

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1046

BY: JOHNSON (Glen), COTNER, FERGUSON,
BENSON, HAMILTON (James), ADAIR,
APPLE, BASTIN, BATES, BEGLEY,
BOECKMAN, BOYD, BRYANT, CAMPBELL,
COLEMAN, COMBS, COZORT, CROCKER,
CULVER, DAVIS, DUNEGAN, DUNLAP,
FALLIN, GATES, GISH, GLOVER,
GRAVES, GREENWOOD, GRIESER, HAGER,
HAMILTON (Jeff), HEATON, HEFNER,
HENSHAW, HILLIARD, HOLT, HOWARD,
HUDSON, HUTCHCROFT, ISAAC, ISTOOK,
JOHNSON (Rob), KEY, KINNAMON,
KOUBA, LARASON, LEIST, LESTER,
LITTLEFIELD, LUCAS, MADDUX (Jim),
MADDUX (Elmer), MANAR, MASS,
MATLOCK, MAXEY, McCORKELL,
MITCHELL, MONKS, NIEMI, PAULK,
PELTIER, PILGRIM, POPE, REESE,
RHODS (Karroll), RHODES (Dusty),
RICE, ROACH, ROBERTS (Larry),
ROBERTS (Walt), SADLER,
SATTERFIELD, SEIKEL, SETTLE, SMITH
(Bill), SMITH (Dale), STANLEY,
STEIDLEY, STITES, STOTTLEMYRE,
SULLIVAN, TAYLOR, THOMAS,
THOMPSON, TODD, TYLER, VAUGHN
(George), VAUGHN (Ray), VEITCH,
VOSKUHL, WEAVER, WEBB, WEESE,
WIDENER, WILLIAMS, WORTHEN and
YORK of the HOUSE

and

CULLISON, BROWN, DICKERSON and
WRIGHT of the SENATE

A JOINT RESOLUTION DIRECTING THE ATTORNEY GENERAL TO TAKE
SPECIFIED ACTIONS NECESSARY TO PROTECT AND REPRESENT
INTEREST OF THE STATE REGARDING THE PROPOSED STATISTICAL
ADJUSTMENT OF THE CENSUS DATA; AUTHORIZING RETENTION OF
CERTAIN PROFESSIONALS; PROVIDING FOR APPROPRIATIONS;
REQUIRING CERTAIN REPORTS ON PROGRESS; DIRECTING
DISTRIBUTION; AND DECLARING AN EMERGENCY.

WHEREAS, the results of the Federal Decennial Census are used to
determine the apportionment of representatives in Congress and state
legislatures, the allocation of electoral college votes in
presidential elections and the distribution of some federal funds;
and

WHEREAS, the Census Bureau estimates that the census missed 1.4%
of the population in the 1980 enumeration and that minority groups
had been disproportionately undercounted; and

WHEREAS, as a result of the undercount, in 1987, the City of New York, the National Association for the Advancement of Colored People and other plaintiffs sought to compel the Census Bureau to statistically adjust the population data to account for the people the Bureau failed to count in the 1980 census; and

WHEREAS, as a result of that suit, the Census Bureau agreed to make a fresh determination "with an open mind", whether there should be a statistical adjustment for an undercount or overcount in the 1990 census; and

WHEREAS, the Census Bureau has indicated it will conduct a post enumeration survey of at least 150,000 households to use as the basis for determining whether an adjustment was necessary; and

WHEREAS, the Census Bureau has said it will publish adjusted population data or its reasons for not making the adjustment by July 15, 1991; and

WHEREAS, based upon the "method of equal proportions", Oklahoma's 6th seat in the Congress is the 434th seat out of 435 seats; and

WHEREAS, the proposed adjustment could reduce the reported numbers of Oklahoma citizens relative to those in other states; and

WHEREAS, one result of the threatened "adjustment" would be to decrease the number of representatives in the United States House of Representatives from Oklahoma; and

WHEREAS, the threatened adjustment will also further impact the orderly redistricting process in Oklahoma based upon the census population data released to the state for the purpose of accomplishing reapportionment in compliance with Public Law 91-142; and

WHEREAS, Article I, Section 2 of the United States Constitution requires an "actual enumeration" of the population each ten (10) years, not a statistical or other artificial estimate thereof; and

WHEREAS, if the Census Bureau subsequently publishes an adjusted census, it is unclear which of the two censuses the Legislature would be required to use for redistricting legislative districts; and

WHEREAS, by July 15, 1991, Oklahoma will have already redistricted using census population counts; and

WHEREAS, districts drawn under the census population counts could contain significant population deviations compared to any adjusted census, and as a result could expose a legislative redistricting plan to potential challenges; and

WHEREAS, if any potential challenges should prevail it is unclear whether the Legislature or the Apportionment Commission established by the Oklahoma Constitution shall have the responsibility or duty for redrawing affected redistricting plans; and

WHEREAS, there is no sure way for a statistical adjustment to produce more reliable figures than the original count; and

WHEREAS, without an adjustment, the Census Bureau expects to achieve a 99% accuracy rate; and

WHEREAS, to preserve the credibility of the census, the nation should abide by the actual count without any statistical adjustment; and

WHEREAS, the State of Washington has challenged the proposal that the United States Department of Commerce statistically adjust the results of the actual enumeration of the Federal Decennial Census in 1990 to change the population figures for Washington and all states; and

WHEREAS, the Legislature of this state firmly believes that states should have fair and equal representation. However, the Legislature does not believe that an adjustment made after the release of the official population data is a fair and equal method

of determining the true population of each state, and could result in arbitrary political considerations.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 43RD OKLAHOMA LEGISLATURE:

SECTION 1. Pursuant to Section 18b of Title 74 of the Oklahoma Statutes, the Legislature hereby directs the Attorney General on behalf of the state to:

1. intervene in the action instituted by the State of Washington against the United States Department of Commerce challenging the statistical adjustment; and/or

2. institute an independent action against the United States Department of Commerce challenging the proposal to statistically adjust the results of the actual enumeration of the Federal Decennial Census in 1990; and

3. take any or all necessary actions and measures to represent and protect the best interests of the state regarding the proposed adjustment; and

4. retain the services of expert witnesses, outside legal counsel and the service of other professionals necessary to prosecute, to a successful conclusion, said actions or measures.

SECTION 2. The Legislature shall appropriate sufficient funds to allow the Attorney General to perform the requests set forth in this resolution.

SECTION 3. The Attorney General shall provide written reports to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the progress of any action or measures taken pursuant to this resolution.

SECTION 4. Copies of this resolution shall be distributed to the Attorney General of this state, the Governor, each member of the Oklahoma Congressional Delegation, the United States Census Bureau, and the Secretary of the United States Department of Commerce.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 19th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the 3rd day of April, 1991.

President of the Senate