MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIR, January 27, 1993, at 8:04 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chair (R)
Rep. Wilbur Spring, Vice Chair (R)
Rep. Ervin Davis, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council
Dorothy Poulsen, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 217; HB 265; HB 292
Executive Action: HJR 5; HB 265 (tabled)

EXECUTIVE ACTION ON HJR 5

Susan Fox, Staff, Districting and Apportionment Commission, distributed a list of proposed amendments to HJR 5 and reviewed the impact of each amendment. **EXHIBIT 1**

Ms. Fox began her review with the amendment sponsored by **REPS. GERVAIS, and RUSSELL** on behalf of the Confederated Salish and Kootenai Tribes. **EXHIBIT 2**

Ms. Fox noted the Tribes met with the Commission before its first scheduled meeting and presented their concerns and requests. She reported the amendment directly affects Flathead, Lake, Glacier, and Pondera Counties and may have an indirect effect on Missoula, Cascade, Lewis and Clark, and Silverbow Counties. She explained the Flathead Reservation is located in five counties with the bulk of the reservation in Lake County. Because of white population living on the reservation, it is very difficult to find a concentrated population of Native Americans, except in a few communities. The plan adopted by the Commission maintains a Native American population density of 30%, which is consistent with the Native American population of 2,900-3,300 people. **Ms. Fox** explained that the effect is to create a district which is 65% Native American **(REP. GERVAIS' district)** while other districts are 25% Native American **(REP. HAYNE'S district)**.

Ms. Fox explained that creating districts which are 25% and 30% Native American by splitting the Native American population can be considered "fracturing" by the federal government. The proposed amendment would combine portions of the Blackfeet and Flathead Reservations into two different house districts which would then be combined into a senate district. The effect would be to maximize Native American representation.

Ms. Fox stated that **John MacMaster, Staff Attorney, Districting and Apportionment Commission,** had prepared a report to brief the Commission on Section 2 of the Voting Rights Act. According to **Ms. Fox**, his interpretation of the Voting Rights Act is that the State is not required to create a Native American district. **EXHIBIT 3**

Ms. Fox reported that the Commission did not adopt the proposed amendment. Generally, Commission members were concerned about the division of districts with the Continental Divide and the compactness/contiguity criteria for districts. She reported the Commission heard testimony on the proposal several times and viewed the public testimony as favoring the plan as adopted.

Ms. Fox described the differences of opinion on whether or not a community of interest existed. **Ms. Fox** noted that none of the Commission members were Native American. She suggested that cultural differences were reflected by the different views of a community of interest.

Ms. Fox described the proposed amendment by the Fort Belknap/Fort Peck Indian Communities as presenting the same issues as the previous amendment. **EXHIBIT 4**

Ms. Fox stated the third proposed amendment from the Crow and Northern Cheyenne Tribes presented a different consideration for

the Commission. The amendment required a greater population deviation than desired by the Commission. **EXHIBIT 5**

Ms. Fox, referring to the Cascade County proposed amendment, noted the Commission chose to divide Cascade into nine districts with other counties sharing Cascade's four rural districts. She explained that counties' sharing of districts is necessitated by Montana's sparse population. **EXHIBIT 6**

Ms. Fox quickly reviewed the remaining proposed amendments, all of which resulted in single boundary changes.

Discussion:

REP. MASON said he would like to have the committee recommend the Commission consider amendments which had not been considered previously by the Commission.

REP. SIMPKINS reminded committee members that the Legislature has no authority in the districting and apportionment process. He suggested the committee can either approve the plan as it stands or recommend changes.

REP. BARNHART asked for clarification of the process the committee was using in consideration of the amendments. **REP. SIMPKINS** suggested the committee consider each of the single-boundary amendments and tentatively decide whether or not to approve each one.

REP. DAVIS noted that some of the amendments created very little change with no ripple effect and these could be considered very quickly.

REP. SIMPKINS agreed and asked for tentative approval of the Yellowstone County amendment requested by **REP. MOLNAR**. The committee unanimously voted for tentative approval. **EXHIBIT 7**

The committee unanimously voted tentative approval for the Flathead County amendment requested by **REP. WAGNER**. **EXHIBIT 8**

The committee unanimously voted tentative approval for the Missoula County amendment requested by **SEN. PIPINICH**. **EXHIBIT 9**

The committee chose not to consider Senate District Combinations requested by **SEN. BECK** and **REPS. MCCARTHY** and **MENAHAN**. **EXHIBITS 10, 11**

The committee unanimously voted tentative approval for the Sanders County amendment requested by **REP. ELLIOTT**. **EXHIBIT 12**

The committee unanimously voted tentative approval for the Lewis and Clark County amendment requested by **SEN. BARTLETT**. **EXHIBIT 13**

The committee unanimously voted tentative approval for the Missoula County amendment requested by **REP. SAYLES. EXHIBIT 14**

The committee chose to delay consideration of the Rosebud County amendment requested by **REP. MCCAFFREE. EXHIBIT 15**

Ms. Fox stated a substitute amendment was being drafted for Hill County. The committee chose to delay consideration of the Hill County amendment requested by **SEN. HOCKETT** and **REP. BACHINI. EXHIBIT 16**

The committee chose to let the Senate consider the amendments requested by **SEN. ECK** and **SEN. REA. EXHIBITS 17, 18**

HEARING ON HB 217

Opening Statement by Sponsor:

REP. H.S. "SONNY" HANSON, House District 87, Billings, introduced HB 217 which would limit the number of bills introduced in a regular or special session of the legislature. He asserted the bill's broader purpose was to reduce costs and improve government. **REP. HANSON** reported legislators had requested so many bills be drafted that the Legislative Council had to depend on other state agencies, such as the Environmental Quality Council, to assist in drafting bills. At the same time, he said, 19% to 23% of the drafted bills are never introduced and instead are thrown away.

REP. HANSON distributed three items: (1) a graph showing the number of bills drafted, introduced, and passed since 1951; (2) an organizational chart of the executive branch; and (3) an editorial from the Missoulian supporting HB 217. **EXHIBIT 19a,b,c**

REP. HANSON reviewed the content of HB 217 which would limit the number of bills by state agencies, constitutional officials, and legislators. He described the proposed submittal deadlines, and the creation of a delayed bills committee which would act to approve exceptions to the proposed limits. **(Written testimony- EXHIBIT 20)**

Proponents' Testimony:

Jake Cummins, Executive Vice-President, Montana Farm Bureau Federation, Bozeman, stated the Federation supports HB 217. He declared that quality, not quantity, was the best measure of bills.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. GALVIN asked **REP. HANSON** a series of questions: (1) Who decides whether a bill is a throwaway? (2) Who decides the validity of a bill? (3) Was the delayed bills committee the same as the outside committee proposed and defeated last session? **REP. HANSON** responded to each question. He explained "throwaway bills" was used in the context of historic practice: about 25% of drafted bills are not introduced, but thrown away. **REP. HANSON** stated legislators themselves would determine the validity of a bill. He pointed out that Colorado uses a five-bill limitation. **REP. HANSON** stated that in the 1991 session he carried only one bill. He said he only carries bills which he personally considers work toward better government. In reference to the delayed bills committee, **REP. HANSON** asserted the committee would not be reviewing and passing on bills; the committee would judge whether bills should be allowed to bypass restrictions.

REP. HANSON asserted that the function of legislators is similar to a board of directors which acts to establish direction and to help formulate good government. He stated it was not the function of legislators to represent constituents for everything they want. He pointed out that Congress has a screening process which prevents many bills from being assigned to committees.

REP. GERVAIS suggested to **REP. HANSON** many of the "throwaway" bills are several bill drafts on the same subject. **REP. HANSON** stated that in the process he foresees, each legislator would assume the responsibility of checking lists of bill drafts from the Legislative Council and coordinate efforts on a particular issue. He stressed HB 217 as a means of forcing legislators to assume responsibility for their actions.

REP. GERVAIS stated many legislators do not have a chance to see the bill draft list and therefore duplicate bills are drafted. **REP. HANSON** suggested to **REP. GERVAIS** that he could request a list of bill drafts from the Legislative Council through the mail.

REP. ROSE asked **REP. HANSON** how much HB 217 would save the State of Montana. **REP. HANSON** could not answer the question; he said an amount was difficult to estimate.

REP. WALLIN reminded **REP. HANSON** that prior to the creation of the Legislative Council, legislators had to hire attorneys to draft any legislation they wanted to introduce. He suggested to **REP. HANSON** that having the Legislative Council made it too easy for legislators to draft bills. He proposed that bill drafting would be curbed if legislators were required to draft their own bills; the Legislative Council's function would be limited to editing the bills' language for statute. **REP. HANSON** disagreed with the viability of such a system. He insisted legislators should be able to have bills drafted and not have to hire an attorney for that purpose. He contended the alternative would

require legislators to spend more time with lobbyists seeking their help in drafting bills.

REP. MOLNAR asked **REP. HANSON** whether he would be willing to amend HB 217 to require the Legislative Council notify representatives of similar titles. **REP. HANSON** said he would subscribe to such an amendment.

REP. SQUIRES submitted to **REP. HANSON** that when legislators choose to run for office, they make a commitment to citizens to serve them to their utmost ability. She suggested that a limit on bills introduced by legislators would limit citizen participation and accessibility to the legislative process. **REP. HANSON** responded with two points. First, he pointed out there already was a limit on the number of bills. Secondly, he disagreed that his role was to represent individual constituents. He perceives his role as representing his constituents' interests by participating in the formation and direction of good state government.

REP. SIMPKINS ruled the discussion was deviating from the purpose of the bill into political philosophies.

REP. GERVAIS reported he had requested a copy of a bill draft from the Legislative Council and was told he would need permission from the bill sponsor. **REP. HANSON** agreed that legislators could not receive a copy of a bill without sponsor permission, but they could receive a list of bill titles.

REP. SIMPKINS clarified that bill drafts cost $260 each; only when a bill passes through the entire legislative process does it cost $2,000. He asked **REP. HANSON** to confirm that 25% of bill drafts are never introduced. **REP. HANSON** said that since 1977, between 19% and 23% of the bill drafts have never been introduced.

REP. RICE asked **REP. HANSON** to verify that HB 217 does not limit draft requests; the bill only limits the number of introduced bills. **REP. HANSON** agreed; he suggested, however, that, if there was a bill limit, the Legislative Council would limit draft requests by asking legislators for their priorities.

REP. BARNHART asked **REP. HANSON** whether citizens would be represented in their bill requests. **REP. HANSON** expressed his belief that bills allotted to legislators would be citizen bills because agency and appropriation bills would not be included in legislators' limits. **REP. BARNHART** referred to **REP. HANSON'S** comment that the Legislative Council would limit draft requests and asked him whether that was the role of the Council. **REP. HANSON** said his statement was in response to **REP. RICE'S** question. He said legislators have to take the responsibility for the cost of operating the Legislative Council. He said he doubted legislators would request 30 bill drafts if they knew they were limited to introducing five bills. The Legislative

Council staff could advise legislators about requested legislation so legislators did not ask for duplicate drafts. **REP. HANSON** repeated his contention that legislators needed to assume responsibility for their actions.

REP. SCHWINDEN suggested to **REP. HANSON** that since 1973, the session following the Constitutional Convention, the Legislature has never met the goals of HB 217. He asked **REP. HANSON** whether the complexity of modern government requires the number of bills which are introduced. **REP. HANSON** responded that the increase in the number of bills was due to the creation of the Legislative Council who drafted bills for legislators. He noted that even under HB 217, 1,400 bills would be allowed, not counting bills from appropriations, standing committees, etc. Even under the bill, the legislature could still have 1,600 bills to consider.

REP. SCHWINDEN asked whether bill requests for 1993 had decreased compared to the 1991 session. **REP. HANSON** confirmed the lower number and stated the reason was the concentrated effort made by legislators to request fewer bills. He stated bill requests by the executive branch have not been addressed, and state agencies are using the Legislative Council for bill drafts. **REP. HANSON** contended that HB 217 would address the bill requests by the executive branch.

REP. GALVIN said he had not been informed that legislation similar to his had been drafted, and he did not realize the duplication until after both bills had been introduced. **REP. GALVIN** stated he withdrew his bill and asked **REP. HANSON** whether, under HB 217, he would have to count the withdrawn bill in his five-bill limit. **REP. HANSON** suggested it is the legislator's responsibility to check whether similar legislation was drafted. He contended that HB 217 would provide a system in which criteria for notifying legislators of similar legislation could be set. He also explained that the proposed delayed bills committee could operate in **REP. GALVIN'S** particular example.

REP. SQUIRES asked **REP. HANSON** who would determine which bill is introduced in a situation where several similar bills are drafted. **REP. HANSON** responded that the whole legislative process is a compromise; he insisted it would be less expensive for the compromise decisions to be made during the drafting of legislation rather than after introduction.

REP. SQUIRES asked **REP. HANSON** what he thought established the priority in determining the best bill to be introduced. **REP. HANSON** responded he did not perceive the same problem as **REP. SQUIRES**; he said bills can be changed in committee.

Closing by Sponsor:

REP. HANSON closed.

HEARING ON HB 292

Opening Statement by Sponsor:

REP. DON LARSON, House District 65, Seeley Lake, introduced HB 292 by request of the Public Service Commission. The bill authorizes the Public Service Commission adopt rules implementing laws on construction standards for utilities' lines and facilities.

Proponents' Testimony:

Ivan "Chuck" Evilsizer, Staff Attorney, Public Service Commission (PSC), submitted written testimony in which he explained that, currently, the PSC is restricted by law to the 1977 edition of the National Electrical Safety Code (NESC), even though the Safety Code has been revised several times since 1977. Rather than asking the Legislature to adopt the most recent edition of the NESC each time it is revised, the PSC is seeking the rule-making authority to enable their adoption of the most current edition of the Safety Code. **EXHIBIT 21**

John Alke, attorney, Montana Dakota Utilities, expressed their support for the effort to adopt the most current revision of the Safety Code. He stated, however, that HB 292, as currently drafted, seems to give the PSC discretion over which portions of the Safety Code they adopt. He explained that Montana Dakota Utilities serves customers in four different states, and they consider it critical to have uniform Safety Codes operating in all states. He presented an amendment to require the PSC to adopt the most recent edition of the NESC. **EXHIBIT 22**

Gene Phillips, attorney, Pacific Power and Light (PP&L), stated PP&L serves seven states and considers uniform construction codes necessary. He pointed out that line crews cross state lines, particularly during emergencies, and they would not be trained to work in Montana if Montana's safety codes varied from other states. He stated PP&L supports the proposed amendment to require the adoption of the Safety Code without change or variation. He urged the committee support the amendment.

Gary Willis, Montana Power Company, supports HB 292 with the proposed amendment.

Dan Walker, U.S. West, also supports HB 292 if amended.

Opponents' Testimony: None.

Informational Testimony:

Mr. Evilsizer presented his position on the proposed amendment; he noted the PSC had taken no position on the amendment. He stated he did not take issue with the substance of the amendment, however, he concluded the amendment would be unconstitutional.

In his view, the constitutional problem lies in the mandatory delegation of authority through the PSC to a private agency, in this case, the Accredited Standards Committee which publishes the NESC. He urged the committee consider the constitutional question.

Questions From Committee Members and Responses:

REP. MOLNAR expressed his concern that Montana could become like Louisiana, the only state not to adopt uniform safety codes. As a result, he said many contractors will not work in Louisiana and construction costs are higher. He compared the NESC to uniform building codes adopted by Montana and asked **Mr. Evilsizer** why there was not a similar constitutional question on the uniform building codes. **Mr. Evilsizer** responded he had no opinion on other situations. He asserted that, in fact, the PSC would adopt the uniform standards. He suggested, however, there might be some circumstance unique to Montana which would require more or less stringent standards, and HB 292 would give the PSC the flexibility to respond to Montana's needs.

REP. ROSE suggested that without the amendment, PSC's power would be unlimited and unregulated. **Mr. Evilsizer** responded he did not think the bill gave the PSC an unrestricted grant of authority. He suggested that, historically, the rationale for administrative agencies is that they work full-time and have staff to study issues and apply expertise on a day-to-day basis and thus relieve the legislative workload. He gave the example of setting utility rates as a legislative act which has been delegated to the PSC.

REP. MASON asked **Mr. Evilsizer** if he would be willing to work with the utilities and draft language for the amendment agreeable to everyone. **Mr. Evilsizer** stated he would be willing to work with the utilities on language. He asked **REP. MASON** whether he wanted language to adopt the 1993 edition of NESC or to work on some means other than rule-making to adopt subsequent editions. **REP. MASON** stated he wanted subsequent editions to be adopted without consideration by the Legislature, but to restrict the adoption to the National Electrical Safety Code.

REP. GERVAIS asked **Mr. Evilsizer** whether HB 292 could be amended to allow tribal inspectors. **Mr. Evilsizer** clarified that the PSC does not conduct inspections; the PSC only responds to the public, utilities, and others.

REP. SPRING asked whether the PSC foresees a problem which requires its rule-making authority be strengthened. **Mr. Evilsizer** responded the PSC has the responsibility to enforce safety codes and under current law is now limited to the 1977 version of the safety codes.

REP. REHBEIN asked for confirmation that the intent of HB 292 was to update the safety codes and asked whether the bill would come regularly to the Legislature for further updating. **Mr. Evilsizer**

confirmed the intent was to keep the safety codes updated. He noted HB 292 was drafted as the result of an inquiry to a PSC engineer about the codes. She asked **Mr. Evilsizer** which edition of the Safety Codes she was supposed to be using, and he discovered the law had not been amended since 1979.

REP. SIMPKINS asked **Mr. Evilsizer** whether the PSC had any constitutional authority. **Mr. Evilsizer** responded that the PSC and its authority were established by statute.

Closing by Sponsor:

REP. LARSON reviewed the purpose of the bill as updating the construction standards used by the PSC. He maintained the bill would move the State to pursuing a uniform code which keeps Montana consistent with neighboring states. He suggested the concern over the mandatory delegation of power was splitting hairs. He recommended the amendment be adopted.

HEARING ON HB 265

Opening Statement by Sponsor:

REP. DON LARSON, House District 65, Seeley Lake, introduced HB 265 to require the Department of Justice give 24 hours notice of a request to examine or copy records. He noted that when the bill was introduced, the Department of Justice determined the bill could be accomplished administratively. He recommended HB 265 be tabled.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

EXECUTIVE ACTION ON HB 265

Motion: **REP. ROSE MOVED HB 265 DO NOT PASS.**

Motion/Vote: **REP. MASON MADE A SUBSTITUTE MOTION THAT HB 265 BE TABLED.** Motion carried unanimously.

The committee recessed until 11:00 a.m. At that time **John MacMaster, Staff Attorney, Districting and Apportionment Commission,** provided an informal briefing on the legal considerations of HJR 5 to the House and Senate State Administration Committees.

ADJOURNMENT

Adjournment: 12:00 noon.

DICK SIMPKINS, Chair

DOROTHY POULSEN, Secretary

DS/DP

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL **DATE** 1/27/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

SUMMARY OF PROPOSED AMENDMENTS TO THE
DISTRICTING AND APPORTIONMENT PLAN

For the Committee on State Administration
Prepared by Susan B.Fox
January 26, 1993

REQUESTOR	COUNTY	AMENDMENT PREP'D	COMMISSION ACTION
Rep. Gervais, Rep. Russell, Smith, Renz	Flathead, Lake, Glacier, Pondera	* materials available	4/14/92, 7/22/92, 11/30/92 - did not adopt
Rep. Russell, Renz	Hill, Blaine, Phillips, Valley, Daniels, Sheridan, Roosevelt	* materials available	6/24/92, 8/26/92 - did not adopt
Rep. Russell, Nomee, Fleury, Renz	Big Horn, Rosebud	* materials available Plan 400	7/24/92, 8/26/92, 11/30/92 - did not adopt
Rep. Galvin, Ryan, Tropila	Cascade	* materials available Plan 200	8/26/92, 11/30/92 - did not adopt
Sen. Eck	Gallatin	yes - Amended Plan 300	9/29/92, 10/27/92 - did not adopt
Sen. Rea	Gallatin	yes	11/30/92 - referred to Legislature
Sen. Hockett	Hill	yes	11/30/92 - referred to Legislature
Rep. McCaffree	Rosebud	yes	heard testimony in opposition 11/30/92
Rep. McCaffree	Rosebud	no	did not pursue due to population 11/30/92
Rep. Sayles	Missoula	yes	11/30/92 no action
Sen. Bartlett	Lewis and Clark	yes	have not considered

EXHIBIT 1
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HB HJR 5

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION
P.O. Box 278
Pablo, Montana 59855
(406) 675-2700
FAX (406) 675-2806

November 30, 1992

(*Sent by facsimile*)

Honorable Jean Fallon Barrett
Chairperson
Montana Districting and
Apportionment Commission
State Capitol - Room 138
Helena, Montana 59620

Re: Legislative Redistricting on the Blackfeet and Flathead Indian Reservations-November 30, 1992 Comments

Dear Chairperson Barrett:

The Confederated Salish and Kootenai Tribes of the Flathead Nation submit the following written comments to the Commission at your November 30, 1992, hearing in Helena. We are unable to be present at the hearing today, but Representative Bob Gervais has kindly agreed to put in a word for us in his remarks.

On March 13, 1992, the Flathead Nation, the Blackfeet Nation, the Montana-Wyoming Tribal Chairmens Association, and the ACLU of Montana submitted to the Montana Districting and Apportionment Commission a redistricting proposal which combined portions of the Flathead Indian Reservation with the Blackfeet Indian Reservation (hereafter "tribal redistricting proposal"). The Flathead Nation, Blackfeet Nation, ACLU of Montana, and others provided testimony at the Commission's redistricting hearings held in Kalispell and Shelby in support of the tribal redistricting proposal.

The Commission rejected our proposal at its April 29, 1992 meeting. At the hearing in Shelby, tribal attorney Pat Smith testified and requested that the Commission reconsider its action. The Commission rejected our request for reconsideration. Once again, the Flathead Nation respectfully requests the Commission to reconsider its actions and endorse the tribal redistricting proposal. We

EXHIBIT 2
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HB HJR 5

reiterate this request because the configuration of the districts that the Commission proposes for the Flathead and Blackfeet Reservations do not comport with the requirements of Section 2 of the Federal Voting Rights Act. In fact, the redistricting alternative the Commission has selected for the Flathead Reservation--Alternative 100A--is the alternative that most dilutes the Indian vote.[1]

The tribal redistricting proposal remedies this defect. It complies with the Federal Voting Rights Act and ensures that the Indian people on our Reservations have an opportunity to elect legislators of their choice. It ensures that the voting power of the Indian communities on our reservations are not diluted or fractured through redistricting.

Computer analysis of the 1990 census data reveals that two Indian majority house districts can be drawn which are "reasonably compact and contiguous." Both house districts would have 60% or greater Indian population. By combining these two districts, an Indian majority Senate district with greater than 60% Indian population is also possible. (*See* map enclosed in our March 13, 1992, letter to the Commission.)[2]

The Federal Voting Rights Act Requirements...

Under Section 2 of the Voting Rights Act of 1965 (42 U.S.C. § 1973), a legislative redistricting plan is unlawful, without regard to racial motive, if it "results" in discrimination. In City of Mobile, Alabama v. Bolden, 446 U.S. 55, 60-61 (1980), the U.S. Supreme Court ruled that a plaintiff must show discriminatory intent to prevail in a voting rights case. Congress responded in 1982 by expressly overriding the Bolden holding by amending Section 2 of the Voting Rights Act "to make clear that plaintiffs need not prove a discriminatory purpose in order to establish a violation." S. Rep. No. 97-417, p. 27, U.S. Code Cong. & Admin. News (1982).

[1] The Tribes also believe that Commisioner Pinsoneault's failure to abstain on voting on the configuration of the boundaries of the Senate District held by his brother constitutes--at the very least--a glaring appearance of impropriety.

[2] At present, there is only one Indian majority house district in the western Congressional district, which is based on the Blackfeet Reservation.

EXHIBIT 2
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In 1982 Congress re-wrote § 2 to make clear that a violation could be proved by showing discriminatory effect alone and to establish as the relevant legal standard the "results test." Thornburg v. Gingles, 478 U.S. 30, 35 (1985).

As explained below, the Commission is required under Section 2 of the Federal Voting Rights Act to draw legislative districts which do not dilute or fracture the voting strength of the Indian population on the Blackfeet and Flathead Reservations. Our analysis plainly demonstrates that it is possible to draw two house districts with a majority Indian population in excess of 60%. To not do so would, in our view, have a discriminatory "effect" and deny Indian people their right "to participate in the political processes and to elect representatives of their choice" under Section 2.

There is no question that Section 2 applies to Indian country. Windy Boy v. County of Big Horn, 647 F.Supp. 1002 (D. Mont. 1986). Like in Big Horn County, racially polarized voting is evident in Glacier County and Lake County. Where voting is racially polarized, Section 2 requires a jurisdiction to create minority controlled districts where it is possible to do so. Thornburg v. Gingles, 478 U.S. 30 (1986); Jeffers v. Clinton, 730 F.Supp. 196 (E.D. Ark. 1989), aff'd mem., 59 U.S.L.W. (1991). The Indian population on our respective reservations is sufficiently large and geographically compact enough to constitute a 60% majority in both District 1 and District 2. See Thornburg, 478 U.S. at 50; Jeffers v. Clinton, 730 F.Supp. 205.

The Natural Features Factor

The Blackfeet and Flathead Nations are aware that the continental divide lies between our two Reservations. This mountain range has never prevented interaction between our two Tribes. In this century, motor vehicles and highways have greatly facilitated this interaction. While the mountain terrain may have some impact on campaigning and the political process, this is already the case with other Montana counties and legislative districts.[3] The Flathead

[3] For example, Senate District 33 stretches over 200 miles from Condon in the north to the Big Hole in the south, crossing the Continental Divide. Senate Districts 24 and 36 also straddle the Continental Divide. Lewis and Clark County straddles the Continental Divide. SD 14, between Mosby and Glendive, covers 214 road miles. SD 7, between Inverness and Geraldine covers

Nation submits that the Commission creates a double standard when it rejects the tribal redistricting proposal on the grounds of natural feature considerations--yet the State has in numerous other instances ignored these same considerations in its redistricting plans. (*See* footnote 2).

In Jeffers v. Clinton, 730 F.Supp. at 214-15, the court held that a State can not argue that natural barriers justify failure to comply with Section 2 when existing State districts already cross natural barriers. The one-person, one-vote rule inevitably requires that county lines and natural barriers be crossed at times. Id. at 207. The mountains do not provide a sufficient basis to excuse compliance with the Voting Rights Act.

While some of the district lines we propose may appear unusual, the Supreme Court has never rejected a reapportionment plan solely because it had strangely shaped districts. Lawful redistricting can often result in some "oddly shaped" districts. "But compactness or attractiveness has never been held to constitute an independent federal constitutional requirement for state legislative districts." Gaffney v. Cummings, 412 U.S. 735, 752 n. 18 (1973). *See* also Jeffers v. Clinton, 730 F.Supp. at 207 (districts not improper because they "look rather strange"). Where districting decision-makers are attempting in good faith to comport with standards of racial fairness, plans are afforded wide latitude with respect to shapes of districts. *See* Cook v. Luckett, 735 F.2d 912, 915 (5th Cir. 1984).

Community of Interest

The Commission has identified "communities of interest" as one of its non-mandatory redistricting criteria. The Blackfeet and the Salish-Kootenai people share a "community of interest"--as do all Montana Indians. Our cultures, traditions, history, and treaties may differ in certain respects, but we are of one race and share a common commitment and bond to Indian culture and tribal sovereignty. We share a common and unique appreciation of the contributions, concerns, and needs of Indian people. We have a common understanding of Indian people and Indian country.

We are a "cohesive minority voting community." *See* Robinson v. Commissioner's Court, 505 F.2d 674, 679 (5th Cir.

153 road miles and straddles the Missouri. In SD 37 one must drive 206 miles from Wisdom to West Yellowstone. In SD 16, the distance is 233 miles, across King's Hill, from Belt to Melstone, and 117 miles (down Deep Creek Canyon) from Belt to Townsend. In SD 12, the distance is 266 miles from Glendive to Alzada (unless you take the poor gravel roads.)

1974). Communities of interest have been generally discounted by the courts except where they have defined concentrations of protected racial minorities. Where avoidance of abridging a minority's voting rights is the purpose, the courts permit the use of racial criteria. The permitted use of "racial criteria is not confined to eliminating the effects of past discriminatory districting or apportionment." United Jewish Organizations v. Carey, 430 U.S. 144, 161 (1976).

The Commission's position that no community of interest exists between the Indian communities of the Flathead and Blackfeet Reservations is erroneous. Your discussion of this issue in your April 29, 1992, conference call reflects a lack of understanding of the Montana Indian community, and the common interests that bond this community. Just as the Indian communities of the Fort Belknap and Rocky Boy Reservations share a community of interest, so does the Flathead and the Blackfeet. One of the most obvious areas of shared interests is legislative issues that come up at the Montana Legislature.

Under "Section 2, it is the status of the candidate as the chosen representative of a particular racial group, not the race of the candidate, that is important." Thornburg, 478 U.S. at 68 (emphasis in original). The Federal Voting Rights Act safeguards a realistic opportunity for minorities to elect candidates of their choice--which may or may not be someone of their race. Armour v. State of Ohio, 775 F.Supp. 1044, 1059 (N.D. Ohio 1991); Ketchum v. Byrne, 740 F.2d 1398, 1410 (7th Cir. 1984). The Voting Rights Act disallows a State's interest in protecting incumbents to override the need to comply with the Voting Rights Act. See Ketchum v. Byrne, 740 F.2d at 1408.

In closing, we appreciate the reiterate our position. If you have any specific questions on the tribal redistricting proposal, tribal attorney Pat Smith and Bill Cooper of the ACLU's Virginia office will be happy to respond to your inquiries. Mr. Smith can be reached at the tribal office phone number, and Mr. Cooper can be reached at (804) 644-8022.

We strongly urge you to reconsider your action. The Tribes reserve our right to enforce our voting rights through the federal courts.

Sincerely,

Michael T. Pablo
Chairman of the Tribal Council

cc: Blackfeet Nation
Montana ACLU

EXHIBIT 2
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Testimony of Laurence Kenmille
Vice-Chairman of the Confederated Salish & Kootenai Tribes
of the Flathead Nation

Montana Districting and Apportionment Commission
Hearing

Kalispell - April 3, 1992

Good evening. On behalf of the Confederated Salish and Kootenai Tribes of the Flathead Nation, I extend you a warm welcome to the Flathead.

The Kootenai people were living in this valley long before Christopher Columbus got lost. It has always been our home. We ceded this valley to the United States Government in 1855. In return, we reserved the Flathead Indian Reservation. Our treaty rights, like our voting rights, are protected by federal law. This federal law is the "supreme law of the land." It takes precedence over state laws and the Montana Constitution.

The tribal governments of this state have unanimously spoken on the redistricting issue before the Commission. The Flathead Nation, the Blackfeet Nation, and the Montana-Wyoming Tribal Chairman's Association have passed resolutions supporting the redistricting plan jointly submitted by the Flathead and Blackfeet Nations. This plan was drawn with the assistance of the Atlanta, Virginia, and Montana offices of the ACLU. It is the <u>only</u> plan being considered tonight that complies with Section 2 of the Federal Voting Rights Act. All of the other plans being considered for the Flathead Reservation dilute or fracture the Indian population.

Although I am Vice-Chairman of the Confederated Salish and Kootenai Tribes, I speak not so much for Tribal Government as I do for the Indian people who reside on the Flathead Reservation. These people have historically been disenfranchised. In some cases, this was a matter of deliberate policy. In some cases, this was a result of not taking the interests of American Indians seriously. We have had less opportunity than other American citizens to elect representatives of our choice.

When I say representatives of our choice, I do not necessarily mean Indian representatives. It is our right as voters, just as it is the right of every American, to expect our representatives to present our interests in the Legislature. This has not been done.

The plan that we present to you is fair. It ensures that the voices and the interests of American Indians are not submerged in a white majority where they are either ignored or not heard. This plan provides American Indians the equal opportunity, now enjoyed by non-Indians, to participate in the political processes. No other plan does this.

We know that the Commission will do what is right. Our plan helps you to do what is right, because it is also required by federal law.

I will leave it to Mr. Laughlin McDonald of the American Civil Liberties Union's Southern Regional Office, and one of the country's leading experts on the Voting Rights Act of 1965, to explain the law to you. I would like to make some observations.

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When we proposed this plan, the first thing that happened is that the Lake County Democratic and Republican parties got together and cooked up arguments to oppose it. I can see why the Republicans feel this way, since we Indians vote overwhelmingly Democratic. But why would the Lake County Democratic Party oppose this? I think that they have never counted us among them, but only count upon us to vote for <u>their</u> candidates.

There is substantial evidence of racial polarization in Lake County politics. In 1982, Dr. Joe McDonald ran for the Legislature. He would have been a fine legislator. However, there was a large crossover in the general election. Dr. McDonald won in the Indian precincts but lost overwhelmingly in non-Indian precincts. And this was in a district that was generally viewed as a Democratic district. Other examples of racially polarized voting include Tribal member Fred Houle's 1988 race for Lake county Commissioner and Tribal member Frank Webster's and Chris Lozeau's 1975 race for the Ronan school board.

Second, Montana now has legislative districts that are bisected by the Continental Divide and which overlap more than one mountain range. Senate District 33 extends from the upper Swan Valley, southeast of here, 110 miles south to the Big Hole River. If such a district is good enough for those white voters, why should not the plan we propose be good enough for us? After all, who shares a more of a community of interest: the voters of Heart Butte and Arlee, or the voters of Swan Lake and the Big Hole?

Third, we have heard that the Blackfeet and the Flathead

are historic enemies. What nonsense. The Crow and Northern Cheyenne fought against each other at the Little Big Horn. That did not stop a federal judge from ordering a change in Big Horn County's elections. The fights between our peoples were things of the Nineteenth Century. You are drawing this plan for the Twenty-first Century. One only has to observe Blackfeet and Flathead people interacting at pow-wows or testifying together in support of Indian legislation in Helena to rebut the myth that the Blackfeet and Flathead are enemies today. The Indians on our two reservations are all part of the Montana Indian community.

This plan we propose create contiguous and compact districts. The districts we have drawn are over 60% Native American. We hope that the Commission looks at the Twenty-first Century and adopts our proposal.

Thank you.

THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION
P. O. Box 278
Pablo, Montana 59855
(406) 675-2700
FAX (406) 675-2806

March 13, 1992

Honorable Jean Fallon Barrett
Chairperson
Montana Districting and
Apportionment Commission
State Capitol - Room 138
Helena, Montana 59620

Re: Legislative Redistricting on the Blackfeet and Flathead Indian Reservations

Dear Chairperson Barrett:

On behalf of the Blackfeet Nation and the Flathead Nation, we submit the enclosed redistricting proposal. The two proposed districts comply with the Federal Voting Rights Act and ensure that the Indian people on our Reservations have an opportunity to elect legislators of their choice. It ensures that the voting power of the Indian communities on our reservations are not diluted or fractured through redistricting.

To date, this proposal is endorsed by the Flathead Nation, the Blackfeet Nation, the Montana-Wyoming Tribal Chairmens Association, and the ACLU of Montana (resolutions enclosed).

The American Civil Liberties Union directly assisted in preparing the enclosed redistricting plan, with participation from the ACLU's Atlanta, Virginia, and Montana offices. Though the Flathead Nation will soon have redistricting computer capabilities that are compatible with the Commission's computers, we relied heavily on the redistricting computer resources and expertise supplied by the ACLU's Virginia office in drawing the proposed districts.

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Computer analysis of the 1990 census data reveals that two Indian majority house districts can be drawn which are "reasonably compact and contiguous." Both house districts would have 60% or greater Indian population. By combining these two districts, an Indian majority Senate district with greater than 60% Indian population is also possible. At present, there is only one Indian majority house district in the western Congressional district, which is based on the Blackfeet Reservation. For convenience we have referred to our proposed districts as District 1 and District 2. (See enclosed map.)

Under Section 2 of the Voting Rights Act of 1965 (42 U.S.C. § 1973), a legislative redistricting plan is unlawful, without regard to racial motive, if it "results" in discrimination. In City of Mobile, Alabama v. Bolden, 446 U.S. 55, 60-61 (1980), the U.S. Supreme Court ruled that a plaintiff must show discriminatory intent to prevail in a voting rights case. Congress responded in 1982 by expressly overriding the Bolden holding by amending Section 2 of the Voting Rights Act "to make clear that plaintiffs need not prove a discriminatory purpose in order to establish a violation." S. Rep. No. 97-417, p. 27, U.S. Code Cong. & Admin. News (1982).

In 1982 Congress re-wrote § 2 to make clear that a violation could be proved by showing discriminatory effect alone and to establish as the relevant legal standard the "results test." Thornburg v. Gingles, 478 U.S. 30, 35 (1985).

As explained below, the Commission is required under Section 2 of the Federal Voting Rights Act to draw legislative districts which do not dilute or fracture the voting strength of the Indian population on the Blackfeet and Flathead Reservations. Our analysis plainly demonstrates that it is possible to draw two house districts with a majority Indian population in excess of 60%. To not do so would, in our view, have a discriminatory "effect" and deny Indian people their right "to participate in the political processes and to elect representatives of their choice" under Section 2.

There is no question that Section 2 applies to Indian country. Windy Boy v. County of Big Horn, 647 F.Supp. 1002 (D. Mont. 1986). Like in Big Horn County, racially polarized voting is evident in Glacier County and Lake County. Where

voting is racially polarized, Section 2 requires a jurisdiction to create minority controlled districts where it is possible to do so. Thornburg v. Gingles, 478 U.S. 30 (1986); Jeffers v. Clinton, 730 F.Supp. 196 (E.D. Ark. 1989), aff'd mem., 59 U.S.L.W. (1991). The Indian population on our respective reservations is sufficiently large and geographically compact enough to constitute a 60% majority in both District 1 and District 2. See Thornburg, 478 U.S. at 50; Jeffers v. Clinton, 730 F.Supp. 205.

The Blackfeet and Flathead Nations are aware that the continental divide lies between our two Reservations. This mountain range has never prevented interaction between our two Tribes. In this century, motor vehicles and highways have greatly facilitated this interaction. While the mountain terrain may have some impact on campaigning and the political process, this is already the case with other Montana counties and legislative districts. For example, Senate District 33 is approximately 110 miles in length, crosses the Continental divide, includes several mountain ranges and extends from the Swan Valley to the Big Hole River. Senate Districts 24 and 36 also straddle the Continental Divide. Lewis and Clark County straddles the Continental Divide.

In Jeffers v. Clinton, 730 F.Supp. at 214-15, the court held that a State can not argue that natural barriers justify failure to comply with Section 2 when existing State districts already cross natural barriers. The one-person, one-vote rule inevitably requires that county lines and natural barriers be crossed at times. Id. at 207. The mountains do not provide a sufficient basis to excuse compliance with the Voting Rights Act.

While some of the district lines we propose may appear unusual, the Supreme Court has never rejected a reapportionment plan solely because it had strangely shaped districts. Lawful redistricting can often result in some "oddly shaped" districts. "But compactness or attractiveness has never been held to constitute an independent federal constitutional requirement for state legislative districts." Gaffney v. Cummings, 412 U.S. 735, 752 n. 18 (1973). See also Jeffers v. Clinton, 730 F.Supp. at 207 (districts not improper because they "look rather strange"). Where districting decision-makers are attempting in good faith to comport with standards of racial fairness, plans are afforded

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wide latitude with respect to shapes of districts. See Cook v. Luckett, 735 F.2d 912, 915 (5th Cir. 1984).

One of the leading civil/voting rights litigators in the nation reviewed the boundaries of the proposed districts and finds that the boundaries look "perfectly fine." (See attached letter from Laughlin McDonald, Director of the the ACLU's Southern Regional Office and attorney for the Indian plaintiffs in Windy Boy v. County of Big Horn.)

The Commission has identified "communities of interest" as one of its non-mandatory redistricting criteria. The Blackfeet and the Salish-Kootenai people share a "community of interest"--as do all Montana Indians. Our cultures, traditions, history, and treaties may differ in certain respects, but we are of one race and share a common commitment and bond to Indian culture and tribal sovereignty. We share a common and unique appreciation of the contributions, concerns, and needs of Indian people. We have a common understanding of Indian people and Indian country.

We are a "cohesive minority voting community." See Robinson v. Commissioner's Court, 505 F.2d 674, 679 (5th Cir. 1974). Communities of interest have been generally discounted by the courts except where they have defined concentrations of protected racial minorities. Where avoidance of abridging a minority's voting rights is the purpose, the courts permit the use of racial criteria. The permitted use of "racial criteria is not confined to eliminating the effects of past discriminatory districting or apportionment." United Jewish Organizations v. Carey, 430 U.S. 144, 161 (1976).

Under "Section 2, it is the status of the candidate as the chosen representative of a particular racial group, not the race of the candidate, that is important." Thornburg, 478 U.S. at 68 (emphasis in original). The Federal Voting Rights Act safeguards a realistic opportunity for minorities to elect candidates of their choice--which may or may not be someone of their race. Armour v. State of Ohio, 775 F.Supp. 1044, 1059 (N.D. Ohio 1991); Ketchum v. Byrne, 740 F.2d 1398, 1410 (7th Cir. 1984). The Voting Rights Act disallows a State's interest in protecting incumbents to override the need to comply with the Voting Rights Act. See Ketchum v. Byrne, 740 F.2d at 1408.

In closing, we appreciate the opportunity to present this redistricting proposal to the Commission. Mr. Bill Cooper of the ACLU's Virginia office will be happy to respond to any inquiries on the boundaries of the proposed districts. He can be reached at (804) 644-8022. Please let us know when the Commission will be holding public hearings on this issue so that we may again present our views on the need to comply with Section 2 of the Federal Voting Rights Act.

Sincerely,

Michael T. Pablo
Chairman of the Tribal Council

cc: Blackfeet Nation
Montana ACLU

Enclosures

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AMERICAN CIVIL LIBERTIES UNION FOUNDATION

SOUTHERN REGIONAL OFFICE

44 Forsyth Street, NW
Suite 202
Atlanta, GA 30303
(404) 523-2721

Laughlin McDonald
DIRECTOR

Neil Bradley
ASSOCIATE DIRECTOR

Kathleen L. Wilde
STAFF COUNSEL

Mary E. Wyckoff
PALMER WEBER COUNSEL

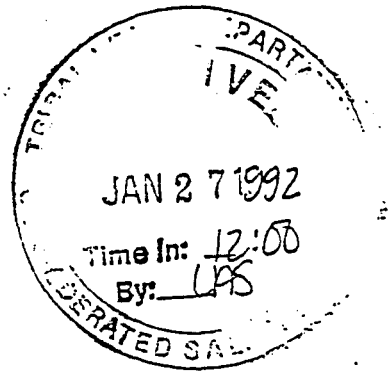
Jim Grant
PARALEGAL

National Headquarters
132 West 43 Street
New York, NY 10036
(212) 944-9800

Nadine Strossen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

January 23, 1992



Pat Smith
Flathead Nation
P. O. Box 278
Pablo, Montana 59855

Re: Montana Redistricting

Dear Pat:

I have looked over the map and other material you sent. The actual lines look perfectly fine to me. In any event, compactness is a "second tier" state interest and doesn't trump federal law.

The mountains pose a different problem, but I don't think they provide a sufficient basis for excusing compliance with the Voting Rights Act, provided they do not make campaigning and participation in the political process virtually impossible or too burdensome. I suspect there are other political subdivisions in the state (counties, for example) with mountain ranges running through them.

You can throw cold water on any plan, but the proposed districts affecting the Flathead and Blackfeet Reservations look "reasonably compact and contiguous," and I think that is all that is required.

Best wishes.

Sincerely,

Laughlin

Laughlin McDonald

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ACLU OF MONTANA
AMERICAN CIVIL LIBERTIES UNION
P.O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086

RESOLUTION OF THE BOARD

WHEREAS, the Confederated Salish and Kootenai Tribes and the Blackfeet Tribe of Indians have proposed and adopted a plan for legislative reapportionment; and

WHEREAS, this reapportionment plan provides for two House Districts and one Senate District each of which has a Native American population in excess of sixty per cent; and

WHEREAS, this reapportionment plan satisfies the interests of Native American voters in the region and carries out the requirements of the Voting Rights Act of 1965,

IT IS HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE AMERICAN CIVIL LIBERTIES UNION OF MONTANA:

The American Civil Liberties of Montana supports the proposed plan for legislative reapportionment and will support the proposed plan in hearings before the Montana Reapportionment Commission and, if necessary, in any court proceedings.

UNANIMOUSLY ADOPTED this 19 day of February, 1992.

Carl J Donovan
CARL DONOVAN, PRESIDENT

Attest:

Samantha Sanchez
SAMANTHA SANCHEZ, Secretary

EXHIBIT 2
DATE 1/27/93
S. HJR 5

EXHIBIT 2
DATE 1/27/93
B HJR 5

Resolution No. 92-85

RESOLUTION
OF THE GOVERNING BODY OF
THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD NATION, MONTANA

BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES THAT:

WHEREAS, the Tribal Council of the Confederated Salish and Kootenai Tribes is the duly constituted governing body of the Flathead Nation; and

WHEREAS, every ten years the Montana Districting and Apportionment Commission develops a legislative redistricting plan for the State's 100 house districts; and

WHEREAS, this Commission is required to comply with Section 2 of the federal Voting Rights Act (42 U.S.C. § 1973) which requires the Commission to create minority controlled districts where it is reasonably possible to do so. See Thornburg v. Gingles, 478 U.S. 30 (1986); and

WHEREAS, in Windybov v. Big Horn County, 647 F.Supp. 1002 (D. Mont. 1986), state-sponsored voting schemes in Montana were struck down by the federal court as violative of the voting rights of Montana Indian people under Section 2 of the federal Voting Rights Act; and

WHEREAS, all of Montana's Indian citizens share a "community of interest" and have similar needs, concerns, and identity--as Indian people; and

WHEREAS, a minority's "community of interest" is a legitimate and rational factor, recognized by the federal courts, that must be fully considered by the Commission in redistricting the state; and

WHEREAS, analysis of the 1990 census data has confirmed that, by combining the Blackfeet Reservation with portions of the Flathead Reservation, it is possible to create three Indian majority legislative districts in the Montana Legislature (two house districts and one Senate district); and

WHEREAS, these districts would be "reasonably compact and contiguous" and would have 60% or greater Indian population; and

WHEREAS, though one of the house district would overlap the two reservations and cross the continental divide posing additional problems in campaigning and participation in the

political process in the district, these mountains do not provide sufficient basis for excusing compliance with the federal Voting Rights Act and ignoring the Indian community of interest; and

WHEREAS, these mountains--today and throughout history--have never presented a serious obstacle to the interactions and dealings between the Indian communities on the Blackfeet and Flathead Reservations.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Confederated Salish and Kootenai Tribes of the Flathead Nation joins with the Blackfeet Nation of the Blackfeet Indian Reservation to support a redistricting plan for our Reservations that does not divide and dilute the community of interest that exists between the Indian people of our reservations (and all Montana Indians).

2. That the Flathead Nation will work with the Blackfeet Nation and the American Civil Liberties Union Voting Project to propose legislative districts that avoid the dilution and splintering of the Indian community vote, and to submit these proposed districts to the Montana Districting and Apportionment Commission.

C E R T I F I C A T I O N

The foregoing Resolution was adopted by the Tribal Council on the 7th day of February, 1992, with a vote of 9 for, 0 opposed, and 0 not voting, pursuant to authority vested in it by Article VI, Section 1(a), (h) and (u) of the Tribes' Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

Chairman, Tribal Council

ATTEST:

Executive Secretary

BLACKFEET NATION

P.O. BOX 850
BROWNING, MONTANA 59417
(406) 338-7179

EXECUTIVE COMITTEE

EARL OLD PERSON, CHAIRMAN
ARCHIE ST. GODDARD, VICE-CHAIRMAN
AL POTTS, SECRETARY
ELAINE GUARDIPEE, TREASURER

BLACKFEET TRIBAL BUSINESS COUNC

EARL OLD PE
ARCHIE ST. GOD
AL P
BOB GE
DAN BC
CHARLES CONN
GEORGE KICKING WC
TED WILLIAM
JESS BLACKWE

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DATE 1/27/93
B HJR 5

RESOLUTION

NUMBER: 119-92

WHEREAS, the Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation; and

WHEREAS, the Blackfeet Tribal Business Council has been organized to represent, develop, protect, and advance the views, interests, education and resources of the Blackfeet Indian Reservation; and

WHEREAS, every ten years the Montana Districting and Apportionment Commission develops a legislative redistricting plan for the State's 100 house districts; and

WHEREAS, this Commission is required to comply with Section 2 of the federal Voting Rights Act (42 U.S.C. § 1973) which requires the Commission to create minority controlled districts where it is reasonably possible to do so. See Thornburg v. Gingles, 478 U.S. 30 (1986); and

WHEREAS, in Windyboy v Big Horn County, 647 F. Supp. 1002 (D. Mont. 1986), state-sponsored voting schemes in Montana were struck down by the federal court as violative of the voting rights of Montana Indian people under Section 2 of the federal Voting Rights Act; and

WHEREAS, all of Montana's Indian citizens share a "community of interest" and have similar needs, concerns, and identity--as Indian people; and

WHEREAS, a minority's "community of interest" is a legitimate and rational factor, recognized by the federal courts, that must be fully considered by the Commission in redistricting the state; and

WHEREAS, analysis of the 1990 census data has confirmed that, by combining the Blackfeet Reservation with portions of the Flathead Reservation, it is possible to create three Indian majority legislative districts in the Montana Legislature (two house districts and one Senate district); and

WHEREAS, these districts would be "reasonably compact and contiguous" and would have 60% or greater Indian population; and

WHEREAS, though one of the house district would overlap the two reservations and cross the continental divide posing additional problems in campaigning and participation in the

political process in the district, these mountains do not provide sufficient basis for excusing compliance with the federal Voting Rights Act and ignoring the Indian community of interest; and

WHEREAS, these mountains--today and throughout history--have never presented a serious obstacle to the interactions and dealings between the Indian communities on the Blackfeet and Flathead Reservations.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Blackfeet Nation joins with the Confederated Salish and Kootenai Tribes of the Flathead Nation to support a redistricting plan for our Reservations that does not divide and dilute the community of interest that exists between the Indian people of our reservations (and all Montana Indians).

2. That the Blackfeet Nation will work with the Flathead Nation and the American Civil Liberties Union Voting Project to propose legislative districts that avoid the dilution and splintering of the Indian community vote, and to submit these proposed districts to the Montana Districting and Apportionment Commission.

ATTEST:

Al Potts, Secretary

THE BLACKFEET TRIBE OF THE BLACKFEET INDIAN RESERVATION

Earl Old Person, Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council during a duly called, noticed, and convened Session held the 6th day of February, 1992, with members present to constitute a quorum, and by a vote 9 For and 0 Opposed.

Al Potts, Secretary
Blackfeet Tribal Business Council

Montana - Wyoming
Tribal Chairmen Association

ARAPAHOE BUSINESS COUNCIL
P.O. Box 396
Fort Washakie, WY 82514
(307) 332-5006
FAX: 332-7543

BLACKFEET TRIBAL BUSINESS COUNCIL
P.O. Box 850
Browning, MT 59417
(406) 338-7276
FAX: 338-7530

CHIPPEWA CREE BUSINESS COMMITTEE
Rocky Boy Route, Box 544
Box Elder, MT 59521
(406) 395-4282
FAX: 395-4497

CONFEDERATED SALISH & KOOTENAI TRIBES
P.O. Box 278
Pablo, MT 59855
(406) 675-2700
FAX: 675-2806

CROW TRIBAL COUNCIL
Box 159
Crow Agency, MT 59022
(406) 638-2601
FAX: 638-7283

FORT BELKNAP COMMUNITY COUNCIL
Box 249
Harlem, MT 59526
(406) 353-2205
FAX: 353-2979

FORT PECK EXECUTIVE BOARD
P.O. Box 1027
Poplar, MT 59255
(406) 768-5155
FAX: 768-5478

LITTLE SHELL TRIBE
P.O. Box 347
Havre, MT 59501
(406) 265-2741
FAX: 265-2741

NORTHERN CHEYENNE TRIBAL COUNCIL
Box 128
Lame Deer, MT 59043
(406) 477-6284
FAX: 477-6210

SHOSHONE BUSINESS COUNCIL
P.O. Box 538
Fort Washakie, WY 82514
(307) 332-3532
FAX: 332-3055

Resolution No. 92-02

RESOLUTION
OF THE MONTANA-WYOMING
TRIBAL CHAIRMEN ASSOCIATION

SUPPORTING COMPLIANCE WITH SECTION 2 OF THE FEDERAL VOTING RIGHTS ACT IN REDISTRICTING AND SUPPORTING THE FLATHEAD NATION'S AND THE BLACKFEET NATION'S PROPOSED LEGISLATIVE DISTRICTS

BE IT RESOLVED BY THE MONTANA-WYOMING TRIBAL CHAIRMEN ASSOCIATION THAT:

WHEREAS, every ten years the Montana Districting and Apportionment Commission develops a legislative redistricting plan for the State's 100 house districts; and

WHEREAS, this Commission is required to comply with Section 2 of the federal Voting Rights Act (42 U.S.C. § 1973) which requires the Commission to create minority controlled districts where it is reasonably possible to do so. See Thornburg v. Gingles, 478 U.S. 30 (1986); and

WHEREAS, in Windvbov v. Big Horn County, 647 F.Supp. 1002 (D. Mont. 1986), state-sponsored voting schemes in Montana were struck down by the federal court as violative of the voting rights of Montana Indian people under Section 2 of the federal Voting Rights Act; and

WHEREAS, all of Montana's Indian citizens share a "community of interest" and have similar needs, concerns, and identity--as Indian people; and

WHEREAS, a minority's "community of interest" is a legitimate and rational factor, recognized by the federal courts, that must be fully considered by the Commission in redistricting the state; and

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TB HJR 5

WHEREAS, analysis of the 1990 census data has confirmed that, by combining the Blackfeet Reservation with portions of the Flathead Reservation, it is possible to create three Indian majority legislative districts in the Montana Legislature (two House districts and one Senate district); and

WHEREAS, these districts would be "reasonably compact and contiguous" and would have 60% or greater Indian population; and

WHEREAS, though one of the house districts would overlap the two reservations and cross the continental divide posing additional problems in campaigning and participation in the political process in the district, these mountains do not provide sufficient basis for excusing compliance with the federal Voting Rights Act and ignoring the Indian community of interest; and

WHEREAS, Montana's seven Indian reservations contain the highest concentration of minority voters in the state of Montana and the Montana redistricting schedule should redistrict these seven reservations first to ensure that such schedule is not prejudicial to the minority voters residing on these Reservations or their rights under Section 2 of the federal Voting Rights Act.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Montana-Wyoming Tribal Chairmen Association supports the Flathead Nation's and the Blackfeet Nation's efforts in proposing a redistricting plan for their Reservations that does not divide and dilute the community of interest that exists between the Indian people of our reservations (and all Montana Indians).

2. That the Montana Districting and Apportionment Commission revise its schedule so that the areas of the state with the highest concentration of minority voters--its seven Indian reservations--are redistricted first.

3. That the Montana Districting and Apportionment Commission fully comply with Section 2 of the federal Voting Rights Act in redistricting on Montana's Indian reservations.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Montana-Wyoming Tribal Chairmen Association certify that the foregoing resolution was duly presented and passed by a vote of 9 for and 0 against and 0 not voting at a regular called and convened meeting of the Association held this 12th day of February, 1992.

Chairman Montana/Wyoming
Tribal Chairmen Association

ATTEST:

Carole McCrea
Secretary

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Please note:

A set of sixteen maps of House and Senate Districts can be found at the Historical Society. The cover map is identified as Exhibit 2, 1/27/93/ HJR 5.

SECTION 2 OF THE VOTING RIGHTS ACT OF 1965 AND ITS EFFECTS ON REDISTRICTING

March 1992

Prepared by

Montana Legislative Council

Montana Legislative Council
State Capitol, Room 138
Helena, Montana 59620
(406) 444-3064
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Fort Belknap Community Council
FORT BELKNAP EDUCATION DEPARTMENT

(406)353-2205
R.R. 1 Box 66
Fort Belknap Agency
Harlem, Montana 59526

Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and to represent the Assiniboine and the Gros Ventre Tribes of the Fort Belknap Indian Reservation)

January 25, 1993
DATE

Joint Committee on State Administration
Montana State Legislature
Capitol Station
Helena, Montana 59620

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Dear Committee Members:

It is with deep regret that we are unable to be with you today to share our views on the with you in regards to the Districting and Reapportionment Plan for the State of Montana. At Fort Belknap we have experienced an unfortunate tragedy that has claimed the life of one of our student athletes from Harlem High School. He was a dear friend to our sons and daughters and in our Indian way of life, we must stay to help them through this very emotional and confusing time of their lives. I hope you can understand.

Over the past year we at Fort Belknap have been very active participants in the districting and reapportionment planning process. We have attended every meeting and hearing held across northcentral Montana. In June we went to the Shelby hearing, we traveled to Wolf Point, on to Great Falls and finally presented our views at final hearing in Helena. At each hearing and meeting our testimony and presentations were presented in a very positive manner to the commission. Our stand has always been the same. **FORT BELKNAP IS IN SUPPORT OF PLAN 100b, WHICH WOULD CREATE HOUSE DISTRICT NO. 142.**

Throughout our testimony our presentations have given statistics and facts that document our voting turnout and voting patterns that support our request for the new district. Our voting populations speak for themselves. Meetings have been held with the Council of Rocky Boy that share our concern and they support our plan. We have many concerns of common cause with the residents of Rocky Boy and are very excited about the possibility of sharing a legislative district with one another. But, having a common legislative district with one another does not necessarily guarantee an Indian person will be elected. It only gives Indian people the opportunity to serve. We still must involve our Indian people of the importance of state government and have them exhibit their true citizenship of the State of Montana. We are citizens of the State

of Montana and want to play an active role into the development of laws and programs that make our state a better place to live.

We strongly believe that given the experience of living on Indian reservations we have gained the experience necessary that our input into state government would be invaluable. Given the opportunity we can all work together, as we must live together, and make our homes and our futures better for generations to come.

Sincerely,

Loren 'Bum' Stiffarm, Director
Fort Belknap Education Department

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TESTIMONY

TO THE

MONTANA DISTRICTING AND APPORTIONMENT COMMISSION

IT IS INDEED A PLEASURE TO HAVE THE OPPORTUNITY TO TESTIFY BEFORE YOU THIS EVENING TO PRESENT OUR VIEWS ON THE ALTERNATE PLANS FOR THE LEGISLATIVE DISTRICTS HERE IN MONTANA.

MY NAME IS LOREN 'BUM' STIFFARM AND I CURRENTLY AM THE DIRECTOR OF TRIBAL EDUCATION PROGRAMS UNDER THE ADMINISTRATION OF THE FORT BELKNAP COMMUNITY COUNCIL, HARLEM, MONTANA. I ALSO SERVE AS THE PRESIDENT OF THE NATIONAL INDIAN EDUCATION ASSOCIATION WITH OUR OFFICES LOCATED IN WASHINGTON, D.C. OUR RESERVATION CURRENTLY EXISTS IN ALMOST ALL PORTIONS OF HOUSE DISTRICT NO. 16 FROM THE BLAINE COUNTY PORTION.

MY TESTIMONY WILL BE IN SUPPORT OF MONTANA 'PLAN 100'. THAT BEING WHICH WOULD CREATE A NEW HOUSE DISTRICT NO. 142. AS YOU CAN SEE ON THE MAP THIS NEW DISTRICT WOULD ENCOMPASS THE ENTIRE FORT BELKNAP INDIAN RESERVATION THUS ENABLING ALL RESERVATION RESIDENTS THE OPPORTUNITY TO VOTE AS THE FULL MEMBERS OF THE SAME DISTRICT. CURRENTLY OUR RESERVATION IS SPLIT IN THAT A MAJORITY OF OUR MEMBERS CURRENTLY SIT IN HOUSE DISTRICT NO. 16 AND OTHERS SIT IN HOUSE DISTRICT 17.

THE NEW HOUSE DISTRICT NO. 142 WOULD ALSO ENCOMPASS THE FORT

BELKNAP INDIAN RESERVATION AND THE ROCKY BOY INDIAN RESERVATION. BUT WOULD EXCLUDE THE TOWNS OF HAVRE AND CHINOOK. IN DOING SO THE NATIVE AMERICAN POPULATION IN THIS NEWLY CREATED DISTRICT WOULD TOTAL 4,638 PEOPLE, OR A PERCENTAGE OF THE TOTAL POPULATION OF AROUND 60%. THE PERCENTGE OF THE 18 YEARS AND OLDER POPULATION IN THIS NEW DISTRICT IS RIGHT AROUND 54%.

OUR RESERVATION HAS AN EXCELLENT RAPPORT WITH THE ROCKY BOY RESERVATION AS WE HAVE SHARED NUMEROUS PROGRAMS BOTH ECONOMICAL VENTURES AND EDUCATIONAL PROGRAMS THAT PROMOTE THE WELL BEING OF MEMBERS OF BOTH RESERVATIONS. MY DEPARTMENT ALONE HAS TWO PROGRAMS, THE NORTHCENTRAL MONTANA UPWARD BOUND AND TALENT SEARCH PROGRAMS THAT HAVE STUDENTS FROM EACH RESERVATIONS PARTICIPATING ON AN EQUAL BASIS IN ACHIEVING EDUCATIONAL BENIFITS FROM BOTH PROGRAMS. THE STONE CHILD COLLEGE AND FORT BELKNAP COLLEGE HAVE INTERMINGLING PROGRAMS THAT SHARE COUNSELORS AND OTHER PROFESSIONAL STAFF THAT ASSIST EACH OTHER IN ACHIEVING EDUCATION GOALS. WE JUST WANTED TO DEMONSTRATE OUR WORKING RELATIONSHIPS THAT CURRENTLY EXIST BETWEEN OUR TWO RESERVATIONS.

THE REASONS THAT WE SUPPORT THIS NEW DISTRICT CALLED "142" IS THAT CURRENTLY THERE EXISTS A POLARIZATION OF VOTING BETWEEN INDIANS AND NON-INDIANS. IF I COULD USE MY PAST ELECTION PRIMARY RACE AS AN EXAMPLE I CAN OUTLINE THIS VERY ELEMENT.

DURING THE PAST PRIMARY IN HOUSE DISTRICT NO. 16, I RAN IN A DEMOCRATIC PRIMARY AGAINST MR. FRANCIS BARDANOUVE. WHILE OUR RACE

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GAINED BOTH STATE AND NATIONAL ATTENTION VOTING OUTCOMES BASICALLY DEMONSTRATED A VERY POLARIZED TRAIT.

FOR INSTANCE, IN OUR PRELIMINARY FIGURES MR. BARDANOUVE GARNERED A TOTAL OF 865 VOTES AND I RECEIVED 565 VOTES. TO THE UNINFORMED PERSON IT LOOKS LIKE IT WAS A TIGHT RACE. I FEEL GOOD ABOUT IT EVEN THOUGH UNSUCCESSFUL. BUT IT DOES NOT TELL THE WHOLE STORY.

LET ME TELL YOU THE VOTER BREAKDOWN IN THIS PARTICULAR DISTRICT. IN CHINOOK, MR. BARDANOUVE RECEIVED 373, STIFFARM 87. MR. BARDANOUVE RECEIVED 81% OF THE VOTE. IN HARLEM, MR. BARDANOUVE RECEIVED 203 VOTES, STIFFARM 47. AGAIN MR. BARDANOUVE RECEIVED 81% OF THE VOTES. THE TOWNS OF CHINOOK AND HARLEM ARE PREDOMINANTLY WHITE COMMUNITIES.

ON THE FORT BELKNAP INDIAN RESERVATION STIFFARM RECEIVED 397 VOTES AND BARDANOUVE RECEIVED 93 VOTES. I RECEIVED 81% OF THE VOTES.

COINCIDENCE? NOT HARDLY. THIS ONLY DIRECTLY DEMONSTRATED THE POLARIZATION OF VOTERS WHEN A NON-INDIAN IS IN A RACE AGAINST AN INDIAN PERSON.

WHILE I MAY NOT HAVE BEEN THE BEST CANDIDATE THAT WOULD COME FROM FORT BELKNAP, THIS VOTE COUNT CLEARLY DEMONSTRATES THE VOTING HISTORY OF THE TOWNS ON AND NEAR OUR RESERVATIONS. IT SHOULD ALSO DEMONSTRATE THERE WILL NEVER BE AN INDIAN PERSON TO WIN A CONGRESSIONAL RACE AS HOUSE DISTRICT NO. 16 EXISTS TO DATE. ALL

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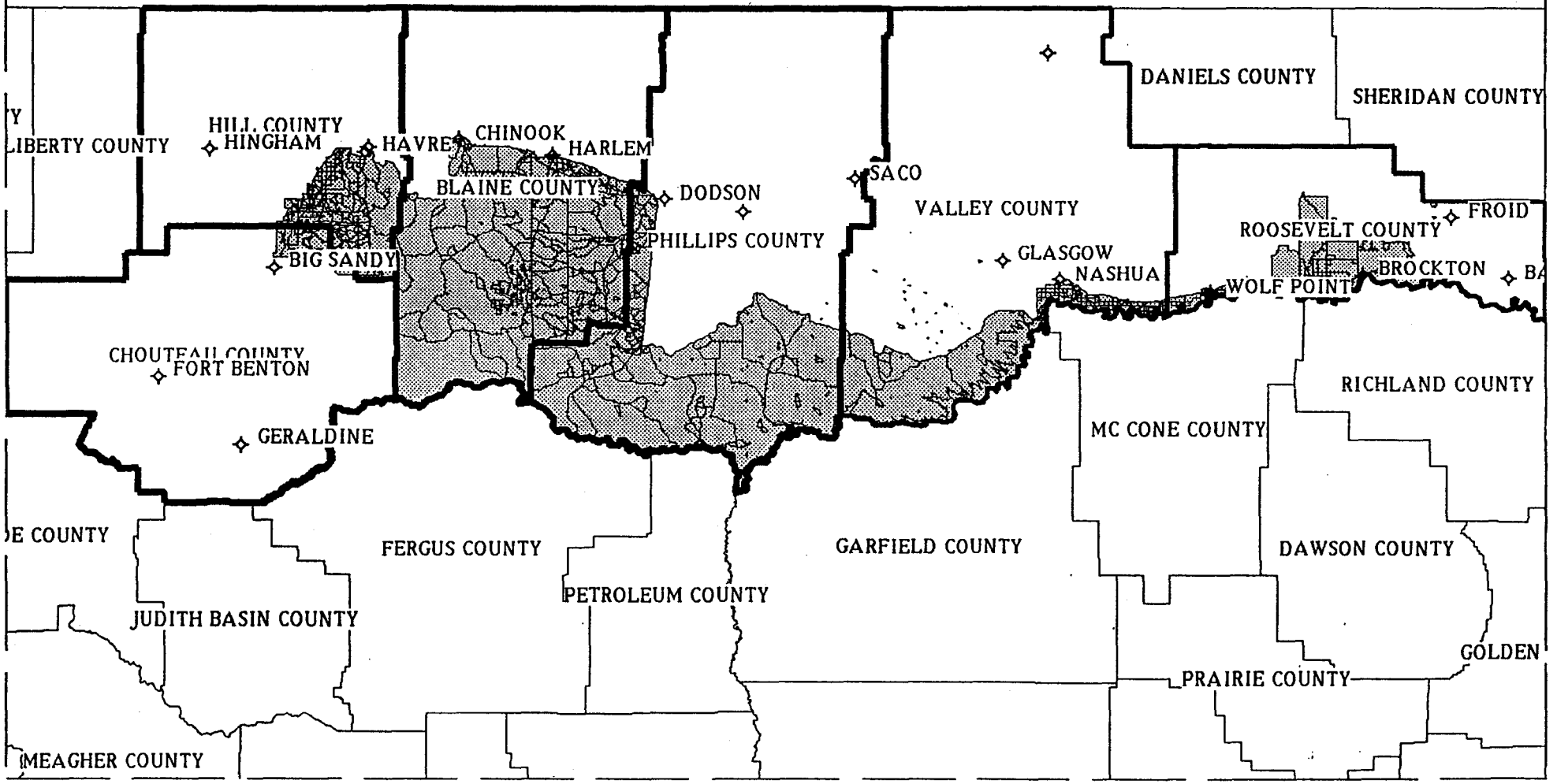
8 (b)
1-26-93
Reapportionment



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Statement of Merle Lucas, Council Member,
Assiniboine and Sioux Tribes
of the Fort Peck Indian Reservation
Before the Montana Districting and Apportionment Committee
July 22, 1992 at Wolf Point, Montana

My name is Merle Lucas and I am a member of the Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation. I welcome this opportunity to present the views of the Fort Peck Tribes on the proposed redistricting plans for the area of the State encompassed by the Fort Peck Reservation.

Background

In commenting on the Commission's proposals, it is important to understand some of the history of our Indian people. The Assiniboine and Sioux Indians have resided in the Montana and North Dakota area for generations, since at least as early as the written accounts of the first European explorers. In 1874 a large reservation was set aside for our people, together with other Indian tribes, and covering what later became the northern third of the State of Montana. In 1888 Congress carved out three smaller reservations for individual tribes, and in doing so set aside the Fort Peck Reservation as the permanent homeland for the Assiniboine and Sioux tribes. One year later Montana was established as a state and, in due course, the State established counties for its own purposes. In this way the Fort Peck Reservation, comprising some 2 million acres, came to be included

in parts of four counties: Roosevelt, Daniels, Sheridan and Valley.

The southern border of the Fort Peck Reservation lies along the Missouri River. Since this border area contains the best and most irrigable agricultural land, most of the people on the Reservation have traditionally lived within a narrow margin along the Missouri River. Among the more populous communities that have grown up in this area are Frazer, Wolf Point, Poplar and Brockton, stretching from the western Reservation border in Valley County to the eastern Reservation border in Roosevelt County.

Today, there are approximately 6,500 Indians residing on the Reservation. The vast majority of these reside in a thin strip along the Missouri River. Thus, any legislative district that is drawn to combine Fort Peck Indians together will necessarily have a thin, narrow shape, reflecting the population pattern of the Indian residence along the River.

History has not spoken well for the effectiveness of the Indian vote at Fort Peck. In the past our Indian people have been effectively cut out of the State's political process. In past redistricting plans of the Reservation area, we have never had a majority Indian voting age population in any of the districts encompassing the Reservation. Among the scores of

elective offices for city, county and state positions in this area of the State, in nearly 75 years the Tribes have only succeeded in electing a small handful of representatives to any elective post. And Indians have virtually never been appointed to important non-elective positions in the local city and county governments. This is why we believe it is vitally important that the state legislative districting plan under consideration be drawn to maximize the effective political participation of the Indians on the Fort Peck Reservation.

There is another reason as well. Since the last state legislative districting plan was adopted in 1982, the federal Voting Rights Act has been enormously strengthened, both by Congress and the courts. Section 2 of the Act was amended by Congress in 1982 to guarantee to any member of a protected minority group — including the Indians at Fort Peck -- that our right to vote will not be denied or abridged. The Act is violated if a redistricting plan deprives the Indians in this State of an equal right to participate in the political process and to elect representatives of our choice.

The 1982 amendments to the Voting Rights Act have been generously interpreted by the federal courts to provide minority voters with the right to an effective vote. In the context of redistricting, the courts have held over and over that where there is racially polarized voting, and where it is possible to

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draw a district in which the minority group can form an effective majority of the voters, the state must do so.

What we ask from this Commission is that you respect the rights granted to us by the Voting Rights Act. What we ask is that you create districts -- for both the House and the Senate -- in which Indian voters have a fair and effective opportunity to elect representatives of their choice. Anything less will deprive our tribal members of rights secured to them under federal law. We hope and intend to work with the Commission to ensure that our rights are respected in the districting plan adopted by the State. We remain aware, however, that all too often relief must be sought from the federal courts to ensure that the protections of the Voting Rights Act are fully secured.

It is unfortunately all too true in our area of the State that the lingering effects of prejudice and discrimination still taint the political process. All too often, white voters will refuse to support Indian candidates, and voting patterns break down along racial lines. This is the basic reason so few Indians have been elected to state or local office, and because of that, so few now even bother to run.

Precisely because of this racial polarization in voting, districts must be created that will ensure the Indian vote is strong enough to provide a fair and effective opportunity

for our tribal members to elect a representative of their choice. This means creating districts not only with a majority of Indian voters, but with a sufficient majority to provide the opportunity to elect a legislator of their choice.

With these general principles in mind, I turn to our specific comments on the alternatives proposed by the Commission.

A Fort Peck House District

First, in relation to districting of the House, the four proposals submitted by the Commission all provide for an Indian majority House district in Roosevelt County. The Tribes support of creation of an Indian majority House district in Roosevelt County and applaud the Commission for acknowledging the necessity, under the Voting Rights Act, of creating such a district.

However, the House districts proposed by the Commission all provide for an Indian concentration of 56 to 57 percent of the total population of the district, with none of the proposed House districts having more than the barest majority -- 50 or 51 percent -- of the voting age population of the district. Because only those over 18 years old can vote, the courts have recognized that it is the percentage of voting age population which is the critical factor in assessing whether a district will truly provide effective representation for a minority group.

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We have grave doubts that the four versions of the Indian majority district proposed by the Commission -- each with an Indian voting age population of 51 percent or less -- will be adequate to meet the legal requirement to provide our Tribal members with a fair and effective opportunity to elect a representative of their choice. Although Indians do form a bare majority of the voting age population in the proposed district, the law requires that you also consider the fact that, because of past discrimination, Indian residents may register and turn out to vote at rates lower than white residents. Thus, Indians may constitute far less than a majority of the voters who actually turn out to vote in this area. The law requires you to consider registration and turn out data, as well as voting age data, in drawing majority Indian districts, in order to ensure that the Indian control of the district is not illusory.

Importantly, it is clearly possible to draw a House district on the Fort Peck Reservation with a significantly higher percentage of Indian population. As I noted above, there are approximately 6500 Indian residents on the Fort Peck Reservation, which is <u>over 80 percent</u> of an ideal House district. We attach as Exhibits A, B and C three different proposals for a House district on the Fort Peck Reservation drawn by the ACLU. These proposed districts range in Indian concentration from 66 percent to 70 percent. Significantly, these districts have an Indian <u>voting age population</u> of 62.6 percent (Exhibit A), 64.4 percent

(Exhibit B) and 60.3 percent (Exhibit C). We believe that taking into account -- as you must -- the lower rates of Indian registration and turnout, an Indian voting age population of 60 percent or greater is much more likely to provide for effective Indian representation than the bare majority of voting age population provided in the Commission alternatives.

A Fort Peck Senate District

I turn now to the districting of the Senate. Because Senate districts are created by combining two House districts, the issue of House and Senate districting cannot be separated. The House districts are the building blocks of the Senate districts, and so they must be designed to ensure effective representation in both the House and the Senate.

In addition to not providing for a high enough Indian voting age population for the House seat, the Indian majority districts proposed by the Commission do not appear to permit the creation of any Indian majority Senate seat that includes the Fort Peck Reservation.

By contrast, the ACLU has developed a proposal that links a Roosevelt/Valley Counties House seat (Exhibit A) which has a 68 percent Indian population, with a Rocky Boy/Fort Belknap House seat (Exhibit D), which has a 61 percent Indian population. This combination creates a solid Indian majority Senate seat that

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has a 65 percent Indian population and a 59 percent Indian voting age population. We attach as Exhibit E the ACLU proposal for this Indian-majority Senate seat.

We strongly urge the Commission to give the most serious consideration to this proposed Indian Senate seat. An increase in the Indian representation in the Montana Senate would greatly contribute to the political effectiveness of the Indian citizens of Montana.

Further, we believe that the creation of this Indian majority Senate seat may well be required by the Voting Rights Act. As I noted above, where there is racially polarized voting and it is reasonably possible to create a district with a majority of Indian residents, the Voting Rights Act requires the State to do so. We believe these conditions are met here.

We recognize that this Senate seat -- as well as the configuration of the Fort Peck House seat necessary to make it up -- are arguably not compact. However, it is clear that the mandates of the Voting Rights Act supersede any contrary state law policy favoring compact districts. Districts far less compact than this have been drawn throughout the country in order to provide effective representation to minority group members. The lack of compactness of the proposed Indian Senate seat does

not constitute a legally adequate justification for rejecting the proposal.

Conclusion

In conclusion, the Fort Peck Tribes urge you to give full weight to the requirements of the Voting Rights Act in creating both House and Senate districts. This means creating a House seat on the Fort Peck Reservation with sufficient population to provide a real -- not an illusory -- opportunity to elect an Indian legislator, and creating an Indian majority Senate seat that includes Fort Peck because it is plainly possible to do so. We ask the Commission to do this because it is the right and just thing to do. And it is also, in our view, required by the Voting Rights Act, a law the Tribes will have no hesitance in asking the federal courts to fully enforce if necessary.

*

We welcome the opportunity to present our views to the Commission and we look forward to working closely with you and your staff on these matters of great importance to the Tribes.

* Plan 400 - not much different than present District — falls way short of being adequate and certainly ~~was~~ does not meet the mandate of the Voting Right Act.

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ACLU OF MONTANA
AMERICAN CIVIL LIBERTIES UNION
P. O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

TESTIMONY OF JEFFREY T. RENZ
MONTANA LEGISLATIVE REAPPORTIONMENT PLAN

I. Voting Rights Act Requirements are Paramount.

II. The State Loses If State Interests Are Offered As Reasons For Refusing To Create Majority Indian Districts.

A. "The Proposed Indian Districts Are Too Large."

1. SD 25 (1972-82) is larger than any District we proposed. (290 miles from Birney to Vida.)

B. "The Proposed Districts Are Not Compact And Are Hard To Travel."

1. To Travel Sen. Kohnke's District (formerly Sen. Galt's), one crosses the Deep Creek Divide, King's Hill, and the divide between White Sulphur and Two Dot. (It's 233 miles from Belt to Melstone.)

2. The Marias Pass, between Flathead and Blackfeet, is the lowest on the Continental Divide.

3. Aesthetic compactness is a State interest.

III. Evidence Supports A Successful Challenge To The State Plan.

A. Windy Boy v. Big Horn County found a long history of official discrimination against Indians.

B. In Each Proposed District We Found Strong Evidence Of Racially Polarized Voting.

C. Numerosity and Geographical Compactness

1. If you can draw a majority-Indian District (and we have), this criterion is satisfied.

D. Political Cohesiveness

1. Indians tend to vote Democratic, which satisfies this criterion.

IV. The Choice

A. The Reapportionment Commission has heard the concerns and interests of Montanans over the past 10 months, and can redraw the lines in a way that considers everyone's interests.

B. A federal judge can redraw the lines, without consideration of any State interests.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS CLARA NOMEE, MADAM CHAIRPERSON OF THE CROW NATION FROM THE CROW RESERVATION. IT IS CERTAINLY MY PLEASURE TO COME BEFORE YOU TODAY. HOWEVER, I AM HERE TO TESTIFY IN OPPOSITION OF THE PROPOSED DISTRICT LINES OFFERED BY THIS COMMITTEE IN REGARDS TO SENATE DISTRICT #50 AND HOUSE DISTRICT #99.

INITIALLY, THE IMPROVED DISTRICT LINES OF SENATE DISTRICT #50 AND HOUSE DISTRICT #99 THAT WERE DRAWN TEN YEARS AGO WERE PRESENTED TO BETTER SERVE THE CONSTITUENTS OF THE MENTIONED DISTRICTS, AND WHICH WERE , TO MY UNDERSTANDING, LATER REJECTED BY THIS COMMITTEE. RATHER, THIS COMMITTEE MADE A DETERMINATION, BY WHAT PROCESS I DO NOT KNOW, TO DRAW DISTRICT LINES OF YOUR OWN CHOOSING.

I AM DISAPPOINTED, FOR SUCH AN OFFER OR DESIRE AS THE NEED TO MODIFY THE DISTRICT LINES OF SENATE DISTRICT #50 AND HOUSE DISTRICT #99 SHOULD COME FROM ONLY THE PEOPLE WHO RESIDE IN THE DISTRICTS AND ARE DIRECTLY AFFECTED BY ANY SUCH MODIFICATION.

THE IMPROVED DISTRICT LINES DRAWN FROM TEN YEARS AGO AND PRESENTED WILL BETTER SERVE THE RESIDENT CONSTITUENTS.

I BELIEVE THAT THIS COMMITTEE IS ARBITRARILY IMPOSING THE DISTRICT LINES BASED ON ITS OWN ASSESSMENTS.

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IN 1982, AFTER AN AGREED PLAN OF DRAWING THE DISTRICT LINES, THE REAPPORTIONMENT COMMITTEE DEVELOPED YET ANOTHER PLAN OF ITS OWN WHICH DILUTED THE CROW INDIAN POPULATION IN THREE DIFFERENT WAYS, AND PROCEEDED TO APPROVE IT. THIS LED TO JANINE PEASE WINDY BOY et.al. vs REAPPORTIONMENT COMMITTEE AND THE STATE OF MONTANA AT THE FEDERAL COURT LEVEL, BASED ON VIOLATIONS OF THE CIVIL RIGHTS ACT AND EQUAL RIGHTS LAWS UNDER THE CONSTITUTION OF THE UNITED STATES. THE FEDERAL COURT JUDGE INSTRUCTED THIS REAPPORTIONMENT COMMITTEE TO ESTABLISH THE DISTRICT LINES AS WERE PRESENTED BY JANINE PEASE WINDY BOY.

THUS, I AM AT LIBERTY TO STATE, BEFORE THIS COMMITTEE AND THE LEGISLATURE AS A WHOLE HOW PROUD WE ARE OF HAVING OUR OWN CROW TRIBAL MEMBERS SERVING AS REPRESENTATIVES HERE IN HELENA...SENATOR BILL YELLOWTAIL, SENATE DISTRICT #50; REPRESENTATIVE ANGELA RUSSELL, HOUSE DISTRICT #99; AND REPRESENTATIVE JAY STOVALL IN HOUSE DISTRICT #98.

PRIOR TO 1982, THE CROW NATION WAS NOT IN THE POSITION TO VOICE ITS OWN NEEDS HERE AT THE CAPITOL AND IN FRONT OF THE LEGISLATURE, BECAUSE AT THAT TIME THE CONSTITUENTS OF THE CROW NATION WERE A MINORITY WITHIN THE BOUNDARIES OF THEIR OWN RESERVATION,DUE TO DISTRICT LINES FOR STATE ELECTIONS. WITHSUCH A CASE LAW AS PREVIOUSLY MENTIONED THE NEEDS AND VOICE OF THE CROW NATION ARE FINALLY BEING REPRESENTED.

THIS GREAT STATE OF OURS IS ONE OF THE MOST UNIQUE OF ALL THE STATES OF THE UNION. WHEN ONE MENTIONS THE STATE OF MONTANA, PEOPLE ARE MINDFUL OF THE MOUNTAINS, HILLS, RIVERS, FARMING, RANCHING, BIG SKYS, CATTLE DRIVES OF THE OLD WEST, AND OF COURSE, INDIANS. ALL OF US, HERE AND ACROSS THE ENTIRE STATE SHARE THIS GREAT ATMOSPHERE AND NATIONALLY IMAGE OF MONTANA. IT IS WITH GOOD FEELINGS, IN OUR MINDS AND IN OUR HEARTS, THAT, WE, THE CROW NATION ARE REPRESENTED HERE IN HELENA BY OUR OWN TRIBAL PEOPLE AND THAT WE SHARE IN THIS GREAT ATMOSPHERE AND IMAGE THAT IS MONTANA. JUST AS YOU WHO TRY SO HARD TO ADDRESS THE CONCERNS OF YOUR CONSTITUENTS, AS WELL AS OTHER SENATORS AND REPRESENTATIVES, AND THE VARIOUS DEPARTMENTS OF STATE; LIKEWISE, WE, THE CONSTITUENTS OF THE CROW NATION ADDRESS OUR CONCERNS TO OUR OWN LEGISLATIVE DELEGATION, AS WELL AS OTHERS. ALL CONCERNS BROUGHT FORTH AND ADDRESSED BY THE LEGISLATURE ARE LATER FORMED TO ENHANCE MONTANA. With the Help of God, we will be able to continue, this Relationsh

I AM WITH THE UNDERSTANDING THAT OTHER TRIBES OF THE STATE OF MONTANA ARE ALSO WITH EFFORTS TO HAVE THEIR OWN REPRESENTATION. JUST AS THE CROW NATION AND THE BLACKFEET NATION, I FULLY SUPPORT THE OTHER TRIBES OF HAVING THEIR OWN REPRESENTATIVES. THEY TOO ARE PEOPLE THAT NEED REPRESENTATION.

1. THEREFORE, IT IS MY INTENTION TO COME BEFORE THIS COMMITTEE, AND FOR THIS COMMITTEE TO ACCEPT THE PROPOSED DISTRICT LINES AS WERE INITIALLY PRESENTED WITHOUT THE INVOLVEMENT OF A FEDERAL DISTRICT COURT JUDGE IN SENATE DISTRICT #50 AND HOUSE DISTRICT #99. WITH THAT IN MIND ...THANK YOU FOR ALLOWING THE TIME TO COME BEFORE YOU TO PRESENT THIS NEED.

THANK YOU.

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NATIVE ACTION
P.O. BOX 316
LAME DEER, MT 59043
PH. (406) 477-6390
(406) 477-6537
FAX (406) 477-6421

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November 30, 1992

Jean Fallan Barrett, Chairman
Montana Districting and Apportionment Commission
Room 138 State Capitol
Helena, MT 59620-1706

RE: WRITTEN TESTIMONY IN OPPOSITION TO PROPOSED REDISTRICTING PLAN
(Current HD 100/Proposed New HD 154)

Dear Chairman Barrett:

On behalf of Native Action, Inc., a non-profit organization representing Native American constituents residing on the Northern Cheyenne Reservation, I hereby request that this testimony in opposition to the proposed redistricting plan as it concerns current HD 100/Proposed New HD 154 be received into the record. Unfortunately no one from our organization is able to attend the final hearing scheduled today in Helena.

We believe that the proposed plan (HD 154) does not represent the most reasonable alternative for maximizing minority representation and voting strength in current HD 100. Although proposed HD 154 is an improvement, it falls well short of the full potential for redistricting this house district so as to provide a meaningful opportunity for political participation by the racial minority voters in said area, namely members of the Northern Cheyenne and Crow Tribes.

We commend the Commission for moving in the right direction. However, the opportunity to redistrict comes only once every decade and is too precious to waste on half-measures. Proposed plan HD 454, submitted at the public hearing in Hardin, MT, on July 24, 1992, is the best designed plan for purposes of preserving minority voting strength and fulfilling the federal mandate of the Voting Rights Act.

In rejecting proposed HD 454, the Commission places too much emphasis on two aspects: 1. Division of Rosebud County into four house districts (proposed HD 454 actually only tri-sects Rosebud County); and 2. Deviation of -10% from the ideal population.

With regard to the first concern, there is no legal mandate for consolidation of county residents for purposes of state representation. While such a result may be desireable, it cannot be an overriding concern, and clearly pales in comparison to the federal mandate for consolidation and non-dilution of a racial minority's voting strength.

Secondly, the proposed deviation under HD 454 (approximately -10%) does not violate the Equal Protection Clause limitation of a 16% deviation between the largest and smallest districts. This is largely the result of the Commission's statewide implementation of its goal of ±5% deviation. The Commission's success in meeting the ±5% goal in the majority of the proposed new districts, allow it a comfortable margin to commit to a higher deviation in current HD 100, without compromising constitutional standards.

We encourage the Commission to recommend HD 454 for our area. We appreciate this opportunity to express our concerns and look forward to the Commission's response.

Sincerely,

Gail Small

Ms. Gail Small
Executive Director
Native Action, Inc.

cc: Northern Cheyenne Tribal President
Sen. Bill Yellowtail
Rep. Angela Russell
Janine Pease Windy Boy
Jeff Renz✓
Laughlin McDonald
Pat Smith

On 1-13-93 at the Capital I was chastised for wanting cascade county to be represented by 16 representatives in the minus category - Please refer to my letter to the commission of 8/29/92 pp 2 first paragraph.

I propose an amendment to see that Cascade County has a total of ten representatives

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Sunday, January 24, 1993

On our mi

Plan isn't fair

The reapportionment plan proposed for Cascade County is unfair to rural Cascade County residents.

If you consider that the city limits of Great Falls, the town of Black Eagle, and the grounds of Malmstrom Air Force Base is the area people think of when they consider urban Great Falls, their needs are well represented by the current plan. But what about the 15,700-plus who reside in the county and need local representation outside those boundaries? All current House representatives are from urban Great Falls, as are the majority of their constituents whom they are obligated to represent.

This leaves the rural resident with some unique problems. If a rural resident needs help at the state level, he must turn to an urban representative or a representative from outside for help. The rural residents of this county comprise a minority in any district in which they reside.

Should a rural resident of Cascade County choose to run for the Legislature to strongly represent the interests of the outlying communities, he or she must run in an urban district or a multi-county district in which most of the electorate is from outside this area.

The next 10 years is too long for these residents to be held without an effective voice. The number of important issues that will profoundly impact their lives — school consolidation, property tax reform (especially agriculture), and possible cutbacks in services to name a few — demand local representation.

Rep. Pat Galvin is right. Rural Cascade County is not fairly considered in the plan as currently proposed. This issue should be handled in a non-partisan and civic-minded manner that provides fairness to the citizens of Montana. It definitely should not be pushed through in order to finish.

DON RYAN, 2101 7th Ave. S.

Cascade County
Gateway to the North
Visit Russell Country

Courthouse Annex, Room 111
Great Falls, Montana 59401
Tel. (406) 761-6700, ext. 250
Fax: (406) 452-7838

January 25, 1993

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B HJR 5

Legislative Committee on Apportionment
Room 138, Capitol Building
Helena, Montana 59620

RE: Cascade County Apportionment 1992

Dear Committee:

It has been brought to our attention that residents of rural Cascade County may not have been properly considered in terms of representation in the State Legislature.

Please reconsider the needs and important differences that the rural population of this county have when evaluating fair representation at the State level.

In our opinion the 1982 Apportionment Plan unfairly limited the "voice" of rural residents of this county. The 1992 plan appears to duplicate and enhance these inequities. Your efforts to rectify this problem would be appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
OF CASCADE COUNTY

Harry B. Mitchell, Chairman

Jack T. Whitaker, Commissioner

Roy M. Aafedt, Commissioner

EXHIBIT 6
DATE 1/27/93
SB HJR 5

January 19, 1993

Honorable Fred Van Valkenberg- Senate President
Honorable John Mercer- Speaker of the House

RE: Apportionment- Cascade County

Gentlemen:

I am writing this communication to you to once again try to understand just exactly what is the purpose of the "Apportionment Commission".

My understanding has been that the Commission is a politically non-biased group charged with apportioning the various legislative districts under the "Guidelines and Criteria for Legislative Redistricting" set by the Montana Legislative Council- October 1991, consisting of "Mandatory Criteria" and something called "Consideration".

It has been my assignment by the Cascade County Democratic legislative delegation and Cascade County Democratic Party to be the spokesman for them on the question of re-apportionment since August 26, 1992. The day of the Commissions hearing at the Cascade County Court House in Great Falls.

As the enclosed copies of correspondence indicate, Cascade County singularly, is entitled to ten representatives. The criteria the Commission is changed to adhere to is plain on the question.

One of the most obvious dispositions of the commission from the outset is that their opinion and only their opinion is dictatorial without regard to any other. I have always been taught that in these United States including Montana that other facts and opinions are to be a part of all governing bodies decisions. Such consideration has not been given to Cascade County on the apportionment question. I cannot accept that any political body has dictatorial power anywhere in this republic.

As you can readily ascertain from the enclosed, the commission has set itself above and beyond any criticism or disagreement to or of them. Once again I claim we of Cascade County have that right and have been denied by the commission from the outset.

The question here, of course is; should rural Cascade County be entitled to representation by a Cascade County resident? i.e. one of their own. The commission's answer is a flat "no". Their opinion is that they can fragmentize Cascade County to the benefit of bordering and other counties regardless of the redistricting criteria.

The net result of the Commission's decision is 10% of Cascade Counties residents- mostly rural- are represented by legislators who are not a part of Cascade County concerns. This situation is not to be tolerated any longer.

One of the most repeated questions put to me during these discussions was "where were you ten years ago? Twenty years ago?". This has been done to Cascade County for two decades. Once again, the imperialistic viewpoint of the Commission is manifested.

Most recently the Hon. Marc Racicot, now governor, at the time Attorney General, traveled to Washington, D.C. and appeared before the United States Supreme Court to plead for the State of Montana to keep two Congressmen in the U.S. Congress. Mr. Racicot and Montana were denied. Nowhere was it considered that Montana be given additional population from any bordering state or Province in order to be made whole and retain its second congressman. In so doing the U.S. Supreme Court has set the precedent on Cascade Counties disagreement with the commission.

Let us turn to the report of the Redistricting and Apportionment Commission of December 1992 to the 53rd Legislature. Page 17- Computer Use- excellent idea- one must also realize a computer returns only that information given it. Page 18- Lack of conformity led to difficulty in following precinct and school district lines. Is this an excuse to disregard county lines- it leaves out any reference to fragmentation, why? It also points out that Cascade County was entitled to 10.13 representatives (ideally) in the 1980's. At that time the commission saw fit to divide rural Cascade County into two bi-county districts- why? Also on page 17-18 it refers to voter tabulation- one knows such information is available at the county Court House and it can be readily placed into any computer- why was the reference made in the first place?

Now we come to the presentation by the Commission of their study to the 53rd Legislature January 13, 1993 at 4:00 p.m. "Old Supreme Court" room at the capitol.

Not only did some members of the Commission berate the Cascade County legislators in their comments, they berated, chastised, and ridiculed this representative for doing what his constituents elected him to do. Represent them. I feel that although I represent House District 40 in Cascade County, I represent the County and the State as well. In that capacity my intelligence and office should not be impugned by anyone regardless of their office. I will weigh my service to this nation and state with anyone else's.

In conclusion, I ask you gentlemen and your respective Houses to throw-out the Commissions recommendations insofar as Cascade County is concerned and reconsider their actions.

Respectfully,

Patrick G. Galvin
Representative, HD 40- Cascade County

PG:ag
Enclosure
cc: Hon. Marc Racicot, Governor
Senator Franklin
Senator Doherty
Senator Mesaros
Senator Christiaens
Senator Wilson
Apportionment Commission- Capitol- Room #138
John Murphy- Cascade County Democrats
Rep. Dolezal
Rep. Sheila Rice
Rep. Ryan
Rep. Simpkins
Rep. Strizich
Rep. Tuss
Rep. Wiseman
Rep. Wyatt
Steve Hudspeth- Esquire Great Falls

EXHIBIT 6
DATE 1/27/93
B HJR 5

Comments by Representative Galvin, House District 40 8/26/92

I would like to express my appreciation to the Commission and especially to Ms. Susan Fox who has worked so diligently on this project. Cascade County has a population, according to the information I have received, of 77,691. Dividing that figure by the "ideal" of 7991, we come up with 9.6 representatives by dividing it by 7590, the mean figure, we come up with 10.25 representatives. Dividing by 8390, the extreme figure, we come up with 9.13 representatives. Using the mandatory and discretionary criteria for redistricting proposed by the Montana Legislative Council in November 1990, I feel Cascade County alone should be entitled to 10 representatives.

1. "The commission should apply the same mandatory and discretionary criteria to each district." (General Instructions pp 1) Have you split any other county five ways?

2. "If the commission were to follow county lines when possible but not do so in one county although it was possible to do so, a court may well hold this action to be unconstitutional." (pp 2 para 1) i.e. Jefferson County.

3. With the division, as set up in the current plans, one can readily see and claim "fracturing" of Cascade County (pp 5 para 3)

4. "Each district shall consist of compact and contiguous territory." (pp 6 para 3)

5. "A court would almost certainly not consider a district shaped like an hour glass to be compact." (pp 7 para 1 - HD 40)

6. Criteria
   a) Following the lines of political units Districts are often drawn to follow, to the extent possible, the boundary lines of cities, towns, school district, Indian Reservations and the government units.

7. Communities of Interest
   a) Communities of interest can be based on such things as trade areas, communication and transportation networks and prevalent occupations and lifestyles. (pp 8 para 1 and 3) Great Falls is in the center of Cascade County - not Lewistown, Helena, or Townsend.

In my opinion, Cascade County has been shortchanged in the legislature for the past decade. I feel the county has been fractured long enough to the advantage of other communities and I feel corrective measures should be taken to make Cascade County whole.

Thank you

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE PATRICK G. GALVIN
HOUSE DISTRICT 40
HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
HOME ADDRESS:
105 29TH AVE., NW
GREAT FALLS, MONTANA 59404

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES & AGING
STATE ADMINISTRATION

Aug. 29, 1992

Montana Districting and Apportionment Commission
Room 138 State Capitol
Helena, Mt. 59620-1706

EXHIBIT 6
DATE 1/27/93
B HJR 5

Re; Cascade County

Dear Commissioners;

In response to your invitation, at the close of the Aug. 26th. meeting in Great Falls, I am submitting some suggestions. First, let me re-state that I feel Cascade County solely is entitled, by virtue of the census and the prevailing current law, to ten representatives in the Montana state legislature. With this in mind please review what transpired at the Aug. 26th. meeting; Rep. John Cobb H.D. 42 desires to relinquish from Great Falls, Sun Prairie Village, Vaughn, Ulm, Cascade, Sun River and Fort Shaw. I feel H.D. 42 should be out of Cascade County entirely. I believe Mr. Cobb's only reason to retain Simms is to retain a bi-county district.

Although I do not have a copy of Rep. Mike Foster's letter to you, I have had personal conversation with him and he described how he was not accepted by Cascade County voters and was asked to leave their property. He was told that he did not represent them when he campaigned in the Belt-Stocket-SandCoulee area. I do not blame him a bit for wanting out of Cascade County.

With respect to H.D. 11, Mrs. DeBruycker too, expresses a bit of dubiousness about campaigning in Cascade County.

As I have stated in my Aug. 26th. remarks, insofar as H.D. 29 is concerned, Cascade County has very little in common with Lewistown. To wit: Cascade County is not represented by its own people, but by others whose interests do not include Cascade County. Bear in mind also the remarks of Co. Commissioner Harry Mitchell and County Clerk and Recorder Joe Tropila to the effect that Cascade County voters want to be represented by Cascade County legislators. My own conversations with people in the Stockett-Sand Coulee-Tracy-Giffen area denotes no interest in voting for a legislator from outside of the area.

I would probably agree, in general, with the 200 plan with revisions. I would take the crescent shape described by Rep. Sheila Rice, including in that area the area east, south and west of Great Falls, Belt from the Highwood mountains, Monarch, Neihart, Eden, Giffen, Stockett, Sand Coulee, Tracy, Fife, Ulm, Cascade, Vaughn, Sun River and Gordon, all of which are foothills farmers and ranchers.

Because of the already made decision on Teton and Liberty Counties, I concede Simms-Fort Shaw to H.D. 11. If the new district doesn't have sufficient population, after revisions, to meet the mean population figure of 7590, then consider part or all of Meagher County or part or all of Judith Basin County. I realize this still makes two bi-county districts in Cascade County. Perhaps an earlier notification of the plan for Cascade County might have enlightened the Commission of the thoughts of Cascade County residents. Looking to the future, Great Falls and Cascade County finally seem to be moving toward increased population. The fact that much new construction is underway at this time. Three new sorely needed motels are under construction. McLaughlin Center is well underway, as is Sam's Club, the new juvenile detention center and of course the ethanol plant. Most of the new home construction at the present is in House Districts 39, 40, 41 and with the installation of water and sewer lines in the "Lower Sun River" area of H.D. 40 we envision much new home construction in that area.
Once again, I offer my congratulations to you for taking on a very difficult task, many would have thrown up their hands long ago. Please consider my suggestions as constructive. I hold Cascade County foremost.

Sincerely,

Patrick G. Galvin

cc; file
Jean F. Barrett, Cperson
S.S. Frisbee
J.J. Pasma
H.J. Pinsoneault
J. D. Rehberg
Susan Fox, staff

Enclosure (1)

The Big Sky Country

RECEIVED
SEP 21 1992
MONTANA LEGISLATIVE COUNCIL

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE PATRICK G. GALVIN
HOUSE DISTRICT 40
HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
HOME ADDRESS:
105 29TH AVE., NW
GREAT FALLS, MONTANA 59404

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES & AGING
STATE ADMINISTRATION

Sept. 15. 1992

Montana Districting and Apportionment Commission
Room 138 State Capitol
Helena, Mt. 59620-1706

Re: Cascade County

Ladies and Gentlemen:

I am in receipt of your Sept. 9, 1992 plans 400 and 500, they, like your plans 100 and 300, are entirely unacceptable. Please bear in mind that Cascade County is entitled to ten representatives. I cannot accept anything short of that. There is no alternative.

Respectfully,

Patrick G. Galvin

cc: file
BC - Susan Fox, Staff person

EXHIBIT 6
DATE 1/27/93
HJR 5

The Big Sky Country

RECEIVED
OCT 16 1992
MONTANA LEGISLATIVE COUNCIL

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE PATRICK G. GALVIN
HOUSE DISTRICT 40
HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
HOME ADDRESS:
105 29TH AVE., NW
GREAT FALLS, MONTANA 59404

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES & AGING
STATE ADMINISTRATION

Oct. 12, 1992

Montana Districting and Apportionment Comm.
Room 138-State Capitol
Helena, Mt. 59620-1706

Re: Cascade County

Ladies and Gentlemen;

I am in receipt of your notice of Oct. 2, 1992. Thank you. May I make one more effort to ask you to please adhere to the "Mandatory and Discretionary Criteria for Redistricting" prepared by the Montana Legislative Council--November 1990 insofar as Cascade County is concerned. I ask you to please refer to my remarks and correspondence to you of July 26, 1992-July 29, 1992 and September 15, 1992. My understanding as to the makeup of your commission is that it is and should be non-partisan. Are you non-partisan? Let me say one more time: Have you split any other county five different ways? Do you follow county lines? Are you fracturing Cascade County? Are Cascade County's districts compact and contiguous? Have you taken into consideration communities of interest? Are you gerrymandering Cascade County for some others interest and/or gain?
Will you advise me as to which type of attorney I should contact if I deem it necessary on this question?

Thank you,
Patrick G. Galvin
Patrick G. Galvin

cc: file

EXHIBIT 6
DATE 1/27/93
B HJR-5

The Big Sky Country

RECEIVED
OCT 15 1992
MONTANA LEGISLATIVE COUNCIL

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE PATRICK G. GALVIN
HOUSE DISTRICT 40

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
105 29TH AVE., NW
GREAT FALLS, MONTANA 59404

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES & AGING
STATE ADMINISTRATION

Oct. 13, 1992

Montana Districting and Apportionment Commission
Room 138 State Capitol
Helena, Mt. 59620-1706

Re: Cascade County

Ladies and Gentlemen;

I am in receipt of your Oct. 5, 1992 letter to "Interested Persons". Thank you. I am an interested person. I am sorry that the enclosed Great Falls Tribune article is so tardy in being published. It could have saved my Oct. 12, 1992 letter to you. I am sending it to you in the hope that you too can now see how you are using Cascade County to the benefit of others and in so doing are denying Cascade County residents their rightful representation. It also proves that I am not singular with my opinion. One can readily see why Mr. Roskie would be jumping for joy at your decision, were I in his shoes I too would be "laughing up my sleeve". Just think, by your action how you have turned a six to three majority in Cascade County into a seven to six minority!
I would like to participate in your November thirtieth hearing, but all indications at this time are against my being able to attend. Therefore, I desire that in case I cannot attend personally, that you read into the record all of my correspondence to you. (Dated 7/26; 7/29; 9/15; 10/12, 1992).

Also, although it means little to nothing, as Susan Fox and I have verbally discussed, I would like the boundaries of new district 558 to be extended east to the Missouri river on the "frontage road" then south (upstream) to meet the former line of HD 40. Also, on the extension west, where the frontage road and I-15 meet (34th. St, N.W.) use Interstate 15 as the northern border instead of the frontage road to wherever "between Manchester and Sun Prairie Village" is.

Sincerely,
Patrick G. Galvin
Patrick G.Galvin

cc: file

EXHIBIT 6
DATE 1/27/93
HB 5

Montana Districting and Apportionment Commission

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

Commission members:
Jean Fallan Barrett
Chairman
2042 Gold Rush Avenue
Helena, MT 59601

Selden S. Frisbee
13 East Main
Cut Bank, MT 59427

James J. Pasma
5 Curve Drive
Havre, MT 59501

H.J. "Jack" Pinsoneault
215 West Broadway
Missoula, MT 59802

Jack D. Rehberg
2922 Glenwood Lane
Billings, MT 59102

Staff:
Susan Fox
Tom Gomez
Researchers
John MacMaster
Attorney
Ellen Garrity
Secretary

October 16, 1992

Representative Patrick Galvin
105 29th Ave., NW
Great Falls, Montana 59404

Dear Rep. Galvin:

I am writing in response to your October 12 letter to the Commission.

Much of your letter can be answered by the letter I wrote earlier today to Rep. Strizich. A copy of that letter is enclosed.

You request that the Commission adhere to the redistricting criteria that it adopted. A copy of those criteria is also enclosed. The Commission has adhered to those criteria. Please note that criteria II, 1, states that "Consideration will be given to the boundary lines of existing local government units, including counties." (emphasis added) As I pointed out in my letter to Rep. Strizich, there is no law that requires a county to be given as many districts as possible completely within the county or that even requires consideration of county lines for any purpose. The Commission could have chosen to completely ignore county lines, and there would be no legal remedy against the Commission or its redistricting plan.

As to the Commission's nonpartisanship, I have attended every meeting but one of the Commission and can assure you that it is definitely nonpartisan. Most of its votes have been unanimous. I have seen the Republican members speak and vote against what Republicans wanted and Democratic members speak and vote against what Democrats wanted. The Commission has not gerrymandered any county or area to favor any party, legislator, candidate, person, political subdivision, entity, group, or area. I believe that the minutes and record of the Commission's public meetings demonstrate that there has been no gerrymandering, and I am certain that a poll of people attending the public meetings would show that a vast majority of them saw no partisanship.

The Cascade County districts are compact, and they are clearly and obviously contiguous.

The simple fact is that Cascade County's population declined by 3005 persons between

1980 and 1990. Despite this decline, the Commission has tentatively adopted a plan that gives the county nine house seats completely within the county, the same number it now has.

Since your letter implies the possibility of legal action, it would not be proper for me or the Commission to recommend an attorney to you. However, in view of my opinion that there is no legal basis whatever for a suit, I recommend that you get the best attorney you can find, although I also believe that any attorney well-versed in redistricting law will tell you that you have no basis for a suit.

I was the staff attorney for the last Redistricting Commission, 10 years ago, and have during that time kept current on redistricting cases nationwide. No state in the union has had fewer cases brought against its redistricting plans than Montana has in the 20 years since the 1972 Montana Constitution mandated redistricting by Commission, and the state has won every one of those few cases. This is a record to be proud of and is testimony to the quality and fairness of the Commission plans.

Sincerely yours,

John MacMaster

John MacMaster

enclosures

ppe 2290jmxb.

EXHIBIT 6
DATE 1/27/93
B HJR 5

Montana Districting and Apportionment Commission

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

October 16, 1992

Rep. Bill Strizich
736 27th Ave. N.E.
Great Falls, Montana 59404

Dear Representative Strizich:

At its September 30 meeting in Billings, the Commission voted to have me respond by letter to the last point raised in the letter that the Commission received from you on September 24.

The last part of your letter raises the possibility of legal action by one or more Great Falls and/or Cascade County persons or entities if the Commission does not adopt for that area a plan that gives the county a rural district completely within the county. As you noted, the Commission currently contemplates a plan that provides parts of four rural districts, none of which will be entirely within the county. The plan also provides for nine house districts that are urban, urban-suburban, or urban-suburban-rural and that are completely within the county.

There is no federal or Montana constitutional, statutory, or case law that requires that legislative districts be drawn so as to place as many as possible in each county, nor is there any law requiring the Commission to even consider county lines.

The Commission may, if it wishes, choose a discretionary standard such as following county lines to the extent possible or giving consideration to county lines. It could also set a priority on such a standard with respect to how the standard fits in with other discretionary standards. Any discretionary standard would have to give way if its application conflicted with one or more of the mandatory standards of population equality, compactness and contiguity, and nondilution of the Native American vote.

One discretionary standard chosen by the Commission is that "Consideration will be given to the boundary lines of existing local government units, including counties." In addition to this discretionary standard and the mandatory standards noted above, the Commission adopted six other discretionary standards that it must consider and did not give a priority to any of the discretionary standards. The other discretionary standards are that the Commission will consider voting precinct lines, school district lines, communities of interest, geographical boundaries, and existing legislative district lines and that it will not draw lines to favor a political party or protect or defeat an incumbent legislator. To the extent that one or more of these discretionary standards are important to the people and officials in any given part of the state, the Commission has attempted to fulfill them to the extent possible, always bearing in mind that the mandatory standards take precedence

and that each discretionary standard must be balanced against the other discretionary standards for a given county or area and against all standards, mandatory and discretionary, for surrounding counties and areas and for the state as a whole.

In McBride v. Mahoney, 573 F. Supp. 913 (D.C. Mont. 1983), the court stated:

> We now turn to the contention that the Commission did not follow its own criteria. It is apparent, however, that the criteria were not inflexible. It is clear from the wording of the criteria and the Commission discussions that they were considerations only and that the conflicts between the criteria as they existed within a district and as they existed between districts had to be balanced in arriving at a plan embracing the entire State.

The "Commission" referred to in the court's statement is the 1979 Montana Districting and Apportionment Commission, whose discretionary standards were almost identical to those of the 1989 Commission.

Your letter states that Great Falls will always be unfairly pulled apart to compensate for population shifts from east to west. The Commission's census data shows that Great Falls itself lost population. It is this factor, not the east-to-west population shift in the 1980s, that accounts for any perceived pulling apart of Great Falls and Cascade County. Despite this population loss, under the plan tentatively adopted by the Commission for the Cascade County area, the county retains nine house districts wholly within the county. The Commission thus feels that it has been more than fair to the city and county.

Section 5-1-108, MCA, requires only one public hearing, in Helena, on the legislative redistricting plan, when the plan for all house and senate districts is completed. In an effort to give all who are interested in redistricting a maximum chance for input, the Commission decided to also hold 12 public meetings in the various regions of the state, each meeting limited to that region. I attended all but one of these meetings and all of the organizational meetings and teleconferences at which the Commission discussed testimony at the public meetings and materials submitted by mail and chose tentative plans for the various regions. I can personally assure you that the Commission made every effort to take into account the interests of counties. It was, however, impossible for each person and entity interested in each of the seven discretionary criteria (many of which are composed of subcriteria) to be given everything the person or entity wished.

Sincerely yours,

John MacMaster

John MacMaster

ppe 2290jmxa.

EXHIBIT 6
DATE 1/27/93
SB HJR 5

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE PATRICK G. GALVIN
HOUSE DISTRICT 40
HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
HOME ADDRESS:
105 29TH AVE., NW
GREAT FALLS, MONTANA 59404

COMMITTEES:
HIGHWAYS & TRANSPORTATION
HUMAN SERVICES & AGING
STATE ADMINISTRATION

Oct. 21, 1992

Montana Districting and Apportionment Commission
Room 138-State Capitol
Helena, Mt. 59620-1706

Re; Cascade County

Ladies and Gentlemen;

I am in receipt of a letter (with enclosures) dated Oct. 16, 1992 over the signature of John MacMaster, who is listed on your letterhead as a researcher. He sends me no surprises. In the third paragraph he emphasizes the word "consideration". That is exactly the manner which this state is being governed by the current administration. To wit: find a loophole and circumvent the intent of the law to the administrations benefit. I fully realize the redistricting criteria is just that, and is not law. My experience for twenty-two years as a union representative taught me that lesson--if the question is not specifically set down in black and white and signed by the parties involved the question is of course moot. This is a prime example of a law containing the word "may" instead of "shall". However, I find it strange that the committee will apply the criteria in one manner when it pertains to our Indian nations and another application when it applies to Cascade County. You apply it one way when it pertains to Jefferson County but another manner when it pertains to Cascade County. I feel the whole difficulty here is about the abuse of power and betrayal of trust. Not gerrymandering? Why then is Cascade County fractured to the benefit of counties which do not have sufficient population to maintain a representative? Cascade County has lost 3005 persons? If so, how many representatives was Cascade County entitled ten years ago? The criterias main reason for existance is to guarantee the one man one vote concept. (voting rights act of 1965) I feel by shattering Cascade County as you have, you are again "voting livestock". Am I wrong, when I believe the A.C.L.U. brought suit in the name of the Salish-Kootenai or some other Indian nation against you and won? If not, why then did you bow to the Rocky Boy and Fort Belknap group on their demands?
In closing, please enlighten me to this: If the Guidelines and Criteria for Legislative Redistricting are merely to be treated with "consideration" of what value are they and for that matter, the commission itself? Please read this into the minutes of your 11/30/92 meeting.

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

January 11, 1993

Montana Apportionment Commission
Ms. Susan Fox
Room 138
Capitol Station
Helena, MT 59620

RE: Cascade County

Please accept this as my protest to your shattering of Cascade County. As a representative of all of Cascade County and the state of Montana, I cannot, for any reason, understand your obstinacy on the question.

Sincerely,

Patrick G. Galvin

Rep. Patrick G. Galvin
House District # 40

PGG:sh

EXHIBIT 6
DATE 1/27/93
HB 825

The Big Sky Country

RECEIVED
JAN 11 1993
MONTANA LEGISLATIVE COUNCIL

MONTANA HOUSE OF REPRESENTATIVES

Montana Districting and Apportionment Commission
Room 138 State Capitol
Helena, MT

Dear Commission Members:

I only wish to reiterate my ardent objection to the impact your proposed "final plan" would have on the citizens of my home county. The district I represent would be largely without much change, but overall I must continue to take exception with the impact the plan has on the rural extremities of the county which are being amputated from our community under your plans.

I believe the Commission has chosen to ignore the central community of interest, Great Falls which is clearly the cultural and market center of Cascade County. Voters in these outlying portions of the County, whose votes are being distributed to Lewis and Clark, Teton and Fergus counties are being effectively disenfranchised from the political process. Because of the shift of influence to population centers outside Cascade County it is highly unlikely that folks in many of our effected rural communities will have an opportunity to serve in the legislature or elect representatives who adequately represent their needs in terms of tax policy and all other major issues affecting their lives and businesses.

Please re-consider your course of action which I feel is unfair to the rural citizens of Cascade County and will ultimately be irrevocable for the next decade.

Respectfully Yours,

Bill Strizich

EXHIBIT 6
DATE 1/27/93
B HJR 5

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

YELLOWSTONE COUNTY
Prepared at the request of Rep. Molnar

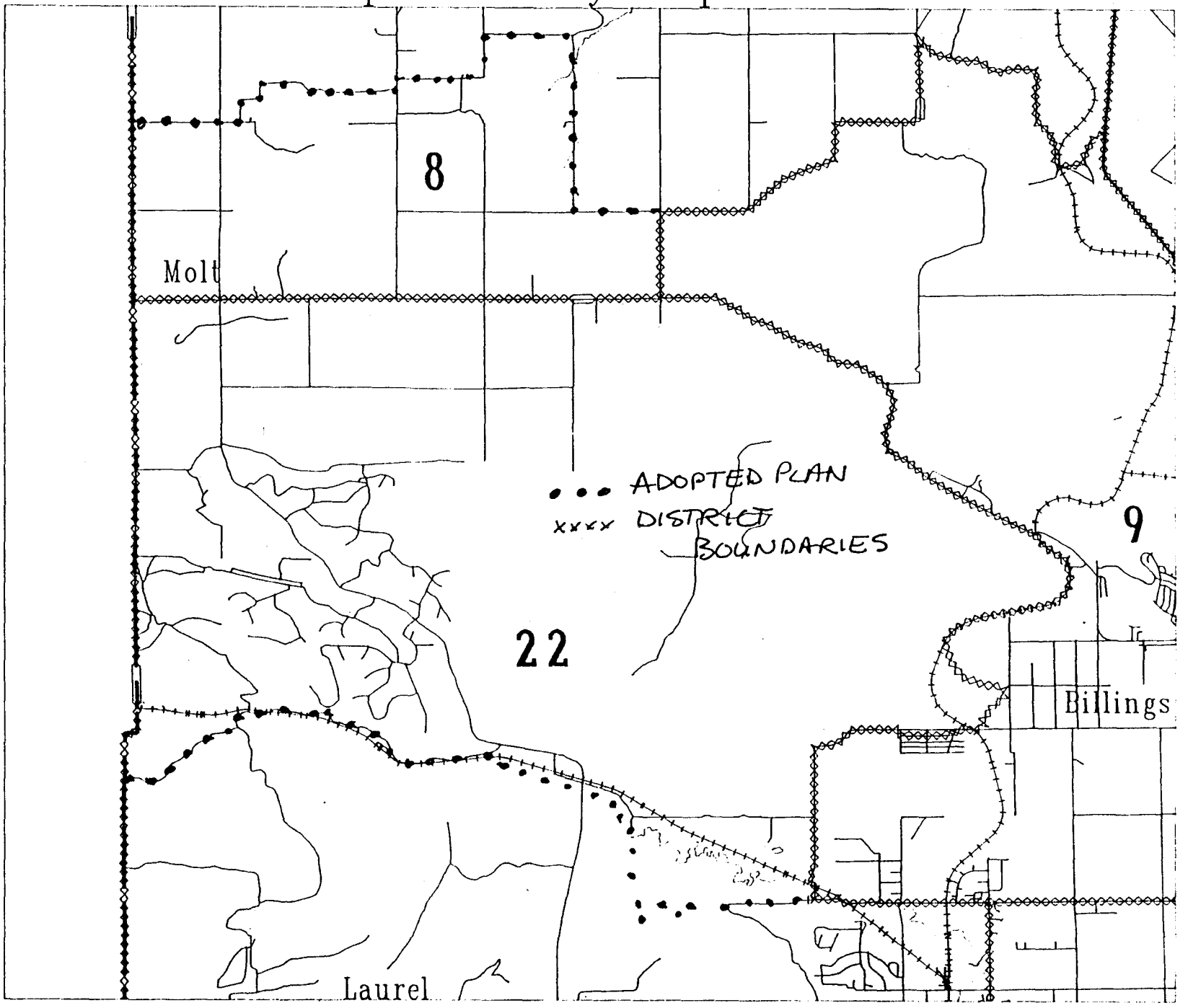
1. This amendment would move the northwest boundary of House District 22 from King Avenue and Canyon Creek to the Molt Road. This amendment also brings the southern boundary of House District 8 in Yellowstone County to the Molt Road. Both of these amendments move the western boundary of House District 9 east towards Billings.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
8	31	7628 (-4.54%)	7651 (-4.25%)
9	87	8220 (2.87%)	7952 (-0.49%)
22	85	8084 (1.16%)	8329 (4.23%)

EXHIBIT 7
DATE 1/27/93
HB HJR 5

YELLOWSTONE COUNTY

Requested by Rep. Molnar



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

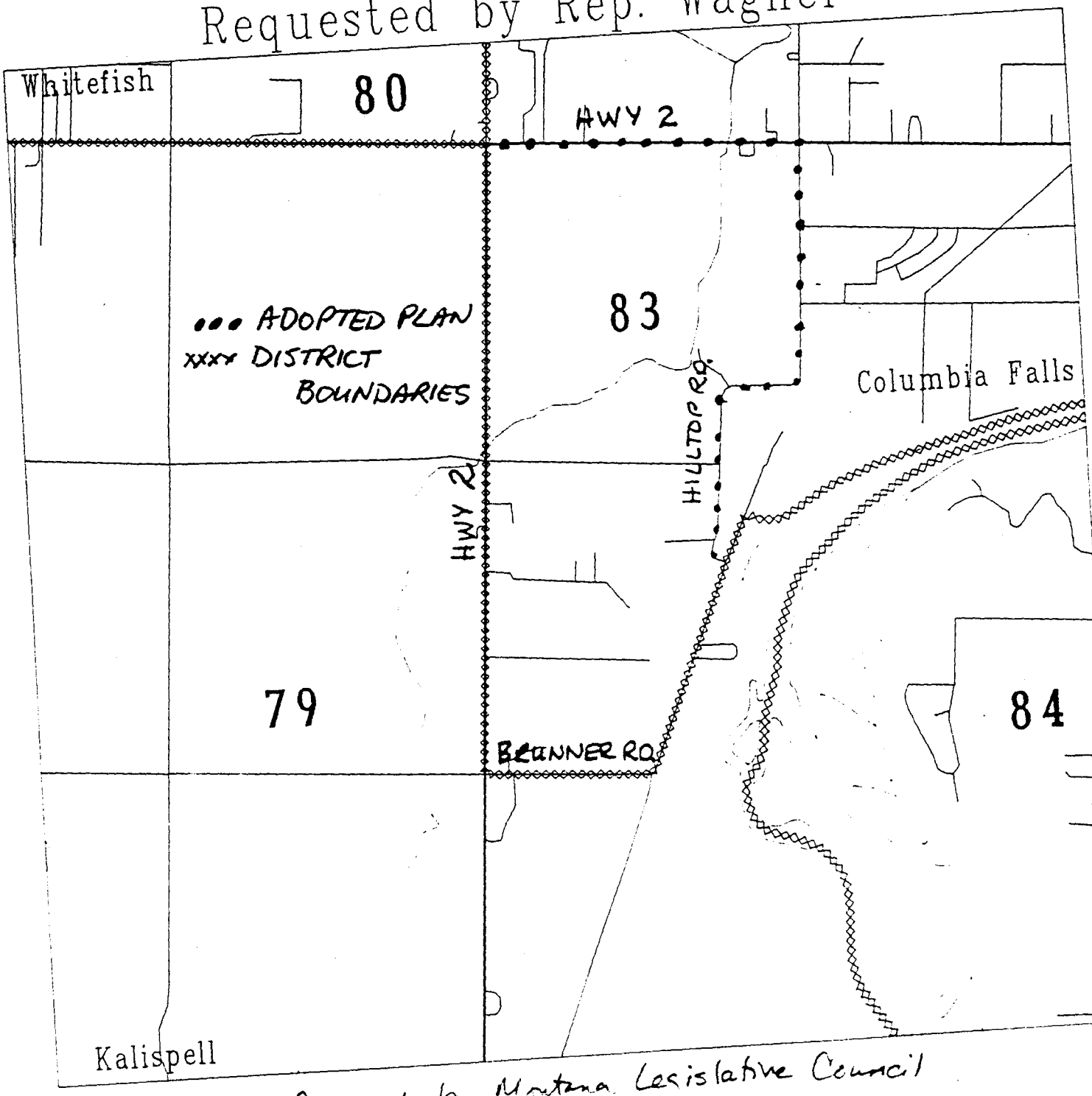
FLATHEAD COUNTY
Prepared at the request of Rep. Wagner

1. This amendment would move the southwest boundary of House District 83 from Highway 2 (east/west) and Hilltop Road to Highway 2 (north/south) and Brunner Road.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
79	4	7933 (-0.73%)	7750 (-3.02%)
83	8	7875 (-1.45%)	8058 (0.84%)

EXHIBIT 8
DATE 1/27/93
HB HJR 5

FLATHEAD COUNTY
Requested by Rep. Wagner



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 26, 1993

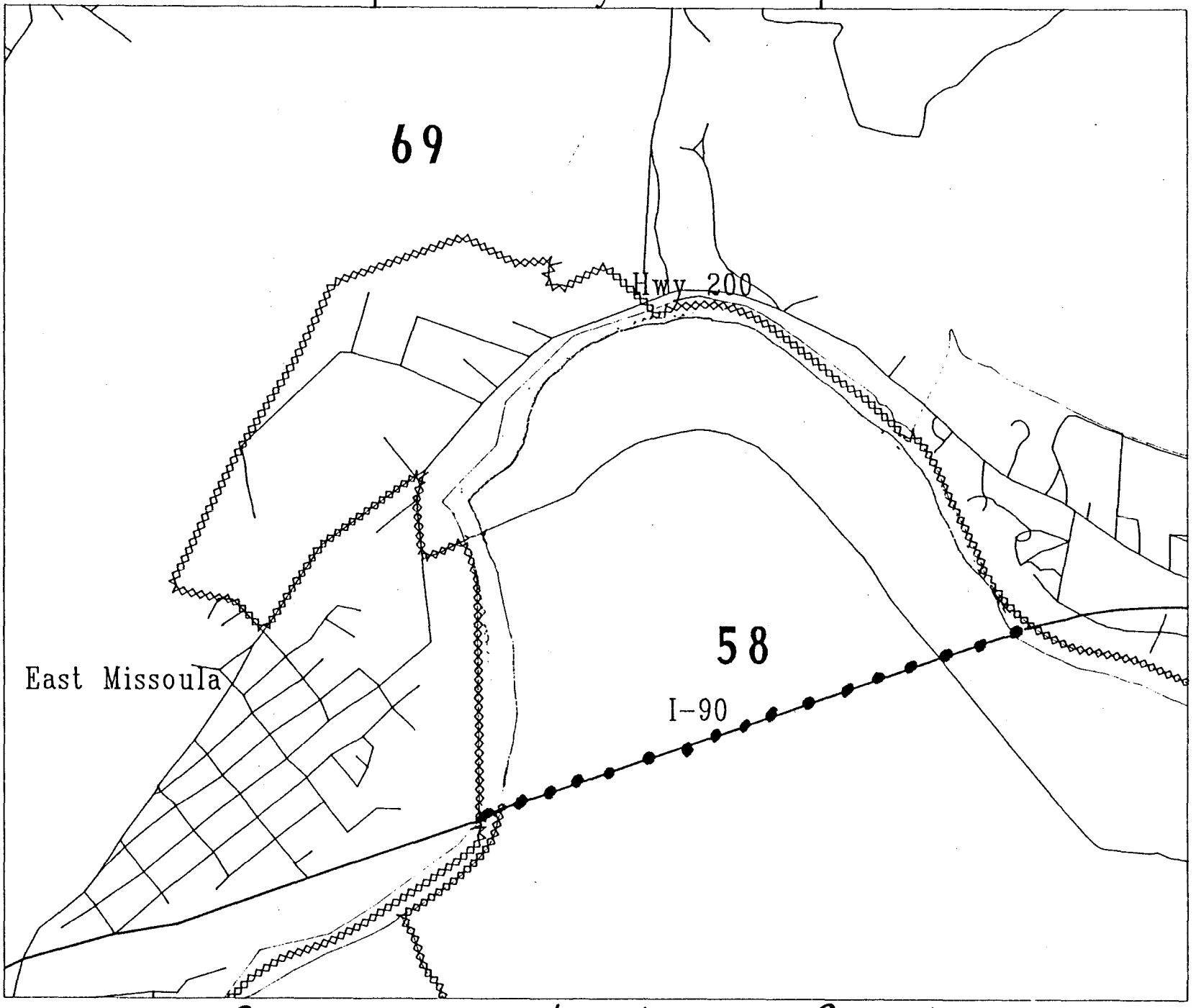
MISSOULA COUNTY
Prepared at the request of Sen. Pipinich

1. This amendment would move a portion of the southern boundary of House District 69 from I-90 to north of Highway 200 east of East Missoula and follows the Clark Fork River to the adopted boundary.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
58	65	7981 (-0.13%)	8238 (3.09%)
69	54	8157 (2.08%)	7900 (-1.14%)

EXHIBIT 9
DATE 2/10/93
HB HJR 5

MISSOULA COUNTY
Requested by Sen. Pipinich



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

Senate District Combinations
Requested by Sen. Beck

1. Amend the House District pairings for Senate Districts as follows:

56 and 58 (former HDs 48 and 65, Reps. Smith and Larson, Sens. Pipinich and Beck)
37 and 57 (former HDs 70 and 67, Reps. Pavlovich and Menahan, Sens. Lynch and Pipinich)
36 and 38 (former HDs 71 and 68, Reps. Quilici and Harrington, Sens. Jacobson and Lynch)
35 and 39 (former HDs 72 and 75, Reps. Brown and Grimes, Sens. Jacobson and Rea)
40 and 41 (former HDs 32 and 33, Reps. Foster and Wiseman, Sens. Koehnke and Franklin)
42 and 43 (former HDs 34 and 37, Reps. Dolezal and Wyatt, Sens. Franklin and Wilson)
44 and 49 (former HDs 38 and 39, Reps. Ryan and Simpkins, Sens. Wilson and Mesaros)
50 and 55 (former HDs 42 and 47, Reps. Cobb and Grady, Sens. Mesaros and Beck)

EXHIBIT 10
DATE 1/27/93
HB HJR 5

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

Senate District Combinations
Requested by Rep. McCarthy and Rep. Menahan

1. Amend the House District pairings for Senate Districts as follows:

56 and 57 (former HDs 48 and 67, Reps. Smith and Menahan, Sens. Beck and Pipinich)
50 and 58 (former HDs 42 and 65, Reps. Cobb and Larson, Sens. Mesaros and Pipinich)
54 and 55 (former HDs 46 and 47, Reps. Hibbard and Grady, Sens. Bartlett and Beck)
52 and 53 (former HDs 44 and 45, Reps. Harper and Ewer, Sens. Waterman and Bartlett)
51 and 39 (former HDs 43 and 75, Reps. J. Rice and Grimes, Sens. Waterman and Rea)
40 and 41 (former HDs 32 and 33, Reps. Foster and Wiseman, Sens. Koehnke and Franklin)
42 and 43 (former HDs 34 and 37, Reps. Dolezal and Wyatt, Sens. Franklin and Wilson)
44 and 49 (former HDs 38 and 39, Reps. Ryan and Simpkins, Sens. Wilson and Mesaros)

EXHIBIT 11
DATE 1/27/93
HB HJR 5

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

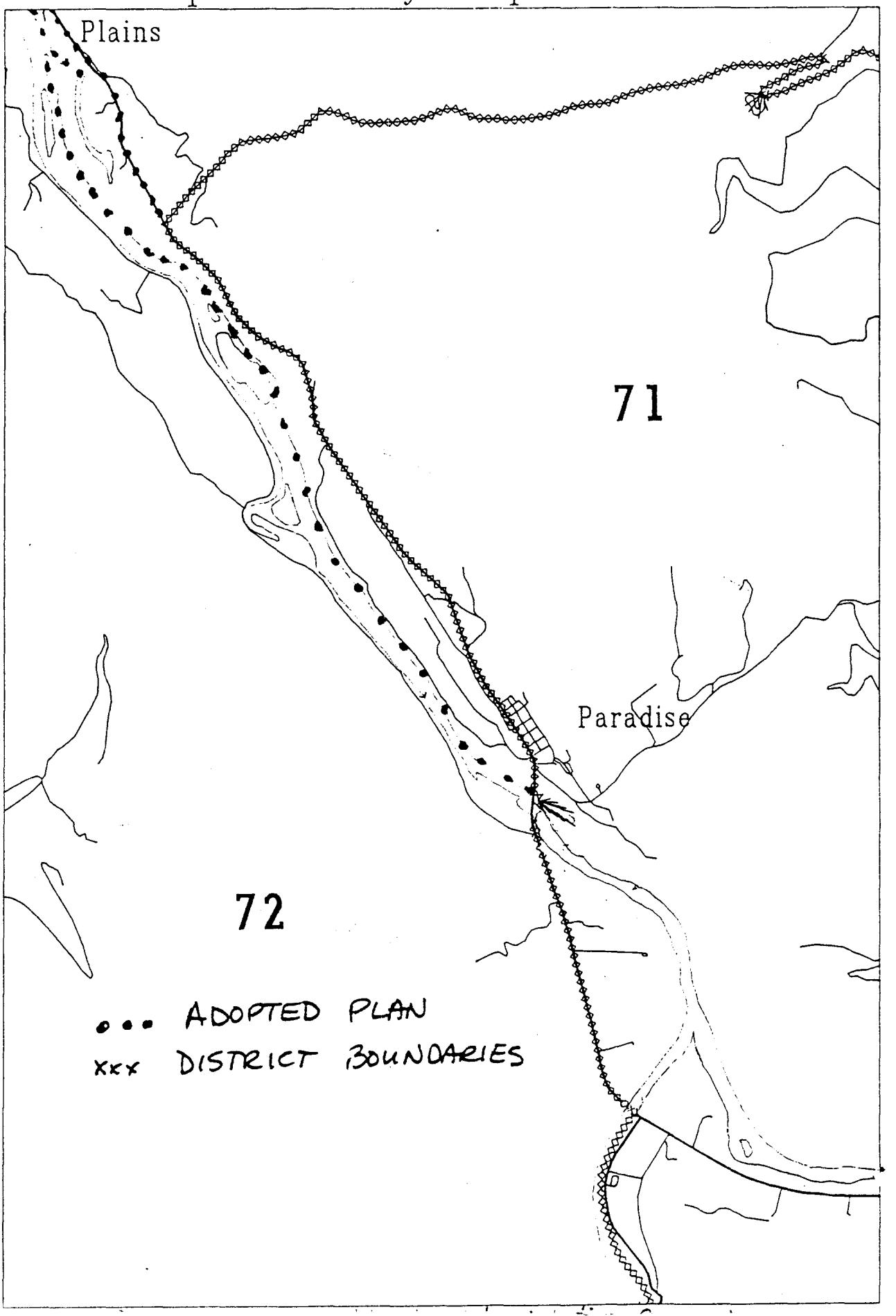
SANDERS COUNTY
Prepared at the request of Rep. Elliott

1. This amendment would move the boundary south of Plains from the Clark Fork River to follow Hwy 200 past Paradise and where it intersects the Clark Fork River, it follows the river south.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
71	52	8064 (0.91%)	8032 (0.51%)
72	51	8169 (2.23%)	8201 (2.63%)

EXHIBIT 12
DATE 1/27/93
HB HJR 5

SANDERS COUNTY
Requested by Rep. Elliott



Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

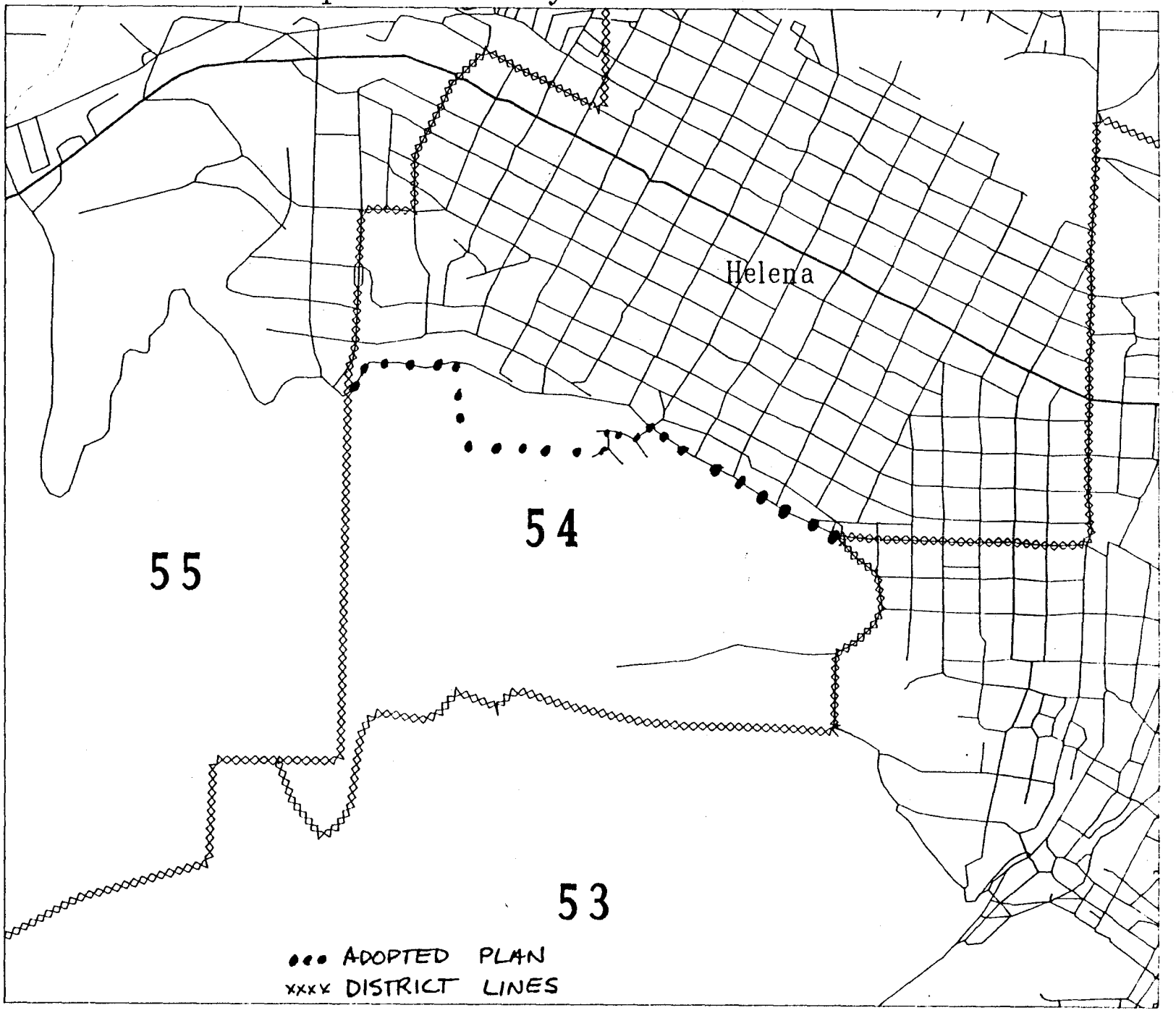
LEWIS AND CLARK COUNTY
Prepared at the request of Sen. Bartlett

1. This amendment would move the southern boundary of House District 54 from La Grande Cannon Boulevard to a ridge line on Mount Helena.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
53	45	7978 (-0.16%)	7919 (-0.90%)
54	46	8298 (3.84%)	8357 (4.58%)

EXHIBIT 13
DATE 1/27/93
HB HJR 5

LEWIS & CLARK COUNTY
Requested by Sen. Bartlett



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

MISSOULA COUNTY
Prepared at the request of Rep. Sayles

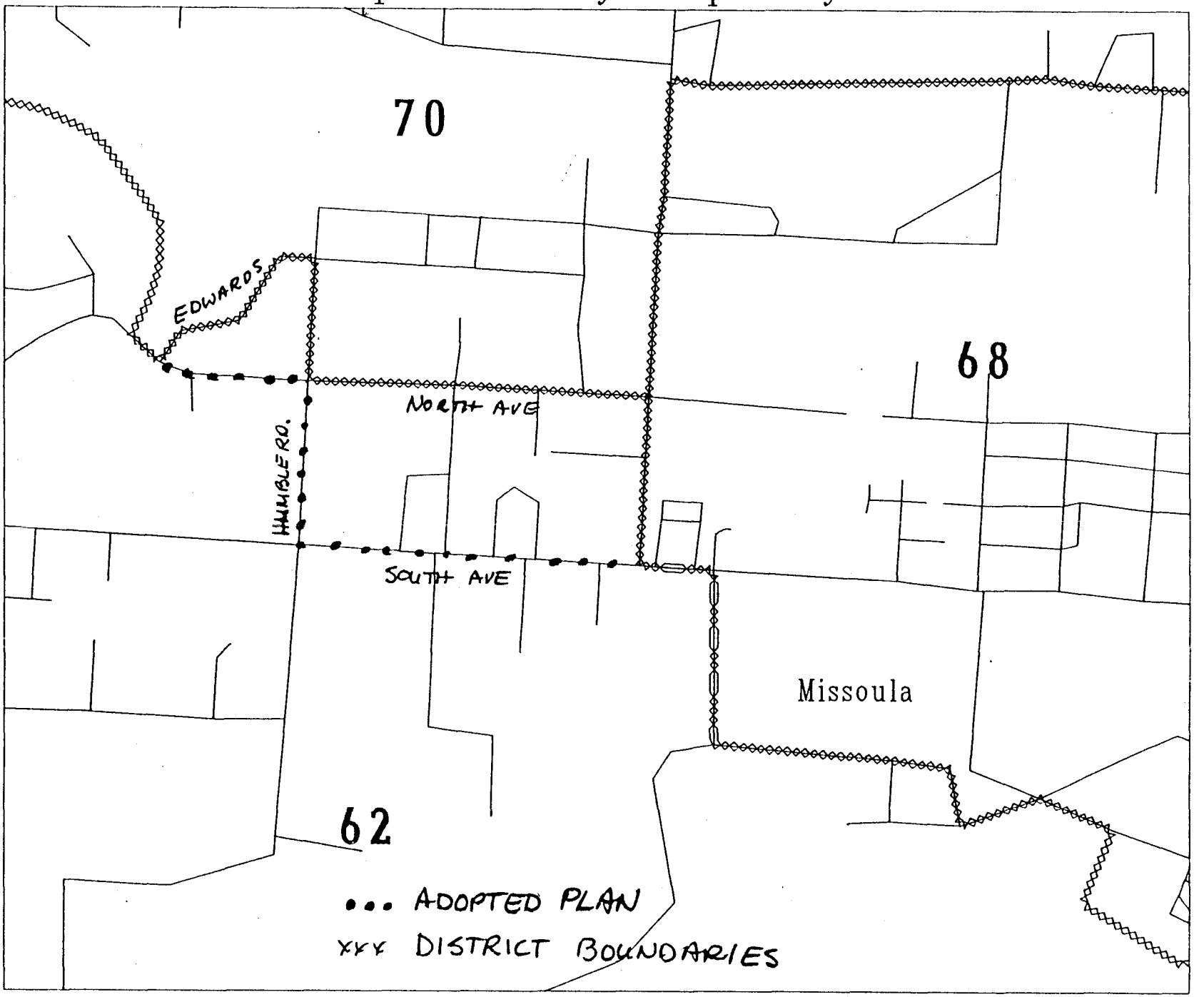
1. This amendment would move the northern boundary of House District 62 from the South Ave to North Ave and Edwards Ave.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
62	61	7672 (-3.99%)	7972 (-0.24%)
70	new	7973 (-0.23%)	7673 (-3.98%)

EXHIBIT 14
DATE 1/27/93
HB HJR 5

MISSOULA COUNTY

Requested by Rep. Sayles



Prepared by the Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

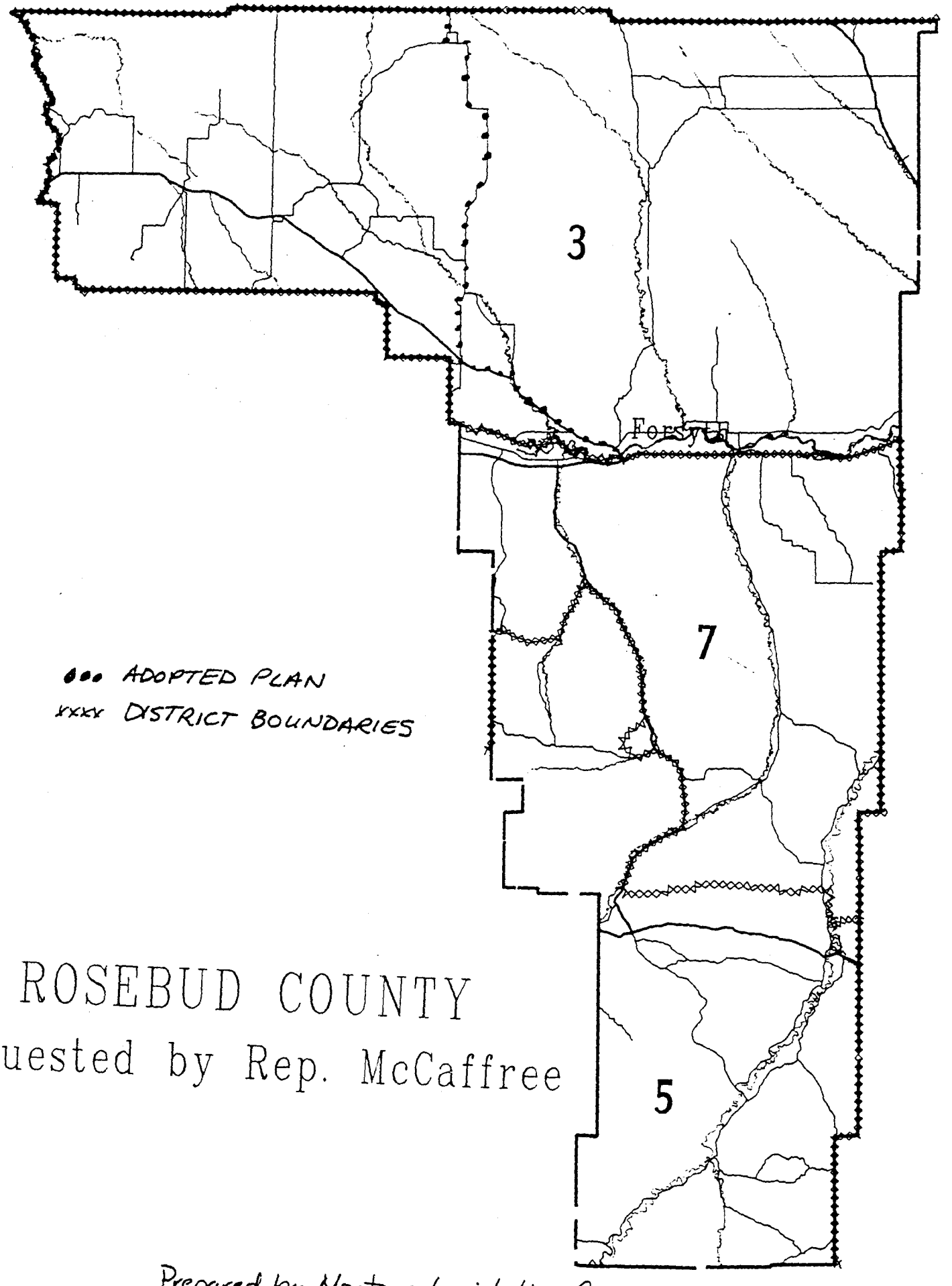
Prepared by Susan B. Fox
January 23, 1993

ROSEBUD COUNTY
Prepared at the request of Rep. McCaffree

1. This amendment would move the western boundary of House District 3 to the Yellowstone River west of Forsyth, from Highway 14 and the road north the Vananda. This returns it to the plan prior to the November 30, 1992 amendment.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
3	25	7979 (-0.15%)	8238 (3.09%)
7	27	7893 (-1.23%)	7634 (-4.47%)

EXHIBIT 15
DATE 1/27/93
HB HJR 5



ROSEBUD COUNTY

Requested by Rep. McCaffree

Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

HILL COUNTY
Prepared at the request of Sen. Hockett and Rep. Bachini

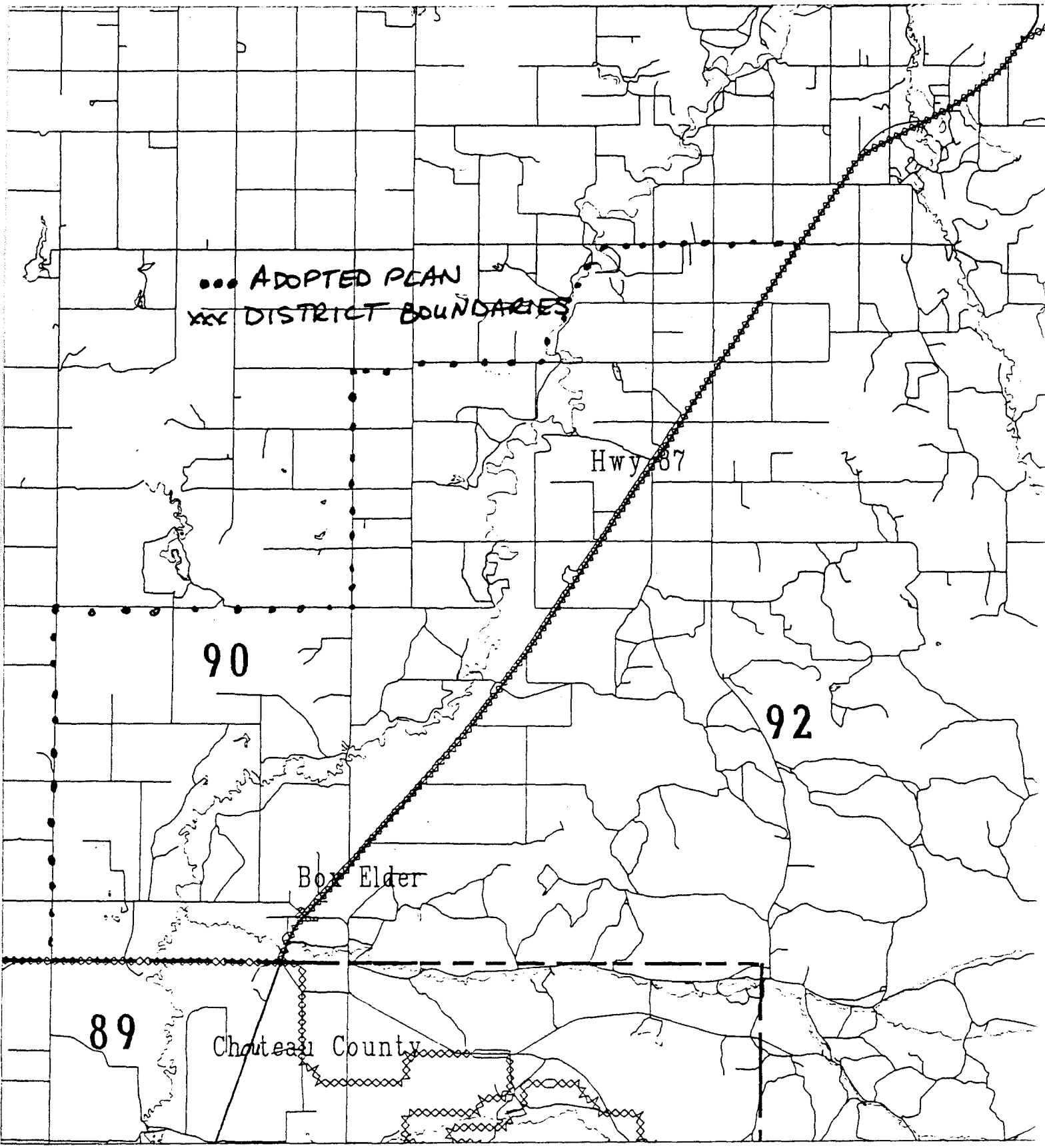
1. This amendment would move the western boundary of House District 92 in Hill County from the current district boundary to Highway 87. The percentage of Native Americans in House District 92 improves slightly to 58.95% of total population and 52.51% of voting age population. This amendment does split the community of Box Elder using Highway 87.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
90	14	8145 (1.93%)	8252 (3.27%)
92	16	7960 (-0.39%)	7853 (-1.73%)

EXHIBIT 16
DATE 1/27/93
HB HJR 5

HILL COUNTY

Requested by Sen. Hockett/Rep. Bachini



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

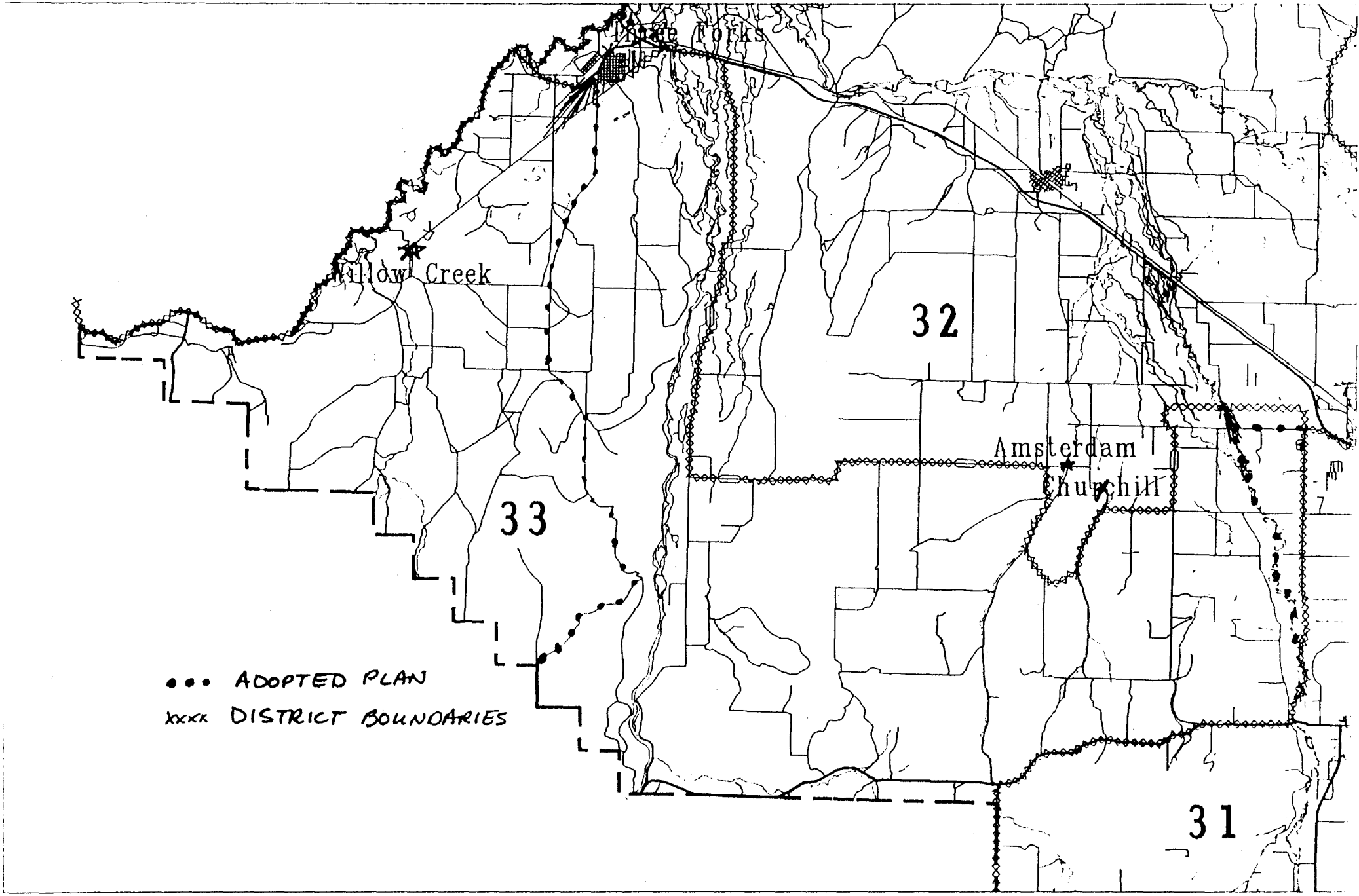
GALLATIN COUNTY
Prepared at the request of Sen. Eck

1. This amendment is from Amended Plan 300 for Gallatin County, proposed by Sen. Dorothy Eck. House District 33, the one which is shared with Madison County includes Willow Creek, does not include Three Forks, but skirts it south along the city limits. The boundary is south of Amsterdam and Churchill and adds a portion to House District 33 from House District 31 east of the Gallatin River to Thorpe Rd.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
31	new	8235 (3.05%)	8029 (0.48%)
32	76	8119 (1.60%)	8369 (4.73%)
33	74	8100 (1.36%)	8056 (0.81%)

EXHIBIT 17
DATE 1/27/93
HB HJR 5

GALLATIN COUNTY – Amended Plan 300 – Requested by Sen. Eck



Prepared by Montana Legislative Council

Proposed Amendment to the Districting and Apportionment Plan

For the Senate and House Committees on State Administration

Prepared by Susan B. Fox
January 23, 1993

GALLATIN COUNTY
Prepared at the request of Sen. Rea

1. This amendment would move the eastern boundary of House District 33 in Gallatin County from Bench Road and Table Mountain Road to the other side of the Madison River using the Buffalo Jump Road north to Logan, skirting Logan on the southwest and following the Gallatin River to the headwaters of the Missouri River.

NEW #	OLD #	ADOPTED PLAN	AMENDMENT
33	74	8100 (1.36%)	8381 (4.88%)
32	76	8119 (1.60%)	7838 (-1.91%)

EXHIBIT 18
DATE 1/27/93
HB HJR 5

GALLATIN COUNTY
Requested by Sen. Rea

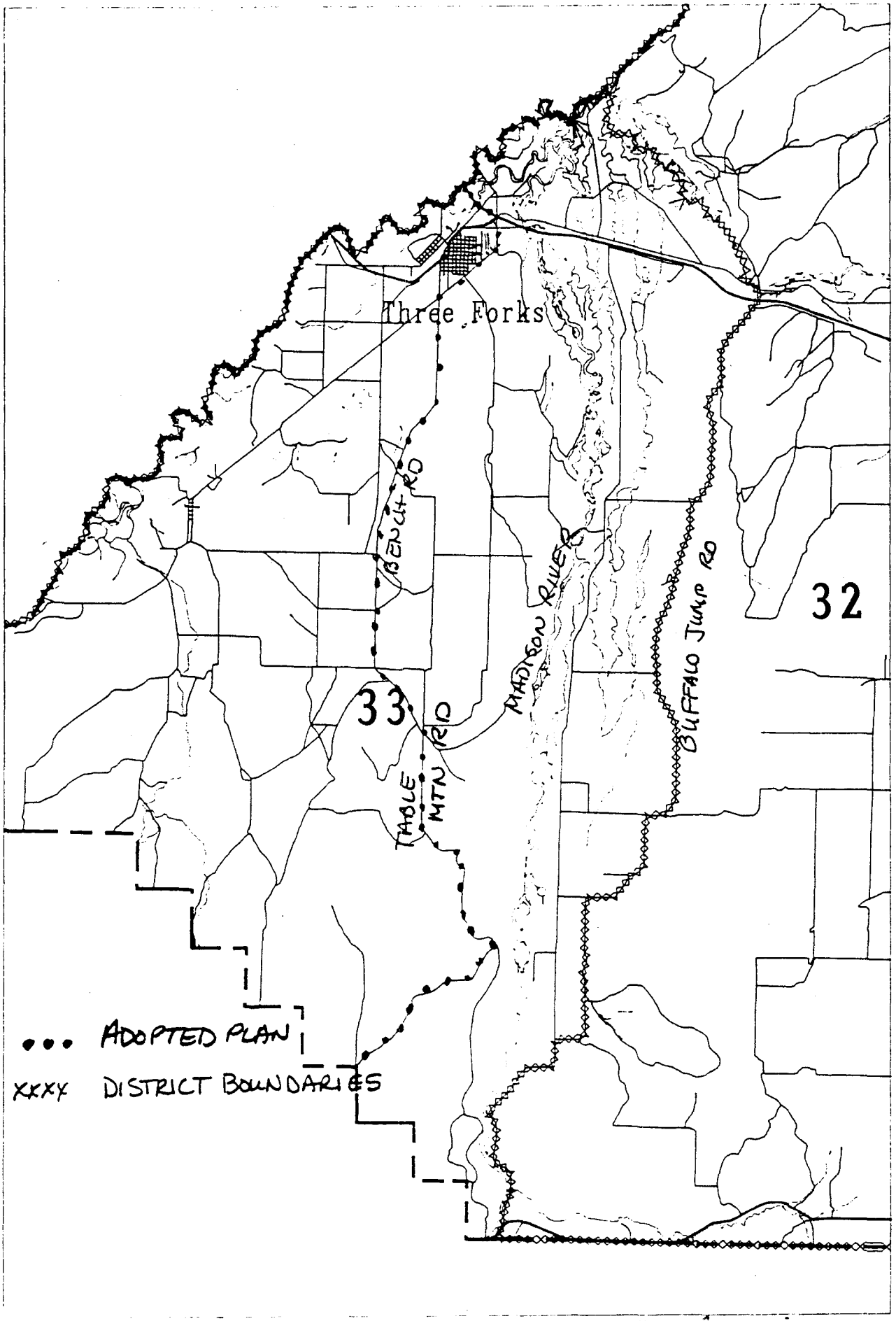
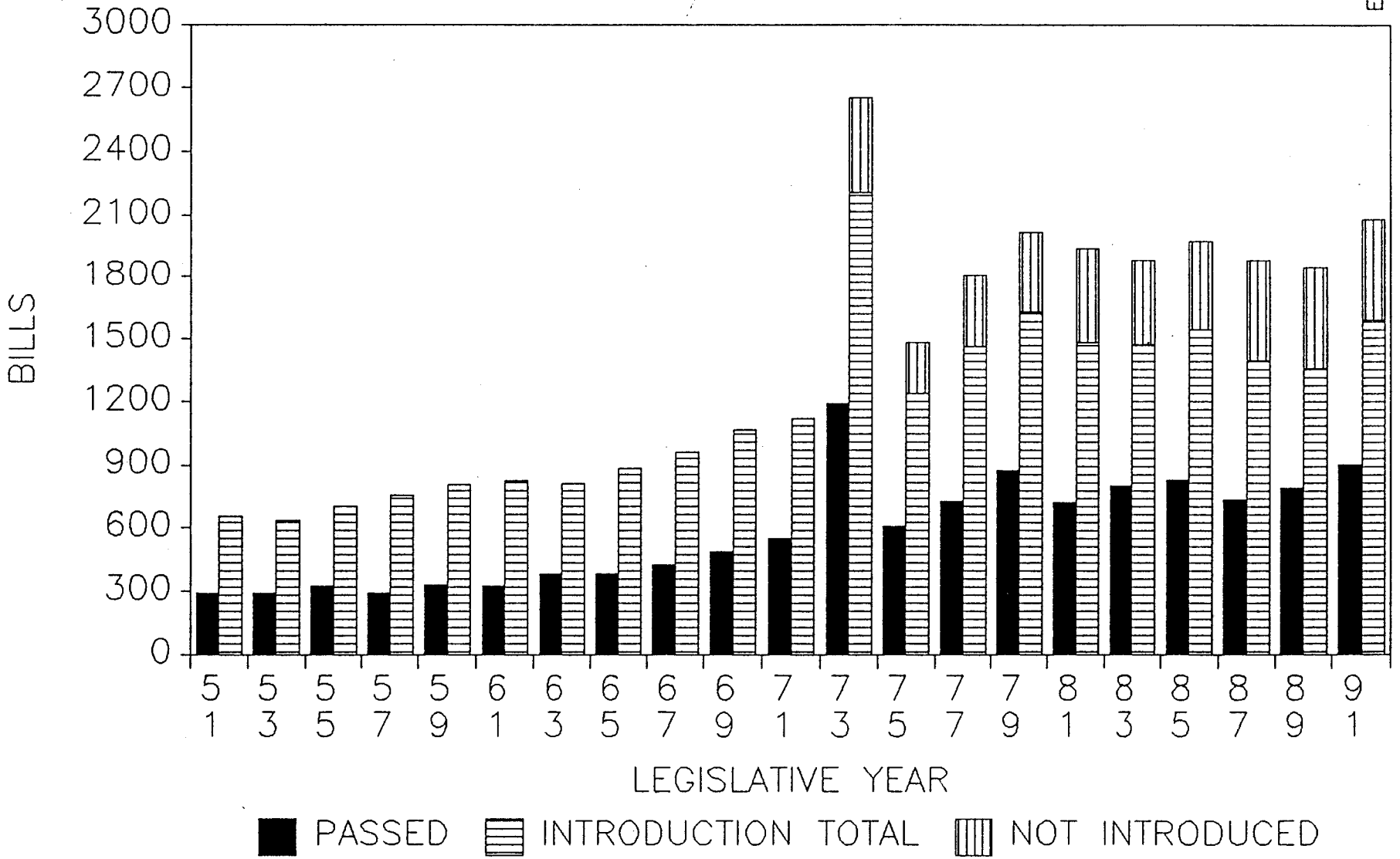


EXHIBIT 19-a
DATE 1/27/93
HB 217

MONTANA LEGISLATURE

BILL RECORDS



Figures for 1951–1963 are approximations from the records available.

STATE OF MONTANA
ORGANIZATION OF THE EXECUTIVE BRANCH
SEPTEMBER 1, 1990

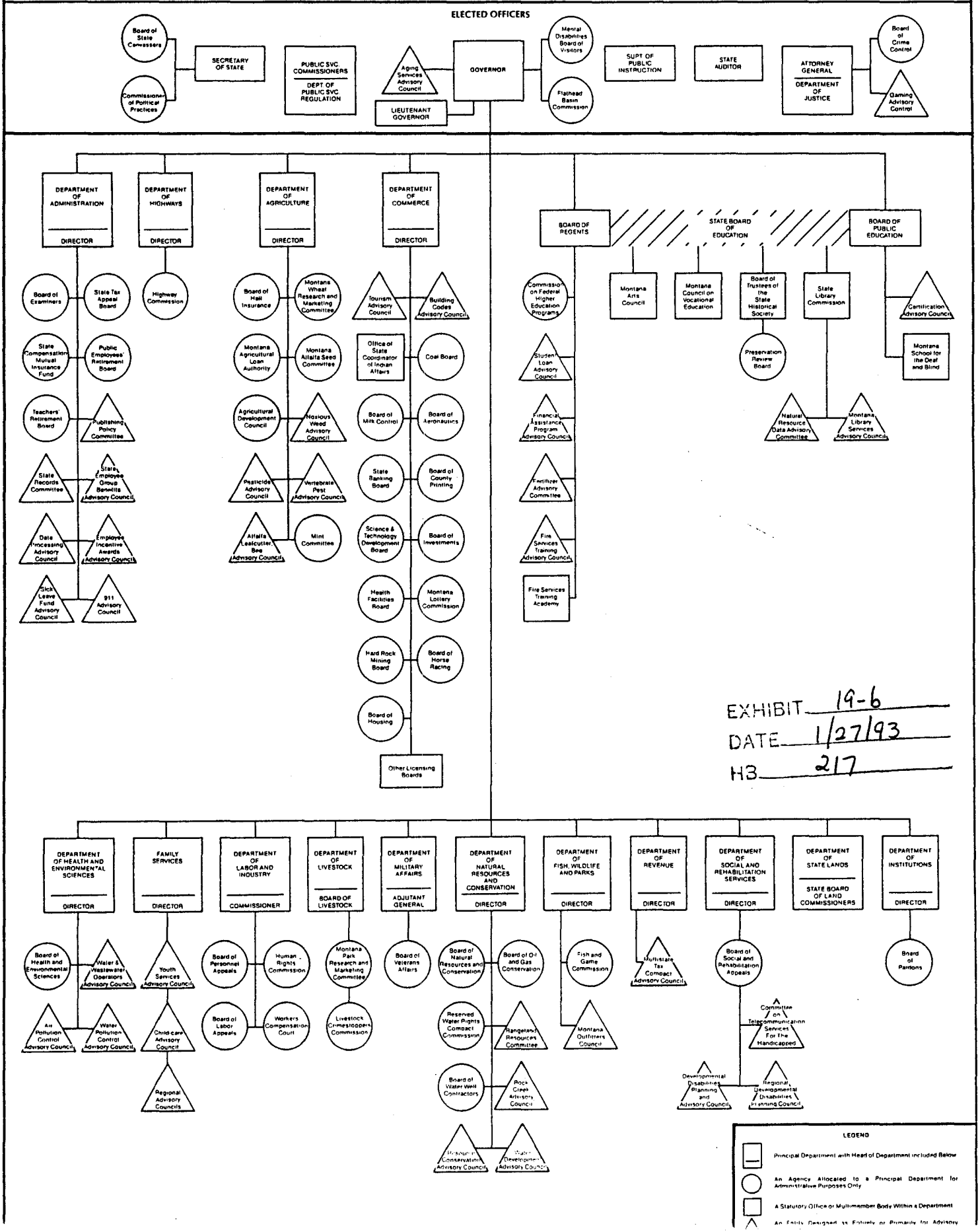


EXHIBIT 19-6
DATE 1/27/93
HB 217

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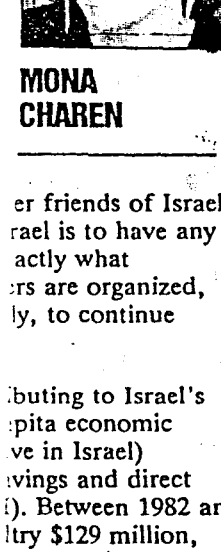

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EXHIBIT 19-C
DATE 1/27/93
HB 217

MISSOULIAN EDITORIAL

NOW you're talking ...

Legislation limit would put a lid on billowing bill count

Three cheers for state Rep. Sonny Hanson! The Billings Republican vows to introduce just one bill in the upcoming session of the Legislature: A bill limiting the number of bills any legislator may order drafted and introduce.

This is a perennial issue. That's because the people elected to the state House and Senate feel compelled to make the most of their titles as "lawmakers." They strive to make an awful lot of laws.

Each session of the Legislature produces an avalanche of proposed legislation, most of which is never passed and even more of which ought not to pass.

Last session, lawmakers ordered the Legislative Council to draft more than 2,000 bills, of which nearly 1,600 were introduced and 906 passed.

With several weeks to go before the Legislature even convenes, Montana lawmakers have already ordered up 1,000 bills.

That's more proposed laws than the Legislature can responsibly review in 90 days. It's almost more than the Legislature's overworked staff can draft and type. It's certainly far more than the public can keep track of.

The number of bills introduced each session makes it difficult for the Legislature or the public to focus on the really big issues. All those proposed laws also require citizens, organizations and businesses to invest ungodly amounts of time and money researching, responding, lobbying and testifying.

The problem isn't that Montana needs so many more laws. It's that too many lawmakers don't know how to say no. Instead of setting priorities and focusing on what's most important, a lot of lawmakers consider it their duty to introduce as many bills springing from constituent requests as possible. This they defend as representative government at its best. We call it a legislative logjam.

Rep. Hanson would allow each legislator to request the drafting of five bills. Each state agency could ask for as many as 20. Elected state officials could order up a maximum of 15. His proposal contains enough loopholes to permit additional bills under certain circumstances.

These aren't onerous limits. They're a step toward better government.

House of Representative
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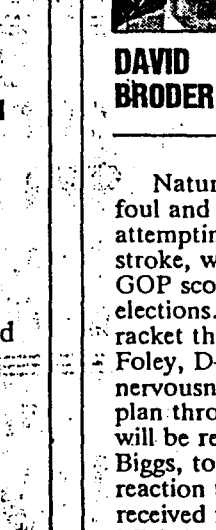

DAVID BRODER

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administration.

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EXHIBIT 20
DATE 1/27/93
HB 217

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

HOUSE BILL 217

H.S. Hanson - Representative, HD 87
January 27, 1993

STATE ADMINISTRATION

Purpose

House Bill 217 has a broader purpose than limiting the number of bills that a legislator can introduce. Those type of bills have been defeated in the past. This bill addresses that which we are all interested in doing, namely, reducing the cost and moving towards better government.

How can the legislature require state agencies to become slim and mean while we, the legislators, continue to increase our bill drafting demands on the Legislative Council, our own agency.

As an example of this expansion: EQC, which is not a part of the Legislative Council, has had to assume some of the drafting load to meet our demands. In 1983, they drafted 52 bills and it has increased every session since with 187 bills in 1991.

The assigned duty of EQC is to "coordinate and monitor state policies and activities that affect the quality of the human environment." But, they have had to assume some drafting requirements because the Legislative Council needs more help.

We, as a legislative body, have to curb our own appetites as well as forcing the Executive Branch to assume their responsibility in bill drafting. This bill will hopefully force all participants towards better government by processing fewer bills.

Past Experiences

Generally, in the past, the legislative body has passed 40 to 45% of the requested bills, which means there is a throw-away rate of 55 to 60%.

Also, since 1977, of all the bills requested, 19 to 23% of the drafting requisites are never introduced -- just thrown away.

Consider the 1991 session. There were 2,080 bill drafting requests with 486 of the drafted bills not introduced. We, as a legislative body passed only 906 of that total.

To me, these figures mean that our bill process can stand improvement. If any business had a throw-away rate of their product as large as ours, they would be out of business. I realize this doesn't apply here as we have the Montana taxpayer to bail us out.

I have prepared a handout that shows what has happened since 1951. This handout also includes an organizational chart of the Executive

Branch and a copy of the Missoulian editorial addressing the subject.

Bill Content

This bill will provide the following limits:

* 18 State Agencies as listed in 2-15-104	360	(20@)
* 6 Constitutional Offices	90	(15 ea)
* 150 Legislators	750	(5 ea)
* Misc. Requirements - Estimated by Budget Director	200	
TOTAL	1,400	

Submittal Requirements

* Draft of agency or elected official bills have to be submitted by October 1, before the session, for review.

* Final draft by the ~~subcommittee~~ SUBMITTER, NOT the Legislative Council.

* Directors appointed after an election have until January 1.

Limitations

The following does not apply to legislators' limit:

* Standing Committee of Legislature

* Interim Study Committee

* Bills introduced at request of Agency/Official

* Appropriation Bills

* Delayed Bills Committee

EXHIBIT 20
DATE 1/27/93
HB 217

Delayed Bills Committee

* Each House has their own Committee

* Committee composed of House/Senate presiding officer and the majority/minority of each chamber

* The Delayed Bills Committee can okay missed deadlines and authorize additional bills that exceed the listed bill limits

HSH

HO-87

HSH:vn

HOUSE BILL NO. 292

NATIONAL ELECTRICAL SAFETY CODE

PSC STATEMENT IN SUPPORT

My name is Ivan Evilsizer and I am appearing here today on behalf of the Montana Public Service Commission (PSC) in support of the passage of House Bill No. 292.

This Bill will grant specific rulemaking authority to the PSC, to allow it to adopt revised editions of the National Electrical Safety Code (N.E.S.C), as periodically published by Institute of Electrical and Electronic Engineers, Inc. This Code sets national standards governing the construction, operation and maintenance of electric supply stations and lines, and communication lines. A revised edition of the Code is usually published every three years. Amendments are made in each edition, in order to enhance the health and safety of the public.

The PSC has the duty to enforce the N.E.S.C. pursuant to Section 69-4-201, MCA. However, the PSC is legally restricted to enforcing the provisions of the 1977 edition of the Code; based upon the 1979 amendments to Section 69-4-201, MCA. The constitutional delegation doctrine prevents either the Montana Legislature or an administrative agency from prospectively adopting revised editions of a Code issued by a private organization. See generally State v. Holland, 37 Mont. 393 (1908) and Lee v. State, 195 Mont. 1 (1981). Therefore, subsequent editions of the N.E.S.C. can only be enacted as Montana law by the

EXHIBIT 21
DATE 1/27/93
292

AMENDMENTS TO HB 292

1. Page 1, ln 18
   Following: "commission "
   Strike: "may"

2. Page 1, ln 18
   Following: "adopt"
   Strike: "those"

3. Page 1, ln 19
   Following: "code"
   Strike: "or parts of a revised safety code that the commission"

4. Page 1, ln 20-22
   Strike: In their entirety

5. Page 1, ln 23
   Strike: "the National Safety Code"

6. Page 2, ln 21-24
   Strike: In their entirety
   Insert: "The Commission shall adopt rules to implement and enforce this part, including the adoption, by rule, of the most recently published edition of the National Electric Safety Code."

EXHIBIT 22
DATE 1/27/93
HB 292

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 217

DATE 1/27/93 SPONSOR(S) Rep. Hanson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JAKE CUMMINS 502 S. 19th BOZEMAN	MT FARM BUREAU	✓	
Charles R Brooks	MT Retail Assoc	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 265

DATE 1/27/93 SPONSOR(S) Rep. Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gloria Hermanson	Mont Coalition for Future		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 292

DATE 1/27/93 SPONSOR(S) Rep. Larson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Chuck Evilsizer	Montana PSC	✓	
Dennis Crawford	Montana PSC	✓	
[illegible]	MDU	✓	
GENE PHILLIPS	PP&L Pacific Power & Light	✓	
DAN WALKER	US WEST	✓	
Gary Willis	Montana Power Company	✓ (with amendment)	
TOM MCNAB	Montana Technical Council	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.