

SIXTY-SECOND DAY

Bismarck, November 17, 1981

The Senate convened at 9:00 a. m., with President Sands presiding.

The prayer was offered by Senator Hal Christensen.

Let us pray. Heavenly Father, we thank You for a new day. We thank You for the privilege of serving the people of North Dakota in the State Senate. We ask You for the wisdom and judgment today to make decisions that will be in the best interest of the people of North Dakota. We ask Your blessing on our work today. In Jesus Name, Amen.

The roll was called and all members were present except Senator Walsh.

A quorum was declared by the President.

Senator Nething moved that the Senate stand in recess until 1:30 p. m., which motion prevailed.

The Senate reconvened pursuant to recess taken, President Sands presiding.

Correction and Revision of The Journal

Mr. President Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the Sixty-first day and recommends that the same be corrected as follows:

On page 2431, after line 1, insert:

Senator Stromme, Reps. Mertens, Berg introduced:

And when so corrected recommends that the same be approved.

Senator Sorum moved that the report be adopted, which motion prevailed.

REPORT OF PROCEDURAL COMMITTEES

Mr. President: Your Procedural Committee on Employment recommends the following employee:

Jerri Kurle.....Page

Senator Thane moved that the report be adopted, which motion prevailed and the report was adopted.

## OATH OF OFFICE

Senator Thane moved that the Sergeant-at-Arms escort Jerri Kurle to the rostrum for the purpose of receiving the Oath of Office, which motion prevailed.

Mrs. Kurle was escorted to the rostrum and the President then administered the Oath of Office to the newly appointed employee.

## Report of Standing Committee

Mr. PRESIDENT JOINT REAPPORTIONMENT  
Your Committee on \_\_\_\_\_  
to whom was referred SENATE Bill No. 2440

Has had the same under consideration and recommends that the same

- do pass       do not pass       be placed on calendar  
without recommendation
- be amended as follows:

On page 4, after line 33, insert the following new section:

"SECTION 3. ESTABLISHING TIMETABLE FOR 1982 ELECTIONS.  
The secretary of state shall, in carrying out the provisions of section 16.1-03-17 for the 1982 elections, establish the timetable for reorganization of the political parties so that the reorganization is completed by February 1, 1982."

On page 9, delete lines 25 through 35

On page 10, delete line 1 and insert in lieu thereof the following:  
"United States highway two intersects the centerline of forty-second street, thence west on United States highway two until its intersection with the Grand Forks city limits (Grand Forks international airport boundary), thence north and west following the city limit boundary until its intersection with the centerline of the burlington northern railway right of way, thence southeast on the burlington northern railway right of way until its intersection with the centerline of twenty-seventh avenue north, thence east on twenty-seventh avenue north until its intersection with the Grand Forks city limits, thence north following the city limit boundary until its"

On page 10, delete lines 5 through 10 and insert in lieu thereof the following: "thence west following the township boundary until its intersection with the centerline of washington street, thence north on washington street until its intersection"

On page 15, delete line 2 and insert in lieu thereof the following:  
"on a line following section lines until its intersection with the north boundary of section twenty-eight of township 140-96, thence east on a line following section lines until its intersection with the east boundary of section twenty-seven of township 140-96, thence south on a line following section lines until its intersection with the city limits, thence east following a line along the city limits to the point of"

On page 23, delete lines 15 through 21 and insert in lieu thereof the following: "four years. Each senator from an even-numbered district shall be elected in 1984 for a four-year term, except a senator in an even-numbered district with new geographic area which area was not in that senator's district for the 1980 election and which new geographic area has a 1980 population which is more than two thousand, shall be elected in 1982 for a two-year term. Based on this criteria, districts two, eighteen, twenty-four, thirty-eight, forty-four, forty-six, and fifty-two shall elect senators in 1982."

On page 24, delete lines 19 through 22 and insert in lieu thereof the following: "unless there is substantial population (over two thousand persons) in areas added. Districts two, eighteen, twenty-four, thirty-eight, ~~forty-four, forty-six,~~ and fifty-two are the only districts reflecting such increases in population."

And renumber the lines and pages accordingly

And when so amended recommends the same do pass.

SENATOR OLIN

CO-

Chairman

### MOTION

Senator Olin moved that the rules be suspended, that Senate Bill No. 2440 be placed on the 6th Order of Business at this time, which motion prevailed.

### CONSIDERATION OF AMENDMENTS

Senator Olin moved that the amendments to Senate Bill No. 2440 as recommended by the Joint Committee on Reapportionment be adopted, which motion prevailed.

Senator Olin moved that the rules be suspended, that Senate Bill No. 2440 be deemed properly engrossed and placed on the calendar as amended, for second reading and final passage, which motion prevailed.

### MOTION

Senator Nething moved that the remarks of the debate relating to Senate Bill 2440 be printed in the Journal, which motion prevailed.

### DEBATE ON SENATE BILL NO. 2440

Senator Nething: Mr. President, and Ladies and Gentlemen of the Senate, the bill is going to be explained by the Senator who was our co-chairman. But, before we get into an explanation of the bill and the provisions of it, I thought it would be best to begin by explaining to this body some of the considerations that went into this bill and some of the considerations that we deem to be important during the legal battles both in the state court and the supreme court of the United States. Mr. President, Ladies and Gentlemen of the Senate we have had legislative reapportionment requirements that have been part of the statutes of North Dakota and it is important that you have those requirements. While I will not get into the bulk of the bill I do want to point out that on page 5, beginning on lines 9 you will find that the state requirements that we have had historically are encompassed in this bill with two exceptions. The one being in lines 9 and 10 the changing of the size of the Senate from 48 to 52, instead it is 47 to 53, and the House size would change accordingly. Also on line 24 where we talk about the Federal installations and multi member districts the three-fourths is changed to two-thirds. I think it is important that you recognize that you do need to have the statutory authority relating to reapportionment, because that statutory authority becomes the state policy of North Dakota. I do point out that with the exception of those two changes which we believe are certainly valid that this policy has been on our record for some time. There are several criteria that have been used by the courts and within legislative reapportionment acts in the past and I would like to just summarize those briefly. First of all in North Dakota historically we have recognized the boundaries imposed by the Missouri River. Our

decisions have said there must be a minimum population deviation that the compactness and contiguity of these districts is extremely important. That legislative district boundaries should coincide with political subdivision boundaries, that there is a limitation on the size of the Senate, that there be a limited use of multimember districts, and that an effort be made to maintain present district boundaries. Historically this has been part of reapportionment of North Dakota and I would only direct your attention to page 23, beginning on line 30 and carrying over to pages 24 and 25, and as you read through this bill you will find that each of those items are addressed in that legislative intent. With that brief explanation of some of the historic background, Mr. President, I would yield to the Senator from District 37.

Senator Olin: Mr. President, members of the Senate. Senate Bill 2440 which we have before us at this time, is a result of an interim committee as well as the Joint Reapportionment Committee that was appointed according to our rules that govern us here in this session today. The Committee, with the aid of Professor Hockok, has held six meetings, prior to the time of the meetings held during this session, and at those six meetings, public input was allowed. However, two meetings, the one held in August and the one held in September were set up specifically to receive public input from those people across North Dakota who were interested and wanted to be a part and help in redistricting the state. The 1980 Legislative Council contracted with the University of North Dakota for the services of Professor Hickok and his instructions back in that time in 1980 was to develop districts that did not cross the Missouri River. I think with those charges in mind and also the committee had the information which the leader just talked about the charges other than that being that we stay below a 10% deviation in the plan if at all possible, that we do not cross the Missouri River. This bill which you have before you has both of those things, it meets that criteria. As the committee looked about as to how to best represent the state of North Dakota it became apparent that due to the shift of population it would be impossible to do so equally without either adding or decreasing districts. If we would of went to a 47 member legislature, 47 districts, we would of had the smallest deviation. But at the same time we would take away much representation from the rural area. By going to a 53 districts. If we would have gone to a 47 member legislature, 47 districts, we would have had the smallest deviation. But at the same time we would take away much representation from the rural area. By going to a 53-district plan, we end up with 8 districts south and west of the Missouri River, and 45 districts east of the Missouri River with a variance of percent difference of the average in those districts being integrity of county lines and to not cross the Missouri and once again stay within that population variance. I believe that the bill which ended up in final form has a variance of about 9.93 percent which is below the 10 percent range. Three districts were added because of population, one in the Fargo area, one in the Bismarck area, and one in the area south and west of the Missouri. South and west of the Missouri the lines interchange considerably because we were adding one district into fourteen counties. The counties however did not increase or decrease in population to the same extent. We had a heavy increase in some areas and a decrease in others so it became necessary to change all of the lines, and we got a rather large district in extreme southwest North Dakota. That district has two incumbents placed in the same district,

and that is the only one where that did happen. The bill also provides for the staggering for terms of Senators, it provides for the reorganizational efforts of the political parties after reapportionment, and it speaks of the problem that the county commissioners have and will enable some of them to serve out their current terms. Also, the committee chose to work only with the population increase as far as determining which Senators would and would not have to run. We chose to work with the increase of population in new area which was added to the district in determining which one would run. We used the increase, not the decrease because we felt that the area was a part of the old district, those people more than likely voted for or against that Senator in the last election and we felt that their vote should be recognized even if their district had changed somewhat. On that basis is the way we chose to determine which Senators would and would not run. Then as we go into the bill, as our leader pointed out, we attempted to follow those charges and deal with areas relating to the terms of office of the county commissioners, that would be section one of the bill. I am sure you have all read the bill, so I will not spend a lot of time on it other than where we chose to amend the bill. That was where we added Section 3 on page 4, whereby we said that the reorganization of political parties in the districts would now have to be completed by February 1, 1982. The bill goes on then and sets out 53 districts as I have mentioned before, the amendments on page 9 of the bill deal with some changes in the Grand Forks area. Primarily those districts right around the edge of the city and in Grand Forks County. On page 15 of the bill we deal with that area around Dickinson and Stark County and place the balance of two sections of land in district 37 or the urban district. The change I spoke of just briefly, and I will read that amendment, that would be the amendment on page 23 where we delete line 15 through 21 and insert the following. And what we say there is that each Senator from an even number district shall be elected in 1984 for a four year term. Except a Senator in an even number district with new geographic area which was not in that Senator's district for the 1980 election and which new geographic has a 1980 population of 2000. We say that Senator will be elected in 1982 for a two year term. Based on this criteria the Senators in Districts 2, 18, 24, 38, 44, 46 and 52 would have to run in 1982. We also set that out so that in the legislative intent we left a clear trail as to how we arrived at those figures and why we arrived at those figures. Mr. President, and Members of this body your committee heard much and many deviations that are alternates to the districts which we have chosen to set up. We worked those districts in block areas throughout the state, primarily 11 blocks. Those blocks were determined by Professor Hickok and the aid of his computer and we feel we presented to you a plan that does the best to everyone possible. It is a plan that I am sure nobody is totally satisfied with but we feel that we have everybody as satisfied as possible. I would urge that you would give us a favorable vote on Senate Bill 2440.

Senator Barth: Mr. President, members of the Senate, I am going to be offering an amendment shortly which was placed on your desks just a few moments ago, but I would like to make a few comments in relation to my opposition to Senate Bill 2440 as it is now amended and before us and before I propose my amendments. I would first like to outline some areas in the bill just briefly, but I would like to make a general statement in relation to what I feel are the gross inequities in

Senate Bill 2440. First of all I represent District 35, which includes all of Grant and Sioux Counties and the southern portion of Morton County. If you can imagine drawing a line about straight west of the present city limits of Mandan, that southern part of Morton County is now a part of District 35. The remaining portion of the rural area is in District 33 and of course the city of Mandan is a separate district. I merely point this out so that you can have an idea how my district is, but I am not going to dwell a lot on my district, but since I am on the subject, I would mention that in southwest North Dakota the previous speaker mentioned the southwest 14 counties are going to receive under this 53 Senator plan a new Senator because of the population increase and if we are going to adopt a 53 Senator plan, then certainly the additional Senator is justified. But as I look at what has happened and perhaps the Senate is not aware of this and I think the general public should be aware of it, I think a gross injustice was handed down to the people of southwest North Dakota inasmuch as it is our tax dollars that helped to finance Professor Hockok's salary and finance the entire reapportionment plan. When I received the plan, this huge thick book that each of us received, plus the district chairman, I was very discouraged to note that some districts within the state of North Dakota were offered five or six alternate plans, whereby the political parties could choose which one they felt was perhaps best in terms of political structures. I don't think it's ironic, I think it's an abuse of what I feel should never have happened, but in southwest North Dakota we were offered one plan and one plan only. I think this is very serious. Southwest North Dakota first of all is the energy hub of the state of North Dakota. A good share of oil is produced in that area, the major portion of the coal is mined in that area, so a good share of our revenue comes from southwest North Dakota. It seems very strange to those of us who live there that, notwithstanding the expertise that Professor Hickok had, he had the computer, he had the census data before him, he had an endless amount of time, so to speak, and yet we did not receive one alternate plan. We felt we had nothing to choose from but what was handed to us as if to say "Look, you digest this, this is all you are going to get". I do not have the expertise, I do not have the time and certainly most of us do not in southwest North Dakota, so that we did not have a chance to move ourselves into a position where we could perhaps come up with a plan that would have worked with 53 Senators, 47, or whatever. First of all I think this is a gross injustice to those of us residing in southwest North Dakota and certainly we are objecting to that by and large. I think we need to look at the area further down, but I am not going to point out all of the areas that I think were gerrymandered, so to speak, but I can see many areas, in fact I counted one day and I saw some district lines that were moved, they were moved from one district to another where it would protect an incumbent Senator, and I don't know what somebody else would call it, but I would say it's gerrymandering, and I feel this is not the way the committee should have operated and I object to that. As we are talking about crossing the Missouri River, the committee was instructed not to cross the Missouri River since it is considered a major boundary. But I submit to the Senate that I have represented District 35 for 12 years and have campaigned in my district and have crossed two major rivers, the Cannonball and the Heart, so that I feel it's just another way to move about so that we would not have to present some of the districts in a different form other than what we are

seeing before us today. As we look over the entire plan, I wish I had a map before us so I could point out some of the areas where I think we are moving away from what I think is a fair reapportionment plan. First of all I have a very serious objection to the multi Senator districts. I believe that we are being disenfranchised again, those of us who consider ourselves rural North Dakotans, and I think we as North Dakota are a basically agricultural state and we should never forget that. But when I look at the multi Senator districts I think we are giving up a lot, in terms of rural North Dakota. We are giving up, for example the two proposed multi Senator districts which lie within a city that has a major state supported college. When the census was taken, the college students were counted in these particular cities, and when we add the air bases which are not a part of the city, but the air bases in all reality are part of rural North Dakota and then we use a so-called buried 12 inch water line to move these districts which are considered a city district, we are then giving in essence, if we put the figures together properly and added them up, we would then be giving the benefit of the doubt of two Senators and four Representatives to the cities, turning over in many cases what could very well be the balance of power. I object to that. I question also the need to increase the size of government in the state of North Dakota. I can recall the sixty days we spent here in January, February and March and the constant cry was that the mood of the people was that there shall be less government. Suddenly through the hypocrisy of whomever, but suddenly, we find ourselves saying we need more government, we need 53 Senators and 106 House members. That increases not only government as we see it, but also increases the cost of government. I object to that. I think as I look at the plan, and see what has been done and what has not been done, I recall appearing before the reapportionment committee at an earlier date. (I had contacted Professor Hickok before I had appeared before the committee) and Professor Hickok mentioned that one of the reasons that he did not come up with more than one plan or several alternates is that the enumerator districts in southwest North Dakota have a lower number of townships and in my particular county, namely, Morton County we have but two townships. Enumerator districts he said were running in such a way so that in many cases he was doing this on a hit and miss basis. He was assuming there was an "X" number of people living in Area A, B C or whatever the case may be. I then requested of the reapportionment committee that in using Professor Hockok's advice, that some additional census data could very well straighten out the problem and he could then work on alternate plans. I requested this of the committee and of course was turned down. I feel again because there were 14 counties and whatever the number of people, we were totally disenfranchised, we were not given a chance as was the rest of North Dakota, and I hope you would consider this in your deliberation and on your final vote on Senate Bill No. 2440. Now as we see the bill before us, turn to page 9, on line 16, again one of my objections is, we are creating a multi Senator district where we now have single Senator district. I object to that, I do believe the committee could have come up with a single Senator district, and what we are doing by proposing multi Senator districts, we are opening the door for a court case, with some very good grounds to stand on. If we look at district 35 on page 13, which is my particular district, line 32, we see in the 34th district, a very clear cut case of the Republican chairman of District 34 proposing a change, not a Hickok

change, because there were not, but a very clear case of gerrymandering whereas the present District 35 which I represent the airport, south of Mandan, is presently in my district. The proposal which was accepted by the committee on a political basis cuts up the new district, whichever new district it would be, perhaps 52, namely rural Morton County where I reside, but two state highways are used as a boundary, which would mean that those candidates, both political parties, having to campaign, would have to use state highways and drive through an existing legislative district to get to the other side. It would not have to be done were it not a clear cut case of gerrymandering. This could be avoided whereas the river as a natural boundary should be used and you could avoid that. I think this is a very gross inequity in the bill and again if this bill goes to the courts, which I am assuming it will if it passes in this form, will be very good grounds for attorneys to fight in the courts and I wanted to bring this to your attention.

Senator Nething: Mr. President, ladies and gentlemen of the Senate, I am going to speak now to just the amendment itself and to the particular concerns as they relate to the amendments that have been offered by the Senator from District 35. First of all, the real question here and putting it in a nutshell is "Which holdover Senators need to run at the next election?" The amendments as proposed provide that the consideration be given to a 10% factor and the 10% factor be an increase, a decrease or a combination of change as I understand it, not to exceed 10 per cent. That particular factor, I believe, is pretty much identical to that which the court held to be a consideration in past reapportionments ordered by the court. Now other than that particular consideration, the courts have not given specific guidelines for holdover Senators, at least they are not consistent in their guidelines. There is one thing that is consistent, and that is that legislative bodies do have more leeway in dealing with reapportionment than do courts when they deal with reapportionment.

Now based on that premise, I would like to tell you what a couple of other states have which will give you an idea of the leeway that does exist. First of all in the state of Oregon they have a provision that has been upheld by the Federal courts that you cannot deny a Senator elected for four years any part of that term, and when it comes to reapportionment, they simply resolve it by making an assignment when there are two Senators in one district to have that Senator where they were combined in reapportionment serve another district where they do not have a Senator. For example, in our case, with the city of Fargo, they could have a situation where there might be two Senators in one district, they would assign one Senator to serve the city of Fargo and that district and they would assign the second Senator to come over here to Bismarck if there were a vacancy in a district to serve there. Now that's the type of procedure that is used in that state and has been upheld but I don't think that will fit us here. In the state of Alaska, there the legislature does not reapportion. There the Governor does it. In Alaska, the reapportionment proposal is that any Senator who has a population increase of more than 40% will have to stand for re-election. Now that is considerably different from where we are in the amended and engrossed bill in front of us. I think there is another factor involved here and I would be the first to say that the percentage that is utilized in this engrossed bill, while it is about 16.25%, is somewhat arbitrary, but I don't think it is any more arbitrary than a 10% factor. I think the important thing to recognize is that the



population increase is that of over 2000 people, and I think that then, when you talk about that being a new population, it is a fair figure, but it certainly is arbitrary. Why can't we come up with a figure, then, that would have some closer lines to it, maybe a closer historical purpose? Well, it is just pretty difficult. It is difficult in this case because with the requirement that we do reapportion, and I certainly accept that, that we need to do it in a time constraint, the time constraint being that we need to reapportion and have the bill in effect for our primary election in June of 1982. Now in order to accomplish that, it is necessary that this measure pass the Senate and the House by two-thirds of its members voting in favor of it. It is no political secret that in order to get two-thirds of the body to vote for it, there has to be two-thirds of the body that is happy about it. I think we have our back against the wall because of the particular requirements, if we as a legislature are going to meet the responsibility that we have. I think the variation that is permitted, the population that is permitted in the engrossed bill, I think it will stand the test on the basis of what has happened in other states, that there is considerably more leeway, and what happens when state legislatures reapportion themselves, and I think that it is no more arbitrary than the ten per cent factor that was imposed initially. Mr. President, ladies and gentlemen of the Senate, I hope you will defeat this amendment.

Senator Olin: Mr. President, Ladies and Gentlemen of the Senate, as the Senator from District 35 spoke a few moments ago, I felt that it is necessary that we respond to several of those remarks; however, I think as I listened to him he not only cited the problem that we had when we started to reapportion, but he also cited the answer. I believe he indicated that the contractor from the University of North Dakota did somewhat less than a commendable job in southwest North Dakota, and he later said that it was because there was no census data available, and this is true. In southwest North Dakota there are very few organized townships and as such, the enumeration districts were large and did not set aside townships in any way that it was easy to attempt to redistrict other than by county line. Let me say that south and west of the Missouri, we crossed no county lines. There are two counties out there that have two districts, Morton County as part of Mandan, and the balance of Mandan, and the balance of Mandan goes with rural Morton County and the same thing happens in Stark County. Otherwise, those counties are grouped in with neighboring counties and we have crossed no county lines. We had a charge not to cross the Missouri River and we lived with that charge. There was reference made to the Cannonball River and the Heart River, I think there are places probably where you could wade across those rivers, but it would be quite difficult to do that on the Missouri River and there are very few bridges that are available to be used. The air bases, we felt that due to the situation that is involved around those cities with air bases, they were more closely related to the cities than they were to the rural districts mainly because the cities do furnish them many times with water, but not only that their school districts are a part of the cities generally, and the cities are charged with the education of the children who live on the air base proper, and that is the reason the committee chose to use that type of criteria and I think if we would look at a map the present district lines and the proposed district lines, you would see the rural areas of North Dakota have very little change. on the bottom, other than in southwest North Dakota and around the

major cities, there is very little change, and that is why we went to the 53 member district, so districts like Districts 35, 39, 28, 14 and 7, these rural districts could maintain their representation because we felt that we were a rural state, an agricultural state, and the three additional districts would help keep that rural representation present in our bodies in the legislature in the State of North Dakota. I hope that you defeat the amendment.

Senator Redlin: Mr. President, members of the Senate. While it is true that I may not agree with all the statements made by the Senator from District 35, we have a very excellent working relationship and I think that he has proposed an amendment which says in effect that the whole election process should be closer to the people, that we ought to go to the people to determine their attitude on representation when there is a change of ten per cent or more. I believe that it is true, we ought to give the people maximum opportunity to choose their representation and it is with that in mind that I am hopeful that the Senate will see fit to adopt the amendments as proposed by the Senator from District 35 to this bill, 2440.

Senator Holmberg: Mr. President, members of the Senate, I have served on that committee and could not sit here and not say a few words about my good friend from District 35 and some of the comments he made on this particular bill. He mentioned gerrymandering and proceeded to tell us that he saw many areas on this particular proposed reapportionment plan that were gerrymandered and it is very interesting that the only area that he was able to mention was the area in which he lives. Now I found that of interest, but let us go beyond that and look at exactly what the committee did. The committee's goal was to ensure that we fell within court guidelines regarding the size of the legislative district, that we wanted to follow county lines as much as possible, and we wanted to make a minimum amount of change in the present districts. You will find as you look at the maps and as you look at the descriptions of your district, that we did do that, and there is very little change in the district. The previous speaker charged that there were many examples where incumbent Senators were protected. Well, ladies and gentlemen of the Senate, it makes very much common sense if we went in and our goal was to make a minimum amount of change in a legislative district so the people in those districts would not have to be changing legislative districts, it just automatically follows if we made very few changes in a legislative district, we will have made very few changes in where legislators happen to live. The previous speaker in talking about gerrymandering did not mention, for example, one of the most blatant examples of gerrymandering that one finds in state legislatures, is where you put members of the legislative assembly together in the same district. You try to bump off incumbents, particularly incumbents of the minority party. I would ask the previous speaker if he would point to examples where incumbents in either the Senate or the House of the minority party were put in the same district in order to bump them off. You will find in fact, only one example where incumbent legislators were put together and those happen to be two Republican legislators in District 39, so I don't think Mr. President, and members of the Senate, that by any criteria that you use, talking about gerrymandering, applies to this particular piece of legislation that we have before us today. I think it is a good bill. It is one that was thought out a great deal. Some of the other comments have

already been addressed by other speakers and I am not going to belabor the point. The definition of gerrymandering is to divide a voting area so as to give one political party a majority in as many districts as possible. Well ladies and gentlemen, I don't apologize that the voters of this state back in 1980 gave the majority party control in as many districts as they did. That was not our fault, that was what the voters did, the voters did that under a plan mandated by a Federal court, not drawn by a Republican legislature, and I feel very proud of the fact that we were able to keep that plan as much as possible in the redistricting plan that is before us today in Senate Bill No. 2440, and I hope it would pass and I am just disappointed that one of the members of the Minority party was not able to be here so that we could have 50 votes up on that board rather than the 49 that we probably will have.

Senator Reiten: Mr. President, ladies and gentlemen of the Senate, I would just like to make a brief comment on the multi-senator district. The one 40-50 has existed since the last reapportionment, which was ordered by the court. I would like to point out that that has been a bi-partisan district ever since it was reapportioned. It has been represented by one Democrat and one Republican in the Senate. I would like to point out that the schools on the air base are under the jurisdiction in this case of the city of Minot. They come to the city for their high school education, the others go to schools on the base which are under the jurisdiction of the city. The water systems out there are provided by the city and I think there is a community of interest, their social and economic and their economic activities are within the city and I want to point out that it is said that one of the best relationships between an airbase and a city in the United States exists between the city of Minot and the air base. We have worked very hard at being good neighbors and we have worked very successfully at this. This has been approved by the courts, and I hope you approve it now.

Senator Barth: Mr. President, I have been listening to the comments after I made my presentation and I would assume that the Senator from Grand Forks whom I certainly do consider a friend of mine, rather inferred that I did not know what I was speaking about and I resent that, but I would like to inform the Senator that while I did not attend the University in your district, I do believe that there are those of us who know what's going on. I would like to relate to the Senator that nobody has eluded to that. I did make mention in my remarks as to what is the real reason why are we looking at a 53 Senator plan rather than a 50, or why was Dr. Hickok not asked by the committee to come up with a 47 Senator plan, which would have been a reduction by three also. I think we have the expertise and it is just a matter of moving things around. Perhaps somebody was working besides Dr. Hickok and I am asking this question, I am merely thinking out loud, that provided some information that said "Look, we are not going to look like we are a gerrymandered group if we come up with 53 Senators, we have the votes, and we are going to go that way". I am merely asking, I am not inferring that this is what happened. I would also like to mention the multi-Senator districts, I am not exactly new at this game, I happened to be a member of the Senate Reapportionment Committee back in 1973. I helped draw up the plan that all of us are serving under today and I can recall the session when the courts ruled that North Dakota must divide itself into single Senator districts. I hope we all understand that, and that is my point today. The courts have ruled Senator Barth did not see it, the people in

District 35 did not see it. The courts said that North Dakota must divide itself into single Senator districts, and I would submit to this body there is a challenge before us today and we are neglecting that. That challenge before us today is to conform with what the courts had said and my challenge would be to this committee and to Professor Hickok if that is where the so called expertise lies, that there was not a proposal brought before this body that did not have multi Senator districts and gave us a single Senator district. I alluded in my remarks that I did not have the time to study in depth this brief moment before I knew what was happening and this amendment was being proposed to study the areas where district area lines were moved to protect one Republican Senator from running against another, and if that is not gerrymandering then certainly Webster needs to be defined what is in the dictionary regardless of what the Senator from Grand Forks said. I am not at all concerned that we have a plan which is so perfect that we cannot challenge it. I believe there are many loopholes in this thing, I believe there are many areas where there is gerrymandering and I believe if we pass this, we are not going to meet the February 1 deadline because we have opened the doors, we have opened the doors wide for a court case and I was very hopeful we could avoid a case; but it looks as though if the reapportionment plan that we have before us is passed, the groundwork is laid for a very good court case.

Senator Holmberg: Mr. President, members of the Senate, I would like to point out to this particular body a couple comments from my good friend from District 35. First of all the decision that was made to go to 53 member legislative districts was made on a motion that I made back in one of our meetings about June 2. That particular motion was that all plans presented to the committee by Professor Hickok consist of 53 legislative districts or alternatives. That vote was unanimous, Mr. President and members of the Senate. Members of the Majority and the Minority party all supported that. The reason for that support was so that the people in North Dakota, particularly the central part of North Dakota and rural North Dakota would not have to see the massive changes in their legislative district lines that it appears some people today are suggesting we should have done. There have been suggestions perhaps we should have looked at a smaller legislative assembly, well that is fine, Mr. President. North Dakota does today have the lowest overall cost of a legislative assembly in the nation. I believe our per capita cost is about \$1.56 and I think that is a pretty good bargain for a citizen legislature, but I think that already the size of some legislative districts is becoming very large and if we were to go to a 40 or a 47 or a smaller number of legislative districts, the size of those legislative districts obviously is going to get very large including the areas west and south of the Missouri River. So I think, Mr. President, that we have to keep that in mind, that the decision on the 53 member district was one made in a bipartisan way by a committee. Secondly, Mr. President, the previous speaker told us that the courts said we cannot have multi Senatorial districts; well, the courts as we all know sometimes change their minds and by looking at the present legislative districts we know very well the courts do not worship at any altar of straight lines because many of the lines today in our legislative districts are very crooked, and I don't mean to attach that to any politician or anything like that. But the fact is that the multi Senatorial concept was approved, it was mandated by the Federal courts in 1975 in the Minot situation and let me just give you an example of what happens when you have a large population like an air force base population which does not become overly involved in

North Dakota politics. In 1978, I was elected with 600 plus votes. How many of your opponents would have beaten me with the votes that they had. I don't think that's right either and I think the Minot concept worked very well in their particular area and I think that the concept of a multi Senatorial district will work very well in Grand Forks, and you will find that a number of the district chairmen of the Minority party in the city of Grand Forks support the multi Senatorial concept for the very reason that political parties can organize much better and that you have a much more representative vote out of those people. So Mr. President, I would hope that we would continue our support of Senate Bill No. 2440.

Senator Nething: Mr. President, ladies and gentlemen of the Senate, the question has come up about a possible court suit over the reapportionment plan that we are considering in Senate Bill No. 2440. Mr. President, ladies and gentlemen of the Senate, we are in court. The court is simply holding in abeyance an action that has already been started and what we are going to do in this extended session of ours is to provide that court with an answer and with a plan that will meet the requirements that that court has laid down. Specifically we are within the population deviation rates, ratios that they have recommended. They have authorized multi member districts provided that there is certain criteria that go with them and in this case it involves two military installations which also complies with our state law. As I mentioned earlier the question about the factor of holdover Senators is not as clearly defined by the courts and we believe that we are within the ranges they have given. It is important to have a 53 member legislature in a state such as ours because of the population shifts that have taken place. Because if we do not do that, we will be diluting the effect of the rural voters in North Dakota. It is no fault of the rural people that the population has shifted to the cities, that's just one of those things that has taken place. But one way that we can preserve for them for the next ten years is to adopt this plan with 53 Senators and 106 House members because their representation will be preserved to the best of our ability. The question of multi Senate districts is one of special intrigue because it has its problems within the Minority party much more than the Majority. For example, there is one member who has spoken today who did not want any multi Senate districts, none at all. There is a member in the House who is the Minority leader that wants a multi Senate district but in his case he wants it attached to a rural area and not the city. Then our good Minority leader in the Senate represents a city multi Senate district, and I am sure he can adjust for himself his feelings about the nature of retaining that. Mr. President, ladies and gentlemen of the Senate, if you will just look at this with the thought that this is a plan for ten years. It is a plan that can stand for ten years and it is a plan that was drawn for "people" consideration. We are trying to preserve the county lines, we have tried to preserve the existing district boundaries for legislative districts and in many instances have attempted to preserve voting precincts as they are. When you shift district boundaries in a reapportionment plan, you also shift voting places for your constituents and I think that's probably the most irritating thing to the voters. It isn't a question of whether they are going to have a certain candidate not to vote for, because in most instances they always have an opportunity for a selection. But I think their voting place they like to have stable and Mr. President, fellow Senators and especially those of you in the Minority, I ask you to join us in voting for this plan. I think it is important for you to consider how difficult is going to be to

explain to your constituents why you want them to vote for you, but you didn't want them to be in your district, and therefore you can solve that now by supporting this plan.

Senator Olin: Mr. President, I know the afternoon is wearing on but I would like to inform the members of this body that as your committee started to deliberate on the number of districts, we did not just look at a 53 district plan. As a matter of fact, Professor Hickok presented us figures from a 47 district plan to a 54 district plan, and without a doubt the 47 district plan, as I mentioned before, left the least variance. But where did it leave it? With the 53 district plan, we still have an area in southwest North Dakota where the district is over 200 miles long from one end to the other. We go into the central part of the state and especially the south central, and we'll see districts there that are probably up to a hundred miles or thereabouts. If we would have reduced its size, we wouldn't have hurt the urban areas, as a matter of fact the Fargo area as I mentioned before had 12,000 plus increase in population since the last census. The Bismarck area had 12,000 plus, and south and west of the river had right in the neighborhood of 12,000. Those counties south and west of the river did not gain the population in the rural areas, they gained it in the energy areas and those cities that support the needs of the energy areas and where people wish to go to live. As a result six counties out there gained in population and I believe it was eight counties that lost population, and that was the reason that the committee chose to go to a 53 district state. As the previous speaker mentioned, we are trying to preserve the need for rural representation for the next ten years, and I once again wholeheartedly support the bill.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 2440

Senator Barth: I move that Senate Bill No. 2440 be amended as follows:

On page 23, delete lines 17 through 21 and insert in lieu thereof the following: "districts with a combined percentage gain and loss which exceeds ten percent shall be elected in 1982 for a two-year term. Based on this criteria, districts two, ten, sixteen, eighteen, twenty, twenty-two, twenty-four, twenty-eight, thirty-two, thirty-four, thirty-six, thirty-eight, forty-five, forty-two, forty-four, forty-six, and forty-eight shall elect senators in 1982."

On page 24, delete lines 19 through 22 and insert in lieu thereof the following: "unless there has been substantial population change in their respective districts. Districts two, ten, sixteen, eighteen, twenty, twenty-two, twenty-four, twenty-eight, thirty-two, thirty-four, thirty-six, thirty-eight, forty-five, forty-two, forty-four, forty-six, and forty-eight are the only districts reflecting such increases in population."

And renumber the lines and pages accordingly

Senator Nething moved that Senator Barth's amendments pertain to the engrossed bill, which motion prevailed.

#### MOTION

Senator Barth moved that the amendments to engrossed Senate Bill No. 2440 be adopted.

Senator Redlin requested a recorded roll call vote on the motion to

adopt the amendments proposed by Senator Barth, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to engrossed Senate Bill No. 2440, the roll was called and there were 10 ayes; 39 nays; absent and not voting, 1.

REGULAR SESSION									1981 LEGISLATURE								
NORTH DAKOTA SENATE									NORTH DAKOTA SENATE								
ROLL-CALL									ROLL-CALL								
YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS			
		•	•					•						•			
ADAMS			GROETBERG			MUTCH			STENEHJEM					•			
ALBERS			HANSON		•	NAADEN		•	STREIBEL					•			
BAKEWELL		•	HEIGAARD			NELSON		•	STROMME					•			
• BARTH			HEINRICH		•	• NOTHING		•	TALLACKSON					•			
• BERUBE			HOLMBERG		•	• OLIN		•	TENNEFOS					•			
CHRISTENSEN, H. #5		•	ISLER		•	PARKER		•	THANE					•			
CHRISTENSEN, R. #36		•	LASKOWITZ		•	PETERSON		•	TWETEN					•			
CUSSONS		•	LEE		•	QUAIL		•	VOSPER					•			
• DOTZENROD			LEIBHAN		•	• REDLIN		•	WALSH					•			
DYKSHOORN		•	LIPS		•	REITEN		•	WENSTROM					•			
ERICKSON		•	LODOEN		•	ROEN		•	WRIGHT					•			
FRITZELL		•	MELLAND		•	SOLBERG		•	MR. PRESIDENT					•			
GOODMAN		•	MOORE		•	SORUM		•						•			

The proposed amendments were declared lost.

SECOND READING OF SENATE BILLS

**Senate Bill No. 2440.** — A Bill for an Act to create and enact two new sections to chapter 54-03 of the North Dakota Century Code, relating to state legislative apportionment and the staggering of terms of senators; to amend and reenact sections 11-07-04, 16.1-03-17, and 54-03-01.5 of the North Dakota Century Code, relating to the election of county commissioners, party reorganization after redistricting, and legislative apportionment requirements; to repeal section 54-03-01.6, relating to state legislative apportionment; to provide for temporary nonapplication of section 16.1-03-17; to declare legislative intent; and to declare an emergency.

Which has been read.

ROLL CALL

The question being on the final passage of the bill, as amended, the roll was called and there were ayes, 40; nays, 9; absent and not voting, 1.

REGULAR SESSION									1981 LEGISLATURE								
NORTH DAKOTA SENATE									NORTH DAKOTA SENATE								
ROLL-CALL									ROLL-CALL								
YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS			
•			•			•			•			•					
ADAMS			GROETBERG			MUTCH			STENEHJEM					•			
•			HANSON			NAADEN			STREIBEL					•			
•			HEIGAARD		•	NELSON			STROMME					•			
•			HEINRICH		•	• NOTHING			TALLACKSON					•			
•			HOLMBERG		•	• OLIN			TENNEFOS					•			
•			ISLER		•	PARKER			THANE					•			
•			LASKOWITZ		•	PETERSON			TWETEN					•			
•			LEE		•	QUAIL			VOSPER					•			
•			LEIBHAN		•	• REDLIN			WALSH					•			
•			LIPS		•	REITEN			WENSTROM					•			
•			LODOEN		•	ROEN			WRIGHT					•			
•			MELLAND		•	SOLBERG			MR. PRESIDENT					•			
•			MOORE		•	SORUM								•			

So the bill passed and the title was agreed to, and the emergency clause carried.

Senator Nothing moved that the vote by which Senate Bill No. 2440 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

MOTION

Senator Nething moved that the rules be suspended, that Senate Bill No. 2440 be messaged to the House immediately, which motion prevailed.

MESSAGE TO THE HOUSE

Senate Chamber

Mr. Speaker: I have the honor to transmit herewith the following, which the Senate has passed as amended by the Joint Reapportionment Committee:

Senate Bill No. 2440

LEO LEIDHOLM, Secretary

Report of Standing Committee

Mr. PRESIDENT Your Committee on JOINT REAPPORTIONMENT to whom was referred SENATE Bill No. 2441

Has had the same under consideration and recommends that the same

- do pass
- do not pass
- be placed on calendar without recommendation
- be amended as follows.

SENATOR OLIN CO-  
Chairman

SENATE Bill No. 2441 was placed on the ELEVENTH

order of business on the calendar for the succeeding legislative day.

MOTION

Senator Nething moved that the rules be suspended, that Senate Bill No. 2441 be placed on the calendar for second reading and final passage at this time, which motion prevailed.

SECOND READING OF SENATE BILLS

**Senate Bill No. 2441.** — A Bill for an Act to create and enact two new sections to chapter 54-03 of the North Dakota Century Code, relating to state legislative apportionment and the staggering of terms of senators; to amend and reenact sections 11-07-04, 16.1-03-17, and 54-03-01.5 of the North Dakota Century Code, relating to the election of county commissioners, party reorganization after redistricting, and legislative apportionment requirements; to repeal section 54-03-01.6, relating to state legislative apportionment; to provide for temporary nonapplication of section 16.1-03-17; to declare legislative intent; and to declare an emergency.

Which has been read and has committee recommendation of do not pass.

ROLL CALL

The question being on the final passage of the bill, the roll was called and there were ayes 9; nays 40; absent and not voting, 1.

NORTH DAKOTA SENATE									
REGULAR SESSION					1981 LEGISLATURE				
YEAS	N-V	NAYS	YEAS	N-V	NAYS	YEAS	N-V	NAYS	
•		•	•	GROTEBERG		•		•	STENHJEW
	•			HANSON	•		MUTCH	•	STREIBEL
							NAADEN	•	



BAKEWELL	HEGAARD	NELSON	STROMME
BARTH	HENRICH	NETHING	TALLACKSON
BERUBE	HOLMBERG	OLIN	TENNEFOS
CHRISTENSEN, H. JS	ISZLER	PARKER	THANE
CHRISTENSEN, R. FN	LASHKOWITZ	PETERSON	TWETEN
EVSONS	LEE	QUAIL	VOSPRA
DOTZWOOD	LEIBMAN	REDLIN	WALSH
DYKSHOORN	LIPS	REITEN	WENSTROM
ERICKSON	LODDEN	ROEN	WRIGHT
FRITZELL	MELLAND	SOLBERG	MR. PRESIDENT
GOODMAN	MOORE	SORUM	

Senate Bill No. 2441 was declared lost.

MESSAGES FROM THE HOUSE  
House Chamber

Mr. President: I have the honor to transmit herewith the following, which the House has passed and your favorable consideration is requested on:

House Bill No. 1670

House Concurrent Resolution No. 3085

ROY GILBREATH, Chief Clerk

Mr. President: I have the honor to transmit herewith the following, which the House has passed and your favorable consideration is requested on:

House Bill No. 1669

House Bill No. 1671

House Bill No. 1672

House Bill No. 1673

House Bill No. 1674

ROY GILBREATH, Chief Clerk

FIRST READING OF HOUSE BILLS AND A RESOLUTION

**House Bill No. 1670.** — A Bill for an Act to appropriate money for the expenses of the legislative branch of government for the reconvened forty-seventh legislative assembly; and declaring an emergency.

Was read the first time and referred to the Committee on Appropriations.

**House Bill No. 1669.** — A Bill for an Act to create and enact two new sections to chapter 54-03 of the North Dakota Century Code, relating to state legislative apportionment and the staggering of terms of senators; to amend and reenact sections 11-07-04, 16.1-03-17, and 54-03-01.5 of the North Dakota Century Code, relating to the election of county commissioners, party reorganization after redistricting, and legislative apportionment requirements; to repeal section 54-03-01.6, relating to state legislative apportionment; to provide for temporary nonapplication of section 16.1-03-17; to declare legislative intent; and to declare an emergency.

Was read the first time and referred to the Joint Committee on Reapportionment.

**House Bill No. 1671** — A Bill for an Act to amend and reenact subsection 11 of section 57-02-01 and section 57-02-27 of the North Dakota Century Code, relating to the definition of "agricultural property" and to the assessment of platted agricultural land; to provide an effective date; and to declare an emergency.

Was read the first time and referred to the Committee on Finance and Taxation.

**House Bill No. 1672.** — A Bill for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code, relating to the valuation

and assessment of agricultural lands; to provide an effective date; and to declare an emergency.

Was read the first time and referred to the Committee on Finance and Taxation.

**House Bill No. 1673.** — A Bill for an Act to amend and reenact section 57-50-01 of the North Dakota Century Code, relating to nonrefunded motor vehicle fuel and special fuel tax distributions to townships; and to declare an emergency.

Was read the first time and referred to the Committee on Finance and Taxation.

**House Bill No. 1674.** — A Bill for an Act to create and enact a new subsection to section 57-02-01 of the North Dakota Century Code, relating to the definition of assessed valuation; to amend and reenact subsection 2 of section 15-60-03, subsection 4 of section 21-03-01, sections 57-02-27, 57-02-28, and 57-55-04 of the North Dakota Century Code, relating to the value of property for purposes of taxation and for determining indebtedness limitations of political subdivisions, the basis for the computation of taxes, and the taxation of mobile homes; to provide an effective date; to provide limitations; and to declare an emergency.

Was read the first time and referred to the Committee on Finance and Taxation.

**House Concurrent Resolution No. 3085.** — A concurrent resolution authorizing the Budget Section of the Legislative Council to hold required legislative hearings on state plans for the receipt and expenditure of block grants under the Omnibus Budget Reconciliation Act of 1981 as passed by Congress in July 1981.

Was read the first time and referred to the Committee on Appropriations.

#### MOTION

Senator Nething moved that the Senate stand in recess until 5:00 p.m., which motion prevailed.

The Senate reconvened, pursuant to recess taken, President Sands presiding.

Senator Thane moved that the absent Senator be excused, which motion prevailed.

Senator Nething moved that at the conclusion of the 13th Order of Business, the Senate adjourn and convene at 9:00 a.m., Wednesday, November 18, 1981, which motion prevailed.

LEO LEIDHOLM, Secretary