RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO NAABIK'ÍYÁTI'; OPPOSING PROPOSED ARIZONA SENATE BILL 1018, ENTITLED *AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO THE INDPENDENT REDISTRICTING COMMISSION*

WHEREAS:

A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. Its powers include reviewing and monitoring activities of state departments and coordinating intergovernmental matters. 2 N.N.C. § 701(A)(7) and (8).

B. In 1962 the Supreme Court established the legal principle of "one person, one vote" in *Baker v. Carr* under the theory political districts with elected representatives should be approximately the same size in total population.

C. While the principle is most strictly applied to U.S. Congressional districts with equal population required "as nearly as practicable," State and local legislative districts have a bit more flexibility, as they are only required to be "substantially" equal.

D. Over a series of federal court cases, the now accepted standard is that the smallest district and largest district can be up to 10 percent apart in total population. However, even the 10-percent standard has some allowance, in order to protect minority voting rights under the Voting Rights Act.

E. Over the years, the courts have signaled that they do not like artificial deviation requirements, but rather prefer flexibility in the drawing of state legislative boundaries allowing redistricting bodies to consider geographic and community interests.

F. Section 2 of the Voting Rights Act requires map makers to consider drawing majority-minority districts to allow minority voters an opportunity to elect a candidate of choice. If it is possible to create such a majority-minority district, the courts have ruled that population deviations are permissible - even beyond 10 percent - if they allow a state to comply with the federal Voting Rights Act.

G. The Arizona Redistricting Commission is charged with drawing legislative district. Strict adherence to a near 0% population deviation criterion could make it more difficult for the Arizona Redistricting Commission to create majority-minority districts and draw districts that give minority voters the ability to elect candidates of choice, which is required in Section 2 of the Voting Rights Act.

H. The creation of majority-minority districts that do not dilute the voting power of minority groups will likely result in these districts having smaller total populations than other districts. By allowing this flexibility for majority-minority districts to have smaller populations, Section 2 of the Voting Rights Act will not be violated.

I. SCR 1018's (Attached as **Exhibit A**) requirement that the Arizona Redistricting Commission draw districts where the largest legislative district shall not exceed the population of smallest district by more than 5,000 people (about a 2% range), would severally limit the Commission's ability to draw majority-minority districts.

J. SCR 1018 would negatively affect Legislative District 7, which currently has a 8.8% population difference with Arizona's largest district.

K. Legislative District 7 is a predominately Navajo district. In order for it to comply with the requirements of SCR 1018 the Commission would have to add in a significant number of non-Navajo voters, there by diluting the ability of the Navajo people to elect a representative of their choice.

NOW, THEREFORE BE IT RESOLVED THAT:

The Navajo Nation hereby states its opposition to proposed Arizona Senate Bill SCR 1018, entitled *AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO THE INDEPENDENT REDISTRICTING COMMISSION.*

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 12 in Favor, and 00 Opposed, on this 13th day of February 2020.

Honorable Seth Damon, Chairman
Naabik'íyáti' Committee

Motion: Honorable Daniel E. Tso
Second: Honorable Rickie Nez

Chairman Seth Damon not voting

REFERENCE TITLE: independent redistricting commission; population standards



State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SCR 1018

Introduced by
Senators Mesnard: Allen S, Borrelli, Boyer, Carter, Fann, Farnsworth D, Farnsworth E, Gowan, Gray, Kerr, Leach, Livingston, Pace, Pratt;
Representatives Barto, Bolick, Roberts, Weninger

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO THE INDEPENDENT REDISTRICTING COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Legislative findings; purposes

A. The legislature finds that:

1. Nearly twenty years have passed and two redistricting cycles have occurred since Arizona voters approved Proposition 106, known as Fair Districts, Fair Elections.

2. Although advertised as creating a commission of balanced appointments with fair districts, the commission composition and process have been fraught with controversy. Democrats, Republicans and independents have all criticized the commission process and some of its results.

3. The population deviations as high as 8.8 percent in the 2012 redistricting maps, coupled with some of the largest legislative districts by population in the country, led to differences in district population as high as 18,707 persons. This extreme variation in population does not provide fair representation for Arizona citizens.

B. Based on the findings provided in subsection A of this section, the legislature's purposes in adopting this act include creating fairer legislative districts by equalizing the populations of legislative districts to give all Arizona citizens equal representation, while still requiring the commission to comply with the United States Constitution and the United States voting rights act.

2. Article IV, part 2, section 1, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

1. Senate; house of representatives; members; special session on petition of members; congressional and legislative boundaries; citizen commissions

Section 1. ~~(1)~~ A. The senate shall be composed of one member elected from each of the thirty legislative districts established pursuant to this section.

B. The house of representatives shall be composed of two members elected from each of the thirty legislative districts established pursuant to this section.

~~(2)~~ C. ~~Upon~~ ON the presentation to the governor of a petition bearing the signatures of not less than two-thirds of the members of each house~~,~~ requesting a special session of the legislature and designating the date of convening, the governor shall promptly call a special session to assemble on the date specified. At a special session so called the subjects ~~which~~ THAT may be considered by the legislature shall not be limited.

~~(3)~~ D. By February 28 of each year that ends in one, an independent redistricting commission shall be established to provide for the redistricting of congressional and state legislative districts. The independent redistricting commission shall consist of five members. ~~No~~ NOT more than two members of the independent redistricting commission shall be members of the same political party. Of the first four members appointed, ~~no~~ NOT more than two shall reside in the same county. Each member shall be a registered Arizona voter who has been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment~~;~~ AND who is committed to applying ~~the provisions of~~ this section in an honest, independent and impartial fashion and to upholding public confidence in the integrity of the redistricting process. Within the three years previous to appointment, members shall not have been appointed to, elected to~~;~~ or a candidate for any other public office, including precinct committeeman or committeewoman but not including school board member or officer, and shall not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate's campaign committee.

~~(4)~~ E. The commission on appellate court appointments shall nominate candidates for appointment to the independent redistricting commission, except that, if a politically balanced commission exists whose members are nominated by the commission on appellate court appointments and whose regular duties relate to the elective process, the commission on appellate court appointments may delegate to such existing commission (hereinafter called the commission on appellate court appointments' designee) the duty of nominating members for the independent redistricting commission~~;~~ and all other duties assigned to the commission on appellate court appointments in this section.

~~(5)~~ F. By January 8 of years ending in one, the commission on appellate court appointments or its designee shall establish a pool of persons who are willing to serve on and are qualified for appointment to the independent redistricting commission. The pool of candidates shall consist of twenty-five nominees, with ten nominees from each of the two largest political parties in Arizona based on party registration, and five who are not registered with either of the two largest political parties in Arizona.

~~(6)~~ G. Appointments to the independent redistricting commission shall be made in the order set forth below. No later than January 31 of years ending in one, the highest ranking officer elected by the Arizona house of representatives shall make one appointment to the independent redistricting commission from the pool of nominees, followed by one appointment from the pool made in turn by each of the following: the minority party leader of the Arizona house of representatives, the highest ranking officer elected by the Arizona senate, and the minority party leader of the Arizona senate. Each such official shall have a seven-day period in which to make an appointment. Any official who fails to make an appointment within the specified time period will forfeit the appointment privilege. ~~In the event that~~ IF there are two or more minority parties within the house or the senate, the leader of the largest minority party by statewide party registration shall make the appointment.

~~(7)~~ H. Any vacancy in the above four independent redistricting commission positions remaining as of March 1 of a year ending in one shall be filled from the pool of nominees by the commission on appellate court appointments or its designee. The appointing body shall strive for political balance and fairness.

~~(8)~~ I. At a meeting called by the secretary of state, the four independent redistricting commission members shall select by majority vote from the nomination pool a fifth member who shall not be registered with any party already represented on the independent redistricting commission and who shall serve as chair. If the four commissioners fail to appoint a fifth member within fifteen days, the commission on appellate court appointments or its designee, striving for political balance and fairness, shall appoint a fifth member from the nomination pool, who shall serve as chair.

~~(9)~~ J. The five commissioners shall then select by majority vote one of their members to serve as vice-chair.

~~(10)~~ K. After having been served written notice and provided with an opportunity for a response, a member of the independent redistricting commission may be removed by the governor, with the concurrence of two-thirds of the senate, for substantial neglect of duty, gross misconduct in office~~,~~ or inability to discharge the duties of office.

~~(11)~~ L. If a commissioner or chair does not complete the term of office for any reason, the commission on appellate court appointments or its designee shall nominate a pool of three candidates within the first thirty days after the

vacancy occurs. The nominees shall be of the same political party or status as was the member who vacated the office at the time of ~~his or her~~ appointment, and the appointment other than the chair shall be made by the current holder of the office designated to make the original appointment. The appointment of a new chair shall be made by the remaining commissioners. If the appointment of a replacement commissioner or chair is not made within fourteen days following the presentation of the nominees, the commission on appellate court appointments or its designee shall make the appointment, striving for political balance and fairness. The newly appointed commissioner shall serve out the remainder of the original term.

~~(12)~~ M. Three commissioners, including the chair or vice-chair, constitute a quorum. Three or more affirmative votes are required for any official action. Where a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with ~~48~~ FORTY-EIGHT or more hours public notice provided.

~~(13)~~ N. A commissioner, during the commissioner's term of office and for three years thereafter, shall be ineligible for Arizona public office or for registration as a paid lobbyist.

~~(14)~~ O. The independent redistricting commission shall establish congressional and legislative districts. The commencement of the mapping process for both the congressional and legislative districts shall be the creation of districts of equal population in a grid-like pattern across the state. Adjustments to the grid shall then be made as necessary to accommodate the goals as set forth below:

~~A.~~ 1. Districts shall comply with the United States Constitution and the United States voting rights act. ~~;~~

~~B.~~ 2. Congressional districts shall have equal population to the extent practicable, and state legislative districts shall have equal population to the extent practicable SO THAT THE POPULATION OF THE LARGEST LEGISLATIVE DISTRICT BY POPULATION SHALL NOT EXCEED THE POPULATION OF THE SMALLEST LEGISLATIVE DISTRICT BY POPULATION BY MORE THAN FIVE THOUSAND PERSONS. ~~;~~

~~C.~~ 3. Districts shall be geographically compact and contiguous to the extent practicable. ~~;~~

~~D.~~ 4. District boundaries shall respect communities of interest to the extent practicable. ~~;~~

NAVAJO NATION

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2020 WINTER SESSION

2/13/2020
03:22:20 PM

Amd# to Amd# | Consent Agenda: Legislations | PASSED

MOT Tso, D
SEC Nez, R

0017-20. 0022-20, 0027-20,
0031-20, 0032-20, 0033-20

Yeas : 12 **Nays : 0** **Excused : 9** **Not Voting : 2**

Yea : 12

Begay, E	Brown	Nez, R	Tso, D
Begay, K	Charles-Newton	Stewart, W	Walker, T
Begay, P	Crotty	Tso, C	Wauneka, E

Nay : 0

Excused : 9

Daniels	Henio, J	Slater, C	Tso, E
Freeland, M	James, V	Smith	Yellowhair
Halona, P			

Not Voting : 2

Tso, O	Yazzie

Presiding Speaker: Damon