



# Montana Districting and Apportionment Commission

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## 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.**

### COMMISSION 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 AND AGENDA

Visitors' list, ATTACHMENT #1  
Agenda, ATTACHMENT #2

### COMMISSION ACTION

- Approved the minutes from the March 27, 2002, executive session and public hearing--Billings and the March 28, 2002, public hearing--Crow Agency
- Adopted Garfield, McCone, Richland, Dawson, Prairie, Wibaux, Rosebud, Custer, Fallon, Carter, Powder River, Big Horn, Treasure, Judith Basin, Fergus, Petroleum, Chouteau, Yellowstone, Carbon, and Musselshell Counties for the Southeast/Central and Southcentral Regions
- Adopted Plan 300B for the Southeast/Central and Southcentral Regions
- Adopted amendments for Plan 300B offered by Commissioner Rice
- Tentatively adopted Plan 300B, as amended, for the Southeast/Central and Southcentral Regions
- Approved September 16, 2002, as the meeting date for the adoption of the Western Region Plans

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

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

Commissioner Rehberg **moved** that the minutes from the March 27, 2002, executive session and public hearing--Billings and the March 28, 2002, public hearing--Crow Agency be approved. Motion passed unanimously.

Commission members acknowledged the work of the Commission Secretary, Lois O'Connor.

### **ADOPTION OF THE SOUTHEAST/CENTRAL AND SOUTHCENTRAL REGION PLANS**

**Susan Fox, Research Analyst, Legislative Services Division:** The first thing that I propose is that the Commission adopt the counties for each region. After the counties are adopted, a motion can be made for which plan number will be considered. For each region, a motion should be made to tentatively adopt the plan, with the understanding that any amendments to the plans will be the next step followed by another formal motion to tentatively adopt, in this case, the Southeast Region, Plan No. ? as amended. There is also the recommendation that Commission members address the mandatory and discretionary criteria, state their reasons for adopting a plan, and how it is applying the criteria.

Ms. Fox provided a brief overview of the Southeast/Central and Southcentral Region Plans.

**Ms. Fox:** In Plans 100, 200, and 400, the Lewistown area is in different configurations but it could be seen as interchangeable. Plan 300A in the Central Region keeps Lewistown intact in proposed district 22. Proposed district 21 is the remaining one-half of Chouteau County, Judith Basin County, the remainder of Fergus, Petroleum, and Garfield Counties, and a portion of McCone County, not including Circle. Plan 300B splits Lewistown between proposed districts 21 and 22.

The Commission adopted Plan 300 for the Northeast Region which includes proposed district 23 in Richland and Roosevelt Counties, excluding the towns of Fairview, Sidney, or Lambert. Plans 100 and 400 stop at the Missouri River. Plans 200 and 300 share Roosevelt and Richland Counties. Plan 200 takes the Bainville and Culbertson areas and includes them with the Fairview and Sidney district. Since a house district is lost, it causes different configurations among the plans. Plan 300 continues with Fairview and Sidney and northern Dawson County. Glendive is kept intact and most of the southern part of Dawson County is in with Wibaux County. Proposed district 27 in the southeast corner consists of Fallon, Carter, and Prairie Counties, in total, and parts of Dawson, McCone, and Custer Counties, not including Miles City. Proposed district 27 in Plans 100 and 200 consists of a corner of Custer, Fallon, Powder River, and Carter Counties with Miles City remaining a single district. Miles City is a district unto itself in all plans but it has a different configuration in each plan.

The difference between Plan 100, 200, and 400 is that Powder River County is shared with the Northern Cheyenne and Crow Reservation district. It goes from Hardin and includes all of Powder River County. Plan 300 splits Powder River County and there are proposed amendments to Plan 300 (EXHIBIT #1) that allows for a different kind of split. The majority-minority district is preserved in all four plans although there is different configurations in who is added to the plans. They were slightly below the negative 5% deviation so population had to be

added. There are various portions of Powder River and Yellowstone Counties in two districts. There is also a difference in how far north it goes in each of the plans.

There are two districts that go into Yellowstone County in all of the plans, but Yellowstone County will not be completed until we get to the Southcentral Region. Rosebud County is split three ways in Plans 100 and 300, but Forsyth and Colstrip are placed back together again, which they had not been 10 years ago. In Plans 200 and 400, Rosebud County is split two ways although Colstrip and Forsyth are kept intact and together.

**Commissioner Pretty On Top:** Our first matter of business is to consider which counties. The list includes Garfield, McCone, Richland, Dawson, Prairie, Wibaux, Rosebud, Custer, Fallon, Carter, Powder River, Big Horn, Treasure, Judith Basin, Fergus, and Petroleum Counties.

**Commissioner Rice:** I would like to combine these two motions and adopt all of the counties in the Central, Southeast, and Southcentral Regions. In the interest of time, I have prepared a motion for the adoption of a plan for the three regions combined. If we could act on all of the counties at once, it would help when I make the motion.

**Commissioner Rehberg:** What are you going to do in Yellowstone County, in the boundary of Yellowstone County? Is your motion going to cover the districts that are in Billings or are we going to have the opportunity to talk about those?

**Commissioner Rice:** You would always have the opportunity to offer amendments following the plan adoption, similar to what we did the last time.

**Commissioner Rice:** I **move** that the Commission adopt the following counties for the Southeast/Central and Southcentral Regions: Garfield, McCone, Richland, Dawson, Prairie, Wibaux, Rosebud, Custer, Fallon, Carter, Powder River, Big Horn, Treasure, Judith Basin, Fergus, and Petroleum, Chouteau, Yellowstone, Carbon, and Musselshell Counties. Motion passed unanimously.

**Commissioner Lamson:** Since we added more counties, maybe Susan (Fox) should give an overview of those also.

**Commissioner Pretty On Top:** Officially any amendment can be brought up at any time prior to adoption of the plans, but as a gentlemen's agreement, we asked all Commission members to submit amendments prior to its mailing so that we had ample time to review them.

**Commissioner Jellison:** As a matter of time, are we going to be talking about Plan 300 or will we be talking about any of the others?

**Commissioner Rice:** Yes, I intend to offer a motion to adopt Plan 300B, but any Commissioner can offer a motion to adopt any plan.

**Commissioner Jellison:** But, we do not have the votes to make it worthwhile.

**Commissioner Rehberg:** Are you going to move Plan 300 without the amendments.

**Commissioner Rice:** Yes, that is the process that Susan (Fox) outlined for us. We move the plan, then move any amendments, discuss the amendments, then move the final adoption of the amended plan.

**Ms. Fox:** In Plan 100 in the Southcentral Region Plans, Musselshell County goes with the Central Region (Petroleum, Golden Valley, and Wheatland Counties). In Plan 200, it is in a longer district continued with Golden Valley and Wheatland Counties and into Meagher County which is getting into the Southwest Region. In the Southcentral Region, Musselshell County is combined with a portion of Yellowstone County where there is very little population, but is north of the Missouri River. We have the northern one-half of Treasure County, including Hysham, and northern Rosebud County with Musselshell County. In Plan 400, Musselshell County will go north with Petroleum, Garfield, and McCone Counties.

Carbon County in all of the plans is too big for a single district, and two different areas are taken out to make Carbon County its own house district. Plan 100 and 200 take out the Roscoe area (precinct 13). It shares a school district with Stillwater County. Plans 300 and 400 take the area of Silesia, but does not go into Joliet. Joliet is in with the Carbon County District while Silesia is combined into a Yellowstone County district. In Plan 300, Silesia is in the Stillwater district. In Plan 400, Silesia is the Yellowstone County-Laurel district.

Yellowstone County is split because of population. Its eastern one-half is shared to the east with Treasure and Rosebud County. The Huntley Project district is very different in Plans 100 and 200 than it is in Plans 300 and 400. These plans try to keep the Huntley, Worden, and Ballantine areas together, but in some plans, it does not include the Pompey's Pillar area. The Broadview portion of Yellowstone that was previously with Musselshell, Golden Valley, and Wheatland County is now brought back into a Yellowstone County district.

The Crow Reservation portion of Yellowstone County in all plans is included with western Big Horn County district--the Crow majority-minority district. There are also variations on how much more area south of Billings is included the reservation majority district. Plan 100 goes up to Interstate 94. Plan 200 uses a portion of I-94 but it does not include Huntley or Custer. However, it cuts very close to those communities. Those are where the issues of Pompey's Pillar comes up. Plans 300 and 400 take more of the area south into the district with Huntley and portions of northern Big Horn County.

**Commissioner Pretty On Top:** We also want to visit about what happens with Billings.

**Ms. Fox:** It is very difficult to speak about what happens in Billings because of the different conglomerations. If you remember, the districts closest to downtown Billings, the older districts, had lost population and need to gain population out. But, there was sufficient population in the suburban to rural areas and in between Billings and Laurel. There was much population growth in that area so there is more than enough population to move around. It was just a matter of how you wanted to do that. The different configurations in the Heights area was a matter of whether you wanted to go further west or further north.

**Commissioner Rice:** I move the Commission tentatively adopt the house districts proposed in Plan 300B for the Central/Southeast and Southcentral Regions. These include proposed Plan 300B House Districts #21, 22, 25-47. (EXHIBIT #2) The reason I choose to combine these into a single motion is that all of these areas and the districts within Plan 300B meet the four mandatory criteria. To avoid having to repeat that three different times for three different district, I thought it was easier to put them in together.

**Commissioner Pretty On Top:** John, could you discuss the rationale for the motions that we make having to do with the criteria.

**John MacMaster, Staff Attorney, Legislative Services Division:** I think what you are referring to is my advice in the past, particularly with respect to what might be controversial districts or motions, that you state for the record or have something that is written that would become part of the record that would back up your plan in terms of stating why it complies with the mandatory and discretionary criteria that the Commission has adopted. The last Commission did that. When the plan was defended in Court, Sarah Bond who was the attorney who defended the plan, told me that it was very valuable to her to have in the minutes where a Commissioner stated "I think this plan follows this criteria because and it follows that criteria because".

**Commissioner Jellison:** I would **move** that the material that has just been handed out, which is entitled Southeast/Southcentral Regions, be made part of the record of this hearing and be included in the minutes without the necessity of having to read it.

**Commissioner Pretty On Top:** I haven't seen it enough to really study it and I would like to hear it myself.

**Commissioner Rehberg:** How are going to study it by just reading it? Why don't we just recess and read it?

**Commissioner Lamson:** She is going to hit the high points, Jack.

**Commissioner Rehberg:** The last time she read it word for word after I made the suggestion that we just highlight it.

**Commissioner Pretty On Top:** So your suggestion might be highlighting it or are you suggesting that it not be read at all?

**Commissioner Jellison:** As was indicated, the function of that is to have it in the record and part of the proceeding so that anybody reviewing this later will be able to consider this information. The purpose in reading it orally, other than to inform some of the folks that are visiting, would be simply to have all of us hear the same information all over again. It seems to me that we could save time. I don't think that it is a matter of great importance.

**Commissioner Lamson:** I think for the matter of the press and just informing the public that we should at least orally hit the high points of what we are doing.

**Commissioner Pretty On Top:** I think that the rationale is very important in this process, and as Presiding Officer, I would request that you (Commissioner Rice) go over the rationale.

The following is quoted from written material submitted by Commissioner Rice.

**Commissioner Rice:**

"Rationale:

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

- 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 300B 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 will address how specific proposed house districts in Plan 300B meet the mandatory and consider the discretionary criteria of the Commission.

**House Districts 21 & 22:** These two districts share Lewistown and include surrounding rural communities in the counties of Judith Basin, Petroleum, Garfield, McCone, Fergus and southern Chouteau. This part of Montana experiences the dual characteristic of low population density and slow or negative population growth. Plan 300B seeks to more evenly geographically distribute the population between the two proposed districts. Sharing the Lewistown population allows for the rural portions of these districts to be more compact. The alternative of creating the traditional Lewistown “doughnut district” would require a corresponding rural district including parts of Chouteau, Fergus, and McCone Counties and the additional three counties of Judith Basin, Petroleum, and Garfield.

Lewistown is the largest trade center in central Montana serving the surrounding rural communities. The health of the Lewistown economy is inextricably tied to the health of the surrounding agricultural economy. These districts share communities of interests including common trade areas, an agricultural economy, social and cultural characteristics, voting patterns, and major transportation networks. All small towns outside Lewistown remain intact in both HD 21 & 22.

**House District 25:** This district includes the Richland County communities of Sidney, Fairview, Lambert, Richey, and the rural communities to the west in Dawson County. The district is composed of Sidney and the small towns that serve the surrounding farms and ranches and oil and gas industry. These communities share economic, political, social, educational, and cultural community interests. All towns within the district remain intact.

**House District 26:** This proposed district includes all of Glendive and surrounding Dawson and Wibaux County rural communities. These communities share common agricultural and energy economic interests, political, social, educational, and cultural community interests. All towns within the district remain intact.

**House District 27:** Because of a decrease in population within the rural Southeastern Region, there will be the loss of one house district in this area. This necessitates the creation of a geographically large rural district to accommodate the low population density within this region. The proposed district shares an agricultural and energy related economy. The residents within the district share social, cultural, educational concerns, political, and agricultural economic communities of interest. All towns within the district remain intact.

**House District 28:** This is the Miles City District. The district reflects the shared economic, social, media market, cultural, political, and educational interests of the Miles City community. Similar Miles City districts were proposed in all four plans presented to the Commission and received widespread, bi-partisan support.

**House District 29:** This district includes the communities of Huntley, Forsyth, Colstrip, and rural areas of Yellowstone, Treasure, Rosebud, and Custer Counties. An amendment will be offered to add Hysham and the remainder of Treasure County to the district.

The district shares a coal energy and agricultural based economy. It is a district with a sizeable, blue-collar workforce with strong bonds to the agricultural community. The transportation system and the Yellowstone Valley tie the district together. All towns within the district remain intact.

**House District 30:** This district encompasses all of the Northern Cheyenne Reservation, part of the Crow Reservation, and a portion of Powder River County. Based upon testimony received from residents of Powder River County and the Northern Cheyenne Tribe an amendment will be offered to move the Powder River County boundary further west. This will require moving the northern border of proposed HD 30 across the reservations' boundaries into Big Horn and Rosebud Counties.

The Commission received testimony from representatives of the Northern Cheyenne and Crow Tribes as to the distinct communities of interests shared within this district. The residents of the district share rich cultural traditions, language, 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.

Plan 300B 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 30 would be 57%. The community of interests shared by the residents of proposed HD 30 clearly demonstrate race is only one of many shared community characteristics and not the predominant factor in the creation of the district.

The 1980 and 1990 Redistricting Commissions recognized these common communities of interests in the creation of previous legislative districts involving this part of Montana. An amendment will be proposed to address suggestions of local residents.

**House District 31:** This district includes much the Crow Reservation and areas to its north and west. The Commission received testimony from members of the Crow Tribe regarding the communities of interests shared within this district. The residents of the district have in

common cultural traditions, educational, social, language, 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.

Plan 300B 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 31 would be 56%. The numerous cited community of interests shared by the residents of proposed HD 31 clearly demonstrate race is only one of many shared community characteristics and not the predominant factor in the creation of the district.

The 1980 and 1990 Redistricting Commissions recognized these common communities of interests in the creation of previous legislative districts involving this part of Montana. An amendment will be offered that adjusts the boundaries of HD 31.

**House District 32:** This District contains all of Musselshell County and northern parts of Yellowstone, Treasure, and Rosebud Counties. An amendment will be offered to remove Treasure County from the district. It will necessitate adding a portion of rural, northwest Custer County.

The residents within the district share social, cultural, educational concerns, transportation networks, political, and agricultural and energy economic communities of interest. All towns within the district remain intact.

**House Districts 33 – 46:** All these districts are contained within Yellowstone County. The districts are designed to give representation to the rich diversity of interests both urban and rural within the county.

**House District 33:** This proposed district includes much of northwestern Yellowstone County. It includes Broadview and Acton as well as the high growth areas north of Billings. The district has common communities of interests created by its social, economic, cultural, media market, and political composition.

**House Districts 34 and 35:** These two districts represent the rapid growth areas of Billings Heights. The area shares common economic, educational, media markets, social, and political interests. All plans presented to the Commission proposed two districts to represent the residents of this area.

**House Districts 36 –41 and 43-44:** These eight districts comprise the urban "core" of Yellowstone. The districts are drawn in a generally east/west orientation along established transportation networks. Aligning districts in this manner creates opportunities for Billings' residents to elect representatives who reflect the social, economic, and political interests found in the urban area.

The districts represent the interests of Billings' many, diverse neighborhoods. High population densities allow for the creation of compact districts that reflect the socio-economic diversity of Billings' neighborhoods. The districts share common socio-economic, commercial, occupations, media markets, lifestyle, voting patterns, educational, and local government communities of interests.



**House Districts 42 and 45:** Both these districts are suburban/rural districts that border Billings on the east, south, and west. The districts are dominated by the common interests, which relate to rapid growth, suburban communities. They share social, educational, economic, media markets, and political characteristics.

**House District 46:** This district is comprised of town of Laurel and a surrounding portion of southwestern Yellowstone County. Laurel's total population is 6255. The community's refinery and rail transportation facilities create a common economic base for the district. As a result the residents share similar economic, social, media markets, political, and educational interests.

**House District 47:** Carbon County composes most of this proposed district. The residents of the county share in a diverse economy that involves agriculture, tourism, and commuters to jobs in neighboring Yellowstone County. All towns within the district remain intact. An amendment to address suggestions from Carbon County residents will be offered later."

**Commissioner Rehberg:** I would like to congratulate Commissioner Rice on her rationalization of criteria and respectfully disagree with Mr. MacMaster that we need to have a litany of all the criteria as we go through this process. I am of the opinion that Susan Fox has done an excellent job in Plans 100, 200, and 400, and I can assure the media and the public that Susan has made every effort to follow the mandatory and the discretionary criteria.

I am concerned, as I have stated before, that we continue to ignore those that participate at the hearings. As I look at what you proposed for Yellowstone County, the majority of people at that hearing opposed what you were doing in Billings, including some of the Democrats, some of the Task Forces, and certainly, many of the legislators. With that in mind, I am going to have to oppose almost all of Plan 300. I have promised the residents of Rosebud County that I would make every effort to see to it that Rosebud was not divided into three different districts which it has been for the last 20 years. There are plans that would correct that situation. Obviously, that is being ignored also.

It is quite apparent, and I am going to say it one more time, that we are being forced to accept what the three Democrats on the Commission want without real serious concerns about what the public wants. I would like to point out that I asked about a month ago how much we have spent of our budget. As per the email I received on April 11, 2002, we have spent 45% of our budget. I guess I would like to ask the question of the Commission: Why are we wasting our time and money when Mr. Lamson is going to propose the plans and the three members of the Commission are going to do nothing but support them?

At one point, our Chairman made a statement to the newspaper that she "was not a sheep following the shepherd". But, Madam Chairman, I would like to point out one vote that could have been taken where you could have digressed from that position. It didn't make a bit of difference, and that was when we elected a Vice Chairman of this Commission. One, I don't think we needed a Vice Chairman; two, I don't think the Vice Chairman serves any purpose; and three,

**Commissioner Lamson:** How does this relate to the motion?

**Commissioner Rehberg:** Wait a minute, Sir. If you wanted to throw a crumb, you could have done it on that election. Now, Mr. Lamson, if you want to respond, feel free.

**Commissioner Lamson:** Mr. Rehberg again has given this speech just about every Commission meeting we've had, and it is full of half truths and innuendos as usual. The fact of the matter is, if you go over the testimony for this particular region, the majority of the testimony that we received to date from individuals in terms of testifying before the Commission and submitting testimony, there were about 170 people who have done that, they were all over the map because it is a very diverse region. But of those people who have communicated, most people have supported Plan 300. So this notion that Plan 300 has no support and that it is just out there and of itself, is totally false. Also, the fact of the matter is that Plan 300 has been amended already in two previous regions to take into consideration testimony that was given at the public hearings, and I believe that is what is going to happen again today. So, this notion that public hearings don't matter and that input is not important to this Commission is absolutely false.

**Commissioner Pretty On Top:** As Chairman, I would like to clarify that I was appointed by the Supreme Court to exert my judgment, and I feel that I have. I do have a lot of background in voting rights litigation and this whole matter of drawing district lines. Since the 1980 Commission, I have been involved in all of this. I am no newcomer to it. I think that when I exert my vote, I certainly do it in all of my best conscience; and while it may not be the vote you wish me to make, I certainly do make it.

**Commissioner Jellison:** I speak in opposition to the adoption of Plan 300B. The criticism that we heard about that plan at the hearing in Billings was very substantial. Almost every person who talked about that plan in specifics opposed it, particularly in the treatment of the city of Billings. There were other people who felt that the plan was a good plan, and almost all of those where people who said "I think Plan 300 is the good plan". But, I felt that not very many of those people had really looked at the plan or were doing anything other than saying "I support my friend Joe Lamson in his treatment of this project." I feel that the adoption of Plan 300B, as it is proposed to us, would be a gross mistreatment of the people in that region and would be a slight to the people who took the trouble to come and testify and explain why it was a bad plan.

**Commissioner Rice:** I think it is very important to remember that public hearings are one part of the public record and letters that we receive that are entered into the public record are equally as important. There are always reasons why people can't or don't come to public hearings, but we need to consider the entire public record. Secondly, there are a number of amendments that I will be offering, some of which were submitted earlier to the Commission (EXHIBITS #3 and #4 respectively) and a few others that came up a little later that were not given to the Commission earlier. Most of those were in direct response to requests made by people who, either at a public hearing or somewhere else in the record, said "Can you try this?" or "Please, do this?" I am always interested in how much the public understands what a difficult job we have and how if you move one chunk out of a district or into a district, you have to move another chunk somewhere else to meet the population criteria. Lastly, I would like to say that suggesting that we abandon the public process and have no hearings would be like saying that we don't need a Legislature when the Republicans have both Houses and the Governor's Office. No one would suggest that. Our populist constitution covers that very well and does not allow for such things as no public hearings or no legislative sessions regardless of which party might be perceived as being in the majority and having all of the votes.

**Commissioner Rehberg:** I would ask about the procedure? Are you going to go through each of the amendments before we vote on this?

**Commissioner Rice:** We adopt the plan, then we adopt amendments, and then we move for the adoption of the amended plan. That is the suggestion that Susan (Fox) has made to us. We have followed it all along.

**Commissioner Rehberg:** Is that the acceptable way of doing it?

**Commissioner Pretty On Top:** We have the ground rules that we established the last time and we voted for them.

**Commissioner Rice:** It is just a procedural thing. It all ends up with an amended plan being adopted. There is plenty of time within the process to talk about any amendments.

**Commissioner Jellison:** It does not make sense to adopt the plan and then go back and amend it. For instance, if we were not in a situation where you all had all of the votes and if I were sitting here looking at this plan and thought that the plan was okay as is, I would vote for it to be adopted. Subsequently, if amendments are proposed and adopted that change the plan completely, I have lost any opportunity to defend the plan that I thought that I had voted for.

**Commissioner Pretty On Top:** When we are presented the plans at the public hearings, they are exactly as we see them. Then, we hear all public testimony, and amendments emanate from that testimony. That essentially validates the whole public hearing process in that the public has pointed out weaknesses or things that should happen when the lines are drawn, and they do it with excellent rationale. It makes sense for the public participation process because the amendments descend from those comments.

**Commissioner Jellison:** Normal parliamentary procedure is that someone makes a motion. It is then discussed. If someone does not like the motion and thinks it could be saved by changing it, they move that it be amended. The motion to amend is discussed, and if the amendment passes, then we revert back to the original motion as amended. But ultimately, you vote on the original motion as amended by the amendments that were passed. Then you have a complete package.

**Commissioner Lamson:** That is precisely what we are doing. We are passing an overall plan. It is following the legislative process where a bill gets put forth . . .

**Commissioner Jellison:** You are adopting a motion by vote without the amendments, and then you are asking "Does anybody want to amend that motion that we have already adopted?"

**Commissioner Lamson:** You can offer, at this point, another motion that says " I move that we adopt Plan X". We would debate that motion back and forth, vote on it, and then come back to the original motion.

**Commissioner Pretty On Top:** I would like to ask Ms. Fox to go over the ground rules. We adopted these rules at our March meeting, and it isn't exactly like other types of parliamentary rules and procedures. This is a very unusual process--one that has its own patterns. Other Commissions may have handled it a little differently, but our ground rules are already set. While you may disagree with them or suggest that there might be other ways of handling them, they were adopted by a unanimous vote.

**Ms. Fox:** I will try to explain my logic. Because my job is with the Legislature, traditionally, that is the only place I have to go to try and figure out how to handle this. I see this as the equivalent of four bills which are mutually exclusive. In essence, we need to know which bill we are working on in order to know which set of amendments that we can apply to the bill. Because there is a series of motions, you don't do a final motion on the entire plan until you have seen the entire circumstances. That was the logic of this. Instead of dealing with amending four different plans

at one time, we narrow it down to a single bill and then proceed with the parliamentary procedure that you were suggesting. We did adopt this because I was trying to get a grip on how we handle which region of the state we are in and which plan, in a general sense, we were going to go with, and then offer the amendments to make adjustments in the plan.

**Commissioner Pretty On Top:** As an example, there was a fellow that came to the Lewistown hearing with an amendment that he thought would be an excellent plan. It was not reflected in any of the plans that we had as we went to that hearing. The same is true with Mr. Birdwell, the fellow who testified rather dramatically in Yellowstone County. He had an amendment. I think it is incumbent on all of the Commissioners to look at the amendments. They are very critical, and they could actually reflect some characteristics of the other plans. I would observe that that happened in the last adoption--that some of those amendments looked at characteristics in the other plans and moved them in. Public participation is really important in this process.

**Commissioner Jellison:** What we are ultimately going to do is adopt a final plan. The motion that is before us is that we adopt a tentative plan or Plan 300B as the tentative plan. Then the concept is that after we have adopted that motion, we will then offer amendments to the plan. The point I was trying to make is that it doesn't make sense to adopt a motion and then immediately start to consider whether or not we are going to amend the motion that we just adopted. Everybody else in the parliamentary world says "We have a motion, does anybody have any changes that they want to make to the motion? We vote on the changes, and when we get a motion that has or has not been successfully changed, we will then vote on the motion and adopt it." As long as it is understood that the same affect is of an amendment motion made after the plan is adopted versus an amendment made during the course of adoption, there is a practical difference. It just seemed incumbent on me to point out that it is illogical to do it the way that we are doing it.

The other thing that I would like to respond to is yes, the written communication that we receive is certainly part of record and are to be considered. The weight of the communications is as important as the number of communications. If you get 300 communications that states that they are in favor of Plan 300, it doesn't impress me as much as a very carefully thought out analysis and proposal based on that analysis, such as the Birdwell presentation and proposal struck me as making awfully good sense. The population of this area that we are talking about is probably at least 300,000 people, and 170 communications is less than 1% and probably less than one-tenth of 1% of the people who reside in that area. Almost all of the people who reside in these regions rely on the integrity and the judgment of the representatives or elected officials that are supposed to be looking after their interests. We have the duty to use our own judgment regardless of what one-tenth of 1% of the population may say.

**Commission Rice:** I really don't have any objection to what Commissioner Jellison is suggesting. I was just obeying Susan's (Fox) direction--making it easier on the staff. But, however, we choose to do it is fine with me.

**Commissioner Pretty On Top:** The ground rules are a matter of record, and I think that it is important for the consistency of our method, unless one Commissioner who is on the prevailing side would like to offer a motion to reconsider. That may be what you want to do Commissioner Jellison.

**Commissioner Jellison:** I just want us to do what is right.

**Commissioner Rehberg:** I would suggest that we vote on her (Commissioner Rice) motion and then ask Susan (Fox) to remove all of the maps that do not apply.

**Commissioner Lamson:** We refer to them.

**Commissioner Pretty On Top:** Some of the characteristics in the other plans may be reflected in the amendments.

**Commissioner Rehberg:** You are going to amend a certain plan. You are not amending Plans 100, 200, or 400, you are just amending Plan 300.

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

**Commissioner Jellison:** I **move** that we adopt the amendment proposed by Mr. (Weldon) Birdwell at the Billings public hearing. (See Page 3 and the last map of Exhibit #3) It seemed to me that what he explained to us made really good sense and was consistent with what almost everybody else from the Billings metropolitan area had to say. I think that would be a good step forward.

**Commissioner Rehberg:** When we had the hearing in Billings, there were several people who expressed concerns about Plan 300 in regard to downtown Billings. I would like to submit, which you have probably all seen, the opinion of the Billings Gazette which very accurately outlines several of the favorable comments toward the (Birdwell) amendment. State Representative Joan Hurdle, a Democrat representing House District 13, stated that Plan 300 really dilutes the urban and minority vote. The Southside Task Force, which is very involved in political activities, reviewed the redistricting Plan 300 and voted unanimously against it. The Billings Gazette made a very pointed comment stating "We call on the Commission to keep neighborhoods intact. The Commissioners must make nonpartisan revisions in the final plan." The editorial staff recommended that if we do accept Plan 300 that we accept the Birdwell amendments. Again you can go through the litany of whether the amendments follow the criteria. They definitely do follow the criteria. With that in mind, I would second the motion by Commissioner Jellison that we accept the Birdwell amendment to Plan 300. This does not affect the Billings Heights area. That part of the Lamson plan was acceptable to almost everybody who participated.

**Commissioner Lamson:** I was also at the Billings hearing and I had several discussions with people on the Southside Task Force, Rep. Hurdle, and Mr. Birdwell. My concern that what we run into, whether it is within the city limits of a large urban area or out in a small community, is that people tend to draw districts and lines that best serve their own particular needs. We as a Commission have to look at how all of these puzzle pieces fit together in one plan. I understand what Mr. Birdwell was talking about in terms of the Southside neighborhood, but we also received testimony from an individual who lived in the Southside who pointed out that all of the plans break up this region as Mr. Birdwell's amendment does. I would also point out that the problem that I fundamentally have with the amendment is the layout and the geographic distribution of the people in the area. If you run districts more on an easterly-westerly manner, you are able to represent the diversity of those areas. If you just cluster all of the residents in little pockets, such as putting all of the Southside people into one area, their influence within the urban delegation is reduced as it is under the Birdwell amendment. They have far more influence through several more areas that represent them. Legislators coming from that area are going to have to campaign in the Southside and represent those interests to get elected.

As you move further west, Mr. Birdwell makes those districts more oriented toward a north-south direction rather than an east-west direction. This tends to favor the higher-income neighborhoods in the northern part of Billings which tends to overshadow the votes there. In terms of compactness, the amendment is a little misleading because one map is drawn on one scale and another map is drawn over the top. I reduced the Birdwell amendment to the same scale as Plan 300 for comparison purposes. Two of the Birdwell districts are a little more compact looking from one point of view while two are much larger. It is the same as Plan 300. It is just how you move those around. I understand the concerns that were raised. If people took some time to really look at Plan 300 and what it does in that area, it does some very good things for those neighborhoods as well as all of Billings as a whole. The problem is that when you start to fix just an area that involves two districts, it affects all eight of the districts. So, I am going to oppose the motion.

**Commissioner Rehberg:** You say that the districts need to fit a particular need. Mr. Lamson, I will guarantee you that you are fitting a Democratic-party need, and that is the only rationale that I can see for your districting the way you are doing it.

**Commissioner Pretty On Top:** It is very important to look at the locations of minority voters. We could actually end up with a district where more minority voters are there, equaling packing, rather than the opportunity to seek or have representation, which is the opposite of not having enough voters who are minority to find that representation. Their influence in Billings as minority voters could be felt in other districts. You can make the Southside into a big, heavy block and limit the influence of minority voters in a number of those districts that could benefit from their presence in those districts.

**Commissioner Jellison:** Do I correctly hear you saying that the primary purpose of redoing the districts as they have been done is to give the minority voters a bigger voice than other voters?

**Commissioner Pretty On Top:** No, the Voting Rights Act has to do with the protection of minority voters to have the opportunity.

**Commissioner Lamson:** Race was not the primary reason for the way the districts were proposed.

**Commissioner Jellison:** What I heard was not a discussion of race being a factor rather a discussion of lower-income voters versus the more affluent voters and that your redoing the way Billings is laid out is going to give the less affluent voters a bigger whack. If that is the case, I think that is a gross injustice.

**Commissioner Lamson:** Again, you misinterpreted what I said. Billings is made up of a whole variety of people. It is Montana's largest urban area. There are many diversities of interests. What I am trying to do is to do what was very similar to the way that the 1980 Commission had drawn the Billings area. What they found out is that income groups were stratified as they went towards the Rims. We are not giving one group more power over the other. We are dividing it up so that everybody has a say.

**Commissioner Rice:** I think that the Birdwell amendments illustrate that there is more than one way to meet mandatory criteria. Susan (Fox) draws three plans, and they all meet mandatory and discretionary criteria. It comes down to the fact that there are honest and open differences of opinion on how to meet those criteria and best serve the people of Billings. That being said, I will indicate that I will be voting against the motion.

**Commissioner Rehberg:** Why does that not surprise me? I made the statement earlier to Joe to just say what you are going to do and shorten the meeting.

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

**Commissioner Rice:** I **move** to amend Plan 300B to address concerns raised during the public hearings and in letters to the Commission. An original of that amendment was submitted to our staff and was mailed to you last week. That version did not address all the concerns and I am therefore submitting an amended version of that amendment. It involves changes in proposed House Districts 28 – 32, 45, and 47. (EXHIBIT #5)

The following is quoted from written material submitted by Commissioner Rice:

"Rationale:

This amendment addresses concerns raised by residents in Rosebud, Bighorn, Treasure, Powder River, and Carbon Counties. The proposed amendment also causes minor changes to districts in adjoining counties.

The amendments meet the mandatory criteria and address the discretionary criteria established by the Commission.

**House Districts 30 and 31 Amended:** These districts include the Crow and Northern Cheyenne Reservations. Residents from Powder River County and the Northern Cheyenne Tribe both requested the Commission consider moving the eastern boundary of the district further to the west. It was argued this would create stronger communities of interests in the affected districts.

Decreasing the number of Powder River residents in House District 30 requires the northern borders of both HD 30 and 31 to move north beyond the reservations' boundaries into Big Horn and Rosebud Counties. This also will add additional Powder River residents to House District 28.

Suggestions made by Big Horn County Clerk and Recorder Cyndi Maxwell were addressed in the amendments for HD 30 and 31.

The amendment would result in an American Indian voting age population of 56% in House District 30 and 54% in House District 31.

**House District 29 Amended:** House District 29 would be amended to include all of Treasure County. In addition adjoining county adjustments are necessary to meet population requirements and strengthen the community of interests shared by the district. Treasure County Commissioners and local residents suggested that the agricultural/energy economic interests of Hysham and the county were more in line with those of the communities of Huntley, Forsyth, and Colstrip. This amendment addresses those concerns.

**House District 32 Amended:** This is the district that includes Musselshell County, and parts of rural Yellowstone, Rosebud and Custer Counties. The district was amended to accommodate

the changes made in adjoining House District 29. The addition of rural northwestern Custer County does not change the common agricultural/energy economic, social, geographic, transportation networks, and political interests the shared by residents of the district.

**House District 47:** This district was amended to address suggestions made by residents of Carbon County. Several alternative suggestions were made on how to reduce the Carbon County population to meet the mandatory population criteria for the district. The amendment addresses two of those suggestions. The "Roscoe Precinct" was combined with the adjoining proposed Stillwater County district similar as to what was proposed in Plans 100 and 200. The area surrounding Silesia was combined with the adjoining Yellowstone County HD 45 as was proposed in Plan 400. The Commission received testimony that the growth in this part of Carbon County was being generated more from Yellowstone County than Stillwater County. The amendments more closely align the community of interests shared by the residents of this area."

**Commissioner Lamson:** I would like to compliment the work done by Commissioner Rice while I was out of the country. It shows the value of public input and it creates districts that I think are more amenable to everyone.

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

**Commissioner Rice:** I move the Commission tentatively adopt Plan 300B as amended for the Central, Southeast and Southcentral Regions. The word tentative is still in my motion because until we get to the final hearing, nothing is adopted in absolute certainty.

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

#### **ADMINISTRATIVE ARRANGEMENTS - BOZEMAN, BUTTE, HELENA**

Commission members approved September 16, 2002, as the meeting date for the adoption of the Western Region Plans.

**Commissioner Jellison:** We have not received anything yet in terms of the proposed plan for the western region. I understand that it is difficult to do that until we have done the neighboring region, but I feel reasonably certain that Joe (Commissioner Lamson) has a draft in his computer of what the western region would look like unless something drastic happens. I find that people tend to not like surprise changes. If you give them time to look at something, they are less apt to react violently than if you drop something on them quickly. I would really appreciate it very much if you could give us at least a preliminary look at what you are thinking of doing on the western side so that I could talk to some of the people that I see so that it will not be a big shock to them on July 10 when we receive them.

**Commissioner Lamson:** We are scrambling to do the districts just as Susan Fox is. We are doing the same thing, we are talking to people, making changes, and we have had extensive conversation with Rep. Esp and Sen. Grosfield about changes in that area. Susan's deadline is coming up to put the Southwest Region. If I had the Western Region done, I would be glad to share it with you, but it is not done. It isn't even started.



**Commissioner Pretty On Top:** Ms. Fox what do you anticipate the mailing date to be.

**Ms. Fox:** If I am going to do a mailing two weeks ahead of time, the date would be mid-July. My plans may not be what you are interest in right now, but I have not had the opportunity to make any of my staff visits to the western region. I am still meeting with the Lewis and Clark County Democrats tomorrow on this region.

**Commissioner Pretty On Top:** The process is very formative because we have asked our staff to visit with the Clerks of the Counties, the County Commissioners, and with the Representatives and Senators and others in the communities.

**Commissioner Rehberg:** If we send the staff out, why don't we listen to them then?

**Commissioner Jellison:** Susan, I want you to know that I am really interested in what you do, and I think that you do a superb job. It just happens that when there is a 3 to 2 vote, what you do doesn't seem to make an awful lot of difference. What he does (Commissioner Lamson) is what I really would like to see. I think that he has already got it pretty mapped out.

**Ms. Fox:** The district numbering got changed between region. Now, that we have a certain line to deal from, all of the plans will be dealing with the same numbering system.

The Southwest Region will include Stillwater, Sweet Grass, Wheatland, Golden Valley, Park, Gallatin, Madison, Beaverhead, Silver Bow, Deer Lodge, Lewis and Clark, Jefferson, Meagher, and Broadwater Counties, and the Commission will hear the plans for these counties in the Helena, Butte, and Bozeman public hearings. Because of the incredible number of districts and amount of population, I will provide only two plans for this area in addition to Commissioner Lamson's, and they are very different.

There being no further business, the meeting adjourned at 4:35 p.m.

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