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TO: Districting and Apportionment Commission
FROM: Rachel Weiss
RE: Submission of redistricting plan to the Legislature

Background

The Montana Districting and Apportionment Commission is required by Article V, section 14, of the Montana Constitution to submit its plan for legislative districts to the Legislature at the first regular session after the decennial census figures are available. Section 5-1-109, MCA, requires the commission to submit the plan to the Legislature by the 10th legislative day of the appropriate regular session. The purpose of this memo is to provide background on how past commissions submitted the plan to the Legislature, how the Legislature issued its recommendations, and additional information on the 2013 session that the commissioners may find useful as they enter this next phase of redistricting.

1973 Opinion of the Attorney General on Plan Submission

The chairman of the 1973 Districting and Apportionment Commission requested of then-Attorney General Robert L. Woodahl an opinion on how the commission should submit its plan to the Legislature and the secretary of state. The resulting opinion, 35 A.G. Op. 50, held that the plan should be delivered to the president of the Senate and the speaker of the House and should be accompanied by a submission letter signed by each member of the commission. According to the opinion, the letters should then be read into the record of each house and also submitted to the secretary of the Senate and the clerk of the House of Representatives.

The opinion also held that a letter signed by each member of the commission should accompany duplicate copies of the plan when it was filed with the secretary of state.

According to section 2-15-501(7), MCA, the Attorney General's opinion is controlling in the matter unless overruled by a Montana district court or the Montana Supreme Court.

1973 Commission and the 43rd Legislature

The 1973 Commission submitted its plan to the Legislature in the form of a bound report. The report contained descriptions of each district, along with maps of various regions and towns. It

also described how the commission accomplished its task and provided analysis and justification for its work overall and with regard to individual districts.

The 43rd Legislature responded to the initial Districting and Apportionment Commission using two simple resolutions. House Resolution No. 54 carried the House recommendations; Senate Resolution No. 55 transmitted the Senate recommendations. The resolutions were short and contained identical comments.

1980 Commission and the 48th Legislature

The 1980 Commission also submitted its redistricting plan to the Legislature by using a written report with district descriptions, maps, and an analysis of the process used and challenges faced by the commissioners.

The 48th Legislature appeared to use established standing committees to address recommendations on redistricting. The Senate State Administration Committee held at least one hearing on January 20, 1983, to consider Senate Resolution No. 4, which was the Senate's response to the submitted redistricting plan. It included a request that the commissioners assign holdover senators to new districts. The House also used a simple resolution, House Resolution No. 2, to provide its recommendations to the 1980 Commission.

1990 Commission and the 53rd Legislature

The 1990 Commission held a meeting on January 11, 1993, to submit its redistricting plan to the 53rd Legislature. Commission staff presented the president of the senate and speaker of the house binders containing: the commission's final report, the districting criteria, population counts, maps of nine regions, census block assignments to districts, and various sizes of state maps. The plan included assignments of holdover senators to specific districts in the new plan. At that meeting, the speaker and president both expressed their intent to use existing standing committees to solicit public comment and to formulate the legislative response.

The legislative response took the form of House Joint Resolution No. 5, meaning it was considered and passed by both houses of the 53rd Legislature.

2000 Commission and the 58th Legislature

The 2000 Commission submitted its redistricting plan to the 58th Legislature via a letter from commission staff to legislative leadership. The letter was accompanied by a report that described the commission's work and criteria and provided general descriptions of each district. The plan included assignments of holdover senators to specific districts in the new plan. Staff and several commissioners also testified at a hearing held on January 20, 2003, by the Joint Select Committee on Districting and Apportionment to receive the plan from the commission. The hearing was continued on January 21.

The 58th Legislature provided its response to the commission in the form of two simple resolutions: House Resolution No. 3 and Senate Resolution No. 2. The resolutions were

requested by the Joint Select Committee on Districting and Apportionment at its January 21 hearing. The House sent HR3 through the regular standing committee process, holding a hearing on the resolution in the House State Administration Standing Committee. The Senate formed the Select Committee on Redistricting and Apportionment, which held hearings on SR2 and other redistricting legislation introduced during that session.

2013 Session Calendar

The 63rd Legislature will convene on Monday, January 7. Section 5-1-109, MCA, requires the commission to submit its legislative redistricting plan to the Legislature by the 10th legislative day, which is currently scheduled to be Thursday, January 17. Because the calendar was tentatively adopted by the Legislative Council, it could change based on the desires of legislative leadership. Currently, the adopted calendar anticipates the Legislature meeting on Saturday, January 12, which is legislative day 6. If legislative leadership decides not to meet that Saturday (or any other day during the first 2 weeks), the actual date of the 10th legislative day could change.

Assuming the legislative calendar does not change, the earliest the commission could submit the plan to the 63rd Legislatures is January 7 and the latest is January 16 (to comply with the language "by the 10th legislative day"). The Legislature will then have 30 calendar days to provide recommendations back to the commission. If the plan was submitted to the Legislature on January 7, the Legislature would have to return its recommendations to the commission by 11:59 p.m. on Wednesday, February 6; if the plan was submitted to the legislature on January 16, the 30 days would be up at 11:59 p.m. on Friday, February 15.

Once the commission receives the legislative recommendations, it has 30 calendar days to finalize the plan and submit it to the secretary of state. The whole process should be over by mid-March at the latest. Once the plan is filed with the secretary of state, the commission is dissolved.

There is no requirement that either the Legislature or the commission take the full 30 days to take action, meaning that deadlines in early 2013 will be fluid and commissioners should try to keep their schedules as free as possible in case they are required to meet on short notice.

Copies of the tentative session calendar and the referenced Attorney General's opinion are attached to this memo. Please do not hesitate to call with any questions.