

REDISTRICTING COMMITTEE

Wednesday, September 29, 2021
Rough Rider Room, State Capitol
Bismarck, North Dakota

(Transcription of Videotape)

Members Present:

Representative Bill Devlin, Chairman
Representative Larry Bellew
Representative Joshua A. Boschee
Representative Craig Headland
Representative Mike Lefor
Representative David Monson
Representative Mike Nathe
Representative Austen Schauer
Senator Brad Bekkedahl
Senator Randy A. Burckhard
Senator Robert Erbele
Senator Ray Holmberg
Senator Jerry Klein
Senator Erin Oban
Senator Nicole Poolman
Senator Ronald Sorvaag

EXHIBIT

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1 (Beginning of tape.)

2 CHAIRMAN DEVLIN: We will call the
3 Redistricting Committee back to order.

4 Emily, would you take roll, please, or don't
5 we need to take roll today? Okay. Okay.

6 Committee, yesterday we -- as you know, we
7 got done early and I let everybody go, but I
8 neglected to look at the schedule, that there was a
9 slot for public testimony yesterday afternoon, and
10 there was a person that came and wanted to testify.
11 Lisa DeVille is from the Mandan Tribe, if I remember,
12 but I -- so we brought her in. She's going to
13 present first on a Teams thing.

14 I'm sorry. It was my fault that it
15 happened, and we would be very happy to hear you now,
16 so...

17 Is she ready?

18 MS. THOMPSON: (Indiscernible) on the line.

19 CHAIRMAN DEVLIN: Huh?

20 LISA DEVILLE: Good morning.

21 CHAIRMAN DEVLIN: Good morning.

22 LISA DEVILLE: Can you hear me?

23 CHAIRMAN DEVLIN: Yes, we can.

24 LISA DEVILLE: Okay. Thank you.

25 SENATOR HOLMBERG: Is she just visual, or

1 (indiscernible)?

2 CHAIRMAN DEVLIN: We don't see you. Is the
3 camera on? We're just going to have audio? Just
4 audio. You're fine. You can go ahead. And your
5 testimony has been handed out, but we welcome you to
6 present to the Committee.

7 LISA DEVILLE: Okay. Thank you.

8 My name is Lisa DeVille, and I'm a citizen
9 of the Mandan, Hidatsa and Arikara Nation on Fort
10 Berthold here. I grew up in Mandaree where I and my
11 family are lifelong residents of our ancestral lands.
12 And I thank you for the opportunity to testify today.

13 The Mandan, Hidatsa and Arikara Nation is a
14 federally recognized tribe in the state of North
15 Dakota, located in the counties of Dunn, Mountrail,
16 McKenzie, and Mercer, Ward -- Ward, and McLean.

17 The Mandan, Hidatsa and Arikara Nation is a
18 sovereign nation governed by its Tribal Business
19 Council. We have an enrollment of nearly 17,000
20 members. Under the 2020 census, the population on
21 the reservation was 8,350. The total population in
22 North Dakota increased overall between 2010 and 2020
23 from 672,591 residents to 779,094, representing a
24 15.8 percent increase.

25 The Native American population outpaced the

1 state and grew by 29.7 percent in the last decade.

2 The Fort Berthold Reservation is within
3 North Dakota State District 4, which elects members
4 to the State House at-large and one member to the
5 Senate.

6 Currently, District 4 is represented by
7 three Republicans: Senator Jordan Kannianen,
8 Representative Clayton Fegley, and Representative
9 Terry B. Jones.

10 Prior to the 2016 election, the district had
11 a Democratic senator and one Democratic
12 representative for several years. And in 2020, I
13 challenged Senator Kannianen and, unfortunately, was
14 not able to be elected even though portions of the
15 district on the reservation strongly supported myself
16 and the House of Representative candidate Thomasina
17 Mandan.

18 Every decade new district lines are drawn
19 that give each of our votes equal weight, each of our
20 voices equal stature, and each of our communities
21 equal resources.

22 Voters pick our leaders, and our leaders
23 should not pick their voters.

24 To determine how we will be represented and
25 how funds for schools, hospitals, and other essential

1 services will be -- will be allocated, we need
2 legislators that work with tribal citizens as well as
3 government.

4 Representation at state, county, and federal
5 level is not all about oil and gas. We -- we Native
6 American/Indigenous people have our own voice. The
7 non-Natives have been speaking for us since they
8 landed here.

9 And recently I gave a short comment on
10 redistricting during the North Dakota and the Mandan,
11 Hidatsa and Arikara Nation's Tribal Relations
12 meeting, and I -- I support limitation of
13 subdistricts. We need to be at the table when
14 decisions are being made that impact our lives and
15 possibly the lives of our future generations.

16 There should be no assumption that
17 North Dakota knows what is best for us Indigenous
18 people when our culture, tradition, and beliefs are
19 different and often not taken into account when
20 decisions are made.

21 So, again, we need to be at the table, and
22 we need fair representation in North Dakota.

23 Maacagiraac, and thank you for this
24 opportunity to speak to you.

25 CHAIRMAN DEVLIN: Thank you.

1 Are there questions for Lisa?

2 (No audible response.)

3 CHAIRMAN DEVLIN: Seeing none, thank you.
4 And again, I apologize for your coming in yesterday
5 and we'd already dismissed for the day. That was the
6 Chairman's fault, and I sincerely apologize. But
7 thank you for making time this morning to present to
8 us.

9 LISA DEVILLE: Yes. And thank you. And
10 that's -- that's okay. Thank you.

11 CHAIRMAN DEVLIN: Okay. Thank you.

12 Representative Jones would like another
13 opportunity to present briefly this morning, and I
14 told him that he could do that before we made any
15 discussions on subdistricts.

16 REPRESENTATIVE JONES: Thank you,
17 Mr. Chairman, Members of the Committee.

18 For the record, my name is Terry Jones, from
19 District 4. And there was a comment made yesterday
20 that I was passionate about this. And I was not
21 planning on coming back, but on the way home one of
22 my most vocal constituents got ahold of me and made
23 my passion look like my fire had gone out. And he
24 asked me to please come back and appeal to the
25 Committee based on the fact that the Tribes already

1 have good representation in North Dakota.

2 The Court, as -- as I understand it in
3 listening to his argument, we had a court case here
4 10 years ago, and I apologize that I'm not as
5 familiar with it as I should be, but the question
6 before the Court is: Do we have a group of people
7 that are not equally treated under the law or the
8 legislature? And if the answer is yes, then they
9 turn to looking at the numbers. Do they have enough
10 numbers to create a subdistrict?

11 The Chairman asked me yesterday, How do you
12 get around the numbers? Because the numbers are
13 rising on the reservation, justifying the existence
14 of a subdistrict. The way that I would suggest that
15 you get around that number is by looking at the
16 question in its totality. The question, again, is:
17 Is there a group of people that are not properly
18 represented and have representation and service from
19 the legislature? The answer to that question, in my
20 opinion, is no.

21 If you look at the performance of the
22 legislature in the last 10 years, they -- and I'm in
23 the Judiciary Committee. We have done a lot of bills
24 dealing with Native issues. We have had the Governor
25 on the task force working with the Native Americans.

1 We have had great communication, great cooperation,
2 and they have had very good representation in
3 North Dakota.

4 In all the meetings they've been invited,
5 they have had every opportunity to be active in and
6 participate in the legislative process, and so they
7 are being treated fairly and equitably by the
8 legislature; and so then that never gets you to the
9 question of the numbers because if there's not a
10 group that is not being equally treated, then you
11 never look at the numbers to see where the numbers
12 are.

13 And so I would hope that this Committee
14 would consider the fact and -- and take -- have a
15 little faith in the legislators' past performance in
16 the 10 years that we've had since that last lawsuit,
17 and I would expect that if they look into it, they're
18 going to find that there is not a group that is being
19 unfairly treated under our laws here in North Dakota;
20 therefore, we never have a question about the
21 numbers.

22 I don't know how you can get better
23 representation in Number 4, District Number 4, than
24 Clayton Fegley and myself. The people of District 4
25 voted overwhelmingly for us to represent them, and I

1 would ask what business anyone has to change the game
2 for those people that voted for us.

3 If it's going to be done, I would hope that
4 it would be done by the courts and not by the
5 legislative body, because I -- I have full faith in
6 our performance in making sure that we're treating
7 the Native American population in District 4 fairly
8 and equitably and they have adequate representation.

9 That's all I have, Mr. Chairman.

10 CHAIRMAN DEVLIN: Thank you, Representative
11 Jones.

12 Is there any questions?

13 Representative Schauer.

14 REPRESENTATIVE SCHAUER: Thank you,
15 Mr. Chairman.

16 Representative Jones, thank you for coming
17 back. I think the word "fair" is very difficult to
18 determine. We just heard from Lisa DeVille saying
19 that she wanted fair representation; we just heard
20 from you that they have received fair representation.
21 So how does this Committee legally put fair ahead of
22 the actual numbers, which is -- which are the legal
23 guidelines that we have on the census process?

24 REPRESENTATIVE JONES: The question of fair?
25 I don't know how to define what "fair representation"

1 is.

2 I was duly elected by the majority of the
3 people in the district, and I have made it a
4 particular point to make sure that I gave -- Lisa
5 DeVille and I have had several communications back
6 and forth. Some of the things that she's asked me to
7 do, I've said, Thank you. I absolutely disagree with
8 you on that one. If it's been something that I agree
9 with, then I promote it and push it.

10 She has as good of representation as anybody
11 possibly can in North Dakota, and so I would
12 challenge her or anyone else to define what she means
13 by "fair representation."

14 I think that it's our responsibility in the
15 legislature and I think it's the courts'
16 responsibility to make sure we have equal opportunity
17 for representation, not create a situation where we
18 have preferential representation.

19 What they have now, in my opinion, is -- as
20 North Dakota citizens, they have as good of
21 representation as anyone else, and according to my
22 constituents, they get a lot more consideration than
23 normal residents of North Dakota.

24 But for us, especially for this Committee,
25 to make a decision and recommend that we have a

1 subdistrict that would be questionable whether there
2 would be any more fairness to the representation or
3 any more -- to make it any better, but the one thing
4 that is certain, if you do make that recommendation,
5 70 percent of the -- the members in my district will
6 be adversely impacted.

7 You're going to have the -- Subdistrict B is
8 going to only be able to have one representative
9 representing them, so in their opinion, that's a
10 negative impact.

11 Subdistrict A, which would include the
12 reservation, you're going to have 60 percent of the
13 reservation, that are on the reservation, that are
14 Native in -- in their -- in their numbers.
15 40 percent of the -- the people in that reservation
16 are non-Native. That's the one that got ahold of me
17 yesterday and was absolutely brutal in the way he
18 discussed this topic. He -- he does not want to be
19 put in a separate category where he only has one
20 representative.

21 He does not want to have preferential
22 treatment giving -- given to the Native Americans in
23 our district, and he asked me to please bring that
24 message back to this Committee and ask for your help
25 to keep the representation in District 4 fair and

1 equitable for everyone in District 4. Whether you're
2 on the reservation or off, everyone has the right to
3 fair and equal treatment under the laws.

4 CHAIRMAN DEVLIN: Further questions for
5 Representative Jones?

6 Senator Klein.

7 SENATOR KLEIN: Mr. Chairman.

8 You know, I'm certainly not a fan of this
9 subdistricting, but we have heard from any number of
10 the Tribes. I've asked the question, Are we not --
11 are you not being represented by your -- your
12 individual legislators who -- who are there for you?

13 And as citizens of North Dakota, I think we
14 represent everyone. But I -- I don't -- you know, my
15 bigger concern is -- if we don't do this, is -- and
16 the courts say, Hey, you know what? It looks like
17 District 14 is -- is pretty spread. Maybe we need
18 subdistrict in District 14, also.

19 Do we -- are we inviting -- my concern is
20 we're inviting the courts to come in and not only
21 meddle -- well, yeah, they're meddling with what --
22 the opportunity that we have set forth here, but is
23 fairness going to be one of their criteria? I think
24 we've treated everybody fairly, but I don't -- it
25 doesn't sound like that's going to be one of the

1 criteria. They're going to be saying, We don't care
2 that you have done a great job. We see that there's
3 9,000 or 8,000 or whatever, and -- and you are
4 disenfranchising that under the Voting Act of -- I
5 guess we've been hearing from Counsel on a lot of
6 these issues.

7 That's where my struggle is. I -- you know,
8 I -- I don't know where to go with this, but I -- I
9 see that if they become involved, and we know that
10 organizations and groups throughout the country have
11 become a lot more involved in a lot of local things
12 that we used to take for granted, are we asking
13 for -- for -- for some problems that we didn't want?
14 We've got to be careful what we're wishing for.

15 REPRESENTATIVE JONES: We might get it.

16 CHAIRMAN DEVLIN: Representative Jones.

17 REPRESENTATIVE JONES: Thank you,
18 Mr. Chairman.

19 Senator Klein, I can assure you that the --
20 the Tribes have good representation. They cannot
21 come in here and say that they're disenfranchised.

22 This is a refrigerator magnet. When I was
23 campaigning, I handed these out. We went to every
24 community on the reservations and handed these to
25 every house that would open their door for us and

1 asked them to please put this on their refrigerator
2 so they had all three of our phone numbers, our
3 emails, and every other way to get ahold of us so
4 that if they had issues or questions that we could
5 deal with on -- in state government, we wanted them
6 to know that we cared about them and we wanted to
7 give them direct access to us, so that they knew how
8 to get ahold of us.

9 The recent speaker here, Lisa DeVille, said
10 she wants to be at the table. There's nothing
11 stopping anyone from being at the table. They have
12 every right that every other citizen in North Dakota
13 has.

14 A court cannot establish that they are
15 disenfranchised through the system we have. Right
16 now, they have the same representation that anyone
17 else in North Dakota has. They've got two
18 representatives, and they've got one senator. In the
19 recent past, they had -- Don Charging was a
20 Republican that represented them. You know, there's
21 elections; they've got a big group of people. If
22 they want to win the election, they can run
23 candidates and win the election so that the people in
24 the district are properly represented.

25 To ask this Committee to create a

1 subdistrict based on, basically, race, in my opinion,
2 is outside of the bounds.

3 If it's going to be forced on North Dakota
4 by the courts, I think we will be able to handle
5 ourselves very well based on the performance that
6 we've had the last 10 years working with the Tribe
7 and Tribal Relations, all the bills that we've passed
8 through the Judiciary Committee and all the others,
9 to make sure that they're treated fairly and
10 equitably in North Dakota.

11 I don't think fear has to be what makes this
12 decision. I think the burden of proof should be put
13 on them to show how they are not fairly and equitably
14 treated and not take this step of having this
15 Committee make that decision and for sure go against
16 70 percent of my constituents' wishes to be treated
17 like everybody else in the state.

18 CHAIRMAN DEVLIN: Anyone else?

19 (No audible response.)

20 CHAIRMAN DEVLIN: Seeing none, thank you for
21 coming back.

22 REPRESENTATIVE JONES: Thank you,
23 Mr. Chairman. Thank you, Committee. And thank you
24 for your hard work. I'm coming in here -- I
25 apologize. You guys are -- are doing the hard work,

1 and I have no clue all of the stuff you've been
2 doing, and I don't mean to discredit that in any way.
3 I appreciate the work you're doing.

4 CHAIRMAN DEVLIN: I believe -- and I may
5 stand to be corrected, but I believe it was
6 Representative Lefor yesterday that asked if Council
7 staff could prepare some history nationwide on these
8 type of court cases, and I think Claire is ready with
9 that presentation.

10 Is that correct?

11 MS. NESS: Mr. Chairman and Members of the
12 Committee.

13 Last night you received a rather lengthy
14 email from me, and I won't go through all of it
15 because that would -- that would probably not be of
16 total interest to everybody, but what I wanted to let
17 you know is that I did reach out to NCSL and asked
18 them for that data on how many states or political
19 subdivisions have created majority-minority districts
20 or split multi-member districts into single-member
21 districts as a result of looking at a VRA, or Voting
22 Rights Act, analysis. And it's tricky because a lot
23 of states do that, but we don't always know the
24 reason why, and there is not a centralized database
25 of that anywhere. And so the gentleman from NCSL who

1 spoke with us at the beginning of the Committee's
2 work said that's a question that they've asked;
3 they've actually submitted FOIA requests to the
4 Department of Justice, but it looks like the feds and
5 the states do not keep records of that number.

6 So then the other question was, you know,
7 how many cases are there where the Voting Rights Act
8 has been litigated? And I did a quick Westlaw
9 search, and there are hundreds, which is not at all
10 surprising. Not only can individual private
11 plaintiffs bring these cases, but the Department of
12 Justice can and has brought these cases, so I sent
13 you a screenshot of the Department of Justice's
14 website where they list some of the cases that they
15 have brought. And, again, these are not always
16 directed at states. A lot of times they're directed
17 at cities or counties or other political subdivisions
18 based on the way that they allocate their voting and
19 their representation.

20 Then I also just picked a few of the cases
21 that are some of the most cited cases in this Voting
22 Rights Act area of litigation. I gave a little bit
23 of background on the *Thornburg v. Gingles* case, which
24 is that one that we refer to all the time about the
25 *Gingles* preconditions, and that case is the one where

1 there were multi-member districts, five of them, in
2 North Carolina back in the '80s, and the federal
3 court said that those were not proper because they
4 diluted the black vote in North Carolina in the way
5 of -- they -- they cracked that vote, and then they
6 also diluted the vote by having that majority white
7 vote in those multi-member districts act as a bloc of
8 the black vote.

9 So even though if they had single-member
10 districts, there was a very, very lengthy and
11 detailed statistical analysis that showed that the
12 black vote in a single-member district would probably
13 lead to them having a candidate of choice elected,
14 and then the -- the North Carolina state legislature
15 had not drawn the boundaries that way.

16 This went all the way up to the Supreme
17 Court, and the Supreme Court agreed and said that the
18 multi-member districts impair the ability of blacks
19 to elect representatives of their choice, where the
20 black vote is sufficiently done as a bloc, and could
21 elect a member of their choice in a single-member
22 district, and so in that case, the courts required
23 the state to have the single-member districts.

24 And, again, these cases go on for years, and
25 they do have a lot of statistical analysis; so you

1 will see the procedural history of these cases
2 bounces back from the trial courts to the appellate
3 court, back down to the trial court, back up to the
4 appellate court, and then sometimes up to the Supreme
5 Court, and so that's why you see the -- the years on
6 some of these cases are in the middle of a decade,
7 because they start at the beginning of the decade and
8 take years to finish.

9 Another case I mentioned was the *League of*
10 *United Latin American Citizens v. Perry*. That was
11 in 2006. And that is one where the United States
12 Supreme Court said that Texas -- Texas had a mid- --
13 excuse me -- a mid-decade redistricting plan that
14 diluted the Latino vote.

15 They had, in Texas, created a -- what was
16 basically a majority-minority district that allowed
17 the Latinos to elect a candidate of choice, and the
18 Republicans had redrawn that district in the -- in
19 2003 to protect an incumbent who had become
20 increasingly unpopular with the Latino voters. So
21 they had basically taken away that majority-minority
22 district, created a different one that didn't keep
23 communities of interest within the Latino community
24 together, and the Court said that that was improper.
25 They couldn't break up this majority-minority

1 district that had been in existence because they
2 found those three *Gingles* preconditions were in
3 effect.

4 And again, these cases, they apply those
5 preconditions, they see that those have been met, and
6 then they look at those Senate Factors that we have
7 presented to you to look at the totality of the
8 circumstances to decide these cases. So that slide
9 that you received with the preconditions and the
10 Senate Factors, the courts are using those when
11 they're doing their analysis in these cases.

12 The third case that I mentioned was
13 *Bone Shirt v. Hazeltine*. Again, this is a really
14 complicated case that bounced all over the place. It
15 ended up in the Eighth Circuit Court of Appeals,
16 which is the federal court of appeals that
17 North Dakota cases would go to as well.

18 This was about a South Dakota redistricting
19 plan. Again, this involved packing too many Native
20 American voters into one district, which would dilute
21 their vote. I think it was something like 86 percent
22 of that one district was Native American, and the
23 Court said, No, you need to -- you can't pack all the
24 Native Americans into one gerrymandered district to
25 give them, essentially, representation of -- by one

1 legislator when, in fact, they could be spread out
2 among other districts to have more than one
3 representative.

4 And the thresholds in that case were kind of
5 interesting. The Court ended up drawing the lines
6 and created a subdistrict with about 75 percent
7 Native American and another district with about
8 65 percent Native American vote.

9 So if you have any questions, I'd be happy
10 to go over them. I know that's a lot of federal law
11 in a kind of quick and condensed version. There's a
12 lot more to these cases, but I'm happy to provide as
13 much detail as you want.

14 CHAIRMAN DEVLIN: Representative Headland.

15 REPRESENTATIVE HEADLAND: Thank you,
16 Mr. Chairman.

17 Claire, in any of those cases where there
18 were certain districts in question, did the courts
19 expand it to a statewide question? I think you
20 referenced five -- five districts in the *Gingles*
21 case.

22 MS. NESS: Uh-huh.

23 REPRESENTATIVE HEADLAND: And I think I
24 heard you say something about they mandated it
25 statewide then, the subdistricts, but I -- I just

1 need clarification.

2 MS. NESS: Mr. Chairman and Representative
3 Headland, Members of the Committee.

4 So in that case, there were five
5 multi-member districts that were then turned into
6 single-member districts. That wasn't the whole
7 state. However, courts will frequently do a whole
8 state. That's not uncommon for a court to basically
9 say, Okay. You guys have done this in a way that we
10 find to be improper. We're going to do it for you.

11 These cases are all extremely fact-specific,
12 too. It's hard to extrapolate from one case to
13 another outside some general principles, but that
14 scenario does happen.

15 CHAIRMAN DEVLIN: Representative Nathe.

16 REPRESENTATIVE NATHE: Thank you,
17 Mr. Chairman.

18 So, Claire, it kind of leads to the question
19 I had yesterday. So say if we -- say we don't do
20 subdistricts, we get sued, and the courts say, Okay.
21 We're going to do it. Will they go outside of just
22 the reservation? Will they redo the whole state?

23 MS. NESS: Mr. Chairman, Representative
24 Nathe, Members of the Committee.

25 They could. It's very hard to predict what

1 a court will do. That is -- that is within the
2 purview of courts.

3 CHAIRMAN DEVLIN: Oh, wait. Senator
4 Bekkedahl.

5 SENATOR BEKKEDAHL: Hey, Mr. Chairman and
6 Claire.

7 What's the redress while all this is going
8 through the legal process? So if we did something
9 that the courts took issue with, there was a court --
10 there was a suit filed, courts take issue. One was
11 mentioned of being settled in 2006 in its finality,
12 started about 2000. What happens in all those
13 election cycles between then? Is there -- does the
14 Court put in abeyance what you do and mandate
15 something different in the interim, or do you just go
16 with what we passed that's under challenge until it's
17 overturned?

18 MS. NESS: Mr. Chairman, Senator Bekkedahl,
19 Members of the Committee.

20 The Court will sometimes say you need to
21 either go back to lines that previously existed or
22 they'll put in a temporary fix, but, yes, that is
23 something that gets resolved through litigation.

24 SENATOR BEKKEDAHL: Thank you, Mr. Chairman.

25 Then this is for my information more than

1 anything, but the term "gerrymandering," does that
2 refer to the configuration of the boundaries of a
3 district not being compact, or does it refer to a
4 population statistic not being compact? Is it both
5 or one or the other?

6 MS. NESS: Mr. Chairman, Senator Bekkedahl,
7 Members of the Committee.

8 I apologize for using that term. It's
9 really -- it's kind of in the eye of the beholder.
10 Gerrymandering can refer to a lot of different
11 things. The typical way is when you draw something
12 that is not compact for a particular purpose, but
13 it -- it's not a legal term that I would normally
14 have used, so...

15 In this case, it had to do with taking
16 two -- when I used the term, it was when they had
17 taken two geographically distinct and different
18 communities of interest within the Latino population
19 and drew the line to connect them into one district.

20 CHAIRMAN DEVLIN: Senator Holmberg.

21 SENATOR HOLMBERG: Yeah, Claire was
22 absolutely correct. The use of that particular term
23 would sometimes be viewed as a pejorative term. It's
24 subjective. If you're happy, there was no
25 gerrymandering. If you're unhappy, clearly you label

1 it gerrymandering.

2 But I think the other thing that you have to
3 keep in mind is that since the Voting Rights Act,
4 many states -- prior to that, 20 states had what we
5 have, which was multi-senatorial -- multi-districts,
6 where you would have, you know, one senator and two
7 representatives. They had that multi thing. Since
8 that, all of the southern states went to
9 single-member districts as have, since that time,
10 Alaska, Hawaii, Nevada, Indiana, and Illinois, which
11 adds up to close to the 20. There's only a handful
12 of states that have our system, which I support. I
13 like our system: One senator, two representatives.

14 But I believe you would find that if you
15 look at the totality of the -- of the thing, the
16 courts do not like multi-districts. In fact, I was
17 in a multi-district in Grand Forks in 1975 when the
18 Court stepped in and said, You cannot have
19 multi-senatorial districts, and they drew the lines.
20 Actually, they followed the lines of -- I think it
21 was the Dobson Plan back then.

22 Anyway, so Grand Forks, which had four
23 senators and 12 representatives, all of a sudden had
24 four senatorial districts. And the good thing for
25 those of us who were budding politicians, all of the

1 senators lived in the southeast corner of the city,
2 and then there was wide open, the rest of it. But
3 the courts, at least I believe, historically don't
4 like that particular system.

5 And we have spent a lot of time, and I think
6 it's appropriate time, talking about the legal issues
7 involved here, and there's just a lot of information.
8 But there are also people who look beyond just that,
9 and I have come to believe that, you know, doing this
10 is doing the right thing. I mean, yes, there's the
11 legal arguments, the legal issues, et cetera, but
12 doing the subdividing I think is the right thing to
13 do in our relationships with our Native populations.

14 But I just wanted to add that because we do
15 use the term "gerrymandering," and I used it when I
16 saw part of the plan that Representative Boschee had,
17 and I said, Oh, that's gerrymandering me, but that's
18 fine. But it is a very subjective term.

19 CHAIRMAN DEVLIN: Okay. Representative
20 Schauer.

21 REPRESENTATIVE SCHAUER: Thank you,
22 Mr. Chairman.

23 Claire, I assume you've done your analysis
24 of District 4 and District 9; so, in your opinion, if
25 we subdistrict, will that decrease our chances of a

1 lawsuit, and if we did not subdistrict, would that
2 increase our chances of a lawsuit and increase our
3 chances of losing a lawsuit?

4 MS. NESS: Mr. Chairman, Representative
5 Schauer, Members of the Committee.

6 That is an incredibly difficult question to
7 answer because it is really hard to predict. I think
8 we've heard some comments about this issue. You
9 know, this Committee has been looking at things like
10 county lines and keeping subdistricts whole. I think
11 that's part of this conversation as well; looking at
12 communities of interest, trying to keep them whole,
13 and that's been part of this conversation, too.

14 There is not -- there is not a foolproof way
15 to prevent litigation, and it is almost impossible to
16 predict how that would go. So I can't give you your
17 chances of being sued or succeeding in litigation; I
18 can just give you the information I have about how
19 these courses typically evolve -- excuse me -- these
20 cases typically evolve over time and what they entail
21 and the analysis that, you know, we recommend that
22 you go through when you're looking at these issues.

23 CHAIRMAN DEVLIN: Senator Bekkedahl.

24 SENATOR BEKKEDAHL: Mr. Chairman.

25 Just one follow-up based on that. The right

1 of filing a lawsuit if we don't subdistrict by a
2 party that feels disenfranchised exists. Could the
3 possibility that somebody -- if we did subdistrict,
4 could they also bring a lawsuit on the other side for
5 disenfranchisement based on the argument that they
6 used to have two representatives representing their
7 interests, now they only have one? In other words,
8 could there be lawsuits from the other side as well?

9 MS. NESS: Mr. Chairman, Senator Bekkedahl,
10 and Members of the Committee.

11 Yes, there are always -- in these cases,
12 both sides can bring lawsuits, and that goes back to
13 the discussion we had a couple of meetings ago about
14 somebody claiming that race was the predominant
15 factor in a decision when the *Gingles* preconditions
16 were not met, and there was not a compelling state
17 interest to use race as the predominant factor.

18 It's okay to use race if you're looking at
19 that in conjunction with lots of other factors. When
20 it is the predominant factor, you have to meet that
21 strict scrutiny standard of the compelling state
22 interest, and your solution has to be narrowly
23 tailored to remedying that compelling state interest,
24 and in the past courts have said that complying with
25 the Voting Rights Act is a compelling state interest.

1 CHAIRMAN DEVLIN: Further questions?

2 Senator Klein.

3 SENATOR KLEIN: Mr. Chairman and Claire.

4 You know, what we've -- we've heard in the
5 discussion has been -- I've heard the word
6 "gerrymandering," of course, and whether it's
7 geography or population, but even in the *Gingles*
8 case, I would suggest that, you know, those folks
9 probably were being treated fair, and that's -- and
10 that's my question, is how the word "fair" is going
11 to be -- we're going to be able to use, because, you
12 know, we all believe that we're -- we're serving the
13 people fairly, but whether or not that's -- that's a
14 term that's been used in any of the cases, you know,
15 what we're hearing is voting blocs, race -- race
16 or -- or -- or some of these other issues, but not,
17 you know, that -- those people were all being treated
18 fairly, they just felt underrepresented because they
19 didn't have an opportunity to elect their own person.

20 So I'm -- I'm -- you know, I certainly
21 believe that we treat everyone fairly; you know, the
22 question being can that -- my opinion of "fairly,"
23 does that stand up in court? Because I haven't heard
24 us talk about anything that would have suggested the
25 Court said, Well, they were being treated fairly.

1 They shouldn't -- shouldn't subdistrict. What we
2 hear is the gerrymandering, the bloc voting, the
3 Voting Rights Act.

4 I don't think any research implied that
5 fairness was one of the predominating listings for
6 the suit.

7 MS. NESS: Mr. Chairman, Senator Klein, and
8 Members of the Committee.

9 That's correct. So the Court -- the courts
10 don't look at fairness, per se. What they look at is
11 whether or not a minority voting group can elect
12 their candidate of choice or does this supposedly --
13 if all the *Gingles* preconditions are met, you've got
14 a cohesively voting bloc of minority voters, and they
15 are in a district where they are -- their candidate
16 of choice is losing to a majority voting bloc who is
17 electing a different candidate consistently or pretty
18 often.

19 And the courts would say, I guess, if they
20 ever talked about fairness, that that would be
21 unfair, but that's not a term that the courts use.
22 They just look at those voting blocs as the starting
23 point for their analysis, and if that minority voting
24 bloc is unable to elect their candidate of choice
25 consistently. And then you look at those Senate

1 Factors, which have to do with things like has there
2 been historical racism, political, social, otherwise;
3 are there different opportunities for minorities
4 versus other members of the public in that area, and
5 all of those factors that lead up to the totality of
6 the circumstances. When you merge those two things
7 together, that's what the Court looks at. It doesn't
8 actually look at something that it calls "fairness."

9 REPRESENTATIVE BELLEW: I have a question,
10 Mr. Chairman.

11 CHAIRMAN DEVLIN: Yes. Yes. Representative
12 Bellew.

13 REPRESENTATIVE BELLEW: Thank you,
14 Mr. Chairman.

15 And, Claire, did you define "compelling
16 state interest," or -- I think you did, but I don't
17 quite understand it.

18 MS. NESS: Sure. Yes. Mr. Chairman and
19 Representative Bellew and Members of the Committee.

20 So under the strict scrutiny test, so if you
21 use race as your predominant factor, the Court will
22 say, Okay. You have to have done so because it's to
23 address a compelling state interest, and your
24 solution has to be narrowly tailored to fixing the
25 problem at hand.

1 The compelling state interest in these cases
2 often is complying with Voting 2 of the -- or, excuse
3 me -- Section 2 of the Voting Rights Act, and that's
4 the section of law that we're talking about. So the
5 courts say, It's a compelling interest for you to
6 comply with this federal law. So if you use race as
7 a predominant factor, then often the courts will say,
8 That's okay if you're doing it for this purpose.

9 That is a -- that is a gross
10 oversimplification; there's a lot more that goes into
11 it, but that's kind of where that comes into play.

12 CHAIRMAN DEVLIN: Senator Klein.

13 SENATOR KLEIN: Mr. Chairman.

14 Just a question. Whatever the Committee
15 decides today, the entire legislative body will have
16 an opportunity to weigh in on that particular
17 discussion, up or down, wherever we -- we land, if
18 we -- whether we accept it or do not accept it, but
19 it will be up to the entire body during the special
20 session. Correct?

21 CHAIRMAN DEVLIN: That is correct, Senator
22 Klein. I had that discussion on another matter with
23 somebody from one of the districts that wrote in that
24 this Committee was going to make the final decision
25 for the State. That is not true. We're going to

1 forward a plan to the legislature. It will be up to
2 the legislature at the special session in November to
3 make the final decision. This Committee does not
4 have the power to make that decision on behalf of the
5 legislature, so...

6 Senator Burckhard.

7 SENATOR BURCKHARD: Mr. Chairman.

8 So which chamber deals with it first when we
9 go into special session? Is it the House first or
10 the Senate first?

11 UNIDENTIFIED SPEAKER: It's normally the
12 House.

13 SENATOR BURCKHARD: House?

14 CHAIRMAN DEVLIN: Senator Holmberg, do you
15 wish to weigh in on that? It's the Joint Committee,
16 isn't it?

17 SENATOR HOLMBERG: The Joint Committee
18 report will go to the legislature. As I understand
19 it in discussions I have been in, I will be assigning
20 the redistricting package to the House, and the
21 Senate will have funding bills. That's where it is
22 today, and that's the best I can say is that's where
23 it is today.

24 SENATOR BURCKHARD: Thanks.

25 CHAIRMAN DEVLIN: Committee, on a related

1 matter, just because you may not have had an
2 opportunity to see that, the Chairman of the Spirit
3 Lake Nation, Douglas Yankton, has sent a letter this
4 morning from -- I think Collette Brown probably
5 forwarded it, or we -- we will forward it to all of
6 you, and they've asked to be a subdistrict for the
7 Spirit Lake Reservation as well. They obviously
8 don't meet the half numbers, you know, but they have
9 asked that and there's testimony, and I want you to
10 be able to review it, you know, when you have time,
11 so it is out there.

12 Is there anything else on this issue at this
13 moment?

14 Senator Bekkedahl.

15 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

16 So most of the time when I deal with issues
17 like this, I try to go to the facts, and we've
18 obviously talked about the *Gingles* case a lot, and
19 appreciate Legislative Council's research on that.

20 But the three criteria that I think we're
21 dealing with, Number 1 is "A minority group must
22 demonstrate it is large and compact enough to
23 constitute a majority in a single-member district."
24 I believe that we've made that perfectly clear, at
25 least in two of the issues before us, so I think

1 that -- that is active in this case.

2 Secondly, "A minority group must demonstrate
3 it is politically cohesive." If you subscribe to the
4 fact that these Tribes have tribal governments,
5 they're a sovereign nation, obviously I think that
6 points to political cohesiveness to some degree.

7 The third one is, "A minority group must
8 demonstrate the majority group votes sufficiently as
9 a group to defeat the minority group's preferred
10 candidate." That's the one that I'm not sure. I
11 think that's open to interpretation.

12 I really appreciate Representative Jones'
13 comments and what he's bringing forth on behalf of
14 his constituents here because I think that's as
15 important in the decision-making as everything else
16 we've heard.

17 So I guess my take, Mr. Chairman, is I
18 believe we have Number 1 and Number 2. Two of the
19 *Gingles* are very evident in this case for a decision.
20 I think it's up to everybody to make an
21 interpretation on the third part of that.

22 I take less importance on the Senate
23 Factors. While the courts use those, as described by
24 our -- our attorney here, Claire Ness, I think they
25 are less in consideration, in my mind, than these

1 three categories, distinct categories.

2 I do not subscribe to the theory that race
3 has ever been a political factor in these -- in these
4 issues and these elections. They've had good
5 candidates on all the sides here. I've dealt with
6 many of them over my career. The relationships are
7 very good, as subscribed by Representative Jones. So
8 I do not think race is the factor here, but I do
9 think we need to look at these three conditions.

10 Again, my decision is resting on 1 and 2
11 being distinct and 3 being up for interpretation for
12 the Committee.

13 CHAIRMAN DEVLIN: Anything else on this
14 particular topic?

15 Representative Monson.

16 REPRESENTATIVE MONSON: Thank you,
17 Mr. Chairman.

18 A lot of what I was thinking, Senator
19 Bekkedahl just said. But, you know, when I -- when
20 I'm hearing the -- the people from the Tribes saying
21 that they want subdistricts, I'm looking at the total
22 number of -- of Indian population in -- within a
23 district.

24 Now, we have -- we have kept the
25 reservations whole, giving them a big advantage in

1 that, and a lot of their residents in that district
2 that we have created or drawn at this point, they are
3 Indian Americans. They are not on the reservation,
4 per se, but they're in the same district as the
5 reservation.

6 So we -- at the hesitation of using the word
7 "gerrymander," we have not gerrymandered. We have
8 actually, I think, gerrymandered to give them every
9 opportunity to get as many Indian Americans into that
10 district and give them the advantage, especially when
11 we keep the reservations whole. So would the courts
12 look at that and say, You've -- you've given them
13 every opportunity to put up their own candidate? And
14 they've actually got over half of the population
15 within a district in some cases that are Indian
16 American that could vote for them if they wanted.

17 So I -- I don't know if that's a question
18 for Claire, but, I mean, they -- we have -- we have
19 done what we can at this point short of
20 subdistricting, and if we subdistrict, are we giving
21 them an overadvantage?

22 CHAIRMAN DEVLIN: Was that a question,
23 Representative Monson?

24 REPRESENTATIVE MONSON: Well, sort of. I
25 mean, it's a question for Claire. I mean, when --

1 when over half of the population within a district is
2 of a certain race, and I don't -- I mean, I'm
3 thinking these should be color-blind. I mean, I
4 don't -- I don't think that race should be a factor,
5 and I don't think we've made it a factor until they
6 have asked for the reservations to be included,
7 but -- so have we not given them every opportunity by
8 keeping them as cohesive as we can at this point?
9 And if we were to subdistrict, would we be giving
10 them a guaranteed?

11 MS. NESS: Mr. Chairman, Representative
12 Monson, Members of the Committee.

13 If you had a situation where a minority
14 voting bloc was consistently electing their candidate
15 of choice and you split that voting bloc up, that
16 would be a problem under the law, too. That would be
17 cracking to prevent them from electing their
18 candidates of choice.

19 In this case, I think what some of the --
20 the Tribes have testified is that they are not able
21 to elect their candidate of choice.

22 And so it's really -- the courts don't look
23 at it in terms of giving somebody an advantage or
24 nonadvantage. It's do people have an opportunity to
25 elect their candidate of choice?

1 CHAIRMAN DEVLIN: Further questions?

2 SENATOR HOLMBERG: Mr. Chairman?

3 CHAIRMAN DEVLIN: Yes, Senator Holmberg.

4 SENATOR HOLMBERG: I just got a hint from
5 the Chairman; let's move on the issue and decide one
6 way or another.

7 So I would move that we -- following the
8 guidelines regarding population, et cetera,
9 et cetera, that we have discussed, that we subdivide
10 District 4 and District 9.

11 And then I know we have some folks here that
12 want to make another presentation, and then later
13 after -- I mean, depending upon what happens with
14 this motion, if we decide we are going to, then we
15 have some different scenarios regarding the division
16 of those that we would look at later, but if we turn
17 this down, then we don't have to look at them.

18 So I would move that we subdivide those two
19 legislative districts.

20 And for some people, it's because the courts
21 are forcing us to do it, and for others, it's because
22 it's the right thing to do.

23 That's my motion.

24 CHAIRMAN DEVLIN: Is there a second?

25 SENATOR BURCKHARD: Second.

1 CHAIRMAN DEVLIN: Second by Senator
2 Burckhard.

3 Discussion?

4 (No audible response.)

5 CHAIRMAN DEVLIN: Seeing none, you may poll
6 the Committee.

7 MS. THOMPSON: Chairman Devlin?

8 CHAIRMAN DEVLIN: Yes.

9 MS. THOMPSON: Representative Bellew?

10 REPRESENTATIVE BELLEW: No.

11 MS. THOMPSON: Representative Boschee?

12 REPRESENTATIVE BOSCHEE: Yes.

13 MS. THOMPSON: Representative Headland?

14 REPRESENTATIVE HEADLAND: No.

15 MS. THOMPSON: Representative Lefor?

16 REPRESENTATIVE LEFOR: No.

17 MS. THOMPSON: Representative Monson?

18 REPRESENTATIVE MONSON: Yes.

19 MS. THOMPSON: Representative Nathe?

20 REPRESENTATIVE NATHE: No.

21 MS. THOMPSON: Representative Schauer?

22 REPRESENTATIVE SCHAUER: Yes.

23 MS. THOMPSON: Senator Holmberg?

24 SENATOR HOLMBERG: Yes.

25 MS. THOMPSON: Senator Bekkedahl?

1 SENATOR BEKKEDAH: Aye.

2 MS. THOMPSON: Senator Burckhard?

3 SENATOR BURCKHARD: Aye.

4 MS. THOMPSON: Senator Erbele?

5 SENATOR ERBELE: No.

6 MS. THOMPSON: Senator Klein?

7 SENATOR KLEIN: No.

8 MS. THOMPSON: Senator Oban?

9 SENATOR OBAN: Yes.

10 MS. THOMPSON: Senator Poolman?

11 SENATOR POOLMAN: Aye.

12 MS. THOMPSON: And, Senator Sorvaag?

13 SENATOR SORVAAG: Aye.

14 MS. THOMPSON: And the motion carries.

15 CHAIRMAN DEVLIN: The vote was 10 to 6? Is
16 that what it was?

17 MS. THOMPSON: Correct.

18 CHAIRMAN DEVLIN: Okay. Yeah. The motion
19 has carried.

20 We will -- because we promised folks from
21 District 26 time on the agenda at 10:00, I think
22 we'll move into that, and then if -- or, excuse me.

23 Representative Skroch, is everyone here that
24 you planned on having here for 10 o'clock?

25 REPRESENTATIVE SKROCH: I believe so.

1 CHAIRMAN DEVLIN: Okay. Senator Heitkamp.
2 Okay. Thank you. We will start with that, and later
3 on Senator Holmberg or somebody will present
4 possibilities for the subdistricts in 9 and 4, I
5 believe. Thank you.

6 So who is your spokesman? Who is going to
7 lead this? Representative Ertelt is not here?

8 REPRESENTATIVE SKROCH: No. He can't be
9 here.

10 CHAIRMAN DEVLIN: Okay. Okay.
11 Representative Skroch.

12 REPRESENTATIVE SKROCH: Thank you, Chairman
13 Devlin and Members of the Redistricting Committee.

14 I'm Representative Kathy Skroch from
15 District 26, Lidgerwood, North Dakota.

16 First, I do need to express Representative
17 Ertelt's regrets for not being able to be here, and
18 he in a large part produced this proposal, and credit
19 should go to him for the amount of hours and work he
20 put into developing this plan to be able to present
21 it before you today. He has begun a new job and is
22 in training right now and so is unable to -- to be
23 able to come here personally and even to join online
24 because of his tight schedule.

25 First of all, I want to thank you for the

1 opportunity to appear before you this morning. I've
2 come to address the redistricting proposal, which for
3 the most part has been accepted by the Committee, and
4 to help introduce the proposal submitted by
5 Representative Sebastian Ertelt, the Ertelt District
6 26 map.

7 I've been able to follow some of the
8 Committee meeting's work online, so I'm somewhat
9 aware of the process. I realize that we are coming
10 in with a map proposal late in the process. In our
11 defense, District 26 legislators were made aware of
12 the proposal -- proposals to eliminate District 26
13 at the same time as the general public was made
14 aware, only two weeks ago. As you well know,
15 accessing the necessary tools and talents to draft a
16 map proposal is out of the reach of most individuals
17 and requires additional help and guidance from the
18 Legislative Council, all of which takes time. Given
19 that, this map comes to you as quickly as possible,
20 especially if you consider how carefully and
21 thoughtfully this map has been drawn.

22 And I hope you've been -- been provided --
23 it was my request that you be provided a copy -- a
24 copy of the Ertelt District 26 map and also a map to
25 compare with current legislative districts.

1 The Ertelt District 26 statewide map
2 proposal represents an attempt to keep legislators
3 within their current districts while shifting
4 boundaries enough to meet the population deviation
5 threshold of 5 percent. It may be helpful to compare
6 any proposed district maps side by side to the
7 current district map. And the Committee has been
8 provided, as I've been told, an attached copy of the
9 current district maps for that purpose.

10 The Ertelt proposal does eliminate
11 District 23, as did the proposals introduced by
12 members of this Committee.

13 To the best of our knowledge, District 27 is
14 the only other district with a displaced legislator
15 in -- in the Ertelt proposal. It was especially
16 difficult to retain all legislators in that district
17 due to the population growth and geographic
18 separation of legislators.

19 And I'll pause here for just a moment and
20 ask if the Ertelt proposal could be put up on screen?
21 Thank you.

22 I don't know if the public has -- has had a
23 chance to even see this.

24 So our main concern is to minimize the
25 number of disenfranchised voters. If any qualified

1 elector residing in the same district as they did in
2 the past general election has a new legislator when
3 the final redistricting plan is implemented and was
4 or is not allowed to cast a vote for or against that
5 new legislator, then that elector has been
6 disenfranchised. An evaluation of the population
7 change in even-numbered districts under the Ertelt
8 statewide proposal would be beneficial in
9 understanding this.

10 I would go so far as to say that any
11 district with a disenfranchised voter must have an
12 election.

13 It is an honorable goal to keep legislators
14 closer or closest to the people they represent.

15 The voters of District 26 made a clear
16 statement for who they wished to represent them in
17 the November 2020 election. Clearly, their votes
18 will be negated by the dissolving of their district
19 within a year of that election.

20 This is a district that is stable and
21 increasing in population by 2.36 percent in this last
22 census, 14,352 people; slightly lower than
23 District 25 at 2.92 percent population, 14,891
24 people; only 2 people less than District 20 at 14,354
25 people.

1 It has a higher population by 758 people
2 than District 14 at 13,594, which lost significant
3 population. It has a higher population than
4 District 6, 9, 10, 12, 18, 24, 28, 29, and 42 and 44
5 and is in close par with other districts as well.
6 All have been kept intact or made whole except
7 District 26.

8 In the process of redistricting, there are
9 bound to be some winners and some losers. In defense
10 of my region and its people, they have consistently
11 been chosen to take the loss. This district and the
12 region has been harmed similarly the past two
13 redistricting cycles; first, by the complete
14 dissolving of District 27, which was my district, and
15 now the dissolving of District 26, which is my
16 district and my people's district.

17 The people will be, in essence, uprooted
18 once again, cut off from the citizens they have
19 chosen to represent them and the comradery which they
20 have built over the course of years to work together
21 on behalf of their representation. They will be
22 disenfranchised.

23 The Ertelt proposal reestablishes
24 District 26 in a logical and reasonable way while
25 preserving District 24, District 25, and District 28.

1 Keeping counties whole is one of several
2 criteria used for redistricting; however, it has not
3 been strictly applied. For example, in the proposal
4 titled "Devlin 2," Ransom, Sargent, and LaMoure, of
5 my region, Counties are broken up. At the same time,
6 Cass County, District 22, has been left completely
7 whole, which is virtually a super district containing
8 11 additional districts, or about 20 percent of the
9 legislative body --

10 SENATOR SORVAAG: Mr. Chairman?

11 REPRESENTATIVE SKROCH: -- within its
12 borders.

13 SENATOR SORVAAG: Mr. Chairman?

14 CHAIRMAN DEVLIN: I'm sorry? Senator --

15 SENATOR SORVAAG: Mr. Chairman and
16 Representative Skroch.

17 What you just said about Cass County doesn't
18 make any sense. It isn't -- District 22 doesn't
19 represent the whole county. There's no super
20 district.

21 REPRESENTATIVE SKROCH: I'm just going off
22 the --

23 (Simultaneous indiscernible crosstalk.)

24 REPRESENTATIVE SKROCH: I'm going off the
25 map.

1 SENATOR SORVAAG: There are 11 districts in
2 Cass County, so --

3 REPRESENTATIVE SKROCH: Okay. Then we'll --
4 I'll stand corrected on that.

5 Compactness is a significant consideration
6 and all the harder to maintain for rural
7 representatives. In just one year, I've put over
8 10,000 miles on my vehicle reaching the people of
9 this district. Other rural legislators will
10 appreciate that.

11 It is critically important to retain
12 relationships with rural citizens that we represent.
13 It is much more difficult than in urban settings
14 where a district may cover a section of a few city
15 blocks.

16 The Ertelt proposal keeps District 25
17 compact, covering an area in which people living
18 within the Red River Valley have common shared
19 interests.

20 In providing for District 26 in this more
21 compact design, one of the most common shared
22 interests, in addition to its rural setting, is the
23 Doosan Bobcat company, with a large majority of their
24 employees residing within this district.

25 The compact design of District 25 also

1 allows for a small area of Cass County to shed
2 population into the district to make it whole without
3 having to drastically change the district lines. It
4 demonstrates how rural districts can take in
5 townships of densely populated districts to absorb
6 the need shed -- needed shed of population.

7 In addition, simply being a corner county
8 should not be a guarantee of preference above
9 neighboring districts if those districts are harmed
10 in so doing.

11 Finally, I'm asking each member of this
12 Committee to really take the time to really consider
13 the merits of the Ertelt proposal which restores
14 District 26. Please be honest, transparent, working
15 together to do the right thing.

16 This draft is proof that the Committee, even
17 at this stage, does not have to dissolve the current
18 District 26. I'm asking you that you reflect on this
19 personally and the impact it would have if this was
20 your district, your people losing their district and
21 their elected representatives.

22 Thank you.

23 SENATOR HOLMBERG: Mr. Chairman?

24 CHAIRMAN DEVLIN: Senator Holmberg.

25 SENATOR HOLMBERG: First of all, thank you,

1 Representative Skroch, for coming here today.

2 And we had a couple conversations --

3 REPRESENTATIVE SKROCH: We have.

4 SENATOR HOLMBERG: -- this weekend, and I'm
5 not going to a pity party, but after I'd worked a
6 couple of hours on some of the data, which was
7 interesting, and I'm glad we had those conversations,
8 but there's a couple things here that I just want to
9 comment on.

10 Number one, you come from a region that lost
11 a legislative district last cycle, and you are losing
12 a legislative district, according to the plan that we
13 have so far, this cycle.

14 REPRESENTATIVE SKROCH: Uh-huh.

15 SENATOR HOLMBERG: I come from the same
16 place. The northeast lost District 16 10 years ago,
17 and they're losing District 19 this time, so we
18 have -- we have the same -- I mean, there are
19 similarities. But the one word you use which gives
20 me pause is -- and we talked about it a little bit,
21 is "disenfranchised."

22 REPRESENTATIVE SKROCH: Uh-huh.

23 SENATOR HOLMBERG: Because I would just ask
24 you, and this is an unfair question, but was not then
25 Bev Clayburgh disenfranchised? Because under this

1 new plan, she is in District 18, and she has been in
2 District 17 and has voted for me for over 40 years.
3 So is she disenfranchised? She still can vote for
4 Scott Meyer, or whoever she wants to vote for. She
5 did not lose a vote. The only thing she no longer
6 can do, unfortunately, she can't vote for me.

7 REPRESENTATIVE SKROCH: Chairman Devlin,
8 Senator Holmberg, Members of the Committee.

9 I'm not sure if there's any other example
10 within the map that you've been working off of where
11 all the legislators are removed from their district.

12 SENATOR HOLMBERG: 19 and 20. They're all
13 in new districts.

14 REPRESENTATIVE SKROCH: 23, which is
15 dissolved.

16 SENATOR HOLMBERG: Yeah.

17 REPRESENTATIVE SKROCH: Right.

18 I'm here to fight for my -- for my people.
19 And -- and you referenced, say what has happened
20 10 years ago? I will go back to the -- the
21 redistricting that happened even prior to that, where
22 our district, which was then formulated into
23 District 27, had a narrow, I would say, neck that
24 connected Ransom -- or, rather, Richland and part
25 of -- of Sargent into Ransom, and -- and it was so

1 narrow that it made it really difficult for those
2 people to -- to come together and rebuild any kind of
3 relationships, so that happened prior to the complete
4 dissolving of District 27. And now what we're
5 looking at is the complete dissolving of District 26.

6 And what I am trying to -- to bring before
7 the Committee is that we should be not treated
8 differently than other -- other districts who, in
9 fact, having smaller populations than us, have been
10 made whole, and in some ways, by the -- by the
11 dissolving of the current District 26, to make weaker
12 districts whole. And -- and that is my objection.
13 We have salvaged all kinds of other districts,
14 which -- which I've named many of them here, and I've
15 watched work of the Committee in trying to do that.

16 But I -- I am here to defend District 26 and
17 its voters and its people because they have a right
18 to be made whole, just as any other district that --
19 that you have worked on to make whole.

20 SENATOR HOLMBERG: Mr. Chairman?

21 CHAIRMAN DEVLIN: Senator Holmberg.

22 SENATOR HOLMBERG: One other -- one other
23 point. The criteria which caused you to lose a
24 district in that area is the same identical criteria
25 that caused the northeast to lose a legislative

1 district; it was there were fewer people.

2 And both of us suffer, and that's the wrong
3 term, but both of us are caught up with the fact that
4 we -- you were pretty stable. Agreed? That
5 particular area, you were stable. But there were
6 107,000 new people moving into North Dakota --

7 REPRESENTATIVE SKROCH: Uh-huh.

8 SENATOR HOLMBERG: -- from the census before
9 that didn't live in Dickey or Ransom or Sargent or
10 Pembina or Walsh County. They went out west or to
11 Cass County.

12 And one other point. That southeast
13 region -- and I -- and I gave you these numbers. I
14 mean, we talked about them this weekend. Back when I
15 went into the legislature, your area had 10 percent
16 of the state's population and you had 5 districts out
17 of 50. You had exactly 10 percent. Since that time,
18 your ratio has gone -- from the census, you've gone
19 to 9 percent, 8 percent, 7.6, 6.4, and now you're
20 5.5 percent.

21 REPRESENTATIVE SKROCH: Uh-huh.

22 SENATOR HOLMBERG: And when you divide that,
23 it's -- you know, it's similar. You have about 5 1/2
24 percent of the -- of the state's population.

25 And one other factoid, and then I'll shut

1 up, and that is that it has been -- excuse me.
2 Richland County, as a legislative district, has not
3 been whole since 1902. That was the last time there
4 was -- Richland County had its own district.
5 Otherwise, you have been divided.

6 And 10 years ago, we got our -- parts of us
7 chewed on because Walsh County has never been whole,
8 even from statehood. They were always divided, and
9 they wanted to be whole, but it had to do with
10 population.

11 REPRESENTATIVE SKROCH: Uh-huh.

12 SENATOR HOLMBERG: But I thank you for
13 bringing the issue because we both got an education.

14 CHAIRMAN DEVLIN: Senator Sorvaag.

15 SENATOR SORVAAG: Mr. Chairman and
16 Representative Skroch.

17 First of all, I do understand. We had a
18 long conversation three weeks ago after the Fargo
19 meeting, for about an hour after the meeting closed,
20 or 45, so -- and I am sympathetic, because it is a
21 complicated -- you know, it hurts if your district
22 goes away.

23 But I do want to touch a little -- and I
24 know the access to numbers and the accelerated
25 process, but at the end of that meeting, I had access

1 to a computer. That was three weeks ago. I offered
2 to meet with you, and you said you would get your
3 other people. I said, Let's go in. Let's look at
4 the numbers. Let's look at options. That was
5 extended to you, because I had a computer, and I was
6 meeting with other people. I never received a call
7 back.

8 You had an opportunity earlier where you
9 could have sat in front of the same computer we all
10 had, and we could have crunched numbers. Maybe it
11 wouldn't have changed the outcome, but -- because the
12 only given is we had looked at doing Richland County.
13 But you had asked those questions, so I -- I just
14 need to make clear, three weeks ago I did extend that
15 opportunity and whoever you would want to bring to my
16 office to review that.

17 REPRESENTATIVE SKROCH: Mr. Chairman,
18 Senator Sorvaag, and Members of the Committee.

19 I was interested in meeting with you, but I
20 do not stand alone as a sole representative of my
21 district, and there were other people who want --
22 wanted to become involved in this process as well,
23 and at that time, I could not put together a time
24 frame that worked to meet with you, and -- and
25 realizing that you had a very tight schedule to work

1 with, we didn't want to come to you without some type
2 of counterproposal in hand. And my apologies if that
3 did not work for you and -- and did not work for me.
4 I know you offered the opportunity, but it didn't --
5 it was not something that I could put together with
6 the various people who had interest in my district.

7 SENATOR SORVAAG: Mr. Chairman, if I may?

8 CHAIRMAN DEVLIN: You may continue.

9 SENATOR SORVAAG: Just to be clear, it
10 wasn't that you had a proposal. You were asking what
11 is some of the numbers that would have helped. So
12 I'm just saying it does extend it, and -- and I
13 didn't put a date certain, so there was opportunities
14 for one or two to even show up.

15 REPRESENTATIVE SKROCH: To be clear -- to be
16 clear, I had requested an opportunity to sit down
17 with you and discuss the survival of District 26.

18 CHAIRMAN DEVLIN: Representative Nathe.

19 REPRESENTATIVE NATHE: Thank you,
20 Mr. Chairman.

21 And, Representative Skroch, thanks for
22 coming. I don't -- I certainly give you a lot of
23 credit for coming here today and fighting for your
24 district as Representative Jones did earlier.

25 But what I want to point out, your arguments

1 and your points as far as why you'd like to see
2 things changed really could be applied to any of the
3 other districts that we took care of, and I think
4 especially District 8, who was just also recently
5 reelected. All three of their representatives are
6 going to three different districts. 19 and 20 are
7 also merged together. They were just elected. So
8 there's -- I think there's six other even districts
9 that also, if this plan passes, will have to go
10 through the election process again. So they're all
11 very much in the same boat as you guys are.

12 So my question to you is why the preference
13 to you over those people? Why is your case so much
14 more special than those?

15 REPRESENTATIVE SKROCH: Chairman Devlin --

16 CHAIRMAN DEVLIN: Please proceed.

17 REPRESENTATIVE SKROCH: I -- I believe the
18 difference is our district is dissolved.

19 REPRESENTATIVE NATHE: But so were some of
20 those.

21 REPRESENTATIVE SKROCH: 28 is not dissolved.

22 REPRESENTATIVE NATHE: Not talking about 28.
23 District 8.

24 REPRESENTATIVE SKROCH: 24 was not
25 dissolved. 25 was not dissolved.

1 REPRESENTATIVE NATHE: But there's still
2 other districts that we took care of that were
3 dissolved, were merged, and those -- those incumbents
4 were also moved to different districts.

5 REPRESENTATIVE SKROCH: I'm -- I'm aware of
6 that.

7 REPRESENTATIVE NATHE: Yeah.

8 REPRESENTATIVE SKROCH: But what I'm
9 challenging is the reasoning behind why the decision
10 was made to dissolve District 26 when it -- it is a
11 sound district, and at the same time other -- other
12 districts were allowed to be made whole. That's why
13 I'm here.

14 CHAIRMAN DEVLIN: Representative Boschee.

15 REPRESENTATIVE BOSCHEE: Thank you,
16 Mr. Chairman.

17 Representative Skroch, part of the work of
18 the Committee, we were trained or brought information
19 from Legislative Council on August 26th that talked
20 about setting our priorities for how we go through
21 redistricting, and the challenge I think we had as a
22 committee was that we had a month to do our work to
23 get it so we can have something in front of the
24 legislature on November 8th.

25 I think the Committee struggled a little

1 bit. We didn't define those criteria, but we
2 coalesced around some ideas last week, I think --

3 REPRESENTATIVE SKROCH: Uh-huh.

4 REPRESENTATIVE BOSCHEE: -- and came to --

5 REPRESENTATIVE SKROCH: Uh-huh.

6 REPRESENTATIVE BOSCHEE: -- what I think is
7 a fairly good map.

8 Can you explain to us, what were the
9 criteria for drawing of district lines --

10 REPRESENTATIVE SKROCH: Uh-huh.

11 REPRESENTATIVE BOSCHEE: -- outside of
12 trying to protect a specific legislative district?

13 REPRESENTATIVE SKROCH: Chairman Devlin,
14 Representative Boschee, and Members of the Committee.

15 One of the criteria that was used in --
16 in -- and, of course, you used some of the similar
17 criteria, was in -- in reconfiguration of populations
18 that -- that needed to be increased or decreased in
19 order to fit the -- the ideal population assigned to
20 districts.

21 A criteria that was used in the formula that
22 Ertelt used in drawing this map was not necessarily
23 county lines, but district lines, and -- and -- and
24 an attempt to not blow up district lines while still
25 adapting those shifts of population.

1 And I know while you, as a committee, used
2 the concept of following county lines, at the same
3 time, in my region, as I explained in my -- in my
4 proposal to you, was that Ransom County is not kept
5 whole and LaMoure County is not kept whole and
6 Sargent County is not kept whole.

7 REPRESENTATIVE BOSCHEE: Mr. Chairman.

8 That actually is not true. District 28, in
9 our proposed plan, has almost five whole counties.
10 District -- or Sargent County, the only part that's
11 taken out, is added to District 25 due to the
12 reservation.

13 REPRESENTATIVE SKROCH: Uh-huh.

14 REPRESENTATIVE BOSCHEE: Barnes and Ransom
15 County are whole in completing District 24 as a solid
16 district. So we may be looking at --

17 REPRESENTATIVE SKROCH: Which map are you
18 looking at on screen, if I might ask?

19 REPRESENTATIVE BOSCHEE: I don't know what's
20 on -- the screen looks like yours, but the map that
21 we've been working out of was given to us Monday
22 evening --

23 REPRESENTATIVE SKROCH: I didn't have access
24 to that. I'm sorry.

25 REPRESENTATIVE BOSCHEE: Yeah. So that's

1 online. It was dated September 28th, is when the --
2 the Legislative Council was able to sew everything
3 together from last week. Yeah.

4 REPRESENTATIVE SKROCH: Okay. But it had
5 been considered up until that date?

6 REPRESENTATIVE BOSCHEE: It was part of the
7 discussion, yes, but --

8 REPRESENTATIVE SKROCH: Yes.

9 REPRESENTATIVE BOSCHEE: -- not what was
10 passed out at the meeting last week.

11 REPRESENTATIVE SKROCH: Yeah. Okay.

12 CHAIRMAN DEVLIN: Senator Eberle. Excuse
13 me.

14 SENATOR ERBELE: Chairman and Representative
15 Skroch.

16 Just to clarify, in your testimony, you are
17 referencing Devlin Plan 2. There was also Devlin
18 Plan 1, and that's the one that moved forward and --
19 and then was adopted later on. So, yes, in Devlin
20 Plan 2 there was the division of some of these
21 counties, of --

22 REPRESENTATIVE SKROCH: Uh-huh.

23 SENATOR ERBELE: -- of Sargent and LaMoure.

24 REPRESENTATIVE SKROCH: Uh-huh.

25 SENATOR ERBELE: That was offered; that was

1 never acted on.

2 REPRESENTATIVE SKROCH: Okay.

3 SENATOR ERBELE: So --

4 REPRESENTATIVE SKROCH: Thank you for the
5 clarification on that. Apologize for that.

6 CHAIRMAN DEVLIN: Senator Burckhard.

7 SENATOR BURCKHARD: Mr. Chairman.

8 Representative Skroch, thank you for coming
9 in today. And you know I respect you as a friend and
10 as a legislator. I also respect that you are trying
11 to represent your district. But this is the 11th
12 hour as far as this Redistricting Committee. I mean,
13 how do we -- how do we -- how would we react to
14 making all of these changes that you are proposing at
15 the last hour?

16 REPRESENTATIVE SKROCH: Chairman Devlin,
17 Senator Burckhard, and Members of the Committee.

18 That is an unfortunate circumstance that
19 probably occurred in part because this was supposed
20 to happen during the legislative session, where we
21 would have had more time to work on a plan. And at
22 the same time, we often work on things in the final
23 hour and make corrections, necessary corrections.
24 And that is, again, I say unfortunate.

25 I know you have been working on plans, but,

1 also, I consider it of -- of paramount interest that
2 we not wipe out District 26 in -- in my region, and
3 so that's what I'm here to fight for. And it has to
4 be something that's -- that's logical, that makes
5 sense. And so in order to -- to have it be logical
6 and make sense, it has to look at impact to
7 surrounding districts as well, and I think this --
8 this map does that.

9 And -- and I'm -- again, I'm asking this
10 Committee to take a serious look at it. Yes, you've
11 moved forward, but this still has to be approved by
12 Legislative Management, and it still has to be
13 approved by the full legislature, so -- so that
14 allows for buying some time.

15 In part, I -- I know that there have been
16 some meetings canceled because this process has moved
17 along very efficiently, but it's not to say that it
18 can't be extended to allow for consideration of this
19 proposal, serious consideration.

20 CHAIRMAN DEVLIN: I had one question for you
21 before I move back. You -- you -- I don't want to
22 put words in your mouth, but you said something to
23 the effect it takes a little bit out of Cass County,
24 or I don't remember the exact words you've used, but
25 to me, you've eliminated a district in Cass County,

1 so --

2 REPRESENTATIVE SKROCH: I'm sorry. I didn't
3 catch your question.

4 CHAIRMAN DEVLIN: Yeah.

5 REPRESENTATIVE SKROCH: I didn't --

6 CHAIRMAN DEVLIN: You said earlier that you
7 were able to do this by taking -- whatever term you
8 used -- part of Cass County --

9 REPRESENTATIVE SKROCH: Yes.

10 CHAIRMAN DEVLIN: -- to make these whole.
11 What you've done is eliminated the new district in
12 Cass County, is what you've done to make this work,
13 that they've earned because their population
14 growth -- grew.

15 So I'm just curious, do you think that's
16 fair, that Cass County should lose a district to save
17 our rural ones? Is that what you're saying?

18 REPRESENTATIVE SKROCH: So, Chairman Devlin,
19 is that move of Richland County into Cass absorbing
20 an old district or a new district?

21 CHAIRMAN DEVLIN: Representative Skroch, I
22 can't answer your question. Maybe Senator Sorvaag
23 can.

24 SENATOR SORVAAG: Mr. Chairman, part of
25 both. They had some of it, not all of it.

1 REPRESENTATIVE SKROCH: Okay. So it's not
2 terribly impacting in that regard.

3 SENATOR SORVAAG: Oh, it's impacting.
4 They're taking some population, but they took much
5 more. You took much more out of Cass County than 25
6 had before.

7 REPRESENTATIVE SKROCH: Than they had
8 previously. And -- and if I might --

9 SENATOR SORVAAG: Mr. Chairman, and if I
10 might, you took much more out of Cass County with 24
11 than they had before.

12 You took much more of District 20 out of
13 Cass County than they had before.

14 You basically, for all intents and purposes,
15 eliminated District 22, our large rural, which has
16 represented it for as long as I've been born, most of
17 that rural area, and you totally eliminated all those
18 people and most likely would have extremely
19 disenfranchised much of rural Cass County, because
20 all you left for 22 was Casselton and a fine line and
21 then put them into Fargo.

22 So you might say you're saving a district,
23 but you're demolishing districts and affecting most
24 of the population of rural Cass County by what you've
25 designed.

1 REPRESENTATIVE SKROCH: My response to that
2 would be: Rural districts often take the brunt of --
3 of being eliminated. This makes a shift of
4 population from urban -- more of an urban setting
5 into a more rural district. And I would say it's as
6 fair as completely dissolving District 27 or
7 District 26, as happened with our people. Equally
8 disenfranchised.

9 CHAIRMAN DEVLIN: Senator Eberle, do you
10 have a question?

11 SENATOR ERBELE: Not a question, just a
12 comment, I guess. And Representative Skroch can
13 comment if she likes, but I struggle with the word
14 "disenfranchised" because, to me, that means people
15 that will have -- being served by a legislator that
16 they did not vote for. However, we had the election
17 in 2020 of all the even-numbered districts.
18 Automatically, we're going to have all of the even --
19 or the odd-numbered districts up for election in
20 2022, and as Representative Nathe said, there's going
21 to be at least eight or more of the even-numbered
22 districts because of the increase in population, and
23 that's what this is all about is the numbers are
24 going to have to run, too.

25 So I -- I would contend that there'll be

1 very few people after this next election that could
2 say they're disenfranchised because they will have
3 had the opportunity to vote for a legislator. And
4 for all the districts that have shifted, everybody is
5 still alive and living in their districts and had the
6 opportunity to run in that district regardless of
7 what that number is.

8 REPRESENTATIVE SKROCH: Representative
9 Devlin and Senator Erbele, Members of the Committee.

10 My response to that has to be that the
11 people of this district elected a number of people
12 that will no longer -- they will no longer have
13 representing them after this is approved, and that
14 they clearly spoke their wishes, and they will not
15 have the opportunity to vote for any of us from
16 within Sargent, Ransom, Dickey Counties.

17 SENATOR ERBELE: Just a further comment,
18 though. But we only serve until the next election.
19 We aren't guaranteed that; so, I mean, we serve at
20 the will of the people.

21 REPRESENTATIVE SKROCH: Certainly.

22 CHAIRMAN DEVLIN: Senator Bekkedahl.

23 SENATOR BEKKEDAHL: Hey, Mr. Chairman and --
24 and Representative Skroch.

25 Thank you. Your efforts on behalf of your

1 constituents are commendable. You really, really
2 worked this hard, and I appreciate that. I wish it
3 wasn't so late in the process. I know you've been
4 engaged before this.

5 But a couple of questions relative to your
6 testimony. And Senator Erbele hit on it a little
7 bit. Does -- is the issue of disenfranchisement --
8 as you speak of it, is it disenfranchisement of
9 elected officials, current elected officials, from
10 their traditional voters, or is it disenfranchisement
11 of voters from their elected officials, or both? And
12 I would assume it's both, in your mind.

13 REPRESENTATIVE SKROCH: Yes, I would say
14 it's both.

15 SENATOR BEKKEDAHL: Thank you.

16 And then my follow-up question is that isn't
17 this inevitable no matter where we move the
18 boundaries, as required by the one person, one vote
19 required in the redistricting process?

20 REPRESENTATIVE SKROCH: I believe --
21 Mr. Chairman, Members of the Committee, Senator.

22 I would -- I would say that we have been
23 impacted multiple times and that it doesn't always
24 have to be my area that is severely impacted by this
25 redrawing of lines. We don't always want to be the

1 group that comes up with the short end of the stick.

2 I understand the complexities of this. I
3 understand the complexities of this. I'm here to
4 fight for my district and my people. And they
5 clearly have a comradery with each other and have
6 worked together between legislators and their people,
7 and we're trying to maintain some of that, and I
8 think the plan that's being -- that was proposed
9 considers doing the least harm to districts and
10 legislators as possible, doing the least harm to
11 uprooting people from what they're familiar with.

12 You know yourselves how many people don't
13 even know which district they're in. It is hard
14 enough when they've had the same district for
15 10 years.

16 SENATOR BEKKEDAHL: Mr. Chairman, if I could
17 just follow up quickly on that?

18 CHAIRMAN DEVLIN: You may.

19 SENATOR BEKKEDAHL: Well, ultimately, I
20 think Senator Erbele hit on this. While not in your
21 current district, you still have the opportunity to
22 run for election, and your constituents still have
23 the ability to vote for representation. That has not
24 been eliminated in this plan or any plan or the
25 Ertelt plan.

1 And going back to the Ertelt plan that's
2 presented today, I would just make the case that it
3 also disenfranchises voters in other districts.
4 While, as we've said, some districts have gone away
5 by the necessary one person, one vote; some districts
6 have been impacted, if you use your term of
7 "disenfranchise." My district -- in District 1, I
8 lost 3,000 people in my district moving to another
9 district.

10 REPRESENTATIVE SKROCH: Uh-huh.

11 SENATOR BEKKEDAH: They could say they're
12 disenfranchised from me, and I could say that as
13 well, so I think the argument holds in those cases as
14 well.

15 So I just don't know how -- using your
16 definition of "disenfranchisement," I don't know how
17 we react to one person, one vote, moving boundaries
18 and not have that happen in certain cases.

19 You feel like you're being singled out
20 because your district's being eliminated. Others are
21 as well.

22 Again, I think the Committee did its due
23 diligence, unfortunately affecting your district with
24 the plan we have before us, but I think it did its
25 due diligence respecting the one person, one vote.

1 Thank you, Mr. Chairman.

2 CHAIRMAN DEVLIN: Representative Schauer.

3 REPRESENTATIVE SCHAUER: Thank you,
4 Mr. Chairman.

5 Representative Skroch, by your own admission
6 in paragraph 2, you said you are late in the process,
7 and then you said that legislators were made aware of
8 the proposal to eliminate District 26 at the same
9 time -- at the same time as the general public, only
10 two weeks ago. However, Representative Ertelt was at
11 the first meeting when we had software training.
12 Right from the get-go, he was there. I talked to him
13 afterwards, and he was fully engaged. And yet now we
14 get this map, and it might be the most wonderful map
15 in the world, on the last day. Can you explain who
16 dropped the ball as far as communication with any
17 member of this district -- of this Committee or with
18 Legislative Council?

19 REPRESENTATIVE SKROCH: Chairman Devlin and
20 Representative Schauer, Members of the Committee.

21 Being at a first meeting does not
22 necessarily make it clear that an entire district is
23 going to be dissolved.

24 This being the last day, I -- I understood
25 that there were going to be public meetings yet

1 scheduled after this that were canceled. So "last
2 day" is in the eye of the beholder, I would say.

3 And we came in busy people like everyone
4 else. We came in as soon as we could engage. We had
5 to do our legwork, too; we had to reach out to our
6 people, too, before we could put together a proposal,
7 trying to discover what impact even a new proposal
8 would have on our constituents.

9 CHAIRMAN DEVLIN: Representative Skroch, I
10 think -- I'm not going to get into debate with you,
11 but I think you've been misinformed. There were no
12 public meetings after this date that had been
13 canceled.

14 REPRESENTATIVE SKROCH: I guess I was told
15 that there was going to be one in Fargo in October.

16 CHAIRMAN DEVLIN: No. No. We had the
17 meeting in Fargo. We only scheduled one. The other
18 ones were -- we met in Bismarck, fully, you know,
19 engaged the people, like we did during the session,
20 with the video --

21 REPRESENTATIVE SKROCH: Uh-huh.

22 CHAIRMAN DEVLIN: -- but there was not any
23 other meeting. The next time that you will have an
24 opportunity to discuss this will be at the
25 legislative session in November.

1 REPRESENTATIVE SKROCH: I was not aware of
2 this being the final day. And I think it's up to the
3 discretion of, perhaps, the Chair and the wishes of
4 this Committee whether or not they want to allow
5 additional days.

6 I don't know what your end-date proposal
7 was. I just knew that there was sort of a warning
8 that this was going to move along quickly and that it
9 would be wrapped up as soon as possible. But I -- I
10 was not aware -- maybe there's a notice out there
11 somewhere that said this is the last day, but I was
12 not aware of that, and -- and I'll take credit for
13 not having that knowledge.

14 CHAIRMAN DEVLIN: Yeah. We did -- we did
15 publish a list of all the meetings that we were going
16 to have, and they were on the website early.

17 REPRESENTATIVE SKROCH: Okay.

18 CHAIRMAN DEVLIN: You know, so we had the
19 preliminary meeting once we got the census figures
20 from the federal government, and we had everything
21 else on the legislative website, so everybody, we
22 thought, knew exactly when we were going to meet,
23 so...

24 Okay. Is there anybody else?

25 Senator Heitkamp, were you going to speak on

1 this issue?

2 Any more questions for Representative
3 Skroch?

4 (No audible response.)

5 SENATOR HEITKAMP: For the record, I'm Jason
6 Heitkamp, Senator from the 26th District.

7 Chairman Devlin, Representatives and
8 Senators of the Committee.

9 Just want to thank you for the time today.
10 Before I give my talk -- and I'll give a copy over to
11 you guys. You can have it when I'm done, because
12 I -- I handwrote it.

13 We had a fundraiser last week where Perrie
14 Schafer was there, the head of the NDGOP, and he told
15 us that there was going to be a meeting on
16 October 6th in Fargo, and I immediately called Emily
17 the next day and found out that that was not true.

18 And Sebastian has been working very hard on
19 these maps, trying to do a good job. And so I said,
20 we got here and -- and we called ahead just to make
21 sure, because like I said, we're all busy, we're all
22 over the place, and we are trying to do a good job of
23 doing this, but I said if I wouldn't have called
24 Emily, we probably would have thought that there was
25 going to be a meeting on October 6th that we would

1 have showed up to, and nobody would have been there.

2 So I -- I do apologize to anybody in here
3 who thinks that we weren't trying to be quick in what
4 we were doing, because we actually were, so I -- I
5 just wanted to start off that way.

6 I'd like to thank all the Representatives
7 and Senators on the Redistricting Committee for their
8 efforts during this process and for the time today.

9 I've called some of the Committee members;
10 they've all been good on the phone, and I really
11 appreciate that. I mean, it's nice to know that you
12 can call people and that they'll talk nice to you
13 about things, so...

14 As we were nearing the end of the session,
15 I -- I started -- I started with others in the
16 26th District and in District 25 where I work on how
17 our districts could be made better, not politically
18 but as in a balance of urban and rural, because I've
19 spent much time since I graduated from college
20 working in all areas of the state, and during a
21 legislative session, I talked to my majority leader
22 about how we could make District 26 more balanced
23 between urban and rural by moving farther north.
24 That was kind of my idea without looking at all the
25 numbers, because we didn't have the numbers, but I

1 thought, you know, if we could move our districts a
2 little bit north, we could gain the population that
3 we needed. I was actually thinking that 25 and 26
4 were probably going to lose population. I was very
5 surprised when the census numbers came out that they
6 all gained in population, so I thought that was a
7 good thing.

8 As I -- as I spoke to many people from both
9 District 25 and 26, the same thing keeps coming up.
10 The people like the balance between urban and rural
11 that they see in those two districts, and that's what
12 they want to see more of.

13 Dissolving the 26th District will make a
14 bigger district, from what I understand, which I've
15 heard could be from the western part of Richland
16 County all the way up to Emmons County if not to the
17 Missouri border -- or the Missouri River border,
18 which would be very hard to access and represent
19 people in a personal way.

20 Based on distance and time, you know,
21 getting to church socials, basketball games, other
22 functions that you want to do to -- to engage with
23 the public would be very difficult the bigger the
24 district.

25 The 26th District, you know, wants -- not

1 one size fits all, but they want personal
2 representation from people that they know.

3 In District 26, the home of Doosan Bobcat, I
4 understand that 95 percent of the workers live in the
5 26th District. So I know that you're looking at
6 counties and keeping counties together and things
7 like that, but geographically, that -- that is one
8 thing that sticks out in the 26th District, is most
9 of the people that work at that facility live in that
10 district, and by changing that district, you're going
11 to lose, you know, probably up to 40 percent of the
12 workers displaced into a different district.

13 There were townships in the northern part of
14 the district, of District 25, I don't know if you
15 remember this from about 10 years ago, that actually
16 petitioned to join Richland County. When I talk to
17 those people, they're still happy with District 25
18 and the representation that they have from
19 District 25. And one of the only things that stopped
20 them, from what I remember, from being able to move
21 into Richland County was the fact that Cass County
22 would have to vote to accept that and Richland County
23 would have to vote to accept that. And although
24 Richland County probably would have done that, it did
25 not happen in Cass County.

1 You'll see by Representative Ertelt's map
2 that, you know, the urban and rural balance is
3 accomplished. What's also accomplished is that all
4 representation by the Senate and the House of
5 Representatives in their present districts, except
6 for District 23, which is going to be dissolved, and
7 possibly one representative, will stay the same. And
8 I -- I know that Sebastian -- or Senator -- or
9 Representative Ertelt worked very hard to make sure
10 that there was the ability for that to happen, and
11 he -- he did come up with a map that did that, and I
12 think he did a very fine job of doing that.

13 I'm asking to keep District 26 and
14 District 25 as Representative Ertelt's map has
15 proposed, and I'm asking for a balance of urban and
16 rural as proposed.

17 And thank you for your time.

18 CHAIRMAN DEVLIN: Are there questions for
19 Senator Heitkamp?

20 (No audible response.)

21 CHAIRMAN DEVLIN: Seeing none, thank you.

22 SENATOR HEITKAMP: Okay. Thank you.

23 CHAIRMAN DEVLIN: Oh, Senator Heitkamp, I
24 did get an update on the October 6th date. There's
25 apparently a Cass County Republican meeting, and I

1 think Representative Schauer is going to give an
2 update on the redistricting process, but there was no
3 redistricting meeting scheduled after today.

4 SENATOR HEITKAMP: Yeah.

5 CHAIRMAN DEVLIN: So there was just some
6 confusion.

7 SENATOR HEITKAMP: Yeah. And I -- and I do
8 understand that, and I'm not blaming anybody, but I
9 just said that's what came out that night, and so I
10 immediately called because I thought, you know, maybe
11 we would have more time to get it done, so...

12 Thank you.

13 CHAIRMAN DEVLIN: Thank you.

14 Is there anyone else from District 26 that
15 wanted to speak today?

16 NORMA KJOS: Greetings, and thank you for
17 allowing me to have a few moments. I'm Norma Kjos
18 from Wyndmere, and I was district chair for a lot of
19 years in District 26. Very, very dear to my heart.

20 I worked very, very hard, too, didn't I?

21 REPRESENTATIVE SKROCH: Yes.

22 NORMA KJOS: Yes.

23 So I am passionate, passionate about this.

24 I understand the mechanics; I understand the
25 logistics, all of that. Let's look at the human

1 factor a moment. We have a big district. People
2 drive a long way to attend a meeting. They grumble
3 about it. My response has often been, Would you
4 drive this far for a basketball game? Uh-huh. So I
5 don't know that stretching out the mileage would
6 hinder. It wouldn't help.

7 There is another thing dear to my heart. Of
8 course, while I was district chair, we elected three
9 Republicans to the legislature, something that hadn't
10 happened for a long time.

11 I worked hard for Jason. I walked through
12 high grass, rocks, hills, swamp water to put up signs
13 for him. I had a six-foot sign in my front yard in a
14 prominent spot that said "Heitkamp." I often had to
15 say, No, not that Heitkamp, you know. So we work
16 together well. We -- we went all over. We went to
17 every parade. We tossed out candy. We worked to get
18 our people elected.

19 Here's my dilemma personally. Jason's my
20 friend, been my friend for years.

21 Larry Luick's my friend. I like Larry.
22 I've been to his place. We talked. He's a nice guy.

23 I like Jim Dotzenrod. You know Jim. You've
24 heard of Jim Dotzenrod. He's gearing up to run
25 again, if you haven't heard.

1 So if we join forces, 25, we're going to
2 have three of my friends running against each other.
3 Obviously, we can only have one senator. Who to vote
4 for? Well, because I'm a diehard Republican,
5 naturally, even though friend Jim -- we attend the
6 same church. No. Jim's out. Larry? Jason? Well,
7 it would be Jason, wouldn't it? Because he's from
8 District 26.

9 I can't tell you how many struggles we went
10 through to build up District 26. It was just kind of
11 there. Sometimes we had 80 or 90 people at a
12 meeting. We had guest speakers. We had people
13 coming from Bismarck.

14 I have many, many friends. I attended
15 meetings at Bismarck, of course, as district chair.
16 I attended the National Convention, and to my
17 despair, Obama won that one. Big mistake. But it
18 was delightful to be there. I was also elected as
19 Woman of the Year at the State Convention. I'm just
20 telling you this so that you know I have a little
21 knowledge and a little credit.

22 Let's -- let's not just think about this
23 might be a little better or this might work. Let's
24 think about the people involved. I talk to people
25 all the time. I know people all over. They do not

1 want to redistrict. I've lived through it before. I
2 was chairman for so many years that I've lived
3 through it. I know. I know. You'll come together
4 after a while. You'll think, Oh, this wasn't so bad.
5 But we didn't have three Republicans in at that time.
6 We do now. Let's keep them.

7 Think. Think a little bit with your heart
8 and not your brain.

9 Let's keep District 26 alive and thriving.

10 Thank you.

11 CHAIRMAN DEVLIN: Thank you, Norma.

12 Any -- anyone else? Yes.

13 PETER LEEDAHL: I'd like to thank everybody
14 for the opportunity to come before you and to say our
15 piece. I'm going to try to keep this one short
16 because it's already been pretty long, and we want to
17 respect your time.

18 I am Vice Chair of District 26, Republican
19 Party. I live in northwest corner of Richland
20 County. And as far as Richland County goes, there's
21 the Red River Valley part, and then there's kind of
22 the rest of the county as far as the -- the
23 geography, the soil, the livestock, it's just quite a
24 bit different. And I feel that the way we've got
25 District 26 right now, or even the proposal here, it

1 does a better job of -- of representing the
2 interests, the needs of people like me in the western
3 side of Richland County. Things we've experienced in
4 the past in Richland County from county commissioners
5 to disaster declarations for the USDA, being that our
6 soil is so much different, the topography is
7 different, and the livestock is different, I do think
8 that we would have better representation than the
9 plan to have Richland County all as one.

10 I thank you for your time very much.

11 Any questions? Oh, sorry. Peter Leedahl.

12 CHAIRMAN DEVLIN: Thank you.

13 PETER LEEDAHL: L, two Es, D-A-H-L.

14 CHAIRMAN DEVLIN: Is there any questions for
15 Mr. Leedahl?

16 (No audible response.)

17 CHAIRMAN DEVLIN: Seeing none, thank you for
18 being here.

19 PETER LEEDAHL: Thank you.

20 CHAIRMAN DEVLIN: Anyone else?

21 (No audible response.)

22 CHAIRMAN DEVLIN: Senator Sorvaag.

23 SENATOR SORVAAG: Mr. Chairman.

24 And -- and just to clarify, and you did,
25 that October 6th, that's -- that's an event that

1 we've been having with Cass County Republicans, no
2 different than any other --

3 CHAIRMAN DEVLIN: Yeah.

4 SENATOR SORVAAG: -- district, for 12 years
5 on Wednesdays, and Representative Schauer and myself
6 were asked to update on our process, so that -- it
7 was never advertised anything more than just us
8 updating on the process of the work of this Committee
9 or any idea that it would be the Redistricting
10 Committee as a whole, so I just wanted to clarify
11 that again. And -- and if you read the invitations
12 that went out, it's very clear of what -- what it is.

13 CHAIRMAN DEVLIN: Yeah. Thank you, Senator.

14 Committee, I'm going to take a 10-minute
15 break because I've been informed that some people
16 would maybe like to have a 10-minute break, so...

17 (Recess taken.)

18 CHAIRMAN DEVLIN: Committee, we have a few
19 things to discuss about the plan that we've been
20 discussing the last three weeks.

21 I want to -- Representative Lefor, you had
22 an update on the District 39 change as far as the
23 number. Is that correct?

24 REPRESENTATIVE LEFOR: Yes, Mr. Chairman.
25 Yesterday I met with Samantha briefly, and we didn't

1 have to move that many people. We took about 20-some
2 people out of 36 and put it into the new district to
3 give to District 39, so that -- because -- because
4 the -- on that map yesterday it showed District 39
5 being at minus 5.13, and now you see it is well
6 within threshold at a minus 4.98.

7 So -- so District 39 is okay, and I --
8 Samantha, if you want to explain to the Committee or
9 show exactly where it was that we moved population?

10 MS. KRAMER: Chairman, Members of the
11 Committee, Representative Lefor.

12 Emily is pointing out -- you can see right
13 there in District 39, that was the area that came out
14 of Y to make the deviation the appropriate level for
15 39, and then to fix Y, which is the new district,
16 then there was area right there on the edge of the
17 Stark County border that was given to Y from 36.

18 REPRESENTATIVE LEFOR: And so, Mr. Chairman,
19 I would move those changes to the map if that's
20 appropriate.

21 CHAIRMAN DEVLIN: Was there some change in
22 the numbers as well?

23 REPRESENTATIVE LEFOR: Yes. And then I
24 would also move that District 39 and District Y,
25 which I think we named 26, be switched. There was

1 some talk between people living in those areas, so
2 I've had several conversations, and District 39
3 apparently has historically been Adams/Bowman
4 Counties, so people I talked to from both districts
5 are completely fine with it. I wanted to make sure
6 that everybody was comfortable. So I would also add
7 that into my motion as well, to switch those district
8 numbers.

9 (Indiscernible conversation; microphones
10 turned off.)

11 CHAIRMAN DEVLIN: 26, is that what the 39 on
12 the map became, or is that Y, did you say?

13 REPRESENTATIVE LEFOR: It would become -- Y
14 became 26.

15 CHAIRMAN DEVLIN: Okay.

16 REPRESENTATIVE LEFOR: So I would -- I would
17 say that 39, that area now becomes 26, and the number
18 that was Y, slash, 26 now becomes 39. That's my
19 motion.

20 SENATOR BEKKEDAHL: So, Mr. Chairman, for
21 clarification, Bowman County and surrounding counties
22 becomes 39.

23 REPRESENTATIVE LEFOR: Correct.

24 SENATOR BEKKEDAHL: McKenzie County and Dunn
25 County becomes 26.

1 REPRESENTATIVE LEFOR: Correct.

2 CHAIRMAN DEVLIN: And what happens -- and
3 the new district in western North Dakota, what number
4 was that? 10?

5 SENATOR BEKKEDAH: Mr. Chairman, the new
6 district west of Williston was going to be 23.

7 CHAIRMAN DEVLIN: Oh, yeah. Okay. Got it.

8 REPRESENTATIVE SCHAUER: I second the
9 motion.

10 CHAIRMAN DEVLIN: Who seconded? I'm sorry.
11 Representative Schauer.

12 Discussion, or are we all totally confused?
13 Representative Boschee.

14 REPRESENTATIVE BOSCHEE: Thank you,
15 Mr. Chairman.

16 I'm not confused, but maybe this will help.
17 The new southern border for proposed District 26, are
18 those -- is that rivers or tributary, or what's the
19 jaggedness versus being able to straighten that out
20 with a highway or county road?

21 REPRESENTATIVE LEFOR: Where are you
22 referring to specifically, Representative Boschee?

23 REPRESENTATIVE BOSCHEE: Well, I guess that
24 entire southern border, just doglegs and shimmies
25 and -- I don't know if those are legal terms, but is

1 that a river on that north -- that southwest corner,
2 and what's this jaggedness over here?

3 REPRESENTATIVE LEFOR: I -- I think that's
4 simply the way the -- the streets are. Is that
5 correct, Samantha or Claire? I think that's what we
6 did. We made it as straight as we could, but...

7 And -- and I also know that we -- we did
8 some of those things simply from a population
9 standpoint, because one of these districts is going
10 to have one person over the minimum threshold,
11 another one is going to have two. So you see the
12 minus 4.99 and minus 4.98. That's what led to some
13 of that, because of population.

14 CHAIRMAN DEVLIN: Further questions?

15 REPRESENTATIVE BELLEW: Mr. Chairman, I have
16 a question.

17 CHAIRMAN DEVLIN: No. I'm sorry. Anyone
18 else with a question?

19 Representative Bellew.

20 REPRESENTATIVE BELLEW: Thank you.

21 Representative Lefor, what district is
22 Killdeer in on this map? 36?

23 REPRESENTATIVE LEFOR: Killdeer would be in
24 26.

25 REPRESENTATIVE BELLEW: Oh, the new

1 district? Okay.

2 REPRESENTATIVE LEFOR: Correct.

3 SENATOR OBAN: Mr. Chairman?

4 CHAIRMAN DEVLIN: Representative -- or
5 Senator Oban. Excuse me.

6 SENATOR OBAN: I have a question about
7 changing the numbers. Regardless of the counties,
8 isn't the majority of the population located in 39, I
9 mean currently in 39, if it were to stay that?

10 REPRESENTATIVE LEFOR: Currently in -- well,
11 the populations are virtually identical if you're
12 talking about the --

13 SENATOR OBAN: Well, sure, the whole
14 county --

15 REPRESENTATIVE LEFOR: Oh, I mean -- okay.
16 I'm sorry.

17 SENATOR OBAN: -- or the whole district, of
18 course it is, but --

19 REPRESENTATIVE LEFOR: Yes. Most of the
20 population would be in District 30 -- in -- in the
21 Watford City area from the existing District 39, if
22 that is your question.

23 SENATOR OBAN: Yes, that would be my
24 question.

25 REPRESENTATIVE LEFOR: Yeah. That's

1 correct.

2 SENATOR OBAN: So I hesitate to just sort of
3 switch numbers just because -- I suppose we can,
4 but --

5 CHAIRMAN DEVLIN: So --

6 SENATOR OBAN: -- is there a better reason
7 than -- I mean, it literally changes when a team is
8 on the ballot.

9 REPRESENTATIVE LEFOR: Mr. Chairman, Senator
10 Oban.

11 You're correct. It was because of a request
12 from people that live in Bowman/Adams County that it
13 has historically been District 39; then when I
14 broached that conversation with the people in the
15 Watford City area, they didn't have a problem with
16 it. So it -- it was at a request that I was given to
17 maintain the district's identity, where they're from,
18 but you're correct that the majority of the
19 population is in the Watford City area.

20 SENATOR OBAN: I mean, I would wonder about
21 the sample size of that, questioning how and why you
22 should change it. And, I mean, how long has that
23 majority of McKenzie County also been District 39? I
24 mean, I get that maybe the couple people you talked
25 to didn't have an opinion about it, but --

1 REPRESENTATIVE LEFOR: Right.

2 SENATOR BEKKEDAHL: Mr. Chairman?

3 CHAIRMAN DEVLIN: Senator Bekkedahl.

4 SENATOR BEKKEDAHL: If I could comment, I
5 had discussions with those people as well, Senator
6 Oban, and the information I got was that Bowman and
7 this extreme southwest corner has been District 39
8 since 1902, was what I was told. I don't -- no?

9 UNIDENTIFIED SPEAKER: '09.

10 SENATOR BEKKEDAHL: '09. 1909. I stand
11 corrected. I don't know if McKenzie County has
12 always been within that district that long, so the
13 longevity seemed to indicate that 39 was more of an
14 extreme southwest district than McKenzie County would
15 be.

16 CHAIRMAN DEVLIN: Any further questions for
17 Representative Lefor?

18 (No audible response.)

19 REPRESENTATIVE NATHE: We have a motion and
20 a second to make those changes. We will -- if I
21 don't see any other questions, we will poll the
22 Committee.

23 MS. THOMPSON: Chairman Devlin?

24 CHAIRMAN DEVLIN: Yes.

25 MS. THOMPSON: Representative Bellew?

1 REPRESENTATIVE BELLEW: Yes.

2 MS. THOMPSON: Representative Boschee?

3 REPRESENTATIVE BOSCHEE: Yes.

4 MS. THOMPSON: Representative Headland?

5 REPRESENTATIVE HEADLAND: Yes.

6 MS. THOMPSON: Representative Lefor?

7 REPRESENTATIVE LEFOR: Yes.

8 MS. THOMPSON: Representative Monson?

9 REPRESENTATIVE MONSON: Yes.

10 MS. THOMPSON: Representative Nathe?

11 REPRESENTATIVE NATHE: Yes.

12 MS. THOMPSON: Representative Schauer?

13 REPRESENTATIVE SCHAUER: Yes.

14 MS. THOMPSON: Senator Holmberg?

15 SENATOR HOLMBERG: Yes.

16 MS. THOMPSON: Senator Bekkedahl?

17 SENATOR BEKKEDAHL: Aye.

18 MS. THOMPSON: Senator Burckhard?

19 SENATOR BURCKHARD: Aye.

20 MS. THOMPSON: Senator Erbele?

21 SENATOR ERBELE: Aye.

22 MS. THOMPSON: Senator Klein?

23 SENATOR KLEIN: Aye.

24 MS. THOMPSON: Senator Oban?

25 SENATOR OBAN: Yes.

1 MS. THOMPSON: Senator Poolman?

2 SENATOR POOLMAN: Aye.

3 MS. THOMPSON: And Senator Sorvaag?

4 SENATOR SORVAAG: Aye.

5 MS. THOMPSON: Mr. Chairman, the motion
6 carries.

7 CHAIRMAN DEVLIN: Thank you.

8 A couple other things that were brought
9 up -- or need to be brought up. The county auditor
10 and commissioners from Eddy County contacted us, and
11 they would prefer that their county stayed whole. As
12 you would recall, we split out the reservation and
13 put that in with the rest of the Spirit Lake
14 Reservation.

15 It affects very few people. I think it was
16 maybe six people that identified as Native Americans
17 in that. And I said I would bring it forward, and
18 then if that were to happen, then it would be -- let
19 me see here. Yeah, the part -- the part that is in
20 15 would go into 14, so all of Eddy County would be
21 in 14. But we have not split a reservation. I just
22 said I would bring it up, so...

23 If anybody wants to make a motion?

24 SENATOR KLEIN: Mr. Chairman?

25 CHAIRMAN DEVLIN: Senator Klein.

1 SENATOR KLEIN: I'm not ready for a motion,
2 but I'm certainly interested in the -- okay. The
3 total would suggest, then, we would still be within
4 the margin of --

5 CHAIRMAN DEVLIN: Yeah.

6 SENATOR KLEIN: -- tolerance?

7 CHAIRMAN DEVLIN: About 4 1/2 percent, if I
8 remember right.

9 MS. THOMPSON: Yes.

10 SENATOR KLEIN: Okay. And, once again,
11 that's been a request from --

12 CHAIRMAN DEVLIN: From the county auditor
13 and county commissioners in Eddy County.

14 SENATOR KLEIN: And that moves 175 people?
15 Is that what --

16 CHAIRMAN DEVLIN: No. 117, I believe.

17 SENATOR KLEIN: 117?

18 CHAIRMAN DEVLIN: 117 people. And, like I
19 said, three of them identified as American Indians in
20 the census data, but that -- you know, they said that
21 was undercounted, so I don't -- I don't know.

22 But they did ask that we do that, and we
23 have a similar request -- and I don't know if you
24 want to take them at the same time. We have a
25 similar request from Sargent County on that, on

1 the -- remove the reservation part from Sargent
2 County and place it in 28 to keep the Sargent County
3 whole, you know, and that -- that involved 69 people,
4 so...

5 Representative Boschee.

6 REPRESENTATIVE BOSCHEE: Thank you,
7 Mr. Chairman.

8 I think -- you know, certainly respect the
9 work of our auditors, and I think we tried hard to
10 make sure we accommodate them, especially for the
11 election administration that they have to do, but we
12 also, I think, are well educated enough now as a
13 Committee to know that if we start splitting
14 reservations, that invites litigation in the work
15 that we do here, so I would oppose.

16 CHAIRMAN DEVLIN: Any other -- I don't see a
17 motion. Was there any other discussion on either, or
18 do you want to treat them separately? Because
19 Sargent County is kind of unique. It's just that
20 little portion down there, but...

21 There's no motion on the Eddy County
22 situation.

23 What about the Sargent County one? Does
24 anybody wish to do anything with that? Because that
25 was also a request by the county auditor. They

1 wanted to keep Sargent County whole and not break out
2 that little bit for the reservation, which is -- my
3 understanding, it's part of the South Dakota
4 reservation. So can you show that up there, too?

5 SENATOR SORVAAG: So you're --

6 CHAIRMAN DEVLIN: Senator Sorvaag.

7 SENATOR SORVAAG: You're looking, what's up
8 there, to split that part of the reservation, or --
9 because there's 30 -- no. 77 there.

10 CHAIRMAN DEVLIN: Yeah.

11 SENATOR SORVAAG: And 130-some in the
12 Richland part of the reservation. I thought -- so
13 that's staying whole now and not split, or were you
14 splitting it? That's what I'm trying to get
15 clarified. Because when we were mapping, we were
16 continually --

17 CHAIRMAN DEVLIN: Yes.

18 SENATOR SORVAAG: -- keeping that triangle.

19 CHAIRMAN DEVLIN: Right.

20 SENATOR SORVAAG: We flipped it back and
21 forth but always kept that triangle of 200-and-some
22 people together.

23 CHAIRMAN DEVLIN: Emily?

24 MS. THOMPSON: Mr. Chairman, Members of the
25 Committee.

1 Yes, the second example you're looking at,
2 again, the first one that we reviewed was in the Eddy
3 County area, a request from county officials to move
4 a geographic area designated as the reservation with
5 117 people, 3 of which were identified as American
6 Indians, and that was in order to keep Eddy County
7 whole for ease of election administrations and to
8 kind of respect those county boundaries.

9 The second area we're looking at, again from
10 requests from county officials, for those same
11 purposes, to keep the county whole, again, for ease
12 of election administration. It is this area you're
13 looking at, just this very southeastern tip of
14 Sargent County.

15 Currently, right now, that area contains 69
16 people, none of which are identified as American
17 Indian, according, again, to the census data that
18 we're working from in maps, too, here, and that would
19 result in Sargent County remaining whole.

20 And the deviation now for Richland County,
21 District 25, is negative .28, so within range. The
22 deviation for District 28 in Sargent County,
23 including that small portion of the reservation, is
24 positive 4.73.

25 And just for a little history as well, we

1 looked at whether or not this portion of the
2 reservation that's up on your screen now has been
3 split in the past, and it has kind of historically
4 gone back and forth with different redistricting
5 cycles. Sometimes that sliver of Sisseton Wahpeton
6 Oyate Reservation has been kept whole; in other
7 redistricting cycles, it has been split. So that has
8 gone back and forth.

9 The Eddy County situation, for some
10 background, that reservation we're looking at there,
11 historically that has stayed whole because it has
12 been fully contained within a district in the past,
13 so just some additional information for your
14 consideration.

15 CHAIRMAN DEVLIN: Senator Holmberg.

16 SENATOR HOLMBERG: We also tried, I know, in
17 the plans, in fact, even, after last weekend, putting
18 the entire reservation into District 28, but then it
19 made it too big, even though -- you know, we're
20 talking about just a few people.

21 And I know Senator Sorvaag had worked
22 earlier about having the reservation whole, but in
23 Sargent County, because if you recall, Sargent -- or
24 that particular district, whether it's 26 or
25 whatever, you can go back quite a few years and the

1 western part of Richland County has always been to
2 the west. Like I said, it's been since 1902 that
3 Richland County has been whole.

4 But -- so we tried to put it in the one.
5 Doesn't work. If we split it, then -- then we have
6 kind of gone away from what we have said, which was
7 that we did not want to split any reservation no
8 matter what the -- this whole thing is uncomfortable,
9 but --

10 SENATOR SORVAAG: Mr. Chairman?

11 CHAIRMAN DEVLIN: Senator Sorvaag.

12 SENATOR SORVAAG: And the numbers that we
13 have, that the computer has, don't all equal either,
14 because it says 206 reservation if you block off the
15 whole triangle, and it says 137 Richland in 77.
16 You're saying 69. The mapping I had showed 77,
17 which, anyway, comes to -- there's more people than
18 the -- so none of it makes any sense.

19 MS. THOMPSON: And I can go ahead and
20 highlight that area, Mr. Chairman, if you'd like.

21 CHAIRMAN DEVLIN: Yes. Yes, please.

22 MS. THOMPSON: I know it's a little hard to
23 see on the screen there, but the red area that has
24 been highlighted that you see is the reservation area
25 at issue. That is located within Sargent County.

1 This is a very small text, but the population reading
2 for that red highlighted area is 69 individuals, you
3 can see here, zero which are designated as American
4 Indians, according to the census.

5 SENATOR SORVAAG: Mr. Chairman, could Emily
6 bring up the Richland part of the -- do the same
7 thing with the Rich- -- clear that out in the
8 Richland? Because every time I did it, I got
9 different numbers. How many were affected in
10 Richland?

11 MS. THOMPSON: Absolutely, Mr. Chairman.

12 SENATOR KLEIN: Mr. Chairman, and just to
13 confirm what I --

14 CHAIRMAN DEVLIN: Oh, I'm sorry.
15 Senator Klein.

16 SENATOR KLEIN: Did we hear that that
17 corner, even though it's reservation land, has no
18 Native population? Did I -- of those 69, it's --
19 it's --

20 MS. THOMPSON: Mr. Chairman, Senator Klein.

21 That is correct. According to the census
22 data -- and again, that's just how people identified
23 on the census. Census data indicates no Native
24 American population in that, the area I just
25 highlighted.

1 SENATOR KLEIN: As -- and I could follow up
2 on that. Adding -- have we added those 69 to 28 and
3 they would still stay under? Is that number correct?

4 MS. THOMPSON: Mr. Chairman, Senator Klein.

5 That's correct. What you see on your
6 screen, you can see District 28, that southern
7 portion, containing the reservation, Sargent County.
8 That's kind of highlighted that blue color there. So
9 the totals that you see on your screen, the deviation
10 for District 28, including that now blue highlighted
11 area of the reservation in Sargent County, brings the
12 deviation in 28 to positive 4.73, so still within
13 range, and removing that, and again turning that kind
14 of blue and adding it to 28, results in the deviation
15 for District 25 as a negative .28, so both still
16 within range.

17 (Indiscernible conversation; microphones
18 turned off.)

19 CHAIRMAN DEVLIN: We're digging up the other
20 population, Senator, you asked about.

21 SENATOR SORVAAG: Mr. Chairman, I think my
22 question will be answered. If you took that point
23 that's in Richland, which I think is going to come up
24 130, plus or minus, it would -- if you moved it to
25 Sargent, it would kick 28 over the 5 percent.

1 CHAIRMAN DEVLIN: Yes, it would.

2 SENATOR SORVAAG: So really, you don't --

3 CHAIRMAN DEVLIN: You would have to split
4 it.

5 MS. THOMPSON: Yes.

6 CHAIRMAN DEVLIN: Go ahead.

7 MS. THOMPSON: Mr. Chairman, Senator
8 Sorvaag.

9 To follow up on your question regarding the
10 population of the reservation area located only in
11 Richland County, that currently is noted, highlighted
12 on your screen. The population there is 137 people,
13 and again, according to census data, 56 of which are
14 identified as American Indian.

15 CHAIRMAN DEVLIN: Any other -- any other
16 discussion or questions on that?

17 (No audible response.)

18 CHAIRMAN DEVLIN: Okay. Seeing none, then
19 I'm going to move to the subdistrict part that --
20 because we have to have this done before they can --
21 the staff can put maps together over the noon hour,
22 so...

23 The subdistrict part -- and I'm going to
24 probably turn this over to Senator Holmberg. We'll
25 start with Subdistrict 4.

1 SENATOR HOLMBERG: I believe, I hope -- yes,
2 there is a map, and it -- I just ask the Council, how
3 would that look? It's not their map. It's not my
4 map. It is a map.

5 REPRESENTATIVE HEADLAND: Mr. Chairman?

6 CHAIRMAN DEVLIN: Yes.

7 REPRESENTATIVE HEADLAND: Just for
8 clarification, what did we -- didn't we vote on this?

9 CHAIRMAN DEVLIN: We voted to do
10 subdistricts, but we haven't laid out --

11 REPRESENTATIVE HEADLAND: Oh, we haven't
12 voted on which ones?

13 CHAIRMAN DEVLIN: -- laid out --

14 REPRESENTATIVE HEADLAND: Okay.

15 CHAIRMAN DEVLIN: -- laid out -- there's two
16 of them we have to do, 4 and 9, and we just have to
17 decide which plan to do so they know how to map it.

18 REPRESENTATIVE HEADLAND: Okay. Thank you.

19 REPRESENTATIVE BELLEW: Mr. Chairman, once
20 you get it passed on, I have some comments on the
21 map. Don't look at me in that tone of voice.

22 UNIDENTIFIED SPEAKER: He didn't say
23 anything, though.

24 REPRESENTATIVE BELLEW: Okay. Can I comment
25 now, or should I --

1 CHAIRMAN DEVLIN: You want to comment on
2 what?

3 REPRESENTATIVE BELLEW: On the map that was
4 just passed out.

5 CHAIRMAN DEVLIN: For District 4?

6 REPRESENTATIVE BELLEW: Yes.

7 CHAIRMAN DEVLIN: Okay. Well, let's let --
8 let's let Senator Holmberg present it first, and then
9 we'll comment on it.

10 REPRESENTATIVE BELLEW: Very good. Thank
11 you.

12 CHAIRMAN DEVLIN: Are you sure? Do I have
13 the right tone of voice that time? Okay.

14 SENATOR HOLMBERG: I will ask Claire to
15 present it because this is the first time I've seen
16 it.

17 CHAIRMAN DEVLIN: Oh, okay.

18 SENATOR HOLMBERG: I mean, it isn't her map,
19 but it is a map which I believe takes the reservation
20 and puts it in one subdistrict and puts the rest of 4
21 in the other district, subdistrict.

22 MS. NESS: Yes. Mr. Chairman, Senator
23 Holmberg, and Members of the Committee.

24 That's exactly what it does. We took --
25 last week we took the District 4, carved out the

1 reservation as its own subdistrict. You see the
2 numbers there are based on the overall population of
3 a -- an ideal population of a district, but they are
4 within the 5 percent parameters.

5 And I'd be happy to answer any questions.

6 CHAIRMAN DEVLIN: Representative Bellew, did
7 you have a question?

8 REPRESENTATIVE BELLEW: I do, Mr. Chairman.

9 CHAIRMAN DEVLIN: Okay. Thank you.

10 REPRESENTATIVE BELLEW: And just -- well,
11 the question is: We have had a map with -- there's
12 six townships in southern Ward County that are in
13 District 6 now, and you have them in District 4 on
14 this map. How does that affect?

15 MS. NESS: Yes. Representative Bellew and
16 Members of the Committee.

17 We can revise this based on an updated
18 version of District 4. This was created last week,
19 so it's not quite correct.

20 CHAIRMAN DEVLIN: Senator Holmberg.

21 SENATOR HOLMBERG: But are you confident
22 that if you would make those adjustments, these two,
23 4A and 4B, would fall within the tolerance of what
24 we're looking for?

25 MS. NESS: Senator Holmberg and Members of

1 the Committee.

2 We can do that real quickly. It won't take
3 us very long to pull that up and split that out and
4 check the populations.

5 SENATOR HOLMBERG: Do we want --
6 Mr. Chairman, do we want to move on to 9 and then
7 come back? Because we want to have decisions made
8 before lunch.

9 CHAIRMAN DEVLIN: Right. Okay. Let's --
10 are you presenting District 9, or are you passing the
11 buck to Claire?

12 SENATOR HOLMBERG: There's -- there is a
13 packet that has five different options.

14 CHAIRMAN DEVLIN: Do we have that?

15 SENATOR HOLMBERG: I think I have it. Yeah.
16 Oh, I get another one. Such a deal.

17 And this is -- there was -- in District 4,
18 as I understand it, there was -- with -- with the
19 line that was drawn, there is a representative that
20 lives in 4A and there's a representative that lives
21 in 4B. Okay?

22 In this one, 9A and 9B, this was done some
23 days ago, and I want to just point out what each one
24 of them does. We have -- in our districts, we
25 have -- of the maps we have drawn so far, we have

1 tried to stay away from, as much as possible, putting
2 incumbents together, so when we get to District 9,
3 the first map, map on page 1, puts both incumbents in
4 the same district.

5 And the only difference with what we have --
6 and I'll be frank. The only difference between what
7 we've been doing before and what we're doing here is
8 that these two incumbents are members of the minority
9 party, and we have done a lot to try to separate out
10 so we don't do that.

11 But, anyway, Map 1 puts two incumbents
12 together.

13 Map 2 puts two incumbents together.

14 Map 3 separates the two incumbents that are
15 there. One is the Rolla area; one is the Mylo area.

16 Map 4 puts the two incumbents back together
17 in the same district.

18 And Map 5 has one incumbent with the
19 reservation, the other incumbent not with the bulk of
20 the reservation, I should say.

21 So those are the five options, and I kind
22 of -- personally, if I had to make a motion, which I
23 would, I would vote for Number 5.

24 CHAIRMAN DEVLIN: Is that the Option D?

25 SENATOR HOLMBERG: That would be Option D.

1 Excuse me. I'm looking at page numbers, and you have
2 options.

3 And -- and I know, I -- I would ask
4 Representative Boschee, but again, it's -- it's their
5 children we're dealing with here.

6 But I would make that motion, and if you
7 have questions about what that actually does -- can I
8 use names or not?

9 CHAIRMAN DEVLIN: I don't care.

10 SENATOR HOLMBERG: Option D puts
11 Representative Boe, he's the Mylo area guy, in with
12 the bulk of the reservation and puts Representative
13 Marv Nelson in the rest of the district.

14 And Option -- and the other option that
15 separates them does just the opposite. It puts -- it
16 would be Boe in with the rest of the district and
17 puts Representative Nelson in. I mean, we know what
18 the names are, so that's why I'm using them, but I'm
19 just suggesting -- I would make a motion that we do
20 Option D, and then if there's a second, we can fight
21 about it.

22 SENATOR BEKKEDAH: I'll second that for
23 Option D.

24 CHAIRMAN DEVLIN: Okay. Senator Bekkedahl.

25 SENATOR BEKKEDAH: If I could ask a

1 question, though?

2 CHAIRMAN DEVLIN: Certainly.

3 SENATOR BEKKEDAHL: So for clarification,
4 looking at the numbers, all of these subdistricts fit
5 the plus or minus 5 percent, then, as you've
6 proposed. Right?

7 CHAIRMAN DEVLIN: Yes. Yes.

8 SENATOR BEKKEDAHL: Thank you.

9 REPRESENTATIVE NATHE: Mr. Chairman?

10 CHAIRMAN DEVLIN: Representative Nathe.

11 REPRESENTATIVE NATHE: Was that D, as in
12 David, or B, as in boy?

13 SENATOR HOLMBERG: David, as in David.

14 (Indiscernible conversation; microphones
15 turned off.)

16 CHAIRMAN DEVLIN: Representative Boschee.

17 REPRESENTATIVE BOSCHEE: Thank you,
18 Mr. Chairman.

19 This might be a question more for
20 Legislative Council. For purposes of this question,
21 I'm looking at Option C because I think it shows it
22 better.

23 CHAIRMAN DEVLIN: Option which?

24 REPRESENTATIVE BOSCHEE: Option C --

25 CHAIRMAN DEVLIN: C. Okay.

1 REPRESENTATIVE BOSCHEE: -- I'm looking at,
2 just because I'm going to ask about colors.

3 So we have Belcourt, which has been within
4 every option for its own subdistrict and then
5 revolving around there. To the north and then into
6 east Dunseith in Option C there are blocks of a
7 brownish color. Can you explain what these -- that
8 was confusing to me earlier. Is that tribal land?
9 Is that housing? What -- what that might mean for
10 us?

11 MS. NESS: Yes. Mr. Chairman,
12 Representative Boschee, and Members of the Committee.

13 When you pull up the census data -- if you
14 look at, actually, the cover sheet, when you pull up
15 the census data, all those little noncontiguous areas
16 that are kind of that grayish brown as well as the
17 main rectangle around Belcourt, those are all denoted
18 in the census data as the reservation.

19 MS. THOMPSON: Mr. Chairman, if I may?

20 CHAIRMAN DEVLIN: You may.

21 MS. THOMPSON: I just mirrored the screen
22 here. I turned off the color-coding on the
23 background of your map. If you look over at the
24 legend here -- I know it's very small on your screen,
25 but the Indian reservations, as mentioned in your

1 display manager, have this light kind of tan color,
2 and so when you shut off the colored background, now
3 if I zoom in on Rolette County, you can see all of
4 those little tan dots. Those are designated as kind
5 of a geography, a colored geography, as an Indian
6 reservation territory. So, again, a little bit of a
7 checkerboard pattern up there with the various
8 reservation areas.

9 REPRESENTATIVE BOSCHEE: Mr. Chairman? And
10 maybe this is --

11 CHAIRMAN DEVLIN: Representative Boschee.

12 REPRESENTATIVE BOSCHEE: -- a note outside
13 of the conversation about redistricting, but that, to
14 me, I think explains a lot of the concerns that we
15 hear from this reservation about jurisdiction
16 enforcement, is when you cross across a field or
17 something, you're on the reservation -- I mean, this
18 is just interesting to see it this way --

19 CHAIRMAN DEVLIN: Yeah.

20 REPRESENTATIVE BOSCHEE: -- versus how I've
21 always perceived it to be just a block of nine miles
22 by thirteen miles, so...

23 CHAIRMAN DEVLIN: Are there other questions?
24 Senator Burckhard.

25 SENATOR BURCKHARD: Mr. Chairman, on

1 Option D, as in Devlin --

2 CHAIRMAN DEVLIN: No. We're not going
3 there.

4 SENATOR BURCKHARD: Did I -- did I
5 understand that 9A would be Representative Boe and --
6 there's not a 9B designated, but that would be
7 Nelson?

8 SENATOR HOLMBERG: Yeah, there is no 9B, but
9 that's what it would be.

10 SENATOR BURCKHARD: Okay. Thank you.

11 REPRESENTATIVE NATHE: Mr. Chairman?

12 CHAIRMAN DEVLIN: Representative Nathe.

13 REPRESENTATIVE NATHE: We're talking about
14 Nelson and Boe, but there's also -- Damschen's in
15 there, too, is that correct, in the far east part of
16 9?

17 CHAIRMAN DEVLIN: I believe Representative
18 Damschen would be in 9B, the way I understand it. Is
19 that correct?

20 SENATOR HOLMBERG: Yes.

21 REPRESENTATIVE NATHE: Okay.

22 CHAIRMAN DEVLIN: Further discussion?
23 Representative Boschee.

24 REPRESENTATIVE BOSCHEE: Yeah, Mr. Chairman.
25 I think just for a point of order for the

1 Committee, too, the challenge we have with this
2 tribal nation specifically -- I shouldn't say
3 challenges. If we wanted to put as much of the
4 American Indian population into a tribal subdistrict
5 for bloc voting, that's not possible to get that
6 5 percent deviation, is that correct, because of
7 the -- the spread-out nature as well as the volume of
8 the population? Right?

9 (No audible response.)

10 CHAIRMAN DEVLIN: Is there further
11 discussion?

12 (No audible response.)

13 CHAIRMAN DEVLIN: We have a motion and a
14 second for Option D. Is that correct, Senator?

15 REPRESENTATIVE BOSCHEE: I'm sorry,
16 Mr. Chairman.

17 CHAIRMAN DEVLIN: Oh, I'm sorry.

18 REPRESENTATIVE BOSCHEE: Just, I guess, for
19 the record, I'll be opposing the motion, although I
20 recognize that that Option D is probably the best
21 when I think of my children and within my caucus, but
22 being -- as far as the principle of conversations
23 around the redistricting process, I see some better
24 options in terms of keeping the American Indian
25 population within a contiguous area, so for that

1 reason, I won't be supporting the motion. Thank you.

2 CHAIRMAN DEVLIN: Okay. Anyone else?

3 (No audible response.)

4 CHAIRMAN DEVLIN: Okay. I think we may poll
5 the Committee for approval for Option D.

6 MS. THOMPSON: Chairman Devlin?

7 CHAIRMAN DEVLIN: Yes.

8 MS. THOMPSON: Representative Bellew?

9 REPRESENTATIVE BELLEW: No.

10 MS. THOMPSON: Representative Boschee?

11 REPRESENTATIVE BOSCHEE: No. No.

12 MS. THOMPSON: Representative Headland?

13 REPRESENTATIVE HEADLAND: Yes.

14 MS. THOMPSON: Representative Lefor?

15 REPRESENTATIVE LEFOR: Yes.

16 MS. THOMPSON: Representative Monson?

17 REPRESENTATIVE MONSON: Yes.

18 MS. THOMPSON: Representative Nathe?

19 REPRESENTATIVE NATHE: Yes.

20 MS. THOMPSON: Representative Schauer?

21 REPRESENTATIVE SCHAUER: Yes.

22 MS. THOMPSON: Senator Holmberg?

23 SENATOR HOLMBERG: Yes.

24 MS. THOMPSON: Senator Bekkedahl?

25 SENATOR BEKKEDAHL: Aye.

1 MS. THOMPSON: Senator Burckhard?

2 SENATOR BURCKHARD: Aye.

3 MS. THOMPSON: Senator Erbele?

4 SENATOR ERBELE: Aye.

5 MS. THOMPSON: Senator Klein?

6 SENATOR KLEIN: Aye.

7 MS. THOMPSON: Senator Oban?

8 SENATOR OBAN: No.

9 MS. THOMPSON: Senator Poolman?

10 SENATOR POOLMAN: Aye.

11 MS. THOMPSON: And Senator Sorvaag?

12 SENATOR SORVAAG: Aye.

13 MS. THOMPSON: And, Mr. Chairman, the motion
14 carries.

15 CHAIRMAN DEVLIN: Now, do we have an answer
16 to Representative Bellew's question on -- on 4?
17 Yeah.

18 MS. THOMPSON: Yes, Mr. Chairman. I can
19 pull up that map of how that looks.

20 CHAIRMAN DEVLIN: Okay.

21 (Indiscernible conversation; microphones
22 turned off.)

23 MS. THOMPSON: Mr. Chairman, Committee
24 Members.

25 What you see on your screen here is an

1 illustration of what District 4 would look like if it
2 was split as shown on your handout. Just a little
3 side note, though. You'll notice the bottom
4 southwestern corner looks slightly different on your
5 handout as that district split was prepared before
6 yesterday's slight modifications to the map.

7 So with yesterday's map of the boundaries of
8 Districts -- District 4, splitting the area within
9 the District 4 that was approved yesterday into a 4A
10 and a 4 what would be B, it's just labeled as 4 on
11 your map, you can see it's a negative 51 percent to a
12 negative 49.9, higher percentages than the 5,
13 obviously, because we're splitting it, so it does
14 balance.

15 CHAIRMAN DEVLIN: And, Representative
16 Bellew, that answered the question?

17 REPRESENTATIVE BELLEW: Yes.

18 CHAIRMAN DEVLIN: Yeah. Okay.

19 Is there any further discussion on the --
20 did we have a motion on that? Did we have a motion
21 on that? I'm sorry.

22 UNIDENTIFIED SPEAKER: Ask them.

23 UNIDENTIFIED SPEAKER: I don't believe so.

24 CHAIRMAN DEVLIN: No, we did not.

25 SENATOR HOLMBERG: I move that.

1 CHAIRMAN DEVLIN: Okay. Is there a second?

2 REPRESENTATIVE BOSCHEE: Second.

3 CHAIRMAN DEVLIN: Second by Representative

4 Boschee.

5 Further discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, you may poll
8 the Committee.

9 MS. THOMPSON: Chairman Devlin?

10 CHAIRMAN DEVLIN: Aye.

11 MS. THOMPSON: Representative Bellew?

12 REPRESENTATIVE BELLEW: No.

13 MS. THOMPSON: Representative Boschee?

14 REPRESENTATIVE BOSCHEE: Yes.

15 MS. THOMPSON: Representative Headland?

16 REPRESENTATIVE HEADLAND: Yes.

17 MS. THOMPSON: Representative Lefor?

18 REPRESENTATIVE LEFOR: Yes.

19 MS. THOMPSON: Representative Monson?

20 REPRESENTATIVE MONSON: Yes.

21 MS. THOMPSON: Representative Nathe?

22 REPRESENTATIVE NATHE: Yes.

23 MS. THOMPSON: Representative Schauer?

24 REPRESENTATIVE SCHAUER: Yes.

25 MS. THOMPSON: Senator Holmberg?

1 SENATOR HOLMBERG: Aye.

2 MS. THOMPSON: Senator Bekkedahl?

3 SENATOR BEKKEDAHL: Aye.

4 MS. THOMPSON: Senator Burckhard?

5 SENATOR BURCKHARD: Aye.

6 MS. THOMPSON: Senator Erbele?

7 SENATOR ERBELE: Aye.

8 MS. THOMPSON: Senator Klein?

9 SENATOR KLEIN: Aye.

10 MS. THOMPSON: Senator Oban?

11 SENATOR OBAN: Yes.

12 MS. THOMPSON: Senator Poolman?

13 SENATOR POOLMAN: Aye.

14 MS. THOMPSON: And Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

16 MS. THOMPSON: And, Mr. Chairman, the motion
17 carries.

18 CHAIRMAN DEVLIN: Okay. Emily or Claire,
19 what else do we have to do so that you can get the
20 final version of the map ready? Have we got
21 everything?

22 (Indiscernible conversation; microphones
23 turned off.)

24 CHAIRMAN DEVLIN: Huh? Yeah, but they have
25 to put it all together, and then we vote on the plan.

1 Is that correct?

2 MS. THOMPSON: Mr. Chairman, we have
3 everything we need, so over the lunch hour, staff
4 will go ahead and print a final cover sheet of
5 everything we've proved up to the noon hour. We'll
6 also run a report for your split counties and provide
7 any relevant incumbent information based on the new
8 changes.

9 We do have one more item that we might want
10 to touch on --

11 CHAIRMAN DEVLIN: That would be fine.

12 MS. THOMPSON: -- before lunch. Oh, excuse
13 me. Actually, we -- we did a population change
14 summary in the even-numbered districts, but I think,
15 if it's all right with you and the Committee, we'll
16 go ahead with the newly revised map and just prepare
17 that new document to go with all of those materials.

18 CHAIRMAN DEVLIN: That will be --

19 MS. THOMPSON: We'll have a full package for
20 presentation after the noon hour.

21 CHAIRMAN DEVLIN: That would make sense.

22 So how much time would staff like?

23 MS. THOMPSON: I would say we could get it
24 all wrapped up in an hour, if that's all right with
25 the Committee?

1 CHAIRMAN DEVLIN: Is anybody going to feed
2 the staff during that time period, or not?

3 MS. THOMPSON: We'll be all right.

4 CHAIRMAN DEVLIN: Senator Erbele had a
5 question.

6 SENATOR ERBELE: Mr. Chairman.

7 I mean, as long as we're talking the county
8 lines, and I guess, you know, it becomes a part of my
9 new area of 28 with Sargent County, the fact that
10 there's no Natives in there, I -- I would have no
11 problem in accepting that portion of Sargent County,
12 and that way all the Native population is confined to
13 Richland, and their auditor should be happy, too,
14 so...

15 CHAIRMAN DEVLIN: Representative Lefor.

16 REPRESENTATIVE LEFOR: Thank you,
17 Mr. Chairman.

18 Yesterday you talked about a possible change
19 to statute allowing the various parties to make their
20 own determination on that. What would be the best
21 vehicle for me to use to bring this before the
22 Committee since we don't have it in bill form at this
23 point? I'd like to bring forward that language.

24 CHAIRMAN DEVLIN: Well, yeah. I think we
25 can bring that language forward as we're doing the

1 rest of -- there's a bunch of legal things we have to
2 do this afternoon after --

3 REPRESENTATIVE LEFOR: Okay.

4 CHAIRMAN DEVLIN: -- we look at the final
5 plan, so I think it would be fine --

6 REPRESENTATIVE LEFOR: I would ask to put it
7 into the plan, into the bill.

8 CHAIRMAN DEVLIN: If that's what you want,
9 or else it can be brought in as a separate bill in
10 the session. Whatever -- whatever Representative
11 Lefor gets -- wants is what he usually gets, I've
12 noticed, so...

13 So what do you want to do -- well, did you
14 want to make that a motion, or --

15 SENATOR ERBELE: Mr. Chairman.

16 I would move to keep Sargent -- Sargent
17 whole, and it -- I really don't have a penchant for
18 it either way, but it kind of makes sense from an
19 auditor's standpoint, and so I would move it, and we
20 can vote it up or down as we see fit.

21 SENATOR KLEIN: Second.

22 CHAIRMAN DEVLIN: Second by Senator Klein.
23 Discussion?

24 Representative Boschee.

25 REPRESENTATIVE BOSCHEE: Thank you,

1 Mr. Chairman.

2 Again, I think -- I understand the
3 simplicity of trying to have the lines for auditors'
4 purposes, and while the data doesn't necessarily
5 reflect an American Indian population on one side of
6 the division we're talking about, we also know that
7 the litigation that generally comes forward, it only
8 requires one person, so someone could move in or they
9 did not identify in the census as American Indian, so
10 I'm going to oppose the motion.

11 While I understand the simplicity and would
12 like to be able to, I just think if we're following
13 the principle of keeping tribal communities -- or
14 tribal reservation boundaries whole, that we should
15 stick with that.

16 CHAIRMAN DEVLIN: Representative Nathe.

17 REPRESENTATIVE NATHE: Thank you,
18 Mr. Chairman.

19 I, too, will be opposing this. I mean,
20 we -- with the other reservations -- we've made sure
21 that we've kept every other reservation whole. Now
22 with this plan we're going to all of a sudden now
23 divide a reservation at the last minute because of
24 one auditor. I think we leave it the way we have it
25 and stay consistent with what we've done across the

1 state.

2 CHAIRMAN DEVLIN: Senator Sorvaag.

3 SENATOR SORVAAG: I would also -- I'm going
4 to oppose it because we've worked the whole time that
5 that stays together. That was one of our directions,
6 that reservations -- no matter how tiny, no matter
7 how few, and I just think the auditor needs to work
8 around it --

9 CHAIRMAN DEVLIN: Okay.

10 SENATOR SORVAAG: -- because that's been a
11 consistent.

12 CHAIRMAN DEVLIN: We have a motion and
13 second before us. Poll the committee.

14 MS. THOMPSON: Chairman Devlin?

15 CHAIRMAN DEVLIN: No.

16 MS. THOMPSON: Representative Bellew?

17 REPRESENTATIVE BELLEW: Yes.

18 MS. THOMPSON: Representative Boschee?

19 REPRESENTATIVE BOSCHEE: No.

20 MS. THOMPSON: Representative Headland?

21 REPRESENTATIVE HEADLAND: No.

22 MS. THOMPSON: Representative Lefor?

23 REPRESENTATIVE LEFOR: No.

24 MS. THOMPSON: Representative Monson?

25 REPRESENTATIVE MONSON: No.

1 MS. THOMPSON: Representative Nathe?

2 REPRESENTATIVE NATHE: No.

3 MS. THOMPSON: Representative Schauer?

4 REPRESENTATIVE SCHAUER: No.

5 MS. THOMPSON: Senator Holmberg?

6 SENATOR HOLMBERG: No.

7 MS. THOMPSON: Senator Bekkedahl?

8 SENATOR BEKKEDAHL: No.

9 MS. THOMPSON: Senator Burckhard?

10 SENATOR BURCKHARD: No.

11 MS. THOMPSON: Senator Erbele?

12 SENATOR ERBELE: Aye.

13 MS. THOMPSON: Senator Klein?

14 SENATOR KLEIN: No.

15 MS. THOMPSON: Senator Oban?

16 SENATOR OBAN: No.

17 MS. THOMPSON: Senator Poolman?

18 SENATOR POOLMAN: No.

19 MS. THOMPSON: Senator Sorvaag?

20 SENATOR SORVAAG: No.

21 MS. THOMPSON: Mr. Chairman, the motion

22 fails.

23 CHAIRMAN DEVLIN: How much time would staff

24 like? Would an hour do it, or do you want until

25 1 o'clock, or what would you prefer?

1 MS. THOMPSON: I believe an hour would do
2 it, Mr. Chairman.

3 CHAIRMAN DEVLIN: Okay.

4 REPRESENTATIVE HEADLAND: Mr. Chairman?

5 CHAIRMAN DEVLIN: Yes.

6 REPRESENTATIVE HEADLAND: Just wondering if
7 the percentages of the new districts, if that
8 document is ready that we could have now before
9 lunch, if it -- if it's available?

10 CHAIRMAN DEVLIN: Emily?

11 MS. THOMPSON: Mr. Chairman, Members of the
12 Committee.

13 We have a percentages relating to the
14 districts based on yesterday's changes, so there are
15 not, you know, excessive changes, so we could provide
16 that now, if you wanted the updated one after lunch.

17 CHAIRMAN DEVLIN: I think we may as well
18 wait.

19 UNIDENTIFIED SPEAKER: (Indiscernible.)

20 CHAIRMAN DEVLIN: Okay. Anything else
21 before lunch?

22 (No audible response.)

23 CHAIRMAN DEVLIN: Okay. We will break until
24 1 o'clock to give them plenty of time to actually
25 maybe get something to eat besides that.

1 So and then we've got about six, eight easy
2 legal things to do, Representative Lefor's deal, and
3 look at the map and decide to move it forward or not,
4 so...

5 (Recess taken.)

6 CHAIRMAN DEVLIN: The plans are being
7 printed, but we have a few other housekeeping things
8 that we have to do.

9 We have to review a proposed bill draft on
10 the 25 percent threshold, which is the threshold we
11 have at the present time. Correct?

12 Do you have a bill draft for that, or would
13 you like to go a different direction, Claire?

14 MS. THOMPSON: I think while Claire is
15 passing that around, just a quick note for items that
16 were received since this morning, over the lunch
17 hour, for public testimony, Chairman Faith from
18 Standing Rock Reservation did submit written
19 testimony. I believe you've all received a copy.
20 And Chairman Fox as well from the MHA Nation
21 submitted written testimony, as well as Chairman
22 Yankton from Spirit Lake, so that will all be linked
23 online, and I believe you've been -- you've received
24 an email copy as well.

25 CHAIRMAN DEVLIN: Who is going to do it?

1 MS. THOMPSON: Are you ready?

2 CHAIRMAN DEVLIN: Yeah.

3 Claire, I think, will present this.

4 MS. NESS: Chairman Devlin and Members of
5 the Committee.

6 You've received a draft of a bill that is
7 similar to the ones that have been passed in previous
8 redistricting cycles that provides for the staggering
9 of terms of members of the legislative assembly after
10 redistricting has changed the boundaries. Again,
11 this is something where we repeal this every 10 years
12 and replace it with a new one.

13 This -- the addition this time has to do
14 with the subdistricts, so I'll briefly touch on how
15 this would work. Basically, a senator or a
16 representative from an odd-numbered district would --
17 excuse me -- would have to be elected from an
18 odd-numbered district in 2022 for a term of four
19 years. If you have a subdistrict in your district,
20 of course, then you would have a representative
21 elected from each of those odd-numbered subdistricts
22 in 2022 for a term of four years.

23 Because we have renumbered a couple of
24 districts, Districts 10 and 26 would have their
25 senator and two representatives elected in 2022 for a

1 term of two years instead of the four years.

2 And then we address the -- excuse me. I was
3 talking about the odd-numbered districts. I don't
4 know if I misspoke a second ago. I apologize. I was
5 talking about odd-numbered districts being elected in
6 2022.

7 And then we have Districts 10 and 26 elected
8 in 2022 for a term of two years. Other than that,
9 senators elected from even-numbered districts will be
10 elected in 2024 for a term of four years. If the
11 even-numbered district is not subdistricted, the same
12 would hold true for the two representatives.

13 And if there is a -- in District 4, that is
14 subdistricted, then there would be one representative
15 from each of the subdistricts elected in 2022 for a
16 term of two years and then in 2024 for a term of four
17 years.

18 And then we address what happens when you
19 have incumbents who are placed together. So the term
20 of office for a representative elected in 2020 from
21 an even-numbered district who is then placed in an
22 even-numbered district with more than one other
23 representative elected in that same year from an
24 even-numbered district, that term will terminate on
25 December 1st of 2022, and two representatives would

1 then have to be elected from that district for a term
2 of two years.

3 Similarly, the term of office of a senator
4 elected in 2020 from an even-numbered district who is
5 placed in another -- or placed in an even-numbered
6 district with one or more other senators elected that
7 same year from an even-numbered district will
8 terminate on December 1st of 2022, and one senator
9 would have to be elected from that district for a
10 term of two years.

11 REPRESENTATIVE BELLEW: Mr. Chairman, could
12 I ask a question?

13 CHAIRMAN DEVLIN: Certainly. Representative
14 Bellew.

15 REPRESENTATIVE BELLEW: Section E, I'm not
16 quite sure I understand that. If a senator is
17 already an elected senator, say District 6, and then
18 there's a senator from District 8 put in District 6,
19 would that senator -- the incumbent senator from
20 District 6 have to run in 2022?

21 MS. NESS: Mr. Chairman, Representative
22 Bellew, and Members of the Committee.

23 If you adopted that subdivision as part of a
24 recommended bill draft, that's how it would operate.

25 REPRESENTATIVE BELLEW: It's not a

1 subdivision.

2 MS. NESS: Correct. Or, excuse me.

3 Subdivision E. So the -- Subdivision B on the bill
4 draft. So it would be 3E, the one that you were just
5 referencing. You are correct about the way that that
6 would operate, if you wanted to keep that subdivision
7 in the bill.

8 CHAIRMAN DEVLIN: Representative Nathe.

9 REPRESENTATIVE NATHE: Thank you,
10 Mr. Chairman.

11 So, Claire, piggybacking on Representative
12 Bellew's question, so there's two senators in there,
13 but if one of them says, Hey, I'm not going to run,
14 you know, you can have it, for lack of a better word,
15 would he still have to run? I suppose if he's under
16 the 25 percent, he would not have to rerun, then.
17 Correct?

18 MS. NESS: Mr. Chairman and Representative
19 Nathe and the Committee.

20 It would not be up to the senator to decide,
21 because under the current verbiage in this draft
22 bill, it would be whether or not they were both
23 elected in 2020, so you wouldn't have the opportunity
24 to have one of them weigh in and say, No, we don't
25 need the election. In fact, that was something that

1 the Court has struck down in the past, too. You
2 can't give one senator that -- that power or one
3 representative that power.

4 REPRESENTATIVE NATHE: But what if one
5 senator says, I'm resigning; I'm not running?

6 MS. NESS: We would have to change the
7 language of the --

8 REPRESENTATIVE NATHE: But the other one
9 would still have to run, then, regardless?

10 MS. NESS: For the even-numbered districts?

11 REPRESENTATIVE NATHE: Yeah. Like say for
12 District 6.

13 MS. NESS: Uh-huh.

14 REPRESENTATIVE NATHE: So you have Senator
15 Vedaa and Senator Anderson, and say Anderson from 8
16 is now up there, and now he says, Do you know what?
17 I'm done. I'm --

18 MS. NESS: Uh-huh.

19 REPRESENTATIVE NATHE: -- it's all yours.
20 Would Vedaa still have to run, then?

21 MS. NESS: Yes, Representative Nathe. Under
22 the current language in this bill draft, that -- that
23 would be the case, because they were both elected in
24 2020 from an even-numbered district.

25 SENATOR HOLMBERG: And --

1 CHAIRMAN DEVLIN: Senator Holmberg.

2 SENATOR HOLMBERG: And Claire said it
3 exactly. Remember, there was this actual point that
4 went to the Court, and the Court said you cannot give
5 power to a legislator to determine whether or not
6 there's going to be an election.

7 And, you know, you might have a situation
8 where someone lives here and then they move to
9 another district, but that can happen anytime. A
10 four-year person, for example, moves into another
11 four-year district. And I'm -- I'm trying to think,
12 because both -- what is now 19 and 20, they both have
13 to run anyways, because you have Myrdal and Fors,
14 would both have to run, but Fors is in a district
15 with Lemm, who also has -- who has a four-year term
16 but is being cut short because they have way over
17 25 percent change. Right?

18 MS. NESS: I'm trying to think of where the
19 incumbents are, but yes, I think you're correct.

20 Okay?

21 CHAIRMAN DEVLIN: You may proceed.

22 MS. NESS: Looking at Subsection 4, then,
23 the term of office of a member of the legislative
24 assembly elected in an even-numbered district in 2020
25 for a term of four years but who is placed in an

1 odd-numbered district terminates on December 1st of
2 2022.

3 The term of office of a member of the
4 legislative assembly elected in a district comprised
5 of subdistricts as a result of legislative
6 redistricting terminates on December 1, 2022.

7 And then 6 carves out an exception as
8 provided in Subsection 7, but other than as in
9 Subsection 7, a member of the legislative assembly
10 who is elected from an even-numbered district in 2020
11 for a term of four years and who is placed in an
12 odd-numbered district may continue to serve the
13 remainder of the term for which they were elected
14 beyond December 1, 2022, if that member moves their
15 place of residence before February 1, 2022, to a
16 location in the even-numbered district from which
17 they were elected and certifies in writing to the
18 Secretary of State and the Chairman of Legislative
19 Management that the member has that new residence as
20 determined by Section 54-01-26, which is the section
21 of the Century Code that defines how you determine a
22 residence.

23 If the member doesn't establish residency
24 back in their old even-numbered district by the
25 deadline, the term of office for that member would

1 terminate on December 1st of 2022.

2 So that gives a member the opportunity to
3 continue representing their district if they move and
4 put their residence back into that even-numbered
5 district.

6 Number 7 is the -- is the 25 percent
7 provision, and that provides for the term of office
8 of a member in an even-numbered district with new
9 geographic area which was not in that member's
10 district for the 2020 election and which new
11 geographic area has that population of more than
12 4,144 will terminate on December 1st of 2022.

13 And then for purposes of just clarifying
14 that provision of the Constitution that requires a
15 member to live in their district, a member of the
16 legislative assembly elected from a district with
17 boundaries that changed as a result of legislative
18 redistricting is deemed to live in a district from
19 which they were elected until December 1st of 2022.

20 And then we have Section 2 of the bill,
21 which simply repeals the old version of that statute.

22 Then we have a Section 3 that allows the
23 Secretary of State to modify election deadlines and
24 procedures for the 2022 primary election after
25 consulting with city and county officials if it's

1 necessary to allow the '22 primary election to
2 proceed as scheduled. The modified deadlines and
3 procedures can address things like filing or
4 publishing deadlines and any other matters necessary
5 to conduct -- or to accommodate the conduct of the
6 primary election.

7 And then Section 4 is a legislative intent
8 statement regarding boundaries, saying that it is the
9 intent, through -- that although the Act is effective
10 upon filing with the Secretary of State, the members
11 serving under the redistricting plan effective on the
12 day before the effective date of the Act shall
13 continue to serve until implementation of the Act.
14 Any reference in the legislative district
15 descriptions to a city limit or reservation boundary
16 as a boundary line refers to that limit or boundary
17 as it existed on January 1, 2020, as shown on the
18 2020 census map, so that's just reiterating that we
19 are relying on the census data and the census lines.

20 A legislative district boundary using the
21 reservation or city limit lines doesn't migrate. As
22 those lines migrate, they -- they stick with those
23 2020 lines. Unless cities are otherwise named
24 specifically, townships encompass all the territory
25 within their outer boundaries. And that just simply

1 says if we are using metes and bounds and we describe
2 a township, that that township would include
3 everything within it unless we specifically exclude a
4 city.

5 So again, the Act would be effective upon
6 filing with the Secretary of State and it's declared
7 to be an emergency measure, and that's to comport
8 with the requirements of a special or reconvened
9 session.

10 CHAIRMAN DEVLIN: Senator Holmberg.

11 SENATOR HOLMBERG: I know this is -- the
12 whole thing is still a little in motion, but will you
13 be ready to answer the phone call from James
14 McPherson as to say, Okay. Tell me the names?
15 Because there's no way I can figure out who these
16 people are.

17 (No audible response.)

18 SENATOR HOLMBERG: No, I'm just asking,
19 because, I mean, that's what's going to happen. I
20 mean, we have an idea, but the media, particularly TV
21 and print, will be calling and asking, Well, who are
22 the people here?

23 MS. NESS: Representative Holmberg and
24 Members of the Committee.

25 We don't have the list now, but based on the

1 information that we have about residences, you know,
2 we can probably come up with that. I can't guarantee
3 that we have everybody's residential address. We do
4 have a lot of post office boxes.

5 CHAIRMAN DEVLIN: Representative Schauer.

6 REPRESENTATIVE SCHAUER: Thank you,
7 Mr. Chairman.

8 Please inform the vice chairman that it is
9 our responsibility to get that information, as public
10 officials, to be prepared for that question.

11 SENATOR HOLMBERG: That's why we call him,
12 because (indiscernible).

13 CHAIRMAN DEVLIN: So, Claire, which one of
14 these does -- somebody was elected to a four-year --
15 even-numbered district, four-year term, which they're
16 in the middle of, and somebody -- an odd-numbered
17 senator, say, gets moved into that district. The
18 odd-numbered senator would not get to run, then,
19 for -- the first person that was elected four years
20 will serve out the four years. That's what the
21 25 percent does. Right?

22 MS. NESS: I apologize. Could you repeat
23 that?

24 CHAIRMAN DEVLIN: You have a -- you have a
25 legislator that was elected to a four-year term,

1 okay, that runs out at the end of 2022.

2 MS. NESS: Okay.

3 CHAIRMAN DEVLIN: You have a senator from an
4 odd-numbered district that was moved into that
5 district whose term is out now -- up now. Okay?
6 They would not get to run until 2022. Is that
7 correct?

8 MS. NESS: (No audible response.)

9 CHAIRMAN DEVLIN: Yeah. That's what the
10 25 percent deal says, if your district hasn't changed
11 by more than 25 percent.

12 MS. NESS: Yes.

13 CHAIRMAN DEVLIN: Yeah. Okay. Got it.
14 Senator Klein.

15 SENATOR KLEIN: Well, Mr. Chairman, I -- I
16 was agreeing with you on that first time until you
17 reloaded and shot again.

18 So if a senator was in an even district,
19 elected in 2020, now a portion of his district is in
20 an odd-numbered district and there is a legislator
21 sitting there, that legislator can run in 2024
22 because that district is now part of the new
23 district, the even district. Okay. It's Klein and
24 Heckaman, just so we -- you know, that's -- that's
25 been the question. I -- somebody's asked me that

1 question, also, and I think you're going to -- you're
2 working on that, I understand, but I was elected in
3 '20, and I'm below that number of 4,000 whatever,
4 that 4,000 number. How does that play, and -- and
5 maybe -- there's got to be some other districts that
6 are similar to what I -- what I have.

7 MS. NESS: If you -- so if you're elected
8 from a district and you have a four-year term and
9 it -- it doesn't meet that 25 percent threshold and
10 then -- let's see. I'm looking at Subdivision 3E.
11 So if you were placed in an even-numbered district
12 with one or more other senators elected in 2020 from
13 an even-numbered district, then your term would
14 terminate. But if you're placed into a district with
15 another -- and it could be the same district that
16 you've always been in -- with another senator from an
17 odd-numbered district, that would not apply, so then
18 you would be looking at whether or not that
19 25 percent threshold is met, and if that 25 percent
20 threshold is not met, then you would continue your
21 term.

22 SENATOR KLEIN: Thank you.

23 SENATOR BEKKEDAHL: Question.

24 CHAIRMAN DEVLIN: Senator Eberle -- or who
25 had the question? Senator Bekkedahl. I'm sorry.

1 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

2 So I'm -- I'm going to look at a specific
3 instance just because I think -- I'm trying to figure
4 out how it relates to Section 6 here.

5 If you have a seated senator in District 26
6 who is elected for a four-year term -- term in 2020,
7 that senator's location now is moved into
8 District 25, which is an odd number --

9 MS. NESS: Uh-huh.

10 SENATOR BEKKEDAHL: -- as I read this
11 Section 6, if that person moved back to where they
12 were originally elected, which puts them in District
13 now 28, they could continue to serve? That's the
14 confusion I'm having on Section 6, if you can just
15 clarify that.

16 MS. NESS: Absolutely. Yes. Senator
17 Bekkedahl, Members of the Committee.

18 So if you have a senator who -- and 26 is a
19 hard one because it goes away. Right? But if --
20 let's just pick 2, just for example purposes. If you
21 have a senator who is in 2 but they're redistricted
22 into 1 because the boundaries changed, then that
23 senator could go back to another location within
24 District 2, and that's how that Number 6 would
25 operate, then.

1 So you wouldn't -- you would just have to go
2 back to the district that you were in. Even though
3 you haven't moved, the lines move around you.
4 Uh-huh.

5 CHAIRMAN DEVLIN: Are we all totally
6 confused now, or do we understand where we're at?

7 (No audible response.)

8 CHAIRMAN DEVLIN: Are there questions?

9 Senator Klein, you got your question
10 answered? You and I agree with -- yeah. Okay. That
11 was the answer. Okay.

12 SENATOR KLEIN: Mr. Chairman?

13 CHAIRMAN DEVLIN: Senator Klein.

14 SENATOR KLEIN: You know, we -- the numbers
15 we saw yesterday in the districts that would have to
16 run, and then there was going to be some
17 recalculation, there hasn't been a whole lot of
18 change in that. As of yesterday, when we added a bit
19 of Burleigh County, I still think we're below the
20 25 percent threshold. I know I've been asked that
21 question, also. But there's new -- it will be easier
22 to vote for some of these things when we know the
23 exact numbers.

24 MS. NESS: The updated 25 percent? I
25 apologize.

1 CHAIRMAN DEVLIN: I'm certain that your
2 district did not change more than 25 percent, if that
3 was the question, District 14.

4 MS. NESS: Mr. Chairman, we do have the
5 updated information on that if you would like us to
6 pass it around?

7 CHAIRMAN DEVLIN: Yes, please.
8 Representative Headland.

9 REPRESENTATIVE HEADLAND: Thank you,
10 Mr. Chairman.

11 I know it doesn't impact elections, but
12 could we see how the odd-numbered districts change so
13 we know, like, what -- our own districts, we can have
14 an idea of how much we've changed on a percentage
15 basis?

16 MS. NESS: We don't have it. Mr. Chairman,
17 Representative Headland.

18 We don't have the overlays of the
19 odd-numbered districts. We could do that. It might
20 take a little time to get those generated.

21 If you're just looking for strict population
22 change and not population change in new geographic
23 areas, we probably could run that, too, whichever
24 type of report you would like.

25 REPRESENTATIVE HEADLAND: Yeah. Both.

1 MS. NESS: Okay.

2 CHAIRMAN DEVLIN: Yeah. We don't need it
3 for this particular meeting.

4 REPRESENTATIVE HEADLAND: No.

5 CHAIRMAN DEVLIN: You just would like to
6 have it at some point, and staff can certainly do
7 that.

8 Excuse me. Emily.

9 MS. THOMPSON: Mr. Chair, Members of the
10 Committee.

11 You've all received a document, the
12 LC Number 23.9168.02. It's the updated *Population*
13 *Change in Even-Numbered Districts* as of the changes
14 that you made prior to the lunch hour.

15 Just one quick item to note. You'll see
16 some of the districts in the second column have N/A,
17 or not applicable. We did go ahead and make some
18 updates. If you look at your proposed statewide
19 plan, the packet that you just got, in order to give
20 you a better idea to run some of these district
21 percentages, we did apply, based on the motion made
22 by Representative Lefor this morning, changing
23 District 39 to 26. District Y was changed to 39.

24 And, also, there are three other districts
25 that were not yet formally made by motion, but for

1 discussion purposes, so you can see this on your
2 chart, the Committee had loosely discussed making
3 three other district number changes, so the printout
4 that you have in front of you has those changes. Of
5 course, that would need to be formally moved and
6 finalized by motion. But those changes are the prior
7 District XX, that's now 10; the prior District 99,
8 that's now 23; and the prior District 10, that was
9 changed to 19. And again, that was just based on
10 some Committee discussion, but that would be better
11 formally approved by motion at some point today as
12 the Committee wishes and wants those numbers.

13 But for purposes of the population change in
14 even-numbered districts, that's why you'll see some
15 of those numbers that have an N/A. Like, for
16 instance, District 26, that would be technically a
17 new district, and so we don't have that comparison
18 data to look at.

19 But just wanted to preface this document
20 with that comment.

21 SENATOR BEKKEDAHL: Mr. Chairman?

22 CHAIRMAN DEVLIN: Senator Bekkedahl.

23 SENATOR BEKKEDAHL: Mr. Chairman, I would
24 move that the Committee adopt the numbers as
25 presented by Legislative Council staff that have not

1 been assigned yet.

2 CHAIRMAN DEVLIN: Is there a second?

3 SENATOR BURCKHARD: Second.

4 CHAIRMAN DEVLIN: Second by Senator
5 Burckhard.

6 Is there discussion?

7 (No audible response.)

8 CHAIRMAN DEVLIN: Seeing none, poll the
9 Committee.

10 MS. THOMPSON: Chairman Devlin?

11 CHAIRMAN DEVLIN: Yes.

12 MS. THOMPSON: Representative Bellew?

13 REPRESENTATIVE BELLEW: Yes.

14 MS. THOMPSON: Representative Boschee?

15 REPRESENTATIVE BOSCHEE: Yes.

16 MS. THOMPSON: Representative Headland?

17 REPRESENTATIVE HEADLAND: Yes.

18 MS. THOMPSON: Representative Lefor?

19 REPRESENTATIVE LEFOR: Yes.

20 MS. THOMPSON: Representative Monson?

21 REPRESENTATIVE MONSON: Yes.

22 MS. THOMPSON: Representative Nathe?

23 REPRESENTATIVE NATHE: Yes.

24 MS. THOMPSON: Representative Schauer?

25 REPRESENTATIVE SCHAUER: Yes.

1 MS. THOMPSON: Senator Holmberg?

2 SENATOR HOLMBERG: Yes.

3 MS. THOMPSON: Senator Bekkedahl?

4 SENATOR BEKKEDAHL: Aye.

5 MS. THOMPSON: Senator Burckhard?

6 SENATOR BURCKHARD: Aye.

7 MS. THOMPSON: Senator Erbele?

8 SENATOR ERBELE: Aye.

9 MS. THOMPSON: Senator Klein?

10 SENATOR KLEIN: Aye.

11 MS. THOMPSON: Senator Oban?

12 SENATOR OBAN: Yes.

13 MS. THOMPSON: Senator Poolman?

14 SENATOR POOLMAN: Yes.

15 MS. THOMPSON: And Senator Sorvaag?

16 SENATOR SORVAAG: Aye.

17 MS. THOMPSON: Mr. Chairman, the motion's
18 carried.

19 CHAIRMAN DEVLIN: So will the Committee let
20 us take a moment to discuss the statewide plan that
21 was distributed, or is someone ready to make a motion
22 and move that to Legislative Management?

23 REPRESENTATIVE SCHAUER: I'll make a motion.

24 CHAIRMAN DEVLIN: Representative Schauer.

25 Is there a second?

1 SENATOR BURCKHARD: Second.

2 CHAIRMAN DEVLIN: Senator Burckhard.

3 Discussion?

4 (No audible response.)

5 CHAIRMAN DEVLIN: Seeing none, you may poll
6 the Committee.

7 MS. THOMPSON: Chairman Devlin?

8 CHAIRMAN DEVLIN: Yes.

9 MS. THOMPSON: Representative Bellew?

10 REPRESENTATIVE BELLEW: No.

11 MS. THOMPSON: Representative Boschee?

12 REPRESENTATIVE BOSCHEE: Yes.

13 MS. THOMPSON: Representative Headland?

14 REPRESENTATIVE HEADLAND: Yes.

15 MS. THOMPSON: Representative Lefor?

16 REPRESENTATIVE LEFOR: Yes.

17 MS. THOMPSON: Representative Monson?

18 REPRESENTATIVE MONSON: Yes.

19 MS. THOMPSON: Representative Nathe?

20 REPRESENTATIVE NATHE: Yes.

21 MS. THOMPSON: Representative Schauer?

22 REPRESENTATIVE SCHAUER: Yes.

23 MS. THOMPSON: Senator Holmberg?

24 SENATOR HOLMBERG: Yes.

25 MS. THOMPSON: Senator Bekkedahl?

1 SENATOR BEKKEDAH: Aye.

2 MS. THOMPSON: Senator Burckhard?

3 SENATOR BURCKHARD: Aye.

4 MS. THOMPSON: Senator Erbele?

5 SENATOR ERBELE: Aye.

6 MS. THOMPSON: Senator Klein?

7 SENATOR KLEIN: Aye.

8 MS. THOMPSON: Senator Oban?

9 SENATOR OBAN: Yes.

10 MS. THOMPSON: Senator Poolman?

11 SENATOR POOLMAN: Aye.

12 MS. THOMPSON: Senator Sorvaag?

13 SENATOR SORVAAG: Aye.

14 MS. THOMPSON: And, Mr. Chairman, the motion
15 carries.

16 CHAIRMAN DEVLIN: Thank you.

17 Move the proposed bill draft language
18 regarding the election percentage threshold. Is that
19 this?

20 MS. THOMPSON: Yes.

21 CHAIRMAN DEVLIN: That was the one that
22 Claire presented and answered questions on. Is
23 anybody ready to move that?

24 REPRESENTATIVE MONSON: I'll move.

25 CHAIRMAN DEVLIN: Dave Monson.

1 Is there a second?

2 REPRESENTATIVE LEFOR: Second.

3 CHAIRMAN DEVLIN: Second by Representative
4 Lefor.

5 Discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none --

8 REPRESENTATIVE BELLEW: Mr. Chairman, which
9 one --

10 CHAIRMAN DEVLIN: Oh, I'm sorry.

11 REPRESENTATIVE BELLEW: Which one are we
12 voting on now?

13 UNIDENTIFIED SPEAKER: 21.1094.

14 CHAIRMAN DEVLIN: Oh. I'm sorry. Okay. I
15 thought we were (indiscernible).

16 (Indiscernible conversation; microphones
17 turned off.)

18 CHAIRMAN DEVLIN: Representative Bellew,
19 what was your question?

20 REPRESENTATIVE BELLEW: Which one are we
21 taking up now?

22 CHAIRMAN DEVLIN: The one that Claire
23 presented with the 25.

24 REPRESENTATIVE BELLEW: Okay. I just -- I
25 was -- I was confused. I know that's hard to

1 believe, but --

2 CHAIRMAN DEVLIN: Yeah, I'm just -- I'm in
3 shock. I may have to leave and come back in a couple
4 hours. Would you wait for me here?

5 Any discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, you may poll
8 the Committee.

9 MS. THOMPSON: Chairman Devlin?

10 CHAIRMAN DEVLIN: Yes.

11 MS. THOMPSON: Representative Bellew?

12 REPRESENTATIVE BELLEW: Yes.

13 MS. THOMPSON: Representative Boschee?

14 REPRESENTATIVE BOSCHEE: Yes.

15 MS. THOMPSON: Representative Headland?

16 REPRESENTATIVE HEADLAND: Yes.

17 MS. THOMPSON: Representative Lefor?

18 REPRESENTATIVE LEFOR: Yes.

19 MS. THOMPSON: Representative Monson?

20 REPRESENTATIVE MONSON: Yes.

21 MS. THOMPSON: Representative Nathe?

22 REPRESENTATIVE NATHE: Yes.

23 MS. THOMPSON: Representative Schauer?

24 REPRESENTATIVE SCHAUER: Yes.

25 MS. THOMPSON: Senator Holmberg?

1 SENATOR HOLMBERG: Yes.

2 MS. THOMPSON: Senator Bekkedahl?

3 SENATOR BEKKEDAHL: Aye.

4 MS. THOMPSON: Senator Burckhard?

5 SENATOR BURCKHARD: Aye.

6 MS. THOMPSON: Senator Erbele?

7 SENATOR ERBELE: Aye.

8 MS. THOMPSON: Senator Klein?

9 SENATOR KLEIN: Aye.

10 MS. THOMPSON: Senator Oban?

11 SENATOR OBAN: Yes.

12 MS. THOMPSON: Senator Poolman?

13 SENATOR POOLMAN: Aye.

14 MS. THOMPSON: Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

16 MS. THOMPSON: And, Mr. Chairman, the motion
17 carries.

18 CHAIRMAN DEVLIN: That included all the
19 Secretary of State authorization, and everything was
20 in there, so...

21 The next thing I have is the proposed bill
22 draft from Representative Lefor.

23 Do you want to discuss that, Representative
24 Lefor?

25 REPRESENTATIVE LEFOR: I'm just passing this

1 out for informational purposes. I'm not ready to
2 move it. Need more time to review -- review this,
3 but -- there's a couple things in here that I would
4 change, but I don't want to move something with --
5 you know, that hasn't been -- had more time to be
6 vetted, so I'm not going to move it forward at this
7 time.

8 CHAIRMAN DEVLIN: So, Representative Lefor,
9 that would come through as a separate bill during the
10 special session?

11 REPRESENTATIVE LEFOR: Correct. Yes.

12 CHAIRMAN DEVLIN: Okay.

13 SENATOR HOLMBERG: And I think,
14 Mr. Chairman, that the fact that you brought it up
15 here would help -- be helpful because -- not that we
16 vote on it or anything, because I believe the way
17 things appear to be shaping up that bills would go
18 through Delayed Bills Committee, but you could
19 certainly say that you brought it up but needed more
20 time, and therefore please introduce this for me.

21 REPRESENTATIVE LEFOR: I will do that.

22 CHAIRMAN DEVLIN: We need a -- I think it's
23 just the last two. Okay. We need a motion that the
24 Chairman and Legislative Council staff be requested
25 to prepare a report of the bill draft recommended by

1 the Committee and to present the report and the
2 recommended bill draft to the Legislative Management.

3 Somebody wish to make that motion?

4 SENATOR HOLMBERG: So moved.

5 SENATOR KLEIN: Second.

6 CHAIRMAN DEVLIN: Senator Holmberg, seconded
7 by Senator Klein.

8 Is there any more explanation or any -- any
9 questions?

10 (No audible response.)

11 CHAIRMAN DEVLIN: Seeing none, you may poll
12 the Committee.

13 MS. THOMPSON: Chairman Devlin?

14 CHAIRMAN DEVLIN: Aye.

15 MS. THOMPSON: Representative Bellew?

16 REPRESENTATIVE BELLEW: Yes.

17 MS. THOMPSON: Representative Boschee?

18 REPRESENTATIVE BOSCHEE: Yes.

19 MS. THOMPSON: Representative Headland?

20 REPRESENTATIVE HEADLAND: Yes.

21 MS. THOMPSON: Representative Lefor?

22 REPRESENTATIVE LEFOR: Yes.

23 MS. THOMPSON: Representative Monson?

24 REPRESENTATIVE MONSON: Yes.

25 MS. THOMPSON: Representative Nathe?

1 REPRESENTATIVE NATHE: Yes.

2 MS. THOMPSON: Representative Schauer?

3 REPRESENTATIVE SCHAUER: Yes.

4 MS. THOMPSON: Senator Holmberg?

5 SENATOR HOLMBERG: Yes.

6 MS. THOMPSON: Senator Bekkedahl?

7 SENATOR BEKKEDAHL: Aye.

8 MS. THOMPSON: Senator Burckhard?

9 SENATOR BURCKHARD: Aye.

10 MS. THOMPSON: Senator Erbele?

11 SENATOR ERBELE: Aye.

12 MS. THOMPSON: Senator Klein?

13 SENATOR KLEIN: Aye.

14 MS. THOMPSON: Senator Oban?

15 SENATOR OBAN: Yes.

16 MS. THOMPSON: Senator Poolman?

17 SENATOR POOLMAN: Aye.

18 MS. THOMPSON: Senator Sorvaag?

19 SENATOR SORVAAG: Aye.

20 MS. THOMPSON: Mr. Chairman, the motion
21 carries.

22 CHAIRMAN DEVLIN: The final thing that I
23 have on this list, unless Council has something else,
24 is for us -- for a motion to adjourn. Did we decide
25 whether we had to (indiscernible)?

1 MS. THOMPSON: (Indiscernible.)

2 CHAIRMAN DEVLIN: Regular? Okay.

3 But before we -- before we do that, I
4 just -- as Chairman, I just want to take a moment to
5 thank every one of you. I know that this was a very
6 compressed schedule when we're used to getting the
7 numbers in March and we start work in April, and we
8 didn't get the numbers until August. You did an
9 incredible amount of work, and I know that we
10 wouldn't have got it done without the Council staff
11 we have here, and I want to thank them. I want to
12 thank all of you.

13 I won't tell you that this has been one of
14 the most enjoyable experiences of my life, but I have
15 enjoyed working with all of you, and I look forward
16 to working with you during the session.

17 Is there anyone else -- anyone else have
18 anything to add before we adjourn?

19 Representative Lefor.

20 REPRESENTATIVE LEFOR: Thank you,
21 Mr. Chairman.

22 I want to commend you for the job that
23 you've done, as well as the vice chair, in leading
24 this Committee. It's been open, honest, transparent.
25 You've responded to any group that wanted to talk to

1 us. No one can say that they weren't heard. That
2 wouldn't be a fair statement.

3 And I also want to thank the Committee
4 members who I think did a really fair job and did an
5 honest job based on the arithmetic that we had in
6 front of us.

7 And I also want to put a shout-out to the
8 Legislative Council. I mean, wow, just a fantastic
9 job, and we could not have done this without you, so
10 thank you.

11 CHAIRMAN DEVLIN: Anything else?

12 (No audible response.)

13 CHAIRMAN DEVLIN: Seeing none, would
14 somebody like to make a motion to adjourn?

15 Representative Bellew, make a motion to
16 adjourn?

17 REPRESENTATIVE BELLEW: I do.

18 CHAIRMAN DEVLIN: Second? Senator Klein.

19 Any discussion?

20 (No audible response.)

21 CHAIRMAN DEVLIN: All those in favor,
22 signify by saying aye.

23 (Viva voce indicated aye.)

24 CHAIRMAN DEVLIN: Opposed, nay.

25 (No audible response.)

1 CHAIRMAN DEVLIN: Motion carried.
2 Thank you very much. You are dismissed.
3 (End of tape.)
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REPORTER'S CERTIFICATE

I hereby certify that I transcribed the preceding one hundred fifty-seven (157) pages from a video recording provided to me by the North Dakota Office of Attorney General to the best of my ability;

That I was not present at the time said recording was prepared;

That I have broken the transcript into separate conversations to the best of my ability.

/s/ Carolyn Taylor Pekas
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Dated this 22nd day of March, 2022.