

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

**Redistricting Tour, 2021 Interim
Tuesday, October 12, 2021**

**Lake Area Technical College
Watertown, South Dakota**

The fifth meeting of the October Tour of the House Legislative Redistricting Committee and the Senate Legislative Redistricting Committee was called to order by Senator Kyle Schoenfish at 6:00 p.m. (CST). The committees met together at Lake Area Technical College in Watertown, South Dakota.

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

Staff members present included Matt Frame, Legislative Attorney, Anna Madsen, Research Analyst, Will Steward, Research Analyst, Bill Douglas, Fiscal Analyst, and Randy Stockwell, Network Administrator.

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 on the LRC website at sdlegislature.gov.

Opening Remarks

Senator Schoenfish welcomed the public to the meeting and outlined the agenda.

Mr. Matt Frame, Legislative Attorney, LRC, noted that the information presented at the meeting and further information about redistricting can be found on the LRC website (sdlegislature.gov).

LRC Redistricting Presentation

Mr. Frame gave a presentation on the legal requirements and framework the committees have used through the redistricting process ([Document 1](#)). Mr. Frame provided an overview of federal and state constitutional requirements, federal and state laws, and requirements from the courts. Mr. Frame went into detail on the Fourteenth Amendment of the U.S. Constitution, Art. III, Sec. 5 of the South Dakota Constitution, the Voting Rights Act, and South Dakota Codified Law 2-2-41. Mr. Frame also discussed the ideal size of a district and deviation ranges, including that the committees voted on a deviation range of plus or minus five percent. He explained the tension recognized by the U.S. Supreme Court between the Voting Rights Act and the Fourteenth Amendment and noted that race cannot be the only factor when drawing a map, but it must be considered.

Mr. Frame discussed majority-minority districts, including the current majority-minority districts of 26, 27, and 28, and conurbation areas, including that the committees agreed that Sioux Falls and Rapid City will both have conurbation areas. Mr. Frame also discussed population facts and trends from the 2020 census data for districts and counties across the state. He explained how districts have to change because of these population trends and the deviation requirements.

Legislative Presentations

Representative Dennert presented the Grouse proposal ([Document 2](#)). He stated that the map attempts to preserve the divide between urban and rural areas, especially in the Sioux Falls area by following city limit boundaries. In the northeast corner, he shared that District 1 would keep its main counties of Roberts, Marshall, and Day, and add in part of northern Grant and the city of Milbank. District 4 would include the southern part of Grant, Hamlin, Deuel, rural Codington and rural Brookings counties. District 5 would have no changes for Watertown. He also noted the Rapid City districts that are within city limits and ones that are partially outside.

Representative Cwach presented the Eagle proposal ([Document 3](#)) on behalf of Senator Heinert. He noted that Watertown is split into two districts with the west portion going to District 5, and the rest going into District 4. He stated that the key distinguishing factors are Districts 26 and 27 and keeping the Native American populations together. District 26 would largely stay the same other than adding parts of the Crow Creek Reservation in Hughes and Hyde counties, and District 27 makes changes to several counties, including removing Haakon and adding additional parts of Pennington. Rep. Cwach also noted that this map proposal follows a -7.5 – 2.5% deviation range rather than the five percent.

Senator Bolin presented the Falcon proposal ([Document 4](#)). He expressed that the main concept behind this map is to minimize breaking up small counties. District 26 was designed to maximize the Native American vote, adding parts of Tripp, Hughes, and Hyde counties. Senator Bolin noted that District 7 for Brookings remains the same, and Watertown stays within the city limits. District 4 would include Grant, Clark, Hamlin, Deuel, and the remaining portion of Codington County. There are seven districts within the city boundaries of Sioux Falls. No small county is split three ways, and the only small counties that are split are Bon Homme and Hutchinson.

Senator Crabtree presented the Blackbird proposal ([Document 5](#)). He expressed that the map proposal has 19 urban districts and 18 rural districts, as well as 12 split counties. He explained that they attempted to keep communities of interest together. In Sioux falls, the map proposal has six districts wholly inside city limits and nine total districts including the ones partially in the city limits. District 1 looks largely the same, other than adding in part of Brown County, which he notes increases the Native American population in that district. District 2 is absorbed into neighboring districts which causes a ripple effect across Districts 4 and 5. He noted that the proposal splits Watertown to share population with Districts 4 and 5, with a new district being created in Brandon. Senator Crabtree provided detail on the county splits for those districts.

Public Testimony

Representative Fred Deutsch, District 4, Wallace, noted that he has heard concerns from constituents about splitting Watertown. He said this would not be in the best interest of the rural and urban areas. His district is rural, and he believes that combining part of Watertown and mixing rural and urban voters would cause the rural vote to be lost. He shared that his constituents would like District 4 to continue to be a rural voice. He also noted a resolution passed by the Grant County Commission, which asks that Grant County not be split. He supports the Grouse plan, but asked that the committees keep Grant whole.

Mr. Bret Healy, Four Directions Native Vote, Chamberlain, spoke in detail about the deviation requirements. He discussed the Supreme Court cases of Blackmoon vs. Charles Mix case and the Mahan case. Mr. Healy said these cases would allow the committees to go beyond the ten percent total deviation. He noted that they have been advocating to keep District 26 and 27 the same, other than adding the portions of Hughes and Hyde of the Crow Creek reservation. He also urged leaving District 28 the same, including the single-member district boundaries. He also advocated for a split member district in north Rapid City. Mr. Healy said his organization has been in contact with tribal leadership and the Native American Voting Rights Fund on these decisions. He shared that using the five percent deviation range increases the risk of litigation.

Representative Hugh Bartels, District 5, Watertown, shared that he understands the concept of compactness and the rural and urban divide, and if Watertown is split on these concepts, other cities should be split, including Mitchell, Aberdeen, Brookings, and Huron. He noted that the areas immediately outside of Sioux Falls are very urban, and they should be included in the conurbation area, such as the communities of Tea, Hartford, and Humboldt. He commented on Rapid City and said the area should be expanded as the current conurbation area is too small. Representative Bartels mentioned his disappointment that the committees decided not to allow access to other legislators for the software and for being referred to the committee on questions.

Mr. Dan Olson, self, Bradley, shared that he agrees with Representative Deutsch about keeping the rural and urban divide and keeping Watertown separate from the rural areas.

Ms. Jeanne Horning, self, Watertown, agreed with Representative Bartels that Watertown should not be split between two districts.

Ms. Mya Olson, self, Bradley, commented that she thought the Senate map watered down their vote and wondered why other communities weren't being split. She asked what the definition of a community of interest is, and said that splitting Watertown was dividing a community of interest. Ms. Olson added that putting Watertown with a rural district would affect their representation, especially with affluent parts of Watertown being added. She shared her support for the Grouse plan.

Former Representative Doug Post, self, Volga, noted his concern about combining rural Brookings with Lake County where Dakota State University is. He shared that combining different university interests in the same districts could be problematic for representation.

Committee Discussion

Representative Cwach asked why splitting Aberdeen makes sense for a mix of rural and urban, but not for Watertown, and why rural Codington is different from Watertown.

Representative Bartels responded that Aberdeen has a population of approximately 33,000 and should be split three ways to be comparable to splitting Watertown. Representative Bartels added that if the committees split city, they should split them all.

Representative Derby asked Mr. Frame to share the definition of a community of interest. Mr. Frame said the courts have interpreted the definition of a community of interest very broadly given the differences across states and localities. The entity that is in charge of redistricting usually determines what the community of interest is, so there is no clear definition.

Ms. Olson asked why Watertown would be split given that definition. She noted that the current maps should be provided for comparison. Ms. Olson also commented on combining affluent areas of a city and rural working areas, and how that representation would affect rural areas.

Senator Bolin commented on why other cities should not be split. He noted that Mitchell, Huron, Yankton, and other communities are all enclosed in counties that are smaller than a legislative district. Thus, those cities can be combined with other smaller counties to create a district that doesn't divide a county.

Senator Crabtree said that the maps are based on census data and drawing them can be very difficult. He noted that creating the maps does not have anything to do with campaigns, and that Watertown is a community of interest, and splitting it might result in greater representation with more influence. The intent was to make districts for citizens to have more interaction with their elected representatives.

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Representative Deutsch emphasized that greater consideration should be given to the rural and urban divide and said the politics of Watertown are different than his rural area.

Senator Diedrich moved, seconded by Representative Dennert, 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 7:13 p.m.