

REDISTRICTING COMMITTEE

Tuesday, September 28, 2021
Room 327B, 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

F

1 (Beginning of tape.)

2 CHAIRMAN DEVLIN: We'll call the
3 Redistricting Committee to order.

4 Emily, if you would do the roll call,
5 please?

6 MS. THOMPSON: Chairman Devlin?

7 CHAIRMAN DEVLIN: Here.

8 MS. THOMPSON: Representative Bellew?

9 REPRESENTATIVE BELLEW: Here.

10 MS. THOMPSON: Representative Boschee?

11 REPRESENTATIVE BOSCHEE: Here.

12 MS. THOMPSON: Representative Headland?

13 REPRESENTATIVE HEADLAND: Here.

14 MS. THOMPSON: Representative Lefor?

15 REPRESENTATIVE LEFOR: Here.

16 MS. THOMPSON: Representative Monson?

17 REPRESENTATIVE MONSON: Here.

18 MS. THOMPSON: Representative Nathe?

19 REPRESENTATIVE NATHE: Here.

20 MS. THOMPSON: Representative Schauer?

21 REPRESENTATIVE SCHAUER: Here.

22 MS. THOMPSON: Senator Holmberg?

23 SENATOR HOLMBERG: Here.

24 MS. THOMPSON: Senator Bekkedahl?

25 SENATOR BEKKEDAHL: Here.

1 MS. THOMPSON: Senator Burckhard?

2 SENATOR BURCKHARD: Here.

3 MS. THOMPSON: Senator Erbele?

4 SENATOR ERBELE: Here.

5 MS. THOMPSON: Senator Klein?

6 SENATOR KLEIN: Here.

7 MS. THOMPSON: Senator Oban?

8 SENATOR OBAN: Here.

9 MS. THOMPSON: Senator Poolman?

10 SENATOR POOLMAN: Here.

11 MS. THOMPSON: Senator Sorvaag?

12 SENATOR SORVAAG: Here.

13 MS. THOMPSON: And, Mr. Chairman, we have a
14 quorum.

15 CHAIRMAN DEVLIN: Thank you.

16 The minutes of the September 22nd and 23rd
17 meeting, what are your wishes?

18 SENATOR KLEIN: Move to approve.

19 SENATOR POOLMAN: Second.

20 CHAIRMAN DEVLIN: Been moved and seconded.
21 Any discussion?

22 (No audible response.)

23 CHAIRMAN DEVLIN: All those in favor,
24 signify by saying aye.

25 (Viva voce indicated aye.)

1 CHAIRMAN DEVLIN: Opposed, nay?

2 (No audible response.)

3 CHAIRMAN DEVLIN: Motion carried.

4 Comments by the Chairman. There aren't too
5 many. We're going to move the agenda around a little
6 bit, but tomorrow's meeting will be back in the Rough
7 Rider Room in the morning. I just want you to be
8 aware of that.

9 We're going to -- we had to do a little
10 tweaking on a couple districts and a little more
11 change on another one, so we're going to take those
12 first before we do some of the other discussions.

13 So, Senator Klein, if you would explain what
14 was done between 15 and 14? I believe that you have
15 passed out maps.

16 SENATOR KLEIN: Good afternoon,
17 Mr. Chairman.

18 For the record, Jerry Klein, District 14.

19 Last week, as we were working and developing
20 our first concept, we decided that we would follow
21 281 as a reference barrier over on Benson County, and
22 it was brought to our attention over the weekend, Why
23 did you do that? Why don't you just leave that
24 portion that was in Benson County before? Why are
25 you drawing a new line? And I believe we found that

1 it wasn't necessary; we didn't need the numbers.

2 So I handed out what the -- 14 and -- will
3 be back, it will not have that angle, and 15 will --
4 will encompass that Oberon area, including a township
5 west of Minnewaukan, and then bounce back to follow
6 the other county line.

7 So that puts -- some of our county officials
8 are very happy that we can do that. It leaves them
9 to keep that particular area in the area that it --
10 it's never been in 14, and -- and now it will
11 continue not to be in 14. It will be in 15.

12 So with that, Mr. Chairman, any questions?

13 CHAIRMAN DEVLIN: Any questions for Senator
14 Klein?

15 SENATOR KLEIN: I believe it doesn't change
16 the deviation much --

17 CHAIRMAN DEVLIN: No, it does not.

18 SENATOR KLEIN: -- and we still stay within
19 the -- the range. I believe there will be another
20 discussion about District 14 as we move through the
21 afternoon.

22 CHAIRMAN DEVLIN: Just, essentially, put it
23 back the way it's been the last 10 years --

24 SENATOR KLEIN: Correct.

25 CHAIRMAN DEVLIN: -- and that is what the

1 county and township people wanted, so...

2 Okay. No questions?

3 (No audible response.)

4 CHAIRMAN DEVLIN: Thank you.

5 District 5.

6 UNIDENTIFIED SPEAKER: Do we do anything
7 with this, or (indiscernible)?

8 CHAIRMAN DEVLIN: Senator Klein, would you
9 care to make a motion? I guess it would be easier
10 for staff if we did them individually as we go along.

11 SENATOR KLEIN: Mr. Chairman, I would move
12 those changes.

13 REPRESENTATIVE SCHAUER: Second.

14 CHAIRMAN DEVLIN: Second by Representative
15 Schauer.

16 Any discussion?

17 (No audible response.)

18 CHAIRMAN DEVLIN: Poll the committee.

19 MS. THOMPSON: Representative Devlin?

20 CHAIRMAN DEVLIN: Yes.

21 MS. THOMPSON: Representative Bellew?

22 REPRESENTATIVE BELLEW: Yes.

23 MS. THOMPSON: Representative Boschee?

24 REPRESENTATIVE BOSCHEE: Yes.

25 MS. THOMPSON: Representative Headland?

1 REPRESENTATIVE HEADLAND: Yes.

2 MS. THOMPSON: Representative Lefor?

3 REPRESENTATIVE LEFOR: Yes.

4 MS. THOMPSON: Representative Monson?

5 REPRESENTATIVE MONSON: Yes.

6 MS. THOMPSON: Representative Nathe?

7 REPRESENTATIVE NATHE: Yes.

8 MS. THOMPSON: Representative Schauer?

9 REPRESENTATIVE SCHAUER: Yes.

10 MS. THOMPSON: Senator Holmberg?

11 SENATOR HOLMBERG: Yes.

12 MS. THOMPSON: Senator Bekkedahl?

13 SENATOR BEKKEDAHL: Yes.

14 MS. THOMPSON: Senator Burckhard?

15 SENATOR BURCKHARD: Aye.

16 MS. THOMPSON: Senator Erbele?

17 SENATOR ERBELE: Aye.

18 MS. THOMPSON: Senator Klein?

19 SENATOR KLEIN: Aye.

20 MS. THOMPSON: Senator Oban?

21 SENATOR OBAN: Yes.

22 MS. THOMPSON: Senator Poolman?

23 SENATOR POOLMAN: Aye.

24 MS. THOMPSON: Senator Sorvaag?

25 SENATOR SORVAAG: Aye.

1 MS. THOMPSON: And, Mr. Chairman, the motion
2 carries.

3 CHAIRMAN DEVLIN: Thank you, Emily.

4 Now we will take -- District 5 I think had a
5 minor tweak or two.

6 SENATOR BURCKHARD: Greetings, Mr. Chairman
7 and Members of the Redistricting Committee.

8 Randy Burckhard, State Senator from Minot,
9 District 5.

10 You remember last week we had this very
11 detailed map with -- where everything was identified?
12 Even a couple fire hydrants were on there.

13 We met Saturday with the group of Minot area
14 legislators, and it was decided that we wanted to --
15 we wanted to level off a couple spots, and on the --
16 on the screen there, the north end, it was pretty
17 squiggly before, and now it goes straight across,
18 which is 4th Avenue. So we basically leveled off
19 that top spot.

20 On the -- on the southern side, which is the
21 bottom of the map, we had that -- that area that
22 jutted out, which Emily is so nicely cursoring with
23 her cursor, and we decided to straighten that out, so
24 it's all -- that straight line there is 37th Avenue
25 South, and so that was eliminated from District 5,

1 and the -- the part on top was added to District 5.
2 So that -- they're minor. We all still fall within
3 the variance, and I think I would like to propose a
4 motion that we pass that.

5 REPRESENTATIVE BELLEW: Second.

6 SENATOR BURCKHARD: Any questions?

7 CHAIRMAN DEVLIN: Any questions for Senator
8 Burckhard?

9 (No audible response.)

10 CHAIRMAN DEVLIN: I believe we have a motion
11 in front of us to accept that by Senator Burckhard
12 and seconded by Representative Bellew.

13 Any further discussion?

14 (No audible response.)

15 CHAIRMAN DEVLIN: Seeing none, we'll poll
16 the Committee.

17 MS. THOMPSON: Chairman Devlin?

18 CHAIRMAN DEVLIN: Yes.

19 MS. THOMPSON: Representative Bellew?

20 REPRESENTATIVE BELLEW: Yes.

21 MS. THOMPSON: Representative Boschee?

22 REPRESENTATIVE BOSCHEE: Yes.

23 MS. THOMPSON: Representative Headland?

24 REPRESENTATIVE HEADLAND: Yes.

25 MS. THOMPSON: Representative Lefor?

1 REPRESENTATIVE LEFOR: Yes.

2 MS. THOMPSON: Representative Monson?

3 REPRESENTATIVE MONSON: Yes.

4 MS. THOMPSON: Representative Nathe?

5 REPRESENTATIVE NATHE: Yes.

6 MS. THOMPSON: Representative Schauer?

7 REPRESENTATIVE SCHAUER: Yes.

8 MS. THOMPSON: Senator Holmberg?

9 SENATOR HOLMBERG: Yes.

10 MS. THOMPSON: Senator Bekkedahl?

11 SENATOR BEKKEDAHL: Aye.

12 MS. THOMPSON: Senator Burckhard?

13 SENATOR BURCKHARD: Yes.

14 MS. THOMPSON: Senator Erbele?

15 SENATOR ERBELE: Aye.

16 MS. THOMPSON: Senator Klein?

17 SENATOR KLEIN: Aye.

18 MS. THOMPSON: Senator Oban?

19 SENATOR OBAN: Yes.

20 MS. THOMPSON: Senator Poolman?

21 SENATOR POOLMAN: Aye.

22 MS. THOMPSON: And, Senator Sorvaag?

23 SENATOR SORVAAG: Aye.

24 MS. THOMPSON: And, Mr. Chairman, the motion

25 carries.

1 CHAIRMAN DEVLIN: Thank you.

2 Now I believe we will move on to
3 Districts 12 and 29.

4 Representative Headland.

5 REPRESENTATIVE HEADLAND: Thank you,
6 Mr. Chairman, Committee Members.

7 The members of 29 and 12 met last evening,
8 and as you can see, we made some changes that would
9 allow for Senator Wanzek and myself to stay as part
10 of the District 29 team. I think we did the best we
11 could to try to keep Jamestown all part of one
12 district, which seemed to be important to this
13 Committee.

14 If you ask me if we're all happy about it,
15 I'm going to tell you, no, we're not very happy at
16 all, but that's where we're at, so...

17 Some subtle changes around Jamestown on the
18 southeast part versus what was proposed in the Devlin
19 Plan 2, the addition of the townships going north.
20 It works, it works for the numbers, and, you know,
21 here we are. This is what we've agreed to present.

22 CHAIRMAN DEVLIN: Are there questions for
23 Representative Headland?

24 REPRESENTATIVE BELLEW: Mr. Chairman?

25 CHAIRMAN DEVLIN: Representative Bellew.

1 REPRESENTATIVE BELLEW: Thank you,
2 Mr. Chairman.

3 And, Representative Headland, could you
4 explain the changes a little bit better to me? I
5 think I know what they were, but -- from what was
6 presented to us last week?

7 REPRESENTATIVE HEADLAND: Mr. Chairman and
8 Representative Bellew.

9 From what was proposed and passed at -- last
10 week, that was a -- a proposal that took the bottom
11 tier of townships south of Jamestown, put them in 12.
12 In the essence, it put Terry Wanzek -- or Senator
13 Wanzek and myself in 12. Nobody really liked that.
14 We didn't want to split up the team that's been part
15 of this legislature for 20 years in District 29, so
16 we made the necessary corrections to try to come to a
17 solution and something that looked presentable to the
18 public.

19 CHAIRMAN DEVLIN: Further questions for
20 Representative Headland?

21 (No audible response.)

22 CHAIRMAN DEVLIN: Seeing none, did you make
23 the motion?

24 REPRESENTATIVE HEADLAND: Mr. Chairman, I'd
25 move those changes.

1 CHAIRMAN DEVLIN: Is there a second?

2 REPRESENTATIVE NATHE: Second.

3 CHAIRMAN DEVLIN: Seconded by Representative
4 Nathe, I believe.

5 Any further discussion?

6 (No audible response.)

7 CHAIRMAN DEVLIN: Seeing none, we 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: And, Senator Sorvaag?

15 SENATOR SORVAAG: Aye.

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

18 CHAIRMAN DEVLIN: Thank you.

19 I believe we have something now dealing with
20 Districts 8 and 14. Is that correct, Senator
21 Poolman?

22 SENATOR POOLMAN: Mr. Chairman, as these two
23 sets of maps are coming around, I just wanted to
24 explain how this happened. As Legislative Council
25 was trying to do that final merge, they realized that

1 the way District 8 was merging was not quite right
2 and the numbers were too high, and so somewhere along
3 the lines, one of my versions of 8 had -- had the
4 wrong lines on -- on -- I'm sure, on the east -- on
5 the west side.

6 So what we did to make the numbers work is
7 bring down 14 into Burleigh County, which is
8 something that I didn't want to have to do, but that
9 is how we made the numbers work. And then I just --
10 the District 7 map is included there because I just
11 straightened that line to -- to try to make it
12 straighter.

13 This makes the numbers work so that we have
14 a complete map before us today, but I am reluctant to
15 move it just because this is something that came up
16 yesterday and I just ran up to Counsel, and
17 Representative Nathe and Senator Oban certainly
18 haven't had an opportunity to weigh in on that.

19 Again, it's -- it's a proposal to make the
20 numbers work; I'm not sure it's the best one. And so
21 if -- I -- I would take direction from the Committee,
22 but I would hope that maybe we could have some time
23 to work on this to -- to find the best way to do this
24 rather than just a way to make the numbers work.

25 CHAIRMAN DEVLIN: Senator, I have a

1 question. On the area that we just changed between
2 14 and 15, on your map it shows it in 14, but it's
3 actually in 15, that little sliver up just west of
4 Fort Totten?

5 SENATOR POOLMAN: So chances are if my map
6 has them at .42 that they're even lower than that
7 right now.

8 CHAIRMAN DEVLIN: Probably.

9 SENATOR POOLMAN: Probably. And, again,
10 another reason why it might be wise for us to work on
11 this piece, but -- but I just wanted to draw
12 attention to the issue that arose. We -- there is a
13 solution; I'm just not sure it's the best one. And
14 so if we could maybe have some time to work today,
15 that would be great.

16 CHAIRMAN DEVLIN: Senator Oban.

17 SENATOR OBAN: Mr. Chairman, I've been
18 playing around with it a little bit and think I can
19 make it work so that we don't cut Burleigh. So to
20 Senator Poolman's point, if we could have a little
21 bit of time, I think we can come up with something
22 that will work without having to cut Burleigh in
23 another place.

24 CHAIRMAN DEVLIN: Both Senators, I'm
25 perfectly open to that. Maybe we'll just get a

1 break.

2 Is it -- Senator Oban, is it something
3 that's very time-consuming, do you think, or just
4 a --

5 SENATOR OBAN: No.

6 CHAIRMAN DEVLIN: Okay. We'll just maybe
7 take a break here in a few minutes when we're done
8 with everybody's presentation and let you fix that.
9 Thank you.

10 SENATOR OBAN: Thank you.

11 CHAIRMAN DEVLIN: Representative Monson.

12 REPRESENTATIVE MONSON: Thank you,
13 Mr. Chairman.

14 When you're working on 14 and 15, the change
15 we made to keep Benson County whole, I think that --
16 that was a good move. So I don't know if you're --

17 SENATOR OBAN: I --

18 REPRESENTATIVE MONSON: -- planning to
19 change anything there, but I hope you --

20 SENATOR OBAN: The way I've played around,
21 it doesn't even touch 14, so...

22 REPRESENTATIVE MONSON: Okay.

23 CHAIRMAN DEVLIN: What else do we have
24 before us that needs a little fine-tuning here this
25 morning?

1 SENATOR SORVAAG: Mr. Chairman?

2 CHAIRMAN DEVLIN: Representative -- oh,
3 excuse me. Senator.

4 SENATOR SORVAAG: I would defer to
5 Representative Lefor --

6 CHAIRMAN DEVLIN: Okay.

7 SENATOR SORVAAG: -- because it's his
8 backyard.

9 CHAIRMAN DEVLIN: Okay. Representative
10 Lefor.

11 REPRESENTATIVE LEFOR: On District 39,
12 you'll notice that it's minus 5.13 percent, and
13 that's because -- and Emily can explain this better,
14 but it was some updating that was done by Counsel,
15 and I'll meet with her to -- to make sure that that
16 fits correctly. It's a matter of moving 20, 25
17 people is all.

18 CHAIRMAN DEVLIN: Representative Lefor, are
19 we also talking numbers of districts, or is that
20 discussion for another day, another time?

21 REPRESENTATIVE LEFOR: If we could have that
22 discussion tomorrow, Mr. Chairman?

23 CHAIRMAN DEVLIN: Okay.

24 REPRESENTATIVE LEFOR: Thank you.

25 CHAIRMAN DEVLIN: So is -- is there any

1 other -- Representative Bellew.

2 REPRESENTATIVE BELLEW: Thank you,
3 Mr. Chairman.

4 When we redrew District 5, we took some of
5 District 40's population away. I don't know if
6 that's -- they're still within the limits. Did we
7 need to discuss that, or tell me how --

8 CHAIRMAN DEVLIN: Is that the change we
9 already approved and --

10 REPRESENTATIVE BELLEW: That's the change --

11 CHAIRMAN DEVLIN: -- now we're finding
12 out that there was a little --

13 REPRESENTATIVE BELLEW: Yeah, that was the
14 change we approved last week.

15 CHAIRMAN DEVLIN: I'll have Emily explain --

16 REPRESENTATIVE BELLEW: Yes.

17 CHAIRMAN DEVLIN: -- where that is.

18 REPRESENTATIVE BELLEW: She can do it a lot
19 better than I. Thank you.

20 MS. THOMPSON: Thank you, Mr. Chairman.

21 You can see with the new revised District 5
22 boundaries that you just moved and approved, the
23 surrounding areas still are within range.
24 District 40, the deviation is negative 4.49, which is
25 within range; District 3, 4.71; District 38, positive

1 4.22. So all of the surrounding areas still are --
2 are fine in regard to the deviation with removing
3 that small portion on the southern half of District 5
4 and adding in that small portion on the northern half
5 of District 5.

6 CHAIRMAN DEVLIN: Questions from the
7 Committee for Representative Bellew?

8 (No audible response.)

9 CHAIRMAN DEVLIN: Seeing none, thank you.

10 REPRESENTATIVE BELLEW: Mr. Chairman, do we
11 have to approve the change in District 40 or not?
12 Because we took population away from District 40 and
13 gave it to District 5.

14 MS. THOMPSON: Mr. Chairman, Representative
15 Bellew.

16 The motion to modify District 5 was to take
17 that portion of 40, so just the one motion would
18 cover it.

19 CHAIRMAN DEVLIN: Before we get to a
20 breaking point to allow them to proceed with this,
21 I'd like to talk a little bit about the creation of
22 subdistricts.

23 Senator Holmberg, did you want to lead this
24 discussion?

25 SENATOR HOLMBERG: No, but --

1 CHAIRMAN DEVLIN: Okay. Senator Holmberg,
2 would you lead that discussion at the Chairman's
3 request?

4 SENATOR HOLMBERG: We've -- we've had
5 numerous discussions about the Voting Rights Act,
6 the -- the *Gingles* reality, and when you look at the
7 populations of the reservations, it -- it does lend
8 itself to either legislative action or, at some other
9 point, court action.

10 If you recall, back in 2001, the Court
11 weighed in and then weighed out. There was a lawsuit
12 that there should be subdistricts, and the case was
13 dismissed because the population of that area did not
14 rise to the level where the Court felt it
15 necessitated, under the Voting Rights Act, a
16 subdistrict, but today our populations in two areas,
17 two reservations, appear to meet that threshold.

18 The threshold -- the ideal population for a
19 subdistricted district is 8,453. And if you recall,
20 the other day we were told that Fort Berthold has, in
21 the county, in Rolette County, 9,278 Native Americans
22 identified, and in the Turtle Mountain Reservation
23 there is -- oh, excuse me. Excuse me. In Fort
24 Berthold there is 8,350 Native Americans. So it
25 would lend itself, I believe, those two falling under

1 the requirements of the Voting Rights Act.

2 And I am not a fan of subdistricts, but
3 sometimes you do have to respect reality. And we can
4 ignore this issue and allow someone else to be in the
5 driver's seat, or we can do it ourselves.

6 What I would suggest, so that we -- we all
7 are attune to what we're doing, I would suggest a
8 motion to subdivide those two districts, and then
9 tomorrow morning come in with alternative plans as to
10 how that would be or could be accomplished.

11 If you recall, I -- I read the -- some of
12 the other populations, and they just don't rise to
13 the 8,453-person level.

14 So, Mr. Chairman, I would move that we
15 subdivide what is District 9 on this particular map
16 and District 4 under the provisions of the Voting
17 Rights Act.

18 REPRESENTATIVE MONSON: Second.

19 CHAIRMAN DEVLIN: The motion has been made
20 by Senator Holmberg and seconded by Representative
21 Monson.

22 Discussion?

23 I'm sorry. Representative Schauer.

24 REPRESENTATIVE SCHAUER: Thank you,
25 Mr. Chairman.

1 Senator Holmberg, can you go through those
2 numbers again? You said Fort Berthold is 9,278 or --

3 SENATOR HOLMBERG: No.

4 REPRESENTATIVE SCHAUER: -- 8,350, and what
5 it Turtle Mountain?

6 SENATOR HOLMBERG: No. I -- I misspoke.
7 Turtle Mountain, on the reservation itself, is 5,113,
8 but according to the census, the county has 9,278, so
9 clearly, the county -- that particular district rises
10 to the occasion of the 8,453. Fort Berthold is
11 8,350.

12 REPRESENTATIVE SCHAUER: If I may continue?

13 CHAIRMAN DEVLIN: You may.

14 REPRESENTATIVE SCHAUER: And just to be
15 clear on this, this is numbers driven. This is what
16 we have to do following the Voting Rights Act. Is
17 that correct?

18 SENATOR HOLMBERG: That is my understanding.

19 CHAIRMAN DEVLIN: Representative Headland.

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

22 Senator Holmberg, would it be fair to say
23 that we really don't know if the Court would weigh
24 in, or we really don't know how they would respond?
25 You know, I have some issues with subdivisions and

1 dividing them based upon race, so I -- I just don't
2 think I can support the proposal to subdivide.

3 SENATOR HOLMBERG: And that is a -- a
4 reasonable position to take. Again, like I said, I'm
5 not a big fan of it, but I think that we -- we do it
6 or someone else does.

7 And you mentioned court cases. Well,
8 clearly we have had indications that there will be
9 folks, maybe not from North Dakota but other folks,
10 that would be willing to go to court, and they will
11 look back at what has happened in the past, and
12 they'll say, We're going to win. And that will be
13 Exhibit A before a federal judge, that the Court had
14 looked at this in 2001.

15 So, I mean, I'm not going to lose sleep one
16 way or another because I -- I personally believe at
17 the end it's going to happen whether we do it -- we
18 drive it, we put the lines down, or we let someone
19 else do it.

20 CHAIRMAN DEVLIN: Representative Boschee.

21 REPRESENTATIVE BOSCHEE: Thank you,
22 Mr. Chairman and Members of the Committee.

23 I mean, everyone knows where I stand on
24 subdividing house districts in general for all of our
25 districts. As we continue to get larger, especially

1 in rural areas, I think this is an opportunity for
2 more direct, closer representation; not about some of
3 the conversations earlier about better, but just
4 having people closer to the people they represent.

5 I -- I agree with what's been said about the
6 fact that if -- if we don't do it, someone else will;
7 and that process of a lawsuit is probably something
8 none of us want to go through, especially recognizing
9 the stronger relationships we currently have, both as
10 a legislature and the state government, with our
11 tribal communities. There's been a lot of work, I
12 think over the last decade specifically, work done by
13 the Executive Branch as well as our congressional
14 delegation, both the previous, you know, Democratic
15 delegation and now the Republican delegation, who has
16 enhanced relationships with our Tribes.

17 But what really has stuck with me, serving
18 not only on this Committee but also the Tribal and
19 State Affairs Committee, is the conversation we heard
20 from tribal chairpersons who said, We no longer want
21 to look to the federal government for solutions. We
22 want to be a partner with the State of North Dakota.
23 They recognize that -- probably because of the
24 enhanced relationships over the last 10 years as well
25 as the personal relationships those leaders have with

1 leaders around this table and leaders in the
2 Executive Branch, that we have opportunities to move
3 some of these tribal communities forward as a part of
4 North Dakota.

5 And while certainly this does break down
6 and -- in some context of the conversation around
7 race, it also falls within an entity that's a
8 sovereign government within the boundaries of our
9 state. And by us allowing subdistricting I think
10 gives stronger representation for those communities,
11 again to elect someone of their choosing, not
12 necessarily having to be a tribal member or not a
13 tribal member, but someone of their choice versus a
14 dilution of votes because of a greater, larger
15 district; a senate district essentially is what it
16 would be.

17 So, again, I know this Committee is no
18 stranger to how I feel about this, but I think, for
19 the record, you know, again, if we want to be in the
20 driver's seat, this is our opportunity to do that;
21 otherwise, I -- I think, along with many of you,
22 we're confident that there will be someone else who
23 will be in the driver's seat on this decision.

24 CHAIRMAN DEVLIN: Senator Sorvaag.

25 SENATOR SORVAAG: Mr. Chairman and -- I -- I

1 just want to be clear on this, because it shows Fort
2 Berthold is 800 -- 8,350, but the American Indian
3 population is only 5,500. Is that -- so 3,000 --
4 close to 3,000 is non-Indian population in the
5 reservation. But do you have a number for the Indian
6 American population in that whole District 4?
7 Because you did that in 9. You know, I'm -- I'm
8 wondering, because a third of it is not Indian
9 American on Fort Berthold Reservation by these
10 numbers.

11 CHAIRMAN DEVLIN: Give us a moment,
12 Committee.

13 Claire.

14 MS. NESS: Mr. Chairman and Members of the
15 Committee.

16 Also just to provide some context for the
17 numbers as well, what you would look to is whether or
18 not the Native American population could be a
19 majority of the subdistrict. So they wouldn't have
20 to be a -- you wouldn't have to have a population
21 that's a majority of the district as a whole. You
22 would take the ideal population, divide it in half,
23 and see whether they could be a majority of that
24 half.

25 CHAIRMAN DEVLIN: Did that answer your

1 question, Senator Sorvaag?

2 SENATOR SORVAAG: So to be clear, when
3 you're -- like 9, they're talking the total
4 population. Some of them aren't going to be in that
5 half, and that's not in your formula to get to
6 two-thirds or majority, then?

7 CHAIRMAN DEVLIN: Claire.

8 MS. NESS: Senator Sorvaag, I'm sorry.
9 Could you rephrase that, please?

10 SENATOR SORVAAG: Well, in District 9 --

11 MS. NESS: Uh-huh.

12 SENATOR SORVAAG: -- there's, what, 9,000 --

13 MS. NESS: Uh-huh.

14 SENATOR SORVAAG: -- American Indians.

15 They're not all in the reservation. But the half has
16 to have at least half of them to fall under the
17 Voting Rights Act. I'm just --

18 MS. NESS: Yes.

19 SENATOR SORVAAG: -- trying to get clear on
20 this.

21 MS. NESS: Yes. Mr. Chairman and Senator
22 Sorvaag.

23 If you remember, one of those *Gingles*
24 thresholds is that they are compact enough so that
25 that compact group that would be within the

1 subdistrict would vote similarly and could be a
2 majority.

3 SENATOR SORVAAG: Okay.

4 CHAIRMAN DEVLIN: Senator Klein.

5 SENATOR KLEIN: Well, Mr. Chairman, I -- you
6 know, I was disappointed that the Tribes feel that
7 they're underrepresented because I think -- you know,
8 I know there's folks in the room who represent those
9 districts and work hard to make sure everybody is
10 treated fairly and equally.

11 But I guess I also understand that, you
12 know, we're in a different era, different
13 environment. We have more groups across the country
14 funding various organizations who are certainly
15 promoting maybe more Voting Rights Acts of different
16 areas where we didn't have this before, but maybe
17 I -- maybe my question is -- and maybe -- Senator
18 Holmberg mentioned it at one of the meetings. How
19 did South Dakota address it, and did they wait for
20 the courts, or did they -- because, you know, I -- in
21 one respect, I'm disappointed and don't want to go
22 there, but in another, I guess I understand that
23 we're -- where we're headed, but...

24 Maybe using South Dakota as the example, I
25 believe they have a couple of subdistricts, and maybe

1 Senator Holmberg can explain that.

2 SENATOR HOLMBERG: First of all, I would
3 agree with -- with the thrust of what you're saying,
4 because we don't like to be told what to do from
5 Washington, just like some of our local governments
6 don't like to be told what -- what we do.

7 You asked specifically about South Dakota.
8 South Dakota has a 28A and B and a 26A and B.
9 They -- those lines were drawn by the legislature.
10 They determined that they had to do that, and they
11 went ahead and did it on the basis, I'm sure, of --
12 of the requirements of the Voting Rights Act. So
13 they -- they drew the lines themselves.

14 You know, and -- and, you know, it's not --
15 it's one of those issues that's really tough, because
16 we're told by the federal government or by the
17 Constitution, as interpreted by the courts, that we
18 have to do it, and we really don't like to do it. We
19 would rather run our own show.

20 But at the end of the day, when the cheering
21 stops, I believe it's going to happen. So we can be
22 cheerful and -- and, you know, and defeat it, and
23 then at the end of the day, I believe it will happen.
24 And I would rather have Senator Klein's hand on the
25 pen that draws that line rather than a magistrate

1 from a federal court.

2 CHAIRMAN DEVLIN: Representative Jones is at
3 the podium.

4 REPRESENTATIVE JONES: Thank you,
5 Mr. Chairman.

6 Thank you, Committee, for letting me be
7 here.

8 I am from District 4, and I represent
9 District 4 both on the reservation and off the
10 reservation, and I'm here because I'm getting a lot
11 of calls from constituents that say they don't want
12 to be treated differently than other people in the
13 state of North Dakota.

14 To answer some of the questions that have
15 come out, on the reservation, we've got --
16 approximately 60 percent of the population is Native
17 American. 40 percent are not tribal. They're
18 North Dakota citizens. Those people want to have two
19 representatives, and they want to be treated just
20 like everybody else in the state of North Dakota.

21 The tribal entities that are there are a
22 sovereign nation, and as such, I disagree with the
23 Supreme Court if they say that they get special
24 treatment and get a subdistrict, because as a
25 sovereign nation, their negotiations and work with

1 the State of North Dakota is government to
2 government, but like everybody else, they wear two
3 hats, so they're also citizens of North Dakota.

4 As citizens of North Dakota, they should be
5 eligible to have the same treatment, rights, and
6 privileges as every other North Dakota citizen, which
7 is to have two representatives and one senator
8 elected by the whole district.

9 And so I disagree that the Supreme Court is
10 going to come and force this on us. I would be
11 ashamed to be in a legislature that takes this step,
12 which will definitely disenfranchise -- well, you've
13 got 40 percent in the A district that's going to not
14 be able to have two representatives that want to have
15 that, and you're going to have the entire B district
16 that's going to only be able to have one
17 representative because they are now a subdistrict
18 with only one representative. That's unfair
19 treatment under the law, and I don't think that it's
20 going to hold up in court.

21 And if somebody's going to force it on us
22 here in North Dakota, I would say, Come on ahead,
23 because to subdivide a small portion of the state
24 based on something to do with a sovereign nation that
25 stands up and claims in every meeting we have with

1 the Tribal and State Relations Committee that they're
2 a sovereign nation, they say, We're sovereign, we're
3 sovereign; and they say, Oh, but we want special
4 treatment in the legislature.

5 The answer from me as a representative from
6 District 4, from my constituents, is, Thank you. No.
7 We do not need a subdistrict.

8 This election cycle I ran against Thomas --
9 Thomasina Mandan, Hunter Andes, and Lisa DeVille that
10 were tribal people that were running. I thought I
11 was going to lose. I had been attacked. My
12 residency was in question. I thought I was going to
13 probably lose the election. They have just as much a
14 chance to win in an election as I do; in fact,
15 they've got a better chance because they vote more in
16 a bloc than a bunch of stubborn North Dakotans.

17 So I would ask the Committee to please do
18 not fall for this fearmongering that says you've got
19 to do this or somebody else is going to come and do
20 it, because I think if we have an intelligent
21 discussion in front of a court, the Supreme Court or
22 otherwise, we will be able to say we deserve fair
23 treatment under the law, and that means everybody in
24 North Dakota gets two representatives and one
25 senator.

1 And if there's somebody crying that they
2 want to have another special treatment, they -- they
3 have no traction because they are a sovereign nation.
4 Their interaction with the government as a sovereign
5 nation is tribal to -- or government to government,
6 not changing state law to specifically address them,
7 so...

8 That's what I wanted to bring to the
9 Committee. Please consider that. The citizens of
10 North Dakota, on and off the reservation, all want to
11 be treated fairly, and I think the best way to do
12 that is to resist this temptation to create a
13 subdistrict.

14 We have way too many divisions in this
15 nation right now coming along all kinds of lines. In
16 my opinion, this is nothing more than a -- more of an
17 attempt to divide us instead of unify us, so please
18 hold us together.

19 Thank you, Mr. Chairman.

20 I would stand for questions.

21 CHAIRMAN DEVLIN: Questions for
22 Representative Jones?

23 Representative Monson.

24 REPRESENTATIVE MONSON: Thank you,
25 Mr. Chairman.

1 Representative Jones, you said you've heard
2 from a lot of your constituents that they don't want
3 to subdivision. Have you heard from Native Americans
4 as well, or is it mostly non-Natives that --

5 REPRESENTATIVE JONES: Mostly the -- the
6 people that are contacting me are non-Natives.
7 They're hearing through the grapevine that the
8 Committee is discussing this and that the -- the
9 endgame of this is going to be that they will have
10 one representative instead of two. And so it's most
11 of them.

12 The conversations that I've had with Mark
13 Fox and others about this, they are more in favor of
14 having a subdistrict. They think that it will give
15 them representation that's closer to them.

16 CHAIRMAN DEVLIN: Representative Schauer.

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

19 Representative Jones, thanks for being here
20 today. I hear your passion, but how do we get around
21 the numbers under the Voting Rights Act? How do we
22 get around the -- the race criteria that we have to
23 go by? I don't know if we -- if we challenge that in
24 court, do we think we're going to win when we ignore
25 legal advice? What are your thoughts on that?

1 REPRESENTATIVE JONES: Well, I apologize.
2 I'm not as well-versed in this as I should be, but
3 the numbers, what you were hearing in the discussion
4 earlier, on -- in the Fort Berthold Reservation,
5 we've got 5,000 Native Americans that are in that
6 reservation, in that boundary, and I don't know what
7 the threshold is or the number is, but I don't think
8 that it's going to get them to that point.

9 The formula that she's talking about, I
10 guess if you divided the total number to see if they
11 had a majority, you know, I would have to do that,
12 but I would fight this tooth and nail because where
13 is it going to end? Are we going to have people say,
14 Oh, well, now in New York City we've got groups here
15 where we've got enough Muslim people or we've got
16 enough black people or we've got enough women;
17 there's more women in this area than there is men.
18 We better divide that.

19 So, I mean, where does the division stop? I
20 say it stops here. And let's take it to whatever
21 court we have to, because what I'm seeing is a
22 fairness issue. How is it fair for this Districting
23 Committee or anybody in Washington, D.C., or anybody
24 in a court to say that two-thirds of the group in my
25 district that want to have two representatives can't

1 do it because we've got a small group in there that
2 thinks that they want special treatment?

3 CHAIRMAN DEVLIN: Further questions?

4 Representative Jones, when we prevailed in
5 the court case, I believe 10 years ago, but we had
6 this in court before, we prevailed because they could
7 not show that they would have half of the
8 subdistrict. That's the only reason we won in court.
9 Well, if -- when you look at the numbers now, they
10 would have half of it. The numbers would equal half
11 or more of the subdistrict. So do you think the
12 courts this time will just decide it differently? Is
13 that what you think, or --

14 REPRESENTATIVE JONES: I'd have to yield to
15 your expertise. I'm the new guy on the block. I
16 just know it bothers me. It bothers me, and it
17 bothers the constituents that are calling me.
18 They're saying, How is this fair? Because they have
19 every right, as a group, to bring their candidates
20 and to run them and to win the election. We've seen
21 it done in the recent past. They are not being
22 disenfranchised.

23 And it really kind of hurt my feelings when
24 they started saying they wanted better
25 representation. I said, How are they going to get

1 better than me? I'm a pretty good guy. And I do my
2 best to represent everybody fairly and equally. I
3 don't do what everybody wants me to do. If I
4 disagree with them -- I will fight like a tiger when
5 I think what they're doing is right, and I will put
6 them off if I don't think that they're after the
7 right thing, and I've done it whether they're on the
8 reservation or off.

9 CHAIRMAN DEVLIN: Further questions for
10 Representative Jones?

11 (No audible response.)

12 CHAIRMAN DEVLIN: Thank you for being here.

13 Claire or Emily or Samantha, does anybody
14 else have anything to add, to clarify as far as the
15 legal?

16 (No audible response.)

17 CHAIRMAN DEVLIN: Okay. Senator Holmberg
18 made a motion that we go -- that we've looked at the
19 subdistrict for these two particular areas in the
20 state, and it was seconded.

21 Is there any further discussion?

22 I'm sorry. Senator Poolman.

23 SENATOR POOLMAN: Well, Mr. Chairman, I plan
24 to support the motion. I think the members of this
25 Committee have worked very hard to be honest and

1 transparent, to try to follow county lines, to make
2 sure that we would not be subject to a lawsuit, and
3 so to be told by legal counsel that if we don't do
4 this we will be subject to a lawsuit, and to ignore
5 that advice I think throws out all of the other work
6 that we have tried in our transparency and in our
7 honesty and in our attempt to really make sure that
8 we do the right thing, and so I will be supporting
9 the motion because we've worked too hard to subject
10 ourselves to a lawsuit right now.

11 CHAIRMAN DEVLIN: Representative Headland.

12 REPRESENTATIVE HEADLAND: Thank you,
13 Mr. Chairman.

14 I guess I need to hear again legal counsel's
15 recommendation that we move to this, because I didn't
16 know that I heard that, but maybe it's just me.

17 CHAIRMAN DEVLIN: I don't know if legal
18 counsel made a recommendation. What legal counsel
19 did was explain what the law said and what the courts
20 have decided.

21 But, Claire, I don't want to put words in
22 your mouth. You can...

23 MS. NESS: Mr. Chairman and Representative
24 Headland.

25 That's absolutely correct. We haven't

1 provided a recommendation. We've provided the
2 thresholds that the courts have used for several
3 years. We've provided the populations so you could
4 compare those to the thresholds that the courts have
5 used. You know, I think what you're saying about the
6 numbers, the numbers are the numbers. That's just
7 sort of an objective fact, so -- but we have not
8 specifically recommended that the Committee divide
9 lines any particular way.

10 CHAIRMAN DEVLIN: Representative Bellew.

11 REPRESENTATIVE BELLEW: Thank you,
12 Mr. Chairman.

13 I probably will not support this motion
14 unless we can amend it to do 47 subdistricts. I
15 don't think it's right that in two subdistricts the
16 people get to vote for one representative -- or two
17 districts, while the other 45, we get to vote for
18 two, whether they be Republican or Democrat. And
19 it's just my opinion that everybody should be able to
20 vote for the same amount of representatives that the
21 rest of us do.

22 So with that, Mr. Chairman, like I say, I'm
23 not going to support this unless -- unless we do all
24 47 districts.

25 CHAIRMAN DEVLIN: Senator Oban.

1 SENATOR OBAN: Mr. Chairman, I have a
2 question for Senator Holmberg just because I'm -- I'm
3 aware that Grand Forks operates in wards, correct,
4 with your council? Can you explain how you feel, as
5 a Grand Forks resident, in who you vote for and how
6 you are represented as a city in Grand Forks? Do you
7 only get to vote for a Grand Forks city councilperson
8 in the ward in which you live?

9 SENATOR HOLMBERG: Yes. It's a difference
10 in Grand Forks. We have wards.

11 SENATOR OBAN: Right.

12 SENATOR HOLMBERG: I'm in the 5th Ward, so
13 we have a representative -- or a city councilman from
14 our ward. Our county, however, is not divided, so we
15 vote for three or however many are up at a particular
16 year, but we only vote for one, and there are seven
17 total in the city of Grand Forks.

18 SENATOR OBAN: And do you feel, as a Grand
19 Forks resident, that you can go to the other six -- I
20 mean, I just think how frequently I get contacted by
21 people who do not live in my district who I'm still
22 willing to help and respond to, much like probably
23 most of you on this Committee.

24 And -- and so I'm just -- I was trying to
25 find an example that exists right now in that it --

1 it is the same concept as wards.

2 SENATOR HOLMBERG: Okay. I would suggest
3 this: We do not live in a feudal system; we are all
4 in the same community, and clearly, if you have an
5 issue that you want to promote or -- or oppose, you
6 would go to as many of those city commissioners
7 that -- that you feel you can influence.

8 So I -- I don't see the wards in Grand Forks
9 as being some sort of barrier that causes me to have
10 to just talk to the person in the 5th Ward.

11 CHAIRMAN DEVLIN: Representative Lefor.

12 REPRESENTATIVE LEFOR: Thank you,
13 Mr. Chairman.

14 I guess I'd ask this question of Counsel.
15 We're talking about the Voting Rights Act. How many
16 states have enacted this already, and what -- are you
17 aware of court cases that you could cite to the
18 Committee and what the result was?

19 MS. NESS: Mr. Chairman and Representative
20 Lefor, Members of the Committee.

21 I don't have a number off the top of my head
22 for the number of states that have subdistricts. I
23 know many only have single-member districts. I'm not
24 sure how many have done majority-minority districts
25 based on the Voting Rights Act requirements. I can

1 look that up and see if we can find that. There have
2 been many, many cases on this, too.

3 So if the Committee would like, one of the
4 things we can do is just kind of highlight some of
5 the major ones for you and send it out in an email
6 this evening.

7 CHAIRMAN DEVLIN: So would the Committee
8 rather wait until all legal staff have time? I mean,
9 we have to deal with this today or tomorrow morning,
10 so -- or else we take the vote up or down. Take your
11 choice. Chairman's looking for direction.

12 UNIDENTIFIED SPEAKER: (Indiscernible.)

13 CHAIRMAN DEVLIN: It's been requested that
14 we wait until tomorrow.

15 UNIDENTIFIED SPEAKER: I don't care.

16 CHAIRMAN DEVLIN: Who seconded the motion?
17 So you withdraw the second? Okay.

18 We'll ask Council staff to bring some legal
19 research to us in the morning before we vote on this.
20 Okay?

21 REPRESENTATIVE LEFOR: Yes, Mr. Chairman, I
22 guess I would be interested in the statistics of this
23 happening in other states and what the result was.
24 Does this -- I do have a concern that I don't want
25 the courts to tell us where our lines need to be

1 drawn, but I'd like a little bit more background
2 information. Thank you.

3 CHAIRMAN DEVLIN: That is fine. That will
4 be provided.

5 Committee, before we break to allow Senator
6 Poolman and others to work on those two areas, I'm
7 going to have Council staff report on the
8 post-redistricting election schedule, and at least
9 you'll have that information to consider.

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

12 What you see in front of you is just a
13 preliminary list of the even-numbered districts, so
14 this is based on the map before our final changes
15 today.

16 And we are fortunate to have a wonderful IT
17 staff that was able to overlay the 2010 districts
18 onto the 2020 districts so that we could identify the
19 new geographic areas in all the even-numbered
20 districts that are included on that chart and then be
21 able to calculate the population in that new area.
22 And as you recall from our prior discussion, if that
23 number exceeds 25 percent under the current version
24 of the statute, then that would trigger a new
25 election in 2022.

1 Again, those are preliminary numbers.
2 They're not finalized. If there is a district on
3 there that does not have data, it's because we -- we
4 were not able to overlay it just yet, but we wanted
5 to give you some of those figures to take a look at.

6 In addition, there are five subsections in
7 that particular statute that talk about how we would
8 revise the election schedule based on redistricting,
9 so this is just one of those five.

10 I know there have been questions also about
11 what happens in other circumstances, and so if you
12 look at the statute as it currently exists, we can
13 update that for 2020.

14 SENATOR HOLMBERG: Mr. Chairman?

15 CHAIRMAN DEVLIN: Who said that?

16 SENATOR HOLMBERG: Oh, right here.

17 CHAIRMAN DEVLIN: Senator Holmberg. I'm
18 sorry.

19 SENATOR HOLMBERG: Sorry about that.

20 When one takes a quick look at it and looks
21 at current law, which used the -- from -- from last
22 time, which used a 25 percent change, it is
23 interesting because there is a huge break in the
24 middle of these districts. You have six districts,
25 by my count, that have over 33 percent change, and

1 then there are no districts for the next 10
2 percentage points down, and then you get down to
3 districts that have 23 percent.

4 So I remember 10 years ago we used a break
5 like that as kind of a point by which above this big
6 break they had to run again, below it they didn't
7 have to, but I'm -- I'm not making any suggestions or
8 anything, just that there is a -- a mathematical
9 break in the middle of this, from 23 to 33 percent.

10 CHAIRMAN DEVLIN: Claire, could you refresh
11 my memory on what the number is for 25 percent? Is
12 it four thousand one hundred and --

13 MS. NESS: Forty-four.

14 CHAIRMAN DEVLIN: -- forty-four people?

15 REPRESENTATIVE NATHE: Mr. Chairman --

16 CHAIRMAN DEVLIN: So the -- the follow-up,
17 then, is if your district got more than 4,144 new
18 people, you would have to run under this scenario --
19 of the 25 percent scenario. Correct?

20 MS. NESS: That's correct, if you're just
21 looking at the people in the new geographic area.

22 CHAIRMAN DEVLIN: Yeah. Okay.

23 Representative Nathe.

24 REPRESENTATIVE NATHE: Thank you,
25 Mr. Chairman.

1 If the Council and clerk, at the end of the
2 day, when we're done with this, could get us an
3 up-to-date one? I know you don't have 12 on here
4 because we took that up earlier today, but when we
5 get near -- after we approve everything, if we can
6 get a copy of that?

7 CHAIRMAN DEVLIN: (Indiscernible) their
8 Committee. The other thing that could, of course,
9 change this is District 26 has a new plan, I
10 understand, for the district and for the state of
11 North Dakota. We were hoping that that would come
12 last week, and when they got ahold of me yesterday, I
13 hoped that we would have that today, but they're
14 scheduled for 10 a.m. tomorrow morning, so just be
15 aware of it. There will be another plan presented.
16 And I believe -- my understanding is it will go
17 further than just District 26. It will be a
18 statewide plan. So that could -- that could change
19 something as well.

20 Senator Poolman, how long do you think it
21 will take? Half hour?

22 (Indiscernible conversation; microphones
23 turned off.)

24 CHAIRMAN DEVLIN: Huh?

25 SENATOR OBAN: (Indiscernible.)

1 (Indiscernible conversation; microphones
2 turned off.)

3 CHAIRMAN DEVLIN: Senator Oban said it would
4 just be just a moment, she would have it done. Is
5 that what I heard, or --

6 SENATOR OBAN: Yeah, I said it depends on if
7 they agree with me or not.

8 CHAIRMAN DEVLIN: Yeah. Well, there is that
9 minor issue.

10 (Indiscernible conversation; microphones
11 turned off.)

12 CHAIRMAN DEVLIN: Just you?

13 MS. THOMPSON: (Indiscernible) legal
14 (indiscernible).

15 CHAIRMAN DEVLIN: Okay. We -- there's
16 another legal tweak that probably should be made, and
17 Emily can explain, between District 22 and
18 District 27. Is that correct?

19 MS. THOMPSON: That's correct, Mr. Chairman.
20 This item was just something that came up when the
21 legal staff was merging all the maps that were
22 approved by motion as something we would like to get
23 the Committee's input on.

24 Currently, in District 27 and 22, on the
25 cover of your handout or, more specifically, in your

1 packets, if you want to flip to those, there is a
2 little bit of kind of a -- not a straight, per se,
3 boundary. If you look at the western side of
4 District 27 and the eastern side of District 22 and
5 if you go down to the city of Horace, there is a
6 portion that follows -- somewhat follows the city
7 boundaries. You can see in purple here, these are
8 the city boundaries of Horace, and -- except for one
9 part that pops in right there. So you can see you
10 have a little blue piece jutting out right here and
11 you have another kind of little dipped-in piece right
12 here, and I was just looking to follow up with the
13 Committee if you wanted to straighten that line out
14 and instead have that boundary track with -- it is 81
15 Street South, you can see that there, if that
16 follows.

17 SENATOR SORVAAG: Mr. Chairman, we're
18 following the Horace city limits line, so -- is what
19 we drew them on.

20 MS. THOMPSON: And that's what I wanted
21 to clarify, Mr. Chairman.

22 SENATOR SORVAAG: Because Fargo and Horace
23 did a lot of battling, and that's why you see the
24 jig-jagging going all over, but that was intentional
25 to follow the city limit lines of Horace.

1 MS. THOMPSON: Thank you, Mr. Chairman and
2 Senator Sorvaag.

3 I just wanted to clarify that to make sure
4 that that was intentional.

5 And then I guess just to clarify, we do have
6 one very small notch right here that is the city
7 boundary of Horace. Would you like me to modify that
8 so that is now 22 so it does track with that
9 boundary?

10 SENATOR SORVAAG: Mr. Chairman, that was a
11 mess.

12 MS. THOMPSON: Perfect. I just wanted to
13 clarify.

14 SENATOR SORVAAG: I don't think there's any
15 people there either, but...

16 CHAIRMAN DEVLIN: So you would like to make
17 that change?

18 SENATOR SORVAAG: Mr. Chairman, you know,
19 we -- we juggled all over the city lines, and we
20 didn't, but since Horace is a smaller-sized
21 community, it was purposeful, trying to follow the
22 city limits.

23 CHAIRMAN DEVLIN: Okay.

24 SENATOR SORVAAG: The Fargo-West Fargo, as
25 you can see, is --

1 CHAIRMAN DEVLIN: Yeah.

2 SENATOR SORVAAG: -- a zigzag, but we did it
3 intentionally; so, yeah, that was the intent, that
4 we'd follow the city border of Horace on both sides.

5 CHAIRMAN DEVLIN: So Council staff can make
6 that correction?

7 SENATOR SORVAAG: I'm comfortable with it if
8 there's no objection.

9 CHAIRMAN DEVLIN: Anybody object to that?

10 (No audible response.)

11 MS. THOMPSON: Mr. Chairman, I did have one
12 other question, also, in the Cass County area. If
13 you go all the way up to the top of Cass County --
14 and, again, this is just something Counsel wants to
15 verify, whether that was intentional or just
16 something that was missed.

17 Currently, in the map that was moved by
18 Committee, the city of Grandin, that's on the
19 Traill/Cass County border, there's a very small
20 sliver, and I don't believe there's any population in
21 that. Let me just verify.

22 SENATOR SORVAAG: Mr. Chairman, if I might,
23 that was on purpose. There's no population there.
24 You'll find the same thing on the west side of Tower
25 City. There's no population, but the city limits do

1 extend. And -- and that's kind -- and I did that
2 because there's no -- because presently I have the
3 same situation in Gardner, that the town extends
4 beyond, and they actually have people in it
5 (indiscernible), so it could be put in, I mean, but
6 it doesn't affect population. But it -- it was on
7 purpose, but it probably doesn't make sense. But if
8 we do it there, you better check Horace, because I
9 think their city limits extend west beyond the county
10 line, too, but there's no people.

11 MS. THOMPSON: Thank you.

12 Mr. Chairman, if I may? Senator Sorvaag?

13 CHAIRMAN DEVLIN: You may.

14 MS. THOMPSON: Yes, the city limits of
15 Grandin, that red highlighted sliver there, there are
16 no people, so if the Committee is comfortable
17 slightly deviating from the plan that was moved and
18 breaking that district line for District 45 and 20
19 right on the county border, if that sliver, that one
20 census block with no people, is included in
21 District 45, then that would result in Traill County
22 not being kept whole. There would be one very small
23 census block of Traill County that's in 45.

24 And just to inform the Committee, sometimes
25 with the county auditors having to do those extra

1 election paperworks for that one census block for
2 convenience purposes, and if the Committee wishes to
3 not split Traill County, then we'd want to make sure
4 that red census block was in 20 and not included in
5 45, which would be a deviation from what was moved.

6 CHAIRMAN DEVLIN: Senator Sorvaag.

7 SENATOR SORVAAG: The goal was to keep Cass
8 County whole, by itself. But you should check the
9 west side of Tower City and make sure I have that
10 right, too, because I think I left that --

11 CHAIRMAN DEVLIN: West side of Tower City?

12 SENATOR SORVAAG: Tower City. There's --
13 part of the city extends into Barnes, but there was
14 no people in it, so I think I left it in Barnes. I
15 think.

16 MS. THOMPSON: Mr. Chairman, Senator
17 Sorvaag.

18 Yes, that does follow the county line, so
19 the portion of Towner [sic] City on the western side
20 is in 24, not in 22.

21 SENATOR SORVAAG: But it has no population.

22 MS. THOMPSON: I believe so, but I'll
23 verify.

24 SENATOR SORVAAG: Yeah, because that was
25 intentional, to stay in the county lines.

1 CHAIRMAN DEVLIN: Senator Bekkedahl.

2 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

3 We -- I think we should respect the county
4 boundaries, most of all for the auditors, as we were
5 requested earlier.

6 The other area that we had something similar
7 to this was when the city of Max -- Highway 83
8 crossed through there. We kept some in District 4
9 and some in District 6. The Ward County auditor
10 said, Please keep them all at least in the same town,
11 so we kept them all in District 4, but that was
12 within a county --

13 CHAIRMAN DEVLIN: Yeah.

14 SENATOR BEKKEDAHL: -- bisected by a
15 highway.

16 So I would agree we want to keep the
17 counties whole here.

18 MS. THOMPSON: Thank you, Mr. Chairman.

19 And, yes, just to highlight, the red portion
20 on your screen, the western half of Towner [sic]
21 City, you're correct, no population, so...

22 There was also one more item, Enderlin.
23 Again, just a very, very small census block in 22;
24 rather than include all of the city boundaries in 24,
25 to let that remaining census block be split into 22,

1 again to respect those county boundaries, and that's
2 how it came to Counsel, just again verifying that
3 that's how you want those treated.

4 SENATOR SORVAAG: And, Mr. Chairman, there's
5 no population either.

6 MS. THOMPSON: That's correct.

7 SENATOR SORVAAG: So, I mean, they were
8 intentionally done that way, but...

9 CHAIRMAN DEVLIN: Am I to assume that
10 everybody's going to agree immediately with the
11 Senator on that, or do you need more than five
12 minutes?

13 SENATOR POOLMAN: Half an hour?

14 CHAIRMAN DEVLIN: Half an hour?

15 SENATOR SORVAAG: How about 2:20?

16 CHAIRMAN DEVLIN: How about 2:30? I'll be
17 very generous. 2:30.

18 Thank you, Senator.

19 We'll be in -- stand in break until 2:30.

20 (Recess taken.)

21 CHAIRMAN DEVLIN: Committee, we will come
22 back to order.

23 Senator Poolman.

24 SENATOR POOLMAN: Well, Mr. Chairman, we
25 ended up making a change that was brought to our

1 attention through the Burleigh County auditor. There
2 is a portion of Lincoln that has been annexed that we
3 did not know, and so it was in District 30, and so we
4 have placed it in District 8 with the rest of
5 Lincoln. That portion had about 440 people in it.

6 And so you'll notice that the map, when you
7 take a look at District 14, now comes even farther
8 down than it did in the map that I presented at the
9 beginning of our meeting today, and so District 14
10 comes well into Burleigh County, and District 8 now
11 is rural Bismarck, essentially, and Emmons County.
12 And so that's -- that's the change that we made
13 there.

14 I just straightened the line on District 7,
15 so the District 7 is the same as you saw it presented
16 this morning, so that that would just be straighter
17 in that area that just looks not great. So we just
18 straightened out that line right there. Yeah. She's
19 pointing everywhere perfectly. Yes, that's the line
20 that we straightened out, and as I said, we brought
21 in a number of townships into District 14 from
22 Burleigh County.

23 CHAIRMAN DEVLIN: So, Senator, there was no
24 change to either 33 or 6 in what you did now?

25 SENATOR POOLMAN: No changes in 33 or 6 in

1 what we did now.

2 CHAIRMAN DEVLIN: Okay.

3 SENATOR POOLMAN: The changes are in 30
4 because we removed that portion of Lincoln, and, of
5 course, in 8 because they lost that northern part of
6 Burleigh County and they gained that portion of
7 Lincoln, and District 14 gains all those townships in
8 Burleigh County.

9 CHAIRMAN DEVLIN: Questions from the
10 Committee?

11 Senator Holmberg.

12 SENATOR HOLMBERG: How many people in
13 Burleigh County did you have to put into 14? In
14 other words, what was their need? They needed folks
15 or --

16 SENATOR POOLMAN: They --

17 SENATOR HOLMBERG: -- (indiscernible) folks?

18 SENATOR POOLMAN: Okay. Yeah. Mr. Chairman
19 and Senator Holmberg.

20 It wasn't about 14 needing folks; it was
21 about 8 needing to shed folks. And so since we had
22 just pulled in 440 more people from the Lincoln area
23 to ensure that Lincoln stays whole, we had to -- I
24 can tell you that it was at least 440 people, right,
25 in those townships all combined, I would guess, in

1 order to make that work with the numbers with
2 District 8.

3 SENATOR HOLMBERG: And that, then, would
4 make a difference on the population changes that
5 would be reconfigured?

6 SENATOR POOLMAN: So District 14, they're as
7 accurate as you see it on the screen. If you'll
8 remember, this morning when we had District 14, it
9 was at a point something. It was -- it was very
10 close to the size, exact size.

11 SENATOR HOLMBERG: Or did they have them
12 before? In other words, are they new people to 14?
13 They are new people. Okay.

14 SENATOR POOLMAN: Yes.

15 UNIDENTIFIED SPEAKER: (Indiscernible.)

16 SENATOR HOLMBERG: Oh, okay.

17 Thank you, Mr. Chairman.

18 CHAIRMAN DEVLIN: Further questions?

19 Senator Klein, any thoughts on this?

20 SENATOR KLEIN: Well, certainly,
21 Mr. Chairman.

22 We continue to talk about expansion in the
23 rural areas. I can drive a long way now from --
24 leaving Bismarck and traveling a hundred miles to
25 home, and mostly in my district, but most of what

1 we're seeing was in 14. Back in -- probably for
2 the last -- the 20 years up to 2011 when that portion
3 of Burleigh went to 8, but we have served Wing,
4 Sterling, Driscoll, Menoken, but not -- and McKenzie,
5 but McKenzie is -- we had McKenzie but not -- we had
6 Menoken and McKenzie. Now we only have McKenzie. I
7 guess we just have to -- as we work this stuff out
8 and we -- now we're still within the 5 percent. It's
9 part of the map.

10 CHAIRMAN DEVLIN: Senator Bekkedahl.

11 SENATOR BEKKEDAHL: Hey, Mr. Chairman.

12 Just a question for Senator Poolman. Was
13 the -- just so I'm clear, the change by Lincoln, was
14 that as -- was that as a result of an annexation by
15 Lincoln or by Bismarck?

16 SENATOR POOLMAN: By Lincoln.

17 SENATOR BEKKEDAHL: Okay.

18 CHAIRMAN DEVLIN: Senator Oban, did you have
19 something to add?

20 SENATOR OBAN: Mr. Chairman, I just, since I
21 was involved on the front end, want to be clear this
22 is nowhere near what I had proposed to fix. I don't
23 think this follows any logical lines. This was all
24 about protecting a party activist in a district, and
25 I think that is an insane principle to use.

1 So I -- I am enormously frustrated with how
2 the end process is happening, and I just wanted to
3 make it clear that I had no part in what this
4 proposal has become.

5 CHAIRMAN DEVLIN: I believe, Senator, you
6 made that perfectly clear, so...

7 Senator Poolman, were you going to move that
8 in a motion?

9 SENATOR POOLMAN: I would move this version
10 of the map and, as I said, the changes to 14, 30, and
11 8 and 7.

12 CHAIRMAN DEVLIN: Okay. Second?

13 REPRESENTATIVE SCHAUER: Second.

14 CHAIRMAN DEVLIN: Further discussion?

15 (No audible response.)

16 CHAIRMAN DEVLIN: Seeing none, you may poll
17 the Committee.

18 MS. THOMPSON: Chairman Devlin?

19 CHAIRMAN DEVLIN: Yes.

20 MS. THOMPSON: Representative Bellew?

21 REPRESENTATIVE BELLEW: Yes.

22 MS. THOMPSON: Representative Boschee?

23 REPRESENTATIVE BOSCHEE: No.

24 MS. THOMPSON: Representative Headland?

25 REPRESENTATIVE HEADLAND: Yes.

1 MS. THOMPSON: Representative Lefor?

2 REPRESENTATIVE LEFOR: Yes.

3 MS. THOMPSON: Representative Monson?

4 REPRESENTATIVE MONSON: Yes.

5 MS. THOMPSON: Representative Nathe?

6 REPRESENTATIVE NATHE: Yes.

7 MS. THOMPSON: Representative Schauer?

8 REPRESENTATIVE SCHAUER: Yes.

9 MS. THOMPSON: Senator Holmberg?

10 SENATOR HOLMBERG: Yes.

11 MS. THOMPSON: Senator Bekkedahl?

12 SENATOR BEKKEDAHL: Aye.

13 MS. THOMPSON: Senator Burckhard?

14 SENATOR BURCKHARD: Aye.

15 MS. THOMPSON: Senator Erbele?

16 SENATOR ERBELE: Aye.

17 MS. THOMPSON: Senator Klein?

18 SENATOR KLEIN: No.

19 MS. THOMPSON: Senator Oban?

20 SENATOR OBAN: No.

21 MS. THOMPSON: Senator Poolman?

22 SENATOR POOLMAN: Aye.

23 MS. THOMPSON: Senator Sorvaag?

24 SENATOR SORVAAG: Aye.

25 MS. THOMPSON: Mr. Chairman, the motion

1 carries.

2 CHAIRMAN DEVLIN: Thank you.

3 Is there any other districts still sitting
4 out there that we have to deal with before you can
5 put together a map for us to discuss tomorrow?

6 MS. THOMPSON: Mr. Chairman, no, there are
7 not.

8 CHAIRMAN DEVLIN: Representative --

9 REPRESENTATIVE LEFOR: Yes, I'll work with
10 Counsel to -- in regard to the population in
11 District 39 and possibly changing some district
12 numbers. I'll report back tomorrow.

13 CHAIRMAN DEVLIN: Committee, we did -- we
14 did get a notice of Mark Johnson who, remember --
15 many of you will remember, former chief clerk and
16 professor of political science, but in talking about
17 what Senator Holmberg said in -- in South Dakota,
18 South Dakota, the legislature did it in the '90s, and
19 then they -- and then they undid it 10 years later;
20 and then there was two Voting Rights Act cases filed,
21 a U.S. Justice one and an ACLU, and the federal court
22 ordered subdistricts at that point, so -- but -- and
23 that's the way they've left it all along.

24 Claire is going to at least bring you
25 some -- some court cases that have -- that this

1 subject has been part of that somebody asked for.

2 This list that you have will be updated once
3 the Council gets the -- gets all of the map
4 information in. It will also get a better idea of
5 what incumbents would have to run.

6 What else do we have that we've got to clean
7 up for tomorrow?

8 MS. THOMPSON: Mr. Chairman, Members of the
9 Committee.

10 For tomorrow we'll also be looking at some
11 final motions that the Committee will generally make,
12 potentially looking at some revised language in
13 Section 16.1-03-17. You discussed looking at
14 language for the state party to do those
15 reorganizations.

16 Also, again, updating the dates and voting
17 on that final threshold percentage for when
18 legislators have to run again.

19 Also, there's generally some bill language
20 placed to allow the Secretary of State to modify
21 election deadlines and procedures in the case there
22 might be some unforeseen delay in implementing the
23 redistricting of the new lines.

24 And so that will all be prepared by Counsel
25 and provided to the Committee for your consideration

1 along with, of course, the report that the Chairman
2 just noted on the number of split counties and any
3 final approved plan by the Committee and a summary of
4 any incumbent information as far as incumbents that
5 may be impacted.

6 CHAIRMAN DEVLIN: Senator Holmberg.

7 SENATOR HOLMBERG: That's okay. I pass.

8 CHAIRMAN DEVLIN: Committee, Emily mentioned
9 one thing that I haven't brought up to the Committee
10 yet, but -- and whether it comes up tomorrow or when
11 it comes up during a bill this session, but right now
12 there's a statute, and you can explain it, but it
13 essentially says that the -- the political parties
14 have to reorganize after redistricting.

15 Is that essentially what it says?

16 MS. THOMPSON: Pardon me. Turn the mic on.

17 Yes, Mr. Chairman. The statute at issue is
18 16.1-03-07 [sic]. It's "Political party
19 reorganization after redistricting." Essentially, if
20 redistricting becomes effective after the
21 organization of political parties and before the
22 primary or general election, the political parties in
23 those newly established precincts proceed to
24 reorganize as closely as possible in conformance with
25 the requirements of that chapter to assure compliance

1 with those primary election filing deadlines.

2 CHAIRMAN DEVLIN: So I guess my point in --
3 go ahead, Senator Holmberg.

4 SENATOR HOLMBERG: No, I just finally
5 remembered what I was going to ask.

6 Was there flexibility in the statute you're
7 looking at regarding the counties and their
8 requirements under the law to have their voting
9 districts or precincts done by the December 31st, I
10 think it is, or something like that?

11 CHAIRMAN DEVLIN: Claire.

12 MS. NESS: Yeah. Mr. Chairman, Senator
13 Holmberg.

14 So are you talking about the reorganization?

15 SENATOR HOLMBERG: No. I'm talking about
16 the -- the counties have to certify, do --

17 MS. NESS: Uh-huh.

18 SENATOR HOLMBERG: -- they not, to the State
19 by the end of the year what their voting areas are
20 going to be?

21 MS. NESS: Oh. So my understanding is
22 they're sort of chomping at the bit, waiting for the
23 redistricting proposal to be finalized and then be
24 able to work on it; so it would depend on the
25 effective date of the bill that would finally go

1 through, which can be whatever the legislative
2 assembly wishes it to be, and then they're going to
3 have to work quickly to make that happen.

4 SENATOR HOLMBERG: Okay.

5 CHAIRMAN DEVLIN: The other question that
6 I've had a problem with that -- you know, and like I
7 said, I'm not sure we should discuss it here or just
8 discuss it in a separate bill, but I really don't
9 understand why the legislature is telling political
10 parties that they have to reorganize after
11 redistricting. I mean, they're private political
12 parties. I don't see any reason in the world that
13 the State should be involved in telling them. I
14 think the law should just say that the Executive
15 Committee or whatever it is in the parties can
16 reorganize after redistricting if they wish. In some
17 districts, they'll need to do that, and some they
18 won't, but just to make every district reorganize, to
19 me, makes no sense. I don't know why the State
20 should be telling them to do that. I think that's up
21 to the parties.

22 But oftentimes I'm a minority of one, you
23 know, so it's -- you know, it could happen, but I
24 just wanted to bring that up before. You can think
25 about it overnight, but I really don't -- don't

1 understand why we should be telling them to
2 reorganize. That should be up to them.

3 Representative Schauer.

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

6 I just want to say I totally agree with you.
7 What is the process to have that changed?

8 CHAIRMAN DEVLIN: Well, Representative
9 Schauer, as I understand it, we could repeal a
10 section of law, and then it would just be done, but I
11 think we have to take it a step further. I think we
12 need to leave it to the state party, because if you
13 just repeal it, then, you know, every district or
14 whatever may think they need to reorganize. I think
15 we should, if that's what we want to do, take the
16 State out of it, just tell the parties to do it, then
17 I think we should clarify that the state political
18 party may reorganize after redistricting or at any
19 time they so desire, because I really believe that's
20 where it should be. But we will -- you can think
21 about it, and we'll talk about it tomorrow.

22 What else -- staff, what else do we need to
23 do? I know that you're going to put all the map
24 together, all the changes and everything. We'll have
25 the District 26 one tomorrow morning. So we really

1 can't, you know, finish some of it until we have an
2 opportunity to look at their map, but I think you
3 pretty well covered everything.

4 We'll have to decide on the 25 percent and
5 those four or five other legal issues, but I don't --
6 timewise, that should not take us very long. But,
7 you know, I -- I want to give District 26 and the
8 legislators from that district ample time to present
9 their plan, so -- and they couldn't be here before
10 10 o'clock tomorrow, otherwise I would have had them
11 on today.

12 Committee, is there anything else you would
13 like to do today before I let you break early, which
14 you seem to always enjoy?

15 REPRESENTATIVE NATHE: (Indiscernible.)

16 CHAIRMAN DEVLIN: Representative Nathe.

17 REPRESENTATIVE NATHE: I've got one
18 question, maybe for Counsel or for Representative --
19 for Senator Holmberg, in regards to subdistricts.

20 So when Wisconsin's map was taken over by
21 the feds and they drew it, did they just draw the
22 subdistrict, or did they mess around with all the
23 other districts in the state?

24 MS. NESS: Mr. Chairman and Representative
25 Nathe.

1 I'll take a look tonight and see what we can
2 find out.

3 REPRESENTATIVE NATHE: Okay. Thank you.

4 CHAIRMAN DEVLIN: Anything else, Committee?

5 (No audible response.)

6 CHAIRMAN DEVLIN: We will stand in recess
7 until 9 a.m. We will be back down in the Rough Rider
8 Room at that time.

9 I apologize. Before I do that, was there
10 any -- I know Representative Jones spoke. Was there
11 anybody here today that wanted to speak on this
12 issue? I didn't see anybody else, so...

13 Okay. We'll stand in recess until 9 a.m.
14 tomorrow morning.

15 (End of tape.)
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1 REPORTER'S CERTIFICATE

2
3 I hereby certify that I transcribed the
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19 /s/ Carolyn Taylor Pekas
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21 PO Box 886
22 Fargo, ND 58107

23 Dated this 22nd day of March, 2022.
24
25