MEMORANDUM

To: Members of the Legislative Coordinating Council
From: The Office of Revisor of Statutes
Date: March 10, 2021
Subject: Legal requirements for reapportionment

In accordance with Section 1 of Article 10 of the Constitution of the State of Kansas, the Legislature will be tasked with reapportioning congressional, state representative, state senate, and state board of education districts during the 2022 regular session. With the approval of the constitutional amendment to Article 10 in 2019, reapportionment will be done based on the actual census data without adjustment for individuals attending college or in the military.

In general, reapportionment legislation is subject to the same legislative procedures as any other bill. A bill may reapportion all four types of representational districts, or any combination thereof. Since each state board of education district must be comprised of ten state senate districts, reapportionment for these two types of districts is often included in the same bill. Once a reapportionment bill is introduced, it is typically referred to the special redistricting committee where it is heard and debated subject to amendment. When a bill is recommended for passage by the committee, it is then subject to debate and amendment by the full body. In the last cycle, special amendment rules were adopted to only allow reapportionment bills to be amended by complete substitution. This avoids the possibility of creating gaps or overlaps within a bill that could arise through piecemeal amendments of only portions of the reapportionment plan.

Reapportionment bills are required to be effective upon publication in the Kansas Register. Within 15 days after such publication, the Attorney General is directed by Section 1 of Article 10 to petition the Kansas Supreme Court to determine the validity of the reapportionment plan described in the act. The Court must then render its judgment within 30 days. If the reapportionment plan is held invalid, then the Legislature must enact a valid plan within 15 days, and the Attorney General is again charged with petitioning the Court as to the validity of the subsequent plan.
Because of this additional step involving legal validation of the reapportionment plans, the Redistricting Advisory Group has typically adopted legal guidelines to be used by the special redistricting committees when considering reapportionment legislation. Attached is a copy of a memorandum prepared by the Office of Revisor of Statutes in 2009 that outlines the legal guidelines adopted during the 2002 redistricting cycle. These guidelines were again adopted by the Redistricting Advisory Group for the 2012 redistricting cycle.

In 2012, no reapportionment plan was enacted by the Legislature, and, therefore, no legislation was reviewed by the Kansas Supreme Court. Instead, a lawsuit was filed in federal district court in Kansas City, Kansas, challenging the validity of the then-current reapportionment statutes, which were based on the 2000 U.S. census. Per federal law, reapportionment challenges are heard by a 3-judge panel. In the case of *Essex v. Kobach*, the district court panel heard testimony from the plaintiffs, who were Kansas residents challenging the constitutionality of their respective districts, the defendant Secretary of State, and various intervening interested parties. Ultimately, the panel drew their own reapportionment plans for all four types of districts and published the plans as part of their decision in the case. The plans were effective immediately and were used for the 2012 election cycle and each subsequent election.
Recommended Guidelines for 2012
Kansas Congressional and Legislative Redistricting

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December 10, 2009

The following are general guidelines for redrawing congressional and legislative districts after the publication of the 2010 U.S. Decennial Census. These guidelines are taken from court opinions on the validity of past redistricting plans and provide some direction for drawing a constitutionally valid redistricting plan. The Redistricting Advisory Group should consider recommending that these guidelines be adopted by the special legislative committees that are appointed to oversee the redistricting process.

Congressional Redistricting

1. Redistricting plans must have neither the purpose, nor the effect of diluting minority voting strength.

2. Districts should be as nearly equal in population as possible.

3. While still following guideline No. 2, redistricting plans should attempt to recognize communities of interest whenever possible. This includes the following:
   a. Social, cultural, racial, ethnic and economic interests common to the population of the area, which are probable subjects of legislation (generally termed “community of interest”), should be considered.
b. The core of existing districts should preserved when possible.

c. Whole counties should be placed in the same congressional district to the extent possible. County lines are meaningful in Kansas and Kansas counties have historically been significant political units. Many officials are elected on a countywide basis, and political parties have been organized in county units.

4. Districts should be contiguous and as compact as possible while still following guideline No. 2.

Legislative Redistricting

1. Redistricting plans must have neither the purpose, nor the effect of diluting minority voting strength.

2. Districts should be as nearly equal in population as possible.

3. While still following guideline No. 2, the following should also be considered:
   a. Districts should be contiguous and as compact as possible.
   b. The integrity and priority of existing political subdivisions should be preserved to the extent possible.
   c. Social, cultural, racial, ethnic and economic interests common to the population of the area, which are probable subjects of legislation (generally termed “community of interest”), should be considered.
   d. Contests between incumbent members of the legislature and the state board of education should be avoided if possible.
   e. Districts should be easily identifiable and understandable by the voters.