

**RESPONDENT JON HUSTED SECRETARY OF STATE'S
SUBMISSION OF EVIDENCE**

Pursuant to S. Ct. Prac. R. X, Section 7, Respondent Jon Husted Secretary of State submits the following evidence in support of its arguments in this case:

- (1) U.S. Census Population Numbers
- (2) H.B. 697
- (3) Affidavit from Matt Damschroder

Respectfully submitted,

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Attorney General of Ohio



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Counsel for Respondent
Ohio Secretary of State Jon Husted

U.S. Department of Commerce
U.S. Census Bureau

Table 1. APPORTIONMENT POPULATION AND NUMBER OF REPRESENTATIVES, BY STATE: 2010 CENSUS

STATE	APPORTIONMENT POPULATION (APRIL 1, 2010)	NUMBER OF APPORTIONED REPRESENTATIVES BASED ON 2010 CENSUS	CHANGE IN SEATS FROM CENSUS 2000 APPORTIONMENT
Alabama	4,802,982	7	0
Alaska	721,523	1	0
Arizona	6,412,700	9	+1
Arkansas	2,926,229	4	0
California	37,341,989	53	0
Colorado	5,044,930	7	0
Connecticut	3,581,628	5	0
Delaware	900,877	1	0
Florida	18,900,773	27	+2
Georgia	9,727,566	14	+1
Hawaii	1,366,862	2	0
Idaho	1,573,499	2	0
Illinois	12,864,380	18	-1
Indiana	6,501,582	9	0
Iowa	3,053,787	4	-1
Kansas	2,863,813	4	0
Kentucky	4,350,606	6	0
Louisiana	4,553,962	6	-1
Maine	1,333,074	2	0
Maryland	5,789,929	8	0
Massachusetts	6,559,644	9	-1
Michigan	9,911,626	14	-1
Minnesota	5,314,879	8	0
Mississippi	2,978,240	4	0
Missouri	6,011,478	8	-1
Montana	994,416	1	0
Nebraska	1,831,825	3	0
Nevada	2,709,432	4	+1
New Hampshire	1,321,445	2	0
New Jersey	8,807,501	12	-1
New Mexico	2,067,273	3	0
New York	19,421,055	27	-2
North Carolina	9,565,781	13	0
North Dakota	675,905	1	0
Ohio	11,568,495	16	-2
Oklahoma	3,764,882	5	0
Oregon	3,848,606	5	0
Pennsylvania	12,734,905	18	-1
Rhode Island	1,055,247	2	0
South Carolina	4,645,975	7	+1
South Dakota	819,761	1	0
Tennessee	6,375,431	9	0
Texas	25,268,418	36	+4
Utah	2,770,765	4	+1
Vermont	630,337	1	0
Virginia	8,037,736	11	0
Washington	6,753,369	10	+1
West Virginia	1,859,815	3	0
Wisconsin	5,698,230	8	0
Wyoming	568,300	1	0
TOTAL ¹	309,183,463	435	

¹ Apportionment population includes the resident population for the 50 states, as ascertained by the Twenty-Third Decennial Census under Title 13, United States Code, and counts of overseas U.S. military and federal civilian employees (and their dependents living with them) allocated to their home state, as reported by the employing federal agencies. The apportionment population excludes the population of the District of Columbia.

(122nd General Assembly)
(Amended Substitute House Bill Number 697)

AN ACT

To enact, subject to the approval of the people of the State of Ohio, sections 5739.029 and 5741.024 of the Revised Code to levy an additional one per cent sales and use tax, the proceeds of which must be used one-half for schools and one-half to provide property tax relief for homesteads, and to enact section 131.45 of the Revised Code to establish required levels of appropriations from the General Revenue Fund for primary and secondary education each year, and to make an appropriation.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 5739.029 and 5741.024 of the Revised Code be enacted to read as follows:

Sec. 5739.029. (A) ONLY IF APPROVED BY THE ELECTORS PURSUANT TO HOUSE BILL NO. 697 OF THE 122nd GENERAL ASSEMBLY, THERE IS HEREBY LEVIED, BEGINNING JULY 1, 1998, AN EXCISE TAX OF ONE PER CENT ON EACH RETAIL SALE MADE IN THIS STATE. ONE-HALF OF THE PROCEEDS OF THE TAX SHALL BE CREDITED TO THE SCHOOL TRUST FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND SHALL BE USED SOLELY FOR THE PURPOSES OF PAYING COSTS OF SCHOOL OPERATIONS, EDUCATION TECHNOLOGY, SCHOOL FACILITIES, AND DEBT SERVICE FOR SCHOOL FACILITIES. ONE-HALF OF THE PROCEEDS SHALL BE CREDITED TO THE PROPERTY TAX RELIEF FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND SHALL BE USED SOLELY TO PROVIDE PROPERTY TAX RELIEF FOR HOMESTEADS. THE PROPERTY TAX RELIEF PROVIDED EACH HOMESTEAD SHALL BE IN ADDITION TO THE TEN PER CENT REDUCTION AND THE TWO AND ONE-HALF PER CENT REDUCTION IN THE TAXES CHARGED AGAINST THE HOMESTEAD, AS PROVIDED UNDER SECTION 319.302 AND DIVISION

(B) OF SECTION 323.152 OF THE REVISED CODE. THE TAX HEREBY LEVIED IS IN ADDITION TO THE SALES TAX LEVIED BY SECTION 5739.02 OF THE REVISED CODE, AND IS SUBJECT TO THE SAME EXEMPTIONS AND EXCEPTIONS, AND SHALL BE IMPOSED AND COLLECTED PURSUANT TO THE SAME PROCEDURES, AS THAT TAX.

(B) THE TAX COMMISSIONER, BY RULE, SHALL PRESCRIBE SCHEDULES SHOWING THE AMOUNT OF TAX TO BE COLLECTED UNDER THIS CHAPTER AND CHAPTER 5741. OF THE REVISED CODE AT EACH PRICE LEVEL, AND THAT AMOUNT OF TAX SHALL BE COLLECTED NOTWITHSTANDING SECTION 5739.025 OF THE REVISED CODE. SECTION 5739.21 OF THE REVISED CODE DOES NOT APPLY TO THE TAX LEVIED BY THIS SECTION.

Sec. 5741.024. ONLY IF APPROVED BY THE ELECTORS PURSUANT TO HOUSE BILL NO. 697 OF THE 122nd GENERAL ASSEMBLY, THERE IS HEREBY LEVIED, BEGINNING JULY 1, 1998, AN EXCISE TAX OF ONE PER CENT ON THE STORAGE, USE, OR OTHER CONSUMPTION IN THIS STATE OF TANGIBLE PERSONAL PROPERTY OR THE BENEFIT REALIZED IN THIS STATE OF ANY SERVICE PROVIDED. ONE-HALF OF THE PROCEEDS OF THE TAX SHALL BE CREDITED TO THE SCHOOL TRUST FUND AND SHALL BE USED SOLELY FOR THE PURPOSES OF PAYING COSTS OF SCHOOL OPERATIONS, EDUCATION TECHNOLOGY, SCHOOL FACILITIES, AND DEBT SERVICE FOR SCHOOL FACILITIES. ONE-HALF OF THE PROCEEDS SHALL BE CREDITED TO THE PROPERTY TAX RELIEF FUND AND SHALL BE USED SOLELY TO PROVIDE PROPERTY TAX RELIEF FOR HOMESTEADS. THE PROPERTY TAX RELIEF PROVIDED EACH HOMESTEAD SHALL BE IN ADDITION TO THE TEN PER CENT REDUCTION AND THE TWO AND ONE-HALF PER CENT REDUCTION IN THE TAXES CHARGED AGAINST THE HOMESTEAD, AS PROVIDED UNDER SECTION 319.302 AND DIVISION (B) OF SECTION 323.152 OF THE REVISED CODE. THE TAX HEREBY LEVIED IS IN ADDITION TO THE USE TAX LEVIED BY SECTION 5741.02 OF THE REVISED CODE, AND IS SUBJECT TO THE SAME EXEMPTIONS AND EXCEPTIONS, AND SHALL BE IMPOSED AND COLLECTED PURSUANT TO THE SAME PROCEDURES, AS THAT TAX. SECTION 5741.03 OF THE REVISED CODE DOES NOT APPLY TO THE TAX LEVIED BY THIS SECTION.

SECTION 2. Section 1 of this act shall take effect only if approved by a majority of the electors voting thereon, as provided in Section 3 of this act, as permitted by Section 26 of Article II, Ohio Constitution, because this act relates to public schools. If Section 1 of this act is not submitted to the electors at a special election on May 5, 1998, or if Section 1 of this act is not approved by a majority of the electors voting on the section at that special election, Sections 1, 2, 3, 4, and 5 of this act expire.

SECTION 3. After this act is signed by the Governor, it shall be filed with the Secretary of State not later than February 19, 1998. The Secretary of State shall submit to the electors of the entire state at a special election to be held on May 5, 1998, as a single proposal, approval of the enactment of sections 5739.029 and 5741.024 of the Revised Code as set forth within the purview of Section 1 of this act. The Secretary of State shall designate the proposal as the second issue submitted to the electors of the entire state at that election.

Notwithstanding section 3519.21 of the Revised Code, the title and ballot language for the proposal shall be substantially as follows:

"EDUCATION LEGISLATION SUBJECT TO VOTER APPROVAL

(Proposed by the General Assembly of the State of Ohio)

Shall the provisions of House Bill 697 levying a statewide one per cent sales and use tax, to be used one-half for school operations, education technology, school facilities, and debt service for school facilities, and one-half for additional property tax relief for homesteads, be approved?

If approved, the tax shall take effect July 1, 1998.

A majority yes vote is necessary for passage.

	Yes (To approve the tax)
	No (To reject the tax)

The General Assembly by resolution shall designate a group of members who voted for H.B. 697 to prepare arguments for the proposal, and a group of members who voted against H.B. 697 to prepare arguments against the proposal. The arguments shall not exceed three hundred words each, and shall be filed with the Secretary of State not later than March 1, 1998. The ballot language and the arguments shall be available for public inspection in the Office of the Secretary of State.

The proposal, the ballot language, and the arguments shall be published once a week for three consecutive weeks preceding May 5, 1998, in at least one newspaper of general circulation in each county of the state where a newspaper is published.

If a majority of the votes cast on the proposal is in the affirmative, the proposal is approved and takes effect immediately.

SECTION 4. All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the General Revenue Fund. For all appropriations made in this act, those in the first column are for fiscal year 1998 and those in the second column are for fiscal year 1999. The appropriations made in this act are in addition to any other appropriations made for the 1997-1999 biennium.

CEB CONTROLLING BOARD

General Revenue Fund			
GRF 911-405	Ballot Board	\$	400,000 \$ 0
TOTAL GRF	General Revenue Fund	\$	400,000 \$ 0
TOTAL ALL BUDGET FUND GROUPS		\$	400,000 \$ 0

Ballot Board

The foregoing appropriation item 911-405, Ballot Board, shall be used for the advertising costs associated with the statewide special election required by this act.

Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H. B. 215 of the 122nd General Assembly.

The appropriations made in this act are subject to all provisions of Am. Sub. H. B. 215 of the 122nd General Assembly that are generally applicable to such appropriations.

SECTION 5. In accordance with section 1.471 of the Revised Code and Ohio Constitution, Article II, Section 1d, Sections 2, 3, 4, and 5 of this act go into immediate effect.

SECTION 6. That section 131.45 of the Revised Code be enacted to read as follows:

Sec. 131.45. (A) THE AMOUNT THE GENERAL ASSEMBLY APPROPRIATES FROM THE GENERAL REVENUE FUND EACH YEAR PER PUPIL FOR PRIMARY AND SECONDARY EDUCATIONAL PURPOSES SHALL BE NOT LESS THAN THE AMOUNT IT APPROPRIATED PER PUPIL FOR THOSE PURPOSES FOR THE BASE YEAR, ADJUSTED FOR CHANGES IN PRICES AS MEASURED BY THE CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, ALL ITEMS) PREPARED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR. THE BASE YEAR IS FISCAL YEAR 1999.

(B) APPROPRIATIONS OF THE PROCEEDS OF THE SALES AND USE TAX LEVIED BY SECTIONS 5739.029 AND 5741.024 OF THE REVISED CODE AND OF THE NET PROCEEDS OF ANY STATE LOTTERY UNDER SECTION 6 OF ARTICLE XV OF THE OHIO CONSTITUTION SHALL BE IN ADDITION TO APPROPRIATIONS MADE PURSUANT TO THIS SECTION.

(C) FOR THE PURPOSES OF THIS SECTION, APPROPRIATIONS FOR PRIMARY AND SECONDARY EDUCATIONAL PURPOSES INCLUDES AMOUNTS APPROPRIATED TO REIMBURSE SCHOOL DISTRICTS FOR PROPERTY TAX REDUCTIONS REQUIRED BY LAW.

John Davidson

Speaker _____ of the House of Representatives.

Richard W. Jensen

President _____ of the Senate.

Passed February 17, 1998

Approved February 17, 1998

George V. Voinovich

Governor.

Am. Sub. H. B. No. 697

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
18th day of February, A. D. 1998.

Bob Taft

Secretary of State.

File No. 124

Effective Date May 20, 1998 As per Sec 5,
Sec. 2, 3, 4 + 5 are effective
immediately.

State of Ohio)
)
County of Lucas) ss:

AFFIDAVIT OF MATTHEW M. DAMSCHRODER

Now comes MATTHEW M. DAMSCHRODER, first being duly cautioned and sworn, attesting as follows:

1. From June 2003 to January 2011, I was employed by the Franklin County (Ohio) Board of Elections, where I served in the positions of Director and Deputy Director, performing the statutory duties of those offices, and such other duties as assigned to me by the board relating to the administration and conduct of elections in Coshocton County.
2. On January 10, 2011, I was appointed by Secretary of State Jon Husted to the position of Deputy Assistant Secretary of State and State Elections Director in the Elections Division of the Ohio Secretary of State's Office, where I am responsible for developing and implementing policies, procedures and guidelines for the administration of federal, state and local elections to assist county boards of elections in the fulfillment of their statutory duties as well as having oversight of the statewide voter registration database, the receipt, review and distribution of statewide candidate and issue petition filings and campaign finance regulations and related filings.
3. I am, and since 2005 have been, a Certified Elections Registration Administrator ("CERA"), the nation's sole professional designation for local elections administrators, offered through the Election Center and Auburn University (Alabama).
4. Based on my years of employment at the Franklin County Board of Elections, my professional training and accreditation, and my responsibilities at the Secretary of State's office, I have first-hand knowledge of the responsibilities and tasks of the eighty-eight county boards of elections and the Secretary of State's Elections Division as it relates to implementing new congressional districts.
5. Under current Ohio law, candidates seeking nomination at the March 6, 2012 primary election must file their declarations of candidacy and petitions no later than 4:00 p.m. on December 7, 2011. Congressional candidates must file those materials with the board of elections in the most populous county of their congressional district.
6. The county boards of elections must be able to implement the new congressional districts before the candidates' December 7, 2011 petition filing deadline, to ensure proper administration of the 2012 congressional election.

7. The county boards of elections must perform numerous duties before December 7, 2011, to implement the new congressional district boundaries, including, but not limited to, the following:
 - a. The county boards of election will receive the legal descriptions, maps, and in some instances, geographic information system ("GIS") "shape" files for the new districts;
 - b. The county boards of elections will analyze the impact of the changes on their county, reprogram the central tabulator of their voting system, and reprogram their voter registration database/election management system:
 - i. For counties with a "GIS" system that is integrated with the voter registration database/election management system, the shape files should be sufficient to load and influence the updates. To my knowledge, fewer than 5 counties have this technology.
 - ii. For counties with street range indexes or tables, changes can be made to groups of addresses. To my knowledge, the vast majority of counties will update districts using this method.
 - iii. For counties without "GIS" or street range indexes, changes will have to be made on a voter-by-voter basis within the database. To my knowledge, at least one county is in this situation.
8. After the December 7, 2011 filing deadline, the boards of elections will have other duties they must carry out that require the new congressional districts already to be in place. These duties include:
 - a. Certifying the sufficiency and validity of declarations of candidacy and petitions by December 19, 2011. As a part of this process, the boards of elections must be able to verify that the petition signers reside within the corresponding congressional district.
 - b. Holding hearings and resolving any protests involving these candidate petitions.
9. Regardless of the methodology, county boards of elections will require outside support, which requires funding.
10. Most boards of elections have minimal staff—some have only two or three employees—and lack the necessary time, resources, and technological capabilities to implement these changes efficiently. They will require outside assistance to complete all tasks associated with redistricting.
11. Given the limited financial resources at the county government level, an appropriation from the state is necessary to pay for the implementation of new congressional districts.

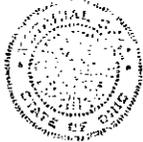
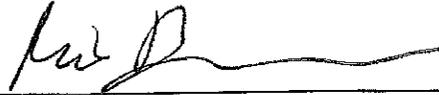
12. All of the above statements are true to the best of my knowledge, information and belief.

Further Affiant sayeth naught.



Matthew M. Damschroder
Deputy Assistant Secretary of State
and State Elections Director

Sworn to and Subscribed before me this 12th day of October, 2011, in the City of Toledo, County of Lucas, State of Ohio. In testimony whereof, I set my hand and official seal:



RICK BAUM
Notary Public - State of Ohio
My commission has an expiration date.
Section 147.03 R.C.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Submission of Evidence was served by electronic mail

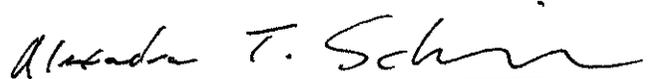
this 12th day of October, 2011, upon the following counsel:

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Counsel for Relators

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Special Counsel for Intervenor-Respondents
Ohio General Assembly, et al



Alexandra T. Schimmer
Solicitor General