

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
Monday, October 11, 2021

Black Hills State University – Rapid City
Rapid City, South Dakota

The first meeting of the October Tour of the House Legislative Redistricting Committee and the Senate Legislative Redistricting Committee was called to order by Representative Mike Derby at 8:00 a.m. (MST). The committees met together at Black Hills State University – Rapid City in Box Elder, South Dakota.

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

Representative Derby explained that this is the first meeting of the Senate and House Redistricting Committees' statewide tour. Representative Derby stated that the reason for the tour was to hear input from the public.

LRC Redistricting Presentation

Mr. Matt Frame, Legislative Attorney, LRC, 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. Nathan Gjovik, self, Rapid City, asked if there is a definition for minority. Mr. Frame referred him to the Voting Rights Act but responded that a minority generally includes a racial or ethnic group with a lower population than the white majority.

Mr. Gjovik asked if it is impossible for a white person to be in the minority. Mr. Frame responded that under the Voting Rights Act, white people would generally not be considered as a minority for those protections. However, the Fourteenth Amendment does provide that people have the right to be equally protected under the law even if not considered a minority.

Mr. Frame continued his presentation to discuss 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 discussed population facts and trends from the 2020 census data. He provided overviews of counties and current districts and explained how districts have to change because of these population trends and the deviation requirements imposed by the courts and the five percent deviation range that the committee adopted. Mr. Frame explained that all the mentioned criteria and requirements, along with public testimony, are used together to develop a new map.

Mr. Gjovik asked for clarification on the five percent deviation range compared to the overall ten percent deviation and certain percentages highlighted on the presentation. Mr. Frame responded that deviation is a sliding scale, and the committees adopted that the deviation range will be fixed at five percent above and below the ideal district size.

Mr. Gjovik asked if the constitution requires that the deviation range be fixed at plus or minus five percent. Mr. Frame responded that the constitution does not. U.S. Supreme Court case law does provide for the total ten percent and sliding scale deviation. He noted that the committees could adjust the deviation range if they wanted to do so.

Legislative Presentations

Senator Crabtree presented the Blackbird proposal ([Document 2](#)). He expressed that the map proposal has 19 urban districts and 18 rural districts, as well as 12 split counties. He explained that the Sioux Falls conurbation area was changed to clearly delineate between rural and urban. It has six districts wholly inside city limits, and nine partial. Other major changes include District 2 being absorbed into surrounding districts and adding a new district to the Brandon area. Senator Crabtree stated that the map does a good job of keeping communities of interest together, and much of it is based off of the current map.

Senator Duhamel presented on the Rapid City area of the Blackbird proposal. She explained that Rapid City experienced more population growth than its rural neighbors. The objective was to include Ellsworth and Box Elder, and keep north Rapid City intact. District 35 would include Ellsworth, Box Elder, and as much of Rapid Valley as possible, and expands south to meet the population requirements. District 33 attempts to keep north Rapid City in one district. The plan eliminates the rural part of the Canyon Lake precinct to balance the population shifts with those districts with north Rapid City. District 32 keeps most of its boundaries the same, expanding southward until the population requirements are met. She noted that drawing these districts is difficult, but thinks this proposal provides for good compact and contiguous districts.

Senator Heinert presented the Eagle proposal ([Document 3](#)). He stated that this map proposal does not follow the five percent deviation range. The largest district is 2.41% above, and the smallest -7.5%. The total map deviation is 9.91%. He said the census numbers were not accurate, but to follow legal requirements, the districts must add population. District 26 adds in a part of Hughes and Hyde counties, totaling eight counties in that district. District 27 stretches into the New Underwood and Caputa areas. He expressed this was not ideal, but the alternative is to go into Fall River County, unless the committees would take the chance of leaving Districts 26 and 27 the same. Rapid City follows the adopted conurbation area, including Districts 32-25. District 34 is a new district that includes downtown Rapid City and more Native American population.

Senator Bolin presented the Falcon proposal ([Document 4](#)). Based on the five percent deviation range, the largest district is District 8, and the smallest is District 26. He did not propose any districts for the Rapid City area. District 26 is similar to the Eagle proposal, but he also added a portion of Tripp County. He expressed that the primary goal

of this map is to maintain the boundaries of small counties. Only two small counties are broken other than the pockets of Hughes and Hyde for population in District 26, Hutchinson and Bon Homme. Seven counties must be broken because they are too large. Overall, he believes the strength of this map is that it does not break small counties.

Representative Dennert presented the Grouse proposal ([Document 5](#)). He stated that this map attempts to preserve the urban and rural divide, compactness, and existing district boundaries as much as possible. District 28 is the same across each of the proposals, including six counties. District 29 is Meade County outside of the Rapid City conurbation area, and District 31 is Lawrence County. District 30 is mostly rural, with the biggest difference being that it does not split Fall River County. Eastern Pennington County is added to District 27. Within the Rapid City conurbation area, Districts 34 and 32 are entirely within the city limits. Districts 35 and 33 are on the eastern and western edges and contain most of the rural areas. He also noted that the Canyon Lake precinct would remain in District 33. In the Sioux Falls conurbation area, there are seven districts wholly within the city limits and the surrounding districts outside the conurbation area are outside the city limits. The total deviation of the plan is 9.62%, following the five percent range.

Representative Gosch commented that this is a legislative process, and the committees are completing it in a truncated timeframe. The proposed maps are not final maps, and any concerns can be communicated to their current legislator who will contact the members of the committees. Representative Gosch noted that the final proposal will not be known until both chambers agree and the proposal is signed by the Governor. He encouraged further feedback and communication from the public.

Public Testimony

Mr. Travis Lasseter, self, New Underwood, asked the committee when a final determination would be made on the proposed maps. He is a county commissioner from District 30 and noted that at least three of the proposals move New Underwood into District 27. Mr. Lasseter voiced his concerns about proper representation and splitting off the portion of eastern Pennington County that has been in District 30 for a long time.

Mr. Gjovik said he had concerns regarding the sliding scale deviation. He said the committees should use plus or minus ten percent for the deviation limit as it seemed the committees were making it more difficult than necessary. He said under the Grouse plan, his district would change, and he noted that there are exceptions to the rural and urban divide rule. He currently lives in District 35 and would like to stay in 35.

Mr. Dan Mullaly, self, Rapid City, said that with one of the criteria being the protection of communities of interest, Rapid Valley should be kept together. Currently, they have a representative only a mile away. Under the proposals, they would be in District 30 with a representative in Hill City. He encouraged the committee to revisit keeping some of those communities of interest together.

Representative Phil Jensen, District 33, Rapid City, stated that he agreed with others that north Rapid City should be kept together to give them a better voice. However, he said that placing three precincts with a higher concentration of Native Americans into District 33 is not conducive to that goal. He stated that District 33 shares certain values, whereas north Rapid City aligns with other values. He shared that these precincts would be better suited in District 34 and asked the committee to reject the Senate proposal and accept the House proposal.

Mr. Joe Falkenburg, Fall River County Commission, Edgemont, stated that he is opposed to dividing Fall River County. He shared that Fall River County is homogenous with people who have lived there for many years. Being placed into District 27 would be harmful to their voting as Oglala Lakota and Fall River Counties have significant

economic and cultural differences. He said that the accuracy of the census was off, and as the county auditor serves both Fall River and Oglala Lakota County it would be difficult to administer elections at the same time.

Ms. Deb Russell, Fall River County Commission, Oral, said that she liked Representative Dennert's Grouse plan. Fall River County works effectively with its current representation, and having to work with representatives from two districts would be difficult.

Ms. Tonchi Weaver, South Dakota Citizens for Liberty, Rapid City, stated the importance to her group of representation and abiding by the redistricting requirements. She said that in Rapid City, the problem is determining what to do with north Rapid City and where it would have the best representation. She said historically, District 32 is more in line with people who live in north Rapid City. On the school board level, a gentleman who is Native American represents Area 5 which includes parts of Districts 32 and 34. She expressed that District 34 might also be a good fit. She stated that Districts 32 and 34 have been more moderate to liberal in their representation, and a Democrat might have a stronger chance to be elected. She also shared that an area on Blackbird, which she believes to be the Red Rocks area, looks like it could be gerrymandered. She then endorsed the Grouse plan.

Senator Julie Frye-Mueller, District 30, Rapid City, voiced concerns about the advertising of the meeting and public input. She shared that her constituents from Wall, New Underwood, and Wasta are opposed to being moved to District 27. She supported Representative Dennert's Grouse proposal. She asked how much time there is before a final decision is made and if there is more time for public comment. Senator Duvall responded that these are proposals, and that more committee meetings are scheduled for public comment to assist in developing the full map proposal. The special session is scheduled for November 8-9. She also pointed out that the maps are available online and that the October tour dates have been scheduled for months.

Ms. Patti Martinson, self, Rapid City, asked if the map proposals are individual or if they can be combined. The committees indicated that the maps, as presented, are individual, but parts can be combined.

Ms. Mary Williams, Wall Economic Development Corporation, Wall, shared her appreciation for a meeting in Rapid City instead of Pierre. She emphasized keeping counties together, and the precincts that include New Underwood, Wasta, Wicksville, Wall, and Quinn have wonderful representation from District 30. She stated that they are involved with their communities and share a common interest. If they are moved to District 27, she thinks that they will lose proper representation. She encouraged the committees to keep those precincts in District 30.

Representative Trish Ladner, District 30, Hot Springs, shared that she has received many emails from people in District 30 asking to not break away Oelrichs and Oral. The communities interact constantly, including ranching and school activities. She hopes the committees will do all they can to keep Oelrichs and Oral in District 30.

Ms. Janet Jensen, self, Rapid City, asked the committees to take into consideration the preservation of geographic and political boundaries and protection of minority rights. She said the Blackbird map has a very clear imbalance with shifting precincts to achieve the population deviation range, and disproportionately affects Districts 33 and 35. She went into detail on the precinct shifts between the districts and the number of people who are affected. She stated that she trusts the committees to protect minority rights and preserve the urban-rural divide. She also shared concerns about how the lines of blocks are drawn. She believes that Representative Dennert's map is fair and equitable.

Former Representative Kevin Killer, Oglala Sioux Tribe, Pine Ridge, stated that the committees should keep District 27 the same. He served in that district and emphasized the undercount of the census. In federal legislation under President Biden and President Trump, the numbers used to distribute financial relief do not match the census. He supports Senator Heinert's Eagle proposal. He also supports creating a single member House district in Rapid City and said there is enough evidence to justify doing so.

Ms. Kirstin Mitzel, self, Rapid City, asked the committees to follow the city limit lines for Districts 32 and 34. She also stated that north Rapid City should be kept in a district exclusively within the city, and that Fall River County should not be split. She cautioned against gerrymandering or putting incumbents in the same district to run against each other.

Mr. Jordan Mason, self, Rapid City, shared that it was difficult to attend a meeting during the workday as well as on a school holiday. He thought that the committee should have come to the public for input before proposing any options. He also noted concerns about the redistricting process being used to eliminate certain incumbents, as stated by certain legislators. He noted his agreement with President Killer and the Native American vote being commonly diluted in the state, especially given that the area in Rapid City with a higher Native population is currently split into three districts. He shared his concern over District 27 "flagpoling" over to Wall. He also referenced Boneshirt vs. Hazeltine and that mistakes made in 2001 were being made now and that the minority population is being diluted.

Representative Tina Mullaly, District 35, Rapid City, shared concern from constituents in District 35 about the current map proposals. She also asked if the conurbation area was adopted and if a new conurbation map could be brought forward. She is concerned about losing people from the census, as well as residency and voter registration concerns with military personnel in Box Elder and Ellsworth. She noted concerns with the block lines.

Mr. Miller Cannizzaro, self, Rapid City, shared that he has lived in District 35 for most of his life, including north Rapid City and Rapid Valley. He expressed that these are two very different places, and it doesn't make sense for them to be in the same district. He shared that north Rapid City should be unified in single district.

Mr. Kellen Returns From Scout, Great Plains Tribal Chairmen's Association, Rapid City, shared that he is a lifelong resident of Rapid City. He has previously demonstrated the importance of protecting minority rights, communities of interest, and geographic and political boundaries. He also underscored the importance of consulting with tribal governments, who have provided written and virtual testimony to the committee. This testimony included that the census numbers are dangerously flat, and the committee should consider this in a compelling argument to protect minority rights. He said that expanding the current districts of 26, 27, and 28 would dilute the minority vote, and any boundaries other than the current lines would affect their ability to elect a candidate of their choice. He also believes the five percent deviation range is arbitrary, as demonstrated by Blackmoon vs. Charles Mix County and Mahan vs. Howell. He previously submitted a single member House district for north Rapid City for the committees' consideration that would give voters the opportunity to elect a candidate of their choice, which he said has never previously existed in their community. He also noted that precinct lines have not been redrawn since 1983, and they are not conducive to Native voters.

Representative Peri Pourier, District 27, Pine Ridge, shared her concerns about the undercount of the Pine Ridge reservation in the census, noting in later testimony that the Pine Ridge reservation was undercounted by 50% in 2010. She stated that the Pine Ridge reservation was supposed to get 80 numerators from the Census Bureau, but only received six. They also didn't receive geocodes until the end of the census, which was too late for printing physical copies of the census form. To complete the census online, a person would have to come to the individual's home to verify the geocode, which she doesn't believe happened in any case. She has a family member who works for the Census Bureau in Tennessee, who indicated that they try to reach communities after the deadline. She shared that no such effort was made on Pine Ridge. She stated that precincts on the reservation cut through communities, and transportation for voting is difficult. She also expressed that COVID affected people's ability to vote on the reservation. All these factors affected the voting numbers and turnout count. She believes the districts should be kept the same because of the undercount.

Ms. Sandra White Shield, self, Rapid City, shared that she has worked in many different industries, and representation for each of her experiences is very different. She expressed that it is important to keep agriculture and urban separate when drawing lines, as well as accounting for cultural representation.

Senator David Johnson, District 33, Rapid City, wanted to address discussions about north Rapid City and the Native American population. He has longstanding ties to north Rapid City and was the vice president of the North Rapid City Civic Association. He offered his support of the Blackbird proposal as it follows the boundaries that north Rapid City defines for itself. He believes the Blackbird proposal keeps the indigenous population together, while the Grouse plan splits north Rapid City into three districts. He also shared that the Canyon Lake precinct is not a rural precinct, given that most of the population lives just outside of the city limits. He also stated that Lakota Homes has never been subdivided in the past, and the Blackbird proposal keeps it whole and increases representation for the indigenous population in north Rapid City. He thinks the Grouse proposal is problematic because it ignores city boundaries and splits precincts. He also thought the Blackbird proposal scored high on the compactness tests.

Mr. John Claussen, self, Sioux Falls, shared concerns on the split between urban and rural. He also shared that there should be three legislative districts for Rapid City, not five, given that 75,000 people live there. He said that these districts should be compact and dense, including a single-member district for north Rapid City. He also shared concerns on the census and undercount of Native Americans, RV voters, and the timeline of the committees' work with the census data.

Senator Red Dawn Foster, District 27, Pine Ridge, reiterated that the district boundaries should be kept the same because of the undercount of the census on the reservation. Through the disaster relief process on the Pine Ridge Reservation, she believes that they added 4,000-6,000 members who were not previously enrolled, which is even greater than previously thought. She also asked the committees to consider Senator Heintert's map if the districts can't be kept the same.

Representative Tony Randolph, District 35, Rapid City, shared concerns about Green Valley being removed from District 35 and moved to District 30 and the loss of local representation. He stated that they are a tight-knit community and it would affect their representation. He also spoke on north Rapid City, and he shared that people from the area thought it was gerrymandered because it was split into three districts. He believes that District 32 or 34 would more closely align with proper representation for them.

Committee Discussion and Adjournment

Senator Duvall thanked the audience for attending and noted that further meetings are available on the [South Dakota Public Broadcasting webpage](#). She also commented on the constitutional requirements on census data and population deviance.

Mr. Frame provided information on how to contact the committee and the details on the remainder of the tour. He also responded to a question from the public regarding the level of detail provided on the maps. He stated that he would discuss with the chairs on how best to proceed.

Senator Heinert provided details on the location of the Mission meeting and clarification on the address of the Rosebud Casino.

Senator Duvall 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 10:25 a.m.