Commission Operating Procedures -- *Draft*
for consideration July 12, 2011

Purpose:
At its May 16 meeting, the commission directed staff to draft operating procedures to guide the commission through the redistricting process. Two main decisions face the commission: how to gather public comment before drawing maps and how to draw and present the maps to the public. This draft suggests taking public comment about mapping without holding additional public hearings. It also outlines two possible methods for drawing maps and taking public comment on those maps. Proposal A provides a "statewide" approach to the process. Proposal B provides a "regional" approach. Where timelines, costs, or other constraints are affected by taking a regional or statewide approach, staff has attempted to outline the differences between the two approaches.

The bracketed text indicates additional information or an explanation from staff that will be deleted from the final version of the adopted operating guidelines.

Initial public comment: Although the commission always accepts public comments on any redistricting topic at all times, it will encourage the public to provide input on "communities of interest" and local concerns before holding public hearings on actual maps. To alert the public of the opportunity to provide comment early in the process, staff will use existing "interested party" and media contacts to issue e-mailed alerts and press releases. The commission should consider writing another op-ed to publicize its desire for additional public comment. In addition, staff will use visits to highlight the opportunity to provide comment. All comments will be distributed to the commissioners and posted on the commission's web site and will become part of the permanent record.

All meetings of the commission, whether public hearings to take comments or executive sessions to make decisions, are open to the public.

[A coordinated effort to gather written public comments without holding additional hearings before maps are available is preferable for several reasons, including time, budget, and cost-effectiveness. Although there is no doubt the public will submit comments and staff and commissioners alike will find the testimony useful in drawing maps, the same comments could be solicited without the time and cost involved when the commission travels. As in the legislative process, it is hard for the public to comment on a general topic (such as energy, pensions, "community of interest",

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Exhibit 1

or how to draw all 100 house districts) but much easier to provide specific feedback on an actual bill, redistricting plan, or district map. Because of budget constraints, adding public hearings on the "front end" of the mapping will require holding fewer hearings when maps are available. When considering whether to take public comment in a series of hearings, commissioners should also consider staff time constraints. If the commission decides to hold additional public hearings before starting mapping, staff will spend more time organizing meetings and less time drafting maps and visiting counties. To reduce duplication, staff would likely not revisit areas in which a public hearing had been held to gather input.]

Staff visits/contacts:

To gather additional local input, to satisfy 13-3-102, MCA (required consultation with the election administrator of counties involved in a redistricting plan), and to increase awareness of the commission's duties, staff will:

- make a written contact to each county clerk/recorder or election administrator and a follow up contact by phone if necessary.
- make a written contact to each tribal governing body, county commission, party central committee, and legislator.
- attempt to visit the major population centers and counties that might be split into more than one house district. It might not be possible to visit every one of the affected counties (approximately 34 counties were split in 2000), so staff will attempt to have balance in terms of population and region. Staff visits will include (as possible) county clerks/recorders or election administrators, tribal representatives, party central committees, and legislators.

Mapping:

Proposal A: Staff will prepare up to five statewide plans (containing all 100 house districts) on which the commission can take public comment. Although all maps will be available to the public, the commission may reduce the number of maps on which it will formally solicit comment during the public hearings. Commissioners will hold business meetings throughout the public hearing schedule to adopt amendments to plans, to conduct any other business or discussions required, and to provide direction to staff.

Proposal B: Staff will draft up to five plans for each of approximately six or seven regions. Regions will be large designations (Northeast, Southeast, etc.) and will follow county lines if possible, although there will be some overlap in the makeup of each region. After regional maps are available and have been distributed to interested parties, the commission will hold hearings for the plans in the respective regions. After a public hearing, the commission will allow approximately 3 weeks for additional public comment before tentatively adopting the regional plan. A tentatively adopted regional plan may be amended but will generally serve as the foundation for other regions that are mapped after it. Proposal B is a "map as you go" process, meaning that not all regions will be mapped out at the time public comment starts and a statewide map will not be available for comment until the last region has been tentatively adopted. This process was used by several previous commissions.

Starting point:

Proposal A: Because staff will draw multiple complete maps before starting public hearings, several starting points could be used or the commission could select one point. Points could include but are not limited to a corner of Montana, a region, rural or urban areas, existing districts, etc.

Proposal B: In the regional approach, the commission will specify one region from which the mapping and hearing process will start. The commission will also specify how mapping and public hearings will occur from the starting point. For example, in 2000, the commission started in Glacier County and proceeded east across the state and finished in the Flathead and Lake County area. Because hearings must be held on several regional maps before other maps can be drawn, the commission must select only one starting point if this approach is used.

Publicly submitted plans:

The commission accepts redistricting plans drawn by individual citizens or organizations. If the commission wishes to use a publicly submitted plan as one of the several upon which it will seek public comment in a series of hearings, the plan must be offered for consideration by at least one member of the commission.

Publicly submitted plans must comply with federal and state redistricting laws. Plans must be accompanied by current contact information (contact name, address, telephone number, e-mail

address) for the entity making the submission. The commission encourages entities to submit maps that follow census geographic boundaries and to include with any maps documentation of the total population and minority population for each proposed district. Although the commission must consider the statewide impact of any local or regional map, the commission will accept partial local or regional maps.

To comply with the commission's mandatory criteria on population equality, each submitted plan must include a written explanation for each district of the mandatory and/or discretionary criteria that justify any deviation from the ideal population.

The commission will use Maptitude for Redistricting by the Caliper Corporation as its software for redistricting. Because GIS-based redistricting plans submitted electronically must be imported into this software, the commission requires that computer-drafted plans be submitted as equivalency files giving the census block to district assignments. These files may be submitted in .dat, .dbf., .txt, or .shp files. Electronically submitted plans must be based on official Census geography (TIGER line) and PL 94-171 data.

Although the commission encourages entities to submit electronic files, it will accept paper submissions. Staff will contact each organization or individual submitting a plan to verify authenticity. In addition to checking the submitted maps for accuracy and completeness (all blocks are assigned), staff may make nonsubstantive changes to ensure that the maps are consistent (district lines don't jump back and forth over highways or rivers with no population gains).

All plans submitted to the commission become part of the public record and are open to any member of the public.

Public hearings:

The commission will hold numerous public hearings in the various regions of the state to gather input on the staff plans and any publicly submitted plans the commission chooses to consider. Commissioners will decide to hold afternoon or evening meetings and staff will attempt to schedule multiple hearings in a 2- or 3-day span. At each hearing, the commission will review their criteria; staff will give a brief overview of each plan and provide a more detailed summary of the local effects of each plan. The commission

will then take public comment. The commission will hold an additional hearing in Helena shortly after the November 2012 election so that any "holdover" senators could provide comment on any proposed senate districts and the commission's assignment of these senators to new districts.

[Under Proposal A, public hearings wouldn't happen until early 2012 to give staff and interested persons time to draft the requisite statewide plans. Hearings might take place under a slightly more compressed schedule under this proposal than Proposal B (regional), depending on when in 2012 hearings start. In the 2000 round, the commission held two hearings in November 2002, two hearings in January 2003, and two hearings in February 2003. But because the whole plan would be prepared in Proposal A, staff and commissioners would need less time between meetings to adjust maps and organize meetings. Under either proposal, commissioners and staff will have to dedicate a substantial amount of time to public hearings and executive sessions, especially if the commission wishes to conclude most of the public hearings and travel by Labor Day, as it did in the 2000 round. Commissioners should anticipate having at least two hearings each month in 2012, if not more.

Under Proposal B, maps will be made available approximately 10 days to 2 weeks before a public hearing. Under Proposal A, all maps will be available once the commission designates which maps it will consider further. If amendments or additional maps are drafted as a result of commission discussion or public comment, staff will make those changes available as soon as possible.]

Additional public comment: The commissioners will urge the public to submit comments via e-mail, fax, or regular mail after each public hearing. Staff will continue to notify the public of comment opportunities via the Legislative Services media contact and interested persons lists. Staff will compile the comments and distribute them to all commissioners. The timing of the delivery of the comments will vary depending on the amount received: monthly, bi-weekly, weekly, or even daily when deadlines are near.

If the commissioners choose to draft maps under Proposal B (regional), the commission will establish a public comment deadline approximately 2-3 weeks after a region has a public hearing. The deadline will help to ensure that relevant public

comment is submitted before the commissioners tentatively adopt a regional map and move to the next region.

Final public hearing: A final public hearing will be held in the Capitol to fulfill the requirement in 5-1-108, MCA. This meeting should be held by early December 2012 and should include final senate districts and assignments of holdover senators.

Adoption of plan: Proposal A: The commission should meet shortly after the last of the public hearings to discuss and tentatively adopt a redistricting plan. This plan will be used to create the senate districts and to assign holdover senators after the November 2012 elections. The plan will also be the one used for the final public hearing in early December. Because the plan would still be tentative, the commission could still amend it.

Proposal B: After the last of the regional public hearings, the commission will hold an executive session to adopt tentatively any remaining regional maps. The sum of the tentatively adopted regional maps will be the map used for the senate pairings, for the assignment of holdover senators, and for the final public hearing.

Under either proposal, the commission will vote in early December (either at the final public hearing or at a meeting held shortly after) on the plan to present to the 2013 Legislature by the 10th legislative day. The Legislature has 30 days to provide recommendations to the commission. The commission then has 30 days to consider the recommendations and to submit the final plan to the Montana Secretary of State. Once the commission submits the plan, the commission is dissolved.

One of the mandatory districting criteria adopted by the commission in May 2010 specified that a written explanation of any deviation from the ideal district population must accompany each district description in the commission report. Staff will draft a checklist for the commissioners to use during the hearings and when voting on the reasons for the deviations in each district.

Population/geographic data: The commission will use as its population data the official federal decennial census data, which is based upon geography provided in the TIGER/Line files.

[Although the commission isn't mandated to use a specific population database, it is implied in the Montana Constitution and statutes that the federal decennial census data will be used for the redistricting process. It is also practical to use this data, it being the most complete source of population data available. Adopting an official database will provide guidance to any person or organization wishing to submit a plan for the commission's consideration.

Census population data was delivered by the U.S. Bureau of the Census to Governor Schweitzer in mid-March 2011 and is called P.L. 94-171 data. Geographical data is provided in the form of TIGER/Line files (Topologically Integrated Geographic Encoding and Referencing) and forms the basis for the population data. Previous commissions have adopted the original P.L. 94-171 data without considering any additional data received from the Bureau after the P.L. 94-171 data files.]

Racial and ethnic data:

The commission will need to use the census data on race and ethnicity to determine compliance with the Voting Rights Act. When considering this data, the commission will use the guidelines on the aggregation and allocation of multiple-race categories in federal race data as provided in Part II of the Office of Management and Budget (OMB) Bulletin No. 00-02. Summaries of district populations will include the total population and the number and percentage of any minority population that makes up more than 1% of the district's population.

To allocate categories of responses for more than one race, the commission will assign any single minority race or single minority race plus white to the minority category. For categories in which responses of more than one minority race total more than 1% of the district's population the commission can analyze the plan by alternatively allocating the multi-race responses to each minority group making up the response. For example, a person who chose American Indian or American Indian plus White would be allocated to the American Indian category for the purposes of compliance with the Voting Rights Act. A person who chose American Indian plus Black would be allocated to the American Indian population unless the number of American Indian and Black responses each totaled more than 1% of the district's population, in which case the response would be analyzed as assigned to one race category and then the other.

The commission will also use the category of responses that indicate if a person is of Hispanic or Latino origin. Because the census considers Hispanic or Latino origin to be an ethnic category rather than a racial one, a person can be of Hispanic or Latino origin and also a member of a racial group. Including the Hispanic or Latino origin field in the database used for mapping will provide valuable information, but the commission will need to be conscious that in some cases there will be overlap. If the commission begins to map a portion of the state in which the overlap between Hispanic or Latino origin and a race category becomes significant, it can specify an alternative method of allocation responses to ensure it has the information required to comply with the Voting Rights Act.

[A copy of OMB Bulletin No. 00-02 is included in this mailing.]

Copies of maps

Staff will make available on the internet free of charge copies of all maps (in pdf or html) and will mail maps to the commissioners, clerks/recorders or election administrators, tribal officials, and party central committees. Copies of maps will also be mailed to individuals or groups upon request and at cost (printing and mailing) as provided in 2-6-110, MCA.

**Note: After the commission adopts its operational procedures, this document will be edited and placed on the web site to provide the public access to the procedures. Also, staff will create a separate document summarizing for the public how to provide comments before, during, and after maps are drawn, including the guidelines for submitting draft maps.

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