

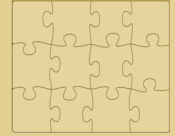
NEBRASKA REDISTRICTING 2021

Reapportionment and Redistricting Basics



A redistricting primer from the Legislative Research Office

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This is the first in a series of primers to be released by the Legislative Research Office in conjunction with the 2021 redistricting process.

At the beginning of each decade the terms reapportionment and redistricting are trotted out, dusted off, and put to work by legislatures and independent commissions all across the United States. Although reapportionment and redistricting are not the same thing, the terms are often used interchangeably. Even the courts – on occasion – have used them synonymously. So, what do these words really mean? Following is an explanation of the basic concepts to help you prepare for the task of drawing maps in 2021.

Reapportionment

In the political context, apportionment is the process of dividing up the seats in the U.S. House of Representatives among the 50 states according to their population. Every 10 years following each decennial census, the number of members each state is allotted based on current population is redetermined. Reapportionment occurs when the president transmits to Congress the number of seats each state can claim based on its newly calculated population.

Until the mid-20th century, this state-by-state determination was done by simply dividing the population of the United States by the number of congressional seats. In 1941, a formula was adopted to ensure that the portion of a state's population that is "left over" following the simple-division approach is factored in when congressional seats are allocated.

Reapportionment, then, is a process that (1) is done on the federal level, and (2) determines how many seats each state gets in the U.S. House of Representatives.

Redistricting

And what of that other term, "redistricting?"

A district is simply a geographic area regarded as a distinct unit because of a particular characteristic. Redistricting is the process of drawing new district boundaries. After every decennial census, the state of Nebraska is reconfigured or "redistricted" into legislative districts of roughly equal size. Voters in each of these districts then elect someone to represent them as a member of the Legislature.

In 2021, as it does every 10 years, the Nebraska Legislature will create new district boundaries for itself and Nebraska's seats in the U.S. House of Representatives, as well as for several other statewide bodies—the Public Service Commission, the State Board of Education, the Board of Regents and the Supreme Court. Once this is done, political subdivisions in the state will use the new district boundaries to make appropriate changes to their districts.

Another way to think about it is that reapportionment, performed by the federal government, is the easier of the two tasks. It involves the application of a relatively simple mathematical formula. The heavy lifting is done during redistricting when the states draw new maps. In addition to simple population counts, historical and geographic factors can also play a part. Nonetheless, population is always the bottom line in any redistricting process undertaken through federal and state law.

Federal Law and Guidance

Article I, section 2 of the U.S. Constitution provides the legal foundation for reapportionment. The ratification of the Fourteenth Amendment in 1868 established that "representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State."

Article I, section 2 also provides for the decennial census, and it mandates that each state is to have at least one seat in the U. S. House of Representatives.

Once the census has been conducted, the numbers are reported to the president. Provisions in 2 U.S.C. § 2a require the president to inform Congress of the official state population counts and the number of representatives to which each state is entitled on the first day Congress convenes in the year following the census, or within one week thereof. Within 15 calendar days, the Clerk of the House of Representatives must certify to each state's governor the number of representatives that state is allotted.

State Law and Guidance

The Nebraska Constitution is silent on the subject of congressional redistricting, but it does provide guidance to lawmakers as they redraw legislative district boundaries.

Article III, sections 5 to 8, of the Nebraska Constitution require the state to be divided into single member legislative districts "as nearly equal in population as may be and composed of contiguous and compact territory." The section also directs the Legislature to redistrict after each federal census and, when redistricting, to follow county lines whenever practicable.

Article III, section 6, states that the Legislature will consist of not more than 50 nor less than 30 members. Section 7 provides for continuity of district representation by stating that "when the Legislature is redistricted, the members elected prior to the redistricting shall continue in office, and the law providing for such redistricting shall, when necessary, specify the newly established district which they shall represent for the balance of their term." By prescribing the eligibility requirements for legislative candidates, Article III, section 8, establishes that an eligible candidate must reside "within the district from which they are elected for the term of one year next before his election."

As noted, the Nebraska Constitution directs the Legislature to draw districts of approximately equal population for the Public Service Commission, the State Board of Education, the Board of Regents and for the appointment of judges to the Nebraska Supreme Court. The constitutional provisions relating to the Board of Regents and the Supreme Court require the Legislature to redraw the districts after each census. While there is no mandated timeframe for redistricting the Public Service Commission and the State Board of Education, the Legislature has chosen to redraw those districts when it redistricts the other entities.

Sec. 50-1153, R.R.S. 1943, establishes the current number of 49 legislative districts. It also prescribes general standards for districts and reiterates the single-member district concept set forth in the Constitution. Nebraska statutes also provide for redistricting for subdivisions such as cities and counties that elect members of their governing bodies by district. The responsibility for such redistricting lies with each subdivision's governing body.

2020 Congressional Apportionment

The 2020 apportionment of congressional seats was made public by the Census Bureau in spring 2021. The resident population of the United States on April 1, 2020 was 331,449,281. This was an increase of 22,703,743, or 7.4 percent, from 2010. California is the most populous state with 39,538,222, and Wyoming is the least populous state with 576,851.

Nebraska's apportionment population is 1,963,333. The resident population totals 1,961,504, with an overseas population of 1,829. The state retains its three members in the House of Representatives.

Several states will experience changes in their congressional representation. Texas is gaining two seats and Montana, Colorado, Florida, North Carolina and Oregon will each gain one seat. Losing one seat each are California, Illinois, Michigan, New York, Ohio, Pennsylvania and West Virginia.

Nebraska's Redistricting Timeline

By law, the Census Bureau is supposed to provide states with electronic population data by April 1st of the year following the census. Due to delays in 2020 caused by COVID, delivery of redistricting data to the states has been delayed until August 12th for legacy data and September 30th for formatted data.

Pursuant to sec. 32-553, R.R.S. 1943, redistricting for the state's subdivisions must be done and submitted by Dec. 30, or as authorized by the Secretary of State under changes made in LB 285 in 2021. This deadline is to make sure the primary election can take place at its usual time in May 2022.

The change will give political subdivisions about a month to undertake a process that is usually done in four to five months.

