



Montana Districting and Apportionment Commission

Commission members:

Jim Regnier
Presiding Officer
P O Box 299
Lakeside, MT 59922

Jon Bennion
89 Whitetail
Clancy, MT 59634

Joe Lamson
612 Touchstone Court
Helena, MT 59601

Pat Smith
405 South First West
Missoula, MT 59801

Linda Vaughey
2505 Southridge Drive
Helena, MT 59601

Staff:

Rachel Weiss
Research Analyst
Joe Kolman
Research Analyst
Julianne Burkhardt
Attorney
Dawn Field
Secretary

MINUTES

May 15, 2012
7:00 p.m.

Lincoln Education Center
Billings, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

Jim Regnier, Presiding Officer
Jon Bennion
Joe Lamson
Pat Smith

COMMITTEE MEMBERS EXCUSED

Linda Vaughey

STAFF PRESENT

Rachel Weiss, Research Analyst
Joe Kolman, Research Analyst
Julianne Burkhardt, Attorney
Dawn Field, Secretary

AGENDA & VISITORS' LIST

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

CALL TO ORDER, ROLL CALL

00:00:01 Commissioner Regnier called the hearing to order at 7:00 p.m. The Secretary took roll, Commissioner Vaughey was excused (Attachment 3).

WELCOME AND ANNOUNCEMENTS

00:01:00 Commissioner Regnier welcomed the public and thanked them for taking time to attend the hearing. Commission members introduced themselves and Commissioner Regnier introduced the Legislative Services Division staff.

OVERVIEW OF ADOPTED DISTRICTING CRITERIA, HEARING PURPOSE, AND PUBLIC COMMENT GUIDELINES

00:03:20 Commissioner Regnier thanked citizens for their interest and participation in the districting proceedings. He reviewed the mandatory and discretionary criteria adopted by the Commission, the purpose of the hearing, and guidelines for giving public comment.

00:05:15 Commissioner Regnier reviewed four proposed plans designed by Legislative Services (LSD) staff, as directed by members of the commission. He noted that Commissioners Lamson and Smith submitted the Communities Plan and said that the Commission is in agreement that all plans are templates and that the final product will likely be combination of all of the plans.

PUBLIC COMMENT

00:07:57 **Shirley Hanson, Laurel, Yellowstone County**, asked that Laurel not be divided. She said that it would be best to keep the political boundaries intact and that Laurel's voting record shows close races and representation by both political parties and that keeping it whole will ensure continued competitive districts.

00:09:29 **Tom Hamel, Mayor, City of Billings**, said that the city and county are looking for the best possible representation through out the state and in boundaries for city wards and county districts. He said that the plan submitted by the Billings City Council and the Yellowstone County Commissioners received broad support from local governments, businesses, and citizens, and that the city and county governments support the Urban Rural Plan because it is the one most similar to the Billings-Yellowstone County Plan. He said that both Plans makes sense and will serve the area well. He said they are not designed to favor a political party. They comply with state law, as well as maintain communities of interest. He thanked the Commission for coming to Billings.

00:13:16 **Christina Volek, City Administrator, Billings**, thanked the Commissioners and the LSD staff for their work. She discussed how the Billings-Yellowstone County Plan and the Urban Rural Plan both meet criteria, including population equality, compact and contiguous districts, meeting Voting Act requirements, following existing political units, population deviations, geographic boundaries, and communities of interest. Ms. Volek said that the Billings-Yellowstone County Plan is defined by local officials and emphasizes neighborhoods, not diversity and competitive districts.

00:18:04 **Bruce MacIntyre, Billings Chamber of Commerce Convention and Visitor's Bureau**, recalled Billings as far back as the 1950s. He said that Billings still

maintains many of the same characteristics and that the community revolves around its schools, neighborhoods, and city council districts. He discussed the Billings-Yellowstone County Plan, saying that it takes into consideration the specific needs of the area. Mr. MacIntyre said that the Billings-Yellowstone County Plan has been presented to many different groups and entities and that it has been enthusiastically received by most. He thanked the Commissioners for the opportunity to provide comment and said that the Billings-Yellowstone County Plan represents the heart and soul of that area.

- 00:22:08 **Sharlene McComas, Fox**, said that she supports the Communities Plan because it spares Red Lodge from being carved into political pieces and protects the American Indian vote by creating the strongest majority minority districts with the highest overall Indian voting population. Ms. McComas thanked the Commission for listening to the public and submitted a letter of support for the Communities Plan into the record (EXHIBIT 1).
- 00:23:50 **Joe Raffiani, Chair, Yellowstone Valley Democratic Central Committee**, thanked the Commission for coming to Billings. He said that as a Democrat, he was asking that the Commission disregard the attempts of the Republican Party to discredit the plan. He said an attorney, he was imploring the Commission to adopt the Communities Plan because it does the best job of keeping voting districts compact and competitive. Mr. Raffiani said that as a citizen of Yellowstone County, he believes that the Communities Plan does the best job to strengthen the county's political power.
- 00:25:19 **Terry Silva** urged everyone present to read the United States Constitution. He said that any districting plan that tries to gerrymander and marginalize rural votes because they belong to a certain political party is just as discriminatory as any gerrymandering directed toward people of a different color or those who speak a different language. He said that all must have a voice and that no one should be marginalized and that the rural population must have a fair share of the vote.
- 00:28:21 **Bret Rutherford, Yellowstone County Election Administrator**, thanked the Commission for coming to Billings and said that he agrees with the statements made by Mayor Hamel and Ms. Volek. He said that he also supports the Urban Rural Plan for many good reasons, including that it keeps election costs down by having few splits and because it follows political subdivisions. He said that he supports the Billings-Yellowstone County Plan, as approved by the city council and county commissioners.
- 00:30:39 **Connie Wardell, Trustee, Billings School District**, thanked the LSD staff for meeting with school officials to discuss specific concerns. She said that she supports the Urban Rural Plan because it closely follows the Billings-Yellowstone County Plan and because it preserves many school district boundaries. She also discussed how school funding can be impacted by the districting process. She said that it is also important to have representatives who will be able to focus on Yellowstone County's needs and not be distracted the needs of other communities.

- 00:35:16 **Dale Rumph, Billings Heights**, thanked the Commission for coming to Billings. He said that the Urban Rural Plan splits the Heights community into three districts and that neither the Existing Plan nor the Communities Plans do that. He said that he thinks that either the Communities Plan or the Existing Plan would be best for the Heights area.
- 00:36:51 **Rep. Mary McNally, HD 49, but speaking for self**, made general comments regarding comments posted on the Districting and Apportionment Commission website, and the subjective nature of mapping, depending on the criteria used. She discussed her disappointment in how the city and county mapping process was handled and said that her opinion is that public participation was not encouraged. Rep. McNally also discussed her concerns about how HD 49 will be divvied up under all of the proposed plans. She said that the existing district makes sense but that the new plans do not. She commented that the Existing Plan and Communities Plan do a very good job of incorporating urban and suburban interests.
- 00:41:16 **Christopher Goodridge** said that his main concern is having competitive districts. He said that statements made that the last plan has been favorable to Democrats can be disputed if one considers the outcome of past elections. Regarding the Billings-Yellowstone County Plan, Mr. Goodridge said that he, too, was unaware of the effort and that it was not a public process. He said that there is nothing wrong with interest groups making a map but that it should be clear that the public was not included. Mr. Goodridge said that he supports the Communities Plan because they are functionally compact and that it comes the closest to meeting criteria.
- 00:47:13 **Sen. Lynda Moss, SD 26, Billings**, noted that she is a candidate in the Public Service Commission District 2 race. She discussed details of SD 26, saying that it was new district from the last districting cycle and is very competitive. She said it is an urban district and very diverse, with minority residents and large industry, government, and small businesses. She said that she supports the Existing Plan and the Communities Plan and that she also is disappointed that more people were not allowed to participate in the Billings-Yellowstone County Plan mapping process. Sen. Moss encouraged the Commission to consider Montana's common values that go beyond the urban rural divide when creating voting districts. She thanked the Commission for coming to Billings and for the opportunity to share different perspectives.
- 00:51:10 **Rich McFadden, City Council, Ward 3**, said City Council approved the Urban Rural Plan last year and that the latest vote was the previous evening. He said that no plan will be perfect but that the Urban Rural Plan is the most fair, which is why he voted for it. He said he would like to set the record straight regarding public notice of the local mapping effort and said that the process was advertised as required by law and that citizens did have the opportunity to give input. He said that the Council tried to be good stewards of the public trust and took many votes, with each resulting in support for the Urban Rural Plan. He thanked the Commission for the opportunity to comment.

- 00:53:37 **Ed Gulick, Billings**, said that he agrees with previous comments made in support of the Communities Plan. He said that he also is not pleased with how the local mapping efforts were publicized and handled.
- 00:54:50 **Theresa Keaveny, Director, Montana Conservation Voters**, said that she supports the Existing Plan and the Communities Plan. She said that the Communities Plan best meets the criteria set forth by the Commission. She said that she has concerns about the Urban Rural Plan because it ignores the needs of suburban and rural dwellers who are employed in the city. She said that she also is disappointed with how the City of Billings dealt with the local mapping process and the lack of public participation. Ms. Keaveny thanked the Commission for coming to Billings.
- 00:58:18 **Welden Birdwell, Billings**, discussed three problems he saw with the last redistricting effort: 1. the high deviation, which this Commission addressed through its decision to adopt a lower deviation than the previous process. 2. Allowing one political party to provide and implement their plan. The Communities Plan is an example of this. Mr. Birdwell said that the local party chair may not have had a problem with this but that he does. He said that solution is simple and effective, which is to rely on the nonpartisan staff maps and to disregard what is clearly a political ploy. 3. Avoid political manipulation through holdover senators -- Mr. Birdwell suggested that holdover senators be assigned to districts with the highest percentage of the their former constituents. He said that after reviewing the proposed plans, he thought that most were fair and efficient, except for the Communities Plan. He said that he likes the Urban Rural Plan best.
- 01:01:03 Commissioner Regnier recessed the hearing until 8:15 p.m.
BREAK
- 01:15:19 Commissioner Regnier called the hearing back to order at 8:27 p.m.
- 01:15:37 **Lisa Larr, Billings**, said that she supports the Communities Plan.
- 01:16:08 **Rep. Tom McGillvray, HD 50, Billings**, said his district is very equally split between Democrats and Republicans. He said that Montana's Constitution is the supreme law of the land with regard to districting and that the law must be honored and respected. He said that any plan must be nonpartisan and that he is confident that the staff is fair, unbiased, and nonpartisan to the best of their ability. He strongly encouraged the Commission to work with the staff plans and to disregard plans drawn by political parties. Rep. McGillvray also discussed the importance of keeping communities of interest intact and to consider them when drawing the senate districts. He thanked the Commissioners for their service to the state of Montana.
- 01:19:22 **Steve Charter, Sheperd**, said that he supports the Communities Plan because it keeps small towns intact and doesn't separate urban and rural dwellers. He said that the urban-rural divide shouldn't be played up because Montana is more complicated than that and that it isn't helpful. He said that as a resident of

Yellowstone County, he was not aware of city or county officials seeking input for maps.

- 01:21:02 **Walter Gulick** said that he would support either the Existing Plan or the Communities Plan. He said that competitive districts are needed, as are districts that combine urban and rural citizens. He said that the Existing Plan or Communities Plan would help bring about the best discussion in getting beyond some of the divisiveness.
- 01:22:40 **Sen. Kendall Van Dyk, SD 25**, thanked the Commission for meeting in Billings. He made reference to various special interest groups and constituencies and their activities and discussion and said, regarding plan put forth by Billings-Yellowstone County, that while there was a "severe lack of testimony" during that process, and in terms of public testimony on real plans, tonight's hearing is what is important because the Commission has final jurisdiction over the issue. He said that he wanted to be on the record as objecting to the Communities Plan being referred to as the "Democrat plan" because one of the other plans is clearly a Republican or Chamber plan. He said he discussed the Urban Rural Plan and said that it sacrifices urban seats to gain more rural representation. Sen. Van Dyk said that both political parties have urged the Commission to take partisanship out of the process and that he would urge the same.
- 01:25:38 **Clayton Fiscus, candidate for HD 46**, said that the current plan clearly is gerrymandered. He described the shape of the district as a horseshoe shape and the problems he has encountered in trying to reach the voters of that district. Mr. Fiscus said that the Existing Plan and the Communities Plan both have problems and that he supports the Urban Rural Plan. He said that HD 46 covers over 7,000 square miles and that the Urban Rural Plan consolidates districts and that the boundaries make sense.
- 01:27:50 **Sarah Sweeney, county resident, Ballantine**, said that she supports the Communities Plan and that its strong point is that it keeps urban, rural, and suburban citizens communicating and interfacing with one another. She said that Montana doesn't need a plan that will divide, it needs a plan that will unite and she urged the Commission to adopt the Communities Plan.
- 01:29:06 **Sen. Jeff Essmann, SD 28, Billings, but speaking for self**, thanked the Commission for holding an unprecedented number of hearings. He said it has made this districting process much more logical and fair, and has set a new bar for openness and transparency. He said that he supports the Urban Rural Plan because it would work well for the City of Billings. Sen. Essmann said that the Communities Plan has illogical lines and doesn't follow school districts, as the Urban Rural Plan does. He said that previous comments have been in support of competitive districts but that competitive districts are not one of the criteria to be used. He urged the Commission to be logical and consistent in crafting senate districts and pairing them with house districts.
- 01:36:54 **Rep. Ken Peterson, HD 46, Billings**, said that he testified against the Democrat's plan ten years ago on the same issues and wants to be on record as

opposing the current Democrat plan. He said the plan is designed to equalize the parties in Montana and that it does not represent the true demographics of Montana. He discussed how his district was changed by the last districting cycle and said that it was designed to pack districts for political gain. Rep. Peterson said that he was raised on the Blackfeet Reservation and thought it a mistake to treat Indians differently than other races because all are part of the human race. He said that the new plan should only make adjustments for the population changes and should reflect the true demographics of the state. Rep. Peterson said that a plan that would equalize the parties, rather than reflect true demographics of Montana, would be dishonest and that the Commission should reject any plan that attempts to do that.

01:42:53 **Annie Halland, Bridger**, said that she would support either the Urban Rural Plan or the Subdivision Plan because neither splits Carbon County. She said that it makes sense to follow county lines and that Carbon County meets the criteria for being a single district.

01:43:44 **Dag Hanson** thanked for the Commission for coming to Billings. He said that he came to the hearing to learn more about the process. He said that the last cycle was gerrymandered by the Democrats and that they are attempting to do the same thing in this cycle through the Communities Plan. He said that the other plans are more reasonable and logical and should be the only ones considered.

01:45:26 **Rep. Cary Smith, HD 55, Billings**, read a statement into the record opposing the Communities Plan (EXHIBIT 2). He said that he opposes the Communities Plan because it does not follow the mandatory criteria of population equality and uses political data and election results to put fewer people in Democrat-leaning districts and more people in Republican-leaning districts. Rep. Smith referenced the *Larios v. Cox* case in Georgia in which a districting plan was thrown out because the Court found that population deviations were used for political purposes and said that Montana's nonpartisan staff did not use political data or election results in drawing their plans. Rep. Smith said that the Communities Plan also violates the compact and contiguous criteria and offered HD 51 and HD 52 as examples. He asked the Commissioners to adhere to the defined mandatory and discretionary criteria, to listen to the public comments, and to rely on the nonpartisan staff.

01:48:15 **Annette Anderson, self**, submitted a packet of letters into the record (EXHIBIT 3) from Carbon County citizens urging the Commission to reject maps using political data and election results in the development of district lines for the Legislature. She said that Carbon County doesn't need any more diversity but does need fairness and that either the Urban Rural Plan or the Subdivision Plan would unify Carbon County. She asked the Commissioners to restore their community and unite the county into one voting district and to reject the Communities Plan, which she said, was the "sister" to the current plan.

01:49:29 **Rep. Joanne Blyton, HD 59, Carbon County, but speaking for self**, thanked the Commission for its work. She said that while she is happy to see progress, she would like to remind the Commission that it needs to do what is fair to the

people of Montana. She asked that the Commission strongly consider placing Carbon County in one house district and to preserve the rural areas in senate districts as well.

- 01:51:27 **Rep. Doug Kary, HD 48, Billings Heights**, said he supports the Urban Rural Plan and he found it ironic that the Democrats call their plan the Communities Plan because it tears the community of Billings apart. He said that a portion of the Heights is broken up into at least five districts and that the only reason for that could be political gain. He asked that communities not be broken up and that the Urban Rural Plan be adopted.
- 01:53:14 **Joseph Sands, representing himself and over 600 Montana firefighters**, said that he supports the Communities Plan because it keeps communities together and opposes the Urban Rural Plan because it divides communities.
- 01:54:30 **Walter Yovetich** said that he would support either the Communities Plan or the Existing Plan. He said that the objective is to maintain a minimal population deviation and that the Communities Plan best meets this criteria. He said that as a life-long resident of Yellowstone County, he knows about rural and urban lifestyles, and said that it is very important to not marginalize rural areas.
- 01:55:52 **Sen. Taylor Brown, SD 22, Huntley**, read a statement into the record opposing the Existing Plan and the Communities Plan, and in support of the Urban Rural Plan (EXHIBIT 4). Sen. Brown's comments included reasons why he opposes or supports the plans. He asked that the Commission not allow one party to have an advantage over the other nor to allow communities to be splintered. Regarding comments on the need for competitive districts, Sen. Brown said it is not the Commission's constitutional responsibility to generate political competitiveness. He said that the Chair's job is to bring balance and fairness and that he has confidence that it will be done, and that the constituents of Montana are depending on him to do what is right.
- 02:01:14 **Svein Newman, resident of HD 49**, said that the Communities Plan is best for a variety of reasons and that he would focus his comments mainly on his own neighborhood. He said that when he moved back to Billings in 2009, he was very selective about where he wanted to live. He discussed neighborhoods in which he has resided and said that the Communities Plan would best serve the cultural communities of interest that are important to him. Mr. Newman said that he thought the other plans were problematic and discussed reasons why for each. He said, on the balance, the Communities Plan would be best for Billings.
- 02:06:24 **Mark Noennig, Billings, former legislator**, said that he hasn't looked at the plans in great detail but has been studying diversity and the lack of bipartisanship and nonpartisan solutions in state and national politics. He said that politics have been allowed to play too big a part and is why there are so many problems. Mr. Noennig said that districting is a very important job and needs to be done with great care. He asked that the Commission follow the criteria and not politics.

- 02:08:08 **Roger Webb, Billings Heights, candidate for HD 24**, referred to the discretionary criteria and said that he hopes the Commissioners will follow political units, follow geographical boundaries, and keep communities of interest intact. He asked the Commission to follow existing neighborhood lines, city wards, task force, and school district boundaries in order to preserve Billings' many distinct and separate areas. He said that he supports the Urban Rural Plan and the Billings-Yellowstone County Plan.
- 02:09:27 **Rebecca Riedl, self and organized labor**, said that many accusations have been made that the last plan was drawn to benefit the Democrats and that if that was the case, that plan was a dismal failure. She said that she supports the Communities Plan and that having competitive races gets citizens involved.
- 02:10:36 **Marissa Stockton** said that since being able to vote first in 2006, her vote has never been fairly represented. She asked that the Commission please consider the Urban Rural Plan because it provides for more fair representation.
- 02:11:11 **Cole Olson, resident, Laurel, HD 55**, said that he supports the Communities Plan. He described the boundaries of his district under the Communities Plan and said it most fairly represents what Laurel residents would consider their community.
- 02:11:58 **Joe Splinter** thanked the Commission for the opportunity to comment. He said that he would like to respond to comments made by Sen. Jeff Essmann and said that having competitive districts are important for the democratic and political process. He said that the Communities Plan best keeps that spirit of democracy alive.
- 02:12:49 **Brandon Demars**, said that he supports the Communities Plan.
- 02:13:02 **Rebecca Barger**, said that she agrees with the comments made by Sen. Kendall Van Dyk and that she supports the Communities Plan.
- 02:13:19 **Don Jones, candidate for HD 56**, said that there are many differences between urban and rural interests and for that reason, he supports the Urban Rural Plan. He said that much thought and consideration has gone into that plan and he urged the Commission to adopt it.
- 02:13:54 **Becky Bird, Billings City Council member, but speaking for self**, said that the Billings-Yellowstone County Plan makes sense for Billings. She said that the differences between urban and rural communities are much greater than the similarities and the challenge is how to overcome that divide. She said that she is not endorsing any of the proposed plans but is requesting that whatever plan is adopted, those differences not be made worse. She said that limited resources and fiscal challenges, as well as partisan politics, will hurt all Montanans and that the state must find a way to be a community. Ms. Bird said that the reality is that the districting process, by its very nature, is very political; and that statements have been made characterizing plans as either Democrat or Republican, but that

she believes the Commission will be careful in its deliberations and will make good decisions in the best interest of the State of Montana.

02:19:55 **Rep. Elsie Artzen, HD 53, Billings**, thanked the Commissioners and the legislative staff for their work. She said her message to the Commission is that it needs to make sure that the divisions are very small and to make sure that all districts can effectively interface for the good of the state. She said that she would rather have district lines that differentiate between urban and rural interests but that consideration must also be given to other important interests.

COMMISSIONER COMMENT

02:22:56 Commissioner Smith thanked all for their comments. He said that the maps are starting point only and will be changed as the process goes on. He said that even though there is only one public hearing left, the record will remain open for additional public comment. He said that the districting process is complicated and confusing but that it is great to see such great public participation.

02:24:16 Commissioner Bennion thanked everyone for attending the hearing and said he also was encouraged by the amount of public participation. He said that it is likely the final plan won't please everyone but that the public comment will make it easier for the Commissioners to formulate a fair plan.

02:25:02 Commissioner Lamson agreed with Commissioner Smith's and Commissioner Bennion's comments. He responded to several public comments made regarding following existing lines of school districts and other political units, and said that while each is important, those lines aren't always a good basis for legislative district lines and that the Commission must consider all factors in trying to create fair and balanced districts. He thanked everyone for their comments and for sharing their opinions.

ADJOURN

02:27:57 With no further business before the Districting and Apportionment Commission, Commissioner Regnier thanked the public for their comment and adjourned the meeting at 9:30 p.m. The Commission will meet next on May 16, 2012, in Miles City, Montana.

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