Catherine Seita New Jersey, Massachusetts, Iowa, and Kansas Reports Draw Congress: Stanford Redistricting Project Professor Persily, Fall 2021 January 17, 2022

# <u>Kansas</u>

# Good Government Plan

Cheyenne 2,616	Rav 2,5	wlins 561	Decatur 2,764	Norton 5,459	Phillips 4,981	Smith 3,570	Jewell 2,932	Republic 4,674	Washingto 5,530	n Marsha 10,03	all Nema 8 10,2		wn 08 Donipt 7,51	
Sherman 5,927	Tho 7,	omas 930	Sheridan 2,447	Graham 2,415	Rooks 4,919	Osborne 3,500	Mitchell 5,796	Cloud 9,032	Clay 8,117		awatomie 25,348	Jackson 13,232	Atchison ( 16,348	5
Wallace 1,512	Loga 2,76	in 2	Gove 2,718	Trego 2,808	Ellis 28,934	Russell 6,691	Lincoln 2,939	Ottawa 5,735	Dickinson	l av	Wabaunsee 6,877	Shawnee 178,909	18,368 Douglas 118,785	Wyandotti 169,245 Johnson 609.863
Greeley	Wichita	Scott	Lane	Ness	Rush	Barton	Ellsworth 6,376	Saline 54,303	18,402	Morris 5,386		Osage 15,766	118,785 Franklin 25,996	Miami 34,191
1,284	2,152	5,151	1,574	2,687	2,956 Pawnee	25,493	Rice 9,427	McPherson 30,223	Marion 11,823	Chase 2,572	Lyon 32,179	Coffey 8,360	Anderson 7.836	4 % Linn 9.591
Hamilton 2,518	Kearny 3,983	Fir 38	ney ,470 Gray	Hodgeman 1,723	6,253 Edwards 2,907	Stafford 4,072	Reno 61,898	Harve 34,02	ру 4	2	Greenwood 6,016	Woodson 3,115	Allen 12,526	Bourbon 14,360
Stanton 2,084	Grant 7,352	Haskell 3,780	5,653	Ford 34,287	Kiowa 2,460	Pratt 9,157	Kingman 7,470	Sedgwic 523,824		Butler 7,380	Elk 2,483	Wilson 8,624	Neosho 15,904	Crawford 38,972
Morton 2,701	Stevens 5,250	Seward 21,964	Meade 4,055	Clark 1,991	Comanche 1,689	Barber 4,228	Harper 5,485	Sumne 22,382	r C 3	owley 4,549 (	Chautauqua 3,379	Montgomer 31,486	y Labette 20,184	Cherokee 19,362

# I. Introduction

This is a good government map of Kansas, drawn to respect county lines and those of other political subdivisions. Counties are split only four times, and in all of those instances, the split is between just two districts. As for cities and towns, 10 are split in two, leaving 730 fully intact. The proposed districts also achieve perfect population equality, are generally more compact than their preexisting counterparts and are otherwise in compliance with federal and state law.

II. Evaluation of Relevant Criteria

## A. Demographic Considerations

Racial minorities make up a very small percentage of Kansas' total population. The white CVAP in each district ranges from 78.3% to 87.8%, similar to the demographics of the former districts.

# B. Geographic Considerations

Another goal motivating the creation of this map was to improve in regard to compactness. On average, the proposed districts are more compact than the original districts by every measure of compactness (with the exception of the Population Polygon test, which yielded the same compactness for both plans). Additionally, the districts are contiguous and the map has no unassigned areas.

## C. Political Subdivisions

All but four of Kansas' 105 counties are undivided in this map. The four counties that were split among different districts were all split in two. The preexisting plan similarly left 102 of Kansas' 105 counties intact.

# D. Communities of Interest

Of the 740 cities and towns in Kansas, 730 remain intact under this proposed plan. The ten split cities and towns were split in two, leaving a total of 20 splits overall. These divisions were necessary to ensure that the districts would achieve perfect population equality.

Again, the preexisting plan is similar in this respect–734 cities and towns were left undivided, and all six of the divided cities and towns were split among two districts.

## E. Partisan Considerations

Currently, three of Kansas' four districts have elected Republicans, while one has elected a Democrat. The PlanScore Assessment<sup>1</sup> indicates that this good government map favors

<sup>&</sup>lt;sup>1</sup> Available at https://drawcongress.org/wp-content/uploads/Kansas\_GG\_Planscore.pdf.

Republicans. However, it is projected that under this plan, two districts will remain reliably Republican and two will lean Democratic. Thus, the projected distribution of seats is still more even than it is under the preexisting plan.

#### III. Legal Compliance

# A. One Person, One Vote

In 1964, the Supreme Court applied the principle of "one person, one vote" in *Wesberry v. Sanders*, holding that Article I, Section 2 of the United States Constitution commands that "one [person]'s vote in a congressional election is to be worth as much as another's" to the extent practicable.<sup>2</sup> In 1983, the Court further clarified in *Karcher v. Daggett* that, while precise mathematical equality may be impossible, even insignificant deviations in population between districts are unacceptable when avoidable and unjustified.<sup>3</sup> In *Karcher*, the Court rejected the state of New Jersey's argument that a population deviation of 0.7% between districts should be excused as *de minimis*.<sup>4</sup>

This plan complies with the "one person, one vote" requirement. With each district being home to 734,470 people (plus or minus one person), there is essentially perfect population equality.

#### B. Voting Rights Act

Section 2 of the Voting Rights Act disallows congressional maps that deny minority voters an equal opportunity to "participate in the political process and to elect representatives of their choice."<sup>5</sup> Under *Thornburg v. Gingles*, challenges to district lines on the basis of this provision must first pass a three-part test to prevail. First, the minority group must "demonstrate

<sup>&</sup>lt;sup>2</sup> Wesberry v. Sanders, 376 U.S. 1, 8 (1964).

<sup>&</sup>lt;sup>3</sup> Karcher v. Daggett, 462 U.S. 725, 734 (1983).

<sup>&</sup>lt;sup>4</sup> *Id.* at 732.

<sup>&</sup>lt;sup>5</sup> 52 U.S.C. §10301(b) (1982).

that it is sufficiently large and geographically compact to constitute a majority" in a district in the state; second, the minority group "must be able to show that it is politically cohesive"; third, the minority group "must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it … usually to defeat the minority's preferred candidate".<sup>6</sup>

The minority groups in Kansas are not large or compact enough to form a majority-minority district while retaining population equality, so Section 2 of the Voting Rights Act does not demand the creation of such a district.

#### C. Shaw v. Reno

Although Section 2 of the Voting Rights Act requires that states draw districts that provide minority groups a chance to elect their own candidates where feasible, the Supreme Court has also made it clear that districts drawn with race as the predominant factor must be evaluated with skepticism. In *Shaw vs. Reno*, the Court held that plaintiffs can be granted relief under the Equal Protection Clause when challenging a plan that is "so extremely irregular on its face that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles and without sufficiently compelling justification."<sup>7</sup> Two years later, the Court further developed this idea, holding in *Miller v. Johnson* that strict scrutiny is triggered when the predominant factor motivating the drawing of district lines was race.<sup>8</sup> Also in *Miller*, the Court determined that bizarrely-shaped districts may indicate that race was in fact the predominant factor.<sup>9</sup>

Because it was not feasible to create any majority-minority districts, there is also no reason to fear a *Shaw* claim.

<sup>&</sup>lt;sup>6</sup> Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986).

<sup>&</sup>lt;sup>7</sup> Shaw v. Reno, 509 U.S. 630, 642 (1993).

<sup>&</sup>lt;sup>8</sup> Miller v. Johnson, 515 U.S. 900, 920 (1995).

<sup>&</sup>lt;sup>9</sup> Id. at 913.

# D. Kansas State Law

Kansas state law provides additional requirements for state legislative districts in regard to compactness, contiguity, and keeping municipalities intact, but places no additional requirements on congressional districts that extend beyond federal law.

# IV. Conclusion

The aim behind this good government plan was to draw districts that abide by county, city, and town lines; are nearly equal in population; and are in accordance with Kansas state law. The map achieves these goals, while also improving somewhat in compactness, as compared to the preexisting map.

V. Appendix

# Comparison to Preexisting Plan:

Cheyenne 2,616	Rav 2,5	wlins 561	Decatur 2,764	Norton 5,459	Phillips 4,981	Smith 3,570	Jewell 2,932	Republic 4,674	Washington 5,530	Marsh 10,03	nall Nema 38 10,2	aha 9,50 73	vn 08 Doniph 7,510	ian S
Sherman 5,927	The 7,	omas 930	Sheridan 2,447	Graham 2,415	Rooks 4,919	Osborne 3,500	Mitchell 5,796	Cloud 9,032	Clay 8,117 Ri		ttawatomie 25,348	Jackson 13,232	Atchison ( 16,348	5
						9%)	Lincoln 2,939	Ottawa 5,735		Geary	Wabaunsee	Shawnee	Jefferson 18,368	Wyandotte 169,245
Wallace 1,512	Loga 2,76	2	Gove 2,718	Trego 2,808	Ellis 28,934	Russell 6,691	Ellsworth 6.376	Saline 54,303	Dickinson 18,402	36,739 Morris 5,386	6,877	178,909 Osage	Douglas 118,785	37.87%
Greeley 1,284	Wichita 2,152	Scott 5,151	Lane 1,574	Ness 2,687	Rush 2,956	Barton 25,493	Rice	McPherson 30.223	Marion		Lyon 32,179	15,766	Franklin 25,996 2 -2.92%	Miami 34,191
		Fir 38	ney ,470	Hodgeman 1.723	Pawnee 6,253		9,427	Harv 34,02	11,823 ey	Chase 2,572		Coffey 8,360	Anderson 7,836	Linn 9,591
Hamilton 2,518	Kearny 3,983		Gray 5,653		Edwards 2,907	Stafford 4,072	Reno 61,898		Bu	tler	Greenwood 6,016	Woodson 3,115	Allen 12,526	Bourbon 14,360
Stanton 2,084	Grant 7,352	Haskell 3,780	5,653	Ford 34,287	Kiowa 2,460	Pratt 9,157	Kingman 7,470	Sedgw 523,8 4 -0.36%	24		Elk	Wilson 8,624	Neosho 15,904	Crawford 38,972
Morton 2,701	Stevens 5,250	Seward 21,964	Meade 4,055	Clark 1,991	Comanche 1,689	Barber 4,228	Harper 5,485	Sumne 22,382	r Cov 2 34,	vley 549	2,483 Chautauqua 3,379	Montgomery 31,486	Labette 20,184	Cherokee 19,362

Preexisting

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Proposed

District	Population	Deviation	W-CVAP	B-CVAP	H-CVAP	%D ('20)	%R ('20)
1	700,773	-33,697	84.5%	3.4%	9.32%	28.8%	71.2%
4	731,814	-26,56	80.3%	7.0%	7.6%	38.9%	61.1%
2	713,007	-21,463	85.9%	5.1%	4.9%	42.4%	57.7%
3	792,286	57,816	80.4%	8.8%	6.1%	55.4%	44.6%

District Composition (Preexisting):<sup>10</sup>

# District Composition (Proposed):

District	Population	Deviation	W-CVAP	B-CVAP	H-CVAP	%D ('20)	%R ('20)
1	734471	1	85.2%	3.2%	8.9%	28.0%	72.0%
2	734469	-1	79.7%	7.2%	7.6%	39.5%	60.5%
3	734469	-1	78.3%	10.2%	7.1%	51.8%	48.2%
4	734469	1	87.8%	3.8%	3.9%	48.6%	51.4%

Measures of Compactness (Preexisting):<sup>11</sup>

District	Reock	Schwartz- berg	Alternate Schwartz- berg	Polsby- Popper	Population Polygon	Area/ Convex Hull	Population Circle	Ehren -burg
1	0.47	1.53	1.54	0.42	0.74	0.88	0.45	0.34
4	0.40	1.57	1.57	0.40	0.90	0.86	0.72	0.31
2	0.35	1.64	1.69	0.35	0.54	0.74	0.29	0.30
3	0.43	1.39	1.48	0.46	0.98	0.85	0.94	0.44
Mean	0.41	1.53	1.57	0.41	0.79	0.83	0.60	0.35

Measures of Compactness (Proposed):

District	Reock	Schwartz- berg	Alternate Schwartz- berg	Polsby- Popper	Population Polygon	Area/ Convex Hull	Population Circle	Ehren -burg
1	0.52	1.36	1.38	0.53	0.54	0.95	0.47	0.58
2	0.52	1.43	1.43	0.49	0.93	0.85	0.75	0.54
3	0.64	1.59	1.73	0.33	0.77	0.80	0.59	0.50
4	0.36	1.45	1.48	0.46	0.93	0.93	0.66	0.31
Mean	0.51	1.46	1.51	0.45	0.79	0.88	0.62	0.48

<sup>&</sup>lt;sup>10</sup> District 4 under the preexisting plan is called District 2 under the proposed plan, and so on; all population data is from 2019.

<sup>&</sup>lt;sup>11</sup> Numbers closer to 1 indicate a higher degree of compactness.