

1999 ASSEMBLY JOINT RESOLUTION 32

March 16, 1999 – Introduced by Representatives LADWIG, HANDRICK, ALBERS, BRANDEMUEHL, FREESE, GOETSCH, GROTHMAN, GUNDERSON, GUNDRUM, HAHN, HOVEN, HUEBSCH, JENSEN, KESTELL, KLUSMAN, LEIBHAM, MONTGOMERY, NASS, OWENS, PETROWSKI, PORTER, SERATTI, SPILLNER, STONE, SYKORA and URBAN, cosponsored by Senators HUELSMAN, DARLING, ROESSLER, ROSENZWEIG and WELCH. Referred to Committee on Rules.

1 **Relating to:** the plan of the U.S. Census Bureau to use statistical sampling in the
2 decennial census.

3 Whereas, the U.S. Constitution requires an actual enumeration of the
4 population every 10 years and entrusts Congress with overseeing all aspects of each
5 decennial enumeration; and

6 Whereas, the sole constitutional purpose of the decennial census is to apportion
7 the seats in Congress among the several states; and

8 Whereas, an accurate and legal decennial census is necessary to properly
9 apportion U.S. House of Representative seats among the 50 states and to create
10 legislative districts within the states; and

11 Whereas, an accurate and legal decennial census is necessary to enable states
12 to comply with the constitutional mandate of drawing state legislative districts
13 within the states;

14 Whereas, Article I, Section 2, of the U.S. Constitution, in order to ensure an
15 accurate count and to minimize the potential for political manipulation, mandates

1 and “actual enumeration” of the population, which requires a physical headcount of
2 the population and prohibits statistical guessing or estimates of the population;

3 Whereas, Title 13, Section 195, of the U.S. Code, consistent with this
4 constitutional mandate, expressly prohibits the use of statistical sampling to
5 enumerate the U.S. population for the purpose of reapportioning the U.S. House of
6 Representatives; and

7 Whereas, legislative redistricting conducted by the states is a critical
8 subfunction of the constitutional requirement to apportion representatives among
9 the states; and

10 Whereas, U.S. Supreme Court, in case No. 98–404, *Department of Commerce,*
11 *et al. v. United States House of Representatives, et al.*, together with case No. 98–564,
12 *Clinton, President of the United States, et al. v. Glavin, et al.* ruled on January 25,
13 1999, the the Census Act prohibits the Census Bureau’s proposed uses of statistical
14 sampling in calculating the population for purposes of apportionment; and

15 Whereas, in reaching its findings, the U.S. Supreme Court found that the use
16 of statistical procedures to adjust census numbers would create a dilution of voting
17 rights for citizens in legislative redistricting, thus violating legal guarantees of
18 “one–person, one–vote”; and

19 Whereas, consistent with this ruling and the constitutional and legal
20 relationship of legislative redistricting by the states to the apportionment of the U.S.
21 House of Representatives, the use of adjusted census data would raise serious
22 questions of vote dilution and violate “one–person, one–vote” legal protections, thus
23 exposing this state to protracted litigation over legislative redistricting plans at
24 great cost to the taxpayers of this state, and would likely result in a court ruling
25 invalidating any legislative redistricting plan using census numbers that have been

1 determined in whole or in part by the use of random sampling techniques or other
2 statistical methodologies that add or subtract persons to the census counts based
3 solely on statistical inference; and

4 Whereas, consistent with this ruling, no person enumerated in the census
5 should ever be deleted from the census enumeration; and

6 Whereas, consistent with this ruling, every reasonable and practical effort
7 should be made to obtain the fullest and most accurate count of the population as
8 possible, including appropriate funding for state and local census outreach and
9 education programs, as well as a provision for post-census local review; now,
10 therefore, be it

11 ***Resolved by the assembly, the senate concurring, That*** the legislature of
12 the state of Wisconsin calls on the Bureau of the Census to conduct the 2000
13 decennial census consistently with the aforementioned U.S. Supreme Court ruling
14 and constitutional mandate, which require a physical headcount of the population
15 and which bar the use of statistical sampling to create, or in any way adjust, the
16 count; and, be it further

17 ***Resolved, That*** the legislature of the state of Wisconsin opposes the use of P.L.
18 94-171 data for state legislative redistricting based on census numbers that have
19 been determined in whole or in part by the use of statistical inferences derived by
20 means of random sampling techniques or other statistical methodologies that add or
21 subtract persons to the census counts; and be it further

22 ***Resolved, That*** the legislature of the state of Wisconsin demands that it
23 receive P.L. 94-171 data for legislative redistricting identical to the census
24 tabulation data used to apportion seats in the U.S. House of Representatives
25 consistent with the aforementioned U.S. Supreme Court ruling and constitutional

1 mandate, which require a physical headcount of the population and which bar the
2 use of statistical sampling to create, or in any way adjust, the count; and, be it further

3 ***Resolved, That*** the legislature of the state of Wisconsin urges Congress, as the
4 branch of government assigned the responsibility of overseeing the decennial
5 enumeration, to take whatever steps are necessary to ensure that the 2000 decennial
6 census is conducted fairly and legally; and, be it further

7 ***Resolved, That*** a copy of this joint resolution be transmitted by the assembly
8 chief clerk to the speaker of the U.S. House of Representatives, the majority leader
9 of the U.S. Senate, the Vice President and the President of the United States.

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(END)