

MINUTES

SENATE SUBCOMMITTEE OF THE SPECIAL COMMITTEE ON REDISTRICTING

December 21, 2001
Room 313-S—Statehouse

Members Present

Senator David Adkins, Chair
Senator Barbara Allen
Senator David Corbin
Senator David Haley
Senator Anthony Hensley
Senator Tim Huelskamp
Senator Lynn Jenkins
Senator Janis Lee
Senator Ed Pugh
Senator Derek Schmidt
Senator Ruth Teichman

Staff Present

Mary Galligan, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Rob Mealy, Senate Republican Caucus Office

Senator Adkins called the meeting to order at 9:15 a.m.

Senator Allen moved adoption of the plan (to be named Senate 2004 A) as amended by the Senate Republican caucus of the Committee. (Prior to the start of the Subcommittee meeting, Senator Corbin had suggested that the caucus plan, Senate 2004, be amended to move the City of Hillsboro into the 17th Senate district and the City of Eureka into the 16th Senate district. Senate caucus staff made the approved change and submitted the new plan to KLRD after the Subcommittee meeting.)

Senator Lee expressed concern about the plan as several pairs of incumbents are being put into competition for a district. Senator Hensley followed up by citing an example where changing one precinct in Wyandotte County could avoid pairing of incumbents. Senator Hensley acknowledged that the population in each of the affected districts would

have to be considered. Senator Lee stated that a plan exists that would leave the current number of districts in the rural areas of the state and would provide for comparable deviations as the proposed plan. Senator Huelskamp asked if there is a precinct that could be moved to accomplish Senator Lee's objection. Rob Mealey indicated that he did not know as the population numbers were not in front of him at this time but it may be possible to address Senator Lee's concerns.

Senator Haley pointed out that *Senate 2004 A* may dilute minority voting strength. Senator Hensley asked Senator Haley if minority voting strength questions are also raised by the proposed plan for district 29. Senator Haley responded that he was not as familiar with Wichita demographics.

Senator Hensley stated that the Democrats will be presenting a plan that preserves cores of existing districts. Chairman Adkins stated that the Committee would be willing to entertain other proposals. Senator Hensley asked staff whether a minority report could be filed. Staff responded that minority reports are frequently filed with subcommittee reports.

Senator Lee responded that the Democrats have not been included in discussions about the plans. *Senator Hensley offered and Senator Haley seconded, a substitute motion that would move Senator Gilstrap into the 5th State Senate District.* Chairman Adkins inquired about the population deviation created by that change. Senator Hensley informed the Subcommittee that he did not know because he had not seen the plan until a reporter gave it to him that morning. Chairman Adkins ruled that the motion was out of order without a substitute map.

Senator Huelskamp offered a substitute motion, seconded by Senator Pugh, that would place Senator Gilstrap's VTD into the 5th State Senate District with a compensating shift to stay within the population guidelines because of a desire to avoid the perception that the Republicans' intention is punitive. The motion failed with four yeas and five nays.

Chairman Adkins asked for a motion. Senator Allen made a motion to recommend Senate 2004A to the full committee. The motion was seconded by Senator Corbin and the motion carried five to four.

Chairman Adkins stated that the minutes from the Subcommittee meeting would be recorded and filed. The Chairman also directed staff to hold the record of this meeting open pending receipt of a minority report (Attachments 1 and 2 received by KLRD on January 11, 2002).

Prepared by Mary Galligan

Approved by Committee on:

January 18, 2002

Minority Report

The minority party Senators of the Special Committee on Redistricting respectfully dissent from the official recommendations and conclusions of the committee. We want to call attention to various issues that we find very troubling not only with the majority party's map proposal, but also the direction in which the process has headed thus far.

Their map proposal is the worst case scenario of partisan gerrymandering. We believe it disenfranchises thousands of Kansas citizens by allowing a few powerful people to choose which incumbents they want to gerrymander out of office because they are unable to defeat them the democratic way, the American way: at the polls.

We believe that their map, or any other map, that egregiously targets the minority party is in violation of the equal protection clause of the 14th Amendment and is subject to litigation as demonstrated in the U.S. Supreme Court case *Davis v. Bandemer*. We believe the majority party's map proposal deliberately and unnecessarily targets Democratic incumbents for defeat and intentionally draws new Republican districts under the following circumstances:

1. In the 4th senate district, the African-American population goes from 52.8% to 44.4%. The dilution occurs when key majority minority VTDs are dispersed into the neighboring 5th and 6th senate districts. This is a direct violation of our own committee guideline 3, which states, "Redistricting plans will have neither the purpose nor the effect of diluting minority voting strength." We believe that this type of dilution may also be a violation of section 2 of the Voting Rights Act.
2. The 36th district is eliminated by dividing it into five different districts, all of which are currently represented by incumbent Republicans. The existing district is currently represented by a four-term Democratic incumbent who has been overwhelmingly re-elected in this predominantly Republican district. The map proposal would place her in the 40th district with only 15,277 (22%) of her current constituents, rendering any chance of re-election, while not impossible, highly improbable.
3. The 28th district is represented by a Democratic Senator who has served in the Kansas Legislature for thirty years, longer than any other person currently serving. This district needs only 1,164 (1.7%) more people to be at the ideal deviation. Incredibly, the majority party map disrupts this district by deliberately and unnecessarily shifting 14,799 of its current constituents to the 26th district. In return, 18,828 people are shifted from the 26th to the 28th. 33,677 people, or half the population of a senate district, are needlessly shifted between two districts! This move violates our own committee guideline 4.f., which states, "Districts should be easily identifiable and understandable by voters." This shift will only serve to confuse voters in both districts. Its only apparent purpose is to defeat the incumbent Democrat because the 28th's current partisan make up is virtually dead even while the map proposal would create a Republican district.

4. In Wyandotte County, two Democratic Senators have been drawn together in the 6th district, leaving the new 5th district without an incumbent. This is being done apparently to force a contest between our two incumbents, in direct violation of committee guideline 4.e., which states, "Contests between incumbents members of the Legislature or the State Board of Education will be avoided whenever possible." With a simple change in the map – a shift of one precinct from the 6th to the 5th district – it is entirely possible to avoid a contest between incumbents in Wyandotte County.
5. In Johnson County, two new districts are drawn without an incumbent, one to appease a Republican incumbent who is moving, and the other to accommodate the local Republican machine which is promoting a candidate for the 2004 senate elections. In fact, as part of the committee's record, we will submit copies of campaign contribution letters that were sent out earlier last summer on behalf of this candidate describing a new district that would be created specifically for him by Republican senators.

We find it hard to believe the Johnson County Republican machine, in collusion with our committee chairman, would draw a map for a candidate who has never held elective office while gerrymandering elected and experienced Democratic incumbents out of office!

Worst yet, the Johnson County Republican machine, in collusion with our committee chairman, is engaging in the ultimate power grab for more clout in the Kansas Senate at the expense of rural Kansas. We believe the majority's map proposal will cheat rural Kansas out of ten more years of representation that it deserves and to which it is constitutionally entitled.

We recognize that the urban areas have grown in population over the past ten years. However, we also recognize that rural Kansas does not have to lose representation. We believe it is entirely possible and constitutionally feasible to draw a Senate map that maintains the balance between rural and urban interests, preserves the core of each existing district, and protects the right of our citizens to decide who should represent them, regardless of their political party affiliation.

In addition to the above concerns, we propose the following as our recommendations as to what a final Senate map should contain:

1. Adherence to our guidelines unanimously adopted on April 26, 2001, and in particular: avoiding VTD splits, not diluting minority voting strength; preserving existing political subdivisions to the extent possible; recognizing communities of interest; avoiding contests between incumbents whenever possible; and drawing districts that are easily identifiable and understandable by voters.

2. Preference should be given to the right of voters to decide who will represent them to the greatest extent possible rather than partisan gerrymandering incumbents out of office.
3. Concurrence on the basic principle that rural Kansas should be entitled to as much representation in the Senate as the constitution allows.
4. Deference should be given to preserving at least half of any incumbent's current constituent base in the unlikely event it becomes necessary to draw two incumbents into the same district.

Our final concern is with the process. As minority members of the committee, we were not involved at any time in the discussion and drafting of the majority party's map. While we believe that there is a willingness by some in the majority to include us, the process at this time is far cry from the fair play and openness that led to a bi-partisan consensus ten years ago.

Minority Report

The committee members of the minority party recognize that many difficult decisions have to be made when drafting a ten-year Congressional redistricting plan. We also acknowledge and appreciate the hard work that was involved in drafting the plan, Caucus J, that successfully passed out of the Special Committee on Redistricting. However, as members of the minority party, we are very troubled with this plan.

We respectfully dissent from recommending Caucus J based on the simple fact that it fails to comply with the legal principles of redistricting as confirmed by the United States Supreme Court. We dissent also because the plan fails to adhere with many of the guidelines adopted by the majority and minority party members of the committee.

The committee members of the minority party believe that Caucus J fails in the following areas:

1. Using the 1992 Kansas court case Stephan v. Graves as legal precedent, this map's deviation of 132 people is unconstitutional. We have proven that a reasonable map, known throughout our interim proceedings as Congressional Plan 1, can be drawn which comes far closer to the "one person, one vote" doctrine and to the adopted guidelines of the committee.
2. Caucus J fails to recognize, reunite, or retain the following communities of interest:
 - The city of Lawrence is needlessly split in a partisan gerrymandering effort to defeat the only Democrat in our state's congressional delegation.
 - The traditionally united counties of Geary and Riley are needlessly split between two congressional districts.
 - Caucus J fails to reunite Montgomery County with the other counties of Southeast Kansas, which appears to be based on the testimony of conferees who told the committee that without Montgomery County in the fourth district, Congressman Tiahrt would have a harder time being re-elected.
 - Caucus J fails to reunite Reno County with its neighbors Harvey and Sedgwick counties and needlessly splits the city of Newton in Harvey County.
 - Caucus J needlessly splits VTD's, which is contrary to our guidelines and which other maps have shown is totally unnecessary.

We believe that there has been a more common sense, more "good faith" effort in achieving the "one person, one vote" legal mandate through the introduction of Congressional Plan 1. On the other hand, the highly partisan nature of the committee's product leaves us no

other choice than to suspect that partisan politics are driving the Caucus J plan and the process which led to its approval.

In her testimony before the Special Committee on June 5, 2001, former Kansas Republican Party chairwoman Rochelle Chronister stated, "To unnecessarily split the city of Lawrence into two parts, when other accommodations could be made, is also a proposal that I believe is purely political."

We agree. We understand that redistricting is a political process, but why must we take for granted that it is a purely political process? We believe that there comes a time when looking out for the best interest of the party must yield to what is best for all of the people, regardless of their political party affiliation.

Stressing that this is constructive criticism intended to challenge all members of the committee to do what is best for the people of Kansas, we propose the following as our recommendations for what a final Congressional map should contain:

1. Achieving "one person, one vote," by making a good faith effort to draw and adopt a redistricting plan with the smallest possible deviation.
2. Recognizing, retaining and reuniting "communities of interest" and preventing the needless and intentional splitting of the following:
 - VTDs
 - Cities
 - Unified Government of Wyandotte County
 - Southeast Kansas
 - Tri-county area of Riley, Geary, and Pottawatomie counties
 - Native American reservations
 - Other racial and ethnic minority populations
6. A final redistricting plan should make a good faith effort to achieve "one person, one vote," while at the same time adhering to the traditional principles of redistricting, the priorities listed above, and the guidelines adopted by the Special Committee on Redistricting.
7. One such plan, Congressional Plan 1, was first made public on April 19, 2001, and presented to the Special Committee on May 16, 2001, prior to any partisan political data being made available to members of the committee. A final redistricting plan must not only be based on the "one person, one vote" principle, but it should avoid partisan gerrymandering and the needless splitting of a city.