



# Montana Districting and Apportionment Commission

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## MINUTES

Senate Pairings Meeting and Executive Session  
Room 303, State Capitol (Old Supreme Court Chambers)  
November 19, 2002

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Janine Pease Pretty On Top, Presiding Officer  
Sheila Rice, Vice Presiding Officer  
Joe Lamson  
Jack D. Rehberg  
Dean Jellison

### STAFF PRESENT

Susan Byorth Fox, Research Analyst  
John MacMaster, Attorney  
Lois O'Connor, Secretary

### VISITORS

Visitors' list (ATTACHMENT #1)  
Agenda (ATTACHMENT #2)

### COMMITTEE ACTION

Approved the September 16, 2002, minutes from the Executive Session on the Western Region as amended  
Approved 10:00 a.m. as the starting time for the December 6, 2002, meeting  
Tentatively adopted Option A as amended for Senate-pairing districts

### CALL TO ORDER

The meeting was called to order by Commissioner Pretty On Top, Presiding Officer, at 7:00 p.m. Attendance was noted; all Commissioners were present. (ATTACHMENT #3)

Commissioner Lamson **moved** to amend the minutes from the September 16, 2002, Executive Session on the West Region as follows.

Page 9 -- last paragraph and Page 11 -- fourth paragraph -- "Commissioner Rice's motion passed on a 3 to 2 0 vote with Commissioners Rice, . . . . . voting yes and Commissioners Rehberg and Jellison abstaining.

**PLEASE NOTE:** These changes have been made to the original minutes that are on file in the offices of the Legislative Services Division.

Commissioner Lamson **moved** approval of the minutes from the September 16, 2002, meeting as amended. Motion passed unanimously.

Following a brief discussion, the Commission approved 10:00 a.m. as the starting time for the December 6, 2002, meeting.

**SENATE PAIRINGS DISCUSSION**

**Susan Fox, Research Analyst, Legislative Services Division:** The Commission was appointed in 1999. Four members were appointed by the House and Senate majority and minority leaders. They are given the opportunity to select a chairman, but were unable to do so. The Montana Constitution provides the authority to the Supreme Court to appoint the Chairman. It did so, and we started our Commission work.

Once we received the Census data, it gave us the "magic" number to determine the population of 9,022 persons in a house district. Because of the litigation that is still pending from the 1990 round of redistricting, the Commission started its work in the northcentral area of the state. We drew a line from Glacier and Cascade Counties where the Commission officially began its work.

We held 14 public hearings around the state starting in the central portion and moved to eastern Montana where there is a loss of population, and came back around to western Montana where there is a significant gain in population. The whole point behind redistricting is to satisfy the equal population requirement or the "one person one vote" principle which becomes critical when choosing senate districts. There are many house districts that lost population in the state, particularly in the High Line east through Montana north of the Missouri River and southeastern Montana, south of the Missouri River.

The Commission completed its work and it has the adopted house districts in a plan. Region by region, we sent out maps and two Commissioner submitted master plans, as well. There is between 3 and 5 sets of plans for each region around the state. As I stated earlier, we held 14 public hearings in different places around the state and invited public testimony.

Senate districts are required to be composed of two contiguous house districts. It is just a matter of pairing the 100 house districts, and there are three options available to do so. Options A was proposed by Commissioners Sheila Rice and Joe Lamson. Options B and C were prepared by staff. Among the documents that you have includes a staff analysis of the Options.

You will note that there is an interaction between the two. So, in the table that you see in the back, you will be able to compare those districts in all of the other plans.

There are approximately 12 senate districts that are the same in all three Options, and some are based on other plans. We maintain the current Indian-majority senate districts (12, 13, and 14) in all of the Options and in the Big Horn County area. All three plans comply with the Commission's Resolution No. 1 (**EXHIBIT #1**) which it adopted at the beginning of its work. Proposed senate district 1 is the same in all three plans. A population of 18,034 people is an ideal population for senate districts. This becomes important to comply with the Voting Rights Act. It does not require that the Commission adopt the districts but is certainly in the spirit of the Voting Rights Act to create Indian majority/minority districts.

The Commission adopted legislative redistricting criteria to comply with Montana's Constitution. It maintains the population requirement and uses the plus or minus 5% overall deviation. Four communities, Billings, Bozeman, Great Falls, and Missoula, are inset in the maps. In those highly populated counties, it may be easier to swap those (Senate) pairings; but I warn you that if you propose an amendment, that we ask you to close the loop because any other house district that remains on either side will have to be paired with somebody else. The secondary part of this is the assignment of holdover Senators.

All 25 of the Senators that were elected at this last election need to be assigned to a senate district. They will serve two years under the existing districts. But in two years, you will be held over into the new plan which is why you need to be assigned a new district. With the loss of two house districts along the High Line and one more in southeastern Montana and with the requirement that a senate district be comprised of two house districts, it could cause some flipping of those senate districts. You will find that some of the holdover Senators are assigned to a districts that they may or may not live in.

If a senate district is solely within the county, the assigned Senator has to live in the county but does not have to live in the district to run in it. If a district crosses county lines, the Senator must live in the district to run in it. So, there is the possibility that in two years that there are some Senators that will find themselves without an election to run in or a without a district to run in. One of the reasons is that Senators are elected to 4-year terms. In addition, in 1983, there was an Attorney General's opinion that stated that redistricting cannot be used to shorten a legislator's term. So, you get to serve out the four years, but you just need to spend the last one-half of your term representing a district that may not reflect the district that you ran in. (**EXHIBIT #2**)

**John MacMaster, Staff Attorney, Legislative Services Division** provided an overview of the mandatory and discretionary criteria adopted by the Commission for legislative redistricting. (**EXHIBIT #3**)

### **PUBLIC COMMENT**

**Senator John Bohlinger, Senate District #7, Billings:** I have the privilege and responsibility of representing the good people of Senate District #7--the north and south side of the older part of Billings. I think that part of the legislative process for the last 10 years when I first ran for the Legislature in 1992 and represented House District #14, which is the north side of old part of

Billings for three terms. In 1998, I ran for the state Senate and was elected to SD #7 which included both House Districts #13 and #14. The geographic boundaries of the present Senate District #7 are bordered by the Rimrocks to the north and the Fairgrounds and the refinery to the east. It goes almost down to the Interstate on the south and into the west side which is essentially 7th Street West.

On November 5, 2002, I was reelected to represent these good people. They placed their trust in me, and I have developed a relationship with these people over the 10 years that I represented them. I am very troubled by the plans that I see being brought forward because if Plan A, (Plan) B, or (Plan) C were to be adopted, I would no longer represent the people who elected me. I feel that this breaks the palm of trust. The electorate cast their votes for me with the full expectation that I would be there for the next four years as their representative in the state Senate. Under the proposed plans, my district would be moved to the west side of town, and they would be without the representation from the person whose trust and confidence they placed their vote in. I feel that this is a horrible oversight, it breaks with the public trust, and it causes the electorate to lose confidence in the voting process if plans like these are adopted. I am here to offer my protest; and I'm here to say that if these plans are adopted as proposed, I feel a sense of personal responsibility to still represent those people who elected me even though, at least on a piece of paper, told to represent the folks on the west side. I just want to express my dissatisfaction with your options here, and I hope that consideration would be given to redrafting this plan.

**Commissioner Pretty On Top:** I am curious to how your district may have changed from the previous way that the lines--do you have any recall on how the 1980 Commission varied from the 1990 Commission? Do you see a difference?

**Senator Bohlinger:** I wasn't a part of the process until 1992 and I have no idea. I didn't follow the electoral process and, I don't know where the district boundaries moved. However, I'm well acquainted with the district in its present form.

**Commissioner Pretty On Top:** I am just curious that you might know from when the decennial census came in, did your district lose a great deal of population?

**Sen. Bohlinger:** My district includes the hospital corridor, the campus of MSU-Billings, and the central business district. As we all know, the hospital corridor, which at one time was a very nice residential neighborhood, has now become a medical complex. All of the folks who once lived there no longer live there.

**Commissioner Pretty On Top:** There has been several changes in demographics then, hasn't there?

**Sen. Bohlinger:** I'm not sure that the demographics have changed. The population may have changed. I think too that on the east side of House District #14, there used be a number of single-family dwelling units that have been abandoned and have become an urban venture.

**Commission Lamson:** I have the utmost respect for Sen. Bohlinger. I have followed his career throughout his service in both the House and Senate, and I have always found him to be a good, strong voice for all people of Yellowstone County, in fact, all of the people of Montana. In assigning particular districts, holdover Senators were an interesting category. There are two category within them--holdovers that are term limited out after this four years and those that have a chance to run again if they so choose. As Commissioners, we have a little more flexibility in understanding that while we may move a Senator over, I have no doubt that any constituent in Sen. Bohlinger's districts that contacted him, or anyone from Billings who contacted him, will get the utmost of courtesy of his service. I was just wondering, of the House Districts that we have

in the urban area, do you have a preference for the alignment of any particular pattern. If you don't tonight, if you could think about that some more and share it with the Commission between now and December 6, 2002, it would also be very good.

**Sen. Bohlinger:** I think that Plan B which combines (proposed) house districts #36 and #37 comes a little closer to the present boundaries of Senate District #7. Mr. Lamson, I was going to comment on your observation that, yes, if somebody from my Senate District were to ask for some help dealing with the legislative bureaucracy or if they have legislative concerns, I would take up their concern and be their advocate. But, I am afraid that, understanding the demographics of this group, a lot of the people who live there have very small voices, and I am afraid that if they saw that, well, he now represents the west side--he doesn't represent us anymore. They may think that they are without representation and who are we to turn to when they know that John (Sen. Bohlinger) would do it but he doesn't represent us anymore? They might feel terribly disenfranchised by this process.

**Commissioner Rehberg:** Sen. Bohlinger, am I to assume that your original objection would be the way the house districts were created in the first place and then taking those, if they are adopted, to make senate districts?

**Sen. Bohlinger:** I understand the need for having approximately 9,000 people in each house district and 18,000 people in a senate district. My objection is that the boundaries as proposed, especially in Option A, strays greatly from the existing boundaries. Option B comes a little closer to the existing boundaries. But, my concern is for the people I represent and what they might perceive to be a loss of representation in our state Senate.

**Commissioner Rehberg:** What would you recommend that we do then, specifically?

**Sen. Bohlinger:** If I were to reconfigure the district, I would keep the existing boundaries but just move them west to reach the 18,000 population goal. It is not possible to go to the east. Exposition Drive is a pretty firm boundary. If you go beyond Exposition Drive, east, you are out in the Heights. If you do that, you lose a sense of compactness of the district, and you lose a sense of neighborhood. You can't go north because of the Rimrocks, and the south is bordered by the Interstate. I think that the only thing that could be done in order to satisfy the population requirement would be to move the boundaries west. That would be my recommendation and my preference.

**Fred Thomas, Senator, Senate District #31, Stevensville:** We know how the rumor mills operate--my understanding is that Option A is the product that is being proposed by the Democratic Central Committee and that is the one that is most likely to be adopted by your hearing. When I look at Option A, I see a gigantic muskrat right there in the middle of the state. When you turn it over and look, you see a squirrel on the other end of the state. Then I look and think: "My gosh, can you make these districts any longer?, especially from Great Falls almost to Sidney. I know that most all of the plans came out of the Democrat Central Committee that you have adopted so far.

Mr. (Commissioner) Rehberg asked earlier: "What would you do to fix these things?" I would start over if I were you, and I would go back and be fair to Montanans, particularly rural Montanans, so that districts are more even in population instead of making the urban districts small and the rural districts large. In a lot of the urban centers, the districts are. . .inner cities aren't going to grow but the rural areas will--and you are disenfranchising those people by starting out larger and then letting it grow, and grow, and grow beyond. It's just not fair. I realize

that it's partisan and part of partisan politics, but it is not fair to Montanans. That is what you are appointed to do--to be fair to Montanans.

I don't think these plans that you are offering all of the way to this point offer any fairness unless you just be real Democrat. It is irrelevant what process we go through or what means we go through to begin to justify it. That is not Montana values, and I don't think that it should be yours. So, I look at this and I see the muskrat, the long districts, the disenfranchisement of the voters, and displacement of the Senators from here to there, like Sen. Bohlinger has pointed out to you. I am really saddened by what is being brought forward to be Montana's districts at this point in time as legislative districts. This should be a fair plan that treats all Montanans fairly. If this is the sort of thing that I think that we end up with, which I guess sometimes it seems like the die is cast; but regardless of that, I think you make it very incumbent upon us to challenge this somehow. Maybe even the state of Montana has to challenge this. This is to be fair for each are every Montanan and not to be just some sort of a partisan plan or partisan politics. So, I reject your work, and I hope you go back and start over. We can give you guidelines out of this session to do a good job and a fair job. We would be happy to sit down and work with you on that. I don't think what you are offering tonight meets that criteria.

**Commissioner Pretty On Top:** Are you familiar with the "one person, one vote" principle?

**Sen. Thomas:** Yes, I believe that was written by the Warren Court.

**Commissioner Pretty On Top:** Are you familiar with how many Indian people are in the state of Montana?

**Sen. Thomas:** I believe it is about 6% of the state's population is Native American.

**Commissioner Pretty On Top:** It verging towards 8% after the last census. In that regard, I'm wondering which one (district) you are calling "muskrat" because I see several that are shaped sort of in this animal image that you are giving? I'm looking at (proposed district) #13 and #15. Could you be specific about these districts that you are talking about?

**Sen. Thomas:** No, I don't think that is necessary. I didn't come here to answer your questions tonight. I came here to tell you what I had to tell you.

**Commissioner Pretty On Top:** It is difficult for me to understand what you are talking about if you don't give me a number in the plan.

**Sen. Thomas:** I think it is very obvious. "Muskrat" is (proposed district) #9. But, you know, I am not familiar with all of those intricate things, like the Warren Court's ruling--the "one man, one vote". So, I might not be familiar with animal-look-a-likes here.

**Commissioner Pretty On Top:** It seems to me that you are pointing. . . .

**Sen. Thomas:** Thank you very much.

**Commissioner Pretty On Top:** at districts with a majority of Indian voters.

**Sen. Thomas:** Thank you very much for your time.

**Commissioner Pretty On Top:** Your welcome, Sen. Thomas, but there could be other questions.

**Commissioner Lamson:** I have a question.

**Commissioner Pretty On Top:** Sen. Thomas, are you wishing not to answer my questions like you would like to answer Commissioner Lamson's?

**Sen. Thomas:** I didn't realize that this was your opportunity to question us. I thought we were here for a public hearing.

**Commissioner Lamson:** No, it is just like a legislative hearing.

**Commissioner Pretty On Top:** I have been in this room many times, and I have been more than interrogated as a witness in many different kinds of testimony for legislation in which I am sure that you may have been there. So, when the shoe is on the other foot, it is a little uncomfortable isn't it?

**Sen. Thomas:** Are you trying to lecture me? Is that what you are doing?

**Commissioner Pretty On Top:** No, I am just recalling my experiences here. Are you interested in answering questions from me as the Presiding Officer?

**Sen. Thomas:** You bet.

**Commissioner Pretty On Top:** I would like to ask you if you are aware that the districts that you are calling by animal images are Indian majority districts? Are you aware of that?

**Sen. Thomas:** No, there is nothing there, sorry. I just look at the map and see what I see. I can't tell you who is living in these districts.

**Commissioner Pretty On Top:** But, you are critical of them even so.

**Sen. Thomas:** I remember back when I was a kid, in court rulings when you read the history of reapportionment, that they had all of these. They had the "down South". They would have the "dragons" or whatever they were called--big old things, swooping around like a tail of a dragon. These remind of those because of the analogy they used to draw to draw Congressional districts. It was in the (19)70's or could have been the 80's, and they referred to them as dragons--the gerrymandered dragons. These just remind me of those, I guess is what I was getting at. In this case, it just looked like an animal.

**Commissioner Lamson:** I was also concerned about the "muskrat" analogy. I imagine what you are referring to is the tail of the "muskrat" which is a house district which are you aware is very similar in configuration to the district that was drawn by the 1990 Commission? The district looks very similar to that.

**Sen. Thomas:** I'm just saying to you that it looks like a muskrat.

**Commissioner Lamson:** I'm saying that there is a reason for the configuration of the district, and it has to do with the testimony that we took and criteria that we adopted. I was just wondering if you were aware of who lived in that particular district and how that district was not unusual in its configuration from the district that was drawn by our Republican colleagues the last time around?

**Sen. Thomas:** Sorry, but I'm not agreeing that the Republicans drew the plan last time. I have read that in the paper time and time again. It was a bunch of malarkey the first time, and it still is tonight.

**Commissioner Lamson:** The district is very similar in configuration. The second question is that I am interested in hearing from people from there particular areas. You are from Ravalli County, Sen. Thomas, do you have any objections to the way the districts were drawn in Ravalli County or the way they were paired in your area that would effect you directly?

**Sen. Thomas:** When I looked close to home to my districts, it seems to me that the district--given what you have done with my assignment--it's probably okay because I will be here another one-half a term. But when I looked at Missoula, and I took a quick look at the house districts in the Senate assignments, it looks like you carved the different communities up in the different areas so that you separated neighborhoods trying to draw them into the urban districts in town. No, I think that from what I've seen here, I think is completely drawn for political purposes.

**Commissioner Lamson:** Ravalli County is drawn for . . . I mean we got bipartisan support from Ravalli County.

**Sen. Thomas:** I'm talking about Missoula where one-half of my district is. I am familiar with that, so, I'm looking at that as part of the my district.

**Commissioner Lamson:** Are you also aware that most of the testimony that we received from all of the regions has supported the house districts that are put into these configuration that are the basis of the senate districts?

**Sen. Thomas:** I can't comment on all of the public hearings that you had around the state.

**Bruce Simon, Private Citizen, Billings:** Madame Chairman, you asked about Sen. Bohlinger's district and what it looked like in the 1980 situation. I can tell you that that district basically moved a little to the west. I used to represent House District #91 which became House District #18 with the census of 10 years ago. I lost one block on the East side of my district, most of which went into Sen. Bohlinger's area, and my district grew two blocks to the west. So basically, there was a slight shift to the right. If you want to look at what Sen. Bohlinger's district seems to be existing on proposed (Option) A, I think you would have to look to (proposed) house districts #36 and #37. That most closely approximates what Sen. Bohlinger's district looks like today and what it looked like before the previous reapportionment.

I'm hear to object to the violence that is being done to the citizens of the state of Montana. When I see it in my own community, it makes me sad. It makes me sad because what I see are communities sliced up like strips of bacon, and there is no community of interest. I happen to live in a neighborhood that is part of the Central/Terry Neighborhood Taskforce. My old house district is now sliced into four separate pieces. Actually, if you look at this map, if there is a Central/Terry Taskforce meeting, at least four House members and, perhaps, as many as three Senators who would go to that Taskforce meeting because portions of that neighborhood are represented by all of these different people. I don't think that is fair to the community. I don't thing its fair that the community which you've taken on the South Side and put it into multiple pieces. The South Side used to have at least one and often times two Representatives who represented the South Side. Now, it is split up into little-bitty pieces, and it is connected into areas that go clear past Rimrock Mall. I think that is terribly objectionable.

This commission is put together every 10 years for the purpose of meeting the "one man, one vote" criteria. That means that the citizens' vote should have a voice. The proposed districts under Option A, and I will only address Option A because I know that is listed as (Commissioners) Rice/Lamson so I assume that is the Option that would be the most preferred by the majority on this Commission. It takes Sen. Bohlinger and places him in west Billings, and there is not one soul in that district who has ever cast a vote for Sen. Bohlinger. He has worked tirelessly within his district to represent the constituents whom he has represented. He has gone door-to-door tirelessly, year after year, to represent those people, to meet those people, and hear their concerns. Suddenly, that is all wiped out by a vote of only three people on this Commission, and I don't think that is right because the person who represents them is being squashed. It is undo violence to the whole system.

Senator-elect (Brent) Cromley was elected in Senate District #9. The bulk of SD #9 would still be intact if you looked at proposed senate district #20 in Option A. All of the areas south of Central Avenue and a good portion of the South Side is all part of the same district that he was elected in. A portion of Central Heights, he was elected in a portion of that. Really, the only portion is the portion of what used to be House District #18, north of Central Avenue. So the majority of the people who elected him are still intact inside of proposed senate district #20. And



yet, proposed Option A is to move him up along the Rimrocks in proposed senate district #18. A bare few, a bare few people in that area would have the option to cast a vote for Senator-elect Cromley. Those people are being disenfranchised. First of all, the people who elected Senator(-elect) Cromley--their vote doesn't count--you are going to send him some place else and it doesn't make any difference. I think that is horribly wrong.

I can't address a lot of the other issues that are out here, but some of this doesn't make sense. You are going to have a (proposed) senate district, I believe it is (proposed senate district) #16 that would include a portion of the Yellowstone Country Club, which is a very fast-growing area, by the way. Many new houses are being built out there, many new subdivisions are being built out there, and they just incorporated a great portion of that area into the city of Billings, will be included in a district that includes a portion of surrounding Billings Heights and then makes its way all the way to Miles City. How could a Senator from the urban area of Yellowstone County in Billings possibly represent the people of Miles City?

I think that this Commission has made some terrible errors. It has embarked on a course that is unfair to the people of Montana. You have a duty to try to be fair to the people of Montana. I don't care about us. I don't care about you. I care about the people of this state, and this is wrong. It is disenfranchising people, it's moving people around arbitrarily for no reason other than political gain. It destroys the confidence that this state should have with this process, and the people are going to be worse off for it. I beg you to start over again with a new attitude and put together districts that are respective to the State of Montana.

**Betty Lou Kasten, Private Citizen, Brockway:** I have testified at every meeting in eastern Montana, and I am here tonight to testify once more because the people of eastern Montana did not support, and I say that clearly and loudly, did not support Plan 300 which, in essence, this (Option A) is. They had reasons to support many of the other maps that were presented to them.

I particularly want to talk about the district that I once represented; and if my husband (Representative Dave Kasten) chooses to run again, might represent. That is proposed house district #20. You have chosen to take a town like Brockway, MT, that has all of 20 or 30 people, and divide it. Divide 20 or 30 people--putting them in totally different districts? You have taken the town of Circle and divided it--300 people. You could have easily kept McCone County together by using the 5% less than the given (deviation) amount. It could easily be done. Now, that district--one half of Brockway, one half of Circle--will go all the way to Lewistown. Lewistown? Where is the community of interest? How does a person represent those people? They are disenfranchised. You have been hearing that word all night. I heard Commissioner Lamson say, "Oh, but these areas represent what we were told at the hearings?" You were not in Miles City, Commissioner Lamson. You were, Madam Chairman. Can you honestly repeat that and say that in Miles City that (Plan) 300 was in any way the top choice?

I remember three people testify in a room that must have held 50 to 70 people, and that is not the only meeting that was held in eastern Montana. Please, please, don't make all of central Montana--who is going to run for that senate district? Who can cover that distance? Who can do the people of that area a good job? One of the Representatives in Miles City said "Oh, its wonderful. You walk down the streets, you can talk to your constituents, and it's just wonderful. Miles City is great. You have done a good job in Miles City." Well, there are no streets to walk down in what will be (proposed) senate district #11. In fact, somebody better have a way of

covering 15,000 to 20,000 miles because before, I put 7,000 miles on just covering the district that it used to be. Please reconsider.

**Keith Bales, Representative, House District #1 and Senator-elect, Otter:** I am currently representing House District #1 which takes in Powder River, Carter, Fallon, and Wibaux Counties. I have just been elected to represent Senate District #1 which takes in those four counties plus part of Yellowstone County.

I rise this evening to express my extreme concern over what you are doing with the senate pairings and assignment of my position. In redistricting, I will currently reside in proposed house district #29 because I live in the southwestern corner of Powder River County. As you can see, I reside in the very corner of my House District and my Senate District. Under the new redistricting, I will reside in House District #29. However, you have placed me as holdover Senator in Option A in (proposed) senate district #13, in a district that I don't reside. I reside in (proposed) senate district #14.

This poses a very interesting dilemma. Because I am a holdover Senator, you had the option to place me someplace. But, it was my opinion or my thought that the main reason for your ability to place a person in any district was to avoid the possibility of having two people who were holdovers in the same district and taking them out of office as I think was mentioned before. So, you have the ability to place them in some other district. But to just arbitrarily place me in a district that I do not reside in, will do two things: it will take the Senator out that is living in that district and it will allow me, in essence, to vote for a Senator to represent me in Helena while I am still a Senator. Yet, there is not a holdover Senator in (proposed senate) district #14 that I know of. That begs the question: "What is the outcome of that?" I don't know.

I think that there are a couple of solutions that can be brought here. The first would be to put me as a holdover Senator of (proposed senate) district #14. The second option, and I prefer that, would be to change house districts. If you will look at (proposed) house district #25 down at the very southwestern corner of Powder River County, there is a district down there that I live in that has 34 people in it. By changing that district, it is Precinct #7, and putting it into (proposed) house district #25, then I would live in the district that I have currently been serving, and for the most part, elected. The new senate district, depending upon which one if you did that, I would be representing Carter, Fallon Counties, a large portion Powder River County, and part of Dawson County. If you went with Option B or C, I would be representing Dawson and Wibaux Counties which I also represent.

I think that would be a very viable solution, and I would ask that you consider that in your final judgment. I think that without doing something different, you will be leaving yourselves open for a very serious challenge because of the situation of having no holdover Senator in (proposed) senate district #14 and, yet, I was placed in another district. I would appreciate that because those are the people who elected me. The people of southeastern Montana are the people who elected me and those are the people whom I would like to serve. My preference would be to make a small adjustment to that house district.

**Commissioner Pretty On Top:** Ms. (Susan) Fox, in so far as his recommendation, would you briefly go over that?

**Ms. Fox:** As to which of the two district he (Rep. Bales) is placed, it would be Senator (Gerald) Pease's district (proposed senate district #14). He (Sen. Pease) was not up for reelection.

**Commissioner Pretty On Top:** It is #13 on Option C and #12 on Option B. But you are elected as a Senator in possibly (proposed) senate district #13, #12, or #11, is that right?

**Rep. Bales:** That is right. My Senate District that I was just elected in takes in Powder River, Carter, Fallon, and Big Horn Counties and the southern part of Dawson County.

**Commissioner Pretty On Top:** So, if the boundary goes over just two miles and adds 25 people, you would be in that district. Is that what you are suggesting?

**Rep. Bales:** There are 34 in there, I believe, and yes, I would then be in that district.

**Linda Nelson, Senator, Senate District #49, Medicine Lake:** I would just like to address that portion of my own district in the northeast corner of the state in what would be now (proposed) senate district #10. I am a term-limited Senator, so whatever you do, I will not be the one serving next time. I am looking at the plan in Option C. I am going to speak briefly in favor of that. It is a very compact and contiguous district. It has like interests in the area. It is an agricultural area, and it combines Indian and nonIndian house districts. And, whoever wins, I feel comfortable that it could be either a nonIndian or an Indian who could take that. I think the biggest reason is that it is very similar to what it is up there now. Race cannot really be the predominant factor to which is the decided feature. I have represented the Native Americans there, and I worked very, very hard to get to know them and their ways, and they worked hard to get to know me. It is been a very satisfying relationship. I represented them well, and I think they would tell you that. I also think that they want to be inclusive and work together representing the state of Montana--that we don't want to divide them off into their own districts. Therefore, this is the plan that I like, and I hope you look seriously at that and consider that we are all Montanans.

**Don Hedges, Representative, House District #97, Antelope:** Senator Nelson is my Senator. If we were to take Option A or Option B, we are, in fact, disenfranchising many of the Native Americans that live and work on the Fort Peck Reservation. The Fort Peck Reservation extends well into Sheridan County and, in fact, it adjoins my property. We have up in our corner, as Sen. Nelson so capably testified, not a bit of concern whether you are red or yellow or black or white. But, in terms of how we were going to build a road into the main terminal of the Burlington Northern, which roads are we going to establish, and school bus routes in Roosevelt, Daniels, and Sheridan Counties, these are day-to-day problems that we work on up there. We don't really care whether you are Democrat or Republican or whether you are a business owner in downtown or a rancher. We are interested in building our community. In fact, our business incubator or business development is in Wolf Point, and that is for Scobey, Plentywood, Richland County, and that area.

If we go to Option A in the senate district, I can see this community redissolving and, over time, realigning in a different direction that would not be beneficial to northeastern Montana. I would strongly prefer that you go with Option C for the simple reason to hold our communities together. That is what we do on a day-to-day basis. Certainly, every two or four years we put on our Republican hat or Democrat hat. But, the rank-and-file people up there really don't care if you are a Republican or Democrat because they know that you are a conservative and that you are interested in northeastern Montana. I would certainly urge the Commission to go with Option C, if you have to pick one of the option, for the simple reason that it holds our community together. That is best for us.

**Sherm Anderson, Senator-Elect, Senate District #28, Deer Lodge:** I am here this evening to voice my opposition specifically to Option A. If you look at what you propose to do with me-- being just elected from my constituents in Powell and Lewis and Clark Counties, you will find that I am now become not only the Senator from western Montana but central Montana and also eastern Montana. I would be assigned to (proposed) senate district #35 which encompasses six different counties and, if you notice the geographics is considerable. But outside of the geographics, it crosses the Continental Divide with whom we have very little in common. In fact, when I first received this in the mail, I look at it and asked my wife: "Where is Ryegate? I haven't been there." I have never been east of White Sulphur Springs in that particular area. I certainly wouldn't feel comfortable that I could even attempt to represent the people of that area.

In voicing opposition to this, I would also like to address the (proposed) house districts and my opposition to your standard that everyone is pleased. When you are dealing with our particular house district, we actually went to a considerable amount of time and effort to develop an amendment to your Plan 300. We actually had over 700 petition signatures in support of that amendment. All I received in the mail was the fact that you had accepted Plan 300 and said that the amendment may be considered at a later date. But, we never received any explanation as to why it wasn't considered or what validity that you thought it may or may not have had versus what we had presented. So, I am definitely here to express my opposition to that decision because I don't feel that we were given consideration in your adoption of Plan 300.

You have carved out the city of Deer Lodge which is the county seat of Powell County and put it in with Anaconda-Deer Lodge County which we have very little in common with and totally isolated us from the remainder of our own county in developing that house district. Now, you are pairing us up with the senate district, and I am afraid that in order to do it justice I guess I will have to move to central Montana.

With that, I guess I won't belabor the issue anymore, but I would like to know if there's a possibility that you could at least give us an explanation as to why our amendment was not considered or, if not it was considered, why it was rejected. I would also like to voice opposition to (Option) A. If I had to choose one of the three, I would go with Option C because I live in Deer Lodge. At least, Option C puts me in the area that I live in. So, I would prefer it definitely because of the fact in the house districting, you carved the city out and put in Anaconda-Deer Lodge County. If that be the fact, then I would prefer (Option) C so that I would at least run for office in Anaconda-Deer Lodge County instead of my own county.

**Commissioner Lamson:** You talked about the geographic area of the Continental Divide. In your current district, don't you have to cross the Continental Divide in that district?

**Senator-elect Anderson:** That is true. I cross the Divide and represent the people in the northwest valley of Helena.

**Commissioner Jellison:** I would like to answer the question that you asked me in terms of the explanation of how all of this has occurred. The concept that a reasonable person has when they sit down to figure out how they are going to reapportion would be that you create a Commission that is going to be overseers, create a staff that is going to be equipped with the tools to evaluate and propose districts, and that staff comes in with proposals and the Commission would see whether it was reasonable or make some changes in them. The situation that we have here is that we have a Democrat majority whom each are firmly convinced that the vast majority of

Montanans are Democrats and somehow the reapportionment of 10 years ago concealed that fact with the point that they have not been winning the elections that they were entitled to win. So, they have undertaken reasonably to redo districts in a fashion giving Democrats every possible opportunity to elect people that they haven't had before. I think what happens in your situation is when you are in that kind of a process and you can't see any way that is possible to juggle this so that there is a clear cut advantage, the next best thing is to just stir the pot--to change everything around and see what comes out of it. It seems that might be the explanation of why your district extends into strange places. Other than that, I would say that Ryegate is fine community if you have to move.

**Commissioner Lamson:** Commissioner Jellison is our junior member of our Commission who recently joined us. I was interested in his discussion of what our thinking was in terms of how we put these together. Of course, that is his opinion and it is a one-sided opinion. In your particular area in Deer Lodge and Anaconda, we received testimony from other residents in that area (i.e. the Senator that represents the southern part in the Anaconda area) and also, it has been no great secret that the valley from Deer Lodge to Anaconda has many state facilities and institutions. When those areas and communities of interest come and pair with legislators from both sides of the aisle representing that area in that valley come together to defend those communities of interest. I understood from the testimony that people gave and took it seriously. That is why, as we put together the two house districts and senate district in this area, we could hope to refine some of those aspects that we couldn't achieve in the house districts because of population concerns but that we could achieve in the (proposed) senate district. Hopefully, we will address that larger community of interest in that area. That is why I voted for that particular Option (A).

**Senator-elect Anderson:** When I considered the three options in the house districting, we took into consideration all of the things that you spoke of. I worked extensively, in fact, with your Ms. (Susan) Fox to make sure that we had our populations where they needed to be and could keep our city of Deer Lodge and our county seat of Powell intact with Powell County. There was no reason really for those to be added to Anaconda-Deer Lodge County because the County of Anaconda-Deer Lodge has the exact amount of population needed to become their own district. By doing that, it seemed like a very simple solution. That is why we went to that extent to amend your Plan 300 which kept everything intact with the outside boundaries, and yet, like I said, we didn't receive anything as to why it wasn't really considered.

**Cory Stapleton, Senator, Senate District #10, Billings:** I find that those of us from Billings understand localities in that town in the same way that someone from New York could say they understand the Bronx or Long Island or Queens (the Heights, the South Side, the West End). I find it amazing that this started last October, 13 months ago. You are soon to make a decision within 10 or 15 days, and I don't see any of my voters and I don't see me on this paper. I find it disrespectful that. . . . How can I comment when you haven't assigned me anything? You are about to take actions on something, and I am not in here.

**Commissioner Pretty On Top:** Are you a holdover Senator?

**Sen. Stapleton:** By your definition, who you are calling holdovers, I call newly elected, but, yes. I was elected two years ago from the West End. By your definitions here, Senator-elect Cromley, you are calling him a holdover and he has not been sworn in yet. But definitions are definitions.

**Commissioner Pretty On Top:** Perhaps at this moment, it would be good to call on Ms. (Susan) Fox to go over that one more time so that we can have common terms.

**Sen. Stapleton:** I understand that and, I will use your terminology. I am not a holdover Senator.

**Commissioner Pretty On Top:** So what you are curious about is how your district is impacted in the future?

**Sen. Stapleton:** No, I have not yet made my point. My point is that the voters, the 20,000 people in the West End who I represent, I find it very difficult that you are going to make a decision. . . . I find it mean-spirited that you would assign Sen. Bohlinger, essentially, to my district. I can't even comment because you haven't assigned me to a district, and I can only assume that it is not going to be mine. Perhaps it's his, if you look at the map that I assume that you are going to adopt-- I could be wrong but that is what everyone says---but essentially you are putting him (Sen. Bohlinger) in (proposed senate district) #21, my district. You are moving Senator-elect Cromley, who is a holdover now, up into Sen. Bohlinger's district. If you just do the simple math, it would be statistically probable that you find a way to put each of us Senators from Billings into a new area. My point is that I think it is disrespectful to Billings proper. You heard former Representative (Bruce) Simon mention that. The South Side Taskforce--very important, just as you, Madame Chair, talked about some important things to you about ethnicity. It is the same type of comradery that the South Side has. I am not with the South Side Taskforce, but I can tell that they are strong. The same is true with the Heights. To put (Representative) Kim Gillan out on the West End would be the equivalent of taking the West End district and putting them in the Heights.

So, I can't even comment because you haven't put me, essentially 20,000 Billings residents' sitting Senator, you haven't put this on here. You are going to make a decision, and what I am saying is that it is not right. You should show me where you think that I am going to be so that I can comment. That being said, my recommendation would be--and I realize that this is a partisan game. I came here with an open mind and have not been to any of these other hearings, but I have heard things. The altercation that I saw with Montana's Senate Majority Leader (Sen. Fred Thomas) confirms some things that I have heard and that is mean-spirited. But, I definitely think it is mean-spirited to joust those Billings Senators around. To put Sen. Bohlinger, who elegantly spoke to how he has represented those folks, and move him west; and Senator-elect Cromley who just got elected a couple of weeks ago up into underneath the Rims. Those people have never voted for him. And then, what will you do with me? You are going to put me somewhere that will not be in with the people who voted for me. I understand, but it doesn't make sense because you've got the districts in each of these plans that you could at least assign us to districts where at least part of the voters would have voted for us before so that we would be representing the people who sent us there--not to mention the fact that many of us live in the districts that we currently serve. My question to you is--if you want to answer. Certainly you don't have to--why with only a dozen, 10 or 15 days and after 13 months, why are you leaving me out? How are you going to go about . . . .

**Commissioner Pretty On Top:** Could you tell us where exactly you reside? I know that you are from Billings. I know you said the West End.

**Sen. Stapleton:** Looking at Option A, I live in (proposed senate) district #21. (Proposed senate district) #21 is very similar to Senate District #10 right now.

**Commissioner Pretty On Top:** Could you just like tell me the street you live on? My parents, my sister, my daughter, and my brother live in Billings.

**Sen. Stapleton:** I actually met some of them from knocking on doors. So, I know that. I live about 12 blocks from (Commissioner) Rehberg. I live pretty close to the #44 on the map. The feeder systems--the other thing you talked about in terms of the goals that you are trying to accomplish, we have high schools in these districts. You have all of the elementary school which feed into the middle schools which feed into West High, you are splitting them up. (Billings) Senior actually stays about the same.

The question is why. Politically, do you gain? To do the right thing doesn't hurt you politically. If you want a political dissertation, unsolicited, you assigned (Senator-elect) Cromley into a place. . . that is not where he belongs. Those are not the people who voted for him. So, he ought to say on the South Side where he just got elected in a tough-fought race. Those of us who are West End are West End people and those in the Heights are Heights people. You can change us all around, but none of us will represent the people who voted for us.

**Commissioner Pretty On Top:** You know, we are all citizens on this Commission?

**Sen. Stapleton:** I assume you are, yes.

**Commissioner Pretty On Top:** There are a lot of Senators and Representatives that I have never met until this entire process started. I have a degree in higher education at the doctorate level; I have been a college president; and while we may think that this is a very personal or political use or you feel like a personal target or political target, I am taking this on as a task that is a very serious one. I was appointed by the Supreme Court, and I am very interested in this process. I have been before this Commission two different times (the 1980 process and the 1990 process). This body is very important in the state of Montana. The Constitution does assign this process to a citizens' Commission, and we are the one throughout this process have been looking very seriously about all of this. As you well know, our population has changed tremendously in Montana. While it may seem to you that this process is about Billings, there are shifts and changes that are dominoes that go vast all the way around, and it does impact Billings. While it may seem like you are a personal target, I assure you. . . . I didn't know you before this process; I look at Billings; my family lives there; and I have been doing my very utmost best.

**Sen. Stapleton:** Thirteen months. You've got two weeks to go, and my name as a Senator is not on this paper. If you tell me that that is not personal--I appreciate your dissertation, but it has nothing to do with my points. You have not given me any reason to comment because you are holding out to the last second to put me on.

**Commissioner Rice:** For 13 months, we could only draw senate pairings after we finished all of the house districts. Although we could gone before the election, it is much easier if you know which Senators, by Supreme Court decree, have to be assigned a district. Have you filed for your next election yet? Are you positive that you will be running next time?

**Sen. Stapleton:** No, but will you not assign me to one of these 25.

**Commissioner Lamson:** We will never assign you to any because you are not in the category of Senators. That is why your name won't appear. You will have your choice to run for any open seat. We wouldn't assign you just as we wouldn't assign anybody who wasn't up for election this time. That is just the process works.

**Sen. Stapleton:** So, for two years I have what?

**Commissioner Pretty On Top:** These districts aren't in effect until the next election. Even though we adopt them, it is not until the next filing that they become reality. You, today, will serve in your district that you were elected to for the next two years.

**Sen. Stapleton:** But what is accomplished by taking a gentlemen (Senator Cromley) who just got elected in his district with adjoining districts and you give him mine only to assume, I guess, through Option A? What is going to happen in two years?

**Commissioner Lamson:** We were under a very tight deadline to get these in, which is two days after the election. When we were looking Billings, both of the Senators that we had to assign--actually four Senators--it wasn't just Cromley and Bohlinger, it was also McGee and Senator-elect Gebhardt. We had to assign them all to those particular areas. With both Senators Bohlinger and Cromley, we assigned them to the districts that they happen to live in from what we could tell on the maps and their addresses from the Secretary of State. As I said to Jim Gransbury when we were interviewed on that particular article in Saturday's (Billings) Gazette, he asked why did we put them where we did? I said we put them where they lived, and that is why we have public hearings is to take input to see what makes some sense in those areas. But, as far as Sen. Stapleton, we will never assign you a particular district, but as you come up in the next election in 2004, you can choose which one. You claim that the district that Sen. Bohlinger was assigned to belongs to you. It really belongs to the people who live there, but also, I think that Senator (Royal) Johnson might have some dispute about whether part of that district doesn't maybe belong to him. Maybe he would like to run there. Your assumption that that is your district as opposed to Sen. Johnson's district or Sen. Bohlinger's district--you represent the district that you were elected in in the 2000 election through 2004, and then there are new districts. That is the process. You get to pick one, and in Billings, people tend to move around. Very few people seem to live in their districts.

**Sen. Stapleton:** I think that your assumption is incorrect. My point is that this seem mean-spirited to me. If it is political, fine, I understand that. My recommendation, take it or not, is to keep the people geographically where they are at. You are moving them around to different areas, and it's wrong.

**Commissioner Jellison:** Just to lighten things up. I thought when we first started talking that you were concerned that you might be assigned to Ryegate. Now, that you have discovered that its not available, I should tell that in the Missoula hearing we kidded Senator (Dale) Mahlum about the possibility of assigning him to Ekalaka. He declined the offer, but I gather from what I have heard tonight that Ekalaka is open at the moment.

**Sen. Stapleton:** It just makes people feel that they have not been heard. If you don't change your current course, I think it safe to say that you didn't get the type of input. . . You know I don't hear anybody from Billings supporting what you are doing. Maybe they were out there but. . .

**Commissioner Pretty On Top:** Did you attend the hearing in Billings?

**Sen. Stapleton:** No, I did not.

**Commissioner Pretty On Top:** There were lots of people there and there was a lot of support for all the plans.

**John Sinrud, Representative, House District #31, Bozeman:** Mr. (Commissioner) Lamson just spoke in regards to placing certain Senators in the districts in Billings because they lived in those districts. Is that correct?

**Commissioner Lamson:** That is correct.

**Rep. Sinrud:** Then that is an excellent point, and I would agree with you. If you could please look at page 4 (of Exhibit #2) #27 and #28 senate districts, could you please place Senator(-elect Gary) Perry in (proposed) senate district #28 because he lives in that district. I would appreciate that.



**Commissioner Lamson:** As I pointed out to Senator-elect Perry when he spoke earlier on, from our reading at the map at that time, we understood him to live in the other one (district). I didn't see any particular problem to accomplish that very thing. That is very possible.

**Carol Juneau, Representative, House District #85, Browning:** I feel awful lonely here tonight in light of all the testimony that has taken place, but lonely or not, I am going to make a few statements. I do thank the Commission for the work that you have done in going throughout Montana and holding 14 hearings.

Of the plans, Option A will provided for equitable participation of the American Indian people of Montana in our Montana Legislature. It is going to bring us the opportunity to elect three American Indians, at least the opportunity to do so, to represent the American Indian people in Montana and their areas and to create a senate district in the state that represent the diversity of this state.

Just recently, as an example of things that are going on, in Blaine County, we elected the first Indian ever as a County Commissioner in the 80 years of county commissioner government. I am so proud that it was my friend, Dolores Plumage, an Indian women was the first Indian County Commissioner in Blaine County. We celebrated that victory throughout this state, the American Indian people. Only have only one majority Indian Senate District right now in the state down on the Crow and Northern Cheyenne (Reservations) area. Guess what, we have only one American Indian Senator in the Montana Senate. That represents the diversity of the state of Montana. Seven or 8% times 50--I can do my math, we should have more than one to two truly represent the wonderful people of the state that is made up of seven reservations, 12 Indian Nations, and many other Indians that exist in this state.

I do appreciate the work that you have done this year. I want to at least stand and say thank you, and I appreciate one of the plans that you have drawn and not talk about disenfranchising the voters. I think your work will encourage the participation of the people of the state of Montana--all of the people--many of us who have been disenfranchised for many, many, many years.

**Commissioner Rice:** I want to follow Carol's (Rep. Juneau's) heartfelt words with some of my own. We disagree in this room, but we do not have to be disagreeable. The rudeness of walking away from the podium and the rudeness of sarcasm during testimony doesn't speak well for any of us, not the Commissioners and not the audience. So I ask all of you to retain your sense of decency. There's differences in this room, there's differences in the laws, and there's differences throughout the state. Please, let's remember to be decent and respectful of each other.

**Ken Miller, Chairman, Montana Republican Party, Laurel:** I would agree. I think that we should be more respectful, but I think that is what is frustrating to this crowd here is because our community is so disrespected on. That may not be quite the right phrase. But, what happening to them, they find very disrespectful. So, for them to respond in any other way, I think they tried to express their concerns as best they can. Chairman Pretty On Top, I have been disappointed that you would not take the time to respond to correspondence that I sent to you asking you to rise above the partisan politics that is going on. As Commissioner Lamson has pointed out that in 1990, I would love to see this Commission do what they did back in 1990 and vote on a bipartisan manner because that is what happened in 1990. I believe there was only one vote, maybe two votes, that the Chairman had to break a tie. That is all they are asking for. I have

been to a number of these hearings, and I can tell you that overwhelmingly the public input has been ignored. It has been ignored in Billings, I was there. It was ignored in several other places we had representatives there; just as they are going to be ignored tonight. We know that.

It's not about the muskrats. It's not about race which is really frustrating to me. They are not looking at race when they look at those districts. They are looking at people, and it wouldn't bother me a bit if we had a 8% of the American Indian in the Legislature. That's not the point. If we are talking about race, what about all the Hispanics that voted for Senator-elect Cromley in the south Billings district, a very heavily Hispanic area. Their Senator-elect just got taken away from them and put into a district that is extremely high Republican knowing that perhaps you could get another Democrat elected where (Senator-elect) Cromley came from; and Senator-elect Cromley has very little chance of winning reelection in that district. A Democrat--you have done him a disservice, and you have done particularly the people in that area a disservice.

I am not so much concerned about Republicans losing because, you know what, we are going to use this to win elections just as they've done in other states where it has been so blatant in the playbook that has been used to gerrymander the districts that the people were outraged and voted against the individuals who were in there. As far as a Republican goes, I'm looking forward to that because I know that it is going to anger the people when their districts and communities are split. The small towns that are split; the communities in Billings, Bozeman, and Missoula that are split and divided up are going to be angry when they no longer have proper representation. That is what it is all about.

You expect the people to come here and decide which one of these plans they want. These plans are all three flawed because they started out flawed when the house district lines were drawn. When you abused the 5% either way to make 10%-swing districts in the direction that you want them to be. When you split communities, and now you want them to make a decision on three maps that are totally flawed from the beginning. Now, as was talked about earlier, they all need to be thrown out, and you need to start off with the understanding that it is going to be a bipartisan Commission with not Republicans and Democrats as an issue but the communities as the issue and representation that so many of us as legislators take very serious representing the people in our districts. That is what it should be all about. It is a sad day when things like these creep into our political system.

**Commissioner Lamson:** On the one district that we put together that you are most familiar with, which is your district for the next few weeks, would you agree that assigning of Senator-elect (Dan) McGee, the person who succeeded you, makes sense in that district in Yellowstone County?

**Mr. Miller:** Yes, just about all of them and even the house districts, I don't have a problem with just them. I am hearing speaking for the entire state and what has been done in the entire state.

**Commissioner Lamson:** I was just interested in your experience in that direct area. That area is very similar to the district that you represented.

**Mr. Miller:** It very much is. I would have done a few things different, some that were done in the house districts that were proposed that were rejected, but no, it is pretty much intact.

**Gary Perry, Senator-Elect, Senate District #16, Manhattan:** I appreciate Mr. (Commissioner) Lamson's comment that he would consider flexibility in the location of my district. My address of Manhattan can be a little bit misleading because we are really out in the

country and it fall into the proposed house district #57. Not only on page 4 (of Exhibit #2) in Option A, I would like to respectfully request that my name be lowered from proposed senate district #27 to proposed senate district #28 which encompasses the proposed house district #57 in which I live. In Option B, I would request that it (my name) be lowered one line from proposed senate district #26 to proposed senate district #27, and in Option C, likewise, move one line from proposed senate district #27 to proposed senate district #28. I think that you would find no conflict of any type in doing so, and it would be important to me to represent the district of neighbors and people who elected me, particularly my wife.

**Jerry Black, Senator-Elect, Senate District #44, Shelby:** Our area is one where people have only two senatorial districts rather than the three now. The other two carryover Senators will term out at the end of their terms. It is a very difficult job that you have done, and I certainly appreciate where you are coming from and glad that it is you doing the job and not me.

We would like to recommend the proposal of senate district in Option A. We feel that it is the most beneficial and the most logical of the three Options that you have presented. Option A fits geographical the very best in order to serve the constituents in that area; it is the heart of the Golden Triangle where there are a lot of common interests in agriculture, oil and gas, the Tiber Dam for economic development and the possibilities that exist; and it provides the best distribution of the population. We feel that this is really the only option that we would like you to consider and recommend. We share in that area a lot of common interests. We have a lot of common ties, common goals, and all of the communities fit together very well. I think it's a common denominator for a lot of voter satisfaction. The other part of my district is now in Option A called (proposed senate) district #3 which includes Teton County, you've combined that with Lewis and Clark (County). In talking to constituents in that area, they feel Option A is also the best option for them as well. I am sure that you are going to get supporting letters from various people indicating their support for that option.

If that isn't enough, we would like you to consider the fact that Toole County at one time was a whole county as a representative district also including one part of Pondera (County). But, under the new house representation, you've taken Shelby and Toole County and divided it three different ways, so we have the one body and three talking heads. That could get very confusing and cause lots of problems. In view of that, we would like you to bring us back together under Option A where we would at least be nearly whole again or as whole as we could possibly be as a senatorial district. That would compensate a little bit for having Toole County so badly divided as a house district.

If that isn't enough, one other item that you might consider is that now that Montana State (Bobcats) challenging the University of Montana. Our research shows that the area of Option A is probably one of the largest areas of Bobcat fans in the country. We either have to stay together miserable or be elated together. One or the other.

**Gregory Barkus, Senator-Elect, Senate District #39, Kalispell:** For the record, Senate District #39 is the new senate district #48. A couple of comments. First of all, having served on this (Commission) for a period of time, I appreciate the efforts that you have made.

I will have to echo several comments that I did make by written testimony when we were in Kalispell. I believe that the mandatory criteria set forth in the Constitution of 1972 is being

violated. The population equality issue in the northwest part of the state, if you look at those district, there is about 7,000 people who have been crammed into those districts. In other words, you're over the 5% allowable in those districts disenfranchising the growing area of our state. The compact and contiguous mandatory criteria, you can look at it. I won't belittle the animal characteristics, but, gosh, representing somebody from Arlee to northwest Toole County is not compact. It may represent the Native American, which I respect, but there are many nonNative Americans who have disenfranchised by that realignment. Also, having been raised in Havre, the district that starts at Rocky Boy (Reservation) and ends at Bainville is almost 300 miles long and carves out several communities. That is not compact and contiguous.

In getting to the senate districts, and with respect to my colleague Mr. (Senator-elect) Black, I believe, Jerry (Senator-elect Black), that Options A and C are identical.

**Senator-elect Black:** They are but under (Option) C, I would not represent the district that I live in.

**Senator-elect Barkus:** I stand in favor of Option C for the senate districts in northwest Montana, particularly Flathead County, principally because of the discretionary criteria of keeping communities of interest intact. Carving the district that is currently represented by Senator (Jerry) O'Neil is split into two, north of Highway 2 going with the town of Whitefish and south of Highway 2 going with an area that includes Olney all the way to McGregor Lake, I believe that's how far west it goes. Finally, in reference to my particular situation, I campaigned very hard, and I respect the voters in the district that elected me. But, I find it interesting that you have taken two areas of the city of Kalispell, the Northridge Heights region which I formerly resided in, and included them with the Olney people, and the people who live in the far south Kalispell district with Lone Pine Estates, you have now included them with the folks in Big Fork, Woods Bay, Sommers, Lakeside, and almost to Polson. As I knocked on those doors in September, October, and November, I feel that those voters have been disenfranchised and they will have a difficult time relating to their representatives when these districts do come to pass.

**Commissioner Lamson:** Which one are you supporting in terms of your "C"? When you say "C" are you supporting "C" senate district #48 would be the assignment for you?

**Senator-elect Barkus:** That is correct.

**Commission Lamson:** Then on (Option) A, that is an almost identical district that is listed as (proposed senate district) #47. You are not objecting to your particular assignment for your senate district. You don't like the way the other districts are drawn. Is that correct?

**Senator-elect Barkus:** Pretty much. I understand that the house district testimony has now been accepted. These house districts which you've interestingly carved my former House District #77 into four different houses district now, but you seem confused a little bit by the Northridge Heights which is the west side of Highway 93--it's a major subdivision in Kalispell--is now going to be represented by someone in the Whitefish, north Whitefish, actually Iron Horse, Big Mountain, Olney, and all the way out to McGregor Lake. And then the far south city limits of Kalispell--that's city limits--that is now in with Woods Bay, Somers, Big Fork, and Lakeside.

**Commissioner Rehberg:** First, I am sorry that the majority of the legislators that were here are no longer here because I would like to thank them for their participation in coming to the hearing.

I would like start with the comment made early on by our Chairman (Commissioner Pretty On Top) to Sen. (Fred) Thomas that obviously the "shoe was on the other foot, now you know what

it is like". I can assure you that as a minority member of this Commission, we know exactly what it is like to be in the minority. I totally agree with many of you who stated that there was a lack of fairness in the determination of house and senate districts. I would have to be in total agreement with that. An yet as a Commission member, I knew early on exactly what was going to happen.

When we discussed criteria, and this would answer the questions for many of the legislators, what criteria item we used 10 years ago, they chose not to use this time, and it was preservation of the existing district lines. As stated, the Commission would consider using existing district lines as a starting point and the variance in population from the ideal when possible. Districts may not be drawn for the purpose of favoring a political party or to protect or to beat an incumbent. Along with that, one of the very first things we did was pass a resolution that was going to guarantee a particularly Native American district to placate the ACLU (American Civil Liberties Union). I can assure you, it did not placate the ACLU.

But we have spent a lot of time hearing rationalizations from the majority telling us that what they hear is what the people want. I know the Democrats did not come tonight for one reason--they didn't have too. They knew full well that what they said didn't really matter because it was going to happen the way they wanted it anyhow.

It has been apparent through all of the hearings that our Chairman (Commissioner Pretty On Top) is mostly concerned about Native American districts, and I have no problem with Native American districts. You have heard many, many times that the last Commission, which I served on, was a Republican-dominated Commission. I can assure you that there were two Democrats. One was "Mr. Democrat" for many, many years who I served with in the Legislature 34 years ago. That Commission refused to gerrymander for purposes of electing Native Americans. Again, it was almost a totally unanimous Commission on every vote. Ladies and gentlemen, I can tell you right now that the die is cast. This Commission has ears but it can't hear. This Commission has eyes but it cannot see. This Commission is strictly partisan, and unfortunately, we are going to have to live with their program and their plan for the next 10 years. I am not advocating it yet, but I may become a strong advocate in the future, that possibly we will need a constitutional amendment to correct the injustices that have been done by this Commission.

**Commissioner Rice:** Commissioner Rehberg's speech has gotten a lot better, a lot better. Commissioner Rehberg tends to give that speech when the audience supports his point of view. He gave that speech in Kalispell. He failed to give it in Pablo that nearly entirely supported Plan 300; failed to give it in Missoula where the overwhelming support was for Plan 300. If you actually take the time and look through all of the public comments that was made in hearings and that was made in writing or email or phone call, you will find that not everyone supports the plan as adopted by the Commission. But, keep in mind that the majority of the people did. To suggest that the Democratic members of this Commission are not listening is a bald-faced lie.

#### **EXECUTIVE SESSION**

**Commissioner Pretty On Top:** The matter at hand is to discuss senate pairings and to discuss, when, where, and how we make that decision. I would like to open the floor to Commission members if you have a sense of what you would like to do.

**Commissioner Lamson:** This hearing was held as a courtesy to the Legislature because they are all in town. So that Susan (Ms. Fox) can put out to the public and the legislators a plan that they can come and testify on, I would suggest that we move one of the options forward with any amendments that we have tonight. When we have the meeting to take testimony on the senate districts, as well as the house district and the holdovers, we can make more changes at that time if we feel it necessary. It's just so Susan (Ms. Fox) can put out to the public the changes here.

**Commissioner Jellison:** Would I understand that to be a motion that would tentatively adopt Option A?

**Commissioner Lamson:** That might be the one that comes up. There's also a motion to adopt B and C too. This is one part where we don't need a computer. You guys can come up with anything you want.

**Mr. MacMaster:** As Susan (Ms. Fox) said, the one required hearing is the one you are having on December 6, 2002. That meeting is supposed to be on the plan as a whole. I don't think you have a plan, especially a plan as a whole, if you don't have the senate districts picked by that time.

**Commissioner Lamson:** I agree with you. That is why I think it is necessary tonight to move one of the senate options. Then we can approve the house districts then we approve the senate districts so the public can comment on that plan.

**Commissioner Rice:** I would **move** that this Commission tentatively adopt Option A for proposed senate districts in keeping with the mandatory and the optional criteria that we adopted early on in the process. I think that these districts represent the best pairings possible.

The motion passed on a 3 to 2 vote with Commissioners Pretty On Top, Rice, and Lamson voting yes and Commissioners Rehberg and Jellison voting no.

**Commissioner Lamson:** I **move** that we assign newly elected Senator Perry in Gallatin County to senate district #28 in Option A as opposed to #27 where he is currently assigned. This would put him in his district. As he pointed out, his address was Manhattan.

The motion passed unanimously.

**Commissioner Jellison:** I was going to make a motion that the fellow from Carter County (Senator-elect Bales) whose district has been changed so that he no longer lives in it be reassigned to the district that he lives in which is proposed senate district #13.

**Commissioner Pretty On Top:** He lives very close to the Powder River boundary. He is in (proposed senate district) #14 but he would like to be in #13.

**Commissioner Rehberg:** I would like to ask Mr. (Commissioner) Lamson if he would consider moving the 34 people that they requested.

**Commissioner Lamson:** I am going to look at that specifically. He was just elected and what he failed to mention is that the other part of that equation is that he has his concerns about where he lives, but if he is assigned to (proposed senate district) #13, it precludes Senator Zook who is not on the same cycle from all who also have claims to that district.

**Commissioner Pretty On Top:** The problem is that there has been so much population loss there.

**Ms. Fox:** Senator-elect Bales can complete his 4-year term but then he can't run in the same district because he doesn't live in it. He did ask me to look at that amendment because the populations are too crazy to absorb 34 people at this point. I will be looking on his behalf at where the possibilities lie in the other districts. Senator Zook is in the same position as Sen. Stapleton. He will be finishing out his term for the next two years. But when he comes up for election, there will not be a seat in the district that he lives in because there is one less senate district. Like Sen. Stapleton, they do live in a district, but they have to choose whether they would like to run in it or run in a different district. That is what happens with holdovers. I think it happened to at least three of them last time.

**Commissioner Jellison:** If you could, I would like you to look at that if there is no objection.

**Commissioner Lamson:** What is the deadline for amendments?

**Commissioner Pretty On Top:** November 22.

**Ms. Fox:** That date was just to get assistance from me. I didn't want to preclude any one from bringing their own amendments forward. I just didn't want to promise that I would have enough time to work everybody's amendments up. My computer will be up and running, and when we do that, if we could take brief breaks and if there is an amendment that somebody wants, we can work on it, depending on how you want to operate that meeting. I just wasn't sure that I would have time to do everything in time for a mailing before the December 6 meeting.

**Commissioner Pretty On Top:** Has it been your experience that these Senators take it personally?

**Ms. Fox:** It seems to me that 10 years ago, it was the Billings Senators that had the most vocal opposition to that plan.

**Commissioner Jellison:** Being elected a Senator is a very heavy experience.

**Ms. Fox:** Part of the problem is the timing issue--everything is so fresh and because we were so focused on house districts.

**Commissioner Lamson:** I think that we need one more motion or process to adopt Option A as amended.

**Commissioner Pretty On Top:** Do I understand correctly that when we get back together, there could be other amendments that will be presented?

**Ms. Fox:** Because of the point that John (MacMaster) made that the final public hearing is on all 150 districts, I would anticipate that you would probably get some amendments for both the house districts and the senate districts and, perhaps, to the assignment of the holdover Senators.

**Commissioner Lamson:** I know we will go over amendments that (former) Sen. Grosfield and Senator(-elect) Esp submitted in their area. I also remember an amendment in Madison County from the people in Big Sky as to whether they want to be in Gallatin or Madison County. We haven't heard yet from, but the amendment is acceptable to Rep. (Diane) Rice.

**Ms. Fox:** There are four basic amendments (EXHIBIT #4), four different regions that had amendments proposed. One is from the Powder River County Commissioners which kind of goes opposite to what Senator-elect Bales wants because they want a cleaner boundary. The boundary that we have selected does not bear a resemblance of what they want to use. Blaine

County is one that we haven't formerly considered. The amendment that Senator-elect Anderson talked about is still, in essence, on the table. Finally, the Sanders County Commission requested an amendment moving lines to precinct to match their school district lines. So far, we have not been inundated with a lot of amendments, and I do not anticipate a lot but you never know. But, if they want my help, they need to get them to me pretty soon.

**Commissioner Rehberg:** Do these amendments take into consideration (Betty Lou) Kasten's concerns?

**Ms. Fox:** I have tried to do the technical part for her to find out whether there is enough people or not enough people, can they be moved, and are they the right people to move. In most cases, these are the smaller populations.

**Commissioner Pretty On Top:** Are any of the towns that she (Betty Lou Kasten) was talking included in the amendments?

**Ms. Fox:** The issue is that these plans did not split any of the census-designated boundaries. We have used those, just as we have in Chinook and other places. To the extent that when you live in a town, you don't see the city limit boundary and you may think that some of the people on the other side of the city-limit boundary should be with you. But, we did not technically break any of those census-designated places.

**Commissioner Jellison:** Is it conceivable then that the census people used the main street of those towns to split them?

**Ms. Fox:** No, this is more the guy that lives just right out of the city limits.

**Commissioner Pretty On Top:** Could you really look at that?

**Ms. Fox:** I can do a blowup of the two towns in McCone County so that you can see what her (Betty Lou Kasten) issue is.

**Commissioner Lamson:** It is similar to Senator-elect Perry's situation. The Secretary of State has his address as Manhattan. So, there is Manhattan all the way into different house districts.

**Commissioner Rice:** I move to tentatively adopt Option A as amended. The motion passed on a 3 to 2 vote with Commissioners Rice, Pretty On Top, and Lamson voting yes and Commissioner Rehberg and Jellison voting no.

Their being no further business, the meeting adjourned at 10:00 p.m.

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