Districts 43 (bright pink), 44 (dull pink), and 45 (aqua), all of which are nested in Senate District 15.
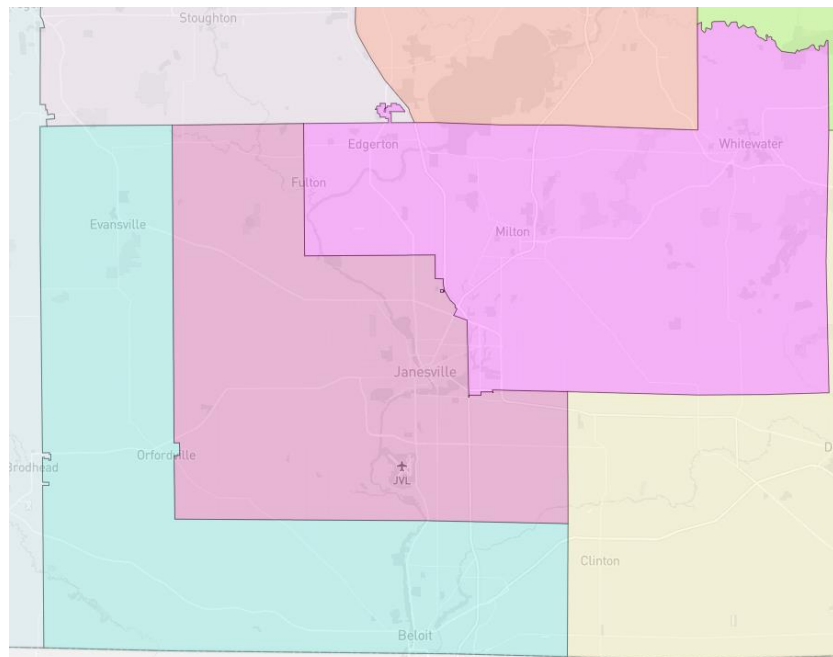
This Senate District includes all of the economically-interconnected cities of Janesville (in the middle), Beloit (on the southern end), Edgerton (north), and Whitewater (northeast) and the surrounding communities, and results in almost all of Rock County being contained in one Senate district.

In terms of the Assembly, nested Assembly District 43 keeps the cities of Edgerton, Whitewater (both of which straddle county lines), and Milton whole, and includes nearby wards of Janesville along the I-39/90 corridor. It also joins the UW-Whitewater campus into one district; it currently is split. Assembly District 44 contains the majority of Janesville (it is too populous to be in one district) and surrounding townships to the west and south. And Assembly District 45 unites the city of Beloit, which is split in the enacted plan, along with its two surrounding townships; the remainder of western Rock County also is included in this district to balance the population and avoid splitting Green County.

Lastly, the Governor's plan provides sensible districts for Madison and its surrounding metro area. That area is largely captured in Assembly Districts 76 (red/brown), 77 (brown), and 78 (aqua), which are nested in Senate District 26, and Assembly Districts 79 (light purple), 80 (pink), and 81 (dark purple), which are nested in Senate District 27.
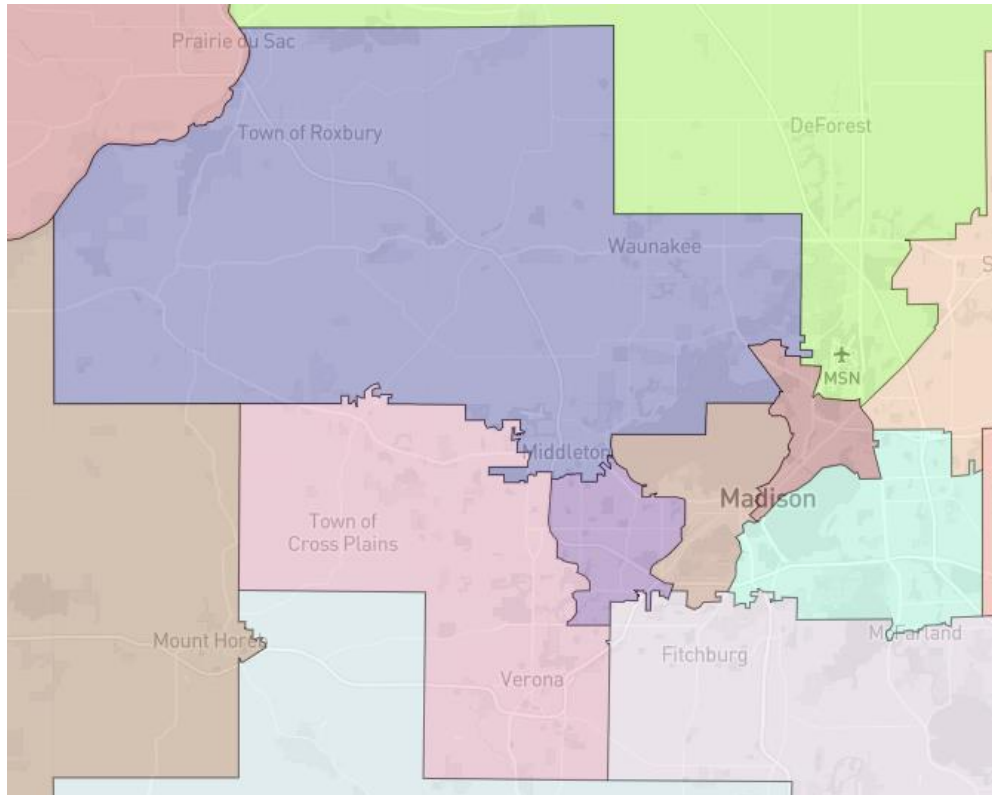
Assembly District 76 (red/brown) is Madison's downtown, near-east side, and northside district, which form most of the core of Madison's urban isthmus. Assembly District 77 (brown) includes all of UW-Madison and nearby student housing and Madison's near-west side, where significant portions of the community have university connections. Assembly District 78 (aqua) encompasses the southeastern side of Madison and the adjoining City of Monona and part of McFarland, both of which have economies that are intertwined with Madison.

Assembly District 79 (light purple) contains most of Madison's west side, which consists of neighborhoods, commercial districts, and office parks. Assembly District 80 (pink) contains growing suburban areas west of Madison, including all of the City of Verona, the Town of Vernon, and all of the Village and Town of Cross Plains, and most of the Town of Middleton. Assembly District 81 (dark purple) contains communities along the northern shore of Lake Mendota and growing suburbs north and west of Madison; it includes the entirety of the City of Middleton, the Village of Waunakee, the Town of Westport, and the remaining municipalities in northwestern Dane County.

In turn, Senate Districts 26 and 27, which are wholly within Dane County, capture the lion's share of Madison and its metro area. Senate District 26 includes Madison's core, the neighborhoods surrounding Lake Mendota, and UW-Madison. Senate District 27 captures the west side of Madison and its western and northern suburban communities, which share many connections economically and otherwise.

These are just some of the many instances where the Governor's proposed maps reflect the reality of Wisconsinites.[12]

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[12] Consistent with this Court's governing decision and its consultants' technical memorandum, neither of which identify incumbency as a factor, the map-drawing here was not focused on protecting incumbents but rather was on the enumerated redistricting criteria and responsiveness to the vote. That is consistent with the fact that some prior redistricting courts in Wisconsin have not considered incumbency. *E.g.*, *Wis. State AFL-CIO*, 543 F. Supp. at 638 ("At no time in the drafting of this plan did we consider where any incumbent legislator resides").

* * * *

In all, the Governor's proposed maps are designed to reflect communities on the ground. Not only that, but they perform particularly well on the quantitative districting criteria, besting recent maps on nearly every metric and landing well-within or improving upon historical results. At the same time, the maps significantly improve on metrics regarding partisan bias and competitiveness.

CONCLUSION

This Court therefore should adopt the Governor's proposed maps as the remedy in this proceeding.

Dated this 12th day of January 2024.

Respectfully submitted,

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Appendix of Communities of Interest[13]

The following summarizes the ways in the which the Governor's maps unite communities in sensible ways throughout the State.

Assembly District 1 (which is identical to the Enacted Plan) keeps united the entirety of Door and Kewaunee Counties, which both have strong tourism and agricultural industries, and maritime traditions. **Assembly District 2** unites suburban communities on the south and east sides of the Fox River between Appleton and Green Bay, and the agricultural communities between Manitowoc and Green Bay. **Assembly District 3** includes almost all of Calumet County and unites it with neighboring portions of Manitowoc County with similar agricultural and geographic characteristics. Taken together in **Senate District 1**, the plan maintains the same connections listed above and unites suburban and rural communities between Green Bay, Appleton, and Manitowoc.

Assembly District 4 unites Howard and Suamico, which share a suburban school district, with portions of southern Oconto County with commuting connections to the Green Bay area. **Assembly District 5** unites suburban communities on the north and west sides of the Fox River between Appleton and Green Bay, including the I-41 corridor and also contains the majority of the Oneida Reservation, which divided only along municipal lines. **Assembly District 6** unites the city of Pulaski (which is in three counties) within one district; places the Menominee and Stockbridge-Munsee Reservations in one district; and follows the Wisconsin 29 corridor northwest from Green Bay. Likewise, **Senate District 2** unites suburban and exurban areas west of the Fox

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[13] The brief's word count includes the contents of this appendix.

River in the Appleton area, northern and western Green Bay suburbs, and agricultural and forested areas northwest of Green Bay; it also places the Oneida, Menominee, and Stockbridge-Munsee Reservations all in one district.

Assembly Districts 7, 8, and 9 and the associated **Senate District 3** keep united urban communities in central and southeastern Milwaukee and adjacent suburbs. **Assembly District 7** maintains similar boundaries as in the Enacted 2022 Plan with slight adjustments for compactness. **Assembly District 8** contains all of Walker's Point and Lincoln Village, which are similar neighborhoods with a mix of residential and commercial spaces; the district also is wholly within the bounds of the Milwaukee public school district. **Assembly District 9** contains all of West Milwaukee. Mitchell Park, the Menomonee Valley, and West Milwaukee have long had connections and are united in this district.

Assembly Districts 10, 11, and 12 and **Senate District 4** similarly keep united urban communities in central and northern Milwaukee. **Assembly District 10** contains all of Shorewood and Glendale, which are innermost north shore suburbs. **Assembly District 11** contains the city of Milwaukee only, bounded by city lines. It includes all of the Havenwoods neighborhood, which contains a state forest, and other outdoor and sport-focused community resources. **Assembly District 12** contains northwest Milwaukee, bounded by county lines on the north and west sides. It is home to two large private schools.

Assembly District 13 unites Wauwatosa with Elm Grove and adjacent neighborhoods in the City of Brookfield. **Assembly District 14** includes most of the City of West Allis. And **Assembly District 15** unites all of the Village and City of Pewaukee with the commercial corridor along I-94 in the City of Waukesha and City and Town of Brookfield. **Senate District 5** contains all of the City of Brookfield and includes

suburban communities along the I-94 corridor in western Milwaukee County and eastern Waukesha County.

Assembly Districts 16, 17, and 18 and **Senate District 6** keep united urban communities in central and eastern Milwaukee. **Assembly District 16** is bounded by the Milwaukee River on the east side and contains a large portion of the Marquette University community. It also contains the FISERV Forum and surrounding "Deer District." **Assembly District 17** contains Mt. Mary University, Kops Park, and Enderis Park neighborhoods, which are interconnected. **Assembly District 18** includes all of Washington Heights, Washington Park, and Sherman Park neighborhoods, all of which include historic residential neighborhoods.

Assembly District 19 maintains an urban district along the shoreline of Milwaukee. **Assembly District 20** unites the entirety of three shoreline communities south of Milwaukee (Saint Francis, Cudahy, and South Milwaukee). **Assembly District 21** contains all of Oak Creek and adjacent neighborhoods in Milwaukee. And **Senate District 7** similarly keeps these communities together.

Assembly District 22 contains all of Port Washington, Grafton, Cedarburg, and surrounding townships. **Assembly District 23** unites north suburban communities in Milwaukee County. **Assembly District 24** contains all of Bulter, Lannon, and Menomonee Falls and similar neighborhoods in Germantown. In all, **Senate District 8** unites north and northwest Milwaukee suburbs that are experiencing similar population growth.

Assembly District 25 places the core cities of Manitowoc County—Manitowoc and Two Rivers—in the same district together with other shoreline communities along I-43. **Assembly District 26** unites Sheboygan in one district. **Assembly District 27** contains suburban and commuter towns near Sheboygan the Plymouth area. **Senate District**

9 likewise unites shoreline municipalities with maritime traditions and includes the largest communities in Manitowoc and Sheboygan counties.

Assembly District 28 is anchored by New Richmond and includes the main agricultural areas of St. Croix County and most of the I-94 corridor between Hudson and Menomonie. **Assembly District 29** unites rural communities in Pierce, Pepin, Buffalo, and Trempealeau counties (Pepin and Buffalo counties share a circuit court). **Assembly District 30** contains two growing western Wisconsin cities (Hudson and River Falls). Similarly, **Senate District 10** unites communities connected in the forgoing ways and that more generally are influenced by their proximity to the Twin Cities.

Assembly District 31 unites cities along the I-43 corridor with strong agricultural connections in Rock and Walworth counties. **Assembly District 32** unites areas experiencing population growth related to proximity to Chicago. **Assembly District 33** similarly is experiencing suburban growth in the south from Chicago and in the north from Milwaukee. **Senate District 11** then unites these communities, many of which are influenced by proximity to the Chicago metro area and a strong tourism-based economy centered around Lake Geneva.

Assembly District 34 (which is identical to the 2022 Enacted Plan) keeps united counties (Vilas and Oneida) with strong outdoor recreation and vacation identities. **Assembly District 35** unites communities north and west of Wausau that have similar agricultural and rural identities. **Assembly District 36** contains communities that are largely forested, with many outdoor recreation opportunities. Similarly, **Senate District 12** includes the entire eastern half of northern Wisconsin, uniting seven entire counties, and has a strong tourism industry connected to the region's lakes, rivers, and forests.

Assembly District 37 unites the cities of Beaver Dam and Waupun with surrounding smaller communities near the US 151 corridor. **Assembly District 38** unites communities along Wis. 26 in Jefferson and Dodge counties. **Assembly District 39** unites Marquette and Green Lake counties. **Senate District 13** overall contains agricultural areas interspersed with smaller municipalities located between Wisconsin's larger metropolitan areas.

Assembly District 40 includes the most populous portions of Sauk and Columbia counties and includes many outdoor recreation areas, including those along the Wisconsin River. **Assembly District 41** includes the core of the Wisconsin Dells' tourism areas, the Reedsburg area, and Richland County. **Assembly District 42** contains growing suburban and commuter areas in northcentral Dane County (Windsor and De Forest) and southern Columbia County. **Senate District 14** overall largely unites tourist economies and outdoor recreation-based communities along I-90/94 and the Wisconsin River northwest of Madison.

Assembly Districts 43–45 and Senate District 15 are discussed above.

Assembly District 46 combines established communities east of Madison with communities with growing commuter populations. **Assembly District 47** is anchored by Fitchburg and Stoughton and consists of growing suburban areas south of Madison. **Assembly District 48** is anchored by Sun Prairie and adjacent townships; it also is joined with related commercial areas in eastern Madison. Likewise, **Senate District 16** joins suburban communities and those with growing commuter populations with east Madison's regional commercial center.

Assembly District 49 includes communities along the Mississippi River, including the entirety of Crawford County and most of Grant County; it also combines communities with

educational institutions (UW-Platteville and Southwest Wisconsin Technical College). **Assembly District 50** keeps Green County whole and connects it with adjoining communities in southwestern Dane County. **Assembly District 51** keeps whole several municipalities that are split between Iowa, Grant, and Lafayette counties and uses the Wisconsin River as its northern border. The overarching Senate District 17 is largely agricultural, with a high concentration of dairy farms and cheesemaking; the municipalities within Dane County included in the district (Oregon and Mount Horeb) have growing commuter populations but are separated from Madison by intervening rural areas.

Assembly Districts 52–54 and Senate District 18 are discussed above.

Assembly District 55 contains the remainder of the City of Oshkosh and the surrounding commuter towns, including most of Winnebago County outside the core of the Fox Cities. **Assembly District 56** contains northwestern Appleton suburban areas; makes New London whole; and connects the communities along the Wis. 15 corridor between Appleton and New London. **Assembly District 57** connects communities on the US 10 corridor in Waupaca County and joins similar communities in Waushara County. Taken together, **Senate District 19** contains a mix of suburban communities and small cities interspersed with rural communities; it includes the major highway corridors that spread out from the Fox Cities.

Assembly District 58 combines most of the City of West Bend with surrounding townships and adjacent cities. **Assembly District 59** contains agricultural communities between the Milwaukee and the Sheboygan/Fond du Lac areas. **Assembly District 60** contains all of the City of Fond du Lac and four surrounding municipalities. In all, **Senate District 20** encompasses the major cities between Milwaukee

and the Fox Cities along the I-41 and US 45 corridor (Fond du Lac and West Bend), with the remainder of the district being largely rural agricultural.

Assembly District 61 consists of the southwestern inner suburbs of Milwaukee and includes the entirety of Hales Corners and Greendale. **Assembly District 62** contains downtown Racine and its northern half (the city is too large to be in one district); and it contains the Villages of North Bay and Wind Point. **Assembly District 63** includes all or portions of growing suburban communities south of Milwaukee (the Village of Raymond, the Village of Caledonia, and the City of Franklin). Likewise, **Senate District 21** combines the northern half of the city of Racine and the suburban communities north of Racine and south and west of Milwaukee.

Assembly District 64 contains all of the Town and Village of Somers and the northern portion of the City of Kenosha (which is too large to be in one district); the western boundary is I-94, which also is the boundary of the Kenosha Unified School District. **Assembly District 65** consists of downtown Kenosha, its southern portion, and Pleasant Prairie wards adjacent to Kenosha. **Assembly District 66** contains all of Sturtevant and Elmwood Park, and the southern portion of the City of Racine; the western boundary is I-94, which also serves the boundary for the Racine Unified School District. In all, **Senate District 22** connects the cities of Racine and Kenosha while avoiding municipal islands and split wards; it contains the urban core of Kenosha and part of Racine's urban core.

Assembly District 67 includes the entirety of Barron County and adjacent agricultural communities in Dunn and Chippewa counties; it is the center of turkey production in Wisconsin. **Assembly District 68** is predominantly rural, including public lands interspersed with small communities and agricultural areas. **Assembly District 69** keeps whole

communities split by the Clark/Marathon County line and also Stanley, which is split by the Clark/Chippewa County line; the district has a high concentration of dairy farms and includes small communities based around agricultural suppliers. Likewise, **Senate District 23** is predominately rural, interspersed with smaller communities that support surrounding agricultural and forest land, and includes the entirety of five counties.

Assembly District 70 follows the I-94 corridor in west-central Wisconsin and includes the western half of the main cranberry growing region in Wisconsin. **Assembly District 71** includes the urban area surrounding Stevens Point and also UW-Stevens Point. **Assembly District 72** encompasses the City of Wisconsin Rapids and surrounding communities where the papermaking industry has historically been the largest employer; it also contains the eastern half of Wisconsin's main cranberry growing region. **Senate District 24** unites the Stevens Point and Wisconsin Rapids areas, which are river communities with similar industrial histories, and includes the largest cranberry growing region in the United States.

Assembly District 73's Lake Superior shoreline district is discussed above. **Assembly District 74** includes rural inland forested communities. **Assembly District 75** includes all of Polk County and most of Burnette County along the St. Croix River in northwestern Wisconsin. In all, **Senate District 25** is defined by its forest and waters; the Apostle Islands and most of the Saint Croix National Scenic Riverway are in this district, and tourism and outdoor recreation play a large part in the economy.

Assembly Districts 76–81 and Senate Districts 26–27 are discussed above.

Assembly District 82 contains most of the City of Waukesha and the western half of the Village of Waukesha, while creating a contiguous district without splitting wards. **Assembly District 83** contains all of the City of New Berlin and adjacent wards in the Village and City of Waukesha and the City of Muskego. **Assembly District 84** contains communities in southern Waukesha County along the I-43 corridor and adjacent municipalities in Racine County. In all, **Senate District 28** contains most of the City of Waukesha and all of the growing suburban communities in southeastern Waukesha County.

Assembly District 85 includes all of the City of Wausau and the Village of Weston, the two largest municipalities in Marathon County that form the core of the Wausau metro area and adjacent townships. **Assembly District 86** unites Marshfield into one district and includes surrounding predominately agricultural areas. **Assembly District 87** contains municipalities in the Wausau metro area south of the city along the Wisconsin River, which have strong commercial and industrial connections. Otherwise, it is largely a rural area with a mix of forests and agricultural communities. In all, **Senate District 29** includes the Wausau metro area, municipalities with regional healthcare providers, and areas with strong commuting connections.

Assembly Districts 88–93 and Senate Districts 30–31 are discussed above.

Assembly District 94 contains cities north of La Crosse, including all of Onalaska and Holmen and adjacent municipalities in Trempealeau County. **Assembly District 95** includes most of downtown La Crosse and also the UW-La Crosse campus; the Sparta area is also included, which is connected to La Crosse through commuting and regional travel. **Assembly District 96** contains the southern portion of La Crosse and follows the Wis. 35 and US 14 corridors south of La Crosse to include most of Vernon County. In all, **Senate**

District 32 contains all of La Crosse County as well as surrounding communities with regional and commuting connections to La Crosse.

Assembly District 97 consists largely of exurban communities with commuting connections to the Milwaukee area. **Assembly District 98** contains suburban and exurban communities in Waukesha and Washington counties. **Assembly District 99** consists of suburban and exurban northwestern Waukesha County and southeastern Dodge County. Taken together, **Senate District 33** includes Waukesha County's Lake Country and largely consists of suburban and exurban communities with connections to the Milwaukee area.

Wisconsin
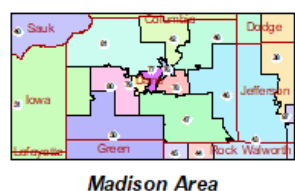# State Assembly Districts
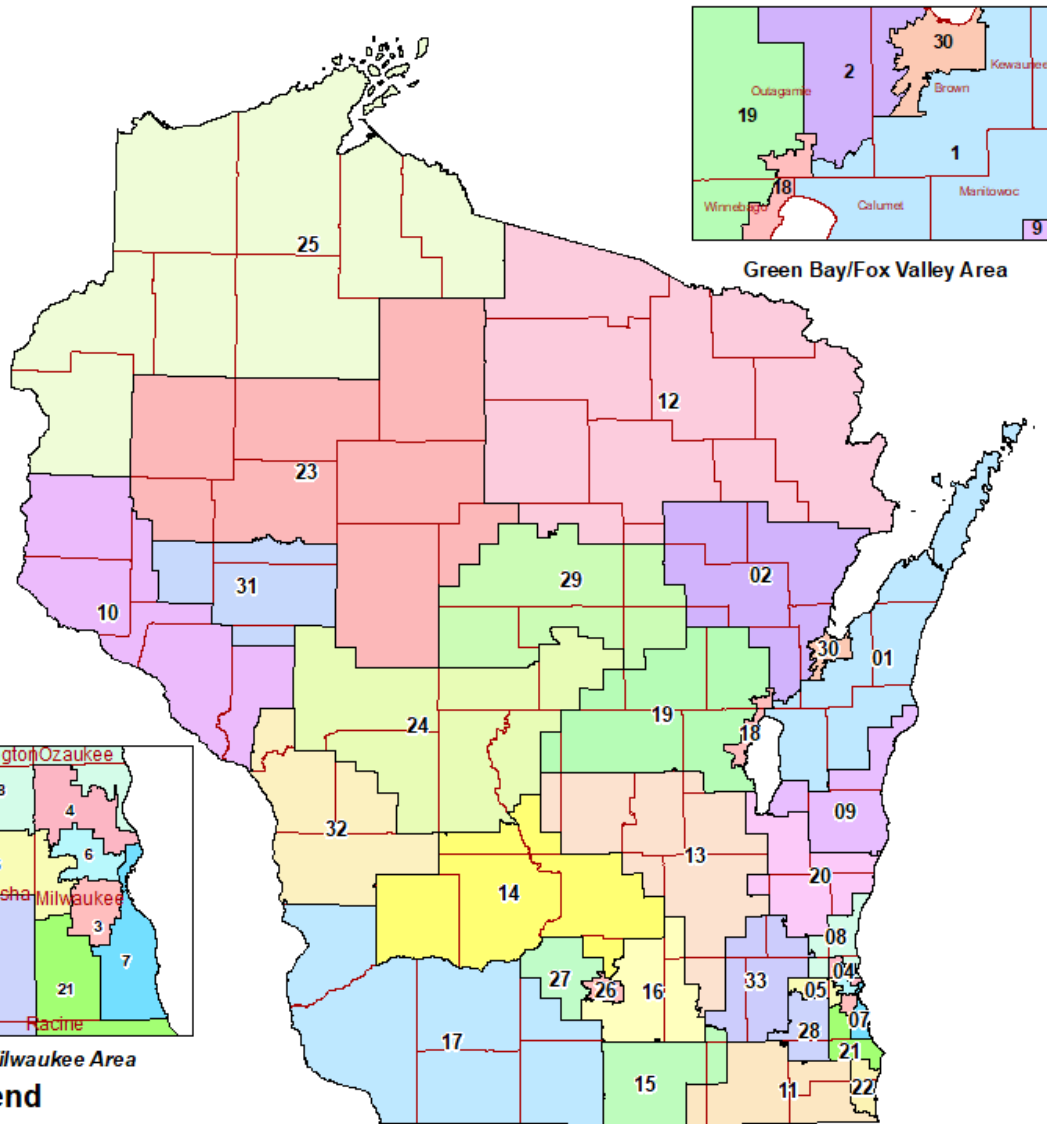# Remedial Plan

Green Bay/Fox Valley Area

Milwaukee Area
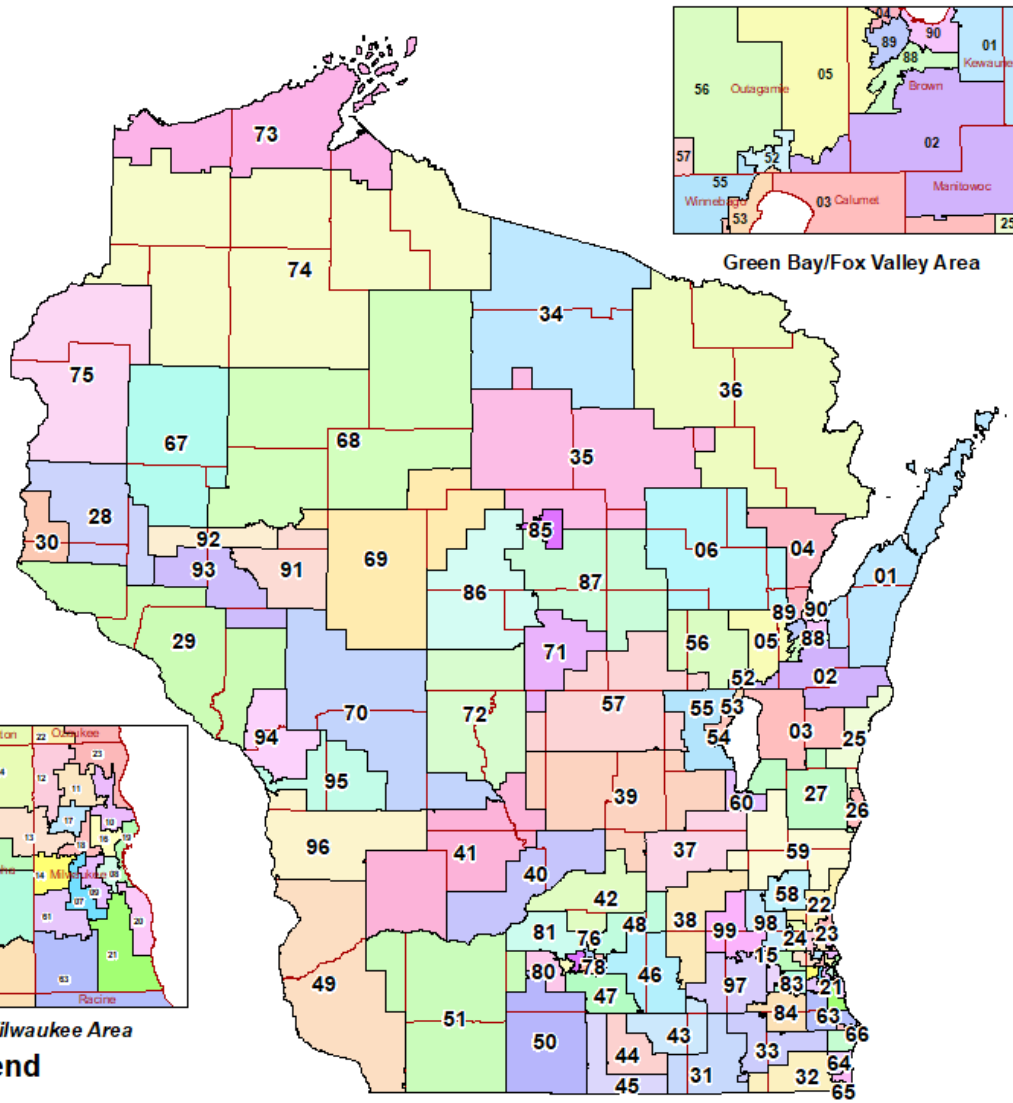
Legend

Remedial

County

Source: U.S. Census Bureau 2020 Census using Aug 2021 WI Ward Geography

By: Tony Fairfax, CensusChannel LLC
Date: 1/6/24
Version 1

Madison Area

Wisconsin
State Senate Districts
Remedial Plan

25

12

23

31

29

02

10

24

19

18

30

01

09

32

13

20

14

08

04

05

27   26   16   33

07

28

17

21

15

11

22

Green Bay/Fox Valley Area

30

2

19

Outagamie

Brown

Kewaunee

1

18

Winnebago

Calumet

Manitowoc

9

Milwaukee Area

Washington   Ozaukee

33   8

4

5   6

Waukesha   Milwaukee

3

28

7

21

Racine

Madison Area

Sauk

Columbia

Dodge

14

27

Dane

26   16

13

Jefferson

Iowa

33

17

15

Lafayette   Green   Rock   Walworth

Legend

Remedial

County

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FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § (Rule) 809.19(8)(b), (bm) and (c) and this court's December 22, 2023, order, for a brief produced with a proportional serif font. The length of this brief is 10,528 words.

CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this document with the clerk of court using the Wisconsin Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 12th day of January 2024.

Electronically signed by:

Anthony D. Russomanno
ANTHONY D. RUSSOMANNO
Assistant Attorney General