

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

Wrangler Inn
Mobridge, South Dakota

The third meeting of the October Tour of the House Legislative Redistricting Committee and the Senate Legislative Redistricting Committee was called to order by Representative Spencer Gosch at 8:00 a.m. (CST). The committees met together at the Wrangler Inn in Mobridge, 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, Kyle Schoenfish, Jim Bolin (Vice Chair), and Mary Duvall (Chair). Representatives Jon Hansen, 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

Representative Spencer Gosch thanked the public for attending the meeting and the Wrangler staff for hosting and explained the agenda for the meeting.

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. Frame discussed majority-minority districts, including the current majority-minority districts of 26, 27, and 28, and conurbation areas, including that the committee 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, including that District 23 is under the deviation range. He explained how districts must change because of these population trends and the deviation requirements. Mr. Frame concluded his presentation by explaining that the biggest challenge is bringing all the mentioned criteria and requirements together to develop a new map.

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 they attempted to keep communities of interest together. In Sioux falls, the map proposal has six districts wholly inside city limits and nine partial districts. Other major changes include District 2 being absorbed into neighboring districts and adding a new district to the Brandon area. District 17 is also slightly different with combining Dakota Dunes and Vermillion.

Senator Bolin presented the Falcon proposal ([Document 3](#)). The total deviation is 9.57% and based on the five percent deviation range. He expressed that the main concept behind this map is to minimize the breaking small counties. There are seven districts within the boundaries of Sioux Falls, and four in Rapid City. He did not propose any districts for the Rapid City area. The largest district in his proposal is District 8, and the smallest is District 26. Senator Bolin said District 26 is designed to maximize the Native American vote, adding parts of Tripp, Hughes, Hyde. He explained that another concept of his map is that most of splitting takes place in the large counties that must already be split. Other than the counties split for District 26, only Hutchinson and Bon Homme are small counties that are split, and no small county is split three ways.

Representative Cwach presented the Eagle proposal ([Document 4](#)) on behalf of Senator Heinert. He stated that the key distinguishing factors are Districts 26 and 27 and keeping the Native American populations together. Representative Cwach said the map proposal follows a -7.5 – 2.5% deviation range rather than a five percent range. The Rapid City area is also drawn differently, with a new District 34 to encompass the area of north Rapid City.

Representative Dennert presented the Grouse proposal ([Document 5](#)). He stated that this map attempts to preserve existing district boundaries as much as possible, as well as separating urban and rural areas. In the Sioux Falls conurbation area, he stated this is especially true as there are seven districts wholly within the city limits. He noted that District 23 must add population, so he attempted to keep it rural by adding rural Beadle and Jerauld counties instead of going into cities like Aberdeen. Representative Dennert says he also preserved Aberdeen being in two districts. District 28 is the same across each of the proposals, including six counties. The total deviation of the plan is 9.62%, following the five percent range.

Public Testimony

Mr. Rick Cain, Walworth County, Mobridge, noted that most people who live in Walworth County are directly or indirectly related to agriculture. Mr. Cain said that the Grouse map keeps their area almost entirely rural, and representatives from rural areas do the best job in representing their interests.

Mr. Brett Healy, Four Directions Native Vote, Chamberlain, said that the committees are not bound to the ten percent deviation for the Native American vote. He shared that District 27 can remain the same with a deviation outside the ten percent, given the Mahan decision from the 1970s, and the Blackmoon decision in 2005. He encouraged the committees to keep Districts 27 and 26 the same, other than adding in the portions of Hyde and Hughes counties that include the Crow Creek reservation. Mr. Healy cautioned that if South Dakota reduces the voting age population for Native Americans in Districts 26 and 27 or moves away from a split district in 28 and 26, there is a risk for litigation. He shared that these kinds of cases are expensive. In 2010 South Dakota avoided litigation, but that was a result of two previous decades of litigation. He also shared his advocacy of a northern Rapid City district for keeping a Native American community of interest together.

Mr. Beni Stoick, self, Mobridge, thanked the committee members for their work. He provided a historical perspective from his experiences with former Governors George Mickelson and Bill Janklow. He shared his concern

that if the committees don't carry out the process correctly, the western portion of District 23 will never have a voice in the future. Mr. Stoick added that only representatives from rural areas can truly understand rural interests.

Mr. Gene Cox, Mayor, City of Mobridge, indicated his support of the Grouse plan due to the separation of urban and rural. He shared that Mobridge depends heavily on west river traffic, agricultural traffic, and tourist traffic. He encouraged the committees to keep the voice for his district and surrounding districts as rural as possible.

Representative Oren Lesmeister, District 28A, Parade, encouraged the committees to keep District 28 the same. Representative Lesmeister commented on discussions of splitting Perkins County and is opposed to that as the current boundaries follow county lines, which are easily understandable. He shared that there are five demographics within that district, and said that a split district does not need to be of equal population.

Representative Charlie Hoffman, District 23, Eureka, provided a history of District 23 and how counties have been moved between districts. He does not want their district to be overwhelmed by Brown County votes. He indicated that District 23 is wholly rural and not part of Brown County or Aberdeen. Representative Hoffman said that people in Potter, Hyde, and Spink would also want to be part of District 23.

Mr. Shane Penfield, self, Lemmon, is an attorney and rancher who has voted in District 28 for most of his life. Mr. Penfield agreed with Representative Lesmeister on the split of 28A and 28B. Mr. Penfield said the current map makes the most sense and splitting Perkins County would be problematic. He suggested taking part of Lemmon instead of the two-thirds model of a larger area. He advocated for keeping counties whole as much as possible and noted his opposition that only Districts 26 and 28 have subdistricts, when all districts should have subdistricts for fairness.

Ms. Winona Flying Earth, self, Wapala, voiced her concern about the Native representation in the state and how it relates to the Voting Rights Act, as well as packing and diluting votes in some districts. She noted that Native Americans make up 11% of the population but make up only 4% of the representation in the state. Ms. Flying Earth said that consideration should be given for fair representation for Native Americans.

Ms. Brandee Bolman, self, Sioux Falls, is a Native outreach intern for the Oceti Sakowin Caucus and a member of the Cheyenne River Sioux Tribe. Ms. Bolman said she has many relatives who will be affected by the changes to the proposed districts, and she wanted to ensure that their rights are protected. Ms. Bolman urged the committee to comply with Section 2 of the Voting Rights Act requirements for protecting minorities. She noted that Districts 26A, 27, and 28A, are well established majority-minority districts that should remain the same. She urged the committee to protect these existing majority-minority districts, and she opposes any map that eliminates these districts.

Mr. Blaze Starkey, self, Wapala, reiterated comments from Ms. Bolman and Mr. Healy about including more native communities within the districts without packing. Mr. Starkey said there is not enough representation given the population of Native communities in the state. He supports splitting District 28 along reservation boundaries. Mr. Starkey shared his concerns over District 28 and questioned the way it was drawn.

Mr. Eric Odenbach, self, Eureka, advocated for keeping District 23 as rural as possible. Mr. Odenbach said keeping a rural voice and separating urban and rural in the state legislature is very important.

Committee Discussion and Adjournment

Representative Gosch responded to Mr. Starkey's question regarding District 28. He noted that pulling in part of Walworth County would split that county and also likely dilute representation District 26A.

Mr. Healy disagreed with that point as bringing in the heavily Native precincts in Walworth County would dilute the Native American vote. He noted that Kellen Returns From Scout identified precincts that could be added to District 28A and would be able to provide that data.

Representative Dennert asked Mr. Healy if he would advocate for splitting Walworth County. Mr. Healy responded that depending on the data, only the heavily Native American precincts would be added. This could be analyzed through the voting age population statistic.

Representative Gosch added that the precincts Mr. Returns From Scout was referencing are on the northern side of Mobridge. He said that splitting Mobridge in various ways would be gerrymandering the town. Mr. Healy responded that the Voting Rights Act allows for more opportunity to gerrymander when the intent is to protect minority rights.

Representative Cwach asked about the Grouse map adding in part of Beadle County to District 23, and if there were any other areas that could be added that are appropriately rural.

Representative Dennert responded that while the Grouse map goes into Beadle County, it doesn't breach city limits, while the other map proposals go into Brown County and Aberdeen.

Representative Hoffman also responded that their district would not want people from a large population center, such as Aberdeen, added into their district. He suggested southern Brown County or western Beadle would more feasible, emphasizing the split between rural and city property.

Senator Bolin asked if Representative Hoffman would consider everything outside of the city limits of Aberdeen to be rural. Representative Hoffman responded that there is gray area around the city that is quasi-agricultural, such as north of Aberdeen. He said any city under 2,000 people would be fine to add into their district, but over that is not sufficiently rural.

Representative Gosch also responded about different communities in the area, such as Ipswich and Warner, who's centralized hub is Aberdeen, which is different from rural areas in District 23.

Senator Michael Diedrich wanted a series of questions related to Native American districts, as similarly asked at the Mission meeting, to be entered into the record that members of the public can respond to at a later time. These include: Are there any adjoining precincts with Native American population that you would like to see added to the majority-minority districts? Understanding that there are constitutional restraints, are there any precincts you would like removed from these districts that don't have sufficient Native American population? If we removed those precincts, would you have any recommendations about others to add? Are you aware of adjoining precincts with Native American population that we have left out of those districts? What is your suggested proposal for those districts?

Senator Crabtree 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 9:29 a.m.