



NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INTERIM STUDY OF
THE REQUIREMENTS FOR REAPPORTIONMENT AND
REDISTRICTING IN THE STATE OF NEVADA
([Senate Concurrent Resolution 9 \[2019\]](#))

SUMMARY MINUTES
January 27, 2020

The first meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting in the State of Nevada for the 2019–2020 Interim was held on Thursday, January 27, 2020, at 9:30 a.m. in Room 4401, Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 2134, Legislative Building, 401 South Carson Street, Carson City, Nevada.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Committee's [meeting page](#). The audio or video recording may also be found at <https://www.leg.state.nv.us/Granicus/>. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775/684-6835).

COMMITTEE MEMBERS PRESENT IN PRIMARY LOCATION:

Senator Joyce Woodhouse, Chair
Assemblyman Jason Frierson, Vice Chair
Senator Yvanna D. Cancela
Senator Nicole J. Cannizzaro
Senator Heidi Seevers Gansert
Senator Pete Goicoechea
Assemblyman Glen Leavitt
Assemblyman Howard Watts III

COMMITTEE MEMBER PRESENT IN CARSON CITY:

Assemblywoman Teresa Benitez-Thompson

COMMITTEE MEMBER ABSENT:

Assemblywoman Sandra Jauregui (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Research Director, Research Division

Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist,
Research Division

Julianne King, Research Policy Assistant, Research Division

Gayle Nadeau, Research Policy Assistant, Research Division

Bryan J. Fernley, Senior Principal Deputy Legislative Counsel, Legal Division

Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division

Samuel J. Quast, Deputy Legislative Counsel, Legal Division

Ariel San Miguel, Deputy Legislative Counsel, Legal Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS AND COMMITTEE INSTRUCTIONS

Chair Woodhouse called the first meeting of the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting in the State of Nevada to order. She noted the study's task is to prepare for the redistricting efforts during the 2021 Session of the Nevada Legislature.

Chair Woodhouse said the state holds a study relating to reapportionment and redistricting every ten years before the redistricting session to prepare for the redistricting exercise. She noted the Committee has a larger membership than most interim study committees, which reflects the significant work required to report to the next legislative session.

AGENDA ITEM II—PUBLIC COMMENT

Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas, referenced his handout (Agenda Item II), which addresses his opinion on redistricting in Nevada. He added, since 1997, the United States Supreme Court has favored clean boundary lines over strict adherence to one-person, one-vote.

Explaining his reference to the one-person, one-vote adherence, Mr. Darby noted he always held that political districts should have the same number of people. However, in 2011, he shared that he and a group of acquaintances spent a few months working on one of Nevada's public workstation redistricting computers, saying this opportunity provided a valuable education on how to cut political boundary lines. He said the exercise enlightened him that trying to maintain equal numbers of people in each district made no sense for three reasons:

1. By the time the Legislature finishes drawing the districts in 2021, the census numbers reported from the April 1, 2020, Decennial Census start will be far different;
2. If strict district equality is required, the boundary lines will be greatly dispersed; and
3. Cutting district boundary lines by population equality will not benefit anyone living within "assuredly ragged" boundary lines, nor for political volunteers walking door-to-door.

In closing, Mr. Darby cautioned the Committee not to limit the options when writing the proposed rules for the 2021 reapportionment and redistricting plans.

AGENDA ITEM III—OVERVIEW OF THE INTERIM STUDY COMMITTEE'S RESPONSIBILITIES AND DUTIES AND PRESENTATION OF WORK PLAN

Michael J. Stewart, previously identified, presented the Committee's "Work Plan" for the 2019–2020 Interim (Agenda Item III). He noted that every ten years, the Legislature directs the Legislative Commission to appoint a committee to conduct an interim study of the requirements for the reapportionment and redistricting of election districts for Nevada's legislative members, the U.S. House of Representatives, and the Board of Regents of the Nevada System of Higher Education (NSHE).

AGENDA ITEM IV—UPDATE ON THE ACTIVITIES AND OPERATIONS OF NEVADA’S COMPLETE COUNT COMMITTEE AND REVIEW OF DECENNIAL CENSUS OUTREACH EFFORTS IN NEVADA

Kate Marshall, Lieutenant Governor of Nevada and Chair, Nevada’s Complete Count Committee (CCC), said the main role of the CCC is to oversee outreach and coordination efforts among the state’s public and private sector organizations. The CCC also encourages full participation in the 2020 Census through a collaborative effort between the CCC, the Office of the Governor, the U.S. Census Bureau, and members of Nevada’s communities.

Lieutenant Governor Marshall provided an update on the activities of the CCC and shared the names of the Committee’s members. She expressed gratitude to the Legislature for the appropriation to the Office of Finance, Office of the Governor, through [Senate Bill 504 of the 2019 Session](#) for outreach and educational activities relating to the 2020 decennial census.

Lieutenant Governor Marshall said the goal of the CCC is to encourage a complete and accurate count in every part of Nevada so that the state benefits from its share of tax dollars. She pointed out that Nevada is one of the most difficult states to count, in large part because of its incredible increase in population and, in part, because there are transient populations in many Nevada communities. She continued her testimony by providing examples of how various tax dollars are used. (Agenda Item IV A)

Kerry Durmick, Statewide Census Coordinator, Nevada Census 2020, said her role is to coordinate Nevada’s 2020 Census outreach and collaborate with the state’s census media team regarding media needs for Nevada’s 2020 Census operation. She discussed upcoming events for the state’s 2020 Census and information about hard-to-count (HTC) communities that have low self-response rates to census counts. Ms. Durmick said March 12, 2020, is the first day census postcards should be delivered to homes and mailboxes in the state, and April 1, 2020, is “Census Day and Census Week.” (Agenda Item IV B)

Discussion ensued between Vice Chair Frierson and Lieutenant Governor Marshall regarding HTC populations such as the homeless and mentally ill being included in the 2020 Census.

Ms. Durmick said the U.S. Census Bureau has a specific process for counting the HTC populations. However, she emphasized, if the Bureau needs assistance by May 2020, her census outreach team will assist in the effort.

Christina Lopez, Director of Outreach and Community Relations, Office of the Lieutenant Governor, Las Vegas Office, stated that within the organizational subcommittees of the CCC, a number of partnerships have been formed, for example, with food pantries, organizations working with homeless youth, and other populations experiencing homelessness. These entities are offering further ideas on how to better reach and serve the HTC communities.

Vice Chair Frierson shared his understanding that Clark County will try to build a database of the homeless community and use it to implement community outreach services.

Lieutenant Governor Marshall provided a CCC outreach example where many houses of worship offer homeless people a place to stay once a week. The houses of worship plan to assist those individuals in signing up for the 2020 Census.

Senator Gansert said there are many ways to reach out—electronically and in person—to acquire census numbers; however, she asked how confirming where someone lives is handled to prevent count duplications, especially with transient populations.

Lieutenant Governor Marshall provided a few examples of how overcounts could occur:

- A separated couple has a child under the age of 5 who lives alternately with each parent; and
- Out-of-area people staying in an Airbnb may be enticed to fill out the census while residing at the lodging location.

Assemblyman Watts III requested information on how individuals may become census ambassadors and also the schedule for the 2020 Census commencement activities. Ms. Durmick responded she would provide this information to the Committee.

AGENDA ITEM V—OVERVIEW OF UNITED STATES CENSUS BUREAU ACTIVITIES, OUTREACH, AND CENSUS PREPARATIONS IN NEVADA AND THE WEST

Brian Berman, Senior Partnership Specialist, Los Angeles Regional Census Center, U.S. Census Bureau, testified that as of the Committee’s January 27 meeting, there were only 45 days until the start of the 2020 Census, and Nevada has the most productive and complete count committee in the nation. He added the ideas and accomplishments of Nevada’s CCC rival other states such as California, Texas, and Washington, which are asking how they can institute what Nevada is already doing. He pointed out that partnership specialists collaborating with CCCs have shown remarkable results.

Mr. Berman outlined the activities of the U.S. Census Bureau’s partnership program (<https://www.census.gov/partners.html>), noting that for the Nevada 2010 Census, the state had only three partnership specialists. However, for the 2020 Census, he said Nevada has had 21 partners active for more than a year who have worked full time to ensure stakeholders in communities know how important the census is and have designated census locations in many libraries, senior and recreation centers, and universities.

Mr. Berman talked about the Census Ambassador Program in Nevada, which developed a proprietary training program based on the [Statistics in Schools](#) (SIS) initiative. In 30 minutes, census ambassadors can engage a group of public employees or citizens who deal with HTC communities and teach them why the census is important, why it is safe, and how to communicate with people joining the census partnership team.

Mr. Berman reported that to date, 100 municipal employees serve as census ambassadors in the state, and by January 29, 2020, the partnership program expects to have 150 ambassadors and more than 1,000 across Nevada by March 1, 2020. Continuing, Mr. Berman covered the following matters:

Operations Overview

- Public education—teaching citizens why the census is important has been occurring in the field for more than a year.

- March 12, 2020, “Get Out the Count” begins and continues for four months.
- With the 2020 Census available online, real time data will be obtained and utilized to allocate field team resources.
- Enumerators have built relationships with property managers, faith leaders, and business owners, which will be beneficial to the census takers when they return during the 2020 Census operational timeline;
- Time frame for receipt of data:
 - By December 31, 2020, as required by law, the Census Bureau reports the apportionment counts to the President of the United States and Congress.
 - Approximately 10 days after the December 31 reporting date, the apportionment data will be reported to the State of Nevada and will include the total number of expected representatives for Congress.
 - By March 31, 2021, the reapportionment data will be received by Nevada.

The Stakes

- Beyond highway construction, Medicaid, and the Supplemental Nutrition Assistance Program, programs helping children are funded based on the decennial census count.
- With the immense growth of Nevada’s population since 2010, the demand for programs ranging from Medicaid to the school lunch program and the Children’s Health Insurance Program is increasing; yet, funding for these programs is “locked” at 2010 levels. The funding for programs benefiting children and others in the state will not increase unless a complete count is reported during the 2020 Census.

Census 2020 Accessibility

- Starting March 12, 2020, every household will get a postcard in the mail informing residents they may go online (<https://2020census.gov/>) to fill out the ten-question census form.
- The questionnaire is available in the 13 languages most spoken in the United States through <https://2020census.gov/> and by phone.
- Communities lacking broadband accessibility are being encouraged by local and state leaders to take the 2020 Census by phone.
- Citizens are encouraged to respond to Nevada’s 2020 Census to ensure funding for needed programs for the next ten years. If citizens do not reply to the first, second, or third reminder postcard, as applicable, a fourth postcard will be sent. If there is still no response, a paper form will be mailed. If the paper form is not returned, a census “door knocker” will visit nonresponding citizens’ homes.

How Can You Help?

- Provide an avenue to reach out to children under 5 years of age in English and Spanish via social media (<https://www.census.gov/programs-surveys/sis/2020census/2020-resources/pre-k.html>).

- “Tweet” a picture of yourself listening to the census song.
- Ask Nevada public officials to tweet or post on Facebook, on March 12, 2020, pictures of themselves responding to the 2020 Census pointing out ways that responding will help Nevada for the next ten years.
- Network with public employees or employees in large companies working in HTC communities and let them know about census ambassador training. Census partnership specialists are available to attend staff meetings for a 30-minute presentation about the Census Ambassador Program.

Because the census correlates numbers to locations, Senator Gansert asked how the Bureau will ensure it has accurate count numbers for the correct locations.

Mr. Berman responded that the U.S. Census Bureau is diligent about using duplication algorithms to protect against this scenario.

Referencing the Lieutenant Governor’s earlier remark about a child living alternately between coparenting households, Senator Gansert asked how the Bureau can reconcile whether the child is counted only once.

Mr. Berman acknowledged counting children under 5 years old is a challenge, and parents need to come up with a plan to ensure the child is counted since programs helping children in need depend on an accurate count of young children.

AGENDA ITEM VI—INTRODUCTION TO REAPPORTIONMENT AND REDISTRICTING, ITS HISTORY, AND THE ROLE OF THE NEVADA LEGISLATURE IN REDISTRICTING

Michael J. Stewart said he would discuss the educational and policy aspects of reapportionment and redistricting, and Asher A. Killian, previously identified, would address the legal aspects of reapportionment and redistricting. (Agenda Item VI)

Mr. Stewart discussed how the words *redistricting* and *reapportionment* are often used interchangeably. He explained that *reapportionment* is “the division of a given number of elected members among established political subdivisions in an existing plan or formula,” and *redistricting* is “the division of those existing districts into new districts with different boundaries.” In summary, redistricting pertains to redrawing the lines per election districts, and reapportionment is the process of determining how many districts a jurisdiction will receive.

Next, Mr. Killian stated there are a number of legal issues and practical considerations the Legislature needs to be aware of in its understanding of redistricting and how it works:

- [Article 4, Section 5](#) of the *Nevada Constitution* mandates the Legislature to do the following after each census:
 1. Determine the number of representatives in the Legislature; and
 2. Draw the district lines for the legislators; however, there is little guidance provided in the *Nevada Constitution* regarding this task.

- Two provisions of the *Nevada Constitution* reinforce Article 4, Section 5, requiring redistricting to be done on the basis of the census: (1) [Article 1, Section 13](#), requires the representation to be apportioned by population; and (2) [Article 15, Section 13](#), requires that the census serve as the basis of representation in the Legislature.
- Practical Consideration—“Shapefiles”
 - The Legislature has historically requested the Legal Division of LCB to draft a bill detailing an exhaustive list of all the census geographies intended to fall within a particular district: (1) census tracts; (2) census block groups; and (3) individual census blocks.
 - Nevada’s past use of census geographies is particularly cumbersome and lengthy. Minnesota has taken advantage of new technology to avoid some of the technical bill drafting limitations of using long lists of census areas. It has adopted a “shapefile,” which is a digital data file for GIS software that contains all the census geographies but can more easily be given a graphical representation.
 - Minnesota’s shapefile approach resulted in its entire 2011 redistricting legislation being contained in a single statutory section for all its districting data. Using a shapefile avoids some of the bill drafting limitations Nevada’s traditional approach has experienced, such as a long list of numbers that use census geographies, which takes a long time to proofread for typographical errors.
 - The Nevada Legislature may consider Minnesota’s approach when determining how to adopt a redistricting plan during the 2021 Session. Alternatively, it may develop a hybrid approach that implements a shapefile and includes for each Assembly and Senate district an image that shows the approximate boundaries to make it easier for citizens to recognize the borders.
- Practical Consideration—Nevada’s Population Growth
 - The population of each district will increase significantly during the 2020 redistricting process because of more people moving to Nevada. Currently, the Legislature has fixed the number of legislators at 63, with the maximum number of Senators constitutionally permitted for that number of legislators at 21.
 - The 2021 Legislature could consider increasing the number of legislators to mitigate the increased population in each district.
 - Additionally, each Senate district has two Assembly districts nested inside it resulting in an even number of Assembly members, which could potentially lead to a tied number of seats by party in the Assembly. Therefore, the 2021 Nevada Legislature may want to consider increasing the number of legislators to mitigate the increased population in each district. However, increasing the number of Assembly seats to an odd number would result in losing the option to nest Assembly districts within Senate districts.
- Regarding the Legislature’s other mandatory duty to fix the number of Senators and Assembly members, the *Nevada Constitution* provides a little more guidance. It caps the total number of legislators at 75 and requires the number of Senators to be at least one third, but not more than half, of the number of Assembly members.

Concluding this portion of the presentation, Mr. Killian pointed out that an [Initiative Petition, C-02-2019 \(Amended\)](#) was filed through Nevada's Office of the Secretary of State that, if passed, would transfer the duty of drawing electoral districts from the Legislature to an independent commission with the Legislature retaining the duty to determine the number of seats in the Legislature.

Continuing the presentation, Mr. Stewart provided an overview of the history of the reapportionment and redistricting process in Nevada from statehood to the current status of the electoral districts. Since statehood in 1864, several original provisions of the *Nevada Constitution* govern the size of the Legislature.

Historical Highlights

- From 1864 to 1919, the composition of the Legislature changed 16 times ranging from 45 members to a maximum of 75—25 Senators and 50 Assembly members.
- The original constitutional provisions for redistricting by population were routinely ignored from 1919 to 1965 as the Senate was apportioned on the basis of one Senator per county. During this time, the Assembly had at least one representative from each county. Provisions setting forth equal representation by county in the Senate and at least one county representative in the Assembly were added to the *Nevada Constitution* in 1950; these provisions conflicted with the equal population provisions until 1970.
- In the 1961 redistricting exercise, a drastic realignment was made to account for the state's rapid growth and increased populations in Clark and Washoe Counties. These two counties were allocated 21 Assembly members (12 and 9) even though both counties represented about 75 percent of the state's population.
- While the 1961 reapportionment did not closely reflect the equal population goal, it indicated the Legislature recognized that population-based apportionment was becoming an important nationwide issue. The 1961 apportionment scheme was challenged in 1965, and a special legislative session in October of 1965 paved the way for the establishment of the "one-person, one-vote" principal for equal representation. The 1965 redistricting plan marked the beginning of "multimember" Senate districts in Nevada.
- Redistricting during the 1971 Legislative Session was less tumultuous as there was a greater acceptance of population-based apportionment. In 1981, the size of the Legislature increased to its current membership of 63 (42 Assembly and 21 Senators).
- Greater controversy existed in the 1991 round of reapportionment in part because the Democratic and Republican margins were so close that both parties had to compromise. In addition, a huge population growth in the 1980s, especially in southern Nevada, meant that representation in the north would have to be shifted to the south. The 1990s also marked the beginning of computer mapping, thereby increasing the sophistication of the process.
- In 2001, the redistricting process, while made simpler due to technological advances, was challenging because of significant political and demographic factors. The Legislature remained at 63 members, but Senate and Assembly seats from northern Nevada and portions of rural counties shifted to Clark County, and there was the addition of a new Congressional seat in the state.

Challenges

- In 2011, the state experienced a challenge with its overall population growth. Conversely, populations decreased in some of Nevada's rural counties.
- When redrawing district lines, the 2021 Legislature may want to consider the increased influence of "communities of interest," such as ethnic groups, homeless populations, urban and rural communities, and other categories of communities.
- Term limits has impacted the institutional knowledge in Nevada's Legislature and the reallocation of the legislative districts. The size of the Legislature is always a consideration, and with the budget situation during 2011, increasing the size of the Legislature was not viable.
- The overlapping of non-coterminous district boundaries creates the potential for multiple ballot styles. For example, imagine a legislative district plan drawn for the Assembly, one for the Senate, one for the Board of Regents, and then local districts of county commissions and city councils extending over those boundary lines. The result is many ballot styles, with sometimes a small number of voters using one particular ballot style. Local elected officials have concerns about such a scenario.
- The compressed time frame to complete the redistricting process will be a challenge for legislators because the census data will not be received until the 2021 Legislature is in session.
- According to the 2010 Census, Nevada's Hispanic communities comprise more than 26.5 percent of Nevada's population. This percentage is expected to increase with the 2020 Census results.

Court-Appointed Special Masters in 2011

- [Senate Bill 497](#) and [Assembly Bill 566](#), two redistricting plans approved by the 2011 Legislature, were vetoed by Governor Brian Sandoval. The Legislature did not take those measures up to sustain or override those vetoes in that same session.
- Governor Sandoval did not call the Legislature into special session; therefore, the Honorable James Todd Russell, District Judge, First Judicial District Court, Department 1, Carson City, appointed three special masters to accomplish the 2011 redistricting task.
- After a few court-requested modifications, the court issued an order approving the [Special Masters' Report](#) for redistricting maps on October 27, 2011.

Mr. Stewart discussed the statistics on Nevada's electoral districts as of 2020, noting deviations recognize how many citizens live in a legislative district that is beyond the ideal population. He noted that the 2021 Legislature is also responsible for redistricting NSHE's Board of Regents.

Continuing, Mr. Killian discussed Article 1, Section 2, of the [United States Constitution](#) regarding how Congressional representatives are apportioned, and Section 2 of the [Fourteenth Amendment to the United States Constitution](#) regarding the equal protection clause, which the U.S. Supreme Court held as the basis for the concept of "one-person, one-vote."

He called attention to [Baker v. Carr](#) (1962); [Wesberry v. Sanders](#) (1964); and [Reynolds v. Sims](#) (1964), the three cases in which the U.S. Supreme Court decided to forego its traditional role of not becoming involved with political issues. Since these cases related to redistricting, the Court held that the malapportionment that results from states failing to redistrict on the basis of census population is now a justiciable matter and plans will be held unconstitutional if they do not assign voters relatively equal weight.

Next, Mr. Stewart discussed matters regarding the U.S. House of Representatives, population data and projections in Nevada, and potential legislative scenarios based on the state demographer's 2020 population projections.

Mr. Killian continued the presentation noting some of the more significant legal issues and requirements that the 2021 Legislature will need to understand. He shared that while the Legislature has power to consider what rules and principles it will choose to follow in redrawing district lines, there are two requirements established by federal law that are mandatory:

1. Adherence to the "one-person, one-vote" principal, which is measured by a different standard if Congressional or state legislative districts are redrawn.
 - The U.S. Supreme Court ruled that equality of the population is a paramount consideration allowing deviations on the ideal population in each Congressional district of no more than plus or minus a single voter.
 - The requirement for state legislative districts is significantly less severe. The deviation of more than plus or minus 5 percent from the ideal population is presumed to be malapportioned, but a deviation of less than plus or minus 5 percent may be permissible if the deviation is justified by some legitimate consideration such as underlying city or county boundaries, keeping communities of interest intact, et cetera.
2. The [Voting Rights Act of 1965](#) must be obeyed.
 - Adherence to the requirements of the Voting Rights Act [1965] and the Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution* regarding equal opportunities for racial or language minorities is a considerably more complex matter. Case law regarding the Voting Rights Act simultaneously prohibits creating majority and minority districts where such districts cannot be easily drawn in a reasonably compact manner, but also prohibits failing to draw such a district if a reasonably compact district can be drawn with political cohesion among the members of the minority group.
 - Similarly, practices diluting minority votes such as "packing" more members of a minority group into a district than necessary to effect the outcome of an election or "cracking" members of a minority group among a number of districts that results in the members of the group having no impact on the outcome in any election are prohibited.

Political Gerrymandering

Mr. Killian shared the U.S. Supreme Court case of [Rucho v. Common Cause](#), which has resulted in considerable discussion in determining whether political gerrymandering, is constitutional. He stated that before *Rucho v. Common Cause*, the federal courts would hear cases under the Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution* regarding whether drawing electoral lines would advantage one political party at the expense of another and unconstitutionally deny members of the disadvantaged party an equal opportunity to participate in the political process. Mr. Killian said that in *Rucho v. Common Cause*, the U.S. Supreme Court decided that such claims under the federal constitution were political questions that the federal courts would no longer consider, and the case explicitly left open the possibility for partisan gerrymandering to be challenged in state courts on the basis of state constitutional provisions.

Mr. Killian commented that more than half of the states have a “free and equal elections clause” in their constitutions, which are generally interpreted as a requirement that elections be free from political influence and create a basis to challenge partisan gerrymandering. He added the *Nevada Constitution* does not have such a clause, but [Article 4, Section 21](#) of *Nevada’s Constitution* is generally interpreted in the same manner as the *U.S. Constitution’s* Equal Protection Clause.

Practical Consideration—Other States’ Emerging Trends in Redistricting Litigation

Mr. Killian discussed the following points:

- In challenges regarding potential racial gerrymandering and the drawing of majority and minority districts, the courts are increasingly requiring a showing of facts beyond race to indicate that the community’s interest exists (in other words, that the majority and minority group in question would actually vote together).
- It is increasingly common for the courts to require some sort of social science analysis to support the existence of a community of interest when drawing majority and minority districts, which the Nevada Legislature could find helpful in defending against potential litigation.
- With substantial advances in technology, since the most recent redistricting cycle, it is possible for computer software to draw millions of possible districts in a matter of seconds and then statistically analyze a particular redistricting plan against those millions of possible plans to see how well proposed plans of a legislature perform against several different measures, such as compactness or deviation from the ideal population.

Traditional Redistricting Principles

Besides the two mandatory principles Mr. Killian discussed previously, he said there are other traditional redistricting principles the Legislature may choose to follow when drawing district boundaries. Mr. Killian stated these principles often conflict with each other, so the Legislature would need to either prioritize or attempt to balance the following:

- Compactness—a measure of how closely packed or geographically compact a district is drawn;
- Contiguity—all points in a district must connect somehow;

- Preservation of counties, cities, and other existing political subdivisions, as well as communities of interest;
- Protection of the cores of existing districts and potentially the protection of incumbents; and
- Requirement to comply with Section 2 of the Voting Rights Act of 1965, which prohibits disenfranchising racial or ethnic minority groups.

Other Emerging Factors as Possible Principles

Mr. Killian discussed the following:

- The competitiveness of elections in any district could conflict with the idea of retaining the cores of prior districts or keeping incumbents in their district;
- Some states prohibiting the use of partisan data to draw district lines; and
- Some states prohibiting either the favoring or disfavoring of incumbents.

Potential Conflicts of Traditional Redistricting Principles

Mr. Killian also discussed how:

- Preserving underlying geographies in cities or counties could be difficult when drawing a compact district, if the existing borders are oddly shaped; and
- Depending on how communities of interest are positioned in a geographical area, it could be difficult to draw district lines as close as possible to preserve communities of interest and maintain the ideal population.

Accomplishments of the 2009–2010 Interim Study on Reapportionment and Redistricting

Concluding the presentation, Mr. Stewart discussed the following accomplishments of the 2009–2010 interim study:

- Selected software for the 2011 redistricting cycle and recommend its purchase to the Legislative Commission;
- Recommended to the Commission the purchase of two “public” workstations to prepare for the 2011 reapportionment and redistricting effort, including the placement of those stations within the leadership offices of each caucus and each house of the Nevada Legislature;
- Recommended rules for reapportionment and redistricting by the 2011 Legislature, as well as the hiring of four session-only nonpartisan staff provide GIS technical services to each caucus;
- Authorized the creation of an election database to support the reapportionment and redistricting effort by loading the election data into the GIS platform and using that data to assist the legislators in making redistricting decisions;

- Received background and historical data and reports from LCB staff on related legal issues, as well as GIS functionality; and
- Received testimony from the U.S. Census Bureau and Nevada’s secretary of state regarding efforts to educate the public on the importance of census participation, as well as testimony from local government representatives and other interested parties concerning the 2010 Census.

Considerations for the 2019–2020 Interim Study on Reapportionment and Redistricting

Mr. Stewart presented the following ideas for the 2019–2010 interim study to consider:

- An in-depth evaluation on purchasing “public” workstations, because current GIS technology allows citizens to “essentially” redistrict from their living rooms;
- Determine how the Legislature will engage the public in the 2021 redistricting cycle and whether it will accept plans from the public and outside groups with a stipulated criteria that may be applied to the Legislature’s redistricting process, as well as whether the public should be on the same GIS platform as the Legislature’s; and
- Technological advances relative to the ability of the public to involve itself during the 2021 redistricting responsibility of the Legislature.

Responding to an earlier question from Vice Chair Frierson regarding prisoners being counted in the 2020 Census, Mr. Stewart noted [AB 450](#) of the 2019 Session requires incarcerated persons to be enumerated in the census at their last known address. He explained that this measure requires Nevada’s state demographer to work with Nevada’s Department of Corrections to implement how incarcerated persons will be counted.

Mr. Killian responded to Vice Chair Frierson’s inquiry about a comment Forrest Darby, previously identified, made under Agenda Item II regarding legislative boundary differences versus congressional districts.

Mr. Killian said it was his understanding that Mr. Darby was expressing concern that after the Legislature draws the district boundary lines during the 2021 Session, a significant population drift will occur over the next ten years, and for this reason, Mr. Darby was suggesting this projection may be a reason to deemphasize deviation from the ideal population as compared to other factors when drawing the state legislative districts, which is within the authority of the Legislature.

Senator Goicoechea asked for confirmation that AB 450 requires the last known address of incarcerated persons be used for the 2020 Census. If so, he said the population projections by the state demographer for White Pine County, which houses the Ely State Prison, will need a 10 percent reduction in the census count.

Mr. Stewart confirmed it was his understanding that AB 450 requires incarcerated persons to be counted for the census by using their last known address.

AGENDA ITEM VII—REVIEW OF THE 2011 COURT-ORDERED REAPPORTIONMENT AND REDISTRICTING PLAN DRAWN BY COURT-APPOINTED SPECIAL MASTERS

Robert E. Erickson, Special Master, 2011 Redistricting Plan, provided a comprehensive presentation on the role of three court-appointed special masters (Agenda Item VII A-1), pursuant to [Rule 53 of the Nevada Rules of Civil Procedure](#), tasked with the creation of fair and nonpartisan redistricting plans for Nevada's four members in the U.S. Congress and both houses of the Nevada Legislature because of vetoed bills [SB 497](#) and [AB 566](#) from the 2011 Session.

In addition to himself, Mr. Erickson said the other two special masters were Alan H. Glover, a past Nevada State Assemblyman and Senator and Carson City's elected Clerk Recorder at the time of his appointment; and Thomas R. Sheets, Esquire, a private Las Vegas attorney.

When Nevada's Legislative and Executive Branches failed to reach an agreement regarding the proposed 2011 redistricting plans and no subsequent special session was called, Mr. Erickson explained the only viable next step in the process was to have the district court address Nevada's required 2011 redistricting. Litigation was subsequently filed in Nevada's First Judicial District Court, presided over by Judge James Todd Russell.

Mr. Erickson said Judge Russell provided the special masters with a well-researched order specifying the principles and criteria of redistricting to be followed. Public hearings of the special masters subsequently were held in Las Vegas and Carson City on October 10 and 11, 2011, to obtain recommendations and proposals from members of the public. Following those hearings, the special masters met to develop the plans and maps.

Mr. Erickson discussed the roles of the special masters. He said Mr. Sheets provided legal expertise and served as the chair; he was also the spokesperson and prepared the special masters' final written report. Mr. Glover guided the special masters by providing institutional background information throughout the preparation of the redistricting maps. Mr. Erickson stated he was the primary special master who drew most of the lines for the redistricting maps.

Mr. Erickson's also submitted the following supporting information:

- Redistricting Order, September 21, 2011 (Agenda Item VII A-2);
- Report of Special Masters, October 14, 2011 (Agenda Item VII A-3);
- Summary Minutes of the Public Hearing by Special Masters, October 10, 2011 (Agenda Item VII A-4);and
- Summary Minutes of the Public Hearing by Special Masters, October 11, 2011 (Agenda Item VII A-5).

AGENDA ITEM VIII—OVERVIEW OF THE ROLE OF GEOGRAPHIC INFORMATION SYSTEMS IN REDISTRICTING

Haley Proehl, previously identified, provided an overview of the role of GIS in the redistricting process. She explained what GIS is, provided examples of how it functions, and addressed how GIS relates to redistricting, including the U.S. Census Bureau’s Redistricting Data Program. Referring to the maps and tables in her presentation (Agenda Item VIII), Ms. Proehl discussed the following information:

- *Slide 2—GIS/The Technical Component of Redistricting:* GIS is essentially a mapping software that connects geography with data. The maps of Nevada on slide 2 were created using GIS technology and display the existing state Assembly and Senate districts as a result of the 2011 redistricting cycle. GIS can also display data associated with geographical features, and GIS will be used to create Nevada’s 2021 district plans and final district maps.
- *Slide 3—GIS Examples:* The image on slide 3 is an example of a map that displays geography along with location-based data, and it shows 2018 General Election results by precinct for Nevada’s Congressional District 2 race.
- *Slide 4—GIS Examples:* The two maps on this slide demonstrate how GIS is helpful in visualizing population and demographic trends, which would be difficult to analyze as data points in a table.
- *Slide 5—Redistricting Technology Advances:* The information on this slide calls attention to the advances in redistricting technology from 1980 through 2010.
- *Slide 6—GIS Inputs for Redistricting/Geography:* Using GIS for the purpose of redistricting requires naming elements as “geography” and “population” data.
 - With the data received every December from the U.S. Census Bureau during a census cycle, geography boundary files are released known as the TIGER (Topologically Integrated Geographic Encoding and Referencing) database. The file format of TIGER files is a “shapefile” (referred to and defined earlier by Mr. Killian) and such files require GIS software to be viewed.
 - The U.S. Census Bureau releases TIGER files for a number of geography levels; however, for Nevada’s redistricting process, the use of such files will be focused on precinct geographies in counties, blocks, and voting districts.
 - The diagram on the right of slide 6 shows the different levels of geography for which data are available from the U.S. Census Bureau, and it shows the hierarchical relationships between the geographic types. Most geographic types can be described as a collection of blocks, which are the smallest geographic unit for which the Bureau reports data and is only available every ten years following the decennial census.
- *Slide 7—GIS Inputs for Redistricting/Population Data:* The second GIS component for redistricting is the population data. The official population data from the census is called the PL 94-171 ([Public Law 94-171, 94th Congress](#)) Redistricting Data Summary files. The data is tabulated at multiple levels of census geography, including census blocks and precincts. The data comes in table format and includes important information for meeting legal redistricting requirements—including total population, race, Hispanic and Latino ethnicities, and voting age.

- Nevada’s PL 94-171 census data is expected in February 2021. Once the geography data is joined with the population data, the Legislature can start making district plans.
- *Slide 8—GIS Inputs for Redistricting:* The two main GIS data inputs for redistricting come from the U.S. Census Bureau (i.e., special and tabular data); however, a few other data inputs Nevada has used in its past redistricting include voter registration data and election results. If this data is used for the 2021 redistricting by the Legislature, it is provided by Nevada’s Office of the Secretary of State, and it would be at the precinct level.
 - Some of the decision points of what election results to use may best be made after the 2020 General Election because the goal of redistricting is to ensure competitive races. This is why past interim study committees on reapportionment and redistricting in Nevada have met after the November general elections.
- *Slide 9—ARCGIS Pro Desktop Software:* Slide 9 is a screen shot of ARCGIS software used daily while creating maps. In this example, three different levels of TIGER shapefile geography were imported. The map represents the northwest Las Vegas state Assembly Districts 1, 4, 13, and 17. The red boundaries are voter precincts, the black are census blocks, and the Assembly districts are symbolized by the different colors.
 - The table on the bottom of slide 9 shows information that came with the census block TIGER geography file and includes very basic information: block name, area, and other things such as which census tract, counties, and the state associated with each block. It also contains the GEOID (the hypothetical shape of the earth) that is used to attach the population data to the TIGER geography file.
 - While census blocks effectively analyze population and demographic data at a small scale and also allow for vast flexibility in creating district plans, they can also be cumbersome to assign tens of thousands of blocks in creating district plans. For this reason, it is helpful to have larger geographies available such as precincts and counties.
- *Slide 10—GIS Software Specific to Redistricting:* The screen shot on this slide is of the 2011 redistricting cycle when the Legislature used AutoBound software to perform the redistricting task. Currently, LCB is exploring other software options, including AutoBound, which has been used by the Legislature for the past two redistricting cycles.
 - Geographic Information System software specific to redistricting enables quick calculations for the redistricting requirements. For example, such software allows for rapid calculations of the population deviation of each district and a proposed plan to show the legal viability of the plan—allowing legislators to create as many plans as needed with ease and confidence in any potential legal rebuttal.
- *Slides 11, 12, and 13—2020 Census Redistricting Data Program:* The program is split into five phases, which are well underway, and it is not mandatory. It is used for gathering and distributing redistricting data. The program ensures the most accurate data as possible is returned to the states, including the geography boundary files and the enumeration data after the 2020 Census. Participants in the program include the U.S. Census Bureau’s Redistricting Data Office and nonpartisan state liaisons, for which Nevada’s LCB is the nonpartisan state liaison. If LCB did not participate in this program,

the Legislature would not receive population counts at the voter precinct level when the data is returned after the census.

In her closing remarks, Ms. Proehl shared the link (www.census.gov/rdo) for more information about the Redistricting Data Program.

AGENDA ITEM IX—BRIEF REVIEW OF REAPPORTIONMENT AND REDISTRICTING RESOURCES, MATERIALS, AND ONLINE INFORMATION

Michael J. Stewart, previously identified, discussed the following five informational handouts regarding reapportionment and redistricting:

1. The 2011 Reapportionment and Redistricting Bulletin No 11-04 compiled by the Research Division of LCB, which is a report to the 76th Session of the Nevada Legislature by the Legislative Commission's Committee to Study the Requirements for Reapportionment and Redistricting during the 2009–2010 Interim (Agenda Item IX A-1);
2. Chapter 8 of *Political History of Nevada*, which is a summary of Nevada's legislative redistricting since statehood from 1864 through 2011 (Agenda Item IX A-2);
3. The Executive Summary from the [National Conference of State Legislatures' \(NCSL\) Redistricting Law 2020](#) publication (Agenda Item IX A-3), which Mr. Stewart noted the complete book, an excellent resource on redistricting, is free to legislators.;
4. The Election Data Services report on nationwide statistics based on population regarding which states will receive or not receive new congressional representatives, as well as which states will lose representatives (Agenda Item IX A-4). Nevada is not anticipated to receive a new congressional representative from the 2020 Census results;
5. Joint Standing Rules (JSRs) of Nevada's Senate and Assembly from the following Nevada Legislative Sessions: 2019 (Agenda Item IX A-5), 2017 (Agenda Item IX A-6), 2015 (Agenda Item IX A-7), 2011 (Agenda Item IX A-8), and 2001 (Agenda Item IX A-9). The JSRs are provided to assist the Committee in its work through the 2019–2020 Interim to compile a recommendation to the 2021 Legislature on the JSRs for the 2021 redistricting requirement.

Mr. Stewart drew the Committee's attention to the JSRs of the 2011 and 2001 Legislative Sessions because each of those sessions' JSRs contain the complete set of reapportionment and redistricting rules.

Concluding, Mr. Stewart stated there are online sources for reapportionment and redistricting information, such as NCSL, which track and research these subjects.

Haley Proehl, previously identified, added that LCB is planning to provide a 2021 redistricting website similar to the one available for the 2011 Census cycle. The 2021 website will encompass similar information such as redistricting history, general information about redistricting, current district plans, and information on how the public can get involved. Another aspect planned for the 2021 redistricting website will be GIS interactive web-maps to show some of the demographic data found in the districts' demographic profiles published by the Research Division. The hope is that maps will add a strong visual component for the public on the redistricting process.

AGENDA ITEM X—DISCUSSION OF FUTURE MEETING DATES AND POTENTIAL AGENDA TOPICS FOR FUTURE MEETINGS

Chair Woodhouse reminded the Committee that its next meeting is scheduled for Monday, March 23, 2020. She shared that the third meeting may be held in late May or early June, and the fourth meeting is expected to be held in late fall of 2020, with the possible need to have a fifth meeting closer to the start of the 2021 Legislative Session. Chair Woodhouse emphasized that the fall meetings would need approval from the Legislative Commission.

Chair Woodhouse, shared that NCSL is hosting a redistricting seminar in Las Vegas on May 7 through 10, 2020, and encouraged the members to attend this informative conference.

Chair Woodhouse asked for agenda topic input from the members for future meetings.

Vice Chair Frierson, commenting on the challenges of what will be expected of legislators who have never experienced the tasks involved in the redistricting process, asked whether training on the GIS redistricting software would be provided to the legislators.

Michael J. Stewart, previously identified, responded that one of the decision points the Committee will need to make is selecting and purchasing the redistricting software and obtaining appropriate licenses, as the redistricting software will be installed on computers for use by both caucuses in each house. Also, Mr. Stewart pointed out that, if the Committee recommends hiring four nonpartisan GIS specialists, one to assist in each legislative caucus, they will be available "24-7" to help with the technical side of the software program.

Haley Proehl, previously identified, confirmed that training on the redistricting program can be offered, but the timeline to conduct such training will need to be determined. She shared that during March of 2020, she will be scheduling demonstrations on redistricting software from various vendors with the hope a software recommendation can be made at the Committee's March 23, 2020, meeting.

AGENDA ITEM XI—PUBLIC COMMENT

Forrest Darby, previously identified, said he agreed with Mr. Killian's remarks on the U.S. Supreme Court cases of *Baker v. Carr*, *Wesberry v. Sanders*, and *Reynolds v. Sims* holding strongly in favor of one person, one vote. However, he explained, the Court reversed course in [Abrams v. Johnson](#) (1997). Mr. Darby continued his remarks relative to the court cases Mr. Killian discussed. Mr. Darby cited two other cases he interpreted as contradictory to some of Mr. Killian's remarks relative to the "10 percent rule"—[Tennant v. Jefferson County Commission](#) (2012) and [Brown v. Thomson](#) (1983). Concluding his remarks, Mr. Darby offered the names of four attorneys the Committee may contact that he said are well versed in redistricting issues.

Nathaniel Phillipps, Blackbox Consulting Group, LLC, Las Vegas, offered his observation that the Committee has a very important task ahead considering the diversity of many of the communities in Nevada and the contentious nature in today's political climate that redistricting presents. He asked the Committee to consider the social science context in reaching out to Hard to Count communities as the language, he opined, used to discuss

minority communities can be harmful and actually detract and be a barrier to the goal of the Legislatures' 2021 reapportionment and redistricting task.

Mr. Phillipps said, historically, federal and state governments have failed to do their due diligence to reach the most vulnerable populations as the framing of calling constituents as "hard to reach" is problematic. He also opined that even the census staff, who will be handling the enormous task of getting all Nevadans counted, are already perpetuating problematic language to the communities needing to be reached.

AGENDA ITEM XII—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:35 p.m.

Respectfully submitted,

Gayle Nadeau
Research Policy Assistant

Michael J. Stewart
Director, Research Division

APPROVED BY:

Senator Joyce Woodhouse, Chair

Date: May 27, 2020

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II	Forrest Darby, Vice President, Nevada Alliance for Retired Americans, Las Vegas	Written handout
Agenda Item III	Michael J. Stewart, Research Director, Research Division, Legislative Counsel Bureau (LCB)	A handout describing the scope of the committee, its required topics of study, and anticipated recommendations
Agenda Item IV A	Kate Marshall, Lieutenant Governor of Nevada and Chair, Nevada's Complete Count Committee	Document titled "Complete Count Committee Update Census 2020"
Agenda Item IV B	Kerry Durmick, Statewide Census Coordinator, Nevada Census 2020	Handout with information about Nevada Census 2020 and related upcoming events
Agenda Item VI	Michael J. Stewart, Research Director, Research Division, LCB, and Asher Killian, Senior Principal Deputy Legislative Counsel, Legal Division, LCB	PowerPoint Presentation titled "An Introduction to Reapportionment and Redistricting"
Agenda Item VII A-1	Robert E. Erickson, Special Master, 2011 Redistricting Plan	Written comments
Agenda Item VII A-2	Robert E. Erickson, Special Master, 2011 Redistricting Plan	First Judicial District Court of the State of Nevada, Case No. 11 OC 00042 1B, Order Re: Redistricting
Agenda Item VII A-3	Robert E. Erickson, Special Master, 2011 Redistricting Plan	First Judicial District Court of the State of Nevada, Case No. 11 OC 00042 1B, Report of Special Masters
Agenda Item VII A-4	Robert E. Erickson, Special Master, 2011 Redistricting Plan	Minutes of the October 10, 2011, public hearing by Special Masters
Agenda Item VII A-5	Robert E. Erickson, Special Master, 2011 Redistricting Plan	Minutes of the October 11, 2011, public hearing by Special Masters

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item VIII	Haley Proehl, Geographic Information Systems (GIS) Analyst/Redistricting GIS Specialist, Research Division, LCB	PowerPoint Presentation titled "The Role of Geographic Information Systems in Redistricting"
Agenda Item IX A-1	Michael J. Stewart, Research Director, Research Division, LCB	January 2011 LCB Bulletin No. 11-04 regarding reapportionment and redistricting
Agenda Item IX A-2	Michael J. Stewart, Research Director, Research Division, LCB	<i>Political History of Nevada</i> Chapter 8 on Legislative Redistricting
Agenda Item IX A-3	Michael J. Stewart, Research Director, Research Division, LCB	National Conference of State Legislatures Redistricting Law 2020
Agenda Item IX A-4	Michael J. Stewart, Research Director, Research Division, LCB	Election Data Services December 30, 2019, press release on "2019 Reapportionment Analysis"
Agenda Item IX A-5	Michael J. Stewart, Research Director, Research Division, LCB	2019 Joint Standing Rules (JSR) of the Senate and Assembly relating to reapportionment and redistricting (R and R)
Agenda Item IX A-6	Michael J. Stewart, Research Director, Research Division, LCB	2017 JSR of the Senate and Assembly relating to R and R
Agenda Item IX A-7	Michael J. Stewart, Research Director, Research Division, LCB	2015 JSR of the Senate and Assembly relating to R and R
Agenda Item IX A-8	Michael J. Stewart, Research Director, Research Division, LCB	2011 JSR of the Senate and Assembly relating to R and R
Agenda Item IX A-9	Michael J. Stewart, Research Director, Research Division, LCB	2001 JSR of the Senate and Assembly relating to R and R

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