

MINUTES

Senate Legislative Redistricting Committee House Legislative Redistricting Committee



Senator Mary Duvall, Senate Committee Chair
Representative Spencer Gosch, House Committee Chair
Senator Jim Bolin, Senate Committee Vice Chair
Representative Kent Peterson, House Committee Vice Chair

**Second Meeting, 2021 Interim
Tuesday, June 01, 2021**

**Room 414 – State Capitol
Pierre, South Dakota**

The second meeting of the Senate Legislative Redistricting Committee and the House Legislative Redistricting Committee was called to order by Senator Mary Duvall at 1:00 p.m. (CST). The committees met together in Room 414 of the State Capitol, Pierre, South Dakota. A quorum was determined with the following members answering roll call: Representatives Drew Dennert, Mike Derby, Jon Hansen, Liz May, Bethany Soye, Kent Peterson, Vice Chair (via Teams), and Spencer Gosch, Chair (via Teams); Representative Ryan Cwach was excused; and Senators Casey Crabtree, Michael Diedrich, Helene Duhamel (via Teams), Troy Heinert (via Teams), Kyle Schoenfish, Jim Bolin, Vice Chair, and Mary Duvall, Chair.

Staff members present included Matt Frame, Legislative Attorney; and Rachael Person, Administrative Specialist.

NOTE: For the purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was webcast live. The archived webcast is available at the LRC website at sdlegislature.gov.

Approval of Minutes

Senator Bolin moved, seconded by Senator Diedrich, to approve both sets of minutes for the March 9, 2021 meeting. The motion prevailed on a voice vote.

Opening Remarks

Senator Duvall opened the meeting by welcoming the members and those participating. She highlighted the sections of the State Constitution and Codified Law that outline the principles the Legislative Redistricting committees need to follow as they go about the process of redistricting.

Census Data, Legal Requirements for Redistricting, and Software Demonstration

Mr. Matt Frame, Legislative Attorney, Legislative Research Council (LRC), said two significant developments had taken place since the committees last met in March. First, the state of Ohio sued the Census Bureau, and as part of a settlement in the lawsuit the Census Bureau agreed to provide Ohio with census data by August 16, 2021. Mr. Frame said that based on webinars and other information the Census Bureau has released, it is likely that all states will be receiving a legacy file format of the data on August 16. Mr. Frame pointed out that the legacy format will be the same format received in March of 2010, but the Census Bureau has stated the data released in September will be more user friendly, more available to the public, and will be formatted with more tables, making it easier to use for redistricting purposes.

The second development was the announcement of South Dakota's resident total by the Census Bureau. Two counts were announced. One was the apportionment count which is a state level count and applies for the US House of Representatives specifically. The second count was the resident data which puts South Dakota at

886,667 people. Mr. Frame stated this will be a good number for the committees to use as a basis as they are making determinations about target size of a district, how many districts there will be, and the population of those districts.

Mr. Frame discussed areas of law that impact redistricting highlighting Article 1, Section 2 and Article 3, Sections 2 and 5 of the State Constitution, the 14th Amendment to the US Constitution, and the Voting Rights Act. Mr. Frame focused on the Senate Report issued by Congress during the 1982 revision of the Voting Rights Act and the criteria states should apply in the process of redistricting to avoid violating the Voting Rights Act. Mr. Frame told the committees the constitutional criteria is important because the constitution is harder to change than the state statute and that all of the legal criteria such as the "one person, one vote" rule, prohibition of racial discrimination, population deviances, protection of minority voting rights, and various boundary criteria, will be of the utmost importance for the committees as they draw the maps.

Mr. Frame then discussed several court cases that hold significant information and lessons regarding the redistricting process. One area of importance was the subject of Native Americans as a minority. South Dakota is a unique state that has a significant population of Native Americans who can impact the elections, and who experience different challenges and successes than other minority groups. Mr. Frame pointed out that minorities, as a whole, are generally younger than the traditional white majority which means that in certain jurisdictions, there may be more individuals who cannot vote simply because they do not meet the age requirements to do so. Native Americans are even younger than the average minority. Mr. Frame reminded the committees that due to this disparity in age, committee members will need to remember that drawing districts in such a way that there are enough Native Americans to impact it isn't necessarily enough because some may not be old enough to participate in the process. Another unique characteristic of Native Americans as a minority is that they have tribal governments. Mr. Frame said this has a two-fold effect but primarily means they are less dependent and therefore sometimes have less engagement in the political process. Mr. Frame commented that other minorities have more of a vested stake in the government than those that have tribal governments who can address issues and help regulate and run their day to day operations. This means there may be less desire, or need, to engage in the process which might result in lower voter registration and lower voter turnout. The third characteristic unique to Native American minorities is that they tend to be more impoverished which has an impact on individuals having the ability to travel to polling places to participate in the political process. South Dakota, as a whole, is a rural state and Native Americans are especially impacted by that. Mr. Frame said the committees need to recognize the need for additional consideration towards the Native American communities to make sure they are being fairly and equitably treated, as well as other minorities within the state.

Another area of importance Mr. Frame emphasized was the need for maps to be drawn to ensure minority voters are able to participate in the political process and elect representatives of their choice. Mr. Frame informed the committees that balance is needed to ensure that dilution of the minority votes does not occur. Overpacking a district with minority votes or spreading minority votes across many districts can both deny minorities fair voting rights.

Following his discussion of legal criteria, Mr. Frame presented the committees with a preview of the redistricting software, including online software, that will be used for the upcoming redistricting process.

Appointment of Subcommittees

Senator Duvall appointed Representatives Dennert and Soye, and Senator Crabtree to the technology subcommittee. Representative Dennert will act as the chair of the subcommittee.

Senator Bolin moved, seconded by Senator Crabtree, that the committee establish subcommittees for the Sioux Falls metropolitan area, the Rapid City metropolitan area, and the areas of tribal groups. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. House committee members voting AYE: Dennert, Derby, Hansen, May, and Soye. House committee members EXCUSED: Cwach, Peterson, and Gosch. Senate committee members voting AYE: Crabtree, Diedrich, Duhamel, Heinert, Schoenfish, Bolin, and Duvall.

Representative Gosch said that at the creation of the redistricting committees, it was stated to him that the intent was for the Senate and House to hold their own individual committees. He asked if the intent of the motion was for the Senate and House to create their own subcommittees or for the committees to work together.

Senator Duvall said the committees should meet concurrently and work together.

Representative Dennert said for the purpose of redistricting, House districts need to be wholly established within the Senate districts and the committees need to adopt one map. If the committees were to be successful in their endeavor, working together is the best way to achieve that goal.

Senator Diedrich pointed out that the committees are appointed as two separate chamber committees which creates the possibility of a Senate bill or a House bill, so working together would ensure avoidance of duplication in the bill making process.

Representative Hansen moved, seconded by Senator Bolin, that there be 35 legislative districts. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. House committee members voting AYE: Dennert, Derby, Hansen, May, and Soye. House committee members EXCUSED: Cwach, Peterson, and Gosch. Senate committee members voting AYE: Crabtree, Diedrich, Duhamel, Heinert, Schoenfish, Bolin, and Duvall.

The committee discussed options for the public, or other members of the legislature, to provide input in the process. The members agreed that they prefer to be the main contact for any input and will carry the information to the LRC staff working on the redistricting project. Questions, concerns, or any information individuals may have for the committees can be sent to sdredistricting@sdlegislature.gov.

Public Testimony

Mr. John Claussen, Sioux Falls, SD, self, asked the committees to respect both the urban and rural vote. He spoke to the areas outside of Sioux Falls and advocated for fewer legislative districts in an effort to protect the urban and rural voice.

Mr. Frank Kloucek, Scotland, SD, self, agreed with Mr. Claussen's suggestions and instructed the committees to be careful about eliminating Democratic candidates and legislators, keeping the counties whole, and allowing people to elect candidates that will represent the areas and their beliefs.

Mr. OJ Semans, Rosebud, SD, Four Directions, highlighted the importance of communication and consultations with the tribes during the process of redistricting. He suggested options for meeting places that would encourage dialogue between the tribes and the state and asked the committees to look at the reservations as communities of interest.

Mr. Kellen Returns From Scout, Rapid City, SD, Great Plains Tribal Chairman's Association Inc., asked the committees to hold hearings on the reservations, engage in government to government consultations, respect political boundaries, and to respect political interest. He asked the committees to not split or crack reservation boundaries. Mr. Returns From Scout said working together is imperative to move forward and exist in a positive and respectful manner.

Adjournment

The next meeting of the redistricting committees will be scheduled after the census numbers are released.

Senator Bolin moved, seconded by Representative Hansen, that the Senate Legislative Redistricting Committee and the House Legislative Redistricting Committee meeting be adjourned. The motion prevailed on a voice vote.

The committees adjourned at 4:24 p.m.