

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

Third Meeting, 2021 Interim
Thursday, September 9, 2021

Room 362 – State Capitol
Pierre, South Dakota

The third interim meeting of the Senate Legislative Redistricting Committee and the House Legislative Redistricting Committee was called to order by Senator Mary Duvall at 10:26 a.m. (CST). The committees met together via teleconference and in Room 362 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering roll call: Representatives Ryan Cwach, Drew Dennert, Mike Derby (via Teams), Spencer Gosch (Chair), Jon Hansen (via Teams), Liz May (via Teams) Kent Peterson (Vice Chair), and Bethany Soye (via Teams); and Senators Jim Bolin (Vice Chair), Casey Crabtree, Michael Diedrich, Helene Duhamel (via Teams), Mary Duvall (Chair), Troy Heinert, and Kyle Schoenfish.

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

Representative Gosch moved, seconded by Representative Dennert, to approve the minutes of the August 30, 2021, Senate Legislative Redistricting Committee and House Legislative Redistricting Committee meeting. The motion prevailed on a voice vote.

Opening Remarks

Senator Duvall welcomed everyone to the meeting, described what a conurbation area is and how it will be used by the committees in the redistricting process, and asked members of the Rapid City subcommittee to share comments and information from the subcommittee's September 7, 2021 public hearing meeting in Rapid City.

Senator Diedrich said the subcommittee saw an excellent turnout, with both live and online testimony. Senator Diedrich said the constituents expressed a desire to maintain the compact and continuous districts, and that there was good discussion on the 5% deviation range the redistricting committees adopted at the August 30, 2021 meeting, and how the committees could work with that deviation range during the redistricting process.

Representative Dennert added that a lot of conversation centered around north Rapid City and what could be done to keep that area together to protect the community of interest. Representative Dennert said another topic of interest was the Ellsworth Air Force base and whether or not it belonged in the Rapid City conurbation area, with the overall consensus being that it does.

Rapid City Conurbation Areas

Representative Dennert presented his proposal for the Rapid City conurbation area ([Document 1](#)). Representative Dennert said his proposal would encompass the current Districts 32, 33, 34, and 35, and would have a total population of 101,376, making a deviation of 11 people per district. Representative Dennert said the highlights of his proposal are that it has essentially no deviation, keeps the city limits together, and it keeps both Blackhawk and the Rapid Valley precincts together.

Senator Bolin asked if Representative Dennert's proposal allowed for enough people from Fall River, Custer, and portions of Pennington County to create a district to the south that would not interfere with Oglala Lakota County. Representative Dennert said that his proposal does include Custer and Fall River Counties and rural Pennington County. He added that District 27 would still be intact but would have three precincts from Pennington County included.

Senator Heinert cautioned the committees that the census numbers for reservation counties are undercounted and the committees should be careful when dealing with deviations into the reservation districts.

Senator Duhamel offered another proposal for the Rapid City conurbation area ([Document 2](#)). Senator Duhamel pointed out that the proposal did not differ much from Representative Dennert's proposal. However, this proposal would add Ellsworth Air Force base back into Rapid City, it would keep the communities of Summerset and part of Blackhawk, the airport would be taken out, the Rosebud district would get bigger and gain more of eastern Pennington County, and the Custer district would get bigger. Senator Duhamel said the total population would be 99,908 people creating a deviation of 1.87%. Senator Duhamel also cautioned the committees to be careful with any maps that box in Districts 30 and 27.

Senator Duvall asked what would happen to the Meade County numbers if all of Summerset and Black Hawk were included in Senator Duhamel's proposal for the conurbation area. Senator Duhamel replied that Meade County has too many people which was the motivation for moving the conurbation area into the north, but the committees still have to be careful of taking too many people from Meade County.

Representative Hansen asked why the Rapid Valley area was left out of the proposed conurbation area. Senator Duhamel said more of Rapid Valley could be included in the conurbation area, but it is important to keep the population numbers in mind because both District 30 and 27 need higher population numbers.

Representative Gosch commented on the expansion of the Ellsworth Air Force base and said the committees should be mindful of the of the situation for the future.

Mr. Matt Frame, Legislative Attorney, LRC, reminded the committees that while it is important to be mindful of the Ellsworth expansion, the Constitution states that the committees are to take the current census numbers and use those numbers to create the districts. Mr. Frame said the committees can look at other factors when drawing some of the districts, but he encouraged the committees to focus on the criteria that has already been established such as staying in the standards of population deviance, ensuring protection of minority voting rights, and respecting geographical and political boundaries.

Sioux Falls Conurbation Areas

Senator Crabtree said his proposal for the Sioux Falls conurbation area ([Document 3](#)) is very similar to the current conurbation district with a little variance. Senator Crabtree's new proposal brings the population down to 231,338 people creating a smaller area but keeping the deviation low at 1.5% which will provide flexibility going forward.

Senator Crabtree said his proposal also protects the rural votes by splitting Sioux Falls into nine districts instead of ten and by keeping the more rural focused towns out of the conurbation area.

Senator Duvall asked if Senator Crabtree had done an analysis of how his proposed conurbation area would affect the rest of the state and if more counties will need to be split. Senator Crabtree said he has made an analysis and some things would change along the way, but his proposed conurbation area would minimize the number of counties that would need to be split.

Senator Bolin voiced his concern about dividing Sioux Falls, Harrisburg, and Lennox and said he objected to any proposal that would move Lennox away from the conurbation area.

Representative Soye asked how the western part of Minnehaha County would be affected and if the districts would need to stretch into other counties to draw the population needed. Senator Crabtree said the districts would probably have to stretch into other counties, but he added that if his proposal was adopted it would provide the most flexibility and less counties would be split than are currently split today.

Senator Schoenfish said Senator Crabtree's proposal provides a good launch for minimizing the urban/rural divide and anything the committees could do to maximize the rural districts and keep rural and urban areas separate would be a good place to start.

Representative Hansen said that he had reached out to the mayors in northern and western Minnehaha County, laid out the existing conurbation area, showed them Senator Crabtree's proposal, and then asked for their input. Representative Hansen shared the feedback he received from them and pointed out that they would not like to see Minnehaha County split. Representative Hansen said the small towns have a strong community of interest with each other and with Sioux Falls, and rather than giving them flexibility under Senator Crabtree's proposal it boxes out the rural Minnehaha towns in contradiction with what the local leaders desire. Representative Hansen also pointed out that it requires Minnehaha County to be split which violates the committees' guiding principles under [SDCL 2-2-41](#).

Senator Bolin added that the communities of Lennox, Tea, and Harrisburg were placed together ten years ago, and should be maintained.

Senator Crabtree emphasized that based on the growth of Sioux Falls, one district will move into Sioux Falls, and while everyone would like the districts to stay the same, the committees will have to decide which district will be moved.

Senator Bolin offered another proposal for the Sioux Falls conurbation area ([Document 4](#)). Senator Bolin said his proposal maintains all of Minnehaha County, removes LeValley Township, and would be 210 people over the perfect district of 25,333. Senator Bolin said removing the township would be the only change made from the current Sioux Falls conurbation area.

Representative Peterson asked how the proposal would affect eastern South Dakota. Senator Bolin said it would add LeValley Township's population of 690 people to what is currently District 16. He added that it would maintain a 10-district conurbation area and the current District 16 would be potentially maintained in a proper fashion.

Representative Peterson said the committees are going to potentially make some major changes in other districts and they need to be careful how they go about doing so.

Discussion on Additional Map Guidelines

Mr. Frame said that putting guidelines in place would help narrow the number of maps the committees would need to look at and would help to ensure that every map received from the public, the committees, or other members of the legislature would abide by the guidelines set forth by the committees. Mr. Frame used the example of the 2010 committee establishing Lawrence County as a district early on in the process.

Representative Cwach commented on the population of Yankton and his concern with the 5% deviation. He asked the committees to think about the 5% deviation and if it is more important than respecting political boundaries and communities of interest.

Public Testimony

Ms. Amy Scott-Stoltz, League of Women Voters, Sioux Falls, spoke on the rural and urban makeup of Sioux Falls and the surrounding areas. Ms. Scott-Stoltz said there are two distinct populations in Minnehaha and Lincoln County that deserve proper representation and should be considered communities of interest. Ms. Scott-Stoltz added that including the entire area in a conurbation area could reduce the influence of the rural population in the county when some legislative districts reach into Sioux Falls and legislators who live in the city are elected. It can also dilute the influence of the urban population when legislators who live in rural areas are elected. Ms. Scott-Stoltz reminded the committees that both the rural and urban populations have their own legislative priorities and deserve proper representation. She asked the committees to respect the communities of interest by keeping the conurbation area as close to the Sioux Falls city limits as possible.

Mr. Brian Burge, self, Beresford, urged the committees to adopt Senator Crabtree's proposal for the Sioux Falls conurbation area. Mr. Burge highlighted current Districts 9, 15, and 25, and said the districts should be more compact and contiguous than they are now, and the conurbation area should shrink so that it contains the urban area as is intended.

Mr. Jeff Barth, County Commissioner, Sioux Falls, spoke on the growth of Minnehaha County and highlighted that it is one of the top agricultural counties in South Dakota. Mr. Barth asked the committees to be judicious if they cut precincts in half and put them into different legislative districts, and to allow the different types of citizens to have some representation.

Mr. John Claussen, self, Sioux Falls, said, in his opinion, there isn't a conurbation area in the entire state of South Dakota because the definition of the word talks about the cities. Mr. Claussen emphasized that the Constitution says the legislative districts must be compact which means that the committees should work from the core of the urban areas out, which would allow them to create almost perfect legislative districts in terms of their size. He asked the committees to protect the urban and rural interest by starting with the dense, compact areas in the state and then move into the rural areas.

Mr. Frank Kloucek, self, Scotland, touched on the splitting of Bon Homme County during the 2010 redistricting cycle. Mr. Kloucek said the Native American, rural, and urban votes are all important. He urged the committees to put the interest of the state first and partisan redistricting last.

Mr. Kellen Returns From Scout, Financial Officer, Great Plains Tribal Chairman's Association Inc., said the schedule for the redistricting process has been a difficult one, but he urged the committees to make sure that all nine of the tribes are consulted during this process. Mr. Returns From Scout pointed out that he submitted a map proposal for a single member district for a Native American voting age population in Rapid City. Mr. Returns From Scout said

that while it was not enough to give Native voters control of the results of the election, it would give them a greater voice than they have had for the past thirty years.

Brainstorming Proposals for Majority/Minority Districts and Committee Discussion

Mr. Frame presented multiple proposals created by the LRC to give the committees some ideas as to what the majority/minority districts could look like. Mr. Frame reminded the committees that the majority/minority districts are drawn so that a minority, specifically racial minorities, are able to become the majority in that district and elect their candidate of choice. South Dakota currently has three majority/minority districts: Districts 26, 27, and 28. Mr. Frame emphasized that the proposals presented were created only to get discussion started for the committees and more evidence and discussion is needed before these districts can be created.

Representative Derby asked what difference existed between creating majority/minority districts and the term packing. Mr. Frame responded that is a challenge because the committees have the directive from the Voting Rights Act to ensure that minorities can elect their candidate of choice, but they also have a directive to not discriminate based on race, and tension exists between those two directives. What creates another difficulty, Mr. Frame said, is the courts have set the goal of creating effective majority/minority districts, but there is no clear threshold set that the committees can use. Mr. Frame emphasized that the committees need more evidence about what that threshold is for each of the districts because American Indians are not the same in each place. The reservations have unique character, and one reservation might be more organized and have more people going to the polls, while another may have more challenges that result in lower participation than average. Mr. Frame said that once that evidence is acquired, the committees will have a better idea of what the targets should be and if packing may be occurring, or if the populations are being spread too thin.

Senator Heinert presented a proposal ([Document 5](#)) for the committees to use as a frame of reference as to what areas should be held together as far as their tribal membership. Senator Heinert stressed that there are distinctions between the tribes, and they need to be recognized as different tribes.

Senator Duvall said the tribal subcommittee will review the proposals received for the majority/minority districts and will bring a proposal back for the committees to consider.

Based on testimony and discussion during the meeting, Representative Dennert created another proposal for the Sioux Falls conurbation area and presented it to the committees ([Document 6](#)). Representative Dennert's proposal includes the city of Sioux Falls in its entirety minus four precincts. Representative Dennert said that excluding the four precincts would make the numbers work out in the conurbation area and allow the committees more flexibility for districts that would go to the north, south, east, and west.

Representative Peterson said the three proposals for the Sioux Falls conurbation area were helpful, but he would like the opportunity to gather public input before any decisions are made on the Sioux Falls conurbation area.

Senator Duvall deferred the decision on the Sioux Falls conurbation area until a future meeting.

The committees then discussed the Rapid City conurbation area proposal that was presented by Senator Duhamel earlier in the meeting.

Senator Diedrich moved, seconded by Senator Schoenfish, to adopt the Rapid City conurbation area map presented by Senator Duhamel during the meeting. The motion prevailed on a roll call vote with 12 voting AYE and 3 voting NAY. House committee members voting AYE: Dennert, Derby, May, Peterson, and Gosch. House committee members voting NAY: Cwach, Hansen, and Soye. Senate committee members voting AYE: Crabtree, Diedrich, Duhamel, Heinert, Schoenfish, Bolin, and Duvall.

Brainstorming Proposals for Full Map

Mr. Frame presented proposals for what the full map with districts and deviations could look like with the intent of spotlighting some of the areas that may present challenges for the committees while they are drawing the maps. Mr. Frame reemphasized that the maps presented were simply proposals to start discussion and do not represent ideas supported or suggested by the LRC.

Senator Duvall said the presentation highlighted some of the challenges, opportunities, and difficulties the committees will have going forward, and that ultimately, it will be up to the committees to come up with something to recommend to the full House and Senate.

Committee Discussion and Adjournment

Senator Bolin moved, seconded by Representative Dennert, that due to the population of Lawrence County, which is within the population range for a legislative district, that Lawrence County be a separate legislative district. The motion prevailed on a roll call vote with 13 voting AYE, and 2 EXCUSED. House committee members voting AYE: Cwach, Dennert, Derby, Hansen, May, Soye, and Peterson. House committee member EXCUSED: Gosch. Senate committee members voting AYE: Diedrich, Duhamel, Heinert, Schoenfish, Bolin, and Duvall. Senate committee member EXCUSED: Crabtree.

Senator Heinert said that in respect of the tribes and their COVID mitigation policies, he will pursue whether a virtual meeting with Crow Creek and Lower Brule is something they could achieve.

The Sioux Falls subcommittees have a meeting scheduled on Tuesday, September 28, 2021 in Room HUB303, in the HUB Building at Southeast Technical College, starting at 6:00 p.m. (CST). The agenda for the meeting can be found on the LRC website at sdlegislature.gov.

The next full Redistricting Committees meeting is scheduled for September 30, 2021 in Room 414 of the State Capitol, starting at 10:00 a.m. (CST).

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

The committees adjourned at 3:38 p.m.