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STATE OF MINNESOTA

## Office Memorandum

DEPARTMENT ATTORNEY GENERALTO : MARK WINKLER  
Deputy Secretary of State

DATE: Nov. 18, 1976

FROM : CHRISTOPHER R. KELLEY *ck*  
Special Assistant  
Attorney General

PHONE: \_\_\_\_\_

SUBJECT: Minn. Stat. § 275.14 (1974)

You asked whether, pursuant to the above-referenced statute, the Secretary of State could certify a census prepared by the state demographer without the advice or assistance of the Secretary of State. Specifically, reference# is made to four school districts who have requested census certification pursuant to the above-referenced statute. Those districts apparently wish to avoid the established procedures under the statute and, in lieu thereof, seek to have census figures submitted by the state demographer certified. You state that your staff did not advise or assist in any way the preparation of the state demographer's census.

As I advised you in my memorandums of November 4, 1976, and November 15, 1976, the above-referenced statute requires that a census prepared pursuant to it must be prepared under the "immediate supervision" of the Secretary of State. The censuses described above do not conform to that requirement due to the fact that there was no involvement by the Secretary of State in their preparation. Therefore, they may not be certified under the above-referenced statute.

I suggest that you advise the school districts so requesting a census that the Secretary of State is prepared to follow

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established procedures pursuant to the above-referenced statute if they still desire a census to be certified. However, they should be informed that the census submitted by the state demographer was not prepared under the supervision of the Secretary of State and, for that reason, is unacceptable pursuant to the statute. You may wish to state your support for legislation or an informal cooperative arrangement between the Secretary of State and the state demographer in this regard for future census certification.

CRK/kd

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STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
NOV 18 1976  
*Joan Anderson Howe*  
Secretary of State

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : MARK WINKLER  
Deputy Secretary of State

DATE: Nov. 15, 1976

FROM : CHRISTOPHER R. KELLEY *CRK*  
Special Assistant  
Attorney General

PHONE: \_\_\_\_\_

SUBJECT: Minn. Stat. § 275.41 (1974)

Please be advised that the above-referenced statute was repealed at the 1976 session of the Minnesota Legislature. With regard to my earlier memorandum discussing the acceptability of a census prepared by the state demographer for purposes of that statute, the reasoning and conclusion of that memorandum is equally applicable to the same issue under Minn. Stat. § 275.14 (1974).

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*John Anderson Howe*  
Secretary of State

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : MARK WINKLER  
Deputy Secretary of State

DATE: Nov. 4, 1976

FROM : CHRISTOPHER R. KELLEY  
Special Assistant  
Attorney General

PHONE: \_\_\_\_\_

SUBJECT: Census Pursuant to Minn. Stat. § 275.41 (1974)

With regard to the above-referenced statute, you asked whether the updated census figures supplied by the state demographer may serve to satisfy the requirements of that statute. Minn. Stat. § 275.41 (1974) does not specify who shall actually conduct or in what manner the census is to be conducted, but rather it directs the Secretary of State to cause a census to be undertaken under the Secretary of State's immediate supervision. The key provisions of that statute relevant here are that the Secretary of State shall initiate the census and that the census shall be taken under the Secretary of State's immediate supervision. Therefore, if the state demographer's census figures are to serve the purposes of this statute, the work of the state demographer must be subject to the immediate supervision of the Secretary of State. After that requirement is met it would appear that the results of that census may be certified by the Secretary of State pursuant to the above-referenced statute.

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STATE OF MINNESOTA  
DEPARTMENT OF STATE

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NOV 8 - 1976

*John Anderson*  
Secretary of State

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NOV 5 - 1976

SECRETARY OF STATE  
CORPORATION DIVISION