



**NEVADA LEGISLATURE
COMMITTEE TO CONDUCT AN INVESTIGATION
INTO MATTERS RELATING TO REAPPORTIONMENT
AND REDISTRICTING IN NEVADA**
([Senate Concurrent Resolution \[SCR\] 13](#) [2021])

SUMMARY MINUTES

October 27, 2021

The third meeting of the Committee to Conduct an Investigation Into Matters Relating to Reapportionment and Redistricting in Nevada for the 2021–2022 Interim was held on Wednesday, October 27, 2021, at 5 p.m. in Room 4100, 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/Video/>. 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 CARSON CITY:

Assemblywoman Brittney Miller, Chair
Senator Roberta Lange, Vice Chair
Senator Fabian Doñate
Senator Pete Goicoechea
Assemblywoman Teresa Benitez-Thompson
Assemblyman Glen Leavitt

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Michael J. Stewart, Research Director, Research Division
Haley Proehl, Senior Policy Analyst/Geographic Information Systems (GIS) Specialist,
Research Division
Steven Jamieson, Research Policy Assistant, Research Division
Kathy Steinle, Redistricting Specialist, Information Technology Services,
Administrative Division
Asher A. Killian, Chief Deputy Legislative Counsel, Legal Division
Samuel J. Quast, Senior 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 INTRODUCTIONS

Chair Miller called the third meeting of the Committee to Conduct an Investigation into Matters Relating to Reapportionment and Redistricting in Nevada to order. She expressed appreciation for all who had engaged with the Committee's work. Chair Miller also thanked Brenda Erdoes, Director, LCB and the LCB staff for arranging the meeting.

AGENDA ITEM II—PUBLIC COMMENT

Eli Trimble, resident, Sparks, Nevada, explained that he has submitted plans 267, 268, and 277 to the [MyDistricting Nevada 2021](#) website for the Committee's consideration. In creating the districts, he focused on preserving municipal boundaries and increasing opportunities for minority communities. Mr. Trimble opined that observing and empowering minority communities should take precedence over protecting incumbents. He pointed to the current Senate District 14 as an example of a district which combines rural and urban voters who are hundreds of miles apart from one another, and said this practice dilutes the voices of these disparate communities. Mr. Trimble requested assurance that new districts would be compact and that representatives from northern Nevada would be included when making decisions about district lines. Finally, he encouraged the Committee to consider recommending an increase in the number of seats in the Legislature to account for Nevada's recent population growth.

Christine Saunders, MSW, Policy Director, Progressive Leadership Alliance of Nevada, read prepared remarks ([Agenda Item II](#)). She argued for the inclusion of diverse voices in the redistricting process, including those from tribal communities. Ms. Saunders implored the Committee to ensure that diverse communities are not overlooked or ignored, and that representatives can be elected who reflect the growth and diversity of Nevada.

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

Michael J. Stewart, previously identified, shared a presentation introducing various matters related to reapportionment and redistricting ([Agenda Item III](#)). He explained that every ten years, following the United States Census, the Legislature is responsible for reapportioning and redistricting the districts for the U.S. House of Representatives, Nevada State Senate and Assembly, and Board of Regents of the University of Nevada. Mr. Stewart defined reapportionment as the process of determining how many districts a jurisdiction will be allocated based on population and redistricting as the process by which new districts are drawn within a particular jurisdiction. He indicated that while the terms are often used interchangeably, the typical practice of the Nevada Legislature is more precisely described as redistricting.

Asher A. Killian, previously identified, continued the presentation with a primer on legal concepts that affect redistricting. Article 4, Section 5 of the *Nevada Constitution* requires the Legislature to: (1) determine the number of legislators in the Legislature; and (2) draw the district lines for these legislators, based on population. Article 1, Section 13 and Article 15, Section 13 also require representation to be based on population. Article 4, Section 5, and Article 15, Section 6 cap the aggregate number of members of both houses of the Legislature at 75, with the number of senators to not be less than one-third nor more than one-half of the number of Assembly members.

Mr. Killian commented on the potential implications of increasing the number of legislators, including a consideration of whether to nest Assembly districts within Senate districts as recommended during the 2019–2020 Interim by the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting in Nevada ([SCR 9](#) [2019]).

Mr. Killian displayed sample sections of the *Nevada Revised Statutes* (NRS) and *Minnesota Statutes* to illustrate the complicated manner in which Nevada’s district boundaries are drawn and highlight an example of how districts may be written into the NRS in the future. Mr. Killian explained that the Legal Division, LCB, is considering adopting a process—inspired by Minnesota’s laws—in which redistricting legislation can be produced to contain a geographical representation of each Senate and Assembly district rather than a list of census geographies.

Mr. Stewart recounted a brief history of redistricting in Nevada, including shifts in population centers and the number of legislators in each chamber. He focused on redistricting in 2011, as many of the issues relevant then are relevant in 2021. Some of the challenges in 2011 included:

- Large overall population growth;
- Population decreases in some rural counties;
- Increased influence of communities of interest, such as ethnic groups;
- The impact of term limits on institutional knowledge and the reallocation of certain districts;
- Debates about the appropriate size of the Legislature;
- A desire to avoid creating multiple “ballot styles” due to overlapping, non-coterminous district boundaries; and
- A compressed time frame.

Because a compromise could not be reached between the governor and the Legislature in 2011, Mr. Stewart explained that a team of special masters was appointed by First Judicial District Judge James Russell to draw the boundaries. The Court accepted the plans drawn by the special masters in October 2011. Finally, Mr. Stewart shared statistics on the current population totals for the districts created in 2011 and compared those numbers to the ideal populations for the districts in 2021.

Mr. Killian covered some important federal provisions related to redistricting. Article 1, Sections 2 and 4 of the *United States Constitution* provide that congressional representation shall be apportioned among the states according to their population and charge state legislatures with drawing districts for those seats in Congress. Section 2 of the *14th Amendment to the United States Constitution* serves as the basis for the concept of “one person, one vote,” which requires the population to be divided equally among the various districts. Mr. Killian mentioned three cases—listed on slide 15 of the presentation—in which the U.S. Supreme Court decided that a legislature’s failure to redistrict on the basis of population is justiciable and resulting plans can be held unconstitutional if they do not assign relatively equal weight to each voter.

Mr. Killian outlined several additional topics that will be considered during the redistricting exercise, including:

- The principle of “one person, one vote” established in *Baker v. Carr*, 369 U.S. 186 (1962), and subsequent U.S. Supreme Court cases, as well the provisions of the *Voting Rights Act of 1965* (Pub. L. 89-110, 79 Stat. 437);

- Situations in which deviation of legislative districts from the ideal population is or is not allowed;
- “Minority-majority” districts and the avoidance of “packing” more members of a minority group into a district than are necessary to decide an election in order to limit the number of districts which members of the group represent or, alternatively, “cracking” group members among several districts to prevent them from having an impact on any individual district;
- The permissibility of partisan gerrymandering under the *United States Constitution* and the *Nevada Constitution*;
- Emerging trends in redistricting challenges, such as the use of social science to evaluate communities of interest and perform statistical analyses of redistricting plan quality and validity;
- Emerging redistricting principles, including:
 - District competitiveness;
 - Prohibition of the use of partisan data;
 - Prohibition of the favoring or disfavoring of candidates, incumbents, or political parties; and
- Traditional redistricting principles:
 - Compactness;
 - Contiguity;
 - Preservation of counties and other political subdivisions;
 - Preservation of communities of interest;
 - Preservation of the cores of prior districts;
 - Protection of incumbents; and
 - Compliance with Section 2 of the *Voting Rights Act of 1965*.

Mr. Killian acknowledged that many of these principles can conflict, so it is the duty of the Legislature to determine their appropriate prioritization and balance when redistricting. Additionally, it must be considered that each district drawn will affect the other districts in the state.

AGENDA ITEM IV—UPDATE ON THE ADJUSTMENT OF 2020 CENSUS POPULATION TOTALS FOR THE PURPOSES OF REDISTRICTING TO REFLECT THE REALLOCATION OF INMATES PURSUANT TO [ASSEMBLY BILL 450](#) (2019)

Haley Proehl, previously identified, and Asher A. Killian, previously identified, along with Matthew F. Lawton, PMP, GISP, State Demographer, Office of the State Demographer, Department of Taxation, gave a presentation on efforts to implement the provisions of [AB 450](#) (2019) ([Agenda Item IV A](#)).

Mr. Killian explained that AB 450 imposes duties on the Department of Corrections (DOC), state demographer, and Legislature. The director of DOC is required to compile the last known residential address of each offender immediately before the offender was sentenced to imprisonment in a DOC facility or institution and to provide all relevant information to allow the demographer to carry out his or her duty. The demographer is directed to revise the population counts for each census tract and block to reapportion back any inmate who was a Nevada resident before incarceration to the inmate’s last known address rather than the inmate’s current address at a DOC facility. The Legislature is obligated to use these revised population counts as the basis for representation for the districts of the Board of Regents, House of Representatives, and Legislature. The provisions of AB 450 became effective on July 1, 2019.

As seen on slide 3 of the presentation, Mr. Lawton stated that the Office of the State Demographer received three data files from DOC—one in February 2021 and two in July 2021. The February data file included information for 12,214 inmates. The July files included information to help clean or clarify the February data, but did not include records on any new inmates. He reviewed the various types of address information received from DOC. After discussion with LCB and DOC, an order of precedence—seen on slide 5—was established for the address types.

Mr. Lawton identified several issues he felt should be clarified to resolve questions that arose during the reallocation process:

- Data quality standards to ensure complete and verifiable addresses;
- Order of precedence, including what types of addresses should apply; and
- Guidance on inmate records that cannot be allocated, such as whether to count “out-of-state” inmates at the correctional facility’s address or to exclude them entirely.

Ms. Proehl summarized the process by which inmates were reallocated and the limitations and errors which resulted in the inability to assign certain inmates to a location other than their corresponding DOC facility. After accounting for out-of-state inmates and inmates with an unknown address, a total of 6,275 inmates were able to be reallocated out of the 12,214 received from DOC. She said slides 10, 11, and 12 of the presentation illustrate the impact of the reallocation numbers on counties and current districts. Most of the negative population percentage was seen in rural areas, while most of the positive population change was seen in certain parts of the Las Vegas valley. The reallocated population figures are the ones used in [MyDistricting Nevada 2021](#). Ms. Proehl noted the demographic population fields such as voting age and Hispanic or Latino origin could not be adjusted due to limitations in the data provided.

Senator Doñate asked if the 12,214 inmates whose information was provided to the demographer included all inmates in DOC custody, or if some were excluded. He also requested more information on DOC’s efforts to follow up on records with invalid addresses.

Alejandra Livingston, MBA, MS, PStat, Economist III, Offender Management Division, DOC, clarified that national census day for group quarters—including prisons—was April 1, 2020, at midnight, and the numbers provided to the demographer were the inmates present at that time. However, she said, the prison population was probably smaller than in April of the previous year due to lower admissions because of the Coronavirus Disease of 2019. Ms. Livingston also said DOC was instructed by the U.S. Census Bureau and the U.S. Department of Commerce, to not count inmates who were housed at hospitals or jails on census night, as they would be counted in those group quarter settings.

Ms. Livingston explained multiple addresses are collected from inmates for several purposes. She provided details on the types of addresses, but said there are multiple reasons addresses could be incorrect, such as transiency prior to incarceration or forgetfulness after having been incarcerated for a long period. Additionally, addresses are often collected during processing before an inmate is placed into DOC custody, and some inmates refuse to provide address information. Ms. Livingston further explained that the recent transition to a new record keeping system did not result in every field being transferred. When DOC became aware of the missing data, staff worked to interview inmates, look up zip codes, and pull hard copy files. She added that training for intake staff will support better collection of address information going forward. Finally, Ms. Livingston

stated that some inmates housed on April 1, 2020, are no longer in DOC custody, which complicates efforts to resolve their address errors.

Senator Goicoechea expressed concern with the impact of reallocation on the population totals in rural counties, specifically Pershing and White Pine, that have large prisons within their borders. Ms. Livingston explained that for purposes other than the census, an inmate's place of residence is still the DOC facility in which they are housed. Mr. Killian further clarified that a significant number of inmates will remain counted at the prison sites either because there is insufficient evidence that they were Nevada residents before incarceration or insufficient evidence of their address in general, and—according to [NRS 360.288](#)—the demographer does not have the authority to reallocate inmates unless those two conditions are met.

In response to a question from Vice Chair Lange, Mr. Killian stated there is no mechanism in statute for allocating persons incarcerated in out-of-state prisons to an address in Nevada. He clarified that, while 11 states have laws similar to AB 450, the majority of those states simply do not include out-of-state inmates in their redistricting counts. Nevada is in the minority of states that count out-of-state inmates at the prison site rather than not counting them at all.

In response to additional questions from Vice Chair Lange, Ms. Livingston reiterated that DOC was instructed by the Census Bureau to not count inmates who were at hospitals or jails on April 1, 2020, because the inmates would instead be counted at those group quarters. She said the typical number of inmates at those facilities on any given night is less than 100. Ms. Livingston clarified the steps being taken by DOC to obtain missing addresses, including additional training for intake staff and technical upgrades to the address system. Finally, she repeated that an inmate may decline to provide address information, which precludes the inmate from being reallocated.

Subsequent to the meeting, Ms. Livingston submitted additional written testimony for the Committee's consideration ([Agenda Item IV B](#)).

Chair Miller encouraged DOC to continue to work with the demographer and LCB to address the Committee's concerns.

AGENDA ITEM V—OVERVIEW OF DEMOGRAPHIC PRODUCTS INVOLVING CENSUS DATA FROM NEVADA'S OFFICE OF THE STATE DEMOGRAPHER AND DISCUSSION OF 2020 CENSUS POPULATION TRENDS IN NEVADA

Matthew F. Lawton, previously identified, provided an introduction to the Office of the State Demographer, Department of Taxation, and an overview of initial data and findings from the 2020 Census ([Agenda Item V](#)). He outlined the release timeline for various products connected to the 2020 Census, such as demographic, housing, and redistricting information.

Mr. Lawton's analysis explored the following trends and topics:

- Slow population growth across the country, but large growth in Nevada;
- Population declines in rural areas and growth in metropolitan ones;
- Increased diversity in Nevada, largely driven by growth in the Hispanic population;
- An increasingly aging population—a high proportion of the state population is over 18 years old; and
- Housing unit increases and vacancy rate decreases.

Assemblyman Leavitt asked about any inaccuracies in the census data that might have been immediately apparent. Mr. Lawton opined that while he was just beginning an analysis of the data, the first place to look would be a comparison of housing unit counts with data provided by local assessors' offices. He said a review would be performed to measure the true accuracy of the count.

Responding to a question from Senator Goicoechea about undercounting of remote rural areas, Mr. Lawton mentioned a process by which local jurisdictions can appeal to the U.S. Census Bureau to identify units that were not included in the original count. He offered his assistance to entities looking to request a count correction.

AGENDA ITEM VI—REVIEW OF HOW TO DRAFT REDISTRICTING PLANS AND OVERVIEW OF THE TECHNICAL COMPONENTS OF THE 2021 REAPPORTIONMENT AND REDISTRICTING CYCLE

Haley Proehl, previously identified, presented an overview of the technical components of the redistricting process ([Agenda Item VI](#)). She explained that GIS is essentially mapping software that connects geography with data, and that it is the tool by which district boundaries and draft plans are drawn. Ms. Proehl provided a brief history of redistricting technology, which has evolved from mostly paper maps with limited computer assistance to the modern technology-based system that can produce thousands of maps very quickly.

Ms. Proehl described the GIS inputs required for redistricting: geography and population. Geographic boundary data are provided as "TIGER files" for multiple levels of geography, including census blocks and precincts. Population data are distributed by the U.S. Census Bureau in a dataset known as the "P.L. 94-171 Redistricting Data Summary Files." The Summary Files include total population data as well as information on race, Hispanic or Latino ethnicity, and the population of voting age. The data from the Summary Files are combined with the TIGER file geographic boundaries to build district boundaries. She noted that, pursuant to [AB 450](#) (2019), the data available on the Legislature's redistricting website have been adjusted to reflect the reallocation of inmates from the address of the facility in which they were incarcerated and counted on the day of the 2020 Census to their last-known residential addresses prior to incarceration.

Ms. Proehl remarked that in addition to geographic boundaries and population data, the redistricting database includes voter registration and election results to allow assessment of the political competitiveness of the proposed districts. In the 2019–2020 Interim, the Committee to Conduct an Interim Study of the Requirements for Reapportionment and Redistricting selected four competitive, statewide, partisan races from the past three election cycles to be included in the redistricting database. Ms. Proehl cautioned that the political data in the database are an estimate of competitiveness and not an exact measure.

Ms. Proehl listed the expenditures authorized by the 2019–2020 Interim Committee, including the purchase of AutoBound EDGE software, the purchase of necessary hardware, and the hiring of four GIS technicians. She displayed screenshot examples of the desktop software and web-based applications for redistricting. The web-based application for members of the public is known as [MyDistricting Nevada](#). According to Ms. Proehl, *MyDistricting Nevada* can be accessed through any device with an internet connection by users who register for an account. Users can draft redistricting plans and identify communities of interest and share these maps with others. These plans can be submitted for public view and comments. She referred anyone with additional questions about the application to the user guides available in English and Spanish on the Legislature's [redistricting website](#). Ms. Proehl noted that at the time of the meeting there were 27 public

proposals for Congressional districts, 2 proposal for state Senate districts, 1 proposal for state Assembly districts, and 2 submitted communities of interest.

Ms. Proehl concluded by highlighting the following features of the redistricting website:

- Redistricting status and timeline;
- Background and historical information and links;
- Demographic maps and statistical tables using 2020 Census data;
- Maps of current and proposed districts;
- Final district plans, once they become available; and
- Information on how to get involved, including legislator and staff contact information.

AGENDA ITEM VII—PUBLIC COMMENT

Holly Welborn, Policy Director, American Civil Liberties Union (ACLU) of Nevada, offered remarks in response to Agenda Item IV. She stated that only 8 percent of the prison population is serving life sentences; therefore, the majority of inmates will return to their communities. Ms. Welborn informed the Committee that ACLU of Nevada filed public records requests to understand the process by which addresses would be identified and verified but was told the information would not be received until February 2022. She argued that steps could have been taken to address some of the more common issues with obtaining addresses, such as allowing formerly transient inmates to list shelters they stayed at or providing additional assistance for individuals with developmental disabilities.

Subsequent to the meeting, Ms. Welborn submitted additional comments for the Committee's consideration ([Agenda Item VII](#)).

Eli Trimble, previously identified, drew attention to the issue of "differential privacy," which he defined as a mechanism by which the U.S. Census Bureau strategically inserted "noise" or error into the census data as a way to protect privacy. He said this may result in certain census blocks appearing to have more or fewer people than exist in reality, while still maintaining the accuracy of information on a larger scale. He cautioned the Committee to not be overly reliant on census block-level data when creating maps, as they may not be entirely accurate.

Anna Villatoro, Media Advocacy Manager, Children's Advocacy Alliance, asked the Committee to remember that while children cannot vote, they are still counted in the population totals for redistricting. She requested consideration of the interests of children when drawing district maps.

Cyrus Hojjaty, resident, Las Vegas, Nevada, expressed concern with the issue of gerrymandering. He acknowledged his support of a citizenship question for the 2020 Census due to worries related to illegal immigration and its impact on the total population figures.

AGENDA ITEM VIII—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 7:15 p.m.

Respectfully submitted,

Steven Jamieson
Research Policy Assistant

Michael J. Stewart
Research Director

APPROVED BY:

Assemblywoman Brittney Miller, Chair

Date: _____

MEETING MATERIALS

AGENDA ITEM	PRESENTER/ENTITY	DESCRIPTION
Agenda Item II	Christine Saunders, MSW, Policy Director, Progressive Leadership Alliance of Nevada	Written Testimony
Agenda Item III	Michael J. Stewart, Research Director, Research Division, Legislative Counsel Bureau (LCB)	Introduction to Redistricting Presentation
Agenda Item IV A	Haley Proehl, Senior Policy Analyst/Geographic Information Systems (GIS) Specialist, Research Division, LCB	Inmate Reallocation for Redistricting Presentation
Agenda Item IV B	Alejandra Livingston, MS, MBA, PStat, Economist III, Offender Management Division, Department of Corrections	Written Testimony
Agenda Item V	Matthew F. Lawton, PMP, GISP, State Demographer, Department of Taxation	2020 Census Data Overview
Agenda Item VI	Haley Proehl, Senior Policy Analyst/GIS Specialist, Research Division, LCB	Technical Components of Redistricting Presentation
Agenda Item VII	Holly Welborn, Policy Director, American Civil Liberties Union of Nevada	Written Testimony

The Summary Minutes are supplied as an informational service. All meeting materials are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. For copies, contact the Library at (775) 684-6827 or <https://www.leg.state.nv.us/Division/Research/Library/About/Contact/feedbackmail.cfm>.