

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LEGISLATIVE REDISTRICTING COMMITTEE

Tuesday and Wednesday, October 16-17, 2001  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Mike Timm, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Mike Timm, Ole Aarsvold, Al Carlson, William R. Devlin, Glen Froseth, Pam Gulleon, Lyle Hanson, David Monson; Senators Bill Bowman, Randel Christmann, Layton Freborg, Ray Holmberg, Ed Kringstad, Tim Mathern, Steven W. Tomac

**Others present:** Bob Stenehjem, State Senator, Bismarck

Wesley R. Belter, State Representative, Leonard  
Lois Delmore, State Representative, Grand Forks  
Jay Johnson, Minot Daily News, Minot  
Harlan Fuglesten, North Dakota Association of  
Rural Electric Cooperatives, Fargo and Mandan  
Jon Lindgren, American Civil Liberties Union,  
Fargo

Tim Flakoll, State Senator, Fargo

Tom Disselhorst, Three Affiliated Tribes, Bismarck  
Carol Two Eagle, Grassroots American Indians,  
Mandan

Tex Hall, Mandan, Hidatsa, and Arikara Nation,  
Fort Berthold

Glenda Embry, Mandan, Hidatsa, and Arikara  
Nation, New Town

Terry Traynor, North Dakota Association of Counties,  
Bismarck

Wayne White Eagle, Three Affiliated Tribes, New  
Town

Phyllis Howard, Three Affiliated Tribes, New Town

Dick Dever, State Senator, Bismarck

Ralph L. Kilzer, State Senator, Bismarck

Jeff Delzer, State Representative, Underwood

Herb Wilson, Bismarck

**It was moved by Senator Holmberg, seconded by Representative Carlson, and carried on a voice vote that the minutes of the October 4, 2001, meeting be approved as distributed.**

Chairman Timm said legislative redistricting plans for 45, 47, 49, and 51 districts were approved by the committee at its last meeting so that members of the committee could take the plans home for discussion and attempt to come to a conclusion regarding the best plan. He said he will ask for a vote on the number of districts that will be considered by the committee, starting with 45. He said the first number to receive a majority of the votes will be the number

with which the committee will begin to further modify a plan.

In response to a question from Senator Mathern, Chairman Timm said the vote is not to approve a particular plan but to select a plan with which the committee can make modifications.

**It was moved by Senator Tomac, seconded by Representative Gulleon, and failed on a roll call vote that Senator Tomac's 45-district plan be approved for further consideration by the committee.** Representative Gulleon and Senators Mathern and Tomac voted "aye." Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "nay."

**It was moved by Representative Carlson, seconded by Senator Holmberg, and carried on a roll call vote that Representative Devlin's 47-district plan be approved for further consideration by the committee.** Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Gulleon, and Hanson and Senators Freborg, Mathern, and Tomac voted "nay."

Representative Aarsvold said the committee should vote on each of the plans because there is a possibility that another plan could receive more than the nine votes that the 47-district plan received.

Chairman Timm said he made it clear before the vote that the first plan to receive a majority of the votes would be the only plan to be further considered.

Senator Christmann said although he still believes that 51 districts would be better for the state, after a significant amount of time and consideration he voted for the 47-district plan as a compromise.

Representative Devlin reviewed changes that he made to the 47-district plan. He said at the request of the minority members on the committee, he put District 6 back in the northwestern part of the state, made District 9 all of Rolette County, and adjusted districts in the eastern portion of the state so that Traill County would not be split. He said he also eliminated one district from the Bismarck area.

Senator Tomac said the plan splits Morton and Hettinger Counties when the plan could easily be adjusted to avoid splitting those counties. He said

District 25 was also changed in a way that should not be necessary. He presented a proposed revision of the 47-district plan that he had developed. He said his plan changes the configuration in the southwest portion of the state, which also affected much of the rest of the state. He said the proposal minimizes the number of county lines that are crossed by districts by increasing the size of the districts in the southwest corner of the state. He said the proposal also attempts to observe trade areas.

Senator Mathern reviewed revisions he developed for the 47-district plan for Fargo and Cass Counties, a copy of which is on file in the Legislative Council office.

Chairman Timm opened the meeting for public comment.

Mr. Tex Hall, Chairman, Three Affiliated Tribes, distributed written testimony, a copy of which is on file in the Legislative Council office. Mr. Hall said the Three Affiliated Tribes have taken a keen interest in the activities of the Legislative Assembly and have actively participated in political activities in the state. He said the tribal government was recognized by the federal government as a separate nation before Dakota Territory existed. He said he is pleased that most of the plans considered by this committee have placed the Fort Berthold Reservation almost wholly within one district. He said the entire reservation should be within one district.

Mr. Hall said he supports the proposal submitted by the American Civil Liberties Union (ACLU) at the last meeting of this committee which would establish single-member House districts for three of the Indian reservations in the state. He said a single-member House district would provide a better opportunity for more Native Americans to be elected to the Legislative Assembly. He said although almost 6 percent of the state's population is Native American, only one Native American is serving in the Legislative Assembly. He said throughout the history of the state, there have been fewer than five Native Americans who have been state legislators. That record, he said, is unacceptable. He said the low number of Native Americans who have served as state legislators may be the result of long-term pervasive discrimination against Native Americans in the state. He said the only way to increase the number of legislators who are Native American is to create single-member House districts, a move that is consistent with the federal Voting Rights Act and the concept of one person-one vote.

Senator Christmann said the small section of Mercer County that is in the Fort Berthold Reservation was in District 4 from 1991 until 1995. Because there were not enough people in that area to open a polling place for the 1994 election, he said, the 1995 Legislative Assembly adjusted the boundaries of District 4 and District 33 to allow the people on the Fort Berthold Reservation in Mercer County to vote in a

rural precinct in Mercer County that was in District 33. He said he has written letters to the previous tribal chairman and the individuals who voted in that precinct regarding the change and received no response. He said he thought it was the desire of those individuals to be in District 33. However, he said, he would not object if they desire to be in District 4.

Mr. Hall said the residents of the Fort Berthold Reservation would prefer being in District 4, especially if a subdistrict were established.

In response to a question from Representative Hanson, Mr. Hall said the Native American population is approximately 37 percent of the overall population of District 4. However, he said, if a subdistrict were established, the Native American population in one subdistrict would be approximately 64 percent. Thus, he said, the creation of a subdistrict would allow a Native American candidate to be elected in District 4.

Mr. Jon Lindgren, President, North Dakota Chapter of the American Civil Liberties Union of the Dakotas, said the ACLU has a national program that encourages states to establish single-member districts to allow minorities an opportunity to be a part of the political process. He said the ACLU believes that the federal Voting Rights Act may require the creation of a single-member House district on the reservations. He said the Legislative Assembly would participate in the marginalization of the minority by not creating a single-member district. He said the reservations have a quasi-sovereign status and are distinct political communities.

Mr. Lindgren said the March 2001 Attorney General's letter opinion that was discussed at the last meeting and the 1991 federal court decision in North Dakota are not directly on point with respect to the creation of single-member districts. He said the United States Supreme Court has required states to create single-member districts in other cases.

In response to a question from Representative Timm, Mr. Lindgren said Native Americans have not been represented according to their proportion of the state's population. He said if a minority's voting strength is diluted substantially, it may be a violation of the Voting Rights Act.

Representative Timm said 10 years ago the Legislative Assembly placed the entire Fort Berthold Reservation within one district at the request of the Native Americans. Therefore, he said, it is unfair to accuse the Legislative Assembly of violating the voting rights of Native Americans.

In response to a question from Senator Bowman, Mr. Lindgren said the lack of representation of Native Americans can be remedied by allowing greater participation through the implementation of single-member House districts.

Senator Bowman said Native Americans are represented and they should work with their representatives in the same manner that other individuals do.

In response to a question from Senator Holmberg, Mr. Lindgren said Native Americans vote for candidates of both political parties. He said the implementation of single-member districts will break down barriers to bringing Native Americans into the political process and provide diversity for the state.

Senator Mathern said it takes time to get individuals involved in the political process and Native Americans will become more involved and become candidates if given the opportunity. He said the proposal for single-member districts will not guarantee Native American legislators but will give Native Americans more opportunity to participate directly in the political process and give the people with common needs and a common history the opportunity to participate together.

Ms. Phyllis Howard submitted written testimony, a copy of which is on file in the Legislative Council office. Ms. Howard said she is an enrolled member of the Three Affiliated Tribes and is a former district chairperson of District 4. She said the entire Fort Berthold Reservation should be placed within District 4. She said the justification for a single-member House district is that the subdistrict would provide an opportunity for more Native Americans to be elected to the Legislative Assembly. She said the record of Native Americans who have served in the Legislative Assembly is unacceptable and discriminatory in nature. She said voting by Native Americans would increase if a subdistrict were created for District 4 because the Native Americans would likely know their candidates better. She said there has been tremendous growth in the young population on the reservation and the Native American population will likely continue to grow, as will their voting strength.

Mr. Tom Disselhorst, Three Affiliated Tribes legal counsel, said there are many factors to explain the lack of Native American candidates, including the timing of the election process for tribal elections. He said after the Turtle Mountain Tribe started holding its elections concurrent with state elections in 1994, the senators elected in District 9 have been Native Americans. He said it takes time for changes to occur in voting habits. Because Native Americans were not allowed to vote in state elections until 1924, he said, Native Americans have had only three generations to become a part of the election process. He said creating a House subdistrict would provide a better opportunity for a Native American candidate to win an election. However, he said, the Native American candidate would still need non-Indian support to win an election. He said the political parties tend to discourage Native American candidates from running and Native Americans have been historically unable to elect Native American candidates at all levels in the state, including school districts and other local elections.

In response to a question from Representative Timm, Mr. Disselhorst said a subdistrict in District 4 could be created so that a majority of the residents would be Native American.

Ms. Carol Two Eagle said there is a feeling of exclusion among Indian people. She said discrimination and stereotyping is common in the state. She said Indians are becoming more politically active and their population is growing. She said creation of a House subdistrict would provide a better opportunity to elect Indian candidates.

In response to a question from Representative Timm, Ms. Two Eagle said because tribal governments are evolving into more traditional Indian structures, the feeling of exclusion on reservations will lessen. She said there is more trust in tribal governments and some of the difficulties that have been experienced are the result of operating in a system imposed upon the Indians by non-Indians.

Chairman Timm said there appears to be some confusion among some members of the committee regarding the vote earlier in the morning to approve Representative Devlin's 47-district plan as the plan from which the committee will continue to work.

In response to a question from Senator Tomac, Chairman Timm said there will be an opportunity to propose amendments to that plan.

**It was moved by Senator Kringstad, seconded by Senator Bowman, and carried on a roll call vote that Representative Devlin's 47-district plan be used as a basis for further development of a final plan.** Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Guleson, and Hanson and Senators Mathern and Tomac voted "nay."

**It was moved by Representative Froseth and seconded by Representative Monson that Representative Devlin's 47-district plan be amended to incorporate the revisions that were submitted by Representative Devlin.**

Senator Tomac said Representative Devlin's revisions make the plan inferior in that the plan violates county lines in more areas than Senator Tomac's proposed revisions. He said the plan is clearly partisan in nature. He said he has demonstrated that the guidelines adopted earlier by the committee can be followed. He said it is frustrating that the majority party has submitted a plan that affects incumbent minority party members much more significantly in spite of the fact that the majority has significantly more members in both houses of the Legislative Assembly.

Senator Christmann said the revisions to the plan improve the original plan. He said the plan is not partisan and many changes were made at the request of the minority party.

Representative Devlin said the plan affects the majority party in the House significantly. He said he

made changes in Rolette County, Traill County, and District 6 due to concerns expressed at the last meeting by members of the minority party. He said although the plan has some problems, it is a superior plan and both parties will be affected by the implementation of the plan.

Senator Tomac said the work of the committee has been partisan from the beginning and he has offered several alternatives that have not been accepted by the committee.

Representative Aarsvold said although some changes in the plan are appreciated, there are better options available.

Senator Tomac said if the committee would be open to amending the plan, he would not oppose the motion. However, he said, it has been made clear that the majority will not accept changes to the plan even though the plan violates many of the principles established by the committee.

After this discussion, **the motion carried on a roll call vote.** Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Gulleason, and Hanson and Senators Mathern and Tomac voted "nay."

**It was moved by Senator Mathern that the revisions to Cass County and the city of Fargo submitted by Senator Mathern be approved, subject to further revision. The motion failed for lack of a second.**

Chairman Timm recessed the meeting at 4:00 p.m. and reconvened the meeting at 9:15 a.m. on Wednesday, October 17, 2001.

Senator Holmberg reviewed proposed changes in Representative Devlin's 47-district plan for Grand Forks County and the city of Grand Forks. He said Walle Township has never been in a city district, thus it would be better to move that township to District 19.

**It was moved by Senator Holmberg, seconded by Senator Bowman, and carried on a roll call vote that the proposed changes to Grand Forks County and the city of Grand Forks be approved.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleason, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

Representative Timm reviewed proposed changes to the city of Minot and the adjacent area. He said Margaret, McKinley, and Maryland Townships have been added to District 6 and a portion of the Minot Air Force Base was moved from District 8 to District 40. He said the Air Force base is still split between Districts 38 and 40.

**It was moved by Representative Carlson, seconded by Senator Bowman, and carried on a roll call vote that the proposed changes to the Minot area be approved.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleason, Hanson,

Monson, and Timm and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

Representative Carlson reviewed proposed revisions to Cass County and the city of Fargo. He said the south boundary for Districts 41 and 46 is 52nd Avenue. He said District 12, which is a new district, will be a growth district in the next decade. He said District 13 will extend further south and portions of the current District 13 will go into Districts 45 and 21. He said District 13 will likely grow in the next 10 years.

In response to a question from Senator Holmberg, Representative Carlson said the proposed changes do not affect any incumbent legislators.

Senator Mathern said the proposed changes break up the Agassiz School precinct and change the political makeup of District 11 by adding Republicans to the district and putting more Democrats in District 21. He said he is disappointed that he had not seen the proposed amendments until now and will not be able to know all the implications of the amendments. He said another meeting of the committee should be scheduled for a review of the proposed plan.

Senator Tomac said the committee should meet again and review the plan and a proposed bill draft before submission of the plan and bill draft to the Legislative Council.

**It was moved by Senator Holmberg, seconded by Senator Christmann, and carried on a roll call vote that the proposed revisions to Cass County and the city of Fargo be accepted.** Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Gulleason, and Hanson and Senators Mathern and Tomac voted "nay."

Senator Kringstad reviewed proposed revisions in the 47-district plan for the Bismarck area. He said the revisions do not affect any incumbents.

In response to a question from Senator Tomac, Senator Kringstad said the District 8 boundary on the east side of Bismarck was developed to keep Representative Dwight Wrangham in District 8.

**It was moved by Representative Devlin, seconded by Representative Carlson, and carried on a roll call vote that the proposed revisions for the Bismarck area be approved.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleason, Hanson, Monson, and Timm and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

Representative Gulleason said a number of townships in Barnes County and Cass County can be changed so that the city of Page would be in District 22 and the Wimbledon area would be in District 24.

**It was moved by Representative Guleson, seconded by Senator Holmberg, and carried on a roll call vote that the proposed revisions to Districts 20 and 24 be approved.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Guleson, Hanson, Monson, and Timm and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

Senator Tomac distributed a proposed revision to the 47-district plan. He said the revision to Districts 25 and 27 would eliminate the splitting of one additional county. He said the plan would have no significant impact on the population variances. He said Representative Devlin's plan requires six incumbent Democratic senators to run against each other while affecting no Republican senators. He said this proposed amendment would eliminate the matchup between two Democratic senators and would put one of the Democrats in a district with a Republican incumbent senator.

Representative Carlson said the goal of the redistricting process is not job preservation for legislators. He said the discussion should be about whether the proposed districts are good for the residents of the district.

Senator Mathern said the proposed revision would simply trade four townships in District 25 with four townships in District 27. He said the proposed revision would provide straighter district boundaries.

Representative Devlin said the proposed change could be addressed during the legislative session if there is opposition to placing the two incumbent Democratic senators in a district.

**It was moved by Senator Tomac and seconded by Senator Mathern that Senator Tomac's proposed revision to Districts 25 and 27 be approved. The motion failed on a roll call vote.** Representatives Aarsvold, Guleson, and Hanson and Senators Mathern and Tomac voted "aye." Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "nay."

Senator Tomac presented a proposed amendment to the 47-district plan that would affect Morton and Hettinger Counties. He said the Hettinger County auditor has requested that the county not be split between two districts. He said if the goal of redistricting is to provide voter convenience rather than incumbent protection, the amendment should be adopted. Because Morton County is a growth area, he said, there is no need to change the county other than to add some population to District 33.

Senator Holmberg said reducing the number of districts will cause change and pain. He said redistricting in 1991 resulted in five districts having incumbent senators running against each other. He said he prefers to leave the plan as it is now and let the senators involved address revisions during the special session if they choose.

Senator Mathern said the proposed changes should be addressed now rather than waiting until the special session. He said Senator Tomac's proposal simplifies the boundaries for the electorate.

Senator Tomac said if the committee is not going to address details now and leave that work for the special session, he wonders why this committee was even created.

Senator Holmberg said the committee has reduced its work to one plan that may have a few wrinkles to be addressed later. He said the committee has done its job well.

In response to a question from Representative Timm, Senator Tomac said Representative Devlin's plan does not make sense in the southwest. He said other alternatives would work much better for the convenience of the voters.

Senator Tomac said the guidelines the committee agreed to observe were to preserve current district lines, preserve county lines, and recognize trade areas. He said Representative Devlin's plan violates all those guidelines for incumbent protection of the majority party. He said alternatives should be considered now, not during the special session.

Senator Christmann said what constitutes voter convenience in one area affects other areas negatively. He said the goal of the committee to preserve existing districts was violated by reducing the number of districts.

**It was moved by Senator Mathern and seconded by Representative Guleson that the revisions for Morton and Hettinger Counties be approved. The motion failed on a roll call vote.** Representatives Aarsvold, Guleson, and Hanson and Senators Mathern and Tomac voted "aye." Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "nay."

Senator Christmann said he would work with Senator Tomac to attempt to develop a bipartisan solution for Morton County.

Representative Guleson said she thought the plan would be complete now rather than continuing to say that changes will be made during the special session. She said the work of the committee should be as complete as possible and everyone should know that the plan presented for consideration at the special session is a complete plan, not a plan that requires modifications.

Representative Timm said there will likely be many proposed amendments to the plan during the special session because everyone in the Legislative Assembly will have the opportunity to propose changes.

In response to a question from Senator Mathern, Chairman Timm said the Legislative Council will prepare a bill draft that incorporates the boundaries approved by this committee. He said the committee can meet briefly before the Legislative Council meets

to approve the bill draft. However, he said, there should not be further amendments to the plan at the last meeting of the committee.

Senator Mathern said because today was the first opportunity for many of the committee members to see the revised plan, there has not been adequate consideration of the plan.

In response to a question from Representative Timm, Mr. John D. Olsrud, Director, Legislative Council, said during prior redistricting processes the legislation has specified which incumbent senators were required to run for reelection as a result of the redistricting process. He said this committee will also have to address that process with respect to members of the House as well. He said during the 1981 redistricting process, senators whose districts were substantially changed were required to run for reelection. During 1991, he said, of those senators who were in the middle of four-year terms, only those who were in a district with another incumbent senator were required to run for reelection.

Mr. Olsrud said another issue that must be addressed is the effective date of the legislation. He said the bill should specify an effective date for the implementation of the districts with respect to the conduct of the 2002 election process. He said the 1981 legislation included a statement of intent that incumbents would continue to serve until the Act was implemented. He said that issue was not addressed in the 1991 legislation.

In response to a question from Senator Mathern, committee counsel said the Attorney General recently issued an opinion indicating that the terms of incumbent legislators may be cut short to effectuate a valid redistricting plan. He said there have been no judicial decisions in the state regarding the constitutionality of incumbents remaining in office in a district that has a significant change in population after redistricting.

In response to a question from Senator Bowman, Mr. Olsrud said decisions are needed regarding the numbering of districts and which senators will be required to run for reelection. He said the legislation must make it clear who would be required to run for election and for how long the terms will be.

Senator Mathern said it would be helpful to have information regarding the amount of population change for each legislative district.

In response to a question from Senator Holmberg, Mr. Olsrud said the threshold for determining who was required to run for election in 1981 was a change in the district that encompasses new geographic area with a population of more than 2,000.

**It was moved by Senator Holmberg and seconded by Representative Monson that the redistricting bill draft provide that a senator in a district with another incumbent senator or a representative in a district with more than two incumbent representatives would be required to run for election in 2002.**

Senator Christmann said it does not make sense to require an incumbent to run for reelection if the term of the other incumbent in that district will expire in 2002.

Senator Mathern said the people in the district should have the ability to choose their legislators after redistricting.

In response to a question from Senator Tomac, Mr. Olsrud said it is the committee's and the Legislative Assembly's responsibility to decide whether a senator who was elected to a four-year term in 2000 in an even-numbered district who would now be the lone senator in an odd-numbered district should be required to run for election.

Representative Carlson said it would help the committee to have a list of which legislators are in districts with other incumbents and who would be required to run for election in 2002 before it approves the bill draft.

Senator Holmberg said the committee can decide the policy before it has the actual data with respect to who is affected.

Representative Devlin said a senator in an even-numbered district who will be moved to an odd-numbered district should be required to run for election in that district.

After this discussion, **the motion carried on a roll call vote.** Representatives Timm, Aarsvold, Carlson, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." Representatives Devlin, Froseth, and Gulleson voted "nay."

**It was moved by Representative Devlin, seconded by Representative Carlson, and carried on a roll call vote that the redistricting bill draft provide that the term of every legislator who is in an odd-numbered district after implementation of the redistricting plan will expire on November 30, 2002.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleson, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

**It was moved by Representative Devlin, seconded by Representative Carlson, and carried on a roll call vote that the new district in Fargo be labeled District 12, the district that will replace District 48 in Jamestown will be labeled District 26, and the district that contains portions of Sargent, Richland, Ransom, and Dickey Counties be labeled District 27.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleson, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, and Tomac voted "aye." Senator Mathern voted "nay."

**It was moved by Representative Froseth and seconded by Representative Carlson that the redistricting bill draft provide that if there are three or more House incumbents or two or more**

**Senate incumbents who were elected in even-numbered districts and who will all be in the same even-numbered district after implementation of redistricting, two of the House members or one of the senators may continue to serve the remainder of the term if any of the members resign from office to reduce the number of House incumbents to two or Senate incumbents to one.**

Senator Holmberg said a procedure or timeline would be needed to determine when resignations must occur.

Representative Gulleeson said establishing a date for the resignation would force a decision by the legislator and would likely leave a district without representation for the remainder of the year.

After this discussion, **the motion failed on a roll call vote.** Representative Froseth and Senator Christmann voted "aye." Representatives Timm, Aarsvold, Carlson, Devlin, Gulleeson, Hanson, and Monson and Senators Bowman, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "nay."

In response to a question from Representative Timm, Mr. Olsrud said if the bill draft were to include an effective date to address implementation of the redistricting plan for the purposes of the 2002 election, the effective date could be drafted so that the role of incumbents serving until November 30, 2002, is not affected. He said legislators serve through November 30 of the year that their term expires.

**It was moved by Senator Mathern, seconded by Senator Tomac, and carried on a roll call vote that the redistricting bill draft include an effective date of December 1, 2001, for the purposes of implementation of the redistricting plan and provide that the terms of incumbent legislators in odd-numbered districts, Senate incumbents who are in even-numbered districts with other incumbent senators, and incumbent House members who are in even-numbered districts with two or more other House incumbents will expire on November 30, 2002.** Representatives Timm, Aarsvold, Carlson, Devlin, Froseth, Gulleeson, Hanson, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, Kringstad, Mathern, and Tomac voted "aye." No negative votes were cast.

**It was moved by Senator Holmberg and seconded by Representative Devlin that the bill draft provide that if an incumbent files a statement with the Secretary of State by January 15, 2002, waiving the right to an election required because of multiple incumbents in the district, an election would not be required to be held until the scheduled expiration of the terms of the incumbent or incumbents remaining.**

Representative Devlin said an election should not be required if a person files an intent to not take part in the election and there is an incumbent with two years remaining on the incumbent's term of office.

Senator Mathern said the voters should have the opportunity to decide who will represent them. He said the committee should be using a percentage of population change to determine whether there will be an election. He said rather than looking at protecting incumbents, the committee should be looking at what is best for the electorate.

Representative Aarsvold said the people made a decision two years ago regarding their representatives. He said the committee has now placed other incumbents in some districts and are giving those incumbents the opportunity to challenge the incumbents who were elected by the voters of that district. He said approving the motion would be honoring their obligation to the voters.

Senator Tomac said the motion is looking for a way to solve a problem that does not need to be solved. He said the decision was made earlier to make incumbents run if there are additional incumbents in their district. He said the motion only causes further confusion.

After this discussion, **the motion failed on a roll call vote.** Representatives Aarsvold and Devlin and Senators Christmann and Holmberg voted "aye." Representatives Timm, Carlson, Froseth, Gulleeson, Hanson, and Monson and Senators Bowman, Freborg, Kringstad, Mathern, and Tomac voted "nay."

Senator Mathern said the committee has received requests for the creation of subdistricts on the Indian reservations. He said the ACLU has prepared a proposal for subdistricts based upon the 47-district plan. He requested that the Legislative Council staff review the ACLU proposed subdistrict plan and the Attorney General's letter opinion from March, which addresses the creation of subdistricts only in the districts containing the Indian reservations, and report to the committee at the next meeting regarding the subdistrict proposal.

**It was moved by Representative Carlson and seconded by Representative Froseth that the 47-district plan be accepted as amended.**

Chairman Timm said the committee will have an opportunity to review the plan and the bill draft at a meeting scheduled for 1:00 p.m. on November 5, 2001. At that time, he said, the committee would need a motion to forward the final plan and bill draft to the Legislative Council.

Representative Aarsvold said he still believes that a 51-district plan serves the best interests of the state. He said the committee should attempt to tie up any loose ends before forwarding the plan and bill draft to the Legislative Council. He said matters should not be left to address during the special session.

After this discussion, **the motion carried on a roll call vote.** Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Bowman, Christmann, Freborg, Holmberg, and Kringstad voted "aye." Representatives Aarsvold, Gulleeson, and Hanson and Senators Mathern and Tomac voted "nay."

Representative Gulleeson presented a bill draft that would establish an independent commission to prepare a legislative redistricting plan for future redistricting processes. She said she would like the bill draft to be part of the committee's recommendation to the Legislative Council. She said there would be tremendous value in establishing an independent commission to draft a legislative redistricting plan. She said the members of the commission would not have a vested interest in the result of the process. She said 11 states have commissions and this bill draft was patterned after the commissions in Montana and Pennsylvania. Because the Legislative Assembly is required to establish new district boundaries after each decennial census, she said, the bill draft provides that the commission would prepare a plan and recommend it to the Legislative Council.

Senator Bowman said because this is such a change from the current procedure, the bill draft should have a more complete hearing.

Senator Christmann said he opposes relinquishing the authority of the Legislative Council to an independent commission.

Chairman Timm said because this proposal has not been a part of the committee's work until today, he would prefer that the bill draft be introduced by individual sponsors at the next legislative session.

Representative Gulleeson said because the committee members are the best judge of whether the redistricting process can be improved, the bill draft is germane to the committee's study.

Representative Carlson said interim committees should reflect the makeup of the Legislative Assembly and an independent commission does not reflect the Legislative Assembly's composition.

Senator Tomac said the independent commission would be similar to other committees established by the Legislative Assembly, including the Regulatory Reform Review Commission, the Electric Industry Competition Committee, the State Employees Compensation Commission, and the Legislative

Compensation Commission. He said the establishment of a commission would allow persons other than legislators to be involved in the redistricting process, which is a good idea.

**It was moved by Representative Gulleeson and seconded by Senator Tomac that the bill draft to establish an independent redistricting commission be approved for recommendation to the Legislative Council for introduction to the 2003 Legislative Assembly. The motion failed on a roll call vote.** Representatives Aarsvold, Gulleeson, and Hanson and Senators Bowman, Mathern, and Tomac voted "aye." Representatives Timm, Carlson, Devlin, Froseth, and Monson and Senators Christmann, Freborg, Holmberg, and Kringstad voted "nay."

Representative Devlin said this process has been very difficult for the entire committee, and especially difficult for those members of the committee who had the computers with the redistricting software. He said at the completion of this process, it may be valuable to examine further the decision whether to use a consultant in the future.

Chairman Timm said the committee did an excellent job in completing its work. He said the work of the members of the committee who had the computers with the redistricting software was especially valuable to the entire committee.

There being no further business, Chairman Timm adjourned the meeting at 3:45 p.m.

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John Bjornson  
Committee Counsel

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John D. Olsrud  
Director