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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
INDIAN HOUSING BLOCK GRANT FORMULA
NEGOTIATED RULEMAKING COMMITTEE

Wednesday, January 27, 2016

9:03 a.m.

U.S. Department of Housing and Urban Development
451 7th Street, N.W.
Washington, D.C. 20410

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ATTENDEES:

CO-CHAIRS:

ANNETTE BRYAN, Puyallup Tribe of Indians, Tacoma,
Washington

JASON DOLLARHIDE, 2nd Chief, Peoria Tribe of
Indians of Oklahoma, Miami, Oklahoma

COMMITTEE MEMBERS:

JASON ADAMS, Executive Director, Salish-Kootenai
Housing Authority, Pablo, Montana

GARY COOPER, Executive Director, Cherokee Nation,
Tahlequah, Oklahoma

PETE DELGADO, Executive Director, Tohono O'odham
HA, Sells, Arizona

SAMI JO DIFUNTORUM, Executive Director, Siletz
Tribal Housing Department, Siletz, Oregon

EARL EVANS, Tribal Councilor, Haliwa-Saponi Tribe,
Hollister, North Carolina

KARIN LEE FOSTER (telephonically), Legal Counsel,
Yakama Nation Housing Authority, Toppenish, Washington

LAFE ALLEN HAUGEN, Executive Director, Northern
Cheyenne Tribal Housing Authority, Lame Deer, Montana

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ATTENDEES:

COMMITTEE MEMBERS (continued):

LEON JACOBS, Representative, Lumbee Tribe of North Carolina, Pembroke, North Carolina

PATTERSON JOE, General Counsel, Navajo Housing Authority, Window Rock, Arizona

GABE LAYMAN (for Carol Gore), Executive Vice President and General Counsel, Cook-Inlet Housing Authority, Anchorage, Alaska

SAM OKAKOK, Housing Director, Native Village of Barrow, Barrow, Alaska

RAYMOND ROBLES, Executive Director, Cocopah Indian Housing and Development, Someton, Arizona

S. JACK SAWYERS, Special Projects Coordinator, Paiute Tribe of Utah, Cedar City, Utah

MARTY SHURAVLOFF, Executive Director, Kodiak Island Housing Authority, Kodiak, Alaska

RUSSELL SOSSAMON, Executive Director, Choctaw Housing Authority, Hugo, Oklahoma

THOMAS SPRINGER (for Heather Cloud), Ho-Chunk Nation, Black River Falls, Wisconsin

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ATTENDEES:

COMMITTEE MEMBERS (continued):

MICHAEL THOM, Secretary/Treasurer, Karuk Tribe,
Happy Camp, California

JON TILLINGHAST, ESQ. (for Teri Nutter), Tlingit-
Haida Regional Housing Authority, Juneau, Alaska

SHARON VOGEL, Executive Director, Cheyenne River
Housing Authority, Eagle Butte, South Dakota

HUD STAFF:

HONORABLE JULIAN CASTRO, Secretary, United States
Department of Housing and Urban Development,
Washington, D.C.

RANDY AKERS, Acting Deputy Assistant Secretary for
Native American Programs, U.S. Department of Housing
and Urban Development, Washington, D.C.

JAD ATALLAH, Attorney/Advisor, U.S. Department of
Housing and Urban Development, Washington, D.C.

LOURDES CASTRO-RAMÍREZ, Principal Deputy Assistant
Secretary for Public and Indian Housing, U.S.
Department of Housing and Urban Development,
Washington, D.C.

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ATTENDEES:

HUD STAFF:

TODD RICHARDSON, Associate Deputy Secretary,
Office of Policy Development and Research (PD&R), U.S.
Department of Housing and Urban Development,
Washington, D.C.

AARON SANTA ANNA, Assistant General Counsel for
Regulations, U.S. Department of Housing and Urban
Development, Washington, D.C.

FIRSTPIC, INC. STAFF:

SARA FIALA, Project Director, FirstPic, Inc.,
Washington, D.C.

ALSO PRESENT:

MIKE ANDREWS, ESQ., Majority Staff Director and
Chief Counsel, U.S. Senate Committee on Indian Affairs,
Washington, D.C.

DAVE HEISTERKAMP, ESQ. Wagenlander & Heisterkamp,
Denver, Colorado

JIM WAGENLANDER, ESQ., Wagenlander & Heisterkamp,
Denver, Colorado

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P R O C E E D I N G S

(9:03 a.m.)

MS. BRYAN: Good morning. It's just after 9:00, and we'd like to get started. And so, we've asked Joe Patterson to --

MALE SPEAKER: Patterson Joe.

MS. BRYAN: -- Patterson Joe to open us up in a morning prayer.

(Invocation - Off audio.)

MS. BRYAN: Thank you, Patterson. I would like to turn the microphone over to Lourdes to introduce a special guest this morning.

MS. CASTRO-RAMÍREZ: Thank you, Madam Co-Chair. Good morning, everyone. Thank you again for being here today. And, of course, you know, again our thanks and appreciation to all of you for yesterday's session and for enduring the tight space. I think we will agree that this is a much better space, so thank you.

It is my honor and pleasure to introduce to you all our Secretary, Secretary Julian Castro, who is here to share a few remarks. Please join me in giving him a warm welcome. Thank you.

1 (Applause.)

2 SECRETARY CASTRO: Thank you. Hello. Good
3 morning.

4 MEMBERS: Good morning.

5 SECRETARY CASTRO: First of all, thank you much,
6 Lourdes, for the introduction and for your good work
7 here. But, more importantly, for the work that you do
8 each and every day on behalf of communities, including
9 tribal communities, across the United States. And I
10 want to also, of course, thank Randy Akers. I know all
11 of you are familiar with Randy. He's doing a fantastic
12 job heading up ONAP.

13 I also maybe just wanted to take a moment and see
14 if folks wanted to introduce themselves just so that I
15 know kind of who's in the room.

16 (Introductions begin off audio.)

17 MR. DOLLARHIDE: Good morning. Jason Dollarhide,
18 Peoria Tribe of Indians of Oklahoma.

19 MS. BRYAN: Good morning. I'm Annette Bryan,
20 representing the Puyallup Tribe of Indians.

21 (Introductions continue off audio.)

22 MR. COOPER: Good morning, Mr. Secretary. Gary

1 Cooper, executive director, Housing Authority of the
2 Cherokee Nation.

3 MR. JACOBS: Good morning. Leon Jacobs, Lumbee
4 Tribe from North Carolina.

5 MR. TILLINGHAST: Good morning, Mr. Secretary.
6 Jon Tillinghast. I'm the attorney for the Tlingit-
7 Haida Regional Housing Authority, which is the Native
8 housing authority for the Alaska panhandle.

9 SECRETARY CASTRO: Terrific.

10 MR. EVANS: Good morning, Mr. Secretary. Earl
11 Evans, tribal council member for the Haliwa-Saponi
12 Indian Tribe in North Carolina. And while I have the
13 opportunity, we do need a lot more money in the Office
14 of Native American Programs.

15 (Laughter.)

16 MR. EVANS: And so, we hope we have your support
17 in budget advocacy.

18 SECRETARY CASTRO: Sure.

19 MR. EVANS: Thank you.

20 SECRETARY CASTRO: You do, and that's a good use
21 of your time.

22 (Laughter.)

1 SECRETARY CASTRO: Anybody else?

2 (No response.)

3 SECRETARY CASTRO: Well, first of all, thank you
4 all so much for being here. I know this is -- I
5 understand this is the second day that folks have been
6 here. Sorry for all of the chaos with the government
7 offices being closed yesterday, the Federal government.
8 I know it's been difficult to get around. And also,
9 you know, this is known as the second ugliest building
10 in Washington, D.C., so the digs are not that great.

11 But I want to thank you for all of the work that
12 you all have done to improve the quality of life in
13 your nations. I've had the opportunity as HUD
14 Secretary to visit Indian Country at Pine Ridge, at
15 Turtle Mountain, most recently in Tulsa, Oklahoma at a
16 quarterly meeting of the Five Civilized Tribes. And to
17 get a sense of both the deep challenges that exist and
18 also the wonderful opportunities.

19 For President Obama and for Mrs. Obama, making
20 sure that we use every single day that's left in the
21 Administration to improve quality of life in Indian
22 Country is a top priority. And I hope over these years

1 that you all have -- you've gotten a sense of that, of
2 the urgency that the Administration feels in trying to
3 support business development, housing development, work
4 toward healthcare improvement, get NAHASDA
5 reauthorized, and ensure that economic and every other
6 quality of life indicator goes up in Indian Country.

7 I know that when I visited Pine Ridge in 2014, I
8 had the chance to see for myself a lot of the
9 challenges that still exist. I saw 17 or 18 people
10 living in a four-bedroom house. I saw the poverty and
11 also the hope, the determination to ensure that life
12 improves.

13 The work that you're doing here as part of the
14 negotiated rulemaking is important work. I know that
15 you all have been at it for some time, but just know
16 that we want to ensure that there's a fair, thorough
17 process that leads to a good result. And that takes
18 everybody's voice.

19 So thank you all very much for having me, and I
20 just wanted to come down to wish you a great session.
21 HUD is here to work with you. Thank you.

22 (Applause.)

1 MS. BRYAN: Thank you, Mr. Secretary, for visiting
2 us, and we'll carry on with our business now, a summary
3 of day one and plan for day two. Day one we had some
4 consensus items early on. We had some language that
5 we're working on, a proposal from HUD that has time on
6 the table. So that's where we are up to this point.

7 For the rest of the day we would like to finish
8 out the time on the proposals from yesterday this
9 morning. And then we have some preamble comments,
10 questions, and discussions -- questions and answers.
11 And then we will hope to get some work started on the
12 preamble and complete it by the end of this day. We
13 also have public comments this afternoon. So we really
14 do have a lot of work ahead of us.

15 And with that, I would like to open up the
16 session. We have the language on the table. If there
17 aren't any comments? We have a comment from Mr.
18 Dollarhide, and then we'll start the clock.

19 MR. DOLLARHIDE: If I'm not mistaken, the
20 highlighted up there in the yellow is what is on the
21 table, if I'm not mistaken. Is that correct? Is that
22 we're -- is that what we have still time on the clock

1 for?

2 MALE SPEAKER: Yes.

3 MR. DOLLARHIDE: Okay. Now, if I'm not mistaken
4 on that, yesterday we did bring that to a vote, and we
5 did not get consensus on that item. Is that correct
6 again?

7 FEMALE SPEAKER: (Off audio.)

8 MR. DOLLARHIDE: But I'm talking about the top
9 one. Didn't we have a vote on the top one also
10 yesterday?

11 FEMALE SPEAKER: We did not.

12 MR. DOLLARHIDE: We did not?

13 FEMALE SPEAKER: No.

14 MR. DOLLARHIDE: Okay. Okay.

15 MS. BRYAN: Yes?

16 MS. CASTRO-RAMÍREZ: Yes. I was just going to
17 chime in in terms of where we left off yesterday. My
18 recollection was that given the comment that was shared
19 with regard to the data run, I asked if we could stop
20 the clock to enable us to be able to produce a new set
21 of data, and make that available by the end of
22 yesterday's session. And I think there was agreement

1 to stop the clock, provide the data, and then we would
2 come back to continue discussion.

3 MS. BRYAN: So might I ask if -- there was --
4 there was a vote. There were dissenters. We also
5 asked the dissenters to come back with an alternative,
6 and I see some language up there. So can I ask whoever
7 put the language up there to introduce it? Jon?

8 MR. TILLINGHAST: Yeah. Would you like me to
9 explain the language real quickly? Is that where we
10 are?

11 MS. BRYAN: Yes, please.

12 MR. TILLINGHAST: Okay. Jon Tillinghast. This
13 addresses the issue that I raised yesterday about
14 trying to hold remote Alaska harmless from the
15 compensation for the undercounts because they were
16 purposefully excluded from the study that led to the
17 finding of the undercounts.

18 And I took the more conservative approach of
19 simply trying to hold them harmless rather than adding
20 them to the pool of people who had received the 4.88
21 percent. And that's reflected in lines 12 through 13.

22 In lines 19 through 20 at the bottom, a number of

1 people asked the question, well, where the heck is
2 remote Alaska. Remote Alaska it turns out, and this is
3 something I just learned when I researched this, is a
4 Census term of art. And actually, Peggy, are you --
5 where's Peggy? No Peggy? Oh, gosh darn.

6 FEMALE SPEAKER: She's coming.

7 MR. TILLINGHAST: Oh, she's coming? Well,
8 unfortunately Peggy is the one to whom I emailed the
9 map that shows you where remote Alaska is, so I'll just
10 have to do it by narrative.

11 FEMALE SPEAKER: I'll pull it up, Jon.

12 MR. TILLINGHAST: Oh, you can get it?

13 FEMALE SPEAKER: Give me one minute.

14 MR. TILLINGHAST: Okay. I can explain the
15 narrative while she's pulling up the map. The Census
16 -- the Bureau of Census divides the whole United States
17 into either seven or nine -- what do they call them --
18 type of enumeration areas. And there's a separate area
19 one for remote Alaska, and that's because they have
20 entirely different protocols for remote Alaska because
21 of the difficulties of traveling a thousand miles
22 without a road out to the Yukon delta. And it only

1 applies to remote Alaska.

2 And basically remote Alaska is -- the vast
3 majority geographically of Alaska minus the towns that
4 you would expect to be excluded -- Juneau, which is my
5 client, Anchorage, Fairbanks, and a big suburban area
6 above it called the Matanuska Valley, the Kenai
7 Peninsula. So we'll look for the map.

8 So basically what lines 19 and 20 do is define
9 remote Alaska the same way the Census uses the term,
10 and that's important because it was -- that's what they
11 said was excluded from the study was their concept of
12 remote Alaska. So I remain true to the Census
13 definition. That's what that underlying language would
14 do once it's all back up there, so I guess I would
15 leave it to questions that people might have on it.
16 The map, I guess, is coming.

17 MS. BRYAN: Thank you, Jon, and it looks like we
18 have the map being pulled up. Any questions on Jon's
19 presentation so far? Sami Jo?

20 MS. DIFUNTORUM: Good morning. Sami Jo
21 Difuntorum. Would you refresh my memory? I'm trying
22 to catch up from yesterday and the conversation still.

1 We have reason to believe that there was an undercount
2 in remote Alaska, and that's why we're proposing the
3 language? Because I recall that they were not part of
4 the undercount.

5 MR. TILLINGHAST: The study -- the Census Bureau
6 did a study two years after the 2010 Decennial Census
7 was issued, which measured undercounts and overcounts
8 in these seven -- well, throughout the country. And
9 they purposefully excluded rural -- I'm sorry -- remote
10 Alaska from that study. They didn't even study it
11 because of its remoteness and the difficulty of doing
12 any kind of verification out there.

13 So the assumptions that have led to the 4.88
14 proposal, which, just as an abbreviation I'm calling
15 it, are based on the findings of the study, but there
16 were no findings in remote Alaska. So at least from my
17 point of view, it's unfair to tax remote Alaska for the
18 consequences of that study when, in fact, they were
19 excluded from it.

20 Now, the question is, is there actually in reality
21 an undercount or an overcount in remote Alaska, and we
22 don't know. We do know -- Sam gave us a good example

1 of what happened in Barrow yesterday, which they had a
2 very significant undercount. And just common sense
3 would kind of tell you that if you're trying to count
4 people in a village that has no road access and maybe
5 not even airstrip access that's out in the delta of the
6 Yukon River in western Alaska on the Bering Sea, that
7 it's going to be really difficult to count people at
8 any time of the year.

9 So I just told you how a watch worked rather than
10 what time it was. So the short answer is that remote
11 Alaska wasn't included in this study, so our point of
12 view is that fairness would dictate that it also be
13 excluded from the 4.88 program, if you want to call it
14 that.

15 MS. DIFUNTORUM: Okay. So just to further clarify
16 -- I'm sorry -- yeah. You're not proposing a 4.88
17 upward adjustment to Alaska population. You're just
18 asking that remote Alaska is exempted from the upward
19 adjustment.

20 MR. TILLINGHAST: That's correct. That was the
21 other alternative I mentioned yesterday, which is
22 simply to add remote Alaska to the pile of people who

1 would get the 4.88 bump. And I chose the more
2 conservative approach to simply say we're not going to
3 help remote Alaska here. We're just not going to hurt
4 them.

5 MS. BRYAN: Thank you. Jason Adams.

6 MR. ADAMS: Jason Adams, Salish-Kootenai. Jon,
7 what I didn't hear you say yet is that the study that
8 we saw that define or talks about remote Alaska, is
9 that the same definition that you're representing here as
10 far as what's included in this? Is that -- are they
11 the same thing in regards to remote Alaska?

12 MR. TILLINGHAST: Yes, it is. And I ran the chain
13 -- the genealogy back of that term and stayed within
14 the Census world, so I'm pretty -- in fact, I'm very
15 confident that it is exactly the same definition.

16 MS. BRYAN: Thank you. Randy.

17 MR. AKERS: Yes, good morning, Chair. I'd like to
18 yield a couple of minutes to Todd Richardson for his
19 thoughts.

20 MR. RICHARDSON: So we took a quick look at this
21 last night, and as we were thinking about it, sort of
22 two things. The first is that the recommendation is,

1 in fact, the most conservative approach, but we don't
2 think we can actually figure out how to make that work
3 within the existing formula. The formula has a lot of
4 different adjustments that occur in it, and I'm not
5 clear that we could actually isolate this very specific
6 thing just for remote Alaska.

7 I think it would be, if the committee wants to go
8 this route, a far easier thing for us to treat remote
9 Alaska, which has about, we estimate, probably around
10 70,000 Native Americans, like we treat the reservation
11 and trust lands, and put something in the regulation
12 that says for purposes of the undercount, remote --
13 ANVSA areas in remote Alaska would be treated in the
14 same way as reservation and trust lands.

15 MR. AKERS: Thank you, Todd.

16 MS. BRYAN: Is HUD making a proposal to modify the
17 language?

18 MR. AKERS: Yes, Madam Chair.

19 MS. BRYAN: Is the amendment accepted to the
20 friendly amendment?

21 MR. TILLINGHAST: Yes, it is. If the choice is
22 between doing nothing for remote Alaska and making the

1 fairly inconsequential decision of adding them to the
2 4.88 pile, I would easily come down on adding them to
3 the 4.88 pile. I think just -- consistent with what
4 Todd has said, you would simply strike the language
5 that's in there on 12, and say for the purposes of this
6 paragraph, remote Alaska shall be treated --

7 MR. RICHARDSON: Shall be -- shall be -- well,
8 I'll let them talk.

9 MR. TILLINGHAST: Jad, do you have language in
10 your head?

11 MR. ATALLAH: Sort of.

12 MR. TILLINGHAST: Okay. Well, why don't you give
13 your "sort of" language then?

14 MR. RICHARDSON: Well, of Indian areas.

15 FEMALE SPEAKER: Indian lands.

16 MR. AKERS: So, Madam Chair, can we yield time to
17 Jad Atallah for a moment? Thank you.

18 MR. ATALLAH: Jad Atallah with HUD. I think you
19 would probably start this off with "For purposes" -- is
20 it the paragraph?

21 MR. AKERS: Yes.

22 MR. ATALLAH: "For purposes of this paragraph" --

1 what's the language? "For purposes of this
2 paragraph" --

3 MR. RICHARDSON: Okay. I'm going to pretend to be
4 a lawyer. "For purposes of this paragraph, remote
5 Alaska" -- no -- "Indian lands in remote Alaska."
6 Could we go back? Sorry. "Indian lands in remote
7 Alaska." "Indian lands in remote Alaska shall be
8 treated as reservation and trust lands, period," with a
9 friendly amendment from Jad.

10 MR. ATALLAH: I would maybe also suggest that
11 since or to make this work, maybe it should read
12 "adjusted for any statistically significant undercount
13 confirmed by the U.S. Census Bureau for reservation and
14 trust lands." So after "U.S. Census Bureau" on line 10
15 -- on line 10 after "U.S. Census Bureau," maybe right
16 there say "for reservation and trust lands," just like
17 it's written under it.

18 And so, the following sentence, "For purposes of
19 this paragraph, Indian lands in remote Alaska shall be
20 treated as reservation and trust lands," I think that
21 should, therefore, sort of bring in remote Alaska under
22 reservation and trust lands in the sentence before it.

1 Yeah, and then striking the blue language in the
2 sentence that follows.

3 MS. FIALA: Sami Joe and then Leon.

4 MR. TILLINGHAST: I think the only -- the only
5 comment that I have, Jad, is that the changes on lines
6 10 and 11, what should happen then if in future
7 Decennial Censuses, they show a significant undercount
8 for non-reservation lands. The language in line 10 --
9 in 10 and 11 is true today, but it may not be true
10 conceivably 10 years from now.

11 MS. BRYAN: Okay, Randy?

12 MR. AKERS: Madam Chair --

13 MS. BRYAN: Let us finish up this proposal, and
14 then we'll call on people who have cards up. We're
15 taking a list.

16 MR. AKERS: So, Madam Chair, HUD would propose we
17 could remove the word "reservation" from that sentence.

18 No, I'm sorry. It would be on line 13.

19 MR. RICHARDSON: No, no, no, on line 10 and 11,
20 reservation and trust lands. We would take that out.

21 MR. AKERS: So HUD's proposal would be that we
22 could remove on line 10 and 11 the words "for

1 reservation and trust lands."

2 MS. FIALA: And during this time, if I could just
3 ask when you're making edits that you'd like on the
4 screen, if you could please speak very loudly, and give
5 the line number, and speak slowly. Christine is back
6 in the corner, so it's a little more challenging than
7 even normal to hear what the changes are. Thank you.
8 And make sure you turn your mic -- and these
9 microphones you do have to turn on and off. It does
10 not automatically limit you to only having two open.
11 So if you could just remember to turn it on and off.
12 Thanks.

13 MS. BRYAN: Is this the language that does -- you
14 guys, I just want a final, or do you need more time
15 to --

16 MALE SPEAKER: We want to add a clause at the end
17 of the additional language that was added in line 13.
18 So after the word "lands," we would put a comma, and
19 say "provided that" -- excuse me. Let's go back and
20 say "unless that." Yeah, "unless." "Unless." I'm
21 sorry. "The U.S. Census Bureau includes --

22 MR. RICHARDSON: Well, I think "includes remote

1 Alaska in their study."

2 MALE SPEAKER: "Includes remote Alaska in their
3 study." And then we'll take out the words "provided
4 that." We just want to be able to better reference
5 their study, the words of their study.

6 MR. RICHARDSON: "Component of Census coverage for
7 household" -- this is their study.

8 MR. SANTA ANNA: "Census coverage." "And their
9 Census coverage."

10 MALE SPEAKER: Okay. All right. After the word
11 "their" in line 14, we would add "Census Coverage
12 Measurement study" or "comparable." And the only
13 change there would be to capitalize "coverage" and
14 "measurement."

15 MS. BRYAN: Mr. Akers, does that look --

16 MR. AKERS: Yes, Madam Chair. So this would be
17 HUD's proposal for purposes of the committee's
18 evaluation and discussion.

19 MS. BRYAN: Okay, thank you. We have Sami Jo
20 next.

21 MS. DIFUNTORUM: Okay. So what I'm trying to
22 understand is what "remote Alaska" is. I mean, most of

1 us know very little about the geography in Alaska, and
2 assume the entire state is remote to some extent. You
3 indicated that the definition excludes Juneau,
4 Anchorage. But the rest of the state, and
5 corporations, villages, would all be exempted from the
6 4.88 percent, except for two or three urban areas. Is
7 that a correct understanding?

8 MR. TILLINGHAST: No. First of all, have we found
9 the map? Can we -- has anybody found the map?

10 MS. FIALA: The map. Yeah, Christine, can you put
11 the map back up, please?

12 MR. TILLINGHAST: The map back up. Sorry if I
13 wasn't clear. The urban areas of -- the areas of
14 Alaska that are accessible -- Juneau, Anchorage,
15 Fairbanks, the Matanuska Valley, Kenai Peninsula -- are
16 not part of remote Alaska. Remote Alaska is basically
17 the entire state other than those sections, the entire
18 population of which is, I've got to believe -- I don't
19 know. Maybe Sam can help. The rest of rural --

20 If you take out the urban areas of Alaska, the
21 remaining population of Alaska Natives is, do you have
22 any idea?

1 MR. OKAKOK: Much of Alaska, you'll see many of
2 those -- the majority of the villages do not have any
3 road access at all, and so much of the state is like
4 that. It's very little road access.

5 MR. TILLINGHAST: Can you zoom on the map to
6 Alaska up there in the top? It's, like most maps,
7 shown to be the size of West Virginia. There we go.
8 Remote Alaska, according to the Census Bureau -- the
9 Census Bureau's definition of "remote Alaska" is
10 everything that is in green. And so, I was a little
11 under inclusive.

12 The town of Sitka, the old Russian capital of
13 Alaska, is also not part of remote Alaska, but you can
14 see what is. It's all that's left there. So, for
15 example, Sam's jurisdiction up in Barrow, which is the
16 very top of the map, is part of remote Alaska.
17 Marty's, which is Kodiak on the island down there in
18 the south, is part of remote Alaska, but you can see
19 what it is. It's the big population centers. Does
20 that help?

21 MS. DIFUNTORUM: That does help. I will have a
22 follow-up question here in a few minutes, but go ahead

1 with everyone in queue. Thank you.

2 MS. BRYAN: Thank you. Leon?

3 MR. JACOBS: Leon Jacobs. I guess I want to hear
4 from the other parts and from Alaska as to how this
5 will impact them. I don't -- I'm concerned about
6 setting a precedent in one part of the state and not
7 including the rest.

8 MS. BRYAN: Randy, you're next.

9 MR. AKERS: Madam Chair? Leon, could you ask your
10 question again, please?

11 MR. JACOBS: Sure. My question is basically what
12 about the other parts of Alaska that would not be
13 included in this, and what impact it may have on them.

14 MR. AKERS: I'd like to yield a couple of minutes
15 to Todd Richardson to respond. The question --

16 MR. RICHARDSON: I'm sorry. Could you repeat the
17 question? I'm sorry. I was -- who was asking the
18 question?

19 (Laughter.)

20 MR. JACOBS: My question is what impact will --
21 the question is what impact this will have on the other
22 parts of the State of Alaska.

1 MR. RICHARDSON: So it actually has the same
2 impact on the other parts of the State of Alaska as it
3 has on all of the -- all of the other tribes that don't
4 get the 4.88 percent adjustment. But one way to think
5 about this, this is roughly -- and this probably is a
6 high number, about 70,000 Native Americans times 4.88
7 percent.

8 So in terms of how big of a number that is, that's
9 not a very big number. And it will have pretty -- it's
10 not -- it would have a very tiny effect on everybody
11 else given that that's -- we're not talking about a
12 very large population. In Alaska and for the remote
13 Alaska areas, this is important to them, but for all
14 other tribes in the area, it makes a very small
15 difference.

16 MR. JACOBS: A follow-up. Why would you not want
17 to include the whole state rather than just the remote
18 areas?

19 MR. RICHARDSON: So the other parts of the state
20 were included as part of the CCM study, and those parts
21 of the state would -- did not have the finding of an
22 overcount that we would found in reservation and trust

1 land areas. The issue with the remote Alaska is they
2 were not included as part of the CCM study. We don't
3 know if there's an undercount or overcount in those
4 areas. But the characteristics of remote Alaska, very
5 difficult to get to, probably folks not home as likely
6 when the enumerators came, are not dissimilar to the
7 experience that a lot of reservation and trust lands
8 potentially had for the reason in their undercount.

9 And so, there's -- I think from HUD's perspective,
10 we're comfortable with a rational sort of conclusion
11 that there's a decent likelihood of an undercount, and
12 for that reason it's reasonable to treat this -- these
13 villages in remote Alaska as similar to reservation and
14 trust lands.

15 MS. BRYAN: Thank you. Patterson?

16 MR. JOE: Patterson Joe, Navajo Housing Authority.
17 For purposes of making an informed decision, I think
18 we should have a data run so that we can see what the
19 effects of this proposed language is.

20 MS. BRYAN: We'll ask Todd since he's at the table
21 or HUD if that's a possibility.

22 MR. RICHARDSON: We can do a -- so we don't have

1 the exact areas that are remote Alaska from the Census,
2 exactly their definition. But we think we know what
3 most of the areas are, so we may miss by a few thousand
4 folks one way or the other. But we're right now trying
5 to incorporate what we think are the likely areas that
6 are the remote Alaska in a run, but we wouldn't have
7 that until this afternoon. It does take a little while
8 to pull the data together to make sure these things
9 work properly.

10 MS. BRYAN: Thank you. Gabe.

11 MR. LAYMAN: Thank you. Gabe Layman, Cook Inlet
12 Housing. So two quick comments. You know, the first
13 is that we heard Todd, I think, in particular say that
14 adjusting all of remote Alaska upwards by the amount of
15 the national undercount for reservation and trust land
16 areas is the way to go because Jon's original, I'll
17 call it, hold harmless language, for lack of a better
18 description, is difficult to implement. I didn't hear
19 "impossible." I heard "difficult." You know, I do
20 wonder whether there is potential for HUD to dig into
21 that a little bit and determine whether Jon's original
22 proposal truly is impossible or whether it's, like many

1 aspects of the formula, just a difficult adjustment to
2 make, but can be done.

3 Second, we also have heard that this adjustment
4 would be tiny or inconsequential, and our perspective
5 is that that's based on assumption and not knowledge.
6 We agree with Patterson and the Navajo Nation to a
7 significant degree that data would be informative. No
8 one wants another data run at this point. We're all
9 tired of it. We don't want to have to incur another
10 delay. But we also believe this figure of 70,000
11 Alaska Native individuals from remote Alaska might be a
12 little bit deceiving to folks on the committee.

13 The reason for that is there is a significant cost
14 adjustment factor for tribes located in rural Alaska
15 due to high construction costs in those areas. So the
16 actual effect of this might be a bit different than
17 just looking at the population, particularly if at the
18 end of the day this adjustment applies not just to the
19 AIAN population factor, but to the six other factors in
20 the formula.

21 A few thoughts for consideration. Thank you.

22 MS. FIALA: Sam.

1 MS. BRYAN: Thank you. Sam.

2 MR. OKAKOK: Good morning. Just for
3 clarification, and just kind of expounding on some of
4 the Native villages in Alaska. If you take a look at
5 that map and think about approximately 229 tribes
6 within Alaska there, and the majority of those we don't
7 have any road access or anything. The only way you can
8 get to the bulk of those is through airlines, and
9 summertime you can use a barge and river system, use a
10 boat. So it is very difficult to travel there.

11 And like they were saying, you can take a look at
12 that map. I'm at the very top there, and the only way
13 you can get in and out is through airlines, and that's
14 pretty expensive. If you want to travel out, you have
15 to catch the airlines. And a lot of our shipping, we
16 do -- we have to prepare months in advance just to get
17 our materials up there, and a very short time window.
18 We have to catch it to make sure that there's no ice or
19 anything, and so we do ship everything through barge.
20 It's one of the cheapest ways of doing that for us.

21 And so, yeah, just for clarification, about 229
22 tribes there, and the bulk of them, there's just no

1 road access and very difficult traveling. So I just
2 wanted to clarify and expound on that a little bit.

3 MS. BRYAN: Thank you. Yes, Randy?

4 MR. AKERS: Madam Chair, I'd like to ask Todd
5 Richardson if he could share his thoughts regarding the
6 last two committee members' comments. Todd, please.

7 MR. RICHARDSON: So, Gabe, I'm an eternal optimist
8 on our ability to do things, but I'm going to use the
9 word "impossible" for what Jon suggested in terms of a
10 method because I have no -- absolutely no idea even
11 where to start to figure out how to make that happen.
12 If it -- if that's what it takes to say -- to take it
13 off the table, I would like to take it off the table.
14 I just don't have any idea how to do it.

15 On the -- another issue to take into consideration
16 about the effect here, a lot of the remote Alaska
17 villages are already minimum grant villages. So
18 they're already having an increase in their allocation
19 from what the formula would allocate because they're
20 minimum grants. So that has the effect of effectively
21 probably reducing the overall impact of the increase
22 for remote Alaska even more than sort of my previous

1 comment.

2 MS. BRYAN: Thank you. Sami Jo?

3 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum,
4 Confederated Tribes of Siletz Indians. So I appreciate
5 everybody having this conversation and kind of
6 indulging those of us that maybe don't quite understand
7 the particulars with respect to Alaska. I think we're
8 all really sympathetic to the situation that Sam has
9 described, and we're trying to figure out how to make
10 this work.

11 I need clarification on terminology. So what is
12 the difference between "remote Alaska" and "Alaska
13 Native village statistical areas," because those are
14 both Census terms, and I need to understand the
15 difference. Thank you.

16 MR. AKERS: Madam Chair, could we have Todd
17 respond, please?

18 MS. BRYAN: Yes.

19 MR. RICHARDSON: So probably the vast majority of
20 the ANVSAs are, in fact, probably characterized as
21 remote Alaska, but there are -- there are ANVSAs that
22 would be within sort of these urbanized areas of Alaska

1 that are not considered remote Alaska. So there is --
2 I mean, if you have an ANVSA within the metropolitan
3 area of Anchorage, it wouldn't be included, within the
4 area of Juneau, within the area of Fairbanks. To the
5 extent that there's ANVSAs in those areas they wouldn't
6 be included as part of this, but the ANVSAs outside of
7 those areas. So there's overlap, but they're not
8 exactly the same. I don't know if that's helpful.

9 So we would look at the ANVSAs and ANRC areas, and
10 those ANVSAs and ANRCs that are in the areas of Alaska
11 that are not remote. These typically urbanized areas,
12 they would not be included.

13 MS. BRYAN: Thank you. Jon?

14 MR. TILLINGHAST: Yeah. Could you zoom the map
15 out again so we can see the whole United States?
16 Remote Alaska, I mean, you could -- there's probably a
17 hundred different people who will give you a hundred
18 different geographical or cultural definitions of what
19 remote Alaska is. But as used in these proposals, it's
20 a very precise Census term that refers to one of, I
21 believe, seven subdivisions of the entire country into
22 seven distinct, what are called enumeration areas. And

1 they divide them into these seven enumeration areas
2 because each of these areas has, to some extent or
3 another, different rules for how you count protocols,
4 and different logistics.

5 And you can see that you have enumeration areas
6 that cover -- oh, my gosh, look at the southeast.
7 You've got one that covers almost the entire southeast.
8 You've got one that covers almost all the entire west,
9 and then you've got some that are -- that are, like
10 California, just all over the place in terms of the
11 enumeration areas that it's in.

12 And there's a special one for remote Alaska
13 because the rules are just so -- yeah, remote Alaska.
14 The rules are so distinct for how you count people in
15 remote Alaska that it deserves its own, according to
16 Census, its own enumeration area. And it's obviously
17 -- within these enumeration areas are countless --
18 well, within our enumeration area, which is remote
19 Alaska -- not ours, but remote Alaska's -- there are
20 probably a couple hundred Alaska Native village
21 statistical areas. They're basically village size
22 statistical areas.

1 MS. BRYAN: Thank you. Okay. We have about 30
2 minutes. Just a time check.

3 MS. FIALA: Gabe.

4 MS. BRYAN: Gabe.

5 MR. LAYMAN: Thank you. Gabe Layman, Cook Inlet
6 Housing. We understand that HUD is working on just the
7 bones of a preliminary run that might give us some
8 indication of the significance of this. I don't know
9 if that's correct or not. I would ask HUD is that
10 correct, and if it is, maybe suggest to the committee
11 that we sit tight and wait to make a decision on this
12 until that preliminary run has been completed.

13 MS. BRYAN: Yes, Randy.

14 MR. AKERS: I'd like to yield to Todd, please.

15 MR. RICHARDSON: In the -- with the goal of over
16 promising, we're going to go for 20 minutes, but if
17 it's longer than 20 minutes, I apologize ahead of time.
18 But we're going to try to see if we can get it done in
19 the next 20 minutes. Just stop asking Peggy any
20 questions.

21 MS. BRYAN: Thank you. Jack?

22 MR. SAWYERS: Just for my information, the green

1 -- all of the green areas that you see all over, have
2 they been counted for -- do they have the same survey,
3 Todd, as the Alaska?

4 MR. RICHARDSON: The green areas, the survey that
5 was done for Decennial Census, it is the same survey.
6 It's just done at a different time than all of the
7 other surveys because of the difficulty of getting to
8 remote Alaska. So it's -- in fact, remote Alaska was
9 done before the rest of the U.S. for the Decennial
10 Census to have -- based on the timing of trying to get
11 Census workers out there. But it is the same survey.

12 MS. BRYAN: Thank you. Lourdes?

13 MS. CASTRO-RAMÍREZ: So I'd like to propose that
14 we stop the clock at this point to enable our technical
15 experts to generate the information regarding the
16 impact, and then come back to that. And maybe we can
17 move to the next item if the committee agrees.

18 MS. BRYAN: Thank you. We were just discussing
19 proposing that same thing, but it came from the table,
20 so that's good. So at this point we're going to make
21 the decision to stop the clock on the discussion as a
22 few of you have asked for data runs, and HUD is working

1 on data runs. So let's save our 30 minutes until after
2 we get the data run and move to the next item on the
3 agenda.

4 MS. FIALA: If I could just take a minute and
5 announce the wireless information. There is a network
6 called HUD TV auditorium, and then the password is
7 BW@CONF, and then the number one. And I'll write it up
8 bigger on the screen as well.

9 MS. BRYAN: So yesterday we left off on the ACS
10 data adjustment. It did fail. In order to bring that
11 back up, we would need reconsideration, which would
12 take three-quarters vote by the committee. There was
13 discussion yesterday about the possibility of
14 reconsideration, and so were you wanting to ask for
15 reconsideration on that proposal this morning?

16 MR. AKERS: Yes. Madam Chair, we'd like to put
17 that out for consideration by the committee. HUD would
18 propose that we reconsider that component.

19 MS. BRYAN: We have a request from the proposer
20 for yesterday, HUD, on the ACS data adjustment
21 language. That's in the teal highlight, lines 14 and
22 15. I'm going to ask the committee for a vote yes or

1 no if you would like to reconsider it, and we need
2 the --

3 FEMALE SPEAKER: Three-quarters.

4 MS. BRYAN: -- three-quarters of us to agree to
5 that. So I'm going to take a vote for reconsideration
6 on lines 14 and 15 from the committee.

7 MR. DOLLARHIDE: And just to -- for clarification,
8 this vote is just to bring this back out onto the
9 table. Is that correct? Nothing else? Okay.

10 (Members vote.)

11 MR. TILLINGHAST: On whether to reopen?

12 MS. FIALA: Correct. Just for discussion.

13 MR. TILLINGHAST: Just reopen?

14 MS. FIALA: Just for discussion. I'm sorry.

15 Could you -- could I have a recount, please?

16 MS. BRYAN: Yes or no to reopen this. I do need
17 your thumb up or down, please.

18 (Members vote.)

19 MR. SAWYERS: It has to be the full membership,
20 not just the folks that are here, right?

21 MS. BRYAN: Yes, Randy?

22 MR. AKERS: Mr. Chair, are there any other

1 committee members that are participating via telephone?

2 MS. FIALA: Yes, we do. We have, I believe, Karin
3 Foster is on line if we could get her vote.

4 MR. AKERS: I would request that we try it again
5 to make sure that we're inclusive of all committee
6 members.

7 (Members vote.)

8 MS. FIALA: With Karin that would be 22.

9 MR. ADAMS: Madam Chair?

10 MS. BRYAN: Yes, Jason.

11 MR. ADAMS: Point of order. Jason Adams, Salish-
12 Kootenai. My read of the proposal says, "A matter on
13 which consensus has been reached may not be
14 reconsidered by the committee except by a consensus
15 vote of the committee. A matter -- a proposal with
16 respect to consensus not achieved within the two-hour
17 time limit may not be -- only reconsidered one time
18 with a three-quarter vote and time limit set by the
19 committee once reopened. The matter will require
20 consensus to be adopted."

21 So there's no language in the protocols that talk
22 about what we're doing right now. That caveat on the

1 three-quarter vote is based on something that's ran out
2 of time. This issue was voted down.

3 MS. BRYAN: My read of that same sentence is that
4 a proposal which consensus was not achieved within the
5 two-hour time limit, and it wasn't achieved within the
6 time limit. It was voted down, so that my read on it,
7 it may be considered one time with the vote of the
8 committee. That was my read on it. I'm not a lawyer,
9 but that's my interpretation.

10 MS. FIALA: That's correct. The protocols do not
11 specifically say.

12 MR. ADAMS: Does not specifically say what?

13 MS. BRYAN: It doesn't say that you have to exceed
14 your time limit, and that's the only way it can be
15 considered. It just says if a consensus wasn't reached
16 within two hours, and it wasn't reached within two
17 hours. It wasn't reached within 30 minutes. It wasn't
18 reached within an hour and a half. So my read is that
19 we can reconsider it because consensus wasn't reached
20 within the time frame that we set, which was two hours.

21 MR. ADAMS: But it goes on to talk about three-
22 quarters vote and time limits set by the committee.

1 There's that -- it's attached to the time.

2 MS. BRYAN: Right, so if we do reconsider it, we
3 set a time limit on that.

4 MR. ADAMS: But this did not reach consensus
5 because of the two-hour time limit. That's my point.

6 MS. BRYAN: I think it could go either way. It
7 says within.

8 MR. ADAMS: Well, I just want to get my point on
9 the record because I believe that's what it says.

10 MS. BRYAN: Thank you. Lourdes?

11 MS. CASTRO-RAMÍREZ: Yes, Madam Chair. I'd like
12 to yield time to Aaron Santa Anna, counsel, to also
13 provide his perspective on this.

14 MS. BRYAN: Thank you.

15 MR. SANTA ANNA: Yes, thank you. I'm not sure if
16 this is working.

17 FEMALE SPEAKER: On the bottom.

18 MR. SANTA ANNA: All right. Okay. We would just
19 say for the record that we agree with the reading of
20 the tribal chair, that the issue is open for
21 reconsideration. You know, we read the protocols to be
22 able to provide as much flexibility to be able to try

1 to get the committee to a consensus on items where
2 possible. And to the extent that, you know, that's the
3 goal and intent of the protocols, you know, being able
4 to reopen or reconsider this issue because it was not
5 reached in the consensus is a right of the -- of the
6 committee.

7 MS. BRYAN: Thank you. And technically we do not
8 have enough votes to move it forward, so it's moot.
9 Sorry.

10 So at this point, I'm going to propose that we
11 take a break and see where we're at with the data run
12 when we get back. The time is 10:03, so I would
13 propose we come to the table at 10:20. Thank you.

14 (Off the record at 10:03 a.m.)

15 (On the record at 10:40 a.m.)

16 MR. AKERS: Thank you, Chairpersons. HUD would
17 propose to submit a modified proposal for committee
18 consideration and discussion. And if you would,
19 please, I'd like to yield a moment to -- I would like
20 to yield a moment to Jad Atallah to assist in that.

21 MR. ATALLAH: Jad Atallah with HUD. So we're
22 revising our proposal to sort of break this up a little

1 bit maybe just to allow the committee to focus on the
2 three issues that are being considered under (b) (1)
3 here. Maybe break it up into separate sentences to
4 allow the committee to consider each sentence
5 individually. It seems like there may be a better
6 chance of reaching unanimous consensus by doing that
7 maybe.

8 So I'm going to sort of do this on the fly, but up
9 on the board, I think -- I think what we'll probably do
10 is say -- on line 11 and line 12, the language that
11 says "updated annually using the U.S. Census Bureau
12 county-level population estimates for Native
13 Americans," that's the aging component. We're going to
14 try to maybe see what -- how this flows by putting that
15 at the end of the sentence just for now. So maybe the
16 highlighted part, let's put that at the end of the
17 paragraph.

18 So after -- so let's go back up to line 10. Okay.
19 So after "Bureau," let's just put a period. And then
20 let's go back to line 14, remove the "and." Leave the
21 period there. So after "study period," let's delete
22 the "and," and let's just say, "The data under this

1 paragraph shall be updated annually," maybe something
2 like that.

3 So what we have here is really the three issues
4 that we've been discussing this morning. The first,
5 the undercount issue. Second, the Alaska issue dealing
6 with remote Alaska areas as it relates to the
7 undercount, and the very last sentence deals with
8 aging. Maybe that'll make this a little easier for the
9 committee to consider as three pieces. Thanks.

10 MS. BRYAN: Randy?

11 MR. AKERS: Thank you. Chairs, we would like to
12 submit this revised language for discussion,
13 evaluation, and action as appropriate by the committee.

14 MS. BRYAN: So my understanding is you would like
15 to make three separate proposals.

16 MR. AKERS: Yes.

17 MS. BRYAN: So process wise, we are in a two-hour
18 time frame for consideration of a proposal that's on
19 the table. So I'll need you to modify that proposal to
20 include where you want the 30 minutes to be, and take
21 out the rest of it, and you'll have to introduce those
22 as separate proposals, the other two.

1 MR. AKERS: Yes, Chair. Actually could we have
2 the language back up on the screen, please? We would
3 like to -- HUD would like to introduce three separate
4 proposals. The first proposal -- the first proposal
5 for committee consideration would be the highlighted
6 language -- the yellow highlighted language starting --
7 oops. Now it's being highlighted there, starting on
8 line nine with "adjusted for any statistically
9 significant undercount confirmed by the U.S. Census
10 Bureau." That would be the first proposal that we
11 would introduce for discussion and action by the
12 committee.

13 Chairpersons, actually to expedite the work of the
14 committee, I think we've looked at or discussed this
15 language before. We would ask for a call for a vote on
16 that highlighted language in pink.

17 MS. BRYAN: Okay. So HUD is introducing a new
18 proposal to call for a vote on lines 9 and 10.

19 MS. CASTRO-RAMÍREZ: So, Madam Chair --

20 MS. BRYAN: We're going to have to figure out
21 where we are because we have an open vote on -- with 30
22 minutes left on it. Yes, Lourdes?

1 MS. CASTRO-RAMÍREZ: Yes, Madam Chair. I just
2 wanted to clarify because I think you're correct. We
3 have 30 minutes, so we stop the clock. We have 30
4 minutes. We're reconvening. And so, what we're
5 proposing is within this discussion we'd like to
6 propose that we de-couple the -- de-couple and consider
7 each of these three components as separate votes. And
8 so, we'd like to propose that we move forward with
9 taking a vote on the first item.

10 MR. DOLLARHIDE: Yeah. I guess I don't know.
11 Maybe it's just me, but I'm confused because if I'm not
12 mistaken, yesterday for reason of a vote we combined
13 those two items because my understanding was yesterday
14 that those -- we had three items to vote on at the
15 beginning. And then for some reason, two of those
16 items got combined into one. And the way that I
17 understand this now, we're wanting to try to separate
18 those items that somebody wanted to combine yesterday
19 for a vote. Is that -- is that what I'm hearing?

20 MS. CASTRO-RAMÍREZ: Yes, Mr. Chairman. If I
21 remember correctly, yesterday during the -- for members
22 that voted no on this item, one of the recommendations

1 from a member was that they would -- they would
2 consider -- or they would propose de-coupling these two
3 items. And so, essentially what we're, you know,
4 proposing is to be able to de-couple. We have not
5 modified any of the language. For those two items, the
6 language remains the same. It's just consideration for
7 an individual vote on each of the items. And I would
8 ask the committee member maybe who proposed this, if
9 that would be acceptable to them.

10 MS. BRYAN: Patterson, and then Earl?

11 MR. JOE: Patterson Joe, Navajo Housing Authority.

12 Yesterday I did state that if the proposals were
13 offered separately, I would probably vote in favor of
14 at least one of them yesterday. I believe it is
15 appropriate that each item that's being discussed be
16 considered separately so that all committee members
17 have a chance to consider each item individually and
18 not combine different language.

19 I think it makes it easier. It's clearer. It's
20 easier to understand. When we combine different
21 concepts, I think that gets -- we get in our way. So I
22 would vote in favor of considering each item

1 separately.

2 MS. BRYAN: Thank you. Earl?

3 MR. EVANS: Earl Evans, Haliwa-Saponi Indian
4 Tribe. Thank you, Madam Chair. My concern about the
5 language in the pink that's been introduced is the word
6 "any." And I would like to request amended language
7 for -- adding something related to for reservation and
8 trust lands to that. So I would like to see that added
9 to the -- I would like for it to be for population
10 undercount for reservation and trust lands is what I'm
11 proposing to be amended, because left the way it is
12 saying "any statistically significant undercount
13 confirmed by the U.S. Census Bureau," "any" is a wide
14 range of things. So that's my suggestion. Undercount
15 for AIAN population.

16 MS. FIALA: If I can just interrupt for a moment
17 before we start making changes to the language. I
18 think we need to figure out if we're keeping items
19 separate or apart first before we start amending
20 language that's up on the board, because from my
21 understanding, where we stopped, we are going to come
22 back with that 30 minutes on the clock and reexamine

1 the two issues together.

2 So if we're splitting them back apart, I think
3 that needs to be figured out first so we can get the
4 clock started. So we're either going to be on a 30-
5 minute clock examining both together, or two two-hour
6 clocks splitting them apart. So I think that makes a
7 big difference because we're running really low on that
8 first 30 minutes.

9 So, Earl, I appreciate the changes, but I think
10 right now the issue at hand and the proposal that's on
11 the table was whether or not we are going to split the
12 two items apart. And someone please feel free to
13 correct me if I'm wrong.

14 MS. BRYAN: Randy?

15 MR. AKERS: Randy Akers, HUD. We would -- to
16 carry out this work of the committee, we would like to
17 continue with the 30-minute time frame, and continue
18 the discussion of this. But we would continue to like
19 to treat them separately and call for votes on the
20 three components.

21 MR. DOLLARHIDE: Okay. Just so -- okay. This is
22 -- this is the way that I understand on what you want

1 to do, Randy, with separating those two. And please
2 somebody on this committee correct me if I'm -- if my
3 process is wrong. My understanding is in my opinion it
4 needs to stay the way that it was, let that come to a
5 vote. If consensus is not reached on that, the
6 dissenters have that opportunity to go back and make
7 changes. Is that -- am I out of -- I mean, please
8 correct me if I'm on a process and I'm wrong. I mean,
9 I just want to make sure it's done correctly so I don't
10 get called out by somebody here.

11 MS. FIALA: We were working on -- we had a
12 proposal for original language that got voted down
13 yesterday afternoon. Jon came back this morning and
14 proposed alternate language, which had a couple of
15 friendly amendments from HUD. We decided to take a
16 break while we are waiting for runs with 30 minutes on
17 the clock.

18 So now, if we picked up where we were after the
19 break, we would start that 30-minute clock taking a
20 look at the runs that were provided. I think they're
21 getting printed right now, and then come back and re-
22 vote on the combined issue with the language from Jon,

1 including the friendly amendments. And that would be
2 -- the issue would close out. And then if that issue
3 was closed out one way or other, then we could
4 reintroduce splitting them apart, and that would start
5 brand new clocks.

6 MS. BRYAN: That's my understanding of the
7 protocols as well. Jason?

8 MR. ADAMS: I guess I just want to -- Jason Adams,
9 Salish-Kootenai. Again, under the protocols when you
10 run out of time, then the committee can set as much
11 time as they want because this is still under the same
12 consideration of this issue. It's just massaging
13 language, so that's where the time limit comes in.
14 We've run out of time. The committee can set as much
15 time as it wants.

16 MS. FIALA: Correct. The committee -- the
17 language states, "Debate on any matter is limited to
18 two hours unless otherwise deemed appropriate by the
19 committee." So we could potentially extend that two-
20 hour clock if that's what the will of the committee was
21 to do. Correct.

22 MS. BRYAN: We could do that, but I'll remind you

1 that they're all combined in this particular proposal,
2 so that's the issue you would take a vote.

3 MS. FIALA: Do people need to see the data runs
4 before doing anything else at this point? I think
5 they're being copied right now.

6 MR. DOLLARHIDE: Yes, that is my understanding.
7 That's why we took the break in the first place was to
8 let the FirstPic folks make the data run so everybody
9 could see that before there was a vote before the
10 committee. And then also -- go ahead, Jason.

11 MR. ADAMS: So I'm just trying to catch up. Jason
12 Adams, Salish-Kootenai. As I understand, we are
13 talking now with the proposal of just the language in
14 the pink, correct?

15 MS. FIALA: No. I believe we are still -- in
16 terms of protocol, still talking about the two combined
17 issues. That was the last issue that was on the table
18 was the combined -- the combine language. If we decide
19 to as a group, I think, scratch that, and then we would
20 have to split them -- agree to split them apart. That
21 would be a brand new proposal.

22 But we did not have any consensus or non-consensus

1 on the combined language. We still had 30 minutes left
2 on that. So that would be up to the committee to
3 decide whether or not they wanted to completely table
4 and scratch that discussion and open a new discussion,
5 from my understanding.

6 MR. ADAMS: I was just looking at my notes. What
7 I have is the combined language was voted down
8 yesterday. And so, we came back --

9 MS. FIALA: The combined language was voted down,
10 correct.

11 MR. ADAMS: -- today with new language that talked
12 -- and Jon presented the Alaska language in there,
13 "remote Alaskan." That's what stopped the discussion
14 this morning was for a data run. Now, what I hear the
15 proposer making is that we're going to break this into
16 three?

17 MS. FIALA: But the original proposer that we
18 started with this morning was Jon, and we have not --
19 we have not voted on the language that Jon brought out.

20 MR. ADAMS: I thought this was a friendly
21 amendment --

22 MS. FIALA: What Randy proposed --

1 MR. ADAMS: -- to the friendly amendment. No.

2 (Laughter.)

3 MS. FIALA: I guess that would be -- that would be
4 considered splitting things apart? Would that be --

5 MR. ADAMS: I don't know. New ground for me.
6 Thank you.

7 MS. FIALA: Is that the friendly -- the friendly
8 amendment is to split --

9 MS. CASTRO-RAMÍREZ: Yes, that would be our
10 friendly amendment to Jon's proposal to be able to take
11 separate votes.

12 MS. BRYAN: So, Jon, you're the proposer. Would
13 you accept that friendly amendment?

14 MR. TILLINGHAST: Geez. Hey, I'm only a lawyer.
15 This is way above my pay grade. So I'm consenting to
16 treat these as three different issues, and far be it
17 for me to object to that.

18 MS. FIALA: Okay. So then the first issue would
19 be --

20 MS. BRYAN: Jason, we have a question?

21 MS. FIALA: Oh, Jason. I'm sorry.

22 MR. ADAMS: I don't have a question. What I

1 understand is he just accepted the amendment, so I
2 would move to call for consensus on the first section,
3 which is the pink. And I believe I'm calling for that
4 because I don't believe that that ties back to the data
5 run that's been asked for. I think the data run is
6 specific to the remote Alaska that comes either second
7 or third in line. Thank you.

8 MS. FIALA: So I believe we'll need to take out
9 Earl's language. Earl is nodding. He would like his
10 language removed if we're calling for the vote on the
11 purple.

12 MS. BRYAN: Thank you. We have a call for the
13 vote on lines 9, 10, and 11 highlighted in bright pink.

14 MS. FIALA: And for the record, I'm just going to
15 read that: "adjusted for any statistically significant
16 undercounts confirmed by the U.S. Census Bureau."

17 (Members vote.)

18 MS. FIALA: There's one person in opposition, and
19 I don't know if we have the phone vote, but we do have
20 at least one no.

21 MS. BRYAN: So we'll ask the dissenter to explain
22 your reason and offer an alternative please.

1 MR. EVANS: Earl Evans, Haliwa-Saponi Indian
2 Tribe. My dissent and my recommended alternative will
3 be the same language, just add in "for AIAN population
4 confirmed by the Census Bureau."

5 MS. BRYAN: Randy?

6 MR. AKERS: HUD is okay with the language being
7 proposed by Earl on that.

8 MS. FIALA: And Karin Foster on the telephone also
9 indicated her agreeal with Earl's amended language as
10 well.

11 MS. BRYAN: Okay, thank you. If we can see the
12 language again. Lines 10, 11 -- 9, 10, and 11 now read
13 "adjusted for any statistically significant undercount
14 for AIAN population confirmed by the U.S. Census
15 Bureau" on the call for the question.

16 (Members vote.)

17 MS. BRYAN: And Karin on the phone has agreed. We
18 have consensus. Thank you.

19 (Applause.)

20 MS. BRYAN: If we could ask HUD to then introduce
21 the second piece of this three-part series.

22 MR. AKERS: Thank you, Madam Chair, Chairman

1 Dollarhide. HUD would propose -- we would present a
2 proposal for the committee to consider and to approve
3 the language that is beginning on line 12 starting the
4 sentence with "for purposes of this paragraph, Indian
5 lands in remote Alaska shall be treated as reservation
6 and trust lands unless the U.S. Census Bureau -- unless
7 the U.S. Census Bureau includes remote Alaska in their
8 Census coverage measurement or comparable study." And
9 I would also ask the chairs if I could yield to Todd
10 Richardson to supplement that.

11 MR. RICHARDSON: Apparently I can't read. So we
12 did do these runs without the volatility control. So
13 I'm going to give you sort of what the effect of the --
14 of this run. So as a result of this language,
15 different from what you've already seen, for the
16 simulation that does all of these adjustments we're
17 discussing here, right? So this would include the
18 reweighting. So this is the largest effect that these
19 -- that this change could have is it would shift
20 \$1,451,640 from all the tribes that don't get this
21 increase to the tribes -- to the remote Alaskan areas
22 that do get this increased. So that's the size. It's

1 a \$1.4 million shift of funds.

2 What that means is for those tribes that are
3 benefitting, they'll have grants, depending on if they
4 have current assisted stock or not. That affects sort
5 of the percentage amounts, but they have grant
6 increases of over four percent. In general, most of
7 the Alaskan villages don't have current assisted stock.

8 The other tribes have a reduction in funds as a
9 result of this ranging from usually in the neighborhood
10 of about negative 0.2 percent, right? So less than one
11 percent, but 0.2 percent for tribes that have
12 reservation and trust lands approximately to -- for
13 tribes without reservation and trust lands around
14 negative 0.35 percent. And that's mostly places that
15 have current assisted stock.

16 For reservation or trust -- for tribal areas
17 outside of remote Alaska that do not have current
18 assisted stock, the amounts could be up to as much as
19 0.5 percent, so not -- still less than one percent, but
20 up to -- there's one tribe that has a reduction in the
21 neighborhood of negative 0.65 percent. So that's the
22 full range of the impacts of this, and that's without

1 volatility control. Volatility control would affect
2 that, but we hadn't had -- we didn't get that part of
3 the run finished.

4 MS. BRYAN: Jason? The data runs are being copied
5 is my understanding.

6 MR. ADAMS: Jason Adams, Salish-Kootenai. I guess
7 with that explanation and the time that we spent on
8 this, I'd call for consensus.

9 MS. BRYAN: We have a call for the question. I
10 thought we were waiting for the runs, but let's -- we
11 have an explanation. We have a call for the question.

12 (Members vote.)

13 MS. BRYAN: Dissenters. Jason, would you like to
14 explain your reasoning and offer an alternative
15 proposal?

16 MR. DOLLARHIDE: I really don't have an alternate
17 proposal other than to see the runs that is produced
18 off of this. After looking at that, you know, I have
19 no problem bringing this back before the committee to
20 place it -- to do a vote on it.

21 My next question, I guess, that I've got on the
22 run, if my understanding is -- if I understand this

1 correctly, the 4.88 percent was included in that run.
2 Since we did strike down the third proposal dealing
3 with the variables with that 4.88 percent, this run has
4 been completed without the adjustment on those
5 variables also?

6 MR. AKERS: Chairman, I'd like to yield to Todd
7 Richardson, please.

8 MR. RICHARDSON: This run that we just described
9 includes all of the adjustments, right? So it would be
10 reweighting all of the ACS variables. The item that
11 was discussed yesterday on the reweighting, what I
12 described -- I thought -- what we wanted to run is we
13 wanted to run the effect that would be the largest
14 possible effect from this. If we just -- if we do not
15 do the reweighting, then this would just affect the
16 AIAN population variable. So you could take the
17 numbers I've given you, multiply them times 11 percent,
18 and then you'll get --

19 So it would cut the effect of this for everybody
20 down to just a very -- you know, 10 percent of the
21 effect I just described. So if you're a tribe that
22 would've been losing .45 percent, you'd be losing .045

1 percent roughly if we just applied this to the AIAN
2 variable. So it's a very -- that would be a very small
3 effect. But we wanted to run this with the full effect
4 with the reweighting adjustments so folks understood
5 the full scope of what this would do if all of the
6 adjustments had been agreed to by the committee.

7 MS. BRYAN: Randy?

8 MR. AKERS: Thank you, Chairwoman. And my
9 understanding is that we're copying -- finishing
10 copying the run documents or that they have been copied
11 and --

12 FEMALE SPEAKER: They're being copied.

13 MR. AKERS: -- that we should be able to
14 distribute them.

15 MS. FIALA: Karin Foster has a question. I'm
16 going to go ahead and read it out loud.

17 FEMALE SPEAKER: I think she's trying to talk, and
18 it's not coming through.

19 MS. FIALA: Karen, if you could type your
20 question, and then I'll read it out for you. If you
21 could chat it.

22 (Pause.)

1 MR. ADAMS: Madam Chair?

2 MS. BRYAN: Jason?

3 MR. ADAMS: Yeah. I guess for -- Jason Adam,
4 Salish-Kootenai. I guess just for the record, I'd like
5 to say that it seems like HUD did what they did in
6 regards to the data run because that, in effect, is
7 going to be the effect whether we vote for this or
8 against this. That, in essence, is what's going to
9 happen.

10 And so, the worst case is what they ran the
11 numbers on, and that's what's going to happen. And so,
12 whether we vote yes or no, I would hope that we could
13 vote yes on this because I believe it does some
14 justification to remote Alaska, and it has minimal
15 effect. So thank you.

16 MS. FIALA: And I have Karin's question. She
17 wrote in, "I agree with waiting for the data runs. My
18 question has to do with the last vote. I could not see
19 the language on the screen at the time of the vote, but
20 I thought Earl's amendment included a reference to
21 reservation and trust lands."

22 MS. BRYAN: That was an earlier probably strike

1 out. It didn't -- in this conversation today. Yes,
2 Lourdes?

3 MS. CASTRO-RAMÍREZ: Yes. So I'm being told that,
4 you know, in five minutes we'll have the copies of the
5 data run. But I do want to reiterate that we were
6 asked to produce a new data run, and Todd, I think, has
7 provided what the impact will be. And I understand
8 that there's a request to verify that information and
9 to review it yourselves. So we can either wait the
10 five minutes and maybe move to the next item.

11 And I do want to emphasize that we are trying to
12 do everything possible to ensure that you have the
13 information. And I think Todd's summary provides
14 exactly what, based on the best knowledge, what we
15 believe the impact would be. And so, I would just ask
16 for those of you that dissented, if you would consider
17 the information that Todd has provided, the summary of,
18 you know, what that impact would be, and reconsider
19 your vote, or we stop -- you know, we stop at this
20 point, maybe move to the next item to give you time to
21 review the data.

22 MS. FIALA: Jason and then Sami Jo. Jason

1 Dollarhide. Then Sami Jo.

2 MS. DIFUNTORUM: Sami Jo Difuntorum. Actually I
3 would reconsider my vote. My vote had been in the
4 affirmative. However, I didn't realize that I was also
5 agreeing to adjusting the variables. I was agreeing to
6 adjust the AIAN count only, and I don't think is clear
7 enough that that's what we were doing.

8 MR. RICHARDSON: Can I clarify?

9 MS. BRYAN: Randy?

10 MR. AKERS: Chairs, thank you. HUD. I'd like to
11 defer to Todd Richardson to respond on that. Todd?

12 MS. BRYAN: Thank you.

13 MS. FIALA: Patterson?

14 MR. JOE: Patterson Joe, Navajo Housing Authority.

15 I was going to suggest that we stop the clock on this
16 item and go on to the next one while we have a chance
17 to review what we just received, and then come back to
18 it.

19 MS. BRYAN: Thank you, Patterson. We had -- HUD
20 yielded time to Todd to answer Sami's question. So
21 let's -- we acknowledge you.

22 MR. RICHARDSON: So to be clear, (b) (1) is only

1 adjusting the American Indian and Alaska Native
2 variable. So (b)(2) uses that information to do the
3 reweighting of the ACS. So the committee has not
4 agreed to (b)(2), so (b)(1) is specific to the American
5 Indian variable, and that is what the committee is
6 agreeing on. So it is not agreeing to the adjustment
7 on the American Community Survey.

8 But we thought it was -- when having to make a
9 decision about how to make these runs, we made the
10 decision that we thought it would be in the committee's
11 best interest to understand what the full possible
12 effect would be if those were applied to all of the
13 variables, the adjustment, because it does have -- if
14 after -- if the committee were to have reached
15 consensus on this. So we're just trying to get the
16 full scope.

17 Now, as I noted, if the reweighting is not
18 applied, then there's a much smaller effect, and it's
19 more in the neighborhood of negative .05 percent for
20 the typical tribe that's not benefitting. So it's a
21 much smaller effect because it's just the AIAN
22 variable. So the full range of effects would be

1 essentially 11 percent of what we've shown you, or what
2 we're showing you in terms of effect.

3 MR. DOLLARHIDE: So my understanding, Todd, and
4 for this committee is that in that language the third
5 item that we did not consensus for dealt strictly with
6 the -- including the 4.88 in the variables other than
7 just -- that is correct, right?

8 So I guess my question -- my question for HUD on
9 that would be if this committee reaches consensus on
10 item one, which we did, item two that is coming as soon
11 as we look at these runs will come to another vote with
12 the third item not reaching consensus, does that --
13 will HUD honor that from this committee and not include
14 those numbers in the variables.

15 MR. RICHARDSON: Thank you. Thank you, Chairman
16 Dollarhide. At this point in time, HUD really hasn't
17 made a final decision on what our next course of action
18 would be. Again, we're very interested to continue the
19 discussion, and the evaluation, and the input from all
20 of the committee members in order to have a best
21 informed way to go forward.

22 MR. DOLLARHIDE: You know, I understand that HUD

1 hasn't come to a decision pertaining to what they're
2 going to do. But in saying that, you know, this
3 committee, the negotiated rulemaking committee, voted
4 that as a non-consensus item to use those -- to use
5 that 4.88 percent in the variables. So in my mind, as
6 a practice in good faith, you know, that shouldn't be
7 entertained.

8 MS. FIALA: Karin Foster just indicated that she
9 requests that her vote not count until she confirms
10 by --

11 FEMALE SPEAKER: By text.

12 MS. FIALA: -- by text.

13 (Pause.)

14 MS. BRYAN: Randy?

15 MR. AKERS: Thank you. HUD. We have been able to
16 provide the committee with the requested runs, and have
17 had it summarized by Todd Richardson, our subject
18 matter expert. We're ready for a vote if the committee
19 so chooses.

20 MS. BRYAN: Okay. Can we put the language back
21 up? Thank you. We have a call for the question on 12,
22 13, and 14 in green. Is that where we're at? Okay.

1 I'm going to read it: "For purposes of this paragraph,
2 Indian lands in remote Alaska shall be treated as
3 reservation and trust lands unless the U.S. Census
4 Bureau include remote Alaska in their Census coverage
5 measurement or comparable study."

6 Call for the question.

7 FEMALE SPEAKER: (Off audio.)

8 MS. BRYAN: Do you need something, Mindi?

9 MS. D'ANGELO: (Off audio.)

10 MS. BRYAN: Okay. We're going to show the
11 language to our participant on the phone. It looks
12 like we have more participants on the phone.

13 MR. ADAMS: Sara, can I ask -- Sara, how much time
14 is left? Is there a clock that can be shown?

15 MS. FIALA: We have -- because the -- what Randy
16 proposed is put -- it was only an amendment. We have
17 -- that's not correct. We only have six minutes left
18 because we are going off of the 30-minute clock.

19 MR. ADAMS: Thank you.

20 MS. FIALA: Karin has indicated a yes vote for
21 the --

22 FEMALE SPEAKER: No, no, no. No, no.

1 MS. FIALA: I'm sorry.

2 FEMALE SPEAKER: (Off audio.)

3 MS. FIALA: Karin is on.

4 MS. BRYAN: This means yes.

5 FEMALE SPEAKER: Sorry. Sorry.

6 MS. BRYAN: Okay. Call for the question?

7 (Members vote.)

8 MS. FIALA: I'm going to read Karin's vote.

9 MS. BRYAN: Get our telephone vote.

10 MS. FIALA: Karin, yes, the vote is on the green

11 highlighted language for purposes of this paragraph,

12 "Indian lands in remote Alaska shall be treated as

13 reservation and trust lands unless the U.S. Census

14 Bureau includes remote Alaska in their Census coverage

15 measurement or comparable study."

16 FEMALE SPEAKER: Hold on.

17 MS. BRYAN: And let Karin know we do have thumbs

18 up around the table.

19 FEMALE SPEAKER: I don't know, but they can ask.

20 She said, "I'm going to look at the data run. Has it

21 been posted anywhere?"

22 MS. FIALA: Karin has asked for the data run.

1 MS. BRYAN: We are sending it to her. I don't
2 know if she --

3 MS. FIALA: And we emailed it out to her. So,
4 Karin, if you can hear, check your inbox.

5 MS. BRYAN: Yes?

6 MS. CASTRO-RAMÍREZ: Yes, Madam Chair. Can we
7 stop the clock to give Karin time to look at the data
8 and come back with --

9 MS. BRYAN: Yes, good point. We'll stop the
10 clock. Karin is requesting information. She's
11 attending by telephone so that she can participate in
12 the vote.

13 MS. FIALA: So we have a couple of minutes -- five
14 minutes remaining on the clock.

15 MS. BRYAN: Okay.

16 MS. CASTRO-RAMÍREZ: So I would just ask that we
17 give Karin five minutes to look through the data.
18 Thank you.

19 MS. BRYAN: Thank you.

20 MR. DOLLARHIDE: Just for -- you know, just to let
21 the committee know, I did make a request on a -- on a
22 data run from Todd to take out the additional 4.88

1 percent on the variables that this committee was not --
2 did not have -- did not vote consensus on to see where
3 we are with that to apply only to the AIAN count,
4 Jason, because my understanding was the third item that
5 we did not reach consensus on yesterday took out the
6 variables. This run was -- the variables were included
7 in this room. So I requested to have a run made
8 without that 4.88 percent on those variables, just on
9 the population alone.

10 MS. FIALA: So we are on a five-minute break with
11 about three and a half minutes remaining.

12 (Pause.)

13 MS. BRYAN: Jason?

14 MR. ADAMS: Todd? Todd, I've got a question for
15 you. On this data run, did you say that it did not
16 include the volatility control?

17 MR. RICHARDSON: It did not.

18 MR. ADAMS: Okay. I think that's going to swing
19 the numbers significantly once it's applied because it
20 has more effect than the 4.88 percent.

21 MR. RICHARDSON: Yes, it does. As everyone may
22 recall from previous runs we've given with the

1 volatility control, the grants that would get
2 reductions of more than 10 percent are held at a 10
3 percent reduction because of the needs variables. And
4 that means that all the other grants that would've gone
5 up go up less. And so, it does have a pretty big
6 effect to have the volatility control involved.

7 (Pause.)

8 MS. FIALA: Karin is still reviewing the data.
9 There was a lag in getting it into her inbox.

10 MR. RICHARDSON: One clarification on the
11 volatility control. We did email you the regional
12 effect of the volatility control to individual tribes.
13 So you do have a little bit of information on the
14 volatility control's effect. So you can at least get a
15 sense of the total effect of volatility control.

16 MS. FIALA: Okay. So I have -- I'm going to read
17 the information from Karin. We asked -- told Karin
18 that we are waiting on your vote and Todd is on standby
19 to answer any of your questions. Karin responded,
20 "Please let the Chair know that I have not been able to
21 review the data because it has not come through my
22 email. But if everyone else in favor, I will not stand

1 in the way. Thank you for the time allowed."

2 MS. BRYAN: The chairwoman thanks Karin Foster for
3 her comments. We have a consensus. Thank you.

4 (Applause.)

5 MS. BRYAN: Randy?

6 MR. AKERS: Yes. Thank you, Chairwoman, Chairman
7 Dollarhide. In order to continue with the efficiency
8 of the committee's work, HUD would ask that the
9 committee would agree to an extension of time for 20
10 minutes to address the aging component. And we would
11 -- we would want to have that language up on the screen
12 for ease of reference. So we would ask for the
13 committee's indulgence for an extra 20 minutes to
14 address that separate component.

15 MS. BRYAN: HUD has requested an additional 20
16 minutes to finish the third part in this three-part
17 series. Can I have a vote of the committee all in
18 favor for allowing for 20 more minutes to finish the
19 discussion?

20 (Members vote.)

21 MS. BRYAN: Okay. We have the vote needed to
22 start the 20 minutes.

1 MS. FIALA: We need Karin's vote. I'm sorry.

2 MS. BRYAN: We need --

3 MS. FIALA: Karin Foster's vote.

4 MS. BRYAN: We need two-thirds, and we have it.

5 MS. FIALA: Oh, okay. Sorry. I apologize.

6 MS. BRYAN: But we could get her vote for the
7 record if you'd like.

8 FEMALE SPEAKER: She voted yes.

9 MS. FIALA: She voted yes.

10 MS. BRYAN: Okay. Thank you. All right. So
11 we'll put the language back up on the screen, and I'll
12 ask HUD to introduce part three of this proposal for
13 our consideration.

14 MR. AKERS: Thank you, Chairwoman. HUD would
15 propose that the committee would consider and take
16 action, as appropriate, to approve the language that
17 we're proposing regarding the aging idea. It's the
18 language in particular. It's the highlighted language
19 on line 15 and 16. That language now is highlighted.
20 It says, "updated annually using the U.S. Census Bureau
21 county-level population estimates for Native
22 Americans."

1 And we would ask the committee -- I would like to
2 defer a little time to Todd Richardson to really
3 summarize what our thinking is in that regard.

4 MS. BRYAN: Thank you. And before I recognize
5 Todd, can I clarify? Is your proposal starting at
6 "these" since Jad added that language earlier -- "the
7 data under this paragraph shall be?" I believe that's
8 new language. So is that included in the proposal?

9 MR. AKERS: It is, Chairwoman. Yes, thank you.

10 MS. BRYAN: Okay, thank you. So we'll highlight
11 that whole section and yield to Todd.

12 MR. RICHARDSON: So the aging concept, this is a
13 replacement for something that already exists in the
14 formula. The formula currently ages all of the
15 variables with the Indian Health Service population
16 estimates on the Decennial Census, the 2000 Census
17 data. So what we're proposing is we're proposing to
18 change the data source from the Indian Health Service
19 to the U.S. Census Bureau population estimates from
20 what we're currently doing.

21 And the reason we're proposing to do that is
22 because of the work of the study group that identified

1 that this was a better source of data for making these
2 population estimate changes. Now, this program, the
3 population estimates program, so we could, of course,
4 say population estimates capitalized because it is a
5 program of the -- and I understand there's some folks
6 that would be interested in that, and I think that
7 would be fine from HUD's perspective.

8 The population estimates program is not part of
9 the American Community Survey. It is independent. It
10 does -- it uses the Decennial Census, which we've been
11 talking about, and then it updates the Decennial Census
12 using administrative data records on births, deaths.
13 It uses Medicare records to show where people --
14 migration among folks that are older, and it uses IRS
15 records to show migration among folks that are younger.
16 But it's capturing a flow of population in and out of
17 counties.

18 It is county-level data the same as the Indian
19 Health Service data. It is the best we have for
20 calculating population change over time. And for the
21 AIAN variable, which we're proposing here -- which
22 we've agreed to use that is Decennial Census data for

1 the AIAN variable, this would be aging that variable
2 using that pop estimate data.

3 MR. AKERS: Randy Akers, HUD. Thank you, Todd,
4 for that explanation. And at this point, HUD would
5 call for a vote on the proposed language.

6 MS. BRYAN: Thank you, Randy. We have a call for
7 the vote on the language of 15 and 16 highlighted in
8 green: "The data under this paragraph shall be updated
9 annually using the U.S. Census Bureau county-level
10 population estimates for Native Americans."

11 (Members vote.)

12 MS. BRYAN: Is Karin -- can we get Karin -- let
13 her know thumbs up around the table and get her vote?

14 MS. FIALA: Karin voted yes.

15 MS. BRYAN: We have another consensus. Good work.

16 (Applause.)

17 MS. BRYAN: Whew. So at this time on the agenda,
18 we are done with our action items for voting unless
19 there are any other presentations -- proposals I mean,
20 which it looks like review of the preamble comments.
21 Aaron Santa Anna is up next. We'll give Aaron the
22 floor for questions and discussion.

1 MS. CASTRO-RAMÍREZ: Madam Chair? I'd like to
2 propose that we break for lunch and come back with
3 Aaron's presentation as the first item.

4 MS. BRYAN: I think we can accept that proposal.
5 Sharon?

6 MS. VOGEL: Thank you. Could we have a copy of
7 what we just voted on before we leave so that we know
8 what it was? There was so many changes that it was
9 hard to track, so if I could have that, I'd appreciate
10 that.

11 MS. BRYAN: I think that's a possibility. I see
12 some yeses. Okay. Thank you, Sharon. Sami Jo?

13 MS. DIFUNTORUM: Thank you. For clarification,
14 did we finish discussion on weighting because I thought
15 we were coming back to that. We voted not to revisit
16 it or we voted to revisit it?

17 MS. BRYAN: That one died and was not voted -- we
18 didn't have enough votes to bring it back to the table.

19 Okay. The time is 11:45. We'll see you back here
20 at 1:00. Thank you. Good work, everybody.

21 (Off the record at 11:45 a.m.)

22 (On the record at 1:13 p.m.)

1 MS. BRYAN: Good afternoon, everyone. Thank you
2 for returning promptly. We have preamble work to do.
3 I had a brief discussion with HUD, and they were happy
4 to clarify what we did and did not vote on earlier.
5 There were some questions and concerns specifically
6 related to the 4.88 percent, which isn't what the
7 language says, but we all know what that refers to, and
8 application to the population count only, and to the
9 variables. So I'll ask HUD when they get on the floor
10 to explain that and make sure that we all have a common
11 understanding.

12 And also, at this time we're going to ask HUD and,
13 Aaron Santa Anna, you are on the agenda for questions
14 and discussion on review of preamble comments.

15 MR. SANTA ANNA: Good afternoon, everyone. HUD is
16 at this point finalizing last-minute tweaks to the
17 preamble and getting copies -- hard copy -- hard
18 printed copies so that we can distribute to the -- to
19 the committee. I think that way it'll help facilitate
20 being able to go through the preamble to identify all
21 the changes that we're making, the new additional
22 language. My hope is that we will be able to get that

1 -- those copies to you in the next 15, 20 minutes.

2 I'd like to be able to do that because I think if
3 we're all working off the same document, it'll make the
4 process go much faster. And I think we'll save time
5 for the 20 minutes that we're waiting for the hard
6 copies, if that's okay with the committee.

7 FEMALE SPEAKER: (Off audio.)

8 MR. SANTA ANNA: All right. Once again, my
9 recommendation is that we hold off trying to start the
10 discussion on the preamble until HUD has the
11 opportunity to print the preamble and the rule for you
12 so that we can through this discussion using the same
13 document, and it'll be in front of you.

14 I think there's a lot of difficulty when you look
15 at a text up on the screen to see what comes before
16 that language and what comes after it. I think that if
17 you look at it in hard copy, it's a lot easier to
18 understand the changes that we're making, and I think
19 it'll save a little bit of time in the long run. My
20 hope is that we are copying the -- making the copies
21 now.

22 MS. BRYAN: Thank you. Randy.

1 MR. AKERS: Yes. Thanks, Chairwoman. We would
2 like to -- I would like to yield a little bit of time
3 to Todd Richardson to clarify the question that I think
4 had been raised earlier on the 4.88 and what it would
5 be applying to. So if I could, please.

6 MR. RICHARDSON: So do folks still have the Power
7 Point I handed out yesterday because there's a slide on
8 there that I think will help clarify exactly what has
9 been agreed to up to this point and what has not yet
10 been agreed to to clarify exactly how the math is going
11 to -- how the math works for each tribe.

12 So the Power Point with the explaining data
13 adjustments for the IHBG negotiated rulemaking, and if
14 you look at slide five. So on this example, what has
15 been -- what the committee has reached consensus on is
16 the point up to the second subtotal here for the
17 variable -- just one variable in the formula for
18 American Indian and Alaska Native.

19 So in this example, we start with the Census 2010
20 population count for Native Americans. We then do a
21 4.88 percent adjustment for those places that are
22 eligible for that adjustment, so reservations, trust

1 lands, and tribal areas in remote Alaska. And then we
2 make the aging adjustment for how population has
3 changed between 2010 to 2014 with the Census population
4 estimate file. And that's what has been agreed to.

5 And so, for each tribe we would just have that
6 number updated for just the American Indian and Alaska
7 Native population variable. The item that has not --
8 that did not reach consensus is the next step, which
9 would've been to create the adjustment ratio that would
10 be applied to the ACS data. That was not agreed to by
11 this committee. So hopefully that clarified the
12 question.

13 MS. BRYAN: Thank you, Todd. Lourdes.

14 MS. CASTRO-RAMÍREZ: I just wanted to give an
15 update. And so, we need about 10 to 15 minutes to
16 finish the printing of the preamble just in terms of
17 time check.

18 MS. BRYAN: Thank you. So is there any more
19 discussion on this? Jad offered to sort of recap what
20 we've agreed to and not agreed to. If you would like
21 to do that now, maybe it's a good time to do that.
22 Todd pretty much covered it. Are there questions about

1 this? Really now is your opportunity to clarify this
2 language.

3 MR. SOSSAMON: Question.

4 MS. BRYAN: Russell?

5 MR. SOSSAMON: Thank you, Madam Chair. My
6 question is the adjustment for the different size of
7 the area. That's different than the -- for the other
8 formula or for the other variables is different from
9 the 4.88 percent. Is that correct?

10 MR. AKERS: Chairs, I would like Todd Richardson
11 to share his thoughts, please.

12 MS. BRYAN: Acknowledged.

13 MR. RICHARDSON: Yes. The aging of -- the
14 adjustment for population is separate from the
15 adjustment for undercount. So we basically will say in
16 that example on slide five, we'll first make the
17 adjustment for undercount, and if you're a tribe that
18 doesn't get that undercount, you're still getting the
19 adjustment for any growth in population.

20 So the average county with a tribal area has had
21 about a five percent population growth since 2010. And
22 so, that would be factored, some more than that, some

1 less than that. But for all tribes, tribal areas that
2 have reservation trust land or are in remote areas will
3 get the 4.88 percent adjustment in addition to that.
4 So there is -- so if you're not in an area that has a
5 reservation trust land, you are still getting the aging
6 adjustment for growth and population.

7 MR. SOSSAMON: Okay. I understand the aging and
8 the 4.88 percent of the -- for the term --

9 MR. RICHARDSON: Undercount, yeah.

10 MR. SOSSAMON: -- undercount. What I'm talking
11 about is for the small area adjustment, for an area
12 that may be smaller than an entire county, and,
13 therefore, there was a sampling error because of the --

14 MR. RICHARDSON: So the way we -- I think the
15 question is how do we do the aging of the population
16 when we only have county-level population estimates,
17 but the area that we're aging is smaller than a county.
18 Is that right?

19 MR. SOSSAMON: I think so.

20 MR. RICHARDSON: Okay. We don't know for the
21 Native American population growth how much of that
22 population growth is on the reservation or off the

1 reservation, or in the tribal area or outside the
2 tribal area. We don't have that information. The
3 information we have is we know that the Native American
4 population has grown by X percent, say five percent, in
5 that county. But we don't know if that five percent is
6 the same in the tribal area or off. It's probably not.
7 But we don't actually have any information about that
8 specific growth in the tribal area versus outside the
9 tribal area, so we assume --

10 And as we have done for the last 20 years with the
11 Indian Health Service data, that the county-level
12 population growth of Native Americans is close to what
13 you would expect in that tribal area, but we don't know
14 that for a fact. We only will know that in how far we
15 got -- we are wrong when the 2020 Census comes along.
16 When the 2020 Census comes along, we'll see how
17 accurate we were with making those pop estimate
18 adjustments. But at this point, what we have is we've
19 got the county-level population estimates, the best
20 we've got.

21 The ACS uses those same county-level population
22 estimates. They're not -- they don't have anything

1 else, so when they do their work, they're starting with
2 these county-level population estimates before they do
3 the ACS. They don't know any different than we do
4 about the pop growth in the tribal areas versus off
5 tribal areas.

6 MS. BRYAN: Thank you. Last chance for
7 clarification.

8 (No response.)

9 MS. BRYAN: And if there are no other business
10 considerations for the committee, I would like to call
11 a break. We'll try 10 minutes and see if -- check in
12 with HUD on the progress for the preamble hard copies.
13 Thank you.

14 (Off the record at 1:25 p.m.)

15 (On the record at 1:43 p.m.)

16 MR. DOLLARHIDE: Thank you, folks. If everybody
17 could get seated please, we'll go ahead and continue.

18 MS. BRYAN: Yes, good afternoon. Thank you,
19 everybody, for returning. We're going to turn the time
20 over to HUD for a few moments.

21 MS. CASTRO-RAMÍREZ: Yes. Thank you, Madam
22 Chairwoman and Mr. Chairman. I would like to yield

1 some time to Mr. Mike Andrews, who I think many of us
2 know. Mike Andrews is the majority staff director and
3 chief counsel with the U.S. Senate Committee on Indian
4 Affairs. And so, it's a pleasure for us to have him
5 here to stop by, and I thought it would be appropriate
6 to give him a few minutes to share a few remarks.
7 Thank you.

8 MS. BRYAN: Thank you. We'll recognize Mike
9 Andrews.

10 (Applause.)

11 MR. ANDREWS: Gosh, it's that old saying: don't
12 thank me just yet.

13 (Laughter.)

14 MR. ANDREWS: But anyway, it's great to be back
15 here in the HUD building. I was just telling folks I
16 don't -- I think I haven't been back since, not because
17 it's -- there's not a want there. It's just that since
18 coming on the Hill, as you can imagine, it's been like
19 drinking from a firehose between the authorization
20 process, the appropriations process. And in the good
21 bills that we're trying to get out for the betterment
22 of Indian Country, it's been a whirlwind.

1 And, you know, I would be remiss if I didn't, of
2 course, acknowledge all the good work and the ground
3 work that I had here at HUD and ONAP. My staff has
4 heard me tell the stories about the extended family and
5 some of the sibling rivalries I used to have, and the
6 sister-brother fights that I've had. And it's made me,
7 I think, a better person. It really makes me
8 understand really what my job is and really who my
9 client is. And I can honestly say that the time spent
10 here and the folks from the ONAP staff, and the work
11 they're doing here is just a tremendous effort.

12 And I know that they're going to do the best job
13 they possibly can because, quite honestly, the ONAP
14 staff is the best. They didn't pay me to say that, but
15 I've always wanted to tell them that. I didn't have an
16 opportunity before I left, but I'm going to let them
17 know now that I really enjoyed my time, and I really
18 enjoyed the leadership with Jemine and Lourdes. I just
19 want to, again, thank you guys for the opportunity that
20 you gave me here when I was working for ONAP.

21 So I do want to talk a little bit about your work
22 that you're doing here, and that the work you're doing

1 here is being noticed on the Hill. You know, I meet,
2 quite frankly, with my colleagues on the Senate on the
3 appropriations staff, and their ear is to the ground.
4 They want to know what does Indian Country say with
5 regard to the formula. And I can certainly tell you
6 they would prefer that that work be done here and not
7 on Capitol Hill, especially in this day in this
8 climate.

9 So I would charge everyone to the extent possible,
10 and I know these are tough times and tough decisions
11 when you're talking about money. But to the extent
12 possible, I would encourage you to make those
13 differences and try to find the solutions because I
14 think the last thing we all want is having senators who
15 quite frankly don't have Indian Country in their, A,
16 best interests, or, B, don't have that representation.

17 So as my boss, John Barrasso says, the best solutions
18 come from Indian Country. The best solutions come from
19 the collective knowledge that's here in this room.

20 So let me just say that I'm very proud. I'm glad
21 that HUD was able to bring everybody together to give
22 everybody that opportunity to have that consultation

1 because it's very important. The "C" word is
2 tremendous, and I think that you should take advantage
3 of this time, which I know you are, and do the best you
4 can possibly can.

5 So with that, I invite you all -- we have an open
6 door policy on the Hill. A lot of you have taken
7 advantage of that. Some of you, like Lafe, have taken
8 too much advantage of that.

9 (Laughter.)

10 MR. ANDREWS: But to the rest of you all, you have
11 an open door invitation, and, again, I look at you as
12 extended family. I look at you as the extended
13 education and your experience, something that I
14 certainly don't have. But we look for you for that --
15 for that guidance. So thank you, Madam Co-Chair, for
16 this opportunity. I appreciate everybody's time, and
17 thank you for this moment. Thank you.

18 (Applause.)

19 MS. BRYAN: Thank you, Mike. We look forward to a
20 continued working relationship with you and your staff.

21 At this time, we do have hard copies, so we would
22 like to move forward with HUD's presentation of the

1 draft preamble.

2 MR. SANTA ANNA: Yes. Initially I very much
3 appreciate your patience and being able to wait for the
4 copies. Like I said, you know, in looking at documents
5 in the past, I find it's always easier to look at hard
6 copies as opposed to something up on the screen,
7 particularly when you're beginning to review it.

8 I would start off by saying a couple of things.
9 One is, again, as I mentioned yesterday, I am so
10 appreciative of the comments that you submitted in
11 response to our invitation in November/December. To
12 the extent that I could, I tried to incorporate those
13 comments. And as we go through the draft here, you'll
14 see that -- where I've made those edits. So thank you
15 so much for taking the time, and I thought a lot of the
16 comments were very good.

17 Second is that this document should be very
18 familiar to you. The basis of the document is one that
19 we distributed back in November. It's basically the --
20 and that we also looked at in August when we last met
21 in Phoenix. So I think a lot of this is going to look
22 familiar.

1 What I've tried to do is highlight in redline
2 strikeout those changes that we've made since that time
3 so that you can more easily review what those changes
4 are, and also be aware of what those changes are.

5 So with that, I would like to be able to start.
6 On this first page, just a couple of things to note. I
7 try to keep track of documents by date, and so you'll
8 see that today's -- the latest document is dated today.

9 Second is that, you know, because we did have a
10 *Federal Register* publication which announced this
11 meeting, I had to change the sequence number for the
12 document. So when you see it published, it will be
13 5650/P/12.

14 If you could roll down to the next redline, which
15 is on page 5.

16 A couple of things here just to note. The
17 language in the yellow highlight, I highlighted it for
18 you to indicate that this is language that we agreed to
19 in Phoenix so that it is incorporated into this
20 document. The change -- the other changes that I've
21 made to this page is, you know, of course adding the --
22 to the sequence of meetings just to be able to give the

1 reader an idea of when we decided to meet.

2 If you could roll down a little bit further,
3 please.

4 With regard to the fact of today's meeting, you'll
5 see in the footnote a reference to the *Federal Register*
6 publication which came out on January the 8th. On line
7 21, Karin was good to be able to identify what I
8 consider a typo. We needed to add the word "source"
9 there, and so I went ahead and made that change.

10 If you continue to page 6, please. I'm sorry?

11 FEMALE SPEAKER: (Off audio.)

12 MR. SANTA ANNA: And if you could roll up a little
13 bit -- I'm sorry -- down a little bit so that line 20
14 appears at the very top of the screen.

15 This is where I think it's a little bit easier to
16 work with a hard copy as opposed to redline. When I
17 went through comments, Earl and Russ had talked about,
18 you know, adding a little bit more of a discussion with
19 regard to what happened at the -- in the study group.
20 So changes that we've made here, and what I tried to do
21 is I went to the executive summary of the report to
22 pull the language that you see here.

1 What, in fact, the executive summary reads is
2 that, "The study group identified 49 different data
3 sources that were reviewed by the technical experts
4 against a pre-determined set of screening criteria. Of
5 the 49 nominated data sources, the data study group
6 agreed unanimously that 30 did not meet these criteria.

7 The technical experts then prepared a detailed
8 characterization of the remaining 19 data sources based
9 on the characterization process, and the discussion
10 that followed with the data source -- data study group.

11 The data study group rejected 10 more data sources
12 that did not meet the pre-determined criteria. The
13 data study group moved nine remaining data sources
14 forward for comprehensive evaluation."

15 The concern that was expressed by Earl and Russ
16 was that we didn't go into enough detail about this,
17 and that we mischaracterized a number of data sources
18 that were identified. And so, in order to address that
19 comment, I just copied in language verbatim from the --
20 from the study group.

21 If you would go down a little bit further, if you
22 -- there you go. Yes, Jason?

1 MR. ADAMS: Yes, Aaron. Jason Adams, Salish-
2 Kootenai. My question is you just stated that this was
3 referenced or taken from the study group information
4 verbatim. Was it evaluated or identified in -- the
5 language change here is changed from "evaluated" to
6 "identified." What was in the study group information?

7 MR. SANTA ANNA: The executive summary of the --
8 of the study group uses the term "identified, and so
9 that's why I went ahead and added that term.

10 MR. ADAMS: Okay. I just wanted to say that if we
11 want to be technically correct, we did not identify
12 those 49 data sources. The public did. We did a
13 public notice to submit data sources. Forty-nine data
14 sources were submitted, so the work group didn't
15 identify those data sources. The public did it --

16 MR. SANTA ANNA: I understand.

17 MR. ADAMS: -- through a public comment process.
18 Thank you.

19 MR. SANTA ANNA: Yeah, thank you. And, you know,
20 part of -- part of the issue here is I always like to,
21 you know, as a technique to writing this stuff is to
22 rely on other people's drafting. And that's what was

1 included in the -- in the study group. And I thought
2 since we're going to make that available to the public
3 that we at least can be consistent.

4 And then if you roll down a little bit to -- right
5 there.

6 Again, Karin suggested that we add this language
7 that's highlighted beginning on page -- on line 30 of
8 page 7, continuing to lines 1, 2, and 3 of page 8:
9 "Specifically the study group recommended that the AIAN
10 population be the greater of the most recent available
11 ACS decennial or challenge data, and that if adopted,
12 date would no longer be aged." And then I added a
13 line: "This proposal did not reach consensus at the
14 full committee."

15 Karin's comment, as I indicate there in the
16 comment bubble, is that she wanted to be able to make
17 sure that we had included the results of the full
18 recommendations of the study group. One thing that she
19 suggested was to add the recommendation to exclude
20 South Central and Canadian AIAN, and I didn't add that
21 here because it's already at another portion of the --
22 of the preamble.

1 I would note for you that lines 7 through 15
2 should be ignored. That was language that, you know,
3 as we were trying to prepare for trying to come up with
4 a preamble on the fly to be able to present to you this
5 afternoon, that we were using this as kind of a
6 strawman that will ultimately come out of the rule that
7 is -- that goes -- you know, that we finish and
8 finalize here today.

9 So at this point, I'd like to ask if there's any
10 comments about what I've covered thus far, any
11 significant concerns about any of those changes.

12 (No response.)

13 MR. SANTA ANNA: If not, we can continue if you
14 would, please.

15 Now, this language is language that you've seen
16 before, this proposed rule. So if you want to continue
17 down to line -- oh, I'm sorry. It's number four.
18 Paragraph (a) was approved by this committee in
19 Phoenix, so it is as we had approved it. Paragraph (b)
20 on line 9 was the same thing, approved while we were in
21 Phoenix.

22 So if you can continue rolling down, please.

1 That's also true for Paragraph (c) and (d) on this
2 page. Paragraph (e) is the same -- Paragraph (e), I
3 should say, is the same thing. It was approved in
4 Phoenix. Paragraph (f) was approved in Phoenix.
5 Similar, Paragraph (g) was approved in Phoenix. Could
6 you stop -- hold off there? And (h) was also approved
7 in Phoenix.

8 So if you could roll down just a little bit and
9 stop here. The only change here is to the designation
10 of the paragraph. When we had it in Phoenix, we, as
11 you recall, didn't have language to deal with the --
12 with the data source. And so, we left Paragraph (j)
13 blank. So basically all we're doing is moving the
14 designation from (j) to (i).

15 If you can continue rolling down.

16 Now, the same thing is true with regard to
17 Paragraph (j) here. It was (k) when we looked at it in
18 Phoenix, and now it's a new designation. Same thing
19 here to Paragraph (k). It was (l) in the draft that we
20 reviewed in Phoenix, and now we've made it (k).

21 All right. This is -- this is language that is
22 really new, and what we've done, again, using the draft

1 that we distributed in November, tried to rewrite this
2 entire section. And it's not the entire section, but
3 we tried to salvage what we could from the draft that
4 we distributed in November, but at the same time,
5 wanted to be accurate, or I should say an accurate
6 representation of the discussion and the decisions that
7 were made at today's session.

8 So what we are doing is instead of titling this
9 new section "Non-Consensus Items, Other Items for
10 Consideration," we are now going to entitle this
11 section, "8th Meeting of the Negotiated Rulemaking
12 Committee, Data Source for the Needs Variable." And in
13 the first paragraph, what we tried to do was to be able
14 to give the reader a little bit of background with
15 regard to how the eighth meeting came into being, and
16 the reasons why we're having this meeting, and what
17 we've been able to talk about.

18 I would like everybody to take just a moment to
19 look at your hard copy, to read through this language,
20 and see whether or not anyone might have any concerns
21 or additions. And along those lines, let me say just
22 as a cautionary tale that, you know, writing a document

1 is very difficult, and when we have, you know, 22
2 people adding text, it makes it even more so.

3 This preamble language in the long run, you know,
4 it gives the reader and the public the ability to
5 understand what we're doing and why we're doing it, and
6 that's really the sole purpose of preamble language.
7 Ultimately what really matters is when we publish the
8 final rule and time passes, and the rule takes effect.

9 Okay. If we can continue rolling down text.

10 You'll see here that these paragraphs are text
11 that was included in the draft that we sent out. The
12 only changes are that Rusty and Lafe identified the
13 fact that we needed to make "household" plural. Lafe
14 suggested that we add the word "potentially" in line
15 14, and so that's what we did.

16 Beginning at lines -- at line 22, Rusty suggested
17 that we make it -- we change it to delete the language
18 "and HUD's desire to reach consensus on the data
19 source," and to have it simply read, "Because of the
20 complexity of the issue, the committee agreed by
21 consensus to a procedure to identify and evaluate
22 alternative data sources."

1 In line 16, once again we've dropped the word
2 "sources," and Lafe was able to catch that for us. And
3 the other edit that we made here was that rather than
4 saying that the concern was expressed by a number of
5 committee members, that we change it to "several."

6 I think -- let's see. I'm not sure what the
7 committee would like to be able to do in terms of
8 approval of the -- of the preamble. My recommendation
9 is that rather than taking it all in one lump sum, that
10 we kind of break it up so that we can have, you know,
11 more easily manageable pieces to be able to look at,
12 and discuss, and approve.

13 At this point, if that is -- if that is okay with
14 the chairs, I would suggest that at this point we break
15 and have a vote on everything that we've talked about
16 up until -- if you move it -- roll it back down a
17 little bit. I'm sorry, the other direction. It's a
18 little too fast.

19 FEMALE SPEAKER: (Off audio.).

20 MR. SANTA ANNA: Yes, I have a copy. I'm sorry.
21 Up until page 22 -- no, that's not right. Twenty-two,
22 right, line 4.

1 MS. BRYAN: So, Aaron, are you proposing we start
2 where we left off at the last approved paragraph, and
3 we'll go paragraph by paragraph and approve the new
4 language?

5 MR. SANTA ANNA: I would like to be able to
6 approve all changes that occur prior to line -- well,
7 let's start -- I think let's start above, on line 13.

8 MS. BRYAN: What page?

9 MALE SPEAKER: Twenty-two?

10 MS. BRYAN: Twenty-two?

11 MR. SANTA ANNA: Twenty-two. All right. It would
12 be the bottom of line -- of page 19.

13 MS. BRYAN: So, Aaron, let's have you state where
14 we're going to start and where we're going to end, page
15 and line number to page and line number what for
16 approval of all changes by the committee, please.

17 MR. SANTA ANNA: I would -- I would end us on page
18 20, line 22, right here.

19 MS. BRYAN: And to clarify, are we starting on
20 page 17, line 9 where it starts "eight meeting," or was
21 there changes before that? It looks like everything
22 else -- or just changes from the very beginning of the

1 document --

2 MR. SANTA ANNA: Yes. Yes.

3 MS. BRYAN: -- through page 20, line 22.

4 MR. SANTA ANNA: Correct. Everything from the
5 beginning.

6 MS. BRYAN: Okay. We have a request from HUD to
7 approve everything from the beginning of the document
8 to page 20, line 22. Does the committee accept all the
9 changes? And is Karin on the line?

10 FEMALE SPEAKER: Yes.

11 (Members vote.)

12 MS. BRYAN: Okay. We have consensus. Thank you,
13 everybody.

14 MR. SANTA ANNA: The next section that I'd like to
15 be able to talk about is beginning on page -- if we can
16 go up to undercount on reservations, which is on line
17 1, please of this page.

18 All right. At this point what I'm going to be
19 suggesting to you is that we look at each of the
20 adjustments that we were able to talk about here today
21 in each, you know, each one, one after the other. And
22 that we try to -- and we approve those.

1 The first one is on the undercount on
2 reservations. The first lines here, lines 1 through
3 13, are language that was included in the draft that we
4 sent up earlier. I changed the text of the -- of the
5 verb to be able to kind of convey the fact that this is
6 something that was proposed by HUD when we sent out the
7 -- when we had the phone call in November and followed
8 up by the phone calls to discuss the data sources that
9 Todd held.

10 The real meat of it is -- if you roll up to line
11 14, please, right there -- is this is -- this paragraph
12 attempted to capture the discussion and the votes that
13 we had on the undercount. And what we are proposing to
14 add to the preamble is this language which reads, "The
15 eighth meeting of the rulemaking committee consider
16 this adjustment, and after consideration vote on the
17 adjustment. The committee proposes to modify the
18 language to clarify that the count would be adjusted
19 for specifically significant undercounts specifically
20 for AIAN population. After this language was changed,
21 the committee reached consensus on this adjustment.

22 Additionally, the committee considered a proposal

1 to consider Indian lands in remote Alaska the same as
2 reservation trust lands when it is determined that
3 there has been a statistically significant undercount
4 in reservation and trust lands, unless the U.S. Census
5 has included remote Alaska in its coverage. This
6 proposal was -- this provision was proposed in order to
7 address the fact that the U.S. Census Bureau's
8 consensus management study did not include Indian lands
9 in remote Alaska. The committee also reached consensus
10 on this item."

11 MR. TILLINGHAST: Aaron, I'm going to suggest what
12 I think is a technical change that I've talked over
13 with some of the folks in HUD. When we adopted the
14 remote Alaska provision, we did not adopt the
15 definition of the term "remote Alaska" that had been
16 put on the board earlier, which was the definition of
17 the term that matched the Census' definition of the
18 term "remote Alaska." It was the green area on the
19 map, and there was a great deal of interest to pin that
20 down.

21 So what I'm suggesting is, and I'm going to be
22 quoting from the same definition of "remote Alaska"

1 that I originally put on the board this morning. On
2 line 3, it starts off, "Not include Indian lands in
3 remote Alaska, the term 'remote Alaska' meaning type of
4 enumeration for as delineated by the U.S. Census Bureau
5 for the 2010 Decennial Census."

6 MR. SANTA ANNA: Jon, if you could -- if we could
7 type up the language so that people can see it. Did
8 you get --

9 MR. TILLINGHAST: I don't have a typewriter?

10 MR. SANTA ANNA: Did you have that? You're going
11 to have to speak up so the people back here can type
12 it.

13 MR. TILLINGHAST: Okay. Line 3, it begins "not
14 include Indian lands in remote Alaska." Take out the
15 period, insert a comma, and add the following, "The
16 term 'remote Alaska,' meaning type of enumeration," and
17 those are in caps -- "type" is in caps, and
18 "enumeration" is in caps -- "area" -- "area" is also in
19 caps -- "for as delineated by the U.S. Census Bureau
20 for the 2010 Decennial Census."

21 MS. BRYAN: Pete and then Gabe.

22 MR. DELGADO: Thank you. One of the concerns

1 raised yesterday that we wanted to encompass in the
2 language was in -- on page 21, line 8 and 9 regarding
3 the definition of "in reservations and trust lands."
4 And the concern that was raised yesterday by the New
5 Mexico Pueblos, and I just want to make sure that
6 there's a footnote or some placeholder in there with
7 language that would indicate that those restricted fee
8 lands that were established pursuant to the Treaty of
9 Guadalupe Hidalgo are included within that definition
10 of what is a reservation and a trust land.

11 MR. SANTA ANNA: We could also include that in the
12 actual text of the -- of the preamble by adding on line
13 9 after "lands," keeping the comma, including "and use
14 of the trust lands." What was the language?

15 MR. DELGADO: I believe they're referred to as
16 restricted fee lands acquired under the Treaty of
17 Guadalupe Hidalgo.

18 MS. FIALA: Could you say that again, Pete? I'm
19 sorry. They're having trouble hearing you in the back.

20 MR. DELGADO: It's restricted fee land acquired
21 under the Treaty of Guadalupe Hidalgo, H-I-D-A-L-G-O.

22 MR. SANTA ANNA: And just end it with a comma

1 after "Hildago." Would that address your concern?

2 MR. DELGADO: Yes, thank you.

3 MS. BRYAN: Todd, can we get, or HUD,
4 clarification on that language and what it means
5 because I honestly don't know, Pete, so this is like
6 new to me. If someone else has an answer.

7 MR. RICHARDSON: So we have -- we checked these
8 particular -- this particular language here, and we're
9 talking about was already -- we were already including
10 those areas as part of reservations and trust lands
11 when we were doing the 4.88 percentage adjustment. So
12 it isn't necessary for it to be put here. It doesn't
13 do any harm if it is, but it isn't actually necessary
14 for us to have made that adjustment.

15 MR. DELGADO: And we understand that as far as the
16 fact that it doesn't affect the numbers and the runs
17 that have been given to you in any way, shape, or form.

18 But the Pueblos in New Mexico and SwellMap are
19 concerned about our region. Just to make sure that
20 that is covered down the road. There's a distinction
21 in that for those Pueblos as far as the nature between
22 reservation. It's a very unique piece of land for

1 those New Mexico tribes. So they asked us to put that
2 language in there.

3 MS. FIALA: You have Gabe, Earl, Randy, and Jason
4 Adams.

5 MS. BRYAN: Thank you.

6 MR. LAYMAN: Thank you. Gabe Layman, Cook Inlet
7 Housing. I simply want to speak in favor of this
8 additional language. Particularly if this is the
9 outcome that's already taking place and was reflected
10 in the current runs, then clearly there is no harm done
11 from the inclusion of some additional language. So
12 we'd support that.

13 Also very briefly, if you could just for a moment
14 scroll back down to the language that Jon Tillinghast
15 proposed, I think there was a minor typo. Bottom of
16 the next page here I believe. Let's see. Okay. So it
17 reads, "meaning types of enumeration area for." Jon,
18 question for you. Should that "for," F-O-R, read "for"
19 F-O-R, or the number four?

20 MR. TILLINGHAST: Yeah, Gabe. Thanks for catching
21 that, and I just caught another one. It's "type"
22 singular, not "types" plural. "Type of enumeration

1 area," cardinal letter for --

2 FEMALE SPEAKER: (Off audio.)

3 MR. TILLINGHAST: No. And I think -- I actually
4 think you probably ought to use the number four rather
5 than the word "four."

6 MR. LAYMAN: No other comments. Thank you.

7 MR. TILLINGHAST: Yeah. Thank you, Gabe.

8 MS. BRYAN: Thank you. Earl?

9 MR. EVANS: I think I actually got my question
10 answered previously because I was going to comment
11 about other tribes with restricted fee lands. So if --
12 so if the general description of "reservation and trust
13 lands" is still is inclusive of other restricted fee
14 and other tribal areas as well, then I don't have any
15 further feedback. And I think that was Todd's answer
16 to the question that Pete rose, correct? Okay. Thank
17 you.

18 MS. BRYAN: Thank you. Randy.

19 MR. AKERS: Thank you, Chairpersons. HUD is fine
20 with the language that Pete Delgado has suggested be in
21 there.

22 MS. BRYAN: Thank you. Jason Adams?

1 MR. ADAMS: Yeah, thank you. Jason Adams, Salish-
2 Kootenai. I guess the question that comes to mind, and
3 I'm not sure if this is for Jon or HUD, is the issue
4 that Jon raised and added here in regards to the
5 definition of "remote Alaska." Does that have to be,
6 and I hate to say this, but do we have to go back and
7 put this in the regulation for it to have the ideal
8 effect desired, or is it okay being here in the
9 preamble?

10 MR. TILLINGHAST: I'm going to defer to Jad on
11 that. The discussion we had was that it -- is it can
12 be done in the preamble, but I'll have Jad weigh in.

13 MR. SANTA ANNA: I can, you know, respond to that
14 question, and the answer is it does not need to be
15 added to the regulatory text. Providing the clarity
16 here is sufficient. It allows us to be able to define
17 it, you know, later, so we don't have to do -- we don't
18 have to add any changes to the regulatory text.

19 MS. BRYAN: Any other questions or comments on
20 what we're doing so far?

21 (No response.)

22 MR. SANTA ANNA: Okay. I guess if there are no

1 other changes, if we could go ahead and take a vote on
2 this language. It would be from -- what page is that?

3 FEMALE SPEAKER: Twenty-one. Line 1 on 21.

4 MR. SANTA ANNA: Yes, it would be from line 1,
5 page 21 to now --

6 FEMALE SPEAKER: Four.

7 MR. SANTA ANNA: -- line 4 of 22. I'm sorry, 6.
8 It looks like 6.

9 MS. BRYAN: We have a call for committee approval
10 on language, as amended, in front of you from page 21,
11 line 1 to page 22 end of line 4. We need a vote.

12 (Members vote.)

13 MS. BRYAN: And do we have Karin?

14 FEMALE SPEAKER: She said it's okay.

15 MS. FIALA: Karin is a yes.

16 MS. BRYAN: It's a thumbs up from Karin. We have
17 consensus. Thank you.

18 MR. SANTA ANNA: I'm going to -- I'm going to go a
19 little bit out of order. I'd like to leave the control
20 within the ACS to the very end or push it back a little
21 bit. So if we could move forward to the caption "Aging
22 of the Data." It's down there on line 18. And what

1 we're going to be looking at would be lines 18 through
2 -- and that's page -- I think that's page 23, line 18
3 to line 10.

4 MS. BRYAN: Where did you jump to again? Sorry.

5 MR. SANTA ANNA: This is aging of the data. It's
6 page -- in your hard copy it begins on page 23, line
7 16. Because of the text that we added in the prior
8 discussion, lines are now it looks like pushed down by
9 two.

10 In this section, you'll see that most of the text
11 is the same language that was in the draft that was
12 circulated, and which you had the opportunity to
13 comment on. The only thing that we did was we added a
14 new paragraph with two sentences that read, "During the
15 eighth meeting of the rulemaking committee -- during
16 the eighth meeting of the rulemaking committee," we
17 should say, "the committee considered this adjustment,
18 and after consideration, voted on the adjustment. The
19 committee reached consensus on this adjustment."

20 There's a minor -- there's not a lot of text, so I
21 just wanted to see if there was any questions or
22 concerns about this.

1 MR. ADAMS: Jason Adams, Salish-Kootenai. One of
2 the things that I recall from this morning's discussion
3 on this specific item is Todd had come forward, and in,
4 I think it's one, two, three, four -- line 19 on my
5 copy of the aging of the data, in the regulatory
6 language we specifically capitalized "population
7 estimates," because it was specific. It's specific in
8 the Census work. And so, I'd like that to be reflected
9 in this. And then also, line 23, add somewhere
10 language there as Todd had explained that these
11 population estimates does not come from ACS.

12 MR. SANTA ANNA: We could add in line 4 before the
13 word "as" a new sentence that reads, "These population
14 estimates do not come from ACS." Does that address the
15 concern, Jason?

16 MR. ADAMS: There is one other population estimate
17 recital on the next page 24. On my copy, line 4. It's
18 right before the end of that paragraph. It says
19 "population estimates for Native Americans" again.

20 MR. SANTA ANNA: Yeah, we caught it there. Thank
21 you.

22 MS. FIALA: There's also another one on line 21 if

1 that's also correct, "population estimates" should be
2 capitalized.

3 MR. ADAMS: Thank you.

4 MR. SANTA ANNA: Any other comments, concerns?

5 (No response.)

6 MR. SANTA ANNA: Hearing no additional, is this a
7 good point for the committee to vote on this section?
8 Essentially we would be voting on -- I wish this had
9 page numbers. What page is that?

10 MS. BRYAN: On our document, it's page 23, line
11 16.

12 MR. SANTA ANNA: Oh, I see.

13 MS. BRYAN: Up there it was line 18 because of the
14 changes we have made earlier --

15 MR. SANTA ANNA: Right.

16 MS. BRYAN: -- through page 24. And are you going
17 down to the end of line 8 where the red part ends?
18 Let's vote on page 23. On your hard copy it's line 16,
19 "aging of the data" through page 24, end of line 8.

20 (Members vote.)

21 MS. FIALA: Karin said yes.

22 MS. BRYAN: We have a consensus. Thank you.

1 MR. SANTA ANNA: If we could talk about the change
2 here. I don't think it -- well, let me just kind of go
3 through it, and we can talk a little bit about it.
4 This is a pretty minor change. Lafe had suggested that
5 we take out "continues to believe," and just read
6 "believes."

7 If we can continue to roll down a little bit, and
8 I can explain to you what the cross-out is.

9 This whole area is not being deleted necessarily,
10 but being moved. What happened is that in the draft
11 that you saw that we distributed in November, we had
12 two non-consensus items that we were talking to. And
13 what we just did was we talked about the -- we made the
14 first one more a representation of what happened at
15 today's meeting and those votes. I know we still have
16 one to go through. But what we decided to do was move
17 this text a little bit further down.

18 So if you could scroll down, and I can -- all
19 right, let's just stop here, and we'll go ahead and
20 pick up on the -- on the text that gets dropped because
21 it comes a little bit later.

22 I wanted to include a summation of the comments

1 that were submitted on the November draft. And, you
2 know, I wanted to be able to try to be as comprehensive
3 as possible, but at the same time a little bit more
4 concise given the fact that we're just trying to talk
5 about the rules. I added this language because, again,
6 you know, as a rulemaker I really appreciate people
7 taking time to provide comments, and I want to be able
8 to reflect the fact that comments were submitted. So
9 in this section, I tried -- we tried to summarize all
10 of the comments that were provided.

11 In the first line, line 16, I believe the date is
12 the 24th, and basically this text as you see, 24th, 2-
13 4. "HUD's issuance of a proposal on November 24th,
14 2015, and prior to the eighth meeting of the negotiated
15 rulemaking committee, HUD invited the tribal members of
16 the committee to submit comments on its proposal and on
17 the preamble section describing its proposal. The
18 comment period lasted from November 23rd, 2015, to
19 December 23rd, 2015. HUD received six comments from
20 six tribal members during this time."

21 This is pretty standard text when we do a review
22 of public comment. We try to just talk about the dates

1 during which public comment was accepted, and also the
2 total number of comments that we received.

3 In the next paragraph, we try, and in the next two
4 paragraphs, if you could roll down a little bit, we try
5 to describe some of the concerns that were expressed.

6 "Several tribal members expressed support for the
7 use of aged 2010 Decennial Census data for the AIAN
8 population count. Those same comments supported the
9 use of ACS data for the remaining six factors." New
10 paragraph. "Other commenters expressed dissatisfaction
11 with the compensation of any undercounts and the use of
12 a weighing adjustment for any undercounts. All these
13 tribal members opined that HUD improperly made these
14 unanticipated adjustments without consulting the
15 committee or allowing the committee sufficient time to
16 review.

17 Some commenters noted that such adjustments are
18 unnecessary since the study group found that
19 improvements to the ACS data will be fully implemented
20 upon the release of the 2012-2016 ACS data set. When
21 commenters stated that this Decennial Census and ACS
22 were used as data sources -- if used as data sources,

1 generalized adjustment based on 4.88 percent undercount
2 would be insufficient in some areas, and
3 disproportionately beneficial in others. Other
4 commenters pointed out that the use of the ACS as
5 proposed in the rule will unfairly and significantly
6 harm villages in rural Alaska.

7 According to the commenter, these populations are
8 substantially undercounted, but HUD is not applying a
9 weighted adjustment to remote Alaska because the exact
10 amount of the undercount is unknown." And then the
11 last two lines, if you roll up a little bit. "One
12 commenter expressed a preference for developing the use
13 of a federally or tribally administered national tribal
14 survey in lieu of the Decennial Census or the ACS."

15 Now, I understand that a lot of these issues have
16 been addressed by the hard work of the committee during
17 this session, and I am certainly open to if this is
18 something that you would like to have removed, we could
19 do that. At the same time, if you would like to be
20 able to keep it and have any adjustments to it to
21 better reflect what we've done, we could do that as
22 well.

1 I'm open to any ideas. I wanted, as I mentioned
2 before, to try to at least identify the fact that an
3 opportunity to comment was offered, and that people
4 took time to respond and provide comments.

5 MS. FIALA: Annette?

6 MS. BRYAN: Thank you. Annette Bryan, Puyallup
7 Tribe of Indians. I just -- I have a question how you
8 describe -- it's my line 5, line 17, which may be
9 different from yours. But when you talk about tribal
10 members, "HUD received comments from six tribal members
11 during this time frame." Next sentence. "Several
12 tribal members expressed support." Were those
13 committee members, or members of Indian tribes, or how
14 do they identify themselves as tribal members?

15 MR. SANTA ANNA: That should be changed. It was
16 committee members.

17 MS. BRYAN: Any other additions, or
18 clarifications, or questions?

19 (No response.)

20 MR. SANTA ANNA: Then with your okay, I would -- I
21 would request that the text beginning on page 26 --

22 FEMALE SPEAKER: Could you read the comment?

1 MR. SANTA ANNA: I'm sorry.

2 MS. FIALA: There's a question sent from Karin.

3 MS. BRYAN: -- Karin that you need to read
4 starting with "I would like to."

5 MS. FIALA: This is from Karin Foster. "I would
6 like to request an insert to the final paragraph in the
7 section referring to my comment to add language: "One
8 commenter expressed a preference for developing and
9 using a federally or tribally administrated national
10 tribal survey to collect information concerning
11 enrollment in a federally-recognized tribe in lieu of
12 the Decennial Census or the ACS." Then she states the
13 proposed addition is "to collect information concerning
14 enrollment in a federally-recognized tribe." And
15 Christine is going to put that up on the screen.

16 MS. BRYAN: Thank you. Jason.

17 MR. ADAMS: Jason Adams, Salish-Kootenai. I guess
18 the -- you know, the one on that same comment that
19 Karin was just making, I would ask for the word
20 "preference" to be changed to -- the statement would
21 say "One commenter expressed support for developing and
22 using" instead "of a preference."

1 MS. FIALA: I'll have her put that up, Jason, as
2 soon as she's done typing in Karin's comments.

3 MR. ADAMS: Thank you. Thank you.

4 MS. FIALA: Take out the "A." "One commenter
5 expressed," remove the "A," "support." Thank you.

6 MR. SANTA ANNA: Did Karin get a chance to hear
7 that we would be substituting the word "support" for "a
8 preference?"

9 FEMALE SPEAKER: She said, "I accept that," and
10 then thanks Jason.

11 MS. FIALA: Thank you. She accepts that, and
12 thank you, Jason, from Karin.

13 MR. SANTA ANNA: So, again, what I would like to
14 do at this point is request that the committee vote on
15 the preamble text beginning on page 26, line 15 down to
16 page 27, line 20.

17 MS. BRYAN: Okay. So if you're looking at the
18 hard copy in front of you, it's our page 26, line 12,
19 Article 5, Tribal Comments, to page 27 through the end
20 of line 14, as modified on your screen. Let's take a
21 vote.

22 (Members vote.)

1 MS. FIALA: And Karin Foster says yes. Leon
2 Jacobs.

3 MS. BRYAN: We have a dissenter. Leon, would you
4 please explain your reason and offer a proposal,
5 please?

6 MR. JACOBS: Leon Jacobs, Lumbee Tribe. This
7 language that we're voting on here where you state
8 "enrolled in a federally-recognized" -- where is the
9 language again? Can you pull it up?

10 MR. SANTA ANNA: It's on page 27. Oh, there you
11 go. Wait, wait, wait. Keep rolling down. There we
12 go.

13 MR. JACOBS: Okay. "Enrolled in a federally-
14 recognized tribe." You know, there are four state-
15 recognized tribes that's covered under this program, so
16 you need to include that language. And I think very
17 simply, all you need to do is say "enrollment in a
18 federally-recognized or eligible state-recognized
19 tribe."

20 MS. BRYAN: I just had a question for
21 clarification. One commenter expressed, and I'm
22 wondering if Karin is the commenter because we're -- if

1 she's the commenter, are we changing what her comment
2 was because we're just --

3 MR. SANTA ANNA: Excuse me. I'm sorry.

4 MS. BRYAN: Summarizing the comment is what I
5 thought she was doing, and people are modifying it, so
6 I'm kind of confused.

7 MR. SANTA ANNA: I'm sorry. I apologize. This is
8 Karin's -- this is Karin's language, and Karin is on
9 the line. She heard the edit that Jason put forward
10 changing "preference" to "support," and she had voted
11 for that. I just wanted to be able to check with her
12 about "or eligible state-recognized."

13 MS. BRYAN: I don't mind the adding of the
14 language so much as I am to what the comment is. And
15 if you're summarizing what the comment is to the
16 process underneath the public comment process and it
17 didn't say that, then you're altering or adding to what
18 the public comment was. And that's my only concern.

19 MR. SANTA ANNA: I think it's a very -- I think
20 it's a very legitimate comment. I think at this point
21 if Karin is amenable to having that changed, it
22 shouldn't be a problem.

1 MS. FIALA: Karin, if you are on, if you could
2 just message in.

3 FEMALE SPEAKER: She said "enrollment in a
4 recognized tribe."

5 MS. FIALA: Karin said "enrollment in a recognized
6 tribe." We've got Earl Evans with a tent up.

7 MR. EVANS: I just have a question for Mr. Santa
8 Anna. What was the wording in the original comment?

9 MR. SANTA ANNA: Again, I have Karin's comment in
10 front of me. What we tried to do with this text, as
11 Annette said, is try to summarize a two-page document.

12 One thing that she said was, "It may make the formula
13 a little more fair for reservation tribes, however, if
14 we continue to urge HUD to work toward the development
15 of a federally-administered and/or tribally-
16 administered national tribal survey. We believe a
17 tribal survey will more accurately allocate IHBG funds
18 to Indian area based upon the population of persons who
19 are actually eligible to receive IHBG services."

20 MS. BRYAN: Thank you. Earl.

21 MR. EVANS: Thank you, Madam Chair. With that
22 being said then, the reason I didn't vote a nay

1 earlier, I guess I was wrong in assuming that this
2 reflected her original comments. But since her
3 original comments didn't reflect either, I think the
4 original language that Mr. Santa Anna had would be a
5 better summarization.

6 MS. BRYAN: Jason.

7 MR. ADAMS: Jason Adams, Salish-Kootenai. I guess
8 that's -- at least for my amendment I was, you know,
9 asking her because this is her comment. She accepted
10 it. This is a synopsis of what is written. And in
11 regards to the recognized tribes, I heard her talk
12 specifically on that about who's eligible for the
13 program. Therefore, I think "recognized tribes" is
14 supported by what she said there. I think it's okay,
15 just for the record.

16 MS. BRYAN: And you touched on the word
17 "eligible." If that was part of her comment, can we
18 put that in there, too?

19 MR. SANTA ANNA: Could we substitute "IHBG
20 eligible" as opposed to "recognized tribe?"

21 MS. FIALA: Is that a question for Karin?

22 MR. SANTA ANNA: Karin asked that I also read a

1 little bit more of her comment, and it basically reads,
2 "The Yakama Tribal Council had adopted Resolution
3 Number T, as "tango," -126-15 (August 7th, 2015), which
4 has been made a part of the record of the proceedings
5 of the August 2015 meeting, and, one, supports the
6 development and implementation of a national tribal
7 data survey specifically designed for use on
8 reservation Indian lands; two, supports the collection
9 of information concerning enrollment in a federally-
10 recognized Indian tribe for purposes of determining the
11 number of AIAN who are eligible from NAHASDA programs
12 in Indian area; and three, opposes the use of any ACS
13 survey in the allocation formula."

14 I would like us to, you know, not get bogged down
15 on language here. It just seems to me, you know, given
16 all of the hard work that we've accomplished over the
17 course of yesterday and today to, you know, be not --
18 it shouldn't be that huge a deal to come up with some
19 language. My suggestion is that since this is Karin's
20 language, this is her comment that I was attempting to
21 summarize, that we allow Karin's comment to be able to
22 reflect what she wants it to reflect. I wanted to

1 include this comment because of the six comments that
2 we received, this was only one that talked about a
3 tribally-administered survey.

4 MS. FIALA: I have a comment from Karin Foster.
5 She says, "The actual reference in the letter is to
6 federally-recognized tribes to be consistent with the
7 Yakama resolution, but I'm okay with just stating
8 'recognized tribe.'"

9 MR. SANTA ANNA: So that text is up. Is it
10 something that the committee can look at and approve
11 now?

12 MS. BRYAN: Okay, thank you. Thank you for all
13 that clarification. Let's vote on --

14 MALE SPEAKER: Thank you, Karin.

15 MS. BRYAN: Thank you, Karin. We'll take a vote.
16 What say you?

17 (Members vote.)

18 MS. FIALA: Karin says yes as well.

19 MS. BRYAN: Okay. We have a consensus. Thank
20 you.

21 MR. SANTA ANNA: If we can continue to scroll
22 down. I'm sorry, I'll hold up.

1 MS. BRYAN: Can I do a check in with folks? Are
2 you needing a few-minute break, or should we do one
3 more and take a break? How are we feeling?

4 MR. SANTA ANNA: We're just about finished with --
5 we're going to take a break after this next session.

6 MS. BRYAN: Okay. Well, let's keep going then.

7 MR. SANTA ANNA: Okay. This is -- this text
8 beginning on line 22 on page 26 is, as I mentioned
9 earlier in my discussion, language that you've seen
10 before and that has been moved because of the
11 reorganization of the preamble that we've talked about.

12 I've made one change to the text based on a
13 suggestion that Rusty gave us. You'll see that at the
14 end of that first paragraph, we tweaked it. I wish I
15 had a redline to show you what the tweak was, but it
16 basically changed -- added, "Because the data set
17 includes operating expenses data for projects and some
18 rural counties that serve low- and very low-income
19 households, it could be used to estimate the cost in
20 some tribal formula counties."

21 This was not a -- you know, some of the -- this
22 was modified text, but we thought it was -- it

1 accurately reflected, you know, what we were talking
2 about with the cost adjustment factor.

3 And then if we can keep rolling down. Let's see.

4 The other -- the other language in the next
5 paragraph is the same that you've seen before, and
6 we'll stop at (b) there. And I would ask that we -- if
7 we could back up to line five, or maybe we can deal
8 with this in both -- let's go ahead and look at (b) as
9 well.

10 (b) was also language that was moved. It was
11 language that was in the text of the rule that we sent
12 to you. This was the discussion with regard to
13 revising the definition of the AIAN. And, again, Rusty
14 gave us, I think, a better and clearer indication about
15 the study group's recommendation. So we added or
16 substituted "After some study group members expressed
17 the concern" -- I'll read the whole sentence -- "The
18 study group made this recommendation after some study
19 group members expressed concern that IHBG intended to
20 serve only AIAN persons with a tribal affiliation in
21 the United States. Because individuals having their
22 origin in the indigenous people of Central America,

1 South America, and Canada, may or may not fall within
2 the category of persons eligible to be served through
3 the IHBG program, the study group referred the matter
4 to the full committee for consideration."

5 So, and then we picked up the same line that says,
6 "The committee discussed the issue and has recommended
7 and didn't offer any language to revise this variable."

8 So we're just substituting language that Rusty gave us
9 that I think really is a better description of the
10 discussion that took place in August on this issue.

11 I would like at this point then just to see if the
12 committee would approve lines -- if you could roll up
13 -- on page -- beginning on page 26, line 22 down to
14 page 28, line 16.

15 MS. BRYAN: Thank you. We had a card up to --
16 from Sharon Vogel, so I'm going to call on Sharon
17 first.

18 MS. VOGEL: Thank you. Sharon Vogel, Cheyenne
19 River Housing Authority. I think if I recall, we did
20 propose language, but we didn't reach consensus on it,
21 so I think that it's incorrect to say that we did not
22 offer language. It was a heavily debated issue, and

1 there were proposals made. So I don't agree with that
2 language.

3 MS. BRYAN: I just have a question for Sharon. If
4 you recall what that is or have some recommendation for
5 what to add to this, that would be helpful. And I'll
6 come back to that. Jon?

7 MR. TILLINGHAST: Yeah. I was in the public
8 section at the time. My recollection is similar to
9 Sharon's that -- my exact recollection is that we did
10 propose language, but then nobody moved the language,
11 and it died for lack of a moving party.

12 MS. BRYAN: And forgive my question. Is that
13 normally something we discuss in this section, Aaron?

14 MR. SANTA ANNA: Well, I was going to say that my
15 recollection was the same as Jon's, that the Drafting
16 Committee was asked to put together some language.
17 That strawman was discussed, but nobody offered it for
18 full consideration by the committee. And so
19 consequently, since nobody offered it to the committee,
20 you know, I kind of took that as, you know, that it was
21 not provided to the committee for review.

22 To help Sharon, we could change that last line of

1 that paragraph, and say after the word "recommended,"
2 keeping the comma and say, "considered language drafted
3 by the Drafting Committee," capitalizing "Drafting
4 Committee," "but did not take the language for a formal
5 vote." And I would delete the balance of the -- of the
6 sentence there, yes.

7 MS. BRYAN: Sharon?

8 MS. VOGEL: Sharon Vogel, Cheyenne River Housing
9 Authority. Yes, I agree with that.

10 MS. BRYAN: Thank you.

11 MR. DOLLARHIDE: Jason Adams.

12 MS. BRYAN: Jason.

13 MR. ADAMS: Just real quick. If I was reading
14 this and didn't know what had transpired when it talks
15 about the Drafting Committee and then a formal vote, I
16 think it should clarify a formula vote of the full
17 committee because it would lead one to see that maybe
18 the drafting committee was going to vote on this.

19 MR. SANTA ANNA: Okay. That's a good idea. Then
20 "after a vote by the full committee." How about if we
21 -- you know, because I see your problem there with the
22 way this reads. And so, I would kind of revise it a

1 little bit and say, "consider language drafted by the
2 Drafting Committee. However, the full committee did
3 not take the language out for a formal vote."

4 MS. FIALA: We also have a comment from Karin
5 Foster. Karin stated that she would like to check the
6 minutes.

7 MR. SANTA ANNA: And then -- thank you.

8 MS. BRYAN: Jason?

9 MR. ADAMS: Madam Chair -- Jason Adams, Salish-
10 Kootenai -- I'm looking at the minutes from this
11 discussion specifically at our August meeting. And
12 what I read here is that there was a call for the
13 question on this proposal, which was put before this
14 committee, and HUD had concerns and didn't approve the
15 concept. Therefore, HUD withdrew its consent, and so
16 there was no action taken.

17 So it wasn't the full committee. It was the
18 proposer that withdrew the proposal because this was
19 HUD's proposal.

20 MR. SANTA ANNA: One thing that we tried to make
21 clear at the August meeting was that HUD was only
22 attempting to assist the committee by drafting the

1 language, and that it wasn't a HUD proposal. As I
2 recall again, I'm not sure that anybody was able to
3 take up the language that was proposed in order to make
4 it -- to have it considered for a formal vote by the
5 committee.

6 MR. ADAMS: Its Proposal 1(a), so I'm not sure who
7 -- I don't read that here specifically on who was the
8 proposer, but there was a Proposal 1(a) before this.
9 And then, that's all that says is that HUD had withdrew
10 its consent on this. So the way this reads, it would
11 lead to believe that HUD was the proposer of 1(a).

12 MR. SANTA ANNA: It seems to me that the language
13 is not entirely clear on that point. But, again, I
14 would like us to be able to focus on trying to approve
15 preamble language that reflected what happened without
16 getting into any sort of detail. I mean, the minutes
17 are not clear on that point. I think that this is a
18 fair representation of what happened, and I would like
19 us to be able to not have us bogged down in the time
20 that we have remaining.

21 We still have another section that we want to be
22 able to talk about, but along the lines that Annette

1 suggested we would like to be able to take a break
2 before we engage in that discussion. And we'd like to
3 be able to have time at the end of the day to be able
4 to do this. So I would, again, request that if this is
5 -- I would request that the committee approve the
6 language as we have drafted here.

7 MR. ADAMS: Well, I agree with you. I don't want
8 to bog this down too far. But I just want to make sure
9 this reads correct that there was a proposal before the
10 committee, and maybe it comes down to the proposer
11 withdrew the proposal because that's essentially
12 happened here as I read the minutes. It does not say
13 "HUD."

14 MS. BRYAN: Can we check in with Karin pretty --
15 really quickly?

16 MR. SANTA ANNA: Could we just add at the end "due
17 to the withdrawal of the proposal by the proposer?"
18 I'm not sure that that, you know, provides any
19 additional clarification, and it's something that, for
20 the record, we would want to make clear that it was not
21 a proposal that HUD was offering.

22 MR. ADAMS: I guess the point I'm getting at,

1 Aaron, is that there was discussion of a proposal
2 before the full committee. It did get further than
3 just the Drafting Committee. It was held here. I
4 mean, it goes on to talk about, you know, then some
5 tribes weigh in as far as how this affects them in
6 their area, so it was talked about in the full
7 committee. However, we can contain that in the
8 comment. I'm fine.

9 MS. FIALA: Karin just noted that she was the
10 proposer, and the transcript had a fairly long
11 conversation. But she was the proposer of the
12 language.

13 MS. BRYAN: So what if we say at the end "the
14 proposal was withdrawn?"

15 MS. FIALA: She's still reviewing to see if there
16 was a vote.

17 MR. SANTA ANNA: Can we just at the end -- I
18 realize we're waiting for Karen, too, but can we say,
19 "However, the full committee did not take the language
20 up for a formal vote, and the language was withdrawn."

21 Did that answer, or do you want it by the proposer?

22 MS. FIALA: Just a suggestion. I think Karin is

1 reviewing the transcript right now. I don't know if it
2 would be good to take a break to allow her time to
3 review the transcript. I don't know if she's finished
4 yet.

5 MR. SANTA ANNA: If we could try to get through
6 this issue before we take a break. Again, wanting to
7 be able to make sure that the language here is it's a
8 fair representation of what happened in Phoenix.
9 That's really the key, you know.

10 MR. ADAMS: If I could, you made some fine
11 comments, and I agreed with them. So if we change that
12 to what you had, how you had stated, as far as, I
13 think, stopping at "withdrawal."

14 MR. SANTA ANNA: Okay.

15 MS. FIALA: I'm fine with that.

16 MR. SANTA ANNA: Yes. So just add at the end
17 there "of the language," or we could say "due to its" -
18 - no, go ahead. Let's not put too much. Okay.

19 FEMALE SPEAKER: "I agree with Jason's comments."

20 MR. SANTA ANNA: Again --

21 MS. FIALA: Karin said she -- oh, I'm sorry, Aaron
22 -- that she agrees with Jason's comments.

1 MR. SANTA ANNA: So if that -- if that will work,
2 we would then again request approval of that section of
3 the preamble. Again, rolling up to the top, I think it
4 begins on page 26 -- 27, all the way down, continuing.
5 Right there.

6 MS. BRYAN: Okay. So if you're looking at your
7 hard copy, this is our page 27, line 15, Section 6,
8 "Other Non-Consensus Items and Issues for
9 Consideration," going through to page 29 through the
10 end of line 9, as amended on the screen.

11 Do we have a vote?

12 (Members vote.)

13 MS. BRYAN: Okay. We have reached consensus, and
14 with that -- yes, Karin?

15 FEMALE SPEAKER: Karin votes yes.

16 MS. FIALA: Voted yes.

17 MS. BRYAN: Thank you, Karin. So with that, we
18 have earned a break. If we could keep it short to
19 maybe 10 or 12 minutes and be back here at 3:25 so we
20 can get our work done? Thank you.

21 (Off the record at 3:13 p.m.)

22 (On the record at 3:37 p.m.)

1 MR. DOLLARHIDE: If everybody could get seated,
2 please, we will go ahead and continue with our
3 preamble.

4 MS. BRYAN: All right. Aaron, if you would like
5 to pick the next section that we're ready to move into,
6 please.

7 MR. SANTA ANNA: Sure. If we could roll back to
8 page 22. Right here. This is good. And why don't we
9 bring it up to line 7? The other direction. I'm
10 sorry. If you could roll it -- there we go. There we
11 go. No, no, no, you went too far.

12 MS. BRYAN: It's "Controlled Total Weights Within
13 the ACS," that line 7.

14 MR. SANTA ANNA: Okay. I appreciate all of your
15 good comments, and suggestions, and the help that you
16 provided getting through the preamble. The only
17 section that we have left that we haven't discussed is
18 the weights within the ACS. This, of course, was the
19 issue that was a non-consensus issue by the committee.

20 The language that we are proposing for the
21 preamble is essentially what we have included in the
22 draft that's sent -- that we sent out back in November.

1 I've made a couple of little edits. If you scroll
2 down to page 23, line 5 -- there you go -- just to
3 change the verb tense of proposing to propose to
4 reflect the fact that this was a proposal that was made
5 at this session of the negotiated rulemaking committee.

6 I wanted to be able to also add a paragraph that
7 reflected the actions of the committee. So I added
8 this next paragraph, which reads, "During the eighth
9 meeting of the Rulemaking Committee," and, again, it
10 should be "the committee considered this adjustment,
11 and after consideration voted on the adjustment. The
12 committee did not reach consensus on this adjustment.
13 While some members supported the adjustment, other
14 members expressed concern with the proposal because it
15 contains references to ACS. Members opposed to the use
16 of ACS as the data -- members opposed the use of the
17 ACS as a data source under the formula, and, therefore,
18 voted against this adjustment."

19 One additional addition that HUD would like to be
20 able to add at this point is adding a new paragraph
21 that reads, "HUD is aware of the concerns expressed by
22 tribal members of the committee regarding the use of

1 ACS as the data source under the formula."

2 MR. DOLLARHIDE: Could you -- could you also
3 include tribal leaders?

4 MR. SANTA ANNA: Let me just go ahead and finish,
5 and then we can go ahead and make some adjustments.
6 "HUD, therefore, requests public comment on the pros
7 and cons regarding the use of ACS." I think that we
8 may have additional text -- I'm sorry -- "the use of
9 the ACS adjustment." The idea would be that we would
10 want to be able to once again add a specific request
11 for comments on this proposal for members of the
12 public.

13 MS. FIALA: Sami Jo and then Gabe.

14 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum.
15 So backing up to the paragraph starting on line 12.
16 It's line 11 on the hard copy that we have. We didn't
17 do a roll call vote, but my recollection is the
18 majority of committee members didn't agree, but it
19 wasn't because of the use of ACS exclusively. Some
20 didn't agree to the adjustment period, and some didn't
21 agree because it called ACS as the data source.

22 So I think the language needs to clearly state

1 that. So I would suggest that it reads, "The majority
2 of tribal committee members did not support this
3 adjustment. Some members expressed concern with the
4 proposal because it contains references to the ACS
5 and --"

6 MR. SANTA ANNA: Sami Jo, I'm sorry.

7 MS. DIFUNTORUM: Yes?

8 MR. SANTA ANNA: Could you go slower for --

9 MS. DIFUNTORUM: Oh, I'm sorry.

10 MR. SANTA ANNA: -- so that we could add that
11 text? You would be adding that language --

12 MS. DIFUNTORUM: Yes.

13 MR. SANTA ANNA: Okay.

14 MS. DIFUNTORUM: I would suggest that it read,
15 "The majority of tribal committee members did not
16 support this adjustment." And it should include
17 language, "Other members expressed concern because it
18 contained references to ACS, and concern was expressed
19 regarding the adjustment," not because of ACS.
20 Somebody wordsmith that for me, but that's -- ACS
21 wasn't the only reason people objected to the variable
22 adjustment.

1 MR. SANTA ANNA: Then I would suggest, why don't
2 we keep "While some members supported the adjustment,"
3 because there were, in fact, some that did, and pick
4 up, "members that" -- we're going to keep that
5 language, "while." Okay. "Those that did not" -- hang
6 on a second. Let me just jump over here.

7 Just say, "Those that did not express" -- take out
8 "other members." Keep "expressed concern with this
9 proposal" and the word "because," and then pick up here
10 saying, "of the use of" -- keep "because," please.
11 Yeah, there you go.

12 MS. FIALA: So I think we're going to go back to
13 Sami, and then I know we have a slew of other folks.
14 But I think we need to go back because Sami Jo had
15 proposed the amendment.

16 MR. SANTA ANNA: "The ACS in weighing the
17 variables under Sections (a) through (f) of 1000.324."
18 And before we continue, let's go ahead and delete that
19 language there. If you would in the sentence that we
20 just added substitute the word "paragraph" for
21 "sections." Right there, yes. Put "(a)" and "(f)" in
22 parentheses. And if there's any way to add a section

1 sign, place it in front of "1000."

2 MS. FIALA: Christine, you can grab it. Just copy
3 it from -- there's a couple rows up.

4 MR. SANTA ANNA: I could show you how to do it.

5 MS. FIALA: You can just grab it quickly and just
6 copy it and paste it in. And so, now I think we're
7 back to Sami Jo.

8 MS. DIFUNTORUM: Yeah, thank you. And thank you,
9 Aaron, for your edits. I'm going to suggest that we
10 leave the language that I have proposed there, "The
11 majority of tribal committee members did not support
12 this adjustment." And then I think others will
13 probably propose amendments to the other part of it,
14 but that's what I would like to have read into the
15 record. Thank you.

16 MS. FIALA: So Sami Jo is declining the HUD
17 amendment to her language.

18 MS. BRYAN: Randy?

19 MR. AKERS: Yes, just a request for clarification
20 from the committee regarding the language on line 14,
21 you know, saying that the majority of tribal committee
22 members did not support the adjustment. I frankly

1 don't recall how many Members voted for and against it,
2 and so I would just ask if we could -- you know, if
3 somebody could refresh my memory on that. Can we check
4 the notes or something just to make sure that it's
5 accurate.

6 MS. BRYAN: We did check the notes, and we didn't
7 record that. But my recollection was three or four
8 voted against it, and the rest had their thumbs up, so
9 that would be a majority. But then at the same time,
10 it was lumped together, so there were several -- more
11 than one issue being discussed.

12 MS. FIALA: So now we're back to Sami Jo had
13 declined the friendly amendment by HUD. Is that
14 correct?

15 MS. DIFUNTORUM: Correct. Thank you.

16 MS. FIALA: Okay. So if we could, Christine,
17 maybe line that language back out. Keep it so we don't
18 lose it, but line it back out for right now, and the
19 language that Sami Jo had proposed is the one that's
20 currently on the table.

21 MS. DIFUNTORUM: Yes. And if it would help, I
22 mean, it's kind of after the fact to do a roll call

1 vote and recreate it, but maybe people would remember
2 how they voted if that would make HUD more comfortable
3 with the language, because I remember how I voted.

4 MS. BRYAN: Okay. So I see HUD agreeing?

5 MR. AKERS: Yes.

6 MS. BRYAN: So if you all recall, earlier in the
7 day when we discussed this and we voted, and I think it
8 was yesterday actually because I had a hard time seeing
9 the thumbs at the end of the table, and then they
10 weren't up, but they weren't down, and they said, wait,
11 I didn't agree. I remember it all very clearly now.
12 But if you could all if you voted for it or against it,
13 please re-vote so that we can record it for the record.

14 MR. DOLLARHIDE: Voting for or against it?

15 (Members vote.)

16 MS. DIFUNTORUM: What exactly are we voting,
17 showing that we voted for the amendment, the adjustment
18 to the variables, or against the variables? Is that
19 what you're asking?

20 MS. FIALA: I would just vote how you did at that
21 time, and I will count both the yeses and the noes.

22 MALE SPEAKER: (Off audio.).

1 MS. FIALA: To the adjustments to the variables.
2 I think that was the third issue that Todd had brought
3 up. I think it was highlighted in blue at that time
4 yesterday.

5 MS. BRYAN: Are folks comfortable doing that,
6 because now it's a different question, so you're going
7 to get a different tally. But I recall everybody voted
8 for it but four people -- about four people.

9 MS. FIALA: I believe it was also.

10 MS. BRYAN: Was that against it?

11 MS. DIFUNTORUM: We're not talking about voting to
12 reconsider it, which was this morning's vote. We're
13 talking about the vote yesterday on whether to accept
14 the variable adjustment of 4.88 percent. That's what
15 we're talking about.

16 MS. FIALA: This was the language --

17 MR. AKERS: Madam Chair?

18 MS. BRYAN: Yes.

19 MR. AKERS: If it's okay, it has a potential for
20 confusion.

21 MS. BRYAN: It does, yeah.

22 MR. AKERS: And it's really not something -- HUD

1 withdraws its suggestion.

2 MS. BRYAN: Okay, thank you.

3 MR. AKERS: Thank you.

4 MS. FIALA: So now we have --

5 MS. BRYAN: Okay. Gabe.

6 MR. LAYMAN: Thank you. My understanding is that
7 at this point we are considering Sami's original
8 language without the HUD adjustments, and that Sami
9 had, and don't let me put words in your mouth, Sami,
10 but left it open for some additional language that
11 would describe the other reasons that some committee
12 members did not support the proposal. And with that in
13 mind, I'd like to offer what is hopefully a friendly
14 amendment that tries to clarify that.

15 So we would begin with language that says -- and
16 to, I think, hopefully satisfy some HUD concerns, we'd
17 begin by saying, "While some members supported this
18 adjustment, the majority of tribal members expressed
19 concern with this proposal and did not vote in favor of
20 it. Some members opposed the use of ACS as the data
21 source for the formula and, therefore, voted against
22 the adjustment.

1 Other members supported the use of ACS data, but
2 believed that reweighting the formula as proposed by
3 HUD was not appropriate for other reasons.
4 Specifically, some tribes believed that the undercount
5 of one variable, AIAN persons, could not be properly
6 assumed to translate to other variables that measure
7 households rather than families." That's it. Thank
8 you.

9 MS. BRYAN: Sharon?

10 MS. VOGEL: Thank you. Sharon Vogel, Cheyenne
11 River Housing Authority. I wanted to go back for
12 clarification on page 22, line 7. It says, "HUD
13 recognizes that the weighting methodology used by the
14 Census Bureau." The committee didn't discuss weighting
15 methodology, and I think that needs to be captured in
16 this area here.

17 Somewhere it has to be captured because we didn't
18 discuss it, and, therefore, that was one of the reasons
19 that I couldn't vote for it. The main reason was I'm
20 opposed to using ACS data, but I was also very
21 concerned that it was leading someone to believe that
22 the weighting methodology was an issue of part of our

1 negotiations, and it was not.

2 MS. BRYAN: Would you want to add a sentence,
3 Sharon, in front of the word "HUD," that "Although the
4 committee members did not discuss weighting
5 methodology?"

6 MS. VOGEL: "Comma, HUD recognizes." I wouldn't
7 have a problem with that. I think it needs to be
8 captured for the record.

9 MS. BRYAN: Okay. I want to just call a point of
10 order on myself. I forgot what you said. You were
11 next. I think we got to finish the sentence we were
12 working on so we don't get lost.

13 MR. LAYMAN: Having suggested the friendly
14 amendment, unless the committee feels the need to
15 bifurcate these two issues, I wouldn't be opposed to
16 incorporating this language as part of the overall
17 friendly amendment that we made to Sami's language
18 simply to make this easier for everyone.

19 MS. BRYAN: Is that acceptable to you, Sami Jo,
20 what you see the changes that are on the screen in
21 front of you?

22 MS. DIFUNTORUM: I would eliminate the last part

1 of the last sentence that Gabe proposed. And I thank
2 you for your language, but I would end it, "(a) and
3 persons cannot be properly assumed to translate to
4 other variables, period," because I believe that was
5 the point that I was trying to make. And I would leave
6 it at that. Thank you.

7 MR. SANTA ANNA: Madam Chairperson.

8 MS. BRYAN: Yes.

9 MR. SANTA ANNA: Since the language is originally
10 proposed by HUD, we'd like to be able to state that we
11 would not accept the language that's being added there
12 that talks about "Although the committee members did
13 not discuss the weighing methodology," because we
14 believe that over the course of the last couple days,
15 this is, in fact, what we've been talking about.

16 MS. FIALA: So I would maybe suggest that we
17 should continue for the moment with Sami Jo's, and then
18 come back up to that other discussion because I think
19 we're going to start having fairly significant
20 discussions. That would just be my suggestion is just
21 to focus, try to narrow down the language for Sami Jo,
22 and then move on to the second issue. Just my two

1 cents.

2 MS. BRYAN: Thank you. Yeah, that's a good idea.

3 So we'll go back to Sami Jo looking at line 13 on
4 through, I believe it's the end of 4 on the next page.

5 MS. DIFUNTORUM: I am fine with Gabe's suggestion
6 -- excuse -- with the amendment that was just made.

7 MS. FIALA: Karin is going to be -- we'll put
8 Karin into the queue.

9 MS. BRYAN: Thank you. Lourdes?

10 MS. CASTRO-RAMÍREZ: Yes, a friendly amendment to
11 Sami's proposed language and Gabe's proposed language.
12 Under I think it's line 20, ACS data, I believe that's
13 reweighting the data, not the formula, right? If we
14 can just substitute "data" for "formula." And then the
15 second item that I'd like to propose is farther down.
16 If you can scroll down. It's in the language that
17 Aaron proposed. "HUD, therefore, requests" -- let's
18 see, line 6 and 7. "HUD, therefore, requests public
19 comment on the pros and cons." I'd like to add "and
20 also any alternative proposals regarding the use of the
21 ACS adjustment."

22 MS. FIALA: So on public comment on the pros and

1 cons -- I'm sorry -- and any other --

2 MS. CASTRO-RAMÍREZ: "Alternative."

3 MS. FIALA: "And any other alternative,"

4 Christine. Thank you. Jon was next in the queue, but
5 was that --

6 MS. BRYAN: Okay.

7 MS. FIALA: Sami Jo, that was your language? Was
8 that okay?

9 MS. BRYAN: I think that was, yeah, HUD's proposal
10 so they can modify it. Jon?

11 MR. TILLINGHAST: Okay, let's see. Go to line --
12 what is now line 19. I think the sentence that starts,
13 "Other members supported the use of," that stays in. I
14 think that deletion there is inadvertent. Besides
15 that, I think -- now, if you go down to line 5 and 6,
16 it now reads that "HUD is aware of the concerns
17 regarding the use of ACS as a data source." I guess
18 what that begs the question is, is HUD also aware of
19 the concerns that are expressed in what is now lines 19
20 through 22, because the implication is you're not
21 concerned about those concerns since the only thing you
22 expressed concern about is use of the ACS.

1 MS. CASTRO-RAMÍREZ: We'd like to amend that to be
2 all inclusive.

3 MR. SANTA ANNA: So what we could add there at the
4 end of the first sentence, "and its use" -- let's see,
5 hang on a second -- "for reweighing the variables."

6 MR. TILLINGHAST: Yeah, again, the concern is not
7 use of the ACS. Let's put that off to the side because
8 that wasn't the concern. The concern was the use of
9 the undercount methodology for reweighing variables (a)
10 through (f). It's got nothing to do with the use of
11 the ACS.

12 MS. FIALA: Earl was in the queue next, Madam
13 Chair.

14 MS. BRYAN: Thank you. Okay. So HUD modified
15 HUD's proposal. I'm sure they agree with themselves.
16 Next is Earl.

17 MR. EVANS: Thank you. A couple of things. I
18 think that the amendments made by Sami Jo and Gabriel
19 are good. A concern that I have is when we go to
20 what's now line 5, "HUD is aware of concerns expressed
21 by tribal," I don't -- I don't think it's even
22 necessary to say that because if it's in the paragraph

1 above, if HUD reads it, then they're aware. So I don't
2 think there's a need to point out in writing that
3 they're aware.

4 I think you should just delete that entire
5 statement and just say, "HUD, therefore, requests
6 public comments on the pros and cons and any other
7 alternative regarding the use of the ACS adjustment."

8 Also, in terms of going back up to about line 18
9 where it says, "Some members opposed the use of ACS as
10 a data source for the formula. Other members supported
11 the use of the ACS data, but believe," yadda, yadda,
12 yadda, "or for some other reasons." I think it's
13 important to keep those in there because I think those
14 accurately describe the majority of the arguments that
15 were taking place on both sides.

16 And so, if we've got to -- I think I heard Aaron
17 say that they didn't like having that in there, and if
18 that's the case then maybe we just go back to Sami Jo's
19 original language and then just leave it without any of
20 the additional explanation. But if we're going to have
21 an explanation in there about the fact that some
22 opposed just because it was ACS, then we definitely

1 need to keep the other side of what was presented in
2 there as well. Thank you.

3 MS. BRYAN: So at this time, we've discussed with
4 the facilitators that according to the meeting
5 protocols that we've set into place, this has been
6 modified more than the amount of times. So I just want
7 to let you guys know I feel like we're making progress.

8 We can continue on the discussion and adding language.

9 I just don't want it to get too far of the track that
10 we're not able to vote, at least just on this little
11 section. And we'll have to go back to the paragraph
12 that Karin spoke of earlier. I think we'll need to do
13 that separately.

14 But so, we'll keep it going, calling for people in
15 the queue to finish this language. But it has gone
16 beyond the three friendly amendments, just so you're
17 aware.

18 MS. FIALA: So Rusty was next, Madam Chair.

19 MS. BRYAN: Rusty?

20 MR. SOSSAMON: I agree with the language that Sami
21 put up there. Specifically what I recall yesterday is
22 these were offered in language in (b) (1) and (b) (2)

1 together. And the vote was taken on that, and there
2 were a number that supported it. There was a number
3 who did not. One of them I recall specifically saying,
4 hey, we haven't had this information long enough to
5 really digest it and understand what it's saying.

6 Yesterday I did support this, but after reviewing
7 it and really considering exactly what it says in
8 (b) (2), I wouldn't support it because of what Sami is
9 saying here. Using the ratio of the AIAN count
10 adjusted by this undercount number to weight (a)
11 through (f) is what we don't agree with. We agree that
12 it should be used in (g), which is just the AIAN count,
13 but not on the other variables, (a) through (f).

14 Now, if you want to -- and that was what we
15 thought we accomplished today when we revisited this
16 whole issue, but we only dealt with the undercount of
17 AIAN in (g) and the (a) (g), and not using that ratio of
18 (g) to reweight these other ones. Now, that's my
19 understanding of it, and that's why we object to and I
20 object, and would like it seen in the record of who at
21 this committee objects to using that ratio derived from
22 (g) to weight and reweight these others, (a) through

1 (f) variables.

2 MS. BRYAN: So I'm going to -- I'm going to call
3 for the question, and know that if this does not pass,
4 that the folks in the queue can re-propose it with what
5 you agree with, and add your alternative that you were
6 going to oppose, because it's getting -- there's too
7 many friendly amendments on this table, and a statement
8 that it won't be agreed to at this point.

9 So I'm going to call the question on this language
10 in front of us, our page 22, line 5, "Control Total
11 Weights With the ACS." No, no, no, you're leaving that
12 part out. So where do we start with this?

13 MALE SPEAKER: (Off audio) -- to the end of --
14 "not included in this vote" after line 4.

15 MS. BRYAN: End of 4.

16 MALE SPEAKER: And then we can have more
17 discussion after that.

18 MS. BRYAN: Can we start at the top, though, so we
19 can get the whole thing in? Where are we? Like during
20 the eighth Rulemaking Committee, can we start there?
21 So line 13, which will be our line -- our line 10 on
22 page 23 down to -- does that include the -- no, that's

1 -- okay. So it's new line 4 on page 24. Line 13 to
2 the end of line 4 on the screen.

3 Do we have a consensus?

4 MR. DOLLARHIDE: For what? We're voting on line?

5 MS. BRYAN: Line 13 at the top of the screen
6 through the end of line 4 at the bottom of the screen.

7 MR. DOLLARHIDE: Which is marked out.

8 MS. BRYAN: Right, it's marked out, but it's still
9 sitting in front of us.

10 (Members vote.)

11 MS. BRYAN: Did we get a vote from Karin?

12 MS. FIALA: She voted no. For the record, Karin
13 Foster voted no.

14 MS. BRYAN: So Karin is the -- is the only
15 dissenter? Am I -- as the only dissenter, can she
16 please offer a reason and an alternative?

17 (Pause.)

18 MS. FIALA: Karin Foster said, "Yes, I voted no
19 because I wanted to ask those who are present to
20 confirm that a majority expressed concern and opposed
21 the provision yesterday. I was in favor of it, but I
22 did not see the vote, of course."

1 MALE SPEAKER: What was the comment?

2 MS. FIALA: Karin commented that she expressed no
3 because she did not know how many members expressed
4 dissent yesterday.

5 MALE SPEAKER: (Off audio.)

6 MS. FIALA: I believe her comment was concern
7 about the vote yesterday, not the vote today.

8 MS. BRYAN: Okay, so --

9 MR. SANTA ANNA: I think --

10 MS. BRYAN: Can she offer an alternative proposal?

11 (Pause.)

12 MS. FIALA: Just a note, I am trying to dial into
13 the conference line so I can hear Karin directly to
14 speed up. Right now she's chatting over the web chat,
15 and I think this may help speed up the process. So
16 please just a moment of your patience.

17 (Pause.)

18 MS. FIALA: Karin also said if no one can confirm
19 that a majority of tribal committee members did not
20 support this adjustment, then it should just refer to
21 some other way --

22 FEMALE SPEAKER: To some one way.

1 MS. FIALA: To some way one and some the other.

2 MR. SANTA ANNA: I think the easiest way to deal
3 with that would be substitute the word "some" for
4 "majority," and also delete -- I'm sorry.

5 MS. FIALA: And so, that was a change to Sami Jo's
6 proposed language, and Sami Jo is --

7 MS. DIFUNTORUM: Let me see what she's proposing,
8 but I think the way that it was written is accurate,
9 and we just went through this. If people want to
10 indicate how they voted yesterday, I'm fine with that.
11 I don't know how accurate that is a day later, but --

12 MR. SANTA ANNA: Well, that's --

13 MS. FIALA: Okay.

14 MS. FOSTER: Yes, hi.

15 (Echo.)

16 (Laughter.)

17 MS. FIALA: (Speaking to Ms. Foster
18 telephonically.) Okay. So that's not going to work.
19 If you just want to tell me, and then I'll repeat it
20 back. You echoed like the Grand Canyon in here, so.
21 Okay, I will just dictate for you.

22 (Paraphrasing Ms. Foster) Sami Jo's amendment was

1 to refer to a majority of the committee members, but a
2 majority did not support the adjustment. She was not
3 there to see the votes. She did support it. And so,
4 if it was not a majority, it should not reflect that.

5 MS. DIFUNTORUM: Not to be argumentative, but one
6 person not voting in favor of something doesn't make
7 everyone else not a majority.

8 MR. SANTA ANNA: Can I -- can I go ahead and
9 suggest again, you know, the goal here is to be able to
10 provide some representation of the -- of the
11 proceedings of this committee with regard to all the
12 work that was done yesterday and today. I would, you
13 know, very much ask that, you know, we not get hung up
14 over a word in the preamble with regard to whether or
15 not it was a majority, particularly when we can also
16 say that there's several. We could say "some." We
17 could say "many."

18 We could say any number of other ideas to try to
19 convey to the public who will be reading this preamble
20 that was split -- that caused -- that was split in the
21 committee, that some approved it, some liked it, some
22 didn't. And that's all that we're trying to do. I'm

1 not sure that, you know, that characterizing the vote
2 as a majority or otherwise, particularly given the
3 definition of "consensus," which basically requires
4 that one person can vote down a proposal, that the word
5 "majority" is critical to providing an accurate
6 description of what we've done today and yesterday.

7 Again, you know, keep in mind that what we're
8 trying to do here is just provide the public a basis to
9 be able to comment on what HUD will be proposing. And,
10 you know, if I look at the agenda, I still have to go
11 through next steps, and there are plenty of next steps
12 that I am extremely concerned about. And so, I would
13 -- I would suggest that we try to move this forward by
14 substituting "several" for the word "majority" or
15 something other than -- something other than "majority"
16 that you might suggest.

17 MALE SPEAKER: (Off audio.)

18 MS. BRYAN: Help us out. No, you can't. Point of
19 order. No, you can't. You have to be yielded time to.

20 MR. DOLLARHIDE: I agree with you to an extent,
21 but I feel like this -- where we're at right here is
22 very important to the public commenting. And I say

1 that because we're talking of a non-consensus item that
2 HUD has tried to insert language stating that they are
3 aware of the concerns of the committee, but yet you
4 want public comment on this. So that tells me that the
5 issue quite isn't dead yet, even though this committee
6 has -- it's been a non-consensus item.

7 So, therefore, I think that, in my opinion, it's
8 very important that we get the majority of the folks,
9 not just a few, not just several, but the majority of
10 the folks on here, because that is going to be an issue
11 down the road, I believe.

12 MR. SANTA ANNA: If I could respond to that, let
13 me say in, you know, the most emphatic way possible, I
14 don't -- I believe that the work that this committee is
15 doing today and the work that we're doing on this
16 preamble is extremely important. And I didn't mean to
17 suggest that the work that we're doing isn't important.

18 I think this is -- you know, I think that everything
19 that we're doing, including going through this
20 preamble, and trying to figure out how to describe a
21 particular item is critical.

22 What I am suggesting is that we don't have a -- we

1 don't have a record of who voted in favor of the
2 proposal, nor do we have a record of those that voted
3 against the proposal. What we do have is knowledge
4 that there was a -- that it was a non-consensus item,
5 that at least one person voted against it. In
6 listening to the discussion here, I've heard people
7 give various recollections of how that vote turned out.
8 You know, some say it was a majority. Some say it
9 wasn't a majority. Some say there was three. You
10 know, my own sense -- my own recollection was that it
11 was three.

12 But, again, it's hard to be able to try to
13 pinpoint that term when we don't have a record of the
14 vote. And all that I am suggesting is that as opposed
15 to getting hung up here on trying to recreate that,
16 that we try to find some resolution to be able to
17 finish with the work of the preamble so that we can
18 then talk about the important next steps that need to
19 take place.

20 You know, one of the -- one of the things that you
21 will hear me say when we get to the point of next steps
22 is that one of the things that we -- that I am

1 extremely concerned about is time, that time is of the
2 essence to get this things finished for a lot of
3 reasons. Now, I understand that we do need to be able
4 to finalize the preamble before we get to that point,
5 but I just want to be able to ensure that we have
6 enough time left in the day to be able to talk about
7 those issues because they are very important for the
8 members to be able to understand what the next steps
9 are, what the challenges are to being able to move
10 forward with this rule.

11 MS. FIALA: So I just want to check in to where we
12 are. We had the highlighted language that was voted
13 down. Karin proposed alternate language, which I
14 believe was also not accepted. So that puts us back to
15 the very beginning, which I believe was the original
16 language that's in our handouts. Is that correct? And
17 then we said we could introduce new -- the language
18 again, but we wanted to clear it out because we were
19 getting too many amendments. Is that -- is that
20 accurate to where we are right now? Randy? Randy?

21 MS. BRYAN: Sami Jo didn't approve Karin's
22 amendment, so it didn't pass with Karin's voting it

1 down. Randy?

2 MR. AKERS: Could we ask for a friendly amendment
3 that may help on this? I don't know who is appropriate
4 to go next in the queue.

5 MS. FIALA: I believe that was --

6 MS. DIFUNTORUM: I would yield to Patterson Joe.

7 MR. JOE: Patterson Joe, Navajo Housing Authority.

8 I'm going to call a point of order here. Under the
9 protocol, (3) (a), decision making, consensus, the rule
10 specifically says the committee member has to be
11 present at the committee meeting with regarding to a
12 particular issue to raise an objection -- to express an
13 objection. So under my read, Karin was not present
14 yesterday, and I don't know if she called in. I don't
15 believe that qualifies as being present. "Present"
16 means physically present in my mind, and I would ask
17 that her objection be disregarded on this issue, and
18 allow the committee members who were here and saw the
19 majority, let their vote prevail.

20 MS. BRYAN: Thank you for your comments. I
21 believe that as a result of the weather we were
22 allowing to have folks available by phone, and Karin

1 Foster did participate in the roll call and has
2 attended both days of the meetings. So with the
3 extenuating circumstances, I would feel very
4 uncomfortable disregarding her participation at this
5 point at the end of day two.

6 MR. AKERS: If I --

7 MS. BRYAN: HUD?

8 MR. AKERS: Yes, Chairpersons, Committee, I would
9 like to offer a proposal regarding the line 17 and 18.

10 It does seem that there is some ambiguity as far as
11 the number of votes for and against. Rather than
12 belabor that, if it would help to clarify this, I would
13 -- HUD would propose that for line 17 that the sentence
14 -- the sentence end right after the word "proposal,"
15 and that the words following that, "and did not vote in
16 favor of it," are removed, and just leave it like that.

17 And we would -- thank you.

18 (Laughter.)

19 MS. BRYAN: All right. Given our time constraints
20 and how much we've worked on this and battered this
21 language around, I'm going to ask Sami if she accepts
22 that friendly amendment.

1 MS. DIFUNTORUM: I do. Thank you, Randy.

2 MS. BRYAN: So now we're going to call for a vote
3 from line 13 at the top of your screen through the end
4 of line 4 at the bottom of your screen.

5 (Members vote.)

6 MS. BRYAN: Did that bring Karin in?

7 MS. FIALA: We have a yes from Karin via the
8 phone.

9 MR. SAWYERS: (Off audio.)

10 MS. BRYAN: No.

11 MR. SANTA ANNA: Yeah, in number -- in line 14,
12 the sentence that reads, "The committee did not reach
13 consensus on this adjustment" conveys the fact that it
14 was -- it was not accepted.

15 MR. SAWYERS: I'll yield my time. I'm getting
16 ready close up there.

17 (Laughter.)

18 MS. BRYAN: Hold on. Hold on, Jack. You weren't
19 called on yet. We're having a vote, and let's finish
20 the vote. You're going to vote it down?

21 MR. SAWYERS: (Off audio.)

22 MS. BRYAN: Okay. Well --

1 MR. SAWYERS: There's lots of folks who want to
2 vote.

3 MS. BRYAN: So Randy is next, then Sami Jo, and
4 then Jack. If you two are already done, put your cards
5 down, and then Jack.

6 MS. FIALA: If we could just re-clear out the
7 queue. If you still would like to speak, keep them up
8 and we'll keep you on the list. Otherwise, we'll go
9 ahead and clear it out. So Sami Jo, no. So then it
10 would be Jack.

11 MR. SAWYERS: Now I've forgotten what I was going
12 to say I waited so long.

13 (Laughter.)

14 MR. SAWYERS: I want to yield my time -- a little
15 time to -- a little time to Jim Wagenlander.

16 MR. WAGENLANDER: As to this issue, we've already
17 seen where there have been discussions of issues, but
18 the matter hasn't been put to a vote. Here, reading
19 this, there's no indication, no confirmation, that it
20 was defeated, and that's a concern. I believe if we
21 use the original language that we were debating and we
22 just took the word "majority" and followed Aaron's

1 suggestion and said that many of the tribal members
2 expressed concerns and some opposed, that that probably
3 could satisfy Karin and everybody else in the room.
4 It's not my suggestion. It's Aaron's original
5 suggestion. And I suspect that would reach agreement
6 as long as it says it was voted down.

7 I do -- in the next paragraph we have some other
8 comments, but we understand they're not yet to be
9 considered. But I think if you just simply ask Karin
10 on the phone if she agreed to that, maybe the matter
11 will be resolved.

12 MS. FIALA: Karin had voted yes to the language --

13 FEMALE SPEAKER: But she also indicated "several"
14 or "many."

15 MR. WAGENLANDER: Okay.

16 MR. SANTA ANNA: I want to just make clear the
17 fact that the language that HUD is proposing is the
18 language -- is Aaron's language that you talk about.
19 You know, it's not a matter of -- it's not a matter of,
20 you know, going back to anything prior to what we've
21 talked about here because this is the language that HUD
22 is going to be wanting to have us consider.

1 So, you know, in my view frankly, the sentence
2 that I pointed out, the committee did not reach
3 consensus on this adjustment. It conveys the idea that
4 there was a vote, and that the vote did not reach
5 consensus. There is no other -- frankly there is no
6 other reasonable interpretation of that sentence
7 because we would not have even talked about consensus
8 unless there was a vote.

9 MALE SPEAKER: (Off audio.)

10 MR. SANTA ANNA: But we say that already.

11 MALE SPEAKER: No, you don't. How about a
12 consensus vote?

13 MS. BRYAN: Okay. So HUD is not agreement with
14 the proposed language, and I'm next in the queue. My
15 only comment is that -- do we need to vote first?

16 MS. FIALA: So the next in the queue was Annette
17 Bryan.

18 MS. BRYAN: Okay, thank you. My only concern is
19 that when we talk about committee members and we don't
20 call them "tribal members," and that can just be a
21 comment throughout. There's a couple of places in here
22 where we're -- I think Sami used the word "tribal

1 committee members," and I like that. And then there's
2 other places where we talk about tribal members, and
3 then you say specifically "some tribes believed that
4 the undercount."

5 And so, just being careful about the way we use
6 the word "tribes" and "tribal members" because they do
7 have legal definitions. So I don't know if we need to
8 change it here just to make it consistent. That's my
9 concern.

10 And I also wanted to ask Karin Foster, based on
11 this discussion, if she would be willing to withdraw
12 her consent --

13 MR. DOLLARHIDE: Original.

14 MS. BRYAN: Her original dissent. I'm sorry. Can
15 we ask Karin Foster, because we've had -- she's not in
16 the room.

17 MR. SANTA ANNA: I think we have a proposal that
18 hopefully will resolve the --

19 MS. BRYAN: I've got to -- let me see if Karin is
20 willing to -- yeah, and then --

21 MS. FIALA: So the question is --

22 MS. BRYAN: And then we can -- then we have

1 language we all agreed on originally.

2 MS. FIALA: So the question for Karin is if we
3 kept the language as currently up if she would
4 withdraw.

5 MS. BRYAN: If she was willing to withdraw her
6 original dissent.

7 MS. FIALA: With the current language.

8 MR. DOLLARHIDE: Where we started.

9 MS. BRYAN: Where we started when Sami Jo proposed
10 her language.

11 MS. DIFUNTORUM: I believe we're talking about the
12 language before Randy's amendment, correct? That's
13 where she had not consented.

14 MR. DOLLARHIDE: The very first one where we all
15 had --

16 MS. DIFUNTORUM: Where everybody else had --

17 MS. FIALA: That language is a couple versions
18 ago.

19 FEMALE SPEAKER: (Off audio.)

20 MS. DIFUNTORUM: I believe, if I may, Randy's
21 amendment was just striking --

22 MS. FIALA: Just striking --

1 MS. DIFUNTORUM: -- that one part of the sentence.

2 MS. FIALA: Correct.

3 MS. DIFUNTORUM: So if we put that back where it
4 was, I believe that's what we're all agreeing to.

5 MS. FIALA: So let's put that back in, Christine.
6 So the way it is on the screen currently, the question
7 for Karin is would she withdraw her dissent. This was
8 Sami Jo's language prior to HUD's amendment

9 MS. BRYAN: Yes. Now that we've been able to just
10 have some discussion that she's been able to listen in
11 to, that's a question for her.

12 MS. FIALA: Karin Foster says "If others vote, it
13 was a majority. I will defer to their assessment.
14 Yes, of course."

15 MS. BRYAN: Thank you. Jason.

16 MR. ADAMS: Madam Chair, thank you. Jason Adams,
17 Salish-Kootenai. My comment isn't in regards to what
18 we've been talking about here for the last several
19 minutes. It's in regards to a point of order in
20 regards to how we got to where we are today in looking
21 back through the minutes of our previous meeting in
22 Scottsdale and our protocols. And I keep hearing Aaron

1 say "this is HUD's language," "this is HUD's language."

2 The drafting group per the protocols is supposed
3 to be the group that comes forward with a comprehensive
4 preamble for presentation to the full committee. Now,
5 absent that, I'm not sure where we gave HUD the
6 authority to do this.

7 I do recall in the minutes here that Mr. Santa
8 Anna made a presentation of the overview of the
9 preamble language and how it plays out in regards to a
10 final document. There was a statement made also that a
11 preamble is a short, concise explanation of what the
12 regulatory text means. The preamble is for the benefit
13 of the public who will review it and give them a sense
14 of what the committee has done and why.

15 This also goes on to state that after the
16 overview, Mr. Santa Anna reminded the committee that
17 the drafting committee needs to add a recommendation
18 for the work group to look at the needs factors, and
19 also needs to add the preamble text for 1000.330. One
20 thousand three-thirty is what we're here talking about,
21 and it's the context of what has to be captured in the
22 preamble. That was supposed to come from the drafting

1 group, the drafting committee, not HUD. It's not
2 supposed to be HUD's language.

3 And so, that's what I wanted to get on the record
4 is I object that this was supposed to be something that
5 our drafting group, per the protocols, was to present
6 to us. And it's supposed to be an overview of what
7 took place, and so I think that's what we want to
8 capture here. And so, for HUD to say that they don't
9 want to accept these amendments when it's our work
10 group or our committee's product that we're supposed to
11 be working towards is an overview of what happened
12 here.

13 So I would hope from that perspective that we
14 would accept amendments, make it clear for the public
15 that's going to read this that this is what we did.
16 That's the point here, I believe, of the preamble is
17 this is what took place, not wordsmith everything to
18 death. It's just capturing what happened here. So I
19 just want to put that on the record. Thank you.

20 MS. BRYAN: Thank you, Jason. Gabe?

21 MR. LAYMAN: So I want to go back in time just a
22 couple of minutes here. I think I heard Karin indicate

1 that if the other committee members present agreed that
2 it was a majority of tribal committee members that
3 expressed concern and did not vote in favor of the
4 proposal, that she was okay with the language as it
5 appears on this screen. It can be inferred by the fact
6 that everyone who was present yesterday, everyone who's
7 in this room today who is a member of the committee
8 voted in favor of the language that includes the word
9 "majority," and the language about that majority
10 expressing concern and not voting in favor of the
11 proposal, that there was, in fact, a majority.

12 So with that being said, I'd call the question and
13 ask if we can get consensus on the language that is on
14 the screen presently. Thank you.

15 MS. BRYAN: Thank you, Gabe. We have a call for
16 the question. On the screen in front of you, line 13
17 down to the bottom of the page, next page, line 4 --
18 end of line 4. Do we have a consensus?

19 (Members vote.)

20 MS. BRYAN: And Karin is voting yes?

21 MS. FIALA: Karin voted yes.

22 MS. BRYAN: Okay. We have dissention from HUD.

1 Can we please have an explanation and offer an
2 alternative?

3 MR. AKERS: Yes. Thank you, Chairpersons. Again,
4 I think with the goal of just capturing, you know,
5 accurately, you know, what the committee has done and
6 the good work the last two days, just trying to clarify
7 it, we would make a couple of suggested edits. One
8 would be, I think, to address the concern that Jack
9 Sawyers had raised a little earlier.

10 We would propose that in line 14 that -- line 14,
11 the word could be --

12 MR. SANTA ANNA: No, the committee did not reach
13 consensus on the vote for this. Did not reach
14 consensus on the vote for this.

15 MR. AKERS: I'm sorry. On line 15, we would
16 propose that the sentence be revised to say "The
17 committee did not reach consensus on the vote for this
18 adjustment." So that would be the first of two edits
19 that we would suggest.

20 The second is that, again, to basically revisit
21 the previous proposal that I had suggested on behalf of
22 HUD is that on line 17 and 18, again, because we're not

1 entirely clear as far as the voting record of whether
2 the majority of tribal committee members had voted one
3 way or another on it, we would propose to delete that
4 language that has just been stricken -- I'm sorry --
5 and did not vote in favor of it. So those are the two
6 suggestions that we would propose as far as edits,
7 again, just to try to clarify. Thank you.

8 MS. FIALA: It's Lafe.

9 MR. DOLLARHIDE: Lafe?

10 MR. AKERS: Can we call for a vote on that -- on
11 the two proposed revisions?

12 MR. DOLLARHIDE: The question has been called.

13 (Members vote.)

14 MR. DOLLARHIDE: I see consensus.

15 MS. FIALA: Just to ask, the people in the queue,
16 do you need to stay on, or can I take you off?

17 MR. HAUGEN: No, I wanted to make a comment.

18 MS. FIALA: Okay.

19 MR. HAUGEN: And it's in regards to what Jon had
20 talked about earlier with this, and Randy helped
21 clarify some of the language that I wanted to put in
22 there. But Jon talked earlier that when we were in

1 Scottsdale, Phoenix, that we all voted for ACS or that
2 we supported it, and that's not true. Several of our
3 -- several of the tribes brought resolutions for it
4 that dismissed ACS and that we didn't support it. So I
5 just wanted to make that clear and on the record that
6 there were several of us. Thank you.

7 MS. FIALA: So it was Randy for that.

8 MR. TILLINGHAST: I was called out by name. I
9 never said that. Did I say that? I never said that.
10 No, that was my twin brother, Harry. I never said
11 that.

12 (Laughter.)

13 MR. TILLINGHAST: I don't recall ever saying that
14 honestly.

15 MR. HAUGEN: Paraphrasing, but what you said was
16 that we did support ACS, but we didn't support some of
17 the weights and some of the data. That's what you
18 said. And so, I wanted to clarify that we did -- there
19 were several tribes that didn't support it through
20 tribal resolutions.

21 MS. FIALA: After that, we had Earl, Gabe, and
22 Jack. Remove Earl, so Gabe?

1 MR. LAYMAN: And actually my comment is on the
2 next section I believe we were going to take up, which
3 starts at line 5. And if now is not the time, I'll
4 hold that comment.

5 MS. FIALA: I'll put you on the queue for that
6 next issue. So then it was Jack and then Jason Adams.
7 Okay. So I think we're cleared with the queue for
8 this subject.

9 MR. SANTA ANNA: Then we can continue to move on.

10 MS. FIALA: So starting a fresh queue.

11 MS. BRYAN: Did you have a card up, Jack?

12 MR. SAWYERS: I did, but it was a long time ago.

13 MS. BRYAN: Okay. We're going to call on Jack
14 real quick.

15 MR. SAWYERS: It's the same as Gabe's, so I'll do
16 the next section.

17 MS. BRYAN: Oh, we're getting ready for the next
18 section. Oh, you guys are ready. Let's get this done.

19 MR. DOLLARHIDE: You're in line already, huh,
20 Jack?

21 MS. BRYAN: All right, Aaron, you're on.

22 MR. SANTA ANNA: Okay. My hope is that since

1 we're talking about two sentences here that we can kind
2 of get through this quickly, but we'll see. The next
3 section is something that we added as we were
4 discussing the preamble; that is, a specific request
5 for comments on the pros and cons and whether or not
6 there are any alternatives regarding the use of ACS for
7 the adjustment.

8 The language that we have here, I think, in the
9 discussion back and forth struck out the first
10 sentence, which is fine with HUD. And so, what we
11 would be asking for approval is a one-sentence. I
12 think, you know, frankly, now that I think about it, we
13 might want to have an introduction for that sentence.
14 So we would say, "Because of the discussions regarding
15 the use of the ACS adjustment," and then keep
16 everything else.

17 I'm sorry. Could we add "specifically request?"
18 The word "specifically" after "therefore," correct.

19 MS. BRYAN: So, Aaron, we're working on lines 5
20 through the end of 9? Okay. And we have Gabe.

21 MR. SANTA ANNA: And just one more grammatical
22 issue is making the word "adjustments" singular. Thank

1 you.

2 MS. BRYAN: Go ahead, Gabe.

3 MR. LAYMAN: First, Aaron, you're good with this,
4 right? Okay. So a question here, and this is a
5 question for HUD. The consultative process that is
6 used for the promulgation of regulations under NAHASDA
7 is negotiated rulemaking. So hypothetically let's say
8 HUD receives a number of very substantive comments in
9 response to this request. Those comments include a
10 number of ideas that perhaps haven't been discussed at
11 all or were only touched on briefly. And HUD decides,
12 hey, this is a great idea. We should move forward with
13 this new idea.

14 What will be the consultation process for other
15 tribes who have not had the opportunity to weigh in on
16 any additional proposed adjustment or change to the
17 formula to engage with the Federal government during
18 that process? Thank you.

19 MS. BRYAN: We'll get a response from Aaron?

20 MR. SANTA ANNA: Yes. Initially, as we've talked
21 about before, once public comments are finalized, we
22 will be again sitting down to talk about those comments

1 and going through those to be able to make decisions
2 relative to what the final rule will be looking like.

3 In terms of other tribes that aren't present here
4 today, we certainly want to encourage their
5 participation through the public comment system, the
6 request for public comments. And we also want to be
7 able to make sure that people understand that this is a
8 public deliberation, and that people who want to be
9 able to come in and address the committee, of which HUD
10 is a part, are able to do so to be able to express
11 their ideas, their concerns. And those items -- those
12 ways of -- those avenues will be considered before we
13 reach the final rule stage.

14 MR. LAYMAN: So as a point of clarification, am I
15 hearing that if additional proposals are offered by the
16 public, if they submit comments that have different
17 ideas about how the data might be manipulated or
18 adjusted, those ideas would be brought before the full
19 committee at the final session potentially for
20 additional negotiation? And if the answer to that is
21 yes, would the preparation for that final session
22 include, for example, data runs that might be necessary

1 for committee members to understand the implications of
2 those additional proposed adjustments or changes?

3 (Pause.)

4 MR. SANTA ANNA: Okay. Initially in answer to
5 your first question, Gabe, and I think the lawyers in
6 the room understand this, HUD is legally required to
7 consider all public comments that come in based on
8 public comments -- the public comment exercise. That
9 is something that we have to do.

10 What HUD is intending to do, and this goes into
11 probably the next section of this discussion, which is
12 next step, is that HUD will be providing the committee
13 a summary of all the public comments that come in so
14 that when we next get together, we can be able to look
15 at those comments and give consideration to whether or
16 not changes should be implemented in the final -- at
17 the final rule stage.

18 With regard to data runs, you know, we can't --
19 it's too early to be able to anticipate what type of
20 comments we may be getting and what types of data runs
21 may be requested. You know, certainly I think that
22 it's fair to say that we have attempted to try to

1 provide as much data to you as possible with regard to
2 all of these proposals, and we've tried to do so in a
3 very short time frame to make sure that you have as
4 much information as possible in order to do your duties
5 as members of this committee. Not only for this
6 committee, but for your tribes and for the -- for
7 Indian Country out there.

8 You know, that attempt to try to be transparent
9 will continue, but at this point we cannot anticipate
10 what kind of ideas come up and what that might cause
11 with regard to data runs. But the comments will be
12 considered.

13 MR. LAYMAN: Thank you, Aaron, and thank you, HUD.
14 We appreciate the response.

15 MS. BRYAN: Thank you. Jack?

16 MR. SAWYERS: I'd like to yield my time to Jim
17 Wagenlander.

18 MR. WAGENLANDER: This is a very extraordinary
19 statement, I believe, to be added at this time. It
20 seems clear that what HUD is stating is that the
21 comments will be requested during the comment period
22 called for after this committee concludes its work at

1 this stage, correct? That you're not going to be
2 requesting additional special comments on this issue
3 before you publish your draft regulations, correct?

4 MR. SANTA ANNA: That is correct.

5 MR. WAGENLANDER: And so, I would just suggest
6 that if HUD wishes to state that as its intentions or
7 state the intentions that it will be specific
8 requesting comments on the ACS adjustment, that this
9 section say HUD, therefore, specifically -- HUD,
10 therefore, has the intention to specifically request
11 additional public comments on the pros and cons of any
12 other alternatives regarding the use of ACS adjustment.

13 I don't believe at this stage in negotiated
14 rulemaking you can announce that you are inviting
15 comments, but you can, and I think it's appreciated,
16 that HUD is disclosing now that it intends to ask for
17 comments on this issue when you go to publish the draft
18 regulations. And the addition of the word "additional"
19 is to emphasize that there already has been public
20 comment through this process on this issue, and you are
21 disclosing that you are asking for additional public
22 comment.

1 And the last point is the addition of the
2 alternatives is requested of HUD, so HUD will be
3 seeking comments on ACS and any other alternatives on
4 this issue. Is that language acceptable to HUD?

5 MR. SANTA ANNA: Just for clarification, the way
6 this is going to work is that this language requesting
7 public comment won't be made available to the public
8 until the rule is published in the *Federal Register*.
9 So the language has the intention to, really doesn't
10 make a lot of sense because, you know, we are going to
11 ask for public comment on this in the rule that's
12 published -- the proposed rule that's published.

13 We would not have a problem with the addition of
14 the word "additional" to clarify, as Jim said, that
15 these -- we've been trying to ask for public comment in
16 a number of different ways, including when we sent the
17 rule out in November. So we would definitely go with
18 the word "additional."

19 MR. WAGENLANDER: How about the added word of
20 "alternatives," "other alternative?"

21 MR. SANTA ANNA: We say -- well, we need to make
22 that -- the word "alternative" plural.

1 MR. WAGENLANDER: Okay.

2 MR. SANTA ANNA: Thank you.

3 MR. WAGENLANDER: So that language -- is that
4 language acceptable as is?

5 MR. SANTA ANNA: Yes, it would be.

6 MR. WAGENLANDER: Thank you.

7 MS. BRYAN: Thank you. Jason?

8 MR. ADAMS: Jason Adams, Salish-Kootenai. I'm
9 going to go on record here objecting to this whole
10 section as it's presented to us here today for the
11 following reasons. Again, as I stated earlier, the
12 drafting group is supposed to be presenting us today
13 with a preamble draft, and that is not happening.

14 But the greater issue is that we've given HUD the
15 authority in stating something that's going to be in
16 the preamble that is not in concert with what has
17 happened previously. That's what the preamble is
18 supposed to be. It's supposed to be -- "A preamble is
19 of benefit to the public who will review it and give
20 them a sense of what the committee has done and why."

21 The committee did not ask for a public comment
22 period on this, and so from that perspective, I would

1 ask that this be stricken or I will be voting against
2 it. I as a committee member, if I wanted to bring
3 something up in the preamble, I do not have that
4 ability. If I wanted to bring up an issue that didn't
5 reach consensus, but I wanted to throw it in the
6 preamble or something new even, because that's what
7 this is, something new, I don't have that ability. And
8 so, that's why I'm objecting to this because this is
9 HUD's proposal.

10 HUD is requesting, as I originally said, and that
11 is not capturing the discussion and what has happened
12 with this committee. Thank you.

13 MR. DOLLARHIDE: Jon, or do you want to comment to
14 that?

15 MR. TILLINGHAST: So who's up? I'm up? Okay. On
16 line 9, this discussion follows -- well, the prior
17 discussion points out that there were two schools of
18 comments. One objected to the use of the ACS' data
19 source. The other did not object to the use of the
20 ACS, but objected to the undercount adjustment.

21 And I would assume that HUD would invite
22 additional comments on both issues of concern, one

1 alternative to the ACS, which is in there, and the
2 other is alternatives to the use of the undercount
3 adjustment, which right now is not in line 9. And so,
4 to make it -- have the same reach as the preceding
5 material, I'd say in line 9, other alternatives
6 regarding the use of the ACS or the undercount
7 adjustment.

8 MS. BRYAN: Gabe? Lourdes. I'm sorry.

9 MS. CASTRO-RAMÍREZ: If I may, I just wanted to
10 share with the committee members why we were proposing
11 to include this language. And, you know, we recognize
12 that we reached non-consensus on this item, and we had
13 quite a bit of discussion on the approval of the prior
14 paragraph. And so, we wanted to acknowledge that
15 there's concern.

16 We also at this point have not -- we have not seen
17 or have been provided with an alternative proposal.
18 And so, HUD still feels very strongly that the proposal
19 for ACS adjustment is -- we still support the ACS
20 adjustment as proposed. However, you know, in this
21 period of public comment, we are looking forward and
22 looking for substantive information that may influence,

1 affect, change, the presentation of an alternative
2 proposal to address this.

3 During the entire day, we were looking at what can
4 we do to get -- to get to addressing the concern that
5 the committee members, and we're really hoping for
6 consensus on this item. So the reason for the language
7 is acknowledgement that there is a non-consensus, and a
8 desire from HUD to -- essentially to obtain -- to
9 continue the discussion during public comment, and to
10 entertain new proposals, and to have that, you know,
11 conversation, and to have that consultation with
12 committee members prior to the release of the final
13 rule.

14 So we thought it -- we felt it was important
15 enough, and this is why we're proposing it.

16 MR. DOLLARHIDE: Earl?

17 MR. EVANS: Thank you. I think that there's been
18 a lot of great work done to put this together and also
19 to come up with some of the suggestions we've
20 considered here. So I don't in any way intend to
21 reflect in a bad light on the work and the effort
22 that's put into this. But it kind of seems little bit

1 redundant to me in a proposed rule whose inherent
2 purpose is to solicit comments to, again, specifically
3 add in another statement asking for comments.

4 And what I think it could possibly be is maybe
5 since we didn't get consensus on it, this is something
6 that HUD would like to do, and it's seeking additional
7 feedback on that so that it can say, hey, look at all
8 of these comments we got to it. And so, this gives us
9 a reason to go and do something different since it
10 didn't go through by consensus possibly.

11 And so, I'm a little -- and I think -- I think
12 that gives -- I think there's merit to what Jason is
13 saying about having this additional language is because
14 if what's inherent about even doing this step is to
15 simply solicit feedback and comments, it's redundant
16 to, again, specifically ask for feedback on specific
17 parts because this document starts out by requesting
18 comments.

19 So I really, to Jason's point, I think that this
20 section probably isn't needed.

21 MS. CASTRO-RAMÍREZ: So we accept the
22 recommendation. I think if there is a sense that this

1 is not redundant and not necessary, we accept that. I
2 just wanted, you know, the opportunity to explain to
3 the committee members why we thought it was important
4 to include. So we can strike the language.

5 MS. BRYAN: Thank you. The proposal is withdrawn.
6 Jason?

7 MR. DOLLARHIDE: And I appreciate that. I just
8 want to put on the record that the reweighting of the
9 variables using ACS that is understandably very
10 important to HUD is a non-consensus item with this
11 committee. So, therefore, in my opinion, you know, if
12 HUD decides to move unilaterally with imposing those
13 reweightings of those -- the variables, you know,
14 against the wishes of the Negotiated Rulemaking
15 Committee, that, you know, I don't look at that as good
16 faith.

17 You know, we all came to that decision. You know,
18 it's unfortunate. I mean, I'm sure all of us here
19 would like to be able to pick and choose. You know, if
20 Jason throws something out there and he gets non-
21 consensus, I'm sure Jason would love to be able to
22 throw, well, it's okay, I don't care what anybody said,

1 we're going to do that. And, you know -- and, I mean,
2 that to me, you know, that's not -- that's not right,
3 and that's -- that is not in the spirit of what this
4 committee is intended for.

5 So I would like to, you know, put that on the
6 record that, you know, this is a non-consensus item
7 that we are discussing at length. And, you know, it is
8 still on the table by HUD even though non-consensus was
9 reached. Thank you.

10 MS. BRYAN: Yes, Randy?

11 MR. AKERS: Thank you, Chairperson. And, Chairman
12 Dollarhide, I very much appreciate and respect your
13 comments and your perspectives. I do, though, want to
14 be able to share my thoughts, and with all due respect,
15 I don't see it the way that you've characterized it
16 with regard to using the language that implies that HUD
17 is acting in anything less than good faith. It's just
18 not the way I see it.

19 MR. DOLLARHIDE: I'm not saying you're operating
20 in good faith yet. I'll leave that to whenever we see
21 the final rule whether that part is in there or whether
22 it's not. So right now, no, I'm not saying you're --

1 you know, let me make that clear. I don't believe that
2 you're operating in bad faith right now at this very
3 moment. I'm just stating that, you know, we have a
4 non-consensus item on the table that HUD is still --
5 you know, they will entertain that. And it's very
6 important to you, and I understand that. Just like
7 Lourdes just mentioned, you know, it's a very important
8 part of the -- this proposal. You know, two of those
9 items passed, one didn't, and, you know, it's still
10 going to be discussed.

11 So, you know, I do not mean that you're operating
12 in bad faith right now. I'm just going to -- I'll hold
13 that to a later time. Thank you.

14 MR. AKERS: Thank you, Chairman. And I absolutely
15 respect, again, your perspective and your comments
16 there. I think, again, that our efforts collectively
17 in pulling together and meeting to represent the
18 interests of Indian Country as well as the Federal
19 government, and our unique relationship and partnership
20 the last -- well, the last years, that they show that
21 we are all acting in good faith, and that we're really
22 trying the best we can to further the partnership that

1 we have.

2 The only other thing that I would offer is that I
3 wouldn't want the -- well, I wouldn't want it to be
4 understood that under any circumstances and at any time
5 that the committee that has worked so hard to reach
6 consensus on many of the important issues, I just
7 wouldn't it to go away from this committee by saying,
8 okay, any time that the committee does not reach
9 consensus, that that automatically means that there's
10 been bad faith on any committee member's part.

11 I just wouldn't want that to be, you know, like an
12 assumption because I just think that there are many
13 times, no matter how hard parties try to reach a common
14 ground, that sometimes there are just differences that
15 are differences upon which reasonable persons and
16 parties can take. And that wouldn't necessarily mean
17 bad faith.

18 So, again, I apologize. With all due respect, I
19 respect your position, and I respect your perspective.

20 I think I understand it. But I just want to also just
21 go on record offering my perspective on that, sir.

22 MR. DOLLARHIDE: Sure. And with all due respect,

1 as I stated, you know, I'm not saying that, you know,
2 anybody is operating in bad faith. You know, I think
3 that -- you know, we always should look for what is
4 fair. You know, I have no issue with that. I think
5 everybody on this committee will say the same thing,
6 you know, what is fair. You know, so that's always an
7 open -- you know, an open dialogue.

8 You know, is there something better? I don't
9 know. If there is, you know, I'm definitely ready to
10 entertain the idea I think just like everybody is
11 around this table. So, you know, I'm not -- I don't
12 say you're operating in bad faith right now, and I
13 won't say that. You know, I think that -- you know, I
14 just feel very strongly that, you know, this idea with
15 reweighting the variables has been discussed and is a
16 non-consensus.

17 You know, I have no issues with looking at
18 alternatives. I believe we've done that, you know.
19 But if there's something out there that has been
20 missed, I have no issues with that. So that's kind of
21 where I'm coming from.

22 MS. BRYAN: Thank you. Jack?

1 MR. SAWYERS: I'm not going to turn this over to
2 Jim. I just want to say that I appreciate very much
3 this session. I didn't appreciate getting here and so
4 on, but I do appreciate the time, and the money, and
5 the effort. And I appreciate you, Todd. Todd started
6 out doing this work. He's gone through all of this
7 thing, and now he's back to doing the same thing again.
8 And it's too bad.

9 But we really do appreciate you folks for --
10 because we realize that this is an extra committee
11 meeting, and you didn't have to do this. And we're
12 very respectful of you folks and your opinion. We may
13 have different opinions, but, again, let me thank you
14 folks and especially Todd because of his work. So
15 thank you again.

16 MS. BRYAN: Thank you. We're going to get back to
17 Aaron. On our page 22 starting at line 5, "Control
18 Total Weights Within the ACS." I think the part that
19 was withdrawn was the part asking for more information.
20 It was that small paragraph that was -- on mine it's
21 new, and HUD inserted it, and then took it out. I
22 think it was line 5 through 9, but we did skip over

1 this over conversation, and we do need to have it. So
2 we're going to let Aaron open with -- it's on our
3 original page 22 starting at line 5. Twenty-two, line
4 5.

5 MR. SANTA ANNA: With all due apologies, we jumped
6 over this language, which really is just introductory
7 language, explanatory text with regard to the weighting
8 with the ACS. As I -- as I mentioned in my comments on
9 it, this was language that was sent out and included in
10 the draft that you saw dated November 19th. The only
11 change is in the next page -- if you roll down just a
12 little bit -- changing the verb tense there in line 5,
13 and that would be it.

14 As I said, you know, most of this language is
15 introductory to the proposal that explains the
16 proposal, and it's language that everybody has seen
17 before. So I would ask that the committee approve this
18 language.

19 MR. DOLLARHIDE: Thank you, Aaron. Gabe?

20 MR. LAYMAN: Thank you, Mr. Co-Chair. It's so
21 interesting in this section there's language that
22 articulates the reasons that HUD supports the

1 adjustment. There were a number of tribal members of
2 the committee that did not support that same
3 adjustment, as we've talked about at length. If we're
4 going to explain the reasons that HUD does support
5 making that adjustment, it would seem fair to then go
6 into the reasons -- to articulate the reasons that
7 tribal members of the committee disagreed with that
8 methodology.

9 To avoid additional wordsmithing, I would ask HUD
10 if it would consider eliminating the last sentence of
11 that paragraph that begins with "HUD believes." Thank
12 you.

13 MS. BRYAN: I think HUD is discussing a friendly
14 amendment. Did you have something after or -- let's
15 see if HUD accepts this friendly amendment, and then
16 we'll go to Sharon.

17 MS. VOGEL: Okay. Well, I don't know that it's so
18 much an amendment as it is a clarification, and it
19 follows in line with what Gabe said. HUD was forced to
20 make this adjustment because we failed to talk about
21 the variables and the weights. Had we made the -- had
22 the conversation and came to a consensus on what the

1 agreed upon variables and weight factors would be, I
2 don't know that that would've changed the outcome, but
3 nonetheless, the variables and the weighting of the
4 variables would have been a -- would have been a
5 discussion item. Whether it was consensus items or a
6 non-consensus item remains to be seen.

7 But I just think that it's important to note that,
8 that we didn't -- because if there's inquiries, and
9 this is -- I believe Aaron said the purpose of it is to
10 provide a representation of the proceedings of these
11 meetings. Well, we were appointed to discuss the
12 formula, and one of the critical parts of the formula
13 is the needs section, and that includes the variables
14 and the weighting of the needs.

15 So nowhere in here do we talk about the fact that
16 we did not address it for whatever reasons, but the
17 fact remains we did not address it. So when inquiries
18 are made as to our work, what did we do, we need to
19 include what we didn't do. We didn't address 100
20 percent of the formula as identified in the document,
21 the components of the formula.

22 And I know this will fall upon deaf ears, but I

1 think it's really important because future work of the
2 formula really needs to follow what the formula is all
3 about. The formula, part of it is a needs section, and
4 for whatever reasons we did not do that. And in my
5 opinion, I failed. I failed to be able to represent my
6 region and be able to bring their voice forward on what
7 those issues were for our area.

8 So I don't know how you want to take that, but if
9 it is a representation of the work that we did, then it
10 needs to be noted, and that's what I'm putting forward.

11 Where is the appropriate place to put that? Is it in
12 this section, because I've looked through and there
13 isn't a section that it seems to fall under except
14 where it talks about control of the total weights.

15 This is the only section that I can see where the need
16 fits in, because we don't talk about the need anywhere
17 else.

18 So how that -- how I propose to do that, I'm just
19 proposing that it be noted for the record so that if
20 inquiries are made that they can find it in here. If
21 they're looking for it and they can't find it, at least
22 there's a statement in here that the committee did not

1 address it. Thank you.

2 MS. BRYAN: Thank you, Sharon. Can we have HUD
3 respond to how we might articulate, I guess, the lack
4 of discussion about the needs variables in the
5 preamble?

6 MR. AKERS: Thank you, Chairwoman. I think,
7 first, one step at a time. I believe that Gabe had
8 made a proposal -- I may be wrong -- but that you
9 suggested that the language that is on line 9, 10, 11,
10 and 12, starting with the phrase, "HUD believes that
11 this adjustment," that that suggestion was to delete
12 that language. And for the rationale, I think
13 simplifying and condensing the language.

14 But HUD, we want to keep that language in, and I
15 would like to -- for an explanation for that, I would
16 like to defer to Todd Richard for a short explanation
17 if that would be okay.

18 MS. BRYAN: Yes, thank you. We'll recognize Todd.

19 MR. RICHARDSON: Thank you. So for the -- at the
20 heart of the proposal to reweighting the data was
21 concern about the standard error in the estimates for
22 smaller tribes. For larger tribes, the ACS data had a

1 fairly small error in the estimate. And so, the
2 reweighting estimate is largely not an issue for the
3 larger tribes.

4 We have 206 tribes that are not minimum grant
5 tribes. They have populations of less than 500. For
6 those tribes, we see fairly significant differences
7 between the -- in the population counts between the ACS
8 2008 and 2012 and the Census 2010. In fact, 68 percent
9 of the tribes are plus or minus 10 percent. Now, for
10 tribes that have 3,000 population, just six of 61
11 tribes are plus or minus 10 percent.

12 This carries through, however, much more
13 significantly when we think about using the ACS as we
14 update it annually. Annually we'll see a variance in
15 population for the larger tribes. Just three percent
16 would have an increase or decrease of 10 percent or
17 more in the population counts. But for smaller tribes,
18 50 percent have a variance of plus or minus 10 percent.

19 And so, in the ACS, that variance in population
20 actually carries through as the population weights on
21 all of the variables. So what that does is it causes a
22 lot of grants to go up and down year to year, and that

1 can be adjusted for by using the weights that were
2 proposed by HUD. So that's why the language about
3 smaller tribes is why we have that language there, is
4 because this is an issue primarily for the smaller
5 tribes served by this program.

6 MS. BRYAN: Thank you. So we will un-strike
7 Gabe's request as HUD did not accept it, and they
8 provided an explanation. Lourdes?

9 MS. CASTRO-RAMÍREZ: Yes. In response to Sharon's
10 comment, I would like to propose that we amend -- this
11 is actually jumping to a different page, and so I don't
12 know in terms of the protocol if we can do that. I
13 just want to be responsive to Sharon's comment.

14 You know, Sharon is suggesting that we include
15 language that indicates that the committee did not get
16 an opportunity to review the needs variables. And so,
17 if the committee proposes for us to include that, I
18 would recommend that we include that as a new
19 paragraph, page 29, Section 7, Tribal Recommendation.
20 At the end of that first paragraph, that we include
21 language. And I can -- I can read it out if you all --
22 yes.

1 So new paragraph. "In addition, the committee
2 notes for the public that it did not consider the
3 variables underlying the needs components of the
4 formula."

5 MS. BRYAN: And so, I'm going to thank you for
6 that response. And are we going to get to that section
7 later if we can leave that up there in the queue, and
8 then we'll come to where we were on my page 22. I'm
9 not sure what page you guys are on now, but it's page
10 22, "Control Total Weights Within the ACS."

11 MS. FIALA: Earl or Gabe.

12 MS. BRYAN: Is Gabe next? Gabe?

13 MR. LAYMAN: Thank you, and thank you to HUD for
14 your response to my previous question and proposed
15 amendment. In light of your response, I wonder if HUD
16 would be willing to consider a different amendment that
17 simply reads new sentence at the end of this paragraph,
18 "Some tribal members of the committee did not."

19 MS. FIALA: Period.

20 MR. LAYMAN: So collectively this now reads, "HUD
21 believes this adjustment will make the ACS data
22 methodology for small area -- small geographic -- small

1 area geographic areas better align with the methodology
2 used in the 2000 Decennial Census and provide a more
3 accurate count of AIAN persons for smaller tribes.
4 Some tribal members of the committee did not."

5 MS. CASTRO-RAMÍREZ: Yes, that's acceptable.

6 MS. BRYAN: Thank you. We have an acceptance of
7 the friendly amendment. Next we have Earl.

8 MR. EVANS: Yes, ma'am. Move to question.

9 MS. BRYAN: We have a call for the question. And
10 if you're looking at your original handout, it starts
11 on page 22, line 5, going to page 23 through the end of
12 9, with the amendments up on the screen. Do we have a
13 consensus?

14 (Members vote.)

15 MS. BRYAN: Can we get Karin in on this?

16 MS. FIALA: Karin voted yes.

17 MS. BRYAN: Okay. We have a consensus. Thank
18 you, everybody.

19 MR. SANTA ANNA: Okay. I think we're all the way
20 down toward the end. It's on my page 29, and it should
21 be on your page 29. There you go.

22 This first paragraph of what is now Paragraph

1 Number 7, Tribal Recommendation, was reviewed and
2 considered in Phoenix. This was something that was
3 coming out of the non-HUD members. So all that we
4 would be doing here is adding a one-line paragraph. If
5 you want to indent to be able to address Sharon's
6 concerns, that the committee would note that it did not
7 consider the variables for the needs component.

8 MS. BRYAN: Thank you. Any discussion?

9 (No response.)

10 MS. BRYAN: I hear a call for the question. We
11 are looking at on the handout page 29, Section 7,
12 Tribal Recommendation, line 10 through the end of line
13 18, with the amendments on the screen. Do we have a
14 consensus?

15 (Members vote.)

16 MS. BRYAN: We have a consensus. Thank you.

17 MS. FIALA: No.

18 MR. DOLLARHIDE: No, we don't.

19 MS. FIALA: We have a dissent.

20 MS. BRYAN: Oh, you're right next to me. I'm
21 sorry. I didn't see Rusty. Rusty has a dissent. Will
22 we please hear your explanation and offer an

1 alternative.

2 MR. SOSSAMON: Well, I would like to include some
3 language that indicates that no proposals were brought
4 forward for consideration by this committee.

5 MR. SANTA ANNA: Could we add then "In addition,
6 the committee notes for the public that no proposal --
7 no proposals for revision of the variables of the need
8 component were recommended to the committee, and
9 that" --

10 MR. SOSSAMON: "And, therefore, it did not
11 consider."

12 MR. SANTA ANNA: Okay. "And, therefore" --

13 MS. BRYAN: Okay. We have a friendly amendment to
14 Sharon's -- I believe, Lourdes, I believe you --

15 MR. SOSSAMON: That was an alternative, not a
16 friendly amendment.

17 MS. BRYAN: An alternative to Lourdes' addition
18 based on Sharon's comment. Sharon?

19 MS. VOGEL: Again, a clarification. I'm new to
20 this. Sharon Vogel, Cheyenne River Housing Authority.

21 I don't recall that there -- we didn't have time for
22 proposals. We focused so much on the report of the

1 data source that we didn't even talk about proposals.
2 That wasn't -- the opportunity wasn't there.

3 We focused -- we said you can't talk about
4 variables until you have data source, so you have to
5 finalize the data source. What did we finalize? We
6 didn't finalize the data source. We still haven't
7 finalized the data source. We're still in -- we're not
8 in consensus as to the data source. So to say there no
9 proposals is in accurate statement, and it's inaccurate
10 in its representation that there was not an
11 opportunity.

12 So, Rusty, what you're saying is I could've at any
13 time brought a proposal forward. Then that's the
14 rookie in me then that I didn't know that at any time I
15 could bring a proposal. I apologize.

16 MS. BRYAN: Jason?

17 MR. ADAMS: Jason Adams, Salish-Kootenai. I guess
18 for the record I just wanted to give my recollection of
19 how this played out. In regards to the work groups
20 that were formed, I believe that was the place that
21 proposals should've started. And I believe Sharon is
22 correct in that the work group, from my recollection

1 from the report-outs, were so focused on one issue that
2 they did not take time to focus and hear proposals on
3 these other issues. And so, I believe that's a correct
4 recollection of what happened in regards to no
5 proposals coming forward. Thank you.

6 MS. BRYAN: Thank you. Sharon?

7 MS. VOGEL: In fact, I also recall that when the
8 study group began their work, it was very expressly
9 stated do not look at the variables. That the
10 committee members could not -- could not talk about
11 variables. So what message did that send? Variables
12 were not to be discussed until the data source was
13 agreed upon. So how could you bring forward a proposal
14 when you could not discuss it in the study group?
15 Thank you.

16 MS. BRYAN: Thank you. Jon?

17 MR. TILLINGHAST: Yeah, I voted for Sharon's
18 proposal to begin with, so this is not meant as a
19 criticism of the proposal. Just my recollection was
20 that even before the study group was formed, really the
21 first thing that the Needs Working Group did was spend
22 one, if not more than one, entire session trying to

1 list all of the factors that influenced need for
2 housing.

3 And so, it seems like we did fairly extensively
4 considered alternative measures of need, and nobody,
5 for one reason or another, saw fit to take the fruits
6 of that product and turn it into a specific proposal.
7 At any rate, that's my memory.

8 MS. BRYAN: Thank you. Karin?

9 MS. FIALA: That was Gary. Oh, no, I'm sorry,
10 Karin. My apologies. I can't read this close. It
11 actually is Gary.

12 MS. BRYAN: That worked out. Gary.

13 MR. COOPER: Okay. And just to go back, I think
14 it was Jon that mentioned it, and I'm looking back at
15 Needs Work Group from 9/23 of 2014. One of three
16 things that the Data Sources Work Group priorities
17 listed -- and this was from the Needs Work Group
18 itself, was review of statute and requirements, number
19 two, data sources, and number three, variables.

20 So to my recollection, no proposal was ever
21 brought forth by anyone for the work group to consider
22 variables. I could be wrong, but that's my

1 recollection, and that's what the work group notes
2 reflect.

3 MS. BRYAN: Thank you. Rusty?

4 MR. SOSSAMON: Further, I recollect that a
5 statement was made in a previous meeting, that we have
6 not had the opportunity to look at these. So I asked
7 for clarification, and I asked the Needs Study Work
8 Group that dealt with the need portion, not the AFCAS
9 chairs, if they -- if those members of that committee
10 were allowed to bring forward any need variable they
11 wished to discuss. And the answer was yes.

12 I further asked, and these questions were asked in
13 the full committee. And I further asked the chairman
14 -- chairpersons of this committee if any member at this
15 table could bring forward any proposal they wished to
16 at any time, and the answer was yes.

17 MS. BRYAN: Thank you. Earl?

18 MR. EVANS: Thank you, Madam Chair. Call for
19 question.

20 MS. BRYAN: We have a call for the question,
21 Section 7, Tribal Recommendation. It's page 29, line
22 10 down to the end of line 18 with the revisions up on

1 your screen. Do we have a consensus?

2 (Members vote.)

3 MS. BRYAN: Okay. I see several dissensions. We
4 do not have a consensus. May I ask one of the
5 dissenters to please explain your reason, and please
6 offer an alternative proposal?

7 MR. ADAMS: Jason Adams, Salish-Kootenai. My
8 alternative proposal would be the original language.
9 Thank you.

10 MS. BRYAN: Okay. So I'm going to ask Lourdes if
11 this amendment is acceptable on the screen.

12 MS. CASTRO-RAMÍREZ: Yes.

13 MS. BRYAN: Other dissenters? Sam?

14 MR. OKAKOK: Yeah, I would agree for the language
15 that Sharon had brought up. I remember she had tried
16 to bring it up a couple of times, and during those
17 times I believe it was shot down because there were
18 other items on the table that the full committee wanted
19 to consider and kind of push back on the variables at
20 that time.

21 So she did bring it up and tried to bring a
22 proposal, but the committee did not take it up. So I

1 would go with the language that she had proposed.

2 MS. BRYAN: Thank you. So the new language --
3 original language. We'll call for the question.

4 (Members vote.)

5 MS. BRYAN: Okay. We have a dissent. Rusty?

6 MR. SOSSAMON: Again, I mean, my alternative to
7 this as the dissenting vote is because I want the
8 public to be informed, no proposal was made for
9 revision of any of the variables of the need component.
10 There may have been discussion about a desire to bring
11 something forward, but no proposal because if a
12 proposal is put forward by this committee member, any
13 committee member can put forward any proposal they
14 choose to. And if a proposal is put forward, the
15 protocols demand that it be addressed because they have
16 the right to put forward any proposal that they wish
17 to. And they can call the question on that proposal.
18 So while there may have been discussion about a desire
19 to evaluate these, no proposal was put before this
20 committee for them to vote on.

21 MS. BRYAN: Thank you. Lourdes?

22 MS. CASTRO-RAMÍREZ: So because it seems difficult

1 to get to a consensus, I would propose that we remove
2 the language completely. I'm not sure that we're going
3 to get to agreement, and so I would just remove the
4 language.

5 MS. BRYAN: So the proposer has withdrawn the
6 language. Sam?

7 MR. OKAKOK: It was a couple of sessions ago that
8 she did propose that the variables be discussed. But
9 it was not discussed during that time, although she had
10 proposed and spoke about proposing that the variables
11 be discussed. So I do believe that her point of
12 putting that comment on there would be the most
13 appropriate thing to put on there because she did
14 propose it, but it was not taken up.

15 And I think that's the point that needs to be made
16 right there because I was sitting right next to her
17 listening to her, and I wanted that point to be brought
18 up, too. And I agreed with her that it needed to be
19 brought up and discussed, but it did not go forward.
20 And I would strongly suggest that the original language
21 plus her comments be considered because that is the way
22 it was handled.

1 MS. FIALA: Annette, I believe you're next.

2 MS. BRYAN: It sounds like you would like to put a
3 proposal in, but I'll just make my comments. If you
4 need time to come up with a proposal, you can ask for
5 that.

6 I want to express -- Annette Bryan, Puyallup Tribe
7 of Indians -- express my sincere disappointment in this
8 committee's resistance to looking at the variables
9 because they had to have a data set, possibly even
10 knowing full well that we would never come to consensus
11 on a data set, which is not in good faith. And so, I
12 wanted to express my disappointment for the record.

13 And I do believe we did try to talk about
14 variables many times and within the work group and at
15 the table, and it just wasn't a conversation that was
16 going to happen during this negotiated rulemaking,
17 which is why I thought we were here. Thank you.

18 MS. FIALA: Gary, is your card still up? No.
19 It's going to be Jon.

20 MR. TILLINGHAST: Yeah. Again, I voted for
21 Sharon's original proposal, so I wish we had put this
22 matter behind us, but we are where we are. We voted

1 down -- did not achieve a consensus on Sharon's
2 original language. We did not achieve consensus on
3 Rusty's alternative language. And so, I think the
4 protocols tell us that where we are is that to
5 reconsider either proposal, it is a reconsideration
6 that takes the unanimous vote of the committee, which
7 you're not going to get. And I think it says that so
8 you don't get into the position that we find ourselves
9 now, which is going around and around, voting and re-
10 voting, and re-voting again on two things we've already
11 voted down.

12 So my point of order is that -- is that unless
13 somebody moves to reconsideration and it's granted,
14 that any more voting on this is kind of out of order.

15 MS. BRYAN: I hear your point of order, but we're
16 talking about the preamble here, and we're talking
17 about reflecting what this committee did and how it did
18 its work. But thank you for your point of order.
19 Sharon?

20 MR. TILLINGHAST: Madam Chair, are you saying that
21 the protocols don't apply to the language of the
22 preamble?

1 MS. BRYAN: I'm not saying that. I'm saying that
2 the Federal government has a responsibility in the
3 preamble to -- and unfortunately we don't have the
4 benefit of having the Drafting Committee kind of get
5 together and let's agree within themselves to come up
6 with some fancy language that we can all agree to. But
7 they do have the responsibility for telling the public
8 what we did and how we did it. And that's just -- you
9 know, whether or not we agree to language is a point I
10 wanted to make, too.

11 MR. TILLINGHAST: Madam Chair, I'll stop here.
12 But, again, the question is are you ruling that the
13 protocols do not apply to votes on the preamble?

14 MS. BRYAN: No, I'm not. Sharon?

15 MS. VOGEL: Yes. I'd like to yield time to Dave
16 Heisterkamp that can introduce a proposal of -- proof
17 that a proposal was put forward.

18 MR. HEISTERKAMP: I'll call your attention to the
19 minutes of the meeting that we had in Scottsdale in
20 August. There were several proposals to change the
21 variables that came forward from the independent study
22 group. In fact, most of their proposals had to do with

1 changing the variables. We didn't achieve consensus on
2 any of those proposals, but the minutes show that most
3 of those proposals had to do with changing or
4 reweighting the variables.

5 So whatever your recollection about whatever
6 meeting you thought, you've got it right here in the
7 minutes that proposals came forward to change the
8 variables, whether you achieved consensus or not. So
9 however you want to deal with that on the record.

10 MS. BRYAN: Would you like to help introduce a new
11 proposal for consideration? Yes, Jason? Thank you.

12 MR. ADAMS: I would offer a proposal here that
13 would be in a new section there that was withdrawn,
14 simply stating, "The committee notes that for various
15 -- for a variety of reasons, the committee did not
16 encourage or accommodate an examination of needs
17 variables."

18 MS. FIALA: Could you repeat that again, Jason,
19 please, a little slower?

20 MR. ADAMS: "The committee notes that --

21 MS. VOGEL: That would be notes, N-O-T-E-S?

22 MR. ADAMS: -- that for a variety of reasons the

1 committee did not encourage or accommodate an
2 examination of needs variables."

3 MS. BRYAN: Examination of the needs variables?
4 Was that the end of it?

5 MR. ADAMS: "Encourage or accommodate the
6 examination of needs variables," yes. Needs. The
7 needs variables. Thank you.

8 MS. BRYAN: Lourdes? Gary, were you next or is
9 that from before? Yes, Gary.

10 MR. COOPER: Based on the -- what was brought up
11 in the notes, then if non-consensus was reached, I
12 think that we should, if it's the wishes of the
13 committee to list that, I think it needs to be listed
14 as a non-consensus. And I think that there's somewhere
15 in here where we talked specifically about non-
16 consensus items. Do you recall? Is there -- is there
17 a place in here we referred to non-consensus on items
18 we weren't able to reach consensus on?

19 MALE SPEAKER: That was only with regard to
20 regulatory text.

21 MR. COOPER: Okay. Then that's all I have.

22 MS. BRYAN: Thank you, Gary. Lourdes?

1 MS. CASTRO-RAMÍREZ: So with regard to the
2 language that Jason proposed, we would just ask that we
3 strike the word "The committee did not encourage,"
4 because I think there were proposals, and there was
5 discussions, and so that leads -- so we would just
6 strike the word "encourage or."

7 MR. ADAMS: "Encourage or?"

8 MS. CASTRO-RAMÍREZ: The committee did not --

9 MR. ADAMS: "Accommodate?"

10 MS. CASTRO-RAMÍREZ: -- accommodate the
11 examination." So, yes.

12 MR. ADAMS: I'm okay with that.

13 MS. BRYAN: We have a friendly amendment to the
14 proposal, and it's been accepted. Any other discussion
15 or questions on Jason's proposal? Randy?

16 MR. AKERS: HUD calls for the question on the
17 proposed language.

18 MR. ADAMS: There is a typo, "variety of reasons."
19 Thank you.

20 MS. BRYAN: Thank you. Corrected a typo. So
21 there's a call for the question, starting on, again,
22 our page 29, line 10, Section 7, "Tribal

1 Recommendations," down through 18 with the
2 modifications up on the screen. Do we have consensus?

3 Thank you, Rusty.

4 (Members vote.)

5 MS. BRYAN: Do we will have -- okay. We have
6 consensus. Thank you. Good job, guys.

7 (Applause.)

8 MR. SANTA ANNA: That concludes the review of the
9 preamble I think. I think we've gotten through
10 everything. Thank you so much.

11 (Laughter.)

12 (Applause.)

13 MR. DOLLARHIDE: It was a struggle there.

14 MS. BRYAN: Yes. Mr. Evans?

15 MR. EVANS: Thank you, Madam Co-Chair. Just one
16 thing I'd like to note for the record for HUD to do
17 whenever they put together the final draft. I noticed
18 while we were going through this that for one of the
19 consensus items that we adopted under 1000.326(a)(3),
20 there wasn't a summary of that in the preamble. And
21 so, I just wanted to note for the record that HUD
22 should draft a small summary paragraph explaining that

1 as part of the preamble as well before it goes out for
2 final. Thank you.

3 MS. BRYAN: Thank you, Earl. Aaron?

4 MR. SANTA ANNA: Thank you so much for catching
5 it, Earl. That was a paragraph that we missed. We
6 will go ahead and redraft it again as we did it before.
7 And most of this work is restate what was the proposal
8 that was approved by the committee using basically that
9 same language for the preamble to explain it.

10 MS. BRYAN: Great, thank you. And next we have
11 Gabe.

12 MR. LAYMAN: Gabe Layman, Cook Inlet Housing. I
13 just want to take a moment to thank Aaron Santa Anna
14 for his work on the preamble. I think Jason Adams is
15 right that in an ideal world, we'd have a drafting
16 committee that includes tribal members that work
17 collectively on putting the preamble together. But I
18 also want to recognize the fact that Aaron took on a
19 significant workload and did a really excellent job of
20 reaching out to tribal members of the committee, you
21 know, technical experts, asking for input and
22 information. And then also doing a very good job of

1 working hard to be objective in how the preamble was
2 framed. So thank you very much, Aaron, for your work.

3 (Applause.)

4 MS. CASTRO-RAMÍREZ: We completely agree also.

5 MR. SANTA ANNA: I just want to say thank you for
6 your -- for your kind words. And as you all know, you
7 know, work like this doesn't turn on the skills of one
8 person, but really on a lot of people. And, you know,
9 in addition to all of your help and the comments that
10 you provided, there's a whole team of people behind the
11 scenes. You know, Jad has been very helpful. We had
12 other attorneys look at this language. I'll point out
13 James Mader. You might've seen him. He's in my office.
14 So all of your thanks also go to those folks because
15 they certainly deserve it, and to yourselves. So thank
16 you so much.

17 MS. BRYAN: Thank you. Sami Jo?

18 MS. DIFUNTORUM: I'm not going to belabor this and
19 stretch the day any longer than we have too much. But
20 I just want to also reiterate what Jack had said
21 earlier thanking Randy, and Lourdes, and all of the HUD
22 staff for convening this meeting. I actually had

1 suggested that we'd be able to meet by teleconference,
2 so my bad because I didn't think I was going to get
3 here either. And so, I do appreciate that we were able
4 to accommodate Karin's participation in that way
5 because I would've mad the same request had I not been
6 here.

7 But the amount of resources and planning that it
8 takes to put together a meeting like this is not
9 insignificant, and all of the HUD staff, and FirstPic
10 that are here to support us. So I just want to, again,
11 express my gratitude for that and that you're here to
12 listen to us and hear our concerns and input on the
13 proposed changes. So thank you.

14 MS. BRYAN: Thank you, Sami Jo. I concur. I
15 would like to move us -- keep us moving on the agenda.
16 We do have some more business on the agenda. Aaron
17 Santa Anta -- Anna -- excuse me -- is up again, and
18 we're going to now have him describe and go over next
19 steps for us. Thirty seconds, go.

20 MR. SANTA ANNA: Okay, great. I'm going to keep
21 this very short and talk very fast. No. This is a --
22 this is a briefing that I've provided before about next

1 steps, and I think that most of you have heard it
2 before.

3 I want to kind of preface it by saying that things
4 have changed a little bit in that, you know, time has
5 passed since we last met and talked about how to get a
6 proposed rule published and what the next steps are
7 going to be. There is, you know, as you -- as you have
8 probably noticed on television an election coming down,
9 and people are really, you know, wanting to be able to
10 try to move as much policy as possible. And I think
11 that, you know, for this rule, we have to be able to
12 move as expeditiously as possible to try to be able to
13 make use of the time that we have available to us
14 before we -- before November.

15 So the next step for this rule is that I've
16 already asked people on my staff to go through the rule
17 both the preamble and the regulatory text that has been
18 approved and discussed here to remove all the redline,
19 and to -- then we are going to put it into what we call
20 departmental clearance. What that means is that we
21 have to send the rule to different offices internal to
22 HUD who may have an interest in the document.

1 Among those that we send it to are our Offices of
2 Fair Housing and Equal Opportunity. We send it to our
3 environmental staff, both program and legal. And there
4 are various other entities within the Department that
5 have an interest in the rule and may want to comment on
6 it.

7 We will highlight the fact that the rule that
8 they're reviewing has been approved by the committee by
9 consensus. You know, the preamble has -- you know, the
10 red text will show those provisions that have been
11 approved by consensus. So that people understand that
12 this is not the run of the mill rule that, you know,
13 people can willy-nilly start making comments on that
14 would be the half glass oftentimes we see.

15 My hope is that, you know, we can complete
16 departmental clearance in a matter of two weeks, and to
17 come out of it without any additional comments or
18 recommendations. You know, one of the things that we
19 tried to commit ourselves to here at HUD is to let you
20 guys know if there are any comments coming out of
21 clearance that might affect the rule, I will try to
22 make sure that you're aware of those comments as they

1 come through. But frankly, maybe it's wishful
2 thinking, but I tend to think that we won't see any
3 comments.

4 After departmental clearance, then comes the hard
5 part. We have to be able to get HUD -- I'm sorry. We
6 have to get OMB approval for moving forward with the
7 rule. The office that we deal with at OMB is the
8 Office of Information and Regulatory Affairs, OIRA.
9 You might've heard of them. They will look at the rule
10 and make a determination as to whether or not they want
11 to bring it in for a formal review or not.

12 Generally speaking, the executive order that
13 directs OIRA's activities and specifically their review
14 of any regulations, this is not only HUD, but all
15 Federal agency regulations, is that they give
16 themselves 90 days. We will have to talk to them about
17 trying to expedite review of this. I think there's
18 been a lot of work already done with the office that
19 deals with all the statistics, so they may know what
20 we're doing. But that's really what we have to look
21 at.

22 Once OMB approves the rule, then we have to send

1 it to our authorizing committees on the Hill for 15
2 days before we're able to publish. That is a statutory
3 requirement. And I can tell you that in the 20 years
4 that I've been doing this, I can count on my hand the
5 number of times that the committee has come back with
6 comments. I don't think they're going to come back
7 with comments on this rule.

8 At that point, we move it to publication. We will
9 be asking for a 60-day public comment period. As I
10 mentioned before, public comments will be asked or
11 solicited through regulations.gov, which is a
12 government website. The advantage of doing that is
13 that people can pretty quickly see the comments that
14 come in.

15 In the past we had a PDF hard copy, send them to a
16 contractor who then uploaded them, and it took days.
17 With the regulations.gov, that process is shortened by
18 -- you know, you'll see a comment within minutes of
19 having it been submitted.

20 As I mentioned here before, once public comment
21 period closes, we will then summarize the public
22 comments, and we try to be as thorough as possible

1 because, you know, my own personal belief is that we
2 need to be able to address the hard questions. You
3 know, it provides us a better basis for any legal
4 challenge down the line, to be able to say these are
5 really the -- these are really the comments that came
6 in, and, HUD, show us that you considered them. So
7 that will be prepared and sent out to you in advance of
8 our next meeting, at which time we'll go through public
9 comments and make a determination as to whether or not
10 the comments are such that we should make changes to
11 the rule that's being proposed.

12 Once we do that and come up with a final rule,
13 then we go through the same process; that is,
14 departmental clearance again, OMB review again. And we
15 don't have to go to the Hill, but then we go to
16 publication. And there will be a delayed effective
17 date on the rule. Again, that's a statutory
18 requirement, and we may want to think about how this is
19 going to play in terms of implementation by Fiscal Year
20 2018. But that's really the steps that we have to go
21 through.

22 I want to, again, emphasize that there are lots of

1 steps, and there's little time. And so, we want to be
2 able to try to move as expeditiously as possible. We
3 commit ourselves to being able to do that. And to the
4 extent that there are any additions or -- I don't think
5 there's going to be additions, but any edits that come
6 through this whole review process, we'll certainly try
7 to make you, the committee, fully -- make you apprised
8 of what those changes are so that you can be fully
9 aware of what actually will be published.

10 So does anybody have any questions about any of
11 that?

12 MR. LAYMAN: So you're saying, what, two, three
13 weeks?

14 (Laughter.)

15 MR. SANTA ANNA: In the universe of Dr. No.

16 MR. COOPER: So, Aaron, what are we looking at
17 theoretically, about six, seven months before we come
18 back to review those comments?

19 MR. SANTA ANNA: That is something that we need to
20 talk internally to figure out timing. I think a lot of
21 that depends on how we are able to work with the Office
22 of Management and Budget with regard to their review,

1 and that remains to be seen.

2 MR. COOPER: So I'm guessing if it's like July,
3 August, whenever you all want to us to come back, that
4 will probably be in Arizona again since it's so hot?

5 (Laughter.)

6 MR. SANTA ANNA: Someplace where we don't have to
7 worry about snow.

8 MS. BRYAN: Let's do it before the snow falls,
9 please. Okay. Other questions for Aaron?

10 (No response.)

11 MS. BRYAN: I, too, would like to take this
12 opportunity to thank Aaron and your staff for really,
13 you know, doing this during your lunch hour and, as
14 Gabe said, un-ideal situations and conditions. But
15 really appreciate this hard work, and we just really
16 got a lot done today and yesterday. I'm very, very
17 impressed.

18 At this point in time, I would like to open the
19 public comment period up so we can continue forward
20 with our agenda. We did allow time on our agenda for
21 the public to comment. Where will the microphones be?
22 Right here. So if you would like to comment, if you

1 could come stand up here, and please state your name
2 and who you're representing. Thank you.

3 (Pause.)

4 MS. BRYAN: Okay. I am not seeing anyone
5 approaching the microphone, so at this point I would
6 like to turn it over to Lourdes for her closing
7 remarks.

8 MS. CASTRO-RAMÍREZ: Yes, thank you. Well, this
9 has definitely been what I believe a very productive
10 two days. And I do hope that I have the opportunity to
11 participate sometime this summer based on the timeline
12 that was provided to participate in the committee to
13 get to the final rule. It's definitely been a pleasure
14 and an honor to serve on the committee. And, you know,
15 I do think that the decision to meet in person was the
16 right decision, and so I thank you all for the feedback
17 and, you know, your honest input on getting us here.

18 I do want to recognize and acknowledge the
19 tremendous effort and great facilitation of our co-
20 chairs. I'd like to recognize Jason Dollarhide and
21 Annette for an -- Annette Bryan for an amazing job at,
22 you know, getting the entire committee and really

1 moving through the agenda. So thank you very much.

2 (Applause.)

3 MS. CASTRO-RAMÍREZ: Of course, you know, the work
4 that has been done in the last two days really has been
5 the result of everyone's thoughtful input, and so I
6 very much appreciate that.

7 I do want to recognize, of course, the staff, the
8 HUD staff, including, of course, the staff from our
9 legal counsel. They've worked, as you all know,
10 extensively, in ensuring that the preamble and the
11 documents that have been presented really reflected the
12 comments, and the feedback, and the spirit of these
13 negotiations.

14 I'd also like to recognize our wonderful expert in
15 PD&R, Todd Richardson, for his amazing work.

16 (Applause.)

17 MS. CASTRO-RAMÍREZ: And during Mike Andrews'
18 remarks, he commended the ONAP staff, and so I'd like
19 to also acknowledge the wonderful work and the
20 commitment from everyone that works for the Office of
21 Native American Programs. They are doing an amazing
22 job, and it's an honor and a privilege to really work

1 alongside of them. So I'd like to recognize Randy and
2 the entire team at ONAP.

3 (Applause.)

4 MS. CASTRO-RAMÍREZ: And as you all know, in the
5 Office of Public and Indian Housing, we don't do any of
6 this work alone. And so, Jemine Bryon, who has been
7 really truly amazing to me personally, but also just
8 amazing in terms of her commitment to Public and Indian
9 Housing, and her commitment to this entire negotiated
10 rulemaking process. I just want to recognize Jemine
11 for everything that you have done to get us here.

12 Thank you.

13 (Applause.)

14 MS. CASTRO-RAMÍREZ: And the wonderful work, and
15 flexibility, and troubleshooting, and problem solving
16 of our contractors. You all were amazing. They were
17 all here early morning today, yesterday. Yes. Thank
18 you all for everything that you did to make this
19 possible. We very much appreciate it. I hope that you
20 all after this, you know, have an opportunity to have a
21 drink and have some fun. Thank you.

22 (Applause.)

1 MS. CASTRO-RAMÍREZ: And just, you know, finally,
2 I do want to, again, use this opportunity to share with
3 you how amazing the work that this committee has been
4 focused on has been. I know that each of you are
5 working hard to represent and to advocate for the needs
6 of Indian Country. I credit you and my fellow
7 committee members with pushing for us to have these
8 final issues discussed in person. And as I mentioned,
9 you were all right, and I'm glad that we made this
10 decision.

11 I thank you all for your attendance in spite of
12 the travel difficulties, and we don't have to rehash
13 those. And also, of course, you know, your patience
14 with the challenges that we had with the facilities
15 yesterday.

16 HUD pushed forward despite these difficulties
17 because of our commitment to Indian Country and the
18 negotiated rulemaking process. We understand the
19 urgent need to move forward with this rule, and it is,
20 you know, our commitment to all of you that we will do
21 everything possible, as Aaron outlined, to continue
22 this process moving forward. I want to remind you that

1 this is not the final rule, as you all know, but it
2 initiates the process of finalizing what has come out
3 of this committee.

4 And then finally, I just want to wish everyone
5 safe travels home, and I do look forward to coming back
6 together to move to the final rule. I hope that we can
7 do this under this Administration, and so we will do
8 everything that we can on our end to try to get to that
9 finish line. Thank you.

10 (Applause.)

11 MS. BRYAN: Thank you, Lourdes. A couple of the
12 members of the committee signaled that they would like
13 to have short closing remarks, so I'm going to go ahead
14 and allow for that at this time. Jason, would you --

15 MR. ADAMS: Well, thank you for that. Jason
16 Adams, Salish-Kootenai. I guess I wasn't really
17 particularly going to open it up to me. I thought we'd
18 just open it up for the full committee and let them
19 have an opportunity, but I'll take advantage.

20 (Laughter.)

21 MR. ADAMS: I wanted to also echo one of the
22 comments that Lourdes made in regards to the co-chairs.

1 I know your job sometimes is thankless, especially
2 over the last, you know, two years and -- I was looking
3 back, and it's been two and a half years or more. And
4 we started out with a group of folks around this table,
5 and a couple of chairs have changed, but the continuity
6 has continued there.

7 I was just reviewing some of the history as far as
8 how we went through this in regards to workgroup, our
9 list of issues to the workgroups back to the committee,
10 and then back to final product. And it's just humbling
11 to review that and work with all you folks, and it's
12 been a good experience once again, and I appreciate the
13 opportunity to be here and work with you all.

14 And I think it's very important work that we do.
15 It's sometimes thankless work, but we have folks back
16 home that are relying on us, and the need is great, if
17 not getting greater. So with that, I just want to
18 thank you again, Co-Chairs, for the opportunity to say
19 something, and thank all of you for your earnest
20 participation and your heartfelt work. Thank you.

21 (Applause.)

22 MR. EVANS: I guess I'll echo everyone else's

1 sentiment as well. We were talking last night about
2 how long all of us have been doing this. And some of
3 us in this room have been doing negotiated rulemaking
4 over 20 years now. And needless to say, first of all,
5 that's kind of depressing, but --

6 (Laughter.)

7 MR. EVANS: But when you look at all the good that
8 it's accomplished, it's inspiring. And that's
9 definitely, if I had to sum up the experience that I've
10 had being a part of this group, that would be the one
11 word that I would choose. It's a part of what keeps
12 the dream alive for all of us.

13 And I thank everyone for all the work, all the
14 effort they've put in. The amount of work that goes on
15 behind the scenes is immense from every perspective,
16 from tribal perspective, HUD's, the contractors, et
17 cetera. I can honestly say that in terms of contractor
18 support from the time that I've been around this block,
19 we've had the best contract support this time around,
20 most definitely beyond a shadow of a doubt. So I'm
21 tremendously appreciative of FirstPic for that, and for
22 HUD in selecting them.

1 Also the staff, everybody is really great to work
2 with. Everyone around this table, thank you for
3 allowing me to be seated among you. It's definitely an
4 honor and a pleasure. And thank you for the punches
5 you've thrown and the punches you've taken. Next time
6 you want to throw something at me, though, I think Jon
7 will take mine.

8 And I hope everyone has safe travels home. Thank
9 you so much for your open mindedness, for your
10 contributions, and all the work that you do for your
11 tribal communities, and everyone here. If I left
12 anyone out, I apologize. But thank everyone for
13 everything that they do, and I wish you all safe
14 travels. Thank you.

15 (Applause.)

16 MS. BRYAN: All right. On behalf of Jason and
17 myself, it has truly been our honor to serve as your
18 co-chairs. And I think we made a really good team, and
19 learned a lot. My first negotiated rulemaking, and
20 several of us around the table the first time. It's
21 hard work, so I have a lot of respect for those of you
22 who have been around the table for 20 years. It's

1 really important. What we're doing here is really
2 important. So I'm going to echo the sentiments. I
3 want to thank everyone from the doorway in all the way
4 around to the doorway out.

5 And I'm going to get mushy, but, you know, this
6 work really matters to the people at home. And so, I
7 just want you all to have good blessings, and, you
8 know, ask that Creator blessing from the bottom of your
9 feet to the top of your head. And with that, I'm going
10 to have Randy Akers lead us into closing prayer. Thank
11 you.

12 (Closing prayer - Off audio.)

13 MS. FIALA: And just a final logistics note, if
14 you had a property pass, if you could please turn that
15 back into one of the HUD staff members, and also your
16 nametag as well.

17 FEMALE SPEAKER: At the lobby.

18 MS. FIALA: Sorry, at the lobby. Oh, and if we
19 could take a group photo real quick before everyone
20 leaves.

21 (Whereupon, at 6:31 p.m., the meeting was
22 adjourned.)