

Approved: 4-3-09  
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 17, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes  
Dennis Hodgins, Kansas Legislative Research Department  
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Dan McLaughlin, Kansas State Fire Marshal  
Mary Galligan, Legislative Research  
Charlotte Esau, Kansas Republican Assembly

Others attending:

See attached list.

**SB 307 - State fire marshal duty to conduct on-site inspect of non-fuel flammable or combustible liquid aboveground storage tanks, delayed until July 1, 2012; compliance with standards, delayed until July 1, 2015.**

Chairman Brungardt opened the hearing on **SB 307**.

Staff provided an overview of the bill.

Dan McLaughlin, Kansas State Fire Marshal, spoke in favor of the bill. (Attachment 1) The bill is a result of the Senate Budget Sub-Committee to help reduce the obligations with the current revenue shortfalls.

The Chairman asked the pleasure of the committee on the bill.

Senator Ostmeyer moved to pass SB 307 out favorably. Senator Morris seconded the motion. The motion carried.

Chairman Brungardt closed the hearing on **SB 307**.

**SB 291 - Establishing a procedure for preparation and adoption of reapportionment plans.**

Chairman Brungardt opened the hearing on **SB 291**.

Staff provided a written overview of the bill. (Attachment 2)

Mary Galligan, Legislative Research Department, provided a comparison of the bill, Iowa Redistricting Criteria, and 2002 Redistricting Guidelines. (Attachment 3) Ms. Galligan also provided "Guidelines and Criteria for 2002 Kansas Congressional and Legislative Redistricting" and Article 10 of the Kansas Constitution.

Senator Derek Schmidt provided written testimony in support of the bill. (Attachment 4) Under this proposal, the power to redistrict is retained by the legislature, but give direction to staff as to what role they will play in helping exercise that power and imposing upon the legislature rules for how that power will be wielded.

Charlotte Esau, Kansas Republican Assembly, spoke in opposition of the bill. (Attachment 5) The big change is that public hearings happen after a plan is finalized, and the commission is not allowed to reveal any of the details they are working on to the public or the legislature until after they are finalized.

Kansas Republic Party provided written testimony in opposition of the bill. (Attachment 6) This proposal decreases public input and transparency in the redistricting/reapportionment process; reduces the number of town hall meetings conducted across the state, and limits legislative debate.

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on March 17, 2009, in Room 136-N of the Capitol.


Chairman Brungardt closed the hearing on **SB 291**.

The next meeting is scheduled for March 18, 2009. The meeting was adjourned at 11:30 am

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

**GUEST LIST**

DATE 3-17-09

NAME	REPRESENTING
Karl McWorter	KSFMO
Dan McLaughlin	KSFMO
Tim Carpenter	ES
Charlotte Esom	
David Kensington	DIAGEO, NA Inc.
Corrie Kangas	KS GOP
Derrick Santag	HFP
Julie Heck	HemLaw Firm
	ICS Center



# K A N S A S

DAN McLAUGHLIN  
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS  
GOVERNOR

## **Testimony of Dan McLaughlin, State Fire Marshal**

**On SB 307**

**Before**

**Senate Federal and State Affairs Committee**

This bill is a result of our senate budget sub-committee to help reduce our obligations with the current revenue shortfalls we have been encountering. The bill simply defers conducting inspections of non-fuel flammable and combustible liquid facilities from 2009 to 2012 and compliance by those facilities from 2012 until 2015. The agency is continuing to have regulations drafted for identifying facilities and for submission of plans for installation and modifications. We encourage the committees favorable passage of this bill.

**MARY ANN TORRENCE**, ATTORNEY  
REVISOR OF STATUTES  
**JAMES A. WILSON III**, ATTORNEY  
FIRST ASSISTANT REVISOR  
**GORDON L. SELF**, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

**Overview Senate Bill 291**  
**Redistricting Procedure**

Jason B. Long  
Assistant Revisor  
Office of Revisor of Statutes

March 17, 2009

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Senate Bill 291 provides a statutory process for drawing new congressional, state legislative and board of education districts following a federal census. SB 291 would require the legislative research department to gather the necessary population data and prepare plans for redrawing the legislative districts using nonpartisan requirements set forth in section 4 of the bill. These requirements include the following:

- (1) All districts shall be as nearly equal to the ideal population as possible allowing for a 1% deviation from the ideal population and not more than 5% difference between the largest and smallest districts.
- (2) District lines shall coincide with the boundaries of political subdivisions.
- (3) Districts shall be composed of convenient contiguous territory.
- (4) Districts shall be regular and compact in form.
- (5) No district is to be drawn to favor or disfavor a political party, incumbent candidate or other person or group for the purpose of increasing or decreasing the voting strength of a language or racial minority group.

(6) Existing districts shall be retained as much as possible to avoid moving voters from one district to another.

(7) To the extent possible state legislative districts shall be contained within a single congressional district.

(8) Districts shall be drawn to avoid creating election contests between incumbent legislators.

Section 5 of the bill creates a five-member advisory commission. Four members of the commission are appointed by the majority and minority leaders of both the House and the Senate. The four appointees then select the fifth member. The bill restricts the following individuals from serving on the commission:

- (1) Any eligible elector of the state at the time of appointment.
- (2) Any person holding a partisan public office or political party office.
- (3) Any relative or employee of a member of the state legislature or U.S. Congress.
- (4) Any person directly employed by the State of the Kansas or the U.S. Congress.
- (5) Any registered lobbyist.

The commission is required to hold three public hearings on the initial redistricting plans drawn by the legislative research department and submit a report on their findings to the legislature. The commission also is to advise the legislative research department regarding decisions on the redistricting plans for which the provisions of section 4 of the bill provide insufficient guidance.

The bill requires four redistricting plans be drawn: congressional; house of representatives; senate; and state board of education. On the first day of the legislative session two years after the federal census, bills are to be introduced in the legislature embodying the redistricting plans drawn by the legislature research department. These bills are to be acted upon not less than three days nor more than seven days after receipt of the commission's report on the plans. Action is to be taken under a rule permitting no amendments except those of a purely corrective nature. If any plan is not adopted by the legislature, then the chamber that did not approve the plan must submit its reasons for doing so to the legislative research department within seven days after the bill failed to be approved.



The legislative research department is required to draw a new plan addressing the reasons for the first plan's failure. A new bill embodying this second plan is to be introduced within 35 days after the failure of the initial bill. The second bill is to be acted upon not less than seven days after introduction under the same rules and procedures as initial bills. This process is repeated for a third redistricting plan if necessary.

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Sen Fed & State  
Attachment 3  
3-17-09

March 17, 2009

**To:** Senate Committee on Federal and State Affairs

**From:** Mary Galligan

**Re:** 2009 SB 291 Redistricting Procedures

**Summary:** The bill would establish statutory procedures for legislative, State Board of Education, and congressional redistricting. Kansas does not currently have a statutory redistricting procedure. Current law does prescribe the duties of the Secretary of State to adjust federal census results, pursuant to the Kansas Constitution, for use in creation of legislative districts.

The bill also would codify criteria for creation of districts. Those criteria are listed in the table below and are compared to both the Iowa criteria and the guidelines utilized by the Kansas Legislature in 2002.

In addition to establishing statutory criteria, the bill would change the redistricting process by:

- Placing responsibility for creating redistricting plans with the Legislative Research Department; and
- Creating a temporary Redistricting Advisory Commission to fulfill specific functions.

These provisions differ from past practice by placing the described duties with entities other than the Legislature.

Provisions of the bill are similar to those utilized in Iowa under a statute enacted in 1980.

## Overview of SB 291

Section 2 would require the Legislative Research Department prepare for redistricting by acquiring appropriate information, reviewing and evaluating available facilities, and developing programs and procedures for redistricting. The duties of the Research Department as described in the section do not represent a departure from past practice.

Section 3 would require introduction on the first day of the Legislative session in the year ending in two, bills that would enact congressional, House, Senate and State Board of Education district plans. The House plan would be introduced in the House. The Senate plan would be introduced in the Senate. Congressional and State Board of Education plans would be introduced pursuant to an agreement between the Senate President and the Speaker of the House. Action on the bills would have to be taken expeditiously, but not less than 3 nor more than 7 days after the Legislature receives the Advisory Commission report of hearings on the plans. (The Commission report would have to be submitted within 14 days of introduction of the bills. If the Commission takes



all the allowable time, legislative action on the bills would be within 17 to 21 days of introduction of the initial bills)

Action on the bills in both chambers would be pursuant to a procedure or rule authorizing only technical amendments.

If a bill is passed by the first chamber, the second chamber would be required to act on the bill not more than 7 days after the bill is received.

If an initial bill fails to pass, the chamber that rejected the plan would have to transmit to the Research Department a resolution describing the reasons the bill was rejected.

The Research Department would have to create a second or third plan to replace any plans that failed to pass both chambers or that were vetoed by the Governor. Any replacement plan(s) would be prepared in accordance with the criteria described in the bill and, to the extent possible, taking into consideration the stated reasons for rejection of the prior plan. The second or third bill(s) would have to be introduced within 35 days of the rejection of the prior plan(s).

The replacement bill(s) would have to be voted no sooner than 7 days after introduction. Again, action on the bill(s) would be pursuant to a procedure or rule authorizing only technical amendments. Reasons for rejection of a replacement plan would be conveyed to the Research Department in a resolution from the rejecting chamber.

These provisions differ from Iowa law in one substantive respect. In Iowa, the Legislature is authorized to amend the third plan(s) like any other bill.

Section 4 would create in statute criteria for creation of districts. The table that follows compares provisions of the bill with provisions of Iowa law and with guidelines and criteria utilities by the Kansas Legislature during the 2002 redistricting. As noted below some criteria in the bill differ from those found in Iowa law.

Section 5 would create the Temporary Redistricting Advisory Commission. The five-member Commission would be appointed not later than February 15 of the year ending in one. Four of the members would be appointed by legislative leadership. One member each would be appointed by the Senate and House Majority and Minority leaders. Those four members would select the fifth member who would serve as chairperson.

Persons appointed to the Commission would have to be: eligible to vote in Kansas at the time of appointment. Commissioners could not hold a partisan public office or political party office, and could not be a relative or employee of a member of the Legislature or Congress; directly employed by the State or by Congress; or a registered lobbyist. (Sec. 1(f) of the bill would define "partisan public office" to mean: (1) An elective or appointive office in the executive or legislative branch of the United States government; (2) an elective or appointive office in the executive or legislative branch of Kansas; and (3) an elective office in any county, city or municipal government which is filled by an election process involving nomination and election of candidates on a partisan basis. "Political party office" also would be defined by the bill (Sec. 1(h) to mean an elective office in the national or state organization of a political party. "Political party" would be defined (Sec. 1(g)) as a party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least 5% of the total vote cast for all candidates for that office at that election.)

Section 6 would define the only duties and functions of the Commission. Those duties would be to:

- Accept from the Research Department requests for direction if the Department needs to make a decision during plan preparation to which none of the guidelines in Section 4 of the bill is clearly applicable.
- Agree upon policies regarding release of information about redistricting plans that have not been introduced as bills. The restriction on release of plan information specifically would not apply to population data provided to the Research Department by the Census Bureau or the Secretary of State.

- Conduct at least three public hearings, on the first plan introduced, in different geographic regions of the State.
- Prepare and submit to the Chief Clerk of the House and the Secretary of the Senate a report summarizing information received during the hearings, along with any comments and conclusions the Commission deems appropriate. The report would have to be submitted within 14 days after introduction of the initial bills.

The Division of the Budget's fiscal note has not been received by the Research Department. The Department's estimate of the fiscal impact of the bill for fiscal years 2010, 2011, 2012 and 2013 is \$774,782. The Department's analysis of the fiscal impact indicates that expenses attributed to the bill will accrue to the Legislative Branch regardless of enactment of SB 291.

### COMPARISON OF 2009 SB 291, IOWA REDISTRICTING CRITERIA AND 2002 KANSAS REDISTRICTING GUIDELINES

Provision	2009 SB 291	Iowa Redistricting Criteria	2002 Redistricting Guidelines
<b>Population Basis for Redistricting</b>	<p><u>Legislative:</u> adjusted population per KSA 11-301, <i>et seq.</i> (Sec. 2(a) and 4(a))</p> <p><u>Congressional:</u> decennial Census population (Sec. 2(a))</p>	Decennial Census population.	<p>Same as SB 291</p> <p>Geographic "building blocks" are counties or VTDs (precincts).</p>
<b>Allowable Deviation of District Population</b>	<p><u>Legislative:</u> Districts as nearly equal in population as practicable <sup>1</sup>. Absolute mean deviation less than or equal to 1 percent. Relative maximum 5 percent (Sec. 4(a)(1))</p> <p><u>Congressional:</u> Districts as nearly equal in population as practicable. Maximum 1 percent deviation. (Note the US Constitution has been interpreted to allow virtually no deviation from the ideal district size.) (Sec. 4(a)(2))</p> <p>Any deviation over 1 percent would have to be justified by the Legislature if the plan is challenged in the Supreme Court based on excessive population variance. (Sec. 4(a)(3))</p>	Same as SB 291	<p><u>Legislative:</u> Districts numerically as equal in population as practical. Relative maximum deviation should not exceed <u>10 percent</u>.</p> <p><u>Congressional:</u> Districts as nearly equal in population as practicable.</p> <p>No similar provision</p>

<sup>1</sup> practicable: capable of being put into practice or of being done or accomplished : feasible <a practicable plan> 2 : capable of being used : usable <a practicable weapon> practicable.. In Merriam-Webster Online Dictionary. Retrieved March 17, 2009, from <http://www.merriam-webster.com/dictionary/practicable>.

Provision	2009 SB 291	Iowa Redistricting Criteria	2002 Redistricting Guidelines
<b>Subdivisions of the State</b>	To the extent possible, while meeting population requirements, split the smallest possible number of cities and counties. More populous subdivisions would be divided before less populous subdivisions, except where a city is divided by a county boundary. (Sec. 4(b)).	Statutory language same as SB 291.  IA Constitution prohibits splitting counties in a Congressional plan.	<u>Legislative:</u> Subject to the equal population requirement, the integrity and priority of existing political subdivisions should be preserved to the extent possible.  <u>Congressional:</u> Subject to the equal population requirement, whole counties should be in the same congressional district to the extent possible while achieving population equality among districts. Political subdivisions are one aspect of "communities of interest" in the guidelines.
<b>Contiguity</b>	Districts must be composed of territory contiguous at more than one point. (Sec.4(c)).	Statutory language same as SB 291.  Constitutional requirement that congressional and legislative districts be composed of contiguous territory.	<u>Legislative and Congressional:</u> Subject to the equal population requirement, districts should be as compact as possible and contiguous.
<b>Compactness</b>	Consistent with population equality, preservation of political subdivisions, and contiguity, districts must be reasonably compact. Square, rectangular or hexagonal shaped districts would be preferred, to the extent permitted by natural or political boundaries. The bill describes tests for comparing the compactness of districts or of whole plans. (Sec. 4(d))	Statute is the same as SB 291.  Constitutional requirement for compact districts.	<u>Legislative and Congressional:</u> Districts should be as compact as possible and contiguous.

Provision	2009 SB 291	Iowa Redistricting Criteria	2002 Redistricting Guidelines
<p><b>Partisan and Minority Group Considerations</b></p>	<p>No district drawn to favor or disfavor a political party, incumbent legislator or member of Congress, or other person or group, or to augment or dilute the voting strength of a language or racial minority group. Certain data could not be used during creation of districts:</p> <ul style="list-style-type: none"> <li>• <u>Except in order to prevent putting two incumbents in the same district</u>, addresses of incumbents</li> <li>• Party affiliation of registered voters</li> <li>• Election results</li> <li>• Except as required by law, any demographic information other than headcount (Sec. 4(e))</li> </ul>	<p>Same, <u>except for the provision permitting inclusion in redistricting data of addresses of incumbents.</u></p>	<p><u>Legislative and Congressional:</u> Redistricting plans should have neither the purpose nor the effect of diluting minority voting strength.</p> <p><u>Legislative and State Board of Education:</u> Subject to the equal population requirement, contests between incumbent members of the Legislature or the State Board of Education should be avoided whenever possible.</p>
<p><b>Cores of Existing District</b></p>	<p>In order to minimize electoral disputes and confusion, retain the geographical composition of existing districts and minimize the number of voters moved from one district to another (Sec. 4(f)).</p>	<p>Not a permitted consideration.</p>	<p><u>Legislative:</u> Subject to equal population requirement, districts should be easily identifiable and understandable by voters.</p> <p><u>Congressional:</u> Subject to equal population requirement, if possible, the core of the existing districts should be preserved when considering the "community of interests" in establishing districts.</p>

Provision	2009 SB 291	Iowa Redistricting Criteria	2002 Redistricting Guidelines
<b>Relationship of Districts</b>	In order to minimize electoral disputes and confusion, subject to the requirements for equal population, preservation of political subdivisions, compactness, contiguity, and prevention of party or race/language minority bias, each representative and each senatorial district would have to be included within a single Congressional district, to the extent possible. (Sec. 4(g)).	Same as SB 291	Not mentioned.  Kansas Constitution requires that State Board of Education Districts each be composed of 10 contiguous Senate districts.
<b>Avoidance of Contests Between Incumbents</b>	In order to minimize electoral disputes and confusion, avoid creating election contest between incumbents within a plan.	Not a permitted consideration.	<u>Legislative:</u> Contests between incumbent members of the Legislature or the State Board of Education should be avoided whenever possible.



**GUIDELINES AND CRITERIA FOR 2002  
KANSAS CONGRESSIONAL AND LEGISLATIVE REDISTRICTING**

**Adopted by the House Select Committee on Redistricting April 25, 2001  
Adopted by the Senate Committee on Reapportionment April 26, 2001**

**Legislative Redistricting**

1. The basis for legislative redistricting is the 2000 U.S. Decennial Census as recalculated by the Kansas Secretary of State pursuant to Article 10, Section 1 of the *Constitution of the State of Kansas* and KSA 11-301 *et seq.*
2. Districts should be numerically as equal in population as practical within the limitations of Census geography and application of guidelines set out below. Deviations should not exceed plus or minus 5 percent of the ideal population of 21,378 for each House district and 66,806 for each Senate district, except in unusual circumstances. (The range of deviation for House districts could be plus or minus 1,069 persons, for districts that could range in population from 20,309 to 22,447. The overall deviation for House districts could be 2,138 persons. The range of deviation for Senate districts could be plus or minus 3,340 persons, for districts that could range in population from 63,466 to 70,147. The overall deviation for Senate districts could be 6,681 persons.)
3. Redistricting plans will have neither the purpose nor the effect of diluting minority voting strength.
4. Subject to the requirement of guideline No. 2:
  - a. The "building blocks" to be used for drawing district boundaries shall be voting districts (VTDs) as described on official 2000 Redistricting U.S. Census maps.
  - b. Districts should be as compact as possible and contiguous.
  - c. The integrity and priority of existing political subdivisions should be preserved to the extent possible.
  - d. There should be recognition of similarities of interest. Social, cultural, racial, ethnic, and economic interests common to the population of the area, which are probable subjects of legislation (generally termed "communities of interest"), should be considered. While some communities of interest lend themselves more readily than others to being embodied in legislative districts, the Committee will attempt to accommodate interests articulated by residents.
  - e. Contests between incumbent members of the Legislature or the State Board of Education will be avoided whenever possible.
  - f. Districts should be easily identifiable and understandable by voters.

## Congressional Redistricting

1. The basis for congressional redistricting is the 2000 U.S. Decennial Census as published by the U.S. Department of Commerce, Bureau of the Census. The “building blocks” to be used for drawing district boundaries shall be Kansas counties and voting districts (VTDs) as their population is reported in the 2000 U.S. Decennial Census.
2. Districts are to be as nearly equal to 672,105 population as practicable.
3. Redistricting plans will have neither the purpose nor the effect of diluting minority voting strength.
4. Districts should attempt to recognize “community of interests” when that can be done in compliance with the requirement of guideline No. 2.
  - a. Social, cultural, racial, ethnic, and economic interests common to the population of the area, which are probable subjects of legislation (generally termed “communities of interest”), should be considered.
  - b. If possible, preserving the core of the existing districts should be undertaken when considering the “community of interests” in establishing districts.
  - c. Whole counties should be in the same congressional district to the extent possible while achieving population equality among districts. County lines are meaningful in Kansas and Kansas counties have historically been significant political units. Many officials are elected on a countywide basis, and political parties have been organized in county units. Election of the Kansas members of Congress is a political process requiring political organizations which in Kansas are developed in county units. To a considerable degree most counties in Kansas are economic, social, and cultural units, or parts of a larger socioeconomic unit. These interests common to the population of the area, generally termed “community of interests” should be considered during the creation of congressional districts.
5. Districts should be as compact as possible and contiguous, subject to the requirement of guideline No. 2.

## **Kansas Constitution**

### Article 10. Apportionment of the Legislature

#### § 1. Reapportionment of Senatorial and Representative Districts

(a) At its regular session in 1989, the legislature shall by law reapportion the state representative districts, the state senatorial districts or both the state representative and senatorial districts upon the basis of the latest census of the inhabitants of the state taken by authority of chapter 61 of the 1987 Session Laws of Kansas. At its regular session in 1992, and at its regular session every tenth year thereafter, the legislature shall by law reapportion the state senatorial districts and representative districts on the basis of the population of the state as established by the most recent census of population taken and published by the United States bureau of the census. Senatorial and representative districts shall be reapportioned upon the basis of the population of the state adjusted: (1) To exclude nonresident military personnel stationed within the state and nonresident students attending colleges and universities within the state; and (2) to include military personnel stationed within the state who are residents of the state and students attending colleges and universities within the state who are residents of the state in the district of their permanent residence. Bills reapportioning legislative districts shall be published in the Kansas register immediately upon final passage and shall be effective for the next following election of legislators and thereafter until again reapportioned.

(b) Within 15 days after the publication of an act reapportioning the legislative districts within the time specified in (a), the attorney general shall petition the supreme court of the state to determine the validity thereof. The supreme court, within 30 days from the filing of the petition, shall enter its judgment. Should the supreme court determine that the reapportionment statute is invalid, the legislature shall enact a statute of reapportionment conforming to the judgment of the supreme court within 15 days.

(c) Upon enactment of a reapportionment to conform with a judgment under (b), the attorney general shall apply to the supreme court of the state to determine the validity thereof. The supreme court, within 10 days from the filing of such application, shall enter its judgment. Should the supreme court determine that the reapportionment statute is invalid, the legislature shall again enact a statute reapportioning the legislative districts in compliance with the direction of and conforming to the mandate of the supreme court within 15 days after entry thereof.

(d) Whenever a petition or application is filed under this section, the supreme court, in accordance with its rules, shall permit interested persons to present their views.

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(e) A judgment of the supreme court of the state determining a reapportionment to be valid shall be final until the legislative districts are again reapportioned in accordance herewith.

Laws 1861, p. 61; Laws 1974, Ch. 457, § 1; Laws 1988, ch. 405.

#### Article 6. Education

##### § 3. Members of state board of education and state board of regents

(a) There shall be ten members of the state board of education with overlapping terms as the legislature may prescribe. The legislature shall make provision for ten member districts, each comprised of four contiguous senatorial districts. The electors of each member district shall elect one person residing in the district as a member of the board. The legislature shall prescribe the manner in which vacancies occurring on the board shall be filled. . . .

(c) Subsequent redistricting shall not disqualify any member of either board from service for the remainder of his term. Any member of either board may be removed from office for cause as may be provided by law.

Laws 1861, p. 58; Laws 1966, Sp. Sess., ch. 10.

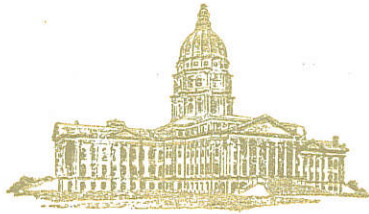


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**Senator Derek Schmidt**  
**Majority Leader**

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**Testimony in Support of Senate Bill 291**  
**Presented to the Senate Federal & State Affairs Committee**  
**by Senator Derek Schmidt**

March 17, 2009

Mr. Chairman, members of the committee, thank you for the opportunity to testify today in support of Senate Bill 291.

Every 10 years, our state – like every state – must redraw the boundaries of every legislative and congressional district to reflect population shifts and to preserve the federal constitutional principle of one person, one vote, based on the most recent census data. In Kansas, we also redraw state Board of Education districts for this purpose.

In Kansas, our process is for the legislature to do this task itself. I am one who believes there is an inherent conflict in asking legislators to draw their own districts. With the availability of modern data-management technology, the current process literally allows politicians to pick our constituents when instead the basic principles of democracy should demand that our constituents pick us. That was never intended when the current system was established.

The human instinct for self-preservation always washes over the legislature during redistricting years. As a result, redistricting becomes a personal issue that shapes and colors every other public policy issue considered by the legislature during a redistricting year. This rarely results in improved public policy or better service to the citizens of Kansas. At a bare minimum, the task of redistricting becomes a great distraction for the legislature that can divert attention from other matters of real importance to the citizens we represent.

In 2003, the year after the last round of redistricting in Kansas, I joined with then-Senator Christine Downey (D-Newton) to propose an amendment to the Kansas Constitution that would establish an independent commission to redraw districts in Kansas and to largely take this issue out of the legislative realm. Although a majority of the Senate voted in favor of that proposal, a two-thirds majority did not and the constitutional amendment did not advance.

This year, I have again joined with a bipartisan group of legislators to propose redistricting reform. I am very pleased to be joined in offering this proposal by Senate President Steve Morris, Senate Minority Leader Anthony Hensley, and House Minority Leader Paul Davis. Our

proposal this time is NOT to establish a commission to replace the legislature's authority. Rather, this proposal, which is modeled on the unique system in place in Iowa, would direct our own non-partisan staff to develop district maps based only on objective criteria and then would require that the legislature vote whether to adopt those maps.

I believe this proposed system has merit. Under this proposal, the power to redistrict is retained by the legislature – we simply are directing our staff as to what role they will play in helping us exercise that power and are imposing upon ourselves rules for how we will wield that power.

I favor bringing this issue forward this year, Mr. Chairman, because this really is our “last clear chance” to reform the system before the next round of redistricting is upon us. The new census will be conducted in 2010 and under our current process, we will redraw districts in 2012. If we want to alter the system for doing so, we need to act now or it will be too late to make changes without substantially disrupting the redistricting timeline.

I am aware that some of the partisans in both major political parties have concerns about this proposal. They argue strenuously that redistricting is an inherently political function that should be retained exclusively by the legislature. In truth, I believe their concern is that they fear losing control of a process that is very important politically and which they feel they can influence under the current system. My advice to my friends who feel this way: Don't be too confident you actually have the control you fear losing. As we have learned in the past, politics makes strange bedfellows, and redistricting makes for extreme politics. If anyone thinks he or she can predict, with confidence, the outcome of Kansas redistricting in 2012, I respectfully dissent from that point of view.

But the real reason to reform the redistricting process is not for the politicians. It is for the public. My view is that the status quo is an invitation to hyper-partisanship, legislative gamesmanship, lingering bitterness and personal animosity within the legislature, all of which tend to hinder the ability to advance other issues and to waste valuable time and attention. I believe Kansans would be better served by a different system, and for that reason I am joining my colleagues in bringing forward this proposal for your consideration.

Attached to this testimony is a one-page document from the National Conference of State Legislatures regarding how various states handle redistricting. Much more detail is available at the NCSL website at [www.ncsl.org](http://www.ncsl.org).

Thank you for considering this idea.





## Redistricting Commissions and Alternatives to the Legislature Conducting Redistricting

### Overview

Since the landmark Supreme Court decisions of the 1960s that established the one-person, one-vote principle, a number of states have shifted redistricting of state legislative district lines from the legislature to a board or commission. There are 12 states that give first and final authority for legislative redistricting to a group other than the legislature. Alaska, Idaho and Arizona were the last states to join this group—using a commission for the first time in the 2000 round of redistricting. There are pros and cons to removing the process from the traditional legislative process. And the track record of success by commissions is inconsistent in terms of having plans overturned by courts. Reformers often mistakenly assume that commissions will be less partisan than legislatures when conducting redistricting but that depends largely on the design of the board or commission.

Critics of the current redistricting process argue that congressional and legislative elections are not competitive largely due to the process of adopting new districts. Arizona voters approved a state constitutional amendment in the late 1990s moving redistricting from the legislature to a five person board that must have at least one member who is not from the two major political parties. In addition, the Board must draw districts using a specific list of criteria including making the districts competitive if at all possible. In 2004, an Arizona state Superior Court overturned the plans produced by the Arizona Independent Redistricting Commission for failing to meet the competitiveness criteria in addition to other violations of the state constitution.

The commissions vary greatly from state to state in terms of their make-up. Most of them include appointments made by legislative leaders. For a table showing all commissions for state legislative plans, [click here](#).

### Iowa Redistricting System

Iowa conducts redistricting unlike any other state. The Iowa system does not put the task in the hands of a commission, but rather the legislature does vote on the plans. Nonpartisan legislative staff develop maps for the Iowa House and Senate as well as U.S. House districts without any political or election data including the addresses of incumbents. This is different from all other states. For a detailed description of the Iowa system, [click here](#).

### Congressional Redistricting Commissions

Only six states give first and final authority for congressional line drawing with a commission. Those six are Arizona, Hawaii, Idaho, Montana, New Jersey and Washington. Indiana employs a "fallback" commission if the legislature is unsuccessful in passing a congressional plan. For details on how congressional redistricting commissions function, [click here](#).

### For more information, contact:

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SB 291  
Tuesday, March 17, 2009  
Senate Federal and State Affairs Committee

Chairman Brungardt & Members of the Committee,

SB 291 is being presented as a way to take the partisan aspects of redistricting out of the process but in reality it does not accomplish that goal. As you know, this bill changes the process from what was used in 2002, with a committee made up proportionally in a manner similar to how Kansas voters elected their state Senators & Representatives, to an appointed commission filled by four Legislative leaders who would be allowed to pick someone of their choosing. These appointments are not subject to approval by the respective Chambers.

The closest the public will come to being able to hold the commission accountable for the plans they present is to hold their Representative & Senator accountable in 2012 for whom they elected as majority or minority leader in their chamber in 2008 (for the Senate) or 2010 (for the House). Perhaps the most important vote they make is for these leadership positions but explaining that to the public and then making it a campaign issue is challenging at best. And can you see the games for 2020 now? Promise me my friend will be appointed by you to the redistricting commission and I'll vote for you for majority (or minority) leader. Suddenly the "nonpolitical" commission has the potential to be tied to some very real political actions in a way that the public rarely sees.

Many of the rules for the commission to follow that are spelled out in this bill are similar to how redistricting was handled the last time around – without creating a special commission to oversee it. The one big change is that public hearings happen *after* a plan is finalized. But there is more change in this bill than just creating a new commission and it's this part that is the most troubling. The commission isn't allowed to reveal any of the details they are working on to the public or the legislature until after they've finalized them.

Say what you will about politicians making political decisions, at least when Senators and Representatives made up the committee the last time around, public hearings and committee meetings and decision making was done in full view and with the participation of the public, with much input from citizens around the state. That's one reason the lines for Congress were drawn as they were in 2002, as many wanted certain institutions or military bases to be in the same district and their elected representatives listened to their concerns. Moving this very important decision making process to a closed door, small, unaccountable to the public commission is a step backwards for open transparency in government and I therefore oppose SB 291.

Sincerely,

Charlotte Esau  
Olathe, Kansas



## Legislative Testimony

SB 291

March 17, 2009

## Senate Federal and State Affairs Committee

Chairman Brungardt, members of the Committee:

Thank you for the opportunity to provide you with testimony regarding SB 291. There are a number of issues at stake with this legislation.

First, it significantly decreases public input and transparency in the redistricting/reapportionment process. Under the proposed legislation, a five member committee determines what, if any, information can be released to the public—including members of the Legislature.

Second, it reduces the number of town hall meetings that will be conducted across the state. During the 2001-2002 process, ten town hall meetings were held across Kansas. Under the proposed legislation, three meetings would be held.

Third, this legislation limits legislative debate. Redistricting legislation shapes the Kansas legislature for a decade, and limiting the debate by current elected officials as to the merits of the plan has the potential to be damaging to various constituencies.

Finally, it delegates the authority to draw up new districts to a Research department that is not accountable to the people of Kansas. While Legislative Research is knowledgeable on the information required for redistricting, it is imperative that the elected officials who are accountable to the people of Kansas develop the criteria by which districts are determined.

Therefore, as the Kansas Representatives for the RNC, we oppose SB 291. Thank you for your consideration.

### **Amanda Adkins**

*Chair*

*Kansas Republican Party*

### **Mike Pompeo**

*National Committeeman*

*Republican National Committee*

### **Helen Van Etten**

*National Committeewoman*

*Republican National Committee*