

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

CASE NO: 1:22-CV-00031-CRH

Charles Walen, an individual; and Paul)
Henderson, an individual.)
))
Plaintiffs,)
))
vs.)
))
DOUG BURGUM, in his official capacity)
as Governor of the State of North)
Dakota; MICHAEL HOWE in his official)
Capacity as Secretary of State of the)
State of North Dakota,)
))
Defendants,)
and)
))
The Mandan, Hidatsa and Arikara)
Nation, Cesar Alvarez, and Lisa Deville)
))
Defendant-Intervenors.)

AFFIDAVIT OF RYAN JOYCE

Now Comes Ryan J. Joyce, being first duly sworn, deposes and says as follows:

1. I am an attorney of record for Plaintiffs Charles Walen and Paul Henderson, and I have personal knowledge of all the facts contained in this Affidavit and I am competent to testify to the matters stated herein.
2. Attached as Exhibit A is a true and correct copy of the transcript of the August 26, 2021, Legislative Redistricting Committee hearing.
3. Attached as Exhibit B is a true and correct copy of the transcript of the September 8, 2021, Legislative Redistricting Committee hearing.
4. Attached as Exhibit C is a true and correct copy of the transcript of the September 15, 2021, Legislative Redistricting Committee hearing.

5. Attached as Exhibit D is a true and correct copy of the transcript of the September 22, 2021, Legislative Redistricting Committee hearing.

6. Attached as Exhibit E is a true and correct copy of the transcript of the September 23, 2021, Legislative Redistricting Committee hearing.

7. Attached as Exhibit F is a true and correct copy of the transcript of the September 28, 2021, Legislative Redistricting Committee hearing.

8. Attached as Exhibit G is a true and correct copy of the transcript of the September 29, 2021, Legislative Redistricting Committee hearing.

9. Attached as Exhibit H is a true and correct copy of the transcript of the November 9, 2021, North Dakota House of Representatives Floor Session.

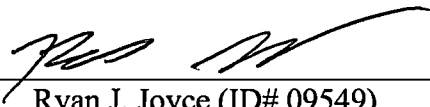
10. Attached as Exhibit I is a true and correct copy of the transcript of the November 10, 2021, North Dakota Senate Floor Session.

11. Attached as Exhibit J is a true and correct copy of Defendants' Expert Report of M.V. Hood III.

Further, this affiant sayeth naught.

Dated this 28th day of February, 2023.

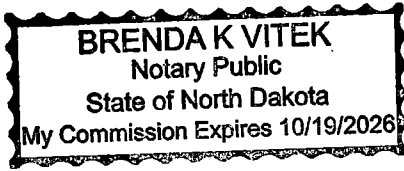
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Telephone: 701-751-1243

By: 
Ryan J. Joyce (ID# 09549)

STATE OF NORTH DAKOTA)
) SS
COUNTY BURLEIGH)

Before me, a notary public in and for said County and State, personally appeared Ryan J. Joyce and acknowledged that he did sign the foregoing instrument and that the same is his free and voluntary act and deed.

In testimony whereof, I have set my hand at Bismarck, North Dakota, on this 28th day of February, 2023.



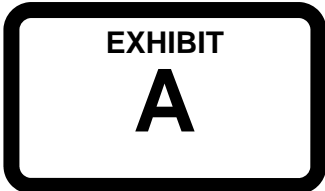


Notary Public

**Charles Walen, et al. vs Doug Burgum, et al.
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TRANSCRIPT OF VIDEO-RECORDED
MEETING OF THE
REDISTRICTING COMMITTEE
STATE OF NORTH DAKOTA
AUGUST 26, 2021



**Charles Walen, et al. vs Doug Burgum, et al.
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1 CHAIRMAN DEVLIN: Committee members, we will call
2 the Redistricting Committee to order. Uh, Emily, I
3 believe you're going to take role?

4 MS. THOMPSON: Thank you. And, uh, Chairman
5 Devlin?

6 CHAIRMAN DEVLIN: Here.

7 MS. THOMPSON: Representative Bellew?

8 MR. BELLEW: Here.

9 MS. THOMPSON: Representative Boschee?

10 MR. BOSCHEE: Here.

11 MS. THOMPSON: Representative Headland?

12 MR. HEADLAND: Here.

13 MS. THOMPSON: Representative Lefor?

14 MR. LEFOR: Here.

15 MS. THOMPSON: Representative Monson?

16 MR. MONSON: Here.

17 MS. THOMPSON: Representative Nathe?

18 MR. NATHE: Here.

19 MS. THOMPSON: Representative Schauer?

20 MR. SCHAUER: Here.

21 MS. THOMPSON: Senator Holmberg?

22 MR. HOLMBERG: Here.

23 MS. THOMPSON: Senator Bekkedahl?

24 MR. BEKKEDAHL: Here.

25 MS. THOMPSON: Senator Burckhard?

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1 MR. BURCKHARD? Here.

2 MS. THOMPSON: Senator Erbele?

3 MR. ERBELE: Here.

4 MS. THOMPSON: Senator Klein?

5 MR. KLEIN?

6 MS. THOMPSON: Senator Oban?

7 MS. OBAN: Here.

8 MS. THOMPSON: Senator Poolman?

9 MS. POOLMAN: [inaudible]

10 MS. THOMPSON: And Senator Sorvaag?

11 MR. SORVAAG: Here.

12 MS. THOMPSON: And Mr. Chairman, we have a

13 quorum.

14 CHAIRMAN DEVLIN: Thank you. Um, what are your

15 wishes for the minutes of the July 29th meeting?

16 Somebody want to move them?

17 MR. LEFOR: So moved.

18 MR. BEKKEDAHL: Second.

19 CHAIRMAN DEVLIN: The minutes motion has been

20 made and seconded [inaudible] discussion. Seeing none,

21 all those in favor signify by saying aye.

22 ALL: Aye.

23 CHAIRMAN DEVLIN: Opposed nay. Motion carried.

24 Um, before we go into the first agenda item, uh,

25 traditionally we normally introduce members of

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1 Legislative Management that are attending today. I
2 know Representative Schmidt is here. And
3 Representative Koppelman and Senator Schaible.

4 Um, and then on the committee itself,
5 Representative Boschee, Representative Lefor, Senator
6 Burckhard, Senator Holmberg, Senator Klein. Did I miss
7 anyone?

8 MALE: [inaudible]

9 CHAIRMAN DEVLIN: Okay. And Senator Elkin. I
10 apologize. Thank you. Um, Emily, I believe you're
11 going to present the review of the [inaudible]. Thank
12 you.

13 MS. THOMPSON: Thank you, Mr. Chairman. Again
14 this is the, uh, Supplementary Rules of Operation and
15 Procedure for, uh, North Dakota Legislative
16 Management. This is just the, uh, procedural rules
17 that we review at the beginning of each interim.

18 Uh, I'll just kind of hit the highlights. You
19 have all mostly heard this before. Again, uh, as you
20 all know, meetings are held at the call of the
21 chairman. Uh, the rules of the assembly govern the
22 conduct of our interim meetings.

23 Um, a committee member's attendance via Teams,
24 uh, must be approved by the committee chairman. And
25 this should be used sparingly, such as you're sick or

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1 something like that. Uh, members that are attending
2 remotely, uh, are required to keep their video on for
3 the duration of the meeting. So just be aware of that
4 if you are attending remotely.

5 Um, as far as attending via phone, generally we
6 do not, um, have the committees attend via phone
7 unless the entire committee will be calling in, say
8 there's a big snowstorm or something, there's some
9 kind of extenuating circumstance.

10 Uh, Legislative Management members, as, uh, you
11 just heard the chairman announce, they may attend, uh,
12 meetings of the committee for which they are not a
13 member. Um, however, uh, since we now have this
14 remote, uh, and in person option for attendance, uh,
15 compensation will not be provided if individuals of
16 the Legislative Management are sitting in on
17 committees for which they are not a member, and they
18 are attending those remotely. So if there -- sitting
19 in on the meeting remotely, uh, no compensation.

20 Uh, any bill draft recommended by Legislative
21 Management, uh, just a reminder, it must be considered
22 at least, um, two days, whether that's two separate
23 meetings or a two day meeting at each day of that
24 meeting.

25 Uh, each committee, as you all know, uh, has to

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1 submit their final report and any recommended
2 legislation to Legislative Management. Um, and then
3 the Legislative Management can accept or reject that
4 committee report.

5 Generally we're all used to this being done, uh,
6 the November before the regular legislative session.
7 Uh, this committee is, uh, a little bit different. We
8 only -- we only meet every, you know, 10 years for the
9 purpose of redistricting. So obviously we won't be
10 having our Legislative Management report with the all
11 the other committees in November of next year.

12 That will actually, uh, be a little bit of a
13 different schedule. Um, you'll see in 5B it is, um, at
14 such other times as the Legislative Management or as
15 chairman may direct. So that's kind of at the call of
16 the Legislative Management or the chairman.

17 Um, just a quick note, um, as I mentioned it'll
18 be delivered at a separate meeting. And so if you're
19 kind of wanting a little bit of a reminder of the
20 timelines or, you know, what was done, or our last
21 redistricting cycle, um, during that last
22 redistricting cycle, um, the redistricting committee
23 had, uh, seven meetings. Its first one was on June
24 16th. It got a much earlier start than we did.

25 Uh, and their last meeting was held on October

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1 11th and 12th of 2011. It was a two day meeting. Uh,
2 the Legislative Management approved, um, a portion of
3 the committee's final report relating to the
4 redistricting bill.

5 And that was at, uh, kind of that special
6 Legislative Management meeting, uh, that was called to
7 deliver that report. That was held November 13th. So
8 you're kind of doing the math there, that was about 17
9 days after the redistricting committee had their last
10 meeting, the Legislative Management report was
11 delivered.

12 The legislative assembly then convened for a
13 special session. And that was on November 7, 2011. So
14 it was a five day special session to deal with
15 redistricting issues. And that was -- so we begin
16 doing the math, four days after the Legislative
17 Management report was delivered, a special session
18 commenced.

19 So I just thought that'd be some helpful
20 additional background since it's a little -- a little
21 different when we have this every 10 year committee.
22 And I'd be happy to take any questions.

23 CHAIRMAN DEVLIN: Senator Holmberg?

24 MR. HOLMBERG: Uh, Emily, you might want to
25 mention that, uh, we don't have anything put down yet.

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1 But, uh, plans that come in, any plan, uh, it takes up
2 to two weeks for Legislative Council to put a plan
3 together that they did not prepare.

4 Because they have to, if you have a plan that --
5 that you put in yourself, um, they have to do the --
6 they're still operating out of the Metes and Bounds,
7 which means they have to describe everything. So it
8 takes quite a while.

9 So, uh, if, uh, folks are thinking of another
10 plan besides what this committee might have or you
11 might have a secret plan in your pocket, uh, you're
12 going to have -- there will be a date by which it has
13 to be, uh, sent to Legislative Council so they can
14 prepare it.

15 Otherwise, you know, we can't meet whatever the
16 date is that we meet, and, uh, be sitting there with a
17 bill that isn't complete. So it has to be checked out.
18 So, and that information will come later. But it is --
19 it is important to keep in mind that, uh, just walking
20 in with a new plan in November is going to be pretty
21 tough because it -- it isn't ready for us.

22 CHAIRMAN DEVLIN: Anything else from the
23 committee before we start on the first presentation?
24 Um, today we have Ben Williams from NCSL to speak to
25 us with an overview of redistricting. Uh, obviously

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1 we're the national experts on this subject.

2 And just on a personal item, I just want to --
3 they had a great meeting on this in Salt -- Salt Lake
4 City, I believe it was, that the, uh, several members
5 of this committee got to attend. I couldn't attend for
6 a health reason.

7 And I certainly I wanted to recognize and
8 appreciate the work that Representative Schauer did to
9 take my place there. He did -- you can tell he's a
10 member of the media because he did a fantastic job
11 with some notes and so on of all the meetings. So Ben,
12 go ahead.

13 MR. WILLIAMS: Thank you, Mr. Chairman and, uh,
14 Vice Chair Holmberg, and members of the committee.
15 It's an honor to be here in North Dakota. And, um,
16 I've been told that I have roughly an hour for this.

17 I'm going to try to keep it to around 30 to 40
18 minutes so that if you have questions there's plenty
19 of time for that. And then if you don't have
20 questions, then you're ahead of schedule. And I don't
21 think anyone on the committee will complain about
22 being a little bit ahead of schedule.

23 So, uh, with that, uh, as, uh, Chairman Devlin
24 said, NCSL, uh, we just had a meeting in Salt Lake
25 City, so I'm sure some of you were -- were there. Uh,

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1 Representative Schauer, you were there. But, uh, just
2 for those of you who haven't been as connected with
3 NCSL in the past, we are the nation's, uh, preeminent
4 organization that is bipartisan and serves the needs
5 of state legislators.

6 And by bipartisan, I mean that our structure is
7 exactly divided between democrats and republicans.
8 However my work as a staffer is nonpartisan. So NCSL
9 will not come into a state and will not provide any
10 recommendations on policy advice for what members
11 should do. But we do provide 50 state information that
12 may be helpful in the decisions that you ultimately
13 choose to make.

14 So for today's outline, uh, I was asked to do a
15 very general overview of redistricting, with touching
16 on a few specific subject matters. So I'm going to go
17 over some really, uh, basic fundamentals and some
18 information about the 2020 census. And then I'm going
19 to go over some of the main legal doctrines that
20 govern redistricting.

21 And then I'm going to go into, uh, redistricting
22 criteria. I know that some states refer to them as
23 redistricting principles. I will probably refer to
24 those as criteria, uh, that relate to redistricting
25 and, uh, nationwide, but tailored with a greater focus

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1 to North Dakota.

2 So the first question is, why do we redistrict at
3 all. And the reason is because of the one person one
4 vote cases from the US Supreme Court in the 1960s. And
5 prior to that point there was no federal requirement
6 that legislatures redistrict at all. Legislatures did
7 occasionally, uh, redistrict themselves to account for
8 population shifts, but it wasn't commonplace. Many
9 states went decades and decades without doing it,
10 North Dakota being one of them and not being an
11 outlier in that.

12 Uh, but in 1960s, uh, the US Supreme Court
13 established that, uh, redistricting had to occur to
14 make sure that roughly an equal number of people were
15 in each district, um, so that there would be roughly
16 equal weight between the voters and those districts.
17 So the real question then becomes, who is a person,
18 right. So who counts as a person for one person one
19 vote.

20 And ever since the 1960s, all 50 states have
21 followed the idea that a person is any, uh, resident
22 of the state, regardless of citizenship status, and
23 regardless of whether or not they are of the age of
24 majority, so 18 or older, and eligible to vote.

25 Uh, in the 2010s, this was challenged by a group

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1 of plaintiffs in the state of Texas. Texas, like all
2 states, redistricted using total population numbers
3 reported to them by the US Census Bureau. And the
4 plaintiffs in that case argued that there's a
5 difference between equalizing based on persons and
6 equalizing based on voters.

7 And the difference is that if you had an area
8 with a high non-citizen population, for example in
9 south Texas, you could have a district where you had
10 voters who had roughly one and a half to two times the
11 strength of a vote within that district relative to
12 voters in a part of the state that had a relatively
13 high citizen population.

14 Uh, the Supreme Court did not answer the question
15 of whether or not other methods of, besides total
16 population, were acceptable for redistricting. What
17 they said was that total population is an acceptable
18 method of redistricting.

19 So there is still this open question about
20 whether or not other methodologies, uh, using citizen
21 voting age population for example will be acceptable.
22 Uh, there may be some litigation about this in the
23 coming years. But, uh, just note that this is
24 something that you might hear from your constituents
25 and might bubble up, um, in other states. Although I

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1 haven't, uh, heard anything about North Dakota's
2 plans.

3 So the fundamentals of who draws legislative
4 districts. In the vast majority of states it's the
5 state legislature as a normal bill that is passed, and
6 then it's either signed or vetoed by the governor. And
7 then the legislature has the chance to override that
8 veto. Uh, that's in the 35 states. There are some ex-
9 -- uh, different elements within that.

10 So the states that you see in the dark blue,
11 steel gray color, are the states where the legislature
12 has sole control over the process. That is the
13 predominant method in the United States. There are a
14 handful of states that have a legislature, uh, handle
15 redistricting, but there's an advisory commission that
16 either presents a map to them that's an option, or
17 presents a few, uh, optional maps to them. And then
18 the legislature either has to take a vote on them
19 first before considering their own maps, or they're
20 welcome to ignore those maps and draw their own.

21 There are a handful of states, particularly in,
22 uh, the south mostly, Oklahoma, Texas, and Mississippi
23 are the ones where this comes up sometimes, are they
24 have backup commissions. So if the legislature doesn't
25 redistrict by a set deadline, then the legislature

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1 loses the power to redistrict, and it shifts to this
2 backup commission usually made up of legislative
3 leadership, who then finishes redistricting.

4 And then there are the states that you see in the
5 dark orange, where there is a commission that has the
6 primary responsibility for, uh, redistricting. And
7 you'll see that as we shift from legislative to
8 congressional districts, those numbers drop. Uh, most
9 states retain the ability to redraw congressional
10 districts within the legislature wholly, without
11 having an advisory commission, a backup commission, or
12 any other kind of commission, in the process.

13 So some takeaways about the 2020 census. Um, just
14 to note, I think the only thing that's really of
15 interest here is that the growth rate, uh, nationwide
16 was 7.4 percent, which was the lowest growth rate
17 since the 1930s, the Great Depression. However North
18 Dakota was a standout. It was one of the fastest
19 growing states in the United States, over 15 percent
20 population growth.

21 Uh, that put North Dakota in the top five states
22 nationally in terms of, uh, population growth. So it's
23 a real standout among other states. There are only
24 three states that lost population this decade, uh,
25 Illinois, Mississippi, and my home state of West

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1 Virginia.

2 So 2020 census results, uh, population changes by
3 states, you can see North Dakota is in that, once
4 again, that blue steel gray color, fastest growing in
5 the country. And, uh, that fits in with, uh, North
6 Dakota, uh, having obviously the oil boom. And you --
7 understandably there's lots of people moving in to
8 work in these new industries.

9 Other than that though, that's a regional
10 outlier. So most of the growth in the United States
11 has continued to be in the, uh, western United States
12 and in the south, particularly in the southeast. So
13 the colors that you see in teal are also the states
14 that had over 10 percent population growth, which we
15 would consider to be fast.

16 So as you know, we're meeting in, uh, August. And
17 as Emily pointed out in her presentation, that, uh,
18 the first committee in 2011 met in June. And one of
19 the reasons for the fact that we're meeting two months
20 later is the census data was severely delayed coming
21 out from the United States Census Bureau. It's
22 supposed to come out, uh, according to federal statute
23 by April 1st of the year ending in one. So it was due
24 to the states by April 1, 2021.

25 It was released on August 12, 2021. And there are

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1 several reasons for that. The -- by far the largest is
2 the coronavirus pandemic. So if you think about how
3 census information is gathered, according to federal
4 law the census date upon which all census data is
5 accurate is April 1st of the year ending in zero. So
6 April 1, 2020 is census day.

7 And what was happening on April 1st of 2020.
8 States were in lockdown. No one was going anywhere.
9 And that created a lot of issues. And I'm just going
10 to give you one example to highlight some of the
11 issues that the Census Bureau had to deal with, which
12 caused them to fall behind on their schedule.

13 Colleges and universities report what are known
14 as group quarters numbers to the United States Census
15 Bureau. So they report numbers, um, that are just in a
16 -- a massive list, rather than having a census
17 enumerator actually go around from dorm room to dorm
18 room figuring out who lives where.

19 Those numbers are usually reported relative early
20 in the process. They're reported in January, February
21 of a year ending in zero, just for administrative
22 purposes and to expedite the process. Normally no one
23 would ever think anything of it.

24 But when, uh, dorms closed down in mid-March
25 2020, and students were sent home, some students were

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1 at their homes on April 1, 2020. And when parents go
2 the census form, they looked around and saw their
3 student living in their house, and they checked them
4 off and filled. So that meant that there were several
5 people in the United States who were double counted in
6 the 2020 census.

7 And the Census Bureau knew that this was going to
8 be a problem. So they had to go through all of the
9 records and try to find those duplicate records, and
10 strike out the surplus number from the census to get
11 the true accurate count. And that takes time. And
12 that, uh, was one of the things that they normally
13 wouldn't have to do, but they had to do this decade at
14 a great scale.

15 There were also some natural disaster problems as
16 well, uh, fires in the American west, floods
17 particularly in the deep south, uh, related to
18 hurricanes in 2020. 2020 was a very active hurricane
19 season. And then there were also policy changes
20 between the, uh, outgoing Trump administration and the
21 incoming Biden administration that, uh, could have led
22 to delays as well, but our indications are that it was
23 mostly the pandemic was what led to the delays.

24 Just to give you some color on how delayed things
25 are, this is how redistricting had progressed by

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1 August 26th of 2011, 10 years ago today. As you can
2 see, there's a lot of completed and some new maps out
3 here. And then the states in the green had -- the
4 legislature had released draft maps and was receiving
5 comment on those.

6 Here's where we are now. You can see only three
7 states have made any progress with redistricting at
8 all. Illinois and Oklahoma, uh, did redistricting with
9 alternative redistricting data. They used, uh,
10 American community survey five year estimates, uh,
11 because they had very early redistricting deadlines.

12 But in both states the legislature said at the
13 fore -- at the outset of their redistricting, we know
14 we're not using 2020 census data. We're going to come
15 back in a special session and reconcile our lines to
16 make sure they comply with one person one vote,
17 whenever that information is in. And sure enough,
18 Oklahoma and Illinois, both of the legislatures have
19 announced that they're going back into special session
20 in the coming weeks to reconcile the lines to make
21 sure they are in compliance with federal law.

22 Colorado has a commission that has a lot of
23 redistricting deadlines. Some of them go very early
24 into the calendar. And one of the deadlines was called
25 the first draft map. And so the legis- -- uh, the

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1 commission drew the first draft map with the same
2 alternative data that Oklahoma and Illinois did. But
3 for all future maps they will be using 2020 census
4 data.

5 So delays obviously has a significant problem. It
6 means there's less time to redistrict. But it doesn't
7 just mean the redistricting process that happens with
8 this committee. It also means that your local election
9 officials who have to reconcile precinct boundaries,
10 and have to make sure that they have all the
11 information about where voters are geolocated, so that
12 voters are getting the correct ballots on the 2022
13 primaries. They have to have time to make sure that
14 processing can occur.

15 In states that have residency requirements for
16 the legislatures that say a legislator has to live in
17 a district for a year before they're eligible to run
18 for that office or to be elected to that office. Uh,
19 those states obviously they have -- that means that
20 they have a deadline in the fall of 2021 for
21 redistricting to be completed so that people know what
22 districts they're running in.

23 Uh, there's also the primary deadlines and states
24 that have relatively early state primaries. Texas is
25 an example of a state that has a relatively early

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1 primary. There are bills in those states to move the
2 primary back in the calendar, further into the spring
3 or the summer, uh, to allow there to be a very, uh,
4 sufficiently broad time in which candidates can file.

5 So it's just to show that there are a lot of
6 other steps to redistricting beyond actually passing
7 the map. There's something that local election
8 officials and, uh, legislators, and state election
9 officials have to deal with in addition.

10 And this is just another, uh, chart to give you
11 an idea of how many redistricting deadlines there are
12 by date. Uh, Illinois and Oklahoma are in that five
13 that had redistricting deadlines prior to July 1st of
14 this year. Uh, there are another 19 states that have
15 to redistrict by the end of this year.

16 Uh, North Dakota is in the other and none
17 category. Obviously you're an other for legislative
18 redistricting because you just have it tied to your
19 session. And then you have none, uh, for your, uh,
20 congressional districting because you don't
21 congressionally redistrict.

22 Um, so that brings me to the last part of the
23 census presentation, which is disclosure avoidance, or
24 as you may have heard it to referred to in the past,
25 differential privacy. So as you know, the US Census

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1 Bureau has two mandates. It is required to report
2 accurate numbers on the total population of the United
3 States. And it's supposed to protect the privacy of
4 the people who respond to the United States census.

5 Obviously we can understand the policy reasons
6 for not wanting the exact information of every person
7 who responds to the census to be published for all to
8 see. Uh, over time the Census Bureau has adopted
9 different methodologies for protecting privacy. Um,
10 and this decade they have decided to use a new one
11 called differential privacy.

12 And that's because the Census Bureau
13 statisticians found that the previous systems could be
14 broken. And by that I mean you could take a very
15 sophisticated computer program or algorithm, apply it
16 to census data that had had the previous, um, privacy
17 protection measures applied. And then you could un- --
18 unmask or unseal who those people were, and create,
19 uh, post hoc a data set that actually had all of the,
20 uh, respondents included in it.

21 So the very first method of privacy protection
22 was called data suppression, which meant that the
23 Census Bureau would just take, uh, certain sections of
24 the reports that they would provide and they would
25 suppress them. So you wouldn't get information about

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1 certain census blocks. That information would just be
2 left blank. And that was their suppression
3 methodology.

4 It worked in the 1980s, but obviously you can
5 understand why just not including some information you
6 could easily deduce what the, uh, absent information
7 could be. So in the 1990s, and from 1990 to 2010, they
8 used something called data swapping, which would mean
9 that if you had two census blocks, and let's say you
10 had two census blocks in this Bismarck. And -- and
11 both of them you -- and you had then two blocks, you
12 had one family of four, so you had, uh, parents and
13 two children in both of these census blocks.

14 What the Census Bureau would do is it would just
15 swap them. So the underlying demographic information,
16 for example their race, their ethnicity, their exact
17 age, if -- if the code were ever broken, you would
18 actually have someone else's record in certain, uh,
19 census blocks. You were swapped with someone else who
20 had identical total information, so it was four people
21 for four people, two adults, two children. But the
22 exact records would have been moved somewhere else
23 within the -- within those census blocks. And that was
24 sufficient to protect privacy in the 1990s through the
25 2010s.

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1 This time the Census Bureau is using something
2 called differential privacy, which involves using an
3 algorithm to what the Census Bureau calls inject noise
4 into the census data. What it means is the Census
5 Bureau is intentionally, uh, creating error in their
6 data set. They are providing slightly incorrect
7 information on purpose, uh, to protect the privacy of
8 respondents.

9 So as you can see, uh, on the left hand side of
10 this chart we have the actual reported Census Bureau
11 numbers. And on the right side of the chart we have
12 the numbers after differential privacy has been
13 applied. So you see a 14 turns into a 13, 52 turns
14 into a 51, 53 turns into a 54, 47 turns into a 48.

15 And this chart, I think it's important to note
16 this -- this slide by the way comes from the US Census
17 Bureau. I took this straight from one of their slide
18 decks. But what's important to note is that the total
19 population at the state level is correct. You're
20 getting that number reported exactly as it was counted
21 by the Census Bureau.

22 But the numbers that go down to the census block,
23 the very granular information that states have used to
24 redistrict for quite a long time, there will be some
25 error in the -- in those numbers. And if you have

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1 someone in your, uh, state, a data expert, or a
2 demographer, or someone you can talk to, to get into
3 the details exactly about this applies to North
4 Dakota, that could be a really excellent resource for
5 you to explain as it's applied to here.

6 I've asked other states, uh, who I know, people
7 who work in demography to try to figure out how much
8 error this really has introduced. And they just told
9 me they don't know yet. And they're still trying to
10 dig through to figure out how much error the Census
11 Bureau has introduced into the numbers that you'll be
12 getting. But no, the numbers will be, uh, not the same
13 as the numbers that were actually reported to the
14 Census Bureau by people filling out their forms.

15 So this is like a closing slide. Uh, only state
16 total population will be reported without noise, as I
17 said. There is some evidence that distortions are
18 greater in rural areas than urban areas. And I think
19 the best way to think about that is if you change the
20 total population of a census block by one person in a
21 very dense urban census block, it goes from 187 to
22 188. Obviously that's not as big of a difference.

23 But if you change a rural census block that goes
24 from four to five, that is a 25 percent increase in
25 the total population of that block, or from four to

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1 three, the reverse direction. So there can be impacts,
2 uh, in rural areas that are greater. And obviously
3 that's of concern to, uh, states like I'm from in
4 Colorado, where you have just a couple of urban areas
5 and a lot of rural area. Uh, same thing in North
6 Dakota.

7 So, um, and there's also some evidence that the
8 distortions in small racial and ethnic groups are
9 likely to be larger than in other groups. That's again
10 just a -- a product of the math, if you have a very
11 discrete and small racial group. Uh, and you know that
12 their population is only 1,000, then, uh, the white
13 population of a state that -- or a region that might
14 be 50,000. Taking the numbers down 1 or 2 percent, uh,
15 by adding 10 people could have a dramatically
16 different impact on those two groups.

17 So that's it with the census. I'm going to move
18 on to the legal doctrines now. Um, and I'm going to
19 organize my remarks just in the supremacy clause. So
20 I'm going to start with federal constitutional law and
21 federal statutes, and then work my way down through
22 state constitutional law and state statutes.

23 So I've already covered one person one vote. I
24 think the only thing to add here is that the exact
25 amount of deviation that's permissible with certain

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1 types of districts varies depending on what type of
2 district you're looking at. So for congressional
3 districts it's exact numerical quality. That means the
4 states that redistrict for congressional purposes,
5 they have to get it down to almost an exact one person
6 difference.

7 But in states with state legislative districting,
8 uh, the census -- uh, the US Supreme Court has said
9 that up to a 10 percent deviation can be permissible,
10 uh, if it's justified by a sufficient state interest.
11 And sufficient state interests that have been found by
12 courts in the past are keeping counties together,
13 keeping cities together, keeping subdivisions
14 together.

15 You want to keep all the people who commute on
16 this highway into a city together. So just to give you
17 some examples of justifications that courts have found
18 to be permissible in the past. Anything over 10
19 percent, uh, if a lawsuit were to be brought on equal
20 population grounds, the burden shifts from the
21 presumption of legality on behalf of the legislature's
22 plan, to presumption of illegality. And then the
23 legislature would have to affirmatively defend the
24 greater deviation plan.

25 That's not to say that plans with greater

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1 deviations don't succeed. Hawaii for example has
2 greater deviations in their legislative districts
3 because they try to keep all of the island groups
4 together. So they don't try to split districts between
5 the different islands. Because you can imagine island
6 identity is very important there. And so that has been
7 upheld by the US Supreme Court. So there are, uh,
8 exceptions to that. But in general it's hard to win a
9 case if the deviation is over 10 percent.

10 CHAIRMAN DEVLIN: [inaudible] Senator Burckhard
11 [sic].

12 MR. SORVAAG: Uh, Mr. Chairman, uh, I -- I just
13 had a question. At 10 percent, I think I'm clear,
14 that's 5 percent, 5 percent, above 5 percent below. It
15 isn't the deviation is -- you can't go 10 percent up;
16 correct?

17 MR. WILLIAMS: Mr. Chairman, Senator Burckhard
18 [sic], yes, that's correct. So the answer is, it could
19 be if you had a bunch of districts at four. You could
20 have fewer districts at six. It's just an overall 10
21 percent deviation. Sometimes states do put it at a
22 plus or minus. But it's just overall 10 percent total
23 deviation from the most populated to the least
24 populated district from the ideal.

25 And the ideal is just calculated by total

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1 population of the state divided by the number of
2 districts you're drawing.

3 CHAIRMAN DEVLIN: And this was my fault. I
4 introduced Senator Sorvaag as Senator Burckhard. So
5 just, you know --

6 MR. WILLIAMS: Okay. So it is Senator Sorvaag.

7 CHAIRMAN DEVLIN: It is.

8 MR. WILLIAMS: I -- I saw that and I was like,
9 oh, they've switched seats on me. Okay. Good. Well
10 thank you, Senator Sorvaag, for the question.

11 Um, the next major doctrine is racial
12 gerrymandering. Um, this comes from, uh, the 1990s,
13 uh, primarily in the American south. This is the
14 original racial gerrymander. You see on the slide this
15 is the North Carolina 12th Congressional District. It
16 could be the most litigated congressional district in
17 the United States. I think there's been multiple
18 lawsuits every decade on this district.

19 Um, this construction as it was drawn, uh, was,
20 uh, ostensibly to comply with the Voting Rights Act
21 because it's combining all of the black population of
22 Charlotte, Winston-Salem, Greensboro, High Point, and
23 Durham. And those very narrow points you see in
24 between Charlotte and Winston-Salem are where the
25 district is only as wide as Interstate 85. Uh, that's

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1 the -- that's how they kept contiguity together in
2 North Carolina when drawing this district.

3 Um, so the original case, Shaw v. Reno in 1993,
4 this district was struck down for being an
5 impermissible racial gerrymander. At that time they
6 were mainly talking about the shape in the court
7 opinion. They weren't really talking about the
8 standard would possibly be. And over time it became
9 clear that the standard the Supreme Court was actually
10 getting at was predominance. And predominance means,
11 was race the predominant factor in the construction of
12 a particular district.

13 And I'm giving you on this slide a general
14 overview of how these, uh, claims proceed. If you ask
15 any of the, uh, legislative council, any of the
16 attorneys with legislative council, uh, to give you a
17 -- a better explanation, they would tell you that
18 there's -- there are more layers to it than what
19 you're seeing on this slide, but just to give you a
20 general overview of how the process works.

21 The first question a court asks was did race
22 predominate in the creation of a district. If the
23 answer is yes, then it goes to the justification
24 stage, which was, well, was the state required to draw
25 the district that way because of the Voting Rights

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1 Act, or because they were remedying some past racial
2 discrimination that was well known and had been
3 identified and vetted.

4 And if the answer is yes to both of those, then
5 the district will be upheld, despite the fact that
6 race was the predominant factor in the creation of the
7 district. Anything short of that, it's invalid.

8 The next doctrine is partisan gerrymandering. And
9 I've scratched it out for federal courts because it
10 doesn't exist anymore. But I'm going to go ahead and
11 mention it here briefly just because you've probably
12 heard about it over the past decade, these partisan
13 gerrymandering cases, particularly coming out of
14 states like Wisconsin, and, uh, North Carolina, and,
15 uh, Michigan, and Ohio.

16 They were a major focus of the Supreme Court.
17 They were based on different theories under the first
18 amendment's freedom of speech clause and the 14th
19 amendment's equal protection clause. And it's
20 important to note they're no longer justiciable in
21 federal courts. In 2019 the US Supreme Court said in a
22 case called *Rucho v. Common Cause*, that these were
23 questions outside the capacity of federal courts to
24 decide.

25 They didn't say that these cases couldn't be

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1 brought in state courts. They didn't decide that the
2 legislatures couldn't do things on their own to pass
3 regulations on partisanship and redistricting. What
4 they said was that federal courts were not the
5 appropriate venue for these cases.

6 There are theories that were developed in these
7 cases that can be, uh, have been successfully applied
8 in state courts. But I just wanted to highlight here
9 that for the moment this doctrine is dead in federal
10 courts.

11 So I was also talked -- I was asked to speak a
12 little bit more fully on the Voting Rights Act. So I
13 created a -- a few more slides here to give it a
14 fuller sense. And, uh, the key sections of the Voting
15 Rights Act that apply to redistricting are sections
16 two, three, four, and five, with the most important
17 one being section two. Um, and you can see the -- the
18 titles of the, um, the brief descriptions of what each
19 of these sections do.

20 So section two, uh, prohibits vote dilution in
21 redistricting. Uh, what that means is that if there is
22 a minority group that qualifies for protection under
23 section two of the Voting Rights Act, the district --
24 a district needs to be drawn in such a way that that
25 minority group has the opportunity to elect its

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1 candidate of choice.

2 This section applies nationwide. It requires
3 litigation. Unlike section five of the Voting Rights
4 Act it is not prophylactic, which means the states do
5 not have to preclear their changes in their election
6 codes, including their redistricting plans, before
7 they are allowed to go into effect.

8 Um, the burden of proof in these cases is
9 discriminatory effect. So the plaintiffs don't have to
10 prove that the state had any discriminatory intent in
11 passing the plan. They just have to prove that the
12 effect of the plan, uh, had a -- was discriminatory on
13 them.

14 And, uh, the district I've given you on the right
15 is commonly referred to as the earmuffs district. It's
16 in, uh, the city of Chicago. And, uh, this district is
17 actually drawn in compliance with the Voting Rights
18 Act. And it's combining two Latino populations that
19 are, uh, surround a majority black Voting Rights Act
20 district.

21 So sometimes this district you see it, uh, sort
22 of out as an example of partisan gerrymandering. But
23 actually, uh, the state of Illinois, uh, was required
24 to draw this district this way.

25 CHAIRMAN DEVLIN: And Representative Nathe.

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1 MR. NATHE: Thank you, Mr. Chairman. Thank, you,
2 Ben. Uh, I did enjoy that, uh, conference out in Salt
3 Lake and --

4 MR. WILLIAMS: Wonderful.

5 MR. NATHE: And one thing I -- I caught from, uh,
6 for the four days was basically how do we stay out of
7 court.

8 MR. WILLIAMS: Right.

9 MR. NATHE: And with this slide here that you're
10 talking about, is there a certain percentage -- in
11 this case was there a certain percentage of Latinos
12 that had to be districted in there versus the black
13 community? Or [inaudible]

14 MR. WILLIAMS: Right.

15 MR. NATHE: -- to grab all the Latinos, or some
16 of them, or --

17 MR. WILLIAMS: Sure. Mr. Chairman, Representative
18 Nathe, so the -- I don't know the exact Latino
19 percentage for this district. I could certainly look
20 that up for you and get a -- get that number to you.
21 Uh --

22 MR. NATHE: Because any of -- any ethnic group in
23 -- in general, I mean is there a certain number we
24 should be aware of to make sure --

25 MR. WILLIAMS: Sure. So I mean it's any minority

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1 group that the test that's on the -- the next slide
2 applies to. And I can get to this in a moment. But,
3 uh, there's no exact threshold requirement. It's -- it
4 requires just some analysis of the political makeup of
5 the -- of the region in particular that that district
6 is going to be in. And whether or not there is what's
7 known as white crossover voting, so are white voters
8 crossing over to vote with the minority candidate.

9 And the exact threshold can vary. And states that
10 have very high racial polarization, where the minority
11 group and the white majority do not vote like each
12 other at all, then you might need a much higher
13 minority threshold than you would in, for example, um,
14 the Atlanta metro area, where evidence has shown that
15 over this past decade, what used to be very richly
16 polarized, now white voters are crossing over and
17 voting for the -- the -- the -- the black candidate of
18 choice in those districts.

19 So, uh, what's required by the Voting Rights Act
20 in those districts to create opportunity to elect.
21 Because keep in mind, opportunity to elect doesn't
22 mean win every single time. It just means you can win.
23 Um, might be significantly lower.

24 MR. NATHE: Thank you.

25 MR. WILLIAMS: Mm-hmm. Thank you, Mr. Chairman.

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1 So these are the, uh, what are known as the Gingles
2 preconditions. This comes from a case called Thornburg
3 v. Gingles in the 1980s. And these are the three
4 threshold, uh, conditions that a plaintiff has to
5 prove before their section two vote dilution case can
6 proceed in the redistricting context.

7 So the first one is that the minority group has
8 to be sufficiently large and geographically compact to
9 constitute a ma- -- a numerical majority in the
10 district. And this is confusing because I just told
11 Representative Nathe that there's no threshold level
12 that is required. And that's because there's a
13 difference between qualifying and remedy, which is a
14 very confusing distinction that the Supreme Court has
15 made.

16 But, um, in essence the minority group does have
17 to count as a, uh, constitute a majority in the
18 district. And for this you're not using total
19 population. You are using citizen voting age
20 population. So you would be using citizen native
21 population, citizen black population, because it's a
22 majority of voters for a Voting Rights Act case.

23 The second and third problems are commonly
24 considered together. They're con- -- they're known as
25 racial polarization. The minority group has to be

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1 politically cohesive. So just to give you an example,
2 there are -- there's a very diverse Latino community
3 in south Florida. And a lot of the Latino community,
4 they vary in how they vote. And there's a lot of
5 different national identities within what we could
6 call broadly Latino.

7 They don't necessarily vote together as a block
8 in any meaningful way. So they might not qualify for
9 section two protection, uh, because they don't satisfy
10 the second prong of Gingles. But if they did, then the
11 third question becomes, do the white voters that
12 surround them act as a block to thwart their ability
13 to elect their candidate of choice on a regular basis.

14 If a plaintiff can prove all three of those
15 preconditions, then the analysis the courts consider
16 shifts to the senate factors. The senate factors are a
17 totality of the circumstances analysis. This is not
18 like a checklist that plaintiffs have to prove every
19 single one of these elements. Just in general if they
20 can prove some of the senate factors, the courts have
21 found that sufficient.

22 And the thing to note is that if a plaintiff can
23 prove the Gingles preconditions, they're almost
24 certainly going to be able to prove the senate factors
25 too. That's not always the case. But in general the

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1 Gingles preconditions are the only real hurdle to a
2 section two claim being successful.

3 MR. NATHE: [inaudible] thank you, Mr. Chairman.
4 So Ben, what if the minority doesn't have a candidate
5 or can't find a candidate? So the -- would that make
6 this district invalid then? I mean do we have to draw
7 it to make sure that they do have a candidate or --

8 MR. WILLIAMS: Chairman Devlin, Representative
9 Nathe, so the district does -- the candidate of choice
10 doesn't have to be a member of the minority community.
11 For example there's a Voting Rights Act district in --
12 in Memphis, Tennessee, that is represented by, um, a
13 white man. But he's the minority candidate of choice
14 according to the analyses that have been done.

15 These are racially polarized voting analyses are,
16 um, regression analyses that are done on election
17 results, as compared to demography from the Census
18 Bureau. So, uh, the candidate of choice can be someone
19 not of their ethnic or racial group. Uh, you're
20 correct that it's common that it is. But it doesn't
21 necessarily have to be.

22 So when the state, uh, or whoever is doing this
23 analysis, conducts the analysis, and they -- they run
24 through who it is, it usually comes to some evidence.
25 I've -- I've been told -- I've never conducted one of

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1 these analyses myself -- but I have been told that if
2 the threshold is usually 0.7. So if 70 percent of the
3 minority group is voting a certain way, that's sort of
4 the minimum threshold that courts have found in the
5 past, uh, to be permissible.

6 CHAIRMAN DEVLIN: Um, Representative Schauer.

7 MR. SCHAUER: Thank you, Mr. Chairman, uh, Mr.
8 Williams.

9 MR. WILLIAMS: Mm-hmm.

10 MR. SCHAUER: In those districts where it's
11 heavily minority, is there pressure from the courts to
12 break those districts down into subdivisions to make
13 sure those mino- -- that minority population is
14 represented?

15 MR. WILLIAMS: Uh, Mr. Chairman, Representative
16 Schauer, so the answer is it can depend. It depends on
17 how big the district is. You're correct that
18 sometimes, uh, the Voting Rights Act has been used to
19 break up, uh, multimember districting plans in the
20 past and create smaller subdivisions. And that has
21 occurred.

22 However the most common application of the Voting
23 Rights Act in multimember districting schemes is in
24 city councils where all the seats are elected at
25 large. It's not typically in legislative bodies.

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1 States that have moved away from, uh, multimember
2 districting to single member districting, that -- that
3 can be one of the factors that they're considering.

4 But just to give you an example, West Virginia is
5 shifting from multimember districting to single member
6 districting in their state house this decade. That had
7 absolutely nothing to do with, uh, race. It just had
8 to do with, um, politics.

9 CHAIRMAN DEVLIN: Senator Holmberg has a
10 question.

11 MR. WILLIAMS: Mm-hmm.

12 MR. HOLMBERG: We of course in North Dakota have,
13 uh, a number of reservations.

14 MR. WILLIAMS: Sure.

15 MR. HOLMBERG: And, uh, our ideal district, uh,
16 if we use the current, uh, system, is 16,500 people
17 roughly.

18 MR. WILLIAMS: Mm-hmm.

19 MR. HOLMBERG: Uh, and we hear that the native
20 populations, you know, want to have representation.
21 But our -- our reservations go from -- I think it's,
22 uh, 8,500, uh, uh, which is a pretty substantial part
23 of our legislative district, down to one reservation
24 that has 206.

25 MR. WILLIAMS: Right.

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1 MR. HOLMBERG: Uh, and I would just wonder your
2 observations about if we have districts that have a
3 native population of 8,000 or 6,000, uh, how thin does
4 the ice get if we decide not to do any subdistricting
5 in those areas, as South Dakota has in two
6 reservations. They have subdistricts in two
7 legislative districts.

8 How thin, if you're at 8,000, 9,000 people of a -
9 - of a 16,000 district, is the ice getting pretty
10 thin? And I would suggest maybe the 206 you might
11 agree that, eh, not a big --

12 MR. WILLIAMS: Sure. Uh, Vice Chairman Holmberg,
13 I think that it just -- it depends on the exact
14 analysis that's done on minority group political
15 cohesion. Because you could imagine a situation for
16 example where the, uh, the population of the
17 reservation, maybe they're not as, uh, politically
18 cohesive as you would expect.

19 And the only -- my only example for this is I
20 know in Oklahoma, uh, that the -- the tribal
21 governments there, they tend to have a little bit of
22 diversity politically on which party they vote for.
23 Um, in North Dakota, if that were the case, then
24 obviously they might not qualify under the political
25 cohesion.

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1 Uh, in general through if the -- not breaking
2 down into subdistricts, it would, uh, depend on what
3 the potential outcome is. I mean I will show you that
4 this next slide I was going to show you is vote denial
5 versus vote dilution for redistricting.

6 And it's -- because you may have heard of this
7 case called Brnovich v. Democratic National Committee,
8 this case in -- that came out this year from the US
9 Supreme Court, that applied to section two in the
10 elections context. That had nothing to do with section
11 two in the redistricting context.

12 But there are commentators and people who believe
13 that the Brnovich case, uh, which was favorable to the
14 state legislature in Arizona, was a very favorable
15 standard and, uh, presuming, uh, constitutionality and
16 legality of Arizona's election law.

17 Maybe that has some future implications for how
18 section two in the redistricting context would be
19 interpreted in the future. So there might be something
20 there. But as of this moment, the -- the favorable
21 logic of, uh, logic of Brnovich hasn't been carried
22 over to the redistricting context.

23 So this could be a thing where in 2025 the answer
24 is very different. And the answer is, yes, you -- it
25 doesn't actually do much to the ice at all. You're --

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1 you're on pretty solid ice, uh, with that decision.

2 But as of this moment, this is -- this is the law as
3 it stands.

4 And, um, if courts in other states that also have
5 similar, uh, racial [inaudible] like South Dakota have
6 gone to, that system as well. Um, and they were
7 ordered to do so by a court. I presume you're in the
8 same federal circuit here in North Dakota. I don't
9 actually know that, um, that that could have some
10 impact as well.

11 And I realize that that wasn't the most
12 straightforward answer in the world. Um, and the
13 reason for that is I don't want to -- I don't want to
14 say anything that would imply that, uh, not drawing
15 one would be, uh, very disadvantageous to your -- the
16 legal prospects of your map. But just know that there
17 -- there are these risks associated with any decision
18 of redistricting, including race.

19 CHAIRMAN DEVLIN: Representative Nathe.

20 MR. NATHE: Thank you, Mr. Chairman. Ben, what,
21 uh, what's the definition of politically cohesive? How
22 do they determine that?

23 MR. WILLIAMS: So there's a couple of different
24 methodologies that can be used. Uh, one of them is
25 known as a racially, uh, racial block voting analysis.

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1 Uh, this can be done by political scientists. Uh,
2 there are consultants who do this service. There's not
3 a ton of them, but they do exist.

4 And, uh, what they do is they run regressions on
5 election results tied to voting precincts, cross
6 compare that with the data on, uh, race in those
7 precincts, and then try to figure out -- because
8 obviously when election results are reported, they
9 don't report, you know, who voted which way. But you
10 can sort of get back to some top line demographic
11 information about who most likely voted in a
12 particular direction based on what precinct they voted
13 in.

14 And so there -- there are these analyses that are
15 conducted. And, um, some states choose to do this
16 where they get this information and they have an exact
17 data set, uh, that shows, okay, in this particular
18 region of the state, um, roughly 90 percent of the
19 minority population votes, uh, for one party, and the
20 white population around them votes entirely for
21 another party.

22 So and they could constitute a numerical majority
23 in the district. So maybe we need to draw a section
24 two district here. That's typically how the analysis
25 would work.

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1 CHAIRMAN DEVLIN: You may -- you may proceed. I
2 don't see any other hands up, so.

3 MR. WILLIAMS: Great. Thank you, Mr. Chairman. So
4 as I was mentioning on this slide, this is just to
5 show you the difference between vote denial and vote
6 dilution. These are two different legal standards
7 under section two of the Voting Rights Act. Vote
8 denial applies to the elections context. Um, and, uh,
9 vote dilution applies to the redistricting context.

10 Doctrinally they've been distinct in the federal
11 courts, uh, since the Voting Rights Act was first
12 enacted. And there was a lot of discussion about, uh,
13 the Brnovich case. And I was getting it in some of my
14 presentations to other states that I've been to, so I
15 decided to include this slide, just to show that in
16 the redistricting context it is different.

17 There could be some indication based on the way
18 the Supreme Court decided Brnovich, that some of that
19 logic and some of the favorability and presumption of
20 constitutionality, upstate redistricting plans could
21 shift into the redistricting context as well. But that
22 hasn't happened yet. But just know that that is
23 something that could be on the horizon.

24 The next section is section three. It's known as
25 bail in. It's very rare that you'll see anything about

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1 this at all. Uh, but I just wanted to include it
2 because I was asked to cover the Voting Rights Act in
3 full. And that is that this is a remedy, uh, available
4 by courts who find that a state violated the 14th of
5 15th amendments to the US Constitution.

6 And the way that this would work is if a state
7 lost a race discrimination case or a Voting Rights Act
8 case. Uh, a plaintiff could say, judge, as the remedy
9 in this case, I don't just want this law to be, uh,
10 struck down, I also want the state to be subject to a
11 preclearance under section three, so that they have to
12 get approval any time they change their election laws
13 in the future. Because they've been clearly found, uh,
14 to be unable to pass nondiscriminatory laws.

15 Courts almost never buy that argument from
16 plaintiffs. I mean I think the total number of cases
17 that this has come down to is only two states state-
18 wide have ever been bailed in in the 50 year history
19 of the Voting Rights Act. And bail in is different
20 than preclearance under section five. Because the
21 judge can tailor it to a specific circumstance.

22 So I've given you the state of Arkansas on the
23 screen for example. Arkansas was bailed in in 1991
24 for, uh, losing a case about redistricting. And the
25 case was called Jeffers v. Clinton. Um, Because

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1 Clinton was the governor of Arkansas at the time. And,
2 uh, in that case the court found that the state would
3 have to preclear its redistricting plan in 1991 only.
4 And that was the scope of their section three bail in.

5 So after they got their redistricting plan
6 precleared by the Department of Justice in 1991,
7 preclearance went away and they were not a -- in a
8 preclearance state anymore. So it's much more limited
9 in scope. It's very, very rare. But since section five
10 of the Voting Rights Act was struck down in 2013,
11 which is on my next slide, uh, this is becoming a more
12 common remedy that plaintiffs ask for.

13 So don't be surprised if you see this, if you're
14 following legal proceedings in other states related to
15 the Voting Rights Act. If the state were ever to lose
16 one of those cases, the plaintiffs will probably ask
17 for this. Now whether they get it, I mean it's -- it's
18 almost unheard of that plaintiffs succeed in asking
19 for section three bail in. But they do ask.

20 So that brings me to the final two sections,
21 section four and five. Um, section four of the Voting
22 Rights Act was known as the coverage formula. And that
23 was the, uh, formula that was passed by the US
24 congress in 1965 to determine which jurisdictions
25 within the United States would have to get permission

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1 either from a three judge federal court in Washington,
2 DC, or the US Department of Justice, for any changes
3 to their election laws at all.

4 The Supreme Court clarified later over time that
5 that also includes redistricting plans as well, as a
6 type of election law. The US Supreme Court in 2013
7 struck down the -- that coverage formula for being not
8 tailored to present circumstances. The Supreme Court
9 said that the formula as it existed was drafted in
10 1965. It had not been changed since 1965.

11 And while section four is in theory a
12 permissible, uh, federal exercise of power, uh,
13 congress needs to keep that formula updated for
14 present circumstances on a fairly regular basis
15 because it's a very intrusive invasion of the
16 principles of federalism that are present in the
17 United States Constitution.

18 And so as of this point, section five, the
19 preclearance regime is the law of the land. And
20 section four says it applies to absolutely no one. So
21 section four and section five don't apply anywhere in
22 the United States. Uh, but they are still there on the
23 books. And there is a law that the United States House
24 of Representatives passed a couple days ago, I think,
25 um, that would reauthorize the Voting Rights Act. And

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1 that includes a reauthorization of section four.

2 I -- I -- my recollection is I looked at the
3 coverage formula. And I looked at analyses of who
4 would be covered. And North Dakota's not covered under
5 that new one. So I don't think this applies to you.

6 But just know that this is something that is
7 percolating in the United States congress. And we'll
8 have to follow this and -- and see what comes.

9 I always say that I work for state legislatures
10 because legislatures actually things, unlike congress.
11 But, um, you know, I, uh, so I'll leave it up to you
12 to decide whether or not, uh, anything's going to get
13 through the US Senate. But just know that it's there.

14 Um, these were the states that were subject to
15 section five in 2013. There were a couple of, uh,
16 counties, uh, in South Dakota that were subject to it.
17 Uh, and then the states that you see in the, uh, tan
18 color were subject to statewide preclearance. So any
19 state law passed by the legislature had to be
20 precleared by DOJ.

21 Uh, and obviously you can see it's predominant in
22 the American south. Also the city of New York, certain
23 counties in New York City were subject to
24 preclearance, as were, um, some counties in Michigan
25 around Detroit as well. And, uh, as was Los Angeles

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1 County in California, and Orange County.

2 So the last section of the law or the state
3 constitutions, these free and equal election clauses.
4 And I'm only bringing this up because you will see
5 this in the news and you will see this coming up in
6 other states as redistricting progresses. North Dakota
7 actually doesn't contain one of these free and equal
8 election clauses, or free and fair election clauses.
9 But these clauses exist in 30 state constitutions.

10 And for a long time people didn't really think
11 anything of it. They're like, oh, cool, our
12 constitution says elections should be free and fair.
13 That's nice. That has no legal meaning to it
14 whatsoever. I don't know what I would do with that.

15 Well the League of Women Voters in Pennsylvania
16 in 2017, uh, brought a lawsuit claiming that that
17 state's free and equal election clause included within
18 it a prohibition on partisan gerrymandering. And the
19 Pennsylvania Supreme Court agreed and struck down the
20 entire state's congressional plan for being an
21 unconstitutional partisan gerrymander under state law.
22 And the entire plan was redrawn by a special master
23 that the court hired.

24 And then in North Carolina late in 2018, a
25 similar lawsuit under exact same legal principles was

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1 brought under that state's free elections clause. And
2 a three judge panel at the trial level, uh,
3 unanimously held that that state's congressional
4 redistricting plan also violated state law. And the --
5 both plans were drawn ultimately. In North Carolina
6 the legislature actually was given the opportunity to
7 redraw the lines.

8 Um, this is interesting because now that partisan
9 gerrymandering cases are not justiciable in federal
10 courts, we may be seeing more of this in the coming
11 years. I expect -- in NCSL we expect that we're going
12 to see more of these lawsuits in some states. Not
13 talking a ton, but maybe five to ten states see these
14 free and fair election clauses come up as well.

15 And unlike in federal courts where you have some
16 standardization, in 30 different state constitutions,
17 with 30 different state supreme courts, interpreting
18 30 different state founding documents differently,
19 it's very reasonable to presume that the two states
20 that happened to rule this way, rule -- ruled this way
21 and the others.

22 And so maybe it'll be, oh, Pennsylvania and North
23 Carolina are the outlier states that found that
24 there's a prohibition on partisan gerrymandering. And
25 other states found that there was no such prohibition

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1 in their state constitutions. Because state con- --
2 state supreme courts are the final arbiters of their
3 own laws. But just know this is a doctrine that could
4 be percolating up. And don't be surprised if you see
5 it on the news and your neighbors are getting sued
6 under these clauses.

7 So that's it for law. Last section is criteria
8 and principles. Um, the only federal statute that is
9 at play is for single member districts for congress.
10 But, uh, that is not relevant to here. So the first
11 criterion is compactness. And if you see the star on
12 the top left, that means that it is in the North
13 Dakota constitution. So this is a required criterion
14 in North Dakota.

15 And it's a common traditional principle. It's in
16 40 of the 50 states. I've given you two of the most
17 common ways to measure it. There are actually over 40
18 peer reviewed different compactness measures that you
19 could in theory use. But that seems like way too many.
20 And most redistricting software, uh, only includes a
21 handful, including these two, Reock and Polsby-Popper.

22 And those are the two most commonly used. If you
23 look at court records, they're the most commonly cited
24 in compactness lawsuits. And I've given you a district
25 on the right hand side of the screen in yellow. It's a

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1 yellow rectangular district. And it has two different
2 scores listed, one under Polsby-Popper and one under
3 Reock.

4 Under both scales, zero is least compact, one is
5 most compact. And you can see the Polsby-Popper says
6 that this is a 0.589. That's pretty good. Reock says
7 that it's a 0.382. That's not as good as a 0.589. And
8 there's a over 20 percent difference between those two
9 measures.

10 So it's just -- I only bring that up to highlight
11 that the exact measure that you use in your
12 redistricting software can give you a very different
13 outcome. So it sometimes can be helpful to look at all
14 of the measures that are included in the software that
15 the state is -- is using to redistrict.

16 The next principle is contiguity. Um, it's the
17 most common principle. All 50 states have a contiguity
18 rule. And you have to be able to go to every part of
19 the district without leaving it for a district to be
20 contiguous. That doesn't mean that a donut district is
21 not contiguous. So if you had a district that was a
22 donut hole, and then you had another district
23 surrounding it that was a donut, both of those
24 districts would satisfy contiguity.

25 Because you could walk from all parts of the

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1 donut hole to all the other parts of the donut hole.
2 And you could walk the entire perimeter of the donut
3 without ever leaving the district. So both of those
4 would actually satisfy contiguity.

5 The issues tend to arise in two situations. One
6 of them is if the state is trying to follow a
7 principle to keep cities whole, for example. But the
8 city has annexed neighborhoods that are not contiguous
9 with the rest of the city. They've annexed like one
10 subdivision out there. They've annexed one shopping
11 mall way 10 miles west of town.

12 Obviously you have to either split the county or
13 the city then to, um, keep the district contiguous.
14 Another issue is water. So I've given you an example
15 from Kentucky. This is the far western portion of the
16 state of Kentucky. And because of a surveying error
17 back in the 1800s, there's actually this little
18 section called the Big Bend that is not connected to
19 the rest of Kentucky at all. It's completely
20 surrounded by Missouri and Tennessee.

21 And the Kentucky Supreme Court has said, we'll
22 consider a district to be contiguous if that part of
23 Kentucky is connected to the other part of Kentucky
24 you see on the screen. So you can't attach that random
25 part to Louisville or Lexington, but you can attach it

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1 to the part of Kentucky that is most proximate. And
2 that's in just another scenario where this can become
3 an issue.

4 Another criterion, it's not in the North Dakota
5 constitution, but, uh, Ms. Thompson sent me your
6 guidelines very helpfully, and I saw that it was in
7 2001 and 2011 in your guidelines that the committees
8 adopted then, which is preserving political
9 subdivisions. And so, uh, you have the general
10 application on the left hand side, which is it doesn't
11 specify exactly what political subdivisions have to be
12 kept together.

13 It could be cities, counties, school districts.
14 45 states have this. It's a stand in for communities
15 of interest sometimes. If you think about it, there
16 are parts of the country where county identity is
17 really important. And that's the same thing as a
18 community of interest. Like I'm -- I'm from Jefferson
19 County. I'm from Jackson County. That's my county
20 identity.

21 There are some specific applications, uh, to
22 counties. I've given you two. One of them is from
23 Idaho. The Idaho Supreme Court polices their whole
24 county rule very forcefully. In fact the Idaho Supreme
25 Court has struck down a legislative plan because a

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1 plaintiff was able to prove that you could split one
2 fewer county in redistricting. Uh, and so they -- it's
3 very rigidly policed. So in Idaho they keep as many
4 counties together as possible. And in North Carolina
5 there are sometimes these judicial rules that pop up.

6 Uh, and in North Carolina, they actually have to
7 redistrict regions of the state, so they have to
8 redistrict the Tidewater region, they have to
9 redistrict the Mountain region, the Piedmont, the
10 Research Triangle. And then they combine four separate
11 redistricting plans into one statewide plan. Because
12 the state supreme court said a long time ago that's
13 how you keep counties whole.

14 Um, just know that keeping these counties whole
15 can sometimes, uh, conflict with the Voting Rights Act
16 or one person one vote.

17 CHAIRMAN DEVLIN: I believe Senator Bekkedahl has
18 a question.

19 MR. BEKKEDAHL: Thank you, Mr. Chairman. And Ben,
20 thank you. Um, relative to the counties, one of the
21 things we've talked about in the past is keeping them
22 whole, as one of our mantras going forward. Um, as we
23 move through this, if we find a county that has an
24 ideal population plus or minus very little --

25 MR. WILLIAMS: Mm-hmm.

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1 MR. BEKKEDAHL: Uh --

2

3 [202108260956_Redistricting Committee_21573 pt2]

4 MR. BEKKEDAHL: -- your recommendation would be
5 to keep that whole if we can. And secondly, um, if we
6 have a county that could be split into two districts,
7 but stay with -- stay within the county, but some
8 people want to split that up, what would be the case
9 there?

10 MR. WILLIAMS: Sure. Chairman Devlin, Senator
11 Bekkedahl, the answer is, uh, I mean it's up to you as
12 the redistrictor. But if you have a county and you
13 want to keep counties whole, and the county fits
14 within the population deviation range, I mean maybe
15 there's some consideration as to if you keep that
16 county whole.

17 As you know, when you go through redistricting,
18 there are sometimes cascading effects on what decision
19 you make at one part of the state as you go across.
20 But presuming that that's permissible and that's
21 something that the state wanted to do, uh, and that
22 was a criterion the state was following, then, uh,
23 don't -- I see why it wouldn't make sense to keep it
24 together.

25 And then in terms of two counties, two districts

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1 within a county, or some other purpose, again I think
2 it just, um, I think that the answer is if the -- if
3 it doesn't violate some other principle that the state
4 is following, for example, if there was some, uh, rule
5 about compactness and maybe -- I'm -- I don't think
6 this applies to North Dakota, your -- your counties
7 are pretty square.

8 But you can imagine in some states there are
9 counties that just look absolutely ridiculous. Um,
10 then in those cases maybe the answer is for
11 compactness purposes, if that's the principle that's
12 being most favored, then you have to keep it together.
13 But I don't believe that North Dakota ranks its
14 criteria at all. I think it's, uh -- no. I'm getting a
15 -- I'm getting a head shake.

16 So the answer is North Dakota doesn't rank their
17 criteria. So then it's, uh, whatever you wanted to do
18 as the committee who's drawing the districts. If you
19 decided that keeping two districts, um, in one county
20 was the best way to comply with the whole county rule,
21 uh, and there was no Voting Rights Act consideration
22 or otherwise, then I -- I think you would be free to
23 do so, absolutely.

24 Okay. Thank you, Mr. Chairman. So another
25 principle is preserving cores of prior districts. You

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1 have a variation of this in your old guidelines which
2 is called keep -- not changing the districts as much
3 as possible. It means essentially the same thing. NCSL
4 uses this language on our redistricting criteria
5 tracker website.

6 It's somewhat infrequent in terms of
7 codification, although there are states like North
8 Dakota that follow it in committee guidelines and not
9 in their state constitution, uh, or have in the past.
10 And the rationale is, uh, you don't want to
11 unnecessarily break up people's relationships with
12 their representatives.

13 It's -- in the states that codify it, it's
14 usually permitted, but not required. There are a
15 handful of states, for example Arizona, which
16 explicitly reject this rule, and draw their districts
17 anew every single decade.

18 So in Arizona there's actually a formula in the
19 constitution that says you start in one corner of the
20 state, and you draw equally populated squares going
21 southeast across the state. And then that's your
22 starting map from which you start redistricting. Which
23 is, uh, an unusual method that is not used anywhere
24 else. But North Dakota, um -- but Arizona does use
25 that method.

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1 Uh, here's some other criteria that NCSL tracks,
2 uh, that I just mentioning here briefly. One of them
3 is preserving communities of interest. I will say
4 typically that there's a problem with definition of
5 what a community of interest is whenever it comes up.
6 There are a handful of states that try to define it.
7 Alaska for example defines it as a cohesive
8 socioeconomic group.

9 Which I asked someone in Alaska what that meant
10 once, and they told me it means fishermen in the
11 Aleutian Islands. That's a community of interest
12 because they all share the same industry. Uh, just to
13 give you an idea.

14 Um, and then 17 states have a prohibition on
15 favoring or disfavoring an incumbent party or
16 candidate in redistricting. Um, this is what NCSL
17 calls an emerging criteria. Because it is relatively
18 new. It wasn't something that you saw very often 30 or
19 40 years ago in redistricting. But it is becoming more
20 common.

21 Uh, avoiding pairing incumbents is in 11 states.
22 And then there are the what I call the partisanship
23 and redistricting, uh, rules, which are
24 competitiveness, proportionality, and symmetry. And
25 those are unlike the prohibition on using partisan

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1 data, which is right above it. Those explicitly
2 require the state to use partisan data to achieve a
3 political outcome.

4 So in competitiveness, the political outcome that
5 the state has to try to achieve is to make as many
6 districts close to 50/50 between the two major parties
7 as possible. Five states follow that.

8 Proportionality is a requirement that the state
9 try to draw districts that roughly reflect the
10 political makeup of the state as a whole. I'm going to
11 give you an example from, uh, Ohio, because Ohio is a
12 state that is going to be following this method for
13 the first time in 2020.

14 So in Ohio you have a state where if you look at
15 the statewide, uh, political, uh, elections from the
16 2020s, it's about 54/46 republican democrat makeup in
17 various statewide elections that you look at, uh, with
18 republicans having a roughly eight point advantage
19 statewide. Under this rule, the state of Ohio would be
20 required to draw in a 100 member chamber, a chamber
21 that elected roughly 54 republicans and 46 democrats.
22 Um, and that's the proportionality provision.

23 There is another provision called symmetry, which
24 is somewhat similar, except it doesn't actually
25 require you to draw the districts to achieve an exact

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1 outcome. What it requires you to do is to draw a
2 district so that if there's a shift in the electorate,
3 it's an equal shift either way.

4 So a five point shift towards republicans would
5 elect the exact same number of additional republicans
6 as a five point shift towards democrats would elect
7 democrats. So it requires similar performance
8 regardless of which way the political tides in a state
9 turn. Um, that's in zero states. It was -- Missouri
10 was going to have to do it, but it was repealed by the
11 voters in 2020.

12 I'm going to be honest with you, I don't know how
13 any state could possibly draw a district plan to
14 achieve that outcome. It seems almost impossible. But,
15 uh, don't be surprised if this starts percolating up
16 again in other states this coming decade as more and
17 new laws are passed.

18 And so all -- everything I've told you could
19 change via litigation. I'm going to specifically
20 highlight racial gerrymandering, which that doctrine
21 has changed every single decade. At the start of the
22 decade to the end of the decade, that doctrine has not
23 been consistent -- consistent for the entire time that
24 it has existed. So all of these doctrines could start
25 to change as new redistricting lawsuits percolate

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1 through the federal courts.

2 Um, there are a couple of lawsuits that are worth
3 mentioning to you right now. Uh, Alabama and Ohio, uh,
4 had sued the Census Bureau for failing to deliver --
5 to deliver redistricting data on schedule. Uh, Ohio
6 actually settled that suit because the Census Bureau
7 said they'll release it by August 16th. Originally it
8 was supposed to be September 30th. So when you see
9 that August 16th, you got the data on August 12th,
10 that's because of Ohio's lawsuit.

11 Um, Alabama brought a similar lawsuit. They also
12 were challenging the Census Bureau's use of
13 differential privacy which mentioned earlier. Uh,
14 there are two lawsuits in Illinois right now against
15 that preliminary use of alternative data that I
16 mentioned. One of them is brought by the state
17 republican party and one of them is brought by the
18 Mexican American Legal Defense and Education Fund,
19 MALDEF.

20 Um, and then there are four lawsuits currently
21 for what I will call predicted failure to redistrict.
22 Uh, those are in Minnesota, Louisiana, Wisconsin, and
23 Pennsylvania. And what that means essentially is the
24 plaintiffs had said there's divided government in
25 those four states.

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1 Because there's divided government in those
2 states, the state will have no possibility of
3 succeeding in redistricting. So federal courts, I
4 don't even know why you're giving the legislature a
5 chance, you just need to start, uh, redistricting for
6 them right now. And, um, none of those cases have gone
7 forward past the preliminary stages yet. But just know
8 that in the scope of litigation that currently exists,
9 those are lawsuits that are out there.

10 Um, just a final few ways for you to stay
11 connected, I do think the one thing that could be
12 helpful is if there are members of the committee who
13 do not have the red book, the redistricting law 2020
14 book. I don't know if any of you, uh, do not have
15 that. That's NCSL's best redistricting resource. And
16 it's free to legislators and to legislative staff that
17 work on redistricting. Uh, I'd be happy to work with,
18 uh, John to get all of you all red books, if that's
19 something that you would be interested in.

20 There -- there it is. There's the red book.
21 Emily's got hers. So, um, it's a wonderful resource.
22 And legislators tell us all the time that they find it
23 really helpful in, uh, learning what's changed in
24 redistricting since the last time that they did it.
25 But with that, I'm happy to take any further

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1 questions. And thanks very much for bringing me up
2 here.

3 CHAIRMAN DEVLIN: Questions. Representative
4 Schauer.

5 MR. SCHAUER: Thank you, Mr. Chairman. Uh, Mr.
6 Williams, uh, I should've mentioned this earlier, but
7 if you can go back to page 28. And on the right hand
8 side, those senate factors, uh, when it comes to
9 subdistricts.

10 Are those factors, um, met by individuals that
11 want the subdistricts or those who do not want the
12 subdistricts? In other words, if I want the
13 subdistricts, do I have to prove all of these factors
14 that this has happened? And then how do you do that?

15 MR. WILLIAMS: So it's -- it's not -- it's not
16 the -- I don't know if there's a specific application
17 to subdistricting. I will just be forthright with you
18 on there. In general to get a remedy at all, you do
19 not have to prove all of these factors. It's a
20 totality of the circumstances analysis. And it's up to
21 the court to decide how many of the senate factors are
22 sufficient.

23 Congress provided no guidance on exactly how
24 many. It has provided a list that courts could look
25 at. So this is the list from the senate report, and

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1 when the Voting Rights Act was reauthorized in 1982.
2 And in general, um, you know, it's not like a majority
3 are required. It's not like, you know, any particular
4 one is more important than another. It's just a
5 holistic answer.

6 And I realize that that's unsatisfactory, which
7 is probably one of the reasons why the US Supreme
8 Court stepped in and established the Gingles
9 preconditions in the first place. Because up until
10 they existed, that was the only test for when section
11 two liability attached. And you can imagine how vague
12 that was.

13 So, uh, I can look at the cases from other states
14 that have done subdistricting and get an answer to you
15 on exactly what factors were considered, if that would
16 be helpful.

17 CHAIRMAN DEVLIN: Representative Schauer.

18 MR. SCHAUER: Just one other question that I
19 have. Thank you, Mr. Chairman. Um, this idea that, um,
20 we insert noise and we purposely insert error to
21 increase uncertainty, uh, only the federal government
22 can come up with that.

23 What is your analysis on this? And I know it
24 really comes down to the accuracy of the census. And I
25 guess it is what it is. But can you explain a little

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1 bit how they came up with this whole idea?

2 MR. WILLIAMS: Sure. Mr. Chairman, Representative
3 Schauer, so the -- the -- the, um, methodology --
4 differential privacy is not a methodology that was
5 created by the Census Bureau for this purpose. It's a
6 method of statistical, uh, that's used in statistics
7 in other circumstances.

8 It was adopted into the United States census, uh,
9 because the chief scientist of the Census Bureau, um,
10 after surveying resources decided that that was the
11 best option available to the Census Bureau to protect
12 respondent privacy.

13 And this primarily comes down -- they would say
14 that this primarily comes down to the fact that if you
15 asked these very large data vendors, like L2, and
16 these people that, you know, if you buy their data
17 set, they can predict with a certain percent accuracy
18 how every person in the United States votes on any
19 given time based on all of their number crunching.

20 They would say that this is necessary because if
21 you compared the data that we release with the
22 swapping to the L2 data, that's so sophisticated that
23 you could crack the code and figure out what every
24 person in the United States responded. And because
25 they say of their dual mandates, they adopted this

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1 differential privacy method.

2 I would not be surprised if there's litigation,
3 uh, around the inaccuracies and the noise. I mean the
4 Census Bureau announced itself on its own webinar
5 introducing the data that states should it use the
6 block data for redistricting, they should go up to the
7 block group because there's more accuracy there than
8 at the individual block level.

9 Um, and, uh, NCSL has actually sent letters to
10 the United States Census Bureau and to, uh, the House
11 of Representatives and the US Senate. Uh, that
12 happened in 2020. I'd be happy to get a record of
13 those for you just to show you, uh, the concerns that
14 we highlighted before this was finalized.

15 I will say I am concerned that I'm not -- I would
16 -- I'm not sure what the remedy would be at this point
17 because the data's already been released. It would be
18 hard to get them to release a second data set because
19 then there would be even greater privacy implications.
20 So I'm not sure that there's anything that can be done
21 at this point.

22 But it is a big headache. And, um, the states
23 that are -- you're the ones who have to deal with
24 this. And, um, I wish I had a better answer for you on
25 what can be done. This is actually something my boss

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1 and I were talking about. We're like, should we even
2 talk about differential privacy if our answer is -- if
3 there's not much that we can help with.

4 CHAIRMAN DEVLIN: Representative Monson, I
5 believe you had a question.

6 MR. MONSON: Uh, thank you, Mr. Chairman. It was
7 pretty much same as what, uh, Representative Schauer
8 came up with. I -- I just wonder how can we trust the
9 data to be accurate and true when they've purposely
10 distorted it and thrown in -- you know, I -- I just
11 find it amazing. And only one state, Alabama, has
12 filed a lawsuit officially on this or what?

13 MR. WILLIAMS: The Alabama lawsuit,
14 Representative Monson, was, um, was dismissed, uh, on
15 standing grounds. The court said that it wasn't ripe
16 yet because the data hadn't been released. That case
17 is still in theory live. That case could come back now
18 that the data has been released once the state of
19 Alabama does some analysis on how inaccurate it is.

20 Now to be fair, it's hard to tell how inaccurate
21 it is because there's no baseline to compare it
22 against. There are some examples, like for example if
23 North Dakota had a county or a -- a particular census
24 block where you knew a prison was, and you had the
25 exact count from your department of prisons on that

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1 date, you could know whatever the Census Bureau
2 reported against whatever the number your department
3 of corrections reported. And you could have some
4 comparison with discrete examples.

5 But it's hard to get a statewide baseline to
6 compare it against, right. And the only answer is the
7 answer that the Census Bureau has provided, which is
8 to move one level up.

9 I will say, if you have a data expert and
10 [inaudible] council, or outside, or anywhere else that
11 you can talk to, uh, who can give you a -- do some
12 analysis on the state of North Dakota's data, and give
13 you a sense of the degree of inaccuracy as applied
14 here to other states, that you know, that may be
15 something that you could look into if you wanted to
16 get a clearer answer.

17 CHAIRMAN DEVLIN: Representative Nathe, did you
18 have another question?

19 MR. NATHE: Yeah. Thank you, Mr. Chairman. Ben,
20 you alluded earlier to the Ohio lawsuit --

21 MR. WILLIAMS: Mm-hmm.

22 MR. NATHE: -- uh, moving the release up to, uh,
23 August 16th.

24 MR. WILLIAMS: Correct.

25 MR. NATHE: In Salt Lake they were talking about

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1 originally September 30, as you said.

2 MR. WILLIAMS: Yes.

3 MR. NATHE: They're still going to release or
4 have their formal rollout on September 30? Now are
5 those numbers going to be different than what we just
6 received? Or will they be updated come September 30?

7 MR. WILLIAMS: Mr. Chairman, Representative
8 Nathe, those numbers will be exactly the same as the
9 numbers that are on the website. Um, that is being
10 considered as the official delivery date of the Census
11 Bureau. We've gotten questions from states that have
12 deadlines that are tied to the release of census data,
13 about whether -- what is the trigger.

14 And the best that we can figure out is if the
15 state supreme court hasn't said anything, it's really
16 up to the legislation to decide what the trigger date
17 is. So that -- that's up to you. But the -- the August
18 16th data that came out, um, and that actually came
19 out on August 12th, that will be identical to the
20 September 30th data.

21 Now the September 30th data will be in a
22 different format. It'll be more user friendly. But,
23 uh, any data expert that's done redistricting in the
24 past can use what has already been released very well
25 because it's the same data that was released in 2011,

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1 and 2001, and 1991, and so on.

2 So what the Census Bureau was trying to do this
3 decade was create a better format for releasing it.
4 But in light of the delays, they decided to release it
5 the old way in addition.

6 CHAIRMAN DEVLIN: Senator Holmberg, did you have
7 another question?

8 MR. HOLMBERG: Oh, um, yeah. There -- there --
9 there are a couple examples I think that we can use if
10 you want to look at the noise. And that is, uh, we
11 have the -- the submission from the University of
12 North Dakota on a big block area which was group
13 housing.

14 MR. WILLIAMS: Sure.

15 MR. HOLMBERG: And we know what that number was
16 that they reported to the Census Bureau. But because
17 that included dormitory people, you have already built
18 in noise. But you can see how much difference what
19 they put into the Census Bureau, as to what is
20 actually reported.

21 MR. WILLIAMS: Yes. That would -- that would be
22 another excellent example. Uh, uh, particularly if you
23 have, uh, areas where you know that the students
24 hadn't left by April 1st for example. I don't know
25 what those states might be. Or I don't know what the

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1 University of North Dakota was doing, um, at that
2 time.

3 But there are -- there are -- any example where
4 you have a group quarter number is probably the best
5 bet to -- to get some baseline comparison.

6 CHAIRMAN DEVLIN: Senator Bekkedahl.

7 MR. BEKKEDAHL: Thank you, Chairman and Ben. So
8 the -- forgive me if I missed this, but you were
9 talking about census block. And did you just determine
10 census layer too? Or are they interchangeable?

11 MR. WILLIAMS: I, uh, if I used census layer,
12 that was in error and I apologize.

13 MR. BEKKEDAHL: Okay.

14 MR. WILLIAMS: Census block and census group --
15 block group is another level of data. So there's -- so
16 there's census blocks are the most granular level -- I
17 mean a census block could be the onramp to a highway,
18 to give you an idea of how small the geography we're
19 talking about is.

20 Block groups are groups of blocks that is just
21 another layer one step above. It's still a relatively
22 small unit of geography, but it's not quite as
23 granular. And then there are also census tracts. Uh,
24 and then, uh, getting above that then you get to
25 county boundaries and city boundaries. And it goes --

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1 MR. BEKKEDAHL: So we have in our map to program
2 we have, we have a county layer, we have a voting
3 district layer, and then we have a census block layer.

4 MR. WILLIAMS: Right.

5 MR. BEKKEDAHL: So the census block layer is the
6 most detailed. We'll -- we'll -- we'll be able to have
7 to use that. Is that correct?

8 MR. WILLIAMS: You'll have the census block layer
9 to use. Now the census block layer is the one that has
10 a -- we were discussing with Senator Holmberg, is the
11 one that, uh, has the most --

12 MR. BEKKEDAHL: Has the most noise in it? Okay.

13 MR. WILLIAMS: Correct.

14 MR. BEKKEDAHL: But that's what we have in our
15 system. I just wanted to make sure we have those three
16 and that's all we have available to us.

17 MR. WILLIAMS: Right. Yeah. And I mean you --
18 Maptitude is, uh, in my experience is a responsive
19 company, if you wanted to ask them to -- about getting
20 block groups or something. I know -- I know Tracy
21 will. I'm sure that she would be. Yeah.

22 MR. BEKKEDAHL: It's complicated enough. Thank
23 you.

24 MR. WILLIAMS: Yeah.

25 CHAIRMAN DEVLIN: Emily?

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1 MS. THOMPSON: Uh, I just have one quick
2 question. And I thank you, Mr. Chairman. I know with
3 the differential privacy, you know, they generally say
4 census is the smaller, um, you get, the more, you
5 know, possibility for, you know, inaccuracies.

6 MR. WILLIAMS: Sure.

7 MS. THOMPSON: They do more or less guarantee
8 that the state's number is correct. So because of
9 course for congressional apportionment purposes. So
10 that 779,094 people, that is 100 percent accurate what
11 North Dakota's population is.

12 Is there a certain cutoff or threshold where it
13 gets less accurate? I haven't been able to really pin
14 down in my research, uh, kind of a straight answer to
15 that, if there's some cutoff. I know census blocks
16 they always say, you know, these could be a little
17 inaccurate because of differential privacy.

18 But if we're looking at say the county level, is
19 there that 100 percent certainty that what census says
20 the county is is accurate? Or is it more of a
21 threshold thing? Because I know North Dakota has some
22 really small counties, like Slope County I think the
23 population now after the 2020 census was just slightly
24 over 700.

25 Is there say a threshold if they pick, you know,

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1 3,000, anything under a 3,000 population, to protect
2 privacy, then we're going to kind of scramble or
3 insert noise? Is there any kind of threshold where we
4 can safely assume that this is the accurate number,
5 like the state population is?

6 MR. WILLIAMS: So thank you, Emily. The answer is
7 my understanding, and I will check on this and get
8 back to you because I'm not 100 percent certain, but
9 my understanding is that the only population level
10 that has been held in variant is the total state
11 population. And there is at least some noise as you go
12 down.

13 Now there's less at the top, as you indicated. So
14 the county level noise might be very minimal. I'm
15 waiting to see the data analyses on that, because I'm
16 an attorney, I'm not a data expert. So I'm not capable
17 of conducting the analysis myself.

18 And I've -- I've called in friends in states and
19 asked them what they're seeing in their states. And
20 the only answer is I've gotten are, you know, we're
21 still looking. What we're seeing right now there's --
22 there's some stuff that we think is weird, but we
23 don't know if that's just because population growth
24 was different than we expected, or if that's the noise
25 in the data.

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1 But, um, I will get back to you with an exact
2 answer on what was held in variant and which was not.
3 Uh, but my understanding is that it's -- it's two
4 elements. There's only one level that's completely
5 accurate. And there's a degree. And as you go down,
6 the degree of noise increases, the -- the smaller and
7 smaller the unit of geography gets.

8 CHAIRMAN DEVLIN: Representative Headland.

9 MR. HEADLAND: Uh, thank you, Mr. Chairman. Uh,
10 Mr. Williams, is there any history that would reflect
11 on, uh, the sheer, uh, land mass density of a
12 district, a sparsely populated rural area versus an
13 urban district, and, uh, how that might, uh, play out
14 with representation of those that are elected within
15 those districts?

16 MR. WILLIAMS: Um, Chairman Devlin,
17 Representative Headland, I'm not -- I'm not sure that
18 I have seen such an analysis. That doesn't mean that
19 one doesn't exist. I -- I read the legal, uh, articles
20 more than I do the political science ones just because
21 of my background.

22 But there may be something in the political
23 science literature that relates to that. I'd be happy
24 to look into it and get back to you, if I find
25 anything.

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1 CHAIRMAN DEVLIN: Representative Lefor.

2 MR. LEFOR: Thank you, Mr. Chairman. So if I
3 understand you correctly that, uh, we're using census
4 block right now.

5 MR. WILLIAMS: Correct.

6 MR. LEFOR: And we don't have census block group.

7 MR. WILLIAMS: Correct.

8 MR. LEFOR: Is -- am I understanding correctly
9 that census block group would be more accurate? And
10 that's the first part of my question. The second part
11 is, do you expect this information to be more accurate
12 September 30th as far as those different levels,
13 county census block, and so forth? What should we be
14 using?

15 MR. WILLIAMS: Chairman Devlin, Representative
16 Lefor, so the answer is, uh, the data will be exactly
17 the same. The exact same differential privacy will be
18 applied September 30th to August 12th. So you won't
19 see anything different then. You are correct that the
20 most noise that exists is at that block level. Uh, and
21 that's the level that it's -- as it sounds like, is in
22 your data set.

23 There are block groups that is another level of
24 geography that the Census Bureau, uh, can report out.
25 I don't have any knowledge about whether or not that's

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1 available to be put into Maptitude. Uh, that's
2 something you'd have to ask your data person or your
3 software vendor, uh, to get an answer on.

4 But the Census Bureau has said, and we can -- you
5 can debate whether or not how much weight or -- you
6 put into this. But the Census Bureau has said that
7 there's less noise at the block group level than at --
8 than at the individual block level. And so, um, there
9 is some accuracy advantage to moving up a layer.

10 CHAIRMAN DEVLIN: Further questions [inaudible]
11 Representative Holmberg.

12 MR. HOLMBERG: Thank you for the promotion.
13 [talking over each other]

14 MR. HOLMBERG: Um, but does that -- one of the
15 things that we always keep in mind is, what is our
16 degree of risk for litigation.

17 MR. WILLIAMS: Sure.

18 MR. HOLMBERG: But utilizing the census block
19 which is what we have, uh, I can see why that would
20 all of a sudden be the real rea- -- or the big reason
21 why we would end up in court, because we used
22 something that the federal government had given us.

23 MR. WILLIAMS: Yeah. Vice Chairman Holmberg, I
24 think -- I think you're right. I mean this is -- the
25 census data in the past, it had error in it anyway.

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1 There was data swapping. You were intentionally taking
2 information from one census block and putting it in
3 another.

4 Um, and so there's -- there's -- the -- the
5 Supreme Court has always said that we presume accuracy
6 of the census data. And states that rely on the census
7 data to redistrict, we will not presume any other
8 inaccuracy here.

9 There is some question about the states that are
10 litigating this accuracy question when it gets up to
11 the Supreme Court. Would they rule rule differently
12 this time because this is -- and the theory would be
13 is this different to such a degree from the prior
14 methods of disclosure avoidance that the Census Bureau
15 has used, that you're in different legal territory.

16 All the history that we've had indicates to us
17 that the Census Bureau usually wins when it's sued.
18 And, uh, then it usually wins and the da- -- the data
19 is given the blessing of accuracy. So from a -- from a
20 perspective of avoiding litigation and avoiding
21 successful legal challenges, uh, all the history
22 indicates that, uh, you're on solid ground using
23 census data.

24 Could it change in the future? I guess. But I
25 mean, I'm -- I haven't seen anything to indicate that

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1 that would be so.

2 MR. HOLMBERG: And I mean we can talk about the -
3 - the noise, etc. But aren't we just kind of looking
4 at how many angels can fit on the head of a pin,
5 because it's not going to make any difference at the
6 end of the day.

7 MR. WILLIAMS: I think that that's certainly a --
8 a valid way of looking at it. Yep.

9 CHAIRMAN DEVLIN: Emily, you have some insight.

10 MS. THOMPSON: Uh, thank you, uh, Mr. Chairman.
11 Just to mention, the, uh, templates that we pushed out
12 are currently the census block. But we can, um, add
13 that additional layer of the census block group to
14 your maps. So we can add that into your maps should we
15 want to see those larger, uh, combination of census
16 blocks.

17 CHAIRMAN DEVLIN: Senator Bekkedahl.

18 MR. BEKKEDAHL: Uh, thank you, Emily, for that.
19 The way that I looked at the program, it -- it might
20 be a helpful tool. Because once you get down to moving
21 boundaries really distinctly, uh, going to the census
22 block -- or going to the census block we have now is
23 pretty time consuming.

24 So maybe the census block group would help us in
25 that way. We're dealing about going from maybe one in

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1 that census block group to maybe 10. So, but in terms
2 of drawing up the maps, it might be a time saver.

3 MS. THOMPSON: I would be happy to, you know,
4 work with those legislators with the computers to make
5 sure they're set up to see those, uh, block groups.

6 CHAIRMAN DEVLIN: Other questions for Mr.
7 Williams? I see none. Thank you. Are you going to be
8 around long? Or when is your plane?

9 MR. WILLIAMS: Uh, my plane -- my plane is this
10 evening. I have to, uh, I have to -- I left my stuff
11 up in John's office. I have to go back and meet him.
12 But then, um, I might come back to the Capitol later
13 this afternoon. I have to check out of my hotel. So I
14 don't think they'd be appreciative if I hung out here
15 all day and they couldn't get their room back. So.

16 CHAIRMAN DEVLIN: Well I'm sure, Ben, that there
17 will be some questions for NCSL. Because you've been
18 so great to work with in the years I've been involved
19 with this. And the only thing I would tell the
20 committee, if you -- if you got some specific
21 questions, you might want to funnel them through
22 legislative council. Because other people might have
23 the same one. And then we can all get the question and
24 the answer. And I know that the council staff would be
25 more than willing to do that. So.

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1 MR. WILLIAMS: Absolutely. That would work, Mr.
2 Chairman. My contact information is on this slide. I'd
3 be happy to answer any of your questions at any time.
4 Research requests is our bread and butter. So happy to
5 help however I can over the coming weeks and months.
6 Thank you for having me.

7 CHAIRMAN DEVLIN: Thank you for being here. We
8 appreciate it very much. Uh, presentation by
9 legislative council staff on the background memorandum
10 on redistricting. Who has that?

11 MS. THOMPSON: Thank you, Mr. Chairman. You all
12 have, uh, a copy of these slides in your materials on
13 your desk today. Uh, essentially this is kind of a
14 follow up to Mr. Williams' presentation. His was, uh,
15 broad. You got a lot of the constitutional principles.

16 Uh, the presentation we're going to go through
17 now touches on a few of the same items that Mr.
18 Williams covered. But it is, uh, a bit more specific
19 to North Dakota. It's kind of a summary of the full
20 background memo that you have in your -- your packets
21 as well. So any slides that you might want some more
22 information on, if you look to your background memo
23 there's some additional detail there.

24 So again, as I mentioned, this is very North
25 Dakota specific. Um, we're looking right out the gate

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1 here, we're looking for the authority of our
2 redistricting in North Dakota. And our directive comes
3 from house bill number 1397, passes, uh, past
4 legislative session. And in that bill, uh, the
5 chairman of Legislative Management is directed to
6 appoint a committee to develop a redistricting plan.
7 That would be our committee.

8 Uh, districts in the plan are required to be
9 compact and contiguous, and conform to some of those
10 constitutional requirements regarding population
11 equality that Mr. Williams covered. Uh, the committee
12 does have the discretion to adopt additional
13 guidelines and principles when they're preparing your
14 plan. And we'll go through some of those other
15 optional guidelines more towards, uh, the end of the
16 presentation.

17 Uh, house bill 1397 also specified that kind of
18 the deadline for the committee's uh, plan to be
19 submitted to Legislative Management is November 30th
20 of this year. Um, that might be a little later than
21 the committee would prefer to submit that plan to
22 Legislative Management.

23 This date was simply selected because back when
24 the bill was being drafted, we were still a little
25 uncertain of when we would be getting the census

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1 information. So we wanted to ensure that if it was
2 really, really late, we still had a little extra time
3 to, uh, get that plan out.

4 The chairman of Legislative Management, um, shall
5 request that the governor call a special session, so
6 the legislative, uh, assembly may convene to adopt
7 that plan for use in time for the 2022 primary
8 election.

9 And specific to North Dakota, I'm going to go
10 through the, uh, requirements of the constitution in
11 the next couple slides here. Um, and our constitution
12 requires that membership of the senate has to range
13 anywhere between 40 and 54 members. Uh, members of the
14 house, that total must range anywhere between 80 and
15 108 members.

16 Um, the state is required to be divided into as
17 many districts as there are senators. And those
18 districts are required to be compact and contiguous.
19 So those factors reviewed, those are mandatory in
20 North Dakota, compact and contiguous. Uh, right now we
21 do have 47 senatorial districts. So you can see it
22 falls within the range of 40 to 54 senators that our
23 constitution provides for.

24 Uh, next, uh, districts ascertained after the
25 1990 federal census, um, are required to continue

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1 until the adjournment of the first regular session
2 after each federal, uh, census, or until changed by
3 law. Uh, the legislative assembly is required to
4 establish by law a procedure whereby half of the
5 members of the senate and half of the members of the
6 house, as nearly as practicable, are elected
7 biannually.

8 Um, in addition to these constitutional
9 requirements, now we'll look at what is provided in
10 North Dakota state statute that we have to follow when
11 we're redistricting. Um, right now the, uh, section
12 we're looking at is 540301.5. And this, uh, again
13 requires a legislative redistricting plan based on any
14 census after 1999. Um, here we did specify we're
15 looking for 47 senators and 94 members of the house.
16 And that is again within that constitutional range
17 that we could provide.

18 Legislative districts must be as nearly equal in
19 population as is practicable. And population deviation
20 from district to district must be kept to a minimum.
21 So we're really trying to kind of maintain that
22 population equality.

23 Um, the total population variance of all
24 districts from that average district population, um,
25 that's not allowed to exceed, uh, recognized

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1 constitutional standards. And just to, uh, reiterate,
2 based on the 2020 census, um, our ideal population
3 size now in North Dakota -- or excuse me, our ideal
4 district size is 16,576, if the committee decides to
5 continue to use 47 districts in its plan.

6 Uh, overall range is the measure of population
7 equality that is most commonly used by the courts. And
8 that's, uh, the 10 percent standard Mr. Williams also
9 mentioned. That was first established back in 1973.
10 And, uh, he also touched on this, how to calculate
11 that overall range. Uh, it's the sum of the deviation
12 from the ideal district population, so for North
13 Dakota, 16,576, for the most and the least populous
14 district.

15 I know that can kind of be a jumble to read, so I
16 did include a little example. Um, so for instance, if
17 our greatest population district exceeded that ideal
18 size of 16,576, by say 4.2 percent, and then the
19 smallest population district in our state falls short
20 of that ideal district size of 16,576, by 4.1 percent,
21 then you would just add those two numbers together. So
22 then the overall range that would be calculated for
23 our state would be 8.3 percent.

24 MR. SORVAAG: Yeah, Mr. Chairman, Emily, just to
25 expand on that, so everything with -- all the

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1 districts would have to stay in that [inaudible] 8.3
2 [inaudible]. So if that bottom one was 4.1, top 4.2,
3 all the others would be in the middle of that -- I
4 just want to make sure I'm correct in there. So the
5 next got to be 4 -- less than 4.1 [inaudible]

6 MS. THOMPSON: Um, uh, Mr. Chairman, uh, Senator
7 Sorvaag, yes, that would, um, naturally occur -- occur
8 just because it's a simple math calculation of, um,
9 population. And so the largest population district
10 would be your highest percentage deviation. And your
11 lowest population district would be your lowest
12 percentage deviation.

13 So any deviation in any district between the
14 highest and lowest populations would fall between that
15 4.2 and 4.1.

16 MR. SORVAAG: But there would be no limitation to
17 how many. You could have 30 districts --

18 MS. THOMPSON: Correct. Absolutely.

19 MR. SORVAAG: It would be no limitation that --

20 MS. THOMPSON: The only thing --

21 MR. SORVAAG: That's just the ceiling and the
22 floor.

23 MS. THOMPSON: Yep. You're just taking the
24 highest population district and the lowest population
25 district. Those are the only two numbers you're adding

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1 together. Yes.

2 MR. HOLMBERG: Mr. Chairman?

3 CHAIRMAN DEVLIN: Senator Holmberg.

4 MR. HOLMBERG: At the end of the day, they could
5 be up to 10 because that number can go up like this or
6 down like this, as long as the distance between the
7 top and the bottom falls within that 10 percent. So
8 you could have your biggest district could be 5.2
9 over, and you could have a -- a lower district that's
10 4.28. Yeah.

11 MS. THOMPSON: Correct. So you could have, you
12 know, 10 districts that are all 5.2. And then maybe
13 your bottom five districts are all, you know, 1.1, or
14 something along those lines. Um, also in, uh, the
15 North Dakota century code and statute, uh, we have
16 section 540301.13, which provides for the staggering
17 of terms. Um, that's outlined in more detail in your
18 memo.

19 This would be something we'd, uh, likely want to
20 include in our bill. Because you'll notice the dates
21 in there are back in 2012, 2014, and four year terms
22 from those dates. So that we would also want to, um,
23 likely address in our redistricting bill.

24 Uh, section 16.10102.2, this outlines procedures
25 for special elections and allows the governor to call

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1 a special election to be held 90 days after the call
2 if a referendum petition has been submitted to refer a
3 measure or part of a measure that establishes, um, a
4 legislative redistricting plan.

5 Uh, redistricting if it becomes effective after
6 the organization of political parties, and before the
7 primary or a general election, uh, section 16.10317
8 requires political parties in those newly established
9 precincts and districts to reorganize as closely as
10 possible in conformance with that, um, election
11 chapter 16.103, and as an order to comply with those
12 primary election filing deadlines.

13 CHAIRMAN DEVLIN: Emily, if I may interrupt --

14 MS. THOMPSON: Yes.

15 CHAIRMAN DEVLIN: Representative Nathe.

16 MR. NATHE: Thank you, Mr. Chairman. Emily, so
17 say, uh, we get the final plan on the floor in
18 November and we pass it, is that effective
19 immediately? Or is there a certain date? Or when --
20 when does the plan take effect once we've approved it?

21 MS. THOMPSON: Yes. Uh, Mr. Chairman, uh,
22 Representative Nathe, it depends, um, in part on how
23 we are reconvened. So if the governor calls a special
24 session, then if you pass a bill during a special
25 session, the, uh, basic rule for that is every bill

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1 passed during a special session has to have an
2 effective date. And then the bill will just take
3 effect on the date specified in the bill.

4 If instead of using a special session, uh, let's
5 say the legislative assembly decided to reconvene and
6 use those four days we have left, so we wouldn't be
7 called back for special session, we would just simply
8 reconvene to use your days. Well then there's
9 different effective date rules for that. I believe
10 it's 90 days after the passage of the bill it will go
11 into effect.

12 If you wanted it to go into effect say in a week
13 after you passed it, then it would just be like any
14 other, um, session for the emergency clause rules.
15 You'd have to put, um, an emergency clause. And it
16 would have to get that required vote total.

17 Uh, next part of this presentation simply covers
18 the redistricting history specific to North Dakota.
19 Uh, 1931 through '62, the legislative assembly did not
20 redistricting itself, uh, despite the requirement in
21 the constitution of the state for the assembly to
22 apportion itself after each federal decennial census.

23 Uh, 1963 through '75, I just put nearly constant
24 state of litigation. If you want more information on
25 that, I suggest go through your background memo. It

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1 kind of details all the litigation that was involved
2 during that period.

3 Uh, 1981, uh, the state got a little more back on
4 track with redistricting. And the state, uh, did have
5 a 12 member, uh, interim committee. They used a
6 consultant to assist in developing a 53 district plan.
7 Again remember, the constitution has 40 through 54
8 districts as the allowable range.

9 So at that time we used a 53 district plan. Um,
10 that was adopted during a reconvened session of the
11 legislative assembly in November 1981. You'll notice
12 it does say a reconvened session. This was not a
13 special session. This was actually the first time, um,
14 the state did use a reconvened session. And that was
15 for this purpose.

16 Uh, 1991, a decade later, um, a 16 member
17 committee, uh, also contracted with a consultant for
18 different computer related services. And in that, uh,
19 decade, they developed a 49 district plan. And that
20 plan was adopted during a special session. And that
21 was in November 1991. You'll see all of the
22 redistricting plans were adopted during special
23 sessions after 1981.

24 In 2001, uh, it was -- redistricting was
25 completed by a 15 member interim committee. And at

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1 this time we switched from using consultants to more
2 of what we do now. We, uh, used laptops with
3 redistricting software. And at that time, uh, it was a
4 47 district plan that was developed. That plan was
5 adopted during special session again in November of
6 2001.

7 Uh, the last cycle in, uh, 2011, was done by a 16
8 member interim committee who used again those laptops
9 with the redistricting software, similar to what you
10 have now. We used Maptitude at that time as well. And
11 that was a 47 district plan again. That plan was
12 adopted during a special session in November of 2011.

13 Uh, next we're going to cover a little bit --

14 MALE: Mr. Chairman?

15 CHAIRMAN DEVLIN: Senator?

16 MALE: Uh, it's -- it's digging too deep, but you
17 might, you know, question the fact that the North
18 Dakota didn't do anything from '31 until, uh, the
19 '70s. But we had to do some research on this. And we
20 made up for it in the teens because the legislature
21 redistricted in 1911, 1913, 1915, 1917, 1919. They had
22 a lot of fun. That was also during the NPL, uh, season
23 that they -- they caught up. So they built up a
24 cushion that they could use during the '40s and '50s
25 and '60s, I guess.

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1 [talking over each other]

2 MALE: I wasn't on the committee. Martinson [ph]
3 was.

4 CHAIRMAN DEVLIN: Go ahead, Emily.
5 [talking over each other]

6 MS. THOMPSON: So next up again we have, uh, uh,
7 United States constitutional and federal law. And
8 again this was covered, um, in, uh, quite a few of Mr.
9 Williams' slides. He touched on this as well. So I'll
10 just quickly review here.

11 Uh, 14th amendment of the United States
12 Constitution passed back in 1868. Uh, this, uh, state
13 said individuals are guaranteed equal protections
14 under the law. The 15th amendment to the United States
15 Constitution, again following in 1870, uh, provides
16 the right of citizens of the United States to vote,
17 shall not be denied or abridged by the United States
18 or by any state on account of race, color, or previous
19 condition of servitude.

20 Uh, the Supreme Court in, uh, 1962 in Baker v.
21 Carr, determined that the courts would provide relief
22 in state legislative redistricting cases when there
23 are those constitutional violations either of the 14th
24 or 15th amendment. Uh, following 1962, the Voting
25 Rights Act was enacted in 1965. This was enacted as a

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1 tool to essentially aid in the enforcement of the 14th
2 and 15th amendments.

3 Those amendments were in place prohibiting those
4 discriminatory practices, but there wasn't really any
5 teeth to enforce it. So that was more or less the
6 purpose of the Voting Rights Act. This act banned the
7 use of literacy tests in voting. And also provided
8 federal oversight of voter registration in areas where
9 less than 50 percent of the minority population have
10 registered to vote.

11 Next we're going to look at some case law talking
12 about population equality. Um, Reynolds v. Sims, 1964,
13 uh, the main case here. Uh, the equal protection
14 clause of the 14th amendment requires states to
15 establish legislative districts that are substantially
16 equal in population. And that is one of our
17 requirements as well.

18 Uh, both houses of a bicameral legislature must
19 be apportioned on a population basis. And again
20 overall range is that most commonly used measure of
21 population equality. And that we covered before in our
22 example.

23 Uh, 10 percent was mentioned as kind of that, uh,
24 benchmark range that we're looking at with overall
25 range. So just to summarize, if a legislative

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1 redistricting plan with an overall range of more than
2 10 percent is challenged, uh, the state has a burden
3 to demonstrate the plan is necessary to implement a
4 rational state policy, and that the plan doesn't
5 dilute or eliminate the voting strength of any
6 particular group of citizens.

7 And as again Mr. Williams mentioned, the only
8 real rational state policy that has succeeded in
9 justifying a deviation of more than 10 percent has
10 been preserving the boundaries of political
11 subdivisions.

12 Um, if a plan with an overall range of, uh, less
13 than 10 percent is presented, this may be subject to
14 challenge if the justifications for that deviation is
15 not deemed legitimate, and the plans, um, with lower
16 deviations had been considered. So it's not a -- a
17 total safety net if it's less than 10 percent. You can
18 still be subject to challenge.

19 Rucho v. Common Cause, again this was, uh,
20 touched on by Mr. Williams, a 2019 case. Uh, in this
21 case the question of whether partisan gerrymandering
22 is justiciable by the Supreme Court, uh, was settled.
23 In this case they stated, uh, partisan gerrymandering
24 claims present political questions that are beyond the
25 reach of the federal courts. So that kind of closed

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1 the door here.

2 Uh, the court further stated the, uh, US
3 Constitution supplies no objective measure for
4 assessing whether a districting map treats a political
5 party fairly. However, a little caveat here, the court
6 did note that states may look to their own state
7 statutes and their constitutions for guidance and
8 standards to apply in those partisan gerrymandering
9 cases. So while you might not be subject to that at a
10 federal court level, if you're going down to state
11 court, you have to be mindful of it.

12 Uh, also under our federal law section, we're
13 looking at multimember districts and racial or
14 language minorities. Uh, in regard to multimember
15 districts, North Dakota is one of 10 states that have
16 multimember districts. We have currently one senator
17 and two representatives in each of our 47 districts.

18 Uh, also in this area we're looking at section
19 two of the federal Voting Rights Act, which Mr.
20 Williams also, uh, touched on. And this prohibits a
21 state or political subdivision from imposing voter
22 qualifications, standards, practices, or procedures,
23 that result in the denial or abridgement of a
24 citizen's right to vote on account of race, color, or
25 status as a member of a language minority group.

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1 And I went ahead and just provided the definition
2 in case you're wondering what a language minority
3 group is defined as. Uh, this is defined as persons
4 who are American Indian, uh, Asian American, Alaska
5 native, or of Spanish heritage.

6 Uh, continuing with multimember districts and,
7 uh, racial or language minorities, we have Thornburg
8 v. Gingles again, we touched on in the last
9 presentation. That was in 1986. And this case
10 established that a minority group that's challenging a
11 redistricting plan, uh, initially what they must prove
12 is that the minority is sufficiently large and
13 geographically compact to constitute a minority in a
14 single member district, the minority is politically
15 cohesive, and in the absence of special circumstances,
16 uh, block voting by the majority usually defeats the
17 minority's preferred candidate.

18 Uh, to prove block voting by the majority usually
19 defeats that minority group, uh, the use of
20 statistical evidence is necessary. And that was
21 touched on a little bit in our last presentation as
22 well.

23 And, uh, Shaw v. Reno in 1993, uh, this
24 determined that if race was not the predominant factor
25 in creating the district, uh, a racial gerrymander

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1 challenge is not likely to be successful. If race was
2 the predominant factor in creating a district, the
3 district will be evaluated under a test of strict
4 scrutiny, where it must be shown that the district was
5 narrowly tailored to serve a compelling, uh, state
6 interest.

7 Uh -- excuse me, uh, common types of
8 gerrymandering, we have, uh, listed below, are packing
9 and cracking. You may have, uh, heard this reference
10 before. Uh, packing essentially refers to
11 overconcentrating a minority group into one or only a
12 few districts. Uh, so for instance, um, drawing lines
13 in possibly odd shapes in order to pack a minority
14 group into a single district of say, you know, 90
15 percent of that minority group, and thereby
16 essentially wasting any votes over a simple majority
17 in order to dilute the minority votes in those
18 neighboring districts. They're all packed into one
19 district.

20 Um, cracking, again this is splitting a
21 geographically compact minority group into multiple
22 districts, in order to dilute the voting power of that
23 mi- -- mor- -- minority groups, kind of the opposite.
24 So for instance here, you might take, um, an area that
25 could have compactly been drawn to consist of say 60

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1 percent of a minority group. And that would be
2 possibly split into say three separate districts. So
3 then you'd only have 20 percent minority in three
4 separate districts. That would be cracking to the
5 vote, uh, dilute that voting power.

6 CHAIRMAN DEVLIN: Excuse me, Emily.
7 Representative Monson.

8 MR. MONSON: Thank you, Mr. Chairman. So Emily,
9 looking at those two definitions, how can we win? No
10 matter what we pick, I mean somebody could take
11 offense. They could say, whoa, you're packing it
12 because you're keeping the reservation pretty much
13 whole. So now we're packing it. And they might -- and
14 somebody else might say, oh no, you're cracking it.

15 So how -- how do you -- how do you balance this,
16 packing and cracking?

17 MS. THOMPSON: Uh, Mr. Chairman, uh,
18 Representative Monson, yes, it -- there are, uh,
19 several layers of analysis. This is very high level.
20 But if you're looking at, uh, kind of that test there,
21 was race a predominant factor. So for instance in
22 your example if you were looking at say the
23 reservation, well you're also in that case having an
24 area that's more of a political subdivision boundary.
25 You have reservation boundaries.

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1 And so if one of the factors that you're
2 prioritizing compact, uh, contiguous, preservation of
3 boundaries, if you're drawing that district primarily
4 to preserve the boundaries of a reservation by not
5 splitting that reservation, well that's legitimate.
6 You could argue that your predominant reason isn't,
7 you know, a race or language minority based. You're
8 preserving those district boundaries.

9 So there's kind of a balancing test you have to
10 look at those circumstances. If it was only because of
11 race, no other factors, compact, contiguous, you know,
12 uh, preserving district boundaries, then you're going
13 to have a -- a harder time there.

14 CHAIRMAN DEVLIN: Senator Holmberg.

15 MR. HOLMBERG: Um, and -- one of the slides that
16 we had earlier about, uh, talked about racially
17 polarized voting in the state. And if you
18 theoretically had an area that was, uh, a native
19 reservation, and because of its loss of population,
20 you all of a sudden have to add -- and that particular
21 county votes predominantly, overwhelmingly
22 predominantly one way, and the counties all around it,
23 uh, vote a different way, uh, partisan-wise.

24 Uh, if you add a large -- a number of those
25 people from outside what was the original county, uh,

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1 does that -- does that not lead us to have to discuss
2 whether or not we should be doing a division of, um,
3 house districts for example, because, uh, of that
4 factor regarding polarized.

5 Well you can show that there was polarized
6 [inaudible] and you can show they voted this way,
7 these people voted that way. And are we doing
8 something that dilutes the native population vote, uh,
9 which would I think be very thin ice. And, uh, yeah,
10 so you can say, oh, and that's it, but.

11 MALE: [inaudible]

12 MR. HOLMBERG: A couple instances of the state
13 where that might be an issue.

14 MS. THOMPSON: And also if you think as well, if
15 you had a reservation in the state that say you had a
16 population of 30,000, you would have to split that as
17 well. Because it would be over the ideal district
18 size, which is one of those predominant balancing
19 factors, so.

20 Sorry? Regard to federal law, continuing on here,
21 uh, there have been these traditional districting
22 principles defined. Uh, these are included. The -- the
23 six that are included here are compactness,
24 contiguity, preservation of political subdivision
25 boundaries, preservation of communities of interest,

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1 uh, preservation of cores of prior districts, and
2 protection of incumbents.

3 And so the next slides I'm just going to walk
4 through each of these six items to give you kind of
5 some visual examples of what this looks like and some
6 further description. So in this slide here we're
7 looking at compactness. Districts must be
8 geographically compact. And here we have an example
9 of, uh, Rolette County, which is the current District
10 9. This is a picture of our current district map.

11 And you can see, uh, District 9 is kind of our --
12 our star county right now as far as these
13 constitutional tests. It's very, very compact. It's a
14 nice square shape. So I have a little green checkmark.
15 This is a -- a gold star district in terms of
16 compactness.

17 Uh, if you look at the second picture, which kind
18 of resembles a lake or a river, um, this is actually
19 the third congressional district of Florida drawn back
20 in 1992. Uh, of course this was later struck down
21 because as you can see this is nowhere near compact
22 with this snaking blue, uh, picture they have up here.

23 Uh, next factor, contiguity. Uh, districts must
24 be consist -- must consist of a single shape with a
25 connected boundary. Again looking at District 9,

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1 Rolette County, it's one single boundary. It consists
2 of just one county. If you were to, uh, redistrict,
3 because as you can see in your slide here, the
4 population of Rolette County after the 2020 census is
5 now 12,187. So that would not meet our ideal district
6 size of about 16.5 thousand.

7 So if you wanted to remedy that to get that up to
8 the correct population size, you would not want to do
9 it in the manner you see in the -- the second picture
10 here with that red X. Adding just to kind of a chunk
11 of area to get your population up to ideal district
12 size off to the side there, that's not contiguous. It
13 doesn't touch. You can't travel from one area to the
14 next. So that's what you would want to avoid. That's
15 what you're looking at when you're looking at
16 contiguity.

17 Uh, the third item here, preservation of
18 political subdivision boundaries, uh, this is, uh,
19 essentially avoiding excessively splitting political
20 subdivision boundaries. So again, our -- our nice
21 example of District 9, Rolette County, you're not
22 splitting any political subdivision boundaries, it's
23 right on the -- the county line, so it's all intact.

24 Uh, the second picture though you see on the
25 right, um, this is of the 7th congressional district

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1 of Pennsylvania from the state's, uh, 2011
2 congressional plan. That plan again, that blue area
3 you see there has those odd and winding boundaries,
4 and actually consists of portions of five different
5 counties.

6 So as you can guess from that little exhibit
7 sticker you see down on the -- the right hand corner
8 of that picture, the plan was challenged in court. Uh,
9 the Pennsylvania Supreme Court held that the map, uh,
10 was unconstitutional in part due to that excessive
11 splitting of local jurisdiction boundaries. Uh, the
12 court also did replace that map with a plan drawn by a
13 special master. So that one did not hold up.

14 Uh, the fourth item, preservation of communities
15 of interest, uh, 26 states take this, uh, factor into
16 account. Um, communities of interest, as Mr. Williams
17 mentioned, is kind of defined in a lot of different
18 ways, sometimes state to state, but a general broad
19 definition you can see here is defined as
20 neighborhoods, communities, groups of individuals, who
21 would more or less benefit from being retained in a
22 single district due to either, you know, shared
23 interests, policy concerns, or characteristics. I know
24 socioeconomic was mentioned in the last presentation.

25 Uh, these are often self-defined by the members

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1 of the community such as the Alaskan fishers he
2 mentioned. Uh, race and ethnicity can play a role in
3 defining a community of interest. But it can't be the
4 sole defining characteristic. There has to be
5 something more.

6 Uh, preservation of core or prior districts, 11
7 states require, uh, prior districts to be maintained
8 to the extent possible of course after adjusting for
9 those population deviations. And that is in order to
10 maintain a continuity of representation. One approach
11 to preserving cores of prior districts is starting
12 with the existing boundary line, so to be starting
13 with the 2011 map, rather than just a blank map of the
14 state. And then proceeding to just adjust those
15 boundaries to meet those population, uh, quality
16 requirements.

17 Uh, lastly protection of incumbents. Uh, this is
18 less commonly used. 12 states, uh, require drafters to
19 avoid pairing incumbents. Um, this is essentially
20 placing two or more incumbents in a single district,
21 which leads to one incumbent either having to move, or
22 retired, or be defeated. Uh, and the policy against,
23 uh, this here of pairing incumbents, it aims to
24 promote, uh, again continuity of representation.

25 And that leads us to our final slide which is

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1 your background memo as well. And this is something
2 that we look at in all of our background memos. You
3 know, what should the committee possibly address, how
4 would you like to proceed. So these are items that the
5 committee might want to con- -- um, consider.

6 Uh, first, what parameters should be used, um,
7 should be followed in preparing plans. Again when you
8 go back to the main list here, compact, contiguous,
9 those are in the constitution. We have to follow
10 those. Also, um, equal population, that's something
11 statutory. And the Supreme Court, uh, constitutional
12 as well. So we have to follow that.

13 But three, four, five, and six, those are kind of
14 optional in North Dakota. That's something that
15 generally the redistricting committee will consider
16 whether or not they want to apply any of these, uh,
17 policies or principles when drawing their maps. Oops.
18 So that's, uh, that first bullet here.

19 Uh, also the committee might want to consider,
20 uh, if it should limit considerations to plans that
21 establish a certain number of districts, whether you
22 want to stick with that 47 districts or if you want to
23 deviate somewhere in the range between the -- the 40
24 and the 54 allowable districts.

25 Also, um, how should the plan effectuate --

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1 effectuate the staggering of terms of members of the
2 legislative assembly, which I touched on earlier. Uh,
3 what is the proper procedure for submitting proposed
4 plans for consideration by the committee, how does the
5 committee want to receive plans. Um, also how often
6 should the committee meet. And should the committee
7 meet in locations other than Bismarck.

8 So that's something the committee can consider. I
9 know there's kind of a committee discussion, uh, time
10 block at the end of the meeting today, if that's
11 something you'd like to address then. Uh, and I'd be
12 happy to answer any questions.

13 CHAIRMAN DEVLIN: Are there any questions?
14 Obviously staff is going to be here throughout this
15 process. Are there any questions that need to be asked
16 now? Representative Schauer.

17 MR. SCHAUER: Thank you, Mr. Chairman. I just
18 wanted to get this on the record. Um, because this
19 committee has already been criticized prior to us
20 meeting. And it bothers me. So Emily, my question for
21 you, are you comfortable with the guardrails that we
22 have legally, that we will stay within a process that
23 will bring this group's decision, um, that will be
24 based on integrity, fairness, and transparency.

25 Are you comfortable with the legal guardrails

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1 that we have to make these decisions?

2 MS. THOMPSON: Uh, Mr. Chairman and
3 Representative Schauer, uh, I guess as far as my, you
4 know, personal comfort level, it's more of, um,
5 compliance with our constitution and our statute. I'm
6 not the individual that determines what, you know, our
7 plan should look like. We have these overriding, you
8 know, boundaries or guardrails that we have to comply
9 by.

10 Our constitution says the plans have to be
11 compact, they have to be contiguous, they have to be
12 as nearly, you know, equal in population as
13 practicable. Um, the committees in past, um,
14 redistricting cycles have adopted other criteria.

15 Um, for instance, some have set a specific
16 population variance. Some have set it at 10 percent
17 like the -- the federal case law has established.
18 Other committees have said, you know, we don't want to
19 go above 9 percent, we want to stay even safer than
20 what we might get challenged on in court if we go over
21 10 percent. We're not -- we're going to cap it at 9.

22 And that was the case in your last cycle in, um,
23 2011. The committee decided we're not going to exceed
24 a variance of 9 percent. Um, also the last cycle the
25 committee said, you know, we really want to preserve

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1 existing district boundaries, even though that's not
2 in the constitution of North Dakota or the statutes
3 currently. The committee decided, you know, we want to
4 really play it straight, play it safe. We want to
5 preserve those boundaries.

6 Um, so that's something that -- it shows in I
7 guess the history of North Dakota's redistricting
8 process. Not only have they complied with those
9 constitutional and statutory requirements, they've
10 also, you know, voluntarily elected these additional
11 principles.

12 Uh, almost every time it was, you know, retain,
13 uh -- excuse me, the -- the variance not over 10
14 percent. Um, they've looked at, you know, retaining as
15 many districts in their present form as possible, not
16 splitting those subdivisions.

17 So I think the state has the constitutional and
18 statutory guidelines to provide for those legitimate
19 plans and also has shown in its action over the -- the
20 decades that it institutes those extra voluntary
21 protections. That answers your question.

22 CHAIRMAN DEVLIN: Representative Bellew. And this
23 will be the final question, so.

24 MR. BELLEW: This is not a question, Mr.
25 Chairman. It's a request. Uh, we've been talking about

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1 the reservations. And I noticed, uh, one of my
2 [inaudible] and Rolette County with two reservations.
3 I guess I would personally like to have a list of all
4 the reser- -- reservations and populations. Because I
5 think Senator Holmberg said that one had 300 and some
6 in it and --

7 MALE: [inaudible]

8 MR. BELLEW: Okay. I -- I -- just -- just the
9 parts that are in North Dakota, I guess. If -- if
10 that's possible.

11 CHAIRMAN DEVLIN: Yeah. It is possible. And we
12 will be looking at that as -- as we have dialogue with
13 tribal governments.

14 Uh, Randy, I know Representative Holmberg
15 [inaudible] you have another meeting at 12:00 that
16 won't take long. So I'm going to break till 1:00. And,
17 uh, we will see you then.

18 [recess]

19 CHAIRMAN DEVLIN: Committee, we will come back to
20 order and start with the 1:00 presentation by
21 legislative council.

22 MS. KRAMER: Good afternoon, Chairman and members
23 of the committee. I'm going to briefly go over a memo
24 that should be in your packets. It's the LC number
25 9119.01 and it's the information you've all been

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1 waiting for. It's the actual data. So as Mr. Williams
2 announced earlier that the census data indicated that
3 North Dakota experienced the fourth largest percentage
4 increase in population with a population increase of
5 15.9 or 15.8, excuse me, over the state's 2010
6 population. It's also home to the county with the
7 largest population increase with McKenzie County
8 increasing by 131 percent over their 2010 population.

9 Uh, in regard to rural counties, the population
10 trends tracked with the nationwide trend of less
11 populous counties losing additional population.

12 Uh, this memo provides a summary of the change in
13 population of legislative districts, counties and
14 cities and then, uh, compares the results of the 2010
15 census to those of the 2020 census.

16 So when we compare the 2010 census results to the
17 2020, uh, in regard to legislative districts, the five
18 legislative districts with the largest percentage
19 increase in population were districts 2, 27, 16, 7 and
20 39 with the five legislative districts with the
21 largest percentage decrease in population being
22 districts 9, 42, 23, 10 and 14.

23 And as you can see in the table right underneath
24 on the first page there that summarizes the population
25 change in districts comparing, uh, the last census and

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1 the current census results, including the deviation
2 from the newly calculated ideal district size if we're
3 looking, again, at keeping the 47 districts.

4 The second table on the next page provides a
5 visual of what the ideal district size would be for
6 various numbers of districts, if that's something that
7 the committee would like to consider.

8 And then the top of the third table on the second
9 page provides similar data relating to counties.

10 So when we compare the 2010 census results to the
11 2020 census results, the five counties with the
12 largest percentage increase in population are
13 McKenzie, Williams, Stark, Mountrail and Cass.

14 And the five counties with the largest percentage
15 decrease are Rolette, Benson, McIntosh, Steele and
16 Pierce. So the table on page two and then carrying
17 over to page three shows you the population
18 information for each county in the state along with
19 that deviation. Starting at the bottom of page three,
20 we have a similar table that, uh, lists all of the
21 city data. So when we compare the 2010 census to the
22 2020 census, the five cities with the largest
23 percentage increase in population are Watford City,
24 Arnegard, Venturia, Williston and Tioga.

25 And those with the largest percentage decrease

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1 are Ruso, Wales, Calio, Bantry and Ardoch. And then
2 the table, uh, on page three and then for the
3 remainder of the memo, actually, lists all of the
4 cities in the state and their corresponding
5 populations and, uh, deviations. We'd be happy to
6 answer any questions. I imagine it'll take you a few
7 minutes to digest that, but we are here as always.

8 CHAIRMAN DEVLIN: Questions from the committee? I
9 don't see any. So are we already down to the 1:30
10 presentation?

11 MS. KRAMER: Yes.

12 CHAIRMAN DEVLIN: You are so efficient. Okay.
13 We'll move on to the 1:30 presentation on -- who's --
14 who's doing this one? Claire? Okay, Claire Ness will
15 do this one.

16 MS. NESS: Okay, Mr. Chairman and members of the
17 committee, we're going to talk a little bit about
18 recordkeeping today.

19 So developing and maintaining redistricting
20 records and the possibility of having records used in
21 court if the legislative assembly might be sued over
22 redistricting issues.

23 And this is an area that is litigated a lot, so
24 this presentation is just going to be a very high
25 level summary and overview of some of the key issues.

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1 If you ever have questions about details, please let
2 me know.

3 Any of us at the table here can address any
4 specific questions you might have.

5 So as you create and maintain your documents
6 throughout the redistricting process, you're going to
7 need to balance two different interests.

8 And the first interest is going to be making sure
9 that you maintain a clear record of your decision-
10 making process for how you draw your map.

11 So this will help not only to keep your decision-
12 making organized and consistent regardless of whether
13 you're sued, it also would be invaluable if you are
14 sued as a legislative assembly, because what it'll do
15 is use the -- excuse me, the record could be used to
16 show a court how and why you made your decisions about
17 district borders.

18 If you don't have a record showing how and why
19 you made certain district choices, then the holes in
20 your record could be filled in by somebody else who
21 might be misinterpreting or misunderstanding what the
22 documents you do have, show.

23 So you don't want to leave those holes open to
24 some sort of a subjective interpretation that may not
25 have been what you were intending to do.

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1 Second, you're going to have an interest in
2 protecting the deliberative process.

3 So courts all over the country, including the
4 United States Supreme Court, have said that individual
5 legislators have to have breathing room to make
6 decisions without fear of litigation because
7 legislators bear significant responsibility for many
8 of our toughest decisions in society.

9 So court sometimes will not require legislators
10 to produce some materials related to their decision-
11 making. We're going to talk about this in more detail,
12 but you have these two competing interests you're
13 going to have to keep in mind and -- and balance as
14 you go through this process.

15 Please keep in mind, however, that even though
16 you're going to be protecting the deliberative
17 process, that does not mean that you can have a quorum
18 of the committee meet secretly or share a document
19 secretly amongst a quorum of the committee members.

20 Anything that you do in a quorum has to be in a
21 public meeting and any documents you share in a public
22 meeting are going to be open records.

23 There are two primary scenarios in which somebody
24 might have a record become public, even if the
25 committee has not chosen to make it public. The first

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1 would be an open records request, and I think
2 everybody is probably familiar with those.

3 And the second scenario would be in litigation.
4 And those two things are different, so we're going to
5 talk about them differently.

6 If somebody makes a request for a redistricting
7 record under the open records laws, the record may be
8 protected from disclosure, either under laws that are
9 specific to redistricting or under our general open
10 records laws.

11 And you can see the bullets on this slide provide
12 some examples of protections for records that you're
13 going to be working with.

14 So under House Bill number 1397, which is our
15 redistricting bill that was passed this past
16 legislative session, draft plans that are created
17 either by a legislator or by the legislative council
18 are exempt unless they're presented to a committee or
19 the full legislative assembly.

20 And once you present a draft, it becomes open,
21 but previous versions of that draft still remain
22 exempt from open record. So they do not have to be
23 provided upon request.

24 That is something that has been the case, um, for
25 several district -- redistricting committees going --

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1 going back in time. Um, and again, that's intended to
2 help protect the deliberative process.

3 You can also see that we have our standard open
4 records statute that protects your communications with
5 other individuals, our work product and our
6 communications with you from disclosure under the open
7 records laws, and then there are also other statutes
8 that might -- might protect requested records from
9 disclosure.

10 CHAIRMAN DEVLIN: Claire, we have a question, if
11 you don't mind. Representative -- or Senator
12 Bekkedahl.

13 MR. BEKKEDAHL: Thank you, Mr. Chairman.

14 Claire, the, um, question I have is if -- if I,
15 as a legislator, had assistance or had something
16 presented by legislative council relative to a map and
17 was -- and had sent to me, that's still protected as
18 long as it's not give to the whole committee in a
19 quorum environment?

20 Is that correct? So a legislative council can
21 still help me with a map and we can correspond between
22 us and have that protected then?

23 MS. NESS: Uh, yes. Mr. Chairman and Senator
24 Bekkedahl, that is correct. Those drafts would be
25 protected, even if we are helping you work on them

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1 from an open records request.

2 However, if we get to litigation -- so if there's
3 a lawsuit, the -- the rules change. And litigation,
4 like I said, is different from open records request.

5 And just because a record is exempt from open
6 records laws doesn't mean that an opposing party, who
7 is suing you, you can't get access to that record.

8 Because what you have in litigation is discovery
9 and for those of you who haven't been, you know,
10 personally involved in litigation, um, a lot of things
11 become available to the other party upon their
12 request.

13 So during redistricting litigation, there can be
14 extensive discovery and that means that legislators,
15 consultants, staff and others may be required to do
16 things like appear for a deposition.

17 And the reason I put this picture on the slide is
18 this is kind of what it looks like during a
19 deposition. You sit at the other end of the table.
20 You're under oath.

21 There's usually a video camera and a bunch of
22 lawyers looking at you and you answer questions that
23 they provide to you that you don't know in advance,
24 and you're doing that under oath and it can be a
25 fairly stressful situation.

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1 You might also have to answer questions in
2 writing under oath. Those are called interrogatories.
3 And again, you might have to provide records to the
4 other party. You typically do that before a deposition
5 so they can ask you questions about the records.

6 And discovery can cost a lot of time and a lot of
7 money and so that's a completely different scenario
8 from an open records request.

9 If you have to provide records in a lawsuit, you
10 may have to provide any records related to
11 redistricting, regardless of where or how those
12 records are stored.

13 Putting a record on your personal computer or
14 texting a message about redistricting on your personal
15 phone will not protect the record from disclosure, so
16 keep that in mind.

17 And when you do provide records, you're generally
18 going to be asked under oath if you have provided all
19 of the responsive records and that would include
20 things on your personal electronic devices.

21 So if we end up in litigation and there is a
22 discovery request for redistricting records, there are
23 some protections that we can claim to try to limit the
24 amount of materials we have to provide to the other
25 party and that's -- that's common procedure so that

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1 you don't end up just providing mountains and
2 mountains of information that may not be relevant to
3 the issue at hand.

4 The North Dakota constitution says that members
5 of the legislative assembly may not be questioned in
6 any other place for any words that are used in any
7 speech or debate in legislative proceedings and this
8 kind of relates back to what we talked about earlier,
9 where you have this legislative privilege that applies
10 to your deliberations and has been extended by courts
11 to include the records that are used in your decision-
12 making process.

13 And so we would often be able to assert
14 legislative privilege if there were a request for
15 documents in a lawsuit.

16 There's an attorney client privilege that may be
17 applicable if you are working with one of the
18 attorneys on staff, however, for government attorneys,
19 that privilege can be really weak.

20 We could claim that the documents are work
21 product, protected as legislative council or attorney
22 work product and there may be a confidentiality
23 statute somewhere that would apply.

24 However, you have to keep in mind that the judge
25 is going to be the one who's going to decide whether

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1 or not those privileges or protections actually apply
2 to the records at hand and a judge could certainly say
3 that those protections are inapplicable.

4 So these privileges have limits. When a court is
5 trying to determine whether one of those privileges or
6 protections applies, they'll look to the words of the
7 relevant statute or [inaudible] or definitions that
8 other courts have provided for those privileges in the
9 past.

10 And I provided one example up here that's been
11 used in redistricting cases. So this test is to
12 determine whether a record is protected by legislative
13 privilege. And it consists of those five bullet
14 points.

15 And a court would look at those five bullet
16 points and say, okay, is this particular record going
17 to be -- um, are these five bullet points going to
18 weigh more in favor of producing the record to the
19 other party or keeping it protected?

20 And as you can see, the first four bullet points
21 out of those five, generally are going to favor
22 producing that record. Um, and so a lot of times these
23 tests that the courts use are going to result in one
24 of your records being provided to the opposing party.

25 I wanted to give you some examples of past cases

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1 too, to see what courts have said about some of these,
2 um, discovery disputes.

3 And again, these are just a couple of examples
4 that I'm going to go through. This is something that
5 has been litigated a lot.

6 Um, but in this particular case, this is from the
7 Supreme Court of Florida and the court basically said
8 that yes, there is a legislative privilege and that is
9 great, but making sure that redistricting complies
10 with the constitution is more important than that
11 legislative privilege.

12 So even though you have that privilege, it's been
13 outweighed by the interest of, uh, voters and
14 residents and having a constitutionally compliant
15 redistricting map.

16 So in this particular case, the legislators had
17 to provide their draft plans and supporting documents
18 to the other party.

19 So even though under open records laws those
20 documents would be considered exempt and you would not
21 have to provide them to somebody who's asking for them
22 under the open record statutes, it can very well turn
23 out that a court would say in that litigation context
24 those documents have to be provided to the plaintiffs
25 who are challenging your map.

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1 Here's a -- another case. This is out of the
2 Rocket Docket, which is the eastern district of
3 Virginia. It's a federal court. Um, the federal court
4 here required a consultant to provide evidence in a
5 redistricting case.

6 Uh, the consultant was an independent contractor.
7 He was paid by a political party. He was not somebody
8 who was, um, you know, a legislative staff member,
9 wasn't in a legislative, um, you know, uh, their
10 version of the legislative council. It was a private
11 consultant.

12 And even though those legislators had had
13 conversations with that consultant outside of an open
14 meeting and they had worked together on a map, the
15 court said that the consultant was so involved that
16 the consultant's documentation, um, that he had worked
17 on with the legislators and his communications with
18 the legislators were fair game and had to be provided
19 to the opposing party.

20 And as you can imagine, that resulted in a lot of
21 interesting headlines and, um, and reports that were
22 being made to the public.

23 So one of the things that, when I was in private
24 practice, I used to always counsel my clients was
25 don't put something in email unless you want to put it

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1 in the Washington Post. And I think that's still
2 applicable.

3 Um, you can see these emails were all made public
4 in redistricting cases. So sometimes you can say,
5 don't put things in emails, because they can be
6 misconstrued and oftentimes emails can be
7 misconstrued, because you take one snippet of a
8 conversation and put it in a document.

9 The same is obviously true for text messages.
10 However, sometimes you just maybe would say prudence
11 is the better part of valor and maybe just not put
12 some of these things in writing, because they just
13 don't sound very good.

14 These are some headlines that have resulted in
15 some of these cases where people have litigated
16 whether or not certain documents should be made public
17 or provided to the opposing party in litigation.

18 Um, again, you can come up with these in a few
19 minutes of searching Google.

20 These are all over the place and when this is
21 coming out in the papers on a daily basis during a
22 redistricting committee's work, it's distracting, um,
23 and it's obviously not something that is very pleasant
24 for legislators and staff and the public to go
25 through.

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1 It can undermine the confidence in the
2 redistricting process. And as everybody knows, this
3 has become a much more public, uh, much more of a
4 public interest issue in the past decade, so there's
5 obviously a lot of scrutiny on what this committee is
6 going to be doing.

7 So I wanted to put together a few best practices
8 and on the left-hand side, you should see the word do.
9 So at a recent conference, on speaker said the easiest
10 way to stay out of legal trouble is to do the right
11 thing.

12 And there's sometimes a question about what --
13 what is that in this context? You want to comply with
14 the law, but the law is complicated. Um, and the best
15 thing to do is to identify what the lawful reasons for
16 creating districts are and create districts for those
17 reasons.

18 You want to document those reasons and the
19 criteria that you use and the process you went through
20 carefully so that you do have that record to support
21 what you've done in case you are end up -- in case you
22 do end up in litigation.

23 And try to have your conversations in person or
24 on the phone, if possible, and that's to avoid
25 misunderstandings or misinterpretations of snippets of

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1 conversations that might end up in emails or text
2 messages.

3 What you don't want to do is you don't want to
4 create districts for unlawful reasons. You don't want
5 to create a false record and because you're creating a
6 document for an unlawful reason.

7 Um, you don't want to create -- you don't want to
8 discuss creating districts for unlawful reasons, even
9 if you don't plan on doing it or you don't end up
10 doing it, don't discuss it.

11 Um, you don't want to create confusion or send
12 messages that are subject to misinterpretation,
13 because certainly that would end up as, you know,
14 potentially an exhibit in litigation.

15 Similarly with jokes, those are often
16 misunderstood. They're not -- you know, they may be
17 improper. They may be okay, but just taken out of
18 context. So really be careful about joking about
19 improper or unlawful redistricting.

20 So with that, I'll be happy to take any
21 questions. Again, that's just a very high-level
22 overview of recordkeeping, but something to keep in
23 mind as you go throughout this entire process.

24 CHAIRMAN DEVLIN: Questions for Claire? Senator
25 Burckhard?

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1 MR. BURCKHARD: Mr. Chairman, uh, Claire. So if
2 we have questions, we can call your office, right? And
3 you can guide us?

4 MS. NESS: Yes. Mr. Chairman and Senator
5 Burckhard, yes, of course.

6 MR. BURCKHARD: Thank you.

7 CHAIRMAN DEVLIN: Representative Schauer.

8 MR. SCHAUER: Thank you, Mr. Chairman. The
9 question I have is how does the process work? Because
10 right now, we're already being threatened to be sued.
11 How does the lawsuit work?

12 Where does it? What -- what level of court? How
13 is it handled and who ultimately makes the decision?

14 MS. NESS: Mr. Chairman and Representative
15 Schauer, that depends on what the plaintiff -- where
16 they file the suit.

17 So they could choose to go to a state court or a
18 federal court and it would depend on who the
19 plaintiffs are and what the issues are to decide --
20 excuse me, to help the court determine whether or not
21 they have jurisdiction.

22 So the answer to that question is it really
23 depends on who is it, what are the issues they're
24 claiming, and then the court will decide if they have
25 jurisdiction. If that's something that we would

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1 challenge.

2 The process would, presumably, if we are sued, go
3 into, um, litigation mode where you would have
4 attorneys filing motions on different issues back and
5 forth. And those really can be any number of things.

6 There are, you know, dozens and dozens and dozens
7 of types of motions that can be filed. So I hate to
8 say the answer to your question is it really depends,
9 but it -- it does. It can go any number of ways.

10 And that -- and at this point, there has not been
11 any lawsuits filed.

12 CHAIRMAN DEVLIN: Representative Nathe.

13 MR. NATHE: Thank you, Mr. Chairman. Claire, when
14 was the last time the state was sued?

15 MS. NESS: I think I'll defer to Emily. Emily, do
16 you have that in your memo? I know we discuss it in
17 the memo. I don't remember off the top of my head.

18 MS. THOMPSON: Uh, Mr. Chairman, Representative
19 Nathe, I do believe we've touched on that in the memo.
20 One moment. Let me refresh my memory.

21 [inaudible]

22 MS. THOMPSON: Well, we have someone that recalls
23 that directly [inaudible] our director, 1991. Yeah.

24 MR. BJORNSON: Nineteen. Mr. Chairman, uh,
25 members of the committee, John Bjornson, legislative

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1 council. Um, we were briefly engaged in a -- a
2 litigation in 1991, uh, that, uh, was dismissed almost
3 immediately by the federal district court.

4 But, uh, the, uh, the claim was -- or the wish
5 was, of the plaintiffs, to connect the Standing Rock
6 and the three affiliated tribes into one district by
7 using the river as a, uh, uh, a line to connect the
8 two -- two tribal entities. And the -- the, it, uh,
9 did not make it very far.

10 CHAIRMAN DEVLIN: Senator Klein.

11 MR. KLEIN: So, Mr. Chairman, um, and Claire, do
12 we -- is -- is litigation begin at any point or is it
13 after the legislature has finally condoned and voted
14 and passed the bill?

15 Because, um, certainly a work in progress, uh, as
16 some of us who have just looked at a couple of
17 districts and it's just pushing all over, but
18 eventually we've got to get it down to where the
19 entire body is going to give us a thumbs up or a
20 thumbs down.

21 When -- when -- can this process start at any
22 point where somebody may feel that they haven't been
23 in -- I suppose involved in the process properly? Or
24 can you shed some light on that?

25 MS. NESS: Sure, Mr. Chairman and Senator Klein.

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1 Um, I think Mr. Williams pointed out that the -- there
2 have been a couple of lawsuits already. A plaintiff
3 can file a lawsuit at any time.

4 Um, but you can also -- a court will decide
5 whether it's right. Um, you can file motions, you
6 know, about that issue too and rightness will depend
7 on several factors. But, um, I would imagine that the
8 -- the vast majority of the cases are filed once a
9 plan has been adopted.

10 But that doesn't mean that a plaintiff can't file
11 a lawsuit at another point in this process.

12 CHAIRMAN DEVLIN: Further questions? Thank you,
13 Claire. Who gets to do the Maptitude demonstration?
14 Emily?

15 MS. THOMPSON: Thank you, Mr. Chairman. Um, up
16 now on our agenda, what we're going to do for you is
17 just give you kind of a high-level overview of the
18 Maptitude for Redistricting software that, um,
19 legislative council has purchased.

20 Uh, I mentioned briefly in our -- uh, my last
21 presentation that, um, in the last redistricting cycle
22 the, uh, staff and committee members also use this
23 same Maptitude software, so some of you might be
24 familiar with this.

25 But for those of you that are not and for just

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1 members of the public in general to get an idea of
2 what this software looks like and some of its
3 functions, I'm just going to briefly go over and show
4 you some, um, highlights of the software.

5 So again, this is Maptitude for Redistricting,
6 and what it allows you to do is draw plans or draw new
7 legislative district maps.

8 And as I mentioned before, um, sometimes states
9 will use, um, as part of their consideration,
10 preserving those core district boundaries, uh,
11 Representative -- or excuse me, Mr. Williams touched
12 on that, um, as well.

13 So that's one thing that legislators can keep in
14 mind when they're drawing maps is whether you want to
15 start from a blank map and just a clean slate, draw
16 all new boundaries, or do you want to look at all at
17 preserving those, uh, core districts and start with
18 possibly the current boundaries and then just modify
19 that by population.

20 So here you can see we have, um, two items listed
21 here. We have a blank map, or a template.

22 Um, just for demonstration purposes, I'm going to
23 start with a blank map just to show you some features
24 and then we can look at what a template of the current
25 legislative line map looks like.

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1 I'll just open that here. Yes.

2 MALE 1: Sorry, Mr. Chairman. I'm -- Senator
3 Burckhard, missed the last meeting, so I'm giving the
4 computer to do this, but when I bring up the plan
5 manager, I have Brad Plan 1 and Brad Plan 2 in there.
6 I don't see a new category.

7 How do we get to a new so he can start over?

8 MS. THOMPSON: Uh, yes. Um, we can do new maps
9 from templates. Um, and I can, uh, come through and
10 help you generate new maps.

11 Um, right now I just had -- I just went ahead and
12 preloaded, um, just a blank map and a 2010 map just so
13 -- a kind of walkthrough of the demonstration. But
14 yeah, I can stop over, um, and do the new map
15 templates.

16 MALE 1: Sorry, are you under the plans manager
17 under plans or libraries? Which [inaudible]?

18 MS. THOMPSON: Um, it's plan manager, plans.

19 MALE 1: Okay.

20 MS. THOMPSON: And then you'd want to make sure
21 you've selected the right library from the drop down
22 under plan manager.

23 MALE 1: Okay, thank you.

24 MS. THOMPSON: Mm-hmm. So when we pull up, um, a
25 blank map, this is kind of the view that you'll be

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1 looking at and you'll have certain kind of popup
2 features that allow you to draw your map, uh, here.

3 Go ahead and drag -- zoom in a little bit. So in
4 this map, you can tell it looks kind of busy. There's
5 a lot of different features on here. You can see all
6 of these, um, blue lines. Those are the county
7 boundaries.

8 So you can get a sense of where all your county
9 lines are. Also, you'll see a lot of kind of little
10 purple dots here and if I zoom in on that, you can see
11 that this is showing you where all your city
12 boundaries are.

13 So here you can see the outline of, in this case,
14 Minot. I zoom in a little more.

15 MALE 2: Woohoo. Oh, excuse me.

16 MS. THOMPSON: Oh, shout out to Minot. So this is
17 a way for the map to kind of help you if you're
18 saying, you know, I want to keep these political
19 subdivision boundaries together. I want to try to keep
20 these counties whole or I want to try not to split up
21 these cities.

22 Or maybe I want to look at, you know, townships.
23 You can see Burt, North Dakota right here is, um, a
24 township and then you can see that light gray boundary
25 if I -- I zoom in there.

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1 And so this is just, um, they're called kind of
2 layers that you add to your map and you can see over
3 here you have a list on the far-left hand side of all
4 these different options. So you can make your map more
5 or less busy depending on your preferences.

6 So, in this case, let's say I would uncheck the
7 city town feature. You can see I lose that purple
8 outline of Minot. You can't see it anymore. It doesn't
9 look as, um, busy. But if you want to use it, you can
10 turn that back on.

11 So that's a little bit of the functionality of
12 the software.

13 MR. BELLEW: Mr. Chairman, can I ask Emily a
14 question? It's --

15 MS. THOMPSON: Yes.

16 CHAIRMAN DEVLIN: [Inaudible] Bellew, I'm sorry.

17 MR. BELLEW: Thank you, Mr. Chairman, and Emily,
18 uh, you have the townships there and you have the
19 population of the townships. Uh, are the cities
20 populations separate in that township?

21 Like Burlington is Burlington Township and
22 Burlington town? Or do you have two separate
23 populations there?

24 MS. THOMPSON: Uh, yes, Mr. Chairman and
25 Representative Bellew.

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1 MR. BELLEW: Because I -- I don't see it, so.

2 MS. THOMPSON: Yeah. If I zoom in a little more,
3 you can see, uh, Minot here. The new population for
4 2020 is 48,377 people there. But if you're looking at
5 this, um, Nedrose Township, this 2334 people.

6 The township would be classified as any area
7 that's outside the city limits. So they wouldn't be
8 layered or combined. That's a distinct separate
9 population.

10 And the reason it's nice to kind of have these
11 little population summaries is that when you're going
12 through and you're adding areas, you can kind of get
13 an idea of if you click on a county or if you click on
14 a city, how much is that going to add to your total?

15 And the way you kind of track your total, they
16 also have this handy pending changes view here. So
17 what I'm going to do to demonstrate this feature is
18 I'm just going to go ahead and just mock draw a county
19 so you can see what that looks like.

20 So I'm going to zoom back out. Drag this. Takes a
21 minute to load, so you'll have to bear with me. So
22 here we have Richland County and I mentioned earlier
23 that our ideal district population is 16,576 people
24 now that we're taking into account those new 2020
25 figures.

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1 So in this case, I can see, you know, hey,
2 Richland County, 16,529. That's almost spot on with
3 what our ideal district size is now. So if I wanted to
4 just say, okay, we're just going to start and say
5 Richland's the first district that we're drawing if
6 we're using those 47.

7 So I'd want to make sure this said new district
8 and I want to select by county. You can select by big
9 chunks at a time or little chunks at a time, like such
10 as a city or a -- a census block. I know I want this
11 whole county, so to save myself some time, I'm just
12 going to select by county.

13 Use my little pointer tool. And then when I click
14 on Richland County, you can see it turns this whole
15 county read and it's also going to add up how many
16 people I have in the county.

17 Uh, and this pending changes, I know it's a
18 little small on your screen there. I wish I could blow
19 it up, but I don't think I can. Um, it has kind of a -
20 - a rolling tally of this new district that I'm
21 creating.

22 So right now, in my new district, the population
23 is 16,529.

24 MR. BELLEW: I have a -- I have another question,
25 Mr. Chairman.

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1 MS. THOMPSON: Yes.

2 CHAIRMAN DEVLIN: Representative Bellew.

3 MR. BELLEW: Thank you, Emily. Okay, Richland
4 County is one of those counties where an Indian
5 reservation is in two different counties and if we
6 wanted to try to keep the Indian reservation whole,
7 um, either we'd have to stick it in to Richland County
8 or to the county over.

9 Um, I guess that's one of the reason why I was
10 asking for the population of the Indian reservations
11 and how to do that, so -- are you understanding what
12 I'm trying to -- thank you. You're so good.

13 MS. THOMPSON: I do. Uh, Mr. Chairman and
14 Representative Bellew, and that's something the
15 committee will have to kind of work through as part of
16 its policy decision, if it wants to split the county.

17 If it's looking more to retain, um, the
18 reservation area on the north side of, you know, the
19 South Dakota, North Dakota border, and, you know,
20 that, again, as Mr. Williams mentioned, it's -- it's
21 kind of like a domino effect once you start drawing
22 maps.

23 So, you know, what he said, I think, one state
24 starts from one side of -- or yeah, one side of the
25 state and then just kind of draws out. It's going to

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1 really depend on what are your neighboring districts
2 look like?

3 If you're going to have to split a county, you
4 know, are you going to have to creep into another
5 county and split another county? It's that domino
6 effect.

7 So as you start developing maps, you'll have
8 these little tabulations that are also, um, that's a -
9 - that's a good point to kind of mention right here.
10 You'll have, uh, factors that you can track while
11 you're making these districts, in addition to just the
12 population.

13 So, for instance, here you can see, you know,
14 what percentage of this area is, um, Native American,
15 if you want to kind of look at those population
16 totals. And we built that in as a factor so you can
17 see, when you're making these districts.

18 So in this case, you can see in, um, Richland
19 County, the, uh, portion of that 16,529 people who are
20 classified as American Indian in the census is 467,
21 and you can see what percent of that district is made
22 up of that population.

23 So that's, again, all just this great information
24 this tool provides you, so you can take all these
25 factors into consideration when you're drawing based

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1 on how you --

2 MR. BELLEW: Uh, Mr. Chairman, if I might. Uh,
3 that just tells you the amount of -- of American
4 Indians in that county. That doesn't tell you the
5 amount that's on the reservation. Is that not correct?

6 MS. THOMPSON: That is correct, uh, Mr. Chairman
7 and Representative Bellew. That is measuring -- right
8 now, it's measuring the number of, um, American
9 Indians in that area that you've selected. In that red
10 area that you've selected.

11 If I went in and selected a little chunk of
12 Sargent County to the neighboring side and turn that
13 red, this population tally would change. The number of
14 American Indians in the red area would be tracked.

15 So that's kind of what it's showing you there.

16 MALE 3: Emily, isn't it also true though that
17 you can -- if he wants to find out about the American
18 Indian, you have that on there and all you have to do
19 is push that, take off the red, push that and it'll
20 tell you there's 205 people that are in that
21 reservation? Yeah.

22 MALE 4: Mr. Chairman, I was going to say the
23 same thing. So if you just go in and click on the
24 layer, which is, um, right now on new districts on
25 this one, but if I just click on, um, or not -- no,

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1 I'm sorry, the county.

2 If I click on the county layer and bring up
3 Indian reservation and then if I bring my pointer down
4 to Fort Berthold, it'll populate the population of
5 Fort Berthold or the -- the reservation population
6 into that little box on the side, won't it?

7 MS. THOMPSON: And that's correct.

8 MALE 4: Because that's what he's trying to get
9 to?

10 MS. THOMPSON: Yeah, and I can show you that
11 quickly. If, let's say I don't want to select by
12 county, so I want to select by, um, we have an option
13 that dropped down that says Indian reservation.

14 So then if I use my pointer tool, and you see --
15 you can kind of see here this light beige area. Those
16 on the maps, on that beige area you can see in your
17 little, uh, list over here, Indian reservation.

18 It's kind of a tan color. Anywhere you see kind
19 of a tan area on the map indicates that there's an
20 Indian reservation in that area. So then if you used
21 your pointer tool and you clicked on that, you can see
22 it only highlights the portion of the reservation
23 that's actually in North Dakota.

24 So we're not looking at the total population. And
25 so in this case, you can see the population of the

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1 Indian reservation that we've just clicked on is 206
2 people. And so that will kind of help you track that
3 way too. That --

4 And as you're clicking through, if you decide,
5 well, I don't want to do based on reservation, I just
6 want to do on county, you kind of just click red,
7 click white, turn them on and off.

8 So for just demonstration purposes, I'll go back
9 to, um, a county level, just because the population is
10 so nice and tidy in Richland County, and show you what
11 it looks like when you, um, actually decide you want
12 to kind of finalize that as a district.

13 So I just click this little green checkmark and
14 then it's going to want me to number the district.
15 I'll just put one for demonstration purposes. That'll
16 be our first of 47 districts.

17 And you can see this turns green and then it adds
18 a district one information bar at the top of your
19 screen there. And so then you can see the total
20 population of that district, um, the deviation from
21 your ideal population.

22 Uh, you can see here, um, we're only 47 people
23 short from ideal in Richland County, that's how close
24 it is.

25 I also mentioned earlier, um, in my presentation

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1 the overall range where you take the most populous
2 county and then the least populous county and you take
3 that deviation percentage and you add them together,
4 disregarding the plus and minus signs.

5 So here, in the percent deviation, which is very
6 hard for you to see, it says negative 0.28 percent.
7 And so it -- let's assume that, uh, this is the
8 closest you're going to get.

9 Um, if you had another county that was maybe a
10 one percent deviation and those were your highest and
11 lowest population counties, your total deviation would
12 be 1.28 percent.

13 You would add the biggest population county, the
14 littlest population county, add those two deviation
15 numbers together and that's how you know you are kind
16 of within a, you know, a more acceptable range. You're
17 hitting that benchmark of 10 percent or less.

18 So next, just to kind of, again, demonstrate some
19 of these features, we'll go ahead and add another
20 district. And again, for demonstration purposes, I'm
21 just picking kind of the -- the easy math population
22 counties that would add up to the number we're
23 shooting for here.

24 The ideal district size. So in this case, if I
25 clicked on Barnes, Griggs and Foster, you can see in

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1 my little pending changes box, my red area pending
2 changes box, that, um, we're very close to the ideal
3 district size.

4 Or excuse me, clicked on the wrong one here.
5 [inaudible] over the ideal district size. Um. There we
6 go. [inaudible] quite high. Oh, let's see. Actually,
7 I'll probably use a different example.

8 Actually, I think I'll -- in this one, I'll show
9 how to split a county, just so you get an idea for the
10 tools of how to select by a smaller layer.

11 So in this case, let's use Stutzman County. The
12 new population is 21,000 people, so that's way over
13 your ideal district size of 16,000. So in this case,
14 you would essentially, more or less, have to split a
15 district -- or excuse me, a county to get to the ideal
16 district size.

17 So if you wanted to, for instance, um, make --
18 let me zoom in here. Jamestown, if you wanted to
19 preserve the boundaries of Jamestown, you could take
20 that out of the area you're looking at and possibly
21 make that its own district.

22 Now you see if I change this selection layer to
23 city town, you can select the entirety of Jamestown at
24 one time and then you can see on your pending changes,
25 you know, what that -- that gets you up to.

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1 When you're all done and you've decided you --
2 you like your second district, it's within the
3 population range, again, you would just -- this little
4 green checkmark and then you could see, uh, what your
5 district looks like.

6 I think it might have added it to -- oh, one
7 moment. We added it. Forgot to select a new target.
8 Select a new target there. Um, when you're drawing a
9 second district, you have to select that you're doing
10 a new district.

11 Forgot to click that button. But now we have
12 Jamestown and now when I click that checkmark, I'll
13 label it as district two. Apologies there. So now you
14 have district two and you can see that loaded on your
15 little taskbar kind of summary sheet up here.

16 You have district one and you have district two.
17 You can see the percent deviation, um, if just using
18 Jamestown as a district is -4.39 or 727 people short.
19 So that's within that, you know, acceptable deviation
20 range of -- about 5 percent is kind of what you're
21 shooting for.

22 So that's a -- I guess just a high-level summary
23 of what this looks like. I'm going to go ahead and
24 close this and just quickly open, um, a map that
25 already has all of the existing districts on it.

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1 So if the committee decided, you know, one of the
2 factors we want to look at is preserving core
3 districts to the extent possible. If you wanted, you
4 could start with the, uh, existing map.

5 You can see that here. So this map has an
6 additional layer, in addition to all those county
7 boundaries and those purple city boundaries. It has
8 all these yellow lines right here, which are your
9 existing legislative districts.

10 But it also factors in, well, what's the new 2020
11 population in those existing districts? And it gives
12 you these little markers here so you can see, you
13 know, district two grew substantially. It's 78.7
14 percent over the ideal district size now with the
15 population change.

16 Um, you can also see this same -- essentially
17 this same picture in your, uh, census population memo
18 that Sam presented. The very last page has the same
19 kind of picture of all the districts with that current
20 deviation based on the new population.

21 And so, in this case, instead of, you know,
22 creating a new district, you would select this
23 existing district and then either kind of steal area
24 from the neighboring district or subtract area out.
25 You would just be essentially modifying the

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1 boundaries.

2 So I think that covers the basic features. Um,
3 I'm going to turn it over to Claire now and she's
4 going to touch on, um, the reports that you can
5 generate using this software. And I'll [inaudible].

6 MS. NESS: Thanks, Emily. So Maptitude actually
7 has dozens of types of reports that you can generate.
8 Um, you probably will not use most of them, but I'll
9 show you an example of, um, what these reports look
10 like.

11 So here, I know some of the writing is really
12 tiny when you blow it up on the screen, but what it
13 basically does, is it says this is a population
14 summary report. So the type of the report is at the
15 top and then you can see that I selected three
16 different districts.

17 And these were based on 2020 -- or excuse me,
18 2010 data. So these would not necessarily reflect
19 what's going on today. And then I identified, um, not
20 only the population of those different districts, but
21 also different characteristics of those districts.

22 So in this case, I looked at different races and
23 the population of individuals over 18. Again, I wish
24 you could see it better on the slide, but basically
25 those -- yeah. There we go. If you can see that a

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1 little bit better.

2 Um, and so you can see that for each district, it
3 shows you those numbers. And then at the bottom, it
4 has a bunch of other statistics that it just runs
5 automatically. So I'll -- this is what a summary
6 report -- a population summary report will look like.

7 I'll go back to the redistricting software here
8 and show you how we get there. So you just go up to
9 your redistricting window and then you would go down
10 to reports. And then all of these, in this window
11 here, are all of the different types of reports you
12 can run.

13 Now, I didn't select any areas in the map, so if
14 I select one of these types of reports, um, so we
15 could do a population summary report. I can do all the
16 districts or all except for the unassigned, which is,
17 in this case, the same thing.

18 So it would be all the districts and then I would
19 hit the run tab. When I hit the run tab, then you
20 would get a report generated that looks like the one I
21 just showed you and it would include all of the 47
22 districts, because that's what I've reported on.

23 Now, for the really tricky part, I'm going to see
24 if I can get it to do a report on a selection. So this
25 is, um, you won't be able to see it well, but we can

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1 always do this for you or we can walk you through it.

2 You have a little icon up here that looks like a
3 funnel, essentially, and it takes you to this box that
4 says district selection and you click one of these
5 icons. And then you want to go ahead and -- I'll just
6 click a county to make it easy.

7 And then that is now going to be -- oops. Oh,
8 okay, it wants to give me this county instead. So that
9 is my selection. And so then, just for example
10 purposes, you still go back to redistricting at the
11 top menu.

12 You run down to reports and then you choose the
13 type of report you want to run and then here, in the
14 report on button, there will be an option for
15 selection. And again, I know that's a few different
16 steps.

17 We can create a document that kind of shows you
18 how to do it. We're happy to answer questions, walk
19 you through it, do it for you. I just want to show you
20 that it is possible, then, to choose a selection on
21 your map.

22 And instead of running the report for all 47
23 districts, you can do it for one or two districts or
24 counties or whatever the layer is that you have
25 selected. And then you just hit run and that report

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1 will come up for that selected part of the state.

2 Are there any questions?

3 CHAIRMAN DEVLIN: Committee members, I will tell
4 you from personal experience that the three people
5 sitting here from legislative council can provide you
6 all the expertise you want.

7 Just schedule some time with them if you want to
8 come out and discuss a concept for your area or
9 whatever. You know, obviously they can't take all of
10 us in one day, so I would ask that -- well, some of
11 them might take a little longer, Representative
12 Bellew, than you would.

13 So I -- that's why, you know, I want to give them
14 -- I want to give them a little extra time there. But
15 you know, just -- yeah -- yeah.

16 So give them a heads up and ask what will work
17 out and they're very good to work with and I'm
18 convinced the, uh, documentation plans that they've
19 come up with should be used nationwide, because they
20 are really, really good.

21 So anyway, I just wanted -- I mean, it's there
22 for members of this committee. Call them, schedule it
23 and let them work with you.

24 And I know new people have the computers today
25 and I know that these -- these three people and others

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1 of legislative council will be glad to help you with
2 them any way possible. They work very good, but I did
3 have to come out to do it.

4 It was a lot easier for them to have me in front
5 of them than trying to explain it to me over the
6 phone. You can understand that Representative Bellew?
7 Okay. Thank you.

8 Okay, are we -- we're done with that? Okay.

9 MS. NESS: Mr. Chairman, if I might, um, just
10 mention, the committee, uh, does have that select
11 number of actual laptops with this software on it, but
12 that doesn't mean there aren't other tools available
13 for other individuals to be able to kind of see and
14 draw maps.

15 I know it was mentioned in 2011, uh, Dave's
16 Redistricting. If you just Google Dave's
17 Redistricting, you get kind of a similar thing where
18 you can draw maps and kind of see different ideas for
19 districts.

20 And so for those members of the public that might
21 think, well, I don't have access to this software and
22 these fancy computers, there is another tool that's
23 more publicly available, um, online.

24 CHAIRMAN DEVLIN: Thank you. Um, we have -- I
25 think we have time, as we will at every meeting that

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1 we have before we get into some, uh, um, future
2 planning, for comments from the general public.

3 And there is letters here from the, uh, um, two
4 different -- two different groups. Uh, uh, secretary
5 of League of Women Voters of North Dakota and the, uh,
6 North Dakota's Voter's First group and I know that
7 there's several groups working together on this.

8 And that is here in writing in your committee.
9 Please take it and read it and study what they have to
10 say. Is -- is there anyone else here in the public
11 today?

12 I know this is just the initial meeting that has
13 something that they want to say today? Otherwise we'll
14 move on. Let's -- you've got like this too? Yeah.
15 Yeah. Did you get one?

16

17 [202108260956_Redistricting Committee_21573 pt4]

18

19 CHAIRMAN DEVLIN: -- one? [inaudible]

20 MR. PURDUE: Chairman Devlin, members of the
21 committee, thank you for the opportunity to testify
22 today. My name is Matt Purdue. I'm testifying on
23 behalf of North Dakota Farmer's Union.

24 NDFU recognizes the challenging task before the
25 committee and we appreciate this opportunity and

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1 future opportunities to provide input.

2 Uh, NDFU's member-driven policy and action states
3 three basic principles that we feel ought to be
4 followed in the redistricting process.

5 Those principles that districts should cross as
6 few county lines as possible, seek to retain
7 communities of common interest within district
8 boundaries and give geographical balance to our
9 legislature.

10 NDFU is particularly concerned by the loss of
11 rural representation, uh, through the redistricting
12 process. Um, obviously you all have seen the map.
13 We've had pretty significant growth.

14 Uh, the state's population as a whole. But we've
15 had 30 counties who have lost or that have lost
16 population. And so we are concerned that as the, uh,
17 state's population gravitates towards urban areas, um,
18 a couple key dynamics will impact rural voters.

19 First, we will have some areas of the state where
20 districts become much, much larger. Um, our members
21 are concerned that the larger the district gets, the
22 less they have an opportunity to directly interact
23 with their elected officials.

24 The other dynamic is that members or -- or, uh,
25 citizens of North Dakota who currently live in

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1 primarily rural districts will find themselves living
2 in districts that are urban, rural split.

3 And that's a concern for many of our members who
4 feel, especially if the rural population is in a
5 minority there, that their concerns will be, uh,
6 drowned out, uh, really, by the urban constituents.

7 We feel that one of the, uh, ways to address this
8 issue, particularly in those two situations that I
9 highlighted, is to consider or explore possibilities
10 to subdivide districts for purposes of house
11 representation.

12 Uh, North Dakota is one of only 10 states that
13 currently uses multi-member districts, uh, and we feel
14 that single member house districts, um, may provide
15 more geographic bounds to our legislature and better
16 retain communities of common interest within those
17 boundaries.

18 Uh, so with that, uh, again, we would encourage
19 the committee to explore that as a possibility. Uh,
20 appreciate the opportunity to testify today. Uh, and
21 you may see I -- I reference regional meetings.

22 I realize I may have jumped the gun on that, uh,
23 but we do think that -- that regional opportunity to
24 provide input is really important to this process. So
25 thank you and I will stand for any questions.

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1 CHAIRMAN DEVLIN: Any questions? Senator Klein?

2 MR. KLEIN: Mr. Chairman and Matt and I think --
3 am I not clear that today's meeting is everywhere?
4 That anyone can participate today?

5 I guess we haven't talked about that much, but
6 what we've done with all this technology has provided
7 an opportunity for people from every corner of the
8 state not having to drive to any particular community.

9 Uh, your members are aware of that, I hope?

10 MR. PURDUE: Mr. Chairman, Senator Klein, uh,
11 yes, they certainly are aware of that. Um, I think, as
12 you all recognize and as we learned through the
13 pandemic, there are a lot of ways that we can stay
14 connected virtually.

15 I think that there's also a lot of value in being
16 able to have that face-to-face interaction. So yes,
17 our members do appreciate that, uh, the virtual
18 opportunities are available. Uh, we also see, uh,
19 value in, uh, regional opportunities to engage face-
20 to-face. Thank you.

21 CHAIRMAN DEVLIN: Thank you. Representative
22 Boschee.

23 MR. BOSCHEE: Thank you, Mr. Chairman. I think
24 just to point out, though, Senator Klein's comment is
25 that people can observe, but we don't have the

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1 capabilities right now for people to engage or to
2 communicate back with us.

3 Uh, so you know, for instance, the folks -- uh,
4 Mr. Purdue, who is here, had to come here to testify.
5 He wasn't able to testify virtually.

6 MS. NESS: Uh, Mr. Chairman, members of the
7 committee. Today, uh, our meeting was live streamed.
8 Um, we have a Teams option right now for committee
9 members only or the presenters that are actually
10 scheduled.

11 So for instance, if Mr. Williams wouldn't have
12 been able to fly in today, he was one of our scheduled
13 presenters that the committee had specifically
14 requested present in front of it.

15 So he would have, uh, been able to receive a
16 Teams link that we've used in interim committees. I
17 also mentioned at the outset those rules of procedure
18 that the committee follows.

19 Again, in-person, uh, attendance is encouraged by
20 committee members, but if a committee member is ill or
21 has some other reasons, they can receive a Teams link.

22 Um, at this time, uh, the committee, uh, was not
23 set up for -- today for members of the public to
24 interact via Teams, kind of like they did during the
25 legislative session. It's just a live stream only.

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1 Uh, however, you know, individuals that contacted
2 me about participating in the committee, uh, I always
3 let them know that they can provide written testimony
4 if they don't wish to appear in person and, um, that
5 testimony would be distributed by our staff if that
6 was their option.

7 So at this time, we don't have that -- this
8 meeting was not set up for Teams for individuals from
9 the public to participate, but that is something that
10 could be at the discretion of the committee at -- at a
11 later date, they want to allow Teams participation
12 from the public.

13 CHAIRMAN DEVLIN: Okay, committee. Let's -- let's
14 talk a little bit about -- I mean, I, you know, at
15 least the people in the session know that I spent my
16 whole life in the newspaper business, but I thought
17 when we just got done with the legislative session,
18 we'd -- half million people in the state participated
19 in the legislative process from a distance and I
20 suspect that we're going to be able to do that as we
21 go through this as well.

22 Um, you know, the question is whether you need to
23 have meetings all the way across the state and I guess
24 the committee has to decide that. You know.

25 Um, we did, in the past, it wasn't always very

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1 well attended, but we did -- but we didn't have the
2 virtual options that we have today.

3 And, um, you know, if -- if the committee thinks
4 we have to go outside the Bismarck [inaudible] some
5 areas, then we may need to make that decision now,
6 because the legislative council, it takes them two
7 hours to go out -- or two hours to set up all of the
8 electronic equipment when they get to, let's say they
9 have it in Finley, a major hub, Representative Bellew.

10 So two hours when they set it up in Finley and
11 another two hours to take it down, plus the time
12 they're there. So it is -- you know, because we're
13 doing it virtually across the state, it isn't an easy
14 thing to do and we want to make sure anybody in the
15 state can see everything we do.

16 And we'll have to work through the questions as
17 well, but, you know, what is your -- what are your
18 thoughts? I mean, I need to know. What are your
19 thoughts about going out or can we run it the way we
20 did the legislative session or is there one or two
21 places you want to go?

22 Um, Representative Bellew.

23 MR. BELLEW: Thank you, Mr. Chairman. I -- I
24 guess from a personal standpoint I would just as soon
25 that we have them here in Bismarck and somehow allow

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1 the public, if necessary, like we did during the
2 session in our committees.

3 You know, it's, um, beamed out to them or
4 whatever is done, but, uh, the -- the public, if I
5 remember right, could, uh, do -- do testimony, uh,
6 right at the first part of the committee meeting and
7 then -- then we would conduct our meeting or something
8 similar to that. So.

9 CHAIRMAN DEVLIN: Representative Schauer.

10 MR. SCHAUER: Hey, Mr. Chairman. I have no
11 problems with going virtual, although I think we
12 should go to Cass County live at one particular point.
13 At 25 percent of the population, I think it's wise for
14 us to get out in that part of the state.

15 CHAIRMAN DEVLIN: Senator Klein.

16 MR. KLEIN: Uh, Mr. Chairman, any recollection of
17 what happened 10 years ago. I know it was Fargo and
18 Devil's Lake. I think those were the only -- and we
19 had a -- and we had three more months or four more
20 months to -- to work on it.

21 I know we're up against a -- kind of a narrow
22 time window, but, uh, I guess I understand the Fargo
23 thing, um, certainly, but if -- as Representative
24 Bellew said, uh, if -- if you notify staff with
25 testimony and we can set you up just like we did in --

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1 in the committees, that from wherever you are, you can
2 provide your testimony live, we -- we can do that yet,
3 even after a session?

4 Right, Kim?

5 MR. KOPPELMAN: That is correct.

6 MR. KLEIN: I guess we went to two communities
7 last time and I get the Fargo thing, but, uh, I know
8 it does create additional time and expense for the
9 council and -- and their -- their folks, but maybe
10 they want to go to Fargo shopping or something.

11 CHAIRMAN DEVLIN: No. Representative Nathe?

12 MR. NATHE: Thank you, Mr. Chairman. Again, I --
13 I wouldn't have a problem or anything with Fargo, but
14 just a little historical perspective, 10 years ago, as
15 Senator Klein said, we had meetings in Devil's Lake
16 and -- and Fargo and probably the number -- the total
17 number of public that attended both those meetings
18 probably wasn't two dozen.

19 I remember up in Devil's Lake, I think it was
20 three or four. That was it.

21 We all drove from all over the state, took our
22 time off. I mean, again, I think with what we have now
23 with the electronic means and Zoom and everything
24 else, uh, I think we can reach far more people if we
25 do something along these lines.

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1 But again, I have no problem with Fargo. I think,
2 uh, Representative Schauer makes a good case for that.
3 Um, we had it at NDSU at the Alumni Center, and again,
4 maybe a handful of people.

5 I mean, you know, so I'd be interested to see how
6 many people are watching today. It'd be interesting to
7 see that. I bet there's far more people today
8 watching, so -- because it's more accessible than 10
9 years ago we didn't have Zoom. So.

10 CHAIRMAN DEVLIN: Representative Boschee.

11 MR. BOSCHEE: Thank you, Mr. Chairman.

12 Um, well, I can certainly appreciate what's been
13 said about, uh, you know, people have more access in
14 terms of beaming in from wherever they are and if we
15 can set up processes for them to testify from wherever
16 they're at, uh, we have to remember that this is a
17 once in every 10-year process.

18 And so while there may be some inconveniences to
19 us or to our staff and the great work they do, um, I
20 do think we should make an effort to have
21 conversations with communities that are going to be --
22 especially those that are going to be negatively
23 impacted.

24 And we can define that differently. It could be
25 Cass County because they've grown -- we've grown so

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1 much. It could be rural community or communities,
2 because they're going to get, in some cases, twice as
3 big as they currently are.

4 Um, so, um, while I understand that we have the
5 technology and the ability for people to participate,
6 um, I think we should try to make every effort to
7 connect with communities, also recognizing we only
8 have two months to do this work.

9 But it is a once in an every 10-year process that
10 we do this.

11 CHAIRMAN DEVLIN: Representative Boschee, as you
12 well know, it was a lot easier when we started at the
13 end of April and could go well into the fall
14 [inaudible].

15 And the other thing that has come up, it didn't
16 come up in this conversation, but had come up earlier
17 today when somebody asked me a question that was
18 tribal input.

19 And right now what we're doing is the tribal
20 relations committee is meeting with every tribe in the
21 state this month and they are -- redistricting is one
22 of the things they're talking with the tribes about.

23 And then it's my intent, when that is completed
24 here, to allow the tribes to present either virtually
25 or in person so the committee has an opportunity to

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1 hear from each of the tribes as well.

2 So I mean, I think that is being done very well
3 with the tribal relations committee and I praise
4 leadership for making that happen and, uh, we will
5 have full input from every tribe that wishes to
6 participate. So.

7 MS. OBAN: Mr. Chairman?

8 CHAIRMAN DEVLIN: Representative -- Senator Oban.

9 MS. OBAN: Uh, assuming most of our work likely
10 will be done, um, by providing access virtually, no
11 matter where we're meeting, um, has there been
12 thoughts by legislative council on how to make any
13 maps we discuss as a, um, as a committee available to
14 the public while we're -- while we're talking about
15 it?

16 Just as a bill draft would be available, um,
17 online to look at while we were discussing during
18 session?

19 MS. NESS: Um, Chairman Devlin, uh, Senator Oban,
20 uh, yes, the maps, uh, last, uh, go around in 2011
21 were all linked to the minutes.

22 Now we obviously have the technology to broadcast
23 things right on the overhead if we're doing a Teams
24 meeting, livestream, everyone can pretty much be right
25 in the room with you.

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1 And that's something, um, just like, uh, memos or
2 bill drafts, how we link those to the agenda, maps
3 could easily be linked to the agenda beforehand if --
4 if you wanted to use that option.

5 CHAIRMAN DEVLIN: 326 today. So probably ten
6 times what we had, easy. Uh, what -- was there someone
7 else from the general public that meant to talk that I
8 missed? Sorry about that. Okay.

9 MS. BROWN: Is this on? Okay. Uh, good afternoon,
10 Chairman Devlin and members of the redistricting
11 committee. Uh, thank you for having me here or
12 allowing me this time.

13 I am here with Nicole Donaghi of, uh, North
14 Dakota Native Vote and, um, as -- my name is Collette
15 Brown. Um, I'm the gaming commission executive
16 director for the Spirit Lake Casino and Resort and I'm
17 here to speak on behalf of the Spirit Lake Nation and
18 give some testimony.

19 The Spirit Lake Nation is a federally recognized
20 tribe located in the state of North Dakota with
21 enrolled membership of 7559 members as of January
22 2021.

23 According to the American Community survey, there
24 are almost 4000 Native Americans currently living on
25 our reservation in North Dakota. Spirit Lake is a

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1 sovereign governed nation by its tribal council.

2 Tribal operations include schools from elementary
3 through community college, radio stations, a resort
4 and casino, to name a few.

5 The tribe, in its operations, are major economic
6 drivers in the greater Devil's Lake area, providing
7 jobs and opportunities for many North Dakotans and
8 tribal members. I'm here to advocate on behalf of the
9 tribe and it's members for fair and legal voting
10 systems.

11 For the tribe's communities be considered a
12 community of interest that should not be split into
13 multiple legislative districts.

14 For the use of single member districts to elect
15 representatives to the state of house and to demand
16 that the North Dakota redistricting committee listen
17 to tribal input and hold district meetings and tribal
18 consultations on reservations.

19 But as you guy were just discussing, it's
20 probably something maybe we guys could set up with,
21 um, a virtual invite to each tribe? Uh, tribes across
22 the nation have had to fight for their right to vote
23 and the Spirit Lake Nation has been at that forefront
24 of that fight.

25 In 2000, the United States sued Benson County due

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1 to the county's at large electoral system, which
2 diluted the voting power of Spirit Lake's members in
3 violation of their voting rights.

4 To settle the case, the county entered into a
5 consent decree, agreeing to abolish the at large
6 system and adopt five single member districts with at
7 least two Native American minority or majority
8 districts.

9 Despite entering into the consent decree, Benson
10 County has gone back into implementing an at large
11 election system.

12 As the Native American population has increased
13 in Benson County and every census since at least 1990,
14 this election system must be reviewed to ensure that
15 it complies with the Voting Rights Act.

16 In 2016, the tribe, on behalf of its members,
17 sued the North Dakota Secretary of State over the
18 state's illegal voter identification requirements that
19 would make it impossible for many tribal members to
20 vote.

21 In 2020, the parties entered into a mutual agreed
22 upon consent decree that will allow for the
23 recognition of tribal IDs and allow tribal voters to
24 identify their residence on a map due to many tribal
25 members lacking a physical street address.

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1 The right to vote is a fundamental right in our
2 democracy and Spirit Lake will vigorously defend that
3 right of its members. As the state of North Dakota
4 undertakes its redistricting process, the legislature
5 should take several steps first.

6 It is critical that the legislative comply with
7 the Voting Rights Act. This includes moving away from
8 the at-large districts for the state of house
9 representatives, which may have dilutive effect on a
10 minority votes.

11 Where there are tribal communities such as Spirit
12 Lake, the legislators should carefully analyze whether
13 there should be a single member house districts to
14 ensure tribal communities have equitable
15 representation.

16 Failure to draw a single member house district
17 can dilute the need to vote and may violate the Voting
18 Rights Act.

19 Second, a community of interest should --
20 standard -- standards should be utilized in
21 redistricting, which can take into consideration
22 communities that have similar language, culture,
23 economics and identity to keep those communities
24 together with legislative districts.

25 Spirit Lake and its communities are a community

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1 of interest and should remain in a single legislative
2 district. Splitting the reservation and our
3 communities into multiple districts would dilute the
4 ability of tribal members to elect a representative of
5 their choice.

6 Third, even though the redistricting schedule is
7 abbreviated, there is no excuse for failing to consult
8 with tribes and take tribal input into account in
9 redistricting process.

10 Many other states have already begun -- begun
11 holding redistricting hearings to get feedback
12 directly from citizens and tribal governments. This
13 process is far too important to ignore the perspective
14 of tribal communities.

15 I thank the committee's -- the members of the
16 committee for your consideration on these important
17 issues and I'm happy to address any questions with
18 Nicole.

19 CHAIRMAN DEVLIN: Questions from the committee?
20 Oh, Senator Holmberg isn't here and he's obviously
21 been doing this a little longer than -- than some of
22 the rest of us, but it has been one of our standards,
23 ever since I was involved, that we do not split a
24 reservation.

25 MS. BROWN: Thank you.

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1 CHAIRMAN DEVLIN: You know, that just is -- does
2 not happen in North Dakota. Um, I believe that the,
3 uh, that the, uh, legislative meeting with -- that
4 your tribe is scheduled for next week.

5 I'm not on that committee, but I think that it
6 is, but we will still want to have a meeting with
7 Spirit Lake Nation as part of, you know, when we reach
8 out to all the tribes. So we will do everything we can
9 to have input from the tribes so we do not split a
10 reservation in North Dakota.

11 That does not happen.

12 MS. BROWN: Thank you, Chairman. And our meeting
13 is set for September 1.

14 CHAIRMAN DEVLIN: Oh, okay. Thank you.

15 MS. BROWN: Thank you.

16 CHAIRMAN DEVLIN: Thank you. I guess that was it.
17 So is there anyone else today that I missed? I
18 apologize, I didn't see the representatives from
19 Spirit Lake to speak. Me.

20 MR. DAVIS: Hello, uh, Chairman, committee
21 members. I'm Nathan Davis. I'm the new executive
22 director [inaudible] affairs and I just wanted to, uh,
23 go on record to something that you just stated, uh,
24 Chairman.

25 Uh, last week, we were up in the Turtle Mountains

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1 with the tribal state relations committee. Uh, next
2 week we'll be in MHA on the 31st and Spirit Lake on
3 the 1st. So I think maybe these are some topics of
4 discussion we can, uh, engage with tribal nations on.
5 Tribal leaders.

6 Uh, we are still tentatively setting a date for,
7 uh, the Standing Rock Sioux tribe and I think it would
8 be a great first step to kind of begin these
9 discussions with tribal leaders and, um, I can set up
10 any -- any correspondence, any meetings that we may
11 need to follow up on what the committee -- and I just
12 want you to know my office will be -- will be
13 available to assist in those endeavors.

14 So I just wanted to go on the record and let you
15 all know.

16 CHAIRMAN DEVLIN: And we appreciate that. I mean,
17 it was -- that was very important to us, that the
18 tribal relations committee reach out to each tribe in
19 the state and start that process and then we will
20 probably work with your office when we want to have
21 each tribe have an opportunity to -- to testify of
22 this committee.

23 Whatever works best for them, virtually or in
24 person, but we will work through your office to do
25 that.

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1 MR. DAVIS: Okay, thank you, Chairman. Committee
2 members, I just want to, once again, go on the record
3 and say we will be available --

4 CHAIRMAN DEVLIN: Yeah.

5 MR. DAVIS: -- to assist and if there's any, uh,
6 comments or concerns I may be able to answer now, I
7 guess I'll feel free to take any questions that you
8 may have in regards to tribal relations or, uh,
9 setting up future, uh, consultation.

10 If not, I just wanted to pop in real quick. I
11 know I'm on a call with Chairman Yankton as we speak
12 right now, on some other issues. So he apologized for
13 not being able to be here. Um, but if there's anything
14 else, I guess I'll take my leave.

15 CHAIRMAN DEVLIN: Thank you.

16 MR. DAVIS: Yeah. Thank you.

17 CHAIRMAN DEVLIN: Senator Holmberg?

18 MR. HOLMBERG: Mr. Chairman. Uh, one of the
19 things, as you -- as you go forth, which we have done
20 in the past, is to put parameters around what we're
21 doing so that we don't have, uh, Senator Klein over
22 there working on his master plan of 54 districts and
23 someone else doing 42 districts and someone else.

24 So I would like to make a motion and see what the
25 -- the, um, feeling of this committee is like and you

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1 know all the arguments. You can say, you know, growing
2 government, not growing government, increasing, uh,
3 access to legislators.

4 I would make a motion that we, uh, go forward
5 with -- with a plan of 47 districts as we have right
6 now. Remember, South Dakota has 35 districts and they
7 are bigger than us. So I would like to make that
8 motion and see what happens.

9 MS. OBAN: Second.

10 MR. BELLEW: Second.

11 CHAIRMAN DEVLIN: Second by Representative
12 Bellew, I believe. Well, you were a little quicker.
13 Yeah, so. Discussion. Representative Monson?

14 MR. MONSON: Thank you, Mr. Chairman, and I think
15 it's a little premature to be settling on just 47 or
16 49 or whatever the number is until we've all had a
17 chance to maybe get a computer and play with a couple
18 different, uh, versions.

19 I am leaning toward 47 districts, uh, I just
20 don't know that we are quite ready for that. But, um,
21 we have to move quickly, I understand that. We don't
22 have the luxury of taking a long time to look at a
23 bunch of different plans that might have anywhere from
24 54 to 42 districts.

25 So just my thought, it might be a little bit

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1 early, but --

2 CHAIRMAN DEVLIN: Yeah, I certainly understand
3 what you're saying, Representative Monson. Just I
4 think in the abbreviated timeframe, you know, we don't
5 want people coming in with three different size plans
6 and then trying to, you know, sort it out.

7 I mean, uh, you know, when I look at it as a
8 rural legislator, I could understand the argument, but
9 you still get down to there's roughly 600 people
10 between the two. It doesn't do me much good in rural
11 North Dakota.

12 If it was 2000 or 1000 or whatever, it would make
13 a difference, but it doesn't at this point. But
14 whatever the committee wants to do. Do you want to
15 wait on --

16 MR. BELLEW: Mr. Chairman?

17 CHAIRMAN DEVLIN: Yes. Representative Bellew, I'm
18 sorry.

19 MR. BELLEW: If -- if I remember right, now,
20 Representative Nathe or Senator Holmberg can correct
21 me if I'm wrong, but we made the decision in our first
22 meeting 10 years ago to go with the 47 districts.

23 And I think we should make that decision now,
24 today, or decide what we're going to do, anyway.

25 CHAIRMAN DEVLIN: Representative?

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1 MR. HEADLAND: Thank you, Mr. Chairman. Uh, just
2 curious, uh, with that in mind, have you got an idea
3 of how many times you expect this committee will meet?

4 Uh, you know, the more opportunities we have to
5 meet, maybe the more we don't need to rush into the --
6 and settle on the number of districts. I -- I don't
7 have any idea what you've got in mind.

8 CHAIRMAN DEVLIN: Um, I'm trying to find -- here.
9 Representative Headland, you know, I -- we know we had
10 a schedule earlier that we looked at, that just gave
11 us some basic dates, but, um, at a couple of those --
12 I think until this committee starts getting some, not
13 plans, but some concepts from legislators, we can't do
14 much.

15 You know, and it's my thought that if we're going
16 to do Cass County, if that's what the -- the
17 legislature feels or this committee feels, we should
18 do that early on.

19 You know, that first week at September and then
20 after that, start having two day a week meetings and
21 start looking at the concepts and see if we can pull
22 this together.

23 It's pretty easy for me to lay out a play for my
24 district, but it's a little tougher when I start
25 looking at all the other ones. I -- I think we need to

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1 have some concepts, uh, to go on, and I think we need
2 to do that sooner rather than later.

3 Representative Monson?

4 MR. MONSON: Thank you, Mr. Chairman. So this
5 isn't really relevant, I guess, to the motion that we
6 have at hand, but you brought up, um, okay, so if
7 we're going to have two-day meetings and we're going
8 to have four of those, that would be eight. Eight
9 meetings.

10 Are you planning on full two days each time or
11 what do you have in mind there?

12 CHAIRMAN DEVLIN: Personally, Representative
13 Monson, I think it may be more like six meetings. The
14 three weeks after that meeting in Fargo, if that's
15 what we do.

16 Um, I'm -- you know, and I may be very naïve,
17 because I've not been involved in this as many times
18 as Representative Holmberg has, but I believe that we
19 need to have our work done by the end of September,
20 hopefully.

21 So that's going to mean a meeting in -- a meeting
22 in, say, Fargo the -- let's say the 8th of September
23 and then three meetings in a row here to go over the
24 concepts and see if we can bring all these different
25 factors together and -- and do it.

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1 I believe the 47-district question has to be
2 decided today, because I don't know of any way that
3 you could start laying out these concepts without
4 doing that. So Representative Nathe?

5 MR. NATHE: Thank you, Mr. Speaker. Uh,
6 Representative Bellew is absolutely right. Ten years
7 ago, we took this, uh, question up right away. Um, and
8 as you stated, we had a lot longer timeframe.

9 This time we're under a condensed time -- we're
10 under -- we're under the pressure to get this done in
11 a short amount of time. Uh, the other thing that's
12 going to really -- is a challenge for us, is the
13 number of computers.

14 We only have, you know, four computers for 16
15 people and we're from all over the state. So I like
16 your idea also -- I support the 47.

17 I like your idea of meeting a couple times a week
18 so when we're here we can work on the computer with
19 LC, share the computer with somebody else who needs
20 the -- who needs it, because the avail -- the computer
21 availability is a big question.

22 That's a big challenge. So, uh, um, I think we
23 should stick with the 47 and, as you said, Mr.
24 Chairman, uh, start, uh, knocking out these, uh,
25 ideas.

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1 CHAIRMAN DEVLIN: And as I pointed out earlier,
2 Representative Nathe, I mean, the -- the council staff
3 does have the computers here as well.

4 So there's members of this committee that want to
5 come into Bismarck like I did the other day, whether
6 you have the committee or not -- or excuse me, the
7 committee, the computer or not, you will be able to
8 work through [inaudible].

9 They will help you do that. You know, and -- and
10 like I said, only thing I would ask, out of respect of
11 their time, is you try to schedule that and if two or
12 three of you want to come in or something at the same
13 time to discuss the same issues, just schedule that
14 with council staff.

15 MR. NATHE: And just so they know, you have to do
16 it with them present, correct?

17 CHAIRMAN DEVLIN: Right, right.

18 MR. NATHE: Yeah, in their office. So that's --

19 CHAIRMAN DEVLIN: Right.

20 MR. NATHE: -- you know, I kind of hate to be in
21 there working on it while Emily is working on her job,
22 so it's, uh, but yeah, you're exactly right.

23 CHAIRMAN DEVLIN: They will -- they will arrange
24 the time for you. Representative Lefor, did you have
25 something?

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1 MR. LEFOR: Yes, uh, thank you, Mr. Chairman. Um,
2 I guess I'd like to know if that software that's
3 available that we're talking about, Dave's or whatever
4 it's called, can that be downloaded into Maptitude?

5 Because if it could, then you can go on to that
6 internet software. I've seen it. And if that could be
7 downloaded, then everybody'd have access to it.

8 MS. THOMPSON: Uh, Mr. Chairman and
9 Representative Lefor, offhand, I haven't played much
10 with the Dave's redistricting, so kind of trying to
11 get up to speed on our software, so I wouldn't off the
12 cuff be able to answer that, but we can look into that
13 and see if they're mergeable.

14 CHAIRMAN DEVLIN: We discussed this 10 years ago,
15 but I forgot about it this time and, uh, Emily has
16 what it costs to add one district. I know that was
17 part of the conversation last session and I think I
18 would ask her to present that now, just so you know
19 before.

20 And then we'll do a rollcall vote on the 47
21 districts.

22 MS. THOMPSON: Just as a refresher, uh, 2011, the
23 last time we had a redistricting cycle, the committee
24 did consider if they wanted to expand it, you know,
25 within that 40 to 54, uh, district range and they

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1 looked at the cost of what it would be to add one more
2 legislative district, which in our state would mean
3 three more legislators, a senator and two
4 representatives in each district.

5 And so the cost for that, and that was looking at
6 a 10-year cost period, because of course until you
7 redistrict again, that's going to be your fixed cost
8 for those three additional individuals.

9 And so they looked at things like the monthly
10 salary, health insurance, pay, mileage, lodging, all
11 those costs, and the figure came out to almost \$1.2,
12 um, million, for those three additional legislators.

13 And again, we're looking at, um, 2011 salaries
14 and costs, so -- you could pretty safely assume that
15 might be higher today.

16 CHAIRMAN DEVLIN: I'm sorry, Senator Klein?

17 MR. KLEIN: Well, Mr. Chairman, um, I sense we
18 are kind of pushing our way into this, but you know,
19 um, and I might support the motion, but if -- if
20 Representative Headland goes home and -- and figures
21 out 49 and he brings it back and shows that it's a --
22 a reasonable, rational, uh, map, uh, would -- are we
23 just saying now that we would never consider that?

24 Because, uh, but -- but he's done that on his own
25 time and his own effort, as some of us tried to last

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1 time, uh, figure out a way to make it, uh, our
2 districts less than five counties.

3 But, uh, I see that being -- 47, 49, you hit on
4 it, 600 people. I still need -- I need 2400, so I need
5 another three times that or so. I get that, but I hope
6 we're not -- by passing this motion, I get it.

7 We're -- we're suggesting 47, but if -- if
8 there's a member and the software will allow that,
9 will that not -- uh, wouldn't we say 49, then we could
10 work from that point. So, um, uh, I hope we're not
11 just slamming the door on some individual who wants to
12 -- to work on that.

13 And I understand, you know, a growing government
14 and those comments, but, uh, um, yeah, the geography
15 is growing. I know South Dakota's got 35. I -- I did
16 have, uh, someone sent me, uh, the picture of South
17 Dakota's map.

18 Um, they -- they've got like some districts have
19 seven counties. I get it, but, um, you know, we are
20 probably the closest -- I think we are very close to
21 our people and, um, you know, I hate to -- to see it,
22 um, diluted any more, but, uh, I just don't want to
23 slam the door on anybody that wants to go through
24 those efforts.

25 CHAIRMAN DEVLIN: And your point is well taken. I

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1 understand that too, I -- but I also really don't want
2 14 members of the committee designing different size
3 districts if we're most likely going to end up with
4 47, but I have absolutely no problem at all if
5 Representative Headland can come up with a really good
6 49, because I would like that a lot.

7 MR. KLEIN: Mr. Chairman, if -- if 14 of them do,
8 that only leaves two that have got 47, so certainly
9 we'd be on track then and we'd be -- we'd be -- we'd
10 be very close.

11 CHAIRMAN DEVLIN: Well, I would hope the
12 committee would always be open to a new idea and
13 that's what it would be at that stage, but I think --
14 I think you need a starting point and if everybody is
15 starting to design a plan, whether it's on the public
16 one or on the one that you've got the computer
17 [inaudible] or working with legislative staff, it'd be
18 kind of nice if we were at the same page, uh, at least
19 to start.

20 And then, like I say, if Representative Headland
21 comes up with that, I am just fine with that. Rural
22 North Dakota, I'd like that. I'd go to 54, but I don't
23 think the rest of you would do that either, so.

24 Uh, Representative Monson.

25 MR. MONSON: So Mr. Chairman, you're saying this

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1 is -- the 47 is pretty much in stone, but it isn't
2 chiseled there for sure?

3 CHAIRMAN DEVLIN: Yeah. I'm saying the 47 is for
4 planning purposes.

5 MR. MONSON: Okay.

6 CHAIRMAN DEVLIN: And that's what, you know,
7 people are working on. But if somebody comes up with a
8 concept that's different than that, they should always
9 be welcome to present it. So.

10 Well, poll the committee.

11 MS. THOMPSON: If I may just, uh, jump in. We've
12 received some input on the previous question for
13 Dave's redistricting. Um, it looks like you can, um,
14 export a shape file from that software, so that is
15 something that we could upload in ours.

16 CHAIRMAN DEVLIN: I think we're ready to vote on
17 Senator Holmberg's motion to start 47 for the planning
18 purposes.

19 MS. THOMPSON: Representative, uh, Devlin?

20 CHAIRMAN DEVLIN: Aye.

21 MS. THOMPSON: Representative Bellew?

22 MR. BELLEW: Yes.

23 MS. THOMPSON: Representative Boschee?

24 MR. BOSCHEE: Yes.

25 MS. THOMPSON: Representative Headland?

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1 MR. HEADLAND: Yes.

2 MS. THOMPSON: Representative Lefor?

3 MR. LEFOR: Yes.

4 MS. THOMPSON: Representative Monson?

5 MR. MONSON: Yes.

6 MS. THOMPSON: Representative Nathe?

7 MR. NATHE: Yes.

8 MS. THOMPSON: Representative Schauer?

9 MR. SCHAUER: Yes.

10 MS. THOMPSON: Senator Holmberg?

11 MR. HOLMBERG: Aye.

12 MS. THOMPSON: Senator Bekkedahl?

13 MR. BEKKEDAHL: Aye.

14 MS. THOMPSON: Senator Burkhard?

15 MR. BURKHARD: Aye.

16 MS. THOMPSON: Senator Erbele?

17 MR. ERBELE: Aye.

18 MS. THOMPSON: Senator Klein?

19 MR. KLEIN: Aye.

20 MS. THOMPSON: Senator Oban?

21 MS. OBAN: Yes.

22 MS. THOMPSON: Senator Poolman?

23 MS. POOLMAN: Aye.

24 MS. THOMPSON: And Senator Sorvaag?

25 MR. SORVAAG: Aye.

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1 MS. THOMPSON: And the motion passes.

2 CHAIRMAN DEVLIN: Thank you. The, um, if we're
3 going to do Cass County, would -- would the committee
4 be open to doing Cass County on the first Wednesday in
5 September?

6 I hate to meet the day after Labor Day, because
7 some of you might have travel plans, but if we're
8 going to -- I'd like to get that set up, which is the
9 8th. And then after that, we'll do twice a week until
10 the end of September and -- huh?

11 MR. BELLEW: Are there going to be two days in
12 Cass County?

13 CHAIRMAN DEVLIN: No. Just the one day.

14 MR. BELLEW: Just the one day in Cass County?
15 Okay.

16 CHAIRMAN DEVLIN: Yeah.

17 MR. BEKKEDAHL: Mr. Chairman?

18 CHAIRMAN DEVLIN: Um, Senator Bekkedahl.

19 MR. BEKKEDAHL: My -- my only conflict is then if
20 we do the next week in Bismarck, I'll have to leave
21 early on Thursday if that's a meeting day, because I
22 have a dental CE class in Fargo on that evening I have
23 to get to.

24 So, um, I can be at Fargo the first week, it just
25 means if we're in Bismarck the next week I might have

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1 to leave early on a Thursday to get there, so.

2 CHAIRMAN DEVLIN: Or would Tuesday and Wednesday
3 be -- work better for the committee after the initial
4 meeting in Fargo?

5 MR. BEKKEDAHL: That would be fine with me. I'm
6 just -- I just want to make sure I'm here as many
7 times as I can and that's my only conflict and I
8 wanted to make aware of it, so thank you.

9 CHAIRMAN DEVLIN: Yeah. I only -- Senator, I only
10 did Wednesday in Fargo mainly because I know that a
11 lot of people go away for Labor Day or whatever and
12 having a Tuesday just doesn't work, so I thought
13 Wednesday would be better.

14 But I have no problem if the committee, you know,
15 you can let council staff know, but if Tuesday,
16 Wednesday is better for us for those other meetings,
17 then over the last week we have to add a third day, we
18 can do that.

19 MS. OBAN: Mr. Chairman?

20 CHAIRMAN DEVLIN: Yes, I'm sorry.

21 MS. OBAN: Is it possible for us to set these,
22 like the entire month of September as much as we
23 possibly can right now?

24 CHAIRMAN DEVLIN: Yep.

25 MS. OBAN: I mean, I hate to be a pain, but some

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1 of us have to make work arrangements and child
2 arrangements and --

3 MS. POOLMAN: I already called a sub for all the
4 days that you had on the calendar, so yeah, if we
5 could rearrange and -- and definitely define that,
6 that would be awesome.

7 CHAIRMAN DEVLIN: Is Tuesday, Wednesday better
8 for the committee than Wednesday, Thursday? Because
9 it's immaterial to me, but is one better than the
10 other? You think Tuesday, Wednesday is better?

11 [inaudible]

12 CHAIRMAN DEVLIN: Uh, October 15. Tuesday,
13 Wednesday is better? Okay. Then my thought would be
14 that we would meet --

15 MS. OBAN: There's already a government
16 administration meeting on Tuesday the 14th.

17 [inaudible]

18 CHAIRMAN DEVLIN: Oh.

19 MS. OBAN: Admin.

20 [inaudible]

21 CHAIRMAN DEVLIN: Uh, committee, the bad news is
22 there's several other committee meetings on those
23 various Tuesdays, so I mean, I understand your issue,
24 Senator, but --

25 MALE: Mr. -- Mr. Chairman, I think a lot of them

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1 did, because [inaudible].

2 CHAIRMAN DEVLIN: Yeah, [inaudible]. So I will
3 take full blame for that. Um, so let us go for
4 September 8, which is a Wednesday in Fargo so they can
5 set that up.

6 MALE: The 15th and 16th or what?

7 CHAIRMAN DEVLIN: 15th and 16th, 22nd and 23rd
8 and hope -- and hopefully we won't have to be here
9 29th and 30th in Bismarck.

10 MALE: Okay. Okay.

11 MALE: And Mr. Chairman, it's budget section on
12 the 30th.

13 CHAIRMAN DEVLIN: Okay, so then could we do the -
14 - what about the 28th?

15 MALE: Right, the office [inaudible].

16 CHAIRMAN DEVLIN: Oh, higher ed tentative?
17 [inaudible]

18 CHAIRMAN DEVLIN: Well, let -- let us set just
19 the -- anybody on higher ed on this committee? I don't
20 think so. Okay, so then we're [inaudible]. So it's
21 Wednesday, Thursday, Wednesday, Thursday, Tuesday,
22 Wednesday.

23 MALE: Okay. What are the dates?

24 [crosstalk]

25 CHAIRMAN DEVLIN: Well, I'm wondering if we can

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1 do these two then -- okay. Yeah, at the end of the
2 month, it'll probably be the 28th and 29th, which is a
3 Tuesday, Wednesday, just to work around some other
4 things.

5 But we would have a little time to adjust that as
6 we go along here.

7 MR. BELLEW: And Mr. Chairman, one -- one final
8 thing. You said it takes legislative council how long
9 to draft it? Like 20 days or? Or?

10 MS. THOMPSON: Uh, we had tentatively looked at
11 possibly two weeks, and for this, we're talking about
12 the actual final bill draft. Not just making a map.

13 Uh, the final bill draft that, uh, will be
14 submitted to legislative management has to have all of
15 those Metes and Bounds description from here to here
16 in this county all written out.

17 So that, obviously, takes a little bit longer for
18 our staff to make sure. We want to make that accurate.
19 But as far as just drawing a map on your computer,
20 that's not a -- a two-week thing. It's just the legal
21 description. The Metes and Bounds for a statute.

22 CHAIRMAN DEVLIN: And I know, uh, there is some
23 people with conflicts starting like the first of
24 October that are serving on this committee, um, but
25 you know, if we're into the first week in October,

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1 we'll work -- we'll work through that too.

2 But I'm hopeful that we will be able to get done.

3 I'm very optimistic. I've studied the committee
4 makeup, you know, completely. I think we can get this
5 done in time. Uh, Senator Holmberg?

6 MR. HOLMBERG: Um, another issue -- not issue.
7 Another -- I'm done.

8 MS. POOLMAN: I'm sorry, Mr. Chairman, but I was
9 talking out of turn and I wasn't listening. Can we go
10 through the final, final, what you decided for the
11 month of September so I can get the right dates?

12 CHAIRMAN DEVLIN: Yeah.

13 MS. THOMPSON: Uh, Mr. Chairman, uh, Senator
14 Poolman, a quick recap of those dates. We're looking
15 at, uh, September 8 -- or, yeah September 8, which is
16 a Wednesday at Fargo and then Bismarck meetings on
17 September 15 and 16, which is a Wednesday, Thursday.

18 September 22 and 23, a Wednesday, Thursday, and
19 then again, September 28 and 29, which is Tuesday,
20 Wednesday in Bismarck.

21 MALE: What was that last one?

22 MS. THOMPSON: Twenty-eighth and 29th is the last
23 one.

24 CHAIRMAN DEVLIN: Uh, I wanted Senator Holmberg
25 to address something that we want to see in all the

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1 concepts so we make sure we're all on the same page.

2 Um.

3 MR. HOLMBERG: Uh, sorry, there's been a natural
4 disaster that I'm handling. So but here we are.
5 Actually, uh, I'm referring to page 10 of the memo
6 that we had, which lists the various, um, items that
7 we have used in the past as criteria.

8 Uh, for example, such things as compactness, uh,
9 [inaudible] which I believe is constitutional,
10 preservation of political subdivision boundaries, and
11 that is really counties.

12 If you recall, uh, last time we had a -- a lot of
13 discussion about county lines and at the end of the
14 day, we ended up with 33 counties that were not
15 divided and there were some counties that had to be
16 divided because of just their population or their
17 location, which meant that they were kind of on the
18 menu and two other counties grabbed those things.

19 Um, and as we heard earlier today -- as we heard
20 earlier today, um, that those, uh, issues are -- are,
21 um, important and -- and can be used.

22 Uh, preservation of communities of interest,
23 cores of prior districts, uh, protection of incumbents
24 is one of those that has been articulated as
25 traditional practices and obviously compliance with

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1 Section 2 of the Voting Rights Act.

2 Those were the things that were in the memo that
3 you had today and I would hope we would certainly keep
4 those in mind as you put together your ideas.

5 Um, and, uh, so I mean, I would just hope that
6 they could do that, because we've done that in the
7 past and some of it is statutory and some of it is
8 what we have done and some of it is just practical.

9 CHAIRMAN DEVLIN: Representative Monson?

10 MR. MONSON: Thank you, Mr. Chairman. Can we get
11 that list that you just read off?

12 MR. HOLMBERG: It's -- it's in your handout.

13 MR. MONSON: Oh, it's in the packet?

14 CHAIRMAN DEVLIN: Yep, it's on page --

15 MR. HOLMBERG: Yeah, it's -- it's, uh, the last
16 page of the redistricting background memo.

17 MR. MONSON: Okay.

18 MR. HOLMBERG: I knew it was familiar, but I
19 didn't know where it was.

20 CHAIRMAN DEVLIN: Okay.

21 [crosstalk]

22 CHAIRMAN DEVLIN: Yep. Yep.

23 MR. HOLMBERG: Yep, okay, I [inaudible].

24 CHAIRMAN DEVLIN: Representative Headland?

25 MR. HEADLAND: Thank you, Mr. Chairman. Uh, for

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1 the respective dates you've picked out, your Tuesday,
2 Wednesday, every week except for September 22 and 23
3 and I guess I didn't hear why we are going Wednesday,
4 Thursday?

5 CHAIRMAN DEVLIN: We -- we looked at the other
6 legislative hearings that were coming up and we were
7 working around that.

8 MR. HEADLAND: Okay, so it's hearings?

9 CHAIRMAN DEVLIN: Or legislative --

10 MR. HOLMBERG: Budget section.

11 CHAIRMAN DEVLIN: Budget section, other
12 committees are already scheduled, you know, so.

13 MR. THOMPSON: Tax committees.

14 CHAIRMAN DEVLIN: Okay, tax committee, like I
15 said, the tribal relations committee will be meeting
16 with the tribes starting next week. I think they
17 already met with one, I think Mr. Davis said that. So
18 is there anything else for this committee today? Last
19 chance, Representative Bellew.

20 Are we done?

21 MS. THOMPSON: Yes.

22 CHAIRMAN DEVLIN: Thank you very much. I know
23 it's been a long day and there's going to be more long
24 days, but we'll get through this. So thank you. We're
25 adjourned.

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I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability the above 191 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.



March 21, 2022

Chris Naaden

(NoDak Redistricting Committee, 8-26-21)

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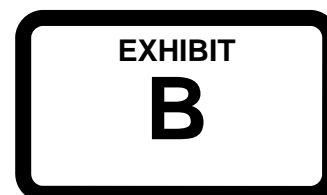
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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA LEGISLATIVE ASSEMBLY
REDISTRICTING COMMITTEE
SEPTEMBER 8, 2021



1 SEPTEMBER 8, 2021

2 CHAIRMAN DEVLIN: Committee, we're going
3 to call the Redistricting Committee to order. I
4 know the Vice Chair had to step out for just a
5 moment, but he is here.

6 If you'll take the roll.

7 MS. THOMPSON: Chairman Devlin.

8 CHAIRMAN DEVLIN: Here.

9 MS. THOMPSON: Representative Bellew.

10 REPRESENTATIVE BELLEW: Here.

11 MS. THOMPSON: Representative Boschee.

12 REPRESENTATIVE BOSCHEE: Here.

13 MS. THOMPSON: Representative Headland.

14 REPRESENTATIVE HEADLAND: Here.

15 MS. THOMPSON: Representative Lefor.

16 REPRESENTATIVE LEFOR: Here.

17 MS. THOMPSON: Representative Monson.

18 REPRESENTATIVE MONSON: Here.

19 MS. THOMPSON: Representative Nathe.

20 REPRESENTATIVE NATHE: Here.

21 MS. THOMPSON: Representative Schauer.

22 REPRESENTATIVE SCHAUER: Here.

23 MS. THOMPSON: Senator Holmberg.

24 SENATOR HOLMBERG: Here.

25 MS. THOMPSON: Senator Bekkedahl.



1 SENATOR BEKKEDAHL: Here.

2 MS. THOMPSON: Senator Burckhard.

3 SENATOR BURCKHARD: Here.

4 MS. THOMPSON: Senator Erbele.

5 SENATOR ERBELE: Here.

6 MS. THOMPSON: Senator Klein.

7 SENATOR KLEIN: Here.

8 MS. THOMPSON: Senator Oban.

9 SENATOR OBAN: Here.

10 MS. THOMPSON: Senator Poolman.

11 SENATOR POOLMAN: Here.

12 MS. THOMPSON: And Senator Sorvaag.

13 SENATOR SORVAAG: Here.

14 MS. THOMPSON: Mr. Chairman, we have a
15 quorum.

16 CHAIRMAN DEVLIN: Thank you.

17 What are your wishes of the August 26th
18 minutes?

19 UNIDENTIFIED MEMBER: Move to
20 (indiscernible).

21 CHAIRMAN DEVIN: Moved, second.

22 All those in favor, signify by saying
23 aye.

24 (Unanimous ayes)

25 CHAIRMAN DEVIN: Opposed nay.



1 Motion.

2 Comments by Chairman. They'll be very
3 brief. I know that Representative Monson is
4 joining us by virtual means this morning. The
5 only member of legislative management who isn't
6 on this Committee that notified me he would be
7 here, and I just want to mention Representative
8 Howell (phonetic), who is on legislative
9 management, is also here today.

10 This set up for the room, somebody
11 asked, and I understand it took about an hour,
12 which was a little less time than they expected.
13 But they got it done. As you know, we have a
14 great staff, and I'm really happy the way things
15 are going.

16 Again, today our staff members here are
17 Emily Thompson, the code reviser; Samantha
18 Kramer, senior counsel; Claire Ness, senior
19 counsel; and I think Tyler Bigler (phonetic) is
20 the IT person here today. And our legislative --
21 our Director of Legislative Management, John
22 Bjornson is also in the audience.

23 Representative Schauer reached out to
24 the mayors of Fargo and West Fargo, and I don't
25 know if either one of them or both of them are



1 here. But they intended to bring some meeting --

2 Mayor Mahoney has walked in. We'll let
3 you right up to the --

4 MAYOR MAHONEY: Good morning.

5 CHAIRMAN DEVLIN: Good morning.

6 MAYOR MAHONEY: Sorry. I normally do
7 surgery today, but today I had surgery on myself.
8 So I'm a little late, but welcome to Fargo.
9 We're very honored you're here. I know you're
10 taking a task that's going to be interesting
11 through the day and has a lot of people watching
12 to see what's going to happen.

13 This is a tremendously exciting time for
14 the City of Fargo right now. And just want to
15 tell you that we continue to grow. We've grown
16 20 percent in the last ten years. We continue to
17 see tremendous social-economic change. Permits,
18 we do about 300 million a year. We did 720
19 million permits last year, and we're going to
20 another half a billion permits even this year.

21 And I think as you drive around, you'll
22 see there's a lot of stuff going on in the
23 community. I especially want to thank my
24 legislative partners on the FM Area Diversion.
25 So this year we funded it and bonded it, and we



1 finally got our P3 bids in. And we're real
2 excited about that because that's going to ensure
3 that we have flood protection for our community.
4 And what that also brings to us is a lot of
5 economic interest in our community.

6 One of the things about North Dakota,
7 which you all are part of, is we're a safe place
8 for people to grow their business, and we've
9 found a lot of people that have an interest in
10 our community, number one job market in the
11 nation and the place that things can happen. So
12 we're very excited about that.

13 I'm also excited to tell you that our
14 in-town and flood protection is at 95 percent.
15 So we have 95 percent flood protection in the
16 community. If we had a flood of 209, it would
17 take about less than a half-million sandbags. So
18 I'm very excited about that because a lot of our
19 community has forgotten how to do sandbags.

20 Last time I was going to get some
21 sandbags up, one of the superintendents in the
22 school said, "Can we find that on YouTube?" And
23 I thought that was like the basics of your civic
24 exam, that you did that and you knew how to do
25 sandbags in our community. But they don't.



1 The other thing, I want to thank you all
2 as a team is that the leadership and the
3 oversight and vision has North Dakota legislators
4 that you have. That has really helped us out in
5 many ways in our community. I do not think we
6 would have the growth in our community if we had
7 not had your help, and I just want to thank all
8 of you. I know that on many issues, it looks
9 like Fargo needs this or Fargo needs. But
10 because of how you've helped us, it has helped us
11 grow in a tremendous way, and it has also helped
12 us become the number one city in the state as far
13 as growth and development that helps the state
14 out.

15 Now in our metro area, we're responsible
16 for 24 percent of the state's population. And we
17 take that seriously that we know we will continue
18 to grow, and if we want to get North Dakota to a
19 million people, we know a lot of that growth will
20 help come from here.

21 So again, thank you for coming here
22 today. Enjoy our restaurants. I think you got
23 to drive around a little bit and see what's going
24 on. If you're really curious, you can see the
25 inlet that's down by Horace and just see how huge



1 that concrete structure is and how much work we
2 have done on that. And if you drive around the
3 community, you'll see a lot of things happening.

4 The other thing, we're very proud, is
5 downtown Broadway Square is completed, and
6 downtown is different a little bit now. You'll
7 feel it more alive. People are walking. People
8 are doing things. RDO has 300 employees
9 downtown. We're going to have some other -- Bell
10 Bank is coming downtown. So we're going to have
11 a lot more people in that downtown area, and we
12 have a tremendous amount of restaurants.

13 If you want to stray a little to the
14 west, you can go to West Fargo. I don't know if
15 Bernie's going to talk today, but they've got
16 some good things happening there as well. And
17 Veterans Boulevard is basically our second
18 downtown area that you have a lot of different
19 selection and choices.

20 So welcome again to Fargo. Very glad to
21 have you here. Honored that you all do the work
22 you do, and I think you do it very well.

23 Thank you.

24 CHAIRMAN DEVLIN: Thank you, Mr. Mayor.

25 Mayor Dardis.



1 MAYOR DARDIS: Chairman Devlin, thank
2 you for the opportunity. It's good to see a lot
3 of old friends, new friends that are sitting here
4 today.

5 I too would like to thank the North
6 Dakota Legislature, the House of Representatives,
7 and the Senate for all of the things that you've
8 done to assist our community in its growth.

9 Mayor Mahoney talks about 95 percent of
10 the flood protection is done in Fargo. We're 100
11 percent in West Fargo. He talks about a 20
12 percent growth in his community. We're at 49.7
13 percent growth, and that's a credit to all of you
14 because you understand the infrastructure needs
15 of what our community needs and the programs that
16 you allow us through the commerce department,
17 sometimes the incentives.

18 As the Mayor has said, the flood
19 diversion funding was substantial to our metro
20 communities, and we are very grateful for the
21 generosity and the level of which you have
22 supported us on that.

23 West Fargo does have its own diversion,
24 along with Horace, but we have areas in our
25 extraterritorial that this will now be protected.



1 And that's a great opportunity for our community,
2 and that's a credit to you and the commitment
3 that the North Dakota Legislature has made to our
4 metro communities.

5 Like Tim said, we encourage you to come
6 to West Fargo. We don't probably have quite as
7 many restaurants, but I would like to highlight
8 that on Main Avenue we have about a \$37 million
9 development that's going in right now. Amazon
10 Hub is the newest tenant that's going in there.
11 Two weeks from today, Marvin Windows will
12 announce a very major expansion into West Fargo.

13 If you go down Sheyenne Street, that's
14 about \$40 million that we've we developed there.
15 You go down to the lights on South Sheyenne, and
16 we're nearing \$50 million of development that's
17 there. So, you know, we're not the quiet little
18 bedroom community that you used to have.

19 At the present time, we have the largest
20 two high schools in the state of North Dakota.
21 When Horace High School opens up, we'll have the
22 three largest high schools, and we now have the
23 three largest middle schools. West Fargo has the
24 second-largest school district in the state of
25 North Dakota, only behind Bismarck, and we'll



1 probably never catch them.

2 But the fact of the matter is, we have
3 over 12,600 students in our school system. And
4 so, again, I hope you all understand what the
5 growth that a community our size, we're just a
6 hair under 40,000 in the last census, those
7 infrastructure needs, those developments, and the
8 things that we need to do for services, we are
9 certainly glad that we have all of you as
10 partners in understanding with a growth community
11 like ours has, like Watford City, like Williston,
12 like Dickinson, you know.

13 I'm an old West River boy. I grew up in
14 Killdeer, North Dakota, in the middle of the
15 Bakken, and so I understand the impacts that it's
16 made on those communities and that population out
17 there.

18 So again, for you to understand that the
19 growth that we have in the metro area, and of
20 course the very important work that you're doing
21 here today with the redistricting and
22 understanding what that growth and that effect
23 might with regard to legislative districts in our
24 community. So we're very grateful for your
25 service. We're delighted that you come to Fargo



1 to hold one of your hearings.

2 So on behalf of the City of West Fargo,
3 welcome. We're tickled that you're here, and if
4 there's anything that we can do to assist as you
5 go forward with your work, please ask.

6 I was part of the group back when it was
7 kind of very small offices and smoke-filled
8 rooms. When Johnny Dorso and John Korsmo and
9 myself, we did it in the '80s and the '90s, and
10 there weren't near as many people in the room as
11 there is today. So good for you guys.

12 Thank you very much.

13 CHAIRMAN DEVLIN: Thank you, Mr. Mayor.
14 We appreciate you being here, both of you, today.

15 So, Committee, before we go into the
16 discussion on legislative redistricting, when I
17 introduce the members of legislative management,
18 I see Representative Kim Koppelman is here; he's
19 on management. I believe that Representative
20 Boschee, Lefor, Senators Holmberg, Klein, and
21 Oban are on legislative management.

22 Did I miss anybody?

23 Sorry, Senator Burckhard. I apologize.

24 Okay. We will do a little preliminary
25 discussion on redistricting in the eastern



1 portion of the state.

2 Senator Holmberg.

3 SENATOR HOLMBERG: The eastern portion
4 of the state, particularly the northeast,
5 presented some challenges, challenges basically
6 because ten years ago, that area, practically all
7 of the districts were at the minimum populations.
8 And that area has not grown, so our challenge was
9 there are too many districts in that region for
10 the number of legislators that we have. So some
11 changes had to occur because the bottom line is
12 what we're doing here is not rocket science. It
13 is just arithmetic.

14 There are really two ways to look at how
15 we handled the northeast -- or the challenges of
16 the northeast. I know there's two kinds of
17 redistricting. There is the math geography and
18 then there is the political geography, and the
19 math geography is very simple. It's one person,
20 one vote, and that, easy to do.

21 But there are all kinds of factors that
22 weighed into what you're going to see now in just
23 a few minutes, but keep in mind, I could have
24 done these suggestions on an Etch A Sketch
25 because this is not a plan. This is a concept on



1 how the northeast portion could be divided if you
2 all and the legislature decides that's the way to
3 do it. But it can be changed.

4 So let's hope that if there are other
5 suggestions, they come forth. Maybe not today,
6 but at least over the next weeks as our Committee
7 works. The first slide -- and these will be on
8 the legislative council's website at some point.

9 What I am going to present,
10 conceptually, is Districts 10, 19, 42, 43, 17,
11 and 18. One can expect changes because other
12 people will have other ideas. One of the factors
13 is we have -- as people have been working on
14 plans, what I constantly hear is we've got a
15 couple areas of challenge. One of them is our
16 friends in Nelson County, and one of them is our
17 friends in Traill County because, you know, they
18 just have the population that makes it a little
19 difficult to fit in very easily.

20 There is another fracture in the
21 northeast, and that is Rolette County. Rolette
22 County, which includes the reservation, has had
23 its own district for a number of cycles, but they
24 just don't have the people that were counted.
25 I'll throw a bone to those that say they weren't



1 all counted, but that's the number we have to
2 work with. But they're going to have to pick up
3 a sizable area. And because we have not had the
4 opportunity to hear directly from them, I stayed
5 away from making any suggestions because let's
6 hear what they have to say first and then fit
7 everything in together.

8 So the reservation, Rolette County, has
9 three choices. They can go east, west, or south.
10 That's all they have. They can go into District
11 6, into District 10, or into District -- whatever
12 that is down below the 14.

13 So I did nothing with that, and because
14 of the challenges that we have in that particular
15 area, what I am going to present on District 10
16 is subject to change depending upon what, at the
17 end of the day, occurs with what is currently
18 District 9.

19 So let's look at District 10, wherever
20 it is. There it is. Okay. If you haven't had
21 the computer yet, count your blessings. Okay.
22 District 10 -- is it my eyes, or where is the
23 mayor? I might need help. Okay. Here we are.

24 District 10 has minimal change.
25 Cavalier County, Pembina County, and the western



1 half of Walsh County is their current district.
2 They were short, as were all districts in the
3 northeast in the state except for the district
4 that I represent in Grand Forks. We hit a
5 surplus. Everyone else was low, and some of them
6 way low.

7 To take Nelson County that was in
8 District 23, and I know there will be some
9 separation pains, would fit in their
10 population-wise. And again, this is the
11 arithmetic. This is the math part of
12 redistricting. So minimal change for that
13 particular district.

14 The next one up is District 19. Okay.
15 The city of Grand Forks presented particular
16 problems. We have four districts but not enough
17 people for those four districts, but it wasn't
18 that far off. So in order to, I'll say insulate
19 the districts in Grand Forks, I'm suggesting --
20 or this particular concept suggests that we do a
21 minimal amount of capture of folks that live in
22 the outside area of the city of Grand Forks into
23 the districts.

24 So there were actually only three
25 changes made, and they were minimal because I'm



1 not a great believer that we have, you know, tons
2 of rural people that are represented by city
3 folk.

4 We are very similar now, I believe, to
5 Minot, which has four districts, and three of
6 them have townships within those districts. The
7 same thing now in Grand Forks. There would be
8 three of the four districts have some township
9 involvement. So when you see this particular map
10 of District 19, what is carved out on your right
11 is the city of Grand Forks' four districts.

12 The rest of that particular district,
13 District 19, is the current district, and the
14 only difference is the southern part of Grand
15 Forks County was in District 20. But in order
16 for District 19 to be whole, they have to
17 recapture the rest of rural Grand Forks County,
18 which includes the cities of Thompson, Reynolds,
19 which really is on the border between Grand Forks
20 and Traill County, and these other places.

21 So this particular one, it -- concept
22 has all of Grand Forks County plus that eastern
23 half of Walsh County, which includes Grafton.
24 And everything is similar because one of the
25 concepts we tried is to preserve the core of



1 existing districts. We made little change.
2 People say if you look at where legislators live,
3 it's evil. And people say we shouldn't do it,
4 but every one of them does it.

5 In this particular case, there is one
6 legislator from District 20, who was in southern
7 Grand Forks County that -- yeah, by Emerado, that
8 would become part of this District 19. So if
9 anyone tells you they don't look by the income,
10 they're lying. Just saying. They also know
11 whether opponents live too. Trust me. I've
12 checked, for other people.

13 Now, let's go to the -- and again,
14 minimal change. Okay. Then let's go to, I
15 believe, 42. Now, when you look at the
16 traditional districting principles of
17 compactness, county lines, communities of
18 interest, core of existing districts, a couple of
19 the items are quite subjective. And those that
20 are subjective is the idea of communities of
21 interest. If Representative Headland wants a
22 particular area in his district, not him, but
23 someone like him might say, "Well, they have a
24 community interest with this, this, and this."
25 It's subjective.



1 The other one that's subjective is
2 gerrymandering, which is the term that should you
3 use if you don't like the plan in front of you.
4 So when you see this particular one, you see that
5 -- well, I better not call it that. Let's just
6 say that little indentation -- no, "exdentation"
7 that goes out on the right side of District 42,
8 that is the current District 42. Didn't change
9 at all.

10 The only change is, because they were
11 close to 4000 people short, they gained Brenna
12 Township, which previously was in the city of
13 Grand Forks' districts, and they extended out to
14 the Air Force Base, which was also in the city of
15 Grand Forks. It was in District 18. And then
16 they took half of the air base that had been in
17 District 20. The air base had been split in two.
18 So the only difference here -- all of these areas
19 except that area on the west end of the Air Force
20 Base were already in city districts. And
21 District 42 then, with those two additions, came
22 out fine.

23 The next district is District 43, which
24 is the only total in-city district now, and don't
25 worry about that gerrymandering-looking finger.



1 It is not a legislator being protected. It's the
2 right-of-way of the highway or something, and we
3 can't get it out. But it will be removed. Yeah.
4 Don't worry about that.

5 Okay. Minimal change in District 43.
6 The area to the right is District 17, the one
7 towards the bottom. That's the one that had 4000
8 excess people, and those people were moved, shall
9 we say, to other districts. So District 43 gave
10 up some folks, actually, a minimal number of
11 folks. If you look over on the far right of it,
12 you've got that street that kind of wiggles down.
13 Wiggles. Yeah, the wiggle. Okay. That area was
14 in District 43. That moved to take 18 to help
15 them with their numbers.

16 The rest of that area, there was no
17 change for 43. And then south of 40th Avenue
18 South, you see that rectangle there, where the
19 cursor is, that is excess population from
20 District 17 to move into their District. So
21 that's District 43.

22 Next district is 17, and again, this is
23 a concept. So if you're writing about it, we can
24 shake our Etch A Sketch. There was one other
25 area. Could you go back to 43? I neglected an



1 area that -- it was one other change.

2 The border -- the dividing line in Grand
3 Forks we had used before was, you know, either a
4 township line or 42nd Avenue South, but if you go
5 to the right -- no, left -- well, whatever. Go
6 over there. Right there. You were right. No.
7 Over to the other side. Yeah. No. In 43. No,
8 in 43. Right there. Now move it over just a
9 quarter inch. There. No. Back. Back. No.
10 The other way. There. Okay. Stop.

11 That area there, between the interstate
12 and 42nd, was in 17, and that has The Verge,
13 which is a large apartment complex. Many
14 students live there, and I visited with the folks
15 who were in District 43. And they would like it,
16 and it made sense to use the interstate as the
17 border. So we moved that. That was another
18 change that I neglected to comment on.

19 So let's now go to 17. And, again, 17,
20 your western border now, which used to be
21 township lines, et cetera, is now the interstate,
22 which makes sense. The addition into 17 is where
23 the cursor is right now. That is Walle Township
24 over to the interstate. A couple reasons for
25 that. Number one, we didn't need more



1 population, and we wanted to keep our populations
2 minimal. And we did not want to draw the city of
3 Thompson into a Grand Forks district. That just
4 doesn't make a lot of sense from the standpoint
5 of the people who live in Thompson, so that's why
6 we use the interstate.

7 Okay. Going north in the district now,
8 you will see -- can you make it a little bigger?
9 And once more. There.

10 Pretty square lines. Starting in the
11 top by the river, that is golf course, and you
12 know, and what do you do? You either go way
13 north or way south, but that's a golf course.
14 And then, the district now, which used to go up
15 to 8th Avenue South -- 17th -- 8th Avenue, now
16 goes down to 17th. That whole north part went
17 into District 18 because they needed thousands of
18 people.

19 And so we squared that off completely,
20 and then we use Washington, which is a major
21 thoroughfare, 40th Avenue South. And then to
22 balance it out because, at the end of the day, 17
23 needed some people back, we took the area that is
24 that little rectangle up there. This district is
25 much bigger today than it was when the census was



1 taken. There are huge apartment complexes that
2 have gone in too along Washington, so one can
3 expect that in ten years, when we're all still
4 here, or if most of us were still here, that it
5 will have been much larger than it is today.

6 Okay. And anytime there's any
7 questions, certainly you can ask. Okay. And
8 then let's go up to District 18, the last one. I
9 learned an awful lot about how to use this
10 computer system. And I've forgotten it all
11 already because, if you don't do it constantly,
12 those tool boxes disappear, and you don't know
13 what to do.

14 District 18, of course, was short of
15 people. They got a handful of people from
16 District 43, as I pointed out in that corner.
17 They took, and it was very painful, but they took
18 everything north of 17th Avenue South including
19 Dairy Queen. By the way, I did give up both
20 Walmarts in this plan, and so it was painful.
21 But it had to be done.

22 The rest of the borders of 18 are the
23 way they were until you get up to the north end
24 of Grand Forks. District 18, before, used to go
25 out to the air base, so they would have Rye,



1 Falconer, and these townships. And they don't
2 any longer, but in order for us to pick up the
3 hundreds of people that we needed, and it wasn't
4 a lot, we went north and picked up Ferry
5 Township, which includes the city of Manvel.

6 And you might say, "Oh, my God, they put
7 a city into Grand Forks." But keep in mind, the
8 Manvel people go to Central High School in Grand
9 Forks. I mean, there's community of interest --
10 sorry to use that term, but sometimes it's useful
11 -- community of interest in that. So that would
12 be the new District 18. They had some tears,
13 some people who I had visited with, but again, it
14 is the numbers.

15 And those are the changes that are,
16 shall we say, on the block, and you know, you all
17 and the legislature and that can certainly make
18 changes. But it was a way to start. It's a
19 minimalist change. Within the city of Grand
20 Forks, there were no incumbent legislators.
21 We're not supposed to say we look at that, but
22 that is considered one of the traditional
23 district principles, good, bad, or ugly. There
24 were no incumbents moved from their district to
25 another district.



1 And so I don't really have much else to
2 say. If there are questions --

3 UNIDENTIFIED MEMBER: Mr. Chairman?

4 Senator Holmberg, nice job by the way.
5 How many people at a military base actually vote
6 in North Dakota? Probably not a lot though.

7 SENATOR HOLMBERG: It's not a large
8 number, but we have continually counted them
9 completely, as I believe we should. The first
10 race that I ran back, you know -- I mean, we were
11 through with horses, but they did have cars.
12 There were 991 votes cast on the Grand Forks Air
13 Force Base in 1976. I remember that, and they
14 overwhelmingly voted in one particular direction.
15 And not a criticism but, some years later, the
16 County decided that they weren't going to have a
17 voting precinct on the base so the base was
18 connected with Rye, Falconer, and whatever the
19 other township is; I forget right now.

20 And those numbers are much, much lower.
21 I can't tell you exact number, but they are
22 significantly lower than they used to be.

23 UNIDENTIFIED MEMBER: Thank you.

24 CHAIRMAN DEVLIN: Representative
25 Schauer.



1 REPRESENTATIVE SCHAUER: Thank you,
2 Mr. Chairman, Senator. I guess the follow-up
3 question would be why split the Grand Forks Air
4 Force Base? It seems like that would be a
5 community of interest. And also, if you could
6 outline what the ideal number is in each district
7 and then the percentage or the leeway, the give,
8 between, you know, what's the low end and the
9 high end. And are all the districts in that part
10 of the state within that leeway?

11 SENATOR HOLMBERG: Number one, the Grand
12 Forks Air Force Base was divided ten years ago,
13 and that was because of the fact that it's
14 arithmetic. They needed the numbers in District
15 20. This particular suggestion includes the
16 entire air base in the same district. Okay. The
17 deviations in that particular area in the
18 districts are, in District -- and they're all low
19 because, again, it's an area that doesn't have
20 people.

21 District 43 is minus 3 percent.
22 District 18 is minus 2.2. District 17 is minus 3
23 percent. District 42 is minus 0.9. And District
24 19 is minus 2.9. So they all fall within the
25 five up and five below, but yeah, that -- the



1 reason the base was -- they tried to divide the
2 base back in 1981 when we did redistricting.
3 Yep, in '81. But the problem was the Census
4 Bureau didn't have anything but just one number
5 for the base.

6 So they had that data in 2011, and
7 that's why the base was split. And I'm not sure.
8 I would have to ask.

9 Representative Bellew, your air base is
10 split. Is that correct?

11 Okay. So it has happened before. It's
12 a number of people, but the voter participation
13 is not overly high.

14 CHAIRMAN DEVLIN: Senator, I believe
15 Representative Monson has a question. He's on
16 Teams this morning.

17 REPRESENTATIVE MONSON: Thank you,
18 Mr. Chairman.

19 Senator Holmberg, concerning the air
20 base, what has happened to the population on the
21 air base over the years as the mission of the air
22 base has changed?

23 SENATOR HOLMBERG: I don't have the
24 exact number. I'm sure Emily can find it. I
25 want to say -- if you told me what Minot's was, I



1 could tell you. Are you 5500?

2 UNIDENTIFIED MEMBER: 12,000.

3 SENATOR HOLMBERG: Is that what the
4 census is on the base?

5 UNIDENTIFIED MEMBER: I don't know what
6 the census (indiscernible).

7 SENATOR HOLMBERG: Yeah. Anyway, I
8 want -- I can't remember, and I've seen it. It's
9 either 2002 or 5002. It's some number.

10 UNIDENTIFIED MEMBER: 5017.

11 SENATOR HOLMBERG: Where?

12 UNIDENTIFIED MEMBER: Just over -- Minot
13 Air Force Base.

14 SENATOR HOLMBERG: Okay. So then we
15 would be about 2000-something I'm guessing. I
16 know we're less.

17 REPRESENTATIVE BELLEW: Mr. Chairman?

18 SENATOR HOLMBERG: Yeah.

19 CHAIRMAN DEVLIN: Representative Bellew.

20 REPRESENTATIVE BELLEW: Not you.

21 I think that's just the number of GIs on
22 the base. That doesn't count the dependents.

23 SENATOR HOLMBERG: No. They would count
24 everybody.

25 REPRESENTATIVE BELLEW: It's just the



1 number of GIs. So if you count the dependents,
2 Minot Air Force Base is closer to 12- or 13,000.

3 UNIDENTIFIED MEMBER: That's true.

4 SENATOR HOLMBERG: But what does the
5 census tell us? That's what you worship.

6 REPRESENTATIVE BELLEW: Oh, okay.

7 UNIDENTIFIED MEMBER: 5017.

8 REPRESENTATIVE BELLEW: Is that what it
9 is?

10 SENATOR HOLMBERG: Then worship that
11 number.

12 REPRESENTATIVE BELLEW: Oh, sorry.

13 SENATOR HOLMBERG: No. I mean --

14 REPRESENTATIVE BELLEW: I didn't know.

15 SENATOR HOLMBERG: You know, we can only
16 deal with the numbers. Did that answer your
17 question? I think it's 2000. Emily is looking.

18 MS. THOMPSON: Are you looking at the
19 Grand Forks, or --

20 SENATOR HOLMBERG: Grand Forks.

21 MS. THOMPSON: Yep. The Grand Forks,
22 you can see that highlighted on the overhead up
23 here, and in this summary table, you can see the
24 total population of that highlighted area is 2002
25 people.



1 SENATOR HOLMBERG: Oh, I remembered
2 something. It's a good day.

3 Okay. Mr. Chairman.

4 CHAIRMAN DEVLIN: Further questions for
5 Senator Holmberg?

6 Seeing none. Thank you very much.

7 SENATOR HOLMBERG: You're welcome.

8 CHAIRMAN DEVLIN: Appreciate your
9 efforts.

10 You know, and Senator Holmberg alluded
11 to this, but you know, part of the issue you
12 face, whether it's northeast or anywhere else,
13 and he mentioned District 9, you know, they're
14 short, let's say, 4200 people. District 10 is
15 short 3000. District 19 is short 3000. District
16 20 is short 2000. District 23 is short 3000. So
17 that's what you're trying to juggle, those kind
18 of numbers in the northeast, and I'm sure, as you
19 know, we're going to run into that all over the
20 state except probably in the major cities.

21 So Senator Sorvaag, do you want to give
22 us a brief, probably not quite as in-depth, but
23 on where you're at at this stage in the Cass
24 County area?

25 SENATOR SORVAAG: This is on. Okay.



1 Mr. Chairman, there's not going to be much map.
2 I'm going to have Emily bring up a couple things
3 zooming in. I gave her no warning until about
4 two minutes ago, but we have been working on maps
5 in Cass County. And there's been some
6 discussion. The members of the Committee from
7 Cass County is Representative Shauer,
8 Representative Boschee, and myself.

9 And there's been more communication,
10 some than others, but we're looking. But I'm
11 going to give everybody kind of an overview of
12 what we're looking in Cass County and the
13 southeast corner of the state. And the first
14 thing I'm going to do is Richland County. And at
15 the present time, Richland County is split kind
16 of in half north to south. Part of it sits in
17 26; part of it's in 25. And Richland County has
18 a few people from the south end of Cass County,
19 probably 1000 to 1500 or somewhere in that
20 neighborhood.

21 But because of the discussion of last
22 Committee, and it was an example, and directions
23 that come, Richland County is 47 people within
24 being a perfect district. So that makes it
25 extremely difficult to not make it its own



1 district. It's not only the fact that it's a
2 perfect size, but it's in the corner of the
3 state. So you basically have two sides of it
4 blocked off from any changes.

5 So, as I go forward explaining Cass
6 County, I am dealing with the presumption that
7 those people at 25 and in Cass County won't be in
8 Richland County or part of 25 anymore. So that's
9 the first premise that we dealt with as we're
10 trying to look as to map.

11 And I want to back up. The reason I'm
12 not showing you a detailed map, I've drawn
13 multiple. I know Representative Boschee has
14 worked on some and Representative Shauer. But
15 this is Cass County, and we're here to hear from
16 Cass County people. We want -- it's an open
17 process because we are in kind of a unique
18 position. Bismarck might be similar, but we can
19 exist in ourselves in Cass County.

20 We have 184,000-some people. We can
21 absorb them all into -- we have ten districts
22 right now in parts of three. We can put all 11
23 districts that we will have and absorb all of
24 Cass County because we have a population for
25 11.13. But --



1 SENATOR BEKKEDAHL: Mr. Chairman?

2 SENATOR SORVAAG: -- that's not what
3 we're --

4 SENATOR BEKKEDAHL: Question,
5 Mr. Chairman?

6 SENATOR SORVAAG: Mr. Chairman, we --

7 CHAIRMAN DEVLIN: Senator Bekkedahl.

8 SENATOR BEKKEDAHL: Thank you,
9 Mr. Chairman. Sorry to interrupt Senator
10 Sorvaag, but just to go back to the Richland
11 County issue, there's a small portion of the
12 reservation that extends into the neighboring
13 county to the west. You would be including that
14 with Richland County to keep that continuous.
15 Wouldn't you?

16 SENATOR SORVAAG: Mr. Chairman,
17 Senator Bekkedahl, in the mapping I've done, I've
18 put that chunk of reservation in Sargent County.
19 So it does change the numbers a little bit, so
20 no. It isn't showing there. And I just wanted
21 Emily to bring the county up, and that will be
22 part of our discussion. But every mapping I've
23 done, I take that whole of the reservation and
24 put it in Sargent County and take it out of
25 Richland.



1 So it does skew their numbers down a
2 hundred or so. There's only a couple hundred
3 people up in that corner of the reservation
4 that's North Dakota residents.

5 SENATOR BEKKEDAHL: I just wanted to
6 make sure we were keeping the reservation a
7 continuous (indiscernible) --

8 SENATOR SORVAAG: That is -- you see any
9 map I've drawn, that stays whole coming out of
10 Richland. District could go either way, but the
11 majority of the land area is in Sargent County.

12 CHAIRMAN DEVLIN: Senator Oban.

13 SENATOR OBAN: And even if you put the
14 entire reservation land that lies within North
15 Dakota's borders into Richland, you're still
16 within 0.13 of the -- I mean, it's --

17 SENATOR SORVAAG: It --

18 SENATOR OBAN: So either way it should
19 stay together. But it doesn't make a significant
20 change in the numbers if you put it in Richland
21 either.

22 SENATOR SORVAAG: It could go either
23 way. It's totally insignificant to any of the
24 percentage with either side. It's not like
25 you're dealing in other areas. It's such a small



1 amount. But because of the landmasses, you see
2 most of the reservation is in Sargent. But all
3 these plans, and that's why you don't see a
4 detailed map, are open to discussion. Yeah.

5 So let's go to Cass County and the
6 footprints that we've been talking about. And
7 I'm going to -- we would have 11.13 districts.
8 So we basically are about 200 people over the
9 ideal size if we took all of Cass County and put
10 it in those 11 districts.

11 But at is this point, in discussions
12 with the Chairman and Senator Holmberg, who are
13 working hard on that north end, and especially
14 for District 20, who -- there's really an issue
15 how they're going to look, in all the plans I'm
16 working on, the top two row of townships across
17 the whole north end of Cass County is not in the
18 plans that I'm drawing for our area. There's
19 about 835 people in that top two townships across
20 the whole length of the county.

21 And it's kind of hard to see, but those
22 800-and-some are not being put in any plan that
23 I'm working on and I -- because did we think
24 they'll need it.

25 And the other aberration in the



1 southwest corner, District 24, the Valley City
2 area district already has that corner of Cass
3 County, the southwest. And there's a 1,000 -- I
4 think -- 34 or 40 people in the corner. We're
5 keeping them out of the equation for now because
6 we don't know what that side bumping in is going
7 to need to finish off their population.

8 So if you take those two areas out, we
9 are within 200 people of being 11 perfect
10 districts in Cass County. If we need to bring
11 them back in, we can bring them back in. And
12 that's the reason I'm not showing detailed maps,
13 besides we have a lot of discussion. But what do
14 we deal with the other, the other 11 districts
15 are all packed in that metro area except for 22
16 has most of the rural. And they will absorb part
17 of what 25 comes in.

18 And my district, Number 45, has a narrow
19 band of two townships along the river going up,
20 and I've had that now for quite a while. So
21 that's in 45. Most of the rest of the rural
22 would be in 22.

23 And then a real problem is we all saw
24 the numbers on what districts though. And you
25 get it the metro area, District 16 had 10,384



1 people too many. District 27 had 10,670 people
2 too many. District 22 had 5419 too many. So
3 we've got a whole lot of people, but then we're
4 sitting on -- I'm on the very north end of town
5 and part rural; I'm short 1000. But the next
6 district south of me is District 44, and District
7 44 is short 3000 people.

8 And a lot of our areas, we grew a
9 little, but it isn't we shrunk. It's just we
10 didn't grow enough to deal with the fact that
11 each district is larger. You get below 44s,
12 District 21, they're 1200 people short. The
13 whole core city's short. District 11, 1900
14 short. That comes down the tier. You go below
15 that, and you got districts of thousands.

16 So the reason for this is we have to get
17 those districts to those people where all the
18 excess population is, and that's what we're
19 working on. And a lot of the plan I've worked
20 on, and like I said, Representative Shauer's seen
21 some of -- I'm calling and consulting people.
22 It's pretty complicated. And I did visit a
23 little bit Representative Boschee, but he hasn't
24 seen the -- but we're starting at the top.

25 If you fill 1000 into 45, now I've got



1 44 right below me, 4000 short. So if I push 44
2 down, which I can do and I did, now I've got
3 District 21, 5000. It's a domino effect, and we
4 can do it. But we're moving -- all from the
5 north down has to be moved. As Senator Holmberg
6 said, it's numbers. Bottom line, it's numbers
7 and where the people live, if we're going to keep
8 these districts, their core together.

9 And then, as you get down there,
10 somewhere in that configuration will be a new
11 district coming out of that because they all butt
12 together. And another focus I've looked at is
13 West Fargo is predominantly 13 and 16. 45 has a
14 little West Fargo; 27 has a little West Fargo; 22
15 has a little West Fargo today. And all of us
16 will have parts of it because they're too big for
17 two districts. But most of 16 and 13, I think,
18 will be just about all West Fargo.

19 So what we're -- areas of interest,
20 we're trying to build around those. So that is
21 kind of -- everybody's coming south and then
22 we're crush into this large population. And then
23 we're coming up from the south end with
24 communities of Oxbow that come out of 25 and
25 Horace, which is one of the fastest-growing



1 communities.

2 We're attempting to look at making those
3 part of their own -- they will have parts of
4 Fargo and West Fargo, numbers don't allow it.
5 But that -- again, common interest trying to look
6 at it as a district absorbing those communities
7 down in there.

8 So that, you know, it's a little bit --
9 and when we say "community," we talk about
10 highways. We talk about main streets, that
11 they're dividing lines. Well, let's remember
12 they're only there because they put them for
13 convenience. And I was visiting with
14 Representative Boschee. He's in North Fargo.
15 I'm in North Fargo. We identify ourselves by our
16 elementary schools. I live in Longfellow. I've
17 been there 40-some years.

18 If I talk to a northsider and they say,
19 "Oh, we're in the McKinley area," I know where
20 they live. That's our identifying, so some of
21 that, I'm looking at as part of it besides just
22 the main street. We get into the south part and
23 the old areas, it's the same thing. You get into
24 Districts 11, it's Clara Barton. I mean, that's
25 how all the Fargonians look at it.



1 And then we call where 11 is, near South
2 Fargo. So we have our own definitions, and we
3 know our areas. So some of that thought is going
4 into the process. We have a unique elementary
5 school, Madison, which my Quanta Club, but at
6 that time a few years ago, the primary language
7 at home was different in English. But once that
8 school, there was 38 different languages were the
9 primary languages at home. So there's a
10 conscious effort.

11 And I'm trying to explain we're putting
12 more thoughts than shuffling numbers, that those
13 neighborhoods stay together, that they're
14 compactive, that they're in the same. We have
15 the Jefferson area. It's very similar to the
16 Madison. So we're looking at all that.

17 And then we get into South Fargo and
18 Southwest Fargo and developers build differently
19 than they did 60 years ago. Everything's a
20 development, so the identity is Prairiewood,
21 Osgood, this and that. And they are extremely
22 hard to split apart without making a map look
23 pretty ugly. So we're working on that number
24 too. That is just some of the areas as we divvy
25 up the population.



1 Taking the 2000 out, we still got to
2 spread 182,000-some people amongst these
3 districts, and that's why you don't see a map at
4 this point because we want to hear if there's
5 input from our community. And even if you don't
6 testify today, if you're listening or you're
7 here, you can reach out and talk to us because
8 we're trying to get this to me sense at the end
9 of the day, and I think we will. And our
10 uniqueness is we don't affect the rest of the
11 state is how we can figure those, except these
12 two pieces at the edge.

13 So yeah. It's just Cass County, but
14 there's a lot of work going into it. And that's
15 kind of a summary of the nature of what we're
16 looking at, and I'd be glad to stand for
17 questions that the Chairman or anyone else had.

18 CHAIRMAN DEVLIN: Questions from the
19 Committee?

20 Seeing none. Thank you.

21 Sorry. Senator Klein, I apologize.

22 SENATOR KLIEN: Well, I think quickly,
23 you know, you were talking about those townships
24 in the north side of Northern Cass County, some
25 of that decision will have to be made as we



1 develop that northern tier of, you know, Traill
2 County. And so you're going to be hanging in
3 limbo sort of until a decision would be made as
4 to how that, you know -- every change affects the
5 next district. So are you a bid in limbo because
6 of --

7 SENATOR SORVAAG: Yes.

8 SENATOR KLIEN: -- as -- well, as we
9 develop.

10 SENATOR SORVAAG: I mean, yes, it is.

11 SENATOR KLIEN: Okay.

12 SENATOR SORVAAG: There's -- and again,
13 I'm only thinking out loud of what I've worked
14 on. That north tier is easier to absorb because
15 there's about 800-and-some people. About a third
16 of it would go to 45, what I envision, and
17 two-thirds would go to 22. So we could absorb
18 that.

19 The real problem that's going to hold us
20 up from finishing is what happens in that
21 southwest corner because there's 1000, I think,
22 it's 34 or 40 people in 24 in that corner. And
23 if 20 comes back -- doesn't take, it's that north
24 tier comes back in and that southwest comes back
25 in, District 22 now has 15 or 1600 additional



1 people. And the only place they get that is they
2 push more into West Fargo. They still have part
3 of West Fargo. They had part of Horace, West
4 Fargo before.

5 And the minute you push that 12, 1500
6 people for 22, or take away somehow, and now
7 you've got to move everybody because if you move
8 the district next to them, whether it's on the
9 north, the south, or the east, you just skewed
10 their numbers. So yeah. More -- if they both
11 come in, the southwest will affect what we do
12 more than the north because the population --
13 because the southwest affects one district. The
14 north affects two, so it dilutes the numbers at
15 the end of the day.

16 SENATOR KLEIN: And if I can --

17 CHAIRMAN DEVLIN: You may.

18 SENATOR KLEIN: Is there -- is the word
19 commonality in the north? I know we've talked
20 about -- I know. Cass County has become an urban
21 county. I get that, but are there still -- is
22 that a rural setting up where you're having
23 those --

24 SENATOR SORVAAG: These two-thirds of
25 the north county -- I'm talking two townships.



1 The communities you'll be talking is Grandin and
2 Hunter, North Dakota. It takes two-thirds of the
3 length. They are presently in District 20. And
4 if you want to talk commonality, there's no
5 problem with them in District 20. They've been
6 in District 20 for a long time. That's nothing
7 new.

8 The other part that you're looking at
9 has been in 22 for a long, long time on the north
10 tier. That's the Page area. But that's the
11 three communities that fit into those townships
12 across that northern tier. But no. The east
13 two-thirds have been part of District 20 at least
14 the last ten, and they might not have been
15 before. There area's -- if you go back historic
16 at least ten years, there's been a lot of
17 movements going on.

18 But no. They're tied to 20 right now,
19 Traill County. And when you talk commonality,
20 they could go either way. We take Grandin; if it
21 would come down to 45, that would join it to
22 Gardner, Argusville, Woods -- well, they all go
23 to Northern Cass. So those people go, actually,
24 to the school that's down in Cass County. So
25 you'd have to talk to the senators from -- but



1 there's commonality either way. That's why I
2 don't see there's a problem either way.

3 It's a numbers, where do they need it
4 the most, and I don't think you'd have objections
5 from the citizens either way because they're
6 going to fit in.

7 CHAIRMAN DEVLIN: I believe
8 Representative Monson had a question.

9 REPRESENTATIVE MONSON: Thank you,
10 Mr. Chairman.

11 And I guess you've just been touching a
12 little bit on my question. District 20 lies
13 between Grand Forks and Cass County, and I was
14 just wondering how they match up number-wise, and
15 how big of a problem are we going to have if
16 we're squeezing 20 from the north and 20 from the
17 south? Are they going to be okay?

18 SENATOR SORVAAG: I would leave that
19 answer to Senator Holmberg and Representative
20 Devlin because they're -- it's not the cop-out,
21 but it is because I really don't know. I was
22 asked that we protect -- work with a design that
23 these 800 people are available if they need it.
24 And they're the ones that are kind of designing
25 the northeast, so I would look to Senator



1 Holmberg on that.

2 CHAIRMAN DEVLIN: Senator Holmberg.

3 SENATOR HOLMBERG: Mr. Chairman, of
4 course, like when you do a picture puzzle, you
5 start on the corners and work in, and
6 unfortunately, for their location, Traill County
7 kind of ends up being crushed from both ends.
8 Clearly, their future, as far as getting enough
9 people for a district is to the north or to the
10 west. It's not south. They just can't be
11 absorbed down south. So they have that
12 particular question.

13 There are alternatives that can be
14 explored as far as District -- what is currently
15 District 20. If they went north, you'd have to
16 do something with 19 and with 10 because -- I
17 kind of looked at that border that I had around
18 the city of Grand Forks. You're not going to
19 change that because we don't want to take in more
20 rural areas into the city.

21 So you could go north, and that would
22 have implications. But that has implications
23 that kind of just move across over to District 9
24 and the Rolette area. Or they can go west, but
25 as you go west, you have the situation, you know,



1 you can get some people from Cass County,
2 Northern Cass County for District 20. You can
3 get Steele County, Griggs County, and Barnes
4 County, but you also have folks in those areas
5 needing those people for their dreams.

6 So Traill County is a challenge, just
7 like if you resolve Traill County, then maybe
8 Nelson County becomes an orphan that needs to be
9 taken care of. But, at the end of the day, Emily
10 won't let us draw a map that has a county just
11 left out. We've got to gobble them all up in
12 some manner. So it's a challenge, but it's a
13 challenge that needs to be addressed soon so that
14 you can finish up on Cass County. And then the
15 problem moves west.

16 I would add -- Emily, if you'd blow that
17 Northern Cass County area you have. Just make it
18 a little more clear to -- besides the Committee
19 but if anybody else, what exactly we're talking
20 about. Blow it up a little bit more. Now go to
21 the north end. Right across there.

22 That's the north end of Cass County I'm
23 talking about, and you can keep going west to the
24 county line. But that's in 29, but that little
25 area -- go left. My left, your right. You'll



1 see two rows up in there, two census blocks up in
2 the northwest. That's in 22 now, but we're
3 reserving that out for 20 at this point. So
4 that's the tier I'm talking about.

5 Then you want to look down on the
6 bottom; it looks like a chair. That's the part
7 of Cass County that's in District 24 now.
8 There's about 1000 people. So that's the two --
9 and, like I said, Cass County is perfect without
10 those two areas. We have exactly within a few
11 hundred people of the right amount to do 11
12 districts, but we can absorb -- but that's the
13 area he was looking at. And then if you see that
14 all that big area in the middle is 22 of the
15 rural now.

16 And then just to your left, over there
17 to 45, that's a part of rural 45 that I have. So
18 we could absorb the north, doesn't affect a lot,
19 but if you absorb the southwest and the north, we
20 will be what you see, that whole glob of numbers
21 that are the districts in there. They will be
22 affected because it's a matter -- it's pure math.
23 You bring in 1800 more people, you got to shuffle
24 everybody. You can't just do it in one district.
25 You go way beyond the ranges.



1 So whatever ends up happening, but we
2 left that as room so they can work with their
3 problem to the north. And the problems we're
4 working. So anyway --

5 CHAIRMAN DEVLIN: Questions from the
6 Committee?

7 Seeing none. Thank you.

8 SENATOR SORVAAG: Okay.

9 CHAIRMAN DEVLIN: Representative
10 Boschee.

11 REPRESENTATIVE BOSCHEE: Thank you,
12 Mr. Chairman. If you'd let me, I'd like to
13 visit -- I had put together a graph map. Wasn't
14 sure if I was going to distribute it or not, but
15 I think just to continue the conversation of what
16 Senator Sorvaags said. There's a lot of
17 similarities, but there's going to be some
18 differences. And especially if we want input
19 specifically from folks here, it'll certainly get
20 some talking points.

21 CHAIRMAN DEVLIN: Yeah. Certainly, we
22 would want that.

23 REPRESENTATIVE BOSCHEE: Emily did you
24 receive my email?

25 MS. THOMPSON: Yeah.



1 REPRESENTATIVE BOSCHÉE: Thank you.

2 Thank you, Mr. Chairman, members of the
3 Committee. Senator Oban's helping me hand out
4 some hardcopies for folks. And my apologies to
5 the staff for not going through drafting services
6 for this. So it's going to be a little chunky
7 compared to what Senator Holmberg had, but it'll
8 give you an idea.

9 You know, as the other folks have
10 spoken, those of us that have had access to a
11 laptop and the software have come with a variety
12 of versions, and one of the unique things I think
13 is happening, especially when we look at places
14 like Cass County, is that the numbers work out in
15 our favor to pretty evenly provide 11 legislative
16 districts within Cass County.

17 So for the purposes of the map that
18 you're receiving that'll also be on screen here
19 in PDF, and there'll be some extras for folks in
20 the audience, I started specifically with the
21 idea that we're looking at Cass County, divide
22 that by 11 districts. And then as we've talked,
23 I'm continuing to advocate for a stronger rural
24 identified legislative district.

25 So what is presently District 22, and as



1 Senator Sorvaag talked about, this would absorb
2 those areas out of District 24 and District 20.
3 So starting with the rural is where I started,
4 and then, with the mapping function, for those
5 that don't know, we're able to just self-isolate
6 the cities. So I was able to basically take out
7 Fargo and West Fargo and let those be stand-alone
8 building blocks. And my maps then also reflect
9 as clean as possible that legislative districts
10 follow the lines of the cities of Fargo and the
11 city of West Fargo.

12 And, as Emily on the screen there, you
13 can see the standard deviation. When we divide
14 those 11 districts, with the maps that I've put
15 together, and again, this is for discussion
16 purposes, you can see that we, for the most part,
17 have been able to keep districts within a few
18 hundred folks. And so, again, the math of 11
19 districts in Cass County is pretty clean for us.

20 Emily, if you could go to the next PDF.

21 I have this broken down, for those of
22 you that have packets, into two sections to give
23 us all a generality of how these districts would
24 lay next to each other. You have 13th Avenue and
25 north, and then 13th Avenue and south. And I



1 tried as best as I could with my scribbly
2 handwriting to give those identifying main
3 thruways throughout Fargo and West Fargo.

4 So again District 22 would encompass all
5 of rural and would exclude, for the most part,
6 city of Fargo and West Fargo and the city of -- I
7 believe they included Horace in 22 in my final
8 version. So you can see how they -- again,
9 that's 13th Avenue north -- or 13th Avenue south
10 and north, and then 13th Avenue south and south,
11 how the districts relate to one another.

12 The challenge, of course, and Senator
13 Sorvaag alluded to this, was that, especially in
14 our core districts or the districts specifically
15 within the core of the city of Fargo, we have a
16 loss of population for redistricting purposes
17 because each district needs to find 2000 more
18 people. And then within some of our areas, there
19 just isn't growth. We were already compact
20 neighborhoods that you can't really build much
21 unless you tear down a few houses and build up an
22 apartment building, which we saw in the downtown
23 district and benefited District 21 as it
24 currently stands.

25 So starting -- what I did after building



1 District 22 as just solely rural, I started at
2 the north with District 45, and so that, I
3 believe, is the fourth or fifth page in the
4 packet. I'll let Emily catch up.

5 You can see there, District 22 would
6 have all of rural Cass County.

7 And if you wouldn't mind going to the
8 next page, Emily.

9 And this is what District 45 -- to the
10 north, would include the -- all the way north of
11 Harwood. It would follow the Red River along the
12 east down to 19th Avenue north, carry over to the
13 northern half or the northern side of NDSU's
14 campus, and then follow the railroad tracks,
15 which bisects 12th Avenue there, down to 7th
16 Avenue, and then heads to the west and
17 reconnecting.

18 So essentially, I'm maintaining a chunk
19 of 45 as it exists. 45 then would absorb
20 actually the northern precinct of 44, but the
21 trade-off for that, based on their map, is that
22 the main campus, which is currently part of 45,
23 would then be put into 44.

24 Again, my goal with this was to use main
25 thruways as an identifier as we do the



1 redistricting to see how kind of clean these maps
2 can look regardless of, you know -- and I think
3 there is value in some of the things Senator
4 Sorvaag talked about, especially in our core
5 neighborhoods, how we identify with some of our
6 schools and our school districts.

7 If you go to the next page, you'll see
8 what District 44 would look like. I don't know
9 what we would call this shape, but on the north
10 end would be 19th Avenue North over to campus,
11 NDSU, swoop down following the railroad tracks,
12 which again, bisects 12th Avenue and then goes
13 down to its current line, which takes us down to
14 5th Avenue.

15 And so that's an entire -- for those of
16 you who are not familiar with the city of Fargo,
17 that's a railroad track that also bisects the
18 north of downtown. And so that would encompass
19 then the Oak Grove neighborhood, which currently
20 exists in 44, Horace Mann and Roosevelt. A good
21 chunk of -- I'm looking at my school now. I'm
22 going to get in a lot of trouble for that. On
23 Broadway -- right off Broadway there. Not
24 McKinley and not Longfellow -- Washington.

25 Thank you. I apologize.



1 So it would be, you know, again, these
2 clean lines going across. We go down to the next
3 page, District 21. 21 would then follow 5th
4 Avenue and 7th Avenue on its north edge all the
5 way over to 45th Street. So it would extend west
6 quite a bit compared to where it currently falls,
7 go down to the interstate, and go back to the
8 river. So what this is showing is that some of
9 these districts can be pretty clean when we
10 follow those main thruways, and the numbers work
11 out to as close to that 16,576 as possible.

12 Going to the next page, District 11 then
13 would be on the south side of District 21 again,
14 following the interstate all the way over to
15 45th, doglegs a little bit down to 17th Avenue,
16 over to Veterans down, and then following -- or
17 excuse me, that was 13th Avenue, then following
18 I-29 all the way across to the river.

19 So these districts were much more
20 square, District 11 and 21, then they
21 currently -- in this proposal, this makes them
22 more of a rectangle but also maintains the
23 identity of the city of Fargo. The challenge
24 with some of these, and those of us in our
25 community know that as we get farther south into



1 the city of Fargo, is that, while there will be a
2 city boundary of Fargo, our school district
3 boundaries overlap significantly. So there are
4 south parts of Fargo, where someone's a Fargo
5 resident, but the students go to West Fargo
6 schools. And that was all part of a long, long
7 time ago agreed development plan, and it has
8 worked fairly well for our community so far.

9 Then we go down to District 41, which
10 would be south of 11, and this would look
11 different than what currently exists down in that
12 area. This comprises of what currently is 41 and
13 46 primarily but would use the interstate as the
14 northern boundary and then follow 25th Street all
15 the way down to 64th Avenue. So instead of a
16 rectangle east-west, it would be a rectangle
17 north-south, again using those lines as clean
18 slates.

19 Senator Sorvaag? Oh, sorry.

20 CHAIRMAN DEVLIN: It's all right.

21 SENATOR SORVAAG: Mr. Chairman and
22 Representative Boschee, just a quick question.

23 You know, part of our charge is to keep those --

24 CHAIRMAN DEVLIN: Can't hear you.

25 SENATOR SORVAAG: Is it on? Part of our



1 charge is to try to keep districts where they are
2 if we possibly can. And I'm looking at your page
3 now, and you've completely relocated 46 and
4 replaced it with 41. You're completely
5 relocating 16, replacing it with something else.
6 And I guess my question is, and I know we can
7 talk main streets --

8 REPRESENTATIVE BOSCHÉE: Yeah.

9 SENATOR SORVAAG: -- but I can move main
10 streets all over down there too. What's your
11 rationale?

12 REPRESENTATIVE BOSCHÉE: Yeah.

13 Mr. Chairman, Mr. Sorvaag, members of the
14 Committee, again, for the purpose of this map, it
15 was keeping -- so we'd have a rural district,
16 then city of Fargo, city of West Fargo districts,
17 and then following main thruways. So one of my
18 principles with this wasn't necessarily
19 maintaining districts as they exist.

20 And that is certainly true, especially
21 when we get in that southern part of the area, we
22 see that chopped up quite a bit. We even saw it
23 on the core neighborhoods about how they went
24 further west; then they were going south before.
25 So just for discussion purposes and again showing



1 that, when we follow those lines, what the maps
2 may look like.

3 Then going into District 46, and as
4 Senator Sorvaag pointed out too, this would be
5 completely move what is currently District 46 to
6 a newer geography, which would be on the west
7 side of 25th Street. It would follow I-94 on the
8 north end all the way to Veterans, down to 32nd
9 Avenue, then doglegs over to 42nd, and then
10 following back over, I believe that is 40th
11 Avenue, south to the river.

12 So if we're looking for perfect squares,
13 this is what some of the districts would look
14 like in terms of how the census tracks work out.

15 Next page, District 16, again, this
16 would be neighboring with District 46 on the
17 south end there. It would take 32nd Avenue south
18 as the northern border, over to the Sheyenne
19 River, which is the natural boulder, at least
20 based on the mapping tools of Fargo and West
21 Fargo. I believe there is probably some cross
22 over there as we start looking at it. That
23 follows it down to 52nd Avenue south, crosses
24 Veterans 45th, goes back up, and has the east
25 side of the district.



1 Then we get to 27, which currently is a
2 large portion of the new development area,
3 similar to District 22 and District 16 where
4 we've seen a lot of growth. And so 27, because
5 as has been alluded to, when we're putting a
6 puzzle together or taking it apart, when you
7 start on the one side, you come to the other side
8 and sometimes it gets a little funky.

9 So District 27 has the unique lines,
10 especially on the southern borders, because what
11 that is following, again, is the city of Fargo's
12 boundaries and the city of West Fargo's
13 boundaries. So this would be one of the very few
14 districts that would have both cities
15 encompassing in it because then south of there
16 would be considered rural with District 22.

17 So the northern borders there being
18 Prairie Rose up on 40th Avenue, and same with
19 counterpart over in West Fargo, that section that
20 comes out of District 17 would be the District
21 6 -- or excuse me, District 27 would be the
22 District 16, and then we'd go down into Frontier.

23 For those of you not familiar with
24 Fargo, when you look at the center of that
25 district there, the south central and then the



1 southeast part, that is all white right now, but
2 that will -- much of that's already filled in
3 compared to this map and will continue to fill in
4 over the next ten years as far as population
5 continues to grow south, so --

6 CHAIRMAN DEVLIN: Representative
7 Boschee, Senator Holmberg had a question.

8 SENATOR HOLMBERG: I had a question. I
9 noticed with interest that in this 27, you
10 utilized city limits, and I believe, if my memory
11 is correct, we've tried to stay away -- tried
12 to -- stay away from utilizing them because they
13 move, and we typically try to go and find a
14 street or some kind of other mapping tool better
15 than that.

16 Are there such other dividing things?
17 If this was adopted, I would suggest that you
18 look strongly at having something other than city
19 boundaries. Sometimes we have to use them, but
20 they really are moveable targets.

21 REPRESENTATIVE BOSCHEE: Yeah. Thank
22 you, Senator Holmberg. Yeah. And especially
23 where that line gets a little funny at the
24 southern part of District 27, there will be many
25 major thruways that would be able to be used if



1 the Committee were to look at a map similar to
2 this.

3 Then we get over to the West Fargo area
4 districts, so District 13 would be on the
5 northern half of West Fargo, which is, I believe,
6 a similar footprint to what much of District 13
7 is, the northern boundary being 12th Avenue
8 north, which comes through over that industrial
9 park area, goes down south, includes Main as a
10 border, Main Avenue, and then down following
11 Sheyenne through 13th, and then doglegs over to
12 Veterans through I-94.

13 And then it would neighbor with what
14 would be considered the new district, so the
15 purpose of this map, it just says District 99
16 because I wasn't going to presume which districts
17 were disappearing or not to give them a new
18 number. But you can see there then that the
19 northern boundary is District -- or excuse me,
20 13th Avenue South, the western border being -- or
21 excuse me, the western border being the city of
22 West Fargo boundaries, from the mapping tool, all
23 the way down to 40th Avenue, follows the Sheyenne
24 River up to 32nd, and then I-94 as the eastern
25 boundary.



1 So, again, Mr. Chairman, members of the
2 Committee, the purpose of this was -- you know,
3 one of my initial drafts was to just see how can
4 we -- if there was an opportunity in the mapping
5 tool to just hit a button and it made us 11
6 districts, I assume it'd be something similar to
7 this because, again, it's based on those, the
8 county, the cities, and then major thruways
9 withing.

10 So regardless of neighborhoods,
11 regardless of school districts, regardless of
12 other lines, the intention was to just show what
13 the mapping tool can do and what that would look
14 like for Cass County.

15 I'd stand for any questions.

16 CHAIRMAN DEVLIN: Thank you. Further
17 questions?

18 SENATOR SORVAAG: Yeah.

19 CHAIRMAN DEVLIN: Senator Sorvaag.

20 SENATOR SORVAAG: Mr. Chairman, I --
21 it's a little philosophical question, and we're
22 going to have a lot of -- because really, I can
23 agree with some of what you did.

24 REPRESENTATIVE BOSCHEE: Okay.

25 SENATOR SORVAAG: And I think we're --



1 but I would have to disagree with the idea of
2 calling Horace rural. That's solid city. You're
3 a realtor.

4 REPRESENTATIVE BOSCHÉE: Yes.

5 SENATOR SORVAAG: And to put it in a
6 rural district, that one I struggle with.

7 REPRESENTATIVE BOSCHÉE: I appreciate
8 that, Senator Sorvaag, Mr. Chairman. And you're
9 right. Initially I had that in District 27, but
10 because of the growth in the city, end up having
11 Horace traded off to 22 to get the numbers to
12 work. So you're exactly right. I would agree
13 that -- similar to, I think, the discussion for
14 Bismarck and Lincoln. Right. Those are
15 communities that have grown into one another.
16 They share school districts; they share
17 infrastructure. Those end up being very
18 commonality questions. Yeah.

19 CHAIRMAN DEVLIN: Further questions or
20 further --

21 Seeing none. Thank you. Thank you very
22 much.

23 We left some time on the agenda for
24 comments by interested parties. I just -- the
25 only thing I would, you know, tell you upfront,



1 remember these are just concepts. This is not
2 going to be the final plan that the Committee
3 will be voting on or the legislature would be
4 voting on. We're just trying to get some
5 concepts of what we can do in the eastern part of
6 the state and go from there.

7 But we would welcome public comments at
8 any of our meetings, so if you have something to
9 say, please come forward and identify yourself,
10 Senator Flakoll, and give us your comments.

11 SENATOR FLAKOLL: Mr. Chairman and
12 Committee members, for the record, I'm Tim
13 Flakoll. And I'll be short, and I'll be gone.

14 So I first want to thank all of you for
15 serving on this. I know it's a thankless and
16 unenviable job that all of you really wanted to
17 be on. You know, so there's a double-edged
18 sword, and I really appreciate the road tour
19 because, otherwise, I wouldn't be able to attend
20 really or participate.

21 I just want to bring up two points. One
22 is transcendental to the work you're doing
23 because a lot of talk kind of on the outside of
24 this is term limits and those related-type topics
25 that come up. But, just for your information and



1 the record, in March, I asked legislative council
2 to provide how many senators have served in the
3 North Dakota Legislature. To date, 801 senators
4 have served in the legislature in 132 years.

5 So the turnover rate is 6 per year, 12
6 per, you know, two-year cycle. And in the
7 general term that we have in the House and
8 Senate, in four years that is 24 people, or about
9 51 percent of the people turnover in any given
10 year. I know there's been a lot of discussion
11 about that out in the community and as it relates
12 to kind of this whole process of elections. So I
13 just wanted to bring that out there because there
14 is a lot more turnover and it's good to get that
15 in front of the public when they're discussing
16 these matters.

17 And then, in moving on, just a little
18 something a little different, we'll call it. One
19 of the things you could consider that would help
20 in a lot of different ways, and I can't probably
21 read much of my handwriting, is you could, like
22 Cities and some Counties do, some Cities and
23 Counties do with the City Commission and County
24 Government, you could have them put on the ballot
25 by their districts and then voted on statewide.



1 So, as an example, you could have, you
2 know, "I want to vote for this entire party or
3 that entire party," or they could just mix and
4 match as they go across the districts because,
5 again, that would help because you're elected to
6 represent everyone, not just your own. And it
7 would help get rid of some of the concerns
8 about -- you know, that come up from time to time
9 with not knowing enough about this issue or that
10 issue because you would, in essence, represent
11 the entire state.

12 So I just thought that would essentially
13 remove any claim gerrymandering for sure, but
14 just something a little different because I know
15 you're headed down a path that won't be
16 consistent with this. But you're on meeting
17 number two, so I just thought I would bring it
18 forward for that. So no expectation. I'm sure
19 it'll be as dead as other ideas that will be
20 forwarded, so --

21 CHAIRMAN DEVLIN: Does that conclude
22 your presentation?

23 SENATOR FLAKOLL: That includes my
24 entire presentation. I said it would be short.

25 CHAIRMAN DEVLIN: You told me it would



1 be short. I thank -- was there any --

2 SENATOR FLAKOLL: And, by the way, I'm
3 taking vacation time, so in case anyone --

4 CHAIRMAN DEVLIN: Okay. Was there any
5 questions for Mr. Flakoll?

6 Seeing none. Thank you very much.

7 Was there anyone else that wanted to
8 comment on what we were -- the basic concepts of
9 what we were talking about this morning?

10 Okay. Okay. Well, I thank you. Like I
11 said, there's a lot of concepts you're going to
12 see in the next two or three weeks, and that's
13 what they are. But this gives us a starting
14 point because you can't start in the middle of
15 the state. You have to start on the edges and
16 the corners.

17 And I thank everyone that presented
18 today. I think you had a good starting point for
19 the rest of us. We really appreciate that.

20 And I know it's a little early, but
21 should we break for an hour now? What would be
22 your choice?

23 UNIDENTIFIED MEMBER: Sure

24 CHAIRMAN DEVLIN: Okay. Committee, we
25 will take a break for one hour for lunch, and



1 we'll come back and move on a little bit further.

2 Is that okay, or would you like to do
3 some more?

4 UNIDENTIFIED MEMBER: 12:30?

5 CHAIRMAN DEVLIN: 12:30. Thank you.

6 (Recess taken)

7 CHAIRMAN DEVLIN: We are 12:30. You're
8 seeing a discussion of Legislative Redistricting
9 for the meeting of the state.

10 Senator Bekkedahl, do you got an
11 overview of what you want to do with Western
12 North Dakota?

13 SENATOR BEKKEDAHL: Hey, Mr. Chairman.
14 If Emily can bring that up, I can just show you a
15 northwest concept if that helps the Committee.

16 Thank you, Mr. Chairman. While she's
17 bringing that program up, all I dealt with when I
18 had the computer was the northwest quadrant,
19 which includes the counties of Williams, Divide,
20 Burke, and a part of Montrail County. It's the
21 current Districts 1 and District 2 combined.

22 District 1, which I represent, is
23 currently about the south two-thirds of the city
24 of Williston. District 2 took out the north
25 one-third of Williston and the rest of those



1 counties. Burke County is currently divided
2 along a major highway, so it's not the entire
3 Burke County that stays within District 2 at this
4 point. But historically, most of Burke County
5 has been with District 2.

6 Montrail County is also split along
7 Highway 2, and everything over to the east at
8 Stanly and then Highway 8 up north again up into
9 Burke County. So it's not the entire counties of
10 Burke and Montrail right now.

11 What I tried to focus on was the numbers
12 currently for the new census for District 1 and
13 District 2, number 48,700 -- and I believe -- 22
14 people, which if you split that, three ways,
15 makes each district at about 16,250 -- actually,
16 247, I believe, but close to 250. So we're
17 within the guidelines of what the plus or minus 5
18 percent would be.

19 What you see above there is the green
20 line that's -- is shown is the current boundaries
21 of District 2, and I have shown this, by the way,
22 to a couple of people in that district, and they
23 like what they see here because it keeps their
24 current boundaries intact.

25 Emily, if you want to focus on -- the



1 other thing that -- obviously we have the
2 Canadian border to deal with to the north and the
3 Montana border to the west, and then the Missouri
4 River to the south. So those are three major
5 boundary issues we had to deal with that
6 currently exists as well.

7 If you want to focus in on District 1,
8 Emily, if you could please. We'll start there.

9 District 1, which I represent, was
10 actually over about 3000 people in the current
11 census from what our district should be. And
12 District 2 was over approximately 13,000 from
13 where we should be. What I did there is the
14 green line that looks like it goes to the south
15 there, that's just the McKensie, Williams County
16 boundary line, which is somewhere within the
17 Missouri River separating those two counties.

18 The northern boundary of District 1,
19 right there, Emily, is 26th Street. Prior to
20 redistricting this time, District 1 actually
21 extended beyond 26th Street into a couple of
22 large apartment complex areas. When you see that
23 horizontal -- or that vertical line that goes up
24 on the east side, that's actually the Little
25 Muddy River, which is our eastern boundary of the



1 city, and from there to the line, straight line
2 on the far east side, that's actually Williams
3 County, Highway 9.

4 So that's a major boundary, and all I
5 did was to take that in was because there was
6 literally no people there. It's all river
7 bottoms, so there really isn't any people.
8 There's a small amount but not very many. The
9 other jag that you see to the east, right there,
10 that's actually the corporate city limits that
11 goes to an industrial park on the eastern side of
12 the Little Muddy River. So I just kept the
13 corporate boundaries of the city intact is all I
14 did there.

15 So I actually brought the northern
16 boundary line down to 26th Street, as I talked
17 about before. And then the western boundary, I
18 moved that in as well. It's closer to the core
19 of the city, and that brings us within, I
20 believe, minus 3 percent.

21 Is that right, Emily? I can't see it
22 from here.

23 MS. THOMPSON: That's correct. The
24 deviation is negative 3.62 percent or 600 people
25 shy of the ideal of 16,576.



1 SENATOR BEKKEDAHL: Thank you.

2 So that -- again just keeping the
3 corporate boundaries of the city as intact as we
4 can. And if you look at district -- let's go to
5 the next district number, 99, as we've named it
6 up here, which would be a new district. And this
7 will make more sense explaining district to them.

8 What I did hear was I took -- most of
9 the District 2 growth that occurred in the last
10 ten years has been within the new corporate
11 boundaries of the city of Williston. Williston,
12 in the ten years, has tripled its size through
13 annexations in its land boundaries, and those
14 were all friendly annexations. The City never
15 forced anything. They were requested by
16 developers for the growth of the industry and the
17 population.

18 So, as the boundary grew, the population
19 grew within those areas too, and those were
20 within District 2's current boundaries. So I
21 took the corporate boundaries to the far north
22 side of the city of Williston and went over. The
23 line you see to the to my left, right there,
24 where she's going, that is the new city bypass,
25 the four-lane bypass the State built to get the



1 truck traffic out of the city.

2 Don't know if you remembered or not, but
3 at one point, our little bypass bisected the city
4 with the growth, and we had about 40,000 vehicles
5 a day on that bypass. And 60 percent of them
6 were semi-trucks. So we had to get the trucks
7 out of town, and that's what helped.

8 So using that as a major boundary, I've
9 just taken that and moved it down to Highway 2,
10 which is the other major boundary, all the way to
11 the Montana border. And so you see Highway 2 as
12 of north boundary there, and you go down on the
13 Montana boundary line to the west. And then you
14 get to the Missouri River, and it becomes back
15 contiguous to the city at that little junction up
16 there, makes it contiguous. So that population
17 is within, I think, less than 1 percent deviation
18 again.

19 Emily, can you see that?

20 MS. THOMPSON: Yep. The deviation on
21 this district is negative 1.58 percent --

22 SENATOR BEKKEDAHL: Okay.

23 MS. THOMPSON: -- or 262 people shy of
24 the ideal value.

25 SENATOR BEKKEDAHL: So we're very close.



1 So essentially what I did was I took the existing
2 boundaries of 1 and 2 and just formed a new
3 district. Actually, this helps our District 2
4 because it keeps most of their district intact
5 and it separates out, really, the city growth
6 areas from the rural districts. So the rest of
7 the boundaries that you'll see up there on
8 District 2, if we want to go to that big map,
9 really keeps the rural district identity that
10 they've always had.

11 Tioga did see some pretty good growth,
12 as did Ray; those are the two major communities
13 in District 2 -- and Stanly, I should talk about
14 Stanley, which you can see in the far lower-left
15 corner of that district. That's the community of
16 Stanly. So that keeps everything intact with
17 what they currently have.

18 What I didn't do was I didn't -- I
19 played around a little bit with District 4, which
20 includes the reservation that's south of Stanly
21 there, and I played a little bit around going
22 north of Minot. But ultimately I decided I
23 really needed to stop with District 1, 2, and a
24 new district because really what happens in Minot
25 affects everything that surround them within



1 about a 80-mile radius, and that's where we're at
2 in the rest of Northwest North Dakota.

3 So until we have some delineation of the
4 preferences for the Committee with dealing with
5 the Minot growth issues, I really didn't think we
6 could deal with things between Districts 1, 2,
7 and the Minot districts. And I know District 6
8 is involved in there and District 4.

9 So any changes we make to District 4 or
10 District 6 affect each one of those districts
11 pretty intimately, and I know there was some
12 discussion about possibly taking all of Burke
13 County and making the whole northern counties
14 over to east of Minot to McHenry County and
15 bringing District 6 that far west. The only
16 reason I'm showing this is, if you do that, then
17 we strand the population base of about 13,000
18 people within District 1 and District 2 that
19 aren't enough to make a district, but they're too
20 much to put in any other the districts without
21 crossing the Missouri River or else going into
22 Montrail County and then hitting the boundary of
23 the reservation, which we want to keep intact on
24 its own.

25 So there are some limitations. The



1 river, the boundary with the reservation, the
2 Canadian border, and the Montana border, we have
3 to deal with as well.

4 So, with that, Mr. Chairman, I would
5 stand for questions. Again, this is just a
6 concept. I was asked to look at Northwest North
7 Dakota. I presented this to a few of the
8 legislators up there, and they seemed to think it
9 makes sense for -- and they're in agreement with
10 what I've shown here. Obviously, if the
11 Committee changes that, I would bring it back to
12 them for their review as well.

13 CHAIRMAN DEVLIN: Questions for
14 Senator Bekkedahl?

15 Oh, I'm sorry. Representative Shauer.

16 REPRESENTATIVE SHAUER: Thank you,
17 Mr. Chairman.

18 Senator, we heard a little bit -- we
19 heard about the growth in Cass County. Can you
20 give us a summary of the growth in District 1 and
21 District 2? Is it mostly apartments? I assume
22 it's 80, 90 percent energy, but maybe that's not
23 right. Is their single-family growth and
24 development growths? Gives us an idea of what's
25 happening there.



1 SENATOR BEKKEDAHL: Thank you,
2 Mr. Chairman and Representative Shauer. Really,
3 most of the growth occurred in Williston and the
4 six surrounding townships, and the growth that
5 you saw there, as well as in Tioga and Ray, are
6 more apartment dwellings, rental dwellings.

7 We went from a mix in Williston of about
8 70 percent individual homes and 30 percent
9 rentals to about 52 percent rentals and 48
10 percent homeownership. So it skewed over half
11 now to rental properties, so just as I see around
12 Fargo, I see a lot of apartment buildings. The
13 three, four, five-story buildings going up. We
14 had the same growth out there, and I suspect
15 we'll continue to see that.

16 With the increase in just building
17 costs, you can build higher density at a cheaper
18 cost per door than you can a home anymore. So
19 thank you for the question.

20 I would add to that the growth in
21 Williston doubled from 14,000 to 29,000, so we
22 had a 100 percent growth just in the city limits
23 for us.

24 CHAIRMAN DEVLIN: Senator Klein.

25 SENATOR KLEIN: Well, and Mr. Chairman



1 and Senator Bekkedahl, using your lines, have you
2 moved anywhere into what was currently District 4
3 at all?

4 SENATOR BEKKEDAHL: Mr. Chairman and
5 Senator Klein, no.

6 SENATOR KLEIN: So --

7 SENATOR BEKKEDAHL: None of it's changed
8 the existing boundaries.

9 SENATOR KLEIN: So you took those -- you
10 made those three districts, stayed pretty much
11 inside the lines, so just looking at the raw
12 numbers, District 4 would be okay just the way
13 they are at 16,794 with no change to their
14 numbers that could -- okay.

15 But just saying that, doesn't
16 necessarily mean we have to change that. But I'm
17 just kind of looking at the chart and seeing how
18 some things could be easier than others or not.

19 SENATOR BEKKEDAHL: So. Mr. Chairman and
20 Senator Klein, I really appreciate that because
21 it's a good segue to go to the next discussion.
22 I didn't keep District 4 on here just because I
23 thought District 6 could impact it, as well as
24 the reservation status could impact it. You're
25 exactly right. If we keep 4 the same, we've



1 basically taken care of Northwest North Dakota
2 almost all the way to Minot and kept everything
3 the same just by adding one district in that
4 proper area.

5 The difference is where does the
6 reservation go? Does the reservation stay where
7 it's at in District 4, which I think is
8 preferable to the people that are there, or does
9 the reservation move -- the northern boundary of
10 the reservation stay intact and you move into
11 McKenzie County and Dunn County more for
12 population? That would be a pretty large change
13 in my book.

14 But I didn't deal with anything south of
15 the river, particularly because I know
16 Representative Lefor and people in Southwest
17 North Dakota have been dealing with that. So I
18 tried to -- if you look there, my concept, just
19 playing with it, I actually put McKenzie County
20 and Dunn County together south of the river, just
21 because the number fit really well when you take
22 out the reservation population and keep them with
23 District 4.

24 It doesn't have to be that way, and I
25 would certainly not tell Representative Lefor or



1 anybody else down there how to do things. That's
2 going to be their concepts to deal with, but I'm
3 pretty well set as they are that the reservation
4 stays whole. And you're right, Senator Klein, if
5 it can stay in District 4 in its current
6 alignment, I think that would be preferable as
7 well.

8 CHAIRMAN DEVLIN: Representative
9 Boschee.

10 REPRESENTATIVE BOSCHEE: Thank you,
11 Mr. Chairman. If I could add to that as someone
12 who sits on the Tribal and State Affairs
13 Committee, we did visit with MHA Nation last
14 week, I believe we were up there. It's all a
15 blur where we've been. But the question was
16 proposed to the tribal chair, and his point
17 person on redistricting, Representative Lefor,
18 Senator Bekkedahl, is Cynthia Montell (phonetic),
19 who's the tax director. She does have an office
20 in Bismarck, and I can get you her contact
21 information if you would like.

22 They hadn't thought too much when I
23 asked, "Do you prefer maybe going west with
24 Watford City because of, you know, the economics
25 of your communities being similar or staying up



1 in District 4, which is more agricultural?" They
2 hadn't spent a lot of time thinking about it, but
3 I think it got some wheels turning. So I think
4 they're open to discussion and would love to
5 connect with whoever's working on that side of
6 the map, so --

7 SENATOR BEKKEDAHL: Thank you,
8 Mr. Chairman and Representative Boschee. I agree
9 with that. That's why I haven't played with the
10 reservation. I really would think we need to
11 take their -- you know, their comments and
12 seriously use them in this Committee as well. I
13 really think that, as I know the reservation, I
14 think I know it pretty well because it's only 30
15 miles from me, they really interact more with
16 Montrail County than they do with McKenzie County
17 or Dunn for their major economic activity.

18 So Stanly would be a better fit for them
19 than Watford City, but it doesn't mean you
20 couldn't go that way if we had to move some of
21 the population loss in other areas to make this
22 work. So we have a lot of options, but I think
23 Senator Klein's comments about District 4 staying
24 intact is a good one at this point as well.

25 CHAIRMAN DEVLIN: Anyone else?



1 Seeing none.

2 SENATOR OBAN: Mr. Chairman?

3 CHAIRMAN DEVLIN: Oh, I'm sorry.

4 Senator Oban.

5 SENATOR OBAN: No, that's okay. But
6 Stanly is in District 2, so I mean, to use that
7 as a reason, you know, for -- most of Montrail
8 County is technically districted into 2 based on
9 your map, what currently exists and frankly the
10 map that I just played around with too. So in
11 thinking about what may be the impacts, both
12 positive and negative, to some reservation
13 communities being quite a bit similar to what's
14 happening in oil country in McKenzie County --

15 SENATOR BEKKEDAHL: Right.

16 SENATOR OBAN: -- maybe down even into
17 Killdeer is maybe something we need to consider
18 because those impacts are pretty similar and has
19 had a lot of change to those reservation
20 communities with the fluctuations of oil.

21 SENATOR BEKKEDAHL: Thank you,
22 Mr. Chairman and Senator Oban. I think if -- I
23 don't -- I didn't do the numbers, but my read of
24 the reservation is that the majority of the
25 population on the reservation actually lives



1 north of the river, not south, and that's why
2 Stanly is more of an economic tie to them.
3 Keeping -- or having Stanly in Montrail County, I
4 suspect in the last redistricting that was done
5 because District 2 needed more population, not
6 less, so they expanded over to get population out
7 of Stanly.

8 The other thing that they are --
9 culturally that ties them together as Ray, Tioga,
10 and Stanly have a -- as you know being from Ray,
11 have a common water system, the RTS water system.
12 So economically those three communities are
13 pretty tied together as well. But good comments.
14 We have a long ways to go with that.

15 CHAIRMAN DEVLIN: Senator Klein.

16 SENATOR KLEIN: But Mr. Chairman,
17 doesn't it also -- and we had that discussion
18 earlier. It's one of the points. I mean, if we
19 can keep a district together with the
20 representatives or senators they currently have
21 and the people they know, I mean, it would be
22 kind of incumbent that we would do what we can in
23 these areas and, you know, you hate to mess that
24 all up because of another reason because they've
25 done this for at least ten years or maybe longer.



1 They know who their representatives are and where
2 the lines are.

3 So I'm just kind of -- I think
4 Senator Sorvaag, you know, brought that to light
5 this morning. You know, we want to keep -- if we
6 can keep districts together where -- you know,
7 rather than confusing the citizens, that they
8 understand who their people are and where they've
9 been and who -- where they live. So I guess I'm
10 just throwing that out as a -- kind of another
11 thought process that, if we can do that, that
12 that would be important, to me it will be,
13 anyway.

14 SENATOR BEKKEDAHL: Mr. Chairman,
15 Senator Klein, you're exactly right. And that's
16 why I think the people I showed to in the area
17 already said, "We like this. We're used to it.
18 We already have our voting districts within these
19 lines. Nothing has to change with the counties
20 and their operations and elections." So other
21 than the new district being formed -- and I,
22 really, all I did was follow natural boundaries,
23 as I said, the bypass, the Missouri River, the
24 Montana border, and making them contiguous to
25 Williston with the townships.



1 And in doing that -- and I never thought
2 about this, but in doing that, that is a totally
3 new district that there's no incumbents to run in
4 that district, so that would be a slate of all
5 new candidates if nobody moved, and if that
6 stayed intact the way that it is. So it's the
7 least amount of disturbance. I think that we can
8 get up there. And, again, it wasn't planned that
9 way. It just worked out that way in the major
10 boundaries.

11 SENATOR KLEIN: And, Mr. Chairman, are
12 the school districts getting along yet?

13 SENATOR BEKKEDAHL: Mr. Chairman and
14 Senator Klein, I will tell you that everybody is
15 happy with their new school district, and the
16 teachers are happy; the administration's happy,
17 most of all, the kids are happy.

18 Thank you.

19 CHAIRMAN DEVLIN: Anything else for
20 Senator Bekkedahl.

21 SENATOR BEKKEDAHL: Thank you,
22 Mr. Chairman.

23 CHAIRMAN DEVLIN: Thank you.

24 Are there any other concepts that anyone
25 was going to present today on the western or



1 central part of the state? I hadn't heard from
2 anybody, but --

3 Representative Lefor.

4 REPRESENTATIVE LEFOR: Thank you,
5 Mr. Chairman. I'm not prepared for something on
6 the screen, but in Southwest North Dakota, we
7 have a little of everything. We have population
8 growth; we're got stagnation; we've got low
9 population counties. In a perfect world, you'd
10 divide Stark County in half and add a little bit
11 of population to McKenzie County and call it
12 good.

13 But you've got six counties out there
14 that still have about -- have 12,000 people. So
15 in District 37, we about 23, 2400 people too
16 many. So I constricted that, which then, since
17 District 36 surrounds us, that gives that
18 district about 4800 people too many. So I'm
19 trying to work with -- you know, to make it
20 geographically compact, if we can see a McKenzie
21 County, Dunn.

22 And then with the six counties and that
23 I'm working with, and I'm working with part of
24 Hettinger County to get more population, there
25 are six counties that have about 12,000 people.



1 So I'm going to have to rob from Peter to pay
2 Paul, so to speak. But I think I'm about 80
3 percent there, but I sure would entertain any
4 thoughts or ideas people have. I'm getting
5 computer back today, and so I've got some updates
6 that I have been looking at to maybe give you the
7 concept maybe next week. So I'm getting close.

8 CHAIRMAN DEVLIN: The other House
9 computer, Representative Nathe has that now, and
10 he's going to keep it for another week. And then
11 it's going to Minot, I believe. Representative
12 Bellew gets it next, but you would keep it until
13 next week. Okay. Okay.

14 REPRESENTATIVE NATHE: Mr. Chairman?

15 CHAIRMAN DEVLIN: Senator Nathe.

16 REPRESENTATIVE NATHE: In regards to any
17 plans with Bismarck, Mandan, Senator Poolman and
18 I have been working on it, and Senator Poolman is
19 just getting the computer this week. So we
20 should hopefully have maybe something next week.
21 So we're getting -- we've met a couple times;
22 we're getting there.

23 CHAIRMAN DEVLIN: Senator Oban.

24 SENATOR OBAN: As somebody who also
25 lives in Bismarck, I would offer my --



1 REPRESENTATIVE NATHE: Yeah

2 SENATOR OBAN: Yeah. That's what I
3 thought. And I did invite the folks in Lincoln,
4 I think just in casual discussions, with
5 Representative Nathe, actually asking Lincoln
6 what they think rather than doing what we think
7 is best for legislative districts, whether or not
8 they consider themselves more a part of Bismarck
9 than a part of what would be a pretty probably
10 big geographic rural district.

11 Certainly, pros and cons of either of
12 them, but I've asked them to potentially have a
13 position that they can share with the
14 Redistricting Committee, or they will probably be
15 left to the whims of legislators with their own
16 interests. So just letting you know that I am
17 hoping we all hear from Lincoln next week when
18 we're back in Bismarck.

19 REPRESENTATIVE NATHE: Mr. Chairman?

20 CHAIRMAN DEVLIN: Representative --

21 REPRESENTATIVE NATHE: Senator Oban, who
22 from Lincoln? The mayor or who?

23 SENATOR OBAN: I reached out to
24 Tom Volk, who sits on the City Council to -- he
25 is a Ray J kid with me, so that's the reason I



1 reached out to him personally but did ask if he
2 would formally take that to the City Council to
3 have on the agenda to have a discussion,
4 otherwise I just think we're left, you know,
5 determining for whatever reasons where Lincoln
6 should go.

7 You know, I think I have thoughts, but
8 my thoughts might not be what the City of Lincoln
9 wants, so I would rather, you know, their own
10 elected leaders come forward if they are to have
11 some sort of unified position on that to share
12 with us to consider.

13 CHAIRMAN DEVLIN: Representative
14 Boschee, is the Tribal Relations Committee, how
15 many meetings do you have left? Do you know?

16 REPRESENTATIVE BOSCHEE: Mr. Chairman,
17 members of the Committee, we've visited three
18 tribal nations are continuing to try to schedule
19 a visit with Standing Rock. They're going into
20 tribal elections during this month so that's
21 created a couple challenges as they continue that
22 process, so we've done three of the four tribal
23 nations that have significant population in the
24 state.

25 I know that there is plans to also visit



1 somehow with Sisseton Oyate (phonetic) as well,
2 but I don't know if that will be more of a
3 virtual conversation or what based on, again,
4 there's a very small population of people who
5 live in the state within that reservation.

6 CHAIRMAN DEVLIN: Okay. Thank you,
7 Representative Boschee. Because that was one of
8 the things we didn't know if that committee would
9 finish their work, you know, in a timely fashion,
10 and so we're going to reach out to all the tribal
11 nations to teams that are virtually on -- and I
12 just didn't know if we should do that early next
13 week or how quick we should do that because we
14 need to know what their opinion is on some of
15 this and where they might want to go or whatever.

16 And we know we're not going to split any
17 reservations.

18 REPRESENTATIVE BOSCHEE: Right.

19 CHAIRMAN DEVLIN: We all know that we're
20 not going to do that, but we want their input.
21 And I just was wondering if the people think we
22 should do it at our first meeting next week, make
23 that offer. I think that would work.

24 But Senator Holmberg.

25 SENATOR HOLMBERG: Mr. Chairman, I would



1 recommend that we do meet as early as possible
2 with them because it makes a difference up in
3 that Rolette County area as far as the ripple
4 effect of what their wishes are, and their wishes
5 may be what we like, and they may not be. But at
6 least we want to make sure that we've heard from
7 them. So I would hope we could get them online
8 or somehow soon.

9 CHAIRMAN DEVLIN: And I agree,
10 Senator Holmberg. The Chairman will issue an
11 invitation to them for some time next week at our
12 first day of the meeting, and hopefully we can
13 work all of them in. I know we can work all
14 them, but I hope it will work for them.

15 Representative Boschee.

16 REPRESENTATIVE BOSCHEE: Yeah.

17 Mr. Chairman, thank you. And each of the three,
18 so we visited with Turtle Mountain up in Rolette
19 County. We've visited with the Spirit Lake in
20 Benson County and Ramsey County area and then, of
21 course, MHA. And all three tribal governments,
22 as well as citizens who spoke at those meetings,
23 did advocate for making sure that we don't
24 subdivide the districts, and we were able to
25 speak -- or the reservations, and we were able



1 speak to how, traditionally, that has not been
2 done here and that's not the intention of the
3 Committee so far.

4 And then when the conversation about
5 subdistricts, there was certainly some interest
6 in that but curious about what does that mean in
7 terms of elections. And I think one tribal
8 nation, and I forget which one specifically, had
9 some interesting conversation on -- either I
10 don't know if they understood what we were
11 talking about in terms of subdistricts or they do
12 have a legitimate concern about -- you know, as
13 we've talked about subdistricts, that would be a
14 dedicated House district if we were to do that.

15 The concern I think they have is in
16 terms of at-large. So members that don't live on
17 the district -- or on the reservation, would they
18 be able to vote for that person or not within the
19 greater -- they say Senate district. And I think
20 that comes from a history of the County that they
21 share borders with doing some at-large elections
22 that has not helped that specific tribal
23 community.

24 So some interesting conversations, and
25 us being able to introduce it, I think will help



1 prime for a conversation next week or the
2 following. And we did say that there would be
3 intentions to reach out to find dedicated time.

4 CHAIRMAN DEVLIN: Senator Holmberg.

5 SENATOR HOLMBERG: Could we end up in a
6 situation where you have one of the tribal
7 nations saying, "We want to be subdivided," and
8 you have the other nations saying, "We like it
9 the way it is," and where does that put us from
10 the standpoint of being fair?

11 REPRESENTATIVE BOSCHEE: Mr. Chairman,
12 members of the Committee that's a good question,
13 Senator Holmberg, because I think with
14 Spirit Lake there will be some -- we'll have to
15 have some more in-depth conversation about that
16 because they seem to be the nation that has a few
17 hesitations as they understand subdistricts based
18 on the conversation we had. So I think some
19 intentional conversation on that will be
20 important.

21 And, in the end, with anything when it
22 comes to tribal nations, consultation is an
23 important part of that, and so there could be
24 where there is a tribal nation who says, "We
25 don't want to subdistrict." But if we've



1 appropriately done consultation and that's a part
2 of the record, I think, you know, there we have
3 our intention. And we can honor that if we so
4 choose.

5 CHAIRMAN DEVLIN: We have spaced our
6 time and agenda for comments by interested people
7 on what were the basic concepts that were
8 presented this afternoon, and I don't know if
9 anybody had anything to add or bring to our
10 attention. We would welcome it.

11 MR. GION: Hello, Chairman Devlin and
12 members of the Committee. My name is -- oh.
13 There we go. Can you hear me now? Excellent.

14 Good afternoon, Chairman Devlin and
15 members of the Redistricting Committee. My name
16 is Rick Gion. I'm director of a group called
17 North Dakota Voters First, and I really
18 appreciate being able to speak today.

19 A few things we'd like to emphasize.
20 First, we'd really like to thank all of you for
21 the discussions about the split districts for the
22 Native American reservations. We've been seeing
23 that discussion in the media, and we really are
24 thankful for those things being brought up and I
25 think integrated into this redistricting cycle.



1 And so we really want to thank you for that. And
2 with the Bismarck Tribune editorial today
3 furthering those discussions with splitting those
4 House districts for better representation in
5 those rural areas and Native American
6 reservations.

7 Also, another thing I want to mention
8 quickly is we'd really like to see the draft maps
9 put on the legislative website as cited or
10 explained in House Bill 1397. I know, during the
11 session, we had talked about two weeks prior, and
12 so we'd, again, want to encourage you to be
13 posting those draft maps for transparency's sake.

14 Other than that, I'd just like to thank
15 you again and thank you for having this meeting
16 in Fargo. I know it's not easy logistically to
17 move all of this stuff and also legislative
18 council really does a nice job with setting these
19 video streaming meetings up. So thank you again.

20 CHAIRMAN DEVLIN: I believe
21 Senator Holmberg had a question.

22 MR. GION: Yes, sir.

23 SENATOR HOLMBERG: Based upon what I
24 asked Representative Boschee, and that is that if
25 we -- you believe in subdistricts --



1 MR. GION: Yeah.

2 SENATOR HOLMBERG: -- and you've talked
3 about the native populations, would your group be
4 critical of a legislature that would subdivide
5 reservation A and not reservation B because
6 reservation B gave us clear messages that they
7 really don't want that? I mean, are you an
8 organization that's purest, in other words, "We
9 have to do this," or would you look at what the
10 legislature does and say, "You know, they
11 followed what the tribe wanted."

12 MR. GION: Yeah. I think we'd be open
13 to a lot of recommendations. We work as a
14 partner with North Dakota Native Vote, who I'm
15 sure you all have been in contact with, and
16 they're just great folks over there, as well as
17 the League of Women Voters. And yeah. I mean, I
18 think we're open to many discussions. I think
19 with three -- I mean, there's five tribal nations
20 in North Dakota, but with three specific
21 reservations, I think it's really important to
22 look at MHA, you know, Fort Yates, and Turtle
23 Mountain. So that's kind of where we're at with
24 those things.

25 SENATOR HOLMBERG: Thank you.



1 MR. GION: You're welcome.

2 CHAIRMAN DEVLIN: Representative Shauer.

3 REPRESENTATIVE SHAUER: Thank you,
4 Mr. Chairman.

5 I didn't catch your name. I'm sorry.

6 MR. GION: My first name is Rick,
7 R-i-c-k, last name is Gion, G-i-o-n.

8 REPRESENTATIVE SHAUER: Eon?

9 MR. GION: Gion.

10 REPRESENTATIVE SHAUER: Gion.

11 Apologize.

12 MR. GION: It's a Hungarian name from
13 Regent, North Dakota, so --

14 REPRESENTATIVE SHAUER: Oh, Byron
15 Dorgan's hometown, so --

16 MR. GION: Yeah. Well, my grandparents
17 used to babysit him, so we're very close.

18 REPRESENTATIVE SHAUER: If this isn't
19 North Dakota, I don't know what is.

20 MR. GION: Yeah.

21 REPRESENTATIVE SHAUER: But the question
22 I have for you, Rick, you talked about splitting
23 for better representation. Explain that. I hear
24 that, and is that just a phrase that sounds good?
25 Or what does it actually mean, and what data do



1 you have to show that if we split it, it creates
2 better representation?

3 MR. GION: That's a good question, and
4 you and I have both worked in the media,
5 especially the TV media. And we both worked at
6 DAY, so we're into those buzz phrases or we can
7 pick them out quickly. And so, yeah, I mean,
8 just like in Minnesota, across the river, there's
9 District 4. Kent Eken is Senator, represents the
10 whole district, and then 4A and 4B, Paul Marquart
11 and Heather Keeler there.

12 And I think Minnesota -- 65 districts in
13 Minnesota, 35 in South Dakota. I think Minnesota
14 has had a lot of success with that, especially in
15 larger -- we're really looking at the larger
16 rural areas, District 39, District 31 were
17 regions that -- District 14, you know, those
18 large rural areas. I think it really would make
19 for better representation, as you say.

20 Urban areas, that can be a little
21 different challenge. Fargo has a lot of
22 communities of interest. It's diverse. You
23 know, it's a dynamic community, so a lot of those
24 things need to be looked at. But splitting a
25 district with the House, specifically Native



1 American reservations, I mean, you have those
2 communities of interest, those ethnic
3 populations, and yeah. I mean, honestly, it
4 would make for better representation for our
5 state.

6 Thank you.

7 CHAIRMAN DEVLIN: Senator Holmberg.

8 SENATOR HOLMBERG: You mentioned
9 Minnesota and South Dakota, and certainly
10 Minnesota has had their, you know, District 1A,
11 1B. South Dakota has only two -- they have 35
12 districts, but --

13 MR. GION: Right.

14 SENATOR HOLMBERG: -- there is 26A and B
15 and 28A and B. And they are both related to
16 tribal nation.

17 MR. GION: Exactly. And that was
18 brought on, I think, by a lawsuit, and we'd
19 really -- we're not talking about those things,
20 obviously, but you know, let's try to avoid those
21 things, give those folks a better representation.
22 And, yeah, I mean two districts; we'll probably
23 have three if we go that route. But I think it's
24 just a wonderful thing that they do that down
25 there.



1 CHAIRMAN DEVLIN: Representative Nathe.

2 REPRESENTATIVE NATHE: Thank you,
3 Mr. Chairman. So when you talk about better
4 representation, do you have any information that
5 shows in the past that anybody from these
6 reservations haven't had a chance to run?

7 Because it seems to me they've had as much chance
8 to run as anybody else.

9 MR. GION: You're right. Yeah.

10 REPRESENTATIVE NATHE: And I realize
11 the -- some people, not all people on the
12 reservation want to split districts. You
13 couldn't tell that though by reading the papers.

14 MR. GION: Right.

15 REPRESENTATIVE NATHE: So they've had
16 just as much a chance to run in those districts
17 as anybody else. So if we go to a subdivision or
18 subdistricts, there's no guarantee that, one
19 thing, they would find somebody because I know
20 some reservations have had a hard time and,
21 second, no guarantee that they would win.

22 I mean, so do you have any information
23 that shows in the -- that our current map has
24 stopped anybody from running in those
25 reservations?



1 MR. GION: I'd encourage you to talk
2 with Nicole Donaghy at North Dakota Native Vote.
3 I think she could give you some more specifics.
4 I've been involved with campaigns and elections
5 in North Dakota for a long time. And yeah. I
6 mean, I see those things sometimes, and I'd be
7 happy to get you some specifics as well.

8 REPRESENTATIVE NATHE: And if I may,
9 Mr. Chairman.

10 And the reason why I ask, Rick, is
11 because I've been here 13 years. I didn't start
12 hearing this until about July. So, you know, if
13 this was a ongoing nagging problem, I think we
14 all would have been hearing about this. And
15 we've all have contact with people on the
16 reservation. It has never once come up to me.
17 Now, I'm open-minded to hear everything. I'm
18 just saying it doesn't seem to be a big thing out
19 there in the reservations right now.

20 So it'd be nice to have some hard
21 information that shows us, hey, here's the reason
22 why we should do this, other than being
23 politically expedient to do.

24 MR. GION: You bet. And we'd be happy
25 to get you those things. You know, Chairman Fox,



1 obviously he's been for it. I've seen a bunch of
2 media stories. MHA is a large population up
3 there with their own energy interest, things like
4 that. So I -- yeah. I can talk to North Dakota
5 Native Vote a little bit more, maybe put Nicole
6 in contact with you, and we can talk about those
7 things a little bit more.

8 CHAIRMAN DEVLIN: Senator Poolman.

9 SENATOR POOLMAN: Thank you,
10 Mr. Chairman.

11 I just have one question, and maybe you
12 just need to help me wrap my head around this. I
13 am fully supportive if the reservations want to
14 have subdivided districts. I'm fully supportive
15 of that.

16 MR. GION: Thank you.

17 SENATOR POOLMAN: But I don't
18 understand -- pardon me?

19 MR. GION: Oh, no. I was just saying
20 thank you.

21 SENATOR POOLMAN: Oh. I'm fully
22 supportive of that if that's what they would
23 like. But when I think about districts as they
24 sit now, right now in a district, you have two
25 people in the House of Representatives who have



1 to advocate for your best interest.

2 MR. GION: You bet.

3 SENATOR POOLMAN: And if you subdivide
4 it, now you only have one, and the other person
5 on the other half doesn't have to care about your
6 interest anymore.

7 And so I guess I'm just wondering how
8 that's better? Are we only looking on the front
9 end in terms of getting elected from that
10 district and not necessarily in terms of the
11 advocacy then that comes for people in that area?

12 MR. GION: Well, two things on that, and
13 thank you for the question. I think there are
14 issues statewide that people care about,
15 especially agriculture, energy, healthcare,
16 education, you being a, you know, educator. All
17 of those things are all-encompassing, and I think
18 all legislators care greatly about those things.
19 So I'm not sure about losing that representation.

20 I think it's more like there is better
21 representation for that community of interest. I
22 think that that House member would be more
23 accessible. District 39, District 31, for
24 example, they wouldn't have to drive as far. I
25 mean, you need a plane to get across District 39,



1 so I hope that answers your question.

2 CHAIRMAN DEVLIN: Senator Oban.

3 SENATOR OBAN: Mr. Chairman.

4 And I don't know that this is a question
5 specifically for Rick or even asking for a
6 response, but I think some of our understanding
7 of what subdivided districts intend to do is not
8 so that, for example, a tribal nation can elect a
9 Native American or a tribal nation can elect --
10 it's so they can elect somebody of their
11 choosing.

12 So the candidate who the majority of the
13 population who votes within tribal nation were to
14 choose, that that person would have the
15 opportunity to win. It doesn't mean that they
16 may even find, you know, somebody who shares
17 their race, but it might be helpful if
18 legislative council could redefine what we
19 learned at that conference about what that means
20 for electing a candidate of their choosing based
21 on historical outcomes or whatever it happens to
22 be.

23 And the second sort of comment, and I'm
24 wondering maybe if legislative council could help
25 us with this too, is this question that



1 Senator Holmberg has now asked a couple times
2 about if we do for one tribal nation, must we do
3 for all if there are differing opinions. And, to
4 that, I would hope that we can all remember that
5 tribal nations are independent and sovereign.
6 They are not all Native Americans think all the
7 same.

8 So for us to be able to find out if
9 there is any state with a number of tribal
10 nations within their border, if there is any
11 history where some of those legislative districts
12 are subdivided and some are not based on the
13 feedback we would get from those tribal nations
14 themselves.

15 CHAIRMAN DEVLIN: Anything else?

16 Representative Nathe.

17 REPRESENTATIVE NATHE: Thank you,
18 Mr. Chairman.

19 So, Rick, I want to go back.

20 Senator Oban talked about a chance to win. If we
21 go subdistricts, they have a better chance to
22 win. Are you saying right now if a Native
23 American ran in, say, District 31 in Standing
24 Rock, they have less of a chance now than if we
25 subdivide?



1 MR. GION: I think what we're saying is
2 that -- you know, and our organization is
3 nonpartisan. I think that we're saying is it's
4 just better representation to have --

5 REPRESENTATIVE NATHE: How? How is that
6 better than what we're currently doing? How is
7 that better?

8 MR. GION: Because it gives them an
9 opportunity to elect somebody that knows their
10 issues.

11 REPRESENTATIVE NATHE: But don't they
12 have that right now?

13 MR. GION: You'd have to talk to North
14 Dakota Native Vote a little bit more about that.
15 I'd really encourage some of those conversations.

16 REPRESENTATIVE NATHE: I'd be interested
17 to hear that answer.

18 MR. GION: You bet.

19 CHAIRMAN DEVLIN: Senator Oban.

20 SENATOR OBAN: Mr. Chairman, but it's
21 not about electing a Native American per se. It
22 could be a white person who is also living on
23 Standing Rock who chooses to run, who might
24 identify more what those issues are within
25 Standing Rock's -- you know, so I think we get --



1 and I find it easy to do too. I have to like
2 remind myself this isn't about electing a Native
3 American per se. This is about making sure that,
4 if it's about a split population and half of that
5 population lives within the borders of a tribal
6 nation, do they have the opportunity to have a
7 candidate of their choosing run and potentially
8 not win but to be able to run and have the chance
9 of winning based on the outcomes of historical
10 elections.

11 REPRESENTATIVE NATHE: Mr. Chairman,
12 I'm going to debate Senator Oban for a second.

13 CHAIRMAN DEVLIN: I understand that,
14 Representative.

15 REPRESENTATIVE NATHE: So it kind of
16 goes back to what I said earlier. So are you
17 saying right now they don't have a chance to win
18 whether it's Native American or a white person
19 on -- you're saying right now, under the current
20 system, they do not have -- so somebody in 31 --

21 SENATOR OBAN: Yep.

22 REPRESENTATIVE NATHE: -- of Standing
23 Rock says, "I'm going to run against whoever."

24 SENATOR OBAN: So Mr. --

25 REPRESENTATIVE NATHE: So are you saying



1 right now they have less of a chance to win than
2 if we subdivide?

3 SENATOR OBAN: Mr. Chairman and
4 Representative Nathe, their vote would be diluted
5 depending on how much more of their district is
6 encompassed by communities that would not share
7 the same interest as those located on a tribal
8 nation.

9 REPRESENTATIVE NATHE: We'll talk later.
10 I don't want to keep the --

11 SENATOR OBAN: I mean, and I think
12 that's why I was asking legislative council to
13 perhaps remind us about the way that was
14 described at the conference was probably
15 articulated better than certainly I can do.

16 MS. NESS: Mr. Chairman and members of
17 the Committee, the phrase candidate of choice
18 that was used, that is the analysis that the
19 federal law that we would be talking about and
20 this scenario would consider, and as mentioned,
21 the candidate of choice doesn't have to be any
22 particular race or from any particular geographic
23 boundaries. It would just be within that
24 subdistrict. And when you are looking at these
25 types of cases, there are a lot of statistical



1 analyses that go into it. But the 20,000-foot
2 view is, if you have an entire district that has
3 a -- let's say, you know, one-third of that
4 population is represented by one particular race
5 and the remaining population is a different race,
6 the population that is the smaller, if they vote
7 distinctly and differently from the rest of the
8 district, then there is a question about are they
9 ever going to be able to elect the candidate of
10 their choice.

11 And depending on some of those voting
12 patterns, you may get into a situation where
13 dividing that subdistrict would numerically give
14 them a chance to elect a candidate that they
15 would choose. The legal analysis and the
16 statistical analysis for this becomes somewhat
17 complicated. You have to have several
18 preconditions, and then you analyze a bunch of
19 other factors. So it's not as cut and dry as
20 just looking at the numbers, but the gist of it
21 is, numerically, if that subpopulation votes
22 distinctly differently from the rest of the
23 district, are they ever going to be able to elect
24 their candidate of choice if that district isn't
25 split?



1 SENATOR HOLMBERG: Mr. Chairman?

2 CHAIRMAN DEVLIN: Senator Holmberg.

3 SENATOR HOLMBERG: And Claire did hit on
4 a point because I recall one of the things they
5 talked about is you're looking at the voting
6 history of that area. If you had an area that
7 had a reservation of, you know, a third of the
8 population but, yet, historically only one
9 political party is really within that county, for
10 example, then how does that factor into this
11 because only one party is going to win in that
12 county, even though that one-third might be on
13 the reservation.

14 MS. NESS: Yes. Mr. Chairman, Senator
15 Holmberg, and members of the Committee, that is
16 one of the issues. So if you don't have that
17 polarized voting, then the specific legal
18 analysis under that federal Voting Rights Act
19 would not come into play. That's one of those
20 preconditions that historically polarized voting.

21 SENATOR KLEIN: Mr. Chairman?

22 CHAIRMAN DEVLIN: Senator Klein.

23 SENATOR KLEIN: You know, and
24 Mr. Chairman, I guess this is more of a comment
25 to someone who represents a reservation, you



1 know, whether you've been elected by that
2 minority or majority of that particular area,
3 commonality, as representatives you reach out --
4 everyone reaches out to you and how did it work
5 in 23? I mean, I'm suggesting that whatever way
6 it turns out, whether they voted for you or
7 didn't vote for you, you're there to help serve
8 them. And I'm just looking for someone who I
9 think represented a reservation, and that was the
10 only one I could see in the room.

11 CHAIRMAN DEVLIN: I would think that we
12 aren't any different than any other legislator in
13 either party. You're going to the best job you
14 can for everybody in your district and the state.
15 And we reach out repeatedly to the members of the
16 Spirit Lake Nation on many different issues. And
17 I'm sure the legislators that have other
18 reservations do exactly the same thing.

19 You know, because I'm a print person and
20 not electronic person, like some of the people in
21 the room right now, you know, I could take
22 offense of better representation. I don't think
23 that's a word that I would use.

24 They might have different representation
25 they might have closer to their community, but is



1 it going to be better? If everybody in the
2 district feels that the best two people to
3 represent their district live in, I don't care,
4 whatever county you want to pick, so all of a
5 sudden, you're going to say, "No. We can't let
6 you have the better of those two because we want
7 to make sure one of them lives somewhere else."

8 You know, that's why television news is
9 really going down the world and newspaper --

10 I knew I shouldn't have opened that up.

11 Representative Shauer, go ahead.

12 REPRESENTATIVE SHAUER: Thank you,
13 Mr. Chairman. I'll let that last comment go by
14 because I know my place here.

15 But a question for Ms. Ness, and I'm
16 just trying to get a handle on this. If race is
17 the reason to subdivide a district, then what
18 mandates are there to make sure that a candidate
19 is of that race?

20 MS. NESS: Mr. Chairman, Representative
21 Shauer, and members of the Committee, that is not
22 one of the requirements. The candidate of choice
23 does not have to be any particular race. It's
24 just the candidate that that -- potentially that
25 racial group would want to succeed. So it's the



1 choice of their candidate, but there is no
2 specific race that person has to be.

3 CHAIRMAN DEVLIN: Thank you.

4 MR. GION: I'm excused?

5 CHAIRMAN DEVLIN: You're excused. Yeah.

6 And sorry you got in the middle of an argument.

7 Representative Shauer and myself, you know,

8 sometimes there's a difference of opinion between

9 the print media and electronic.

10 MR. GION: I work for both. I'm in

11 between. I left a card up here in case anyone

12 wants to contact me. Please feel free to call me

13 on my cell or email me, so --

14 CHAIRMAN DEVLIN: Yeah.

15 MR. GION: Thank you.

16 CHAIRMAN DEVLIN: Thank you.

17 Was there anyone else today on what we

18 just discussed?

19 Seeing none.

20 Committee discussion and directive, I

21 mean, we know we're meeting next week. We will

22 reach out to the tribal governments in each of

23 the tribes and try to set a team meeting with

24 them, and I know that the other legislative

25 committee, Tribal Relations Committee, will



1 continue those meetings. You know, we want all
2 of that input.

3 Next week we're going to start looking
4 at a little more of some of the concepts that
5 people have, and you know, we kind of got a feel
6 for at least some of the east today. You know,
7 it's going to change a little bit, I'm sure both
8 of them, by next week. But I think once you have
9 that and once you have what -- the northwest
10 corner of the state that looks like it's pretty
11 good, and if south of there, as legislators
12 complete that work, we'll be able to move and get
13 some done.

14 So unless -- Senator Holmberg.

15 SENATOR HOLMBERG: Two other things. As
16 you're working on concepts, keep in mind, you've
17 heard from a couple areas of the state,
18 particular to the northeast, that all those
19 districts are going to be under. That means
20 there is surplus population someplace else in the
21 state that other districts are going to have to
22 suck up because you can't have everyone below
23 average. You've got to have some that are
24 above-average. That's number one.

25 And number two, I think we have --



1 because we have some time constraints --

2 CHAIRMAN DEVLIN: Yeah.

3 SENATOR HOLMBERG: -- that was mentioned
4 last meeting where a person can't expect to have
5 a lot of success if they come in at our last
6 meeting and present a complete plan that has not
7 been vetted. That makes it impossible for us to
8 do it. So I'm hoping at our next meeting we can
9 have some guidance to the public as far as if
10 they are having another -- or bringing in an old
11 plan or even an amendment to a plan, that they
12 have adequate knowledge that it has to be in by X
13 if they want it to be fully considered by the
14 Committee, otherwise we'd have a mess.

15 CHAIRMAN DEVLIN: Is there anything else
16 from the Committee for today?

17 Wednesday at 10:00 a.m., right?

18 Committee, we're going to let you
19 leave --

20 What? Oh, I forgot. I apologize. What
21 was I thinking, Emily? I'm sorry.

22 Yes. Emily has some training from
23 Maptitude for -- I worked out that I go right
24 to --

25 UNIDENTIFIED MEMBER: Josh.



1 CHAIRMAN DEVLIN: Oh. I worked out I go
2 right to Bismarck and work with staff.

3 Representative Boschee, did you have a
4 question?

5 REPRESENTATIVE BOSCHEE: Thank you,
6 Mr. Chairman. I guess more of a question for us
7 as a -- I mean, I know we're coming into a
8 meeting next week, but what should -- I mean,
9 what should come prepared for? I mean, knowing
10 that we have three more weeks to do this work, do
11 you -- is our goal, if we have maps, we want
12 people to start bringing maps and we're starting
13 to negotiate some of that so that we can move
14 forward?

15 I mean, it just feels open-ended, so not
16 sure what we're walking into.

17 CHAIRMAN DEVLIN: Yeah. That is my
18 belief, that we have to start bringing those maps
19 based on what we saw today of the corners, and
20 hopefully the southwest will get, you know,
21 pretty well locked up by then too, and then we
22 can go from there. But it will be interesting.

23 It is on. I just was too far away most
24 likely. I'm pretty soft-spoken, you know, so
25 yeah. Yeah.



1 Emily will give us a presentation on the
2 Maptitude training. Is that it?

3 MS. THOMPSON: Just one thing to quickly
4 mention, I guess, pivoting off the last point you
5 made. Today some maps were presented.
6 Individuals don't always know, I guess, at the
7 meeting if they're ready to present their map.
8 Sometimes it's kind of on the fly like it was
9 today. The maps were just brought in

10 All the maps that were presented today
11 for, you know, the audience and purposes of the
12 press, those will all be converted into PDF.
13 Anything that we were kind of driving on the
14 screen to show, that will get linked up to the
15 minutes.

16 If any of the Committee members know at
17 least about a day ahead of time if they're going
18 to be presenting maps and they plan to at the
19 Committee, what we can do, of course, with the
20 Committee member's permission, is we can convert
21 those into PDFs and link them right to the agenda
22 so that the public can view those maps straight
23 off the agenda rather than clicking on those
24 meeting minute links with, you know, maybe a day
25 or so delay afterwards.



1 So feel free to submit those to
2 legislative council. You want to get any PDFs
3 linked to the agenda that you know for sure that
4 you want to present at the next meeting, and we'd
5 be happy to do that.

6 Last up here, up on the screen, all the
7 legislators on the Committee were sent on a link
8 today. I had mentioned early on that I was going
9 to put together some kind of video training on
10 Maptitude. You all have received the PDF
11 Maptitude instructions. However, we did go ahead
12 and create three videos that are in, of course,
13 the video format instead of a PDF.

14 We have a video on creating a new plan
15 that's eight minutes long. This is just kind of
16 a refresher, again, covering some of what was in
17 your PDF instructions about how to use a template
18 to pull in either a blank map or how to pull in a
19 template of a map that already has those existing
20 district lines if you want to draw on that. And
21 also --

22 REPRESENTATIVE BELLEW: Mr. Chairman,
23 can I interrupt?

24 CHAIRMAN DEVLIN: Representative Bellew.

25 REPRESENTATIVE BELLEW: Thank you.



1 Emily, can we get his stuff on a regular
2 computer, or do we have to have one of these
3 computers?

4 MS. THOMPSON: This is just for a
5 regular computer, Mr. Chairman and Representative
6 Bellew. You might all recall when we pushed out
7 your legislator dashboards over this past
8 session, you had videos of like how to invite a
9 sponsor, how to file a bill. This is that same
10 kind of thing. It's just a nice quick video
11 reference page if you want a reminder on how to
12 do something on Maptitude.

13 So yep. So again that first video is
14 how to create a blank map or a map with existing
15 lines from a template. And also, at our last
16 meeting, there were some questions about getting
17 a template up that shows not just the census
18 blocks but also has the option of you selecting
19 areas by census block group and census tracts.
20 So at the end of that video, the last example of
21 how to create a template with that feature is
22 included there.

23 The next video at number two is
24 Maptitude tools and features, all of those
25 selection tools, how to zoom in, how to zoom out,



1 how to change boundaries. That's just kind of a
2 quick refresher of all those features you can
3 use.

4 And then the third and final video is
5 generating reports and PDFs and sharing files.
6 Claire had covered some of the reports at our
7 last meeting. This is just a quick couple-minute
8 refresher on how you get to generating those
9 reports, what that looks like, and again, if you
10 have any questions on reports or want the
11 legislative council staff to generate reports on
12 anything you've drawn, please don't hesitate to
13 contact us. We'd be happy to.

14 The PDF step in this last video just
15 allows you to take a map that you're looking on
16 at your screen, select either by just one
17 district, that district and all the surrounding
18 districts, or the entire map, and generate
19 quickly a PDF that also includes the population
20 summary data, the deviation, total pop,
21 population by race and ethnicities, all packaged
22 in that PDF. So just a few quick steps are
23 covered there.

24 And lastly, which is relatively
25 pertinent right now, sharing files. This is



1 specific to your Maptitude for redistricting
2 laptops. So anyone with a redistricting laptop,
3 there are a few quick instructions of how you can
4 click on a few files and send that directly to
5 Claire, Samantha, or I at legislative council
6 staff if you want us to review anything, look it
7 over, troubleshoot. For any reason, if you want
8 to get us a file, that's in that last video, just
9 a two-minute overview.

10 And that's all I had.

11 CHAIRMAN DEVLIN: Questions from the
12 Committee?

13 Is there anything else to bring before
14 the Committee today?

15 UNIDENTIFIED MEMBER: Move to adjourn.

16 UNIDENTIFIED MEMBER: Second.

17 CHAIRMAN DEVLIN: We moved to adjourn.
18 Committee is adjourned.

19 (END OF VIDEO FILE)

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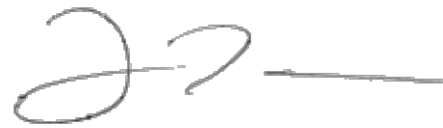


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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036

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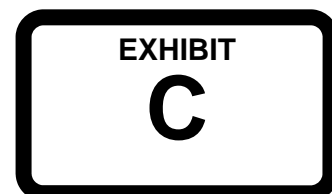


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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA LEGISLATIVE ASSEMBLY
REDISTRICTING COMMITTEE
SEPTEMBER 15, 2021



1 SEPTEMBER 15, 2021

2 CHAIRMAN DEVLIN: We'll call the
3 Redistricting Committee to order.

4 Emily, if you would take the roll, I
5 would appreciate that.

6 MS. THOMPSON: And Chairman Devlin.

7 CHAIRMAN DEVLIN: Here.

8 MS. THOMPSON: Representative Bellew.

9 REPRESENTATIVE BELLEW: Here.

10 MS. THOMPSON: Representative Boschee.

11 REPRESENTATIVE BOSCHEE: Here.

12 MS. THOMPSON: Representative Headland.

13 REPRESENTATIVE HEADLAND: Here.

14 MS. THOMPSON: Representative Lefor.

15 REPRESENTATIVE LEFOR: Here.

16 MS. THOMPSON: Representative Monson.

17 REPRESENTATIVE MONSON: Here.

18 MS. THOMPSON: Representative Nathe.

19 REPRESENTATIVE NATHE: Here.

20 MS. THOMPSON: Representative Schauer.

21 REPRESENTATIVE SCHAUER: Here.

22 MS. THOMPSON: And Senator Holmberg.

23 VICE CHAIR HOLMBERG: Here.

24 MS. THOMPSON: Senator Bekkedahl.

25 SENATOR BEKKEDAHL: Here.



1 MS. THOMPSON: Senator Burckhard.

2 SENATOR BURCKHARD: Here.

3 MS. THOMPSON: Senator Erbele.

4 SENATOR ERBELE: Here.

5 MS. THOMPSON: Senator Klein.

6 SENATOR KLEIN: Here.

7 MS. THOMPSON: Senator Oban.

8 SENATOR OBAN: Here.

9 MS. THOMPSON: Senator Poolman.

10 SENATOR Poolman: Here.

11 MS. THOMPSON: And Senator Sorvaag.

12 SENATOR SORVAAG: Here.

13 MS. THOMPSON: Mr. Chairman, we have a
14 quorum.

15 CHAIRMAN DEVLIN: Thank you.

16 Representative Monson, as we can see, is
17 joining us by Teams today.

18 We will -- what are your wishes for the
19 minutes from our September 8th meeting?

20 UNIDENTIFIED MEMBER: Motion to approve,
21 Your Honor.

22 UNIDENTIFIED MEMBER: Second.

23 CHAIRMAN DEVLIN: Motion has been moved
24 and approved. Motion has been moved and seconded
25 to approve the minutes.



1 Any discussion?

2 Seeing none, all those in favor of the
3 minutes, say aye.

4 (Unanimous ayes)

5 CHAIRMAN DEVLIN: Nay?

6 (No audible response)

7 Motion carries.

8 Well, we are going to start today with
9 the -- some comments from representatives of the
10 Tribal Nations. I think Commissioner Davis is
11 maybe going to lead this off, and I may be wrong
12 on that.

13 Are you going to introduce tribal
14 members that are here today, or what is your
15 wishes?

16 COMMISSIONER DAVIS: Yes, I can.

17 CHAIRMAN DEVLIN: Okay. Thank you very
18 much.

19 COMMISSIONER DAVIS: Chairman, Committee
20 members. Just for the record, my name is Nathan
21 Davis. I'm the commissioner of North Dakota
22 Indian Affairs.

23 As was discussed the last meeting that
24 was here, I had reached out to the Tribal Nations
25 to ensure that there is that conversation, that



1 back and forth. And I think it will be a nice
2 build up with some of them on the Travel State
3 Relation Committee meetings that we touched on
4 some of the redistricting issues to really start
5 that conversation on that front as well.

6 But with me today we have some
7 representative from NARF. We do have Chairman
8 Faith. We do have Collette Brown, who is here
9 representing Spirit Lake. And we also have
10 Mr. Charles Walker from Standing Rock here as
11 well today.

12 So just to put on the record as well,
13 too, Chairman Fox sends his apologies. He was
14 not able to be here today due to a prior
15 commitment, but a testimony will be forthcoming
16 to the Committee. So I just want to put that on
17 the record, and I will let the -- I will let the
18 tribes give their testimonies; and I will just
19 hand it off. Thank you.

20 CHAIRMAN DEVLIN: Thank you,
21 Commissioner.

22 Was there any questions for Commissioner
23 Davis?

24 Seeing none, thank you.

25 COMMISSIONER DAVIS: Thank you.



1 CHAIRMAN DEVLIN: It was our intent, as
2 you know, Commissioner, to have the Tribal
3 Relations Committee members meet with the each of
4 the tribes and discuss redistricting, and then we
5 wanted also to have an opportunity for them to
6 address us directly in this Committee members.
7 And I thank you for helping to facilitate that.
8 I appreciate that very much.

9 COMMISSIONER DAVIS: Yes. Thank you,
10 Chairman. And I do what to reciprocate that
11 thanks for you making that a point to consult
12 with the tribes on this matter.

13 CHAIRMAN DEVLIN: Yeah.

14 COMMISSIONER DAVIS: So, thank you.

15 CHAIRMAN DEVLIN: So who is going to
16 speak first; do you know?

17 COMMISSIONER DAVIS: I will call
18 Chairman Faith to the stand to speak first.
19 Thank you.

20 CHAIRMAN FAITH: (Indiscernible) My
21 friends, relatives, (Indiscernible) Buffalo
22 soldier, studied law, Chairman, Mike Faith. I
23 just greeted everybody as a relative and friend.

24 I want to take this time to thank you
25 for very, very short notice to come up and



1 testify. I think it's so important that we get
2 our point across, and again, I can't speak for
3 other tribal nations, but again, everybody, good
4 morning (indiscernible).

5 I just want -- I'm going to be brief. I
6 probably will have Matthew Campbell come up, one
7 of our legals to broaden the picture of what our
8 ask is. And again, the census does show a growth
9 in Native, but again, unfortunately, in Sioux
10 County, will contest that every time, that the
11 other county is there. For whatever reasons, we
12 run into that.

13 Again, this one, COVID. You try to get
14 a true count up there with numbers, and you have
15 a pandemic going on. It's pretty hard to do
16 anything.

17 So the concern today is the
18 redistricting. And I want to thank the Committee
19 for allowing us to throw some ideas out, you
20 know. One of them would be -- I'm going to speak
21 on behalf of District 31, again, which is right
22 south of us, part of -- it splits Mandan, I
23 guess, the train tracks south to Sioux County,
24 Grant County, and I see there's addition of a
25 little bit of Hettinger County on there.



1 But our ask is pretty simple today, and
2 we know it is allowable. But a lot of the issue
3 at hand depend on percentages, and what we're
4 going to do is just ask for special understanding
5 of the uniqueness. You know, when you turn
6 around over the years we're at court. We're
7 challenging this, challenging that. I think a
8 lot of that could be curbed with a Committee such
9 as yours understanding the uniqueness.

10 I know Chairman Fox has five segments up
11 there. Of course, ours runs into North and South
12 Dakota - Corset County of South Dakota and Sioux
13 County of North Dakota, consist of 2.3 million
14 acres of identified Standing Rock.

15 And I'll just get to the point today of
16 why I ask this. We ask that you seriously look
17 at sub-districting District 31. The purpose of
18 it is this: is that Morton County along, Mandan
19 even using the train tracks splitting Mandan,
20 North Dakota to the south is part of District 31.

21 And you'll hear from the other
22 reservations or the other Native countries that
23 we have to also -- we want a voice in there. And
24 we're not looking at affiliate of if you're
25 Republican or Democrat or independent. If you



1 ask that, I think more so a lot of people are
2 looking at being independents.

3 With our structure and uniqueness, we
4 have to work with the federal, state, county,
5 townships, so many jurisdictions, that looking at
6 a favorable party. I think the tribe over the
7 years worked with Republicans, Democrats, alike,
8 both.

9 So I guess I'm not here today to try to
10 push any party. I'm here today to do an ask, and
11 I know you're -- it's going to be difficult
12 because you -- sentry code sometimes goes off of
13 policies of percentages.

14 But over the years, like I said, I don't
15 want to be seeing us going at each other in court
16 or challenging each other. I think working
17 together and getting representation with the
18 state structure -- you know, North Dakota is a
19 beautiful place. It's got a lot, a lot of
20 history. We have a lot of different areas from
21 German Russians, you know it. It's here. The
22 heritage is here. It's a strong, good heritage
23 of hard workers.

24 So again, working together and
25 understanding each other's ask, you know. We



1 don't want it to be a one-way street. There's
2 times where the State comes down in our county.
3 We have a multi-hazard mitigation plan at
4 Standing Rock. Sioux County signed off on that
5 right away.

6 The county commissioners, the townships
7 of South Ridge, Solen, and Fort Yates, the
8 federal government, the Bureau of Indian Affairs,
9 the colleges, the schools, the tribe. So the
10 state emergency manager down there would be our
11 county sheriff. Again, opens the door for state
12 need.

13 So we do things working together for the
14 protection of all. Unfortunately, you can't
15 prepare for all of them under that, you know. We
16 do have pandemic on there, but who would think
17 that we would have this kind of pandemic. It's
18 something that we have to fight something that's
19 not there; we can't see. So it's pretty touch
20 sometimes.

21 But here's what I'm going to ask today,
22 and I'll get right to the point. We're going to
23 talk about sub-districting District 31 is that --
24 just for the house. I'm only talking about the
25 House now because there's two positions there.



1 And looking at the sub-districting would be Grant
2 and Sioux, Grant and Sioux Counties. And maybe
3 making the southern part of Morton the other sub-
4 district A and B.

5 So you'll have one representative from A
6 and one representative from B. I guess I can't
7 get any simpler than that. You have the
8 authority to sub-district. Like I said, I think
9 we're all probably tired of challenging each
10 other, and going to court, and getting opinions.
11 I think today our ask is pretty simple. It's to
12 ask you that in a good way.

13 Look at 31, just the House, where you
14 would have sub A and sub B. Morton County alone
15 numbers outweigh. You could probably put three
16 counties together and still outweigh the number-
17 wise.

18 So again, I know the question of
19 percentage is going to come up, but it's a true
20 and honest ask from Standing Rock. We would
21 definitely have different numbers if we could use
22 South Dakota Corset County in ours. We're
23 unique. So you know, it is what it is. We're
24 only discussing Sioux County today along with
25 Grant.



1 Back in the day in 2014, I did run, and
2 again, I truly believe that portion of 31, the
3 northern part of it, which is the Mandan and
4 Morton County, it is playing a factor. It will
5 continue to play a factor on date of votes and
6 the local farmer/rancher adjoining that we have
7 and also Grant County.

8 So you know, it would be great if they
9 have -- competition is good, but all we want is
10 an equal chance to have representation in the
11 House of 31, District 31.

12 So again, the sub-district that I'm
13 talking about is A and B, which would be -- if
14 you want to put A as the Morton County portion of
15 it. We do have draft maps. It actually just
16 took out Mandan, but I think in talking with our
17 legal counsel, I think just taking out Morton and
18 making it a sub-district of District 31 would be
19 more favorable to us. And hopefully --

20 Again, we're throwing this out at you
21 knowing that it does state, you know, 50 percent.
22 I think we're around close to 40. But again,
23 it's this Committee that could recommend it. And
24 I think the purpose of the whole thing is
25 representation and better communications for the



1 Native nations within our state.

2 And keep in mind, we are citizens of the
3 state of North Dakota from Sioux County. We're
4 also citizens of the United States, but we're
5 unique by treaty. So we're here today as
6 government to government asking a Committee to
7 seriously look at giving us that opportunity.
8 And it's no guarantee that we would get a Native
9 in there, but at least to give us a better
10 fighting chance to get representation into the
11 state.

12 And I think right now with my
13 administration -- you know, after 21 years of
14 being on the council, vice chairman and chairman
15 on and off since 1984, I decided not to run this
16 year. I don't wish this pandemic on anybody, any
17 administration, any nation. And of course, my
18 back kind of helped me. I got to go into surgery
19 on the 28th, finally.

20 But that's my ask today, Committee,
21 please. You're going to have some other
22 testimony behind me, but it's pretty simple and
23 to the point. We're not going to try to mislead
24 you, do any deception tactics. It's just getting
25 straight to the point of, you know, it's okay to



1 do that, to recommend a sub-district. And again,
2 it's just a House. We're not looking at the
3 Senate. So again, that would be my ask from
4 Standing Rock, and I ask for your blessing for it
5 to look at it seriously. It's not about party,
6 but it's true representation from within our
7 state of North Dakota.

8 So again, I wish you a good morning.
9 And any comments or questions?

10 Go ahead.

11 CHAIRMAN DEVLIN: Mr. Chairman, if I
12 could. The population you gave us of, I think,
13 Grant and Sioux is about, say, 6200. So you
14 would need another 2300 people roughly to make,
15 you know, the district that's required under the
16 Constitution, one person, one vote. Where would
17 you see that other 2300 people coming from? Is
18 there a certain area that you're looking at?

19 CHAIRMAN FAITH: Well, again, thank you,
20 sir. The area that we did map out actually had
21 Morton, and again, maybe not. It's still going
22 to probably come up to close to 40 percent, and
23 that's what I mentioned earlier. Our percentages
24 are what they are.

25 CHAIRMAN DEVLIN: Yeah.



1 CHAIRMAN FAITH: But it's a special ask
2 today for the purpose of representation. So
3 you're looking at -- if the map that we
4 originally put out was just taking Mandan out of
5 the picture. But realistically, it doesn't
6 really make sense to make just a half a city a
7 sub-district. Taking out Morton, that part that
8 we just talked about, does drop our percentages,
9 our numbers.

10 Hettinger County, there's a portion of
11 that that's still on there. Number wise I don't
12 know what that would come up to, but right now if
13 you look at the map, it shows a portion of
14 Hettinger, Grant, Sioux, and then, of course,
15 Morton and not total, but a portion of Morton.

16 And again, I knew that when I did my
17 discussion that percentage is going to come up.
18 The other tribes are going to be probably maybe
19 asking. I heard Chairman Fox on a news statement
20 last week I believe it was. He was looking at
21 five segments.

22 Again, it's an ask. We know that
23 there's -- it says 50 percent. We know that, but
24 we're here today in a good way to seriously ask,
25 take a look at that. I mean, are you going to



1 get recalled if you go below 50? I doubt it.
2 The people leave it up to you to do -- to make
3 the right decision, and I know sometimes the
4 rules or policy are questions of -- you know,
5 again, like I said, that's why we're here today.
6 We're asking in a good way, knowing in advance
7 that percentage is going to be the question. But
8 true representation from all the nations
9 within North Dakota, I think, is what we want to
10 look at into the future.

11 Any others?

12 CHAIRMAN DEVLIN: Representative Schauer
13 has a question.

14 REPRESENTATIVE SCHAUER: Thank you,
15 Mr. Chairman.

16 Chairman Faith, thank you for being here
17 today, and hopefully your back heals properly and
18 quickly. The question is for you: you mentioned
19 a couple times, true representation and better
20 communication, but when I look at this sub-
21 district idea, I'm thinking to myself, well,
22 okay, 31A has one representative and one senator.
23 That's two people. In the past they would have
24 three people; 31B would have one representative
25 and one senator. That would be two people.



1 So in my mind -- and I'm not familiar
2 with your area -- how does that make for better
3 representation when you're losing 33 percent of
4 your representation?

5 CHAIRMAN FAITH: I guess I look at this
6 this way: the A and B is still two people.
7 You're not gaining or losing. You're still going
8 to have two House and one Senate. So I don't --
9 I guess looking at true representation, I guess
10 standing here today as a chairman and a leader of
11 a nation, tribal, I guess that's what I'm
12 referencing is that we also would like to have an
13 advantage.

14 And again, I don't want to get into
15 party affiliate. I just want to stay to the
16 point of the ask, which is a sub-district of just
17 the House. So it's still two people, but it's
18 also -- it's not adding or deleting any. But I
19 think tribal representation needs to be given a
20 good honest chance.

21 If you look at back in the past of '14,
22 I myself, I did run. But I don't want to get
23 into the party affiliated areas from Republican,
24 Democrat, or independent. So I want to leave it
25 at -- pretty much open as that. And other



1 statements coming up may have a different outlook
2 of you're thinking, but it's -- when Mr. Campbell
3 gets up, he could probably explain a little more.

4 But I think what we're asking from a
5 Native point of view is at least give us that
6 fighting chance. When you got a heavy party
7 affiliate in the northern part of 31, it doesn't
8 really make sense for us. We just -- we want to
9 have true representation on the state level also.
10 So again, it's an ask. It's not --

11 I guess I'm saying that we're tired of
12 going to court and challenging the State or the
13 counties. I think we're working well in a good
14 way for the betterment of all our people within
15 the state of North Dakota, and I'll leave it at
16 that. But thank you. But true representation, I
17 guess I speak it from the tribal perspective.
18 That's why I'm here today, that the Native voice
19 should be also within the great state of North
20 Dakota.

21 CHAIRMAN DEVLIN: Mr. Chairman, I
22 believe Representative Nathe had a question.

23 REPRESENTATIVE NATHE: Thank you,
24 Mr. Chairman.

25 Chairman Faith, that's for coming today.



1 CHAIRMAN FAITH: Sure.

2 REPRESENTATIVE NATHE: Appreciate it.

3 So you had mentioned in your testimony talking
4 about we just want to have an opportunity. We
5 just want to have a chance. So when we discussed
6 some of this in Fargo last week, sir, are you
7 saying the current system right now doesn't give
8 you the opportunity or chance?

9 CHAIRMAN FAITH: The word chance is
10 this: the percentage is there. We know that in
11 black and white. And we're asking face to face
12 to be given a chance to Redistrict 31 in a good
13 way.

14 REPRESENTATIVE NATHE: But that's a good
15 way that would benefit the reservation.

16 CHAIRMAN FAITH: It will represent -- it
17 will benefit southern, rural North Dakota better,
18 I think, because of the farmer/rancher areas.
19 When you got a population of Mandan, which isn't
20 a city, you know, you don't really see those
21 people until time comes for voting. The rural
22 area of Sioux and Grant Counties, excuse me. But
23 I'm just saying that the farmer/rancher and
24 citizens of the southern part of District 31 need
25 a chance of representation, especially with --



1 you know, with the drought conditions being what
2 they are now, you got city people that are -- I
3 don't know -- are they boots on the ground out
4 there, fighting for water for cattle operators
5 and farmers? I don't -- to be honest with you, I
6 don't think that so.

7 REPRESENTATIVE NATHE: If I may,
8 Mr. Chairman.

9 CHAIRMAN DEVLIN: You may condition.

10 REPRESENTATIVE NATHE: I know that
11 representatives of 31 have been elected three or
12 four times, so obviously, the people out there
13 think they're representing that.

14 So I mean, you're saying right now the
15 representation they have in that district or,
16 say, any of the other districts, they're not
17 properly representing the reservation?

18 CHAIRMAN FAITH: I guess, you know, you
19 could take it from our point of view. We want
20 true representation like I'm saying. And we just
21 want -- we want to look at the redistricting
22 here. We're looking at a sub-district, which is
23 allowable.

24 But again, like I said earlier, the
25 percentages are going to be what they are. You



1 guys are going to look at it and say, well,
2 here's what it says, 50 percent. It's already
3 been brought up. It's just something that we
4 want to bring forth, and I think that -- I don't
5 want to get into the affiliate of where those
6 individuals, which party they're on.

7 REPRESENTATIVE NATHE: Well, this whole
8 thing is politics. I know you mentioned that
9 several times, Chairman.

10 CHAIRMAN FAITH: Yeah.

11 REPRESENTATIVE NATHE: But it's politics
12 on both sides of the aisle.

13 So I have one other question, if I may,
14 Mr. Chairman.

15 CHAIRMAN DEVLIN: You may continue.

16 REPRESENTATIVE NATHE: And I had
17 mentioned this in Fargo. And my question is to
18 you: why wasn't this brought up, say, last
19 redistricting or the last other redistricting?
20 Because I had never heard anything about this
21 until July, until some national group from D.C.
22 started kicking this up. We haven't heard from
23 anything from the reservations the previous 10
24 years. I was on the committee back in 2011,
25 never once came up, and these districts have not



1 really changed in the last probably 10 to 20
2 years. So why all of a sudden now we need
3 subdivisions, other than it being pushed by a
4 national group by the D.C.?

5 CHAIRMAN FAITH: Well, you know, again,
6 you talk about '11. That's quite a while back.
7 I think I was vice chairman with Murphy then.
8 But you know, like we just got this meeting
9 information here, when I'm standing here today,
10 probably a day or two ago. I can't answer
11 anybody, any other tribes why it's just now
12 coming up today. But when we got the invite, it
13 talked about redistricting. I can't speak for
14 former administrations, but I would say this:
15 that it's time to be brought up and asked if it's
16 a possibility. That's why we're here today.

17 And as far as meetings at Fargo and
18 wherever, you know, with this pandemic going on,
19 we're not traveling as much as probably a lot
20 are, and the numbers are skyrocketing again.
21 They're spiking here and there. So safety, not
22 only for myself but for the people that -- the
23 council people and whoever else comes up.

24 So I can't answer for previous years,
25 but right now it's an ask today. We're looking



1 for the Committee to actually take a look at it
2 and give us a true response one way or the other.
3 Because like I said, under my administration, I
4 think we've been working well with the State, the
5 counties of both states, trying to come to a
6 positive future for who we represent, the people
7 of North Dakota in this case. Thank you.

8 CHAIRMAN DEVLIN: Couple more questions,
9 Mr. Chairman.

10 Senator Holmberg.

11 VICE CHAIR HOLMBERG: First of all, I'll
12 put just a little correction on what
13 Representative Nathe said. This has always been
14 part of it. In fact, back in 1991, the bill that
15 came to the legislature had some division of some
16 Native populations, and I can't remember. I know
17 Fort Berthold was divided in that particular
18 bill. That was taken out. That was a
19 legislative decision.

20 But, yeah, it has been there. It has
21 been discussed. The legislature has,
22 historically, been somewhat -- obviously,
23 somewhat reluctant. They have never passed it,
24 but this has to balance between what the justice
25 department of the federal government says is



1 required, et cetera.

2 But we have such a huge division amongst
3 the reservations. I mean, you have Fort
4 Berthold, which 50 percent of a subdivided
5 district lives on the reservation. So that,
6 clearly, is different than if you get -- and I'll
7 just go to Lake Travis. Of course, that's 206
8 people in North Dakota. And that would be pretty
9 tough to do anything with it. Then you have the
10 other three with Turtle Mountain with 31 percent
11 of an ideal.

12 So we are faced with a vastly different
13 geography on each one of those reservations that
14 we have to deal with too. But thank you for
15 bringing that and having some suggestions as far
16 as how those lines could be drawn.

17 CHAIRMAN FAITH: And thank you.

18 CHAIRMAN DEVLIN: Chairman, I think
19 Representative Monson is online with us today and
20 had a question, and then Representative Headland
21 had a question.

22 CHAIRMAN FAITH: Sure.

23 REPRESENTATIVE MONSON: Yeah.

24 Mr. Chairman, thank you.

25 Senator Holmberg pretty much brought up



1 what I was going to mention. But you know, one
2 person, one vote means that those subdistricts,
3 if we were to do it, really to be constitutional,
4 have to be relatively even, and 6000 in one sub-
5 district and 10,000 in another sub-district
6 really doesn't make it constitutional.

7 So you understand that we have to go by
8 the percentages and numbers. You brought that
9 up, but you know, we'd have to add some other
10 people in order to make it roughly equal, one
11 person, one vote. And it would mean some of
12 Morton County and probably Hettinger County would
13 end up in that sub-district with Grant and Sioux
14 County. So not really a question there, just a
15 comment, but it was already mentioned pretty much
16 by Senator Holmberg.

17 CHAIRMAN FAITH: And thank you for that.
18 I think I did say our original map does still
19 keep that percentage of Morton and, again,
20 Hettinger County, just taking out the city
21 portion of Mandan, which our original map looked
22 like. So again, thank you.

23 And I said from the start, it's going to
24 be questioned as far as percentages, and we knew
25 that. But you know, we want to be heard, for the



1 record.

2 CHAIRMAN DEVLIN: Representative
3 Headland had a question.

4 REPRESENTATIVE MONSON: If I might
5 continue, just one comment, if I could.

6 You brought up that rural, the ranchers
7 and issues with water were not probably always
8 addressed. And I chair the education and
9 environment section of House appropriations. And
10 my vice chairman, actually, is your
11 representative, and he is an advocate for water
12 like you would not believe. So when it comes to
13 representation dealing with water, you probably
14 have the best in the state.

15 CHAIRMAN DEVLIN: Representative
16 Headland.

17 REPRESENTATIVE HEADLAND: Thank you,
18 Mr. Chairman.

19 Mr. Chairman, a couple of things. You
20 had mentioned earlier that after the comment by
21 representative Schauer, you feel you would still
22 have two representatives, even though you would
23 be supportive of other districts.

24 I wonder if you understand. I just want
25 to be clear. That when you divide districts into



1 sub-districts, you only vote in the sub-
2 districts. So you don't get the vote in the
3 other. So, in fact, it is true that you will be
4 losing one representative.

5 And the other thing that I -- you know,
6 I have my interpretation of what I believe you're
7 talking about when you talk about true
8 representation. But for the Committee, so we all
9 understand exactly what you're talking about, can
10 you define what you mean as true representation.

11 CHAIRMAN FAITH: I guess -- and I'll be
12 upfront with you. You know, we're here as a
13 trial nation, and as far as the vote, I
14 understand that you'd only vote in A or B
15 depending on your location, if there's a sub-
16 district.

17 But as far as true representation, I
18 think on a sub-district, it's up to the people.
19 Let's just say we did the division or the -- the
20 people of Grant, Sioux, and southern Morton would
21 have that opportunity. I'm just saying that a
22 city added onto a rural district like 31 does
23 make a heck of a difference number wise. And if
24 you want to look at it realistically -- party
25 wise.



1 So I think just taking out the Mandan
2 portion and letting them be their own Sub-
3 district 31 would be fine with us. But it's
4 just -- like the numbers he's talking about, to
5 me is -- if you look at our map, it does just
6 take out Mandan, the southern part of Mandan. It
7 still leaves that portion of 31 on there. I was
8 just throwing out ideas, but also Hettinger, a
9 portion of Hettinger County.

10 So that would -- it's not going to bring
11 it up to what we want. Like I said, it would be
12 very close to 40 percent, and knowing coming up
13 here 50 percent is the bottom line. So it's just
14 an ask for the Committee, and we'll take it at
15 that.

16 CHAIRMAN DEVLIN: Further questions from
17 the Committee?

18 (No audible response)

19 Thank you, Chairman, for making time to
20 participate.

21 CHAIRMAN FAITH: And again, I'll thank
22 everybody for the opportunity for this and, you
23 know, the very short notice. We appreciate that.
24 Thank you.

25 CHAIRMAN DEVLIN: Who is going to



1 present next? I'm sorry. I missed it.

2 CHAIRMAN FAITH: Councilman Walker.

3 CHAIRMAN DEVLIN: Councilman Walker.

4 COUNCILMAN WALKER: Chairman Devlin,
5 members of the Redistricting Committee, good
6 morning. My name is Charles Walker, councilman
7 at large, Standing Rock Sioux Tribe.

8 I do have written testimony. I'll read
9 directly from that, but I know that there is a
10 question about true representation. I'll get
11 straight to it. I'll say that part of it. When
12 we talk about representation, from what I have
13 heard, responses and comments from the Committee
14 is that, yes, it is politics. Is there a
15 workaround? I guess in my experience, in my
16 opinion, first and foremost I would say, the
17 representation isn't adequate because there is no
18 -- what's the word I want to say without being
19 disrespectful or being misinterpreted? There is
20 no -- I'll just say. There's no communication
21 between them, the representatives that are in
22 there in the past years.

23 And I'll say that -- and even though I'm
24 on the record, everything -- to me the party
25 lines, they do matter. The Democrats do cater to



1 the Native vote. We all know that. That's a
2 fact. The Republicans, not so much.

3 And I will say that because,
4 understandably, I would consider myself a
5 centrist, maybe a little bit more right leaning.
6 But I do believe in the Republican ideals that in
7 a republic you have a nation of laws. And in
8 democracy, whoever gets the majority wins, and I
9 don't think that's always the right decision.

10 What I say in a republic -- the reason
11 I'm saying that -- is that we live in these
12 states that exist here, North and South Dakota,
13 probably some of the deepest red states we know
14 in this nation. And one of the things that
15 really is dumbfounding to me is the lack of
16 respect and the lack of acknowledgment of our
17 Constitution when comes to that. It's always
18 paraphrased, taken out of context, not taken
19 straightforward.

20 But within that we talk about
21 Constitution. We talk about rules, laws. We
22 talk about republics. We talk about all these
23 different things. But yet when it comes to being
24 equal, doing all these other things, you know, it
25 doesn't count, and it does matter.



1 And I'll say it right now - the factor
2 in this is race, and we don't think of ourselves
3 as being a race. In our language, we are wicha
4 (phonetic) is the word, wicha. Those titles have
5 come across from the federal government. All the
6 way back to the Constitution we are identified
7 as, you know, noble savages, those types of
8 things. We're also only two-thirds human being.
9 And the black population is only three-fifths
10 human being, you know, that type of stuff.

11 Those are tangible things you can go
12 into the Federal Registry. You can go in and you
13 can see those things.

14 So it is. It's politics. It's race.
15 I'll say it. I won't dance around the subject.

16 But I do understand. I would say the
17 fix, the easiest way to do it is if we had some
18 Republican representation that would engage with
19 the communities in Sioux County. And I do know
20 they're probably over in South Ridge. They're
21 probably over in Solen. I don't think they're in
22 Cannonball. I know they're not in Porcupine, and
23 I know they're not in Fort Yates, maybe a bit.
24 But you know, beyond that, the Republican ideals
25 shouldn't go against their own beliefs also, I



1 believe.

2 That's why I call myself a centrist. If
3 I didn't see the hypocrisy in the party, I myself
4 would be registered Republican.

5 The state of South Dakota is where I
6 reside. And you guys are probably scratching
7 your head, but I'm elected at large on Standing
8 Rock. I was a North Dakota resident, eight
9 years, and in that time I have never been engaged
10 by a Republican representation for the state.

11 You know, at one point I was a citizen
12 of North Dakota, but yet we had the Democrats
13 pounding on our door every time there's an
14 election, you know, coming. But there's never
15 any engagement, so the representation isn't
16 there. That's a fact.

17 And speaking of national groups, I
18 agree. When these outside entities come into our
19 local affairs, it does disrupt and does cause
20 disruptions. But you have a new -- and I'm -- I
21 guess I would say in comparison to some of you
22 who have been in politics for decades, you know,
23 I'm getting my feet wet. I'm going on six years
24 now.

25 You have individuals like myself,



1 critical thinkers, who want to take a step back
2 and say, let's look at all the facts. Let's just
3 tell it how it is. Let's deal with it that way,
4 but also we need to be straightforward. That --
5 those are some of the reasons why this hasn't
6 been brought up in the past.

7 You know, it would be -- it would be
8 better just to have an engagement of those -- of
9 those officials who are elected. And you know, I
10 know there was a statement saying one of the best
11 representatives, but you could ask probably 99
12 percent of the people in Sioux County who is
13 their representative. They wouldn't even know,
14 and that's a cold hard fact right there.

15 So I'll read my testimony. I guess I'm
16 not here to debate. I'm not here to argue. I'm
17 not trying to persuade anybody anything. I'm
18 here to speak for the record, and I know that we
19 -- understandably, we would probably agree on
20 more things than what you probably think.

21 Let me see. Standing Rock Sioux Tribe,
22 federally recognized tribe located in the states
23 of North Dakota and South Dakota. In North
24 Dakota the reservation makes up Sioux County and
25 has 4373 residents, 3644 of whom are Native



1 American. Sioux County has a Native American
2 border age population of 86 percent. That's a
3 pretty high percentage right there.

4 Standing Rock is a sovereign nation
5 governed by its tribal council. Our tribal
6 members are the Dakota and Dakota Nations. I'm
7 here to advocate on behalf of the tribe and its
8 members, and that's straightforward right there.
9 It is. We're here as part of membership, the
10 Native vote. It does matter. It does have an
11 effect. Otherwise, we wouldn't have the whole ID
12 issue that had come up, and that's a fact. That
13 is politics. There's no ifs, ands about it. I'm
14 not reading in between lines. The information is
15 there, and anybody with a logical half a brain
16 would see it.

17 Our tribal use of single member
18 districts elect representatives to State House.
19 Tribe's communities to be considered a community
20 of interest that should not be split into
21 multiple legislative districts.

22 We request North Dakota Redistricting
23 Committee listen to tribal input and hold
24 redistricting meetings in tribal consultations on
25 reservations.



1 That right there is a -- it's a request.
2 And I will say this: there was a question of why
3 hasn't this been -- why now?

4 Chairman Faith did let you know the
5 situation, and I will tell you. I served as a
6 councilperson under Chairman Orshambel (phonetic)
7 administration and Chairman Faith. Under
8 Chairman Faith, we have communication, and we
9 have working relationships in both states. And
10 that right there is -- we catch a lot of pushback
11 from our own membership, you know. And trying to
12 move forward in way that we address these issues
13 because if you just sit on the sidelines and
14 throw rocks and jabs and talk about the way other
15 places are governing where you basically don't
16 have a say anyway, it's going to be something
17 that -- it doesn't do anything. It's not a way
18 to move forward in any type of way, good, bad,
19 right or wrong.

20 Recent history - tribes fight for voting
21 rights, like I mentioned, the tribal IDs.
22 Physical street address, those types of things
23 come up.

24 Native American population grew by 29.7
25 percent the last decade, and that rate there is a



1 jump. You can take a look at it by referencing
2 our public school districts. You look at the
3 areas which are basically higher populations.
4 They have a growth. We have so many co-opts
5 within the state, within the schools because of
6 declining populations. But yet on the Indian
7 reservations you have the exploding population
8 for the school. You have that growth within
9 there.

10 You know, a lot of that I've taken out
11 of context and added my own point of view of the
12 information I have gathered, and I do have a
13 written testimony. And that's all I have for you
14 today, Committee.

15 CHAIRMAN DEVLIN: Thank you, Councilman.
16 Can we have a copy of your written testimony?

17 COUNCILMAN WALKER: Yes.

18 CHAIRMAN DEVLIN: I had just a follow-up
19 question of what you said. You mentioned
20 splitting up the reservations, and to my
21 knowledge in my lifetime, that has not been done
22 in North Dakota. And I'm wondering, being you
23 live in South Dakota, is that something that -- I
24 mean, that would be unconstitutional. So I'm
25 just wondering why they could split up a



1 reservation. Where did that happen?

2 COUNCILMAN WALKER: Split up a
3 reservation?

4 CHAIRMAN DEVLIN: Yeah.

5 COUNCILMAN WALKER: What do you mean?

6 CHAIRMAN DEVLIN: You said you'd split a
7 reservation to go to various districts is a
8 comment you made.

9 COUNCILMAN WALKER: Oh, gerrymandering.

10 CHAIRMAN DEVLIN: No.

11 COUNCILMAN WALKER: That's the
12 reference.

13 CHAIRMAN DEVLIN: Yeah. But you're not
14 -- we're not -- nobody is splitting any
15 reservation in the state of --

16 COUNCILMAN WALKER: No, no.

17 CHAIRMAN DEVLIN: Okay. We're on the
18 same page.

19 COUNCILMAN WALKER: Yeah.

20 CHAIRMAN DEVLIN: I just misunderstood.
21 Thank you.

22 COUNCILMAN WALKER: Yeah.

23 CHAIRMAN DEVLIN: Misinterpreted it.

24 COUNCILMAN WALKER: This copy?

25 CHAIRMAN DEVLIN: Just hand it down.



1 Thank you very much, Councilman.

2 REPRESENTATIVE MONSON: Mr. Chairman, I
3 had a question for Mr. Walker.

4 CHAIRMAN DEVLIN: I apologize,
5 Representative Monson. I didn't -- I didn't see
6 the note. I apologize, Representative Monson.

7 Go ahead.

8 REPRESENTATIVE MONSON: Thank you,
9 Mr. Chairman.

10 Mr. Walker, you used the word
11 communicate, communication, and communication
12 goes two ways. Have you tried to communicate
13 with your present representatives? You say you
14 don't see them, except when they are looking for
15 a vote. But have you reached out, or has the
16 tribe reached out to try to communicate with
17 them?

18 COUNCILMAN WALKER: Oh, yes. And we can
19 get that documentation if you need it. If you
20 need something -- if you can't take my word for
21 what it is, we'll get you the documentation.

22 REPRESENTATIVE MONSON: Beyond that, I
23 guess -- so what do you think would be different
24 if you had a Native representative in District 31
25 if it was subdivided. Do you think the results



1 from the legislature as a whole would be
2 significantly different?

3 COUNCILMAN WALKER: I believe that you
4 would have a representation that would be -- that
5 I would say it would not be along party lines.
6 We would have to take that party system on and
7 have an individual run as a total independent,
8 not independent ideals as in policy, but somebody
9 who is going to come in as a representative that
10 would gather all the information.

11 See if you're going to -- if you want to
12 quantify it and say, oh, yeah, well, this
13 information here; this is logical. This shifted
14 out. Bring it forward. There would be a voice,
15 which wouldn't be upon a certain set of ideals.
16 It would be a true representation of what
17 people's needs are.

18 CHAIRMAN DEVLIN: Thank you. We
19 appreciate it.

20 COUNCILMAN WALKER: And I'm not talking
21 socialism or communism.

22 CHAIRMAN DEVLIN: Thank you for being
23 here today, sir.

24 COUNCILMAN WALKER: Yeah.

25 MS. COLLETTE BROWN: Hi. Good morning,



1 Redistricting Committee. I was here last month.

2 Chairman Devlin and the members of the
3 Committee members, thank you for having me here
4 today. I am Collette Brown, Gaming Commission
5 Executive Director at Spirit Lake Casino and
6 Resort and will be testifying today on behalf of
7 the Spirit Lake Nation.

8 I previously testified before this
9 Committee on August 26th and appreciate the
10 Committee members allowing me this additional
11 opportunity to speak on behalf of the Spirit Lake
12 Nation.

13 As I informed during my prior testimony,
14 the Spirit Lake Nation is a federally recognized
15 tribe located in the state of North Dakota with
16 an enrolled membership of 7559 as of January
17 2021, according to the American Community Survey.
18 There are almost 4000 Native Americans currently
19 living on our reservation, and most of our
20 reservation is located within Benson County.

21 I'm here to advocate on behalf of the
22 tribe and its members for the single-use member
23 districts to elect representatives to the State
24 House, for this Committee members to account for
25 our voters in spite of the census undercount in



1 tribal communities, and to demand the North
2 Dakota Redistricting Committee members listen to
3 tribal input and hold redistricting meetings and
4 tribal consultations on reservations.

5 As I previously testified to, it is
6 critical that the legislature comply with the
7 Voting Rights Act. This includes moving away
8 from at-large districts for the state of the
9 House representatives, which has dilutive effect
10 on minority votes.

11 The Spirit Lake Reservation is located
12 in District 23. The voters on Spirit Lake
13 Reservation tend to support candidates who are
14 outvoted and opposed by voters in other districts
15 -- areas of the district.

16 In order to provide the Native American
17 voters residing in District 23 a better
18 opportunity to elect the representative of their
19 choice, the Spirit Lake Nation requests the
20 legislature create two single-member districts
21 for the state of the House of Representatives.
22 Failure to draw single-member districts can
23 dilute the Native vote and may violate the Voting
24 Rights Act.

25 Second, Spirit Lake Nation requests that



1 legislature consider a historical census
2 undercount among the tribal communities in North
3 Dakota. If this Committee members only looks at
4 the recorded number from the 2020 census, it will
5 be blinding itself to the true population of
6 these communities.

7 In a 2010 census, Native Americans
8 living on the reservation were undercounted by
9 almost five percent, much higher than any groups.

10 Given the coronavirus pandemic, we can
11 expect this undercount to be given higher for
12 2020 census. Only using the currently recorded
13 2020 census numbers in the redistricting process
14 disproportionately impacts Native American votes.
15 These undercounts should be accounted for by the
16 legislature, this Committee, and future
17 districting committees. The American Community
18 Survey may provide a more accurate number.

19 Third, given the extremely short notice
20 of the invitation to this hearing, which was sent
21 out on Monday night, Spirit Lake Nation Chairman,
22 Douglas Yankton, Senior, was unable to attend
23 this meeting. The Spirit Lake Nation considered
24 this notice to be far from adequate and shows a
25 lack of good faith on part of this Committee to



1 sincerely take the tribe's perspective into
2 account.

3 Additionally, failing to hold hearings
4 near tribal communities silences those tribal
5 member voters who lack resources to travel to
6 Bismarck or to attend these hearings online.

7 Tribes have continued to advocate for
8 more inclusivity in redistricting process, and
9 that advocacy has largely been ignored.

10 As I informed the Committee in my prior
11 testimony, the Spirit Lake Nation and its members
12 have fought hard for the right to vote, which has
13 included successful voting rights cases against a
14 state and county. Spirit Lake Nation will
15 continue to do so when necessary to protect the
16 rights of its members to vote.

17 I thank the Committee members for your
18 time today, and I'm happy to address any
19 questions or concerns with my best notice that I
20 have.

21 CHAIRMAN DEVLIN: I believe you said you
22 had 7759 enrolled members or something to that
23 effect but only 3787 live on the Spirit Lake
24 Reservation, so that's all the votes -- or the
25 count that we can look at. And I'm sure you



1 understand that. We can't pull in population
2 from outside of the reservation to move your
3 numbers up. Or am I misunderstanding what you're
4 saying?

5 MS. COLLETTE BROWN: I understand your
6 question, Chairman. However, I think our number
7 that was considered by the census is
8 undercounted.

9 CHAIRMAN DEVLIN: Yeah. I understand
10 that from you, and I've also heard that from some
11 college towns as well. But we have no choice but
12 to go by the numbers that were given.

13 So my question is, I guess: if you have
14 3700 people roughly out of 16,000, even if you
15 sub-districted, you're not going to have half of
16 the sub-district. Does that matter?

17 MS. COLLETTE BROWN: I am going to refer
18 your question to Native American Rights Fund
19 Representative Matt Campbell.

20 CHAIRMAN DEVLIN: Okay.
21 Any questions?

22 SENATOR BURCKHARD: Mr. Chairman. Over
23 here.

24 CHAIRMAN DEVLIN: Oh, I'm sorry.
25 Senator Burckhard.



1 SENATOR BURCKHARD: Collette, greetings.
2 You made reference to a short notice for this
3 meeting. How much notice do you think would be
4 more appropriate?

5 MS. COLLETTE BROWN: Chairman and
6 Senator Burckhard, I would consider a week's
7 notice because you're dealing with tribal
8 nations, who deal with the federal government and
9 the county and other tribal nations.

10 So currently right now my chairman is
11 Saskatoon handling a delicate situation. As you
12 all know, we've -- Canada, they have exhumed
13 bodies, and Saskatoon are bringing those people
14 home today and giving them the proper burial that
15 they need.

16 So a week at least would be considered
17 ample time, I believe.

18 SENATOR BURCKHARD: Okay. Thanks.

19 MS. COLLETTE BROWN: Thank you.

20 CHAIRMAN DEVLIN: Collette, I just want
21 to follow up on that a little bit. You know, it
22 was our hope that the tribal relations committee
23 would get to meet with every tribe because that's
24 the leadership of the House and Senate. And I
25 don't know if they completed all that, but that



1 was our understanding. They were going to
2 discuss redistricting.

3 When we met last Wednesday, we agreed we
4 wanted to give you an opportunity this week to
5 speak. According to our thing, we send our -- or
6 made the call to Commissioner Davis' office on
7 Friday with this invitation. Well, he was
8 apparently tied up with something else. So you
9 may have not got it from his office until Monday.
10 But our intent was to make it last week, and I
11 apologize if you got it late. Because our intent
12 wasn't to make it as quickly as possible, and we
13 did that.

14 MS. COLLETTE BROWN: Thank you,
15 Chairman.

16 Any questions?

17 Seeing none, thank you.

18 MR. MATT CAMPBELL: Good morning,
19 Mr. Chairman, members of the Committee members.
20 My name is Matt Campbell. I'm a staff attorney
21 at the Native American Rights Fund.

22 And I know Collette referred some
23 questions over to me. I have represented the
24 Spirit Lake Nation and the Standing Rock Sioux
25 Tribe in litigation before. I'm consulting with



1 them now, so I'm happy to answer any questions
2 you may have.

3 You know, I think what I've heard from
4 the tribal leaders today is they are certainly
5 very interested in sub-districting for their
6 districts to improve their opportunities for
7 representation. I've heard that they are
8 interested in being treated as communities of
9 interest that should not be divided, and I'm glad
10 to hear the Committee is not looking to do that
11 because that's something that's important. I
12 think they are communities of interest that have
13 shared cultural values, economic, political, and
14 there values as well within their reservation
15 area but also in the surrounding communities as
16 well.

17 And I would also recommend that the
18 Committee reach out to the tribal nations and
19 formally consult with them after you have a draft
20 plan to get their feedback on any draft plans you
21 may have. So I think that's a great opportunity
22 to provide that formal type of communication,
23 like Chairman Faith mentioned. Opening those
24 lines of communication, I think, is a wonderful
25 thing, to have that discussion and get feedback



1 from the tribal nations on that.

2 So you know, those are some of the main
3 points I've heard. I'm happy to answer any
4 questions that were raised as well.

5 CHAIRMAN DEVLIN: Representative Nathe.

6 REPRESENTATIVE NATHE: Thank you,
7 Mr. Chairman. I could have waited.

8 Thank you, Mr. Campbell for coming. One
9 of the speakers had mentioned earlier about their
10 frustration with their current representation,
11 and I get it. And he was really honest, and I
12 really did appreciate the -- it was refreshing to
13 hear. It came down between Republican and
14 Democrat, and they're not happy with the
15 Republican representation.

16 Is that enough reason to go down the
17 road of subdivision? I mean, we hear that in
18 other districts too. By the way, hey, there's
19 too many Democrats here. There's too many
20 Republicans here. It's kind of the same thing.
21 They're frustrated with the current leadership.
22 But is that a reason why we should go down the
23 road of subdivision because they're unhappy with
24 the current representation that's not been in
25 contact with them?



1 MR. MATT CAMPBELL: Well, I don't think
2 that alone is enough reason. I think what I've
3 heard today is, you know, we've heard a lot about
4 representation and true representation or
5 equitable representation.

6 As it stands right now, I think,
7 essentially, the way the system is set up is
8 there are three Senators for every district, and
9 I think, you know, historically when you're
10 looking at House of Representatives, it's a more
11 local form of representation. And you know, the
12 lack of hearing from your representative is one
13 aspect of that in terms of why having a sub-
14 district would be more beneficial and have that
15 more equitable representation.

16 REPRESENTATIVE NATHE: But from a legal
17 --

18 MR. MATT CAMPBELL: Because you would
19 have a representative that may be more responsive
20 to your local needs because it's a more local
21 view of things because you're not considering,
22 you know, voters the entire district. You're
23 considering voters within that sub-district as
24 your -- you know, who you are representing.

25 REPRESENTATIVE NATHE: But from a legal



1 standpoint, would that be enough to -- I mean, a
2 reason to have sub-districts because you're upset
3 with your current representation; you feel
4 they're not being in contact from a legal
5 standpoint?

6 MR. MATT CAMPBELL: Well, I think from a
7 legal standpoint, the North Dakota statutes
8 certainly allow the legislature to draw sub-
9 districts. So I don't think there's any question
10 about whether or not the legislature can draw
11 subdistricts in North Dakota.

12 REPRESENTATIVE NATHE: I guess I'm
13 looking at the reasoning, you know. The previous
14 speaker basically said, hey, they're not
15 listening to us. We want sub-districts because
16 we want to get people from our side of the aisle
17 in there. So it's almost like we're rigging the
18 system so they can at least get a better chance
19 of getting in there. There's no guarantee they
20 would get in there, but I guess I'm looking from
21 a legal angle. I mean, is that -- with your
22 experience, is that reason enough to have to do a
23 sub-district?

24 MR. MATT CAMPBELL: Well, I think there
25 are many considerations to look at when you're



1 thinking about sub-districts and, you know,
2 thinking about communities that are indicating
3 that they have shared interests in terms of their
4 identity, their cultural values, their economic
5 values. That they believe that they are entitled
6 to have a representative that's more responsive
7 to their needs. It's certainly a reason to
8 advocate for single-member districts. And of
9 course, the North Dakota statutes allow for that.

10 You know, I think under the Voting
11 Rights Act you can also consider things like
12 racially polarized voting, whether minorities --
13 the minority vote has been diluted, the history
14 of discrimination in the area, and things of that
15 nature as well.

16 But, you know, I think the North Dakota
17 statutes allow for single-member districts, and
18 you know, there are several criteria you can
19 consider in that consideration.

20 CHAIRMAN DEVLIN: Representative
21 Schauer, I believe.

22 REPRESENTATIVE SCHAUER: Thank you,
23 Mr. Chairman.

24 Mr. Campbell, do you have data to show
25 that the minority vote has been diluted in North



1 Dakota? And do you have data to show that if we
2 split a district, it improves representation?
3 And if so, can you provide this Committee members
4 with that data?

5 MR. MATT CAMPBELL: Yeah. We can
6 certainly provide that information. I think you
7 heard from Chairman Faith that, you know, he ran
8 for the House in 2014 and was unsuccessful. We
9 also know there was another Standing Rock member
10 that has run for the House as well, LaDonna
11 Allard, and was unsuccessful.

12 I think previously to 2014, we saw other
13 Standing Rock members that were also unsuccessful
14 in running for the House. And I think we've also
15 seen that for the three affiliated areas.
16 They've had several members in the last decade
17 run for the House of Representative that were
18 unsuccessful. And I think we also see that in
19 the Spirit Lake Nation region as well. So we can
20 certainly provide that information to the
21 committee.

22 CHAIRMAN DEVLIN: Representative Monson
23 had a question online, I believe.

24 REPRESENTATIVE MONSON: Thank you,
25 Mr. Chairman.



1 Mr. Campbell, you brought up the Voting
2 Rights Act. You did and so did the Chairman.
3 But you know, you're advocating, I believe, that
4 no matter what we should be having sub-districts,
5 but we still need to look at the one voter/one
6 vote, which I mean, the Constitution trumps
7 whatever they want to bring up in a Voting Rights
8 Act.

9 But are you advocating that we would
10 have sub-districts that would be not equal in
11 numbers just because -- I mean, we're talking
12 6000 versus 10,000. That's not constitutional
13 the way I understand it. And in the case of
14 Spirit Lake, it would be even farther off.

15 So what are you advocating here?

16 MR. MATT CAMPBELL: Yeah. Thank you for
17 the question, Representative Monson.

18 You're right. I think one person/one
19 vote is, of course, the top criteria that you
20 look at when thinking about redistricting. And I
21 don't think we're advocating to deviate from, you
22 know, certainly not more than 10 percent in
23 looking at the districts.

24 And what we can do is work with, you
25 know, Standing Rock and Spirit Lake to develop



1 some maps that they may prefer and provide those
2 to the Committee. But I do think they certainly
3 wouldn't deviate more than 10 percent, and they
4 would be much more equitable in terms of looking
5 at sub-districts that are around, I think, 8288
6 people within each sub-district.

7 So that's certainly not something we're
8 looking to abdicate the Constitution. I think,
9 you know, as communities that have shared
10 interests, that have shared valued, you know,
11 advocating for representation at the more local
12 level is what they're looking at.

13 CHAIRMAN DEVLIN: I know there's a
14 couple more questions, but I did want to -- you
15 know, I think it was Ms. Brown that brought up
16 the meetings. But we had a state Tribal
17 Relations Committee, which is leadership to the
18 legislature. We met with the Spirit Lake Nation
19 on September 1st, and Ms. Brown was there. So I
20 mean, there has been input before this. There
21 was input at that meeting as well.

22 And you know, we're kind of dealing with
23 the hand we were dealt. We were expecting
24 population figures in March, early April. We got
25 them in the middle of August. So there was



1 really, you know, nowhere to go at that point.
2 But we are trying everything we can to reach out
3 to the tribes, and like I said, they were on the
4 Spirit Lake Nation and had that meeting. And
5 then we still wanted to follow up with another
6 meeting. So that's what we're here today.

7 Representative Headland.

8 REPRESENTATIVE HEADLAND: Thank you, Mr.
9 Chairman.

10 CHAIRMAN DEVLIN: Thank you.

11 REPRESENTATIVE HEADLAND: You know, back
12 to the question that was referred to you by the
13 prior speaker and knowing that when you
14 subdivide, you lose the opportunity to vote for
15 two representatives. You will only be allowed to
16 vote for one. If the sub-district would still
17 constitute a minority for the reservation
18 population, does it still make sense in your mind
19 to subdivide that district? And I think that's
20 the question that she referred to you. Do you
21 still advocate for subdividing that district?

22 MR. MATT CAMPBELL: Well, I think -- the
23 question she had may have been more specific to
24 the numbers. But I do think that it is
25 beneficial to have sub-districts because when



1 you're thinking about communities at a local
2 level, having a greater opportunity to elect
3 representatives of your choice from your area is
4 much improved when you have sub-districts,
5 whether it's -- you know, we're talking about
6 reservations or other rural areas across the
7 state. Having sub-districts can be beneficial to
8 those local areas. And so I do think when you're
9 looking at that and when communities come
10 together and are advocating for their interest
11 and asking for subdistricts, it's certainly
12 something that is beneficial to them because you
13 would have representatives that are more
14 responsive to their needs when they're only
15 worried about votes from their areas.

16 CHAIRMAN DEVLIN: You may continue.

17 REPRESENTATIVE HEADLAND: Thank you,
18 Mr. Chairman.

19 So if I understand you correctly, you
20 believe it's advantageous and more beneficial to
21 only have the opportunity to vote and be
22 responsive from one representative versus being
23 represented and having the opportunity to vote
24 for two representatives? You think it's more
25 beneficial just to vote for one?



1 MR. MATT CAMPBELL: I can't --

2 (Cross talk)

3 I appreciate your question,
4 Representative Headland. I, obviously, can't
5 speak for the entire state. I can't speak for
6 all the tribal nations. What I've heard from the
7 Spirit Lake Nation today and the Standing Rock
8 Sioux Tribe is that they, specifically, are
9 interested in having single-member districts, and
10 they believe it would be beneficial to their
11 communities.

12 And so I think that's what we're seeking
13 and what we're talking about.

14 CHAIRMAN DEVLIN: Senator Poolman.

15 SENATOR POOLMAN: Thank you,
16 Mr. Chairman.

17 Mr. Campbell, you keep using the word
18 "equitable." And so as I think about Chairman
19 Faith's request that they have their own sub-
20 district, even though they only have 37 percent
21 of what would be necessary of that district, is
22 that really the request here that we're not
23 looking for equal representation, but we're
24 looking for equitable representation? Because as
25 we know, that's two different things.



1 MR. MATT CAMPBELL: And maybe you could
2 just clarify the question a little bit. Maybe
3 I'm not understanding. I can be dense. So I
4 apologize for that.

5 SENATOR POOLMAN: Mr. Chairman and
6 Mr. Campbell, you keep using the word
7 "equitable," which doesn't mean equal, right.
8 And so I'm just wanting to clarify that the
9 request of your organization and most likely
10 Chairman Faith is that we're setting up equitable
11 districts not equal ones.

12 MR. MATT CAMPBELL: Thank you, Senator
13 Poolman. I think what we're requesting is that
14 they're -- you know, what Standing Rock has
15 requested is that their district be divided into
16 sub-districts. And they believe that it gives
17 them a better opportunity to have representation
18 that better represents them. And so I think
19 that's what we're talking about.

20 CHAIRMAN DEVLIN: Was there any further
21 questions for Matt?

22 Again, thank you very much for being
23 here. We appreciate it.

24 MR. MATT CAMPBELL: Thank you,
25 Mr. Chairman.



1 MS. DONAGHI: Good morning, Committee.
2 Good morning, Chairman Delvin -- Devlin, sorry,
3 and members of the Redistricting Committee. My
4 name is Nichole Donaghi (phonetic). I am a
5 citizen of the Standing Rock Sioux Tribe. I'm
6 also a descendant of the Turtle Mountain Band of
7 Chippewa and also a descendant on my grandpa's
8 side from the Manda (indiscernible) and people.

9 I live in Lincoln, North Dakota, and I'm
10 the executive director for North Dakota Native
11 Vote. And I understand you heard a lot about me
12 at the last hearing.

13 North Dakota Native Vote is a nonprofit
14 nonpartisan grassroots organization that
15 initially formed in response to the 2018 U.S.
16 Supreme Court decision to uphold the voter
17 identification law that had the potential to
18 disproportionately adversely affect over 5000
19 Native American voters in North Dakota. Our
20 mission is to create and effect policy to promote
21 equitable representation for the Native people in
22 North Dakota.

23 I joined North Dakota Native Vote in
24 2018 because of the imbalance of power in our
25 state that was very apparent to me after being a



1 community organizer for years. I work on
2 education issues, protection of land and water,
3 and now civic engagement.

4 I soon realized that the issues I was
5 working on often stemmed from a lack of inclusion
6 and representation in the decision-making
7 processes.

8 In North Dakota the Native American
9 population grew by 29.7 percent in the last
10 decade. It is North Dakota Native vote's ask
11 that the Committee take into consideration the
12 per perspectives of each of the tribes as well as
13 tribal members in the redistricting process, and
14 that is two different things. I'd like the
15 Committee to understand that we have a tribal
16 nation government, and then we have the tribal
17 citizens.

18 We are asking the Committee to adopt
19 single-member House districts to prevent the
20 dilution of Native American votes. Tribes and
21 tribal members in North Dakota have had to fight
22 for the right to vote, whether by defeating voter
23 ID laws, opposing district lines that dilute the
24 Native American vote, or by demanding on
25 reservation polling locations. And those are



1 things that we all -- we have advocated in the
2 past as North Dakota Native Vote.

3 As we have seen in our early beginning
4 as an organization, tribal citizens in North
5 Dakota have been overburdened by policy that is
6 created by decision makers with little input from
7 their tribal constituents. At large voting
8 systems like the currently one used for North
9 Dakota State House may violate the Voting Rights
10 Act when they dilute minority voting power by
11 preventing tribal members from electing
12 candidates of their choice.

13 Our state constitution in article 4,
14 subsection 2, paragraph 2, states -- and I'm
15 paraphrasing, the legislative assembly may
16 provide for the election of senators at large and
17 representatives at large or from sub-districts
18 from those districts.

19 North Dakota Sentry Code 55-301.5 states
20 that -- in subsection 2 that, "Representatives
21 may be elected at large or from sub-districts."
22 North Dakota law allows for the creation of sub-
23 districts, and that is what should be done.
24 Single-member House districts or sub-districts
25 within districts containing reservations would



1 allow tribal members to elect the candidate of
2 their choice, somebody that is more accessible.

3 And I heard the term "better
4 representation" being thrown out before. We
5 don't consider it better representation. It
6 would be somebody that's more accessible, that
7 knows the communities, that knows the issues, and
8 is in tune with the people that they represent.

9 Candidates are able to run but not get
10 elected because of the dilution of their vote by
11 being grouped in with adjacent communities that
12 do not share similar interests. One example is
13 in my homelands in Sioux County on the Standing
14 Rock Reservation.

15 Data from elections for legislative
16 seats over the past decade indicate that Native
17 American residents of District 31 are not
18 currently able to elect representatives of their
19 choice. For example, in 2014, two Standing Rock
20 tribal members, Mike Faith, Chairman Mike Faith,
21 and LaDonna Allard ran for the State House but
22 were outvoted in the at-large system.

23 In 2010, another Standing Rock tribal
24 member -- I believe it was Chad Harrison -- ran
25 for the State House, but was likewise outvoted in



1 the at-large system. Chase Aaronize (phonetic),
2 another Standing Rock member and candidate for
3 U.S. House earned 78 percent of the vote in Sioux
4 County but was defeated in each of the other
5 counties in District 31. This shows that the
6 Native American voters have not been able to
7 elect the candidate of their choice.

8 We also recommend that a community of
9 (indiscernible) be adopted by this Committee,
10 which takes into considerations communities that
11 have similar language, culture, an identity to
12 keep those communities together within a single
13 legislative district. And I understand that the
14 community has never split up reservations.

15 Lastly, the Committee should be holding
16 hearings on or near reservations so that tribal
17 members who are unable to travel to Bismarck, who
18 lack internet service, which is an issue on our
19 reservation, are able to participate in the
20 redistricting process. There are high levels of
21 poverty and a lack of access to transportation
22 and broadband internet on our reservations. This
23 Committee would be doing itself and the state a
24 disservice by failing to provide an opportunity
25 for all the state citizens to take part in this



1 important discussion. All voices must be heard.

2 North Dakota Native Vote was founded to
3 ensure that inclusion of Native voices in the
4 political discourse of our state. We support and
5 encourage our native people to engage in the
6 political process that is not always inclusive of
7 our people.

8 I thank you Redistricting Committee for
9 your time today and will stand for any questions.
10 Thank you.

11 CHAIRMAN DEVLIN: Senator Holmberg.

12 VICE CHAIR HOLMBERG: Yes, ma'am. Thank
13 you very much for your testimony, first of all.

14 Secondly, this -- I'm up here.

15 MS. DONAGHI: Yeah.

16 VICE CHAIR HOLMBERG: First of all, this
17 Committee is very sensitive to our duties under
18 the Voting Rights Act. We know that. We get
19 that. There are things we have to do, and there
20 are things we can do. And we certainly will take
21 care of the half to do, I believe, but there are
22 also, within that particular legislation, there
23 are certain thresholds; and I don't have them in
24 front of me. I mean, if you have a district that
25 has 50 percent -- if you subdivided a district



1 and the Native population was 50 percent, that's
2 pretty easy to argue. When you get down to 23
3 percent, that's less arguable. So in other
4 words, we know what -- I believe what we should
5 do, but there are also those thresholds that we
6 also have to consider.

7 MS. DONAGHI: Thank you, Senator
8 Holmberg. I would also like to refer back to
9 Matthew Campbell from NARF when he stated that
10 we're not asking for a deviation from the
11 criteria, you know. We would like you to
12 consider where it is doable, especially coming
13 from Standing Rock. I grew up in Standing Rock,
14 you know. My father was involved in the
15 political process, you know. He never ran for
16 office, but I think that was something that was
17 -- that he would have liked to do.

18 Our people are not prevented from
19 running for office. We just can't get elected,
20 and we do have -- we do have names of people over
21 the last decade at least. This past election,
22 Lisa DeBill (phonetic) in Fort Berthold ran for
23 Senate. Tomasina Mandan (phonetic) ran for House
24 this past election and was not able to get
25 elected. So there are cases that we see that our



1 people want to engage in the process but are
2 unable to.

3 VICE CHAIR HOLMBERG: What happens,
4 ma'am -- and this is a hypothetical. What
5 happens if you have a reservation that has a
6 quarter of the population, and they would like to
7 elect someone from that particular reservation,
8 who is of one political party. And one can look
9 up, you know, where the districts are, yet that
10 particular area is surrounded by areas that vote
11 70 percent in another way, shall we say,
12 politically. What do you think?

13 MS. DONAGHI: Well, I mean I --

14 VICE CHAIR HOLMBERG: Makes it tough.

15 MS. DONAGHI: That does make it tough.
16 I do agree, Senator Holmberg. I do think that is
17 something that has been thought about, and we
18 don't have an answer to at this point.

19 VICE CHAIR HOLMBERG: Yeah. We don't
20 have an answer either.

21 MS. DONAGHI: I understand.

22 CHAIRMAN DEVLIN: Senator Sorvaag.

23 SENATOR SORVAAG: Mr. Chairman.

24 Expanding a little, my question was: we
25 had an earlier speaker who said that he's a



1 centrist. That he doesn't really agree with what
2 Republicans do, and it should be about Democrats
3 present the data.

4 You said in your opening, you're
5 nonpartisan. So do you agree with this statement
6 or disagree? Is it about backing a certain
7 party, or are you truly nonpartisan; and it's
8 about just getting representation for the
9 members?

10 MS. DONAGHI: Senator Sorvaag, Chairman
11 Devlin. I thank you for that question.
12 Personally, I'm a moderate, you know. I don't
13 align with any political party. We all know that
14 the Native American population does lean toward
15 the left. We do support Native American
16 candidates, and so our organization is a
17 501(c)(4) organization. We do have the ability
18 to endorse -- represent our people that are
19 running for office. And we do support any Native
20 American as running for any office at any level.
21 And so Lisa Dabill was one of our candidates that
22 ran up in Fort Berthold, and we did support her.

23 SENATOR SORVAAG: Mr. Chairman, may I
24 continue?

25 CHAIRMAN DEVLIN: You may continue.



1 SENATOR SORVAAG: So you're for any
2 Native American, no matter what party they would
3 represent; you would support?

4 MS. DONAGHI: I would. We've sent
5 questionnaires this last election to all of the
6 candidates in the areas that we work in, that we
7 focus on. Our priority is reservation areas.

8 SENATOR SORVAAG: Thank you.

9 CHAIRMAN DEVLIN: Representative Monson
10 had another question.

11 REPRESENTATIVE MONSON: Thank you, Mr.
12 Chairman.

13 And, ma'am, I'm not sure I got your name
14 exactly, Bonabi; is that it?

15 MS. DONAGHI: Donaghi.

16 REPRESENTATIVE MONSON: You brought up
17 the lack of computer access to get input at the
18 meetings here and that they should be held
19 actually on the reservation.

20 Are you aware that every school and
21 every courthouse in the whole state has access to
22 computers, which people that I'm sure at those
23 locations would allow for folks on the
24 reservations to give input at these meetings,
25 just as I am doing from my home right now because



1 I'm a farmer, and I'm hoping to get some
2 combining done this afternoon. But there are
3 local access places where people on the
4 reservation can go, and I'm sure they would not
5 be turned down to get access to this. So I think
6 if you're not aware of it, you should become
7 aware of it, and the tribal leaders should be
8 reaching out in that regard.

9 MS. DONAGHI: Representative Monson,
10 thank you for that. I am aware that there is
11 public access to Wi-Fi systems at the
12 courthouses, the colleges on our reservations.
13 Those are only accessible during working hours,
14 and I know this because when we were working the
15 2018 election, we were outside of the Sioux
16 County Courthouse, which shuts their Wi-Fi off at
17 4 o'clock.

18 And so there's limited access. I would
19 also take into account the risk of contracting or
20 spreading COVID-19. Those offices usually do not
21 allow people in their office unless they have an
22 appointment because of the pandemic. Thank you.

23 CHAIRMAN DEVLIN: Representative Nathe.

24 REPRESENTATIVE NATHE: Thank you,
25 Mr. Chairman.



1 Thanks for coming today. So I think
2 there's some assumptions in some of the
3 discussion that, well, we haven't been able to
4 elect the people that we want who are on our side
5 of the aisle. And the assumption, at least I'm
6 getting -- correct me if I'm wrong -- is that
7 everybody -- all enrolled members are going to
8 vote for that Democrat.

9 I mean, there's been Republican enrolled
10 members in Standing Rock, Charlie Murphy and
11 others who have ran and lost. So wouldn't you
12 agree that even though some of your favorable
13 candidates, the members, also voted for the
14 Republicans and not them also. So it's not 100
15 percent voted for the Democrat, and they lost;
16 and they're upset? Would you agree that some of
17 the enrolled members also supported Republican
18 Democrats -- I mean, Republican candidates?

19 MS. DONAGHI: I think I was in high
20 school when Charlie Murphy ran, so I really
21 wouldn't recall that.

22 REPRESENTATIVE NATHE: That was --

23 MS. DONAGHI: Yes. So that may be the
24 case. I couldn't speculate.

25 REPRESENTATIVE NATHE: But I think the



1 assumption -- I mean, just from the discussions
2 -- that everybody on the reservation will vote
3 Democrat, and it's not. And I think a lot of
4 them do, as one of the previous speakers says,
5 hey, we agree on more things than you realize.

6 So my impression -- you can correct me
7 -- is that there is a number of people on all the
8 reservations that will vote for a Republican
9 candidate. Just the opposite, there is a Native
10 American with Buffalo who won in Fargo.

11 MS. DONAGHI: Uh-huh (affirmative).

12 REPRESENTATIVE NATHE: Not on the
13 reservation, and they voted her in along with her
14 Republican seatmate. So it goes both ways.

15 MS. DONAGHI: I do agree with that,
16 Representative Nathe. So I think that is
17 something that is, you know, calls for
18 speculation. Yes. That could be the assumption.
19 But, you know, having the choice whether they run
20 as a Republican or a Democrat, you know, at least
21 we would have the choice of somebody that knows
22 the community is what we're talking about. And
23 it's not -- it doesn't come down to, you know,
24 for lack of better word, a temper tantrum of not
25 being able to elect people we want. It comes



1 down to having the access to elect somebody or
2 the ability to elect somebody that comes from our
3 community.

4 REPRESENTATIVE NATHE: But you had that
5 access with Charlie Murphy when he ran, and yet
6 he lost.

7 MS. DONAGHI: He did lose. He did lose.

8 REPRESENTATIVE NATHE: He was
9 Republican.

10 MS. DONAGHI: He was Republican. And I
11 think that if we look back at the data, we could
12 see, you know, which communities did vote for
13 him.

14 REPRESENTATIVE NATHE: But they do have
15 the opportunity -- on either side of the aisle,
16 they do have the opportunity to put their name on
17 a ballot to run. So nothing that we do right now
18 is stopping any of that, correct?

19 MS. DONAGHI: Thank you. Yes. Nothing
20 is stopping that. It's just getting people
21 elected is the issue.

22 REPRESENTATIVE NATHE: Thank you.

23 CHAIRMAN DEVLIN: Any further questions?

24 Who am I listening to?

25 REPRESENTATIVE MONSON: Representative



1 Monson.

2 CHAIRMAN DEVLIN: Oh, Representative
3 Monson. I'm sorry.

4 REPRESENTATIVE MONSON: I would like to
5 point out that it has been a number of years now,
6 but there was a Republican Native American in the
7 House that I served with for several sessions,
8 Dawn Charging from District 4.

9 I mean, she was quite effective too as a
10 representative. So I mean, it's both sides of
11 the aisle. It's been a while, but it's possible.

12 MS. DONAGHI: Thank you for that. I do
13 believe as well that it is possible, whether
14 they're Republican or Democrat, you know. We
15 should be crossing that aisle more often as
16 people rather than thinking along party lines.

17 CHAIRMAN DEVLIN: Anyone else?
18 Thank you for being here.

19 MS. DONAGHI: Thank you for your time.

20 CHAIRMAN DEVLIN: I apologize. Nicole,
21 did you have written testimony? We would have a
22 copy for our record. We would appreciate that.

23 (Pause)

24 COMMISSIONER DAVIS: I do believe that
25 concludes our testimony and conversations with



1 tribal leadership. So I do, once again, thank
2 you for the opportunity to continue those
3 conversations that we also begin with the Tribal
4 State Relations Committee, and MHA, Turtle
5 Mountain, and in Spirit Lake the last few weeks.

6 One thing to just keep in mind, you
7 know, I think that just to really drive home -
8 Mr. Walker had said, you know, this shouldn't be
9 a matter of party as he said. It should be maybe
10 an independent.

11 We do know that Representative Nathe
12 made a good point that, you know, there is
13 Republican and there is Democrat representative
14 on each side. And I think just moving forward,
15 you know, as we continue to build those tribal
16 state relations that we have, I think, done so in
17 leaps and bounds in the last several years. I
18 will speak that from a tribal perspective as well
19 as now being a state representative, as I come
20 from a position of leadership on the tribal side.

21 And I think, you know, we're talking to
22 representation. We're talking equitability, you
23 know. A lot of times it gets lost in the
24 shuffle. It gets lost in the translation, the
25 true meaning of what a tribe is trying to bring



1 forward. I'm sure Mr. Boschee is very familiar
2 with a comment that was made by Chairman Yankton
3 during our time up in Spirit Lake. We were
4 talking about agreements and partnerships moving
5 forward, and one of the conversations led into
6 improved law enforcement presence within the
7 exterior boundaries of the Spirit Lake Nation.

8 And so Chairman Yankton had very clearly
9 said that historically -- and I think all tribes
10 can agree with this -- there has been a severe
11 underrepresentation and communication with the
12 federal government. There has been serious
13 issues with bureaucracy blocking progress and the
14 ability to serve constituents. So Chairman
15 Yankton openly said that, as a chosen leader of
16 his people, he is going to work with the form of
17 government that is going to best serve his
18 people, and that is the State of North Dakota to
19 build partnerships and to move forward.

20 So I think keeping that in mind that
21 tribal nations do have a duality. They are
22 recognized federally, but they have also
23 integrated into the state as citizens of the
24 state of North Dakota, largely in part to make
25 sure that they have access to congressional



1 representation at the federal level.

2 So keeping that in mind moving forward
3 too should be key. And if we're looking for, you
4 know -- how can I say it -- recommendations to
5 potentially explore our study moving forward. We
6 talk about equitable representation that was
7 alluded to earlier, you know, true understanding
8 of tribal issues, open lines of communication.

9 I will say this as a tribal leader
10 formerly: there are great champions in his
11 legislature on both sides of the aisle. I will
12 say that, and I've made many great partnerships
13 and friendships through the bienniums that I have
14 served.

15 But if you look at -- one example may
16 able to explore in the future is what happens in
17 Maine. So each tribal nation is allowed a
18 representation within the legislator of the state
19 of Maine, and that is within their constitution
20 that was passed into their code. And how it
21 works is there are four tribes, and I do believe
22 they are called, collectively, the Wabanaki
23 people of Dawnland.

24 So each tribe does have representation
25 within the state legislator, specifically to



1 their tribe. They do have all these same
2 incentives. They can sponsor, co-sponsor. They
3 can speak on the floor, so they are equal
4 partners in the way they conduct business. So I
5 think maybe moving forward, one thing to explore
6 would be maybe the composition that the State of
7 Maine uses in regards to tribal partnerships and
8 state representation.

9 And just with that, once again, I would
10 like to thank you for your time today, and I will
11 stand for any questions. If not, I will gladly
12 take my leave.

13 CHAIRMAN DEVLIN: Any questions for
14 Commissioner Davis?

15 Seeing none, thank you.

16 COMMISSIONER DAVIS: Thank you.

17 CHAIRMAN DEVLIN: Thank you for helping
18 to facilitate this. We appreciate it.

19 Was there anybody else from one of the
20 tribes to speak today?

21 Senator Oban has something she would
22 like to show the Committee at this time. I think
23 it's related.

24 SENATOR OBAN: It is, Mr. Chairman.

25 So the former math teacher in me can't



1 help but sit here and figure out how can we
2 remove -- because I think all of us sitting here
3 get a little bit tied up in the is this about
4 Republican versus Democrat? Is this about you
5 can't win, and you're throwing a fit, whatever?

6 So all I did was pull together the
7 election results from 2018 in District 31 as an
8 example of what subdivided districts might do.
9 So along the top -- and I took away the names of
10 the candidates, so we aren't distracted by that.
11 The person running for position A won District 31
12 --

13 I don't know if you can make that
14 bigger, Emily, for everybody

15 -- with 59 percent of the vote. In the
16 second, a different position race, they won 65
17 percent of the vote. In the next position, they
18 won 65 percent of the vote. This is all in
19 District 31.

20 You can see current District 31 is made
21 up of parts of Morton, and then Hettinger, Grant,
22 and Sioux.

23 So let's, for example, since we were all
24 distracted by Chairman Faith's suggestion of just
25 doing Sioux and Grant together. Let's add



1 Hettinger in there as well because we get closer
2 to half then.

3 Now given this is not total population.
4 This is the number of people who voted because
5 that's what I had easy access to. You can see if
6 Sioux, Grant, and Hettinger were a subdivided
7 district, position A election winner would have
8 actually gotten 49 percent of the vote in that
9 sub-district. But the other two elections
10 winners would have still won.

11 If you can't see how Sioux County's vote
12 is diluted by having this all be at-large, then
13 I'm not confident you understand numbers
14 generally. That is what the concept is. If you
15 take away partisanship, if you take away, you
16 know, the fact that our friends are serving, and
17 they might feel like the folks on Standing Rock
18 are being critical of our current friends, if you
19 take away all of that, you can still see that in
20 two of the three races, the person who won the
21 entire district, still won that sub-district. It
22 did change the outcome in one.

23 So that was just what I wanted to show
24 in numbers, and this was, you know, three races
25 in one year in one district. So just for



1 purposes of trying to get a better understanding
2 of how that changes things. It doesn't always
3 change the results, but it certainly dilutes the
4 vote of Sioux County.

5 That's it, Mr. Chairman.

6 CHAIRMAN DEVLIN: Thank you.

7 Were there any questions?

8 REPRESENTATIVE MONSON: Yes,
9 Mr. Chairman. Representative Monson.

10 CHAIRMAN DEVLIN: Representative Monson.

11 REPRESENTATIVE MONSON: Thank you,
12 Mr. Chairman.

13 And thank you for that very, very
14 interesting statistics.

15 Sioux, Grant and Hettinger still don't
16 come up to 40 percent when we start looking at
17 our expanded population overall in the state, you
18 know. So if you were to take even a sliver of
19 Morton County, probably all of the representation
20 would be the same, and we have to work within the
21 boundaries of our census. And the fact that
22 we've got to add an extra 3000 people per
23 district, that's going to skew that some. Are
24 you aware of that?

25 SENATOR OBAN: Representative Monson, I



1 made clear that this was not even based on
2 population. This is what numbers is had easy
3 access too, and it isn't even based on the most
4 recent census. It was just trying to show that
5 at least it gives them the opportunity to elect
6 the candidate of their choice. It doesn't mean
7 that candidate always wins. In fact, in two of
8 the three races, they still got 56 and 57 percent
9 of the vote.

10 REPRESENTATIVE NATHE: I'm thankful that
11 you brought this up. I'm actually surprised that
12 it was that -- at these numbers, but thank you
13 for that. It's very interesting.

14 SENATOR OBAN: Yep.

15 CHAIRMAN DEVLIN: Was there a question
16 for Senator Oban? I didn't see any other ones.

17 Committee, I think -- I greatly
18 appreciate the representatives from all the
19 tribes being here. We thank you. And,
20 Commissioner Davis, again, I thank you for
21 helping to facilitate this. I hope that members
22 of the tribes give the legislative committee
23 involving leadership, Tribal Relations Committee
24 hasn't been to a certain nation yet or
25 reservation. I hope that there's good



1 representation there. I looked at the numbers of
2 the people that were at the one at Spirit Lake.
3 I mean, it wasn't a big turnout, but certainly
4 the opportunity was there. So I hope you'll --

5 Committee, we're going to break for an
6 hour for noon. It's a little early, but that
7 would be easier, I think, than trying to start
8 something else at 20 too. So see you back
9 roughly at 20 to 1:00, quarter to 1:00, quarter
10 to 1:00 exactly.

11 (Recess taken)

12 CHAIRMAN DEVLIN: We'll call the
13 Committee back to order. I believe we're going
14 to take some time now and look at some different
15 concepts.

16 Representative Lefor are you ready with
17 yours first?

18 REPRESENTATIVE LEFOR: I am.

19 CHAIRMAN DEVLIN: Okay. Representative
20 Lefor is presenting a concept developed there in
21 Districts 39, 37, 36, and a new district, I
22 believe.

23 (Pause)

24 REPRESENTATIVE LEFOR: Good afternoon,
25 Chair Devlin, members of the Redistricting



1 Committee. For the record, my name is Mike
2 Lefor, and I serve in the House from District 37.

3 As we all know, redistricting is an
4 interesting experience, to say the least. I
5 think that, led by this Chairman, that this
6 Committee has been working very hard to be
7 transparent, open, and fair throughout this
8 process. And we have unique challenges in
9 different parts of the state.

10 As I have stated twice publicly, as have
11 other members of the Committee, we have a short
12 window of opportunity to discuss this subject due
13 to getting the census numbers later than normal,
14 which increases the challenges associated with
15 serving on this Committee.

16 We truly seek public input in this
17 process and, again, would urge you to contact
18 members of this Committee if you have to voice
19 any ideas or concerns. In directing this
20 conversation to southwest North Dakota, I wanted
21 to start with what our Committee vice chair
22 stated at a previous meeting, "This is not rocket
23 science. This is simply arithmetic." And that's
24 exactly what we've done here.

25 With that, I will give the Committee the



1 arithmetic. In existing boundaries of this area
2 is a population of nearly -- just over 61,000
3 people, which at the target rate of 16,576 people
4 per district would give us three full districts
5 for a total of 49,728, which would leave 12,000
6 individuals without a district.

7 So in order to form a fourth district,
8 you simply lower the populations of some
9 districts and add individuals to the new
10 district. I will start with District 39. And if
11 you take a look at the handout, you will note
12 that what was done there was to take the portions
13 of McKenzie and Dunn Counties, which are not,
14 excuse me, on the reservation and took a little
15 portion of Mercer County to the west.

16 And again, that was arithmetic. So if
17 you look at what's been done here, the population
18 would be 15,829.

19 REPRESENTATIVE MONSON: Mr. Chairman,
20 can I get you to have Emily turn on the sound for
21 teams members?

22 CHAIRMAN DEVLIN: Sorry. We will get
23 that right on.

24 Okay. We're with you now.

25 REPRESENTATIVE LEFOR: Start over?



1 Okay. No. Okay. So with even adding that
2 portion of Mercer County puts us at -4.51 percent
3 in population. Moving on to District 37,
4 Dickinson has 25,700 some people. And so
5 District 37 is contained within the city limits
6 of the city of Dickinson, although in a more
7 compressed way. And I am shedding some
8 population in north Dickinson.

9 I believe, if my memory serves me, it's
10 21stStreet, and then you'll see a little jog up
11 on Highway 22 and over. And the reason for that,
12 again, is population. So when you look at the
13 boundaries -- I'm looking at 18th Avenue East --
14 and then in some areas it does come out because
15 that's where the city comes out.

16 And if you look at some of those census
17 blocks, that open area in the -- is a census
18 block that would extend with too much population
19 for what I'm trying to accomplish with other
20 districts.

21 Next, in District 36, due to the tight
22 -- the tight boundary restrictions, because --
23 what I -- we had to do is twofold. Again, add
24 4000 people to a new district for a new districts
25 and compress the 36, 37, and 39 populations.



1 With District 36, you will see that
2 Counsel has it at a -0.95 percent. Mine
3 indicated -3.25. So I'm going to -- and so we --
4 this was -- the information I have is from last
5 week. Obviously, very preliminary, there's some
6 other work that -- that I think we need to take a
7 look at.

8 Counsel did update this to make sure all
9 the boundaries are correct and so forth, but
10 again, before I would submit this as an, you
11 know, official proposal, there's some more work
12 that needs to be done in my mind in District 36,
13 in District Y, to take a look at other potential
14 options.

15 But basically, District 36 -- and
16 understanding the need for population in District
17 Y, and really with not any many directions to go
18 other than east, I moved District 36 -- or we did
19 in this rendering to and including the city of
20 New Salem. And even with that, you still have
21 under the ideal size district.

22 And so then with District Y, which is
23 what I call this proposed new district, we have
24 five -- excuse me, yes, five counties: Bowman,
25 Adams, Slope, Golden Valley, Billings, that have



1 a total population of 8500. So we had to find
2 7000 more people, and you'll find that in
3 utilizing parts of Dunn that were not utilized
4 for District 39, a big chunk of western Stark
5 County and also a portion of Hettinger County to
6 get to the population that was needed.

7 So obviously, in this sector, you don't
8 have many options as you obviously can't go west,
9 you cannot go south, and there are -- you know,
10 you're budding up against other districts as
11 well. So I see -- there's been a tremendous
12 amount of time that's been spent on this.

13 I wanted to give a special shout out to
14 Samantha Cramer, Clair Ness, Emily Thompson, and
15 Carl Kuzman [phonetic]. Without their expertise,
16 this process would have been made much more
17 difficult.

18 And so, again, when we looked at this,
19 we had to compress some population in order --
20 and move to the -- mark further east than we were
21 before because of the limitations that we were
22 faced with, and for me this is still a
23 preliminary look at this part of the state.
24 There's still some things that I want to take a
25 further look at in District Y and District 36.



1 So it's a plan in progress, and I would
2 reiterate that if there is anyone, again, that
3 would like to talk about this part of the state
4 or anything else, to please give me a call. And
5 I'd be happy to discuss why those districts were
6 laid out in the fashion that they were. And if
7 there are other ideas out there, I certainly want
8 to hear those.

9 So that is -- and Representative Nathe
10 will be talking about Districts 31 and 33. And
11 with that, I would stand for any questions you
12 would have.

13 VICE CHAIR HOLMBERG: Mr. Chairman.

14 CHAIRMAN DEVLIN: Senator Holmberg.

15 VICE CHAIR HOLMBERG: Is Mandan going to
16 be someone else's purview because I didn't notice
17 a Mandan map here.

18 REPRESENTATIVE LEFOR: Representative
19 Nathe.

20 VICE CHAIR HOLMBERG: Oh, okay.

21 REPRESENTATIVE LEFOR: Or Senator
22 Poolman.

23 VICE CHAIR HOLMBERG: Okay.

24 REPRESENTATIVE LEFOR: And Senator Oban.

25 VICE CHAIR HOLMBERG: And then the --



1 one of the questions always comes up is that
2 fishhook on the north side in 31, that -- I can't
3 see it, but I'm assuming that's still there.

4 REPRESENTATIVE LEFOR: Are you -- you're
5 referring to District 31?

6 VICE CHAIR HOLMBERG: 31, yeah.

7 REPRESENTATIVE LEFOR: Okay. That --
8 Representative Nathe will be discussing.

9 VICE CHAIR HOLMBERG: Okay.

10 CHAIRMAN DEVLIN: Senator Bekkedahl.

11 SENATOR BEKKEDAHL: Good day,
12 Mr. Chairman.

13 And thanks for all the work here,
14 Representative Lefor. I can see it's been a lot
15 of work because I've looked at this as well.

16 The only concern I have with the map, I
17 think things out west really fit together pretty
18 well. But my concern is in District 33. You've
19 kept the reservation intact. If we are going to
20 keep District 4 similar to its current existing
21 boundaries, taking that section of Dunn County
22 that's south of the reservation, I think that's
23 fine. But it's about 1100 people that you're
24 moving from District 4 into that District with
25 39, I guess you tally it now.



1 REPRESENTATIVE LEFOR: You -- oh, you're
2 referring to 39?

3 SENATOR BEKKEDAHL: Yeah. Yeah.

4 REPRESENTATIVE LEFOR: Okay.

5 SENATOR BEKKEDAHL: So this is -- the
6 whole of 39 and 33 are impacting District 4.

7 REPRESENTATIVE LEFOR: Okay.

8 SENATOR BEKKEDAHL: Okay. And so --
9 just so you know, District 4 at its current
10 boundaries, the reservation is about 8300
11 population. The full District 4 is a little --
12 about 16,700. So it's essentially a perfect
13 district the way that it is right now.

14 REPRESENTATIVE LEFOR: Okay. Maybe we
15 can meet on this Senator.

16 SENATOR BEKKEDAHL: So, yeah -- so
17 you're carving into it.

18 And my point is if we -- if we were to
19 sub-district the reservation, the area of Dunn
20 County south to the reservation that you take
21 into District 39 makes perfect sense because it
22 would no longer be contiguous with the other sub-
23 districts. You couldn't get around the
24 reservation and have that contiguous sub --

25 REPRESENTATIVE LEFOR: I understand



1 that. Yes.

2 SENATOR BEKKEDAHL: That makes sense,
3 but then there has to be some changes moving
4 eastward or northward for District 4 to get back
5 those numbers, and you've taken some out here.
6 So if we can meet individually, that's fine.

7 REPRESENTATIVE LEFOR: I'd be happy to.

8 SENATOR BEKKEDAHL: I just want to bring
9 it up as everything looks good here, except I
10 think you're making some impacts on District 4,
11 which is already a perfect district that we have
12 to discuss as a Committee.

13 REPRESENTATIVE LEFOR: Sounds good.
14 Thank you.

15 CHAIRMAN DEVLIN: Representative
16 Schauer.

17 REPRESENTATIVE SCHAUER: Thank you,
18 Mr. Chairman.

19 Representative Lefor, what was the
20 biggest issue that you had with District 36?

21 REPRESENTATIVE LEFOR: I would say that
22 moving some people that were currently in
23 District 36 to District Y. And when I looked at
24 the math, looked at the geography, if you were to
25 take more and leave District 36 in the fashion



1 that it is currently, I don't know how you make
2 the math work.

3 I've looked at it a few different times.
4 I intend to continue to look at that, but I would
5 say that some of the people from that area would
6 like to remain in that district. And that's why
7 I'm saying if there's other ideas or thoughts out
8 there or potential mockups they would like us to
9 look at, I would love to do that.

10 CHAIRMAN DEVLIN: Senator Oban.

11 SENATOR OBAN: Mr. Chairman and
12 Representative Lefor, was there any consideration
13 -- and I realize once you do something, it
14 changes everything else. But Stark County itself
15 divides perfectly almost into two districts.

16 REPRESENTATIVE LEFOR: It does.

17 SENATOR OBAN: And then, in one of your
18 districts you're encompassing parts of three
19 counties. And so that's where I'm always like --
20 I am -- as I'm doing this, I'm wondering what my
21 fellow colleagues on this Committee are doing.
22 And it seems to go back and forth depending on
23 where you are.

24 If you are prioritizing current
25 legislative lines, if you are prioritizing



1 current county lines. And I'm finding it
2 difficult for how we're going to eventually come
3 together. So I'm asking if there was any
4 consideration given to making Stark just two
5 districts.

6 REPRESENTATIVE LEFOR: That was my
7 initial inclination. However, if you do that,
8 then you are making what would be District Y go
9 further south and which would be budding up
10 against District 31. And so we looked at that,
11 and that would have been very nice, very easy.

12 But to me, the math doesn't add up.
13 Because even -- you know, if you look at District
14 37 on the latest rendering is a -- is 4.84
15 percent under. I've got District 39 4.5 percent
16 under. District 36, Counsel has it 0.95. I had
17 it at -3.25, so I'm going to have to research
18 what the differences there. In District Y, -2.
19 So I mean, could it be done? We had difficulty
20 making that happen.

21 CHAIRMAN DEVLIN: Further questions?

22 REPRESENTATIVE MONSON: Mr. Chairman,
23 Representative Monson.

24 CHAIRMAN DEVLIN: Representative Monson.

25 REPRESENTATIVE MONSON: Thank you,



1 Mr. Chairman.

2 So, Representative Lefor, I'm seeing
3 that you added a District Y, correct?

4 REPRESENTATIVE LEFOR: That's correct.

5 REPRESENTATIVE MONSON: And if I recall
6 from our last meeting, to the north of what
7 you've been working on in Williams and Divide and
8 those counties, they also would be adding a new
9 district, correct?

10 REPRESENTATIVE LEFOR: That's correct.

11 REPRESENTATIVE MONSON: And if I recall,
12 Cass County, are they adding a new district as
13 well?

14 UNIDENTIFIED MEMBER: Yeah.

15 REPRESENTATIVE LEFOR: I'm seeing
16 nodding head that -- that it's yes.

17 REPRESENTATIVE MONSON: So there's 3 new
18 districts, and the math tells us that we have --
19 if we're going to do 47 districts, that means a
20 couple of other ones are going to go away. and
21 I've -- I'm just wondering what's happening in
22 the middle. And this isn't a question for you
23 necessarily, but we have to look at the big
24 picture as Senator Oban just stated.

25 And I'm wondering what happens when we



1 fill in the middle part, and we need to have 47
2 districts in the end. We've added 3. That means
3 we got to take away 3, and this is just something
4 for us all to think about before we get all the
5 edges done and we get to the middle and we got
6 not enough people or not enough districts,
7 whatever.

8 REPRESENTATIVE LEFOR: Representative
9 Monson, I would agree with that statement. Each
10 one of us has basically taken a portion of the
11 state, and I had a conversation with other
12 legislators that are bordering what I'm doing and
13 working to make those mesh.

14 You heard that Senator Bekkedahl and I
15 will be meeting on District 39/District 4, and we
16 do need to have those discussions. However, it
17 does come down to population. The simple fact of
18 the matter is the existing boundaries of the --
19 the boundaries of existing district areas is
20 61,000 people.

21 So that's why I did what I did, because
22 you would -- you'd still have 12,000 people too
23 many after you have three full districts. So at
24 the end of the day, you're going to have to have
25 a partial new district even if you move things



1 further east. And so I thought by adding that
2 district, you're making the challenge less than
3 if you didn't add a fourth district -- I mean a
4 new district. And that's what the number showed
5 to me.

6 CHAIRMAN DEVLIN: Senator Holmberg?

7 VICE CHAIR HOLMBERG: Representative
8 Monson, I think that as other plans and other
9 concepts come forth, you will see that there are
10 other areas that are under populated where a
11 legislative district may disappear, including in
12 our area, just not to make you scared or
13 anything.

14 But -- so some of it's going to fit
15 together, and then it'd be interesting to see
16 what some of these other plans have. But there
17 clearly is a lack of population for the number of
18 districts in the north east. And, at least, in
19 one of the proposals that will come forth, you
20 will see where a district does, shall we say,
21 ascend away from the map.

22 CHAIRMAN DEVLIN: Any -- anyone else for
23 Representative Lefor?

24 Representative Nathe, are you next or
25 Senator Poolman? Okay. I'm guessing



1 Representative Nathe is.

2 (Pause)

3 REPRESENTATIVE NATHE: Are we ready,
4 Mr. Chairman?

5 CHAIRMAN DEVLIN: I am ready. Thank
6 you.

7 REPRESENTATIVE NATHE: All right. Thank
8 you, Mr. Chairman, members of Committee. For the
9 record, Representative Mike Nathe, District 30,
10 Bismarck.

11 I'm going to speak today about the five
12 districts in Bismarck. I'll speak to District 8.
13 And then I will show you District 33, how we worked
14 and how that meshes in and into Representative
15 Lefor's plan.

16 We also covered Mandan, which is 31 and 34,
17 and how that works again and what that Representative
18 Lefor just talked about. So on behalf of myself and
19 Nicole and Aaron, I want to say thanks to Sam,
20 Claire, and Emily for all the help they've been doing
21 with this. The two Senators and I have been talking,
22 and we've been working on this a bit.

23 And again, Mr. Chairman and members of the
24 Committee, this is just a general overview of the
25 plan right now. Some of this has changed a little



1 bit since this has been imprinted, but just a little
2 bit on the edges, nothing majorly. But when we have
3 a final plan, we'll see it.

4 So with that, Mr. Chairman, if it's okay
5 with you, let's go into Bismarck. Our biggest
6 challenge in Bismarck, quite frankly, was District 7.
7 It had experienced a huge amount of growth, one of
8 the biggest districts in the state at the end of the
9 census, almost 6000 people over the limit.

10 The other challenge we had in Bismarck were
11 two districts in the inner-city Bismarck, District 32
12 and District 35, who were deep in the hole with
13 numbers. So we had a dichotomy there, too high and
14 too low, and we had to try to balance that. And
15 that's what we've been trying to work on, and I think
16 you'll see where we're at.

17 So the first thing we did with -- well,
18 let's just go after the elephant in the room here,
19 District 7. So we had to push District 7 numbers out
20 and get them into districts that needed it. So what
21 we did was we pushed part of District 7, gave that to
22 District 8. And as you see, brings it down into
23 Lincoln. Lincoln was part of District 28.

24 Lincoln is roughly about 4500 people,
25 somewhere in that area. So you could see that number



1 right there helped us get pretty close to getting out
2 of the hole. So we wrapped -- we took 7's numbers
3 down there and put that into 8. The reason why I put
4 it into 8 is we already have a representative there
5 already in District 8, a couple of miles away from
6 Lincoln.

7 People around Lincoln identify with
8 Bismarck, identify with Bismarck politics. We have a
9 Bismarck public school in Lincoln. 10 years ago,
10 when some of these areas were pushed into a rural
11 district, we heard a lot of complaining about that,
12 so I was trying to be sensitive to the residents in
13 that general area.

14 So you'll see, we put it in there and went
15 down along 52nd on the west side, and then South
16 Lincoln, and then Lincoln road going to the east.
17 And we'll have Emily show that map, and you can kind
18 of see how far east that goes right there. So I'll
19 talk about District 8 in more detail a little bit
20 later.

21 But that's what we did with 7 first. 7 was
22 still a little bit over the number, so what we also
23 did is give District 47 some numbers because they
24 were low after what we had did previously. So we
25 gave them to Misty Waters area, which is on the west



1 side along the river. And you'll see that over
2 there. I think Emily can show you that. So that got
3 District 4 to -14.6 -- 0.16, excuse me.

4 The reason why 47 was so low is they had a
5 piece in 35 which was -- it wasn't in 35, but it was
6 just south in 94. It was -- it is currently in 47.
7 We put that block in District 35. And that got
8 District 5 roughly from -4 to +4.5, but yet shorted
9 47. So that was the reason why we gave Misty Waters
10 back to 47 to get them within the range 32.

11 UNIDENTIFIED MEMBER: Where is Misty
12 Waters?

13 REPRESENTATIVE NATHE: Misty Waters is --
14 You want to show them that, Emily, with the
15 pointer? Yeah.

16 District 32 was another one in the inner
17 core of Bismarck that was suffering -- did not grow.
18 Because let's face it, it's inner-city, and there's
19 not a whole lot of development going on. They needed
20 numbers badly.

21 So District 30, where I reside, we were on
22 the high plus number, so we gave them a piece of
23 District 30, which runs along 26th. Quite frankly,
24 goes from 9th Street north, over towards, 26 past --
25 if you're familiar with Bismarck, Richholt and Saxvik



1 and kind of goes through those streets to help get 32
2 within the range.

3 After doing that, District 30 was a bit
4 low, so what we did is we brought -- in the lower
5 part of District 30, you'll see there. We grabbed
6 everything south of Lincoln Road there, which is
7 known as Copper Ridge and went all the way down to
8 the river. And by doing that, it's a nice clean
9 line, got us some numbers, and we're able to get
10 Bismarck able to get District 30 up to a +1.97.

11 So like I said, there are some things on
12 here that we're still working on, just some of the
13 edges, Mr. Chairman. And we'll talk about that when
14 we get there. But that's where we're at when we made
15 this.

16 If Emily will go to District 8 again so I
17 can finish that off and work our way up.

18 Maybe zoom up there, Emily. Yeah. Yeah.
19 Perfect. And can you show 33, Emily, alongside too?
20 So they can see that.

21 So as she's doing that, Mr. Chairman, with
22 District 8, we brought it up. I did not touch any of
23 the eastern lines that are currently District 8 right
24 now. So that is -- we left that alone.

25 Going up past Winger up on 418th Street



1 over the 461st Avenue going west and then north on
2 4th Avenue north west. So we brought it up there.
3 And again, because of the numbers from District 7
4 that we brought in, 8 was way over and that was done
5 on purpose. So what we did is take the top half of 8
6 off.

7 And you can see up there, District 6, there
8 was -- 8 got townships, not a whole lot of
9 population, but we put those into 6. And then what
10 we did is currently take Garrison, Underwood, and
11 Coal Harbor which resides in 8 right now, and we put
12 those communities in that area into District 33. And
13 by doing so, we got -- we were able to get District
14 8's numbers down to the 3.33.

15 And again, that's changed a little bit
16 since we tweaked it. But you'll see 33. And we were
17 able to get that number up. Because of the new
18 district in the west side, 33 was then, all of a
19 sudden, low in numbers. So we were able to transfer
20 some of the population from the north west part of 8
21 into 33. And then we were also able to get some
22 numbers into Mandan.

23 So Emily, if you're going to Mandan, and we
24 can address Senator Holmberg's --

25 CHAIRMAN DEVLIN: Representative Boschee



1 has a question.

2 REPRESENTATIVE NATHE: Sure.

3 REPRESENTATIVE BOSCHEE: Thank you,
4 Mr. Chairman.

5 Representative Nathe, as you talk about
6 adding those communities at the other side of the
7 river to District 33, can you also talk at least
8 specific for people outside to hear -- I mean, what
9 kind of connectivity happens because of the river.

10 REPRESENTATIVE NATHE: Yeah. I know
11 exactly.

12 Emily, if you want to go up there.

13 Emily and I talked about that yesterday.
14 So what we did is we worked on taking some more sub-
15 districts up there and worked our way over to Highway
16 83. Because as you know, we have to be contiguous,
17 and we have to have access to do that.

18 So yes, we're on the south side of the lake
19 and then we worked it over till we got to 83 so they
20 will have access to Garrison up in those communities
21 up there. And I think Emily is going to show that.

22 In that general area right there, correct?

23 REPRESENTATIVE BOSCHEE: Yeah.

24 REPRESENTATIVE NATHE: Okay. Any questions
25 on that area?



1 CHAIRMAN DEVLIN: Senator Bekkedahl.

2 SENATOR BEKKEDAHL: Thank you,
3 Mr. Chairman.

4 So, Representative Nathe, does Mercer
5 County and Oliver County both stay intact then in
6 this line? Because I don't see the full lines.

7 REPRESENTATIVE NATHE: Mercer County does
8 not. No. Because some of Mercer, I believe, is
9 going into the -- I don't know, what was the other --
10 what was that other -- 39.

11 SENATOR BEKKEDAHL: But does Oliver County
12 stay intact then? Those lines are --

13 REPRESENTATIVE NATHE: I do not believe
14 so, because some of that is going into the new
15 district, I believe. Is that true? Oliver.

16 SENATOR BEKKEDAHL: Oliver?

17 MS. THOMPSON: Yes. Oliver does stay
18 intact.

19 (Cross talk)

20 If I turn the district layer off now, you
21 can see just the blue lines and Oliver County. If I
22 turn those districts back on, you can see that all of
23 Oliver is, in fact, yellow.

24 REPRESENTATIVE NATHE: So, Emily, if you
25 want to get down to Mandan there.



1 So you can see, Mr. Chairman, again what we
2 tried to do is push the numbers up to -- from 7 out
3 to 8, load up 8, and then transfer those numbers from
4 8 over to 33. So we're able to move those numbers,
5 kind of bleed those numbers over to get these
6 districts to where we need to be.

7 As we come down in 33, and Senator Holmberg
8 had alluded to it, it kind of fingers into North
9 Mandan. Currently, 33 has --

10 If you want to get closer to 94 there,
11 Emily.

12 33 has quite a bit north of 94. It shares
13 it with 31. Again, after what we did up north, it
14 was still low in numbers, so we took some of 31,
15 that's northern 94 and gave that to District 33 to
16 make sure we got those numbers to where they are
17 right now. That make sense?

18 So, Senator Holmberg, do you question about
19 33 coming into Mandan? We looked at different ways
20 to maybe try to get that to a 33. But it just blew
21 those numbers out of the water. And I agree. It
22 kind of -- it comes around there. It's apparently
23 been around there for a long time. And we tried to
24 work at a couple different ways. It just didn't work
25 out because there are so many people down in that



1 area. So we just -- I just thought for the time
2 being, leave it there, and let's see how it works.

3 And then getting into District 31.

4 District 31, again there is -- they have a number of
5 -- parts of their district north of 94. And as I
6 said we gave certain parts of that to 33. They still
7 have spots northern 94 that are in their district.

8 And then as you go down across the highway,
9 again 34 was in the hole. We had to get some more
10 population. So we went into the City of Mandan.

11 And if you go deeper into there, Emily.

12 We took some population from District 34.
13 And we took it from the north -- northwest side,
14 right where you see -- right where you see the number
15 34 on the screen, we took it from there in that
16 general area, and then we also went down a little bit
17 and took some more in the west side of there and gave
18 that to 31.

19 34 was above the number. 34 had a
20 population to give. So we gave that northwest part
21 of the 34's district and the far west of 34's
22 district to 31 to get them in better shape. As we go
23 west --

24 SENATOR BEKKEDAHL: Question, Mr. Chairman.

25 CHAIRMAN DEVLIN: I'm sorry. Senator



1 Bekkedahl.

2 SENATOR BEKKEDAHL: Thank you so much.

3 So, Representative Nathe, the little finger
4 going down on the south end of 34, the 4th Lincoln
5 Road that just butts up against river, there can't be
6 much population there, is there?

7 REPRESENTATIVE NATHE: Emily, can you zip
8 there?

9 SENATOR BEKKEDAHL: Is that a voting
10 district or a census block? Is that why it's that
11 way? Because --

12 REPRESENTATIVE NATHE: Senator Bekkedahl,
13 I have to get on my computer and take a look on that.
14 I can answer that question --

15 SENATOR BEKKEDAHL: I just wondered if
16 there was a logical point north of there to just give
17 that to 31 and not have that figure extension, but
18 just because it looks strange on the map to me.

19 REPRESENTATIVE NATHE: Okay. Is there
20 anything there, Emily? I mean, is that just -- is
21 this just a matter of a shape we're looking at?

22 MS. THOMPSON: I can check the population
23 really quick.

24 REPRESENTATIVE NATHE: Okay.

25 MS. THOMPSON: The population of the red



1 highlighted district you see is only 37 people. But
2 there are some very odd-shaped census blocks in this
3 area. You can see if I click that, turn it back
4 white. That's one census block odd shaped.

5 SENATOR BEKKEDAHL: I guess if I could
6 continue, Mr. Chairman, what I was looking at was: is
7 there a logical point where it could be cut off north
8 where you're had it there that -- so that you don't
9 have that finger going south? My point is, could we
10 take 31 all the way to the river there and not just
11 have that little extension coming down blocking the
12 river? Is that what I'm seeing?

13 MS. THOMPSON: This is as good as our
14 census blocks get for these three individual census
15 blocks. You can see that. Okay. That would be
16 possible. This one?

17 SENATOR BEKKEDAHL: No.

18 MS. THOMPSON: Unfortunately, it's -- no,
19 not contiguous.

20 UNIDENTIFIED MEMBER: (Indiscernible)

21 MS. THOMPSON: It will get very small once
22 you hit a larger population area.

23 REPRESENTATIVE NATHE: And then, I think
24 you strand part of 34, don't you?

25 MS. THOMPSON: Uh-huh (affirmative).



1 That's 34. Yes.

2 SENATOR BEKKEDAHL: Okay. Yeah. You can
3 see that where it goes on the right-hand side that --
4 up there. that doesn't go away then at any point.
5 right?

6 MS. THOMPSON: You can take that out.

7 SENATOR BEKKEDAHL: Okay. That's -- but
8 again. If there's not a logical road or something
9 there to block it off. I understand what you're
10 doing there. I just -- to me, it just made sense to
11 go all the way to the river into 31 and not have that
12 little extension.

13 MS. THOMPSON: Not a very pretty break
14 point with the census blocks in this particular area.

15 REPRESENTATIVE NATHE: And, Senator
16 Bekkedahl, we'll take a look at that. Okay.

17 So going down that line, so we did not
18 change anything along the river. Anything that goes
19 down to Standing Rock down to the South Dakota border
20 going west on the border, that is all left untouched.
21 You'll see --

22 Emily, go up by 94 there.

23 In the blue area there, that was all -- see
24 here. So that's all 31 still.

25 So we went over to the west on that. Those



1 borders are pretty much the same as you go along.
2 Really, the big difference as we go out west was the
3 far western part of 31. When you get out to
4 Hettinger County, just west of Mot, we added, I
5 believe, three new townships to square that off.
6 There were some -- wasn't a whole lot of numbers out
7 there just to do that.

8 The northern part of that boundary, I
9 believe -- Representative Lefor, did we give any of
10 that to the new district and 31 there, the stair
11 steps there?

12 REPRESENTATIVE LEFOR: We gave a portion of
13 31 to 39.

14 REPRESENTATIVE NATHE: Yeah. So you kind
15 of see the two stair steps there. We gave some of
16 that to 39 to help them out with their number there.

17 And again, Mr. Chairman, we've tweaked some
18 of this since then. So we'll -- the numbers will --
19 should be a little bit better than what you see right
20 now in front of you. With that, Mr. Chairman, that
21 concludes --

22 CHAIRMAN DEVLIN: Representative Schauer?
23 I'm sorry.

24 MR. SCHAUER: Thank you, Mr. Chairman.
25 Representative Nathe, in light of this



1 morning's discussion, if we can take a look at
2 District 31 and the Sioux nation. Are you
3 comfortable with those numbers? And are you
4 comfortable that that voting block has not been
5 disrupted for any purposes, including race?

6 REPRESENTATIVE NATHE: Mr. Chairman,
7 Representative Schauer. I am. I'm very comfortable
8 with it. This is what we basically drew 10 years
9 ago. It worked very well 10 years ago. 31 was
10 represented by two representatives on the other side
11 of the aisle. We left it alone 10 years ago.

12 And really, other than tweaking some of the
13 lines out west or into the north a little bit, we've
14 left pretty much everything else the same in that
15 southeast corner of the -- down by -- down by
16 Cannonball in that area, we have not touched any of
17 that at all.

18 CHAIRMAN DEVLIN: I believe Representative
19 Monson had a question.

20 REPRESENTATIVE MONSON: Mr. Chairman, along
21 the same lines as Representative Schauer asked and in
22 light the discussion this morning, you know, I
23 brought up this morning that part of the problem that
24 we're facing is that the state's population has
25 grown, and we have to add 3000 plus people to every



1 district. And that further exacerbates the problem
2 in 31 if they wanted to have a sub-district. Because
3 you've added more of the city of Mandan out of
4 necessity to get the numbers to match up; is that
5 correct?

6 REPRESENTATIVE NATHE: Mr. Chairman,
7 Representative Monson, we have. We had -- the one in
8 the northwest part, I do not believe, is in the city
9 limits. If it is, it's partial. And the one on the
10 west side that we did is in the city limits. But,
11 yes. We have done that.

12 And as you can see when you look at the
13 map, when you go west in 31, it's really hard to get
14 numbers. You got one here, five there, seven there.
15 You could cover a lot of ground and not gain a whole
16 lot of population. So yes. And it's the same method
17 that we use with Bismarck, with District 8 and other
18 -- and we've done around the state. Some of these
19 counties -- districts, excuse me, have to come into
20 the big city to get those numbers, to get them up to
21 where we need them to be.

22 CHAIRMAN DEVLIN: Anything else for
23 Representative Nathe? Thank you.

24 Senator Poolman, were you going to present
25 or not today?



1 SENATOR POOLMAN: I think after we see the
2 eastern half of the state, that's when I should go.

3 CHAIRMAN DEVLIN: Senator Holmberg is going
4 to present a little more in the city of Grand Forks;
5 is that correct?

6 VICE CHAIR HOLMBERG: I guess. I mean, I
7 guess.

8 CHAIRMAN DEVLIN: Would you prefer that you
9 wait?

10 VICE CHAIR HOLMBERG: No, no. That's fine.
11 I mean, we've got to skin the skunk. Someone has to.

12 Is there enough copies? These are all the
13 same. right? Okay. This one seems thicker. This
14 one seems thicker than this one. I've got two of
15 them. Okay. That would mean it was thicker. This
16 is the old -- this would be the one that was
17 presented last week that the Yana was having
18 conniption over. Thank you.

19 VICE CHAIR HOLMBERG: Change plans. I took
20 over.

21 CHAIRMAN DEVLIN: There's been a coup of
22 some type here. And I will present some of the
23 concepts we laid out for the eastern part of the
24 state. and then send -- then I think the Grand Forks
25 thing will be clearer to what was done. So --



1 VICE CHAIR HOLMBERG: Right. We'll see.

2 Okay.

3 (Pause)

4 CHAIRMAN DEVLIN: Another coup.

5 Apparently, the Vice Chairman has now been abducted.

6 So we're -- no. But thank you for offering.

7 VICE CHAIR HOLMBERG: Sorry about that. I
8 had to tell them that, yes, I had gotten the bulb for
9 the outside light.

10 Okay. Representative Devlin has something
11 called Eastern Proposal 2.

12 CHAIRMAN DEVLIN: Right. Thank you,
13 Mr. Chairman. And the smaller breakdown of each of
14 these is in the packet. But essentially what we
15 worked on was trying to get something that would work
16 all the way from the Minnesota, South Dakota,
17 Canadian border, all the way to essentially Bismarck
18 or through District 14.

19 So if you look at just the top on District
20 9, Rolette County, of course, doesn't have room for
21 -- or doesn't have enough population for their own
22 district any longer. So part of Towner and Cavalier
23 County were added to District 9.

24 District 10 now includes part of Cavalier
25 and part of Walsh.



1 District 20 would run from the Cass County
2 line up through the area of Grand Forks they had
3 before up to just south or north of Minto. So when
4 you do that with district 20, that eliminates
5 District 19.

6 Cass County did not change at all or did
7 not change. It's within their borders as little four
8 things that's marked Dallas down there, that should
9 be in Cass County. That was my mistake.

10 District 29 essentially would pick up
11 Nelson -- under this concept under -- would pick up
12 Nelson, Greg Steel, Foster, and part of Stutsman and
13 the area around Jamestown that rural townships,
14 because 12 needed more people, the rural townships
15 would kind of be split there between 29 and 12.

16 And that area, we just did it by the
17 number. Somebody else would maybe use different
18 townships that was immaterial to us. District 14 is
19 essentially what it is now except Eddy County was
20 added to meet the population. There's part of the
21 Spirit Lake Reservation in Eddy County that has been
22 added to the rest of the reservation, and all of that
23 is now in 15.

24 So 15 would now include the Spirit Lake
25 Reservation, part of Towner County, and all of 15.



1 And that essentially eliminated District 23.

2 There's part of Benson County but none of
3 the reservation is also 14, and that's the way it
4 exists today. Really, the only change in 14 was the
5 addition of Eddy County and taking out that little
6 bit of the reservation because we want it to all be
7 together.

8 Then when you get down to 24. 24, if you
9 take Barnes and Ransom County, they make a perfect
10 district, so that's what was done here. Richland
11 County, we discussed the other day. Richland County
12 is another one that makes perfect district. So that
13 was what was done here.

14 There's a little bit of the reservation
15 from South Dakota done, and right now it's in the
16 bottom of Sargent. It can go into either county
17 there, but we just happen to put in the bottom of
18 Sargent.

19 Then the other counties, Logan, LaMoure,
20 McIntosh, Dickey, and Sargent, without the
21 reservation or with the reservation, would make
22 up 28. And Emmons County would stand alone and
23 go up into, we believe, Burleigh County.

24 Now, let me see if I got the other one
25 here so you can see the difference. I had some



1 requests that maybe we wouldn't have to put all
2 of 23 into 29. So we have a proposal where we
3 took Steele County out of it.

4 Let me see here, I can do this easy. So
5 if you look -- you look at the main map -- it'd
6 probably be a little easier to do it.

7 What this map does is puts a part of
8 LaMoure County back into 29 where it is now. It
9 takes Steele County out of 29, moves it in with
10 Barnes and part of Ransom. And the part showing
11 here, the townships in Cass County should not be
12 there. The Cass County border is whole.

13 So, you know, obviously, the county
14 lines don't stay whole under this, but this does
15 give that part of LaMoure County that was back --
16 was in 29 originally back into 29. And Steele
17 County moves south into Barnes. It still Nelson
18 and Griggs, which are new additions to 29.

19 Emmons County is still standalone, and
20 it will go up, I think, I believe into Burleigh
21 County. The colors are the same with -- kind of
22 the same with Kidder County, but it is not part
23 of 14. It will be part of Burleigh County. So
24 that was where we left it.

25 Everything works, like I said, from



1 Minnesota through District 14, to Burleigh County
2 based on either one of these maps you want to
3 start from. Or I know that some people are
4 either going to start over, and I'm fine with
5 that. We were charged with laying out a concept,
6 and we have done that, that makes Eastern North
7 Dakota.

8 VICE CHAIR HOLMBERG: And I believe when
9 you count -- I tried to count fast -- it was like
10 25 counties that are whole.

11 CHAIRMAN DEVLIN: Yeah.

12 VICE CHAIR HOLMBERG: And last time
13 there was a total of, I think, of 30 counties
14 whole, and we do at least ostensibly genuflect
15 whenever we hear the word county lines being
16 whole, but we don't always genuflect.

17 Representative Boschee.

18 REPRESENTATIVE BOSCHEE: Thank you,
19 Mr. Chairman.

20 Chairman Devlin, I was confused at
21 first. My initial question was going to be why
22 are we doing all the way from the South Dakota
23 border near the Canadian border, but now as I
24 look, there is a differentiation between Emmons
25 County and Southern Burleigh. So are you just



1 leaving that up to some place that can be used
2 elsewhere where it needs to be used?

3 CHAIRMAN DEVLIN: Yeah. Because
4 essentially, if you look at this line, you're
5 essentially getting rid of three districts in the
6 eastern part of the state.

7 REPRESENTATIVE BOSCHEE: Yeah.

8 CHAIRMAN DEVLIN: You're essentially
9 getting rid of 19, because 20 takes all of that
10 area in 19 between there and 10 in the city of
11 Grand Forks. So 19 would be gone.

12 23 would be gone, because the
13 reservation and the other counties that are in 23
14 either went into 15, 19, or under this one, 24;
15 so that would be gone. And 26 would be gone,
16 just because that was part of Richland County
17 originally. So those would be the three.

18 And somebody asked that question
19 earlier, where you would find three districts,
20 and there's going to be three, I'm convinced, in
21 Eastern North Dakota. Because every county
22 around or every county or every district around
23 us needs 3000 people and, you know, as like --
24 much as I'd like to take them all from Grand
25 Forks and Fargo, that isn't just realistic.



1 VICE CHAIR HOLMBERG: You found you
2 might to mention that one of the struggles as we
3 dealt, or as you worked and dealt with Rolette
4 County is finding where do you get the people.
5 If you go to the south, then you'll make a big
6 difference into District 14. You want to stay
7 away from going east, because that -- I mean,
8 west, excuse me.

9 If you go east across there, it solves
10 the number problem, not the political -- I mean,
11 there is a political problem and there's a
12 numbers problem. It solves the numbers problem
13 clearly, and it also allows Traill your county to
14 find a home, otherwise, they were boxed in and
15 would have been out over close to Foster County.
16 So it's an alternative, right?

17 CHAIRMAN DEVLIN: Yeah. It's an
18 alternative, Senator. That's correct. And every
19 way we lay these things out, we would come up
20 with Nelson and Steele being the only two
21 counties left in the middle of the state. They
22 didn't fit anywhere. So that's how we got to
23 this.

24 Now somebody else may come up with a
25 better a better concept by tomorrow or next week.



1 I'm fine with that. But all I'm telling you that
2 -- sent you -- the first one I gave you, that was
3 the most -- or the least damaged to any of the
4 county lines, makes everything work. I think
5 just adding the Spirit Lake Reservation to Ramsey
6 County makes a better community of interest to
7 just because it's right along Devils Lake.

8 They have students and school there.
9 They have -- they do a lot of their business
10 together and so on. So if you have a reservation
11 at Ramsey County, I think it works better.

12 You certainly can -- whether there's any
13 interest in sub-districts or not, you could
14 certainly look at one up in that district tying
15 area that took part of District 10, but --

16 VICE CHAIR HOLMBERG: You might want to
17 mention too that the southern part of Towner
18 County has been with Ramsey County, that's Cando.

19 CHAIRMAN DEVLIN: Yeah, yeah. It
20 absolutely has. Yeah.

21 VICE CHAIR HOLMBERG: And Towner County
22 in the past, years ago, was part of Rolette
23 County when they needed people.

24 CHAIRMAN DEVLIN: And District 23, I can
25 tell you from experience, we used to have all the



1 way to Western Walsh County up to Edinburg, you
2 know. And each time, you lose more people out in
3 some of these rural districts. They have to go
4 somewhere. They cannot be anywhere else.

5 CHAIRMAN: Are there any -- yes.
6 Senator Oban and then Representative Nathe.

7 SENATOR OBAN: Mr. Chairman, how very
8 generous of you to sacrifice yourself. That's
9 rare.

10 CHAIRMAN DEVLIN: Rare for me, Senator
11 or rare for everyone?

12 SENATOR OBAN: Rare for legislators,
13 generally.

14 CHAIRMAN DEVLIN: Okay. I just wanted
15 to clarify.

16 SENATOR OBAN: A good clarification,
17 yes. Certainly not targeting you.

18 Was there any consideration to just
19 leaving 23 alone and adding in Foster, which
20 makes it pretty much spot on?

21 CHAIRMAN DEVLIN: It would make it
22 pretty much spot on if you -- I think you had to
23 use Eddy too, but I'm not sure. But it had a
24 real negative effect to 29 if you did that. You
25 know, it just wasn't the way to make it work.



1 And we played with this forever.

2 You know, a big share of the population
3 in 23 was on the reservation, you know. That now
4 is going into 15, and I think after the
5 presentation we heard this morning, that is the
6 place for it because those communities should be
7 together.

8 SENATOR OBAN: Okay.

9 VICE CHAIR HOLMBERG: Representative
10 Nathe?

11 REPRESENTATIVE NATHE: Thank you,
12 Mr. Chairman and Representative Devlin.

13 I know we've talked about this. So
14 what's the thought process? I'm leaving Lincoln
15 out and putting him with Emmons. I think you
16 heard some of my comments about the Lincoln area
17 from 10 years ago, and now, from this we have it
18 in Emmons. What was the thought process on that?
19 What were you guys thinking?

20 SENATOR OBAN: I'm going to talk about
21 that next when he's done.

22 CHAIRMAN DEVLIN: Yeah. That was not
23 part of what we did.

24 REPRESENTATIVE NATHE: Okay.

25 CHAIRMAN DEVLIN: We ended it at the



1 Burleigh County border where just Emmons is
2 sitting out there when we left it, so.

3 REPRESENTATIVE NATHE: Okay. All right.

4 VICE CHAIR HOLMBERG: If you recall when
5 I presented the northeast a couple of week --
6 well, the other week, what that was, was all of
7 Cavalier, all of Pembina, the western half of
8 Walsh County and Nelson County. But that
9 presented problems with Steele, Traill, and the
10 Rolette County, kind of leaving both of them. So
11 I believe that Representative Devlin worked to
12 try to solve the problems, not only of that area,
13 but also of the other orphans that were hanging
14 around. Okay

15 CHAIRMAN DEVLIN: Okay. Thank you.

16 VICE CHAIR HOLMBERG: Now, should I do
17 the internals?

18 CHAIRMAN DEVLIN: Yes.

19 VICE CHAIR HOLMBERG: Okay. I will do
20 the internals.

21 REPRESENTATIVE MONSON: Before we move
22 on from there.

23 VICE CHAIR HOLMBERG: I don't know who's
24 talking.

25 CHAIRMAN DEVLIN: Representative Monson.



1 VICE CHAIR HOLMBERG: Yes.

2 Representative Monson.

3 REPRESENTATIVE MONSON: So, just for
4 fun, the other day when I was coming back from
5 Bismarck, I was basing it on Senator Holmberg's
6 plan where District 10 included Nelson County.
7 And I somewhat like that idea, except that it was
8 -- sorry, I get a phone call.

9 I somewhat liked it, except that it is a
10 long district. I started checking the odometer
11 when I crossed into Nelson County, and if you
12 went all the way up to Pembina, that's a long
13 district. It keeps the counties much more whole,
14 which I liked. I don't have a problem
15 necessarily with splitting. I mean Cavalier
16 County was split once before.

17 At one time, District 10 included most
18 of Towner County as well. So I mean, it's been
19 all over the board, but this is a compact one. I
20 don't know how many counties are intact, but I
21 mean Nelson County on Senator Holmberg's last
22 plan was part of District 10; and it did keep the
23 counties more whole. So just to comment, I --
24 you know, I'm not leaning one way or the other.

25 VICE CHAIR HOLMBERG: Okay. One of the



1 things, Representative Monson, was that was
2 extremely compact, et cetera, et cetera, but then
3 it leaves on its edges the question of Traill
4 County and the question of Rolette County. And
5 what do you do? So the --

6 CHAIRMAN DEVLIN: Senator Holmberg will
7 now present the inner workings of the city.

8 REPRESENTATIVE HEADLAND: Mr. Chairman,
9 while he's (indiscernible), can I ask a question?

10 CHAIRMAN DEVLIN: Certainly.

11 REPRESENTATIVE HEADLAND: Mr. Chairman,
12 when we're drawing out these districts and we
13 have tasks that we're supposed to try to follow,
14 like does one task have more leverage than the
15 next task? Like, we've been looking at trying to
16 keep counties whole.

17 Is that more important than trying to
18 keep existing districts the way they are?
19 Because that's -- in my mind, it's an equal task.
20 And I think at least some of the plans that I've
21 seen give more credence to keeping counties whole
22 than keeping existing legislative districts
23 whole.

24 CHAIRMAN DEVLIN: Representative, I
25 don't know that I rank one ahead of the other. I



1 just -- whenever we looked at this and worked
2 through it, you always ended up with one or two
3 counties that were orphans until you got to this.
4 I prefer to keep county lines whole if it's
5 possible, but I certainly understand down in 28
6 and some of that area that maybe not be possible.
7 And I believe you're going to have the computer,
8 so I look forward to next week.

9 UNIDENTIFIED MEMBER: Chairman, if I
10 may.

11 CHAIRMAN DEVLIN: Senator, yes.

12 UNIDENTIFIED MEMBER: I mean, in my
13 view, the county -- those governments, are set.
14 They've been there since statehood, and so I
15 think you ought to honor that.

16 We've changed these lines every 10
17 years. We're more fluid with this redistricting.
18 So I think counties, if possible, should have
19 precedence. Just my thought.

20 CHAIRMAN DEVLIN: Senator Bekkedahl.

21 SENATOR BEKKEDAHL: Thank you, Mr.
22 Chairman.

23 Just to follow up on that, I've had with
24 our area county officials and our auditors up in
25 the northwest, and they consistently remind me



1 that elections -- this is all for elections and
2 the prosecution elections. And they prefer
3 keeping county lines consistent because that's
4 easier and less chance for anything to go wrong
5 in their election processes. So just -- they
6 want me to pass law and that they prefer county
7 lines as well.

8 CHAIRMAN DEVLIN: Senator Bekkedahl,
9 just from past history, I can tell you that was
10 what I heard repeatedly, because we at one time
11 lived -- I lived in a split county, and I heard
12 that repeatedly from the county officials that it
13 was very, very difficult to work with that, but
14 they made it work.

15 VICE CHAIR HOLMBERG: And if you recall,
16 Mr. Chairman, 10 years ago, when we were in
17 Devils Lake, we still carry some scars from the
18 discussions from Walsh County.

19 CHAIRMAN DEVLIN: Senator Holmberg, I'm
20 not sure, but Representative Monson had a
21 question, and I don't know if it was to you or to
22 me. So let us have him ask that first, and then
23 we'll start.

24 VICE CHAIR HOLMBERG: Okay.

25 REPRESENTATIVE MONSON: Thank you,



1 Mr. Chairman.

2 I was just going to say the same thing
3 as Senator Bekkedahl just brought up. Keeping
4 the county lines are much preferable to the
5 county officials, especially the auditors that
6 are responsible for election because they really
7 don't like split counties when it comes to
8 elections.

9 So to me, that's a very important thing
10 to keep the counties full, much more so than our
11 lines of districts, although, you know, I like
12 keeping districts as stable as they can because
13 it keeps the continuity between the population
14 and the people. But so much -- so much has to
15 change when we have redistricting. Keeping
16 counties full are very high on the county's
17 priority.

18 REPRESENTATIVE HEADLAND: Well,
19 Mr. Chairman, since I asked the question, if I
20 can just respond.

21 CHAIRMAN DEVLIN: Yes, go ahead.

22 REPRESENTATIVE HEADLAND: You know,
23 that's easy to look at when you don't live in a
24 county that is too big for two districts. It's
25 too big for one district, but not big enough for



1 two. So you're dealing with split counties.

2 VICE CHAIR HOLMBERG: That has always
3 been the trouble in the northeast, for example
4 Pembina County and Wells County work fine, but
5 they're too big, the two of them together. So
6 someone's going to have to divide it up there.
7 So it kind of just bookends along.

8 Okay. The northeast -- this was
9 essentially presented last week. What we did is
10 took the current borders, boundaries, of the four
11 districts that are in Grand Forks, the city of
12 Grand Forks, and added a few people because we
13 needed a few people, but we wanted to keep that
14 addition to a minimum.

15 Therefore, we did not go over and add
16 the city of Thompson. That was a little too big,
17 and we added the other half of the Grand Forks
18 Air Force Base. A total of 2002 people live on
19 the base, total. And we added the city of
20 Manvel. And the other city one could look at
21 would have been Emerado, but in Emerado, they're
22 connected with the LaMoure School District.
23 That's where their high school students go
24 whereas -- most of them go, whereas in Manvel,
25 they all go to Central High School in Grand



1 Forks. So there is a commonality there along the
2 Manvel area.

3 The District 42 was short quite a few
4 folks, and the internal borders within the city
5 of Grand Fork on District 42 are identical to
6 what they are today.

7 The addition, as I mentioned, was
8 Brainerd Township, which used to be in 17. 17
9 had an excess population. And then, they took
10 over the Grand Forks Air Force Base because they
11 needed the people. They needed the population.
12 So that's why that looks kind of interesting with
13 that indentation into the city of Grand Forks.
14 That indentation is what has been there for a
15 number of years.

16 In fact, that indentation is identical
17 going back to 1993 with the exception of in 2003
18 the border was moved out to Washington Street and
19 then back 10 years later to 17th Street. So that
20 has been quite stable within the city of Grand
21 Forks.

22 District 43 is our landlocked district,
23 and it has no rural areas.

24 The only changes in District 43 were
25 addition of an area by the Alaris center, a



1 removal of some folks that were over by the
2 library, which is by Washington. They went up to
3 District 18, which was short of population, and
4 then they picked up Walmart. And then they got
5 that particular area down to 40th Avenue South.
6 So that squared off.

7 District 17 -- we used to go up to 8th,
8 but we were too big, and we now are on 17th.
9 When you look at that line across, it says Sunset
10 and Chestnut Place, but the line is on 17th
11 Avenue South, which is a very -- a big zero fare
12 going across.

13 And then 18 has the rest -- 17 also has
14 the Walle Township, which is south of Grand
15 Forks, and it is over to the interstate. We use
16 the interstate as a boundary. Very identifiable.
17 And District -- forget about that. The one I'm
18 here on 19, we don't -- we don't look at that.

19 And you have the map of 43 and of 42.
20 There was a suggestion of making a slight
21 adjustment, and it was a slight adjustment, in
22 the borders of District 42, which would have
23 moved the -- would have taken some from 42 and
24 put it into 18, and then taken the city of Manvel
25 and put that in 42.



1 But I just wanted you to know there was
2 that presentation, but personally, I like the
3 fact that if we can keep these borders the way
4 they were, it -- I like the continuity, but
5 that's essentially what it is. We did a minimal
6 amount of change within the districts, and that's
7 all I can say.

8 CHAIRMAN DEVLIN: Senator Bekkedahl has
9 a question.

10 SENATOR BEKKEDAHL: Thank you,
11 Mr. Chairman and Senator Holmberg.

12 So relative to Grand Forks Air Force
13 Base, I like to call it one district now, but,
14 you know, just south of there, that -- does that
15 have not any common interest ties to the base
16 with its population? I understand you said the
17 school district is in a different school
18 district, but I just want to -- I don't know -- I
19 don't know if there's base people living in there
20 that have a common interest with the base, so --

21 VICE CHAIR HOLMBERG: There's a lot of
22 base people that live there, a lot in Weimer.
23 And there is a community of interest out there.
24 The school district in Emerado and the school
25 district in Grand Forks has an interesting



1 history of competition, because many, many years
2 ago, of course Grand Forks got the air base as
3 part of their school district, and Emerado
4 didn't. So there has been -- and I'm not saying
5 there is bad blood or anything like that, but
6 maybe some bad blood back in the day.

7 SENATOR BEKKEDAHL: Well, if I could --
8 Mr. Chairman?

9 CHAIRMAN DEVLIN: You may continue.

10 SENATOR BEKKEDAHL: It just makes sense
11 to me where you have the line right now. I just
12 -- I just didn't know the dynamics about who
13 lives in Emerado. I just know it's really close
14 to the base.

15 VICE CHAIR HOLMBERG: There's a Dairy
16 Queen, and the strip club closed years ago. I'm
17 told. I'm told. Club Emerado, but I'm told.

18 CHAIRMAN DEVLIN: On that note, Senator
19 Oban had a question.

20 SENATOR OBAN: Yeah. Let's change that
21 one real quick.

22 CHAIRMAN DEVLIN: Yes, thank you.

23 SENATOR OBAN: So I -- since you showed
24 this, you know, changes to District 42 and Fargo,
25 I'm just struggling to understand how the



1 university -- the district is essentially like
2 half the university, a fourth rural, and a fourth
3 the base, and maybe, you know, a population
4 that's not exactly. That seems like many
5 different communities of interest, when 42 could
6 be cut in a way where it is more like central
7 Grand Forks, sort of main -- I'm just wondering
8 the thought process of essentially doing the
9 university population rural and --

10 VICE CHAIR HOLMBERG: Well, first of
11 all, a large part of the population is of a
12 younger age at the university. And that is the
13 same kind of metric that you'll see at the air
14 force base.

15 SENATOR OBAN: Okay.

16 VICE CHAIR HOLMBERG: They are younger
17 population, you know, the -- 18- to 30-year olds,
18 a lot of them are out there. So there's that
19 commonality. But there -- part of it is they are
20 -- like I said, 2002 people that live on the
21 base, but air base folks live throughout the city
22 of Grand Forks as do university students and
23 university folks.

24 So trying to get the numbers, it just
25 made sense to put them together with that



1 particular district. If we left 18 connected to
2 the Grand Forks Air Force Base, then where do we
3 get the population for District 42? There are --
4 some legislators from District 42 option was to
5 divide 43 in half and they take the northern half
6 of 43.

7 And I had little interest in dividing a
8 district that really didn't need to be divided,
9 because they'd have to get their people some
10 place. And again, sometimes its -- I don't want
11 to say the people are ugly, but sometimes it's
12 ugly what you have to do in order to worship at
13 the altar of one person one lord.

14 CHAIRMAN DEVLIN: Any further questions?

15 Seeing none. Thank you.

16 Senator Poolman.

17 SENATOR POOLMAN: Mr. Chairman, as they
18 are passing out the version of this district --
19 it's labeled District X, but it would really be
20 District 8 is what we would be calling it. As
21 you notice, both of the maps that came from the
22 eastern half of the state honored county lines.
23 And even though they were slightly different in
24 the way they did that, both of those maps left
25 Emmons County as an orphan.



1 And so what I'm starting to realize on
2 this Committee is that we're coming in from the
3 east and the west and that everything in the
4 middle is now going to be squished. And so we
5 better start looking for some solutions in terms
6 of making whole districts in the middle as well.
7 And so I just drew the lines as far north as it
8 needed to go to have a population and have a nice
9 straight line. And so you'll see that it goes right
10 under Wilton there.

11 And so that's the district. It's the right
12 size. I didn't include the rest of them there. But
13 I will tell you that then I took what would have been
14 the rest of District 8 as it is now, and it absorbed
15 into 33, into 6 and into 14. And so that's why this
16 will be considered the new 8.

17 And so I don't have any dog in this fight
18 or anything. I just wanted to start looking for some
19 solutions. I'm really supportive of the concept of
20 the following county lines. And so I think we need
21 to start to figure it out in the middle here if we're
22 going to try to do that on each side of the state.

23 CHAIRMAN DEVLIN: Representative Headland,
24 I'm sorry.

25 MR. HEADLAND: Thank you, Mr. Chairman.



1 Senator, I'm just curious if we're keeping
2 counties whole and -- as a task, and another one of
3 our tasks is to keep an existing district as whole as
4 it was, what would be the point of pulling a full
5 county like Emmons out of District 28 when it
6 actually, there's ways to make it fit in with 28?

7 SENATOR POOLMAN: Mr. Chairman and
8 Representative Headland, I am happy to see any maps
9 where you're still honoring county lines, and you
10 keep the districts together. I think that's great.
11 I'm just saying the two maps I've seen left Emmons
12 County as an orphan, and so this is a proposal. If
13 people like those two versions of the map, it's a
14 proposal to do that.

15 CHAIRMAN DEVLIN: Representative Nathe?

16 REPRESENTATIVE NATHE: Thank you,
17 Mr. Chairman.

18 I appreciate Senator Poolman's work on
19 this, and I'm all for looking at different options
20 and I think that's good. But I just want to speak to
21 Lincoln. I spoke to it earlier when I presented.
22 That's going to be a big problem.

23 And I know we're having some people
24 tomorrow coming from Lincoln. They want to be
25 represented by somebody local. Like as I said



1 earlier, they have a Bismarck public school in their
2 city, they relate to Bismarck politics. Something
3 like this, you know now you've put them into a rural
4 district.

5 And we heard this complaint 10 years ago
6 and it was very loud at the end. And we just need to
7 keep that in mind when we're taking a look at this.
8 So thank you.

9 SENATOR POOLMAN: Mr. Chairman, if I may
10 speak to that?

11 CHAIRMAN DEVLIN: You may.

12 SENATOR POOLMAN: As the person who
13 represents Lincoln now, what I love about having
14 Lincoln in this district is that they become the
15 largest voting block and the most influential
16 community in the district. And what I like as a
17 parent through Bismarck public schools and has
18 dedicated my life's work to working for Bismarck
19 public schools, I like that you have an entire
20 district now, that you have three more legislators
21 that need to consider what is good for Bismarck
22 public schools.

23 And so I like the idea that you really
24 created a district where Lincoln has significantly
25 more influence than it has today.



1 CHAIRMAN DEVLIN: Senator, if I believe --
2 and you know obviously with the 200 pieces of paper
3 I've now accumulated, your vision of District 8 is
4 entirely different than what Representative Nathe
5 presented. And so exactly what are you going to do
6 with the balance of McLean County so to speak, what
7 did you do with that?

8 SENATOR POOLMAN: Correct. And I didn't
9 want to show that. I will just tell you that I
10 absorbed it into 33 and 6 and 14. But I haven't
11 spoken to anybody from those areas.

12 CHAIRMAN DEVLIN: Okay.

13 SENATOR POOLMAN: And I'm not familiar with
14 those areas. And so I wanted to have some time to
15 meet with people and to see what the other maps had
16 already done with 31 and 33 and to see what was
17 already planned for those districts. So they were
18 just absorbed into those three other districts.

19 CHAIRMAN DEVLIN: Okay. Thank you. Was
20 there any comments from any interested persons on
21 what we've discussed today? Nothing online? No.

22 MR. HANE BUTT: Mr. Chairman, Members of the
23 Committee, I'm Pete Hanebutt from Farm Bureau. I
24 haven't commented before, but a lot of the discussion
25 today lends to what our policy says, which Policy



1 40909 says, "We believe the legislative district
2 should consider geographical areas as well as
3 population to more equally represent the rural areas
4 of North Dakota."

5 What that means in the discussion of our
6 delegates is what you've discussed today; keeping
7 communities of interest together. Keeping counties
8 together is important, but that is balanced by
9 communities of interest, meaning school districts
10 that cross county lines, urban areas that cross
11 county lines, and those kinds of things. That was
12 the general discussion of our delegates last
13 December, and they were very interested in this.

14 Obviously, we want to maximize the impact
15 of rural North Dakota and the rural people in
16 Agriculture. And so I'll leave it at that. It's a
17 little bit up to your own interpretation. I've seen
18 the discussion today was healthy, all the way round
19 for our interests and so we appreciate all your work,
20 so --

21 CHAIRMAN DEVLIN: Questions, Mr. Hanebutt?

22 MR. HANE BUTT: No, sir.

23 CHAIRMAN DEVLIN: Senator Oban?

24 SENATOR OBAN: I do have -- you know, I'm
25 just looking at the existing district lines or



1 legislative district lines. For example, the Minot
2 area essentially split the City of Minot into four
3 districts making each of those districts, maybe with
4 the exception of 5 -- and I'll probably ask Senator
5 Burckhard if that's about accurate, part rural and
6 part Minot. Considering we will be probably
7 eliminating a few rural districts, you could cut
8 Minot to be three districts that encompass Minot and
9 then you would gain one rural district.

10 MR. HANE BUTT: Uh-huh (affirmative).

11 SENATOR OBAN: Can you speak to that
12 thought process?

13 MR. HANE BUTT: Well, I would be speaking
14 for Ward County Farm Bureau.

15 SENATOR OBAN: Sure.

16 MR. HANE BUTT: And I probably shouldn't
17 speak for them specifically. The general consensus
18 of our members is to maximize rural districts, which
19 is great. We also understand that a district or two
20 here and there is going to go away. The fact that
21 the numbers have gone away, for example, the
22 Chairman's district number going away doesn't meant
23 that that rural district goes away. Those rural
24 people are still well represented in some of the maps
25 represented today.



1 SENATOR OBAN: Of course.

2 MR. HANE BUTT: So it's a little bit of
3 horse trading. I think our folks would like to see a
4 growth in districts in the west obviously, because
5 they see that part of the state expanding. So it's a
6 half a horse a piece, and I don't know that there's a
7 fair way to say it. We know that some -- what we
8 would consider city districts are going to go out
9 into the countryside. And we know that some country
10 sides are going to capture a little bit of suburbia.

11 I'm happy for, you know -- one of the
12 renderings today was my district in rural Morton
13 County. Catching New Salem with Dickinson makes
14 sense. And I think you know, there's a lot of things
15 that makes sense and how we draw these things. It's
16 just a matter of you guys aren't wrestling over it.

17 CHAIRMAN DEVLIN: Senator Sorvaag.

18 SENATOR SORVAAG: Mr. Chairman, Pete, and
19 this isn't as much a question but a statement to
20 that. You may want to respond back to it, but --
21 Cass County, I have one of those urban rural, and I
22 think they gained. If we make all of rural Cass
23 County one district, they got one senator, two
24 representatives.

25 If you take what I'll be showing tomorrow



1 where I take a fourth of the rural, and I have it
2 now. Rural Cass County's got two senators and four
3 representatives. When the Cass County township
4 officers have their annual meeting, they've got two
5 senators sitting there, not one. That completely --
6 I can see a little edge, but it completely baffles me
7 how that can be called deluding the representation.

8 Now, still at the end of the day, it's
9 incumbent of every legislature to realize we're
10 responsible for all our constituents, whether you're
11 living in the country or living in the city, wherever
12 my house is. I'm responsible for them all. So I
13 struggle with that. I know there's unique things
14 where it's deluding, but because of the losing of the
15 rural districts, this is one way to keep
16 representation.

17 And you can respond to that. But I don't
18 think what you'll see in my map is hurting those
19 people. Well, I've had most of them already for
20 eight years. And I'm in a unique situation. I grew
21 up out in that rural, and I'm connected. But when I
22 look, at least in Cass County, it's enhancing the
23 rural part of Cass County to have connections to
24 multiple districts than if we wrap that. And we
25 could wrap it all in one, and that's all they'd



1 represent.

2 So I think there's two sides to it, and
3 that's why everyone needs to stand really on its own
4 merits. But I think a blanket statement that there
5 shouldn't be an urban rural and it's only been done
6 solely because of numbers might be missing some
7 opportunities for additional rural representation.

8 MR. HANE BUTT: Senator, I appreciate the
9 comment, and I cannot disagree with your ideology on
10 that at all. I mean, it is a horse-trading process.
11 I will add an editorial comment that as a former
12 lobbyist from another state, we do a much better job
13 here. And God bless you all because I wouldn't move
14 back to Indiana the way they draw gerrymander
15 districts there. So across the board, this is
16 better.

17 CHAIRMAN DEVLIN: Thank you, Pete. We
18 appreciate that.

19 MR. HANE BUTT: Thank you.

20 CHAIRMAN DEVLIN: So I know tomorrow, we're
21 doing Cass County. I don't know if some of the folks
22 from western North Dakota might be able to get
23 together here today and at least discuss a little
24 bit, you know, what you're doing. I know that --

25 Representative Lefor, do you have the --



1 one of the computers?

2 REPRESENTATIVE LEFOR: (Indiscernible)

3 CHAIRMAN DEVLIN: Okay.

4 REPRESENTATIVE LEFOR: I gave it to
5 Counsel.

6 CHAIRMAN DEVLIN: Okay. Well, one of them
7 is going to Representative Headland, and I'm not sure
8 where the other one was. It was going to go to
9 Minot, but it isn't now. So I'm not sure who has the
10 other one, but that's fine. But Representative
11 Headland will need one.

12 REPRESENTATIVE LEFOR: I was offered
13 (indiscernible).

14 CHAIRMAN DEVLIN: From both? You're going
15 to get both of that?

16 VICE CHAIR HOLMBERG: Where is that going?

17 CHAIRMAN DEVLIN: Well, whatever. However
18 you three want to work it out.

19 VICE CHAIR HOLMBERG: We don't have to --

20 CHAIRMAN DEVLIN: That will be fine.

21 What else is there for today, Committee?

22 Tomorrow may be a short meeting, unless you come up
23 with a bunch of solutions overnight.

24 Representative Boschee, are you presenting
25 anything else on your plan? Okay.



1 You did get a letter from a gentleman in
2 Beulah. I think it was circulated earlier that said
3 that reservations have been split in different
4 districts that happened, he said, back in the 70's
5 and 80's and as late as 92 or maybe 2002. And the
6 statement I made is we have never done it you know,
7 when I was -- that I could remember.

8 But apparently, it was done years back.
9 But in all the years I've been working with it, we
10 have never split an Indian reservation, and I'm sure
11 we're not going to this year. But I stand corrected
12 because he said it was done in some of the earlier
13 years.

14 I don't know if anybody was on in any of
15 those Redistricting Committees that far back or not.

16 Is there anything else for today,
17 Committee?

18 So nothing. We'll stand in recess until
19 tomorrow morning at 9:00 a.m.

20 (END OF VIDEO FILE)

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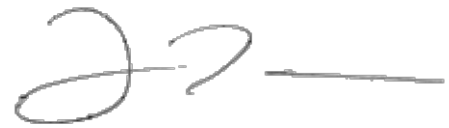


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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036



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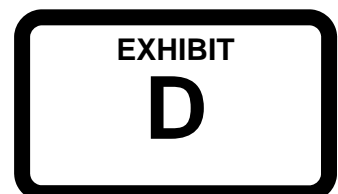


zoom 101:18



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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA LEGISLATIVE ASSEMBLY
REDISTRICTING COMMITTEE
SEPTEMBER 22, 2021



1 SEPTEMBER 22, 2021

2 CHAIRMAN DEVLIN: We will call the
3 Redistricting Committee back to order.

4 Emily, if you would take the roll,
5 please.

6 MS. THOMPSON: And Chairman Devlin.

7 CHAIRMAN DEVLIN: Here.

8 MS. THOMPSON: Representative Bellew.

9 REPRESENTATIVE BELLEW: Here.

10 MS. THOMPSON: Representative Boschee.

11 REPRESENTATIVE BOSCHEE: Here.

12 MS. THOMPSON: Representative Headland.

13 REPRESENTATIVE HEADLAND: Here.

14 MS. THOMPSON: Representative Lefor.

15 REPRESENTATIVE LEFOR: Here.

16 MS. THOMPSON: Representative Monson.

17 REPRESENTATIVE MONSON: Here.

18 MS. THOMPSON: Representative Nathe.

19 REPRESENTATIVE NATHE: Here.

20 MS. THOMPSON: Representative Schauer.

21 REPRESENTATIVE SCHAUER: Here.

22 MS. THOMPSON: And Senators Holmberg.

23 SENATOR HOLMBERG: Here.

24 MS. THOMPSON: Senator Bekkedahl.

25 SENATOR BEKKEDAHL: Here.



1 MS. THOMPSON: Senator Burckhard.

2 SENATOR BURCKHARD: Here.

3 MS. THOMPSON: Senator Erbele.

4 SENATOR ERBELE: Here.

5 MS. THOMPSON: Senator Klein.

6 SENATOR KLEIN: Here.

7 MS. THOMPSON: Senator Oban.

8 SENATOR OBAN: Here.

9 MS. THOMPSON: Senator Poolman.

10 SENATOR POOLMAN: Here.

11 MS. THOMPSON: And Senator Sorvaag.

12 SENATOR SORVAAG: Here.

13 MS. THOMPSON: And, Mr. Chairman, we
14 have a quorum.

15 CHAIRMAN DEVLIN: Thank you.

16 What's your wishes for the minutes of
17 September 15th -- 16th?

18 UNIDENTIFIED MEMBER: Move it. Second.

19 CHAIRMAN DEVLIN: Second.

20 Any objections?

21 (No audible response)

22 They will be approved.

23 Comments by the Chairman - I really
24 don't have much today. Is this going to
25 everybody? Okay.



1 I think we'll just -- the Association of
2 Counties desired a moment or two on our agenda
3 this morning for a short presentation. I'm going
4 to allow them to do that at this time before we
5 move on to the legislative counts with staff,
6 other legal considerations on subdistricts, and
7 other topics.

8 MR. BIRST: Thank you, Mr. Chairman.

9 Good morning, members of the committee.
10 My name is Aaron Birst; I'm with the Association
11 of Counties. And I have about 27 plans of my own
12 that I would like to talk to you about. It
13 should only take a couple hours, so -- that was a
14 joke, of course. In all seriousness, this is a
15 huge deal. You're putting a stamp on the state
16 of North Dakota for the next decade, so thank you
17 for your service. It's a huge deal, so thank you
18 very much.

19 And thank you, Mr. Chairman, for letting
20 me, very briefly, talk to you.

21 The Association of Counties is not
22 interested in particular plans. We're not
23 advocating for any certain plan. What we would
24 like to remind the committee, and you already
25 know this, but we would like the committee to



1 take into strong consideration that county lines
2 are looked at when you are doing your
3 redistricting. As you know, the county election
4 officials are the ones who put this all together
5 for your races, and any time you go past the
6 county line, and you pick up a couple of
7 townships across the county line, that forces the
8 other county auditor to create new ballot styles,
9 to put in a separate precinct, which drives up
10 the cost and the workload.

11 Now, that being said, we can -- I'm
12 confident Counties can implement any plan that
13 you choose; we look forward to that. I just
14 would like you to keep that in the back of your
15 mind.

16 Just further, what other -- your work
17 also impacts counties in terms of the counties
18 have to redistrict. Generally, we don't
19 redistrict until we find out what your plans are
20 to make sure our county districts are very
21 similar to yours

22 On the back of the one-page handout that
23 I have -- hopefully, everybody has it. I passed
24 it out beforehand. On the back of it goes
25 through all the counties that currently have



1 their district, or whether they're at-large
2 district, or an at-large at-large. I'm guessing
3 most of the counties will stay relatively the
4 same in terms of their structure and makeup, but
5 I would think some of the districts in districts
6 will change based on the population.

7 As counsel has already told you, the
8 court cases clearly indicate political
9 subdivisions have the same apportionment issue
10 that we do. So we will follow those rules, too.

11 I'd be happy to answer any questions
12 that you have.

13 CHAIRMAN DEVLIN: Any questions for
14 Mr. Birst?

15 Senator Bekkedahl.

16 SENATOR BEKKEDAHL: Thank you,
17 Mr. Chairman.

18 Thank you, Aaron. On your -- in your
19 testimony, you write that "After every census
20 county is not organized at-large or required to
21 reorganized." So I'm guessing the middle column
22 "At-large with districts" still has to
23 reorganize; is that correct?

24 MR. BIRST: Mr. Chairman, Senator
25 Bekkedahl, that's correct, in my opinion. And



1 you know, you can make an argument the at-large
2 at-large probably should, but the law does allow
3 them now to redistrict as currently stands in the
4 statute.

5 CHAIRMAN DELVIN: Further questions?
6 Representative Schauer.

7 REPRESENTATIVE SCHAUER: Thank you,
8 Mr. Chairman.

9 Aaron, this is our fourth meeting. Have
10 you had an opportunity to take a look at the
11 proposed maps throughout the state? And do you
12 see any issues or concerns that the counties are
13 not being properly treated, or are not being
14 included in some of those proposed maps?

15 MR. BIRST: Mr. Chairman, Representative
16 Schauer, I have looked at all the maps, and
17 there's -- there's a number of them. Until it
18 gets a little more detailed, it's hard for me to
19 comment on that. I think all of your proposals
20 have merit and -- and this is a tough gig,
21 putting together this based on county lines,
22 based on reservations, based on population.
23 Very, very difficult. So I would refrain from
24 comment until I knew something a little closer.

25 CHAIRMAN DEVLIN: Further questions,



1 comments?

2 (No audible response)

3 Seeing none. Thank you.

4 MR. BIRST: Thank you, Mr. Chairman.

5 CHAIRMAN DEVLIN: Excuse me. Review by
6 Legislative staff on the legal considerations
7 relating to subdistricts.

8 Clair has this.

9 MS. NESS: Thank you, Mr. Chairman.

10 And, Mr. Chairman, and members of the
11 committee, there have been -- there have been
12 several questions about subdistricting, and Emily
13 is going to put some slides up for you here. So
14 we're going to review a little bit of the law.
15 Thank you for your patience.

16 Yep. There we go. Now we have it up on
17 the screen.

18 So we're going to review the federal law
19 relating to subdistricting. And we've talked a
20 little bit about this early in the process, but
21 just to kind of provide a refresher in the
22 context of subdistricting, we wanted to give you
23 a little overview.

24 So multi-member districts are what North
25 Dakota has used for a long time. They're not



1 inherently illegal, but they do raise some
2 questions under federal law. And people can
3 choose to have a multi-member or a single-member
4 district for a whole lot of reasons. And federal
5 law, in addition to addressing issues related to
6 multi-member districts, also provides
7 considerations for districting decisions that
8 involved race as a factor. So when you're
9 talking about subdistricts in North Dakota that
10 may involve the Native America population, you
11 end up with merger of these two areas of federal
12 law.

13 In addition, you also have to remember
14 that subdistricts still have to comply with the
15 one-person one-vote principle, so if you are
16 going to subdistrict any area, you have to make
17 sure that the two areas that are in the different
18 subpopulation -- excuse me, subdistricts, have
19 approximately equal population.

20 Thanks, Emily.

21 So the general rule is, under the 14th
22 Amendment, that race may not be the predominate
23 factor when you're creating a particular
24 district. That means you can't say that you're
25 creating a district because of race. However,



1 race can be one of the factors that you consider
2 if it's not the predominant factor. And race
3 also -- there is an exception to the general
4 rule, which is that race can be a predominate
5 factor if the district is drawn to narrowly -- to
6 be narrowly tailored to achieve a compelling
7 state interest. And this is a test called strict
8 scrutiny. It's used in a lot of different ways
9 by courts in the country.

10 So, again, generally, you can't use race
11 as the predominate factor. You can use race as
12 one factor of many, or more than one. And there
13 is an exception to the rule which is that race
14 can be the predominate factor if you have the
15 district drawn to be narrowly tailored to achieve
16 a compelling state interest. And I reiterate
17 that because we're going to go over those
18 specific terms.

19 Thanks, Emily.

20 The compelling state interest. So
21 courts have said, in this particular context,
22 there are two -- at least two compelling state
23 interests. So if you're going to use race as a
24 predominate factor, you can do so for these two
25 compelling state interests. One would be



1 complying with Section 2 of the federal Voting
2 Rights Act, and the other is to remedy past
3 discrimination.

4 So to talk about the first one,
5 complying with the Voting Rights Act. The
6 Section 2 of the Voting Rights Act prohibits vote
7 dilution of racial minorities. And if you want
8 to comply with that particular provision of the
9 Voting Rights Act, that could be a compelling
10 state interest if you have direct evidence that
11 the votes of the minority members would be
12 diluted if you did not have a majority-minority
13 district. So if you did not draw your district
14 in a way that provided for a majority of a racial
15 minority in a district.

16 When you're kind of teasing out these
17 terms of art that are used in the cases, what you
18 really are going to do is look to see if what's
19 called the Gingles preconditions are met. That
20 comes from a case where one of the parties was
21 named Gingles. And we'll get to that in a second
22 but for now, I wanted to provide you with the
23 legal test, but then I'll also show you how it
24 actually is applied by courts.

25 The other compelling state interest,



1 other than complying with Section 2 of the
2 federal Voting Rights Act, is remedying past
3 discrimination. And if a state wants to use race
4 as a predominate factor in drawing district
5 boundaries to remedy past discrimination, that
6 state needs to identify the past discrimination
7 with some specificity, which is what the courts
8 have said. And the redistricting body -- so that
9 would be the Legislative Assembly -- must have
10 has a strong basis in evidence to conclude that
11 the remedy was necessary before the legislative
12 body would participate in drawing a boundary
13 based on race, predominantly.

14 So in addition to saying that you are
15 trying to meet a compelling state interest, your
16 remedy to address potential racial vote dilution
17 must be narrowly tailored to the problem you're
18 trying to fix. And to show that a plan is
19 narrowly tailored to complying with the Voting
20 Rights Act, the state needs to show that it has
21 good reason to think that all of the Gingles
22 preconditions have been met.

23 And then if those preconditions are met,
24 you most likely need to have a majority-minority
25 district, otherwise, you would probably open



1 yourselves up to a legal challenge. And then if
2 the plaintiff in that challenge could show that
3 those Gingles preconditions were met, then you
4 would potentially have a violation of Section 2
5 of the Voting Rights Act. So on the next slide
6 then, you can see what the Gingles preconditions
7 are. So again, if those Gingles preconditions
8 are met, that's a potential violation of Section
9 2 of the federal Voting Rights Act.

10 What a court can do after those
11 preconditions are met is also look to the Senate
12 factors, which are listed on the right side of
13 that screen. Courts can pick and choose any
14 number of those factors to look at, once those
15 preconditions are met, to help the court decide,
16 okay, is there vote dilution of a racial
17 minority.

18 And so there's not always a yes or no
19 answer. If somebody were to say, "Do we need to
20 have a majority-minority district in this area?"
21 there's never a 100 percent bright line rule that
22 would say yes, you do, or no, you don't. Again,
23 you look to see, are those Gingles preconditions
24 met in that area, you maybe want to look at some
25 of the senate factors, and then you would have to



1 make your decision.

2 Are there any questions?

3 CHAIRMAN DELVIN: Representative Lefor.

4 REPRESENTATIVE LEFOR: Thank you,

5 Mr. Chairman.

6 Claire, with the populations of the
7 reservations that have been handed out, Fort
8 Berthold, total 8350, and then the Native
9 population of that is 5537. And the Gingles
10 precondition that you show is minority group with
11 sufficiently numerous and compact to form a
12 majority -- a single-member district. So does
13 that mean the 5000 of the 8000? Or 5000 of the
14 16,000?

15 MS. NESS: Mr. Chairman, Representative
16 Lefor, members of the committee. A court
17 probably would look to whether or not that group
18 could be a majority of a single-member district,
19 which would be subdistrict.

20 REPRESENTATIVE LEFOR: Okay. Thank you.

21 CHAIRMAN DEVLIN: Senator Holmberg.

22 SENATOR HOLMBERG: If one is looking at
23 the American Indian population 18 and over, do
24 you balance that against the other population 18
25 and over? In other words, do you use the same



1 metric when you're measuring them?

2 MS. NESS: Mr. Chairman and Senator
3 Holmberg, members of the committee, you would
4 want to be consistent. And there may be an
5 argument that you would want to be consistent
6 across all of your use of different populations
7 when you're districting. So, generally, if you
8 use total population when you're determining the
9 equivalency for districting, you probably want to
10 look at total population when you're looking at
11 populations for subdistricting.

12 CHAIRMAN DEVLIN: Senator Burckhard.

13 SENATOR BURCKHARD: Mr. Chairman,
14 Claire.

15 First, I would ask Emily to go back a
16 couple of slides. No, the previous -- thank you.
17 I'm sorry. Nope. Forward. Forward. You had it
18 there -- you had it there briefly, but there's --
19 how about -- no. Man. One before that. Thank
20 you.

21 Okay, Ms. Claire -- Ms. Ness. "The
22 remedy needs to correct the identified problem
23 without going too far." Now, that's a pretty
24 broad term. I mean, what's too far and what's
25 far enough? I mean, that's a judgement call,



1 isn't it?

2 MS. NESS: Yes. Mr. Chairman, Senator
3 Burckhard, and members. It is a judgement call.
4 We can dig into some case law and provide more
5 information on that if you would like, but it
6 really is a judgement call. There's not a bright
7 line rule. And again, this test, this strict
8 scrutiny test that relies on narrowly tailoring a
9 remedy, that's used in a broad swath of all types
10 of cases, not just redistricting.

11 SENATOR BURCKHARD: Thank you.

12 CHAIRMAN DEVLIN: Representative
13 Boschee.

14 REPRESENTATIVE BOSCHEE: Thank you,
15 Mr. Chairman.

16 Ms. Ness, is my understanding correct
17 that most of these tests, or at least the tests
18 that have been presented, are in the affirmative
19 of supporting majority-minority districts?

20 MS. NESS: Mr. Chairman, and
21 Representative Boschee, and members, I'm not sure
22 I would have, off the top of my head, a way to
23 quantify how many went each direction. The one
24 thing that the courts consistently say is that
25 they are very, very fact specific. So there are



1 principles that you can pull from the different
2 cases, but it's hard to extrapolate a result from
3 one case to the next. I could do a little more
4 digging to give you a better sense of which way
5 they go.

6 REPRESENTATIVE BOSCHEE: Maybe I need to
7 rephrase, and I probably used the word
8 affirmative wrong. Were -- these tests -- these
9 cases were tests to support the creation of
10 majority-minority districts. And I guess maybe
11 my follow up question, what I'm trying to get to
12 is, are there test case or cases that would be
13 challenging the creation of majority-minority
14 district that we should also be considering?
15 Because I think that's a concern I hear from the
16 committee is, if we do this, what's the reaction
17 if we do it? Versus, we are allowed to do it
18 based on these different tests.

19 MS. NESS: Mister --

20 Oh, do you want me to answer that
21 question, or is it --

22 CHAIRMAN DEVLIN: Yes, please.

23 MS. NESS: Okay.

24 Yes, Mr. Chairman and Representative
25 Boschee, you're correct. So there is the



1 possibility that somebody who is subdistricted
2 could say race was used as a predominate factor
3 to create a subdistrict, and the Gingles
4 preconditions were not met, so therefore, what
5 you have done is impermissibly used race as a
6 predominate factor and violated Section 2 or
7 another federal legal principle that would --
8 prevent you from using race that way. So the use
9 of race as the predominate factor is only allowed
10 if these preconditions are met, is kind of where
11 the cases have gone.

12 REPRESENTATIVE BOSCHEE: One more follow
13 up?

14 CHAIRMAN DEVLIN: You may.

15 REPRESENTATIVE BOSCHEE: Thank you,
16 Mr. Chairman.

17 So in that -- because I think you used
18 the word theoretically, or a word similar -- are
19 we aware of case law where that has been the
20 challenge?

21 MS. NESS: Representative Boschee, I can
22 do some digging and pull that for you.

23 CHAIRMAN DEVLIN: Senator Holmberg.

24 SENATOR HOLMBERG: Yeah. The second
25 bullet on the Gingles preconditions is about



1 minority group is politically cohesive, and one
2 can find that out, I'm sure, by looking at
3 election returns. And I just looked at the
4 election returns from 2020 and found that the two
5 reservations which is easy to dig out -- not MHA
6 because they're in many counties -- but those are
7 the only two counties that voted for Zach
8 Raknerud and the only counties that voted for
9 Biden.

10 So would you be able to make a case that
11 that is a cohesive political history? I mean,
12 you can go back, and you'll see the same thing, I
13 think, I year after year. Is that one of the
14 considerations that we should be thinking about?
15 The political cohesiveness of the population that
16 we're dealing with?

17 MS. NESS: Mr. Chairman, Senator
18 Holmberg, and members, a lot of times, the cases
19 do look back at voting patterns. There are often
20 statistically detailed cases. There's a lot of
21 evidence and discovery along those lines as to
22 how different populations have voted. Since we
23 don't have voter registration, we may not have
24 the same data as other states, but you could go
25 back and try to pull some information from voting



1 patterns in the past, based on precincts.

2 CHAIRMAN DEVLIN: Representative
3 Schauer.

4 REPRESENTATIVE SCHAUER: Thank you,
5 Mr. Chairman.

6 Ms. Ness, this is your world. Have you
7 had time in your staff to analyze this and to, at
8 some point, give this committee your
9 recommendation on what direction to go? And
10 would this be something that is within your legal
11 expertise? Or is this something that needs to go
12 outside?

13 MS. NESS: Mr. Chairman, Representative
14 Schauer, it's not something that we have delved
15 into where we could give you a yes or no answer
16 or a recommendation. We would have to go back
17 and look at, statistically, what information we
18 have, and we have not done that. We've just
19 provided the legal advice, the legal framework.

20 CHAIRMAN DEVLIN: Representative Nathe.

21 REPRESENTATIVE NATHE: Thank you,
22 Mr. Chairman.

23 Along the lines of Senator Holmberg, and
24 at the risk of repeating his question, but it has
25 to do with the third point of Gingles



1 precondition. So what constitutes votes as a
2 bloc? You know, we made this map up back in --
3 the current map back in 2011. There's two
4 districts I know with reservations in it that
5 were represented by other side of the aisle for
6 at least half of that five, six years. Now, here
7 we are, the last election cycle, so now they're
8 being represented by the other side of the aisle.

9 So, I mean, is that a bloc because all
10 of a sudden, the wrong side of the aisle is being
11 elected in that districted? I mean, what -- how
12 do they figure that out? What's a -- do you have
13 to have a history of a bloc? I mean, did that
14 make sense?

15 MS. NESS: Yes. I believe so. Yes.

16 Mr. Chairman and Representative Nathe, I
17 think -- again, it depends on the data you have.
18 And if you're in court, what you would do -- you
19 would probably end up with two sides, both
20 looking at data and analyzing it different ways.
21 So the court would then have to decide how far
22 back they wanted to look, what data sets they
23 wanted to look at.

24 But the overarching precondition is that
25 do you have -- in North Dakota, the majority



1 group is almost always going to be white -- in an
2 area, do the white voters vote differently from
3 the racial minority voters in the same area?
4 Which is one of the tricky things about using
5 polling place data. Because if you have white
6 and other racial groups voting in the same
7 locations, then you'd pull those results -- we
8 don't have a way of teasing out, you know, who
9 voted which way, and we don't have voter
10 registration to say, you know, certain races are
11 registered in different ways. What we could do
12 is try to extrapolate it based on the census data
13 we have for areas. But you're sort of mixing
14 apples and oranges a little bit that way.

15 REPRESENTATIVE NATHE: So the third
16 condition, the definition of majority group then
17 would be race.

18 MS. NESS: Correct.

19 CHAIRMAN DEVLIN: Further questions?
20 Senator Klein.

21 SENATOR KLEIN: Mr. Chairman, and
22 Claire, but from the beginning of time, have we
23 divided any -- I mean, we are now 2021 discussing
24 subdistricts. Should this not have been a
25 discussion years ago? And I thought we've made a



1 lot of attempts to bring the reservation
2 population into -- I mean, they're part of the
3 state. I mean, we fund the roads. We -- we look
4 to them to help them with -- as just regular
5 citizens. But why now that we seem to have -- is
6 there more pressure on this voting rights and why
7 we would even have this discussion at this point?
8 Because those populations aren't going up any
9 more than the rest, are they?

10 MS. NESS: So Mr. Chairman and Senator
11 Klein, the Voting Rights Act was a -- well,
12 excuse me, was enacted in 1965, and there was a
13 slew of litigation in the early '80s. There was
14 another -- there's actually been a lot of
15 litigation over the years, but you can see kind
16 of peaks and valleys. So in the early '80s, you
17 had a peak, and then I think over the last maybe
18 10 or 20 years, you've seen that kind of steadily
19 ratch up. I can't tell you why it wasn't
20 something that occurred or didn't occur in the
21 past. We just wanted to provide you a legal
22 framework to be thinking through as you work
23 through this process.

24 CHAIRMAN DEVLIN: Senator Holmberg.

25 SENATOR HOLMBERG: But we have, in



1 redistricting, in the past, we have addressed
2 that particular issue and the legislature said
3 no, they weren't going to go down that path. So
4 it is not brand-new. It's something that has
5 been -- I believe it was floor amendment one
6 session to try to do a subdistrict -- floor
7 amendment in the Senate. So it's not a new
8 issue.

9 I think part of the question is: does
10 the -- and let's pick out the largest
11 reservation, which is Fort Berthold -- do those
12 numbers cause us to be in a position that the
13 Gingles preconditions are met, and the choice
14 might be, either we do it, or a court will do it?
15 And I don't have an answer to the question,
16 but --

17 CHAIRMAN DEVLIN: Representative Monson.

18 REPRESENTATIVE MONSON: Thank you,
19 Mr. Chairman.

20 And along that same line, I'm looking at
21 the reservation populations, and I'm assuming you
22 almost have to look at the total population on
23 the reservation, not just the Indian population
24 or those over 18. Based on these numbers though,
25 the total population on Fort Berthold, I mean,



1 that probably justifies a half of the ideal
2 number. So maybe a subdistrict there.

3 The other ones, I mean, if you really
4 made it stretch, you could maybe say, well,
5 Turtle Mountain Reservation, that's a bigger
6 number. But the other three are not even close
7 to being even half of an ideal. So how would you
8 make a subdistrict on of them other than Fort
9 Berthold and possibly Turtle Mountain?

10 MS. NESS: Mr. Chairman and Senator
11 Monson -- or excuse me, Representative Monson,
12 the first Gingles precondition is that the
13 minority group is sufficiently numerous and
14 compact to form a majority in the subdistrict.
15 So that's one of those preconditions that would
16 have to be met -- or should be met.

17 REPRESENTATIVE MONSON: So really what
18 I'm hearing is you're saying there's one district
19 that might -- or one reservation that might
20 qualify by the Gingles Act for a subdistrict.
21 The other ones probably don't make it because
22 they aren't even close to half. Correct? Is
23 that what I heard you say?

24 MS. NESS: I can't tell the committee
25 what to do. I'm just trying to lay out the legal



1 framework so that you can look at the data and
2 then make a decision. I can't tell you yes or
3 no. There are too many variables. We can
4 certainly take a look at some other information
5 if you would like, but we're not in a position to
6 say, yes, this has to be, or no, this doesn't
7 meet the requirements.

8 CHAIRMAN DEVLIN: Representative Monson,
9 and when I look at the numbers, when you look on
10 the chart that was handed out, if can look at the
11 American Indian population, both the Fort
12 Berthold and Turtle Mountain Reservation are over
13 50 percent of the subdistrict population. It
14 isn't the whole district; we have to keep that in
15 mind. It's the subdistrict. So the subdistrict
16 is roughly 8250 people. One of them has 5500 and
17 the other one has 4700. So they would have more
18 than half in the subdistrict, and I think that's
19 what the legal argument is.

20 REPRESENTATIVE MONSON: So --

21 CHAIRMAN DEVLIN: You may proceed.

22 REPRESENTATIVE MONSON: So,
23 Mr. Chairman, so that's using race only, not the
24 population of the reservation. So I mean, you
25 have to go down that race only path to get over



1 half of a subdistrict in two of them.

2 CHAIRMAN DEVLIN: Senator Holmberg.

3 SENATOR HOLMBERG: The population, as I
4 understand it, at Turtle Mountain, you've got the
5 reservation, which is kind of a rectangle, if I
6 recall correctly, and then you have a number of
7 housing units that are not on the reservation,
8 but I believe are mostly Native American. Do you
9 have the -- and that should be in the computer.
10 What is the total, if you look at Turtle Mountain
11 -- excuse me, if you look at Rolette County,
12 American Indian population? You're looking at
13 the reservation. What is the total American
14 Indian population of Rolette County? That might
15 be different.

16 MS. KRAMER: Mr. Chairman, would you
17 like me to pull that up?

18 SENATOR HOLMBERG: Yeah.

19 CHAIRMAN DEVLIN: You may.

20 SENATOR HOLMBERG: Because I don't have
21 a computer here that works. And I don't know the
22 answer. I'm just speculating because I know that
23 there are some areas.

24 CHAIRMAN DEVLIN: Samantha is bringing
25 it up. Okay.



1 MS. KRAMER: Mr. Chairman and Senator
2 Holmberg, based on a quick look here, it looks
3 like Rolette County may have an American Indian
4 population of 9278.

5 SENATOR HOLMBERG: The race is a larger
6 thing than just the boundaries of the reservation
7 I think up in Rolette County.

8 CHAIRMAN DEVLIN: In answer to a
9 previous question, subdistricts were considered
10 in both '91 and 2001, and I believe the state of
11 North Dakota was in a court case at one time. Do
12 you have any information on that?

13 MS. NESS: I don't at my fingertips,
14 Mr. Chairman. But we can get that.

15 CHAIRMAN DEVLIN: Okay. Yeah.
16 Representative Nathe.

17 REPRESENTATIVE NATHE: So Claire, help
18 me understand. I'm just confused what trips the
19 Gingles preconditions. So we're looking at a
20 subdistrict and in some of the discussions, all
21 of a sudden, we have -- say we have 9000 Native
22 Americans, and we have 8000 non -- whites -- say
23 whites. Well, doesn't that trip the Gingles the
24 other way then? I mean, isn't that
25 discriminating against, you know, the other way?



1 Do you see what I'm saying?

2 MS. NESS: Mr. Chairman --

3 REPRESENTATIVE NATHE: I'm just trying
4 to figure out why it trips it this way, and then
5 when we load it up too much on the Native
6 American side, why doesn't it trip it that way?

7 MS. NESS: Yes, Representative Nathe.
8 The courts would -- it would be unlikely that the
9 courts would consider the white population a
10 minority population in North Dakota. I think
11 when you look at the Senate factors, especially
12 the intent would be that the minority group would
13 be a group that has faced vote dilution or
14 discrimination in the past. What could -- what
15 would happen is if you don't create a majority-
16 minority district where you would have the
17 Gingles precondition for a minority race, you
18 could have a lawsuit under Section 2 of the
19 Voting Rights Act.

20 If you did create a subdistrict and the
21 Gingles preconditions were not met, you could
22 have a racial majority member or anybody, really,
23 bring a lawsuit saying race was used as the
24 predominant factor, improperly. So I don't think
25 that the -- I'll leave it at that. That's how



1 those two competing litigation strategies play
2 out.

3 CHAIRMAN DEVLIN: Representative
4 Schauer.

5 REPRESENTATIVE SCHAUER: Thank you,
6 Mr. Chairman.

7 As I look on the big board under "Senate
8 Factors" I see "History of official
9 discrimination, racially polarized voting in the
10 state, election procedures that diluted the
11 minority vote." In past Committee meetings we've
12 been criticized for having no communication and
13 poor representation on said districts that we're
14 talking about.

15 And I noticed in the audience,
16 Representative Jim Schmidt. And I'm wondering,
17 Mr. Chairman, at some point, I'd like to hear
18 from him and other representatives, to at least
19 give their side of that story. But I would put
20 that in your capable hands.

21 CHAIRMAN DEVLIN: Any other discussion
22 by the committee? I found better representation
23 is in the eye of the beholder. And I think
24 Representative Schmidt, Representative Vigesaa,
25 myself, and other ones that can point to numerous



1 things that we've been praised by members of
2 Tribal government for what we did.
3 Representative Schmidt, particularly, water
4 issues and other things. You know, we're in a
5 different world right now and I understand that.

6 The issue here today is whether we have
7 to look at subdistricts, and I'm going to ask
8 staff to provide us a little more legal
9 documentation because I believe the State of
10 North Dakota prevailed in one of these for a
11 certain reason, but I'm not going to let my legal
12 opinion of this stand. I want you to see that.
13 That we'll get some -- we'll look at some other
14 things and we'll make some decisions based on
15 what the courts have done, including North
16 Dakota.

17 Is there anything else for this
18 particular --

19 Representative Headland.

20 REPRESENTATIVE HEADLAND: Thank you,
21 Mr. Chairman.

22 Claire, could you just remind us the
23 timeframe, you know, what year these Gingles
24 preconditions were litigated?

25 MS. NESS: Yes. Mr. Chairman,



1 Representative Headland, if I'm not
2 misremembering, it was 2002 that the Gingles case
3 was decided. Is that your question?

4 REPRESENTATIVE HEADLAND: Yes.

5 CHAIRMAN DEVLIN: Is there anything else
6 on this particular subject at the moment.

7 (No audible response)

8 None. We will move on to some
9 presentation of proposed redistricting plans and
10 some tweaks. And I think I will probably start
11 with Representative Nathe because he has some
12 minor tweaks to Bismarck/Mandan, which I think
13 would be -- maybe would take a little less time
14 than some of the other ones. But I could be -- I
15 could stand to be corrected.

16 REPRESENTATIVE NATHE: Take more time to
17 hand it out.

18 Are you going to bring it up, Emily?

19 No?

20 For the record, Mr. Chairman, members of
21 the Committee, Representative Mike Nathe,
22 District 30. I have in front of you the proposal
23 for Bismarck/Mandan. It really hasn't changed
24 much since we talked about it --

25 Oh, wait. Are you waiting for one?



1 Sorry about that, Mr. Chairman.

2 Again, members of the Committee, not
3 much has changed since I proposed this plan last
4 week for Bismarck/Mandan. Just two little tweaks
5 that we did, and you can go up to maps for
6 District 7. When you take a look at District 7
7 up in that northeast corner, 84th Avenue and 71st
8 Avenue, we squared that off. In the previous
9 plan I gave you, we had a kind of little squiggly
10 line kind of through that bloc. It had a
11 tendency to create some confusion for voters,
12 plus there were -- the numbers were just too high
13 and kind of blew up that portion of the map. So
14 we just cleaned that up and squared that off
15 right there. And that's really all we did with
16 7.

17 The other little change we made was in
18 District 32.

19 And Mr. Chairman, you'll see, the
20 previous map we had in District 32, we had along
21 Rosser and -- over to Rosser and 21st, we had
22 added some of those blocs. We gave two blocs
23 back -- we took two blocs, 30 took two blocs back
24 and we cleaned it off at 19th Street there. So
25 this nice clean line. There used to be a bump



1 right about in the middle there and so we --
2 District 30 took two of the blocs back and
3 cleaned that up. And the numbers work out great
4 for 30. We're a little over three percent, and
5 32 is about two and half percent. So that was a
6 good suggestion and that worked out well.

7 So, Mr. Chairman, as far as Bismarck is
8 concerned, that is the little change -- that's
9 the changes we made since we spoke last week, and
10 my estimation, Bismarck is pretty well set.

11 And I'll take any questions on Bismarck.
12 I do have some stuff on Mandan.

13 SENATOR HOLMBERG: Mr. Chairman?

14 MR. CHAIRMAN: Senator Holmberg and then
15 Senator Oban.

16 SENATOR HOLMBERG: I'm trying to
17 remember, geographically, because I'm looking at
18 32, is 30 -- on this map of 32, where is 30? Is
19 it right to the right or to the left?

20 REPRESENTATIVE NATHE: 30 is to the
21 east, it's to your right.

22 SENATOR HOLMBERG: Okay.

23 REPRESENTATIVE NATHE: Correct. So it's
24 the other side of 19th Street.

25 SENATOR HOLMBERG: And then on the left



1 is what?

2 REPRESENTATIVE NATHE: It wraps around.

3 So it kinds of wraps down and --

4 SENATOR HOLMBERG: Oh, okay. 30 wraps.

5 REPRESENTATIVE NATHE: Yep.

6 SENATOR HOLMBERG: Oh. Okay. Okay.

7 Thank you.

8 REPRESENTATIVE NATHE: And Mr. Chairman,
9 I've -- Senator Poolman, Senator Oban, and I,
10 we've discussed this map and took some input, so
11 we've all had a say in this, so --

12 CHAIRMAN DEVLIN: Senator Oban.

13 SENATOR OBAN: Mr. Chairman, I just want
14 to be very transparent. As a part of the full
15 map that we will share later today, generally
16 speaking, mine very much mimics what Nathe has.
17 I did adjust some boundaries to stick to the
18 principles that I used when I drew them. So it
19 will -- if you're looking at some of the
20 districts with a bit more jagged lines, perhaps,
21 mine will be a little bit straighter. So I just
22 want to note that, and we'll gladly share that
23 later with our full map.

24 CHAIRMAN DEVLIN: Is there any questions
25 for Representative Nathe on what he's just



1 proposed?

2 Senator Poolman, did you have anything
3 else on this?

4 (No audible response)

5 Okay.

6 And now you're going to do Mandan --

7 REPRESENTATIVE NATHE: I'll do Mandan,
8 Mr. Chairman. It hasn't changed since we last
9 met, but I'll still hand out the map so everybody
10 can see it.

11 Apologize for that, Mr. Chairman.

12 So in the same packet, you would see --
13 for Mandan in District 31 and 34, again, as I
14 stated, that has not changed since we met last
15 week. Just for a little review, we gave some of
16 District 31 and the north side of 94 to District
17 33, that was in need of population.

18 For the most part, we kept 31 intact.
19 We added a couple townships on the far west for
20 some numbers. You can see 31 is about a minus
21 3.25, so we added a couple numbers out there.
22 But for the most part it is pretty much
23 untouched. We did add parts of 34, which was
24 north -- northwest Mandan, and west Mandan to
25 District 31, to help them get underneath, to the



1 optimum number, and also help get 34 into the
2 acceptable range, too.

3 But, again, Mr. Chairman, the map hasn't
4 really -- hasn't changed at all since we met last
5 week. But that is the changes to 31 and 34.

6 CHAIRMAN DEVLIN: Is there any further
7 questions?

8 (No audible response)

9 Seeing none. Thank you.

10 REPRESENTATIVE NATHE: All right. Thank
11 you, Mr. Chairman.

12 CHAIRMAN DEVLIN: Who would like to go
13 next?

14 Representative Lefor.

15 REPRESENTATIVE LEFOR: Thank you,
16 Mr. Chairman and members of the committee.

17 For the record, Mike Lefor, District 37
18 Dickinson.

19 The proposal that's being handed out
20 right now doesn't show a lot of change from last
21 time, but there have been a couple of tweaks that
22 have gone on. Last time, I showed District 39 to
23 include a portion of Western Mercer County, and
24 that made things more difficult in other
25 districts. So basically, I've gone back to



1 having Mercer County not involved in District 39.

2 So the new District 39 plan, you will be
3 the northern border is the river boundary, and
4 then the Native American reservation trails all
5 the way through from the north to the east part
6 of that. And I did take a part of Dunn County
7 that was previously in District 4, and you'd
8 asked Senator Bekkedahl and I to meet to fix that
9 and we did take a couple of townships in Mercer
10 County, St. Mary, and another one that totaled
11 about 375 vote -- 375 people, that would then put
12 District 4 back in the acceptable range. And
13 Representative Nathe has some -- looked -- worked
14 on that, as well. So District 39 is, as you see
15 it, McKenzie County and a portion of Dunn County
16 that gets it to barely within the acceptable
17 minimum amount population.

18 And then going to District 36, we did
19 make some minor revisions, but it was just
20 population based. Basically, the same that we
21 did before, you'll -- if you look at District 37,
22 you'll see that we did take a portion of the
23 northeastern part of District 37 and reallocated
24 it to District 36, simply for population reasons.
25 And the borders are major thoroughfares within



1 the community of Dickinson.

2 District Y, I don't think we changed
3 that from last time. If we did, it would have
4 been minor, but I think it's pretty much the same
5 as we had last time with the Southern Dunn -- I
6 mean the southwest counties -- the five southwest
7 counties have 8562 people. So respecting the
8 District 31 border, moving up through a portion
9 of Hettinger County, a portion of Western Stark
10 County, and Southern Dunn County, gets you to the
11 population that you needed to be within the
12 acceptable range.

13 And I feel very comfortable presenting
14 this to the committee, even though a lot of these
15 are on the low end of the population range,
16 simply because I believe that those areas,
17 Watford City, Dickinson, and so forth, are going
18 to continue to show growth if the projections
19 that we've seen come true. So I'm very
20 comfortable with presenting the committee this
21 particular plan.

22 And so with District 33, Representative
23 Nathe has some changes, but we've taken out those
24 couple townships in District 33 that will now go
25 to District 4, simply from a population



1 standpoint.

2 So that is all I have, Mr. Chairman, and
3 I would certainly stand for questions.

4 CHAIRMAN DEVLIN: Senator Holmberg had a
5 question.

6 SENATOR HOLMBERG: Mr. Chairman, two
7 things. Number one, I noticed just as a quick
8 glance here that you -- out of 14 counties, you
9 have kept 10 of them whole, and some of them have
10 to be divided, so that is commendable.

11 Secondly though, you're coming in low on
12 all of these numbers, and I've noticed a lot of
13 districts coming in low. At some point, there's
14 going to be a big bulge in that balloon for those
15 other people. Where are the districts that are
16 going to be plus three and a half to plus four
17 and a half?

18 REPRESENTATIVE LEFOR: You're correct
19 and thank you for that. We did try to keep as
20 many counties whole as we could. The problem was
21 the low population in 5 counties. And so when
22 you look at this particular part of the state,
23 the population of the districts in that part of
24 the state right now is 61,000 people. So if you
25 had 3 ideal population districts, you would get



1 49,500, so you still wouldn't have enough --
2 you'd still have about 11,500 people too many.

3 Now, if you went to the high range, you
4 know, five percent more, then you would still
5 need homes for about five or 6,000 people. So
6 that's why I went on the low end of the scale,
7 because it completely fit 4 districts in an area
8 which I believe is going to grow substantially
9 over the next 10 years.

10 CHAIRMAN DEVLIN: Senator Holmberg.

11 SENATOR HOLMBERG: Aren't you counting
12 on like for example, District Y, you're counting
13 on the Dickinson area to be growing because
14 you're not going -- I'm guessing -- see a lot of
15 growth in some of these other counties.

16 REPRESENTATIVE LEFOR: Well, that's
17 true. The Western Stark County, I believe,
18 Belfield and South Heart may show some incidental
19 growth, but you're right, that District Y
20 probably isn't going to show a lot of growth
21 because it's been stagnant the last 10 years.

22 CHAIRMAN DEVLIN: I'm sorry.
23 Representative Boschee.

24 REPRESENTATIVE BOSCHEE: Thank you,
25 Mr. Chairman.



1 Representative Lefor, I do like this map
2 much better because I think it follows a lot more
3 of the county lines, so good work on that. My
4 question for you is that intersection of District
5 36 and 37 in Dunn County. Did you do any
6 maneuver -- I'm asking this question as someone
7 who, as you start looking at your maps the third
8 or fourth time, we're like, "Oh shoot. How" --
9 you know, all that. So I'm curious, is that
10 corner able to be cleaned up so Dunn would only
11 have two legislative districts instead of three
12 and take a little bit out of Stark to even it
13 out, or -- is that an opportunity?

14 REPRESENTATIVE LEFOR: Mr. Chairman,
15 Representative Boschee, that was done for an
16 incumbent legislator.

17 CHAIRMAN DEVLIN: Further questions for
18 Representative Lefor?

19 (No audible response)

20 Seeing none, thank you.

21 Representative Nathe, did you have
22 another plan to present on rural Burleigh that
23 ties into this, or am I mistaken?

24 REPRESENTATIVE NATHE: Mr. Chairman, I
25 have a plan for District 8 and 33 that ties into



1 what Representative Lefor just talked about. A
2 lot of it is what I presented last week, but
3 there's a couple tweaks and changes.

4 CHAIRMAN DEVLIN: Could you present --

5 REPRESENTATIVE NATHE: Sure. I have
6 them ready to go.

7 CHAIRMAN DEVLIN: Yeah. That would be
8 good.

9 REPRESENTATIVE NATHE: Ready
10 Mr. Chairman?

11 CHAIRMAN DEVLIN: Ready.

12 REPRESENTATIVE NATHE: All right.
13 Mr. Chairman and members of the committee, for
14 the record, Representative Mike Nathe. I have in
15 front of you District 8 and 33 I proposed this
16 last week. Let's just go through District 8
17 first.

18 Again, if you remember, we took District
19 8, took a lot of District 7's numbers. District
20 7 was extremely -- had close to 6000 people over
21 the limit. We were given the task to try to get
22 7 within range. The way -- how we did that was
23 put it into District 8. And what we did is we
24 brought District 8 down to Lincoln, and that,
25 alone, was about four plus thousand people added



1 to District 8. You can see if borders against
2 30. Emily will show you there, on the side
3 there. On 6th Avenue there and then over on
4 45th. So we straighten those lines out there.
5 Excuse me. Yes.

6 50 -- is that 80th? You want to show
7 that, Emily, the brown there. Keep going down.
8 Yeah, right there. That street right there.

9 So, originally, last week, we had come
10 out into that square. We straightened that line
11 out for numbers-wise, and that worked very well.
12 So it's a nice straight line. Again, we put
13 Lincoln in District 8. Lincoln identifies with
14 Bismarck, as I stated before. Has the Bismarck
15 public school. So we kept them in there.
16 There's a legislator within a mile or two of
17 Lincoln, a current sitting incumbent legislature,
18 so one of the reasons why I brought it down
19 there.

20 So as you go north from Lincoln -- and
21 again, a lot of this is District 7 that we're
22 putting into Lincoln -- as you go north, we did
23 not touch the western border of 14. 14 I left --
24 we left alone. We went north all the way up, and
25 the biggest changes -- and I'll let Emily get up



1 there on District 8.

2 Okay, Mr. Chairman. The biggest changes
3 we made, and again, I had mentioned this last
4 week, is we had Garrison, Coleharbor, that area,
5 we took out of 8 and we put into 33 because they
6 needed numbers and because 8 was overloaded with
7 population.

8 We then moved the line over, and you can
9 see where the line goes north to south. I
10 believe that is 30th Avenue Northwest. The plan
11 I showed you last week was a little bit more
12 jagged, followed some different roads. I went
13 and revisited it. It's a much cleaner line
14 following this highway going south and working
15 its way down to the river. As you can see, it's
16 a nice shape. It works good for the numbers with
17 District 8. They're just a hair under five
18 percent. And kind of feeds into what Senator
19 Holmberg talks getting some positive numbers.

20 And then with 33, I don't think Emily
21 has the changes that Representative Lefor talked
22 about, but we've made the changes in, at least my
23 computer.

24 The upper left corner of that, Emily.

25 We took out those three townships and



1 put that into 4. And so that number 33 might be
2 down a little bit. But yeah, we took those three
3 townships and put it into 4 and then that would
4 be the rest of District 33.

5 As you can see, 33 meshes nicely into
6 the western plan. Meshes nicely into the two new
7 districts that we have out there. And again, you
8 can see how we transferred the numbers from
9 District 7, to 8, to 33, to help 33 get out of
10 the hole.

11 And as I had said earlier with the
12 Mandan plan, we also gave some numbers from the
13 northside of 31 and added that to 33, also.
14 Excuse me, the numbers in 33 -- yeah. Yep. Yep
15 -- are around that zero point, so it's pretty
16 close.

17 So, really, Mr. Chairman, those are just
18 a couple of the tweaks we made to 8 and to 33.
19 So I'll stand for any questions.

20 CHAIRMAN DELVIN: So, Representative
21 Nathe, what happens south of Lincoln? Where do
22 those folks --

23 REPRESENTATIVE NATHE: Okay. Good
24 question. I'll let Emily get down there. I
25 apologize for not covering that. I've looked at



1 this so often.

2 Emily, you want to zoom in there?

3 Perfect.

4 Great, so south of Lincoln, what we did
5 we brought District 30 came over from the 52nd,
6 which is the current boundary. So we brought
7 District 30 over to get some numbers for District
8 30, and we came up just south of Lincoln, which
9 is Copper Ridge. The Copper Ridge area would be
10 now included under this plan into District 30.

11 It meshes nicely with District 30. And then when
12 you go to the east of that, I had just added
13 those districts to 14 and brought that down to
14 the Burleigh/Emmons border. So that's really the
15 one thing I touched up on 14. That was it. I
16 just brought that down, just to square it off.

17 CHAIRMAN DEVLIN: So you didn't tie
18 Emmons County into anything with Burleigh?

19 REPRESENTATIVE NATHE: I did not tie
20 Emmons County into anything. Nope. I stopped at
21 the Emmons County border and went from there.

22 CHAIRMAN DEVLIN: Okay.

23 Representative Headland.

24 REPRESENTATIVE HEADLAND: Thank you,
25 Mr. Chairman.



1 Representative Nathe, do you have a
2 number associated with the amount of people that
3 would be flowing in with this plan into District
4 14?

5 REPRESENTATIVE NATHE: Into District 14?
6 No, I do not.

7 Mr. Chairman, Representative Headland, I
8 don't think it would be very much because, again,
9 I just added those bottom townships between the
10 Emmons County/Burleigh border up toward Lincoln.
11 So there's not a whole lot of population in
12 there, but I could certainly get you those
13 numbers.

14 REPRESENTATIVE HEADLAND: Okay, thanks.

15 CHAIRMAN DEVLIN: Senator Klein.

16 SENATOR KLEIN: Well, and Mr. Chairman,
17 I think we tried to bring -- District 14 used to
18 have rural Burleigh, but when we were looking for
19 3000 people, Tuttle with 80 people, Wing with 90
20 people, it just -- and there's just not much in
21 the rural area, Sterling, McKenzie. That was all
22 in our district at one point. So that was why
23 the struggle -- I mean, it just didn't work. We
24 just couldn't pick up enough numbers.

25 REPRESENTATIVE NATHE: Yeah. Yeah,



1 again, I put it into 14 knowing you guys were
2 working on 14. That's the only part I touched.
3 We had talked about that, yeah. Again, but the
4 rest of the western border of 14 going north is
5 all current line.

6 So, Mr. Chairman, what I tried to do is
7 keep 8 whole, tried to respect the three
8 incumbent legislators, and just wanted to keep it
9 as is, the way we have it now. Obviously,
10 there's some changes up in the upper north and we
11 had to get some districts up -- it says 6 up
12 there. There's, I think, eight townships in the
13 first plan I had that we gave to 6, but again, I
14 know there's some discussions and some work on --
15 going on up there, that pink area up in that
16 general area there, so -- but we talked about
17 that last week.

18 CHAIRMAN DEVLIN: Representative
19 Schauer.

20 REPRESENTATIVE SCHAUER: Thank you,
21 Mr. Chairman.

22 Representative Nathe, maybe you noticed
23 this statement that was put out by Mayor Weisz
24 from the City of Lincoln concerns over District 7
25 versus 8, and he wanted to visit about that. Can



1 you give us some background information on the
2 connection and the communication between Lincoln,
3 and yourself, and others that are drawing maps?

4 REPRESENTATIVE NATHE: I haven't done
5 any formal -- Mr. Chairman, Representative
6 Schauer, I haven't had any formal communications
7 with Lincoln or any officials. I know Mayor
8 Weisz through my job. He works at the National
9 Cemetery -- at the state's cemetery, and quite
10 frankly, ran into him Friday afternoon and we
11 had a discussion on this. He had asked me how he
12 could voice his concerns about the plan -- I
13 shouldn't say about this plan. There was another
14 proposal he did not agree with. And I had to,
15 quite frankly, referred him to counsel and said,
16 "Hey, call Legislative counsel, get the
17 information that you need." And you may have
18 already heard from Mayor Weisz; I'm not sure.

19 So -- but I'll just tell you he much
20 prefers this plan. I think -- he -- you know, as
21 he said, they identify with Bismarck. Their
22 people do commerce through Bismarck back and
23 forth. There's already a District 8 legislator
24 there. And we're keeping it whole, more or less,
25 in their minds. They just felt -- they feel like



1 they have more in common with Bismarck than say
2 the other plan which ties into Emmons County.
3 They do not have much in common with Emmons
4 County, so -- but I would like to have -- I think
5 Mayor Weisz, it would be important to have his
6 input, and letter, and statements. Or at least
7 somebody from the City of Lincoln.

8 CHAIRMAN DEVLIN: Senator Poolman.

9 SENATOR POOLMAN: Mr. Chairman and
10 Representative Schauer, I spoke extensively to
11 the mayor on Sunday night for about half an hour,
12 and so he just expressed concerns that they
13 didn't really know that redistricting was going
14 on. And so once I talked about that there were
15 two different options, but in both of those
16 options, Lincoln becomes the most influential and
17 largest voting bloc, he started to understand
18 that it was inevitable that they would be in
19 District 8, whatever District 8 may look like.
20 And he was appreciative of the explanation of the
21 process, and he did not express any preference
22 for one District 8 over the other.

23 And so, I think that as we continue to
24 put these maps out there, I will continue to
25 reach out to Mayor Weisz and have those



1 conversations. But he was very excited about the
2 possibility that Lincoln could really send some
3 people to the legislature as being much more
4 influential than they are now.

5 REPRESENTATIVE SCHAUER: His real
6 preference was to stay in 7, but we told him that
7 was just not doable, so --

8 CHAIRMAN DEVLIN: As I understood his
9 letter today as they prefer to stay in 7 instead
10 of 8, but he wanted somebody from the committee
11 to meet with him. So Senator Poolman and
12 Representative Nathe, I'm sure, will be
13 contacted.

14 REPRESENTATIVE NATHE: Has that been
15 sent out, Mr. Chairman? I guess I didn't -- we
16 just got it?

17 CHAIRMAN DEVLIN: We got it this
18 morning.

19 REPRESENTATIVE NATHE: Okay.

20 CHAIRMAN DEVLIN: Anything else for
21 Representative Nathe?

22 (No audible response)

23 Hearing none.

24 REPRESENTATIVE NATHE: Thank you,
25 Mr. Chairman.



1 CHAIRMAN DEVLIN: I believe,
2 Representative Headland. Are you ready Greg, or
3 should I go to Representative Monson first?

4 I think we're ready.

5 REPRESENTATIVE HEADLAND: Thank you,
6 Mr. Chairman.

7 For the record, I'm Representative Craig
8 Headland from District 29, and I'm going to
9 introduce a proposal that I think ties parts of
10 what has already been introduced or looked at in
11 a proposal by Representative Devlin in with what
12 I feel -- and I think you can make the case for a
13 plan that works and will also tie into what is
14 being proposed in Cass County, Grand Forks
15 County, in some of the areas that I actually
16 didn't address.

17 Mr. Chairman, in putting this plan
18 together, I want to assure the committee that I
19 tried the absolute hardest possible to follow the
20 traditional redistricting principles, including
21 keeping counties whole. Trying to have -- well,
22 assuring contiguity, and at the same time, trying
23 to, you know, preserve the political
24 subdivisions, and actually trying to keep core
25 districts as close as we can. And also, you



1 know, just trying to look at incumbency and keep
2 that as closely aligned as we can.

3 So in looking at the proposal, if we
4 start in the northeast, the District 10 remains
5 the same in this proposal as in the proposal that
6 Representative Devlin had put forward. I think
7 we can say the same for District 9, District 15,
8 and I think actually District 14, but I'll get
9 back to District 14 in a minute.

10 Also, in this proposal, we did not look
11 into any of the areas, as I said earlier, with
12 Grand Forks, and I did not mess at all with what
13 was proposed by Representative Devlin in District
14 20. Cass County, I did not look at anything in
15 Cass County, so that would remain whole as the
16 plan that was put forward by Senator Sorvaag.

17 So in this plan, the areas that I did
18 look at include the areas that we're actually
19 going to be having two districts that will
20 disappear. District 23 and District 26 would no
21 longer be districts in this area -- or in this
22 area of plan.

23 So Richland County, one of the first
24 things discussed, and I think fairly agreed upon,
25 makes a nice district. We did our best to try to



1 leave that alone and preserve that as a
2 legislative district. So when we moved over to
3 District 28, keeping that as whole as we could,
4 knowing that there had been a plan that had
5 removed the Burleigh County portion of District
6 28, we worked with Emmons, Logan, McIntosh,
7 Dickey.

8 And in this plan, all of Dickey County
9 now would go into 28, and we tried to put all of
10 Sargent County in it. When we did that, we ran
11 into the issue of a slight overpopulation. So as
12 you can see, there are those townships where the
13 portion of the reservation is located, were moved
14 over into Richland County, along with five
15 townships directly above that, in order to meet
16 the population in 28. It also did not seem to
17 have a negative impact on Richland County. So I
18 think you can see that I makes two districts
19 within our ranges.

20 Moving to District 24, one of the early
21 discussions was that if you took Barnes County
22 and Ransom County and put them together, it makes
23 a nice size district. We started with that
24 premise, and you do. You can make that work.
25 But when you move into the other surrounding



1 districts, in knowing that the population has to
2 come from somewhere to make all the districts
3 whole, as you can see, we ended up having to
4 remove part of Barnes County and move it into
5 District 12, which again, I'll get to next.

6 But as you can see, you can have all of
7 Ransom County, all of Steele County, and the
8 remaining area of Barnes County, together, makes
9 a nice size district and does at least keep the
10 three incumbents in District 24. Now, with the
11 elimination of 26, you do end up, you know, with
12 a State Representative currently elected out of
13 26 that would be placed in 24.

14 Moving slightly to the west, when I
15 took a look at District 12, you can't hardly look
16 at District 12 without looking at District 29,
17 and the reason is because, currently, District 29
18 completely surrounds District 12. So when trying
19 to make two districts, knowing they both were
20 well short of their population needed to make
21 whole districts, you had to make a decision on
22 what are you going to do, which direction to go.
23 And knowing that Barnes County and District 24,
24 the makeup of that, that you had available
25 townships for some other district if you -- as



1 you can see, we moved them into District 12.

2 So there's also, you know, trying to
3 make a square district, or you know, somewhat
4 square district, compact, and adhering to the
5 preservation of prior districts, the area of
6 Jamestown in District 12 remains the exact same
7 as it is today. In doing that, we had to find a
8 way to look at the rural areas needed to bring
9 the numbers where they need to be. So there's 10
10 townships in Stutsman County that I've moved from
11 29 over to 12, along with the 10 townships in
12 Barnes County. That gets 12 to where a district
13 needs to be within the areas of percentages.

14 However, when you go to building
15 District 29, assuming that you're trying to
16 preserve that district as well as you could,
17 keeping LaMoure and what's remaining in Stutsman
18 County the same, and keeping Foster County
19 intact, adding Griggs County, and adding Nelson
20 County, you just got a little bit too much
21 population. So as you can see, we moved eight
22 townships from Griggs County into 12.

23 Which I know there's consternation with
24 splitting Griggs County, but if you're going to
25 try to preserve existing districts to the best of



1 your ability, and you are now eliminating
2 District 23, it appeared to me like you could
3 make the best case that it's those eight
4 townships that fit best into a new district.

5 So we have a District 12 that works, and
6 with what remains, District 29. Even though it's
7 not the prettiest to look at, it does create a
8 district that works. 15 remained the same; 14 in
9 the plan that you see before you, I believe it's
10 the same the plan that was put forward by
11 Representative Devlin, that had taken the portion
12 of Eddy County that is within the boundaries of
13 the reservation, giving that to District 15, and
14 the remains of Eddy County had gone to District
15 14.

16 Now, that would complete this plan. It
17 makes districts out of an area that did not have
18 any growth, and it was not an easy task, you
19 know, to try to come up with something that
20 worked for everyone within its boundaries and the
21 incumbents. I think this plan does that. And,
22 you know, without knowing that now the plan to
23 the west, you know, might impact the population
24 of District 14, I don't know whether or not this
25 plan fits exactly with the plan that was just



1 presented. But I think there's room, as you can
2 see, in District 14, for some additional
3 population.

4 So, Mr. Chairman, committee members, I
5 think there's a plan here that works for Eastern
6 North Dakota, and I guess I'm ready to stand for
7 questions.

8 CHAIRMAN DEVLIN: Representative
9 Schauer.

10 REPRESENTATIVE SCHAUER: Thank you,
11 Mr. Chairman.

12 From my standpoint, it certainly looks
13 good. I guess the question I had is on District
14 12. It looks like it says most of Jamestown, yet
15 it's such a large district and you're still, you
16 know, just 2.34 percent over. Tell me a little
17 bit about Jamestown and how that was sliced up.

18 REPRESENTATIVE HEADLAND: Mr. Chairman,
19 Representative Schauer, the boundaries of
20 Jamestown did not change at all. So the portions
21 of District 12 that exist today exist without any
22 change along that western border. They still
23 face the fact that they need almost 2000 people,
24 so unless you're going to take a look at, you
25 know, busting up District 29, there's really not



1 any place for them to go but out in some rural
2 area.

3 Now, you could have looked at -- and I
4 did. I looked at several different ways to slice
5 that up, but no matter where I went, it seemed
6 like it imposed on the integrity of District 29.
7 I understand that they now -- the more -- major
8 portion of Jamestown, that district would have
9 locations in three counties, but in this area
10 where you have every district needing, you know,
11 big numbers of population in order to meet their
12 recommended numbers, there just really isn't any
13 easy way to do it, so --

14 CHAIRMAN DEVLIN: Senator Bekkedahl.

15 SENATOR BEKKEDAHL: Thank you,
16 Mr. Chairman and Representative Headland.

17 A couple questions. I'm assuming you
18 moved some of those townships from Sargent into
19 Richland because the addition of Emmons with the
20 incursion into LaMoure County and taking that
21 part out, you needed the numbers then into -- you
22 needed to take numbers out of the new district to
23 28 -- is that what you did?

24 REPRESENTATIVE HEADLAND: Mr. Chairman,
25 Senator Bekkedahl, I was assuming that the goal



1 was to try to keep 28 as whole as they currently
2 are and respective, you know, their boundaries
3 today, which include all of Emmons County. And,
4 you know, there wasn't any change made along the
5 border of District 29 and LaMoure County, than
6 there currently exists today. So the only
7 additional area added to was, you know, what
8 completes their representation in Dickey County
9 and then Sargent County. But again, that just
10 put them a little bit over the recommended
11 number. That's why I had to go into those five
12 townships and add them to --

13 SENATOR BEKKEDAHL: And I understand
14 you're -- to some degree, you're working more
15 with incumbents or seating legislators, or
16 sitting legislators, than you are with county
17 lines here. But in your proposal, if I assessed
18 this properly, you have Griggs, Stutsman, Barnes,
19 Sargent, and LaMoure counties, which under the
20 plan we looked at last week, would have remained
21 whole. Now all of them have some breakup within
22 them, so we've now compromised county lines in
23 five counties that in the previous model we had
24 were whole county lines. Is that correct?

25 REPRESENTATIVE HEADLAND: Mr. Chairman,



1 could you repeat that?

2 SENATOR BEKKEDAHL: So as I look at the
3 map with the changes you have made based on what
4 we saw last week from another proposal, Griggs
5 County, Stutsman County, Barnes County, and
6 Sargent County, and LaMoure County, all five of
7 those counties in that proposal respected county
8 lines and stayed as whole counties within the
9 districts. You have now taken parts of those
10 counties and crossed county lines and compromised
11 the county line situation we used to have.

12 REPRESENTATIVE HEADLAND: Well,
13 Mr. Chairman, I think in Stutsman County it
14 doesn't remain whole because it has two existing
15 districts today.

16 SENATOR BEKKEDAHL: But I guess the
17 question I have is: wasn't Stutsman County, other
18 than District 12, wasn't all that county in
19 District 29 before, in the proposal we saw last
20 week?

21 REPRESENTATIVE HEADLAND: Mr. Chairman,
22 I believe it was.

23 SENATOR BEKKEDAHL: Okay. That was my
24 point. So Mr. Chairman, I understand that the
25 point you're looking at is incumbents or current



1 legislator's seating over the county line
2 distributions we have. But the other question I
3 have is: in your scenario, and the scenario we
4 saw last week, wouldn't the one seating
5 legislator in Ransom County be put into a new
6 district either way, in either proposal?

7 REPRESENTATIVE HEADLAND: Mr. Chairman,
8 yeah.

9 SENATOR BEKKEDAHL: Okay.

10 REPRESENTATIVE HEADLAND: But
11 Mr. Chairman, Senator Bekkedahl, knowing that
12 Ransom County is existing district disappears,
13 right, so you don't have incumbents out of 26
14 anymore.

15 CHAIRMAN DEVLIN: Other questions?

16 (No audible response)

17 Representative Headland, you know,
18 following up on what Senator Bekkedahl
19 questioned, you know, certainly, four districts
20 that weren't split before -- or four counties
21 that weren't split before are split under you
22 plan. And we can talk about the integrity of
23 Stutsman County, but what about the integrity of
24 Barnes County, or Griggs County that, all of a
25 sudden, we're now splitting? So is the integrity



1 of Stutsman County more important than the
2 integrity of Barnes and Griggs counties?

3 REPRESENTATIVE HEADLAND: Mr. Chairman,
4 the integrity of every county is important.
5 However, I think when you look beyond that and
6 you go to preservation of incumbents -- which is
7 right here, listed as one of the principles that
8 federal law determines that we need to look at --
9 unless you're going to bust up 29 -- and no, you
10 don't have to bust it up completely, but you
11 essentially gut the core of it when you take away
12 as much of the rural area from 29 and give it to
13 12, that I think, you know, it's not something
14 that those of us who represent 29 believe is in
15 the best interest of those people that live
16 there.

17 CHAIRMAN DEVLIN: Representative
18 Headland, just to continue, so essentially, under
19 the new 24, there are five currently serving
20 incumbents in there. And in District 12, now
21 there would be three -- four. There would be
22 three House members and one Senator that are
23 currently serving.

24 REPRESENTATIVE HEADLAND: Mr. Chairman,
25 I don't know the answer to that for sure, but I



1 thought I was told that two of the incumbents of
2 District 26 are now in the Richland County, and
3 so there would be one remaining.

4 CHAIRMAN DEVLIN: Okay. Well, there was
5 three in Barnes, one in Ransom, and one in
6 Steele, then the other one there was one in
7 Griggs and three in 12, and that's what I was
8 going by; they're all incumbents.

9 REPRESENTATIVE HEADLAND: Okay. So
10 you're including yourself in that.

11 CHAIRMAN DEVLIN: Yep.

12 REPRESENTATIVE HEADLAND: Yep. That
13 would be right.

14 CHAIRMAN DEVLIN: Representative Monson.

15 REPRESENTATIVE MONSON: Thank you,
16 Mr. Chairman. And when you're pointing out
17 incumbents that are thrown in on this one,
18 Representative Damschen is over in District 9
19 then too, so that would be one that is also
20 transferred over into that.

21 REPRESENTATIVE HEADLAND: Mr. Chairman,
22 Representative Monson, yeah, that was the case.
23 I did not make any changes from one of the prior
24 presentations, so you know, that was done in that
25 presentation.



1 Mr. Chairman, committee members,
2 granted, I sit here representing District 29, and
3 you know, I am doing what I can, I think, to
4 protect the integrity of those that represent 29
5 to the best that I think we can do, and I think,
6 if you look at the district, even though it's not
7 a perfect square by any measure, I think it's a
8 better-looking district than what was proposed in
9 the last proposal. So, you know, that's where we
10 are.

11 CHAIRMAN DEVLIN: Anyone else? Senator
12 Headland -- Representative Headland. I'm sorry.

13 (No audible response)

14 Seeing none, thank you.

15 Representative Monson.

16 REPRESENTATIVE MONSON: Mr. Chairman and
17 members of the committee, Representative Dave
18 Monson from District 10. And what I have passed
19 out to you today is an eastern area proposal. I
20 sat down with Claire Ness for a couple hours
21 yesterday and she helped me put this together.
22 And my main goal, I guess, in putting this
23 together was to keep the counties as whole as
24 possible, and most of these districts I think
25 this plan is based off of Senator Holmberg's



1 first proposal that he passed out. I made a
2 couple little tweaks to square things up, but
3 overall, we made every district work.

4 You will immediately look at 14 and 29
5 and you'll say, wait a minute, they're way, way
6 off. When I got into those areas, I didn't know
7 the area very well, so -- but you will notice
8 that one is 25.7 percent over, and one is 28.571
9 percent under. And I would leave it up to the
10 people in 14 and 29 to balance out the numbers.
11 But I mean, they're very similar if you took --
12 and I don't know where to draw it. And I didn't
13 really watch for present district so much,
14 outside of my own, and District 9, which I know
15 probably the best, and 15.

16 I left everything in Grand Forks County,
17 just as Senator Holmberg had in his plan, and I
18 took Nelson County and I put it into District 10.
19 And you might say well that's a strange addition,
20 but actually, I know Nelson County better than
21 you would think I would being from Cavalier
22 County; it's a ways away. But I travel through
23 that every weekend going home and I fill up with
24 gas in Lakota practically every week, and I've
25 got former students there. And their farming



1 situation is very similar to Cavalier County,
2 western Walsh County, even western Pembina
3 County, so we have a lot in common.

4 But if you notice, I tried to keep the
5 counties whole; that was my number one goal. And
6 it did throw some incumbents together, and I'm
7 sure they're not going to be so terribly happy.
8 But Pembina County is whole. Cavalier County is
9 whole. Towner County is whole. Rolette County
10 is whole. Ramsey County is whole. Nelson is
11 whole. Eddy County, Foster, Griggs, Steele,
12 Traill, Barnes, Cass, Ransom, Richland, Sargent,
13 Dickey, LaMoure, Logan, McIntosh, Kidder,
14 Sheridan, Wells, all whole. And that was my main
15 goal.

16 And like I say, there is a problem,
17 obviously, in 14 and 29 -- and I don't know how
18 to fix those two -- but I would hope that people
19 that know those areas better would maybe be able
20 to fix them and make this work. But this is
21 pretty much all of eastern North Dakota and it's
22 based a lot on Senator Holmberg's plan that he
23 presented, I think, at the second meeting. So --

24 CHAIRMAN DEVLIN: Senator Holmberg had a
25 question.



1 SENATOR HOLMBERG: Mr. Chairman, I'm
2 slinking down here as we go because of that --
3 you know, that anomaly there having one district
4 25 over and the other one 25 under. You know,
5 you could move the population, but do you take
6 Foster County and put it in 14? Does that solve
7 the problem?

8 REPRESENTATIVE MONSON: That doesn't
9 solve it. You would have to take some of
10 Stutsman, but Stutsman is already split up into
11 what? How many three, or four, or five
12 districts?

13 CHAIRMAN DEVLIN: No, two.

14 CHAIRMAN HOLMBERG: Two. And the 12 is
15 the 12. That has to be. It's --

16 REPRESENTATIVE MONSON: Well, yeah. I
17 mean, based on the last proposal by
18 Representative Headland, I mean, he was taking
19 area that I know nothing about, so I -- and you
20 could maybe take some of his plan and move it in
21 and shift this and make it work. But I don't
22 know the area in 29 and in 14 like I need to, so
23 -- I worked with the northeast, mainly areas that
24 I know, and I don't know Grand Forks County, as
25 well, but I trusted that Senator Holmberg's plan



1 took care of Grand Forks County pretty well, so
2 that's how I started with his plan, and I went
3 from there with the goal of trying to keep as
4 many counties whole as possible.

5 And it was brought up, you could move
6 all of Foster County, I guess, into 14. You'd
7 have to take a good chunk of Stutsman and I don't
8 know if you can get 25 percent, you know. I
9 really don't. That's for somebody that knows
10 that area better than I.

11 CHAIRMAN DEVLIN: Senator Holmberg.

12 SENATOR HOLMBERG: Mr. Chairman, first
13 of all, what you did in the northeast and
14 District 10 is commendable because what you did
15 is you added one county which makes a perfect
16 district, clearly. Clearly. The challenge is
17 the unintended consequences of the ripple effect
18 as that goes down is a challenge, and you've
19 admitted that it is a challenge.

20 REPRESENTATIVE MONSON: It is a
21 challenge. And I mean, Traill County is a -- in
22 some of these plans is kind of an orphan, you
23 know, it's stuck out there. And it --

24 SENATOR HOLMBERG: By the way, I am from
25 Traill County, so just keep that in mind.



1 REPRESENTATIVE MONSON: Well, that's why
2 I tried to keep it whole and over and to a
3 district here that -- it's a lot of rural area, a
4 lot of farming area. I mean, there's a lot of
5 commonalities. True, Traill County, they raise a
6 lot of different crops than Griggs and Foster
7 County, probably. But a lot of Stutsman County I
8 drive through, as well, coming to Bismarck every
9 time, and there's getting to be a lot of potatoes
10 and things like that, same as Traill County. So
11 there's a lot of commonalities there. But my
12 goal, again, was to keep counties as whole as
13 possible.

14 CHAIRMAN DELVIN: Representative
15 Headland.

16 REPRESENTATIVE HEADLAND: Thank you,
17 Mr. Chairman.

18 Representative Monson, knowing the area
19 quite well that you've worked on, I'm telling you
20 it's going to be impossible to fix these
21 districts within this area and keeping counties
22 whole. That is an impossibility. And I want to
23 go back to these principles.

24 Mr. Chairman, committee members, what
25 principles take precedent over the other



1 principles? It seems like we have a focus on
2 keeping county lines together, and it seems to be
3 carrying weight, at least with a lot of the
4 members versus, you know, keeping districts as
5 whole as you can. And I want to know, I want
6 somebody to tell me, which one of these
7 principles is more important than the other one?
8 I think it's all perspective and I think, you
9 know, the plan you laid out, it doesn't work.
10 You've got one district 25 percent over, or 21
11 percent. I just see a plan that I laid out that
12 works, and it works for everybody, and it
13 preserves -- it takes care of the bulk of the
14 principles that we're looking at right here.

15 REPRESENTATIVE MONSON: Mr. Chairman --

16 REPRESENTATIVE HEADLAND: Mr. Chairman,
17 just to comment, more than a question.

18 REPRESENTATIVE MONSON: I, again, I
19 tried to keep the counties whole. I kept the
20 reservations whole. And I kept my district
21 whole. I guess I -- if you want to look at it as
22 a greedy way, I kept my whole township, or my
23 whole district and added one county. I never --
24 I mean, there are other ones that are pretty
25 similar, but I have to admit, I do not know that



1 much about Stutsman County and Foster County.
2 And I know there are incumbents thrown in the
3 mix, but in my case, when we look at
4 Representative Devlin's plan, which was the
5 basis, I think, where Representative Headland
6 started, there again, you know, we've got three
7 incumbents thrown into District 9. We got -- in
8 my plan, there are four, I found out after I put
9 them together. But there's no doubt you're going
10 to have incumbents thrown together in the eastern
11 part.

12 CHAIRMAN DEVLIN: You may continue.

13 REPRESENTATIVE HEADLAND: Thank you,
14 Mr. Chairman.

15 Representative Monson, you know, I can
16 see you built off of Representative Devlin's
17 plan --

18 REPRESENTATIVE MONSON: Holmberg's. I
19 used Representative Holmberg's. And then I think
20 it's a blend with Devlin's --

21 REPRESENTATIVE HEADLAND: But in regards
22 to District 29 on the southwest portion of
23 Stutsman County, we have one row of four
24 townships. You know, you're 25 percent over in
25 29, and you're under in 12. And if you don't



1 care about incumbency and keeping, you know,
2 current district representation together, why
3 wouldn't you throw those bottom four counties and
4 put them in 12, and make a nice square?

5 REPRESENTATIVE MONSON: Mr. Chairman and
6 Representative Headland, this is an area I know
7 nothing about, so I just have to admit, if
8 somebody's got a better plan for the south, for
9 12, 29, 14, 26, I mean, I'm not an authority on
10 that area. So I'm trusting that somebody else
11 can blend something in here. But I like this for
12 the northeast, myself.

13 CHAIRMAN DEVLIN: Senator Oban, I
14 believe was next.

15 SENATOR OBAN: Well, Mr. Chairman, I
16 think to Representative Headland's point, I had
17 asked the same question in prior meetings, so
18 that we could -- much like we did the number of
19 districts, generally, we all accepted that we
20 would stick with 47. I was looking for some
21 guidance to say, what do we generally accept past
22 that? And every one of us, so far, has had
23 conflicting priorities. That's what's going to
24 happen before we did not come to any sort of
25 agreement, to the best of my knowledge, as a



1 committee, before we all went into doing this.

2 And so, you know, I want to ask
3 Representative Headland a question when he's
4 holding up those priorities, are those from the
5 redistricting background memo that leg counsel
6 prepared for us? Is that what it -- I just want
7 to make sure that I'm using the same thing. And
8 the very last principle is protection of
9 incumbents on that list. And so, you know, I
10 just -- I would just share that -- yes, that
11 background memo was prepared for all of us, but
12 because we didn't, as a committee, come to any
13 sort of general consensus on how we would be
14 drawing that, we're -- this is going to continue
15 to probably be an argument amongst all of us,
16 so --

17 REPRESENTATIVE HEADLAND: Mr. Chairman?

18 CHAIRMAN DEVLIN: Representative
19 Headland.

20 REPRESENTATIVE HEADLAND: Thank you. In
21 just response to that, Senator Oban, am I
22 confused or are you implying that you believe
23 that the number one principle is much more
24 important when doing this than the number five
25 principle? Because I think I would argue that



1 that's not really the case.

2 SENATOR OBAN: Mr. Chairman, I will be
3 able to state the principles that I used when I
4 share my map, so --

5 CHAIRMAN DEVLIN: Okay.

6 Representative Monson, I had just two
7 quick questions. You split Pierce County, the
8 way I'm looking at.

9 REPRESENTATIVE MONSON: Yes.

10 CHAIRMAN DEVLIN: Did you take --
11 because I don't think 15 would work when you move
12 Cando up into 9, unless you took part of Benson
13 that is now in 14. Is that what you did?

14 REPRESENTATIVE MONSON: We took part of
15 Benson. Yeah.

16 CHAIRMAN DEVLIN: Okay. Thank you.

17 REPRESENTATIVE MONSON: And it's -- I
18 guess I look at the trade area, a lot of Benson.
19 I mean, they go to Devil's Lake to -- you know,
20 for their shopping and so on, and so -- yeah, I
21 took a lot of Benson and put it into 15.

22 CHAIRMAN DEVLIN: Representative Nathe,
23 do you have another question?

24 REPRESENTATIVE NATHE: Yeah. Thank you,
25 Mr. Chairman. Mr. Chairman, in regards to both



1 eastern proposals, one thing that's not being
2 discussed that we need to think about is the new
3 districts. We've got four new districts
4 proposed, but only room for three. And when I
5 look at this, what Representative Monson has
6 here, it pretty much supports the new district
7 coming out of Emmons. When I see Representative
8 Headland's proposal, it pretty much supports the
9 two new districts out of the west.

10 So it really boils down to which one do
11 you want? Do you support the new district out of
12 Emmons County going up to Lincoln. If you do,
13 you'd lean this -- with the current -- what
14 Representative Monson has. If you lean towards
15 two new districts in the west, you'd lean towards
16 Representative Headland's. Reason being, he
17 keeps District 28 whole and keeps Emmons in 28.

18 And those are discussions, Mr. Chairman,
19 we need to have because I think -- in my mind,
20 that's what it boils down to. Do we want to have
21 two new districts out west, one in Fargo? Or do
22 we want to have one district out west, one in
23 Emmons County, and one in Fargo? And when you
24 answer that question, I think that will then kind
25 of determine which way you want to go with either



1 one of these plans.

2 CHAIRMAN DEVLIN: Senator Holmberg.

3 SENATOR HOLMBERG: Isn't the new
4 district that you're talking about in Emmons
5 County, isn't that the spillover from Bismarck?
6 Because Lincoln is -- Bismarck right now is in
7 District 7, so isn't that --

8 SENATOR POOLMAN: Mr. Chairman?

9 CHAIRMAN DEVLIN: Senator Poolman.

10 SENATOR POOLMAN: Yeah. If I may, I
11 think that Representative Nathe and I are not on
12 the same page in terms of what that
13 Emmons/Burleigh County District would be. It
14 would not be a new district. It would just be
15 District 8. And the proposal that I have then
16 brings District 6 all the way down, and sort of
17 eats up the rest of what would be left. And so
18 that -- it wouldn't be a new district. I think
19 that that's fundamentally also what we probably
20 have to clear up, but it's not a new district,
21 it's just a movement of an existing district.

22 REPRESENTATIVE NATHE: Mr. Chairman?

23 CHAIRMAN DEVLIN: Senator --
24 Representative Nathe.

25 REPRESENTATIVE NATHE: And Senator



1 Poolman is right. I mischaracterize it. But
2 what it does do is blow up 8, everything to the
3 north and puts three existing incumbents in three
4 different districts. So again, I do think it
5 boils down to, do you want to have two new
6 districts out west, or do you want to take one
7 away from out west? So -- and I think once we've
8 answered that question, then I think we can solve
9 the question what we do in the east, or which
10 plan works better in the east.

11 CHAIRMAN DEVLIN: Senator Bekkedahl.

12 SENATOR BEKKEDAHL: Thank you,
13 Mr. Chairman. And just a follow up on the
14 discussion that Representative Headland had --
15 and I apologize, Representative Monson, for not
16 addressing yours right now --

17 REPRESENTATIVE MONSON: I can probably
18 go sit down, huh. I can talk just as well from
19 there as here.

20 SENATOR BEKKEDAHL: And then Senator
21 Oban's, as well. But I guess my question first
22 of all is to Legislative counsel based on the
23 federal law of traditional redistricting
24 principles, or traditional districting principles
25 that you passed out to us. It does list six



1 items identified as traditional districting
2 principles included. Is there any order of
3 priority there, or are they just listed all of
4 equal priority? Because to me, when I looked at
5 it, it seemed to make sense to me that the
6 priority of compactness, which was the first one,
7 would have a priority, in my mind, as well as
8 contiguity. So at least those two should have
9 been at the top list. Is there any priority to
10 the status as you have there?

11 MS. THOMPSON: Mr. Chairman?

12 CHAIRMAN DEVLIN: Emily.

13 MS. THOMPSON: Mr. Chairman, Senator
14 Bekkedahl. Those listings of one through six
15 weren't intended to be, per se, a ranking.
16 However, I believe I did note during our
17 presentation, numbers one and two, compactness
18 and contiguity, those would take priority over
19 the other ones. That is a constitutional
20 requirement in North Dakota. So those would,
21 obviously, take priority out of the six and then
22 the committee has traditionally selected other
23 items that it wishes to consider when it's
24 drawing its maps.

25 For instance, in the last redistricting



1 cycle, the committee noted the plans that were
2 formulated should preserve existing district
3 boundaries to the extent possible, and preserve
4 political subdivision boundaries, to the extent
5 possible, as well as reservations, and then have
6 a deviation -- or that variation of 9 percent or
7 less. Those weren't specifically ranked by the
8 committee in order. Those were just items that
9 were -- the committee was advised to keep in mind
10 during the mapping.

11 Again, this session -- the redistricting
12 cycle prior to that in 2001, the committee also
13 noted three items that members should adhere to
14 when making plans. Again, preserving existing
15 district boundaries to the extent possible,
16 preserving those political subdivision boundaries
17 to the extent possible, and then in that
18 situation, they allowed for a variance in under
19 10 percent in the plans.

20 SENATOR BEKKEDAHL: If I could just
21 follow up, Mr. Chairman?

22 So, thank you. That's what I was
23 looking for. The other one, the third one down
24 is preservation of political subdivision
25 boundaries and based on the testimony we've heard



1 from the counties, and input I've had from county
2 auditors, they're really focused on trying to
3 keep those county lines for the elections in
4 place if we can.

5 So I'm going to go back to the -- a
6 later page of the Legislative -- of the same
7 memorandum we were given at that meeting. The
8 item six, protection of incumbents. It notes in
9 there that 12 states require drafters to avoid
10 pairing incumbents. "Placing two or more
11 incumbents in a single district leads to one
12 incumbent having to move, retire, or be defeated
13 and the policy against pairing incumbents aims to
14 promote continuity of representation." So my
15 guess is that probably all 50 states adhere more
16 to -- as a priority, would adhere to compactness,
17 and contiguity, and preservation of political
18 subdivision boundaries probably over the
19 protection of incumbents, since only 12 require
20 that. But that's just my interpretation,
21 Mr. Chairman.

22 CHAIRMAN DEVLIN: Thank you.

23 Representative Schauer.

24 REPRESENTATIVE SCHAUER: Thank you,
25 Mr. Chairman.



1 Representative Monson, I do have a
2 question for you. I don't know if you want to
3 come to the front microphone -- no, I'm just
4 kidding. You can just stay there. But, you
5 know, I like your plan and your intention to keep
6 the counties whole, but isn't the one-person,
7 one-vote and the numbers trump that?

8 REPRESENTATIVE MONSON: And
9 Mr. Chairman, Representative Schauer, so where
10 did you see that it was one-person, one-vote not
11 being followed except where they're both 25 under
12 and over?

13 REPRESENTATIVE SCHAUER: Well, except
14 for that, they're perfect.

15 REPRESENTATIVE MONSON: Exactly.

16 REPRESENTATIVE SCHAUER: But the
17 exception is pretty glaring.

18 REPRESENTATIVE MONSON: Well, I admitted
19 freely that somebody is probably going to have to
20 work with 12 and -- or 14 and 29 on my plan to --
21 I mean, when you're 25 over and 25 under, there's
22 probably a way to do it and make it come out even
23 and follow the constitution, one person, one
24 vote. So I -- two things. I ran out of time.
25 And the second thing, I don't know where I'm



1 going there and I don't know where all the
2 incumbents are, so I didn't watch for that, you
3 know. I knew where incumbents were in my
4 district.

5 In my district, I can live with
6 Representative Devlin, myself. I can live with
7 Senator Holmberg's plan, myself. But I -- you
8 know, if I wanted to make my ideal, I went with
9 Senator Holmberg's plan and added Nelson County
10 and it came out perfect, and my running mate and
11 I and my Senator are all kept whole. But there
12 are problems. I mean, there's problems. I know.

13 CHAIRMAN DEVLIN: Senator Sorvaag, I
14 believe had a question or --

15 SENATOR SORVAAG: Mine isn't much a
16 question but it's a comment on the discussion on
17 this traditional -- these districting principles.
18 And I think the one thing we need to -- we're
19 talking about ranking, which one -- I think
20 you've got to include them all. And if you do it
21 right, they're all coming into play in most
22 situations. Unless you're going on the premise
23 that 10 years ago, they did everything wrong.
24 But if they did things fairly right 10 years ago,
25 these work together. You can't just pull them



1 out and say this one's the most important. They
2 should all -- now, there's uniqueness in this
3 rural -- in all fairness, Representative --
4 they're trying to design this rural because of
5 the lack of population.

6 But I just think as we're spending a lot
7 of discussion to prioritize them, well I don't
8 think you need to. If you do it -- I mean, if
9 you look at compactness, or political
10 subdivisions, they all tie together. And you
11 look at present districts, you know, we keep
12 talking about incumbents, well, if you're focused
13 on present districts -- which I did in mapping
14 Cass County -- the incumbents come right with it.
15 You don't have to really go out of your way that
16 much. So I would hope as this discussion goes
17 forward, we don't spend too much time ranking
18 these, and rather, look at the whole picture.

19 CHAIRMAN DEVLIN: Representative Nathe.

20 REPRESENTATIVE NATHE: Thank you,
21 Mr. Chairman. I fully agree with Senator
22 Sorvaag's comments.

23 Quick question to my Chairman,
24 Representative Monson, District 10 in the
25 Headland plan, are you okay with that? Does that



1 work for you?

2 REPRESENTATIVE MONSON: It works for me,
3 personally. It doesn't work for my running mate,
4 Representative Damschen. It throws him into
5 District 9 which then means we got three
6 incumbents there. My plan actually throws four
7 into there, I found out after I squared it up,
8 you know. District 9 on the Headland plan or on
9 Representative Devlin's plan is long and narrow.
10 It throws most of Cavalier County into, you know,
11 Rolette County, which is very, very different.
12 We have nothing in common, you know. And
13 Cavalier County, to me, is -- I mean, that's my
14 district and that's chopped up pretty bad on the
15 other plans, so I tried to keep that one whole.
16 But then I -- of course I take all of Towner
17 County.

18 At one time I did represent District 10
19 was Pembina County, Cavalier County, and the
20 northern two-thirds of Towner. Still doesn't
21 make enough to make a population, you know, for a
22 district this time. And even 9, I mean, you got
23 to go a long ways to make a district there
24 number-wise. And what I had to do is go all the
25 way down to Rugby in Pierce County so -- but



1 that's, to me, a nice compact -- you look at the
2 number of miles there from Rugby to Rolla, for
3 instance, it's not that far. But -- yeah.

4 CHAIRMAN DEVLIN: Thank you.

5 Representative Boschee are -- well, we
6 aren't slated for a break until a quarter after.
7 Are you comfortable that you'll have time to
8 present your plan in that amount of time, or
9 would you rather do it right after lunch?

10 REPRESENTATIVE BOSCHEE: (Indiscernible)

11 CHAIRMAN DEVLIN: Yep. Can you get it
12 done before 12:15?

13 REPRESENTATIVE BOSCHEE: (Indiscernible)

14 CHAIRMAN DEVLIN: Okay. Yeah. Well we
15 can do the robust discussion when we come back.

16 Okay. The minority party,
17 Representative Boschee and Senator Oban are going
18 to present a statewide plan --

19 SENATOR OBAN: Your colleagues.

20 CHAIRMAN DEVLIN: Our colleagues. Our
21 colleges.

22 SENATOR OBAN: Ten minutes until good
23 morning doesn't fit anymore. Mr. Chairman,
24 members of the committee, Representative Boschee
25 and I decide to take a stab at the whole state



1 because almost every conversation we've had so
2 far talks about the domino effect and how this
3 one's going to impact this one, so we just spent
4 a lot of time playing around. And there is an
5 attachment, kind of a guide, I would say, that
6 Representative Boschee just passed out, that you
7 can use to see what we followed as principles
8 when we were doing this.

9 Now, in no way, shape, or form does this
10 mean you will agree with us, but at least you can
11 see the principles we continued to follow when we
12 did it. Many times it meant we had to go back
13 and move lines because it didn't follow the
14 principles we claimed we were following. So for
15 purposes of consistency, those principles listed
16 at the top of that additional handout is how we
17 continued to draw this map.

18 I included a key there that shows you
19 that, as you go along that attachment, you can
20 see how many counties are encompassed by a
21 legislative district, or how many districts are
22 just in one county. So, for example, District 1,
23 obviously, is only in Williams County. That
24 doesn't mean it is all of Williams County. And
25 then we've included just all of the information



1 about the population, the deviation, and the
2 percent of deviation, as well as the major
3 boundaries we used to cut -- to use as the
4 boundaries for districts.

5 Again, I think that this is a concept,
6 so we can all just take a breath about how this
7 might impact our friends or ourselves, because
8 those were the principles that we followed. It
9 also takes into account some of the concepts that
10 have been shared by members of this committee.
11 So trying to follow some of the things Senator
12 Bekkedahl had already said for the northwest
13 county. Following some of the suggestions that
14 Senator Sorvaag had made for Cass County.

15 And we did start going through the
16 process of seeing how this affects incumbents.
17 For some, that was easier to do than others,
18 because some of our colleagues list PO boxes,
19 which does not put them on the map where they
20 live. So it was difficult to see how this was
21 going to impact all incumbents. And while I know
22 in one of our first meetings, Senator Holmberg
23 said we pretend we don't pay attention to
24 incumbents, but we do -- I'm being completely
25 honest with you, I don't know where the vast



1 majority of you live and I do not care where you
2 live, so that was not what we were following.

3 Now, again, when we tried to see the
4 impacts of the incumbents, we could see some of
5 them, but not all of them, so I will try to get
6 that information prepared if that's something
7 that you all would like to see.

8 And in general, I think what we accepted
9 about the public, whether they are voters or not
10 voters, is that they know their counties that
11 they live in. They know their cities that they
12 live in. They know, sometimes, the neighborhoods
13 that they consider. And so those are, again, the
14 principles that we followed first and foremost.

15 If you want to flip through and see what
16 all of these look like, obviously, you're welcome
17 to do that and ask questions. Representative
18 Boschee did most of the east, and then the rest
19 kind of falls into place if you follow county
20 lines.

21 CHAIRMAN DEVLIN: Are you ready for
22 questions, Senator?

23 SENATOR OBAN: Sure.

24 CHAIRMAN DEVLIN: Representative
25 Schauer.



1 REPRESENTATIVE SCHAUER: Thank you,
2 Mr. Chairman.

3 Senator Oban, I just want to address
4 this incumbents issue. I sense there's this idea
5 that we don't really care about incumbents or
6 incumbents aren't important because it could
7 impact us or it may not -- it could impact us, it
8 may not impact us. But the incumbents represent
9 people who have voted for them. That's very
10 important to make sure that those incumbents are
11 in the district where people voted for them. And
12 I just wanted to get that on the record because,
13 I sense from your comment, that was not a high
14 priority for you.

15 SENATOR OBAN: Mr. Chairman, and
16 Representative Schauer, I don't disagree with
17 what you just said, at all. In deciding where to
18 draw lines, we just decided that respecting
19 county lines was more of a priority, as we were
20 doing it, than current incumbents.

21 In Cass County, I think when, you know,
22 the case was made that all of Cass could create
23 about an even number of districts, so that you
24 wouldn't have to divide up Cass County, then in
25 those cases, current district lines, which then



1 includes those incumbents, was absolutely a
2 driving factor. But we were also willing to
3 adjust where those current lines are to be major
4 thoroughfares that the general public recognizes,
5 and I did the same in Burleigh County.

6 So while I agreed with a lot of what
7 Representative Nathe had already proposed, which
8 was based on pretty much where incumbents are,
9 because those would be existing district lines, I
10 made adjustments within Burleigh County, so that
11 they were major thoroughfares that the general
12 public would represent. So you're not cutting a
13 neighborhood in half where people don't
14 understand. Like why is my line here and now
15 you're in another district and you live across
16 the street. That doesn't necessarily make sense
17 to the general public.

18 When I did that in Burleigh County, I
19 jumped on a Zoom meeting with the head of
20 elections in Burleigh County to see what -- if I
21 put this line here, which is following a major
22 thoroughfare, what does that do to the voters in
23 that area? Does this part make more sense than
24 this part? And I used guidance from the
25 professionals who know the areas better than I



1 do.

2 So those are the -- I mean, to say we
3 completely disregarded incumbents is not true.
4 Because disregarding incumbents means you
5 completely disregard district lines. That wasn't
6 completely disregarded. I just don't know where
7 most people live.

8 REPRESENTATIVE BOSCHEE: Mr. Chairman,
9 may I add to that?

10 CHAIRMAN DEVLIN: Where are we at?

11 REPRESENTATIVE BOSCHEE: Could I add to
12 the response?

13 CHAIRMAN DEVLIN: Yes. Representative
14 Boschee.

15 REPRESENTATIVE BOSCHEE: Thank you,
16 Mr. Chairman.

17 And building off of what Senator Oban
18 had to say, I think this also goes back to the
19 discussion of the purpose of redistricting. And
20 while it's reapportionment based on population
21 for the purposes of people electing
22 representation, the biases that fall into place
23 when I draw lines in Cass County, or Senator Oban
24 does in Burleigh County, which she knows, or the
25 communities that each of us know, just naturally



1 happen. And some of that's unavoidable.

2 In our first maps, we try to rework to
3 fit certain principles. If we follow those
4 principles or not, whether it's incumbency, or
5 it's thorough ways, or it's county lines, or
6 cities jurisdictions. And I think that's the
7 challenge of the work we do is the only way for
8 us to truly exclude any of those biases would be
9 an independent redistricting commission. Which
10 we've had policy discussions on, and you know, it
11 hasn't been approved. So we are here today to
12 task with this.

13 But I think if we're all being honest
14 with ourselves, we recognize that there are
15 biases that play into this and trying to not let
16 those biases help us make decisions, I think is a
17 challenge because we're human. And I just wanted
18 to make sure I say that because we're not trying
19 to say we were perfect in how we drew these
20 lines. We are just trying to provide a map that
21 again follows, primarily, jurisdictional lines as
22 priorities and other factors fall in place after
23 that.

24 CHAIRMAN DEVLIN: Representative
25 Headland.



1 REPRESENTATIVE HEADLAND: Thank you,
2 Mr. Chairman.

3 Senator Oban, I'm trying to -- I see
4 your new districts under this proposal, 97, 98,
5 and 99. I'm just quickly trying to figure out
6 which district's numbers are eliminated in this
7 proposal.

8 SENATOR OBAN: Oh, sure. So if you go
9 to this guide, Representative Headland, you'll
10 see that District 6, District 19, and District 26
11 were eliminated.

12 REPRESENTATIVE HEADLAND: Okay. Thank
13 you.

14 SENATOR OBAN: And again, those numbers
15 could, I suppose change. Like if you consider
16 District 20 to be more of District 19, then flop
17 those numbers. I mean --

18 CHAIRMAN DEVLIN: Who was it, Senator
19 Burckhard, did you have a question?

20 SENATOR SORVAAG: Sorvaag.

21 CHAIRMAN DEVLIN: Oh, Sorvaag. I'm
22 sorry. I apologize. Senator Sorvaag.

23 SENATOR SORVAAG: Mr. Chairman -- and
24 this is for Representative Boschee, because I'm
25 not going to go into details because we do concur



1 that we're -- but some of your numbering has
2 changed from your preliminary. I presume that
3 was -- because you had expressed that you were
4 having a little difficulty. So this is the
5 numbers you intend, what's coming in this plan
6 now and not your initial?

7 REPRESENTATIVE BOSCHÉE: Yeah.

8 Mr. Chairman, Senator Sorvaag, thank you. Yes,
9 that is correct. Most of that was based on a
10 technical inability to change those numbers. And
11 then when I presented my plan, you had shared,
12 and then staff had taught me how to make those
13 adjustments, so -- to try to align with the
14 current district settings at that time. That was
15 all specific to Cass County, but yeah.

16 CHAIRMAN DEVLIN: Senator Oban, I like
17 what you did with 23. You did a better job
18 because you kept it and I eliminate it, so you
19 know, I want to compliment --

20 SENATOR OBAN: I mean, I won't say it's
21 because I have to sit at the table with the
22 chairman but --

23 CHAIRMAN DEVLIN: Yep.

24 SENATOR OBAN: You know, some are
25 proposing to eliminate 23. I haven't heard any



1 better reason to eliminate 23 than I have
2 eliminate a different -- you know, 19. So, you
3 know, you pick and choose.

4 CHAIRMAN DEVLIN: And we would certainly
5 welcome the opportunity to have Foster County in
6 District 23. You know, I appreciate that. The
7 issue that I have is the Spirit Lake Nation, we
8 put into 15 because they were communities of
9 interest together.

10 SENATOR OBAN: Sure.

11 CHAIRMAN DEVLIN: You know, there's a
12 lot of things between the City of Devil's Lake
13 and the Spirit Lake Nation. So we took them out
14 of 23 to put them there. Did you consider that
15 at all that they would have a lot of common
16 interest and maybe they should be together or
17 not?

18 SENATOR OBAN: Mr. Chairman, no. I just
19 left Spirit Lake Nation in 23 because that's
20 where it currently was, and by adding,
21 essentially, what, one or two additional
22 counties, it fulfilled all of 23.

23 CHAIRMAN DEVLIN: Yep. Okay.

24 Senator Burckhard.

25 SENATOR BURCKHARD: Mr. Chairman and



1 Senator Oban. I don't know how much I disagree
2 with, but on District 5 --

3 SENATOR OBAN: Is that a lot or a
4 little?

5 SENATOR BURCKHARD: I'm asking the
6 questions.

7 SENATOR OBAN: I'm just kidding. Don't
8 put a number to it, Randy.

9 SENATOR BURCKHARD: District 5, basic
10 description, it reads Minot Proper, west of
11 highway 85. That would be corrected to be
12 Highway 83.

13 SENATOR OBAN: Oh, thank you very much.

14 SENATOR BURCKHARD: Yep.

15 SENATOR OBAN: You said that was 5?
16 Okay. Thanks.

17 And you'll see, Mr. Chairman, with
18 Minot, I tried to respect the majority of the
19 districts that currently existed, but to use
20 major roads and keep the airbase together, rather
21 than split it, which is currently what it is. So
22 in the interest of keeping communities of
23 interest together, that's what drove some of
24 those decisions.

25 CHAIRMAN DEVLIN: Further questions from



1 the committee?

2 (No audible response)

3 Seeing none, thank you very much.

4 SENATOR OBAN: Thank you.

5 CHAIRMAN DEVLIN: Committee, I think
6 we're going to take a break now. We got a report
7 from the legislative staff coming up and I think
8 I'd like to take the first thing after lunch. So
9 let's break for an hour, or -- is that enough?
10 45 minutes? Whatever. One hour. Okay. See you
11 back here at about 1 o'clock.

12 (Recess taken)

13 CHAIRMAN DEVLIN: ...on the legislative
14 schedules. You have it in front of you. And
15 who's going through it?

16 Claire, are you going through it? Okay.

17 MS. NESS: Mr. Chairman and members of
18 the committee. I'm going to go through the memo,
19 Number 23.9158.01000. It's called "The Impact of
20 Redistricting on Legislative Election Schedules."
21 And this has to do with the statutes we have in
22 place for determining how we're going to maintain
23 a staggard election schedule for legislators
24 after redistricting occurs.

25 So as you all know, legislators in North



1 Dakota are elected for four-year terms, and one
2 half of the members are elected every two years
3 to provide for that required staggering. Members
4 from odd number districts were elected in 2018,
5 and members from even numbered districts were
6 elected in 2020.

7 So after redistricting, the residents of
8 the newly drawn odd number districts will elect
9 their representatives in the general election in
10 November of 2022. However, residents of the new
11 even number districts normally would not vote for
12 their representatives and senators until the
13 November 2024 election, and so some of those
14 residents would end up with a six-year gap
15 between opportunities to vote for their
16 legislators.

17 So to address that, in 2011, we adopted
18 -- actually, this is something that happens every
19 10 years, this statute is amended, or repealed
20 and replaced. And in 2011, you can see in the
21 memorandum, there was a five-part statute that
22 was enacted. And the area that has caused I
23 think maybe the most questions to arise has been
24 subsection five there that talks about the
25 members from legislative districts that are odd



1 numbered that have new geographic areas that then
2 have to run in 2022.

3 So again, if -- this is from the 2011
4 special session. I'm just talking about if we
5 updated that subsection five to this cycle of
6 redistricting, you would be looking at the even
7 numbered districts -- excuse me, not the odd
8 numbered districts -- you'd be looking at the
9 even numbered districts that would have truncated
10 legislator's terms that would terminate early in
11 order to accommodate the new populations and
12 their district.

13 So if you look on page 2, there is a
14 chart, and it's the yellow and blue make green
15 chart, that shows you how to apply that formula
16 in subsection five of the statute. So if all you
17 did to that statute was to update the dates from
18 2010 and 2012 to 2020 and 2022, you would apply
19 the statute this way. And when you are looking
20 at that 25 percent number, the way that that
21 actually comes about is you look at the district
22 after redistricting, and you take the new
23 geographic area in that district, and then you
24 count the number of people in that new area. And
25 if the number of people in that new area is more



1 than 25 percent of the ideal population size,
2 then that district would have to have an election
3 because those legislator's terms would be
4 truncated.

5 Are there any questions so far about the
6 application of the formula?

7 CHAIRMAN DEVLIN: Representative Nathe.

8 REPRESENTATIVE NATHE: Thank you,
9 Mr. Chairman.

10 Claire, so it says 25 percent. Can we
11 go any higher than that if the committee so
12 chooses? Or are we stuck -- or are we told to
13 stay at 25?

14 MS. NESS: Mr. Chairman, Representative
15 Nathe, members of the committee, the 25 threshold
16 -- 25 percent threshold, excuse me -- is sort of
17 the standard that North Dakota has used, and that
18 people have been used to. If you increase the
19 threshold, which you can do because it is a
20 statute, you would run the risk of a legal
21 challenge. So the higher that threshold goes,
22 the higher your risk, probably, of somebody
23 filing a legal challenge saying that they were
24 denied the right to vote.

25 REPRESENTATIVE NATHE: How about lower



1 it?

2 MS. NESS: You may lower it.

3 REPRESENTATIVE NATHE: It's the same
4 way?

5 MS. NESS: It's a statute, so you guys
6 do have the ability to change that.

7 CHAIRMAN DEVLIN: Representative
8 Headland.

9 REPRESENTATIVE HEADLAND: Thank you,
10 Mr. Chairman.

11 So, Claire, in areas where there was no
12 growth and the districts, you know, a lot of them
13 need -- some need 3000 people. You know, if you
14 just look at that purely, you're almost to the 25
15 percent threshold without any other boundary
16 changes. You know, are we, in fact, just because
17 of the nature of the growth of North Dakota,
18 going to be looking at more than usual districts
19 running at a 25 percent threshold? And is that
20 reason maybe for us to take a look at raising it?

21 MS. NESS: Mr. Chairman and
22 Representative Headland, that's a good question.
23 It's a little bit hard to answer because you have
24 to look at the population within the new area of
25 the district. So if you had people within a



1 district shifting their residences, you could end
2 up with different concentrations of people in
3 different locations. So the additional land area
4 that you would add to a district may not rise to
5 that 25 percent threshold, even if the overall
6 population within the district increased. Just
7 based on people's moving patterns.

8 MS. NESS: Are there additional
9 questions? Okay.

10 CHAIRMAN DEVLIN: You may proceed.

11 MS. NESS: So another issue that you may
12 want to consider is the handling of even number
13 districts if you have additional incumbents
14 placed in those districts. So in 2001, the
15 Legislative Assembly enacted a statute, and it is
16 attached as an appendix, Though, if you're
17 online, you can click on the appendix there and
18 it will show you that 2001 statute. And it
19 described the different scenarios with respect to
20 staggering terms of legislators by district,
21 depending on the various circumstances that can
22 arise. So you might have a general rule where
23 the 25 percent threshold is set for truncating
24 certain people, but you might have other
25 scenarios that you want to address, as well.



1 That 2001 plan for staggering terms was
2 challenged and the Supreme Court held that there
3 was a provision in there that allowed one
4 senator, an incumbent senator, to decide whether
5 or not there would be a need for an election in a
6 particular district, and the Supreme Court said
7 no, you can't delegate that decision making to
8 one incumbent. However, it's permissible to
9 truncate the term of a legislator lower than four
10 years. The Supreme Court said that was justified
11 by the needs of redistricting.

12 And so, in the next part of the memo, I
13 go through some of the cases that have arisen in
14 these types of situations. And states use all
15 sorts of different means to address staggering
16 terms, and some make all of their legislators run
17 after redistricting. Some do a lot of holdovers,
18 so that people do have those longer periods of
19 time between opportunities to elect their
20 legislators. Sometimes, these are set forth in
21 state constitutions, and other times, they're set
22 forth in statute like it is in North Dakota.

23 So, again, residents sometimes do file
24 lawsuits if their time period between
25 opportunities to vote and legislative elections



1 is greater than normal. So, for example, if
2 there's typically a four-year period, but the
3 resident has to go six years due to being
4 redistricted from an odd to an even or even to
5 odd district, sometimes legislators have said
6 that's unfair.

7 And courts will say that that is not a
8 problem because those prolonged election cycles
9 could be justified by the needs of redistricting.
10 And the courts have recognized that there are
11 complexities of reapportionment that you just
12 have to accept as a matter of course. And when
13 it is absolutely necessary to extend a voter's
14 time period between legislative elections, that's
15 not a constitutional violation, unless there has
16 been some sort of unlawful discrimination against
17 that voter.

18 On the other hand, just because you can
19 postpone an elector's election of their
20 legislators for a period of six years, the
21 results of that may be problematic. So, in some
22 cases, you've had states that have provided for
23 redistricting that increases that voting gap to
24 six years, and in the meantime, has left a
25 district without any representative, or without a



1 senator. And that's something the courts have
2 said is unconstitutional. You can't do that. If
3 you're going to have a district that ends up with
4 no legislators, they have to have an opportunity
5 to choose legislators at the next election.

6 And again, the North Dakota Supreme
7 Court has said that that six-year delay is fine.
8 What they said was that when reapportionment
9 results in a substantial constituency change, the
10 Constitutional requirement that a representative
11 be elected from a district can justify truncating
12 the incumbent senator's term to give the
13 electorate in the newly drawn district to select
14 a senator from that district.

15 So in that case, they're also saying,
16 not only can you expand the voters voting gap, or
17 election gap to six years, if you need to, you
18 can truncate the incumbent's term to two years to
19 provide for a shorter gap between elections for
20 voters. And they say that the trigger for
21 truncating those terms, like we do with that 25
22 percent threshold, in that particular case, was a
23 substantial constituency change. So to get to
24 Representative Nathe's point, they didn't specify
25 a certain percentage. In fact, they specifically



1 declined to specify a certain percentage. But
2 they said it just had to be a substantial change.

3 And with that, I would be happy to
4 answer any other questions.

5 CHAIRMAN DEVLIN: Questions from the
6 committee.

7 (No audible response)

8 Well, seeing none, thank you, Claire.
9 Is there other staff memos today before we go to
10 Senator Poolman? Okay.

11 Senator Poolman, are you ready at this
12 time? Okay.

13 SENATOR POOLMAN: Well, Mr. Chairman, as
14 they're bringing up the map, I want to point out
15 to everybody on the committee and anybody who may
16 be listening at home that this isn't nearly as
17 ready for primetime as I would like, in terms of
18 -- we had talked about merging -- my original
19 hope was that we would merge the Devlin plan, and
20 the Lefor plan, and the Nathe plan, and it would
21 all be there. That is an incredibly time
22 consuming and complicated request that I made of
23 legislative counsel, and so I feel I should also
24 publicly apologize for making such a complicated
25 request. And then there were technical



1 difficulties with that.

2 So my purpose today is just to talk
3 about this central part of North Dakota as we are
4 coming in trying to honor county lines from the
5 east and from the west. And I think those plans
6 really have done a great job of trying to do
7 that.

8 You do end up with this area in the
9 middle then that we need to address, and so
10 that's what I attempted to do here, if you see
11 there in green, the District 8 -- the new version
12 of District 8 is all of Emmons County and then
13 all of rural Burleigh County, and so you continue
14 to honor county lines there. And then it's with
15 District 6 then that squishing that I'm talking
16 about that District 6 comes down very narrowly
17 then to pick up part of what was District 8.

18 33 I pulled in Underwood and that area
19 of Coal County into the rest of Coal County. I
20 thought it was a community of interest to pick up
21 part of that. And then District 4 is also the
22 line that helps pick up some of that stuff.

23 You know, the disadvantage is that you
24 have one incumbent left in District 8, from the
25 old District 8. You actually have two



1 representatives that would be living in that
2 area. You have one incumbent that ends up in 33,
3 with the 33 legislators, and then you have one
4 that goes up into District 6. So that's what
5 happens to that delegation.

6 That isn't my priority. I know that we
7 probably all have different philosophies in terms
8 of what we think is most important, and the
9 protection of incumbents, for me, just doesn't
10 rank as high as county lines do. And so that's
11 -- I just throw out the proposal so that we can
12 see that it -- you can find a way to make the
13 numbers work in the middle. I don't have any
14 ownership of this proposal, so I hope that those
15 people who are impacted by it don't think that I
16 have any ownership. I just wanted to show how
17 the numbers could work as you are coming from the
18 east, honoring county lines.

19 SENATOR OBAN: Mr. Chairman.

20 CHAIRMAN DEVLIN: Senator Oban.

21 SENATOR OBAN: Just a question on 33.
22 The part of McLean County you pulled in there,
23 are you following the highway, or do you recall
24 if you used a specific divider there, or did you
25 just do it based on numbers?



1 SENATOR POOLMAN: I was doing it based
2 on numbers, mostly. But it was -- I'm sure I was
3 trying to draw as straight a line as possible.

4 SENATOR OBAN: It looks pretty close to
5 the highway.

6 SENATOR POOLMAN: I think I was just
7 trying to draw a straight line.

8 SENATOR OBAN: Okay.

9 CHAIRMAN DEVLIN: Representative
10 Headland.

11 REPRESENTATIVE HEADLAND: Thank you,
12 Mr. Chairman.

13 The Senator, your proposal based on
14 county lines, it looks like it works for one of
15 the districts you're working on, but it really is
16 a mess in the other one.

17 SENATOR POOLMAN: Absolutely. And
18 that's kind of my point that, as we try and honor
19 all of these county lines along the way, that
20 that District 6 does come down very narrowly and
21 McLean County ends up being in three different
22 districts. Yeah, you're absolutely right. I'm
23 just throwing it out there.

24 REPRESENTATIVE HEADLAND: So what's the
25 -- Mr. Chairman, if I may -- you know, the



1 rational of moving Emmons County out of 28?

2 SENATOR POOLMAN: Because it was
3 orphaned. It's my understanding that it would
4 have been either Emmons County or Nelson County
5 correct, that would have orphaned as they tried
6 to develop the Devlin map?

7 REPRESENTATIVE HEADLAND: Mr. Chairman,
8 if I may?

9 CHAIRMAN DEVLIN: You may.

10 REPRESENTATIVE HEADLAND: There was a
11 plan offered this morning that didn't have any
12 orphans in it, that kept counties as whole as
13 they could, kept districts in their current make
14 up as whole as they could be. And, you know, I'm
15 just trying to really understand, you know, the
16 rational for -- this plan only would work if --
17 for 28 if you're going to steal, you know, a big
18 part of another district and put a whole county
19 into 28. And I'm just trying to understand, you
20 know, how, in your mind, this all works.

21 I understand that you're not showing
22 anything east of what you have up on the screen,
23 but you know, it all has to come together in the
24 end, and I just don't see how this plan is going
25 to mesh with everything else that we're looking



1 at in the east. But you must have a plan, so I
2 would like to hear it.

3 SENATOR POOLMAN: Mr. Chairman and
4 Representative Headland, the goal would be that
5 this would be attached to the Devlin plan, so you
6 would have the Devlin plan there on the eastern
7 half of the state. And I would beg to differ on
8 the plan that was produced this morning, in terms
9 of honoring county lines. I think -- and like I
10 said, we just have different philosophies. The
11 philosophy of the plan this morning was
12 protection of incumbents. The philosophy of the
13 Devlin plan is county lines, and so it's just a
14 matter of what we want to do as a committee or
15 what most of us want to do as a committee. I
16 would disagree with your assessment of the plan
17 that you gave today that was honoring county
18 lines better than the Devlin plan.

19 REPRESENTATIVE HEADLAND: Mr. Chairman,
20 if I may?

21 I don't believe I said that it honors it
22 better. I said it honors it in a way that makes
23 everything come together and work. But, you
24 know, I've got to report to, you know, my running
25 mates, as well, and I think what I'm hearing is,



1 some place is going to have to give and it's not
2 important to you or maybe the Senate, overall, in
3 trying to keep incumbents together.

4 SENATOR POOLMAN: Well, Mr. Chairman and
5 Representative Headland, I would never claim to
6 speak for the Senate. I can only speak for
7 myself, and I would value county lines over
8 protection of incumbents. And so I can only
9 speak for myself, and like I said, I just threw
10 it out there to show how the numbers can work.
11 I'm sure that there are other ways that those
12 numbers can work in the central area, as well.
13 Like I said, the goal, initially, was to have
14 those other plans in there so I could see exactly
15 what Representative Lefor had done or what
16 Representative Nathe had done with 33. So I
17 think there are a number of ways that it can
18 work, this just happens to be one of them.

19 CHAIRMAN DEVLIN: Representative
20 Headland -- or excuse me, Nathe. I apologize.

21 REPRESENTATIVE NATHE: Oh, thank you.
22 Thanks, Mr. Chairman.

23 Senator Poolman, were there any
24 discussions with the current legislators in
25 District 6 as far as this plan? Any discussion



1 with that at all?

2 SENATOR POOLMAN: Mr. Chairman and
3 Representative Nathe, I haven't spoken to anybody
4 from District 6. No.

5 REPRESENTATIVE NATHE: Okay. And
6 anybody from 8?

7 SENATOR POOLMAN: Nope.

8 REPRESENTATIVE NATHE: Okay. All right.
9 Thanks.

10 CHAIRMAN DEVLIN: Thank you, Senator.

11 Is there any plans or concepts, so to
12 speak, to come before us?

13 (No audible response)

14 I don't see anything for today. I know
15 there's somebody going to -- I don't know if
16 they're going to present a plan at 3 o'clock, but
17 they're going to discuss redistricting at
18 3 o'clock, a legislator from the southeast part
19 of the state, and we will welcome that input at
20 that time. Is there -- you know, we're kind of
21 at the point, committee, I believe that some of
22 the things we could take off the table. You
23 know, obviously, there's a difference of opinion
24 in the middle of the state, but I mean, is the
25 committee in agreement with say, Cass County --



1 is the committee in agreement with Grand Forks
2 County, or District 25, or those types of things?
3 You know, we can start getting some of the things
4 off of the table, then I think it gives us a
5 narrower window that we have to work with
6 tomorrow. So I'm open for any thoughts.

7 A motion is always in order. You know,
8 I would hope we would -- well, I know we will --
9 limit it to the areas that aren't in dispute, so
10 to speak.

11 Senator Klein.

12 SENATOR KLEIN: Well, Mr. Chairman, I
13 think the discussions today have all centered
14 around these rural areas where there's some
15 differences of opinion. There's different
16 concepts. It's all about concepts. That's what
17 you asked us to bring. That's what we heard this
18 morning. We heard last week. We've been
19 developing concepts for a few weeks. But it
20 seemed that -- and I would throw out for
21 discussion, the Fargo and -- Cass County, Fargo,
22 and Grand Forks seem to have been resolved and we
23 haven't had any additional discussion, today, or
24 more recently and I think those two could
25 probably be -- and I don't want to jump before



1 Senator Sorvaag here, but personally, I think
2 those areas could be moved on.

3 CHAIRMAN DEVLIN: Senator Sorvaag.

4 SENATOR SORVAAG: Mr. Chairman, I think
5 Cass County is ready to go and I would ask for
6 input from Representative Schauer and
7 Representative Boschee, too. But we put it out
8 there a week ago, and I've had basically no
9 pushback, you know. And there was a real effort
10 to engage people as the -- you know, not with the
11 completed project but steps as it goes along.

12 So I think there's a lot of knowledge
13 with it, and obviously, I wouldn't have presented
14 if I wasn't comfortable with it. I think a lot
15 of the pieces have had a lot of discussion or
16 looked at. But I don't know if you're looking
17 for a motion or if one of the other two Cass
18 County would want to interject first before we
19 did that. But I just don't sense, unless
20 they're getting it, that there's really a problem
21 the way Cass County is.

22 CHAIRMAN DEVLIN: Representative
23 Schauer.

24 REPRESENTATIVE SCHAUER: I would second
25 the motion. I think Cass County is ready to go.



1 CHAIRMAN DEVLIN: I don't know that
2 there was a motion.

3 REPRESENTATIVE SCHAUER: I'll make a
4 motion that Cass County be approved.

5 CHAIRMAN DEVLIN: Is there a second?
6 Second by Senator Poolman.

7 REPRESENTATIVE SCHAUER: That would be
8 the Sorvaag plan.

9 CHAIRMAN DEVLIN: Right.
10 Discussion from the committee?
11 Representative Boschee.

12 REPRESENTATIVE BOSCHEE: Thank you,
13 Mr. Chairman. And appreciate Senator Sorvaag's
14 work on this map, and we have had several
15 discussions. It was presented out to members of
16 the -- because I represent within Cass County and
17 no feedback has been presented beyond what
18 Senator Sorvaag has already adjusted. So while I
19 certainly have presented other options, this is a
20 map that I would be comfortable supporting.

21 CHAIRMAN DEVLIN: Thank you.

22 Further discussion?

23 (No audible response)

24 Seeing none.

25 Can we do this on a voice vote, Emily?



1 Am I allowed? I didn't think so. So we will
2 poll the committee on approving the Cass County
3 plan as it is now. You know, it will certainly
4 be subject to change by the legislature, but you
5 know, we kind of get it off the table, so to
6 speak.

7 So Senator Holmberg, did you --

8 SENATOR HOLMBERG: No. No. I'm going
9 to whisper something to you.

10 SENATOR OBAN: Mr. Chairman.

11 CHAIRMAN DEVLIN: Poll the committee.

12 Senator Oban.

13 SENATOR OBAN: No, that's okay.

14 I just want to make sure that it's the
15 one you presented on the 16th. Is that's
16 correct, Senator Sorvaag?

17 SENATOR SORVAAG: Mr. Chairman, yeah.

18 There was one little tweak at the bottom, but the
19 map you see there is the correct one. It was for
20 150 people. I had spoke to Emily if this line
21 here could be taken out and I was informed, at
22 the end of my presentation, that is couldn't be
23 taken out. So -- it was to clean it up. So it's
24 at the bottom of 46, where 27 and -- if you look
25 at the present plan into 26 and 47, what the maps



1 show is what the plan is at this time.

2 SENATOR OBAN: So the plan that we have
3 available to us linked is the one we will be
4 voting on.

5 SENATOR SORVAAG: Is what you're looking
6 at right now.

7 SENATOR OBAN: Okay. Perfect.

8 SENATOR SORVAAG: Because that change was
9 made immediately after the presentation. It was
10 one of those tails that come down and then I was
11 told after the fact it couldn't be taken out. So
12 it's kind of a weird -- it moved very, very few
13 people, but it was the -- so it's at the very
14 bottom left of 46 in where it meets 27. But the
15 maps in front of you are the correct ones.

16 SENATOR OBAN: Okay. Thank you very
17 much.

18 CHAIRMAN DEVLIN: You may poll the
19 committee.

20 MS. THOMPSON: Representative Devlin.

21 REPRESENTATIVE DEVLIN: Yes.

22 MS. THOMPSON: Representative Bellew.

23 REPRESENTATIVE BELLEW: Yes.

24 MS. THOMPSON: Representative Boschee.

25 REPRESENTATIVE BOSCHEE: Yes.



1 MS. THOMPSON: Representative Headland.
2 REPRESENTATIVE HEADLAND: Yeah.
3 MS. THOMPSON: Representative Lefor.
4 REPRESENTATIVE LEFOR: Yes.
5 MS. THOMPSON: Representative Monson.
6 REPRESENTATIVE MONSON: Yes.
7 MS. THOMPSON: Representative Nathe.
8 REPRESENTATIVE NATHE: Yes.
9 MS. THOMPSON: Representative Schauer.
10 REPRESENTATIVE SCHAUER: Yes.
11 MS. THOMPSON: Senator Holmberg.
12 SENATOR HOLMBERG: Aye.
13 MS. THOMPSON: Senator Bekkedahl.
14 CHAIRMAN DEVLIN: He's not here.
15 MS. THOMPSON: Senator Burckhard.
16 SENATOR BURCKHARD: Aye.
17 MS. THOMPSON: Senator Erbele.
18 SENATOR ERBELE: Aye.
19 MS. THOMPSON: Senator Klein.
20 SENATOR KLEIN: Aye.
21 MS. THOMPSON: Senator Oban.
22 SENATOR OBAN: Yes.
23 MS. THOMPSON: Senator Poolman.
24 SENATOR POOLMAN: Yes.
25 MS. THOMPSON: Senator Sorvaag.



1 SENATOR SORVAAG: Aye.

2 MS. THOMPSON: And the motion carries.

3 CHAIRMAN DEVLIN: Senator Holmberg.

4 SENATOR HOLMBERG: Mr. Chairman, I would
5 move that the four districts that are comprised
6 of the city of Grand Forks and that area
7 immediately around be approved, and if there's a
8 second, I'll say why I'm just doing that.

9 REPRESENTATIVE NATHE: Second.

10 SENATOR HOLMBERG: Okay, Mr. Chairman.

11 There's still a little difference on a couple
12 townships up in the northern part of what is
13 Grand Forks, Traill, and Walsh. And I think
14 there probably needs to be a tweak up there, so I
15 don't want us to vote on this and have to come
16 back and redo that.

17 The Grand Forks -- this plan in the city
18 has been promoted to the various interest in
19 Grand Forks. Representative Mock had a
20 suggestion. He put it down on paper. We ran it
21 through and found out -- or he found out because
22 I pointed out to him -- that there were some
23 unintended consequences that would make the plan
24 very unpopular with people in District 42. So he
25 withdrew that proposal. So what you have in your



1 map is what I'm asking you to approve for the
2 City of Grand Forks, for those four districts.

3 CHAIRMAN DEVLIN: And I believe that was
4 seconded by --

5 SENATOR HOLMBERG: Representative Nathe.

6 CHAIRMAN DEVLIN: Representative Nathe.

7 Senator Holmberg, for the record, would
8 you number those districts for me please and then
9 we'll --

10 SENATOR HOLMBERG: They are district 17,
11 18, 42, 43.

12 CHAIRMAN DEVLIN: Okay. Any other
13 questions or discussions?

14 (No audible response)

15 Seeing none, poll the committee.

16 MS. THOMPSON: Chairman Devlin.

17 REPRESENTATIVE DEVLIN: Aye.

18 MS. THOMPSON: Representative Bellew.

19 REPRESENTATIVE BELLEW: Yes.

20 MS. THOMPSON: Representative Boschee.

21 REPRESENTATIVE BOSCHEE: Yes.

22 MS. THOMPSON: Representative Headland.

23 REPRESENTATIVE HEADLAND: Yeah.

24 MS. THOMPSON: Representative Lefor.

25 REPRESENTATIVE LEFOR: Yes.



1 MS. THOMPSON: Representative Monson.

2 REPRESENTATIVE MONSON: Yes.

3 MS. THOMPSON: Representative Nathe.

4 REPRESENTATIVE NATHE: Yes.

5 MS. THOMPSON: And Representative

6 Schauer.

7 REPRESENTATIVE SCHAUER: Yes.

8 MS. THOMPSON: Senator Holmberg.

9 SENATOR HOLMBERG: Aye.

10 MS. THOMPSON: Senator Bekkedahl.

11 Senator Burckhard.

12 SENATOR BURCKHARD: Aye.

13 MS. THOMPSON: Senator Erbele.

14 SENATOR ERBELE: Aye.

15 MS. THOMPSON: Senator Klein.

16 SENATOR KLEIN: Aye.

17 MS. THOMPSON: Senator Oban.

18 SENATOR OBAN: Yes.

19 MS. THOMPSON: Senator Poolman.

20 SENATOR POOLMAN: Aye.

21 MS. THOMPSON: And Senator Sorvaag.

22 SENATOR SORVAAG: Aye.

23 MS. THOMPSON: And the motion carries.

24 CHAIRMAN DEVLIN: Representative Nathe.

25 REPRESENTATIVE NATHE: Mr. Chairman, if



1 I could, I'd like to make a motion to approve the
2 Bismarck/Mandan area proposal I gave this morning
3 dated 9/22/21, and that would encompass the
4 districts of 7, 30, 32, 35, 47, 31, and 34.

5 UNIDENTIFIED MEMBER: Could you repeat
6 those numbers, Mr. Chairman?

7 REPRESENTATIVE NATHE: Sure. In
8 Bismarck, 7, 30, 32, 35, and 47. Mandan would be
9 31 and 34.

10 REPRESENTATIVE SCHAUER: I'll second
11 that.

12 CHAIRMAN DEVLIN: The motion's been
13 seconded by Representative Schauer. Is there a
14 discussion on this motion?

15 SENATOR OBAN: Mr. Chairman.

16 CHAIRMAN DEVLIN: Senator Oban.

17 SENATOR OBAN: With all respect to the
18 work that Representative Nathe had done, I would
19 like consideration of the southern border of
20 District 35 and the northern border of District
21 32, which are significantly cleaner than they are
22 currently. As well as, I am unsure about the
23 northern -- that would be the northwest corner of
24 District 47 and some feedback we had gotten from
25 our Burleigh County Auditor's Office, I don't



1 know if that is squared away based on the
2 feedback we had received, so --

3 REPRESENTATIVE NATHE: Mr. Chairman.

4 CHAIRMAN DEVLIN: Representative Nathe.

5 REPRESENTATIVE NATHE: I believe as far
6 as the feedback, Senator Poolman may have some
7 information on that. I think she was in touch
8 with the Burleigh County.

9 CHAIRMAN DEVLIN: Senator Poolman.

10 SENATOR POOLMAN: Mr. Chairman and
11 Senator Oban, I think that you're referring to
12 the upper right-hand corner of District 7,
13 correct, that she was concerned about? And so
14 that had been that squiggly line Representative
15 Nathe talked about that was squared off. And so
16 that doesn't include part of a neighborhood
17 anymore. And so that was the fix that we made
18 based on the auditor's feedback.

19 UNIDENTIFIED MEMBER: We got a motion.

20 CHAIRMAN DEVLIN: We got a motion and a
21 second. I just want -- is there any further
22 discussion?

23 UNIDENTIFIED MEMBER: Mr. Chairman,
24 would you repeat the districts?

25 CHAIRMAN DEVLIN: The districts were



1 number 7, 30, 32, 35, 47, all in Bismarck, and 31
2 and 34 in Mandan.

3 SENATOR OBAN: Mr. Chairman.

4 CHAIRMAN DEVLIN: Senator Oban.

5 SENATOR OBAN: If I could add some
6 additional comments about that split between 7
7 and 47. In a follow up conversation I had with
8 the auditor's office, she said, "I wasn't able to
9 tell from the proposal which street was being
10 used by Misty Waters to divide 7 and 47." The
11 way that it is drawn is using a transmission line
12 easement, which cuts lots in half, making it
13 extremely difficult to decide which district a
14 voter lives in. So -- and I would also note that
15 the map I presented today, specific to Burleigh
16 County, includes an area of Lincoln that is in
17 development. All of those folks have an address
18 of Lincoln, but they would be potentially left
19 off of the District 8 map.

20 REPRESENTATIVE NATHE: Mr. Chairman.

21 CHAIRMAN DEVLIN: Representative Nathe.

22 REPRESENTATIVE NATHE: As far as the 7
23 with the transmission lines, I think we've done
24 that before. Counsel can correct me.

25 Are we in trouble if we do that? Or --



1 I mean, that seems to be -- we've done it before.

2 I mean, do you see any issues with that?

3 MS. NESS: Mr. Chairman and
4 Representative Nathe, I'm not familiar with those
5 use of transmission lines, so I would have to
6 look into that.

7 CHAIRMAN DEVLIN: Well, what are the
8 committee's wishes? Do you want to proceed with
9 this, or do you want a little more information?

10 UNIDENTIFIED MEMBER: Mr. Chairman. If
11 I could just propose then, it sounds like it's an
12 agreeable type of fix, if we just make sure we
13 get it right. So if we can wait until tomorrow
14 morning, I think that would be helpful.

15 CHAIRMAN DEVLIN: Is that okay with the
16 committee if we just withdraw this until tomorrow
17 morning?

18 REPRESENTATIVE NATHE: We can on the
19 Bismarck. We can take up Mandan if you wish.

20 CHAIRMAN DEVLIN: Okay.

21 SENATOR KLEIN: Mr. Chairman.

22 CHAIRMAN DEVLIN: I don't know who it
23 was. Senator Klein or Senator Erbele.

24 SENATOR KLEIN: Well, here.

25 CHAIRMAN DEVLIN: No, I see that.



1 Senator Erbele.

2 SENATOR ERBELE: Yeah. I guess,
3 Chairman, my question would center around
4 District 31 because that takes up a huge rural
5 area and so I guess I would probably look to
6 Representative Lefor to see if that's all good
7 and taken care of before we start moving away
8 from the cities and taking up so much of the
9 rural issue here.

10 CHAIRMAN DEVLIN: Representative Lefor.

11 REPRESENTATIVE LEFOR: Yeah. Thank you,
12 Mr. Chairman.

13 Senator, really, I'm very comfortable
14 with what is done on 31 and how it fits on the
15 southwest part of the state.

16 SENATOR ERBELE: Great. That's all I
17 need to know.

18 CHAIRMAN DEVLIN: Okay. That motion was
19 made by Representative Nathe and Schauer. Do you
20 want to withdraw that motion and just redo --

21 REPRESENTATIVE NATHE: Yes. Well, he'll
22 withdraw his second and -- I'll withdraw my
23 motion.

24 REPRESENTATIVE SCHAUER: Mr. Chairman, I
25 will withdraw the second, but I am concerned



1 because Representative Headland will not be here
2 tomorrow to vote, so as long as he's comfortable
3 with this, I will withdraw the motion.

4 CHAIRMAN DEVLIN: I don't see any of 31
5 and 34 impacting anything that Representative
6 Headland presented this morning. Am I incorrect
7 somewhere?

8 REPRESENTATIVE HEADLAND: Nope. You're
9 right.

10 CHAIRMAN DEVLIN: Okay. So the new
11 motion is that we will move ahead with 31 and 34
12 with the understanding that the parties will get
13 together and correct, if needed, the Bismarck one
14 and have it for us first thing tomorrow morning.
15 Is that okay?

16 REPRESENTATIVE NATHE: Yeah.
17 Mr. Chairman, I could actually have this -- it
18 wouldn't even effect the numbers, it's just a
19 matter of going up on a road up and around down
20 to -- I could have this done in a couple minutes
21 and go talk to my two cohorts in Bismarck and
22 show them. Or we can take it up tomorrow too.

23 CHAIRMAN DEVLIN: No. I like getting it
24 done today if there's a way to do that, so -- is
25 there anymore discussion on the motion for 31 and



1 34?

2 (No audible response)

3 Seeing none, poll the committee.

4 MS. THOMPSON: Chairman Devlin.

5 REPRESENTATIVE DEVLIN: Yes.

6 MS. THOMPSON: Representative Bellew.

7 REPRESENTATIVE BELLEW: Yes.

8 MS. THOMPSON: Representative Boschee.

9 REPRESENTATIVE BOSCHEE: Yes.

10 MS. THOMPSON: Representative Headland.

11 REPRESENTATIVE HEADLAND: Yes.

12 MS. THOMPSON: Representative Lefor.

13 REPRESENTATIVE LEFOR: Yes.

14 MS. THOMPSON: Representative Monson.

15 REPRESENTATIVE MONSON: Yes.

16 MS. THOMPSON: Representative Nathe.

17 REPRESENTATIVE NATHE: Yes.

18 MS. THOMPSON: Representative Schauer.

19 REPRESENTATIVE SCHAUER: Yes.

20 MS. THOMPSON: Senator Holmberg.

21 SENATOR HOLMBERG: Aye.

22 MS. THOMPSON: Senator Bekkedahl.

23 Senator Burckhard.

24 SENATOR BURCKHARD: Aye.

25 MS. THOMPSON: Senator Erbele.



1 SENATOR ERBELE: Aye.

2 MS. THOMPSON: Senator Klein.

3 SENATOR KLEIN: Aye.

4 MS. THOMPSON: Senator Oban.

5 SENATOR OBAN: Yes.

6 MS. THOMPSON: Senator Poolman.

7 SENATOR POOLMAN: Aye.

8 MS. THOMPSON: And Senator Sorvaag.

9 SENATOR SORVAAG: Aye.

10 MS. THOMPSON: And Mr. Chairman, the
11 motion carries.

12 CHAIRMAN DEVLIN: Thank you.

13 Representative Bellew, do you have
14 Minot --

15 SENATOR BURCKHARD: Mr. Chairman.

16 CHAIRMAN DEVLIN: Yes. Who -- Senator
17 Burckhard.

18 SENATOR BURCKHARD: I would like to move
19 on the Minot area district plan, District 3, 5,
20 38, and 40 that was presented last week on the
21 16th, I believe. And I think we gave a detailed
22 map of the district 5 that Emily Thompson
23 provided. But just to clarify, the boundaries of
24 District 5, and I don't think the rest of 38, and
25 40, and 3 were effected largely from that. So I



1 would propose that we would move that.

2 UNIDENTIFIED MEMBER: I second.

3 CHAIRMAN DEVLIN: Okay.

4 Can that go up on the screen?

5 Do you want the --

6 UNIDENTIFIED MEMBER: The Minot.

7 CHAIRMAN DEVLIN: -- the Minot map on
8 the screen.

9 UNIDENTIFIED: (Indiscernible)

10 CHAIRMAN DEVLIN: Senator Holmberg.

11 SENATOR HOLMBERG: To Senator Burckhard,
12 there are some other things that, I mean, we as a
13 committee haven't resolved yet with District 6,
14 with District 4, et cetera. Does any of what we
15 have within three parameters -- are they impacted
16 by these other issues, or are they separate?

17 SENATOR BURCKHARD: I believe they're
18 separate. I don't think we effect any rural
19 districts around the Minot area.

20 SENATOR HOLMBERG: And Mr. Chairman and
21 Senator, then you're other comments, I believe,
22 were that your external boundaries of the four
23 Minot districts are the same as the current
24 boundaries on the outside. The airbase has been
25 split for a number of decades, and you have one



1 urban core district and then you have three
2 others.

3 SENATOR BURCKHARD: Right. District 5
4 is right in the middle of it, so it doesn't
5 affect the outward boundaries of 38, or 40, or
6 District 3.

7 CHAIRMAN DEVLIN: So the motion was to
8 move ahead Minot, which is Districts, 3, 5, 38,
9 and 40, made by Senator Burckhard and Senator --

10 UNIDENTIFIED MEMBER: I seconded.

11 CHAIRMAN DEVLIN: Okay. Is there any
12 further discussion?

13 SENATOR OBAN: Mr. Chairman.

14 CHAIRMAN DEVLIN: Senator Oban.

15 SENATOR OBAN: I would just ask if there
16 was ever any consideration to following major
17 boundaries, while, yes, you would have to adjust
18 some existing lines, which you had to do anyway,
19 using major highways, you know, considering
20 putting Sawyer in with Surrey, which I believe
21 are just questions if that was ever considered.

22 SENATOR BURCKHARD: Well, I think as
23 a -- Mr. Chairman and Senator Oban -- as it
24 concerns the Minot area districts, that we do
25 have -- extended it to major boundaries, 13th



1 Street on the southeast side and the Highway 2
2 area on the westside. And so yeah, major
3 thoroughfares that were considered.

4 CHAIRMAN DEVLIN: Representative
5 Boschee.

6 REPRESENTATIVE BOSCHEE: Thank you,
7 Mr. Chairman. I plan to reject the motion. I
8 think we've done a good job in many of these
9 proposals of keeping communities of interest
10 whole, and while it has been tradition, and it
11 sounds like for decades, the airbase has been
12 separated. I don't think we need to do that any
13 longer. And so that's my primary concern with
14 this map.

15 CHAIRMAN DEVLIN: Okay.

16 Any other comments.

17 (No audible response)

18 Seeing none, poll the committee.

19 MS. THOMPSON: Chairman Devlin.

20 REPRESENTATIVE DEVLIN: Yes.

21 MS. THOMPSON: Representative Bellew.

22 REPRESENTATIVE BELLEW: Yes.

23 MS. THOMPSON: Representative Boschee.

24 REPRESENTATIVE BOSCHEE: No.

25 MS. THOMPSON: Representative Headland.



1 REPRESENTATIVE HEADLAND: Yes.

2 MS. THOMPSON: Representative Lefor.

3 REPRESENTATIVE LEFOR: Yes.

4 MS. THOMPSON: Representative Monson.

5 REPRESENTATIVE MONSON: Yes.

6 MS. THOMPSON: Representative Nathe.

7 REPRESENTATIVE NATHE: Yes.

8 MS. THOMPSON: Representative Schauer.

9 REPRESENTATIVE SCHAUER: Yes.

10 MS. THOMPSON: Senator Holmberg.

11 SENATOR HOLMBERG: Aye.

12 MS. THOMPSON: Senator Bekkedahl.

13 SENATOR BEKKEDAHL: Aye.

14 MS. THOMPSON: Senator Burckhard.

15 SENATOR BURCKHARD: Aye.

16 MS. THOMPSON: Senator Erbele.

17 SENATOR ERBELE: Aye.

18 MS. THOMPSON: Senator Klein.

19 SENATOR KLEIN: Aye.

20 MS. THOMPSON: Senator Oban.

21 SENATOR OBAN: No.

22 MS. THOMPSON: Senator Poolman.

23 SENATOR POOLMAN: Aye.

24 MS. THOMPSON: And Senator Sorvaag.

25 SENATOR SORVAAG: Aye.



1 MS. THOMPSON: Mr. Chairman, the motion
2 carries.

3 CHAIRMAN DEVLIN: Thank you.

4 Committee, we're just going to take a
5 10-minute break, 15-minute break, if you could
6 work Bismarck. And there's that little
7 discrepancy up in 20 and 10; I think that can be
8 fixed in just a minute. So we'll break until
9 2 o'clock and then we can take care of both of
10 those.

11 (Recess taken)

12 CHAIRMAN DEVLIN: ...are you in a
13 position to --

14 REPRESENTATIVE NATHE: Yes,
15 Mr. Chairman. We've made some changes in working
16 with counsel. So I'll make a motion to approve
17 the plan for Bismarck for the districts of 7, 30,
18 32, 35, and 47.

19 CHAIRMAN DEVLIN: Can you,
20 Representative Nathe, just briefly explain what
21 changes they were? I know they were minor,
22 but --

23 REPRESENTATIVE NATHE: Yeah. Can we get
24 a second and then I will.

25 CHAIRMAN DEVLIN: Okay. I'm sorry. I



1 apologize. Representative Schauer seconded.

2 Thank you very much.

3 REPRESENTATIVE NATHE: Thank you,

4 Representative.

5 So Emily is going to kick it up. The
6 issue that Senator Oban brought up, we looked at.
7 We can remedy it. It didn't have any affect on
8 the population. It's a little unique, and you'll
9 see.

10 So Emily, you want to zoom right into
11 that -- yeah, right there.

12 So originally --

13 A little bit closer, Emily. I'm sorry.
14 There.

15 So you see where it says zero right
16 there underneath 7, originally, that line coming
17 across, as Senator Oban said, we think is a
18 transmission line or something, so all I did is
19 put that section where it says zero, into 47, and
20 that's Burke Creek Loop Road going all the way
21 around and then it comes down into that little
22 notch on the west side. Now, from there to the
23 river, that is a census line. That's nothing we
24 did. That's -- the census put that in there. It
25 goes through some vacant backyards.



1 Emily, you want to explain it from
2 there? So if we approve this, we'd approve it
3 this way. But --

4 You go ahead and add the footnote.

5 MS. THOMPSON: Mr. Chairman,
6 Representative Nathe, what we can do if we have
7 odd shaped census blocks is, if the committee
8 does to a point the point where they're looking
9 at a final plan and there's a revision or a split
10 to a census block that's required, legislative
11 counsel can just contact census and update that
12 geography to split that bloc.

13 So for instance this -- if I hover my
14 mouse here -- this kind of little tail we have on
15 the census block that you have to select for one
16 individual bloc, we could cut that census block
17 and update that geography with census, so the
18 bloc would run a little straighter.

19 CHAIRMAN DEVLIN: Senator Holmberg.

20 SENATOR HOLMBERG: And Emily, that would
21 hold true then for Lincoln Park, the golf course
22 in Grand Forks, which goes way down, way up, and
23 yet, there's nobody there.

24 MS. THOMPSON: Mr. Chairman and Senator
25 Holmberg, correct.



1 REPRESENTATIVE NATHE: So, Mr. Chairman,
2 with the changes it doesn't change any of the
3 population numbers or percentages; they're all
4 the same. It was just rerouting some lines. And
5 like I said, that's census line we can't touch.
6 That's -- it's put in there by the census.

7 CHAIRMAN DEVLIN: Representative
8 Boschee.

9 REPRESENTATIVE BOSCHEE: Thank you,
10 Mr. Chairman.

11 So while that's a transmission line
12 which we know ends up crossing parcels, is there
13 something that is done to make the job of the
14 auditors easier, so it's based on an address, or
15 what we do in our drafting, so that they know
16 that even though it might split a parcel, this
17 side of the parcel is in 47 and this side is in
18 7? How does that work to make the job of the
19 auditors manageable?

20 MS. THOMPSON: Mr. Chairman,
21 Representative Boschee, likely, that census
22 block, the revised geography would run along a
23 road or some other feature. If I zoom way in,
24 you see we have Olive Tree Drive right there, so
25 we would likely kind of veer that census block to



1 run that line along some type of existing
2 geography.

3 REPRESENTATIVE NATHE: And Mr. Chairman,
4 if I may.

5 And Representative Boschee, that
6 existing census line goes through some back
7 vacant lots, but there's one house to the south
8 of it and everything else is pretty much just
9 vacant lots. Now, maybe in the future, they'll
10 put homes there, but right now, it's just trees
11 and there's nothing there. And I suspect that's
12 why census probably did it.

13 CHAIRMAN DEVLIN: Any other questions or
14 discussions?

15 SENATOR OBAN: Mr. Chairman.

16 CHAIRMAN DEVLIN: Senator Oban.

17 SENATOR OBAN: I'll be resisting the
18 motion just because I think we can do better with
19 regard to -- I know Representative Nathe has
20 consulted with the existing legislators. I think
21 that we can make boundaries cleaner to make sense
22 to voters to make running elections easier, and
23 that's, I believe, what I proposed in the
24 Bismarck sort of proper area. So it has nothing
25 to do with the general concept that



1 Representative Nathe -- I just think that we can
2 make lines cleaner.

3 CHAIRMAN DEVLIN: Any further
4 discussion?

5 (No audible response)

6 Seeing none, you may poll the committee.

7 MS. THOMPSON: Chairman Devlin.

8 REPRESENTATIVE DEVLIN: Yes.

9 MS. THOMPSON: Representative Bellew.

10 REPRESENTATIVE BELLEW: Yes.

11 MS. THOMPSON: Representative Boschee.

12 REPRESENTATIVE BOSCHEE: No.

13 MS. THOMPSON: Representative Headland.

14 REPRESENTATIVE HEADLAND: Yes.

15 MS. THOMPSON: Representative Lefor.

16 REPRESENTATIVE LEFOR: Yes.

17 MS. THOMPSON: Representative Monson.

18 REPRESENTATIVE MONSON: Yes.

19 MS. THOMPSON: Representative Nathe.

20 REPRESENTATIVE NATHE: Yes.

21 MS. THOMPSON: Representative Schauer.

22 REPRESENTATIVE SCHAUER: Yes.

23 MS. THOMPSON: Senator Holmberg.

24 SENATOR HOLMBERG: Aye.

25 MS. THOMPSON: Senator Bekkedahl.



1 SENATOR BEKKEDAHL: Aye.

2 MS. THOMPSON: Senator Burckhard.

3 SENATOR BURCKHARD: Aye.

4 MS. THOMPSON: Senator Erbele.

5 SENATOR ERBELE: Aye.

6 MS. THOMPSON: Senator Klein.

7 SENATOR KLEIN: Aye.

8 MS. THOMPSON: Senator Oban.

9 SENATOR OBAN: No.

10 MS. THOMPSON: Senator Poolman.

11 SENATOR POOLMAN: Aye.

12 MS. THOMPSON: Senator Sorvaag.

13 SENATOR SORVAAG: Aye.

14 MS. THOMPSON: Mr. Chairman, the motion
15 carries.

16 CHAIRMAN DEVLIN: Thank you.

17 Representative Skroch, I'm not sure if
18 she's online now, but if she is, maybe she would
19 like to present to us now, because if we talk
20 about District 25, she would have an interest in
21 that and she's scheduled for 3 o'clock, but I
22 think we're moving a little quicker than I
23 expected.

24 So Representative Skroch, if you're
25 available.



1 REPRESENTATIVE SKROCH: I'm ready.

2 CHAIRMAN DEVLIN: Just one moment,
3 please, Representative Skroch.

4 UNIDENTIFIED MEMBER: I think her
5 playback --

6 CHAIRMAN DEVLIN: Representative Skroch,
7 do you have something that's playing back the
8 discussion there by chance? Is that what we're
9 getting the feedback on? Representative Skroch,
10 you'll have to unmute yourself now. Thank you.

11 REPRESENTATIVE SKROCH: Are you ready
12 for me?

13 CHAIRMAN DEVLIN: We are ready.

14 REPRESENTATIVE SKROCH: Okay. Thank you
15 very much.

16 CHAIRMAN DEVLIN: Are you watching the
17 livestream?

18 REPRESENTATIVE SKROCH: I am.

19 CHAIRMAN DEVLIN: Could you turn off the
20 livestream?

21 REPRESENTATIVE SKROCH: I will --

22 CHAIRMAN DEVLIN: And then you'll just
23 be on the Teams meeting with us.

24 REPRESENTATIVE SKROCH: I can try.

25 CHAIRMAN DEVLIN: Representative Skroch,



1 you're going to get a phone call from IT in just
2 less than a minute, then hopefully we can fix
3 this so we can have your testimony. So just give
4 us a second.

5 (Recess taken)

6 REPRESENTATIVE SKROCH: All right.
7 Everybody hear me now?

8 CHAIRMAN DEVLIN: Yes.

9 REPRESENTATIVE SKROCH: Okay. We had
10 technical difficulty there.

11 Chairman Devlin, and members of the
12 committee, for the record, this is Representative
13 Kathy Skroch coming before you today, and I thank
14 you for the opportunity. I know how hard you've
15 worked, how diligently you've worked on these
16 proposals that are being presented before the
17 whole committee.

18 My comments are not directed at any
19 particular individual, but in speaking on behalf
20 of my district, from the very first proposal
21 presented before the committee, there's been
22 little consideration for the survival of District
23 26. Principles that have been considered are
24 preserving existing districts and keeping any
25 intact legislators in place, but District 26



1 legislators have been not left intact. We've
2 moved a senator from 26 into 25. We moved a
3 representative from 26 into 24. And a
4 representative from District 26 into 25.

5 From my perspective, the proposals, in
6 the effort of building and preserving other
7 districts, has been done totally at the expense
8 of District 26 and its voters. It was stated
9 that a priority in redistricting is preserving
10 existing districts. My people have been left out
11 and they're not happy with the plan proposed, or
12 similar plans proposed.

13 The principle of maintaining the
14 integrity of dually elected legislators is not
15 being followed. The 2020 election has been blown
16 up, so to speak, and the voters disenfranchised
17 from District 26. Of the five incumbents that
18 are now in District 25, there will be two
19 senators and three house members not dually
20 elected by the voters of District 26.

21 A question was raised of what principles
22 are being used. The principle of incumbency,
23 keeping counties whole, keeping districts whole,
24 and that all comes down to the perspective of the
25 individual draftsman of a proposal. The



1 principle of one-person, one-vote is supposedly a
2 priority in the consideration of redrafting of
3 the districts, but District 26 has been blown out
4 by the dissolving of the entire district.

5 This is also something that was done the
6 last census when we were district 27 and
7 completely dissolved and incorporated into
8 District 25 and District 26. So we've been
9 chosen as the scapegoat, per se, for the last two
10 cycles. If we use the 47-district model, which a
11 perfect population would be 16,576 plus or minus
12 ten percent -- District 26 had growth. We are
13 only two people less than District 20 at 14,354.
14 District 26 is at 14,352. We had a growth of 2.3
15 percent, while District 20 had a growth of only
16 .28 percent. We increased in population by 331.
17 District 12 needed 2000 to stabilize it.
18 District 26 would be in the ballpark if we were
19 to increase its parameter with 1650 people to
20 2000 people. We would be stable.

21 In using the committee's proposal,
22 District 25 is kept whole. District 24 is kept
23 whole. District 28 will be kept whole. While
24 District 26 is destroyed. As one member stated,
25 District 26 is blown up.



1 So what principles were used in
2 dissolving District 26? If a top priority, which
3 was explained by one of the members, if
4 compactness, or continuity, which are
5 Constitutional, or incumbency, and representing
6 the voter's wishes, how is it that District 26,
7 and previously, District 27, happen to be the
8 districts that were dissolved, which are in our
9 very footprint of what is now becoming District
10 25 and District 28?

11 In preserving political subdivisions by
12 the lines being drawn right now in the proposal
13 to preserve District 25, we have school districts
14 that cross the line, and you will be splitting
15 political subdivisions in both school districts
16 and in ambulance districts.

17 So while you're considering these
18 proposals -- and you've moved forward quite
19 rapidly today, though a lot of -- I understand a
20 lot of work was put into this -- I would hope
21 that you would keep an open mind as to
22 reinstating a plan that includes District 26.

23 In following the principles that have
24 been stated and preserving all these other
25 districts, it would be just as reasonable to



1 consider dissolving District 14 and incorporating
2 those counties into District 26 and District 28,
3 to preserve our districts on this southern end of
4 the state, the southeast corner of the state.

5 And keeping in mind that these are very rural
6 districts that won't be representatives, as well,
7 if the electors have to choose from a district
8 that is very urbanely controlled, where we are
9 set as a minority from the very beginning.

10 And that is my concern. I'm speaking on
11 behalf of all the constituents, and all the
12 voters in District 26 that are going through, as
13 I said, the same experience that occurred 10
14 years ago when our district was dissolved and
15 incorporated into other districts.

16 So I intend to keep working. I've been
17 reaching out to various legislators in an effort
18 to not stomp on anybody else's toes, because I
19 know there's a great tug and pull in everything
20 that's being proposed, and everything considered.
21 And at times, there are tensions, obvious, that
22 are being caused by various proposals. But I
23 hope we can work as a committee and as members of
24 District 26 and the surrounding districts to come
25 up with a proposal that will be arguable and



1 considered by this committee, and that this
2 committee will not be closed to that
3 consideration.

4 Thank you, Mr. Chairman.

5 CHAIRMAN DEVLIN: You're welcome. Are
6 there any questions for Representative Skroch?

7 Senator Holmberg.

8 SENATOR HOLMBERG: First of all, thank
9 you very much, first of all, for your passion on
10 the particular issue. That is always comforting,
11 I think, to other legislators when they see
12 someone taking a lead role in an issue that is
13 tough.

14 But I come from a county that's going to
15 lose a district, too. You know, either 19 or 20
16 are gone because -- going back to one of your
17 comments, one-person, one-vote, it's the number
18 of people that are involved. That's why District
19 26, which is what you're talking about, but also,
20 we have District 23 that has disappeared, and we
21 also have District -- either 19 or 20, whatever
22 the number is going to be. But no one is
23 disenfranchised. That's where I think there's a
24 term being used that is inappropriate. Because
25 every individual that's in every one of the



1 counties, Sargent, Richland, Ransom, they all
2 will get to vote. They might vote for different
3 people, but no one has been disenfranchised.

4 But if we, okay, reinstate 26, then what
5 district do we get rid of? Because there has to
6 be a district added because of population,
7 one-person, one-vote, in Cass County, and we have
8 out west, in the Williston area and also West
9 River. So the numbers are going to be -- I mean,
10 what we're doing is driven by the one-person,
11 one-vote.

12 And by the way, I did not do the drawing
13 down in this particular area. I was up in the
14 northeast, and yet, we had to eliminate districts
15 because we just frankly don't have the people
16 anymore. They have moved.

17 REPRESENTATIVE SKROCH: May I respond?

18 CHAIRMAN DEVLIN: You may.

19 REPRESENTATIVE SKROCH: Thank you,
20 Chairman.

21 In your considerations, I think I laid
22 out my arguments as to why it would be just as
23 reasonable to dissolve District 14 and
24 incorporate portions of that into 28 and
25 reestablish District 26. District 26 could



1 remain intact, and using fairly reasonable county
2 boundaries, if the committee would be open to
3 allowing that to happen. It is just as
4 reasonable to dissolve a central district as it
5 is to dissolve District 26. And people will be
6 disenfranchised if their legislators are being
7 put into an entirely different district where
8 they no longer will be able to vote for those
9 legislators. Yes, they may have alternative
10 candidates to vote for. Yes, this is true. But
11 it negates the 2020 election.

12 CHAIRMAN DEVLIN: Senator Holmberg.

13 SENATOR HOLMBERG: Which happens every
14 time there is a redistricting, which we are
15 required to do by the Constitution. But one of
16 the other areas is Richland County, which is kind
17 of interesting because it is the county that is
18 practically ideal population. We had testimony
19 this morning from the Association of Counties
20 urging us to follow those county lines, and
21 Richland County is in the corner, and the
22 proposals that I have seen have Richland County
23 as its own district, which county auditors like.
24 And could you comment on why we should not make
25 an ideal county a district by itself?



1 REPRESENTATIVE SKROCH: Mr. Chairman and
2 Senator Holmberg, I think there are as many
3 arguments as to why you would follow other
4 principles besides just following county lines.
5 But that would be my comment that there are other
6 proposals that would work, as well, that would
7 follow those principles and we could still
8 salvage District 26. It would keep Sargent
9 County whole. It would keep -- we could possibly
10 keep Ransom County whole.

11 Are you still with me?

12 CHAIRMAN DEVLIN: We are.

13 REPRESENTATIVE SKROCH: Okay. But that
14 would be my response, and I think those things
15 have to be taken into consideration. When I
16 looked at Representative Headland's proposal, he
17 is splitting counties to keep a district whole
18 according to a particular set of principles. And
19 we can move Richland County in other directions,
20 as well. District 25 could be kept whole by
21 incorporating to the north. There are other
22 options.

23 CHAIRMAN DEVLIN: Senator Burchard.

24 SENATOR BURCHARD: Mr. Chairman,
25 Representative Skroch, I have a question for you.



1 You made reference to ambulance districts in your
2 presentation. Can you speak to that again?

3 REPRESENTATIVE SKROCH: Yes. The
4 Lidgerwood ambulance district reaches into
5 Sargent County. The Lidgerwood School District
6 reaches into Sargent County. And the proposed
7 line of Richland County being the district
8 boundary will split those two political
9 subdivisions and divide them. That's one of the
10 things that would happen and one of the
11 consequences of making Richland County one
12 district.

13 SENATOR BURCHARD: Thank you.

14 CHAIRMAN DEVLIN: Any other questions
15 for Representative Skroch?

16 (No audible response)

17 Seeing none, thank you, Representative
18 Skroch, for being with us today.

19 REPRESENTATIVE SKROCH: Thank you,
20 Chairman, and members of the committee. I
21 appreciate the opportunity.

22 CHAIRMAN DEVLIN: You bet.

23 Representative Lefor, I believe.

24 I know we've got a couple of people here
25 that have to leave at 3 o'clock, so --



1 SENATOR OBAN: Do you intend on voting
2 on anything past 3 o'clock?

3 CHAIRMAN DEVLIN: I do.

4 SENATOR OBAN: You do.

5 CHAIRMAN DEVLIN: Representative
6 Headland, did you want to see me for a minute?

7 Take exactly a two-minute break.

8 (Recess taken)

9 CHAIRMAN DEVLIN: ... what you have.

10 REPRESENTATIVE LEFOR: Yes. Thank you,
11 Mr. Chairman. If you take a look at the
12 southwestern area proposal that I provided to the
13 committee earlier today, we have already voted on
14 District 31, so you can take that part out.

15 In District 33 -- if I can get counsel
16 to bring that up, please.

17 When my plan took southern Dunn and put
18 it in District 39, that was originally District
19 4, we had to make a population adjustment, and I
20 worked with counsel and Senator Bekkedahl that we
21 would move a few townships from District 33 to
22 District 4.

23 And if you could highlight that area
24 we're talking about.

25 So if you look at the northwest corner



1 of McLean, not including Garrison, you see
2 St. Mary, Blackwater, and so those two areas plus
3 the area in between would go from 33 to 4. And
4 so that's the only difference that I propose for
5 District 33. But I'm not -- I would move that
6 change for today. For my motion for today, I
7 would move that the committee accept Districts
8 36, 37, 39 and the new District, District Y, with
9 further discussion on District 33 at a different
10 time.

11 So, again, the changes in District 39,
12 previously, I had a portion of Mercer County in
13 there and I took that out because it was creating
14 havoc in other districts. District 37 and 36
15 were slightly changed to make better lines. It
16 made a lot more sense with the revisions we've
17 made. And District Y is one that is, you know, a
18 lot of different counties, but we were able to
19 keep quite a few counties whole. If you look at
20 District 39, currently, you're going all the way
21 from the southern border to Watford City. So
22 it's a little bit more compressed than it was,
23 but still a geographic challenge.

24 So, Mr. Chairman, I would move that we
25 accept the southwestern area proposal as shown,



1 excluding District 31, which you've already
2 passed. The change to District 33, although, not
3 approving District 33 today, but approving 36,
4 37, 39 and District Y. That would be my motion,
5 Mr. Chairman.

6 SENATOR HOLMBERG: Second.

7 CHAIRMAN DEVLIN: Would you repeat those
8 districts again, Representative Lefor.

9 REPRESENTATIVE LEFOR: I'd be happy to.
10 District 36, 37, 39 and District Y.

11 CHAIRMAN DEVLIN: You have the motion
12 before you. Is there a second?

13 UNIDENTIFIED MEMBER: Senator Holmberg,
14 sir.

15 CHAIRMAN DEVLIN: Oh, I'm sorry.
16 Senator Holmberg second.

17 Now is there a --
18 Representative Bekkedahl.

19 REPRESENTATIVE BEKKEDAHL: Thank you,
20 Mr. Chairman.

21 Representative Lefor, the only thing
22 that I would say is that I'm going to be looking
23 at some of this tonight and bringing the
24 proposals for the rest of the northwest tomorrow.
25 But the area that you highlighted --



1 Emily, can you go and highlight it more
2 on that area around Garrison and bring that up in
3 more detail. There you go, right there. If you
4 can zoom in on that.

5 Okay. Just for the committee's
6 reference for today, if you look south of the --
7 at the top pink area, there's actually the lake
8 there, so there's a big geographic boundary
9 between current District 33 and District 4 there.

10 So, actually, go more to the right if
11 you -- no, no. I mean, I want to see the right
12 side more. There you go. Okay. Okay. So if
13 you go straight up, you see that little box is
14 where Garrison is, if you can go to that. Okay.

15 So taking the two townships that
16 we've -- or three townships we've taken up to
17 that point that's in this motion, adds enough
18 people to District 4 with the loss of 1100 people
19 in Dunn County for the plan before us now, puts
20 them under the five percent threshold deviation,
21 just under. If you actually follow the
22 geographic boundary of the lake and take in
23 Garrison, that township down to the lines there,
24 down to the lake --

25 I don't know how you do that, Emily.



1 But see where the line comes across
2 horizontally and takes that little diagonal to
3 the southwest. If took Garrison in that township
4 and actually added that into District 4, as well,
5 it would put them even at a higher plus, and it
6 would not take out enough in district 33 where it
7 effects their numbers or their deviation. That
8 may give us the opportunity to take townships
9 further north of there that are right next to
10 Velva, which is District 6 now, and move some of
11 District 4 into District 6, which needed help in
12 population.

13 So I just want to reserve the right to
14 readdress this tomorrow, even though it's not in
15 your motion, Representative Lefor, and bring
16 forth those changes, possibly, tomorrow when we
17 talk about northwest, if that's okay.

18 REPRESENTATIVE LEFOR: Works for me.

19 CHAIRMAN DEVLIN: Emily, you had a
20 concern.

21 MS. THOMPSON: Just a quick note for the
22 committee, Mr. Chairman. Zooming in on this
23 area, you'll notice there doesn't appear to be a
24 bridge right in this area. So again, the members
25 of the district have to be able to travel within



1 the district without leaving the district, and so
2 without a bridge, looks like we'd have to kind of
3 expand or connect with a bridge somewhere in this
4 area.

5 REPRESENTATIVE BEKKEDAHL: So if I could
6 response, Mr. Chairman?

7 CHAIRMAN DEVLIN: You may.

8 REPRESENTATIVE BEKKEDAHL: So that's why
9 I think keeping Garrison in this area, which is
10 bounded by the lake on the south, is more
11 contiguous to District 4 than it is to District
12 33, because they literally have to drive around
13 and cross two bridges to get back into District
14 33 because of that lake boundary to the south.
15 So hopefully, that's what Emily was pointing out.

16 REPRESENTATIVE BOSCHEE: Mr. Chairman.

17 CHAIRMAN DEVLIN: Representative
18 Boschee.

19 REPRESENTATIVE BOSCHEE: Thank you.

20 My questions was previous to what Emily
21 pointed out, but just so I understand, you're
22 going to work on that night to help solve that
23 problem?

24 REPRESENTATIVE LEFOR: Correct.

25 CHAIRMAN DEVLIN: So, Representative



1 Lefor, do we need to hold up on this motion until
2 tomorrow morning?

3 REPRESENTATIVE LEFOR: Well, here's what
4 I would propose, that the motion would be 36, 37,
5 39, and Y, and leave District 33 for further
6 discussion.

7 CHAIRMAN DEVLIN: Okay.

8 Senator Erbele.

9 SENATOR ERBELE: Chairman, and
10 Representative Lefor, in other discussions, there
11 was always that piece of Dunn County that was
12 immediately below the reservation. I'm not
13 really familiar with that area. Where is that
14 going? Is that some of the population that's
15 being shifted across up to Garrison then now?
16 Are you taking that piece of Dunn into 39? Am I
17 understanding that right?

18 REPRESENTATIVE LEFOR: Mr. Chairman,
19 Senator Erbele, the northern part of Dunn County
20 will go to District 39. The southern portion of
21 Dunn County will go to District Y. And there's a
22 small -- in the southeast corner of Dunn County
23 that will stand in District 36 due to a
24 legislator residing there.

25 SENATOR ERBELE: So then the prior -- of



1 Dunn County that was part of District 4 is now
2 in --

3 REPRESENTATIVE LEFOR: 39.

4 SENATOR ERBELE: -- in 39. That's my
5 question.

6 CHAIRMAN DEVLIN: And so, are we
7 confused with the motion, or are we good with the
8 motion?

9 REPRESENTATIVE LEFOR: It's a great
10 motion.

11 CHAIRMAN DEVLIN: It really was. Who
12 made the great second? Was there a great second?
13 Was that Senator Burckhard?

14 SENATOR BURCKHARD: Second.

15 CHAIRMAN DEVLIN: Yes. That's who I
16 thought it was. Yeah.

17 Representative Boschee.

18 REPRESENTATIVE BOSCHEE: Thank you,
19 Mr. Chairman. As was stated earlier, I
20 appreciate that this map is much more cleaner
21 with county lines and jurisdictions. I do have a
22 great concern with what we're doing with Dunn
23 County, and I understand that the rationale for
24 this map is to protect an incumbent, but that
25 impact is not only subdividing that county into



1 three legislative districts, but also creating
2 more work for the Dunn County auditor.

3 UNIDENTIFIED MEMBER: (Indiscernible)

4 REPRESENTATIVE BOSCHEE: Correct. So
5 technically, four legislative districts.

6 So I will be opposing the motion. While
7 I understand that incumbency might be one of the
8 reasons we protect, I don't think -- you know,
9 for someone who might not be serving there
10 tomorrow after we vote on this any longer, I
11 don't think it's a strong enough rationale to
12 subdivide a county that we can fix and clean up a
13 straight line. Thank you.

14 CHAIRMAN DEVLIN: Response or further
15 discussion of any kind?

16 Senator Bekkedahl.

17 SENATOR BEKKEDAHL: Thank you,
18 Mr. Chairman.

19 And just a question, Representative
20 Lefor, that little segment of green that she's
21 got the curser on right now, is that part of the
22 Y District that's actually in Stark County too?
23 So do you cross the boundary there and bring some
24 of Stark County into Y?

25 REPRESENTATIVE LEFOR: That is correct.



1 If you notice the --

2 SENATOR BEKKEDAHL: Is that a numbers
3 issue? Is that why you did that?

4 REPRESENTATIVE LEFOR: Yes. Yes.
5 Because if you look at --

6 SENATOR BEKKEDAHL: Because it looks
7 cleaner on the county line, so --

8 REPRESENTATIVE LEFOR: Right. But it is
9 most definitely a population issue because, if I
10 remember correctly, I think it was only about 19
11 or 20 under the absolute minimum. Yes, it's a
12 population issue.

13 CHAIRMAN DEVLIN: Population in that
14 area --

15 MS. THOMPSON: If I may, Mr. Chairman
16 and Representative Lefor. It looks like these
17 green areas that dip from Y down into Stark
18 County, there is no people here, six here, zero,
19 two, and three.

20 REPRESENTATIVE LEFOR: Is that --

21 MS. THOMPSON: I just wanted to clarify
22 if this should be in 36 or --

23 REPRESENTATIVE LEFOR: Is that Dunn
24 County?

25 MS. THOMPSON: Dunn County, the lines,



1 if I shut off the districts, you can see those
2 county lines nice and bright.

3 REPRESENTATIVE LEFOR: Okay. So that
4 would be in Stark.

5 MS. THOMPSON: Yes. Stark is here --
6 Stark is in the yellow, in the southern part of
7 the image. Dunn is in the northern part of the
8 image. But it looks like there are just a few
9 census blocks that Y picked up --

10 REPRESENTATIVE LEFOR: My opinion would
11 be then let's move those into Stark County for
12 consistency. I wasn't aware of that.

13 MS. THOMPSON: And I can check the
14 population really quickly on that so the
15 committee can see what that looks like.

16 REPRESENTATIVE LEFOR: There's not many
17 people there, so --

18 MS. THOMPSON: So Mr. Chairman,
19 Representative Lefor, it looks if we make that
20 change, the deviation goes from negative 4.88, to
21 negative 4.95 in Y, and it goes from negative
22 3.99 in 36, to negative 3.93.

23 CHAIRMAN DEVLIN: Any further
24 discussion? Do you know what you're voting for?

25 UNIDENTIFIED MEMBER: I don't.



1 CHAIRMAN DEVLIN: That's okay. Yeah,
2 just follow.

3 Okay. You may poll the committee.

4 MS. THOMPSON: Chairman Devlin.

5 REPRESENTATIVE DEVLIN: Yes.

6 MS. THOMPSON: Representative Bellew.

7 REPRESENTATIVE BELLEW: Yes.

8 MS. THOMPSON: Representative Boschee.

9 REPRESENTATIVE BOSCHEE: No.

10 MS. THOMPSON: Representative Headland.

11 REPRESENTATIVE HEADLAND: Yes.

12 MS. THOMPSON: Representative Lefor.

13 REPRESENTATIVE LEFOR: Yes.

14 MS. THOMPSON: Representative Monson.

15 REPRESENTATIVE MONSON: Yes.

16 MS. THOMPSON: Representative Nathe.

17 REPRESENTATIVE NATHE: Yes.

18 MS. THOMPSON: Representative Schauer.

19 REPRESENTATIVE SCHAUER: Yes.

20 MS. THOMPSON: Senator Holmberg.

21 SENATOR HOLMBERG: Aye.

22 MS. THOMPSON: Senator Bekkedahl.

23 SENATOR BEKKEDAHL: Aye.

24 MS. THOMPSON: Senator Burckhard.

25 SENATOR BURCKHARD: Aye.



1 MS. THOMPSON: Senator Erbele.

2 SENATOR ERBELE: Aye.

3 MS. THOMPSON: Senator Klein.

4 SENATOR KLEIN: Aye.

5 MS. THOMPSON: Senator Oban.

6 SENATOR OBAN: No.

7 MS. THOMPSON: Senator Poolman.

8 SENATOR POOLMAN: Aye.

9 MS. THOMPSON: And Senator Sorvaag.

10 SENATOR SORVAAG: Aye.

11 MS. THOMPSON: Mr. Chairman, the motion
12 carries.

13 CHAIRMAN DEVLIN: Thank you, Emily.

14 Representative Headland, are we close to
15 moving ahead on the other ones or not?

16 REPRESENTATIVE HEADLAND: Mr. Chairman,
17 could I have 10 minutes with Emily?

18 CHAIRMAN DEVLIN: Yeah. We're going to
19 lose Senator Oban and Representative Boschee here
20 in just a minute. I would like them to --

21 SENATOR OBAN: I ditched out on my
22 employer, so --

23 CHAIRMAN DEVLIN: You're going to stay
24 here?

25 SENATOR OBAN: I guess so. Yes.



1 CHAIRMAN DEVLIN: Okay.

2 Okay. If we will allow Senator Headland
3 to work on the -- we're having a difference --
4 not a difference of opinion, but when I did
5 Stutsman County, I just took the townships that I
6 needed to make the numbers balance, while they
7 made -- the incumbents in District 29 may -- and
8 12 may want different townships, so
9 Representative Headland wanted a chance to at
10 least look at that, and that's more than fair.
11 So if you want to take some time, committee,
12 we'll stand in recess for 10 minutes.

13 (Recess taken)

14 CHAIRMAN DEVLIN: Representative
15 Headland has a new concept on the Stutsman County
16 area, if you would be so kind.

17 Will Representative Boschee be able to
18 see it on the screen, Emily?

19 MS. THOMPSON: He should be able to.

20 CHAIRMAN DEVLIN: Okay.

21 I think, Representative Headland, we all
22 have maps, so you can present it from either
23 place.

24 REPRESENTATIVE HEADLAND: All right.

25 Thank you, Mr. Chairman, committee members. You



1 know, in looking at the direction I could see we
2 were going with our area, and the map that was
3 handed out -- and I think it was based off of --
4 I believe it was eastern proposal number two --

5 CHAIRMAN DEVLIN: Yep.

6 REPRESENTATIVE HEADLAND: I just didn't
7 really care for the way that turned out on the
8 map, so I'm going to offer this proposed change,
9 and I guess you can all see it in front of you.
10 It simply adds three townships on the border, the
11 southeast border of Stutsman County to District
12 12. It would take away the two furthest west
13 townships offered in the eastern proposal number
14 two and put them back in 29. There's a little
15 sliver up in the one precinct around the
16 Jamestown area in the southwest where Senator
17 Wanzek lived that was put in 29 and -- or
18 remained in 29 in this proposal, and that now
19 would also go to District 12.

20 If you can blow that up, Emily, so it
21 really can be shared with everybody. And Emily,
22 can you point that out to that area, so the
23 committee can see it. Okay. Well thank you.

24 Now, when we did this and did this
25 alone, it threw 29, I believe out of the



1 tolerance. So at that point, we went up to the
2 eastern part of the reservoir and there was a
3 couple of census blocks that were 29 prior to the
4 last reorganization, and they were moved to 12 to
5 make the numbers work back then, and I think
6 we're asking to move them back into 29 now, to
7 make the numbers work today.

8 And, you know, Emily, is that something
9 that you could actually bring up and show?

10 All right. That would be the area that
11 we're talking about that would move from 12 to 29
12 to make this proposal work. It was formally 29.
13 I just think it's something that looks better for
14 the future of these districts and these areas,
15 and I'm not sure how you want to proceed. I
16 think it's something that would -- I ask it be
17 considered in a new proposal, or am I asking this
18 to be considered on its own merits, or how do you
19 want me to --

20 CHAIRMAN DEVLIN: Well, I think --

21 REPRESENTATIVE HEADLAND: It doesn't
22 work, or doesn't need to be done, Mr. Chairman,
23 unless the eastern area proposal two is somehow
24 accepted.

25 CHAIRMAN DEVLIN: Yeah.



1 REPRESENTATIVE HEADLAND: I'm thinking.

2 CHAIRMAN DEVLIN: So essentially,

3 you're --

4 REPRESENTATIVE HEADLAND: Making
5 Jamestown whole and then adding enough rural --

6 CHAIRMAN DEVLIN: Right.

7 REPRESENTATIVE HEADLAND: -- townships
8 to make a district.

9 CHAIRMAN DEVLIN: So with the tweaks
10 that were just made to 29 and 12 in the Jamestown
11 area, if you have the eastern area proposal that
12 we had distributed last week, that would not
13 change -- I mean, there would be little changing
14 in 12 and 29, but the overall concept of 29,
15 those five counties would stay the same. 12
16 would change a little bit. So I don't know,
17 committee, do you want to take that as one, or if
18 you want to do the Barnes/Ransom area and the
19 Richland area and the District 28 all in one
20 motion? What is your preference?

21 Senator Oban.

22 SENATOR OBAN: Mr. Chairman, I'm just
23 trying to see that piece you said that previously
24 was in 29, then was moved to 12, now you're
25 moving back to 29 --



1 REPRESENTATIVE HEADLAND: Mr. Chairman,
2 that is not part of the city limits of Jamestown.
3 It's --

4 CHAIRMAN DEVLIN: It is. Was it in 29
5 ten years ago, is that what it was?

6 REPRESENTATIVE HEADLAND: It was.

7 CHAIRMAN DEVLIN: Yes. Okay. So it's
8 not part of the City of Jamestown, so that's
9 why --

10 SENATOR OBAN: And how does one get
11 there? Like, I mean, I realize it's butting up
12 against the northern -- I mean, is there --

13 REPRESENTATIVE HEADLAND: Mr. Chairman,
14 I believe it's a Highway 20 that would make the
15 border on the eastern portion of that.

16 MS. THOMPSON: Mr. Chairman and
17 Representative Headland, that's correct, it's
18 Highway 20.

19 SENATOR OBAN: Oh, okay. Thank you.

20 CHAIRMAN DEVLIN: Representative
21 Schauer.

22 REPRESENTATIVE SCHAUER: Thank you,
23 Mr. Chairman.

24 Representative Headland, the pushback
25 earlier on your presentation was that you were



1 breaking up too many counties. Does this change
2 allow you to be comfortable with the counties
3 being part of these various districts that we're
4 talking about, the counties as a whole?

5 REPRESENTATIVE HEADLAND: Mr. Chairman,
6 Representative Schauer, am I comfortable in
7 breaking up the district I've served for 22
8 years? No, I'm not. But if I'm looking for what
9 makes the best districts in a proposal that has
10 the votes, I didn't have the votes, so I think
11 this is the next best option.

12 CHAIRMAN DEVLIN: Representative
13 Headland, if you just want to make the motion to
14 accept -- or excuse me -- Legislative District 29
15 and 12 as you just presented them, I think we'll
16 take that as one motion.

17 REPRESENTATIVE HEADLAND: Mr. Chairman,
18 I would make that motion.

19 CHAIRMAN DEVLIN: Is there a second?

20 SENATOR HOLMBERG: Second.

21 CHAIRMAN DEVLIN: Seconded by Senator
22 Holmberg.

23 SENATOR BEKKEDAHL: Mr. Chairman.

24 CHAIRMAN DEVLIN: Senator Bekkedahl.

25 SENATOR BEKKEDAHL: Just a



1 clarification, just so I know, entire corporate
2 limits now of the City of Jamestown is in one
3 district; is that correct?

4 REPRESENTATIVE HEADLAND: Mr. Chairman,
5 Senator Bekkedahl, I believe that's the case
6 unless through some check that Emily does to make
7 sure if we've missed something, but its intent is
8 to --

9 SENATOR BEKKEDAHL: Okay. Well, and I
10 think that's a positive. I just wanted to
11 clarify it, so thank you.

12 MS. THOMPSON: Mr. Chairman,
13 Representative Headland, I can highlight the
14 corporate limits of Jamestown on the map, so you
15 can all see where those lines are. As you can
16 see by the highlighting, there is a small
17 portion, right kind of where my curser is moving
18 there, that is in District 29 that is within the
19 corporate limits of Jamestown, so it is not
20 entirely encompassed in District 12. A small
21 portion of the corporate limits of Jamestown is
22 in 29. I can zoom in.

23 REPRESENTATIVE HEADLAND: Mr. Chairman.

24 CHAIRMAN DEVLIN: Representative
25 Headland.



1 REPRESENTATIVE HEADLAND: Can I ask how
2 many -- is that one census block? Is it several
3 census blocks? And if added to the proposal,
4 would it keep the proposal in both districts, you
5 know, within the range percentage?

6 MS. THOMPSON: Mr. Chairman and
7 Representative Headland, I can certainly check on
8 that.

9 UNIDENTIFIED MEMBER: It's not going to
10 hurt 29. It will help 29.

11 SENATOR BEKKEDAHL: Mr. Chairman, if I
12 could just comment?

13 CHAIRMAN DEVLIN: Senator Bekkedahl.
14 I'm sorry.

15 SENATOR BEKKEDAHL: Thank you. If we
16 could make that change, I just think it makes
17 election administration easier if we stay within
18 the corporate limits of the city, so -- for the
19 auditors.

20 CHAIRMAN DEVLIN: Senator Oban.

21 SENATOR OBAN: Just while we're waiting
22 for this, is it safe to assume that carve out is
23 done for Wanzek, Senator Wanzek? I don't know
24 where he lives. Is that where he lives?

25 CHAIRMAN DEVLIN: No.



1 REPRESENTATIVE HEADLAND: I thought,
2 Mr. Chairman, I already had made that, so --

3 SENATOR OBAN: Oh -- oh, he was already
4 -- in what you're proposing, he was already moved
5 into 12?

6 MS. THOMPSON: And so, Mr. Chairman and
7 Representative Headland, adding that red
8 highlighted area, so the entire corporate limits
9 of Jamestown is fully encompassed in District 12,
10 that would change the deviation for District 12
11 to a positive 5.85 percent, and 29 to a negative
12 12.14 percent. There is roughly 1400 people in
13 that highlighted red area.

14 SENATOR OBAN: But Mr. Chairman,
15 currently, District 12 does not go all the way
16 down either, does it? I mean, the idea of
17 keeping that city part whole -- and I have no
18 idea how many people are in all of that
19 surrounding area. Is that currently how 12 is?

20 UNIDENTIFIED MEMBER: (Indiscernible)

21 SENATOR OBAN: Yeah. So we went from 12
22 being just the city to 12 now being most of the
23 city and rural.

24 MS. THOMPSON: Mr. Chairman, Senator
25 Oban, I can certainly pull up that 2010 map if



1 the committee would like a quick few of what
2 District 12 looks like.

3 SENATOR BEKKEDAHL: And Mr. Chairman, if
4 I could.

5 CHAIRMAN DEVLIN: Senator.

6 SENATOR BEKKEDAHL: Thank you for your
7 comment. It's not the worst thing in the world
8 if the administration has to deal with that split
9 in Jamestown. We do it in Grand Forks, we do it
10 Fargo, we do it in Williston, we do it -- that's
11 all -- I just thought if it was convenient and
12 didn't impact those numbers, we could do. But I
13 would digress to what his original proposal is if
14 we could keep the concept the way it was.

15 UNIDENTIFIED MEMBER: Mr. Chairman,
16 Senator Bekkedahl, that's what I would support,
17 also.

18 CHAIRMAN DEVLIN: Was there a second?

19 SENATOR HOLMBERG: Second.

20 CHAIRMAN DEVLIN: Second by Senator
21 Holmberg.

22 MS. THOMPSON: Mr. Chairman, committee
23 members, on your screen you can see the current
24 boundaries of District 12 highlighted in yellow
25 there, so you'll notice that that portion that we



1 highlighted in red on the previous map currently
2 is not included in District 12, so that would not
3 be a change from 2011.

4 SENATOR OBAN: Mr. Chairman.

5 CHAIRMAN DEVLIN: Senator.

6 SENATOR OBAN: If I could just ask
7 Representative Headland about that -- why
8 wouldn't we encompass more of the city if 12 has
9 to grow? Do the numbers just not work out for 29
10 then? Is that -- even when you're adding in
11 those other counties?

12 REPRESENTATIVE HEADLAND: Well,
13 Mr. Chairman and Senator Oban, yeah, I guess I
14 didn't fully investigate the eastern area
15 proposal number two and completely understand
16 what it was doing. I was trying to modify to
17 accommodate what I thought looked like some
18 gerrymandering in the proposal, so --

19 SENATOR OBAN: Is that easy enough to
20 check quick, or is it not, Emily?

21 MS. THOMPSON: Mr. Chairman, committee
22 members, could you please restate exactly what
23 you were looking for there?

24 SENATOR OBAN: Just encompassing the
25 part that Senator Bekkedahl had just mentioned.



1 CHAIRMAN DEVLIN: I thought that was
2 what threw it off 1100 people.

3 SENATOR OBAN: Right. But we didn't do
4 anything to what was proposed in encompassing all
5 of those county subdivisions then south of
6 Jamestown. We left all of that in. Or Spirit
7 Wood, and I mean, the wrap around.

8 MS. THOMPSON: Okay, so Mr. Chairman,
9 committee members, you're looking at removing all
10 of these additional townships other than the
11 corporate limits of Jamestown? Is that --

12 SENATOR OBAN: Potentially. And if
13 that's not -- again, I think just doing this on a
14 whim when we do it once every 10 years is very
15 painful to me, but --

16 SENATOR POOLMAN: Mr. Chairman?

17 CHAIRMAN DEVLIN: Senator Poolman.

18 SENATOR POOLMAN: Might we request that
19 this proposal come back just in the morning when
20 it's been --

21 CHAIRMAN DEVLIN: I have no problem,
22 except Representative Headland cannot be here
23 tomorrow.

24 SENATOR POOLMAN: But if he put the
25 plans together --



1 SENATOR DEVLIN: We know -- yeah.

2 SENATOR POOLMAN: You know, if he
3 submits what he wants to submit, can we assume
4 that --

5 SENATOR DEVLIN: It's just the balance
6 of numbers in Stutsman County between the city
7 and the rural.

8 REPRESENTATIVE BELLEW: But
9 Mr. Chairman, were they not balanced when he
10 proposed it and they became unbalanced because we
11 decided to move that section of the city away?
12 That's what caused the imbalance.

13 CHAIRMAN DEVLIN: Right.

14 REPRESENTATIVE BELLEW: Wasn't that not
15 balanced when he presented to -- this previous
16 sheet is balanced; is that correct? It is.

17 CHAIRMAN DEVLIN: Yeah. What
18 Representative Headland presented was balanced,
19 yeah. So it was just when we started to play
20 with that little bit of the corporate part. I
21 think if you adopt what Representative Headland
22 presented, I think everything will be find
23 between 12 and 29 as far as the numbers.

24 SENATOR KLEIN: Mr. Chairman.

25 CHAIRMAN DEVLIN: Senator Klein.



1 SENATOR KLEIN: And you know,
2 understanding that he's going to be gone
3 tomorrow, but I mean, a lot of this happened here
4 in the last hour and has everybody had a chance
5 to kind of settle that in? This morning's
6 concept was had most of the morning and now we're
7 kind of -- I don't know if we're rushing into it.
8 I -- if he's on board, I guess I'm on board,
9 so -- but nevertheless, I sense there's some
10 where I'm sitting here that are -- and I want to
11 make sure that, you know, everything that they've
12 done is -- everybody's happy with because it's --
13 it's his concept, so -- I just don't want to rush
14 into it.

15 REPRESENTATIVE HEADLAND: Mr. Chairman?

16 CHAIRMAN DEVLIN: Representative --

17 REPRESENTATIVE HEADLAND: Can I just get
18 clarification? This is just moving a concept
19 forward, right? This could all still be changed,
20 correct? If we vote on it, or not?

21 CHAIRMAN DEVLIN: Yeah. We still have
22 to vote on a concept map, you know, which could
23 also be changed if we wanted to bring something
24 back next week. But then the legislature also
25 has a chance to weigh into it, so I mean, there's



1 two or three other opportunities to tweak it if
2 needed. But I think what you presented was
3 perfectly balanced, and at this stage, that's
4 what we need, so --

5 Any further discussion? Who was it?

6 I guess we -- committee, I've asked by
7 somebody watching online if we would remember to
8 turn on our microphones when we vote because they
9 can't always tell how people voted.

10 So you may poll the committee.

11 MS. THOMPSON: Chairman Devlin.

12 REPRESENTATIVE DEVLIN: Yes.

13 MS. THOMPSON: Representative Bellew.

14 REPRESENTATIVE BELLEW: Yes.

15 MS. THOMPSON: Representative Boschee.

16 REPRESENTATIVE BOSCHEE: No.

17 MS. THOMPSON: Representative Headland.

18 REPRESENTATIVE HEADLAND: Yes.

19 MS. THOMPSON: Representative Lefor.

20 REPRESENTATIVE LEFOR: Yes.

21 MS. THOMPSON: Representative Monson.

22 REPRESENTATIVE MONSON: No.

23 MS. THOMPSON: Representative Nathe.

24 REPRESENTATIVE NATHE: Yes.

25 MS. THOMPSON: Representative Schauer.



1 REPRESENTATIVE SCHAUER: Yes.

2 MS. THOMPSON: Senator Holmberg.

3 SENATOR HOLMBERG: Yes.

4 MS. THOMPSON: Senator Bekkedahl.

5 SENATOR BEKKEDAHL: Aye.

6 MS. THOMPSON: Senator Burckhard.

7 SENATOR BURCKHARD: Aye.

8 MS. THOMPSON: Senator Erbele.

9 SENATOR ERBELE: Aye.

10 MS. THOMPSON: Senator Klein.

11 SENATOR KLEIN: Aye.

12 MS. THOMPSON: Senator Oban.

13 SENATOR OBAN: No.

14 MS. THOMPSON: Senator Poolman.

15 SENATOR POOLMAN: Aye.

16 MS. THOMPSON: And Senator Sorvaag.

17 SENATOR SORVAAG: Aye.

18 MS. THOMPSON: And Mr. Chairman, the
19 motion carries.

20 CHAIRMAN DEVLIN: Thank you.

21 Committee, I know we're pushing the
22 window here, but being we've dealt with 29 and
23 12, does somebody wish to make a motion on 24
24 with Barnes and Ransom County like was proposed
25 last time, and Richland County self-contained



1 except for the reservation part in Sargent?

2 UNIDENTIFIED MEMBER: I would move that.

3 REPRESENTATIVE BOSCHEE: Second.

4 CHAIRMAN DEVLIN: And a motion and a
5 second on that. Is there discussion?

6 SENATOR SORVAAG: Mr. Chairman.

7 CHAIRMAN DEVLIN: Senator Sorvaag.

8 SENATOR SORVAAG: Just for clarity, so
9 the reservation is in 25 then? Okay.

10 CHAIRMAN DEVLIN: 200 people, is that
11 what it was, Senator? Roughly, yep.

12 UNIDENTIFIED MEMBER: 206

13 REPRESENTATIVE BOSCHEE: Mr. Chairman.

14 CHAIRMAN DEVLIN: Representative

15 Boschee.

16 REPRESENTATIVE BOSCHEE: Probably should
17 have asked this before I made a second, but we're
18 saying Barnes and Ransom stays whole. That
19 corner of Cass County is not --

20 CHAIRMAN DEVLIN: That is not in there.
21 It was only -- yeah, that was corrected last
22 time. It's only Barnes and Ransom County.

23 UNIDENTIFIED MEMBER: It's correct
24 online.

25 CHAIRMAN DEVLIN: Yeah. It's correct



1 online but it isn't correct in the original
2 printed one. That was the Chairman's mistake.
3 So we're doing Barnes and Ransom one district
4 which will be 24 and Richland County all
5 contained, except along with a little bit of
6 Sargent County that's the reservation would be
7 District 25, and that's what the motion was.

8 Further discussion?

9 (No audible response)

10 Seeing none, you may poll the committee.

11 MS. THOMPSON: Chairman Devlin.

12 REPRESENTATIVE DEVLIN: Yes.

13 MS. THOMPSON: Representative Bellew.

14 REPRESENTATIVE BELLEW: Yes.

15 MS. THOMPSON: Representative Boschee.

16 REPRESENTATIVE BOSCHEE: Yes.

17 MS. THOMPSON: Representative Headland.

18 REPRESENTATIVE HEADLAND: Yes.

19 MS. THOMPSON: Representative Lefor.

20 REPRESENTATIVE LEFOR: Yes.

21 MS. THOMPSON: Representative Monson.

22 REPRESENTATIVE MONSON: Yes.

23 MS. THOMPSON: Representative Nathe.

24 REPRESENTATIVE NATHE: Yes.

25 MS. THOMPSON: Representative Schauer.



1 REPRESENTATIVE SCHAUER: Yes.

2 MS. THOMPSON: Senator Holmberg.

3 SENATOR HOLMBERG: Aye.

4 MS. THOMPSON: Senator Bekkedahl.

5 SENATOR BEKKEDAHL: Aye.

6 MS. THOMPSON: Senator Burckhard.

7 SENATOR BURCKHARD: Aye.

8 MS. THOMPSON: Senator Erbele.

9 SENATOR ERBELE: Aye.

10 MS. THOMPSON: Senator Klein.

11 SENATOR KLEIN: Aye.

12 MS. THOMPSON: Senator Oban.

13 SENATOR OBAN: Yes.

14 MS. THOMPSON: Senator Poolman.

15 SENATOR POOLMAN: Aye.

16 MS. THOMPSON: And Senator Sorvaag.

17 SENATOR SORVAAG: Aye.

18 MS. THOMPSON: And Mr. Chairman, the
19 motion carries.

20 CHAIRMAN DEVLIN: Thank you.

21 Now, committee, we need to deal with

22 Legislative District Number 28 which under the

23 map that's left would include Logan, LaMoure,

24 McIntosh, Dickey, and Sargent County, with the

25 exception of the reservation part that went into



1 Richland. Anybody want to make that into a
2 motion for District 28?

3 SENATOR OBAN: Did you just say
4 Logan/LaMoure?

5 CHAIRMAN DEVLIN: It's Logan, LaMoure,
6 McIntosh, Dickey, and Sargent, except for that
7 little bit. It's the same as on eastern proposal
8 two that I presented last week.

9 SENATOR OBAN: Oh got it. Thank you.

10 REPRESENTATIVE SCHAUER: I'd move we
11 approve District 28 as outlined.

12 CHAIRMAN DEVLIN: Representative
13 Schauer.

14 SENATOR HOLMBERG: Second by Senator
15 Holmberg.

16 CHAIRMAN DEVLIN: Second by Senator
17 Holmberg. Was there discussion?

18 Representative Boschee.

19 REPRESENTATIVE BOSCHEE: Thank you,
20 Mr. Chairman. So just -- because I'm obviously
21 looking at the paper in front -- this one has
22 Emmons as orphaned. Did we adopt Emmons
23 somewhere else already, or is it still orphaned?

24 CHAIRMAN DEVLIN: Which one?

25 UNIDENTIFIED MEMBER: Oh, Emmons is



1 still --

2 CHAIRMAN DEVLIN: Yeah. That was in the
3 one that they were talking about somebody else
4 was presenting. Senator Poolman presented
5 something that included Emmons and I'm sure we'll
6 have more on that tomorrow.

7 REPRESENTATIVE BOSCHEE: Okay. But we
8 haven't approved that then?

9 CHAIRMAN DEVLIN: No.

10 REPRESENTATIVE BOSCHEE: Okay. Thank
11 you.

12 CHAIRMAN DEVLIN: Further discussion?
13 (No audible response)

14 Pool the committee.

15 MS. THOMPSON: Chairman Devlin.

16 REPRESENTATIVE DEVLIN: Yes.

17 MS. THOMPSON: Representative Bellew.

18 REPRESENTATIVE BELLEW: No.

19 MS. THOMPSON: Representative Boschee.

20 REPRESENTATIVE BOSCHEE: Yes.

21 MS. THOMPSON: Representative Headland.

22 REPRESENTATIVE HEADLAND: No.

23 MS. THOMPSON: Representative Lefor.

24 REPRESENTATIVE LEFOR: No.

25 MS. THOMPSON: Representative Monson.



1 REPRESENTATIVE MONSON: Yes.

2 MS. THOMPSON: Representative Nathe.

3 REPRESENTATIVE NATHE: No.

4 MS. THOMPSON: Representative Schauer.

5 REPRESENTATIVE SCHAUER: Yes.

6 MS. THOMPSON: Senator Holmberg.

7 SENATOR HOLMBERG: Yes.

8 MS. THOMPSON: Senator Bekkedahl.

9 SENATOR BEKKEDAHL: Aye.

10 MS. THOMPSON: Senator Burckhard.

11 SENATOR BURCKHARD: Aye.

12 MS. THOMPSON: Senator Erbele.

13 SENATOR ERBELE: Aye.

14 MS. THOMPSON: Senator Klein.

15 SENATOR KLEIN: Aye.

16 MS. THOMPSON: Senator Oban.

17 SENATOR OBAN: No.

18 MS. THOMPSON: Senator Poolman.

19 SENATOR POOLMAN: Aye.

20 MS. THOMPSON: Senator Sorvaag.

21 SENATOR SORVAAG: Aye.

22 MS. THOMPSON: Mr. Chairman, the motion
23 carries.

24 CHAIRMAN DEVLIN: To my knowledge, the
25 only thing we have to do left in the eastern part



1 of the state is the very northeast.

2 SENATOR HOLMBERG: Mr. Chairman.

3 CHAIRMAN DEVLIN: Senator Holmberg.

4 SENATOR HOLMBERG: I would -- have we
5 don't 14, by the way?

6 CHAIRMAN DEVLIN: Nope.

7 SENATOR HOLMBERG: I would move that we
8 accept from eastern proposal area two, District
9 9, 10, and we'll argue later about 20 whether
10 that should be 19 or 20, but those three
11 districts which includes Traill, Grand Forks,
12 Walsh, Pembina, Cavalier, most of Towner, and
13 Rolette.

14 CHAIRMAN DEVLIN: Is there a second?

15 SENATOR POOLMAN: Second.

16 SENATOR HOLMBERG: It's --

17 CHAIRMAN DEVLIN: It's eastern area
18 proposal two right across the top.

19 SENATOR HOLMBERG: Rolette, Towner --
20 with the exception of the part that has been
21 Ramsey -- Cavalier, Pembina, Walsh, rural Grand
22 Forks, and Traill.

23 CHAIRMAN DEVLIN: Representative Monson.

24 REPRESENTATIVE MONSON: Thank you. Was
25 that a motion?



1 SENATOR HOLMBERG: Yes. It was a
2 motion.

3 REPRESENTATIVE MONSON: Is there a
4 second someplace already?

5 CHAIRMAN DEVLIN: Yes. Senator Poolman
6 seconded it.

7 REPRESENTATIVE MONSON: Okay. And I see
8 the train coming down the track and I am wishing
9 we had more options. We're down to a corner. I
10 mean, we've got Minnesota on one side, Canada on
11 the other, and there's just no -- there's no
12 wiggle room left. We've approved enough things
13 that -- I just -- I'm going to oppose it but I'm
14 sure it's going to pass, and I'll be able to live
15 with it, but I don't like it, so --

16 CHAIRMAN DEVLIN: Further discussion.

17 (No audible response)

18 Seeing none, poll the committee.

19 MS. THOMPSON: Chairman Devlin.

20 REPRESENTATIVE DEVLIN: Yes.

21 MS. THOMPSON: Representative Bellew.

22 REPRESENTATIVE BELLEW: No.

23 MS. THOMPSON: Representative Boschee.

24 REPRESENTATIVE BOSCHEE: No.

25 MS. THOMPSON: Representative Headland.



1 REPRESENTATIVE HEADLAND: Yes.
2 MS. THOMPSON: Representative Lefor.
3 REPRESENTATIVE LEFOR: Yes.
4 MS. THOMPSON: Representative Monson.
5 REPRESENTATIVE MONSON: No.
6 MS. THOMPSON: Representative Nathe.
7 REPRESENTATIVE NATHE: Yes.
8 MS. THOMPSON: Representative Schauer.
9 REPRESENTATIVE SCHAUER: Yes.
10 MS. THOMPSON: Senator Holmberg.
11 SENATOR HOLMBERG: Yes.
12 MS. THOMPSON: Senator Bekkedahl.
13 SENATOR BEKKEDAHL: Aye.
14 MS. THOMPSON: Senator Burckhard.
15 SENATOR BURCKHARD: Aye.
16 MS. THOMPSON: Senator Erbele.
17 SENATOR ERBELE: Aye.
18 MS. THOMPSON: Senator Klein.
19 SENATOR KLEIN: Aye.
20 MS. THOMPSON: Senator Oban.
21 SENATOR OBAN: No.
22 MS. THOMPSON: Senator Poolman.
23 SENATOR POOLMAN: Aye.
24 MS. THOMPSON: And Senator Sorvaag.
25 SENATOR SORVAAG: Aye.



1 MS. THOMPSON: Mr. Chairman, the motion
2 carries.

3 CHAIRMAN DEVLIN: Thank you. Now I
4 think the committee needs to deal with District
5 14 and 15. Do you want to take them both
6 together? Because there is any changes from the
7 way they were proposed, at this time, so --

8 SENATOR POOLMAN: Mr. Chairman, I would
9 move that we approve Districts 14 and 15 as seen
10 on the eastern area proposal two.

11 CHAIRMAN DEVLIN: Who seconded? Senator
12 Klein.

13 Discussion?

14 (No audible response)

15 Seeing none, we'll pool the committee.

16 MS. THOMPSON: Chairman Devlin.

17 REPRESENTATIVE DEVLIN: Yes.

18 MS. THOMPSON: Representative Bellew.

19 REPRESENTATIVE BELLEW: Yes.

20 MS. THOMPSON: Representative Boschee.

21 REPRESENTATIVE BOSCHEE: Yes.

22 MS. THOMPSON: Representative Headland.

23 REPRESENTATIVE HEADLAND: Yes.

24 MS. THOMPSON: Representative Lefor.

25 REPRESENTATIVE LEFOR: Yes.



1 MS. THOMPSON: Representative Monson.

2 REPRESENTATIVE MONSON: Yes.

3 MS. THOMPSON: Representative Nathe.

4 REPRESENTATIVE NATHE: Yes.

5 MS. THOMPSON: Representative Schauer.

6 REPRESENTATIVE SCHAUER: Yes.

7 MS. THOMPSON: Senator Holmberg.

8 SENATOR HOLMBERG: Yes.

9 MS. THOMPSON: Senator Bekkedahl.

10 SENATOR BEKKEDAHL: Aye.

11 MS. THOMPSON: Senator Burckhard.

12 SENATOR BURCKHARD: Aye.

13 MS. THOMPSON: Senator Erbele.

14 SENATOR ERBELE: Aye.

15 MS. THOMPSON: Senator Klein.

16 SENATOR KLEIN: Aye.

17 MS. THOMPSON: Senator Oban.

18 SENATOR OBAN: Yes.

19 MS. THOMPSON: Senator Poolman.

20 SENATOR POOLMAN: Aye.

21 MS. THOMPSON: And Senator Sorvaag.

22 SENATOR SORVAAG: Aye.

23 MS. THOMPSON: Mr. Chairman, the motion

24 carries.

25 CHAIRMAN DEVLIN: Thank you. I believe



1 that now we're down to the western North Dakota
2 and area from Emmons County north to Canada.
3 This has to be worked out, and I don't know if
4 Senator Poolman or who was all working on that;
5 but hopefully we can have something for the first
6 thing in the morning on that, and then we can get
7 out a preliminary map tomorrow; and we'll go from
8 there.

9 I thank you for your hard work today.
10 I'm sorry that it got kind of delayed but blame
11 the Chairman. I've got broad shoulders, so --

12 Is there anything else for the good of
13 the order today?

14 (No audible response)

15 Seeing none, thank you. We're recessed
16 until tomorrow morning at 9:00 -- correct?

17 (END OF VIDEO FILE)

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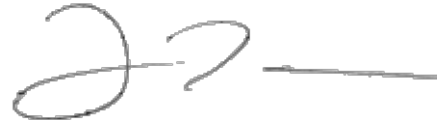


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I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036

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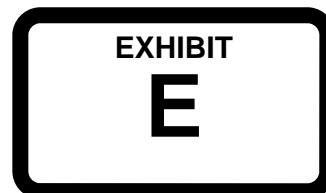
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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA LEGISLATIVE ASSEMBLY
REDISTRICTING COMMITTEE
SEPTEMBER 23, 2021



1 SEPTEMBER 23, 2021

2 CHAIRMAN DEVLIN: I will call the
3 Redistricting Committee back to order.

4 And, Claire, if --

5 Do we need to do the roll again? Okay.

6 MS. THOMPSON: Chairman Devlin.

7 CHAIRMAN DEVLIN: Here.

8 MS. THOMPSON: Representative Bellew.

9 REPRESENTATIVE BELLEW: Here.

10 MS. THOMPSON: Boschee.

11 REPRESENTATIVE BOSCHEE: Here.

12 MS. THOMPSON: Headland.

13 REPRESENTATIVE HEADLAND: Here.

14 MS. THOMPSON: Lefor.

15 REPRESENTATIVE LEFOR: Here.

16 MS. THOMPSON: Monson.

17 REPRESENTATIVE MONSON: Here.

18 MS. THOMPSON: Nathe.

19 REPRESENTATIVE NATHE: Here.

20 MS. THOMPSON: And Schauer.

21 REPRESENTATIVE SCHAUER: Here.

22 MS. THOMPSON: Senator Holmberg.

23 SENATOR HOLMBERG: Here.

24 MS. THOMPSON: Bekkedahl.

25 SENATOR BEKKEDAHL: Here.



1 MS. THOMPSON: Burckhard.

2 SENATOR BURCKHARD: Here.

3 MS. THOMPSON: Erbele.

4 SENATOR ERBELE: Here.

5 MS. THOMPSON: Klein.

6 SENATOR KLEIN: Here.

7 MS. THOMPSON: Oban.

8 SENATOR OBAN: Here.

9 MS. THOMPSON: Poolman.

10 SENATOR Poolman: Here.

11 MS. THOMPSON: And Sorvaag.

12 SENATOR SORVAAG: Here.

13 MS. THOMPSON: We have a quorum.

14 CHAIRMAN DEVLIN: Thank you.

15 Committee, we had some proposals
16 yesterday that were still being tweaked a little
17 bit, but Representative Schatz sent you all an
18 email with a plan for southwestern part of the
19 state that he would like to discuss this morning.
20 I told him I would let him on first.

21 So, Representative Schatz.

22 Committee members, it should be on your
23 email. Otherwise, is there a printed copy being
24 -- yeah, there. We'll have printed copies down
25 in just a minute.



1 (Pause)

2 REPRESENTATIVE SCHATZ:

3 Morning, Mr. Chair, and members of the
4 Committee. For the record, my name is
5 Representative Mike Schatz from New England. And
6 I've just handed out a map that I think explains
7 and changes some things that I think are not
8 quite right.

9 And I am going to say right off the bat
10 that Senator Elkin, Representative Houk
11 (phonetic), and myself would like to keep
12 District 36 with all three legislators in it.
13 And currently on the map that is proposed, we
14 would not be. And, by the way, neither would
15 Representative Kreidt from District 33. He would
16 also be removed. The current map that
17 Representative Lefor has put forth does not do
18 this.

19 I propose that New England be
20 reinstated, and that New Salem be taken out and
21 placed back in District 33. I have asked this to
22 be done, but I have never seen a map.

23 New England has close ties to Dickinson
24 and -- as a large percentage of the people work
25 and shop there. The current map, proposed map



1 would have zip codes in Mandan and Dickinson, and
2 my map is more centralized, as you can see.

3 Now I am just going to look at the map a
4 little bit if you would. Traditionally, District
5 39 went from Hettinger to Watford City.

6 As we know, the new people, the new
7 population, is in Watford City. It's not in
8 Adams, Bowman Slope, Golden Valley, Billings,
9 Stark, and Dunn (phonetic).

10 So in my mind, the best number for that
11 would be 39, and the why would be the new people,
12 the new district with the new people.

13 So that's just one thing I'd like to
14 point out.

15 Going along the map, I noticed, like I
16 say, I was taken out, and Representative Kreidt
17 was taken out, and then District 36 was then
18 moved far into Morton County. And on the new map
19 of District 33 you'll notice that Garrison is in
20 the new 33. Garrison is on the other side of the
21 lake. You can't get to Garrison without going by
22 boat apparently because you'd be leaving the
23 district to get there.

24 And the reason I bring that up is
25 because Garrison and New Salem are about the same



1 size. New England and New Salem are about the
2 same size. The thing would fit where you would
3 reinstate New Salem into 33 and New England into
4 36.

5 Now I guess we can talk, and you guys
6 have been talking and doing things. Like I say,
7 I was under the assumption we were going to have
8 a map with New England reinstated. That I have
9 never seen, and when I saw what happened
10 yesterday, I thought I had better get down here.

11 So anyway, I know that there is more
12 than one way to draw a district. There just is.
13 There's many ways.

14 And lines can be moved, and it's my hope
15 that you will consider all or part of this map;
16 and I don't have a computer. I don't have the
17 ability to get exact numbers. If somebody wants
18 to give me that, I certainly will draw it up to
19 specifications.

20 So with that, I will close, and thank
21 you; and if you have any questions, I will
22 attempt to answer them, but I'm sure there's --
23 without a computer I'm only going to be able to
24 do so much.

25 CHAIRMAN DEVLIN: Are there questions



1 from the Committee for Representative Schatz?

2 I'm sorry. Senator Poolman?

3 SENATOR POOLMAN: Mr. Chairman and
4 Representative Schatz, so just to clarify, you
5 haven't taken into consideration population with
6 these lines, just where you would like the lines?

7 REPRESENTATIVE SCHATZ: No. I've taken
8 into consideration, you know, the approximate
9 population, not the exact population. like i
10 say, there's -- I don't have the exact population
11 because I don't have a computer. But I'm close.

12 And lines can be drawn to make these,
13 this map work, I feel.

14 And then there is also another variable
15 here, and that is the City of Dickinson. I mean,
16 that could be put into the old 39 too, part of
17 it, so there's other ways to go. There's other
18 lines that can be drawn. That's what I'm saying.

19 CHAIRMAN DEVLIN: Further questions?

20 Seeing none, thank you.

21 REPRESENTATIVE SCHATZ: Okay. Thank
22 you, Mr. Chairman, and Committee.

23 CHAIRMAN DEVLIN: Now we will proceed
24 with where we were yesterday. I think, Senator
25 Poolman.



1 We will allow Senator Poolman to start
2 and then move on.

3 SENATOR POOLMAN: Mr. Chairman, I'm just
4 going to be talking about one district, and then
5 it's my understanding that Senator Bekkedahl will
6 be talking about the other districts in that
7 area. We're still talking about 8, 6, 4, and 33,
8 that central area.

9 And so I just wanted to pass out a map
10 of what 8 would look like. It is all of Emmons,
11 and then rural Burleigh County. And so you'll
12 see it just follows those county lines. There's
13 not a lot to say.

14 Since we approved the eastern half
15 yesterday, this would be probably an extension of
16 that map following the county lines.

17 SENATOR OBAN: Mr. Chairman?

18 CHAIRMAN DEVLIN: Yes, Senator Oban.

19 SENATOR OBAN: That's okay.

20 Senator Poolman, when you get up into
21 Burleigh, are you using any of District 30 to
22 pull into 8 based on what we adopted yesterday
23 from Representative Nathe's plan?

24 SENATOR POOLMAN: No. If that line is
25 wrong, then it's a mistake.



1 SENATOR OBAN: Yeah.

2 SENATOR POOLMAN: It's going around
3 District 30. Yeah.

4 SENATOR OBAN: Okay.

5 UNIDENTIFIED MALE: Mr. Chairman --
6 thank you, Mr. Chairman, and Senator Wilton.

7 Is that - would that whole city be in
8 District 8, because part of it is in McLean
9 County, and part of it is in Burleigh County.

10 SENATOR POOLMAN: Yep. So I suppose
11 that's the one exception. I did go up and around
12 (indiscernible) so it would stay together.

13 UNIDENTIFIED MALE: Okay. That's what I
14 wanted.

15 CHAIRMAN DEVLIN: Oh, okay.

16 Excuse me. Further questions for
17 Senator Poolman?

18 Representative Schauer.

19 REPRESENTATIVE SCHAUER: Thank you,
20 Mr. Chairman, Senator Poolman.

21 I see the Nathe plan over here, and I
22 see your plan. The Nathe plan was at 4.59
23 percent over. You're at 0.68 percent over. Can
24 you, and not being familiar with this area, can
25 you explain the difference?



1 SENATOR POOLMAN: Well, the difference
2 is the Nathe plan sticks much closer to what a
3 current District 8 would look like. So that plan
4 goes all the way up into Turtle Lake, which we
5 have, under this plan, put into District 6. So
6 it's a different area. It's a different area,
7 and of course doesn't include Emmons County.
8 This is the way to address the orphaned Emmons
9 County in that eastern proposal. Yea. I don't
10 know how you make Emmons County work anywhere
11 else under what we approved yesterday.

12 CHAIRMAN DEVLIN: Representative
13 Schauer.

14 REPRESENTATIVE SCHAUER: So causing a
15 slimmer District 8, where do those numbers go?
16 What district do they go?

17 SENATOR POOLMAN: They go into 33.

18 REPRESENTATIVE SCHAUER: Into 33.

19 SENATOR POOLMAN: And into 6.

20 REPRESENTATIVE SCHAUER: And what is 33
21 numbers? Okay.

22 SENATOR POOLMAN: Yeah. And so I think
23 it will be a little more clear when Senator
24 Bekkedahl gets up. I think that version of 33,
25 8, 6, and 4, how it can work.



1 CHAIRMAN DEVLIN: Senator Burckhard.

2 SENATOR BURCKHARD: Mr. Chairman and
3 Senator Poolman. So I see Lincoln there on the
4 western edge. Are they included in District 8?

5 SENATOR POOLMAN: They are included in
6 District 8.

7 SENATOR BURCKHARD: All right. Thank
8 you.

9 CHAIRMAN DEVLIN: Further questions?
10 Seeing none, thank you, Senator.

11 Committee, just for your information I
12 guess, spokesman for Chairman Mark Fox wrote me
13 at after 10 o'clock last night and wanted to
14 speak to the Committee this morning. And I
15 explained the timetable that we were on and was
16 hopeful that we could maybe have him at maybe
17 9:00 or a little after or whatever, but
18 apparently he has scheduling conflicts until
19 11:00. So Chairman Fox will be here about 11:00.

20 I think Representative Lefor met with
21 his staff last week; is that correct?

22 REPRESENTATIVE LEFOR: Yes,
23 Mr. Chairman. I actually met with Cynthia Monto
24 (phonetic) and Chairman Fox and had about an hour
25 long conversation. And they indicated to me -- I



1 advised them that Wednesday would be the better
2 option because of how close we are to finishing
3 the map.

4 CHAIRMAN DEVLIN: Okay. Thank you.

5 Senator Bekkedahl, were you going next?

6 (Pause)

7 CHAIRMAN DEVLIN: I apologize, Senator
8 Bekkedahl.

9 SENATOR BEKKEDAHL: No problem,
10 Mr. Chairman.

11 CHAIRMAN DEVLIN: Five conversations
12 going on at the front desk at the same time.

13 SENATOR BEKKEDAHL: It's the price you
14 pay for being Chairman.

15 CHAIRMAN DEVLIN: That is correct.

16 SENATOR BEKKEDAHL: Thank you,
17 Mr. Chairman.

18 For the record, Brad Bekkedahl, Senator
19 District 1, Williston. The northwest area
20 proposal has not changed much from the last time.
21 In fact, if you flip over the first page to
22 District 1, that's the same configuration we saw
23 in a previous meeting.

24 What I had to do in that area was,
25 Williston, or District 1 was over about 3000



1 people, so we had to reduce the size of the
2 district and to move some of that population out.

3 So the major boundary line in the city
4 to move down to on the north side, was 26th
5 Street. That's a real major east-west
6 thoroughfare, and then the major boundary line on
7 the west side was 32nd. And when I plugged those
8 in and then took the rest of the district -- you
9 see that little notch to the right side, that's
10 actually the corporate city limits of Williston.
11 That's the industrial park. Really nobody lives
12 there, but it is the corporate city limits.

13 And then the line that extends up to the
14 north is Little Muddy Valley. Not many people
15 live there either, and it just fit in my mind to
16 extend it up there as well. The populations, as
17 you see, the deviation is minus 600. So it's a
18 minus 3.62 percent. I would anticipate that
19 we're going to have some continued growth up
20 there just with the well activity. The more
21 wells we put in the ground, the more people we
22 need. So it's okay to be a little under in that
23 district.

24 The next page, District 2, what you see
25 before you there really doesn't change. District



1 2 stays the same as it was before. The
2 difference between District 1, District 2, and
3 the new district proposed here is that the
4 corporate city limits of Williston, none of them
5 will anymore be in District 2.

6 So District 2 becomes a true rural
7 district with no connection to the urban area.
8 The east half of District 1 that I just showed
9 you, that's corporate city limits. The west
10 section, which is the new district of the city of
11 Williston going to the Montana border, that will
12 be corporate limits of the city of Williston as
13 well.

14 CHAIRMAN DEVLIN: Senator if I may
15 interrupt you for a minute. Senator Holmberg has
16 a question.

17 SENATOR HOLMBERG: Mr. Chairman and
18 Senator Bekkedahl, we have in the past always
19 tried to stay away from corporate city limits
20 because they move during 10 years. And are there
21 roads or other kinds of natural boundaries that
22 would not move, because we've have had that
23 question in the past that all of a sudden, the
24 corporate limits move. Are they in District X or
25 District Y?



1 SENATOR BEKKEDAHL: Thank you, Senator
2 Holmberg. Actually, those lines that you see on
3 this map that define this corporate city limit
4 are already roads, or platted roads that define
5 the boundary of the city. So if you want to
6 define them in terms of the roadways, you can do
7 that.

8 But I understand the question, and I
9 understand the concern there. There is no direct
10 line coming down from County Road 85B that you
11 see extending to the north straight up. There's
12 no direct line going south of there because of
13 the river. So you have to move east to get to
14 the next line over, which I just took it to the
15 corporate city limits which was an easy
16 definition for us.

17 SENATOR HOLMBERG: Chairman, if --

18 SENATOR BEKKEDAHL: Thank you.

19 SENATOR HOLMBERG: -- if indeed they do
20 follow the roads, is that something that when
21 they do the meets and bounds, that they could do
22 that rather than saying "the corporate city
23 limits?" Just asking because I don't know how
24 they do the meets and bounds.

25 CHAIRMAN DEVLIN: John.



1 SENATOR BEKKEDAHL: Mr. Chairman,
2 members of the Committee, in the past we have
3 occasionally extended a road. So 48th Street
4 extended to its intersection with the river or
5 whatever it is. And then we have to split, and I
6 think in this case you're splitting up probably a
7 census block. But I'm guessing there's nobody
8 living in that census block you're splitting. Am
9 I --

10 There is nobody living in that -- I
11 don't think. It's all an industrial park. So I
12 don't think there's anybody living there.

13 SENATOR HOLMBERG: Well, if that's the
14 case we can fix that afterward and then get the
15 census bureau to recognize that as a new boundary
16 as well.

17 SENATOR BEKKEDAHL: And I'm amenable to
18 that. The meets and bounds description is
19 probably already in the city of Williston
20 description if you needed to use a meets and
21 bounds. But whichever works for the Committee is
22 fine with me. As I've said, there are no people
23 there. It was just a matter of convenience to
24 just pick a line. Thank you, Senator Holmberg
25 for the question.



1 Again, District 2 then doesn't include,
2 unless we make that change, any corporate part of
3 the city of Williston. So it is a true rural
4 district again.

5 Then if you go from District 2 -- and as
6 you see District 2 is the complete county of
7 Divine County, the complete county of Burke
8 County, a portion of Mountrail County, which it
9 has always. That's nothing new, and then the
10 rest of Williams County around Williston.

11 I'm going to skip by District 4 and
12 District 6 for a moment. If you want to go to
13 the last page of District 99, which is the new
14 proposed district, essentially, Mr. Chairman and
15 Committee, what I did there was I took the
16 remainder of the city of Williston on its
17 northern boundary, which is actually County Road
18 6. It is a county highway there that goes into
19 the bypass, which is the 85B route that goes
20 around the city of Williston, comes back to what
21 we call the four-mile corner west of town, and
22 goes outbound toward by U.S. Highway 2.
23 Everything south of Highway 2 then to the Montana
24 border, to the Missouri river would be
25 incorporated into the new district.



1 So the majority of that district
2 population is actually Williston, and the
3 townships on the west side of Williston, the
4 north and west side, and then it just takes that
5 portion along Highway 2 along the river.

6 The reason I did that is for
7 compactness. It actually makes it easier for
8 District 2. It makes a clean line for them at
9 Highway 2 and the current bypass, which are major
10 roadways, and if you're on the west side of that
11 bypass or the north side of Highway 2 west of
12 Williston, you know what district you're in. And
13 the numbers work out there where it's about minus
14 1.58 percent. So I would take any questions on
15 that.

16 I see they are having trouble getting
17 something on the screen. Maybe I should wait.

18 MS. NESS: Our apologies to the
19 committee. We are just trying to get the map up
20 and we are just having some technical
21 difficulties; so I apologize, Senator Bekkedahl.
22 It will just take a moment.

23 SENATOR BEKKEDAHL: It's probably my
24 fault, so no worries.

25 CHAIRMAN DEVLIN: Representative Monson.



1 REPRESENTATIVE MONSON: Thank you,
2 Mr. Chairman.

3 Senator Bekkedahl, I'm having trouble on
4 your front page trying to locate 99.

5 SENATOR BEKKEDAHL: Oh, yeah. Okay.

6 Mr. Chairman and Representative Monson,
7 if you'd look where the 1 is and you just go to
8 the left of that, you see a yellow line which is
9 Highway 2 going there. It's all below that.

10 REPRESENTATIVE MONSON: Okay. I got
11 you. Thank you.

12 SENATOR BEKKEDAHL: Mr. Chairman, just
13 for your information, not that it really matters,
14 but I did take the time to meet with all of the
15 seated legislators in these areas, had a meeting
16 with them, showed what I was going to propose to
17 the Committee. I wasn't looking for their
18 acquiescence, more looking for any objections or
19 ideas they had. So this has passed their muster
20 as well.

21 CHAIRMAN DEVLIN: Are we going to get
22 it?

23 MS. NESS: Okay.

24 CHAIRMAN DEVLIN: Senator this is going
25 to take just a minute, I think.



1 SENATOR BEKKEDAHL: I told you,
2 Mr. Chairman, I probably broke it. I did have a
3 computer last night.

4 CHAIRMAN DEVLIN: Senator, would you
5 mind if we allow them time to get the new cable
6 down here, and then you can finish your
7 presentation?

8 SENATOR BEKKEDAHL: That is perfectly
9 fine with me. Thank you.

10 CHAIRMAN DEVLIN: We may have got it.
11 Just wait here. It blew the lights out, the new
12 cable.

13 So why is it flickering?

14 They are going to get a new cable.

15 MS. NESS: Yeah. It's the Wi-Fi/HDMI
16 cable there.

17 (Recess taken)

18 CHAIRMAN DEVLIN: Committee, we will
19 continue our presentation from Senator Bekkedahl.

20 SENATOR BEKKEDAHL: Thank you,
21 Mr. Chairman.

22 I learned as a child that if you want to
23 be at the center of attention, you got to make a
24 fuss. I apologize for the fuss.

25 So maybe what we should do,



1 Mr. Chairman, is if there are no questions on
2 Districts 1, 2, and 99 in Williams County, I
3 suppose we should probably go to District 4 next
4 because that's the adjacent. So if you could
5 bring up District 4, then I'll explain the
6 changes there.

7 This will be different, by the way, than
8 what you have in your maps now in the handouts
9 because we had to make some changes.

10 Mr. Chairman, in the handouts, it was
11 brought to my attention -- and credit to
12 Representative Bellew, that's why we have a
13 Committee -- that there was a portion of the
14 Minot District 40 that was extending into McHenry
15 County. And he said that's never been that way,
16 and I don't know why it was on the map based the
17 way that it was; but that impacted the numbers in
18 District 6, which then impacted the numbers in
19 District 4. So that's why we had to recalibrate
20 all the stuff up there.

21 So we have corrected it now on the map
22 there. The portion of Minot District 40, which
23 on the base map that you have extends into
24 District 6, no longer does. It has now, the
25 boundary between McHenry and Ward County. So we



1 preserved that county boundary.

2 So getting to District 4, you will
3 notice that the southern boundary of District 4
4 is now the Fort Berthold Reservation. And that
5 area of Dunn County that used to be District 4 is
6 now part of the new district south of the river.
7 It's District 39.

8 Is that what we're calling it,
9 Representative Lefor?

10 REPRESENTATIVE LEFOR: Correct.

11 SENATOR BEKKEDAHL: District 39. That
12 change meant the loss of about 1100 population of
13 District 4. So what I did is I went over to the
14 area around Garrison, which is just north of the
15 lake and just east of the Fort Berthold
16 Reservation, the white shield area.

17 So if you can zoom in on that area down
18 on the -- let's show the lake down there if we
19 can. There you go. Okay.

20 There you go. Perfect.

21 So what I did in this diagram that
22 you're going to see is those four townships that
23 border the lake just north used to be part of
24 District 33. Well, the lake is a natural
25 boundary, and in all actuality, that was not



1 contiguous with District 33 since the last
2 change. So what I did was put those four
3 townships into District 4 because they're
4 adjacent, and District 4 needed to replace some
5 population from the loss of Dunn County. That
6 worked out well.

7 If you can zoom in on the Highway 83
8 boundary down there. There you go. Okay.

9 So what you see there, the green line
10 coming north to south, that is actually U.S.
11 Highway 83, which is a nice boundary between
12 District 4 and District 6. The boundary as it
13 currently exists is further east of there.

14 In discussions with both Senator Vedaa
15 in District 6, and Senator Kannianen in District
16 4, it was their recommendation that we move the
17 boundary line from District 6 further west into
18 District 4 to accommodate the town of Sawyer
19 being in District 6 with Velva, which is only six
20 miles away. I mean, they are just communities of
21 interest.

22 Doing that means that we have now
23 crossed that McHenry County line into Ward
24 County, which I think is fine as long as we have
25 that natural boundary at Highway 83.



1 To make the numbers work and preserve
2 that, if you are east of 83, you are going to be
3 in District 6. If you are west of 83, you are
4 going to be in District 4. We had to make a
5 couple other changes.

6 One is the community of Max. if you
7 want to highlight the community of Max.

8 Highway 83 goes directly through the
9 town. But if you look at the population and
10 statistics for the community of Max, what you
11 have there is the bulk of the population west of
12 Highway 83. And I think in those census tracks
13 to the east side, while there shows a lot of city
14 property there, I believe the census tracks only
15 have two people physically living in those census
16 tracks.

17 So about 331 people in Max live on the
18 other side of the Highway 83 boundary. So I
19 don't know if it's permissible to Max that we
20 bisect their community in districts, but that
21 makes sense to use 83 as the boundary; and that's
22 what we have done here. And the numbers fit
23 doing that.

24 If you go further north -- oh, and by
25 the way, Max in the last 10 years was part of



1 District 4, the community. So that is the same
2 for the majority of the residents.

3 SENATOR HOLMBERG: Mr. Chairman?

4 CHAIRMAN DEVLIN: Senator Holmberg.

5 SENATOR HOLMBERG: The division though
6 is just 83. It is not like Reynolds or Sarles
7 which is in two different counties. Because at
8 one point, we did Reynolds, and we decided to put
9 Reynolds with Grand Forks, you know, the entire
10 community; and then you ended up with Traill
11 County looking at having 100 people that they
12 have to have a precinct for, et cetera.

13 Is this on a county line, or is this all
14 in the same county?

15 SENATOR BEKKEDAHL: All in the same
16 county. This is all in Ward County.

17 SENATOR HOLMBERG: Thank you.

18 SENATOR BEKKEDAHL: Thank you for the
19 question, Senator.

20 If you go -- or McLean County. I'm
21 sorry.

22 As you go further north --

23 Thank you Senator Oban.

24 As you go further north, you will see
25 that there is a jog from Highway 83 back to the



1 east and while we tried to accommodate that line
2 coming all the way to Highway 83 from the current
3 boundaries of the Minot districts, it just added
4 too much population to District 6. And it wasn't
5 feasible to do that.

6 So what you see there is an
7 accommodation to fit the numbers. As Senator
8 Holmberg says, it's arithmetic at this point.
9 It's township boundaries. It's easy to define.

10 I would have liked to have gone all the
11 way to Highway 83, but as you can well relate,
12 there is a higher concentration of population
13 just outside of Minot, and it did put the numbers
14 too high.

15 So those are the major changes for
16 District 4 as you see them. Everything north of
17 there, nothing changed. They have to continue to
18 go up to the Kenmare area. They continue to be
19 bounded by Burke County and Mountrail County to
20 Williams County.

21 You'll notice in District 4 that part of
22 Mountrail County is in District 2, and part is in
23 District 4. The majority is in District 4.
24 That's the way it is now. That's the contiguous
25 boundaries that District 2 and 4 have between



1 them now. So the idea was we keep that the way
2 that it is and not change that for those
3 residents as well.

4 So I would take any questions on
5 District 4 now if anybody has any.

6 CHAIRMAN DEVLIN: Questions from the
7 Committee.

8 Representative Boschee.

9 REPRESENTATIVE BOSCHEE: Thank you,
10 Mr. Chairman.

11 And I'm sorry if you said it and I
12 didn't hear it. Was there any consultation with
13 the tribe on these changes?

14 SENATOR BEKKEDAHL: I've not talked
15 directly to the tribe on this, but what I've
16 tried to do to accommodate the decisions if it's
17 made, is make sure that we don't have any part of
18 a subdistrict south of the reservation that would
19 be stranded and not contiguous with the rest of
20 District 4.

21 In this plan, if the committee decided
22 to subdistrict the reservation, everything else
23 fits with a new subdistrict north and east of
24 there.

25 CHAIRMAN DEVLIN: Further questions?



1 Thank you, Senator.

2 SENATOR BEKKEDAHL: And then we'll go to
3 District 33 if you want, Mr. Chairman.

4 CHAIRMAN DEVLIN: That would be great.
5 Thank you.

6 SENATOR BEKKEDAHL: And I want to thank
7 Senator Poolman for working on this as well. She
8 was very accommodative.

9 District 33, the only major change I
10 made was taking those four townships north that
11 used to be stranded into 33, north of the lake
12 that are now in District 4, and that change
13 reduced the population a little bit in District
14 33.

15 What you will notice in District 33, I
16 tried to make an accommodation to not make
17 District 6 so far north to south, and possibly
18 take in some of that far-southern area of
19 District 6 and move them into 33. But when you
20 do that, you're crossing into the Missouri River.
21 Now you're dependent on bridges. The Missouri
22 River is the natural boundary. It's their
23 eastern boundary in most of that district, and I
24 thought it should be preserved.

25 The numbers work in District 33 the way



1 it is, even losing the population that we moved
2 into District 4. I think it's okay that they are
3 a little bit below the deviation number as well,
4 just because with the Blue Hydrogen project,
5 you'll probably see growth in that district in
6 the coming years.

7 So that, Mr. Chairman, is District 33.

8 SENATOR NATHE: Mr. Chairman.

9 CHAIRMAN DEVLIN: Representative Nathe.

10 REPRESENTATIVE NATHE: Thank you,
11 Mr. Chairman.

12 If Emily could, where your cursor is
13 right now, that straight line, is that 30th
14 Avenue I believe? And I only recognize it
15 because I had a plan similar. I just want to
16 make sure. Is that 30th Avenue, that straight
17 line up there?

18 So my question is: where is Underwood on
19 this?

20 SENATOR BEKKEDAHL: Mr. Chairman, I
21 believe Washburn and Underwood are both in
22 District 33 in this plan, Representative Nathe.

23 REPRESENTATIVE NATHE: Right there.
24 Okay. So it is in 33, okay. All right. Thanks.

25 SENATOR HOLMBERG: Mr. Chairman.



1 CHAIRMAN DEVLIN: Senator Holmberg.

2 SENATOR HOLMBERG: So just to make it
3 clear you do cross the Missouri though with
4 bridges?

5 SENATOR BEKKEDAHL: Oh, yeah. We do
6 have bridges there. Yeah.

7 SENATOR HOLMBERG: Okay. Yeah. Because
8 you said we didn't put this because it didn't
9 have bridges, but then --

10 SENATOR BEKKEDAHL: No. I'm sorry.
11 Thank you, Mr. Chairman and Senator Holmberg, for
12 that correction. Yeah. There are bridges there.

13 CHAIRMAN DEVLIN: Senator, McLean County
14 is now, in what you had for maps, in 4 and 33.
15 Is there any part of McLean County anywhere else?
16 Does that take care of all of McLean County? So
17 it's split in half; is that correct?

18 SENATOR BEKKEDAHL: I'm looking to the
19 people over here that know those counties better
20 than I do.

21 UNIDENTIFIED MALE: Six would also be in
22 McLean -

23 SENATOR BEKKEDAHL: Six has some of
24 McLean County.

25 CHAIRMAN DEVLIN: Okay.



1 SENATOR BEKKEDAHL: Mr. Chairman, that's
2 correct.

3 CHAIRMAN DEVLIN: Okay.

4 I'm sorry. Representative Monson.

5 REPRESENTATIVE MONSON: Thank you,
6 Mr. Chairman.

7 I'm questioning about the little hook
8 down there in Morton County. Okay. Right there.
9 Those couple townships in that little hook, would
10 that work to switch the couple townships to the
11 west with those?

12 The reason I'm bringing it up is
13 Representative Schatz brought up about
14 Representative Kreidt being in New Salem. And
15 I've talked with Representative Lefor, and he
16 said the numbers -- New Salem is just too big.

17 When I look at a piece of Mandan there,
18 that little hook going into Mandan, I don't think
19 that there are very many people in that section.
20 But, I mean, if you were to just swap those two
21 little areas with the two to the west, the one 33
22 and 4 is it, I guess. What's the one --

23 SENATOR BEKKEDAHL: To the west is 36.
24 I believe it's the new District 36. Is that
25 correct, Representative Lefor?



1 REPRESENTATIVE MONSON: Yeah. Maybe it
2 wouldn't work. But I'm just thinking, if that
3 would accommodate Representative Kreidt, and I
4 don't know. I have not talked to Representative
5 Kreidt. I don't know what his plans are but --

6 REPRESENTATIVE LEFOR: Mr. Chairman.

7 CHAIRMAN DEVLIN: Representative Lefor.

8 REPRESENTATIVE LEFOR: Thank you,
9 Mr. Chairman.

10 In the southwest proposal that we moved
11 forward yesterday, it has a total population of
12 63,471. And if you take the absolute minimum,
13 meaning 5 percent under, it would be 15,748 per
14 district, times four, would be 62,992. Putting
15 New Salem in there puts us over the minimum
16 threshold.

17 So you would have 479 people above the
18 minimum threshold for four districts or about 120
19 per district. And the reason I put New Salem in
20 the mix is because they have a population of 989.
21 You take out New Salem, and you don't have enough
22 for the districts in the southwest part of the
23 state.

24 CHAIRMAN DEVLIN: Representative Nathe.

25 REPRESENTATIVE NATHE: It has to do with



1 Representative Monson's question, but it's a
2 question for Senator Bekkedahl.

3 So I take it that part of 31 and 33,
4 that meshes with what we passed in 31 yesterday,
5 correct?

6 SENATOR BEKKEDAHL: Mr. Chairman and
7 Representative Nathe, to be honest with you, I
8 left that little corner of the districting up to
9 Senator Poolman. So she may know more about that
10 than I do. I worked specifically on the northern
11 part of intersecting District 4 because that was
12 my responsibility.

13 SENATOR POOLMAN: Mr. Chairman and
14 Representative Nathe, it's a great question.
15 Because when I put that district together -- we
16 had requested a merged map that technically
17 didn't come together yesterday. And so I think
18 that this is going to be an area that's going to
19 have to be reconciled with Representative Lefor's
20 31.

21 REPRESENTATIVE NATHE: I worked on 31.
22 If I may, Mr. Chairman.

23 I worked on 31, so it looks like it's
24 fairly close in regard to Representative Monson's
25 question. There are a lot of people down in that



1 hook, and we looked at that many different ways
2 of trying to get population into 33 at the time.

3 Representative Monson, you fly down
4 lower, and you'll see there are hundreds and
5 hundreds of people down there. So there's a
6 reason why that hook is in there is to get the
7 population of 33 to where we have to get it.

8 CHAIRMAN DEVLIN: Representative Monson.

9 REPRESENTATIVE MONSON: Mr. Chairman, if
10 there are that many people in there, I'm
11 wondering if you could swap that hook with the
12 one below it with New Salem to the west.

13 REPRESENTATIVE NATHE: I don't think it
14 works. You end up blowing up the whole map out
15 west.

16 REPRESENTATIVE MONSON: I don't see how.
17 We're talking two districts here.

18 What I'm suggesting maybe you could do
19 is to swap that little hook. Put that into the
20 district below it, and then go farther to the
21 west into that district to accommodate New Salem.

22 SENATOR BEKKEDAHL: Mr. Chairman.

23 REPRESENTATIVE MONSON: 31. It would be
24 31 and 33. Just do a swap between 31 and 33.

25 SENATOR BEKKEDAHL: Mr. Chairman, I



1 think as long as what we've done with 4 and 6 and
2 the majority of 33, I think I'm done with my
3 presentation. If you want to give some time for
4 Representative Monson to look at this
5 alternative, it's up to you as the Chair. But
6 it's not an area I focused on, and so I think
7 I've given my presentation if that's okay.

8 CHAIRMAN DEVLIN: Did you cover the new
9 District 99?

10 SENATOR BEKKEDAHL: I did, Mr. Chairman.
11 Earlier.

12 CHAIRMAN DEVLIN: Okay.

13 SENATOR OBAN: Mr. Chairman?

14 CHAIRMAN DEVLIN: Senator Oban.

15 SENATOR OBAN: Could Samantha pull up
16 what is being used as the boundary? Is that the
17 highway again? For the eastern edge of 33, up
18 north, when we get out of Oliver County, and we
19 start getting into McLean. Yeah. That's a good
20 start.

21 So you pull in all of Washburn, and then
22 you use the highway going north for how long?

23 UNIDENTIFIED MEMBER: All the way up.

24 SENATOR OBAN: All the way. All the way
25 up to butt against 4?



1 (Indiscernible)

2 SENATOR OBAN: Can you head west now,
3 Samantha?

4 CHAIRMAN DEVLIN: Yeah.

5 SENATOR OBAN: Yeah. Okay. Thanks.

6 CHAIRMAN DEVLIN: Yeah. I agree with
7 you. We're done with your presentation.

8 SENATOR BEKKEDAHL: Thank you
9 Mr. Chairman.

10 CHAIRMAN DEVLIN: I don't know how to
11 answer Representative Monson's question.

12 Representative Nathe, is there a quick
13 way to look at numbers somewhere to see if that
14 could work?

15 REPRESENTATIVE NATHE: Mr. Chairman, I'm
16 fine with 31. I'm fine with what we passed
17 yesterday. So it would be up to Representative
18 Monson to show it. But we're good with it. All
19 the districts involved are fine with it.

20 I do not support changing anything that
21 we passed yesterday.

22 CHAIRMAN DEVLIN: Representative Monson,
23 did you have anything further to add?

24 REPRESENTATIVE MONSON: Well, I don't
25 have a computer, and I don't know the numbers.



1 But, I mean, if it can accommodate Representative
2 Kreidt to be in 33, I don't see reason why not to
3 look at it. I guess, if we can look at the
4 numbers and see what a swap of that little hook
5 would do with swapping New Salem with it.

6 But I don't have the computer, so I
7 mean, I'd have to ask Claire or Samantha or
8 somebody to tweak that, and it would mean that we
9 would change something in 31. But whatever we
10 passed is still subject to being looked at.

11 (Indiscernible)

12 MS. NESS: I don't know. We don't have
13 the city. It's just that little hook area.

14 CHAIRMAN DEVLIN: So, Representative
15 Monson --

16 (Indiscernible)

17 I think we've done more breaking than
18 we've done working. The answer to your one
19 question is that hook area has over 1700 people
20 in it. Yeah. But I don't know what the New
21 Salem area --

22 SENATOR BEKKEDAHL: Mr. Chairman, those
23 are big tracks. It's not like you can cut up
24 those tracks. They are a big census block.

25 (Pause)



1 SENATOR HOLMBERG: Mr. Chairman.

2 CHAIRMAN DEVLIN: Senator Holmberg.

3 SENATOR HOLMBERG: When you have those
4 big census blocks though, the local folks were
5 the ones working with the census bureau on where
6 the tracks should be. And we had that problem in
7 the Grand Forks area a number of years ago, where
8 they just had these areas that were just too big.
9 Part of that was the Air Force base that was
10 always one lump, and then we had them divided.

11 But then there is local input as far as
12 how big those tracks should be. I mean, that
13 doesn't help us today because the 2020 census is
14 done.

15 CHAIRMAN DEVLIN: Representative Monson,
16 I have the answer to your question according to
17 counsel staff. That hook area has 1700 people,
18 and the New Salem area has 973.

19 REPRESENTATIVE MONSON: Thank you for
20 checking.

21 CHAIRMAN DEVLIN: Yes.

22 Committee, what else do we have to
23 present today? I know Chairman Fox is coming at
24 11:00.

25 Senator Klein, do you want to discuss



1 your conversations this morning? I know we're
2 not going to do anything with it today but --

3 SENATOR KLEIN: Well, Mr. Chairman,
4 Committee, there seems to be some redistricting
5 remorse going on. I know yesterday I has
6 suggested we hold off a bit on 12 and 29, and now
7 those members are looking to redevelop that area
8 and making the lines better. And I think there's
9 some confusion as to who is going to be in what
10 district. And I think I will just leave it at
11 that. They have told me that they will be
12 working on it over the weekend to develop.

13 Because it won't change any of the other
14 districts, they would really like to sit down
15 with the rest of their legislators in that area
16 and refine the lines and get them to where they
17 would all be in agreement because there seems to
18 be a lot of angst, I guess is the word I might
19 add.

20 And Senator Wanzek's grain drier burned
21 up yesterday. It wasn't going well yesterday for
22 him. I just thought I'd throw that in.

23 CHAIRMAN DEVLIN: Senator Klein is
24 correct. He did suggest that we wait, and the
25 Chairman thought we should do it yesterday



1 because Representative Headland was here, and it
2 was his presentation.

3 So in retrospect, if I had known there
4 was going to be this kind of a problem, we would
5 have held it over. But it effects no other
6 district. So we can look at it Tuesday or
7 Wednesday, whatever days we decide we're going to
8 come in next week.

9 Well, we can take a break and hopefully
10 Chairman Fox is here at 11:00. Or do you want to
11 discuss --

12 UNIDENTIFIED MEMBER: But do we want to
13 wait until after he talks?

14 CHAIRMAN DEVLIN: Can we move anything
15 else?

16 Oh. You need to --

17 Mr. Bernsen (phonetic), did you have
18 something to add?

19 MS. NESS: Oh, he's just changing the
20 screen.

21 SENATOR BEKKEDAHL: Mr. Chairman, if you
22 would like, I can make a Motion to accept the
23 district plans for District 1, District 2, and
24 District 99.

25 REPRESENTATIVE NATHE: Second.



1 CHAIRMAN DEVLIN: Okay. Per the motion
2 and the second, is there any discussion?

3 Seeing none, poll the Committee.

4 MS. THOMPSON: Chairman Devlin.

5 CHAIRMAN DEVLIN: Yes.

6 MS. THOMPSON: Representatives Bellew.

7 I'm sorry. Boschee.

8 REPRESENTATIVE BOSCHEE: Yes.

9 MS. THOMPSON: Headland.

10 REPRESENTATIVE HEADLAND: Yes.

11 MS. THOMPSON: Lefor.

12 REPRESENTATIVE LEFOR: Yes.

13 MS. THOMPSON: Monson.

14 REPRESENTATIVE MONSON: Yes.

15 MS. THOMPSON: Nathe.

16 REPRESENTATIVE NATHE: Yes.

17 MS. THOMPSON: And Schauer.

18 REPRESENTATIVE SCHAUER: Yes.

19 MS. THOMPSON: And Senators Holmberg.

20 SENATOR HOLMBERG: Aye.

21 MS. THOMPSON: Bekkedahl.

22 SENATOR BEKKEDAHL: Aye.

23 MS. THOMPSON: Burckhard.

24 SENATOR BURCKHARD: Aye.

25 MS. THOMPSON: Erbele.



1 SENATOR ERBELE: Aye.

2 MS. THOMPSON: Klein.

3 SENATOR KLEIN: Aye.

4 MS. THOMPSON: Oban.

5 SENATOR OBAN: Yes.

6 MS. THOMPSON: Poolman.

7 SENATOR POOLMAN: Aye.

8 MS. THOMPSON: And Sorvaag.

9 SENATOR SORVAAG: Aye.

10 CHAIRMAN DEVLIN: Motion passed.

11 Senator Poolman, did we deal with
12 District 8 with a Motion to move it forward? Or
13 do you need to visit with Senator Bekkedahl
14 wherever that discrepancy was? Any part of that
15 wasn't in 8, was it?

16 SENATOR POOLMAN: No. I think our
17 concern is making sure 33 and 31 -- not
18 (indiscernible).

19 CHAIRMAN DEVLIN: Okay. So did you want
20 to make a Motion on -

21 SENATOR POOLMAN: Mr. Chairman, I would
22 move the plan for District 8.

23 CHAIRMAN DEVLIN: We have a motion. Is
24 there a second?

25 UNIDENTIFIED MEMBER: I second.



1 CHAIRMAN DEVLIN: Any discussion?

2 Representative Schauer.

3 REPRESENTATIVE SCHAUER: Thank you,

4 Mr. Chairman.

5 On the Poolman plan for District 8, I

6 just want to see how that impacts the other

7 numbers around District 8. And maybe you touched

8 upon that, Senator Bekkedahl, and I missed that.

9 UNIDENTIFIED MEMBER: It doesn't.

10 SENATOR BEKKEDAHL: Mr. Chairman,

11 District 6 that I discussed comes down to the

12 Burleigh County line and from there, south I

13 believe, is the District 8 configuration Senator

14 Poolman worked on.

15 So what numbers are you talking about?

16 REPRESENTATIVE SCHAUER: I'm wondering

17 if we can see the map on the Poolman plan to see

18 how the other districts are impacted numbers

19 wise.

20 UNIDENTIFIED MEMBER: They aren't.

21 SENATOR POOLMAN: It's not merged with

22 the others.

23 MS. NESS: Mr. Chairman.

24 CHAIRMAN DEVLIN: I'm not sure. I think

25 there is some question exactly what's being asked



1 here, Representative Schauer. District 8 doesn't
2 effect the other ones around it based on what was
3 presented today.

4 REPRESENTATIVE SCHAUER: Thank you,
5 Mr. Chairman. I was comparing it to the Nathe
6 plan, and the Nathe plan was much higher as far
7 as the actual numbers. The Nathe plan was for
8 District 8, 4.59 percent, and the new District 8
9 is 0.68 percent higher. And I'm just wondering
10 where the percentages went. I'd like to see
11 where those numbers went in surrounding
12 districts. Or maybe you can just tell me.

13 CHAIRMAN DEVLIN: I'm assuming they went
14 north. Representative Nathe, isn't that correct?

15 REPRESENTATIVE NATHE: Mr. Chairman,
16 yeah. Senator Poolman can speak better to it
17 because she drew the district. But that's how I
18 see it.

19 SENATOR POOLMAN: Those numbers just end
20 up in 6 and in 33.

21 CHAIRMAN DEVLIN: Any further
22 discussion?

23 Poll the Committee.

24 MS. THOMPSON: Chairman Devlin.

25 CHAIRMAN DEVLIN: Aye.



1 MS. THOMPSON: Representatives Bellew.
2 REPRESENTATIVE BELLEW: Yes.
3 MS. THOMPSON: Boschee.
4 REPRESENTATIVE BOSCHEE: Yes.
5 MS. THOMPSON: Headland, Lefor, Monson.
6 REPRESENTATIVE MONSON: Yes.
7 MS. THOMPSON: Nathe.
8 REPRESENTATIVE NATHE: No.
9 MS. THOMPSON: Schauer.
10 REPRESENTATIVE SCHAUER: Yes.
11 MS. THOMPSON: Senators Holmberg.
12 SENATOR HOLMBERG: Aye.
13 MS. THOMPSON: Bekkedahl.
14 SENATOR BEKKEDAHL: Aye.
15 MS. THOMPSON: Burckhard.
16 SENATOR BURCKHARD: Aye.
17 MS. THOMPSON: Erbele.
18 SENATOR ERBELE: Aye.
19 MS. THOMPSON: Klein.
20 SENATOR KLEIN: Aye.
21 MS. THOMPSON: Oban.
22 SENATOR OBAN: No.
23 MS. THOMPSON: Poolman.
24 SENATOR POOLMAN: Aye.
25 MS. THOMPSON: And Sorvaag.



1 SENATOR SORVAAG: Aye.

2 MS. THOMPSON: Motion carries.

3 CHAIRMAN DEVLIN: Thank you.

4 So now we have the discrepancy between
5 those two districts, 31 and 33. Is that where it
6 is? Or where is it at?

7 SENATOR POOLMAN: Thirty-one is settled.
8 And so I think what we probably need to ask
9 Counsel to do is reconcile the border between 33
10 and 31, because we settled 31 yesterday.

11 CHAIRMAN DEVLIN: OKAY.

12 SENATOR POOLMAN: We just need to make
13 sure that the southern boundary of 33 follows
14 what we approved for 31. And then, if there is
15 any tweaking that needs to happen in that area.

16 CHAIRMAN DEVLIN: Okay.

17 Maybe, Senator Poolman, you could come
18 up and work with them for just a couple of
19 minutes. We'll just take a break.

20 Sorry.

21 SENATOR HOLMBERG: Should I let them
22 know that I'm going to bring this up?

23 CHAIRMAN DEVLIN: Yes.

24 SENATOR HOLMBERG: Mr. Chairman, are we
25 going to wait for Chairman Fox?



1 CHAIRMAN DEVLIN: No. I think it should
2 be done now.

3 Senator Poolman -- I mean Senator
4 Holmberg.

5 SENATOR HOLMBERG: I'm not sure what now
6 means.

7 We do have a question regarding
8 subdivisions. I would look at two districts
9 which have native populations.

10 One of them, District 9, has 9278
11 American Indian population.

12 And then Fort Berthold has 8350 people
13 living on the reservation itself. And I think
14 that we would make a mistake as a legislature not
15 recognizing what the courts have said, which is
16 if you have a population beyond a certain amount,
17 a percentage, then subdividing is the direction
18 that Voting Rights Act Title 2 of Section 2,
19 whatever it is, would mandate. And you have all
20 received, I'm sure, from folks saying that if you
21 don't subdivide, you are a racist. And I've seen
22 it. And then I've had people who have said, if
23 you divide it, you're a racist. So we lose no
24 matter what we do.

25 So I'm going to suggest at some point



1 that we make the decision. Are we going to do
2 it? Or as my interpretation is, are we going to
3 let the Court do it? Because someone is going to
4 do it.

5 And the District 4, as I understand it,
6 the population of the reservation fits exactly in
7 what a subdistrict would be. And if you recall,
8 we made those changes in Dunn County so that you
9 didn't have the reservation here and then some
10 folks down here that would be in a different
11 subdistrict. So that was resolved. So whether
12 we do it or not, it doesn't make any difference.

13 In District 9, legislative counsel and
14 others have put together a few alternatives that
15 I believe have been --

16 Have they been passed out?

17 Oh, they have not been passed out. I
18 thought maybe we should wait until after Chairman
19 Fox actually makes his presentation before we do
20 that.

21 You will get a hand out that has four
22 proposals and then one other proposal. Three of
23 the four proposals are interesting, because it
24 appears they put two legislators of the minority
25 party in the same subdistrict. And I'm just



1 reminding everyone we have bent over backward to
2 make sure that when there are legislators
3 involved, we have tried to respect that. And,
4 you know, we moved people into the district so
5 they remain in the same district. So I think it
6 would be awkward if we were taking two people
7 from the minority party and putting them in the
8 same district. It would have a scent that the
9 media would pick up, and they could smell it from
10 over there.

11 So there will be a couple proposals that
12 divide up the incumbents in District 9 into two
13 different subdistricts, and then there's a couple
14 that don't do that and put them on the same.

15 CHAIRMAN DEVLIN: Representative Monson.

16 REPRESENTATIVE MONSON: Thank you,
17 Mr. Chairman.

18 I don't know if this is the proper time
19 to bring it up or not, but numbers of district
20 seat as well. In District 10, which I currently
21 represent, much of our new district that we
22 approved yesterday is actually bringing in
23 District 19, which is kind of going away.

24 And after consulting with Senator Janne
25 Myrdal on it a little bit, we were thinking



1 maybe rather than be District 10, be District 19.

2 And I don't know if that's a change that
3 we would need to approve here, but in future maps
4 -- I mean, I think we would like to see us go
5 from District 10 to District 19. Because we are
6 incorporating a lot of 19 in at Grafton and that
7 big population of it. Just something for us to
8 think about if you want to do it now, we could.

9 CHAIRMAN DEVLIN: Senator Holmberg, do
10 you have something?

11 SENATOR HOLMBERG: Yeah. I mean, it
12 would make sense, because we're the ones who have
13 to do it. We're not letting legislative counsel
14 do it. No offense. But we have some numbers
15 that are out there.

16 Well, we had Y but have 99. We have
17 these. I don't see any problem with us doing the
18 assigning, because that's our job. I wouldn't
19 lose sleep if what we did the other day was
20 called 20 that was Traill County and rural Grand
21 Forks, and then a little bit of Walsh, if that
22 remained 20, and if 19, which has disappeared,
23 would reemerge up in Pembina and Walsh County, in
24 other words the Grafton area, because they were
25 19 before.



1 So I would certainly support that for
2 those two areas.

3 CHAIRMAN DEVLIN: Senator Sorvaag.

4 SENATOR SORVAAG: Mr. Chairman, Senator
5 Holmberg, what amount of 20 is 19? Because that
6 got part of 19. I mean, if we're using that as a
7 rationale to change 10 to 19, what part of 20, as
8 we're using 20 as 19 also? Old 19.

9 SENATOR HOLMBERG: Old 19 --

10 SENATOR SORVAAG: Because that's your
11 argument. Part of 10 now is old 19. Well, part
12 of 20 that we're using now was also part of old
13 19.

14 SENATOR HOLMBERG: Right. But we can't
15 have --

16 SENATOR SORVAAG: No. I understand
17 that, but if that's the rationale, it needs to be
18 --

19 You know, you want it because you've got
20 part of 19; 20 might want it because they're part
21 of 19. And I guess the question would be, whose
22 got the most?

23 SENATOR HOLMBERG: Well, Grafton is a
24 big player in that, in the district.

25 SENATOR SORVAAG: Uh-huh (affirmative).



1 SENATOR HOLMBERG: Because Grafton was
2 in District 19. They were the bulk of the
3 population in District 19. Rural Grand Forks
4 County has been 19 for many years. Trail County
5 has been District 20 for many years.

6 And what other numbers are available, 23
7 has gone with the wind. And 26 has gone with the
8 wind. And I believe that you have articulated
9 that the new district in Fargo should be an even
10 number.

11 SENATOR SORVAAG: Mr. Chairman, I just
12 like I said I think I'm comfortable with being
13 even. And I know everyone wants to be odd
14 because they're running again. But I think with
15 the new district, and I think that we've talked
16 about that, because Cass County right now has six
17 odd and four even. So we're more than willing --
18 trying to balance it out. So yes. I'm
19 comfortable with that being one of the even to
20 get off the table.

21 SENATOR HOLMBERG: Ten would be
22 available if we went with 19. So you'd have an
23 even.

24 CHAIRMAN DEVLIN: Or 20 would be
25 available if we went that way.



1 SENATOR SORVAAG: You can go either way.
2 I just wanted to, you know, as we're going to do
3 this. I think if we're going to say that
4 somebody's got a part of another one, now they
5 have that number, well who has the most? I'm not
6 disagreeing with you. But I think that's just
7 the discussion. Does 10 or 20 have more of 19,
8 and I'm using the present? And then should that
9 be part of the criteria? I'm not saying it
10 should either, but it should be part of the
11 discussion.

12 CHAIRMAN DEVLIN: Senator Bekkedahl.

13 SENATOR BEKKEDAHL: Thank you,
14 Mr. Chairman. While we're on that discussion
15 point, I've looked at the districts north of the
16 river, and we currently have two even-numbered
17 districts and one odd-numbered. So my preference
18 for the new district if we could balance it out
19 to have two evens and two odds by taking an even,
20 I would just throw that on the table. Twenty-
21 three is a good number for us.

22 CHAIRMAN DEVLIN: Senator Klein.

23 SENATOR KLEIN: Mr. Chairman, one of the
24 other things -- can we concern ourselves about
25 the populations? I mean, we switch a number, but



1 we haven't gone over that 25 percent. Does that,
2 for example, in District 20, and they got to keep
3 their own number, does that mean they could
4 continue to not have to run? I don't know what
5 that population number is. But I'm just
6 wondering. That's another consideration we have,
7 is the 25 percent rule.

8 CHAIRMAN DEVLIN: Senator Holmberg.

9 SENATOR HOLMBERG: Mr. Chairman, in
10 district whatever we call it, let's call it the
11 Traill County-based district, there are now six
12 incumbent legislators that would live within that
13 district. So I am sure that there would be some
14 electoral issues. They're going to have to run.
15 Am I right, John? Because I know we dealt with
16 that in the past.

17 UNIDENTIFIED MEMBER: Mr. Chairman, and
18 members of the Committee, as I understand it you
19 would have three whose terms would be expiring
20 there, the three incumbents from 19. You would
21 have three that are mid-way through their term.
22 I don't know the population change, if it would
23 trigger - you haven't established a threshold yet
24 that change.

25 If it were over your threshold, then



1 they would have to run. If it were under that
2 threshold, you could make a determination based
3 upon -- in the past there have been
4 determinations made that stated that if the
5 incumbents, whose terms are expiring, that they
6 basically just have to wait another two years and
7 let someone serve the term.

8 But those are decisions you would have
9 to make. The policy established those various
10 guidelines and be consistent throughout your
11 determinations so that it applies equally across
12 the board when you do that.

13 SENATOR HOLMBERG: Mr. Chairman.

14 CHAIRMAN DEVLIN: Senator Holmberg.

15 SENATOR HOLMBERG: We would not have the
16 exact numbers until we had baked in the
17 boundaries. But that's a very quick thing, is it
18 not, to figure out which districts had -- well
19 the number was 4144 I think. Or was it 24? But
20 whatever that number is, you end up having
21 districts that have larger changes than that and
22 districts that have less change.

23 I mean, I do know that the ones that
24 were created and changed in the city of Grand
25 Forks, none of them were over the 4144.



1 CHAIRMAN DEVLIN: Representative Monson.

2 REPRESENTATIVE MONSON: Thank you,
3 Mr. Chairman. And I know we were just elected
4 two years ago to a four-year term. But by the
5 changes that were adopted yesterday, we will have
6 to run again because we have gotten in a huge
7 number from Walsh County.

8 CHAIRMAN DEVLIN: Right.

9 REPRESENTATIVE MONSON: And another
10 point, I guess, 10 years ago, District 10
11 absorbed a pretty good chunk of 23. So a lot of
12 our people in 10 were 23, and now we're absorbing
13 a whole bunch of 19 into 10. And numbers are
14 changing all over the place.

15 CHAIRMAN DEVLIN: I don't think,
16 Committee, that we're going to deal with this at
17 the moment. But we will get the numbers for the
18 change in District 20. And we know that yours
19 will be more than that, regardless. But we
20 should see what the new numbers are in 10 and in
21 20.

22 REPRESENTATIVE LEFOR: Mr. Chairman.

23 CHAIRMAN DEVLIN: Representative Lefor.

24 REPRESENTATIVE LEFOR: Thank you,
25 Mr. Chairman. I have a clarifying question for



1 Senator Holmberg.

2 CHAIRMAN DEVLIN: Go ahead.

3 REPRESENTATIVE LEFOR: On your
4 populations, you said that Fort Berthold at 8300,
5 and another was over 9000. Which one was that,
6 because with what counsel sent out I'm not seeing
7 --

8 SENATOR HOLMBERG: It was asked
9 yesterday because there are many housing units of
10 Native Americans that live outside the
11 reservation but are in Rolette County. So the
12 number yesterday was how many American Indian
13 population, which is the census bureau's phrase.
14 There were 9278 in Rolette County.

15 REPRESENTATIVE LEFOR: Thank you.

16 CHAIRMAN DEVLIN: Committee, I see that
17 Chairman Fox has arrived, and we would appreciate
18 hearing from Chairman Fox at this time.

19 (Pause)

20 CHAIRMAN FOX: There we go. Good to go?
21 Okay.

22 I don't see, like a witness list here to
23 sign off. But I appreciate -- maybe Cynthia will
24 get something signed off so we're formally on
25 record for the signature part.



1 Thank you very much. Thank you for this
2 opportunity to be before the Committee. Chairman
3 Devlin, everybody else, thank you for what you're
4 doing and this process. It's always an honor to
5 come before you, this esteemed Committee and the
6 legislature as a whole. Together we've done a
7 lot of work over the years.

8 This past recent session, again, proved
9 up that together we can get a lot of good things
10 done when we communicate, talk, and work together
11 and understand our issues and move forward. And
12 I apologize. I would have loved to have been
13 here yesterday, but I got caught up with a very
14 busy day including the North Dakota Petroleum
15 Counsel in Watford City to talk about oil and
16 energy development and things of that nature.

17 I was honored to be able to share along
18 with the Governor and state legislators those who
19 were there as well to share our point of view,
20 share our plans, and things that are of interest
21 to our nation as well.

22 I do have written testimony that is
23 being handed out, and Cynthia has provided that.
24 It includes, of course, the points that I'm going
25 to talk about. But we also included a map that



1 basically shows what we're after, which is to
2 include Fort Berthold as part of perhaps a
3 subdistrict for the house side of the legislative
4 voting. And that's primarily why I'm here today
5 to discuss with you, to provide information,
6 answer any questions you might have as well, and
7 do my best to make the argument that it would be
8 considered by yourselves to split the House into
9 two subdistricts, of course keeping the Senate
10 position, which is 1, the same as a whole for the
11 whole district. We're currently District 4.

12 And I did get a chance to get through
13 Garrison in the hills and got online and listened
14 to your conversations from on Highway 83
15 southward, and so I appreciate all the comments
16 being made and things of that nature.

17 I'm not one for reading, but perhaps
18 today I will briefly, as fast as I can, read the
19 written testimony to you. I kind of like to
20 engage more so from the hip so to speak. But I
21 will say before I go ahead and read this written
22 testimony that I greatly appreciate the challenge
23 that you have in front of you. I know it's not
24 easy. I know it's difficult. I know there are a
25 lot of moving parts.



1 I say this knowing that as I heard some
2 of the comments just before coming in, that
3 sometimes you get a lot of undue criticism. As
4 an elected official myself, that's every day for
5 me. And so I appreciate everything you do, the
6 efforts to try to find balance, the efforts to
7 try to be equitable, the efforts to try and be
8 considerate, efforts to try to be as best you can
9 compliant with your laws, federal laws, and
10 everything else that matters to us as
11 governments. So I know the challenges, and I'm
12 one here that is not coming to make that more
13 difficult.

14 I'm not coming here in any means or
15 manner to degrade or to demean or in any way look
16 negatively on your process. You've got a heck of
17 a challenge in front of you, and I believe that
18 you're doing the best that you can.

19 So that being said, again, it's an honor
20 and a pleasure to be before you. I'll read as
21 fast as I can and open up maybe for questions and
22 comments, and we can go from there.

23 Chairman Devlin and members of the
24 Redistricting Committee, my name is Mark Fox. I
25 am the Chairman of the Tribal Business Counsel of



1 the Mandan, Hidatsa, and Arikara Nation, also
2 known as the three affiliated tribes of the Fort
3 Berthold Indian Reservation. And I appreciate
4 the opportunity to submit testimony on behalf of
5 our nation.

6 Currently, FBIR, Fort Berthold Indian
7 Reservation, is located within North Dakota
8 District 4. District 4 consists of portions of
9 the following six counties: McKenzie, Dunn,
10 Mountrail, McLean, Mercer, and Ward.

11 District 4 elects two members to the
12 state house at large and one member to the state
13 Senate. The 2020 census shows that the District
14 4 population and reservation population increased
15 between 2010 and 2020 to 16,794 and 8350
16 respectively. As a result of the overall nearly
17 16 percent increase in North Dakota population
18 from 672 to 779 residents, the ideal population
19 for two-member districts in North Dakota in 2021
20 is at or around 16,500 and about 8288 for a
21 single-member House district.

22 The MHA Nation urges the legislature to
23 split the one at large state House district to
24 two single-member state House districts in
25 District 4, of the four that would encompass the



1 Fort Berthold Indian Reservation.

2 If single-member House districts were
3 implemented within District 4, the House
4 districts would have an ideal population of about
5 8288. All of District 4 is currently about 38.6
6 to 39 percent Native American, and the 2020
7 Native voting age population 18 and over is about
8 nearly 34 percent.

9 Block voting is a concern for us and has
10 historically occurred in the state and has
11 negatively impacted Native voting and diminished
12 Native opportunities to serve in the legislature
13 and participate in the state and local elections.

14 The current district lends itself to
15 block voting. This can be remedied by splitting
16 the district into two single districts, thereby
17 leveling the playing field, so to speak, for
18 candidates. We understand that a split district
19 is no guarantee that a tribal member would be
20 elected. We are confident, however, that it will
21 increase our representation of our issues and
22 concerns to the legislative body.

23 The legislature could easily draw a new
24 single-member House district in our area that
25 would have a native citizen voting age population



1 of 67 percent. Using the map that is included,
2 using such a single-member district would give
3 MHA a much better opportunity to elect a house
4 representative of MHA's choice than under the
5 current at large system.

6 Second, the MHA Nation and its
7 communities are a community of interest and
8 should remain in a single legislative district.
9 Splitting a reservation or other communities into
10 multiple districts would dilute the ability of
11 tribal members to elect the representative of
12 their choice.

13 I understand that certain legislators
14 have stated that they will not split up or crack
15 reservations into different districts. We can
16 appreciate that position and respectfully request
17 that our communities not be split, as we have
18 shared interests and deserve the same
19 representation.

20 Third, tribal members who are also state
21 citizens are not only uniquely distinguished as
22 minorities, but are part of a distinct political
23 status that legally distinguishes them from other
24 minority populations. During the 1990's, a
25 partial school district located on Fort Berthold



1 addressed similar concerns with block voting and
2 addressed the issue by splitting the formerly at
3 large district. I know this for a fact because I
4 participated in that change. This allowed the
5 election of two tribal members on the school
6 board for the first time. The outcome has been
7 beneficial for all of us. We were able to bridge
8 the gap of communication and work together for
9 the benefit of our children and our families.

10 I see the development of a single
11 district for Fort Berthold Indian Reservation as
12 another opportunity to enhance our communication
13 and work together for a common goal of improving
14 our communities and the lives of people whom we
15 represent. We ask for this committee to support
16 us in establishing a single district for the MHA
17 Nation, and we appreciate your support. We thank
18 you.

19 And the map is attached, as I stated
20 earlier, Mr. Chairman. And I am ready to answer
21 any questions that anybody may have. And I
22 appreciate the time.

23 CHAIRMAN DEVLIN: Thank you, Chairman
24 Fox. I believe Senator Holmberg has a question.

25 SENATOR HOLMBERG: Yeah. First of all,



1 thank you for coming down and sharing with us
2 this morning. And I am sure that we've had
3 discussions about single-member districts for
4 native populations before in this particular
5 committee. And I am putting words in your mouth
6 by saying what you are telling us and sharing
7 with us is not a reflection on your attitude
8 toward your current legislators. It is just
9 going forward.

10 CHAIRMAN FOX: Absolutely.

11 SENATOR HOLMBERG: My question is: back
12 in 2001, there was a court case having to do with
13 single-member districts. And I don't know if the
14 MHA Nation was part of it, and you're way too
15 young to have been around --

16 CHAIRMAN FOX: I wish.

17 SENATOR HOLMBERG: -- during that. But
18 what the court did is they essentially dismissed
19 the case because the number -- the population did
20 not rise to the level where it would have made a
21 difference. But what you are presenting with us
22 and what we get in the census data, is that it's
23 hard to argue if you have 8350 folks that it does
24 not have an impact or to balance two districts.
25 It's hard to argue that 8300 would not be a large



1 influence. Am I kind of going down the path that
2 you agree with?

3 CHAIRMAN FOX: I do. I remember, and I
4 am that old; and I do remember. And coming out
5 of law school in the 90's myself, and I recall
6 some of the challenges made at the time. And
7 myself, with my legal background, understood
8 fully why it would not succeed. It's difficult
9 for you to say, well, we're going to district --
10 for purposes that we're discussing herein, we're
11 going to district off a reservation by itself.
12 That population is nowhere near the average that
13 you're trying to seek overall.

14 A lot of people would see that as
15 inequitable, and you know, and I do understand
16 why that couldn't happen. But that's where I
17 think we are uniquely different now.

18 And based upon our current -- and
19 remember, every census that occurs we do get
20 under-representation in that census anyway. So
21 at a minimum for what they are able to gather up
22 and say, this is how many people are on Fort
23 Berthold, and these are how many natives and non-
24 natives, they are pretty close. But at least for
25 purposes of what we're discussing here the



1 numbers work. And that's why we're advocating to
2 say, it seems to be a good time to consider
3 splitting the district so that Fort Berthold
4 would remain in one of those equally-split
5 districts, and have an opportunity to have more
6 influence to get their issues forward.

7 Now, if I may, Mr. Chairman, elaborate a
8 little bit more on that. I referenced my
9 experiences in working in a similar situation in
10 my hometown of Parshall. Parshall Braves,
11 Parshall, North Dakota.

12 Grew up there, and outside of one year I
13 had the opportunity to go to Dickinson. And I
14 had many friends and I went to Dickinson High and
15 was a Dickinson Midget for a year. Other than
16 that, I spent from first grade up to my senior
17 year at Parshall.

18 What we had in Parshall was a history of
19 school board elections that -- and I became very
20 familiar with my arguments at the time in my
21 knowledge because I graduated from the University
22 of North Dakota Law School, Voting Rights Act
23 Amendment 65 and everything forward in the 1982
24 amendments which really talks and addresses about
25 block voting.



1 So what had occurred in Parshall
2 elections was, we gathered up all the statistics
3 and the data, and it showed that every time a
4 tribal member entered into the election, a Native
5 American or tribal member, it showed that the
6 average voting population was voting -- people
7 that voted was at or around about just under 500
8 people. When a Native American or enrolled
9 member did not run in an election, the turn-out
10 was typically somewhere around 60 to 70 people.
11 And so that's called block voting. Meaning,
12 whenever a Native American comes out and runs,
13 then a large amount of non-Indian people would
14 come out to vote to make sure that the election
15 would go that different way.

16 Now, we show the history of each school
17 board election leading up to that. And in fact,
18 just to add a little additional proof of that, I
19 myself prior to being on counsel, knew we needed
20 additional information, and I put my name on the
21 school board election. And the previous election
22 there was, again, less than 100 people that
23 voted. When I came out, I think we set the
24 record of over 500 people that came out and
25 voted. Of course, I wasn't elected.



1 And so, honestly, we then took that
2 information, sat down. Department of Justice got
3 involved. The authorized for the DOJ to come on
4 out here.

5 We began the process of negotiation.
6 School boards all have their own joint attorney
7 at the time that represent all the schools. And
8 we sat down, and we went over the law. We went
9 over the circumstances and showed the data,
10 things of that nature.

11 What ends up happening at the Parshall
12 School Board District, is by a vote, we didn't
13 just have DOJ say, well, it's got to be this way,
14 and the tribe said this way. And then it was
15 automatically accepted.

16 By law, by your law, the adult members
17 in the school district still had to vote to
18 change this. And very luckily, and I'm very
19 happy about it, we were able to get the requisite
20 percentage of affirmative votes to change the
21 district. And what ends up happening, of the
22 five board members, three, as required by your
23 law, had to remain in rural settings outside the
24 city of Parshall, and the two other remaining
25 positions of Parshall were split between north



1 and south.

2 And in one of the districts, the Native
3 American population by residents would be a
4 majority, and in the other district they were
5 less than 40 percent. But they did agree to
6 split it into two city districts. So basically,
7 two city, where just the city people vote, all
8 the residents tribal and non-tribal vote for the
9 two. The outside could not. But the three rural
10 remained at large. So the Indians and non-
11 Indians through the whole school district vote
12 for the three outlying district, but you have to
13 run. You have to reside in the outside in a
14 rural setting.

15 So I'm sharing this with you because the
16 people in the district, we voted to accept this.
17 And as soon as we voted to accept this and we had
18 a subsequent election, for the first time in the
19 history of the school board, two Native Americans
20 were elected for the two districts in the city of
21 Parshall and we became part of the school board
22 for the first time.

23 Now, you say, okay that occurred.
24 That's nice. What was the end result of it? And
25 I stand here before you today very proudly to say



1 this. Even though we've had issues that come and
2 go, disagreements whether it's the tribal
3 government's involvement or just local concerns.
4 No situation ever goes exactly the way you want
5 in any given governance.

6 But you know, today we stand here.
7 We're Parshall itself. We've never been a
8 majority on the school board, but whether we were
9 or were not, I don't think that made any
10 difference. The difference made is having that
11 voice and understanding and needs.

12 We have just now completed two phases of
13 Parshall. Parshall has got a brand new school.
14 Parshall has got a brand new football field,
15 brand new track and stadium, and extra basketball
16 gym. They completed two phases - the high school
17 itself, and the athletic field is the second
18 phase. And now we're moving into a third phase
19 in which we are going to move the grade school up
20 to the area of the high school so we're all
21 unified in the same area for bussing and for
22 sports and for everything else of that nature.

23 Now phases one, we split that with the
24 school district. They put a tax on that, but the
25 tribe came in at \$9 million on the first phase.



1 On the second phase which was again 8- to \$9
2 million, we paid for that 100 percent. The third
3 phase, which is going to occur, is the same
4 thing. The tribe is going to pay for that 100
5 percent, another 8- to \$9 million.

6 And so my point I'm raising with this
7 is: when we're talking about changing districting
8 and the consideration of getting tribal members
9 more involved with the election by addressing
10 redistricting, addressing potential block voting
11 situations, doesn't mean it's going to be a
12 negative situation. In this situation it's very
13 positive working together, making sure that the
14 needs are met, but the tribe itself having that
15 connection, that Nexis, is always being willing
16 to invest and move things forward as well.

17 Another point that I want to say because
18 I know time is limited, and it may be asked
19 anyway, and I know there might be some concerns
20 out there and maybe criticisms, rightly so. I'm
21 a Veteran of the United States Marine Corps, law
22 school graduate, I believe in our constitution
23 and everything else. But there might be people
24 who say, well if we're doing this for one
25 minority group, then we're going to have to end



1 up doing it for other minority groups. Under the
2 federal law, maybe you will. But the bottom line
3 for our situation here, I offer this up. We are
4 uniquely different for two reasons.

5 One reason is the most important reason
6 I think, is that being a citizen of the state of
7 North Dakota, outside of me being very proud of
8 that. When in the Marine Corps and asked where
9 you from, I was always -- did my best to stand
10 out in my service to our country. And they would
11 always say, where are you from, and how are you
12 doing these things? Or how are you able to do
13 these different things you do? And I tell them,
14 I'm from North Dakota, work hard. We've got cold
15 winters, and we're tough; and we can do a lot of
16 different things up there. And I always was, I
17 feel, a good delegate for the state of North
18 Dakota. And when I did, I was always very proud
19 of that, and I still, to this day, remain that
20 way.

21 But the reality of the situation is: as
22 Native American people we have to belong to a
23 state. We have no other means and mechanisms of
24 participating both on the state level for
25 governmental level, state level. But even more



1 importantly, that Nexis to the federal level.
2 There is no way that Native Americans can elect
3 two senators and a congressman to Washington,
4 D.C. We have no other means or mechanisms of
5 representation or even casting a vote but through
6 as being citizens of the state of North Dakota.
7 So inherently, we have to belong, and we have a
8 need to be a part of the election system. So
9 that's what I think the most important thing that
10 a lot of people misunderstand. They say, well
11 tribe has got its own government. State has got
12 its own. We don't need to mix, blah, blah, blah.
13 Some people say that. Not you. But the thing
14 is, we have no other means or methods of
15 interacting with the federal government, electing
16 representatives, etc. as I have been alluding to.
17 So that's really critical.

18 The other one is not as important but is
19 worth mentioning. It's that when you take the
20 time and opportunity to acknowledge the tribal
21 governments or tribal members who are citizens of
22 both a tribal nation and the state of North
23 Dakota, you take that into consideration. And
24 that is not only and just strictly a
25 consideration for minority status as my letter



1 says. You have to remember that Native Americans
2 in this country have a unique status, a legal
3 status, of being politically separate; not just
4 by race, but by political status. What is that
5 political status? It's established in the
6 Constitution of the United States of America. It
7 talks about the tribes. It talks about the
8 relationship with the tribes and the governments
9 and things of that nature.

10 So when you make efforts to try to fuse
11 and try to reorganize your redistricting to take
12 into consideration members that are voting adult
13 members, who are members of both the state and of
14 the tribe, you are following a pattern of
15 political distinguishment not necessarily a
16 racial one, even though the federal laws relate
17 to that. That's something that I think is
18 uniquely different.

19 But along the way, I guess, the last and
20 final thing as I open myself up for more
21 questions, is that I understand the process. And
22 our situation at least for Fort Berthold and HMA
23 Indian Nation and those that reside within Fort
24 Berthold, we think that the numbers work for you
25 to equitably do this. And we're not asking for



1 anything unfair or anything that would be
2 definitely slanted in one direction or the other.

3 CHAIRMAN DEVLIN: Thank you very much.

4 Questions? Representative Schauer.

5 REPRESENTATIVE SCHAUER: Thank you,
6 Mr. Chairman.

7 Thank for being here, Chairman Fox.

8 CHAIRMAN FOX: You bet.

9 REPRESENTATIVE SCHAUER: I appreciate
10 your comments, because in the past we have had --
11 well, in the last couple of meetings we have had
12 some very negative comments and some accusations,
13 which I felt were false. So I appreciate your
14 attitude.

15 The question I have for you is: the
16 split district model -- obviously this has been
17 used in other states. Do you have data or
18 evidence to show that this has created a
19 situation where you have better representation?

20 CHAIRMAN FOX: Uh-huh (affirmative). I
21 can't go over other states. The two things I
22 would raise is, I understand district splitting
23 occurred historically in this own legislature
24 previously. That's what we were told. That's
25 the first question that came up. Has the state



1 ever done that? My lawyer, John Frederick, said
2 the same thing and some other people that are
3 advocating for a split district. We looked at
4 the numbers too. And they said, well it has been
5 done in the past, back in the 70's and other
6 times. So that's one issue.

7 And what I offer up, Representative
8 Schauer, is that the example that I gave where we
9 had an at large system, and we worked to split
10 that so that Native Americans would have a
11 greater opportunity to influence an election and
12 have their interests heard, when that was done at
13 Parshall, that whole thing that I described, I
14 think it lent itself toward better dialogue,
15 official representation, bringing issues in a
16 formal manner.

17 We have a good system today. You know
18 that I, as Chairman, I'm no stranger to most of
19 you here, and I know most of you as well because
20 I've been here since 2009, '11, '13, '15, '17,
21 '19, '21.

22 Our basic position that we've taken as a
23 tribe -- and not all tribes do this -- is that we
24 think it's more beneficial; we think it's better
25 that we have an open-door dialogue between our



1 tribal nation and the state. Some tribes in
2 North Dakota and a lot of tribes in other states
3 have a closed-door policy. They see it as futile
4 for tribes to get involved with state
5 governments, because their constant argument is
6 always going to be, nothing is going to change
7 anyway. Why go down there and spend that time?
8 The differences are so immense that we'll never
9 get anything accomplished. And so defeat after
10 defeat causes many of them to pull back and not
11 do that.

12 We don't believe that at MHA Nation.
13 Under my administration, we work not only during
14 the session but in off times during the
15 committees, Tribal State Relations Committee, the
16 Taxation Committee we had previously, all these
17 different things because we are all still, A,
18 citizens of North Dakota; B, citizens of the
19 United States government. And we're all in this
20 together, and even though our governments are
21 uniquely different, we still have the needs to
22 interact.

23 So my point in sharing that is even
24 though -- and I saw my good friend, Senator
25 Warner, in the back, leader on the senate side --



1 we have a really good history. We've never
2 agreed to everything. Tax and things that we've
3 had to work cooperatively together, but we've
4 been able to really make some big strides.

5 I believe that if you split the
6 districts, it's not going to radically change
7 your aisle composition and red and blue or
8 anything else I don't believe. What it does for
9 us is it gives more of a formal link that will
10 only enhance a good working relationship that the
11 tribes and the state have already put together.
12 And tribal members that may be elected or have an
13 influence on a non-tribal member more so.

14 And as Senator Holmberg said earlier,
15 this is in no way a criticism against
16 representation we currently have. I just think
17 it strengthens it. It just gives more
18 opportunity to have more influence on that. And
19 anything that moves in that direction is a
20 positive. Although we understand completely,
21 that there is no absolutes in anything provided
22 here.

23 CHAIRMAN DEVLIN: Chairman, I believe
24 Senator Bekkedahl had a question.

25 SENATOR BEKKEDAHL: Thank you,



1 Mr. Chairman and Chairman Fox. Thanks for being
2 here as a fellow member of the U.S. Army, thank
3 you for your service.

4 CHAIRMAN FOX: You bet. Thank you.

5 SENATOR BEKKEDAHL: You made us proud in
6 the Marine Corps.

7 CHAIRMAN FOX: Ooh rah.

8 SENATOR BEKKEDAHL: My comments and
9 questions relate to the committee more, but I'm
10 glad you're here to hear it as well.

11 Timely, at NCSL last week, if you
12 noticed in your emails, provided us a report on
13 redistricting the Supreme Court the most
14 significant cases. If you need to look it up, I
15 have a copy as well. But it goes through cases
16 related to population.

17 These are Supreme Court decision cases,
18 by the way. Cases related to legislatures versus
19 commissions, cases related to race, cases related
20 to partisanship. So it's a really insightful
21 article. I was glad I got to see it, and part of
22 it was referenced in our meeting yesterday by
23 legislative counsel staff in the Jingles
24 Decision.

25 CHAIRMAN DEVLIN: Uh-huh (affirmative).



1 SENATOR BEKKEDAHL: But I would just
2 point out to the Committee a couple of other
3 things it says.

4 So Thornburg versus Jingles - the case
5 of whether Section 2 Voting Rights act requires
6 that a majority or minority district be drawn.
7 Remember, it is said that the Supreme Court held
8 that for a plaintiff to prevail on a Section 2
9 claim, he or she must show:

10 One - the racial or language minority
11 group is sufficiently numerous and compact to
12 form a majority in a single-member district, and
13 I think you spoke to this, Chairman Fox.

14 Number two - the minority group is
15 politically cohesive, meaning it's members tend
16 to vote similarly, and I think you talked a
17 little bit about that as well.

18 And then three - the majority vote
19 sufficiently is a block to enable it, usually to
20 defeat the minority's preferred candidate. And I
21 think you even spoke to that. So you did cover
22 all three of those areas from your history, and I
23 appreciate that.

24 There are other cases, Mr. Chairman,
25 that talk about Miller versus Johnson, a case



1 that showed a district becomes an
2 unconstitutional racial gerrymandering if race
3 was the predominant factor in the drawing of
4 lines.

5 And that's where I think legislative
6 counsel gave us great counsel in your information
7 yesterday about making sure that we respect the
8 idea of the race issue pertaining to the cases,
9 but also taking into account that it cannot be
10 the predominant factor in drawing the lines.

11 So we have these three things in Jingles
12 we have talked about, and I would defer, again,
13 to Ms. Ness because she was the expert yesterday
14 on this.

15 But I just wanted to reiterate that if
16 you want more information -- and it was brought
17 up here today by the Chairman -- that NCSL has a
18 great article. I'm happy to leave it here if you
19 want copies. I didn't make any, but you can make
20 any of your own.

21 Again, I appreciate you reiterating some
22 of the things that I read in my research as well.

23 CHAIRMAN FOX: I appreciate that,
24 Senator because the Jingles case has been a
25 longstanding case that has really governed the



1 1982 Voting Rights Act amendments and things of
2 that nature. Make no doubt about that.

3 SENATOR BEKKEDAHL: Yes.

4 CHAIRMAN DEVLIN: Representative Nathe.

5 REPRESENTATIVE NATHE: Thank you,
6 Mr. Chairman. Thank you, Mr. Fox.

7 I just want to make a clarification.
8 Did you state that we've subdivided before in the
9 past in this state?

10 CHAIRMAN FOX: No. What we asked for is
11 if the state had ever subdivided before. I don't
12 recollect that they subdivided the district that
13 Fort Berthold has belonged to.

14 REPRESENTATIVE NATHE: I just want
15 clarification. This state has never subdivided.
16 Is that correct?

17 CHAIRMAN DEVLIN: Representative
18 Holmberg has a follow up on that.

19 SENATOR HOLMBERG: Thank you for that
20 promotion.

21 CHAIRMAN DEVLIN: Senator.

22 SENATOR HOLMBERG: When you're talking
23 about the subdivision, I think what people are
24 forgetting is I don't believe the state has ever
25 subdivided. But the federal courts in 1975 came



1 in and abolished the multi-senatorial districts
2 in Grand Forks, Fargo, Minot, and Bismarck and
3 said, you can't have 4 senators and 12
4 representatives. You have to divide them up.
5 And so there was subdivision in 75.

6 CHAIRMAN FOX: Okay.

7 SENATOR HOLMBERG: And that was court
8 mandated, and not to get too much into the weeds,
9 but because of Minot, they got to keep a multi-
10 senatorial district for another 12 years or
11 whatever. But anyway, so now we're single.

12 But the state has not done it. They
13 have studied it. We have had floor amendments in
14 the Senate during redistricting to do
15 subdivision, which did not pass, but no one has
16 presented evidence until you came here today,
17 that showed that the populations were of such a
18 factor that they do fall into the protections of
19 the Federal Voting Rights Act. And the
20 legislature, of course, will make up its mind,
21 our mind, and we have a choice. We can respect
22 reality, or we can ignore reality. But I think
23 at the end of the day personal opinion, there
24 will be subdivisions.

25 CHAIRMAN FOX: I appreciate that very



1 much.

2 CHAIRMAN DEVLIN: Further questions from
3 the committee? Senator Klein.

4 SENATOR KLEIN: Thank you, Mr. Chairman
5 and Chairman Fox. You know -

6 CHAIRMAN FOX: Senator.

7 SENATOR KLEIN: I'm from Wells County,
8 central part of the state, Germans from Russia,
9 Norwegians.

10 CHAIRMAN FOX: Sure.

11 SENATOR KLEIN: I think we -- and I
12 probably attended 13 State of the Tribes
13 addresses here at the legislature. And the one
14 thing that stood out many times is that we're all
15 citizens. We're citizens of North Dakota.

16 CHAIRMAN FOX: Yes.

17 SENATOR KLEIN: And you're bringing that
18 again. You've mentioned that again. And I think
19 that when I go home, that's the feeling amongst,
20 at least many individuals in my district. We
21 should be treating them just like us. North
22 Dakotans. We're North Dakotans, and I know
23 you've suggested that you've been represented
24 well by whom you've had. I know I've served with
25 Senator LaFountain and Senator Barsy (phonetic),



1 and Senator Marcellais, and I believe Don
2 Chargin. I know Charlie Murphy took a shot at it
3 down in Standing Rock.

4 We've reached out, and I know -- I see
5 you walking down the hallway. And I know the
6 conference room today is scheduled for Chairman
7 Fox and members of the tribes because they're
8 going to meet with leadership.

9 So I guess -- you know I have to go home
10 and suggest, and I see this as a legal issue.
11 But I'm going to have to tell my folks that, you
12 know, we are treating them a bit differently.
13 And they'll say, well why aren't you respecting
14 their concerns? And I'm like, well, I think we
15 are.

16 I think you have a great senator in
17 District 4. I'm not as familiar with your House
18 member, but I know he has brought any number of
19 issues.

20 CHAIRMAN FOX: Sure.

21 SENATOR KLEIN: I believe he brought the
22 basketball player of the year.

23 CHAIRMAN FOX: Oh, yeah.

24 SENATOR KLEIN: I think we've reached
25 out. And sometimes, as Representative Schauer



1 has suggested, you know -- I don't know that
2 we're offended -- but sometimes some of the
3 remarks sense then we haven't done what we should
4 have done. But I think we are -- maybe this is
5 an opinion piece. That we have worked hard to
6 honor the wishes of the tribes. I get what we're
7 trying to do here. I'm just trying to develop my
8 psychology as I go home and try to respect that
9 we're all citizens of North Dakota.

10 CHAIRMAN FOX: Oh, absolutely. And I
11 appreciate your comment, and I will be one here
12 to stand here as a witness and say you all have
13 worked very hard to work with tribes in many
14 ways.

15 And I can speak not on behalf of the
16 other tribes, but for our own MHA Nation. I am
17 the spokesperson under our constitution, and I
18 will say that you've done some really good things
19 in the past. And I think we are reaping the
20 benefits of that cooperation. We sat that this
21 past year as well.

22 We have a common interest, MHA. Energy
23 development, utilizing our trust resources and
24 changing our standard of living, building
25 infrastructure, changing our economy, doing all



1 these things the federal government is never
2 going to do, we've done for ourselves. But we've
3 done that only because -- been able to do that
4 because we've worked cooperatively with the
5 state.

6 Now that being said, there's never a
7 reason not to improve something further. Block
8 voting still does occur. It occurred in the
9 90's, and myself personally, just to prove that
10 it was going on, in running I showed that it was
11 block voting.

12 I have a law degree. I'm a Veteran of
13 the United States Marine Corps. I'm not patting
14 myself on the back. But if you ever wanted to
15 find someone as a candidate to run for a local
16 board and you look at their character, you look
17 at their experience, and everything else, those
18 are pretty high credentials to have, being you
19 know, law trained, juris doctorate, and then at
20 the same time a Veteran of the United States
21 Marine Corps.

22 But the people at that time didn't see
23 it that way. They only saw it as a Native
24 American, an Indian, running for that school
25 board, and we don't want it to be that way. We



1 don't want an Indian on that board.

2 Now, since we made the change, what
3 you're now seeing today is whether one is on, two
4 is on, or three is on, it really doesn't matter.
5 We've, through the process, figured out how to
6 communicate and work, and now you see all these
7 benefits.

8 And I can assure you that from the
9 school board itself, and from the constituents
10 that are in our school district now in District 4
11 as a whole, all the positive benefits that are
12 coming are a result of the tribe and tribal
13 members and non-tribal members working together
14 has really been phenomenal and good. And we're
15 moving in the right direction.

16 I just think that consideration of
17 splitting the House, not the Senate obviously,
18 and not asking for us to become our own district.
19 We will still have non-Indians. Of 8300 people,
20 you know, one-third are still going to be non-
21 tribal members.

22 And so one way or another, we have to
23 work for the common good to find good candidates
24 and are continued good candidates that help
25 represent all interests of everybody in the



1 district and not maybe one side or the other, and
2 that's what we need to have. If you split this,
3 I believe it lends itself toward that fact.

4 CHAIRMAN DEVLIN: Are there any further
5 questions for Chairman Fox?

6 Seeing none.

7 Mr. Chairman, it's an honor to have you
8 here today.

9 CHAIRMAN FOX: I appreciate --

10 CHAIRMAN DEVLIN: Thank you very much.

11 CHAIRMAN FOX: I'm honored to be with
12 you, and honored to see all of you. Thank you,
13 Chairman.

14 CHAIRMAN DEVLIN: Okay. Thank you.

15 Committee, I don't know that this is
16 possible, but we still hope to finish right
17 around noon. But I'm hoping that Senator Poolman
18 and Senator Bekkedahl, or whoever has to check to
19 see if we have to clean up that line or whatever,
20 could do that rather quickly.

21 So if we could break for 10 minutes, the
22 rest of the Committee. I don't know -- and
23 Senator Oban too, I believe.

24 Thank you.

25 (Recess taken)



1 CHAIRMAN DEVLIN: But I think we can
2 show it on the screen. Can we not?

3 MS. THOMPSON: Yes.

4 CHAIRMAN DEVLIN: Okay.

5 There was some issue with the one
6 boundary in what, 33?

7 SENATOR POOLMAN: I just wanted to make
8 sure that it aligned with what we had already
9 approved --

10 CHAIRMAN DEVLIN: So we will have 4 and
11 3 and 16.

12 UNIDENTIFIED FEMALE: Six.

13 CHAIRMAN DEVLIN: Six, excuse me. I
14 said 16, ready to go with this explanation. Is
15 that correct?

16 SENATOR BEKKEDAHL: Mr. Chairman, if you
17 want me to proceed with the what's up on the
18 screen. Thank you.

19 CHAIRMAN DEVLIN: Yeah.

20 SENATOR BEKKEDAHL: So thanks to Senator
21 Oban, Senator Poolman, and Representative Lefor
22 also, and Representative Nathe for getting
23 together on this. As we wind down to the final
24 axis of the map, as you know, we're in North
25 Dakota here, and we worked from the east to the



1 west. I think these were the last three
2 districts where we have boundary issues that we
3 have worked out.

4 Just to quantify the changes that we
5 made, in District 6 the southern boundary of
6 District 6 used to come down to the Burleigh
7 County line. We've brought that boundary line up
8 a little bit to the north to try and make an
9 accommodation to the north-south distance of that
10 district which goes up to the Canadian border at
11 this point.

12 District 33, we made sure that the
13 southern boundaries were correct with the maps
14 from District 36 that we approved yesterday as
15 proposed by Representative Lefor. So that's back
16 in the proper location.

17 For the boundary between District 33 and
18 District 6, we followed basically the Highway 83
19 boundary. So we used the boundary from the lake
20 all the way down to Washburn as Highway 83. From
21 Washburn, if you can highlight where Washburn is
22 and just zoom in a little bit.

23 So as you can see on this now, Washburn
24 is in District 33, not in District 6. And then
25 the whole area east of Washburn is essentially in



1 District 33 now. That used to be District 6.

2 Moving back up north, if you could, I'm
3 following 83 north across the river. We again
4 follow 83 across the lake at the Lake Audubon
5 causeway.

6 The little town of Max -- you see a
7 little bump there. The little town of Max had
8 331 people to the west side of Highway 83 and
9 only 2 people, but it still did have some of the
10 town east of Highway 83. We've input all of the
11 city of Max in, and we adjusted that boundary
12 based on input from the McLean County Auditor who
13 said their elections -- their election
14 administration is made much easier by having the
15 2 people who live on the east side of Highway 83
16 in Max in the same election precinct as the rest
17 of the city of Max. So that's an accommodation
18 in the recommendation.

19 As you continue north on that boundary
20 -- this is continuing on Highway 83 -- you take
21 the Highway 83 boundary as a boundary line
22 between Districts 4 and 6 all the way up to the
23 southern boundaries of the Minot Districts. So
24 the community of Sawyer, which used to be in
25 District 4, is now in District 6. And by the



1 way, I was told that prior to the last 10 years,
2 Sawyer was aligned with Velva in the same
3 district. So now they're back in the same
4 district.

5 The numbers, I think, work out pretty
6 reasonably. I believe District 4 is a little bit
7 under in the deviation. I can't read it from
8 here, but it's minus something. Isn't it?

9 UNIDENTIFIED MEMBER: It's minus 0.65.

10 SENATOR BEKKEDAHL: And then Districts
11 33 and District 6 are within the realms of the
12 deviation as well. Neither one of them exceeds 5
13 percent on the positive side.

14 So we think we have struck a balance,
15 Mr. Chairman. I wish the maps were here. Did
16 they come finally?

17 UNIDENTIFIED MEMBER: Yes.

18 SENATOR BEKKEDAHL: Okay. And I would
19 defer questions to any of the members that worked
20 on this from the maps you have before you now.
21 So thank you.

22 CHAIRMAN DEVLIN: Are there any
23 questions from the Committee?

24 Seeing none. Then, I believe that we
25 would need to move Districts 6 -- no 4, 6, and 33



1 forward. Does someone want to make that Motion?

2 UNIDENTIFIED MEMBER: So moved, Your
3 Honor -- Mr. Chairman.

4 SENATOR POOLMAN: Second.

5 CHAIRMAN DEVLIN: Motion has been made
6 and seconded. Is there any discussion?

7 Seeing none, poll the Committee.

8 MS. THOMPSON: Okay. Representatives
9 Devlin.

10 CHAIRMAN DEVLIN: Yes.

11 MS. THOMPSON: Bellow.

12 Boschee.

13 REPRESENTATIVE BOSCHEE: Yes.

14 MS. THOMPSON: Headland, Lefor.

15 REPRESENTATIVE LEFOR: Yes.

16 MS. THOMPSON: Monson.

17 REPRESENTATIVE MONSON: Yes.

18 MS. THOMPSON: Nathe.

19 REPRESENTATIVE NATHE: Yes.

20 MS. THOMPSON: Schauer.

21 REPRESENTATIVE SCHAUER: Yes.

22 MS. THOMPSON: Senators Holmberg.

23 SENATOR HOLMBERG: Yes.

24 MS. THOMPSON: Bekkedahl.

25 SENATOR BEKKEDAHL: Aye.



1 MS. THOMPSON: Burckhard.

2 SENATOR BURCKHARD: Aye.

3 MS. THOMPSON: Erbele.

4 SENATOR ERBELE: Aye.

5 MS. THOMPSON: Klein.

6 SENATOR KLEIN: Aye.

7 MS. THOMPSON: Oban.

8 SENATOR OBAN: Yes.

9 MS. THOMPSON: Poolman.

10 SENATOR POOLMAN: Aye.

11 MS. THOMPSON: And Sorvaag.

12 SENATOR SORVAAG: Aye.

13 CHAIRMAN DEVLIN: Committee, then I
14 believe we should have a motion to approve the
15 preliminary map, and we all understand it can be
16 tweaked, you know, next week. But approve the
17 preliminary map, and let the counsel review it
18 for all the legal requirements that they have to
19 do. And then we'll look at it again next week.

20 So we need a motion to approve the
21 preliminary map and send it to Legislative
22 Counsel for final review.

23 SENATOR BURCKHARD: So moved.

24 SENATOR POOLMAN: Second.

25 CHAIRMAN DEVLIN: Senator Burckhard,



1 Senator Poolman seconded. Any discussion?

2 Representative Klein - or Senator Klein,
3 excuse me.

4 SENATOR KLEIN: Hello, Mr. Chairman, and
5 just keeping in mind that 12 and 29 are still in
6 flux just a little. But that would not change
7 the rest of the map.

8 CHAIRMAN DEVLIN: Right.

9 Senator Holmberg.

10 SENATOR HOLMBERG: And then also keeping
11 in mind that we have not assigned numbers to new
12 districts. We haven't made that particular
13 decision as of yet. There has been discussion,
14 but nothing has gelled that I'm aware of.

15 Mr. Chairman.

16 CHAIRMAN DEVLIN: Yes.

17 SENATOR HOLMBERG: I know at some point
18 I believe you would like this next week, I
19 believe we would look at proposals on whether or
20 not we were going to subdivide, but that doesn't
21 make any difference on the big map. That will
22 only be internally within legislative districts.

23 CHAIRMAN DEVLIN: Representative
24 Schauer, did you have something?

25 Okay. Anyone else?



1 Do you want to sign those numbers before
2 we do the preliminary map? That's up to you. I
3 mean --

4 UNIDENTIFIED MEMBER: It makes sense.
5 (Indiscernible)

6 CHAIRMAN DEVLIN: Okay.

7 UNIDENTIFIED MEMBER: Mr. Chairman I've
8 --

9 REPRESENTATIVE MONSON: I've had some
10 discussion with our Senator and our Executive
11 Committee, and they would like to see us become
12 19. So I would make that request. Whether you
13 want to do it today or not that's --

14 CHAIRMAN DEVLIN: As I understand it,
15 Representative Monson, you had more of a
16 population change 20 to 19 than the other way.

17 Okay.

18 REPRESENTATIVE MONSON: We did.

19 CHAIRMAN DEVLIN: Does anyone have an
20 objection to that?

21 Then, I think that would make the most
22 sense. And then we can get the maps with the
23 proper numbers as well.

24 Okay.

25 REPRESENTATIVE MONSON: Mr. Chairman,



1 then District 20 would remain -- the corpus of
2 District 20 would remain District 20?

3 CHAIRMAN DEVLIN: That is correct.

4 SENATOR BEKKEDAHL: Mr. Chairman.

5 CHAIRMAN DEVLIN: Senator Bekkedahl.

6 SENATOR BEKKEDAHL: Mr. Chairman, if
7 possible, I would like to request District 23
8 assignment to the new district out west of
9 Williston.

10 CHAIRMAN DEVLIN: And that was, I think
11 you had one of one and two of the other. And
12 you'd like to have two and two --

13 SENATOR BEKKEDAHL: It balances out two
14 and two, even and odd.

15 CHAIRMAN DEVLIN: Any discussion on
16 that? Is there any objections?

17 Senator Burckhard.

18 SENATOR BURCKHARD: No.

19 CHAIRMAN DEVLIN: I'm going to get this
20 right before I'm done, I promise Senator Sorvaag.
21 Could you just switch nametags or something? You
22 know, I'd be --

23 I apologize. Okay. Is there any
24 objection to making District 23 the western one?
25 Seeing none, okay.



1 UNIDENTIFIED MEMBER: Mr. Chairman, that
2 would leave District 26?

3 CHAIRMAN DEVLIN: 26 and 10.

4 UNIDENTIFIED MALE: And 10. And as Cass
5 County, I don't care. Either one of them.
6 Should we do 10 in Cass County and 26 southwest?

7 CHAIRMAN DEVLIN: Is that what you - is
8 that it, 26 out west and 10 in Cass County?

9 Any objections to that?

10 Seeing none, we will go with that way,
11 that way the preliminary map that's published
12 would have all the district numbers on there, and
13 I think that's a better way to go.

14 So the motion was made to approve the
15 preliminary map, send it to legislative counsel
16 for their review, with us coming in next week to
17 make any final tweaks or any things that have to
18 be done due to their legal review and other
19 factors.

20 Any further discussion?

21 Seeing none, poll the committee.

22 MS. THOMPSON: Representative Devlin.

23 CHAIRMAN DEVLIN: Yes.

24 MS. THOMPSON: Bellew.

25 Boschee.



1 REPRESENTATIVE BOSCHÉE: Yes.
2 MS. THOMPSON: Headland is out.
3 Lefor.
4 REPRESENTATIVE LEFOR: Yes.
5 MS. THOMPSON: Monson.
6 REPRESENTATIVE MONSON: Yes.
7 MS. THOMPSON: Nathe.
8 REPRESENTATIVE NATHE: Yes.
9 MS. THOMPSON: Schauer.
10 REPRESENTATIVE SCHAUER: Yes.
11 MS. THOMPSON: Senator Holmberg.
12 SENATOR HOLMBERG: Yes.
13 MS. THOMPSON: Bekkedahl.
14 SENATOR BEKKEDAHL: Aye.
15 MS. THOMPSON: Burckhard.
16 SENATOR BURCKHARD: Aye.
17 MS. THOMPSON: Erbele.
18 SENATOR ERBELE: Aye.
19 MS. THOMPSON: Klein.
20 SENATOR KLEIN: Aye.
21 MS. THOMPSON: Oban.
22 SENATOR OBAN: Yes.
23 MS. THOMPSON: Poolman.
24 SENATOR POOLMAN: Aye.
25 MS. THOMPSON: And Sorvaag.



1 SENATOR SORVAAG: Aye.

2 MS. THOMPSON: Motion carries.

3 CHARMAN DEVLIN: Thank you.

4 Committee, we will talk about southern
5 districts next week. The thing that's in the
6 chairman's mind -- you know, in my mind we could
7 get done in one day next week. But then I
8 remember some days that I thought that we would
9 be able to get done in an hour's time, and it
10 took four.

11 So I would propose, Committee, but I'm
12 certainly open to something different, instead of
13 coming in all day on Tuesday, I would propose
14 that we start at 1 o'clock on Tuesday, and meet
15 on Wednesday. That would allow people to drive
16 in Tuesday morning. I know a lot of you have
17 budget session on Thursday. So if we're there
18 all day Thursday.

19 And if Counsel sees - they think we need
20 to be here longer on Tuesday, I can change that.
21 But that's what I'm proposing unless there's
22 serious objections that we would go at 1 o'clock
23 on Tuesday and then 9 o'clock on Wednesday. Is
24 that okay with everyone? Okay.

25 What else do you need from us?



1 I think, Committee, we will adjourn for
2 the day. I thank you very much. I thank the
3 counsel staff that carried me and everyone else
4 on this Committee through the process. And you
5 know, I can't say enough about the work that
6 they've done. And we sent them something last
7 night that I sent out really late, and I got a
8 message back even later last night that they had
9 already completed it. So I'm under the
10 assumption that they never sleep on counsel
11 staff.

12 So thank you. Thank you all, very much.

13 Committee, we are adjourned. See you
14 next Tuesday.

15 (END OF VIDEO FILE)

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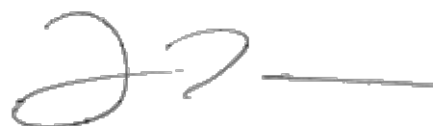


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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036

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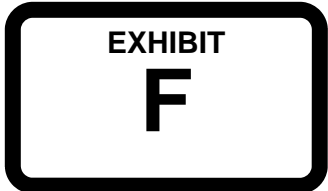
REDISTRICTING COMMITTEE

Tuesday, September 28, 2021
Room 327B, State Capitol
Bismarck, North Dakota

(Transcription of Videotape)

Members Present:

- Representative Bill Devlin, Chairman
- Representative Larry Bellew
- Representative Joshua A. Boschee
- Representative Craig Headland
- Representative Mike Lefor
- Representative David Monson
- Representative Mike Nathe
- Representative Austen Schauer
- Senator Brad Bekkedahl
- Senator Randy A. Burckhard
- Senator Robert Erbele
- Senator Ray Holmberg
- Senator Jerry Klein
- Senator Erin Oban
- Senator Nicole Poolman
- Senator Ronald Sorvaag



1 (Beginning of tape.)

2 CHAIRMAN DEVLIN: We'll call the
3 Redistricting Committee to order.

4 Emily, if you would do the roll call,
5 please?

6 MS. THOMPSON: Chairman Devlin?

7 CHAIRMAN DEVLIN: Here.

8 MS. THOMPSON: Representative Bellew?

9 REPRESENTATIVE BELLEW: Here.

10 MS. THOMPSON: Representative Boschee?

11 REPRESENTATIVE BOSCHEE: Here.

12 MS. THOMPSON: Representative Headland?

13 REPRESENTATIVE HEADLAND: Here.

14 MS. THOMPSON: Representative Lefor?

15 REPRESENTATIVE LEFOR: Here.

16 MS. THOMPSON: Representative Monson?

17 REPRESENTATIVE MONSON: Here.

18 MS. THOMPSON: Representative Nathe?

19 REPRESENTATIVE NATHE: Here.

20 MS. THOMPSON: Representative Schauer?

21 REPRESENTATIVE SCHAUER: Here.

22 MS. THOMPSON: Senator Holmberg?

23 SENATOR HOLMBERG: Here.

24 MS. THOMPSON: Senator Bekkedahl?

25 SENATOR BEKKEDAHL: Here.

1 MS. THOMPSON: Senator Burckhard?

2 SENATOR BURCKHARD: Here.

3 MS. THOMPSON: Senator Erbele?

4 SENATOR ERBELE: Here.

5 MS. THOMPSON: Senator Klein?

6 SENATOR KLEIN: Here.

7 MS. THOMPSON: Senator Oban?

8 SENATOR OBAN: Here.

9 MS. THOMPSON: Senator Poolman?

10 SENATOR POOLMAN: Here.

11 MS. THOMPSON: Senator Sorvaag?

12 SENATOR SORVAAG: Here.

13 MS. THOMPSON: And, Mr. Chairman, we have a
14 quorum.

15 CHAIRMAN DEVLIN: Thank you.

16 The minutes of the September 22nd and 23rd
17 meeting, what are your wishes?

18 SENATOR KLEIN: Move to approve.

19 SENATOR POOLMAN: Second.

20 CHAIRMAN DEVLIN: Been moved and seconded.

21 Any discussion?

22 (No audible response.)

23 CHAIRMAN DEVLIN: All those in favor,
24 signify by saying aye.

25 (Viva voce indicated aye.)

1 CHAIRMAN DEVLIN: Opposed, nay?

2 (No audible response.)

3 CHAIRMAN DEVLIN: Motion carried.

4 Comments by the Chairman. There aren't too
5 many. We're going to move the agenda around a little
6 bit, but tomorrow's meeting will be back in the Rough
7 Rider Room in the morning. I just want you to be
8 aware of that.

9 We're going to -- we had to do a little
10 tweaking on a couple districts and a little more
11 change on another one, so we're going to take those
12 first before we do some of the other discussions.

13 So, Senator Klein, if you would explain what
14 was done between 15 and 14? I believe that you have
15 passed out maps.

16 SENATOR KLEIN: Good afternoon,
17 Mr. Chairman.

18 For the record, Jerry Klein, District 14.

19 Last week, as we were working and developing
20 our first concept, we decided that we would follow
21 281 as a reference barrier over on Benson County, and
22 it was brought to our attention over the weekend, Why
23 did you do that? Why don't you just leave that
24 portion that was in Benson County before? Why are
25 you drawing a new line? And I believe we found that

1 it wasn't necessary; we didn't need the numbers.

2 So I handed out what the -- 14 and -- will
3 be back, it will not have that angle, and 15 will --
4 will encompass that Oberon area, including a township
5 west of Minnewaukan, and then bounce back to follow
6 the other county line.

7 So that puts -- some of our county officials
8 are very happy that we can do that. It leaves them
9 to keep that particular area in the area that it --
10 it's never been in 14, and -- and now it will
11 continue not to be in 14. It will be in 15.

12 So with that, Mr. Chairman, any questions?

13 CHAIRMAN DEVLIN: Any questions for Senator
14 Klein?

15 SENATOR KLEIN: I believe it doesn't change
16 the deviation much --

17 CHAIRMAN DEVLIN: No, it does not.

18 SENATOR KLEIN: -- and we still stay within
19 the -- the range. I believe there will be another
20 discussion about District 14 as we move through the
21 afternoon.

22 CHAIRMAN DEVLIN: Just, essentially, put it
23 back the way it's been the last 10 years --

24 SENATOR KLEIN: Correct.

25 CHAIRMAN DEVLIN: -- and that is what the

1 county and township people wanted, so...

2 Okay. No questions?

3 (No audible response.)

4 CHAIRMAN DEVLIN: Thank you.

5 District 5.

6 UNIDENTIFIED SPEAKER: Do we do anything
7 with this, or (indiscernible)?

8 CHAIRMAN DEVLIN: Senator Klein, would you
9 care to make a motion? I guess it would be easier
10 for staff if we did them individually as we go along.

11 SENATOR KLEIN: Mr. Chairman, I would move
12 those changes.

13 REPRESENTATIVE SCHAUER: Second.

14 CHAIRMAN DEVLIN: Second by Representative
15 Schauer.

16 Any discussion?

17 (No audible response.)

18 CHAIRMAN DEVLIN: Poll the committee.

19 MS. THOMPSON: Representative Devlin?

20 CHAIRMAN DEVLIN: Yes.

21 MS. THOMPSON: Representative Bellew?

22 REPRESENTATIVE BELLEW: Yes.

23 MS. THOMPSON: Representative Boschee?

24 REPRESENTATIVE BOSCHEE: Yes.

25 MS. THOMPSON: Representative Headland?

1 REPRESENTATIVE HEADLAND: Yes.

2 MS. THOMPSON: Representative Lefor?

3 REPRESENTATIVE LEFOR: Yes.

4 MS. THOMPSON: Representative Monson?

5 REPRESENTATIVE MONSON: Yes.

6 MS. THOMPSON: Representative Nathe?

7 REPRESENTATIVE NATHE: Yes.

8 MS. THOMPSON: Representative Schauer?

9 REPRESENTATIVE SCHAUER: Yes.

10 MS. THOMPSON: Senator Holmberg?

11 SENATOR HOLMBERG: Yes.

12 MS. THOMPSON: Senator Bekkedahl?

13 SENATOR BEKKEDAHL: Yes.

14 MS. THOMPSON: Senator Burckhard?

15 SENATOR BURCKHARD: Aye.

16 MS. THOMPSON: Senator Erbele?

17 SENATOR ERBELE: Aye.

18 MS. THOMPSON: Senator Klein?

19 SENATOR KLEIN: Aye.

20 MS. THOMPSON: Senator Oban?

21 SENATOR OBAN: Yes.

22 MS. THOMPSON: Senator Poolman?

23 SENATOR POOLMAN: Aye.

24 MS. THOMPSON: Senator Sorvaag?

25 SENATOR SORVAAG: Aye.

1 MS. THOMPSON: And, Mr. Chairman, the motion
2 carries.

3 CHAIRMAN DEVLIN: Thank you, Emily.

4 Now we will take -- District 5 I think had a
5 minor tweak or two.

6 SENATOR BURCKHARD: Greetings, Mr. Chairman
7 and Members of the Redistricting Committee.

8 Randy Burckhard, State Senator from Minot,
9 District 5.

10 You remember last week we had this very
11 detailed map with -- where everything was identified?
12 Even a couple fire hydrants were on there.

13 We met Saturday with the group of Minot area
14 legislators, and it was decided that we wanted to --
15 we wanted to level off a couple spots, and on the --
16 on the screen there, the north end, it was pretty
17 squiggly before, and now it goes straight across,
18 which is 4th Avenue. So we basically leveled off
19 that top spot.

20 On the -- on the southern side, which is the
21 bottom of the map, we had that -- that area that
22 jutted out, which Emily is so nicely cursoring with
23 her cursor, and we decided to straighten that out, so
24 it's all -- that straight line there is 37th Avenue
25 South, and so that was eliminated from District 5,

1 and the -- the part on top was added to District 5.
2 So that -- they're minor. We all still fall within
3 the variance, and I think I would like to propose a
4 motion that we pass that.

5 REPRESENTATIVE BELLEW: Second.

6 SENATOR BURCKHARD: Any questions?

7 CHAIRMAN DEVLIN: Any questions for Senator
8 Burckhard?

9 (No audible response.)

10 CHAIRMAN DEVLIN: I believe we have a motion
11 in front of us to accept that by Senator Burckhard
12 and seconded by Representative Bellew.

13 Any further discussion?

14 (No audible response.)

15 CHAIRMAN DEVLIN: Seeing none, we'll poll
16 the Committee.

17 MS. THOMPSON: Chairman Devlin?

18 CHAIRMAN DEVLIN: Yes.

19 MS. THOMPSON: Representative Bellew?

20 REPRESENTATIVE BELLEW: Yes.

21 MS. THOMPSON: Representative Boschee?

22 REPRESENTATIVE BOSCHEE: Yes.

23 MS. THOMPSON: Representative Headland?

24 REPRESENTATIVE HEADLAND: Yes.

25 MS. THOMPSON: Representative Lefor?

1 REPRESENTATIVE LEFOR: Yes.

2 MS. THOMPSON: Representative Monson?

3 REPRESENTATIVE MONSON: Yes.

4 MS. THOMPSON: Representative Nathe?

5 REPRESENTATIVE NATHE: Yes.

6 MS. THOMPSON: Representative Schauer?

7 REPRESENTATIVE SCHAUER: Yes.

8 MS. THOMPSON: Senator Holmberg?

9 SENATOR HOLMBERG: Yes.

10 MS. THOMPSON: Senator Bekkedahl?

11 SENATOR BEKKEDAHL: Aye.

12 MS. THOMPSON: Senator Burckhard?

13 SENATOR BURCKHARD: Yes.

14 MS. THOMPSON: Senator Erbele?

15 SENATOR ERBELE: Aye.

16 MS. THOMPSON: Senator Klein?

17 SENATOR KLEIN: Aye.

18 MS. THOMPSON: Senator Oban?

19 SENATOR OBAN: Yes.

20 MS. THOMPSON: Senator Poolman?

21 SENATOR POOLMAN: Aye.

22 MS. THOMPSON: And, Senator Sorvaag?

23 SENATOR SORVAAG: Aye.

24 MS. THOMPSON: And, Mr. Chairman, the motion

25 carries.

1 CHAIRMAN DEVLIN: Thank you.

2 Now I believe we will move on to
3 Districts 12 and 29.

4 Representative Headland.

5 REPRESENTATIVE HEADLAND: Thank you,
6 Mr. Chairman, Committee Members.

7 The members of 29 and 12 met last evening,
8 and as you can see, we made some changes that would
9 allow for Senator Wanzek and myself to stay as part
10 of the District 29 team. I think we did the best we
11 could to try to keep Jamestown all part of one
12 district, which seemed to be important to this
13 Committee.

14 If you ask me if we're all happy about it,
15 I'm going to tell you, no, we're not very happy at
16 all, but that's where we're at, so...

17 Some subtle changes around Jamestown on the
18 southeast part versus what was proposed in the Devlin
19 Plan 2, the addition of the townships going north.
20 It works, it works for the numbers, and, you know,
21 here we are. This is what we've agreed to present.

22 CHAIRMAN DEVLIN: Are there questions for
23 Representative Headland?

24 REPRESENTATIVE BELLEW: Mr. Chairman?

25 CHAIRMAN DEVLIN: Representative Bellew.

1 REPRESENTATIVE BELLEW: Thank you,
2 Mr. Chairman.

3 And, Representative Headland, could you
4 explain the changes a little bit better to me? I
5 think I know what they were, but -- from what was
6 presented to us last week?

7 REPRESENTATIVE HEADLAND: Mr. Chairman and
8 Representative Bellew.

9 From what was proposed and passed at -- last
10 week, that was a -- a proposal that took the bottom
11 tier of townships south of Jamestown, put them in 12.
12 In the essence, it put Terry Wanzek -- or Senator
13 Wanzek and myself in 12. Nobody really liked that.
14 We didn't want to split up the team that's been part
15 of this legislature for 20 years in District 29, so
16 we made the necessary corrections to try to come to a
17 solution and something that looked presentable to the
18 public.

19 CHAIRMAN DEVLIN: Further questions for
20 Representative Headland?

21 (No audible response.)

22 CHAIRMAN DEVLIN: Seeing none, did you make
23 the motion?

24 REPRESENTATIVE HEADLAND: Mr. Chairman, I'd
25 move those changes.

1 CHAIRMAN DEVLIN: Is there a second?

2 REPRESENTATIVE NATHE: Second.

3 CHAIRMAN DEVLIN: Seconded by Representative
4 Nathe, I believe.

5 Any further discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, we may poll
8 the Committee.

9 MS. THOMPSON: Chairman Devlin?

10 CHAIRMAN DEVLIN: Yes.

11 MS. THOMPSON: Representative Bellew?

12 REPRESENTATIVE BELLEW: Yes.

13 MS. THOMPSON: Representative Boschee?

14 REPRESENTATIVE BOSCHEE: Yes.

15 MS. THOMPSON: Representative Headland?

16 REPRESENTATIVE HEADLAND: Yes.

17 MS. THOMPSON: Representative Lefor?

18 REPRESENTATIVE LEFOR: Yes.

19 MS. THOMPSON: Representative Monson?

20 REPRESENTATIVE MONSON: Yes.

21 MS. THOMPSON: Representative Nathe?

22 REPRESENTATIVE NATHE: Yes.

23 MS. THOMPSON: Representative Schauer?

24 REPRESENTATIVE SCHAUER: Yes.

25 MS. THOMPSON: Senator Holmberg?

1 SENATOR HOLMBERG: Yes.

2 MS. THOMPSON: Senator Bekkedahl?

3 SENATOR BEKKEDAHL: Aye.

4 MS. THOMPSON: Senator Burckhard?

5 SENATOR BURCKHARD: Aye.

6 MS. THOMPSON: Senator Erbele?

7 SENATOR ERBELE: Aye.

8 MS. THOMPSON: Senator Klein?

9 SENATOR KLEIN: Aye.

10 MS. THOMPSON: Senator Oban?

11 SENATOR OBAN: Yes.

12 MS. THOMPSON: Senator Poolman?

13 SENATOR POOLMAN: Aye.

14 MS. THOMPSON: And, Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

16 MS. THOMPSON: Mr. Chairman, the motion
17 carries.

18 CHAIRMAN DEVLIN: Thank you.

19 I believe we have something now dealing with
20 Districts 8 and 14. Is that correct, Senator
21 Poolman?

22 SENATOR POOLMAN: Mr. Chairman, as these two
23 sets of maps are coming around, I just wanted to
24 explain how this happened. As Legislative Council
25 was trying to do that final merge, they realized that

1 the way District 8 was merging was not quite right
2 and the numbers were too high, and so somewhere along
3 the lines, one of my versions of 8 had -- had the
4 wrong lines on -- on -- I'm sure, on the east -- on
5 the west side.

6 So what we did to make the numbers work is
7 bring down 14 into Burleigh County, which is
8 something that I didn't want to have to do, but that
9 is how we made the numbers work. And then I just --
10 the District 7 map is included there because I just
11 straightened that line to -- to try to make it
12 straighter.

13 This makes the numbers work so that we have
14 a complete map before us today, but I am reluctant to
15 move it just because this is something that came up
16 yesterday and I just ran up to Counsel, and
17 Representative Nathe and Senator Oban certainly
18 haven't had an opportunity to weigh in on that.

19 Again, it's -- it's a proposal to make the
20 numbers work; I'm not sure it's the best one. And so
21 if -- I -- I would take direction from the Committee,
22 but I would hope that maybe we could have some time
23 to work on this to -- to find the best way to do this
24 rather than just a way to make the numbers work.

25 CHAIRMAN DEVLIN: Senator, I have a

1 question. On the area that we just changed between
2 14 and 15, on your map it shows it in 14, but it's
3 actually in 15, that little sliver up just west of
4 Fort Totten?

5 SENATOR POOLMAN: So chances are if my map
6 has them at .42 that they're even lower than that
7 right now.

8 CHAIRMAN DEVLIN: Probably.

9 SENATOR POOLMAN: Probably. And, again,
10 another reason why it might be wise for us to work on
11 this piece, but -- but I just wanted to draw
12 attention to the issue that arose. We -- there is a
13 solution; I'm just not sure it's the best one. And
14 so if we could maybe have some time to work today,
15 that would be great.

16 CHAIRMAN DEVLIN: Senator Oban.

17 SENATOR OBAN: Mr. Chairman, I've been
18 playing around with it a little bit and think I can
19 make it work so that we don't cut Burleigh. So to
20 Senator Poolman's point, if we could have a little
21 bit of time, I think we can come up with something
22 that will work without having to cut Burleigh in
23 another place.

24 CHAIRMAN DEVLIN: Both Senators, I'm
25 perfectly open to that. Maybe we'll just get a

1 break.

2 Is it -- Senator Oban, is it something
3 that's very time-consuming, do you think, or just
4 a --

5 SENATOR OBAN: No.

6 CHAIRMAN DEVLIN: Okay. We'll just maybe
7 take a break here in a few minutes when we're done
8 with everybody's presentation and let you fix that.
9 Thank you.

10 SENATOR OBAN: Thank you.

11 CHAIRMAN DEVLIN: Representative Monson.

12 REPRESENTATIVE MONSON: Thank you,
13 Mr. Chairman.

14 When you're working on 14 and 15, the change
15 we made to keep Benson County whole, I think that --
16 that was a good move. So I don't know if you're --

17 SENATOR OBAN: I --

18 REPRESENTATIVE MONSON: -- planning to
19 change anything there, but I hope you --

20 SENATOR OBAN: The way I've played around,
21 it doesn't even touch 14, so...

22 REPRESENTATIVE MONSON: Okay.

23 CHAIRMAN DEVLIN: What else do we have
24 before us that needs a little fine-tuning here this
25 morning?

1 SENATOR SORVAAG: Mr. Chairman?

2 CHAIRMAN DEVLIN: Representative -- oh,
3 excuse me. Senator.

4 SENATOR SORVAAG: I would defer to
5 Representative Lefor --

6 CHAIRMAN DEVLIN: Okay.

7 SENATOR SORVAAG: -- because it's his
8 backyard.

9 CHAIRMAN DEVLIN: Okay. Representative
10 Lefor.

11 REPRESENTATIVE LEFOR: On District 39,
12 you'll notice that it's minus 5.13 percent, and
13 that's because -- and Emily can explain this better,
14 but it was some updating that was done by Counsel,
15 and I'll meet with her to -- to make sure that that
16 fits correctly. It's a matter of moving 20, 25
17 people is all.

18 CHAIRMAN DEVLIN: Representative Lefor, are
19 we also talking numbers of districts, or is that
20 discussion for another day, another time?

21 REPRESENTATIVE LEFOR: If we could have that
22 discussion tomorrow, Mr. Chairman?

23 CHAIRMAN DEVLIN: Okay.

24 REPRESENTATIVE LEFOR: Thank you.

25 CHAIRMAN DEVLIN: So is -- is there any

1 other -- Representative Bellew.

2 REPRESENTATIVE BELLEW: Thank you,
3 Mr. Chairman.

4 When we redrew District 5, we took some of
5 District 40's population away. I don't know if
6 that's -- they're still within the limits. Did we
7 need to discuss that, or tell me how --

8 CHAIRMAN DEVLIN: Is that the change we
9 already approved and --

10 REPRESENTATIVE BELLEW: That's the change --

11 CHAIRMAN DEVLIN: -- now we're finding
12 out that there was a little --

13 REPRESENTATIVE BELLEW: Yeah, that was the
14 change we approved last week.

15 CHAIRMAN DEVLIN: I'll have Emily explain --

16 REPRESENTATIVE BELLEW: Yes.

17 CHAIRMAN DEVLIN: -- where that is.

18 REPRESENTATIVE BELLEW: She can do it a lot
19 better than I. Thank you.

20 MS. THOMPSON: Thank you, Mr. Chairman.

21 You can see with the new revised District 5
22 boundaries that you just moved and approved, the
23 surrounding areas still are within range.
24 District 40, the deviation is negative 4.49, which is
25 within range; District 3, 4.71; District 38, positive

1 4.22. So all of the surrounding areas still are --
2 are fine in regard to the deviation with removing
3 that small portion on the southern half of District 5
4 and adding in that small portion on the northern half
5 of District 5.

6 CHAIRMAN DEVLIN: Questions from the
7 Committee for Representative Bellew?

8 (No audible response.)

9 CHAIRMAN DEVLIN: Seeing none, thank you.

10 REPRESENTATIVE BELLEW: Mr. Chairman, do we
11 have to approve the change in District 40 or not?
12 Because we took population away from District 40 and
13 gave it to District 5.

14 MS. THOMPSON: Mr. Chairman, Representative
15 Bellew.

16 The motion to modify District 5 was to take
17 that portion of 40, so just the one motion would
18 cover it.

19 CHAIRMAN DEVLIN: Before we get to a
20 breaking point to allow them to proceed with this,
21 I'd like to talk a little bit about the creation of
22 subdistricts.

23 Senator Holmberg, did you want to lead this
24 discussion?

25 SENATOR HOLMBERG: No, but --

1 CHAIRMAN DEVLIN: Okay. Senator Holmberg,
2 would you lead that discussion at the Chairman's
3 request?

4 SENATOR HOLMBERG: We've -- we've had
5 numerous discussions about the Voting Rights Act,
6 the -- the *Gingles* reality, and when you look at the
7 populations of the reservations, it -- it does lend
8 itself to either legislative action or, at some other
9 point, court action.

10 If you recall, back in 2001, the Court
11 weighed in and then weighed out. There was a lawsuit
12 that there should be subdistricts, and the case was
13 dismissed because the population of that area did not
14 rise to the level where the Court felt it
15 necessitated, under the Voting Rights Act, a
16 subdistrict, but today our populations in two areas,
17 two reservations, appear to meet that threshold.

18 The threshold -- the ideal population for a
19 subdistricted district is 8,453. And if you recall,
20 the other day we were told that Fort Berthold has, in
21 the county, in Rolette County, 9,278 Native Americans
22 identified, and in the Turtle Mountain Reservation
23 there is -- oh, excuse me. Excuse me. In Fort
24 Berthold there is 8,350 Native Americans. So it
25 would lend itself, I believe, those two falling under

1 the requirements of the Voting Rights Act.

2 And I am not a fan of subdistricts, but
3 sometimes you do have to respect reality. And we can
4 ignore this issue and allow someone else to be in the
5 driver's seat, or we can do it ourselves.

6 What I would suggest, so that we -- we all
7 are attune to what we're doing, I would suggest a
8 motion to subdivide those two districts, and then
9 tomorrow morning come in with alternative plans as to
10 how that would be or could be accomplished.

11 If you recall, I -- I read the -- some of
12 the other populations, and they just don't rise to
13 the 8,453-person level.

14 So, Mr. Chairman, I would move that we
15 subdivide what is District 9 on this particular map
16 and District 4 under the provisions of the Voting
17 Rights Act.

18 REPRESENTATIVE MONSON: Second.

19 CHAIRMAN DEVLIN: The motion has been made
20 by Senator Holmberg and seconded by Representative
21 Monson.

22 Discussion?

23 I'm sorry. Representative Schauer.

24 REPRESENTATIVE SCHAUER: Thank you,
25 Mr. Chairman.

1 Senator Holmberg, can you go through those
2 numbers again? You said Fort Berthold is 9,278 or --

3 SENATOR HOLMBERG: No.

4 REPRESENTATIVE SCHAUER: -- 8,350, and what
5 it Turtle Mountain?

6 SENATOR HOLMBERG: No. I -- I misspoke.
7 Turtle Mountain, on the reservation itself, is 5,113,
8 but according to the census, the county has 9,278, so
9 clearly, the county -- that particular district rises
10 to the occasion of the 8,453. Fort Berthold is
11 8,350.

12 REPRESENTATIVE SCHAUER: If I may continue?

13 CHAIRMAN DEVLIN: You may.

14 REPRESENTATIVE SCHAUER: And just to be
15 clear on this, this is numbers driven. This is what
16 we have to do following the Voting Rights Act. Is
17 that correct?

18 SENATOR HOLMBERG: That is my understanding.

19 CHAIRMAN DEVLIN: Representative Headland.

20 REPRESENTATIVE HEADLAND: Thank you,
21 Mr. Chairman.

22 Senator Holmberg, would it be fair to say
23 that we really don't know if the Court would weigh
24 in, or we really don't know how they would respond?
25 You know, I have some issues with subdivisions and

1 dividing them based upon race, so I -- I just don't
2 think I can support the proposal to subdivide.

3 SENATOR HOLMBERG: And that is a -- a
4 reasonable position to take. Again, like I said, I'm
5 not a big fan of it, but I think that we -- we do it
6 or someone else does.

7 And you mentioned court cases. Well,
8 clearly we have had indications that there will be
9 folks, maybe not from North Dakota but other folks,
10 that would be willing to go to court, and they will
11 look back at what has happened in the past, and
12 they'll say, We're going to win. And that will be
13 Exhibit A before a federal judge, that the Court had
14 looked at this in 2001.

15 So, I mean, I'm not going to lose sleep one
16 way or another because I -- I personally believe at
17 the end it's going to happen whether we do it -- we
18 drive it, we put the lines down, or we let someone
19 else do it.

20 CHAIRMAN DEVLIN: Representative Boschee.

21 REPRESENTATIVE BOSCHEE: Thank you,
22 Mr. Chairman and Members of the Committee.

23 I mean, everyone knows where I stand on
24 subdividing house districts in general for all of our
25 districts. As we continue to get larger, especially

1 in rural areas, I think this is an opportunity for
2 more direct, closer representation; not about some of
3 the conversations earlier about better, but just
4 having people closer to the people they represent.

5 I -- I agree with what's been said about the
6 fact that if -- if we don't do it, someone else will;
7 and that process of a lawsuit is probably something
8 none of us want to go through, especially recognizing
9 the stronger relationships we currently have, both as
10 a legislature and the state government, with our
11 tribal communities. There's been a lot of work, I
12 think over the last decade specifically, work done by
13 the Executive Branch as well as our congressional
14 delegation, both the previous, you know, Democratic
15 delegation and now the Republican delegation, who has
16 enhanced relationships with our Tribes.

17 But what really has stuck with me, serving
18 not only on this Committee but also the Tribal and
19 State Affairs Committee, is the conversation we heard
20 from tribal chairpersons who said, We no longer want
21 to look to the federal government for solutions. We
22 want to be a partner with the State of North Dakota.
23 They recognize that -- probably because of the
24 enhanced relationships over the last 10 years as well
25 as the personal relationships those leaders have with

1 leaders around this table and leaders in the
2 Executive Branch, that we have opportunities to move
3 some of these tribal communities forward as a part of
4 North Dakota.

5 And while certainly this does break down
6 and -- in some context of the conversation around
7 race, it also falls within an entity that's a
8 sovereign government within the boundaries of our
9 state. And by us allowing subdistricting I think
10 gives stronger representation for those communities,
11 again to elect someone of their choosing, not
12 necessarily having to be a tribal member or not a
13 tribal member, but someone of their choice versus a
14 dilution of votes because of a greater, larger
15 district; a senate district essentially is what it
16 would be.

17 So, again, I know this Committee is no
18 stranger to how I feel about this, but I think, for
19 the record, you know, again, if we want to be in the
20 driver's seat, this is our opportunity to do that;
21 otherwise, I -- I think, along with many of you,
22 we're confident that there will be someone else who
23 will be in the driver's seat on this decision.

24 CHAIRMAN DEVLIN: Senator Sorvaag.

25 SENATOR SORVAAG: Mr. Chairman and -- I -- I

1 just want to be clear on this, because it shows Fort
2 Berthold is 800 -- 8,350, but the American Indian
3 population is only 5,500. Is that -- so 3,000 --
4 close to 3,000 is non-Indian population in the
5 reservation. But do you have a number for the Indian
6 American population in that whole District 4?
7 Because you did that in 9. You know, I'm -- I'm
8 wondering, because a third of it is not Indian
9 American on Fort Berthold Reservation by these
10 numbers.

11 CHAIRMAN DEVLIN: Give us a moment,
12 Committee.

13 Claire.

14 MS. NESS: Mr. Chairman and Members of the
15 Committee.

16 Also just to provide some context for the
17 numbers as well, what you would look to is whether or
18 not the Native American population could be a
19 majority of the subdistrict. So they wouldn't have
20 to be a -- you wouldn't have to have a population
21 that's a majority of the district as a whole. You
22 would take the ideal population, divide it in half,
23 and see whether they could be a majority of that
24 half.

25 CHAIRMAN DEVLIN: Did that answer your

1 question, Senator Sorvaag?

2 SENATOR SORVAAG: So to be clear, when
3 you're -- like 9, they're talking the total
4 population. Some of them aren't going to be in that
5 half, and that's not in your formula to get to
6 two-thirds or majority, then?

7 CHAIRMAN DEVLIN: Claire.

8 MS. NESS: Senator Sorvaag, I'm sorry.
9 Could you rephrase that, please?

10 SENATOR SORVAAG: Well, in District 9 --

11 MS. NESS: Uh-huh.

12 SENATOR SORVAAG: -- there's, what, 9,000 --

13 MS. NESS: Uh-huh.

14 SENATOR SORVAAG: -- American Indians.

15 They're not all in the reservation. But the half has
16 to have at least half of them to fall under the
17 Voting Rights Act. I'm just --

18 MS. NESS: Yes.

19 SENATOR SORVAAG: -- trying to get clear on
20 this.

21 MS. NESS: Yes. Mr. Chairman and Senator
22 Sorvaag.

23 If you remember, one of those *Gingles*
24 thresholds is that they are compact enough so that
25 that compact group that would be within the

1 subdistrict would vote similarly and could be a
2 majority.

3 SENATOR SORVAAG: Okay.

4 CHAIRMAN DEVLIN: Senator Klein.

5 SENATOR KLEIN: Well, Mr. Chairman, I -- you
6 know, I was disappointed that the Tribes feel that
7 they're underrepresented because I think -- you know,
8 I know there's folks in the room who represent those
9 districts and work hard to make sure everybody is
10 treated fairly and equally.

11 But I guess I also understand that, you
12 know, we're in a different era, different
13 environment. We have more groups across the country
14 funding various organizations who are certainly
15 promoting maybe more Voting Rights Acts of different
16 areas where we didn't have this before, but maybe
17 I -- maybe my question is -- and maybe -- Senator
18 Holmberg mentioned it at one of the meetings. How
19 did South Dakota address it, and did they wait for
20 the courts, or did they -- because, you know, I -- in
21 one respect, I'm disappointed and don't want to go
22 there, but in another, I guess I understand that
23 we're -- where we're headed, but...

24 Maybe using South Dakota as the example, I
25 believe they have a couple of subdistricts, and maybe

1 Senator Holmberg can explain that.

2 SENATOR HOLMBERG: First of all, I would
3 agree with -- with the thrust of what you're saying,
4 because we don't like to be told what to do from
5 Washington, just like some of our local governments
6 don't like to be told what -- what we do.

7 You asked specifically about South Dakota.
8 South Dakota has a 28A and B and a 26A and B.
9 They -- those lines were drawn by the legislature.
10 They determined that they had to do that, and they
11 went ahead and did it on the basis, I'm sure, of --
12 of the requirements of the Voting Rights Act. So
13 they -- they drew the lines themselves.

14 You know, and -- and, you know, it's not --
15 it's one of those issues that's really tough, because
16 we're told by the federal government or by the
17 Constitution, as interpreted by the courts, that we
18 have to do it, and we really don't like to do it. We
19 would rather run our own show.

20 But at the end of the day, when the cheering
21 stops, I believe it's going to happen. So we can be
22 cheerful and -- and, you know, and defeat it, and
23 then at the end of the day, I believe it will happen.
24 And I would rather have Senator Klein's hand on the
25 pen that draws that line rather than a magistrate

1 from a federal court.

2 CHAIRMAN DEVLIN: Representative Jones is at
3 the podium.

4 REPRESENTATIVE JONES: Thank you,
5 Mr. Chairman.

6 Thank you, Committee, for letting me be
7 here.

8 I am from District 4, and I represent
9 District 4 both on the reservation and off the
10 reservation, and I'm here because I'm getting a lot
11 of calls from constituents that say they don't want
12 to be treated differently than other people in the
13 state of North Dakota.

14 To answer some of the questions that have
15 come out, on the reservation, we've got --
16 approximately 60 percent of the population is Native
17 American. 40 percent are not tribal. They're
18 North Dakota citizens. Those people want to have two
19 representatives, and they want to be treated just
20 like everybody else in the state of North Dakota.

21 The tribal entities that are there are a
22 sovereign nation, and as such, I disagree with the
23 Supreme Court if they say that they get special
24 treatment and get a subdistrict, because as a
25 sovereign nation, their negotiations and work with

1 the State of North Dakota is government to
2 government, but like everybody else, they wear two
3 hats, so they're also citizens of North Dakota.

4 As citizens of North Dakota, they should be
5 eligible to have the same treatment, rights, and
6 privileges as every other North Dakota citizen, which
7 is to have two representatives and one senator
8 elected by the whole district.

9 And so I disagree that the Supreme Court is
10 going to come and force this on us. I would be
11 ashamed to be in a legislature that takes this step,
12 which will definitely disenfranchise -- well, you've
13 got 40 percent in the A district that's going to not
14 be able to have two representatives that want to have
15 that, and you're going to have the entire B district
16 that's going to only be able to have one
17 representative because they are now a subdistrict
18 with only one representative. That's unfair
19 treatment under the law, and I don't think that it's
20 going to hold up in court.

21 And if somebody's going to force it on us
22 here in North Dakota, I would say, Come on ahead,
23 because to subdivide a small portion of the state
24 based on something to do with a sovereign nation that
25 stands up and claims in every meeting we have with

1 the Tribal and State Relations Committee that they're
2 a sovereign nation, they say, We're sovereign, we're
3 sovereign; and they say, Oh, but we want special
4 treatment in the legislature.

5 The answer from me as a representative from
6 District 4, from my constituents, is, Thank you. No.
7 We do not need a subdistrict.

8 This election cycle I ran against Thomas --
9 Thomasina Mandan, Hunter Andes, and Lisa DeVille that
10 were tribal people that were running. I thought I
11 was going to lose. I had been attacked. My
12 residency was in question. I thought I was going to
13 probably lose the election. They have just as much a
14 chance to win in an election as I do; in fact,
15 they've got a better chance because they vote more in
16 a bloc than a bunch of stubborn North Dakotans.

17 So I would ask the Committee to please do
18 not fall for this fearmongering that says you've got
19 to do this or somebody else is going to come and do
20 it, because I think if we have an intelligent
21 discussion in front of a court, the Supreme Court or
22 otherwise, we will be able to say we deserve fair
23 treatment under the law, and that means everybody in
24 North Dakota gets two representatives and one
25 senator.

1 And if there's somebody crying that they
2 want to have another special treatment, they -- they
3 have no traction because they are a sovereign nation.
4 Their interaction with the government as a sovereign
5 nation is tribal to -- or government to government,
6 not changing state law to specifically address them,
7 so...

8 That's what I wanted to bring to the
9 Committee. Please consider that. The citizens of
10 North Dakota, on and off the reservation, all want to
11 be treated fairly, and I think the best way to do
12 that is to resist this temptation to create a
13 subdistrict.

14 We have way too many divisions in this
15 nation right now coming along all kinds of lines. In
16 my opinion, this is nothing more than a -- more of an
17 attempt to divide us instead of unify us, so please
18 hold us together.

19 Thank you, Mr. Chairman.

20 I would stand for questions.

21 CHAIRMAN DEVLIN: Questions for
22 Representative Jones?

23 Representative Monson.

24 REPRESENTATIVE MONSON: Thank you,
25 Mr. Chairman.

1 Representative Jones, you said you've heard
2 from a lot of your constituents that they don't want
3 to subdivision. Have you heard from Native Americans
4 as well, or is it mostly non-Natives that --

5 REPRESENTATIVE JONES: Mostly the -- the
6 people that are contacting me are non-Natives.
7 They're hearing through the grapevine that the
8 Committee is discussing this and that the -- the
9 endgame of this is going to be that they will have
10 one representative instead of two. And so it's most
11 of them.

12 The conversations that I've had with Mark
13 Fox and others about this, they are more in favor of
14 having a subdistrict. They think that it will give
15 them representation that's closer to them.

16 CHAIRMAN DEVLIN: Representative Schauer.

17 REPRESENTATIVE SCHAUER: Thank you,
18 Mr. Chairman.

19 Representative Jones, thanks for being here
20 today. I hear your passion, but how do we get around
21 the numbers under the Voting Rights Act? How do we
22 get around the -- the race criteria that we have to
23 go by? I don't know if we -- if we challenge that in
24 court, do we think we're going to win when we ignore
25 legal advice? What are your thoughts on that?

1 REPRESENTATIVE JONES: Well, I apologize.
2 I'm not as well-versed in this as I should be, but
3 the numbers, what you were hearing in the discussion
4 earlier, on -- in the Fort Berthold Reservation,
5 we've got 5,000 Native Americans that are in that
6 reservation, in that boundary, and I don't know what
7 the threshold is or the number is, but I don't think
8 that it's going to get them to that point.

9 The formula that she's talking about, I
10 guess if you divided the total number to see if they
11 had a majority, you know, I would have to do that,
12 but I would fight this tooth and nail because where
13 is it going to end? Are we going to have people say,
14 Oh, well, now in New York City we've got groups here
15 where we've got enough Muslim people or we've got
16 enough black people or we've got enough women;
17 there's more women in this area than there is men.
18 We better divide that.

19 So, I mean, where does the division stop? I
20 say it stops here. And let's take it to whatever
21 court we have to, because what I'm seeing is a
22 fairness issue. How is it fair for this Districting
23 Committee or anybody in Washington, D.C., or anybody
24 in a court to say that two-thirds of the group in my
25 district that want to have two representatives can't

1 do it because we've got a small group in there that
2 thinks that they want special treatment?

3 CHAIRMAN DEVLIN: Further questions?

4 Representative Jones, when we prevailed in
5 the court case, I believe 10 years ago, but we had
6 this in court before, we prevailed because they could
7 not show that they would have half of the
8 subdistrict. That's the only reason we won in court.
9 Well, if -- when you look at the numbers now, they
10 would have half of it. The numbers would equal half
11 or more of the subdistrict. So do you think the
12 courts this time will just decide it differently? Is
13 that what you think, or --

14 REPRESENTATIVE JONES: I'd have to yield to
15 your expertise. I'm the new guy on the block. I
16 just know it bothers me. It bothers me, and it
17 bothers the constituents that are calling me.
18 They're saying, How is this fair? Because they have
19 every right, as a group, to bring their candidates
20 and to run them and to win the election. We've seen
21 it done in the recent past. They are not being
22 disenfranchised.

23 And it really kind of hurt my feelings when
24 they started saying they wanted better
25 representation. I said, How are they going to get

1 better than me? I'm a pretty good guy. And I do my
2 best to represent everybody fairly and equally. I
3 don't do what everybody wants me to do. If I
4 disagree with them -- I will fight like a tiger when
5 I think what they're doing is right, and I will put
6 them off if I don't think that they're after the
7 right thing, and I've done it whether they're on the
8 reservation or off.

9 CHAIRMAN DEVLIN: Further questions for
10 Representative Jones?

11 (No audible response.)

12 CHAIRMAN DEVLIN: Thank you for being here.

13 Claire or Emily or Samantha, does anybody
14 else have anything to add, to clarify as far as the
15 legal?

16 (No audible response.)

17 CHAIRMAN DEVLIN: Okay. Senator Holmberg
18 made a motion that we go -- that we've looked at the
19 subdistrict for these two particular areas in the
20 state, and it was seconded.

21 Is there any further discussion?

22 I'm sorry. Senator Poolman.

23 SENATOR POOLMAN: Well, Mr. Chairman, I plan
24 to support the motion. I think the members of this
25 Committee have worked very hard to be honest and

1 transparent, to try to follow county lines, to make
2 sure that we would not be subject to a lawsuit, and
3 so to be told by legal counsel that if we don't do
4 this we will be subject to a lawsuit, and to ignore
5 that advice I think throws out all of the other work
6 that we have tried in our transparency and in our
7 honesty and in our attempt to really make sure that
8 we do the right thing, and so I will be supporting
9 the motion because we've worked too hard to subject
10 ourselves to a lawsuit right now.

11 CHAIRMAN DEVLIN: Representative Headland.

12 REPRESENTATIVE HEADLAND: Thank you,
13 Mr. Chairman.

14 I guess I need to hear again legal counsel's
15 recommendation that we move to this, because I didn't
16 know that I heard that, but maybe it's just me.

17 CHAIRMAN DEVLIN: I don't know if legal
18 counsel made a recommendation. What legal counsel
19 did was explain what the law said and what the courts
20 have decided.

21 But, Claire, I don't want to put words in
22 your mouth. You can...

23 MS. NESS: Mr. Chairman and Representative
24 Headland.

25 That's absolutely correct. We haven't

1 provided a recommendation. We've provided the
2 thresholds that the courts have used for several
3 years. We've provided the populations so you could
4 compare those to the thresholds that the courts have
5 used. You know, I think what you're saying about the
6 numbers, the numbers are the numbers. That's just
7 sort of an objective fact, so -- but we have not
8 specifically recommended that the Committee divide
9 lines any particular way.

10 CHAIRMAN DEVLIN: Representative Bellew.

11 REPRESENTATIVE BELLEW: Thank you,
12 Mr. Chairman.

13 I probably will not support this motion
14 unless we can amend it to do 47 subdistricts. I
15 don't think it's right that in two subdistricts the
16 people get to vote for one representative -- or two
17 districts, while the other 45, we get to vote for
18 two, whether they be Republican or Democrat. And
19 it's just my opinion that everybody should be able to
20 vote for the same amount of representatives that the
21 rest of us do.

22 So with that, Mr. Chairman, like I say, I'm
23 not going to support this unless -- unless we do all
24 47 districts.

25 CHAIRMAN DEVLIN: Senator Oban.

1 SENATOR OBAN: Mr. Chairman, I have a
2 question for Senator Holmberg just because I'm -- I'm
3 aware that Grand Forks operates in wards, correct,
4 with your council? Can you explain how you feel, as
5 a Grand Forks resident, in who you vote for and how
6 you are represented as a city in Grand Forks? Do you
7 only get to vote for a Grand Forks city councilperson
8 in the ward in which you live?

9 SENATOR HOLMBERG: Yes. It's a difference
10 in Grand Forks. We have wards.

11 SENATOR OBAN: Right.

12 SENATOR HOLMBERG: I'm in the 5th Ward, so
13 we have a representative -- or a city councilman from
14 our ward. Our county, however, is not divided, so we
15 vote for three or however many are up at a particular
16 year, but we only vote for one, and there are seven
17 total in the city of Grand Forks.

18 SENATOR OBAN: And do you feel, as a Grand
19 Forks resident, that you can go to the other six -- I
20 mean, I just think how frequently I get contacted by
21 people who do not live in my district who I'm still
22 willing to help and respond to, much like probably
23 most of you on this Committee.

24 And -- and so I'm just -- I was trying to
25 find an example that exists right now in that it --

1 it is the same concept as wards.

2 SENATOR HOLMBERG: Okay. I would suggest
3 this: We do not live in a feudal system; we are all
4 in the same community, and clearly, if you have an
5 issue that you want to promote or -- or oppose, you
6 would go to as many of those city commissioners
7 that -- that you feel you can influence.

8 So I -- I don't see the wards in Grand Forks
9 as being some sort of barrier that causes me to have
10 to just talk to the person in the 5th Ward.

11 CHAIRMAN DEVLIN: Representative Lefor.

12 REPRESENTATIVE LEFOR: Thank you,
13 Mr. Chairman.

14 I guess I'd ask this question of Counsel.
15 We're talking about the Voting Rights Act. How many
16 states have enacted this already, and what -- are you
17 aware of court cases that you could cite to the
18 Committee and what the result was?

19 MS. NESS: Mr. Chairman and Representative
20 Lefor, Members of the Committee.

21 I don't have a number off the top of my head
22 for the number of states that have subdistricts. I
23 know many only have single-member districts. I'm not
24 sure how many have done majority-minority districts
25 based on the Voting Rights Act requirements. I can

1 look that up and see if we can find that. There have
2 been many, many cases on this, too.

3 So if the Committee would like, one of the
4 things we can do is just kind of highlight some of
5 the major ones for you and send it out in an email
6 this evening.

7 CHAIRMAN DEVLIN: So would the Committee
8 rather wait until all legal staff have time? I mean,
9 we have to deal with this today or tomorrow morning,
10 so -- or else we take the vote up or down. Take your
11 choice. Chairman's looking for direction.

12 UNIDENTIFIED SPEAKER: (Indiscernible.)

13 CHAIRMAN DEVLIN: It's been requested that
14 we wait until tomorrow.

15 UNIDENTIFIED SPEAKER: I don't care.

16 CHAIRMAN DEVLIN: Who seconded the motion?
17 So you withdraw the second? Okay.

18 We'll ask Council staff to bring some legal
19 research to us in the morning before we vote on this.
20 Okay?

21 REPRESENTATIVE LEFOR: Yes, Mr. Chairman, I
22 guess I would be interested in the statistics of this
23 happening in other states and what the result was.
24 Does this -- I do have a concern that I don't want
25 the courts to tell us where our lines need to be

1 drawn, but I'd like a little bit more background
2 information. Thank you.

3 CHAIRMAN DEVLIN: That is fine. That will
4 be provided.

5 Committee, before we break to allow Senator
6 Poolman and others to work on those two areas, I'm
7 going to have Council staff report on the
8 post-redistricting election schedule, and at least
9 you'll have that information to consider.

10 MS. NESS: Mr. Chairman and Members of the
11 Committee.

12 What you see in front of you is just a
13 preliminary list of the even-numbered districts, so
14 this is based on the map before our final changes
15 today.

16 And we are fortunate to have a wonderful IT
17 staff that was able to overlay the 2010 districts
18 onto the 2020 districts so that we could identify the
19 new geographic areas in all the even-numbered
20 districts that are included on that chart and then be
21 able to calculate the population in that new area.
22 And as you recall from our prior discussion, if that
23 number exceeds 25 percent under the current version
24 of the statute, then that would trigger a new
25 election in 2022.

1 Again, those are preliminary numbers.
2 They're not finalized. If there is a district on
3 there that does not have data, it's because we -- we
4 were not able to overlay it just yet, but we wanted
5 to give you some of those figures to take a look at.

6 In addition, there are five subsections in
7 that particular statute that talk about how we would
8 revise the election schedule based on redistricting,
9 so this is just one of those five.

10 I know there have been questions also about
11 what happens in other circumstances, and so if you
12 look at the statute as it currently exists, we can
13 update that for 2020.

14 SENATOR HOLMBERG: Mr. Chairman?

15 CHAIRMAN DEVLIN: Who said that?

16 SENATOR HOLMBERG: Oh, right here.

17 CHAIRMAN DEVLIN: Senator Holmberg. I'm
18 sorry.

19 SENATOR HOLMBERG: Sorry about that.

20 When one takes a quick look at it and looks
21 at current law, which used the -- from -- from last
22 time, which used a 25 percent change, it is
23 interesting because there is a huge break in the
24 middle of these districts. You have six districts,
25 by my count, that have over 33 percent change, and

1 then there are no districts for the next 10
2 percentage points down, and then you get down to
3 districts that have 23 percent.

4 So I remember 10 years ago we used a break
5 like that as kind of a point by which above this big
6 break they had to run again, below it they didn't
7 have to, but I'm -- I'm not making any suggestions or
8 anything, just that there is a -- a mathematical
9 break in the middle of this, from 23 to 33 percent.

10 CHAIRMAN DEVLIN: Claire, could you refresh
11 my memory on what the number is for 25 percent? Is
12 it four thousand one hundred and --

13 MS. NESS: Forty-four.

14 CHAIRMAN DEVLIN: -- forty-four people?

15 REPRESENTATIVE NATHE: Mr. Chairman --

16 CHAIRMAN DEVLIN: So the -- the follow-up,
17 then, is if your district got more than 4,144 new
18 people, you would have to run under this scenario --
19 of the 25 percent scenario. Correct?

20 MS. NESS: That's correct, if you're just
21 looking at the people in the new geographic area.

22 CHAIRMAN DEVLIN: Yeah. Okay.

23 Representative Nathe.

24 REPRESENTATIVE NATHE: Thank you,

25 Mr. Chairman.

1 If the Council and clerk, at the end of the
2 day, when we're done with this, could get us an
3 up-to-date one? I know you don't have 12 on here
4 because we took that up earlier today, but when we
5 get near -- after we approve everything, if we can
6 get a copy of that?

7 CHAIRMAN DEVLIN: (Indiscernible) their
8 Committee. The other thing that could, of course,
9 change this is District 26 has a new plan, I
10 understand, for the district and for the state of
11 North Dakota. We were hoping that that would come
12 last week, and when they got ahold of me yesterday, I
13 hoped that we would have that today, but they're
14 scheduled for 10 a.m. tomorrow morning, so just be
15 aware of it. There will be another plan presented.
16 And I believe -- my understanding is it will go
17 further than just District 26. It will be a
18 statewide plan. So that could -- that could change
19 something as well.

20 Senator Poolman, how long do you think it
21 will take? Half hour?

22 (Indiscernible conversation; microphones
23 turned off.)

24 CHAIRMAN DEVLIN: Huh?

25 SENATOR OBAN: (Indiscernible.)

1 (Indiscernible conversation; microphones
2 turned off.)

3 CHAIRMAN DEVLIN: Senator Oban said it would
4 just be just a moment, she would have it done. Is
5 that what I heard, or --

6 SENATOR OBAN: Yeah, I said it depends on if
7 they agree with me or not.

8 CHAIRMAN DEVLIN: Yeah. Well, there is that
9 minor issue.

10 (Indiscernible conversation; microphones
11 turned off.)

12 CHAIRMAN DEVLIN: Just you?

13 MS. THOMPSON: (Indiscernible) legal
14 (indiscernible).

15 CHAIRMAN DEVLIN: Okay. We -- there's
16 another legal tweak that probably should be made, and
17 Emily can explain, between District 22 and
18 District 27. Is that correct?

19 MS. THOMPSON: That's correct, Mr. Chairman.
20 This item was just something that came up when the
21 legal staff was merging all the maps that were
22 approved by motion as something we would like to get
23 the Committee's input on.

24 Currently, in District 27 and 22, on the
25 cover of your handout or, more specifically, in your

1 packets, if you want to flip to those, there is a
2 little bit of kind of a -- not a straight, per se,
3 boundary. If you look at the western side of
4 District 27 and the eastern side of District 22 and
5 if you go down to the city of Horace, there is a
6 portion that follows -- somewhat follows the city
7 boundaries. You can see in purple here, these are
8 the city boundaries of Horace, and -- except for one
9 part that pops in right there. So you can see you
10 have a little blue piece jutting out right here and
11 you have another kind of little dipped-in piece right
12 here, and I was just looking to follow up with the
13 Committee if you wanted to straighten that line out
14 and instead have that boundary track with -- it is 81
15 Street South, you can see that there, if that
16 follows.

17 SENATOR SORVAAG: Mr. Chairman, we're
18 following the Horace city limits line, so -- is what
19 we drew them on.

20 MS. THOMPSON: And that's what I wanted
21 to clarify, Mr. Chairman.

22 SENATOR SORVAAG: Because Fargo and Horace
23 did a lot of battling, and that's why you see the
24 jig-jagging going all over, but that was intentional
25 to follow the city limit lines of Horace.

1 MS. THOMPSON: Thank you, Mr. Chairman and
2 Senator Sorvaag.

3 I just wanted to clarify that to make sure
4 that that was intentional.

5 And then I guess just to clarify, we do have
6 one very small notch right here that is the city
7 boundary of Horace. Would you like me to modify that
8 so that is now 22 so it does track with that
9 boundary?

10 SENATOR SORVAAG: Mr. Chairman, that was a
11 mess.

12 MS. THOMPSON: Perfect. I just wanted to
13 clarify.

14 SENATOR SORVAAG: I don't think there's any
15 people there either, but...

16 CHAIRMAN DEVLIN: So you would like to make
17 that change?

18 SENATOR SORVAAG: Mr. Chairman, you know,
19 we -- we juggled all over the city lines, and we
20 didn't, but since Horace is a smaller-sized
21 community, it was purposeful, trying to follow the
22 city limits.

23 CHAIRMAN DEVLIN: Okay.

24 SENATOR SORVAAG: The Fargo-West Fargo, as
25 you can see, is --

1 CHAIRMAN DEVLIN: Yeah.

2 SENATOR SORVAAG: -- a zigzag, but we did it
3 intentionally; so, yeah, that was the intent, that
4 we'd follow the city border of Horace on both sides.

5 CHAIRMAN DEVLIN: So Council staff can make
6 that correction?

7 SENATOR SORVAAG: I'm comfortable with it if
8 there's no objection.

9 CHAIRMAN DEVLIN: Anybody object to that?

10 (No audible response.)

11 MS. THOMPSON: Mr. Chairman, I did have one
12 other question, also, in the Cass County area. If
13 you go all the way up to the top of Cass County --
14 and, again, this is just something Counsel wants to
15 verify, whether that was intentional or just
16 something that was missed.

17 Currently, in the map that was moved by
18 Committee, the city of Grandin, that's on the
19 Traill/Cass County border, there's a very small
20 sliver, and I don't believe there's any population in
21 that. Let me just verify.

22 SENATOR SORVAAG: Mr. Chairman, if I might,
23 that was on purpose. There's no population there.
24 You'll find the same thing on the west side of Tower
25 City. There's no population, but the city limits do

1 extend. And -- and that's kind -- and I did that
2 because there's no -- because presently I have the
3 same situation in Gardner, that the town extends
4 beyond, and they actually have people in it
5 (indiscernible), so it could be put in, I mean, but
6 it doesn't affect population. But it -- it was on
7 purpose, but it probably doesn't make sense. But if
8 we do it there, you better check Horace, because I
9 think their city limits extend west beyond the county
10 line, too, but there's no people.

11 MS. THOMPSON: Thank you.

12 Mr. Chairman, if I may? Senator Sorvaag?

13 CHAIRMAN DEVLIN: You may.

14 MS. THOMPSON: Yes, the city limits of
15 Grandin, that red highlighted sliver there, there are
16 no people, so if the Committee is comfortable
17 slightly deviating from the plan that was moved and
18 breaking that district line for District 45 and 20
19 right on the county border, if that sliver, that one
20 census block with no people, is included in
21 District 45, then that would result in Traill County
22 not being kept whole. There would be one very small
23 census block of Traill County that's in 45.

24 And just to inform the Committee, sometimes
25 with the county auditors having to do those extra

1 election paperworks for that one census block for
2 convenience purposes, and if the Committee wishes to
3 not split Traill County, then we'd want to make sure
4 that red census block was in 20 and not included in
5 45, which would be a deviation from what was moved.

6 CHAIRMAN DEVLIN: Senator Sorvaag.

7 SENATOR SORVAAG: The goal was to keep Cass
8 County whole, by itself. But you should check the
9 west side of Tower City and make sure I have that
10 right, too, because I think I left that --

11 CHAIRMAN DEVLIN: West side of Tower City?

12 SENATOR SORVAAG: Tower City. There's --
13 part of the city extends into Barnes, but there was
14 no people in it, so I think I left it in Barnes. I
15 think.

16 MS. THOMPSON: Mr. Chairman, Senator
17 Sorvaag.

18 Yes, that does follow the county line, so
19 the portion of Towner [sic] City on the western side
20 is in 24, not in 22.

21 SENATOR SORVAAG: But it has no population.

22 MS. THOMPSON: I believe so, but I'll
23 verify.

24 SENATOR SORVAAG: Yeah, because that was
25 intentional, to stay in the county lines.

1 CHAIRMAN DEVLIN: Senator Bekkedahl.

2 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

3 We -- I think we should respect the county
4 boundaries, most of all for the auditors, as we were
5 requested earlier.

6 The other area that we had something similar
7 to this was when the city of Max -- Highway 83
8 crossed through there. We kept some in District 4
9 and some in District 6. The Ward County auditor
10 said, Please keep them all at least in the same town,
11 so we kept them all in District 4, but that was
12 within a county --

13 CHAIRMAN DEVLIN: Yeah.

14 SENATOR BEKKEDAHL: -- bisected by a
15 highway.

16 So I would agree we want to keep the
17 counties whole here.

18 MS. THOMPSON: Thank you, Mr. Chairman.

19 And, yes, just to highlight, the red portion
20 on your screen, the western half of Towner [sic]
21 City, you're correct, no population, so...

22 There was also one more item, Enderlin.
23 Again, just a very, very small census block in 22;
24 rather than include all of the city boundaries in 24,
25 to let that remaining census block be split into 22,

1 again to respect those county boundaries, and that's
2 how it came to Counsel, just again verifying that
3 that's how you want those treated.

4 SENATOR SORVAAG: And, Mr. Chairman, there's
5 no population either.

6 MS. THOMPSON: That's correct.

7 SENATOR SORVAAG: So, I mean, they were
8 intentionally done that way, but...

9 CHAIRMAN DEVLIN: Am I to assume that
10 everybody's going to agree immediately with the
11 Senator on that, or do you need more than five
12 minutes?

13 SENATOR POOLMAN: Half an hour?

14 CHAIRMAN DEVLIN: Half an hour?

15 SENATOR SORVAAG: How about 2:20?

16 CHAIRMAN DEVLIN: How about 2:30? I'll be
17 very generous. 2:30.

18 Thank you, Senator.

19 We'll be in -- stand in break until 2:30.

20 (Recess taken.)

21 CHAIRMAN DEVLIN: Committee, we will come
22 back to order.

23 Senator Poolman.

24 SENATOR POOLMAN: Well, Mr. Chairman, we
25 ended up making a change that was brought to our

1 attention through the Burleigh County auditor. There
2 is a portion of Lincoln that has been annexed that we
3 did not know, and so it was in District 30, and so we
4 have placed it in District 8 with the rest of
5 Lincoln. That portion had about 440 people in it.

6 And so you'll notice that the map, when you
7 take a look at District 14, now comes even farther
8 down than it did in the map that I presented at the
9 beginning of our meeting today, and so District 14
10 comes well into Burleigh County, and District 8 now
11 is rural Bismarck, essentially, and Emmons County.
12 And so that's -- that's the change that we made
13 there.

14 I just straightened the line on District 7,
15 so the District 7 is the same as you saw it presented
16 this morning, so that that would just be straighter
17 in that area that just looks not great. So we just
18 straightened out that line right there. Yeah. She's
19 pointing everywhere perfectly. Yes, that's the line
20 that we straightened out, and as I said, we brought
21 in a number of townships into District 14 from
22 Burleigh County.

23 CHAIRMAN DEVLIN: So, Senator, there was no
24 change to either 33 or 6 in what you did now?

25 SENATOR POOLMAN: No changes in 33 or 6 in

1 what we did now.

2 CHAIRMAN DEVLIN: Okay.

3 SENATOR POOLMAN: The changes are in 30
4 because we removed that portion of Lincoln, and, of
5 course, in 8 because they lost that northern part of
6 Burleigh County and they gained that portion of
7 Lincoln, and District 14 gains all those townships in
8 Burleigh County.

9 CHAIRMAN DEVLIN: Questions from the
10 Committee?

11 Senator Holmberg.

12 SENATOR HOLMBERG: How many people in
13 Burleigh County did you have to put into 14? In
14 other words, what was their need? They needed folks
15 or --

16 SENATOR POOLMAN: They --

17 SENATOR HOLMBERG: -- (indiscernible) folks?

18 SENATOR POOLMAN: Okay. Yeah. Mr. Chairman
19 and Senator Holmberg.

20 It wasn't about 14 needing folks; it was
21 about 8 needing to shed folks. And so since we had
22 just pulled in 440 more people from the Lincoln area
23 to ensure that Lincoln stays whole, we had to -- I
24 can tell you that it was at least 440 people, right,
25 in those townships all combined, I would guess, in

1 order to make that work with the numbers with
2 District 8.

3 SENATOR HOLMBERG: And that, then, would
4 make a difference on the population changes that
5 would be reconfigured?

6 SENATOR POOLMAN: So District 14, they're as
7 accurate as you see it on the screen. If you'll
8 remember, this morning when we had District 14, it
9 was at a point something. It was -- it was very
10 close to the size, exact size.

11 SENATOR HOLMBERG: Or did they have them
12 before? In other words, are they new people to 14?
13 They are new people. Okay.

14 SENATOR POOLMAN: Yes.

15 UNIDENTIFIED SPEAKER: (Indiscernible.)

16 SENATOR HOLMBERG: Oh, okay.

17 Thank you, Mr. Chairman.

18 CHAIRMAN DEVLIN: Further questions?

19 Senator Klein, any thoughts on this?

20 SENATOR KLEIN: Well, certainly,
21 Mr. Chairman.

22 We continue to talk about expansion in the
23 rural areas. I can drive a long way now from --
24 leaving Bismarck and traveling a hundred miles to
25 home, and mostly in my district, but most of what

1 we're seeing was in 14. Back in -- probably for
2 the last -- the 20 years up to 2011 when that portion
3 of Burleigh went to 8, but we have served Wing,
4 Sterling, Driscoll, Menoken, but not -- and McKenzie,
5 but McKenzie is -- we had McKenzie but not -- we had
6 Menoken and McKenzie. Now we only have McKenzie. I
7 guess we just have to -- as we work this stuff out
8 and we -- now we're still within the 5 percent. It's
9 part of the map.

10 CHAIRMAN DEVLIN: Senator Bekkedahl.

11 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

12 Just a question for Senator Poolman. Was
13 the -- just so I'm clear, the change by Lincoln, was
14 that as -- was that as a result of an annexation by
15 Lincoln or by Bismarck?

16 SENATOR POOLMAN: By Lincoln.

17 SENATOR BEKKEDAHL: Okay.

18 CHAIRMAN DEVLIN: Senator Oban, did you have
19 something to add?

20 SENATOR OBAN: Mr. Chairman, I just, since I
21 was involved on the front end, want to be clear this
22 is nowhere near what I had proposed to fix. I don't
23 think this follows any logical lines. This was all
24 about protecting a party activist in a district, and
25 I think that is an insane principle to use.

1 So I -- I am enormously frustrated with how
2 the end process is happening, and I just wanted to
3 make it clear that I had no part in what this
4 proposal has become.

5 CHAIRMAN DEVLIN: I believe, Senator, you
6 made that perfectly clear, so...

7 Senator Poolman, were you going to move that
8 in a motion?

9 SENATOR POOLMAN: I would move this version
10 of the map and, as I said, the changes to 14, 30, and
11 8 and 7.

12 CHAIRMAN DEVLIN: Okay. Second?

13 REPRESENTATIVE SCHAUER: Second.

14 CHAIRMAN DEVLIN: Further discussion?

15 (No audible response.)

16 CHAIRMAN DEVLIN: Seeing none, you may poll
17 the Committee.

18 MS. THOMPSON: Chairman Devlin?

19 CHAIRMAN DEVLIN: Yes.

20 MS. THOMPSON: Representative Bellew?

21 REPRESENTATIVE BELLEW: Yes.

22 MS. THOMPSON: Representative Boschee?

23 REPRESENTATIVE BOSCHEE: No.

24 MS. THOMPSON: Representative Headland?

25 REPRESENTATIVE HEADLAND: Yes.

1 MS. THOMPSON: Representative Lefor?

2 REPRESENTATIVE LEFOR: Yes.

3 MS. THOMPSON: Representative Monson?

4 REPRESENTATIVE MONSON: Yes.

5 MS. THOMPSON: Representative Nathe?

6 REPRESENTATIVE NATHE: Yes.

7 MS. THOMPSON: Representative Schauer?

8 REPRESENTATIVE SCHAUER: Yes.

9 MS. THOMPSON: Senator Holmberg?

10 SENATOR HOLMBERG: Yes.

11 MS. THOMPSON: Senator Bekkedahl?

12 SENATOR BEKKEDAHL: Aye.

13 MS. THOMPSON: Senator Burckhard?

14 SENATOR BURCKHARD: Aye.

15 MS. THOMPSON: Senator Erbele?

16 SENATOR ERBELE: Aye.

17 MS. THOMPSON: Senator Klein?

18 SENATOR KLEIN: No.

19 MS. THOMPSON: Senator Oban?

20 SENATOR OBAN: No.

21 MS. THOMPSON: Senator Poolman?

22 SENATOR POOLMAN: Aye.

23 MS. THOMPSON: Senator Sorvaag?

24 SENATOR SORVAAG: Aye.

25 MS. THOMPSON: Mr. Chairman, the motion

1 carries.

2 CHAIRMAN DEVLIN: Thank you.

3 Is there any other districts still sitting
4 out there that we have to deal with before you can
5 put together a map for us to discuss tomorrow?

6 MS. THOMPSON: Mr. Chairman, no, there are
7 not.

8 CHAIRMAN DEVLIN: Representative --

9 REPRESENTATIVE LEFOR: Yes, I'll work with
10 Counsel to -- in regard to the population in
11 District 39 and possibly changing some district
12 numbers. I'll report back tomorrow.

13 CHAIRMAN DEVLIN: Committee, we did -- we
14 did get a notice of Mark Johnson who, remember --
15 many of you will remember, former chief clerk and
16 professor of political science, but in talking about
17 what Senator Holmberg said in -- in South Dakota,
18 South Dakota, the legislature did it in the '90s, and
19 then they -- and then they undid it 10 years later;
20 and then there was two Voting Rights Act cases filed,
21 a U.S. Justice one and an ACLU, and the federal court
22 ordered subdistricts at that point, so -- but -- and
23 that's the way they've left it all along.

24 Claire is going to at least bring you
25 some -- some court cases that have -- that this

1 subject has been part of that somebody asked for.

2 This list that you have will be updated once
3 the Council gets the -- gets all of the map
4 information in. It will also get a better idea of
5 what incumbents would have to run.

6 What else do we have that we've got to clean
7 up for tomorrow?

8 MS. THOMPSON: Mr. Chairman, Members of the
9 Committee.

10 For tomorrow we'll also be looking at some
11 final motions that the Committee will generally make,
12 potentially looking at some revised language in
13 Section 16.1-03-17. You discussed looking at
14 language for the state party to do those
15 reorganizations.

16 Also, again, updating the dates and voting
17 on that final threshold percentage for when
18 legislators have to run again.

19 Also, there's generally some bill language
20 placed to allow the Secretary of State to modify
21 election deadlines and procedures in the case there
22 might be some unforeseen delay in implementing the
23 redistricting of the new lines.

24 And so that will all be prepared by Counsel
25 and provided to the Committee for your consideration

1 along with, of course, the report that the Chairman
2 just noted on the number of split counties and any
3 final approved plan by the Committee and a summary of
4 any incumbent information as far as incumbents that
5 may be impacted.

6 CHAIRMAN DEVLIN: Senator Holmberg.

7 SENATOR HOLMBERG: That's okay. I pass.

8 CHAIRMAN DEVLIN: Committee, Emily mentioned
9 one thing that I haven't brought up to the Committee
10 yet, but -- and whether it comes up tomorrow or when
11 it comes up during a bill this session, but right now
12 there's a statute, and you can explain it, but it
13 essentially says that the -- the political parties
14 have to reorganize after redistricting.

15 Is that essentially what it says?

16 MS. THOMPSON: Pardon me. Turn the mic on.

17 Yes, Mr. Chairman. The statute at issue is
18 16.1-03-07 [sic]. It's "Political party
19 reorganization after redistricting." Essentially, if
20 redistricting becomes effective after the
21 organization of political parties and before the
22 primary or general election, the political parties in
23 those newly established precincts proceed to
24 reorganize as closely as possible in conformance with
25 the requirements of that chapter to assure compliance

1 with those primary election filing deadlines.

2 CHAIRMAN DEVLIN: So I guess my point in --
3 go ahead, Senator Holmberg.

4 SENATOR HOLMBERG: No, I just finally
5 remembered what I was going to ask.

6 Was there flexibility in the statute you're
7 looking at regarding the counties and their
8 requirements under the law to have their voting
9 districts or precincts done by the December 31st, I
10 think it is, or something like that?

11 CHAIRMAN DEVLIN: Claire.

12 MS. NESS: Yeah. Mr. Chairman, Senator
13 Holmberg.

14 So are you talking about the reorganization?

15 SENATOR HOLMBERG: No. I'm talking about
16 the -- the counties have to certify, do --

17 MS. NESS: Uh-huh.

18 SENATOR HOLMBERG: -- they not, to the State
19 by the end of the year what their voting areas are
20 going to be?

21 MS. NESS: Oh. So my understanding is
22 they're sort of chomping at the bit, waiting for the
23 redistricting proposal to be finalized and then be
24 able to work on it; so it would depend on the
25 effective date of the bill that would finally go

1 through, which can be whatever the legislative
2 assembly wishes it to be, and then they're going to
3 have to work quickly to make that happen.

4 SENATOR HOLMBERG: Okay.

5 CHAIRMAN DEVLIN: The other question that
6 I've had a problem with that -- you know, and like I
7 said, I'm not sure we should discuss it here or just
8 discuss it in a separate bill, but I really don't
9 understand why the legislature is telling political
10 parties that they have to reorganize after
11 redistricting. I mean, they're private political
12 parties. I don't see any reason in the world that
13 the State should be involved in telling them. I
14 think the law should just say that the Executive
15 Committee or whatever it is in the parties can
16 reorganize after redistricting if they wish. In some
17 districts, they'll need to do that, and some they
18 won't, but just to make every district reorganize, to
19 me, makes no sense. I don't know why the State
20 should be telling them to do that. I think that's up
21 to the parties.

22 But oftentimes I'm a minority of one, you
23 know, so it's -- you know, it could happen, but I
24 just wanted to bring that up before. You can think
25 about it overnight, but I really don't -- don't

1 understand why we should be telling them to
2 reorganize. That should be up to them.

3 Representative Schauer.

4 REPRESENTATIVE SCHAUER: Thank you,
5 Mr. Chairman.

6 I just want to say I totally agree with you.
7 What is the process to have that changed?

8 CHAIRMAN DEVLIN: Well, Representative
9 Schauer, as I understand it, we could repeal a
10 section of law, and then it would just be done, but I
11 think we have to take it a step further. I think we
12 need to leave it to the state party, because if you
13 just repeal it, then, you know, every district or
14 whatever may think they need to reorganize. I think
15 we should, if that's what we want to do, take the
16 State out of it, just tell the parties to do it, then
17 I think we should clarify that the state political
18 party may reorganize after redistricting or at any
19 time they so desire, because I really believe that's
20 where it should be. But we will -- you can think
21 about it, and we'll talk about it tomorrow.

22 What else -- staff, what else do we need to
23 do? I know that you're going to put all the map
24 together, all the changes and everything. We'll have
25 the District 26 one tomorrow morning. So we really

1 can't, you know, finish some of it until we have an
2 opportunity to look at their map, but I think you
3 pretty well covered everything.

4 We'll have to decide on the 25 percent and
5 those four or five other legal issues, but I don't --
6 timewise, that should not take us very long. But,
7 you know, I -- I want to give District 26 and the
8 legislators from that district ample time to present
9 their plan, so -- and they couldn't be here before
10 10 o'clock tomorrow, otherwise I would have had them
11 on today.

12 Committee, is there anything else you would
13 like to do today before I let you break early, which
14 you seem to always enjoy?

15 REPRESENTATIVE NATHE: (Indiscernible.)

16 CHAIRMAN DEVLIN: Representative Nathe.

17 REPRESENTATIVE NATHE: I've got one
18 question, maybe for Counsel or for Representative --
19 for Senator Holmberg, in regards to subdistricts.

20 So when Wisconsin's map was taken over by
21 the feds and they drew it, did they just draw the
22 subdistrict, or did they mess around with all the
23 other districts in the state?

24 MS. NESS: Mr. Chairman and Representative
25 Nathe.

1 I'll take a look tonight and see what we can
2 find out.

3 REPRESENTATIVE NATHE: Okay. Thank you.

4 CHAIRMAN DEVLIN: Anything else, Committee?

5 (No audible response.)

6 CHAIRMAN DEVLIN: We will stand in recess
7 until 9 a.m. We will be back down in the Rough Rider
8 Room at that time.

9 I apologize. Before I do that, was there
10 any -- I know Representative Jones spoke. Was there
11 anybody here today that wanted to speak on this
12 issue? I didn't see anybody else, so...

13 Okay. We'll stand in recess until 9 a.m.
14 tomorrow morning.

15 (End of tape.)

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REDISTRICTING COMMITTEE

Wednesday, September 29, 2021
Rough Rider Room, State Capitol
Bismarck, North Dakota

(Transcription of Videotape)

Members Present:

Representative Bill Devlin, Chairman
Representative Larry Bellew
Representative Joshua A. Boschee
Representative Craig Headland
Representative Mike Lefor
Representative David Monson
Representative Mike Nathe
Representative Austen Schauer
Senator Brad Bekkedahl
Senator Randy A. Burckhard
Senator Robert Erbele
Senator Ray Holmberg
Senator Jerry Klein
Senator Erin Oban
Senator Nicole Poolman
Senator Ronald Sorvaag



1 (Beginning of tape.)

2 CHAIRMAN DEVLIN: We will call the
3 Redistricting Committee back to order.

4 Emily, would you take roll, please, or don't
5 we need to take roll today? Okay. Okay.

6 Committee, yesterday we -- as you know, we
7 got done early and I let everybody go, but I
8 neglected to look at the schedule, that there was a
9 slot for public testimony yesterday afternoon, and
10 there was a person that came and wanted to testify.
11 Lisa DeVille is from the Mandan Tribe, if I remember,
12 but I -- so we brought her in. She's going to
13 present first on a Teams thing.

14 I'm sorry. It was my fault that it
15 happened, and we would be very happy to hear you now,
16 so...

17 Is she ready?

18 MS. THOMPSON: (Indiscernible) on the line.

19 CHAIRMAN DEVLIN: Huh?

20 LISA DEVILLE: Good morning.

21 CHAIRMAN DEVLIN: Good morning.

22 LISA DEVILLE: Can you hear me?

23 CHAIRMAN DEVLIN: Yes, we can.

24 LISA DEVILLE: Okay. Thank you.

25 SENATOR HOLMBERG: Is she just visual, or

1 (indiscernible)?

2 CHAIRMAN DEVLIN: We don't see you. Is the
3 camera on? We're just going to have audio? Just
4 audio. You're fine. You can go ahead. And your
5 testimony has been handed out, but we welcome you to
6 present to the Committee.

7 LISA DEVILLE: Okay. Thank you.

8 My name is Lisa DeVille, and I'm a citizen
9 of the Mandan, Hidatsa and Arikara Nation on Fort
10 Berthold here. I grew up in Mandaree where I and my
11 family are lifelong residents of our ancestral lands.
12 And I thank you for the opportunity to testify today.

13 The Mandan, Hidatsa and Arikara Nation is a
14 federally recognized tribe in the state of North
15 Dakota, located in the counties of Dunn, Mountrail,
16 McKenzie, and Mercer, Ward -- Ward, and McLean.

17 The Mandan, Hidatsa and Arikara Nation is a
18 sovereign nation governed by its Tribal Business
19 Council. We have an enrollment of nearly 17,000
20 members. Under the 2020 census, the population on
21 the reservation was 8,350. The total population in
22 North Dakota increased overall between 2010 and 2020
23 from 672,591 residents to 779,094, representing a
24 15.8 percent increase.

25 The Native American population outpaced the

1 state and grew by 29.7 percent in the last decade.

2 The Fort Berthold Reservation is within
3 North Dakota State District 4, which elects members
4 to the State House at-large and one member to the
5 Senate.

6 Currently, District 4 is represented by
7 three Republicans: Senator Jordan Kannianen,
8 Representative Clayton Fegley, and Representative
9 Terry B. Jones.

10 Prior to the 2016 election, the district had
11 a Democratic senator and one Democratic
12 representative for several years. And in 2020, I
13 challenged Senator Kannianen and, unfortunately, was
14 not able to be elected even though portions of the
15 district on the reservation strongly supported myself
16 and the House of Representative candidate Thomasina
17 Mandan.

18 Every decade new district lines are drawn
19 that give each of our votes equal weight, each of our
20 voices equal stature, and each of our communities
21 equal resources.

22 Voters pick our leaders, and our leaders
23 should not pick their voters.

24 To determine how we will be represented and
25 how funds for schools, hospitals, and other essential

1 services will be -- will be allocated, we need
2 legislators that work with tribal citizens as well as
3 government.

4 Representation at state, county, and federal
5 level is not all about oil and gas. We -- we Native
6 American/Indigenous people have our own voice. The
7 non-Natives have been speaking for us since they
8 landed here.

9 And recently I gave a short comment on
10 redistricting during the North Dakota and the Mandan,
11 Hidatsa and Arikara Nation's Tribal Relations
12 meeting, and I -- I support limitation of
13 subdistricts. We need to be at the table when
14 decisions are being made that impact our lives and
15 possibly the lives of our future generations.

16 There should be no assumption that
17 North Dakota knows what is best for us Indigenous
18 people when our culture, tradition, and beliefs are
19 different and often not taken into account when
20 decisions are made.

21 So, again, we need to be at the table, and
22 we need fair representation in North Dakota.

23 Maacagiraac, and thank you for this
24 opportunity to speak to you.

25 CHAIRMAN DEVLIN: Thank you.

1 Are there questions for Lisa?

2 (No audible response.)

3 CHAIRMAN DEVLIN: Seeing none, thank you.
4 And again, I apologize for your coming in yesterday
5 and we'd already dismissed for the day. That was the
6 Chairman's fault, and I sincerely apologize. But
7 thank you for making time this morning to present to
8 us.

9 LISA DEVILLE: Yes. And thank you. And
10 that's -- that's okay. Thank you.

11 CHAIRMAN DEVLIN: Okay. Thank you.

12 Representative Jones would like another
13 opportunity to present briefly this morning, and I
14 told him that he could do that before we made any
15 discussions on subdistricts.

16 REPRESENTATIVE JONES: Thank you,
17 Mr. Chairman, Members of the Committee.

18 For the record, my name is Terry Jones, from
19 District 4. And there was a comment made yesterday
20 that I was passionate about this. And I was not
21 planning on coming back, but on the way home one of
22 my most vocal constituents got ahold of me and made
23 my passion look like my fire had gone out. And he
24 asked me to please come back and appeal to the
25 Committee based on the fact that the Tribes already

1 have good representation in North Dakota.

2 The Court, as -- as I understand it in
3 listening to his argument, we had a court case here
4 10 years ago, and I apologize that I'm not as
5 familiar with it as I should be, but the question
6 before the Court is: Do we have a group of people
7 that are not equally treated under the law or the
8 legislature? And if the answer is yes, then they
9 turn to looking at the numbers. Do they have enough
10 numbers to create a subdistrict?

11 The Chairman asked me yesterday, How do you
12 get around the numbers? Because the numbers are
13 rising on the reservation, justifying the existence
14 of a subdistrict. The way that I would suggest that
15 you get around that number is by looking at the
16 question in its totality. The question, again, is:
17 Is there a group of people that are not properly
18 represented and have representation and service from
19 the legislature? The answer to that question, in my
20 opinion, is no.

21 If you look at the performance of the
22 legislature in the last 10 years, they -- and I'm in
23 the Judiciary Committee. We have done a lot of bills
24 dealing with Native issues. We have had the Governor
25 on the task force working with the Native Americans.

1 We have had great communication, great cooperation,
2 and they have had very good representation in
3 North Dakota.

4 In all the meetings they've been invited,
5 they have had every opportunity to be active in and
6 participate in the legislative process, and so they
7 are being treated fairly and equitably by the
8 legislature; and so then that never gets you to the
9 question of the numbers because if there's not a
10 group that is not being equally treated, then you
11 never look at the numbers to see where the numbers
12 are.

13 And so I would hope that this Committee
14 would consider the fact and -- and take -- have a
15 little faith in the legislators' past performance in
16 the 10 years that we've had since that last lawsuit,
17 and I would expect that if they look into it, they're
18 going to find that there is not a group that is being
19 unfairly treated under our laws here in North Dakota;
20 therefore, we never have a question about the
21 numbers.

22 I don't know how you can get better
23 representation in Number 4, District Number 4, than
24 Clayton Fegley and myself. The people of District 4
25 voted overwhelmingly for us to represent them, and I

1 would ask what business anyone has to change the game
2 for those people that voted for us.

3 If it's going to be done, I would hope that
4 it would be done by the courts and not by the
5 legislative body, because I -- I have full faith in
6 our performance in making sure that we're treating
7 the Native American population in District 4 fairly
8 and equitably and they have adequate representation.

9 That's all I have, Mr. Chairman.

10 CHAIRMAN DEVLIN: Thank you, Representative
11 Jones.

12 Is there any questions?

13 Representative Schauer.

14 REPRESENTATIVE SCHAUER: Thank you,
15 Mr. Chairman.

16 Representative Jones, thank you for coming
17 back. I think the word "fair" is very difficult to
18 determine. We just heard from Lisa DeVille saying
19 that she wanted fair representation; we just heard
20 from you that they have received fair representation.
21 So how does this Committee legally put fair ahead of
22 the actual numbers, which is -- which are the legal
23 guidelines that we have on the census process?

24 REPRESENTATIVE JONES: The question of fair?
25 I don't know how to define what "fair representation"

1 is.

2 I was duly elected by the majority of the
3 people in the district, and I have made it a
4 particular point to make sure that I gave -- Lisa
5 DeVille and I have had several communications back
6 and forth. Some of the things that she's asked me to
7 do, I've said, Thank you. I absolutely disagree with
8 you on that one. If it's been something that I agree
9 with, then I promote it and push it.

10 She has as good of representation as anybody
11 possibly can in North Dakota, and so I would
12 challenge her or anyone else to define what she means
13 by "fair representation."

14 I think that it's our responsibility in the
15 legislature and I think it's the courts'
16 responsibility to make sure we have equal opportunity
17 for representation, not create a situation where we
18 have preferential representation.

19 What they have now, in my opinion, is -- as
20 North Dakota citizens, they have as good of
21 representation as anyone else, and according to my
22 constituents, they get a lot more consideration than
23 normal residents of North Dakota.

24 But for us, especially for this Committee,
25 to make a decision and recommend that we have a

1 subdistrict that would be questionable whether there
2 would be any more fairness to the representation or
3 any more -- to make it any better, but the one thing
4 that is certain, if you do make that recommendation,
5 70 percent of the -- the members in my district will
6 be adversely impacted.

7 You're going to have the -- Subdistrict B is
8 going to only be able to have one representative
9 representing them, so in their opinion, that's a
10 negative impact.

11 Subdistrict A, which would include the
12 reservation, you're going to have 60 percent of the
13 reservation, that are on the reservation, that are
14 Native in -- in their -- in their numbers.
15 40 percent of the -- the people in that reservation
16 are non-Native. That's the one that got ahold of me
17 yesterday and was absolutely brutal in the way he
18 discussed this topic. He -- he does not want to be
19 put in a separate category where he only has one
20 representative.

21 He does not want to have preferential
22 treatment giving -- given to the Native Americans in
23 our district, and he asked me to please bring that
24 message back to this Committee and ask for your help
25 to keep the representation in District 4 fair and

1 equitable for everyone in District 4. Whether you're
2 on the reservation or off, everyone has the right to
3 fair and equal treatment under the laws.

4 CHAIRMAN DEVLIN: Further questions for
5 Representative Jones?

6 Senator Klein.

7 SENATOR KLEIN: Mr. Chairman.

8 You know, I'm certainly not a fan of this
9 subdistricting, but we have heard from any number of
10 the Tribes. I've asked the question, Are we not --
11 are you not being represented by your -- your
12 individual legislators who -- who are there for you?

13 And as citizens of North Dakota, I think we
14 represent everyone. But I -- I don't -- you know, my
15 bigger concern is -- if we don't do this, is -- and
16 the courts say, Hey, you know what? It looks like
17 District 14 is -- is pretty spread. Maybe we need
18 subdistrict in District 14, also.

19 Do we -- are we inviting -- my concern is
20 we're inviting the courts to come in and not only
21 meddle -- well, yeah, they're meddling with what --
22 the opportunity that we have set forth here, but is
23 fairness going to be one of their criteria? I think
24 we've treated everybody fairly, but I don't -- it
25 doesn't sound like that's going to be one of the

1 criteria. They're going to be saying, We don't care
2 that you have done a great job. We see that there's
3 9,000 or 8,000 or whatever, and -- and you are
4 disenfranchising that under the Voting Act of -- I
5 guess we've been hearing from Counsel on a lot of
6 these issues.

7 That's where my struggle is. I -- you know,
8 I -- I don't know where to go with this, but I -- I
9 see that if they become involved, and we know that
10 organizations and groups throughout the country have
11 become a lot more involved in a lot of local things
12 that we used to take for granted, are we asking
13 for -- for -- for some problems that we didn't want?
14 We've got to be careful what we're wishing for.

15 REPRESENTATIVE JONES: We might get it.

16 CHAIRMAN DEVLIN: Representative Jones.

17 REPRESENTATIVE JONES: Thank you,
18 Mr. Chairman.

19 Senator Klein, I can assure you that the --
20 the Tribes have good representation. They cannot
21 come in here and say that they're disenfranchised.

22 This is a refrigerator magnet. When I was
23 campaigning, I handed these out. We went to every
24 community on the reservations and handed these to
25 every house that would open their door for us and

1 asked them to please put this on their refrigerator
2 so they had all three of our phone numbers, our
3 emails, and every other way to get ahold of us so
4 that if they had issues or questions that we could
5 deal with on -- in state government, we wanted them
6 to know that we cared about them and we wanted to
7 give them direct access to us, so that they knew how
8 to get ahold of us.

9 The recent speaker here, Lisa DeVille, said
10 she wants to be at the table. There's nothing
11 stopping anyone from being at the table. They have
12 every right that every other citizen in North Dakota
13 has.

14 A court cannot establish that they are
15 disenfranchised through the system we have. Right
16 now, they have the same representation that anyone
17 else in North Dakota has. They've got two
18 representatives, and they've got one senator. In the
19 recent past, they had -- Don Charging was a
20 Republican that represented them. You know, there's
21 elections; they've got a big group of people. If
22 they want to win the election, they can run
23 candidates and win the election so that the people in
24 the district are properly represented.

25 To ask this Committee to create a

1 subdistrict based on, basically, race, in my opinion,
2 is outside of the bounds.

3 If it's going to be forced on North Dakota
4 by the courts, I think we will be able to handle
5 ourselves very well based on the performance that
6 we've had the last 10 years working with the Tribe
7 and Tribal Relations, all the bills that we've passed
8 through the Judiciary Committee and all the others,
9 to make sure that they're treated fairly and
10 equitably in North Dakota.

11 I don't think fear has to be what makes this
12 decision. I think the burden of proof should be put
13 on them to show how they are not fairly and equitably
14 treated and not take this step of having this
15 Committee make that decision and for sure go against
16 70 percent of my constituents' wishes to be treated
17 like everybody else in the state.

18 CHAIRMAN DEVLIN: Anyone else?

19 (No audible response.)

20 CHAIRMAN DEVLIN: Seeing none, thank you for
21 coming back.

22 REPRESENTATIVE JONES: Thank you,
23 Mr. Chairman. Thank you, Committee. And thank you
24 for your hard work. I'm coming in here -- I
25 apologize. You guys are -- are doing the hard work,

1 and I have no clue all of the stuff you've been
2 doing, and I don't mean to discredit that in any way.
3 I appreciate the work you're doing.

4 CHAIRMAN DEVLIN: I believe -- and I may
5 stand to be corrected, but I believe it was
6 Representative Lefor yesterday that asked if Council
7 staff could prepare some history nationwide on these
8 type of court cases, and I think Claire is ready with
9 that presentation.

10 Is that correct?

11 MS. NESS: Mr. Chairman and Members of the
12 Committee.

13 Last night you received a rather lengthy
14 email from me, and I won't go through all of it
15 because that would -- that would probably not be of
16 total interest to everybody, but what I wanted to let
17 you know is that I did reach out to NCSL and asked
18 them for that data on how many states or political
19 subdivisions have created majority-minority districts
20 or split multi-member districts into single-member
21 districts as a result of looking at a VRA, or Voting
22 Rights Act, analysis. And it's tricky because a lot
23 of states do that, but we don't always know the
24 reason why, and there is not a centralized database
25 of that anywhere. And so the gentleman from NCSL who

1 spoke with us at the beginning of the Committee's
2 work said that's a question that they've asked;
3 they've actually submitted FOIA requests to the
4 Department of Justice, but it looks like the feds and
5 the states do not keep records of that number.

6 So then the other question was, you know,
7 how many cases are there where the Voting Rights Act
8 has been litigated? And I did a quick Westlaw
9 search, and there are hundreds, which is not at all
10 surprising. Not only can individual private
11 plaintiffs bring these cases, but the Department of
12 Justice can and has brought these cases, so I sent
13 you a screenshot of the Department of Justice's
14 website where they list some of the cases that they
15 have brought. And, again, these are not always
16 directed at states. A lot of times they're directed
17 at cities or counties or other political subdivisions
18 based on the way that they allocate their voting and
19 their representation.

20 Then I also just picked a few of the cases
21 that are some of the most cited cases in this Voting
22 Rights Act area of litigation. I gave a little bit
23 of background on the *Thornburg v. Gingles* case, which
24 is that one that we refer to all the time about the
25 *Gingles* preconditions, and that case is the one where

1 there were multi-member districts, five of them, in
2 North Carolina back in the '80s, and the federal
3 court said that those were not proper because they
4 diluted the black vote in North Carolina in the way
5 of -- they -- they cracked that vote, and then they
6 also diluted the vote by having that majority white
7 vote in those multi-member districts act as a bloc of
8 the black vote.

9 So even though if they had single-member
10 districts, there was a very, very lengthy and
11 detailed statistical analysis that showed that the
12 black vote in a single-member district would probably
13 lead to them having a candidate of choice elected,
14 and then the -- the North Carolina state legislature
15 had not drawn the boundaries that way.

16 This went all the way up to the Supreme
17 Court, and the Supreme Court agreed and said that the
18 multi-member districts impair the ability of blacks
19 to elect representatives of their choice, where the
20 black vote is sufficiently done as a bloc, and could
21 elect a member of their choice in a single-member
22 district, and so in that case, the courts required
23 the state to have the single-member districts.

24 And, again, these cases go on for years, and
25 they do have a lot of statistical analysis; so you

1 will see the procedural history of these cases
2 bounces back from the trial courts to the appellate
3 court, back down to the trial court, back up to the
4 appellate court, and then sometimes up to the Supreme
5 Court, and so that's why you see the -- the years on
6 some of these cases are in the middle of a decade,
7 because they start at the beginning of the decade and
8 take years to finish.

9 Another case I mentioned was the *League of*
10 *United Latin American Citizens v. Perry*. That was
11 in 2006. And that is one where the United States
12 Supreme Court said that Texas -- Texas had a mid- --
13 excuse me -- a mid-decade redistricting plan that
14 diluted the Latino vote.

15 They had, in Texas, created a -- what was
16 basically a majority-minority district that allowed
17 the Latinos to elect a candidate of choice, and the
18 Republicans had redrawn that district in the -- in
19 2003 to protect an incumbent who had become
20 increasingly unpopular with the Latino voters. So
21 they had basically taken away that majority-minority
22 district, created a different one that didn't keep
23 communities of interest within the Latino community
24 together, and the Court said that that was improper.
25 They couldn't break up this majority-minority

1 district that had been in existence because they
2 found those three *Gingles* preconditions were in
3 effect.

4 And again, these cases, they apply those
5 preconditions, they see that those have been met, and
6 then they look at those Senate Factors that we have
7 presented to you to look at the totality of the
8 circumstances to decide these cases. So that slide
9 that you received with the preconditions and the
10 Senate Factors, the courts are using those when
11 they're doing their analysis in these cases.

12 The third case that I mentioned was
13 *Bone Shirt v. Hazeltine*. Again, this is a really
14 complicated case that bounced all over the place. It
15 ended up in the Eighth Circuit Court of Appeals,
16 which is the federal court of appeals that
17 North Dakota cases would go to as well.

18 This was about a South Dakota redistricting
19 plan. Again, this involved packing too many Native
20 American voters into one district, which would dilute
21 their vote. I think it was something like 86 percent
22 of that one district was Native American, and the
23 Court said, No, you need to -- you can't pack all the
24 Native Americans into one gerrymandered district to
25 give them, essentially, representation of -- by one

1 legislator when, in fact, they could be spread out
2 among other districts to have more than one
3 representative.

4 And the thresholds in that case were kind of
5 interesting. The Court ended up drawing the lines
6 and created a subdistrict with about 75 percent
7 Native American and another district with about
8 65 percent Native American vote.

9 So if you have any questions, I'd be happy
10 to go over them. I know that's a lot of federal law
11 in a kind of quick and condensed version. There's a
12 lot more to these cases, but I'm happy to provide as
13 much detail as you want.

14 CHAIRMAN DEVLIN: Representative Headland.

15 REPRESENTATIVE HEADLAND: Thank you,
16 Mr. Chairman.

17 Claire, in any of those cases where there
18 were certain districts in question, did the courts
19 expand it to a statewide question? I think you
20 referenced five -- five districts in the *Gingles*
21 case.

22 MS. NESS: Uh-huh.

23 REPRESENTATIVE HEADLAND: And I think I
24 heard you say something about they mandated it
25 statewide then, the subdistricts, but I -- I just

1 need clarification.

2 MS. NESS: Mr. Chairman and Representative
3 Headland, Members of the Committee.

4 So in that case, there were five
5 multi-member districts that were then turned into
6 single-member districts. That wasn't the whole
7 state. However, courts will frequently do a whole
8 state. That's not uncommon for a court to basically
9 say, Okay. You guys have done this in a way that we
10 find to be improper. We're going to do it for you.

11 These cases are all extremely fact-specific,
12 too. It's hard to extrapolate from one case to
13 another outside some general principles, but that
14 scenario does happen.

15 CHAIRMAN DEVLIN: Representative Nathe.

16 REPRESENTATIVE NATHE: Thank you,
17 Mr. Chairman.

18 So, Claire, it kind of leads to the question
19 I had yesterday. So say if we -- say we don't do
20 subdistricts, we get sued, and the courts say, Okay.
21 We're going to do it. Will they go outside of just
22 the reservation? Will they redo the whole state?

23 MS. NESS: Mr. Chairman, Representative
24 Nathe, Members of the Committee.

25 They could. It's very hard to predict what

1 a court will do. That is -- that is within the
2 purview of courts.

3 CHAIRMAN DEVLIN: Oh, wait. Senator
4 Bekkedahl.

5 SENATOR BEKKEDAHL: Hey, Mr. Chairman and
6 Claire.

7 What's the redress while all this is going
8 through the legal process? So if we did something
9 that the courts took issue with, there was a court --
10 there was a suit filed, courts take issue. One was
11 mentioned of being settled in 2006 in its finality,
12 started about 2000. What happens in all those
13 election cycles between then? Is there -- does the
14 Court put in abeyance what you do and mandate
15 something different in the interim, or do you just go
16 with what we passed that's under challenge until it's
17 overturned?

18 MS. NESS: Mr. Chairman, Senator Bekkedahl,
19 Members of the Committee.

20 The Court will sometimes say you need to
21 either go back to lines that previously existed or
22 they'll put in a temporary fix, but, yes, that is
23 something that gets resolved through litigation.

24 SENATOR BEKKEDAHL: Thank you, Mr. Chairman.

25 Then this is for my information more than

1 anything, but the term "gerrymandering," does that
2 refer to the configuration of the boundaries of a
3 district not being compact, or does it refer to a
4 population statistic not being compact? Is it both
5 or one or the other?

6 MS. NESS: Mr. Chairman, Senator Bekkedahl,
7 Members of the Committee.

8 I apologize for using that term. It's
9 really -- it's kind of in the eye of the beholder.
10 Gerrymandering can refer to a lot of different
11 things. The typical way is when you draw something
12 that is not compact for a particular purpose, but
13 it -- it's not a legal term that I would normally
14 have used, so...

15 In this case, it had to do with taking
16 two -- when I used the term, it was when they had
17 taken two geographically distinct and different
18 communities of interest within the Latino population
19 and drew the line to connect them into one district.

20 CHAIRMAN DEVLIN: Senator Holmberg.

21 SENATOR HOLMBERG: Yeah, Claire was
22 absolutely correct. The use of that particular term
23 would sometimes be viewed as a pejorative term. It's
24 subjective. If you're happy, there was no
25 gerrymandering. If you're unhappy, clearly you label

1 it gerrymandering.

2 But I think the other thing that you have to
3 keep in mind is that since the Voting Rights Act,
4 many states -- prior to that, 20 states had what we
5 have, which was multi-senatorial -- multi-districts,
6 where you would have, you know, one senator and two
7 representatives. They had that multi thing. Since
8 that, all of the southern states went to
9 single-member districts as have, since that time,
10 Alaska, Hawaii, Nevada, Indiana, and Illinois, which
11 adds up to close to the 20. There's only a handful
12 of states that have our system, which I support. I
13 like our system: One senator, two representatives.

14 But I believe you would find that if you
15 look at the totality of the -- of the thing, the
16 courts do not like multi-districts. In fact, I was
17 in a multi-district in Grand Forks in 1975 when the
18 Court stepped in and said, You cannot have
19 multi-senatorial districts, and they drew the lines.
20 Actually, they followed the lines of -- I think it
21 was the Dobson Plan back then.

22 Anyway, so Grand Forks, which had four
23 senators and 12 representatives, all of a sudden had
24 four senatorial districts. And the good thing for
25 those of us who were budding politicians, all of the

1 senators lived in the southeast corner of the city,
2 and then there was wide open, the rest of it. But
3 the courts, at least I believe, historically don't
4 like that particular system.

5 And we have spent a lot of time, and I think
6 it's appropriate time, talking about the legal issues
7 involved here, and there's just a lot of information.
8 But there are also people who look beyond just that,
9 and I have come to believe that, you know, doing this
10 is doing the right thing. I mean, yes, there's the
11 legal arguments, the legal issues, et cetera, but
12 doing the subdividing I think is the right thing to
13 do in our relationships with our Native populations.

14 But I just wanted to add that because we do
15 use the term "gerrymandering," and I used it when I
16 saw part of the plan that Representative Boschee had,
17 and I said, Oh, that's gerrymandering me, but that's
18 fine. But it is a very subjective term.

19 CHAIRMAN DEVLIN: Okay. Representative
20 Schauer.

21 REPRESENTATIVE SCHAUER: Thank you,
22 Mr. Chairman.

23 Claire, I assume you've done your analysis
24 of District 4 and District 9; so, in your opinion, if
25 we subdistrict, will that decrease our chances of a

1 lawsuit, and if we did not subdistrict, would that
2 increase our chances of a lawsuit and increase our
3 chances of losing a lawsuit?

4 MS. NESS: Mr. Chairman, Representative
5 Schauer, Members of the Committee.

6 That is an incredibly difficult question to
7 answer because it is really hard to predict. I think
8 we've heard some comments about this issue. You
9 know, this Committee has been looking at things like
10 county lines and keeping subdistricts whole. I think
11 that's part of this conversation as well; looking at
12 communities of interest, trying to keep them whole,
13 and that's been part of this conversation, too.

14 There is not -- there is not a foolproof way
15 to prevent litigation, and it is almost impossible to
16 predict how that would go. So I can't give you your
17 chances of being sued or succeeding in litigation; I
18 can just give you the information I have about how
19 these courses typically evolve -- excuse me -- these
20 cases typically evolve over time and what they entail
21 and the analysis that, you know, we recommend that
22 you go through when you're looking at these issues.

23 CHAIRMAN DEVLIN: Senator Bekkedahl.

24 SENATOR BEKKEDAHL: Mr. Chairman.

25 Just one follow-up based on that. The right

1 of filing a lawsuit if we don't subdistrict by a
2 party that feels disenfranchised exists. Could the
3 possibility that somebody -- if we did subdistrict,
4 could they also bring a lawsuit on the other side for
5 disenfranchisement based on the argument that they
6 used to have two representatives representing their
7 interests, now they only have one? In other words,
8 could there be lawsuits from the other side as well?

9 MS. NESS: Mr. Chairman, Senator Bekkedahl,
10 and Members of the Committee.

11 Yes, there are always -- in these cases,
12 both sides can bring lawsuits, and that goes back to
13 the discussion we had a couple of meetings ago about
14 somebody claiming that race was the predominant
15 factor in a decision when the *Gingles* preconditions
16 were not met, and there was not a compelling state
17 interest to use race as the predominant factor.

18 It's okay to use race if you're looking at
19 that in conjunction with lots of other factors. When
20 it is the predominant factor, you have to meet that
21 strict scrutiny standard of the compelling state
22 interest, and your solution has to be narrowly
23 tailored to remedying that compelling state interest,
24 and in the past courts have said that complying with
25 the Voting Rights Act is a compelling state interest.

1 CHAIRMAN DEVLIN: Further questions?

2 Senator Klein.

3 SENATOR KLEIN: Mr. Chairman and Claire.

4 You know, what we've -- we've heard in the
5 discussion has been -- I've heard the word
6 "gerrymandering," of course, and whether it's
7 geography or population, but even in the *Gingles*
8 case, I would suggest that, you know, those folks
9 probably were being treated fair, and that's -- and
10 that's my question, is how the word "fair" is going
11 to be -- we're going to be able to use, because, you
12 know, we all believe that we're -- we're serving the
13 people fairly, but whether or not that's -- that's a
14 term that's been used in any of the cases, you know,
15 what we're hearing is voting blocs, race -- race
16 or -- or -- or some of these other issues, but not,
17 you know, that -- those people were all being treated
18 fairly, they just felt underrepresented because they
19 didn't have an opportunity to elect their own person.

20 So I'm -- I'm -- you know, I certainly
21 believe that we treat everyone fairly; you know, the
22 question being can that -- my opinion of "fairly,"
23 does that stand up in court? Because I haven't heard
24 us talk about anything that would have suggested the
25 Court said, Well, they were being treated fairly.

1 They shouldn't -- shouldn't subdistrict. What we
2 hear is the gerrymandering, the bloc voting, the
3 Voting Rights Act.

4 I don't think any research implied that
5 fairness was one of the predominating listings for
6 the suit.

7 MS. NESS: Mr. Chairman, Senator Klein, and
8 Members of the Committee.

9 That's correct. So the Court -- the courts
10 don't look at fairness, per se. What they look at is
11 whether or not a minority voting group can elect
12 their candidate of choice or does this supposedly --
13 if all the *Gingles* preconditions are met, you've got
14 a cohesively voting bloc of minority voters, and they
15 are in a district where they are -- their candidate
16 of choice is losing to a majority voting bloc who is
17 electing a different candidate consistently or pretty
18 often.

19 And the courts would say, I guess, if they
20 ever talked about fairness, that that would be
21 unfair, but that's not a term that the courts use.
22 They just look at those voting blocs as the starting
23 point for their analysis, and if that minority voting
24 bloc is unable to elect their candidate of choice
25 consistently. And then you look at those Senate

1 Factors, which have to do with things like has there
2 been historical racism, political, social, otherwise;
3 are there different opportunities for minorities
4 versus other members of the public in that area, and
5 all of those factors that lead up to the totality of
6 the circumstances. When you merge those two things
7 together, that's what the Court looks at. It doesn't
8 actually look at something that it calls "fairness."

9 REPRESENTATIVE BELLEW: I have a question,
10 Mr. Chairman.

11 CHAIRMAN DEVLIN: Yes. Yes. Representative
12 Bellew.

13 REPRESENTATIVE BELLEW: Thank you,
14 Mr. Chairman.

15 And, Claire, did you define "compelling
16 state interest," or -- I think you did, but I don't
17 quite understand it.

18 MS. NESS: Sure. Yes. Mr. Chairman and
19 Representative Bellew and Members of the Committee.

20 So under the strict scrutiny test, so if you
21 use race as your predominant factor, the Court will
22 say, Okay. You have to have done so because it's to
23 address a compelling state interest, and your
24 solution has to be narrowly tailored to fixing the
25 problem at hand.

1 The compelling state interest in these cases
2 often is complying with Voting 2 of the -- or, excuse
3 me -- Section 2 of the Voting Rights Act, and that's
4 the section of law that we're talking about. So the
5 courts say, It's a compelling interest for you to
6 comply with this federal law. So if you use race as
7 a predominant factor, then often the courts will say,
8 That's okay if you're doing it for this purpose.

9 That is a -- that is a gross
10 oversimplification; there's a lot more that goes into
11 it, but that's kind of where that comes into play.

12 CHAIRMAN DEVLIN: Senator Klein.

13 SENATOR KLEIN: Mr. Chairman.

14 Just a question. Whatever the Committee
15 decides today, the entire legislative body will have
16 an opportunity to weigh in on that particular
17 discussion, up or down, wherever we -- we land, if
18 we -- whether we accept it or do not accept it, but
19 it will be up to the entire body during the special
20 session. Correct?

21 CHAIRMAN DEVLIN: That is correct, Senator
22 Klein. I had that discussion on another matter with
23 somebody from one of the districts that wrote in that
24 this Committee was going to make the final decision
25 for the State. That is not true. We're going to

1 forward a plan to the legislature. It will be up to
2 the legislature at the special session in November to
3 make the final decision. This Committee does not
4 have the power to make that decision on behalf of the
5 legislature, so...

6 Senator Burckhard.

7 SENATOR BURCKHARD: Mr. Chairman.

8 So which chamber deals with it first when we
9 go into special session? Is it the House first or
10 the Senate first?

11 UNIDENTIFIED SPEAKER: It's normally the
12 House.

13 SENATOR BURCKHARD: House?

14 CHAIRMAN DEVLIN: Senator Holmberg, do you
15 wish to weigh in on that? It's the Joint Committee,
16 isn't it?

17 SENATOR HOLMBERG: The Joint Committee
18 report will go to the legislature. As I understand
19 it in discussions I have been in, I will be assigning
20 the redistricting package to the House, and the
21 Senate will have funding bills. That's where it is
22 today, and that's the best I can say is that's where
23 it is today.

24 SENATOR BURCKHARD: Thanks.

25 CHAIRMAN DEVLIN: Committee, on a related

1 matter, just because you may not have had an
2 opportunity to see that, the Chairman of the Spirit
3 Lake Nation, Douglas Yankton, has sent a letter this
4 morning from -- I think Collette Brown probably
5 forwarded it, or we -- we will forward it to all of
6 you, and they've asked to be a subdistrict for the
7 Spirit Lake Reservation as well. They obviously
8 don't meet the half numbers, you know, but they have
9 asked that and there's testimony, and I want you to
10 be able to review it, you know, when you have time,
11 so it is out there.

12 Is there anything else on this issue at this
13 moment?

14 Senator Bekkedahl.

15 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

16 So most of the time when I deal with issues
17 like this, I try to go to the facts, and we've
18 obviously talked about the *Gingles* case a lot, and
19 appreciate Legislative Council's research on that.

20 But the three criteria that I think we're
21 dealing with, Number 1 is "A minority group must
22 demonstrate it is large and compact enough to
23 constitute a majority in a single-member district."
24 I believe that we've made that perfectly clear, at
25 least in two of the issues before us, so I think

1 that -- that is active in this case.

2 Secondly, "A minority group must demonstrate
3 it is politically cohesive." If you subscribe to the
4 fact that these Tribes have tribal governments,
5 they're a sovereign nation, obviously I think that
6 points to political cohesiveness to some degree.

7 The third one is, "A minority group must
8 demonstrate the majority group votes sufficiently as
9 a group to defeat the minority group's preferred
10 candidate." That's the one that I'm not sure. I
11 think that's open to interpretation.

12 I really appreciate Representative Jones'
13 comments and what he's bringing forth on behalf of
14 his constituents here because I think that's as
15 important in the decision-making as everything else
16 we've heard.

17 So I guess my take, Mr. Chairman, is I
18 believe we have Number 1 and Number 2. Two of the
19 *Gingles* are very evident in this case for a decision.
20 I think it's up to everybody to make an
21 interpretation on the third part of that.

22 I take less importance on the Senate
23 Factors. While the courts use those, as described by
24 our -- our attorney here, Claire Ness, I think they
25 are less in consideration, in my mind, than these

1 three categories, distinct categories.

2 I do not subscribe to the theory that race
3 has ever been a political factor in these -- in these
4 issues and these elections. They've had good
5 candidates on all the sides here. I've dealt with
6 many of them over my career. The relationships are
7 very good, as subscribed by Representative Jones. So
8 I do not think race is the factor here, but I do
9 think we need to look at these three conditions.

10 Again, my decision is resting on 1 and 2
11 being distinct and 3 being up for interpretation for
12 the Committee.

13 CHAIRMAN DEVLIN: Anything else on this
14 particular topic?

15 Representative Monson.

16 REPRESENTATIVE MONSON: Thank you,
17 Mr. Chairman.

18 A lot of what I was thinking, Senator
19 Bekkedahl just said. But, you know, when I -- when
20 I'm hearing the -- the people from the Tribes saying
21 that they want subdistricts, I'm looking at the total
22 number of -- of Indian population in -- within a
23 district.

24 Now, we have -- we have kept the
25 reservations whole, giving them a big advantage in

1 that, and a lot of their residents in that district
2 that we have created or drawn at this point, they are
3 Indian Americans. They are not on the reservation,
4 per se, but they're in the same district as the
5 reservation.

6 So we -- at the hesitation of using the word
7 "gerrymander," we have not gerrymandered. We have
8 actually, I think, gerrymandered to give them every
9 opportunity to get as many Indian Americans into that
10 district and give them the advantage, especially when
11 we keep the reservations whole. So would the courts
12 look at that and say, You've -- you've given them
13 every opportunity to put up their own candidate? And
14 they've actually got over half of the population
15 within a district in some cases that are Indian
16 American that could vote for them if they wanted.

17 So I -- I don't know if that's a question
18 for Claire, but, I mean, they -- we have -- we have
19 done what we can at this point short of
20 subdistricting, and if we subdistrict, are we giving
21 them an overadvantage?

22 CHAIRMAN DEVLIN: Was that a question,
23 Representative Monson?

24 REPRESENTATIVE MONSON: Well, sort of. I
25 mean, it's a question for Claire. I mean, when --

1 when over half of the population within a district is
2 of a certain race, and I don't -- I mean, I'm
3 thinking these should be color-blind. I mean, I
4 don't -- I don't think that race should be a factor,
5 and I don't think we've made it a factor until they
6 have asked for the reservations to be included,
7 but -- so have we not given them every opportunity by
8 keeping them as cohesive as we can at this point?
9 And if we were to subdistrict, would we be giving
10 them a guaranteed?

11 MS. NESS: Mr. Chairman, Representative
12 Monson, Members of the Committee.

13 If you had a situation where a minority
14 voting bloc was consistently electing their candidate
15 of choice and you split that voting bloc up, that
16 would be a problem under the law, too. That would be
17 cracking to prevent them from electing their
18 candidates of choice.

19 In this case, I think what some of the --
20 the Tribes have testified is that they are not able
21 to elect their candidate of choice.

22 And so it's really -- the courts don't look
23 at it in terms of giving somebody an advantage or
24 nonadvantage. It's do people have an opportunity to
25 elect their candidate of choice?

1 CHAIRMAN DEVLIN: Further questions?

2 SENATOR HOLMBERG: Mr. Chairman?

3 CHAIRMAN DEVLIN: Yes, Senator Holmberg.

4 SENATOR HOLMBERG: I just got a hint from
5 the Chairman; let's move on the issue and decide one
6 way or another.

7 So I would move that we -- following the
8 guidelines regarding population, et cetera,
9 et cetera, that we have discussed, that we subdivide
10 District 4 and District 9.

11 And then I know we have some folks here that
12 want to make another presentation, and then later
13 after -- I mean, depending upon what happens with
14 this motion, if we decide we are going to, then we
15 have some different scenarios regarding the division
16 of those that we would look at later, but if we turn
17 this down, then we don't have to look at them.

18 So I would move that we subdivide those two
19 legislative districts.

20 And for some people, it's because the courts
21 are forcing us to do it, and for others, it's because
22 it's the right thing to do.

23 That's my motion.

24 CHAIRMAN DEVLIN: Is there a second?

25 SENATOR BURCKHARD: Second.

1 CHAIRMAN DEVLIN: Second by Senator
2 Burckhard.

3 Discussion?

4 (No audible response.)

5 CHAIRMAN DEVLIN: Seeing none, you may poll
6 the Committee.

7 MS. THOMPSON: Chairman Devlin?

8 CHAIRMAN DEVLIN: Yes.

9 MS. THOMPSON: Representative Bellew?

10 REPRESENTATIVE BELLEW: No.

11 MS. THOMPSON: Representative Boschee?

12 REPRESENTATIVE BOSCHEE: Yes.

13 MS. THOMPSON: Representative Headland?

14 REPRESENTATIVE HEADLAND: No.

15 MS. THOMPSON: Representative Lefor?

16 REPRESENTATIVE LEFOR: No.

17 MS. THOMPSON: Representative Monson?

18 REPRESENTATIVE MONSON: Yes.

19 MS. THOMPSON: Representative Nathe?

20 REPRESENTATIVE NATHE: No.

21 MS. THOMPSON: Representative Schauer?

22 REPRESENTATIVE SCHAUER: Yes.

23 MS. THOMPSON: Senator Holmberg?

24 SENATOR HOLMBERG: Yes.

25 MS. THOMPSON: Senator Bekkedahl?

1 SENATOR BEKKEDAHL: Aye.

2 MS. THOMPSON: Senator Burckhard?

3 SENATOR BURCKHARD: Aye.

4 MS. THOMPSON: Senator Erbele?

5 SENATOR ERBELE: No.

6 MS. THOMPSON: Senator Klein?

7 SENATOR KLEIN: No.

8 MS. THOMPSON: Senator Oban?

9 SENATOR OBAN: Yes.

10 MS. THOMPSON: Senator Poolman?

11 SENATOR POOLMAN: Aye.

12 MS. THOMPSON: And, Senator Sorvaag?

13 SENATOR SORVAAG: Aye.

14 MS. THOMPSON: And the motion carries.

15 CHAIRMAN DEVLIN: The vote was 10 to 6? Is
16 that what it was?

17 MS. THOMPSON: Correct.

18 CHAIRMAN DEVLIN: Okay. Yeah. The motion
19 has carried.

20 We will -- because we promised folks from
21 District 26 time on the agenda at 10:00, I think
22 we'll move into that, and then if -- or, excuse me.

23 Representative Skroch, is everyone here that
24 you planned on having here for 10 o'clock?

25 REPRESENTATIVE SKROCH: I believe so.

1 CHAIRMAN DEVLIN: Okay. Senator Heitkamp.
2 Okay. Thank you. We will start with that, and later
3 on Senator Holmberg or somebody will present
4 possibilities for the subdistricts in 9 and 4, I
5 believe. Thank you.

6 So who is your spokesman? Who is going to
7 lead this? Representative Ertelt is not here?

8 REPRESENTATIVE SKROCH: No. He can't be
9 here.

10 CHAIRMAN DEVLIN: Okay. Okay.
11 Representative Skroch.

12 REPRESENTATIVE SKROCH: Thank you, Chairman
13 Devlin and Members of the Redistricting Committee.

14 I'm Representative Kathy Skroch from
15 District 26, Lidgerwood, North Dakota.

16 First, I do need to express Representative
17 Ertelt's regrets for not being able to be here, and
18 he in a large part produced this proposal, and credit
19 should go to him for the amount of hours and work he
20 put into developing this plan to be able to present
21 it before you today. He has begun a new job and is
22 in training right now and so is unable to -- to be
23 able to come here personally and even to join online
24 because of his tight schedule.

25 First of all, I want to thank you for the

1 opportunity to appear before you this morning. I've
2 come to address the redistricting proposal, which for
3 the most part has been accepted by the Committee, and
4 to help introduce the proposal submitted by
5 Representative Sebastian Ertelt, the Ertelt District
6 26 map.

7 I've been able to follow some of the
8 Committee meeting's work online, so I'm somewhat
9 aware of the process. I realize that we are coming
10 in with a map proposal late in the process. In our
11 defense, District 26 legislators were made aware of
12 the proposal -- proposals to eliminate District 26
13 at the same time as the general public was made
14 aware, only two weeks ago. As you well know,
15 accessing the necessary tools and talents to draft a
16 map proposal is out of the reach of most individuals
17 and requires additional help and guidance from the
18 Legislative Council, all of which takes time. Given
19 that, this map comes to you as quickly as possible,
20 especially if you consider how carefully and
21 thoughtfully this map has been drawn.

22 And I hope you've been -- been provided --
23 it was my request that you be provided a copy -- a
24 copy of the Ertelt District 26 map and also a map to
25 compare with current legislative districts.

1 The Ertelt District 26 statewide map
2 proposal represents an attempt to keep legislators
3 within their current districts while shifting
4 boundaries enough to meet the population deviation
5 threshold of 5 percent. It may be helpful to compare
6 any proposed district maps side by side to the
7 current district map. And the Committee has been
8 provided, as I've been told, an attached copy of the
9 current district maps for that purpose.

10 The Ertelt proposal does eliminate
11 District 23, as did the proposals introduced by
12 members of this Committee.

13 To the best of our knowledge, District 27 is
14 the only other district with a displaced legislator
15 in -- in the Ertelt proposal. It was especially
16 difficult to retain all legislators in that district
17 due to the population growth and geographic
18 separation of legislators.

19 And I'll pause here for just a moment and
20 ask if the Ertelt proposal could be put up on screen?
21 Thank you.

22 I don't know if the public has -- has had a
23 chance to even see this.

24 So our main concern is to minimize the
25 number of disenfranchised voters. If any qualified

1 elector residing in the same district as they did in
2 the past general election has a new legislator when
3 the final redistricting plan is implemented and was
4 or is not allowed to cast a vote for or against that
5 new legislator, then that elector has been
6 disenfranchised. An evaluation of the population
7 change in even-numbered districts under the Ertelt
8 statewide proposal would be beneficial in
9 understanding this.

10 I would go so far as to say that any
11 district with a disenfranchised voter must have an
12 election.

13 It is an honorable goal to keep legislators
14 closer or closest to the people they represent.

15 The voters of District 26 made a clear
16 statement for who they wished to represent them in
17 the November 2020 election. Clearly, their votes
18 will be negated by the dissolving of their district
19 within a year of that election.

20 This is a district that is stable and
21 increasing in population by 2.36 percent in this last
22 census, 14,352 people; slightly lower than
23 District 25 at 2.92 percent population, 14,891
24 people; only 2 people less than District 20 at 14,354
25 people.

1 It has a higher population by 758 people
2 than District 14 at 13,594, which lost significant
3 population. It has a higher population than
4 District 6, 9, 10, 12, 18, 24, 28, 29, and 42 and 44
5 and is in close par with other districts as well.
6 All have been kept intact or made whole except
7 District 26.

8 In the process of redistricting, there are
9 bound to be some winners and some losers. In defense
10 of my region and its people, they have consistently
11 been chosen to take the loss. This district and the
12 region has been harmed similarly the past two
13 redistricting cycles; first, by the complete
14 dissolving of District 27, which was my district, and
15 now the dissolving of District 26, which is my
16 district and my people's district.

17 The people will be, in essence, uprooted
18 once again, cut off from the citizens they have
19 chosen to represent them and the comradery which they
20 have built over the course of years to work together
21 on behalf of their representation. They will be
22 disenfranchised.

23 The Ertelt proposal reestablishes
24 District 26 in a logical and reasonable way while
25 preserving District 24, District 25, and District 28.

1 Keeping counties whole is one of several
2 criteria used for redistricting; however, it has not
3 been strictly applied. For example, in the proposal
4 titled "Devlin 2," Ransom, Sargent, and LaMoure, of
5 my region, Counties are broken up. At the same time,
6 Cass County, District 22, has been left completely
7 whole, which is virtually a super district containing
8 11 additional districts, or about 20 percent of the
9 legislative body --

10 SENATOR SORVAAG: Mr. Chairman?

11 REPRESENTATIVE SKROCH: -- within its
12 borders.

13 SENATOR SORVAAG: Mr. Chairman?

14 CHAIRMAN DEVLIN: I'm sorry? Senator --

15 SENATOR SORVAAG: Mr. Chairman and
16 Representative Skroch.

17 What you just said about Cass County doesn't
18 make any sense. It isn't -- District 22 doesn't
19 represent the whole county. There's no super
20 district.

21 REPRESENTATIVE SKROCH: I'm just going off
22 the --

23 (Simultaneous indiscernible crosstalk.)

24 REPRESENTATIVE SKROCH: I'm going off the
25 map.

1 SENATOR SORVAAG: There are 11 districts in
2 Cass County, so --

3 REPRESENTATIVE SKROCH: Okay. Then we'll --
4 I'll stand corrected on that.

5 Compactness is a significant consideration
6 and all the harder to maintain for rural
7 representatives. In just one year, I've put over
8 10,000 miles on my vehicle reaching the people of
9 this district. Other rural legislators will
10 appreciate that.

11 It is critically important to retain
12 relationships with rural citizens that we represent.
13 It is much more difficult than in urban settings
14 where a district may cover a section of a few city
15 blocks.

16 The Ertelt proposal keeps District 25
17 compact, covering an area in which people living
18 within the Red River Valley have common shared
19 interests.

20 In providing for District 26 in this more
21 compact design, one of the most common shared
22 interests, in addition to its rural setting, is the
23 Doosan Bobcat company, with a large majority of their
24 employees residing within this district.

25 The compact design of District 25 also

1 allows for a small area of Cass County to shed
2 population into the district to make it whole without
3 having to drastically change the district lines. It
4 demonstrates how rural districts can take in
5 townships of densely populated districts to absorb
6 the need shed -- needed shed of population.

7 In addition, simply being a corner county
8 should not be a guarantee of preference above
9 neighboring districts if those districts are harmed
10 in so doing.

11 Finally, I'm asking each member of this
12 Committee to really take the time to really consider
13 the merits of the Ertelt proposal which restores
14 District 26. Please be honest, transparent, working
15 together to do the right thing.

16 This draft is proof that the Committee, even
17 at this stage, does not have to dissolve the current
18 District 26. I'm asking you that you reflect on this
19 personally and the impact it would have if this was
20 your district, your people losing their district and
21 their elected representatives.

22 Thank you.

23 SENATOR HOLMBERG: Mr. Chairman?

24 CHAIRMAN DEVLIN: Senator Holmberg.

25 SENATOR HOLMBERG: First of all, thank you,

1 Representative Skroch, for coming here today.

2 And we had a couple conversations --

3 REPRESENTATIVE SKROCH: We have.

4 SENATOR HOLMBERG: -- this weekend, and I'm
5 not going to a pity party, but after I'd worked a
6 couple of hours on some of the data, which was
7 interesting, and I'm glad we had those conversations,
8 but there's a couple things here that I just want to
9 comment on.

10 Number one, you come from a region that lost
11 a legislative district last cycle, and you are losing
12 a legislative district, according to the plan that we
13 have so far, this cycle.

14 REPRESENTATIVE SKROCH: Uh-huh.

15 SENATOR HOLMBERG: I come from the same
16 place. The northeast lost District 16 10 years ago,
17 and they're losing District 19 this time, so we
18 have -- we have the same -- I mean, there are
19 similarities. But the one word you use which gives
20 me pause is -- and we talked about it a little bit,
21 is "disenfranchised."

22 REPRESENTATIVE SKROCH: Uh-huh.

23 SENATOR HOLMBERG: Because I would just ask
24 you, and this is an unfair question, but was not then
25 Bev Clayburgh disenfranchised? Because under this

1 new plan, she is in District 18, and she has been in
2 District 17 and has voted for me for over 40 years.
3 So is she disenfranchised? She still can vote for
4 Scott Meyer, or whoever she wants to vote for. She
5 did not lose a vote. The only thing she no longer
6 can do, unfortunately, she can't vote for me.

7 REPRESENTATIVE SKROCH: Chairman Devlin,
8 Senator Holmberg, Members of the Committee.

9 I'm not sure if there's any other example
10 within the map that you've been working off of where
11 all the legislators are removed from their district.

12 SENATOR HOLMBERG: 19 and 20. They're all
13 in new districts.

14 REPRESENTATIVE SKROCH: 23, which is
15 dissolved.

16 SENATOR HOLMBERG: Yeah.

17 REPRESENTATIVE SKROCH: Right.

18 I'm here to fight for my -- for my people.
19 And -- and you referenced, say what has happened
20 10 years ago? I will go back to the -- the
21 redistricting that happened even prior to that, where
22 our district, which was then formulated into
23 District 27, had a narrow, I would say, neck that
24 connected Ransom -- or, rather, Richland and part
25 of -- of Sargent into Ransom, and -- and it was so

1 narrow that it made it really difficult for those
2 people to -- to come together and rebuild any kind of
3 relationships, so that happened prior to the complete
4 dissolving of District 27. And now what we're
5 looking at is the complete dissolving of District 26.

6 And what I am trying to -- to bring before
7 the Committee is that we should be not treated
8 differently than other -- other districts who, in
9 fact, having smaller populations than us, have been
10 made whole, and in some ways, by the -- by the
11 dissolving of the current District 26, to make weaker
12 districts whole. And -- and that is my objection.
13 We have salvaged all kinds of other districts,
14 which -- which I've named many of them here, and I've
15 watched work of the Committee in trying to do that.

16 But I -- I am here to defend District 26 and
17 its voters and its people because they have a right
18 to be made whole, just as any other district that --
19 that you have worked on to make whole.

20 SENATOR HOLMBERG: Mr. Chairman?

21 CHAIRMAN DEVLIN: Senator Holmberg.

22 SENATOR HOLMBERG: One other -- one other
23 point. The criteria which caused you to lose a
24 district in that area is the same identical criteria
25 that caused the northeast to lose a legislative

1 district; it was there were fewer people.

2 And both of us suffer, and that's the wrong
3 term, but both of us are caught up with the fact that
4 we -- you were pretty stable. Agreed? That
5 particular area, you were stable. But there were
6 107,000 new people moving into North Dakota --

7 REPRESENTATIVE SKROCH: Uh-huh.

8 SENATOR HOLMBERG: -- from the census before
9 that didn't live in Dickey or Ransom or Sargent or
10 Pembina or Walsh County. They went out west or to
11 Cass County.

12 And one other point. That southeast
13 region -- and I -- and I gave you these numbers. I
14 mean, we talked about them this weekend. Back when I
15 went into the legislature, your area had 10 percent
16 of the state's population and you had 5 districts out
17 of 50. You had exactly 10 percent. Since that time,
18 your ratio has gone -- from the census, you've gone
19 to 9 percent, 8 percent, 7.6, 6.4, and now you're
20 5.5 percent.

21 REPRESENTATIVE SKROCH: Uh-huh.

22 SENATOR HOLMBERG: And when you divide that,
23 it's -- you know, it's similar. You have about 5 1/2
24 percent of the -- of the state's population.

25 And one other factoid, and then I'll shut

1 up, and that is that it has been -- excuse me.
2 Richland County, as a legislative district, has not
3 been whole since 1902. That was the last time there
4 was -- Richland County had its own district.
5 Otherwise, you have been divided.

6 And 10 years ago, we got our -- parts of us
7 chewed on because Walsh County has never been whole,
8 even from statehood. They were always divided, and
9 they wanted to be whole, but it had to do with
10 population.

11 REPRESENTATIVE SKROCH: Uh-huh.

12 SENATOR HOLMBERG: But I thank you for
13 bringing the issue because we both got an education.

14 CHAIRMAN DEVLIN: Senator Sorvaag.

15 SENATOR SORVAAG: Mr. Chairman and
16 Representative Skroch.

17 First of all, I do understand. We had a
18 long conversation three weeks ago after the Fargo
19 meeting, for about an hour after the meeting closed,
20 or 45, so -- and I am sympathetic, because it is a
21 complicated -- you know, it hurts if your district
22 goes away.

23 But I do want to touch a little -- and I
24 know the access to numbers and the accelerated
25 process, but at the end of that meeting, I had access

1 to a computer. That was three weeks ago. I offered
2 to meet with you, and you said you would get your
3 other people. I said, Let's go in. Let's look at
4 the numbers. Let's look at options. That was
5 extended to you, because I had a computer, and I was
6 meeting with other people. I never received a call
7 back.

8 You had an opportunity earlier where you
9 could have sat in front of the same computer we all
10 had, and we could have crunched numbers. Maybe it
11 wouldn't have changed the outcome, but -- because the
12 only given is we had looked at doing Richland County.
13 But you had asked those questions, so I -- I just
14 need to make clear, three weeks ago I did extend that
15 opportunity and whoever you would want to bring to my
16 office to review that.

17 REPRESENTATIVE SKROCH: Mr. Chairman,
18 Senator Sorvaag, and Members of the Committee.

19 I was interested in meeting with you, but I
20 do not stand alone as a sole representative of my
21 district, and there were other people who want --
22 wanted to become involved in this process as well,
23 and at that time, I could not put together a time
24 frame that worked to meet with you, and -- and
25 realizing that you had a very tight schedule to work

1 with, we didn't want to come to you without some type
2 of counterproposal in hand. And my apologies if that
3 did not work for you and -- and did not work for me.
4 I know you offered the opportunity, but it didn't --
5 it was not something that I could put together with
6 the various people who had interest in my district.

7 SENATOR SORVAAG: Mr. Chairman, if I may?

8 CHAIRMAN DEVLIN: You may continue.

9 SENATOR SORVAAG: Just to be clear, it
10 wasn't that you had a proposal. You were asking what
11 is some of the numbers that would have helped. So
12 I'm just saying it does extend it, and -- and I
13 didn't put a date certain, so there was opportunities
14 for one or two to even show up.

15 REPRESENTATIVE SKROCH: To be clear -- to be
16 clear, I had requested an opportunity to sit down
17 with you and discuss the survival of District 26.

18 CHAIRMAN DEVLIN: Representative Nathe.

19 REPRESENTATIVE NATHE: Thank you,
20 Mr. Chairman.

21 And, Representative Skroch, thanks for
22 coming. I don't -- I certainly give you a lot of
23 credit for coming here today and fighting for your
24 district as Representative Jones did earlier.

25 But what I want to point out, your arguments

1 and your points as far as why you'd like to see
2 things changed really could be applied to any of the
3 other districts that we took care of, and I think
4 especially District 8, who was just also recently
5 reelected. All three of their representatives are
6 going to three different districts. 19 and 20 are
7 also merged together. They were just elected. So
8 there's -- I think there's six other even districts
9 that also, if this plan passes, will have to go
10 through the election process again. So they're all
11 very much in the same boat as you guys are.

12 So my question to you is why the preference
13 to you over those people? Why is your case so much
14 more special than those?

15 REPRESENTATIVE SKROCH: Chairman Devlin --

16 CHAIRMAN DEVLIN: Please proceed.

17 REPRESENTATIVE SKROCH: I -- I believe the
18 difference is our district is dissolved.

19 REPRESENTATIVE NATHE: But so were some of
20 those.

21 REPRESENTATIVE SKROCH: 28 is not dissolved.

22 REPRESENTATIVE NATHE: Not talking about 28.
23 District 8.

24 REPRESENTATIVE SKROCH: 24 was not
25 dissolved. 25 was not dissolved.

1 REPRESENTATIVE NATHE: But there's still
2 other districts that we took care of that were
3 dissolved, were merged, and those -- those incumbents
4 were also moved to different districts.

5 REPRESENTATIVE SKROCH: I'm -- I'm aware of
6 that.

7 REPRESENTATIVE NATHE: Yeah.

8 REPRESENTATIVE SKROCH: But what I'm
9 challenging is the reasoning behind why the decision
10 was made to dissolve District 26 when it -- it is a
11 sound district, and at the same time other -- other
12 districts were allowed to be made whole. That's why
13 I'm here.

14 CHAIRMAN DEVLIN: Representative Boschee.

15 REPRESENTATIVE BOSCHEE: Thank you,
16 Mr. Chairman.

17 Representative Skroch, part of the work of
18 the Committee, we were trained or brought information
19 from Legislative Council on August 26th that talked
20 about setting our priorities for how we go through
21 redistricting, and the challenge I think we had as a
22 committee was that we had a month to do our work to
23 get it so we can have something in front of the
24 legislature on November 8th.

25 I think the Committee struggled a little

1 bit. We didn't define those criteria, but we
2 coalesced around some ideas last week, I think --

3 REPRESENTATIVE SKROCH: Uh-huh.

4 REPRESENTATIVE BOSCHEE: -- and came to --

5 REPRESENTATIVE SKROCH: Uh-huh.

6 REPRESENTATIVE BOSCHEE: -- what I think is
7 a fairly good map.

8 Can you explain to us, what were the
9 criteria for drawing of district lines --

10 REPRESENTATIVE SKROCH: Uh-huh.

11 REPRESENTATIVE BOSCHEE: -- outside of
12 trying to protect a specific legislative district?

13 REPRESENTATIVE SKROCH: Chairman Devlin,
14 Representative Boschee, and Members of the Committee.

15 One of the criteria that was used in --
16 in -- and, of course, you used some of the similar
17 criteria, was in -- in reconfiguration of populations
18 that -- that needed to be increased or decreased in
19 order to fit the -- the ideal population assigned to
20 districts.

21 A criteria that was used in the formula that
22 Ertelt used in drawing this map was not necessarily
23 county lines, but district lines, and -- and -- and
24 an attempt to not blow up district lines while still
25 adapting those shifts of population.

1 And I know while you, as a committee, used
2 the concept of following county lines, at the same
3 time, in my region, as I explained in my -- in my
4 proposal to you, was that Ransom County is not kept
5 whole and LaMoure County is not kept whole and
6 Sargent County is not kept whole.

7 REPRESENTATIVE BOSCHÉE: Mr. Chairman.

8 That actually is not true. District 28, in
9 our proposed plan, has almost five whole counties.
10 District -- or Sargent County, the only part that's
11 taken out, is added to District 25 due to the
12 reservation.

13 REPRESENTATIVE SKROCH: Uh-huh.

14 REPRESENTATIVE BOSCHÉE: Barnes and Ransom
15 County are whole in completing District 24 as a solid
16 district. So we may be looking at --

17 REPRESENTATIVE SKROCH: Which map are you
18 looking at on screen, if I might ask?

19 REPRESENTATIVE BOSCHÉE: I don't know what's
20 on -- the screen looks like yours, but the map that
21 we've been working out of was given to us Monday
22 evening --

23 REPRESENTATIVE SKROCH: I didn't have access
24 to that. I'm sorry.

25 REPRESENTATIVE BOSCHÉE: Yeah. So that's

1 online. It was dated September 28th, is when the --
2 the Legislative Council was able to sew everything
3 together from last week. Yeah.

4 REPRESENTATIVE SKROCH: Okay. But it had
5 been considered up until that date?

6 REPRESENTATIVE BOSCHEE: It was part of the
7 discussion, yes, but --

8 REPRESENTATIVE SKROCH: Yes.

9 REPRESENTATIVE BOSCHEE: -- not what was
10 passed out at the meeting last week.

11 REPRESENTATIVE SKROCH: Yeah. Okay.

12 CHAIRMAN DEVLIN: Senator Eberle. Excuse
13 me.

14 SENATOR ERBELE: Chairman and Representative
15 Skroch.

16 Just to clarify, in your testimony, you are
17 referencing Devlin Plan 2. There was also Devlin
18 Plan 1, and that's the one that moved forward and --
19 and then was adopted later on. So, yes, in Devlin
20 Plan 2 there was the division of some of these
21 counties, of --

22 REPRESENTATIVE SKROCH: Uh-huh.

23 SENATOR ERBELE: -- of Sargent and LaMoure.

24 REPRESENTATIVE SKROCH: Uh-huh.

25 SENATOR ERBELE: That was offered; that was

1 never acted on.

2 REPRESENTATIVE SKROCH: Okay.

3 SENATOR ERBELE: So --

4 REPRESENTATIVE SKROCH: Thank you for the
5 clarification on that. Apologize for that.

6 CHAIRMAN DEVLIN: Senator Burckhard.

7 SENATOR BURCKHARD: Mr. Chairman.

8 Representative Skroch, thank you for coming
9 in today. And you know I respect you as a friend and
10 as a legislator. I also respect that you are trying
11 to represent your district. But this is the 11th
12 hour as far as this Redistricting Committee. I mean,
13 how do we -- how do we -- how would we react to
14 making all of these changes that you are proposing at
15 the last hour?

16 REPRESENTATIVE SKROCH: Chairman Devlin,
17 Senator Burckhard, and Members of the Committee.

18 That is an unfortunate circumstance that
19 probably occurred in part because this was supposed
20 to happen during the legislative session, where we
21 would have had more time to work on a plan. And at
22 the same time, we often work on things in the final
23 hour and make corrections, necessary corrections.
24 And that is, again, I say unfortunate.

25 I know you have been working on plans, but,

1 also, I consider it of -- of paramount interest that
2 we not wipe out District 26 in -- in my region, and
3 so that's what I'm here to fight for. And it has to
4 be something that's -- that's logical, that makes
5 sense. And so in order to -- to have it be logical
6 and make sense, it has to look at impact to
7 surrounding districts as well, and I think this --
8 this map does that.

9 And -- and I'm -- again, I'm asking this
10 Committee to take a serious look at it. Yes, you've
11 moved forward, but this still has to be approved by
12 Legislative Management, and it still has to be
13 approved by the full legislature, so -- so that
14 allows for buying some time.

15 In part, I -- I know that there have been
16 some meetings canceled because this process has moved
17 along very efficiently, but it's not to say that it
18 can't be extended to allow for consideration of this
19 proposal, serious consideration.

20 CHAIRMAN DEVLIN: I had one question for you
21 before I move back. You -- you -- I don't want to
22 put words in your mouth, but you said something to
23 the effect it takes a little bit out of Cass County,
24 or I don't remember the exact words you've used, but
25 to me, you've eliminated a district in Cass County,

1 so --

2 REPRESENTATIVE SKROCH: I'm sorry. I didn't
3 catch your question.

4 CHAIRMAN DEVLIN: Yeah.

5 REPRESENTATIVE SKROCH: I didn't --

6 CHAIRMAN DEVLIN: You said earlier that you
7 were able to do this by taking -- whatever term you
8 used -- part of Cass County --

9 REPRESENTATIVE SKROCH: Yes.

10 CHAIRMAN DEVLIN: -- to make these whole.
11 What you've done is eliminated the new district in
12 Cass County, is what you've done to make this work,
13 that they've earned because their population
14 growth -- grew.

15 So I'm just curious, do you think that's
16 fair, that Cass County should lose a district to save
17 our rural ones? Is that what you're saying?

18 REPRESENTATIVE SKROCH: So, Chairman Devlin,
19 is that move of Richland County into Cass absorbing
20 an old district or a new district?

21 CHAIRMAN DEVLIN: Representative Skroch, I
22 can't answer your question. Maybe Senator Sorvaag
23 can.

24 SENATOR SORVAAG: Mr. Chairman, part of
25 both. They had some of it, not all of it.

1 REPRESENTATIVE SKROCH: Okay. So it's not
2 terribly impacting in that regard.

3 SENATOR SORVAAG: Oh, it's impacting.
4 They're taking some population, but they took much
5 more. You took much more out of Cass County than 25
6 had before.

7 REPRESENTATIVE SKROCH: Than they had
8 previously. And -- and if I might --

9 SENATOR SORVAAG: Mr. Chairman, and if I
10 might, you took much more out of Cass County with 24
11 than they had before.

12 You took much more of District 20 out of
13 Cass County than they had before.

14 You basically, for all intents and purposes,
15 eliminated District 22, our large rural, which has
16 represented it for as long as I've been born, most of
17 that rural area, and you totally eliminated all those
18 people and most likely would have extremely
19 disenfranchised much of rural Cass County, because
20 all you left for 22 was Casselton and a fine line and
21 then put them into Fargo.

22 So you might say you're saving a district,
23 but you're demolishing districts and affecting most
24 of the population of rural Cass County by what you've
25 designed.

1 REPRESENTATIVE SKROCH: My response to that
2 would be: Rural districts often take the brunt of --
3 of being eliminated. This makes a shift of
4 population from urban -- more of an urban setting
5 into a more rural district. And I would say it's as
6 fair as completely dissolving District 27 or
7 District 26, as happened with our people. Equally
8 disenfranchised.

9 CHAIRMAN DEVLIN: Senator Eberle, do you
10 have a question?

11 SENATOR ERBELE: Not a question, just a
12 comment, I guess. And Representative Skroch can
13 comment if she likes, but I struggle with the word
14 "disenfranchised" because, to me, that means people
15 that will have -- being served by a legislator that
16 they did not vote for. However, we had the election
17 in 2020 of all the even-numbered districts.
18 Automatically, we're going to have all of the even --
19 or the odd-numbered districts up for election in
20 2022, and as Representative Nathe said, there's going
21 to be at least eight or more of the even-numbered
22 districts because of the increase in population, and
23 that's what this is all about is the numbers are
24 going to have to run, too.

25 So I -- I would contend that there'll be

1 very few people after this next election that could
2 say they're disenfranchised because they will have
3 had the opportunity to vote for a legislator. And
4 for all the districts that have shifted, everybody is
5 still alive and living in their districts and had the
6 opportunity to run in that district regardless of
7 what that number is.

8 REPRESENTATIVE SKROCH: Representative
9 Devlin and Senator Erbele, Members of the Committee.

10 My response to that has to be that the
11 people of this district elected a number of people
12 that will no longer -- they will no longer have
13 representing them after this is approved, and that
14 they clearly spoke their wishes, and they will not
15 have the opportunity to vote for any of us from
16 within Sargent, Ransom, Dickey Counties.

17 SENATOR ERBELE: Just a further comment,
18 though. But we only serve until the next election.
19 We aren't guaranteed that; so, I mean, we serve at
20 the will of the people.

21 REPRESENTATIVE SKROCH: Certainly.

22 CHAIRMAN DEVLIN: Senator Bekkedahl.

23 SENATOR BEKKEDAHL: Hey, Mr. Chairman and --
24 and Representative Skroch.

25 Thank you. Your efforts on behalf of your

1 constituents are commendable. You really, really
2 worked this hard, and I appreciate that. I wish it
3 wasn't so late in the process. I know you've been
4 engaged before this.

5 But a couple of questions relative to your
6 testimony. And Senator Erbele hit on it a little
7 bit. Does -- is the issue of disenfranchisement --
8 as you speak of it, is it disenfranchisement of
9 elected officials, current elected officials, from
10 their traditional voters, or is it disenfranchisement
11 of voters from their elected officials, or both? And
12 I would assume it's both, in your mind.

13 REPRESENTATIVE SKROCH: Yes, I would say
14 it's both.

15 SENATOR BEKKEDAHL: Thank you.

16 And then my follow-up question is that isn't
17 this inevitable no matter where we move the
18 boundaries, as required by the one person, one vote
19 required in the redistricting process?

20 REPRESENTATIVE SKROCH: I believe --
21 Mr. Chairman, Members of the Committee, Senator.

22 I would -- I would say that we have been
23 impacted multiple times and that it doesn't always
24 have to be my area that is severely impacted by this
25 redrawing of lines. We don't always want to be the

1 group that comes up with the short end of the stick.

2 I understand the complexities of this. I
3 understand the complexities of this. I'm here to
4 fight for my district and my people. And they
5 clearly have a comradery with each other and have
6 worked together between legislators and their people,
7 and we're trying to maintain some of that, and I
8 think the plan that's being -- that was proposed
9 considers doing the least harm to districts and
10 legislators as possible, doing the least harm to
11 uprooting people from what they're familiar with.

12 You know yourselves how many people don't
13 even know which district they're in. It is hard
14 enough when they've had the same district for
15 10 years.

16 SENATOR BEKKEDAHL: Mr. Chairman, if I could
17 just follow up quickly on that?

18 CHAIRMAN DEVLIN: You may.

19 SENATOR BEKKEDAHL: Well, ultimately, I
20 think Senator Erbele hit on this. While not in your
21 current district, you still have the opportunity to
22 run for election, and your constituents still have
23 the ability to vote for representation. That has not
24 been eliminated in this plan or any plan or the
25 Ertelt plan.

1 And going back to the Ertelt plan that's
2 presented today, I would just make the case that it
3 also disenfranchises voters in other districts.
4 While, as we've said, some districts have gone away
5 by the necessary one person, one vote; some districts
6 have been impacted, if you use your term of
7 "disenfranchise." My district -- in District 1, I
8 lost 3,000 people in my district moving to another
9 district.

10 REPRESENTATIVE SKROCH: Uh-huh.

11 SENATOR BEKKEDAHL: They could say they're
12 disenfranchised from me, and I could say that as
13 well, so I think the argument holds in those cases as
14 well.

15 So I just don't know how -- using your
16 definition of "disenfranchisement," I don't know how
17 we react to one person, one vote, moving boundaries
18 and not have that happen in certain cases.

19 You feel like you're being singled out
20 because your district's being eliminated. Others are
21 as well.

22 Again, I think the Committee did its due
23 diligence, unfortunately affecting your district with
24 the plan we have before us, but I think it did its
25 due diligence respecting the one person, one vote.

1 Thank you, Mr. Chairman.

2 CHAIRMAN DEVLIN: Representative Schauer.

3 REPRESENTATIVE SCHAUER: Thank you,
4 Mr. Chairman.

5 Representative Skroch, by your own admission
6 in paragraph 2, you said you are late in the process,
7 and then you said that legislators were made aware of
8 the proposal to eliminate District 26 at the same
9 time -- at the same time as the general public, only
10 two weeks ago. However, Representative Ertelt was at
11 the first meeting when we had software training.
12 Right from the get-go, he was there. I talked to him
13 afterwards, and he was fully engaged. And yet now we
14 get this map, and it might be the most wonderful map
15 in the world, on the last day. Can you explain who
16 dropped the ball as far as communication with any
17 member of this district -- of this Committee or with
18 Legislative Council?

19 REPRESENTATIVE SKROCH: Chairman Devlin and
20 Representative Schauer, Members of the Committee.

21 Being at a first meeting does not
22 necessarily make it clear that an entire district is
23 going to be dissolved.

24 This being the last day, I -- I understood
25 that there were going to be public meetings yet

1 scheduled after this that were canceled. So "last
2 day" is in the eye of the beholder, I would say.

3 And we came in busy people like everyone
4 else. We came in as soon as we could engage. We had
5 to do our legwork, too; we had to reach out to our
6 people, too, before we could put together a proposal,
7 trying to discover what impact even a new proposal
8 would have on our constituents.

9 CHAIRMAN DEVLIN: Representative Skroch, I
10 think -- I'm not going to get into debate with you,
11 but I think you've been misinformed. There were no
12 public meetings after this date that had been
13 canceled.

14 REPRESENTATIVE SKROCH: I guess I was told
15 that there was going to be one in Fargo in October.

16 CHAIRMAN DEVLIN: No. No. We had the
17 meeting in Fargo. We only scheduled one. The other
18 ones were -- we met in Bismarck, fully, you know,
19 engaged the people, like we did during the session,
20 with the video --

21 REPRESENTATIVE SKROCH: Uh-huh.

22 CHAIRMAN DEVLIN: -- but there was not any
23 other meeting. The next time that you will have an
24 opportunity to discuss this will be at the
25 legislative session in November.

1 REPRESENTATIVE SKROCH: I was not aware of
2 this being the final day. And I think it's up to the
3 discretion of, perhaps, the Chair and the wishes of
4 this Committee whether or not they want to allow
5 additional days.

6 I don't know what your end-date proposal
7 was. I just knew that there was sort of a warning
8 that this was going to move along quickly and that it
9 would be wrapped up as soon as possible. But I -- I
10 was not aware -- maybe there's a notice out there
11 somewhere that said this is the last day, but I was
12 not aware of that, and -- and I'll take credit for
13 not having that knowledge.

14 CHAIRMAN DEVLIN: Yeah. We did -- we did
15 publish a list of all the meetings that we were going
16 to have, and they were on the website early.

17 REPRESENTATIVE SKROCH: Okay.

18 CHAIRMAN DEVLIN: You know, so we had the
19 preliminary meeting once we got the census figures
20 from the federal government, and we had everything
21 else on the legislative website, so everybody, we
22 thought, knew exactly when we were going to meet,
23 so...

24 Okay. Is there anybody else?

25 Senator Heitkamp, were you going to speak on

1 this issue?

2 Any more questions for Representative
3 Skroch?

4 (No audible response.)

5 SENATOR HEITKAMP: For the record, I'm Jason
6 Heitkamp, Senator from the 26th District.

7 Chairman Devlin, Representatives and
8 Senators of the Committee.

9 Just want to thank you for the time today.
10 Before I give my talk -- and I'll give a copy over to
11 you guys. You can have it when I'm done, because
12 I -- I handwrote it.

13 We had a fundraiser last week where Perrie
14 Schafer was there, the head of the NDGOP, and he told
15 us that there was going to be a meeting on
16 October 6th in Fargo, and I immediately called Emily
17 the next day and found out that that was not true.

18 And Sebastian has been working very hard on
19 these maps, trying to do a good job. And so I said,
20 we got here and -- and we called ahead just to make
21 sure, because like I said, we're all busy, we're all
22 over the place, and we are trying to do a good job of
23 doing this, but I said if I wouldn't have called
24 Emily, we probably would have thought that there was
25 going to be a meeting on October 6th that we would

1 have showed up to, and nobody would have been there.

2 So I -- I do apologize to anybody in here
3 who thinks that we weren't trying to be quick in what
4 we were doing, because we actually were, so I -- I
5 just wanted to start off that way.

6 I'd like to thank all the Representatives
7 and Senators on the Redistricting Committee for their
8 efforts during this process and for the time today.

9 I've called some of the Committee members;
10 they've all been good on the phone, and I really
11 appreciate that. I mean, it's nice to know that you
12 can call people and that they'll talk nice to you
13 about things, so...

14 As we were nearing the end of the session,
15 I -- I started -- I started with others in the
16 26th District and in District 25 where I work on how
17 our districts could be made better, not politically
18 but as in a balance of urban and rural, because I've
19 spent much time since I graduated from college
20 working in all areas of the state, and during a
21 legislative session, I talked to my majority leader
22 about how we could make District 26 more balanced
23 between urban and rural by moving farther north.
24 That was kind of my idea without looking at all the
25 numbers, because we didn't have the numbers, but I

1 thought, you know, if we could move our districts a
2 little bit north, we could gain the population that
3 we needed. I was actually thinking that 25 and 26
4 were probably going to lose population. I was very
5 surprised when the census numbers came out that they
6 all gained in population, so I thought that was a
7 good thing.

8 As I -- as I spoke to many people from both
9 District 25 and 26, the same thing keeps coming up.
10 The people like the balance between urban and rural
11 that they see in those two districts, and that's what
12 they want to see more of.

13 Dissolving the 26th District will make a
14 bigger district, from what I understand, which I've
15 heard could be from the western part of Richland
16 County all the way up to Emmons County if not to the
17 Missouri border -- or the Missouri River border,
18 which would be very hard to access and represent
19 people in a personal way.

20 Based on distance and time, you know,
21 getting to church socials, basketball games, other
22 functions that you want to do to -- to engage with
23 the public would be very difficult the bigger the
24 district.

25 The 26th District, you know, wants -- not

1 one size fits all, but they want personal
2 representation from people that they know.

3 In District 26, the home of Doosan Bobcat, I
4 understand that 95 percent of the workers live in the
5 26th District. So I know that you're looking at
6 counties and keeping counties together and things
7 like that, but geographically, that -- that is one
8 thing that sticks out in the 26th District, is most
9 of the people that work at that facility live in that
10 district, and by changing that district, you're going
11 to lose, you know, probably up to 40 percent of the
12 workers displaced into a different district.

13 There were townships in the northern part of
14 the district, of District 25, I don't know if you
15 remember this from about 10 years ago, that actually
16 petitioned to join Richland County. When I talk to
17 those people, they're still happy with District 25
18 and the representation that they have from
19 District 25. And one of the only things that stopped
20 them, from what I remember, from being able to move
21 into Richland County was the fact that Cass County
22 would have to vote to accept that and Richland County
23 would have to vote to accept that. And although
24 Richland County probably would have done that, it did
25 not happen in Cass County.

1 You'll see by Representative Ertelt's map
2 that, you know, the urban and rural balance is
3 accomplished. What's also accomplished is that all
4 representation by the Senate and the House of
5 Representatives in their present districts, except
6 for District 23, which is going to be dissolved, and
7 possibly one representative, will stay the same. And
8 I -- I know that Sebastian -- or Senator -- or
9 Representative Ertelt worked very hard to make sure
10 that there was the ability for that to happen, and
11 he -- he did come up with a map that did that, and I
12 think he did a very fine job of doing that.

13 I'm asking to keep District 26 and
14 District 25 as Representative Ertelt's map has
15 proposed, and I'm asking for a balance of urban and
16 rural as proposed.

17 And thank you for your time.

18 CHAIRMAN DEVLIN: Are there questions for
19 Senator Heitkamp?

20 (No audible response.)

21 CHAIRMAN DEVLIN: Seeing none, thank you.

22 SENATOR HEITKAMP: Okay. Thank you.

23 CHAIRMAN DEVLIN: Oh, Senator Heitkamp, I
24 did get an update on the October 6th date. There's
25 apparently a Cass County Republican meeting, and I

1 think Representative Schauer is going to give an
2 update on the redistricting process, but there was no
3 redistricting meeting scheduled after today.

4 SENATOR HEITKAMP: Yeah.

5 CHAIRMAN DEVLIN: So there was just some
6 confusion.

7 SENATOR HEITKAMP: Yeah. And I -- and I do
8 understand that, and I'm not blaming anybody, but I
9 just said that's what came out that night, and so I
10 immediately called because I thought, you know, maybe
11 we would have more time to get it done, so...

12 Thank you.

13 CHAIRMAN DEVLIN: Thank you.

14 Is there anyone else from District 26 that
15 wanted to speak today?

16 NORMA KJOS: Greetings, and thank you for
17 allowing me to have a few moments. I'm Norma Kjos
18 from Wyndmere, and I was district chair for a lot of
19 years in District 26. Very, very dear to my heart.

20 I worked very, very hard, too, didn't I?

21 REPRESENTATIVE SKROCH: Yes.

22 NORMA KJOS: Yes.

23 So I am passionate, passionate about this.

24 I understand the mechanics; I understand the
25 logistics, all of that. Let's look at the human

1 factor a moment. We have a big district. People
2 drive a long way to attend a meeting. They grumble
3 about it. My response has often been, Would you
4 drive this far for a basketball game? Uh-huh. So I
5 don't know that stretching out the mileage would
6 hinder. It wouldn't help.

7 There is another thing dear to my heart. Of
8 course, while I was district chair, we elected three
9 Republicans to the legislature, something that hadn't
10 happened for a long time.

11 I worked hard for Jason. I walked through
12 high grass, rocks, hills, swamp water to put up signs
13 for him. I had a six-foot sign in my front yard in a
14 prominent spot that said "Heitkamp." I often had to
15 say, No, not that Heitkamp, you know. So we work
16 together well. We -- we went all over. We went to
17 every parade. We tossed out candy. We worked to get
18 our people elected.

19 Here's my dilemma personally. Jason's my
20 friend, been my friend for years.

21 Larry Luick's my friend. I like Larry.
22 I've been to his place. We talked. He's a nice guy.

23 I like Jim Dotzenrod. You know Jim. You've
24 heard of Jim Dotzenrod. He's gearing up to run
25 again, if you haven't heard.

1 So if we join forces, 25, we're going to
2 have three of my friends running against each other.
3 Obviously, we can only have one senator. Who to vote
4 for? Well, because I'm a diehard Republican,
5 naturally, even though friend Jim -- we attend the
6 same church. No. Jim's out. Larry? Jason? Well,
7 it would be Jason, wouldn't it? Because he's from
8 District 26.

9 I can't tell you how many struggles we went
10 through to build up District 26. It was just kind of
11 there. Sometimes we had 80 or 90 people at a
12 meeting. We had guest speakers. We had people
13 coming from Bismarck.

14 I have many, many friends. I attended
15 meetings at Bismarck, of course, as district chair.
16 I attended the National Convention, and to my
17 despair, Obama won that one. Big mistake. But it
18 was delightful to be there. I was also elected as
19 Woman of the Year at the State Convention. I'm just
20 telling you this so that you know I have a little
21 knowledge and a little credit.

22 Let's -- let's not just think about this
23 might be a little better or this might work. Let's
24 think about the people involved. I talk to people
25 all the time. I know people all over. They do not

1 want to redistrict. I've lived through it before. I
2 was chairman for so many years that I've lived
3 through it. I know. I know. You'll come together
4 after a while. You'll think, Oh, this wasn't so bad.
5 But we didn't have three Republicans in at that time.
6 We do now. Let's keep them.

7 Think. Think a little bit with your heart
8 and not your brain.

9 Let's keep District 26 alive and thriving.

10 Thank you.

11 CHAIRMAN DEVLIN: Thank you, Norma.

12 Any -- anyone else? Yes.

13 PETER LEEDAHL: I'd like to thank everybody
14 for the opportunity to come before you and to say our
15 piece. I'm going to try to keep this one short
16 because it's already been pretty long, and we want to
17 respect your time.

18 I am Vice Chair of District 26, Republican
19 Party. I live in northwest corner of Richland
20 County. And as far as Richland County goes, there's
21 the Red River Valley part, and then there's kind of
22 the rest of the county as far as the -- the
23 geography, the soil, the livestock, it's just quite a
24 bit different. And I feel that the way we've got
25 District 26 right now, or even the proposal here, it

1 does a better job of -- of representing the
2 interests, the needs of people like me in the western
3 side of Richland County. Things we've experienced in
4 the past in Richland County from county commissioners
5 to disaster declarations for the USDA, being that our
6 soil is so much different, the topography is
7 different, and the livestock is different, I do think
8 that we would have better representation than the
9 plan to have Richland County all as one.

10 I thank you for your time very much.

11 Any questions? Oh, sorry. Peter Leedahl.

12 CHAIRMAN DEVLIN: Thank you.

13 PETER LEEDAHL: L, two Es, D-A-H-L.

14 CHAIRMAN DEVLIN: Is there any questions for
15 Mr. Leedahl?

16 (No audible response.)

17 CHAIRMAN DEVLIN: Seeing none, thank you for
18 being here.

19 PETER LEEDAHL: Thank you.

20 CHAIRMAN DEVLIN: Anyone else?

21 (No audible response.)

22 CHAIRMAN DEVLIN: Senator Sorvaag.

23 SENATOR SORVAAG: Mr. Chairman.

24 And -- and just to clarify, and you did,
25 that October 6th, that's -- that's an event that

1 we've been having with Cass County Republicans, no
2 different than any other --

3 CHAIRMAN DEVLIN: Yeah.

4 SENATOR SORVAAG: -- district, for 12 years
5 on Wednesdays, and Representative Schauer and myself
6 were asked to update on our process, so that -- it
7 was never advertised anything more than just us
8 updating on the process of the work of this Committee
9 or any idea that it would be the Redistricting
10 Committee as a whole, so I just wanted to clarify
11 that again. And -- and if you read the invitations
12 that went out, it's very clear of what -- what it is.

13 CHAIRMAN DEVLIN: Yeah. Thank you, Senator.

14 Committee, I'm going to take a 10-minute
15 break because I've been informed that some people
16 would maybe like to have a 10-minute break, so...

17 (Recess taken.)

18 CHAIRMAN DEVLIN: Committee, we have a few
19 things to discuss about the plan that we've been
20 discussing the last three weeks.

21 I want to -- Representative Lefor, you had
22 an update on the District 39 change as far as the
23 number. Is that correct?

24 REPRESENTATIVE LEFOR: Yes, Mr. Chairman.
25 Yesterday I met with Samantha briefly, and we didn't

1 have to move that many people. We took about 20-some
2 people out of 36 and put it into the new district to
3 give to District 39, so that -- because -- because
4 the -- on that map yesterday it showed District 39
5 being at minus 5.13, and now you see it is well
6 within threshold at a minus 4.98.

7 So -- so District 39 is okay, and I --
8 Samantha, if you want to explain to the Committee or
9 show exactly where it was that we moved population?

10 MS. KRAMER: Chairman, Members of the
11 Committee, Representative Lefor.

12 Emily is pointing out -- you can see right
13 there in District 39, that was the area that came out
14 of Y to make the deviation the appropriate level for
15 39, and then to fix Y, which is the new district,
16 then there was area right there on the edge of the
17 Stark County border that was given to Y from 36.

18 REPRESENTATIVE LEFOR: And so, Mr. Chairman,
19 I would move those changes to the map if that's
20 appropriate.

21 CHAIRMAN DEVLIN: Was there some change in
22 the numbers as well?

23 REPRESENTATIVE LEFOR: Yes. And then I
24 would also move that District 39 and District Y,
25 which I think we named 26, be switched. There was

1 some talk between people living in those areas, so
2 I've had several conversations, and District 39
3 apparently has historically been Adams/Bowman
4 Counties, so people I talked to from both districts
5 are completely fine with it. I wanted to make sure
6 that everybody was comfortable. So I would also add
7 that into my motion as well, to switch those district
8 numbers.

9 (Indiscernible conversation; microphones
10 turned off.)

11 CHAIRMAN DEVLIN: 26, is that what the 39 on
12 the map became, or is that Y, did you say?

13 REPRESENTATIVE LEFOR: It would become -- Y
14 became 26.

15 CHAIRMAN DEVLIN: Okay.

16 REPRESENTATIVE LEFOR: So I would -- I would
17 say that 39, that area now becomes 26, and the number
18 that was Y, slash, 26 now becomes 39. That's my
19 motion.

20 SENATOR BEKKEDAHL: So, Mr. Chairman, for
21 clarification, Bowman County and surrounding counties
22 becomes 39.

23 REPRESENTATIVE LEFOR: Correct.

24 SENATOR BEKKEDAHL: McKenzie County and Dunn
25 County becomes 26.

1 REPRESENTATIVE LEFOR: Correct.

2 CHAIRMAN DEVLIN: And what happens -- and
3 the new district in western North Dakota, what number
4 was that? 10?

5 SENATOR BEKKEDAHL: Mr. Chairman, the new
6 district west of Williston was going to be 23.

7 CHAIRMAN DEVLIN: Oh, yeah. Okay. Got it.

8 REPRESENTATIVE SCHAUER: I second the
9 motion.

10 CHAIRMAN DEVLIN: Who seconded? I'm sorry.
11 Representative Schauer.

12 Discussion, or are we all totally confused?
13 Representative Boschee.

14 REPRESENTATIVE BOSCHEE: Thank you,
15 Mr. Chairman.

16 I'm not confused, but maybe this will help.
17 The new southern border for proposed District 26, are
18 those -- is that rivers or tributary, or what's the
19 jaggedness versus being able to straighten that out
20 with a highway or county road?

21 REPRESENTATIVE LEFOR: Where are you
22 referring to specifically, Representative Boschee?

23 REPRESENTATIVE BOSCHEE: Well, I guess that
24 entire southern border, just doglegs and shimmies
25 and -- I don't know if those are legal terms, but is

1 that a river on that north -- that southwest corner,
2 and what's this jaggedness over here?

3 REPRESENTATIVE LEFOR: I -- I think that's
4 simply the way the -- the streets are. Is that
5 correct, Samantha or Claire? I think that's what we
6 did. We made it as straight as we could, but...

7 And -- and I also know that we -- we did
8 some of those things simply from a population
9 standpoint, because one of these districts is going
10 to have one person over the minimum threshold,
11 another one is going to have two. So you see the
12 minus 4.99 and minus 4.98. That's what led to some
13 of that, because of population.

14 CHAIRMAN DEVLIN: Further questions?

15 REPRESENTATIVE BELLEW: Mr. Chairman, I have
16 a question.

17 CHAIRMAN DEVLIN: No. I'm sorry. Anyone
18 else with a question?

19 Representative Bellew.

20 REPRESENTATIVE BELLEW: Thank you.

21 Representative Lefor, what district is
22 Killdeer in on this map? 36?

23 REPRESENTATIVE LEFOR: Killdeer would be in
24 26.

25 REPRESENTATIVE BELLEW: Oh, the new

1 district? Okay.

2 REPRESENTATIVE LEFOR: Correct.

3 SENATOR OBAN: Mr. Chairman?

4 CHAIRMAN DEVLIN: Representative -- or
5 Senator Oban. Excuse me.

6 SENATOR OBAN: I have a question about
7 changing the numbers. Regardless of the counties,
8 isn't the majority of the population located in 39, I
9 mean currently in 39, if it were to stay that?

10 REPRESENTATIVE LEFOR: Currently in -- well,
11 the populations are virtually identical if you're
12 talking about the --

13 SENATOR OBAN: Well, sure, the whole
14 county --

15 REPRESENTATIVE LEFOR: Oh, I mean -- okay.
16 I'm sorry.

17 SENATOR OBAN: -- or the whole district, of
18 course it is, but --

19 REPRESENTATIVE LEFOR: Yes. Most of the
20 population would be in District 30 -- in -- in the
21 Watford City area from the existing District 39, if
22 that is your question.

23 SENATOR OBAN: Yes, that would be my
24 question.

25 REPRESENTATIVE LEFOR: Yeah. That's

1 correct.

2 SENATOR OBAN: So I hesitate to just sort of
3 switch numbers just because -- I suppose we can,
4 but --

5 CHAIRMAN DEVLIN: So --

6 SENATOR OBAN: -- is there a better reason
7 than -- I mean, it literally changes when a team is
8 on the ballot.

9 REPRESENTATIVE LEFOR: Mr. Chairman, Senator
10 Oban.

11 You're correct. It was because of a request
12 from people that live in Bowman/Adams County that it
13 has historically been District 39; then when I
14 broached that conversation with the people in the
15 Watford City area, they didn't have a problem with
16 it. So it -- it was at a request that I was given to
17 maintain the district's identity, where they're from,
18 but you're correct that the majority of the
19 population is in the Watford City area.

20 SENATOR OBAN: I mean, I would wonder about
21 the sample size of that, questioning how and why you
22 should change it. And, I mean, how long has that
23 majority of McKenzie County also been District 39? I
24 mean, I get that maybe the couple people you talked
25 to didn't have an opinion about it, but --

1 REPRESENTATIVE LEFOR: Right.

2 SENATOR BEKKEDAHL: Mr. Chairman?

3 CHAIRMAN DEVLIN: Senator Bekkedahl.

4 SENATOR BEKKEDAHL: If I could comment, I
5 had discussions with those people as well, Senator
6 Oban, and the information I got was that Bowman and
7 this extreme southwest corner has been District 39
8 since 1902, was what I was told. I don't -- no?

9 UNIDENTIFIED SPEAKER: '09.

10 SENATOR BEKKEDAHL: '09. 1909. I stand
11 corrected. I don't know if McKenzie County has
12 always been within that district that long, so the
13 longevity seemed to indicate that 39 was more of an
14 extreme southwest district than McKenzie County would
15 be.

16 CHAIRMAN DEVLIN: Any further questions for
17 Representative Lefor?

18 (No audible response.)

19 REPRESENTATIVE NATHE: We have a motion and
20 a second to make those changes. We will -- if I
21 don't see any other questions, we will poll the
22 Committee.

23 MS. THOMPSON: Chairman Devlin?

24 CHAIRMAN DEVLIN: Yes.

25 MS. THOMPSON: Representative Bellew?

1 REPRESENTATIVE BELLEW: Yes.
2 MS. THOMPSON: Representative Boschee?
3 REPRESENTATIVE BOSCHEE: Yes.
4 MS. THOMPSON: Representative Headland?
5 REPRESENTATIVE HEADLAND: Yes.
6 MS. THOMPSON: Representative Lefor?
7 REPRESENTATIVE LEFOR: Yes.
8 MS. THOMPSON: Representative Monson?
9 REPRESENTATIVE MONSON: Yes.
10 MS. THOMPSON: Representative Nathe?
11 REPRESENTATIVE NATHE: Yes.
12 MS. THOMPSON: Representative Schauer?
13 REPRESENTATIVE SCHAUER: Yes.
14 MS. THOMPSON: Senator Holmberg?
15 SENATOR HOLMBERG: Yes.
16 MS. THOMPSON: Senator Bekkedahl?
17 SENATOR BEKKEDAHL: Aye.
18 MS. THOMPSON: Senator Burckhard?
19 SENATOR BURCKHARD: Aye.
20 MS. THOMPSON: Senator Erbele?
21 SENATOR ERBELE: Aye.
22 MS. THOMPSON: Senator Klein?
23 SENATOR KLEIN: Aye.
24 MS. THOMPSON: Senator Oban?
25 SENATOR OBAN: Yes.

1 MS. THOMPSON: Senator Poolman?

2 SENATOR POOLMAN: Aye.

3 MS. THOMPSON: And Senator Sorvaag?

4 SENATOR SORVAAG: Aye.

5 MS. THOMPSON: Mr. Chairman, the motion
6 carries.

7 CHAIRMAN DEVLIN: Thank you.

8 A couple other things that were brought
9 up -- or need to be brought up. The county auditor
10 and commissioners from Eddy County contacted us, and
11 they would prefer that their county stayed whole. As
12 you would recall, we split out the reservation and
13 put that in with the rest of the Spirit Lake
14 Reservation.

15 It affects very few people. I think it was
16 maybe six people that identified as Native Americans
17 in that. And I said I would bring it forward, and
18 then if that were to happen, then it would be -- let
19 me see here. Yeah, the part -- the part that is in
20 15 would go into 14, so all of Eddy County would be
21 in 14. But we have not split a reservation. I just
22 said I would bring it up, so...

23 If anybody wants to make a motion?

24 SENATOR KLEIN: Mr. Chairman?

25 CHAIRMAN DEVLIN: Senator Klein.

1 SENATOR KLEIN: I'm not ready for a motion,
2 but I'm certainly interested in the -- okay. The
3 total would suggest, then, we would still be within
4 the margin of --

5 CHAIRMAN DEVLIN: Yeah.

6 SENATOR KLEIN: -- tolerance?

7 CHAIRMAN DEVLIN: About 4 1/2 percent, if I
8 remember right.

9 MS. THOMPSON: Yes.

10 SENATOR KLEIN: Okay. And, once again,
11 that's been a request from --

12 CHAIRMAN DEVLIN: From the county auditor
13 and county commissioners in Eddy County.

14 SENATOR KLEIN: And that moves 175 people?
15 Is that what --

16 CHAIRMAN DEVLIN: No. 117, I believe.

17 SENATOR KLEIN: 117?

18 CHAIRMAN DEVLIN: 117 people. And, like I
19 said, three of them identified as American Indians in
20 the census data, but that -- you know, they said that
21 was undercounted, so I don't -- I don't know.

22 But they did ask that we do that, and we
23 have a similar request -- and I don't know if you
24 want to take them at the same time. We have a
25 similar request from Sargent County on that, on

1 the -- remove the reservation part from Sargent
2 County and place it in 28 to keep the Sargent County
3 whole, you know, and that -- that involved 69 people,
4 so...

5 Representative Boschee.

6 REPRESENTATIVE BOSCHEE: Thank you,
7 Mr. Chairman.

8 I think -- you know, certainly respect the
9 work of our auditors, and I think we tried hard to
10 make sure we accommodate them, especially for the
11 election administration that they have to do, but we
12 also, I think, are well educated enough now as a
13 Committee to know that if we start splitting
14 reservations, that invites litigation in the work
15 that we do here, so I would oppose.

16 CHAIRMAN DEVLIN: Any other -- I don't see a
17 motion. Was there any other discussion on either, or
18 do you want to treat them separately? Because
19 Sargent County is kind of unique. It's just that
20 little portion down there, but...

21 There's no motion on the Eddy County
22 situation.

23 What about the Sargent County one? Does
24 anybody wish to do anything with that? Because that
25 was also a request by the county auditor. They

1 wanted to keep Sargent County whole and not break out
2 that little bit for the reservation, which is -- my
3 understanding, it's part of the South Dakota
4 reservation. So can you show that up there, too?

5 SENATOR SORVAAG: So you're --

6 CHAIRMAN DEVLIN: Senator Sorvaag.

7 SENATOR SORVAAG: You're looking, what's up
8 there, to split that part of the reservation, or --
9 because there's 30 -- no. 77 there.

10 CHAIRMAN DEVLIN: Yeah.

11 SENATOR SORVAAG: And 130-some in the
12 Richland part of the reservation. I thought -- so
13 that's staying whole now and not split, or were you
14 splitting it? That's what I'm trying to get
15 clarified. Because when we were mapping, we were
16 continually --

17 CHAIRMAN DEVLIN: Yes.

18 SENATOR SORVAAG: -- keeping that triangle.

19 CHAIRMAN DEVLIN: Right.

20 SENATOR SORVAAG: We flipped it back and
21 forth but always kept that triangle of 200-and-some
22 people together.

23 CHAIRMAN DEVLIN: Emily?

24 MS. THOMPSON: Mr. Chairman, Members of the
25 Committee.

1 Yes, the second example you're looking at,
2 again, the first one that we reviewed was in the Eddy
3 County area, a request from county officials to move
4 a geographic area designated as the reservation with
5 117 people, 3 of which were identified as American
6 Indians, and that was in order to keep Eddy County
7 whole for ease of election administrations and to
8 kind of respect those county boundaries.

9 The second area we're looking at, again from
10 requests from county officials, for those same
11 purposes, to keep the county whole, again, for ease
12 of election administration. It is this area you're
13 looking at, just this very southeastern tip of
14 Sargent County.

15 Currently, right now, that area contains 69
16 people, none of which are identified as American
17 Indian, according, again, to the census data that
18 we're working from in maps, too, here, and that would
19 result in Sargent County remaining whole.

20 And the deviation now for Richland County,
21 District 25, is negative .28, so within range. The
22 deviation for District 28 in Sargent County,
23 including that small portion of the reservation, is
24 positive 4.73.

25 And just for a little history as well, we

1 looked at whether or not this portion of the
2 reservation that's up on your screen now has been
3 split in the past, and it has kind of historically
4 gone back and forth with different redistricting
5 cycles. Sometimes that sliver of Sisseton Wahpeton
6 Oyate Reservation has been kept whole; in other
7 redistricting cycles, it has been split. So that has
8 gone back and forth.

9 The Eddy County situation, for some
10 background, that reservation we're looking at there,
11 historically that has stayed whole because it has
12 been fully contained within a district in the past,
13 so just some additional information for your
14 consideration.

15 CHAIRMAN DEVLIN: Senator Holmberg.

16 SENATOR HOLMBERG: We also tried, I know, in
17 the plans, in fact, even, after last weekend, putting
18 the entire reservation into District 28, but then it
19 made it too big, even though -- you know, we're
20 talking about just a few people.

21 And I know Senator Sorvaag had worked
22 earlier about having the reservation whole, but in
23 Sargent County, because if you recall, Sargent -- or
24 that particular district, whether it's 26 or
25 whatever, you can go back quite a few years and the

1 western part of Richland County has always been to
2 the west. Like I said, it's been since 1902 that
3 Richland County has been whole.

4 But -- so we tried to put it in the one.
5 Doesn't work. If we split it, then -- then we have
6 kind of gone away from what we have said, which was
7 that we did not want to split any reservation no
8 matter what the -- this whole thing is uncomfortable,
9 but --

10 SENATOR SORVAAG: Mr. Chairman?

11 CHAIRMAN DEVLIN: Senator Sorvaag.

12 SENATOR SORVAAG: And the numbers that we
13 have, that the computer has, don't all equal either,
14 because it says 206 reservation if you block off the
15 whole triangle, and it says 137 Richland in 77.
16 You're saying 69. The mapping I had showed 77,
17 which, anyway, comes to -- there's more people than
18 the -- so none of it makes any sense.

19 MS. THOMPSON: And I can go ahead and
20 highlight that area, Mr. Chairman, if you'd like.

21 CHAIRMAN DEVLIN: Yes. Yes, please.

22 MS. THOMPSON: I know it's a little hard to
23 see on the screen there, but the red area that has
24 been highlighted that you see is the reservation area
25 at issue. That is located within Sargent County.

1 This is a very small text, but the population reading
2 for that red highlighted area is 69 individuals, you
3 can see here, zero which are designated as American
4 Indians, according to the census.

5 SENATOR SORVAAG: Mr. Chairman, could Emily
6 bring up the Richland part of the -- do the same
7 thing with the Rich- -- clear that out in the
8 Richland? Because every time I did it, I got
9 different numbers. How many were affected in
10 Richland?

11 MS. THOMPSON: Absolutely, Mr. Chairman.

12 SENATOR KLEIN: Mr. Chairman, and just to
13 confirm what I --

14 CHAIRMAN DEVLIN: Oh, I'm sorry.
15 Senator Klein.

16 SENATOR KLEIN: Did we hear that that
17 corner, even though it's reservation land, has no
18 Native population? Did I -- of those 69, it's --
19 it's --

20 MS. THOMPSON: Mr. Chairman, Senator Klein.

21 That is correct. According to the census
22 data -- and again, that's just how people identified
23 on the census. Census data indicates no Native
24 American population in that, the area I just
25 highlighted.

1 SENATOR KLEIN: As -- and I could follow up
2 on that. Adding -- have we added those 69 to 28 and
3 they would still stay under? Is that number correct?

4 MS. THOMPSON: Mr. Chairman, Senator Klein.

5 That's correct. What you see on your
6 screen, you can see District 28, that southern
7 portion, containing the reservation, Sargent County.
8 That's kind of highlighted that blue color there. So
9 the totals that you see on your screen, the deviation
10 for District 28, including that now blue highlighted
11 area of the reservation in Sargent County, brings the
12 deviation in 28 to positive 4.73, so still within
13 range, and removing that, and again turning that kind
14 of blue and adding it to 28, results in the deviation
15 for District 25 as a negative .28, so both still
16 within range.

17 (Indiscernible conversation; microphones
18 turned off.)

19 CHAIRMAN DEVLIN: We're digging up the other
20 population, Senator, you asked about.

21 SENATOR SORVAAG: Mr. Chairman, I think my
22 question will be answered. If you took that point
23 that's in Richland, which I think is going to come up
24 130, plus or minus, it would -- if you moved it to
25 Sargent, it would kick 28 over the 5 percent.

1 CHAIRMAN DEVLIN: Yes, it would.

2 SENATOR SORVAAG: So really, you don't --

3 CHAIRMAN DEVLIN: You would have to split
4 it.

5 MS. THOMPSON: Yes.

6 CHAIRMAN DEVLIN: Go ahead.

7 MS. THOMPSON: Mr. Chairman, Senator
8 Sorvaag.

9 To follow up on your question regarding the
10 population of the reservation area located only in
11 Richland County, that currently is noted, highlighted
12 on your screen. The population there is 137 people,
13 and again, according to census data, 56 of which are
14 identified as American Indian.

15 CHAIRMAN DEVLIN: Any other -- any other
16 discussion or questions on that?

17 (No audible response.)

18 CHAIRMAN DEVLIN: Okay. Seeing none, then
19 I'm going to move to the subdistrict part that --
20 because we have to have this done before they can --
21 the staff can put maps together over the noon hour,
22 so...

23 The subdistrict part -- and I'm going to
24 probably turn this over to Senator Holmberg. We'll
25 start with Subdistrict 4.

1 SENATOR HOLMBERG: I believe, I hope -- yes,
2 there is a map, and it -- I just ask the Council, how
3 would that look? It's not their map. It's not my
4 map. It is a map.

5 REPRESENTATIVE HEADLAND: Mr. Chairman?

6 CHAIRMAN DEVLIN: Yes.

7 REPRESENTATIVE HEADLAND: Just for
8 clarification, what did we -- didn't we vote on this?

9 CHAIRMAN DEVLIN: We voted to do
10 subdistricts, but we haven't laid out --

11 REPRESENTATIVE HEADLAND: Oh, we haven't
12 voted on which ones?

13 CHAIRMAN DEVLIN: -- laid out --

14 REPRESENTATIVE HEADLAND: Okay.

15 CHAIRMAN DEVLIN: -- laid out -- there's two
16 of them we have to do, 4 and 9, and we just have to
17 decide which plan to do so they know how to map it.

18 REPRESENTATIVE HEADLAND: Okay. Thank you.

19 REPRESENTATIVE BELLEW: Mr. Chairman, once
20 you get it passed on, I have some comments on the
21 map. Don't look at me in that tone of voice.

22 UNIDENTIFIED SPEAKER: He didn't say
23 anything, though.

24 REPRESENTATIVE BELLEW: Okay. Can I comment
25 now, or should I --

1 CHAIRMAN DEVLIN: You want to comment on
2 what?

3 REPRESENTATIVE BELLEW: On the map that was
4 just passed out.

5 CHAIRMAN DEVLIN: For District 4?

6 REPRESENTATIVE BELLEW: Yes.

7 CHAIRMAN DEVLIN: Okay. Well, let's let --
8 let's let Senator Holmberg present it first, and then
9 we'll comment on it.

10 REPRESENTATIVE BELLEW: Very good. Thank
11 you.

12 CHAIRMAN DEVLIN: Are you sure? Do I have
13 the right tone of voice that time? Okay.

14 SENATOR HOLMBERG: I will ask Claire to
15 present it because this is the first time I've seen
16 it.

17 CHAIRMAN DEVLIN: Oh, okay.

18 SENATOR HOLMBERG: I mean, it isn't her map,
19 but it is a map which I believe takes the reservation
20 and puts it in one subdistrict and puts the rest of 4
21 in the other district, subdistrict.

22 MS. NESS: Yes. Mr. Chairman, Senator
23 Holmberg, and Members of the Committee.

24 That's exactly what it does. We took --
25 last week we took the District 4, carved out the

1 reservation as its own subdistrict. You see the
2 numbers there are based on the overall population of
3 a -- an ideal population of a district, but they are
4 within the 5 percent parameters.

5 And I'd be happy to answer any questions.

6 CHAIRMAN DEVLIN: Representative Bellew, did
7 you have a question?

8 REPRESENTATIVE BELLEW: I do, Mr. Chairman.

9 CHAIRMAN DEVLIN: Okay. Thank you.

10 REPRESENTATIVE BELLEW: And just -- well,
11 the question is: We have had a map with -- there's
12 six townships in southern Ward County that are in
13 District 6 now, and you have them in District 4 on
14 this map. How does that affect?

15 MS. NESS: Yes. Representative Bellew and
16 Members of the Committee.

17 We can revise this based on an updated
18 version of District 4. This was created last week,
19 so it's not quite correct.

20 CHAIRMAN DEVLIN: Senator Holmberg.

21 SENATOR HOLMBERG: But are you confident
22 that if you would make those adjustments, these two,
23 4A and 4B, would fall within the tolerance of what
24 we're looking for?

25 MS. NESS: Senator Holmberg and Members of

1 the Committee.

2 We can do that real quickly. It won't take
3 us very long to pull that up and split that out and
4 check the populations.

5 SENATOR HOLMBERG: Do we want --
6 Mr. Chairman, do we want to move on to 9 and then
7 come back? Because we want to have decisions made
8 before lunch.

9 CHAIRMAN DEVLIN: Right. Okay. Let's --
10 are you presenting District 9, or are you passing the
11 buck to Claire?

12 SENATOR HOLMBERG: There's -- there is a
13 packet that has five different options.

14 CHAIRMAN DEVLIN: Do we have that?

15 SENATOR HOLMBERG: I think I have it. Yeah.
16 Oh, I get another one. Such a deal.

17 And this is -- there was -- in District 4,
18 as I understand it, there was -- with -- with the
19 line that was drawn, there is a representative that
20 lives in 4A and there's a representative that lives
21 in 4B. Okay?

22 In this one, 9A and 9B, this was done some
23 days ago, and I want to just point out what each one
24 of them does. We have -- in our districts, we
25 have -- of the maps we have drawn so far, we have

1 tried to stay away from, as much as possible, putting
2 incumbents together, so when we get to District 9,
3 the first map, map on page 1, puts both incumbents in
4 the same district.

5 And the only difference with what we have --
6 and I'll be frank. The only difference between what
7 we've been doing before and what we're doing here is
8 that these two incumbents are members of the minority
9 party, and we have done a lot to try to separate out
10 so we don't do that.

11 But, anyway, Map 1 puts two incumbents
12 together.

13 Map 2 puts two incumbents together.

14 Map 3 separates the two incumbents that are
15 there. One is the Rolla area; one is the Mylo area.

16 Map 4 puts the two incumbents back together
17 in the same district.

18 And Map 5 has one incumbent with the
19 reservation, the other incumbent not with the bulk of
20 the reservation, I should say.

21 So those are the five options, and I kind
22 of -- personally, if I had to make a motion, which I
23 would, I would vote for Number 5.

24 CHAIRMAN DEVLIN: Is that the Option D?

25 SENATOR HOLMBERG: That would be Option D.

1 Excuse me. I'm looking at page numbers, and you have
2 options.

3 And -- and I know, I -- I would ask
4 Representative Boschee, but again, it's -- it's their
5 children we're dealing with here.

6 But I would make that motion, and if you
7 have questions about what that actually does -- can I
8 use names or not?

9 CHAIRMAN DEVLIN: I don't care.

10 SENATOR HOLMBERG: Option D puts
11 Representative Boe, he's the Mylo area guy, in with
12 the bulk of the reservation and puts Representative
13 Marv Nelson in the rest of the district.

14 And Option -- and the other option that
15 separates them does just the opposite. It puts -- it
16 would be Boe in with the rest of the district and
17 puts Representative Nelson in. I mean, we know what
18 the names are, so that's why I'm using them, but I'm
19 just suggesting -- I would make a motion that we do
20 Option D, and then if there's a second, we can fight
21 about it.

22 SENATOR BEKKEDAHL: I'll second that for
23 Option D.

24 CHAIRMAN DEVLIN: Okay. Senator Bekkedahl.

25 SENATOR BEKKEDAHL: If I could ask a

1 question, though?

2 CHAIRMAN DEVLIN: Certainly.

3 SENATOR BEKKEDAHL: So for clarification,
4 looking at the numbers, all of these subdistricts fit
5 the plus or minus 5 percent, then, as you've
6 proposed. Right?

7 CHAIRMAN DEVLIN: Yes. Yes.

8 SENATOR BEKKEDAHL: Thank you.

9 REPRESENTATIVE NATHE: Mr. Chairman?

10 CHAIRMAN DEVLIN: Representative Nathe.

11 REPRESENTATIVE NATHE: Was that D, as in
12 David, or B, as in boy?

13 SENATOR HOLMBERG: David, as in David.

14 (Indiscernible conversation; microphones
15 turned off.)

16 CHAIRMAN DEVLIN: Representative Boschee.

17 REPRESENTATIVE BOSCHEE: Thank you,
18 Mr. Chairman.

19 This might be a question more for
20 Legislative Council. For purposes of this question,
21 I'm looking at Option C because I think it shows it
22 better.

23 CHAIRMAN DEVLIN: Option which?

24 REPRESENTATIVE BOSCHEE: Option C --

25 CHAIRMAN DEVLIN: C. Okay.

1 REPRESENTATIVE BOSCHEE: -- I'm looking at,
2 just because I'm going to ask about colors.

3 So we have Belcourt, which has been within
4 every option for its own subdistrict and then
5 revolving around there. To the north and then into
6 east Dunseith in Option C there are blocks of a
7 brownish color. Can you explain what these -- that
8 was confusing to me earlier. Is that tribal land?
9 Is that housing? What -- what that might mean for
10 us?

11 MS. NESS: Yes. Mr. Chairman,
12 Representative Boschee, and Members of the Committee.

13 When you pull up the census data -- if you
14 look at, actually, the cover sheet, when you pull up
15 the census data, all those little noncontiguous areas
16 that are kind of that grayish brown as well as the
17 main rectangle around Belcourt, those are all denoted
18 in the census data as the reservation.

19 MS. THOMPSON: Mr. Chairman, if I may?

20 CHAIRMAN DEVLIN: You may.

21 MS. THOMPSON: I just mirrored the screen
22 here. I turned off the color-coding on the
23 background of your map. If you look over at the
24 legend here -- I know it's very small on your screen,
25 but the Indian reservations, as mentioned in your

1 display manager, have this light kind of tan color,
2 and so when you shut off the colored background, now
3 if I zoom in on Rolette County, you can see all of
4 those little tan dots. Those are designated as kind
5 of a geography, a colored geography, as an Indian
6 reservation territory. So, again, a little bit of a
7 checkerboard pattern up there with the various
8 reservation areas.

9 REPRESENTATIVE BOSCHEE: Mr. Chairman? And
10 maybe this is --

11 CHAIRMAN DEVLIN: Representative Boschee.

12 REPRESENTATIVE BOSCHEE: -- a note outside
13 of the conversation about redistricting, but that, to
14 me, I think explains a lot of the concerns that we
15 hear from this reservation about jurisdiction
16 enforcement, is when you cross across a field or
17 something, you're on the reservation -- I mean, this
18 is just interesting to see it this way --

19 CHAIRMAN DEVLIN: Yeah.

20 REPRESENTATIVE BOSCHEE: -- versus how I've
21 always perceived it to be just a block of nine miles
22 by thirteen miles, so...

23 CHAIRMAN DEVLIN: Are there other questions?
24 Senator Burckhard.

25 SENATOR BURCKHARD: Mr. Chairman, on

1 Option D, as in Devlin --

2 CHAIRMAN DEVLIN: No. We're not going
3 there.

4 SENATOR BURCKHARD: Did I -- did I
5 understand that 9A would be Representative Boe and --
6 there's not a 9B designated, but that would be
7 Nelson?

8 SENATOR HOLMBERG: Yeah, there is no 9B, but
9 that's what it would be.

10 SENATOR BURCKHARD: Okay. Thank you.

11 REPRESENTATIVE NATHE: Mr. Chairman?

12 CHAIRMAN DEVLIN: Representative Nathe.

13 REPRESENTATIVE NATHE: We're talking about
14 Nelson and Boe, but there's also -- Damschen's in
15 there, too, is that correct, in the far east part of
16 9?

17 CHAIRMAN DEVLIN: I believe Representative
18 Damschen would be in 9B, the way I understand it. Is
19 that correct?

20 SENATOR HOLMBERG: Yes.

21 REPRESENTATIVE NATHE: Okay.

22 CHAIRMAN DEVLIN: Further discussion?

23 Representative Boschee.

24 REPRESENTATIVE BOSCHEE: Yeah, Mr. Chairman.

25 I think just for a point of order for the

1 Committee, too, the challenge we have with this
2 tribal nation specifically -- I shouldn't say
3 challenges. If we wanted to put as much of the
4 American Indian population into a tribal subdistrict
5 for bloc voting, that's not possible to get that
6 5 percent deviation, is that correct, because of
7 the -- the spread-out nature as well as the volume of
8 the population? Right?

9 (No audible response.)

10 CHAIRMAN DEVLIN: Is there further
11 discussion?

12 (No audible response.)

13 CHAIRMAN DEVLIN: We have a motion and a
14 second for Option D. Is that correct, Senator?

15 REPRESENTATIVE BOSCHEE: I'm sorry,
16 Mr. Chairman.

17 CHAIRMAN DEVLIN: Oh, I'm sorry.

18 REPRESENTATIVE BOSCHEE: Just, I guess, for
19 the record, I'll be opposing the motion, although I
20 recognize that that Option D is probably the best
21 when I think of my children and within my caucus, but
22 being -- as far as the principle of conversations
23 around the redistricting process, I see some better
24 options in terms of keeping the American Indian
25 population within a contiguous area, so for that

1 reason, I won't be supporting the motion. Thank you.

2 CHAIRMAN DEVLIN: Okay. Anyone else?

3 (No audible response.)

4 CHAIRMAN DEVLIN: Okay. I think we may poll
5 the Committee for approval for Option D.

6 MS. THOMPSON: Chairman Devlin?

7 CHAIRMAN DEVLIN: Yes.

8 MS. THOMPSON: Representative Bellew?

9 REPRESENTATIVE BELLEW: No.

10 MS. THOMPSON: Representative Boschee?

11 REPRESENTATIVE BOSCHEE: No. No.

12 MS. THOMPSON: Representative Headland?

13 REPRESENTATIVE HEADLAND: Yes.

14 MS. THOMPSON: Representative Lefor?

15 REPRESENTATIVE LEFOR: Yes.

16 MS. THOMPSON: Representative Monson?

17 REPRESENTATIVE MONSON: Yes.

18 MS. THOMPSON: Representative Nathe?

19 REPRESENTATIVE NATHE: Yes.

20 MS. THOMPSON: Representative Schauer?

21 REPRESENTATIVE SCHAUER: Yes.

22 MS. THOMPSON: Senator Holmberg?

23 SENATOR HOLMBERG: Yes.

24 MS. THOMPSON: Senator Bekkedahl?

25 SENATOR BEKKEDAHL: Aye.

1 MS. THOMPSON: Senator Burckhard?

2 SENATOR BURCKHARD: Aye.

3 MS. THOMPSON: Senator Erbele?

4 SENATOR ERBELE: Aye.

5 MS. THOMPSON: Senator Klein?

6 SENATOR KLEIN: Aye.

7 MS. THOMPSON: Senator Oban?

8 SENATOR OBAN: No.

9 MS. THOMPSON: Senator Poolman?

10 SENATOR POOLMAN: Aye.

11 MS. THOMPSON: And Senator Sorvaag?

12 SENATOR SORVAAG: Aye.

13 MS. THOMPSON: And, Mr. Chairman, the motion
14 carries.

15 CHAIRMAN DEVLIN: Now, do we have an answer
16 to Representative Bellew's question on -- on 4?
17 Yeah.

18 MS. THOMPSON: Yes, Mr. Chairman. I can
19 pull up that map of how that looks.

20 CHAIRMAN DEVLIN: Okay.

21 (Indiscernible conversation; microphones
22 turned off.)

23 MS. THOMPSON: Mr. Chairman, Committee
24 Members.

25 What you see on your screen here is an

1 illustration of what District 4 would look like if it
2 was split as shown on your handout. Just a little
3 side note, though. You'll notice the bottom
4 southwestern corner looks slightly different on your
5 handout as that district split was prepared before
6 yesterday's slight modifications to the map.

7 So with yesterday's map of the boundaries of
8 Districts -- District 4, splitting the area within
9 the District 4 that was approved yesterday into a 4A
10 and a 4 what would be B, it's just labeled as 4 on
11 your map, you can see it's a negative 51 percent to a
12 negative 49.9, higher percentages than the 5,
13 obviously, because we're splitting it, so it does
14 balance.

15 CHAIRMAN DEVLIN: And, Representative
16 Bellew, that answered the question?

17 REPRESENTATIVE BELLEW: Yes.

18 CHAIRMAN DEVLIN: Yeah. Okay.

19 Is there any further discussion on the --
20 did we have a motion on that? Did we have a motion
21 on that? I'm sorry.

22 UNIDENTIFIED SPEAKER: Ask them.

23 UNIDENTIFIED SPEAKER: I don't believe so.

24 CHAIRMAN DEVLIN: No, we did not.

25 SENATOR HOLMBERG: I move that.

1 CHAIRMAN DEVLIN: Okay. Is there a second?

2 REPRESENTATIVE BOSCHEE: Second.

3 CHAIRMAN DEVLIN: Second by Representative

4 Boschee.

5 Further discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, you may poll

8 the Committee.

9 MS. THOMPSON: Chairman Devlin?

10 CHAIRMAN DEVLIN: Aye.

11 MS. THOMPSON: Representative Bellew?

12 REPRESENTATIVE BELLEW: No.

13 MS. THOMPSON: Representative Boschee?

14 REPRESENTATIVE BOSCHEE: Yes.

15 MS. THOMPSON: Representative Headland?

16 REPRESENTATIVE HEADLAND: Yes.

17 MS. THOMPSON: Representative Lefor?

18 REPRESENTATIVE LEFOR: Yes.

19 MS. THOMPSON: Representative Monson?

20 REPRESENTATIVE MONSON: Yes.

21 MS. THOMPSON: Representative Nathe?

22 REPRESENTATIVE NATHE: Yes.

23 MS. THOMPSON: Representative Schauer?

24 REPRESENTATIVE SCHAUER: Yes.

25 MS. THOMPSON: Senator Holmberg?

1 SENATOR HOLMBERG: Aye.

2 MS. THOMPSON: Senator Bekkedahl?

3 SENATOR BEKKEDAHL: Aye.

4 MS. THOMPSON: Senator Burckhard?

5 SENATOR BURCKHARD: Aye.

6 MS. THOMPSON: Senator Erbele?

7 SENATOR ERBELE: Aye.

8 MS. THOMPSON: Senator Klein?

9 SENATOR KLEIN: Aye.

10 MS. THOMPSON: Senator Oban?

11 SENATOR OBAN: Yes.

12 MS. THOMPSON: Senator Poolman?

13 SENATOR POOLMAN: Aye.

14 MS. THOMPSON: And Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

16 MS. THOMPSON: And, Mr. Chairman, the motion
17 carries.

18 CHAIRMAN DEVLIN: Okay. Emily or Claire,
19 what else do we have to do so that you can get the
20 final version of the map ready? Have we got
21 everything?

22 (Indiscernible conversation; microphones
23 turned off.)

24 CHAIRMAN DEVLIN: Huh? Yeah, but they have
25 to put it all together, and then we vote on the plan.

1 Is that correct?

2 MS. THOMPSON: Mr. Chairman, we have
3 everything we need, so over the lunch hour, staff
4 will go ahead and print a final cover sheet of
5 everything we've proved up to the noon hour. We'll
6 also run a report for your split counties and provide
7 any relevant incumbent information based on the new
8 changes.

9 We do have one more item that we might want
10 to touch on --

11 CHAIRMAN DEVLIN: That would be fine.

12 MS. THOMPSON: -- before lunch. Oh, excuse
13 me. Actually, we -- we did a population change
14 summary in the even-numbered districts, but I think,
15 if it's all right with you and the Committee, we'll
16 go ahead with the newly revised map and just prepare
17 that new document to go with all of those materials.

18 CHAIRMAN DEVLIN: That will be --

19 MS. THOMPSON: We'll have a full package for
20 presentation after the noon hour.

21 CHAIRMAN DEVLIN: That would make sense.

22 So how much time would staff like?

23 MS. THOMPSON: I would say we could get it
24 all wrapped up in an hour, if that's all right with
25 the Committee?

1 CHAIRMAN DEVLIN: Is anybody going to feed
2 the staff during that time period, or not?

3 MS. THOMPSON: We'll be all right.

4 CHAIRMAN DEVLIN: Senator Erbele had a
5 question.

6 SENATOR ERBELE: Mr. Chairman.

7 I mean, as long as we're talking the county
8 lines, and I guess, you know, it becomes a part of my
9 new area of 28 with Sargent County, the fact that
10 there's no Natives in there, I -- I would have no
11 problem in accepting that portion of Sargent County,
12 and that way all the Native population is confined to
13 Richland, and their auditor should be happy, too,
14 so...

15 CHAIRMAN DEVLIN: Representative Lefor.

16 REPRESENTATIVE LEFOR: Thank you,
17 Mr. Chairman.

18 Yesterday you talked about a possible change
19 to statute allowing the various parties to make their
20 own determination on that. What would be the best
21 vehicle for me to use to bring this before the
22 Committee since we don't have it in bill form at this
23 point? I'd like to bring forward that language.

24 CHAIRMAN DEVLIN: Well, yeah. I think we
25 can bring that language forward as we're doing the

1 rest of -- there's a bunch of legal things we have to
2 do this afternoon after --

3 REPRESENTATIVE LEFOR: Okay.

4 CHAIRMAN DEVLIN: -- we look at the final
5 plan, so I think it would be fine --

6 REPRESENTATIVE LEFOR: I would ask to put it
7 into the plan, into the bill.

8 CHAIRMAN DEVLIN: If that's what you want,
9 or else it can be brought in as a separate bill in
10 the session. Whatever -- whatever Representative
11 Lefor gets -- wants is what he usually gets, I've
12 noticed, so...

13 So what do you want to do -- well, did you
14 want to make that a motion, or --

15 SENATOR ERBELE: Mr. Chairman.

16 I would move to keep Sargent -- Sargent
17 whole, and it -- I really don't have a penchant for
18 it either way, but it kind of makes sense from an
19 auditor's standpoint, and so I would move it, and we
20 can vote it up or down as we see fit.

21 SENATOR KLEIN: Second.

22 CHAIRMAN DEVLIN: Second by Senator Klein.
23 Discussion?

24 Representative Boschee.

25 REPRESENTATIVE BOSCHEE: Thank you,

1 Mr. Chairman.

2 Again, I think -- I understand the
3 simplicity of trying to have the lines for auditors'
4 purposes, and while the data doesn't necessarily
5 reflect an American Indian population on one side of
6 the division we're talking about, we also know that
7 the litigation that generally comes forward, it only
8 requires one person, so someone could move in or they
9 did not identify in the census as American Indian, so
10 I'm going to oppose the motion.

11 While I understand the simplicity and would
12 like to be able to, I just think if we're following
13 the principle of keeping tribal communities -- or
14 tribal reservation boundaries whole, that we should
15 stick with that.

16 CHAIRMAN DEVLIN: Representative Nathe.

17 REPRESENTATIVE NATHE: Thank you,
18 Mr. Chairman.

19 I, too, will be opposing this. I mean,
20 we -- with the other reservations -- we've made sure
21 that we've kept every other reservation whole. Now
22 with this plan we're going to all of a sudden now
23 divide a reservation at the last minute because of
24 one auditor. I think we leave it the way we have it
25 and stay consistent with what we've done across the

1 state.

2 CHAIRMAN DEVLIN: Senator Sorvaag.

3 SENATOR SORVAAG: I would also -- I'm going
4 to oppose it because we've worked the whole time that
5 that stays together. That was one of our directions,
6 that reservations -- no matter how tiny, no matter
7 how few, and I just think the auditor needs to work
8 around it --

9 CHAIRMAN DEVLIN: Okay.

10 SENATOR SORVAAG: -- because that's been a
11 consistent.

12 CHAIRMAN DEVLIN: We have a motion and
13 second before us. Poll the committee.

14 MS. THOMPSON: Chairman Devlin?

15 CHAIRMAN DEVLIN: No.

16 MS. THOMPSON: Representative Bellew?

17 REPRESENTATIVE BELLEW: Yes.

18 MS. THOMPSON: Representative Boschee?

19 REPRESENTATIVE BOSCHEE: No.

20 MS. THOMPSON: Representative Headland?

21 REPRESENTATIVE HEADLAND: No.

22 MS. THOMPSON: Representative Lefor?

23 REPRESENTATIVE LEFOR: No.

24 MS. THOMPSON: Representative Monson?

25 REPRESENTATIVE MONSON: No.

1 MS. THOMPSON: Representative Nathe?

2 REPRESENTATIVE NATHE: No.

3 MS. THOMPSON: Representative Schauer?

4 REPRESENTATIVE SCHAUER: No.

5 MS. THOMPSON: Senator Holmberg?

6 SENATOR HOLMBERG: No.

7 MS. THOMPSON: Senator Bekkedahl?

8 SENATOR BEKKEDAHL: No.

9 MS. THOMPSON: Senator Burckhard?

10 SENATOR BURCKHARD: No.

11 MS. THOMPSON: Senator Erbele?

12 SENATOR ERBELE: Aye.

13 MS. THOMPSON: Senator Klein?

14 SENATOR KLEIN: No.

15 MS. THOMPSON: Senator Oban?

16 SENATOR OBAN: No.

17 MS. THOMPSON: Senator Poolman?

18 SENATOR POOLMAN: No.

19 MS. THOMPSON: Senator Sorvaag?

20 SENATOR SORVAAG: No.

21 MS. THOMPSON: Mr. Chairman, the motion

22 fails.

23 CHAIRMAN DEVLIN: How much time would staff

24 like? Would an hour do it, or do you want until

25 1 o'clock, or what would you prefer?

1 MS. THOMPSON: I believe an hour would do
2 it, Mr. Chairman.

3 CHAIRMAN DEVLIN: Okay.

4 REPRESENTATIVE HEADLAND: Mr. Chairman?

5 CHAIRMAN DEVLIN: Yes.

6 REPRESENTATIVE HEADLAND: Just wondering if
7 the percentages of the new districts, if that
8 document is ready that we could have now before
9 lunch, if it -- if it's available?

10 CHAIRMAN DEVLIN: Emily?

11 MS. THOMPSON: Mr. Chairman, Members of the
12 Committee.

13 We have a percentages relating to the
14 districts based on yesterday's changes, so there are
15 not, you know, excessive changes, so we could provide
16 that now, if you wanted the updated one after lunch.

17 CHAIRMAN DEVLIN: I think we may as well
18 wait.

19 UNIDENTIFIED SPEAKER: (Indiscernible.)

20 CHAIRMAN DEVLIN: Okay. Anything else
21 before lunch?

22 (No audible response.)

23 CHAIRMAN DEVLIN: Okay. We will break until
24 1 o'clock to give them plenty of time to actually
25 maybe get something to eat besides that.

1 So and then we've got about six, eight easy
2 legal things to do, Representative Lefor's deal, and
3 look at the map and decide to move it forward or not,
4 so...

5 (Recess taken.)

6 CHAIRMAN DEVLIN: The plans are being
7 printed, but we have a few other housekeeping things
8 that we have to do.

9 We have to review a proposed bill draft on
10 the 25 percent threshold, which is the threshold we
11 have at the present time. Correct?

12 Do you have a bill draft for that, or would
13 you like to go a different direction, Claire?

14 MS. THOMPSON: I think while Claire is
15 passing that around, just a quick note for items that
16 were received since this morning, over the lunch
17 hour, for public testimony, Chairman Faith from
18 Standing Rock Reservation did submit written
19 testimony. I believe you've all received a copy.
20 And Chairman Fox as well from the MHA Nation
21 submitted written testimony, as well as Chairman
22 Yankton from Spirit Lake, so that will all be linked
23 online, and I believe you've been -- you've received
24 an email copy as well.

25 CHAIRMAN DEVLIN: Who is going to do it?

1 MS. THOMPSON: Are you ready?

2 CHAIRMAN DEVLIN: Yeah.

3 Claire, I think, will present this.

4 MS. NESS: Chairman Devlin and Members of
5 the Committee.

6 You've received a draft of a bill that is
7 similar to the ones that have been passed in previous
8 redistricting cycles that provides for the staggering
9 of terms of members of the legislative assembly after
10 redistricting has changed the boundaries. Again,
11 this is something where we repeal this every 10 years
12 and replace it with a new one.

13 This -- the addition this time has to do
14 with the subdistricts, so I'll briefly touch on how
15 this would work. Basically, a senator or a
16 representative from an odd-numbered district would --
17 excuse me -- would have to be elected from an
18 odd-numbered district in 2022 for a term of four
19 years. If you have a subdistrict in your district,
20 of course, then you would have a representative
21 elected from each of those odd-numbered subdistricts
22 in 2022 for a term of four years.

23 Because we have renumbered a couple of
24 districts, Districts 10 and 26 would have their
25 senator and two representatives elected in 2022 for a

1 term of two years instead of the four years.

2 And then we address the -- excuse me. I was
3 talking about the odd-numbered districts. I don't
4 know if I misspoke a second ago. I apologize. I was
5 talking about odd-numbered districts being elected in
6 2022.

7 And then we have Districts 10 and 26 elected
8 in 2022 for a term of two years. Other than that,
9 senators elected from even-numbered districts will be
10 elected in 2024 for a term of four years. If the
11 even-numbered district is not subdistricted, the same
12 would hold true for the two representatives.

13 And if there is a -- in District 4, that is
14 subdistricted, then there would be one representative
15 from each of the subdistricts elected in 2022 for a
16 term of two years and then in 2024 for a term of four
17 years.

18 And then we address what happens when you
19 have incumbents who are placed together. So the term
20 of office for a representative elected in 2020 from
21 an even-numbered district who is then placed in an
22 even-numbered district with more than one other
23 representative elected in that same year from an
24 even-numbered district, that term will terminate on
25 December 1st of 2022, and two representatives would

1 then have to be elected from that district for a term
2 of two years.

3 Similarly, the term of office of a senator
4 elected in 2020 from an even-numbered district who is
5 placed in another -- or placed in an even-numbered
6 district with one or more other senators elected that
7 same year from an even-numbered district will
8 terminate on December 1st of 2022, and one senator
9 would have to be elected from that district for a
10 term of two years.

11 REPRESENTATIVE BELLEW: Mr. Chairman, could
12 I ask a question?

13 CHAIRMAN DEVLIN: Certainly. Representative
14 Bellew.

15 REPRESENTATIVE BELLEW: Section E, I'm not
16 quite sure I understand that. If a senator is
17 already an elected senator, say District 6, and then
18 there's a senator from District 8 put in District 6,
19 would that senator -- the incumbent senator from
20 District 6 have to run in 2022?

21 MS. NESS: Mr. Chairman, Representative
22 Bellew, and Members of the Committee.

23 If you adopted that subdivision as part of a
24 recommended bill draft, that's how it would operate.

25 REPRESENTATIVE BELLEW: It's not a

1 subdivision.

2 MS. NESS: Correct. Or, excuse me.

3 Subdivision E. So the -- Subdivision B on the bill
4 draft. So it would be 3E, the one that you were just
5 referencing. You are correct about the way that that
6 would operate, if you wanted to keep that subdivision
7 in the bill.

8 CHAIRMAN DEVLIN: Representative Nathe.

9 REPRESENTATIVE NATHE: Thank you,
10 Mr. Chairman.

11 So, Claire, piggybacking on Representative
12 Bellew's question, so there's two senators in there,
13 but if one of them says, Hey, I'm not going to run,
14 you know, you can have it, for lack of a better word,
15 would he still have to run? I suppose if he's under
16 the 25 percent, he would not have to rerun, then.
17 Correct?

18 MS. NESS: Mr. Chairman and Representative
19 Nathe and the Committee.

20 It would not be up to the senator to decide,
21 because under the current verbiage in this draft
22 bill, it would be whether or not they were both
23 elected in 2020, so you wouldn't have the opportunity
24 to have one of them weigh in and say, No, we don't
25 need the election. In fact, that was something that

1 the Court has struck down in the past, too. You
2 can't give one senator that -- that power or one
3 representative that power.

4 REPRESENTATIVE NATHE: But what if one
5 senator says, I'm resigning; I'm not running?

6 MS. NESS: We would have to change the
7 language of the --

8 REPRESENTATIVE NATHE: But the other one
9 would still have to run, then, regardless?

10 MS. NESS: For the even-numbered districts?

11 REPRESENTATIVE NATHE: Yeah. Like say for
12 District 6.

13 MS. NESS: Uh-huh.

14 REPRESENTATIVE NATHE: So you have Senator
15 Vedaa and Senator Anderson, and say Anderson from 8
16 is now up there, and now he says, Do you know what?
17 I'm done. I'm --

18 MS. NESS: Uh-huh.

19 REPRESENTATIVE NATHE: -- it's all yours.
20 Would Vedaa still have to run, then?

21 MS. NESS: Yes, Representative Nathe. Under
22 the current language in this bill draft, that -- that
23 would be the case, because they were both elected in
24 2020 from an even-numbered district.

25 SENATOR HOLMBERG: And --

1 CHAIRMAN DEVLIN: Senator Holmberg.

2 SENATOR HOLMBERG: And Claire said it
3 exactly. Remember, there was this actual point that
4 went to the Court, and the Court said you cannot give
5 power to a legislator to determine whether or not
6 there's going to be an election.

7 And, you know, you might have a situation
8 where someone lives here and then they move to
9 another district, but that can happen anytime. A
10 four-year person, for example, moves into another
11 four-year district. And I'm -- I'm trying to think,
12 because both -- what is now 19 and 20, they both have
13 to run anyways, because you have Myrdal and Fors,
14 would both have to run, but Fors is in a district
15 with Lemm, who also has -- who has a four-year term
16 but is being cut short because they have way over
17 25 percent change. Right?

18 MS. NESS: I'm trying to think of where the
19 incumbents are, but yes, I think you're correct.

20 Okay?

21 CHAIRMAN DEVLIN: You may proceed.

22 MS. NESS: Looking at Subsection 4, then,
23 the term of office of a member of the legislative
24 assembly elected in an even-numbered district in 2020
25 for a term of four years but who is placed in an

1 odd-numbered district terminates on December 1st of
2 2022.

3 The term of office of a member of the
4 legislative assembly elected in a district comprised
5 of subdistricts as a result of legislative
6 redistricting terminates on December 1, 2022.

7 And then 6 carves out an exception as
8 provided in Subsection 7, but other than as in
9 Subsection 7, a member of the legislative assembly
10 who is elected from an even-numbered district in 2020
11 for a term of four years and who is placed in an
12 odd-numbered district may continue to serve the
13 remainder of the term for which they were elected
14 beyond December 1, 2022, if that member moves their
15 place of residence before February 1, 2022, to a
16 location in the even-numbered district from which
17 they were elected and certifies in writing to the
18 Secretary of State and the Chairman of Legislative
19 Management that the member has that new residence as
20 determined by Section 54-01-26, which is the section
21 of the Century Code that defines how you determine a
22 residence.

23 If the member doesn't establish residency
24 back in their old even-numbered district by the
25 deadline, the term of office for that member would

1 terminate on December 1st of 2022.

2 So that gives a member the opportunity to
3 continue representing their district if they move and
4 put their residence back into that even-numbered
5 district.

6 Number 7 is the -- is the 25 percent
7 provision, and that provides for the term of office
8 of a member in an even-numbered district with new
9 geographic area which was not in that member's
10 district for the 2020 election and which new
11 geographic area has that population of more than
12 4,144 will terminate on December 1st of 2022.

13 And then for purposes of just clarifying
14 that provision of the Constitution that requires a
15 member to live in their district, a member of the
16 legislative assembly elected from a district with
17 boundaries that changed as a result of legislative
18 redistricting is deemed to live in a district from
19 which they were elected until December 1st of 2022.

20 And then we have Section 2 of the bill,
21 which simply repeals the old version of that statute.

22 Then we have a Section 3 that allows the
23 Secretary of State to modify election deadlines and
24 procedures for the 2022 primary election after
25 consulting with city and county officials if it's

1 necessary to allow the '22 primary election to
2 proceed as scheduled. The modified deadlines and
3 procedures can address things like filing or
4 publishing deadlines and any other matters necessary
5 to conduct -- or to accommodate the conduct of the
6 primary election.

7 And then Section 4 is a legislative intent
8 statement regarding boundaries, saying that it is the
9 intent, through -- that although the Act is effective
10 upon filing with the Secretary of State, the members
11 serving under the redistricting plan effective on the
12 day before the effective date of the Act shall
13 continue to serve until implementation of the Act.
14 Any reference in the legislative district
15 descriptions to a city limit or reservation boundary
16 as a boundary line refers to that limit or boundary
17 as it existed on January 1, 2020, as shown on the
18 2020 census map, so that's just reiterating that we
19 are relying on the census data and the census lines.

20 A legislative district boundary using the
21 reservation or city limit lines doesn't migrate. As
22 those lines migrate, they -- they stick with those
23 2020 lines. Unless cities are otherwise named
24 specifically, townships encompass all the territory
25 within their outer boundaries. And that just simply

1 says if we are using metes and bounds and we describe
2 a township, that that township would include
3 everything within it unless we specifically exclude a
4 city.

5 So again, the Act would be effective upon
6 filing with the Secretary of State and it's declared
7 to be an emergency measure, and that's to comport
8 with the requirements of a special or reconvened
9 session.

10 CHAIRMAN DEVLIN: Senator Holmberg.

11 SENATOR HOLMBERG: I know this is -- the
12 whole thing is still a little in motion, but will you
13 be ready to answer the phone call from James
14 McPherson as to say, Okay. Tell me the names?
15 Because there's no way I can figure out who these
16 people are.

17 (No audible response.)

18 SENATOR HOLMBERG: No, I'm just asking,
19 because, I mean, that's what's going to happen. I
20 mean, we have an idea, but the media, particularly TV
21 and print, will be calling and asking, Well, who are
22 the people here?

23 MS. NESS: Representative Holmberg and
24 Members of the Committee.

25 We don't have the list now, but based on the

1 information that we have about residences, you know,
2 we can probably come up with that. I can't guarantee
3 that we have everybody's residential address. We do
4 have a lot of post office boxes.

5 CHAIRMAN DEVLIN: Representative Schauer.

6 REPRESENTATIVE SCHAUER: Thank you,
7 Mr. Chairman.

8 Please inform the vice chairman that it is
9 our responsibility to get that information, as public
10 officials, to be prepared for that question.

11 SENATOR HOLMBERG: That's why we call him,
12 because (indiscernible).

13 CHAIRMAN DEVLIN: So, Claire, which one of
14 these does -- somebody was elected to a four-year --
15 even-numbered district, four-year term, which they're
16 in the middle of, and somebody -- an odd-numbered
17 senator, say, gets moved into that district. The
18 odd-numbered senator would not get to run, then,
19 for -- the first person that was elected four years
20 will serve out the four years. That's what the
21 25 percent does. Right?

22 MS. NESS: I apologize. Could you repeat
23 that?

24 CHAIRMAN DEVLIN: You have a -- you have a
25 legislator that was elected to a four-year term,

1 okay, that runs out at the end of 2022.

2 MS. NESS: Okay.

3 CHAIRMAN DEVLIN: You have a senator from an
4 odd-numbered district that was moved into that
5 district whose term is out now -- up now. Okay?
6 They would not get to run until 2022. Is that
7 correct?

8 MS. NESS: (No audible response.)

9 CHAIRMAN DEVLIN: Yeah. That's what the
10 25 percent deal says, if your district hasn't changed
11 by more than 25 percent.

12 MS. NESS: Yes.

13 CHAIRMAN DEVLIN: Yeah. Okay. Got it.
14 Senator Klein.

15 SENATOR KLEIN: Well, Mr. Chairman, I -- I
16 was agreeing with you on that first time until you
17 reloaded and shot again.

18 So if a senator was in an even district,
19 elected in 2020, now a portion of his district is in
20 an odd-numbered district and there is a legislator
21 sitting there, that legislator can run in 2024
22 because that district is now part of the new
23 district, the even district. Okay. It's Klein and
24 Heckaman, just so we -- you know, that's -- that's
25 been the question. I -- somebody's asked me that

1 question, also, and I think you're going to -- you're
2 working on that, I understand, but I was elected in
3 '20, and I'm below that number of 4,000 whatever,
4 that 4,000 number. How does that play, and -- and
5 maybe -- there's got to be some other districts that
6 are similar to what I -- what I have.

7 MS. NESS: If you -- so if you're elected
8 from a district and you have a four-year term and
9 it -- it doesn't meet that 25 percent threshold and
10 then -- let's see. I'm looking at Subdivision 3E.
11 So if you were placed in an even-numbered district
12 with one or more other senators elected in 2020 from
13 an even-numbered district, then your term would
14 terminate. But if you're placed into a district with
15 another -- and it could be the same district that
16 you've always been in -- with another senator from an
17 odd-numbered district, that would not apply, so then
18 you would be looking at whether or not that
19 25 percent threshold is met, and if that 25 percent
20 threshold is not met, then you would continue your
21 term.

22 SENATOR KLEIN: Thank you.

23 SENATOR BEKKEDAHL: Question.

24 CHAIRMAN DEVLIN: Senator Eberle -- or who
25 had the question? Senator Bekkedahl. I'm sorry.

1 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

2 So I'm -- I'm going to look at a specific
3 instance just because I think -- I'm trying to figure
4 out how it relates to Section 6 here.

5 If you have a seated senator in District 26
6 who is elected for a four-year term -- term in 2020,
7 that senator's location now is moved into
8 District 25, which is an odd number --

9 MS. NESS: Uh-huh.

10 SENATOR BEKKEDAHL: -- as I read this
11 Section 6, if that person moved back to where they
12 were originally elected, which puts them in District
13 now 28, they could continue to serve? That's the
14 confusion I'm having on Section 6, if you can just
15 clarify that.

16 MS. NESS: Absolutely. Yes. Senator
17 Bekkedahl, Members of the Committee.

18 So if you have a senator who -- and 26 is a
19 hard one because it goes away. Right? But if --
20 let's just pick 2, just for example purposes. If you
21 have a senator who is in 2 but they're redistricted
22 into 1 because the boundaries changed, then that
23 senator could go back to another location within
24 District 2, and that's how that Number 6 would
25 operate, then.

1 So you wouldn't -- you would just have to go
2 back to the district that you were in. Even though
3 you haven't moved, the lines move around you.
4 Uh-huh.

5 CHAIRMAN DEVLIN: Are we all totally
6 confused now, or do we understand where we're at?

7 (No audible response.)

8 CHAIRMAN DEVLIN: Are there questions?
9 Senator Klein, you got your question
10 answered? You and I agree with -- yeah. Okay. That
11 was the answer. Okay.

12 SENATOR KLEIN: Mr. Chairman?

13 CHAIRMAN DEVLIN: Senator Klein.

14 SENATOR KLEIN: You know, we -- the numbers
15 we saw yesterday in the districts that would have to
16 run, and then there was going to be some
17 recalculation, there hasn't been a whole lot of
18 change in that. As of yesterday, when we added a bit
19 of Burleigh County, I still think we're below the
20 25 percent threshold. I know I've been asked that
21 question, also. But there's new -- it will be easier
22 to vote for some of these things when we know the
23 exact numbers.

24 MS. NESS: The updated 25 percent? I
25 apologize.

1 CHAIRMAN DEVLIN: I'm certain that your
2 district did not change more than 25 percent, if that
3 was the question, District 14.

4 MS. NESS: Mr. Chairman, we do have the
5 updated information on that if you would like us to
6 pass it around?

7 CHAIRMAN DEVLIN: Yes, please.

8 Representative Headland.

9 REPRESENTATIVE HEADLAND: Thank you,
10 Mr. Chairman.

11 I know it doesn't impact elections, but
12 could we see how the odd-numbered districts change so
13 we know, like, what -- our own districts, we can have
14 an idea of how much we've changed on a percentage
15 basis?

16 MS. NESS: We don't have it. Mr. Chairman,
17 Representative Headland.

18 We don't have the overlays of the
19 odd-numbered districts. We could do that. It might
20 take a little time to get those generated.

21 If you're just looking for strict population
22 change and not population change in new geographic
23 areas, we probably could run that, too, whichever
24 type of report you would like.

25 REPRESENTATIVE HEADLAND: Yeah. Both.

1 MS. NESS: Okay.

2 CHAIRMAN DEVLIN: Yeah. We don't need it
3 for this particular meeting.

4 REPRESENTATIVE HEADLAND: No.

5 CHAIRMAN DEVLIN: You just would like to
6 have it at some point, and staff can certainly do
7 that.

8 Excuse me. Emily.

9 MS. THOMPSON: Mr. Chair, Members of the
10 Committee.

11 You've all received a document, the
12 LC Number 23.9168.02. It's the updated *Population*
13 *Change in Even-Numbered Districts* as of the changes
14 that you made prior to the lunch hour.

15 Just one quick item to note. You'll see
16 some of the districts in the second column have N/A,
17 or not applicable. We did go ahead and make some
18 updates. If you look at your proposed statewide
19 plan, the packet that you just got, in order to give
20 you a better idea to run some of these district
21 percentages, we did apply, based on the motion made
22 by Representative Lefor this morning, changing
23 District 39 to 26. District Y was changed to 39.

24 And, also, there are three other districts
25 that were not yet formally made by motion, but for

1 discussion purposes, so you can see this on your
2 chart, the Committee had loosely discussed making
3 three other district number changes, so the printout
4 that you have in front of you has those changes. Of
5 course, that would need to be formally moved and
6 finalized by motion. But those changes are the prior
7 District XX, that's now 10; the prior District 99,
8 that's now 23; and the prior District 10, that was
9 changed to 19. And again, that was just based on
10 some Committee discussion, but that would be better
11 formally approved by motion at some point today as
12 the Committee wishes and wants those numbers.

13 But for purposes of the population change in
14 even-numbered districts, that's why you'll see some
15 of those numbers that have an N/A. Like, for
16 instance, District 26, that would be technically a
17 new district, and so we don't have that comparison
18 data to look at.

19 But just wanted to preface this document
20 with that comment.

21 SENATOR BEKKEDAHL: Mr. Chairman?

22 CHAIRMAN DEVLIN: Senator Bekkedahl.

23 SENATOR BEKKEDAHL: Mr. Chairman, I would
24 move that the Committee adopt the numbers as
25 presented by Legislative Council staff that have not

1 been assigned yet.

2 CHAIRMAN DEVLIN: Is there a second?

3 SENATOR BURCKHARD: Second.

4 CHAIRMAN DEVLIN: Second by Senator
5 Burckhard.

6 Is there discussion?

7 (No audible response.)

8 CHAIRMAN DEVLIN: Seeing none, poll the
9 Committee.

10 MS. THOMPSON: Chairman Devlin?

11 CHAIRMAN DEVLIN: Yes.

12 MS. THOMPSON: Representative Bellew?

13 REPRESENTATIVE BELLEW: Yes.

14 MS. THOMPSON: Representative Boschee?

15 REPRESENTATIVE BOSCHEE: Yes.

16 MS. THOMPSON: Representative Headland?

17 REPRESENTATIVE HEADLAND: Yes.

18 MS. THOMPSON: Representative Lefor?

19 REPRESENTATIVE LEFOR: Yes.

20 MS. THOMPSON: Representative Monson?

21 REPRESENTATIVE MONSON: Yes.

22 MS. THOMPSON: Representative Nathe?

23 REPRESENTATIVE NATHE: Yes.

24 MS. THOMPSON: Representative Schauer?

25 REPRESENTATIVE SCHAUER: Yes.

1 MS. THOMPSON: Senator Holmberg?

2 SENATOR HOLMBERG: Yes.

3 MS. THOMPSON: Senator Bekkedahl?

4 SENATOR BEKKEDAHL: Aye.

5 MS. THOMPSON: Senator Burckhard?

6 SENATOR BURCKHARD: Aye.

7 MS. THOMPSON: Senator Erbele?

8 SENATOR ERBELE: Aye.

9 MS. THOMPSON: Senator Klein?

10 SENATOR KLEIN: Aye.

11 MS. THOMPSON: Senator Oban?

12 SENATOR OBAN: Yes.

13 MS. THOMPSON: Senator Poolman?

14 SENATOR POOLMAN: Yes.

15 MS. THOMPSON: And Senator Sorvaag?

16 SENATOR SORVAAG: Aye.

17 MS. THOMPSON: Mr. Chairman, the motion's
18 carried.

19 CHAIRMAN DEVLIN: So will the Committee let
20 us take a moment to discuss the statewide plan that
21 was distributed, or is someone ready to make a motion
22 and move that to Legislative Management?

23 REPRESENTATIVE SCHAUER: I'll make a motion.

24 CHAIRMAN DEVLIN: Representative Schauer.

25 Is there a second?

1 SENATOR BURCKHARD: Second.

2 CHAIRMAN DEVLIN: Senator Burckhard.

3 Discussion?

4 (No audible response.)

5 CHAIRMAN DEVLIN: Seeing none, you may poll
6 the Committee.

7 MS. THOMPSON: Chairman Devlin?

8 CHAIRMAN DEVLIN: Yes.

9 MS. THOMPSON: Representative Bellew?

10 REPRESENTATIVE BELLEW: No.

11 MS. THOMPSON: Representative Boschee?

12 REPRESENTATIVE BOSCHEE: Yes.

13 MS. THOMPSON: Representative Headland?

14 REPRESENTATIVE HEADLAND: Yes.

15 MS. THOMPSON: Representative Lefor?

16 REPRESENTATIVE LEFOR: Yes.

17 MS. THOMPSON: Representative Monson?

18 REPRESENTATIVE MONSON: Yes.

19 MS. THOMPSON: Representative Nathe?

20 REPRESENTATIVE NATHE: Yes.

21 MS. THOMPSON: Representative Schauer?

22 REPRESENTATIVE SCHAUER: Yes.

23 MS. THOMPSON: Senator Holmberg?

24 SENATOR HOLMBERG: Yes.

25 MS. THOMPSON: Senator Bekkedahl?

1 SENATOR BEKKEDAHL: Aye.

2 MS. THOMPSON: Senator Burckhard?

3 SENATOR BURCKHARD: Aye.

4 MS. THOMPSON: Senator Erbele?

5 SENATOR ERBELE: Aye.

6 MS. THOMPSON: Senator Klein?

7 SENATOR KLEIN: Aye.

8 MS. THOMPSON: Senator Oban?

9 SENATOR OBAN: Yes.

10 MS. THOMPSON: Senator Poolman?

11 SENATOR POOLMAN: Aye.

12 MS. THOMPSON: Senator Sorvaag?

13 SENATOR SORVAAG: Aye.

14 MS. THOMPSON: And, Mr. Chairman, the motion
15 carries.

16 CHAIRMAN DEVLIN: Thank you.

17 Move the proposed bill draft language
18 regarding the election percentage threshold. Is that
19 this?

20 MS. THOMPSON: Yes.

21 CHAIRMAN DEVLIN: That was the one that
22 Claire presented and answered questions on. Is
23 anybody ready to move that?

24 REPRESENTATIVE MONSON: I'll move.

25 CHAIRMAN DEVLIN: Dave Monson.

1 Is there a second?

2 REPRESENTATIVE LEFOR: Second.

3 CHAIRMAN DEVLIN: Second by Representative
4 Lefor.

5 Discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none --

8 REPRESENTATIVE BELLEW: Mr. Chairman, which
9 one --

10 CHAIRMAN DEVLIN: Oh, I'm sorry.

11 REPRESENTATIVE BELLEW: Which one are we
12 voting on now?

13 UNIDENTIFIED SPEAKER: 21.1094.

14 CHAIRMAN DEVLIN: Oh. I'm sorry. Okay. I
15 thought we were (indiscernible).

16 (Indiscernible conversation; microphones
17 turned off.)

18 CHAIRMAN DEVLIN: Representative Bellew,
19 what was your question?

20 REPRESENTATIVE BELLEW: Which one are we
21 taking up now?

22 CHAIRMAN DEVLIN: The one that Claire
23 presented with the 25.

24 REPRESENTATIVE BELLEW: Okay. I just -- I
25 was -- I was confused. I know that's hard to

1 believe, but --

2 CHAIRMAN DEVLIN: Yeah, I'm just -- I'm in
3 shock. I may have to leave and come back in a couple
4 hours. Would you wait for me here?

5 Any discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, you may poll
8 the Committee.

9 MS. THOMPSON: Chairman Devlin?

10 CHAIRMAN DEVLIN: Yes.

11 MS. THOMPSON: Representative Bellew?

12 REPRESENTATIVE BELLEW: Yes.

13 MS. THOMPSON: Representative Boschee?

14 REPRESENTATIVE BOSCHEE: Yes.

15 MS. THOMPSON: Representative Headland?

16 REPRESENTATIVE HEADLAND: Yes.

17 MS. THOMPSON: Representative Lefor?

18 REPRESENTATIVE LEFOR: Yes.

19 MS. THOMPSON: Representative Monson?

20 REPRESENTATIVE MONSON: Yes.

21 MS. THOMPSON: Representative Nathe?

22 REPRESENTATIVE NATHE: Yes.

23 MS. THOMPSON: Representative Schauer?

24 REPRESENTATIVE SCHAUER: Yes.

25 MS. THOMPSON: Senator Holmberg?

1 SENATOR HOLMBERG: Yes.

2 MS. THOMPSON: Senator Bekkedahl?

3 SENATOR BEKKEDAHL: Aye.

4 MS. THOMPSON: Senator Burckhard?

5 SENATOR BURCKHARD: Aye.

6 MS. THOMPSON: Senator Erbele?

7 SENATOR ERBELE: Aye.

8 MS. THOMPSON: Senator Klein?

9 SENATOR KLEIN: Aye.

10 MS. THOMPSON: Senator Oban?

11 SENATOR OBAN: Yes.

12 MS. THOMPSON: Senator Poolman?

13 SENATOR POOLMAN: Aye.

14 MS. THOMPSON: Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

16 MS. THOMPSON: And, Mr. Chairman, the motion
17 carries.

18 CHAIRMAN DEVLIN: That included all the
19 Secretary of State authorization, and everything was
20 in there, so...

21 The next thing I have is the proposed bill
22 draft from Representative Lefor.

23 Do you want to discuss that, Representative
24 Lefor?

25 REPRESENTATIVE LEFOR: I'm just passing this

1 out for informational purposes. I'm not ready to
2 move it. Need more time to review -- review this,
3 but -- there's a couple things in here that I would
4 change, but I don't want to move something with --
5 you know, that hasn't been -- had more time to be
6 vetted, so I'm not going to move it forward at this
7 time.

8 CHAIRMAN DEVLIN: So, Representative Lefor,
9 that would come through as a separate bill during the
10 special session?

11 REPRESENTATIVE LEFOR: Correct. Yes.

12 CHAIRMAN DEVLIN: Okay.

13 SENATOR HOLMBERG: And I think,
14 Mr. Chairman, that the fact that you brought it up
15 here would help -- be helpful because -- not that we
16 vote on it or anything, because I believe the way
17 things appear to be shaping up that bills would go
18 through Delayed Bills Committee, but you could
19 certainly say that you brought it up but needed more
20 time, and therefore please introduce this for me.

21 REPRESENTATIVE LEFOR: I will do that.

22 CHAIRMAN DEVLIN: We need a -- I think it's
23 just the last two. Okay. We need a motion that the
24 Chairman and Legislative Council staff be requested
25 to prepare a report of the bill draft recommended by

1 the Committee and to present the report and the
2 recommended bill draft to the Legislative Management.

3 Somebody wish to make that motion?

4 SENATOR HOLMBERG: So moved.

5 SENATOR KLEIN: Second.

6 CHAIRMAN DEVLIN: Senator Holmberg, seconded
7 by Senator Klein.

8 Is there any more explanation or any -- any
9 questions?

10 (No audible response.)

11 CHAIRMAN DEVLIN: Seeing none, you may poll
12 the Committee.

13 MS. THOMPSON: Chairman Devlin?

14 CHAIRMAN DEVLIN: Aye.

15 MS. THOMPSON: Representative Bellew?

16 REPRESENTATIVE BELLEW: Yes.

17 MS. THOMPSON: Representative Boschee?

18 REPRESENTATIVE BOSCHEE: Yes.

19 MS. THOMPSON: Representative Headland?

20 REPRESENTATIVE HEADLAND: Yes.

21 MS. THOMPSON: Representative Lefor?

22 REPRESENTATIVE LEFOR: Yes.

23 MS. THOMPSON: Representative Monson?

24 REPRESENTATIVE MONSON: Yes.

25 MS. THOMPSON: Representative Nathe?

1 REPRESENTATIVE NATHE: Yes.

2 MS. THOMPSON: Representative Schauer?

3 REPRESENTATIVE SCHAUER: Yes.

4 MS. THOMPSON: Senator Holmberg?

5 SENATOR HOLMBERG: Yes.

6 MS. THOMPSON: Senator Bekkedahl?

7 SENATOR BEKKEDAHL: Aye.

8 MS. THOMPSON: Senator Burckhard?

9 SENATOR BURCKHARD: Aye.

10 MS. THOMPSON: Senator Erbele?

11 SENATOR ERBELE: Aye.

12 MS. THOMPSON: Senator Klein?

13 SENATOR KLEIN: Aye.

14 MS. THOMPSON: Senator Oban?

15 SENATOR OBAN: Yes.

16 MS. THOMPSON: Senator Poolman?

17 SENATOR POOLMAN: Aye.

18 MS. THOMPSON: Senator Sorvaag?

19 SENATOR SORVAAG: Aye.

20 MS. THOMPSON: Mr. Chairman, the motion
21 carries.

22 CHAIRMAN DEVLIN: The final thing that I
23 have on this list, unless Council has something else,
24 is for us -- for a motion to adjourn. Did we decide
25 whether we had to (indiscernible)?

1 MS. THOMPSON: (Indiscernible.)

2 CHAIRMAN DEVLIN: Regular? Okay.

3 But before we -- before we do that, I
4 just -- as Chairman, I just want to take a moment to
5 thank every one of you. I know that this was a very
6 compressed schedule when we're used to getting the
7 numbers in March and we start work in April, and we
8 didn't get the numbers until August. You did an
9 incredible amount of work, and I know that we
10 wouldn't have got it done without the Council staff
11 we have here, and I want to thank them. I want to
12 thank all of you.

13 I won't tell you that this has been one of
14 the most enjoyable experiences of my life, but I have
15 enjoyed working with all of you, and I look forward
16 to working with you during the session.

17 Is there anyone else -- anyone else have
18 anything to add before we adjourn?

19 Representative Lefor.

20 REPRESENTATIVE LEFOR: Thank you,
21 Mr. Chairman.

22 I want to commend you for the job that
23 you've done, as well as the vice chair, in leading
24 this Committee. It's been open, honest, transparent.
25 You've responded to any group that wanted to talk to

1 us. No one can say that they weren't heard. That
2 wouldn't be a fair statement.

3 And I also want to thank the Committee
4 members who I think did a really fair job and did an
5 honest job based on the arithmetic that we had in
6 front of us.

7 And I also want to put a shout-out to the
8 Legislative Council. I mean, wow, just a fantastic
9 job, and we could not have done this without you, so
10 thank you.

11 CHAIRMAN DEVLIN: Anything else?

12 (No audible response.)

13 CHAIRMAN DEVLIN: Seeing none, would
14 somebody like to make a motion to adjourn?

15 Representative Bellew, make a motion to
16 adjourn?

17 REPRESENTATIVE BELLEW: I do.

18 CHAIRMAN DEVLIN: Second? Senator Klein.

19 Any discussion?

20 (No audible response.)

21 CHAIRMAN DEVLIN: All those in favor,
22 signify by saying aye.

23 (Viva voce indicated aye.)

24 CHAIRMAN DEVLIN: Opposed, nay.

25 (No audible response.)

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CHAIRMAN DEVLIN: Motion carried.
Thank you very much. You are dismissed.
(End of tape.)

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REPORTER'S CERTIFICATE

I hereby certify that I transcribed the preceding one hundred fifty-seven (157) pages from a video recording provided to me by the North Dakota Office of Attorney General to the best of my ability;

That I was not present at the time said recording was prepared;

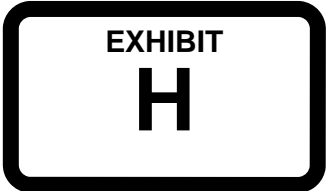
That I have broken the transcript into separate conversations to the best of my ability.

 /s/ Carolyn Taylor Pekas
Carolyn Taylor Pekas, RPR
PO Box 886
Fargo, ND 58107

Dated this 22nd day of March, 2022.

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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA HOUSE
HB 1504 / JOINT REDISTRICTING
NOVEMBER 9, 2021
1:39 P.M.



1 NOVEMBER 9, 2021

2 REPRESENTATIVE K. KOPPELMAN: Continuing
3 on the 11th Order, the House has before it House
4 Bill 1504. The speaker has received a request
5 pursuant to House Rule 319 for the division of
6 this bill, and I believe that all the members
7 should have had a copy delivered to your desk of
8 what makes up the requested division.

9 I'll just restate the rule for the
10 members recollection here. If a question before
11 the House contains more than one proposal, any
12 member may have the question divided, except a
13 question on the adoption of a conference report
14 or on the second reading and final passage of a
15 measure resulting from the adoption of a
16 conference report may not be divided.

17 A proposal to divide question must be
18 submitted in writing to the speaker in advance of
19 the floor session, at which the measure is placed
20 on the calendar for consideration.

21 A question containing more than one
22 proposal may be divided only if each resulting
23 division is so distinct and separate it can stand
24 as a complete proposition without being
25 rewritten, and a roll call vote must be called

1 for each division of the bill. Each division of
2 a divided question requires the same vote for
3 adoption that the division would require if it
4 stood alone.

5 And after voting on all divisions, the
6 approved divisions comprise the question before
7 the House. And so we would vote on the final
8 bill after voting on the various divisions.

9 With that, Representative Jones.

10 REPRESENTATIVE JONES: Thank you,
11 Mr. Speaker.

12 Members of the Assembly, I'm asking to
13 divide this bill. Basically, what I'm asking is
14 that we take subdistricts out of the
15 redistricting recommendation.

16 As you know, I represent District 4.
17 It's a huge district. One of the things the
18 district has in it is the entire Fort Berthold
19 Reservation. And so I proudly serve the members
20 of the Fort Berthold Reservation.

21 The district also goes all the way up to
22 Kenmare down to Halliday and Dunn Center, and all
23 the way east almost to Minot to the City of
24 Sawyer. I've got some of the best people in
25 North Dakota in my district, and I try to serve

1 them well.

2 I hesitate to stand and do this today
3 because I've got competing interests in my
4 district; and I'm trying my best to serve those
5 competing interests in a way that I can have a
6 clear conscience about when I'm done.

7 So I've been doing a lot of phone calls,
8 gathering a lot of information, and I feel like
9 I'm swimming in really deep water here. The
10 redistricting committee has done a good job.

11 My chairman of my district wanted me to
12 be on the restricting committee, and I said, "No,
13 thank you, sir." I don't have the knowledge that
14 it requires. I don't know a lot of the
15 insurance, and outs, and the subtleties about
16 North Dakota. I told him, "I'm not the man for
17 the job."

18 My hat is off to the members of this
19 committee for the work that they've done. I know
20 it's been a tough job. And I mean no disrespect
21 by dividing this question in any way.

22 Today, I was able to get a hold of a
23 top-level restricting attorney. And I got some
24 serious advice from him. And I apologize that
25 it's such a short notice that I can't give a lot

1 of that information to you. But what I will do
2 is summarize. And then I will ask the body to
3 take it into consideration when we're looking at
4 this.

5 The only way to prove a Section 2
6 violation in redistricting is to show the
7 continuing effect of racial animus. In North
8 Dakota, the North Dakota I live in, I have not
9 seen racial animus that affects our elections. I
10 don't believe that it's here.

11 It's pretty simple to look at District 9
12 and see that we don't have racial animus because
13 we've got Senator Marcellais sitting in that
14 seat. And he's been there for a long time. And
15 he does a great job of representing District 9.
16 He's elected at large by District 9 to hold that
17 seat. If there was racial animus affecting
18 District 4 and District 9, we would not have
19 Senator Marcellais sitting in that seat.

20 We have in our chamber on this side, we
21 have the good senator -- a representative from
22 Fargo who is also a member of the three
23 affiliated tribes. We do not have racial animus
24 in North Dakota that's affecting our elections.

25 The continuing effect of racial animus

1 has to be proven by a regression study, commonly
2 called a polarization study. If somebody wants
3 to ask for a deviation from our constitutional
4 voting system, they have to go through a
5 polarization study to establish the racial animus
6 and that racial animus is consistently depriving
7 a specific group of people that have similar
8 voting interests from being able to elect the
9 representation that they desire.

10 In all of the information I can gather,
11 and all the interaction I've had with the
12 redistricting committee, no one has presented a
13 polarization study that would justify the
14 deviation from our constitutional election
15 process.

16 There has to be sufficient bloc voting
17 issues established and other voting patterns that
18 there is justification for that deviation.
19 Again, there is no bloc voting going on in North
20 Dakota that is depriving a minority group or any
21 other group from being able to elect who they
22 would elect.

23 If we leave subdistricts in this bill as
24 it's proposed, we will be guilty of racial
25 gerrymandering according to this person that I

1 was talking to. Because you cannot implement
2 subdistricts, which is a pretty radical thing,
3 which deviates from our constitutional voting
4 system, unless you have the justification to do
5 so.

6 If you just jump to it and say we're
7 afraid because of what happened in South Dakota,
8 that we're going to get sued, it's going to cost
9 us a lot of money, we don't want to cost the
10 state that money, so we're just going to jump to
11 the subdistricts without the foundation, without
12 the justification, I was told today by this
13 attorney that is racial gerrymandering.

14 You're just simply taking a group of
15 people saying these guys are basically of the
16 same ethnic or racial characteristics. We're
17 going to create this subdistrict for them. It's
18 wrong. It's frowned upon on every court in the
19 land.

20 You can do the subdistrict if you have
21 done your homework, done your foundation, had the
22 evidence shown to you that it is justified to do
23 this measure. This has not been done in North
24 Dakota.

25 If we did meet these thresholds, if

1 these parts and pieces of the process had been
2 done, I would be -- and if it had shown that we
3 were having serious problems with these things in
4 North Dakota, because I represent District 4 and
5 the entire Berthold Reservation, I would be the
6 first one leading the charge saying we need to
7 get subdistricts.

8 I am confident in my position that I can
9 be reelected either way it goes. But I've been
10 getting a lot of messages from members of my
11 district that say, heck no, we don't want to be
12 treated different than everybody else in North
13 Dakota. If this goes through, we only have one
14 representative. Everybody else has two to go to
15 when they have issues or problems. Sometimes I
16 don't like one of my representatives or I don't
17 work well with them. I want to be able to have a
18 choice like everybody else does in North Dakota.

19 We've all taken an oath to uphold our
20 constitution. Our constitution has given us the
21 way that we run our elections. We can deviate
22 from that if we meet the criteria to apply these
23 Section 2 issues. We have not done that.

24 If my district, specifically, the MHA
25 Nation, wants to look into this, I will help do

1 that. And after the next census and the next
2 information is gathered, if we find that they
3 have been unable to get people that they want
4 elected because of racial animus, I will lead the
5 charge to create subdistricts. But we are not
6 there yet.

7 And, if we make the mistake of creating
8 this subdistrict now, these two in 4 and 9, we
9 will be subject to what he called the Shaw
10 Violation, which is basically discrimination. I
11 don't know what that all leads to. But he cited
12 two cases that I didn't get written down fast
13 enough.

14 Again, I apologize that I don't have
15 better information. But I am absolutely
16 confident when I stand in front of you saying
17 this may need to be done. But the time is not
18 now.

19 Please defeat the subdivision part of
20 this bill. And then I would support the
21 redistricting bill as the rest of the
22 subdivision.

23 I would stand for any questions.

24 REPRESENTATIVE K. KOPPELMAN:
25 Representative Schauer.

1 REPRESENTATIVE SCHAUER: Thank you,
2 Mr. Speaker, members of the Assembly. And there
3 are many ways to learn. Among them is learning
4 from our mistakes. But even better is learning
5 from other people's mistakes.

6 Twenty years ago, South Dakota faced a
7 similar situation as we do today with several of
8 its Native reservations. Lawmakers ignored legal
9 advice, ignored the Voting Rights Act, ignored
10 race as a criteria in redistricting, and refused
11 to redistrict.

12 The results were disastrous. The ACLU,
13 and the Justice Department, and the tribes
14 unleashed their attorneys on South Dakota ending
15 with an embarrassing and costly loss.

16 South Dakota has had subdistricts now
17 for 16 years. I do not disagree with some of the
18 arguments being made today concerning unequal
19 treatment, fairness, reduced representation. But
20 we are lawmakers. And, as part of that, it
21 includes law followers.

22 Those advocating subdistricts in North
23 Dakota have a powerful legal case based on the
24 census numbers, the Voting Rights Act, and the
25 precedent setting legal cases from the U.S.

1 Supreme Court.

2 In District 4A, total population is
3 8,350. American Indian population is 5,537,
4 which is 66 percent.

5 District 9A, total population, 7,922;
6 American Indian population, 6,460, which is 82
7 percent.

8 The Equal Protection Clause of the 14th
9 Amendment and the Voting Rights Act, Section 2
10 prohibits vote dilution, which happens when
11 minority voters are dispersed or cracked among
12 districts so that they are ineffective as a
13 voting bloc. We may not like it for whatever
14 reason. But it is the law.

15 Let's learn from South Dakota's mistake.
16 Let's put our state in the best possible position
17 to defend itself if we are sued. Let's do what
18 is right both legally and in support of our
19 tribal friends who are also North Dakotans.

20 I urge this Assembly to back the
21 redistricting proposal, HB 1504, and let's move
22 forward as one.

23 Thank you, Mr. Speaker.

24 REPRESENTATIVE K. KOPPELMAN:

25 Representative Ruby.

1 REPRESENTATIVE D. RUBY: Thank you, Mr.
2 Speaker, members of the Assembly.

3 When I think of redistricting, to me it
4 has always been let's divide our districts in a
5 way that make it equitable representation for our
6 citizens of this state. And that is the number
7 one reason for it.

8 When I heard about the subdistricts, I
9 thought, well, I can understand that there's some
10 situations, not just for cultural issues, but
11 sometimes for the size of districts, very large
12 districts who would maybe have a higher
13 population area in one area and not as many in
14 the other. And so it might be easier to get
15 votes in that area. And that was one of the
16 reasons people have thought that subdistricts
17 should be a part of our system.

18 And it's hard to argue with that,
19 especially with the size of some of our
20 districts. It doesn't make sense in some of the
21 very small districts. Like in the City of Minot,
22 there's one district that's all contained within
23 the City of Minot. I know Fargo has some of
24 those. I think Grand Forks has one. So doesn't
25 really make as much sense there. But again, if

1 you're going to apply it, you should apply it
2 equally across the state.

3 So that's been my biggest concern with
4 the subdistricts. Basically, there's going to be
5 two districts that are going to, as the previous
6 speaker mentioned, is only going to have one
7 House member and their senator. And that senator
8 will be shared between the two districts or
9 subdistricts. And each one will only have the
10 other.

11 Now, the basis of this is just because
12 there's nobody within the minority of those
13 districts, or they may not even be a minority of
14 the whole district, but they are a minority in
15 general. And not getting elected, I don't know
16 that we have the problem.

17 I served with a member of the MHA Nation
18 several sessions ago. She was elected in that
19 district. And, as was stated, there is also one
20 in the Senate. And there should be more. But
21 it's funny is the districts that we're talking
22 about, many cases, have voted for -- in North
23 Dakota's case, the minority party in presidential
24 elections and in maybe congressional and
25 senatorial elections, but they voted for the

1 majority party at their local legislative level.

2 That doesn't tell me -- that tells me
3 that they're not necessarily not voting for
4 people in say another party that might be Native.
5 They are basically voting for who they think is
6 the best candidate in that area. That's plain
7 and simple. It's whoever the best candidate is
8 usually will win.

9 So I think that's -- what we're trying
10 to do here to fix something that isn't -- it
11 doesn't meet the criteria of being racially, I
12 guess, hindered or people of race are hindered in
13 their districts. I don't think that's a problem
14 at all.

15 Matter of fact, I think in some cases,
16 this may actually hurt the very people who say
17 they want it. And again, my main reasoning for
18 opposing this is for the inequity of the rest of
19 them. Either we do it all across the state or we
20 don't do it at all.

21 Now, we keep hearing, well, there's a
22 good case for a legal challenge. First of all, I
23 really detest legislating at the threat of
24 vetoes, initiated measures, referrals, or being
25 sued. We should do what we think is best and let

1 the other branch of government, which is the
2 court system, do what they want if they do. They
3 may not.

4 It's interesting when I've talked to
5 people about this, people say -- especially if
6 they were on the committees, oh, we'll lose.
7 Okay. Well, in the next breath we hear that
8 Standing Rock is going to sue us because we're
9 not giving them one. Or they say, oh, well,
10 they'll lose.

11 And then we had another proposal that
12 was presented, I noticed when I sat in on the
13 redistricting committee from Spirit Lake and
14 Turtle Mountain tribes that would like to be in
15 one district. And they say, well, if we don't do
16 that, they'll sue.

17 We're going to end up in court one way
18 or another unless, I don't know, unless we do
19 everything that everybody else says we should do.
20 And I don't even know because there's opposing
21 sides.

22 There's other people could sue us for
23 going to the subdistricts. And, if they don't
24 meet the criteria, as Representative Jones just
25 talked about from his expert, we could lose that

1 and rightly so I think.

2 So I think we decide on what we think is
3 really best, what we feel comfortable with, what
4 we think is equitable for all of our districts
5 because I think that the committee did a good job
6 in dividing the state. I mean, obviously,
7 there's some things I'd like to see a little
8 different. And there's always tweaks and changes
9 that I wish wouldn't have to be. But overall, as
10 far as equally splitting the state in districts,
11 they did their job.

12 And I think that's fine. But I think in
13 this situation, we really should take the
14 subdistricts out and vote no on this division.
15 And I would ask that we vote red on it.

16 Thank you, Mr. Speaker.

17 REPRESENTATIVE K. KOPPELMAN:
18 Representative Devlin.

19 REPRESENTATIVE DEVLIN: Thank you,
20 Mr. Speaker, members of the Assembly.

21 I really, really, really hate to argue
22 with anonymous people that aren't here,
23 particularly, we had court people after court
24 people and experts after experts that told us
25 different. But, you know, as far as the first

1 person that talked, it's not gerrymandering to
2 create a perfectly contiguous subject. Multi-
3 member districts dilute a -- that dilute a
4 minority's voting strength are unconstitutional.
5 That is totally opposite of Shaw, totally
6 opposite.

7 But let's get back. The committee
8 didn't do this because it might cost us money in
9 court. We have no idea what it might cost in
10 court. I saw states spend \$4 million on
11 redistricting fights. I saw states spending \$3
12 1/2 million on districting fights. But what I
13 couldn't get was what South Dakota spent. And
14 that would be a similar situation to ours, you
15 know

16 So the committee put it in because it
17 settled federal law. The Voting Rights Act was
18 passed by Congress and signed by the President of
19 the United States. Numerous lawsuits brought
20 under the Voting Rights Act have been successful
21 in the courts. You know, we're all about
22 fighting federal mandates, particularly executive
23 orders. And Wayne Stenehjem is doing a good job
24 of leading that right now. But that isn't what
25 this is.

1 This is a federal law that was passed by
2 Congress, signed by the President of the United
3 States, and held up by the Court. There is no
4 argument over that. That's exactly what it is.

5 We are putting in the subdistricts
6 because that is a requirement of the Voting
7 Rights Act. Yeah. If we went to court, we could
8 lose. That's what South Dakota did, as the
9 previous speaker talked about. You know, they
10 not only lost, the map that was put in for them
11 was the plaintiff's map. That's certainly one of
12 the things that could happen.

13 Like I said, we didn't do this because
14 of money. We did it because the federal law says
15 this must be done in this situation if they meet
16 these criteria. And two of those states meet
17 that -- or two of those districts -- tribes meet
18 that criteria. That is federal law.

19 I'm not going to stand here and tell you
20 to ignore federal law. I care too much about
21 this country to do that. I am firmly convinced
22 that we have no choice under the federal law and
23 the constitution.

24 There's no question either that North
25 Dakota has been in this situation before. We

1 have been before court on this case. We won the
2 case so to speak. We won the case because the
3 judge determined that the people bringing the
4 suit couldn't prove or couldn't demonstrate they
5 had a population equal to at least half of the
6 subdistrict.

7 That is no longer true. We can no
8 longer prove that. Two Native American tribes
9 had that. You know, that's the only reason North
10 Dakota prevailed in that case before.

11 Now, on the floor today, I heard
12 arguments on where the population figures came
13 from. The population figures came from the
14 census, the federal census. Just as they did for
15 every one of your districts. There was nothing
16 different about it.

17 I mean, I can guarantee you that many of
18 your districts and some of the tribal districts
19 maintain that they were undercounted. But we
20 didn't look at that. We didn't look at that all.
21 All's we looked as is the numbers that came in
22 the census. They meet the qualifications
23 established by the courts, established by
24 Congress. And we firmly believe -- the majority
25 of the committee firmly believed that we need to

1 put this in.

2 You know, we talked about the
3 discrimination. Under federal law, it's clear.
4 They don't have to have intent to discriminate
5 for redistricting to be unlawful. Courts look at
6 the effect of redistricting. There is a big
7 difference.

8 For example, the federal Voting Right
9 Acts (sic) prohibits redistricting from diluting
10 the vote of a racial minority by giving racial
11 minority less opportunity than other groups to
12 elect a minority group's candidate of choice.

13 The candidate of choice, as you well
14 know, doesn't have to be a minority or a tribal
15 member. It can be anyone. But it is their
16 choice.

17 I firmly believe that under the federal
18 law, the court decisions, which has been
19 established and upheld repeatedly in courts, that
20 we had to do this. There was no choice in the
21 state of North Dakota.

22 Yeah. You certainly have the right to
23 ignore federal court, federal Congress, and the
24 President. You certainly have that right. But I
25 don't think that's the right decision to make.

1 I think as law writers ourselves, when
2 our laws are taken to court and upheld by the
3 court, I think we would expect the citizens of
4 our state to follow them. This was a similar
5 case. This law was passed by Congress, as I
6 said, signed by the President, upheld by the
7 courts in multiple states around the nation,
8 including South Dakota. And South Dakota has
9 exactly the same district setup we did.

10 I believe the right thing to do is leave
11 those sections in the bill and pass the bill.

12 Thank you, Mr. Speaker.

13 REPRESENTATIVE K. KOPPELMAN:

14 Representative Fegley.

15 REPRESENTATIVE FEGLEY: Thank you,
16 Mr. Speaker, members of the Assembly.

17 When I read the North Dakota
18 Constitution, it has a phrase in it that every
19 voter should have equal power. That's our North
20 Dakota Constitution. So when you divide this two
21 districts, what have you done?

22 Those two districts don't have equal
23 power on what our North Dakota Constitution
24 because they can only vote for one
25 representative. And then what we really should

1 have done was had all the districts divided, and
2 then we would be meeting both criteria. But
3 that's not in front of us.

4 So I urge you that in our North Dakota
5 Constitution, we need to have our voting
6 represented and equal and that what we got before
7 us, I urge you to vote no because it doesn't
8 follow that. Thank you.

9 Mr. Speaker.

10 REPRESENTATIVE K. KOPPELMAN:

11 Representative Louser.

12 REPRESENTATIVE LOUSER: Thank you,
13 Mr. Speaker. And I hesitate to get up after the
14 chairman of the committee. I did not serve on
15 redistricting. And, if everybody may recall, a
16 little over a year ago, what was going to be
17 Measure 3 on the ballot was thrown out by the
18 courts in North Dakota. And that included
19 subdistricts in every district, not just two.

20 Earlier this session, I was the prime
21 sponsor of three bills: 1407, which is the tribal
22 health coordination agreements. That bill passed
23 both chambers, signed by the governor.

24 I was the prime sponsor of 1417, which
25 is internet or ITD services and tribal agreements

1 for tribal governments. That bill passed both
2 chambers and was signed by the governor.

3 I was the prime sponsor of 1428, which
4 was adding a BCI agent in Rolette County. That
5 failed in the house and did not make it to the
6 Senate.

7 My point is that none of those came from
8 District 5. None of them came from my
9 constituents. Former Commissioner Scott Davis
10 asked me after the session began if I'd be
11 willing to prime sponsor a bill that turned into
12 three prime sponsors of bills because I had room
13 to do it. And I gladly did that because it was
14 good policy, in my opinion. Had nothing to do
15 with the people that came from my district. It
16 was just the right thing to do for North Dakota.

17 I would vote in favor of the division
18 and not speak on Division A based on what I just
19 talked in this testimony. But I would prefer to
20 see this bill divided.

21 Mr. Speaker.

22 REPRESENTATIVE K. KOPPELMAN:
23 Representative Magrum.

24 REPRESENTATIVE MAGRUM: Thanks,
25 Mr. Speaker. May I ask the Chairman of the

1 Redistricting Committee a question?

2 REPRESENTATIVE K. KOPPELMAN:

3 Representative Devlin, would you yield to a
4 question?

5 REPRESENTATIVE DEVLIN: I will certainly
6 try, Mr. Speaker.

7 REPRESENTATIVE K. KOPPELMAN:

8 Representative Magrum.

9 REPRESENTATIVE MAGRUM: Thanks,
10 Mr. Speaker.

11 Representative Devlin, so the lawsuit
12 with South Dakota, as I understand, was that
13 before the last redistricting that would have
14 been over 10 years ago? So what happened? I
15 mean, so obviously, we redistricted 10 years ago.
16 Was there a lawsuit after the last redistricting
17 concerning this issue?

18 REPRESENTATIVE DEVLIN: Yes. Yes,
19 Mr. Speaker, Representative Magrum. This did
20 come after the last redistricting. South Dakota
21 is actually been in court twice on this. They
22 have two subdistricts exactly like this.

23 They put in one themselves earlier. And
24 in the nineties they tried to take it out about
25 halfway through the decade. And the court said

1 you can't take it out. You can only redistrict
2 every 10 years. And then they left it in after
3 that.

4 But this one was the last census. And
5 that was when the courts decided you must do that
6 because it meets all the requirements of federal
7 law.

8 REPRESENTATIVE MAGRUM: Okay. Thank
9 you.

10 Mr. Speaker.

11 REPRESENTATIVE K. KOPPELMAN:
12 Representative Jones.

13 REPRESENTATIVE JONES: Thank you,
14 Mr. Speaker.

15 I appreciate the Chairman's words. But
16 my wife spends a lot of time trying to keep me
17 out of jail. And I would not want this body to
18 do anything that would be even looking like we're
19 ignoring federal law.

20 There are some things -- it's not just
21 the numbers. It's not just certain parts that we
22 have to meet in order to be eligible for these
23 Section 2 things. You've got things that are
24 called threshold information, which is, do they
25 have enough numbers, and some other things.

1 And then you got determinative
2 information. One of the things that I didn't
3 mention is that one of the things that you have
4 to look at is the voting record in the
5 subdistricts that you're looking at. And you
6 have to show that they have been consistently, if
7 it's the Native American in this case, that the
8 Native American population has consistently been
9 being outvoted by the non-Native population.

10 Now, in all of my discussions with
11 watching the committee and the people I've talked
12 to, nobody's even looked at the voting
13 information. The Gingles case, which is used to
14 test and try these cases, relies on proof that
15 the subject group have been consistently outvoted
16 by the non-subject group.

17 That doesn't happen here. If you pull
18 up our voting records, the non-Natives have not
19 been consistently voting different than the
20 Natives. So I understand that if we had all
21 these components in place, then we would be
22 violating federal law.

23 But because all the components are not
24 in place, we are gerrymandering. We are -- the
25 attorneys said you would be premature unless

1 there's the studies done, your voting has been
2 looked at to make sure that the group has been
3 consistently outvoted in their attempts to get a
4 person of their choice. If that data was in
5 place, and if it showed that these people in this
6 group have been experiencing racial animus in
7 their voting practices, then I'll be the first
8 one to lead the charge and say, let's have
9 subdistricts.

10 The cases in South Dakota were not just
11 as simple as it's being portrayed. There's a
12 reason one of them they did on their own, another
13 one, the court made them put in. But we need to
14 get that information to back up what we're doing
15 if we create subdistricts so I can go back to my
16 constituents and say, yeah, we're going to make
17 you a little bit odd here. You can only have one
18 representative, but it's because they met the
19 criteria laid out in the federal law.

20 But, if we do what we're doing here,
21 going off half-cocked and leave subdistricts in
22 this bill. We are not crossing all of our T's,
23 dotting all of our I's. And I can guarantee you
24 that there's people watching this that are going
25 to go back now and look at that information. And

1 what they're going to find out is that I'm
2 exactly right, that we haven't met the criteria
3 required to apply this federal law. And we're
4 going to be able to get that information. And
5 when we do meet it, like I said, I will be the
6 first one to lead the charge for subdistricts in
7 my district but absolutely not today.

8 It is not right. It is not the right
9 time to do it. So please support subdivision --
10 or please defeat Subdivision A and support
11 Subdivision B.

12 Thank you, Mr. Chairman.

13 REPRESENTATIVE K. KOPPELMAN:
14 Representative Nathe.

15 REPRESENTATIVE JONES: Mr. Speaker.

16 REPRESENTATIVE K. KOPPELMAN:
17 Representative Nathe.

18 REPRESENTATIVE NATHE: Thank you,
19 Mr. Speaker. I would hope we could keep the bill
20 as is. And I took a couple of exceptions with
21 the previous speaker. You know, we worked very
22 hard on this. And we did not do this half-
23 cocked.

24 Back in July, some of us went to the
25 NCSL meeting in Salt Lake City. And it was a

1 redistricting meeting for about four days. And
2 we listened to many lawyers around the country
3 talking about many different situations.
4 Subdistricts was one of the main things we had
5 heard.

6 As the chairman had said, this voters
7 right act is a 50-year-old plus bill. There is
8 tons of case study out there. You can say what
9 you want about our legal advice. But the
10 committee has worked diligently on this subject.
11 So we did not do this half-cocked.

12 The districts meet the criteria as set
13 by the voters right act as we did it. We had a
14 lot of discussions. It meets the Gingles
15 requirements. We discussed that probably all
16 morning one day. So we have gone through this
17 very, very thoroughly.

18 Am I excited about doing this? No. And
19 I think a lot of people on the committee are not
20 real excited about doing this. But as the
21 chairman said, it's the law. It's the federal
22 law.

23 There's a lot of laws I like and a lot
24 of laws I don't like. But you have to follow
25 those laws. And this, what we did, what your

1 committee did follows that law.

2 I know the previous speaker,
3 Representative Jones, talked about he had spoke
4 to a lawyer. You could talk to 50 lawyers and
5 get 50 different opinions. It would have been
6 nice if that gentleman would have come to our
7 meeting and talked to us instead of getting it
8 here at the 11th hour.

9 When we were in Salt Lake, we heard from
10 many lawyers who experienced the exact same
11 thing. This is nothing new. Other states have
12 gone through this time and time again with the
13 exact same result. The states lost. You have to
14 follow the law. You have to follow the
15 thresholds. The thresholds are there. It's very
16 black and white.

17 Your redistricting committee spent
18 weeks, months. We had calls. We talked offline
19 to work on this. So this was vetted very
20 thoroughly. We dug into it. We need to do this.
21 Are we happy about it? No. I think you can get
22 the impression we're not happy about doing this.

23 And it's easy to say, well, let's do it,
24 and we'll take our changes in court. I find that
25 very funny, Mr. Speaker. We have no problem

1 spending millions of dollars for a court case
2 like this. But we'll sit here on this floor and
3 fight over \$100,000 for some health care
4 initiative.

5 So I would ask the members of this
6 assembly, let's leave the bill as is, and let's
7 move forward.

8 Thank you, Mr. Speaker.

9 REPRESENTATIVE K. KOPPELMAN:
10 Representative Koppelman.

11 REPRESENTATIVE B. KOPPELMAN: Thank you,
12 Mr. Speaker.

13 Will the committee chair yield to a
14 question?

15 REPRESENTATIVE K. KOPPELMAN:
16 Representative Devlin, would you yield to a
17 question?

18 REPRESENTATIVE DEVLIN: I certainly will
19 try.

20 REPRESENTATIVE K. KOPPELMAN:
21 Representative Koppelman.

22 REPRESENTATIVE B. KOPPELMAN: Thank you,
23 Mr. Speaker.

24 Representative Devlin, do you believe
25 that if we didn't have subdistricts that the

1 lines that were drawn by the committee for the
2 entirety of District 4 and the entirety of
3 District 9 would disperse the Native American
4 population into, in other words, fracture it into
5 multiple districts? Or would it still keep those
6 in the same district?

7 REPRESENTATIVE DEVLIN: Mr. Speaker,
8 Representative Koppelman, I'm not sure I can
9 answer your question. We looked more at the
10 fact, does it meet federal law? And there was no
11 question that it did. If you want to -- no. I
12 won't even go there.

13 I think at some point, we just have to
14 fish and cut baits -- or cut bait so to speak.
15 And this is a lot. As far as somebody saying,
16 you know, we never -- we discriminated together.
17 We had testimony in committee -- not from that
18 particular district, from another Native American
19 -- testimony that said they have tried repeatedly
20 since 2010 to elect their candidate of choice and
21 could not because they kept getting outvoted.

22 We had testimony from that particular
23 area on school elections where a similar deal had
24 happened.

25 But I'm not going to argue that at all.

1 I'm just telling you with the Gingles precedents,
2 we had no choice on our legal advice, on NCSL,
3 and as far as the majority of the committee. We
4 thought there was no choice.

5 REPRESENTATIVE B. KOPPELMAN:

6 Mr. Speaker, may I continue?

7 REPRESENTATIVE K. KOPPELMAN: You may
8 continue.

9 REPRESENTATIVE B. KOPPELMAN: Maybe I'll
10 kind of rephrase that question. What I was
11 really trying to get at is, my understanding this
12 cycle as well as the previous two cycles at
13 least, that it's been a key cornerstone to not
14 divide the reservation parts into one district
15 and parts in another, to keep them whole, to not
16 splinter, or disperse that population.

17 So my question was, does the entirety of
18 District 9 or the entirety of District 4 disperse
19 the reservation population in a way that the
20 previous two cycles did not?

21 REPRESENTATIVE DEVLIN: Mr. Speaker,
22 Representative Koppelman, that is to my
23 understanding, no. We kept -- and I was
24 corrected in committee by a person from Western
25 North Dakota when I said we've never split tribal

1 reservations, you know, in North Dakota.

2 Well, we had years ago but not in the
3 last 10 years. This time, we made a real effort
4 to make sure no tribal lands were split away from
5 the reservation. We put certain areas like the
6 Spirit Lake Reservation got moved into 15 because
7 they are a community of interest under federal
8 law with the City of Devils Lake and the rest of
9 District 15. So, you know, that is essentially
10 -- I may not be answering your question. But I
11 firmly believe that you don't divide them more by
12 what we're doing.

13 REPRESENTATIVE B. KOPPELMAN: Thank you,
14 Mr. Speaker. If I might continue?

15 REPRESENTATIVE K. KOPPELMAN: You may.

16 REPRESENTATIVE B. KOPPELMAN: Thank you,
17 Representative Devlin. And I appreciate the fact
18 that -- it sounds like you guys went out of your
19 way to keep those communities of interest and
20 populations together in the whole boundaries of
21 District 9 and District 4. And so that's really,
22 I think, a good thing because that's what we're
23 going to vote on in Division B.

24 But Division A is about subdistricts.
25 And I think if you do look in some of the history

1 of where the court cases have arrived and the
2 history of gerrymandering various ethnic
3 populations or communities in other states, maybe
4 not South Dakota, but many other states, their
5 gerrymandering efforts are extreme. I mean,
6 there are little fingers that go off in every
7 direction, and I don't see that in the map that's
8 in front of us today.

9 I see relatively contiguous rectangles
10 and things that follow normal landmarks, either
11 rivers, or roads, things of that nature that make
12 sense, that keep people, you know, somewhat
13 together.

14 I think subdistricts could have their
15 merits at some point. You know, certainly, some
16 districts have rural and urban residents. Well,
17 maybe they'd prefer subdistricts so that the
18 farmers had more of a say, even though they keep
19 getting outvoted by the city.

20 School districts are the same way.
21 Farmers might like to have some different say
22 against urban people in those. And yet the urban
23 people get the votes together, pass a bond
24 referendum, and now the farmers, who have the
25 majority of the land, are paying those bonds

1 back.

2 And so there could be merits to
3 subdistricts. There could be concerns about
4 gerrymandering happening. But I don't see that
5 in our process. Matter of fact, I see them
6 trying to follow county lines and other logical
7 barriers.

8 And I wonder in a state that doesn't
9 have voter registration, so we don't even know
10 which party each of these members would be
11 registered with had we had voter registration.
12 So we don't know what party they are for sure.
13 But yet we seem to, or somebody seems to know
14 that they couldn't get their candidate of choice.

15 Now, I ask you, how many of you believe
16 that the distinguished member of District 4 or
17 District 9, in this chamber or the one across the
18 hall, were not the candidate of choice for their
19 constituents? Because I believe that they each
20 in their own respect represent their constituents
21 well.

22 I can think of bills these last two
23 sessions where all four of those representatives
24 represented those of the reservation population
25 well.

1 And so it's kind of presumptuous for us
2 to say that we believe they don't because we
3 don't really have evidence of that I don't
4 believe. We're just running, I don't want to say
5 in fear, but we're rolling the dice and saying
6 the odds are against us in court. And I don't
7 think we should govern in that way.

8 I believe that if you look around the
9 state, you'll see that we have elected people
10 from many different backgrounds in the most
11 unique places, you know. We've got a Native
12 American representative in this chamber that was
13 elected nowhere near any of the reservations.
14 Well, how did that happen? It happened because
15 we have a fair system for doing it. And that
16 individual ran the best race, convinced the most
17 people to vote for them. And I think they should
18 all be able to do that.

19 Would my districts prefer -- would my
20 district even prefer to half vote for one guy and
21 half vote for next? Maybe. But that's not how
22 we've chosen to do it in our state. And until we
23 choose to do it for everybody in our state, I
24 don't think we should do it for two districts.

25 Thank you, Mr. Speaker.

1 REPRESENTATIVE K. KOPPELMAN:

2 Representative Dan Ruby.

3 I see Representative Jones, you have
4 your light on. But you've already been up twice.

5 Representative Dan Ruby.

6 REPRESENTATIVE D. RUBY: Thank you,
7 Mr. Speaker.

8 Members of Assembly, it's been talked
9 about the Thornburg v. Gingles case. And I
10 brought that up on my computer. Interesting
11 stuff on here. You know, obviously there's
12 discussions whether it's subdistricts or
13 basically redistricting in general. So, if you
14 redistrict a district itself to gerrymander, to
15 marginalize a minority population, that's one
16 thing that is part of it.

17 Now, we all understand that subdistricts
18 are permissive. And they're not required in
19 every instance. But I'll pick it up in just a
20 portion of this.

21 "The Congress responded by passing an
22 amendment to the Voting Rights Act, which
23 President Ronald Reagan signed into law June 29,
24 1982.

25 "Congress has amended Section 2 to

1 create a results test which prohibits any voting
2 law that has a discriminatory effect irrespective
3 of whether the law was intentionally enacted or
4 maintained for discriminatory purpose. "The 1982
5 amendments provide that the results test does not
6 guarantee protected minorities a right to
7 proportional representation.

8 "When determining whether a
9 jurisdiction's election law violates this general
10 prohibition, courts have relied on factors
11 enumerated in the Senate Judiciary Committee
12 report associated with 1982 amendments. And
13 they're including the history of official
14 discrimination in the jurisdiction that affects
15 the right to vote, the degree to which voting in
16 the jurisdiction is racially polarized, the
17 extent of the jurisdiction's use of majority vote
18 requirements, usually large electoral districts,
19 prohibitions on bullet voting, and other devices
20 that tend to enhance the opportunity of voting
21 discrimination.

22 "Whether minority candidates are denied
23 access to the jurisdiction's candidate slating
24 process, if any, to the extent of which
25 jurisdiction's minorities are discriminated

1 against in socioeconomic areas such as education,
2 employment, and health; whether overt or subtle
3 racial appeals in campaigns exist; the extent of
4 which minority candidates have won elections; the
5 degree that elected officials are unresponsive to
6 the concerns of the minority group; and whether
7 the policy jurisdictions for the challenged law
8 is tenuous."

9 Now, it doesn't require all of those to
10 meet the level not even a majority. But it's
11 certainly things that they're looking at. And
12 that Section 2 prohibits two types of
13 discrimination: voter denial and voter dilution.

14 And I don't see that that's in any of
15 these. There's no proof of it. There were no
16 studies done, as was previously mentioned. So we
17 are not violating a federal law. We are working
18 within the federal law. And there's different
19 decisions could be made based on the federal law
20 that we're talking about.

21 So I think it's either incorrect, or
22 disingenuous, or, you know, maybe just I think a
23 mistake to say that by voting against this
24 division and getting this out of the bill, voting
25 red on this, is violating federal law. That's

1 too far. That's not correct.

2 Thank you, Mr. Speaker.

3 REPRESENTATIVE K. KOPPELMAN:

4 Representative Magrum.

5 REPRESENTATIVE MAGRUM: Mr. Speaker, may
6 I ask the committee chair another question?

7 REPRESENTATIVE K. KOPPELMAN:

8 Representative Devlin, would you yield to another
9 question?

10 REPRESENTATIVE DEVLIN: Certainly,
11 Mr. Speaker.

12 REPRESENTATIVE K. KOPPELMAN:

13 Representative Magrum.

14 REPRESENTATIVE MAGRUM: Thanks,
15 Mr. Speaker.

16 Representative Devlin, how is the voting
17 committee when you guys -- when the committee
18 voted on subdistricts? Because I see it's a 16-0
19 due pass. But was there a vote to vote to agree
20 with the subdistricting?

21 REPRESENTATIVE K. KOPPELMAN:

22 Representative Devlin.

23 REPRESENTATIVE DEVLIN: Mr. Speaker,
24 thank you.

25 Representative Magrum, as I recall, the

1 vote was 10 to 6.

2 REPRESENTATIVE MAGRUM: So okay, so --
3 and then what happened? Because I see it came
4 out of committee unanimously.

5 Sorry, Mr. Speaker. It just another
6 question.

7 REPRESENTATIVE K. KOPPELMAN: Continue.

8 REPRESENTATIVE MAGRUM: So what
9 happened? Then I see it switched to 16-0.

10 REPRESENTATIVE DEVLIN: Mr. Speaker, and
11 Representative Magrum, I would assume that six of
12 the members had made the argument against
13 subdistrict. But when they looked at the end at
14 the total bill that we were presenting for the
15 people of North Dakota, they agreed to vote for
16 it to send it onto the Assembly.

17 REPRESENTATIVE MAGRUM: Okay. Thank
18 you.

19 REPRESENTATIVE K. KOPPELMAN:
20 Representative Hoverson.

21 REPRESENTATIVE HOVERSON: Thank you,
22 Mr. Speaker. Would the bill carrier,
23 Representative Jones, yield to a question?

24 REPRESENTATIVE K. KOPPELMAN:
25 Representative Jones, would you yield to a

1 question?

2 REPRESENTATIVE JONES: Yes, I would,
3 Mr. Speaker.

4 REPRESENTATIVE K. KOPPELMAN:
5 Representative Hoverson.

6 REPRESENTATIVE HOVERSON: Mr. Speaker,
7 it was duly noted earlier by a representative
8 that they did dot all their t's -- and excuse me
9 -- their I's and crossed all their T's, which I
10 appreciate.

11 Could you remind me? There was two
12 things that you mentioned that had to be done in
13 order to qualify. One had to do with the voting
14 -- looking at the voting records. And then there
15 was a certain type of study. Could you remind me
16 and let me know did that committee do that?

17 REPRESENTATIVE K. KOPPELMAN:
18 Representative Jones.

19 REPRESENTATIVE JONES: Thank you,
20 Mr. Speaker and Representative Hoverson. The
21 study that I referenced as not a study for the
22 committee to do. It was a study for somebody to
23 do that was a proponent for subdistricts. It's
24 called a regression study or commonly called a
25 polarization study.

1 Those studies cost between 25 and
2 \$30,000. And what it does is it looks into the
3 voting in that particular district and area to
4 establish whether there is racial animus that is
5 affecting the outcomes of elections. And, as
6 near as I can tell in everything that I've seen
7 and heard, that study was never done.

8 The other question was, I referenced the
9 Gingles case. That is -- it's a court precedence
10 that they use. And one of the preconditions on
11 the Gingles case or the Gingles test is that they
12 have to be outvoted consistently.

13 And I'm taking information from my
14 running mate, my senator, as he studied the
15 voting in our district. And that precondition,
16 to be eligible to do these subdistricts, has not
17 been met in our district. And so that was the
18 other study that I was referencing that had not
19 been done.

20 I hope that answers your question.

21 REPRESENTATIVE HOVERSON: Yes.

22 Mr. Speaker, may I ask a question of
23 Representative Nathe?

24 REPRESENTATIVE K. KOPPELMAN:

25 Representative Nathe, would you yield to a

1 question?

2 REPRESENTATIVE NATHE: Mr. Speaker, I
3 will.

4 REPRESENTATIVE K. KOPPELMAN:
5 Representative Hoverson.

6 REPRESENTATIVE HOVERSON: Thank you, Mr.
7 Speaker, Representative Nathe. As you heard it
8 described, the polarization study, which is
9 supposed to reveal a racial animus as well as the
10 consistent voting record that Representative
11 Jones just spoke about, did your committee
12 conducts those at all?

13 REPRESENTATIVE K. KOPPELMAN:
14 Representative.

15 REPRESENTATIVE NATHE: Mr. Speaker,
16 Representative Hoverson, we did not. But we had
17 plenty of testimony from the tribes who felt that
18 there was some, some -- I don't know the word for
19 it -- disadvantage. They had ran a number of
20 different candidates in that district and had
21 lost and felt that they did not have a fair shot.
22 And that was one of the reasons to look at the
23 subdistricts. Now, whether I agree with that or
24 not, I don't know. But that was one of the
25 reasons why they stepped forward with this.

1 And to do the study -- I was on
2 redistricting 10 years ago, and we had these kind
3 of discussions. And we did not do any studies
4 like this at all. And I don't think, quite
5 frankly, and the chairman can correct me, there
6 was no need to do a study like this. We had
7 collected information for many weeks while
8 working on this issue. So, as the chairman said,
9 we made the best decision with the information
10 that we had so we can move forward and do the
11 work of the people.

12 REPRESENTATIVE K. KOPPELMAN:

13 Representative Buffalo.

14 REPRESENTATIVE BUFFALO: Thank you,
15 Mr. Speaker. It's a very good, good conversation
16 and debate that's happening right now. My name
17 has been brought up a few times by my colleagues.
18 And I thank you for thinking of me and making
19 reference to me as I am proud to serve the
20 District 27 of South Fargo.

21 But however, I must share what is also
22 on my heart as a citizen and a member of the
23 Mandan, Hidatsa, Arikara Nation. I grew up in
24 Mandaree. Normally, we would say we were born
25 and raised in Mandaree. But years ago in the

1 early 1950s, as I'm sure that many of you are
2 aware, 94 percent of our agricultural land was
3 flooded for the making of the Garrison Dam so
4 that Bismarck could have flood control. And so
5 our very once self-sufficient community located
6 in what is referred to as the bottomlands or
7 Elbowoods, we had a great school system, we had a
8 hospital, very self-sufficient.

9 So after the flooding of 94 percent of
10 our agricultural land, we no longer had a
11 hospital. So everybody born in Mandaree or from
12 Mandaree is born in Watford City, located 27
13 miles away from Mandaree.

14 When I think of the debate happening
15 here, you know, I am thankful for the
16 conversations of mentioning, you know, why are we
17 debating something where the people are not at
18 the table? And I'm proud to serve District 27.
19 I'm proud to be your colleague here in The
20 People's House. It's very special, near and dear
21 to my heart.

22 And so I think of some of the comments
23 that were made of, you know, this is just a
24 result of losing an election. And I don't
25 believe that to be true. I disagree in a very

1 respectful manner. This has been a longstanding
2 conversation that has occurred throughout Fort
3 Berthold or within the exterior boundaries of
4 Fort Berthold Indian Reservation.

5 I grew up in Mandaree. And so I want to
6 ask the House floor to please vote against the
7 division of this bill and to keep it as is. You
8 know, I think of my grandparents who passed away
9 a year before I was born.

10 They chose to stay within the exterior
11 boundaries of Fort Berthold. After 94 percent of
12 the agricultural land was flooded, many people
13 relocated to the east and west coast. But my
14 grandparents chose to stay, farmer and ranchers.

15 My grandpa found challenges finding
16 employment off of the reservation. So he change
17 our family name, Buffalo, to a more English-
18 sounding last name. So I am my grandparents.
19 And I am named after my grandmother Ruth, and I'm
20 named after -- I carry the Buffalo last name to
21 honor my grandparents. And they lived a short
22 life. You know, they passed away a year before I
23 was born. And so I think of them.

24 And I think of my entire family still
25 lives within the exterior boundaries of Fort

1 Berthold Indian Reservation. When I think back
2 to when I was 10 years old, and we almost lost
3 one of my younger sisters. I'm the big sister.
4 And, you know, it's innate in us to want to
5 protect each other and to protect, especially,
6 our younger siblings.

7 But when I was 10, we almost lost one of
8 my younger sisters. And she was misdiagnosed at
9 our local field clinic in Mandaree. And so we
10 were able to thankfully get her to Watford. And
11 then from there, the ambulance rushed her to
12 Williston, had emergency surgery. And
13 thankfully, she survived.

14 And then years later, we ended up losing
15 my baby sister coming out of Bear Den. Did not
16 survive a car crash. Drunk drivers hit her head
17 on. She was just 19 for one month.

18 And so I think of the stories, the
19 countless lived experiences of those that live
20 within the exterior boundaries of Fort Berthold.
21 And they've been wanting change.

22 And I'm glad that the issue of low -- I
23 think the term was being outvoted -- low voter
24 turnout, I'm really glad and thankful that was
25 mentioned because in 2018, there were two voting

1 precincts that were shut down within the Fort
2 Berthold Indian Reservation, one specifically in
3 Mandaree at the St. Anthony's Catholic Church,
4 where many of us grew up attending every Sunday.
5 And that caused a lot of our rural voters many
6 barriers.

7 They had to drive all the way around to
8 Manning to cast their ballot because they weren't
9 -- did not trust the current system of our postal
10 service because of the high turnover rate with
11 the employment within our post office in
12 Mandaree, 58757 ZIP Code. And so many elder
13 women in particular had to drive at least an hour
14 and a half in 2018 one way to cast their ballot.

15 So, when we think of, you know, being
16 outvoted, it's kind of like a basketball game.
17 You only see the end score, but you don't see
18 what has happened in each half or in each
19 quarter. And so there's more to what is being
20 said here, deep voter suppression.

21 So being a member of The People's House,
22 you know, I respectfully question whether or not
23 a Representative Terry Jones has met with the
24 individuals of the MHA Nation who reside within
25 the exterior boundaries of Fort Berthold Indian

1 Reservation.

2 It is time to give the people what they
3 need. My colleagues here in The People's House,
4 we have an opportunity to pass the subdistricts
5 legislation to meet the needs of the voters by
6 taking down barriers and moving forward towards a
7 more reflective government.

8 Again, I'm glad Representative Terry
9 Jones brought up the low voter turnout rate
10 within the exterior boundaries of Fort Berthold.
11 The term used was "outvoted." As a member of the
12 Mandan, Hidatsa, Arikara Nation whose entire
13 family still resides within the exterior
14 boundaries of the Fort Berthold Indian
15 Reservation, we know there is not equal access to
16 the ballot box.

17 For example, in 2018, two voting
18 precincts were shut down: one in Mandaree and one
19 in the Four Bears district, which created extreme
20 barriers for our rural voters.

21 I would also like to commend the
22 redistricting committee for approving
23 subdistricts. As a member of the Mandan,
24 Hidatsa, Arikara Nation who grew up in the small
25 community of Mandaree, which is located on the

1 Fort Berthold Indian Reservation, I thank for
2 your time.

3 And again, I ask that you keep the bill
4 as is. And I also want it noted that I am a
5 member of the MHA Nation. But I cannot speak or
6 represent an entire tribal government or a tribal
7 nation.

8 I also want to say maacagiraac, thank
9 you in the Hidatsa language. Thank you for your
10 time.

11 REPRESENTATIVE K. KOPPELMAN:
12 Representative Klemin.

13 REPRESENTATIVE KLEMIN: Mr. Speaker, I
14 know you read the rule on division of question
15 when we started this discussion. But just so
16 there's no misunderstanding, when the floor
17 debate on this ended, please explain the effect
18 of voting yes or no on Division A.

19 REPRESENTATIVE K. KOPPELMAN: I intend
20 to do so, Representative Klemin.

21 Representative Pollert.

22 REPRESENTATIVE POLLERT: Thank you,
23 Mr. Speaker, members of the Assembly. I would
24 ask that you support the redistricting
25 committee's recommendation for the passage of

1 this bill.

2 I too have been other places. And yes,
3 I've been to and talked to other attorneys. And
4 I've talked to legislative counsel. And I
5 happened to be at a place this weekend when
6 there's a gentleman, I think it was from the
7 state of Mississippi, who has extensive
8 background into this. And one of the questions
9 asked -- because North Dakota had this happen in
10 1991. And, of course, at that time, the
11 populations weren't in place for a subdistricts.
12 So basically, that went favorable to the way the
13 redistricting went.

14 But also, I look at that as that's the
15 first shot across the bow that basically says,
16 populations, when they are in place, that the
17 redistricting committee and the state has to take
18 a look at subdistricts. I think that was a
19 warning to us to get, I won't say this House in
20 order, but for the House and the Senate to get
21 order for redistricting.

22 And having said that, we have that
23 population base in those two districts and those
24 two districts to have the subdistricts. So I
25 would ask the House chambers to vote in favor of

1 what the committee chairman brought forward and
2 what the redistricting did. And let's move on.

3 Thank you, Mr. Speaker.

4 REPRESENTATIVE K. KOPPELMAN:

5 Representative Jones, I had indicated earlier you
6 had spoken twice. However, your name was invoked
7 by a previous speaker. So, if you wish to speak
8 in response, you may. Representative Jones.

9 REPRESENTATIVE MOCK: Mr. Speaker,
10 Mr. Speaker, Mr. Speaker.

11 REPRESENTATIVE K. KOPPELMAN:

12 Representative Mock.

13 REPRESENTATIVE MOCK: I have to object
14 to that. The rules do not permit members to
15 speak more than two times even if their name was
16 invoked. The rules in the House are very, very
17 clear that members may only speak twice unless
18 they are the leaders, the bill carrier, or the
19 chair of the committee. And they're limited to
20 10 minutes and 5 minutes, respectively.

21 So, I mean, I appreciate and understand
22 what you're trying to do. But unfortunately, the
23 rules do not allow a member to speak more than
24 two times.

25 REPRESENTATIVE K. KOPPELMAN: I believe

1 our parliamentarian is asked to be recognized.

2 Representative Bellew.

3 REPRESENTATIVE BELLEW: Thank you,

4 Mr. Speaker.

5 Well, in that case, I will move to

6 suspend the rules, in specific, Rule 306 to allow

7 Representative Jones to speak more than twice.

8 And this motion does take a two-thirds vote,

9 Mr. Speaker.

10 REPRESENTATIVE K. KOPPELMAN: The motion

11 has been made to suspend the rules to allow

12 Representative Jones to respond to his name being

13 invoked. Is there any discussion?

14 We will ask for a verification vote. As

15 indicated, it takes two-thirds. And we will ask

16 the clerk to open the key on the question of

17 suspending the rules.

18 The key is open. If you vote yes, you

19 agree to suspending the rules. If you vote no,

20 you do not.

21 Has every member voted?

22 Do any members wish to change their

23 votes?

24 The key will be closed, and the tally

25 will be taken.

1 The threshold of two-thirds has not been
2 met. The motion fails.

3 Representative Kasper.

4 REPRESENTATIVE KASPER: Thank you,
5 Mr. Speaker. Would Representative Jones yield to
6 a question?

7 REPRESENTATIVE K. KOPPELMAN:
8 Representative Jones, would you yield to a
9 question?

10 REPRESENTATIVE JONES: Yes, Mr. Speaker.
11 I will.

12 REPRESENTATIVE K. KOPPELMAN:
13 Representative Kasper.

14 REPRESENTATIVE KASPER: Thank you,
15 Mr. Speaker.

16 Representative Jones. Your name was
17 mentioned a little bit earlier. I'd like to know
18 your answer.

19 REPRESENTATIVE K. KOPPELMAN:
20 Representative Jones.

21 REPRESENTATIVE MOCK: Mr. Speaker.

22 REPRESENTATIVE K. KOPPELMAN:
23 Representative Mock.

24 REPRESENTATIVE MOCK: Thank you,
25 Mr. Speaker. Mr. Speaker, again, regarding the

1 limitations on debate and in Mason's when a
2 parliamentary procedure, since our rules are
3 silent on how we respond when members are asked a
4 question and how we compute that time, Mason's
5 does state that members who agree to yield to a
6 question that that time is to be allotted or
7 computed against their permitted time.

8 In this case, the member being asked a
9 question is not allowed unlimited debate.

10 REPRESENTATIVE K. KOPPELMAN: Correct.

11 REPRESENTATIVE MOCK: They are allowed
12 to speak twice. The limitation is one time for
13 10 minutes, a second time for 5 minutes, and no
14 allowance beyond that.

15 So yielding a question is something that
16 the member may not even do even if they wish. I
17 apologize to the member. But those are the rules
18 of the debate.

19 REPRESENTATIVE K. KOPPELMAN: I don't
20 know that I agree with your interpretation of
21 Mason's on that, Representative Mock. I believe
22 what you just said is that the time constraint
23 pertains, which is fine. That has not been
24 exceeded. However, we have always allowed
25 members to yield to a question.

1 REPRESENTATIVE MOCK: Well, Mr. Speaker,
2 if you will allow, I would be happy to just
3 briefly read the section of Mason's, the rule
4 that I'm referencing.

5 REPRESENTATIVE K. KOPPELMAN: You may.

6 REPRESENTATIVE MOCK: It's in Section
7 114 of Mason's in "Asking Questions of Members,"
8 Subsection 3, "In computing the time allowed for
9 argument, the time consumed in asking questions
10 should be considered. If a member consents to
11 the question, the time consumed by the
12 interruption is taken out of any time allowed
13 that member."

14 So the member does not have any time
15 remaining for their ability to answer. And in
16 the debate, they are not allowed to yield to a
17 question as they have no time remaining to
18 participate in the debate.

19 REPRESENTATIVE K. KOPPELMAN: I don't
20 believe that the time was completely consumed.

21 REPRESENTATIVE MOCK: Mr. Speaker, it
22 was, the member has two opportunities to speak of
23 10 minutes and 5 minutes, respectively. There is
24 no allotment for using the two or combining the
25 two.

1 If a member, for the first speech, does
2 not consume all of 10 minutes, the remainder of
3 that does not get applied to the 5 minutes in the
4 second speech. It is a limitation of a number of
5 times and amount of time each time they speak.
6 The member does not have any more time allotted.

7 REPRESENTATIVE K. KOPPELMAN:

8 Representative Mock, what you just read did not
9 make any reference to the number of times the
10 individual spoke. What it said was, if they
11 yielded to a question, that that would be -- the
12 yielding to the question would be allotted
13 against their time. Their entire time is 15
14 minutes: 10 minutes the first time, 5 minutes on
15 the second; 15 minutes have not been consumed.
16 So that member has time remaining to speak.

17 REPRESENTATIVE MOCK: Well, Mr. Speaker,
18 again, with all due respect, every member at the
19 beginning of a debate has 10 minutes allotted to
20 speak. After they've spoken once, assuming they
21 use less than 10 minutes, their next allotted
22 time is 5 minutes.

23 REPRESENTATIVE K. KOPPELMAN: Correct.

24 REPRESENTATIVE MOCK: After they speak a
25 second time, they have zero minutes remaining to

1 speak.

2 REPRESENTATIVE K. KOPPELMAN: The
3 reference to the number -- the amount of time
4 consumed, it references the total amount
5 allotted. It does not reference number of times
6 they have spoken.

7 So the Chair will rule that the member
8 has the opportunity to answer a question.

9 Representative Jones.

10 REPRESENTATIVE JONES: Thank you,
11 Mr. Speaker.

12 First thing I want to do is apologize to
13 the committee. I said "half-cocked." I
14 apologize. I meant half cooked.

15 The information that you were given was
16 not complete. The studies that I reference are
17 well established in all the court cases that deal
18 with this.

19 It's not appropriate to just look at the
20 numbers. It has to be numbers with the other
21 parts delineated in case law and other things.
22 And if they are not all met, then we are
23 inappropriate or premature to create
24 subdistricts. But I apologize to say "half-
25 cocked."

1 I appreciate the opportunity to speak
2 again. I don't know where to begin. I would
3 just say, everything that I represent, the
4 members in my district, the ones that want to be
5 equally treated under the law are treated, if we
6 take subdistricts out; they are treated equally.

7 The members in the boundaries of the
8 reservation have the opportunity, if they want to
9 get a subdistrict, to do the things that they
10 need to get the things in addition to their
11 numbers in order so that we can proceed with
12 subdistricts after the next census.

13 As a representative for both sides on
14 this discussion, I think that that is the
15 appropriate thing to do. So I would ask the
16 members to please take out the subdistricts at
17 this time, let the rest of the redistricting bill
18 go through, or continue the debate. But I think
19 that that is the fairest and the best remedy to
20 this situation.

21 So I hope you'll support taking out the
22 subdistricts. Thank you, Mr. Speaker.

23 REPRESENTATIVE K. KOPPELMAN: Is there
24 any further discussion?

25 The House has before it, Division A of

1 House Bill 1504. The effect of your vote is, if
2 you vote yes on Division A, you are voting to
3 include Division A in the bill. Division A is
4 the division that creates to the two subdistricts
5 in District 4 and District 9.

6 If you vote no on Division A, you are
7 voting not to allow the subdistricts to go
8 forward and to allow the rest, presumably the
9 rest of the redistricting bill to be debated.

10 Are there any questions about the effect
11 of your vote?

12 Seeing none, we will ask the clerk to
13 open the key on Division A of House Bill 1504.

14 Has ever member voted?

15 Do any members wish to change their
16 votes?

17 The queue will be closed, and the clerk
18 will take the record.

19 The final vote shows 54 yay, 37 nay, 3
20 absent and not voting. Division A is defeated.
21 I'm sorry. Division A remains in the bill. The
22 vote is defeated to remove it.

23 Next we have Division B of House Bill
24 1504.

25 Representative Nelson, did you have a --

1 REPRESENTATIVE NELSON: (Indiscernible)

2 REPRESENTATIVE K. KOPPELMAN: All right.

3 We have Division B, and we'll ask the chairman of
4 the committee or the bill carrier to explain
5 Division B, the rest of the bill, Representative
6 Devlin. And you can also speak to Division A
7 since that's remaining in the bill.

8 REPRESENTATIVE DEVLIN: Thank you,
9 Mr. Speaker.

10 Mr. Speaker and members of the Assembly,
11 I am presenting the recommendations of the
12 redistricting committee and hope you'll give
13 House Bill 1504 your approval and send it on to
14 the Senate.

15 This was a difficult redistricting
16 process. I've been on one of those committees
17 three times. Normally, we get all our numbers
18 late March, early April, have repeated meetings
19 across the state, have lots of time for input and
20 so on. That didn't happen. We didn't get our
21 numbers until the end of August.

22 So we had eight very lengthy meetings.
23 We received presentations on redistricting law,
24 solicit public testimony online and in person.
25 We had press releases. We opened the door for

1 public testimony at each meeting. Committee
2 received updates from the members of the Tribal
3 and State Relations Committee, which it also
4 discussed redistricting with the various tribes
5 they met with.

6 Committee's members took their
7 responsibilities very seriously. Had many wide
8 range of discussions representing several
9 different viewpoints. Committee members worked
10 hard in a relatively short time frame.

11 Result of the hard work is a map that we
12 believe complies with legal requirements and
13 serves the residents of North Dakota.

14 According to the Census Bureau, the 2020
15 population of North Dakota was 779,094, a 15.8
16 percent increase. The committee decided to
17 maintain 47 districts, which made the population
18 of each district 16,576.

19 The growth in the population created
20 many challenges. You know, in other times I've
21 served on, I would be looking at for four or 500
22 people. Now, we're looking for two or 3000
23 people. It just wasn't there. There was 28
24 districts, mostly in rural areas, that didn't
25 meet the requirements. They were at least five

1 percent under.

2 There was growth in Western North Dakota
3 in the Cass County area. That led to three new
4 districts, which mean three rural districts would
5 have to be eliminated to stay with the 47
6 district.

7 To the extent possible, the committee
8 kept counties and communities of interest whole
9 and preserved political subdivision boundaries.
10 However, the constitutional requirement to keep
11 populations approximately equal was an overriding
12 requirement.

13 The committee was able to keep 33
14 counties whole; 8 counties were split because the
15 populations of the county exceeding the ideal
16 district; and 4 counties were split to preserve
17 preservation boundaries. The remaining eight
18 counties were split for other reasons, generally,
19 to ensure each district had acceptable
20 population.

21 The committee followed redistricting
22 principles commonly used in North Dakota and
23 other states. Redistricting is governed by both
24 federal and state law including the Voting Rights
25 Act, which has been discussed here today and

1 upheld multiple times.

2 The committee was appraised of legal
3 duties throughout the process at NCSL as meeting
4 with legislative staff and meeting with other
5 experts.

6 The committee then began reviewing maps
7 proposed by the community members and others.
8 Most maps included geographic proportions of the
9 state. Two legislators, who are not committee
10 members, offered statewide maps for
11 consideration. The committee adopted several
12 maps of geographic proportions of the state, and
13 then aggregated them all into the statewide map.
14 As normal, we started in the corners and the
15 edges and worked in from there.

16 I want to address the subject, which
17 again, I think that was well enough covered.

18 On conclusion of the work, the committee
19 recommended a map with 47 districts including the
20 two as subjected. The made map is based on
21 redistricting principles and the requirement of
22 federal and state law.

23 Importantly, committee members brought a
24 wealth of knowledge regarding their local area
25 and constituents to the map-drawing process.

1 The committee approved the bill draft I
2 have before you on September 29, 2021. It was
3 slightly amended the last day or two in committee
4 just to fix a couple of legal questions and
5 change one little population area.

6 It was originally approved by
7 legislative management on November 5th. Like I
8 said, we made a couple of amendments in our
9 committee.

10 And members of the Assembly, I urge your
11 support of this bill with your yes vote.

12 Thank you, Mr. Speaker.

13 REPRESENTATIVE K. KOPPELMAN:

14 Representative Marvin Nelson.

15 REPRESENTATIVE M. NELSON: Thank you,
16 Mr. Speaker, members of the house. It was
17 certainly a rushed census, very late results.
18 And that really resulted in the situation that's
19 facing us here.

20 We had, you know, discussions with
21 tribal relations committee. Discussions really
22 with tribal relations committee when they were in
23 Turtle Mountain was how poorly the census
24 represented the people of Rolette County.

25 You know, some of you might not realize,

1 but the federal government years ago decided
2 there would be no home delivery on reservations.

3 But what's more, the federal government decided
4 there would be no home delivery in small towns.

5 Rolette doesn't get home delivery.

6 Saint John doesn't get home delivery. Dunseith
7 doesn't get home delivery. Rolette doesn't get
8 home delivery. The only people in Rolette County
9 who get home delivery are those who are on a
10 rural route.

11 Then the Census Bureau decided that they
12 would not mail their forms to any post office
13 box, thus assuring a serious undercount. So much
14 of the earlier reaction was is, can anything be
15 done about this?

16 And I think the system is actually set
17 up so nothing can be done because if politicians
18 could jump into the middle of the census and
19 change the numbers, that would be certainly a
20 mess.

21 But the tribes looked at it. And I
22 would point out that, you know, the Spirit Lake
23 Nation initially talked about a subdistrict, but
24 they don't qualify. There aren't enough people
25 there.

1 Turtle Mountain never talked about
2 subdistricts. They never asked for it.

3 And they looked, they talked, they tried
4 to do things. Finally, they got numbers. They
5 went out. They met with each other. They hired
6 a consultant who then when through and drew up a
7 district where it would meet what they want.

8 And what Turtle Mountain Tribe wants and
9 what the Spirit Lake Tribe wants is for both
10 tribes to share a legislative district. And they
11 came to the committee now with it.

12 And, if they had had data back in March
13 or April, they would have had data to the
14 committee months ago. But everything -- and
15 certainly, those who served on the committee know
16 just how tremendously rushed this all was. So
17 that's what's in front of you.

18 The top sheet is the proposed district
19 by the tribes. This is what they're asking for.
20 And, if you look, the other districts, all the
21 districts there meet the population requirements.

22 And it does really a fairly minimal
23 change from the plan, the section of Towner and
24 Cavalier County would go in with Ramsey County.
25 And then Rolette and much of Benson County with a

1 little bit of Pierce County would go into the
2 district.

3 And, you know, this is what they want.
4 I mean, here we are. We're redistricting. We
5 have time. This is what's in front of us. But
6 the committee rejected this. You know, they
7 talked about, you know, concentrating Native
8 Americans. Well, the concentration is less in
9 the district that they propose than it is in the
10 one proposed subdistrict.

11 So I don't really know a good reason to
12 say why we wouldn't give the tribes what they
13 want. You know, it meets the criteria. It's
14 contiguous. It doesn't knock any of the other
15 districts out of compliance. And so I have to
16 ask you to reject this report and send it back to
17 committee so that this can be amended into it.

18 So I thank you for your consideration.

19 REPRESENTATIVE K. KOPPELMAN:

20 Representative Nathe.

21 REPRESENTATIVE NATHE: Thank you,
22 Mr. Speaker. I had referenced it in the earlier
23 debate about some of us going to Salt Lake City
24 for NCSL. And one of the topics we talked about
25 was packing, packing a district. This is a

1 classic case of packing a district.

2 A lot of states in the past would make
3 up a district and put all the minority groups in
4 one district, and then keep it there, and limit
5 their chances of winning office. This does that
6 very thing.

7 And, Mr. Speaker and members of the
8 Assembly, I'm a little confused because when we
9 met in the redistricting committee, we met with
10 the heads of the tribes. I don't think Turtle
11 Lake, but we met with representatives from Spirit
12 Lake who asked us and fought to have us to
13 subdistricts.

14 Now they come, and now they want to do a
15 packing of a district? I mean, really, pick a
16 lane. Which one do you want to go into?

17 And, if you want to look at something
18 that's been gerrymandered, this map does it right
19 there.

20 So again, this is a violation of the
21 Voting Rights Act. This is packing a district.
22 And I'd ask that we defeat this.

23 Thank you, Mr. Speaker.

24 REPRESENTATIVE K. KOPPELMAN:
25 Representative Marvin Nelson.

1 REPRESENTATIVE M. NELSON: Thank you,
2 Mr. Speaker, members of the House.

3 Yes, Spirit Lake initially asked for
4 subdistricts. But they didn't qualify. It
5 didn't work. And that's where they had to change
6 course, and they had to change their discussion,
7 and they had to change their ideas.

8 Now, if we want to talk about packing,
9 the current plan in front of you packs 81 percent
10 Native Americans in Subdistrict 9A. If we take
11 the district that they want, they're 72 percent.
12 Significantly lower percentage of Native
13 Americans in the whole district.

14 And I don't even understand all the talk
15 about concern with lawsuits about this. They're
16 asking for this. What's the perfect defense in
17 court? We did what they asked. They have no
18 basis for a lawsuit if we do this. The only
19 basis for a packing lawsuit is if we pass what
20 was done before. And I'm not sure that that
21 would be successful. I'm not up here threatening
22 lawsuits.

23 But here it is. We are trying to have
24 relations with the five nations within our state.
25 And here we are, we have two of them, through

1 their common heritage and close proximity, who
2 come to us and ask us, nicely, to please put them
3 both in a district together.

4 And I can think of no good reason for
5 doing that. And there's no concern about them
6 suing over it because this is what they want.

7 So why don't we give them what they
8 want? Let's reject the committee report, have
9 this put back in there, and then we can get back
10 to it.

11 Thank you.

12 REPRESENTATIVE K. KOPPELMAN: Is there
13 any further discussion?

14 The House has -- excuse me.
15 Representative Ertelt.

16 REPRESENTATIVE ERTELT: Thank you,
17 Mr. Speaker.

18 I'd ask the body to reject the bill. I
19 want to speak to you today about, I guess, a
20 notion that I consider voter disenfranchisement.
21 And I did present just yesterday a couple
22 amendments for the redistricting committee to
23 consider, which they did not take up. So just
24 wanted to address the whole body so that you have
25 an opportunity to understand the issue.

1 So with the current bill and the 25
2 percent threshold, which it doesn't use the 25
3 percent -- it uses a number there -- for deciding
4 whether or not an even-numbered district will be
5 required to have an election, there are close to
6 -- and this isn't precise because of the minor
7 changes that were made just in the last couple
8 days -- but it's close to 33,000 voters who are
9 -- rather not voters but population in even-
10 numbered districts who would not be required to
11 have an election because of that threshold
12 number.

13 And those people will, as a result, be
14 represented by legislators who they had not the
15 opportunity to vote for or against. And I think
16 that this is blatantly wrong, that the
17 individuals should have an opportunity to vote
18 for their legislators, as they should have an
19 opportunity to vote for whoever is representing
20 them, whether in local government or otherwise.

21 The amendments that were proposed were
22 two options, one to reduce that threshold to 10
23 percent. And the reasoning behind the 10 percent
24 is that in deciding how many people reside in
25 each district, it is a 10 percent threshold, plus

1 or minus 5 percent. And so that's why, you know,
2 you could argue the 10 percent.

3 I actually think that it should be zero,
4 that everyone who is in a district and has the
5 opportunity to vote, should be able to do that,
6 or it does have a -- a representative should be
7 able to vote for them.

8 And the reasoning behind that proposal
9 is that, look, we're having statewide elections.
10 There's going to be elections administered in all
11 of these districts regardless. And putting a
12 threshold on which even-numbered districts do
13 have to have elections and which don't is picking
14 winners and losers. And I don't believe that
15 this body should be in the practice of doing
16 that.

17 Also, looking at the proposal, and on
18 another topic, is, as you all well know, my own
19 district, District 26, which happens to be
20 eliminated in this proposal. And while I was
21 involved in presenting an alternative proposal,
22 after doing so, went back and looked at the
23 numbers even further. And it was, I guess, quite
24 alarming and surprised that I didn't see it
25 before, but there are 14 legislative districts

1 which have a lower population than District 26.

2 And the whole purpose of redistricting
3 is to adjust the legislative district boundaries
4 to accommodate the shift in population throughout
5 the state.

6 And, as was shared, it was decided by
7 the committee to retain the same number of
8 districts, 47 districts. I would argue that that
9 was an unnecessary limitation that was placed on
10 the committee by themselves.

11 But, with that in mind, if you're going
12 to keep 47 districts, and understanding that
13 redistricting is to adjust for the population
14 shift, then wouldn't it make sense that the
15 districts that you look at eliminating be the
16 least populated districts in the state?

17 Those districts are District 9, being
18 the least populated, then 42, 19, 23, 10, 44, 14,
19 29, 15, 18, 24, 28, 6, and 12. So I would posit
20 to you that while there are two districts there
21 who fall within that category, even they are not
22 the least populated districts. And it really
23 begs the question why the districts that were
24 eliminated in this proposal were eliminated.

25 I think that we ought to, whenever we do

1 redistricting, start with the simple premise upon
2 which we do the redistricting. And I'd ask the
3 body for a no vote.

4 REPRESENTATIVE K. KOPPELMAN: Representative
5 Skroch.

6 REPRESENTATIVE SKROCH: Thank you,
7 Mr. Speaker.

8 I don't want to beleaguer this whole
9 process. But I too was going to present the
10 information that Representative Ertelt presented. I
11 won't restate those things. But there is a bit of
12 history that may be the body's not aware of.

13 My constituency used to be 27. District 27
14 was dissolved to create a district in Fargo, which we
15 have an elected representative in this body who now
16 shares that number.

17 Then we became District 26. When that
18 happens, we have to start from scratch. And maybe
19 some of you have not experienced that because your
20 districts haven't been wiped out. But we start all
21 over trying to reestablish constituency, reelecting
22 executive members to our district, and those types of
23 things.

24 So we rebuilt. We had built quite a strong
25 support group and constituency in District 26. And

1 here we are 10 years after, and now my district is
2 gone again. And my constituents are not happy about
3 that.

4 We just had an election a little over one
5 year ago. And they spoke very solidly about what
6 their wishes were. And now their district is gone.
7 And those people who supported their representatives
8 and senator have lost their voice and their vote.

9 And so I can't change the process. I
10 understand all the dynamics on the process, on the
11 principles that were used for redistricting. I just
12 think it was very unfair to our district to dissolve
13 it this time and also have dissolved it in the
14 previous census redistricting.

15 And, for that reason, I will not be
16 supporting this bill.

17 REPRESENTATIVE K. KOPPELMAN: Is there any
18 further discussion?

19 The House has before it for final
20 consideration Division B of House Bill 1504. If you
21 vote yes, you vote for retaining Division B in the
22 bill. If you vote no, you vote for removing it.

23 The clerk will open the key, and the members
24 may cast their votes.

25 Has every member voted?

1 Do any members wish to change their votes?

2 The key will be closed, and the clerk will
3 take the record.

4 Final vote shows 73 yay, 18 nay, 3 absent
5 and not voting.

6 Division B is adopted.

7 Continuing on the 11th Order of business,
8 the House has before it for final consideration House
9 Bill 140 --

10 UNIDENTIFIED REPRESENTATIVE: 15.

11 REPRESENTATIVE K. KOPPELMAN: -- 1504 --
12 pardon me -- which includes the entire bill as both
13 divisions were retained in the bill.

14 Representative Devlin, is there anything
15 further you care to share?

16 REPRESENTATIVE DEVLIN: Mr. Speaker, I could
17 certainly add quite a bit. But I think the committee
18 or the Assembly has heard everything they need to hear
19 about both parts of this bill. I would urge you all
20 to vote yes on the bill and send it to the Senate.

21 REPRESENTATIVE K. KOPPELMAN: Is there any
22 further discussion?

23 The House has before it for final
24 consideration House Bill 1504.

25 Excuse me. Representative Hoverson.

1 REPRESENTATIVE HOVERSON: Excuse me. Would
2 Majority Leader Pollert receive a question?

3 REPRESENTATIVE K. KOPPELMAN: Representative
4 Pollert, would you yield to a question?

5 REPRESENTATIVE POLLERT: Yes, Mr. Speaker, I
6 will.

7 REPRESENTATIVE K. KOPPELMAN: Representative
8 Hoverson.

9 REPRESENTATIVE HOVERSON: Representative
10 Pollert, I don't know a lot about redistricting, but
11 this one seemed like it was so painfully, obviously
12 unfair. And I'm wondering, as our leader, can you
13 honestly say that you feel that the redistricting that
14 we just voted on was fair?

15 REPRESENTATIVE K. KOPPELMAN: Representative
16 Pollert.

17 REPRESENTATIVE POLLERT: Thank you,
18 Mr. Speaker.

19 Members of the Assembly and Representative
20 Hoverson, yes. If you want a further explanation,
21 I'll gladly give it to you.

22 The redistricting committee me through the
23 entire -- I mean, they met in a couple places. They
24 also had their eight hearings. We've had a full
25 hearing on this. We've had a full discussion. I feel

1 it's been open and moving forward. And we move on.

2 Thank you, Mr. Speaker.

3 REPRESENTATIVE HOVERSON: Mr. Speaker, may I
4 continue?

5 REPRESENTATIVE K. KOPPELMAN: You may.

6 REPRESENTATIVE HOVERSON: Yeah. Well, the
7 question wasn't how hard did you work. The question
8 was it fair? And I think that -- correct me if I'm
9 wrong, this redistricting knocked out, if you count
10 the chairman and those types of positions, there was
11 over 20 people were affected. The one that Ertelt
12 presented only affected one or two people. So I'm
13 really having a hard time with that. And just would
14 really like to see some spine in our leadership.

15 Thank you.

16 REPRESENTATIVE K. KOPPELMAN: Is there any
17 further discussion?

18 The House has before it for final
19 consideration House Bill 1504. The clerk will open
20 the key, and you may record your vote.

21 Has every member voted?

22 Do any members wish to change their votes?

23 The key will be closed, and the clerk will
24 take the record.

25 The final vote shows 73 yay, 18 nay, 3

1 absent and not voting.

2 House Bill 1504 is declared passed.

3 (END OF VIDEO FILE)

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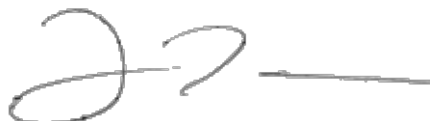
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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036

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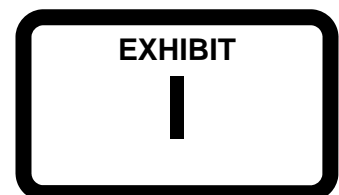
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TRANSCRIPTION OF VIDEO FILE
NORTH DAKOTA SENATE
HB 1504 / JOINT REDISTRICTING
NOVEMBER 10, 2021
1:39 P.M.



1 NOVEMBER 10, 2021

2 LIEUTENANT GOVERNOR SANFORD: Continuing
3 on the 14th Order, House Bill 1504.

4 Madam Secretary.

5 SECRETARY: Engrossed House Bill 1504.

6 A bill for an act to authorize the Secretary of
7 State to modify election deadlines and
8 procedures; to create and enact two new sections
9 to Chapter 54-03 of the North Dakota Century
10 Code, relating to legislative redistricting and
11 staggering of terms of the legislative assembly;
12 to repeal Sections 54-03-01.12 and 54-03-01.13 of
13 the North Dakota Century Code relating to
14 legislative districts and staggering of terms of
15 members of the legislative assembly; to provide a
16 statement of legislative attempt and to provide
17 an effective date.

18 LIEUTENANT GOVERNOR SANFORD: Senator
19 Homburg.

20 SENATOR HOLMBERG: Mr. President,
21 members of the Senate, the bill you have before
22 you today is the result of work of 16 members of
23 this legislative assembly over a very short
24 period of time, whereas in the past we would
25 receive census data much earlier, March and

1 April. We did not get census data until August.

2 And then we did not have a lot of time.

3 We held hearings. We received input
4 from around the state. And we had people that
5 virtually testified before our committee.

6 We also, because of our interest in
7 having -- because of request from the tribal
8 nations, we had the committee -- the tribal
9 committee visit those reservations. And at
10 reservations, they received some input which they
11 passed on to us.

12 Mr. President, the other part of the
13 challenge this year is North Dakota's population
14 exploded for 117,000 people I believe. And they
15 did not intersperse themselves across the state
16 equally. They went to just a few areas. And you
17 ended up, Mr. President, with vast areas of the
18 state, which didn't have the population for the
19 number of districts that were there.

20 If you drew a line from Fargo, to
21 Bismarck, to Minot, anything to the north and
22 east of that was underpopulated with the
23 exception of District 17 in Grand Forks.

24 Everyone else needed people.

25 And again, as I have said before, it was

1 kind of like the Donner Party because to survive
2 you had to get people from your neighbors. And,
3 Mr. President, your redistricting committee came
4 up with a 47-district plan.

5 The current plan is 47 districts. Ten
6 years ago, it was 47. The time before it was 49.
7 The time before it was 53. And the time before
8 it was 50. So we've vacillated a little bit in
9 the number. But your committee focused on 47.

10 There was a little looking by a few
11 people at 49. But that did not make much
12 difference as far as how the lines would be
13 drawn. So we stayed with the number that we had.

14 The population of North Dakota was
15 779,094, which was a 15 percent increase. And
16 dividing that by 47 meant that the ideal district
17 would be 16,576 people.

18 Mr. President, we did follow the
19 constitution of North Dakota, which says
20 continuity and compactness is very important. We
21 preserved the political subdivision lines,
22 particularly counties. And I think you will see
23 later that the number was not too bad as far as
24 the counties that were left whole.

25 We looked at preservation of communities

1 of interest. And that, Mr. President, really is
2 very subjective. If you're happy with what is
3 happening in your area, then you would say, yes,
4 they followed communities of interest. If you
5 were unhappy, you would say they weren't
6 following communities of interest.

7 That, Mr. President, is the same kind of
8 logic that we see or the same kind of discussions
9 that we see when people use the term
10 "gerrymandering." If you like the plan, it's
11 good. If you don't like it, it's gerrymandering.

12 And one of the criteria that you are
13 able to use is the protection of incumbents. And
14 the people who say they don't look at incumbency
15 are Pinocchios because they do.

16 I recall some years ago when there was a
17 complaint. I think it was like '91 or eighty --
18 I mean, well, anyway, it was a while ago.
19 Someone from a particular political party
20 chastised the other party for looking at the
21 incumbent residencies. But what they forgot is
22 we could see their acetate sheet that they had
23 laid on top of the map. So they do look at it.

24 And, Mr. President, you might say, were
25 there incumbents that were put into other

1 districts? And did we overdo it this time?

2 Remember, because of the population
3 shift, there were three districts that were in
4 rural areas that disappeared. And they were
5 eastern areas of the state. And they came back
6 up over West River, Williston area, and in the
7 Fargo area.

8 Then years ago, there were 20 incumbents
9 that were kind of put together with their
10 friends. And this time, I believe it's 17 that
11 were put together with their friends. And
12 sometimes they're foes. But, Mr. President, your
13 committee looked at the North Dakota State law.
14 We looked at the constitution. We followed the
15 best we could with the Voting Rights Act.

16 And the one area that had the most
17 discussion was not necessarily the lines that
18 were drawn as it was the fact that your committee
19 was convinced that federal law, passed by
20 Congress, signed by the President, and been held
21 up in court on numerous occasions, that we should
22 look at subdistricts in areas of the state that
23 met the criteria that we understood.

24 And, Mr. President, the information, the
25 advice we got from a lot of studying, including a

1 number of folks visiting with NCSL, and a few
2 folks when to an NCSL meeting put on by NCSL
3 specifically on redistricting, that particular
4 area was discussed quite a bit.

5 One of the things they told us though
6 that was interesting is not that many years ago,
7 there were many more states that had multi
8 districts. In North Dakota's case, it's one
9 senator and two representatives.

10 Because of various court decisions,
11 there are now only 10 states left that have the
12 multi-district scheme that we have in North
13 Dakota. And there are numerous occasions that
14 the states have gone to court about the issue of
15 multi districts.

16 And the courts have held, as we
17 understand it -- now, we're not lawyers -- we
18 listen to lawyers, not all of them, but we do
19 listen to lawyers -- and we found that you can
20 have a state that has multi districts and single
21 districts in the same state.

22 Mr. President, the state of North Dakota
23 has done very well. But as we put this map
24 together, and it was a group project, as it was
25 put together, it was done like typically, at

1 least I do, jigsaw puzzles, you start at the edge
2 where the pieces are all flat, and then you move
3 into the middle, which means that you end up with
4 a couple areas of the state that are kind of
5 pinched and not particularly or necessarily
6 happy.

7 The end of the road, the map you have
8 from the committee leaves 33 of our 53 counties
9 whole. It divides eight counties because they
10 were too big to be a single district. It divides
11 four counties because of the location of
12 reservations.

13 And our goal, which some years ago we
14 didn't follow, but we have for the last, at
15 least, 10, 15 years, we kept the reservations
16 whole. We did not split the reservations, which
17 meant that there were eight counties that were
18 split.

19 And you can say for other reasons. It
20 was for convenience because we had to have
21 populations move. And sometimes 100 people made
22 a big difference in whether or not a district
23 would meet the criteria of one person, one vote.

24 And, Mr. President, when you get to some
25 rural areas, and it's not just in the west, you

1 can go to western Walsh County, and you have to
2 gamble or, you know, jump along a long way to get
3 100 people. And the same way in some areas of
4 Grand Forks County. But it's not just Kidder
5 County. There are other counties that there are
6 vast areas. So, in order to pick up 50 people
7 for a district, sometimes you have to do a lot of
8 work.

9 But, Mr. President, the committee has
10 the recommendation of the map that was presented.
11 And the committee would ask that we approve the
12 bill as amended that came over from the House.

13 LIEUTENANT GOVERNOR SANFORD: Senator
14 Marcellais.

15 SENATOR MARCELLAIS: Mr. President, may
16 we be on the 8th Order for purposes of an
17 amendment to the House Bill 1504, joint
18 redistricting?

19 LIEUTENANT GOVERNOR SANFORD: Senate
20 will be on the 8th Order.

21 SENATOR MARCELLAIS: Mr. President,
22 Senate members, I move amendment 21.1113.03002.

23 LIEUTENANT GOVERNOR SANFORD: Does each
24 senator have a copy of the amendment?

25 Senator Marcellais.

1 SENATOR MARCELLAIS: Mr. President,
2 members of the Senate, this proposed amendment
3 would change District 9A and 9B to District 9.
4 The amendment would honor the request of the
5 Turtle Mountain and Spirit Lake Tribal Nations as
6 a legislative district that includes both tribal
7 nations.

8 If approved, this district would be the
9 first of its kind in North Dakota by allowed two
10 tribal nations to share one voice in the State
11 Senate and House elections.

12 There are some concerns about
13 redistricting. Committees propose District 9A
14 and 9B that encompasses the Turtle Mountain
15 Reservation. The redistricting committee's
16 proposed district would dilute the Native
17 American vote, would not provide our tribal
18 members with the ability to elect the candidates
19 of their choice.

20 And, on the other hand, a single
21 district with Turtle Mountain and Spirit Lake
22 together would allow the tribal members from both
23 tribes to elect their preferred candidates.

24 As the redistricting committee mentioned
25 in hearing, this would be packing. I did hand

1 out a text and three maps attached to the text.

2 So there's four pages of the amendment.

3 If you look at the proposed maps for the
4 District 9 and A and 9B, statistics show 81
5 percent Native American. And proposed map for
6 District 9 stats with Turtle Mountain and Spirit
7 Lake combined show 72 percent Native American.
8 So current redistricting bill would be packing,
9 not the recommended amendment.

10 Turtle Mountain and Spirit Lake have
11 many shared interests. Both are federally
12 recognized Indian tribes in the eastern part of
13 the state. Both want to strengthen their inter-
14 tribal relations. Both have similar economic
15 interests and both want to strengthen the tribal
16 state relations.

17 Both deal with federal government on a
18 government-to-government basis. They have
19 similar culture values, similar education issues.
20 Each have tribal colleges. And they both have a
21 Federal Bureau of Indian Education schools. The
22 state already treats these tribes as sister
23 tribes in many respects, close geographically and
24 only a little more than an hour away.

25 Mr. President, I am requesting a

1 recorded rollcall vote on this amendment.

2 LIEUTENANT GOVERNOR SANFORD: Is there
3 any further discussion on the amendment?

4 Senator Holmberg.

5 SENATOR HOLMBERG: Mr. President, first
6 of all, I'd like to thank Senator Marcellais for
7 his presentation. He did the nice thing. He did
8 let us know that he was going to bring this
9 amendment that he brought before our committee
10 the other day. And it was an amendment that was
11 rejected in the committee. But, Mr. President,
12 it was an interesting way to resolve an issue up
13 in that particular area of the state.

14 And what I think I liked about -- and
15 I'm not going to vote for it, and I hope you vote
16 against it too -- but what I liked is that they
17 came and looked at that particular area, and they
18 made the changes that would resolve what they
19 feel is in their best interest without making a
20 big difference to other areas around that
21 particular district. And that needs to be
22 thanked and respected.

23 I think that one could argue that it
24 does look -- now, because I don't like it, then I
25 could call it gerrymandering. But I won't use

1 that term. I will just say it's an interesting
2 configuration. There are a couple other
3 districts in the state that have interesting
4 configurations too not drawn by the senator from
5 District 9 but by others.

6 But, Mr. President, I think that on
7 behalf of the majority of the committee that what
8 we had in the bill right now is a better
9 alternative than putting the two reservations
10 together. So I would hope we would vote no on
11 this.

12 And thank you, Mr. President.

13 LIEUTENANT GOVERNOR SANFORD: Is there
14 any further discussion on the amendment?

15 Hearing none, question will be on the
16 proposed amendment to House Bill 1504. Secretary
17 will open the key.

18 Have all senators voted?

19 Does any senator wish to change their
20 vote?

21 Vote reveals 10 ayes, 37 nays, 0 absent,
22 not voting. The amendment fails.

23 Returning to the 14th Order, House Bill
24 1504, is there any further discussion?

25 Senator Heitkamp.

1 SENATOR HEITKAMP: Mr. President, from
2 what I understand, there were 14 districts that
3 had less population than the 26th District coming
4 into the redistricting process. What do the
5 voters want? To be represented by their vote or
6 to be disenfranchised by the law?

7 Ten years ago, District 27 used to be my
8 district. And it was dissolved and moved to our
9 most populous city. In a few minutes, a betting
10 man will tell you that District 26 will be
11 dissolved and move to the land once known as the
12 Island Empire.

13 How many times are the citizens of the
14 southeast corner of the state supposed to take
15 one for the team? How many times will rural
16 residents lose their representatives?

17 The citizens of the southeast corner of
18 the state slept well almost a year ago knowing
19 that they would have the representation that they
20 voted for in the 2020 election. Soon, none of
21 those people will know who their representative
22 is. Not even one senator or one of the two House
23 members will be left to represent the proud
24 citizens of the district, which is home of the
25 Bobcat Skid Steer Loader. All this in less than

1 one session.

2 And I would like to address the split
3 districts in this bill. Our current leader, 46,
4 talks about saving the democracy when our federal
5 government is obviously a constitutional
6 republic. Is he confused, or is he just reading
7 a teleprompter?

8 Now, in the great state of North Dakota,
9 the real democracy, they're trying to split
10 districts as if we need to do that to better
11 represent the citizens. What happened to
12 building coalitions? Isn't working together how
13 a democracy is supposed to work? Even in what
14 became known as "the perfect district," the new
15 District 25 did not follow county lines as a lake
16 full of fish was included from the adjoining
17 county.

18 Although the senator from the 28th
19 District made a motion to give the fish back, it
20 was not approved. The fish are now going to be
21 in District 25.

22 Democracy: ruled by a majority that
23 enjoys unlimited power. Republic: follows a
24 written constitution that protects the rights of
25 the minority from being infringed upon the

1 minority.

2 Democracy: while all citizens supposedly
3 have a say in government and are to be treated as
4 equals, the majority often ends up ruling the
5 minority. In fact, the United States is commonly
6 confused for a democracy.

7 Ironically, democracy seems to work in
8 the old District 27. The representative who
9 claims to be from Mandaree -- and I did try hard
10 to find something so I didn't have to say that
11 word. So sorry about that -- was elected and has
12 served without splitting districts. But I guess
13 that's probably different.

14 But unlike the people made to wear the
15 red shirts on the landing for the Starship
16 Enterprise, we will live to fight another day.
17 In fact, as I told a constituent last night, we
18 have not yet begun to fight.

19 When the Bonhomme Richard sank, John
20 Paul Jones acquired another ship. Like him, we
21 will not quit.

22 If today you do not stand with us and we
23 lose our district, we will not surrender or give
24 up. We will acquire another vessel. Our
25 neighbors to the south did not accept their map

1 during redistricting. And they are still working
2 on it.

3 I ask for you no vote on this bill. It
4 is time to save the real democracy. It's time to
5 make a new map. Vote red.

6 LIEUTENANT GOVERNOR SANFORD: Senator
7 Holmberg.

8 SENATOR HOLMBERG: Mr. President,
9 members of the Senate, I certainly thank the
10 senator from District 26 for his presentation.
11 And I can sympathize. He comes from the
12 southeast part of the state. Ten years ago they
13 lost District 27. This time the southeast lost
14 26.

15 Where I come from 10 years ago, we lost
16 District 16. And we're losing District 19. Why?
17 Because of one person, one vote. Even if you
18 don't like it, it is the law of the land. So we
19 had to go with where the people were.

20 Now, we can, you know, move the lines
21 around. But there are other areas of the state
22 that also lost their district or lost the area.
23 And that is because of the number of people in
24 their particular district.

25 So, Mr. President, I would hope that we

1 would pass this bill as it is and recognize that
2 change is not always easy. But sometimes, the
3 higher order is the law of the land, which again
4 is one person, one vote.

5 The districts had to go where the people
6 are, not where they were.

7 LIEUTENANT GOVERNOR SANFORD: Senator O.
8 Larsen.

9 SENATOR O. LARSEN: Mr. President, as
10 one of the enrolled members of a federally
11 recognize tribe, I find it interesting that I was
12 left out of the conversation of most all of this.

13 When we were talking about we have to do
14 a separation and a subdistrict because there's a
15 certain amount of people -- ethnicity of people
16 that they meet the numbers. And, as I was
17 looking into that a little bit, I never had heard
18 about a polarization or -- yeah, a polarization
19 study of the work that was done to see if, in
20 fact, that that had standing or it had merit in
21 it, that there was some racial disparity there.
22 That study was never talked to us, talked to me.
23 I didn't hear anything about it.

24 So I kind of went into a little bit more
25 information on that. And Bethune-Hill vs.

1 Virginia did the same thing we're doing here
2 today if this passes. There was a group of
3 people that they figured there was a number
4 enough that they could have their own district or
5 subdistrict. And it didn't -- as it went to
6 their courts, it didn't meet the mustard because
7 they too did not have that polarization study.

8 And I think just because there's a set
9 of numbers, a set of racial numbers that would
10 make up that, where do we stop from there?
11 What's the next number? What's the next group?
12 What's the next ideal?

13 So I didn't see that or hear if that was
14 done. I think that was called a Shaw violation
15 because they didn't do that polarization study.
16 And I certainly didn't hear about it.

17 Another thing that I am confused about
18 with that, I know that as Natives coming off the
19 reservation, signing up to join the military,
20 which many of our people do, they take an oath to
21 the Constitution of the United States. And they
22 do their duty, and they go about.

23 But then when they return home, I'm not
24 sure that all of the reservations in North Dakota
25 follow -- of course, they have our Constitution

1 -- but I don't believe they've adopted our
2 constitution because they're sovereign states,
3 sovereign nations. So they have their own
4 constitution. And when we look at our state
5 constitution and we looked at the U.S.
6 Constitution, there are certain items that have
7 been picked out for the Native peoples.

8 But I still believe that this isn't
9 correct because we can't be having a subdistrict
10 based solely on somebody's ethnicity.

11 You know, in growing up and even in
12 North Dakota, I know what it's like to be the
13 token Indian. My son went to UND to go into a
14 program, psychology, that was set aside because
15 they needed to have so many Native folks in
16 there. So he went there. He was going to go and
17 do that university.

18 They took that group of people, set them
19 aside, did their own dinners, their own
20 orientation, their own scoring on how to get into
21 the program. And he was absolutely humiliated
22 from it. And now he's doing the program over in
23 Minnesota.

24 And there's many other things that
25 that's happened. That's a racial bias. I can

1 see that. I know that. There's been studies of
2 that. There was no polarization study done to
3 see if there was truly racial bias on these two
4 areas that we're subdividing. So I think that's
5 a big mistake.

6 So with that, I would make a motion to
7 split that out of the bill. Now, there's a lot
8 of pages, lines, and numbers of doing that. But
9 the idea, the concept of the idea that I propose
10 and make a motion to do is to split that. And I
11 could by each page and do the line item. It's
12 four pages. But we have the idea. So that would
13 be my motion.

14 Maybe we have to be on the 8th Order,
15 Mr. President.

16 LIEUTENANT GOVERNOR SANFORD: The Senate
17 will on 8th Order.

18 SENATOR O. LARSEN: And, Mr. President,
19 if I could just continue a little. You know, I
20 was going to say the subsection and cut that out
21 and be all professional about it. But, as I was
22 looking through here, you know, it's Section 1.
23 That's where it discusses that.

24 And we know the idea. We know what
25 we're going to remove from this bill. And that

1 is taking out that subdistrict -- those
2 subdistricts. And I would also like to have that
3 question answered if we did have that
4 polarization study.

5 LIEUTENANT GOVERNOR SANFORD: Senator
6 Holmberg.

7 SENATOR HOLMBERG: Mr. President, we
8 don't have to screw ourselves into the ground
9 over this. The bill is divisible. The bill was
10 divided in the House. So it is very divisible.
11 All one had to do is call the legislative counsel
12 and ask them for the division because it already
13 -- it has to exist because the House voted on A
14 and B.

15 So, Mr. President, I guess we can stand
16 and wait. I did call up there to see if they
17 could send down the division that was used in the
18 House to divide this very bill. I don't have it
19 in front of me.

20 LIEUTENANT GOVERNOR SANFORD: The Senate
21 will stand at ease.

22 Leaders, please approach the bench.

23 (Pause in hearing)

24 LIEUTENANT GOVERNOR SANFORD: Is there a
25 second to Senator O. Larsen's motion?

1 SENATOR HEITKAMP: I'll second.

2 LIEUTENANT GOVERNOR SANFORD: Senator
3 Heitkamp second.

4 Now, we have to decide if there's
5 division. This is not divisible at this point
6 because there's nothing clear of what handing
7 this piece -- this batch of paperwork. Have you
8 divided it into different sections so that we
9 could say clearly what Division A and Division B
10 are, Senator O. Larsen?

11 Senator Holmberg?

12 Okay. It was still on. Sorry.

13 SENATOR O. LARSEN: Mr. President?

14 LIEUTENANT GOVERNOR SANFORD: Senator O.
15 Larsen.

16 SENATOR O. LARSEN: So, Mr. President,
17 Division A, this is what is going to be cut out
18 of the bill. If you go to page 1, section 1,
19 line 11, where it starts, "District 4 and 9" and
20 ends at line 14, "chosen."

21 If you go to page 3, line 25, subsection
22 A, B, down to the next page 4 on line 10.

23 Moving to page 7, again subsection A and
24 B starting on line 15.

25 Going to page 8, line 7. That would be

1 Section A, division of the bill. That would be
2 removing the subdistricts of District 9 and
3 District 4.

4 LIEUTENANT GOVERNOR SANFORD: All right.

5 SENATOR O. LARSEN: And the section B of
6 the bill would be the remaining part of the bill.

7 LIEUTENANT GOVERNOR SANFORD: Right.

8 SENATOR O. LARSEN: I probably should
9 have did that instead of saying we love the idea.
10 We understand the idea. But, you know, that's
11 the diesel mechanic in me. So there we go.

12 LIEUTENANT GOVERNOR SANFORD: We'll hand
13 over a copy to all senators.

14 This is much better, Senator O. Larsen.
15 Thank you.

16 Division A is being circulated. I have
17 pretty good notes, but I don't know if I was that
18 detailed. It'll be the sections of Section 1
19 listed below on the handout.

20 So it is divisible.

21 After going through Division A and B,
22 we'll have recorded roll call votes on each
23 division separately.

24 So, for the first order of business
25 here, the Senate will consider Division A.

1 Senator O. Larsen.

2 SENATOR O. LARSEN: Well, if nothing
3 else, Mr. President, I do a really pretty good
4 job at confusing people. But, at the end of the
5 day, you know, it makes for good conversation.

6 Like I said, and I don't want to be
7 repetitive, we are missing a huge spot in just
8 saying that because you're a brown-skinned
9 person, Indian, a gay person, somebody, a Black
10 person, it doesn't matter. When we're saying
11 that, that you are going to have representation
12 based on your race, based on your sexual
13 orientation, it doesn't matter. You have to have
14 a study saying, you know what? That's right.
15 That is a racial bias. That is a -- it isn't
16 correct.

17 We have to follow our constitution in
18 the way that we represent people, human beings.
19 Not Americans. Not anything else.

20 It's disturbing as well that we can come
21 off the reservation, and we can support and fight
22 our Constitution of the United States of America
23 and the state of North Dakota. But as soon as
24 I'm done with my service, I go back to my
25 reservation. And even though I have the U.S.

1 Constitution on the wall, I also have the Nation
2 of my sovereign nation constitution that I fight
3 and die for. Does it supersede? Does it match?
4 That really doesn't matter. That's my sovereign
5 nation's constitution that I support and I
6 defend.

7 You cannot come to another nation's
8 country and say, okay, I want representation even
9 though I have my own constitution on my own
10 sovereign nation. And I have no idea if I'm
11 being racially biased against or not. I do have
12 the numbers.

13 I think we need to defeat it. And I
14 think it has merit to support and represent every
15 human being in our district. That's what we're
16 supposed to do.

17 LIEUTENANT GOVERNOR SANFORD: So to
18 clarify, this Division A is to remove the
19 subdistricts.

20 Any further -- Senator Holmberg.

21 SENATOR HOLMBERG: Mr. President, and
22 just like earlier, if you want this to remain in,
23 you would vote green. If you wish to support the
24 motion made by the senator from Minot, you would
25 vote red.

1 LIEUTENANT GOVERNOR SANFORD: Senator
2 Kannianen.

3 SENATOR KANNIANEN: Well, Mr. President,
4 the redistricting committee heard about the
5 Thornburg v. Gingles Supreme Court case from 1986
6 when it comes to determining what preconditions
7 need to be met, what factors needs to be
8 considered in establishing these types of
9 subdistricts.

10 Now, the preconditions -- first, there
11 are three preconditions. And, if all three of
12 those are met, then there are other factors to
13 also consider.

14 So the first precondition is that the
15 racial or language minority group is sufficiently
16 numerous and compact to form a majority in a
17 single member district. So in one of the
18 subdistricts, are they large enough to form a
19 majority in one of those subdistricts?

20 The second one is that the minority
21 group is politically cohesive such that its
22 members tend to vote together in a block.

23 And the third one is that the majority
24 group votes sufficient as a block. So, in other
25 words, the non-Natives in the district vote

1 sufficient as a block themselves to still -- as
2 it says, "usually" to defeat the minority's
3 preferred candidate despite their block voting.

4 Now, this third precondition, the big
5 concern I have is that the committee -- I didn't
6 see, as the senator from District 3 mentioned,
7 the polarization studies. This third
8 precondition is not met.

9 Now, for example, the reason why I would
10 assume that the senator from District 9 brought
11 forth his amendment, they're not -- District 9
12 isn't too excited about the idea of subdistricts
13 because, as it is now, they form a strong
14 majority, the Native population does in District
15 9, about a two-thirds majority. Subdistricting
16 them would mean that, as the paperwork shows that
17 we have from his amendment, as the maps show, one
18 subdistrict would have 81 percent Native. All
19 the other subdistrict would have just under a 35
20 percent Native.

21 So again, this third precondition has to
22 show that the voting history is such that they
23 have not been able to elect their preferred
24 candidates. But, of course, we all know the
25 election history in District 9. Now, some might

1 argue that we shouldn't make this out to be a
2 partisan thing. But it obviously is.

3 I mean, to say the preferred candidate
4 of those in District 9 have certainly been from a
5 certain party, there's never been a Republican --
6 you have to -- I've gone back decades. I've gone
7 back as far as I could search, and there's never
8 been a Republican elected in District 9. They
9 have had their candidates elected that they
10 preferred.

11 And the ironic thing is that by putting
12 this subdistricting in for District 9, the
13 subdistrict B that would have just under 35
14 percent Native population would actually be at a
15 high risk of having it go the other way on them
16 where they have the reverse effect, right, of
17 having benefiting the non-Native minority to the
18 detriment of the Native majority.

19 Is that what we want? So it's clearcut
20 in District 9 that the third precondition in the
21 Gingles case is not met. And it's pretty clear
22 that the subdistricting would have an adverse
23 effect on the ability of all of the Natives in
24 district to elect the candidate of their choice.

25 Now, District 4, that's more

1 questionable, right, that third precondition? It
2 depends on -- we can't guess how far back a judge
3 is going to look at determining the election
4 results.

5 Before 2016, there's only -- you have to
6 go back decades. There's only one Republican
7 elected in decades in District 4. And so then
8 you look at what candidates -- the precincts on
9 the reservation voted for and then which
10 candidates won, right, so you know which was the
11 candidate of their choice.

12 2016 and 2020, of course, were different
13 stories. So, if a judge just looked at the last
14 couple of elections, of course, they'd say that
15 that third precondition is met in District 4.
16 But typically, you'd probably have to go back
17 realistically several elections. And then they
18 would say it's not met. So it is more
19 questionable in District 4. So how far back do
20 you go?

21 But so then the other consideration that
22 one might say is that while we can just -- we
23 should just do this anyway, I mean, regardless of
24 whether or not that third precondition is met, we
25 should just -- we could just do this anyway.

1 Now, that was the case that was
2 referenced also by the senator from District 3
3 that showed that in Virginia there was a
4 subdistrict situation that was thrown out because
5 it had gone the other way -- could have the
6 adverse effect of maybe what will happen in
7 District 9. Or it will have the effect of trying
8 to apply something this -- a racial subdistrict
9 without preconditions being met. So there's a
10 needle that has to be threaded here to satisfy
11 existing court cases that has not been threaded.

12 And so I, you know, I certainly have all
13 my constituents on the reservation in District 4
14 asking for the subdistrict to be established.
15 And I also have constituents on the reservation,
16 non-Natives asking for this to be defeated.

17 And my contention simply is that all
18 three preconditions in the Gingles case have not
19 been met for either District 4 nor District 9.
20 And it seems pretty clear that applying
21 subdistricts to District 9 will have actually an
22 adverse effect to the Native majority to the
23 benefit of the non-Native minority. I don't
24 think that's what we really want or the route we
25 should be going either.

1 So I think it should either be all or
2 nothing. If we defeat Division A to take out the
3 subdistricts, that's certainly and option. Or,
4 if Division A passes, then we should have an
5 amendment to subdivide all 47 districts. It
6 should be all or nothing. It shouldn't be 2 in
7 45 to have the representation cut in half for
8 those districts, you know, those Native American
9 districts really.

10 Now, it has been said that certainly
11 there are cases where multi member and single
12 member districts have coexisted in the same
13 state. But it doesn't mean we should do it. I
14 don't believe we should go down that road. It
15 should be all or nothing.

16 I mean, imagine a city counselor, a
17 county commission where some got to vote for one,
18 some got to vote for two.

19 So I would ask for Division A to be
20 defeated.

21 LIEUTENANT GOVERNOR SANFORD: Senator
22 Doug Larsen.

23 SENATOR D. LARSEN: Mr. President, I'm
24 not sure if you know this about me or not, but
25 I'm a football fan. I like the competition of

1 it. Full disclosure, I'm a Viking fan. That
2 generally means I enjoy most of the game, but I
3 don't enjoy the outcome. If you were to ever
4 come to my house and watch a game with me, you
5 might find me breaking the rules of decorum in my
6 living room by yelling at the referees, blaming
7 them for my woes, maybe yelling at the coach.
8 Why did they come up with a strategy that they
9 did? Maybe if only we had a better player to a
10 particular position, we'd be better.

11 At the end of every year, the NFL gets
12 together and they look at the rules. And
13 sometimes they change some rules. Sometimes they
14 see a rule and say, we should make a change here.
15 It would make for a more fair game or a better
16 game.

17 I think there's a lot of parallels
18 between an election and a football game. They
19 both have strategy. They both have players or
20 candidates. They both depend on the fans, voter
21 turnout. And sometimes rules can affect the way
22 a game will end.

23 I think this division is just about
24 that. It's about a rule. Some in this chamber
25 probably believe that that rule should be

1 changed. And those folks should vote green.

2 Others of us may not feel that that rule
3 is the best change, and it might create division.
4 And it might give those that might be asking for
5 less representation than what they're asking for.
6 But I don't really plan to talk too much more
7 about the rule and whether or not it's good or
8 bad.

9 Again, if you are good with subdividing
10 vote green. If you're not, vote red. But what
11 concerns me are those who will vote green not
12 because they like the subdivision, but because
13 they're afraid.

14 In 1787, with an imperfect, not perfect
15 document, enough states agreed to form the
16 federal government, making what the government
17 said on Monday an absolute historical fact. I'll
18 quote or paraphrase him by saying, we need to
19 remind the federal government from time to time
20 that the states created the federal government
21 and not the other way around.

22 When we watched that speech in here,
23 some might notice I very seldom clap for a
24 television. That got me. I got excited. The
25 states created the federal government.

1 I don't particularly plan to vote one
2 way or another for fear of that federal
3 government. Elections are a state function.

4 At some point, I think a lot of say
5 enough is enough when we watch federal overreach
6 after federal overreach. I don't know if you've
7 hit your enough is enough yet.

8 When I sat in on the transportation
9 committee this last session, and I was told why
10 we couldn't do it this particular way or had to
11 do that a different way because of fear that the
12 federal government would keep funding from us.

13 Health care is being forced to make
14 decisions for fear that money will be kept from
15 them. Businesses are having to make decisions
16 now for fear that OSHA is going to fine them.
17 This isn't the first administration to put out
18 executive orders. Sometime ago, no matter
19 whether it was a Republican or a Democrat, we
20 should have said executive orders aren't the way
21 to legislate.

22 I shouldn't have to sit on an airplane
23 and be told that it is a law for me to wear a
24 mask now. The Senate didn't approve that law.
25 The House didn't approve that law. One person

1 made that law.

2 At some point, I think enough is enough.
3 I can't change yesterday, and I don't want to
4 wait until tomorrow.

5 LIEUTENANT GOVERNOR SANFORD: Senator
6 Holmberg.

7 SENATOR HOLMBERG: Mr. President,
8 members of the Senate, I just want to remind you,
9 and that was a very good presentation by the
10 senator from Mandan, but I want to remind you
11 that your committee, when it worked, was not
12 working based upon a fear or a disagreement with
13 an executive order like we have seen lots of
14 lately. This is the law of the land. And that's
15 why your committee said and would urge you --
16 majority of the committee to vote green on
17 Section A.

18 LIEUTENANT GOVERNOR SANFORD: Senator
19 Hogue.

20 SENATOR HOGUE: Well, Mr. President, I
21 certainly want to start off by thanking the
22 redistricting committee for all their hard work.
23 I know all of them volunteered for this position.
24 All of them went into it knowing that they were
25 going to disappoint some of their colleagues.

1 And they took on the task. And perhaps many of
2 them knew that going into it, they would have to
3 give pink slips to some of their colleagues. And
4 that's a hard thing to do.

5 And when I looked through the membership
6 of the committee, I came to the realization that
7 the carrier of the bill is absolutely right.
8 This is the interim that never was for those
9 folks.

10 There are five members of the
11 redistricting committee that also serve on the
12 appropriations committee. The redistricting
13 committee met seven times in September. The
14 appropriations has met I think at least five
15 times in October. So they've been putting in a
16 lot of overtime. And I certainly want to thank
17 them for that.

18 And listen, this idea of creating
19 subdistricts. I mean, that is the redistricting
20 committee recommending that we give power away.
21 And that's not a normal thing for human beings to
22 do, to give away power. And so I appreciate that
23 gesture. I think that's a noble gesture.

24 But I share the concerns of the senator
25 from District 4 and the senator from Mandan. I

1 don't think the Gingles criteria have been met.

2 And the senator from District 4 is flat out right
3 that it hasn't been met in District 9 at all.

4 The history of the minority's ability to
5 elect candidates of their choice is a relevant
6 consideration. And the Gingles is a U.S.
7 Constitution case that was decided in 1986. And
8 the Voting Rights Act gives permissive
9 authorization.

10 You may create a racial district.
11 You're not compelled to create a racial district.
12 You may create a racially divided district if all
13 three of these elements are met. And I'm sorry,
14 in District 9, they're just not met. And we all
15 know that. I mean, if you think back in your own
16 history, you know that it's not met.

17 But my biggest disagreement with this
18 subdistricting is it's just bad policy. It's
19 flat out bad policy. We have an outstanding
20 relationship with the Mandan, Hidatsa, Arikara
21 Nation. I think it's outstanding.

22 When we have juveniles that have a
23 scrape with the law, that's an integrated process
24 for helping juveniles. We have compacts that we
25 tax tobacco and oil and gas revenue on a

1 cooperative basis with that nation. Just last
2 month, Mr. President, the governor signed an
3 agreement so it doesn't make any difference where
4 the law violation is happening to. The state
5 highway patrol can respond to it or a law
6 enforcement officer from the MHA nation.

7 We have these continuing types of
8 cooperative arrangements. And they've been going
9 on since I've been in the Senate. And I hope
10 they continue.

11 My problem with this particular
12 subdistrict is it just -- it goes right back to
13 identity politics. We're going to raise up our
14 differences again. And it makes no sense to me.

15 I do practice law, Mr. President. So I
16 am aware of the risks of litigation. It's
17 something I deal with all the time. I'm also
18 aware of the various not-for-profit organizations
19 in the state of North Dakota and throughout the
20 country. Your local church is a not for profit.
21 You have not for profits that want to foster the
22 arts or the symphony.

23 We also have, Mr. President, a lot of
24 national not for profits. And they're interested
25 in implementing their policy through litigation.

1 And they do that by doing what happened here.
2 They come to local legislators knowing that
3 probably not going to adopt their policy, but
4 they are going to let them know what the law is
5 and that they're well-healed enough to pursue
6 their litigation.

7 And to me, Mr. President, we're the
8 policymaking branch of government. We cannot be
9 looking over our shoulders all the time worrying
10 about what a court may or may not do because they
11 have the right to do what they're going to do.
12 We have to focus on what is good policy.

13 And I think what's good policy is to
14 break down identity politics whenever and
15 wherever we can and to foster good relations with
16 our partner tribal nations. And this
17 subdistricting, to me, that doesn't do that.

18 So I would join, Mr. President, I would
19 join the senators who ask that Division A be
20 defeated.

21 LIEUTENANT GOVERNOR SANFORD: Senator O.
22 Larsen.

23 SENATOR O. LARSEN: Mr. President, I had
24 heard discussion of, you know, this is the law of
25 the land. This is the way it's going to go.

1 We're going to redistrict this way and then
2 something about following, that we have rules to
3 go by. But we have to follow the rules. So we
4 did not do that study that was key. But here's
5 the bigger issue that just keeps rolling around
6 in my head. We're going to give representation
7 to an individual to represent individuals that do
8 not follow the Constitution of the United States.

9 They have their own tribal sovereignty
10 constitution that they follow first. That's what
11 they follow first, and then the U.S.
12 Constitution, and the state constitution comes
13 secondary.

14 If we do this, there are other
15 nationalities of people that have their
16 constitution that can live in our state and have
17 the numbers and then secondarily follow our
18 constitution. This is a big picture of what
19 could come. If it's this group of people first,
20 and then the next -- we have to represent
21 individuals, human beings, not these classes of
22 people.

23 LIEUTENANT GOVERNOR SANFORD: Senator
24 Mathern.

25 SENATOR MATHERN: Thank you,

1 Mr. President. I heard the word "fear." And I
2 thought, really, the redistricting committee
3 moved out of fear. I don't think they acted in
4 fear. It seems to me they acted in calmness.
5 They acted in reason. And so I support their
6 work.

7 There is considerable disagreement. I'm
8 just so impressed that they moved beyond that.

9 And I've also heard the comments about
10 our relationships with the MHA Nation and the
11 tribes that have become more positive. And I
12 believe, in my years in the Senate, that has, in
13 fact, been the case. But I believe the reason
14 for that is we have increased our respect for
15 tribes.

16 It's almost ironic to think that we're
17 talking about this when all of this land of
18 Dakota was land, or is land, of indigenous
19 people. And it seems like we are moving towards
20 more respect, and that respect has brought us to
21 this point.

22 And it seems to me the redistricting
23 committee is giving respect to the tribal leaders
24 of our state. And I wasn't there, but I
25 understand that this is the preference of our

1 tribal leaders.

2 So I think our movement is really
3 towards calm. It's towards reason. It's towards
4 respect. And I think that calls for a yes vote
5 for the redistricting committee recommendation.

6 LIEUTENANT GOVERNOR SANFORD: Senator
7 Clemens.

8 SENATOR CLEMENS: Mr. President, the
9 word "fear" that's been used in this conversation
10 is a legitimate word to be used in this
11 discussion. I have visited with more than a few
12 members of the redistricting committee that have
13 told me, we don't like this idea of subdistricts,
14 but we have to do it. And I say, well, why do we
15 have to do it?

16 Well, if we don't do it, we're going to
17 run into litigation with the federal government.
18 Now, if that's not fear, I don't know what fear
19 is. Our federal government has been overreaching
20 for decades into every state in the union.

21 And until we start standing up on issues
22 like this, they will continue until we will not
23 have another option. We have to be willing to
24 sacrifice on some other issues, maybe some
25 physical balance sheets for our state in order to

1 fight our federal government. We have to start
2 taking a stand and saying we're going to do
3 what's right, which has been mentioned earlier
4 here today. Forget about what the consequences
5 may be. Let's do what's right.

6 I'm a member of District 16 in West
7 Fargo. West Fargo, Fargo, especially Fargo, is
8 becoming -- and I welcome it -- a very diverse
9 community. But, if we allow these subdistricts
10 in 9 and 4, as was mentioned earlier also, this
11 will become a trend within our state. And I
12 could see where Fargo or I should say districts,
13 I guess, in Cass County will become many
14 subdistricts, maybe entire districts that are
15 going to be racially motivated.

16 That is not what we want for our state.
17 We are trying to build in every legislative
18 session, and when we're back in our communities,
19 racial, social unity. As members of North Dakota
20 and members of the United States, we want to
21 build that unity, not divide.

22 LIEUTENANT GOVERNOR SANFORD: Is there
23 any further discussion? Any further discussion
24 on Division A? A green vote keeps the language
25 for the subdistricts. A red vote removes it.

1 Hearing none, the vote is on Division A.
2 Secretary will open the key.

3 Have all senators voted?

4 Any senator wish to change their vote?

5 Secretary will close the key, take the
6 tally.

7 Tally reveals 26 ayes, 21 nays, 0
8 absent, not voting. Division A passes.

9 Continuing on to Division B, the
10 remainder of the bill, House Bill 1504. Any
11 discussion?

12 Any discussion on Division B?

13 Hearing none, votes on Division B.
14 Secretary will open the key.

15 All senators will cast their vote.

16 Any senator wish to change their vote?

17 Secretary will close the key and take
18 the tally.

19 Final tally on House Bill 1504, Division
20 B is 43 ayes, 4 nays, 0 absent, not voting.

21 Returning to the 14th Order, House Bill
22 1504. Any discussion on the remaining bill?

23 Senator Kannianen.

24 SENATOR KANNIANEN: Well, Mr. President,
25 may we be on the 8th Order for purposes of a

1 floor amendment.

2 LIEUTENANT GOVERNOR SANFORD: Senate
3 will be on the 8th Order.

4 SENATOR KANNIANEN: Mr. President, I
5 move 21.1113.03001.

6 SENATOR VEDAA: Second.

7 LIEUTENANT GOVERNOR SANFORD: Is there a
8 second over there? Second Vedaa.

9 Senator Kannianen.

10 SENATOR KANNIANEN: Mr. President, here
11 it is. This amendment would task the
12 redistricting committee throughout the rest of
13 this interim to create subdistricts for all 47
14 districts in the state and then report its
15 recommendations to the 2023, the 68th Legislative
16 Assembly in 2023.

17 Mr. President, I believe that again,
18 subdistricting should be an all or nothing issue.
19 It should be either all districts or no
20 districts. And this body -- majority of this
21 body has chosen to do it for two districts. So I
22 believe that this same concept should be good
23 enough for their district so that there isn't an
24 unequal, as I see it, unequal representation to
25 have some citizens represented by one of the 94

1 while other citizens are represented by two of
2 the 94. A representation issue, a voting rights
3 issue, that's the way I see it.

4 So again, adopting this amendment
5 wouldn't delay things for this special session.
6 It wouldn't create any extra work for the special
7 session. And it wouldn't affect the 2022
8 elections. It would be something that would be
9 worked on in 2023, looking ahead to 2024, to
10 create that equality across the board for the
11 House of Representatives.

12 LIEUTENANT GOVERNOR SANFORD: Do all
13 senators have a copy of the amendment?

14 Senator Holmberg.

15 SENATOR HOLMBERG: Mr. President, the
16 introduction of this particular amendment is
17 certainly appropriate. And what would happen is
18 that we pass this, then the bill goes back to the
19 interim -- or it goes back to the joint committee
20 because there is a difference between the House
21 and the Senate.

22 I would hope that if we were going to do
23 something like this, we do it during the next
24 biennium because, as the previous speaker said,
25 it's not going to have an impact on the election

1 of 2022. I think we can wait and do it another
2 time, if that's what the interest of the
3 legislature is. So I would hope we vote not.

4 LIEUTENANT GOVERNOR SANFORD: Senator
5 K. Roers.

6 SENATOR K. ROERS: Mr. President, will
7 the carrier at the moment yield to a question?

8 LIEUTENANT GOVERNOR SANFORD: State your
9 question.

10 SENATOR K. ROERS: I just want some
11 clarification, just some clarifying questions.
12 So number one, I'm understanding that it wouldn't
13 take place until the 2024. Would that imply that
14 all House members would then be up for election
15 in 2024 if this was approved? And then probably
16 before that question, is this just a study, the
17 feasibility and desirability, or this is create
18 the plan because it's happening?

19 LIEUTENANT GOVERNOR SANFORD: Senator
20 Kannianen.

21 SENATOR KANNIANEN: Mr. President, yeah.
22 It would -- the Senator from District 27 is
23 correct. It would potentially create a situation
24 where every member of the House of
25 Representatives is up for re-election in 2024,

1 now, except, potentially, those in District 9,
2 being an odd number district.

3 Now, as far as the requirement, you
4 know, the committee still has the opportunity to
5 -- being an interim committee, I mean, there
6 would still be no requirement for the committee
7 to release a favorable recommendation in the
8 legislative management meetings. The way that
9 the wording is that they'd, you know, my
10 understanding, it sure doesn't require anybody to
11 do anything, but if someone wants to correct me
12 on that.

13 But the intent is to at least bring --
14 keep it going and then develop a potential plan.
15 It doesn't mean that those -- doing it have to
16 vote in favor of that plan.

17 LIEUTENANT GOVERNOR SANFORD: Any
18 further discussion on the amendment?

19 Hearing none, the question will be on
20 the proposed Amendment 21.1113.03001 to House
21 Bill 1504. All in favor of the amendment say
22 aye.

23 (Ayes)

24 LIEUTENANT GOVERNOR SANFORD: Opposed,
25 nay.

1 (Nays)

2 LIEUTENANT GOVERNOR SANFORD: Amendment
3 fails.

4 Continuing on 14th Order, House Bill
5 1504. Any further discussion?

6 Hearing none, questions on final passage
7 of House Bill 1504. Secretary will open the key.

8 Senators will record their vote.

9 Have all senators voted?

10 Any senator wish to change their vote?

11 Secretary will close the key and take
12 the tally.

13 Final tally in House Bill 1504 reveals
14 40 ayes, 7 nays, 0 absent, not voting.

15 Bill is passed.

16 (END OF VIDEO FILE)

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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.



Julie Thompson, CET-1036

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

CHARLES WALEN, an individual; and PAUL
HENDERSON, an individual.

Plaintiffs,

v.

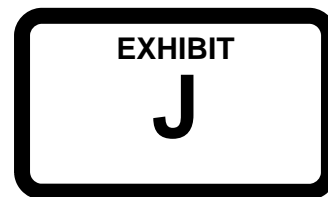
DOUG BURGUM, in his official capacity as
Governor of the State of North Dakota;
ALVIN JAEGER in his official capacity as
Secretary of State of the State of North Dakota,

Defendants.

Civil Action No. 1:22-cv-0031-CRH

EXPERT REPORT OF M.V. HOOD III

I, M.V. Hood III, affirm the conclusions I express in this report are provided to a reasonable degree of professional certainty. In addition, I do hereby declare the following:



I. INTRODUCTION AND BACKGROUND

My name is M.V. (Trey) Hood III, and I am a tenured professor at the University of Georgia with an appointment in the Department of Political Science. I have been a faculty member at the University of Georgia since 1999. I also serve as the Director of the School of Public and International Affairs Survey Research Center. I am an expert in American politics, specifically in the areas of electoral politics, racial politics, election administration, and Southern politics. I teach courses on American politics, Southern politics, and research methods and have taught graduate seminars on the topics of election administration and Southern politics.

I have received research grants to study election administration issues from the National Science Foundation, the Pew Charitable Trust, the Center for Election Innovation and Research, and the MIT Election Data and Science Lab. I have also published peer-reviewed journal articles specifically in the area of election administration, including redistricting. My academic publications are detailed in a copy of my vita that is attached to the end of this report. Currently, I serve on the editorial boards for *Social Science Quarterly* and *Election Law Journal*. The latter is a peer-reviewed academic journal focused on the area of election administration.

During the preceding five years, I have offered expert testimony (through deposition or at trial) in ten cases around the United States: *Ohio A. Philip Randolph Institute v. Ryan Smith*, 1:18-cv-357 (S.D. Ohio), *Libertarian Party of Arkansas v. Thurston*, 4:19-cv-00214 (E.D. Ark.); *Chestnut v. Merrill*, 2:18-cv-907 (N.D. Ala.), *Common Cause v. Lewis*, 18-CVS-014001 (Wake County Superior Court); *Nielsen v. DeSantis*, 4:20-cv-236 (N.D. Fla.); *Western Native Voice v. Stapleton*, DV-56-2020-377 (Montana Thirteenth Judicial District Court); *Driscoll v. Stapleton*, DV-20-0408 (Montana Thirteenth Judicial District Court); *North Carolina v. Holmes*, 18-CVS-15292 (Wake County Superior Court); *Caster v. Merrill*, 2:21-cv-1536 (S.D. Ala); and *Robinson v. Ardoin*, 3:22-cv-00211 (M.D. La.).

I am receiving \$400 an hour for my work on this case and \$400 an hour for any testimony associated with this work. In reaching my conclusions, I have drawn on my training, experience, and knowledge as a social scientist who has specifically conducted research in the area of redistricting. My compensation in this case is not dependent upon the outcome of the litigation or the substance of my opinions.

II. SCOPE AND OVERVIEW

I have been asked by counsel for the defendant to provide a functional analysis for LD 9 and LD 4 in the North Dakota legislative districting plan as enacted following the 2020 apportionment.

III. FUNCTIONALITY ANALYSIS

In *Alabama Legislative Black Caucus v. Alabama* the U.S. Supreme Court ruled that, in relation to the use of race in redistricting, the pertinent question was to be found in Section 2, not Section 5, of the Voting Rights Act. Specifically, the issue is not *how to maintain the present minority percentages in majority-minority districts, instead the issue is the extent to which [the State] must preserve existing minority percentages in order to maintain the minority's present ability to elect the candidate of its choice.*¹ With this guidance I have undertaken an analysis using the three prongs of the standard *Gingles*² test in order to answer the following question: if said district is not constituted as a majority-minority district, would the preferred candidate of the Native American community in an open seat scenario most likely be defeated? In order to answer this question, I rely on what is known as a district functionality analysis. Such an analysis can be used to gain insight into how a proposed or enacted district would perform electorally.

The functionality analyses presented in this expert report consist of several components which are then combined in a final step. First, one needs to estimate the manner in which various racial groups are voting. Here, I rely on precinct-level vote returns and racial voting age population data to estimate how various groups are casting ballots. The next step in the process involves producing turnout estimates by race. The final piece of requisite information concerns the racial population (VAP) breakdown of the district to be analyzed. One can then take these voting age population figures and combine them with the aforementioned turnout estimates to create an estimate of the number of white, Native American, and *other* minority voters participating in a given election. Finally, one can combine these turnout numbers with the estimated vote percentages by race to obtain vote share estimates. Aggregating these estimates, one can then determine the estimated vote share for each candidate in a given race. In the case of a general election, the process would terminate with a vote estimate for each political party in the race being analyzed. For example, a calculation of the overall estimated Democratic (Republican) vote share in said district.

IV. ANALYSIS OF LD 9

A. Can a Majority-Minority District Be Created?

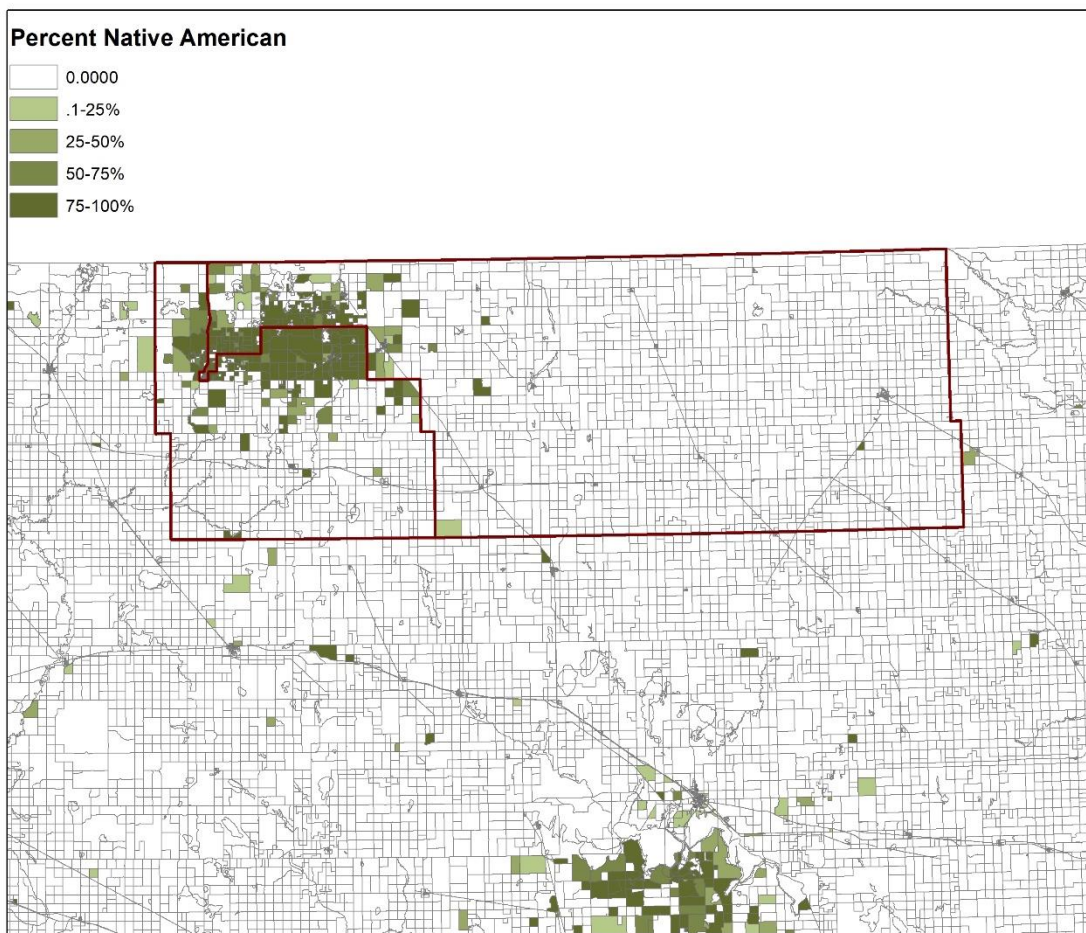
Prong 1 of the *Gingles* test reads as follows: The minority group must be of sufficient size and geographically compact enough to allow for the creation of a single-member district for the group in question.

¹See *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. ___ (2015). Page 4. Alabama was a Section 5 covered jurisdiction prior to *Shelby County v. Holder*, 570 U.S. 529 (2013). The quoted passage relating to Section 2 and its applicability to redistricting, however, pertains to any jurisdiction engaged in drawing new districts as Section 2 has nationwide coverage.

²See M.V. Hood III, Peter A. Morrison, and Thomas M. Bryan. 2017. "From Legal Theory to Practical Application: A How-To for Performing Vote Dilution Analyses." *Social Science Quarterly* for a discussion of how to conduct a Section 2 vote dilution analysis.

LD 9 in the enacted legislative plan³ is comprised of 51.7% Native American voting age population.⁴ As such, under Section 2 of the Voting Rights Act it would be described as a minority, opportunity-to-elect district.⁵ LD 9 is also subdivided into LD 9A and LD 9B, where each subdistrict serves as a single-member district for the purpose of electing members to the North Dakota House. Subdistrict 9A is 77.0% Native American VAP and LD 9B is 29.4% Native American VAP. Given LD 9 is majority Native American in terms of voting age, per prong 1 it is certainly possible to create a district where the minority group in question to comprises a majority of the district’s population. Figure 1 below displays enacted LD 9 along with its subdistricts. The Native American population at the Census block-level is also presented for reference.

Figure 1. Enacted LD 9 (with subdistricts) and Block-Level Native American Population



³Throughout this report the enacted plan refers to the legislative districting plan passed by the North Dakota Legislature following the 2020 Census that was in place for the 2022 election-cycle.

⁴Measured as single-race Native Americans of voting age population from the 2020 decennial Census. North Dakota 2022 Legislative Plan Statistics (<https://www.ndlegis.gov/assembly/67-2021/session-interim/2021-legislative-redistricting-maps>).

⁵See *Bartlett v. Strickland*, 556 U.S. 1 (2009).

B. Is racially polarized voting present in the geographic area under study?

Prong 2 of the *Gingles* test seeks to determine if racially polarized voting is present in the geographic area under study. In order to determine if this is the case, one needs to estimate the manner in which various racial groups are voting. Here, I rely on precinct-level vote returns and racial voting age population data to estimate how whites, Native Americans, and *other* minorities are casting ballots. More specifically, I analyze six recent state-level contests: the 2020 presential election, the 2020 U.S. House election, the 2020 gubernatorial election, the 2018 U.S. Senate election, the 2018 U.S. House election, and the 2018 Attorney General election.

For each election analyzed, precinct vote returns are collected for the precincts that that make up enacted LD 9. In the case where a precinct is split between LD 9 and another legislative district, the precinct was retained for purposes of estimating vote shares by race.⁶ Block-level racial data from the 2020 Census was then aggregated to the precinct-level to be used for analysis. The three demographic groups analyzed are non-Hispanic whites, Native Americans, and *other* minorities.⁷

Ecological Inference is a statistical method that allows one to use aggregate-level data (precincts in this case) to make extrapolations concerning individual-level behavior. Using this technique one can estimate the percentages of each racial group that voted for a particular candidate.⁸ Sometimes this step is referred to as a racially polarized voting (or racial bloc voting) analysis.

Table 1 details racial voting estimates for enacted LD 9 along with 95% confidence intervals. For all six elections analyzed, there is a clear candidate of choice for Native American voters in LD 9, with the candidate of choice being the Democratic candidate in each of these contests. On the other side, white voters consistently support the Republican candidate in all six races. Racially polarized voting would then appear to be the norm in LD 9.

⁶There were not enough precincts to produce estimates for the two subdistricts: LD 9A and LD 9B.

⁷Outside of Native Americans, all other minorities are grouped into a category labeled *Other*.

⁸For more information on EI see: Gary King. 1997. *A Solution to the Ecological Inference Problem*. Princeton, NJ: Princeton University Press. For more information on the specific variant of EI I use in this report see: Ori Rosen, Wenxin Jiang, Gary King, and Martin A. Tanner. 2001. "Bayesian and Frequentist Inference for Ecological Inference: The R x C Case." *Statistica Neerlandica* 55: 134-156. EI estimates for this report are estimated using the eiPack procedure in the statistical program R.

Table 1. Racial Voting Estimates, LD 9

Election	White		Native American	
	Republican	Democrat	Republican	Democrat
2020 Presidential	71.9 [66.0, 77.4]	27.0 [21.5, 32.8]	10.1 [2.0, 20.1]	89.3 [79.3, 97.4]
2020 U.S. House	75.7 [69.8, 81.1]	23.1 [17.7, 29.0]	12.7 [3.5, 23.1]	85.7 [75.3, 94.9]
2020 Governor	78.0 [72.0, 83.4]	20.4 [15.0, 26.4]	18.9 [8.9, 29.1]	80.0 [69.8, 90.0]
2018 U.S. Senate	56.3 [50.2, 62.2]	43.7 [37.8, 49.8]	5.0 [0.6, 11.0]	95.0 [89.0, 99.4]
2018 U.S. House	67.7 [55.7, 67.4]	35.6 [30.0, 41.6]	11.2 [4.7, 17.9]	83.8 [77.1, 90.2]
2018 Attorney General	71.2 [64.6, 77.3]	28.8 [22.7, 35.4]	12.6 [5.4, 20.1]	87.3 [79.9, 94.6]

Notes: Entries are estimates of vote share by race and party with 95% confidence estimates in parentheses.

C. Is the Native American Candidate of Choice Typically Defeated?

For each of the six elections analyzed there is a clear candidate of choice for Native American voters in LD 9. In each of these case that candidate of choice is the Democrat. The question now becomes is the Native American candidate of choice typically defeated by the white voting bloc.

In order to answer this question, I produce turnout estimates for whites, Native Americans, and *others*. Because racial turnout data are not available in North Dakota, I again rely on ecological inference to estimate turnout by race using precinct-level data. In this case I use voting age counts by racial group and turnout measured as the number of ballots cast in a specific election (with the number of nonvoters calculated as ballots cast subtracted from the total voting age population).

The estimated turnout rates by race are then used to partition the voting age population into the electorate for a given race. For example, if there are 1,000 whites of voting age and the estimated turnout rate for this group is 45%, then it would be estimated that there would be 450 whites in the electorate. This process is repeated for Native Americans and the *other* minority category.

The next step would be to decompose these voters by candidate choice. To continue the present hypothetical example, one would divide these 450 white voters into categories based on vote choice. If the white vote was estimated to have split 60% Republican and 40% Democratic, there would be 270 white votes for the Republican candidate and 180 white votes for the Democratic candidate. The same process would then be repeated for the other two racial categories under analysis. Finally, votes by party across racial groups would be summed and then divided by the

total number of estimated votes. The end product would then be an estimate of the Democratic and Republican vote in enacted LD 9 for the election contest under study.⁹ With this accomplished, it is then possible to determine which party would have won the election within the geographic boundaries of enacted LD 9 (and LD 9A and LD 9B).

The predicted vote share by party for the six election contests analyzed for LD 9 is presented in Table 2 below. The table also contains an analysis of the predicted vote for LD 9A and LD 9B. Looking at Table 2, the estimates produced indicate that the Native American preferred candidate of choice, the Democratic candidate in each case, would have prevailed in LD 9 in four of the six elections analyzed, or 67% of the time. In LD 9A, the Native American preferred candidate would win six of six elections analyzed, or 100% of the time. In LD 9B, the Native American preferred candidate would win two of six races, or 33% of the time.

Table 2. LD 9-Predicted Vote by Party

Election	LD 9		LD 9A		LD 9B	
	Dem.	Rep.	Dem.	Rep.	Dem.	Rep.
2020 Presidential	51.2	47.2	68.8	29.8	39.6	58.8
2020 U.S. House	47.2	50.6	64.8	32.8	35.6	62.3
2020 Governor	44.1	53.7	60.9	37.0	32.9	64.9
2018 U.S. Senate	69.1	30.9	82.6	17.4	58.0	42.0
2018 U.S. House	58.9	36.3	71.7	23.0	48.5	47.2
2018 Attorney General	58.1	41.9	73.5	26.5	45.5	54.5
Average	54.8	43.4	70.4	27.8	43.4	55.0

Note: Democratic and Republican vote percentages may not sum to 100% due to the presence of a third-party candidate.

D. Summary and Conclusion

Racially polarized voting is present within the boundaries of enacted LD 9 and, in fact, appears to be the prevailing pattern. At present, LD 9 contains a majority of Native American voting age population, as does LD 9A. LD 9, therefore, is a Section 2 minority opportunity-to-elect district for Native Americans. Under its present configuration, LD 9 and LD 9A demonstrate an ability to consistently elect a Native American candidate of choice. Given the presence of racially polarized voting in the district, it is unlikely that the Native American candidate of choice would be regularly elected if the district did not contain a majority Native American voting age population.

⁹If a third-party candidate were present in the race the estimated vote share for this individual would also be calculated.

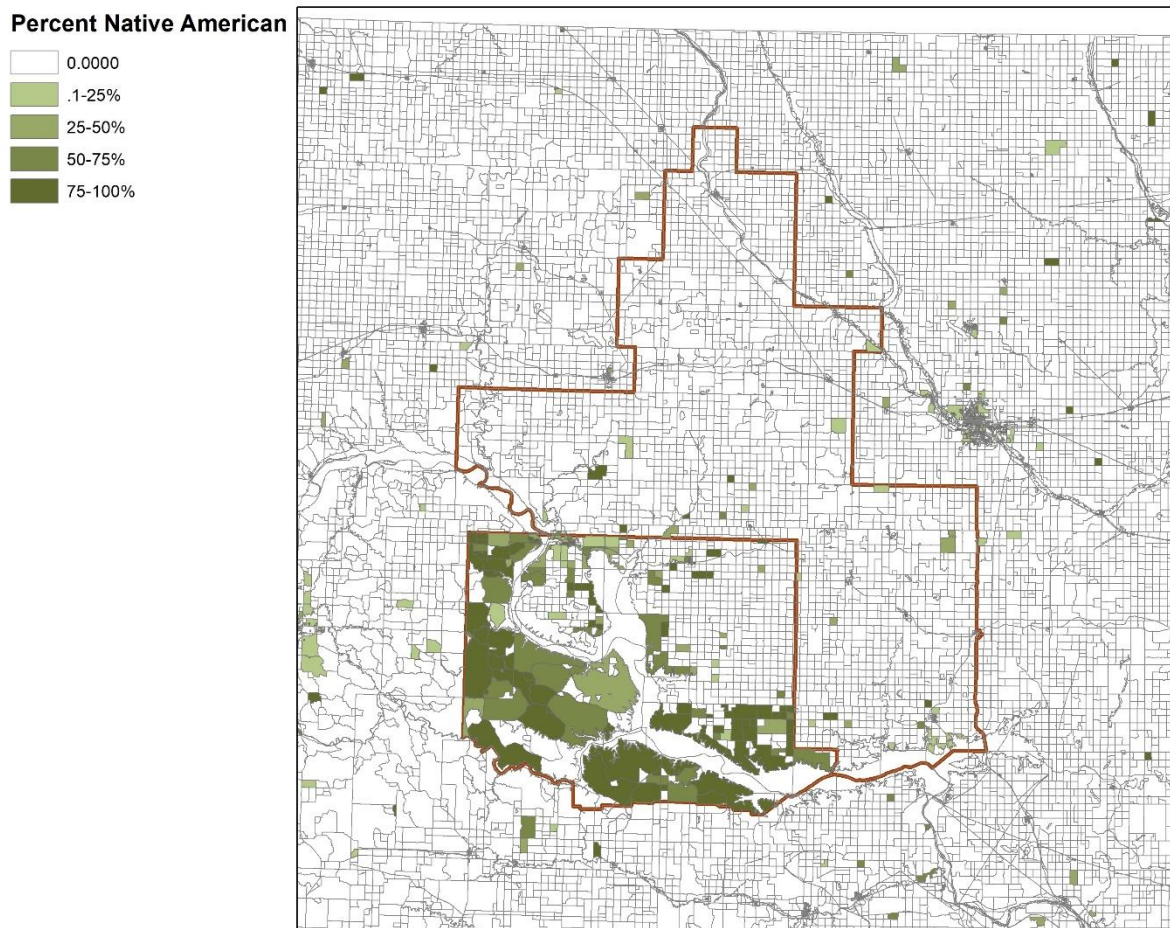
V. ANALYSIS OF LD 4

In this section, I repeat the same process utilized for the functional analysis carried out on LD 9 in Section IV.

A. Can a Majority-Minority District Be Created?

LD 4 in the enacted legislative plan contains a 31.0% Native American voting age population.¹⁰ LD 4 is also subdivided into LD 4A and LD 4B where each subdistrict serves as a single-member district for the purpose of electing members to the North Dakota House. Subdistrict 4A is 62.1% Native American VAP and LD 4B is 2.3% Native American VAP. LD 4 is not majority Native American in terms of voting age population. LD 4A is, however, majority Native American and for the purposes of electing a member to the North Dakota State House can serve as a minority opportunity-to-elect district. In the case of LD 4A, the first prong of the *Gingles* test is met. Figure 2 below displays enacted LD 4 along with its subdistricts. The Native American population at the Census block-level is also presented for reference.

Figure 1. Enacted LD 4 (with subdistricts) and Block-Level Native American Population



¹⁰Measured as single-race Native Americans of voting age population from the 2020 decennial Census. North Dakota 2022 Legislative Plan Statistics (<https://www.ndlegis.gov/assembly/67-2021/session-interim/2021-legislative-redistricting-maps>).

B. Is racially polarized voting present in the geographic area under study?

Table 3 details racial voting estimates for enacted LD 4 along with 95% confidence intervals for the same six elections used for the analysis of LD 9. For all six elections analyzed, there is a clear candidate of choice for Native American voters in LD 4, with the candidate of choice being the Democratic candidate in each of these contests. On the other side, white voters consistently support the Republican candidate in all six races. For the six elections analyzed, racially polarized voting is present 100% of the time.

Table 3. Racial Voting Estimates, LD 4

Election	White		Native American	
	Republican	Democrat	Republican	Democrat
2020 Presidential	82.8 [80.3, 85.2]	16.4 [14.0, 18.7]	9.7 [2.6, 21.5]	88.7 [77.0, 96.1]
2020 U.S. House	83.7 [81.3, 86.1]	15.2 [12.7, 17.4]	12.3 [3.7, 25.3]	84.2 [71.5, 93.3]
2020 Governor	79.5 [76.8, 82.2]	15.9 [13.1, 18.4]	17.6 [7.0, 31.1]	79.7 [66.3, 90.4]
2018 U.S. Senate	71.9 [68.9, 75.0]	28.1 [25.0, 31.1]	7.0 [1.1, 18.0]	93.0 [82.0, 98.9]
2018 U.S. House	77.1 [74.4, 79.7]	20.9 [18.2, 23.4]	9.9 [2.5, 21.6]	88.0 [76.4, 95.8]
2018 Attorney General	81.2 [78.2, 84.3]	18.8 [15.7, 21.8]	9.7 [2.0, 22.5]	90.3 [77.5, 98.0]

Notes: Entries are estimates of vote share by race and party with 95% confidence estimates in parentheses.

C. Is the Native American Candidate of Choice Typically Defeated?

The predicted vote share by party for the six election contests analyzed for LD 4 is presented in Table 4 below. The table also contains an analysis of the predicted vote for LD 4A and LD 4B. Looking at Table 4, the estimates produced indicate that the Native American preferred candidate of choice, the Democratic candidate in each case, would be defeated in LD 4 six out of the six elections analyzed, or 100% of the time. In LD 4A, the Native American preferred candidate would win five of six elections analyzed, or 83% of the time. In LD 4B, the Native American preferred candidate would lose all six races, or 100% of the time.

Table 4. LD 4-Predicted Vote by Party

Election	LD 4		LD 4A		LD 4B	
	Dem.	Rep.	Dem.	Rep.	Dem.	Rep.
2020 Presidential	29.8	68.4	51.3	46.0	18.1	80.7
2020 U.S. House	27.7	69.5	48.1	47.4	16.7	81.6
2020 Governor	27.5	67.4	46.3	48.4	17.3	77.7
2018 U.S. Senate	40.8	59.2	60.8	39.2	30.0	70.1
2018 U.S. House	32.9	63.5	52.4	42.5	22.2	75.0
2018 Attorney General	32.7	67.3	54.6	45.4	20.8	79.2
Average	31.9	65.9	52.3	44.8	20.9	77.4

Note: Democratic and Republican vote percentages may not sum to 100% due to the presence of a third-party candidate.

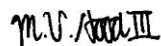
D. Summary and Conclusion

LD 4 in the enacted plan is, without exception, characterized by the presence of racially polarized voting. The Native American candidate of choice in LD 4 and LD 4B would be defeated 100% of the time. Again, LD 4 and LD 4B are majority white voting age population. LD 4A on the other hand contains a majority Native American voting age population. In the case of LD 4A, the Native American candidate of choice would be elected more than a majority of the time (83%). With the exception of LD 4A, it is highly unlikely that a Native American preferred candidate of choice would be elected within the geographic boundaries of LD 4 as a whole.

VI. DECLARATION

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on January 17, 2023.



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Appendix: Reliance Materials

North Dakota 2022 Enacted Legislative Plan Shapefile (<https://www.ndlegis.gov/assembly/67-2021/special/approved-legislative-redistricting-maps>).

North Dakota 2022 Enacted Legislative Plan Statistics (<https://www.ndlegis.gov/assembly/67-2021/session-interim/2021-legislative-redistricting-maps>).

North Dakota Precinct Shapefiles. North Dakota Secretary of State.

Precinct Election Returns. North Dakota Secretary of State. (<https://sos.nd.gov/elections.html>).

U.S. Census Bureau. 2020 P.L. 94-171 Data for North Dakota (<https://data.census.gov/table>).

U.S. Census Tiger/Line Shapefiles (<https://www.census.gov/geographies/mapping-files/time-series/geo/tiger-line-file.html>).

Curriculum Vitae
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Ph.D.	Political Science	Texas Tech University	1997
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Peer-Reviewed Books:

Rural Republican Realignment in the Modern South: The Untold Story. 2022.
Columbia, SC: The University of South Carolina Press. (Seth C. McKee, co-author).

The Rational Southerner: Black Mobilization, Republican Growth, and the Partisan Transformation of the American South. 2012. New York: Oxford University Press.
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“The Hardest Path to Reelection: Dueling Incumbent House Primaries in 2022.” 2022 (Online First). *The Forum*. (Seth C. McKee, co-author).

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- “The Participatory Consequences of Florida Redistricting.” 2015. In *Jigsaw Puzzle Politics in the Sunshine State*, Seth C. McKee, editor. Gainesville, FL: University of Florida Press. (Danny Hayes and Seth C. McKee, co-authors).
- “Texas: Political Change by the Numbers.” 2014. In *The New Politics of the Old South, 5th ed.*, Charles S. Bullock, III and Mark J. Rozell, editors. New York: Rowman and Littlefield Publishers, Inc. (Seth C. McKee, co-author).
- “The Republican Party in the South.” 2012. In *Oxford Handbook of Southern Politics*, Charles S. Bullock, III and Mark J. Rozell, editors. New York: Oxford University Press. (Quentin Kidd and Irwin Morris, co-authors).
- “The Reintroduction of the *Elephas maximus* to the Southern United States: The Rise of Republican State Parties, 1960-2000.” 2010. In *Controversies in Voting Behavior, 5th ed.*, David Kimball, Richard G. Niemi, and Herbert F. Weisberg, editors. Washington, DC: CQ Press. (Quentin Kidd and Irwin Morris, co-authors).
[Reprint of 2004 *APR* article with Epilogue containing updated analysis and other original material.]
- “The Texas Governors.” 1997. In *Texas Policy and Politics*, Mark Somma, editor. Needham Heights, MA: Simon & Schuster.

Book Reviews:

- The Resilience of Southern Identity: Why the South Still Matters in the Minds of Its People*. 2018.
Reviewed for *The Journal of Southern History*.

Other Publications:

- “Provisionally Admitted College Students: Do They Belong in a Research University?” 1998. In *Developmental Education: Preparing Successful College Students*, Jeanne Higbee and Patricia L. Dwinell, editors. Columbia, SC: National Resource Center for the First-Year Experience & Students in Transition (Don Garnett, co-author).

NES Technical Report No. 52. 1994. “The Reliability, Validity, and Scalability of the Indicators of Gender Role Beliefs and Feminism in the 1992 American National Election Study: A Report to the ANES Board of Overseers.” (Sue Tolleson-Rinehart, Douglas R. Davenport, Terry L. Gilmour, William R. Moore, Kurt Shirkey, co-authors).

Grant-funded Research (UGA):

Co-Principal Investigator. “Georgia Absentee Ballot Signature Verification Study.” Budget: \$36,950. 2021. (with Audrey Haynes and Charles Stewart III). Funded by the Georgia Secretary of State.

Co-Principal Investigator. “The Integrity of Mail Voting in the 2020 Election.” Budget: \$177,080. (with Lonna Atkeson and Robert Stein). Funded by the National Science Foundation.

Co-Principal Investigator. “Georgia Voter Verification Study.” Budget: \$52,060. 2020. (with Audrey Haynes). Funded by Center for Election Innovation and Research.

Co-Principal Investigator. “An Examination of Non-Precinct Voting in the State of Georgia.” Budget: \$47,000. October 2008-July 2009. (with Charles S. Bullock, III). Funded by the Pew Charitable Trust.

Co-Principal Investigator. “The Best Judges Money Can Buy?: Campaign Contributions and the Texas Supreme Court.” (SES-0615838) Total Budget: \$166,576; UGA Share: \$69,974. September 2006-August 2008. (with Craig F. Emmert). Funded by the National Science Foundation. REU Supplemental Award (2008-2009): \$6,300.

Principal Investigator. “Payola Justice or Just Plain ‘Ole Politics Texas-Style?: Campaign Finance and the Texas Supreme Court.” \$5,175. January 2000-Januray 2001. Funded by the University of Georgia Research Foundation, Inc.

Curriculum Grants (UGA):

Learning Technology Grant: “Converting Ideas Into Effective Action: An Interactive Computer and Classroom Simulation for the Teaching of American Politics.” \$40,000. January-December 2004. (with Loch Johnson). Funded by the Office of Instructional Support and Technology, University of Georgia.

Dissertation:

“Capturing Bubba's Heart and Mind: Group Consciousness and the Political Identification of Southern White Males, 1972-1994.”

Chair: Professor Sue Tolleson-Rinehart

Papers and Activities at Professional Meetings:

“Rural Voters in Southern U.S. House Elections.” 2021. (with Seth C. McKee). Presented at the Virtual American Political History Conference. University of Georgia. Athens, GA.

“Mail It In: An Analysis of the Peach State’s Response to the Coronavirus Pandemic.” 2020. (with Audrey Haynes). Presented at the Election Science, Reform, and Administrative Conference. Gainesville, FL. [Virtually Presented].

“Presidential Republicanism and Democratic Darn Near Everything Else.” 2020. (with Seth C. McKee). Presented at the Citadel Southern Politics Symposium. Charleston, SC.

“Why Georgia, Why? Peach State Residents’ Perceptions of Voting-Related Improprieties and their Impact on the 2018 Gubernatorial Election.” 2019. (with Seth C. McKee). Presented at the Election Science, Reform, and Administrative Conference. Philadelphia, PA.

“The Demise of White Class Polarization and the Newest American Politics.” 2019. (with Seth C. McKee). Presented at the Annual Meeting of the Southern Political Science Association. Austin, TX.

“The Geography of Latino Growth in the American South.” 2018. (with Seth C. McKee). State Politics and Policy Conference. State College, PA.

“A History and Analysis of Black Representation in Southern State Legislatures.” 2018. (with Charles S. Bullock, III, William D. Hicks, Seth C. McKee, Adam S. Myers, and Daniel A. Smith). Presented at the Citadel Symposium on Southern Politics. Charleston, SC.

Discussant. Panel titled “Southern Distinctiveness?” 2018. The Citadel Symposium on Southern Politics. Charleston, SC.

Roundtable Participant. Panel titled “The 2018 Elections.” 2018. The Citadel Symposium on Southern Politics. Charleston, SC.

“Still Fighting the Civil War?: Southern Opinions on the Confederate Legacy.” 2018. (with Christopher A. Cooper, Scott H. Huffmon, Quentin Kidd, H. Gibbs Knotts, and Seth C. McKee). The Citadel Symposium on Southern Politics. Charleston, SC.

“Tracking Hispanic Growth in the American South.” 2018. (with Seth C. McKee). Presented at the Annual Meeting of the Southern Political Science Association. New Orleans, LA.

“An Assessment of Online Voter Registration in Georgia.” 2017. (with Greg Hawrelak and Colin Phillips). Presented at the Annual Meeting of Election Sciences, Reform, and Administration. Portland, Oregon.

Moderator. Panel titled “What Happens Next.” 2017. The Annual Meeting of Election Sciences, Reform, and Administration. Portland, Oregon.

“Election Daze: Time of Vote, Mode of Voting, and Voter Preferences in the 2016 Presidential Election.” 2017. (with Seth C. McKee and Dan Smith). Presented at the Annual Meeting of the State Politics and Policy Conference. St. Louis, MO.

“Palmetto Postmortem: Examining the Effects of the South Carolina Voter Identification Statute.” 2017. (with Scott E. Buchanan). Presented at the Annual Meeting of the Southern Political Science Association. New Orleans, LA.

Panel Chair and Presenter. Panel titled “Assessing the 2016 Presidential Election.” 2017. UGA Elections Conference. Athens, GA.

Roundtable Discussant. Panel titled “Author Meets Critics: Robert Mickey's Paths Out of Dixie.” 2017. The Annual Meeting of the Southern Political Science Association. New Orleans, LA.

“Out of Step and Out of Touch: The Matter with Kansas in the 2014 Midterm Election.” (with Seth C. McKee and Ian Ostrander). 2016. Presented at the Annual Meeting of the Southern Political Science Association. San Juan, Puerto Rico.

“Contagious Republicanism in North Carolina and Louisiana, 1966-2008.”(with Jamie Monogan). 2016. Presented at the Citadel Symposium on Southern Politics. Charleston, SC.

“The Behavioral Implications of Racial Resentment in the South: The Intervening Influence of Party.” (with Quentin Kidd and Irwin L. Morris). 2016. Presented at the Citadel Symposium on Southern Politics. Charleston, SC.

Discussant. Panel titled “Partisan Realignment in the South.” 2016. The Citadel Symposium on Southern Politics. Charleston, SC.

“Electoral Implications of Racial Resentment in the South: The Influence of Party.” (with Quentin Kidd and Irwin L. Morris). 2016. Presented at the Annual Meeting of the American Political Science Association. Philadelphia, PA.

“Racial Resentment and the Tea Party: Taking Regional Differences Seriously.” (with Quentin Kidd and Irwin L. Morris). 2015. Poster presented at the Annual Meeting of the American Political Science Association. San Francisco, CA.

“Race and the Tea Party in the Palmetto State: Tim Scott, Nikki Haley, Bakari Sellers and the 2014 Elections in South Carolina.” (with Quentin Kidd and Irwin L. Morris). 2015. Presented at the Annual Meeting of the Southern Political Science Association. New Orleans, LA.

Participant. Roundtable on the 2014 Midterm Elections in the Deep South. Annual Meeting of the Southern Political Science Association. New Orleans, LA.

“Race and the Tea Party in the Old Dominion: Split-Ticket Voting in the 2013 Virginia Elections.” (with Irwin L. Morris and Quentin Kidd). 2014. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.

- “Race and the Tea Party in the Old Dominion: Down-Ticket Voting and Roll-Off in the 2013 Virginia Elections.” (with Irwin L. Morris and Quentin Kidd). 2014. Paper presented at the Annual Meeting of the Southern Political Science Association. New Orleans, LA.
- “Tea Leaves and Southern Politics: Explaining Tea Party Support Among Southern Republicans.” (with Irwin L. Morris and Quentin Kidd). 2013. Paper presented at the Annual Meeting of the Southern Political Science Association. Orlando, FL.
- “The Tea Party and the Southern GOP.” (with Irwin L. Morris and Quentin Kidd). 2012. Research presented at the Effects of the 2012 Elections Conference. Athens, GA.
- “Black Mobilization in the Modern South: When Does Empowerment Matter?” (with Irwin L. Morris and Quentin Kidd). 2012. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.
- “The Legislature Chooses a Governor: Georgia’s 1966 Gubernatorial Election.” (with Charles S. Bullock, III). 2012. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.
- “One-Stop to Victory? North Carolina, Obama, and the 2008 General Election.” (with Justin Bullock, Paul Carlsen, Perry Joiner, and Mark Owens). 2011. Paper presented at the Annual Meeting of the Southern Political Science Association. New Orleans.
- “Redistricting and Turnout in Black and White.” (with Seth C. McKee and Danny Hayes). 2011. Paper presented the Annual Meeting of the Midwest Political Science Association. Chicago, IL.
- “One-Stop to Victory? North Carolina, Obama, and the 2008 General Election.” (with Justin Bullock, Paul Carlsen, Perry Joiner, Jeni McDermott, and Mark Owens). 2011. Paper presented at the Annual Meeting of the Midwest Political Science Association Meeting. Chicago, IL.
- “Strategic Voting in the 2010 Florida Senate Election.” (with Seth C. McKee). 2011. Paper Presented at the Annual Meeting of the Florida Political Science Association. Jupiter, FL.
- “The Republican Bottleneck: Congressional Emergence Patterns in a Changing South.” (with Christian R. Grose and Seth C. McKee). Paper presented at the Annual Meeting of the Southern Political Science Association. New Orleans, LA.
- “Capturing the Obama Effect: Black Turnout in Presidential Elections.” (with David Hill and Seth C. McKee) 2010. Paper presented at the Annual Meeting of the Florida Political Science Association. Jacksonville, FL.
- “The Republican Bottleneck: Congressional Emergence Patterns in a Changing South.” (with Seth C. McKee and Christian R. Grose). 2010. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.
- “Black Mobilization and Republican Growth in the American South: The More Things

Change the More They Stay the Same?” (with Quentin Kidd and Irwin L. Morris). 2010. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.

“Unwelcome Constituents: Redistricting and Incumbent Vote Shares.” (with Seth C. McKee). 2010. Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta, GA.

“Black Mobilization and Republican Growth in the American South: The More Things Change the More They Stay the Same?” (with Quentin Kidd and Irwin L. Morris). 2010. Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta, GA.

“The Impact of Efforts to Increase Early Voting in Georgia, 2008.” (With Charles S. Bullock, III). 2009. Presentation made at the Annual Meeting of the Georgia Political Science Association. Callaway Gardens, GA.

“Encouraging Non-Precinct Voting in Georgia, 2008.” (With Charles S. Bullock, III). 2009. Presentation made at the Time-Shifting The Vote Conference. Reed College, Portland, OR.

“What Made Carolina Blue? In-migration and the 2008 North Carolina Presidential Vote.” (with Seth C. McKee). 2009. Paper presented at the Annual Meeting of the Florida Political Science Association. Orlando, FL.

“Swimming with the Tide: Redistricting and Voter Choice in the 2006 Midterm.” (with Seth C. McKee). 2009. Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.

“The Effect of the Partisan Press on U.S. House Elections, 1800-1820.” (with Jamie Carson). 2008. Paper presented at the Annual Meeting of the History of Congress Conference. Washington, D.C.

“Backward Mapping: Exploring Questions of Representation via Spatial Analysis of Historical Congressional Districts.” (Michael Crespin). 2008. Paper presented at the Annual Meeting of the History of Congress Conference. Washington, D.C.

“The Effect of the Partisan Press on U.S. House Elections, 1800-1820.” (with Jamie Carson). 2008. Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.

“The Rational Southerner: The Local Logic of Partisan Transformation in the South.” (with Quentin Kidd and Irwin L. Morris). 2008. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.

“Stranger Danger: The Influence of Redistricting on Candidate Recognition and Vote Choice.” (with Seth C. McKee). 2008. Paper presented at the Annual Meeting of the Southern Political Science Association. New Orleans.

- “Backward Mapping: Exploring Questions of Representation via Spatial Analysis of Historical Congressional Districts.” (with Michael Crespin). 2007. Paper presented at the Annual Meeting of the American Political Science Association. Chicago.
- “Worth a Thousand Words? : An Analysis of Georgia’s Voter Identification Statute.” (with Charles S. Bullock, III). 2007. Paper presented at the Annual Meeting of the Southwestern Political Science Association. Albuquerque.
- “Gerrymandering on Georgia’s Mind: The Effects of Redistricting on Vote Choice in the 2006 Midterm Election.” (with Seth C. McKee). 2007. Paper presented at the Annual Meeting of The Southern Political Science Association. New Orleans.
- “Personalismo Politics: Partisanship, Presidential Popularity and 21st Century Southern Politics.” (with Quentin Kidd and Irwin L. Morris). 2006. Paper presented at the Annual Meeting of the American Political Science Association. Philadelphia.
- “Explaining Soft Money Transfers in State Gubernatorial Elections.” (with William Gillespie and Troy Gibson). 2006. Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.
- “Two Sides of the Same Coin?: A Panel Granger Analysis of Black Electoral Mobilization and GOP Growth in the South, 1960-2004.” (with Quentin Kidd and Irwin L. Morris). 2006. Paper presented at the Citadel Symposium on Southern Politics. Charleston, SC.
- “Hispanic Political Emergence in the Deep South, 2000-2004.” (With Charles S. Bullock, III). 2006. Paper presented at the Citadel Symposium on Southern Politics. Charleston.
- “Black Mobilization and the Growth of Southern Republicanism: Two Sides of the Same Coin?” (with Quentin Kidd and Irwin L. Morris). 2006. Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “Exploring the Linkage Between Black Turnout and Down-Ticket Challenges to Black Incumbents.” (With Troy M. Gibson). 2006. Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “Race and the Ideological Transformation of the Democratic Party: Evidence from the Bayou State.” 2004. Paper presented at the Biennial Meeting of the Citadel Southern Politics Symposium. Charleston.
- “Tracing the Evolution of Hispanic Political Emergence in the Deep South.” 2004. (Charles S. Bullock, III). Paper presented at the Biennial Meeting of the Citadel Southern Politics Symposium. Charleston.
- “Much Ado about Something? Religious Right Status in American Politics.” 2003. (With Mark C. Smith). Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.

- “Tracking the Flow of Non-Federal Dollars in U. S. Senate Campaigns, 1992-2000.” 2003. (With Janna Deitz and William Gillespie). Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.
- “PAC Cash and Votes: Can Money Rent a Vote?” 2002. (With William Gillespie). Paper presented at the Annual Meeting of the Southern Political Science Association. Savannah.
- “What Can Gubernatorial Elections Teach Us About American Politics?: Exploiting and Underutilized Resource.” 2002. (With Quentin Kidd and Irwin L. Morris). Paper presented at the Annual Meeting of the American Political Science Association. Boston.
- “I Know I Voted, But I’m Not Sure It Got Counted.” 2002. (With Charles S. Bullock, III and Richard Clark). Paper presented at the Annual Meeting of the Southwestern Social Science Association. New Orleans.
- “Race and Southern Gubernatorial Elections: A 50-Year Assessment.” 2002. (With Quentin Kidd and Irwin Morris). Paper presented at the Biennial Southern Politics Symposium. Charleston, SC.
- “Top-Down or Bottom-Up?: An Integrated Explanation of Two-Party Development in the South, 1960-2000.” 2001. Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “Cash, Congress, and Trade: Did Campaign Contributions Influence Congressional Support for Most Favored Nation Status in China?” 2001. (With William Gillespie). Paper presented at the Annual Meeting of the Southwestern Social Science Association. Fort Worth.
- “Key 50 Years Later: Understanding the Racial Dynamics of 21st Century Southern Politics” 2001. (With Quentin Kidd and Irwin Morris). Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “The VRA and Beyond: The Political Mobilization of African Americans in the Modern South.” 2001. (With Quentin Kidd and Irwin Morris). Paper presented at the Annual Meeting of the American Political Science Association. San Francisco.
- “Payola Justice or Just Plain ‘Ole Politics Texas Style?: Campaign Finance and the Texas Supreme Court.” 2001. (With Craig Emmert). Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.
- “The VRA and Beyond: The Political Mobilization of African Americans in the Modern South.” 2000. (With Irwin Morris and Quentin Kidd). Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “Where Have All the Republicans Gone? A State-Level Study of Southern Republicanism.” 1999. (With Irwin Morris and Quentin Kidd). Paper presented at the Annual Meeting of the Southern Political Science Association. Savannah.

- “Elephants in Dixie: A State-Level Analysis of the Rise of the Republican Party in the Modern South.” 1999. (With Irwin Morris and Quentin Kidd). Paper presented at the Annual Meeting of the American Political Science Association. Atlanta.
- “Stimulant to Turnout or Merely a Convenience?: Developing an Early Voter Profile.” 1998. (With Quentin Kidd and Grant Neeley). Paper presented at the Annual Meeting of the Southern Political Science Association. Atlanta.
- “The Impact of the Texas Concealed Weapons Law on Crime Rates: A Policy Analysis for the City of Dallas, 1992-1997.” 1998. (With Grant W. Neeley). Paper presented to the Annual Meeting of the Midwest Political Science Association. Chicago.
- “Analyzing Anglo Voting on Proposition 187: Does Racial/Ethnic Context Really Matter?” 1997. (With Irwin Morris). Paper presented to the Annual Meeting of the Southern Political Science Association. Norfolk.
- “Capturing Bubba's Heart and Mind: Group Consciousness and the Political Identification of Southern White Males, 1972-1994.” 1997. Paper presented at the Annual Meeting of the Midwest Political Science Association. Chicago.
- “Of Byrds[s] and Bumpers: A Pooled Cross-Sectional Study of the Roll-Call Voting Behavior of Democratic Senators from the South, 1960-1995.” 1996. (With Quentin Kidd and Irwin Morris). Paper presented to the Annual Meeting of the Southern Political Science Association. Atlanta.
- “Pest Control: Southern Politics and the Eradication of the Boll Weevil.” 1996. (With Irwin Morris). Paper presented to the Annual Meeting of the American Political Science Association. San Francisco.
- “Fit for the Greater Functions of Politics: Gender, Participation, and Political Knowledge.” 1996. (With Terry Gilmour, Kurt Shirkey, and Sue Tolleson-Rinehart). Paper presented to the Annual Meeting of the Midwest Political Science Association. Chicago.
- “¿Amigo o Enemigo?: Racial Context, Attitudes, and White Public Opinion on Immigration.” 1996. (With Irwin Morris). Paper presented to the Annual Meeting of the Midwest Political Science Association. Chicago.
- “¿Quedate o Vente!: Uncovering the Determinants of Hispanic Public Opinion Towards Immigration.” 1996. (With Irwin Morris and Kurt Shirkey). Paper presented to the Annual Meeting of the Southwestern Political Science Association. Houston.
- “Downs Meets the Boll Weevil: When Southern Democrats Turn Left.” 1995. (With Irwin Morris). Paper presented to the Annual Meeting of the Southern Political Science Association. Tampa.
- “¿Amigo o Enemigo?: Ideological Dispositions of Whites Residing in Heavily Hispanic Areas.” 1995. (With Irwin Morris). Paper presented to the Annual Meeting of the Southern Political Science Association. Tampa.

Chair. Panel titled “Congress and Interest Groups in Institutional Settings.” 1995. Annual Meeting of the Southwestern Political Science Association. Dallas.

“Death of the Boll Weevil?: The Decline of Conservative Democrats in the House.” 1995. (With Kurt Shirkey). Paper presented to the Annual Meeting of the Southwestern Political Science Association. Dallas.

“Capturing Bubba’s Heart and Mind: The Political Identification of Southern White Males.” 1994. (With Sue Tolleson-Rinehart). Paper presented to the Annual Meeting of the Southern Political Science Association. Atlanta.

Areas of Teaching Competence:

American Politics: Behavior and Institutions
Public Policy
Scope, Methods, Techniques

Teaching Experience:

University of Georgia, 1999-present.
Graduate Faculty, 2003-present.
Provisional Graduate Faculty, 2000-2003.
Distance Education Faculty, 2000-present.

Texas Tech University, 1993-1999.
Visiting Faculty, 1997-1999.
Graduate Faculty, 1998-1999.
Extended Studies Faculty, 1997-1999.
Teaching Assistant, 1993-1997.

Courses Taught:

Undergraduate:

American Government and Politics, American Government and Politics (Honors),
Legislative Process, Introduction to Political Analysis, American Public Policy, Political
Psychology, Advanced Simulations in American Politics (Honors), Southern Politics,
Southern Politics (Honors), Survey Research Internship

Graduate:

Election Administration and Related Issues (Election Sciences), Political Parties and Interest
Groups, Legislative Process, Seminar in American Politics, Southern Politics; Publishing for
Political Science

Editorial Boards:

Social Science Quarterly. Member. 2011-present.

Election Law Journal. Member. 2013-present.

Other Professional Service:

Listed expert. MIT Election Data and Science Lab.

Keynote Address. 2020 Symposium on Southern Politics. The Citadel. Charleston, SC.

Institutional Service (University-Level):

University Information Technology Committee, 2022-present.

University Promotion and Tenure Committee, 2019-2022.

University Program Review Committee, 2009-2011.

Chair, 2010-2011

Vice-Chair, 2009-2010.

Graduate Council, 2005-2008.

Program Committee, 2005-2008.

Chair, Program Committee, 2007-2008.

University Libraries Committee, 2004-2014.

Search Committee for University Librarian and Associate Provost, 2014.