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SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN

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 (DEE) 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, AND CARRIE RIEPL, IN THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION, MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE WISCONSIN ELECTIONS COMMISSION; ANDRÉ JACQUE, TIM CARPENTER, ROB HUTTON, CHRIS LARSON, DEVIN LEMAHIEU, STEPHEN L. NASS, JOHN JAGLER, MARK SPREITZER, HOWARD L. 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,

Intervenors-Respondents.

WRIGHT PETITIONERS' RESPONSE BRIEF ON THE PROPOSED REMEDIAL MAPS

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INTRODUCTION

The remedial map submitted by the Wright Petitioners (the "Wright Map") is the right map for Wisconsin. Using cutting-edge computational redistricting techniques, the Wright Map fully cures the pervasive contiguity problems with the 2022 Map identified in this Court's December 22 decision. *Clarke v. Wis. Elections Comm'n*, 2023 WI 79, 998 N.W.2d 370 ("Op."). And it does so while complying with all other mandatory state and federal requirements, performing well on traditional nonmandatory districting criteria, and reinvigorating the fundamental principles of majority rule and electoral responsiveness in Wisconsin.

The Wright Map refutes the myth that Wisconsin's political geography dictates the extreme partisan skew in the 2022 Map. As to contiguity, political-subdivision splits, and compactness, the Wright Map outperforms the 2022 Map while treating equally the voters who support either major political party. Of all the remedial proposals, the Wright Map has the largest number of competitive districts responsive to the will of the voters. And critically, the Wright Map is the *only* proposal before the Court capable of returning majority rule to both the Assembly and the Senate in 2024. For these and other reasons set forth below, the Court should choose the Wright Map.

ARGUMENT

The Court ordered all parties to submit remedial maps "complying with the parameters set forth in this court's December 22, 2023 decision." Order at 2, *Clarke v. Wis. Elections Comm'n*, No. 2023AP1399-OA (Wis. Dec. 22, 2023). Four parties—the Democratic Senators, Governor Evers, the Clarke Petitioners, and the Wright Petitioners—respected the Court's

order. Two parties—the Legislature and the Johnson Intervenors—did not. Of the four viable proposals, the Court should select the Wright Map.

I. The Maps Proffered by the Legislature and the Johnson Intervenors Disrespect Judicial Neutrality and Should Not Be Considered.

Neither the Legislature's Map nor the Johnson Map is a valid candidate for adoption by this Court. Both proposals utterly (and concededly) fail to comply with the fundamental principle of judicial neutrality, which requires avoiding undue partisan impact. As this Court correctly observed, courts are held "to a different standard than the legislature regarding the partisanship of remedial maps." Op. ¶71. As "a politically neutral and independent institution," the Court must "consider partisan impact when evaluating remedial maps" to avoid selecting a map that advantages or privileges "one political party over another." Op. ¶¶69–71. And "it is not possible to remain neutral and independent by failing to consider partisan impact entirely." Op. ¶71. The Court's decision follows U.S. Supreme Court precedent and past cases on Wisconsin redistricting, and also comports with decisions from courts across the country. *See* Wright Br. 36–38 (collecting cases). Both the Legislature and the Johnson Intervenors impermissibly ask the Court to ignore this judicial obligation.

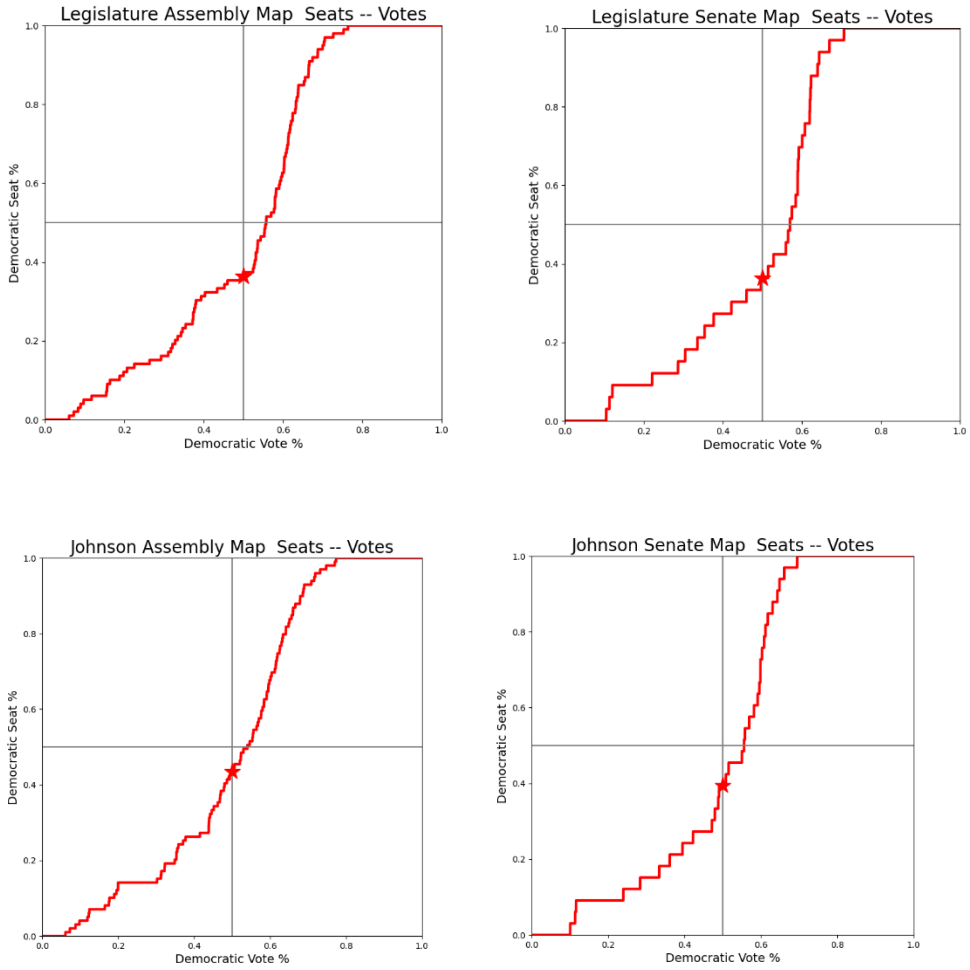
The Legislature's Map essentially locks into place the 2022 Map, which the Wright Petitioners and their expert, Dr. DeFord, have conclusively shown to be highly skewed to favor Republicans. *See* Wright Br. 41–44; DeFord Rpt. 29–35. The Legislature's Map addresses contiguity violations by either attaching detached pieces "to their assigned districts" or "dissolv[ing]" detached pieces "into the districts surrounding them—whichever moves the fewest number of people." Legis. Br. 24–25; *see id.* at 35. The Legislature's Map therefore exhibits the "least change" approach

this Court already rejected. Op. ¶¶60–63. The Legislature astonishingly asserts that "[m]oving so few people creates no 'partisan impact.'" Legis. Br. 48. But this blinks reality, given the extreme partisan imbalance in the 2022 Map. *See* DeFord Rpt. at 23–43.

The Johnson Map cements the same partisan skew in a different way—even according to data provided by their own expert. *See* Brunell Rpt. 11–12, 17–18. Prioritizing compactness and preservation of political subdivisions, their map would produce (by their own admission) 56-to-43 and 20-to-13 Republican advantages in the Assembly and Senate, respectively, despite Wisconsin's evenly divided electorate. *See* Johnson Br. 28. The Johnson Map is thus "designed to advantage one political party over another" and cannot be adopted. Op. ¶71.

Dr. DeFord's computational notebook facilitates apples-to-apples comparisons of all maps, *see* DeFord Rpt. 22–23, 49–50 (App. B), and it confirms the partisan asymmetry of the Legislature's and Johnson Maps. As shown in Figure 1, applying Dr. DeFord's Wisconsin legislative-election model, the assembly and senate maps for both the Legislature and the Johnson Intervenors display the same kind of asymmetry that plagued the 2022 Map. Even if Democratic candidates clearly outpoll their Republican opponents statewide, they would capture only a minority of seats, as shown by these seats-votes curves.

Figure 1. Seats-Votes Curves Based on Dr. DeFord's Model—Legislature's and Johnson Maps.



Neither the Legislature nor the Johnson Intervenors offer any persuasive reason to excuse these results. Their claim that extreme partisan imbalance is inevitable given Wisconsin's political geography is empirically disproven by the Wright Map, a neutral map that scores as well or better on all districting criteria. Likewise, their reliance on ensemble analyses is faulty given that ensembles are of limited use in assessing partisan effects, as Dr. DeFord explained. DeFord Rpt. 45. And as to their argument that any remedy must be limited solely to curing contiguity violations, they ignore that "well-known principles of equity" require courts to evaluate

remedial redistricting maps in light of "what is necessary, what is fair, and what is workable." *North Carolina v. Covington*, 581 U.S. 486, 487 (2017) (internal quotation marks omitted).

II. The Wright Map Offers the Best Option for a Lawful, Judicially Neutral Remedy.

Only four parties submitted remedial proposals that actually seek to comply with the Court's directives: the Senate Democrats' Map, the Governor's Map, the Clarke Map, and the Wright Map. Each has strengths. However, the Wright Map is the best option for a lawful, race-neutral, party-neutral remedy that would require no technical corrections or changes from the Court's consultants and, if adopted, would bring majority rule and democratic accountability to Wisconsin without delay.[1]

A. The Wright Map Fully Complies with All State and Federal Mandatory Requirements.

Whether a map complies with the Wisconsin Constitution is a binary question. "Proposed maps are either lawful or they are not; no constitutional map is more constitutional than another." *Johnson v. Wis. Elections Comm'n*, 2022 WI 14, ¶35, 400 Wis. 2d 626, 971 N.W.2d 402 ("*Johnson II*"), *summarily rev'd on other grounds sub nom. Wis. Legis. v. Wis. Elections Comm'n*, 595 U.S. 398 (2022) (per curiam). Whether a map complies with U.S. Supreme Court doctrine on the use of race in redistricting can be a more difficult question but is easily answered here for the Wright Map. *See infra* pages 20–21.

[1] Because the Legislature's Map and the Johnson Map do not attempt to comply with the Court's directives and are ineligible for adoption, Part II does not discuss them. However, the Appendix compares all six proposed maps, along with the 2022 Map, on all metrics as calculated by Dr. DeFord's computational-redistricting notebook. DeFord Rpt. 49–50 (App. B).

1. Contiguous Territory

The Wright Map fully cures the contiguity violations this Court identified without redrawing the only four senate districts in the 2022 Map composed entirely of contiguous municipal wards: Senate Districts 3, 4, 6, and 7. Under Wisconsin law, municipal wards can contain "'island territory'"—"noncontiguous territory which is separated by the territory of another municipality … from the major part of the municipality to which it belongs." Wis. Stat. § 5.15(2)(f)(3); *see* Joint Stipulation ¶7 (filed Dec. 30, 2023; docketed Jan. 2, 2024). These municipal-ward "islands" gave rise to violations of the Constitution's "contiguous territory" requirements in the 2022 Map. *See* Op. ¶¶18 & n.9, 21 n.10. The Wright Map remedies these constitutional violations by joining municipal islands with their municipal "mainlands," making the Wright Map the *only* proposal that keeps *every one* of Wisconsin's roughly 7,000 wards intact. *See infra* Parts II-A-3 & II-B-3.

Table 1, together with its footnotes, summarizes how the four remedial proposals compare on contiguity.

Table 1. Number of Contiguous Districts—Assembly and Senate.

Number of Contiguous Districts				
	Dem. Sens. Map[2]	Gov. Map	Clarke Map[3]	Wright Map
Assembly	92 of 99	99 of 99	99 of 99	99 of 99
Senate	31 of 33	33 of 33	33 of 33	33 of 33

2. Population Equality

The Wright Map fully complies with the population-equality requirement as both its largest and smallest assembly districts are within 0.92% of perfect equality. As this Court has noted, when a district's deviation from perfect equality is "[b]elow 1 percent, there are no legally or politically relevant degrees of perfection." Op. ¶64 (quoting *Prosser v. Elections Board*, 793 F. Supp. 859, 866, 870 (W.D. Wis. 1992) (three-judge court)); *accord Baumgart v. Wendelberger*, Nos. 01-C-0121, 02-C-0366, 2002 WL 34127471, at *2 (E.D. Wis. May 30, 2002) (three-judge court). Indeed, attempting to reach absolute perfection on this metric makes little sense because "census data are not perfect" and "population counts for particular localities are outdated long before they are completed." *Karcher v. Daggett*, 462 U.S. 725, 732 (1983); *see* DeFord Rpt. 9 ("Given inaccuracies in Census data (particularly as the data ages), seeking greater population equality"

[2] Apparently misunderstanding the parties' Joint Stipulation, the Democratic Senators proposed noncontiguous versions of Assembly Districts 44, 45, 47, 48, 91, 92, and 98 and Senate Districts 16 and 33. The Joint Stipulation provided only that certain erroneous ward fragments would not count as ward splits, but did not state that these fragments could be ignored when evaluating districts' contiguity. *See* Joint Stipulation ¶8. Nonetheless, this should not disqualify the Democratic Senators' proposal from being considered. *See infra* pages 18–19.

[3] The Clarke Map's Assembly District 54 and Senate District 18 are touch-point contiguous, which the Court recognized does not violate the Constitution's "contiguous territory" requirements but could raise concerns under the Constitution's compactness mandates. Op. ¶¶28–29 & n.15 (citing Wis. Const. art. IV, §§ 4–5).

beyond the 2% maximum-deviation threshold "is not helpful as a tool for constraining mapmakers' discretion"). Wisconsin already has one of the Nation's most stringent legislative population-equality standards—which the Wright Map easily satisfies.

Figure 2. Maximum Population Deviations in Lower Houses.

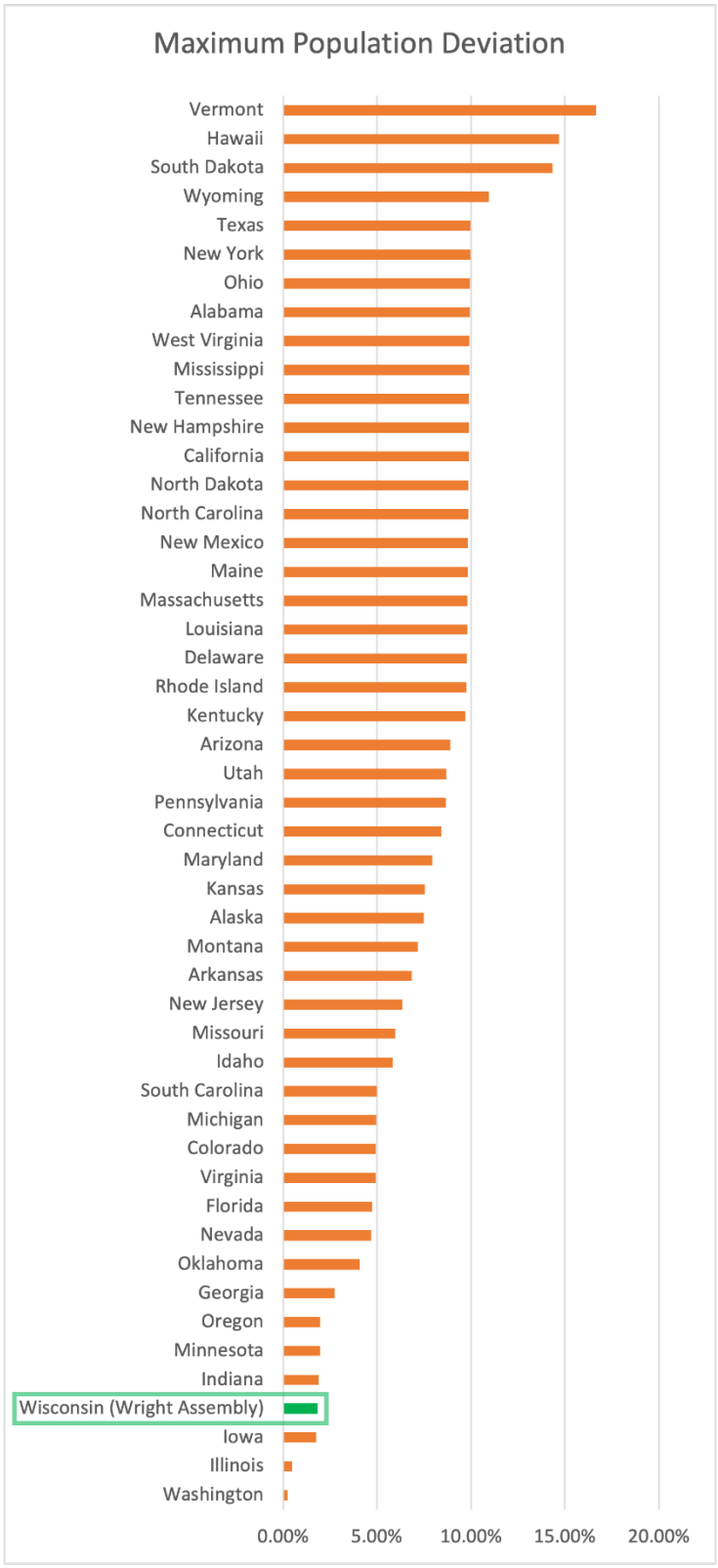
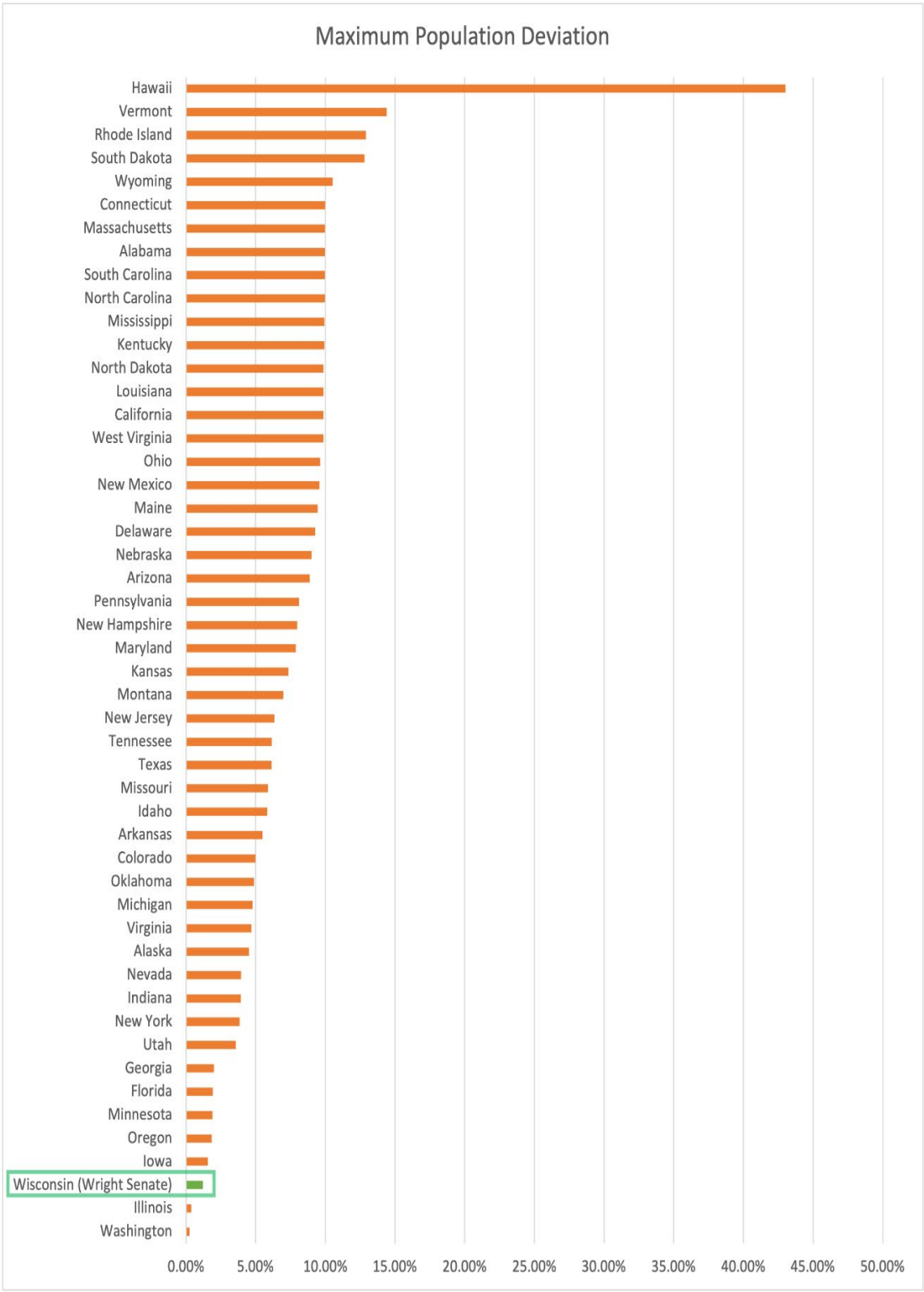


Figure 3. Maximum Population Deviations in Upper Houses.



As shown in Table 2, all four of the viable remedial proposals comply with Wisconsin's 2% population-equality standard.

Table 2. Maximum and Average Population Deviations—Assembly and Senate.

	Metric	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	Max. population deviation	1,107 (1.86%)	1,169 (1.96%)	549 (0.92%)	1,089 (1.83%)
	Avg. population deviation	285.1 (0.48%)	293.8 (0.49%)	139.5 (0.23%)	272.9 (0.46%)
Senate	Max. population deviation	2,428 (1.36%)	2,603 (1.46%)	1,154 (0.65%)	2,131 (1.19%)
	Avg. population deviation	645.1 (0.36%)	477.8 (0.27%)	247.7 (0.14%)	404.0 (0.23%)

3. Bounded by County, Town, or Ward Lines

Article IV, § 4 requires that assembly districts "be bounded by county, precinct, town or ward lines." Wis. Const. art. IV, § 4.

Unlike counties and towns, which sometimes must be split to achieve population equality, there is no mathematical need to split wards. Yet *only* the Wright Map keeps all wards intact. Thus, every inch of the Wright Map's districts falls along an existing county, town, or ward line.[4]

[4] Part of the boundary between the Democratic Senators' Assembly Districts 50 and 78 in the city of Madison and part of the boundary between the Governor's Assembly Districts 77 and 78 in the former town of Madison do not sit on ward lines, but this should not disqualify their proposals from being considered. *See infra* pages 18–19.

Table 3. Ward Splits—Assembly and Senate.

	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly[5]	2	5	1	0
Senate	1	2	1	0

As for the other political subdivisions the Constitution enumerates, this Court "considers the extent to which assembly districts split counties [and] towns." Op. ¶66. The Wright Map compares favorably to the other maps, as Table 4 shows.

[5] Clarke Assembly Districts 47 and 78; Democratic Senators' Assembly Districts 77 and 78; and the Governor's Assembly Districts 14 and 61, 77 and 79, 79 and 80, and 80 and 81 all split wards while keeping assembly-district boundaries on ward lines.

Table 4. County and Town Splits—Assembly and Senate.

	Metric	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	Counties: number of splits	51	45	44	47
	Counties: number of times split	155	149	152	153
	Counties: number of pieces	206	194	196	200
	Towns: number of splits	27	22	10	15
	Towns: number of times split	34	26	13	17
	Towns: number of pieces	61	48	23	32
Senate	Counties: number of splits	42	33	34	37
	Counties: number of times split	76	68	73	74
	Counties: number of pieces	118	101	107	111
	Towns: number of splits	16	12	6	8
	Towns: number of times split	17	12	7	10
	Towns: number of pieces	33	24	13	18

To be clear: The Wright Petitioners do not contend that issues flagged here regarding ward splits, assembly-district boundaries, and discontiguities (*see supra* notes 2–5) should disqualify the Democratic Senators', Governor's, or Clarke Map from consideration. The Court's consultants may suggest technical corrections to cure these issues. Although map corrections sometimes set off a cascade of unforeseen "ripple"

effects, these particular issues may well be fixable, and therefore the Wright Petitioners ask the Court and its consultants to fully consider all four maps.

4. Compactness

The Wright Map's districts are compact. Because the Constitution's compactness criterion is "secondary" and "subservient" to both "population equality" and "political subdivision boundaries," districts need only "be reasonably, though not perfectly, compact." *Wis. State AFL-CIO v. Elections Bd.*, 543 F. Supp. 630, 634 (E.D. Wis. 1982) (three-judge court).

Figures 4 and 5 compare compactness scores for the four viable assembly and senate maps, respectively. The height of the vertical bars compares each map's compactness score to the score for the 2022 Map, depicted by a horizontal dotted line. The taller the bar, the more compact the map's districts.

Figure 4. Compactness Scores—Assembly.

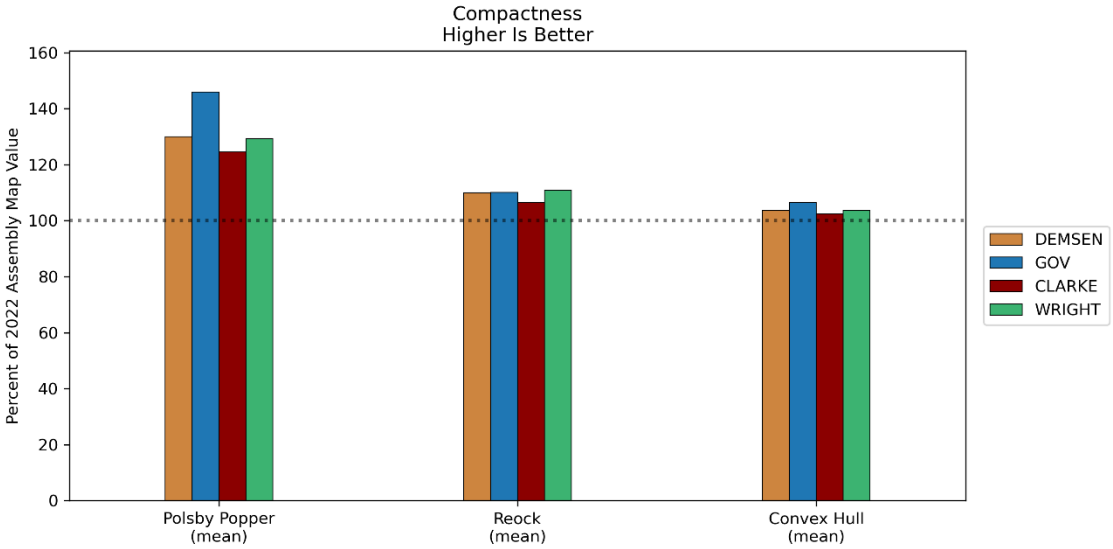
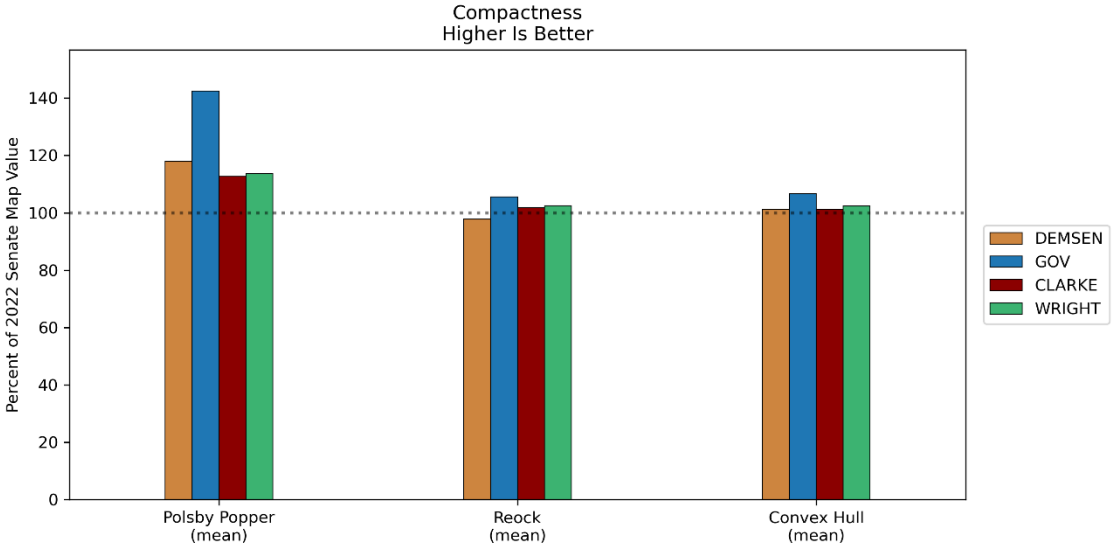


Figure 5. Compactness Scores—Senate.



5. Numbering and Nesting

All four maps comply with the requirements to divide Wisconsin into 33 single-member senate districts that in turn comprise three undivided single-member assembly districts, with districts numbered in a regular series.

6. Equal Protection Clause and Voting Rights Act

The Wright Map fully complies with the Equal Protection Clause and the Voting Rights Act ("VRA"). In *Wisconsin Legislature v. Wisconsin Elections Commission*, 595 U.S. 398 (2022) (per curiam), the U.S. Supreme Court summarily reversed the judgment in *Johnson II* after holding that this Court had "committed legal error in its application of [U.S. Supreme Court] decisions … regarding the relationship between the constitutional guarantee of equal protection and the VRA." *Id.* at 401. To be sure, this is a fraught relationship and navigating it has become increasingly difficult, even in the brief time since this Court decided *Johnson*. *Compare, e.g.*,

Students for Fair Admissions, Inc. v. President & Fellows of Harvard College, 600 U.S. 181 (2023), *with Allen v. Milligan*, 599 U.S. 1 (2023).

Threading that needle here requires special sensitivity to any suggestion that parties used a race-based rule to distinguish between voters in districts with substantial concentrations of minority population potentially subject to VRA claims and voters in non-minority districts. Importantly, the Wright Map uses no race-based rule. It retains the 2022 Map's three majority-minority senate districts and eight majority-minority assembly districts, but the reason has nothing to do with race. Rather, Senate Districts 3, 4, and 6 are three of only four senate districts in the State that did not need to be redrawn (along with their nested assembly districts) because they consisted entirely of contiguous municipal wards. *See supra* page 11. Hence the Wright Map does not redraw them. For the same race-neutral reason—that they contain no noncontiguous municipal wards—the Wright Map also leaves in place five other districts in Milwaukee County: Senate District 7 and Assembly Districts 7, 19, 20, and 21—none of which is majority-minority. *Cf.* Legis. Br. 58 (Oct. 16, 2023) (stating that Petitioners' claims could not "justify a remedy that disturbs the existing lines of the Milwaukee districts" because "[t]he Milwaukee districts contain no populated municipal islands within county lines").

Because the Wright Map does not single out voters in the 2022 Map's majority-minority districts for differential treatment, there can be no suggestion that race predominated. *See* Wright Br. 25–27. Likewise, for the reasons explained in the Wright Petitioners' opening remedial-stage brief, the Wright Map also clearly satisfies the VRA. *See id.*

B. The Wright Map Performs Well on Nonmandatory Traditional Districting Criteria.

The Wright Map performs exceptionally well on nonmandatory traditional districting criteria. Op. ¶68.

1. Reducing County Splits

As noted above (*see supra* pages 16–18 & Table 4), the Wright Map respects counties. Population constraints require splitting the largest counties, but the Wright Assembly Map keeps intact Wisconsin's 11 smallest counties, as well as 13 of the State's 15 smallest counties. No other proposed map does that. *See* Op. ¶66 (shunning splitting of "smaller political subdivisions").

Table 5. Splits of Smallest Counties—Assembly.

County	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Menominee	✓	✓	✓	✓
Florence	✓	✓	✓	✓
Iron	✓	✓	✓	✓
Pepin	✓	✓	✓	✓
Forest	✖	✓	✓	✓
Buffalo	✓	✓	✓	✓
Price	✓	✓	✓	✓
Rusk	✓	✓	✓	✓
Marquette	✓	✓	✓	✓
Ashland	✖	✖	✓	✓
Crawford	✓	✓	✓	✓
Bayfield	✖	✖	✖	✖
Burnett	✖	✖	✓	✓
Lafayette	✖	✓	✖	✖
Washburn	✖	✓	✖	✓

The Wright Map's respect for county integrity is not confined to rural counties. It extends to counties smaller in population than a senate district

but larger than an assembly district. The Wright Senate Map is the only one that keeps intact Eau Claire, La Crosse, Sheboygan, and St. Croix Counties.

Table 6. Splits of Larger Counties—Senate.

County	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Eau Claire	✖	✓	✖	✓
La Crosse	✖	✓	✖	✓
Sauk	✖	✓	✖	✖
Sheboygan	✖	✖	✖	✓
St. Croix	✖	✓	✖	✓

2. Reducing Municipal Splits

The Wright Map also fares well on municipal splits, as Table 7 shows.

Table 7. Municipal Splits—Assembly and Senate.

	Metric	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	Municipalities: number of splits	72	55	45	52
	Municipalities: number of times split	119	95	77	89
	Municipalities: number of pieces	191	150	122	141
Senate	Municipalities: number of splits	48	33	29	34
	Municipalities: number of times split	60	46	38	52
	Municipalities: number of pieces	108	79	67	86

Again, keeping larger municipalities intact while complying with the population-equality requirement is not always possible. Milwaukee and Madison must be split, for example. Yet, of cities with more than 20,000 residents, the Wright Map keeps in a single assembly district, and thus in a

single senate district, the cities of Sheboygan, Fond du Lac, New Berlin, Wausau, Beloit, Oak Creek, Manitowoc, West Bend, Fitchburg, Neenah, Superior, Stevens Point, De Pere, Middleton, and South Milwaukee. And the Wright Map keeps in a single senate district the larger cities of Eau Claire, Oshkosh, and La Crosse, as well as Brookfield, Sun Prairie, Mequon, and Muskego.

3. Minimizing Ward Splits

The Wright Map is the *only* proposed remedial map with zero ward splits. *See supra* pages 16–17 & nn.4–5 & Table 3; Wis. Const. art. IV, § 4 (referring expressly to wards but not cities or villages); Clarke Br. 42 n.11 (Oct. 30, 2023) (splitting wards can "cause a host of electoral administration problems" and compromise "[v]oter privacy").

4. Preserving Communities of Interest

The Court identified "preserving communities of interest" as a traditional districting criterion it would consider when adopting a remedial map. Op. ¶68; *see id.* ¶¶35, 62. The Court's consultants expressly asked the parties to clarify how they identified and defined communities of interest and to specify the size and geographic location of each identified community and the degree to which it has been split across multiple districts. *See* Grofman/Cervas Mem. at 2 (Dec. 26, 2023).

Alone among the parties, the Wright Petitioners did exactly that for American Indian Tribal communities, public-school districts, television markets, and communities defined by the People's Maps Commission ("PMC"). *See* Wright Br. 31–34; DeFord Rpt. 19–22; Weichelt Rpt. 1–2, 6–32. No other proposal analyzed and sought to preserve so many communities of interest or used as many metrics to ensure robustness. The Wright Petitioners now extend that analysis to the three other viable maps.

The Wright Map is the only proposal that keeps the self-governing sovereign homelands of 10 of Wisconsin's 11 federally recognized Indian tribes intact. *See* DeFord Rpt. 19–20 (explaining Ho-Chunk Nation's reservation lands are too widely scattered for a single district); Weichelt Rpt. 1, 7, 9, 18.

Table 8. Tribal Reservation Integrity—Assembly.[6]

	Metric	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	Reservations split	6	6	4	1
	Times reservations are split	12	12	11	5
	Pieces of reservations	18	18	15	6
	Effective splits	3.06	3.23	3.33	2.42
	Uncertainty metric	3.38	3.77	3.45	1.88
Senate	Reservations split	4	4	4	1
	Times reservations are split	7	6	9	4
	Pieces of reservations	11	10	13	5
	Effective splits	2.78	2.36	3.33	1.52
	Uncertainty metric	2.86	2.71	3.45	1.42

[6] The Uncertainty of Membership and Effective Splits Index metrics penalize maps for evenly rather than unevenly splitting a community's residents, since the former tends to more severely disempower its voters. *See* Sandra J. Chen et al., *Turning Communities of Interest into a Rigorous Standard for Fair Redistricting*, 18 STAN. J. C.R. & C.L. 101, 125–26 (2022). As with all splits metrics, lower numbers are better.

Figure 6 compares the parties' splits to the 2022 Map's (again, depicted by a horizontal dotted line). Here, the *shorter* the bar, the better the map, because it is preferable to have fewer splits.

Figure 6. Tribal Reservation Integrity—Assembly.

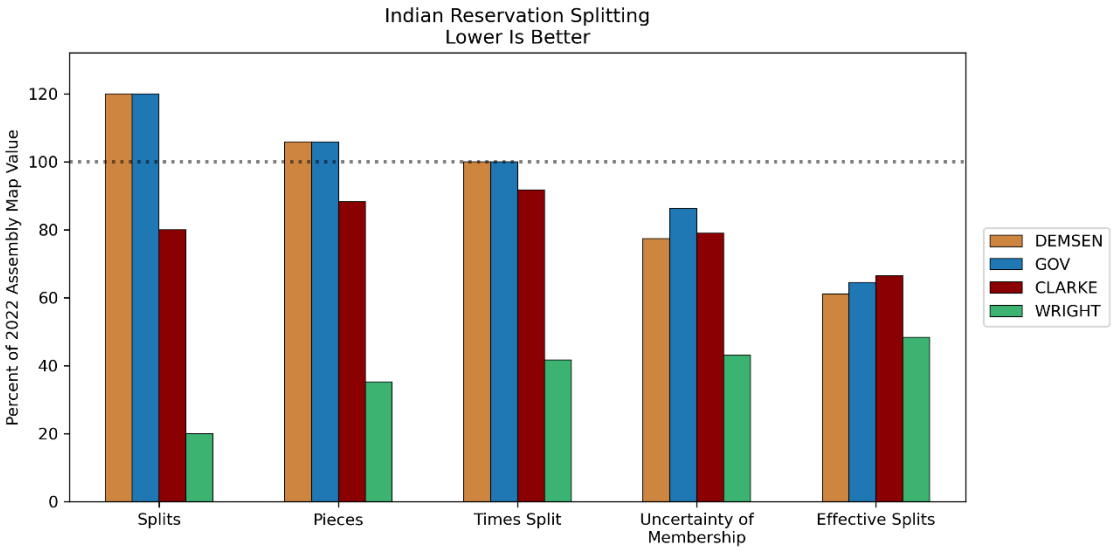


Figure 7 takes a similar approach to Wisconsin's roughly 400 public-school districts. *See* Wright Br. 33; DeFord Rpt. 20; Weichelt Rpt.

Figure 7. Public School District Integrity—Assembly.

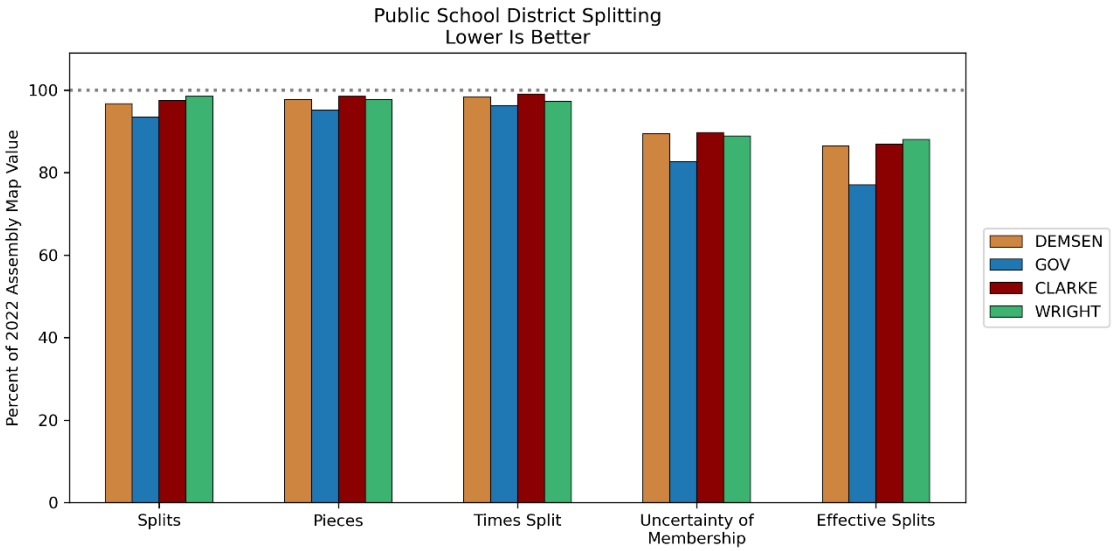
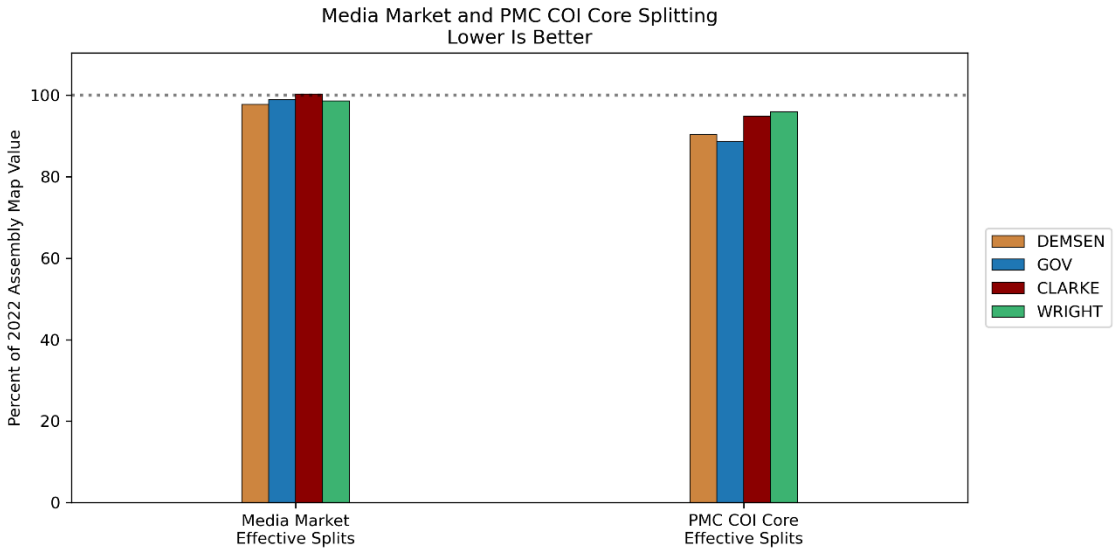


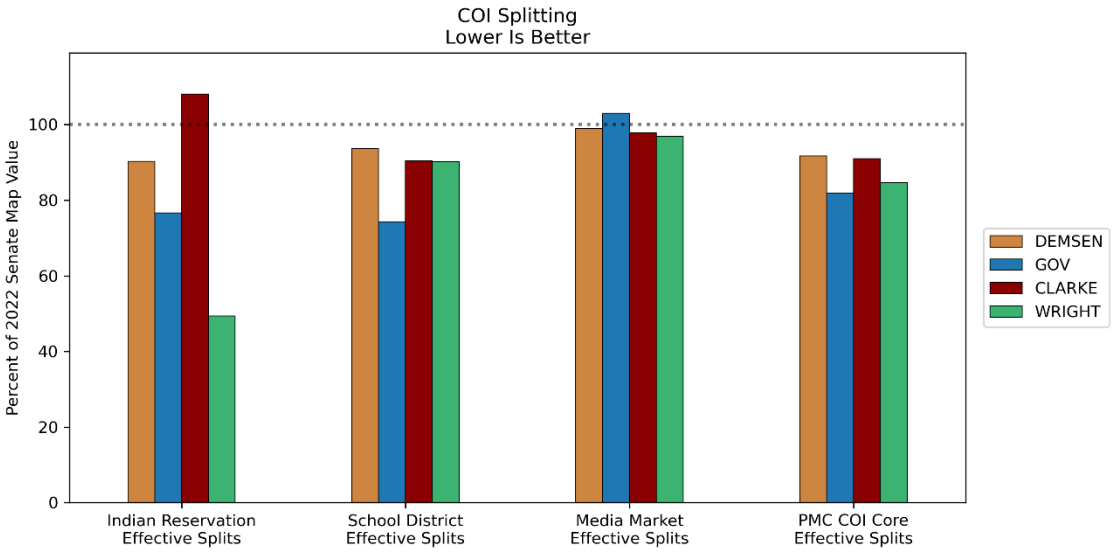
Figure 8 does the same for Wisconsin's television media markets and the cores of communities of interest identified by the PMC. *See* Wright Br. 33–34; DeFord Rpt. 21.

Figure 8. Media Market and PMC Community-of-Interest Integrity—Assembly.



Finally, Figure 9 analyzes senate maps focusing on a single metric (Effective Splits), across different kinds of communities—Indian reservations, school districts, television markets, and cores of PMC-identified communities of interest. *See* Wright Br. 32–34; DeFord Rpt. 19–22.

Figure 9. Community-of-Interest Integrity—Senate.



Overall, the Wright Map keeps important communities of interest together throughout Wisconsin and is the only remedial proposal to fully respect the territorial integrity of Tribal lands.

C. The Wright Map Has a Neutral Partisan Impact.

The Wright Map fully complies with all mandatory districting requirements and performs well on nonmandatory districting criteria while epitomizing partisan symmetry and electoral responsiveness. Unique among the four viable proposals, the Wright Map would allow the people of Wisconsin to effectuate majority rule in *both* the Assembly *and* the Senate beginning in 2024.

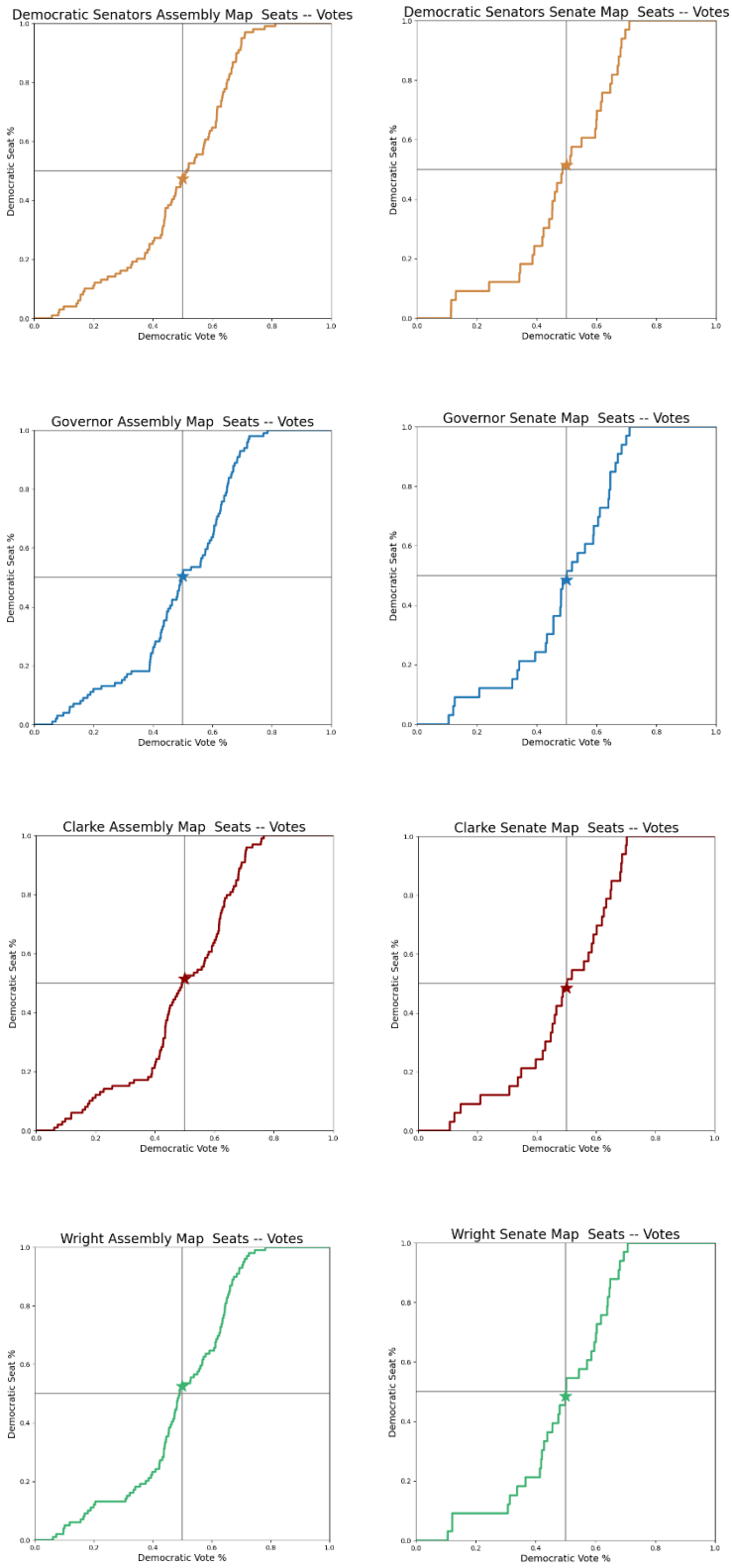
1. Partisan Symmetry

All four viable maps vastly improve on the 2022 Map when it comes to partisan symmetry—that is, the equal treatment of both major parties, allowing either party to convert a strong year at the polls into control of the legislature. But the Wright Map does best on this count.

As the Wright Petitioners previously explained, Dr. DeFord's election model is based on statewide elections, ward-level returns in state-

legislative elections, incumbency factors, and recent trends; it therefore provides the most robust analysis of partisan impact. *See* Wright Br. 44–47; DeFord Rpt. 37–43. The seats-votes curves based on Dr. DeFord's analyses suggest approximate symmetry for all four maps in both the Assembly and the Senate, although only the Wright Map would exhibit partisan symmetry in the immediate aftermath of this November's general election. *See infra* Part II-C-3.

Figure 10. Seats-Votes Curves Based on Dr. DeFord's Model—Assembly and Senate.



At the scale of these seats-votes graphs, it can be difficult to detect relatively small differences. Dr. DeFord previously reported five partisan-symmetry metrics that can be directly or indirectly derived from these curves. *See* DeFord Rpt. 26–27, 35, 40, 43. Applied to both the Assembly and the Senate, the five metrics show that the Wright Map is well balanced, with three measurements barely favoring Democrats (blue shading) and seven barely favoring Republicans (red shading).

Table 9. Partisan-Fairness Metrics—Assembly and Senate.

	Metric	2022 Map	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	Mean-median	–0.057	–0.015	+0.002	+0.008	+0.008
	Partisan bias	–0.146	–0.056	–0.025	–0.015	–0.005
	Efficiency gap	–0.161	–0.048	–0.020	–0.008	+0.003
	Declination	–0.347	–0.091	–0.028	–0.004	+0.016
	Lopsided wins	–0.219	–0.067	–0.035	–0.022	–0.012
Senate	Mean-median	–0.070	+0.013	–0.001	–0.003	–0.002
	Partisan bias	–0.167	+0.015	–0.015	–0.015	–0.045
	Efficiency gap	–0.157	–0.003	–0.042	–0.042	–0.037
	Declination	–0.336	–0.006	–0.069	–0.069	–0.070
	Lopsided wins	–0.200	–0.022	–0.053	–0.054	–0.054

Another way to measure partisan impact is to check whether a map equitably treats Democratic and Republican incumbent officeholders. Sometimes, when a new map replaces a fair map, an imbalance in the

partisan composition of the "paired" incumbents (who can seek reelection only by competing against a fellow sitting legislator) suggests a lack of neutrality in the new map. But here the 2022 Map is severely skewed—Republican incumbents outnumber Democratic incumbents about two to one. So it is not surprising that more Republican incumbents must be paired in any neutral, symmetric remedial map. Even though all four proposed remedial maps unwind some of this pro-Republican incumbent skew from the 2022 Map, all leave more Republican incumbents than Democratic incumbents *unpaired*. The Wright Map, however, does the best job of counteracting this remnant of extreme partisanship from the prior map, thus minimizing partisan impact.

Table 10. Non-Pairing of Incumbents—Assembly and Senate.

	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	25 D, 37 R	30 D, 39 R	28 D, 33 R	30 D, 36 R
Senate	8 D, 14 R	8 D, 12 R	7 D, 11 R	7 D, 9 R
Legislature (Assembly Plus Senate)	+18 R	+13 R	+9 R	+8 R

2. Electoral Responsiveness

The Wright Map is responsive to the will of the electorate and sensitive to shifts in voter preferences. *See* Wright Br. 48–49; DeFord Rpt. 43–44. Dr. DeFord identified as "competitive" the districts where neither party's candidate is likely to win by six or more percentage points, meaning both candidates will capture between 47% and 53% of the predicted vote under his model. DeFord Rpt. 44. All four maps contain more of these districts—in both chambers—than the 2022 Map. Again, the Wright Map excels, with 20 competitive districts, more than any other map.

Table 11. Competitive Districts Based on Dr. DeFord's Model—Assembly and Senate.

	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Assembly	12	11	7	15
Senate	4	6	4	5
Legislature	16	17	11	20

Figure 11 depicts the dramatic improvement over the 2022 Map in competitiveness in both houses (higher bars are better). It also shows that the benefits of competition will soon accrue to more Wisconsinites who will live in a competitive assembly district, a competitive senate district, or both.

Figure 11. Competitive Districts Based on Dr. DeFord's Model—Assembly and Senate.

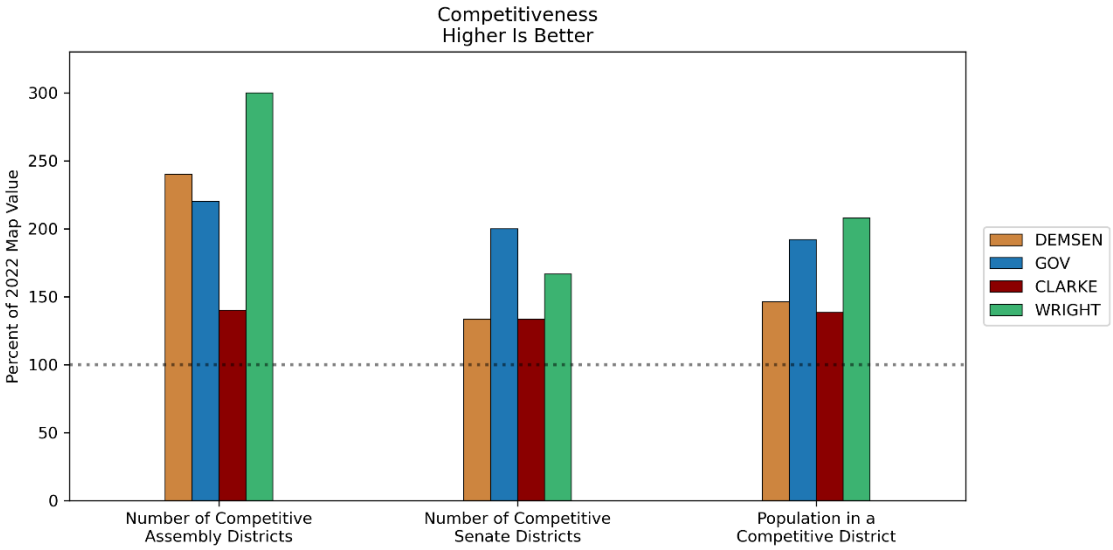
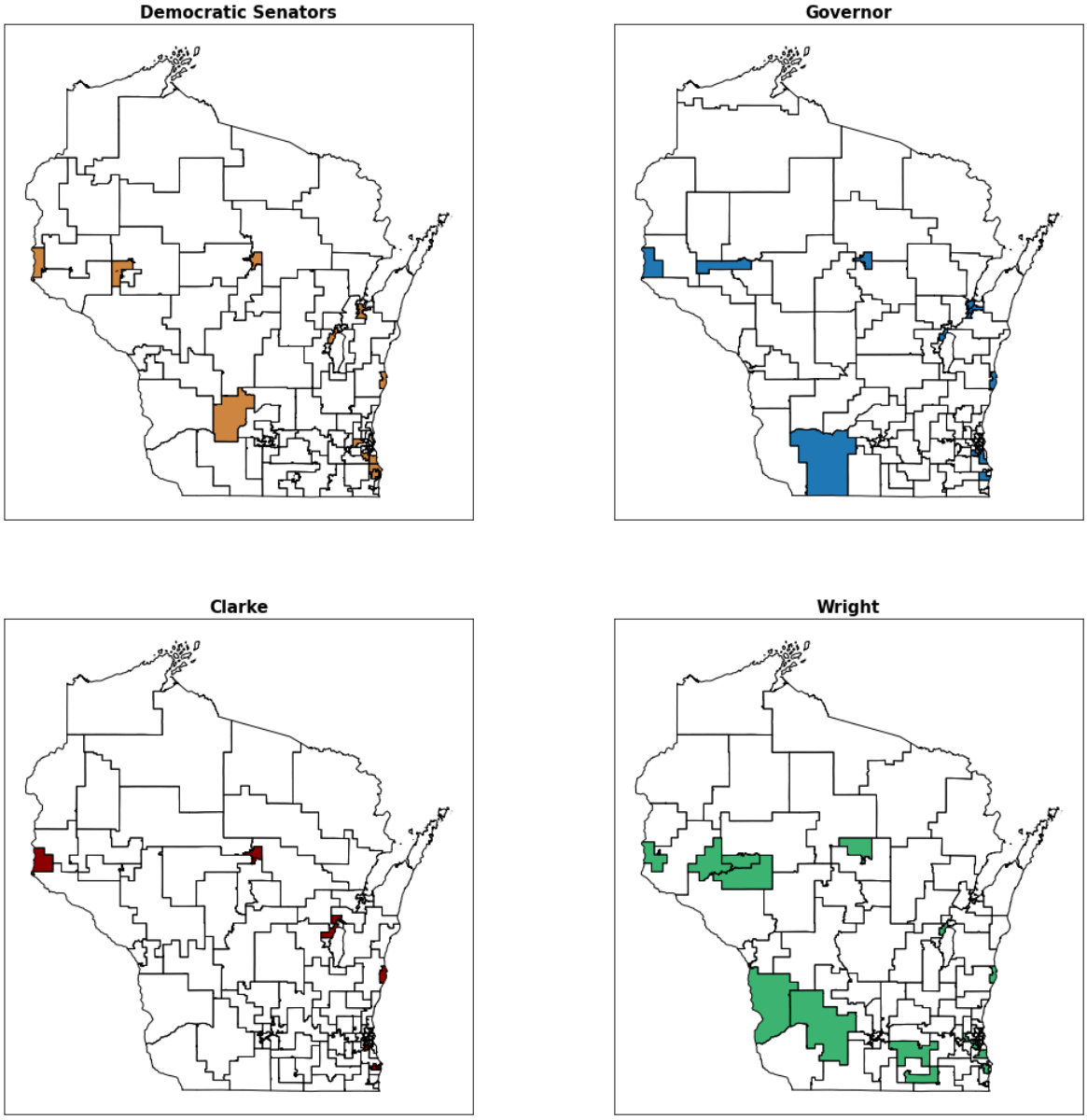


Figure 12 shows where the maps' competitive assembly districts are located.

Figure 12. Maps of Competitive Districts Based on Dr. DeFord's Model—Assembly.



In Figures 13 and 14 for the Assembly and Senate, respectively, Dr. DeFord's model results—which show the Wright Map's increased competitiveness—are confirmed by examining district-level vote totals in every actual observed statewide general election since 2018 (again, higher bars are better).

Figure 13. Competitive Districts Based on Statewide-Election Returns—Assembly.

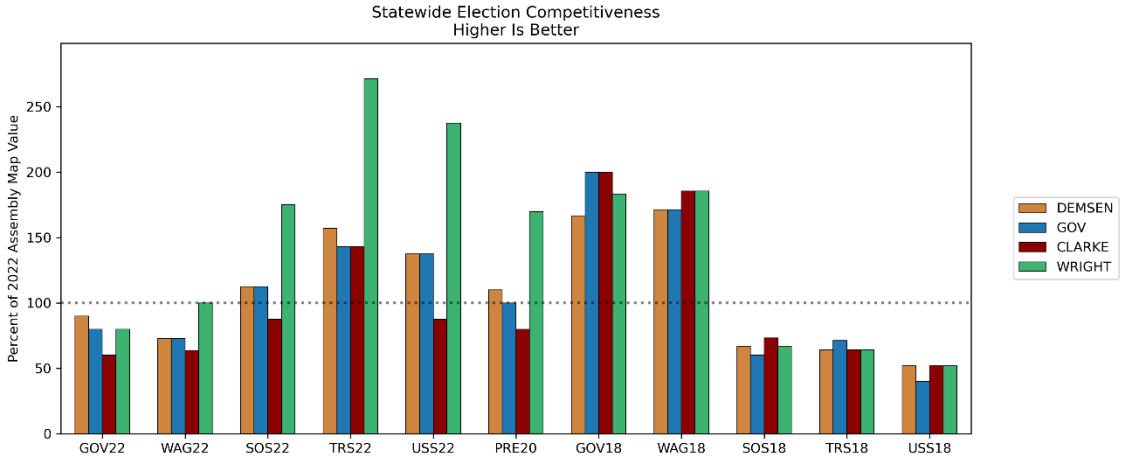
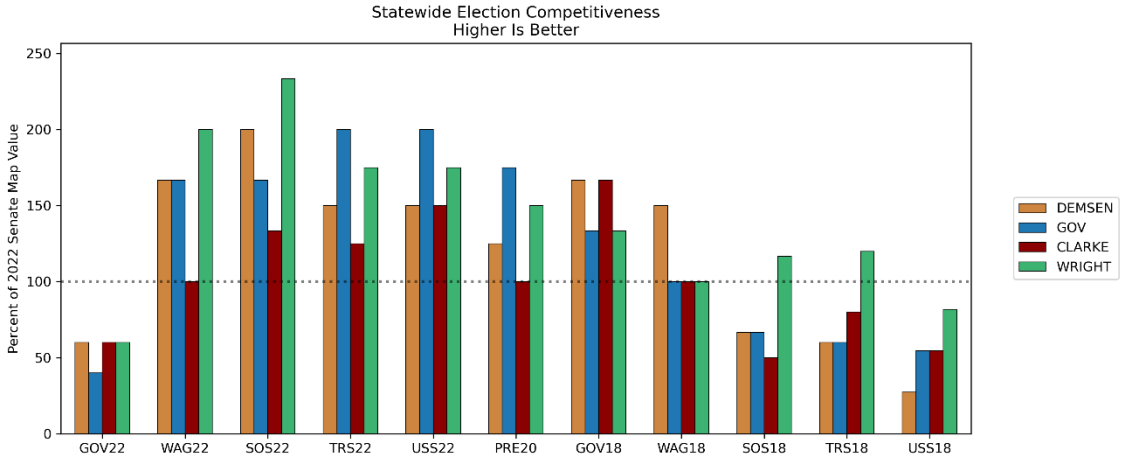


Figure 14. Competitive Districts Based on Statewide-Election Returns—Senate.



Even different models lead to the same conclusion, as Figures 15 and 16 demonstrate.

Figure 15. Competitive Districts Based on Dave's Redistricting App and Dr. Warshaw's Approach—Assembly.

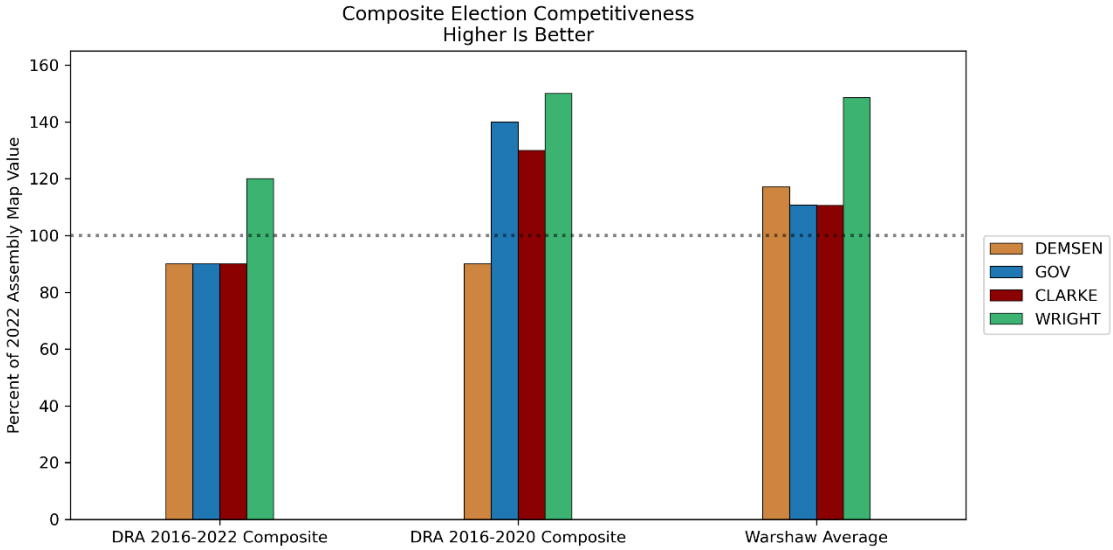
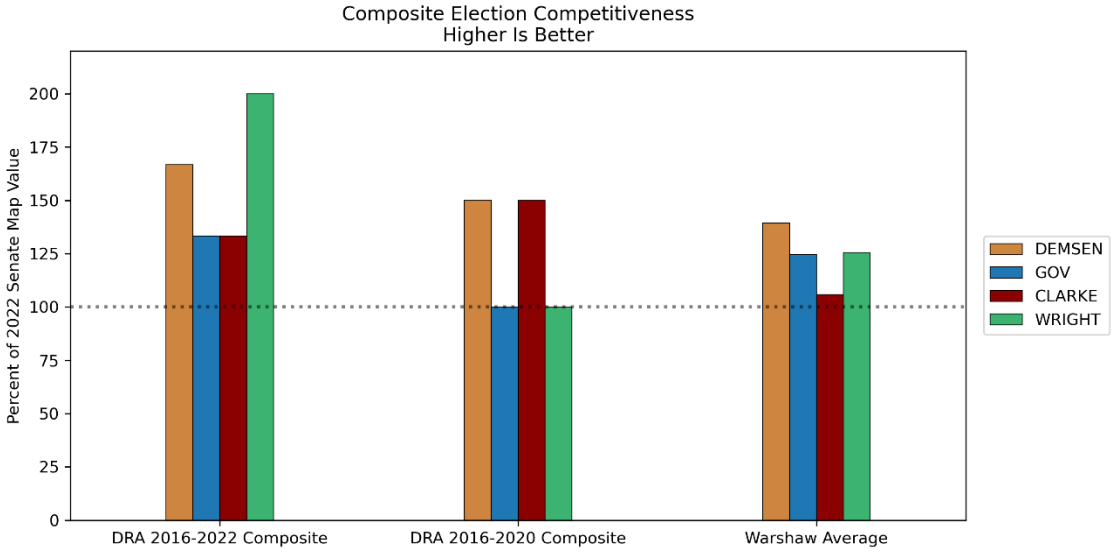


Figure 16. Competitive Districts Based on Dave's Redistricting App and Dr. Warshaw's Approach—Senate.



3. Majority Rule in the Very Next Election

Finally, the Wright Map is unique in that it is the only proposed remedial map with any prospect of a majoritarian outcome in the Senate

immediately following this year's general election. *See* Wright Br. 49–50; DeFord Rpt. 40–41.

Majority rule—a political party's ability to win a majority of seats if it earns a majority of votes—is a fundamental indicator of a map's partisan neutrality. DeFord Rpt. 27–31. The plots on the left side of Figure 10 show that all four maps attain at least rough majority rule in the Assembly: When Republicans win over half the votes, they get over half the seats (look to the part of each curve in the lower-left quadrant). The same holds true for Democratic-favoring elections (look to the part of each curve in the upper-right quadrant).

The plots on the right side of Figure 10 show that all four maps also have this property in the Senate. These plots show what happens across all districts at the same time. Note, however, that in 2024 only the *even-numbered* senate districts will hold elections. To see how representative the 2025–2026 Legislature will be, then, one must incorporate the current Senators from the odd-numbered senate districts—12 Republicans and 5 Democrats—as they will remain in office until January 2027. Evaluating the composition of the 2025–2026 Senate requires adding in outcomes from the remaining 16 (even-numbered) districts.

Table 12 shows the breakdown of the 2025–2026 Senate after overlaying the 11 most recent statewide general elections in only the even-numbered senate districts. All four maps would have no problem translating *Republican* statewide vote majorities into Senate majorities in 2024. But only the Wright Map offers the same opportunity to Democrats. The other maps would consistently result in a 2025–2026 Senate with 18 to 21 Republicans and only 12 to 15 Democrats.

By contrast, under the Wright Map, there are two instances—Governor Evers's 2022 victory and President Biden's 2020 victory—in which the statewide vote pattern would earn Democrats an immediate 17-seat majority in the Senate, and there are five other instances in which the pivotal 17th seat was between 48.9% and 49.5% Democratic.

Table 12. Composition of the 2025–2026 Senate Based on Statewide-Election Returns.

Election		Winner	Dem. statewide vote	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
2022	Gov.	D	51.7 %	14	15	15	17
	AG	D	50.7 %	14	14	14	16
	SoS	D	50.2 %	13	14	14	16
	Treas.	R	49.2 %	12	14	14	15
	U.S. Sen.	R	49.5 %	13	14	14	16
2020	Pres.	D	50.3 %	13	15	15	17
2018	Gov.	D	50.6 %	12	14	13	13
	AG	D	50.3%	12	14	13	15
	SoS	D	52.8 %	13	15	14	16
	Treas.	D	52.1%	13	14	14	16
	U.S. Sen.	D	55.4 %	13	15	15	16

Another way to show this point is to analyze the share of the statewide vote that Democrats would need to win in order to earn a majority of seats in the next Senate. Using Dr. DeFord's model, Table 13 shows that the necessary Democratic vote under three of the four maps would be so high as to be unprecedented, at least in recent years. Only the Wright Map

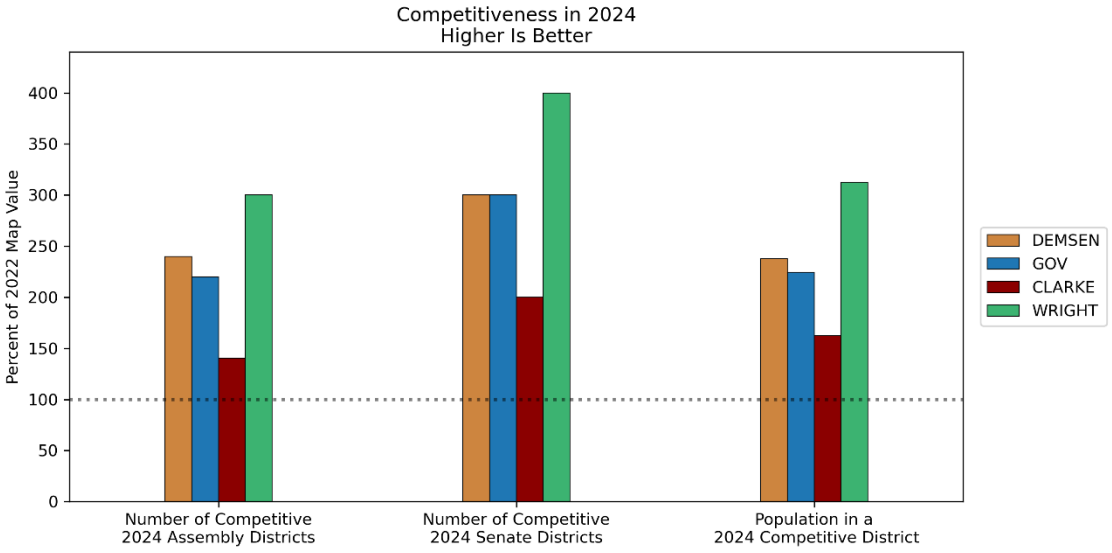
translates a realistic—narrow—Democratic popular majority into majority rule in the next Senate.

Table 13. Minimum Percentage of the Statewide Vote Needed for Democratic Control of the Senate in 2024, Based on Dr. DeFord's Model.

	Dem. Sens. Map	Gov. Map	Clarke Map	Wright Map
Minimum Democratic Vote Needed to Win the Senate	64.7 %	59.0 %	59.2 %	50.4 %

Figure 17 explains why Democratic control of the Senate—if and only if Democrats have a strong election this November—is within reach under the Wright Map but not the other maps. Simply put, the Wright Map would generate a larger number of truly competitive elections in November for both chambers. Figure 17 is identical to Figure 11 (at page 33) except that it focuses solely on elections in assembly districts and in *even-numbered* senate districts—the legislative districts that will be on the ballot this year.

Figure 17. Competitive Districts in the November 2024 Election.



In short, though all four proposals are massive improvements on the 2022 Map, only the Wright Map promises majority rule in Wisconsin this year.

* * *

The Wright Map is the best option for a lawful, race-neutral, party-neutral remedy that would require no technical corrections or changes from the Court's consultants and would bring majority rule and democratic accountability to both legislative chambers without delay.

CONCLUSION

The Court should adopt the Wright Map for Wisconsin.

Dated: January 22, 2024

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CERTIFICATE OF COMPLIANCE

I hereby certify that this Brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this Brief is 5,497 words.

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