



# Montana Districting and Apportionment Commission

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**Commission members:**

Janine Pease Pretty On Top  
Presiding Officer  
P.O. Box 447  
Lodge Grass, MT 59050

Joe Lamson  
612 Touchstone Circle  
Helena, MT 59601

Jack D. Rehberg  
2922 Glenwood Lane  
Billings, MT 59102

Sheila Rice  
913 3rd Ave.  
Great Falls, MT 59401

Dean Jellison  
116 Crestline Ave.  
Kalispell, MT 59901

**Staff:**

Susan Byorth Fox  
Research Analyst  
John MacMaster  
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.**

### EXECUTIVE SESSION -- BILLINGS LINCOLN CENTER BOARD ROOM MARCH 27, 2002

#### COMMITTEE MEMBERS PRESENT

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

#### STAFF PRESENT

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

#### VISITORS

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

#### COMMITTEE ACTION

- Approved the following minutes: the January 16, 2002, Executive Session--Havre; the January 16, 2002, Northeast Region Public Hearing--Havre; the January 17, 2002, Northeast Region Public Hearing--Glasgow; the February 19, 2002, Southeast Region Public Hearing--Miles City; and the February 20, 2002, Central Region Public Hearing--Lewistown
- Elected Commissioner Sheila Rice Vice Presiding Officer
- Adopted the proposed process for tentative adoption of regional plans for house districts

- Adopted Plan 300 as amended for the Northcentral Region
- Tentatively adopted Plan 300 as amended for the Northeast Region

**CALL TO ORDER AND ROLL CALL**

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

Commissioner Rice moved that the minutes from the January 16, 2002, Executive Session--Havre; the January 16, 2002, Northeast Region Public Hearing--Havre; the January 17, 2002, Northeast Region Public Hearing--Glasgow; the February 19, 2002, Southeast Region Public Hearing--Miles City; and the February 20, 2002, Central Region Public Hearing--Lewistown be approved.

Commissioner Lamson noted that several names had been misspelled and that he would provide staff with the correct spellings.

Commissioner Rice's motion passed unanimously.

**ADOPTION OF FUTURE WORK SCHEDULE**

Susan Fox, Research Analyst, Legislative Services Division, provided a copy of the Commission's Proposed Revised Working Schedule. (EXHIBIT #1) She said that for the purposes of the Legislative Services Division and staff, it would be very helpful if we adopted future meeting dates as far into the schedule as possible. Because we are one-half way through the state (48 districts) and in order to do the rest of the state justice, it would be nice if we could extend the time out for staff purposes because it will take more time to prepare some of the future plans. However, we do not want to extend it too far into the legislative election season.

Following a thorough discussion, the Commission adopted the following schedule:

- May 1, 2002: Executive Session in Helena to adopt the Southeast/Central and Southcentral Regions;
- May 21 and 22, 2002: Southwest Region Public Hearings--Bozeman, Butte, and Helena  
May 21, 2002, at 1:00 p.m. in Bozeman and 7 p.m. in Butte  
May 22, 2002, Helena at 1:00 p.m.
- June 17, 2002: Executive Session to adopt Southwest Region Plans
- August 12 and 13, 2002: Western Region Public Hearings--Kalispell, Pablo, and Missoula  
August 12, 2002, at 7:00 p.m. in Kalispell  
August 13, 2002, at 1:00 p.m. in Pablo and 7:00 p.m. in Missoula

The proposed dates from September 9 -13, 2002, through January 2003 are tentative and will be adopted at a later date.

Presiding Officer Pretty On Top asked if the Commission wished to discuss the need for a vice presiding officer.

**Commissioner Barkus:** I certainly recommend it. You never know what is going to happen. I would be pleased to make a motion that we nominate Jack Rehberg as Vice Presiding Officer.

**Commissioner Lamson:** I would also like to put in a motion to nominate Sheila Rice as Vice Presiding Officer.

Commissioner Rice was elected Vice Presiding Officer on a 2 to 1 vote (Commissioner Barkus voted for Commissioner Rehberg; Commissioners Lamson and Pretty On Top voted for Commissioner Rice; and Commissioners Rice and Rehberg abstained.)

### **PROPOSED PROCESS FOR TENTATIVE ADOPTION OF REGIONAL PLANS FOR HOUSE DISTRICTS**

**Ms. Fox** spoke to the Commission about the Proposed Process for the Tentative Adoption of Regional Plans for House Districts. (EXHIBIT #2) In the redistricting world, nothing is really black and white except for population figures and deviations. We have criteria that you have adopted to give you guidance, and they were derived from legal documents. We have court cases and the Constitution so that, for your protection and for the explanation to the public, that if in adopting a plan the Commission gives its reasoning for adopting a plan based on the criteria that it has adopted. I am not sure it is as important with the amendments unless they are substantive and make major changes. I may be over-reacting; but having been through litigation in the past, it is very useful to have on the record why people are choosing a plan and how you are interpreting and applying the criteria. What it really comes down to is how do the criteria and the plans fit together and what is your understanding of that criteria. We would ask that the Commission members address each of the mandatory and discretionary criteria and give reasons for adopting the plan and how it is applying the criteria.

**Commissioner Rehberg:** I **move** that we adopt the ground rules as prepared.

**Commissioner Lamson:** Sometimes we use seconds and sometimes we don't use seconds. We should probably decide whether we are going to use seconds or not.

**Commissioner Rehberg:** If we adopt the proposed rules, I would suggest that we do not.

Commissioner Rehberg's motion passed unanimously.

**Commissioner Barkus:** I would like to request the Commission to allow the staff to present recommendations regarding the districts. If a staff person has a recommendation relative to a district, I think it is important that the Commission understand it and know that. I do not know if that is appropriate or if it needs a majority. I just see that Susan has traveled state; she has been in and talked with the election officials; she has been talking to the Clerk and Records; she has experience; and she is non-partisan. I just think when we are facing a plan that has been presented by the Democratic Party that the other three plans that we are trying to assimilate and make a decision on, it would be nice to have a staff recommendation on.

**Commissioner Lamson:** The plan that was referred to as being done by the Party is actually submitted by me. I consult with the various Democratic legislators and members of the Party on them. But, as a Commissioner, I am submitting that particular plan. Just as the other plans reflect the comments that Susan hears from people. If you were in an area talking with folks who are predominately of one political party persuasion and if you analyze the plans, those concerns are addressed in those plans. What I am concerned about is placing Susan in the position of

saying "I recommend this, Commissioner Rehberg recommends that, Commissioner Rice recommends this"; and I think it puts Susan in a pretty uncomfortable position.

**Commissioner Barkus:** You are correct. We as Commissioners are the only ones who can present plans. It is correct that this plan, Plan 300, was paid for by the Democratic Party and has been prepared by the Democratic Party.

**Commissioner Lamson:** No, the plan has been prepared by me. I sit down with the Party staff person and say "We have heard this type of testimony from different people, how do we take care of these concerns?" That is how it is done.

**Commissioner Barkus:** Getting back to the professionalism of the staff, they have been in the field. We have traveled to a few public hearings sites but our staff has actually prepared three other plans for our consideration. We are getting a lot of feedback from people who want Plans 100, 200, or 400, and who are totally opposed to 300. Maybe we would like a little direction on 100, 200, or 400.

**Commissioner Pretty On Top:** Is there a possibility that we could ask Ms. Fox to point out the advantages of each plan.

**Ms. Fox:** I discussed this with my bosses at work. Traditionally, Legislative staff does not provide its personal opinion on any of the work that we do. I would be happy to explain how criteria was applied. In redistricting, it is always a balancing act between the different criteria. The factual information is before you--population deviations and voting age percentages, both total and voting age percentages for the majority-minority districts. This type of information I am happy to provide, but the rest is so subjectively applied that even my opinion about the advantages and disadvantages may or may not be appropriate. In the last round, I worked for the defense in the case because I worked on the plan that the Commission adopted. So no matter which plan you adopt, I will be in that same position in the upcoming decade. For multiple reasons, I think it is inappropriate for me to give an opinion, but I am happy to explain to you, at least, how I applied various elements. I do not have a lot of time to analyze the plans in comparison to one another. As I am developing plans, I use different things and I try to mention that; also, in the Plan 300 where different precincts are reflected, where the different communities are, the various boundaries, and things of that nature. I guess I would be reluctant to provide subjective information to you because that is what the public hearings are for, for you to hear how the public interprets that criteria. They are giving you good information on their communities of interest and then you have the authority to make those decisions.

**Commissioner Pretty On Top:** I think that is probably a no, Commissioner Barkus. I think that it may be very important for us, since it has been at least a month since we have looked at all the maps in some detail, that we could ask Ms. Fox to review the plans that are before us with the application of the criteria.

**Commissioner Rehberg:** To reiterate what Mr. Barkus is saying, Susan has spent a lot of time visiting with the county people, school districts, not just the Republicans or the Democrats. She has met with everybody and I think her plans are much more objective. If you talked to the Democrats, I think it would have been more fair and objective if you would likewise talk to the

Republican Party and get their input rather than just come in with a plan that you think is going to be beneficial to one party more than the other one.

**Commissioner Pretty On Top:** It is true that each of us, as Commissioners, have access to this process. Would you agree?

**Commissioner Rehberg:** Well ten years ago when I served on the Commission, we did not have somebody that made an effort to totally undo what the Legislative Council is doing for us. As long as you ask me the question, I think that is exactly what Mr. Lamson has been doing. There is no doubt in my mind Mr. Lamson did not personally buy a computer program and is doing it himself. I know he has a staff person working on it, and yes, we all have the opportunity, but if each one of us did exactly the same as Joe, it would be much more confusing than it is right now. I can assure you, and I share Susan's attitude, it is very confusing and very difficult to know where we stand, where we are going, or how we are going to do it. Until such time that Mr. Lamson has pointed us in the direction we're going, it has been somewhat confusing. I know that today we will make that decision.

**Commissioner Pretty On Top:** The process that we have before us is a rather open and public process and there is no meeting that we don't have that isn't totally in the sunshine. And, the access to any computer program is certainly out for anyone of us if we should so desire. We have the opportunity for training and technical assistance as individual Commissioners.

**Commissioner Lamson:** I do talk to a variety of people, not just Democrats; and in fact, that is why there has been several Republican legislators that have come in and supported different aspects of the plans (Plan 300). Montana is a diverse state. No one party can dominate how we draw it, and there are areas that you reflect those communities of interest. Being kept in dark, I find that a little hard to believe in the fact that my plans have always been submitted. You know exactly where I'm going in terms of presenting ideas. Frankly, some of the testimony against them has been basically very partisan in nature because, if you looked at the facts of how they were drawn together, people are speaking against communities of interest that exist on those plans. That is the philosophy behind them--we are holding those communities of interest together.

#### **ADOPTION OF NORTHCENTRAL REGION PLANS**

Commissioner Pretty On Top asked Ms. Fox to give a brief overview of the Northcentral Region Plans.

**Ms. Fox:** Plan 100 was revised because of the Phillips County area. The Commission had adopted a resolution, so all four plans reflect the attempt to resolve the Old Person lawsuit. All four plans have proposed districts 1 and 2 combining portions of the Blackfeet and Flathead Reservation in order to have two house districts that are contiguous that could eventually be adopted as a senate district. The only difference is how far south we go. In Plan 100, Arlee is not included in the district. In Plan 200, it is but comes to St. Ignatius. In Plan 300, we have a much greater portion of the southern part Lake County involved. In Plan 400, goes down to Arlee but it splits Arlee so it doesn't take in the entire southern area that you see in Plan 300.

All four plans have proposed districts 1 and 2 with the Native American voting age percentages over 50% which is prescribed for creating a majority-minority district--total population over 65% and voting age populations over 50%. In Plans 100, 300, and 400, the district that we have now

that is a majority-minority district has the higher percentage, whereas, Plan 300 brings the two percentages closer to each other to make the districts more even in population.

All four plans have the goal of bringing Cascade County back together again. All of Cascade County is in a Cascade County district. The difference is in Plan 100 and 200, we have a portion of Teton County, and in Plan 400, we have another portion of Teton County but a different portion. With a slight exception in Plan 400, in all plans, Cascade County could be interchangeable. You could pull Cascade County out as a puzzle piece and change it between plans. Plan 300 doesn't share Cascade County districts with anyone, whereas, the other plans all use a little bit of Teton County. Because we have not completed the Teton County and Lewis and Clark County districts, we really could take Cascade County out of any plan and insert it into any plan.

We lose a house district in this area. In one sense, sharing some of the population from the Flathead and Lake County areas with this region does assist in the loss of the house district. We see Liberty County in different places in each of the plans. In Plan 100, Cut Bank is with Shelby in proposed district 3. In the proposal on which counties you adopt for the Northcentral Region, Chouteau County was obvious pictured with this region but I proposed to not include it. Chouteau County is kept intact in Plans 100, 200, and 400 but it is split in Plan 300. Plan 300 shows Chouteau County as it existed when we heard the Northcentral Region plans. It has been revised in our Central Region plans. If you recall, there was some misunderstanding about Shelby being split. Shelby is not split in any of the plans. There is a concern about Conrad being split. Conrad is not split in any of the plans but Pondera County is split in various forms in each of the plans.

In Plans 200 and 400, proposed district 8 is the existing district to date. Plans 100 and 300 change that district somewhat by exchanging different populations in Phillips County which is in the Northeast Region.

**Commissioner Lamson:** If we were to adopt a plan that would use part of a county, and Chouteau County is the most example, we would still be fine. The understanding is that we adopted that one, it would include the town of Choteau so we meet the population criteria obviously.

**Ms. Fox:** Correct but there might be some slight "tweaking" at the edges of what we could allow.

**Commissioner Jellison:** Lake and Flathead Counties in proposed district 2, I would anticipate that when we get to the Kalispell hearing that you are going to encounter a swarm of protests because what you are doing is making several thousand people in Flathead County, which has no reservation involved in it, and disenfranchising them in order to create a district that the Native Americans would have a majority in. They are not going to like that. If you get to that point where you decide that it is unpopular or politically inadvisable to make that recommendation, are we going to be faced with the possibility that it cannot be changed because we have no place to go in Glacier, Pondera, or Chouteau Counties to get more people.

**Ms. Fox:** That is why I made the point earlier about tentative adoption. The Commission 10 years ago did go back and readopt a plan. If the Commission were to have a change of heart or change of mind and wanted to change it, it would be a major change but nothing is impossible. It would involve a shift, you would have to find that population, and it would cause a ripple effect going around the Continental Divide. Just for an illustration, during the Old Person lawsuit that is

exactly what was proposed--to go ahead and do the changes necessary in the area. It did have a ripple effect, but it basically stayed right around the area. It is not impossible, it would cause many districts on the eastern side of Divide to change, and it would require more work but it is not impossible. Clearly, the further we get along in redistricting, the more changes it would require to make that kind of a change.

**Commissioner Pretty On Top:** Can we recognize the counties in the Northcentral Region? That is the next step. The counties in the Northcentral region are Glacier, Pondera, Teton, Toole, Liberty, and Cascade Counties.

**Commissioner Barkus:** What about Chouteau County?

**Commissioner Pretty On Top:** It was mentioned and Ms. Fox suggested that we may want to include that.

**Ms. Fox:** I may be splitting hairs, but because we had amended it when we got to the Central Region, I thought it would be better considered with the Central Region. We could then clarify which boundary we wanted. Under these plans, it affects Fergus and Petroleum Counties and comes back into the Southcentral with Musselshell County. You certainly could adopt Chouteau County in the form that it is and amend it later.

**Commissioner Pretty On Top:** Would you prefer to include Chouteau County?

**Commissioner Barkus:** You have to include Chouteau County because a major part of Chouteau County is in Plan 300 in proposed district 14.

Commission members included Chouteau County in the Northcentral Region.

**John MacMaster, Staff Attorney, Legislative Services Division:** There are not many nationally recognized experts on redistricting. But, there are four or five attorneys, whose work I have kept track of over last 20 years, and I have also talked to Sarah Bond who is defending the Old Person case. They feel very strongly that for each plan that you adopt, particularly, a plan that may be controversial, you should state for the record the best possible case that you can state for that plan and why it meets as many of the criteria as you have set. For example, you would go down the list of criteria and say "it has equal population deviation because" and "I believe it is compact and contiguous because". Obviously, it is going to meet all of the mandatory criteria because we are bound by that. But discretionary criteria, as you know were have only three of them, They are discretionary in the sense that the law does not require you to use those criteria. They are also discretionary in the sense that you have set in your written adopted criteria that you will consider each of those criteria to the extent that you can. If you can follow them fine. There may be some reasons in some cases where you may not be able to follow them. The main reason that the experts say this is because it is easier to defend the plan if somebody goes to court because you have stated in the record that it complies with the law. The last Commission did this and Sarah Bond was very happy that they did.

**Commissioner Rice:** I make a motion that the Commission tentatively adopt the Plan 300 proposed house districts for the North Central Region. These include proposed Plan 300 House Districts #2-14. It is understood proposed house district 4 includes a portion of Lewis & Clark County and proposed house district 14 includes a portion of Chouteau County to achieve the necessary population.

My reasons for making this motion are:

All the house districts in Plan 300 meet the four mandatory criteria adopted by the Commission. All proposed districts within Plan 300:

- 1) Achieve population equality within the maximum deviations set forth in the United States and Montana Constitutions and U.S. Supreme Court decisions.
- 2) Are compact and contiguous as set forth in the Montana Constitution.
- 3) Protect minority voting rights and are in compliance with the Voting Rights Act as established in the United States Constitution and 42 U.S.C. 1973.
- 4) Do not use race as the predominant factor to which the traditional discretionary criteria are subordinated as outlined in *Shaw v. Reno* U.S. 630 (1993).

In addition, Plan 300 balances and considers the three discretionary criteria adopted by the Commission.

- 1) The proposed house districts consider boundary lines of counties, cities, towns, school districts, Indian reservations, voting precincts, and other political units to the extent they are reflected in the geographical database. If the lines do not follow lines in the geographic database, they provide guidance.
- 2) The proposed house districts consider geographic boundaries as provided in the TIGER/Line files of the U.S. Bureau of Census.
- 3) The proposed house districts consider keeping communities of interest intact. Communities of interest can be based on trade areas, geographic location, communication and transportation networks, media markets, Indian reservations, urban and rural interests, social, cultural, and economic interests, or occupations and lifestyles.

I would like to describe in further detail how specific proposed house districts in Plan 300 meet the mandatory and discretionary criteria of the Commission.

**House District 2** encompasses much of the Blackfeet Reservation. The Commission received testimony from representatives of the Blackfeet Tribe and Representative Carol Juneau as to the distinct communities of interests shared within this district. The residents of the district share rich cultural traditions, educational, social, family networks, voting patterns, and socio-economic characteristics. They also share common interests created by their tribal council form of government and its relationships with local, state, and federal governments.

Of the four proposed plans, only Plan 300 keeps almost all of the reservation capitol of Browning intact. Plan 300 complies with the Voting Rights Act by providing local residents the opportunity to elect candidates of their choice. The voting age population of American Indians in HD 2 would be 64%. The American Indian population on the Blackfeet Reservation increased by 21% according to the 2000 Census. The numerous cited community of interests shared by the residents of proposed HD 2 clearly demonstrate race is only one of many shared community characteristics and not the predominant factor in the creation of the district.

The 1970, 1980, and 1990 Redistricting Commissions have all recognized these common communities of interests in the creation of previous legislative districts involving this part of

Montana.

**House District 3** corrects long-standing complaints by the citizens of Pondera County concerning how the 1970, 1980, and 1990 Commissions split communities within their county. For the first time in 30 years of redistricting the town and county seat of Conrad would be kept intact. Plan 300 recognizes the community of interests shared by the towns of Conrad, Valier, and Cut Bank and the rural farming and ranching trade areas they serve in southern Toole, Pondera and southeastern Glacier Counties. Testimony was received as to the shared economic, political, social, educational, and cultural community interests within the proposed district. All towns within the district remain intact.

With an amendment to be proposed later, Plan 300 would result in Pondera County sharing two house districts. A second district would include portions of the Blackfeet Reservation that lie within western portion of the county. Plans 100, 200, and 400 all split Pondera County three ways. In addition, Plans 200 and 400 also split the community of Cut Bank.

**House District 4** includes all of Teton and rural Northern Lewis & Clark Counties. The district is composed of small towns that serve the surrounding farms and ranches. These communities share economic, political, social, educational, and cultural community interests. In addition the district shares the Rocky Mountain Front and its related economic interests. All towns within the district remain intact.

Both Plans 100 and 400 split Teton County to provide population for districts in the surrounding counties of Cascade and Lewis & Clark.

**House Districts 5 – 13** are totally contained within Cascade County. The districts are designed to give representation to the rich diversity of interests both urban and rural within the county and respond to a long-standing issue among county residents that the rural areas of the county were split among neighboring counties by previous commissions.

**House Districts 5 & 6** begin within Great Falls west of the Missouri River and proceed in a westerly direction north and south of the Sun River. The districts share common community of interests of Great Falls' west side which is a combination of established suburban neighborhoods feeding into the expanding suburban communities west of the city limits.

**House District 7** would be the largest geographic district within Cascade County. It unites the southern county rural communities of Cascade, Ulm, Tracy, Stockett, Sand Coulee, Centerville, Belt, Neihart, Monarch and their shared rural economic communities of interests. All towns within the district remain intact.

**House Districts 8 – 11** lie within the urban center of Great Falls. The districts follow urban neighborhood communities of interest that lie along the major east/west transportation networks of the city. High population densities allow for the creation of compact districts that reflect the socio-economic diversity of Great Falls' neighborhoods. HD 8 lies on the south side of Great Falls. It shares both the University of Great Falls and the Great Falls College of Technology. It also shares the city's growing medical centers and related facilities. House Districts 9-11 are all easily described urban districts sharing common socio-economic, commercial, occupations, lifestyle, voting patterns, educational, and local government

communities of interests.

**House District 12** is another small urban district lying in the Riverview area west of the Missouri River. The district shares common socio-economic, commercial, occupations, lifestyle, and educational communities of interests. The district also contains the traditional home of Montana's "landless" Little Shell Tribe. An amendment to strengthen the shared community interests of the district will be proposed later.

**House District 13** contains the community of Black Eagle and the Malmstrom Air Force Base, which border Great Falls on the north and east. Plan 300 also includes the new base housing within the Malmstrom Air Force Base that several residents requested be included in the district.

**House District 14** is a result of a decrease in population within the rural North Central region, there will be the loss of one house district in this area. This proposed district includes Liberty County and most of Toole and Chouteau Counties. HD 14 is a district similar to other rural districts in the area that share political and agricultural communities of interest. All towns within the district remain intact.

The Commission received testimony that Liberty County shared common communities of interests with this district and preferred not to be connected with a Havre district to the east. Chouteau County officials did not wish for their county to be split, but did provide testimony that they preferred to be connected to communities to their north which is accomplished in Plan 300. In reality most of the population of Chouteau County does remain intact in Plan 300. The remaining Chouteau County population would be shared with a house district of neighboring counties to the south with common rural agricultural communities of interest. (EXHIBIT #3)

**Commissioner Barkus:** Again, I am going to make the point that the mandatory criteria are being challenged in this plan, particularly #2-- compact and contiguous districts. If you look at proposed district 19, how someone from Fort Benton can possibly represent someone from Garfield County is beyond me. We heard a lot of testimony throughout the north----

**Commissioner Pretty On Top:** Could I ask you to clarify your comment on the map. I want to be sure----

**Commissioner Lamson:** I think you are talking about the next region.

**Commissioner Barkus:** Northcentral Region, #19.

**Commissioner Rice:** This would only be proposed districts 2 through 14.

**Commissioner Barkus:** Okay. I will just go back--I thought that Susan had indicated that Browning was split in most all of the districts. Is that correct? This says that they keep Browning intact.

**Commissioner Pretty On Top:** The Blackfeet Reservation is split.

**Commissioner Barkus:** It says only Plan 300 keeps almost all of the Reservation and Browning intact. Also, Pondera County, with some exceptions, and far east Liberty County, all plans do this. And then Susan also indicated that Cut Bank was not split in any of the plans. Your motion indicates that Plans 200 and 400 split Cut Bank.

**Ms. Fox:** Plan 100 does not split Cut Bank; Plan 200 does split Cut Bank; Plan 300 does not split Cut Bank; and Plan 400 does split Cut Bank.

Commissioner Rice's motion passed on a 3 to 2 vote with Commissioners Rice, Lamson, and Pretty On Top voting yes and Commissioners Rehberg and Barkus voting no.

**Commissioner Rice:** I would like to propose an amendment to Plan 300 as adopted. I make a motion to amend Plan 300 to address the concerns raised by Pondera Clerk and Recorder Janet Hoppes related to the 107 individuals residing in current precinct 35 in proposed House District 2. The 107 individuals would be moved into Plan 300 proposed HD 3. In order to compensate for the lost population in proposed HD 2, I concur with the staff recommendations for Plan 300, #3 and #4 amendments contained in the March 2002 memo to the Commission. This is a minor amendment that facilitates the conduct of elections in Pondera County. It is in concurrence with the Commission's mandatory and discretionary criteria. (EXHIBIT #4)

Commissioner Rice's motion passed on a 3 to 1 vote with Commissioners Rice, Lamson and Barkus voting yes and Commissioner Rehberg voting no.

**Commissioner Rice:** I would like to offer a further amendment. I move to amend Plan 300 to address the concerns raised by Representatives Kathleen Galvin-Halcro and Joe Tropila to amend proposed districts 5, 12, and 13. The amendment is described in Susan Fox's Legislative staff recommendations for Plan 300, #2 in the March 2002 memo to the Commission.

This is a minor amendment that strengthens the neighborhood community of interests within the proposed districts. It is in concurrence with the Commission's mandatory and discretionary criteria. (EXHIBIT #5)

Commissioner Rice's motion passed on a 3 to 2 vote with Commissioners Rice, Lamson, and Pretty On Top voting yes and Commissioners Rehberg and Barkus voting no.

**Commissioner Rice:** I move the Commission tentatively adopt Plan 300 as amended for the North Central Region. (EXHIBIT #6) We are adopting it with the two amendments that we just put on.

**Ms. Fox:** There is a second set of amendments. I know you took care of one of them, but there was a second one in the Toole County area and I wasn't sure if that amendment had been included. (EXHIBIT #7)

**Commissioner Lamson:** No.

Commissioner Rice's motion passed on a 3 to 2 vote with Commissioners Rice, Lamson, and Pretty On Top voting yes and Commissioners Rehberg and Barkus voting no.

#### **ADOPTION OF NORTHEAST REGION PLANS**

**Commissioner Lamson:** I suggest that we add Richland County to the Northeast Region Counties because several of the plans include parts of Richland County.

**Commissioner Pretty On Top:** Ms. Fox, could you review the plans as you did for us in the Northcentral Region, and then, members of the Commission, if you could keep in mind Richland County and perhaps any others that are implied here.

**Ms. Fox:** One reason for the change in the Blaine County area is that, as we move forward, we

changed some areas in Havre and the Phillips County area. You remember that this region does not have a Plan 400 series. Plans 300 and 500 have the same paradigm. Plans 100 and 200 are of the same paradigm. There was also a proposed amendment to Plan 200. Liberty County is connected to Hill County in Plans 100 and 200. Liberty County in Plan 300, which is what we just adopted, goes to what Commissioner Jellison spoke to--if you switch regional plans, it would take additional amendments to make the plans work, but it is possible.

In Plan 100, proposed district 8 maintains the Native American majority districts, but we are adding a little more population using U.S. Highway 191 in Phillips County. Malta is not in that district but it does split Phillips County. Plan 200 keeps proposed district 8 exactly the same as the current House District. Plan 300 changes it. Instead of taking some of the area in Blaine County north of Highway 2, it extends into Phillips and Valley Counties. It keeps the Fort Belknap and Rocky Boy Reservations together in one house district, it maintains the majority-minority district character, and it extends all the way to the Fort Peck Reservation line. Malta, Saco, St. Marie, and Glasgow are in proposed district 17. Chinook and Havre--Havre is still split in two different districts in all the plans as it does in the existing districts. Currently Havre is split on a north-south boundary which happens in Plans 100 and 200. Plans 300 and 500 split Havre in an east-west direction.

The reference to Richland County comes into play in Plans 200 and 300. If you recall, Plan 300 was revised. The revision was that the northern part of Richland County was included with a proposed district that includes Daniels, Sheridan, and Roosevelt Counties. It does not include the towns of Fairview, Sidney, Lambert, or all the rural area of Richland County. Plan 500 does not do that. It stops the boundary at the Missouri River. Plan 200 does the reverse. It takes the Culbertson and Bainville areas and puts them down with a Richland County district that includes Fairview, Sidney, and Lambert. If you recall, we had quite a bit of consternation about this plan in splitting Culbertson and Bainville. In your proposed amendment to Plan 200, there is an amendment that would put Culbertson and Bainville back up into the Roosevelt County district, but then it has ramifications to Phillips County.

All of the districts maintain the character of majority-minority district. In Roosevelt County, it is an existing district. All plans extend that district into Valley County. The variation is how far we go into Valley County. Frazer is included in all the plans but Nashua is not. It is how far west you bring that majority-minority district. One of the characteristics of Plans 300 and 500 is that they allow proposed districts 18 and 22 to be combined as a senate district. That characteristic is not possible in Plans 100 or 200.

Ms. Fox recommended that the Commission not adopt Richland County as a Northeast Region county. Richland County is shown in each of the plans. It will work either way. Even if you don't adopt Richland County, depending on which plan you choose, we still may need that population to complete districts.

**Commissioner Barkus:** In the proposed amendment to Plan 200, Northeast Region, does it include Culbertson and Bainville?

**Ms. Fox:** Correct. It puts Culbertson and Bainville back in to proposed district 23. What happens is that there is too much population, so we have adjust the district westward and it ends up using more of Phillips County. They were quite upset using Highway 191 as a boundary

and splitting the towns. The proposed amendment takes the lower quarter of the proposed district and stays out of Malta.

**Commissioner Pretty On Top:** Are we including Richland County in the Northeast Region plans or are we going with the ones listed in the process document? (See Exhibit #2)

**Commissioner Lamson:** As long as it is clearly understood that Richland County is on the table and would be necessary to complete the population deviations in that area. If my colleagues wanted to include part of Richland County this time and with consistency, it would be fine either way.

The Commission agreed to include a portion of Richland County in the group of Northeast Region Counties. (Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt, and part of Richland County)

**Commissioner Barkus:** I would like to propose the amended Plan 200. This plan obviously keeps within the population deviation; it is as compact and contiguous possible; it protects the minority-majority voting rights established by the Constitution; and contrary to any other plan that I believe will be proposed, it does not use race as predominant factor in which the traditional discretionary criteria was unsubordinated. This particular one--I felt so strongly, after attending the Glasgow public hearing where we heard so much bipartisan support from all members of the community, Democrats, Republicans, County Commissioners, mayors, farmers, ranchers, and businessmen. I walked away from that public hearing with about as good feeling as I possibly could about a particular region. Plan 200 was being supported by virtually every person testifying there.

**Commissioner Lamson:** Just a process--aren't we supposed to first adopt the plan and then the amendments?

**Commissioner Barkus:** I thought that being that this was presented to us as a revised plan that--

**Commissioner Lamson:** I just wanted to clarify this.

**Ms. Fox:** The amendment did involve a whole series of changes from Roosevelt County all the way to Phillips County. So, in essence, it could be a substitute plan.

**Commissioner Pretty On Top:** I would like to ask for a point of order. Since I have been voting, I would like to ask John MacMaster to talk to us about the role of the Presiding Officer under the Mason's Rules.

**Mr. MacMaster:** Mason's Manual of Legislative Procedure is about 600 pages long which every Legislature in the United States abides by to the extent that the specific rules adopted by a Legislature do not cover a particular act or a particular matter. This Commission, a number of meetings ago, voted to abide by Mason's in your procedural process because there is nothing in the statutes. Under Mason's, the Presiding Officer votes on motions unless the Officer wants to abstain. You usually abstain because you have a severe conflict of interest. Mason's does not contemplate a process by which a Presiding Officer would normally break a tie. That is not to say that you cannot say "We are going to abide by Mason's except that we hereby vote, by a majority of the Commission, that we are going to abide by Mason's except that the Presiding Officer does not have to vote except to break a tie". If you adopt that rule, you could run into a problem because, under Mason's, you need a quorum to take action. A quorum is a majority of the deliberating body. In this case, you need at least three Commissioners meeting to take

action. Which is strange because you only need a majority of the quorum to take action. So if you have a meeting where only three Commissioners show up, you have a quorum so you can act. The majority of the quorum is two and you can adopt plans by a vote of two. If all five Commissioners are present, the quorum is five and you need positive votes to adopt a motion. If the Presiding Officer does not vote except to break a tie, you could for example have a motion whereby, Commissioners Lamson and Rice vote yes; Commissioner Barkus votes no; and Commissioner Rehberg abstains for whatever reason. At that point, it stands 2 to 1 and the motion does not pass. If the Presiding Officer takes the position that there is no tie to be broken so I am not going to vote, the motion fails because it is not adopted by a majority. The same thing could happen, for example, Commissioner Rice does not show up for a meeting because she caught in a snow storm. There again, you have a quorum of 4, and you need a majority of that quorum (3) and if 1 abstains it is a 2 to 1 vote. You still have the same problem.

**Commissioner Pretty On Top:** I think what he is saying is that I, as Presiding Officer, need to vote each time that things come to the floor for vote.

**Commissioner Lamson:** I am also putting in a motion, not surprising, to support Plan 300 for many of the same reasons that Commissioner Barkus pointed out. I believe Plan 300 does meet all of the mandatory criteria that we have been discussing. Also, Plan 300 got substantial, in fact predominate testimony, in favor of Plan 300 up there in the petition drives that went on between the various citizens. We had close to 400 people signing petitions. Actually, more people signed petitions for Plan 300 than they did for Plan 200. So there was strong support for Plan 300.

As we all know in redistricting, there are folks on all different sides of this. One of the objections that I had to Plan 200 as it originally stood was that it actually cut more counties than Plan 300 at that particular time. We are looking at the amended one now which takes that into account, and they both have the exact same number of counties split by the districts--both 200 and 300. There has been a good deal made of the potential size of the one district in Plan 300 which is Commissioner Barkus' main concern that this is in violation of our compactness criteria. That is not true in that compactness has two sides. It has geographical compactness as well as functional compactness. This particular district meets both of those criteria if one is to believe that the previous plan that you are currently operating under is a compact plan. This district that is being proposed is actually a shorter distance traveled in that district than both current House Districts 1 and 99. For some reason in this part of the country, folks aren't able to get around but in other parts of country they are, I do not think that is necessarily true.

**Commissioner Pretty On Top:** I would just ask that if you are addressing the motion that Commissioner Barkus has made, that you would address that particular plan.

**Commissioner Lamson:** Yes, that is what I am trying to point out is the deficiencies in that particular plan.

**Commissioner Lamson:** We would like to keep all counties together, but certainly, Plan 200 does not do that anymore than Plan 300. I would have to oppose this motion.

**Commissioner Pretty On Top:** Commissioner Barkus, is there comments that you would have on the mandatory and discretionary criteria?

**Commissioner Barkus:** I went through the mandatory criteria. I felt that the discretionary criteria was covered by the public testimony that was given at Glasgow. My notes indicate that there was only two persons opposed to Plan 200, and I do not think that they were in favor of Plan 300. I know where we are going with this so I will just leave the motion as is.

Commissioner Barkus' motion failed on a 2 to 3 vote with Commissioners Rehberg and Barkus voting yes and Commissioners Rice, Lamson, and Pretty On Top voting no.

**Commissioner Lamson:** I would like to move that the Commission look at adopting Plan 300.

**Commissioner Rehberg:** I request that the motion be put in the record and not be read.

**Commissioner Lamson:** I will summarize the motion.

**Commissioner Pretty On Top:** Commissioner Rehberg has requested that the motions be put in the record and not read and Commissioner Lamson said that he would highlight or summarize.

**Commissioner Lamson:** One of the reasons that we are being directed by the staff is to clearly state these reasons and that is why it sounds a little bit ponderous. Granted, when we are dealing with 100 districts, it is going to be a long process because we meet all four mandatory criteria and the discretionary ones. So, we thought it important to put those out there as our attorney and staff have recommended.

**Commissioner Lamson: Motion:** I move the Commission tentatively adopt the house districts proposed in Plan 300 Revised for the Northeast Region. These include proposed Plan 300 Revised House Districts #15-18, 21, and 22. It is understood proposed House District 21 includes a portion of Richland County to achieve the necessary population.

**Rationale:**

All house districts in Plan 300 Revised meet the four mandatory criteria adopted by the Commission. All proposed districts within Plan 300 Revised:

- 1) Achieve population equality within the maximum deviations set forth in the United States and Montana Constitutions and U.S. Supreme Court decisions.
- 2) Are compact and contiguous as set forth in the Montana Constitution.
- 3) Protect minority voting rights and are in compliance with the Voting Rights Act as established in the United States Constitution and 42 U.S.C. 1973.
- 4) Do not use race as the predominant factor to which the traditional discretionary criteria are subordinated as outlined in Shaw v. Reno U.S. 630 (1993).

In addition Plan 300 Revised balances and considers the three discretionary criteria adopted by the Commission.

- 1) The proposed house districts consider boundary lines of counties, cities, towns, school districts, Indian reservations, voting precincts, and other political units to the extent they are reflected in the geographical database. If the lines do not follow lines in the geographic database, they provide guidance.

2) The proposed house districts consider geographic boundaries as provided in the TIGER/Line files of the U.S. Bureau of Census.

3) The proposed house districts consider keeping communities of interest intact. Communities of interest can be based on trade areas, geographic location, communication and transportation networks, media markets, Indian reservations, urban and rural interests, social, cultural, and economic interests, or occupations and lifestyles.

I would at this time like to address how specific proposed house districts in Plan 300 Revised for the Northeast Region meet the mandatory and discretionary criteria of the Commission.

**House Districts 15 & 16:** These two districts include the Hi-Line town of Havre and its surrounding rural communities. The Havre districts recognize the long established communities of interests that were identified by both the 1980 and 1990 Commissions. Because Hill County experienced an overall decline in population of 5.6% in the past decade it was necessary to make adjustments within the town of Havre and also to extend HD 16 further east into Blaine County. The town of Chinook and Northern Blaine County have long shared community of interests with this part of Hill County. These interests include a common trade area, media markets, voting patterns, and the major transportation networks connected to Highway 2. All small towns outside Havre remain intact in both HD 15 & 16.

**House District 17:** This proposed district contains the 77% of the population of Phillips County and 76% of the Valley County. The district includes the Hi-Line towns of Malta and Glasgow. Major portions of the residents of proposed HD 17 reside in the corridor along the Milk River and Highway 2. The towns are trade areas for the surrounding farms and ranches. They share common trade areas, socio-economic characteristics, and transportation networks.

Even though this region lost substantial population during the decade, the new HD 17 district will be more compact than the current district. This is achieved by extending the district further east into Valley County and placing southern Phillips and Valley counties into the adjoining proposed House District 18. All towns within the district are kept intact.

**House District 18:** This district encompasses all of the Rocky Boy and Fort Belknap Indian Reservations and southern parts of Hill, Blaine, Phillips, and Valley Counties. The Commission received testimony from residents of the reservation communities as to the distinct communities of interests shared within this district. The residents of the district share common cultural traditions, family networks, educational concerns, voting patterns, and socio-economic characteristics. They also share common interests created by their tribal council forms of government and their relationships with local, state, and federal governments. All towns within the district are kept intact.

Plan 300 Revised complies with the Voting Rights Act by providing local residents the opportunity to elect candidates of their choice. The voting age population of American Indians in HD 18 would be 54%. This is an increase of 2% from the 1990 district level. The total Rocky Boy Reservation American Indian population increased by 37% and the Fort Belknap Indian population increased by 19% according to the 2000 Census. The numerous cited community of interests shared by the residents of proposed HD 18 clearly demonstrate race is only one of many shared community characteristics and not the predominant factor in the creation of the

district.

The overall loss of population in this region precludes HD 18 from going into northern Blaine County to get the needed population to complete the district. Northern Blaine County's population is necessary to complete the population requirements of proposed HD 16. This requires going east to southern Phillips and Valley Counties to find the needed population to complete HD 18.

Concerns have been raised about the size of HD 18. The district is large, however 81% of the population resides east of Phillips County. The concentration of population and transportation routes within this district establishes a functional compactness. Southern Phillips and Valley Counties comprise some of the lowest population densities of any area in Montana. Southern Phillips and Valley Counties will remain as the least populated portion of any house district that contains those areas of Montana. This extremely low population density combined with the overall loss in population since the last census greatly contributes to the size of HD 18.

It should be noted that two current house districts, HD 1 & 99, in eastern Montana are considerably larger than the proposed HD 18. Both of these two house districts met the 1990 Commission's mandatory criteria for compactness.

**House District 21:** Because of a decrease in population within the rural Northeast region, there will be the loss of one house district. The lost district is within proposed HD 21 which includes all of Daniels and Sheridan Counties, most of Roosevelt County and a portion of northern Richland County. The district is similar to other rural eastern districts, which share political and agricultural communities of interest. All towns within the district remain intact.

There was almost unanimous testimony from citizens throughout the region urging the Commission to keep the towns of Culbertson and Bainville in a house district with Roosevelt County. Plan 300 Revised keeps these communities in Roosevelt County.

**House District 22:** This district encompasses the area where most of the residents of the Fort Peck Reservation reside. Its narrow shape is dictated by the concentration of local residents within the corridor created by Missouri River and Highway 2. Areas north and south of the corridor have low population densities. The shape of this district is very similar to the current district approved by the 1990 Commission.

The Commission received testimony from the reservation community as to the distinct communities of interests shared within this district. The residents of the district share common cultural traditions, educational, family networks, voting patterns, and socio-economic characteristics. They also share common interests created by their tribal council forms of government and their relationships with local, state, and federal governments. All towns within the district are kept intact.

Plan 300 Revised complies with the Voting Rights Act by providing local residents the opportunity to elect candidates of their choice. The voting age population of American Indians in HD 22 would be 60%. This is an increase of 5% in the American Indian voting age population established by the 1990 house district. The Fort Peck Reservation's total Indian population increased by 11% according to the 2000 census. The numerous cited community of interests shared by the residents of proposed HD 22 clearly demonstrate race is only one of

many shared community characteristics and not the predominant factor in the creation of the district.

**Summary Points:** The current house districts within the Northeast region experienced some of the largest decreases in population of any districts in the state. As a result current HD 97 is 26% below the ideal population for a new district, HD 95, 23% below, HD 96, 21% below, HD 91, 16% below, HD 90, 14% below, and HD 98, 11% below. In order for a current district to remain of similar size, it needed to increase its population by nearly 13%. If it weren't for the significant increases in the American Indian communities within this region, the size of the 2000 proposed house districts would be considerably larger.

This is not a new trend. Most of rural eastern Montana has been losing population throughout the 1980's and 1990's. Low population densities and long distances between communities characterize this region.

Yet through the creativity and resiliency of the small towns and communities within the region, northeast Montanans continue to meet the many challenges they face. There are active and laudable efforts to diversify their economies, add value to their agricultural products, and improve their transportation infrastructure by widening and improving Highway 2.

Though the region is vast, there is an amazing amount daily of communication and travel by large numbers of its regional residents. Statistics provided by the Montana Department of Transportation report that in January an average of 58,435 vehicle trips are made on Highway 2 near Wolf Point. Highway 191 south of Malta into southern Phillips County averages 12,152 vehicle trips on that stretch of road in January.

The submitted map illustrates that Class B High Schools routinely travel this region to participate in football and basketball games from September to March in some of the worse weather imaginable. (EXHIBIT #8)

The legislators that have served this region have been dedicated to thoughtfully communicating with their constituents and representing those views at the Legislature. Future legislators can continue that tradition in districts created by Plan 300 Revised.

Plan 300 Revised attempts to minimize the disruption to this region caused by the sharp declines in population. It unites communities of interests and takes advantage of the established concentrations of populations to create districts that are functionally compact. It keeps all small communities intact and splits fewer counties than the proposed Plan 200. (EXHIBIT #9)

**Commissioner Lamson:** We held a hearing in Glasgow for essentially four house districts in the entire state. It signified what we were experiencing in eastern Montana was a tremendous population decrease. These were some of the Legislative districts that were most out of line in the entire state in terms of population loss. We had a lot of community concern about that because it is agonizing when you are losing some of these districts. But, this is not a new trend in eastern Montana, unfortunately, that is why we lost a congressional district in the 1990 census was the constant depopulation of our eastern part of the state.

Several of legislators that testified talked about the difficulty of getting around in an area that is so large geographically, and they felt that they would have a difficult time campaigning in those areas. I noticed in my years in Montana driving and sitting in small cafes and visiting with folks that the first topic of conversation is usually the weather and the second topic of conversation usually comes around to how the local basketball or football team did in the previous weekend's games, followed third by the "darn government". I thought that it would be interesting to take a look at the communities that are in the northeast region that have basketball and football teams. They are essentially Class B schools. They are the schools that include Chinook, Glasgow, Harlem, Malta, Plentywood, Popular, and Wolf Point, and just map out visually the travel schedule that on any given week of the year. In some of our worst weather years, from September through early March, we have large segments of these communities that seem to have no difficulty whatsoever traversing large miles. This is a geographic presentation. It was not done with a computer. It just shows that these folks are, even though they are spread out, there is considerable traveling about in that area. Furthermore, I looked at the information provided by the Montana Department of Transportation, and they reported that in the month of January, there was an average of 58,000 vehicles that travel through Wolf Point. Even in Highway 191 which goes south from Malta down into Fergus County, which is an extremely remote road, in January, they recorded over 12,000 vehicle trips on that piece of Highway. So, my point on that is that people do get around. With improved telecommunications technology, such as cell phones that have greatly decreased the cost of people talking and visiting with their neighbors and legislators, through the Internet, through improved highways, that, if anything, there are ways to get around this area and adequately represent it.

Legislators from this area have long been noted for being able to get out there and meet with their residents. My experience with the legislature is that they have done a very excellent job of communicating the concerns that their constituents have on issues and they should be congratulated. The distances are great, but it is function of our population in that area.

**Commissioner Rehberg:** I would like to congratulate you, Joe, for your rationalization for totally ignoring the input of the people that spoke at the hearings. I would agree with Commissioner Barkus that the majority of them favored 200 and the majority of them were in opposition to 300, with the exception of the Indian Reservations. True, you did very well when you went to Fort Peck and had them all sign a petition saying that they supported 300. I think I would have been a little bit more impressed if there were a half a dozen with an objective liking rather than taking a form that you prepared for them to fill out. We also received the same type of information from the residents around Malta, and I think it was important to also consider those. I think it is a stretch of the imagination to look at those maps back there, either in 300 or 500 at proposed district 22, and say that it is either compact or that it does not consider race as the predominant factor. Now as Commissioner Barkus has stated, we know where we are going. But I certainly hope that as we continue these hearings and that if we are going to continue to do it this way, we inform those who are going to come to the public hearings that their input will not be important and that we will continue to follow Plan 300 whether they approve of it or like it or not.

**Commissioner Lamson:** Certainly Commissioner Rehberg is entitled to his opinion. But as I pointed out, Plan 300 did incorporate a lot of the concerns raised by folks up there. The did not want counties split. That is always what we here in the rural areas. Plan 300, actually in the original plans, split fewer counties than Plan 200. I think some of the partisan that we experienced there might have blinded them to that advantage of the plan. Everybody said that

Culbertson and Bainville needed to be kept in Roosevelt County. We did that, both non-Indians and Indians. I going to propose an amendment a little later that deals specifically with changes on the Fort Peck Reservation and in the Nashua and Fort Peck areas that were supported by the testimony that we received from both non-Indians and Indians. As far as the petition went, I did meet with those folks. I left a sign-in sheet that was patterned after what we do in the Legislature. They could check Plan 100, Plan 200, Plan 300, or Plan 500. People had a choice of what they wanted to check. The other petitions only had one plan on them. So, I think people had a choice.

Commissioner Lamson's motion passed on a 3 to 2 vote with Commissioners Lamson, Rice, and Pretty On Top voting yes and Commissioners Barkus and Rehberg voting no.

**Commissioner Lamson:**

**Motion:** I move to amend Plan 300 Revised for HD 22 to address suggestions made by MACO District 1 County Commissioners and the Fort Peck Tribal Council. Details of the amendment were submitted to Susan Fox at Legislative Services on March 20.

**Rationale:**

The Fort Peck Tribal Council requested HD 22 be amended to include the area north of the town of Poplar and extended slightly on the east and to the west to include the reservation community of Fort Peck. The Council believes these adjustments will create a district that more closely serves the residents of the reservation. These changes will necessitate corresponding adjustments in House Districts 21, 17, and 18.

The inclusion of Fort Peck in HD 22 was also supported by MACO District 1 County Commissioners' testimony. By moving the boundary of HD 22 further west, we are also able to slightly decrease the size of HD 18. The amendment is in concurrence with the Commission's mandatory and discretionary criteria. (EXHIBIT #10)

**Commissioner Lamson:** I believe Commissioner Rehberg, when he was objecting to my plan speaking of 22, I think he meant 18 because 22 is a district that was very similar to the one that was passed in the previous Commission for the Fort Peck Reservation area. It is one of our narrower districts, but that is a function of the geography and where people live. People in areas tend to congregate where the water is and where the transportation system is. That is why the district follows the population patterns in that area, and it was also a district, as I said earlier, that was adopted by the previous Commission in terms of its shape.

We were requested by the Tribal Council if we could include some areas that were north of Poplar because those were communities that they felt were part of their community as well as some housing developments on the east end of the Reservation. The most significant change is over to the west where we are including Fort Peck and Nashua goes up into the proposed district 17. This has the added benefit of making district 18 a little shorter and it also puts Fort Peck in with that area.

Commissioner Lamson's motion passed on a 4 to 1 vote with Commissioners Lamson, Rice, Barkus, and Pretty On Top voting yes and Commissioner Rehberg voting no.

**Commissioner Lamson:**

**Motion:** I move the Commission tentatively adopt Plan 300 Revised as amended for the

Northeast Region. (EXHIBIT #11)

Commissioner Lamson's motion passed on a 3 to 2 vote with Commissioners Lamson, Rice, and Pretty On Top voting yes and Commissioners Barkus and Rehberg voting no.

There being no further business, the Executive Session adjourned at 5:00 p.m.

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