

Approved

VKS 4-29-89

Date

MINUTES OF THE HOUSE COMMITTEE ON LEGISLATIVE, JUDICIAL AND CONGRESSIONAL
APPORTIONMENT

The meeting was called to order by Representative Vince Snowbarger at
Chairperson

11:45 a.m. ~~pm~~ on February 7, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Fred Carman, Revisor
Robert Coldsnow, Legal Counsel
Mary Galligan and Raney Gilliland, Research
Marian Holeman, Committee Secretary

Conferees appearing before the committee:

Copies of the following letters were distributed to committee members: Olive Allen (Attachment 1); Daniel C. Walter, Chairman Norton County Republican Central Committee (Attachment 2); Delores Beaty, Vice-Chairman Norton County Central Committee (Attachment 3); Jerry Jost, Kansas Rural Center, Inc. (Attachment 4); Board of County Commissioners, Ness County, KS (Attachment 5); Wayne Maichel, Exec. Vice-Pres., Kansas AFL-CIO (Attachment 6). Committee members should also submit letters which they have received for the committee files. Letters referring to specific areas should be forwarded to the appropriate sub-committee.

The statements 1 thru 9 in the Guidelines and Criteria for Redistricting are derived from the report contained in the 1979 House Journal (pp 320 - 335). It was not intended to change the spirit of that material. All members will be provided with a copy of those pages from the 1979 House Journal. It was suggested that the expanded version also be taken as a guideline. In order to expedite matters the committee considered the Guidelines and Criteria for Redistricting in numerical order (Attachment 7).

#1. Question raised regarding flexibility of plus or minus 5% population deviation. You would have to justify a 7% - 3% deviation. Be sure to provide adequate documentation.

#2 and #3. No questions or comments.

#4. By consensus the committee concurred in Representatives Snowbarger and Adam possibly rewording number 4 to clarify "contiguous" in terms of "enclaves and exclaves;" i.e., townships inside cities, etc.

#5. Question raised as to definition of "political subdivisions." This was not spelled out in 1979. As a general rule the three major political subdivisions are: (a) county, (b) township, (c) city.

#6. The committee dealt with this guideline on February 6.

#7. The sense of this guideline is that you do not deliberately change a person's district solely for the purpose of either electing or defeating that person.

#8. Representative Charlton moved that if the current census is ruled invalid, then the committee use the 1980 census as the basis for reapportionment. Representative Justice seconded the motion. Motion failed. Representative Whiteman gave committee members a copy of materials pertaining to the Population Count Evaluation (PCE) Program and the 1988 Kansas Census Local Review Summary which she had received

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LEGISLATIVE, JUDICIAL AND CONGRESSIONAL APPORTIONMENT,
room 526-S, Statehouse, at 11:45 a.m. ~~p.m.~~ on February 7, 1989.

from the Secretary of State's office. (Attachment 8) Representative Whiteman moved to amend Section 8 to request that the Secretary of State enter into a contract with the U. S. Department of Commerce, the Bureau of the Census to (1) review and evaluate the methodology in the execution of the Kansas census, and (2) assess the areas that may have been significantly under counted. Representative Adam seconded the motion. No fiscal note available on the motion. Motion failed.

Representative Adam presented a copy of a letter from the Legislative Post Audit Committee. (Attachment 9) Representative Adam moved to recommend a study of the census by Legislative Post Audit Committee. Representative Grotewiel seconded the motion. Motion failed.

Representative Hensley moved that the basis for House Reapportionment shall be the most accurate numbers obtainable, and to this end, the Secretary of State shall work with locally elected officials, to ensure that all Kansans were counted in the census. This shall be done in any area where local officials can demonstrate that an under count has likely taken place. Representative Whiteman seconded the motion. Representative Adam supplied members with a copy of a letter pertaining to this issue which she received from Revisor Arden Ensley. (Attachment 10). Motion failed.

#9. Contains language from the body of the 1979 resolution and from case law.

Pursuant to requests, the committee voted on numbers 1 thru 7 plus 9 which were adopted. Number 8 was adopted with a recorded no vote from Representatives Adam, Campbell, Hensley, Justice, Reardon, and Whiteman.

Chairman Snowbarger named the first person listed on the sub-committees to act as facilitator to get the group working. The committee will start looking at maps next week. Meetings are scheduled on call as maps become available for consideration.

The meeting adjourned at 1:25.

Olive Allen
606 Sunset
Norton, Kansas 67654

JAN 26 1989

January 20, 1989

Rep. Vince Showbarger
Chairman, Reapportionment Committee
Room 446 N Statehouse
Topeka, Kansas 66612

Dear Rep. Showbarger:

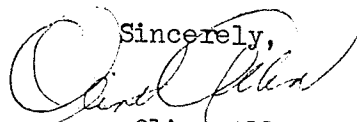
It has been called to our attention that Norton County may have the opportunity of having our county become intact with the reapportionment.

For the past ten years I have been county chairman and we have worked hard keeping all of our precincts filled irregardless of our not having a majority vote in case of a vacancy.

We know you have a difficult task ahead of you but we hope you will give serious consideration to returning full representation to Norton County.

Thank you.

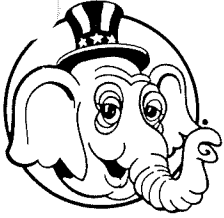
Sincerely,



Olive Allen

Mrs. Gay Allen

L., J. + C. Apportionment
2-7-89
Attachment 1



Norton County
Republican Central Committee

Norton, Kansas 67654

January 25, 1989

Representative Vince Snowbarger
State House Room 446 North
Topeka, KS 66612

Dear Representative Snowbarger:

This letter is to express my concern to you over upcoming reapportionment. I would think that I speak for most, if not all, Republican voters in Norton County on this issue. We are very concerned and would appreciate your consideration in seeing that Norton County becomes a single political unit with all precincts. As you know, we presently find ourselves in the less than desirable situation of being divided between two districts.

Thank you for your kind consideration in this matter.

Yours truly,

Daniel C. Walter
Chairman of the Norton County
Republican Central Committee

DCW/js

*L. J. & C. Apportionment
2-7-89
Attachment 2*

JAN 30 1989

Norton, Kansas
Jan. 26, 1989

Rep. Vince Showbarger
Chairman of Re-apportionment
Room 446 N
State House,
Topeka, Kansas 66612

Dear Mr Showbarger;

We are writing to ask for you to give much consideration in leaving Norton County intact as you establish the districts in re-apportionment of the counties. We would like for our county to at least be one county.

Thank You,

Delores Beaty

Delores Beaty,
Vice Chairman of Norton County Central Comm. alternate on State Rep. Comm.
Don. Beaty, member of Central Comm , alternate on the State Rep. Comm.

L., J. + C. Apportionment
2-7-89
Attachment 3

THE KANSAS RURAL CENTER, INC.

304 Pratt Street

WHITING, KANSAS 66552

Phone: (913) 873-3431

CENSUS FIGURES REPRESENTING RURAL AREAS IN REAPPORTIONMENT

The Kansas Rural Center is a private, non-profit organization which has provided research and public education on agricultural and natural resource policy issues for the past nine years.

The Kansas Rural Center wishes to raise the concern before the Legislative, Judicial and Congressional Apportionment Committee that adequate methodology of census data collection is needed for accurate population figures of the rural areas of Kansas. Questions are raised with some of the discrepancies between federal census information and state census information.

The 1988 state census information is 8.4% or 194,000 people less than the 1988 federal census estimate. This is further troubling when federal figures indicate Kansas has increased in population and state data indicate the opposite. Additionally the difference at a county level between 1988 state census figures and 1987 federal census estimates vary disproportionately between counties. Certainly a good deal of these differences rest in the definition of residence.

The Kansas Rural Center wishes to raise the concern that fair and accurate representation of rural population areas be used as the state undergoes reapportionment.

*L., J. & C. Apportionment
2-7-89
Attachment 4*

THE KANSAS RURAL CENTER, INC.

304 Pratt Street

WHITING, KANSAS 66552

Phone: (913) 873-8481

FEB 2 1989

February 1, 1989

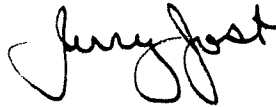
Representative Vincent Snowbarger
Rm. 446-North
Statehouse
Topeka, KS 66612

Representative Snowbarger:

The Kansas Rural Center has concern over the fair representation of rural areas in state census figures. It is requested that the accompanying testimony be placed within the Legislative, Judicial and Congressional Apportionment committee records.

Thank you for your attention.

Sincerely,



Jerry Jost

Board of County Commissioners

Ness County, Kansas
202 West Sycamore
Ness City, Kansas 67560



1st Dist. William B. Sorensen
2nd Dist. Grover Rothe
3rd Dist. Otto G. Popp

January 23, 1989

Representative Max Moomaw
Box 117
State Capitol Building
Topeka, Ks. 66612


Dear Representative Max:

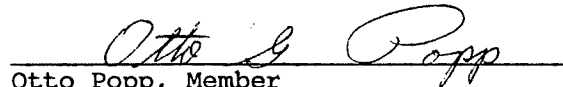
As work begins on the reapportionment of the Kansas House of Representatives Districts, we would like to express our desire, in behalf of the residents of Ness County, that all of Ness County be placed in the same District.

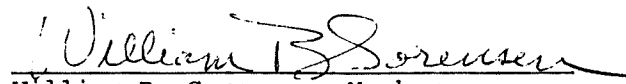
While this realignment would necessitate changes in your present constituency, we are sure you will understand our desire for the County to be a more viable social, economic, and political unit.

We respectfully solicit your support and efforts in behalf of this goal.

Sincerely,
BOARD OF COUNTY COMMISSIONERS


Grover Rothe, Chairman


Otto Popp, Member


William B. Sorensen, Member

cc: Rep. Vincent Snowbarger, Chairman
The House Legislative, Judicial &
Apportionment Committee
Kansas House of Representatives
Topeka, Kansas

L., J. & C. Apportionment
2-7-89
Attachment 5

KANSAS AFL-CIO

110 W. 6th St. P. O. Box 1455 Topeka, KS 66601 (913) 347-0396



President
Dale Moore

Executive Secretary
Treasurer
Jim DeHoff

Executive Vice
President
Wayne Maichel

Executive Board

*Delton Baxter
Eugene Burrell
Garold Good
Jack Gray
David Han
Jim Hastings
Don Hoffman
John Hoover
Mike Krasovec
Wil Leiker
Roger Naylor
John Rider
Wallace Scott
Don Volle
Russell Ward
John Weber
Wayne Wiancki*

February 6, 1989

Rep. Vincent Snowbarger, Chairman
House Legislative, Judicial and Congressional Apportionment Committee
Capitol Building, Rm. 446-N
Topeka, KS 66612

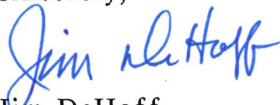
Chairman Snowbarger:

We understand your committee is very busy concerning the issue of reapportionment. Therefore, Mr. Chairman, we would merely like to submit to you in writing our comments on this important issue.

We have enclosed enough copies for the entire committee.

Thank you.

Sincerely,


Jim DeHoff
Executive Secretary

opeiu #320, afl-cio
Enc.



Wayne Maichel
Executive Vice President



L., J + C. Apportionment
2-7-89
Attachment 6

TESTIMONY
OF
WAYNE MAICHEL
EXECUTIVE VICE PRESIDENT
KANSAS AFL-CIO
SUBMITTED TO THE COMMITTEE ON
LEGISLATIVE, JUDICIAL AND CONGRESSIONAL APPORTIONMENT
OF THE
KANSAS HOUSE OF REPRESENTATIVES
FEBRUARY 3, 1989

The members of the Kansas AFL-CIO appreciate the opportunity to submit testimony to the Committee on Legislative, Judicial and Congressional Apportionment. We recognize the difficult job ahead of this committee and the Legislature as you undertake reapportionment.

The Kansas AFL-CIO has 50,000 affiliated members. A total of 90,000 Kansans are members of the AFL-CIO, have retired from jobs where they held union memberships or are otherwise associated with our organization.

Our members, as we believe all Kansans do, desire to see fair apportionment of legislative districts that reflects the federally mandated one-man, one-vote philosophy.

We agree with such organizations as Common Cause in the need to construct compact, contiguous legislative districts that reflect natural geographical boundaries and thus are easy for voters to understand.

*L., J. & C. Apportionment
2-7-89
Attachment 6-2*

The AFL-CIO's members ask for no special treatment, but we do hope you will keep in mind the important position that organized labor plays in assuring a trained, educated and committed workforce in Kansas -- one that has played and will continue play a role in the state's economic development.

With that in mind, it is our desire to see districts that, where concentrations of union members relect it, recognize the communities of interest of our members.

Likewise, we urge you to keep in mind the mandate of the Voting Rights Act, which was designed to prohibit dilution of minority voters who may be concentrated in certain areas.

While many of our members rise to executive positions, they generally hold down middle-income jobs in urban areas or in the small Kansas towns. In many situations our members choose to live in small to medium-sized towns because of the quality of life those communities offer.

Because so many of our members live in urban areas, the members and leadership of the Kansas AFL-CIO are particularly concerned by questions raised about the special census conducted in 1988.

While understanding the need to conduct a special census in order to reapportion, we are distressed that so many questions have been raised about possible undercounts in cities where we believe the labor force has been growing.

As you know, several cities and counties have filed legal actions questioning both the methods used for counting and the accuracy of the count. We understand other local governments, such

as those in Kansas City and Topeka are considering joining those lawsuits.

We urge that the Committee and the Legislature not accept the results of the census until it is certain that the results accurately reflect the populations of the various cities and counties of our state.

While a delay might be costly and inconvenient, reapportioning the Legislative districts of our state using defective census numbers would be even more regrettable and should be avoided at all costs.

Thank you once again for the opportunity to offer this testimony.

PROPOSED
GUIDELINES AND CRITERIA
FOR
REDISTRICTING

1. Districts should be numerically as equal in population as practicable. Deviations should not exceed plus or minus 5% of the ideal population of 18,348 for each House district except in unusual circumstances. (Deviation - plus or minus 917; overall - 1,834: Range 17,431 to 19,265)
2. The "building blocks" to be used for drawing district boundaries shall be precincts within cities and townships outside cities. Precinct boundaries have been established by election officials. The 1988 Kansas Census has been tabulated by precinct.
3. Districts should be easily identifiable and understandable by voters.
4. Districts should be as compact as possible and contiguous.
5. The integrity and priority of existing political subdivisions should be preserved as far as practicable.
6. There should be recognition of similarities of interest. Social, cultural, and economic interests common to the population of the area which are probable subjects of legislative action, generally termed "community of interests", should be considered.
7. Districts should not be drawn to protect or defeat an incumbent Representative.
8. The basis for House reapportionment is the 1988 Kansas Census as certified to the Kansas legislature by the Secretary of State pursuant to L. 1987, Ch. 61 and Article 10, Sec.1(a) of the Constitution of the State of Kansas. These figures are the most recent available in Kansas.
9. Fair and effective representation is the basic aim of legislative apportionment.

*L., J. & C. Apportionment
2-7-89
Attachment 7*

1988 Kansas Census

Population Count Evaluation (PCE) Program
Summary of Results

January 20, 1989

The Population Count Evaluation (PCE) Program of the 1988 Kansas Census was a quality control procedure used in the three most populated counties in Kansas--Johnson, Sedgwick, and Wyandotte. The program was designed to take a random sample of housing units within each of the three counties and re-interview them to determine the accuracy of the census data obtained by the canvassers during the initial count. Each structure in which people live or could live is defined as a housing unit (HU). The random sample, equal to 0.5% of the total housing units, was drawn from the lists of housing units in the census books from the target county.

In addition to the interviews conducted at the selected housing units, checks were done on the next five housing units in the canvasser's path of travel. These checks were made in order to test the completeness of the canvasser's original address listing.

The results of the re-interviews at the selected housing units are summarized below.

County	Total HUs	Total Pop.	# HUs Interviewed*	Pop. of Sample**	Net Pop. Change	% Change
Johnson	135,799	328,597	654	1,577	5	0.32
Sedgwick	163,006	367,813	773	1,783	22	1.23
Wyandotte	68,180	156,588	333	742	17	2.29
TOTALS	366,985	852,998	1,760	4,102	44	1.07

* Equals 0.5% of total HUs in county

** Equals 0.5% of total population in county

*L. J. C. Apportionment
2-7-89
Attachment 8*

1988 Kansas Census
Local Review Summary
January 5, 1988

In the local review program preliminary census figures were sent to each county and each of the 168 cities for which separate population totals were available. City figures were sent to the mayors, county and city figures were sent to the county clerks, and they were sent to the election commissioners in the four largest counties.

Among the 105 counties, 94 (90%) of the county clerks returned the forms signed, indicating approval of the figures. All four election commissioners also signed them. Among the 168 cities, 129 (77%) were returned signed. Some city forms were signed by mayors, some by city planners, some by city managers, and some by city clerks.

Listed below are the counties and cities which returned the forms signed.

County Local Review Forms Signed and Returned

Allen (complaints attached)	Hamilton	Rawlins
Anderson	Harper	Rice
Atchison	Haskell	Rooks
Barber	Hodgeman	Rush
Barton	Jackson	Russell
Bourbon	Jefferson	Saline
Brown	Jewell	Scott
Chase	Kearny	Sedgwick
Chautauqua	Kingman	Seward
	Kiowa	Sheridan
	Lane	Sherman
Cherokee	Leavenworth	Smith
Cheyenne	Lincoln	Stafford
Clark	Linn	Stanton
Clay	Logan	Stevens
Cloud	Lyon	Sumner
Coffey (didn't approve) Burlington city)	Marion	Thomas
	Marshall	Trego
Comanche	McPherson	Wabaunsee
Cowley	Meade (unsigned)	Wallace
Crawford	Miami	Washington
Decatur	Mitchell	Wichita
Dickinson	Montgomery	Wilson
Doniphan	Morris	Woodson
Edwards	Morton	
Elk	Nemaha	
Ellis	Neosho	<u>Election Commissioners</u>
Ellsworth	Ness	Johnson
Finney	Norton	Sedgwick
Ford	Osage	Shawnee
Franklin	Osborne	Wyandotte
Gove	Ottawa	
Graham	Pawnee	
Grant	Phillips	
Gray	Pottawatomie	
Greeley	Pratt	
Greenwood		

City Local Review Forms Signed and Returned

Abilene	Holton	Sterling
Andover	Horton	Treece
Anthony	Hugoton	Tipton
Atchison	Humboldt	Tonganoxie
Atwood	Hunter	Ulysses
Augusta	Hutchinson	WaKeeney
Aurora	Iola	Wamego
Basehor	Jamestown	Washington
Baxter Springs	Kanorado	Weir
Belleville	Kingman	Wellington
Bel Aire	Kinsley	Wetmore
Blue Rapids	Lakin	Winfield
Bogue	Lansing	Yates Center
Bucklin	Larned	
Caldwell	Leawood	
Centralia	Lenexa	
Cherryvale	Liberal	
Chetopa	Lincoln	
Clay Center	Lyons	
Clyde	Manhattan	
Coffeyville (signed, but not approved)	McDonald	
Columbus	McPherson	
Concordia	Medicine Lodge	
Corning	Merriam	
Council Grove	Miltonvale	
Countryside	Mineral	
Derby	Minneapolis	
DeSoto	Mission	
Dodge City	Mission Woods	
Edwardsville	Neodesha	
Elkhart	Newton	
Ellis	Nickerson	
Ellsworth	North Newton	
Fairway	Norton	
Florence	Oberlin	
Ford	Olathe	
Fort Scott	Osage City	
Frontenac	Osborne	
Galena	Oswego	
Gardner	Ottawa	
Garnett	Overland Park	
Girard	Paola	
Glasco	Phillipsburg	
Glen Elder	Pittsburg	
Goff	Pratt	
Goodland	Roeland Park	
Halstead	Roseland	
Harper	Rolla	
Haysville	Russell	
Herington	Sabetha	
Herndon	St. John	
Hesston	Salina	
Hiawatha	Scott City	
Hillsboro	Seneca	
Hoisington	South Hutchinson	
	Spearville	
	Spring Hill	

LOCAL REVIEW SUMMARY

The following is a list of counties and cities that did not return the preliminary census forms:

Counties

BUTLER
HARVEY
JOHNSON
LABETTE
RENO
REPUBLIC
WYANDOTTE

Cities--Region #1

Great Bend
Simpson
Hays
Garden City
Morland
Beloit
Cawker City
Scottsville
Colby
Collyer

Cities--Region #2

Lawrence
Junction City
Emporia
Marysville
Bern
Oneida
Topeka

Cities--Region #3

Bonner Springs
Edgerton
Lake Quivira
Mission Hills
Prarie Village
Shawnee
Westwood
Westwood Hills
Leavenworth
Louisburg
Osawatomie
Kansas City
Bonner Springs

Cities--Region #4

El Dorado

Arkansas City

Marion

Lindsborg

Valley Center

Wichita

Park City

Cities--Region #5

Scammon

Burlington

Mulberry

Eureka

Parsons

Caney

Independence

Chanute

Fredonia

1988 Kansas Census

Wyandotte County Review Procedure January 23, 1988

A review was conducted of all precincts in Wyandotte County during the months of October, November, and December of 1988, as a result of the local review. This review was structured into four phases which are described below.

Phase 1 was carried out by census personnel, the results of which were corrected in the November 1 report. Forty-six precincts were chosen at random, and when plotted on a map of the county they represented all geographic areas of the county. The method used to conduct this portion of the review was a normal census procedure, Address Listing Checks (ALCs). This procedure required census personnel to verify each house in the completed census book by driving each street in the chosen precinct. When a housing unit was not verified, the census personnel canvassed such unit for inclusion in the census book.

Phases 2 and 3 were similarly conducted, the difference being that the city of Kansas City chose not to participate after Phase 2 because of the amount of staff time involved. All fifty-five precincts reviewed were selected at random, with the city of Kansas City research staff selecting the precincts in Phase 2. Quarter-section maps, utility hookup information, building permit and demolition records, and the census books were used in the review. Teams of city employees and state census personnel (teams in Phase 3 were composed only of state census personnel) reviewed addresses and utility hookups in comparison to the census books. Possible misses were cited, to be later verified visually by the teams. The person/housing unit average and the occupancy rate for each precinct were then applied to the verified missed housing units.

A statistical correction was used for Phase 4. The population corrections for the preceding phases were averaged, then such average was applied to each of the remaining precincts.

Figures from Phases 2, 3 and 4 were then included in the January 12, 1989 addendum to the November 1, 1988 final census report.

1988 Kansas Census

Local Review Program Summary of Inquiries

As preliminary county population and housing unit figures were completed during the 1988 Kansas Census, they were sent to the county clerks in each county and to the mayors of the 168 cities for which separate population totals were obtainable. Population totals were not obtainable for third-class cities which do not comprise precincts distinct from the surrounding township. Local officials were invited to respond to the figures. A number of questions were received regarding the accuracy of figures, the naming of precincts, and the geography of the census. The Division of Census responded formally only to written requests.

Below is a summary of the origin and nature each local review inquiry, as well as the response by the Division of Census.

Allen County

April 12, 1988--Local review forms received from Iola mayor signed and approved.

April 15--County clerk called saying census count was low, and asking for information on how Allen County Community College affected the count.

April 25--Bill Graves received a letter from county clerk asking for review of figures.

May 2--Bill Graves sent letter explaining the junior college and other methodological concerns raised earlier.

June 2--Brad Bryant wrote letter asking if there were further inquiries, or if clerk intended to sign the forms.

June 8--Signed local review forms received from county clerk. Forms noted that they still believed Iola was undercounted.

City of Anthony

June 9--City clerk called, saying housing unit count was too low. Population was also down, but he was more concerned with the housing units.

June 13--Received local review forms signed by county clerk.

July 5--Wichita census employees began complete Address Listing Checks of Anthony. Found some missed housing units, which were canvassed.

July 27--Revised local review forms were sent to Anthony showing an increase of 24 housing units. Asked for response. Local review forms were received later signed and approved.

City of Beloit

April 12--City administrator called saying city population was 800 low.

April 15--Brad Bryant called city administrator explaining that an error had been discovered where the names of a township and a city precinct had been reversed. This increased the population of the city.

April 15--Letter received from city administrator explaining that the count was low because he had done a mailout survey for a federal block grant and had estimated the population from the results.

April 18--Call from county clerk to Brad Bryant raising general questions about figures. Thought they were generally too low.

April 25--Letter sent to city detailing corrections of April 15.

April 26--Did Listing and Matching sample check of all precincts in Beloit. Few errors discovered.

June 2--Letter sent asking for further inquiries or signature on local review forms.

July 12--Letter received from city administrator expressing disapproval of the figures, but he was unable to verify their own figures. Declined to sign the forms.

August 24--Local review forms returned signed by county clerk.

City of Bonner Springs

October 26--Letter received from city clerk saying housing unit and population counts provided by state census were too low. They compared the figures to the U.S. Census estimates.

November 8--Letter sent to city clerk from Brad Bryant saying that a check of the census books in the census office had revealed no problems. The census office did intend to study the area further as part of the Wyandotte County review.

Coffey County

April 26--Call received from county clerk saying count was too low, especially in city of Burlington. He liked the most recent federal estimates. Wanted to come here to present his case. Said he would inform us when he intended to visit.

April 28--Census did Listing and Matching checks of all three Burlington precincts. Found no errors.

June 1--Letter sent from census office asking him to specify his questions or sign the forms.

June 10--County clerk visited census office. Used voter registration numbers, school enrollment, utility hookup information to indicate higher population than state census showed. He concluded that the count was too low, but he couldn't prove it. He said they had emergency evacuation lists of residents which were required because of Wolf Creek nuclear plant, and that he might send them to us for checking against our books.

June 16-17--Census did Listing and Matching checks in five of remaining fourteen precincts outside Burlington in Coffey County. Found no missed housing units.

June 21--Letter from Brad Bryant was sent explaining that no further actions were planned. Requested that he send the emergency evacuation list. Did not receive it.

City of Coffeyville

April--City manager called, saying the state census count was too low. He said it represented an economic threat to the city, and that it was probably inaccurate because the use of a mailout card in the census left some households to be estimated. He didn't realize that the mailout was followed up door to door.

April 28--Letter from Bill Graves was sent to explain how the junior college in Coffeyville affected the count, also the purpose of the census (not to be used for distribution of funds), and the fact that canvassing was done to follow up the card mailout.

May 3--Census did Listing and Matching checks in all 13 precincts of Coffeyville. Results were good, but led to further checks in 3 precincts.

May 9--County clerk signed and returned the local review forms.

May 12--Two former census employees were re-hired to do complete Address Listing Checks in the three selected precincts in Coffeyville. Found some errors, which were corrected immediately in two of the precincts.

May 26--Canvasser who had originally done the other precinct was re-hired to redo it. He did so and returned the materials approximately two weeks later.

July 20--Letter from Brad Bryant was sent to explain changes that occurred as a result of the reviews. Asked for response, but did not receive one.

July 28--Local review forms returned signed by Coffeyville city manager, but with note saying he had not been able to verify the data as shown.

Dickinson County

July 26--Call received from county clerk saying the census count was too low. She said they still do a census similar to the old Agriculture Census, and that they had counted more people than the state census had counted. Said she would do more study and write her concerns in a letter.

The local review forms were later received, signed by the county clerk.

Edwards County

April 14--Letter received by regional director of Hays census office, from county clerk, saying the state count was too low. They do a local census and said they counted more people.

May 3--Some changes had occurred in the Edwards County census count subsequent to the sending of the local review preliminary figures. Hays regional census director sent them to Edwards County clerk.

May 10--Letter from Brad Bryant was sent supporting analysis provided by Hays regional census director. Said nothing else was planned; asked for response or signature on forms.

May 12--Received copy of Edwards County local census as mentioned in April 14 letter.

Later in May--Received local review forms, signed by county clerk.

City of Emporia

Mid-April--Regional director of Topeka census office received call from city manager, saying count was too low. He was mostly concerned with the housing unit count.

May 5--City manager and another city analyst came to census office to discuss their analysis. Indicated three city precincts might need review.

May 10--Census employees from central office did complete Address Listing Checks in three selected Emporia precincts. Minor changes made.

June 9--Letter from Brad Bryant was sent explaining the field checks and the change in the totals. Asked for response.

Lyon County local review forms were later received, signed by county clerk. Did not receive forms from city.

City of Garden City

June 3--Local review forms returned signed by Finney County clerk.

June 20--Letter received by director of Hays regional census office from Garden City mayor and a member of the local census task force. They believed the state's census count was too low, and planned to respond after the Task Force reviewed the matter further.

September 2--Assistant city manager of Garden City called Brad Bryant. He expressed a lack of confidence in the job the state census had done. This was not based on a statistical analysis of the figures, but on comments he had heard from local census employees who were questioned by city officials at a council meeting.

September 8--Letter sent from Brad Bryant to assistant city manager explaining that, after consulting with the census employees mentioned in the September letter, there was no reason to pursue it further. A few minor personnel problems had been encountered in Finney County early in the project, but they were not extraordinary, and they had been dealt with effectively by the regional office. The letter also explained how the methodology of the census law affected the population of Garden City with its junior college and alien population. }

City of Great Bend

May 3--Call received from city administrator saying count was too low, and that the city government and Chamber of Commerce requested more work be done. City administrator said he would write letter detailing concerns. Brad Bryant said he would check out the impact of Barton County Community College on the figures.

May 4--City asked for more time to study.

May 31--Census office did Listing and Matching checks in all Great Bend precincts. Found no errors.

June 9--Letter from Brad Bryant was sent explaining our analysis of the figures and the results of the Listing and Matching checks. Said no more work was planned. Asked for another response or to sign forms. Sent copy of law to explain how census data were to be used.

July 12--Letter received from city administrator saying they did not plan to pursue their local review inquiry further. Did not sign and return local review forms, though. }

City of Herington

July 5--Call received from city manager. Said count was too low. Census office had already done field checks in Herington, and had found no errors.

August 5--Letter from Brad Bryant sent explaining checks that had been made; nothing further was planned.

City of Kansas City

October 10--Letter received by Bill Graves from Kansas City mayor saying the state census count was too low. The letter cited housing unit and U.S. Census Bureau estimates to substantiate.

October 14--Letter sent by Bill Graves to mayor explaining that the census office was conducting field checks.

October 21--Wyandotte County election commissioner returned ✓ local review forms signed.

October 24--Letter received by Bill Graves from the mayor, along with a copy of the analysis of the state census prepared by the city Information and Research Department.

October 24--Kansas City research director met in Topeka with census staff and John Wine to discuss their concerns.

October 25--Letter received by Brad Bryant from city research director with lists of apartment complexes to check for inclusion in census books. Checks were subsequently conducted, and census books showed more listings for those apartment complexes than were shown on list provided by city.

November 1--Bill Graves called mayor to discuss response to city's analysis. Bill Graves also sent a letter to the mayor the same day telling him that the census staff would work with the city research staff to plan further reviews of the census results.

November-December--Four phases of checks were done, many conducted jointly by census staff and city research staff. Results are detailed in addendum to census report.

City of Liberal

June 13--Letter received by Bill Graves from city. Said count was low, used meter hookups, school enrollment to substantiate. Did not show clear understanding of methodology of census law, which affected Liberal because of Seward County Community College and the presence of aliens in the community.

June 21--Letter from Bill Graves sent explaining methodology of census law and expressing confidence in the figures sent.

July 5--Local review forms were received, signed. Note was attached saying the state census had probably undercounted Asians and Hispanics. }

City of Lindsborg

July 11--Call received from assistant city administrator saying count was too low. Said he planned to write a letter.

August 5--Letter received by Brad Bryant from Lindsborg city administrator comparing state census results with those of the U.S. Census and municipal estimates.

August 15--Letter sent from Brad Bryant to city administrator explaining the impact of Bethany College on the local figures, also that without actual census figures instead of estimates to compare to, the census office did not intend to check further.

City of Marysville

May--Regional director of Topeka census office received local review forms unsigned, with notation that one precinct was too low because it was lower than the other three, and they were drawn to be equal.

June 13--Census office employees did Listing and Matching checks in three Marysville precincts and a complete Address Listing Check was performed in the fourth precinct. Found no errors.

June 15--Letter sent from Brad Bryant explaining field checks and analysis of the figures. Said nothing further was planned, asked for a response.

June--Mayor returned local review forms signed, but they included incorrect totals resulting from an error in transferring numbers from one form to another. Census Division followed with a letter explaining this and including new figures, asked for a response. None was received.

City of Merriam

July 19--Call received from city saying housing unit count was too low. Census records indicate more than 300 increase in housing units since 1980, but they thought it should have been a 900-1000 increase. Said they would write letter. None was received.

Norton County

May 10--County clerk called, saying count was too low. Said she would look into it further and write.

May 31--Brad Bryant called county clerk to check on progress. She said they were still working on it, and to wait for a letter. None was received.

City of Osawatomie

May 16--City manager called saying count was low. He understood the impact of the state hospital and possibly the existence of aliens in the area. Used utility hookup information to substantiate numbers used. Brad Bryant said he would check on how the state hospital was canvassed.

May 20--County clerk returned local review forms signed.

June 7--Census office employees did Listing and Matching checks in all four Osawatomie precincts. A few minor errors were discovered and corrected.

June 16--Letter received by Brad Bryant from city manager detailing his concerns over the state census count.

July 21--Letter sent from Brad Bryant detailing the findings from the field checks and the state hospital enumeration. Said that nothing further was planned.

City of Oswego

April 22--Call received from city administrator saying count was too low. His computations were based on a 3.2 persons-per-household average.

April 26--Letter received from city administrator expressing displeasure because of the economic impact of the census. Said a census employee during the original canvass had "displayed ignorance" in dealings with city hall. Said they would conduct a special local census to dispute state census results.

May 2--Letter sent asking for a copy of their census results when they were completed. Asked them not to release information to the media until the numbers were finalized.

June 2--Census office called to ask for copy of local census.

July 8--Census office called again to ask for results. City said their count had come out 46 below the state count, and they planned nothing further. Census office asked for copy of their questionnaire and results.

July 27--Census office received local review forms signed by city administrator.

City of Overland Park

August 25--Letter received from city senior planner approving of most of the state census numbers, but questioning the totals in four precincts.

October--Census office checked results in the four precincts, then re-hired a canvasser to do complete Address Listing Checks in those precincts. He found no errors, but found some street names had recently been changed. This, coupled with many precinct boundary changes in the area, could explain discrepancies in the state census results and the city's analysis.

November 8--Letter sent to senior planner by Brad Bryant explaining the work that had been done and the results. No further inquiries were received.

City of Park City

September 21--Brad Bryant received a call from planning consultant for Park City. He and the city administrator questioned the accuracy of the census figures for the city. They specifically questioned whether a mobile home park and a new housing addition had been included. Brad Bryant said the census office would check on it.

September 27--Letter received by Brad Bryant from city administrator outlining their concerns.

September 29--Regional field manager in Sedgwick County was re-hired to check out the Park City area. These checks resulted in a few minor changes, of which the city administrator was informed.

November 10--Letter sent from Brad Bryant to Park City administrator detailing the field work that had been done and the changes that were made.

City of Parsons

April 26--City clerk called saying state census count was too low. Called again several days later, Brad Bryant discussed the junior college and state hospital and their impact on the census figures. Brad said he would gather information and write.

April 28--Letter received from city clerk saying count was too low, mentioned cable TV hookups and utility hookups to substantiate.

May 9--Letter from Brad Bryant sent to city clerk explaining impact of junior college and state hospital on local census figures.

July 5--Letter from Brad Bryant sent to city clerk with revised local review preliminary figures. Revisions resulted from further work on state hospital.

August 9--Call received from city clerk asking about the census definition of housing unit. Said they were doing further analysis, possibly a special census of their own, to dispute state census count.

August 17--Census office received a copy of the Parsons local census address listing to be checked against the state census books.

October 10--Letter sent from Brad Bryant to city clerk explaining the review process that had been done, resulting in an error rate of 1.1%. Nothing further was done.

Pawnee County

April 21--Letter received from county clerk along with local review forms. Inquired about census figures in specific precincts.

April 27--Regional director of Hays census office sent updated and revised local review forms to county clerk. New figures included some additional field work which was done locally.

May 4--County clerk returned local review forms signed.

May 10--Letter sent from Brad Bryant to county clerk saying census planned no further work in Pawnee County. Asked for any further response he felt was necessary.

City of Pittsburg

May 2--Crawford county clerk returned forms signed.

May 16--Letter received from city manager saying he did not agree with methodology of census law. Said college students should be counted because they live there most of the year, use city resources, etc.

May 20--Brad Bryant called city manager to discuss further the methodology and its impact on Pittsburg census figures. Followed with letter discussing students, methodology in general, and how the census does not affect funding.

June 8--Letter sent from Brad Bryant to city manager asking if all of his questions had been answered, and that census personnel had reviewed the figures and planned no further action. Asked for further response or signature on forms.

June 17--Pittsburg mayor returned local review forms signed.

City of Prairie Village

August 25--Letter from city administrator to Brad Bryant questioning the housing unit totals in one precinct in the city.

September 13--Letter sent from Brad Bryant to city administrator explaining that recent reviews did not raise concern for further field checks. Asked for more information regarding new construction that were mentioned in the August 25 letter. Nothing further was received.

Seward County

May 2--County clerk called, saying count was too low. Discussed the impact of the junior college and alien population. Said she would write letter.

August 22--Letter received by Brad Bryant from county clerk accompanying signed local review forms. She said the census figures looked better after she understood the methodology.

City of Topeka

July--Census employees conducted field checks in approximately one third of Topeka city precincts. Found few errors.

Corrections were made where necessary.

August--Brad Bryant received a call from city planning commission saying the state census count was too low. Said they understood the methodology, but had questions about the housing unit totals.

August 9--Shawnee County election commissioner returned local review forms signed.

August 22--Census office received report by city planning commission detailing their analysis. Two subsequent trips to the census office were made by city employees to discuss the report. Census employees explained the methodology and how it affects Topeka, also the extra field checks that had already been conducted.

September 9--Census office was told by city planning commission that they planned no further work, and that they had written a letter advising the mayor that they saw no reason not to sign the local review forms. No further action was taken.

City of Westwood Hills

September 6--City clerk sent to census office the results of their local census for review. Mayor requested this be done.

September 14--Letter sent to mayor from Brad Bryant explaining the review of their local census. Two addresses were not in the census books, and the census books contained four addresses that the city's census lacked. It was a low error rate, especially considering that the city conducted its census more than eight months after the state census. Nothing further was done.

City of Wichita

September 30--Received local review forms signed by county clerk in Sedgwick County.

October 2--Received local review forms signed by Sedgwick County election commissioner.

October 7--Letter received by Bill Graves from Wichita mayor expressing concern that the count was too low. Understood that most of it was accounted for by the methodology. Offered their analysis, mainly using housing unit totals.

October 12--Letter from Bill Graves to Wichita mayor summarizing the analysis of Wichita and Sedgwick County census figures, and pointing out that the analysis referenced in the mayor's letter of October 7 had not been included with the letter. Asked that he send it.

December 7--Brad Bryant received a call from Wichita Metropolitan Planning Commission asking if anything had been done in response to Wichita mayor's letter. They did not know that Bill Graves had not received their analysis with the mayor's October 7 letter. Said he would check it out. Nothing further was done.

WYANDOTTE COUNTY
RESULTS OF FINAL REVIEW

PRECINCT NAME	CITY NAME	ORIGINAL POPULATION	NEW POPULATION TOTAL
Delaware 1		191	183
Prairie 1		1,567	1,587
W1P1	Bonner Springs	1,502	1,523
W2P1	Bonner Springs	1,846	1,870
W3P1	Bonner Springs	1,552	1,573
W4P1	Bonner Springs	996	1,009
W4P2	Bonner Springs	470	467
P1	Edwardsville	2,260	2,260
P2	Edwardsville	1,548	1,570
W1P1	Kansas City	317	321
W1P2	Kansas City	625	633
W1P3	Kansas City	312	312
W1P4	Kansas City	1,065	1,078
W1P5	Kansas City	597	605
W2P1	Kansas City	626	626
W2P2	Kansas City	592	564
W2P3	Kansas City	647	656
W2P4	Kansas City	565	565
W2P5	Kansas City	560	576
W2P6	Kansas City	660	665
W2P7	Kansas City	608	616
W3P1	Kansas City	762	769
W3P2	Kansas City	458	465
W3P3	Kansas City	722	791
W3P4	Kansas City	1,035	1,049
W3P5	Kansas City	1,089	1,086
W3P6	Kansas City	873	912
W3P7	Kansas City	738	747
W3P8	Kansas City	853	876
W3P9	Kansas City	589	611
W3P10	Kansas City	770	770
W3P11	Kansas City	782	792
W4P1	Kansas City	628	637
W4P2	Kansas City	799	930
W4P3	Kansas City	1,184	1,203
W4P4	Kansas City	990	1,010
W4P5	Kansas City	787	799
W4P6	Kansas City	1,027	1,088
W5P1	Kansas City	942	955
W5P2	Kansas City	1,156	1,166
W5P3	Kansas City	1,499	1,499
W5P4	Kansas City	1,139	1,158
W5P5	Kansas City	1,576	1,582
W5P6	Kansas City	669	677
W5P7	Kansas City	1,196	1,224
W5P8	Kansas City	1,110	1,086
W6P1	Kansas City	582	593

8-18

PRECINCT NAME	CITY NAME	ORIGINAL POPULATION	NEW POPULATION TOTAL
W6P2	Kansas City	1,444	1,497
W6P3	Kansas City	914	924
W7P1	Kansas City	1,515	1,629
W7P2	Kansas City	1,396	1,396
W7P3	Kansas City	746	757
W7P4(A)	Kansas City	1,014	1,014
W7P4(B)	Kansas City	1,478	1,498
W7P5	Kansas City	1,658	1,674
W7P6	Kansas City	1,435	1,435
W7P7(A)	Kansas City	396	396
W7P7(B)	Kansas City	1,075	1,085
W7P8	Kansas City	1,107	1,121
W7P9	Kansas City	1,602	1,624
W8P1	Kansas City	930	935
W8P2	Kansas City	947	959
W8P3	Kansas City	2,382	2,393
W8P4	Kansas City	558	566
W8P5	Kansas City	562	597
W8P6	Kansas City	664	669
W8P7	Kansas City	1,004	1,008
W9P1	Kansas City	952	954
W9P2	Kansas City	780	791
W9P3	Kansas City	823	823
W9P4	Kansas City	893	905
W9P5	Kansas City	844	848
W9P6	Kansas City	1,161	1,161
W9P7	Kansas City	456	489
W9P8(A)	Kansas City	640	665
W9P8(B)	Kansas City	2,190	2,197
W9P9(A)	Kansas City	1,416	1,434
W9P9(B)	Kansas City	957	960
W9P10	Kansas City	831	843
W9P11	Kansas City	1,353	1,360
W9P12	Kansas City	2,081	2,109
W9P13	Kansas City	1,508	1,523
W9P14	Kansas City	1,699	1,695
W9P15	Kansas City	926	940
W9P16	Kansas City	424	429
W10P1	Kansas City	992	992
W10P2	Kansas City	724	724
W10P3	Kansas City	1,178	1,178
W10P4	Kansas City	919	973
W10P5	Kansas City	831	842
W10P6(A)	Kansas City	857	903
W10P6(B)	Kansas City	733	743
W10P7	Kansas City	1,085	1,085
W10P8	Kansas City	947	947
W10P9	Kansas City	1,057	1,071
W10P10	Kansas City	1,158	1,173
W10P11	Kansas City	713	663
W11P1	Kansas City	535	543

PRECINCT NAME	CITY NAME	ORIGINAL POPULATION	NEW POPULATION TOTAL
W11P2	Kansas City	773	784
W11P3	Kansas City	1,153	1,153
W11P4(A)	Kansas City	881	893
W11P4(B)	Kansas City	313	318
W11P5	Kansas City	1,261	1,276
W11P6	Kansas City	589	596
W11P7	Kansas City	871	875
W11P8	Kansas City	1,099	1,099
W11P9	Kansas City	1,118	1,132
W11P10(A)	Kansas City	1,613	1,613
W11P10(B)	Kansas City	843	856
W11P11(A)	Kansas City	1,302	1,302
W11P11(B)	Kansas City	1,311	1,328
W11P12	Kansas City	883	896
W11P13	Kansas City	744	744
W11P14	Kansas City	1,052	1,066
W11P15	Kansas City	358	358
W11P16	Kansas City	639	647
W12P1	Kansas City	585	585
W12P2	Kansas City	2,027	2,055
W12P3	Kansas City	558	558
W12P4	Kansas City	1,197	1,193
W12P5	Kansas City	512	518
W12P6	Kansas City	1,081	1,084
W12P7	Kansas City	1,312	1,331
W12P8	Kansas City	1,389	1,389
W12P9	Kansas City	1,909	1,905
W12P10	Kansas City	1,052	1,066
W12P11	Kansas City	1,276	1,276
W12P12	Kansas City	1,833	1,836
W12P13	Kansas City	473	473
W12P14	Kansas City	1,053	1,069
W13P1(A)	Kansas City	355	360
W13P1(B)	Kansas City	1,079	1,094
W13P2	Kansas City	1,105	1,107
W13P3	Kansas City	951	969
W13P4	Kansas City	563	558
W13P5	Kansas City	1,234	1,252
W13P6	Kansas City	855	855
W13P7(A)	Kansas City	797	808
W13P7(B)	Kansas City	1,219	1,234
W13P8	Kansas City	1,534	1,532
W13P9	Kansas City	984	996
W13P10	Kansas City	1,169	1,169
W13P11	Kansas City	813	816
W13P12	Kansas City	791	812
W14P1	Kansas City	602	611
W14P2	Kansas City	947	960
W14P3	Kansas City	752	767
W14P4	Kansas City	562	562
W14P5	Kansas City	1,192	1,209

PRECINCT NAME	CITY NAME	ORIGINAL POPULATION	NEW POPULATION TOTAL
W14P6	Kansas City	1,218	1,235
W14P7	Kansas City	691	698
W14P8	Kansas City	789	795
W14P9	Kansas City	824	835
W14P10	Kansas City	1,124	1,124
W14P11	Kansas City	1,110	1,202
W14P12	Kansas City	1,328	1,368
W14P13	Kansas City	1,036	1,132
Lake Quivira	Lake Quivira	44	45

Total Housing units added in county: 908

Total Population added in county: 1,974

Note: Of these additions, 193 housing units and 309 population were included in the November 1, 1988 report. Totals added since November 1 are 715 housing units and 1,665 population.

New county population: 158,253

STATE OF KANSAS

AUGUST BOGINA, JR., P.E.

SENATOR, TENTH DISTRICT
JOHNSON COUNTY
P O BOX 14515
LENEXA, KANSAS 66215
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TOPEKA

SENATE CHAMBER
STATE CAPITOL
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COMMITTEE ASSIGNMENTS
CHAIRMAN WAYS AND MEANS
CHAIRMAN LEGISLATIVE POST AUDIT
MEMBER FINANCE COUNCIL
MEMBER GOVERNMENTAL ORGANIZATION
MEMBER LOCAL GOVERNMENT

January 11, 1989

Representative Vincent K. Snowbarger, Chairperson
House Legislative, Judicial and Congressional
Apportionment Committee
Room 446-N, Statehouse
Topeka, KS 66612

Dear Vince:

As Chairperson of the Legislative Post Audit Committee, I want to let you know that the Committee and the Legislative Division of Post Audit are available to assist the House Legislative, Judicial and Congressional Apportionment Committee this session.

The Division's staff is always prepared to help you assess the feasibility of potential audits in areas of specific concern to your legislative committee, and to develop an audit scope statement for your review. Please do not hesitate to contact the Division at 296-3792. The Legislative Post Audit Committee will be meeting on a regular basis during the session to aid in the timely consideration of all audit requests.

If you would like to request any additional audit work, please contact the Division, me, or any member of the Legislative Post Audit Committee.

Sincerely,

A handwritten signature in cursive script, appearing to read "August Bogina, Jr.".

August "Gus" Bogina, Jr., P.E., Chairperson
Legislative Post Audit Committee

cc: Representative Keith Roe, Vice-Chairperson
Representative Joan Adam, Ranking Minority Member
Mary Galligan, Legislative Research Department
Raney Gilliland, Legislative Research Department

L. J. + C. Apportionment
2-7-89
Attachment 9

STATE OF KANSAS

ARDEN K. ENSLEY, ATTORNEY
REVISOR OF STATUTES

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FIRST ASSISTANT REVISOR

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LEGAL CONSULTATION—LEGISLATIVE
COMMITTEES AND LEGISLATORS
LEGISLATIVE BILL DRAFTING
SECRETARY—LEGISLATIVE
COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
RULES AND REGULATIONS
FILING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

January 31, 1989

Representative Joan Adam
Statehouse, Room 284-W
Topeka, KS 66612

Dear Joan:

During our previous conversation regarding the conduct of the state census pursuant to K.S.A. 1988 Supp. 11-204 et seq., you were particularly concerned about the requirement in subsection (d) of this section which provides that the secretary of state shall certify the census to the legislature by county, ward and precinct not later than November 1, 1988.

You asked if the language of this subsection would preclude the certification of any modifications in the census by the secretary after such date. You also asked that if modifications may be made after such date are there any guidelines regarding the type or the period of time within which such modifications may be made.

It seems to me that your first question is whether the requirement that the census be certified "not later than November 1, 1988," is mandatory or directory. In the case of *Wilcox v. Billings*, 200 K. 654, at page 657, the court stated that "The difference between directory and mandatory statutes, where their provisions are not adhered to, is one of effect only; the legislature intends neither to be disregarded. However, violation of the former is attended with no consequences but failure to

*L.J. & C. Apportionment
9-7-89
Attachment 10*

comply with the requirements of the latter either invalidates purported transactions or subjects the noncomplier to affirmative legal liabilities."

"No absolute test exists by which it may be determined whether a statute is directory or mandatory. Each case must stand largely on its own facts, to be determined on an interpretation of the particular language used. Certain rules and aids to construction have been stated. The primary rule is to ascertain legislative intent as revealed by an examination of the whole act. Consideration must be given to the entire statute, its nature, its object, and the consequences which would result from construing it one way or the other. It has been said that whether a statute is directory or mandatory depends on whether the thing directed to be done is of the essence of the thing required, or is a mere matter of form. Accordingly, when a particular provision of a statute relates to some immaterial matter, as to which compliance with the statute is a matter of convenience rather than substance, or where the directions of a statute are given merely with a view to the proper, orderly, and prompt conduct of business, it is generally regarded as directory, unless followed by words of absolute prohibition; and a statute is regarded as directory where no substantial rights depend on it, no injury can result from ignoring it, and the purpose of the legislature can be accomplished in a manner other than that prescribed, with substantially the same results. On the other hand, a provision relating to the essence of the thing to be done, that is, to matters of substance, is mandatory, and when a fair interpretation of a statute, which directs acts or proceedings to be done in a certain way, shows that the legislature intended a compliance with such provision to be essential to the validity of the act or proceeding, or when some antecedent and prerequisite conditions must exist prior to the exercise of power or must be performed before certain other powers can be exercised, the statute must be regarded as mandatory."

The court has on several occasions considered whether dates prescribed by statute for the performance of certain duties by officers is directory or mandatory. In each case the court has determined upon the basis of the particular facts whether the date prescribed is critical to the accomplishment of the purpose for which the legislation was enacted. For example, in the case of *City of Hutchinson v. Ryan*, 154 Kan. 751, in construing a statute under which it was made the duty of the state school fund commission within 10 days after receiving a municipal bond transcript to notify the officers whether the commission desired

to purchase the bonds, it was determined that the 10 days were not critical to the purpose of the act and it was held to be directory.

In the case of School District v. Clark Co. Commr's, 155 Kan. 636, at page 638, the court in determining whether the statute which requires the county clerk to prepare and deliver tax rolls to the county treasurer on or before November 1 was directory or mandatory, the court stated that if the work of preparing the tax rolls is not completed by the statutory date this date "must of a necessity be regarded as directory rather than mandatory." The court stated that "although the tax rolls are not delivered to the treasurer by the time directed by the statute, nevertheless, we all have to pay our taxes when the delayed delivery is made."

In the case of Shriver v. Board of County Commissioners, 189 K. 548, at page 555, it was argued that an order of the board of tax appeals was void in that it was not made within 90 days from the date of the hearing as required by statute. The court stated that while the board should comply at all times with the statute in considering a taxpayers application for relief, the time in which the board should enter its order is directory rather than mandatory and when made beyond the ninety-day period it is not void for that reason.

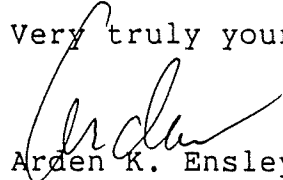
In the instant case, it would seem to me that the primary purpose of the act of which K.S.A. 1988 Supp. 11-204 in a part was that of obtaining a census of the inhabitants of the state of Kansas and that the date fixed for the certification of the census to the legislature was to "secure order and system and dispatch of the public business by ensuring that the legislature would receive the census in time to make use of it in the 1989 regular session but that the failure to finally certify every detail of the census on such date was not intended to be so critical to the act as to invalidate all or any portion of the census figures certified.

With regards to the flexibility which the secretary might have in complying with the provisions of this statute, I have found no cases that provide any particular assistance in determining this matter. As it was pointed out in each of the cases, although a requirement found in a statute may be directory as opposed to mandatory the provision cannot be disregarded, but it is intended that the officer involved adhere to the provisions of the statute except where it might become impossible in accomplishing the major purpose for which the statute is enacted.

In other words, an officer is required to follow the specific provisions of the statute unless it is determined impossible in accomplishing the primary purpose for which the statute is enacted.

I trust that my comments will be of assistance to you and if I can be of further assistance please let me know.

Very truly yours,



Arden K. Ensley
Revisor of Statutes