



# Montana Districting and Apportionment Commission

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## MINUTES

April 12, 2010

Gallagher Business Building, Room 104  
University of Montana  
Missoula, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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### COMMITTEE MEMBERS PRESENT

Jim Regnier, Presiding Officer  
Jon Bennion  
Joe Lamson  
Pat Smith  
Linda Vaughey

### STAFF PRESENT

Rachel Weiss, Research Analyst  
Joe Kolman, Research Analyst  
Lisa Mecklenberg-Jackson, Attorney  
Dawn Field, Secretary

### AGENDA & VISITORS' LIST

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

## **CALL TO ORDER AND ROLL CALL**

- 00:00:03 Commissioner Regnier called the hearing to order at 6:30 p.m. in Room 104, Gallagher Business Building, University of Montana, Missoula, Montana. The Secretary took roll, all members were present (Attachment #3).
- 00:00:46 Commissioner Regnier welcomed those in attending the hearing, including those attending via teleconference from the Kalispell remote location. He said that the Commission values all testimony and wants the process to be as open and transparent as possible. The Commissioners and LSD staff introduced themselves. Commissioner Regnier explained that the purpose of the hearing is for the Commissioners to take public comment on the proposed districting and apportionment criteria (**EXHIBIT 1**). He announced that there would be a short executive session following the public hearing in which the commissioners would discuss a final meeting date to adopt the proposed criteria.

## **PUBLIC COMMENT**

### **• MISSOULA**

- 00:07:05 **Fred Thomas, Stevensville**, said, as 2003 majority leader, he and the Senate Republicans felt abridged by the last commission and that the last Districting and Apportionment Commission failed its task because it did not meet the Constitutional requirements for districting. He provided copies of Article V of the Montana Constitution and read aloud from it to support his statement (**EXHIBIT 2**). Mr. Thomas also distributed and discussed four maps showing past and current legislative districts to further illustrate his point (**EXHIBIT 3**). Mr. Thomas discussed Ravalli County Census 2000 numbers (**EXHIBIT 4**) and Hamilton area legislative districts specifically (**EXHIBIT 5**). He said that Montana voters want a fair deal and urged the Commissioners to create compact and contiguous districts as equal in population as practicable, as stated in the Constitution.
- 00:16:26 **Pat Williams, former United States Congressman and member of Montana's first Districting and Apportionment Commission, Missoula**, reviewed the history of redistricting in Montana since the process was first used in 1970s. Mr. Williams said that prior to 1970, the legislature redistricted itself, which did result in gerrymandering. He said that by looking at the past 40 years of apportionment results, it is obvious, with one exception in 1990, that the process has been very fair. Mr. Williams asked the current Commission to take care to protect the voting preferences of minorities and to uphold the standards set forth by the Supreme Court of the United States and of the State of Montana, which could mean slightly diminishing one standard in order to hold up another. He urged the Commissioners to do their best and to be fair but to remember that it would be impossible to please everyone.
- 00:22:43 **Sen. Ron Erickson, Missoula, SD 47**, discussed representation from his own personal perspective, being elected under two different districting plans during his tenure as an elected official. Sen. Erickson said that it was beneficial to him to have a strangely shaped and diverse district because he had the opportunity to meet all types of people from all walks of life and that when he gets to Helena,

he represents the whole state, not just his district. He begged the Commission to not return to the tight and compact districts of the past.

00:24:54 **Sen. Carolyn Squires, Missoula, SD 48**, said that she has been involved in three districting and apportionment processes and recognizes the difficulty of the job. She said the Commissioners must remember that the process is about the people, not the legislators, and that it is up to the Commission to present a good plan and that the census should be the primary driver of the process. Sen. Squires discussed her own experience as a legislator who has represented both a homogenous district and a diverse district. She concluded her testimony by saying that she does not support a smaller population deviation because representation of Montana's Native American population was significantly improved by the last redistricting. Sen. Squires said that without the 5% deviation used by the last Commission, that level of representation would not have occurred.

00:30:57 **Rep. Bob Lake, Hamilton, HD 88**, said that, given the huge technological improvements made in recent years, it is time to modernize the districting and apportionment process. He said that he has discussed this with Montana State University and was told that it would not be a major challenge to create a computer program that meet the requirements and guidelines, including the smallest of population deviations. Rep. Lake discussed several concerns, such as the differing needs of rural and urban communities, taking politics out of dealing with geographical barriers in the districting process, and the importance of striving for the lowest possible population deviation.

- **KALISPELL**

00:34:59 **Bob Keenan, Big Fork**, said that as a past President of the Montana Senate, he went through the last redistricting process. Mr. Keenan urged the Commissioners to utilize the legislative staff because, saying that they do good work and are nonpartisan. He said that it is very important that Commissioner Regnier, as the presiding officer, be fair and honest for the sake of the people of Montana.

00:36:51 **Sen. Bruce Tutvedt, Kalispell**, requested that the districting and apportionment process be a fair and open process and that the criteria be applied consistently and fairly across the state. He said that it is important to protect minority voting rights, that the use of political data should be prohibited, and that the LSD staff resources should be utilized to the fullest extent.

00:38:36 **Sen. Verdell Jackson, Kalispell**, discussed how his district was affected by the last districting process and said that many of his constituents felt disenfranchised and the Commission should guard against this.

00:39:39 **Rep. Scott Reichner, Big Fork, HD 9**, thanked the Commissioners for holding the public hearing. He discussed three points: the importance of keeping Native American representation intact, that the Seeley Swan valley should be given careful consideration because of the disenfranchised voter sentiment there, and that Flathead County was overpopulated by 5% in the last process. He said it must be fair to Democrats and Republicans across the state.

00:42:29 **Derek Skees, Flathead Valley resident**, said that the biggest issue is equality. Mr. Skees referenced Article V, section 4 of the Montana Constitution regarding the population equality standard and said that past Commissions have not applied the standard. Mr. Skees said it is very important that the current Commission pay close attention to population equality standards because of changes in federal case law regarding population standards, because of the ability to manipulate the makeup of a district when a plus or minus 5% deviation is allowed, and because the credibility of the previous Commission was undermined due to its decision to use a 5% deviation. He challenged Commissioner Regnier to be an unbiased voice for both sides of the aisle. Mr. Skees said the process must be fair to all and he challenged to Commission to use technology to create legislative districts using a 1% or less population deviation standard. He thanked the Commissioners for their service.

- **MISSOULA**

00:44:52 **Linda Frey, Missoula, resident of HD 94**, thanked the Commission for the opportunity to comment. She said that the "wagon wheel" approach used by the last Commission bifurcated neighborhoods, which has weakened voter turnout and undermined the democratic process. She said this has led to cynicism and disenfranchisement. She said that House Districts 94, 95, 96, and 97 are good examples of what political scientists call "cracking", which means the spreading out voters of a particular type among many districts in order to deny them a sufficiently large voting block in any district. She said she supports diversity but that such political practices should not be engaged in. She urged the Commission to work in a nonpartisan fashion and make impartial decisions. Finally, Ms. Frey said that the voters, not the Commission, should determine the outcome of elections.

00:48:03 **Pete Pettersen, Missoula**, distributed and discussed a map to illustrate the challenges facing the current redistricting process (**EXHIBIT 6**). Mr. Pettersen said that for example, he passes through three different districts to get from his home to his office and that his example is indicative of how Missoula is divided up. Mr. Pettersen reviewed registered voter statistics for Missoula County and that there is a difference of about 3,300 voters difference between the districts. He said that equality in representation is not there and that having an equal number of Democrats and Republicans serving doesn't necessarily mean that the people are being properly represented. Mr. Pettersen discussed another point of interest, saying that eight of the area's ten House District representatives live within one mile of where this hearing is being held. He asked if that was fair representation for people in areas such as Condon or Seeley Lake. Fair representation must be considered not only in terms of minorities but also in terms of rural and urban people, Mr. Petterson said. He discussed several other concerns regarding legislative fairness and thanked the Commission for their time.

00:56:14 **James Steele, Jr., former Chair, Confederated Salish and Kootenai Tribe, and candidate for HD 15**, said he would provide written comments from Senator Carol Juneau later. He referenced comments made about the relationship between the Salish and Kootenai Tribes and the Blackfoot Tribe and said his

opinion is that the tribes have worked in unison on a variety of fronts, including legislative representation, water rights, energy development, hunting and fishing issues, family, political, and tribal events. Mr. Steele also said that the Salish and Kootenai tribes are minorities on their own reservation and that, in the past, they have had to rely on Indian legislators from other districts to sponsor bills for the Flathead Reservation. He listed several projects and legislation carried by other Indian legislators on behalf of the Salish and Kootenai Tribes. He encouraged the Commission to uphold voter rights efforts related to the Indian vote, saying that Indians are a part of the Montana society and fabric and just want the same opportunities for representation as other citizens. He said it has been a privilege to work the Native American legislators.

01:02:35 **Sen. Jim Shockley, Victor, SD 45**, said that as a legislator, he likes congenial districts but that the redistricting process isn't about individual likes and dislikes. He said that it is about the needs of the people and meeting the requirements of the law, both of which were ignored by the last Commission. Sen. Shockley provided several examples. He said this must be about the people and the law, not the parties.

01:05:28 **Rep. Ron Stoker, Darby, HD 87**, said that under the current districting plan, he has to cross part of HD 88 to get back into his district. He said that he actually gained votes but still does not agree with the boundaries. Rep. Stoker said that the Commission should ignore the political parties and design districts based on the requirements of compactness, contiguousness, and population equality.

- **KALISPELL**

01:07:55 **Dean Jellison, Kalispell**, said that he served as a substitute Districting and Apportionment Commissioner for the last few months of the 2000 redistricting process, so is very familiar with how political the last process was. He said that with modern technology, districts can be tailor-made to lean one way or the other politically. Mr. Jellison discussed the 5-1 rule, redistricting in other states, and how population equality was dealt with in districts formed under the Montana's 2000 Commission. He said that under that plan, then-Commissioner Lamson manipulated districts to ensure that Democrats were either elected or re-elected. Mr. Jellison also discussed the past chair of the 2000 Commission and said that she indicated that, as an activist member of the Democrat Party, it was her duty to support Democrat members of the Commission and ensure that Indian tribes were adequately represented. Commissioner Regnier interrupted Mr. Jellison's testimony because of objections by audience members in Missoula.

01:13:54 Sen. Carolyn Squires stated that she was discreet in her comments about who had caused problems with the past districting process and that the attack by Mr. Jellison was inappropriate. She said that statistics and facts should be placed before the Commission, not statements on one's personality.

01:14:25 Commissioner Regnier asked the audience to limit their comments to redistricting criteria and to refrain from comments that would stir up old arguments. He said the Commissioners need to hear relevant information. Commissioner Regnier asked Mr. Jellison to continue.

- 01:14:52 Mr. Jellison said that it is important that the Commission establish rules by which it will operate and stick to them. He said he supports using a 1% maximum deviation, rather than a 5% deviation because a 1% deviation would greatly reduce the influence of party politics. Mr. Jellison said that the role of the chair is to ensure impartiality and that he is confident that Commissioner Regnier, with his judicial experience, will meet that criteria.
- 01:16:56 Commissioner Regnier reminded the audience to limit their comments to 3-5 minutes and to relevant suggestions.
- 01:17:29 **Sandy Welch, Flathead Valley resident**, asked the Commission to keep population equality as narrow and tight as possible. She said that the definition of success would be when the voters look at the plan and agree that the district lines make sense, that they are being fairly represented, and that communities and neighborhoods are intact.
- 01:18:56 **Rep. Keith Regier, Kalispell, HD 5**, encouraged the Commissioners to remember not only minorities but also the most important minority in Montana: the individual. He said that giving preference to any group will create unequal representation. Rep. Regier encouraged the Commissioners to take advantage of available computer technology and to use the nonpartisan legislative staff to guide them through the process.
- 01:19:45 **Damon Pace, Flathead County**, suggested that the districting process be approached similarly to a mathematics algorithm. Mr. Pace said by doing so, it would eliminate the influence of politics and would be fair and honest for the entire state.
- 01:21:13 **Eric Hummel, Whitefish**, encouraged the commission members to come up with a plan that all five could agree on and be proud of. He said that a 3-2 vote should not be satisfactory and that the Commissioners shouldn't stop working until they have a 5-0 vote.

#### BREAK

- **MISSOULA**

- 01:35:04 **Rep. Pat Ingraham, Thompson Falls, HD 13, past Clerk and Recorder for Sanders County**, said that she went through the districting process as a Clerk and Recorder. She said geography, compactness, contiguousness, and a low population deviation all must be components of a district's design and that those elements will decrease costs to counties and lessen voter confusion. She said that the idea behind districting is to protect the integrity of the voter. She said it is important to create uniform districts that have something in common and continuity. She suggested that the Commissioners visit with the people whenever possible, saying that they know their areas well and can give good information.
- 01:39:16 **Rep. Gordon Hendrick, Superior, HD 14**, said he represents a very diverse district and has every type of person and political agenda mixed into his constituency. He said his opinion is that communities that have been divided up

are not being treated fairly. He agreed with Rep. Ingraham's suggestion to visit in local areas and talk with the residents to see what the needs are in each particular area. Rep. Hendrick described his travels through his own district and said that it is difficult to fairly represent all of the people in his district under the current boundaries. He asked the Commissioners to listen to county officials, legislators, and the people.

01:43:12 **William Selph, student, University of Montana**, read portions of a Billings Gazette (November 17, 2007) article written by Craig Wilson, Political Science professor at Montana State University, Billings, regarding the 2000 districting and apportionment process. He said that it is time for the current Commission to correct the inequities of the last process. He discussed the socio-economic structure of his home town of Billings and how the districts there are designed. He said that districts in Missoula are vastly different. He encouraged the Commission to come as close as it can to the 1% population deviation. He encouraged the Commission to be fair to the American Indian population as well. He said, that as a future teacher, he wants to be able to tell his students that the system is working well and that he has faith in his government. He asked the Commission to serve the people, not the party that appointed them.

01:47:48 **Jason Smith, member of Salish and Kootenai tribes and descendent of Assiniboine-Sioux tribes**, said that as a former nonpartisan "Get out the Vote" coordinator and a former legislative staffer, he knows how important this process is. He asked the Commissioners to support the work of the last Commission because of the advancements made in Native American representation. Mr. Smith also addressed comments made at the April 8 hearing about the relationship between the Salish and Kootenai and the Blackfeet Tribes. Mr. Smith said that he does not agree with the comments and that his opinion is that the two tribes have a great deal in common and have worked collaboratively on many issues and projects, for the betterment of both. He listed a number of successful efforts undertaken by the two tribes. He asked that the Voters Rights Act continue to be upheld and to continue to maintain the 6% representation currently enjoyed by Montana's Native American population.

01:50:29 **Charles Robison, Missoula, student, University of Montana Law School and Business School**, said that the first three of the proposed criteria (**EXHIBIT 1**) are required by the Montana Constitution. He asked that the Commission treat these criteria very carefully, considering their importance. He said that the members of the Constitutional Convention were very wise to see the need for a separate body to design fair and impartial legislative districts. He encouraged the Commissioners to use as very small population deviation and to make use of mapping technology that considers compactness, contiguousness, communities of interest, and Montana's Indian communities. Mr. Robison said the interests of rural and urban areas should also be a consideration. He suggested that existing political and geographical boundaries and how they fit into communities of interest. He asked that the Commission give no consideration to party affiliation or to protecting incumbents. Mr. Robison discussed population equality and said that a 5% variation can result in certain districts having a greater voice than

another. He said that is not right or fair and that the legislature must represent all of the people equally.

- **KALISPELL**

01:55:29 **Carl Glimm, Kalispell**, said he has heard a similar theme in many of the comments in support of the Constitutional requirements for districting. He referred to comments made in support of diverse districts and said if that was the intent of the Constitution, there should be 100 at-large districts. He said that districts need to be compact and contiguous and that population equality must be a big consideration in order to provide fair representation. He encouraged the Commission to continue following the requirements of the Constitution.

01:57:28 **Dave Skinner, Kalispell**, said he agreed with the previous speakers. He said he thought that the previous districting process was a travesty. Mr. Skinner said that districts need to make sense and he warned the Commission that the people are watching to see what the current Commission will do.

01:58:28 **Pauline Sjodal, Kalispell**, discussed her concerns regarding the community of Essex and how representation was improved by the last districting process. She predicted that boundaries around Kalispell will be problematic in the next districting process and asked the Commissioners how they would handle that area.

02:00:02 **Denise Smith, Kalispell**, asked the Commission to strongly consider population equality, compactness, contiguousness, and to disregard party affiliation when establishing districts. She suggested that county commissioners and other elected officials who know their districts would be good resources to talk to when working on district boundaries.

- **MISSOULA**

02:01:12 Commissioner Regnier announced the Districting and Apportionment Commission's email address: [districting@mt.gov](mailto:districting@mt.gov). **Rachel Weiss, Research Analyst, Legislative Services Division (LSD)**, said that the site would be available soon to take public comment. She said that until the site is up and working, people can email comments to her email address: [rweiss@mt.gov](mailto:rweiss@mt.gov).

02:03:19 **Terry Nelson, Corvallis**, said that as a citizen, he just wants the process to be fair and to have politics taken out of the process. He said that GIS technology would be very useful and that the use of computers would remove a great deal of the bias that has occurred in the past. He said that the 1990 Commission used political fairness as one of its discretionary criteria and recommended that the current Commission use it also. He said that working with local Clerks and Recorders would also help the process work more smoothly.

02:06:14 **Nick Kaufman, Missoula**, said that the different needs of rural and urban areas is a big issue facing legislators and that the redistricting process can play a key role in working towards equalizing the issues between the two areas. He implored the Commission to look at Montana as a whole and to work towards as



fair a representation as possible so that rural and urban areas can work together for the betterment of Montana.

- 02:07:23 **Sen. Carol Williams, Missoula, SD 46**, said that she had to respond to previous references about the unfairness of two House districts in the Missoula area. She said that it must be remembered that people don't live in compact patterns and that neighborhoods, towns, and rivers, for example, don't follow straight lines. She agreed that communities of interest are very important but asked that the Commission not be too rigid or narrow as to not consider other factors in designing a district. She said that broad issues that affect all citizens, such as taxes, education, services, or environmental concerns, must be considered also.
- 02:10:35 **Rep. Michele Reinhart, full time student, part time legislator, Missoula, HD 97**, encouraged the Commission to maintain diversity in urban and suburban-mixed districts. She described the makeup of her district and said that the mix requires her to learn more about her constituents so that she can respond to their needs. Regarding allegations that the last districting process was unfair, Rep. Reinhart said it was quite fair and maintained a great deal of competitiveness. She said that if population equality only is considered, it could create unbalanced districts and allow a minority to dominate over a majority. She emphasized the importance of diverse and mixed districts and said that such districts require a legislator to be more open-minded and sympathetic to the constituents than if they represented one particular demographic, and that representing diverse districts would help legislators become better communicators, collaborators, and mediators.
- 02:15:04 **Alex Beal, resident of Lolo, attorney in Hamilton**, asked that the Commission use equality as its number one criteria and to stick to as small a population variance as possible. He said that a big problem is that people don't feel like they are being heard or represented, which is causing cynicism and distrust of the government. He asked that the Commission do its best to be fair when drawing the maps, and that the less the process is manipulated, the fairer the outcome will be.
- 02:17:49 **Betsy Hands, Missoula, HD 99**, said that her district is a very diverse one and ranges from downtown Missoula to Evaro, but that she looks at it as the opportunity to represent the interests of Missoula County. She said that everyone who lives in her district utilizes Missoula, so there is a shared community of interest. She said her constituents include rural and urban residents, students, the elderly, retired workers, renters, home owners, the disabled, and Native Americans. Rep. Hands said she has heard a clear message from both sides that this process should be nonpartisan and should be fair and transparent. She said that technology is useful but that it must be remembered that machines are not fail safe, nor do they understand geography or the unique needs of people. She said that a certain amount of flexibility must be allowed for special needs or circumstances and said that she supports using a 5% population deviation. Rep. Reinhart suggested that the mapping process begin with the districts as they currently exist, that districts be competitive and fair, and that swing districts would

be a good thing for the citizens. She said that the Voter Rights Act must remain at the forefront of the Commission's work and must remain a mandatory criteria.

- 02:22:51 **Sen. David Wanzenried, Missoula, SD 49**, said that resourcefulness and the value of hard work must not be overlooked, and that if a candidate is willing to put in the effort to go out and meet the constituents, they deserve a chance to be elected. He said that if a legislator does the job right, he will listen to all of the people of the state, not just those in his district. Sen. Wanzenried said that it is the diversity of the state that is at issue of this discussion and that it is diversity that makes a better legislator. He implored the Commission to maintain diversity in order to allow him to do a better job. Sen. Wanzenried also asked the Commission to allow a certain amount of flexibility on the population standard to allow for special circumstances and to also continue to uphold the Voters Rights Act as mandatory criteria. Sen. Wanzenried discussed fair and competitive legislative districts (**EXHIBIT 7**) and an analysis of Montana House and Senate districts from 2004-2008 (**EXHIBIT 8**). He said the information reflects the true nature of Montana voters and proves that no one political party has dominated during those years. He repeated the need to maintain diversity in Montana's voting districts.
- 02:31:58 **Dennis Hildebrand, Superior**, said that it doesn't matter how a district is lumped together or diced up because the bottom line is that there must be adequate representation for the individual. He said that the house district he resides in spans three different counties with very different demographics. He said it isn't fair to his representative to have to deal with that and that the diversity should happen when the legislators convene in Helena.
- 02:34:27 **Glen Wehe, Kalispell**, said he feels like he has watched a ping-pong game with all of the talk about diversity and continuity. He said that Constitution is very clear that continuity and the ability of a representative to reach his constituents is what is important and is what the Commission must consider.
- 02:36:11 **Derek Skees, Kalispell**, asked to add to his previous testimony. He said that using a 5% deviation standard could result in great differences in districts and would allow for disenfranchisement. He said that using a tighter standard would result in more exact representation.
- 02:37:12 **Hollis Poe, Missoula**, thanked commissioners for taking public comment early in the process, rather than later. He asked, that when it comes time for decision making, to please forget politics and to remember that there is a growing void being filled with voters who are increasingly unhappy with both political parties and who are watching this process closely.
- 02:39:47 The Commissioners thanked everyone for their comments. Commissioner Regnier said that a brief business meeting would be held to discuss the proposed hearing schedule and budget.

## **BUSINESS MEETING - DISCUSSION OF PROPOSED HEARING SCHEDULE AND BUDGET**

02:43:31 Ms. Weiss asked the Commissioners for feedback and discussion regarding the proposed hearing schedule. She suggested that a preliminary budget could be formulated if the Commissioners would estimate the number of public hearings they wished to hold. She said that LSD staff is available to meet with clerks and recorders, central committees, and other election officials, if the Commissioners desire. Commissioner Regnier asked the other Commissioners to think about it and said that a decision would be made at the Billings hearing.

02:46:49 Commissioner Regnier said that a date for executive action would be set at the April 19, 2010, Billings meeting. Ms. Weiss distributed copies of the 2000 hearing schedule (**EXHIBIT 9 - 2000 meeting/hearing schedule and EXHIBIT 10 - proposed executive action meeting dates**). Ms. Weiss said the highlighted dates show the available dates. After discussion, it was agreed that the Commissioners would consult their calendars and get back to Ms. Weiss.

#### **ADJOURNMENT**

02:52:21 With no further business before the Commission, the hearing was adjourned. The next meeting of the Districting and Apportionment Commission is scheduled for April 19, 2010, in Billings, Montana.

*The Commissioners also received a packet of public comment submitted in advance of the meeting (**EXHIBIT 11**). All public comment is available for viewing on the Commission's website: [http://leg.mt.gov/css/Committees/interim/2009\\_2010/districting/default.asp](http://leg.mt.gov/css/Committees/interim/2009_2010/districting/default.asp)*

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