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JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI
January 24, 2022

JAMES C. KIRKPATRICK
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The Honorable Senator William C. Eigel
Missouri State Senate
201 W Capitol Ave., Rm. 227
Jefferson City, Missouri 65101

Dear Senator Eigel,

I am in receipt of your letter dated January 20, 2022, seeking my opinion as to the requirements for Congressional apportionment and Amendment Number 1 to HB 2117.

Every ten years the Missouri General Assembly takes up the task of Congressional apportionment as required in of the Missouri Constitution. Article III Section 45 states "*When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.*"

A plain reading of the language would indicate districts must be composed of "contiguous territory" that are "compact and nearly equal in population as may be"

I am unaware of any cases in which a Congressional redistricting map was held unconstitutional because the population deviation was one. The United States Supreme Court held in *Wesberry v. Sanders*, 376 U.S. 1 (1964), that districts must be drawn so that "as nearly practicable one man's vote in a congressional election is worth as much as another's."

Additional in *Gaffney v. Cummings*, 93 S.Ct. 2321 (1973), the Supreme Court found no issue were the population deviation in Connecticut's map was 1.81 percent in the Senate and 7.83 percent in the House. Furthermore, states may use total population to comply with the concept of one person, one vote, *Evenwel v. Abbott*, 136 S.Ct. 1120 (2016). The Missouri Supreme Court has also held that deviations in districts did not violate Article III, Section 45 of the Missouri Constitution, *Preisler v. Hearnnes*, 363 S.W.2d 552 (Mo. banc. 1962) (deviation of populous was .087 while most populous was .117). These cases show that there is no requirement of completely equal districts to meet one person, one vote.

Sincerely,

A handwritten signature in blue ink, appearing to read "John R. Ashcroft". The signature is stylized with a large, looped "J" and a prominent "A".

John R. Ashcroft