



# Montana Districting and Apportionment Commission

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## Staff:

Susan Byorth Fox  
Research Analyst  
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Attorney

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

Old Supreme Court Chambers  
State Capitol  
December 6, 2002

### COMMITTEE MEMBERS PRESENT

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

### STAFF PRESENT

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

### VISITORS

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

### COMMITTEE ACTION

- Approved a Sanders County Commission request to amend Plan 300 in the Western Region to match their school district lines
- Approved proposed amendment #2 requested by Senator-elect Bales for Powder River County in the Southeast Region. (The amendment moves 34 persons from proposed house district #29 to proposed house district #25.)
- Approved Amendment #2 for the Southwest Region as requested by Senator Grosfield and Senator-elect Esp which moves population from proposed house district #47 into proposed house district #48 southwest and northeast of Livingston and moves population

- in southwest Sweet Grass County from proposed house district #46 in proposed house district #47 that includes the entire McLeod Elementary School District
- Approved the tentative adoption of Plan 300 as amended

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

The meeting was called to order by Commissioner Pretty On Top, Presiding Officer, at 10:00 a.m. Roll call was noted; all Commission members were present. (ATTACHMENT #3)

**Commissioner Pretty On Top:** There are several things that we wish to do in this hearing process. First will be a brief overview of the process that our Commission has gone through up to this time and I will call on Ms. (Susan) Fox. Also, I will ask Mr. (John) McMaster to review the criteria that we have used. We will also ask Ms. Fox to review the maps and the senate pairings that we are having the hearing about today. Second, we will invite testimony from the public on the senate pairings, and we will have a hearing process that I will describe at that time as we begin that part of the meeting. The third item on the agenda is that we will have an Executive Session to deal with some of the amendments and business related to the senate pairings. Now, I would like to call on Ms. Fox to describe, in brief, the process of districting and apportionment.

**Ms. Susan Fox, Research Analyst, Legislative Services Division:** This Commission was appointed in 1999. Statutorily, it is required to be appointed in the session prior to the Census. The House and Senate majority and minority leadership each selected one member of the Commission. Members of the Commission were then given an opportunity to appoint a Chairman. When they were unable to do so, the Constitution provides that the Supreme Court appoints the Presiding Officer. The Supreme Court unanimously chose Janine Pease Pretty On Top as the Presiding Officer. After the Commission was appointed, they adopted criteria, which John (MacMaster) will speak of later. Once we receive the Census data, that's what triggered the actual redistricting process.

The bottom line in redistricting is "one person, one vote" which is driven by population. The ideal population of a district in Montana is 9,022. The Commission decided to start in the area between Glacier County and Great Falls. They went in a clockwise motion around the state and held over 14 or 15 public hearings. I went and visited the areas prior to these hearings, talked to various county officials and the central committees from each county to gather information to develop some plans. We also had some Commissioners who had done some outreach and spoke to people and brought back plans as well.

The Commissioners and public received copies of these plans. There are generally between three and five plans for each region. The Commission and staff visited each of these areas and gathered public testimony, came around the state, and finished the House Districts in September. We waited for the Senate Districts until after the November election so we could determine who had won the seats. One-half of the Senate is required to be elected every four years. So, the 25 Senators who were elected at this election are considered holdover Senators for the purposes of redistricting. Those 25 Senators were then assigned a Senate District, and the Commission also adopted the Senate Districts. You may see maps that have the adopted House and Senate Districts to date. **(EXHIBIT #1)**

Today is the one statutorily required public hearing of the Commission. It is required to be held here in the Capitol in Helena and it is on all 150 districts. This fulfills the Commission's only statutory responsibility for public hearings. So, they did hold considerably more regional public hearings around the state. From this point, as soon as the Commission finishes the plan today, the plan is required to be submitted to the Legislature by the 10th legislative day. The Legislature has 30 days to make recommendations. It has no power over this plan. The Commission is given the Constitutional authority over this plan, but the Legislature can make recommendations and submit them back to the Commission who then has 30 days to take them under consideration. At the end of the 30-day period, the Commission will take the plan to the Secretary of State and it becomes law. At this point, that date would be about mid-March, though, in the last two rounds the plans have been submitted by the end of February.

**John MacMaster, Staff Attorney, Legislative Services Division** provided an overview of the criteria and operational guidelines for legislative redistricting adopted by the Commission. **(EXHIBIT #2)**

### **PUBLIC COMMENT**

**Caleb Shields, Chief of Staff, Fort Peck Tribes**, provided written comments and a tribal resolution of the Fort Peck Tribes in support of the creation of an Indian-majority senate district under Option A. **(EXHIBIT #3)**

Mr. Shields also provided written testimony from the Geri Small, President, Northern Cheyenne Tribe in support of Option A. **(EXHIBIT #4)**

**Commissioner Jellison:** Are you familiar with the actions, so far, that the Commission has taken with regard to creating House Districts and Senate Districts?

**Mr. Shields:** To a certain degree. I haven't been involved in the last year, but I did review what was accomplished.

**Commissioner Jellison:** It is my understanding that the Commission has given the tribes everything they asked for. Am I hearing you asking for more than that?

**Mr. Shields:** From what the Commission has approved up to now is what we are supporting.

**Commissioner Jellison:** Do you feel that what the Commission has approved is a fair and equitable treatment of the tribes.

**Mr. Shields:** I think it meets the Voting Rights Act.

**Commissioner Lamson:** This isn't a question so much for Mr. Shields it is just to clarify the changes that were made specifically on the Fort Peck Reservation. The changes that were made were supported by not only the Tribal Council but the County Commissioners in that area as well. We had consensus on that part of the district.

**Margarett Campbell, Assiniboine Tribal Member, Fort Peck Reservation:** I have lived on my home reservation for just a little over six years. Prior to 1996, I lived on the Fort Belknap Reservation where I was actually born and spent the first portion of my life. For those who may not be aware of this, there are four bands of Assiniboine in the United State and 14 bands in Canada. On the Fort Peck Reservation, we have the Canoe Paddlers and the Red Bottom Band. On the Fort Belknap Reservation, there are the River Band and the Mountain Band of Assiniboine. We share the Assiniboine language. The mandatory criteria for legislative districts states that "no district plan or proposal for a plan is acceptable is it affords members of a racial

or language minority group less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. I can testify as a person who is very familiar with the three reservations of the Rocky Boy, Fort Belknap, and Fort Peck that we are a language-minority group. Alvin Windy Boy, Chairman of the Chippewa Cree Tribe, is one-half Assiniboine. His mother was a full blood from Fort Belknap. Ben Speak Thunder, Chairman of the Fort Belknap Tribal Council, is an Assiniboine. Arlen Headdress, Chairman of Fort Peck, is an Assiniboine. Do they share a language? Yes, they do. I spent 14 years as an administrator of Fort Belknap (Community) College--10 years as the President. In reading the discretionary criteria, weight is given to community of interest. The three reservations of Rocky Boy, Fort Belknap, and Fort Peck share the following that qualify as community of interest:

- The three tribal colleges share a teacher-training partnership program between Stone Child, Fort Belknap, and Fort Peck with MSU-Northern behind a host institution. The distance between our reservations has not been a factor in our traveling from one reservation to another. We meet frequently at MSU-Northern and on each of our reservations.
- We enroll members of each other tribes in our college programs, and through intermarriage, we have members who live on each others' reservations. At Fort Peck, we currently enroll Chippewa Cree, Gros Ventre, and Belknap Assiniboines in our tribal college. This applies to the other two tribal colleges as well.
- We use the same form of media markets. It is not uncommon for use to use Indian County Today, the Lakota Journal, and several of our tribal newspapers as forms of media. We use Native American radio, special organizations by the MT-WY Tribal Leaders Council, and we advertise in each other newsletters.
- We share cultural and economic interests in occupations and our lifestyles. The Honorable Chairman Shields mentioned pow wows which is something that is very much a part of our lives.
- Other issues we share include water right land and religious and historic sites. Obviously, if the Assiniboine covers Fort Belknap and Fort Peck, the historic sites that are specific to the Assiniboine are of interest to each other.
- Education, tribal college specific issues, and health issues are others. For example, Fort Belknap dialysis patients are all transported to Fort Peck's Indian Health Service for dialysis treatment and to see our endocrinologist. The distance does not matter. In closing, driving 300 miles is nothing new to us. Certainly, with cell phones, e-mail, and technological conferencing capabilities, the distance should not be an issue.

In eastern Montana, the population has decreased over the past 20 years. That decrease clearly illustrates the need for big districts to have the required population within a district. Therefore, the proposed senate district #9 satisfies the mandatory and discretionary criteria which was required and adopted by the Montana Districting and Apportionment Commission. I support Plan 300 because it gives reservation communities a real opportunity to have a voice at the Legislature.<sup>1</sup>

**Allen Rome, Representative, House District #56, Garrison**, provided a copy of a petition from residents of House District #56 seeking modifications to Plan 300 for the Southwest

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<sup>1</sup>"Plan 300" refers to the plan proposed by Commissioners Rice and Lamson and is the plan as tentatively adopted by the Commission in its regional hearings across the state. At the point in time of this meeting, it is the only plan under discussion.

Region. The amendments are in regard to proposed house districts #70, #71, and #72 and seek to join Granite County with portions of Powell County, including the towns of Deer Lodge, Garrison, and Gold Creek (i.e. proposed Amendment #3). **(EXHIBIT #5)**

At one other meeting, Commissioner Lamson talked about the prison a little bit. A number of our people are employed from the Butte and Anaconda area at the prison. They have very little to do with the Deer Lodge per say community. I've been in business in Deer Lodge all of my life. I own the Ace Hardware Store there. They basically go to work, and on their way home, they will pick up a soda or a beer and they will drive home. Other than that, the people who do actually move to Deer Lodge, it is a bonus for us. With the loss of our population, it is very nice when it does happen when they are employed over a long period of time.

**Earl Martin, Granite County Commissioner and representing the Deer Lodge and Powell County Commissioners**, provided written testimony in support of proposed Amendment #3 for the Southwest Region. It joins Granite County with portions of Powell County, including the towns of Deer Lodge, Garrison, and Gold Creek. **(EXHIBIT #6)** As you know, Plan 300 splits the town of Anaconda down the railroad tracks. We could actually have two Representatives and a Senator in the town of Anaconda.

**Commissioner Lamson:** One of the issues that we have been discussing in terms of why we were drawing these two house districts and aligning them into a senate district, we had some varying testimony in terms of what alignment of how you put those two together worked. Obviously, people have different opinions on that. The point that I think that the current plan was trying to make was the shared communities of interest especially along the Deer Lodge and Anaconda sector in the Deer Lodge Valley in the sharing of various state institutions and common interests that are at the Legislature. I noticed that in last week's Montana Standard there was an article in which the County Commissioner of your three counties had hired a lobbyist to represent those shared communities of interest at the Legislature. From my standpoint, it seems that you do, in fact, have some shared communities of interest in that area. Wouldn't you agree?

**Mr. Martin:** We do share a lot of things, such as our sanitarian and our District Judge. However, we felt that this sort of districting was a little bit--maybe didn't have much concerns over what we share with the other two counties.

**Commissioner Lamson:** Some of our problem in areas is that we can't quite get all of the communities of interest together during the house districts so we try to make it up in the senate districts of putting folks together there. That is certainly the intention in that area.

**Ed Lord, Philipsburg:** I am also keenly interested in the area that Mr. Martin and Mr. Rome were speaking of, that is proposed house district #72. As I discussed with you at the hearing in Missoula, I still have the same concerns. We have common interest in some economic endeavors, however, we are basically a natural resource- and agricultural-based area, whereas, the south one-half of Anaconda, I think, is a retirement center now as much as anything. The way you've drawn the map, it looks like that there is quite a bit of area there, but the bulk of there, you have put in with our county is the Anaconda, Pintlar area. The population is centered really in the south one-half of Anaconda. I would really wish that you would consider Amendment #3 and make it a part of your redistricting plan.

**Hal Jacobsen, Representative, House District #54**, provided written comments from Senator Bea McCarthy, Senate District #29, in support of Plan 300. **(EXHIBIT #7)**

**Bruce Sunchild, Vice Chairman, Chippewa Cree Tribe, Rocky Boy's Reservation**, provided written comments and a resolution in support of Option A as amended (Plan 300 for proposed senate districts). **(EXHIBIT #8)**

**Victor Miller, Chair, Blaine County Commission:** Within the boundaries of our county is the majority of the land of the Fort Belknap Reservation. As you are all keenly aware, as of March of this year, Blaine County ended a legal fight with the federal government concerning at-large voting within Blaine County as it applies to County Commission districts. At that point, we were ordered to put together a plan which would have three County Commissioner districts as opposed to at-large voting. Through the better part of April and May, we started a process which included public hearings within our communities and put forth a plan that, in the end, also included the collaboration of the Fort Belknap Community Council, the ACLU, the federal government, some new lawyers that showed up with the federal government, and interested parties along the way. The process has given me a high appreciation of you all have to do. In fact, I walked away and think the quote is "I've just walked through an exercise of ego and greed." With that said, in that process, we put forth a plan that we thought met the needs of everybody. We used the term community of interest, as well, so I was surprised on Monday morning when I read the paper that you had been quoted as well using the term "community of interest". I understand going out and doing your very hard job.

What we had asked and requested earlier was a slight tweaking so that proposed house districts #16 and #18 would fall in line with our newly revised precincts, under the assumption that you have our cover letter and maps. Part of the frustration that you are all facing along the way has to do with the fact that even though you put a plan together, you still have ongoing negotiation. I was really frustrated that even after we had the plan submitted, we still had ongoing negotiation. However, in June on election day, we held our hearing with the Judge and Blaine County was told adamantly by the Judge that we were to be commended for the process we used. I'm very comfortable with the maps that we now have to work with even though they have, in my opinion, split some communities and made things harder on my citizens to vote. Nonetheless, they are what we have to work with. What we requested is merely a changing of proposed house district #16 and #18 to show that change in the precincts that we are now dealing with. We are not asking that out of greed and ego; we are merely asking on behalf of our citizens so that we can end some of the confusion when they go to their precincts and vote.

**Bob Ream, Chair, Montana Democratic Party**, provided written comments in support of the Commission's work. **(EXHIBIT #9)**

**Commissioner Rehberg:** Who appointed Jack Pineseault to serve on the Commission 10 years ago?

**Mr. Ream:** Senator Bill Norman who has, as you know, last summer became a Republican.

**Commissioner Rehberg:** Was Mr. Pineseault a Democrat or a Republican?

**Mr. Ream:** I don't know. I frankly don't know. He lived in my district but I don't know.

**Commissioner Rehberg:** I find it interesting that you continue to, in your comments, attack on this Redistricting Commission. Have you not, as Chairman of the Democrat Party, continue to do the same thing on the Commission that was held 10 years ago?

**Mr. Ream:** I did not.

**Commissioner Rehberg:** I have heard it at almost every Commission hearing primarily from Mr. (Commissioner) Lamson who I read about in the paper saying it was strictly partisan. My question is where did you come up with the idea that it was four Republicans and one Democrat.

**Mr. Ream:** Because I refer to Jack Pinsoneault as a Republican.

**Commissioner Rehberg:** Have you read the transcripts of the last Commission's hearings?

**Mr. Ream:** I did for my area that I served, yes.

**Commissioner Rehberg:** Had you read them, would you be aware that Mr. Pasma, as partisan as he was and as partisan as I am, at no time had any partisan discussions?

**Mr. Ream:** I am. I said that he was a gentleman all the way.

**Commissioner Rehberg:** Okay, I guess my question to you is--are you of the opinion that Susan Fox is a very partisan person.

**Mr. Ream:** No.

**Commissioner Rehberg:** Ten years ago as we did the Commission hearings, Susan Fox presented four plans--1, 2, 3, and 4--and we had the option of picking the plan that we thought best suited everybody. We followed, most of the time, Susan's Plan #1. We did not have either party doing their own thing. We let the Legislative Council do it or Legislative Services. Do you think that that probably would have been the proper way to do it this time?

**Mr. Ream:** I have the highest regard for our legislative staff. I worked with them for many years, and we have top-notch people. In fact, Montana has better than it deserves for the pay they give them. I am aware that they used that plan, but there were also lots of amendments to that plan through the process.

**Commissioner Rehberg:** There were, and they were pretty much nonpartisan, or, they were approved by both Republicans and Democrats. Do you have any idea how many votes we had that were Republican or Democrat?

**Mr. Ream:** I don't have that information at hand, no.

**Commissioner Rehberg:** Well, for your information, almost none.

**Sherm Anderson, Senator-elect, Senate District #28:** I reside in the community of Deer Lodge. Today, I am before you again, and I wish to not address any of the political rhetoric that seems to be being passed back and forth. I will to address simply the two adopted plans that you propose to adopt. In doing so, again, I wish to urge you to reconsider pertaining to the house redistricting (proposed) districts #71 and #72 which encompass Anaconda/Deer Lodge, Powell, and Granite Counties. In doing so, I would like to address, for your consideration, the amendment that we proposed back in June--I can't even remember now--but it's addressed and titled Amendment #3. I would like for you to just reconsider that amendment which simply redraws the boundaries that you have established to allow the city of Deer Lodge to be incorporated back into Powell County rather than to be incorporated into the city of Anaconda. It also does not split the city of Anaconda as your proposal does--splits Anaconda in one-half right down the railroad tracks. It also, your proposal, divides Granite County so that they are incorporated into the south portion of Anaconda and also into the north portion. So with that in mind, I would like for you to reconsider that and to take a good look at our proposed amendment because, in effect, it would not change your proposal to any great extent, but it does put our communities back together, especially our city of Deer Lodge which is the County seat. We also feel that it meets the discretionary criteria that you adopted back in April to follow a little bit better than your proposal.

Also, I have presented to you, in the past, petitions in support of our proposed amendment, and today, I supplied to (Ms. Fox) Susan some additional signatures to add to that which puts us in excess of 700 people in Anaconda, Deer Lodge, and Philipsburg in the three counties that are definitely in support of our amendment. If you have the time to go back to the original when I originally petitioned the Commission with out amendment and the first page of signature I attached to the amendment, you will find that all of the County Commissioners in Granite, Anaconda/Deer Lodge, and Powell Counties all signed on to the amendment that we are proposing. So, all of three counties, the County Commissioners are definitely in support of the amendment.

Today, as an added proposal to our amendment, we have submitted a proposal to amend our boundary. Basically, what we are doing there is just--between the Powell County and the Anaconda/Deer Lodge line--we are incorporating in that one school district that actually lies in Anaconda/Deer Lodge County but the school district--they go to Powell County to Deer Lodge to school, and also, the people who live in that particular area, vote in the Powell County area. It only involves 175 people. If you look at the population, it actually helps our balance between two proposals. If we could add that to our Amendment #3 and ask for your consideration, we would definitely appreciate it as three counties, three communities of Philipsburg, Anaconda, and Deer Lodge, and the County Commissioner all of whom are in support of it.

I will make one other comment pertaining to the adopted senate districts and the pairings. I would ask then that you consider our amendment, that you adopt our amendment for the house districts, and that, in your adoption of the senate districts, that you look at (proposed) senate districts #35 and #36, which involves me. I live in Deer Lodge, and I'm being assigned to (proposed) senate district #35 which will not encompass Deer Lodge and runs east all the way to Musselshell (County), some 200 road miles. For consideration, I would ask that you would assign me to (proposed) senate district #36 rather than #35. (Proposed) senate district #36 on your proposal is open and that would allow me to serve in my community as well as to serve Granite, Anaconda/Deer Lodge, and Powell Counties.

**PLEASE NOTE:**

**FROM THIS POINT FORWARD, THE MINUTES ARE NOT TRANSCRIBED FROM THE TAPES AS THE SUMMARY MINUTES ABOVE. THEY ARE TRANSCRIBED SOLEY FROM THE NOTES TAKEN.**

**Joe Tropila, Senator-elect, Senate District #24**, read a prepared statement written by Senator Steve Doherty, Senate District #24, Great Falls. **(EXHIBIT #10)**

**Keith Bales, Senator-elect, Senate District #1**, said that the Powder River County Commissioners would like to withdraw their proposed Amendment #1B for the Southeast Region and would like to see the current boundaries kept as they are. He agreed that the proposed senate pairings for proposed senate districts #13 and #14 were good pairings. However, he was assigned to proposed senate district #13 as the holdover Senator but that he lived in proposed senate district #14 in the southwest corner of Powder River County and that no holdover senator was assigned to that district. His proposed Amendment #2 (See Exhibit #1) for the Southeast Region would resolve his problem and put him into the district with the people who



elected him. He also requested that the Commission consider approximately 34 persons (precinct #7) from proposed house district #29 to proposed house district #25. (See Amendment #2 by Senator-elect Bales in Exhibit #17.)

**Jeff Mangan, Senator-elect, Senate District #23**, read a prepared statement from Senator Emily Stonington, Senate District #15, Bozeman, in support of the Commission's recommendations for the Bozeman and Gallatin County areas. **(EXHIBIT #11)**

Senator-elect Mangan also talked about his support for Option A under Plan 300 because it provided an excellent balance and use of house districts, particularly as they relate to the Great Falls area, and because it addresses the ability of Montana's Native American population to provide representation closer to their population of the state.

**Lorents Grosfield, Senator, Senate District #13**, provided written comments from the Sweet Grass County Commissioners in support of proposed Amendment #2 for the Southwest Region as proposed by him and Senator-elect Esp because it draws in the Boulder River Valley. **(EXHIBIT #12)** He asked for the Commission's support of the proposed amendment.

**Mike Fellows, Chairman, Libertarian Party**, said that changes were needed in the redistricting process because it provided no representation from other than the two major parties-- Republican and Democrat. The change would take power from an individual party's hands and a winner-takes-all approach to a more proportional representation approach. He added that even though Commissioner Lamson's proposal (Plan 300) created more swing districts than the other proposals, he felt that more work needed to be done to include other minority parties.

**Dave Gallik, Representative, House District #52**, read a prepared statement from Senator-elect Ken Hansen in support of Plan 300 for the Northcentral Region because it ties Blaine and Hill Counties together and allows him to continue to serve the people of that area. **(EXHIBIT #13)** He added that even though he supported Plan 300 because it was right for the state of Montana, precinct 17 which encompasses Broadway, Montana, and Chaucer Avenues in Helena were not included in his district making it more Republican.

**Gene Fenderson, Helena**, said that the Districting and Reapportionment Commission and the Montana Supreme Court were two of Montana's most powerful bodies, and the Montana Supreme Court unanimously chose Chairman Pretty On Top as the Presiding Officer of the Commission. She has done a good job and has chaired the Commission well.

**William "Allen" Talks About, Chairman, Blackfeet Tribal Business Council**, provided a resolution from the Blackfeet Nation in support of Option A under Plan 300 for the pairing of senate districts because Option A conforms to the Federal Voting Rights Act by drawing Indian-majority house districts with their pairings into Indian-majority senate districts which would not dilute the vote of Montana's American Indians. **(EXHIBIT #14)**

**Carol Juneau, Representative, House District #85**, presented written testimony by D. Fred Matt, Chairman, Confederated Salish and Kootenai Tribes and a resolution in support of Option A under Plan 300 for the pairing of Indian-majority house districts into Indian-majority senate districts in proposed senate districts #1, #9, and #14. **(EXHIBITS #15 and #16 respectively)** Rep. Juneau went on to say that Option A under Plan 300 prevents voter dilution and that Native

Americans have not been a part of the county government systems for many years (i.e., there has been one Native American elected to a Board of County Commissioner in Blaine County in the past 80 years.)

**Don Judge, Helena**, said that small businesses support Option A under Plan 300 because it would change the makeup of the Legislature, not in party but in debate in the districts.

**Commissioner Rehberg** commented that he was pleased with the Court decision on the 1990 Redistricting Plan. He said the last Commission was not involved in gerrymandering and that the Court agreed. Even though the Commission decided not to join with Attorney General Mike McGrath in his request for the Commission to join in the Old Person v. Cooney law suit, neither did it need to pass the resolution prepared by Commissioner Lamson.

He said that this Commission was highly partisan and that because of the way the plans were presented, it was difficult to understand what the proposals were. He added that according to Commissioner Lamson, there was no opposition to Plan 300 which was not the case. Commissioner Lamson also stated that if you wanted something, then amend (Plan) 300. He felt that opponents of Plan 300 were not listened to by the majority of the Commission and they needed to be heard.

Commissioner Rehberg said that the press had been fair and objective in reporting the proceedings of the Commission and that he enjoyed serving on the Commission.

**Commissioner Lamson** said that his only regret is that there was not more give and take in regards to the concrete proposals. He said that 1,500 people testified either by written or oral testimony and that Plan 300 had overwhelming support. He thanked the Commission's staff and the people who participated in the process.

**Commissioner Jellison** said that he became a new member of the Commission in June of 2002. At his first meeting, he pitched an amendment in regards to the Kalispell area and it was defeated on a 3 to 2 vote. In fact, if anything was proposed by the minority party of the Commission, it was defeated on a 3 to 2 vote.

Commissioner Jellison agreed with Commissioner Rehberg about the Commission's process and that there was good participation and fair press coverage.

**Commissioner Pretty On Top** said that the redistricting process was a dynamic process. There have been many population changes, incredible population growths and losses, and dynamic growth in the Native American population. She said that the Commission met the challenge of listening and that the process had been highly participative.

#### **EXECUTIVE SESSION**

Ms. Fox provided a copy of the Order of Regions as Considered by the Commission and Amendments Proposed for Staff Assistance. **(EXHIBIT #17)**

**Commissioner Lamson moved** the Sanders County Commission request to amend Plan 300 in the Western Region to match their school district lines. Motion passed unanimously.

**Commissioner Rehberg moved** proposed amendment #2 requested by Senator-elect Bales for Powder River County in the Southeast Region. (The amendment moves 34 persons from proposed house district #29 to proposed house district #25.)

Commissioner Lamson enthusiastically supported the motion because it provided some unique opportunities and was best for the area.

Commissioner Rehberg's motion passed unanimously.

**Commissioner Rice moved** the proposed amendment for the Southwest Region as requested by Senator Grosfield and Senator-elect Esp which moves population from proposed house district #47 into proposed house district #48 southwest and northeast of Livingston and moves population in southwest Sweet Grass County from proposed house district #46 in proposed house district #47 that includes the entire McLeod Elementary School District. Motion passed unanimously.

**Commissioner Lamson** discussed an amendment in regard to Gallatin County and withdrew any amendments pertaining to the Big Sky area until more information was available.

**Commissioner Lamson moved** that the Commission tentatively adopt Plan 300 as amended.

**Commissioner Jellison** said that the 5% population deviation criteria used by the Commission was a mistake. The United States Supreme Court has looked at the provisions of the U.S. Constitution for Congressional districts and the language says "as is practicable". The Montana Constitution uses the exact same language. However, there is some question as to meaning of "as is practicable". To some it means "if it can be done" and to others it means "if possible".

**Commissioner Lamson** said that according to the National Conference of State Legislatures and the United State Supreme Court, it was his understanding that the 5% population deviation was allowable.

Commissioner Lamson's motion passed on a 3 - 0 - 2 vote with Commissioners Lamson, Rice, and Pretty On Top voting yes and Commissioners Rehberg and Jellison abstaining.

Commission staff will prepare new maps with the changes made by the Commission, an overview of the maps, and a synopsis of the process used by the Commission in its adoption of the proposals. Renumbering of the proposed districts will not change until March and the next Commission hearing will be held in mid-February.

There being no further business, the meeting adjourned at 1:40 p.m.

CI2255 3141loxa.