

## Redistricting

### I-1 Introduction to Redistricting

Redistricting is the process of drawing electoral district boundaries in the United States. The Kansas Legislature is responsible for drawing the boundaries of the four congressional districts of the state, the state legislative districts (House and Senate), and the State Board of Education (SBOE) districts.

#### Why Does the Legislature Redistrict?

The *U.S. Constitution* and federal law require a Census to be conducted every ten years and congressional districts to be reapportioned based on the population information obtained in the Census. [See *U.S. Constitution* Art. I, §2, cl. 3 and 2 USC §2a(a).] Similarly, the *Kansas Constitution* requires boundaries for the State's House and Senate districts to be redrawn every ten years in coordination with, and using population information provided by, the federal Census. [See *Kansas Constitution* Art. 10, §1.] The *Kansas Constitution* also requires the Legislature to determine the boundaries for the ten SBOE districts. SBOE districts are each composed of four contiguous Senate districts. [See *Kansas Constitution* Art. 6, §3(a).]

#### When Does the Legislature Redistrict?

The redistricting process begins with and centers on the Census. Official Census information will be provided to all states by April 1, 2021. However, the Census is an ongoing project, and the groundwork for the 2020 Census began in 2012 after the most recent redistricting process was completed. Preparations for the Census are being made through a program called the 2020 Census Redistricting Data Program (Program). Kansas has participated in the Program since the mid-1980s and has used the resulting information to build congressional, state legislative, and SBOE districts using election precincts and census blocks. Federal law requires all state participation in the Program to be through a nonpartisan liaison. The Kansas Legislative Research Department serves as this nonpartisan liaison for the State of Kansas. The phases and timeline for the Program are outlined as follows.

**Phase 1: Block Boundary Suggestion  
Project June 2015 – May 2017**

The Block Boundary Suggestion Project was an optional phase of the redistricting process, and the State of Kansas chose to participate in the project. Its goal is to allow the State to provide input into and verify where block boundaries are drawn to produce more meaningful and useful information to the State during the 2020 redistricting process. Block boundaries are important in redistricting because blocks are the smallest unit of geography for which the Census collects population and demographic information, rather than providing statistical samples. Blocks are formed by visible features, such as streets, roads, railroads, streams and other bodies of water, and legal boundaries. In urban areas, census blocks frequently align with traditional city blocks, but are often more expansive in rural areas. Voting districts (VTDs), or precincts, are made up of groups of census blocks. Additionally, district lines cannot break block boundaries when drawing new lines during redistricting, so verifying the location of and population in blocks is important to the redistricting effort.

**Phase 2: Voting District Project June 2017  
– April 2020**

The second phase of the Program is also optional, and Kansas again chose to participate. The Voting District Project (VTDP) allows states to provide the U.S. Census Bureau (Bureau) with the location of current voting district (precinct) boundaries by updating precinct boundary information provided to the Bureau during the 2010 redistricting cycle. During the 2010 redistricting cycle, precincts were the basis for legislative and congressional districts proposed by the Kansas Legislature. If Kansas chose not to participate in VTDP, the State would not receive precinct-level population data at any time during the upcoming redistricting cycle.

**Phase 3: Delivery of 2020 Census  
Redistricting Data Files and  
Geographic Products**

The official Census Day was April 1, 2020, while national and state population information is scheduled to be released to the President by December 31, 2020. Information for all census tabulation areas (state, congressional district, state legislative districts, American Indian areas, counties, cities, towns, census tracts, census block groups, and census blocks) will be provided to the Governor and state legislative leaders of all states by April 1, 2021.

**Kansas Population Adjustments**

In 2019, the *Kansas Constitution* was amended to remove the requirement that the Office of the Secretary of State adjust the population information provided by the Bureau to count members of the military and college students.

The 2019 Legislature passed SCR 1605, which proposed an amendment to the *Kansas Constitution* removing the language requiring the population adjustments. The amendment was ratified by voters at the election held on November 6, 2019. As a result, the population adjustments are no longer required, and the redistricting process will use total population, as certified by the Bureau, to establish the boundaries of political districts.

**Phase 4: Collection of Post-2020  
Redistricting Plans**

The Bureau is scheduled to collect final redistricting plans from the states through April 2022.

**Phase 5: Evaluation and  
Recommendations**

The Bureau will provide several opportunities for feedback on and evaluation of the Program.

A report discussing the Program is set to be published in 2025.

By the time the Bureau's final report is published, preparation for the 2030 redistricting cycle will be underway. Redistricting is truly an ongoing process.

## How Does the Legislature Redistrict?

The process of redistricting in Kansas involves all three branches of state government. The Legislature proposes maps, drawing lines for congressional districts, state legislative districts, and SBOE districts. By passing the bills that contain the maps, the Legislature provides initial approval of those maps. The Governor then signs the bills, vetoes the bills, or allows them to become law without a signature, just like any other bill. Finally, the Kansas Supreme Court reviews the maps and gives final approval.

Each of these steps is discussed in more detail below. For comparison purposes, the processes used during the 2010 redistricting cycle are discussed. However, it must be noted legislative committees and procedures used during the 2010 cycle will not necessarily be the same during the 2020 cycle.

### Legislature

During the 2010 redistricting cycle, the Legislative Coordinating Council created a Redistricting Advisory Group (Group) made up of three senators and three representatives. The Group was formed in 2009 and assisted with preparations for the legislative portion of the redistricting process.

In 2011, the Joint Special Committee on Redistricting held public meetings in 14 different locations across Kansas. The Special Committee was made up of the members of the House Redistricting Committee and Senate Apportionment Committee and sought public input on what the citizens of Kansas wanted from the redistricting process. Public meetings were held in Chanute, Colby, Dodge City, Garden City, Hays, Hutchinson, Kansas City, Lawrence, Leavenworth, Manhattan, Overland Park, Pittsburg, Salina, and Wichita.

As specified in the *Kansas Constitution*, Kansas draws redistricting maps during the legislative session of the year ending in "2," which for this cycle will be the 2022 Legislative Session.

The maps go through the legislative process like any other bill and are subject to the same rules. During the 2010 redistricting cycle, the Legislature did not successfully pass redistricting bills in both chambers. Redistricting maps were ultimately drawn by the U.S. District Court for the District of Kansas in 2012.

### Governor

Just like any other bill, redistricting maps require the approval of the Governor or a vote to override a Governor's veto to be passed into law and become effective.

### Kansas Supreme Court

The *Kansas Constitution* provides a procedure for final approval of state legislative maps by the Kansas Supreme Court:

- The redistricting bills are published in the *Kansas Register* immediately upon passage;
- The Attorney General must petition the Kansas Supreme Court to determine the maps' validity within 15 days of the publication of an act reapportioning state legislative districts; and
- The Kansas Supreme Court has 30 days from the filing of that petition to enter a judgment. [See *Kansas Constitution* Art. 10, §1.]

If the Court determines the maps are valid, the redistricting process is complete. If, on the other hand, the Court says the maps are invalid:

- The Attorney General must petition the Court to determine the validity of maps enacted in an attempt to conform with the Court's previous judgment; and
- The Court has ten days from the date of the Attorney General's filing to enter

a judgment. If the Court says the new maps are valid, redistricting is complete.

If the Court says the new maps are invalid, the Legislature has 15 days to pass new maps.

This process repeats until the Legislature presents maps the Court determines are valid. [See *Kansas Constitution* Art. 10, §1.]

### **2012 Redistricting**

During the 2012 redistricting process, the Kansas Legislature did not successfully pass redistricting maps into law. As a result, the maps currently in place were drawn by the U.S. District Court for the District of Kansas.

## **Additional Resources**

### **Kansas Redistricting**

- <http://www.kslegresearch.org/KLRD-web/Redistricting.html>

### **2020 Federal Census**

- <https://www.census.gov/programs-surveys/decennial-census/2020-census.html>
- <https://www.census.gov/programs-surveys/decennial-census/about/rdo/program-management.html>

### **Redistricting Data Program, U.S. Census Bureau**

- <https://www.census.gov/programs-surveys/decennial-census/about/rdo.html>

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## Redistricting

### I-2 Redistricting Legislation Across the Country

The U.S. Census, which provides the population information used as the basis for redistricting congressional and state legislative districts, began enumeration activities on April 1, 2020 and concluded on October 15, 2020. As the time for the Census and the subsequent redistricting process drew near, redistricting was discussed in state legislatures with increasing frequency. The chart included in this article provides information about the status of redistricting legislation, as of November 10, 2020, including legislation pending before the United States Congress and state legislatures, legislation recently enacted by state legislatures, and 2020 state ballot initiatives.

### Pending Legislation

Currently, there are ten redistricting bills or resolutions pending in the U.S. Congress. Of those ten bills, five concern independent redistricting commissions. Other topics include Congressional district requirements, prohibiting states from redistricting more than once per ten-year cycle, and public participation.

As of November 10, 2020, eight state legislatures are still in session. Of those states, 3 legislatures have a total of 14 pending bills related to redistricting. Of those bills, four concern independent redistricting commissions and two concern the enumeration of incarcerated persons. The other pending bills concern standards for congressional and state legislative districts.

### Enacted State Legislation

Nine bills have been recently enacted by six states. The bills concern a wide variety of redistricting topics, including:

- Independent redistricting commissions;
- Modification of precinct boundaries;
- Addressing late delivery of Census data;
- Enumeration of incarcerated persons; and
- Whether written descriptions of Congressional and state legislative districts should be provided.

**Ballot Questions**

During the November 3, 2020, general election, three states posed ballot questions related to redistricting.

**Missouri**

Missouri Amendment 3 was a ballot question that was the result of legislation (Missouri SJR 14 and SJR 9 in the attached chart). Amendment 3 was approved by voters and changed the redistricting process approved by voters in 2018 by:

- Transferring responsibility for drawing state legislative districts from the Nonpartisan State Demographer to Governor-appointed bipartisan commissions; and
- Modifying and reordering the redistricting criteria.

The amendment also made changes related to lobbyist gifts and campaign contribution limits.

**New Jersey**

New Jersey Question 3 was a ballot question that was the result of legislation (New Jersey

ACR 188 in the attached chart). Question 3 was approved by voters, and made the following changes through a constitutional amendment:

- Postponing the state legislative redistricting process until after the election on November 2, 2021, if the state receives federal census data after February 15, 2021;
- Keeping the current legislative districts in place until 2023; and
- Using the delayed timeline in future redistricting cycles if the census data is received after February 15 of the year ending in 1.

**Virginia**

Virginia Question 1 was a ballot question that was the result of legislation (Virginia HB 784 in the attached chart). Question 1 was approved by voters, and through a constitutional amendment, transferred the power to draw both congressional and state legislative districts to a 16-member redistricting commission composed of 8 legislators and 8 citizens.

| Bill Number                   | Status                      | Summary  |
|-------------------------------|-----------------------------|--|
| <b>Pending Legislation</b>    |                             |  |
| U.S. Congress HR 1            | Senate Legislative Calendar | Would require states to establish independent, nonpartisan redistricting commissions.  |
| U.S. Congress HR 44           | House Judiciary Committee   | Would prohibit states from carrying out more than one congressional redistricting after a decennial census and apportionment.  |
| U.S. Congress HR 124 & HR 130 | House Judiciary Committee   | Would prohibit states from carrying out more than one congressional redistricting after a decennial census and apportionment, and requires states to conduct such redistricting through independent commissions.   |
| U.S. Congress HB 131          | House Judiciary Committee   | Would require states to carry out congressional redistricting in accordance with a process under which members of the public are informed of redistricting proposals and have the opportunity to participate in the development of such proposals prior to their adoption, including use of an Internet website. |

| Bill Number                           | Status  | Summary   |
|---------------------------------------|---|---|
| <b>Pending Legislation, continued</b> |   |   |
| U.S. Congress<br>HR 163               | House Judiciary Committee   | Would require the use of independent, nonpartisan commissions to carry out congressional redistricting and to require states to hold open primaries for elections for federal office.   |
| U.S. Congress<br>HR 1612              | House Judiciary Committee   | Would require states to establish independent, nonpartisan redistricting commissions.   |
| U.S. Congress<br>S 1972               | Senate Judiciary Committee  | Would prohibit partisan gerrymandering to ensure any redistricting of congressional district boundaries results in fair, effective, and accountable representation for all people.  |
| U.S. Congress<br>HR 2057              | House Judiciary Committee   | Would direct the Attorney General to enter into an agreement with the National Academies to conduct a study to develop guidelines, best practices, and examples for congressional redistricting.  |
| U.S. Congress<br>S 2226 & HR<br>3572  | Senate Judiciary Committee<br>(S 2226), House Judiciary<br>Committee (H 3572) | Would require states to carry out congressional redistricting in accordance with plans developed and enacted into law by independent redistricting commissions.   |
| U.S. Congress<br>HR 4000              | House Judiciary Committee   | Would require that congressional redistricting be conducted in accordance with a plan developed by (1) a state-established independent commission; or (2) if such a commission fails to enact a plan, a three-judge panel from a U.S. District Court. |
| NY A6461; S<br>2047                   | In Committee  | Would provide that each senate district shall be comprised of one county in its entirety.   |
| NY S8790                              | To Attorney General for<br>opinion  | Would relate to the enumeration of incarcerated persons, and would enumerate such persons at their permanent address.   |
| PA HB22;<br>SB1022                    | In Committee  | Would propose a constitutional amendment to provide for an independent redistricting commission.  |
| PA HB401                              | In Committee  | Would establish a redistricting commission.   |
| PA HB402                              | In Committee  | Would provide for congressional and legislative redistricting.  |
| PA HB1535                             | In Committee  | Would relate to the enumeration of incarcerated persons.  |
| PA HB2606                             | In Committee  | Would set congressional district standards.   |
| PA SB22                               | Tabled  | Would propose a constitutional amendment to establish a redistricting commission.   |
| PA SB122                              | In Committee  | Would propose a constitutional amendment to provide for a redistricting commission.   |

| Bill Number                           | Status                                   | Summary   |
|---------------------------------------|--|---|
| <b>Pending Legislation, continued</b> |  |   |
| PA SB558                              | In Committee                             | Would propose a constitutional amendment to provide for the designation of legislative and congressional districts.   |
| RI H7260;<br>S2077                    | In Committee                             | Would propose a constitutional amendment to adopt a constitutional procedure for redistricting.   |
| <b>Enacted Legislation</b>            |  |   |
| Colorado<br>SB186                     | Signed by Governor on July 11, 2020      | The bill establishes provisions for independent redistricting commissions, including: establishing who should receive copies of proposed and final maps; making provisions for plan correction, requires the Secretary of State to provide map copies to candidates; establishing nonstatutory provisions to provide staffing, process for selecting commission members, and budget provisions for the commissions. |
| Kentucky<br>HB457                     | Signed by the Governor on April 7, 2020  | The bill freezes modification of election precincts by counties and changes the date for precinct modification in subsequent redistricting cycles.  |
| Missouri SJR 9,<br>SJR 14             | Adopted on May 17, 2019                  | The resolution proposed a constitutional amendment to transfer redistricting duties to a Governor-appointed commission, modify redistricting criteria, and make changes to lobbyist and campaign finance laws.  |
| New Jersey<br>ACR188                  | Adopted on July 30, 2020                 | The resolution proposed a constitutional amendment to address the scenario in which the Governor receives Census Bureau population data later than February 15, 2021, and would set new deadlines for adoption of new legislative districts.  |
| New York<br>S08833                    | Adopted on July 23, 2020                 | The resolution proposed a constitutional amendment to require state entities to provide information such that incarcerated persons could be enumerated at their last place of residence; and it would also make provisions for an independent redistricting commission.   |
| Virginia HB 105                       | Signed by the Governor on April 8, 2020  | The bill removed the requirement that written descriptions of the boundaries of congressional and state legislative districts be provided.  |
| Virginia HB 784.<br>SB236, SJR18      | Signed by the Governor on April 10, 2020 | The bill provided for a voter referendum at the November 3, 2020, election to approve or reject amendments to the <i>Constitution of Virginia</i> establishing the Virginia Redistricting Commission and providing for the reapportionment of the Commonwealth to be done by such Commission.   |



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