

SENATE RESOLUTION NO. 4

INTRODUCED BY STEPHENS

IN THE SENATE

January 15, 1983	Introduced and referred to Committee on State Administration.
February 2, 1983	Committee recommend resolution be adopted as amended. Report adopted.
February 3, 1983	Resolution printed and placed on members' desks.
February 4, 1983	Second reading, be adopted. Sent to enrolling. Reported correctly enrolled.

1 SENATE RESOLUTION NO. 4
2 INTRODUCED BY STEPHENS
3
4 A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA
5 TRANSMITTING RECOMMENDATIONS TO THE MONTANA DISTRICTING AND
6 APPORTIONMENT COMMISSION REGARDING ITS REDISTRICTING PLAN
7 SUBMITTED UNDER ARTICLE V, SECTION 14, OF THE MONTANA
8 CONSTITUTION.

9
10 WHEREAS, a Montana Districting and Apportionment
11 Commission was appointed in 1979; and

12 WHEREAS, the Commission prepared a plan for
13 redistricting and reapportioning the state into legislative
14 and congressional districts and presented it to the 48th
15 Legislature on January 5, 1983, as required by Article V,
16 section 14, of the Montana Constitution; and

17 WHEREAS, the Senate has studied the plan submitted to
18 it and has considered several recommendations regarding the
19 plan; and

20 WHEREAS, the Senate must return the plan to the
21 Commission with its recommendations on or before February 4,
22 1983, in accordance with the Montana Constitution; and

23 WHEREAS, the Senate chooses to return its
24 recommendations in the form of a simple resolution.

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
2 MONTANA:

3 That the Senate recommends that the Montana Districting
4 and Apportionment Commission adopt the congressional and
5 legislative redistricting plan with the following
6 modifications and recommendations:

7 BE IT FURTHER RESOLVED, that a copy of this resolution
8 be kept on file by the Secretary of State and that copies be
9 sent by the Secretary of State to the chairman of the
10 Montana Districting and Apportionment Commission; the
11 Honorable Ron Marlenee, Congressman from the Second
12 Congressional District; and the Honorable Pat Williams,
13 Congressman from the First Congressional District.

-End-

INTRODUCED BILL

-2-

SR 4

Approved by Committee
on State Administration

SENATE RESOLUTION NO. 4

INTRODUCED BY STEPHENS

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA TRANSMITTING RECOMMENDATIONS TO THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION REGARDING ITS REDISTRICTING PLAN SUBMITTED UNDER ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION.

WHEREAS, a Montana Districting and Apportionment Commission was appointed in 1979; and

WHEREAS, the Commission prepared a plan for redistricting and reapportioning the state into legislative and congressional districts and presented it to the 48th Legislature on January 5, 1983, as required by Article V, section 14, of the Montana Constitution; and

WHEREAS, the Senate has studied the plan submitted to it and has considered several recommendations regarding the plan; and

WHEREAS, the Senate must return the plan to the Commission with its recommendations on or before February 4, 1983, in accordance with the Montana Constitution; and

WHEREAS, the Senate chooses to return its recommendations in the form of a simple resolution; AND

WHEREAS, THE MONTANA DISTRICTING AND APPORTIONMENT

COMMISSION HAS PREPARED ITS REAPPORTIONMENT PLAN FOR THE LEGISLATIVE AND CONGRESSIONAL DISTRICTS AND DELIVERED THE PLAN TO THE 48TH LEGISLATURE ON JANUARY 5, 1983, PURSUANT TO ARTICLE V, SECTION 14(3), OF THE 1972 MONTANA CONSTITUTION AND PURSUANT TO 5-1-101, MCA; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA HAS CONSIDERED THE PLAN IN ITS ENTIRETY AND CONDUCTED A PUBLIC HEARING BEGINNING JANUARY 20, 1983, AT 10:30 A.M. AND CONTINUING FOR A PERIOD OF 3 DAYS; AND

WHEREAS, NO SUBSTANTIAL OBJECTIONS WERE RECEIVED AS TO THE CONGRESSIONAL REDISTRICTING; AND

WHEREAS, SUBSTANTIAL TESTIMONY AND OBJECTIONS WERE RECEIVED CONCERNING THE LEGISLATIVE REAPPORTIONMENT PLAN; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA, 48TH LEGISLATIVE ASSEMBLY, DESIRES TO EXPRESS ITS APPROVAL OF THE CONGRESSIONAL REDISTRICTING AND DISAPPROVAL OF LEGISLATIVE REDISTRICTING; AND

WHEREAS, THE UNITED STATES CONSTITUTION HAS RECOGNIZED CERTAIN CRITERIA TO BE IMPLEMENTED BY THE STATES IN ACCORDANCE WITH THE ONE-MAN ONE-VOTE REQUIREMENT OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION; AND

WHEREAS, THIS PLAN DOES NOT ENCOMPASS A RATIONAL STATE POLICY; AND

WHEREAS, THIS PLAN UNDOUBLY TEARS APART POLITICAL

1 SUBDIVISIONS; AND
 2 WHEREAS, THIS PLAN DOES NOT HAVE COMPACT DISTRICTS OF
 3 CONTIGUOUS TERRITORIES; AND
 4 WHEREAS, THIS PLAN DOES NOT PRESERVE NATURAL OR
 5 HISTORICAL BOUNDARY LINES; AND
 6 WHEREAS, THIS PLAN DOES NOT INCORPORATE THE CRITERIA OF
 7 SIZE AND HOMOGENEITY OF DISTRICTS; AND
 8 WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE
 9 LOCATION OF SHOPPING CENTERS; AND
 10 WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE
 11 PATTERN OF ROADS; AND
 12 WHEREAS, THIS PLAN DOES NOT INCLUDE AREAS OF COVERAGE
 13 OF DAILY AND WEEKLY NEWSPAPERS OR RADIO AND TELEVISION
 14 BROADCAST AREAS; AND
 15 WHEREAS, THE COMMISSION SET AN ARBITRARY DEVIATION
 16 FACTOR OF 5% PLUS OR MINUS FROM THE IDEAL REPRESENTATIVE
 17 DISTRICT POPULATION AS ITS ULTIMATE GOAL AND DISREGARDED ALL
 18 OTHER CRITERIA MENTIONED ABOVE; AND
 19 WHEREAS, MONTANA DISTRICTS IN SEVERAL INSTANCES HAVE AN
 20 EXCESSIVE DEVIATION FROM THE IDEAL REPRESENTATIVE DISTRICT
 21 POPULATION; AND
 22 WHEREAS, IN SOME DISTRICTS IT IS OBVIOUS THERE WAS NO
 23 GOOD FAITH EFFORT TO ACHIEVE A GOAL OF ZERO PERCENT
 24 DEVIATION FROM THE IDEAL DISTRICT POPULATION; AND
 25 WHEREAS, THIS PLAN IS IN VIOLATION OF THE ONE-MAN

1 ONE-VOLE INTERPRETATION OF THE 14TH AMENDMENT TO THE UNITED
 2 STATES CONSTITUTION AND ARTICLE V, SECTION 14, OF THE
 3 MONTANA CONSTITUTION REQUIRING "ALL DISTRICTS WILL BE AS
 4 NEARLY EQUAL IN POPULATION AS PRACTICABLE"; AND
 5 WHEREAS, EACH MONTANA SENATE DISTRICT MUST HAVE AS
 6 IDENTIFIABLE REPRESENTATIVE; AND
 7 WHEREAS, THE COMMISSION FAILED TO ASSIGN SENATORS TO
 8 NEW DISTRICTS WHO HAVE TERMS WHICH EXPIRE IN 1986; AND
 9 WHEREAS, THE COMMISSION SUBMITTED AN INCOMPLETE PLAN IN
 10 THAT IT FAILED TO DESIGNATE ELECTION DATES FOR THE NEW
 11 DISTRICTS CONSISTENT WITH THE MONTANA CONSTITUTION ARTICLE
 12 V, SECTION 3; AND
 13 WHEREAS, A MAJORITY OF STATES ALLOW HOLDOVER SENATORS
 14 TO SERVE UNDER A NEW REAPPORTIONMENT PLAN AND COURTS HAVE
 15 HELD THIS NOT TO BE IN VIOLATION OF THE PEOPLE'S
 16 CONSTITUTIONAL RIGHTS; AND
 17 WHEREAS, IN THE RELATIVELY FEW STATES WHICH HAVE
 18 PERMITTED THE SHORTENING OF STATE SENATORS' TERMS, ONE OF
 19 THE FOLLOWING HAS EXISTED:
 20 (1) EXPRESS PROVISION IN THE STATE CONSTITUTION OR
 21 STATUTE;
 22 (2) IMPLEMENTATION BY VOTER INITIATIVE; OR
 23 (3) ELECTED SENATORS WERE SUBSEQUENTLY EQUAD BY THE
 24 COURTS TO HAVE BEEN ELECTED UNDER A PREVIOUSLY
 25 UNCONSTITUTIONAL APPORTIONMENT PLAN; AND

1 WHEREAS, NONE OF THESE SPECIAL CIRCUMSTANCES EXIST IN
2 THE STATE OF MONTANA; AND

3 WHEREAS, THE ATTORNEY GENERAL OF THE STATE OF MONTANA
4 HAS ISSUED AN OPINION TO THE PRESIDENT OF THE MONTANA SENATE
5 INDICATING THE NECESSITY OF DESIGNATING DISTRICTS FOR
6 HOLDOVER SENATORS WHOSE TERMS DO NOT EXPIRE UNTIL 1986; AND

7 WHEREAS, THE 14TH AMENDMENT TO THE UNITED STATES
8 CONSTITUTION REQUIRES THAT NO STATE SHALL MAKE OR ENFORCE
9 ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF
10 THE CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE
11 DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT
12 DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS
13 JURISDICTION THE EQUAL PROTECTION OF THE LAW; AND

14 WHEREAS, ARTICLE II, SECTION 4, OF THE MONTANA
15 CONSTITUTION PROVIDES THAT NO PERSON SHALL BE DENIED EQUAL
16 PROTECTION OF THE LAW AND NO PERSON SHALL BE DISCRIMINATED
17 AGAINST IN THE EXERCISE OF HIS POLITICAL RIGHTS ON ACCOUNT
18 OF COLOR, SOCIAL ORIGIN OR CONDITIONS, OR POLITICAL IDEAS;
19 AND

20 WHEREAS, IT IS THE INTENT OF THE MONTANA CONSTITUTION
21 THAT THE CHAIRMAN OF THE DISTRICTING AND APPORTIONMENT
22 COMMISSION SERVE IN A NONPARTISAN CAPACITY IN ORDER TO
23 PRESERVE THE RIGHTS OF THE PEOPLE OF MONTANA; AND

24 WHEREAS, THE PREPONDERANCE OF THE TESTIMONY PRESENTED
25 TO THE SENATE STANDING COMMITTEE ON STATE ADMINISTRATION

1 EVIDENCED POLITICAL DISCRIMINATION BY A MAJORITY OF THE
2 MEMBERS OF THAT COMMISSION AGAINST CERTAIN POLITICAL-SOCIAL
3 GROUPS; AND

4 WHEREAS, THE RECORDS OF THE ACTIONS OF THE COMMISSION
5 IN FORMULATING THE PLAN INDICATE 61 CONTESTED VOTES, 2 OF
6 WHICH WERE MERELY PROCEDURAL, AND 57 OTHER VOTES WHERE THE
7 MAJORITY WAS MADE UP OF MEMBERS OF ONE POLITICAL PARTY; AND

8 WHEREAS, THE CHAIRMAN OF THE DISTRICTING AND
9 APPORTIONMENT COMMISSION HAS ADMITTED THAT HE ACTED IN A
10 PARTISAN CAPACITY THROUGHOUT THE REDISTRICTING PROCESS AND
11 THIS RESULTED IN THE COMMISSION ACTING IN A PARTISAN MANNER
12 THROUGHOUT THE ENTIRE REDISTRICTING PROCESS; AND

13 WHEREAS, THE RESULTANT LEGISLATIVE REDISTRICTING
14 CLEARLY EVIDENCES THIS POLITICAL BIAS IN FAVOR OF THE
15 DEMOCRATIC PARTY TO THE EXCLUSION OF ALL OTHER BASES FOR
16 REDISTRICTING; AND

17 WHEREAS, THIS RESULTED IN AN INVIDIOUS DISCRIMINATION
18 AGAINST THE PEOPLE OF MONTANA AND THEIR SOCIAL, CULTURAL,
19 AND POLITICAL BELIEFS AND IDEAS; AND

20 WHEREAS, THESE ACTIONS BY THE DISTRICTING AND
21 APPORTIONMENT COMMISSION YIELDED A CONSTITUTIONALLY INFIRM
22 PLAN FOR THE REDISTRICTING OF MONTANA'S LEGISLATIVE
23 DISTRICTS UNDER BOTH THE MONTANA AND UNITED STATES
24 CONSTITUTIONS; AND

25 WHEREAS, THE COMMISSION MEMBERS ARE NOT ELECTED BY THE

1 PEOPLE OR APPOINTED BY THE GOVERNOR SUBJECT TO CONFIRMATION
2 BY THE SENATE; AND

3 WHEREAS, MONTANA CONSTITUTION ARTICLE V, SECTION 14(2),
4 DOES NOT PROVIDE FOR ANY REGULATION OR CONTROL OVER THE
5 COMMISSION; AND

6 WHEREAS, THE COMMISSION MEMBERS ARE NOT RESPONSIBLE TO
7 ANYONE; AND

8 WHEREAS, LARGE SEGMENTS OF PEOPLE IN THE STATE OF
9 MONTANA ARE BEING DEPRIVED OF THEIR RIGHT TO A REPUBLICAN
10 FORM OF GOVERNMENT AS PROVIDED BY THE UNITED STATES
11 CONSTITUTION ARTICLE IV, SECTION 4, WHICH PROVIDES "THE
12 UNITED STATES SHALL GUARANTEE TO EVERY STATE IN THE UNION A
13 REPUBLICAN FORM OF GOVERNMENT. . . ."

14
15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
16 MONTANA:

17 ~~that the Senate recommends that the Montana Districting~~
18 ~~and Apportionment Commission adopt the congressional and~~
19 ~~legislative redistricting plan with the following~~
20 ~~modifications and recommendations:~~

21 ~~BE IT FURTHER RESOLVED, that a copy of this resolution~~
22 ~~be kept on file by the Secretary of State and that copies be~~
23 ~~sent by the Secretary of State to the chairman of the~~
24 ~~Montana Districting and Apportionment Commission; the~~
25 ~~Honorable Ron Marteneey Congressman from the Second~~

1 Congressional District; and the Honorable Pat Williams,
2 Congressman from the First Congressional District;

3 THAT THE SENATE RECOMMENDS THAT THE MONTANA DISTRICTING
4 AND APPORTIONMENT COMMISSION ADOPT THE CONGRESSIONAL
5 REDISTRICTING PLAN;

6 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
7 AND APPORTIONMENT COMMISSION REDRAW ITS REDISTRICTING PLAN
8 OF THE LEGISLATIVE DISTRICTS OF MONTANA IN ORDER TO MEET THE
9 CONSTITUTIONAL REQUIREMENTS AND OBJECTIONS MENTIONED ABOVE;
10 AND

11 BE IT FURTHER RESOLVED, THAT THE ATTACHED
12 RECOMMENDATIONS BE ADOPTED BY THE COMMISSION IN REDRAWING
13 THE LEGISLATIVE DISTRICTS OF MONTANA (SEE ATTACHED MAPS AND
14 RECOMMENDATIONS); ATTACHMENT B, PAGES 1 THROUGH 4 (9 MAPS);

15 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
16 AND APPORTIONMENT COMMISSION DESIGNATE SENATORIAL DISTRICTS
17 FOR EACH SENATOR WHOSE TERM EXPIRES IN 1986 IN SUCH A MANNER
18 THAT EACH SENATE DISTRICT HAVE AN IDENTIFIABLE
19 REPRESENTATIVE; AND

20 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
21 AND APPORTIONMENT COMMISSION ESTABLISH ELECTION DATES FOR
22 THE SENATE DISTRICTS CONSISTENT WITH MONTANA CONSTITUTION
23 ARTICLE V, SECTION 3; AND

24 BE IT FURTHER RESOLVED, THAT IF THERE IS INSUFFICIENT
25 TIME FOR THE COMMISSION TO ACCOMPLISH SUCH TASK THAT THE

1 MONTANA SUPREME COURT ASSUME THE RESPONSIBILITY OF
 2 REDISTRICTING AND REAPPORTIONMENT; AND
 3 BE IT FURTHER RESOLVED, THAT COPIES OF THE FOLLOWING
 4 DOCUMENTS BE ATTACHED TO THIS RESOLUTION:
 5 111 ATTORNEY GENERAL OPINION TO SENATOR SIAN STEPHENS
 6 DATED JANUARY 21, 1983; ATTACHMENT C, 3 PAGES.
 7 121 THE SENATE JOURNAL FOR THE THIRD LEGISLATIVE DAY;
 8 ATTACHMENT D, 3 PAGES.
 9 131 MINUTES OF THE MEETING OF STATE ADMINISTRATION
 10 COMMITTEE OF JANUARY 20, 1983, AT 10:30 A.M. REGARDING
 11 REAPPORTIONMENT COMMISSION, ATTACHMENT E, 28 PAGES.
 12 BE IT FURTHER RESOLVED, THAT COPIES OF THIS RESOLUTION
 13 AND ATTACHMENTS BE SENT BY THE SECRETARY OF STATE TO THE
 14 CHAIRMAN OF THE MONTANA DISTRICTING AND APPORTIONMENT
 15 COMMISSION; THE HONORABLE RON MARLENEE, CONGRESSMAN FROM THE
 16 SECOND CONGRESSIONAL DISTRICT; AND THE HONORABLE PAI
 17 WILLIAMS, CONGRESSMAN FROM THE FIRST CONGRESSIONAL DISTRICT.

-End-

RECOMMENDATIONS

(1) Senate Districts 25, 28, 29, 32, 33, and 34, as adopted by the Commission, be withdrawn and the following House Districts be paired to form Senate Districts:

50 and 57
56 and 58
55 and 63
64 and 65
66 and 67
68 and 49;

(2) House Districts 64 through 66, as adopted by the Commission, be withdrawn and the plan for Ravalli County referred to by the Commission as plan B be adopted. (Plan B creates three house districts solely within the boundaries of Ravalli County. Generally, one house district is in the southern half of the county; the northern half of the county is divided into an eastern and a western house district);

(3) House Districts 9, 11, and 12, as adopted by the Commission, be withdrawn and the plan for Glacier, Pondera, and Teton Counties referred to by the Commission as plan 2 be adopted. (Generally, plan 2 places eastern Pondera County in a house district with Teton County and places western Pondera County, including Conrad, in a house district with a portion of Glacier County, including a portion of Cut Bank);

(4) The house districts consisting generally of Glacier and western Pondera Counties, as recommended in subsection (3), be paired to form a senate district and the house district consisting of Teton and eastern Pondera Counties, as recommended

in subsection (3), be paired to form a senate district with the Commission's proposed House District 10.

(5) Senate Districts 17 through 19, as adopted by the Commission, be withdrawn and the following House Districts be paired to form Senate Districts:

33 and 37
34 and 35
36 and 38;

(6) House Districts 23, 24, 27, 28, 99, and 100, as adopted by the Commission, be withdrawn and the plan referred to by the Commission as plan X for Big Horn, Powder River, Carter, Fallon, Wibaux, Dawson, McCone, Garfield, Rosebud, and Treasure Counties be adopted. (Plan X generally combines: all of Powder River, Carter, and Fallon Counties into one House District; Wibaux and a part of Dawson County into one House District; the remainder of Dawson County and McCone County into one House District; Garfield, Treasure, and a portion of Rosebud County into one House District; the remainder of Rosebud County and a portion of Big Horn County, including all of the Northern Cheyenne Reservation and a portion of Hardin, into one House District; and the remainder of Big Horn County, including a portion of Hardin and all of the Crow Reservation contained in the county, into one House District);

(7) Senate Districts 7 and 8, as adopted by the Commission, be withdrawn and the following House Districts be paired to form Senate Districts:

14 and 15
13 and 16

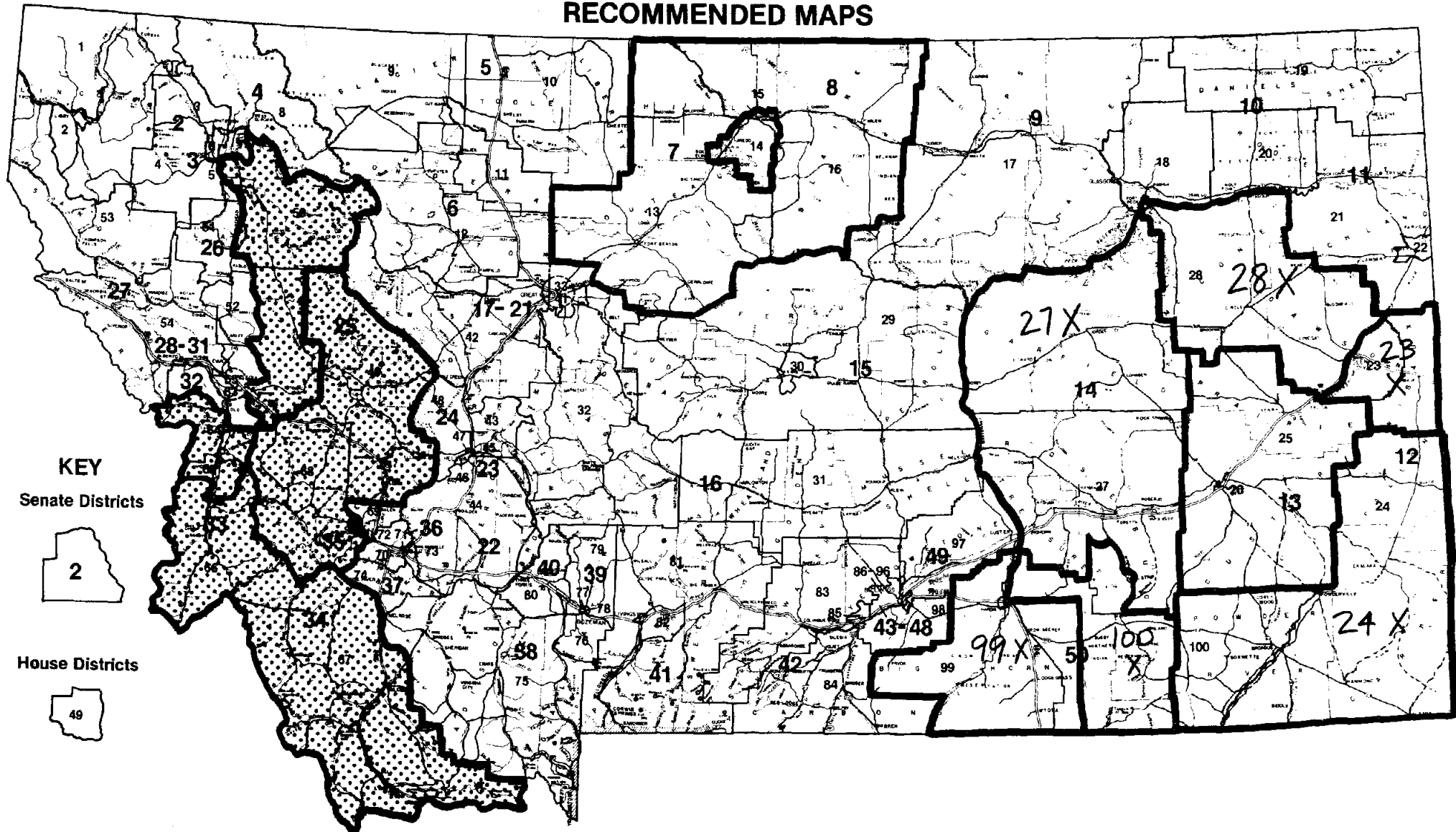
(8) House Districts 83 and 86 through 90, as adopted by the Commission, be amended so as to place areas in Yellowstone County which are urban in nature with predominantly urban districts and areas which are rural in nature with the district consisting primarily of rural Stillwater County. This recommendation additionally shifts an area in the eastern portion of House District 87 into House District 88, an area in the southern portion of House District 88 into House District 89, and an area in the southwest portion of House District 89 into House District 87.

(9) The following plans be studied by the Commission and be worked into a form that can be incorporated into the legislature redistricting plan:

(a) The plan for northeast Montana, which includes House Districts A through F in Sheridan, Daniels, Roosevelt, Valley, Phillips, Blaine, and portions of Fergus and Chouteau Counties; and

(b) The plan for Gallatin, Madison, and Silver Bow Counties, which includes 16 house districts.

SENATE RESOLUTION NO 4 RECOMMENDED MAPS



SENATE RESOLUTION NO 4 RECOMMENDED MAPS

TENTATIVELY ADOPTED.
10/5/82.

REVISED
MISSOULA PLAN -

CORRESPONDS TO
PLAN A - RAVALLI
COUNTY

ridge line north
of
marshall creek

- 7716

(57)

pairs with 50

PAIRINGS RECOMMENDED
BY SENATE STATE
ADMINISTRATION
COMMITTEE :

50 + 57

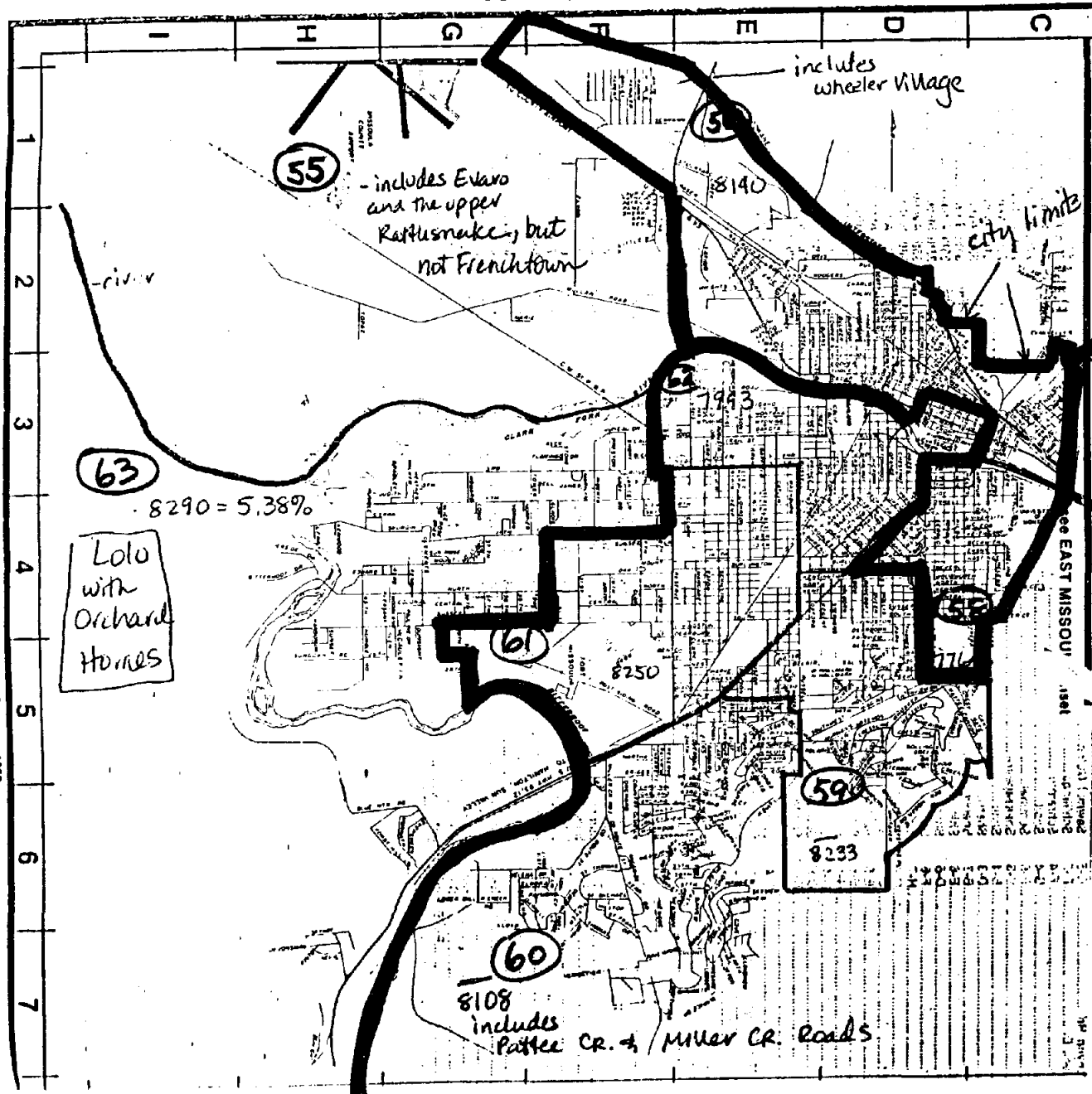
56 + 58

55 + 63

64 + 65

66 + 67

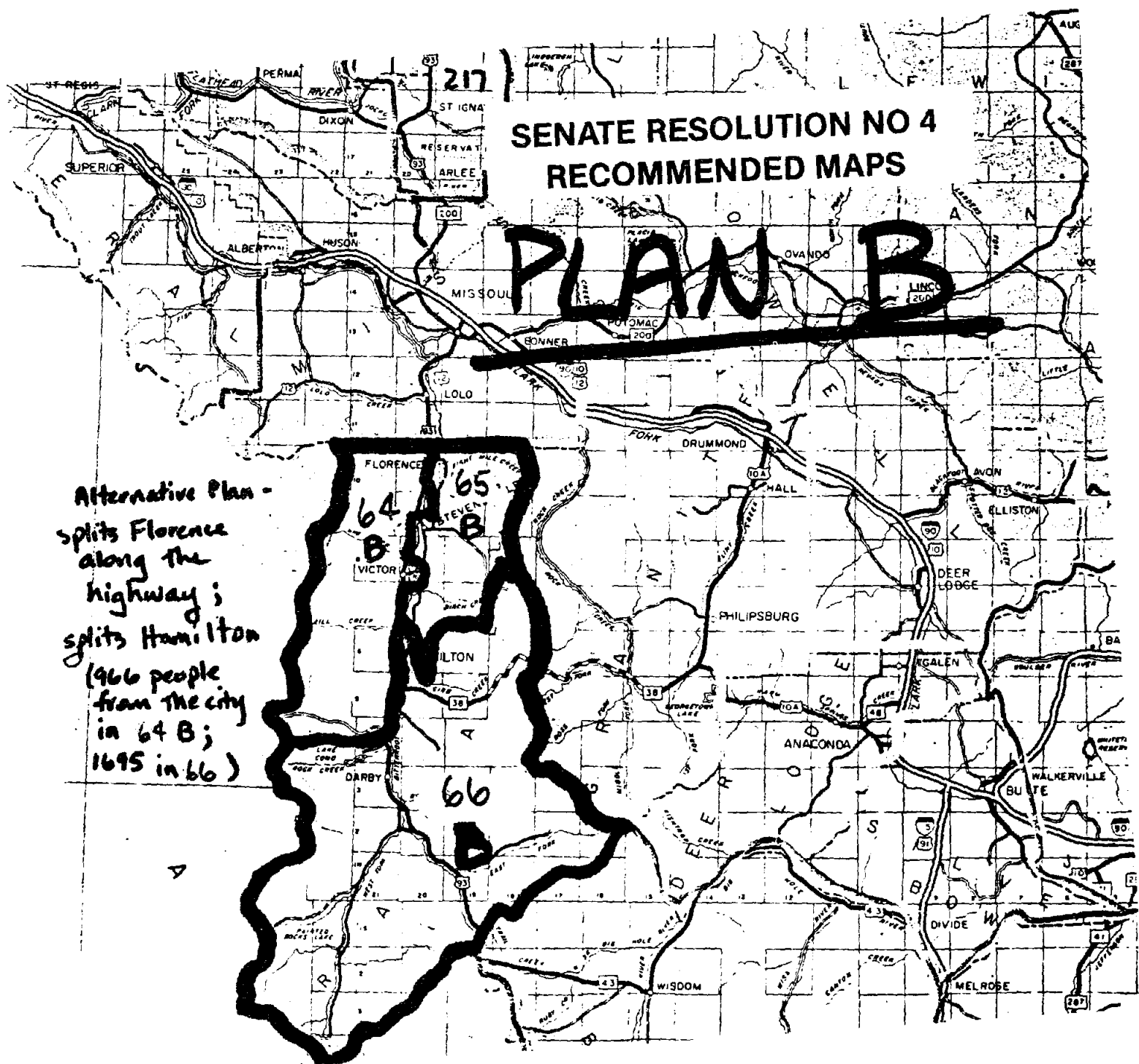
68 + 49



SENATE RESOLUTION NO 4
RECOMMENDED MAPS

PLAN B

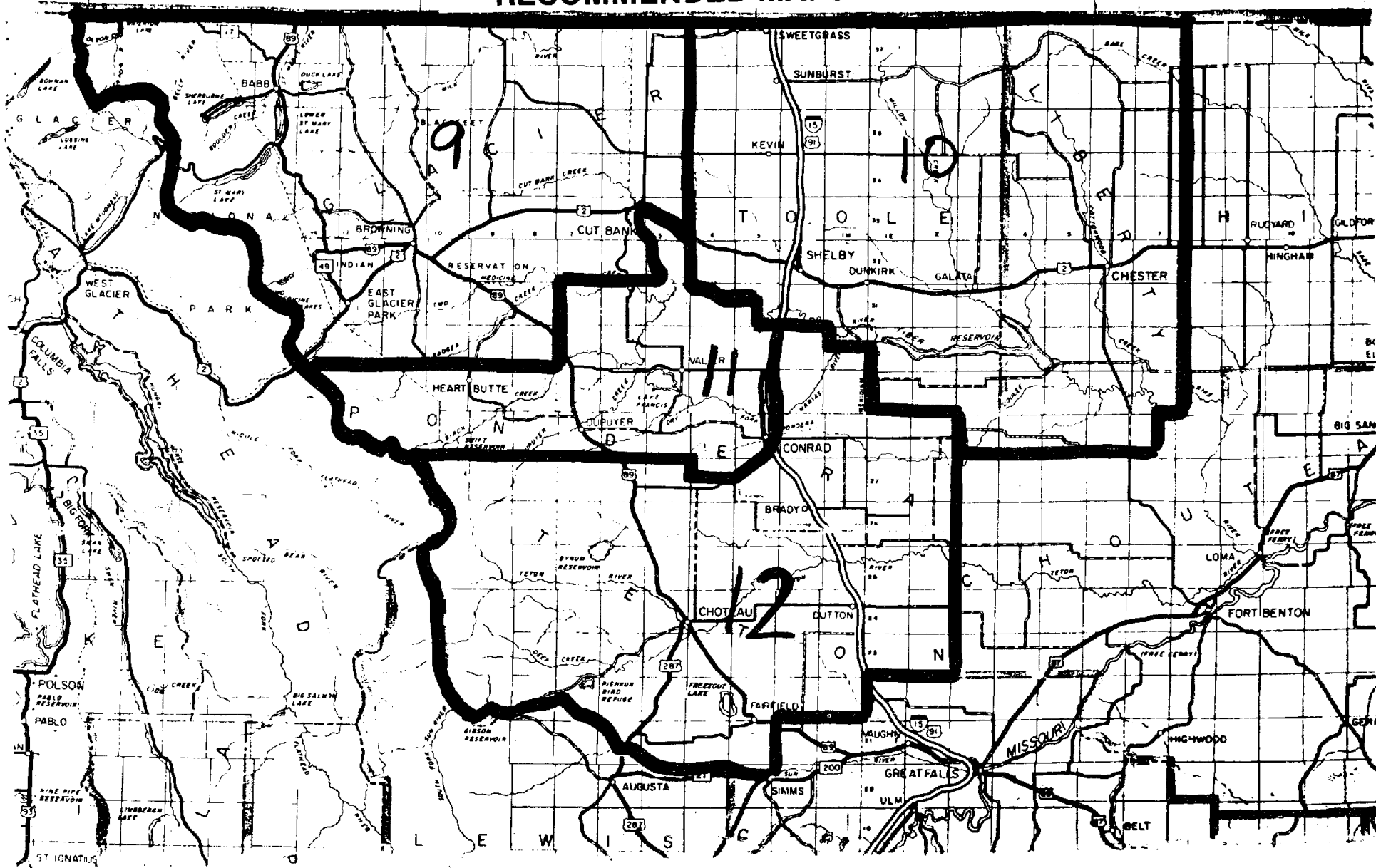
Alternative Plan -
splits Florence
along the
highway;
splits Hamilton
(966 people
from the city
in 64 B;
1695 in 66)



Senate State Administration Committee

Recommended pairings: 9 and 11; 10 and 12

SENATE RESOLUTION NO 4 RECOMMENDED MAPS



solid line - plan 5
- dotted line - plan 2

with
Glacier Co.

with
Ponder
Co.

CUT BANK
18775
(0170)

Cur Bank Div.
(015)
Part

Senate State Administration Committee
Recommended pairings:

33 and 37

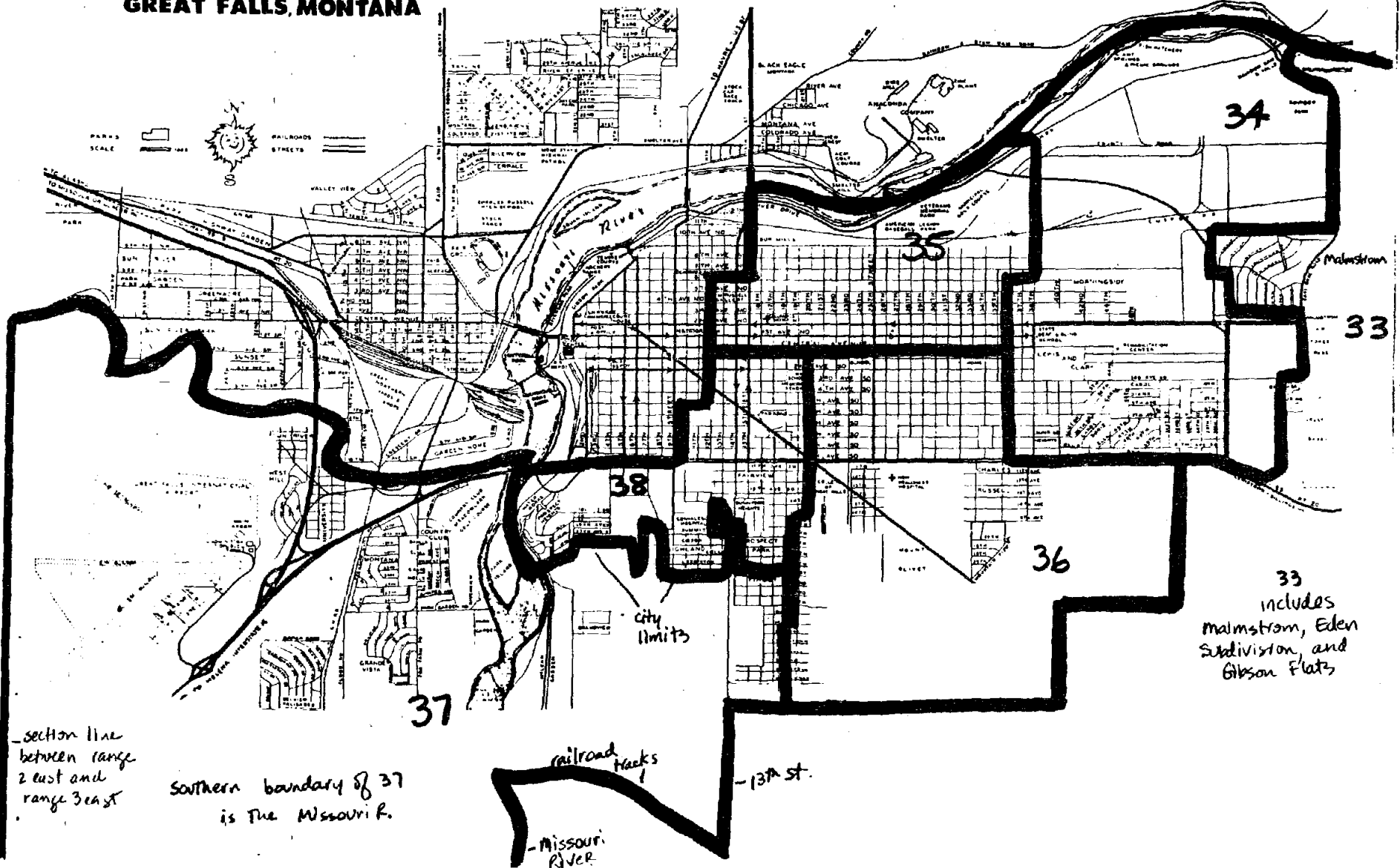
34 and 35

36 and 38

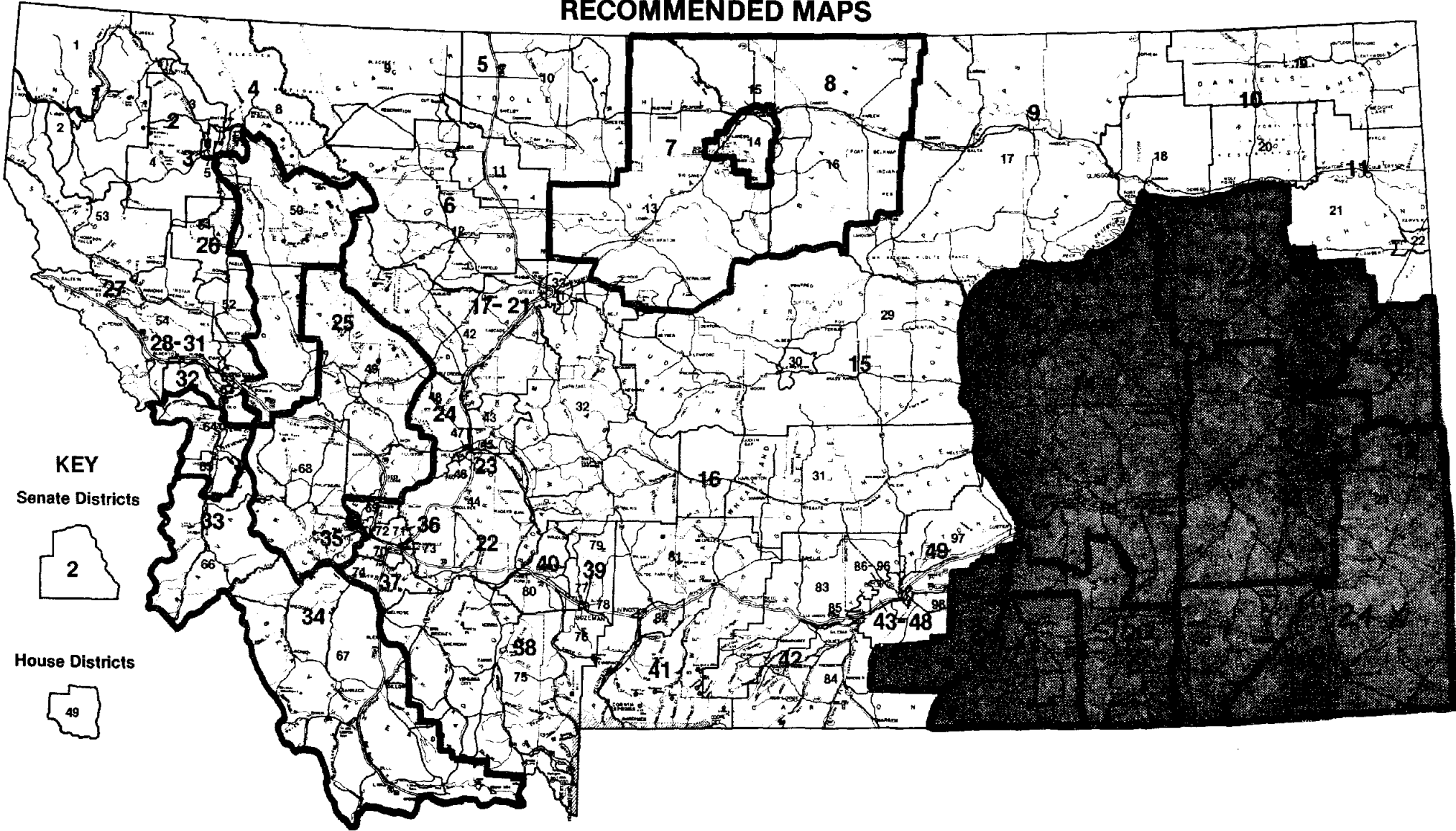
TENTATIVELY ADOPTED 10/5/82
AND SUBMITTED TO THE LEGISLATURE

SENATE RESOLUTION NO 4
RECOMMENDED MAPS

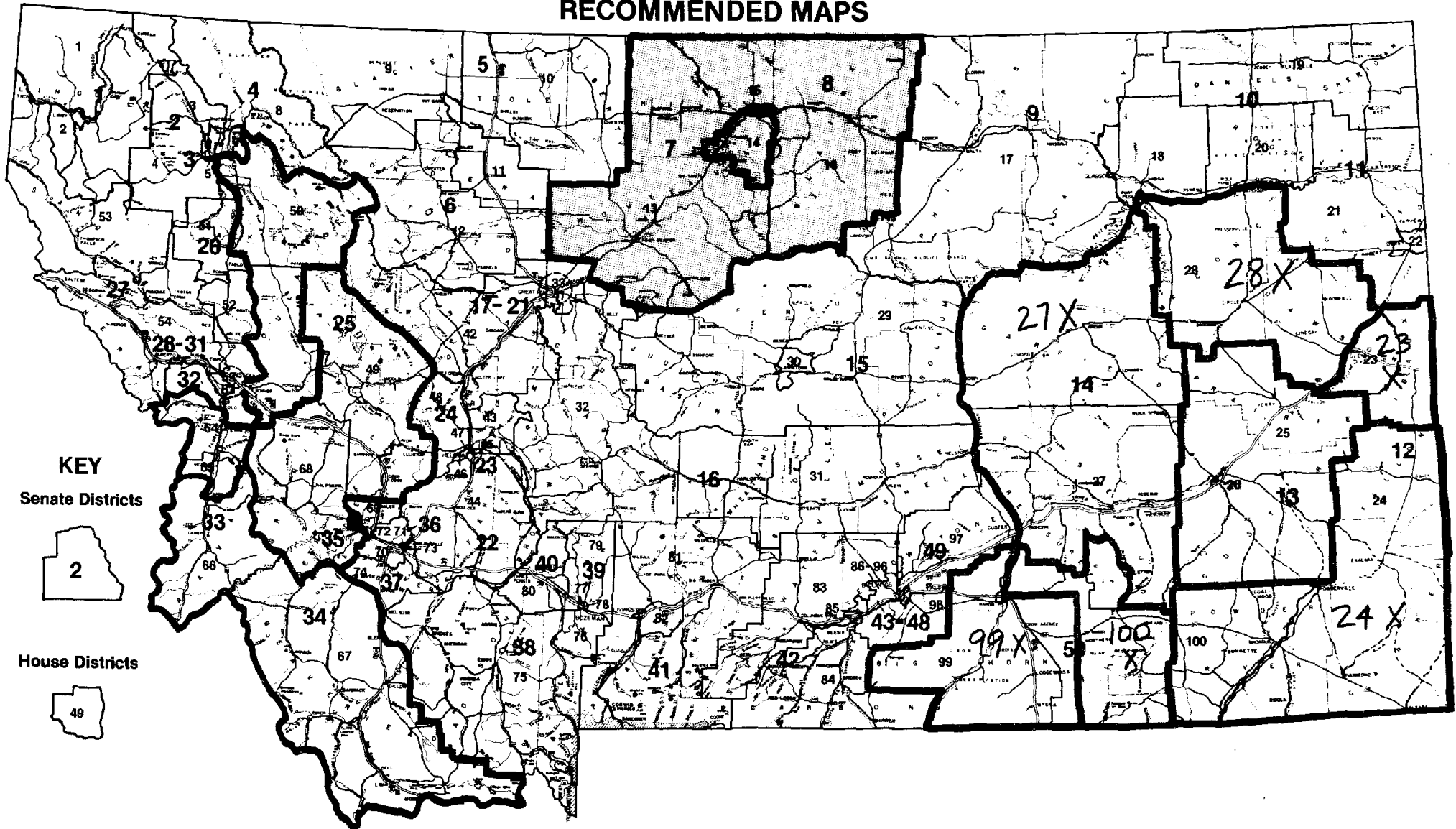
STREET MAP OF
GREAT FALLS, MONTANA



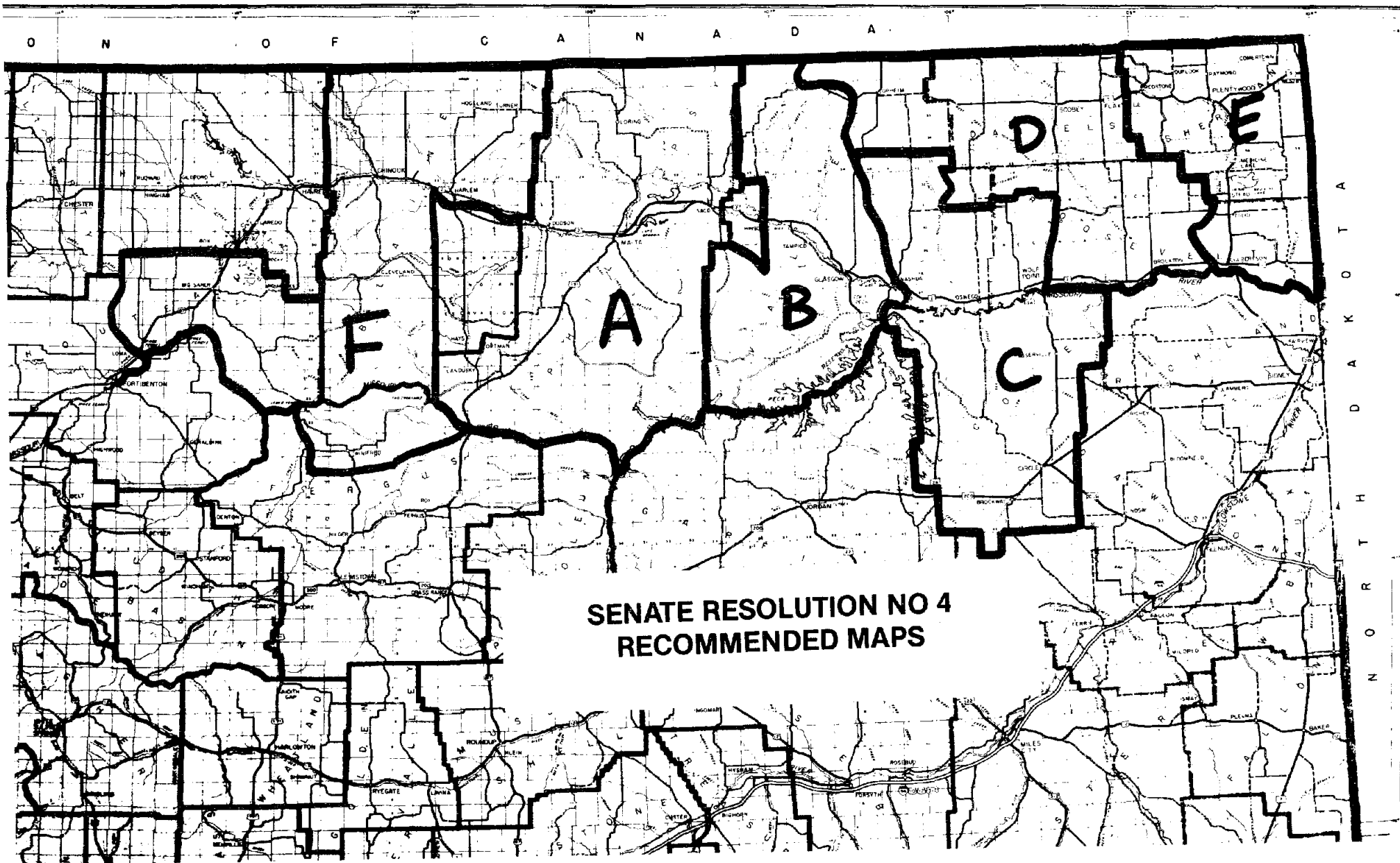
SENATE RESOLUTION NO 4 RECOMMENDED MAPS



SENATE RESOLUTION NO 4 RECOMMENDED MAPS

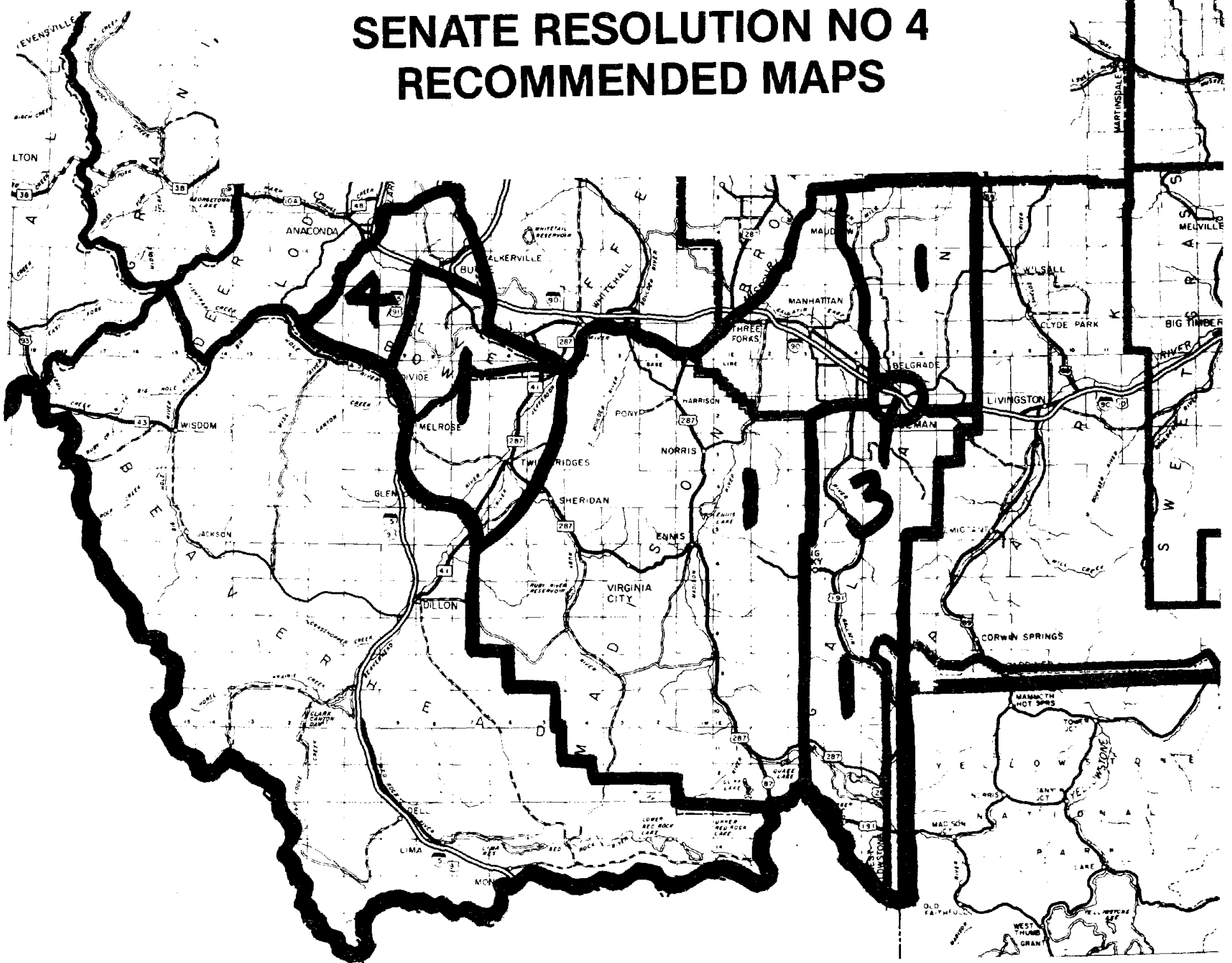






SENATE RESOLUTION NO 4

RECOMMENDED MAPS



C (1)

STATE
OF
MONTANA
ATTORNEY GENERAL
MIKE GREELY
215 N. SANDERS JUSTICE BUILDING, HELENA, MONTANA 59620
TELEPHONE (406) 449-2026

ELECTIONS - Election of state senators, length of term of office after reapportionment;

LEGISLATURE - Length of term of office of state senators after reapportionment;

REAPPORTIONMENT - Length of term of office of state senators after reapportionment;

OPINIONS OF THE ATTORNEY GENERAL - 40 Op. Att'y Gen. No. 1 (1983);

MONTANA CONSTITUTION - Article V, sections 3 and 14.

HELD: The terms of office of members of the Montana State Senate who were elected in 1982 may not be shortened as a result of reapportionment and redistricting.

21 January 1983

Senator Stan Stephens
Office of the President
Montana State Senate
P.O. Box 156, Capitol Station
Helena, Montana 59620

Dear Senator Stephens:

You have requested my opinion as to whether the terms of office of members of the Montana State Senate who were elected in 1982 must be shortened as a result of reapportionment and redistricting.

As you noted in your request, I recently issued an opinion concerning a similar inquiry having to do with the terms of office of Missoula aldermen. See 40 Op. Att'y Gen. No. 1 (1983). That opinion concluded that aldermen elected to four-year terms in 1981 did not need

Senator Stan Stephens
Page 2
21 January 1983

to run for re-election in 1983 as a result of reapportionment and redistricting. The conclusion was based on the fact that Montana state law provided for four-year terms for aldermen, without establishing any procedure for shortening the terms after reapportionment. No Montana Supreme Court decision has been rendered on this issue, so research of the law in other states was necessary. This research disclosed a number of court decisions in jurisdictions where similar questions had arisen. Those decisions hold that unless there is a constitutional or statutory provision authorizing shortened terms, an elected official whose term runs beyond the reapportionment year may be held over for the duration of the term for which he or she was elected without resulting in a violation of the notions of equal protection and representative government. I refer you to the cases cited in the Missoula aldermen opinion.

With respect to the terms of State Senators, the Montana Constitution, Mont. Const. art. V, § 3, provides for four-year terms on a staggered basis. The 1972 Constitution's Transition Schedule contained a procedure for all senate terms to end on December 31, 1974, and for the State Senators subsequently elected to draw lots to establish a term of two years for one-half of their number. This provision specifically applied to the first election of state legislators to take place after the reapportionment plan became effective in February, 1974, and was necessary to implement the 1972 Constitution's new requirement of staggered terms for State Senators. That section of the Transition Schedule was to be removed from the Constitution as soon as it had been executed. The provisions of section 5, Terms of Legislators, were executed and certified by a letter from the Attorney General to the Secretary of State on March 24, 1977.

The transcripts of the 1972 Constitutional Convention include a brief discussion by delegates as to whether terms of state senators should be shortened upon reapportionment. See March 7, 1972, transcript at 1568-69. The discussion is inconclusive with one delegate suggesting that if the terms were to be shortened the convention should specifically address that issue, and another delegate noting that the courts would deal with the problem. Even if the transcripts were clear as to the constitutional delegates' intent, the courts would not consider them unless there is some ambiguity in the language of the Constitution. See Sutherland, Statutes and Statutory Construction (1973)

at § 46.04. The language of Mont. Const. art. V, § 3 is clear. State Senators shall be elected for a term of four years. The Montana Constitution and Montana statutes provide no authority for changing those terms after reapportionment. The terms of those members of the State Senate who were elected in 1982 do not expire until 1986.

The reapportionment plan is the responsibility of the Montana Districting and Apportionment Commission. The Commission has the inherent authority under the Montana Constitution article. V, section 14 to do what is necessary to implement a plan that complies with the State's laws. See Cargo v. Paulus, 635 P.2d 367 (1981). This means that the Commission must not only redraw district boundaries, but also designate the election dates for the new districts. Various states have handled the details of reapportionment differently with respect to how holdover senators fit into the reapportionment plan. In Montana, these details are the responsibility of the Districting and Apportionment Commission.

THEREFORE, IT IS MY OPINION:

The terms of office of members of the Montana State Senate who were elected in 1982 may not be shortened as a result of reapportionment and redistricting.

Very truly yours,


MIKE GREELY
Attorney General

SENATE JOURNAL
of the
Forty-eighth Legislature

OFFICE OF THE SECRETARY OF THE SENATE

THIRD LEGISLATIVE DAY

Helena, Montana
January 5, 1983

Senate Chambers
State Capitol

Senate convened at 1:16 p.m., President Stephens presiding.
Invocation by the Chaplain. Pledge of Allegiance to the Flag.

Roll call. All members present except Goodover, excused.
Quorum present.

Mr. President: We, your Committee on Bills and Journal, having
examined the daily journal for the second legislative day, find
the same to be correct.

Tveit, Chairman

REPORTS OF STANDING COMMITTEES

BILLS (Tveit, Chairman):

Correctly printed and placed on the members' desks: SB 14,
SB 15.

LEGISLATIVE ADMINISTRATION (Kolstad, Chairman):

SB 46, do pass. Report adopted.

FIRST READING OF BILLS

The following Senate bills were introduced, read first time,
and referred to committee:

SB 55, introduced by Hager. Referred to Committee on Highways
and Transportation.

SB 56, introduced by Hager, (By Request of the Department of
Health and Environmental Sciences). Referred to Committee
on Public Health, Welfare and Safety.

SB 57, introduced by Story. Referred to Committee on
Education.

SB 58, introduced by Story. Referred to Committee on State
Administration.

SB 59, introduced by McCallum, (By Request of the Joint
Subcommittee on Business). Referred to Committee on
Agriculture, Livestock and Irrigation.

SB 60, introduced by Conover. Referred to Committee on
Agriculture, Livestock and Irrigation.

SB 61, introduced by Norman. Referred to Committee on Public

Health, Welfare and Safety.

At the request of Senator Hazelbaker, and without objection,
the Senate reverted to Order of Business No. 6.

MOTIONS

Senator Hazelbaker moved that the President be empowered to
appoint a committee of three to notify the House of
Representatives that the Senate is ready to meet in joint session.
The motion carried unanimously.

President Stephens appointed Senator Aklestad, Chairman,
Senator Gage, and Senator Regan. The committee was then dismissed
to notify the House of Representatives that the Senate was ready
to meet in a joint session.

Senator Hazelbaker moved that the Senate stand in recess
subject to the call of the chair. Motion carried unanimously.

Senate recessed at 1:21 p.m.

Senate resumed at 1:22 p.m.

At the request of the President, and without objection, the
Senate reverted to Order of Business No. 5.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Representative Bengtson and her committee from the House of
Representatives informed the Senate that the House awaited its
presence in the House to hear the Reapportionment Commission.

President Stephens advised that the Senate accepted and would
be there shortly.

At the request of the President, and without objection, the
Senate reverted to Order of Business No. 3.

REPORTS OF SELECT COMMITTEES

The Sergeant-at-Arms announced the committee of three to notify
the House of Representatives that the Senate was ready to meet was
at the door. Senator Aklestad reported they had informed the
House that the Senate would enjoy being in session with the House.
Senator Aklestad also reported the House was ready to receive the
Senate.

MOTIONS

Senator Hazelbaker moved that the Senate recess and proceed to
the House of Representatives for the purpose of receiving the
Reapportionment Plan and Reapportionment Commission. Motion
carried unanimously.

Senate recessed at 1:26 p.m.

Joint Session convened at 1:30 p.m.

JOINT SESSION - REAPPORTIONMENT COMMISSION

Senator Hazelbaker moved that the body resolve itself into a joint session for the purpose of receiving the Reapportionment Plan from the Reapportionment Commission. Motion passed unanimously.

Senator Hazelbaker moved that the roll of the joint session be dispensed with. Motion passed unanimously.

Senator Hazelbaker moved that the joint session resolve itself into the Committee of the Whole for the purpose of the hearing. Motion passed unanimously.

PRESIDENT STEPHENS: Ladies and Gentlemen of the House and Senate and Distinguished Guests and Members of the Reapportionment Commission:

Before introducing the members of the Commission, we would like to explain to the members of the Legislature that this joint session today is an informal hearing only on the Reapportionment Plan. The format of this afternoon session will be a presentation by the Reapportionment Commission and the staff. At the conclusion of their official presentation, we will entertain questions to members of the Commission and Anne Brodsky by any member of the Legislature. We ask that you limit your questions to the scope of general in nature. We will not, today, entertain any questions regarding the specific parameters of the districts or the individual concerns of a particular legislator. You will have ample opportunity to address those issues and air your feelings at subsequent hearings in the House and the Senate. That's when we get down to the nitty gritty of the specifics. Today, we ask that we keep to the general scope of the overall reapportionment process.

I am sure that Speaker Kemmis has informed you that in Room 316 we have a staff room that contains all the reapportionment maps which are the product of this Reapportionment Committee's endeavor. They are there along with Anne Brodsky, the staff researcher, to answer any questions and explain anything you may wish to know that you now have under consideration. It may well serve you to just ask questions about your own area so that you are fully informed and better able to express your opinions.

I will now introduce the members of the Commission. Eugene Mahoney, Chairman of the Commission, is unable to be with you today. The two Democratic members are JoAnn Woodgerd, Stevensville, Jim Pasma, Havre, Mrs. Jack Galt, Helena, and John Poore, Havre. These are the four members. The Chairman of the Commission is unable to be here, Mr. Eugene Mahoney, Thompson

Falls.

The purpose of the presentation is to present the project to the Legislature. JoAnn Woodgerd will begin the presentation.

COMMISSIONER WOODGERD: I have a statement that chairman Mahoney dictated to the Legislative Council which reads as follows:

Mr. President, Mr. Speaker, Members of the 48th Legislative Assembly. This is the time and place set for the formal presentation of the Commission's plan for redistricting the congressional districts and the Montana House of Representatives and Montana Senate to the Montana Legislature convened in regular session as required by the Montana Constitution. Before doing this I would like to briefly discuss the method of appointment and the constitutional criteria under which we must operate.

The Commission is composed of five persons, two appointed by the majority leadership and two by the minority leadership. The four so appointed were to select the fifth member who is automatically the chairman. In the event the four cannot agree then it becomes the duty of the Supreme Court to appoint the fifth member. I was appointed by the Supreme Court. Two of the original commissioners are no longer with us. Marj Bell is now deceased and Nancy Agenesis married and moved to New Zealand.

The present Commissioners are as follows: Louise Galt, Helena, Montana, JoAnn Woodgerd, Stevensville, Montana, Jim Pasma and John Kuhr both from Havre, Montana. I am from Thompson Falls, Montana. In forming legislative districts the Commission must adhere to the state's constitutional requirements of population equality, compactness, and contiguity. The ideal house district population is 7,867, the state's population divided by 100. The Commission is attempting to create districts that will deviate from that ideal by no more or less than 5%, thus the acceptable population range is 7,473 to 8,260. The Commission uses 1980 census data as its population base. The other criteria adopted by the Commission for forming districts are: the consideration of geographic boundaries such as the continental divide or major rivers; government boundaries, such as Indian reservations, county, city, legislative, and precinct lines; and communities of interest, such as trade areas, communication networks, etc.

The Commission adopted Plan C for the congressional districts, which to date has met with complete approval of everyone, including the political parties, the two congressmen and the people in the districts involved. The overall range expressed in absolute and relative terms is 94 or .02%.

The senatorial districts presented some problems particularly in western Montana and the Commission asked for recommendations and suggestions on these. I am very sorry I am unable to be present but it appears that my trip to Helena has been jinxed from

the very beginning. I started out from Tucson last evening. My flight was 1 1/2 hours late into Salt Lake and therefore missed connections into Helena. The plane that was to arrive in Helena at 12:40 had problems and will not leave Salt Lake until 2:10. I wish to assure the members of the legislature and its respective committees that I will try to make myself available for any future meetings if they so desire. One of the commission members will make the formal presentation to you. Thank you very much.

Jim Pasma will make the formal presentation.

COMMISSIONER PASMA: It is with some pride and certainly a good deal of relief that I present this report and recommendations on behalf of the Reapportionment Commission. Anne Brodsky will now make a presentation.

BRODSKY: Mr. President, Mr. Speaker, and Members of the House and Senate of the 48th Legislative Assembly:

I am here today to present a rational and systematic account of a process which I understand is regarded by most everyone else as only mysterious and highly emotional.

Before I begin this presentation, I wish to clarify what my role has been as Legislative Researcher for the Commission. I believe that there has been a certain amount of misunderstanding as to who has been responsible for the decisions, particularly as I walk through the halls of the Capitol and am questioned, "What have you done with my district?" The Reapportionment Commission has been responsible for the districting decisions. I have acted as researcher and have provided technical assistance and provided the Commission with options. My role with the Commission is probably particularly important during the next 30 days when I will be available to you on a regular basis to discuss districting proposals. I emphasize that the opinions you have must be presented directly to the Commission rather than to me.

When you do meet again in your separate sessions, you will have on your desks packets of information from the Reapportionment Commission containing several items, including a copy of the provisions of the Montana Constitution pertaining to reapportionment. You will also have a map of the Commission's tentative Congressional district plan as well as a color-coded map of the legislative districts that the Commission has tentatively adopted. This is not a final district plan--there will still be the opportunity for change. The numbering system now before you on the map is different than this numbering system with which you have been familiar during the last couple of years. For example, the district in Powell County has been referred to as 105. Now we have renumbered it as District 49. The numbering system starts in the Northwest corner, and Lincoln County is No. 1. Also in this packet is a cross-reference system of the old numbering system used and the new numbering system adopted. Also, there is a brochure from the Census Bureau which indicates population counts

for the counties, county census divisions, and incorporated places as well as census data for 1970 and 1980 with an indication of the percentage change in population over the decade.

As Senator Stephens stated, we have set up in Room 316 a set of display maps of the new legislative districts. There will be the statewide map displayed on the wall and maps of any counties that contain more than one legislative district with the boundaries highlighted in red. Also displayed are city maps with highlighted district boundaries. These maps will be on display during the next 30 days for your review and perusal. I will be available to meet with any of you who have questions on the district boundaries or for those of you who would like to devise alternative proposals that you may wish to propose to the Commission.

Reapportionment is the redistricting of political district boundary lines, and the process is undertaken every ten years in every state of the country. Primarily, the purpose is to create political districts that are roughly equal in population so that the weight of one person's vote is equal to the weight of another's. The basis of the decisions was the Equal Protection Clause of the U.S. Constitution for state legislative districts and Article I, Section II of the Constitution for congressional districts requiring districts to be apportioned on the basis of population.

Four members of the Commission were appointed in 1979 by the House and Senate Majority and Minority leaders. Within 20 days after their designation, the four Commissioners were to select the fifth member to serve as the Chairman of the Commission. If the four members failed to select a fifth member within the time prescribed, the Supreme Court was responsible for selecting him. In 1979, as in 1973, the four members were unable to agree on the fifth member, and the Court made the appointment. The Commission was responsible for redrawing both legislative and congressional districts. The plan must be submitted to the first Legislature meeting in regular session after the Commission's appointment in 1979, and after the census figures are available. Census figures were available in March, 1981. This is the first regular session meeting following those events. The Legislature has 30 days to review the Commission's plan from the time that the Commission does submit the plan to the Legislature so that by February 4, this legislative assembly must return the plan with Legislators' recommendations back to the Commission. Thirty days following the receipt of the Legislature's recommendations by the Commission, the Commission must file the final plan at the Office of the Secretary of State, and at that time the plan becomes law and the Commission is dissolved.

The State Constitution has established certain criteria that the Commission must adhere to. The Constitution requires that single-member districts be formed and be nearly equal in population as possible with districts made up of compact territory and contiguous to each other. There are consequent stipulations

that the House of Representatives must be between 80 and 100 districts and that the Senate be half of that number: 40-50 districts.

One of the first tasks undertaken by this Commission was to establish that it would attempt to create the districts keeping with tradition. The change in congressional districts was received without objections to date from any people. The change that was made between the existing district and recommended new district included Toole, Liberty, Pondera, and Meagher counties being moved from the Eastern to Western District. The difference in population of the two districts is 47 people above the ideal district size in the Eastern District and 47 below in the Western District. This was an overall range of 94 people, a .02 percent deviation. The overall relative range of the 100 House districts is 10.94 percent and the overall range of the 50 Senate districts is 10.18 percent. This seems to be relatively a good improvement over the plan created by the 1973-74 Reapportionment Commission, where the overall range was 15.48 percent for the House of Representatives, while the overall range in the Senate was 13.08 percent. The 100 House districts were created first and we returned to pairing those to the Senate districts. Once it was realized that rarely could all the criteria be met in creating individual House districts, the task became that of applying a balancing test of the criteria in the individual House districts and on a regional basis. The Commission discovered that districts could not be created in an isolated manner and that a decision made in one area would have effects that would extend across the entire state, creating a ripple effect. Although the Commission first took action on districts in Northeastern Montana, it is my sentiment that the Commission did not actually begin in Eastern Montana. It continually moved east to west, north to south, west to east, south to north, throughout the whole process. No one was left behind, and it was up to the Commission to look at the entire picture. For example, in Meagher County the Commission considered placing that county in the district to the north of it, south, east, and west. The Commission looked at all of these options and had to make its decision based on the best available alternatives for entire areas.

The Commission did proceed from the rural to the urban areas, and the reason for this progression was that the census data from which the Commission worked was available in more flexible terms in the urban centers than it was available in the rural areas. In rural areas, the smallest census unit available was an enumeration district, and it usually comprised a large geographic area and often contained a large population. For example, one enumeration district outside Helena contained over 3,000 people, which is just under 50 percent of a district size, and this district creates significant limitations on the options available to the Commission. In contrast, in the urban centers the census provided details on a block-by-block basis, and the population contained in the census block was usually under 100, the average between 30 and 60 people; and having that great amount of flexibility, the

Commission worked on these areas last.

In developing the proposals, I had access to all the census material, and I put proposals together for the Commission's review based on the criteria they had set forth, and I put together these proposals with many of you, incumbent legislators, land use planners, County Clerks and Recorders, and others. In some areas of the state, we put together anywhere from five to seven proposals. They were drafted into map form, and they brought that proposal to a public hearing. In other areas, all parties agreed on one proposal, and only one proposal was presented to the Commission. The Commission did its work on a regional basis, and hearings were conducted on a regional basis. Northwest Montana was divided into 13 House districts; Missoula County, 9; Ravalli County, 3; Silver Bow, Powell, Granite, and Bear Lodge Counties contained eight districts. In Gallatin County the Commission considered whether to create 5 or 6 districts. In Lewis and Clark County there were 5 House districts; in Cascade County, there are ten. The Glacier County area had 7 House districts, and Northeast Montana 5. In Central Montana, Fergus, Petroleum, Judith Basin Counties had 2; Big Horn, Garfield, Rosebud and all counties east of these had 10 House districts; Yellowstone County, 14; Park, Sweetgrass, Stillwater, Carbon, 4.

Hearings were held throughout the State. The Commission received quite a bit of input from the public before they made decisions. Decisions made were tentative ones. They have been changed throughout the whole process, and even now the proposals being presented to the Legislature are tentative proposals and do not become final until the plan is filed with the Secretary of State. I will read from the minutes of the Commission in November in which they specifically requested that the Legislature offer its recommendations:

"Commissioner Woodgerd moved that the Commission present the plan to the Legislature with the Senate districts as currently adopted with a note that we realize that the alignment of Senate districts in Western Montana may not be the best possible alignment and that we particularly would like their comments and suggestions for other methods of aligning Senate districts before we adopt our final plan. Commissioner Pasma seconded the motion. Vote on motion: Aye - Pasma, Woodgerd, Mahoney. No - Salt, Kuhr. The motion passed."

Western Montana is one of the examples in which there seems to be no perfect alternative available. There are an odd number of House districts, 25, in an area that would logically be a contained area in which the districts would be paired into the Senate districts. One of those districts will have to be paired outside the area. This is a dilemma similar to the dilemma throughout the State in many areas.

The final point I want to mention today is that it is necessary that all Senators will be running for re-election in 1984, and

that is because the new Senate districts that will be adopted and the Senate districts which are in effect right now will probably overlap, so that if all Senators were not to rerun, there would be instances in which a citizen would be represented by more than one Senator or would not have any Senate representative. So, all Senators will be running for re-election in 1984.

That concludes the presentation that I have to make. I personally commend the Commissioners for their dedication and doing a job that was bound to create more enemies than friends. I thank them for the support they have given me throughout this process.

PRESIDENT STEPHENS: We will entertain questions. If you will, please confine the questions to the nature of general questions concerning Anne's presentation today. There will be ample opportunity to ask specific questions when the hearings are held in the House and the Senate. The hearings will be held within the next thirty days. If you have a question, would you also please first identify yourself before directing the question to either Anne or to any member of the Reapportionment Commission.

The Chair recognizes Representative Pistoria.

REPRESENTATIVE PISTORIA: This has been asked by many at home. Suppose the State legislative body turns down this redistricting. What happens?

COMMISSIONER WOODGERD: Representative Pistoria, as we read the Constitution, it only allows for recommendations from the Legislature and does not allow the Legislature to turn down the plan as such.

PRESIDENT STEPHENS: The Chair recognizes Representative Nordtvedt.

REPRESENTATIVE NORDTVEDT: Realizing that you need some kind of variation which in this case was plus or minus 5 percent from the ideal to get the job done, if one finds three, four, or five legislative districts all together in one or another part of the State, or 5 percent above the ideal or 5 percent below the ideal, are we to view this as chance?

COMMISSIONER PASMA: I think we all know what you are referring to. I believe the Commission treated the county in question fairly, and it was just chance that the House Districts there were over the ideal size. In my opinion, Representative Nordtvedt, you can view it any way you want to. I voted the same all four times, and I'd vote the same four more times, because you are wrong.

PRESIDENT STEPHENS: The Chair recognized Senator Aklestad.

SENATOR AKLESTAD: Mr. President, I have a question for Mr. Kuhr. I would be interested in what agreement there was since

there were five members on the Commission, and particularly interested in knowing since there were three Democrats and two Republicans, how many of the decisions were actually made on a partisan basis across the State as I look at the map?

COMMISSIONER KUHR: I can't speak for the other members of the Commission. I can suggest that early on it became very apparent that our process would be a partisan process. I recently read through all the minutes. There were sixty-one contested motions that we passed during the hearing process. On fifty-seven of those, the chair voted with the two Democratic members of the commission--Pasma and Woodgerd. On two of the remaining four, the Chair abstained from voting, which effectively defeated motions that Mrs. Galt and I made. The remaining two were these: At Havre we had a question involved in numbering 219 and 220 and wanted to get those on the table. The Chairman felt it would be a good idea to get them on the table in the form of a tentative motion. He did vote with Mrs. Galt and I on that issue. The only other situation he voted with us was when we had a hearing in Helena and there was a request from one of the county officers to realign a county line so she could take care of precinct lines. The Chairman suggested it was a housekeeping matter and did vote with Mrs. Galt and I. There were only those instances that I am aware of. The ultimate approval was a 3-2 vote with the Chair voting with the Chair voting with the two Democratic members. Mrs. Galt and I voted against the plan.

PRESIDENT STEPHENS: The Chair recognizes Senator Aklestad.

SENATOR AKLESTAD: Question for Mr. Pasma. In light of the message that was just received from Mr. Kuhr, I am just wondering how sincere you are that you are willing to listen to other alternatives from the Legislature in the upcoming thirty days of this process since you weren't very willing to listen to plans from the people that this Legislature represents at this time.

COMMISSIONER PASMA: Just as sincere, Senator Aklestad, as you are in asking the question. I would point out in defense of Senator Mahoney the two Republican members voted 100 percent of the time to damn it and for some reason that's in the best interest of the State. Apparently, when the Democrats voted together, there's something wrong with that. Did that answer your question?

SENATOR AKLESTAD: Not really. Are you still willing to listen to suggestions and make changes?

COMMISSIONER PASMA: Of course. We have throughout the entire State, and we will still be willing to do it until the final day the plan is voted on.

PRESIDENT STEPHENS: The Chair recognizes Senator Aklestad.

SENATOR AKLESTAD: Are you willing to adhere to the wishes of

the majority of the people? I am wondering, if the majority of the Legislators agree that a district should be different, are you going to adhere to those wishes?

COMMISSIONER PASMA: I would have to see the plan they propose before it is approved. If we worked on your suggestion, we would have an amazing conglomeration of districts. Each Legislator would have a different list pretty much of their own to protect his own interests, so that is the very reason that the Commission was established.

PRESIDENT STEPHENS: Hearings will be held by both the House and Senate, with intent to hold those hearings no more than a day apart to accommodate Commission members who may have extensive travel plans or have to travel a great distance to reach Helena. There will be plenty of notice on the hearing dates. You are invited to visit with Anne and staff and take a look at display maps.

The Chair recognizes Representative Bardanoue.

REPRESENTATIVE BARDANOUVE: There seems to be a possibility of a partisan tone to this hearing. I wonder how many times that the Commission voted together as a body. I think that has some significance. How many times did you agree on the proposals?

COMMISSIONER KUHR: I didn't count those votes. On all the other issues that we are concerned with, it became apparent to Mrs. Galt and I early on that the Chair did not vote with the Republican side of the Commission. I think it's apparent to all of you that any Commission will be partisan, when you have two Republicans and two Democrats. I express to you my grave concern when you have a process as we did and traveled throughout the State of Montana and look at the results of what happened on the contested votes. That's where we had questions and division, and when one side of the aisle feels it was an aborted effort because the Chair will never be on your side, that's not just difficult for the members of the Reapportionment Commission or members of this body, that's a real concern to the people of the State of Montana.

PRESIDENT STEPHENS: The Chair recognizes Representative Bardanoue.

REPRESENTATIVE BARDANOUVE: I have highest respect for you and Mrs. Galt. I wasn't meaning to give any hassle, but I think that it is important to realize that there were times it seemed that there were certain Democratic Legislators eliminated from the legislative process and I never did hear in the press or anywhere about eliminating completely certain Democrats from the Legislature. Why was there not, at any time, a great hue and cry about getting rid of Democrats?

PRESIDENT STEPHENS: I believe that is a philosophical

question, and I think you have made your point. If there are no further questions.

The Chair recognizes Senator Keating.

SENATOR KEATING: Mr. President, I would like to give a public acclamation for Anne Brodsky for what she did. She was between a bit and a hard place. Whenever I asked for anything she was very willing and helpful. I thought she did an excellent job considering the position she was in. I'd like to hear it for Anne.

PRESIDENT STEPHENS: If there are no further questions. The Chair recognizes Senator Hazelbaker.

MOTIONS

Senator Hazelbaker moved that the joint session of the Forty-eighth Legislature be adjourned. Motion carried unanimously.

Joint Session adjourned at 2:13 p.m.

Senate resumed at 2:18 p.m.

ANNOUNCEMENT OF COMMITTEE MEETINGS

Announcements of committee meetings were made.

Upon motion of Senator Hazelbaker, duly carried, the Senate adjourned at 2:24 p.m., until January 6, 1983, at the hour of 3:00 p.m. Motion carried.

STAN STEPHENS
President of the Senate

JOHN W. LARSON
Secretary of the Senate

MINUTES OF THE MEETING
State Administration Committee
Montana State Senate

January 20, 1983
10:30 a.m.
Reapportionment Commission

SENATOR STORY: We welcome the visitors. The first thing I want to say is that this committee will always meet at 10:30. It may have been posted otherwise in some areas, but this is our permanent hearing time from now on. The Secretary will please call the roll.

SECRETARY: Senator Story, Senator Hammond, Senator Marbut, Senator Tveit, Senator Manning, Senator Stimatz, Senator Towe. All present.

SENATOR STORY: The committee being present, we will open for business and the business this morning is reapportionment. We are required by the Constitution to make a reply to the Reapportionment Commission. The vehicle for making this reply is Senate Resolution No. 4 which is being considered by Senator Kolstad on behalf of Senator Stephens. If you please.

SENATOR KOLSTAD: Mr. Chairman, members of the Committee on State Administration, my name is Allen Kolstad, Senator from Liberty County. It is my pleasure to represent Senate President Stan Stephens this morning. He was called out of town and couldn't be here. It is my privilege to present to you Senate Resolution No. 4 which is a simple resolution of the Montana Senate considering the Montana Reapportionment Redistricting Plan. On page 2 of this plan, line 6, Resolution providing conclusions and recommendations and modifications of the Reapportionment plan as it pertains to the proposed Senate Districts. Now, those recommendations and modifications will come as a result of the testimony before this committee today. And while much of it probably will be received today, I respectfully request, Mr. Chairman and members of the Committee, that this hearing remain open for several days for the purpose of providing you with additional testimony, much of which is being researched and not immediately available. With that, Mr. Chairman and members of the Committee, I respectfully submit to the Commission Senate Resolution No. 4.

SENATOR STORY: Thank you, Senator Kolstad. This resolution will be acted on the Friday after next, the 28th, which gives us time for floor action, and we will take any testimony between now and then, that date. We would appreciate written testimony and consider it when we make our recommendation. Before we continue, could I see a show of hands. How many people are here to speak simply in favor of the present reapportionment plan as presented to us? Just one? Could I see a show of hands so I can tell how much time? Four.

LAWSON: Mr. Chairman, there are several Senators also.

SENATOR STORY: What we will do -we will hear from you four right now briefly and then we will hear from the people that have recommended suggestions, and

we will continue hearing from them until we have heard from everybody and then anybody else that you have that likes what's going on in conclusion. But first, would you like to say a few words?

EUGENE MAHONEY: Mr. Chairman and Members of the Committee, for the matter of the record, my name is Eugene Mahoney. I am Chairman of the Reapportionment Commission. As you know, we are a constitutional commission. The Constitution provides that the majority leadership appoint two people and the minority leadership appoint two people, and they in turn have twenty days in which to select a fifth member who automatically becomes the chairman. In the event they cannot agree on a chairman, then it becomes the duty of the Supreme Court to appoint the chairman, the fifth member. I was appointed by the Supreme Court. I might say that we have held extensive public hearings. Every meeting we have held has been an open hearing for everyone who cared to come. We listened to everyone that wanted to testify before this Commission. We tried to keep everyone in their respective areas that were affected by that particular hearing informed prior to the hearing by sending the alternative maps to the Republican State Senate Committee, the Democratic State Senate Committees, who in turn filtered them down to the local committee. We also gave copies to the local legislators in both the Senate and the House. And our research staff--Anne Brodsky--I think has done a marvelous job in trying to inform the people in the respective areas. She has spent much time out in the field formulating this plan to get the feeling of the people, the planning and zoning commissions, the election of officials, the clerks and recorders, the county commissioners, and other interested people. I know that we couldn't make everybody happy with our plan. I think it is a safe thing to say that even though we disagreed at times on the Commission, that we agreed more times that we disagreed. But this being a political process, if it was a 100 percent agreement, I don't know how that could be accomplished. It hasn't been. But I think our disagreement has been a sincere disagreement. It's a horse race. You've got several different opinions--that's why you've got paramutual betting. And all the members of the Commission, I think, have made a sincere and honest effort to do what they, in their own minds, with the information they had for the good of the entire state in making up reapportionment districts. Now, necessarily, because of the nature of Montana, we had to start at the outside areas. You know up north we have Canada, and North and South Dakota, Idaho on the other side and Wyoming on the south. We had to start from the outside and work in. Now I might say, and I'm sure I'm speaking for the entire Commission, that we're not happy with some of the results that resulted in Western Montana Senatorial districts, and you will note from our report to you that we have specifically asked for your recommendations in this regard. It has been stressed through the 18-month long period that this plan is still a tentative plan. It does not become final until the plan is presented to the Secretary of State, and then it becomes law. I hope my work has not been an exercise in futility because there are lawsuits now pending in the Supreme Court, but that's up to the courts to decide, whether or not that 18 months has been futile or not. But it goes to say that I believe our staff has worked very conscientiously. I think if there could be one criticism made, it would be that we sent too many alternatives out in the field and gave them too many choices, but we tried to make an honest effort to reflect the feelings of the people in the respective areas. I'll close by saying we could not please everyone, but I think we came up with a pretty fair

plan, and now we certainly respectfully request your recommendations during the time you have under Constitutional limitations, so that we can present the final plan to the Secretary of State. As you know, initially it's up to us to determine the size of the Legislature under the Constitution. Although we could not have less than 80, nor more than 100, the Commission did agree and decide to have 100 members, and that automatically meant that we're going to have 50 Senators. So, that's the plan that we proceeded upon, and that's the plan that's presented to you. I don't know, do any of the other members of the Commission have anything to say to the Committee now, please feel free to say so now if you'd like. I want to thank you for the opportunity to address you. Thank you.

SENATOR STORY: Thank you, Mr. Mahoney. Are there members of the Legislature, proponents, who have other hearings to be at?

SENATOR DANIELS: Mr. Chairman and Members of the Committee and Members of the Commission. I am Kemmit Daniels. I represent the present Senate District 14, which I might say is not the ideal either. But I would speak particularly here in behalf of the proposed combination of districts 49 and 50 which would constitute Senate District 25. I realize that that's the first option and has drawn some gasps of amazement from some of the people, and my testimony may be colored by the fact that I have a home in Swan Lake. But nevertheless, I would point out that the proposed, and let me make it clear at this point, that this is my second choice. My first choice, and I don't want to burden you unduly with that, would be with Phillipsburg, that is with Granite County, which would be 49 and 68 together. But in behalf of the proposed Senate District 25, I would point out that there is a community of interests with Bigfork and Deer Lodge. We are both interested in tourism. We want to attract tourists. We've got tourist facilities. In Deer Lodge, we have the Grant Khors Ranch, the Towe Car Collection, we have the old Montana State Prison, and we have numerous tourist facilities in there. And they are building a new motel in there at the present time. I found out that in Bigfork they have the Summer Theater there, and it's a beautiful, lovely area. I would think that Bigfork would really prefer to be in a district with Deer Lodge than be totally dominated by the Kalispell area. And I think that, again, I would think that the timber industry there are sawmills in the northern portion of the proposed District 25. We have sawmills in our area, we have a great number of loggers. We have the community of interest in agriculture that is present and that we have, and so I'm not at all appalled or even doubtful about the proposed district. I think that it's much preferable to the present district that I represent. We have a good highway that goes all the way from Deer Lodge; we go up through Avon, and we go through, Helmville's only a short distance off; Ovando's only a short distance away; and then we get into the portion of Missoula County for a while; then we're back into the Lake County area, into Swan Lake, into Bigfork. And the road is much preferable to the present road where, when I campaigned this fall, why you go from Deer Lodge and you go down to Anaconda, you go to the Flint Creek Hill and Phillipsburg, you go up to Drummond, then you have your choice to go either to Deer Lodge on the right hand or you go up to Helmville and Ovando, and then you're confronted with when you can go to Clearwater Junction and decide then, do you go to Potomac or do you go to Seeley Lake. And then you come back into Deer Lodge, and then you go to Lincoln and over here to Helena. And it's a much more complex district than

the proposed district 25. In fact, it would make it much simpler as far as a guy campaigning. It's kind of a refreshing drive in some respects. But when I come over here into Helena and knock on the doors and tell them I'm from Deer Lodge and running for the Senate, they think I'm an escapee or something. I don't know. They have some reservations. And again, I would point out that's my second choice. My first choice would be with the Phillipsburg people. They don't particularly care about that, but I think they might be persuaded. And my third choice, I don't want to be in a suburban district with the people of Helena. I think that's the last choice. If there are any questions or anything I could do to enlighten the Committee or the Commission, I would be happy to attempt to make the effort to anyway.

SENATOR STORY: Thank you. Are there further people who wish to speak in behalf of the present plan? Senator Himsel.

SENATOR HIMSEL: Mr. Chairman, Members of the Committee and Members of the Commission: For the record, I'm Matt Himsel, Senator, District 9, Flathead County. This district of Bigfork actually is not in my district, but it is in my county and we do have a concern about its placement. And I don't presume to tell the Commission what to do, but invite and urge them to reconsider the position taken on the original plan and hopefully put the House District 50 and House District 51 into one district--Senate District 26. My reasons are as follows: These areas are both the districts, both the Bigfork district and the Deer Lodge District, they've both got good people in them, so that's not a question of appraising them. But their lifestyles are entirely different, and I'd like to share that with you in perhaps a little different way. Bigfork is an area of exotic farms. We've got the cherry orchards, we've got the Christmas tree plantations, we've got the seed potato growers, we've got growers of lentils, and we've got growers of mint crops, something that's quite different from anything we have in any other part of the state. It's an area of artists, of craftsmen and retirees. Really, it's a kind of Mel Tillis/Joan Baez type of a community with, well, you can put Grandma Moses in there, too. That's the type of area it is. It's really a Bohemian type of village, beautiful place, a quiet lifestyle that those people have. It's a retirement type of community, it has a whole different lifestyle. If the sun is out and the fishing is good, they'll live in peace and harmony. And that's the type of community it is. I've been around long enough to understand something about the Deer Lodge community, and I don't say this disrespectfully, but it is kind of a Jane Fonda, some kind of a Marlboro Country. It is an area of rugged individualists that don't run from combat of any kind. That's true--it's kind of a combat zone. First they fight the prison, then they fight for the prison. First they fight the railroad, then they fight for the railroad. Then on the state appropriations thing, they fight the state for the labor--given institutional value, we call it. Their whole lifestyle is different, their whole concept of community life is different. And if they don't have enough to fight, then they always have the Fish and Game to take care of. Now I mention that because that's the history of that community. I don't say it disparagingly, but only to point out that their composition, their lifestyle is entirely different from that of the Bigfork area. Now if you combine Bigfork, 50, with 51 you put the lake shore area tied in with Polson. And that's a community of harmony of interests. The only problem you might have there is that it does put the Indian Reservation in a part of that. But I can assure

you and members of the Commission that there are more Indian features that are painted, carved, and, well, they paint them and sculpture them in Bigfork, than there ever are many Indians in the Polson area. And it is a harmonious arrangement which I am sure will satisfy those people very well. So, I would suggest in the hope that the Commission I am sure has the wisdom, the capability, and I hope the good judgment to put those two areas together, and I can't tell you what effect it might have elsewhere, but I can assure you that there's a harmony of interests in that sort of a structure which you won't have in any other. Thank you, Mr. Chairman.

SENATOR STORY: Thank you. We really try to take testimony from those that want no changes in the plan first. Senator Lynch.

SENATOR LYNCH: Mr. Chairman, Members of the Committee and Members of the Commission: It is with some reluctance because I am not here as a proponent for the entire program, but in visiting with some members of the Commission, then I told them how much I accepted and appreciated the district insofar as both of my House members are still, will be both my House members, and their reply was so very few people like any of the plan that we would appreciate your coming and testifying to that effect. I appreciate the fact that my district has changed the lease insofar as you've had to move to consolidate. They lost a House district, but that certainly it's the same district I represented as a House member for years, and both the House members are still in my Senate District. I would hope, as I am sure all of us in this room, that you would accommodate those problem areas and certainly I would hope that you would try to accommodate the problem area of two of my fellow Senators which I'm sure you'll hear from in opposition to the proposed plan. So, I'm just here to say that not everyone is totally dissatisfied, and in my particular Senate District, I'm certainly in support.

SENATOR STORY: Thank you. Further people that like it. Yes. Senator Norman.

SENATOR NORMAN: Mr. Chairman, Members of the Commission, I'm sure your considerations are and must be broader than Missoula County, but I would just like to speak in favor of the present plan for the Missoula County. Missoula County now has four Senators. Actually, we have four and a half and a half. The population is drained away to the east and the west, and there is much talk already before this committee of disparity in lifestyles and various voters and how they should be grouped together. Well, I would encourage you, and this plan perhaps is the best that can be done, to maintain county lines as much as possible. County government is involved, and there are many things involved, and a county even up at Seeley Lake and out at Frenchtown, they still belong to Missoula County. They pay taxes there, they well know it, that is their trading area, and so if you keep draining population away from Missoula County, you may have a very undesirable effect. Missoula County will come to dominate the surrounding small counties. You will have more Missoula Senators than you intended. And that process is already underway in Mineral County even in the House seat. So, as you borrow population from Missoula County, realize that with it goes political clout, and the surrounding counties are going to lose their voice, at least to some extent. We now have 79,000 population or above there, and surely should be entitled to five Senators, but accommodations need to be made and have been, but this plan probably best accommodates everyone. So I would encourage you

to support the plan you have now and give us four Senators wholly within Missoula County. Thank you, Mr. Chairman.

SENATOR STORY: Thank you. Is there anyone from out of town who's come great distances to speak in behalf of this? What we're doing right now, Senator Mazurek, is listening to people that like it the way it is.

SENATOR MAZUREK: I'd like to testify to that. Mr. Chairman, Members of the Committee. I am Joe Mazurek, Senate District 16 here in Helena. Very briefly, I would like to express the support, or my support, for the plans that currently exist. I think at least in terms of the division of the House districts here in Lewis and Clark County there was, I think, bipartisan support for that. There was some disagreement over the alignment of the Senate districts. I think both Representative Donaldson and I have testified to proposed alternate plans, but the committee, as I understand, is still looking at adjusting those. But in terms of the House districts, the numbers, and their location. I think there was generally bipartisan support here in Helena. Thank you.

SENATOR STORY: Thank you. Further proponents for the existing plan.

SENATOR BERG: Mr. Chairman, Members of the Commission and the Committee. I'm Harry Berg, Senator from District 21, Great Falls, and I would like to go on the record in support of the present or the proposed plan. It doesn't go without some difficulty in Great Falls and in Cascade County, as you know. Part of our county has been enucleated, I guess, from the rest of the county. It has been that way in the past, and I guess it will continue. But I think that given the circumstances, it's probably the best we can do. Additionally, I know that there have been comments in other areas about the plan. I'd just like for you to know that in Great Falls, in the city itself, with the reapportionment of the Senate Districts, it does turn out that there are three of us that are presently State Senators from Great Falls and will be living in the same district. Whether that makes any difference or not, I'm not sure, but I'd just like to point that out. Thank you.

SENATOR STORY: Thank you.

SENATOR FULLER: Mr. Chairman, Members of the Committee, Members of the Commission. I'm Dave Fuller, Senate District 15 in Helena. I just wanted to echo what Senator Mazurek said, Mr. Chairman. We're pleased, and there was some bipartisan support here for the plan the Commission has adopted. I understand there may be some alterations which they're considering in the House districts. In either case, as I understand it, from my perspective I think it looks fine. Thank you.

SENATOR STORY: Thank you. Yes.

SENATOR MOHAR: Mr. Chairman, I'm John Mohar from Senate District 11. In considering the loss in population of my corner of the state, I think that the Committee, the Commission, did a very good job in reapportioning Lincoln County, including most of the county into the new Senate District 1. Thank you.

SENATOR STORY: Thank you. Senator. Anyone further? Yes, Mr. Lamson.

JOE LAMSON: Mr. Chairman, Committee, I'm Joe Lamson, the Executive Secretary of the Montana Democratic Party. And the party has been following this particular reapportionment from the beginning as my counterparts, the Republicans have. A lot of the press has concentrated on the disagreements within the Commission and within areas. I think it's important to realize that, as Senator Mahoney said, there was far more agreement than disagreement. Most all of the urban counties in Montana had bipartisan agreement. We saw that happen in Kalispell, Missoula, Helena, and Great Falls. There was bipartisan agreement in Gallatin County, but the Commission couldn't go along with that particular recommendation for what it did to some of the surrounding towns. Only Billings was the only place where you had Democrats and Republicans really lining up on different urban plans. And I think that's what has spoken well to the process. It's been an open process. There's been many changes, as Anne Brodsky can attest to. She's got stacks of options. One other thing I'd like to make sure is that the Democratic party is not beholden specifically to some of these Senate adjournments. We do support the House districts as they are. But the Senate adjournments, we are also not pleased with the Bigfork problem. But the thing that the Committee has to realize is that when you start to realign those, there are going to be changes. Sam Reynolds of the Missoulian wrote one of the most amusing editorials about this and called this, this Bigfork to the outlying, a super-mander. It went beyond gerrymander to supermander because they could leap over mountains and do everything like that. And he's right. I would hope, through, that Mr. Reynolds would realize that there are just seven options, and if he gets rid of those supermanders in the western districts, one of the negative implications for Missoula County is that they go from 4 to 3 state senators totally contained within their county lines, so my point is that there are the things that the Commission has had to wrestle with, and this Committee will have to wrestle with. But overall, we think it's an excellent plan and one that will serve the people of Montana best. Thank you.

SENATOR STORY: Thank you.

REPRESENTATIVE JENSEN: Mr. Chairman and Members of the Committee, I'm Jim Jensen, Representative from District 66, Billings. I am here to support the district plans for Billings as they were prior to yesterday's State Administration hearing in the House. I would like to say I am a Democrat in this district that has been eliminated by this process, and I have not squealed. However, there was I guess for the benefit of the Committee, one representative did not live in his district as newly aligned, and has asked to be included in that district. And I think that that precedent then would force me in fact into the same request of the Committee. So I am here as a proponent of what has been done, if they leave done what was done, but if they do not, I would submit copies of proposed change in what are on my map E, I, J, and F districts which are 91, 93, 94, and I'm not sure of the other one. For the Committee, Mr. Chairman, may I. I do want to make it clear that the only way in which I would encourage this realigning would be if there are any other changes made. Thank you very much.

SENATOR STORY: Thank you. Further people that like it the way it is. Be quite brief if you can.

REPRESENTATIVE LYBECK: Yes, Mr. Chairman, Members of the Committee and to the Commission. I'm Representative Ray Lybeck from District 16, the Bigfork area, one of the areas we're discussing this morning, and I would just like to say I would agree with what Senator Himsel told you earlier, that I believe the districts of Bigfork and the Polson one would work very much more compatible than maybe going down to Deer Lodge. Thank you.

SENATOR STORY: Thank you. Is there anyone else who wants to speak about not changing it?

JANET MOORE: I'm Janet Moore. I'm Director of Public Affairs for the Seeley-Condon Chamber of Commerce. I would like to speak in support of your plan to keep us, and we hear Seeley Lake mentioned a lot, but we never hear of Condon. It's like it's not even in Montana, but it is, and it's up there by the Lake County line, and we would like to stay in Missoula County. Thank you.

SENATOR STORY: Thank you. If there are no further people that wish to speak for maintaining this plan as it is, then we will turn and ask those that suggest changes. And I would first like to start with legislators that have other hearings. If you'll proceed, Senator Haffey.

SENATOR HAFFEY: Mr. Chairman, Members of the Committee and Members of the Commission. I have just a few pieces of information. My name is Jack Haffey, and I represent what is presently Senate District 45. I just have a couple of pieces of information that I would like to share with you and some concerns and then suggestions. What I would like to present to you I think will not meet, or would not meet with disapproval by many of those who have supported the plan. There are people here from Granite County who I think would suggest to you the same things I'm about to suggest. They are first of all that Deer Lodge County, which contains the Senate district that I now represent in the 1980 census has about 12,500 people. Granite County has 2,700 people. As I look at that, and as I look at what Senator Himsel referred to as communities of interest, I perceive not only the numbers as being compatible with what will be two House districts from now until 1990, but the community of interests between Granite County and Deer Lodge County as being one, so that that would really mean that there are about 15,300 people in those two counties, using the county lines, that would form two House districts. Presently under the House district plan, House Districts 68 and 69 would form one compatible Senate district. And I'm suggesting that that would be very appropriate for Deer Lodge County and for Granite County. Deer Lodge County, if something like that is not done, will be in the position of a probability of not having a resident who serves in the State Senate even though the county's limits itself have more than enough people to make up one and one-half House districts, and that concerns us. Anne Brodsky your staff person, has a number of alternatives which could remedy the situation under the tentative plan for Deer Lodge County which calls for one of Deer Lodge County's House districts to be combined with the Silver Bow County one, while the other Deer Lodge County House District is combined with total Granite County and has some options which would remedy that, which would call for combining House Districts 68 and 69 as proposed into one Senate district, which would be Granite County and Deer Lodge County. And I think Anne's, the tentative cautions for your

consideration, would cause a limited ripple that would move around Western Montana in a manner that would address also the major problem you've heard about and continue to hear about in terms of the long non-contract. Bigfork to Powell County or Deer Lodge District. And so my suggestion to you is, and my recommendation is that you consider as you complete the Legislature's consideration of the Commission's plan and as you the Commission complete your work and submit it, that one way to remedy the Bigfork/Powell County thing is one that will also accommodate the interests of the people in Granite and of Deer Lodge counties. And I would appreciate your consideration of that. A third point is that, and I would defer to Senator Stimatz who serves in the Senate State Administration Committee, is that the ripple as it would go around, as Anne Brodsky has in one of the options, would affect Silver Bow County and its five districts, but I think that can be accommodated as well in a manner that would not meet with disapproval of the people in Silver Bow County. Thank you very much for your time.

SENATOR STORY: Thank you, Senator. Further legislators first. Senator Aklestad.

SENATOR AKLESTAD: Mr. Chairman, Members of the Committee and Members of the Commission. Since you are involved in this, I'll pass you out a map. I am State Senator Gary Aklestad, representing Senate District 6, in North Central Montana. I am here to oppose the, which I believe is the proposed Senate District 5, which would encompass Glacier, Toole, and Liberty Counties. I am here opposing that Senate district on the grounds that I don't believe the Commission followed the criteria which was established, which is as I understand in the rules in which they were operating under. The proposal that I have is not a new proposal. It is a proposal that the Commission had adopted through their proceedings and only changed at one of the very last minutes and one of the very last meetings due to political pressure or whatever. With your indulgence, I would like to at least show you on the map where the change would be. I would like to emphasize that with this change there is no ripple effect. We are strictly just changing Senate Districts around. There is no effect whatsoever to the plan. The proposed change, Mr. Chairman and members of the Committee, would be to merely (showed on map) take this line here, move it to Interstate 15 to Conrad and over here. That proposed change would put this area and this area in one Senate district and would put this and this together in one Senate district. There are five main reasons for doing that, which would follow the criteria the Commission was supposed to be operating under. 1) As it exists, the reservation is divided as far as Senate districts. This and this is a Senate district, and these two are a Senate district. The reservation is divided. This would put the Indian reservation back together for a Senate district which is part of the criteria which is part of the rules in which they supposedly operated under. 2) We would be putting back a small town and county seat, which would be Cut Bank in this case, at least back for the Senate district. Right now it is divided as a Senate district with this narrow tip going up into there. If we put it back together, move this line, this area would be in Cut Bank; Cut Bank would be put back together for a Senate district which I think follows the criteria. The proposal that you have on your desk, it would also follow the criteria of keeping the existing boundaries more than that that we have now in our Senate districts than before. Right now, this Senate district line comes down and does encompass this area. Otherwise it's going to go clear across the northern part of Montana. Also under

the criteria, the mileage and travel in the new Senate district proposed is for greater, going from here to Joplin, Montana, to the Continental Divide and going to the Canadian border down to Fairfield is less distance, less square miles. In this particular area, as far as people and travel, and getting together the north and south more than it is east and west because of I 15 is traveled from the Canadian border down to Conrad and Great Falls, so the people that go north and south have a far greater pace than east and west. Last but not least, I just wanted to emphasize that there is no ripple effect to this plan--you are merely moving one line and moving it over here, and the House districts so they make a Senate district, as you see on the map--no ripple effect. With that, Mr. Chairman, I would submit that this plan follows the criteria in which the Commission was supposed to operate under far closer than the proposed plan would. And I would also like to emphasize that this plan was adopted, this plan was adopted by the Commission up to its last hearing or two. Thank you, Mr. Chairman.

SENATOR STORY: Thank you. Further testimony?

SENATOR SMITH: Mr. Chairman, Members of the Committee, Members of the Commission. Senator Ed Smith, District No. 1. The area way over in Northeastern Montana, if there are any changes, the only changes that I would suggest and that is that we get closer to the other boundaries in the West. The only other way we can go, and that's North Dakota or Canada. You will note I have handed out testimony to the Committee members. There are probably some changes as we go through it, and I would appreciate it if you would make those changes as we go. I am appearing before this Committee because I'm not appearing on my own behalf because I'm sure that the district that is there now, if I decided to run again, it would have very little effect on my running or anyone else running from that particular district. This is the third time that I have appeared before the Commission to express my concerns on the way Senate District No. 1, presently District No. 20 was designed and notice the word designed. I first appeared in Helena before the Commission went on its road show and expressed my concern or the concerns of my constituents in Northeast Montana. Next was in Wolf Point, and now I'm here before you today, and I expect the same results today as we received at that time because some of the Commission members have said that any of us that would cause a ripple effect, that there would be little chance for any changes to be made. However, according to today's issue of the Great Falls Tribune, one of the Commission members urged that the legislators come up with alternatives. I guess my remark would be how stupid can that be, because the Reapportionment Commission and staff spent 18 months coming up with the plan that they have today, and with legislators with their busy schedule, how in the world could they come up with alternatives. Mr. Chairman, now I will address my objections with regards to my District No. 2. I'd just like to go to the map and point out how the district was prior to this plan. Prior to this plan the districts were designed, were reapportioned in a north and south direction. You will note this green line here is the Missouri River. All of this district was in District 1. This district was pretty much set down Highway 16 here in District No. 2. Now this portion, 2,907 people were moved from this area north of the

Missouri River and put into the present Senate District No. 21. I'd like to also point out to you that there is another problem in the Senate and that is that you have Senate District No. 21, this House District here, these two are House districts. This would be the Senate district and this small area here is the city of, town of Sidney. It certainly would have an adverse effect for rural legislators to be elected. And, as you have noticed also in the press, that rural legislators will have a harder problem of being elected. And regardless of what some of our city friends think, rural Montana is certainly necessary to the way Montana's economy is. I'd also like to point out that the 2,907 people were taken out prior or just at the beginning of when the State was being reapportioned, but we were next to the last to be addressed, in the meeting right at the end of the hearing process, was just before the meeting in Havre and then the final meeting in Wolf Point, just a few days before the final decisions were made on how the State would be reapportioned. When this was done, I feel that it violates the very criteria that the Constitution directed the Commission to follow. And you will note on page 11 of this book, it says that consideration shall be given to existing governmental lines. These include such things as county, city, Indian reservation, precincts, and school district lines. I would like to have you note that now the Indian reservation, I'll address that first, has been divided into four legislative districts. You will note there is a very little corner up there where it has any connection with that other particular area. You will note that it is now that one portion that I just mentioned in eastern Roosevelt County, the eastern portion of the Indian reservation, now is put into the area of basically Richland County which goes clear down to the line—about 17 miles from Glendive, Montana. School district lines have been broken. As you will notice, some of the school children when you go way up in that corner, some of those school children go to Plentywood, some of them go to Medicine Lake. That is the the two areas the districts they go to. They have no activities in their area. 2) In the book, geographic boundaries will be respected, the book states. Another natural divider is the Missouri River. Again, I say this is a violation because as you will note, they followed the Missouri River all the way from the mountains til they got to a point at Brockton, Montana, then they disregarded that as a boundary. 3) Whenever practical, consideration shall be given to existing legislative district boundaries. As I have stated earlier, because the boundaries run in a north and south direction, they could have easily changed that boundaries by just a little westerly movement of the district and pretty much kept it in its present reapportionment boundary. 4) Community of interests, and again referring to the book, communities, and that's on page 11. Communities of interest will be considered. With this criteria, the Commission sought to create homogenous groupings. This, I think, was a violation because communities of interest tend to be defined by trade areas, and states organization, communications, and transportation networks. Again, a violation of the criteria. And as you will note on the map, there is only one road that connects those two districts and I believe it states on page 12 of the book that they disregarded that. And that is Highway 16 and the Missouri Bridge that connects the two districts. Trade area, again east and west, you'll notice that Highway 16 comes from Plentywood on down to Culbertson. Highway No. 2 does go on to Sidney, but you usually go to the west which then goes on No. 2 over to Wolf Point and then again the highways run from Bainsville to Wolf Point, 16 this way. 13 that comes out of Wolf Point, or out of Scooby and comes down to Wolf Point. Again, in regards to association, organi-

zations, county commissioners association, there's a five-county commissioner association. We have county planning districts that stay on the north side of the river, conservation districts, mental health districts, health associations, rural water districts, school activities, types of agriculture from the north side of the river is definitely different, there's no sugar beets, very little irrigation on the north side of the river compared to the south side of the river. I could go on and on. Communications—I didn't bring the book with me, but I did present it to the Commission when they were in Wolf Point. The Northeastern Montana telephone coop that goes to the North Dakota line and stays on the north side of the Missouri River goes up into the Glasgow area. Northeastern Montana Bell's book for Northeastern Montana, that is the book for northeastern Montana, there are no points in the telephone book across the Missouri River. Transportation again, highway and railroad—there is a railroad that goes from Opheim to Bainville and that connects on to the main line that goes from Bainville on to the west coast. Their transportation problems in Richland County are much different from those in Sheridan County because we have a branch line that we have problems with. However, I understand that they do have a branch line from Sidney to Williston. Again, as I mentioned earlier, highways are definitely of concern. When people in Senate District 1 became aware of the changes, they contacted me, they asked me what they could do. I suggested that they write to the Commission and also circulate petitions, and it was they and not I that circulated the petitions. Several hundred names were presented to the Commission at the Wolf Point meeting and I would like to add that in a rural area such as that, as much as that's scattered out, you don't do that in a few days. And that's what they did. They collected several hundred names on petitions. The petitions from eastern Roosevelt County was delivered to the Commission at their Wolf Point meeting. And I believe that you do have the copies of those petitions here. You can certainly look at those petitions. The one I was asked to deliver to the Commission at Wolf Point was from eastern Roosevelt County. I understand that Representative Solberg presented those that were collected in the Daniels County and northern Roosevelt County. I would also like to point out in the book on page 12 that it states citizens of northeast Montana told the Commission that county boundaries were not reflective of the type of communities of interest in the area, and then it went on to say that arguments were made in support of the opposing positions. I can't even get what that comment really meant, but I think what it meant and that was that there were some people who went in support of the commission's position and opposed ours. And I would like to add there were three people there that opposed us not changing—they supported the Commission's proposal, that was the Secretary of the town of Sidney and two past Roosevelt County Democratic Chairmen. There were no sheets provided at the hearing such as we have here. There was a large number of people there, but there were no sheets that I could find that were there to see whether you came in support or in opposition to their proposed plan. I would like to point out that what happened when the 2,900 people were taken out of the original district and that population was placed across the Missouri River, it made a ripple effect and when it got to the central part of Montana, you had a pretty good high weight. And I am sure that other legislators here today are going to speak on how that it put two Senate districts and several House districts into the same district. I realize that the reapportionment is a tough job, and I will say this, and this may sound a little harsh, but I would like to say that one would have to be an absolute fool if they didn't realize that what was done was for

partisan political reasons. It was to do two things. We're going to make Republican legislators, as was mentioned earlier, to eliminate rural legislators. To back up my statement in regards to partisanship in the reapportionment plan, you will note, and I have copies of two articles out of the Great Falls Tribune. An editorial on January 16, I won't read the editorial, but it does point out some of the partisanship that was brought into the reapportionment of the state and I have one here in today's paper, January 20, where the Chairman of the Commission admits that there was partisanship in it. In closing, I would like to say that I have had several people approach me on possibilities of court action. My comment to them has been I don't know what chance you would have when it was the Supreme Court which you would appear before if you opposed it, what kind of a chance you would have, because it was the Supreme Court that appointed the fifth Commission member. Thank you, Mr. Chairman, for your time. If there are any questions later on, I would be more than happy to try to answer them in regards to how I felt that my district was reapportioned.

SENATOR STORY: Thank you. Senator Etchart.

SENATOR ETCHART: Mr. Chairman, Members of the Committee and Reapportionment Commission. I am speaking in opposition to the plan as presented, and basically I am here to endorse a plan for the northeast corner presented by Representative Chet Solberg. In my handout, if you will look at it, the first page is a letter which I sent to Chet after he presented the plan and I had a chance to look it over. And it outlines my points of support for his plan and where I feel that it's superior over the plan presented by the Commission. And then the second sheet is a copy of the present House and Senate districts as we now have them. And the third sheet has the Solberg plan. I would like to point out that if you will revert to the third sheet that the Solberg plan would take the four representative districts in the northeast corner and confine them to the four counties north of the Missouri River by adding the north part of McCone County, which the northwest corner of McCone County naturally goes into Glasgow because the Missouri River is bridged at Fort Peck Dam, so the northwest McCone County goes into Glasgow. Northeast McCone County goes into Wolf Point at a bridge just east of Wolf Point. So these people, we make it very compact, two senatorial districts with the western boundaries in the western Valley County. And we maintain the basic integrity of the Missouri River and we follow the historical precedent of creating the highline as an entity and as Senator Ed Smith said, in all of the previous reapportionments, and I have gone through four of them, but in every case the districts started at the northeast corner with the Missouri River on the south, Canadian border on the north and North Dakota line and worked down the highline, adding enough people to keep compact districts. I feel that the error in this plan is when we violated the Missouri River in Roosevelt County and added those north of Richland County. In so doing, they worked down the Yellowstone River and instead of going counter clockwise, they went clockwise, down the Yellowstone River, the ripple effect becoming a tidal wave. Basically, I don't have any final answers, but for the northeast corner, I think the Solberg plan could be implemented and is very superior to what we have.

SENATOR STORY: Thank you. Senator Van Valkenburg.

SENATOR VAN VALKENBURG: I will try to keep my comments very brief. I have put a lot of comments into the record already, and I hope the Committee will have access to this. With respect to Senate districts in Western Montana, I wish to go on record in opposition to the Commission proposal. I do that with some reluctance because the proposal is, I think, the best proposal for Missoula County and even more so for Democrats in Missoula County. I guess I have a self-interest in both those areas. However, I think it is incumbent on all of us to look beyond our self-interests. I too see problems with respect to the plan that some change could resolve. It may create some problems for us in Missoula, but I think in the interests of the State we will all be better served. In particular I would suggest to you that you recommend through the Joint Resolution process that proposed House District 66 and 67 in southern Ravalli and Beaverhead Counties be combined to form a Senate district. The effect of that very significant change in the recommendation would be to allow proposed House District 57 to be combined with a district to its immediate west, House District 51. That, I think, would solve one of the more serious problems with the present Senate districts. In addition, it would allow proposed House District 49 in Powell County to be combined with proposed House District 68 in Granite County essentially. Now, while that does not meet completely with the desires of Senator Daniels who testified as the first witness, it does meet his second objection. It meets the objection of Himsel and folks in the Bigfork and Flathead County area. It will have the effect of preserving four Senate seats within Missoula County. They will have to be shifted around somewhat--there are various proposals. I know Senator Marbut has come up with his own. They may well work more to the benefit of the Republicans in that area. On the other hand, the citizenry, as you know, has got its opportunity to exercise its opinion at the ballot box. But, what it does do is to solve three problems and create one, and I'd be quite frank about that, it does create one, the combination of southern Ravalli and Beaverhead. But that proposed Senate district would, in my opinion, really have more of a common interest between its House districts than the problems that are created in three other areas if the Commission's proposal were to be adopted or even amended to reduce the Missoula area to three Senate districts and splitting off three House districts to various rural counties. Ms. Brodsky, I think, is familiar with the specifics of my proposal and I am sure can respond to Committee questions as to how that might be implemented, and I will certainly be available in the future to respond to Committee questions too. Thank you very much.

SENATOR STORY: Thank you. Are there any other legislators who wish to speak?

SENATOR ECK: I'm Dorothy Eck, from Senate District 39. I must say that about my own district I maybe have grounds to complain because mine is the district in the State that has the largest deviation from the normal. I am not complaining a lot about my district, however. It's a city district that's built up, stable, it's not growing, and I don't see nearly as many problems for that as I do with the rural districts in Gallatin County which we still contend are larger than they should be. What I would like to propose today, though, is some changes in Senate districts in Gallatin County, and I speak for the County. The first is the rural area to the east in Gallatin County which makes up House Districts 76 and 79. They are currently in one district, that district being represented by Paul Boylan. It's a growing district, it'll be smaller geographically than it has been, but it would make a lot of sense to keep those two House districts as one Senate district. The other recommendation would be that on the western end of the

county to look at keeping House District 80 with House District 44. That would mean you would have the area from Belgrade to Three Forks as one House district, the area going up into Jefferson County as the other, making one Senate district, which is again basically the same district that we have now, which is represented by Leo Lane. Now in doing that, we recognize that there will be ripple effects, but some of these ripple effects are good. The first would be that Madison County, which is one district, Beaverhead County which is another district, would be combined into a Senate district. That is what happens now. You would have a district that would be very much as we have now. There doesn't appear to be a good reason for making those changes, and I think when you make the changes, it's always very confusing for the constituents and it's difficult for the senator representing those constituents. In this case I think that Beaverhead and Madison Counties have a lot of interests in common. Now it would have other ripples too, and I cannot speak to the effect of those, but what it would mean and the way that we had worked it out would be that you would have 43 and 45 making up a district--that would be East Helena and Helena east side. You would have 48 and 49 as another district--that would be west Helena valley and Powell. I think that's pretty much what you have right now, too. You would have 51 and 50--that would be Bigfork, that area, and the north end of Lake County. You would have 52 and 55, which would be the southern part of Lake County going into Missoula and you would have 68 and 57, which would be Granite County going in towards Missoula. My guess is who loses on this one is Missoula. And I don't know that area around Missoula well enough to know what the impact would be. And I don't know that that is the only way this ripple could work out. But I do contend that Gallatin County is already feeling that there has been some discrimination in that each of our House districts is at or near or over the maximum. This would give us two Senate districts within Gallatin County which are basically the same as what we have now. It would give us a half of another Senate district which would be essentially the same as what we have now. And if it could work out this way, we would be very well pleased. I must say that I really sympathize with the work of this committee, but especially with the Commission. We suffered through a lot, and we've tried to come up with a lot of proposals that Gallatin County felt would work better for us. They haven't worked out well, and I would hope that at least for these, for the Senate districts, that you would consider this proposal.

SENATOR STORY: Thank you. Representative Nordtvedt.

REPRESENTATIVE NORDTVEDT: Mr. Chairman, Committee members, I am Ken Nordtvedt, Representative of District 77 in Bozeman, and I have two items. I'll be very brief. First, in response to the recommendations of Senator Eck, I think there is a serious problem with that proposal from the point of view of Gallatins. Second, economic impact. Gallatins, number one, have cultural, and our number two economic activity is Montana State University. I think Senator Eck's proposal would reduce from three to two the number of senators who have a direct interest in the interests of Montana State University. From that point of view, I think it would be detrimental to Gallatin. Let me show you why. Right now there is one senatorial district in Bozeman, where Montana State University is. The present recommended senatorial grouping would put 79 and 80 together as a senatorial district and 75 and 76 together as a senatorial district. Seventy-six and 79 have become basically bedroom districts of suburban Bozeman, with a great deal of growth and development, a good fraction of the employees in the Bozeman economy living in 76 and 75. I think under the present groupings all three of these senators would have to be interested in the interests of Montana State University.

I think that would cover Gallatin County. Under the grouping suggested just previously, 80 going with 44 and 75 going with 67, or whatever, you would only have two senators, the urban senator and the bedroom community senator closely tied to the interests of Montana State University. So I would seriously question this rearrangement from the point of view of Gallatin County's interests, particularly because our chief competitor in past years, Missoula, very much wants to have four senators within their county. So that's item number one. Item number two is that yesterday afternoon Miss Brodsky came to me with some suggestions on how we could solve one of the problems in Gallatin County, and I certainly appreciate her efforts to work on these problems. These problems are that we have four districts, 76, 77, 78, and 79, all at the 5% variation on the high side. We have four districts clustered together, and that represents a total of 1,600 citizens in some loose way disenfranchized or having their voter strength diluted. And we've been trying to get our districts brought down to size. Now she has looked at some possibilities and shown them to me, which would move some of that excess population eventually out into 75 and 80. And although that would somewhat reduce the problems in urban and suburban Bozeman, I fear it puts the population problems into 75 and 80. But I do appreciate the fact that ripples can be produced, and we can rearrange this Apportionment Plan at this point. I'd have to be quite frank with you--I think the fairest way to solve the population problems of Gallatin's four excess districts is that these ripples would eventually have to move as far as Butte and Silver Bow, which is not that far away, and to be absorbed and increasing a bit the size of the districts in Butte-Silver Bow. That is the basic problem, and although I think some of these proposals of the last 24 hours would help the four mostly affected districts, they don't basically solve the problem, they move it to 75 and 80. And I think the number one way to solve this is to have this ripple propagated about 90 miles to Butte-Silver Bow, and rearrange these districts more in line with the ideal size. Thank you.

SENATOR STORY: Thank you. Representative Ellerd.

REPRESENTATIVE ELLERD: Thank you, Mr. Chairman. For the record, I am Representative Robert A. Ellerd, District 75. I testified yesterday, so I will be very brief. Senator Eck just made a proposal that I again find very political and very partisan, and I have felt that throughout these entire hearings. I want to point out to this committee that I am here solely in the interests of the people in the West Yellowstone-Gallatin Canyon area. Reapportionment is not going to affect my position at all if I should run again, absolutely not. And I feel sorry for those people because we're tearing their heart out. Now we're going to tear it out again. Under the proposal of the Commission has made that area still would have a senator representation in Gallatin County. We're not just going to completely divorce them and put them over into Madison County because they will not have any House representative under the way it is. Evidently, I couldn't follow her proposal, but it looks to me like it would cause the whole reapportionment of the, realigning of the whole western area through here, and I don't understand it. But I do understand it enough to know that those people and those people who live in Gallatin County should not turn against our people that live there. And Gallatin County is getting hurt under reapportionment. We think it's very unfair. But we're, again, like I stated yesterday, we had our attorney here yesterday, Mr. White; he's not here today. He didn't want to do that. We're not threatening anybody. We've already taken our position. We have hired our attorney, and we're going to go just as far as we have to. But if you have to change any Senate

districts, please don't take those people again and let them have one representation in the county they live in. On 75, if you take that out of there, there absolutely, they have no way in the world, they have way away from everywhere. It's approximately 70 miles from West Yellowstone to the Four Corners. You have a road going through the Madison on each end. You have 70 miles in the middle that you cannot get through in any way at all, unless you want to take an airplane or a pack mule or something. You can't get through, it's all mountains. We are very, very upset about what's happened, and we're not trying to give anybody. I've asked you people to hear it once. They're going to have to try to talk to the Commission to make any changes. Please don't accept this last one, because don't tear those people apart any more than they have been. Thank you.

SENATOR STORY: Thank you.

REPRESENTATIVE ELLERD: I'd like to add one more thing while I'm here. Senator Boylan represents that area. I don't know what he's going to say, I haven't talked to him. It's entirely up to him. But he's going to want his job again. West Yellowstone is a very isolated area in this state. They lie right next to Yellowstone Park, right next to Idaho, and they have not had very easy representation over the years. Senator Boylan has made a great effort to represent those people, and I have too. We've spent a lot of time. We've tried to give them fair representation because of the isolated area that they are in, and there's no way in the world that the Senate district and House district, putting them over where they want, not because those people representing wouldn't be fair and wouldn't try to take care of them, but you can't cover an area—it's just impossible for those people to have representation.

SENATOR STORY: Senator Boylan.

SENATOR BOYLAN: Mr. Chairman, members of the Committee. For the record, I am Senator Paul Boylan from Senate District 38. I am a little apprehensive to testify in front of this committee because I hate to divide up the spoils, and so by re-districting the same in our area as in some other areas, it has done quite a lot to our district. I am a native of Gallatin County, one time represented both part of Gallatin County under the old reapportionment and since then I have been representing Senate District 75 and 76, which is West Yellowstone. I think it's going to be a very big hardship on the people of West Yellowstone to have to go over into those other counties because of the terrain down here and so forth. But then come to the division of the spoils, why I'm kind of looking at maybe forming a Senate District out of 76 and 79, and if I do this I think it would be a fairly easy district for me to represent, a little easier than the other one, because of the contacts to be made. Not that I want to abandon the people in West Yellowstone and these type of things, but I think you have to face some facts of where it's easier to run and easier to put together. So with that, I thank the Committee very much.

SENATOR STORY: Thank you, Senator. You've spoken once, Sir.

SENATOR DANIELS: I'd like to speak in behalf of my number one topic, if I may.

SENATOR STORY: No, there's an awful lot of people who still have to be heard. Now we'll take you, and then you. Either way. Did you people speak in the House yesterday? Both of you?

REPRESENTATIVE SWIFT: Yes, I did, Senator. Mr. Chairman, members of the Committee and members of the Commission. I have here a map of the county with my proposal, and I go on record in opposition to the...

SENATOR STORY: Would you give your name.

REPRESENTATIVE SWIFT: I'm Bernie Swift, Representative from District 91 in Ravalli County. I go on record as opposing the way our legislative districts in Ravalli County are formed. And I will point that out in relationship to the map I put on the board, and I will try to be very brief about it. And I'll leave these copies with you. If you recall, Senator Norman mentioned earlier this morning, and I think you heard him alluding to the ripple effect. Now I will allude to my reasons for not agreeing with what the folks have done with our legislative districts in Ravalli County. As you see, they have gone northward into Missoula County for getting the third of what we call the northern legislative district, No. 64, shown here. It's up in the northwest corner, northwest. What Senator Norman was alluding to is the very point that I am making right now, that Missoula County is an amoeba and is expanding outward on all sides. They are beginning to encroach on the rural areas and controlling what happens legislatively and senatorially, in view of that fact. And I further allude to this, by going outside of Ravalli County we become a part of Missoula County as it gets into administrative effects, county commissioner effects, things related to schools, roads, and other matters. And I think most of us would agree if you only have to solve a problem with three people, it's much easier than it is if you have to solve it with six or possibly three or four more than that depending on the size of the county. And for this reason I propose that we have three legislative districts all within Ravalli County for the simple reason that as shown by this map we can do that with three equal divided units that are within .3 of 1 percent of each other on a population basis, which more than meets the criteria. We are also within the 5 percent Commission criteria. We are following what as I understand it the Commission said are the ground rules. We're not violating anything that I know of, and I also want to point out that as it came out in discussion yesterday in the House, this plan does not split Victor. It is to the east of Victor. It does not split that town. It does one other thing—it does take off approximately 690 people at the west side of Hamilton which was previously all in a southern unit and now going to be reducing that by 600, and there are 2,661 in Hamilton. But I don't think that really impairs the community aspect or the life situation. Now I say this can be done, and it can be done without what we have been discussing here as a ripple effect. It will not affect any areas unduly because these numbers, 1,053, that lie north of the Ravalli County line can be absorbed in the nine legislative districts that make up the Missoula County complex. Therefore, I respect, we are not impinging upon anyone, we are not causing any undue impact with the Commission's work. There will be a little work to renumbering, but that has gone on throughout this process. I might also add that, and I discussed this with the Commission on business on different occasions, as yet I have gotten no consideration for changing, and I want to make it very clear I am not only speaking for myself from the standpoint of politics, I'm speaking for the citizenry in this area of Ravalli County and I am also today representing Senator Severson and

Representative Bob Thoft. And they concur with this. I don't think there is any question about what the intent is and the reasons for what we want to do. Leave us alone, we can distribute our county equally, and let us make our own decisions within our county. That's all we're asking. We don't want the undue effect of the job the Commission has done. And I will leave both of these with you in the event the Commission would like a copy. Thank you very much for the opportunity to talk to you.

SENATOR STORY: Thank you. Representative Keyser.

REPRESENTATIVE SWIFT: Also, may I, Mr. Chairman, may I...

SENATOR STORY: Yes.

REPRESENTATIVE SWIFT: May I also allude to the statement I made yesterday at the House hearing that I do not desire to have senatorial districts combined on the southern part of the county. We have gone on record in previous years that that is the second worst alternative that we have. We are willing to go either way, and we leave that to the Commission's wisdom.

SENATOR STORY: Representative Keyser.

REPRESENTATIVE KEYSER: Members of the Committee, Representative Keyser, District 81, which covers Beaverhead and Madison County. In deference to my good friends from Gallatin, I have slight disagreement with one and I have no disagreement with the other. I am basically speaking of the senatorial districts because I realize that House districts are pretty well set. If I had my druthers, I would like to stay with Beaverhead, but that's impossible. I understand the way it is. I think, ladies and gentlemen, if you want to combine the Senate districts, the Senate district that has a lot of compatibility, something that historically may have been together as far as a Senate district, part of it anyway, I would say that Madison and Beaverhead, 67 and 75, would make a very good Senate district and would probably, it would be much more, this district, the combination of 67 and 75, much more compatible with 75, and I think now that you would have 76, which would be Senate District 38 the way it is on your proposed map. I realize that we still haven't done anything for West Yellowstone, as far as Senator Ellerd has said, but I think these are things that we are not going to be probably able to handle under the proposed districts. I know that 76 and 79 from my point of view, with the area it encompasses, is way better combined. These are basically very rural areas, two very rural counties and the combination of 67 and 70 would make a better Senate district than the proposed 75 and 76. Thank you.

SENATOR STORY: Thank you. Now, is there anyone from out of town who has traveled distances to be at this hearing? How many of you are there? Can you have one spokesman? Are you folks next? All right, quickly.

DOROTHY PAGE: Mr. Chairman, members of the Committee, and Montana Commission. I am Dorothy Page from Granite County. I have sat here and wondered about what's going on. Nobody has mentioned the poor little county that has no voice. Granite County is large as far as area wise, but of course we haven't a large population,

so we have no one to speak for us. At the present time, we are in an area where we have part of Anaconda, part of Deer Lodge County, part of Powell County is in with us, Granite County, part of Missoula clear up to Seeley Lake and then up to Helena. You can't tell me that we can have any kind of representation that's proper that we can get any help from anyone. I laugh at these fellows worrying whether they're going to have two senators or four. I'd just like one. We have the audacity to suggest that maybe we follow the U.S. Senate idea and forget about this 1-man, 1-vote business as far as the Senators are concerned and give each county back our own little voice. We all need a voice to cry out of the wilderness. Our problems are different than the problems in the other counties. We are very satisfied with Kenmit. He's been great to us all, and if we have to, we prefer to be with him than to go into Beaverhead, because that again would throw us clear off as far as travel. I don't know if any of you realize how far it is to travel just through Granite County to do any campaigning. Then when you have to go clear down to Beaverhead and go down as far as Mondak, why you'd have to start out the day after the election and start electioneering. And you'd never get there because there's a lot of impassable places too. And now we've had the audacity to suggest that we look deeper into the idea that each little county should get some representation too. If not, we might decide to be a foreign country—that would be one way to get a little attention. Because we all feel real badly that we have no way of getting in and saying anything that would help. You can't tell me anyone can be fair in their decisions when they've got the vote in the larger counties. They're not going to worry too much about us unless our smaller county happens to agree with what the larger county wants. So we've had the audacity to suggest that instead of all this redistricting we'd like to see us go back to the one senator for every county, and I think we'd all be happier. There wouldn't be all this worrying about whether it's political or not. We could decide the politics by voting. If you want a Republican senator, fine, you can have one. If you want a Democrat, vote for him. You're not going to have to worry about whether the Commission has divided us up so our parties are getting all mixed up. Our group today is a group that are mixed, we're Republicans and Democrats. But we first belong to the State of Montana. We'd like to be Montanans again. We are Granite Countians too. We want to be represented by our county, and then we worry about our politics. And I think it's about time everybody else started worrying the same way. Thank you.

SENATOR STORY: Thank you. Yes.

JOE STRABAL: Mr. Chairman, members of the Committee and the Apportionment Commission. I am Joe Strabal, Phillipsburg, and as Mrs. Page said, we haven't had representation since 1964. However, on your plan here that is proposed, I think this House District 68 and 69 would be better for us in my view because I campaigned this other year 4,500 miles from August to November mainly to see the people. We have right here a little group, Anaconda and Granite, we have to go clear up past Powell into Missoula, we have to go over to Helena to Lincoln and into the city limits here, and I can't see any reason where, just a suggestion maybe, but I don't think there's a Senate district created here yet, but maybe we should create one from Anaconda and Granite. That's the number one choice. We have had the Supreme Court rule in 1964 one-man one-vote because they felt a voter wasn't getting a fair shake, and I believe that. But I don't think we're

getting too fair a shake. I have nothing against the people that are representing us. They've worked hard, but that's a lot of territory, and I think it would be a diminishment of our vote if we can't get closer together where we can get some resident representation. Thank you.

SENATOR STORY: Thank you. Further people from out of town? Yes.

CARL SEEL: Mr. Chairman, members of the Committee and the Commission. For the record, my name is Carl Seel. I'm from the law firm of White and Seel from Bozeman, and I'm here on behalf of the bipartisan committee in Gallatin County who have been aggrieved by the plan that is being proposed by the Commission. As the foundation for my statements, today I would like to briefly review what happened in Gallatin County. It started in April when a grass roots committee prepared a plan with the criteria set forth by the Commission, prepared it and submitted it to that Commission, at which time it was tentatively approved 4-1. That plan has a deviation from all the House districts no greater than 66 people, and a percentage deviation, the maximum one being 4.4, the others less than 4 percent. Something happened after that. And by July 16 another plan had been slipped in to replace it. And that plan is the one that's being presented to you today. Now I would like to hand out to you at this time a handout which shows how those House districts have been reapportioned in Gallatin County. And you will see that out of the top twelve of the largest districts in the State of Montana, Gallatin County has four of those districts. Gallatin County has two of the largest districts of the top three in the State of Montana. This variance from the norm not only makes the proposed plan constitutionally invalid, it also makes it susceptible to challenge. The plan that is presently being presented to you violates every condition and criteria set forth by the Commission's own plans. First of all, community interest. Looking at Gallatin Canyon, you can see it's a long, long county. The individuals in the southern part of the county are being put into Madison County where they have no community interest. In fact the original boundaries of Gallatin County were set that way because of the natural boundaries, the Madison Range, which is essentially impassable. An individual in the southern part of Gallatin County, to meet with his representative, would have to travel through Bozeman and then over and back into Madison County. There is very little community interest of an individual who has a condominium in Four Corners with a farmer, a rancher, a fisherman in the Big Hole area. There is very little community interest between a student living in Four Corners six miles outside of Bozeman with a geologist or other individual in Melrose. Condition One is violated. Condition Two, contiguity of an area and compactness, they are contiguous but they are not compact, if you look at the area combining Madison County and the southern part of Gallatin County. Violated again. Condition Number Three, existing boundaries, violated. Change from the present status. Condition Four, violated. Existing legislative districts, those lines are completely blurred. The lines of county governments, and school districts, etc., have all been violated by this plan. Next, geographic boundaries, you have the Madison Range. There are no highways connecting the individuals in Gallatin County with the new district in Madison County. Communications, presently there exists no radio, no television, and no newspapers which represent both of those areas. And lastly, travel, this is an area where there is an interest. They will be traveling a lot. And it isn't necessary. The handout shows to you the deviation from the norm in four of Gallatin County's districts, the greatest of any of them in the State of Montana, again two of the top three.

But in addition to that, there's a Senate district which has a deviation of 5.14 percent, the largest in the State of Montana and also one that exceeds the Commission's own maximum variation of 5 percent. These deviations are great enough. However, taking into account the growth of Gallatin County, which is the fourth fastest growing county in the State, and also the net fourth fastest growing in the State, over 10,000 persons per decade, there will be a variance between Gallatin County and other slower growing counties of as much as 16,000 people by 1990, which would be two entire House seats. Presently, and in the House hearings yesterday, Walt Sales said that Walter Sales and Robert Ellerd represent as many people as four representatives currently in Silver Bow County. Now Gallatin County was hurt by the last reapportionment, as we can see now ten years later. If this plan is allowed to pass again, Gallatin County will suffer yet again in that it being a fast growing town the deviations will be exacerbated in ten years to the point where there will be 16,000 people in Gallatin County being deprived of their one-man, one-vote constitutional protection. In light of those arguments, we would urge your recommendation to the Commission that the Gallatin County Apportionment Plan be re-examined, that they take into account the growth of Gallatin County as well as the deviation which you have seen in this handout which shows it the highest in the State, to remedy the Senate district which is over 5 percent of the maximum allowed and puts this plan susceptible to being stalled, held up in the long run, possibly constitutionally invalid. Thank you.

SENATOR STORY: Thank you, Mr. Seel.

LEO LANE: Mr. Chairman, Committee and Commission, I'm Leo Lane, Representative from District 40. When I run, I run in Gallatin County, which goes almost up to the Riverside Country Club almost into Bozeman, not quite into Bozeman. But it takes in a big end of Gallatin County, and it takes in Jefferson County, then part of Lewis & Clark County and part of Broadwater County. The people that elected me was quite a bit in Jefferson County and Gallatin County and these other counties, and I would represent the college. I mean I've been a native and all my relatives and folks have been natives in that area all our lives, and a lot of our relatives go to school in that University, and I didn't think that Representative Nordtvedt was fair when he said that I wouldn't represent that area. So I kind of like that plan where I take in part of Gallatin County and Jefferson County. Thank you.

SENATOR STORY: Thank you.

REPRESENTATIVE HANSON: Mr. Chairman, members of the Committee and Commission. I'm Representative Marian Hanson from District 57, which is Powder River, Carter. I oppose the plan splitting the County of Powder River for Senate districts. It's been split for House districts. There is a plan before the Commission called Plan X which would put Powder River, Carter, and Fallon Counties back together and combine us with Wibaux and part of Dawson as a Senate district. It would also address the Cheyenne Indian Reservation, as their Plan X puts Colstrip in with Lame Deer and the Cheyenne Indian Reservation and then that would address a Senator from the Crow and the Cheyenne Indian Nations. And so therefore I feel that the people of Southeastern Montana have not been able to be truly represented with this elongated Senate district that they have in the whole south or eastern edge of the State and then putting the rest of Powder River County in with the Indian Reservations for a Senate district. Thank you.

SENATOR STORY: Thank you, Representative Hanson. Yes, Senator Gage.

SENATOR GAGE: Mr. Chairman, members of the Committee and the Commission. I would like to speak in support of Senator Aklestad's proposal and add to that--Senator Gage--add to that the fact that we have in Cut Bank a situation where the Blackfeet Tribal people are much more used to coming to the Cut Bank area for shopping than they are to the areas east, which they are being proposed to be put into. We have a greater understanding of those people because we have much more contact with them and would be most appreciative of being able to represent them in a Senate district which Senator Aklestad's proposal would allow us to do, in addition to putting the County seat of Cut Bank back into the same Senate district. We have great concern for the Blackfeet Nation. We met with their Tribal Council, and they were appreciative of the fact that we did come up and meet with them. They indicated that this was the first time an elected official had been in their council after an election. They recognized that we come up and go into their homes before the election, but they were appreciative that we also came up after the election. We would like to give you that for your consideration and for prime consideration in recognizing Senator Aklestad's program. Thank you.

SENATOR STORY: Thank you, Senator Gage. Yes.

DENNIS BERGVALL: Senator Story, members of the Committee. My name is Dennis Bergvall. I presently hold the position as the Executive Director of the Montana Republican Party. Since I, like you, am feeling hunger pangs moving on rather quickly, it's getting to be a rather long session, I'll move along rather quickly. First of which is to read on behalf of Senate President Stan Stephens from Havre a letter which is being circulated for you at this time to be read for the record. (Read letter.) You can have that letter now for the record. Very briefly, I have a few comments of my own. I testified several times before the Commission and once yesterday before the House Committee. And I will make a few brief comments for the record for your consideration by your Committee. I find it interesting this morning to have the analogy by Gene Mahoney that the reapportionment process is much like a horse race, and as Republicans we don't certainly want to lean too heavily on the fact that this could have been a greater horse race, but I think it's fair to say that probably the Democrats' horse had one more leg than ours, sufficiently, probably more swift in achieving its goal. I also find it interesting that somehow in the process of the eleventh hour Reapportionment Plan we can find such a sterling confession that the Commission Chairman found it inseparable to divide partisanship from the process. I think that this is a real concern to us. And I would rest in opposition to the process which has taken place because I feel that somehow the process which we have developed as the independent commission was designed for really two basic purposes, that ultimately the reapportionment process would be made to be a more fair and equitable presentation. And I think that somehow in their zeal to paint one color the complexion of the state politically, we have forgotten some of these and defeated the basic purposes of that Commission. Was it not, and some of this results I think is in your hands today and in the hands of the House Committee as well, which has the constitutional authority to make recommendations which hopefully will be considered fairly and impartially by the Reapportionment Commission staff. Your job essentially is to fine tune some of the rough edges on the procedures as well as to correct some of the abuses which have been rehearsed today and certainly put forth for you a, quite a list of things that appear across the state. I would

hope we could resolve it this way and not have to go to any higher or more impartial authority because that may ultimately have to be the case really to be in fairness to the whole process. I will not dwell too much on some of the areas around the state so much as to quickly tell you that we are concerned, and I believe the concern is this: It's not so much the reapportionment process, but ultimately to make everybody happy when we are done, but really more importantly that where there were alternatives that were more fair that were not chosen or were not considered, that those alternatives be considered now so as to come up with the strongest and best plan. And we've seen areas in Southeastern Montana, in Havre, that's Senator Stephens' testimony, the area around Cut Bank where I think they have very pressing problems, Western Montana, Northeastern Montana, areas where we could quite conceivably without any ripple effect create some sort of a solution that would make those people feel the process was more just. I will not dwell on that any more, to finally say just this, and that's that we have a tremendous amount of respect for the fact that this is not an easy job. But it's important to know that this will last for ten years. And I think that that angle of fairness is very, very important, so I underline that for you. And finally, I wish that you would give it extra consideration. Thank you.

SENATOR STORY: Thank you. Are there other people? Yes.

SENATOR BROWN: Mr. Chairman, members of the Committee. My name is Bob Brown. I represent Senate District 10, which under the current reapportionment contains Whitefish and Eureka. And I appear before you here today to criticize a district that's been criticized publicly and privately I think quite a bit already. It would be the proposed Senate district that would combine proposed House districts 50 and 49, which is right here on the map. That district violates, I think, most if not all of the criteria established by the Apportionment Commission. Certainly it violates the community boundaries involved because it runs from within a few miles of Polson and includes the town of Bigfork and the town of Deer Lodge and I think goes within a few miles of Anaconda, and obviously it's not contiguous, obviously not compact, and I don't think it's necessary either. I think there are better alternatives, better options, and I'd suggest that your committee might consider recommending to the Commission that you instead combine House District 51 with House District 50 and that you take the southern portion of Lake County, which is House District 52, and tie it in with Missoula County, perhaps the Rattlesnake area, and I think that could be done without any very drastic ripple effects. And I think it would be a lot fairer to the people involved in these areas, and it would be more reflective of the criteria that the Commission established itself.

SENATOR STORY: Senator Turnage.

SENATOR TURNAGE: Mr. Chairman, members of the Committee, my name is Gene Turnage. I represent Senate District 13. I want to endorse what Senator Brown said. I'd like to adopt at the expense of plagiarism what Attorney Seel said. I think that was well done. I have nothing further to add, and I hope that something will be considered. I will make just one general comment that the process of reapportionment which is and does correct a constitutional unfairness of the entire nation was operating under before the United States Supreme Court and was intended to give fair representation to everyone. What I am afraid is happening in the Commission's pursuit of the present plan is they have proceeded basically on the numbers, and I fear that they assume that just because the numbers fit, that that's all that's necessary. And I think not. I think there's a constitutional effect to have rational common sense representation. And that is why we would like some consideration of the comments of Senator Brown.

SENATOR STORY: Thank you. Is there any other? Representative Marks.

REPRESENTATIVE MARKS: Mr. Chairman and members of the Committee. For the record my name is Bob Marks, presently the occupant of District 80. My references today will be given to the area indicated on your plat as 44. I'm especially here today to comment on some remarks attributed to the Chairman of the Reapportionment Committee to the press yesterday, relative to my position on the Gallatin proposal that was brought before this Committee hearing last year. I would like to set the record straight. I did not oppose the so-called Johnson-Marchwick Plan last year. I did not, as Chairman Mahoney said, testify against it, but I testified against an ill-conceived plan which would have carved Jefferson County into three parts, three districts where no person from Jefferson County of either political party could ever expect to be elected. The plan I testified against was not proposed by Gallatin County and it was opposed by hundreds of people from Jefferson County from both political persuasions. By adopting presently tentative plan, District 44 incorporating Western Broadwater County with Jefferson County into one House district in no way precludes the committee from accommodating the Johnson-Marchwick Plan or giving Gallatin County more than what they have ended up with. I would like to have you check the record, Mr. Chairman.

SENATOR STORY: Thank you. Now, is there anyone in this room that has not spoken that wishes to speak. Representative Ramirez.

REPRESENTATIVE RAMIREZ: Mr. Chairman, Jack Ramirez, House District 64. And I just want to make a point that I have already brought up with the Commission. I wrote a letter on August 12, 1982, and I would like to submit a copy of that. It doesn't have all the attachments, but I would like to submit that copy. I'm not here to really change the boundaries of my district, I don't care one way or the other. I think there were two alternatives that were presented, one was called the blue alternative and one the orange alternative. The orange was adopted. I think the blue is much more contiguous, it's much more compact, it was a better plan. But I'm not here to gripe about that. One of the alternatives to the plan dealt with the area that is basically part of Billings. It's not within the city limits, but it's part of the Billings community. The line for both of these districts both under orange and blue went down the major street called Rimrock Road. And on the north of Rimrock Road are a number of subdivisions. All of those people along the road consider themselves to be a part of the Billings community, and they are part of the Billings community. To the south of Rimrock Road is the same situation that kind of goes along out in the country, and there's a map, but I don't know if I can show you very well. But this is the road. And the subdivisions on the south side of the road consider themselves, as I say, as part of the Billings community. Those on the north side do too. But the people on the south side of the road in this area right here were taken out and were put into a district that is basically Stillwater County, and they have absolutely no identity of interest with the people in Stillwater County. These people are Billings dwellers for all practical purposes. They are cut off on the fringe and taken into a rural district, and I just don't think it's conscionable. And those people, I talked with some of them, they are very upset about that. They don't feel that they're going to have the kind of representation that they should have because they consider themselves part of the urban community, and they're not even really going to be part of the Yellowstone County district because that part

of Yellowstone County was put in Stillwater and will be dominated by Stillwater County. I don't care if this area goes into my district, that's not what I'm here for. I just think that those people are entitled to go into some district that is connected with the City of Billings; whether it's mine or somebody else's is immaterial. I was told at the time that the only way that that could be done would be to take a little chunk out of Carbon County and put it with Stillwater County. I see nothing wrong with this. It's true, one of the standards I know is political boundaries, but the people in Carbon County have much greater identity of interests with those in Stillwater County than this group of a couple of thousand people, or not, I should say probably about 7 or 800 people. I don't know how many exactly. But certainly there's greater identity of interests there. And it seems to me that that should cut that county boundary and put part of Carbon in with Stillwater so that this can be left in the area that it belongs. And it just seems to me to be such a fair and reasonable change that it can't be disputed. But in any event, I wanted that brought to the attention of the Committee.

SENATOR STORY: Is there anyone else that has not spoken previously in this hearing?

SENATOR DANIELS: I simply, Mr. Chairman, want to make the record clear that my first remark with reference to my second choice and in the interest of time I would say that my first choice, the one that appears logical, is the combination of Districts 49 and 68, which are Granite and Powell County, and I would simply endorse the remarks made by Senators Galt and Van Valkenburg.

SENATOR STORY: Thank you.

REPRESENTATIVE NORDVEDT: Also, Mr. Chairman, I want to make sure the record is clear that I never questioned Senator Lane's commitment to Montana State University interests. I view legislative districts as things that will in all likelihood outlast my incumbency or any other incumbencies, and they should be looked at from the point of view of the districts and the people and not the present representatives.

SENATOR STORY: Senator Galt.

SENATOR GALT: I'm sorry, but I want to set the record clear too. Yesterday I made a statement which was not before this Committee, but the House Committee in regards that I had not been contacted in my area for a meeting with Miss Brodsky. And in checking back, I am sure I was out of town at the time. I certainly want to complement her on what she did, and she was very cooperative at all times. And I am sure that what I said yesterday was an error on my part because I am sure I was contacted.

SENATOR STORY: Thank you. Senator Stimatz.

SENATOR STIMATZ: Larry Stimatz, District 43, Silverbow County. I already pointed out to the Commission on my letter of October 8, 1982. I agree with Senator Haffey. And the district in Silverbow the way it is presently proposed is to go east into Anaconda and Silverbow. In a June meeting it was proposed that we would go west in Anaconda and east into Jefferson County. That is what I favored, and I favored keeping my two districts in Silverbow County. We are going to have to go outside our county to get one other House district for the Senate, and it can

very easily be any one of the others. Anne Brodsky has the alternatives that have been proposed. Thank you.

SENATOR STORY: Senator Marbut.

SENATOR MARBUT: Reed Marbut, Missoula County. I wish to preserve my position on record and the right to submit written testimony to this committee.

SENATOR STORY: Senator Towe.

SENATOR TOWE: My comment is that my particular district is divided into three parts very nicely almost equally, and I don't think that the Reapportionment could have done worse to my district, but I don't wish to complain about it because I wish to comment. Having been involved eight years ago in trying to draw districts for the Legislature when the Legislature had the responsibility, I am convinced it isn't possible for the Legislature to reapportion itself, so I think that what you have seen today is a good illustration of how the system is working and working very well, and I would ask that the Commission do pay attention to the comments that were heard today, and I am sure they have and will. And I appreciate their taking their time to sit with us today and go through this procedure and hear the complaints and I am happy to abide by the decision of the Commission. That does not bother me at all. I do have a question, two things that I was most struck by today. First of all, I am very mindful of Mrs. Page's comments. She is absolutely right that we did a terrible thing to Phillipsburg and Granite County eight years ago, and are we doing any better at this time? In any event, I think that those comments are well taken. Secondly, I guess the question I had was that comments about the two Gallatin County Districts being in excess of 5 percent, to the members of the Commission, Gene or somebody, is that a concern? Apparently your guideline is 5 percent. I am not familiar with the more recent Supreme Court cases. Do you feel confident that if we exceed 5 percent we will not be in trouble legally on a 5% deviation?

EUGENE MAHONEY: It is my understanding that each individual case will stand on its own merits if you deviate. We set the 5 percent ourselves. But if you have a justifiable reason for doing it, I think they will approve up to 16 percent. But you have to have a good reason. That is why we tried to keep it under 5 percent. Admittedly we had to violate it ourselves to try to put that thing together.

SENATOR TOWE: How about commenting in those two areas--fast growing and likely to substantially exceed 5 percent in ten years. Is that something the Commission has considered?

EUGENE MAHONEY: I know of no case that ruled that you must take in potential growth in the reapportionment process either in the United States Supreme Court, the Circuit Court of Appeals, Federal District Court in Billings, no case where it says you must decide the question on that basis.

SENATOR TOWE: Twenty-five of us here in the Senate are particularly concerned about one other issue that hasn't been discussed this morning, and that is the Constitutional provision that says Senators are elected to four-year terms. And I believe there are some 20 states two years ago that had the same problem that districts were dissolved in those states. Does that cause a problem with the Commission?

EUGENE MAHONEY: I don't think that's our problem, really.

SENATOR STORY: Senator Hammond.

SENATOR HAMMOND: Mr. Chairman, members of the Commission, members of the Committee. I'm Senator Hammond, Senate District 3, and I would like to go on record as being in favor of the plan presented by Solberg and Etchart, making it possible for Blaine and Phillips to remain together and maintain rural representation in the Senate. With the present plan they will be divided between the city of Havre and practically the city of Glasgow which would make it pretty difficult for any rural representation for either of those two counties in the Legislature.

SENATOR R. MANNING: I'm Senator Dick Manning, District 18, Cascade County. My district was the district that was consolidated with two others, but I can live with what happened. And you would have a very good bipartisan support for what you did in Great Falls.

SENATOR STORY: Senator Tveit.

SENATOR TVEIT: Senator Tveit, Senate District 27. As we listen to this today, I can see there are many disparities and discrepancies in my area of the state. I am sure the Committee will listen and hopefully recommend to the Commission. When we talk about distances in some of these counties, we have one House district that is farther than Billings to Butte, and it is all one district.

SENATOR STORY: Senator Marbut.

SENATOR MARBUT: I want to point out an error on the map, involving District 57, east side of Missoula.

SENATOR STORY: Any other questions of the Committee? If not, we thank you very much for your presentation and all of you who came.

SENATE RESOLUTION NO. 4

INTRODUCED BY STEPHENS

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA TRANSMITTING RECOMMENDATIONS TO THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION REGARDING ITS REDISTRICTING PLAN SUBMITTED UNDER ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION.

WHEREAS, a Montana Districting and Apportionment Commission was appointed in 1979; and

WHEREAS, the Commission prepared a plan for redistricting and reapportioning the state into legislative and congressional districts and presented it to the 48th legislature on January 5, 1983, as required by Article V, section 14, of the Montana Constitution; and

WHEREAS, the Senate has studied the plan submitted to it and has considered several recommendations regarding the plan; and

WHEREAS, THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION HAS PREPARED ITS REAPPORTIONMENT PLAN FOR THE LEGISLATIVE AND CONGRESSIONAL DISTRICTS AND DELIVERED THE PLAN TO THE 48TH LEGISLATURE ON JANUARY 5, 1983, PURSUANT TO ARTICLE V, SECTION 14(3), OF THE 1972 MONTANA CONSTITUTION AND PURSUANT TO 5-1-101, MCA; AND

WHEREAS, the Senate must return the plan to the Commission with its recommendations on or before February 4, 1983, in accordance with the Montana Constitution; and

WHEREAS, the Senate chooses to return its recommendations in the form of a simple resolution; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA HAS CONSIDERED THE PLAN IN ITS ENTIRETY AND CONDUCTED A PUBLIC HEARING BEGINNING JANUARY 20, 1983, AT 10:30 A.M. AND CONTINUING FOR A PERIOD OF 3 DAYS; AND

WHEREAS, NO SUBSTANTIAL OBJECTIONS WERE RECEIVED AS TO THE CONGRESSIONAL REDISTRICTING; AND

WHEREAS, SUBSTANTIAL TESTIMONY AND OBJECTIONS WERE RECEIVED CONCERNING THE LEGISLATIVE REAPPORTIONMENT PLAN; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA, 48TH LEGISLATIVE ASSEMBLY, DESIRES TO EXPRESS ITS APPROVAL OF THE CONGRESSIONAL REDISTRICTING AND DISAPPROVAL OF LEGISLATIVE REDISTRICTING; AND

WHEREAS, THE UNITED STATES CONSTITUTION HAS RECOGNIZED CERTAIN CRITERIA TO BE IMPLEMENTED BY THE STATES IN ACCORDANCE WITH THE ONE-MAN, ONE-VOICE REQUIREMENT OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION; AND

WHEREAS, THIS PLAN DOES NOT ENCOMPASS A RATIONAL STATE POLICY; AND

WHEREAS, THIS PLAN UNDULY TEARS APART POLITICAL

1 SUBDIVISIONS; AND
 2 WHEREAS, THIS PLAN DOES NOT HAVE COMPACT DISTRICTS OF
 3 CONTIGUOUS TERRITORIES; AND
 4 WHEREAS, THIS PLAN DOES NOT PRESERVE NATURAL OR
 5 HISTORICAL BOUNDARY LINES; AND
 6 WHEREAS, THIS PLAN DOES NOT INCORPORATE THE CRITERIA OF
 7 SIZE AND HOMOGENEITY OF DISTRICTS; AND
 8 WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE
 9 LOCATION OF SHOPPING CENTERS; AND
 10 WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE
 11 PATTERN OF ROADS; AND
 12 WHEREAS, THIS PLAN DOES NOT INCLUDE AREAS OF COVERAGE
 13 OF DAILY AND WEEKLY NEWSPAPERS OR RADIO AND TELEVISION
 14 BROADCAST AREAS; AND
 15 WHEREAS, THE COMMISSION SET AN ARBITRARY DEVIATION
 16 FACTOR OF 5% PLUS OR MINUS FROM THE IDEAL REPRESENTATIVE
 17 DISTRICT POPULATION AS ITS ULTIMATE GOAL AND DISREGARDED ALL
 18 OTHER CRITERIA MENTIONED ABOVE; AND
 19 WHEREAS, MONTANA DISTRICTS IN SEVERAL INSTANCES HAVE AN
 20 EXCESSIVE DEVIATION FROM THE IDEAL REPRESENTATIVE DISTRICT
 21 POPULATION; AND
 22 WHEREAS, IN SOME DISTRICTS IT IS OBVIOUS THERE WAS NO
 23 GOOD FAITH EFFORT TO ACHIEVE A GOAL OF ZERO PERCENT
 24 DEVIATION FROM THE IDEAL DISTRICT POPULATION; AND
 25 WHEREAS, THIS PLAN IS IN VIOLATION OF THE ONE-MAN

1 ONE-VOTE INTERPRETATION OF THE 14TH AMENDMENT TO THE UNITED
 2 STATES CONSTITUTION AND ARTICLE V, SECTION 14, OF THE
 3 MONTANA CONSTITUTION REQUIRING "ALL DISTRICTS WILL BE AS
 4 NEARLY EQUAL IN POPULATION AS PRACTICABLE"; AND
 5 WHEREAS, EACH MONTANA SENATE DISTRICT MUST HAVE AN
 6 IDENTIFIABLE REPRESENTATIVE; AND
 7 WHEREAS, THE COMMISSION FAILED TO ASSIGN SENATORS TO
 8 NEW DISTRICTS WHO HAVE TERMS WHICH EXPIRE IN 1986; AND
 9 WHEREAS, THE COMMISSION SUBMITTED AN INCOMPLETE PLAN IN
 10 THAT IT FAILED TO DESIGNATE ELECTION DATES FOR THE NEW
 11 DISTRICTS CONSISTENT WITH THE MONTANA CONSTITUTION ARTICLE
 12 V, SECTION 3; AND
 13 WHEREAS, A MAJORITY OF STATES ALLOW HOLDOVER SENATORS
 14 TO SERVE UNDER A NEW REAPPORTIONMENT PLAN AND COURTS HAVE
 15 HELD THIS NOT TO BE IN VIOLATION OF THE PEOPLE'S
 16 CONSTITUTIONAL RIGHTS; AND
 17 WHEREAS, IN THE RELATIVELY FEW STATES WHICH HAVE
 18 PERMITTED THE SHORTENING OF STATE SENATORS' TERMS, ONE OF
 19 THE FOLLOWING HAS EXISTED:
 20 (1) EXPRESS PROVISION IN THE STATE CONSTITUTION OR
 21 STATUTE;
 22 (2) IMPLEMENTATION BY VOTER INITIATIVE; OR
 23 (3) ELECTED SENATORS WERE SUBSEQUENTLY FOUND BY THE
 24 COURTS TO HAVE BEEN ELECTED UNDER A PREVIOUSLY
 25 UNCONSTITUTIONAL APPORTIONMENT PLAN; AND

1 WHEREAS, NONE OF THESE SPECIAL CIRCUMSTANCES EXIST IN
2 THE STATE OF MONTANA; AND

3 WHEREAS, THE ATTORNEY GENERAL OF THE STATE OF MONTANA
4 HAS ISSUED AN OPINION TO THE PRESIDENT OF THE MONTANA SENATE
5 INDICATING THE NECESSITY OF DESIGNATING DISTRICTS FOR
6 HOLDOVER SENATORS WHOSE TERMS DO NOT EXPIRE UNTIL 1986; AND

7 WHEREAS, THE 14TH AMENDMENT TO THE UNITED STATES
8 CONSTITUTION REQUIRES THAT NO STATE SHALL MAKE OR ENFORCE
9 ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF
10 THE CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE
11 DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT
12 DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS
13 JURISDICTION THE EQUAL PROTECTION OF THE LAW; AND

14 WHEREAS, ARTICLE II, SECTION 4, OF THE MONTANA
15 CONSTITUTION PROVIDES THAT NO PERSON SHALL BE DENIED EQUAL
16 PROTECTION OF THE LAW AND NO PERSON SHALL BE DISCRIMINATED
17 AGAINST IN THE EXERCISE OF HIS POLITICAL RIGHTS ON ACCOUNT
18 OF CULTURE, SOCIAL ORIGIN OR CONDITIONS, OR POLITICAL IDEAS;
19 AND

20 WHEREAS, IT IS THE INTENT OF THE MONTANA CONSTITUTION
21 THAT THE CHAIRMAN OF THE DISTRICTING AND APPORTIONMENT
22 COMMISSION SERVE IN A NONPARTISAN CAPACITY IN ORDER TO
23 PRESERVE THE RIGHTS OF THE PEOPLE OF MONTANA; AND

24 WHEREAS, THE PREPONDERANCE OF THE TESTIMONY PRESENTED
25 TO THE SENATE STANDING COMMITTEE ON STATE ADMINISTRATION

1 EVIDENCED POLITICAL DISCRIMINATION BY A MAJORITY OF THE
2 MEMBERS OF THAT COMMISSION AGAINST CERTAIN POLITICAL-SOCIAL
3 GROUPS; AND

4 WHEREAS, THE RECORDS OF THE ACTIONS OF THE COMMISSION
5 IN FORMULATING THE PLAN INDICATE 61 CONTESTED VOTES, 2 OF
6 WHICH WERE MERELY PROCEDURAL, AND 57 OTHER VOTES WHERE THE
7 MAJORITY WAS MADE UP OF MEMBERS OF ONE POLITICAL PARTY; AND

8 WHEREAS, THE CHAIRMAN OF THE DISTRICTING AND
9 APPORTIONMENT COMMISSION HAS ADMITTED THAT HE ACTED IN A
10 PARTISAN CAPACITY THROUGHOUT THE REDISTRICTING PROCESS AND
11 THIS RESULTED IN THE COMMISSION ACTING IN A PARTISAN MANNER
12 THROUGHOUT THE ENTIRE REDISTRICTING PROCESS; AND

13 WHEREAS, THE RESULTANT LEGISLATIVE REDISTRICTING
14 CLEARLY EVIDENCES THIS POLITICAL BIAS IN FAVOR OF THE
15 DEMOCRATIC PARTY TO THE EXCLUSION OF ALL OTHER BASES FOR
16 REDISTRICTING; AND

17 WHEREAS, THIS RESULTED IN AN INVIDIOUS DISCRIMINATION
18 AGAINST THE PEOPLE OF MONTANA AND THEIR SOCIAL, CULTURAL,
19 AND POLITICAL BELIEFS AND IDEAS; AND

20 WHEREAS, THESE ACTIONS BY THE DISTRICTING AND
21 APPORTIONMENT COMMISSION YIELDED A CONSTITUTIONALLY INEFFECTIVE
22 PLAN FOR THE REDISTRICTING OF MONTANA'S LEGISLATIVE
23 DISTRICTS UNDER BOTH THE MONTANA AND UNITED STATES
24 CONSTITUTIONS; AND

25 WHEREAS, THE COMMISSION MEMBERS ARE NOT ELECTED BY THE

1 PEOPLE OR APPOINTED BY THE GOVERNOR SUBJECT TO CONFIRMATION
2 BY THE SENATE; AND

3 WHEREAS, MONTANA CONSTITUTION ARTICLE V, SECTION 14(2),
4 DOES NOT PROVIDE FOR ANY REGULATION OR CONTROL OVER THE
5 COMMISSION; AND

6 WHEREAS, THE COMMISSION MEMBERS ARE NOT RESPONSIBLE TO
7 ANYONE; AND

8 WHEREAS, LARGE SEGMENTS OF PEOPLE IN THE STATE OF
9 MONTANA ARE BEING DEPRIVED OF THEIR RIGHT TO A REPUBLICAN
10 FORM OF GOVERNMENT AS PROVIDED BY THE UNITED STATES
11 CONSTITUTION ARTICLE IV, SECTION 4, WHICH PROVIDES "THE
12 UNITED STATES SHALL GUARANTEE TO EVERY STATE IN THE UNION A
13 REPUBLICAN FORM OF GOVERNMENT . . ."

14
15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
16 MONTANA:

17 That the Senate recommends that the Montana Districting
18 and Apportionment Commission adopt the congressional and
19 legislative redistricting plan with the following
20 modifications and recommendations:

21 BE IT FURTHER RESOLVED, that a copy of this resolution
22 be kept on file by the Secretary of State and that copies be
23 sent by the Secretary of State to the chairman of the
24 Montana Districting and Apportionment Commission, the
25 Honorable Ron Martenev, Congressman from the Second

1 Congressional District and the Honorable Pat Williams,
2 Congressman from the First Congressional District.

3 THAT THE SENATE RECOMMENDS THAT THE MONTANA DISTRICTING
4 AND APPORTIONMENT COMMISSION ADOPT THE CONGRESSIONAL
5 REDISTRICTING PLAN;

6 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
7 AND APPORTIONMENT COMMISSION REDRAW ITS REDISTRICTING PLAN
8 OF THE LEGISLATIVE DISTRICTS OF MONTANA IN ORDER TO MEET THE
9 CONSTITUTIONAL REQUIREMENTS AND OBJECTIONS MENTIONED ABOVE;
10 AND

11 BE IT FURTHER RESOLVED, THAT THE ATTACHED
12 RECOMMENDATIONS BE ADOPTED BY THE COMMISSION IN REDRAWING
13 THE LEGISLATIVE DISTRICTS OF MONTANA (SEE ATTACHED MAPS AND
14 RECOMMENDATIONS); ATTACHMENT B, PAGES 1 THROUGH 4 (9 11
15 MAPS).

16 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
17 AND APPORTIONMENT COMMISSION DESIGNATE SENATORIAL DISTRICTS
18 FOR EACH SENATOR WHOSE TERM EXPIRES IN 1996 IN SUCH A MANNER
19 THAT EACH SENATE DISTRICT HAVE AN IDENTIFIABLE
20 REPRESENTATIVE; AND

21 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
22 AND APPORTIONMENT COMMISSION ESTABLISH ELECTION DATES FOR
23 THE SENATE DISTRICTS CONSISTENT WITH MONTANA CONSTITUTION
24 ARTICLE V, SECTION 3; AND

25 BE IT FURTHER RESOLVED, THAT IF THERE IS INSUFFICIENT

1 TIME FOR THE COMMISSION TO ACCOMPLISH SUCH TASK THAT THE
 2 MONTANA SUPREME COURT ASSUME THE RESPONSIBILITY OF
 3 REDISTRICTING AND REAPPORTIONMENT; AND
 4 BE IT FURTHER RESOLVED, THAT COPIES OF THE FOLLOWING
 5 DOCUMENTS BE ATTACHED TO THIS RESOLUTION:
 6 (1) ATTORNEY GENERAL OPINION TO SENATOR STAN STEPHENS
 7 DATED JANUARY 21, 1983; ATTACHMENT C, 3 PAGES.
 8 (2) THE SENATE JOURNAL FOR THE THIRD LEGISLATIVE DAY;
 9 ATTACHMENT D, 3 PAGES.
 10 (3) MINUTES OF THE MEETING OF STATE ADMINISTRATION
 11 COMMITTEE OF JANUARY 20, 1983, AT 10:30 A.M. REGARDING
 12 REAPPORTIONMENT COMMISSION, ATTACHMENT E, 28 PAGES.
 13 BE IT FURTHER RESOLVED, THAT COPIES OF THIS RESOLUTION
 14 AND ATTACHMENTS BE SENT BY THE SECRETARY OF STATE TO THE
 15 CHAIRMAN OF THE MONTANA DISTRICTING AND APPORTIONMENT
 16 COMMISSION; THE HONORABLE DON MARLENEE, CONGRESSMAN FROM THE
 17 SECOND CONGRESSIONAL DISTRICT; AND THE HONORABLE PAT
 18 WILLIAMS, CONGRESSMAN FROM THE FIRST CONGRESSIONAL DISTRICT.

-End-

SENATE RESOLUTION NO. 4

INTRODUCED BY STEPHENS

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA TRANSMITTING RECOMMENDATIONS TO THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION REGARDING ITS REDISTRICTING PLAN SUBMITTED UNDER ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION.

WHEREAS, a Montana Districting and Apportionment Commission was appointed in 1979; and

WHEREAS, the Commission prepared a plan for redistricting and reapportioning the state into legislative and congressional districts and presented it to the 48th legislature on January 5, 1983, as required by Article V, section 14, of the Montana Constitution; and

WHEREAS, the Senate has studied the plan submitted to it and has considered several recommendations regarding the plan; and

WHEREAS, THE MONTANA DISTRICTING AND APPORTIONMENT COMMISSION HAS PREPARED ITS REAPPORTIONMENT PLAN FOR THE LEGISLATIVE AND CONGRESSIONAL DISTRICTS AND DELIVERED THE PLAN TO THE 48TH LEGISLATURE ON JANUARY 5, 1983, PURSUANT TO ARTICLE V, SECTION 14(3), OF THE 1972 MONTANA CONSTITUTION AND PURSUANT TO 5-1-101, MCA; AND

WHEREAS, the Senate must return the plan to the Commission with its recommendations on or before February 4, 1983, in accordance with the Montana Constitution; and

WHEREAS, the Senate chooses to return its recommendations in the form of a simple resolution; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA HAS CONSIDERED THE PLAN IN ITS ENTIRETY AND CONDUCTED A PUBLIC HEARING BEGINNING JANUARY 20, 1983, AT 10:30 A.M. AND CONTINUING FOR A PERIOD OF 3 DAYS; AND

WHEREAS, NO SUBSTANTIAL OBJECTIONS WERE RECEIVED AS TO THE CONGRESSIONAL REDISTRICTING; AND

WHEREAS, SUBSTANTIAL TESTIMONY AND OBJECTIONS WERE RECEIVED CONCERNING THE LEGISLATIVE REAPPORTIONMENT PLAN; AND

WHEREAS, THE SENATE OF THE STATE OF MONTANA, 48TH LEGISLATIVE ASSEMBLY, DESIRES TO EXPRESS ITS APPROVAL OF THE CONGRESSIONAL REDISTRICTING AND DISAPPROVAL OF LEGISLATIVE REDISTRICTING; AND

WHEREAS, THE UNITED STATES CONSTITUTION HAS RECOGNIZED CERTAIN CRITERIA TO BE IMPLEMENTED BY THE STATES IN ACCORDANCE WITH THE ONE-MAN, ONE-VOTE REQUIREMENT OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION; AND

WHEREAS, THIS PLAN DOES NOT ENCOMPASS A RATIONAL STATE POLICY; AND

WHEREAS, THIS PLAN UNQUILY TEARS APART POLITICAL

SUBDIVISIONS; AND

WHEREAS, THIS PLAN DOES NOT HAVE COMPACT DISTRICTS OF CONTIGUOUS TERRITORIES; AND

WHEREAS, THIS PLAN DOES NOT PRESERVE NATURAL OR HISTORICAL BOUNDARY LINES; AND

WHEREAS, THIS PLAN DOES NOT INCORPORATE THE CRITERIA OF SIZE AND HOMOGENEITY OF DISTRICTS; AND

WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE LOCATION OF SHOPPING CENTERS; AND

WHEREAS, THIS PLAN DOES NOT TAKE INTO CONSIDERATION THE PATTERN OF ROADS; AND

WHEREAS, THIS PLAN DOES NOT INCLUDE AREAS OF COVERAGE OF DAILY AND WEEKLY NEWSPAPERS OR RADIO AND TELEVISION BROADCAST AREAS; AND

WHEREAS, THE COMMISSION SET AN ARBITRARY DEVIATION FACTOR OF 5% PLUS OR MINUS FROM THE IDEAL REPRESENTATIVE DISTRICT POPULATION AS ITS ULTIMATE GOAL AND DISREGARDED ALL OTHER CRITERIA MENTIONED ABOVE; AND

WHEREAS, MONTANA DISTRICTS IN SEVERAL INSTANCES HAVE AN EXCESSIVE DEVIATION FROM THE IDEAL REPRESENTATIVE DISTRICT POPULATION; AND

WHEREAS, IN SOME DISTRICTS IT IS OBVIOUS THERE WAS NO GOOD FAITH EFFORT TO ACHIEVE A GOAL OF ZERO PERCENT DEVIATION FROM THE IDEAL DISTRICT POPULATION; AND

WHEREAS, THIS PLAN IS IN VIOLATION OF THE ONE-MAN

ONE-VOTE INTERPRETATION OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION REQUIRING "ALL DISTRICTS WILL BE AS NEARLY EQUAL IN POPULATION AS PRACTICABLE"; AND

WHEREAS, EACH MONTANA SENATE DISTRICT MUST HAVE AN IDENTIFIABLE REPRESENTATIVE; AND

WHEREAS, THE COMMISSION FAILED TO ASSIGN SENATORS TO NEW DISTRICTS WHO HAVE TERMS WHICH EXPIRE IN 1986; AND

WHEREAS, THE COMMISSION SUBMITTED AN INCOMPLETE PLAN IN THAT IT FAILED TO DESIGNATE ELECTION DATES FOR THE NEW DISTRICTS CONSISTENT WITH THE MONTANA CONSTITUTION ARTICLE V, SECTION 3; AND

WHEREAS, A MAJORITY OF STATES ALLOW HOLDOVER SENATORS TO SERVE UNDER A NEW REAPPORTIONMENT PLAN AND COURTS HAVE HELD THIS NOT TO BE IN VIOLATION OF THE PEOPLE'S CONSTITUTIONAL RIGHTS; AND

WHEREAS, IN THE RELATIVELY FEW STATES WHICH HAVE PERMITTED THE SHORTENING OF STATE SENATORS' TERMS, ONE OF THE FOLLOWING HAS EXISTED:

(1) EXPRESS PROVISION IN THE STATE CONSTITUTION OR STATUTE;

(2) IMPLEMENTATION BY VOTER INITIATIVE; OR

(3) ELECTED SENATORS WERE SUBSEQUENTLY FOUND BY THE COURTS TO HAVE BEEN ELECTED UNDER A PREVIOUSLY UNCONSTITUTIONAL APPORTIONMENT PLAN; AND

1 WHEREAS, NONE OF THESE SPECIAL CIRCUMSTANCES EXIST IN
2 THE STATE OF MONTANA; AND

3 WHEREAS, THE ATTORNEY GENERAL OF THE STATE OF MONTANA
4 HAS ISSUED AN OPINION TO THE PRESIDENT OF THE MONTANA SENATE
5 INDICATING THE NECESSITY OF DESIGNATING DISTRICTS FOR
6 HOLDOVER SENATORS WHOSE TERMS DO NOT EXPIRE UNTIL 1986; AND

7 WHEREAS, THE 14TH AMENDMENT TO THE UNITED STATES
8 CONSTITUTION REQUIRES THAT NO STATE SHALL MAKE OR ENFORCE
9 ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF
10 THE CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE
11 DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT
12 DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS
13 JURISDICTION THE EQUAL PROTECTION OF THE LAW; AND

14 WHEREAS, ARTICLE II, SECTION 4, OF THE MONTANA
15 CONSTITUTION PROVIDES THAT NO PERSON SHALL BE DENIED EQUAL
16 PROTECTION OF THE LAW AND NO PERSON SHALL BE DISCRIMINATED
17 AGAINST IN THE EXERCISE OF HIS POLITICAL RIGHTS ON ACCOUNT
18 OF CULTURE, SOCIAL ORIGIN OR CONDITIONS, OR POLITICAL IDEAS;
19 AND

20 WHEREAS, IT IS THE INTENT OF THE MONTANA CONSTITUTION
21 THAT THE CHAIRMAN OF THE DISTRICTING AND APPORTIONMENT
22 COMMISSION SERVE IN A NONPARTISAN CAPACITY IN ORDER TO
23 PRESERVE THE RIGHTS OF THE PEOPLE OF MONTANA; AND

24 WHEREAS, THE PREPONDERANCE OF THE TESTIMONY PRESENTED
25 TO THE SENATE STANDING COMMITTEE ON STATE ADMINISTRATION

1 EVIDENCED POLITICAL DISCRIMINATION BY A MAJORITY OF THE
2 MEMBERS OF THAT COMMISSION AGAINST CERTAIN POLITICAL-SOCIAL
3 GROUPS; AND

4 WHEREAS, THE RECORDS OF THE ACTIONS OF THE COMMISSION
5 IN FORMULATING THE PLAN INDICATE 61 CONTESTED VOTES, 2 OF
6 WHICH WERE MERELY PROCEDURAL, AND 57 OTHER VOTES WHERE THE
7 MAJORITY WAS MADE UP OF MEMBERS OF ONE POLITICAL PARTY; AND

8 WHEREAS, THE CHAIRMAN OF THE DISTRICTING AND
9 APPORTIONMENT COMMISSION HAS ADMITTED THAT HE ACTED IN A
10 PARTISAN CAPACITY THROUGHOUT THE REDISTRICTING PROCESS AND
11 THIS RESULTED IN THE COMMISSION ACTING IN A PARTISAN MANNER
12 THROUGHOUT THE ENTIRE REDISTRICTING PROCESS; AND

13 WHEREAS, THE RESULTANT LEGISLATIVE REDISTRICTING
14 CLEARLY EVIDENCES THIS POLITICAL BIAS IN FAVOR OF THE
15 DEMOCRATIC PARTY TO THE EXCLUSION OF ALL OTHER BASES FOR
16 REDISTRICTING; AND

17 WHEREAS, THIS RESULTED IN AN INVIDIOUS DISCRIMINATION
18 AGAINST THE PEOPLE OF MONTANA AND THEIR SOCIAL, CULTURAL,
19 AND POLITICAL BELIEFS AND IDEAS; AND

20 WHEREAS, THESE ACTIONS BY THE DISTRICTING AND
21 APPORTIONMENT COMMISSION YIELDED A CONSTITUTIONALLY INFIRM
22 PLAN FOR THE REDISTRICTING OF MONTANA'S LEGISLATIVE
23 DISTRICTS UNDER BOTH THE MONTANA AND UNITED STATES
24 CONSTITUTIONS; AND

25 WHEREAS, THE COMMISSION MEMBERS ARE NOT ELECTED BY THE

1 PEOPLE OR APPOINTED BY THE GOVERNOR SUBJECT TO CONFIRMATION
2 BY THE SENATE; AND

3 WHEREAS, MONTANA CONSTITUTION ARTICLE V, SECTION 14(2),
4 DOES NOT PROVIDE FOR ANY REGULATION OR CONTROL OVER THE
5 COMMISSION; AND

6 WHEREAS, THE COMMISSION MEMBERS ARE NOT RESPONSIBLE TO
7 ANYONE; AND

8 WHEREAS, LARGE SEGMENTS OF PEOPLE IN THE STATE OF
9 MONTANA ARE BEING DEPRIVED OF THEIR RIGHT TO A REPUBLICAN
10 FORM OF GOVERNMENT AS PROVIDED BY THE UNITED STATES
11 CONSTITUTION ARTICLE IV, SECTION 4, WHICH PROVIDES "THE
12 UNITED STATES SHALL GUARANTEE TO EVERY STATE IN THE UNION A
13 REPUBLICAN FORM OF GOVERNMENT"

14
15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
16 MONTANA:

17 ~~That the Senate recommends that the Montana Districting~~
18 ~~and Apportionment Commission adopt the congressional and~~
19 ~~legislative redistricting plan with the following~~
20 ~~modifications and recommendations:~~

21 ~~BE IT FURTHER RESOLVED, that a copy of this resolution~~
22 ~~be kept on file by the Secretary of State and that copies be~~
23 ~~sent by the Secretary of State to the chairman of the~~
24 ~~Montana Districting and Apportionment Commission; the~~
25 ~~Honorable Ron Martensen, Congressman from the Second~~

1 Congressional District and the Honorable Pat Williams,
2 Congressman from the First Congressional District;

3 THAT THE SENATE RECOMMENDS THAT THE MONTANA DISTRICTING
4 AND APPORTIONMENT COMMISSION ADOPT THE CONGRESSIONAL
5 REDISTRICTING PLAN;

6 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
7 AND APPORTIONMENT COMMISSION REDRAW ITS REDISTRICTING PLAN
8 OF THE LEGISLATIVE DISTRICTS OF MONTANA IN ORDER TO MEET THE
9 CONSTITUTIONAL REQUIREMENTS AND OBJECTIONS MENTIONED ABOVE;
10 AND

11 BE IT FURTHER RESOLVED, THAT THE ATTACHED
12 RECOMMENDATIONS BE ADOPTED BY THE COMMISSION IN REDRAWING
13 THE LEGISLATIVE DISTRICTS OF MONTANA (SEE ATTACHED MAPS AND
14 RECOMMENDATIONS); ATTACHMENT B, PAGES 1 THROUGH 4 (2 11
15 MAPS);

16 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
17 AND APPORTIONMENT COMMISSION DESIGNATE SENATORIAL DISTRICTS
18 FOR EACH SENATOR WHOSE TERM EXPIRES IN 1986 IN SUCH A MANNER
19 THAT EACH SENATE DISTRICT HAVE AN IDENTIFIABLE
20 REPRESENTATIVE; AND

21 BE IT FURTHER RESOLVED, THAT THE MONTANA DISTRICTING
22 AND APPORTIONMENT COMMISSION ESTABLISH ELECTION DATES FOR
23 THE SENATE DISTRICTS CONSISTENT WITH MONTANA CONSTITUTION
24 ARTICLE V, SECTION 3; AND

25 BE IT FURTHER RESOLVED, THAT IF THERE IS INSUFFICIENT

1 TIME FOR THE COMMISSION TO ACCOMPLISH SUCH TASK THAT THE
 2 MONTANA SUPREME COURT ASSUME THE RESPONSIBILITY OF
 3 REDISTRICTING AND REAPPORTIONMENT; AND
 4 BE IT FURTHER RESOLVED, THAT COPIES OF THE FOLLOWING
 5 DOCUMENTS BE ATTACHED TO THIS RESOLUTION:
 6 (1) ATTORNEY GENERAL OPINION TO SENATOR STAN STEPHENS
 7 DATED JANUARY 21, 1983; ATTACHMENT C, 3 PAGES.
 8 (2) THE SENATE JOURNAL FOR THE THIRD LEGISLATIVE DAY;
 9 ATTACHMENT D, 3 PAGES.
 10 (3) MINUTES OF THE MEETING OF STATE ADMINISTRATION
 11 COMMITTEE OF JANUARY 20, 1983, AT 10:30 A.M. REGARDING
 12 REAPPORTIONMENT COMMISSION, ATTACHMENT E, 28 PAGES.
 13 BE IT FURTHER RESOLVED, THAT COPIES OF THIS RESOLUTION
 14 AND ATTACHMENTS BE SENT BY THE SECRETARY OF STATE TO THE
 15 CHAIRMAN OF THE MONTANA DISTRICTING AND APPORTIONMENT
 16 COMMISSION; THE HONORABLE RON MARLENEE, CONGRESSMAN FROM THE
 17 SECOND CONGRESSIONAL DISTRICT; AND THE HONORABLE PAT
 18 WILLIAMS, CONGRESSMAN FROM THE FIRST CONGRESSIONAL DISTRICT.

-End-