

## Committee to Study the Requirements for Reapportionment and Redistricting

Following each decennial census, the Nevada Legislature is responsible for reapportioning and redistricting the Districts of the Nevada State Senate and Assembly, Nevada's Districts in the United States House of Representatives, and the Districts of the Nevada System of Higher Education Board of Regents and the State Board of Education. The Legislature engages in this important task during the first session following the census (1991, 2001, 2011, 2021, et cetera). In preparation for reapportionment and redistricting, the Legislature has, since 1980, conducted an "interim study" immediately prior to the legislative session to discuss the process of redrawing the district boundaries and "set the stage" for the next round of reapportionment and redistricting.

During the 2009 Legislative Session, the Nevada Legislature enacted Assembly Concurrent Resolution No. 19 (File No. 76, *Statutes of Nevada*), which directs the Legislative Commission to study the requirements for reapportionment and redistricting in conjunction with the data from the decennial census of 2010. The study must include: (1) an examination and monitoring of any redistricting systems, including the requirements for computer equipment, computer software, and the training of personnel; (2) a review of the case law and programs concerning planning for reapportionment and redistricting in other states; and (3) continuation of the State's participation in programs of the Bureau of the Census, including the program to increase the awareness of the general public concerning the census to ensure a complete and accurate count of all Nevadans in the year 2010. In September 2009, the Legislative Commission appointed Assemblyman Tick Segerblom as Chair of the Committee and Senator Steven A. Horsford, Vice Chair. Other members of the Committee include Senators John J. Lee, Mike McGinness, William J. Raggio, and Joyce Woodhouse, and Assembly members Heidi S. Gansert, John Ocegüera, and Debbie Smith.

## Committee Members

### Assemblyman Tick Segerblom (D) Chair



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Steven A. Horsford (D)  
Vice Chair



Senator  
John J. Lee (D)



Assemblywoman  
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Senator  
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Assemblyman  
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Senator  
William J. Raggio (R)



Assemblywoman  
Debbie Smith (D)



Senator Joyce Woodhouse (D)



# REAPPORTIONMENT AND REDISTRICTING

## Key Issues That May be Discussed by the Committee to Study the Requirements for Reapportionment and Redistricting

Among other things, the interim study committee on reapportionment and redistricting will likely discuss the following:

- The detailed census information for each Nevada county, all the way down to the precinct and census block levels, will be released to the State of Nevada no later than April 1, 2011. This leaves the Legislature with only about ten weeks—through June 6, 2011—within which to reapportion and redistrict the State and complete all of its other business.
- Based on current projections of Nevada's State Demographer, Nevada's population as of July 1, 2008, was over 2.7 million (compared to nearly 2 million in April 2000). Clark County's growth has continuously been the greatest among all counties; however, Nevada's rate of growth has slowed somewhat in recent years and such population fluctuations could impact reapportionment and redistricting plans. By 2010, it is estimated that nearly 2.15 million of the projected 2.96 million Nevadans will live in Clark County, which is approximately 73 percent of the State total. In 1990, Clark County represented 61.7 percent of the State total. In 2000, Clark County represented 68.5 percent of the State total.
- Currently, 14 of the 21 Senators and 29 of the 42 members of the Assembly represent districts wholly within Clark County. Two Senate districts (Clark No. 5 and Clark No. 7) are "multi-member" districts having two Senators each. One Senate district includes a portion of northern Clark County and several other rural Nevada counties. If legislative seats are not added during the 2011 Legislative Session, Clark County will gain seats in the Senate and Assembly. Of course, this will cause a requisite loss of Senate and Assembly seats in northern and rural Nevada.
- Alternatively, the Legislature could decide to expand its size to a point somewhere between the current composition of 63 members and the maximum possible membership of 75 (Article 15, Section 6, of the *Nevada Constitution*). Therefore, if the 2011 Legislature votes to expand the size of the Assembly to 46 members, the maximum size of the Senate will be 23. Using this same ratio, the Assembly could expand up to 50 members, with Senate membership increased to 25.
- When the Legislature redistricted in 1991, the average population in a single-member Senate district was 57,230. The average Assembly district population was one-half that number at 28,615. The 2001 round of redistricting

resulted in an average population of single-member Senate districts of 95,155. The average Assembly district population is one-half that number at 47,578. Depending on the number of seats selected for each house, when the Legislature redistricts the State in 2011, the average Senate and Assembly district will increase in size proportionally.

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## Reapportionment vs. Redistricting—What Is the Difference?

The terms "reapportionment" and "redistricting" may need some clarification. In general usage, court decisions, and legislative literature, the terms "apportionment," "reapportionment," and "redistricting" often are regarded as synonymous. However, there are subtle distinctions between these terms.

"Apportionment," in the purest sense, is the division of a given number of elected members among established political subdivisions in accordance with an existing plan or formula. For example, the 435 members of the United States House of Representatives are "apportioned" under the Apportionment Clause of the *U.S. Constitution* among the 50 states under a formula established by Congress. Every ten years, the 435 members of the House are "reapportioned" among the states because of changes in the respective populations of the states as determined by the decennial census. In other words, the terms "apportionment" and "reapportionment" refer to the allocation of seats among units, such as the states, for the House of Representatives or, in the case of the Nevada Legislature's efforts in 2001, the allocation of some existing legislative districts from northern Nevada to southern Nevada.

Meanwhile, "redistricting" is the division of existing districts into new districts with different boundaries. Thus, states with more than one member of the House of Representatives "redistrict" their "apportionment" of representatives into new districts to achieve equal population. In short, "redistricting" pertains to redrawing lines for election districts. During the 2001 Legislative Session, the Legislature "redistricted" itself by adjusting the boundaries of each of its 42 Assembly districts and 21 Senate districts.

## The Basics of Reapportionment and Redistricting

Every ten years, following the Federal Census, the Nevada State Legislature is responsible for reapportioning and redistricting the districts for:

- The United States House of Representatives;
- The Nevada State Senate;
- The Nevada State Assembly;
- The Nevada System of Higher Education Board of Regents; and
- The State Board of Education.

Nevada has adequate population to gain a fourth congressional seat and, therefore, the Legislature must divide the State's population as nearly as practicable into fourths for these four members of the U.S. House of Representatives.

### United States Constitutional Requirements

Article 1, Section 2, of the *United States Constitution* provides that congressional representatives shall be apportioned among the several states according to their respective numbers. On the basis of this provision, the U.S. Supreme Court has held that the population of congressional districts must be "as nearly equal as practicable." Any population deviation among congressional districts within Nevada, no matter how small, could render a reapportionment plan unconstitutional if an alternative plan with a smaller population deviation could have been adopted. The 2001 reapportionment and redistricting plan for Nevada's congressional seats represented a standard deviation of 0.00 percent, with an overall deviation of six (four residents below and two residents above the ideal population of 686,086).

In addition, the Equal Protection Clause of the Fourteenth Amendment to the *U.S. Constitution* is the basis for the equal population requirement for state legislative districts. A redistricting plan can withstand a constitutional challenge if it only has minor deviations in population among districts. The U.S. Supreme Court has indicated that a legislative redistricting plan with a maximum deviation under 10 percent likely would fall within the "minor deviations" category. However, the Legislature should not assume that any legislative redistricting plan having up to a 10 percent overall deviation is safe from successful challenge. Such a plan could be struck down if a challenge were to succeed based on some other legal requirement. The overall deviation between the largest and smallest Nevada Senate districts in 2001 was 9.91 percent (4.93 percent positive deviation and 4.98 percent negative deviation), while the overall deviation in the Nevada Assembly was 1.97 percent (1.07 percent positive deviation and 0.90 percent negative deviation).

Future issues of the *Reapportionment and Redistricting Newsletter* will feature reviews of the legal requirements and parameters for reapportionment and redistricting, to include the impact of the Voting Rights Act of 1965 (42 U.S.C. § 1973) and the legal factors associated with drawing minority districts. Finally, additional



discussion will also focus on criteria recognized by the courts as “traditional redistricting principles.” These criteria include:

- Compactness of districts;
- Contiguity;
- Preservation of political subdivisions (e.g., counties and cities);
- Preservation of communities of interest;
- Preservation of cores of prior districts;
- Protection of incumbents; and
- Compliance with Section 2 of the Voting Rights Act of 1965.

### Nevada Constitutional Requirements

Several provisions of the *Constitution of the State of Nevada* relate directly to the method of reapportionment used in this state:

- Section 13, Article 1 of the *Constitution of the State of Nevada* requires representation to be apportioned according to population. The purpose of this section is to secure to each citizen equal representation in the making of the laws of this state.
- Section 5, Article 4 of the *Constitution of the State of Nevada* requires that, after each decennial census of the United States, the Legislature shall fix by law the number of Senators and Assembly members and apportion them among legislative districts established by statute, according to the number of inhabitants in them respectively.
- Section 6, Article 15 of the *Constitution of the State of Nevada* provides that the aggregate number of members of both branches of the Legislature must never exceed 75. Section 5, Article 4 requires that the number of senators shall not be less than one third nor more than one-half of the number of Assembly members.
- Section 13, Article 15 of the *Constitution of the State of Nevada* provides that the census taken under the direction of Congress every ten years shall serve as the basis of representation in both houses of the Legislature.

In 1971, Nevada’s Attorney General interpreted the provisions of Section 5, Article 4 of the *Constitution of the State of Nevada* and indicated that the Legislature must reapportion at the first regular session following each decennial census, provided it deems that the data available at that time is sufficiently definitive to provide the basis for reapportionment in compliance with the “one person, one vote” principle. Otherwise, reapportionment must be accomplished at a special session to be called after the necessary data is available.

### Reapportionment and Redistricting News

This newsletter is the first of several that will be published by the Legislative Counsel Bureau (LCB) in 2010 and 2011. Similar newsletters were produced in 1990-1991 and 1999-2001 (Volume 1). The 2010-2011 newsletters (Volume 2) will feature information regarding Nevada’s reapportionment and redistricting process, summaries of interim study committee activities, overviews of relevant Census 2010 data, and other pertinent information. Copies of the newsletters will be posted on the Internet website for the Legislative Commission’s Committee to Study the Requirements for Reapportionment and Redistricting at [www.leg.state.nv.us/Interim/75th2009/Committee/Studies/Redistrict/?ID=57](http://www.leg.state.nv.us/Interim/75th2009/Committee/Studies/Redistrict/?ID=57).

Please contact Michael J. Stewart, Supervising Principal Research Analyst, Research Division, LCB, at (775) 684-6825 with any questions or suggestions concerning the newsletter. Additional information regarding reapportionment and redistricting can be found at the Committee’s Internet website or on the National Conference of State Legislatures’ (NCSL’s) Internet website ([www.ncsl.org](http://www.ncsl.org)) under the “Legislatures & Elections” tab.



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