

February 17, 2021

Hon. Steve Barnett  
Secretary of State  
500 E Capitol Avenue  
Pierre, SD 57501

RECEIVED

FEB 17 2021

S.D. SEC. OF STATE

Dear Secretary Barnett,

The Legislative Research Council received a constitutional amendment to establish an independent legislative redistricting commission (commission). The amendment requires a fiscal note because it was determined that it may have an impact on revenues, expenditures, or fiscal liability of the state or its agencies and subdivisions. SDCL 2-9-31 requires the fiscal note be no longer than fifty "words." Therefore, numbers, percentages, and symbols do not count against the fifty-word limit.

The fiscal note examines the fiscal impacts associated with creating this new commission. The amendment sets the size of the commission at 9 members, a decrease from the 15 legislative committee members who have historically done the work of developing the plan to reapportion legislative districts. While the State would incur costs of \$121,962.84 in fiscal year 2024 when the commission meets for the first time, the State would see savings of \$51,175.36 in fiscal year 2032 and every tenth year thereafter in expenditures by having fewer members on the commission than was needed for legislative committees and eliminating the need for a special legislative session.

In 2011, the Legislative Redistricting Committee met 6 times. Two subcommittees of 6 legislators and 3 subcommittees of 5 legislators each met once at various locations across the state. For the purposes of this fiscal note, it is presumed that the commission will hold the same number of meetings as the committee but will always hold meetings with all members.

**Independent Legislative Redistricting Commission Cost**

	Current	Proposal	Change
Committee Members	15	9	6
Committee Total	\$39,466.22	\$23,679.73	(\$15,786.49)
Subcommittee Total	\$11,839.86	\$19,733.11	\$7,893.25
Special Session	\$51,832.12	\$0.00	(\$51,832.12)
<b>Total Savings</b>			<b>(\$59,725.36)</b>
Software	\$70,000.00	\$70,000.00	\$0.00
Hardware	\$0.00	\$8,100.00	\$8,100.00
Laptop bags	\$0.00	\$450.00	\$450.00
<b>Total Additional Expenses</b>			<b>\$8,550.00</b>
<b>Total Expenses</b>	<b>\$173,138.20</b>	<b>\$121,962.84</b>	<b>(\$51,175.36)</b>

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Further, while the amendment also provides that any person purposefully violating any portion of this section is guilty of fraud and shall be punished as provided by law, it is not clear what impact this would have on prison or jail costs, if any.

Enclosed is a copy of the initiated measure, in final form, that was submitted to this office. In accordance with SDCL 2-9-31, I hereby submit the Legislative Research Council's fiscal note with respect to this initiated measure.

Sincerely,



Reed Holwegner

Director

RH/cc

Enclosures

CC: Drawn Together SD

## SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

### FISCAL NOTE

## INITIATED CONSTITUTIONAL AMENDMENT

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### AN INITIATED AMENDMENT TO THE SOUTH DAKOTA CONSTITUTION REGARDING ESTABLISHING A REDISTRICTING COMMISSION.

An independent redistricting commission would initially cost \$121,963 in fiscal year 2024. Subsequently, in fiscal year 2032 and every tenth year thereafter, the State would save \$51,175 by having fewer commission members than is needed for legislative committees and eliminating the need for a special legislative session.

Approved:



Date:



Director, Legislative Research Council

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article III, section 5 of the Constitution of the State of South Dakota, be amended:

~~§ 5. The Legislature shall apportion its membership by dividing the state into as many single member, legislative districts as there are state senators. House districts shall be established wholly within senatorial districts and shall be either single member or dual-member districts as the Legislature shall determine. Legislative districts shall consist of compact, contiguous territory and shall have population as nearly equal as is practicable, based on the last preceding federal census. An apportionment shall be made by the Legislature in 1983 and in 1991, and every ten years after 1991. Such apportionment shall be accomplished by December first of the year in which the apportionment is required.~~

The independent redistricting commission is hereby created and shall be composed of nine registered voters

in South Dakota, none of whom may hold a state public office or a political party office. The term, state public office, means an elective office in the executive or legislative branch of the government of this state; an office in the executive or legislative branch of the government of this state that is filled by gubernatorial appointment; or an office of a county municipality or other pollical subdivision of this state that is filled by an election process involving nomination and election of candidates on a partisan basis.

The commission shall prepare the plan for redistricting the state into legislative districts. This redistricting plan shall be completed by the commission in 2023 and 2031 and every ten years after 2031.

Redistricting shall be accomplished by December first of the year in which the redistricting is required.

By the last day of February of each year in which the redistricting is required, the board overseeing state elections and procedures shall appoint the commission.  
No more than three members of the commission may be members of the same political party. The commission

shall select by majority vote one member to serve as chair and one member to serve as vice chair.

Each commission member shall have been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment.

Within the three years immediately preceding appointment, no commission member may have been appointed to or elected to any state public office or political party office. Within the three years immediately after appointment, no commission member may be appointed to or elected to any state public office or political party office.

If a vacancy occurs on the commission, the board shall select a successor who has the same qualifications as the commissioner whose position is being vacated.

The Legislature shall provide the technical staff and clerical services that the commission needs to prepare its redistricting plan. Each commission member shall receive per diem and expenses in the same manner and amount as paid to members of the Legislature.

Five commissioners, including the chair or vice chair, constitute a quorum. Five or more affirmative votes are required for any official action.

The commission shall establish legislative districts by dividing the state into as many single-member legislative districts as there are state senators. House districts shall be established wholly within senatorial districts and shall be either single-member or dual-member districts as the commission determines in compliance with federal and state law.

The commission shall commence the mapping process for the legislative districts by creating districts of equal population in a grid-like pattern across the state.  
Adjustments to the legislative districts shall be made to:

(1) Comply with the United States Constitution, the South Dakota Constitution, and federal laws, as interpreted by the United States Supreme Court and other courts of competent jurisdiction;

(2) Have equal population to the extent practicable;

(3) Be geographically compact and contiguous to the extent practicable;

(4) Respect communities of interest to the extent practicable; and

(5) Use visible geographic features, municipal and county boundaries, and undivided census tracts to the extent practicable.

Party registration, voting history, or any other data showing likely voting patterns shall be excluded from the redistricting process. The place of residence of any legislative incumbent or candidate may not be identified or considered.

Any tools used by the commission as well as any adjustments from the grid-like pattern shall be documented in a report made available to the public with a draft map.

The commission shall notify the public that a draft map of legislative districts is available for inspection and written comments. The commission shall accept written comments for thirty calendar days following notification to the public. The Legislature may act

within this period to submit written comments to the commission. After the comment period has ended, the commission shall hold no less than three public meetings throughout the state that shall also be available to the public through virtual means. After all meetings have concluded, the commission shall establish final district boundaries. The commission shall certify to the Office of the Secretary of State the establishment of each legislative district.

The commission shall have standing in legal actions regarding the redistricting plan and the adequacy of resources provided for the operation of the commission. The commission may determine whether the Attorney General or other legal counsel shall be used or selected by the commission to represent the commission in any matter relating to a redistricting plan.

The duties of each commission member expire upon the appointment of the next commission. The commission may not meet or incur expense after the redistricting plan is completed, except if litigation or any government

approval of the plan is pending or to revise districts if required by court decision.

The Legislature shall provide by law any provisions necessary to implement this section.

If any Legislature the Commission whose duty it is to make an apportionment shall fail to make the same as herein provided, it shall be the duty of the Supreme Court within ninety days to make such apportionment.

Any person purposefully violating any portion of this section is guilty of fraud and shall be punished as provided by law.